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Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Saturday, September 29, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Reverend James Ford, Chaplain, U.S. House of Representatives, offered the following prayer:

We give thanks, O God, for the heritage that has come to us as a free people, conscious of the sacrifice and devotion of those who have gone before. May we build well on those noble traditions that have given stability and dignity to all the people.

Make us aware of the majesty of Your creation and the symbols through our history that testify to Your providence. Remind us that each day of our lives is a gift from You and may we live with the sense of gratitude due Your name.

In the name of the Lord, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 29, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:02 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes; and

H.R. 5369. An act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. HEFLIN).

ORDER FOR RECESS UNTIL 11 A.M. ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the two nominations on page 1 of the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

The second assistant legislative clerk read the nomination of Morris Abram, of New York, to be Chairman of the President's Commission of Ethical Problems in Medicine and Biomedical and Behavioral Research.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

The second assistant legislative clerk read the nomination of Jean Lande Hennessey, of New Hampshire, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 343, S. 1300.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transporta-

● This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

tion, provide greater opportunities for United States air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments as follows:

On page 3, line 10, after "for" insert "air carriers";

On page 6, line 12, strike "should" and insert "shall";

On page 7, line 14, strike "paragraphs" and insert "paragraph";

On page 7, beginning with line 15, strike through and including page 8, line 25;

On page 9, line 1, strike "(3)" and insert "(2)";

On page 9, line 1, strike "subsections" and insert "subsection";

On page 9, line 2, strike "and "(g)(2)";

On page 10, line 16, strike "flight operations" and insert "air transportation services";

On page 11, line 14, strike "and"

On page 11, line 18, after "section" insert a semicolon and the word "and";

On page 11, beginning with line 19, insert the following:

(5) inserting the words "or foreign air carrier" immediately after the words "air carrier" the first two times those words appear in subsection (a)(1), as so redesignated by this section.

On page 12, line 9, strike "paragraph" and insert "paragraphs";

On page 12, line 19, strike "operations.", and insert "operations.";

On page 12, beginning with line 20, insert the following:

"(8) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to carry passengers, cargo, or mail in interstate or overseas air transportation in certain markets if the Board, after consultation with the Secretary of Transportation, finds that—

"(A) because of unusual circumstances, traffic in such markets cannot be accommodated by air carriers holding certificates under section 401 of this Act;

"(B) all reasonable efforts have been made to accommodate such traffic by utilizing the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable); and

"(C) such authorization is necessary to avoid undue hardship for the traffic in such market that cannot be accommodated by air carriers holding certificates under section 401 of this Act.

Whenever the Board grants such authority to a foreign air carrier under this paragraph, the Board shall—

"(i) assure that any air transportation provided by the foreign carrier under such authority is made available on fair and reasonable terms;

"(ii) continuously monitor the passenger load factor of air carriers in such market that hold certificates under section 401 of this Act; and

"(iii) review such authority no less frequently than once every 30 days to assure that the unusual circumstances that created the need for such authority still exist.

In no event shall any authorization to a foreign air carrier under this paragraph remain in effect for more than 5 days after the unusual circumstances that created the need for such authorization have ceased.".

(b) Section 1601(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) The authority of the Board under section 416(b)(8) of this Act with respect to exempting foreign air carriers from the requirements or limitations of this Act under certain circumstances is transferred to the Department of Transportation.".

On page 16, line 20, strike "(or if seasonal which was in effect for the preceding corresponding season)" and insert "or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding";

On page 17, line 7, beginning with "The" strike through and including line 11;

On page 20, line 23, strike "and";

On page 21, line 5, strike "practices." and insert "practices; and";

On page 21, beginning with line 6, insert the following:

"(9) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry."

On page 21, beginning with line 10, strike through and including line 25, and insert in lieu thereof the following:

"CONSULTATION WITH AFFECTED GROUPS

"(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

On page 23, following line 2, strike "(c) International Aviation Advisory Council" and insert in lieu thereof "(c) Consultation with affected groups";

On page 23, beginning with line 5, strike through and including line 10, and insert in lieu thereof the following: "international negotiations and" and inserting in lieu thereof "international negotiations or".

On page 23, line 17, strike "of this Act". and insert in lieu thereof the following: "or 416(b)(8) of this Act, or under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew".

On page 25, beginning with line 21, strike through and including page 26, line 5, and inset in lieu thereof the following:

"(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

On page 28, beginning with line 5, strike through and including line 17, and insert in lieu thereof the following:

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Board may extend the period for taking such action for an additional period or periods of up to 30 days each if the Board concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative under this subsection the Board shall (A) solicit the views of the Department of State and the Department of Transportation and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

SEC. 24. (a) Section 1002(j) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)) is amended by adding at the end thereof the following new paragraphs:

"(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after July 1, 1980, to become effective on or after September 1, 1980, such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(B) with respect to any proposed decrease filed after the establishment of standard foreign fare levels, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

"(7) For purposes of paragraph (6) of this subsection, 'standard foreign fare level' means that fare level (as adjusted only in accordance with paragraph (8) of this section) in effect on October 1, 1979 (with seasonable fares adjusted by the percentage difference that prevailed between seasons in 1978), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979, except to the extent that the Board concludes by rule that fares which were in effect on such date were unjust or unreasonable. On or before June 15, 1980, the Board shall by rule establish the standard foreign fare level between any two points for which the fare in effect on October 1, 1979, is concluded to be unjust or unreasonable.

"(8) The Board shall, not less often than semiannually, adjust each standard fare level established pursuant to paragraph (7) of this subsection for the particular foreign air transportation to which such standard foreign fare level applies by increasing or de-hearing and the" and inserting in lieu thereof "The".

Sec. 9. Section 402(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(f)) is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

"(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to air transportation services to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.".

Sec. 10. Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by inserting the phrase "or foreign air carrier" immediately after the words "air carrier" each time those words appear therein.

Sec. 11. Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by—

(1) striking subsections (a) and (b) thereof;

(2) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c) respectively;

(3) striking the words ", affecting interstate or overseas air transportation and" in subsection (a)(1), as so redesignated by this section;

(4) inserting the words "affecting interstate or overseas air transportation," immediately after the word "agreement," in paragraph (a)(2)(A)(iii), as so redesignated by this section; and

(5) inserting the words "or foreign air carrier" immediately after the words "air carrier" the first two times those words appear in subsection (a)(1), as so redesignated by this section.

Sec. 12. (a) The center heading for section 412(a) of the Federal Aviation Act of 1958, as redesignated by section 11 of this Act, is amended by striking out

"AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended to read as follows:

"(a) Filing and approval of agreements.
"(b) Proceedings upon filing.
"(c) Mutual aid agreement.".

Sec. 13. (a) Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) is amended by adding at the end thereof the following new paragraphs:

"(7) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to lease or charter aircraft, with or without crew, to a United States direct air carrier for the performance of service in interstate, overseas, or foreign air transportation by or on behalf of such air carrier under an agreement approved by the Board, subject to such safety regulations as may be prescribed by the Secretary for such operations.

"(8) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier from the requirements or limitations of this Act to the extent necessary to authorize the foreign air carrier to carry passengers, cargo, or mail in interstate or overseas air transportation in certain markets if the Board, after consultation with the Secretary of Transportation, finds that—

"(A) because of unusual circumstances, traffic in such markets cannot be accommodated by air carriers holding certificates under section 401 of this Act;

"(B) all reasonable efforts have been made to accommodate such traffic by utilizing the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable); and

"(C) such authorization is necessary to avoid undue hardship for the traffic in such market that cannot be accommodated by air carriers holding certificates under section 401 of this Act.

Whenever the Board grants such authority to a foreign air carrier under this paragraph, the Board shall—

"(i) assure that any air transportation provided by the foreign carrier under such authority is made available on fair and reasonable terms;

"(ii) continuously monitor the passenger load factor of air carriers in such market that hold certificates under section 401 of this Act; and

"(iii) review such authority no less frequently than once every 30 days to assure that the unusual circumstances that created the need for such authority still exist.

In no event shall any authorization to a foreign air carrier under this paragraph remain in effect for more than 5 days after the unusual circumstances that created the need for such authorization have ceased.".

(b) Section 1601(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) The authority of the Board under section 416(b)(8) of this Act with respect to exempting foreign air carriers from the requirements or limitations of this Act under certain circumstances is transferred to the Department of Transportation.".

Sec. 14. Section 1002(j)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482 (j)(1)) is amended to read as follows:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j)(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carries) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions; or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

Sec. 15. Section 1002(j)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(2)) is amended to read as follows:

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall creasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile. In determining the standard foreign fare level, the Board shall make no adjustment to costs actually incurred. In establishing standard foreign fare levels pursuant to paragraph (7) of this subsection and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it.

"(9) The Board may by rule increase the percentage specified in subparagraph 6(B) of this subsection.".

(b) Section 403(c)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(1) is amended by (1) inserting the words "or foreign air carrier" after the words "air carrier" each time those words appear therein and (2) inserting the words "or foreign air carrier's" after the words "air carrier's."

(c) Section 403(c)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(2) is amended to read as follows:

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A) and (B) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.".

SEC. 25. Section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended by inserting the words ", subject to section 1102(a) of this Act," immediately before the words "issue an appropriate order".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Air Transportation Competition Act of 1979".

SEC. 2. Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(11) The promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.".

SEC. 3. (a) Section 102(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(c)) is repealed.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 102. Declaration of policy: The Board."

is amended by striking out

"(a) Factors for interstate and overseas air transportation.

"(b) Factors for all-cargo service.

"(c) Factors for foreign air transportation."

and inserting in lieu thereof

"(a) Factors for interstate, overseas, and foreign air transportation.

"(b) Factors for all-cargo service.".

SEC. 4. Sections 401(d)(1) through 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1) through (d)(3) are amended to read as follows:

"ISSUANCE OF CERTIFICATE

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof for such periods, as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

SEC. 5. The first sentence of section 401(e)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(2)) is amended by striking out the words ", insofar as the operation is to take place without the United States,".

SEC. 6. Section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended by inserting "(1)" immediately after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of subsection (g)(1) of this section, the Board may suspend or revoke authority to serve any point authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with paragraph (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or if the carrier has failed to provide any significant service to the point for 90 days preceding the date of the Board's notice to the carrier of its proposed action.".

SEC. 7. Section 402(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(b)) is amended to read as follows:

"ISSUANCE OF PERMIT

"(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.".

SEC. 8. The third sentence of section 402(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(d)) is amended by striking out "Such application shall be set for public be of the opinion that such rate fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, that may be currently in effect (and not subject to a suspension order) or any air carrier engaged in the same foreign air transportation.".

SEC. 16. Section 1002(j)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(5)) is amended by (1) striking the word "and" at the end of subparagraph (E) thereof, (2) striking the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and (3) by adding at the end thereof the following new subparagraph:

"(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.".

SEC. 17. Section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502) is amended by inserting "(a)" immediately after "SEC. 1102." and by adding at the end thereof the following new subsections:

"GOALS FOR INTERNATIONAL AVIATION POLICY

"(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

"(1) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;

"(2) the fewest possible restrictions on charter air transportation;

"(3) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

"(4) the elimination of operation restrictions to the greatest extent possible;

"(5) the integration of domestic and international air transportation;

"(6) an increase in the number of nonstop United States gateway cities;

"(7) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away; and

"(8) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gage, and similar restrictive practices; and

"(9) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"CONSULTATION WITH AFFECTED GROUPS

"(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

"OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

"(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing.".

SEC. 18. (a) The center heading for section 1102 of the Federal Aviation Act of 1958 is amended to read as follows:

"INTERNATIONAL AGREEMENTS

"ACTIONS OF THE BOARD AND SECRETARY OF TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading.

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1102. International agreements."

and inserting in lieu thereof

"Sec. 1102. International agreements.

"(a) Actions of the Board and Secretary of Transportation.

"(b) Goals for international aviation policy.

"(c) Consultation with affected groups.

"(d) Observer status for Congressional representatives.".

SEC. 19. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended by striking the words "international negotiations and" and inserting in lieu thereof "international negotiations or".

SEC. 20. The third sentence of section 1108(b) of the Fedeal Aviation Act of 1958 (49 U.S.C. 1503(b)) is amended by inserting immediately before the period at the end thereof the following: ", unless specifically authorized under section 416(b)(7) or 416(b)(8) of this Act, or under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew".

SEC. 21. Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517) is amended to read as follows:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

"SEC. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

"TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

"(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

"TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

"(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

"DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

"(d) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

SEC. 22. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading.

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1117. Transportation of Government-financed passengers and property."

and inserting in lieu thereof

"Sec. 1117. Transportation of Government-financed passengers and property.

"(a) Transportation between the United States and a place outside thereof.

"(b) Transportation between two places outside the United States.

"(c) Transportation pursuant to bilateral agreement.

"(d) Disallowance of improper expenditure by Comptroller General."

SEC. 23. Section 2 of the International Air Transportation Fair Competitive Practices of 1974 (49 U.S.C. 1159b) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and adding a new subsection (b) as follows:

"(b)(1) Whenever the Civil Aeronautics Board, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (1) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (2) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Board may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Board under the Federal Aviation Act of 1958.

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Board may extend the period for taking such action for an additional period or periods of up to 30 days each if the Board concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative, under this subsection the Board shall (A) solicit the views of the Department of State and the Department of Transportation and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

Sec. 24. (a) Section 1002(j) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)) is amended by adding at the end thereof the following new paragraphs:

"(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after July 1, 1980 to become effective on or after September 1, 1980, such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(B) with respect to any proposed decrease filed after the establishment of standard foreign fare levels, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

"(7) For purposes of paragraph (6) of this subsection, 'standard foreign fare level' means that fare level (as adjusted only in accordance with paragraph (8) of this section) in effect on October 1, 1979 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of establishment of each additional class of fare established after October 1, 1979, except to the extent that the Board concludes by rule that fares which were in effect on such date were unjust or unreasonable. On or before June 15, 1980, the Board shall by rule establish the standard foreign fare level between any two points for which the fare in effect on October 1, 1979 is concluded to be unjust or unreasonable.

"(8) The Board shall, not less often than semiannually, adjust each standard fare level established pursuant to paragraph (7) of this subsection for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile. In determining the standard foreign fare level, the Board shall make no adjustment to costs actually incurred. In establishing standard foreign fare levels pursuant to paragraph (7) of this subsection and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it.

"(9) The Board may by rule increase the percentage specified in subparagraph 6(B) of this subsection.".

(b) Section 403(c)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(1)) is amended by (1) inserting the words "or foreign air carrier" after the words "air carrier" each time those words appear therein and (2) inserting the words "or foreign air carriers" after the words "air carrier's".

(c) Section 403(c)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(2)) is amended to read as follows:

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A) and (B) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.".

Sec. 25. Section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended by inserting the words ", subject to section 1102(a) of this Act," immediately before the words "issue an appropriate order".

● Mr. CANNON. Mr. President, I am very pleased to note that my colleagues have voted passage of S. 1300, the International Air Transportation Competition Act of 1979. It is certainly to the Senate's credit that legislation directed at reducing cumbersome Government regulation in an industry which has demonstrated clearly its ability to functon better with less Government regulation is passed quickly and noncontroversially by unanimous vote.

This legislation will institutionalize the progressive and procompetitive international aviation policy which the United States is today practicing. This is no small accomplishment when examined in the context of international travel now being within the reach of a far greater number of our citizens and the many new service and price options that this policy has produced for these travelers.

The legislation goes a step further to protect the interests of the traveling public. This year we experienced two events in commercial aviation which severely disrupted the Nation's air traffic network. First, United Airlines, the largest airline in the country, endured a 57-day strike, leaving great numbers of passengers unable to begin or complete their travel plans including thousands stranded on Hawaii unable to get back to the mainland. Following closely on the heels of that event was the grounding of the DC-10, effectively removing some 135 aircraft from the U.S. commercial fleet at the start of peak season. For a time, U.S. travelers literally could not get off some of the territorial islands in the Pacific. The provision in S. 1300 which will permit cabotage—the ability of foreign air carriers to carry domestic traffic in the United States—in emergency conditions will be available to alleviate situations where U.S. airline resources are unable to meet the traveling public's needs.

Unanimous passage of this legislation is also a vivid demonstration of the Senate's concern for the most serious problem U.S. airlines face today. That is the unprecedented rise in the cost of fuel which jeopardizes some services of the U.S.-flag industry and has thrown airline financial plans into disarray and obsolescence. S. 1300's provision for a ratemaking mechanism which will allow more management discretion in pricing will provide much needed assistance so that airline managements can cope with this problem. This discretion will also benefit the consumer in many instances when competitive forces create the incentive to offer lower or discount fares.

In short, Mr. President, this legislation will bear on timely issues of great concern to the Nation's international airlines and traveling public. It has received full support of virtually all affected parties and today's vote registers the Senate's concern for the health and integrity of the U.S. international airlines and the citizens that travel on them.●

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION TO DESIGNATE "NATIONAL PRODUCTIVITY IMPROVEMENT WEEK" — SENATE RESOLUTION 248

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. NUNN, Mr. BENTSEN, Mr. PERCY, Mr. JAVITS, Mr. TALMADGE, Mr. CHILES, Mr. TOWER, Mr. HUDDLESTON, Mr. Morgan, Mr. Thurmond, Mr. Jepsen, Mr. Nelson, Mr. Ribicoff, Mr. Schmitt, and Mr. Hollings, I send a resolution to the desk to designate the week of October 1 through October 7, 1979, as National Productivity Improvement Week.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (S. Res. 248) to designate the week of October 1 through October 7, 1979, as "National Productivity Improvement Week."

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record statements by Mr. Nunn and Mr. Talmadge.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Mr. Nunn

Our nation's serious energy problems have very justifiably captured the attention of Congress, the Administration and the American people in recent days. While the need for realistic methods to deal with this major threat to our economic well-being has become a top priority for the remainder of this session of Congress, it is most important to remember that there are fundamental weaknesses in our economy that will continue to fuel the fires of inflation even in the absence of oil problems.

Chief among these other factors, I believe, is America's dismal productivity performance. From the mid or late 1960's, the increase in private sector productivity, measured as output per hour of labor input, has been steadily declining; for the first half of 1979, productivity actually decreased at an annual rate of 3.3 percent.

Although America's workforce still outproduces any other country in the world, our lead is being rapidly reduced: since World War II, the U.S. productivity growth rate has been less than that of every one of our major trading partners. According to recent studies by the Joint Economic Committee, if present trends continue, German and French workers will be outproducing us within 6 years.

The results of this dramatic decline in productivity growth are very real and dangerous factors in our current inflationary spiral, contributing to our balance of trade problems and seriously threatening our nation's standard of living. As the Council on Wage and Price Stability pointed out in a report on productivity submitted to the Congress in July of this year, without labor productivity gains, any increase in hourly wages must inflate until labor costs. As a result, unless the costs of other inputs do not increase as much as labor costs, or the increase in labor costs are absorbed by business through a declining profit margin, "output prices will be raised by the same percentage as the wage change, thus undermining the original wage increase. There can be no general improvement in the standard of living under these conditions."

Furthermore, the Council went on to note, "When workers push for wage increases to recoup the gains that were undermined by price increases, unit labor costs are driven up by an amount that is inversely related to productivity growth." This creates further price increases, thereby helping to encourage the wage/price spiral.

This spiral must be broken, and increasing our overall productivity can not only help to avoid additional inflationary pressures, but actually assist in reducing the present rate of inflation. As the Joint Economic Committee's "Midyear Review of the Economy: The Outlook for 1979" states:

> "Higher productivity would permit the granting of wage increases that would not have to be matched by equal price increases, resulting in real wage gains combined with gradually reduced rates of increase in nominal wages and prices and a reduction in inflationary expectations. If productivity gains exceed desired real wage gains, the wage-price spiral can gradually wind down and the core rate of inflation can be reduced."

The causes of this dangerous slowdown in productivity growth are numerous, and the solutions to the problem will require the dedicated efforts of both the public and the private sectors. If these efforts are to be truly successful, however, there must be a clear appreciation of both the serious effects of declining productivity, as well as the potential that a reversal of this trend holds for significantly reducing the double-digit inflation that currently grips our economy.

I am therefore pleased to note the increasing attention that the subject of productivity is receiving. Recently, the American Institute of Industrial Engineers decided to sponsor "Productivity Improvement Week," October 1–7, 1979, as a kickoff to a month-long series of activities, including posters, news releases, and presentations across the country to call attention to the critical role of productivity in the economy.

Mr. President, AIIE has prepared an excellent brochure on this subject entitled "What Productivity Means to You," and I submit it for printing in the Record at this point.

What Productivity Means to You

U.S. PRODUCTIVITY STUMBLES

Throughout American history, our ability to produce more in less time and with fewer resources has helped raise our standard of living. These resources of production are technology, capital, energy and the human effort and skills needed to manage them.

This natural yielding of more benefits from improved use of resources works well when allowed to function. The problem comes when increases in productivity output or quality fail to cover increases in the cost of labor or other resources used. This creates inflationary prices, because when productivity falters while a producer's costs go up, there is often no choice—the producer must charge more for its goods and services in order to stay in business.

Since World War II, America has watched other countries close the gap on its productivity leadership. In 1950, for instance, one U.S. worker produced as much as seven workers in Japan and as much as three in Germany. By 1977, it took fewer then three Japanese or 1.3 Germans to match one American. The ratio is even closer today, because not only did U.S. productivity sputter in 1979, it stumbled into two consecutive downturns.

IMPORTANCE OF REVIVING IT

Contrary to some perceptions, productivity growth does not mean working harder. Instead, productivity improves when capital investment increases; when the labor force becomes more highly skilled; when energy costs are kept in check; when research and development turns up continually more efficient technology.

U.S. productivity growth has fallen behind those of other countries and it's time to reassess all of the above factors. In an international economy, the nation which does not maintain productivity gains of other trading nations, sees its standard of living ultimately suffer.

Meantime, as already explained, lower productivity fans the fires of inflation. Slower productivity growth means wage increases; this means higher prices, leading to more inflation. And higher prices cut consumer purchasing power, reducing economic growth an eventually increasing unemployment. Why more U.S. attention wasn't given years ago to productivity growth—with all these dire consequences looming—is a puzzle. But at last our leaders are understanding its importance.

WHAT YOU CAN DO FOR PRODUCTIVITY

Whether you work in manufacturing, service, sales, institution or government, you have a stake in improved productivity and you can make it happen. Depending on your situation, improved productivity can come from a wide variety of innovations. In an office setting, it may involve improved filing, mailing or reporting systems which allow a business to accomplish more during a workday. In a factory or store, it could mean more efficient arrangement of materials, again resulting in more output per work hours.

Besides conscientious application at work, as a voting citizen you can also support office seekers who encourage more R&D and capital investment through tax incentives and fewer government restrictions. Also join those who are demanding more productivity in government.

WHAT PRODUCTIVITY CAN DO FOR YOU

If you work for or own a company in business to make a profit, your job is made more secure by improved productivity—this is simple to figure. If you are employed in a hospital, a library or an agency of government it's just as important to increase productivity, because taxpayers are losing patience with bureaucratic waste and are withdrawing support for less efficient institutions.

But more than job security is the "cushion" which productivity provides between wages and prices, as earlier mentioned. For example, if pay rises 10 percent and productivity stays at the same, the prices you pay will also rise 10 percent—you've gained nothing. But if pay rises 10 percent and productivity increases, say, 5 percent, prices you pay only rise 5 percent and you come out ahead. Isn't that what you're interested in—"real" pay hikes as opposed to "on paper" raises? Improved productivity can do it!

ADVANCE STEPS TO PRODUCTIVITY

The American Institute of Industrial Engineers and other organizations, such as the United States Chamber of Commerce, have excellent resource material on the subject of productivity improvement. Likewise, many basic and advance productivity workshops and courses are available. Popular with engineers as well as non-engineering managers and supervisors is a one-day AIIE-sponsored seminar, "Productivity Improvement for Profit." It is also available in kit form for those unable to attend a PIP seminar.

Hundreds of thousands of Americans this year will view two sound-slide presentations about productivity produced by the Institute. Both 23-minute films, entitled "Productivity—From There to Here. But What's Ahead?" and "Three Steps to Improved Productivity," are available for employee, civic and business group showings through AIIE chapters located in major cities throughout the nation, or through AIIE headquarters at the address shown below. Also available from the Institute are poster sheets for employee bulletin boards on the theme, "Increased Productivity Cuts Inflation."

Members of the Institute are employed by business and industry firms and public institutions or self-employed as consultants to organizations. Industrial engineers are actively engaged in management of energy conservation, plant design and engineering, systems engineers, production and quality, performance and operational standards, material flow system and operations research. The most common characteristic among industrial engineers is a dominant involvement in productivity improvement.

Efforts such as this are very important if the problems of declining productivity are ever to be solved. I believe that such attempts to bring about a better understanding of the benefits of improved productivity should be encouraged, and I am hopeful that the Senate will act expeditiously on this resolution.

STATEMENT BY MR. TALMADGE

Today I would like to address an issue which is not only frustrating our economy, but which harbors potentially dangerous effects for our national security. The issue is the steady decline in productivity growth we have witnessed over the past decade or more. This decline has resulted in a significant lack of interest in capital stock investment and a consequent reduction of the capital/labor ratio, which in 1977–78 declined for the first time in thirty years. The effect this has had upon the rampant inflation plaguing our economy is devastating and unmistakable.

At the current time, both our manufacturing and industrial productivity rank far below those of Japan and West Germany. In fact, our productivity rating is one of the lowest of the modern industrial economies. This affects not only investment and expansion decisions by business, but job opportunities for our citizens as well. It should come as no surprise, then, that the inflation which has wracked our economy during the 70's is seemingly uncontrollable and self-perpetuating.

There are several reasons why productivity has declined in this country: the energy crisis and subsequent rise in energy costs; the proliferation of young and inexperienced workers in the job market; and stringent environmental regulations, just to name a few. However, even if we assume that these problems are merely aberrations of the 70's and will disappear once we learn how to deal with them, the projected growth through the 1978–81 period is estimated to be in the 2.0 percent to 2.1 percent range, which is .5 percent or more lower than the growth rate experienced in the 50's and 60's.

It is high time that we not only recognize this dilemma, but that we do something about it. It seems to me that it is our duty and obligation as elected officials to promote awareness of this issue by exposing it to the American people in vivid fashion. It is for this reason that I heartily endorse the resolution designating October 1–7, 1979, as "National Productivity Improvement Week."

Across the country, mayors of cities large and small are endorsing this concept in hopes of reversing the trend of declining productivity. In my home State of Georgia, I am proud to say, the mayors of Atlanta, Macon, Savannah, and other cities will be joining in this effort. By their action, we will be taking the first step toward gearing up the economy to meet the uncertain future that energy scarcity has brought to light.

During World War II, we proved to the world the amazing and resilient capacity of our people and our economy to adapt to and overcome adverse circumstances. There is absolutely no reason why we cannot once again prove to the world our ability and determination to reach the heights we are capable of attaining. By increasing our productivity growth we can begin to combat inflation in a sound and rational manner which can only result in a better life for all of us.

There are many proposals currently pending in the Congress which address the issue of stimulating productivity, including legislation to provide accelerated depreciation opportunities for capital stock and tax incentives for individual savings. I intend to push for the adoption of significant legislation during the 96th Congress to attack the problems of low savings and productivity rates and I encourage my colleagues to make this type of legislation a high priority. The measure before us today is certainly a beginning in making the public more aware of this growing problem.

CONGRESS MUST SUPPORT MEASURES TO INCREASE PRODUCTIVITY

● **Mr. JEPSEN.** Mr. President, I am pleased to join as a cosponsor today a resolution expressing the sense of the Senate that measures should be taken to increase productivity in the United States. The Senator from Georgia (Mr. NUNN) is to be congratulated for initiating this resolution.

I have long felt that declining productivity is one of our Nation's most serious problems. Declining productivity translates directly into higher inflation and a lower standard of living for all Americans.

Mr. President, although the United States still ranks high among the nations of the Western World in terms of total productivity, the alarming fact is that the rate of growth in productivity in the United States has slowed to almost nothing, while our international competitors—notably the Japanese—continue to have high rates of productivity growth. The following table tells the story, and I submit it for the RECORD, as follows:

RELATIVE PRODUCTIVITY, AVERAGE ANNUAL PERCENT CHANGE IN PRODUCTIVITY, RELATIVE TO GROSS DOMESTIC PRODUCTIVITY

	Relative productivity [1]	Average annual percent change in productivity [2]			
	1977	1950–67	1967–72	1972–77	1950–77
Japan	62.2	7.4	9.2	3.5	7.0
West Germany	79.1	5.0	4.8	3.5	4.7
Italy	54.3	5.3	5.0	1.0	4.4
France	84.7	4.7	4.5	3.1	4.3
Canada	91.6	2.5	2.8	0.8	2.3
United Kingdom	55.1	2.2	3.0	1.2	2.2
United States	100.0	2.4	1.1	0.6	1.8

[1] Measured by real gross domestic product per employed civilian, using international price weights, relative to the United States.

[2] Measured by growth in real domestic product per employed civilian, using own country's price weights.

Source: Joint Economic Committee, Annual Report, 1979, table IV-3.

Mr. President, the reasons behind the productivity crisis are many and complicated. Recently, the Economist, a respected British weekly, offered its explanation for the current productivity dilemma. I think that its explanation is quite interesting:

> Productivity has slowed since 1967 because of three weird evangelical spasms with which Americans then temporarily turned their backs on their old gods of dynamism and enterprise: (a) the "great society" spasm which sent too many of the country's brightest young workers into anti-productive government jobs; then (b) the "fair-deals-for-everybody" spasm during which the Americans have tried to repeal the laws of supply and demand in favour of curbing energy prices and promoting the least suitable people; and then (c) the econut spasm, during which America has tried to repeal Darwin's laws of evolution in favour of the right of the furbish lousewart to stop productive dams.

This explanation for our Nation's productivity problem may seem simplistic but I should point out that it has been supported in at least one crucial respect. According to Edward Denison of the Brookings Institution the proliferation of environmental protection laws since 1967 has had a significant negative effect on productivity. By 1975, the output for each unit of input in the United States was some 1 percent smaller than it would have been under pre-1967 regulatory conditions. The reason is quite simple: Scarce capital resources have been diverted from market-oriented activities into Government-directed activities. Firms which would otherwise have spent their funds on expanding and modernizing their facilities to increase production and lower production costs have, instead, been forced to allocate their capital into nonproductive pollution abatement equipment. As one can see from the following table, a significant portion of the total investment in new plant and equipment for many capital-intensive industries is completely eaten up by pollution abatement expenditures. I ask to have the table printed in the RECORD.

The table follows:

	Planned 1979 new plant and equipment expenditures for pollution abatement		
	Millions of dollars	Percent increase from 1978	Percent of total new plant and equipment expenditures
Electric utilities	2,674	8.2	9.8
Petroleum	1,406	8.7	8.0
Chemicals	580	2.7	7.2
Steel	536	21.5	18.4
Paper	296	23.8	7.2
Motor vehicles	202	2.0	4.0

Source: Department of Commerce, Bureau of Economic Analysis.

Mr. JEPSEN. Mr. President, these pollution abatement expenditures, combined with the serious underdepreciation of American industry caused by high inflation and outmoded tax laws, combine to give us the lowest rate of net productive investment of any major industrialized country. To get productivity back up again we are going to have to reform the environmental laws and the tax laws to encourage productive investment. One big step in the right direction, in my view, would be quick approval of the Capital Cost Recovery Act, of which I am proud to be a cosponsor. Much more needs to be done, but this would be a critical first step.●

OUR NO. 1 PROBLEM

● **Mr. MORGAN.** Mr. President, during August, a reporter from Time was scheduled to join me in North Carolina, where I was spending the month of August while the Congress was in recess.

He wanted to find out what the people in our State are talking about and what is bothering them.

I could have told him what the principal worry is among North Carolinians, because it is the same problem that troubles people all over the country.

The problem is inflation and the diminishing amount of goods and services our pay checks will buy.

A recent Government survey reported that unless inflation is brought under control, gasoline may be $5 a gallon within 10 years. The cost of buying a home in the 1980's will be beyond the reach of most American families.

Now there are many theories that have been advanced on fighting inflation, but one thing that practically everyone agrees upon is there must be more productivity. (Productivity is measured by the amount of goods a worker can produce in an hour or in a day).

Our productivity rate in this country has fallen steadily the past few years while that of other industrial nations has been rising. To produce more goods, a worker needs the equipment to raise his hourly rate. That means that he must have modern machinery to work with.

To get this machinery, industrial companies will have to invest in new equipment that can produce more efficiently and at less cost. This means that more money will have to be invested to purchase this machinery.

There are ways the Federal Government can help these companies do this. The Government can pass laws that will let industry depreciate its old machinery more rapidly, which would be, in effect, a tax break.

No doubt Congress will consider this but at the same time it should also work to balance the Federal budget, because if the budget were balanced and the Government did not have to borrow money to meet its spending outlays, there would be more dollars available to industry for capital improvements.

There are no easy answers to the inflation dilemma, but certainly producing goods that could be made more cheaply and sold more cheaply is a key ingredient.

If we can accomplish this and find a substitute for the expensive oil we are importing, we will have gone a long way in reducing this No. 1 problem of inflation.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 248) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the current rate of inflation presents a critical threat to the economic well-being and national security of the United States of America;

Whereas inflation is directly related to poor productivity growth;

Whereas productivity has grown less in the United States, since World War I, than in any other major industrialized nation;

Whereas the results of this poor productivity performance have been inflation, a declining standard of living in the United States, a falling dollar internationally and the loss of jobs to foreign workers; and,

Whereas growth in productivity would bring about a significant slowdown in the rate of inflation; Now, therefore, be it

Resolved, that it is the sense of the Senate that the President of the United States by proclamation designate the week of October 1 through October 7, 1979, to be "National Productivity Improvement Week", for the purpose of providing for a better understanding of the debilitating effects of stagnating productivity on the economic well-being of the United States, for an increased public awareness of the potential for significantly reduced inflation offered by productivity growth, and for encouraging the development of methods to improve individual and collective productivity in the public and private sectors.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 29, 1979, he presented to the President of the United States the following enrolled bills:

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes;

S. 237. An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes;

S. 737. An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce; and

S. 756. An act to amend the Office of Federal Procurement Policy Act, and for other purposes.

EXTENSION OF TIME FOR COMMITTEE TO FILE A REPORT ON A NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be permitted a 10-day extension, until October 8, 1979, on reporting the nomination of Ms. Frankie Freeman to be Inspector General of the Community Services Administration, and that this extension be retroactive to yesterday.

I also request that the name of Ms. Frankie Freeman be removed from the Executive Calendar until such time as it is reported from the Committee on Governmental Affairs.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, October 3, 1979, to mark up pending energy legislation and to consider farm credit nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EXON (for himself, Mr. MORGAN, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, and Mr. JEPSEN):

S. 1845. A bill to provide that no salary increases shall be given Members of Congress or the Federal Judiciary until the Federal budget is balanced; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself, Mr. MORGAN, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, and Mr. JEPSEN):

S. 1845. A bill to provide that no salary increases shall be given Members of Congress or the Federal Judiciary until the Federal budget is balanced; to the Committee on Governmental Affairs.

(The remarks of Mr. EXON when he introduced the bill appear elsewhere in today's proceedings.)

ORDER FOR H.R. 5419 TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5419 be held at the desk when it arrives from the House, pending further disposition.

Mr. STEVENS. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME AGREEMENT—S. 1110, HOME DELIVERY OF CHILDREN'S PUBLICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 302, S. 1110, home delivery of children's publications, is made the pending business before the Senate, there be a time agreement thereon as follows: One hour on the bill, to be equally divided between Mr. GLENN and Mr. PERCY; 20 minutes, to be equally divided, on any amendment; 30 minutes, to be equally divided, on an amendment by my distinguished colleague, the senior Senator from West Virginia (Mr. RANDOLPH), dealing with postal rates for small publishers; that there be a 20-minute limitation on any debatable motion, appeal, or point of order, if discussion is entertained by the Chair on such point of order; and that the agreement be in the usual form, on the condition that the measure not become the pending business before the Senate before October 2.

Mr. STEVENS. Mr. President, reserving the right to object—and I shall not object—that, as I understand it, would qualify an amendment by the Senator from West Virginia (Mr. RANDOLPH) which is not germane to that bill.

I make a parliamentary inquiry: Would amendments that were germane to the amendment so qualified be in order?

The ACTING PRESIDENT pro tempore. They would be.

Mr. STEVENS. I do not object.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That not before Tuesday, October 2, 1979, when the Senate proceeds to the consideration of S. 1110 (Order No. 302), a bill to include home delivery of children's publications in the existing rates for children's publications sent to schools, debate on any amendment (except an amendment by the Senator from West Virginia (Mr. RANDOLPH) relative to postal rates for small publishers, on which there shall be 30 minutes), debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Mr. PERCY): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

CONTINUING APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, the events of last evening are still etched in our memories.

I felt that the President, under the Constitution—section 3 of article II—could exercise his right, as it appears in that article, to call either House of Congress or both Houses of Congress back into session, if he considers the necessities to constitute an extraordinary occasion.

I had no way of knowing how the President might view the situation, whether he might consider this to be an extraordinary occasion, and call both Houses back. I did not want the Senate to have to be called back. I felt that Senators would want the Senate to be in session today, in the event that the President deemed it necessary to call back the other body.

The White House has discussed this matter with me, and it appears that the President does not feel that the other body should be called back. I do not presume to speak for the President, but it is felt that there would be problems getting a quorum.

That being the case, I have instructed the Democratic policy staff to discuss with Chairman MAGNUSON and the minority leadership, as well as with other Members of the Senate, what the prospects might be for calling up a resolution that is in the Appropriations Committee, which came over from the House. It is a continuing resolution, so it is an appropriate vehicle. It certainly would not violate custom, which would indicate that the House initiates appropriations measures.

And the Senate could act on that continuing resolution if the Appropriations Committee desired to report it today or Monday, and it might take some time to get the machinery in gear. So it is my thought the machinery could begin to be geared up today. Contacts could be made, possibly contacts with the House of Representatives leadership through staff people and otherwise, and this process is proceeding.

I have discussed with the minority leadership the possibility that this may occur. Mr. BAKER called me on the telephone this morning and said he could get back during the afternoon if necessary and that other Senators who were with him at this particular convention could also be here. So he is available for return. The distinguished acting Republican leader, Mr. STEVENS, is here, and he is a member of the Appropriations Committee also. So these explorations are going forward and I feel that they may bear fruit.

I have not personally yet had the opportunity to talk to Mr. MAGNUSON, the chairman of the Appropriations Committee, about this, but we have heard from him, and I feel that Senators may want to stay around until we determine whether or not there will be——

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. May I please finish? Sometimes I could go on and on forever but I am very conscious of the Senator, and I will yield to him.

Mr. LEAHY. All right.

Mr. ROBERT C. BYRD. We will be in a position to advise our colleagues in a little while as to whether or not the resolution may be reported out today and taken up or whether or not there may be another procedure. It is quite possible that there is another procedure open whereby the amendments in disagreements could be sent back with a request for another conference. I wish to explore that possibility.

So for the time being I merely state the circumstances as they are, and while I am doing so I will take this occasion to thank Senators who remained here until almost 12 o'clock last night so that the Senate would have a quorum. We had a good quorum. I think something like 64 Senators voted on the last rollcall. So I express my appreciation to the minority leadership for its assistance in having Senators in the minority stay around, and I thank the Senators on both sides of the aisle for their courtesy and cooperation in the course of a trying evening.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. As I noted last night I did frequently ask Senators to remain in town and those who could do so, did so.

So we are here today. We are not out of pocket for the entire weekend. Many Senators have canceled out-of-State weekend schedules that they had planned for some time and we are here standing by.

As I say, we are trying to explore whatever machinery may be available and practicable to act with reasonable dispatch on the matter which has been a problem to us.

I yield to the acting Republican leader.

Mr. STEVENS. I thank the Senator from West Virginia.

Mr. President, I feel it is important for Members of the Senate to stay available today. We do not know yet really what the full impact is of not having the bills that are covered by the continuing resolution continued for the life that resolution would have given them. I think that there should be a study made of what will happen in approximately an 8- to 10-day period because that is about what we can contemplate under the circumstances with the House of Representatives currently coming back, as I understand it, on Tuesday, only on a pro forma basis so far. They may change that. But it seems to me that the majority leader has suggested a good course of trying to examine today what the options are and if at all possible working out an arrangement whereby we can return to the House of Representatives a resolution that represents the sentiment of the Senate and, as a matter of fact, I would say the sentiment of the conference committee with the exception of the item that was in dispute and the pay raise. I think it is fairly obvious now that the Senate would not send to the House of Representatives an increased pay raise in this resolution.

But if we can work that out in the remainder of the day and it is determined through examination by the administration that there is an absolute necessity for action this evening or tomorrow that would still be possible. If it is not an absolute emergency and they can come in and do it Tuesday, then that would be perfectly all right with this Senator. I think we should do what we can to get ready for an emergency in case one is discovered in the process of examining into the funds. I was told last night, for instance, that in terms of the medicaid funds, that medicaid people are already into the 1980 appropriations on the basis of the provision that was in the continuing resolution as it passed the House of Representatives, and it passed the Senate, which said that that action would be validated when it was necessary; that they could anticipate that we had authorized them, in fact, to continue at the 1979 level.

And that is not an abnormal situation, because as I understand it there are great fluctuations in the demands on those funds. One month they will be up and the next month they will be down. What will happen in the next 2 or 3 days I do not know and certainly there must be someone downtown in the Office of Management and Budget probably who is going to have to tell us whether there is any real catastrophe that will occur if this bill is not passed. That is notwithstanding the fact that as of Monday morning all of the U.S. judiciary will find itself the recipient of a pay raise of 12.9 percent instead of 5.5 percent as a result of the unfortunate developments of last evening.

I thank the majority leader for bringing this Senate into session today because I do think it gives us the flexibility to deal with this problem that I believe we should have in order that we may act responsibly under the circumstances.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader. He pointed out had we not been in session today we would have been foreclosed from any option to act. I understand; my staff reports to me that it has been receiving calls from Senate offices. Senators are in their offices and calls are inquiring about today's program and more than the usual number of Senators are in the Chamber today, may I say, by far at the beginning of a session.

I yield to the distinguished Senator from Vermont.

Mr. LEAHY. I thank the leader.

Mr. President, I concur with what the Senator from Alaska has said. The majority leader was quite correct in bringing us back here today. As a member of the Appropriations Committee, I also altered any plans I might have had to be in Vermont today or tomorrow with a certain amount of personal regret. The chamber of commerce in Vermont is fully at its peak. I say that to tourists who may want to continue their travels through Vermont. It is a most beautiful time of the year up there.

On a more serious issue, I ask the distinguished majority leader, am I correct in understanding because of the rejection last night of the conference report, and I think the Senate was correct in rejecting it because I believe the other body put us in an untenable position, that that conference report is, in effect, dead and to bring the items into it or to bring the aspects of the continuing resolution we must have another vehicle to use and that vehicle following the tradition will begin in the other body; is that correct?

Mr. ROBERT C. BYRD. The Senator is correct. The conference report is dead. It cannot be revived except by unanimous consent to vitiate the action of last night and, of course, that would be impossible.

There are two or three, possibly three procedures, open to us that are open.

One, the House starts another resolution. There is nothing in the Constitution that says the Senate cannot do it, but I guess it would be an act of futility for the Senate to originate one. The House would have to start one. The continuing resolution on the Federal Trade Commission, which is in the Appropriations Committee at this time, House Joint Resolution 402, has come over from the House, and it is an appropriations vehicle. The Appropriations Committee could report it out or the Senate by unanimous consent could discharge the committee and have it reported out, and the Senate could then work its will on that resolution and could send it back to conference, ask for a conference with the House. The House would have to appoint conferees if they wanted to accede to a conference, so the process would be over half completed if we took that action. It is a vehicle on which the House has already initially acted.

There may be another approach, which may not have been used in a long time. While the conference report is dead, the continuing resolution is still alive. The Senate could go back and could ask to go back to conference. What the modus operandi will finally be determined to be remains to be seen. Contacts are being made. We are discussing this among Senators and, perhaps, something can be done today to get the matter moving again.

In any event, I should think the Senate, if I am any judge of its temper last evening and the position that it has taken on the abortion amendment many, many times, will want to recast its position in any vehicle that is sent to conference, whether that vehicle is again originated in the other body or is picked up here, and it will also want to take a very strong position, which it did on the resolution when it went to conference, as being opposed to a salary increase.

Mr. LEAHY. If I may ask the leader one last question, Mr. President, am I correct in understanding that if sometime next week we resolve, of course, a continuing resolution, another continuing resolution, for appropriations for the Government, that that continuing resolution could be made retroactive to October 1, number one?

Mr. ROBERT C. BYRD. The increases——

Mr. LEAHY. Except for the judges.

Mr. ROBERT C. BYRD. The increases that were going into effect automatically at midnight tomorrow night can be readjusted, can be retroactively reduced or eliminated. The congressional pay raise will be eliminated, except for the salary for judges which cannot be reduced once they have gone into effect.

Mr. LEAHY. The other part of that question is the practical matter that if the abortion issue was not addressed at all one way or the other in the continuing resolution, that is then an issue still open to be addressed in the normal course of legislation. I believe the distinguished chairman of the Appropriations Committee last night said he introduced five pieces of legislation, legislative matters, to be addressed in the authorizing committees. So if that was not in the continuing resolution, in no way are we precluded from subsequently addressing the issue of abortion in a proper legislative vehicle.

Mr. ROBERT C. BYRD. The Senator is correct.

May I use this trigger mechanism that the Senator has set off within my cranium to say, Mr. President, that he has put his finger on what is causing all of our problems, one of the major factors, at least, and causing our problems of not being able to get appropriation bills enacted and down to the President's desk ahead of the October 1 deadline.

We all thought that the Budget Reform Act was going to cure this, and it has. I think it has gone a long way because it is much more difficult to get legislation down to the President by July 1 than by October 1.

But we are seeing as time goes on the effect of this utilization of appropriation bills for legislation, and it slows down the process. That is why we are having problems getting appropriation bills enacted for the October 1 beginning of the new fiscal year: they are being used as vehicles for controversial legislation.

We have a rule in the Senate manual—it is rule XVI—which prohibits nongermane amendments on appropriation bills and legislation on appropriation bills. But when the other body opens the door, and offers legislation on an appropriation bill, let us say, dealing with abortion or busing or whatever, and sends it over to the Senate, then that takes away our rule as to germaneness because Senators then have to respond, and they have shown great courage time and time again in responding on these controversial issues. But they are forced then to take a vote time and time and time again on a matter that really ought not to be on an appropriation bill. But the House has opened the door, made it germane when it gets over here, and so the Senate is obliged to act one way or another on that issue.

That is one of the things that is causing the slowdown in appropriation bills: this epidemic, this fever, of opening up appropriation bills to legislation, and I think that ought to be said. I want to compliment my colleagues because they have repeatedly stood up and taken positions over and over and over again, and the appropriation bill is not the vehicle for resolving these important issues, emotional issues, controversial issues, in many instances single-interest group issues, single-interest group politics.

Time and time again the appropriation bill is used as this vehicle. That is what the problem is. I hope we will understand that. That is why we are having this problem, that is why we had the problem last night, that is why we are so delayed in getting these bills. The procedure is becoming more and more used as a vehicle for legislation. That is what the chairman of the Appropriations Committee was bemoaning last night.

Mr. LEAHY. Mr. President, if I could just sort of finish this colloquy that I had not expected to get into with the leader, but I just have to emphasize how much I agree with him.

The have the privilege of serving on the Appropriations Committee both with the leader and with the distinguished chairman of the committee (Mr. MAGNUSON), and it seems that I find my duties on a lot of other committees get wrapped into appropriations, whether it is Judiciary or Intelligence or whatever, because we start legislating on appropriation bills.

I do not question the importance to an awful lot of people in this country of issues of abortion, issues of school prayer, issues of putting matters of safety in the working place, and so on, but all of these issues should be significant enough to be able to stand or fall on their own merits and their own weight within the normal legislative procedure, going through whatever the appropriate authorizing and legislative committee is, whether it is to be done as a law, a statute, or a constitutional amendment, instead of bringing them in almost in a back-door way and saying, "We will hold hostage money for handicapped children; we are holding hostage money for the elderly; we will hold hostage money for day-care centers; we will hold hostage money for defense, the national security of the United States; we will hold hostage the money for the mechanics of this country; we will hold hostage our ability to carry out our military policy, foreign policy, and social policy of this country to try to bring in in absolute violation of the rules—of the House, too for that matter—legislation on appropriation bills.

Quite frankly, Mr. President, I feel that if the proponents of these various issues—and in some instances I may be one of them—feel that they are really important to the country, we should be honest enough to say they are important enough to rise or fall on their own, and not apply what many times amounts to critical restrictions on others who rely on the Government—again, whether it is the elderly, the handicapped, or whatever of this country, or the military or other branches of our Government—by letting them be held hostage to this.

Let us hope that these critical issues—and I definitely feel they are critical—will be more and more addressed in the normal legislative process, and then let us address appropriations matters in the appropriations process. Not only will the Government run more smoothly, but—and this should be of some interest to an awful lot of people in this country—the ultimate bill to the taxpayers will be an awful lot less, if we can have some assurance in what we are going to be doing from day to day, without the Government not knowing from one week to another whether it will be able to operate or not.

Mr. President, I have said more than I intended to, and I yield the floor.

Mr. ROBERT C. BYRD. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 1 hour, and that Senators may speak therein up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMITY BETWEEN THE HOUSES

Mr. RANDOLPH. Mr. President, if the able majority leader has the opportunity to stay in the Chamber for just a minute, I would like to comment, though it is understandable that he would not want to hold the floor longer.

I think last night he showed substantial restraint, very frankly, in the way that he handled the very difficult and what should have been uncalled-for problem.

I am not going to address these very brief remarks to pay raises or differences as to degree to meet the abortion problem, but I feel that the legislative process was seriously impaired by the action of the other body. I am not a carping critic of my colleagues on either side of this aisle; they are my friends, and so are the Members of the other body, in which I have had the opportunity to serve. But I think a wrong was done.

Perhaps it ought not to be mentioned, but I feel I will affront no one in the other body if they think carefully about what I am saying. What really happened was that the other body, the House of Representatives, I say to the majority leader and others who are in the Chamber, left their post of duty. It is not for me to say whether it was right or wrong for them to be out during the coming week. That is their own decision to make. But I think it is a proper question for me to ask of them, Why did they leave this Hill when this matter was pending? This situation which festered and broke in an open sore--although again I speak of the able majority leader's restraint in this matter—and we were left without the opportunity of working with those on the other side of this Capitol?

If they are to be out during this coming week, it is very unsatisfactory that they did not feel that they should have been here on the Friday night and into the Saturday preceding, to try with the Senate Members to handle legislatively these matters that are before us.

I am not going to say that there was an affront to the Senate by the other body. I am only going to say that I think the House of Representatives failed in its opportunity and responsibility to be a part of the legislative process, which means they must be on the job to take care of problems such as we are considering now. It is not the issues; I will not discuss those. This, as I see it, goes to the integrity of the legislative process, and that concerns me.

I think the American people are not too knowledgeable, frankly as to the intracacies of the handling of legislative matters here on the Hill, or very few of them are. But they see that the Congress of the United States failed to act. There was rhetoric a-plenty, but inaction. That is what the people know took place.

Having said all of this, and perhaps at too great length, I want to say that the comity between the bodies of Congress is very important, and there comes a time when, if a situation like this surfaces—and it may surface again—we must have an understanding with the leadership of the other body, if not with the Members, that we expect both bodies to be here and the membership sufficiently informed to act on a very serious situation such as faced us last night.

I again commend the majority leader for not permitting himself to become overly angry, but he did speak earnestly. I noted what he said, and I concurred in his position. I understood it. Again here today, perhaps I am not so much trying to settle something, because I am not on the Appropriations Committee or in charge of doing this job of legislative effort, but I do feel an individual responsibility as one of the hundred Senators in this body. Having said that, I repeat that the integrity of the legislative process was violated. The integrity of the legislative process was violated, and I hope that that will never happen again.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to engage the majority leader in a short colloquy, if he will agree, in just a moment. I would like first to say that, as the majority leader knows, the Senator from Nebraska was on official duty at West Point as a member of the board of visitors yesterday, and got back late last night. I just wish to say that had I been here, I would have voted with the 55 Members in the very proper action that they took last evening, and I congratulate my colleagues who so voted.

I have several questions, to make sure that I understand where we are at the present time; and I suspect that, while I am a relatively new Member of this body and am not familiar with all the rules governing what takes place here, I would certainly have to say that at best the rules have been severely bent if not broken, as so ably referred to just a few moments ago by the senior Senator from West Virginia (Mr. RANDOLPH).

I would first like to ask the majority leader, is it true at the present time, Mr. Leader, that as we sit here, on the Saturday before the new fiscal year begins on October 1, that as we sit here now, we have increased the salaries of the Members of both the Senate and the House? And if so, by how much?

Mr. ROBERT C. BYRD. I am sorry; I beg the Senator's pardon.

Mr. EXON. My question, Mr. Majority Leader, is that, as we stand here on the floor of the Senate on the Saturday before the beginning of the new fiscal year, and as the situation currently exists, have we increased the salaries, either by lack of action or in spite of it?

Have we increased the salaries of Senators and Congressmen and, if so, by what percentage?

Mr. ROBERT C. BYRD. We have not, no. The Senate took a very clear position and was unanimous in the Appropriations Committee on the resolution that the congressional pay increase would not go into effect for Members of Congress.

If the resolution itself does not reach the President's desk and is enacted into law by midnight tomorrow night, then this increase will go into effect—5.5 percent for last year; 7 percent on that 5.5 percent, and 7 percent, which makes a total of 12.88 percent. But Congress can act retroactively to eliminate that pay increase. So it will go into effect tomorrow night. It has not gone into effect yet. It will go into effect tomorrow night.

Mr. EXON. That can be rescinded.

Mr. ROBERT C. BYRD. Yes.

Mr. EXON. Let us carry forth on another point.

Mr. ROBERT C. BYRD. Except for the judges.

Mr. EXON. Now I am going to follow the question of the judges. My question was with regard to Congressmen, Senators, Members of the House. In my opinion, the majority leader correctly understood the question and has replied to make that clear.

With regard to Federal judges, is it not true that, as we stand here on the floor of the U.S. Senate on Saturday afternoon, before the new fiscal year begins on Monday, there is no practical way that we can roll the salaries back since, as I understand it, the Federal judges' salaries, unlike those of Congressmen, cannot be rolled back retroactively under the Constitution. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. EXON. In the opinion of the majority leader, is there anything that we in the Senate could do today or tomorrow, as a significant step, to see if there is any possibility that the House would discharge their responsibilities, maybe come back into session? If I understand it right, regardless of what action we would take with regard to judges' salaries, we cannot do that unilaterally. It is a joint action and has to be done before midnight Sunday night.

Mr. ROBERT C. BYRD. The Senator is correct. It does require joint action and has to be done before midnight tomorrow.

Mr. EXON. In the opinion of the majority leader, is there any bill presently being prepared or that might be offered with regard to expressing the position of the U.S. Senate on the particular matter of the judges' increases?

The majority leader knows full well that there was considerable debate in this regard on a motion offered, I believe, by Senator MORGAN from North Carolina the other day, not to give the Federal judges the increase in salary. That was defeated, but I would say that if we had a quorum present on a vote, the Senate might be interested in reversing itself on that position.

Have the majority leader's sources of information indicated to him whether or not there is any bill scheduled to be introduced today that would address, from the Senate's viewpoint, the increase in salaries of the judges?

Mr. ROBERT C. BYRD. Oh, yes, that is legislatively and procedurally possible. I already indicated that the Democratic Policy Committee staff is exploring the feasibility of using certain approaches today or on Monday whereby the Senate can act to send the matter over, get it back in conference so as to expedite the action.

Mr. EXON. But even if we took that route——

Mr. ROBERT C. BYRD. I think the situation that we were confronted with last night, and I agree with my senior colleague (Mr. RANDOLPH) on the need for comity between both Houses, the situation was that the Senate was simply faced with a fait accompli. The conference report was sent back to the Senate. It was sent back on the terms of the other body and the other body simply went out. It was a take-it-or-leave-it proposition.

The other body was supposed, according to its schedule, to be out for a week for the holiday. Instead of sending over the adjournment resolution, which would not have been passed by the Senate, the House elected to come in pro forma.

The Senate took one of the few courses that I saw available. One was to defeat the conference report or to adopt it and send it back, reinstituting the Senate's position, namely, no congressional pay raise, and the Senate's position on abortion.

So, in answer to the distinguished Senator, the leadership is attempting at this time to explore what may be feasible for the Senate to do today or Monday so as to help expedite the process, get it back in the middle of the road, get it back on track, because a lot of people in this country are involved. This is what makes it so difficult and so disappointing. And so unfortunate.

Mr. EXON. One last question of the majority leader.

Going back to the issue that is being raised——

Mr. ROBERT C. BYRD. Putting the Senate in this position of take it or leave it when it impacts on the Government of this country and millions of people, many programs, various agencies, many contracts, I think, is most unfortunate.

Mr. President, I should like to get about the business of trying to see what can be done as soon as possible so that, if there is something we can do today, the Senate will not have to stay around all day to do anything that is feasible.

Mr. EXON. Could I ask one more question of the majority leader before we finish?

Mr. ROBERT C. BYRD. I shall attempt to answer.

Mr. EXON. Following up on the remarks of the senior Senator from West Virginia about the rules and regulations which we go by, is it not true that there is a rule that requires that either the House or the Senate, before it can adjourn for more than 3 days, must receive the consent of the other body? I think the answer to that is "Yes"; is that correct?

Mr. ROBERT C. BYRD. That is a constitutional provision and I can only assume that that is why the adjournment resolution was not sent over by the other body, and that it took the course it took because the prospect of the Senate approving such a resolution under the circumstances were zero.

Mr. EXON. Is it true, I ask the majority leader, that they have gone through the pro forma exercise of meeting on Tuesday, when everyone understands that there is no chance of there being a quorum in that body so that they can transact any business?

I think, following up on the remarks of the senior Senator from West Virginia, that when the leadership of our bodies, regardless of who they are, play those kinds of games with the rules and the Constitution, then I think that that is even more serious than the complaints about how the processes have been bungled that have been made on the floor of the Senate today.

Mr. ROBERT C. BYRD. Will the Senator yield on that point?

Mr. EXON. Yes.

Mr. ROBERT C. BYRD. I want to say this insofar as the leadership is concerned. I do not want to appear critical of the leadership of the other body. Sometimes circumstances move beyond the control of the leadership. The leadership cannot control the Senate. The leadership cannot control the House. So I should like respectfully to suggest that criticism not be offered of any particular individual or of the leadership.

I know that is not what the Senator intended.

Mr. EXON. It is not what I intended.

Mr. ROBERT C. BYRD. I do not know what the situation [illegible]er there or the circumstances the leadership was presented with.

Mr. EXON. I thank the majority leader. I appreciate it very much.

Mr. HARRY F. BYRD, JR. Will the majority leader yield for a question very briefly?

Mr. ROBERT C. BYRD. Yes, if the Senator will allow.

Mr. EXON. I yield. Then I have one more statement to make.

Mr. HARRY F. BYRD, JR. If the Senator from Nebraska or the Senator from North Carolina or anyone else, for that matter, decided to introduce a bill in the Senate today stating that congressional and judicial salaries shall remain the same as they would be on September 30, 1979, and if unanimous consent could be obtained to consider that measure today, I assume that that would be in order and that the Senate, if it so desired, could enact such legislation today.

Mr. ROBERT C. BYRD. Mr. President, by unanimous consent, the Senate could act on such legislation today.

I think the better way is to see if we can get an appropriation vehicle back into conference which would include the position the Senator just enunciated.

Mr. HARRY F. BYRD, JR. Including judicial salaries?

Mr. ROBERT C. BYRD. Well, yes. That is legislatively and procedurally possible, but I am not sure, as I look around——

Mr. HARRY F. BYRD, JR. But the point I am suggesting, if I may, a Member could introduce legislation along the line I just indicated, ask for its immediate consideration, and if there were objection noted, of course, could not proceed, but if none were noted, then it could be brought up for consideration?

Mr. ROBERT C. BYRD. Yes, legislatively and constitutionally and procedurally, it is possible. But there are great obstacles.

First, by custom, appropriations measures start in the House. Not under the Constitution. The Senate has originated appropriations measures in the past, never with much success. They have gone across the Hall, but that is about it.

Second, various other rules have to be cleared by unanimous consent. But, it is possible. But I say, not practical.

Mr. HARRY F. BYRD, JR. It seems to me important the Senate make known its position on this matter.

In concluding, may I say that I want to give strong support to the majority leader for bringing the Senate into session today. I think it was appropriate. I think it was proper. I think it was wise at this 29th day of September, 1 day before the fiscal year ends. I think it is very desirable the Senate be here in session even though it is a Saturday, be prepared to work, be prepared to act, on any of these matters that should be considered prior to the end of the fiscal year.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Virginia.

Mr. PRYOR. Will the Senator from Nebraska yield to me for a moment?

Mr. EXON. Yes.

Mr. PRYOR. I would like to compliment the Senator from Virginia and the Senator from Nebraska, and especially the very succinct point the Senator from Virginia raised relative to the possibility of a bill today or—I hate to think about on Sunday—but the possibility of legislation on Sunday, sometime before midnight, and to further state that if the Senator from Virginia would introduce such a bill, or anyone in this body would, I would be more than happy to support it.

Mr. RANDOLPH. I would, too.

Mr. PRYOR. Because I think after tomorrow night at midnight, the Congress is going to look awfully silly.

Mr. RANDOLPH. Right.

Mr. PRYOR. And we are going to get a terrible amount of criticism. I am afraid a lot of that criticism is going to be justified, especially if we allow almost a 13-percent increase to go in for the judiciary. I think they are entitled to some increase, but not a 13-percent increase.

I think we will rue the day if we allow this increase to go into effect and do not take action on it before midnight tomorrow night.

I compliment the Senator from Virginia and the Senator from Nebraska, and I thank the majority leader for the work he is doing in this area.

Mr. EXON. I thank the Senator from Arkansas for his comment.

I can assure him that at the present time we are working toward some kind of a vehicle. That was really the reason for my questioning of the majority leader. Some kind of a vehicle to do what he would like to do.

I intend to consult with Senator MORGAN on that as soon as that can be arranged.

Before yielding the floor, I would like to say that during the remarks by the Senator from Vermont, he said that many things were held hostage in the process we go through in formulating the budget and making the appropriations.

I would like to say I am sure he inadvertently left out one, and that was very brazen on the House side at this time, and that was the blackmail that took place over there with regard to reporting out the budget bill only if the leadership on that side would agree to withhold the legislation that was pending with regard to holding down the amount of money that can be contributed by the PAC groups.

I generally endorse the concerns the Senator from Vermont had in that regard, and would like to add that rather prominent hostage item that was used in the other body.

Mr. President, I thank the Chair. I yield the floor.

Mr. MORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, if the Senator from Nebraska would yield, I would like to carry on a colloquy a little further to make sure I understand where we are.

Mr. EXON. Certainly.

Mr. MORGAN. First, as he was kind enough to mention earlier, I did propose that we give no salary increases to the top echelon of the executive and judicial personnel in Government. I think that equates out to those above $47,500.

As we mentioned on the floor at the time, it is not that I do not feel these people warrant a raise, but it is my feeling that under these inflationary conditions somebody is going to have to make some sacrifices if we are going to do anything about inflation.

Personally, I would hold the raises much below that.

But anyone making that much money has enough room in which to maneuver and realine obligations to live. But that was defeated.

But do I understand now that unless we act by midnight tomorrow night, the salary raises for the judges will not only be the 5.5 percent which the Senate included and passed, but also will include those from last year that were suspended, as well?

Mr. EXON. From the response I received from the majority leader and from what knowledge I have of this, I would say that the Senator is correct. That is why I said earlier I thought maybe if we could get the Senate to reconsider the action that turned down the amendment the Senator offered earlier, which I think was a mistake, maybe we could get that reversed.

I think the Senator is correct.

Mr. MORGAN. I would like to see that done very much. But even if the Senate would do it, is it not true that the House is not in session?

Mr. EXON. The point is, if the Senate would take the action today, it might put even more pressure on the leadership of the House, maybe even the White House, to call the House of Representatives back into session to act on this and other matters.

Mr. MORGAN. That was a point that concerned me.

But unless the leadership of the House did call the House back into session to act upon whatever the Senate might do, then, of course, the raises will go into effect at midnight Sunday night?

Mr. EXON. The Senator is correct.

Mr. MORGAN. And under the Constitution, there is nothing anyone can do to put the salaries back—of the judicial branch—where the Senate and the House intended them to be?

Mr. EXON. I believe the Senator is correct.

To sum up, unless we act by midnight Sunday night, the substantial increases for the judiciary will go into effect.

We have the option of rescinding the salaries, as I understand it, for the Members of Congress.

Mr. RANDOLPH. Will the Senator yield?

Mr. MORGAN. I yield to the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. I want to add in connection with the coming back into session of the House, that I personally—and I have no right to indicate what the President of the United States should do or should not do—but I think the people of this country, regardless of party, would feel that they were indebted to the President of the United States if at this time he did call back the Members of the House of Representatives.

This is an issue, basic to the country's fiscal integrity, I say to the Senator from Virgina, who often speaks of fiscal integrity.

I think the President of the United States has an opportunity and a responsibility in this matter.

Mr. EXON. I could not agree more with the senior Senator from West Virginia. I thank not only him but also his colleague, the junior Senator from West Virginia who has acted very responsibly in this matter and I believe was the first to suggest such action.

Mr. MORGAN. I thank the distinguished Senator from Nebraska and the distinguished Senator from Virginia for bringing this matter to the attention of the Senate and the American people.

I was compelled, yesterday afternoon, to leave the Senate and was not present last night, although my votes were announced. I arrived home last night in North Carolina at 12:30; and upon learning what had happened, I flew back to Washington this morning, canceling several engagements.

I would be glad to join my colleagues in doing anything we can to at least express the will of the Senate that such raises—which I consider to be exorbitant in light of our national economic condition—shall not go into effect, because they cannot be rescinded.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. HARRY F. BYRD, JR. This body, of course, has no control over the House of Representatives, and should not, just as they have no control over us. However, like the Senator from North Carolina, I think it is important that the Senate go on record today in expressing its view with regard to what should be done about congressional and judicial salaries.

It is true that it cannot be binding until the House acts, but the Senate has an opportunity to act today. We are in session. If the votes are here to do it, a simple bill can be passed, saying that the salaries for Congress and for the judiciary shall remain the same as the rates that exist on September 30, 1979.

I believe it is important for—I will not say "integrity"; that is not exactly the word I want to use—but I think it is important for the public reputation of the Senate that we take some action today, clear, precise action, in regard to congressional and judicial salaries.

I am not sure that it is necessary at all to have it become involved in the continuing resolution dealing with a lot of other questions, but if that is the better way to work it, it is all right. If it is not, a simple bill can do the job.

Mr. MORGAN. I would be glad to join my colleague in the sponsorship of such a bill.

DEPARTMENT OF DEFENSE AUTHORIZATIONS CONFERENCE REPORT

Mr. WARNER. Mr. President, late yesterday afternoon the joint conference committee of the House and the Senate Armed Services Committees completed action on the fiscal 1980 defense authorization bill. The conference report will soon be before the full Senate for its consideration. The centerpiece of this important report is the compromise authorizing a fourth *Nimitz*-class nuclear-powered aircraft carrier. As soon as the appropriate time arose, I—together with other Senate conferees—urged that the House provision calling for the nuclear-powered carrier be adopted by the entire conference. I wish to express appreciation to all conferees for their support and now ask each of my Senate colleagues to support this authorization bill, and particularly the nuclear-powered carrier, for these reasons.

First, the United States must send a signal now to the whole world that we are determined to maintain a maritime defense posture second to no nation. Second, in view of the indefinite schedule of the SALT II debate and the indeterminate final outcome of this debate, the United States must give concrete evidence to its NATO allies of its continuing assurance to live up to the obligations of our mutual defense treaties. Third, by using nuclear power rather than fossil fuel, the nuclear-powered carrier is a step forward in lessening our dependence on imported oil.

Further, I call on the President of the United States to commit himself to the Congress during its consideration of this conference report that he will not veto this legislation should the ultimate decision of the Congress be acceptance of the conferees' decision to include a nuclear-powered carrier. Indeed, it is to the President's advantage to join with the Congress in sending this signal of determination to the world.

I am informed that one of the options open to the President in taking what I hope will be affirmative and strong action in response to the Soviets' refusal to remove combat troops from Cuba, would be to hold U.S. naval exercises in the Caribbean to show the flag in more dramatic fashion. This most effective form of diplomacy is rooted deep in the history of naval power. The President's message to Congress to accept this carrier would be a clear manifestation of his determination to provide future Presidents into the next century with those essential elements of maritime power this Nation will require.

The nuclear-powered carrier comprises the most powerful force of diversified aircraft in one place on Earth. Tactical power is the main instrument for the U.S. global power and the free world security on the seas. A nuclear-powered carrier is the most efficient way of concentrating tactical air power throughout the remainder of this century.

I do not wish, at this time, to address in detail the importance of a strong Navy to our national security. It is fairly self-evident that we are an island nation heavily dependent on the seas for both our military and our economic security. The health of our economy depends to a large extent on overseas resources and overseas trade.

It is imperative that the United States maintain a strong Navy to insure our continued access to the seas.

However, in the past decade the Soviet Navy has gone from a limited coastal defense force to a truly significant "blue water" Navy capable of sustained operations in all the oceans of the world.

Soviet naval capabilities are now such that they provide a direct threat to our ability to control the seas.

It is only our aircraft carriers that provide a margin of superiority over the Soviet Navy, and that margin is slim and is slipping away as the Soviets continue to build more and larger air-capable ships.

We clearly need another carrier, and it is my conclusion—and the conclusion of the House and Senate conferees—that the *Nimitz*-class carrier is the best decision.

There are three main issues that must be considered with regard to the carrier decision.

First. Which of the three types of aircraft carriers is the most combat-capable?

Second. Which is the most cost effective?

Third. Should we consciously build a ship which is totally dependent on a scarce, costly and dwindling resource—oil?

With regard to combat capability, there is no question. The *Nimitz*-class carrier is head and shoulders above the conventionally powered *Kennedy*-class carrier.

It is the most survivable and most combat-effective ship afloat. The *Kennedy*-class ship is nearly as capable, but it does not have the operational advantages that come from nuclear power.

The *Nimitz*-class carrier carries 50 percent more aircraft ammunition and almost twice as much aviation fuel as even the *Kennedy*-class carrier, and it can steam at maximum speed without replenishment almost indefinitely.

Aside from military aspects, there is the question of cost and cost effectiveness. Cost effectiveness is a difficult thing to measure because costs must be estimated 30 years into the future. However, from the cost studies submitted to the Congress, it is clear that the lifetime costs of a *Kennedy*-class and a *Nimitz*-class carrier are about even, and that assumes that there will be no future increase in the price of oil. If fossil fuel prices continue to climb at current rates, there is no telling how much more expensive an oil-fired carrier would be.

Aside from these considerations, however, is the question of whether it is wise to intentionally build a ship which will be operating in the 21st century and make it dependent on oil—costly, dwindling in supply, and nonrenewable.

We all remember the gas lines of this summer, and we all know that heating oil may be in short supply this winter.

Furthermore, 80 percent of the world's proven oil reserves are in the hands of others—the OPEC nations—and we cannot be assured that we will have access to that oil in the years ahead.

It just does not make sense to spend all this money on a ship we badly need and then needlessly hobble it by making it less combat capable and utterly dependent on oil.

Mr. President, for too long the Congress and the executive branch have been avoiding a decision on a new aircraft carrier.

The need was clear several years ago, and recent events have only served to underscore the need for naval power to protect American interests.

It is time we made a decision.

It is time we built this carrier.

I commend the Senate and House conference for their decision to authorize a *Nimitz*-class carrier. I hope we can now get down to bending steel and getting this ship to sea where it belongs.

TIME FOR THE SENATE TO ACT ON GENOCIDE

Mr. PROXMIRE. Mr. President, like other Senators I am proud of this body. It may or may not be the greatest deliberative body in the world. But in its 190-year history it has had great achievements as well as some tragic failures.

In the first half of the 19th century, giants like Webster, Clay, and Calhoun, working in this body as U.S. Senators, found the genius to pull together this divided, sectionalized Nation with its differences over slavery, credit, and monetary policy as well as continental expansion.

During and after the Civil War, the Senate sadly suffered the same loss of magnanimity and leadership that afflicted the Presidency for years after the loss of Lincoln. In this century, the Senate forced the Nation to turn its back on the League of Nations, and in doing so may have played a major part in failing to prevent the catastrophe of World War II. On the other hand, the Senate did contribute vital leadership to enactment of the Marshall plan that revived the free world. And the Senate labored fruitfully in partnership with Woodrow Wilson and Franklin Roosevelt in fostering economic reforms that have made this a more compassionate and secure country.

Mr. President, in that perspective, consider the remarkable failure of the Senate to ratify the Genocide Convention. Here is a treaty pushed primarily in the United Nations 30 years ago by whom? By this country, the United States. Here is a treaty that has been urged on the Senate by President Truman, by President Eisenhower, by President Kennedy, by President Johnson, by President Nixon, by President Ford, and by President Carter. Every Secretary of State, every Attorney General for 30 years has pleaded with the Senate to ratify this treaty. The American Bar Association strongly supports the treaty. Every religious group—Catholic, Protestant, Jew—has urged that the treaty be affirmed by the Senate. Eighty-three other nations—every major nation in the world—except the United States has ratified the treaty.

And what would the treaty do? It would outlaw genocide, which is the planned, premeditated extermination of a people, such as the extermination Hitler visited upon the Jews in killing 6 million of them in Europe during World War II.

Mr. President, what is this body afraid of?

Oh yes, there are a few, far-out, right-wing organizations that seem to oppose everything, including fresh air, who are against the treaty. But how feeble, how cringing, how pathetically frightened can we get when we permit this great body, with its two-century tradition, to be paralyzed by the opposition of a few deluded extremists?

Mr. President, it is time this great body acts and ratifies—at long last—the Genocide Convention.

REPEAL OF CARRYOVER BASIS

Mr. HARRY F. BYRD, JR. Mr. President, the Finance Committee this week voted to repeal the carryover basis provision of the tax law.

This provision was adopted at the eleventh hour by the committee of conference of the House and the Senate on the 1976 Tax Reform Act.

There had been no hearings on this provision by the Finance Committee. There had been no Senate debate on the provision. It came to the Senate as part of the conference report and I venture the assertion that not more than a handful of Senators knew that it was in the conference report and even fewer understood its implications.

It makes a fundamental change in the tax laws. Prior to 1976, when a person died, the assets of his estate were appraised at current market value. If the assets were subsequently sold at a price higher than the appraised value, a capital gains tax was paid on the difference between the two figures.

Under carryover basis, however, executors of an estate would be required to ascertain the original cost value, even though the assets may have been acquired 10 years ago or 30 or 40 years ago. Under carryover basis an income tax would be levied on the difference between the sale value and the original value going back 10 years or 30 or 40 years.

This tax would be on top of the estate taxes levied against the decedent's estate.

The 1976 carryover basis law would require detailed records going back many years to the time the asset of estate was acquired.

What Congress did in 1976 has been proved totally unworkable. The law cannot be complied with nor can it be administered.

As chairman of the Subcommittee on Taxation, I have held many hearings on this subject and virtually everyone deems the law unworkable.

The Treasury Department opposes repeal and in its presentation to the Finance Committee this week stated that the tax section of the New York State Bar Association opposes repeal of carryover basis.

Now, Mr. President, I have a little first-hand knowledge of the feeling of the tax section of the New York State Bar Association. No doubt that of the 1,000 members there are a few who do not favor repeal. But I addressed this group of 1,000 lawyers at a luncheon in New York and I denounced the carryover basis law and stated that I would do all that I could to bring about its repeal. I received three standing ovations.

So I put no credence in what the Treasury Department told the Finance Committee this week.

Senator Dole and I have introduced S. 1163 to repeal carryover basis. It was this amendment which the Finance Committee adopted this week. The committee acted despite the fact that President Carter told the committee and has stated publicly that he would veto any bill containing repeal of carryover basis.

The vote in committee to repeal carryover basis was 18 to 0.

The carryover basis provision is unreasonable, unfair and unworkable.

The following Senators are sponsoring this legislation for repealing carryover basis (S.1163):

> Senator Robert Dole, Senator Harry F. Byrd, Jr., Senator Edward Zorinsky, Senator Lloyd Bentsen, Senator Roger W. Jepsen, Senator Malcolm Wallop, Senator Wendell H. Ford, Senator Robert Morgan, Senator John Tower, Senator Nancy Landon Kassebaum, Senator Richard G. Lugar, Senator Richard Stone, Senator Orrin G. Hatch, Senator Milton R. Young, Senator J. James Exon, Senator James A. McClure, Senator Larry Pressler, Senator Thad Cochran, Senator John Melcher, Senator Jesse Helms, Senator Harrison "Jack" Schmitt, Senator Gordon J. Humphrey, Senator Barry Goldwater, Senator Rudy Boschwitz, Senator Alan Simpson, Senator Ernest Hollings, Senator Russell B. Long, Senator Gaylord Nelson, Senator Daniel P. Moynihan, and Senator David Durenberger.

Mr. President, I ask unanimous consent to print in the Record a partial text of my speech to the New York State Bar Association on January 24, 1979.

There being no objection, the text was ordered to be printed in the Record, as follows:

Speech Before the New York Bar Association

Because of your expertise in the trust and estate area of the law, I assume you are interested in recent tax law changes enacted by the Congress, particularly the carryover basis part of the estate tax law.

It is a dramatic departure from prior estate tax law in which the tax basis of property at the owner's death was "stepped-up" to its estate tax value.

Under carryover basis, the original cost of an asset "carries over" from the decedent to the beneficiary, and a tax upon appreciation of the asset is imposed whenever it is sold.

Today, virtually everyone acknowledges that the present carryover basis law is unworkable.

The way carryover basis got into the 1976 Tax Reform Act is a perfect example of why Congress must take more time in enacting complicated legislation.

At the 59th minute of the eleventh hour, after the 1976 Tax Act had passed both the Senate and the House, carryover basis was brought up in the conference between the House and the Senate.

There had been no House action. There had been no hearings by the Senate Finance Committee, and indeed no consideration of this matter by the Senate Finance Committee nor by the Senate.

I became convinced that there should be further Congressional review of this provision.

In July of 1977, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee, of which I am Chairman, held hearings on this part of the estate tax law. Witness after witness declared it to be totally unworkable.

It is clear that the carryover basis law as written in 1976 cannot be implemented. The Treasury Department itself acknowledged to the Senate-House Conference last October that it cannot be administered.

Today, there is strong sentiment for repeal. The Subcommittee on Taxation will be holding hearings on March 12, 19, and 20. These hearings will look closely at the many difficult problems created by carryover basis.

In looking at carryover basis, one proposal is to exempt all but 15 percent or 10 percent or 2 percent of the estates from the law. Treasury advocates something along this line.

While such a proposal may be politically expedient, it certainly offends one's sense of fairness. By subjecting a very small minority of our population to a very complex law—one that cannot be complied with nor administered—we would violate the fundamental principle that tax laws should apply equally to all taxpayers.

Record keeping problems associated with carryover basis deserve close attention. Even the most sophisticated taxpayers have difficulty producing adequate tax records when alive.

This problem becomes almost impossible under carryover basis when the taxpayer is dead, and the estate must produce basis information for every conceivable asset—some held for decades or a lifetime.

Another consideration is that carryover basis poses real dilemmas for fiduciaries. If a fiduciary wants to treat all beneficiaries fairly, he must take into account not only the market value of an asset, but also its basis. Otherwise, some beneficiaries will receive low basis assets and others will receive high basis assets.

In New York, I understand that this is particularly important since fiduciaries may be held liable if they fail to take basis into account when distributing assets.

Yet, this type of consideration is almost impossible, since beneficiaries' tax brackets may differ and there may be many different types of assets in an estate.

Citizens and private business today cry out for more certainty and freedom from arbitrary changes in Government regulations and rules, and in Congressional legislation.

Since 1969, 10 years ago, there has been a tax bill of fairly major proportions every year except three. In 1978, we had two tax bills—the Energy Tax Bill and the 1978 Revenue Act.

The uncertainty associated with carryover basis is an important consideration in evaluating it.

For many years, taxpayers have relied upon a step-up in basis at death. Such a step-up provides certainty since it clears the books at death and permits the beneficiaries of an asset to start off again with a known value.

If not carryover basis, then what? That question is asked frequently.

One, the law could remain on the books but not administered, a situation that of necessity has prevailed for the past two years—and would continue to prevail for the simple reason it cannot be administered nor complied with.

Two, it can be repealed. The chances of repeal are at least 50–50.

Three, a total rewrite of the law could be attempted.

Four, another form of taxing capital gains at death could be proposed. In my judgment, there is almost no likelihood that Congress would support any proposal more radical than carryover basis. Indeed, carryover basis would not have been approved if Congress had been aware of what it was doing.

Thus, this Congress will be confronted with deciding upon repeal of carryover basis as enacted in 1976, modification of the current carryover basis law, or further deferral. Other proposals involving a tax at death are *not* serious possibilities.

Whatever is done, we should remember that carryover basis is not merely a technical problem of legislative drafting. It raises fundamental questions of social and economic policy, which were not debated in 1976.

If one can assume that death usually is an unwelcome event, I am not impressed with the argument that death is a tax loophole. I doubt that the average American is either.

The idea of taxing appreciation of capital assets must be looked at closely in the overall context of American capital formation. American productivity lags greatly behind our competitors in Europe and in the East. If we are to have a strong, vigorous economy which is essential to maintain the American standard of living, we must provide individuals with incentives to take risks and accumulate capital.

It is important to remember, too, that much capital appreciation is due to inflation caused by Government policies in Washington.

Inflation is our nation's number one problem.

Until we get inflation under control, many other problems will remain unsolved, indeed are likely to get worse.

Mr. JEPSON. Mr. President, I would like to commend the senior Senator from Virginia (Mr. Harry F. Byrd, Jr.) on his comments on the carryover tax. I would like to commend him for the work he has done. I have shared with him in developing the list of sponsors to repeal the carryover basis tax, and it is something that I believe will be repealed, and very wisely so, by this session of Congress.

CONTINUING RESOLUTION CONFERENCE REPORT

Mr. GOLDWATER. Mr. President, I congratulate the senior Senator from West Virginia (Mr. Randolph) for the remarks he has made. I congratulate him because I think that, after yesterday's and last night's debacle, it is becoming more the tendency and the feeling by Members of this body that our wrath should fall upon the leadership of this body. After going home last night, even though there was not much time to reflect on it, there was enough time to realize that the real scoundrel in this act, the dog in the manger, is the House of Representatives.

Mr. President, I remind my colleagues that never at any time in my history, that I can remember, has this country been so bereft of leadership in every part of our Government, every agency, the administration, and now we have to add Congress. We have to add the House of Representatives who, in my opinion, are becoming more and more the responsible body in taking that position away from us.

Why do I say that, Mr. President? We knew what was going to happen if this bill was not passed by Sunday night, at midnight. We have gone through this year after year after year.

Our mail will swell and swell and swell in the next few weeks because the military will not be paid, because people working for the Federal Government will not be paid, because checks that are mailed out—more than 30 million a month—from Washington will not be paid, because we will not have any money unless something is done quickly between now and midnight on Sunday.

Mr. President, we might say that this is just the tip of the iceberg. As the junior Senator from Virginia remarked a few moments ago, we passed yesterday, after months and months of delay by the House of Representatives, a conference report on defense. Here this country is second place to the Soviets, and I say that without any fear of being challenged, and slipping further and further and further. Here this country has Castro thumbing his nose at the United States. Here this country is being questioned around the world by former allies, by small countries, who are wondering whether we really have the guts, whether we have the leadership, whether we have the brains to be the world's leading country. And the House of Representatives goes home.

We should have action on this conference report. We will not have it for 8 or 10 days, maybe 2 weeks.

The year is almost over, the regular year, and we have not passed anything for defense. Agencies will not be able to operate in a legal way, we are told by our majority leader, and I believe him.

Mr. President, I do not think it is right for either body of Congress to go home when this country is in such bad shape. If the House does not think it has work to do, I think we have passed seven bills which are sitting over there, waiting for conference action right now.

I hope that the President, if someone can locate him, will call the House of Representatives back and tell them to get on the ball, get on the job. Where are they? They are out playing golf in Arizona. They are out swimming in California. They are out making a few bucks here and there making a speech. They are enjoying life. And here we are on a Saturday sitting on our duffs doing nothing because the House of Representatives has taken it onto themselves to quit, to put their tail between their legs, shirk their responsibility to our people, our Government, and our world and wander off home.

If my remarks make anyone mad over there, happy day. I think it is time someone stirred them up.

I thank the Chair for the indulgence.

The PRESIDING OFFICER (Mr. Pryor). The Senator from Iowa is recognized.

Mr. JEPSEN. Mr. President, I would like to commend the leadership for what was not an easy decision to instruct the Senate to continue and stay on the job. I think that was as it should be, and I commend them for doing it.

Mr. President, we have been hearing remarks this morning about action that has not been taken, and/or action that should have been taken to provide some resolve to the fact that as of 1 minute past 12 or 12:01 on Monday morning there will be a 12.9 percent increase in the pay for all Federal employees.

I wish to point out that we have been hearing some criticism of and question about the responsibility of the action that was taken by the House of Representatives in failing to stay and resolve this situation and bring it to a definite known course of action. No one has mentioned the fact, however, that what this delay means is that it is a pretty expensive 24 hours. While we are standing here on Saturday afternoon, or thereabouts, it is $51 million that it is going to cost the taxpayers of this country. That is the difference between the 5.5 percent scheduled increased that had passed and the 12.9 percent increase which will be automatically going into effect at 1 minute after 12 Monday morning—$51 million.

The President does not have the authority to cap Federal blue-collar workers. The continuing resolution caps pay at 7 percent. Beginning October 1 to whenever a resolution is enacted the blue-collar workers are entitled to a full increase. The full increase depends upon geographic area but will be in the range of 10 to 15 percent.

Last year a similar situation arose for 10 days and it cost the taxpayers $29 million. This time a comparable period will cost the Government and the taxpayers much, much more.

Mr. President, I just point out the fact that as we stand here and debate this today, should the automatic cost-of-living adjustment amount of 12.9 percent go into effect on Monday morning, $3.6 million will go to the judiciary and that cannot be taken back, but in addition to that, regardless of when the resolution is made, it is also a fact that the blue-collar workers will automatically receive the amount of money that is due them until such time as a resolution is enacted, and it cannot be made retroactive. Last year that cost the taxpayers over $28 million and will be substantially more this year.

I might also point out that all the other branches of Government should they decide or want to take this to court, either an individual or any section, I have been advised by legal authorities this morning, they would probably have a case and the entire amount of money due until such time as a new resolution is enacted will be due them.

So not only are we talking about image, talking about responsibility, fellow Members of the Senate, but we are talking about a big hunk of change, possibly as much as $51 million.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alabama is recognized.

Mr. HEFLIN. I have heard a good deal of remarks on the floor of the Senate this morning and last night dealing, of course, with the prevention of salary increases going into effect with regard to Members of Congress, with which I completely agree, and I feel that the 12.9-percent increase that the judiciary would receive under this procedure if action is not taken by midnight on Sunday is an increase that should not go into effect.

I am not saying they are not entitled to some type of cost-of-living increase, but I feel there is another issue that is also as paramount or even more paramount than the issue of salary increases, and that is the question of whether or not governmental agencies can continue to operate without authorization from Congress past the end of a fiscal year.

At midnight on Sunday we begin a new fiscal year. There seems to be no question in the minds of people that Government cannot operate and agencies cannot operate without appropriations and without authorizations. There are some, perhaps, that are in a status where there were sunset laws which could be applicable in that particular instance.

It seems to me that we need an inventory of the governmental agencies and departments as to how long they can continue to operate during a new fiscal year without congressional authorization or without authorization of appropriations for them to continue to operate.

I have read in this morning's newspapers that there are some that can only operate for a short time. I do not know how accurate that statement is. One was alarming to me, dealing with the disaster program. As Members of the Senate know, Hurricane Frederic hit Alabama, my home State, and has left a path of destruction that we have never seen before in our State. The Federal Emergency Management Agency is operating in Alabama, and they are doing a good job. Mr. Art Doyle, who is the regional director of the Boston area, has been sent there to direct it, and Mr. Doyle is a very fine administrator and is doing a great job, as are the other people there.

I would not like to see anything interfere and stop the question of the disaster aid to the people of Alabama, Florida, Mississippi, and the other places, States, and areas that suffered damage and are now receiving aid from the disaster relief agencies of the Government.

Bearing this in mind, I know there are other agencies, and I have real questions in my mind as to whether or not on Tuesday a quorum will be present in the House of Representatives to act on any measure that we may send to them today or before Tuesday.

It seems to me that we need an inventory of the needs, a list of agencies that can operate; we need to have an evaluation of whether the President, under the Constitution or under some law has certain authority to continue the operation of Government.

I am looking also to the fact that if we wait for the 10 days for the House of Representatives to return where they could be effective, as I understand it, they will return for a pro forma session on Tuesday, and then the idea would be that they would then go into adjournment again for perhaps 3 days or another pro forma, but some other period of time.

It seems to me that we have got to make some determination of a deadline by which Government can act; that is, whether or not a deadline in regard to when congressional authorization is needed to prevent any agency of the Federal Government from coming to a screeching halt.

With this in mind, I think we have got to establish that deadline, and after that deadline has been established, we have to take appropriate action as far as we can. It may well be that we will need to adopt a sense of the Senate that the President should act to call the House of Representatives back. But it seems to me that there are two things that need to be done immediately: one, an inventory of Government agencies and departments, and a determination of the question of when their activities will come to a halt in the absence of congressional action; and a second determination of when Congress must act in order to prevent those agencies from coming to a halt, that is their activities coming to a halt.

So I think we need to give some thought to those matters. We may find it is necessary for us to meet tomorrow. It may be necessary that the House of Representatives come in. But I do feel it is essential that we know the requirements of the Federal agencies and departments and from that that we determine a deadline by which Congress must act.

I thank the Chair.

Mr. JEPSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, earlier in the session this morning, the distinguished Senator from Nebraska (Mr. Exon) made some remarks and carried on a colloquy with the majority leader, the Senator from Virginia (Mr. Harry F. Byrd, Jr.), and myself with regard to the dilemma in which we find ourselves especially as it concerns the pay raises of the members of the judiciary.

As has already been pointed out, inasmuch as the Constitution of the United States prohibits the reduction of judicial salaries during their term of office, if Congress takes no action by midnight Sunday, the pay raises for the judiciary will be substantially above that which was contained in the continuing resolution passed by the House of Representatives and the Senate, that is to say, it would carry not only the 5.5 percent pay raise for this year, but it would also carry the 7.0 plus pay raise from last year. Therefore, unless action is taken between now and Sunday night, nothing could be done.

My colleagues and I have explored the matter with the majority leader, seeking to find ways in which this body could prohibit that event from taking place, but frankly we find no way in which it can be done. We have tried to find bills on the calendar that could be called up, to which we could attach an amendment, but even if we were successful in doing that, we must recognize the reality of this matter, and that is that the House is not in session and will not be in session before midnight Sunday, and it would be a futile act.

If we introduce a bill, which in itself would require unanimous consent to take up, here again, if we were to do that and pass it, it still would be a futile act. I ask the majority leader if I have correctly stated the situation, and if he sees any way that we could act effectively on this matter.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from North Carolina has stated the parameters of the case far more succinctly and cogently than I could have stated them.

There is no practicable, feasible way, at this hour, to keep the increase for judges from going into effect. The other body would have to act also, and the other body is not going to be here until Tuesday. It will obviously not be here today or tomorrow, and to be effective, such action would have to be taken by both bodies.

There is really no practicable way for the Senate, at this late hour, to accomplish this even on its own behalf, because to get any measure adopted would require unanimous consent, and if that is not given the Senate would have to do it by motion, and that is debatable.

There are problems, too, because there are many measures on the calendar, but for various reasons we cannot call them up now. In one case, for example, Senator Long, the chairman of the Finance Committee, wants to wait until the House acts and sends over another measure. There is another measure which, if called up, would be debated for weeks. There are various reasons; I could go down the list and say why the Senate cannot take up bill after bill and resolution after resolution on the calendar. So the Senate really has no vehicle.

To call up a resolution or a bill requires unanimous consent, because otherwise it has to go to a committee, and it requires unanimous consent to keep it from going to a committee. There is the 1-day rule that requires unanimous consent to take up a matter unless it has been on the calendar for at least 1 legislative day.

So, for all these reasons, which the distinguished Senator from North Carolina is aware of by virtue of his tenure in this body and his dedication to making himself knowledgeable of all these things, we have, as he says, discussed these matters. He, Senator Exon, and Senator Harry F. Byrd, Jr. have all talked with me. They are all concerned about this matter.

I am concerned. I do not feel that the judges should get this kind of an increase. As a matter of fact, so far as I am concerned, they ought not to have any. We need not get into that here, but they do not pay anything into retirement, and when they retire they retire at full salaries.

Mr. MORGAN. And there is certainly no shortage of candidates in my State.

Mr. ROBERT C. BYRD. No shortage of candidates; they do not have to run for reelection. I am not criticizing them for that, because a lot of this was decided by our constitutional forebears.

We have many able judges in our country, and the country is indebted to them for their fine services. It does appear to be unfair, but if the Senator will allow me to say this and sit down, he has explored this matter thoroughly, and I have conferred with the Senators, and I see no way now, the circumstances being what they are, for the increase in salaries for judges to be stopped.

Mr. JEPSEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. The Senator from North Carolina has the floor.

Mr. MORGAN. Yes.

Mr. JEPSEN. Mr. President, along that line, I would advise the Senator from North Carolina and the majority leader, having done a little research, that to be specific, the way things stand now, automatically, because of our inaction, the salary of the Chief Justice of the United States will go up from $75,000 to $84,700 1 minute after midnight Sunday night. That is for life.

Associate Justices, from $72,000 to $81,300. That is for life.

District judges, from $54,500 to $61,500, and that is for life.

Millions and millions of Americans who would settle for an income for life of one-tenth or even one-fifteenth of that amount around this country are paying the bills for this pay raise due to the inaction and the lack of just plain commonsense on the part of this Congress. I think it is a tragedy.

Mr. MORGAN. Mr. President, to add to that, if there is a judge now 37 years of age being appointed—and there are some—he would get a $6,000 raise for life. Assuming a life expectancy of 43 years, $6,000 times 43 would be equivalent to over a quarter of a million dollars pay raise throughout his life—$258,000, to be exact—all because of our inability to act.

My distinguished colleagues from Nebraska and Virginia and I did explore the matter. We did go over all the bills on the calendar, seeking to find some vehicle by which we could accomplish at least the act of expressing the will of the Senate. We have not been able to do it, and we have to live within our rules. I know of nothing else we can do.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished Senator from North Carolina, not only for his reasoned approach to this matter, his careful exploration of the possibilities procedurally, constitutionally, and legislatively, but also for the statements that he has made on the floor of his position. May I say, I concur in it fullheartedly.

Mr. MORGAN. I thank the majority leader.

S. 1845—SALARY INCREASES OF MEMBERS OF CONGRESS AND THE FEDERAL JUDICIARY

Mr. EXON. Mr. President, I wish to associate myself with the remarks that have just been made on the floor of the Senate by my distinguished colleague from North Carolina. It is true that we met with the majority leader to attempt to find some reasonable vehicle that we could use to accomplish the ends that we stated on the floor in debate that preceded the remarks that I am making now. There seem to be no way that this can be done at this late hour, because, realistically, we have to face the fact that the House of Representatives is not going to be in session before midnight tomorrow night.

I emphasize once again that while the Senate can, hopefully with the House's concurrence, rescind the pay increases for the Members of the House of Representatives and the Members of the U.S. Senate, it seems that, because of the unfortunate circumstances that we are confronted with, we really have no way at the present time to stop the substantial increase in salaries to the Federal judiciary, which is even more out of line when you recognize the benefits that do accrue to the members of the Federal judiciary.

However, I think, Mr. President, that, once again, the Senate has clearly expressed its feelings in this regard. Therefore, I wish to present to the desk at this time a bill and ask that it be reported to the proper place. I send that to the desk at this time.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. EXON. The bill is being introduced by the Senator from Nebraska (Mr. Exon), the Senator from North Carolina (Mr. Morgan), and the Senator from Virginia (Mr. Harry F. Byrd, Jr.) here present with me.

Mr. ROBERT C. BYRD. The Senator may wish to get unanimous consent that any other Senators who wish to be added as cosponsors to the bill may do so.

Mr. EXON. I should agree to that. I think for this time, though, I should explain what the bill is.

The bill addresses itself not only to the matter before us today, a matter that will undoubtedly come up before the Senate and the House of Representatives again unless we tackle the problem. That is, it simply states that we shall not increase the salaries of the Members of the House of Representatives or the U.S. Senate or the high-level Federal judiciary and the bureaucracy until we balance the Federal budget income with outgo.

With that brief explanation and with the understanding that it will be properly reported, I thank the majority leader for his cooperation in trying to work some kind of vehicle that we could use to make something effective today.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. GOLDWATER. If the Senator will yield, I ask unanimous consent that I be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Will the distinguished Senator from Nebraska yield?

Mr. EXON. Yes, I yield.

Mr. JEPSEN. The Senator from Iowa would like to ask unanimous consent that he be added as a cosponsor to that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent to have printed in the Record related remarks which I made on September 27 at page 26440 of the Record, in further explanation.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Mr. Exon. Mr. President, I thank my friend from North Carolina for yielding.

I certainly wish to compliment him. I say that I agree with the thrust of what he is trying to do here. In fact, I have had an amendment drawn now for several days that would tend to do about the same thing.

I am not sure what his amendment does, but my amendment would not have reduced the salaries of the Congressmen or top Federal officials. It would have prevented any increase until we do, indeed, balance the Federal budget.

I think something like this is in order. I did not offer it, or intend to offer it at this time, because I am not certain it is germane, other than an expression of the Senate.

I think that during the discussion we have had here this morning, we would have to agree that this matter is not binding.

At a proper time, I will be offering an amendment that I have briefly outlined here to put it into the law that there will be no increase in the salaries of Representatives or U.S. Senators, or the top-level echelon in Government, until we balance the Federal budget.

Why do I say that? Because I believe the Congress of the United States is, in essence, the board of directors, if you will, of a very large corporation, the largest corporation we have in the world. I think that if we were operating an ordinary corporation and if the board of directors of that corporation had not been able to balance income or outgo for a number of years, the board of directors should be changed.

Therefore, I do believe the thrust of the statements from the Senator from North Carolina are extremely well taken.

In this regard, I hope that as one Member of the Senate I have remained consistent in that position through my service on the Budget Committee, through the defense of the Budget Committee recommendations on the floor of this Senate, including the defense budget.

I have noticed from time to time what, at least, I consider as some deviation of policy by some Members of the U.S. Senate who want to balance the budget, "except for." I want to balance the budget of the Federal Government, period.

The Record will show that a few days ago on the floor of the Senate I stood here with 11 other Members of the Senate in support of an amendment that would have increased defense spending without boosting the deficit above what it is, or is going to be for 1979, as we effect the 1980 budget.

BEST DOCUMENT AVAILABLE

Be that as it may, I think we must keep focusing on the proposition that unless we have the courage to take the actions here with regard to the total Federal spending, we are never going to balance the Federal budget. I think awareness is critically important in this area.

I also noticed that some of the organizations we have relied upon historically to help us balance the Federal budget have not responded as I think they should.

I got a letter the other day from people in the U.S. Chamber of Commerce. They stated we should put off balancing the budget until 1982. Mr. President, I would suggest we better keep our eye on the ball.

I will be offering my amendment at a proper time, regardless of the outcome on the vote on the Helms amendment.

I appreciate the fact that the Senator from North Carolina is going to ask for a rollcall vote on this amendment. Whether or not it is particularly effective, it certainly would give us an indication and a sense of the U.S. Senate, so to speak, on this matter, which I think is critically important.

CONTINUING APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I have been in touch with the distinguished chairman of the Appropriations Committee of the U.S. Senate. He has asked me to state that a meeting of the Appropriations Committee will occur at 1 p.m. on Monday in room S. 128 of the Capitol and the members of the Appropriations Committee are urged to be present at that time. It is hoped that the committee can take action in connection with the continuing resolution and report to the Senate its recommendations, and that the Senate can then proceed during the afternoon to debate whatever is reported. If any rollcalls are ordered thereon, of course, they will occur after 6 o'clock, I believe it is, in accordance with the order previously entered.

The machinery has been set in motion, it has been put into gear. I have already asked the staff to contact the members of the Appropriations Committee on this side of the aisle on behalf of Mr. MAGNUSON. I have stated on his behalf that the hearing will occur and I hope we shall have a good quorum at that time, and that the machinery will be set in motion whereby the Senate can take action and get the thing back in the middle of the road, put it in a position for the other body to respond in a responsible way, without the whole process having to begin again ab initio.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HARRY F. BYRD, JR. As I understand it, the Senate on Monday will have an opportunity to act, one way or another, on the question as to whether there should or should not be an increase in congressional salaries?

Mr. ROBERT C. BYRD. Oh, yes, there is no doubt in my mind as to where the Senate will stand on that question.

Mr. HARRY F. BYRD, JR. I thank the Senator. The Senator from West Virginia and the Senator from Virginia stand foursquare side by side on that issue. We feel it would be inappropriate at the present time to change congressional salaries.

Mr. ROBERT C. BYRD. I thank my friend, my very close friend.

ORDER FOR RECESS UNTIL MONDAY, OCTOBER 1, 1979

Mr. ROBERT C. BYRD. Mr. President, under all the circumstances, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon Monday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONTINUING APPROPRIATIONS CONFERENCE REPORT

Mr. JAVITS. Mr. President, I shall be very brief.

I rise for two purposes. One, to express to the majority leader my admiration for his conduct in a very trying time for the Senate.

I think it was quite consistent with the dignity of the Senate and with the Senate's devotion to its duty. Sometimes even failure has that element. We have failed in the sense we have been unable to correct the situation in time. But he certainly acted in a manner which is consistent, highly in accord, with the Senate's best traditions.

Mr. ROBERT C. BYRD. Mr. President, I do not know of any Member from whom I would rather hear this statement than from the distinguished Senator from New York.

I served with him in the House of Representatives where he very ably represented his congressional district.

My admiration for him over the years has grown, and I do not see how it can grow any more.

He is a very able Senator, always reasonable, always willing to hear the other man, but who can forcefully present his case.

What he has said, I appreciate very much.

May I say that I want to take this occasion to express appreciation to the acting Republican leader.

After all, he is entitled to a lot of tribute. He was a conferee for the Senate. He worked last night in the effort to resolve this matter in a way that would protect the Government and the people who are employed by the Government, the programs and the contracts, and all of the things that are involved. He cooperated in every way in an effort to keep the thing in the middle of the road and let reason prevail.

I want to, in turn, thank him for the splendid cooperation he never fails to give to the leadership on this side.

Again, I thank my good friend from New York.

Mr. JAVITS. I thank my colleague.

I, too, would like to thank Senator STEVENS for his fine leadership on this side of the aisle, in the same spirit.

GENOCIDE TREATY

Mr. JAVITS. Mr. President, I sat in my office downstairs and heard Senator PROXMIRE, for whatever time it is, maybe the 50th, or more, emphasize to the Senate the injustice of delaying ratification of the Genocide Treaty.

It would be an act of supererogation to say I am just as interested. But I must say I have unbounded admiration for the unbelievably tenacious campaign which Senator PROXMIRE is waging in this matter. He is absolutely right.

But this is an expression of humanity far beyond the call of duty in the Senate or any other place.

I have deep admiration for him. I may not necessarily agree with many things he does, as he does not agree with me. But in terms of his character as a man, he ranks very high, even in this Chamber where character should rank the highest of any in our country.

I thank my colleague for yielding.

CONTINUING APPROPRIATIONS CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I would like to call to the attention of the Senate the provision in section 9 of article I of the Constitution, which states:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.

I have not had an opportunity to research that provision, but if that provision means as it appears to be in its literary sense, that means that no checks can be drawn from the Treasury of the United States if there is not an appropriation as of midnight on Sunday.

I understand that there are some agencies of government that have appropriations that extend beyond the end of the present fiscal year.

I would imagine there are many agencies and departments of the Government that do not have appropriations that would allow them congressional authority to allow them to go into a new fiscal year.

It is my understanding that the purpose of the bill that we were working on, which was, in effect, a temporary continuation of appropriations, was felt to be necessary in order that the essential elements of government, that is, even if we want to classify it nonessential elements of government, in other words, all elements of government to continue into a new fiscal year.

It seems to me that there could be rather dire consequences if on Monday the Treasurer of the United States is not allowed to draw checks.

It seems to me we have got to act immediately in order that Government may be continued.

I bring this to the attention of the Senate. It may well be that we may have to ask the President to call the House of Representatives back into session. On the other hand, it may well be that in a short period of time there will not be dire consequences. I do not know.

But I do feel that we have got to establish a deadline of when Congress has to act and that we have to act before that deadline.

I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in on Monday. After the two leaders or their designees have been recognized under the standing order—I ask the Chair, are there any orders for recognition of Senators?

The PRESIDING OFFICER. There are no orders.

Mr. ROBERT C. BYRD. Following the recognition of the two leaders or their designees, the Senate will proceed, under the order previously entered—does it proceed at 12?

The PRESIDING OFFICER. After the recognition of the leaders, the Senate will, at that time, proceed to consideration of S. 1308.

Mr. ROBERT C. BYRD. This would mean, Mr. President, that after the recognition of the two leaders on Monday, the Senate will proceed with the consideration of the Energy Mobilization Board bill and debate will occur thereon. At some time during the afternoon, if unanimous consent can be granted, the Senate could proceed to take up the continuing resolution matter after it is reported from the Appropriations Committee, and debate could ensue thereon. Any rollcall votes on the continuing resolution or in respect thereto would be delayed until after 6 o'clock in accordance with the order previously entered.

Also, during the afternoon, if there are any votes—there will be no votes occur, under the order entered, on the energy mobilization. So there is a prospect of rollcall votes, a very good prospect that there will be rollcall votes on Monday after 6 o'clock.

I hope that the Senate can act on Monday to put the continuing resoluton in a position for conference. So, Senators are urged to be here on Monday, those who can be here, early in the day. And certainly, those who are members of the Appropriations Committee are urged to be present so a quorum can be quickly established, and they are alerted to the fact that there undoubtedly will be rollcall votes after 6 o'clock on Monday with respect to the continuing resolution.

RECESS UNTIL MONDAY, OCTOBER 1, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 12 o'clock noon on Monday.

Mr. HEFLIN. Mr. President, let the RECORD show that I am opposed.

The motion was agreed to; and at 2 p.m. the Senate recessed until Monday, October 1, 1979, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1979:

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Morris Abram, of New York, to be Chairman of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Jean Lande Hennessey, of New Hampshire, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

A "VEGETABLE" TALKS BACK

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. PAUL. Mr. Speaker, we have heard frightening talk on this floor today about "defective" children who deserve to be aborted.

Abortion is nothing less than the killing of a live human being, and if we buy the argument that this is justified in the case of the "defective" unborn child, after amniocentesis, why stop there? As a physician, I can tell you that amniocentesis is far from being 100 percent accurate or safe.

Why not wait until the child is born, and then decide if it is truly "defective"? Then our killing could be 100 percent effective in getting rid of those children some might judge "unfit" to live—a horrible thought.

Of course, even some of the abortion enthusiasts in this House claim to be against infanticide. But abortion and infanticide are part and parcel of the same immoral philosophy.

God gives life, and innocent life—unborn or born—healthy or "defective"—is not ours to take.

In America, we are on the same slippery slope that led German physicians to the death camps. If we approve funding for abortions in the Department of Defense budget, we will have moved a good deal further down that horrifying hill.

As to the question of "defective" babies, I would like to call to my colleagues' attention excerpts from a most important article originally published in the Human Life Review.

Many would have aborted the baby who grew up to be this magnificent woman. Let us all ponder how God would have viewed that act.

The article follows:

A "VEGETABLE" TALKS BACK

I have been physically disabled since birth as a result of brain damage. My disability is called Cerebral Palsy. Many people believe Cerebral Palsy is synonymous with mental retardation. However this is not true. When I was born my parents were told that I would never be able to speak, hear or do anything that other children could do. It was suggested that I be put away in an institution. My parents, however, felt that I had as much potential as their two older children.

In the November 12, 1973 issue of Newsweek Magazine in the medicine section, there appeared an article titled "Shall This Child Die?" It was about the work of Doctors Raymond S. Duff and A.G.M. Campbell at the Yale-New Haven Hospital of Yale University. The article reported that these doctors were permitting babies born with birth defects to die by deliberately withholding vital medical treatments. The doctors were convincing the parents of these children that they would be a financial burden; that they had "little or no hope of achieving meaningful 'humanhood.'" The doctors recognized that they were breaking the law by doing away with these "vegetables," as they choose to call these children, but they felt that the law should be changed to make it legal to let these children die.

I was incensed by this article in Newsweek, although I was glad that the subject finally was coming above ground. For I had been aware of this practice for many years.

Feeling that I had to do something about this article, I wrote a Letter to the Editor of Newsweek Magazine. It was published in the December 3rd, 1973 issue, as follows:

"I'll wager my entire root system and as much fertilizer as it would take to fill Yale University that you have never received a letter from a vegetable before this one, but, much as I resent the term, I must confess that I fit the description of a 'vegetable' as defined in the article "Shall This Child Die?" (Medicine, Nov. 12)."

"Due to severe brain damage incurred at birth, I am unable to dress myself, toilet myself, or write; my secretary is typing this letter. Many thousands of dollars had to be spent on my rehabilitation and education in order for me to reach my present professional status as a Counseling Psychologist. My parents were also told, 35 years ago, that there was 'little or no hope of achieving meaningful humanhood' for their daughter. Have I reached 'humanhood'? Compared with Doctors Duff and Campbell I believe I have surpassed it! . . ."

In view of the fact society sees a physical disability as a burden, it is, for many, a natural assumption that the physically disabled would be better off dead. I cannot agree with such a solution.

Perhaps we should take a closer look at how I feel about being disabled. What is it like to be disabled? It's happy, it's said, it's exciting, it's frustrating, it's probably just like being nondisabled. You worry what will become of you when your parents are no longer around to help you with your special needs. You want to go places and do things just like everyone else. You have the same sexual drives, the same hopes and dreams for marriage and a family, the same aspirations for a successful life.

Being disabled is also a puzzling experience because people don't react to you the way you feel inside. People look at you and assume that you are retarded or incompetent or a pitiful sight. But you don't feel retarded, incompetent, or pitiful.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The right to life issue affects the disabled in three principal ways; First, there is negative euthanasia which is practiced on newborn infants who are born with physical disabilities and abnormalities. When a child is born with a disability, many members of the medical profession do not administer the necessary supportive medical services. It is argued that the child will be physically disabled the rest of its life anyway. If this were to be done to a child who would not grow up to be disabled, the courts would intervene. There have been many cases where the parents, for reasons such as religion, have not wanted their newborn infant to receive medical care. Court orders have been obtained by the physicians so that they could perform the necessary procedures.

Second, euthanasia affects the physically disabled when we are hospitalized for medical problems other than our disabilities. To give you a personal example; in 1962 I was severely burned over 60 percent of my body by third degree burns. When I was taken to the hospital the doctors felt that there was no point in treating me because I was disabled anyway and could not lead a normal life. They wanted to let me die. My parents, after a great deal of arguing, convinced the doctors that I was a junior in college and had been leading a normal life. However, they had to bring in pictures of me swimming and playing piano. The doctors were not totally convinced that this was the best procedure—grafting skin and giving me medication as they would with other patients—but my parents insisted that I be ministered to. Mine was not an unusual case. To take the time and effort to expend medical expertise on a person who is physically disabled seems futile to many members of the medical profession. Their handiwork will come to nought, they think.

The third way euthanasia affects the physically disabled is when a person in adulthood becomes disabled. There are two parts to this problem. Firstly, should that person be treated and rehabilitated if he is not going to lead a normal life? Secondly, what if that person asks to die? If you have never been disabled you are not aware of the many options in life. Therapeutic rehabilitation techniques, self-help devices, and prosthetic and assistive equipment makes the lives of the disabled very functional. It takes a great deal of time to discover these things. First the medical problem must be overcome and this is up to the medical profession. It is only after the critical period of illness that a rehabilitation team can take over.

If a person who knows that he will be disabled for the rest of his life asks to die, it sounds like an attractive option to his family: Why should he have to suffer? Intensive psychological counseling is needed to show the individual who will be physically disabled (and his family) that life holds a great deal of potential. We cannot deny that there will be problems, but one can enjoy a full and happy life even though physically disabled. I would not give up one moment of life in which I could have another cup of coffee, another cigarette, or another interaction with someone I love.

Many people ask me about the person who is so severely disabled that he or she can only lie in bed. Shouldn't he be allowed to die? they ask me. We cannot know what is going on in that person's head—especially if he cannot communicate with us through speech. Perhaps he is enjoying the sensual experience of lying on cool sheets, or the pleasure of good food, or being held by another human being.

A friend of mine is unable to move as a result of severe arthritis which struck him in adulthood. He cannot see. He can only speak. He is the editor of a newspaper for disabled people and conducts a very busy telephone life by means of special equipment. Believe me, he inspired many people I know. Should we put him to death because he can't move the way other people do?

We have posed the problem of euthanasia and its effects on the physically disabled. What can be done to alleviate this problem?

What I am asking you to do is fight abortion, infanticide, and euthanasia on behalf of people who will be, or are, physically disabled. You can not begin to do this until you throw away your prejudices and preconceived notions about the life of a physically disabled person.

I have concentrated here on the obvious ways euthanasia threatens the disabled, because those dangers are of course most obvious to me. I know that, for most people, the right to life issue means primarily saving the lives of the unborn from abortion. But there is a least common denominator: life itself. It is the right of the disabled to appreciate the gift of life, to celebrate it for itself. Thus I think we can help you. I know we want to help you, every bit as much as we want you to help us.●

ASSISTANCE FOR MENTAL PATIENTS

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. GONZALEZ. Mr. Speaker, I am cosponsoring three pieces of legislation which will extend medicaid assistance to presently ineligible mental patients as well as improve living conditions for persons released from mental institutions.

For many years now I have been greatly disturbed at the lack of adequate mental health care in our country for those in need and in 1975 this included 15 percent of the population. But while this situation is improving, those mental patients who are declared cured and deinstitutionalized are having serious problems. Deinstitutionalization is a process which has come about in the past 5 years due to changes in Federal and State laws which allow mental patients, many who have been within the confines of a particular institution for as long as 20 and 30 years, to be released. While this new approach has certainly been a great step forward in our approach to mental illness it also has created great problems as these very vulnerable individuals are literally left to fend for themselves in cities and towns across the country.

Those fortunate enough to have families and friends who have kept in touch with them over the many years they have been institutionalized have a much better chance of getting back into the mainstream of the community, but what happens to those who do not.

Many end up in single hotel rooms in areas of the community where they become prey for violent crime. And because they have been in an environment of total control they are not adequately able to adapt to a situation where they must be in complete charge of their daily life.

The bills I am cosponsoring offer these former mental patients assistance in this regard. One would allow all patients regardless of their age to be eligible for treatment under medicaid. At present, medicaid eligibility is limited to those patients younger than 22 and older than 65. Another provision would eliminate the benefit reduction under the Supplemental Security Income program when an individual presently gets some assistance from those whom he or she might be living with, as well as continue the SSI benefits for 3 months after a person is institutionalized so that he or she would not have to give up their place of residence immediately. The third bill in this package would amend title XX of the Social Security Act to increase Federal payments to States for services that will assist former patients in their communities. Among the assistance to be offered would be sheltered employment, alternative housing counseling and therapeutic treatment.

Mr. Speaker, I know that many volunteer organizations and churches across the country are attempting to help these deinstitutionalized patients and HUD does have a program of funding that will enable units to be built that will accommodate these people. But there are many areas of need that are not being met and the bills I am cosponsoring will attempt to meet these needs.

It is becoming more and more obvious as these former mental patients are released into our communities that they should not have been confined in an institution for as long as they had been. More than likely they remained there because they had no other place to go. Many could have been active and productive members of our society if only given the opportunity. The bills that I am cosponsoring will help them toward this goal as it is never too late for society to help right a wrong.●

WELCOME TO ANATOLY ALTMAN, FORMER SOVIET PRISONER-OF-CONSCIENCE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. AMBRO. Mr. Speaker, this afternoon I was privileged to meet and to escort to the House gallery Mr. Anatoly Altman, recently released from prison in the Soviet Union and now a proud and free citizen of the State of Israel. In the 4½ years that I have been a Member of this House of Representatives, I can scarcely remember one other occasion on which I have felt so deeply moved and humble.

My colleagues have heard me address them about Anatoly Altman a number of times as I had sought to acquaint them with his plight as a prisoner-of conscience, serving a harsh and lengthy term because he is a Jew who dared to attempt to leave the "worker's paradise" to emigrate to Israel. Ever since coming to Congress I have been writing letters to Altman and to the Soviet authorities inquiring as to his well-being. Quite frankly, I was skeptical about the impact and the import of that correspondence. Even after Anatoly was released from jail this past April, I was unsure of the influence of congressional interest on the Soviet decisionmaking process. That, however, is all changed. For today, I have met and spoken at length with Anatoly Altman, and have been assured by him that congressional concern about Soviet violations of human rights is both noticed and heeded even in the monolithic Russian hierarchy.

Mr. Speaker, I wish you and all of my colleagues could have had the opportunity to meet Anatoly Altman this afternoon, as I did. You would have found him a charming, genuine, and gentle human being. He is not a politician and is not in the leadership of the Jewish dissident movement. He was a simple laborer who acknowledged his heritage as a Jew, who refused to be stripped of his religious identity, and who wanted to rejoin his family and his people in Israel. For those crimes he spent 9 precious years of his youth in a Soviet labor camp. Yet he remains gentle, not bitter, and hopeful that his fellow Jews in the Soviet Union will soon follow him to freedom in Israel.

For Anatoly Altman a whole new life is opening up. It is marked at the beginning by his upcoming marriage. I know that my colleagues join with me in wishing him much luck—Mazel Tov—in his marriage and a future that is filled with joy, health, all the good things that this world can offer.●

JUSTICE FOR VOLUNTEERS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Ms. MIKULSKI. Mr. Speaker, I noticed with great interest that the IRS has just raised the amount of money which Americans can deduct from their taxes for using their cars. The deduction for business use of cars has been raised to 18.5 cents and the rate for the charitable use of cars has been increased to 8 cents. While I am pleased that the IRS has recognized the higher cost of driving cars, I believe that their action also highlights the absurdity of a Government policy which discriminates against people who use their cars for charitable purposes. This issue has become especially serious as of late because of the terrible squeeze placed on volunteer drivers caused by high gasoline prices.

At the present time, volunteers using their own automobiles are at work in thousands of worthwhile programs across the country. They deliver Meals on Wheels and are a lifeline to shut-ins; bring handicapped people to clinics and young people to activities. If it were not for their efforts, Federal and local governments would have to spend much more money in direct grants to keep these programs going. Yet, despite the need, present IRS rules actually discourage volunteer drivers by permitting them a tax deduction of less than half than business people are allowed. There is no fair explanation for the difference in these figures.

To correct the problem, I have recently introduced H.R. 5409. This bill would grant Americans the same deduction for business use of cars as for charitable use. If Congress does not act soon, the increase in fuel costs may force volunteers—a large number of whom are themselves on fixed incomes—to give up their activities, and our society and Government will both be the poorer. Instead, I think it is time that we recognize their significant contribution. At the very least, we should equalize the deduction they can take for using their automobiles.

I urge my colleagues to join me in supporting this vital piece of legislation.●

A VOTE FOR WILDERNESS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. SYMMS. Mr. Speaker, this year, the Members of Congress will be asked to consider the most massive wilderness portfolio that has ever been concocted by the advocates of single-use land. We have become so accustomed to wilderness proposals that we no longer take time to question the viability of this land classification, nor do we ever declassify areas that have been classified as wilderness, regardless of compelling evidence urging declassification.

We have just completed the lockup, in our body, of the lands of Alaska. Pending are Rare II, the BLM wilderness inventory, and in my home State of Idaho are "The River of No Return Wilderness" and the "Birds of Prey" area.

The recent fires in Idaho wilderness sobered many to a very real problem we face massive tracts of land into restrictive islands. We failed horribly in our attempts to control the senseless destruction of almost 200,000 acres of Idaho land. The Forest Service, unsure of whether they could even fight the fire, must have felt like "Keystone Cops" running back and forth to Washington to get permission to curb the fire. Once obtained, however, they found out that planes were their only means of ingress to fight the fire; and to make matters worse, the planes were grounded by the God-sent rains which should have worked in harmony rather than at odds with the firefighters.

The blame for the destruction of much of that land belongs in the hands of Congress, which, in its attempt to isolate the beauty of the area, only assured its uselessness and ugliness.

I, for one, believe we have a lot to learn from those fires—and the wilderness classification that kept them ablaze. As the wilderness issues become more prevalent in our deliberations, I urge you to consider my remarks and those of the Wall Street editorial which I have attached.

The article reads as follows:

NATURAL BURN

If you fly over the American West this hot, dry summer you can see great clouds of whitish or reddish smoke. Some 13 major forest fires are raging in Idaho, Montana, California, Wyoming, Oregon and Nevada, the worst conflagration anyone can remember.

On the ground are some 6,000 firefighters, many of them volunteers, risking their lives from, among other hazards, "crown-outs," where fire races through the crowns of trees above the firefighters' heads, sucking up the oxygen below. Billions of board feet of valuable lumber are being consumed, wildlife is being scattered and roasted and when it is all over there will be ugly scars on the West's beautiful landscapes.

Governor John V. Evans of Idaho has blamed the United States Forest Service, which owns and manages most of the affected forests, for the severity of the fires in his especially hard-hit state. He is right, in part, but there is a great deal more to the story than simple misjudgments by local forest rangers. A whole philosophy of land use—more, the product of Georgetown and Sausalito drawing rooms than of the woods of the West—is being singed by the flames.

Professional foresters have been insisting for some time that the federal government is in for serious forest management trouble. At the root of the problem is a 15-year-old effort, strongly pushed by naturalist and environmentalist groups (who now are well represented within the Forest Service itself) to let more and more forest lands revert to a "wilderness" state.

Since passage of the Wilderness Act of 1964, some 15 million acres of national forest has been set aside as "wilderness," which means, in essence, that all motorized vehicle and man-made structures are banned. As a result of the latest Roadless Area Review and Evaluation (RARE II) completed this year, the Carter administration has slated another 15 million acres for wilderness and 10.8 million more for study (which has pretty much the same effect). In Alaska, a further 70 million acres are being considered for wilderness status. In short, the government has already "locked up" an area the size of South Carolina and now proposes a six-fold expansion that would close off an area larger than New England, New York, New Jersey and Pennsylvania.

Wilderness land is nice, if you happen to be a sturdy backpacker who can penetrate far enough into it to enjoy it. But with vehicles banned, it is hard to conduct certain managerial—and one might say preservationist—tasks. Bark beetle infested trees, highly evident in any flight over Forest Service lands, cannot be logged out, so the infestation spreads. The resulting dead wood is more susceptible to fire and the burn is likely to be hotter, which draws nutrients out of the soil and delays regrowth. There is at least one recorded incident of fire equipment waiting outside a burning forest while someone tried to get in touch with Washington to find out whether it was legal to go onto the land.

Forest rangers have little choice under wilderness circumstances but to let nature take its course, which is what the so-called "preservationists" wanted. So they've developed a theory to match necessity. It is called the "natural burn," which means that when a forest fire starts you let it burn out. Some of the forest fires now raging over 171,000 acres of the West—including one that has been going for some time in Yellowstone National Park—are "natural burns." Hopes for natural burn-outs are not, unfortunately, being readily fulfilled. Compared to these "natural burns," those clear-cutting loggers so much abhorred by the environmentalists will not do nearly as much damage, and besides, the loggers extract lumber and fuel.

There is a lesson here for preservationists. Nature may be beautiful but she is never benign. Judging from the flames now consuming Western pine and fir trees, it is doubtful that unmanaged forest will be preserved as effectively as managed forest.●

REPRESENTATIVE JACK KEMP CALLS FOR A STATEWIDE INITIATIVE FOR THE PEOPLE OF NEW YORK

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. KEMP. Mr. Speaker, my State of New York is faced today with the devastating problems of high unemployment, soaring inflation, a slow growth rate, falling productivity, and an exodus of industries and jobs. Many of those who care about New York have closely followed the Sun Belt against frost belt controversy, in hopes of somehow revitalizing the New York economy. But as a recent WSJ editorial on State growth points out, the real heart of the problem, what inhibits growth in New York and other States, cannot be explained away by demographics. What we are really talking about is not the frost belt against the Sun Belt, but the tax belt against the growth belt.

A recent study has closely tied each State's income growth with their relative tax burden; more specifically, it concluded that each 1-percent increase in a State's relative tax burden will depress its income growth by one-half of 1 percent. This is an enormously important conclusion for the State of New York, where taxes are excessively high at all levels (Federal, State, and local), and where the progressivity of the tax system is constantly raising taxes as inflation pushes New Yorkers into higher and higher tax brackets. No wonder New York and other high-tax States are on the decline, while New Hampshire and other low-tax States enjoy an economic boom.

"Loving New York," then, in my opinion, means dramatically reducing New York's high tax rates across the board, starting at the Federal level. We must reduce the tax wedge between effort and reward to bring on the kind of work, saving and investment needed to get New York State moving again. The important point is this—New York and indeed the entire Northeast need not be prisoners of demographics; where it is the Sun Belt's turn to expand in jobs and industry and the Northeast's turn to decline. New Yorkers will not accept high unemployment, slow growth, and a loss of population. They need not sit idly by while jobs and industries leave the State. New York can join the growth belt if we only cut the outrageously high tax rates that are holding our great State down.

The citizens of New York understand this. There is now a growing movement for a statewide citizen's initiative, which would allow all New Yorkers to reduce our high State and local taxes. Howard Jarvis, whom I admire for his outstanding leadership in the proposition 13 campaign came to New York State last week to push for the initiative. Jarvis, John Loeb, chairman of V.O.T.E., and others dedicated to tax rate reduction traveled the State, spreading the message which many of us have been expressing for years—that New York has the most to gain from strong noninflationary growth, particularly in the creation of jobs, and loses the most and the quickest with a slow-growth economy. Mr. Jarvis also brought news of a new initiative in California, involving a proposal many of us have been pushing for the State of New York—a reduction in State income tax rates by 50 percent across the board. Such a tax rate reduction would do a world of good for New York State, by creating the incentive for production, growth, expanding opportunity and jobs.

I hope that all my colleagues, especially those from the Northeastern States, will take time to read the important Wall Street Journal article which follows:

TAXBELT VERSUS GROWTHBELT

Demography has a place in explaining the growth of the Sunbelt, but the crucial insights, the clues to what factors have most helped or hindered growth, have to be sought in specific acts of political units. To understand the Sunbelt, you have to look at state government. Not many researchers do that, we've been surprised to find; the state isn't a fashionable unit of economic analysis. But when you compare state policies and economic performance, side by side, North and South, a simple yet startling pattern emerges.

This approach is so little used that uncertanties arise about measuring even the basic health of state economies. Unemployment rates, for instance, can jump up and down depending on state rules for eligibility. Each state has quirks of geography and resource base that complicate comparisons. But look at the results you get anyway from measuring two sets of neighbors, Massachusetts against New Hampshire and Louisiana against Texas.

For nearly two decades, New Hampshire has grown beyond the national rate. In recovering from the 1973-75 recession, it was the only Northeastern state to outperform an index of national income change prepared by the U.S. Department of Commerce, and it did so by 21 percent. But Massachusetts, the economic center of New England, has stagnated, falling 14 percent below the national recovery rate on that same index. New Hampshire's population has grown 15 percent since 1970, nearly 10 times the rate of Massachusetts, yet the unemployment rate in the Granite State now is less than half that of the Bay State.

Both these states have cold winters and high energy costs; in fact, New Hampshire's are the worse. So why does it look like a "Sunbelt" state compared to Massachusetts (and to the entire Northeast)? As Boston's premier economic journalist Warren T. Brookes was the first to argue, the answer lies in tax burdens. Massachusetts ranks near the top in any list of state tax burdens (defined as total state and local tax revenue in relation to state personal income). New Hampshire ranks near the bottom.

The story continues when you compare Louisiana and Texas, two "Sunbelt" states rich in oil and gas but until recently sharply divergent in their growth. From 1970 to 1975, Louisiana was the only Sunbelt state with net out migration. Its population grew 4.1 percent only by natural increase. Yet Texas grew by 9.3 percent, with a net of 409,000 newcomers. From 1960 to 1974, Louisiana's unemployment ran higher than the nation's and often half again as high as in Texas. At the same time, thanks to the populism of the Longs, it carried the highest Sunbelt tax burden.

But something has happened in Louisiana in the last four years. In 1975, its unemployment rate dipped below the nation's for the first time in years, and personal income and industrial investment started to grow sharply. So New Hampshire and Texas grow while Louisiana and Massachusetts don't, and then Louisiana starts to grow. Puzzle this out and you may have the key to the Sunbelt.

There are partial explanations, of course. Louisiana's capital-intensive energy industry weather the recession better than most. Or, in 1976 the state passed a "right-to-work" law, last in the Sunbelt to do so. And a puzzle remains. The state's tax burdens remains high. Yet the partial explanations are more symptoms than cause, and the puzzle leads us one step on. The state's tax burden may be highest in the South and second in the Sunbelt only to Arizona, but its rate of change is dramatically headed down. From 1975 to 1977, according to the latest yearbook from the Advisory Commission on Intergovernmental Relations, the state's tax burden fell by 3.8 percent a year, the second sharpest decline in the nation.

The importance of tax burden rates of change has been underscored by a few scholars in recent years, but the clincher comes from two economists at Chicago's Harris Bank, Robert J. Genetski and Young D. Chin, who last November released a study making state-by-state comparisons for all the states. They first tried a statistical test of the relation between relative state economic growth and state tax burdens from 1969 to 1976. There was no match. Then they related economic growth to the change in tax burden. A loose fit emerged. Then they allowed a three-year time lag to let the tax change take effect. And here they found an "extremely strong relationship," so strong in fact they concluded that each 1 percent increase in a state's relative tax-burden would depress its income growth by one-half of 1 percent.

The implications are enormous. Proof is at hand and more can be obtained to show that the Sunbelt is no geographic fluke, that states have more control than liberals care to admit over their economic and social destinies. The real issue is no longer Sunbelt versus Frostbelt but Growthbelt versus Taxbelt. In these conditions, the road to social progress lies more with Howard Jarvis than with all the partisans of active government.●

JESSE'S DANGEROUS ALLIANCE WITH PLO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. DERWINSKI. Mr. Speaker, the Middle East is a delicate area where the ongoing difficulties have challenged the wisest of statesmen for 60 years.

The unsolicited performance of Jesse Jackson, a self-appointed diplomat, can only add to the confusion in that area. What is needed is legitimate diplomacy—not fraternization between soapbox orators.

Columnist Roger Simon, in the September 28 edition of the Chicago Sun-Times, comments on Reverend Jackson's visit to the Middle East. I insert his column for the Members' attention:

JESSE'S DANGEROUS ALLIANCE WITH PLO

(By Roger Simon)

They were passing Jesse Jackson through the crowd, lifting him aloft, cheering his name. He waved his arms and smiled and returned their cheers.

He was traveling among them, telling them to fight "for justice and peace." He told them "not to be deterred by suffering, jail or death."

Those fine words of encouragement were given to a group of Palestinians, a group represented by the Palestine Liberation Organization, commonly known as the PLO.

The crowd was clearly delighted by being in the presence of so famous an American. And Mr. Jackson was clearly delighted to receive such a warm welcome. A wide grin split his face.

I turned off the television set and sat in the darkened room for a while. I have never found many reporters in this town who liked Jesse Jackson. That is not uncommon. Reporters rarely like newsmakers, especially flashy ones, ones who seem always to be thrusting themselves into the public eye.

But to me, Mr. Jackson seemed to represent the aspirations of thousands of black people. He seemed to wear the mantle of a national black spokesman as well as anyone could expect during the void left by the death of Martin Luther King.

So how is it then that this day has come? How is it then that he receives the cheers of a people who are represented by a gang of terrorists whose record of destruction and slaughter goes almost unrivaled in modern times?

Strong words, you say? Strong words, especially considering that Mr. Jackson has assured the PLO it is gaining support every day in this country?

Consider, then, the still Saturday morning of March 11, 1978. I could pick a hundred mornings, but let us take this one. A PLO unit, made up of 13 heavily armed men, arrives on a near empty Iraeli beach. They come upon a 39-year-old American photographer named Gail Rubin. After questioning her, they shoot her to death.

They then capture a bus, taking the passengers hostage, and careen down the coastal highway randomly firing at passing cars and motorists, killing whomever they can.

Trapped by Israeli security forces, they finally blow up the two buses and their hostages. Final toll: 35 dead, 70 wounded.

Fight for justice and peace, Jesse Jackson tells them. Do not be deterred by jail, suffering or death.

Rarely in discussions about the PLO do I see any mention of the specific activities that the PLO undertakes. I had planned, therefore, to make some small mention of them.

Instead, however, I will quote black civil rights leader Bayard Rustin, who wrote a few weeks ago:

"Looking back on the history of the PLO one thing has become abundantly clear: The PLO from the day of its creation in 1964 has never once uttered a word in support of any form of nonviolent resistance, peaceful relations between Israelis and Palestinians, or a political solution to the complex problems in the Middle East.

"In word but more importantly in deed it espouses violence, hatred and racism. It repeatedly scorns reconciliation. While Dr. King frequently spoke of nonviolence as 'the sword that heals,' the PLO exalts the sword that kills.

"Between 1967 and 1977, for example, the PLO was directly responsible for killing over 1,100 unarmed men, women and children; its terrorist activities maimed nearly 2,500 people; and it held over 2,700 hostages. . . .

"Considering this record, I fear that individuals who see similarities between our struggle [the black struggle] and the terror campaign of the PLO are ignoring or twisting the facts."

The PLO is a murderous gang sworn officially and in writing to the destruction of the state of Israel. As recently as last week, it rejected the abandonment of terrorism and killing as legitimate means of achieving that end.

It also happens to be the only recognized representative of the Palestinian people, a people who have legitimate concerns and whose future existence needs to be assured.

Some common ground between Israel and the PLO must be found. A PLO promise for the existence of a Jewish state must be linked with an Israel promise for the existence of a Palestinian one.

But does anyone honestly believe that Jesse Jackson hastens that day?

Does anyone honestly believe that Jesse Jackson's performance—I can call it only that—can bring Jew and Palestinian together?

I do not say Mr. Jackson is a demagog. I say only that he is acting like one.

I do not say he is an anti-Semite. I say only that his words and actions give comfort to those who are.

I do not say he is a terrorist or man of violence. There is no doubt that he is not. I only say he is supporting those who kill and maim—all in the name of peace.

The danger of what Mr. Jackson has done in recent days is not his grandstanding before cheering Palestinian crowds or his support for the PLO. The real danger is his comments to them that "winds of change" are shifting American opinion about the PLO. That, as he puts it, "There is a growing notion that the political momentum is going to the PLO."

I think he is wrong about this. I hope he is. If the PLO can continue to murder, can continue to call for the destruction of Israel, and be awarded the popular opinion of America, why should they stop the killing?

That is the danger of Jesse Jackson. He offers the PLO the hope that their current course will bring them political victory. Only by being convinced that this route will not lead to victory will they ever be brought to a conference table.

But there is hope. Mr. Jackson is, after all, a religious man, a reverend. So he will recognize the line from Isaiah that goes: "The wolf also shall dwell with the lamb, and the leopard shall lie down with the kid."

That might someday happen in the Middle East. But only if Mr. Jackson stops turning it into a zoo.●

DISSENTING VIEWS ON H.R. 4986

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. HYDE. Mr. Speaker, on September 6, 1979, the House Banking Committee ordered reported the bill, H.R. 4986, the Consumer Checking Account Equality Act of 1979. The bill was passed by the House under a suspension of the rules on September 11. In anticipation that a report would be filed on this bill, my colleague on the committee, Mr. SHUMWAY, and I prepared dissenting views and filed them with the committee clerk.

For reasons beyond the control of the committee, the report on H.R. 4986 has not been filed or published. Since today is the last day the House will be in session before a weeklong district work period, and since Members have received considerable correspondence on H.R. 4986, I am taking this opportunity to present the views of myself and my colleague.

The following are the full texts of the dissenting views of myself and Mr. SHUMWAY as they would have appeared had the report been filed:

DISSENTING VIEWS OF HON. HENRY HYDE AND HON. NORMAN D. SHUMWAY

Our opposition to H.R. 4986 in its present form in no way detracts from our support of the basic purpose of the bill; namely, to authorize the continued availability of the accounts and services jeopardized by a recent court decision. Last April a federal appeals court held that the federal regulations which authorized federally-chartered credit unions to offer share draft accounts, federally-chartered savings and loan associations to operate remote service units, and federally-insured commercial banks to offer automatic transfer of funds between savings and checking accounts, were all violative of existing federal statutory and regulatory prohibitions against the payment of interest on demand deposits. Unless Congress acts by the court-imposed deadline of January 1, 1980, millions of customers of depository institutions may be deprived of beneficial services which they have become accustomed to receiving. It is not our intention that this be permitted to happen, and we fully support congressional action to assure that credit union members and other customers of depository institutions continue to enjoy convenient access to their funds.

Our objections to this bill stem from the inclusion, at the Subcommittee markup, of a provision which would authorize federally-insured commercial banks and savings and loan associations to offer Negotiable Order of Withdrawal (NOW) accounts, which are essentially interest-bearing checking accounts, beginning September 30, 1980. The situation with respect to NOW accounts differs from that regarding the other accounts and services authorized by H.R. 4986 in two important ways. First, NOW accounts were not specifically covered by the court decision. In those states where NOW accounts are currently being offered (the New England states and New York), they are being offered pursuant to specific federal legislation which will not be affected by this bill. No customers of depository institutions who are currently using NOW accounts will be deprived of them. The second is the fact, with which our colleagues are by this time very familiar, that NOW accounts are strenuously opposed by broad segments of the banking and savings and loan industries.

Responsible spokesmen for many savings and loan associations have stated their belief that NOW accounts represents a radical departure from the manner in which the savings and loan business has traditionally been conducted. They believe that the handling of transaction accounts and the attendant authority to permit customers to overdraw the accounts is essentially a commercial banking function. Moreover, transaction account services are very labor- and capital-intensive. The burden of these costs falls most heavily upon the smaller associations, and many managers of smaller associations believe that the profitability and even the viability of their institutions depends on their ability to minimize the handling of paper. Of paramount importance is the likelihood that in return for the unwanted privilege of administering transaction accounts, savings and loans will have to trade the interest rate "differential" provided under regulation Q to assist them in competing for funds against commercial banks, so that savings and loans can continue to specialize in house finance.

Commercial bankers, for their part, have repeatedly expressed the view that if savings and loan associations are to obtain bank-like powers, they should surrender the interest rate differential, not only on transaction accounts, but also on the other accounts to which the differential presently applies. Representatives of both the banking and savings and loan industries have stated their concern over the effect which the payment of interest on transaction accounts will have on their ability to offer credit to borrowers at reasonable terms.

The issue of NOW accounts has been extremely controversial ever since they were first authorized on an experimental basis in Massachusetts and New Hampshire in 1973. On October 31, 1975, the House voted by a substantial margin—218 to 134—to delete from the Depository Institutions Amendments a provision which would have extended NOW accounts nationwide. The issue was subsequently debated further as part of an extensive study of Financial Institutions and the Nation's Economy (FINE), as well as during the deliberations concerning the periodic extensions of regulation Q authority.

We are not unalterably opposed to NOW accounts. We might even support a proposal which would permit NOW account authority to continue to be extended on a state-by-state basis whenever the appropriate state authorities determined that it would be desirable to do so. Such a policy would recognize that market conditions vary greatly across the country, that state authorities are in the best position to decide when authorization of NOW accounts would be beneficial to the economy of a given state, and that customers of federally-chartered institutions should not be disadvantaged when states authorize their chartered institutions to offer NOW accounts.

H.R. 4986 attempts to avoid the issue of the effect which authorization of NOW accounts nationwide will have on the future of interest rate regulation and on the traditional specialization of depository institutions. We acknowledge that this avoidance is the result of a sincere desire to address the issues raised by the court decision and to meet the deadline set by the court. However, we have reason to believe that our colleagues in the Other Body will not ignore the regulation Q and specialization issues, and we are concerned that this House may be asked to vote on legislation which will profoundly affect the future of depository institutions in this country and that the vote occur on a "financial reform" package which will be drafted by a Committee of Conference. It is the need to avoid being confronted with a comprehensive financial reform package on a "take-it-or-leave-it" basis which constrains us to oppose H.R. 4986, and we urge our colleagues to join us in opposition to this bill.

Henry Hyde,
Member of Congress.
Norman D. Shumway,
Member of Congress.●

PHILADELPHIA CELEBRATES POLICE APPRECIATION WEEK

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. DOUGHERTY. Mr. Speaker, in light of the recent efforts by the Justice Department to prosecute the entire Philadelphia Police Department for the actions of a few, I think it important to bring to the attention of my colleagues that the city of Philadelphia and her citizens have sought to honor their 8,500 men and women in blue for their dedicated service by proclaiming this past week Police Appreciation Week.

Philadelphia can justly be proud of a police force which, with few exceptions, remains loyal to the standards of conduct to which it is pledged.●

LEGISLATION ESTABLISHING A COMMISSION ON THE WORLD WAR II JAPANESE-AMERICAN INTERNMENT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. MINETA. Mr. Speaker, for a number of months there has been a great deal of discussion and debate within the Japanese-American community regarding the issue of redress for those Japanese Americans who were interned in relocation camps during World War II. For the most part, the campaign for redress has concentrated on its educational goals, particularly that of reminding the American people of a largely forgotten or unknown episode in our history.

Just last month, a bill was introduced in the U.S. Senate which calls for the establishment of a fact-gathering commission on the evacuation and internment. Today, my distinguished colleague from Texas, Mr. Wright, has introduced similar legislation in the House of Representatives. I am pleased to join him in cosponsoring this legislation.

The Commission established under the legislation would be charged with determining the extent of constitutional violations committed against those American citizens and permanent resident aliens affected by Executive Order 9066, the order which provided the legal basis for the internment. If the Commission determines the breach of constitutional liberties to be significant, and if it decides that a remedy is appropriate, it would then recommend the form and extent of the remedy.

I believe there are three very important questions that the Commission should address: First, was Executive Order 9066 justified as a measure that was necessary for the security of our Nation. Second, was relocation and internment required to protect those affected against wartime hysteria? And third, do the losses and suffering experienced by the internees warrant remedy at this time?

At the very least, the proposed legislation will bring more attention to this often overlooked event and make more people reflect upon its real significance. Hopefully, the knowledge gained will guarantee that tragedies such as the evacuation and internment will never occur again.

Mr. Speaker, the protection of fundamental human rights and liberties is by no means a simple task. Constant vigilance is required. During a national emergency the task is even more formidable and the stakes all the greater. For it is during these times that the vitality of our most fundamental constitutional guarantees is put to its greatest test. It is true that throughout U.S. history our constitutional rights and liberties have been rarely undermined by war or national emergency. However, the internment of Japanese Americans during World War II is a tragic reminder of that latent possibility.

If there is a legacy from the internment camp experience, I believe it should be that our civil and constitutional rights be constantly defended and maintained—not just for Americans of Japanese ancestry or other minority groups, but for all Americans. It is my hope that the Commission on the internment will provide us with a fresh insight into this enduring lesson of our history.●

HOME HEATING FUEL CRISIS—PART III*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. GILMAN. Mr. Speaker, I rise to draw to the attention of my colleagues the latest developments in the home heating fuel crisis.

On September 21, 1979, distillate fuel oil (diesel and home heating oil) stocks at the primary level totaled 216.7 million barrels, 0.6 percent above the comparable stock level in 1978. This is an increase of 6 million barrels or 2.8 percent. If distillate stocks continue to increase at the current rate (0.887 million barrels a day since June 15), they should readily reach the 240-million-barrel target by the end of October. Gross distillate imports at 0.266 million barrels a day for the 4 weeks ending September 21, 1979, were at their lowest level in recent weeks although they are still running about 67 percent above the level at a comparable point last year.

What this means, quite simply, is that our supplies in primary storage—and assuming there will be no disruption in world oil supplies—seem to indicate that Americans may look forward to a warm winter and fair prices. Normally, that would be a reasonable speculation. However, there are two factors which presently undermine that potential achievement and are not the result of any devious OPEC plot. One is the reluctance of the major U.S. oil companies to pump the heating fuel into the distribution pipelines, as I outlined in part II in the Record of September 21, 1979; and, two, the excessive and unaccountable price being charged the consumer. I explained this in part I in the Record of September 17, 1979.

There is still no sign that this squeeze on supplies to the independent dealers and home heating fuel prices will abate. In fact, it is becoming glaringly obvious that the burden of higher energy costs will once again fall heaviest in low-income households, the poor and the elderly. In 1978, the average low-income family spent approximately 33 percent of its income on direct energy costs whereas the average median income household spent about 9.6 percent of its income on direct energy costs. It does not take much analysis to figure out the bills and statistics for this winter in view of the 50-percent rise of cost in home fuel this year alone.

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*This is the third part in a series of reports on our home heating fuel crisis, reports Nos. 1 and 2 having appeared in the Record on September 17 (p. 24942) and 21 (p. 25779), 1979, respectively.

This burden is particularly harsh for New Yorkers who are dependent upon oil for 66 percent of their energy needs. Since last December, the average price of a gallon of home heating oil has increased by a total of 55 percent, to the present level of 86 cents per gallon. In some areas it has already reached 92 cents per gallon. Prices have been increasing at about a penny per week. It is estimated that each penny of price increase will cost New Yorkers an aggregate of $37 million. Therefore, Congress should act to relieve the hardships the elderly and low-income families will be subjected to this winter, by funding emergency energy assistance programs and giving the States a high degree of flexibility and authority to implement these programs in order to avoid delays in the distribution of emergency funds.

The House is presently considering several bills that will deal directly with the emergency heating oil problems confronting our citizens this coming winter:

First. The Fuel Assistance Act of 1979 (H.R. 5241) will provide $2.8 billion to assist the 24 million households that are expected to have serious problems in meeting their fuel bills in the immediate future. This bill is pending further action in the House Ways and Means Committee.

Second. Low Income Energy Assistance Act (H.R. 762), a $3.5 billion measure introduced by Representative Stokes, to provide assistance for home heating fuel bills has been referred to the Subcommittee on Energy and Power of the Commerce Committee.

Third. Emergency Energy Assistance Act (H.R. 4788), by Representative Downey provides $4 billion for crisis aid and is awaiting further consideration in the Committee on Banking and Urban Affairs.

The Senate has produced one substantial bill, S. 1270, that is presently undergoing several extensive hearings. Introduced by Senator Javits and Senator Henry Jackson, this bill provides $5 billion for the Basic Fuel Assistance Act of 1979, and establishes a system of assistance payments for all those eligible for food stamps or AFDC. This would reach approximately 13 million households and is based on the principle that all families in a given region should pay roughly the same percentage of their income for energy.

The domestic policy staff of the White House administration is expected to soon come out with their own programs.

Regarding the problem of distributing the home heating fuel to the various independent dealers so they may get it to their customers before bad weather makes deliveries difficult, a New York State Senate investigation committee warned today in an article on the front page of the New York Times that "dangerous shortages" of home heating fuel were being expected for this winter. The reasons for this were cited by Senator Goodman who quoted figures indicating a 30 percent lag in deliveries compared to last year. Previous appeals to the Department of Energy in Washington to help remedy the situation by eliminating the primary target reserve have, again according to Goodman, been ignored. This certainly goes hand in hand with the studies I have been doing of the independent dealers in my own congressional district. In fact, the evidence is so overwhelmingly indicative of a crisis, that even the regional representative of the DOE, Robert Low, had to appeal to his own office to speed up deliveries of home heating fuel.

In order to resolve this home heating oil crisis I believe that we must undertake the following:

First. Expand our refining capacity to the point where it will not overburden the need to switch from gasoline production to home heating fuel. Saudi Arabia has recently assured us of continued and extended delivery of crude oil to help us cope with a potential shortfall. We lack sufficient refinery capacity to take care of our Alaskan oil production and the additional oil from Saudi Arabia.

Second. Take the necessary steps to insure that the fuel in primary storage is pumped into the distribution pipelines as quickly as possible, in order for it to reach the consumer before freezing weather is upon us.

Third. Cooperate with the States in implementing programs that will be able to respond immediately to unexpected shortages.

Fourth. Promptly adopt emergency assistance program plans to provide financial aid to those low-income groups and elderly that are not able to afford the high cost of home heating fuel.

Fifth. Provide tax credits as incentives for further conservation measures such as home insulation and wood burning stoves.

Mr. Speaker, I urge my colleagues to take not only a closer look at the situation in their congressional districts, but to give considerable thought about the implications of all this to our country as a whole. Our Nation has already been repeatedly subjected to too long gas lines, and now we run the risk of cold homes and crippling fuel prices. Let us act promptly and prudently in finding acceptable solutions for our people.●

PERSONAL EXPLANATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mrs. SCHROEDER. Mr. Speaker, I missed the vote on emergency medical services, H.R. 3642. If present, I would have voted "aye."●

SENATE—*Monday, October 1, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. J. James Exon, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 51st Psalm:

Create in me a clean heart, O God; and renew a right spirit within me.

Restore unto me the joy of Thy salvation; and uphold me with Thy free spirit.—Psalms 51: 10, 12.

Our Father-God we thank Thee for each new day and for the beginning of a new year with its rituals of soul searching and self-evaluation. May prayer and sacrifice signal the beginning of life on a new basis. Let Thy cleansing and renewing spirit descend upon each of us that we may be better, wiser, and stronger servants of the common goods. As the cycle of each year's rituals and celebrations come and go, teach us to "number our days that we may apply our hearts unto wisdom."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 1, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. James Exon, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

BEST DOCUMENT AVAILABLE

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POPE JOHN PAUL II

Mr. ROBERT C. BYRD. Mr. President, our Nation has the honor this week of receiving a visit from the spiritual leader of one of the world's largest religious groups.

During World War II, Joseph Stalin attempted to dismiss the power of the papacy with the rhetorical question, "But, how many divisions does he have?" In the coming week, millions of Americans will welcome the Pope, which I think is a sign of the power of faith and the continuing role of spiritual values in American life. Those of us who are not Catholics can join in welcoming the Pope because of what he represents in today's world, what his welcome says about our Nation, and the message that he brings with him.

John Paul II is the first Pope from outside Italy in over 400 years. He is the former Bishop of Krakow, Poland, and therefore the leader of a large and fervent religious community in a Communist nation. Just citing these bare facts is a clear sign of the profound changes taking place in the world today, changes that might be summed up in the twin concepts of diversity and unity.

Many problems divide the people of the world today—armed conflicts in the Middle East, southern Africa, Southeast Asia—as well as ethnic, social, and ideological divisions between and within nations. It is easy to lose sight of the positive aspects of the diversity that we see in the world around us. John Paul II reminds us that the Communist world is not a monolith, that nations such as Poland maintain their distinctive histories and cultures in spite of the homogenizing impact of a Communist political system. We should find this encouraging and worthy of careful reflection.

The very fact that millions of people around the world, from all races and from all social and economic conditions, look to the Pope as a spiritual leader reminds us that there are sources of unity even in a diverse and divided world. There are feelings and aspirations that transcend geographical boundaries and that leap political barriers. This, too, I find a source of enormous encouragement for the prospects of international cooperation and peace.

The warm welcome that will be extended to John Paul II is appropriate. Our Nation has grown strong because our national unity is compatible with religious, ethnic, and social diversity. Unlike other nations and political systems, ours is not threatened by the free expression of different beliefs but strengthened thereby.

And finally, there is the message that the Pope carries with him. As he so eloquently stated in Ireland this weekend, before an audience made up in large part of people from strife-torn Northern Ireland, "I beg you to turn away from the paths of violence and return to the ways of peace." This is a message—the message of peace—that all the world's nations can benefit from.

So let me, Mr. President, join in the welcome of John Paul II in this spirit of peace.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I thank the Chair.

I have no need for my time under the standing order this morning. I see that two of my colleagues on the other side of the aisle are preparing to speak.

I say to the majority leader that if he wishes to utilize part of that time for whatever purpose I am glad to yield it to him.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

Mr. President, I wish to yield the remainder of my time, if I have any, to the first speaker, Mr. Talmadge.

Mr. TALMADGE. Mr. President, I thank the distinguished majority and minority leaders.

Mr. BAKER. Mr. President, before the Senator from Georgia speaks, I reserve 3 minutes of my time. I understand the distinguished Senator from Connecticut (Mr. Weicker) will be here shortly to speak on a special order, and I reserve that time to yield to him.

ADDRESS BY SENATOR DANFORTH—"A PLEA FOR POLITICAL CIVILITY"

Mr. BAKER. Mr. President, the 1980 political season is about to begin in earnest, and my colleague and friend from Missouri, Mr. Danforth, has addressed himself to one of the most important issues of the coming campaign.

It is not an issue of foreign policy, nor a plan to restore our faltering economy, nor a program of energy security. It is, instead, a plea for political civility, and it is as timely and as urgent an issue as any of the rest.

Recently in Detroit, I said there is a great danger that as a result of Watergate and other events, the political arena has become so tough and mean that Presidents, Senators, and candidates cannot function.

I expressed at that time my own deep concern about the savagery in American politics, about the lack of civility in American politics, about the injection of collateral and unimportant issues, about the personalizing of politics.

Senator Danforth has eloquently expanded on this same theme in an important speech before the Symposium on Religion and Politics in Columbia, Mo.

I commend this speech to all of my colleagues on both sides of the aisle, for their careful consideration and reflection as we begin this new political season.

The speech follows:

A Plea for Political Civility

My instructions tell me that the moderator "will be responsible for maintaining an ecumenical and non-partisan environment." Let me begin by confessing to you that I am not non-partisan. I am a Republican, a supporter of the candidacy of Senator Howard Baker and a person who does not believe President Carter should be retained in office. I say this up front because the rest of my comments will be misconstrued by the cynics. They will say that what I am trying to do is to shore up President Carter, head off the candidacy of Senator Kennedy, or otherwise serve some purpose of my own. I assure you that is not my intention today.

I am terribly concerned about the incessant drumfire of criticism that has been directed at President Carter. This does not mean that I agree with his policies or believe that he has been an effective President. It does mean that we have overdone the criticism, that it has been too unrelenting and that we have impaired the man's capacity to fulfill his responsibilities.

I might say that my concern is not only about President Carter but about the Office of the Presidency, itself. Consider if you will the plight of recent occupants of that office. President Johnson declined to run for reelection in the depths of unpopularity. President Nixon resigned from office in disgrace. President Ford barely won the nomination of his own party and was defeated. Now pundits are telling us that President Carter is ruined.

This is a conference on religion and politics. Our religious tradition stands in direct opposition to the current popular concept of American Presidents. The Christian faith provides the basis for realism about government and of governmental officials. By contrast, public opinion transforms political figures into cartoon characters either unrealistically heroic or unrealistically comical in their performances.

What is the Christian view of the political process? It would include at least the following elements. Human beings, while created in the image of God are not God. Human behavior, while capable of great good is prone to great evil and given to weakness. The political process is a struggle between competing forces, none of which can claim a monopoly on either virtue or evil. Justice is the balancing of competing interests to attain the greatest good for one's neighbor, recognizing that no such politically attained good is utopian.

Those principles inherent in a Christian interpretation of the political process could not be further removed from the present public perception of politics and politicians and especially of the Presidency. Somehow we have abandoned all such realism. Somehow, we have viewed politicians as either bigger than life or more bumbling or corrupt than life. Current polls tell us that President Carter has a 19 percent approval rating and Congress has a 13 percent approval rating. Yet, people reach out to clutch the President's hand, they give him a standing ovation, they ask for the autographs of Members of Congress, they stand near the elevators of the Capitol waiting for famous people to walk by.

I do not know what the cause of the problem is. Perhaps it is television. Perhaps it is the rapid attainment of fame which comes from having one's picture on the television screen. Perhaps it is the promise of instant answers, the identification of obvious villains and the attainment of happy endings which are so much a part of television programing. I can only speculate on that. But what is beyond speculation is that politicians in general and the presidency in particular are now wholly beyond realistic analysis and that this has led to unhealthy results for our country.

I have a vivid memory in my mind of President Carter's acceptance speech at the Democratic National Convention in 1976. During his speech the camera repeatedly flashed to a young woman jumping up and down in apparent hysteria, the tears of joy flowing down her cheeks. In America there is no greater time of hope than the selection of a new President. On him we place all our dreams, all our expectations for what the future can bring.

Samuel Johnson said:

"Hope is itself a species of happiness, and perhaps, the chief happiness which this world affords: But like all other pleasures immoderately enjoyed, the excesses of hope must be expiated by pain; and expectations improperly indulged must end in disappointment."

That I think is exactly the point. Hope grounded in a single person in a single office in a single platform for political action brings immoderate pleasure and results necessarily in pain and disappointment.

For decades, America surpassed all other countries in material wealth, technology, the freedom to act, and freedom to hope. Americans, as a result, have extraordinary expectations, and with some justification. This country's history is one of expectations fulfilled—from the Boston Tea Party and the Constitutional Convention, we have set a record of aspiring to the highest goals—and of achieving them.

The expectation is that government, with its panoply of programs and people, can do all, solve all, reach out to all who ask that it do so.

To a large extent, this expectation is targeted on the office of the chief executive—the President of the United States. Although we are aware of shared executive—legislative—judicial branch responsibilities, the President is symbolic of the entire federal government. He is the singular focus of the assumption that expectations will continue to be met. In the search for national heros, he is the logical candidate for superman.

But unlike fictional heros, the President's superman image can rapidly become that of Public Enemy No. 1. And that is exactly what is happening today. As seen through television reports, newspaper editorials, and public commentary, President Carter can do absolutely nothing right. If he goes jogging, it's a national health crisis; if he takes a vacation on the Delta Queen, he's neglecting his Washington duties; if he hosts a town meeting, it's a ploy by his media advisor, Gerald Rafshoon. And indeed, according to the columnists, "Rafshoonery" is all that Jimmy Carter is these days.

Think back for a moment to January, 1977. Jimmy Carter had just been elected President on a campaign that stressed honesty, compassion, morality, and thrift. To a country still troubled by thoughts of the "Post-Watergate" era and the imperial presidency, Carter looked like more than a breath of fresh air.

With that promise in mind, we watched him walk down Pennsylvania Avenue in the inaugural parade, leaving an empty limousine behind. We heard that he was searching the country for new people to bring into his Administration, in an effort to revitalize the Washington bureaucracy. He talked to us from his living room about energy, and held town meetings and regular press conferences. A massive reorganization of inefficient federal agencies was one of his top priorities.

How did we react to all this at the time? It may be hard now to recall the enthusiasm that Americans felt in early '77, but it was intense. As one editorial noted, "People in Congress say the response in their districts has been spectacular—a veritable volcano of approval every time another limousine bites the dust."

But what has happened in the last two and a half years? The man who could do no wrong can now do nothing right. The same news analysts who approved of the President's cardigan sweaters now see his jogging shorts as a gimmick. His town meetings and conversations in private homes are no longer an opportunity to hear the views of the people—they're a waste of presidential time that should be spent on problem solving. His "outsider" status was appealing in 1977—now it is a liability that handicaps his ability to deal with Congress, the Washington establishment and even his own Cabinet.

Similarly, the President's programs are now criticized for the same reasons they were applauded initially. Morality in foreign policy was hailed in 1977; now human rights are out of vogue. Reorganization was a great idea, but one of its major results, the Department of Education, is called a bomb.

The pendulum has swung from one extreme to the other. And the real victim is not Jimmy Carter the President, but the Presidency as an office. Every President makes mistakes that tarnish his inaugural image. Some of them can be blamed only on the President. But others, which are far more injurious, can be blamed on us, the people.

For we have inflated our expectations to an impossible level, and vested them in one man. We fool ourselves into thinking he can solve the energy crisis, unemployment, and inflation with one hand, while negotiating a Mid-East peace and SALT treaty with the other. I say "fool ourselves" because individually, we would each admit that he can't. But collectively, we create a national frenzy of hope that makes our chief executive look capable of all things. When we find that he isn't, we are disappointed, and the bitterness born of that disappointment creates vicious criticism where before there was praise.

If this realization meant only that we started each presidential term on a high and ended it on a low, we could accept it as a natural cycle and use it for the purposes of partisan politics. But its effects are much more serious. Regardless of the individual who occupies it, the office of the Presidency merits respect and pride as the highest in a democratic system. For all the transitions in tenants, it is an office of transcending constitutional meaning.

Beyond expecting public policy control, we also dare to expect personal perfection from our chief executive. We have demanded increasingly that the President's life be public property: we know Richard Nixon's bowling score, Gerald Ford's propensity for English muffins, and Jimmy Carter's canoe capers. And the more we know, the more we can criticize. But by targeting vicious criticism not only at policy but at personality trivia, we are ultimately dragging down the Presidency itself. Jimmy Carter may suffer as a result for either four or eight years. We as a people will suffer much longer. It is not easy to regain respect for an office that is discredited. And as we discredit it, we compound the problem—for if we leave the Presidency in shreds when each President returns to private life, we will force ourselves repeatedly through excessive expectations, demanding that his successor regild the office as well as fill it. That successor's chances to be an effective leader will be diminished from the start.

I have two remaining comments to make, one as an active participant in the political process, and the other as one who tries to learn what his faith has to teach about government.

First, while disagreement on policies and criticisms of style must continue to be an important part of the political process, I suggest that we let up on President Carter. This does not mean that we must agree with his every position. Indeed, where we do not agree I think that it is important to spell out our alternative positions in the clearest possible terms. It does mean that we should let up on carping criticisms of everything he does. When the Washington Post runs three separate front page stories on how the President tried while jogging, and when a swamp rabbit becomes the focus of national attention, we have gone too far in picking on a single individual.

Second, it is time for those of us who believe the tenets of the Christian faith to identify and explain what our faith has to say about politicians and the political process. The notion that a single politician or Administration or governmental policy is a savior able to deliver us from our troubles to a new day is flatly contrary to the teachings of our faith. Those teachings hold that the glorious end of history is in the hands of God and God alone. The exaggerated hope that we place in politicians could not be further from the biblical tradition which states quite clearly the limitations of political figures from the King to the Magistrate.

Finally, the notion that a human being once a hero can suddenly become a laughing stock, that he should be the butt of all jokes, that he should be picked on and attacked at every turn, that he is a fool is also contrary to the fundamentals of our faith. All human beings, whether you agree with them or not whether they are disappointments or not, are the children of God. The worst politician is still deserving of the basic dignity which belongs to every human being.

There are those who claim that religion is doctrinaire, narrow, intolerant. The fact is that nothing is more to the contrary. Our faith forms the basis of tolerance, decency and understanding. It teaches that we should love our neighbor as ourselves, that each person is our neighbor whether we agree with him or not.

Mr. BAKER. Mr. President, otherwise, I now yield the remainder of my time to the distinguished majority leader for his purpose.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

S. 1846—INTEREST AND DIVIDEND INCOME EXCLUSION

Mr. TALMADGE. Mr. President, I am today introducing legislation to attack one of the most critical economic problems that confronts our Nation today—the steady decline of productivity that has plagued our Nation during the past decade.

The United States lags behind every other major industrial nation in the world in economic growth. We save at a lower rate. We invest at a lower rate. American productivity is at a virtual standstill.

Not only are we not keeping up with the rest of the world in economic growth, we are falling farther and farther behind. Every day we are bombarded by economic indicators which show that the United States is no longer preeminent in technology and productivity.

The U.S. economy is losing its vigor. It is not an exaggeration to say that we could become a second or third-rate economic power by the year 2000—and many noted economists are warning just that.

We must set new national goals. We must switch national priorities away from spending to saving.

We must make Government the friend of free enterprise and productivity instead of their enemy.

Virtually every major foreign industrialized nation has institutionalized productivity—especially Japan and West Germany. They have established strong, working partnerships between government, business, and labor to increase national output, for the benefit of their own people and to make their products more competitive on the world market.

The facts speak for themselves. In the past 10 years, Japan increased its productivity 107 percent; France, 72 percent; West Germany, 70 percent; Italy, 62 percent; and United States, 30 percent.

The only bright part of the entire picture is in agriculture. U.S. agricultural productivity is increasing about 6.4 percent a year. It is the only segment of the American economy that is making any gains.

The American people are living under a false standard of living. This is in part because of astronomical private consumer debt which has led some economists to call for putting a lid on credit purchases and long-range installment buying.

It is in large part because of the buy-now-pay-later policy of the Federal Government which has piled up massive multimillion-dollar deficits in the Federal budget year after year.

In short, the standard of living we enjoy in America has not been earned through genuine productivity. It is built like a house of cards—of paper and just as precarious.

The answer is not to reduce our standard of living. The answer is to increase productivity to support the standard of living Americans want.

The only way to meet the social and economic goals of the United States is through increased productivity. The more productivity we have, the less inflation. The more productivity we have, the less unemployment. The more productivity we have of goods that we can put on the world market at competitive prices, the better our balance of trade.

This is a critical problem which affects not only the U.S. Government, not only our national security, but the social and economic well-being of every man, woman, and child in this country.

Economists estimate that real income—adjusted for inflation—for the average American household would have been $3,700 higher in 1978 if U.S. productivity had not taken such a tailspin.

There are several reasons why productivity has declined over the past 10 years, including the energy crisis, and the heavy burden of Federal regulations that prevent private business and industries from investing more, expanding more, and producing more goods and more jobs.

Without a doubt, the high cost of energy and oppressive regulation are drags on the American economy. We have begun to address these problems and are trying to find ways to produce more energy and bring the regulatory monster under control.

However, we have not yet attacked the dragon of declining productivity with the right kind of weapons that we have so readily at our disposal.

If we are going to pull up productivity, we must build capital. We must encourage people to save and provide incentives for them to do so.

The American people are rapidly losing confidence in the economy. They have no incentive to save. As a result, there is not sufficient capital formation which aggravates inflation and impedes productivity.

It is a vicious cycle. Inflation consumes real profits. That, in turn, prevents investment and expansion. That leads to stagnant productivity. And, that leads to more inflation.

It is estimated that 20 million new jobs will have to be provided in the next decade, twice as many as in the past 10 years. The only way we can do this is through capital formation for investment toward plant expansion and modernization, and the creation of new industry.

Under existing conditions, private business and industry are held back from borrowing for investment and expansion. They are squeezed out of the money market by the biggest borrower in the world—the U.S. Government. The interest alone on our staggering national debt is about $50 million a year.

As a result, we have the lowest rate of capital investment of the other major industrial powers. Japan invests more than 35 percent of its gross national product in capital, West Germany more than 25 percent, and the United States only about 17 percent.

We also have the poorest savings performance. For example, the Japanese people save at a rate four times higher than Americans.

The reason is not complicated. Our tax laws penalize savings and investments.

The United States is one of only a few industrialized nations that do not encourage long-term savings.

We in fact discourage savings. We tax wages only once. We tax savings several times, each time it earns interest and also through inflation which eats away at the principal.

The bill I am introducing today is designed to promote personal savings, to increase capital formation, and to promote increased productivity.

My bill would give savers a tax break. Savers would not have to pay individual income taxes on interest from savings or dividends of up to $250. A couple could escape taxation on up to $500 in interest and dividends earned.

This is not a new concept. Several countries including West Germany and Great Britain—which, by the way, run well ahead of the United States in savings and capital investment—provide for a total exclusion of interest earnings from taxes.

Some nations even provide bonuses on interest earnings, such as France—where some savers actually receive a government-sponsored bonus of up to 5 percent of their savings.

I know my bill is not a cure-all. I know many of my colleagues also are pushing some type of legislation to encourage savings and investment.

I applaud these efforts. I hope the 96th Congress will act on an investment and savings stimulus package.

The time is long overdue for us to address this important issue and move toward putting the United States back in its rightful position of preeminence in the world economy.

Mr. President, I send the bill to the desk and ask unanimous consent that it be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 116 of the Internal Revenue Code of 1954 (relating to partial exclusion of dividends received by individuals) is amended—

(1) by inserting "AND INTEREST" after "DIVIDENDS" in the heading of such section; and

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Exclusion From Gross Income.—

"(1) In general.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(A) dividends from domestic corporations, and

"(B) interest or dividends on savings deposits or withdrawable savings accounts from—

"(i) a bank (as defined in section 581),

"(ii) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar institution under Federal or State law, or

"(iii) a credit union,

the deposits or accounts which are insured under Federal or State law.

"(2) Dollar limitation.—The aggregate amount excluded under paragraph (1) for any taxable year shall not exceed $250 ($500 in the case of a joint return under section 6013).

"(3) Amounts credited to account.—For purposes of this subsection, interest or dividends described in paragraph (1)(B) which are credited to the account of an individual shall be treated as received on the day on which they are so credited.".

(b)(1) Section 116(b) of such Code is amended by striking out "Subsection (a)" and inserting in lieu thereof "Subsection (a)(1)".

(2) Section 116(c) of such Code is amended—

(A) by striking out paragraph (1), and

(B) by inserting "and interest" after "dividends" each place it appears in paragraph (3).

(3) Section 116(d)(1) of such Code is amended by inserting "and interest" after "dividends".

(4) The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

(c)(1) Paragraph (2) of section 584(c) of such Code (relating to income of participants in fund) is amended by inserting "or interest" after "dividends" each place it appears in the heading and text thereof.

(2) Paragraph (7) of section 643(a) of such Code (relating to definition of distributable net income) is amended by inserting "or interest" after "dividends" each

place it appears in the heading or text thereof.

(3) Paragraph (5) of section 702(a) of such Code (relating to income and credits of partners) is amended by inserting "or interest" after "dividends".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time and thank the distinguished majority and minority leaders.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Georgia.

I yield now from the time allotted to me and the minority leader and my own time to Mr. Proxmire.

Mr. PROXMIRE. Mr. President, I thank the majority leader very much for his graciousness.

A MEMORIAL TO THE HOLOCAUST

Mr. PROXMIRE. Mr. President, last Thursday's Washington Post carried a story headlined "Holocaust Panel Urges Memorial Museum in D.C." The article reported the recommendations of the Holocaust Commission.

The Commission was established to propose a memorial to victims of genocide during the Second World War. I commend the mission of this group, and I hope that its proposals will be carefully considered.

However, as meaningful as any museum or library might be, I can think of no more fitting memorial than the ratification of the Genocide Convention. This treaty, which brands genocide as an international crime, was drafted under the auspices of the United Nations over 30 years ago and still has not received final consideration from the Senate.

Speaking of the proposed Holocaust Memorial, author, scholar, and concentration-camp survivor Elie Wiesel said:

> We hope to share our conviction that when war or genocide unleash hatred against any one people or peoples, all are ultimately engulfed in the fire.

Let us show the world that we do share this conviction. I strongly urge the Senate to ratify the Genocide Convention.

Mr. President, I ask unanimous consent that the article from the September 27, 1979 Washington Post be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Holocaust Panel Urges Memorial Museum in D.C.

(By Paul Hodge)

A major downtown Washington museum to commemorate the 6 million Jews and 5 million other civilians murdered by the Nazis during World War II has been proposed by the 34-member Commission on the Holocaust, created by President Carter last November.

The proposed museum and a Holocaust educational foundation, privately estimated to cost at least $40 million to $50 million, would be connected with the Smithsonian Institution, if the president and Congress follow the recommendations of the commission.

Funds needed for the museum's construction would come from contributions, with the federal government providing $1 million in seed money, land for the museum in Washington and an unspecified amount of matching grants, according to the 50-page report to be officially presented to the president today in a 2 p.m. ceremony at the White House. Contributions would fund the museum's operating costs, under the report's recommendations.

While the museum would focus on the victims of the Holocaust, "it would not be a museum of horrors, of the macabre . . . with skeletons," Holocaust staff assistant Marian Craig said yesterday. Although photographs of concentration camps and their victims would be displayed, as they are in a similar museum in Israel, Craig said the displays would be tasteful.

Elie Wiesel, commission chairman, novelist and survivor of Auschwitz and Buchenwald concentration camps, says in a letter to the president accompanying the report: "We wish . . . [through the museum and education efforts] to reach and transform as many human beings as possible. We hope to share our conviction that when war and genocide unleash hatred against any one people or peoples, all are ultimately engulfed in the fire."

Although Carter established the commission after last summer's premiere of the television movie "Holocaust"—shown again this month—Holocaust Commission spokeswoman Craig said "the commission is not a spin-off of the movie, but we have profited from it. People are much more aware."

"Why it has taken so long . . . 35 years since the end of World War II . . . for some kind of memorial to the victims of the Holocaust, I don't know," Craig said. "Perhaps it's difficult for Americans to feel moral responsibility for it. But President Carter is a human rights president and a moralist and only now is the issue being brought out."

The commission, which includes 10 memmers of Congress and a 27-member advisory board comprising experts and many survivors of Nazi death camps, visited Poland, the Soviet Union, Denmark and Israel earlier this year to see existing memorials to Holocaust victims.

They visited Treblinka, where 800,000 Jews were killed, which is commemorated by a stone monument; the still-standing Auschwitz, and Babi Yar in Kiev, where 80,000 Jews were shot and thrown in a ravine. A Russian memorial marks the site but makes no reference to the fact that most of the victims were Jews.

The proposed Washington memorial museum is modeled somewhat on the Yad Vashem museums and study center in Jerusalem, Craig said. It has archives, research and educational facilities, all items the proposed Washington museum and educational foundation will have.

The Washington foundation would "research and explore issues raised by the Holocaust for all areas of human knowledge and public policy," the report says.

A "Committee on Conscience" also is proposed by the commission, which would be composed of "distinguished moral leaders in America" who would study reports of genocide anywhere in the world.

The Vietnamese "boat people" are cited as an example of threatened people and earlier this year commission chairman Wiesel appealed directly to President Carter to intervene on their behalf. The commission report says the Committee on Conscience could help alert the world to atrocities and possibly help avoid another "Evian." Evian was the site of the 32-nation conference in France in 1938 "that failed to rescue the Jews when Hitler flung that challenge in the world's face," the report says.

The commission report does not detail what the proposed Holocaust museum would contain or where it might be located. President Carter when he established the commisison asked only that it report about "an appropriate memorial."

A spokesman for the Smithsonian, Lawrence Taylor, said the "Smithsonian's role has not been determined." Smithsonian Secretary S. Dillon Ripley met briefly with commission staff in May, but Taylor said the museum idea is something the Smithsonian staff, Congress and Holocaust Commission members would have to study further.

The commission, after a seven-month life span, goes out of existence on Friday, but commission staffer Craig said, "We hope the president will appoint a successor body to help draft legislation" and pursue the Holocaust Commission's goals Craig said all 10 congressional members of the commission support the museum idea and are planning to write a letter supporting it.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess—I withdraw that request. I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 45 minutes, and that Senators may speak up to 10 minutes each during that period.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TITLE OF S. 1075 TO ESTABLISH A NATIONAL CENTER FOR DRUG SCIENCE

Mr. BELLMON. Mr. President, last week, during Senate consideration of S. 1075, the Drug Regulation and Reform Act of 1979, I was unable to be present on the floor.

I thank my esteemed colleague from Pennsylvania, Mr. Schweiker, for offering an amendment on my behalf. I wish, through these remarks, to explain briefly the concerns that led to that amendment.

My amendment related to title II of S. 1075 which, as reported, would have established a National Center for Drug Science. I appreciate very much the willingness of Senators Kennedy and Schweiker, the managers of the bill, to accept my amendment which changed the proposed "National Center" to an "Office" in HEW, and shifted to existing HEW programs the health manpower training functions' proposed for the Center.

Mr. President, I share many of the concerns of my colleagues regarding the need for improved teaching, research, and evaluation of drug prescribing practices and the need for better policies and practices for the development and introduction of new drugs.

Thus, Mr. President, although I supported fully the objectives of S. 1075, I was concerned about the added bureaucratic layers it would have created inside HEW.

There is no question that the system followed in this country for developing and evaluating new drugs, for training physicians in the proper prescription of drugs, and for keeping practicing physicians fully informed on the new development of new drugs is characterized by many problems.

If there were no other organizations assigned these responsibilities, the proposed National Center for Drug Science might have been an appropriate means of addressing these problems. There are, however, within the Department of Health, Education, and Welfare several organizational entities already assigned these very same responsibilities. These HEW agencies include the National Institutes of Health, the Food and Drug Administration, and the Health Resources Administration. Title II would have overlaid the responsibilities of these agencies with a National Center for Drug Science. I believe the Center would have contributed very little to resolving the longstanding problems in the Federal Government's administration of its responsibilities in the complex areas of drug development and utilization. On the other hand, I am sure the Center would have confused responsibilities and have increased the opportunities for buck-passing.

Mr. President, we must insist that the drug regulation problems clearly identified by the Subcommittee on Health of the Committee on Labor and Human Resources be resolved. Otherwise we will once again confirm the public's view of Congress that we attempt to resolve problems by creating new organizations and by spending more money rather than resolving the basic policy and organizational weaknesses which permitted the problems to arise in the first place. Even the new Office of Drug Science which S. 1075, as amended, will create entails some of these dangers. But I believe the risks will be lessened substantially by downgrading the Center to an office and reducing the responsibilities assigned to it.

Even with the changes achieved by my amendment, the potential for the Office for Drug Science to duplicate functions of existing agencies remains. I hope, Mr. President, that the Secretary of HEW and the Assistant Secretary for Health will be particularly sensitive to the organizational complications which may be created when this Office is established. The staff should be small in number and operate with a clear understanding of its limited role. Particular effort must be directed toward defining the operational relationships between this new Office and the other HEW agencies with related responsibilities. If the difficult problems in the drug regulation area are to be overcome, HEW must get its act together.

SALT II AND U.S. INTERESTS

Mr. BELLMON. Mr. President, while the issue of Soviet combat forces in Cuba has dominated the scene in recent weeks, SALT II supporters have urged the Senate to avoid direct linkage between these issues. We are constantly advised to judge SALT II on its own merits as an arms control measure. Specifically, we are told that the only relevant question is whether or not SALT II enhances U.S. national interests by reducing the level of tension and the danger of strategic nuclear confrontation. This is the SALT II approach which I also support and I urge the Senate not to "cop out" by using the Cuban incident as an artificial excuse to evade its responsibility to vote on the acceptability of SALT II.

So, Mr. President, I must return to the original proposition: Does SALT II enhance U.S. interests? This is a question which, quite frankly, I do not know how to answer. The reason is that we no longer have a clear picture of U.S. national interests. The plain fact is that the United States is no longer sure of its position in the world. Changes are occurring rapidly. A multitude of new challenges to U.S. security are on the horizon.

The controversy over Soviet troops in Cuba symbolizes the uncertainty of our foreign policy and illustrates the degree to which we have pursued ad hoc policies. The message we are sending to our friends and enemies alike as we scramble to react to each new crisis we were unable to prevent is that the United States does not know what it is doing anymore in terms of its foreign policy. We are losing sight of our global abjectives.

We radiate a lack of purpose and an aura of uncertainty bordering upon timidity. We have shown ourselves to be unable to cope with the two most significant developments of the postwar period—Soviet military expansionism and the emergence of the third world political movement. It is our own special irony that both developments have most recently been focused only 90 miles from our shores.

The presence of Soviet combat troops in Cuba is only the latest in a series of Russian insinuations into this hemisphere—a steady erosion of the Kennedy/Khrushchev agreement of 1962 which included a Soviet pledge not to establish an offensive military presence in Cuba. The Soviets are now established in the Western Hemisphere. Whether they have been here 17 years or 17 months is not the issue; the recognition of their presence as a reality today is what counts. The Soviet leaders are patient. They can afford to wait, content with each incremental global advance they make as they continue to test our resolve to protect our strategic position. Their tests have become so frequent and so blatant lately that I cannot avoid the impression that they have concluded that our will and commitment to counter their aggressive ambitions is almost nonexistent.

Thus, it is not clear that the Cuban issue is as unrelated to the Senate's consideration of SALT II as some would claim. Situations such as the Russian military presence in Cuba and the confusion this news generates are symptoms of the larger problem of a lack of military posture sufficient to deter such Soviet incursions. Even if the Cuban problem is solved to our satisfaction, what about the increasing number of equally disturbing events in the world which have been the result of Soviet political/military adventurism? Responding to each one in an ad hoc manner is futile. We need to have a comprehensive assessment of U.S. objectives in hand which will enable us to take the initiative in preempting Soviet activities. Who can say what the next challenge will be to U.S. global security interests that the Soviets will pose? One can expect a new infringement somewhere. This has become the unmistakeable pattern. The total effect of these infringements is truly alarming and we seem to lack a core concept of response.

We are contracting, constantly narrowing the definition of our global interests and responsibilities, as the Soviets expand their global presence. This is not just coincidence. We must recognize and address the trends now. SALT II is the vehicle we should use to force a reassessment. Beyond the technical implications of SALT II, the vote the Senate takes will be regarded as a vote on the state of the global military balance. A vote to approve SALT II will be taken as a symbol that the United States is satisfied with the present course it is on regarding the superpower relationship. I do not believe that I can make such a determination until I see our long-term foreign policy and military objectives addressed more rigorously than I have to date.

I do not believe the Senate should consider sending such a signal to the rest of the world before it clarifies its own understanding of U.S. national security.

In my opinion, the Senate might as well face the issue, this nagging doubt about the adequacy of our security posture and the related acceptability of SALT II, head on and right now. The entire Senate should be involved in this process. The making of defense and foreign policy is not the responsibility of Congress. This is properly the province of the President. However, since the Senate is required to judge the acceptability of major treaties and authorize and appropriate funds to support our defense posture, it should be sure it fully understands our present national security status and the long-term implications of on-going global events. Not only is such an understanding needed to judge adequately SALT II's acceptability in its broadest sense—political as well as technical and military—but it is important that such an assessment exist as the basis for the Senate's consideration of the fiscal year 1981 defense budget.

Mr. President, 2 weeks ago, I introduced Senate Resolution 235, which urged a delay of the Senate vote on SALT II until March 1, 1980. During this delay, a select committee on foreign and defense policy, composed of members of the appropriate committees having responsibilities in these areas, would prepare and submit a comprehensive overview of U.S. national security objectives and requirements. This should not be an overwhelming task nor should it require a long period of time to prepare. It is my impression that the relevant committees already possess the necessary information; what is needed is the forum that a select committee report would provide in order to coalesce and present all the diverse political, military, economic, and technological considerations related to our current and future defense posture in one comprehensive statement.

Mr. President, I did not offer this resolution to kill the SALT II treaty. I want the Senate to fulfill its constitutional responsibility and vote on SALT II. However, I believe my suggestion is proper and timely. SALT has forced each member of the Senate to ponder the national security posture and needs of the United States. We should not squander this golden opportunity, when the entire Senate is focusing on the question of U.S. global security, to develop a clear statement of U.S. defense objectives and requirements. This is a need that transcends SALT itself.

Mr. President, Senate Resolution 235 has been referred to the Senate Foreign Relations Committee. I urge that committee to bring this resolution to the floor at the earliest possible time. When I offered this resolution, I did not believe that delaying a vote on SALT II until March, 1980, constituted an unreasonable delay. I also felt that 5 months would allow a select committee sufficient time to report its conclusions to the Senate. While the current situation makes me think that I may have been optimistic to think that SALT II would even be reported out of committee by March, I still believe the Senate should have an opportunity to decide soon whether to direct the formation of such a select committee. I would like to insure that, if formed, this committee would have sufficient time to respond to the Senate's request.

Mr. President, pass or fail, SALT II could serve as the most significant examination of U.S. national security to occur in the postwar period. If we can use it as a mechanism to accomplish a reappraisal of our objectives and get our defense posture back on the track, we will have more than sufficient evidence that the arms control process, defined as efforts to enhance U.S. security, is useful. I encourage the Senate to regard my proposal in this light.

THE ENERGY MOBILIZATION BOARD

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that a point of order may be raised against the Energy Mobilization Board measure on the basis that a budget waiver has not yet been reported, am I correct?

Mr. HART. If the majority leader will yield, on behalf of the chairman of the Budget Committee, who could not be here today, I was asked to state his strong views that no substantive action should be taken on the measure until tomorrow. In consultation with the staff of the committee, which has been in contact with the chairman, it is my understanding that he would not object to general debate so long as some sort of precedent is not created here that permits the waiver provision to be avoided. If there is such an understanding and if any agreements are to the effect that no amendments will be offered or considered or certainly voted on today, then I think the chairman of the committee would be agreeable to going forward with calling up the bill and having general debate on it.

Mr. ROBERT C. BYRD. It was understood that there would be no rollcall votes on that measure today and that there would be just debate. I discussed with Mr. MUSKIE on Friday, I believe it was, my intention to call up this measure, and he was agreeable to my proceeding with it today, on the understanding that any amendments that he might have to offer would be protected and that there would be no rollcall votes, no actions taken on the measure today. But I was not told at that time about any problem with the budget waiver. It comes as somewhat of a surprise to me at this hour that we could have a problem with the budget waiver.

Mr. HART. If the leader will yield further, it is my understanding that the Senator from Maine (Mr. MUSKIE) was himself not aware of the waiver problem when he discussed this. So he was just made aware of that after his discussion with the majority leader.

Mr. ROBERT C. BYRD. I see. I am sure he would have mentioned it if he had known.

Very well. The distinguished chairman of the Energy Committee (Mr. JACKSON) is here.

Mr. JACKSON. Mr. President, I was totally unaware of this development until a few minutes ago. Rather, I learned it by rumor about an hour and a half ago. I think it is regrettable that, in view of the fact that notice was given about 10 days ago that this bill would be up a week from Monday, no notice was given to me, as chairman, that a point of order would be made in connection with the budget waiver. As I understand the situation, the point of order would run until next Tuesday, a week from tomorrow.

If that is the case, I think that, very clearly, I know what is going on. I just read the news wire. A coalition of groups are out to fight the bill. Those are the cold, hard facts.

That is fine. I think we ought to have this issue up or down, Mr. President. This country and the Western World are in deep, deep trouble. Someone was saying the other day that, in about 4 years, it will take $50 to fill up your gasoline tank.

Mr. President, I look forward to this opportunity, because I want every Member of the Senate to stand up and be counted as to where they stand on the question of energy mobilization. That is what this bill is all about.

It deals with the delays, not just in synthetic fuels, but across the board. I am getting sick and tired of those who are going around explaining to the country that there is not an energy problem. Every Member of the Senate will have an opportunity to stand up and be counted, because we cannot alibi on this one. We cannot come in and say it is an environmental issue or something else, because the country will know who is for expeditious action on energy projects, whether it is a coal-fired plant, or a pipeline, or a refinery. And who is against them. There is no attempt here, except for projects already underway, to waive substantive law, Mr. President.

Nevertheless, we are having our first delay.

I regret this because ample notice was given. In fact, I introduced this bill, Mr. President, back in 1975. In 1975, we held hearings on it. The Senate twice, in 1975 and 1976, passed synthetic fuel programs, only to be defeated in the House. The last time by one vote, Mr. President.

The reason I mention this is that the Senate has acted expeditiously over the years. I think now the gauntlet is down and we will have an opportunity to see who really wants to act or who wants to delay.

I say that in the context of a world situation where we do not know tomorrow whether our supplies will be cut off. We do not know tomorrow whether oil is going to be $26 a barrel, as Nigeria has announced, $26 a barrel, and it was $3 a barrel in 1973. Just think of it, Mr. President. A few months ago, it was $14 a barrel, and now the price has almost doubled.

We do not claim to have all the answers here, Mr. President. But this is, indeed, a real beginning to tackle this problem.

We are ready. But I must say, Mr. Leader, there is no sense in coming in here not knowing what the parliamentary situation is going to be, and I speak for the other side of the aisle in this regard, with Mr. DOMENICI, the ranking member. We both feel there is no sense bringing this matter up under these circumstances.

Mr. ROBERT C. BYRD. Mr. President, perhaps the distinguished Senator from Colorado could indicate when the budget waiver problem might be resolved.

Mr. HART. I appreciate the leader's yielding because I would like to speak.

First of all, I do not think it is a question of delaying needed energy legislation. I think all of us are deeply concerned about the situation and want to do something about it, whether this bill or some version of it.

We do have procedures, of course, for dealing with matters having to do with the budget. I think those have to be honored. We are really just talking here about 24 hours.

My understanding is that the waiver resolution was filed last Wednesday and the Democratic policy committee was notified of the need for Budget Committee action on the waiver prior to Senate consideration. But, it was made clear, that there would not be a delay for the full 10-day statutory period, I say to the Senator from Washington.

It is my understanding from the Budget Committee staff that the Budget Committee is being polled today and that the committee is prepared to report this waiver out by tomorrow. As was said on behalf of the chairman, he has no objection to general debate on this matter today, and that could take place.

I do not think we need wait until tomorrow to begin that debate, as far as I am concerned and I guess as far as he is concerned.

So we are talking about votes on it tomorrow. I do not think that is unreasonable. It is a Jewish high holiday and a number of our colleagues are out.

Mr. JACKSON. Let me say this: Notice was given in this body. The majority leader announced it, this was 10 days ago, that the bill would come up today.

The decent thing to do is come and say, "Well, look, we will raise questions about this." That is all I am saying. I do not do business that way. I always tell my colleagues if I am going to raise a certain point and want to raise it. We could be doing other things.

I want to be working on the synthetic fuels bill, Mr. Leader. We have a lot of work that has to be done.

We are trying to finish up that bill. I am anxious we not lose any time. But there is a delay here.

All I am saying is that I have no objection about any exercise of the rules, obviously, but normally, in order to have an orderly program, especially something as complicated and as far reaching as this is, we try to have an understanding as to what is going to happen.

Otherwise, we have to make a complete change of plans.

Mr. DOMENICI. Will the Senator yield?

Mr. JACKSON. Yes, subject to the majority leader yielding.

Mr. DOMENICI. Just 2 minutes.

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. DOMENICI. I concur with the distinguished chairman of the full committee.

It is strange when the Sohio pipeline cannot be built because of nobody putting any authority to have time frames in which permits are issued.

Everybody says, why not get a law to let this country move ahead with energy? When the President gives a speech to the Nation, saying it is time, along with conservation, we get on with the issue, and when he says that we need a way to get needed energy projects of high priority through within a time schedule in this country, everybody says, "Yes." Everybody raises his hand. Everybody says that we need to do that.

Then we come to the floor with a bill and there are not any tracks or fast tracks here in the Senate.

I, for one, want to express my views, to wait until we are totally able to proceed without anyone having any parliamentary objection to this bill. I am for going about other business.

I think we ought to go ahead, and if we cannot get a waiver, and tomorrow or the next week or the next week, I think we ought to wait until——

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HART. We ought to keep clear about what is going on here. It is a question of, will we vote after 6 tonight or at 10 in the morning?

If people feel 12, 14, or 18 hours is that big a delay, and talk about the Sohio pipeline, and other legislation, I think they are missing a very fundamental point here.

I am sort of a third party participant in this. I am trying to represent the interests of the chairman of the Budget Committee and the orderly procedures of the budget process.

The point is the committee is polling its members today. We are told the budget waiver will be available tomorrow morning. The waiver would be acted on. We could start voting on amendments.

But all this talk about delay, delay, delay, is a bit surprising since we are not going to vote before 6 o'clock tonight anyway.

So, do we vote at 8 o'clock tonight or 10 o'clock in the morning?

Mr. ROBERT C. BYRD. Mr. President, I have discussed the following request with Mr. Jackson, Mr. Hart, and Mr. Baker.

I ask unanimous consent that on tomorrow, after morning business is closed, the Senate proceed to the consideration of the budget waiver, and that upon the disposition of the budget waiver the Senate then proceed to the consideration of the Energy Mobilization Board bill.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, I think that is satisfactory. I discussed that with the majority leader. But I would like to defer to the reaction of the distinguished Senator from New Mexico and the distinguished Senator from Oklahoma.

Mr. DOMENICI. Mr. President, I agree and, reserving the right to object, I just want to say that when we look at this bill and the budget waiver, everyone ought to understand that the Congressional Budget Office, figuring the most exorbitant possibility for expenditure, we are talking about $2 million in terms of the waiver.

So, while I am not saying it could have been done, I do want to put into perspective that the budget waiver is not a monumental undertaking.

We have waived in 48 hours such matters as $2 million, or less.

So maybe something beyond that process is taking place. If not, fine. If it is, I would rather wait until there are no parliamentary inhibitions.

I agree with the unanimous-consent as propounded.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I say for the information of all, that the Appropriations Committee will be meeting this afternoon, hopefully, to develop the resolution of problems that occurred as a result of the House action on last Friday anent the continuing resolution.

The Appropriations Committee will be meeting at 1 o'clock p.m. and upon its reporting what appears to be an appropriate vehicle for dealing with this situation, the FTC measure then could be taken up, if it were cleared all around.

Therefore, I ask unanimous consent—in order that the Appropriations Committee may be able to get a good quorum and that Senators will not be distracted by happenings on the floor—that within 1 minute, the Senate stand in recess until 2 p.m. today.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

RECESS UNTIL 2 P.M.

Under the order previously entered, the Senate, at 12:40 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Moynihan).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

May I ask the distinguished Senator from Nebraska how long he would like to speak?

Mr. ZORINSKY. Not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for routine morning business, that Senators may speak up to 20 minutes therein, and that the period not exceed 40 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALT AND A "PSEUDO-CRISIS"

Mr. ZORINSKY. Mr. President, this morning, I read with interest an article in the Washington Post, SALT and a "Pseudo-Crisis", submitted by the majority leader (Mr. Robert C. Byrd). The leader issues a timely warning against linking the issue of Soviet troops in Cuba with the SALT II treaty. The remarks of our majority leader reveal his usual foresight and good sense. I ask unanimous consent that the full text of the article be printed in the Record immediately following my remarks, and I urge my colleagues to give it very serious consideration.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Oct. 1, 1979]

SALT AND A "PSEUDO-CRISIS"

(By Robert C. Byrd)

We should not permit political myopia to obscure our wider vision of U.S. national interests in the field of central strategic nuclear systems—which is what the SALT II treaty is all about. The stakes—establishment of limitations on strategic nuclear weapons—are higher and far more vital to our national security than is the peripheral issue of 2,000 to 3,000 Soviet troops in Cuba.

As Senate committees near the completion of their consideration of the treaty, we find ourselves focusing not on this issue of momentous significance to our national security and our leadership in the world, but rather on a matter unrelated to, and far less significant than, the treaty.

There has been a regrettable tendency to lose sight of the larger issue in an atmosphere of near-hysteria over the question of Soviet troops in Cuba. Let me state unequivocally that I am not sympathetic to the presence of Soviet troops in Cuba. But we should not lose all sense of perspective. We need to take a step back, examine the matter in a broader context and recognize how much is involved here and what is actually at stake.

BEST DOCUMENT AVAILABLE

First, we should study the treaty itself, and the hearings conducted by the Senate Foreign Relations, Armed Services and Intelligence committees. Those hearings have been very thorough and valuable. I have read through the transcripts of all the hearings. I believe that a careful reading may lead others to conclude that the treaty can be a modest but important step forward, a positive contribution to our national security. I have not yet reached a final judgment of my own position on the treaty. I want to complete my review of the recent report of the Senate Intelligence Committee on the important issue of verification before reaching that judgment.

By August, the treaty had emerged from the Foreign Relations and Armed Services hearings in relatively good shape, and prospects for Senate approval looked good—with the addition of certain reservations and understandings to the Resolution of Ratification. The hearings dealt not only with the specific elements of the treaty, but also served the useful purpose of focusing attention on the overall growing military and strategic imbalance. The big question was not whether the treaty would be approved, but what steps should be taken, and how much funding should be provided, to proceed with the necessary modernization of our strategic and conventional forces.

But shortly before the Senate reconvened in September, the Cuban issue emerged. I have served in Congress since 1952, and in my 27 years in Washington I have witnessed a few periods of genuine crisis. It has been my belief from the beginning that the current Cuban episode is not anything near crisis proportions. From the outset, I emphasized that we needed to establish, as best we could, exactly what the situation was. It made no sense for the administration to state that "the status quo is unacceptable" until we knew more precisely what the "status quo" was.

There were some who rushed forward with statements that the Soviets were "testing" us, as though this were some grave new threat with far-reaching ramifications. In fact, however, all intelligence reports thus far indicate that the Soviet troops in question probably have been in Cuba for years; indeed, they may well be a residue of the 20,000 or so Soviets who were there at the time of the 1962 missile crisis.

So this is not a "test" or "challenge" to the United States. But there were some—and the administration is not blameless in this regard—who contributed to such a perception before looking at the realities of the situation, and thus was created this "pseudo-crisis" in which we became all too deeply immersed.

As a result, the treaty suddenly became subjugated to a far less important issue—not an "artificial" issue, as Andrei Gromyko claims, but not one meriting a crisis atmosphere. Certainly, the Cuban question should not overshadow the SALT II treaty—a treaty that represenst the work of nearly seven years of negotiations by three administrations, Republican and Democratic. If the Senate, after careful judgment, rejects the treaty on its merits, that is one thing; but if the treaty dies either because of delay, or an unwarranted connection to the presence of a relatively small number of Soviet troops in Cuba, that is quite another thing.

Neither of these two reasons for the treaty's death would reflect well on the Senate or on the country. To effect the treaty's demise through either of these means would send uncertain signals to our allies in Europe and to the nations in the world. For the treaty to die from a sudden seizure of trembling delirium brought on by the discovery of a handful of Soviet troops in Cuba—an island on which U.S. forces are also stationed—would ill serve the image of the United States as a powerful and mature nation. Undue delay, in itself, would also lead, I feel certain, to the further entanglement of SALT in politics, particularly with next year's campaign season being only a short time ahead, and would lead to its execution on the gallows of political posturing and partisan rhetoric by candidates in both parties.

So the Senate should proceed, in a deliberate and rational way, to make its judgment. The committees have conducted their hearings in a most responsible fashion. Proponents and opponents have been heard in the committees, and there is ample time for a full-scale Senate debate later this year.

When the Senate makes that judgment, it should come down to a simple question—a question not simply answered, but still a simple question: is this treaty in the best interests of the United States? This should be the benchmark by which the Senate measures its decision. Let us not cloud the environment with a totally unrelated issue—one that is clearly not a threat to U.S. security. If the treaty is not in our own interests, it ought to be rejected. Conversely, if it is in our country's interests, then the treaty should be approved, with any appropriate reservations and understandings.

Now, it could be correctly pointed out that the United States should long ago have devised a strategy to deal with Soviet adventurism around the world. Clearly, Moscow has developed and deployed—in come cases in conjunction with Cubans—military capabilities well beyond the legitimate needs of its own territorial security. The already overdue need to develop a viable and effective strategy of dealing with Soviet adventurism, however, will not be achieved by holding the treaty hostage. After all, no one in his right mind would suggest that the treaty be ratified as a favor to the Soviet Union.

To those who advocate that Senate debate on the treaty be put off until late into next year or thereafter, the question should be addressed: what happens to our national security in the meantime? The SALT process would be stopped dead in its tracks, and the prospects for achieving significant reductions in nuclear armaments in the future, and for limiting the proliferation of nuclear weapons, would become increasingly dim. In the meantime, the Soviets, having already built considerable momentum, would be free to go ahead with the development, deployment and expansion of systems that would otherwise be prohibited under SALT II.

For example, there would be no constraint on Soviet development of the SS16 mobile intercontinental missile, which is banned under the treaty. The Soviets could proceed with no limit on fractionation—putting more than 10 warheads on an SS18 missile, for example. Under the treaty, the Soviets would be limited to 10 warheads per SS18, whereas the missile has the capacity of carrying up to 20—even 30—warheads, and this would greatly expand their offensive capacity. Moreover, instead of being limited to the production of 30 Backfire bombers per year, the Soviets could greatly increase their production rate. Further, there would be no restriction on telemetry encryption or other concealment practices, thus making our verification of Soviet missile testing, development and deployment much more difficult. Additionally, instead of being restricted to a single new-type missile, as provided in the treaty, the Soviets would be free to deploy as many new types as they choose—and they have the capability, the technology and the momentum to develop several new missiles in the near future.

Also, whereas the treaty establishes a limit of 2,250 strategic launcher systems and heavy bombers by Jan. 1, 1982, the Soviets could have 3,000 such systems by 1985. Sub-limits, likewise, would not exist and, instead of being held to 820 MIRVed land-based ICBMs, the Soviets could deploy from 1,100 to 1,300. In other words, without the treaty all caps are gone and all bets are off.

With or without SALT II, we are going to have to proceed with the strengthening of our strategic and conventional forces, as well as theater nuclear forces in Europe. But without SALT II, we face a much less predictable strategic situation and the need for much greater military spending than would be necessary with the treaty. Much of the money that is needed for building up our conventional forces would be siphoned away to match the Soviets in an uncontrolled strategic nuclear armaments race.

We must retain a sense of reason and perspective. We have to be aware of the consequences of delaying the treaty inordinately. A matter of this significance must not become a political football. The Senate deserves the opportunity to vote on the treaty. The country deserves to have the treaty judged on its merits.

The truth is that any lengthy delay in Senate consideration of SALT II effectively kills the treaty. I believe it should be debated in the Senate and stand or fall on the basis of its value to U.S. national security, and not on the basis of an issue not relevant to the treaty.

As one who voted against the 1963 Test Ban Treaty, who has voted for increased defense spending, who has sharply criticized the Soviets for adventurism and suppression of dissidents. I am constrained to say that holding the treaty hostage to 2,000-3,000 Soviet troops in Cuba—apparently long existent, but only recently identified—would be much like throwing an antique chair, brought over on the Mayflower, at a mouse that suddenly appears on the drawing room floor; the chair is reduced to splinters, but the mouse escapes untouched. In other words, we can end up with the treaty down the drain, while the Soviet troops—long in Cuba—remain there.

Let us return to a steady course and bring our best judgment to bear, in a realistic way, on the problems that confront our national security interests.

FORTRESS FIDEL

Mr. ZORINSKY. Mr. President, there is a peculiar trait in this country which H. L. Mencken has aptly labeled "The virulence of the national appetite for bogus revelation." It is not a particularly endearing trait, and, though we should not exaggerate it, neither should we ignore it. It is real. And in the recent past, we have paid dearly because of it.

From the "bogus revelation" of the Tonkin Gulf affair, the politicians, the bureaucrats and the "whiz kids" in Washington gave this Nation something called Vietnam. And for a while the people loved it. Those initial air strikes proved we could be as tough as we had been patient. Enough was enough. Bomb 'em back to the stone age.

But the euphoria of defending democracy and the exhilaration of hand-to-hand combat were to be short lived. In a relatively brief period of time, the American people rediscovered the validity of Sherman's less-than-eloquent phrase, "War is hell." That message was driven home to the American people day after day and night after night with the decade-long news reports from Vietnam—the most costly war in our Nation's history.

We, the American people, paid dearly—in both blood and treasure—for the "bogus revelation" that engulfed this Nation in the Vietnam conflict.

We must never allow this Nation to be so traumatized again, either by reveling in our strength and bravado or by wallowing in national self-pity and unbecoming fits of depression.

I issue these reminders, Mr. President, only because it seems to me that at this particular time in our Nation's history some stern words of caution are in order. Indeed, necessary. Necessary because of the confirmed discovery of Soviet combat troops in Cuba.

The discovery of those troops is not a "bogus revelation," at least in the way the Tonkin Gulf affair was. No, this administration has not manufactured the Soviet-troops-in-Cuba issue the way the Johnson administration manufactured the Tonkin Gulf business. There is no deception here, insofar as the facts are concerned. The troops are there. They are what the administration says they are.

But there are those who see it otherwise; there are those who wish to make more of it than it is; there are those who seek to convince the American people that some sinister Soviet plot is in the offing and we have been caught napping. It is the 11th hour, they say. By making such claims, by issuing such dire predictions—they are creating a "bogus revelation" and feeding "the national appetite" at a time when a more balanced diet is in order.

I realize, Mr. President, that at a time like this, words of caution do not earn a politician any brownie points. No, this is not what the folks want to hear. We are in phase 1: Tough talk and the quick draw. It is high noon and we are headed for the OK Corral. "Fortress Cuba," we are told, is being erected by the Soviets—and do not forget it is only 90 miles from our shore. Is any other justification needed for a panic-stricken American response?

The popular answer is "No." The correct answer is "Yes."

Let us face it, 2,000-3,000 Soviet combat forces in Cuba is, to borrow a phrase, "a thorn in our side, not a dagger in our heart." That is the truth of the matter. No one with a straight face can seriously suggest otherwise. And no one is, at least in private. There is a ridiculous quality to the issue, and the whole town knows it—but nobody really has the guts to say it.

And it is probably going to get worse before it gets better: Does anyone doubt there will be more evidence of the Soviet menace in Cuba? Does anyone doubt that this Nation's intelligence establishment will "produce" such evidence? Does anyone doubt that leaks are no longer the exception to the rule—that they are the rule? It is one of Washington's favorite pastimes—a leak a week. Sometimes it is done directly, and sometimes it is indirectly, through friendly officials and politicians. And on rare occasion it is done inadvertently. But regardless of how it is done, there will be more "revelations" and the crisis will grow. Therein lies the real danger in this whole affair—the danger of the self-fulfilling prophecy.

More charges and allegations will be raised. New demands will be made. And harder positions will be taken—on both sides. The longer it goes, the less wiggle room there will be. Sooner or later, one side or the other will be backed into a corner. At that point, the crisis will become real the prophecy self-fulfilled. It is like a bad movie—all too reminiscent of "The Creature from the Black Lagoon."

But there he is, Mr. President, the bearded, scaly monster cluching Migs in one hand and a Soviet combat brigade in the other. The bandoleros and assorted automatic weapons slung about his shoulders give him the appearance of a human ammunition dump. The appearance is reinforced by the multiple rocket launchers strapped to each hip. The picture on the screen epitomizes the vulgarity of the 20th century war machine. And there it is. The monster strides forward and the cavity in its craggy face opens to announce—Fortress Fidel, an American political comedy starring Woody Allen.

Mr. President, I do not wish to make light of those matters which others choose to dramatize publicly. That is their choice. But there are limits.

Mr. President, keeping our wits about us, it needs to be said that the Soviet troop issue is a serious matter, one that deserves our attention and resolve. I think Soviets have gotten the message and I believe they understand the requirements of the situation.

And we must do the same—safe in the knowledge that if those combat troops ever head our way or endanger our vital interests in the hemisphere, we will blow them out of the water. This is as it should be. But "don't shoot 'til you see the whites of their eyes" is still pretty good advice.

Mr. ROBERT C. BYRD. Mr. President, I express my gratitude to the distinguished Senator from Nebraska for his kind reference to the article which I have written, which appears in the Washington Post of today.

I also appreciate his supportive remarks and his fine address, to which I have listened with great interest. I admire his eloquence, I admire his ability to put things into perspective, and I think he has done a service in suggesting that we all think carefully.

Mr. ZORINSKY. Mr. President, I thank the majority leader for his usual kind remarks.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, first of all, let me say that the Appropriations Committee has met—may still be meeting—but it has discussed and voted to report House Joint Resolution 402, the continuing FTC resolution for 1980, with certain amendments which will deal with the continuing resolution that was voted down on last Friday.

Messrs. Magnuson and Young, the chairman and ranking member, are agreeable to having the resolution called up at 4 o'clock this afternoon.

Mr. Stevens, the distinguished acting Republican leader and member of the Appropriations Committee, was there. Some of the others whom I recall being there were Messrs. Weicker, McClure, Schmitt, Hatfield, and Schweiker. I may have overlooked naming others.

But there is a good quorum, good representation on both sides, and it was agreeable on the part of all of those that the Senate proceed with the resolution at 4 p.m.

I have discussed this matter with the distinguished minority leader and I am prepared to make a request to which the Senator will address himself.

Mr. President, I ask unanimous consent that at 4 p.m. today, the continuing resolution, which will have by then been formally reported by the Appropriations Committee, be made the pending business before the Senate.

Mr. BAKER. Mr. President, reserving the right to object, I will not object, the majority leader is, of course, correct. We have cleared that request on our side.

I think it is a good vehicle to serve the purposes the Senate needs to address at this time. The matter was supported, I believe unanimously, on my side of the aisle, the Republican side of the aisle, in the Appropriations Committee.

We have no problem with it being scheduled from the standpoint of floor activity today, and I do not object to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the order entered last week, any rollcall votes that may be ordered on this matter will not occur until after 6 p.m. today. I would anticipate that there would be one or more rollcall votes in relation to the continuing resolution.

I therefore urge Senators to stay around so that the Senate can complete action on this resolution today and request a conference with the other body thereon.

RECESS UNTIL 3:55 P.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business at this time, I ask unanimous consent that the Senate stand in recess until the hour of 3:55 p.m. today.

There being no objection, the Senate, at 2:14 p.m., recessed until 3:55 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Baucus).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR ROBERT C. BYRD: THE CUBA "CRISIS" IN PERSPECTIVE

Mr. CRANSTON. Mr. President, in a few hours the President of the United States will address the Nation on the issue of Soviet troops in Cuba.

I am confident that the President will recognize that no new or direct challenge to our national security is posed by these 2,600 to 3,000 Soviet troops. And I believe that the President's course of action will be appropriate and restrained, but completely sufficient.

My confidence and my belief is based in large part on my knowledge that President Carter has received the advice and the counsel and the wisdom of our distinguished Senate majority leader, Senator Robert C. Byrd. That advice and counsel and wisdom rendered personally and privately to the President over the last few weeks now is available to the Nation as a whole and to each of us as individual Senators.

Mr. President, in an article printed today entitled "SALT and a 'Pseudo-Crisis,'" the eminent Senate majority leader analyzes this issue of Soviet troops in Cuba completely and competently—and with the experience of 27 years in Washington. Senator Byrd has believed "from the beginning that the current Cuban episode is not anything near crisis proportions." The distinguished Senator finds that "the Cuban question should not overshadow the SALT treaty—a treaty that represents the work of nearly 7 years of negotiation by three administrations, Republican and Democratic." And with wise and mature counsel the Senator concludes:

> Let us return to a steady course and bring our best judgment to bear, in a realistic way, on the problems that confront our national security interests.

Mr. President, I was in the Cabinet room of the White House 2 weeks ago last Friday when the President briefed the congressional leadership on the situation in Cuba. Present were the leaders in the House and Senate of both parties and of the relevant committees, Foreign Relations, Armed Services and Intelligence.

Present also were the top advisers of the President in these matters, the Secretary of State, the Secretary of Defense, the National Security Adviser, and the No. 2 man in the CIA.

The wisest words of advice given to the President on the Cuban situation in that room upon that occasion was the advice of the majority leader, Senator Robert C. Byrd.

Mr. President, because of the obvious importance and timeliness of the article, and because I believe that it is the standard by which President Carter's address to the Nation must be judged, I ask unanimous consent that the full text of "SALT and a 'Pseudo-Crisis,'" by Senator Robert C. Byrd, on page A-21 of the Washington Post, October 1, 1979, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

SALT and a "Pseudo-Crisis"

(By Robert C. Byrd)

We should not permit political myopia to obscure our wider vision of U.S. national interests in the field of central strategic nuclear systems—which is what the SALT II treaty is all about. The stakes—establishment of limitations on strategic nuclear weapons—are higher and far more vital to our national security than is the peripheral issue of 2,000 to 3,000 Soviet troops in Cuba.

As Senate committees near the completion of their consideration of the treaty, we find ourselves focusing not on this issue of momentous significance to our national security and our leadership in the world, but rather on a matter unrelated to, and far less significant than, the treaty.

There has been a regrettable tendency to lose sight of the large issue in an atmosphere of near-hysteria over the question of Soviet troops in Cuba. Let me state unequivocally that I am not sympathetic to the presence of Soviet troops in Cuba. But we should not lose all sense of perspective. We need to take a step back, examine the matter in a broader context and recognize how much is involved here and what is actually at stake.

First, we should study the treaty itself, and the hearings conducted by the Senate Foreign Relations, Armed Services and Intelligence committees. Those hearings have been very thorough and valuable. I have read through the transcripts of all the hearings. I believe that a careful reading may lead others to conclude that the treaty can be a modest but important step forward, a positive contribution to our national security. I have not yet reached a final judgment of my own position on the treaty. I want to complete my review of the recent report of the Senate Intelligence Committee on the important issue of verification before reaching that judgment.

By August, the treaty had emerged from the Foreign Relations and Armed Services hearings in relatively good shape, and prospects for Senate approval looked good—with the addition of certain reservations and understandings to the Resolution of Ratification. The hearings dealt not only with the specific elements of the treaty, but also served the useful purpose of focusing attention on the overall growing military and strategic imbalance. The big question was not whether the treaty would be approved, but what steps should be taken, and how much funding should be provided, to proceed with the necessary modernization of our strategic and conventional forces.

But shortly before the Senate reconvened in September, the Cuban issue emerged. I have served in Congress since 1952, and in my 27 years in Washington I have witnessed a few periods of genuine crisis. It has been my belief from the beginning that the current Cuban episode is not anything near crisis proportions. From the outset, I emphasized that we needed to establish, as best we could, exactly what the situation was. It made no sense for the administration to state that "the status quo is unacceptable" until we knew more precisely what the "status quo" was.

There were some who rushed forward with statements that the Soviets were "testing" us, as though this were some grave new threat with far-reaching ramifications. In fact, however, all intelligence reports thus far indicate that the Soviet troops in question probably have been in Cuba for years; indeed, they may well be a residue of the 20,000 or so Soviets who were there at the time of the 1962 missile crisis.

So this is not a "test" or "challenge" to the United States. But there were some—and the administration is not blameless in this regard—who contributed to such a perception before looking at the realities of the situation, and thus was created this "pseudo-crisis" in which we became all too deeply immersed.

As a result, the treaty suddenly became subjugated to a far less important issue—not an "artificial" issue, as Andrei Gromyko claims, but not one meriting a crisis atmosphere. Certainly, the Cuban question should not overshadow the SALT II treaty—a treaty that represents the work of nearly seven years of negotiations by three administrations, Republican and Democratic. If the Senate, after careful judgment, rejects the treaty on its merits, that is one thing; but if the treaty dies either because of delay, or an unwarranted connection to the presence of a relatively small number of Soviet troops in Cuba, that is quite another thing.

Neither of these two reasons for the treaty's death would reflect well on the Senate or on the country. To effect the treaty's demise through either of these means would send uncertain signals to our allies in Europe and to the nations in the world. For the treaty to die from a sudden seizure of trembling delirium brought on by the discovery of a handful of Soviet troops in Cuba—an island on which U.S. forces are also stationed—would ill serve the image of the United States as a powerful and mature nation. Undue delay, in itself, would also lead, I feel certain, to the further entanglement of SALT in politics, particularly with next year's campaign season being only a short time ahead, and would lead to its execution on the gallows of political posturing and partisan rhetoric by candidates in both parties.

So the Senate should proceed, in a deliberate and rational way, to make its judgment. The committees have conducted their hearings in a most responsible fashion. Proponents and opponents have been heard in the committees, and there is ample time for a full-scale Senate debate later this year.

When the Senate makes that judgment, it should come down to a simple question—a question not simply answered, but still a simple question: is this treaty in the best interests of the United States? This should be the benchmark by which the Senate measures its decision. Let us not cloud the environment with a totally unrelated issue—one that is clearly not a threat to U.S. security. If the treaty is *not* in our own interests, it ought to be rejected. Conversely, if it *is* in our country's interests, then the treaty should be approved, with any appropriate reservations and understandings.

Now, it could be correctly pointed out that the United States should long ago have devised a strategy to deal with Soviet adventurism around the world. Clearly, Moscow has developed and deployed—in some cases in conjunction with Cubans—military capabilities well beyond the legitimate needs of its own territorial security. The already overdue need to develop a viable and effective strategy of dealing with Soviet adventurism, however, will not be achieved by holding the treaty hostage. After all, no one in his right mind would suggest that the treaty be ratified as a favor to the Soviet Union.

To those who advocate that Senate debate on the treaty be put off until late into next year or thereafter, the question should be addressed: what happens to our national security in the meantime? The SALT process would be stopped dead in its tracks, and the prospects for achieving significant reductions in nuclear armaments in the future, and for limiting the proliferation of nuclear weapons, would become increasingly dim. In the meantime, the Soviets, having already built considerable momentum, would be free to go ahead with the development, deployment and expansion of systems that would otherwise be prohibited under SALT II.

For example, there would be no constraint on Soviet development of the SS16 mobile intercontinental missile, which is banned under the treaty. The Soviets could proceed with no limit on fractionation—putting more than 10 warheads on an SS18 missile, for example. Under the treaty, the Soviets would be limited to 10 warheads per SS18, whereas the missile has the capacity of carrying up to 20—even 30—warheads, and this would greatly expand their offensive capacity. Moreover, instead of being limited to the production of 30 Backfire bombers per year, the Soviets could greatly increase their production rate. Further, there would be no restriction on telemetry encryption or other concealment practices, thus making our verification of Soviet missile testing, development and deployment much more difficult. Additionally, instead of being restricted to a single new-type missile, as provided in the treaty, the Soviets would be free to deploy as many new types as they choose—and they have the capability, the technology and the momentum to develop several new missiles in the near future.

Also, whereas the treaty establishes a limit of 2,250 strategic launcher systems and heavy bombers by Jan. 1, 1982, the Soviets could have 3,000 such systems by 1985. Sub-limits, likewise, would not exist and, instead of being held to 820 MIRVed land-based ICBMs, the Soviets could deploy from 1,100 to 1,300. In other words, without the treaty all caps are gone and all bets are off.

With or without SALT II, we are going to have to proceed with the strengthening of our strategic and conventional forces, as well as theater nuclear forces in Europe. But without SALT II, we face a much less predictable strategic situation and the need for much greater military spending than would be necessary with the treaty. Much of the money that is needed for building up our conventional forces would be siphoned away to match the Soviets in an uncontrolled strategic nuclear armaments race.

We must retain a sense of reason and perspective. We have to be aware of the consequences of delaying the treaty inordinately. A matter of this significance must not become a political football. The Senate deserves the opportunity to vote on the treaty. The country deserves to have the treaty judged on its merits.

The truth is that any lengthy delay in Senate consideration of SALT II effectively kills the treaty. I believe it should be debated in the Senate and stand or fall on the basis of its value to U.S. national security, and not on the basis of an issue not relevant to the treaty.

As one who voted against the 1963 Test Ban Treaty, who has voted for increased defense spending, who has sharply criticized the Soviets for adventurism and suppression of dissidents, I am constrained to say that holding the treaty hostage to 2,000–3,000 Soviet troops in Cuba—apparently long existent, but only recently identified—would be much like throwing an antique chair, brought over on the Mayflower, at a mouse that suddenly appears on the drawing room floor; the chair is reduced to splinters, but the mouse escapes untouched. In other words, we can end up with the treaty down the drain, while the Soviet troops—long in Cuba—remain there.

Let us return to a steady course and bring our best judgment to bear, in a realistic way, on the problems that confront our national security interests.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I thank Senator CRANSTON for his having alluded to the article which appears in today's Washington Post. Not only is he supportive of the article, but also, he has demonstrated that the thesis which is expressed in the article is the thesis which he has advocated since the Cuban flap erupted.

Mr. CRANSTON. Yes, it is.

Mr. ROBERT C. BYRD. I thank him for his continuing support of this effort. I believe it is the wisest course.

Mr. CRANSTON. I thank the Senator very much. I thank him not only for the wise advice he has given to the President and the President's advisers but also for the very prudent leadership he is giving the Senate at this time. On an incident that could be of great significance, the Senator's leadership has helped put the matter in its proper perspective. It is not really an incident of such vast significance when approached in the careful, prudent, thoughtful, and wise way of the Senator from West Virginia.

Mr. ROBERT C. BYRD. I again thank the distinguished whip.

CONTINUING APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the hour of 4 o'clock having arrived, the Senate will proceed to the consideration of House Joint Resolution 402, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 402) making appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes.

The Senate proceeded to consider the joint resolution, which was reported from the Committee on Appropriations with amendments to strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1979 and for which appropriations, funds or other authority would be available in the following appropriation Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1980;

District of Columbia Appropriation Act, 1980;

Foreign Assistance and Related Programs Appropriations Act, 1980, notwithstanding section 10 of Public Law 91–672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended;

Department of the Interior and Related Agencies Appropriation Act, 1980;

Military Construction Appropriation Act, 1980; and

Treasury, Postal Service, and General Government Appropriation Act, 1980: *Provided*, That the Office of Inspector General, General Services Administration, shall be continued at the rate and in the manner as provided in H.R. 4393 as passed the Senate on September 6, 1979.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1979, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1979, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

(4) Whenever an Act listed in this subsection has been passed by only one House as of October 1, 1979, or where an item is included in only one version of an Act as passed by both Houses as of October 1, 1979, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1979: *Provided*, That no provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1979, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on August 2, 1979, except as provided in section 117 of this joint resolution and notwithstanding the provisions of section 106 of this joint resolution.

(c) Such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1979 for which provision was made in the Department of Defense Appropriation Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority.

(d) Notwithstanding the provisions of sections 102 and 106 of this joint resolution, such amounts as may be necessary for continuing projects and activities to the extent and in the manner as provided in H.R. 4390, entitled the Legislative Branch Appropriation Act, 1980, as reported June 7, 1979 (except as to executive salaries which are covered subsequently) and such amounts as may be necessary for continuing projects or activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol, to the extent and in the manner which would be provided for in the budget estimates, as amended, for fiscal year 1980.

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, whose salaries under existing law were increased on October 1, 1979, to a rate approximately 12.9 percent above the rate of salary payable on September 30, 1978, shall not be used to pay the salary of any such employee at a rate in excess of 5.5 percent more than the rate on September 30, 1978, or to pay the salary of a Member of Congress at a rate in excess of the rate on that day: *Provided further*, That for the purpose of carrying out this provision and notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Adjustment Act, or any other related provision of law, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, which limit the pay for certain Federal offices and positions, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980, except that in applying such limitation the term "at a rate which exceeds by more than 5.5 per centum the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting pay increases to 5.5 per centum: *Provided further*, That notwithstanding any other provision of law, none of the funds appropriated by this joint resolution or any Act for the fiscal year 1980 may be used to pay the salary of any individual in any office or position the salary for which is subject to adjustment under section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) at a rate which exceeds the rate of salary payable for such office or position on September 30, 1978.

Any additional payment under existing law is not to be construed as an increase in salary or emoluments within the meaning of Article I, Section 6, Clause 2 of the Constitution, except that:

(1) Any Member of Congress, whether he voted to confirm or not to confirm the appointment of any judge appointed during

the 96th Congress to the United States Court of Appeals for the District of Columbia, or whether he abstained from, or was not present for such vote, may bring a civil action in the United States District Court for the District of Columbia or in any United States District Court in the State he represents to contest the constitutionality of the appointment and continuance in office of said circuit judge on the ground that such appointment and continuance in office is in violation of Article I, Section 6, Clause 2 of the Constitution;

(2) The designated United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office;

(3) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court; and

(4) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

For purposes of this subsection, H.R. 4390, as reported June 7, 1979, shall be treated as appropriating $11,000,000 under the headings "OFFICE OF TECHNOLOGY ASSESSMENT", "Salaries and Expenses"; $200,300,000 under the headings "GENERAL ACCOUNTING OFFICE", "Salaries and Expenses"; and $50,707,000 under headings "JOINT ITEMS", "Official Mail Costs".

No funds contained in this section shall be used to remodel the gallery in Statuary Hall in the Capitol into carrels or into any other structure constituting additional office or work space for Members of Congress.

(e) Such amounts as may be necessary for fiscal year 1980 for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose, at the current rate of operations notwithstanding the provisions of sections 102 and 106 of this joint resolution.

(f) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in fiscal year 1979, but at a rate for operations not in excess of the current rate:

activities under the Domestic Volunteer Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of nursing fellowships and for support of training programs and program support related to alcoholism under sections 301, 303, and 472 of the Public Health Service Act;

activities under section 789 and title VIII, XII, XV, and XVII of the Public Health Service Act, except that activities under title XV of the Public Health Service Act shall be conducted at not to exceed an annual rate for obligations of $169,717,000;

activities under sections 204 and 213 of the Community Mental Health Centers Act;

activities under title IV of the Drug Abuse Office and Treatment Act;

activities under titles III and V of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act;

activities under section 2 of the Indochina Migration and Refugee Assistance Act;

activities of the National Board for the Promotion of Rifle Practice;

activities of the Federal Trade Commission: *Provided*, That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities;

activities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, except that such activities shall be continued at a rate of operations not in excess of appropriations contained in the Department of Justice Appropriation Act, 1980, for the Office of Justice Assistance, Research, and Statistics;

activities of the Economic Development Administration; and

activities of the Regional Action Planning Commissions.

(g) Notwithstanding the funding rates provided for in section 101(a), activities of the Department of State for Migration and Refugee Assistance shall be funded at not to exceed an annual rate for obligations of $456,241,000, notwithstanding section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, and section 10 of Public Law 91–672.

(h) Such amounts as may be necessary for projects or activities which were conducted in fiscal year 1979 and for which provision was made in the Department of Transportation and Related Agencies Appropriation Act, 1979, or chapter X of the Supplemental Appropriations Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority: *Provided*, That the Panama Canal Commission is authorized to incur obligations at the rate of operations, and to the extent and in the manner provided for in H.R. 4440 as reported on June 13, 1979, to meet operational and capital requirements of the Panama Canal in conformance with applicable legislation and the Panama Canal Treaty of 1977, notwithstanding the provisions of section 106 of this joint resolution.

(i) Such amounts as may be necessary for the programs or activities of the Federal Inspector for the Alaska Gas Pipeline, at a rate of operations not in excess of 35 per centum of the fiscal year 1980 budget estimate.

(j) Such amounts as may be necessary for projects or activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980 (H.R. 4394), at a rate of operations, and to the extent and in the manner, provided for in such Act as reported from the committee of conference on August 2, 1979, notwithstanding the provisions of section 106 of this joint resolution: *Provided*, That those programs on which the committee of conference has failed to reach agreement shall be funded at the lesser of the amounts approved by the House or Senate.

Sec. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1979, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) October 31, 1979, whichever first occurs.

Sec. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Sec. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Sec. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1979.

Sec. 107. Any appropriation for the fiscal year 1980 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

Sec. 108. None of the funds available to the Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil in fiscal year 1980 shall be available, except on a voluntary basis, for the acquisition of land or easements at or around the four lake projects in the Yazoo Basin, Mississippi, pending the submission to Congress of a plan for changing the curve by which the flow is regulated in line with the instructions contained on page 60 of the conference report accompanying H.R. 4388 and of alternative solutions for the protection of Coffeeville, Mississippi, and other properties affected by the flood control operation at the project.

Sec. 109. No provision in any appropriation Act for the fiscal year 1980 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

Sec. 110. Appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

Sec. 111. Notwithstanding section 106 or any other provision of this joint resolution—

(a) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Minnesota is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants;

(b) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Texas is increased to that allowed Senators from States having a population of thirteen million but less than fifteen million, the population of said State having exceeded thirteen million inhabitants;

(c) effective with the fiscal year ending September 30, 1980, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f–1a), is amended by striking out "$25,000" and inserting in lieu thereof "$92,000"; and

(d) effective October 1, 1979, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of two photostat operators at not to exceed $12,663 per annum each; six assistant mail operators at not to exceed $12,096 per annum each; a requisition and receiving clerk at not to exceed $13,608 per annum; a maintenance and rental clerk at not to exceed $13,608 per annum; a State office repair clerk at not to exceed $13,608 per annum; and two auditors at not to exceed $14,931 per annum each.

SEC. 112. During the fiscal year ending on September 30, 1980, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government shall not exceed an amount which is $750,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921. The Director of the Office of Management and Budget shall allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and shall report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That in allocating the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount proposed for each such department, agency or instrumentality in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

SEC. 113. Funds available under the Department of Justice Appropriation Act, Fiscal Year 1979 (Public Law 95–431) for support of United States prisoners shall be available as follows:

(a) The Attorney General is authorized to use the appropriation "Support of United States Prisoners" to enter into contracts or cooperative agreements to assist the government of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, services, or materials required to raise the level of conditions of confinement and facility services of any substandard facility which confines Federal detainees.

(b) This section shall apply only insofar as it is not inconsistent with section 4006 of title 18, United States Code.

(c) Authority provided by this section shall be available from September 26, 1979, and all obligations incurred in anticipation of the authority provided in this section are hereby ratified and confirmed if otherwise in conformance with the provisions of this section.

SEC. 114. Notwithstanding the provisions of the paragraph entitled "Capital Outlay" in title II of the District of Columbia Appropriation Act, 1978, providing for the expiration of certain authorizations and the lapse of certain funds for capital outlay projects, the authorization for the capital outlay project involving the construction of phase I of the downtown permanent campus of the University of the District of Columbia located north of Mount Vernon Square and the funds appropriated in connection therewith by the District of Columbia Appropriation Act, 1978, shall, subject to the last proviso of such paragraph, expire on September 30, 1980, unless funds have been obligated in whole or in part prior to such date.

SEC. 115. (a) Section 3(e) of Public Law 91–663 is amended by adding at the end thereof the following: "With respect to a railroad which filed a petition for reorganization during fiscal year 1978, during the period October 1, 1979, through November 30, 1979, certificates shall be issued without regard to the limitations of subsection (a) and with such priority in payment as the Secretary deems appropriate to secure repayment, for the purpose of continuing service on the railroad system at the level in effect on October 1, 1979.".

(b) Section 5(h)(2)(A) of Public Law 89–670, as amended, is further amended by striking "but has not yet" and inserting in lieu thereof "or has".

SEC. 116. None of the funds contained in this Act shall be used for the reorganization of the Alaska Railroad Office of the Chief Counsel, Office of Real Estate or Office of Financial Planning, or for the consolidation of those Offices into the Office of the Alaska Railroad General Manager.

SEC. 117. Notwithstanding any other provision of this joint resolution, none of the Federal funds provided by this joint resolution or provided for fiscal year 1980 by any other Act for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implanation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that during the debate on House Joint Resolution 402, Mr. Tim Kinney and Mr. Frank Keeny, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Connecticut who has some questions.

Mr. WEICKER. I thank the distinguished Senator from Washington.

Mr. President, may I ask the distinguished Senator from Washington to clarify the portion of the resolution dealing with the Federal Trade Commission. I was initially concerned that the restriction on the use of funds "to initiate any new activities" might prevent the FTC from acting to investigate apparent violations of law during the effective period of the resolution. For example, suppose Exxon and Mobil suddenly announced a merger in October. Will the Senator confirm my understanding that the committee does not intend the proviso to prevent an FTC investigation of such a proposed merger?

Mr. MAGNUSON. My distinguished colleague from Connecticut is correct. The restriction in the resolution would not bar, or otherwise affect, any new FTC law enforcement investigation if the investigation were part of an existing program. In Senator WEICKER's example, the investigation would be conducted with funds earmarked by the FTC for its mergers program, a program already established in fiscal year 1979.

Mr. WEICKER. Similarly, I understand that the committee intends not to restrict in any way the FTC's authority to issue complaints or to seek injunctions. Is that correct?

Mr. MAGNUSON. The Senate is correct, so long as the FTC acts in furtherance of an existing program.

Mr. WEICKER. Then am I correct that the reference to "new activities" is intended by the committee to mean budgetary programs not contained in the FTC's fiscal year 1979 budget?

Mr. MAGNUSON. The Senator is correct.

Mr. WEICKER. I thank the distinguished Senator from Washington for his clarification of the committee intent.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, in view of the fact that there is hardly anyone here and we are not getting a quorum, as many of the Senators appreciate, and there was not to be a vote anyway until, I guess, after sundown today, in view of the Jewish holiday, there is therefore no reason for us to continue talking about this matter until we do get more Members here, which should be in about an hour.

Therefore, I ask unanimous consent that the Senate stand in recess until 5:30.

Mr. MELCHER. Mr. President, reserving the right to object, we may have our amendment ready in 5 minutes. Would the Senator care to wait 5 minutes?

Mr. MAGNUSON. I know, but do you want to present the amendment when there is no one here?

Mr. MELCHER. We would hope everybody would come.

Mr. MAGNUSON. In 5 minutes? There will not be anyone here until 5:30 or a quarter to 6. I want your amendment——

Mr. MELCHER. We cannot have a vote before 6 anyway, is that correct?

Mr. MAGNUSON. No. I want your amendment to carry.

Mr. President, I renew my request.

Mr. ROBERT C. BYRD. Mr. President, I object. That request has not been cleared with the leadership, and there may be other work we could be doing. I would suggest to the Senator.

Mr. MAGNUSON. Oh, I thought it had been cleared with the leadership.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I withdraw my request. I ask unanimous consent to withdraw it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum is still in progress.

The call of the roll was continued.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Mr. MELCHER is going to call up an amendment and that there will probably be a rollcall vote on that amendment.

COMMEMORATION OF EFFORTS OF GOODLOE BYRON TO PROTECT THE APPALACHIAN TRAIL

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 5419.

The Presiding Officer laid before the Senate H.R. 5419, an act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration, with the understanding that consideration of the bill will not consume more than 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I shall not object—I express my appreciation to the majority leader and the Senator from Arkansas for bringing this matter to the attention of the Senate today.

Our former colleague in the other body, Goodloe Byron, was a distinguished public servant and a friend of mine, and I am happy to say that we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 584

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 584.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, at the end thereof, add the following new titles and renumber the preceding sections accordingly:

"TITLE II

SEC. 201. (a) In order to preserve and interpret for the benefit, inspiration, and education of present and future generations the home and office of Frederick Law Olmsted, the great American landscape architect and designer, there is hereby established the Frederick Law Olmsted National Historic Site (hereinafter referred to as the Site).

(b) The Secretary of the Interior (hereinafter referred to in this Act as the (Secretary) is authorized to require by donation, purchase with donated or appropriated funds, or exchange, the property comprising the former home and office of Frederick Law Olmsted at 99–101 Warren Street, Brookline, Massachusetts, together with such adjacent lands and interests therein as the Secretary deems necessary, for establishment of the Site. The Secretary may also acquire for the purposes of the Site, all or any portion of the documents, equipment, drawings, and other materials comprising the Olmsted archival collection.

(c) It is the express intent of the Congress that the Secretary should substantially complete the acquisition program authorized by this Act within two years after the date of its enactment.

SEC. 202. (a) The Secretary shall administer the property, Site, including personal property comprising the archival collection, acquired for the purposes of this Act in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

(b) The Secretary is authorized to enter into a cooperative agreement with an appropriate entity for the management of the archival collection acquired for the purposes of this Act.

(c) Within three years of the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the Site pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended. Within six months of the date of enactment of this Act, the Secretary shall submit a written report to the same committees relating the state of progress of his acquisition and provisions for management and permanent protection of the archival collection. He shall submit a similar report within one year of the date of enactment of this Act to the same committees indicating the final management and protection arrangements he has concluded for such collection.

SEC. 203. (a) Effective October 1, 1979, there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary for the acquisition of lands and interests therein.

(b) There is hereby authorized to be appropriated, effective October 1, 1979, an amount not to exceed $514,000 for the acquisition of the archival collection; an amount not to exceed $200,000 for development; and an amount not to exceed $1,230,000 for the preservation of the archival collection.

TITLE III

SEC. 301. Notwithstanding any other provision of law, the Secretary shall permit the late Chief Turkey Tayac to be buried in the ossuary at Piscataway Park in Oxon Hill, Maryland. After consultation with the members of the family, the Secretary shall select the site in such ossuary at which Chief Tayac may be buried. No Federal funds may be used for the burial of Chief Tayac except such funds as may be necessary for the maintenance of the burial site by the Department of the Interior.

TITLE IV

SEC. 401. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

(a) Section 101(8), re: DeSoto National Memorial, is amended by changing the phrase "changing '$3,108,000' to '$5,108,000'." to read "by changing '$175,000' to '$292,000'."

(b) Section 101(20), re: Pecos National Monument, is amended by changing "$2,375,000" "$2,575,000".

(c) Section 301, re: revision of boundaries, is amended by changing the words "but not exceed" in the first sentence to "but not to exceed".

(d) Section 301(8), re: Great Sand Dunes National Monument, is amended by (a) changing "one thousand one hundred and nine acres" to "one thousand nine hundred acres" and by changing "$166,000" to "$265,000"; and (b) by adding the following at the end thereof: "The Secretary shall designate the lands described by this paragraph for management in accordance with the adjacent lands within the monument by publication of a notice in the Federal Register.".

(e) Section 302 is amended at the end thereof by changing "section 301" to "title III of this Act".

(f) Section 309(b), re: Fort Union Trading Post National Historic Site, is amended by changing "this Act" in the proviso to "the National Parks and Recreation Act of 1978".

(g) Section 315(a), re: Cuyahoga Valley National Recreation Area, is amended by changing "90,001–A" to "655–90,001–A".

(h) Section 501(a), re: Guam National Seashore, is amended in clause (1) by changing "Anac" to "Anae".

(i) Section 505(f)(1), re: Kaloko-Honokohau National Historic Park, is amended by striking "Kaloko-Honokohau" the first time it appears in the subsection.

(j) Section 507(f), re: Santa Monica Mountains National Recreation Area, is amended by changing "January 1, 1976" to "January 1, 1978".

(k) Section 508(d), re: Ebey's Landing National Historical Reserve, is amended by changing "with donated funds" in the first sentence to "with donated or appropriated funds".

(l) Section 505(f)(1), re: Kaloko-Hono-National Historic Site, is amended by changing "at 113 East Leigh Street" to "at 110 A East Leigh Street".

(m) Section 551, re: the National Trails System Act, is amended by—

(1) in paragraph (13), change "(20)" to "(23)";

(2) in paragraph (18), insert quotation marks at the beginning and end of the second sentence; and

(3) in paragraph (21), insert quotation marks at the beginning and end of the second sentence.

(n) Section 601(a), re: Yellowstone National Park, is amended by changing "State of Wyoming" to "States of Wyoming and Montana".

(o) Section 612, re: Albert Einstein Memorial, is amended by changing "access" in the second sentence to "purposes of such memorial".

(p) Section 704, re: Upper Delaware River, is amended (a) in subsection (a) by changing "705(c)" to "704(c)"; and (b) in subsection (f)(1) by inserting the following sentence at the end thereof: "The Advisory Council shall terminate ten years after the date on which it is established.".

(q) Title IX, re: John Lafitte National Historical Park, is amended—

(1) in section 902(a) by changing "eight thousand acres" in the first sentence to "eight thousand six hundred acres";

(2) in section 904 by changing "section 7" in the first sentence to "section 907";

(3) in section 907(a) by striking the word "and" at the end of the clause numbered (6), changing the period at the end of the clause numbered (7) to "; and", and adding at the end thereof the following:

"(8) two members appointed by the Secretary from recommendations submitted by the Police Jury of Saint Bernard Parish."; and

(4) in section 907(e) by inserting the following sentence at the end thereof: "The Commission shall terminate ten years from the date of approval of this Act.".

SEC. 402. Notwithstanding any other provision of law, the Secretary shall not charge any entrance or admission fee in excess of the amounts which were in effect as of January 1, 1979, or charge said fees at any unit of the National Park System where such fees were not in effect as of such date, nor shall the Secretary charge after the date of enactment of this section, user fees for transportation services and facilities in Mt. McKinley National Park, Alaska.

SEC. 403. Section 3 of the Act of December 2, 1969 (83 Stat. 279), is amended by changing '180,000' to '680,000'.

SEC. 404. The Wild and Scenic Rivers Act of 1968 (82 Stat. 906), as amended (16 U.S.C. 1271), is further amended as follows:

(a) In section 5(b), in paragraph numbered (3), change '(72)' to '(75)';

(b) In section 5(b), in paragraph numbered (4), change '(74)' to '(75)'.".

Mr. BUMPERS. Mr. President, my amendment would add these new titles to the measure pending before us. Title II would designate the Frederick Law Olmstead National Historic Site in Brookline, Mass. The language is virtually identical to that which passed the Senate on June 7. The House has passed companion legislation as part of a larger legislative package which is currently pending before the Energy and Natural Resources Committee.

I can assure my colleagues that the committee will be moving on this package in the very near future. However, in an effort to facilitate enactment of the Olmstead Historic Site proposal which the committee unanimously reported on May 15, I am asking that it be added to H.R. 5419.

Title III of my amendment would direct the Secretary to permit the burial of Chief Turkey Tayac in Piscataway National Park in Maryland. Bills to permit burial of Chief Tayac in the park have been introduced in both the House and Senate by members of the Maryland congressional delegation.

During much of his life, Turkey Tayac lived in Piscataway Park, and his intimate knowledge of its environs proved most useful to the development of the park as a historical resource where over 200,000 cultural artifacts have been located.

Chief Tayac was proud that the land of the Piscataway Indians was given to the Government for use as a park. For sometime before his death in December of last year, Chief Tayac had expressed a deep and fervent wish that he might be laid to rest alongside his ancestors in their ancient burial ground. This legislation would grant him that wish.

Title IV of the amendment I am proposing includes a series of technical amendments to last year's omnibus parks bill and several noncontroversial park-related matters which passed the Senate on June 7 of this year. As some of these items have fiscal year 1980 budget implications, it is important that they be enacted as soon as possible.

This amendment has been cleared on both sides, and I urge its adoption.

Mr. MATHIAS. Mr. President, today the Senate has an opportunity to rectify what I, and many others, view as an injustice and a tragedy. When the Piscataway Indian Tribe in Maryland granted the land on which Piscataway Park is now located, its chief, Turkey Tayac, understood from his conversation with officials of the Interior Department that he could be buried in the Piscataway's ancestral burial ground. Chief Turkey Tayac died in December of 1978 but his wish has yet to be honored. To this day, Chief Turkey Tayac's family has been unable to arrange his burial in the park.

Chief Tayac believed that he had been orally promised that he would be buried with his ancestors. And that is the gist of the problem. No agreement was put into writing and so the Interior Department is without authority to honor such a request. The only way to insure that justice is done is by legislation such as we propose today.

My colleague, the Senator from Maryland, Mr. SARBANES, and I sponsored legislation in this Congress to allow his burial to take place. I hope that this provision will now be approved so that the chief's family will be spared further grief and expense while seeking resolution of this problem.

Chief Turkey Tayac, who lived for many years in the park, made many contributions to the National Park Service in their land surveys of the park and he also aided in the actual excavation of the land. It is sad that, although the Piscataways owned the land, a Piscataway chief cannot be assured of a final resting place there. Congress must take some positive action.

The chief's family has worked long and hard to fulfill his final wish. They have exhausted all other avenues of appeal. Chief Tayac's son promised his father that he would be buried on the land he loved so much and he needs our help to keep that promise. I urge my colleagues to approve this proposal which will insure that those promises are finally kept.

Mr. HATFIELD. Mr. President, I support H.R. 5419 and the amendment offered by the Senator from Arkansas (Mr. BUMPERS), chairman of the Subcommittee on Parks, Recreation, and Renewable Resources.

We have agreed that the amendment, which would designate the Frederick Law Olmsted National Historic Site, needs to be passed and signed into law expeditiously in order to prevent financial hardship to the present owners. This body and the House have passed almost identical legislation.

The amendment also contains needed technical changes to the National Parks and Recreation Act of 1978, along with two amendments accepted on the floor when the Senate passed S. 495 as recorded by the Energy and Natural Resources Committee on June 7.

Finally, the amendment also directs the Secretary to permit the burial of Chief Turkey Tayac in Piscataway Park.

I urge the adoption of the amendment and the passage of H.R. 5419 as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, today we, in Congress, have the opportunity to commemorate in a particularly appropriate way the congressional service of our friend and colleague, the late Representative Goodloe Byron. Goodloe Byron was an outdoorsman, a naturalist, a great jogger and hiker. Last year he died while jogging along the towpath of the C. & O. Canal. The bill before the Senate today provides for erecting a memorial to Goodloe Byron on the Appalachian Trail—which he loved so dearly and worked so hard to preserve.

While Goodloe and his family thrived on politics—both his father and mother served as Members of the House of Representatives, his grandfather was a U.S. Senator and his wife has succeeded him—since early childhood he had also been interested in the world of nature. As a Boy Scout, growing up in Williamsport, Md., he became acquainted with the Appalachian Trail. Later in life he hiked and camped on the trail with his wife, BEVERLY, and their three children.

Goodloe Byron was the driving force behind preservation of the Appalachian Trail. In 1969, he sponsored legislation in the Maryland State Senate designed to protect the entire length of the trail in Maryland and with the passage of that bill, Maryland became the first State to provide such protection to the trail.

Col. Lester Holmes, of my hometown of Frederick, was executive director of the Appalachian Trail Conference when this bill was passed. Colonel Holmes said of Goodloe:

> His concern for the protection and preservation of our natural heritage was foremost in his mind each day. He felt keenly that we must preserve our natural beauties and historic places for future generations to understand and enjoy. While many people have good intentions and a real appreciation of the environment, they do little or nothing to implement their convictions. Not so Goodloe—he did something about it!

In 1977 Goodloe introduced a bill in the House of Representatives which provided Federal protection to the Appalachian Trial. I am proud to have sponsored the companion bill in the Senate. It had come to our attention that the National Trails System Act of 1968 had proven inadequate to keep the trail in its natural state. Although Maryland's own program was successful in preserving its portion of the trail, some of the other 13 States through which it passes did not have the funds or authority to protect their portions from the encroachment of development, threatening the greenbelt corridor it provided.

Goodloe and I were gratified to see this Federal legislation signed into law in March of 1978.

Goodloe's environmental achievements were described in Backpacker magazine in an article last year entitled, "Goodloe Byron: Hike on the Hill":

> Backpackers have friends in high places other than mountains. One of them is in the U.S. Congress: Goodloe E. Byron, Democrat from Maryland. And he climbs more hills than Capitol Hill. He's a backpacker who enjoys the rarified air of the Appalachians and Grand Tetons as much as the heady atmosphere of Congress.

When Goodloe appeared before the House Subcommittee considering the trail bill in October 1977, he offered his personal thoughts:

> Approximately 40 miles of the Appalachian Trail crosses Maryland along the Frederick-Washington County border. I was born and raised in Washington County and for many years have lived in Frederick only 20 miles from the Trail. My family and I have hiked and camped along the Trail countless times. Those of us who know the Trail have deep personal feelings for it.

He concluded by asking his colleagues to support the trail bill, so that it would "forever remain a national asset, to be enjoyed each year by millions of Americans."

I am sure he would be pleased to know that his efforts have not been forgotten. Erecting a memorial to Goodloe Byron on the Appalachian Trail is a fitting way to remember the man whose tenacity and vision played a major role in the preservation of the trail.

● Mr. SARBANES. Mr. President, the Senate has before it today the bill, H.R. 5419, I introduced last week honoring the late Congressman Goodloe E. Byron of Maryland. I want to express my great appreciation and gratitude to the distinguished chairman of the Parks, Recreation, and Renewable Resources Subcommittee for his efforts on behalf of this bill. Shortly before Congressman Byron's tragic death last year, I had the opportunity to introduce Senator BUMPERS to Goodloe. We spent an evening in Maryland's Sixth District, and as always the deep affection the people of western Maryland had for their representative in the House was very apparent.

A memorial along the Appalachian Trail would be a fitting tribute to Goodloe Byron. Few people in public life maintained such a deep and abiding interest in, and affection for the land from which they came. Goodloe spent countless hours hiking and running along the Appalachian Trail. More important, however, was his work in the Maryland General Assembly and in the U.S. Congress to insure that the Appalachian Trail was maintained and protected from commercial development. He was the author of legislation in the Maryland Senate to undertake a State program to provide a buffer zone along the trail. He served on the Appalachian Trail National Advisory Council and worked closely with the Appalachian Trail Conference throughout his years in public life.

H.R. 5419 would authorize the Secretary of the Interior to select a site along the Appalachian Trail for an appropriate monument to Goodloe Byron thereby acknowledging his contributions to the preservation of this important national asset. Mr. President, I urge my colleagues to join in supporting this legislation, which honors his lasting work on behalf of outdoor recreation and the Appalachian Trail.●

Mr. BUMPERS. Mr. President, I move for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5419) was read a third time and passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, what is the pending business now?

The PRESIDING OFFICER. The Senate will now resume consideration of House Joint Resolution 402.

CONTINUING APPROPRIATIONS, 1980

The Senate continued with the consideration of House Joint Resolution 402.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, despite the absence of Senators, the Senator from North Dakota and I think we ought to get started with this continuing resolution. I have a short statement, and and I believe he has one, with which we will proceed while waiting for other Senators.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, Friday night the Senate rejected the conference report on the continuing resolution (H.J. Res. 404) by a vote of 55 to 9.

That now leaves most of the Federal Government without funding or legal authority to operate today.

As of today, only three appropriation bills have been signed into law. Others are waiting their turn, mainly due to lack of action. The three are:

State, Justice and Commerce;
Energy and water development; and
Treasury-Postal Service.

The major appropriation bill, Labor-HEW, again has been held up by the abortion issue, and the abortion issue alone. The money items in the bill have all been agreed to and approved both by the Senate and the House some time ago.

On the Defense Department bill, the appropriations have passed the House last week, but it lacks final approval of the authorizations.

At any rate, only 3 appropriation bills have been signed into law as of today—3 out of 13—though most of the others will follow very quickly, I hope.

But the House is now in recess—until October 9.

That leaves the Senate with three options on the continuing resolution:

First. Do nothing and just wait for the House to originate a new continuing resolution;

Second. Originate an entirely new continuing resolution of our own; or

Third. Take the continuing resolution, House Joint Resolution 402, that remained before our Appropriations Committee and attach the essence of the conference report on House Joint Resolution 404 to it.

House Joint Resolution 402 was a matter involving only the Federal Trade Commission. It was a separate continuing resolution, which was not reported when we voted on House Joint Resolution 404, which again was rejected by a vote of 55 to 9, for all the reasons the RECORD of Friday last shows.

That vehicle, House Joint Resolution 402, was available because last week the House passed two continuing resolutions:

The regular one that was rejected here Friday night;

And a special one just for the Federal Trade Commission.

Last week the Senate included the FTC within the regular continuing resolution, leaving House Joint Resolution 402 before the committee.

The Appropriations Committee met this afternoon. We had an excellent attendance. We are still doing business today. We did business on Saturday also. As I say, we met this afternoon, and adopted option No. 3.

The committee recommendations that are now before the Senate adopted the essence of the conference agreements of last Friday—with the following exceptions that are noted on page 1 of the report that is on each Member's desk:

First. Any "cost of living" pay increase for Members of Congress is prohibited.

Second. The limitations on funding for any abortions (section 117) are those in existing law.

The limitations approved by the Congress last year for Defense and Labor-HEW, would apply during the 30 days of this continuing resolution to: Defense, Labor-HEW, foreign operations, and the District of Columbia.

Third. The reduction in funds for travel and transportation, that would apply across the board to all executive departments and agencies, would be $750 million, instead of the $500 million the conferees had agreed to.

That was the amount approved by the Senate last week, it was reduced by the conference to $500 million, and we have restored that amount to $750. The Senator from Virginia was most interested in this item Friday evening.

Fourth. The termination date we have proposed is October 31.

That is the same date the Senate approved initially last week; the House had December 31; the conference had agreed to November 20; and we now propose October 31.

The House had approved December 31 in their initial continuing resolution, and we had proposed October 31. We had compromised on November 20, but we think October 31 is the better date. That is the same date that the Senate approved initially, last week, and we now propose that date in this new version of the continuing resolution.

We are now into the new fiscal year. Without a continuing resolution, the vast majority of Federal departments and agencies are now without funds.

A great deal of uncertainty will exist, here and about the Nation, among Federal employees, and those depending upon the efficient operation of all these programs.

We must act—and we must act quickly—and I urge my colleagues to support this continuing resolution, as submitted today to the Senate.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I thank the distinguished Senator.

Mr. President, I support the new continuing resolution as presented by the distinguished chairman of the Senate Appropriations Committee (Mr. MAGNUSON).

This represents substantially the same position which a sizable majority of the Senate took with respect to the continuing resolution which was returned from the House to the Senate and rejected by this body Friday night by an overwhelming vote.

It is, in effect, a new effort to resolve the differences between the two Houses, which was climaxed with the House recessing for 10 days on Friday night.

There are two major differences between this resolution and the position of the House of Representatives. This amendment would continue the existing law with reference to Federal financing of abortions. The abortion amendments to the appropriations bills have seriously delayed the financing of almost every department of the Government.

I voted for the so-called Hyde antiabortion amendment many times on regular appropriations bills, but I just do not believe that it has any place on this continuing resolution.

This resolution has an expiration date of October 31, so I do not think it is appropriate to try to resolve this very controversial issue on a continuing resolution, which is simply for the purpose of continuing funding of departments of the Government whose regular appropriations bills have not as yet been enacted into law.

The one other major difference between this resolution and the position of the House is that it would deny the 5.5-percent salary increase for Members of Congress. It does raise, as did the House resolution, the salaries of those employees of both the executive branch and the Congress who are not included in the 7-percent pay increase which goes to all Federal employees except for a few in the very highest grades.

I hope this resolution will be adopted promptly, as I think it is the kind of resolution the House could accept promptly or send it back to conference between the two Houses and again try to resolve the remaining differences.

Mr. MAGNUSON. Mr. President, at this point in the RECORD, I should like to compliment the General Accounting Office for some guidelines issued this morning to all their employees during the interim period, or until the continuing resolution can be enacted.

These are commonsense guidelines and may be helpful to the various other departments and agency budget officers in their own operations.

Consequently, I ask unanimous consent that the GAO guidelines be printed in the RECORD at this point.

There being no objection, the guidelines were ordered to be printed in the RECORD, as follows:

[General Accounting Office]

MEMORANDUM, OCTOBER 1, 1979

To: All GAO employees.
From: Director, GS&C, Richard L. Brown.
Subject: 1980 appropriations.

Even though Congress has not yet passed an FY 1980 GAO Appropriation or Continuing Resolution, we do not believe that it is the intent of Congress that GAO close down until an appropriate measure has been passed. Since the funding level for 1980 is unknown at this time we will need to restrain our FY 1980 obligations to only those essential to maintain day-to-day operations. Therefore the following guidelines will be in effect until passage of a 1980 appropriations measure:

1. Travel should be held to the minimum necessary to perform day-to-day operations.
2. No travel advances will be issued until an appropriations measure has been passed. This is necessary because Treasury cannot advance funds without an appropriation.
3. No funds will be obligated for contracts or small purchases of any kind, including the GSA Self-Service Store, until an appropriations measure has been passed.
4. No further 1980 Requests for Training will be processed.

Since the Treasury Department cannot issue any checks without a 1980 appropriation there is a possibility that the pay checks scheduled for October 16, 1979, will reflect less than a full pay period's compensation. We will keep you advised as to the status of any congressional action so that you may plan accordingly.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator delay that for a moment?

Mr. MAGNUSON. Yes, Mr. President, I withdraw that request.

Mr. HARRY F. BYRD, JR. I ask the Senator from Washington a question:

As I understand it, the continuing resolution specifies a $750 million reduction in Federal travel. Could the Senator from Washington indicate what is the total bill for Federal travel?

Mr. MAGNUSON. Yes, that is correct.

Mr. HARRY F. BYRD, JR. What is the total amount which the Government spends on travel?

Mr. MAGNUSON. I had the figure here last Friday, and I shall get the exact figure, but it is around $7.8 billion. We figure that a 10-percent cut would be a good cut.

Mr. HARRY F. BYRD, JR. And this would impose a $750 million reduction?

Mr. MAGNUSON. It would be about 10 percent.

Mr. HARRY F. BYRD, JR. I thank the Senator and I support the proposed reduction.

Mr. YOUNG. Will the Senator yield?

Mr. MAGNUSON. Yes, I yield.

Mr. YOUNG. Is not most of this approximately $7 billion requested for travel, or a big part of it, for defense?

Mr. MAGNUSON. Yes. The big part, I say to the Senator from Virginia, is in the Defense Department. I think defense travel for both goods and personnel would consume about—I shall get the exact figure, but about 75 percent of all the travel costs in the budget. I shall get the exact figure.

Mr. HARRY F. BYRD, JR. I thank the Senators.

Mr. MAGNUSON. $750 million is one of the few changes we made in the bill.

Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this afternoon the Senate is considering, for a second time, the continuing appropriations for fiscal year 1980. The measure before us, House Joint Resolution 402, making continuing appropriations for the Federal Trade Commission for fiscal year 1980, passed the House on September 20. Today, it is a vehicle for consideration of continuing appropriations for 10 of the regular appropriations bills.

I commend Chairman MAGNUSON of the Appropriations Committee as well as the ranking minority member of that committee, Mr. YOUNG, for the time and effort they have put into resolving this very important matter.

I also commend the other members of the Appropriations Committee. I attended this meeting during the afternoon, at which it was agreed to use House Joint Resolution 402 as the vehicle for continuing appropriations, and I was pleased to see that the chairman was able to get the committee together quickly, and that committee came to a quick resolution of the question as to how to deal with the continuing resolution.

It is due to the events of Friday evening that we are today taking action on this measure, and those events are regretful. After completing the conference on House Joint Resolution 404, the original continuing resolution for fiscal year 1980, the House took the report back and voted a 5.5 percent pay increase for Members of Congress, high level employees, and judges, but refused to agree to the language concerning abortions.

The House then adjourned until tomorrow, Tuesday, at 10 a.m., an action that left the Senate holding the bag, so to speak. The Senate decided to reject the conference report instead of accepting as a fait accompli the House position on several items in disagreement.

The new fiscal year has begun, Mr. President, and only three appropriations bills have been signed into law: State-Justice-Commerce, energy and water development, and Treasury-Postal Service. The 10 remaining bills are contained in this resolution. I need not point out to my colleagues the seriousness of this situation, and the importance of completing action on this resolution.

Some difficulties have already been encountered. The Labor Department will not be able to make its worker compensation payments, due on October 5. Disaster relief aid for areas where hurricanes recently destroyed a great deal of property will be terminated in some areas as early as October 4 or 5. The October 10 pay period for Department of Defense employees will be held up. After October 11, if Congress does not act, virtually every Government service—every payroll will be adversely affected.

Mr. President, Congress has the responsibility to take immediate and decisive action to avoid this problem. The Senate will act on House Joint Resolution 402 today.

It is my hope that we can complete action and send the measure to the House and that the House will adopt the amendments of the Senate, thus avoiding the need for a conference. But in the event that conference is requested, I hope that the Senate and House conferees can make every effort to reach an agreement on these issues. I have every confidence that the Senate conferees will do their best, as they have done in the past, and I trust that the matter may be resolved soon.

Mr. President, in the heat of the discussion over the unfortunate turn of events which have left the Nation with no continuing resolution to fund the operations of the Federal Government from October 1 onward, it is imperative that we not overlook the crucial lesson to be learned from this dilemma. The root of the problem is the violation of the long-standing Senate rule XVI which prohibits legislation on appropriations bills.

Those who do not learn from the mistakes of history are doomed to repeat them. I would like to believe that by focusing on this ongoing divisive problem, we might save the Congress from the criticism under which it now finds itself.

The problem of legislation on appropriations bills exists in both Houses. In the House, where statistics have been tabulated by the Democratic Study Group, 44 amendments which were clearly legislative were offered in 1977. The rules of the House are less straightforward than those of the Senate in this regard. As a result, the House is more likely to initiate legislative riders, and these legislative riders have the following impact:

By injecting substantive policy questions year after year into the appropriations process, these riders have been a major factor in foiling the time deadlines established or assumed by the Budget Act. Because by tradition the Senate acts after the House on appropriations bills, these delays place the Senate in a particularly embarrassing position.

Legislative riders violate the jurisdiction of the authorizing committees which was not established frivolously, and which we should recognize has worked well throughout the nearly two centuries, since 1789, when Congress first met under the new constitution.

Authorizing committees develop expertise in their subject areas. We may not always agree with their conclusions. But appropriate mechanisms exist within both bodies to raise questions or objections to positions adopted by authorizing committees or subcommittees. Failure to act within the jurisdictional limits of the committee systems which both bodies have established for themselves results in legislation which does not receive the careful scrutiny which Congress rightfully demands for important national issues.

Legislative riders, because they are limited to the duration of 1 year or less, often send mixed signals to Government agencies and to the public at large. The delay which is inherent in the process of legislative riders makes Congress appear to be crippled and incapable of meeting its constitutional obligations in a timely fashion.

Regardless of the merits of the issue raised by a particular rider, we must recognize that by continuing this process we allow the wheels of Government to be ground to a halt because of a position advocated by one single-issue interest group or another interested in one issue only.

I say this with the greatest respect for the groups which have supported these riders in recent years. I believe it is in the common interest of groups, supporting various riders, and all other Americans that we legislate in a rational, orderly, and predictable fashion.

The distinguished Senator from Vermont (Mr. LEAHY) stated the problem quite well on Saturday when he said:

> Quite frankly, Mr. President, I feel that if the proponents of these various issues—and in some instances I may be one of them—feel that they are really important to the country, we should be honest enough to say they are important enough to rise and fall on their own, and not apply what many times amounts to critical restrictions on others who rely on the Government—again, whether it is the elderly, the handicapped, or whatever of this country, or the military or other branches of our Government—by letting them be held hostage to this.

Mr. President, the current problem with the continuing resolution is unbefitting of the responsibilities and expectations bestowed on Congress by the American people. I want to avoid this situation in the future and I hope that we will find the means to do so.

The House of Representatives opens up the bill with legislation. Therefore, when it gets over to the Senate, Senators have to vote on it one way or the other. The matter has already been opened up by the other body, thus making the subject matter germane in this body.

So this is the problem. This is why more and more we are unable to meet the October 1 fiscal year deadline, and the chairman, Mr. MAGNUSON, has repeatedly implored the Senate and Members of both bodies for that matter to curb their inclinations to move in this direction. I hope they will listen and I hope that we will find some way if Members will not curb their appetite for moving with the legislative riders on appropriations bills that we could devise some way whereby it could be diminished.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I understood that Mr. MELCHER was going to offer an amendment.

The PRESIDING OFFICER. The Senator from Montana is not in sight.

Mr. ROBERT C. BYRD. Mr. President, I am sure he is still working on the amendment.

QUORUM CALL

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LONG. I object.

The PRESIDING OFFICER (Mr. BOREN). The objection is heard.

The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 6]

Boren
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Danforth
Garn
Goldwater
Hollings
Humphrey
Johnston
Long
Magnuson
Matsunaga
McClure
Melcher
Ribicoff
Stevens
Stone
Talmadge
Young

Mr. ROBERT C. BYRD. Mr. President, this will be a live quorum, so I suggest that the clerk proceed to call the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont

(Mr. LEAHY), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

Mr. BAKER. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Delaware (Mr. ROTH), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 1, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—81

Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Laxalt
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Young
Zorinsky

NAYS—1

Goldwater

NOT VOTING—18

Armstrong
Biden
Bradley
Chafee
Cochran
Cohen
Gravel
Javits
Kassebaum
Kennedy
Leahy
Moynihan
Pell
Roth
Stennis
Stevens
Weicker
Williams

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

What is the pleasure of the Senate?

Mr. ROBERT C. BYRD. Mr. President, is an amendment pending?

The PRESIDING OFFICER. The committee substitute is pending.

Mr. ROBERT C. BYRD. Mr. President, we have been here all afternoon, waiting on an amendment, and I hope we will be able to proceed soon.

UP AMENDMENT NO. 585

(Purpose: To insure equitable continued rail passenger service on the Amtrak system for those routes proposed to be dropped which are higher on a criteria basis than are trains being retained in the system)

Mr. MELCHER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself, Mr. STONE, Mr. DURENBERGER, Mr. BOREN, Mr. BAUCUS, Mr. DOLE, Mr. DECONCINI, and Mr. LEVIN, proposes an unprinted amendment numbered 585:

On page 12, line 18, immediately after the word "authority" insert the following: "except the restrictive authority in the terms and conditions of H.R. 3996 shall only apply to passenger trains operating on routes comprising the Amtrak system as of January 1, 1979 whose projections by Amtrak in a memorandum dated August 20, 1979, for fiscal year 1980 are 29 or less passenger miles per train mile and 25.0 cents or more avoidable loss per passenger mile; notwithstanding the above, the Shenandoah shall be retained and the Buffalo-Detroit segment in the Department of Transportation plan shall be implemented on November 15, 1979 without curtailing the level of service on the Lakeshore as it existed on the date of passage of this resolution."

Mr. MELCHER. Mr. President, I ask unanimous consent that Senator BAUCUS, Senator DOLE, Senator DECONCINI, and Senator LEVIN be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, the other day when we had the continuing resolution before us, an amendment similar to this failed to pass on the tie vote of 44 to 44.

At that time there was some confusion existing as to what trains would be affected by this amendment. There was some feeling that perhaps it would have an adverse effect on the Cardinal. That was not true.

But to clarify the language we have explicitly drawn it so that it has the understanding of the Department of Transportation lawyers exactly what trains are affected.

There was also some confusion about whether or not having the Niagara reinstated to run 3 days a week would have some adverse effect on the Lake Shore, which was included in the Amtrak's plans. So to clarify that we have explicit language in the amendment that the Lake Shore will continue without any curtailment.

Mr. President, this is an honest attempt by the sponsors of the amendment to tell the Department of Transportation and Amtrak that these trains are necessary——

The PRESIDING OFFICER. The Senate will be in order.

The Senators will suspend until the Senate is in order.

The Senate may continue.

Mr. MELCHER. Mr. President, the amendment is straightforward. It is an honest attempt to tell the Department of Transportation and Amtrak that the people of this country are using passenger trains more than they did a year ago and more than they did 2 or 3 years ago and that they are very much interested in retaining these trains.

Some of these trains, such as the one that runs through my State, only run 3 days a week, and that is the Hiawatha. To lose it means that we are telling those people who depend upon it that they can no longer have the opportunity to have passenger train service in their area.

At a time when fuel prices are increasing and at a time when we think it should be our national policy to use mass transit, we are actually telling people when we cut off the trains that we are not going to allow you to have that opportunity. If you are going to travel, you are either going to do it by bus or in your own automobile.

Sometimes buses are not accessible. Sometimes the bus schedule is not there, but the train schedule is there and they depend upon it.

I know that we have to cut costs wherever we can. But it is pretty difficult for some folks to understand and particularly the elderly who depend upon a passenger train to tell them that they cannot have what they think they need and what they feel is vital to them.

I am telling Senators this now: it is on a continuing resolution, what effect it has on the continuing resolution while awaiting subsequent legislation is always up in the air, but if it were continued for a full year, the additional cost to Amtrak would be $60 million.

It affects about five trains, two of which only run 3 days a week when they are running. But what the amendment does is place those trains back on Amtrak which are meeting as good criteria as some other trains that are already going to be retained otherwise. So it is pretty difficult to tell people who are dependent upon a train that serves their area that you cannot have that train because it costs too much.

The same argument, I guess, could apply to all of Amtrak. If you follow that line of thinking some people object when we have the interstate system we are subsidizing buses or when we help build air terminals we are subsidizing airlines. I guess you could say every form of transportation is subsidized to some extent and that you cannot have it because it costs too much and that we must try to save money.

The money concerned is a small amount but it is very important for those people who are served by the Hiawatha, or served by the Floridian, or served by the National Limited or the Lone Star or the Niagara or the Cardinal and that these trains will remain there.

These trains need to be retained. The Department of Transportation now agrees that the language absolutely says that. The Champion will be retained. That is a train that is well used, too. The Lake Shore will be maintained. There is no doubt about it. The Niagara would have a new breath of life for the 3 days a week that it would run.

What is the criteria that is applied by Amtrak? It is how many passengers ride per train mile and what is the ridership; is it increasing? We are on very strong grounds with these trains because the ridership is increasing and the passengers per train mile on some of these trains is higher than almost any of the rest of them that are on the Amtrak system.

I hope that the Senate can agree to this amendment. I think it is very important for us to do what is logical to the people who are depending upon these passenger trains and show that the Senate is truly concerned about having that opportunity available for them. I hope that Senators will agree to the amendment.

Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, this is the second time in 3 legislative days we have had to address an amendment offered by the Senator from Montana which if passed would have the effect of continuing—I was going to say five but since the amendment was first sent to the desk another train has been added—so it would have the effect of continuing six trains that cannot meet the criteria as agreed to by the Senate last month by a vote of 65 to 35 vote.

Mr. President, that was an unusual amendment because every Senator in this Senate voted on the first day of August when the Senator from Montana offered an amendment to freeze the system which is in effect what he is doing now and that amendment was defeated 65 to 35, with 100 Senators in this body voting.

Mr. President, before that time the House of Representatives had acted, and since that time the conference committee met, a conference report was approved by both bodies, and the bill was signed into law last Saturday by the President. Now we are coming back here on an emergency continuing resolution to rehash and to go up the hill and down the hill again.

We are told by Amtrak that the trains to be added by this amendment would cost an additional $57.7 million to operate and that was before the last train was added just a moment ago, which would add another $8½ million so that is roughly $65 million added, and let me repeat, Mr. President, these trains are ones which clearly do not meet the economic and regional balance criteria that this body established exactly 2 months ago in this Chamber when we took up the authorization bill.

At that time we agreed to preserve regional balance in the national rail passenger system by requiring Amtrak to operate a long-distance route in each section of the United States, if, first, service is not maintained on any long-distance route in that section under the economic criteria—and the economic criteria were 150 passenger miles per train mile, and less than 7 cents per passenger mile of avoidable loss; and second, a long-distance route exists in that section as measured by such economic criteria, which has shown improvement in performance and the potential to warrant maintenance on the route system.

I have heard arguments that the Lone Star would be a better train than the Inter-American, and that that train should therefore be saved. The fact of the matter is that 651 miles, or 48 percent, of the route of the Lone Star will be served by the Southwest Limited, and none of the route of the Inter-American would be served. This thereby justified continuation of the Inter-American as opposed to the Lone Star under the regional criteria.

As far as the North Coast Hiawatha is concerned, the Empire Builder currently serves 482 miles in common with the Hiawatha; that is 21.6 percent of the total route.

Mr. President, I understand that four of the trains proposed to be added back are costing the taxpayers, by train, the following daily subsidy. And I ask unanimous consent, Mr. President, that that information be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The daily subsidy impact of operating certain of the routes currently scheduled for discontinuance on October 1 is shown below:

Daily subsidy impact, thousands of fiscal year 1980 dollars

Route name:	
Lone Star	43
North Coast Hiawatha	29
Floridian	49
San Joaquin	7

Several Senators addressed the Chair.

Mr. CANNON. I yield to the Senator from West Virginia.

Mr. RANDOLPH. What further train is now added?

Mr. CANNON. The language is added:

notwithstanding the above, the Shenandoah shall be retained and the Buffalo-Detroit segment in the Department of Transportation plan shall be implemented on November 15, 1979 without curtailing the level of service on the Lakeshore as it existed on the date passage of this resolution.

That is the addition.

Mr. MELCHER. Mr. President, will the Senator yield on the Empire Builder?

Mr. CANNON. Yes.

Mr. MELCHER. I think it is only fair to point out to the Senate that as it existed before October 1 and still continues, because it is in a court proceeding, the Hiawatha runs 4 days a week and the Empire Builder now runs 3 days a week. That only adds up to one train a day, and the 421 miles in common that the Senator from Nevada just spoke about, certainly it is in common, but it does not result in running two trains a day on that in-common track on any date. It is only 4 days a week for the Empire Builder and 3 days a week for the Hiawatha.

What we are asking, I would state to my friend from Nevada, on those two trains, is just a continuation of the existing policy, which is only one train a day.

Mr. CANNON. Mr. President, we considered the elimination of these trains on August 1, when the authorization bill was passed. The arguments which prevailed then should prevail now. No new evidence has been presented since that time.

None of the trains to be added by this amendment met the criteria agreed to by this body, and I urge the defeat of the amendment as offered.

Mr. President, I would add that the Department of Transportation and Secretary Goldschmidt strongly oppose the amendment, as does Amtrak, and the administration position has not been changed from the time of our original discussion.

I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I yield to my good friend from Oklahoma.

Mr. BELLMON. Mr. President, I thank the Senator from Maine. I will be very brief.

Senator MELCHER's amendment would require spending higher than the levels authorized in the Amtrak bill which was only signed into law last week. It would increase Federal outlays $100 million above the levels assumed in the second budget resolution—even before we can go to conference with the House on the budget. It would, effectively, undo everything the Senate has struggled to do all year—as we have tried to find some way to make our passenger rail system operate more efficiently. Mr. President, I cannot support the Melcher amendment for those reasons.

When the Senate agreed to the second concurrent resolution on the budget, on September 19, we made what—in my view—was the wise and proper choice. We decided we had to come to grips with inflation, that to do so we were going to have to control Federal spending, and we adopted a plan which will lead to declining deficits and a balanced budget in fiscal 1981. We even decided we could trim spending, in legislation on which we had already acted.

There are those who will point out, Mr. President, that the budget is not a line item document. They will say it is inappropriate to try to enforce the Budget Committee's assumptions about the level of funding for any specific program—including Amtrak.

Let me point out, on the other hand, Mr. President, the difficulty of holding the line on the budget, if we do not raise the question of funding levels for individual programs. Funding for Amtrak falls in the transportation function—function 400—in the budget. The resolution already assumes a $250 million rescission in the highway trust fund in function 400, making the total amounts assumed for all transportation programs extremely tight. If one were to fund Amtrak at a level above the budget assumption, presumably something else would have to be cut below our assumptions—or the deficit would increase. From where are those cuts going to come?

We will face this basic issue time and again this year. Everyone who wants to see a particular program or priority funded at higher levels will make the case that the budget is not binding on a line item basis—that it is "OK" to go over for this or that—and that we will make it up somewhere else.

We have endorsed a tight fiscal policy. As I said before, I think we are on the right track. I am not prepared to support anything which I believe has the potential to "bust the budget."

I urge my colleagues to reaffirm the decisions we made earlier. The Amtrak question has been before us, and we have settled it. Let us not reopen it. Let us stand by the decisions we have made to control Federal spending. I urge the rejection of the amendment.

Mr. MUSKIE. Mr. President, I heartily support the position taken by Senator BELLMON and Senator CANNON. I am opposed to the Melcher amendment for three fundamental reasons.

May I emphasize what Senator BELLMON has said: the Senate, after extensive debate, adopted the second concurrent budget resolution. We have not yet gone to conference with the House. We increased the spending for defense in that resolution, and increased the deficit to over $31 billion. This amendment, if adopted, would further increase that deficit.

Mr. President, the Senate has debated this matter of Amtrak routes extensively. The Senate just agreed to the conference report on the Amtrak authorizing bill on September 24. The House approved it on September 26. The President signed the authorizing bill into law just this last Saturday.

The Melcher amendment is inconsistent with the new authorizing statute, which both the House and the Senate worked so hard to produce, and it is inconsistent in some specific ways which ought to create concern for Members of the Senate.

For example, it proposes to change the criteria just established when the President signed the law on Saturday from 150 passengers per train mile to 29 passengers per train mile, and from 7 cents avoidable loss per passenger mile to 25 cents avoidable loss per passenger mile.

In other words, Mr. President, the amendment proposes to preserve trains where the taxpayer subsidy is 25 cents per passenger per mile traveled. Surely that is an extravagant use of Federal funds, when we compare that number to the total fare charged by other modes.

Airlines, for example, charged 8.5 cents per passenger mile in 1978 and made a profit. Intercity buses charged about 6 cents per passenger mile. But this amendment would use Federal funds to pay 25 cents for Amtrak passengers per passenger mile.

Mr. President, surely at a time when within weeks we have come to understand the constraints on the Federal budget which have imposed sacrifices on such programs as school lunches—and the Senate voted to reduce the school lunch programs for nonneedy students—and the constraints that force us to accept some restraint on the veterans' programs on the very same day, this is no time to be breaching a policy which was signed into law last Saturday, to spend Federal funds for the purposes I have outlined in my statement.

Mr. President, may I also make the point that as we go to the budget conference with the House of Representatives, the House-passed budget resolution assumes even more restraint for Amtrak than does the Senate resolution. So we cannot, in the budget resolution, make room for this $60 million to $80 million that is being talked of here, because the House number is lower. If the Senate should adopt this amendment and it should become law, we would then have to squeeze other programs or ask Senator LONG to raise more revenues through tax legislation to cover this additional spending.

Mr. President, I hope that we are learning that budget discipline requires restraint. It requires that we devote scarce resources to the highest priority needs.

With respect to Amtrak, that policy has been carefully worked out by Senator CANNON and Senator LONG in the Commerce Committee, has been carefully worked out in both houses, carefully worked out in conference, and the President has signed the result into law. This is no time to do that work over again and come up with the wrong design.

Mr. LONG. Will the Senator yield?

Mr. MUSKIE. Yes, I am happy to yield to the Senator from Louisiana.

Mr. LONG. In view of the problem some of us are going to have in some committees, may I refer to one problem we have in the Finance Committee? That budget resolution, as passed by the Senate, puts us under the burden of trying to come up with $1.400 billion worth of savings in social welfare areas. To try to meet that sort of objective, even though I voted to try to keep revenue sharing intact, it looks to me as though the Senate is going to be compelled to vote for something to cut revenue sharing, particularly at the State level. We shall have to vote for things like that.

We are going to have to vote, and bring to the Senate, proposals to cut back in social welfare spending involving things like disability, things like hospitalization, in areas involving social security. We would rather not do that, but we are going to have to recommend things like that to the Senate and come in here and participate with this thing if we are going to reach the objective of that budget resolution.

We have already started doing that, I say to the Senator, in the Finance Committee. We voted to send something out here that would cost some money; we are trying to find some ways to offset that and make a net revenue gain for the budget. We do not enjoy that kind of thing. It is much better for the majority to vote to do something for the needy or for sick people than it is to vote for something to take something away from somebody else. We have to think in terms of those priorities and we are doing it in the Finance Committee right now.

What does it make the Senate look like, after having voted by a 2-to-1 margin that we are not going to freeze this Amtrak system, having mustered the political courage to tell our constituents, yes, we are going to cut back on it. Here we are, already lost $3 billion on Amtrak.

We have been losing $40 million a year. Here we are losing hundreds of millions of dollars, trying to get this thing under control and make some savings. The administration brought to us, and this Senator supported, a resolution to discontinue nine trains, including the Crescent Limited. I was pleased to support that position and fight for it even when it was discontinuing the Crescent Limited, which terminates at New Orleans.

We are asking everybody to do their part. By the time we got through, in order to sell this to the House and come to terms with Senators with problems, we only discontinued five trains and the ones who lose the most in terms of service seem to come in at the bottom end.

How can we, in good conscience, ask committees to make the kind of savings that the Finance Committee is being asked to make on important social problems, if having agreed by a 2-to-1 margin that we ought to discontinue some of these trains, then when time runs out, we tremble at the very thought that some constituent might be unhappy saying, oh, no, we shall have to discontinue none at all.

Here is one example I gave the Senate sometime back. It costs about $5 to buy a bus ticket from Chicago to Milwaukee. The last estimate I heard is that we are losing $32 to get somebody to take the train from Chicago to Milwaukee. How can the bus people compete? We are losing $32 to keep somebody from buying a $5 bus ticket.

That is not affected by this. They can still enjoy a $32 loss with the Government subsidizing trips from Chicago to Milwaukee, as close as those two cities are.

The question is, are we going to do anything, just anything? Or when the time comes and we are put to it, will somebody say, oh, no, just a minute, do not discontinue that train? Maybe it is someone on the train crew or maybe it is one of those people who have used it and prefers not to go by air, not to go by bus, or by car. In any event, if we cannot do anything in this area, how are we going to meet the objectives that we set out for ourselves when the Senate so courageously voted to say, we ought to balance that budget? How can we do that when we cannot even make economies on this?

Mr. MUSKIE. I could not agree with the Senator more. The Senator has mentioned the $1.4 billion we have asked the Committee on Finance to save. In all, we have asked all committees to save $3.6 billion. The effect of this amendment would be to add $60 to $80 million to that amount of additional savings that would have to be found in other programs.

The Senate, of course, has the prerogative of doing that if we can get the House to agree. But I do not see how we are going to get them to agree in the budget resolution, because the House has put even more restrictive discipline on Amtrak than the Senate has.

Mr. LONG. Is this not the key, I ask the Senator: If we are serious at all about even staying within the budget resolution that we have voted, or if we were serious at all when we voted on that debt limit bill some months ago to say we are going to balance the budget, we are going to have to vote to do things like this. Otherwise, we are just kidding the people and kidding ourselves that we are going to balance the budget or give the people of this country a run for their money when we cannot even do the things we have already agreed to.

Mr. STONE. Will the Senator yield?

Mr. MUSKIE. Yes, I yield to my colleague from Florida.

Mr. STONE. I thank the Senator from Maine.

Mr. President, last week, the Senate came very close to adopting a principle which I recommended during debate on the Amtrak authorization bill. That principle is this: No train should be dropped from the Amtrak system that has better passenger or loss statistics than a train being kept.

There are trains in the system approved by the Congress that are projected to do worse in one or both of the criteria set by the Congress than a number of the trains slated for discontinuance. The Cardinal has a larger loss per passenger mile, based on fiscal year 1980 projections, and a lower projected passenger mile to train mile ratio than the Floridian, but it will be retained. The Shenandoah, a short-haul route, will also be saved, even though it does not meet the less stringent criteria set out for short-haul routes, and its projected loss per passenger mile is nearly twice that of the Floridian.

If we talk about the New York-to-Florida trains, the unfair treatment is even more blatant. The Champion and the Silver Meteor separately, taken on their own merits, have higher passenger mile to train mile ratios than the Crescent, the Sunset Limited, the Palmetto, the Empire Builder, the Panama Limited, the Inter-American, the Pioneer, and the Cardinal—all long distance trains being kept by one strategy or another in the DOT plan as amended by the authorization bill.

I do not have a breakdown of all the avoidable loss per passenger mile statistics, but I feel confident that if both of these trains were kept, their loss statistics would be much lower than many of the trains being kept in the system. I would like to point out that last March the projected loss per passenger mile for all three Florida trains was 4.3 cents. Of the trains in jeopardy at one time or another since the DOT plan was released, only the Palmetto had a lower loss figure. All the trains mentioned above had higher projected losses.

Mr. President, what do these trains have to do to receive fair treatment? That is all we are asking for—to have these trains treated on an equal basis with other trains in the system. I urge my colleagues to vote for the Melcher amendment.

Mr. President, I am in support of the Melcher amendment.

Mr. MELCHER. Will the Senator yield?

Mr. MUSKIE. Yes; I am prepared to yield the floor unless the Senator from Montana wants to ask a question.

Mr. MELCHER. No; I am about to propound a question.

Is the Senator aware that Amtrak has determined now, in the latest figure, a 34-percent increase in revenue in August of 1979 as compared to August of 1978?

Mr. MUSKIE. I do not have the August figures, I say to the Senator.

Mr. MELCHER. I say that it is sometimes difficult to get up-to-date information out of Amtrak, but that is the case.

Mr. MUSKIE. Is the Senator saying that that increase is attributable to increased business on the lines he proposes to restore?

Mr. MELCHER. Yes; I am saying that, I respond to the Senator. I point out that one of the lines we proposed to restore is the Champion, which will go from New York to St. Petersburg, which ranks higher than the Crescent. It ranks right up in the top.

Mr. MUSKIE. Near the top in what respect?

Mr. MELCHER. In respect to passenger miles to train miles, in respect to increase in ridership.

Mr. MUSKIE. Well, increase in ridership is a separate figure. If we start out with 10 passengers and add 5, that is a 50-percent increase, but it still falls far short of the 150 passengers per train mile that the bill signed into law last Saturday sets as the standard.

Mr. MELCHER. I ask the Senator, is he aware that that bill has as one of the requirements the quadrant system? The quadrant system limits the number of trains in a quadrant; therefore, under that system, some of the trains that are used the most, in the ratio used in Amtrak's criteria—that is, passenger miles to train miles—would be eliminated.

The point of our amendment is to add back trains, some of which are right at the top, but all of which are not at the bottom and are higher than trains kept in on a basis the very criteria which Amtrak uses.

Mr. MUSKIE. I gather what the Senator is referring to is the so-called addition of trains to achieve a regional balance.

I was not supportive of that. It seems to me the criteria written into the law last Saturday ought to be applied uniformly.

But in the interests of reaching an acceptable compromise, I gather, of course, I am not on the Commerce Committee, some trains were added in the way of a compromise, in the name of regional balance.

The fact that was done, to me, is an unfortunate result. That being the case, I would not like to see that unfortunate precedent built upon, to add other trains.

I am concerned with the viability of the system.

I will say to the Senator, in all frankness, we do not have passenger rail service in my part of the country at all. Our people have to travel by bus or private automobile if they drive at all. We have not had passenger rail service since 1956 and I doubt very much we will ever get it unless and until the case can be made that the passenger will support it.

I think if we are to make mass transportation work in this country, if we get public support for it, and if we are going to be able to justify Treasury support for it, that the case has got to be made on the viability of the proposed route in terms of the willingness of passengers to use it.

I do not think the country will sustain, at a time of budgetary constraint such as we face, the kinds of deficits generated, in large part, by lines that cannot meet the standard or come close to it.

I understand the Senator's frustration. I felt it for 23 years in my part of the country. We have not got passenger rail service, period, and we are even losing rail service for freight, which puts our region of the country at a competitive disadvantage.

I make that point not because I want to drag down other regions, but because I want to emphasize the point that, in order to get rail lines established, we have got to have an economic justification for it.

Mr. MELCHER. Will the Senator yield?

Mr. MUSKIE. I yield.

Mr. MELCHER. I thank the Senator for yielding to me.

The point I am trying to make is that whether or not we like the quadrant system, this regional balance, that is what was passed here, and in order to make some sense out of it, using the criteria uniformly, this amendment does that to retain additional trains.

But the part about the money, we very honestly say that Amtrak tells us we could project an additional $60 million cost.

But I must say, and I say this knowing how uncertain it is for Amtrak to project what the revenue is when it has been increasing, they are doing it on their old figures.

But based on their increased ridership, and these trains do show increased ridership, the revenues are up. It may well be that instead of costing $60 million, it will cost $30 million or $20 million. We do not know. But we are being honest.

Mr. MUSKIE. Is the Senator saying he has economic data to support the conclusion that, if his amendment passes, the result would be an increase in revenues that would reduce the projected deficit to $30 from the $60 to $80 million I mentioned.

Mr. MELCHER. We do not know exactly how much, and I am being very honest about it. We cannot tell how much. But 34-percent increase in revenue for Amtrak——

Mr. MUSKIE. That is overall.

Mr. MELCHER. I understand that.

Mr. MUSKIE. That does not mean lines that are so unproductive that, in fact, the Senate and House voted to drop them, that those lines will produce another $30 million in revenue next year. That does not make any sense.

Mr. MELCHER. The Senator has been so kind to yield to me, I will repeat what I said before.

One of the five trains that runs daily that has near the highest PM/TM—passenger miles per train miles—exceeded only by five, under their criteria, is going to be dropped.

There are others in here that do not rate that high, but they rate well from the bottom.

So what I am saying is that these are part of the ones showing the increased ridership. Therefore, the increased revenue——

Mr. MUSKIE. What I am trying to get out of the——

Mr. MELCHER. I have to honestly answer that based on 34-percent ridership increase, from August of 1979, over——

Mr. MUSKIE. That is the overall Amtrak system.

Mr. MELCHER. That is right. Some of the trains have accounted for that, that we are going to retain.

I cannot give a specific dollar amount, but instead of $60 million it may be much lower.

Mr. MUSKIE. I could argue that if Amtrak would extend its system to Portland, Maine, that we could guarantee them 29 passengers per train mile, and that is the standard the Senator's amendment would apply.

If he can argue that we are to retain the railroad because they could meet the 29 passengers per train mile standard, why should we not add mileage wherever the case can be made that that standard can be met?

Mr. MELCHER. That is not what I have in mind.

Mr. MUSKIE. So we can expand the system across the country, including unproductive lines and increasing the deficits, not only of Amtrak, but of the Treasury, generally.

Mr. MELCHER. Due to the complexity of our Amtrak criteria, that 29 is there. But it does not apply to the trains we are asking be reinstated. The ones to be reinstated are 75, 102, 103, and 140.

Mr. MUSKIE. Is that not in the amendment?

Mr. MELCHER. Yes; but I am stating an explanation to the Senator, that due to the complexity of the Amtrak criteria, we are using that as a baseline——

Mr. MUSKIE. Baseline just made law of 150.

Mr. MELCHER. That is true. But what we are saying is that using their baseline, all these trains we are reinstating—I will repeat— they are 75, 102, 103, 140, and 179.

Mr. MUSKIE. What the Senator is saying is that, because those trains do not look good against a standard of 150, his amendment offers a standard of 29, which then puts all these lines above the standard and looking good.

I mean, that is an interesting way to make a case, but it still does not establish the economic justification, as far as I can see.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, the continuing resolution includes two provisions of vital importance to the national transportation system.

Members of the Senate are aware that vital portions of our national rail system are collapsing. The continued loss of rail lines and service is severely disrupting the Nation's ability to haul the grain which is so important to our balance of trade and farm income and coal, which is the keystone to solving national energy problems.

Increasingly as railroads deteriorate, trade is being diverted to trucks. A recent GAO report points out the serious impact truck traffic is having on the Interstate Highway System. In addition, trucking is not fuel efficient. Railroads point out that they can move a ton of freight about 200 miles on a gallon of diesel fuel compared to only 77 miles for trucks.

Under present law if abandonments or embargoes prevent a railroad from providing service, the Interstate Commerce Commission has a mandate to provide what is called directed service. Under directed service the Commission orders other railroads to provide necessary services and covers any losses they incur, plus provides a 6-percent profit.

Not only is directed service expensive, it presents severe technical problems. The ICC has directed service only once in the past, and then only for 100 miles of track. I do not believe that the Commission has either the manpower or the technical knowledge to operate a 10,000 mile system.

The cheaper alternative, provided for in this bill, is for the Federal Government to loan bankrupt railroads necessary funds for them to continue service during reorganization procedures. The Government will issue repayable certificates to allow the bankrupt carrier to continue to provide service over its entire system.

Without this provision, not only will the Federal Government be required to provide an enormous grant for directed service, but certain rail lines may be precipitiously abandoned without any serious consideration of their importance to the national rail system and the economies of the areas they serve.

The continuing resolution also includes language which will amend the Local Rail Services Act. As that law is now written funds are provided to States on a cost-sharing basis to deal with problems of railroad abandonments. However, funds are provided only for lines that are classified as "potentially subject to abandonment" or that have already been abandoned. Incredibly, no funds are provided for lines where an application for abandonment has been filed but not yet approved by the ICC.

This bill provides that such lines will be included in the formula for distributing local rail services assistance funds. This will insure that the funds will go to States that may be most affected by abandonments.

For example, in my State of Montana which is being severely impacted by a potential Milwaukee Road abandonment, this amendment will increase local rail services funds from approximately $700,000 to nearly $3 million. These funds are badly needed by the State for programs to deal with the possible abandonments.

I should also point out that these two amendments are fundamental for efforts to insure continued rail service in the Northwest. The amendments in effect require service to be continued through Montana at least through the coming winter. I cannot overemphasize the importance of continued service to any reorganization effort. Unless trains continue to operate over the system, not only will the track suffer irrepairable damage through the winter but important customers will divert their traffic to other alternatives.

Mr. President, I also want to commend the senior Senator from Washington, Mr. MAGNUSON, for his outstanding forsight and knowledge of transportation matters and his fine efforts on this particular legislation.

This week Senator MAGNUSON and I plan to continue our efforts to secure additional authorizing legislation for the Milwaukee Railroad. Before discussing the legislation we contemplate, it may be useful here to summarize the current status of pending proposals on the Milwaukee.

To begin with, I want to emphasize that action on the concurrent resolution was in no way intended to be a slight of the Senate Commerce Committee. That committee responded expeditiously last May when expeditious action was needed on the Milwaukee. The principal reason for this measure as, quite simply, to insure that the House and Senate Commerce Committees will have sufficient time to fashion a comprehensive solution to the Milwaukee's problems before the judge in the bankruptcy case causes complete abandonment of the western lines of the Milwaukee.

Congressmen FLORIO, MADIGAN, and STAGGERS are developing a comprehensive bill to deal with the bankruptcy of the Milwaukee Railroad. This bill was granted a rule last Thursday and should be considered by the House when it returns from the Columbus Day recess. The Congressmen should be commended for their efforts which have led to responsible legislation that is acceptable to the diverse interests involved in the bankruptcy.

The Florio-Madigan-Staggers bill replaces "directed service" with additional loans to the railroad under the Emergency Rail Services Act. These loans will allow the railroad to continue its operations for a limited time while alternatives to Milwaukee service are developed.

Under existing law, if a railroad cannot provide service, the Interstate Commerce Commission has a mandate to provide directed service. Under directed service, the ICC orders other railroads to provide service to customers of the carrier which ceases to operate. For example, the ICC is considering a directed service order for the Rock Island Railroad which may be unable to resume its operations because of the recent strike.

During the directed service period, which may last up to 240 days, the Federal Government must reimburse the directed carriers for any losses they incur, and provide a guaranteed 6-percent profit.

Directed service is expensive and presents serious technical problems. U.S. railroads simply do not have surplus equipment that they can use to provide directed service. In addition, administrative problems associated with directed service are virtually insurmountable. The ICC, which has only once directed service, and then for only 100 miles of track, simply does not have the manpower or expertise to operate a 10,000 mile rail system.

The Florio-Madigan-Staggers legislation provides that instead of directed service, loans will be provided to the Milwaukee which will allow the railroad itself to continue to operate its entire system. The immediate cost to the Government will be approximately the same as for directed service. This approch avoids the technical problems of directed service and provides a mechanism for the Federal Government's investment to be repaid.

Unfortunately, the Florio-Madigan-Staggers proposal does not provide a long enough period for continued service. The present draft provides that ERSA funds will only be available for service until March 1. That date must be extended to at least May 1.

If the present reorganization procedures continue on schedule, the Interstate Commerce Commission will provide directed service until at least May 10. Thus, the May 1 date is consistent with present law.

An employee-shipper coalition known as New Milwaukee Lines is developing an alternative reorganization plan for the Milwaukee. It is the group's intention to purchase all or part of the railroad and operate it as a transcontinental system.

Developing a new railroad company is an enormous and time-consuming undertaking. The New Milwaukee Lines organization is making rapid progress and will have a complete reorganization proposal and plan of operation prepared before the end of this year.

If this plan is not acceptable either by reason of its not being feasible or fair and equitable to the estate of the Milwaukee Railroad, then the court will have authority to authorize abandonments, sales, and the like.

However, should the plan be acceptable, several months will be needed for its implementation. This is why the May 10 date is so essential to western interests. The March 1 deadline would simply not provide enough time for the new organization to take over operations of the railroad.

I should reemphasize that this provision is not costly to the Federal Government. It is a simple replacement of directed service, which guarantees the directed carrier a 6 percent profit, with ERSA loans that may be recoverable. Chairman MAGNUSON made this point so effectively in the debate on this resolution when he summarized a letter sent to him by the Chairman of the ICC. As I recall a copy of Chairman O'NEILL's letter appeared in the RECORD with Senator MAGNUSON's statement.

In closing, I am including in the RECORD a letter to President Carter by Chairman MAGNUSON and myself. This letter summarizes more fully the significance of the action by Congress today on the concurrent resolution The letter further outlines the plans we expect to follow in the next few weeks working with President Carter's administration. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
October 1, 1979.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing in regard to provisions of the Continuing Appropriations Resolution enacted by the Senate today which affect the Milwaukee Railroad.

The legislation provides that, as a condition of receiving Emergency Rail Services assistance funds, the railroad continue to operate its entire system through November 30. This will give the Congress time to enact comprehensive, long-term Milwaukee legislation.

The Senate action emphasizes our conviction that the Congress and the Interstate Commerce Commission—not a Bankruptcy Judge in Chicago—should direct restructuring of the Milwaukee.

Senator Cannon stated today that the Senate Commerce Committee will act quickly on Milwaukee legislation. The Rules Committee of the House of Representatives cleared Milwaukee legislation for floor action today.

Legislative proposals being discussed provide a period for groups, such as New Milwaukee Lines, to present plans for acquiring and operating part or all of the Milwaukee system. The legislative proposals provide that if acceptable plans are presented, there will be an additional period of continued Milwaukee service while the plans are enacted.

Developing plans to acquire and operate a railroad is a massive undertaking requiring considerable time and effort. We believe it would be impossible to develop and enact such a plan within time limitations that have been proposed. It is essential that interested groups have until January 1 to present plans and until June 1 to enact them.

Our statements on the Senate floor yesterdays, as well as a letter received from Interstate Commerce Commission Chairman O'Neal, indicate that the approach we suggest is cheaper and more workable than ICC Directed Service.

We feel compelled to express our extreme displeasure with Federal Railroad Administration actions on the Milwaukee issue to the present. Rather than develop constructive proposals to deal with the Milwaukee problems, the FRA has consistently supported the Trustee's efforts to minimize service and actively opposed any effort by the Congress to provide alternative solutions. We would most strongly recommended your personal review of the FRA and its actions.

We also believe that the Administration's decision-making process has ignored legitimate concerns of federal agencies other than the FRA on the Milwaukee problem. For example, the Department of Agriculture is desperately concerned that abandonment of Western Lines would compromise the nation's ability to export grain. We would urge you to identify more clearly the economic impacts of abandoning Western Lines, as well as additional federal costs that would be incurred if abandonments were granted.

We were encouraged to learn last week from Vice President Mondale and Secretary Goldschmidt that the Administration is prepared to reconsider its position on the Milwaukee. We were also encouraged this week with the preliminary findings of a feasibility study (conducted by Policy and Management Associates, Inc., of Cambridge, Massachusetts) on the continued operation of the Milwaukee's transcontinental lines. These findings will be available in a final report scheduled now for publication on October 4. At that time, a copy will be transmitted immediately to you and other Administration policy makers.

It is our understanding that next week we and our staffs will meet and discuss this new report with Secretary Goldschmidt, OMB Assistant Director White, and other officials from the Department of Transportation, the Office of Management and Budget, and the Domestic Council.

In closing, we appreciate your concern with the problems of the Milwaukee Railroad. We remain committed to providing reasonable opportunities for reorganization of the Western Lines. We would hope that we can work together in the coming weeks to develop legislation providing such opportunities.

Sincerely,

WARREN G. MAGNUSON,
MAX BAUCUS,
JOHN MELCHER,
JAMES A. MCCLURE,
U.S. Senate.

Mr. JOHNSTON. Mr. President, this bill has brought up this same question many times on this Senate floor. We could debate it until midnight tonight, as we did on Friday night. I do not believe it will change the result one iota.

I think the Senate is ready to vote. I, therefore, move to table the amendment of the Senator from Montana and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Montana. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), and the Senator from Vermont (Mr. LEAHY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from New York (Mr. JAVITS), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

The PRESIDING OFFICER (Mr. TSONGAS). Are there any other Senators who wish to vote?

The result was announced—yeas 51, nays 35, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—51

Armstrong
Baker
Bayh
Bellmon
Bentsen
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Culver
Danforth
Eagleton
Exon
Garn
Glenn
Hart
Hatch
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
Mathias
McGovern
Muskie
Nunn
Packwood
Percy
Proxmire
Pryor
Ribicoff
Roth
Sarbanes
Simpson
Stafford
Stevenson
Stewart
Talmadge
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—35

Baucus
Boren
Boschwitz
Burdick
Church
Cranston
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Goldwater
Hatfield
Heflin
Inouye
Jackson
Levin
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Morgan
Nelson
Pressler
Randolph
Riegle
Sasser
Schmitt
Schweiker
Stevens
Stone
Thurmond
Young

NOT VOTING—14

Biden
Bradley
Chafee
Cochran
Cohen
Gravel
Javits
Kassebaum
Kennedy
Leahy
Moynihan
Pell
Stennis
Williams

So the motion to table the amendment was agreed to.

PAY INCREASES FOR MEMBERS OF CONGRESS, FEDERAL JUDGES, AND OTHER FEDERAL GOVERNMENT EXECUTIVES

Mr. **THURMOND.** Mr. President, I rise to again state my position with regard to pay raises for Members of Congress, Federal judges, and other executive-level Federal officials. Succinctly put, I am opposed to any increase in salary for these persons at this time, and I am adamantly opposed to Congress voting ourselves a pay hike. My reasons for this position are as follows.

First, Congress, other affected Federal executives, and judges do not need a salary increase at this time, since Members of Congress now make at least $57,500 per year, and no Federal official affected by this legislation makes less than $47,500 per year—certainly an adequate salary compared to private sector wage levels among those who pay the taxes that fund these salaries.

Second, foregoing a pay raise would be a step in the right direction of holding down Federal spending in order to control inflation, which is now running at 12 to 13 percent a year.

Third, doing without a salary increase now would set an example of restraint for the private sector to follow.

For those and other reasons, Mr. President, I oppose any salary increase. I urge the Senate to, at the very least, insist on its position that Members of Congress be excluded from any pay raise, and that retroactive reductions be made to assure that Congress does not receive a salary increase. That is a minimum first step that we should take to show the Nation that Congress is seriously concerned about fighting inflation.

Mr. President, I am deeply disturbed about the prior events and the process which has again brought this pay raise issue before the Senate. As I understand the current situation, the failure of Congress to enact the continuing appropriations resolution prior to the end of midnight, September 30 has resulted in Federal judges, executive-level officials, and Members of Congress receiving a 12.88 percent pay hike as of today. Furthermore, once this increase is in effect for Federal judges, Congress cannot retroactively reduce it because of the constitutional prohibition against reduction of a judge's salary during his term of office. This is, to put it bluntly, an absolutely ridiculous situation. With a scenario such as this, it is easy to understand why only one in eight Americans has confidence in Congress as an institution. Careless irresponsibility in the conduct of the people's business ought not to be tolerated by the voters, and I have a feeling it will not be.

Mr. President, the reason why we are now faced with the task of having to pass legislation to retroactively reduce our own salaries is because the entire process of salary adjustments is irresponsible, in my opinion, and ought to be rectified promptly. We ought to repeal the 1975 law which links the salaries of Members of Congress, Federal judges, and other executive-level officials to cost-of-living increases automatically granted to general schedule Federal employees. It should take an affirmative act of Congress to increase salaries for these persons. That is the only responsible approach. In this regard, I would like to point out that Senator HATCH has introduced a bill that would force Congress to be accountable on the matter of their own pay increases by requiring that Congress affirmatively act before any salary increase could take effect. This bill, S. 1735, is a step in the right direction, and I have requested Senator HATCH to add me as a cosponsor.

Mr. President, I also believe that the need for accountability to the voters on the matter of congressional pay raises requires that any increase which the legislative branch votes for itself could not take effect until the following Congress. This would allow one intervening general election in which the voters could pass on any pay hike for Congress prior to such an increase becoming effective. Senator STONE has introduced a bill (S. 725) and a proposed constitutional amendment (S.J. Res. 50) to make this change in the current law, and I have joined with him in these efforts. I have long been of the opinion that Congress should not be able to vote an immediate pay hike for themselves. These proposals which I am cosponsoring with Senator STONE address this concern.

Another meritorious bill that addresses this pay raise issue in a constructive fashion is S. 1845, introduced by Senator EXON. This bill would provide that no salary increases could be given to Members of Congress, Federal judges, or the executives in the Federal bureaucracy until the Federal budget is balanced. I commend Senator EXON for introducing this excellent proposal and have asked that I be made a cosponsor.

Mr. President, these bills that I have just mentioned are pending before the Senate Governmental Affairs Committee. I hope, after the events of the last few days, that the committee will recognize the need for these proposals and promptly take favorable action on them.

With regard to the legislation before us, I am pleased that House Joint Resolution 402 provides that the 12.9 percent pay raise for Members of Congress be completely vitiated. However, I feel it is a mistake for any salary increases to be made at this time, and I am voting against this resolution because it increases salaries for the Government executives. Finally, Mr. President, I hope Congress will recognize the critical need for reforming the entire salary adjustment process, along the lines I have outlined above.

THE CONGRESSIONAL PAY RAISE

● Mr. **DOLE.** Mr. President, in recent months the American people have expressed their opposition to any pay increase for Congress and top level civil servants. The Senator from Kansas wishes to express his opposition to the currently proposed 5.5 percent pay increase by the House for not only Members of Congress but for all top level Government employees. At this juncture in time, the people of this country are facing an inflation rate of more than 13 percent, causing even the bare essentials of life to become exceedingly expensive. Everyday, it seems, the President continues to ask for voluntary compliance to his wage and price ceilings. If the American people are to be convinced that such compliance is in their best interest then there must be leadership shown by those of us in Congress. Congress has an opportunity to exhibit this leadership by going further than the goals of the wage and price guidelines. To deny ourselves any pay increase is the only realistic approach.

Mr. President, I commend the members of the Appropriations Committee for their dedication to holding the line on the pay raise question. It is my belief however, that by not including all top level Federal employees in this prohibition they have not gone far enough. It is though, a step in the right direction. We are not dealing with a trivial amount of funds, but a dollar figure between $60 and $70 million. For the last few years there has been growing support across the country for a balanced budget amendment, and this movement has in effect placed Congress on notice. But by Congress giving itself a 5.5 percent pay increase, as is the wish of the House of Representatives, we create the impression that Congress is still hard of hearing.

CONFIDENCE IN GOVERNMENT

It is said that the American people have lost, or are losing confidence in their Government and with the activities they have witnessed recently, one can hardly blame them. This is our opportunity to take a positive step towards restoring our much needed public confidence. Let the U.S. Congress set an example the American people can follow. Any pay increase at this time is not in the best interest of this country and I want to be on record as commending the Appropriations Committee for seizing this initiative and hope that the House will follow the Senate's lead.●

The **PRESIDING OFFICER.** The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. **ROBERT C. BYRD.** Mr. President, this will be the last rollcall vote today.

Mr. **MAGNUSON.** Mr. President, I move the adoption of the joint resolution.

The **PRESIDING OFFICER.** The joint resolution having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from New York (Mr. JAVITS), and the Senator from Kansas (Mrs. KASSEBAUM) are necessary absent.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The result was announced—yeas 77, nays 9, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—77

Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Laxalt
Levin
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—9

Armstrong
Church
Cranston
Durenberger
Hatch
Helms
Long
Lugar
Thurmond

NOT VOTING—14

Biden
Bradley
Chafee
Cochran
Cohen
Gravel
Javits
Kassebaum
Kennedy
Leahy
Moynihan
Pell
Stennis
Williams

So the joint resolution (H.J. Res. 402), as amended, was passed.

The title was amended so as to read:

A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DEATH OF FORMER SENATOR ABE MURDOCK

Mr. MAGNUSON. Mr. President, I take this opportunity to pay tribute to former Senator Abe Murdock of Utah, who passed away last month at the age of 86. I served with Senator Murdock in the Senate and knew him to be a legislator who served both his State and country ably and conscientiously.

Senator Murdock, a Democrat, served in this body from 1941 to 1947, during which time he was a member of the Committees on Banking and Commerce; Judiciary; Public Lands and Surveys; Territories and Insular Affairs; Post Offices and Post Roads; and Privileges and Elections. He also played an important part in special Senate investigations into silver production and the effects of centralization on heavy industry. Prior to coming to the Senate, he served in the House from 1933 to 1941.

A lawyer who had earned a reputation as an outstanding specialist in irrigation law, Senator Murdock devoted much of his effort here in this body to assuring his home State of Utah of its fair share of water from the Colorado River. He took great pride, as well he should have, in his work on that matter.

Senator Murdock was also a strong defender of working people and of organized labor. Consequently, President Truman named him to the National Labor Relations Board in 1949, where he served until 1957. In 1960, he was made a member of the Atomic Energy Labor-Management Relations Panels.

Born in Nevada, Senator Murdock was reared in Beaver, Utah, where he was educated at the Murdock Academy. After attending the University of Utah in Salt Lake City, he entered law practice in Beaver in 1922, where he also served on the city council and as county and city attorney.

The voters of Utah chose wisely when they elected Abe Murdock to represent them in Congress. He served them and the Nation well during his service in Congress and later with the National Labor Relations Board and with the Atomic Energy Labor-Management Relations Panel. His children, grandchildren, and great grandchildren can take genuine pride in his long record of public service and achievement.

Mr. YOUNG. Mr. President, I want to add my comments to those of the distinguished Senator from Washington. I, too, served with Abe Murdock. He was a good legislator, a very decent fellow, one of the nicest persons I ever served with in the Senate. I extend my sympathy to all of his family.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED RESCISSION AND DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Labor and Human Resources, the Committee on the Judiciary, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Select Committee on Indian Affairs, and the Committee on Environment and Public Works, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $113.673 in unneeded funds appropriated to the International Communication Agency, and report 31 deferrals of fiscal year 1980 funds totalling $1,003.2 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of the rescission proposal and each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 1, 1979.*

MESSAGE FROM THE HOUSE

At 4:01 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 5419. An act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Appropriations, with an amendment and an amendment to the title:

H.J. Res. 402. Joint resolution making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes (Rept. No. 96-334).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1781. A bill to amend section 5 of the Department of Transportation Act, relating to rail service assistance (Rept. No. 96-335).

By Mr. JACKSON, from the Committee on the Budget, without amendment:

S. Res. 244. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1308.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TALMADGE:

S. 1846. A bill to amend the Internal Revenue Code of 1954 to provide for a $250 exclusion from gross income of interest and dividends received by an individual; to the Committee on Finance.

By Mr. PROXMIRE:

S. 1847. A bill for the relief of Ana Marlene Orantes; to the Committee on the Judiciary.

S. 1848. A bill for the relief of Antun Kovacevic; to the Committee on the Judiciary.

By Mr. CANNON (by request):

S. 1849. A bill to amend sections 503, 504, 606(6), 804, and 905(a) of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

By Mr. BUMPERS:

S. 1850. A bill to authorize the conveyance of lands in the city of Hot Springs, Ark.; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 1851. A bill to amend the Tariff Act of 1930 to continue the present duty-free status of repair parts, materials, and equipment purchased in Panama for, and repairs made in Panama to, vessels documented under the laws of the United States; to the Committee on Finance.

By Mr. DECONCINI:

S. 1852. A bill to provide for a temporary suspension of duty with respect to certain peppers; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE:

S. 1846. A bill to amend the Internal Revenue Code of 1954 to provide for a $250 exclusion from gross income of interest and dividends received by an individual; to the Committee on Finance.

(The remarks of Mr. TALMADGE when he introduced the bill appear earlier in today's proceedings.)

By Mr. CANNON (by request):

S. 1849. A bill to amend sections 503, 504, 606(6), 804, and 905(a) of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Secretary of Commerce, a bill to amend sections 503, 504, 606(6), 804, and 905(a) of the Merchant Marine Act, 1936.

I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 503 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177) is amended by striking the second sentence thereof and by inserting in lieu thereof the following: "Except for any dry bulk cargo vessel, the vessel shall remain documented under the laws of the United States for not less than 25 years, or so long as there remains due the United States any principal or interest on account of the purchase price, whichever is the longer period. If the vessel is a dry bulk cargo vessel, it may be removed from documentation under the laws of the United States, coincident with a sale of the vessel to a person not a citizen of the United States, after 10 years of such documentation. Such removal shall be subject to the conditions that prior to removal the owner shall pay the United States all principal or interest due the United States on account of any purchase price and that the owner shall deposit into its capital construction fund the net proceeds from any sale of the vessel occurring at the time the vessel is removed from documentation under the laws of the United States. The use of such deposits to liquidate purchase money indebtedness shall be limited to purchase money indebtedness with respect to the new dry bulk cargo vessel to be constructed as required in the following sentence. Unless the Secretary shall otherwise determine, the owner shall enter into an agreement with the Secretary to contract for the construction of a new dry bulk cargo replacement vessel within one year after any sale of a dry bulk cargo vessel, prior to the expiration of 25 years after the date of delivery of such vessel from construction. The purchaser of any vessel sold pursuant to the third sentence in this section shall enter into an agreement with the Secretary, binding upon such purchaser and any later owner of the vessel and running with title to the vessel, that the vessel will be made available to the United States in time of emergency and just compensation for title or use, as the case may be, shall be paid in accordance with section 902 of the Merchant Marine Act, 1936, without regard to section 802 thereof. The sale shall be subject to such further conditions as the Secretary imposes under sections 9, 37 and 41 of the Shipping Act, 1916".

SEC. 2. Section 504 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1154), is amended by inserting between the words "United States" and "as" in the fourth sentence thereof a phrase to read as follows: "and any sale to a person not a citizen of the United States shall be subject to conditions".

SEC. 3. Section 606(6) of the Merchant Marine Act, 1933, as amended (46 U.S.C. 1176), is amended by striking the period at the end thereof and inserting in lieu thereof a colon; and the following: *Provided, however,* That the operator of a dry bulk cargo vessel who receives subsidy with respect to repairs has an option to have any repairs made other than in the United States or the Commonwealth of Puerto Rico without receiving subsidy for any such repairs."

SEC. 4. Section 804 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1222), is amended:

(1) By inserting between the words "vessel" and "which" in paragraph (a) thereof a comma and the words "other than a foreign-flag dry bulk cargo vessel" and a comma, and

(2) By adding at the end thereof a new subsection (f) to read as follows:

"(f) The Secretary shall promulgate such regulations, with respect to the exemption of foreign-flag dry bulk cargo vessels provided by subsection (a) of this section, as may be necessary to prevent (A) unfair competition as a result of such exemption with any person, firm, or corporation operating exclusively U.S.-flag vessels, and (B) the diversion of subsidy in favor of foreign-flag operations."

THE SECRETARY OF COMMERCE,
Washington, D.C., July 24, 1979.
Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill proposed by the President "To amend sections 503, 504, 606(6), 804 and 905(a) of the Merchant Marine Act, 1936," together with a Section by Section Analysis, Comparative Text and Statement of Purpose and Need.

The purpose of the proposed legislation is to promote the much needed construction of dry-bulk ships in United States shipyards and their operation under the United States flag.

The Office of Management and Budget has no objection to the submission of this legislation to the Congress and has indicated that its enactment would be in accord with the program of the President.

As the President pointed out in his maritime policy recommendations transmitted to the Congress last week, although approximately 40 percent of this Nation's foreign trade shipments consist of dry-bulk cargoes, less than 2 percent of this trade is transported by American-flag vessels. Contributing to this low level of participation is the fact that the American-flag fleet contains only 19 dry-bulk vessels, 13 of which are over 30 years old.

The President's bill would amend the Merchant Marine Act of 1936 to remove many of the restrictions that have deterred the American shipping industry from modernizing and expanding this segment of the American merchant marine.

The Department of Commerce and the Maritime Administration believe this legislation is vital to the expansion of the U.S.-flag dry-bulk fleet and respectfully urge its favorable consideration.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED

(For the draft bill "To amend sections 503, 504, 606(6), 804 and 905(a) of the Merchant Marine Act, 1936")

The proposed legislation will promote the construction of dry bulk ships in the United States and the operation of those ships under the U.S. flag. By doing so, the draft bill would eliminate a potentially critical dependence on foreign-flag shipping, strengthen the U.S. ship operating and construction industries, and recover part of the revenues paid to foreign-flag carriers for carriage of U.S. dry bulk trade.

Dry bulk shipping represents about 40 percent of U.S. foreign trade. The United States is a major exporter of coal, grain and other dry bulk commodities and a major importer of iron ore, bauxite and alumina and other bulk commodities. The United States is substantially dependent on imports for most of the strategically critical commodities and, for several, is totally dependent on foreign supplies.

Economic projections by private firms and the Maritime Administration indicate that dry bulk trades will continue to expand in the future to support growth of the world economy. The major bulk trades—grain, iron ore and coal—are expected to grow markedly in the next ten years. Comparable growth is foreseen in the minor bulk trades, which include such items as finished and semi-finished ferrous metal products, motor vehicles, forest products, various organic and inorganic refined chemicals and fertilizers, and various non-ferrous metallic ores and concentrates.

At the end of World War II, U.S. trade in dry bulk commodities was a small fraction of total U.S. trade. Since 1950, the tonnage of dry bulk cargoes moving in U.S. foreign trade has grown nearly 800 percent. About 40 percent of U.S. ocean-borne foreign trade, more than 310 million tons, consisted of dry bulk cargoes in 1978. The U.S. flag bulk fleet in 1950 carried over 20 percent of U.S. bulk trade. In the following years, the U.S. dry bulk fleet did not grow with the trade, and in 1978 U.S. ships carried only 4.9 million tons, less than two percent of the trade.

In recent years, as the world bulk fleet continued to grow, the U.S. flag fleet continued to decline. From 1973 through 1977 the world fleet increased from 3,539 to 4,932 bulk vessels, 133 of them larger than 100,000 DWT. In the same period, the U.S. bulk fleet diminished from 32 ships to 17, with two more constructed in 1978. Thirteen of the 19 ships were built between 1944 and 1948. As a group, the thirteen have an average age of 33 years. Of the remaining ships, one was built in 1961, two in 1973, one in 1974, and two in 1978. The average age of the world bulk fleet is nine years. With the exception of the last two ships the average tonnage of the U.S. bulk fleet 22,807 DWT. The world average is 35,000 DWT.

As a result of this decline, U.S. bulk exports are now carried primarily in foreign-flag ships provided by the foreign buyers. Bulk imports are carried chiefly in U.S.-owned, flag-of-convenience ships and in ships under European flags. Foreign carriage of U.S. bulk cargoes deprives the U.S. economy of jobs in the ship operating and ship construction industries, adds to the balance of payments deficit, deprives the Government of substantial tax revenues, and leaves the United States dependent on foreign flag shipping for a continued supply of raw materials to support the civil economy and war production in time of war.

The situation is less attributable to aggressive foreign competition than to a lack of effective action by the United States to create and maintain a bulk fleet. One of the major objectives of the Merchant Marine Act, 1970, was to stimulate the growth of the U.S. flag bulk fleet. By the end of the 1960's, it had become apparent that the Merchant Marine Act of 1936, although it provides a useful and effective tool with which to foster the growth and maintenance of the American liner industry, did not lend itself to the promotion, construction and operation of bulk type vessels and fell short of the stated goal of developing and maintaining an adequate and well-balanced merchant marine. As a result, the Congress made certain amendments to the 1936 Act which were designed to modify and broaden the scope of the programs in order to encompass the bulk sector of the industry.

There were a few significant responses to the initiatives of the 1970 Act. However, in late 1973 the world economy entered a recession. In the marine sector new vessel orders were reduced significantly as vessel owners under contract to build new ships attempted either to cancel or renegotiate existing contracts. The situation in the U.S. shipbuilding industry, although improving, remains generally depressed, with most market analysts predicting a return to equilibrium in the early to mid-1980's.

Although the 1970 Act stimulated new vessel construction in the tanker sector of the fleet, except for two ore/bulk/oil carriers, there was no new construction of dry bulk vessels to replace the small, overaged U.S.-flag dry bulk fleet. In response to this situation, the Maritime Administration held a series of meetings in 1976 and 1977, both in-house and with leading industry representatives, to determine why the bulk program had failed to develop to the degree expected.

The most often emphasized statement made at the industry and government meetings was that, despite consideration given the bulk area by the 1970 Act, the Merchant Marine Act of 1936 as a whole remained primarily liner oriented. The expansion of consideration to bulk operators in the subsidy areas was a vital and necessary step toward the development of a U.S. bulk shipping program. Nevertheless, the Act's regulatory framework continued to impose rules, which had been developed for one segment of the marine industry, on an operationally distinct segment of that industry. Liner operations are characterized by highly structured conferences, defined trade areas, cargo agreements and rate mechanisms which, compared to bulk operations, tend to dictate an ordered pattern. Because of this, the liner segment lends itself to and benefits from a more rigid set of regulations structured for known or predictable operating patterns. In contrast, bulk trading vessels operate in an opportunistic, high risk and constantly changing market environment, which requires the maximum degree of trading freedom that can be provided.

While unrestrained trading flexibility is unnecessary and perhaps detrimental in the liner area, it is basic and essential in the bulk sector. The market is characterized by rapid changes in the availability of cargo and the ships needed to carry it, which creates market rate instability and fosters an often fiercely competitive environment. Success or failure in this market hinges on an operator's ability to have his ships in the best position with the best freight rate, often only pennies below the next competitor. Stated quite simply, the regulatory framework appropriate to the development of the liner industry cannot be applied to the bulk sector without severely handicapping operations of the American flag bulk vessel owner.

After giving consideration to numerous recommendations submitted by government and industry, the Maritime Administration has developed a set of proposed amendments to the 1936 Act designed to make it more responsive to the requirements of bulk operators. The proposed changes represent an important move in the direction of developing a comprehensive maritime program which is responsive to both the liner and bulk segments of the industry.

Enactment of the proposed legislation would establish the basis for accelerating the rebuilding of the U.S. flag dry bulk fleet toward a level commensurate with the position of the United States as the world's leading bulk trading country.

Expenditures for the construction of dry bulk vessels would come out of construction-differential subsidy funds. If additional funds are not appropriated, then the construction of any dry bulk vessels would reduce the number of non-dry bulk vessels which could be built under the CDS program.

SECTION-BY-SECTION ANALYSIS

(For the draft bill "To amend sections 503, 504, 606(6), 804 and 905(a) of the Merchant Marine Act, 1936")

Section 1. The draft bill would amend section 503 to change the period of required United States documentation to 10 years for dry bulk cargo vessels. The draft bill would also require that the net proceeds from any sale of a CDS-financed dry bulk cargo vessel to a person who is not a citizen of the United States must be deposited in the capital construction fund, and unless otherwise determined by the Secretary of Commerce, the owner/seller must agree to enter into a contract for the construction of a new dry bulk cargo vessel within one year. The right of the United States to requisition the vessel sold would be maintained by an agreement with the purchaser.

The law currently requires that vessels built with the aid of CDS must remain documented under the laws of the United States for at least 25 years, or so long as there remains due the United States any principal or interest on account of the purchase price, except that the minimum is 20 years in the case of certain liquid bulk cargo vessels.

Foreign flag dry bulk cargo vessel owners freely buy and sell vessels when, in their judgment, depreciation and vessel sales market factors make it commercially advantageous. Often, a foreign flag vessel may be held for only eight to ten years after delivery and then sold as circumstances warrant. The amendment to section 503 would also provide the owners of dry bulk CDS-built vessels with the flexibility to sell such vessels abroad when they determine it to be in their best economic interest even though such vessels may not have reached the end of a 25-year economic life. This flexibility would enable these U.S. owners to sell vessels more freely and thus reduce the competitive disadvantage which they have vis-a-vis dry bulk foreign flag owners.

Section 2. The law presently makes the U.S. documentation requirement found in section 503 applicable to construction financed in part by construction-differential subsidy payments.

The draft bill would make clear that the conditions applying to a sale to a person not a citizen of the United States will apply to construction aided pursuant to section 504.

Section 3. Presently, section 606(6) provides that a ship operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency.

The draft bill would amend section 606 (6) so as to permit the operator of a dry bulk cargo vessel to have repairs made foreign while at the same time retaining eligibility for subsidy for repairs performed in the United States or Puerto Rico. This amendment would allow the dry bulk operator to schedule the fleet for repairs and to carry the cargo fixed in the most efficient way without losing eligibility for repair subsidy. Requiring a dry bulk operator to perform all its repairs in the United States creates restrictions on a dry bulk cargo vessel that limits operational flexibility and reduces the potential revenues. This amendment would be another step to enhance the U.S. dry bulk operator's competitive position.

Section 4. Section 804 of the Act presently provides, in pertinent part, that it is unlawful for any contractor receiving operating-differential subsidy under Title VI of the Act, or any affiliate thereof, to own, charter, act as agent or broker for or operate any foreign-flag vessel which competes with an essential U.S.-flag service, unless granted a waiver upon a showing of "special circumstances and good cause."

The maritime industry has claimed that section 804 constitutes a practical bar to the development of a dry bulk cargo fleet. The dual-flag issue in the dry bulk segment of the industry is somewhat accentuated by the nature of the enterprise. Faced with a smaller percentage of long-term chartering opportunities and less stable markets, dry bulk cargo vessel operators need a greater degree of operational latitude than their counterparts engaged in the relatively more predictable petroluem trades.

The draft bill eliminates the restrictions of section 804 with respect to foreign flag dry bulk vessel activities, thus removing section 804 disincentives to construct and operate new U.S.-flag dry bulk cargo vessels.

Section 5. The existing law limits the ability of a subsidized dry bulk vessel operator to engage in foreign-to-foreign trade.

Foreign flag dry bulk vessels may trade freely throughout the world, without any restrictions imposed by the country of registry. A substantial part of all dry bulk vessel operation is based on world-wide charter competition. In order to reduce the competitive disadvantages suffered by United States flag dry bulk operators and stimulate the construction and operation of United States flag dry bulk cargo vessels, such vessels operated with ODS should not be restricted to trade between a United States port and a foreign country, but instead should be free to trade and to be chartered for trade world-wide. The draft bill would amend section 905(a) to permit dry bulk vessels under ODS Agreements to compete more effectively with foreign flag vessels in foreign-to-foreign trading by allowing ODS, as well as CDS, for such operation, subject to rules and regulations promulgated by the Secretary.

THE MERCHANT MARINE ACT, 1936

(Comparative text showing the changes the draft bill "To amend sections 503, 504, 606(6), 804 and 905(a) of the Merchant Marine Act, 1936" would make in existing law.

(Deletions are shown by brackets; new material is shown in italics.)

* * * * *

Sec. 503. Upon completion of the construction of any vessel in respect to which a construction-differential subsidy is to be allowed under this title and its delivery by the shipbuilder to the Secretary of Commerce, the vessel shall be documented under the laws of the United States, and concurrently, or as soon thereafter as practicable, the vessel shall be delivered with a bill of sale to the purchaser with warranty against liens, pursuant to the contract of sale between the purchaser and the Secretary of Commerce. [The vessel shall remain documented under the laws of the United States for not less than twenty-five years, or so long as there remains due the United States any principal or interest on account of the purchase price, whichever is the longer period.] *Except for any dry bulk cargo vessel, the vessel shall remain documented under the laws of the United States for not less than 25 years, or so long as there remains due the United States any principal or interest on account of the purchase price, whichever is the longer period.*

If the vessel is a dry bulk cargo vessel, it may be removed from documentation under the laws of the United States, coincident with a sale of the vessel to a person not a citizen of the United States, after 10 years of such documentation. Such removal shall be subject to the conditions that prior to removal the owner shall pay the United States all principal or interest due the United States on account of any purchase price and that the owner shall deposit into its capital construction fund the net proceeds from any sale of the vessel occurring at the time the vessel is removed from documentation under the laws of the United States. The use of such deposits to liquidate purchase money indebtedness shall be limited to purchase money indebtedness with respect to the new dry bulk cargo vessel to be constructed as required in the following sentence. Unless the Secretary shall otherwise determine, the owner shall enter into an agreement with the Secretary to contract for the construction of a new dry bulk cargo replacement vessel within one year after any sale of a dry bulk cargo vessel, prior to the expiration of 25 years after the date of delivery of such vessel from construction. The purchaser of any vessel sold pursuant to the third sentence in this section shall enter into an agreement with the Secretary, binding upon such purchaser and any later owner of the vessel and running with title to the vessel, that the vessel will be made available to the United States in time of emergency and just compensation for title or use, as the case may be, shall be paid in accordance with section 902 of the Merchant Marine Act, 1936, without regard to section 802 thereof. The sale shall be subject to such further conditions as the Secretary imposes under sections 9, 37 and 41 of the Shipping Act, 1916. At the time of delivery of the vessel the purchaser shall execute and deliver a first preferred mortgage to the United States to secure payment of any sums due from the purchaser in respect to said vessel: *Provided*, That notwithstanding any other provisions of law, the payment of any sums due in respect to a passenger vessel purchased under section 4(b) of the Merchant Ship Sales Act of 1946, reconverted or restored for normal operation in commercial services, or in respect to a passenger vessel purchased under title V of this act, which is delivered subsequent to March 8, 1946, and which (i) is of not less than ten thousand gross tons, (ii) has a designed speed approved by the Secretary of Commerce but not less than eighteen knots, (iii) has accommodations for not less than two hundred passengers, and, (iv) is approved by the Secretary of Defense as being desirable for national defense purposes, may, with the approval of the Secretary of Commerce, be secured only by a first-preferred mortgage on said vessel. With the approval of the Secretary of Commerce such preferred mortgage may provide that the sole recourse against the purchaser of such a passenger vessel under such mortgage, and any of the notes secured thereby, shall be limited to repossession of the vessel by the United States and the assignment of insurance claims, if the purchaser shall have complied with all provisions of the mortgage other than those relating to the payment of principal and interest when due, and the obligation of the purchaser shall be satisfied and discharged by the surrender of the vessel, and all right, title, and interest therein to the United States. Such vessel upon surrender shall be (i) free and clear of all liens and encumbrances whatsoever, except the lien of the preferred mortgage, (ii) in class, and (iii) in as good order and condition, ordinary wear and tear excepted, as when acquired by the purchaser, except that any deficiencies with respect to freedom from encumbrances, condition, and class, may, to the extent covered by valid policies of insurance, be satisfied by the assignment to the United States of claims of the purchaser under such policies of insurance. The purchaser shall also comply with all the provisions of section 9 of the Merchant Marine Act, 1920.

SEC. 504. If a qualified purchaser under the terms of this title desires to purchase a vessel to be constructed in accordance with an application for construction-differential subsidy under this title, the Secretary of Commerce may, in lieu of contracting to pay the entire cost of the vessel under section 502, contract to pay only construction-differential subsidy and the cost of national defense features to the shipyard constructing such vessel. The construction-differential subsidy and payments for the cost of national defense features shall be based upon the lowest responsible domestic bid unless the vessel is constrtucted at a negotiated price as provided by section 502(a) or under a contract negotiated by the Secretary of Commerce as provided in section 502(b) in which event the construction-differential subsidy and payments for the cost of national defense features shall be based upon such negotiated price. No construction-differential subsidy, as provided in this section, shall be paid unless the said contract or contracts or other arrangements contain such provisions as are provided in this title to protect the interests of the United States as the Secretary of Commerce deems necessary. Such vessel shall be documented under the laws of the United States *and any sale to a person not a citizen of the United States shall be subject to conditions* as provided in section 503 of this title. The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price, shall not restrict the lawful or proper use or operation of the vessel, except to the extent expressly required by law.

SEC. 606. * * *

(6) that whenever practicabe an operator who receives subsidy with respect to subsistence of officers and crews shall use as such subsistence items only articles, materials, and supplies of the growth, production, and manufacture of the United States, as defined in section 505 herein, except when it is necessary to purchase supplies outside the United States to enable such vessel to continue and complete her voyage, and an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency: *Provided, however, That the operator of a dry bulk cargo vessel who receives subsidy with respect to repairs has an option to have any repairs made other than in the United States or the Commonwealth of Puerto Rico without receiving subsidy for any such repairs.*

SEC. 804. (a) Except as provided in subsections (b) and (c) of this section, it shall be unlawful for any contractor receiving an operating-differential subsidy under title VI or for any charterer of vessels under title VII of this Act, or any holding company, subsidiary, affiliate, or associate of such contractor or such charterer, or any officer, director, agent, or executive thereof, directly or indirectly to own, charter, act as agent or broker for, or operate any foreign-flag vessel, *other than a foreign-flag dry bulk cargo vessel,* which competes with any American-flag service determined by the Secretary of Commerce to be essential as provided in section 211 of this Act.

* * * * *

(f) *The Secretary shall promulgate such regulations, with respect to the exemption of foreign-flag dry bulk cargo vessels provided by subsection (a) of this section, as may be necessary to prevent (A) unfair competition as a result of such exemption with any person, firm, or corporation operating exclusively U.S.-flag vessels, and (B) the diversion of subsidy in favor of foreign-flag operations.*

SEC. 905. When used in this Act—

(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country, except that in the context of [section 607] *title VI* of this Act concerning capital construction funds *and operating-differential subsidy* and in the context of title V of this Act concerning construction-differential subsidy, the said words "foreign commerce" or "foreign trade" shall also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Commerce pursuant to section 204(b) of this Act.●

By Mr. BUMPERS:

S. 1850. A bill to authorize the conveyance of lands in the city of Hot Springs, Ark.; to the Committee on Energy and Natural Resources.

● Mr. BUMPERS. Mr. President, I am introducing today legislation which would authorize the conveyance of certain lands in Hot Springs, Ark., to a nonprofit corporation for the purpose of erecting a housing project for the elderly.

This bill was prepared as a drafting service at my request by the Department of the Interior.

Briefly, the facts of the situation are as follows: On June 3, 1912, Congress enacted legislation (37 Stat. 121) which granted the Leo N. Levi Memorial Hospital Association the right of use and occupancy to two lots (Nos. 3 and 4) of block 114 in the city of Hot Springs, Ark. Ten years later, the Congress granted the association a similar right with respect to two adjoining lots (Nos. 1 and 2) on the same block. This legislation (42 Stat. 506) contains a provision that lots 1 and 2 are to be used for hospital purposes only with a reverter to the United States if the property is used for other purposes.

Late last year, it came to my attention that Levi Towers, Inc., a nonprofit corporation, was interested in obtaining lots 1 and 2 for the purposes of developing a housing facility for the elderly under the section 202 loan program funded through the Department of Housing and Urban Development. Since that time, I have made several inquiries to the Department regarding this situation.

The Department's solicitors have concluded, and I concur, that the use of lots 1 and 2 for a housing project for the elderly by a nonprofit corporation would not be a use by the hospital association for hospital purposes under the terms of the act of May 8, 1922 (42 Stat. 506).

In an effort to resolve this problem, I am introducing legislation which would authorize the hospital association to convey the lots to the nonprofit corporation so that this badly needed facility may be constructed. The proposed legislation includes language insuring that the lots in question would revert to the United States if the property is used for purposes other than providing housing for the elderly.

Mr. President, at my request, the Department of the Interior is still in the process of reviewing current ownership and administrative status of these lots. It may be that as a result of this further investigation, some modification or classification of this proposal may be necessary. However, I am introducing this measure at this time and in this form in an effort to insure that this matter is resolved as expeditiously and equitably as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Notwithstanding any provisions of the Act of May 8, 1922 (42 Stat. 506), the Leo N. Levi Memorial Hospital Association is authorized to assign or convey all or any portion of or interests in and to lots one and two, in block 114 in the city of Hot Springs, Arkansas to a nonprofit corporation organized under the laws of the State of Arkansas, its successors or assigns, for the purpose of erecting and maintaining thereon a housing facility for the elderly. Execution of such assignment or conveyance by the Leo N. Levi Memorial Hospital Association and execution of mortgages by said nonprofit corporation or its successors or assigns, in connection with the housing facility, shall not constitute a forfeiture of any rights granted to the Leo N. Levi Memorial Hospital Association by said Act of May 8, 1922. If at any time after lots one or two of block 114 are conveyed to said nonprofit corporation the property is used or permitted to be used for purposes other than housing facilities for the elderly, all the rights, privileges, and powers in such property authorized by this Act or by said Act of May 8, 1922, shall be forfeited to the United States.●

By Mr. DECONCINI:

S. 1852. A bill to provide for a temporary suspension of duty with respect to certain peppers; to the Committee on Finance.

Mr. DECONCINI. Mr. President, I am today introducing a bill amending the tariff schedules of the United States to provide a temporary suspension of the import duty on the Anaheim, 6–4, long green pepper. This variety of pepper has important commercial uses in this country but is unavailable from domestic sources during the winter months and must be imported from Mexico. Unfortunately, the current duty of 2.5 cents/pound makes it uneconomical to do so. The result is that packers specializing in products containing the Anaheim variety are limited to seasonal operation. The impact on the employment and the general economy in affected communities within this country and in Mexico has not been fully assessed, but it is safe to assume that it is not beneficial. Indeed, it is arguable that the indirect economic costs in the form of lost production, sales, wages, and profits more than offsets the revenue raised by the duty.

Furthermore, the importance of the relationship between the United States and Mexico is just beginning to receive the attention it has for so long warranted. The expansion of trade and the promotion of a productive economic partnership are indispensable elements of stronger United States-Mexico ties, ties which I believe are in the fundamental interests of both countries. This will mean, of course, a general restructuring of our economic relations with the aim of eliminating extraneous barriers to trade.

The bill I am introducing certainly cannot pretend to advance this objective very far. It envisions only modest changes. But it is, I believe, consistent with the sort of policy we should be pursuing in this regard, and I hope it will receive early and favorable consideration.

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. PACKWOOD, the Senator from Carolina (Mr. HOLLINGS) and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 219, a bill to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 625

At the request of Mr. WALLOP, the Senator from Kentucky (Mr. FORD) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 625, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977.

S. 1090, S. 1091, AND S. 1092

At the request of Mr. TALMADGE, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1090, 1091, and 1092, bills to amend the Employee Retirement Income Security Act and the Internal Revenue Code relating to church plans.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1433

At the request of Mr. PACKWOOD, the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 1433, a bill to improve the safety certification process used by the Federal Aviation Administration for passenger airplanes.

S. 1435

At the request of Mr. NELSON, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 1435, the Capital Cost Recovery Act.

S. 1465

At the request of Mr. TALMADGE, the Senator from Florida (Mr. STONE), the Senator from Indiana (Mr. LUGAR), the Senator from Iowa (Mr. JEPSEN), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1647

At the request of Mr. INOUYE, the Senator from Washington (Mr. MAGNUSON) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1647, a bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes.

SENATE JOINT RESOLUTION 101

At the request of Mr. INOUYE, the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 101, a joint resolution authorizing the President to designate the seven calendar days beginning October 7, 1979, as "National Port Week."

SENATE RESOLUTION 235

At the request of Mr. BELLMON, the Senator from Alaska (Mr. STEVENS) and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Senate Resolution 235, relating to Senate consideration of SALT II.

AMENDMENTS SUBMITTED FOR PRINTING

PRIORITY ENERGY PROJECT ACT—S. 1308

AMENDMENT NO. 487

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

Mr. STEVENS. Mr. President, I have an amendment to S. 1308 which the Senate will consider soon. That is in the nature of a substitute for the bill reported by the Energy Committee. I have filed minority views on that bill.

It is my feeling that that bill does not go far enough in creating what we sought to create which was a fast track for those projects in the energy field which are of national significance.

This amendment in the nature of a substitute would create an independent civil energy priority projects board to assign priority status to certain energy projects and give the board the power to really put those projects on a fast track.

I ask that this bill be printed as a substitute amendment in the nature of a substitute for S. 1308 and that it lie on the desk for when S. 1308 is taken up for consideration.

AMENDMENT NO. 488

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF (for himself, Mr. Muskie, Mr. Glenn, Mr. Roth, Mr. Percy, Mr. Stafford, Mr. Hart, Mr. Javits, Mr. Durenberger, Mr. Cranston, Mr. Williams, Mr. Proxmire, and Mr. Mathias) submitted an amendment intended to be proposed by them, jointly, to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

Mr. RIBICOFF. Mr. President, I submit for printing and send to the desk an amendment to S. 1308, the Priority Energy Project Act.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT NO. 488

Strike out all after the enacting clause and substitute the following:

PURPOSES

Sec. 2. The purposes of this Act are—

(a) to establish an Energy Mobilization Board to administer jointly with the Department of Energy a priority energy project program;

(b) to expedite the review process of energy projects determined to need accelerated decisionmaking so that such projects will contribute to a timely reduction in the use of imported energy supplies, without interfering with the present statutory authorities and responsibilities of Federal, State, and local agencies; and

(c) to foster, within proper limits, the integration of Federal, State, and local processes for permitting, licensing, and approving energy projects which are determined to be in the national interest.

DEFINITIONS

Sec. 3. As used in this Act the term—

(3) "applicant" means any person planning or proposing a project which has been designated a priority energy project.

(b) "approval" means any permit, license, lease, certificate, right-of-way, or other grant, rate, ruling, or decision authorized or issued by an agency of Federal, State, or local government;

(c) "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

(d) "Board" means the Energy Mobilization Board established by section 4;

(e) "Chairman" means the Chairman of the Board;

(f) "candidate priority energy project" means a designation request selected by the Secretary of Energy under section 9 to be forwarded to the Board;

(g) "designation request" means an application filed with the Secretary of Energy pursuant to section 8;

(h) "energy facility" means any physical structure, including any structure which incorporates active and/or passive solar devices, any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, or installation, which is designed to promote energy conservation or invention, exploration, research, development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including any facility owned or operated in whole or in part by Federal, State, regional, or local government or any combination thereof;

(i) "energy project" means any plan, proposal, program, scheme, or design to produce, build, install, expand, modify the operation of, or alter in any other way, an energy facility;

(j) "Federal agency" means an executive agency as defined in section 105 of title 5 of the United States Code;

(k) "local agency" means any executive agency of local government;

(l) "local government" means the government of any political subdivision of a State and any recognized government board of an Indian tribe or Alaskan Native village which performs substantial governmental functions;

(m) "member" means a member of the Board other than the Chairman;

(n) "person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, nonprofit institution, or any entity organized for a common purpose, and any instrumentality of Federal, State, or local government;

o) "priority energy project" means any project which has been designated as a priority energy project by the Energy Mobilization Board under section 10 of this Act;

(p) "project decision schedule" means a schedule established by the Board pursuant to section 16 of this Act;

(q) "Secretary" means the Secretary of Energy;

(r) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(s) "State agency" means any executive agency of State government; and

(t) "State law" means the law of any State or any subdivision thereof.

ESTABLISHMENT AND MEMBERSHIP OF THE ENERGY MOBILIZATION BOARD

Sec. 4. (a) There is hereby established the Energy Mobilization Board (the "Board"). The Board shall consist of three members appointed by the President, by and with the advice and consent of the Senate.

(b) The Chairman and members of the Board shall be individuals who, by demonstrated ability, background, training, or experience, are especially qualified to carry out the functions of the Board.

(c) No member of the Board may hold another office or position in the Government of the United States.

(d) The Board shall have its principal office in or near the District of Columbia.

(e) The term of office for each member of the Board shall be four years, coterminous with the term of the President. A member whose term has expired may continue to serve until a successor is appointed by the President, by and with the advice and consent of the Senate, but may not serve more than one year after the date or which the term of the member would otherwise expire under this section.

(f) A member appointed to fill a vacancy before the end of a term of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of this section.

OFFICERS OF THE BOARD

Sec. 5. (a)(1) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Board as the Chairman of the Board. The Chairman serves at the pleasure of the President as Chairman.

(2) The Chairman of the Board shall be the principal executive officer of the Board, and he shall exercise all of the executive and administrative functions of the Board, including functions of the Board with respect to (i) the appointment and supervision of personnel employed under the Board (other than personnel employed regularly and full time in the immediate offices of members other than the Chairman, and except as provided in this Act), (ii) the distribution of business among such personnel and among administrative units of the Board, and (iii) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this Act, the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

(c) During the absence or disability of both the Chairman and Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman. Two members of the Board shall constitute a quorum for the transaction of business.

(d) The Chairman and members of the Board shall not engage in any other business, vocation, or employment while serving on the Board. The Chairman shall receive compensation at the rate prescribed for offices and positions at level I of the Executive Schedule (5 U.S.C. 5312). Members of the Board shall receive compensation at the rate prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313).

(e)(1) There shall be a General Counsel to the Board who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(2) The General Counsel shall be an in-

dividual who, by demonstrated ability, background, training, or experience is especially qualified to carry out the functions of the General Council.

(f) The Chairman may appoint an executive director who shall exercise such powers and duties as may be delegated to him by the Board or the Chairman. The executive director shall receive compensation at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315).

POWER AND AUTHORITY OF THE BOARD

SEC. 6. (a) The Board shall decide and administer all matters within the jurisdiction of the Board under this Act subject to otherwise applicable provisions of law, and take final action on any such matter. The Board is authorized to—

(1) sit and act at places and times as it may determine;

(2) make full use of competent personnel and organizations outside the Board, public or private; form advisory committees and special ad hoc interagency task forces; and make other personnel arrangements in accord with Federal law, as the Board determines to be appropriate;

(3) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Board with any agency or instrumentality of Federal, State, regional, or local government or with any person, with or without reimbursement, with or without performance or other bonds, and with or without regard to section 5 of title 41, United States Code: *Provided*, That the Board shall not use its authority to become directly involved in the actual construction or operation of any priority energy project;

(4) intervene in any Federal, State, or local agency proceeding and shall appear as a party of right in any judicial proceeding, if such agency or judicial proceeding involves an action pursuant to this Act. The Board shall encourage expedited action or decisionmaking by the agency or court in such proceeding; and

(5) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board, and take other appropriate actions to fulfill the purposes of this Act.

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit of the execution of such contracts or arrangements in such detail and in such manner as shall be prescribed by the Board, and such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of such audit and examination.

(c) The Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly and expeditiously to the Board upon its request.

(d) On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this Act.

(e) The Chairman may obtain services of experts in accordance with section 3109 of title 5, United States Code.

(f) In carrying out the provisions of this Act, the Chairman is authorized, in accordance with section 5, to appoint such personnel as may be necessary, subject to the provisions of title 5, United States Code, governing appointments and compensation in the competitive service.

(g) In carrying out the provisions of this Act, the Board shall not interfere with labor-management relations, nor take any actions which conflict with terms of an existing labor-management contract.

REPORTS OF THE BOARD

SEC. 7. (a) The Board shall conduct periodic reviews of its activities under this Act and shall report annually, or more often as it may deem necessary, to the Congress on such activities including—

(1) the functioning of the selection and designation process for priority energy projects;

(2) the status of projects;

(3) the effectiveness of the Board's actions in expediting the development and construction of energy projects; and

(4) any significant delays in the completion of priority energy projects and the causes thereof.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 8. (a) Any person planning or proposing an energy project may apply to the Secretary of Energy for designation of such project as a candidate priority energy project.

(b) An application for designation shall—

(1) identify all Federal, State, and local licensing and permitting actions necessary for the approval and development of the project known to the applicant; and

(2) include such detailed information concerning the project as the Secretary may require by rule, including a detailed design proposal for the project, detailed economic data on the financing of the project, and an analysis of environmental impacts of the project.

(c) Not later than five days after the receipt of a designation request the Secretary shall publish notice of the filing of the designation request, together with a brief description thereof in the Federal Register.

AUTHORITY OF THE SECRETARY OF ENERGY

SEC. 9. (a) The Secretary shall consider applications for priority energy project designation, and shall select as candidate priority energy projects only projects that meet the criteria in sections 10 (c) and (d). The Secretary shall select those candidate priority energy projects that best meet the criteria of sections 10 (c) and (d), and that, to the maximum extent practicable, represent a diverse range of energy sources and technologies. The Secretary of Energy shall, not later than January 1, and July 1, of each calendar year following the effective date of this Act, prepare and publish in the Federal Register a list of candidate priority energy projects.

(b) The Secretary shall, in consultation with the Board, propose and promulgate regulations for the selection of candidate priority energy projects in accordance with the requirements of this Act.

(c) The Secretary shall, in considering applications from persons for candidate priority energy projects, adopt such procedures as are necessary to assure that potential applicants, affected agencies, and interested members of the public are provided an opportunity to participate in the process of selecting candidate priority energy projects.

(d) The Secretary shall transmit a list of not less than twelve nor more than thirty-six candidate energy priority projects to the Chairman of the Board, together with a statement describing each candidate priority energy project, and explaining the basis for his selection of each project. The Secretary shall also forward a copy of the application, and any other material received by the Secretary in connection with its consideration of the application. There shall be no judicial review of the Secretary's selection of a candidate energy project.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 10. (a) Upon receipt from the Secretary of the list of candidate priority energy projects and the other information specified in section 9, the Board shall immediately publish such list in the Federal Register and shall afford interested persons at least sixty days thereafter within which to submit written comments for the Board's consideration. The Board shall provide written notice of the candidate priority energy project to the Federal, State, and local agencies identified by the applicant under section 8(b)(1), and such agencies may present such written comments as they deem desirable, including information listed in sections 14 and 15. The Board shall consult with officials of those agencies of State and local government likely to be affected by the designation of a project as a priority energy project. The Board may hold hearings and adopt any other such procedures to aid in the Board's consideration. The Board shall keep on file and make available for public inspection and copying at the main office of the Board and in such other places as the Board deems appropriate the designation requests and comments received thereupon.

(b) The Secretary may forward and the Board may consider a designation request notwithstanding any previous decision by the Board denying the same or a similar request for that project.

(c) Not later than sixty days after the close of the comment period required in subsection (a), the Board shall review the candidate priority project list and determine whether any of the candidate priority energy projects is of sufficient national interest to be designated a priority energy project and shall publish its decision and the reasons therefor in the Federal Register. Not more than twelve projects may be designated in any one calendar year, and not more than thirty-six projects may have been designated and be pending certification at any one time. No project shall be designated a priority energy project unless the Board determines that such project—

(1) will affect interstate or foreign commerce;

(2) will significantly contribute to a reduction in the use of imported energy supplies (and the achievement of a 50 per centum reduction in the use of imported oil by calendar year 1990);

(3) needs the accelerated decisionmaking available under this Act to assure that such facility will be in operation so that it will make a timely reduction in the use of imported oil.

(d) In making a determination whether to designate a project as a priority energy project, the Board shall also consider—

(1) whether the environmental uncertainties or the potential adverse environmental impacts of the project are such that they cannot be adequately considered and resolved in the period of time permitted for review of the priority energy project;

(2) the extent to which the proposed facility would make use of renewable energy resources;

(3) the extent to which the proposed facility would promote energy conservation;

(4) the extent to which the proposed facility would contribute to the development of new energy production or conservation technologies and techniques;

(5) the degree of specificity in describing the proposed facility in the application;

(6) the probable long-term impact of the facility upon energy supply and demand; and

(7) comments submitted by the public and other governmental entities.

(e) The designation by the Board of priority energy projects pursuant to this section shall, to the maximum extent practicable, represent a diverse range of energy sources and technologies.

(f) The Board may designate as a priority energy project more than one related energy facility only if the Board determines that—

(1) the related energy facilities are located in the same or in contiguous geographic areas; and

(2) the principal use of each energy facility is to—

(i) contribute directly to satisfaction of the criteria specified in section 10(b) or

(ii) support a facility within the proposed energy project which satisfies the criteria specified in section 10(b) of this Act.

(g) The Board shall publish in the Federal Register a statement explaining the basis for its designation of each priority energy project. Each such designation shall be subject to judicial review in accordance with sections 21 to 26.

EXTENSION OF DEADLINES

SEC. 11. The Board may extend the deadlines for receiving comments under section 10(a) and the time for ruling on an application for priority energy project status under section 10(c) if such application is incomplete or if more time is necessary to afford interested persons a reasonable time to comment.

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 12. (a) Determinations by the Secretary under section 9 and by the Board under section 10 are not subject to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Promulgation or revision of a project decision schedule under sections 16 and 17 is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Promptly following designation of an energy project as a priority energy project pursuant to section 10, and prior to establishment of a project decision schedule under section 16, the appropriate Federal agency shall determine whether any Federal action relating to the priority energy project will be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and shall publish notice of its determination in the Federal Register. Upon publication, any person aggrieved may immediately commence a civil action seeking judicial review of that determination under the provisions of this Act. If a Federal agency determines that a priority energy project will be such a major Federal action, the remaining parts of this section shall apply.

(d)(1) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate State and local agencies, may require that one final environmental impact statement be prepared to reflect the actions of any or all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969 and by any or all State and local agencies to substitute for any comparable statement required by State or local law.

(2)(i) A lead agency shall supervise the preparation of the environmental impact statement if more than one agency either;

(A) proposed or is involved in the same action; or

(B) is involved in a group of related actions directly related to each other because of their functional independence or geographical proximity.

(ii) Federal, State, or local agencies, including at least one Federal agency may act as joint lead agencies to prepare the environmental impact statement.

(iii) If Federal agencies are unable to agree on which will be the lead agency or a lead agency is not otherwise designated within forty-five days of the determination in subsection (d)(1), any of the agencies or persons concerned may file a request with the Council on Environmental Quality asking it to determine which Federal agency shall be the lead agency. The Council shall determine as soon as possible, but not later than 20 days after receiving the request, which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

(3) If the Board requires pursuant to paragraph (1) that such statement substitute for a comparable requirement of State or local law—

(i) such statement shall meet the requirements of the comparable State or local law in the same manner specified under comparable State or local law; and

(ii) the Federal agency or agencies preparing such statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law. At the request of the State or local agency, such agency may prepare the position of the statement dealing with the applicable State or local law.

(e)(1) Before publication of the project decision schedule under section 16, the lead agency designated under subsection (d) shall convene one or more meetings with such other Federal agencies as it deems appropriate and, if the Board has determined that the Federal environmental impact statement shall substitute for any comparable State or local statement or other assessment, with representatives of such States or localities. The purposes of such meeting(s) shall be to identify significant issues, establish the content of the environmental impact statement, and determine whether and how responsibilities should be apportioned among other Federal agencies.

(2) After such meetings, the lead agency, with the concurrence of the Board and the Council on Environmental Quality, may determine to prepare the environmental impact statement without requiring assistance from any other Federal agency, notwithstanding any decision by the Board to require that one such statement be used by any or all Federal, State, and local agencies.

(f) At any time prior to the completion of the priority energy project and in accordance with the requirements of subsection (d), the lead agency may assign responsibilities in the preparation of the environmental impact statement to any appropriate Federal agency. The lead agency shall publish such assignments in the Federal Register, and such assignments shall be subject to procedures and deadlines specified by the Board. Such procedures and deadlines shall be incorporated in the project decision schedule and shall be treated as part of the schedule for the purposes of this Act. Except as provided in this section, the deadlines and procedures for carrying out such assignments shall be consistent with the provisions in section 219.

(g) All Federal agencies shall comply with the assignments, deadlines, and procedures established pursuant to subsection (f). Nothing in this section shall authorize the Board or Council on Environmental Quality or the lead agency to require any action from any State or local agency in the preparation of the environmental impact statement.

(h) The Board may require that proceedings in which the consideration of an environmental analysis is not required to commence prior to the completion of such environmental statement; *Provided*, That no Federal agency shall issue a final decision significantly affecting the quality of the human environment until at least thirty days after the environmental impact statement has been completed.

(i) Notwithstanding any other provision of law, the project decision schedule established under section 219 shall provide that, prior to the completion of agency preparation of the environmental impact statement, agencies shall give interested persons an opportunity to submit written data, views, or arguments with or without opportunity for oral presentation.

(j) For the purposes of this Act, the term—

(1) "lead agency" means the Federal agency designated under subsection (d) of this section to prepare an environmental impact statement on a priority energy project;

(2) "cooperating agency" means a Federal agency other than the lead agency which has jurisdiction by law or special expertise with respect to an environmental impact statement on a priority energy project and is designated by the lead agency as a cooperating agency.

EARLY ACTION REQUIREMENT

SEC. 13. The Secretary shall encourage prospective applicants under section 8 to notify the Secretary and to file applications for any necessary Government actions or approvals with the appropriate agencies as soon as possible in order that any eventual action or decision may be expedited. The Secretary and the Board may consider any failure to contact the Secretary in a timely fashion in making their respective determinations under sections 9 and 10.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 14. (a) Upon designation of a priority energy project, the Board shall promptly provide written notice of such designation to the head of—

(1) the Department of the Interior including the Fish and Wildlife Service;

(2) the Department of Agriculture;

(3) the Department of Commerce;

(4) the Department of Transportation;

(5) the Department of Energy;

(6) the Environmental Protection Agency;

(7) the Council of Environmental Quality;

(8) the Department of the Army; and

(9) any other Federal agency with authority to grant or deny any approval or perform any action necessary to the completion of such project or any part thereof.

(b) With respect to each project designated a priority energy project, not later than thirty days after receiving notice as specified in subsection (a), each agency so notified shall transmit to the Board—

(1) a compilation of all significant actions required by such agency before a final decision on any necessary approval(s) can be rendered, including an indication of any time limits established by statute or regulation for such actions;

(2) a compilation of all significant actions required of the applicant or of any other agency before a final decision by such agency can be made, including an indication of any time limits established by statute or regulation for such actions;

(3) a tentative schedule for completing actions listed in paragraphs (1) and (2) of this section and an environmental analysis necessary for the preparation of the environmental impact statement required by section 12 of this title, together with a preliminary indication of any points on such schedules that may present unusual delays anticipated by such agency;

(4) all necessary application forms which must be completed by the priority energy project before such approval can be granted; and

(5) an analysis of (i) the amount of funds and personnel available to such agency to perform the actions required by such agency before any final decisions can be made and (ii) the impact of giving priority status to the applicant on other activities of and applications pending before such agency.

REQUEST FOR STATE COOPERATION AND INFORMATION

SEC. 15. (a) Upon designation of a priority energy project, the Board shall notify the Governor and other appropriate local government agencies or officials of any State which would be significantly affected by a priority energy project and shall request them to supply—

(1) a compilation of significant actions required by the State and local governments before the priority energy project can be completed, including an indication of any time limits established by statute or regulation for such actions;

(2) a compilation of significant actions required of the applicant or any other agency before a final decision can be made, including an indication of any time limits established by statute or regulation for such actions;

(3) a tentative schedule for completing the actions listed in paragraphs (1) and (2) of this subsection, together with a preliminary indication of any points on such schedule that may present unusual delays anticipated by the affected agencies;

(4) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(5) an analysis of (i) the amount of funds and personnel available to the agencies of such governments for performing the actions required by such agencies before any final decisions can be made and (ii) the impact of giving priority status to the applicant on other applications pending before such agencies.

(b) The Board may provide any assistance authorized by law to assist State and local authorities (i) in complying with requests for cooperation from the Board, (ii) developing an adequate record for decisionmaking for priority energy projects, and (iii) in expediting decisionmaking for such projects.

PROJECT DECISION SCHEDULE ESTABLISHED BY THE BOARD

SEC. 16. (a) Not later than sixty days after designating a proposed energy facility as a priority energy project, the Board, in consultation with the appropriate Federal, State, and local agencies, shall publish in the Federal Register a reasonable project decision schedule. The project decision schedule shall (i) establish deadlines for all Federal, State, and local actions relating to such project and all applications required of such applicant; (ii) clearly identify the order in which licenses, permits, and other Government approvals must be obtained by the priority energy project before such project can be completed; and (iii) include deadlines for the completion of required portions of the environment impact statement prior to and as a part of each scheduled agency action. In carrying out its functions under this section, the Board may set deadlines for completion of any significant intermediate step to a final agency action governed by the project decision schedule and may suggest concurrent review of applications and joint hearings by agencies of Federal, State, and local governments. All relevant Federal, State, and local agencies shall comply with the project decision schedule.

(b)(1) the deadlines in the project decision schedule shall be consistent with the deadlines submitted to the Board under sections 14 and 15 unless the Board determines that different deadlines are essential in order to expedite and coordinate agency review, and publishers, together with the project decision schedule, a brief statement of its reasons for such determination.

(2) Whenever the project decision schedule is not consistent with the schedule which would otherwise apply, such project decision schedule shall apply in lieu of such otherwise applicable schedule.

(3) The Board may require an agency to consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies which are also subject to such schedule.

(c) The Federal project decision schedule established pursuant to subsection (a) shall expressly provide for the completion of all final agency actions and the issuance of all final agency decisions by a date no later than one year from the date the applicant's application for such actions or decisions is complete, unless a longer period is essential to enable the agency to comply with its statutory obligations or to assure that due process is not denied to any person.

(d) All Federal, State and local agencies governed by a Project Decision Schedule may establish special procedures which the agency determines to be necessary to meet the deadlines on such schedule. Any agency which is likely to be governed by a project Decision Schedule may, upon reasonable notice and opportunity for comment, also establish special procedures to govern agency actions and decisions relating to priority energy projects. These procedures shall be consistent with all statutes governing the agency's action, except that, notwithstanding any other statutes, the agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such Schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten the time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may submit such written data, views, or arguments and such written responses to the data, views or arguments submitted by other parties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions:

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify. The agency itself may omit a tentative or recommended decision if it determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection.

(e) The designation of any energy project as a priority energy project pursuant to this part shall not, except as provided by this section, affect the application to such project of any requirement established by, or pursuant to, Federal, State, or local law, shall not affect the basis on which any agency decision is made with respect to such project, and shall not affect or influence the outcome of any such decision.

(f) Except as specifically provided, nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

MODIFICATION OF PROJECT DECISION SCHEDULE

SEC. 17. (a) Upon the petition of any agency with authority governed by a project decision schedule, the applicant or other interested person, or on its own motion, the Board may modify the project decision schedule. No extension of any time period applicable to any agency under such schedule may be granted unless the Board determines that—

(1) continued adherence to the schedule would be impractical or would not be in the public interest;

(2) such modification is consistent with the other provisions of this section and is published in the Federal Register;

(3) in the case of a request for a modification by an agency, the agency has exercised due diligence in attempting to comply with the project decision schedule, taking into account the personnel and funds available to the agency for complying with such schedule; and

(4) in the case of a request for a modification by an applicant, the applicant has exercised due diligence in attempting to comply with the schedule.

(b)(1) The Board shall establish procedures for receiving, considering, and ruling in an expedited manner on requests for modifications of project decision schedules and shall publish a description of such procedures in the Federal Register. The Board shall allow a reasonable period for public comment on proposed modifications of project decision schedules.

(2) Decisions of the Board on any request for a modification of a project decision schedule shall be issued in writing with a statement of the reasons for the decision. Such statement shall consider comments individually or collectively as the Board deems appropriate.

CERTIFICATION OF COMPLETED AGENCY REVIEW

SEC. 18. (a) If the Board has been notified by the agencies with authority to grant approvals or perform actions or by a reviewing court that all agency actions and approvals on the project decision schedules relating to a priority energy project (i) have been granted, or (ii) have been performed, or (iii) are not necessary; and if further judicial review of such actions or approvals is barred by section 23, the Board shall certify the same to the applicant. Such certification shall indicate any conditions and the expiration date of any approvals that have been granted to the project.

(b) A certificate issued by the Board under subsection (a) of this section shall constitute prima facie evidence in any judicial or executive proceeding that all actions and approvals necessary to the completion of the project have been granted for the duration and subject to the conditions specified on the certificate.

ENFORCEMENT OF PROJECT DECISION SCHEDULE

SEC. 19. (a) If any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a deadline established as part of a project decision schedule pursuant to section 16, the General Counsel of the Board may bring an enforcement action on behalf of the Board in the United States Court of Appeals for the circuit in which the priority energy project is, or is proposed to be, located. Except as provided in subsection (d), such court shall have exclusive jurisdiction to determine actions brought under this section.

(b) In any action brought under this section, if the court determines that a Federal, State, or local agency has failed, or is reasonably likely to fail, to comply with a deadline established as part of a project decision schedule established pursuant to section 16, the court, may exercise its powers at law and in equity and shall order the agency to act in accordance with the existing schedule. The Court shall act within forty-five days after the filing of an enforcement action under this section, unless the Court determines that a longer period of time is required.

(c) Notwithstanding any other provision of law, including any other provision of this Act, any action brought under this section shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court.

(d) In the case of a State or local agency, the General Counsel of the Board may in its discretion bring an enforcement action on behalf of the Board in the appropriate State court instead of the United States Court of Appeals.

MONITORING OF COMPLIANCE; TERMINATION OF PRIORITY DESIGNATION

SEC. 20. (a) The Board shall monitor compliance with the project decision schedule by the applicant and by the agencies to which the schedule applies and may require such agencies and applicant to submit to the Board such information regarding compliance with such schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a priority energy project is being delayed or threatened with delay, the Board shall determine the reason for such delay and notify the appropriate agencies and other persons of its determination together with suggestions on how to eliminate or reduce such delay. The Board shall publish such reasons and suggestions in the Federal Register and notify the President and the Congress of its determinations.

(b) At any time after an energy project has been designated a priority energy project, the Board, on its own motion or by a petition by an interested person, shall terminate the priority designation if—

(1) the applicant has not exercised due diligence in attempting to comply with the project decision schedule;

(2) the applicant has not attempted in good faith to comply with any law governing the priority energy project;

(3) the applicant has requested that the priority designation be withdrawn;

(4) the project has been certified under section or the Board determines that it is unlikely that the project will be certified under such section; or

(5) the Board determines that, notwithstanding the Board's earlier determination, the project will not satisfy the criteria specified in sections 10 (b) and (c).

(c) The Board shall publish in the Federal Register notice of its intent to terminate a priority designation and shall afford interested persons at least thirty days in which to submit written comments. A decision to terminate shall be subject to judicial review in accordance with sections 21–26. The Board shall publish a detailed statement explaining the basis for its decision to terminate a priority energy project.

(d) If the Board terminates the priority designation for any priority energy project, the deadlines in the project decision schedule for that project shall no longer apply to any Federal, State, or local agency, and unless the Board redesignates the project pursuant to section 10, the Board shall no longer have authority to establish deadlines for agency decisions relating to the project. Judicial review of any Federal action relating to such project shall no longer be governed by the provisions of this title: *Provided*, That—

(1) jurisdiction over any challenge to any action which is pending in the court specified in section 21 at the time the priority designation is terminated shall be retained by that court if the court determines that the interests of justice would be served by such action; and

(2) any Federal action or approval relating to a priority energy project which was valid before the priority designation for that project was terminated shall not be deemed invalid on the ground that the priority status has been withdrawn or that the project decision schedule is no longer legally applicable.

(e) Termination of a priority designation is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

JUDICIAL REVIEW

SEC. 21. (a) The granting or denying of an extension under section 11, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(b) The designation of a priority energy project under section 10 and the termination of a priority designation under section 20 shall be subject to judicial review in accordance with the other provisions of this title. In reviewing such actions, no court shall—

(1) stay or enjoin such action pending appeal; or,

(2) conduct a trial de novo.

(c) Any civil action brought by any person seeking review of final Federal agency action (whether authorized by this Act or any other provision of law) shall be subject to the following provisions if the action for which review is sought is subject to a deadline in a Federal project decision schedule:

(1) Such action may only be brought in any United States court of appeals for the circuit in which the priority energy project is, or is proposed to be, located;

(2) Such action may only be brought within thirty days following the date on which such decision has become final or within a shorter time as may be required by other applicable law;

(3) The court shall assign such action for hearing, and shall complete such hearing, at the earliest possible date;

(4) Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same priority energy project which are brought in such court or in any other court of the United States.

(5) Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(6) Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

(d) The provisions of subsection (c) (1)–(5) shall also apply to any action by the Board pursuant to sections 10, 19, and 20 of this Act.

LIMITATION OF ACTIONS

SEC. 22. Any challenge to any action pursuant to this title, including any challenge to the constitutionality of this title, shall be brought not later than thirty days following the date of the final agency action relating to the action which is being challenged.

TIME BAR; JURISDICTION OF THE COURT OF APPEALS

SEC. 23. Any claim arising out of action pursuant to this title shall be barred unless a complaint is filed prior to the expiration of the time limits prescribed by this title unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

SUPREME COURT REVIEW

SEC. 24. (a) The Supreme Court shall have exclusive jurisdiction to review any judgment or order of the court of appeals pursuant to this title and the petitioner must file a petition for certiorari or a certification as provided in section 1254 of title 28, United States Code, within fifteen days after the decision of the court of appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court of that time, and shall be expedited in every way by such court.

SCOPE OF REVIEW

SEC. 25. Notwithstanding any other provision of law, no action pursuant to this title shall be subject to trial de novo by the reviewing court.

ACTION ON REMAND

SEC. 26. Immediately following any decision remanding to an agency any case or controversy involving an action pursuant to this Act, the Board shall revise the project decision schedule as necessary to expedite any further proceedings required by the decision of the court. Such revisions shall be consistent with section 16 of this Act.

EFFECTIVE DATE

SEC. 27. The provisions of this Act shall become effective thirty days after the date of enactment of this Act, but no application may be submitted for designation of any project as a priority energy project before promulgation of regulations establishing criteria for designation of such projects.

EXPIRATION OF AUTHORITY

SEC. 28. The Board shall cease to exist, and the authority provided to the Board under this Act, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any project decision schedule established under this part for any priority energy project prior to the expiration of such authority, and the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

AUTHORIZATION

SEC. 29. There is authorized to be appropriated to the Board to carry out the provisions of this Act such sums as are necessary for fiscal years 1980, 1981, and 1982.

AMENDMENTS NOS. 489 THROUGH 492

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH submitted four amendments intended to be proposed by him to S. 1308, supra.

DELIVERY OF CHILDREN'S PUBLICATIONS—S. 1110

AMENDMENT NO. 493

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH (for himself, Mr. GOLDWATER, Mr. DURKIN, Mr. PACKWOOD, Mr. BURDICK, and Mr. GRAVEL) submitted an amendment intended to be proposed by them, jointly, to S. 1110, a bill to include home delivery of children's publications in the existing rates for children's publications sent to schools.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I would like to announce that the hearing by the Select Committee on Small Business on oversight of SBA procurement programs scheduled for October 5, 1979, has been canceled.

The committee's hearing on the same subject, scheduled for October 4, 1979, will convene at 9 a.m., instead of the previously announced time of 10 a.m.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on synthetic fuels legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on S. 1460, S. 1462, and S. 1463, merchant marine legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Environment, Soil Conservation and Forestry Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, October 2, 1979, to hold an oversight hearing on the Resources Planning Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the sessions of the Senate on Thursday and Friday, October 4 and 5, 1979, to continue oversight hearings on the Federal Trade Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUTRITION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Nutrition Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, October 2, 1979, to hold a hearing on diet and cancer.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SALT AND ARMS CONTROL—THE BACKFIRE BOMBER VERSUS THE B–52

● Mr. GOLDWATER. Mr. President, Mr. Donald G. Brennan of the Hudson Institute prepared a paper which was given to the Foreign Relations Committee on September 10. This is a paper that should be read by all Members of the Senate with particular attention being paid to his descriptions and comparisons of the Backfire bomber versus the B–52. I submit this paper for the RECORD.

The paper follows:

[Hudson Institute Paper]

SALT AND ARMS CONTROL

(By Donald G. Brennan)

Mr. Chairman, and members of the Committee. I am pleased to be able to testify before you. I should state at the outset that I oppose SALT II, and believe the Senate should not consent to its ratification. Before explaining why, let me tell you something of my background; a biographical sketch is at the end of my statement, but it will be appropriate to mention here some details relating to arms control. I shall then sketch my objections to SALT II, and then take up how the next round of negotiations might better be structured.

My first serious involvement with the subject was in connection with a small summer study in 1958 in Cambridge, Massachusetts, of which I was one of the organizers. I was an organizer and co-director of a much larger summer study on arms control held in 1960, again in Cambridge, and concurrently served as guest editor of a special issue on arms control, published in Fall 1960, of the journal Daedalus of the American Academy of Arts and Sciences. This volume, of which Senator Hubert Humphrey was one of the authors, was later published as a book in the Spring of 1961 under the title "Arms Control, Disarmament, and National Security," and was widely described as the "bible" of arms control. It was endorsed by Senator Fulbright and by President Kennedy, among others. In the early summer of 1961, as a consultant to John McCloy, I helped to draft the statute that created the Arms Control and Disarmament Agency. My first interaction with this Committee came in August 1961, in connection with the hearings on the creation of ACDA, which I supported with a statement submitted for the Record.[1]

I first testified to this Committee in person in August 1963, in support of ratification of the partial nuclear test ban, and have been here on several occasions since, including the ratification hearings for the Geneva Protocol on Chemical Warfare and for SALT I. I supported, and indeed helped to create, mechanisms for serious private Soviet-American discussions of arms control as a supplement to governmental negotiations. I have visited the Soviet Union in this connection on three occasions. With the exceptions of the agreements signed in May 1972 and June 1979 in the SALT, I have supported, in one way or another, every arms-control agreement adopted by our Government since World War II. This history should make it very clear that my opposition to SALT II does not derive from an opposition to arms control in general—indeed, quite the contrary.

I oppose SALT II because it is bad arms control. The traditional major objectives of arms control have long been understood to be to reduce the likelihood of war, and to reduce the scope and violence of war if it occurs. For reasons I shall explain, I judge that SALT II is more likely to increase the chance of war than to reduce it, and it most certainly will do very little to reduce the scope and violence of war if it occurs. It also has other disadvantages, of which I shall mention some. It should therefore be rejected as unsound arms control.

The most basic difficulty is as follows. A highly plausible means by which the United States may become involved in a war is for a prospective opponent to decide that the United States will not react to some move, which the opponent thereupon undertakes, only to discover that the move was beyond the limit of our toleration. The Korean war, for example, clearly resulted from this mechanism. If a Soviet-American war ever arises, it is most likely to involve this means, in which the Soviets underestimate American willingness to respond to some adverse Soviet move. And the Soviet judgment will relate to their beliefs about comparative Soviet and American military strengths, among other factors.

The plausible role of SALT II in such a crisis is that it will contribute to Soviet beliefs both in their military superiority and in our lack of willingness to stand up to them, even at the level of maintaining military forces on a par with theirs. I judge that such a role is more likely than any major constructive results from the Treaty. Of course, such a role would be highly dangerous.

The slide in American military strength since the 1960s (in comparison to that of the Soviets), especially in the strategic nuclear area, has been discussed by many witnesses in the SALT II hearing, and need not be detailed here. (See, for example, Annexes III and IV in the statement of Paul Nitze submitted to this Committee on July 12.) Up to the present, I believe this has chiefly been the result of a SALT-related euphoria since the late 1960s, although the specific terms of SALT I contributed their share. Within the projected lifetime of SALT II, there may well be additional SALT-related euphoria, but there will certainly be contributions from the specific details of SALT II. Let me next discuss some of these; I shall then take up some suggestions for subsequent negotiations.

ASYMMETRIES IN TERMS

A major defect of SALT II resides in the fact that the Soviets are allowed 308 "heavy" ICBMs, while the United States is allowed none, and there is no compensating capability that is symmetrically in our favor. The absolute maximum MIRVed ICBM payload (or "throw weight") that would be allowed the United States under SALT II would result from deploying 820 new "light" ICBMs with 8,000 pounds payload each; the Soviets would be allowed 820 MIRVed ICBMs of which 308 could have 16,000 pounds and the other 512 could have 8,000 pounds. This would give the Soviets roughly 40% more MIRVed ICBM payload than the maximum allowed the United States.

In actuality, it would be virtually impossible for us to deploy that maximum MIRVed ICBM force within the lifetime of SALT II, and the actual Soviet MIRVed ICBM payload by the end of 1985 is likely to exceed ours by a factor of 6 or more,[2] not a "mere" 40%. However, under reasonably plausible circumstances, the 40% figure is illustrative of what might obtain under SALT III, e.g., if the SALT II limits are simply extended, and in any event it is unambiguously the mini-

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Footnotes at end of article.

mum margin of MIRVed ICBM payload superiority guaranteed to the Soviets under SALT II.

This guaranteed margin would be of political significance even if its military significance were doubtful (which it is not, as I shall show below). That the United States should sign a treaty with its principal opponent in which the opponent is allowed, by our agreement, any capability (however trifling) we are denied, while there is no counterbalancing capability allowed to us but denied to them, would widely (and accurately) be read as a political statement of weakness on the part of the United States. This interpretation would be particularly strong, and important, in the Soviet Union; it would be a contributing factor to the risk-of-war mechanism I mentioned above.

Some of the proponents of SALT II have tried to disparage the significance of the "heavy" ICBMs. However, their significance is considerable, even allowing for the 10-warhead-per-missile limit imposed by SALT II. If we consider for comparison a 10-warhead "light" ICBM of 8,000 pounds payload, the warheads on a 10-warhead "heavy" of 16,000 pounds payload might have yields twice those of the "light" missile. For a given accuracy, the higher-yield weapons would be of some significance for attacking "hardened" American targets such as missile silos. However, the larger significance of the larger-yield weapons resides in the additional fallout fatalities they would produce. The extra yield of 308 "heavy" ICBMs (with 10 warheads each), as compared to 308 maximum "light" ICBMs (also with 10 warheads each), would probably be in the neighborhood of 2,000 MT; the maximum plausible difference might be perhaps 2,400 MT, and a difference of less than 1,500 MT would be unlikely. A total of 2,000 MT extra yield used in an attack on the United States would be certain to produce many extra fatalities.

Exactly how many additional Americans would be killed by 2,000 MT additional yield would depend on many factors, including many details of the attack and the extent of civil-defense preparations made before be from a few million to a few tens of millions.[3] Under some (not implausible) conditions, American fallout fatalities could be doubled or even tripled.

Another asymmetry in the terms of SALT II, though of much less importance, is that the Soviets are allowed more ICBMs than are we, specifically 1,398 against our 1,054—344 more. These Soviet ICBMs must, of course, be counted under the overall ceilings, and if they wish to have more bombers or more SLBMs, they must reduce their ICBMs accordingly. However, they are allowed the option of up to 1,398 ICBMs, and we are not. This gives them more flexibility in their strategic posture, e.g., in choosing to have even more ICBM payload if they wish.

These asymmetries seem to me to be clearly against the spirit of the "Jackson Amendment" embodied in P.L. 92-448, which states: "The Congress recognizes the principle of United States-Soviet Union equality reflected in the Anti-Ballistic Missile Treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union: . . .". The Senate, at the time of adopting this in 1972, understood it to mean that the United States should not be limited (by agreement) to levels of strategic forces inferior to those of the Soviet Union in payload; this is manifestly clear from the legislative history of the Jackson Amendment. If, in the face of this language, the Senate now accepts SALT II, then P.L. 92-448 should be picked.

ASSYMMETRY IN COVERAGE

The extra ICBM payload (in the 308 "heavies") and the extra number of ICBMs (344) allowed the Soviets result from explicit provisions of SALT II. A different major difficulty of SALT II resides in the fact that a Soviet weapon system that appears to be of major potential strategic significance, namely the "Backfire" (TU-22M) bomber, is excluded altogether from the SALT II Treaty ceilings, while American bombers that apparently are closely comparable in capabilities—specifically our B-52s—must be counted. As in the case of the "heavy" ICBMs, there is no offsetting capability that we are allowed but the Soviets are not.

Western estimates of Backfire capabilities are imprecise. It is estimated in Jane's that, with a 10-ton bomb, Backfire has a maximum unrefueled combat radius (for a two-way mission) of 3,100 nautical miles (nm).[4] I understand that a somewhat lower estimate of 2,900 nm is widely accepted in the Government for a 10-ton bomb load, which would correspond to 5,400 nm or 10,000 Km one-way range. For a 5-ton bomb load, for comparison with readily available B-52 data, these latter values should increase at least 6 percent, to 3,074 nm radius or 10,600 Km one-way range. (Compare this with the SALT range criterion for ICBMs of 5,500 Km). The corresponding unrefueled combat radius for a B-52D with a 5-ton load bomb is 3,012 nm,[5] less than these widely accepted backfire estimates, still less than the Jane's estimate.

While lower estimates of Backfire capabilities can undoubtedly be found, these comparisons show that it would be impossible to have confidence that Backfire performance is significantly less than the B-52D, of which we have about 80 in current active inventory, all of which must be counted under SALT II ceilings. Of all the B-52s produced, only the G and H models, about ⅓ of the total, have an unrefueled range capability somewhat in excess of the Jane's Backfire estimate. Backfire has a supersonic capability not matched by any of the B-52s.

By the projected expiration date of SALT II, the Soviets could have 30 percent or more of the total strategic payload in Backfire (which is a *very* substantial increment). They have said that they do not intend to use Backfire in a strategic nuclear role against the American homeland, but, as an ACDA statement accurately put it, ". . . there are no assurances that will ensure that Backfires would not be used against the continental United States in time of war."[6] It is as if the United States were to refuse to include all of the Poseidon launchers under the SNDV ceilings because some are assigned to SACEUR for theater targets. Note that the omission of Backfire from the aggregate counts means that the often-repeated assertion of "equal aggregate ceilings" under SALT II is untrue even as concerns simple numbers of strategic delivery vehicles.

EFFECTS ON VULNERABILITIES

The way in which the limits in SALT II are formulated—basically in numbers of delivery vehicles, at least in intention, with some refinements—contributes to the vulnerabilities of our strategic forces. In principle, this is a symmetric effect, but the Soviet forces threaten ours much more than ours do theirs, now and for at least the lifetime of SALT II, so it is not symmetric in practice.

Consider, for example, a proposed American MX deployment of 200 missiles with 10 warheads each, in comparison to a hypothetical deployment—let us call it MY—of the same total number (2,000) of the identical warheads, but on 2,000 individual boosters with one warhead each. The MX deployment would give the Soviets only 200 real targets to "shoot" at, either before launch, during launch, or for a short time after launch, while the MY deployment would give the Soviets 2,000 real targets in each of these phases. The MY deployment would therefore be easier to protect, by any of several means, i.e., it would therefore be more secure, and hence more reliably stable in a crisis, than would be the MX force. The MY force would also allow improved and/or simplified command and control. However, the MY force would be precluded by the terms of SALT II, because it would exceed the total of allowed ICBMs—1,054 for the United States and 1,398 for the Soviet Union. The fact that the proposed SALT II limits are formulated in such a way as to encourage the deployment of a small number of large systems, rather than a large number of small systems, constitutes a major contribution to the future vulnerability of our forces. This need not have been so.

Another problem of SALT II in this connection is that some of the means that might have been used to protect our strategic retaliatory capability, specifically air-to-surface ballistic missiles and mobile ICBMs, are precluded by the SALT II Protocol, which may or may not prove to be only temporary. Finally, one of the potentially best means of protecting our ICBM forces, as many of the proponents of SALT agree, is the use of active defense, specifically ABM, and this means is substantially precluded by the ABM Treaty of SALT II.

LIMITED GAINS

It is conceivable in principle that SALT II might achieve sufficient potential gains to offset its drawbacks. However, I do not believe this would be true in practice.

There are only two unambiguous gains I can see, and these are both modest. One is that ratification of SALT II should result in better information about Soviet forces than we would otherwise be likely to have. Since I do not believe that we shall be significantly restraining our own forces during the lifetime of SALT II on the basis of promised Soviet restraint,[7] this implies that verification problems should not directly be an obstacle to ratification, even though some Treaty prohibitions almost certainly cannot be verified by national technical means, such as production of SS-16 warheads[8] or cruise-missile range limits.

The other unambiguous gain I can see is that we shall probably have slightly more influence over Soviet decisions in non-SALT policy areas if the Treaty is ratified than if it is not. This influence, which would never be large, would be greatest on the eve of, or during, ratification debates; it would likely be near zero at other times. That we could exploit this influence to enforce anything like specific Soviet restraints in non-SALT areas seems to me virtually impossible.

Several other gains have been claimed for SALT II that seem to me to range from negligible at best, through highly contingent in the middle, to wrong at worst.

At the negligible end is the point that the Soviets will be required to destroy some actual weapons. This is true, but the capabilities destroyed will be small in comparison to those added, resulting in substantial net increases in every other important parameter of their ICBM force (warheads, megatons, equivalent MT, counter-military potential, and payload), while reducing the total number of ICBMs by slightly over 200.[9]

The warhead fractionation limits may prove useful if continued well beyond 1985, but are of little significance within the projected lifetime of SALT II. Indeed, it is not expected that the Soviets will even build up to the maximum warhead count allowed them under the Treaty within its lifetime.[10] Whether these limits are significant is therefore contingent on continuing them in effect for at least several additional years, a contingency that is nothing but a hope.

Footnotes at end of article.

This is closely related to the issue of saving costs, a gain promised by many proponents. I have already noted my belief that we shall not be significantly restraining our own forces during the lifetime of SALT II on the basis of promised Soviet restraint, a belief strengthened by the estimate just mentioned that the Soviets will not even build up to the levels allowed them under SALT II. This, however, is to say that there is probably nothing substantial that we shall not be doing because of SALT II that we should be doing without it, i.e., there is probably no significant saving within SALT II itself. Assertions to the contrary would depend on highly convenient estimates. Major savings in the future would be contingent on continuing (or strengthening) the restraints of SALT II, again, nothing but a hope. This subject of costs should be considered in the light of the fact that major increases in American strategic-force expenditures are probably vital in any event.

Somewhat incidentally, it should be noted that anyone who would argue for major cost savings under SALT II would have a correspondingly major burden in verifying the putative Soviet restraint that permitted the savings.

The claimed gain for SALT II that seems to me most mistaken is that it would reduce the likelihood of war. There is very little reason to believe this claim. I believe, as I pointed out near the beginning of this statement, that SALT II is much more likely to increase the likelihood of war. This is related to the most important reason for rejecting SALT II.

RECOMMENDATIONS CONCERNING SALT II

Some of the leading critics of SALT II apparently oppose it primarily because of the relationship of the SALT to American euphoria about strategic forces. This opposition seems to me entirely reasonable. There can be no doubt that three successive Administrations have, in some collective sense, believed that the SALT would enable us to have strategic nuclear security "on the cheap", in the slang phrase, and that this belief has been a major factor in the evolution of our greatly weakened strategic posture. There is therefore something to be said for imposing a major pause on the process of the SALT, not particularly related to the specific terms of SALT II, while—it is hoped—we regain our strategic wits. I was struck by Paul Nitze's quotation (in his July 12 statement) of Lincoln's celebrated phrase that: "First we must disenthrall ourselves, and then we shall save the country."

Yet there is no doubt that it requires a certain degree of optimism—from my perspective—about the American Administration coming to power in January 1981 in order to believe that our strategic posture will be adequately repaired, whatever happens to SALT II in the meanwhile. As a matter of realistic politics, it is not obvious that my optimism should improve substantially as a result of rejection of SALT II. And even my most preferred candidate Administrations would be unlikely to accomplish many strategic repairs before 1986 that would be prohibited by SALT II.

Nevertheless, I believe that the case for rejecting SALT II is something close to overwhelming. The lesser, but nevertheless desirable specific repairs—such as the MY missile force—would be much less likely to be adequately studied, still less developed, under constraints that would prohibit their deployment and which might be continued beyond SALT II.

The major part of the case for rejection resides in the necessity to make it manifest to the Soviets, and to some degree to the rest of the world, that the American body politic will simply not accept further one-sided constraints that allow the Soviets a guaranteed margin of superiority, whatever efforts we may make within the Treaty limits. This Treaty will strengthen Soviet beliefs—already too strong—that they constitute the wave of the future, that they have increasing military preponderance, and that the United States is increasingly unwilling to stand up to them, even at the level of insisting on a mere paper equality of allowed forces. The extent of these effects may be argued, but surely the direction cannot. And the direction is dangerous. It is the route to war.

I believe the best way of minimizing that danger is to reject SALT II outright. In this, I seem to differ with many of my fellow critics. However, if I were asked what modifications in the Treaty would make it minimally acceptable, I should suggest two.

First, the "heavy" ICBMs should be counted as two each. Thus, if the Soviets wish to retain 308 SS–18s, they would count as 616 against their allowance of 820 MIRVed ICBMs (and similarly for other limits and sublimits), so they could then have only 204 "light" MIRVed ICBMs. Under this condition, the Soviets might reasonably be allowed 20 warheads each on the "heavy" missiles, rather than the 10 now allowed.

Second, our B–52s should be omitted from the Treaty (simply by omitting references to the B–52 in paragraph 3 of Article II, and related common understandings). Because of the apparently close similarity of Backfires and B–52s in unrefueled range-payload characteristics, and their comparable numbers, this would be the appropriate counter to the Soviet refusal to include Backfire. The Soviets could then reasonably be relieved of the restrictions (other than on production rate) contained in their unilateral Backfire statement at the Vienna Summit.

If these two changes were made, I should be willing to ignore the matter of the extra Soviet ICBMs, and, with reluctance, could support the ratification of SALT II as so modified. But there is very little chance, in my view, that the Soviets would accept these changes under current circumstances, and, rather than seem to be taking refuge in such devices, I believe the forthright and proper action for the United States is to reject the Treaty outright. I therefore recommend that the Senate withhold its consent to ratification.

FUTURE LIMITATIONS

Mr. Chairman, you asked me to address the subject of arms control and SALT III objectives. It will be clear to you from the foregoing that I hope SALT II will be defeated, and, therefore, I shall not assume that the next negotiations will be preceded by ratification. The second paragraph of your letter of August 10 mentioned specifically the "direction, pace and scope" we should pursue "in future negotiations on strategic armaments", apparently not necessarily assuming the ratification of SALT II, and I shall therefore assume that acceptance of SALT II is not necessarily a prerequisite to these "future negotiations". I shall indicate what I believe is a suitable avenue to pursue in the next negotiations, whether they be called SALT III or SALT II, or whatever, and whether II is ratified or not.

The best approach to such next negotiations is to use a scheme for limiting and reducing strategic nuclear offensive forces that is based on (or closely related to) the payload (or "throw weight") of such forces. Schemes of this general type have been suggested to the Soviets in the past, but, at least in recent official negotiations, the Soviets have rejected such an approach. I believe we should persevere in this approach.

An illustrative comprehensive scheme is shown in Table 1. The basic idea of this is as follows. Nuclear delivery systems of various kinds are grouped in the categories listed in this first column. In each category, the initial Soviet and American capabilities measured in tons of payload (or "throw weight") estimated for 1985 are given.[11] An "Initial Ceiling" for each category is then selected, basically as the larger of the Soviet or American capabilities in each category, in some cases rounded upward to a round number. The symbol that is an upside-down "v" appearing in the initial ceiling for the bottom category means "greater of", so that initial ceiling is the greater of X or Y. These ceilings are then decreased over time, not necessarily at the same rate for each category, and not necessarily by the same factor in each 5-year period. Each force (Soviet and American) must not exceed the ceilings on each category imposed at points 5 years and 10 years after the initial ceilings.

For example, in this illustrative scheme, the ICBM ceiling is cut in half in the first 5-year period, and cut in third in the following 5-year period. The SLBM ceilings are reduced by smaller factors, so that the allowed SLBM forces at the end of 10 years would constitute a larger fraction of the then-allowed total of strategic forces than they did at the beginning.

TABLE 1.—SAMPLE LIMITATION SCHEME FOR STRATEGIC OFFENSIVE FORCES

[Tons of payload]

Category	Initial			Ceiling	
	United States	U.S.S.R.	Ceiling	5-yr	10-yr
ICBM	1,230	5,670	6,000	3,000	1,000
M/IRBM	0	1,000	1,000	500	250
SLBM	1,075	1,195	1,200	800	500
Cruise missiles	300	1,000	1,000	750	500
Heavy bombers	1,660	360	2,000	1,000	500
Medium bombers	1,000	4,000	4,000	2,000	1,000
NucTacAir	X	Y	(XvY)	(XvY)/2	(XvY)/4

Different aggregations within categories would be possible and may well be desirable. For example, it might be desirable to lump together ICBMs and SLBMs in a single category, and allow each side to choose its own "mix" of such missiles, subject to the overall ceiling for this category. It might also be desirable to split up the cruise-missile category into two or more categories, depending on range. It should be noted that there is no need for separate sub-categories of MIRVed and un-MIRVed missiles. Each side should be free to choose the nature and details of its allowed forces within each category; e.g., the 1,000-ton ceiling on ICBM payload at the end of ten years could be deployed as 100 missiles of 10 tons each, or 1,000 missiles of 1 ton each, or 10,000 missiles with 200 pounds each (roughly the maximum number of warheads that could be fitted into 1,000 tons), or some combination of such missiles not exceeding 1,000 tons total payload. Lower ceilings would be desirable if they would be compatible with verification capabilities and with nuclear forces in the possession of other countries.

I have discussed this scheme in terms of payload, because that is conceptually simple and (in some sense) the real parameter of interest, but the scheme might actually be formulated (at least for the missile categories) in terms of the total gross volume of the missiles, which is of course more readily verifiable than payload, but closely related. Different parameters could be used for different categories.

It should be noticed that the scheme includes shorter-range missiles and aircraft. Even systems of still shorter range might be included. I believe this provides a sensible way of including the so-called gray-area system; the quantity of such systems allowed each side in inventory would be limited by this SALT-like scheme, but where they would be deployed (e.g., in Western Europe or in

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Footnotes at end of article.

the United States) would not be a matter for negotiation in this framework.

Any system requiring substantial reductions in nuclear delivery systems will pose correspondingly substantial verification problems, and this scheme is no exception. While the specific verification issues of such a scheme have not been extensively studied, as far as I know, there is no reason to believe that the scheme is worse from this perspective than any other that would provide similar reductions. Particular problems will predictably arise with miniaturized systems, e.g., advanced cruise missiles, and with dual-capable systems, e.g., tactical aircraft. Whether satisfactory solutions to such verification issues can ultimately be found is not clear unless the Soviets collaborate much more in providing verification than now seems likely.

Of course, the Soviets are most unlikely to agree to any scheme of this general form within the near future. In any event, it would impose genuine parity in the allowed ceilings, and I believe the Soviets have little if any foreseeable interest in such a result. They will come to have such an interest, I fear, only when they perceive that the alternative would be worse for them. And this perception will come to them only when they see credible American defense programs that promise to leave them behind.

So, Mr. Chairman, my recommendation for achieving a satisfactory outcome in SALT II or III or whatever, in the form of the scheme above or any other, is to begin a vigorous program to restore our nuclear forces to the relative health they had in the past. The Soviets do not seem to understand any other language.

Thank you, Mr. Chairman. I shall be pleased to reply to questions.

FOOTNOTES

[1] *Disarmament Agency*, Hearings before the Committee on Foreign Relations, U.S. Senate, on S. 2180, August 14, 15, and 16, 1961. (Brennan statement at pp. 328–329.)

[2] See Nitze, July 12 statement, Annex III, chart 19, "1985—U.S./U.S.S.R. ICBMs", or chart 6, "The Balance in Throw-Weight".

[3] Some fallout-fatality curves recently calculated by Earl V. Sager of the System Planning Corporation are useful for such estimates.

[4] Jane's *All the World's Aircraft, 1977/78*, p. 463; ditto, *1978/79*, p. 202.

[5] U.S.A.F. publication *Standard Aircraft Characteristics*

[6] Quoted in *SALT II: An Interim Assessment*, Report of the Panel on the Strategic Arms Limitation Talks and the Comprehensive Test Ban Treaty of the Committee on Armed Services, U.S. House of Representatives, December 23, 1978 (H.A.S.C. No. 95–95), p. 11.

[7] A point that suggests that promised cost savings of SALT II are illusory, if not wholly fictitious, as I shall point out below.

[8] See the Common Understanding to Paragraph 8 of Article IV.

[9] Compare Charts 13 and 19 of Nitze's Annex III.

[10] Nitze, Annex III, Charts 19 and 20. (I omit some obvious interpretive remarks here.)

[11] Initial U.S. and U.S.S.R. payload capabilities for ICBMs, SLBMs, and heavy bombers are taken from the 1985 columns of Chart 6, "The Balance in Throw-Weight", of Annex III of Paul Nitze's statement, converted into tons. (Nitze's estimate for Soviet heavy bombers did not include the Backfire, which I have therefore included under medium bombers.) Other initial estimates in the table should be thought of only as selected to illustrate the scheme; they have no pretense whatever to accuracy.●

MANAGEMENT OF UNITED STATES-MEXICAN-CANADIAN RELATIONS

● Mr. BAUCUS. Mr. President, I submit for printing in the RECORD today a report I received from the GAO on "United States Government Agencies' Relations with Canada and Mexico." I asked for the report to be prepared since one of my concerns is that the U.S. Government is ill equipped to handle the growing and multitudinous problems of our relationships with Canada and Mexico.

The report reinforces my concern. It shows how extensive the relationships are, since at least 68 different agencies of the U.S. Government deal with Canada or Mexico. The number of programs they administer must surely run in the hundreds.

Coordinator for most of these programs and agencies, according to respondents of the GAO questionnaire, is the Department of State, which asserts that Canada is better handled in the European Bureau because Canada shares the same issues which confront other OECD and NATO countries. Yet a review of the GAO report would conclude, in my view, that out of 68 respondents to the GAO questionnaire, hardly a handful must determine their policies toward Canada on the basis of OECD or NATO policies. Indeed, the vast majority of the respondents indicate one thing: our relationship with both countries is largely based on the close interrelationship between our domestic economies. One need only look at the different agencies involved to know that to be a fact: Federal Highway Administration, St. Lawrence Seaway Development Corporation, Department of Energy, Department of Agriculture, Department of Justice, and so on. Bilateral, not multilateral, considerations dominate our relationships whether they are environmental, energy related, fisheries, or trade. From a U.S. perspective, I believe it is far more important that our energy policy toward Canada be carefully coordinated with our energy policy toward Mexico, than with that of the OECD.

In addition, while in one part of the report the bureaucracies are claiming there is little that can be done to improve coordination of policies with regard to our neighbors, appended to the report is the April 26, 1979, Presidential memorandum on the subject of "Coordination of U.S. Policy Towards Mexico." That memorandum indicates that the United States needs to appoint a second ambassador for the specific purpose of improving coordination of policy toward Mexico.

That should indicate that all is not well as far as overall management of our affairs toward at least one of our neighbors is concerned.

Finally, I might state that even if issues were always to be best determined by bilateral mechanisms, rather than trilateral, from a management point of view it would be more appropriate to deal with border states through a special coordinating body. At least, it would give indication that our border states do need special handling if for no other reason than their actions inevitably have substantial effect upon our domestic affairs. These range from the problems of undocumented aliens to TV broadcasting and tax problems.

I urge my colleagues in the Senate to spend a few moments to look over this report and to join me in urging that the U.S. Government should organize better to handle its relations with nations that border ours.

The report follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., September 27, 1979.

Hon. MAX S. BAUCUS,
U.S. Senate.

Subject, United States Government Agencies' Relations With Canada and Mexico. (ID-9-57)

DEAR SENATOR BAUCUS: Your letter of June 18, 1979, requested that we report on how U.S. Government agencies are organized to deal with Canada and Mexico.

We developed a questionnaire in consultation with your staff to solicit information from Federal agencies on the nature and extent of their interests in and cooperation with Canada and Mexico, and the way these interests are coordinated. In early August we sent questionnaires to 71 Federal agencies and offices (see enc. I) that have some contact with either Canada or Mexico. Although we received 68 responses from agencies and offices who deal with either Canada or Mexico, we found that 31 have frequent contact with the Federal Governments of both countries. Therefore, our analyses were based on information furnished by those 31 respondents. In addition to the questionnaire, we made contact with some respondents for clarification or elaboration of information provided.

The nature of the respondents' primary interests in either Canada or Mexico is briefly described in enclosure II. Also, the respondents' research programs are described in enclosure III.

QUESTIONNAIRE RESULTS

Responses to our questionnaire showed that:

The majority of the respondents that reported frequent staff involvement on matters relating to both Canada and Mexico stated that the staff members involved are located in several organizational units.

In most program areas of interests, respondents have similar interests in both countries.

Almost all respondents feel that cooperation received from the Canadian and Mexican Governments is adequate.

Approximately three-fourths of the respondents coordinate their activities with the Department of State while others coordinate their activities primarily with the Departments of Agriculture and Commerce which also maintain staffs in both countries. A few respondents, however, make direct contacts with their foreign counterparts.

Most respondents believe that if an organizational structure change were made in the Department of State to place the management of U.S. relations with Canada and Mexico in a single unit, there would be little, if any, change in their relationships with the two countries.

None of the respondents including the Department of State, advocated structural changes in any U.S. agencies that deal with either Canada or Mexico.

The Office of the Assistant Secretary of Defense, International Security Affairs, Inter-American Region, and Agriculture's Office of International Cooperation and Development felt that closer cooperation could be achieved among the three countries of North America if they established a trilateral mechanism to review and discuss programmatic issues of mutual interest.

State's Bureau of European Affairs includes management of Canadian affairs because Canada, unlike Mexico, is an Atlantic power and shares the same issues which confront other Organization for Economic Cooperation and Development and North Atlantic Treaty Organization members. According to the Bureau, to remove responsibility for administration of Canadian affairs from their office and place management of U.S. relations with Canada and Mexico in a single organizational unit would have a moderately negative effect on management of U.S./Canadian relations.

BILATERAL ORGANIZATIONS

In addition to the relations between U.S. agencies and Canadian and Mexican counterparts in areas falling within their purview, several bilateral organizations have been created to promote closer cooperation between the United States, Canada, and Mexico to prevent disputes regarding international boundaries, to settle questions involving rights, to consider broad plans for defense of the northern half of the Western Hemisphere, to protect common interests of either country, and to make provisions for the adjustment and settlement of any question which may arise. These organizations are listed below.

International Boundary Commission, United States and Canada.

International Joint Commission, United States and Canada.

Permanent Joint Board on Defense, United States and Canada.

International Boundary and Water Commission, United States and Mexico.

Joint Mexican-United States Defense Commission.

SPECIAL BILATERAL MECHANISMS

The United States has occasionally established special bilateral mechanisms with Canada and Mexico to examine problems and propose solutions regarding common policy interests. These mechanisms are basically bureaucratic forums which, in theory, provide a basis for governmental organizational interface on issues and help overcome any bureaucratic and political barriers to cooperation.

CANADA AND MEXICO

The United States has entered into two bilateral arrangements with Canada and two bilateral arrangements with Mexico to deal with overall relations between the countries. In each case they are called the Quadripartite Commission and the Interparlimentary Group. The Quadripartite Commissions are composed of U.S. legislators and U.S. businessmen to meet periodically to discuss bilateral relations with the other country. The Interparliamentary Groups are composed of U.S. legislators who meet yearly to exchange opinions and discuss political, social and economic issues with their counterparts in the other country.

MEXICO

To focus more attention on Mexico's development problems and the need to establish a solid productive relationship, the U.S. Government and the Mexican Government formed the United States-Mexican Consultative Mechanism. This Mechanism consists of nine joint commissions (see encs. IV and V) through which high-level representatives could maintain close, regular contact. These commissions are to address problems in the following areas: border cooperation, trade, finance, tourism, industry and development, migration, energy, law enforcement, and multilateral consultations. In addition, other bilateral commissions and consultative groups exist in the fields of science and technology, cultural cooperation, water, and boundaries, agricultural cooperation, and parks and wildlife under the umbrella of the Consultative Mechanism.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation was established specifically to cooperate with Canada. The Corporation is directed by the Department of Transportation. It coordinates its activities with its Canadian counterpart with respect to overall operations, traffic control, safety, season extension, and related programs designed to fully develop the seaway between Montreal and Lake Erie.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days from the date of issue. At that time, we will send copies to the Secretaries of the executive departments, selected independent agencies and bilateral organizations, and interested Members of Congress.

Sincerely yours,

J. K. FASICK,
Director.

Enclosures-5.

[Enclosure I]

AGENCIES WITH PROGRAMS OR INTERESTS RELATED TO CANADA AND/OR MEXICO

INDEPENDENT AGENCIES

American Battle Monuments Commission.

Civil Aeronautics Board.

Environmental Protection Agency.

Export-Import Bank of the U.S.

Federal Communications Commission.

Federal Maritime Commission.

International Communication Agency.

Inter-American Foundation.

Interstate Commerce Commission.

Overseas Private Investment Corporation.

U.S. Arms Control and Disarmament Agency.

U.S. International Trade Commission.

Office of the Special Representative for Trade Negotiations.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute on Alcohol Abuse and Alcoholism.

National Institute on Drug Abuse.

National Institute of Mental Health.

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service.

Bureau of Mines.

Geological Survey.

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation.

Immigration and Naturalization Service.

Drug Enforcement Administration.

DEPARTMENT OF AGRICULTURE

Foreign Agriculture Service.

Economics, Statistics, and Cooperatives Service.

Federal Grain Inspection Service.

Office of the General Sales Manager.

Soil Conservation Service.

Food Safety and Quality Service.

Forest Service.

Science and Education Administration.

Plant Protection and Quarantine Program.

Veterinary Services.

Federal Crop Inspection Corporation, Office of the Manager.

Office of Governmental and Public Affairs.

Attorney General-Secretariat for Agriculture, Commission of Customs.

Office of International Cooperation and Development.

DEPARTMENT OF ENERGY

Energy Information Administration.

Assistant Secretary for International Affairs.

DEPARTMENT OF LABOR

Bureau of Labor Statistics.

Deputy Under Secretary for International Affairs.

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard.

Federal Aviation Administration.

Federal Highway Administration.

Research and Special Programs Administration.

St. Lawrence Seaway Development Corporation.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms.

U.S. Customs Service.

Bureau of the Mint.

U.S. Secret Service.

Office of Developing Nations Finance.

Internal Revenue Service.

DEPARTMENT OF COMMERCE

Maritime Administration.

National Oceanic and Atmospheric Administration.

U.S. Travel Service.

Economic Development Administration.

Bureau of Export Development.

Bureau of International Economic Policy and Research.

DEPARTMENT OF DEFENSE

Secretary of the Air Force.

Secretary of the Army.

Secretary of the Navy.

Operations Directorate, Defense Security Assistance Agency.

Office of the Assistant Secretary of Defense, International Security Affairs, Inter-American Region.

Office of the Assistant Secretary of Defense, International Security Affairs, European Region.

DEPARTMENT OF STATE

Assistant Secretary for European Affairs.

Assistant Secretary for Inter-American Affairs.

Agency for International Development.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant to the Secretary for International Affairs.

BILATERAL ORGANIZATIONS

International Boundary Commission.

International Boundary and Water Commission.

Joint Mexican-United States Defense Commission.

Permanent Joint Board on Defense—U.S. and Canada.

NOTE.—List of agencies and offices compiled by GAO.

[Enclosure II]

NATURE OF AGENCIES' PROGRAM OR INTERESTS WITH CANADA AND/OR MEXICO—AS REPORTED BY THE AGENCIES

INDEPENDENT AGENCIES

American Battle Monuments Com.

Operates and maintains a closed cemetery at Mexico City. There have been no burials since 1923. (M)

Civil Aeronautics Board

The international aviation policy of Canada, Mexico or any country determines to a large extent whether or not the U.S. can successfully negotiate a liberal pro-competitive aviation bilateral agreement with that country. Although the U.S. has agreements with both countries, it is concerned about their more restrictive aviation policies.

Environmental Protection Agency

Coordinates its activities with the International Joint Commission as they apply to boundary issues and especially environmental issues associated with the Great Lakes. (C)

Coordinates World Health Organizations, Pan-American Health Organization, etc., activities as they apply to water and air quality at the boundary. (M)

Federal Communications Commission

Frequency management. (C) & (M)

International Communication Agency

To explain U.S. foreign and economic policy; to facilitate informational, educational and cultural intercourse; to assess and advise on the impact of American foreign and economic policy decisions in the two countries. (C) & (M)

Inter-American Foundation

To be responsive to the efforts of local, nongovernmental groups in Mexico formed to solve basic social and economic problems. (M)

Interstate Commerce Commission

Concerned with developing compatible policies in regard to motor carrier regulation at the Federal and provincial level. Receives and answers inquiries about the agency's regulatory policies raised by Canadian motor carriers wishing to operate in the U.S. In addition, concerned with rail service matters, such as freight car supply. (C)

Receives occasional inquiries from Mexican motor carriers about the agency's policies. Also, rail service matters are of interest. (M)

Federal Maritime Com.

Harmonizing transportation policies, particularly through movements originating in one country and passing through the other. (C) & (M)

Overseas Private Investment Corp.

Discusses policies and procedures with its Canadian counterpart, the Export Development Corp. at Ottawa. (C)

U.S. International Trade Com.

Primary interest is in policies and activities which affect bilateral trade with Canada and Mexico in products subject to the Commission's investigations and studies. (C) & (M)

U.S. Arms Control and Disarmament Agency

Coordinates with Canadian counterpart the theater nuclear and SALT policies within the NATO alliance structure; consults on entire range of arms control and disarmament negotiations and issues concerning the Committee on Disarmament. (C)

Interested in nuclear technology developments, uranium mining, science and technology, nonproliferation policy, regional influence on nuclear issues, Treaty of Tlatelolco, OPANAL, and alternate energy systems. Also, weapons policy, conventional arms acquisition and restraint in Latin America. (M)

Office of the Special Representative for Trade Negotiations

Trade Policy. (C) & (M)

Export-Import Bank of the U.S.

Level of import demand. (C) & (M)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute on Alcohol Abuse & Alcoholism

Policies and programs relating to alcohol use and alcoholic-related problems, including alcoholism. (C) & (M)

National Institute on Drug Abuse

International cooperation and information exchange in the area of drug abuse. (C) & (M)

National Institute of Mental Health

Mental health delivery system; mental health training programs research policies. (C) & (M)

DEPARTMENT OF THE INTERIOR

U.S. Fish & Wildlife Service

Management, research, and conservation of migratory wildlife. Joint preparation of waterfowl hunting regulations. Mitigation of adverse effects of development on both sides of border for migratory and endangered wildlife. (C) & (M)

Bureau of Mines

Mine and mineral research; production and shipments of minerals and minerals materials; reserves of minerals; planning for priorities, allocations of resources in emergencies and disasters; transportation and trade affecting minerals. (C) & (M)

Geological Survey

Mineral resources, radioactive waste disposal, hydrology, topography, nuclear raw materials, marine geology, and energy. (C) & (M)

DEPARTMENT OF JUSTICE

Drug Enforcement Admin.

Primary interest is the law enforcement activities as they relate to international drug trafficking. (C)

Primary interest is the law enforcement activities and policies to reduce the flow of drugs to the U.S. (M)

Immigration and Naturalization Ser.

The establishment, operation, and maintenance of preclearance locations (airports) within Canada where alien applicants for admission to the U.S. are preclearanced in Canada. Necessary liaison in conjunction with the deportation of aliens to Canada and identification of smuggling activities from Canada to the U.S. (C)

Necessary liaison in conjunction with the return and/or deportation of aliens to Mexico; identification of smuggling activities from Mexico to the U.S.; activities of potential illegal entrants to the U.S.

DEPARTMENT OF AGRICULTURE

Foreign Agriculture Ser.

Interested in policies and activities that pertain to agricultural programs, exports and imports, production, subsidies, tariffs, and nontariff barriers. (C) & (M)

Economic, Statistics, and Cooperatives Ser.

Interested in policy related activities that impact or have potential of impacting on U.S. and world trade. (C) & (M)

Federal Grain Inspec. Ser.

Grain grading, weighing, marketing and utilization. (C) & (M)

Office of the Gen. Sales Mgr.

Competing exporter of wheat and barley. Also grain export policies and activities as they may affect decisions in U.S. export programs. (C)

Buyer of U.S. agricultural commodities. (M)

Soil Conservation Ser.

Soil and water conservation activities in Ontario that effect the Great Lakes for which the U.S. shares a common interest. (C)

International drainages and streams are impacted by land and water utilization in upstream areas. Joint use of Rio Grande and Colorado River waters. (M)

Food Safety and Quality Ser.

Monitoring policies and procedures for importing and exporting meat, poultry, fresh fruits and vegetables, and assuring compliance with U.S. requirements. (C) & (M)

Forest Service

Log and lumber trade, forest protection, environment, recreation and tourism, pulp and paper supplies. (C) & (M)

Science & Education Admin.

Interested in research planning and coordinating research activities. (C)

Has a number of research projects that are cooperative with scientists in Mexico, and cooperates with research aspects of action programs in suppression of screwworms and medflies.

Plant Protection & Quarantine

Concerned with development and implementation of PPQ programs relative to agricultural pests of mutual concern and components appropriate to international plant quarantine. (C)

PPQ functions cooperatively under a Memo of Understanding with shared planning, funding and implementation. Work is carried out against plant pests under authority of the Organic Act of 1944, as amended. (M)

Veterinary Services

Interest lies in animal disease eradication programs conducted in Canada, and activities to prevent introduction of foreign animal diseases. (C)

Cooperative Screwworm Eradication Program is primary interest, however, VS is also concerned with Mexican efforts to eradicate existing animal disease and prevent introduction of foreign animal diseases. (M)

Federal Crop Ins. Corp., Office of the Mgr.

To be advised of the progress of the crop insurance program in the two countries; assist the U.S. with visiting foreign crop insurance officials. (C) & (M)

Office of Governmental & Public Affairs

GPA is the information arm of USDA. International information prepared and distributed by GPA, when the occasion is appropriate, is affected by policies and programs of other governments. (C) & (M)

Attorney General—Secretariat for Agric. Com. of Customs

Pest eradication; animal disease control; agricultural products entering the U.S.; distribution of food commodities in Mexico. (M)

Office of International Cooperation and Development

Agricultural policies with special reference to work with international organizations concerned with this area. (C)

Primary interest is designed to expand interchange of information, develop scientific exchanges and joint research in areas of mutual concern. Also concerned with agricultural policies relating to international organizations. (M)

DEPARTMENT OF ENERGY

Energy Information Admin.

To understand the energy policies and statistics. (C) & (M)

Assistant Secretary for International Affairs

Interested in Canada's energy policies, both domestic and foreign, in regard to natural gas, electricity, nuclear, and coal. (C)

Concerned with the entire range of Mexican energy policies, both domestic and foreign, in regard to coal, oil, gas, nuclear, solar, research, etc. (M)

DEPARTMENT OF TRANSPORTATION

Federal Aviation Admin.

International standardization of aviation operational and technical standards; coordination of airspace management along borders. (C) & (M)

Federal Highway Admin.

Interested in the inspections of foreign motor carriers and operators licensed to operate within the U.S. to assure they meet U.S. safety regulations. (C) & (M)

Research & Spec. Programs Admin.

Cooperation in documentation simplification and electronic interchange of trade and transport data in transborder and international trade. Maintenance of preclearance for U.S. airline service from Canada to U.S. Also, interested in transportation R & D in Canada. (C)

Facilitation of transborder trade and transport. (M)

St. Lawrence Seaway Devel. Corp.

Seaway tolls, from which all revenues of the Seaway Corp. are derived are established through binational negotiations with Canada. Canadian policies on transportation user charges therefore have a direct affect on U.S. revenues. Canadian policy regarding ship safety, environmental matters, pilotage, and internal transportation policies all affect U.S. operations. (C)

DEPARTMENT OF THE TREASURY

Bureau of the Mint

Technical information exchange with Mexican and Royal Canadian Mints is subject of most contacts. (C) & (M)

U.S. Customs Service

U.S. preclearance facilities at Canadian airports; Canadian Customs RCMP laws re: narcotics interdiction international cargo passenger traffic and mutual border concerns, such as law enforcement, terrorism, air land sea carriers. (C)

Exchange of information under terms of U.S. Mexican Customs Federal police laws re: narcotics interdiction, international cargo passenger traffic, air land/sea carriers; alien smuggling problem along border. (M)

Bureau of Alcohol, Tobacco and Firearms

Law enforcement regarding firearms, explosives and alcohol. (C) & (M)

Office of Developing Nations Finance

Macroeconomic policies, balance of payments developments, capital flows, exchange rates, tax issues, trade and investment policies. (M)

U.S. Secret Service

Protective intelligence information, security arrangements for protectee visits, and counterfeiting of U.S. currency. (C) & (M)

DEPARTMENT OF COMMERCE

U.S. Travel Service

Interested in those policies within Canada and Mexico which relate to the U.S. to promote travel among the countries. (C) & (M)

Economic Development Administration

The Administration enters into joint planning and projects for mutual economic development with local communities commercial industrial enterprises and private citizens. Such planning projects are located along the Mexican and Canadian borders. (M)

Bureau of Export Development

Policies which affect trade and investment interests of U.S. business are the Bureau's concern in providing business counseling. (C)

Mexican Government policies which affect trade and investment. Also activities of the private business sector in industrial expansion, purchase of experts and the acquisition of technology. (M)

Bureau of International Economic-Policy and Research

Increase competitiveness of U.S. products and services; improve environment for U.S. sales and investment abroad; safeguard domestic market against unfair trade practices of other nations; maintain U.S. access to necessary commodities in world markets. (C) & (M)

DEPARTMENT OF DEFENSE

Department of the Air Force

Cooperation in defense matters of concern to both the U.S. and Canada, e.g., North American Air Defense, NATO, basing rights, etc. (C)

Defense matters (armaments, modernization of force exchange position, energy, overflight, search and rescue). Arms limitations and nonproliferation of nuclear weapons. (M)

Department of the Army

Interested in the American-British, Canadian-Australian joint military standardization programs; U.S.-Canadian Defense Development Training program; joint military development projects; NATO, PJBD, MCC, CUSRPG. (C)

To improve military-to-military relations. (M)

Dept. of the Navy

Interested in the defense budget; defense improvement programs; contribution and participation in NORAD; contribution to NATO; combined defense of North America. (C)

Interested in the defense budget; defense programs; trends in direction and stability in government, related to the U.S. southern border security. (M)

Operations Directorate, Defense Security Assist. Agency

The agency interests are determined by the Canadian Government policies activities concerning the acquisition by the purchase or production of U.S. defense articles and services. (C)

Office of the Assistant Secretary of Defense, International Security Affairs, Inter-American Region

Arms transfers, military-to-military relationships, general defense matters, energy, and arms limitation initiatives. (M)

Office of the Assistant Secretary of Defense, International Security Affairs, European Region

Primary DOD coordinator and export adviser on Canada in political, military and economic matters. Interests include all issues of national defense, bilateral relations with U.S. and participation in NATO.

DEPARTMENT OF STATE

Assistant Secretary for European Affairs

Bureau of European Affairs (Office of Canadian Affairs) is charged with the formulation and execution of U.S. foreign policy toward Canada, involving a wide range of bilateral and global issues. (C)

Agency for International Development

Coordination of aid policies and programs. (C)

Support of joint biochemical, operations research, and other research conducted by the agency contractors and grantees. (M)

Bureau of Inter-American Affairs

Interested in a broad range of Mexican policies and developments, with special interests in energy (oil and gas), trade, Mexico's economic development, migration, and border relations. (M)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assist. to the Secretary for International Affairs

Interested in Canadian policies and programs in: housing, mortgage assistance, taxes, energy conservation, community revitalization, public housing management and special programs. (C)

Interested in sharing data on urban planning and to encourage Mexican planners to adopt comparable methodologies. (M)

BILATERAL ORGANIZATIONS

International Boundary Com.

To maintain an effective boundary between the U.S. and Canada including the maintenance of a survey system, monument system and a clear vista. (C)

International Boundary and Water Com.

The Mexican Section of the Commission coordinates international water and boundary activities within its territory, requiring the joint action of the U.S. and Mexico through the Commission.

Joint Mexican-U.S. Defense Com.

Mutual defense of the United States and Mexico. (M)

U.S. Permanent Joint Board on Defense

The Board is a consultative group which meets three times a year to consider politico-military issues. (C)

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Exchanges information about labor statistics programs. (C)

Provides training and other technical assistance in labor statistics programs. (M)

NOTE.—(C)—Canada; (M)—Mexico.

[Enclosure III]

AGENCIES WITH RESEARCH PROGRAMS CONCERNING CANADA AND/OR MEXICO—AS REPORTED BY THE AGENCIES

INDEPENDENT AGENCIES

Environmental Protection Agency

Environmental studies such as water quality, industrial pollution, etc. (C)

Joint National Science Foundation efforts over wide range of subjects covering health, air and water quality, and agriculture. (M)

International Communication Agency

Periodic studies of public opinion for the purpose of measuring opinions related to bilateral issues affecting U.S.-Mexican relations. (M)

U.S. Arms Control and Disarmament Agency

None at this time, however, in the past joint nuclear safeguards research has been conducted and may do some again in the future. (C)

U.S. International Trade Com.

Collection of economic data on industries or individual firms where needed in connection with investigations. (C) & (M)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute on Alcohol Abuse & Alcoholism

Collaborative project through the World Health Organization, related to improving response to alcohol problems. (C) & (M)

National Institute on Drug Abuse

Biomedical and pharmacological research. (C)

National Institute of Mental Health

Anthropological and social sciences research. (M)

DEPARTMENT OF THE INTERIOR

U.S. Fish & Wildlife Service

Joint research on endangered species, their habitats, and research on migratory waterfowl populations. (C) & (M)

Bureau of Mines

Some cooperative programs, extensive exchanges of data and research results. (C) & (M)

Geological Survey

Cooperative studies in topography. (C)
Cooperative studies in marine geology. (M)

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Issues reports on commodities, production, trade, agricultural policy, etc. (C) & (M)

Economics, Statistics, and Cooperatives Service

Conducts research on economic issues related to agricultural commodities. (C) & (M)

Soil Conservation Service

Shares research information routinely. (C)

Forest Service

Forest products research. (C)
Reforestation-hydrology research. (M)

Science & Education Admin.

Limited to joint participation in workshops, program reviews, and personnel exchanges. (C)

Biology and ecology of dung beetle; Spittlebug resistance in grasses; winter nursery for cotton breeding; control of Mediterranean fruit flies; control of Alfombrilla; grape diseases. (M)

Veterinary Services

Development of improvements in the joint Screwworm Eradication Program. (C)

Attorney General-Secretariat for Agric. Com of Customs

Pest eradication, animal disease control, and the U.S.-Mexico cooperative program. (M)

Office of International Cooperation and Development

Currently developing joint research programs in new crops, desertification, soil and water conservation, improving productivity of livestock and convention crops. (M)

DEPARTMENT OF TRANSPORTATION

Federal Aviation Admin.

Participates in a program involving use of a uniquely instrumented Canadian helicopter to determine its performance characteristics. (C)

Federal Highway Admin.

Information exchange on highway related to R & D projects. (C)

Research & Special Programs Admin.

Government-industry project on electronic data interchange in transborder trade. (C)

DEPARTMENT OF COMMERCE

U.S. Travel Service

Jointly funded study of the Canadian vacation market, with specific analysis of vacation travel to the U.S. (C)

Consumer survey of the Mexican international travel market. (M)

Bureau of Export Devel.

Conducts market research on approximately 6 industrial product categories believed to have the best prospects for exporting to Mexico. (M)

Bureau of International Economic Policy and Research

Considerable research related to policy issues. (C) & (M)

DEPARTMENT OF DEFENSE

Dept. of the Air Force

Defense related. (C)

Dept. of the Army

Military material projects. (C)

Dept. of the Navy

Primarily restricted to pure research projects with Canadian universities. (C)

Office of the Assistant Secretary of Defense, International Security Affairs, Inter-American Region

Occasional scientific programs, e.g., oceanographic research.

DEPARTMENT OF STATE

Assistant Secretary for European Affairs

Occasional programs approved by Department of State's Office of External Research. (C)

Bureau of Inter-American Affairs

Sponsors a number of studies on Mexican policy. (M).

Agency for International Development

Limited support of joint biochemical, operations research, and other research conducted by AID contractors and grantees. (M)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant to the Secretary for International Affairs

Joint research in housing rehabilitation survey techniques, mobile home standards, mortgage loan process, etc. (C)

Economic input-output study of San Diego and Tijuana. (M)

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Conducts comparative productivity studies on costs and unemployment rates. (C)

BILATERAL ORGANIZATION

International Boundary and Water Commission

Coordinates international water and boundary investigations in Mexico. (M)

NOTE.—(C)—Canada: (M)—Mexico.

Enclosure IV

CONSULTATIVE MECHANISM WORKING GROUPS WITH MEXICO

Trade: Commerce, Treasury, Labor, Agriculture, S.T.R., N.S.C., State.

Energy: Treasury, AID, State, N.S.C., O.S.T.P., Energy, DOD

Migration: HEW, Labor, Justice, AID, Dom. Ad., Select Com., State.

Border: Commerce, Treasury, HEW, ICA, HUD, Dom. Ad., State

Finance Industry Development[*]: Commerce, Treasury, Labor, AID, N.S.C., State, Fed. Res.

Law Enforcement: Treasury, Justice, State.

Political: State.

Tourism: Commerce, Treasury, ICA, Dom. Ad., State.

Inter-Agency Group: Commerce, Treasury, HEW, Labor, ICA, HUD, AID, O.S.T.P., State, Energy.

ABBREVIATIONS

AID—Agency for International Development

Dom. Ad.—Office of the Domestic Adviser.

Fed. Res.—Federal Reserve.

HEW—Dept. of Health, Education, and Welfare

HUD—Dept. of Housing and Urban Development

ICA—International Communication Agency.

N.S.C.—National Security Council.

O.S.T.P.—Office of Science and Technology Policy.

Select. Com.—Select. Com. on Immigration and Refugees.

S.T.R.—Office of the Special Representative for Trade Negotiations.

[Enclosure V]

THE WHITE HOUSE,
Washington, D.C., April 26, 1979.

MEMORANDUM

From: The President.
Subject: Coordination of United States policy toward Mexico.

In view of the increasing domestic and international importance of our relations with Mexico, and of the intensity and complexity of those relations in the years ahead, I have decided to take steps to improve our ability to address effectively all issues which affect U.S. relations with Mexico.

To ensure that all U.S. policies toward Mexico, and all actions directly or indirectly affecting Mexico, promote basic U.S. national interests and are consistent with our overall policy toward Mexico, I ask:

That each of you accord a high priority to any and all matters within your jurisdiction affecting Mexico, consciously giving good relations with Mexico a continuing high priority in your thinking and planning; and

That all proposed actions, which have an effect on Mexico, be carefully coordinated so as to be consistent with overall U.S. policy toward Mexico, and based on the fullest possible prior consultation with the Government of Mexico.

To achieve this fundamental Administration-wide objective of establishing a sound, long-term relationship with Mexico, I hereby direct the following measures:

1. U.S. Coordinator for Mexican Affairs.

I am nominating Robert Krueger as Ambassador-at-Large and United States Coordinator for Mexican Affairs to assist me and the Secretary of State in the development of effective national policies toward Mexico and in the coordination and implementation of such policies. Mr. Krueger will also serve as Chairman of a new Senior Interagency Group on U.S. policy toward Mexico and as U.S. Executive Director for the U.S.-Mexico Consultative Mechanism.

As U.S. Coordinator, he will be responsible for ensuring that U.S. policies toward Mexico, and all other U.S. activities which affect Mexico, are developed and conducted in a coherent, flexible manner and are fully consistent with our overall policy objectives towards Mexico. More specifically, Mr. Krueger will be responsible, to the fullest extent permitted by law, for:

Development and formulation of United States policy toward Mexico;

Review and coordination of any and all U.S. Government programs and activities that affect U.S.-Mexican relations, whether directly or indirectly;

Management of U.S. participation in the working groups established under the U.S.-Mexico Consultative Mechanism, ensuring also that any existing overlapping entities are integrated into the process or altered as may be necessary to avoid duplication;

Advice to myself, the Secretary of State and other Cabinet officers' and Agency Heads and the U.S. Ambassador to Mexico on the effects of contemplated actions by any agency of the Government on our relations with Mexico; and,

Initiation of reports and recommendations for appropriate courses of action, including periodic reports to me on major developments and issues.

The Coordinator will be located in the Department of State. The Director, Office of Mexican Affairs, Department of State, will serve as Deputy Coordinator. The Coordinator's staff may include personnel assigned on non-reimbursable details from other agencies and departments.

2. Senior Interagency Group on U.S. Policy Toward Mexico.

I am establishing a Senior Interagency Group on U.S. Policy toward Mexico to be chaired by the U.S. Coordinator, to assist in the development, review and coordination of U.S. policies toward Mexico and other U.S. activities or policies which might affect U.S.-Mexican relations. Committee members will include representatives from: Agriculture, Commerce, Defense, Energy, Interior, Justice, Labor, State, Treasury, Agency for International Development, Office of the Special Representative for Trade Negotiations, National Security Council, Domestic Policy Staff, Office of Science and Technology Policy and other agencies as necessary. Representation will be at the level of Assistant Secretary or above. I ask that you designate promptly the senior official who will serve as your representative on the Interagency Group and that you take a personal and continuing interest in these matters.

3. Consultation.

The first and most important agreement the President of Mexico and I recently reached was to consult closely in the development and implementation of all policies and activities affecting both countries.

It is my firm intention to meet this commitment. The primary instrument will be the U.S.-Mexico Consultative Mechanism, which President Portillo and I agreed to strengthen. The Secretary of State will continue to chair the Consultative Mechanism for the United States. The new Coordinator will serve as its Executive Director.

To rationalize our work and assure that all issues are addressed in timely fashion, we have agreed with the Government of Mexico to restructure the Consultative Mechanism, based on eight joint working groups, at the sub-Cabinet level, covering: Trade, Tourism, Migration, Border Cooperation, Law Enforcement, Energy, Finance-Industry-Development, and multilateral Consultations. The Mixed Commission on Science and Technology will also function under the Consultative Mechanism. Secretary Vance has been in touch with you directly on plans for organizing and implementing these working groups.

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[*] The Government of Mexico has insisted that this Working Group be divided into two groups; the Finance Working Group and the Industry Working Group with no reference to development. The U.S. participation will remain essentially the same for both groups.

I ask that you provide full cooperation and assistance to Secretary Vance and Mr. Krueger in carrying out their responsibilities. The strengthening of policy coordination, and of U.S. relations with Mexico, is an important domestic as well as foreign policy priority.●

HOUSING ISSUES

● Mr. MATHIAS. Mr. President, not long ago a distinguished group of Republicans, chaired by former HUD Secretary Carla A. Hills, released a thoughtful statement on housing issues.

The statement focuses on what I consider to be a primary housing problem of our time: providing adequate shelter for the poor. It suggests that this be done in ways which would be more cost effective than present approaches and which would provide maximum freedom of choice to the people assisted and maximum flexibility to local governments in approaching their housing problems.

The statement also addresses the need for enhancing home ownership opportunities, primarily for young families, by promoting use of new mortgage instruments and enabling would be first-time buyers to establish tax-exempt individual housing accounts to accumulate the funds necessary for downpayments.

It is perhaps appropriate at this time to remind Senators of the substantial record of accomplishment that marked Carla Hills' 20-month tenure as Secretary of Housing and Urban Development. For example, when she became Secretary in April of 1975, the section 8 program, enacted in 1974, had not yet been implemented. Neither regulations nor the internal handbooks and processing procedures were in place. By the time she left office, more than half a million section 8 units were in the pipeline. Despite charges of paper reservations, according to HUD's own figures, fewer than 10 percent have been terminated.

I applaud HUD's success in moving to production starts under the section 8 program. I applaud its record of getting section 8 units occupied by lower income families. Former Secretary Patricia Harris and others at HUD recently stated that there are now some 700,000 occupied section 8 units, in contrast to less than 100,000 occupied units when this administration took office. That is true. But it is also true that almost half of the new construction starts—46.9 percent, to be exact—and two-thirds of the total number of occupied units have resulted from reservations generated while a Republican administration was in office and Carla Hills was Secretary of HUD.

I ask that the statement on Housing Issues prepared by the Housing Subcommittee of the Advisory Council on Human Concerns of the Republican National Committee be included as part of these remarks and printed in the RECORD. I hope that my colleagues will consider it carefully. I believe it makes a constructive contribution to a needed discussion of how best to provide decent housing for all Americans.

The statement follows:

HOUSING ISSUES

Federal housing policy was born during the Depression of the 1930's, when millions of families lived in slums and millions more were facing the loss of their homes because they could not keep up their mortgage payments. Programs were devised to meet these problems. Public housing sought to improve conditions for the poor by providing federal subsidies to build new apartments. The Federal Housing Administration was created to insure mortgages for home buyers on more generous terms than had previously been available. The purposes of these programs have remained the objectives of housing policy: decent, safe, and sanitary housing for everyone, including the poorest, and increased homeownership opportunities, especially for middle-income families. After World War II, the explicit goal of "a decent home for every American family" was established in the National Housing Act of 1949—meaning a house or apartment that was structually sound and had complete plumbing facilities.

We have come very far toward reaching that goal. Less than 2 percent of our housing now lacks complete plumbing (compared to 34 percent in 1950), and less than 4 percent was structurally deficient in 1970 (the latest data available). And improvement is continuing—each year the Census Bureau reports fewer homes with structural or plumbing defects.

At the same time, homeownership has increased from 55 percent of all households in 1950 to 65 percent in 1976. Moreover, the rate of increase in homeownership in the 1970's has been doubled that during the 1960's. The new homes that are being built are twice the size of the typical postwar new home; indeed, the typical new mobile home today is as large as the new house of 1950.

This impressive record of progress has come about partly as the result of government policy, but primarily because of the strength of the private sector. Real incomes have risen steadily for nearly everyone in our society, including the poor. Rents have risen much less rapidly than prices in general, and homeownership costs only slightly more rapidly. Our housing quality is unmatched in the world.

Nonetheless, problems remain—in many instances, created or exacerbated by government action. Foremost among the difficulties is the virulent inflation which has driven up both house prices and interest rates, making it harder for renters and young families to become homeowners. The cost of constructing and operating new housing for the poor have also increased dramatically in the past decade, so that public housing and similar programs put a greater strain on the federal budget and thus on the taxpayers, and far fewer units are being made available to those in need.

In the last Administration, the Republican Party created programs and initiatives to mitigate these problems and improve housing quality for all Americans. We believe that a sound housing policy can be built on the base of that achievement. The Carter Administration, however, is ignoring the lessons of the past; it has allowed inflation to accelerate and has expanded the most expensive housing programs, rather than the most effective.

BETTER HOUSING FOR THE POOR

While there has been substantial improvement in housing conditions, too many Americans continue to live in substandard housing, and cannot afford adequate homes or apartments. Federal policy must help these Americans. We believe that a meaningful policy to meet their housing needs should be based on the following principles.

1. Maximum freedom of choice for the poor.

For the most of the last four decades, poor people have received housing assistance only if they were willing to live in specific dwellings that were either built or selected by the government. Frequently they had no choice: This apartment, or none. In cities, they have usually been offered high-rise apartments. If a poor family wanted to rent a bungalow, they received no assistance from the government.

In 1974, however, a Republican Administration persuaded Congress to enact a new subsidy system. It offered help to people, not to houses. Poor people have been given the opportunity to live in decent housing of their own choice, without having to spend too much of their income on it. They can choose either houses or apartments, either new or existing housing; if their present home meets the quality standards, but is becoming a financial burden, they can be given help to enable them to stay in it rather than being forced to abandon it. This program has been the fastest growing housing assistance program in our history. Over half a million households are receiving help now, only four years after it was created.

This program could be made to work much better. Restrictions have been placed on the program which unnecessarily limits the freedom of choice of the poor. Restrictions further limit the program to renters; low-income homeowners are excluded, even if their housing is inadequate or represents a severe financial burden.

We believe that these restrictions, and others can be removed, and the opportunities to help persons in need can be widened. Help can be offered to more people, more expeditiously and economically, who will be happier as a result of being able to choose their own homes.

2. Flexibility for local governments.

The diversity of America's cities is reflected in their housing. Some consist largely of apartment buildings in a concentrated area; others contain miles of individual houses; still others have a mixture of both. Some consist primarily of old housing, others of new. Some are growing, and have tight housing markets with low vacancy rates; others are losing population, and have a substantial volume of available existing housing of good quality.

We believe that a sound housing program should reflect this diversity. The federal government cannot design a single type of housing program which will best suit every local situation. Instead, it should allocate subsidy funds to cities, and allow them to decide how best to spend them.

A start has been made in this direction under legislation signed during the Ford Administration. Cities prepare their own Housing Assistance Plans, which reflect their own estimates of the problems and possibilities confronting them. Some, with low vacancy rates, have concluded that they should build new housing for their poor; others have choosen to subsidize low-income families to live in existing decent housing. The allocation of funds under Section 8 is based on these local priorities.

The flexibility available under existing legislation further enables cities to integrate their housing programs with broader community and economic development strategies. The Housing Assistance Plan in particular encourages such coordination, since it invities cities to delineate their housing problems in the context of general community and economic conditions.

We believe that it is possible to build on this program, and provide still more flexibility, through a system of housing block grants, similar to the successful Community Development Block Grant program developed by the last two Republican Administrations. Rather than requesting specific types of housing assistance, as they now do, cities would be provided with an equitable share of the available funds, which they could use for new, rehabilitated, or existing housing as best meets their needs. Such a program would also foster innovative program ideas at the local level, rather than forcing cities to choose among federally designed forms of housing assistance which may be an inefficient or uneffective way to meet their particular needs.

3. Improving the local community environment.

Good housing is not enough for most Americans; they want to live in pleasant neighborhoods, as well. The importance of housing to neighborhood development has been explicitly recognized in federal housing policy for the past 30 years, since the 1949 housing act established the goal of a "suitable living environment" for every American family, in addition to a decent home. Unfortunately, we have done less well in enhancing the liveability of our urban communities, particularly for lower-income families. In the past, too often, governmental programs have torn down housing and uprooted families, destroying the social relationships that create neighborhoods, and have then built new projects which provide housing but not a sense of community. We believe that this inadvertent destruction of neighborhoods should be stopped.

The housing programs and the Community Development Block Grant programs, both commenced during the Ford Administration have been used by cities to strengthen their neighborhoods. Cities are emphasizing the maintenance and preservation of their housing stock, by emphasizing the use of existing housing and they are devoting a substantial and growing fraction of their block grant funds to housing rehabilitation, rather than demolition and new construction as under the predecessor urban renewal program.

Some cities are directing their housing allocation into specific neighborhoods, in combination with their block grant funds, enabling them to develop a concerted attack on the full range of neighborhood problems, without displacing neighborhood residents or destroying the neighborhood. This is a radical departure from the record of past programs.

Cities are also creating local programs on their own initiative. One of the most successful has been the Neighborhood Housing Services program, developed locally in Pittsburgh. This program helps homeowners in lower-income neighborhoods to rehabilitate and upgrade their homes by enlisting the cooperation of the city government, local lending institutions, foundations, and residents. Under President Ford, funds and technical training were provided to neighborhoods within many cities in order to create their own NHS, but the federal government did not attempt to tell local residents or lenders what to do. This program is gradually spreading, with a remarkable record of success to date.

4. Maximum effectiveness of subsidy dollars.

Americans are increasingly concerned about the quality of government programs and the effectiveness with which their tax dollars are spent. Past housing programs have come under fire because they spend a great deal of money on a small number of lucky beneficiaries, while many thousands who are equally deserving receive no help at all. This has been especially the case where new housing construction has been subsidized. New housing is so expensive that relatively few units can be built with the funds that the American people are willing to spend each year—given the other claims on their tax dollars—to help poor people live in better housing. No program yet devised has been able to reduce these costs appreciably—particularly in an inflationary environment.

Far more families can be helped within any given budget if maximum use is made of the existing stock of decent housing that is available in the private rental market. Generally it costs much less to maintain the quality of existing houses and apartments, or to upgrade those that are slightly below acceptable standards, than to build brand-new housing.

5. Individual initiative.

Underlying these principles of housing policy is the fundamental Republican belief that individuals and localities can best make their own decisions; they know better than Washington what will help them and work for them. As administered by Republicans, our housing and community development programs have emphasized that the recipients of housing subsidies should play a significant role in determining the use of these federal funds. Our theory is that localities choose the appropriate combination of new and existing housing for their particular situations, with the aid of their own citizens, who participate in the formation of the Housing Assistance Plans expressing their priorities. Further, individual low-income households themselves have the opportunity to select their own housing within the existing stock.

THE PROGRAM OF THE CARTER ADMINISTRATION

These principles would seem to be unexceptionable, but the Carter Administration has ignored them. It has reduced the role of existing housing, preferring instead to subsidize new construction even though the monthly rentals on these subsidized new apartments for the poor must be half again as high as the rents of unsubsidized new apartments for middle-income families, in order to cover the costs of construction and financing. It has revived the discredited urban renewal program in the guise of its Urban Development Action Grants. It is also reviving and expanding the original public housing program, while at the same time it asks Congress for increased funds to subsidize the maintenance of many of the projects that have already been built, and seeks ways to solve the increasingly serious management problems of public housing. It has reduced the ability of local governments to implement their own housing programs, setting aside substantial amounts of the available subsidy funds for special federally determined priorities that are not responsive to local needs, and creating new categories of programs in response to special interests, overriding the judgments of local elected mayors and other officials who are responsible to all of their citizens.

The costly and restrictive policies of the Carter Administration have caused a steady decline in the number of additional poor people receiving housing assistance each year, while the budget costs of providing the subsidies grow apace:

[Dollars in billions]

Fiscal year	Total units reserved	Total budget authority
1976	517,000	$18.0
1977	388,000	28.0
1978	326,000	29.4
1979	326,000	33.0
1980	[1] 300,000	27.0

[1] Maximum, estimate.

(The 1976 figure includes the transition quarter).

In each of the last two budgetary years of the Republican Administration, more housing was provided for the poor than in any of the first three Carter years, at lower costs. Truly, in housing as in so many other areas, we are paying more, and getting less, from the Carter Administration.

ENHANCED OPPORTUNITIES FOR HOMEOWNERSHIP

The widespread public concern over the cost of home purchase can be effectively addressed through sound economic policy generally and programs to ameliorate the special difficulties that we now confront.

1. Inflation.

The entire economy is of course seriously affected by inflation, but housing is especially hard hit, since both the cost of the house and the interest rate are driven up as the value of our money declines. Inflation should be fought vigorously, with sound monetary and fiscal policies, as described in the Republican policy paper, "A National Effort to Fight Inflation." If inflation is ended, all of our housing problems will be much less serious.

While much public attention has been centered on the rising price of housing, in fact home prices and families' incomes have been growing at about the same rate during the last decade or more. The special problem of housing, however, is that interest rates have also risen as a result of the inflation, compounding the impact of rising home prices. Mortgage interest rates are directly related to inflation. In 1976, as the rate of inflation was 6 percent, and declining, home mortgage rates were around 9 percent. In 1979, as the rate of inflation rises from 7 to 8 percent, the mortgage rate is rising from 10 to 11 percent.

Savers and lenders are rightly seeking protection from the ravages of inflation; they expect that the dollars they receive ten, twenty or thirty years from now will buy less than the dollars they lend now. They are unwilling to lend money at a fixed rate of interest for the twenty-five or thirty years of the typical home mortgage, unless they can reasonably expect a fair rate of return, after allowing for inflation. Home buyers are thus forced to borrow at historically high rates of interest, which reflect both the inflation we are experiencing now and the inflation we expect to suffer in the future.

Inflation must be controlled. Until it is, policies and programs should be devised which minimized its repercussions on the ability of American families to buy homes.

2. New Mortgage Instruments.

The standard mortgage instrument, developed in a time of stable prices, is not well adapted to periods of inflation. Borrowers must pay the same amount each month for many years, even though the dollars in the early months are worth more than the dollars in later years. This creates a stumbling block for the home buyer, who must commit a high proportion of his current income to housing, in the hope that the payments will be less burdensome later.

The federal government, through the insurance system of the Federal Housing Administration, played a major role in developing and promoting the standard mortgage instrument. Under President Ford, FHA resumed its historic role of encouraging mortage market innovation by offering insurance on new forms of mortgages, in order to mitigate the impact of inflation on home buyers.

An experimental program was created in 1974, in which home buyers are allowed to vary their monthly payments over the life of the mortgage, paying less in the early years when dollars are worth more and their incomes are relatively low. FHA insurance is offered for these mortgages. This Graduated Payment Mortgage commenced by the Republicans has become increasingly popular. But this is only one of many possible new forms of mortgages which can help home buyers meet the problems of inflation; others include mortgages with variable interest rates, tied to the rate of inflation; and reverse annuity mortgages, which enable elderly homeowners to live off the equity accumulated in their homes, rather than having to sell it, for example. State-chartered savings refused to permit federally chartered savings banks in the Northeast, have been offering variable rate mortgages, with growing borrower acceptance. But the Carter Administration and the Democratic Congress have refused to permit federally charactered savings institutions to offer them elsewhere, in the misguided belief that they are somehow helping consumers by limiting the freedom of borrowers and lenders to make mutually agreeable contracts, and by making it more difficult for American families to buy houses.

3. Individual housing accounts.

A special problem confronts young families seeking to buy their first home. They must not only pay exorbitant interest rates, but must accumulate the money for a down payment. While many have been able to do so, and have managed to buy homes, others have not. For each year that they have to wait, the amount that they save in later years increases with the price of the house that they want to buy.

In order to mitigate this problem, Senator Brooke has proposed a special savings plan, known as the Individual Housing Account (IHA), similar to the Individual Retirement Account. Savings earmarked for a down payment would be put into a special account, on which the interest would be tax-exempt. The amount saved could also be excluded from taxable income. This would enable many young families to buy homes sooner, and thus to avert higher costs and interest rates in the future. It would also be to reduce the rate of inflation directly by stimulating savings and reducing the strong demand pressure on the economy.

The Democratic Administration's approach to these problems has been to ignore the overriding problem of inflation and to have Washington to try to control many of the costs of housing individually. It has concerned itself with the myriad local land use and zoning regulations; its task force on housing costs recommended that revenue-sharing and block grant funds be withheld from municipalities which failed to meet added federally determined standards in these areas. Their approach would increase the amount and cost of government regulation without increasing the supply or bringing down the cost of housing.

The steady and significant progress that we have made in housing over many years is increasingly threatened by inflation. Inflation should be brought under control, and its harmful effects counteracted for those most seriously damaged by it. In housing, this can be done by cost-effective programs which maximize freedom of choice for the poor who need subsidies in order to afford decent housing, and the middle-income families who face increasing difficulty in buying homes. Such programs will also contribute to strengthening our cities and making them more desirable places to live.

BACKGROUND

Ten Advisory Councils and Committees were formed by the Republican National Committee in 1977 to update and redefine Republican positions and initiatives on national issues and to foster participation in guiding the future course of the Party and Republican candidates.

The five Advisory Councils are Human Concerns, Economic Affairs, General Government, Natural Resources, and National Security and International Affairs. The Advisory Committees cover Campaign Services, Outreach, Communications, Fiscal Affairs, and Legal Affairs. The councils and committees are further divided into 30 subcommittees which deal with specific issues and problems.

Through frequent statements, the Advisory Councils and Committees will communicate positions and initiatives to Republicans, elected officials and the American public.●

NEW NATIONAL COMMANDER OF THE DAV

● Mr. **SARBANES**. Mr. President, recently the Disabled American Veterans elected as its National Commander a man who has rendered outstanding service to our country in three major wars. He is Paul L. Thompson, a resident of Baltimore, Md. What is particularly unique about his selection is that he is both the first Vietnam veteran and the first black to head one of the "Big Four" veterans' organizations.

Mr. Thompson is a 26-year veteran of the Armed Forces, having enlisted in the U.S. Army in 1939. After serving in the South Pacific during World War II, he enlisted in the U.S. Air Force in 1951. He served in Korea in 1952 and 1953 and in Vietnam in 1965 and 1966. He retired from the service due to disability in 1966 after attaining the rank of master sergeant and earning five Bronze Stars as well as several other military decorations.

Mr. Thompson has long been active in the Disabled American Veterans, and has held increasingly responsible posts in the DAV chapter No. 1 in Baltimore, the Department of Maryland, and the national organization. Among other accomplishments, he was a strong force in the development of the DAV's Vietnam vet outreach program, which marshals community resources to help Vietnam era veterans overcome the delayed anguish and stresses often resulting from combat experiences.

He is heavily involved in church and local civic affairs, including the VFW, American Legion, Elks, Knights of Columbus, St. Vincent de Paul Society, his church's parish council, Sinai Neighborhood Improvement Association, Northern District Police Community Relations Committee, the March of Dimes, and the Boy Scouts of America. Currently, he is serving a second 7-year term on the Maryland Veterans' Commission, to which he was first appointed in 1971. In addition, he has volunteered thousands of hours to helping sick and disabled veterans in VA hospitals.

Mr. President, Paul Thompson's entire life has been devoted to service, for his country and for his fellow veterans and citizens. He is an able and effective advocate for the rights of veterans, and a deeply committed champion of improved benefits and programs for former servicemen and women. I can think of few people who are as well qualified to fill this important position of DAV National Commander, and I congratulate both Mr. Thompson for his dedication and leadership, and the DAV for its selection of this outstanding American as its leader.●

POPE JOHN PAUL II

● Mr. **MATHIAS**. Mr. President, this is a historic moment in our national life. At 3 p.m. today, His Holiness Pope John Paul II will arrive in Boston on his first visit to the United States. I would like to join my colleagues and all Americans in extending him a warm welcome. I am particularly pleased that, en route to Washington, the Pope will arrive at Andrews Air Force Base in Maryland. It is fitting that the Pope set foot on Maryland soil during his visit, for however brief a time.

Not only is there a large Polish-American community in the State, but Maryland also played a central role in the formation of Catholicism in America. Maryland was founded in 1634 through the efforts of George Calvert, Lord Baltimore and his son and heir, Cecil Calvert, both Catholics in England. The new colony became a haven of religious freedom with the passage of the first Acts of Religious Toleration—1639 and 1649—in the New World.

The Carroll family—John, Daniel, and Charles Carroll of Carrollton, the last surviving signer of the Declaration of Independence—which helped create the new republic and its institutions, also made important contributions to Catholicism. In 1806, Bishop John Carroll laid the cornerstone of the first Roman Catholic Cathedral in the United States. At that time, more than half of all Catholics in the United States lived in Maryland. Bishop Carroll also founded Georgetown University, the first Catholic institution of higher education in America.

Mother Elizabeth Seton, the first native-born American to be made a saint founded Catholic education in the United States. She did much of her work in Emmittsburg, Md., and she is buried there.

Marylanders James Cardinal Gibbons in the 19th century and Lawrence Cardinal Shehan, in the 20th century, have raised eloquent voices in the defense of peace, justice and human dignity.

The Polish-American community in Maryland is also looking forward to the Pope's visit with special warmth because Pope John Paul II, of course, is a Pole. Poles first began to settle in Maryland during the Civil War, and today there are approximately half-a-million Polish-Americans living in Maryland. Their thriving culture adds richness and flavor to the diverse character of Maryland life.

On behalf of all the people of Maryland, I welcome Pope John Paul II to our country and wish him a happy and rewarding stay among us.●

THE DOOMSDAY DEBATE—"SHALL WE ATTACK AMERICA?"

● Mr. **CRANSTON**. Mr. President, during the August recess, an important article was published which examined the substance of the so-called "surgical" or first strike doctrine and the vulnerability of our ICBM's. Because of the importance of the article, I included the text in a statement of September 6, 1979, entitled "SALT II Ratification: The Measure of the Senate."

In that statement, Mr. President, I sought to examine the issue of the theoretical vulnerability of our ICBM's and to place that presumed vulnerability in proper perspective. I will not repeat my analysis here, but an important part of my statement was what I thought to be the inclusion of the full text of the article, "The Doomsday Debate—'Shall We Attack America?'" written by Robert G. Kaiser and Walter Pincus in the Washington Post for Sunday, August 12, 1979.

In reviewing the Record, it is apparent that part of the article was inadvertently omitted when the Record was printed.

Because of the current so-called Cuban crisis and the still pending debate on the ratification of the SALT II treaty, I think it is important that the full and complete text be printed in the Record. Accordingly, I ask that my statement of September 6, 1979, be supplemented and the entire text of the article be printed in the Record.

The article follows:

"The Doomsday Debate—'Shall We Attack America?'"

(By Robert G. Kaiser and Walter Pincus)

Will the United States soon be vulnerable to a sudden thermonuclear attack by the Soviet Union that could wipe out America's land-based missile force in a single blow? Yes, reply most of the experts—even the president of the United States. The 1980s will be perilous for America because of this "vulnerability," according to Henry A. Kissinger and many others.

A seemingly simple mathematical fact leads to this gloomy forecast. By the early 1980s the Soviets will have enough accurate warheads on their land-based rockets to target two bombs on every American missile silo while still holding in reserve most of their offensive forces. Theoretically, this would give the Soviets high confidence of "killing" 90 percent of the American silos.

In the past, America has relied on its "triad" of strategic forces—the combination of land-based missiles, submarine-based missiles and bombers—to insure survival of an adequate strategic force. If two or even one of those systems survived, that would be adequate to destroy the Soviet Union, according to the theory.

In a time of steadily increasing Soviet forces, however, the original "triad" theory has fallen victim to a new argument. Simply stated, the new theory is that even the appearance of a Soviet strategic advantage over one of the three elements of the "triad" would be dangerous. "Perceptions" about vulnerability are just as important as reality, according to this theory: the Soviets or other nations could misinterpret this perception as a genuine sign of American weakness. That is a theory devised and promoted entirely by Americans.

However, the most important question about vulnerability has not been asked: How would the Russians see it? The Soviet military literature contains no analysis of a possible Soviet first strike against U.N. land missiles. Then how might Soviet military planners exploit "vulnerability" five years from now, when their theoretical advantage would be greatest?

It is Aug. 10, 1984. The new Soviet leadership is finally in place in the Kremlin. The long bickering that followed Leonid Brezhnev's death in his sleep in late 1983 produced a showdown between the so-called *Mir* ("Peace") and *Cll* ("Strength") factions in the Politburo. This longstanding split has never been publicly revealed, but it has been the crucial division in Soviet politics since the early 1970s. Brezhnev led the "Peace" faction, and it has now been beaten. The new general secretary of the Communist Party is Vladimir Ivanov, 63, a resourceful politician who ran the Ukraine for several years. The outside world knows nothing of Ivanov's plans or policies.

In fact they are ominous. His secret platform in the just-completed leadership struggle was simple: The time has come for the ultimate showdown with the imperialists. The Soviet economy is slipping badly, Ivanov argued; oil is running out; the people are restless and hungry for consumer goods; the non-Russian nationalities are threatening rebellion. Most serious, the comrades who run the Red Army are upset by the latest developments in the imperialist camp—the new American MX missile, the stationing in Europe of new ballistic and cruise missiles aimed at the Motherland of socialism, and much more. This may be the last chance to win the ultimate showdown, so we must move now. That is what Ivanov and his colleagues argued, and they won.

Soon after taking power Ivanov had called together the seven-man team under Col. Lev Perlshtein that had long been responsible for the Soviet Union's most sophisticated strategic thinking. Ivanov asked Perlshtein and his group to produce crash study on how the Soviet Union could initiate and win a nuclear showdown with the capitalist camp. Ivanov told Perlshtein he was especially interested in the concept of the "window of vulnerability" that he had read about in the Politburo's private translations of American publications.

On this sticky August afternoon Perlshtein assembled his group in the Kremlin's wood-paneled situation room, four stories below the ground. He brought with him all six of his team, including Vladimir Kuznetsov an *apparatchik* who had worked for almost two decades on strategic issues on the secretariat, of the Central Committee. Perlshtein was particularly proud of Kuznetsov, who was his own devil's advocate, a man steeped in strategic lore whose job it was to argue against whatever course of action the colonel himself chose to argue.

Ivanov was both excited and a little nervous about this encounter. Excited because he really did hope Perlshtein could produce a workable plan. Nervous because although he had won the power struggle, the "Peace" faction was still well represented in the Politburo, and he wasn't sure he could command a majority for an aggressive policy. On this day he had invited only four colleagues to the situation room—four men who were utterly loyal to him, though only one, Marshal Nikolai Antonov, his new minister of defense, had expert knowledge of strategic matters.

The other three were former regional party secretaries like Ivanov, all of whom he had brought to Moscow in the last few months: Fyodr Trepotkin from Leningrad, Alexei Stepanov from Minsk, Archil Shevshadze from Tbilisi. All were smart; all were tough; all had helped Ivanov to power.

The room was cool, unlike Red Square that sunny afternoon. Perlshtein and his group sat on one side of the long meeting table covered with green felt and dotted with bottles of Narzan mineral water. Ivanov and his four colleagues sat across from the experts. Ivanov nodded to Perlshtein to begin the briefing. This is what he said:

"First, comrades, a warning. You have put before us an unprecedented task. No power has ever used thermonuclear weapons. (I skip over the imperialists' atomic bombing of Japan, with which you are all familiar.) Also, the attack suggested by the general secretary will require launching 350 of our rockets almost simultaneously, an unprecedented feat.

"Nevertheless," Perlshtein went on, "Comrade Ivanov has indicated he hopes to pursue this course. I intend to present our best thinking on how it could be done. We are encouraged by the extensive American literature on this subject, particularly analyses by the most determined imperialist warmongers, who are obviously convinced that we could succeed with a surprise attack.

"Let me add at the outset," Perlshtein said, "that, as usual, Comrade Kuznetsov disagrees with the thrust of my briefing. He will offer his dissent when I have finished.

"Let me outline our analysis of how a surprise attack could be launched against the imperialist camp. First, we must strike without provocation, when the imperialists believe our relations are on a sound, peaceful footing. It might be advisable to pick a moment when the Bolshoi Ballet or the Moscow Circus is touring the United States.

"There can be no hint of what we plan. They are watching us intensely by satellite, and they are listening in on our communications. Need I recall the embarrassing revelations in the imperialist press some years ago of conversations picked up from Comrade Brezhnev's limousine telephone as he drove to his dacha? We must assume capitalist agents are well placed in our country, though we are confident they are not in our strategic rocket forces' chain of command.

"Our first aim must be to prevent America from going on any alert. With no alert we have a good chance of destroying all of their Minuteman and Titan missiles, at least half of their missile-carrying submarines and more than half of their bombers, which we would catch in port or on airfields.

"No matter what we do, you should keep in mind that the Americans' aggressive policies lead them to maintain much larger submarine missile and long-range bomber forces on alert, even in peaceful times, than we do. For example, we believe that more than 100 of their bombers can be put in the air, aimed at our homeland, within 15–30 minutes of an order to do so.

"Even without an order from the president, the notoriously reckless commanders of the U.S. Strategic Air Command can more than double this number by raising the level of alert. And American naval commanders can quickly add to the number of missile-carrying submarines at sea. In peaceful times, we calculate that the Americans usually have 350 submarine missiles at sea, carrying about 3,000 warheads. With an alert these numbers would rise."

At this point Kuznetsov, the devil's advocate, quietly interrupted his boss. "One point of information," he said. "To prevent the Americans from going on alert, we cannot go on alert. We must leave 80 percent or more of our submarines in port where they usually are. We cannot move any bombers, including our Backfires, from their normal bases or otherwise change their behavior. We cannot evaluate any civilians. It may even be impossible for all of our leadership cadre to take advantage of the shelters that have been built for us."

"Quite right," Col. Perlshtein agreed. "But we do retain the element of surprise. To continue: The objective of this attack would be to eliminate the American land-based missiles and all of the missile-carrying submarines and bombers that would remain unalerted at the time of the strike.

"To do this we would propose firing 350 to 400 of our best long-range rockets, 200 RS20s (the one the Americans call the SS18) and 150 to 200 RS18s (the SS19). These would carry 2,450 to 2,800 warheads, each with explosive power of more than 500,000 tons of TNT. This would enable us to aim two warheads from two different rockets at each of America's 1,054 missile silos, and would give us a healthy margin to compensate for possible misfirings and to attack submarine and bomber bases."

Ivanov perked up as Perlshtein completed his description of the attack. "What was that about misfirings?" he asked. His question prompted a remark from Marshal Antonov.

"Comrade Perlshtein," Antonov said, "I think you should describe some of the technical challenges involved here."

"I was just coming to that," Perlshtein replied briskly. "As I said at the outset, we have been asked to describe an attack that no one has ever attempted. By its nature it is not something we can practice. Thus we will face a number of unique "technical challenges," to use Marshal Antonov's expression. Let me outline the principal ones.

"To be successful, this attack must be timed with a precision that neither we nor the Americans have ever attempted. Our warheads must land within seconds of each other—to be precise, within 20 to 40 seconds of each other—on each target, each of which is at least 10,000 kilometers [6,000 miles] from our missile silos. To guarantee the destruction of each silo we attack, we will want to achieve two explosions: one at ground level, one several hundred meters in the air. If the warheads arrive at their target more than about 20 seconds apart, the effects of the explosion of the first will probably disable the second as it arrives.

"To achieve this precision at the targets, each of our rockets will have its own, precise instant of launch. Each rocket will travel a unique flight path, each over a precise and unique distance, as will each of our warheads. As you know, our missiles are based in silos that stretch across about 1,600 kilometers [1,000 miles] across our country. Naturally, our command communications to launch the hundreds of rockets in this maneuver will have to be perfected."

Ivanov perked up again. "What has happened in the past when our people have tried something of this kind?" he asked.

"We have never tried anything of this kind," Perlshtein responded crisply. "But we do have an advantage over the Americans in these matters. We have tested our missiles from operational silos, so we know how they will work in a real attack."

"How many have we tested at one time?" Ivanov asked.

"Usually one at a time," Perlshtein replied. "Never more than 10."

"But what about the misfirings you mentioned?" Ivanov asked.

"That is another matter," Perlshtein said. "We know from experience that some rockets will fail to ignite, fail to stick to their course, or fail to go off on time. For this reason we will fire more rockets than we think we need—a margin of safety, if you will."

"Another point of information," Kuznetsov interjected. "Col. Perlshtein has told you that some rockets—we estimate 10 percent, by the way—will misfire. Unfortunately, we cannot predict which rockets these will be. But all our rockets must be targeted in advance. This means the targets of those rockets that misfire will not be hit, or will be hit with only one warhead. But we will not know which targets these might be, so we will not know where to target the extra missiles we plan to fire to provide the 'margin of safety.' In summary, we have to acknowledge that we will miss some targets."

"Thank you, comrade," Perlshtein remarked. "Let me continue.

"Obviously, our attack must be based on the assumption that our rockets and warheads are now as accurate as even in the Americans best. We believe they are. Also, because our warheads are bigger than the Americans, we can be more confident they will actually destroy the U.S. silos, because they will have such enormous explosive power. As you know, we now believe we can hit any target in America within a margin of error of 300 meters [about 1,000 feet].

"Before Comrade Kuznetsov offers another point of information, let me explain one small problem regarding accuracy. This is a matter that has never been discussed by even the Americans in public, but our intelligence has discovered that the Americans refer to the problem as 'bias.'

"As some of you may know, during our rocket tests we have always had some difficulty hitting the planned target, particularly in early phases of testing. Our mathematicians tell us there are geodetic anomalies that can distort the flight path of a missile or a warhead. That means a flight path over the ocean will not be the same as a flight path over mountain ranges with high iron-ore content, to give an example. Of course you all remember that the earth is not a perfect sphere but a slightly distorted one. This too can influence flight paths.

"We have compensated for this by adjusting our targeting mechanisms. Now, when we fire our rocket systems from west to east, we can hit targets with the anticipated accuracy. Some pessimists among our scientists believe that when we fire missiles over the North Pole at the United States, we will discover that our computations no longer apply, that new factors we have never experienced will distort our flight paths. Obviously we cannot test this hypothesis."

"What do the optimists say?" Ivanov asked.

"They don't think these factors could take us far off target, and that the large explosive power of our warheads should compensate for whatever error occurs," Perlshtein said.

"A point of information," Kuznetsov interjected. "I think the Americans use the word 'bias' precisely because it is an irrational, unpredictable factor. In the end our mathematicians could not explain the constant and consistent error in our targeting systems that our test flights revealed. We have just made an arbitrary compensation in our aiming. We don't know why we always went off target before."

This exchange elicited the first comment from Trepotkin, the former party boss from Leningrad. Had he the gift of candor, Trepotkin would already have admitted that this entire meeting was quite astounding. Instead he asked Perlshtein a question:

"I'm not sure I understand," he said. "Is Comrade Kuznetsov saying that we won't be able to hit the targets?"

"No, no," Perlshtein replied. "Comrade Kuznetsov is saying there is some possibility—some unmeasurable possibility—that we won't hit the target with each warhead."

"We might miss the targets," Kuznetsov said in a low voice. Perlshtein ignored him.

"While we're talking about targets," Marshal Antonov commented, "perhaps you should discuss what the Americans have been doing to protect their missile silos.".

"I was just coming to that," Perlshtein replied. "The Americans have recently completed what they call the 'hardening' of their Minuteman silos. This involves building thick barriers of concrete and steel around each silo. The Americans claim these silos can withstand pressures of 2,000 pounds per square inch. If true, this would mean they have a good protection against anything but an almost perfect direct hit. Unfortunately, the atmospheric test ban treaty prevents us—and the Americans—from knowing exactly how strong these hardened silos might be. We can't test a real silo with a real bomb in normal conditions. It seems possible the silos are only half as strong as we think."

"Or twice as strong," Kuznetsav observed.

"Let me continue," Perlshtein said. "Of course this attack will not occur in a vacuum. We have also studied the political environment. Specifically, we have considered how the American president might react.

"We conclude that American satellites will detect our first barrage of 100 or more rockets as soon as they have taken off. Infrared detectors on satellites that hover in space 25,000 miles above our territory provide that information, and it is impossible for us to eliminate those satellites. That information will go through military channels to the White House, and it is supposed to reach the president almost instantly. But, as Dr. Kissinger and others have noted, it may not be easy to find the president at once.

But we must assume he would get word of the attack within minutes. At first he will probably question the report, since he will see no provocation for an attack. Indeed, for the same reason the American military might withhold the information for further checking before passing it to the president. But this initial confusion could not last more than five minutes or so, because the Americans will soon detect our second and third barrages, and their radar will begin confirming what their satellites have told them already.

"As you know, the American system is poorly designed. The President alone can order a nuclear attack. But we assume he would inevitably consult with his ministers and perhaps some members of Congress. He would also have to flee at once to the airplane set aside for his use as a command post during an attack. We assume the president would also try at once to contact you, Comrade Ivanov, on the hot line. All these things take time. We have high confidence that the southernmost missile silos would be destroyed by the time the president could satisfy himself that he knew what was going on. I am talking of a period about 30 minutes after the initial launches.

"This is the crucial moment. By our calculation it will take another 30 minutes to complete our attack. The president will realize what we are doing. He will also realize that we have avoided attacking any major city, even Washington. The Americans have done studies on this kind of attack and they know that it will cause minor losses—perhaps 10 million people, perhaps 20 million."

Ivanov started at this last observation. He recalled the Great Patriotic War [World War II], when the Soviet Union was largely laid waste and 20 million people were killed. "Are you saying that 20 million dead is a minor loss?" he asked.

"Only by standards of nuclear war," Perlshtein replied."We calculate that by targeting the American population, we could easily kill 150 million. The president knows this too. He will see it is a minor attack.

"To continue. The president will have to realize that if he retaliates with his remaining forces—the bombers that have escaped our attack and the missiles on submarines—he will used up most of his remaining weapons and can only strike at our cities and industry. Without land-based rockets, he won't have weapons of sufficient accuracy to fire at our remaining land-based force.

"But this is a horrible option for the president. If he exercises it, he knows that we will retaliate, and both our countries will be destroyed. But if he holds back and tries to negotiate, he can save his country—maybe even save the world. American presidents are romantics. We assume he will opt for negotiation, which of course will amount to surrender. And I might add, this is just what many American experts have predicted.

"We assume he will opt for negotiations," Kuznetsov interjected, "because we have to assume so. Otherwise our attack will fail. We would lose our country if the president decided to retaliate instead."

"Yes, yes," Perlshtein replied. "That is a hypothetical possibility."

Perlshtein put down his notebook and opened a bottle of Narzan. The bubbly water spilled into his tumbler. While he took a drink Marshal Antonov scribbled a note and passed it to Ivanov. The general secretary read it and turned to Perlshtein.

"I would like Marshal Antonov to ask a few questions, Marshal?"

"First let me say that Col. Perlshtein has done his usual fine job. Then let me ask some questions. First, colonel, as you know, if we saw an American attack coming at our missile silos, we would immediately launch our rockets, so they would not be in their holes when the American warheads arrived. Why wouldn't the Americans do the same thing? I know they have written about this idea as something called 'Launch Under Attack.' I remember my friend Harold Brown threatening to do just that."

"I am grateful you raised that point," Perlshtein replied. "Our people are dubious that the Americans are well-enough organized to launch under attack. Remember, they will be caught completely by surprise. And although I grant they have written and talked about this possibility, we have seen no sign that they have adopted it as a strategy."

"But what if they only began to launch their missiles after the first of ours had landed?" Antonov asked. "Couldn't they still fire off more than half of their land-based rockets before we could destroy them?"

"That is a hypothetical possibility," Perlshtein replied.

"On another matter," Antonov said, "during this attack, what happens to America's bombers in Europe and on their aircraft carriers—what we call the forward-based systems in SALT talks? Don't we know that at least 200 of them are on 15-minute alert, and can carry their nuclear weapons to our homeland in less than an hour?"

"We have two options," Perlshtein replied. "We would target those bombers with our medium-range missiles, wiping them out simultaneously with our attack on the American missiles. But this would mean destroying much of Western Europe, so we rejected that idea. No, we must assume that the president would be as reluctant to use these weapons as any of his others."

"Let me ask about the number of American missiles that might survive our attack," Antonov went on. "I gathered earlier that we assume that even if our attack goes very well indeed, we would miss 10 percent—about 100 missiles. Is that right?"

"Right," Perlshtein replied.

"And how did we arrive at that figure?"

"It's a mathematical probability, marshal. Our people say it is the sort of failure rate we could expect."

"Could it be 20 percent, or 30?"

"I don't know how to answer that, marshal. Ten percent is a hunch. Twenty percent could be another hunch."

"You mentioned that some American bombers would take off before we could destroy them on the ground. Wouldn't some of these bombers be the newly fitted type that can carry 20 of the most accurate cruise missiles? Wouldn't all of them at least carry potent bombs? What would happen to them?"

"Again, marshal, we have to assume those weapons," Perlshtein replied.

"You'd also have to assume that there are no Dr. Strangeloves—wasn't that the name?" Kuznetsov interjected. "I mean, you have to assume that none of those American pilots would take it upon themselves to retaliate against the Soviet Union."

"Americans usually obey orders," Perlshtein replied.

"I should ask the same question about the Americans' submarines. You said, I believe, that there would be more than 20 of them hidden at sea during and after our attack, with more than 3,000 warheads?"

"Again," Perlshtein said, "we have to assume the president won't try to use them."

Perlshtein sat down and opened another bottle of Narzan, nodding toward Kuznetsov as he did so. The man from the Central Committee took the cue. He shuffled his notes and began to speak.

"My assignment, comrades, is to argue the weaknesses in the briefing you have just heard. Speaking frankly, I'm not certain that you need to hear any more arguments against this idea, but please permit me to add one or two new points, and then to summarize what Marshal Antonov has referred to as the technical challenges.

"All of us are familiar with the consequences of conventional warfare on a nation. The general secretary has already recalled the sufferings of our Motherland 40 years ago, from which we are still recovering. I would remind the group that we are talking about something quite different. Perhaps this is something I am especially well placed to discuss. On Comrade Khrushchev's instructions, I was present in July 1962 when we detonated the largest hydrogen bomb ever exploded—about 50 megatons, you will recall. Let me assure you that all of what the Nazis did to our Motherland did not compare with this one explosion. And the 'minor attack' Comrade Perlshtein has outlined involves the explosion of about 1,350 megatons in the center of the United States.

"I have inquired at the Academy of Sciences: Do we know what the effects of such a powerful attack would be? (Here I have in mind not the military consenquences, but the impact on the last, the air, the atmosphere and, of course, the population.) The answer is, we have theories but no real idea. We have no idea whether we might crack the earth's surface, or permanently damage the ionosphere, or poison the air over the entire world. I am referring here to consequences that could affect us at home—I happily set aside consequences for the United States. I am referring also to politial consequences. Comrade Perlshtein implies that the American president would react to damage on this scale by doing nothing. That is not the way we reacted to Nazi devastation of our country. I do not think we can conclude that only Russians would react as we did to such devastation of the Motherland.

"In passing let me note another point. Comrade Perlshtein has described an attack on the heartland of America. That, as you know, is the area that produces America's great grain harvests. For years even we have depended on those harvests. I did learn at the Academy of Sciences about the Americans' findings in the South Pacific, where they once tested thermonuclear weapons. Thirty years after the fact, on the site of much less devastating explosions than Comrade Perlshtein has proposed, the earth remains so poisoned with radioactiivty that the food it produces contains unacceptable levels of radiation.

"But these are hypothetical matters, about which the best scientists can disagree. For myself, I am more concerned about those 'technical challenges.' Frankly speaking, I do not see how we can surmount them. Let me add that I do not believe the Americans could surmount them either.

"Let me review them briefly. Comrade Perlshtein asks us to consider an attack that would require perfect timing of a command system that has never been tested; that would assume a level of reliability of our rockets that is extraordinarily high, especially when we consider that most of our rockets have been sitting for years—by necessity untested—in silos; that would require salvos of hundreds of rockets when we have never experimented with such salvos; that would require accuracy that depends on untested mathematical formulas, and when we know for certain that the earth's magnetism and atmosphere have unforeseen effects on rocket trajectories, that assumes we know how well America has protected its silos, when in fact we cannot know, that assumes we understand the effect of one thermonuclear explosion on a second, incoming weapon, when we don't really know those effects, and, most crucial—and, in my view, most debatable—that assumes that having suffered this attack, the American president will react by doing nothing with the enormous arsenal he would retain even after the attack. Moreover, we must assume that even if the American president did do nothing, the notoriously reckless American military would obey his orders.

"Of course I may be wrong. It remains possible that the American president will do nothing. But as Lenin's heirs and leaders of the Motherland, we must think of the problem from the opposite point of view. What if we guess wrong? What would the consequences be if instead of doing nothing, the president opts for an all-out response?

"We know the answer. The Americans could launch many land-based missiles during our initial attack, and these alone could destroy our industrial civilization or many of our own rockets. Their submarine missiles and bombers could continue to strike at us for hours or even days, eliminating most of our population. Yes, we might take some satisfaction from the fact that we retained powerful rockets of our own, but what will we have won? What is the gain? Both of our countries could be destroyed."

It was Kuznetsov's turn to open a bottle of Narzan. Perlshtein took advantage of the pause to speak up again:

"Comrades, please keep in mind, the proposals Comrade Kuznetsov attributes to me were not my idea. I came here today to fulfill an instruction, to present a hypothetical plan. This whole idea grew out of articles the general secretary read in the American press. It is the Americans who have always trumpeted this proposal—American generals, American cold warriors. As Marshal Antonov will confirm, our military people have never put great stock in these ideas. Frankly speaking, I am not prepared to give answers to all of Kuznetsov's points. I have searched for similar arguments in the American literature on these subjects, but to no avail. The Americans have not questioned the idea of their own vulnerability as forcefully as Comrade Kuznetsov has questioned it."

General Secretary Ivanov did not reveal his personal disappointment with the course this briefing had taken. Instead he asked Perlshtein a question.

"Let us assume you are right, that we really could not afford the risks inherent in this advénture. Still, could we exploit the Americans' belief in this theory to our advantage? Could we somehow threaten this attack to win other important objectives?"

Col. Perlshtein volunteered a reply, "Yes, Comrade Ivanov, we can use the threat, but I think we must be honest with ourselves about the fact that we can never fulfill the threat. That means we cannot invoke it to try to defend our own central interests. We might invoke it—even without saying anything—in areas like Angola and Ethiopia."

Kuznetsov intervened: "I might recall that we achieved our objectives in Angola and Ethiopia at a time when we did not enjoy this theoretical 'advantage.' We achieved our objectives in Berlin in 1961 when it was the Americans who had this kind of 'superiority.' "

"Well," said Ivanov finally, "at least we know we have this card to play in a crisis—if we find ourselves caught with the Americans in an escalating confrontation in the Middle East, for example."

"I think not," Kuznetsov replied. "In a real crisis the Americans would be on a high alert. We would lose the element of surprise. Our attack could not be even as effective as the one outlined by Col. Perlshtein."

With that the room fell silent. Ivanov gave no hint of embarrassment as he crisply thanked the briefers for their presentation. As the meeting broke up, Ivanov turned to Marshal Antonov. "I hope you will be ready next week with the briefing on lasers and particle beam weapons," he said.●

REPORT CARD FOR THE FEDERAL AGENCIES

● Mr. MATHIAS. Mr. President, one of the most important documents to surface in recent years was published last week by the Carter administration. It is a full-scale report by the Office of Management and Budget under Executive Order 12044 on the performance of the Federal agencies. Entitled "Improving Government Regulation. A Progress Report," it draws open the curtains that usually shroud Government agencies, and reveals their organization, work-product, and effectiveness, warts and all.

The report is especially significant in the context of our continuing debate on regulatory reform in both the Judiciary and Governmental Affairs Committees. In fact, I think that we should study it carefully before we proceed further on the markup of the various proposals now before us. I understand that Senator LEVIN has scheduled hearings on the report for October 10, 1979, and I look forward to hearing the various agencies address the issues raised in this valuable report.

My only regret is that the report will not be widely circulated. For those interested in reading the report in full, I urge them to write Stanley E. Morris, Deputy Associate Director, Regulatory Policy and Report Management Division, room 10202, New Executive Office Building, Washington, D.C. 20503.

I submit for the RECORD the following summary of the report from the Washington Star:

CARTER'S REGULATORY REPORT CARD

This is the Carter Administration's first attempt to rate the performance of some 40 Government agencies.

Agencies were graded on five major functions including: effective policy oversight; meaningful public participation; thorough consideration of regulatory alternatives; reviews of existing regulations with the aim of discarding outdated ones; and ability to write regulations in plain English.

Agency	Grade	Comment
At the top:		
Department of Transportation.	A	—"a leader in carrying out the President's order. Policy oversight is strong."
Department of Agriculture.	A	—"One of the few agencies to require analysis on all rules."
Environmental Protection Agency.	A	—"A solid and growing commitment to implement the President's goals."
Department of Labor	A	—"Made good progress toward improving its regulations."
In the middle:		
Department of Health, Education, and Welfare.	C	—"excels in some areas and is working to correct deficiencies, such as weak analysis."
Treasury Department..	C	—"some progress but it is too soon to make final judgments."
Office of Management and Budget.	C	—"we're just average."
Veteran's Administration.	C	—"still potential for improvement."
At the bottom:		
Department of Energy.	D	—"weak in the quality of its regulatory analysis."
Interior Department..	D	—"identifying and encouraging successful regulatory practices gets low priority."
Housing and Urban Development.	D	—"slow in getting started."
Justice Department....	D	—"doesn't perceive regulation as a major justice function."
Failure: Federal Energy Regulatory Commission.	F	—"the only independent agency which failed to respond."

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ALCOHOL ABUSE

● Mr. HUMPHREY. Mr. President, alcoholism in this country is a serious problem. Estimates of the dollar cost of $43 billion show the great damage caused by problem drinking to our national economy. But the human loss, from the physically injurious aspects of abuse to the breakup of the family, is the most serious and devastating loss. Yes, alcohol is a serious national problem.

The recent proposal to affix a warning label to bottles containing alcoholic beverages is not, however, a serious approach to the problem.

Americans today are besieged by a barrage of Government warnings to do this, not to do that, and so on. The Federal Government, always with good intentions, manages to delve into every aspect of Americans' lives. The result? Suspicion and distrust. The health warning label is just another example of misguided mischief in a long line of good intentions gone astray.

The Reverend David A. Works has addressed this problem in a recent issue of Catalyst, a newsletter published by the North Conway Institute, an interfaith association for education on alcohol and other drug problems, located in North Conway, N.H., and Boston, Mass. His insight is most valuable to us as we grapple with the national alcoholism problem. Mr. President, I commend this article to the attention of my colleagues and I ask that it be printed in the RECORD.

The article follows:

EDITORIAL

(By Rev. David A. Works)

What is the No. 1 need in the field of alcoholism? According to the general consensus of knowledgeable leaders, it is a national policy on beverage alcohol.

Although for fifteen years the religious community has spoken with a united voice on alcoholism, drunkenness, drinking, and personal responsible abstinence, no such consensus has come forth from the public sector or many other private groups. Yet we think it is possible for all other concerned sources to reach an agreement.

In 1967 the National Council on Churches convened, over a period of two years, a group of leaders from the Roman Catholic Church and many of the major Protestant denominations, plus representatives of major agencies that included Rutgers Center of Alcohol Studies, The National Council on Alcoholism, Alcohol and Drug Problems Association, Michigan Council on Alcohol Problems, and Alcoholics Anonymous.

These efforts (which, in part, were focused on treatment of alcoholism, public drunkenness, alcohol and driving, alcohol and adolescence, and alcohol and legal controls) were a response to the report of the Cooperative Commission on the Study of Alcoholism and its call for a national policy. The resulting NCC document was entered officially into the records at hearings of the subcommittee headed by Senator Hughes in July of 1969, with the recommendation that this report could be the basis of a national policy as stressed by the Cooperative Commission.

The stand of the Cooperative Commission in 1967 was made in these words:

"The Commission proposes the formulation of a national public policy on alcohol and it believes that such a comprehensive policy can be developed. The Commission recommends that an integrated conceptual approach be substituted for the current patchwork of actions. The extent and character of the proposed changes should not be underestimated. A thorough examination needed of individual and group behavior. It should now be possible for professional workers and the American people generally to look at drinking patterns to examine their strengths and weaknesses, and to move toward modifying types of drinking that are damaging and unacceptable. The Commission believes that there is substantial, if not conclusive, evidence that such modifications will reduce rates of alcoholism and other types of problem drinking."

Why have we failed after ten years of advocacy by a large section of the American public? For one reason, we have been dealing with peripheral issues that may not have a major impact on the problems confronting us. We are dividing people over nonessential measures—and therefore are not reaching the factors that lead to tragic deaths and terrible suffering. As a sample: we are now expending energy and time on the question of placing warning labels on bottles of beverage alcohol. How important, really, are labels in dealing with our problems?

As a recovering alcoholic I can testify that warning labels will probably do nothing of significance to help the sick alcoholic, his suffering family, or the concerned community. How about young people, one of whose frustrations is lack of communication with parents on the right use or non-use of alcohol? It is my opinion that the increase in smoking by our youth is evidence of the ineffectiveness of warning labels in regard to the harmful aspects of tobacco. In the push for minor legislation, constructive measures such as educational programs to help reduce excessive and uncontrolled smoking were overlooked.

Those concerned over alcoholism and alcohol abuse should now proceed with the task of formulating a national policy, with the encouragement given by the Secretary of HEW when he said to the professionals at the National Alcoholism Forum on May 1st: "The government can never be—and should never be—more than a partner, giving help and support to you. But we intend to be a more effective partner."

With cooperation between the private sector, which should play the major role, and government agencies (for example, NIAAA) acting in a minor role, it should not be difficult to re-ignite the enthusiasm that prevailed in 1969. Under the aegis of a recognized body such as Rutgers Center of Alcohol Studies, a national policy could emerge.●

GOVERNMENT REGULATIONS AND PAPERWORK

● Mr. MATHIAS. Mr. President, Federal paperwork is costing us $11.5 billion annually and is contributing to our declining productivity and increasing consumer prices. Congress must focus on the detrimental effects of Federal reporting and recordkeeping requirements. One of my constituents, Mr. Alvin L. Hoffman, president of Construction Inspection, Inc., has written an article, entitled "Government Regulation and Paperwork," that appeared in a recent edition of Construction Economics Newsletter.

Mr. President, I ask that the text of the article be printed in the RECORD.

The article follows:

GOVERNMENT REGULATIONS AND PAPERWORK

Congress and the White House have made some noises about the situation. A Presidential Commission, two years ago, estimated that paperwork generated by the U.S. Government alone, with corollary paper demands by local governments—is costing the U.S. something like $100 billion a year. More, said the Commission, a "vast majority" of the information obtained is "largely useless." Recently the Senate Small Business Committee held oversight hearings on the subject.

Some possible answers are in the making. Senator John G. Tower (R-Tex) has introduced a bill (S. 238) to establish a commission of citizens from outside the government to review federal economic regulatory agencies. The annual progress report of "Operation Unravel," the American Banker Association's (ABA) long term effort to provide a rallying point for bankers and their allies in other businesses, in government, and in Congress, to reduce government paperwork and regulatory complexities will soon be released. The Business Roundtable has embarked in its second major study of "the cost of government regulations." Also, among others, the National Association of Manufacturers (NAM) is working on the problem.

The problem is apparent but may be bigger than all of us. It is going to take all of the industries working together to alleviate the situation. John Pannullo, National Utility Contractor Association's Executive Director says, "The issue is a growing one. It nibbles you to death. It doesn't have the urgency of many major issues affecting our well-being right now. And who is against it? The enemy is invisible!"

One particular effort, by Small Business Administration, with plenty of help from U.S. Chamber, the National Federation of Independent Business and 100 other major organizations, has been underway for the past year.

Through the office of Milton D. Stewart, Chief Counsel for Advocacy, SBA, will, by October, have assembled massive, computerized information on U.S. paperwork demands. SBA hopes to be able to report some progress in January 1980 at the White House Conference on Small Business scheduled in Washington, D.C.

What's being done is simple enough, but it is a vast undertaking. Using standard industrial classification codes, SBA is going into 70 major industries to find out what federal forms the industries are required to fill out, what information is being sought in each form, how long it takes the average businessman to fill out the forms, what it costs him. When you consider that something like 2,000 federal forms alone are involved, you can see this is no simple matter.

SBA is currently feeding into computers the types of questions asked, by agency, the frequency, the number of respondents, man-hours involved and much else. Comparisons will then make it possible to see who's duplicating who, among other things. That will make possible recommendations to the various agencies—many of which don't even know what other agencies are doing in this area—that only one of them ask particular questions, probably eliminate a lot of questions that produce information no longer useful for any purpose; re-design some of the forms to simplify them, make them easier to answer, make their meaning clear.

For businssmen, the assembled data will produce a "catalogue" that anyone can look into, so that he'll know what forms his particular business will have to answer; how to organize his own records to produce the information without undue costs and time-wasting.

A good deal of the possible changes can be effected by agency action, without recourse to any new legislation, executive orders or anything else. Industry groups like the American Bankers Association, the U.S. Chamber, Associated General Contractors and others will be asked to set up advisory groups to work with SBA to evaluate the questions and whether they have any purpose, suggest consolidations or eliminations, re-design of forms, etc.

If a national application of the SBA "Paperwork Sunshine Project" works, the results will produce a bench mark of the current level of the paperwork-reporting burden from which relief will be sought.

SBA's project is being followed with keen interest by, surprisingly, the House Post Office and Civil Service Subcommittee on Investigations, chaired by Rep. James M. Hanley (D-N.Y.), which will schedule hearings later this year. Ms. Judith M. Hoffman, publisher of Construction Economics Newsletter has informed national associations involved in construction that a special report by the publication is being prepared on federal paperwork and hopes to have it completed before the subcommittee holds hearings. Any national association involved in construction wishing to have their statement printed in this report should send such statements to the publication as soon as possible.●

TAXFLATION EQUALS STAGNATION

● Mr. DOLE. Mr. President, it appears that our economy is going nowhere at all, if the latest index of leading economic indicators is taken as our guide to the direction of the economy. On Friday, the Commerce Department announced that the index was flat in August, meaning that neither a continuing downward trend nor a modest rebound could be predicted with any reliability. This news may be a relief to those who fear a serious economic downturn, but it offers no comfort to those of us who are concerned about the long-range direction of the economy. The economic indicators merely confirm our fear that the economy continues to stagnate. We seem unable to sustain economic growth without risking high inflation that undermines the growth that is achieved.

It must be said that the Government sets the pace for the economy. That is part of the problem. Government decisionmaking is all too much a part of the private sector's economic planning, from monetary policy to the size of the national debt, from trade policy to regulation of widget manufacturing. No industry or small business is immune from the never-ending waves of regulatory requirements, all designed with good intentions but adding up to a tremendous drag on the economy and a stimulus to inflation. The growing recognition that regulation often hurts more than it helps is one of the few bright signs in our long-range economic picture.

But even if the free market were unleashed by lifting all governmental constraints, we would still need to contend with fiscal and tax policies that preclude real and stable growth, discourage savings and investment, and penalize the taxpayer for trying to better his lot. It boggles the mind to contemplate the number of ways in which Government provides disincentives for our citizens to become more productive. One of the most glaring examples is the way Government runs inflationary deficits, so that the income gains made by our citizens prove largely illusory. The Government then proceeds to tax the citizen at a higher rate because of those illusory income gains. This phenomenon is taxflation, and it is inexcusable.

Mr. President, why should a man or woman try to become more productive on the job, in expectation of bettering his or her financial position? Not only does the Government undermine the value of each additional dollar earned by its working people, it proceeds to allow the tax rates on those dollars to rise automatically. This situation is tremendously discouraging to the taxpaying citizen, and it is a prime example of the short-sighted Government policies that we must break away from.

How can we remove this disincentive to productivity? By adjusting the income tax brackets to compensate for the effects of inflation. In an ideal world, with stable growth and prices, the progressive income tax system works as designed, graduating tax liabilities according to ability to pay. In a highly inflationary world, the progressive rate brackets exact a penalty for keeping even with inflation because people are pushed into higher brackets. Yet their real income has not grown, and may even have declined. Worst of all, this penalty occurs automatically, without action by Congress or the IRS.

Now action is needed to halt taxflation. The Senator from Kansas was pleased to introduce this year the Tax Equalization Act, S. 12. The Tax Equalization Act requires adjustment of the tax brackets, zero bracket amount, and personal exemption according to the rise in the Consumer Price Index. As a result, automatic tax increases from inflation, a major drag on productivity, would be eliminated.

Mr. President, this is not just a technical adjustment. It is a fundamental and desperately needed change in the tax structure, a major step toward equity for all American taxpayers. If we want to see the index of economic indicators pointing up, without inflation, we must remove the fetters with which Government constrains the private sector. Let us begin with tax equalization, which can have the most immediate and far-reaching results of any measure we might undertake.●

THE RISE OF WORKINGWOMEN

● Mr. MATHIAS. Mr. President, in February I introduced S. 336, a bill to allow married people to file separate tax returns, computing their taxes at the same rate as single people. Today, we have 20 cosponsors, and national attention has been focused on this glaring inequity in the tax code. My bill would end the "marriage penalty" that occurs when two incomes are combined and filed jointly. Congresswoman FENWICK has introduced a similar bill in the House, and she now reports 170 cosponsors.

The Internal Revenue Service has estimated that more than half of all taxpayers are married, and at least half of all these couples are two-earner couples. This means that one-quarter of the taxpayers in the United States are paying a tax on marriage—a levy that can increase their tax bill by as much as 63 percent.

Mr. President, at least 38 million people are currently paying the marriage penalty, and this number will only increase in the future. On September 25, the Washington Post reported that three-quarters of married women with children will be holding jobs in 1990. This figure reflects a changing pattern in our society that should be recognized by our tax laws.

I submit for the RECORD the text of the following article:

TWO-THIRDS OF MOTHERS DUE TO HOLD JOB IN 1990, BOOK SAYS

Two of every three American mothers will be holding a job in 1990 as a huge exodus of women from the home to the workplace continues during the next decade, a group of employment experts predicted yesterday.

The role of full-time housewife and mother is becoming the exception rather than the rule, according to six economists and sociologists who have written a book on working women.

The book "The Subtle Revolution: Women at Work," describes the sharp increase in female employment as a revolution that is affecting "virtually all of our social and economic arrangements."

An estimated 11 million women will be entering the labor market by the end of the next decade, and the majority will be mothers, the authors reported.

As a result, the percentage of mothers who will be in the labor force will grow from the current level of just over half to nearly two-thirds by 1990, according to the book.

An even higher percentage of married women with children will be in the job market in 10 years, the authors reported. By 1990, "the stereotype of a wife as someone who stays home to look after children will fit only about one quarter" of American wives, said Ralph Smith, an economist who edited the book.

Currently, a little less than a third of American wives are full-time homemakers raising children.

The percentage of women who work has been growing steadily since reliable records first were kept in 1890. In that year, only 18 percent of females over the age of 13 and less than 5 percent of married women were in the labor force.

But the most dramatic exodus of women into jobs has occurred since the end of World War II, when the percentage of working women has risen from one-third in 1947 to one-half 30 years later, Smith said at a news conference yesterday.

Women have been streaming into jobs for a combination of economic and social reasons, Smith said. They include a sharply declining birth rate, increased employment opportunities and higher salaries for women, a family's desire to keep up with inflation by having two wage-earners and changing social attitudes about sexual roles.

A principal consequence of the increase in working mothers will be the need for more child-care facilities, the authors noted. ●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER

● Mr. HATFIELD. Mr. President, most of the men who have served as President of the United States are known strictly for actions taken either during their Presidency or during their careers before reaching the White House. Not many have distilled their observations, experiences, and actions into a concise political or social philosophy, and presented that philosophy for all to share. Herbert Hoover is one President who did.

Hoover's attitudes and philosophy were tremendously affected by his rich experience in foreign lands. Of the 38 men who have served as President, none equaled Hoover in the breadth of his personal experiences abroad. His earliest days after graduation from Stanford University were spent in Australia and Asia as a mining engineer. Just after the turn of the century, London became his base of operations for continual travels throughout Asia and Africa. His plans to resettle in the United States were interrupted by World War I, and his acceptance of the position as Director of the Commission for Relief in Belgium; once again, he was based in Europe.

These experiences imbued Hoover with a deep patriotism and appreciation of his native land, and developed in him a sense of deep chasm between the Old World and the New. After revolution had shaken so much of the Old World following World War I, Hoover saw the need to define the essence of the American system, and to compare it with other prevailing philosophies, whose adherents were searching for new converts and new power by every possible means. The result was a small book entitled "American Individualism," written while Hoover was Secretary of Commerce and "Undersecretary of every other department" in the Harding administration. Twelve years later, after Frankin Roosevelt had assumed the White House, Hoover expanded on his thoughts in a biting criticism of the New Deal, entitled the "Challenge to Liberty."

Historian George H. Nash has written an essay discussing Hoover's social philosophy based on these two works, and has submitted it to me for publication in the series commemorating the 50th anniversary of the inauguration of Hoover as our 31st President.

Nash, who is currently preparing an official biograph of Hoover from papers at the Hoover Presidential Library at West Branch, Iowa, and elsewhere, summarizes in his essay the factors in Hoover's early years which impacted strongly on the future President, and sketches his resultant social philosophy. Nash finds equality of opportunity to be the cornerstone of Hoover's philosophy. This stemmed largely from Hoover's reaction to the social stratification which so frustrated his relief efforts in Western Europe. Examples of his views which were designed to guarantee equality of opportunity were the need for a strong and universal educational system, governmental action to curb economic domination by powerful interests, and inheritance taxes which would prevent the children of the successful from assuming their father's power against a new generation rising from the bottom on their own efforts.

Mr. President, I ask that the essay by George Nash entitled "The Social Philosophy of Herbert Hoover," and a brief biography of the author be printed in the RECORD.

The material follows:

BIOGRAPHIC SKETCH OF GEORGE H. NASH

Born: April 1, 1945.

Education and Professional Experience: Graduated Amherst College, Amherst, Massachusetts, 1967, Summa Cum Laude; M.A. Harvard Graduate School 1968; Teaching Fellow in History and in History and Literature, Harvard, three years; Ph.D., Harvard University, 1973; Research Fellow, Charles Warren Center for Studies in American History, Harvard University, 1973–74. Commissioned by the Hoover Presidential Library Association, to prepare a definitive, multivolume, scholarly biography of Herbert Hoover, 1975.

Memberships: Organization of American Historians.

Publications: The Conservative Intellectual Movement in America Since 1945; Editor, Province in Rebellion; Articles in various journals, including Modern Age, National Review, The American Spectator, University Bookman, Labor History, the Journal of Presbyterian History, Annals of the American Antiquarian Society.

THE SOCIAL PHILOSOPHY OF HERBERT HOOVER

Of the several hundred million people who have lived on the North American continent since the days of the Pilgrims, only thirty-eight have become President of the United States. What do we think of when we hear the name of one of these men, Herbert Hoover What images arise? What aspects of his long life spring to our consciousness?

All of us, no doubt, automatically associate him with the Great Depression of the 1930's; it was Hoover's personal misfortune to preside over the nation when the Great Bull Market spluttered and collapsed in October, 1929. Some of us may have recollections of an elderly man addressing Republican national conventions in 1952, 1956, or 1960—sentimental occasions when throngs of men and women cheered a seemingly quaint figure from a seemingly distant past. Some may know that Herbert Hoover was the first President born west of the Mississippi River or that he was the man who appeared in the first public demonstration of television in 1927. Some may be aware of his Quaker upbringing and of his enormous humanitarian relief work in Europe during and after World War I. Four years ago, Aleksandr Solzhenitsyn remarked that the American Relief Administration under Herbert Hoover's direction saved the lives of literally millions of Russians during the great famine of 1921–1923. Indeed, at the height of this massive relief effort—which was but one of many programs of the ARA after the First World War—Hoover's organization fed 15,000,000 Russian men, women, and children a day.

Even this summary does not encompass Hoover's interests and achievements. As a mining engineer and multinational businessman, for example, with gigantic and far-flung enterprises from the late 1890's to World War I, he traveled around the globe five times before 1914—five times, that is, before the advent of the airplane. In all, he spent more than two years of his life on ships at sea. Later, in the 1920's, when he served in the Cabinets of Presidents Harding and Coolidge, it was said that Hoover was Secretary of Commerce and under-secretary of every other Department. After his four years in the White House he lived longer as an ex-President (31½ years) than any other former President in our history. Those of us who have visited Palo Alto, California and West Branch, Iowa can immediately point to two of his most visible benefactions, the Hoover Institution and the Herbert Hoover Presidential Library. When Hoover died in 1964, he had lived ninety extraordinarily productive years, including a full fifty in public service. Few American careers have been as multi-faceted and remarkable as his.

What is significant for us today about the life of this man? If our parents or grandparents were asked this question, they might readily answer by quoting from a poem by Longfellow which school children of yesteryear used to learn:

> Lives of great men all remind us
> We can make our lives sublime,
> And, departing, leave behind us
> Footprints on the sands of time.

Certainly this is one reason why biographies of great men and women remain popular. We like to read about how others have coped with the adventures, challenges, and immutable realities of life.

But in the case of a figure like Herbert Hoover, our concern transcends, I think, the transient particularities of "human interest," fascinating though his life story is. For Hoover did not simply lead a career rich in accomplishment; he reflected on the circumstances which made such a career possible. Unlike most American men of affairs, who have been content to act on the public stage but not to meditate much about it, Hoover did not leave it to his biographers to extract some meaning from the kaleidoscopic events of a busy life. Instead, he developed and in his time came to personify a perception of America, a vision of America, a political and social philosophy which could explain the greatness of the country he loved—and, incidentally, the ground for his own achievements. It is in this vision and this philosophy that we can discover some of the enduring significance of Herbert Hoover.

He was born in 1874 in the little Quaker community of West Branch, Iowa—the son of the village blacksmith. Before he was seven his father had died. His mother, a recorded minister in the Society of Friends, passed away a little over three years later, so that in early 1884, before he was ten, young Herbert, his brother, and his sister were orphans. Hoover's brother Theodore in his autobiography wrote of the desolation that the children of Jesse and Hulda Hoover felt when their mother died: "The lady of the golden sunshine of little brown house had gone away, and there were left only three small children, adrift on the wreck of their little world."[1]

Despite these traumas, Herbert Hoover's later reminiscences of his Iowa childhood were gentle and almost idyllic. In the most famous of these recollections, first delivered in 1927, Hoover began:

"I prefer to think of Iowa as I saw it through the eyes of a ten-year-old boy—and the eyes of all ten-year-old Iowa boys are or should be filled with the wonders of Iowa's streams and woods, of the mystery of growing crops."[2]

Hoover remembered the old swimming hole, the joys of fishing and hunting for game, the delights of his Aunt Millie's cooking, and other features of life in rural Iowa. Of his native state he declared: "The good Lord originally made it the richest stretch of agricultural land that ever blessed any one sovereign government. It was populated by the more adventurous and the more courageous, who fought their way along the ever-extending frontier."[3]

From Iowa in 1885 young Herbert Hoover was sent west to Oregon to live with the family of his uncle, Dr. Henry John Minthorn, the newly appointed superintendent of a Quaker academy (now George Fox College). Newberg, Oregon—said the 1886-1887 Catalogue of Friends' Pacific Academy—"is a temperance town, and has a moral and enterprising class of people. There are no saloons nearer than eight miles."[4] It was in such a sturdy and upright environment that Hoover grew into his teens. From Newberg in the late 1880's he traveled with his relatives to Salem, Oregon, where he became clerk and office boy for his uncle John's Oregon Land Company, an enterprise which sold fertile soil to settlers in the Willamette Valley. One summer Hoover had a different job: weeding onions near Sherwood, Oregon for fifty cents a day plus board.

After nearly six years in Oregon, Hoover traveled down to California in 1891 to become a member of the entering, or Pioneer, class at newly-founded Stanford University. Here he soon became a campus leader, obtaining such positions as manager of the football team, president of the Geology Club, and student Treasurer. After graduating in 1895, Hoover spent some time working in the mines of the Sierra Nevadas until, early in 1896, he obtained a position on the staff of an eminent San Francisco mining engineer, Louis Janin. A little over a year later a London firm cabled Janin asking him to recommend an American engineer for work in its mines in Western Australia. There was one stipulation: the man should be thirty-five. Herbert Hoover was not yet twenty-three. Janin decided to take a chance and recommended Hoover anyway. But he admonished his young assistant that he had better *look* thirty-five before he reached Australia. Hoover took his advice; he grew a beard. When he reached London en route to the land "down under," his British employer marvelled at how Americans were able to preserve their youth.

Hoover's journey to London and then to Australia, via France, Italy, the Suez Canal, and India, must have been an intensely stimulating one to a young man of twenty-two. Years later, reflecting on this voyage, he remarked significantly, "History became a reality and America a contrast."[5] It was Hoover's first exposure to the world outside the United States, and in his responses to it we find one of the principal sources of his later political and social philosophy.

Of all the places on earth where men have dug for gold, Western Australia in 1897 must have been the most desolate and remote. When Hoover disembarked on the coast of Australia that year, he headed inland nearly 400 miles to the mining towns of Coolgardie and Kalgoorlie, deep in the inhospitable "outback." Hoover's descriptions of life in this rugged land were vivid. "It's a country of red dust, black flies, and white heat," he wrote from Kalgoorlie to an Oregon friend, Burt Brown Barker. "I could not portray the misery of any one of them on paper. The country is an endless desert, no water, no nothing but mines. All water must be condensed—costs $63.25 per 1000 gallons. The typhoid is rampant, there being an average of 3 deaths daily in this town (9000 people)."[6]

During the Australian summer, the daytime temperature might be 110° in the shade, 150° in the sun. It was a land to make one think of home. Writing to his cousin in August 1897, Hoover declared: "Am on my way back to Coolgardie. Am glad to get back within the borders of civilization. Coolgardie is three yards inside of it; Perth is about a mile, and of course San Francisco is the center. Anybody who envies me and my salary can just take my next trip with me, and he will then be contented to be a bank clerk at $3 a week for the rest of his life, just to live in the United States. Stanford is the best place in the world."[7]

In other letters home Hoover commented on the customs of the aborigines and the idiosyncrasies of his fellow men in the goldfields. "I have found out many things about Englishmen," he reported to a friend. "They are very particular about such things as dignity of position, social names, etc., etc. They are very distant and friendliness approaching familiarity is greatly abhorred. . . ." He told Barker, "Yankees are not well received. They only have us because they have to. They don't know how to make their mines pay dividends. We do."[8] In view of these sentiments, it is not surprising that Hoover acquired a nickname in West Australia. H. C. were the initials of his first and middle names, H. C. Hoover. His friends said that "H. C." stood for "Hail Columbia."

In late 1898, after a successful stint as a manager of one of the greatest mines in Australian history, Hoover left the land down under for a new and more responsible mining position in China. On the way he stopped in California, married his college sweetheart Lou Henry, and took her with him to a new home in the Orient. Once more Herbert Hoover, not yet twenty-five, found himself living among strangers and encountering a foreign civilization. Once more the process of sifting impressions and comparing the world outside with America proceeded.

At this point we can detect one of the threads of Herbert Hoover's early life. From the cornfields of Iowa to the orchards of Oregon, to the spacious acres of Stanford University, to the rugged Sierra Nevadas, to the dusty goldfields of Australia, even to the coal mines of northern China, we discern a repeated pattern: Herbert Hoover's early days were spent on or near frontiers. It is symbolically appropriate that he was a member of the Pioneer Class at Stanford. His was largely an outdoor life, lived in environments which rewarded initiative, industry, resourcefulness, and merit. Since the day when Hoover's Swiss-German ancestor, Andreas Huber, landed in Philadelphia from the Old World in 1738, the Hoover clan had moved gradually westward, until, with Herbert, the trek circled the globe. Benjamin Franklin is supposed to have said that America is a country where we ask of a man not "Who is he?" but "What can he do?". Hoover's was a society populated substantially by people who held this attitude and who had moved away from a constricted and startified civilization.

In late 1901 Hoover left China for England and a partnership in an eminent firm of mining engineers. Until World War I, London—the mining and financial capital of the world—was his base of operations while he traveled continually, inspecting, financing, and developing mines from Burma to Australia, from South Africa to Siberia. For some Americans with similar careers and lifestyles, the temptation might have been irresistible to become an expatriate. For Herbert Hoover, if anything the opposite was true. Throughout these years abroad, his thoughts turned often toward his native land. His home in London—the Red House—became a Mecca for American mining men, journalists, and Stanford graduates visiting Europe. As early as 1907 Hoover expressed to the President of Stanford University his longings to retire from his profession (he was only thirty-three) and to turn to a life of service in the United States. In 1912 he became a trustee—and an exceedingly active one—of Stanford University. In the summer of 1914 he was negotiating the purchase of the Sacramento Union in California when war interfered. Had it not done so, Hoover might have entered public service as a newspaper proprietor.

And all the while, Hoover was observing, analyzing, and evaluating the social systems of the Old World and the New. Long voyages at sea gave him an opportunity to read about the politics, economies, and culture of countries all over the earth. It was, he later said, "a reeducation of myself" that compensated for the utilitarian emphasis of his formal studies at Stanford.[9] On one of these ocean trips, a British lady asked him what his profession was. An engineer, he said. "Why," she exclaimed, "I thought you were a gentleman!" This anecdote, which Hoover later recounted in his *Memoirs*,[10] epitomized his distaste for the class consciousness and social rigidities of Europe. From all of this he turned. In a revealing letter written to an American friend in 1912, Hoover observed:

> The American is always an alien abroad. He never can assimilate, nor do other peoples ever accept him otherwise than as a foreigner.
>
> His own heart is in his own country, and yet there is less and less of a niche for him

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when he returns. One feels that one should have built one's fortune in America, altho ough it might have been less imposing. Yet one would be among one's own people and the the esteem one hopes to build among one's associates would not be wasted by leaving them behind to go home and build at it again.

I have got to that stage now where I am playing the game for the game's sake, as the counters don't interest me any longer. I am disgusted with myself when I think how much better off you people are who stuck by your own country and place. When you walk down the street you meet a hundred men who have a genuine pleasure in greeting you. I am an alien who gets a grin once in nine months.[11]

Two years later, the conflagration of World War I enveloped Europe and changed the course of Herbert Hoover's life. While giant European armies bogged down in the trenches Herbert Hoover, working without pay, directed the Commission for Relief in Belgium, a neutral organization which procured and distributed food to the civilian population of Belgium, caught between the German army of occupation and the British naval blockade.

It was a noble undertaking which ultimately brought food to 10,000,000 people a day and which catapulted Hoover to worldwide fame as a humanitarian. One of the noteworthy themes of Hoover's correspondence as chairman of the CRB was that this largely American volunteer organization reflected American ideals. It was a source of pride to him that while Europeans fought and slaughtered one another, an American-led relief effort was saving the lives of noncombatants.

What was the effect of this experience upon Herbert Hoover? The more I study his three years in Europe from 1914 to 1917, as head of the Belgian Relief, the more surprising it seems that he ever endured the ordeal. For behind the uplifting routine of providing daily food to needy Belgians lay a depressing world of conspiracy, national rivalry, and festering intrigue. As early as December 1914, less than two months after he had assumed leadership of the CRB, Hoover observed with some incredulity:

"The amount of small jealousy that exists around amongst the Belgians themselves and amongst Relief Committees and professional charity workers throughout the world, and the malice which they can all of them display at times is beyond belief. Were it not for the haunting picture in one's mind of all the long line of people standing outside the relief stations in Belgium, I would have thrown over the position long since." [12]

From the day of its inception the CRB had to cope with critics in the various belligerent governments who were convinced that this unprecedented humanitarian work was enhancing the military strength of one side or the other. Scarcely a month went by which did not witness some challenge to the continued existence of the CRB. Stories were circulated impugning Hoover's integrity; in England in 1916 an investigation of his leadership of the CRB was begun. Even some of the Belgian officials with whom Hoover worked conspired at one point to whittle down American influence, and there is reason to suspect that jealous Belgians spread rumors about allegedly dishonest conduct by Hoover while he was a mining engineer. Many times, weary from incessant conflicts with one or another belligerent power, Hoover contemplated and even threatened resignation. During one crisis in January 1916, he wrote to his friend Hugh Gibson that "the Commission is getting hammered from all sides. . . . I am free to confess that this business has gone on too long . . . and I find staring me in my dreams a large poster entitled 'Go back to the lead mines', in which occupation one obtains a modicum of human gratitude and a large liberty from hammers of all sizes. . . ." [13] Hoover, of course, did not quit, but from his disillusioning encounter with the emotions of war and the ancient antagonisms of Europe, he derived a lesson. On February 2, 1917—one day after Germany resumed unrestricted submarine warfare—he told a friend:

"If we have got to go into this war, I am extremely anxious that we should not go into it in alliance with anybody. . . . I dread the horrible entanglement of this country with all of the objectives of certain of the Allies. . . ." [14]

A few weeks later, the United States entered the war, and Hoover sailed back to America to direct our wartime Food Administration. But within two years he returned once more, this time to feed Europe while President Wilson and the Allies strove to draft a peace treaty at Versailles.

From November 1918 to September 1919 Herbert Hoover crisscrossed Europe as Director-General of the American Relief Administration, organizing the supply of food for starving millions and facilitating the emergence of stable economies. 1919 was one of the most turbulent years of our century; it was also one of the pinnacles of Herbert Hoover's life. Food had helped to win the war. Now, he believed, it must win the peace. The grim alternative was chaos, famine, a new generation of embittered Europeans, and the possibility of Communist revolution over much of the continent. Thanks in considerable measure to the herculean efforts of Hoover and his staff, perhaps one-third of the population of postwar Europe, including Russia, was saved from famine and death.

But if Hoover could take comfort from his outstanding humanitarian accomplishment in postwar Europe, there was much that he saw which profoundly alarmed him and helped to determine his future political and social thought. Although Hoover at this point was hardly a naive newcomer to the world of affairs, he was stunned and sickened by what he experienced in 1919. I do not think he ever got over it. For months an angry and frustrated Hoover pleaded and argued with the Allies to lift the blockade on the defeated enemy and to allow the currents of peaceful exchange to flow. Only after a long struggle did he attain this objective. Every day Hoover witnessed the profusion of national rivalries, jealousies, greed, myopia, and the desire for revenge. Writing to John Maynard Keynes in June 1919, Hoover said, "I am completing my work in a few weeks and I shall leave Europe with a heavier heart than even in the worst days of the war." [15]

When Hoover finally returned to the United States in late 1919, he vigorously supported the Treaty of Versailles—not because he was an innocent idealist, nor because he considered the Treaty perfect (he did not), but primarily because he deemed a settlement essential to a worldwide recovery from war. Hoover was not an irreconcilable like Senator Hiram Johnson of California. And yet, as he later observed in his *Memoirs*, he did leave Europe with "one absolute conviction": that while America could win wars, it could not make lasting peace." To Hoover it now seemed that "irreconcilable conflicts" in ideals and experience separated the Old World from the New. "The two worlds were indeed strangers to each other," he declared.[16] The New World, he came to believe, was remote from the imperialism, fanatic ideologies, racial antipathies, dictatorships, power politics, and class stratification of Europe. As he expressed it in his *Memoirs*, "the forces which lay behind the rejection of American ideas at Paris in 1919 were far deeper than the intrigues of diplomacy or the foibles of European statesmen. Here was the collision of civilizations that had grown three hundred years apart." [17]

In 1921 Herbert Hoover became Secretary of Commerce of the United States; in 1928 he was elected President. Of the thirty-eight men who have occupied the Oval Office, Herbert Hoover undoubtedly enjoyed more extensive acquaintance with foreign peoples and their social systems than any of his predecessors or successors. In another respect, too, he was unusual: he attempted to distill from his unique experiences a coherent understanding of the American experiment that he cherished. Few of our Presidents have ventured self-consciously into the realm of political philosophy. Herbert Hoover did.

In 1922 appeared his first systematic effort in this field: a little book entitled *American Individualism*.[18] This work represents the crystallization of the attitudes and perceptions which I have been describing in this essay. According to Hoover, the revolutionary upheavals of World War I and its aftermath had produced a world in ferment. In this cauldron several ideologies (he called them "social philosophies") were competing for the minds of men—among them Communism, Socialism, and Syndicalism. To Hoover, who had seen the vicious results that emanate from a blending of "bestial instincts" with idealistic humanitarian jargon, the need for a definition of the American system was urgent. He called this system "American Individualism."

By this term he definitely did not mean unfettered, old-fashioned laissez-faire, as he explicitly emphasized in the book. Hoover was anxious that individual initiative always be stimulated and rewarded, but it must, he said, be "tempered" by "that firm and fixed ideal of American individualism—*an equality of opportunity*." [19] Equality of opportunity, "the demand for a fair chance as the basis of American life"—this, in Hoover's words, was "our most precious social ideal." [20] Hoover insisted that equal opportunity and a "fair chance" for individuals to develop their abilities were "the sole source of progress" and the principal impulse behind American civilization for three centuries. The American pioneer, he asserted, exemplified this spirit.

Hoover did not believe that equality of opportunity was automatically self-sustaining in a modern, technological economy. A certain measure of governmental regulation and guidance, some governmental legislation (such as anti-trust laws), were necessary, he felt, to prevent economic autocracy, in equality of opportunity, and the throttling of individual initiative. (Let us recall that just two years before, in 1920, Hoover had labeled himself an "independent progressive.")[21] To Hoover it was imperative that "*we keep the social solution free from frozen strata of classes*." [22] But the nature and extent of this governmental involvement must be carefully defined and, above all, kept consistent with the broad American traditions of voluntary cooperation, local self-government, and individual initiative. While not unmindful of the faults of unchecked capitalism, Hoover was an uncompromising foe of socialism and the totalitarian state.

Hoover's apotheosis of the United States as a land dedicated to the ideals of equal opportunity and freedom to carve one's own destiny won the assent of another distinguished American in 1923. Professor Frederick Jackson Turner, exponent of the famous "frontier thesis," was enthusiastic about Hoover's "meaty little book." "It contains," said Turner, "the New and Old Testament of the American gospel and I wish it a wide circulation." [23] Perhaps it is not coincidental that when Turner's book *The Frontier in American History* was published in 1920, he had given a copy to Hoover, who read it (according to his secretary "with very great interest." [24]

Twelve years after the publication of *American Individualism* the world had dras-

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tically altered. By then Herbert Hoover was an ex-President, and something called the New Deal was abroad in the land. Once again Hoover took up his pen, this time to write *The Challenge to Liberty*, a powerful critique of statist ideologies and a reaffirmation of the unique social philosophy of America, "one of the last few strongholds of human freedom."[25] Political theorists who examine this book might term it an expression of modified classical liberalism. But whatever the label, it articulated a philosophy forged in the aftermath of World War I and expounded, often with eloquence, for the rest of his life. Speaking before a Boy's Club in 1940, for example, he expounded his version of the American Dream:

"By a classless America our forefathers meant far more than a sociological expression. There were to be no stratifications in life that handicapped the rise of any boy from the bottom to the top. The human particles should move freely in the social solution. . . . This idea of a fluid classless society was unique in the world. It was the point at which our social structure departed from all others."[26]

And always he drew the contrast between the America he loved and the Old World with its pestilent ideologies. Listen to his words at his birthplace in Iowa in 1948:

I have seen the squalor of Asia, the frozen class barriers of Europe. And I was not a tourist. I was associated in their working lives and problems. I had to deal with their social systems and their governments. And outstanding everywhere to these great masses of people there was a hallowed word—America. To them, it was the hope of the world.

My every frequent homecoming has been a reaffirmation of the glory of America. Each time my soul was washed by the relief from grinding poverty of other nations, by the greater kindliness and frankness which comes from the acceptance of equality and a belief in wide-open opportunity to all who want a chance. It is more than that. It is a land of self-respect born alone of free men and women.[27]

How, though, could social fluidity and equality of opportunity be preserved? For Hoover there were many answers. One, perhaps the most crucial, was our educational system; another was governmental action to curb domination of the economy by clusters of economic power. Another (and this may seem surprising) was inheritance taxes; Hoover contended that "the sons of the successful [should] not by any mere right of birth or favor continue to occupy their fathers' places of power against the rise of a new generation in process of coming up from the bottom."[28] Still another mechanism in Hoover's eyes was the Boys Club movement; in it, he claimed, "there is a restoration of equal opportunity with all the other boys."[29] Indeed, many of Herbert Hoover's governmental policies and charitable activities over the years, including his long concern with child welfare, acquire a kind of thematic unity if we perceive them as attempts to promote equality of opportunity for all Americans, especially the young.

It was part of Herbert Hoover's ordeal in his later, post-Presidential years that the political philosophy he developed, the vision of America that he expressed, came to seem abstract and anachronistic for many Americans. It was all right for Hoover to extol the social system that had produced *him*, many people seemed to think, but were his paeans to America's traditional values relevant to the steelworkers of Pittsburgh, the tenant farmers of Mississippi, or the Okies of the Dust Bowl? Were American abundance and prosperity simply accidents of history, the products of a continent of free land? Wasn't the frontier gone now? Wasn't America's pioneer past over, and with it the supposedly outmoded Turnerian (and Hooverian) values of individualism, neighborly cooperation, and private initiative?

Herbert Hoover responded forcefully to such criticisms. It was not the mere availability of abundant land and natural resources that had blessed America, he insisted. It was a social system, animated by ideals, and "the most potent force in society," he wrote "is its ideals."[30] To Hoover the principles of American Individualism were not anemic platitudes, to be uttered, perhaps, on the Fourth of July. Nor had America become a closed, stagnant society, and Hoover hoped that it never would. New frontiers—of science, invention, and human welfare—were just beginning to open exciting vistas of opportunity. Hoover warned against the contrary opinion (again fashionable today):

"When we concede that progress is ended we concede that hope and new opportunity have departed. That is the concept of a static nation. It is necessarily the philosophy of decadence. No society can become static, it must go forward or back. . . . No society will function without confidence in its future opportunities."[31]

Now some may believe that Hoover's viewpoint is at last irretrievably outmoded, that he was, at most a transitional figure to a world which has forever abandoned his values and his vision. Certainly it is true that America—since the very nature of its government—have altered since the days, a half century ago, when Hoover was President. When Hoover left the White House in 1933, the federal government's budget was less than five billion dollars. Today it is a hundred times higher. Since 1900 public spending in the United States has increased more than 239 times. Every year the federal deficit alone is several times greater than the entire federal budget during Hoover's years as chief executive.

And yet I suggest that there is today an increasing resonance to Herbert Hoover's philosophy, more than a decade after his death. In the current worldwide debate over "human rights" we hear echoes of Hoover's belief in the uniqueness of the American experiment and the superiority of a social system invigorated by the ideal of human freedom. Furthermore, the challenges we confront raise philosophical questions to which Hoover's answers deserve our attention.

Consider, for instance, the increasingly pervasive, and legally countenanced use of quotas in the hiring of men and women for jobs in business, universities, and government. In our commendable desire to eliminate past discrimination, are we not perhaps invoking an antithetic creed, which measures us by the crude and irrelevant categories of race, gender, and ethnic origin? Herbert Hoover's philosophy has much to say on this point.

Or consider the much-discussed "energy crisis." If Herbert Hoover were living today, I suspect that as a lifelong champion of efficiency and the elimination of waste he would vigorously encourage efforts towards conservation of our resources. But he would also stress that a far more precious resource than oil must not be allowed to atrophy. This is our *social* energy. And the source of this liberating social energy is not an overweening, coercive, stultifying, bureaucratic government but free men and women, uncommon men and women, competing and cooperating voluntarily in an open, fluid society. It is a proper function of government, I think he would say, to stimulate initiative and to foster its harmonious use. It is not the proper function of government to try to monopolize social energy like a giant parasitic sponge.

Finally, I have emphasized in this essay the roots of Herbert Hoover's philosophy in the contrast he perceieved between the Old World and the New. In valuating his American Individualism we would do well to ponder anew the ghastly practical consequences of some of the alternative social philosophies which have motivated men and women in this often bloody century. Consider the tens of millions who have perished in the Gulag Archipelago. Consider the death camps at Auschwitz. Consider, today, the agony of the Vietnamese boat people who would literally rather run the risk of drowning at sea than live under the "social philosophy" called Communism.

Free societies, such as the one we today enjoy, are a rarity in human history, and they are not self-sustaining. To survive they require a cogent understanding of their fundamental, undergirding values and their antitheses. This Herbert Hoover realized. He spent much of his life attempting to apply these values and to teach us what he learned. If you examine the record of what he did and what he said, you will find that he speaks to us still.

FOOTNOTES

[1] Theodore J. Hoover, *Memoranda: Being a Statement by an Engineer* (Stanford University, 1939), p. 35.

[2] Herbert Hoover, "Boyhood in Iowa," *The Palimpsest*, 43 (August 1962), 337.

[3] *Ibid.*, p. 344.

[4] 1886–1887 Catalogue of Friends' Pacific Academy, p. 13.

[5] Herbert Hoover, *Memoirs*, Vol. I: *Years of Adventure* (New York, 1952), p. 30.

[6] Herbert Hoover to Burt Brown Barker, October 25, 1897, Pre-Commerce Papers, Herbert Hoover Presidential Library, West Branch, Iowa.

[7] Herbert Hoover to Harriette Miles, August 5, 1897, *ibid.*

[8] Hoover to Barker, October 25, 1879, *ibid.*

[9] Herbert Hoover, undated autobiographical statement, quoted in Craig Lloyd, *Aggressive Introvert: Herbert Hoover and Public Relations Management, 1912–1932* (Columbus, 1972), p. 15.

[10] Hoover, *Years of Adventure*, p. 132.

[11] Herbert Hoover to George J. Bancroft, 1912, Pre-Commerce Papers, Herbert Hoover Presidential Library.

[12] Herbert Hoover to Josephine Bates, December 10, 1914, Commission for Relief in Belgium Papers, Hoover Institution, Stanford University.

[13] Herbert Hoover to Hugh Gibson, January 25, 1916, *ibid.*

[14] Herbert Hoover to William C. Edgar, February 2, 1917, *ibid.*

[15] Herbert Hoover to John Maynard Keynes, June 7, 1919, Lord Keynes Papers, The Marshall Library, Cambridge, England.

[16] Hoover, *Years of Adventure*, p. 473.

[17] *Ibid.*, p. 479.

[18] (New York, 1922).

[19] *Ibid.*, p. 8f.

[20] Herbert Hoover, commencement address at William Penn College, Oskaloosa, Iowa, June 12, 1925. The full text is printed in *Penn College Bulletin*, new series, 19 (July 1925).

[21] Herbert Hoover to Ralph Arnold, March 8, 1920, Pre-Commerce Papers, Herbert Hoover Presidential Library.

[22] Hoover, *American Individualism*, p. 9.

[23] Frederick Jackson Turner to Richard S. Emmet (one of Hoover's secretaries), January 18, 1923, Commerce Papers, Herbert Hoover Presidential Library.

[24] Richard S. Emmet to Frederick Jackson Turner, January 27, 1923, *ibid.*

[25] Herbert Hoover, *The Challenge to Liberty* (New York, 1934), p. 48.

[26] Herbert Hoover, *Further Addresses Upon the American Road, 1938–1940* (New York, 1940), p. 221.

[27] Herbert Hoover, *Addresses Upon the*

American Road, 1945–1948 (New York, 1949), p. 77.

[28] Hoover, *American Individualism*, p. 20.

[29] Hoover, *Further Addresses*, p. 222.

[30] Hoover, *American Individualism*, p. 16.

[31] Hoover, *Challenge to Liberty*, p. 148. ●

DIPLOMATIC GRANDSTANDING

● **Mr. STEVENSON.** Mr. President, once again, George W. Ball, the former Under Secretary of State, has tried to bring commonsense, perspective, and a sense of history to the discussion of the Nation's foreign policy. In an article in the September 23 Washington Post he criticizes the bluster and foolishness which has characterized the debate, in Congress and elsewhere, over the presence of Soviet troops in Cuba. He describes our foreign policy as "idiosyncratic and, hence, unreliable" and notes:

> We fell into the trap of making public demands we had no clear plans for enforcing.

Mr. President, I ask that Mr. Ball's article be printed in the RECORD.

The article follows:

[From the Washington Post, Sept. 23, 1979]

DIPLOMATIC GRANDSTANDING

(By George W. Ball)

To be an ancient participant in the Cuban missile crisis, the current brouhaha over troops in Cuba recalls Karl Marx's aphorism about Napoleon III that history invariably repeats itself, "the first time as tragedy, the second as farce."

Our predicament 17 years ago was unquestionably high drama; the Soviet missiles on the soil of Cuba were being targeted on our cities. But the sudden discovery of 2,000 or 3,000 Soviet troops is clearly a farcical echo. What possible threat could such a Graustarkian army pose for America unless—and this is always a danger—the customs guards in Miami should be out on strike?

In 1962 we were able to negotiate a satisfactory solution to the Cuban missile crisis because both the executive and Congress behaved with grave responsibility. Today—as so often happens in a campaign year—we hear the authentic voice of radio's famous Senator Claghorn bellowing from Capitol Hill: "Damn it, sir, what are all them evil Roosians and pesky Cubans doin' off our shores? Drive 'em into the sea, I say."

It all began when the chairman of the Senate Foreign Relations Committee felt compelled to prove his toughness of fiber to the Idaho electorate by telling the world not only that Soviet combat units were in Cuba but that, unless they were pulled out, the Senate would not ratify SALT II. That inspired a vigorous competition in senatorial démarches, with Sen. Henry Jackson outrunning the field by demanding not only the removal of the Soviet brigade but also all ground-attack aircraft. Nor should the Russians be permitted to provide Cuba any new submarines or naval forces. What he meant, he explained on television, was that the United States should not permit the creation of a "Fortress Cuba"—a baffling thought since a fortress is, by definition, a defensive position and no one is yet proposing invasion. Finally, Henry Kissinger, the inventor of linkage, suggested that we use the occasion to require the Soviets to stop employing Cuban surrogates and generally shape up. It was the kind of proposal I always find confusing, since I was taught as a lad in Iowa that "linkage" was another name for "baloney," and I have seen nothing since then to change that view.

Unhappily, this cacophony of congressional bluster, with its thunder and lightning—and particularly its wind—could be interpreted only as an ultimatum. Either the Soviets took their troops out of Cuba or the United States would commit some undefined unpleasantness. The net effect was to violate every rule of diplomatic tactics. It converted a matter of purely symbolic interest into an issue of substance. It put the Soviets in a position where they could retreat only with loss of face. (Who thinks the current Soviet leaders have forgotten Khrushchev lost his job for withdrawing his missiles under pressure of the American "quarantine"?) It confirmed the growing suspicion of our friends in other capitals that our foreign policy is idiosyncratic and, hence, unreliable. Finally, we fell into the trap of making public demands we had no clear plans for enforcing.

What happens now? Of course, the Senate could refuse to ratify SALT II and we could even block trade with the Soviet Union, but if Moscow should still persist in leaving its troops in place, what then? Who wants to stand "eyeball to eyeball" over such a peripheral issue?

It is not even clear what action we wish the Russians to take. This is not a new problem, only a newly discovered one. Without doubt, a substantial number of Soviet troops have been in Cuba for years. Thus, the narrow issue is not the fact that Soviet forces are there but that they are in what is technically described as a "combat mode"—a distinction more metaphysical than real, since no one seems to know whom they would be likely to combat. So what should the Russian soldiers do? Change their uniforms? Break up their brigade formation? Take Cuban citizenship? It is reminiscent of earlier disputes when we wasted endless hours arguing whether particular weapons were "offensive" or "defensive" or whether American military advisers in Vietnam were performing combat roles when they flew on bombing missions with Vietnamese crews.

The basic weakness of our position is that we now maintain over 5,000 military personnel in Turkey, as well as a small number in Norway, and, until recently, we had over 1,000 in Iran—all countries not 90 miles from the Soviet border but contiguous to it. Moreover, we have over 2,000 troops in Cuba at Guantanamo.

No doubt the Soviets would be quite prepared to swap the withdrawal of their troops in Cuba for our agreement to pull ours out of the NATO countries on their border. But does anyone think that would be a good bargain?

"Dammit," says Senator Claghorn, "tell them pestiferous Cubans and Roosians that they got to clear out of that little island instantly. We've got the guns and, if they don't act fast, we'll show 'em; we'll shoot ourselves in the foot." ●

SENATOR CHURCH'S ADDRESS AT DEDICATION CEREMONIES OF THE MINIDOKA RELOCATION CENTER

● **Mr. INOUYE.** Mr. President, I recently read the remarks of our colleague from Idaho, Senator CHURCH, made at Hunt, Idaho, at the dedication of the Minidoka Relocation Center—one of the several such camps that housed about 120,000 Japanese-Americans during World War II—as a national historic monument.

Senator CHURCH speaks to the wrong that was done to these Americans during the dark days of the war, and he traces the history of the contributions of Japanese-Americans to the growth and development of his own State from the late 19th century.

I would quote just a portion of Senator CHURCH's address:

> The years have passed and although the disgrace of these relocation camps should never be erased from our memory, we can all rejoice in a country strong enough to recognize its mistakes, and make amends.

Senator CHURCH is a cosponsor of S. 1647, which I introduced on August 2, to establish a national commission to make the first official inquiry into the wrongs committed during the wartime relocation, and to recommend remedies. I am pleased to have Senator CHURCH's support and cosponsorship of this bill.

Mr. President, I ask unanimous consent that the text of Senator CHURCH's address on August 18 in Idaho, together with the text of S. 1647, be printed in the RECORD.

The address and bill follow:

LET US REMEMBER

(Address by Senator FRANK CHURCH)

My fellow Americans, what a privilege it is for me and Bethine to be with you on this occasion at the dedication, as a national historic monument, of the Minidoka Relocation Center.

The first thing I want to do this morning is to call your attention once again to the final sentence that appears in your program, which will be a permanent part of the plaque marking this center. That sentence reads: "May these camps serve to remind us what can happen when other factors supersede the Constitutional rights guaranteed to all citizens and aliens living in this country."

Let us remember the words on the plaque, not simply as a declaration, but as a prayer that the future will not scar our history again with camps for any minority group in this great republic.

Here in Idaho, Japanese-American history goes back a long way. Idaho was one of the first states of the Union to receive Japanese immigrants during the last decade of the 19th Century. Since that time Japanese-Americans have been one of the largest ethnic minorities in Idaho, with sizeable populations in the Nampa-Caldwell, the Pocatello, and the Upper Snake River Valley areas.

The early Japanese immigrants engaged primarily in agricultural pursuits, as well as railroad construction, operation and maintenance. They contributed greatly to the development of southern Idaho. When the sugar beet industry was first established in our State during the early part of the 20th Century, Japanese-Americans were in large part responsible for its initial success. Not only did they engage in growing the crop, but additional immigrants were employed in the sugar refining factories. The Japanese-American farmers here in Idaho exhibited a diligent ability to transform the sagebrush and turn it into fruitful, productive farms, and we have always been proud of the contribution they've made to our economy.

With the increasing world tensions in the years prior to World War II, the response of Japanese-Americans living in the United States was one of unquestionable loyalty and patriotism. It is hard to believe, looking back, that we could have been so blind.

Here in Idaho, the first man to enlist under the restructured Selective Service Act of 1940 was a Japanese-American. The loyalty of American citizens of Japanese descent was exhibited to an even greater extent during the days following Pearl Harbor. The Idaho Statesman reported in its December 10, 1941 issue that the Japanese Farmers Association passed a resolution stating "that we do hereby declare our unswerving loyalty to the Government of the United States, and we declare our determination to uphold its policies." The day after Pearl Harbor, the first man to enlist in the armed services from Idaho was, once again, a Japanese-American.

We know the brilliant and heroic story of those Japanese who served in the armed services of this country during the second war. They served with honor and displayed a bravery unequaled in the annals of American military history.

The 442nd Regimental Combat Team, serving in the battle for Italy, proved beyond all doubt that patriotism is a matter of the heart, not race. Members of the 442nd, veterans of which are here with us today, were so anxious to demonstrate their patriotism on the battlefield that their exploits are legendary. This unit stands today, 34 years after the end of World War II, as the most decorated American combat team in our history. What a splendid record!

And here in Idaho during the war, relocated Japanese-Americans played a major part in saving the sugar beet crop of 1942. An estimated 2,100 residents of the Hunt Camp were engaged in agriculturally-oriented work release programs, geared to the harvest of 1942. By 1943, the number had increased to 2,400 individuals from this camp who engaged in seasonal agricultural activities. In view of the severe farm labor shortage that Idaho faced during the war, these contributions literally saved the crops.

I happened to have served in China during World War II, as an officer in our military intelligence. It was my privilege to serve there with Japanese-Americans who were also engaged in the same work. In the China theater, I was a witness to their loyalty and effectiveness.

In the Senate of the United States, I am privileged to have, as one of my closest friends, a veteran of the 442nd Regimental Combat Team. He is Senator Daniel Inouye of Hawaii, the most decorated veteran in Congress. Danny is like so many other Japanese-Americans, a man who has been able to bear his wounds—the loss of an arm in battle—with wonderful good humor. He tells a story about coming to the Congress and being invited to the White House for the first time. He was so excited about it that he rented himself a fancy formal suit—white tie and tails—which was then the fashion at State dinners.

He and his wife, Maggie, also rented a limousine so that they could go in proper style. The Marines lined the front driveway of the White House as the limousine arrived and a crowd had gathered around the Northwest Gate to see the dignitaries. As it was a hot evening, Danny rolled down the window. The car was moving slowly forward in the procession of limousines and as it reached the Northwest Gate, two women looked into the car. Danny relates one of them said to the other, "Now who's that?" And the other said "Why that's the King of Siam!"

The years have passed and although the disgrace of these relocation camps should never be erased from our memory, we can all rejoice in a country strong enough to recognize its mistakes, and make amends. It is not without significance that today in the Senate of the United States there are three members of Japanese descent: Senator Inouye; his colleague from Hawaii, Senator Spark Matsunaga; and Senator Sam Hayakawa from California. No other ethnic minority has a larger representation in the Senate.

That representation is testimony to the determination of this country never to repeat the devastating mistake that created this camp. It is also testimony to the esteem in which Japanese-Americans are held by your fellow citizens. Most important, it is testimony to our admiration for your unquenchable spirit which nourished you during the dark days of the war when you lived here in tarpaper shacks, far removed from your homes because of the blindness and hatred that temporarily consumed our country.

I would close with a quotation that acknowledges your great spirit. It comes from James Michener in his introduction to Michi Weglyn's *Years of Infamy—The Untold Story of America's Concentration Camps:*

"* * * the stoic heroism with which the impounded Japanese Americans behaved after their lives had been torn asunder . . . must always remain a miracle of American history. The majesty of character they displayed then, and the freedom from malice they exhibit now, should make us all humble."

S. 1647

A bill to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order Numbered 9066, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Wartime Relocation and Internment of Civilians Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) Approximately one hundred and twenty thousand civilians were relocated and detained in internment camps pursuant to Executive Order Numbered 9066, dated February 19, 1942, and other associated acts of the Federal Government; and

(2) no inquiry into this matter has been made.

(b) It is the purpose of this Act to establish a factfinding commission to determine whether a wrong was committed against those American citizens and permanent resident aliens relocated and/or interned as a result of Executive Order Numbered 9066 and other associated acts of the Federal Government, and to recommend appropriate remedies.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established the Commission on Wartime Relocation and Internment of Civilians (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of fifteen members, who shall be appointed as follows:

(1) Eleven members shall be appointed by the President.

(2) Two members of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

(3) Two Members of the Senate shall be appointed by the President pro tempore of the Senate.

(c) The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) The first meeting of the Commission shall be called by the President within sixty days following the date of enactment of this Act.

(e) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

SEC. 4. (a) It shall be the duty of the Commission to gather facts to determine whether a wrong was committed against those American citizens and permanent resident aliens who were subjected to relocation and/or internment by the issuance of Executive Order Numbered 9066 and other associated acts of the Federal Government.

(b) The Commission shall hold public hearings in Los Angeles, San Francisco, and Fresno, California; Portland, Oregon; Seattle, Washington; Phoenix, Arizona; Salt Lake City, Utah; Denver, Colorado; Chicago, Illinois; New York, New York; Washington, D.C.; and any other city that the Commission deems necessary and proper.

(c) The Commission shall submit a written report of its findings and recommendations to Congress not later than eighteen months after the date of the enactment of this Act.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

SEC. 6. The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or

surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

REPORT AND TERMINATION

SEC. 7. (a) The Commission shall, within eighteen months from the date of enactment of this Act, transmit a final report to the President and the Congress concerning its actions and its findings and recommendations.

(b) The Commission shall cease to exist on the date six months from the date it transmits the final report unless extended by a subsequent Act of Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

SALT AND THE PSEUDO "PSEUDO-CRISIS"

● **Mr. DOLE.** Mr. President, the situation regarding Russian combat troops in Cuba has become critical to the disposition of the second strategic arms limitation treaty—SALT II. Some say unfairly so. It has been called a "pseudo-crisis" peripheral to real events of concern to our national policies. I disagree. The issue is not peripheral but lies at the heart of our present foreign policy deficiencies. The number of combat troops involved may be small but the principle is large. The real issues raised are: Can the Soviet Union be trusted to abide by past and future superpower agreements? Are the troops releasing Cuban proxies to fight Soviet battles around the globe? Are they one more link in the Russian imperialist chain, representing the aggressive, expansionist policies of that country? And if these troops have indeed been present for several years, what does this tell us of our intelligence gathering and analysis capabilities? Will they really be as adequate as claimed to police such a vital document as the SALT II treaty will be?

It seems clear to me that far from being unrelated and less significant to us than the treaty, this issue is of the utmost importance. The questions it raises should be cleared up before we further debate the SALT II agreement or anything else with long-term implication for American policies.

CUBAN RESOLUTION CENTRAL TO SALT DEBATE

Contrary to the claims of some pro-treaty supporters who wish to see it ratified regardless of its wider implications, there has been no "near-hysteria" over the Cuban problem. My own judgement on the treaty is still reserved, though I do believe it is in need, at a minimum, of several modifications and would only be useful to the United States in some wider context of its meaning in our foreign and defense affairs. No, the discussion about foreign military forces in Cuba has been helpful toward affirming a principle and backing up a President whose vacillating indecisive behavior in the past, its often too-little, too-late character, indicates he may need it.

The Senate resolution I introduced I hope has also been constructive. It does not send an unworkable ultimatum to either the President or the Russians. It stipulates that the combat troops must be removed or that the President testify that they are no longer a danger to our strategic interests or those of our allies with whom our national destiny is bound. Under this formula the President, through his negotiations with the Soviets, could be assured that Russia will be committed to removing the combat elements of its force in Cuba, that it will have the equipment, organization, and personnel of an advisory unit, and that a combat unit will not be maintained on Cuban soil. With some concomitant security and intelligence measures of our own, this crisis could then be satisfactorily cleared up with the Soviet Union allowed publicly to save face while privately recommitting its dedication to the concept of détente and spirit of SALT.

THE QUESTION OF SOVIET INTENTIONS

It is true that in a sense this is no real "crisis" of the proportions of, say, the Cuban missile crisis—there is no danger of invasions to our homeland nor real fear of an uncontrolled escalation between the United States and the Soviet Union into nuclear war. But turning points in relations between nations do not need to be immediately hazardous to be truly significant. We are facing a new departure in how we intend to define Soviet foreign policy. What are Soviet intentions? How committed is the Soviet Union to reducing international tensions, to reducing the opportunities for East-West conflicts throughout the globe? Can the United States and Russia coexist in a cooperative and increasingly interlocked and even interdependent plane? And does the U.S.S.R. desire that we do? Can we afford to trade some of our military power for longer term assurances of security such as economic semidependence?

The alternative as some intellectually bankrupt liberals from the "old left" would have us believe, is not necessarily a return to cold war confrontation. It is imperative that the United States be able to confront all our problems and crises in the world community from as strong a position as possible: strong in strategic and conventional military capabilities, strong in economy and productivity, strong in moral and spiritual fiber, strong in the principles of freedom and democracy we have always stood for.

We have slipped in some of these areas, nevertheless our potential and underlying strength of character as a nation is as great as it ever was. We need to reshape our focus through the prism of decisive and capable leadership. We must address our difficulties, from whatever sphere, with confidence in our ability to handle them, and firm in our resolve to master them. In the area of strategic defense this means reexamining our goals as well as our needs. As a prerequisite corollary we must be willing to reassess our potential enemy for which these strategic defenses were created: What are his intentions? That is what makes the issue of Russian combat troops in Cuba so vital to our future decisions. We must decide what direction our future will take us, and act with firmness and resolve accordingly.●

U.S. POPULATION OCTOBER 1, 1979

Mr. PACKWOOD. Mr. President, I wish to report that according to projections of the Bureau of the Census, the total population of the United States as of Monday, October 1, 1979, was 221,395,955. Despite the widely publicized reductions in our fertility level, this is an increase of 1,949,246 since October 1, 1978. In the last month, the population of the United States increased by 215,930.

During the past year, we have added more than enough people to fill the cities of Detroit, Mich., and New Orleans, La. In the past month, alone, we have added enough people to fill the city of Dayton, Ohio.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN GOVERNMENT

● **Mr. STEVENSON.** Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Martha Darling of Senator BRADLEY's staff to participate in a program sponsored by a foreign government, the People's Republic of China, from September 3 to 19, 1979.

It has been determined that Ms. Darling's travel in China at the expense of the People's Republic of China is in the interests of the Senate and the United States.●

BRITAIN PLANS LAW TO BLOCK U.S. REGULATIONS

● **Mr. LAXALT.** Mr. President, in recent years, the United States has attempted to force its antitrust laws, and other economic regulations, on foreign governments. It appears that that policy is beginning to backfire. The Journal of Commerce, in a recent article, reports that legislation is being prepared in the British Parliament to block the enforcement of foreign judgments against British companies, and to restrict the flow of information which is currently being supplied to help U.S. authorities in their investigations. Passage of such legislation in Britain would obviously have a significant impact on the United States.

In a related development, John Nott, the British Secretary of State for Trade, spoke to the British American Chamber of Commerce in Los Angeles on September 24, 1979, and in his speech raised the problem of the attempt by the U.S. Government to impose its antitrust laws abroad. In that speech, Nott said:

This is not a new problem; it has been a matter of contention with some of your overseas partners and friends for decades. Pre-eminently this happens in the complex field of antitrust law. We understand and respect your antitrust laws—although not all of you do so. Certainly we acknowledge their purpose—and I am speaking here, as I have already explained as a member of a government which is determined to restore the primacy of competition and enterprise in the economy of the United Kingdom. But what is discouraged or illegal in one country may be legal or positively encouraged in another. And the so-called "effects" doctrine of U.S. law is leading to many instances where United States authorities are seeking to exercise their regulatory or investigatory powers over individuals or companies situated and operating outside the United States in ways which appear thoroughly objectionable in the countries concerned.

Nott went on to say that two can play that game, and explained that legislation was being prepared in Britain to give better protection to British companies and individuals against attempts by any other country, particularly the United States, to impose their own domestic economic policies and regulations on those companies and individuals.

Recently introduced legislation, now pending in the Senate Judiciary Committee, attempts to strengthen our control over businesses operating in foreign countries, based on what we perceive as sound antitrust policy. I am referring to S. 1246, the Energy Antimonopoly Act of 1979, to which significant amendments have been proposed by the administration. That bill, with the administration's amendments, would attempt to control mergers and acquisitions by major oil companies of any other major economic entity. Unfortunately, the bill not only includes domestic major oil producers, but also the foreign subsidiaries of American major oil companies operating abroad. Those subsidiaries often enter into joint ventures with foreign companies and foreign governments, and are often invited to participate in acquisitions and mergers with foreign companies, many of which would be precluded were S. 1246 to become law. Inasmuch as these economic relationships often serve to benefit the foreign countries involved, and inasmuch as the relationships themselves are often extremely complex and the result of delicate negotiations, I fear that our attempts to impose our will on them could lead to repressive legislation in those foreign countries against United States interests.

It goes without saying that our situation in the world today is no longer one where we can impose our will on others without fear of recourse, nor is it one where we can afford to invite legislative recourse detrimental to our economic interests.

I ask that both the Journal of Commerce article of September 20, 1979, entitled "Britain Plans Laws to Block U.S. Regulations," and the text of the speech of John Nott, British Secretary of State for Trade, given on September 14, 1979, to the Los Angeles British American Chamber of Commerce, be printed in full in the RECORD.

The material follows:

BRITAIN PLANS LAW TO BLOCK U.S. REGULATIONS

(By Bruce Barnard)

LONDON.—Britain is planning to introduce legislation this fall to protect companies and individuals against attempts by other countries to impose their own domestic economic policies and regulations abroad. The legislation is aimed particularly against the United States, whose attempts to apply antitrust laws against British companies has angered the government.

The legislation, which is still being drafted, will block the enforcement of foreign judgments and also severely restrict the flow of information which is currently being supplied to help the U.S. authorities in their investigations.

The proposed legislation is a response to recent American legal actions which threaten the activities of British companies. The Cunard shipping firm is one of seven European trans-Atlantic lines that have paid out $6 million in settlement of an antitrust case facing a class action civil suit which could result in multimillion dollar damages and a Federal Maritime Commission inquiry.

Another major case involves Rio Tinto Zinc, which was accused in an antitrust action by Westinghouse Electric of operating an alleged international uranium cartel in the early 1970s. Treble damages as high as $5 billion could be involved.

The government is worried that as the law stands British courts would have to collect part of the damages awarded against Rio Tinto Zinc and against the British shipping lines in possible civil suits.

Britain is particularly irked by the American regulation that any company which is more than 25 percent controlled directly or indirectly by U.S. shareholders is subject to U.S. laws even if it does not carry out business in the United States.

Strict Securities and Exchange Commission requirements, and Commerce Department regulations on the Arab boycott which restrict foreign companies' trade with the Middle East also have caused concern in British business circles.

The first beneficiaries of the new legislation are likely to be shipping companies that trade with the United States. Under the new legislation the lines would be prohibited from complying with the recently passed U.S. anti-rate dumping bill which stipulates that the chief executives of foreign shipping lines must sign documents certifying their companies are not engaged in rebating.

Since the new legislation would prohibit the enforcement of U.S. court judgments in the U.K., companies with few assets in the U.S. would have little to fear over the seizure of their assets located in the U.K. However, shipowners still could have their vessels seized in American seaports.

SPEECH BY THE SECRETARY OF STATE FOR TRADE TO THE BRITISH AMERICAN CHAMBER OF COMMERCE

Ladies and gentlemen, it gives me great pleasure during my fleeting visit to California—not my first visit or my last—to have this opportunity of meeting so many people who are active in maintaining and encouraging the business links between our two parts of the world. I am very conscious that the British-American Chamber of Commerce performs an invaluable role in promoting Anglo-American trade and I should like, at the outset, to pay a warm tribute to your work and to thank you for extending such an hospitable welcome to us. I do not know whether my advisers will allow me to drop the hint that as a new Minister, California has come before Washington on my schedule. It would of course be quite wrong to look for any hidden meanings for this well-chosen decision except that I rather like the vigour and excitement of the place!

1979 will go down in history as a year of momentous events. In Britain the electorate wisely elected a new Conservative Government; and in California you nearly ran out of gas! The energy problem which the international community now faces and the consequent economic difficulties this is creating for the world economy present a crucial choice of policies for the Governments of the developed world. The choice is whether to deal with these shared economic problems by international co-operation or by inward-looking attempts to seek solutions at the expense of others. In every nation there are many who argue that solutions lie in greater protectionism, in greater government intervention, and in ignoring the legitimate interests of others in formulating policies and actions.

Fortunately, although these prescriptions are put forward in every country, I think there are signs on both sides of the Atlantic that wiser counsels will prevail. In domestic economic affairs there is a distinct shift away from policies of high taxation and business restriction. California as always set the pattern when it voted for Proposition 13; but in May the people of the United Kingdom also voted for a Government committed to less Government spending and lower direct personal taxation. We have already made a significant start down this road in seeking savings of up to $10 billion dollars on government account and the process of re-creating "room" for the job and wealth-creating private sector will continue.

The British Government is determined to create a society in which there is more freedom, and incentive, for business to expand and invest. Let me give you four examples of how I have made my own contribution as Secretary of State for Trade to this process of economic liberalisation. Within 10 days of taking office I announced that we would replace the previous Government's national system of damaging and ineffective price controls on business and commerce by a policy of genuine industrial competition and a Bill to do this has already been introduced into Parliament.

I wish that I had time to explain to you how our new competition policy is designed. It is based on fundamentally different and I believe more simple principles, than your own anti-trust legislation.

Secondly, I have announced the Government's intention to offer to the public a substantial minority shareholding in our national airline. This will free British Airways from rigid adherence to Government-imposed targets, permit its huge investment programs to go forward and allow it to operate more effectively in world markets. We intend to introduce similar measures for many of the other publicly-owned bodies which we have inherited.

Thirdly, my colleague, the Chancellor of the Exchequer, has not only made very significant reductions in direct taxation but with my urging from a trade standpoint, he has also removed many of the detailed exchange control regulations which previously impeded British investment overseas.

Fourthly, within my own department, with the assistance of outside consultants, we are making a determined effort to curb unnecessary government functions, reduce the flow of regulations and paper directed at industry and commerce—and generally get government out of activities in which it has no business to be.

However, these policies designed to increase competition and to improve the free market at home have to be coupled with a similar approach to external relations.

Let me give you three practical examples where Great Britain and the United States can work increasingly together here. First, of course, through increased investment in each other's countries. The UK is already the biggest single foreign investor in the U.S.—indeed its investments are probably still greater than that of all the other European countries put together. But I am quite clear that there is still scope for a considerable further increase in British investment in the United States, particularly in the manufacturing sector.

On the other side of the coin, I should like to see even more American investment in Britain. I am not sure that, even now, all American firms have realised the significance of the fact that the United Kingdom, as a member of the European Economic Community, is not only an integral part of a tariff-free area with a population of 300 million (the biggest market in the free world outside the U.S.) but is also, uniquely among the major industrialised nations, the one closest to self-sufficiency in energy.

Today oil equal to 85 per cent of our domestic consumption is taken from the North Sea and by the end of next year production should equal domestic demand. It is at that point that the UK will become a net exporter of oil. We are already among world leaders in the production of nuclear energy while our immense coal reserves should last us for 300 years. Our reserves of energy generally represent 60 per cent of the total proven energy reserves of the European Economic Community, the world's largest trading bloc.

1,500 U.S.-owned companies already operate in the UK and they form a substantial part of the 20 percent of UK manufacturing assets held by overseas firms. They enjoy the same advantages and services as British firms—there is no restrictions on the repatriation of profits. The vast majority of these firms have a success story to tell and I hope that industry, particularly here in California, will see the advantages of using Britain as the base for its European operations.

The second way in which we can increasingly work together is by greater co-operation in the field of high technology. Here again, there are encouraging signs as a result of some recent decisions by U.S. companies. During my short visit here I have already seen some of the results of such co-operation.

This morning I visited the Lockheed plant at Palmdale to view the Tristar production line. Each of these fine planes is fitted with a Rolls-Royce RB211 engine and I have been assured by Rolls-Royce in London and by Lockheed here in Los Angeles that relations between the two companies could not be better. Rolls Royce is also of course providing engines for the Boeing 757.

Yesterday I went to Silicon Valley and visited the Fairchild Camera and instrument Corporation. Fairchild, in conjunction with Britain's GEC, is to establish a £16 million ($35 million) plant for manufacturing microelectronic devices in the United Kingdom.

The UK is equally attractive to other high technology industries, particularly those in pharmaceuticals and health care and I believe that there is scope for considerably enlarging UK-US cooperation in this field.

Thirdly, we must seek every way to improve relations between our two countries in the field of trade so as to ensure that the open-trading system which we now enjoy is not only maintained but strengthened.

American GNP is about 7 or 8 times greater than ours yet, surprisingly, the level of US trade is barely twice as large. Put another way, about 30 precent of our GDP is devoted to export of goods and services; for USA the figure is around 8 percent. If we can actually sell one third of everything we produce in competitive world markets—about twice what Japan sells abroad relative to its total GNP—British industry and commerce cannot be quite as it is sometimes depicted by our most inefficient industry—the British Press!

The new international trade rules agreed in the multilateral trade negotiations will help to get rid of barriers to trade by placing some curbs on the ability of governments to erect non-tariff barriers unilaterally. That will bring benefits to us all.

But there is another obstacle to trade between us which falls wholly outside the GATT. And it is best that I mention it quite frankly; otherwise my remarks will be "long" on diplomacy, but short on "truth". I do not see much purpose in travelling around the world delivering bromides—when an opportunity exists of removing misunderstandings between our countries. I do so with the wish of strengthening not weakening the friendship between two old friends. And since Washington has to take note of California, perhaps they may also take some note of what I am saying in California!

The problem arises from the manner in which the laws of the United States are encroaching on other nations' sovereignty. I have not come here to knock your law. How could I when it is founded on the laws of England? I do not question the absolute right of the US to enact and enforce within its own territory whatever laws it chooses. But I do want to take this chance of highlighting a few cases in which good relations between our countries are being impaired by the extent to which the laws of the United States, whether as a result of the intentions of Congress or the interpretation of the courts, are applied in practice beyond your own frontiers.

This is not a new problem; it has been a matter for contention with some of your overseas partners and friends for decades. Preeminently this happens in the complex field of anti-trust law. We understand and respect your anti-trust laws—although not all of you may do so! Certainly we acknowledge their purpose—and I am speaking here, as I have already explained, as a member of a government which is determined to restore the primacy of competition and enterprise in the economy of the United Kingdom.

But what is discouraged or illegal in one country may be legal or positively encouraged in another. And the so-called "effects" doctrine of US law is leading to many instances where United States authorities are seeking to exercise their regulatory or investigatory powers over individuals or companies situated and operating outside the United States in ways which appear thoroughly objectionable in the countries concerned.

Take, for example, the current anti-trust case alleging a cartel of non-US uranium producers. In 1964 when the US uranium mining industry was threatened by foreign imports it was afforded long-term protection by means of an effective ban on the importation of uranium for use in US reactors. At a stroke this had the direct effect of denying to the non-producers around three-quarters of the world market for uranium.

In such circumstances, it is reasonable that a US company having failed to cover its uranium supply commitments should be able to drag foreign companies into the US courts to answer for their behaviour outside the USA: behaviour which was prompted by the direct effect of US economic (I hesitate to say "protectionist") policies and sanctioned by the Governments most directly affected. This is a situation which positively provokes retaliation in the field of commercial nuclear policy.

A second major area in which the application of US law gives concern is the so-called principle of enterprise entity. This is of course where US law is applied not only to US companies and to companies carrying on business in the USA, but also to related companies in particular overseas subsidiaries or affiliates which are not trading in the USA. In effect this is an attempt to impose US economic policies on the citizens and companies of other countries.

I understand and support the need to prevent the evasion of US laws by US subjects. Nevertheless a company which is registered, situated, operating and employing people in the United Kingdom is subject to the laws of the United Kingdom company and not of the United States. This is the case even if it is American controlled. Yet there are cases where a United Kingdom company with a minority shareholding is defined in US law, and treated, as a US company.

As a related matter, we are greatly concerned by the insistence of certain States of the Union, notably I am sorry to say California, on taxing the profits of subsidiaries of foreign companies on a "Unitary" basis is taking into account profits made elsewhere and not just of operations in the State concerned. Put at its worst, the State of California is seeking thereby to benefit from the effort and enterprise of people elsewhere in the world. We must not get on to a tax escalator which inhibits cross-investment because two can play that game to the detriment of both. As some of you will know, my colleague, the Minister of State at the Treasury, Peter Rees, will be arriving in California tomorrow for talks on this very issue.

Third, there is the contentious field of international shipping. Recently the US Department of Justice indicted several European shipping lines and individuals for activities which are perfectly legal in Europe. The whole essence of shipping is that it is an international activity. It affects the interest of all countries involved in the trade, not just the United States. Our Government, like other governments involved in shipping relations with the United States, believes that any problems which arise should be dealt with by joint discussion and mutual agreement, not in a manner which disregards the jurisdictional interests of the trading partners.

I regret that the major cases which have come my way during my first hundred days in office had led me to prepare defensive proposals for the re-assembly of Parliament next month when I shall be introducing new legislation designed to give better protection to British companies and individuals against attempts to any other country—particularly USA—to impose on them unilaterally their own domestic economic policies and regulations. One of the effects of these proposals, if Parliament approves them, will be that a range of US judgements including those in anti-trust, will not be enforceable in the UK and we shall be able to exercise tighter control over the provision of information from the UK where US authorities seek it for the purposes of investigations carried out under US law.

The economic interdependence of the Western nations particularly the very large financial and business investment between the US and the UK requires considerable sensitivity when it comes to the effects of one nation's actions on the other. It demonstrates the desirability of inter-government discussion rather than unilateral action to solve multilateral problems.

British sovereignty must be respected and we must be consulted about any proposed steps by US law enforcement authorities which will affect the United Kingdom. We for our part will co-operate fully with US authorities where there are good grounds for it and we expect you, our American friends, to behave likewise.

The principle of international comity, which we believe in and adhere to, must apply both ways, and in this respect I have been particularly pleased and encouraged to notice recent statements made on behalf of the Department of Justice which indicate that USA also takes this principle very seriously. I hope that we can continue along this line—there is no such thing as unilateral comity.

I have described today some of the opportunities for greater co-operation based on our common historical heritage and our shared belief in the operation of a free market. I have also set out, "Warts and all", what I see as the principal problem in bringing about a yet closer relationship in the economic sphere. I believe that the long-standing relationship between the US and the UK can withstand a few home truths. Our two countries share most objectives, political and economic. But where the objectives conflict, the UK will act within the framework of international law and comity in order to protect its legitimate interests.

Let us, therefore, build on the basis of the mutual respect and co-operation which I have referred today and which I think is coming to be shared in Washington and by the United States courts. Let us consult on matters of mutual interest and concern, and avert problems before they arise.

Let me close by quoting Mrs. Thatcher. She said "In politics I have learned that it is the half-hearted who lose. It is those with conviction who carry the day." Well, I am not half-hearted about our commitment to a free society, incentive and enterprise—nor are you. And because we share these aims, I have the belief that the US and the UK will go from strength to strength, together, in friendly competition, and above all co-operation. Co-operation towards an ever stronger political and economic relationship has been the theme of my speech today.●

THE EARL MOUNTBATTEN OF BURMA

● Mr. HAYAKAWA. Mr. President, I would like to share with my colleagues an article by Virgil Pinkley, editor and publisher of the Burbank Daily Review, about his friendship with Admiral of the Fleet, the Earl Mountbatten of Burma. Virgil Pinkley first met Lord Mountbatten in 1940 while covering the war in Europe and Africa as executive vice president and general manager of United Press for Europe. This warm personal account was written by Mr. Pinkley immediately after learning of the tragic and senseless death of his friend. The text of the article follows:

RECOLLECTIONS OF A WAR HERO

(By Virgil Pinkley)

From personal experience I know that Lord Louis Mountbatten was particularly fond of Americans and they liked him immensely. He had a warm personality and he went out of his way to pay particular attention to U.S. sailors and GI's.

He and Gen. Dwight David Eisenhower were warm personal friends and always called each other "Ike" and "Dickie." Many weekends Eisenhower went to Lord Mountbatten's estate just outside of Southampton, where they frequently caught salmon from a stream running through the rear of the Mountbatten estate.

I spent a weekend at the Mountbatten estate and Lord Louis asked me if I would like to use the same bedroom that Gen. Eisenhower used on his visits.

Lord Louis Mountbatten's wife, Edwina, spent much of the war organizing and directing the Red Cross at home and overseas. When she died he never remarried.

On his way to Southeast Asia to assume supreme command there, he stopped off at Gen. Eisenhower's headquarters in Algiers.

He told Ike, "I want to establish a headquarters in Southeast Asia very much like the one you have here which is so smooth and well organized that it's difficult to tell what nationality the members are of your top echelon."

Ike flashed the famous grin and said, "Dickie, all you need to do is to take a good tailor out there with you."

Mountbatten asked, "Why?"

The American general replied, "You will be required to attend innumerable functions out there, each demanding special uniforms and paraphernalia. If you have a tailor who can do all of that for you it will permit you to forget such matters and spend your time fighting the war."

About 10 days later a 28-page dispatch arrived from Eisenhower's headquarters describing in detail the way he established North African headquarters and suggesting pitfalls that he (Mountbatten) might avoid.

Mountbatten only recently was named Admiral of the Fleet, the Earl Mountbatten of Burma. He told me of this in a letter I received from him recently.

Mountbatten and Field Marshal Montgomery were never particularly friendly and they differed sharply when the attack on Dieppe, France, was planned.

Monty favored a frontal attack on the harbor and city.

Mountbatten said the way to take a harbor is to attack from the side and close the rear by sealing it off completely from the mainland.

Finally, the British authorities decided to adopt Monty's frontal attack and there was heavy loss of lives, injuries and capture. Most of those casualties were Canadians.

Eisenhower spent many hours going over the Dieppe raid so that the same mistakes could be avoided when later the invasion of Normandy in France was planned and staged.

The first time that Eisenhower attended a meeting of top British chiefs of staff, Prime Minister Winston Churchill, Lord Louis and others, Eisenhower appeared in the uniform with no decorations, except two stars on his collar, indicating the rank of major general.

At his country estate, Mountbatten told me that before the meeting, some of the top British brass said, "let's have some fun with this country bumpkin from Kansas." They spoke to him much as if he were a colonial. But within a matter of a few minutes, all eyes were riveted on Eisenhower who answered questions directed to him crisply and succinctly.

He asked a few questions himself which were pertinent and revealing.

Then Lord Louie told me that as they left the meeting, Churchill took Mountbatten's arm as they walked down the hall, and said, "Ike is a born gentleman. I believe God has sent him to us, in the hour of our great trial and need."

Whenever Mountbatten needed aid to gain approval of one of his many imaginary projects, he would consult Eisenhower and together they would go to the prime minister or the British Imperial Staff. One of these was Plutto, which included the laying of huge rubber hoses across the channel to ship millions of tons of oil and gasoline to allied forces advancing against the Nazis.

When Mountbatten went to Churchill with the plan for Mulberry Harbor, Eisenhower ardently supported the plan. This included the construction of temporary harbors which were built and towed across the channel just off shore.

As long as the allies did not have an important harbor such as Cherbourg, France, millions of tons of supplies were taken to the Mulberry Harbor where they were unloaded and then transferred ashore.

It was Mountbatten who designed special types of amphibious tanks and other tanks which could be used in heavy bocage country to break through rows of bocage.

Lord Louis Mountbatten headed the establishment of a special university in America for which he constantly raised funds through soliciting large contributions.

In his later years, Lord Louis, who was an especially handsome man, visited Washington numerous times and toured all parts of the United States.

I know personally that he was one of the finest and truest friends that we had in the war.

At the first visit to No. 10, Downing Street made by Eisenhower, he was asked if he would be willing to fight under British leadership when the eventual invasion of France occurred.

Eisenhower replied, "Certainly. You have been in this war all by yourself from the first day. You gained actual experience which we did not have and your forces have been bloodied in battle."

Viscount Alanbrooke interrupted to say, "Do you know of any such man."

Eisenhower responded, "I have not met him but I have heard a great deal about the dash, bearing and accomplishments of Lord Louis Mountbatten."

Alanbrooke said, "He's seated right across the table from you. Why don't you shake hands with him?"

They did, and became lifelong friends.

I had a particular affection and regard for Mountbatten because of his many qualities and his warmth and friendliness.

He took over one of the most difficult assignments in the war when he went to Southeast Asia and commanded thousands of American troops among others there.

The world and I have lost a magnificent leader and gentleman, Admiral of the Fleet, The Earl Mountbatten of Burma.●

TRIBUTE TO MARY KATHERINE RANDOLPH

● Mr. BENTSEN. Mr. President, last Friday the president and trustees of Salem College in Salem, W. Va., honored Mary Katherine Randolph by awarding her an honorary doctorate of public service. I would like to join in that tribute; I can think of no one who more richly deserves the honor.

After completing her education at the West Virginia Preparatory School and Beaver College, Mary Katherine Randolph returned to her hometown of Kaiser, W. Va., to work as a textile designer. She later served for 5 years as a social worker in the West Virginia Department of Public Welfare and was in charge of child placement in 13 West Virginia counties.

Accompanying her husband to Washington in 1933, Mary Katherine maintained her active interest in public service, devoting her time and substantial talents to such worthwhile activities as the March of Dimes, the Florence Crittenton Home, and the Senate Wives Club.

During the 46 years she has spent in this city with Jennings, Mary Katherine has established personal friendships with the wives of eight U.S. Presidents.

Mary Katherine Randolph's life and accomplishment are impressive, but even more enduring, Mr. President, is the feeling of deep affection and respect she has inspired in all the families who have known and admired her throughout the rugged mountain terrain of West Virginia and here in the Halls of the U.S. Congress.

Mary Katherine has enriched the lives of all who have known her. I am honored to count her as a friend, and I am pleased to join the people in Salem as they paid tribute to a truly exceptional woman.●

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed into executive session for not to exceed 1 minute to consider the nomination on the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not, the reservation is for the purpose of advising the majority leader that the item appearing on today's Executive Calendar is cleared on our side and we have no objection to proceeding to its consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF ENERGY

The second assistant legislative clerk read the nomination of John C. Sawhill, of New York, to be Deputy Secretary of Energy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the prayer and the approval of the Journal, Mr. HELMS be recognized for not to exceed 15 minutes; that he be followed by Mr. BAKER for not to exceed 15 minutes; after which there will be a brief period for the transaction of routine morning business not to extend beyond 15 minutes, and that Senators be allowed to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe that under the order previously entered, following morning business tomorrow, the budget waiver will be before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I believe also that upon the disposition of the budget waiver tomorrow, the Senate will turn to the consideration of the energy mobilization board bill.

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to and, at 7:56 p.m., the Senate recessed until tomorrow, Tuesday, October 2, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 1, 1979:

DEPARTMENT OF AGRICULTURE

James C. Webster, of South Dakota, to be an Assistant Secretary of Agriculture, vice Dale Ernest Hathaway, elevated.

IN THE COAST GUARD

The following-named Reserve officers of the Coast Guard to be permanent commissioned officers in the grades indicated:

Lieutenant

Robert C. Boetig
William T. Carreiro
Robert H. Cornelius
Albert P. Delgarbino
John J. Dileonardo
Thomas G. Gordon
John F. Grossweiler
Michael J. Hall
Elmo J. Peters
Thomas E. Schaad
George J. Scherrer
John F. Spatuzzi
John J. Stoneman
Benjamin R. Thomason III
Mark E. Whyte

Lieutenant (junior grade)

Sally R. Brice
Edward J. Dewitt
Philip B. Dyer
Kenneth W. Keane, Jr.
Thomas W. Mcellen
John Salvesen
Steven L. Sparks
Roger A. Whorton

CONFIRMATION

Executive nominations confirmed by the Senate October 1, 1979:

DEPARTMENT OF ENERGY

John C. Sawhill, of New York, to be Deputy Secretary of Energy.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

HANDGUN VIOLENCE CLAIMS 709 LIVES IN AUGUST

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. DRINAN. Mr. Speaker, August was another bad month for victims of handgun misuse. In yet another record for the year, 709 people died as a result of media reported handgun deaths. The total for the first 8 months of the year is now 5,267 dead.

The continually increasing number of handgun deaths in this country is a clear indication of the necessity for strong legislation to curb the wanton misuse of handguns. There are already several bills introduced in the House, and effective legislation is expected to be introduced in the Senate in the near future. I hope my colleagues will take the time to consider these legislative proposals and work together to examine handgun control bills now. For too long, the Congress has been held hostage by strong lobbying groups that would not favor any restrictions placed on the use of firearms. I believe these statistics make a compelling case against the prevailing philosophy of opponents of gun control. Recent public opinion polls indicate that increasing numbers of Americans agree that the time for handgun control is now.

The roll of handgun dead compiled by Handgun Control, Inc., follows:

ROLL OF HANDGUN DEAD

ALABAMA (19)

Morris Baker, Decatur; Henry Booth, Mobile; Ray Daly, Limestone Co.; Vauche Ellette, Lawrence Co., James Gray, Montgomery; Joe Hardin, Mobile; Eugene Hardy, Birmingham; Charles Hodges, Birmingham; Eloise Howell, Birmingham; Wilfred Howell, Birmingham; Walter Jackson, Birmingham; John Lockett, Huntsville; Douglas Mayberry, Huntsville; James Maull, Montgomery; Sylvester Pettaway, Birmingham; Sam Schuler, Huntsville; Johnny Turner; Tuscaloosa; Barry Woods, Talladga; unidentified male, Wetumpka.

ALASKA (2)

Richard Leaf, Anchorage; unidentified male, Anchorage.

ARIZONA (12)

Ray Birch, Phoenix; Vernon Bleacher, Payson; Joseph Coronado, Bisbee; Abel Flores,

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Peoria; Martha Fuentes, Tucson; Henry Hudson, Coolidge; Robert King, Kingman; Linda Pendergrall, Tucson; Jesse Salce, Tucson; Gordon Snyder, Phoenix; Ramon Uriarte, Guadalupe; Gary Williams, Winslow.

ARKANSAS (10)

Elmer Caldwell, Little Rock; Leloyd Goins, Pine Bluff; Craig Keller, Lawrence Co.; Brian Kibler, Van Buren; Raymond King, Gosnell; James Love, Stuttgart; Joey Miller, Jacksonville; Joy Roys, Little Rock; Phillip Roys, Little Rock; Al Saxton, Pulaski Co.

CALIFORNIA (123)

Victor Alcantara, San Diego; Ana Alverez, Los Angeles; Phillip Alvarez, Canogo Park; Shapour Ansari, Laguna Hills; Michael Armstrong, Palm Springs; Clendon Baker, Auburn; Sammy Barrios, Coachella; James Bibee, Clovis; Marilyn Bird, Berkeley; William Bird, Berkeley; Samuel Brown, San Diego; Foster Burch, Los Angeles; Fernando Camarena, Stockton.

Alvin Carter, Sacramento; Martin Carter, Los Angeles; George Casey, Buena Park; Daniel Chagolla, San Bernardino; Carl Colin, Palmdale; Gary Colombia, Morada; Benito Contrerras, Fresno; Thomas Cramer, Los Angeles; Booker Dillard, San Leandro; Edward Durley, Inglewood; Judith Elliott, Castro Valley; Charles Elmore, El Centro; Lynda Evans, Vacaville; Norman Evans, San Pablo; George Farley, Los Angeles; Dale Freeman, Carson; James Garcia, Pacoima.

Noe Garza, San Diego; Elsie Gifford, Pinole; Patricia Gifford, Pinole; Stanley Gifford, Fairfield; Susan Gifford, Fairfield; Antonio Gomez, Lynwood; Ladislado Gonzales, Oxnard; Julius Goodson, Jr., Los Angeles; Clarence Green, Pittsburg; Billy Grigsby, Modesto; Halim Halaby, Los Angeles; Marwan Halaby, Los Angeles; Delores Harger, Susanville; Aubrey Harris, Los Angeles; Louis Havlichek, Bakersfield; Steven Harwell, Willows; Ronald Henry, Sacramento; Carolyn Hensley, San Diego.

Gloria Hernandez, Stockton; Richard Hernandez, Broderick; Denita Holland, Stockton; Howard Howell, Sr., Bakersfield; Manuel Huerta, Los Angeles; Ruben Huerta, Los Angeles; Brian James, Los Angeles; Dawson Jones, Jr., Los Angeles; Edda Kane, Marin Co.; Steven Kettelsen, Corona; Donald Kille, Auburn; Woodrow Komesu, Hawthorne.

Jules Landow, Los Angeles; Louis Levey, Avondale; Guy Lynch, Glendale; Robert Mahoney, San Diego; Juvenal Martin, Pomona; James Maloney, El Centro; Mario Martinez, Los Angeles; Kataro Matsumato, Stockton; Charles Mayfield, Stockton; Ronald McPherson, Sonora; Oscar Mesa, Redwood City; Genevieve Mills, Long Beach; Maria Morales, Los Angeles; Magdalena Moreno, Hemet.

Joe Mossa, Visalia; Warren Mowery, Bakersfield; Juan Muniz, Earlimart; Dave Myers, Los Angeles; Ronald Newhouse, Roseville; James Oppen, Santa Barbara; Ricardo Ortiz, Rubidoux; Jorge Pamplona, Monterey Co.; Oliver Payne, San Francisco; Adrian Pina, Morgan Hill; J. Robert Porter, El Centro; Laris Price, Jr., Los Angeles; Joseph Puckett, Redwood City.

Mark Ratty, Bakersfield; Steven Razo, Los Angeles; Louis Reynoso, Los Angeles; Michael Ridenour, Modesto; Wayne Rose, Sonora; Ghadah Salahutdin, Los Angeles; Rene Salas, Long Beach; Jose Sanchez, Fresno; Kenneth Shugart, Sacramento; Laura Stanton, San Francisco; Burris Stevens, Stockton.

Lucille Tarr, Downey; Lonnie Thomas, Fresno; Luellen Thomas, Los Angeles; Marion Tilley, Menlo Park; Susan Valenzuelia, Huntington Park; Joseph Vasquez, San Jose; Paul Vergara, Gardena; Martin Vielma, San Bernardino; Ronald Waddell, Hawthorne; Johnny Wasco, San Diego; Donald Wayne, San Joaquin Valley; Anthony Webb, Lancaster; Aloysius Wieczorek, Jr., Oxnard; Ray Winn, Sacramento.

Donald Wright, Los Angeles; Mary Zachary, Thousand Oaks; Unidentified Male, Oakland; Unidentified Male, Calwa; Unidentified Male, Earlimart; Unidentified Victim, Montebello; Unidentified Male, Oxnard; Unidentified Victim, Long Beach; Unidentified Male, Los Angeles; Unidentified Male, Sonora; Unidentified Female, Torrance.

COLORADO (18)

Dwight Brandon, Denver; David Cheek, Denver; Henry Cisneros, Denver; Richard Haase, Denver; Bishop Jackson, Jr., Aurora; Carl Jackson, Denver; Mae James, Denver; Orlando Jolly, Denver; David Sena, Boulder; Linus Smith, Cheyenne; Harold Thoemke, Loveland; David Trujillo, Denver; Duwaine Uhrich, Westminster; Janice Uhrich, Westminster; Rolf Wagner, Aurora; Unidentified Victim, Denver; Unidentified Male, Aspen; Unidentified Male, Grand Junction.

CONNECTICUT (4)

Robin Hanlon, Norwalk; Janet Hinckley, Milford; Roderick Payne, Bridgeport; Steve Winn, Norwalk.

DELAWARE (2)

Joe Clark, Wilmington; Handy Myrtis, Wilmington.

DISTRICT OF COLUMBIA (2)

Jonathon Williams, Unidentified Male.

FLORIDA (23)

Robert Ambrocht, Ft. Lauderdale; Luis Arce, Miami; Josephine Baker, Deland; Jesus Bellver, Miami; Gregory Berry, Jacksonville; Elbert Boogle, Palm Beach; Jonnie Brown, Panama City; Michael Cormier, St. Petersburg; Cecil Gomez, Miami; Ralph Hartfield, Jr., Palm Beach; Booker Jackson, Panama City; David Jones, Jacksonville.

Robert Kulmac, Punta Gorda; Manuel Lozado, Florida City; Michael Marks, Miami; Daniel Pope, Branford; Randolph Pope, Homestead; Tony Ressess, Homestead; Ana Sanchez, Miami; Isabel Sanchez, Miami; Redro Sanchez, Miami; Jerome White, Miami; Unidentified Female, Miami.

GEORGIA (24)

Joseph Boothe, Jr., Atlanta; Tony Causey, Marietta; Henry Charles, Thomasville; Joe Coffey, Ringgold; James Ely, Eton; Fred Ford, Atlanta; James Gaddis, Jr., Atlanta; Robert Gotel, Monticello; Ruth Hackett, Moultrie; Lavanne Harrison, Atlanta.

Eddie Henderson, Atlanta; Stacy Holt, Atlanta; Georgina Iglesias, East Point; Raul Iglesias, East Point; Raul B. Iglesias, East Point; Grace Kurowski, Savannah; Eugene Roberson, Macon; Suzette Schutz, Atlanta; Bobby Simmons, Atlanta; Sandra Smith, Atlanta; Dorothy Tritions, Atlanta; Barney Trencher, Atlanta; Ira West, Carrollton; Unidentified Male, Atlanta.

HAWAII (2)

Unidentified male, Kahuku; Unidentified Female, Kahuku.

IDAHO (11)

Katherine Butterfield, Elk City; John Dorcheus, Boise; Jose Duran, Caldwell; Glenda Jones, Pocatello Katherine Jones, Elk City; Veryl Jones, Pocatello; Shannon Johnson, Rexburg; Rosa Miranda, Aberdeen; Ethelda McBride, Nampa; John McBride, Nampa; Mark Messick, Basalt.

ILLINOIS (38)

Bennie Alexander, Chicago; John Alter, Effingham; Dallas Baugher, Girard; Tobias Berger, Jr., Carbondale; Willie Brooks, Chicago; Ralph Brown, Chicago; Venetta Brown, Chicago; Richard Colon, Chicago; Humberto Correa, Chicago; Terence Duke, Rockford; Ross Glorioso, Chicago; Juanita Green, Chicago; Don Harder, Effingham; Devida Haynes, Chicago; Asanas Jaskewycz, Chicago; Jose Johnson, Chicago; Robert Johnson, Chicago; Kevin Keating, Chicago; Wayne Kwiatek, Chicago; John Lavelle, Sr., Chicago; Schandra Lewis, Chicago; Louis Limas, Chicago; Richard Lucas, Chicago; Annie Lue Mcfield, Pulaski; Baldemar Mendoza, Summit; Emmett Miller, Chicago; Willie Moore, Chicago.

Billie Music, Chicago; John Ng-Lun, Chicago; Claudia Owens, Chicago; Ruben Ramirez, Elgin; Carl Rassmussen, Detroit; Sharon Roberts, Chicago; John Roundy, Chicago; Joan Surman, Chicago; Lawrence Surman, Chicago; Manuel Williams, Chicago; Anderson Young, Brooklyn.

INDIANA (3)

Conrad Dahmer, Evansville; Brian Farlow, Richmond; James Laymon, Mishawaka.

IOWA (4)

Maynard Helgeland, Charles City; Dianne Hendrych, Durant; Anne Kern, Des Moines; Reuel Van Ness, Charles City.

KANSAS (6)

John Altor, Effingham; Grant Avery, Peabody; John Ecton, Wichita; Kenneth LeFort, Trego Co.; Darlene LeFort, Trego Co.; Robert Strickler, Hutchinson.

KENTUCKY (14)

Russell Brashear, Lexington; Henry Brown, Louisville; Shirley Brown, Greenup; James Buchanan, Barbourville; Phyllis Dezarn, Manchester; David Dold, Louisville; Billy Hill, Madisonville; Phyllis Hill, Madisonville; George Napier, Manchester; Jesse Napier, Manchester; Teresa Treadway, Pikeville; Thomas Washington, Lexington; Tommy Whittle, Lancaster; Linda Woodruff, Madisonville.

LOUISIANA (13)

Terri Blackstock, Ruston; Herbert Brown, Alexandria; Donald Burnett, New Orleans; Michael Fontenot, New Orleans; Allen Jones, New Orleans; Wilbert Kelly, Jr., New Orleans; Marjorie Lee, Belle Chasse.

Oliver Lee, Tallulah; Naomi Owens, Minden; Chester Rauch, New Orleans; Judy Reddick, Lincoln; Michael Wakeman, New Orleans; Diane White, Lake Charles.

MARYLAND (12)

William Albers, Baltimore; Bernard Banks, Baltimore; Charlotte Jackson, Ocean City; Gloria Jackson, Essex; Robert Jackson, Ocean City; Stokes Miller, Baltimore; Mary Myers, Carroll Co.; Bertha Sayles, Baltimore, Kirk Smith, Baltimore; Thomas Somers, Jr., Crisfield; Verdine Taylor, Baltimore; Carolyn Williams, Baltimore.

MASSACHUSETTS (6)

Donald Bunker, Boston; Robert Byrne, Boston; Geneva Davis, Marlboro; Jane Davis, Marlboro; Thomas Dooling, Boston; Michael Poulin, Boston.

MICHIGAN (8)

Harold Eackles, Detroit; Mark Green, Royal Oak; Harry Minor, Jr., Detroit; Louana Phelam, Jackson; Jan Popiel, Detroit; Lorri Richardson, Jackson; Karen Roberts, Detroit; Johnny Thompson, Detroit.

MINNESOTA (1)

Mark Evans, Minneapolis.

MISSISSIPPI (4)

Joseph Mayer, Pass Christian; Theresa Mayer, Pass Christian; Max Simmons, Centreville; Claiborne Varnado, Bay St. Louis.

MISSOURI (23)

Katherine Allen, Kansas City; Donald Brinkley, Steelville; Charles Brown, Richmond; Dennis Brown, St. Louis; Franklin Cash, St. Louis; Sheldon Collins, Springfield; Marion Corner, Webb City; Ronald Crump, St. Louis; Jule Gordon, St. Louis; Robert Gray, St. Louis; Richard Hadley, St. Clair.

A. R. House, Stark City; H. W. Jenkins, III, Plattsburg; Lawrence Jones, St. Louis; Thomas Laman, St. Louis; Charles Landers, Centreville; Anita Leverich, Windsor; Rose Mallow, Leasburg; William Maze, St. Louis; Andy Parker, St. Louis; Oliver Perkins, Pike Co.; Vernell Reed, St. Louis; Delbert Roam, St. Louis; James Smith, Blue Springs; Melvin Sneed, St. Louis; Roberto Vigil, St. Louis; Mary Watters, Franklin Co.; Cecil White, St. Louis; Danny Wisner, Kansas City; Anderson Young, St. Louis; Unidentified Male, Franklin Co.; Unidentified Male, Sullivan.

MONTANA (2)

Bill Davis, Livingston; Earl Malcom, Jr., Billings.

NEVADA (5)

Patricia Clemons, Las Vegas; Tammy Craft, Reno; Felix Lorenzo, Las Vegas; Eugene Shaw, Las Vegas; Rue Teeples, Fallon.

NEW JERSEY (12)

Edward Baker, Vernon Township; Leroy Collins, Newark; Michael Glenn, Newark; James Hayes, Piscataway; Alfred Johnson, Newark; Mason Justice, Newark; Kirby Lawrence, Parsippany; Andrew Mobley, Newark; Joseph Pocchio, Essex Co.; Retha Riddles, Newark; Randy Robbins, Irvington; Linda Sadler, New Brunswick.

NEW MEXICO (9)

Wendell Calkins, Roswell; Nieves Chavez, Clovis; Steve Chavez, Albuquerque; Thomas Graham, Ft. Bliss; Dario Hernandez, Berino; Kenneth Klink, Cochise Co.; Owen Landdeck, Farmington; Danny Richardson, Carlsbad; Unidentified Female, Ft. Bliss.

NEW YORK (34)

Tex Allen, New York City; Mohisan Alomari, Brooklyn; Luis Baez, New York City; Edward Baker, Vernon; Eddie Brugman, Brooklyn; Johnny Cunningham, New York City; Barbara Dawson, White Plains; Pasquale Derosa, Queens; Gladys Emanuel, New York City; Celina Escobar, New York City; Victor Ferreryra, New York City; Larry Glassner, Hauppauge; Richard Hollister, Homer; George Horn, Unadilla.

Rose Horn, Unadilla; Rose Kinsey, Rochester; Elizabeth Lake, New York City; Elizabeth Mangum, Brooklyn; Paul Masters, Poughkeepsie; Anthony Mule, New York City; Catherine Niese, Homer; Jose Ortiz, East Harlem; Robert Pell, New York City; Anthony Pirrazzi, Brooklyn; Clarence Prewitt, Mount Vernon; Stanley Ramos, New York City; Abraham Rappaport, New York City; Louise Rivenberg, Hancock; Jerry Rusignio, New York City; Michael Russell, Brooklyn; Thomas Schimenti, New York City; Dan Tishman, New York City; Jeffery Welborne, Long Island; Unidentified Male, New York City.

NORTH CAROLINA (11)

James Bethea, Dunn; Vick Burnette, Siler City; Oliver Culp, Rock Hill; Carolyn Dawson, Fayetteville; James Dawson, Fayetteville; Louis Flores, Greensboro; Joseph James, Hope Mills; Robbie Leigh, Fayetteville; William Moore, Rock Hill; Holland Nix, Long View; Unidentified victim, Dunn.

OHIO (22)

Dominic Boscarelle, Olmsted Township; Joseph Bressi, Canton; Kenneth Edwards, Cleveland; George Freeh, Cleveland; John Grim, Cleveland; Virgil Hanes, Columbus; Ahmad Hardnett, Orrville; John Harris, Toledo; Christina Johnson, Columbus; Christopher Largent, Cleveland.

James Ledbetter, Cincinnati; Linda Liford, Cincinnati; Leroy Mayfield, Cleveland; Jesse McGrath, Columbus; Ralph Nettles, Cleveland; Johnnie Oliver, Cleveland; Joyce Reynolds, Cleveland; Milford Shamblin, Elyria; Reginald Smith, Cleveland; Raymond Whiteside, Akron; Michael Wyant, Hamilton; Stephen Yancy, Cleveland.

OKLAHOMA (11)

Eddie Bell, Oklahoma City; Eugene Bemo, Jenks; Stanley Buck, Sr., Lawton, James Coldiron, Oklahoma City; Ross Miller, Salina; Carolyn Rogers, Eufaula; Gary Shields, Lexington; Paula Toole, Granite; Steven Toole, Granite; Harry Whitlow, Tulsa; Greg Willis, Chickasha.

OREGON (15)

Harold Caves, Portland; Michael Connors, White City; Mark Luther, Portland; Elsie Rickman, Portland; Lester Rickman, Portland.

PENNSYLVANIA (15)

Zenaida Cruz, Philadelphia; Alice Ford, Bradford; Linwood Ford, III, Bradford; Linwood Ford, IV, Bradford; Louis Gibbs, Philadelphia; Ivira Gray, Jr., Philadelphia; Carl Luisi, Canonsburg; Jeff Miller, Philadelphia; Edward Mitchell, Philadelphia; Lawrence Reynolds, Philadelphia; Ernesto Santiago, Philadelphia; Edward Sites, York; Tina Spalla, Canonsburg; Robert Walli, Philadelphia; Walter Wilson, Pittsburgh.

SOUTH CAROLINA (1)

Robert Hutto, Columbia.

SOUTH DAKOTA (1)

Braden Roxberry, Murdo.

TENNESSEE (32)

Tommy Austin, Sardis; Larry Bailey, Memphis; David Cecil, Cleveland; Elmer Clark Knoxville; Samuel Cotham, Columbia; Rickie Curry, Memphis; Dennis Greer, Memphis; Joyco Holland, Henderson; Lawrence Holland, Henderson; Maurice Howard, Memphis; Gail Irick, Knoxville; Gary Irick, Knoxville; Harvey Jackson, Memphis; Marsha Jenkins, Lenoir City; Alver Jones, Dickson Co.; Ernest Jones, Memphis.

Joe McKinney, Memphis; Jesse Mitchell, Madison; Donald Patterson, Alcoa; James Person, Memphis; Robert Reese, Knoxville; Linda Rhiney, Nashville; Roy Roderick, Etowah; Farrell Simmons, Crossville; Charles Stallard, Pound; Norma Teague, Athens; George Thomas, Knoxville; Dorthea Tuberville, Henderson; Willie Vinson, Memphis; Edith Walker, Morristown; Patrick Wall, Memphis; Edward Williams, Memphis.

TEXAS (107)

Peter Aguilar, Bryan; Billy Aplin, Port Arthur; Samuel Archer, Killeen; R. M. Arnold, Mount Pleasant; Charles Baker, Houston; Edwin Baker, Austin; Bobby Baylor, Houston; Carter Byrd, Houston; Joseph Boyd, Houston; Jesus Chavez, Houston; Socorro Chavez, Houston; Pamela Connor, Haskell.

Frederick Cornelius, Fort Worth; James Crabbe, Houston; O. V. Cross, Beaumont; Jimmy Daniels, Denton; Glenn Dillard, Odessa; Terry Dockery, Andrews; Howard Dove, Panhandle; Alfredo Espinoza, Fort Worth; Cornelius Fitzgerald, Dallas; Erasmo Flores, Fort Worth; Danny Franzetti, Austin; Elisea Garcia, San Antonio; Urban Garcia-Garcia, San Antonio.

Carrie Gerdine, Dallas; Masoud Ghazali, San Antonio; Nathaniel Gills, Houston; Georgie Gingrich (Mrs.), Valley; Robert Gracey, Beaumont; Claude Gunn, Jr., Cleburne; Trinidad Guzman, Austin; Donna Harrison, Odessa; Elliott Haywood, Houston; Samuel Henderson, San Antonio; Alfred Hernandez, Fort Worth; Tammy Hillard, Grand Prairie; Marcus Holmes, Lubbock; Phillip Hopkins, Wichita Falls; Verana Hunt, Houston; Joyce Jackson, Nome.

Ignacio Jimenez, San Antonio; Herbert Johnson, Jr., San Antonio; Levine Johnson, Dallas; Clinton Jones, Navasota; Douglas Jones, Grand Saline; Willy Jones, Paris; Joey Kirby, Sonora; Carena Kirkwood, Sherman; Beverly Landfried, Baytown; Carl Lee, Beaumont; Katherine London, El Paso; Charles Macheck, Houston; Catarino Magano, Dallas; Gomer May, Sherman; Thomas McCrimmon, Houston; San McFarland, Longview.

Odell Mitchell, Dallas; Calvin Moroney, Fort Worth; Virgil Null, Royse City; Shannon O'Dell, Irving; Tony Olmos, Houston; Simon Olvera, Houston; Billy Ortiz, Houston; Larry Paez, San Antonio; Benito Paradez, Big Spring; Ralph Perez, Lubbock; Larry Perkins, Fort Worth; Kenneth Pluet, Houston; Robert Prado, Lubbock; Darrell Price, Dallas; Andres Puentes, Port Isabel; Martin Ramirez, El Paso.

Janice Reedy, Lubbock; Reyna Richard, San Antonio; Timothy Rieffel, Garland; Mike Rios, San Angelo; Daniel Robbins, Temple; Augustine Rodriguez, Seguin; Ellen Rubadeau, Killeen; Hoben Salmon, Nocona; Olga Sanchez, San Antonio; Rudy Sanchez, San Antonio; Billy Scott, Lubbock; Mickey Shaw, Bonham; Martha Sedate, Odessa; Don Spruell, Dallas; Kenneth Trumble, Killeen; James Vickers, Greenville; Craig Walley, Paris; Paul Wardell, Jr., Houston.

John White, Fort Worth; Milton White, Houston; Robert Whitfield, Houston; Kevin Wilhite, Lorena; Billy Williams, Dallas; Calvin Williams, Austin; Daryl Williams, Amarillo; Dora Yates, Breckenridge; Raymundo Zamarripa, Houston; Unidentified Male, Waco; Unidentified Female, Terrell; Unidentified Male, San Antonio; Unidentified Female, Fort Worth; Unidentified Male, Irving; Unidentified Victim, Richmond; Unidentified Male, San Antonio.

UTAH (3)

David Davis, Salt Lake City; Mark Messick, Goshen; Eugene St. Laurent, Salt Lake City.

VERMONT (1)

Oren Baker, Windsor Co.

VIRGINIA (6)

Michael Bayles, Fairfax; Fairfield Bernard, Jr., Suffolk; Jerome Davis, Richmond; Ed Disney, Blacksburg; Yewell Hodges, South Hill; Ray Turner, Falls Church.

WASHINGTON (8)

Rogue Ballena, Seattle; Raymond Braziel, Othello; Twyla Carroll, Milton; Jack Chan, Seattle; Loren Edwards, Seattle; Mark Fowler, Fort Lewis; Lincoln Miltenberger, Shelton; Curtis Stephenson, Tacoma.

WISCONSIN (7)

Robert Davis, Milwaukee; Claire Dilley, Milwaukee; Sara Dilley, Milwaukee; Randy Roswell, Sparta; Paul Hassler, Oshkosh; Mark Sieja, Wausaukee; James Wolfe, Jr., Milwaukee.

WYOMING (3)

Robert Miller, Rock Springs; Gordon Schofield, Laramie; Linus Smith, Cheyenne.

ADDITIONAL VICTIMS

Benjamin Langford, Atlanta, Ga.; Charles Yarborough, Columbus, Ohio; Willie Armstrong, Florida City, Fla.; Phillip Hubbard, Miami, Fla.; William Radar, Miami, Fla.; William Bourne, Atlanta, Ga.; W. C. Robinson, Dallas, Tex.; Lee Burrell, Dallas, Tex.; Frank Dejarnette, Cleveland, Ohio; Alfred McKnight, Florida City, Fla.

Fernando Perez, Miami, Fla.; Consuelo Ramirez, Laredo, Tex.; Joseph Judge, Brownsville, Tex.; Sherry Waldrop, Bartow, Fla.; Donald Hill, Indio, Calif.; Clinton Jackson, North, S.C.; Roy Lozan, Inglewood, Calif.; Ruth Virginia, Inglewood, Calif.; William Flask, Warren, Ohio; Gene East, Arab, Ala.; Unidentified Male, Long Beach, Calif.

NOTE: The Handgun Body Count is based on a compilation of news reports of handgun violence appearing in the nation's daily and weekly newspapers during that month. The figure includes murders, suicides, and accidents by handguns. ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 2, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 3

9:00 a.m.
Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To hold hearings on S. 1413, to extend through January 19, 1986, existing antitrust exemption for oil companies that participate in the international energy agreements.
1318 Dirksen Building

Select on Small Business
To hold oversight hearings on the activities of the Small Business Administration, focusing on the activities of the Office of Chief Counsel for Advocacy.
424 Russell Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 850, 1613, 1556, 1718, and 1775, bills to provide financial assistance for the development of energy conservation from agricultural and forestry commodities, and the nominations of Jewell Haaland, of Minnesota, and Dwight L. Tripp, Jr., of Maine, each to be a Member of the Federal Farm Credit Board, Farm Credit Administration.
324 Russell Building

Commerce, Science, and Transportation
To hold hearings on S. 1656, to promote the development of a strong domestic fishing industry, by strengthening the provisions of the Saltonstall-Kennedy Act which established a reserve fund to support fisheries development projects.
235 Russell Building

Environment and Public Works
Nuclear Regulation Subcommittee
To continue hearings on the response of the Nuclear Regulatory Commission relative to the Three Mile Island accident.
4200 Dirksen Building

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on S. 828 and H.R. 3951, bills authorizing funds through fiscal year 1987 to the Washington Metropolitan Area Transit Authority for the construction of the rapid transit system for the national capital region.
3302 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

9:45 a.m.
Governmental Affairs
Intergovernment Relations Subcommittee
To resume hearings on S. 878 and 904, bills to simplify the administration of national policy requirements applicable to Federal assistance programs to State and local governments.
1114 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business
3110 Dirksen Building

Finance
Business meeting, to continue mark up of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 794, to allow for a smoother operation of the consultation procedures established by the Postal Reorganization Act of 1970 between top management of the U.S. Postal Service and an organization of postal supervisory employees, in the planning and development of pay policies and other programs relating to supervisory employees.
357 Russell Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
6226 Dirksen Building

1:30 p.m.
*Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

OCTOBER 4

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To hold hearings on S. 1465, proposed Farm Credit Act Amendments.
322 Russell Building

*Judiciary
To resume hearings on S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.
2228 Dirksen Building

9:30 a.m.
*Judiciary
Constitution Subcommittee
To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.
1202 Dirksen Building

Select on Small Business
To continue oversight hearings on the activities of the Small Business Administration, focusing on the Office of Chief Counsel for Advocacy.
424 Russell Building

10:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.
235 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Subcommittees on Environmental Pollution and Resource Protection.
To resume consideration of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Finance
Business meeting, to continue markup of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Foreign Relations
To hold closed hearings to receive testimony from Administration officials on arms sales to Saudi Arabia.
S–116, Capitol

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

Select on Small Business
To hold oversight hearings on the implementation of procurement assistance programs under the Small Business Administration.
154 Russell Building

2:30 p.m.
Foreign Relations
To hold hearings on S. 1668, authorizing additional funds for the Department of State for refugee assistance programs for fiscal years 1980 and 1981.
4221 Dirksen Building

OCTOBER 5

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agriculture Credit and Rural Electrification Subcommittee
To continue hearings on S. 1465, proposed Farm Credit Act Amendments.
322 Russell Building

Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.
235 Russell Building

Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To resume hearings on S. 1413, to extend through January 19, 1986, existing antitrust exemption for oil companies that participate in the international energy agreements.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Subcommittees on Environmental Pollution and Resource Protection
To continue consideration of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Finance
Business meeting, to continue mark up of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

*Judiciary
To resume hearings on S. 1722 and 1723, bills to reform the Federal criminal laws and streamline the administration of criminal justice.
2228 Dirksen Building

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for September.
1318 Dirksen Building

OCTOBER 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To resume hearings on S. 1465, proposed Farm Credit Act Amendments.
322 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To hold hearings on H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits.
2221 Dirksen Building

OCTOBER 10

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Patricia P. Bailey, of the District of Columbia, to be Federal Trade Commissioner.
235 Russell Building

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

10:00 a.m.
*Energy and Natural Resources
To hold hearings on H.R. 3756, authorizing funds for fiscal years succeeding fiscal year 1980, to provide a medical care and environmental research program for the Marshall Islands, resulting from U.S. nuclear weapons tests, and to administer and enforce certain taxes and customs duties in the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa; and H.R. 3758, to stipulate that U.S. income tax laws will not become effective in the Northern Mariana Islands as a local territorial income tax until January 1, 1982.
3110 Dirksen Building

Finance
To continue hearings on H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits.
2221 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
1318 Dirksen Building

Select on Intelligence
Charters and Guidelines Subcommittee
To hold a closed business meeting.
Room S–407, Capitol

10:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

OCTOBER 11

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on S. 531, to allow State-inspected meatpacking plants which meet Federal requirements, to sell their product to federally-inspected plants for further processing, which will increase both competition and efficiency throughout the meat industry, and help put an end to the destruction of the smaller plants.
322 Russell Building

Judiciary
To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

9:30 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.
1202 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To resume mark up of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

2:00 p.m.
Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and to restructure our Federal water resource policy.
5110 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
To hold hearings on S. 680, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on S. 6 and 80, bills to extend through September 30, 1981, the current price support levels for dairy products.
324 Russell Building

10:00 a.m.
Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on S. 1637, to modify the existing oil and gas leasing system on public lands.
3110 Dirksen Building

Finance
To continue markup of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Judiciary
Constitution Subcommittee
Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.
154 Russell Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

OCTOBER 15

9:30 a.m.
*Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
6226 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

OCTOBER 16

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).
4221 Dirksen Building

OCTOBER 17

9:30 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the implementation of older American volunteer programs by ACTION agencies.
4232 Dirksen Building

10 a.m.

Commerce, Science, and Transportation

To resume oversight hearings on the Federal Trade Commission's study of the life insurance industry's cost disclosure policy.

235 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business

3110 Dirksen Building

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., and sess.).

4221 Dirksen Building

OCTOBER 18

10:00 a.m.

Energy and Natural Resources

To hold hearings on S. 1699, and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).

4221 Dirksen Building

*Labor and Human Resources

Health and Scientific Research Subcommittee

Business meeting, to consider S. 1177, to establish a partnership between the Federal Government and the States in the planning and provisions of mental health services.

4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 19

9:30 a.m.

Energy and Natural Resources

To continue hearings on S. 1699 and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

10:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1724, to provide grants to States to assist low and moderate income individuals to meet the rising home energy costs.

4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 23

9:30 a.m.

Joint Economic

Economic Growth and Stabilization Subcommittee

To resume hearings to promote equitable economic deregulation of the railroad industry.

5110 Dirksen Building

10:00 a.m.

Labor and Human Resources

To hold oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training and educational programs.

4232 Dirksen Building

OCTOBER 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

235 Russell Building

10:00 a.m.

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

Labor and Human Resources

To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.

4232 Dirksen Building

OCTOBER 25

9:30 a.m.

Veterans' Affairs

To hold joint oversight hearings with the House Committee on Veterans' Affairs on admission policies to Veterans' Administration's medical care facilities.

345 Cannon Building

10:00 a.m.

Judiciary

To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

OCTOBER 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings in S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

235 Russell Building

10:00 a.m.

Joint Economic

To resume hearings on the Consumer Price Index figures and inflationary trends.

5110 Dirksen Building

OCTOBER 29

9:30 a.m.

*Veterans' Affairs

To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

5110 Dirksen Building

OCTOBER 31

9:30 a.m.

Select on Small Business

To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.

424 Russell Building

NOVEMBER 1

9:30 a.m.

Select on Small Business

To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information rereleased by such services.

424 Russell Building

NOVEMBER 2

9:30 a.m.

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

NOVEMBER 14

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

235 Russell Building

CANCELLATIONS

OCTOBER 5

9:30 a.m.

Agriculture, Nutrition, and Forestry

Foreign Agricultural Policy Subcommittee

To hold hearings on proposed sales of American grains to the Soviet Union.

457 Russell Building

10:00 a.m.

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To resume oversight hearings to examine alleged fraud and mismanagement practices in the General Services Administration.

3302 Dirksen Building

Judiciary

Constitution Subcommittee

Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.

Room to be announced

OCTOBER 10

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, October 2, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, we pray Your blessing upon our Nation and all the people that dwell therein. Give to us the appreciation for the opportunity to live in a free land and in the diversity of our people. Help us to grow in our awareness of our traditions and to value those ideals that promote peace and good will.

This we pray, O Lord, for in You do we trust. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 402. Joint resolution making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1075. An act to revise and reform Federal law applicable to drugs for human use, and for other purposes, and

S. 1300. An act to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Friday, September 28, he did on Saturday, September 29, sign the following enrolled bills:

H.R. 5369. An act to provide for a temporary increase in the public debt limit, and to amend the rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.

S. 737. An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference within the ability to engage in commerce.

PRESIDENT'S ADDRESS A WEAK RESPONSE TO SOVIET COMBAT TROOPS IN CUBA

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 30 minutes.

Mr. BAUMAN. Mr. Speaker, last night I had occasion to speak in the beautiful little Eastern Shore community of Chestertown, Md. I purposely limited my remarks so that the dinner could conclude and I could listen to the President address the Nation at 9 o'clock. I listened very carefully to every word the President of the United States had to tell us about the Cuban crisis, as it was called only a few days ago. I must offer this Member's opinion, that this was a pitiful response by a weak President to a major international problem that faces this country.

I suspect that President Monroe and his Doctrine are both spinning in their grave this morning. I do not think the President of the United States apparently has read any history in regard to our relationship with the Soviet Union or with their puppet state which is Cuba.

In 1962 President Kennedy in a forthright display of American ability to respond to the Soviet threat literally told the Soviets that they must remove the nuclear warheads and missiles that were being placed there as a threat to the United States. And, indeed in a brief matter of time the Soviets backed down.

In 1970, as Mr. Kissinger has recently indicated in his memoirs being printed in Time magazine, President Nixon and the Secretary of State both responded forthrightly to the threat of the placement of a nuclear submarine base at Cienfuegos in Cuba. And again after a period of time, rather brief, the Soviets backed down.

In 1979 we have a President of the United States telling the Soviets that they must withdraw these combat-ready troops, that the status quo will not be acceptable, and last night the President of the United States backed down.

I searched my mind this morning for a similar historic parallel to the President's repeated statements last night that the Soviets had assured him that there was no threat in the presence of these troops.

I remember very well studying Neville Chamberlain's words after negotiating with Adolf Hitler at Munich that he had been assured by Herr Hitler that this, after the Sudeten issue was settled, would be the last of his territorial conquests in Europe. Of course, it was only a few weeks and months until all of the world was plunged into war. Admittedly, we are not at that point in our current history, nor is this the most serious of threats. But I was astounded by the President's claim that we are in fact, as we deal with this crisis, the strongest we have ever been militarily, that we have in the last 2 years been even in many respects strengthened by his defense policy—this being a President who canceled the B-1 bomber, who has waffled back and forth on the neutron bomb, who has fought against the nuclear carrier, who has repeatedly, in fact until only a few weeks ago, said he would not allow a great increase, as many of us feel we need, in defense spending.

Exactly what is it that we face, at least in this Member's view, in this Soviet-Cuban issue?

Perhaps 3,000 combat ready Soviet troops in Cuba are not all that much a threat in the context of the overall world situation. But we have also seen Soviet nuclear submarines delivered to Cuba in recent months, and there are many who will tell us from briefings that they have had the ready transport capability to place these Soviet troops in other Latin American countries exists even now.

No mention was made by the President of Communist revolutions in Africa that are being supported by Cuba as a client state of the Soviet Union supplied with Soviet arms. No mention was made of the major role played by Cuba recently in the overthrow of the Nicaraguan Government in cooperation with the Republic of Panama. No mention was made that Cuban insurgent training is going on, perhaps very well provided by the same Russian troops, for launching revolutions in El Salvador, Honduras, and Guatemala so that every Central American country may become in fact a Cuban satellite country—a Soviet satellite country.

No; this is the same President who told us only months ago that he might want to lift trade sanctions against Cuba; that the time may have come to establish a Cuban embassy here, perhaps with full diplomatic relations. This is the same President who told us that this was going to be a new era in Latin American affairs when he gave away the Panama Canal and signed those odious treaties.

And what did we get for it? The other night as Vice President MONDALE stood at Albrook Air Force Base handing over the canal to a Marxist government under a dictatorship in Panama, he was booed by those who were supposed to be so grateful, and told by shouts and chants in the crowd to "Get out now, Yankee." That is all the thanks we got.

Let me just briefly before I conclude my remarks, refer to what the President suggested was a proper response to the Soviets. And, mind you, all of this is based on the idea that we can trust the Soviet's assurances that these troops are no more than a mere training brigade; assurances from a government that has used lies, cheating, force, and violence as

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

its traditional weapons in conducting its foreign policy.

☐ 1010

First of all the President said he would monitor the status of the Soviet forces by increased reconnaisance. This was the President who cancelled overflights over Cuba when he became President and apparently set us back in our reconnaissance activities so we did not know until only a few weeks ago the dimensions of what was going on.

Second, the President said he would make sure no Soviet unit in Cuba could threaten this country or any other nation in the hemisphere. He did so by saying that other nations could be confident the United States will act in response to any requests for assistance in meeting such a threat from Soviet or Cuban forces. Yet, what has happened to governments like Nicaragua who asked for our help? The President would not even take a phone call from the President of Nicaragua, a duly elected president, however unacceptable he may have been. In fact, the State Department was encouraging and helping Cuba in overthrowing the Government of Nicaragua. Is that the kind of assistance he is going to render to Latin American nations?

Third, the President said he was going to create a new permanent Caribbean Joint Task Force at Key West. What a joke. I guess that would be good duty for the people who would be sent to Key West, but we already have proper monitoring facilities at many places in the United States including Florida and, in fact, at Guantanamo, and we have, we hope, the response capability to send troops if it is necessary. Key West is just so much window dressing.

Fourth, the President said he would expand military maneuvers in the area and maintain the U.S. force at Guantanamo. So what? Is that going to in any way intimidate the expanding Soviet presence? Certainly, I cannot quarrel with that kind of maneuver but it is only that, a maneuver.

Fifth, the President said he would step up economic assistance in the Caribbean region to help those nations resist social turmoil. We have already seen an example of that. We may soon see a $100 million request possibly in a supplemental appropriation in a few weeks to help the new Communist Government of Nicaragua. U.S. foreign aid to help communism. Is that what we are going to have in Latin America?

No; in listening to the radio, I heard, already, the Russians quoting the President of the United States as they did on Moscow radio this morning, as authority for the fact that they are no threat, that this is nothing but a training brigade.

Of course, if President Carter said it we must be able to believe it because you can believe him.

I think, quite frankly, the President is mistaken. The SALT agreement is intimately tied to what is happening in Cuba. It is another testing of the United States by the Soviet Union, and once again we have been found wanting. I do not know how these United States can reverse the trend toward weakness in foreign policy and in military policy until we have a President and a Congress that recognizes the Soviets mean precisely what they say.

I would have said to the Soviets—I do not think it would have been a belligerent act had I been in the White House—that the SALT II treaty will be set aside, it will not even be considered by the Senate, that I am withdrawing it, until such time as the Soviet Union realizes the United States means what it says when it claims to be the leader of the Free World.

Last night our President not only did not mean that, he abdicated that leadership.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS of Alabama) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.

Mr. BAUMAN, for 30 minutes, today.

(The following Members (at the request of Mr. MOAKLEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. DICKS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EDWARDS of Alabama) and to include extraneous matter:)

Mr. KEMP in five instances.

Mr. VANDER JAGT.

(The following Members (at the request of Mr. MOAKLEY) and to include extraneous matter:)

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. BYRON in 10 instances.

Mr. ROSENTHAL in 10 instances.

Mrs. BOUQUARD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. CAVANAUGH in five instances.

Mr. MCDONALD in five instances.

Mr. PEPPER.

Mr. BEDELL.

Mr. HOLLAND.

Mr. SEIBERLING in 10 instances.

SENATE BILLS REFERRED

Bills of the Senate of the following title were taken from the Speaker's table and, under the rule, referred as follows:

S. 1075. An act to revise and reform Federal law applicable to drugs for human use, and for other purposes; to the Committee on Interstate and Foreign Commerce; and

S. 1300. An act to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes; to the Committee on Public Works and Transportation.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes; and

S. 737. An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5369. An act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On September 28, 1979:

H.R. 4393. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5380. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, fiscal year 1979, for a certain period; and

H.J. Res. 406. Joint resolution to extend by 120 days the expiration date of the Defense Production Act of 1950.

On September 29, 1979:

H.R. 3920. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes;

H.R. 3996. An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 2 additional years, and for other purposes; and

H.R. 5369. An act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 14 minutes a.m.), under its previous order, the House adjourned until Friday, October 5, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2547. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Thomas W. M. Smith, and his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2548. A letter from the Privacy Act Officer, Agricultural Marketing Service, Department of Agriculture, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2549. A letter from the Secretary of the Interior, transmitting a report on a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2550. A letter from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the Yankton Sioux judgment funds in docket No. 332-C-1 before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2551. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a report on negotiated contracts for experimental, developmental, test or research work, or for industrial mobilization in the interest of the national defense, covering the period October 1978 through March 1979, pursuant to 10 U.S.C. 2304(e); to the Committee on Armed Services.

2552. A letter from the Secretary of Health, Education, and Welfare, transmitting notice that the report on the status of health professions personnel in the United States required by section 708(d) of the Public Health Service Act as amended, will be delayed until November 15, 1979; to the Committee on Interstate and Foreign Commerce.

2553. A letter from the Secretary of Health, Education, and Welfare, transmitting notice that the report assessing the national area health education center program required by section 802(b) of the Health Professions Educational Assistance Act of 1976 will be delayed until November 15, 1979; to the Committee on Interstate and Foreign Commerce.

2554. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations to establish standards relating to audits, records, financial responsibility, administrative capability, institutional refunds and misrepresentation of the Higher Education Act of 1965, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2555. A letter from the Assistant Attorney General for Administration, transmitting notice of a proposed new records system for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2556. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

2557. A letter from the Secretary of the Treasury, transmitting his annual report on the antirecession fiscal assistance program for calendar year 1978 pursuant to section 213 of the Public Works Employment Act of 1976, as amended; to the Committee on Government Operations.

2558. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a quarterly report for the period April through June 1979 on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of Public Law 93-319, as amended; to the Committee on Interstate and Foreign Commerce.

2559. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision in docket No. 37146, transit on wheat between reshipping point and destination, within the initially specified 7-month period, pursuant to 49 U.S.C. 10707(d) to the Committee on Interstate and Foreign Commerce.

2560. A letter from the Director of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to lease a certain naval vessel to the Government of the Dominican Republic, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2561. A letter from the Director of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to the Government of Colombia, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2562. A letter from the Director of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell a certain naval vessel to the Government of Haiti, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2563. A letter from the Director of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to lease a certain naval vessel to the Government of Turkey, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2564. A letter from the Director of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to the Government of Turkey, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2565. A letter from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia; to the Committee on the District of Columbia.

2566. A letter from the executive director, U.S. Olympic Committee, transmitting a report on activities and the audit of accounts for calendar year 1978, pursuant to section 113(a) of Public Law 95-482; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. **SCHROEDER**: Committee on Post Office and Civil Service. H.R. 5176. A bill to establish an independent personnel system for employees of the General Accounting Office with amendments (Rept. No. 96-494). Referred to the Committee of the Whole House on the State of the Union.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 997: Mr. Dodd.

PETITIONS, ETC.

Under clause 1 of rule XXII,

202. The **SPEAKER** presented a petition of New Detroit, Inc., Detroit, Mich.; relative to supporting the Fair Housing Amendments Act of 1979, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3916

By Mr. **RANGEL**:

—Page 5, insert after line 7 the following:

(e)(1) Section 410(a) of such Act is amended (A) by striking out "and" at the end of paragraph (5), (B) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and (C) by adding after paragraph (6) the following:

"(7) make grants, in accordance with subsection (c)(5), to units of general purpose local government—

"(A) for the preparation of local plans for the provision and coordination of drug abuse prevention, treatment, and rehabilitation services; and

"(B) to implement such plans and to evaluate the services provided pursuant to such plans.".

(2) Section 410(c) of such Act is amended by adding at the end the following:

"(5)(A) The Secretary may approve the application of a unit of general purpose local government for a grant under subsection (a)(7) only if the Secretary finds that such unit of government—

"(i) has a population of at least 175,000, as determined on the basis of the most satisfactory, current data available to the Secretary,

"(ii) has a high concentration of drug abuse and other drug-related problems among its population, and

"(iii) has the capacity to improve planning for and coordination of drug abuse prevention, treatment, and rehabilitation services for its population.

"(B) Any unit of general purpose local government desiring to receive a grant under subsection (a)(7) shall submit to the Secretary a local plan for planning, coordinating, and evaluating projects for the development of more effective drug abuse prevention, treatment, and rehabilitation services. Each such local plan shall—

"(i) designate or establish a single municipal agency as the sole agency for the preparation and administration of the plan or for supervising the preparation and administration of the plan;

"(ii) contain satisfactory evidence that the municipal agency designated or established pursuant to clause (i) will have authority to prepare and administer, or supervise the preparation and administration of, such plan in accordance with this subparagraph;

"(iii) set forth, in accordance with criteria established by the Secretary, a detailed survey of the local needs for prevention and treatment of drug abuse and drug dependence and a plan for coordination of services to meet these needs; and

"(iv) provide that the municipal agency will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(C) No grant provided under subsection (a)(7) may exceed $300,000.".

Page 5, line 8, strike out "(e)" and insert in lieu thereof "(f)".

Page 6, line 3, strike out "(f)" and insert in lieu thereof "(g)".

SENATE—*Tuesday, October 2, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God from whom all blessings flow, kindle in us the refining fires of Thy holy spirit. May the celebration of a new year, the National Day of Prayer and the visit of the Pontiff summon us all to a deeper spirituality. Show us who we are, what we ought to be and what we ought to do.

Take away our spiritual deadness, our insensitivity to others, our blindness to the light of truth, our deafness to Thy still small voice.

Grant us grace enough to meet Thy terms for spiritual renewal. Give us love for hate, trust for fear, faith for doubt. May this Nation be born again by Thy spirit not to the life which once we knew, but to the new life we never yet have known—the life over which Thou art Sovereign, the law of which is love, the way of life the way of the Cross.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 2, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. **HEFLIN** thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. **STEWART**. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **STEWART**. I yield the floor.

ORDER OF PROCEDURE

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Senator from North Carolina (Mr. HELMS) is recognized for not to exceed 15 minutes.

Mr. **BAKER**. Mr. President, I observe that the Senator from North Carolina is not yet here. While we await his imminent arrival, I suggest the absence of a quorum.

Mr. President, when the Senator from North Carolina arrives, it is my intention to ask unanimous consent to yield my time under the special order this morning to him to augment the period available to him for his remarks today.

Rather than proceed at this time, in the absence of anything else to do at this moment, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. Will the time be charged against the Senator from North Carolina or the Senator from Tennessee?

Mr. **BAKER**. Mr. President, I ask unanimous consent that the time required for the call of the roll to ascertain the presence of a quorum be charged against my special order time this morning.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the time remaining to me under the special order provided for in my favor this morning be yielded to the distinguished Senator from North Carolina.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **HELMS**. Mr. President, I thank the distinguished minority leader and I thank the Chair for recognizing me.

THE SOVIET MILITARY BUILDUP IN CUBA

Mr. **HELMS**. Mr. President, last night millions of Americans waited expectantly for some sign of leadership from the White House.

They found none.

Instead, President Carter told us that he has some sort of pledge from high Soviet officials that the combat brigade will not be used in a combat role.

This is a replay of tragic scenarios of the past. In October 1962, the same Anatoly Dobrynin who today claims that the brigade is not a combat brigade at all but only a training unit assured top Kennedy administration officials Robert Kennedy and Chester Bowles that the only missiles in Cuba were "antiaircraft missiles."

On October 17, 1962, the same Andrei Gromyko who created a flap the other day by his vehement denial of any combat role for Soviet troops in Cuba sat opposite President Kennedy in the White House and solemnly pledged that there were no offensive missiles in Cuba.

Both lied then. Both are lying now.

Who can say that the pledges that President Carter urges us to accept as an act of faith are any more valid today than they were then?

Mr. President, there is a telling significance in the fact that the President of the United States chose to address the Nation on the subject of the Soviet military buildup in Cuba on the same day that the United States has struck the U.S. flag in Panama.

The coincidence is not just nostalgic symbolism. Even though the Panama Canal will not be fully turned over to Panama until 1999, if the schedule in the treaties is followed, the fact that the United States, a powerful nation, chose to withdraw the exercise of its sovereignty in an area vital to its interests sent a strong signal to powerful and weak nations alike. The message was clear that the United States is no longer equipped psychologically to defend its essential priorities.

Not surprisingly, the Soviet Union is among those nations that got the message. It is indeed no coincidence that the Soviet Union chose to move boldly into the vital sphere of our defense perimeter—both directly through an increase in Soviet armaments in Cuba and indirectly through the subversion of friendly governments by Cuba. Not until the Senate of the United States voted to surrender the Panama Canal did the Soviets take action. It was last winter that high Soviet military officials visited Cuba in a succession of extraordinary visits. It was last November that the presence of sophisticated MiG–23's was detected in Cuba. It was in August that the presence of a Soviet combat-ready brigade in Cuba was confirmed.

Similarly, according to U.S. intelligence documents already published in the CONGRESSIONAL RECORD, it was not

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

until last fall that Cuba reevaluated its support of the Sandinistas in Nicaragua—then at a relatively low level—and began intensive training and logistical support of the Sandinista rebellion, frequently through the intermediary assistance of Panama. First came training; then arms; then strategy formation; and finally logistical support, while the United States merely looked on.

This is not the place nor the time to argue the merits or demerits of the former Government of Nicaragua, or to discuss the Castro-directed psychological warfare and terrorism which shattered the social fabric of that country. Suffice it to say that without Castro and Torrijos, Nicaragua would not now be saddled with the structure of Socialist totalitarianism conceivably worse than anything that may have preceded it. From the point of view of U.S. interests, few will assert that the new regime in Nicaragua will ever be alined with the traditional American definitions of freedom and independence.

What is significant, therefore, is that in spite of the fundamental ideological opposition between U.S. freedom and Socialist totalitarianism, the Carter administration now clearly has chosen to accept a government that is fundamentally anti-American, and help it to consolidate its control over the hapless people of Nicaragua. The statements of the Secretary of State before the Foreign Policy Association in New York last week are profoundly shameful.

The point is that Panama, Nicaragua, and Cuba are all of the same piece. Our attitudes in every case suggest that the United States is unable to define its vital interests. The fact that they are all interconnected, that one leads to the other, that all show a tendency to explain away probable threat and danger to our survival shows an ominous pattern of events. It is ominous because it may lead the Soviets to misread the will of the United States to survive as a free and independent nation.

THE FIRST CUBAN MISSILE CRISIS

It was just exactly that kind of misreading that tempted the Soviet Union to install medium- and intermediate-range missiles in Cuba in 1962. The failure of the Bay of Pigs, our hesitancy during the construction of the Berlin Wall, the poor impression which the young Jack Kennedy made upon Khrushchev in the ill-fated Vienna meeting, all led Khrushchev to misjudge the response of the United States to immediate danger. In fact, the current Cuban situation seems to be an eerie replay of the events of 1962. Among the parallels are the following:

First. The tendency of the intelligence community to explain away Soviet actions which do not fit their own interpretation of Soviet policy.

Second. The consequent failure of the administration to take a positive stand in the face of mounting evidence of Soviet activity.

Third. The repeated Soviet denials that offensive strategic weapons were being installed in Cuba.

Fourth. The failure to detect either the number of combat mode of Soviet troops in Cuba.

Fifth. The failure to secure onsite inspection to get positive evidence that long-range missiles had actually been removed.

As early as January 2, 1961, Khrushchev was saying:

> They are trying to present the case as though rocket bases of the Soviet Union are being set up or are already established in Cuba. It is well known that this is a foul slander.

Does that sound familiar? He went on to say:

> There are no Soviet military bases in Cuba; in the same way there are no such bases in other countries.

In April of 1961, after the Bay of Pigs, Khrushchev sent a letter to Kennedy, in which Khrushchev stated:

> We do not have any bases in Cuba, and we do not intend to establish any.

On August 24, 1962 a U–2 flight over Cuba established the presence of two surface-to-air missile sites. The administration brushed these off as "defensive." It never occurred to them that they were nowhere near any known military installations that needed to be defended, but were in fact emplaced to defend the sites for offensive weapons.

By that time, Senator Kenneth Keating was beginning the first of 10 speeches warning of long-range missiles in Cuba. On September 4, 1962, the same Soviet Ambassador Anatoly Dobrynin, who today gives assurances to Secretary of State Vance, called upon the Attorney General, Robert Kennedy, and flatly denied that the Soviet Union had sent missiles of any kind to Cuba.

On September 11, 1962, a statement issued from the Kremlin said:

> There is no need for the Soviet Union to shift its weapons for the repulsion of aggression for a retaliatory blow to any other country, for instance, Cuba.

On September 12, Secretary of State Dean Rusk told a House Committee that the United States would never tolerate Cuba's becoming an "offensive" military base, and described the Soviet buildup in Cuba as "defensive." At his September 13 press conference, President Kennedy said that—

> Unilateral military intervention on the part of the United States cannot currently be either required or justified.

On October 13, Ambassador Dobrynin assured Chester Bowles that there were no missiles in Cuba.

On October 14, the first of many U–2 flights over Cuba discovered the presence of the long-range, offensive missiles.

On October 16, Khrushchev, apparently unaware of the photographs being examined in Washington, D.C., called in U.S. Ambassador Foy Kohler and assured him that Soviet intentions in Cuba were defensive in character.

On October 18, 1962, the same Soviet Foreign Minister Andrei Gromyko who challenged the veracity and motives of President Carter's statements about the presence of a Soviet combat brigade in Cuba, met with President Kennedy in the White House and complained of what Gromyko called the anti-Cuba campaign in the United States. He said that his instructions were to make it clear that the Soviet Union gave assistance to Cuba for the sole purpose of strengthening Cuba's capacity to defend herself. He asserted that the training of Cuban troops was by no means an offensive measure. President Kennedy, although by now he knew the proof, did not raise the missile issue directly. Instead, he went back to the repeated assurances of Khrushchev and Dobrynin that there were no missiles in Cuba. Gromyko once more reasserted the same assurances, which the President of the United States, John F. Kennedy, knew to be falsehoods.

Does all that sound familiar in the context of today, Mr. President?

Let me continue:

On October 22, President Kennedy addressed the Nation in his now historic address, asserting that "within the past week, unmistakeable evidence has established the fact that a series of offensive-missile sites is now in preparation on that imprisoned island. The purpose of these bases can be none other than to provide a nuclear-strike capability against the Western Hemisphere."

Mr. President, those were words that the people of this country understood; those were words that the leaders of the Soviet Union understood.

But on October 23, Dobrynin once again asserted to Robert Kennedy, President Kennedy's emissary in this matter, that there were no missiles in Cuba capable of reaching the United States.

On the same day, October 23, in New York, Soviet Ambassador to the United Nations, Valerian Zorin, rejected what he called "false accusations" that the Soviet Union had "set up offensive armaments in Cuba."

On October 24, in Moscow, Khrushchev unexpectedly called in an American businessman, William Knox, to carry back a message to the American Government. After a long harangue, Khrushchev pointed his finger at Knox, and said:

> If I point a pistol at you like this in order to attack you, the pistol is an offensive weapon. But if I aim to keep you from shooting me, it is defensive, no?

The answer was "no." The blockade was imposed. The OAS gave its unanimous sanction. World opinion followed a strong leader, President John F. Kennedy. And the Soviets backed down, but Castro did not. The missile sites were dismantled, but Castro refused to allow on-site inspection, not even by the United Nations.

Containers which could have been used to carry missiles were removed in plain sight, with television cameras in operation, of personnel of the U.S. fleet and aircraft reconnaissance, who saw all of this. Castro finally agreed even to the removal of some Ilyushin light bombers, which had been given as a gift from the Soviet Union. The crisis was over.

THE 1963 SENATE REPORT

But here comes a question that we must confront, Mr. President, and confront now. Were the missiles really in those missile-carrying containers?

Today we do not have positive evidence that those missiles were, in fact, removed, despite the assurances of the intelligence community. The 1963 Report of the Preparedness Investigating Subcommittee of the Armed Services Committee makes very interesting reading today in the context of what is going on. This subcommittee report was issued after extensive hearings and interviews with prominent members of the intelligence community. It represents an objective weighing in the balance of the pros and cons which were swirling around the issue at that time. Several of the major findings of the report deserve close attention at this time.

Let me quote a few of them:

> 3. While a reasonably competent job was done in acquiring and collecting intelligence information and data, in retrospect it appears that several substantial errors were made by the intelligence agencies in the evaluation of the information and data which was accumulated.
>
> 4. Faulty evaluation and the predisposition of the intelligence community to the philosophical conviction that it would be incompatible with Soviet policy to introduce strategic missiles into Cuba resulted in intelligence judgments which later proved to be erroneous.

And then the report of the subcommittee of the Armed Services Committee specified:

> Among these were:
>
> (a) It was not until after a confirming picture was obtained on October 25, 1962, that it was established by the intelligence community that organized Soviet ground combat units were present in Cuba. The importance of this should be obvious.

Mr. President, these are not the words of the Senator from North Carolina in 1979. These are the words of the subcommittee of the Armed Services Committee a decade ago or more:

> (b) The number of Soviet troops in Cuba was substantially underestimated throughout the crisis. On October 22—

And this was October 22, 1962, not 1979.

> On October 22, our intelligence people estimated that there were 8,000 to 10,000 Soviets in Cuba. They now say that, at the height of the build-up, there were at least 23,000 Soviet personnel on the island.
>
> (c) It was not until the photographic evidence was obtained on October 14 that the intelligence community concluded that strategic missiles had been introduced into Cuba. In reaching their pre-October 14 negative judgment the intelligence analysts were strongly influenced by their judgment as to Soviet policy and indications that strategic missiles were being installed were not given proper weight by the intelligence community. . . .
>
> 7. To a man the intelligence chiefs stated that it is their opinion that all strategic missiles and bombers have been removed from Cuba. However, they readily admit that, in terms of absolutes, it is quite possible that offensive weapons remain on the island concealed in caves or otherwise. They also admitted that absolute assurance on this question can come only from penetrating and continuing on-site inspection by reliable observers and that, based on skepticism, if nothing more, there is reason for grave concern about the matter.
>
> 8. There are literally thousands of caves and underground caverns in the island of Cuba and many of these are suitable for the storage and concealment of strategic missiles and other offensive weapons. Refugee and exile reports continue to insist that they are being so utilized. Military-connected activities have been noted with reference to a number of them but it is the view of the intelligence analysts that the military usage of the caves is for the storage of those weapons which we know are now in Cuba and not for the storage of those weapons which we know are not in Cuba and not for the storage of offensive weapon systems. Admittedly, however, this view is based to a substantial degree on the negative proposition that there is no hard evidence confirming the presence of strategic missiles in Cuba at this time.
>
> 9. Even though the intelligence community believes that all have been withdrawn, it is of the greatest urgency to determine whether or not strategic missiles are now concealed in Cuba. The criticality of this is illustrated by the fact that, assuming maximum readiness at preselected sites, with all equipment prelocated, the Soviet mobile medium range (1,100 miles) missiles could be made operational in a matter of hours.

Mr. President, because the entire 1963 Senate report is practically unobtainable today, and is so important to an understanding of today's events, I ask unanimous consent that the report be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

THE LESSONS OF 1963

Mr. HELMS. Mr. President, we have noted in the conclusions of the distinguished subcommittee some points especially relevant to today. First, there is the predisposition of the intelligence community to interpret data to fit their own preconceived ideas about Soviet strategy. Second, there is the difficulty of detecting combat troops as such. It is significant that our intelligence in 1963 failed so badly on this point that President Kennedy had no information on the number of combat troops until the crisis was over, and thus he was not able to include the removal of troops in his bargaining with the Soviets. The failure to insist upon the removal of combat troops is responsible for the problem which President Carter faces today. Third, it was clear in 1963, as it remains clear today, that no hard evidence has ever been produced that the missiles have been removed. The failure to insist upon on-site inspection not only established the precedent that missiles could be hidden in caves, but left us without any way of finding out whether newer missiles may have been reintroduced into caves. The Carter administration's action in 1977 suspending U-2 flights over Cuba continued all the biases of the intelligence community criticized in 1963 by the subcommittee; it also prevented us from having current information about Soviet combat troop buildup, and about the possible introduction of newer strategic systems.

All of these failures, Mr. President, have compounded into the problem we face today: The evident perception of the Soviets that the United States is withdrawing from its regions of influence, even from its defense perimeter. That is why the same Andrei Gromyko, who lied to President Kennedy in 1962, has lied again to President Carter in 1979. The lie is an attempt to conceal the same fact, namely, the construction of an advance military base in the Western Hemisphere suitable for the projection of Soviet military, diplomatic, and economic power. The Soviets have judged that the time is ripe at last for the spread of subversion and socialism, and for the ineluctible pressure of military aggression directly against the United States.

LETTER TO ADMIRAL TURNER

Mr. President, on September 17, I wrote to Admiral Turner, the Director of the Central Intelligence Agency, raising several questions of fact. To date I have received no reply.

I asked Admiral Turner to supply me with unequivocal assurance that all Soviet MRBM's/IRBM's had been removed from Cuba following the 1962 confrontation and that no modern weapons had been introduced. Admiral Turner has given me no such assurance. Judging from the 1963 Senate report, I must conclude that he has given me no such assurance because he cannot give such assurance. Given the record of intelligence bias and failures outlined in the report, it is highly doubtful that the United States possesses the information necessary to give such assurance, or to evaluate it properly. If Soviet MRBM/IRBM missiles have remained in Cuba since 1962, then the Soviets have an additional option in strategic planning, a missile suitable for a second strike into the industrial heartland of the United States. Or if the the missiles have been upgraded, their options could be even more complex. Soviet intentions must be judged in the light of their overall strategy.

I also asked Admiral Turner whether the crews and/or pilots of the MiG-23's in Cuba are dually qualified in both the MiG-23 and the Backfire bomber. I have received information from reliable sources which leads me to believe that this is true. If Backfire capable crews and pilots are stationed in Cuba, then the Soviets have the strategic option of using the Backfire from Cuban bases.

Inasmuch as the Backfire is excluded from SALT II as such on the grounds that it is not a strategic system, this development could have very important ramifications. The range of the Backfire is such that it could not fly from Soviet bases to the United States carrying nuclear weapons and return to the Soviet Union. But it could deliver nuclear weapons to the United States and land in Cuba; or it could start from Cuba and return to the Soviet Union. I hope that Admiral Turner will be able to reassure the American people on this point.

Similarly, I also asked Admiral Turner whether the MiG-23's based in Cuba are capable of delivering nuclear weapons. The Carter administration has taken the position that they are not equipped for carrying nuclear weapons. But experts in the field have told me that the time interval required to make them nuclear capable is very short—a matter of minutes, really; and furthermore that when they are made nuclear capable, there are virtually no external distinguishing marks to indicate the change.

It would seem to me to be a basic rule of defense planning to consider any airplane whose nuclear capacity is unverifiable or marginally unverifiable as having that capability whether we can be sure or not. That is why I also asked the admiral whether there have been any observations or reports of MiG-23 pilots practicing nuclear weapons delivery tactics. If so, it would tend to corroborate suspicions about Soviet intentions in placing MiG-23's on the island. The admiral has not replied.

Finally, Mr. President, I raised with Admiral Turner the question of whether the Soviets have established submarine facilities in Cuba that are capable of providing for both nuclear and conventional submarines. If the Soviets had a submarine base in Cuba, providing support for nuclear submarines that could roam the east coast or the Gulf coast with impunity, or at least with fewer logistical problems, then Soviet strategic options would indeed be enhanced against our major population centers and industrial capacity. I asked the admiral whether there have been any submarines in any Cuban port since 1962 that are capable of firing ballistic missiles with nuclear warheads. The admiral has not yet replied.

Mr. President, I ask unanimous consent that my letter to Admiral Turner be printed at this point in the RECORD.

SEPTEMBER 17, 1979.

Hon. STANSFIELD TURNER,
Director, Central Intelligence Agency,
Washington, D.C.

DEAR ADMIRAL TURNER: During recent months, I have received numerous reports from normally reliable sources indicating considerable Soviet activity in Cuba. A typical example of this is the information I received in early July that there were Soviet combat troops in Cuba. As you will recall, the Administration denied the validity of this information at that time. Regrettably, my concerns involving the presence of these troops have now been proven valid. Predicated on additional information, I have equal concerns in the following areas:

a. The United States has never firmly established that all the Soviet ballistic missiles were, in fact, removed from Cuba following the "Cuban Missile Crisis" in 1962. I request that you provide me with an unequivocal assurance that all Sovet MRBMs/IRBMs were removed from Cuba following the 1962 confrontation. I further request you provide assurances that no MRBMs/IRBMs, such as the SS-20, have been introduced into Cuba subsequent to that time. In essence, I desire unequivocal assurances that there are no offensive nuclear forces in Cuba now, not since 1962, that are capable of inflicting danger on the United States.

b. The crews and/or pilots of the Mig-23s provided Cuba are dually qualified in both the Mig-23 and the "Backfire" bomber. I request assurances that there are no qualified "Backfire" personnel or "Backfire" ground handling gear in Cuba.

c. Submarine facilities, including but not limited to tenders, have been established/introduced into Cuba that are capable of providing for both nuclear and conventional submarines. Are there any facilities in Cuba that may provide required logistical support to submarines capable of firing nuclear ballistic weapons?

d. Are there now, or have there been, any submarines in any Cuban port since 1962 that are capable of firing ballistic missiles with nuclear warheads?

e. Are we absolutely certain that the Mig-23s based in Cuba are not nuclear delivery capable? If they are not capable, what time interval is required to make them nuclear delivery capable? Have there been any training flights, observed or reported, indicating the pilots were practicing nuclear weapons delivery tactics?

Until I receive your formal answers to my questions stated above, my evaluations can only be predicated on the normally reliable sources providing me the information upon which my concerns are based. Due to the importance of the debates involving the U.S.S.R. now going on in the Senate, I request your response at the earliest possible time.

Sincerely,

JESSE HELMS.

PRESENT SOVIET INTENTIONS

Mr. President, there are those who profess to see no relation between the presence of combat troops in Cuba and SALT II. I suggest that the presence of combat troops in Cuba is only one phase of an attempt to make Cuba an advance military base for Soviet strategic intentions. I do not know whether the troops are there to guard nuclear weapons, as some have suggested; I do know that such a purpose would be logical. Just as the installation of defensive SA–2 missiles was the clue—a missed clue—to the installation of offensive missiles in 1962, it would be reasonable to assume that Soviet combat troops are in Cuba to defend offensive nuclear systems. Nor would removal of the troops, or a change in their status be more than a temporary palliative. If nuclear systems exist in Cuba, or are planned to be introduced, then the threat has not been reduced.

Nor do I know whether the combat troops are there to export revolution to other parts of Central America. We know that Castro intends to export revolution to Central America. He boasted last week about his success in Nicaragua, and his plans for other Central American countries. By such means, the Soviets attack the United States, narrow its sphere of influence, and restrict its defensive choices.

We must note that Cuba is not happening in isolation. In the past few months, 12,000 Soviet troops have poured into the southernmost islands of the Kuriles, taking up a position only a few miles from Japan. Last August, two nuclear submarines visited Aden, followed, at least according to some reports, by an extraordinary double maneuver which brought 2 Soviet divisions to Aden and Ethiopia in the space of 72 hours, demonstrating a new Soviet logistical capability that could strike at the heart of the West's oil lifeline. Although reports of the maneuvers have been disputed, they have been hotly affirmed by others. All in all, it adds up to a pattern of bolder Soviet activity on a scale not before attempted.

So the Cuban issue is closely connected with SALT II, and with Soviet intentions around the world. If the Soviet combat troops in Cuba are a sign of Cuba's new role in Soviet nuclear strategy, then it has a very intimate connection with SALT II. If it is merely a sign of new Soviet aggressiveness in the face of the vacuum of American leadership, then it tells us a lot about where the Soviets think they are going with SALT II. In any case, the Khrushchev-Kennedy agreement was not simply about the narrow issue of missiles in Cuba; it was about the "urgent transformation of Cuba into an important strategic base," to quote President Kennedy's historic speech. The transformation of Cuba into such a base even today should mean to us that the Khrushchev-Kennedy agreement is null and void.

PRESIDENT CARTER'S STATEMENT

President Carter's statement last night was a reaffirmation of America's weakness. The President did not address the issue of removing the Soviet combat troops in Cuba. He did not get the Soviets to agree to remove them; he did not even get the Soviets to admit that the troops in question have a combat mode. When facing the familiar fusillade of Soviet lies, the President did not even stand them down. He made only the unilateral statement that he understood the Soviets to mean something other than they were saying. We have seen the Kennedy-Khrushchev confrontation in reverse.

The actions announced by the President demonstrate the futility of options which do not go to the heart of the problem. Sending 1,500 Marines to Guantanamo looks ridiculous on the day that the Vice President is presiding over the striking of the American flag on American territory. The establishment of a Caribbean joint task force at Key West is a transparent cosmetic device; the commander in chief, Atlantic, already has headquarters in Norfolk, and the staff to do planning for the Caribbean. Key West is in Cinclant territory, and the small planning group announced by the President will have no troops. The notion that economic assistance will somehow prevent nations from "going Communist" is one of the most discredited concepts in the ashbins of history.

What could the President have done? He could have applied pressures on Cuba and on the Soviets to remove the troops. Among such pressures would be:

First. The postponement of SALT II. If Cuba is to be a forward strategic base threatening the United States and the Caribbean, then our views of Soviet intentions in SALT must be drastically revised. The presence of combat troops is symbolic of the strategic status of Cuba.

Second. The installation of Pershing 2 missiles in Europe as a counterforce against the Soviet SS–20s which threaten NATO and which provide an umbrella for possible Soviet invasion of Western Europe.

Third. The removal of U.S. technicians who maintain the computerized production lines of the Kama River plant, now known to be producing tanks and armored personnel carriers. The tanks in Cuba revealed by the President may well have come from this very plant.

Fourth. The withholding of U.S. stocks of grain from export to the Soviet Union. Such an action might require U.S. stockpiling, or a crash program in gasohol, both of which would require subsidies in the market. But such subsidies overrule market conditions when the security of the United States is at stake.

Fifth. A crash program to develop and deploy the cruise missile as a counter against Soviet fractionating of warheads on the SS–18.

The greatest danger to American security is not the 2,000 or 3,000 Soviet troops in Cuba, but the bleeding away of our will to survive and our will to resist. The failure to change the status quo in Cuba is tantamount to an admission that the Soviets now hold strategic superiority so great that the United States cannot resist the Soviet will. Under such conditions, SALT II is impossible, and peace and security are improbable. Unless we act wisely, we cannot preserve the world.

Exhibit 1

LETTER OF TRANSMITTAL

U.S. Senate, Preparedness Investigating Subcommittee, Committee on Armed Services,
May 9, 1963.

Hon. Richard B. Russell,
Chairman, Committee on Armed Services,
U.S. Senate.

My Dear Mr. Chairman: There is transmitted herewith an interim report by the Preparedness Investigating Subcommittee, appointed under Senate Resolution 75 of the 88th Congress, on the Cuban military buildup.

In its inquiry to this time the subcommittee has received testimony in executive session from the Director of Central Intelligence, the Director of the Defense Intelligence Agency, and the Chiefs of the Army, Navy, and Air Force intelligence sections. The interim report transmitted herewith is addressed primarily to a review of military developments and intelligence activities and operations in connection with Cuba from early 1962 to the present insofar as the facts have been developed and are now known to the subcommittee.

The subcommittee intends to pursue further its inquiry into the Cuban situation and it is anticipated that one or more subsequent reports on this subject will be issued in the future.

It was necessary that this interim report to the full Committee on Armed Services be classified "Secret." However, the subcommittee submitted the report for review for security purposes, in order that it could be printed and released to the public. It has been so reviewed and the necessary security matters have been deleted.

Respectfully,

John Stennis,
Chairman, Preparedness Investigating Subcommittee.

Interim Report on Cuban Military Buildup

I. INTRODUCTORY STATEMENT

The dramatic events which occurred last October with respect to Cuba are now history. Following photographic confirmation of the fact that strategic and offensive weapons had, in fact, been introduced into Cuba and President Kennedy's confrontation with Premier Khruschchev, such strategic and offensive weapons were ostensibly withdrawn.

However, the public concern and debate about the Cuban situation has not subsided. There have been and are insistent reports that the Soviets still maintain strategic missiles in Cuba which are concealed in caves and other underground facilities and that Soviet troops are based in the island in numbers far in excess of those accepted by our intelligence community. Reports also abound with respect to the use of Cuba as a base for subversive, agitational, and revolutionary activities directed at other Latin American countries.

The prevalence of these reports and allegations prompted the Preparedness Investigating Subcommittee to launch an investigation to the entire subject matter in an effort to determine the facts. Although the investigation still continues, the subcommittee deems it appropriate to issue an interim report at this time. This report will be limited to a review of military developments and intelligence activities and operations in connection with Cuba from early 1962 to the current time insofar as the facts are now known to us. A discussion of the use of Cuba as a base for subversive activities will be included in a subsequent report.

Broadly speaking, the term "intelligence community" includes the Central Intelligence Agency, the Defense Intelligence Agency, the intelligence sections of the Army, Navy, and Air Force, the Joint Chiefs of Staff, the Department of State, the National Security Agency, the Atomic Energy Commission, and the Federal Bureau of Investigation. It is used in this report, however, in a somewhat more limited sense. Where the term appears in this report it primarily refers to and includes the Central Intelligence Agency, The Defense Intelligence Agency, and the intelligence sections of the Army, Navy, and Air Force. Other agencies are, of course, impliedly included in our use of the term to the extent that they participated in or contributed to any of the activities or operations discussed.

Up to this time, the subcommittee has received testimony in executive hearings from Mr. John A. McCone, Director of Central Intelligence; Lt. Gen. Joseph F. Carroll, Director of Defense Intelligence Agency; Maj. Gen. Alva R. Fitch, Assistant Chief of Staff for Intelligence, U.S. Army; Rear Adm. Vernon L. Lowrance, Director of Naval Intelligence; and Maj. Gen. Robert A. Breitweiser, Assistant Chief of Staff for Intelligence, U.S. Air Force.

The subcommittee has also received and has on file a number of written reports from the Central Intelligence Agency, the Department of State, the Department of Defense, and the Chairman of the Joint Chiefs of Staff. We have also considered reports issued by the Special Consultative Committee on Security of the Council of the Organization of American States and the Cuban Revolutionary Council.

In addition, the subcommittee staff has made an extensive investigation and has thus far interviewed more than 70 witnesses who do not hold official positions, including many Cuban refugees and exiles. Staff investigators spent approximately 45 man-days in the Miami area alone.

Information has also been received from individual Senators and Members of the House of Representatives.

This interim report is based primarily on the testimony received from the intelligence chiefs who appeared before the subcommittee. It does, however, include some information from other sources.

Since our inquiry is not yet completed, this report does not contain any overall or comprehensive conclusions and recommendations. Major findings based on the testimony and evidence thus far received, relative to intelligence activities during the military buildup have been incorporated. Our general recommendation at this time is that an alert vigilance be maintained over all activities taking place in Cuba.

II. SUMMARY OF MAJOR FINDINGS

1. While hindsight shows that the performance of the Central Intelligence Agency and the military intelligence agencies can be criticized in some areas, in other areas they performed creditably. Offensive weapons systems were identified before becoming operational and their locations and performance characteristics spelled out in a limited period of time despite adverse weather and an almost completely closed society.

2. Although photographic reconnaissance has limitations, it was this capability which ultimately produced incontrovertible proof of the presence of strategic missiles and offensive weapons in Cuba. Credit is due to those involved in this mission.

3. While a reasonably competent job was done in acquiring and collecting intelligence information and data, in retrospect it appears that several substantial errors were made by the intelligence agencies in the evaluation of the information and data which was accumulated.

4. Faulty evaluation and the predisposition of the intelligence community to the philosophical conviction that it would be incompatible with the Soviet policy to introduce strategic missiles into Cuba resulted in intelligence judgments and evaluations which later proved to be erroneous. Among these were:

(*a*) It was not until after a confirming picture was obtained on October 25, 1962, that it was established by the intelligence community that organized Soviet ground combat units were present in Cuba. The importance of this should be obvious.

(*b*) The number of Soviet troops in Cuba was substantially underestimated throughout the crisis. On October 22, our intelligence people estimated that there were 8,000 to 10,000 Soviets in Cuba. They now say that, at the height of the buildup, there were at least 22,000 Soviet personnel on the island.

(*c*) It was not until the photographic evidence was obtained on October 14 that the intelligence community concluded that strategic missiles had been introduced into Cuba. In reaching their pre-October 14 negative judgment the intelligence analysts were strongly influenced by their judgment as to Soviet policy and indications that strategic missiles were being installed were not given proper weight by the intelligence community. A contributing factor to this was the tendency on the part of the intelligence people to discredit and downgrade the reports of Cuban refugees and exiles.

5. The subcommittee has uncovered no evidence to substantiate charges and speculation about a photography "gap" having existed from September 5 to October 14. The evidence before the subcommittee leads to the conclusion that such charges are unfounded.

6. The news reports of an alleged conflict between the Central Intelligence Agency and Strategic Air Command with reference to the operation of U–2 high-altitude reconnaissance flights prior to October 14 were also closely inquired into and found to be without merit. No evidence was presented to support the charge that the operation of the U–2 flights were transferred from the Central Intelligence Agency to Strategic Air Command because of a deadlock or friction between the agencies.

7. To a man the intelligence chiefs stated that it is their opinion that all strategic missiles and bombers have been removed from Cuba. However, they readily admit that, in terms of absolutes, it is quite possible that offensive weapons remain on the island concealed in caves or otherwise. They also admitted that absolute assurance on this question can come only from penetrating and continuing on-site inspection by reliable observers and that, based on skepticism, if nothing more, there is reason for grave concern about the matter.

8 There are literally thousands of caves and underground caverns in the island of Cuba and many of these are suitable for the storage and concealment of strategic missiles and other offensive weapons. Refugee and exile reports continue to insist that they are being so utilized. Military-con-

nected activities have been noted with reference to a number of them but it is the view of the intelligence analysts that the military usage of the caves is for the storage of those weapons which we know are now in Cuba and not for the storage of offensive weapon systems. Admittedly, however, this view is based to a substantial degree on the negative proposition that there is no hard evidence confirming the presence of strategic missiles in Cuba at this time.

9. Even though the intelligence community believes that all have been withdrawn, it is of the greatest urgency to determine whether or not strategic missiles are now concealed in Cuba. The criticality of this is illustrated by the fact that, assuming maximum readiness at preselected sites, with all equipment prelocated, the Soviet mobile medium range (1,100 miles) missiles could be made operational in a matter of hours.

10. The intelligence community estimated that approximately 5,000 Soviet personnel were withdrawn from Cuba following the October confrontation, leaving according to intelligence sources, about 17,500 Soviets in Cuba. A net total of 4,000 to 5,000 additional have been withdrawn since the first of the year, our intelligence people say. However, because of what is described by intelligence as "technical reasons," the 17,500 intelligence estimate of those remaining is unchanged at the writing of this report. At the least, this indicates to the subcommittee that there is a low level of confidence in the original estimate. There is also some doubt in our minds as to the adequacy of the information as to the number of Soviets newly arriving. All of the intelligence people agree that there is no evidence that any of the combat troops associated with the four mobile armored groups have been withdrawn.

11. Some other sources—primarily refugee and exile groups—estimate that as many as 40,000 Soviets are now in Cuba. Bearing in mind the lack of hard evidence on the question and the substantial underestimation of last fall, we conclude that no one in official United States circles can tell, with any real degree of confidence, how many Russians are now in Cuba and we are of the opinion that the official 17,500 estimate is perhaps a minimum figure.

12. In any event, it is conceded that the combined Soviet and Cuban forces now in the island are quite powerful defensively and could offer severe opposition to any attack. They are admittedly capable of suppressing any internal rebellion or revolt mounted without external support, and it is clear that an invasion from without, to have a fair chance of success, would require large forces, extensive seaborne landing efforts, and adequate air cover.

13. Based upon their judgment that all strategic missiles and offensive weapons have been removed, the intelligence chiefs do not believe that the Communist forces in Cuba now present a direct aggressive military threat to the United States or Latin America. Strategic weapons may or may not be now in Cuba. We can reach no conclusion on this because of the lack of conclusive evidence.

14. The evidence is overwhelming that Castro is supporting, spurring, aiding and abetting Communist revolutionary and subversive movements throughout the Western Hemisphere and that such activities present a grave and ominous threat to the peace and security of the Americas.

III. SITUATION PRIOR TO MID-JULY, 1962

A. Cuban forces

It was estimated by intelligence sources that at the beginning of 1962, the Cuban ground forces consisted of a standing army of 75,000 a ready reserve of 100,000, and a home guard of 100,000. Although the ground combat capability of the Cuban forces had increased since the abortive Bay of Pigs invasion, it was thought that, although the Cuban forces were of varying states of training, they had the capability for effective ground operations at the battalion combat team level. They were not thought to be organized for operations with units larger than reinforced battalions and it was believed that they were maintained primarily for the purpose of internal security operations and to repel any attempted invasion. The intelligence community thought that approximately 500 Soviet-bloc advisory personnel were then in Cuba.

By the beginning of 1962, the Cuban Air Force had benefited by the acquisition of MIG aircraft and the return of a number of people trained in bloc countries. It had some 40 MIG 15's, 17's and 19's as well as about 40 propeller-driven aircraft of training, transport, and utility types.

The Cuban Navy was small and of an essentially coastal patrol type. Several of these craft in the subchaser and motor torpedo boat types had been received from the Soviets. The crews on a number of these craft were mixed Cuban and Soviet, indicating that the Cubans were still under training.

It was agreed by intelligence sources, however, that even prior to July 1962 vast amounts of Soviet military equipment had been introduced into Cuba for the use of the Cuban forces. As a result, it was believed that even then the Cuban Army was one of the best equipped in all Latin America. The arms and equipment furnished the Cubans at this time consisted of a mixture of World War II equipment and more modern weapons. There is a question as to whether the amount of heavy and more complicated weapons introduced into Cuba at this time was not more than ample to supply the needs of the Cuban forces as then constituted.

B. Intelligence activities and operations

The intelligence activities with respect to Cuba prior to July 1962 consisted of reconnaissance overflights by U-2 aircraft, peripheral reconnaissance flights over international waters and the collection of reports from refugees, exiles, and other human sources.

For some time prior to 1962, U-2 aircraft operated by the Central Intelligence Agency had been flying at high altitudes over the island of Cuba itself for reconnaissance purposes. Commencing in early 1962, the frequency of the flights was increased.

Also, even before 1962, regular reconnaissance and photographic flights were flown by the military on a regular basis over international waters but not over the island of Cuba itself.

In addition, during the same period, thousands of human source reports were collected and assessed. Included in these reports were many which contained allegations of missile-related activities and of the presence of Soviet ground combat units in Cuba. However, although the reports were checked to the greatest extent possible, the intelligence community obtained no confirmation of such activities.

In recognition of the increasing importance of the Cuban problem, the intelligence community in early 1962 intensified their intelligence activities and stated a greater urgency in their collection requirements with respect to Cuba. The flights over Cuba were increased. The intelligence community was alert to the implications of the communization of Cuba. However, on the basis of the information collected and the assessment of this information, the intelligence conclusion at this time was that the activities were primarily defensively oriented. No Soviet combat units or strategic weapons were discovered.

The intelligence community, although agreeing that the activities in Cuba were then primarily directed toward defense, did conclude in early 1962 that it might probably be expected that the IL-28 (Beagle) light bomber would be supplied to Cuba by the Soviets in the future.

IV. SITUATION FROM MID-JULY TO OCTOBER 22, 1962

A. Buildup in Soviet forces and equipment

In late July and early August, our intelligence noted a significant change in the situation in Cuba. A sudden rise in military aid from the Soviet Union became clearly evident. Ship arrivals, both dry cargo and passenger, increased drastically. For example, for the first half of 1962, an average of 15 Soviet dry cargo ships per month arrived in Cuba. The number jumped to 37 in August. Only one Soviet passenger ship had arrived in Cuba during the first 5 months of 1962. Four arrived in July and six in August.

While our intelligence people were aware from this and other information that a major Soviet effort in Cuba was underway, its exact nature and impact was not clear to the intelligence community.

During the July-August period, refugee reports of alleged missile activity in Cuba increased significantly. These reports were checked out as scrupulously as possible, but even though many of them included consistent and similar descriptions of some form of missile activity, there was no confirmation of them.

At the same time, there were human source reports that some of the ships were unloaded at night under rigid security with all non-Soviet personnel being excluded from the dock areas. The practice of unloading at night in small easily guarded ports, remote from large population centers, was known to the intelligence community, although the alleged security conditions ashore could not be confirmed.

Human source reports also alleged that the nature and character of the arriving Soviet personnel had changed significantly. It was reported that some of the arriving personnel during this period were primarily young, trim, physically fit, sun-tanned and disciplined, and that they formed in ranks of fours on the docks and moved out in truck convoys. Refugee, exile and other human source reports suggested that, in contrast to the earlier arrivals, the new arrivals were Soviet combat troops. However, the intelligence community adhered to the view that they were military instructors, advisers, and trainers, plus a number of civilian technicians and advisers associated with improving the Cuban economy. The view was that they did not include significant numbers of Soviet military personnel and that they were not organized into combat units. As late as October 29, in an unclassified information brochure published by the Defense Department entitled "Cuba," the Soviet "personnel" in the island were estimated at 5,000.

B. Identification of specific weapons and equipment

1. SA-2 sites.—About August 15, as a result of suspicions generated by human source reports, the Department of Defense focused special attention on suspected areas and requested that they be covered by the "next" high altitude flight. As a result, the next such flight, flown on August 29, established positive identification of SA-2 surface-to-air missile (SAM) sites at two of the suspect locations and at six others in western Cuba. Flights from August 29 through October 7 discovered additional SA-2 sites. The SA-2 system can engage targets at altitudes up to 80,000 feet and has a slant range of about 25 miles.

2. Cruise missiles.—A coastal defense cruise missile installation was identified shortly after the flight of August 29. Three additional cruise missile sites were discovered by October 7. These are anti-shipping missiles estimated to have a maximum range

of about 40 miles. On August 29 KOMAR class patrol boats with 2 missile launchers each were identified in Cuba.

3. MIG–21 fighters.—Although the Soviets had supplied the Cuban Air Force with MIG–15, 17, and 19 aircraft prior to the spring of 1962, the presence of the modern supersonic MIG–21 fighter was first confirmed by a picture obtained on September 5, 1962.

4. IL–28 (Beagle) bombers.—As early as the spring of 1962, the intelligence community was of the view that the Soviets might send the IL–28 (Beagle) light bomber into Cuba. This apprehension was confirmed by a picture taken on September 28 which was later evaluated as showing crates containing IL–28's aboard a Cuba-bound ship. This evaluation was not made until October 9 and was disseminated to the intelligence community on October 10.

5. Medium range and intermediate range missiles.—As has already been indicated, during all of this period there was a great volume of unconfirmed reports and rumors from human sources about strategic missile-related activity in Cuba. None of these reports were confirmed prior to October 14, 1962. It is evident that many of these reports in fact referred to the SA–2 missiles, which, although nowhere near the size of the strategic missiles later identified, still appear large to the untrained observer.

However, after mid-September some reports of missiles being introduced into Cuba were suggestive enough of strategic or offensive weapons to arouse the suspicions of intelligence analysts. This resulted in the conclusion—apparently reached near the end of September 1962—that there was a suspect medium-range ballistic missile (MRBM) site in Pinar del Rio Province. As a result, photographic coverage of the suspect area was proposed and on October 14 a Strategic Air Command U–2 reconnaissance aircraft overflew the area and emerged with hard photographic evidence of the San Cristobal medium-range ballistic missile complex.

Photographic reconnaissance was unable to detect precisely how many ballistic missiles were introduced into Cuba. Prior to the Soviet announcement that 42 missiles would be withdrawn, our photographs had revealed a lesser number. It could not be established, therefore, how many ballistic missiles were, in fact, introduced into Cuba or specifically how many the Soviets planned to introduce.

Additional medium-range ballistic missile sites and intermediate-range ballistic missile (IRBM) sites were located by high altitude reconnaissance missions flown after October 14. Six MRBM sites were located, all of which had achieved a full operational capacity on October 28 when the dismantling of the sites commenced. Three IRBM sites were located and it was anticipated that a fourth would be established. None of the IRBM sites became operational before being dismantled, it being the estimate that they would have become operational by December 15.

The medium-range missile is estimated to have a range of about 1,100 miles and the intermediate range missile is credited with a range of 2,200 miles.

C. Failure to identify Soviet organized ground combat units

As has already been noted, notwithstanding some reports that many of the Soviets arriving in Cuba after mid-July were military units, and notwithstanding the evidence of a drastically increased buildup in modern and sophisticated ground weapons, the intelligence community did not identify the presence of Russian organized ground combat forces in Cuba until October 25 when new pictures obtained by low-level photography, coupled with a reanalysis of previous photography, led to the conclusion that there were, in fact, four organized, mobile, and powerful armored Soviet units in Cuba. The aggregate strength of these units is now estimated by intelligence people to be about 5,000 men.

In addition, it is agreed that the number of Soviet personnel in Cuba was substantially underestimated by our intelligence. For example, on October 22, 1962, the date that the President addressed the Nation, the intelligence community estimated the Soviet personnel in Cuba to be 8,000 to 10,000. The current intelligence evaluation is that at the height of the Soviet buildup, there were in Cuba an aggregate of at least 22,000 Soviet troops. This is, of course, a retroactive or reconstructed intelligence estimate. One factor in the underestimation of the number of Soviet personnel in Cuba in October was the assumption that the arriving passenger ships were normally loaded. It is obvious now that these ships were, in fact, troop loaded and that the actual aggregate troop-carrying capacity of the arriving passenger ships was in excess of 20,000. * * * believed that the additional Soviet military personnel arrived in cargo ships. There is some reason to doubt that even the 22,000 figure would account fully for all of the great quantities of weapons and equipment introduced into Cuba since June 1962.

Equally important, since on October 22 the President did not know of the presence in Cuba of a substantial number of Soviet soldiers in heavily armed organized ground combat units, he could not include this factor in his actions vis-a-vis the Soviets and demand at that time their withdrawal from the Western Hemisphere along with the strategic missiles.

D. Alleged photographic gap

There has been considerable public discussion about an alleged gap in our photographic reconnaissance over Cuba during the period from September 5 to October 14. We have examined this question as thoroughly as possible and have found the allegations with respect to it to be unfounded. The record of the flights which were scheduled between August 29 and October 14 should be sufficient to clear up the situation and these will be summarized here.

The flight of August 29, which has already been discussed, resulted in the discovery of surface-to-air missile and cruise missile sites.

On September 5, a mission was flown which covered the central and eastern portion of the island. Good coverage was obtained of the central portion but weather conditions prevented any photographic returns with reference to the eastern end of the island.

A flight was planned for September 10 but this was not flown.

On September 17, a mission was flown but, because of weather conditions, it was not wholly successful.

Adverse weather precluded further flights until September 26. Flights were flown on September 26, September 29, October 5, and October 7. These flights completed the coverage of those areas of Cuba which had been spotlighted as requiring early attention.

Weather prevented any additional flights until October 14. On October 12, the Strategic Air Command was given responsibility for operating the U–2 high altitude reconnaissance missions over Cuba, and on October 14, it flew the flight which gave the first hard evidence of the existence of strategic missiles in Cuba.

E. Transfer of U–2 flights from CIA to SAC

There have been numerous news reports alleging the existence of a conflict between the Central Intelligence Agency (CIA) and the Strategic Air Command (SAC) with reference to the operation of the U–2 high altitude flights. These reports have contained allegations that a deadlock existed between CIA and SAC and that this was resolved at the policy level by transferring the function of flying the U–2 missions from CIA to SAC. It has also been alleged that this is one of the reasons for the delay in locating the MRBM sites in Cuba.

These allegations have also been closely inquired into and have been found to be without merit. There is no evidence whatsoever to suggest that any conflict between CIA and SAC existed or that there was any delay in photographic coverage of the island because of the fact that the U–2 program was being operated by CIA prior to October 14.

Likewise, there is no evidence whatsoever of any deadlock between the two agencies or any conflict or dispute with respect to the question of by whom the flights should be flown.

The subcommittee inquired thoroughly into the reason for the transfer of the U–2 operation from CIA to SAC. It is to be remembered that the SA–2 sites in the San Cristobal area had been located on August 29. The U–2 flight which was flown on October 14 was programed to overfly this area. In view of the possibility that the flight might provoke hostile reactions from the SA–2's it was concluded that it would be more appropriate for the operation to be conducted by the military rather than by civilians. This decision was entirely reasonable and proper.

It is a fact, of course, that the first U–2 flight flown by SAC was the one which resulted in obtaining a photograph of the MRBM site. This, without explanation, originally gave the subcommittee some concern. However, after inquiring closely into the situation we are convinced that there is no significance to it and that it was just a matter of timing and coincidence.

F. Intelligence activities and operations generally

As has been indicated, the U–2 high-altitude reconnaissance flights over Cuba continued at the rate of two a month, weather permitting, until September. The stepped-up schedule for September and early October has already been outlined. All of the U–2 flights prior to October 14 were flown by the CIA.

After the mission which verified the existence of MRBM's in Cuba, there was a concentrated effort to determine the precise nature of the missile buildup and the exact location, number, configuration and state of readiness of the missile systems. Between October 14 and October 22, the Strategic Air Command flew a total of 17 high altitude sorties. Low altitude overflights were not initiated until October 23, the day following the President's message.

During the same period, the peripheral reconnaissance fights over international waters continued, as did the intensified collection efforts using refugees, exiles, and other human sources.

In reviewing the intelligence activities with respect to Cuba, the subcommittee found areas in which criticism is justly due. In other areas, however, our intelligence did quite well. The MRBM's were discovered while they were in the process of being deployed. The IRBM sites were discovered in a very early stage of construction. The IL–28 bombers were discovered while they were still in their crates. The MIG–21's were discovered when only one had been removed from the shipping container. All these weapon systems were identified, and their locations and performance characteristics spelled out before they became operational in a very compressed and limited period of time despite adverse weather conditions and the fact that we were penetrating an almost completely closed society.

The SA–2 sites were discovered commencing August 29, and were credited by the intelligence community with becoming operational on a site-by-site basis commencing in mid-September. It is certain that these air defense missiles had attained an operational capability by October 27. On that date a U-2 plane piloted by Maj. Rudolph Anderson, USAF, was shot down by an SA-2 and Major Anderson was killed.

CIA and military intelligence, by use of their highly developed photographic capability, were able to give a unique performance in intelligence operations. They ultimately placed in the hands of the President, his advisers and U.S. diplomatic representatives incontrovertible proof of the presence of Soviet strategic missiles in Cuba in direct contravention of Soviet government assurances. This visual proof unquestionably played a major part in the united action of the Organization of American States and world acceptance of the correctness of our position.

Photographic reconnaissance, however, does have limitations. It is only a part of the total intelligence collection means, although a most important one. It did not reveal the presence of ballistic missiles in Cuba during the period of at least a month between their introduction into the Island and their deployment on sites. The absence of photographic confirmation of human source and other reports, therefore, does not of itself disprove the accuracy of the other sources.

The responsible agencies of the intelligence community appear to have done a creditable job in gathering and collecting quantities of data and information. The deficiency in the performance of the intelligence community appears to have been in the evaluation and assessment of the accumulated data. Moreover there seems to have been a disinclination on the part of the intelligence community to accept and believe the ominous portent of the information which had been gathered.

In addition, the intelligence people apparently invariably adopted the most optimistic estimate possible with respect to the information available. This is in sharp contrast to the customary military practice of emphasizing the worst situation which might be established by the accumulation of evidence.

There also appeared to be a tendency on the part of the intelligence people to discredit and downgrade refugee and exile reports. This was based on the general lack of experience and training of the refugees and exiles as military observers, their frequent inclusion of items not reasonably credible among those things which were within their power of observation as to time, place and comprehension, and on the consideration of the obvious self-interest of the Cuban sources.

Finally, the intelligence community was of the opinion that the Soviets would not introduce strategic missiles into Cuba because they believed that such a development would be incompatible with Soviet policy as interpreted by them. The error inherent in this estimate was clearly demonstrated by subsequent events. The danger that such preconceptions will control the weighing of the facts as events unfold is evident.

The influence of these and other factors resulted in several intelligence judgments and estimates which, in the retrospect, proved to be erroneous. A few of these will be mentioned.

The fact that the intelligence community did not accept the fact that organized Soviet ground combat units were being introduced into Cuba until photographic confirmation of this fact was obtained on October 25, and the related fact that the number of Soviets in Cuba was substantially underestimated throughout the entire crisis have already been discussed.

It has also been noted that the intelligence community did not estimate that strategic missiles would be introduced into Cuba until photographic confirmation was obtained on October 14. It appears that, on this point, the analysts were strongly influenced by their philosophical judgment that it would be contrary to Soviet policy to introduce strategic missiles into Cuba. In retrospect, it appears that the indicators to the contrary were not given proper weight. Among other things the discovery of the surface-to-air missile complex in the San Cristobal area on August 29 could logically have led to the assumption that they were being constructed to protect a strategic missile installation since it was clear that these SA-2's were not being emplaced for the purpose of protecting any existing or known military installation.

V. SITUATION FROM OCTOBER 22, 1962, TO THE TIME OF REMOVAL OF IL-28 BOMBERS

A. Intelligence activities and operations generally

On the day following the President's statement, that is, on October 23, 1962, low altitude flights over Cuba were commenced and there was a concerted effort to obtain detailed information both about the entire island and selected targets.

During the period from October 22 to December 6 the Strategic Air Command flew a total of 82 high altitude sorties, and from October 23 through November 15, when the low level flights over the island were discontinued, the Air Force and Navy flew a total of 162 low altitude sorties.

B. Identification of organized Soviet ground combat units

As has already been mentioned, photographs obtained on October 25 provided the first confirmation of the presence of Soviet highly mobile armored task groups in Cuba. The information obtained as a result was first distributed to the operational military commands on October 30. Up to that time, it was thought that the Soviet ground equipment arriving in Cuba was to be utilized by the Cuban forces.

C. Removal of missiles and IL-28 bombers

To a man the intelligence chiefs believe that, following the October crisis and quarantine, the Soviets removed from Cuba 42 medium range ballistic missiles and related equipment, intermediate range ballistic missile equipment, and 42 IL-28 jet bombers.

A comprehensive and concentrated aerial reconnaissance and fleet observation program endeavored to cover every aspect of the exodus of this equipment. This program involved high and low altitude flights over Cuba, accompanied by intensive sea and aerial surveillance of the departing ships over Cuba and Caribbean waters and continued surveillance across the Atlantic.

The effort was directed at covering the dismantling and abandonment of the missile sites, at covering the roads and highways leading from the sites to the ports, and at covering the port areas to observe the material as it arrived, was assembled on the docks, and loaded aboard ships.

As stated, the intelligence community believes that all strategic missiles and bombers which were in Cuba at the time of the quarantine were removed by the U.S.S.R. However, they acknowledge the existence of continuing reports to the contrary and freely concede that, in terms of absolutes, it is possible that despite our surveillance program, we were misled and deceived.

VI. CURRENT MILITARY SITUATION IN CUBA

A. Intelligence activities and operations generally

Since the withdrawal of the strategic missiles and the IL-28 bombers the intelligence community has turned its primary attention to surveillance of the situation as it now exists. High level U-2 photographic flights continue on a regular basis. Since the U-2 was shot down on October 27 there has been no further attempt to interfere with our aerial reconnaissance. The reason for this one incident amidst a pattern of acquiescence in the overflights remains a matter for speculation.

The collection efforts using the technical and the various human sources available, such as refugees, exiles, and others is a continuing process. The close surveillance of merchant shipping arriving and departing Cuba, by naval air and surface ships continues, as does the peripheral surveillance by reconnaissance and the photographic aircraft.

A particular focus of attention has been the prospect that Cuba might become a base for Soviet submarine operations. There have been repeated rumors and speculations that such is already the case. Much of this is related to the Soviet assistance to Cuba in improving and expanding certain commercial fishing facilities. The intelligence community, however, does not believe that in fact Cuba is now, or has been, a base for Soviet submarines.

Admittedly, however, no spectacular operation is necessary to provide temporary advance base type support to submarines, sufficient to greatly extend their time on station away from the bloc nation ports, and to facilitate their operations generally. Reasonably sheltered anchorages or ports with sufficient depth, ready supplies of diesel fuel, fresh water, food supplies, and relaxation facilities ashore for the crews greatly extend the time away from home for any submarine. The presence of a few skilled technicians and a supply of the high usage repair parts would additionally extend operational periods considerably. The use of shore-based long range communication systems and information from surface and shore-based radio and radar nets would greatly facilitate Soviet submarine operations in the Caribbean as well as assist in attempts to evade detection.

B. Nature and capabilities of forces and equipment now in Cuba

1. Types and Numbers of Weapons.—As previously mentioned, it was testified that the native Cuban forces are organized only at reinforced battalion level with the effective weapons for such units, including rifles, machineguns, light and heavy mortars and considerable field artillery. For an organization of that type they have a rather large amount of mechanized equipment, tanks, self-propelled artillery and armored personnel carriers. They also have available a considerable amount of antitank guns and light antiaircraft guns suitable for use against low flying aircraft. How much of the large numbers of additional crew-operated weapons of the types mentioned above are now in Cuban hands is apparently not known or estimated.

The Soviet organization has a powerful modern array of weapons in plentiful numbers. There are 24 SA-2 sites of 6 launchers each, in a tight knit perimeter air defense of the entire island of Cuba. These weapons are similar to our NIKE-HERCULES and are very good indeed. Their fire control system is also estimated as of a high order of effectiveness. They have brought in a large amount of ammunition for these units. The SA-2 system which is quite complex is manned by Soviet troops. It would take over a year of intensive training, including quite technical schooling, for the native Cuban troops to replace the Soviets in the SA-2 system. Probably associated with the SA-2 sites for low level air defense, as well as in local defense of other important sites, are some of the large additional numbers of light antiaircraft guns brought in by the Soviet Expeditionary Force. Whether any or all of these weapons are manned by Soviets is apparently not known.

There are four cruise missile sites, with missiles of a range of about 30 to 40 miles from their ground launchers. The missiles are placed as part of the coastal defense system of Cuba, which is the normal Soviet employment of these weapons. They are manned by Soviet naval crews. As an added feature of these missiles, there are at least 150 of them in Cuba, far more than could be logically associated with the known missile launching sites. It may be speculated that the launchers for these missiles may have been in some of the bloc shipping turned back by the October quarantine and thus failed to reach Cuba.

The Soviet naval contingent in Cuba also operates 12 KOMAR-type high-speed patrol craft as part of the Cuban coastal defenses. These boats are each equipped with a pair of cruise-type missiles. The missiles are estimated to have a range of 10 to 15 miles. These boats are under Soviet control, but Cubans are believed to have been observed aboard them. The KOMAR's are apparently the only Soviet naval craft introduced into Cuba as part of their expedition.

The Soviet Army element of the Soviet expedition in Cuba is armed with almost all of the weapons found in large Soviet troop formations. Many of these weapons, of the type characteristic of elements of mechanized and motorized divisions, reinforced by artillery and other units, are known to be in surprisingly large numbers. As mentioned before, the amounts, if any, handed to the Cubans from the many hundreds of heavy weapons brought in by the ships of the Soviet expedition, are not fully known. These weapons include very large and substantial numbers of heavy tanks and medium tanks; self-propelled assault guns; 57-mm. antitank guns; light, medium, and heavy mortars; field artillery pieces; antiaircraft guns, both 30-mm. and 75-mm.; armored personnel carriers; a number of the truck-mounted multiple launchers for the 130-mm. rocket; and quantities of various types of motor vehicles, radio equipment and engineer equipment. We feel that the official estimates of the number of Soviet troops are questionably low when related to the large numbers of the weapons listed above.

To the above must be added two very modern Soviet Army tactical missiles. The first is the SNAPPER, a wire guided antitank missile similar to our SS-10 and SS-11. The second is the FROG, a rocket with a range of about 25 miles, which can be equipped with a nuclear warhead. It is similar to our HONEST JOHN.

According to our intelligence, the Soviet Air Force in Cuba has approximately 42 MIG-21's, one of their most modern high performance supersonic jet fighters. They are probably equipped with air-to-air missiles. Associated with them is a net of radars and radios necessary for their control and the integration of the entire air defense system, SA-2 and fighter.

2. Strength and Capabilities of Forces.—It was testified that the strength of the Cuban Army apparently remains at the same level as before the crisis, that is, 75,000 in the regular army, 100,000 in the milita, and 100,000 in the form of a home guard.

At this point it must be said that there is no really hard evidence of the number of Soviets who are now in Cuba. While 17,500 is still the official estimate of our intelligence people, despite the reported withdrawal of some 4,000 to 5,000 since the first of the year, the level of confidence in its accuracy varies even within the intelligence community. Other sources present considerably higher estimates—some ranging up to 40,000 and more. Bearing in mind the substantial underestimation of last October, we can only conclude that no one—outside of Soviet and Cuban official circles—knows how many Russian troops are now there. The 17,500 estimate is perhaps a minimum figure.

In any event, it is believed that the Soviet expedition, combined with the Cuban forces, as an entity, is quite powerful in a defensive sense. The air defense system is believed to be of a high order of effectiveness. The coastal defense cruise missiles do not form a tight perimeter defense of the Cuban shoreline, evidently because the quarantine turned back the necessary launchers to complete an interlocking net similar to the SA-2 system. This gap in the island defense may be partially covered by the KOMAR missile craft. The Soviet Army units, trained in mobile aggressive armored warfare, if well coordinated with the static defense ability of the Cuban native forces, could offer severe opposition to any attack. This opposition would be sufficient to make it necessary to mount a large seaborne landing effort along with any desired airborne effort in order to be sure of success.

Based upon their judgment that all strategic missiles and offensive weapon systems have been removed, the intelligence community does not believe that Cuba now represents any major direct military threat to the United States or Latin America in an offensive or aggressive sense. Strategic weapons may or may not be now in Cuba. We can reach no conclusion on this because of lack of conclusive evidence.

It is clear, however, that as a source of weapons and small bands of provocateurs, saboteurs, agents of revolution and chaos it is a distinct and present threat to all of the Latin American nations with shores on the Atlantic Ocean and Caribbean Sea. It might be relatively difficult to engage in the smuggling of tanks, self-propelled guns, and heavy truck-towed artillery. Light mortars, machineguns, rifles, and the ammunition for these weapons, grenades, explosives, radios and bribe money are an entirely different matter. Gunrunning is an ancient art in Central and South America, well-practiced and well-understood in many quarters. Modern facilities make Cuba, as a centrally located base for such Communist operations, a present and grave menace to the peace and security of the Western Hemisphere. The use of Cuba as a base for subversion will be discussed in more detail in a later report.

3. Reports of concealed strategic weapons in Cuba.—Reports from refugees, exiles and other human sources insist that the strategic missiles and bombers were not removed from Cuba but are concealed in caves and otherwise. The intelligence community, although aware of these reports, have been unable to confirm them and adhere to the position that all strategic weapons are withdrawn.

It is fair to say, however, that this is a matter of great concern to the intelligence community. Based on skepticism, if nothing else, there is grave apprehension on this score. It is agreed that ironclad assurance of the complete absence of Soviet strategic missiles in Cuba can come only as a result of thorough, penetrating on-site inspection by reliable observers. The current intelligence estimate that they are not present is based largely on the negative evidence that there is no affirmative proof to the contrary. This, of course, was precisely the status of the matter prior to last October 14.

There is no doubt that there are literally thousands of caves and caverns in Cuba and that it is feasible to use many of these for the storage and concealment of strategic missiles and other offensive weapons. It is also true that military activity has been observed in connection with these caves. Our intelligence people are of the opinion that some of the caves are in fact utilized for the storage of military items and equipment other than strategic missiles, such as ammunition, explosives, etc.

The importance of making every effort to ascertain the truth with respect to this matter cannot be overemphasized. The criticality of it can best be illustrated by the fact that the testimony established that, upon the assumption that all missiles and associated equipment and the necessary personnel were readily available near preselected sites in a state of complete readiness, mobile medium-range missiles could be made operational in a matter of hours. Thus, if these missiles and their associated equipment remain in Cuba, the danger is clear and obvious.

The possible installation of advance submarine bases in Cuba has already been discussed.

4. Withdrawal of Soviet personnel.—Even though the intelligence community believes that a net 4,000 to 5,000 Soviet military personnel have been withdrawn from Cuba since the first of the year, because of what intelligence describes as "technical reasons" the previous intelligence estimate of approximately 17,500 Soviets in Cuba remains unchanged. At the very least this suggests to the subcommittee that there is a low level of confidence in the original estimate. There is also some question in our minds as to the adequacy of the information as to the number of Soviets newly arriving. Admittedly, there could have been undetected arrivals at smaller ports, where it is known that cargo ships have repeated their prior practice of unloading at night under conditions of strict Soviet-imposed security. In any event, as the matter stands at the writing of this report, the intelligence community does not believe it yet has sufficient concrete evidence to estimate any reduction in overall Soviet military capability on the island. There is no evidence that any of the combat troops associated with the four armored groups have been withdrawn.

C. Summary of threat arising from Soviet presence in Cuba

Our summary of the threat and potential threat which the Soviet presence in Cuba presents to the Americas is as follows:

1. Cuba is an advanced Soviet base for subversive, revolutionary and agitational activities in the Western Hemisphere and affords the opportunity to export agents, funds, arms, ammunition, and propaganda throughout Latin America.
2. Assuming without deciding that all strategic weapons have been withdrawn, there is the ever-present possibility of the stealthy reintroduction of strategic missiles and other offensive weapons, using the Soviet forces still in Cuba as camouflage and security for the activity.
3. Cuba serves as an advance intelligence base for the U.S.S.R.
4. The potential exists to establish electronic warfare capabilities based on Cuba.
5. The vital Panama Canal could be the target for sneak raids originating from Cuba.
6. Potentially, Cuba is a base from which the Soviets could interdict our vital air and sea lanes. It can now be used for the air, sea, and electronic surveillance of our military activities in the Southeast United States and the Caribbean.
7. Cuba's airfields could serve as recovery air bases for planes launched against the United States from the Soviet Union.
8. Advanced Soviet submarine bases could be established in Cuban ports with very little effort.
9. The continued presence of the Soviets in Cuba could require a further reorientation of the U.S. air defenses.
10. Cuba provides a base for the training of agents from other Latin American countries in subversive, revolutionary, agitational, and sabotage techniques.
11. The very presence of the Soviets in Cuba affects adversely our Nation's image

and prestige. Our friends abroad will understandably doubt our ability to meet and defeat the forces of communism thousands of miles across the ocean if we prove unable to cope with the Communist threat at our very doorstep.

A consideration of all these matters serves to emphasize the gravity of the threat to our national security which Cuba now represents.

D. Prospect of internal revolt or invasion

The continued presence of the Soviet expedition in Cuba can now be seen to be a most effective shield against either internal revolt by native insurgents, or invasion by external forces from any source. The ringing of the island by the Soviet air defense and missile system, and the islandwide evidence of impressive, powerful, armored Russian troop units, all apparently immune from attack, has been and will be an increasing psychological damper to the fires of revolt. We can only expect, under present circumstances, that whatever capacity and will to resist communism may exist among the people in Cuba, will wither and shrink. The communization of the younger element creates simultaneously an increasingly militant Communist nation.

The withdrawal of the Soviet forces from Cuba would remove a primary psychological prop of Castroism, and remove what is presently being used as a physical shield against any overt effort to keep alive the fires of freedom in Cuba. As mentioned before, the ability of Castro's native Cuba forces standing alone, to withstand any insurrection, depends upon the support the Cuban people give to the insurgents, and the effective outside help given to insurgent forces.

VII. CONCLUDING STATEMENT

Barring some development which is unforeseen at this time, the public debate will probably continue as to whether missiles and other strategic weapons are now based in Cuba and as to the number of Soviet troops being maintained there. These things are certainly of undeniable importance. The matter of basic and fundamental importance, however, and the source of the real threat, is that international communism now has a firm foothold in this hemisphere and that, if we permit it to do so, it is here to stay.

The Soviets are in Cuba primarily for the purpose of increasing and spreading communism's influence and power in Latin America and we can be sure that they will exploit their foothold to the greatest extent possible. The paramount danger at this time is that the nations of this hemisphere may be subverted one by one and be exploited, in turn, for subversive and revolutionary activities. By this process of erosion our neighbors to the south may fall nation by nation until the entire hemisphere is lost and the Communist goal of isolating the United States has been attained.

Communism, of course, operates on a worldwide scale and its methods and techniques are always adapted to the environment in which it operates. With this in mind, the value to the U.S.S.R. of the occupation of Cuba is apparent. The techniques of Communist subversion may vary from simple infiltration to violent intervention. Whatever its form, however, in Cuba as elsewhere it is conceived, developed, and perfected by the leaders of world communism for the purpose of furthering their concept of world domination. Its aim and goal is to destroy existing political, economic, and social orders and to replace them with new and dictatorial regimes which presuppose the complete physical and moral control of subjugated peoples.

This aim and goal has already been achieved in Cuba. It will be achieved elsewhere in Latin America unless positive steps are taken to prevent it. We must be prepared to take appropriate and positive action in our own national self-interest and in the interest of the collective security of the Western Hemisphere.

The Communist domination and occupation of Cuba, and the resulting menace to our security, requires and demands that the United States be ever alert and vigilant to all of its sinister implications. We must exercise the greatest surveillance and watchfulness possible, and use all available resources, for the purpose of ascertaining the true military situation in that unhappy island and to insure that we will not again be deceived and surprised. The entire Cuban problem, both military and political, should be accorded the highest possible priority by our governmental officials to the end that the evil threat which the Soviet occupation of Cuba represents will be eliminated at an early date.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HELMS. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, may we proceed with morning business?

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, and Senators will be allowed to speak therein up to 5 minutes each.

THE SOVIET MILITARY BUILDUP IN CUBA

Mr. ROBERT C. BYRD. I have just listened to the speech of the distinguished Senator from North Carolina, and I was going to make some brief comments thereon, if someone will ask him to return to the Chamber.

I was sorry that I was not present to hear all of the speech by the distinguished Senator from North Carolina. I have been at a meeting of the Senate Appropriations Committee attempting to get more money appropriated for the synthetic fuels program.

I heard the Senator say something to the effect that the failure—I may be stating it wrongly but, in essence, I think it was something like this, that the failure—of the President to get the Soviet troops removed was a tacit admission that the Soviets have great nuclear superiority. Is that what the Senator said right at the end of his speech?

Mr. HELMS. That it is tantamount to an admission; yes, sir.

Mr. ROBERT C. BYRD. Then, Mr. President, that is to imply that we should go to nuclear—have a nuclear exchange if the Soviets do not remove the "combat" troops from Cuba.

Mr. HELMS. Mr. President, if the Senator will yield——

Mr. ROBERT C. BYRD. I did not interrupt the Senator. If I may proceed.

Mr. HELMS. You are saying I implied something. I implied nothing. I stated facts and conclusions. The Senator can infer anything he pleases. There is a difference between implied and inferred.

Mr. ROBERT C. BYRD. I learned that in high school.

Mr. HELMS. It does not show.

Mr. ROBERT C. BYRD. I am sorry, I said the Senator implied. I said the Senator implied.

Mr. HELMS. And I said you inferred.

Mr. ROBERT C. BYRD. I inferred, that is correct.

Mr. HELMS. Very well.

Mr. ROBERT C. BYRD. All right, I inferred. I infer from what the Senator said that if the combat troops are not removed, and that the President was not able to force such removal, then it is a tacit admission to the world that the Soviets have tremendous nuclear superiority over this country. In other words, I take it, if we do not get those 2,600 troops out of Cuba, then we ought to have a nuclear exchange, a nuclear holocaust. Well, that is the inference I have drawn.

Mr. BAKER. Mr. President, who has the floor?

Mr. ROBERT C. BYRD. I have the floor. Does the Senator want me to yield?

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I do not want to get into a fight between implying and inferring, but let me simply say that I have taken no such inference or any such suggestion from the statement made by the Senator from North Carolina. My impression is that the Senator from North Carolina is simply saying that we stood toe to toe with the Russians and, unlike 1962, we blinked.

Mr. ROBERT C. BYRD. Well, now, Mr. President, the Senator from North Carolina, I take it, is able to defend himself, but I am glad the minority leader came to the floor because I would just as soon have this discussion fleshed out.

Talk is cheap. Anybody can talk. That is the one thing that inflation has not touched, talk, and it will always be cheap. So when we talk about confrontations and compare the Carter talks with the Soviets in the context of the current situation with the Kennedy-Khrushchev talks, when we talk about our failure to get the troops out as a tacit admission to the world that the Soviets have great nuclear superiority, now, Mr. President, that is simply talk—nothing more.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Talk is also the coinage of intellect, and intellect is not always cheap. An intelligent approach to the matter at hand is the absolute fundamental requirement of the foreign policy of this country. For a month I reiterated time after time that you can have only one Presidential authority at a time and that it was up to the President to make his decision without any limitation or suggestion from me. I was true to that commitment.

Now that the decision has been made, I feel perfectly free to talk on this subject. I am very fond of President Carter, and I sympathize with the difficult situation he faces. I think too often we jump at each other's throats. But, Mr. President, while I regret to say it, I believe the President's response was inadequate.

No one that I know is suggesting that we have a confrontation with the Soviet

Union, least of all the Senator from North Carolina. Nevertheless, I think all Senators have the responsibility to state our views on the adequacy or the inadequacy of the Presidential response.

Mr. ROBERT C. BYRD. Well, Mr. President, nobody denies the minority leader's feeling that we should state our views. I am stating mine. The Senator is stating his. But all this talk about confrontation leaves the inference to be drawn that we should engage in some kind of nuclear exchange over combat troops in Cuba, an island on which we have military forces——

Mr. HELMS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. No, I do not yield at the moment. I did not interrupt the Senator.

Mr. HELMS. The Senator was not even in the Chamber, so he could not interrupt. I will give you 50 cents if you can find——

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. ROBERT C. BYRD. The regular order means that Senators address other Senators in the third person, and through the Chair.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, in his address to the Nation last evening, President Carter placed the issue of Soviet troops in Cuba in its proper perspective.

It has been my view, and one that I have consistently stated, that the issue of Soviet troops is a matter for concern, but not for confrontation. It should not overshadow a far more significant issue—the SALT II treaty.

I hope that the President's address and the steps he is taking will help to disentangle the SALT II treaty from the controversy over Cuba. I want to see the Senate proceed to consider the treaty on its merits, and not be subjugated to less important questions.

The ACTING PRESIDENT pro tempore. The time of the majority leader has expired.

Mr. CRANSTON. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. I yield to the majority leader. I hope the Senator will leave me a few minutes.

Mr. ROBERT C. BYRD. President Carter has received important assurances from the Soviet leadership relating to the nature, activity, and capability of the Soviet troops.

The President clearly stated that the United States will act to protect its national interests. He announced a number of measures that will be undertaken to strengthen our intelligence gathering and military capabilities in the Caribbean region.

The President has responded to this problem in an appropriate manner—reasoned but firm. The important consideration here is that we not lose sight of what our country's real interests are. We have more than sufficient means at our disposal to deal with any problem related to the Soviet troop presence in Cuba. In dealing with that issue we do not want to undermine our larger national interests—and the international leadership role of the United States.

The President emphasized that the greatest danger to the United States and to all the nations of the world is the breakdown of a common effort to preserve the peace and to reduce the threat of nuclear war.

He correctly pointed out that the Nation's security interests are not served by allowing SALT II to become a political issue.

It is my hope that as a result of the President's speech and the steps he is taking, we can now move on to a more productive phase in the debate on SALT II. The issue of Soviet troops has diverted attention from the more serious and substantial issues which are at stake in SALT II. I hope that in the days and weeks ahead the Senate and the Nation will focus once again on the treaty itself. The Foreign Relations, Armed Services, and Intelligence Committees have laid the groundwork, through their valuable hearings, for careful deliberation of the treaty by the Senate. That is what is in the interests of U.S. national security, and is what the American people deserve and expect.

I thank the Senator.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. Mr. President, for all we know, these Soviet combat troops have been in Cuba for 17 years; maybe longer. Have they threatened us in these past years? No. Do they threaten us now? No. It is time to put aside childish things and childish ways. It is time we recognize we are a grownup, mature nation.

We are the oldest and most stable democracy on the face of the Earth. We are the strongest Nation on the face of the Earth militarily, economically, industrially, technologically, ideologically, and politically. Let us stop trembling and shaking every time the Soviet Union does something we do not like.

Let us act in the world with the confidence and the serenity that our strength so amply justifies. That is what President Carter last night called upon us to do. It was a reaffirmation of our Nation's strength.

The President's address was reasoned and restrained, as befits a strong nation. A strong nation that is also wise will never overreact. The measures President Carter proposes should satisfy any legitimate concern over the Soviet troops in Cuba. The measures he proposes carry out fully the 1962 agreement with the Soviets that Cuba will never become an offensive base against the United States.

Mr. President, it is time for the U.S. Senate to return to the great unfinished work before us—moving ahead on effective steps to bring the nuclear arms race with the Soviet Union under control.

We have already been diverted all too long by the Cuban episode.

I expect the argument will continue, here in the Senate and elsewhere in the Nation, over the administration's handling of the Cuban situation.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CRANSTON. Mr. President, I ask for another 1½ minutes.

Mr. BAKER. Mr. President, I seek recognition.

Mr. MUSKIE addressed the Chair.

The ACTING PRESIDENT pro tempore. I believe the Senator from Tennessee had requested permission prior.

Mr. BAKER. Mr. President, I thank the Chair.

I inquire, how much time is remaining in the period, so I can ascertain whether I can then yield a minute to the distinguished Senator?

Mr. CRANSTON. I appreciate that. I need about 1½ minutes.

The ACTING PRESIDENT pro tempore. Two minutes remain.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended an additional 10 minutes under the same conditions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I yield to the Senator from California.

Mr. CRANSTON. I thank the Senator very much.

Mr. President, I expect the argument will continue over the nature of the so-called Soviet challenge;

Over the behavior of the Soviets and the Cubans in Africa and elsewhere;

Over the security of our friends and allies in Central and South America;

Over the security of the United States;

Over the adequacy of the President's response to the Cuban affair;

Over our "over" or "under" reaction; over whether the President has lost or gained politically; over whether this was all a terrible tempest in a tiny teapot—or a threat to our national manhood.

Perhaps it is right that these arguments continue for awhile yet: There are questions still unanswered and it is proper that they be fully explored in a public forum.

But let us return, Mr. President, to the prime, the transcending issue before us: The survival of our Nation, the survival of mankind.

There never was any real relevance between Soviet troops in Cuba and the SALT treaty. There is, of course, a relevance in emotion and in politics.

There is no relevance in terms of logic or in terms of our national defense interests.

This controversy with the Soviet Union over troops in Cuba was not our first, nor will it be our last, collision with the Soviet Union. We have different systems, different philosophies, different political objectives, different social aims, different world views. Plainly, we will collide in direct controversy time and time and time again.

The gravest danger to our national security lies in the possibility of a nuclear war with the other superpower, the Soviet Union. While SALT II is not a certain way to avoid that, it is an essential step in the process.

The purpose of the SALT treaty is to set certain ground rules that will contain the dimensions of these collisions so that they will be less likely to wind up in a nuclear holocaust.

Indeed, the whole disagreement over Soviet troops in Cuba points up the urgent need for Senate ratification of SALT II—and soon.

Mr. BAKER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized to take his 3 minutes.

Mr. BAKER. Mr. President, I do not intend for a moment to suggest that the Senator from California had any Member of this Chamber in mind when he admonished us to put aside our childish ways; surely, he did not. But as surely, he must remember that it was not this Senator nor any Member on this side of the aisle who made the announcement that there were combat troops in Cuba. It was not a Republican Senator, who declared that the status quo was unacceptable, or that the Russian troops had to be moved or else the SALT treaty would be defeated.

We have been spectators, Mr. President, and I think remarkably restrained, in our opposition. So I assume, that the Senator from California did not refer to this Senator or any Member of this Senate on this side of the aisle.

Mr. CRANSTON. That is correct. I did not have any Member of this Chamber in mind.

Mr. BAKER. Mr. President, I assert, on the best information available to me, that there was no indication of a Russian combat brigade in Cuba prior to 1978. Moreover, Mr. President, I assert that it does not make any difference when they were there. The fact of the matter is that we uttered the challenge when it was suggested that the status quo was unacceptable. It became our obligation, then, to state our response.

It is not in anger but in regret that I have said this morning that I feel our response was inadequate. The ultimate defeat of logic, reason, intellect, would be that our policies fail to the point where we suffer the annihilation that would be inevitable in nuclear warfare. But the surest way to nuclear confrontation with the Soviet Union is to convince them, by design or otherwise, that America no longer has the will for leadership; that we no longer will define our vital interests in the Caribbean or the Western Hemisphere; that for the first time, since the Monroe Doctrine we have acknowledged and condoned the presence of foreign combat troops in the Western Hemisphere.

I do not advocate a rattling of missiles with the Soviet Union but, rather, a statement of our resolve and a marshaling of our resources to diminsh this threat.

I have not been among those who have called on the Senate to postpone the consideration of SALT in the light of this development. I might come to that. There are many Members of the Senate, many of them on this side of the aisle, who advocate that. I understand their concern. But I have always contended that the Senate should consider SALT in the context of real-world circumstances.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, may I be recognized?

Mr. President, I know what the rules are. I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. BAKER. I thank the Senator.

Mr. President, I have never contended that SALT should be defeated or postponed on the basis of Russian troops in Cuba. What I do contend is that we should take account of this most recent development, just as we take account of the Mig-23's or the Russian pilots in Cuba, the Cuban troops in Angola, Ethiopia, or North and South Yemen, the submarine facilities on Cuba or the presence of a guided missile task force in the Caribbean.

The real world: that is the framework in which we should consider SALT. I cannot speak for my colleagues because I have not yet consulted them, but for my part, I am willing to take up SALT any time and consider it in light of this development.

I do not think SALT will pass this Chamber primarily because the Russians have had such an adventuristic foreign policy, culminating in this latest development in Cuba. In light of that policy many Members will decide that a treaty which I believe is inherently unequal would not stand the scrutiny of our constitutional responsibility.

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader speaks of "this latest development in Cuba." From all the indications that I have heard and read, there is no late "development." The troops have apparently been there for years. They are a possible residue of the troops, the personnel, that were there in 1962—at least going back some years. So it is not a late development. It was only recently identified.

I, too, say that we ought to look at this in the context of the "real world." That is precisely what I have been advocating: Let us look at it in the context of the real world; 2,600 troops in Cuba, no airlift possibilities, no sealift possibilities, no threat to the security interests of this country. Everyone admits that. That is the "real world."

I say let us not connect that recent identification of a unit that has possibly been there for years with our consideration of the SALT II treaty.

I have not determined what my position on the SALT II treaty is going to be. I do not intend to until I get a better understanding of the report that will be submitted by the Intelligence Committee.

I am in no hurry. That treaty was signed on June 18. I have been in no hurry to be for it or against it. I have just attempted to urge that we approach it in a systematic and careful manner and not let our judgment of SALT, which deals with strategic central systems, be discolored or affected by the identity of 2,600 Soviet troops in Cuba.

I welcome this discussion. I hope there will be nonpartisanship. There is certainly nothing that I have ever said that will reflect on the Republican Party in this regard. A lot of the opposition will be on this side of the aisle. I do not attempt to categorize the opposition to the treaty as partisan. I do not now and I never have.

I think I have a right to assume that there will be Members on that side of the aisle, if and when we reach a vote on the treaty, who will support it. This is what we need, nonpartisanship—or bipartisanship—on a matter of this kind.

I had always heard that on matters of foreign policy, the two political parties would join together, and that partisanship would end at the water's edge. If there ever were a time for this to be demonstrated, it is, I think, in the context of this national debate on the SALT II treaty. I hope that will be the case.

Does the Senator wish me to yield?

Mr. BAKER. Mr. President, only briefly.

Mr. President, I join the majority leader in welcoming this debate. I think it is useful. I think it is important, and I think it is in the best traditions of the Senate. We ought to do it more often.

I do want to point out that while I, too, believe in a nonpartisan foreign policy, I have never believed that a foreign policy is so transcendentally important that it is immune from discussion in the political arena. I welcome, as well, open and public debate of defense and SALT and foreign policy issues on this floor and in the political arena about the Nation.

Finally, Mr. President, and I thank my distinguished colleague, the majority leader, for yielding, I should like to suggest that, at some point, we as an institution ought to consider extending this debate into the homes of Americans, so that we follow the example of our colleagues in the other body and televise these proceedings. SALT would be a good place to start.

Mr. ROBERT C. BYRD. Mr. President, that has been under consideration by me. I have discussed it with many of my colleagues. Not all of them are in favor of it. I have discussed it with representatives of the networks, and it is still under consideration.

I will say this: I have read every word, every period, every semicolon, every double dash, every clause, every phrase of every transcript of every hearing that has been conducted by the Armed Services Committee and the Foreign Relations Committee, up to the time that the August recess began. If anything opened my eyes as to the need for this country to modernize its strategic central systems and theater nuclear forces and conventional forces, it was the information that I derived from the transcripts of those hearings. If they had that much impact on me, therefore, I should think they would have an equally great impact on the American people.

Ergo, I am considering this factor as I put it in the context of whether or not the Senate should proceed with televised proceedings when the SALT II treaty is debated.

Mr. BAKER. Mr. President, I thank the Senator for his consideration. I will be happy to pursue that at his convenience.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. HATCH. Mr. President, I have been surprised at one aspect of the announcement by President Carter last night that he will be taking specific steps to offset the presence of the Soviet combat unit in Cuba. Everything he announced could have been anticipated in advance. Indeed, several Senators who proposed specific moderate options to the President in their comments to the press must be pleased this morning to see that he has done much of what they wanted. To be sure, he has done very little. I am reminded of the 1962 debate over the missiles in Cuba when none other than the Secretary of Defense Robert Strange MacNamara advised President Kennedy that there was no reason to get excited about the Soviet nuclear missiles in Cuba. In a much quoted remark, Secretary MacNamara said: "A missile is a missile."

As we all know, he failed to persuade the President and the other members of the executive committee set up to study the options. President Kennedy took firm decisive action. He ordered what was essentially a blockade of Cuba, but slightly modified the naval rules of engagement and called it a "quarantine" to avoid the international legal and military consequences of a full blockade. Whatever the name and whatever the rules of engagement, it amounted to a blockade. That is why I called for the consideration of another blockade of Cuba last week. President Carter, however, had already ruled out the use of military force in advance—a very different approach than President Kennedy. And, as we heard last night, President Carter has decided that not only is "a missile a missile" but, more strangely, "a combat brigade is a training center." This time, the Soviets can stay.

Lest this body think I am being overly critical of our President, I hasten to add that what he did not announce last night is much more important than what he did. One of the most dramatic moves in American policy since World War II has gone unnoticed in the headlines of today's papers.

In a surprise announcement, coinciding exactly with the President's on Cuba, we have learned that the Secretary of Defense will be going to Peking, China, before the end of 1979. This amounts to rubbing raw the single most sensitive nerve of the Soviet Union. It comes after repeated pledges by Secretary of State Vance that we will not sell arms to China. It comes after we have apparently blocked the efforts of the French Government to sell short-range missiles to China, and after we have discouraged the British from selling the Harrier jump jet to China. It comes after Secretary Leonid Brezhnev wrote letters to the heads of governments of Western Europe warning them not to establish military relations or sell arms to China. And it comes after several years of denials by Henry Kissinger that he had any sort of defense discussions with the Chinese Government during the Nixon and Ford administrations.

The Senate knows little about what the Secretary of Defense will be doing in China. The White House did not see fit to inform either the chairman of the Subcommittee on Asian and Pacific Affairs nor the ranking Republican of that subcommittee, the distinguished Senator from North Carolina. Several of us will be seeking clarification in the next few days. At the least, President Carter has handed the Soviet Union one of the biggest provocations of his Presidency, hidden within an apparently weak and accommodating set of measures to offset the combat brigade in Cuba. The Soviets may well wish they had withdrawn the brigade by the time they realize the implications to them of 1 billion Chinese at their back with military ties to the United States.

Had this not occurred, had not the President indicated that Secretary Brown will be going to China, I would have to say President Carter is a little like Macbeth: full of sound, but lacking the fury, and signifying nothing.

In spite of the fact of not acknowledging the presence in Cuba of foreign troops which will be used to foment revolution and bloodshed in Central and South America, the President is going through the motions of moving around troops in general.

But the essential fact remains, Carter is letting the Soviets keep those combat troops in Cuba. For all practical purposes, the Monroe Doctrine which protected the Western Hemisphere from foreign aggressions for 150 years is a dead letter.

Jimmy Carter's timid, weak leadership within America, is little more than a hollow shell of its former greatness.

I thank the Chair and I appreciate this time.

RESPONSE TO PRESIDENT CARTER'S STATEMENT ON CUBAN SITUATION

Mr. NUNN. Mr. President, in my view, there are positive and negative aspects of the President's speech: On the positive side, the President has indicated his determination to:

First. Improve our rapid deployment capabilities.

Second. Enhance our intelligence capability.

Third. Prevent any Soviet or Cuban intervention in this hemisphere.

Fourth. Insist that the Soviets abide by the 1962 and 1970 agreements regarding strategic nuclear forces in Cuba.

On the negative side:

First. There is little evidence of any real U.S. strategy to deal with Soviet-Cuban intervention outside this hemisphere or to link Soviet-United States relations to Soviet behavior in the world.

Second. There was no clear line drawn on the continued buildup of forces in Cuba. There was no mention of Mig 23's or attack submarines, nor was there any warning to the Soviets that this buildup must cease. We appear to have an understanding or agreement with the Soviets only with respect to nuclear forces in Cuba. We apparently have no agreement, nor have we drawn a line, in regard to conventional forces in Cuba.

It is clear to me that our Nation has not been able to appropriately analyze and respond to the Soviet-Cuban challenge because we have not been able to put the problem in perspective. The Soviet Union's mounting military activity in Cuba is the symptom, but Cuba's growing military activity in the Third World is the underlying disease.

The Soviet brigade represents only one element in what appears to be a much larger Soviet program to assume the primary responsibility for Cuba's defense with the aim of freeing even more Cuban troops for operations overseas. This appears to be the real purpose of the brigade, the Mig-23's, and of the expanding Soviet naval activity at Cienfuegos. Cuban troops have, in effect, become the Hessians of the Soviet drive for power in the Third World.

Fully one-quarter of the Cuban army is now deployed in Angola and Ethiopia. Additional hundreds of Cuban military "advisors" are present in Algeria, Congo, Grenada, Guinea, Libya, Mozambique, Nicaragua, Sierra Leone, Tanzania, South Yemen, and Zambia.

To deal with this challenge, we must be able to distinguish between its major and minor components as follows:

Soviet-backed Cuban intervention in the Third World.

Soviet military presence in Cuba—to embolden and encourage Cuba.

At least 10 Mig-23 fighter aircraft.

A diesel-powered attack submarine, a training submarine, a number of coastal missile boats, ground-based surface-to-air missiles, several thousand Soviet advisors, and intelligence personnel plus a major intelligence facility.

The Soviet "combat brigade."

The Soviet brigade is not unimportant. Certainly it has some symbolic and geopolitical effect, but it should be listed as number three in terms of the Soviet military presence in Cuba.

In weighing the impact of the President's speech, some may concentrate on whether or not the troops are combat or training, and others will debate how long the troops have been configured as a combat brigade—I believe that it is essential for us to look at the larger issue.

The President alluded to "the more general problem of Soviet-Cuban military activities in the Third World," but he carefully avoided drawing any line or issuing any warning on this activity except as it may in the future pertain to the Caribbean. The President hints at the underlying disease when he states:

> It raises the level of responsibility that the Soviet Union must take for escalating Cuban military actions abroad.

The President has also addressed this

serious disease indirectly by directing the Secretary of Defense to enhance the capacity of our rapid deployment force. As I pointed out in the recent Senate debate on military spending, while this so-called rapid deployment force has been discussed by the Carter administration, it has not been fully identified, nor has it been funded for rapid deployment. Perhaps the 1981 defense budget and the President's 5-year budget plan will give us additional information as to whether U.S. forces will be capable in the future of getting there "firstest with the mostest" or "lastest with the leastest."

In summary, our Nation is finally beginning a process of creeping reality, but our response remains uncertain. The appropriate responses to this Russian-Cuban intervention policy will be difficult to devise even when we reluctantly confront reality. In the meantime, the Russians and Cubans will continue pursuing their goal of "stabilizing the Third World."

Mr. President, historians of the future will be hard pressed to explain how it was that the United States in the 1970's permitted a tiny hostile nation 90 miles from its own shores to assume the role of a superpower, at least in terms of its influence on military events in the nonindustrial world.

We must clearly recognize this threat, and begin to deal with it politically, economically, and in our military preparations. Hopefully, the "Cuban brigade crisis" has moved us a step closer to facing this reality.

OFF THE AIRWAVES

Mr. PROXMIRE. Mr. President, the Federal Communications Commission recently proposed rules that would result in the almost total deregulation of commercial radio broadcasters.

The FCC proposals would, for example, do the following:

First. Eliminate all requirements that radio licensees demonstrate they have ascertained and addressed the needs and problems of their communities;

Second. Eliminate all limitations on the amount of time radio stations can devote to commercials;

Third. End requirements on the minimum amount of nonentertainment programing, such as news and public affairs, that must be provided by radio stations; and

Fourth. End requirements that commercial stations keep strict logs of their programing for the FCC.

In commenting on these proposals, Chairman Charles Ferris of the FCC stated that information gathered by his staff "indicates that in radio broadcasting, the public interest can be met most effectively by the forces of competition in the radio marketplace."

I strongly share that opinion. To support this contention, Mr. Ferris further noted that 2,500 of the 8,653 radio stations in existence today have begun their operations since 1967.

Chairman Ferris then went on to point out that the radio broadcasting industry was much different in 1934, when the regulation of radio began, than it is today. Because the number of radio stations at that time was small, the Government felt compelled to impose regulations requiring those stations to act in the public interest.

But now, as Mr. Ferris made clear, the force of the marketplace, and not the Federal Government, is the best device to insure that radio broadcasters operate in the public interest.

Radio stations today, for example, far exceed Federal requirements for news and public affairs programing. Why? Because the public demands it.

And since the public today has a wide choice of listening options, radio stations must continue to provide the service demanded by the public or risk going out of business.

Mr. President, I applaud the words of Chairman Ferris and his leadership in helping to bring about this recent action by the FCC.

But as the Wall Street Journal said in its lead editorial of last Friday, September 28, "It's time to push further."

In this editorial, entitled "Off the Airwaves," the Wall Street Journal eloquently stated the case for the abolition of the FCC's so-called Fairness Doctrine and equal time rule for both radio and television.

Mr. President, in January of this year, and in the two preceding Congresses as well, I introduced legislation—known as the First Amendment Clarification Act—that would do just that.

And as the Wall Street Journal editorial pointed out, the same logic that led to the FCC proposals should also trigger action by the Congress to do away with both of these onerous restrictions on the first amendment rights of broadcasters.

As I have noted, Chairman Ferris suggested the obsolescence of the so-called "scarcity rationale" as a key reason for the FCC proposals on radio deregulation.

But, Mr. President, those who favor continuing regulation of the broadcast media—both radio and television—through the Fairness Doctrine and the equal time rule consistently cite this same "scarcity rationale" to justify their position.

Their argument is that there are only a limited number of TV channels and radio frequencies. So, they maintain, the Government must license those who can broadcast and make them operate in the way that the Government thinks is in the public interest.

But does this "scarcity rationale" hold up today? The answer is "No". In almost every city in America—regardless of size—there are more television signals available than daily newspapers. If radio stations are counted, as they must be, general audience broadcasting stations far outnumber general circulation newspapers.

Moreover, economic pressures make it nearly impossible to establish a daily newspaper in a community where one already exists.

Since the supposed rationale for the fairness doctrine and the equal time rule is no longer valid, it follows, quite clearly, that both of these restraints on the first amendment freedom of broadcasters should also fall.

Mr. President, the Wall Street Journal editorial to which I have been referring is a strong and compelling statement in favor of eliminating "obsolete and counterproductive" governmental controls like the fairness doctrine and the equal time rule. I ask unanimous consent that the text of the editorial be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

OFF THE AIRWAVES

Common sense is becoming more common at the Federal Communications Commission. With some prodding from the courts, the FCC has been lifting restrictions on the diffusion of cable and pay television. Now the commissioners want to scrap some superfluous and bothersome rules they have long imposed on radio stations.

We applaud such moves. There's no reason why radio stations should have to log every minute of their programing, or interview community leaders about local needs and interests, or prove they devote a certain minimum of airtime to news and public affairs and a certain maximum to advertising. These regulations may have made some sense when radio was the leading source of home entertainment and programing was dominated by a few national networks, with only a handful of stations in each community. But today there are more than 8,000 stations, with several dozen competing in each major urban area.

In such an environment, as the FCC has correctly recognized, minority interests will be better served by the marketplace than by regulatory paperwork. Most radio stations these days can attract advertisers and make money only if they appeal to specialized audiences. And market signals have led to more local news and information than the regulators ever dreamed of.

By the same logic, it's also time to cast aside the "Fairness Doctrine" and the "equal time" provision for election coverage, two FCC rules mandated by Congress and designed to ensure that radio and television broadcasters maintain some semblance of editorial balance in their political programing. When stations were few and far between, and entry into broadcasting was restricted, the rules may have helped guard against political bias in programing by legally enforced monopolies. Today the rules are obsolete and counterproductive.

Not only radio but also television stations have been proliferating—first with the introduction of UHF channels, now with the almost unlimited channel possibilities opened up by cable and by satellite transmission. With the advancing revolution in video technology, competition in home entertainment and audiovisual information will also come from off the airwaves. The marketplace, if allowed to function, will encourage a rich diversity of programing. But the requirement of editorial balance for each station is stifling potentially lively debate between stations.

Under the "Fairness Doctrine," it is economically costly and legally risky for any broadcaster to air programs or advertisements that voice controversial political opinions; the broadcaster must either give up valuable airtime to present opposing views, or risk losing his license. The "equal time" requirement imposes comparable costs and risks on any broadcaster providing in-depth presentations of any one candidate's positions.

As a result, radio and television programming often takes the spice out of political or public policy controversies, and coverage of campaign issues has come to incorporate such stilted devices as the highly formalized and structured 1976 Ford-Carter debates.

Besides, the rules have always carried disturbing First Amendment implications. Only this June, the D.C. Circuit Court of Appeals upheld an FCC ruling that dismissed without a hearing a "Fairness Doctrine" suit against CBS News's coverage of "national security issues." National security, the court ruled, was "too diffuse" an issue to be considered a "controversial issue of public importance" and therefore subject to the fairness requirement. In 1968, by contrast, the same court adjudged tobacco advertisements to be sufficiently controversial that stations had to grant equal time, free if necessary, to anti-smoking pronouncements.

By leaving to administrative law judges the right to determine whether coverage is "fair" or "controversial," the rules also give them the opportunity to inject their personal opinions about what should be broadcast.

Congressman Lionel Van Deerlin introduced legislation this year that would have repealed these rules, as part of a more ambitious effort to rewrite the FCC's charter. The proposed repeal attracted little support from his colleagues, and, together with a more general initiative to limit the regulation of broadcast programming, is now on the shelf. This is unfortunate. With today's marketplace and tomorrow's technology, it is becoming less and less necessary to restrict what's broadcast, except for prohibiting obscenity over public airwaves. The FCC has begun moving in the right direction. It's time to push further.

JACOBO TIMMERMAN

Mr. PROXMIRE. Mr. President, according to news reports published last week, Jacobo Timmerman finally has been released by Argentina's military government.

Mr. Timmerman, the editor of a prominent opposition newspaper in Buenos Aires, was never informed of the charges against him during the 2 years he was held and allegedly tortured. His only crime seems to have been being Jewish and outspoken.

International pressure was largely responsible for Mr. Timmerman's release, and much of this pressure came from the United States. The administration used its diplomatic leverage on Mr. Timmerman's behalf, and the Anti-Defamation League of B'nai B'rith awarded him their Hubert Humphrey Freedom Prize.

It is wonderful to learn that Mr. Timmerman's long nightmare has ended, and I am proud of the part that Americans played in securing his release.

However, the influence of the United States in international human rights cases such as this is weakened by our stand on the Genocide Convention. For over 30 years the Senate has avoided the responsibility of putting this Nation on record as condemning genocide as an international crime.

This shameful inaction has opened the door for our adversaries to ridicule our earnest efforts on behalf of men like Jacobo Timmerman. I urge the Senate to ratify the Genocide Convention.

THE PLO'S "MODERATE" STANCE IS NO SUCH THING

Mr. BAKER. Mr. President, Senator JAVITS of New York recently wrote an article that was published in one of this country's leading national newspapers, the Los Angeles Times, on the subject of American policy in the Middle East. I believe that Senator JAVITS' discussion of the background of our refusal to negotiate with the Palestine Liberation Organization is one of the most effective and forceful presentations on the subject that has recently been offered to the public.

In a time when conflict and confusion frequently muddy the waters, it seems to me that the American people are well served when the grounds of policy observed by three administrations are so effectively reexamined as they have been by the Senator from New York. His able presentation affords us a needed reminder that negotiating under the gun can lead only to further bloodshed and surrender of our country's national interests. I ask unanimous consent to have printed in the RECORD the distinguished Senator's article headlined: "The PLO's 'Moderate' Stance Is No Such Thing."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PLO'S "MODERATE" STANCE IS NO SUCH THING

(By JACOB K. JAVITS)

The resignation of U.N. Ambassador Andrew Young over his Palestine Liberation Organization contact, which has caused such a stir at home, will ultimately yield to reason and understanding, but the profound issues obstructing Middle East peace persist.

Some underlying questions continue to require examination:

—What commitments has the United States made concerning the Palestinians or the PLO?

—Is U.S. policy changing toward the PLO and its claim to be the sole legitimate representative of the Palestinian people?

—What effect will developments respecting these questions have on the prospects for peace in the Middle East?

The deferment of the Security Council's consideration of the "Palestinian Resolution," which would commit the United Nations on this issue, gives an opportunity for constructive statesmanship before the expected U.S. veto.

The basic U.S. commitment derives from the assurance given to Israel by the United States in connection with the second Sinai disengagement agreement between Egypt and Israel, and states clearly: "The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338." This commitment was explicitly reaffirmed by the Carter Administration during the negotiating process leading up to the Camp David accord.

The reasons for the American commitment are real and important, and they derive directly from the letter and spirit of Security Council Resolution 242 itself, which calls for secure and recognized boundaries for all states in the area, including Israel, and the right of all states to live in peace and security.

There are recurrent reports that Yasser Arafat and other PLO figures are prepared to "tacitly recognize" Israel in return for Israel's recognition of the PLO and to get a place at the table in the U.S.-Israel-Egypt negotiations. But the PLO charter still calls for the elimination of Israel, as well as its replacement by a Palestinian state that would cover the area of both Israel and the West Bank. Moreover, it remains to be seen whether the PLO will curtail, as it has hinted that it will, attacks on Israel's people from Lebanon and from inside Israel.

The United States must recognize that the PLO is a threat not only to Israel's existence but to Jordan's as well. The fact is that Jordan repelled the PLO in a bloody war in 1970, and has not allowed the organization to function inside its borders since then.

Actions speak louder than whispers of conciliation and moderation, and the PLO remains the main obstacle to the peace process in the area.

Security Council Resolution 242 properly remains the basic commitment of the United States and all nations genuinely seeking peace, in the area. It is equally balanced between "withdrawal" of Israeli armed forces "from territories occupied" in the 1967 war and "respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every state in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force."

It is not true that Palestinians are excluded under present arrangements from determining the ultimate status of the West Bank and Gaza Strip. The Camp David accord states that "the solution from these negotiations (on the permanent government of the West Bank and Gaza) most also recognize the legitimate rights of the Palestinian people and their just requirements." And it has been agreed also that in these negotiations "the delegations of Egypt and Jordan may include Palestinians from the West Bank and Gaza or other Palestinians as mutually agreed."

Now the PLO, under the guise of a new, "moderate" stance, is trying to gain a seat at the bargaining table—without any declared change in its policies and without accepting Security Council Resolution 242, as have Israel, Egypt and the United States, as well as Syria and Jordan, which are not yet party to the negotiations. This course of action must be resisted; it is destructive to the peace process and the ongoing negotiations. The PLO must qualify by accepting Israel's right to exist and Security Council Resolution 242.

Therefore, Washington's present course of action ought to be: (1) to stand by U.S. commitments not to negotiate with the PLO unless it changes its course, and to exercise patience in this respect; (2) to pursue the Camp David accord, which recognizes as negotiating parties for the West Bank and Gaza "representatives of the inhabitants of the West Bank and Gaza"; (3) to honor its commitment, if necessary by vetoing any Security Council resolution seeking to amend substantively Resolution 242, and (4) to insist that the status and condition of the Arab refugees remaining in camps on the West Bank and in Gaza be considered in the current U.S.-Israel-Egypt negotiations.

The present situation allows us an opportunity to give the Palestinians a voice in the negotiations on the West Bank without requiring any recognition of the PLO. This can be accomplished by giving consideration to the 24 mayors of the principal towns and cities of the West Bank, duly elected in 1976 under the provisions of Jordanian law, which is still administered there. These elections were widely recognized as being fair and representative.

In view of the fact that Jordan is unwilling to participate in the current negotiations, as called for by the Camp David accord, mayors could be offered the opportunity to supply the necessary representatives of the Palestinian inhabitants of the West Bank for the purpose of advising on the means of establishing "the elected self-governing authority on the West Bank and Gaza."

Israel did not challenge the results of the election of any West Bank mayors on the basis of their sympathy for PLO causes, and therefore the mayors need not be challenged for this role in the negotiations, either. And such representatives would be qualified as having been elected by the inhabitants of the affected area. Such as arrangement would not necessitate renegotiating the Camp David accord; it would only require the concurrence of Egypt, Israel and the United States.

We have in the Camp David accord a very clear charter as to who speaks for the Palestinians: the inhabitants of the West Bank. It took a long and arduous effort to negotiate this accord. It is a flexible and viable instrument, for achieving peace. Israel and Egypt, which are actively seeking peace, wish to stay with it. Certainly the United States should, too.

BUDGET ACT WAIVER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 244, which the clerk will state.

The legislative clerk read as follows:

> A resolution (S. Res. 244) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1308.

The Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. Time on this resolution is limited to 1 hour, to be equally divided and controlled between the majority leader and the minority leader or their designees, with 20 minutes on any debatable motion or appeal.

Who yields time?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and ask unanimous consent it not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. LEVIN). Who yields time?

Mr. MUSKIE. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Senate Resolution 244 is the pending business.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Charlene Sturbitts and Karl Braithwaite, of my staff, have the privilege of the floor during the consideration of S. 1308 and Senate Resolution 244.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff members of the Committee on Governmental Affairs have the privilege of the floor during the debate and votes on S. 1308: Richard A. Wegman, Claude Barfield, Paul Rosenthal, Dave Nichols, Ellen Miller, and Paul Hoff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Environment and Public Works have the privilege of the floor during the consideration of and votes thereto on S. 1308 and the matter related thereto: Phil Cummings, Rick Fenton, Phil McGance, Jacqueline Schafer, Vic Maerki, Bailey Guard, Dennis Stickley, John Yago, Mimi Feller, Tom Altmeyer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of and votes on S. 1308: Paul Gilman, Steve Hickok, Chuck Trabandt, Dave Swanson, Steve Crow, Howard Useem, Dave Russell, Gary Barbour, Carol Garnett, Cindy Calfee, Suzanne Whitehurst, and Trudy Transtrum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I wish to advise the Senate that a majority of the Budget Committee, moving on a "fast-track" to give expedited consideration to this matter, has voted to recommend favorable Senate action on Senate Resolution 244, a resolution to waive section 402(a) of the Budget Act with respect to consideration of S. 1308, the Energy Mobilization Board authorization bill.

Mr. President, I regret that I could not be here yesterday during the discussion of this matter, but I was in Boston to greet His Holiness John Paul II on his historic arrival in the United States

Mr. President, let me express my thanks to the senior Senator from Colorado, Mr. HART, the distinguished floor managers on the bill, Senators JACKSON and DOMENICI, and the distinguished majority and minority leaders Senator BYRD and Senator BAKER for their cooperation in developing the unanimous-consent order to provide for the orderly consideration of this budget waiver.

A waiver is necessary because S. 1308 authorizes $2 million in new budget authority for fiscal year 1980 and the bill was reported after May 15, 1979, the statutory reporting deadline.

In favorably reporting on Senate Resolution 244, as is the case with every favorable waiver recommendation, the budget committee is recommending that the Senate proceed to the consideration of this high priority energy legislation but is not prejudging the merits of the bill.

Mr. President, some Senators have suggested that the budget process is being used to delay consideration of this important legislation. Let me assure every Member of this body that in this instance as in every instance to date in the 96th Congress and since the beginning of the budget process in 1975, the Budget Committee and its staff have worked closely with the majority leader, the policy committee staffs of both sides and the standing committees of the Senate to assure that compliance with the Budget Act is not a road block to Senate floor deliberations.

Mr. President, for the benefit of all Senators, let me review the sequence of events with respect to this waiver resolution. S. 1308, the Energy Mobilization Board authorization bill, was filed last Tuesday, September 25. The waiver resolution was not filed until Wednesday, the 26th. The CBO cost estimate for fiscal years 1981 to 1984 was not available until late Wednesday evening. The report on the bill did not become available to Senators or our committee from either the Senate documents room or the Energy Committee until Thursday, the 27th. The Budget Committee staff then prepared an explanatory memorandum for the committee, and I authorized a poll of the committee on this matter on Friday, with a return for the poll at 6 p.m. Monday. The waiver resolution was filed last night.

Since the printed report on S. 1308 was not available until Thursday, September 27, and no Saturday session was then anticipated, the 3-day period required under the rules to precede consideration of this bill was not expected to expire until Tuesday, October 2, today. So we expected, and have obtained, approval of the waiver before the bill was thought likely to be eligible for consideration on its own merits under the 3-day rule. I believe that this expedited treatment is consistent with the Budget Committee commitment to cooperate with the leadership on timely consideration of budget waivers.

BUDGET COMMITTEE CONSIDERATIONS

As Senators are aware, section 402(a) of the Congressional Budget Act of 1974, provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless the bill or resolution was reported in the House or the Senate, as the case may be, on or before May 15, preceding the beginning of such fiscal year.

Mr. President, S. 1308 authorizes appropriations of $2 million in fiscal year 1980 for the Energy Mobilization Board. This authorization level is projected to increase to approximately $13 million by fiscal year 1984. Since the bill was reported after May 15, 1979, a resolution waiving section 402(a) of the Budget Act must be adopted before the Senate can proceed with consideration of this bill.

Mr. President, section 402 was included in the Budget Act to provide an orderly relationship between authorizations and appropriations bills. The May 15 deadline was instituted to avoid authorizations being brought to the Senate floor after the appropriations process was already in full swing. Section 402 provides a waiver procedure to allow the Budget Committee to review the circumstances surrounding late reported authorizations and to make recommendations to the full Senate on whether the situation warrants waiver of the May 15 deadline.

Mr. President, in this case, the Budget Committee has recommended favorable action on the waiver resolution because the need for Energy Mobilization Board legislation could not have been anticipated by the Energy Committee prior to the May 15 reporting deadline.

This bill was a component of the President's Energy message of July 15 and the subsequent energy package that addressed the national need to lessen U.S. dependency on imported oil. Indeed, the depth of the problem did not become evident until the impact of the latest round of OPEC prices on summer gas lines and escalating energy costs heightened public and congressional demands for mobilization of domestic production.

Moreover, the authorization levels in this bill are consistent with the energy ceiling in the second budget resolution as passed by both Houses.

In general, the authorizing committees have been cooperative and supportive of the budget process. On several occasions, the committees have reported waivers in order to allow the Senate to take up a bill reported with a late authorization so that an amendment could be introduced to change the authorizing date to comply with the Budget Act.

The Budget Committee has worked closely with the majority leader, the policy committees, and the authorizing committees to avoid any delay, and in this case we have done so. As a key author and supporter of the budget process, the distinguished majority leader is keenly aware of the need to enforce the discipline and orderly procedures set out in the Budget Act. I deeply value his cooperation with respect to these matters.

Mr. President, the Budget Committee recognizes that energy legislation will be a high priority for the Senate during the next several months and will continue to work closely with the Senate leadership and the authorizing committees to assure timely consideration of budget issues.

Unless there are other comments on the waiver resolution, and I take it that there are not, I yield back such time as is allotted for the consideration of this resolution under the Budget Act.

Mr. JACKSON. Mr. President, I thank the senior Senator from Maine for his cooperation in this matter. I do not think there is any need for debate or discussion.

I yield back whatever time I have, and we can vote.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. DOMENICI. Mr. President, on behalf of myself and Senator BELLMON, as members of the Budget Committee, I say to our chairman that we appreciate expediting the matter. We are sorry if there was any misunderstanding. Many of us on the Energy Committee did not believe this required a waiver because no money is provided. Only after scrutiny by CBO did they assume and advise us that it might be $2 million.

Mr. President, I support Senate Resolution 244, the budget waiver for the Priority Energy Project Act, S. 1308. S. 1308 establishes the Energy Mobilization Board, grants the Board authority to expedite priority energy projects, and establishes expedited judicial review for the temporary emergency court of appeals. The bill authorizes "such sums as are necessary" for the Board's administrative operations and for the expended judicial activities placed in the temporary emergency court of appeals (TECA).

The fiscal year 1980 budget impacts of the Board and TECA would undoubtedly be very small, even if the bill is enacted into law this session. CBO, in a cost estimate the committee did not receive until after filing the report, estimates that the fiscal year 1980 costs will approximate $2 million. Our own view is that it is highly unlikely that the Board and TECA could obligate anywhere near that amount in this fiscal year.

Even if the Board and TECA could obligate $2 million, Mr. President, that should be no reason to hold this bill off the floor; $2 million simply is not the level of impact which should require any controversy under the Budget Act. Additionally, the Energy Mobilization Board is the centerpiece of the President's energy package and the omnibus energy legislation under consideration in both Houses. The country is well aware of the critical importance attached to cutting bureaucratic redtape stopping domestic energy production. To delay this bill any further for purposes of the Budget Act would be unwise and probably unreasonable, in light of the extreme national interest attached to this bill.

I, therefore, urge the passage of the budget waiver resolution.

Mr. MUSKIE. Mr. President, I am ready for a vote on the resolution.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution was agreed to.

PRIORITY ENERGY PROJECT ACT OF 1979

The **PRESIDING OFFICER.** Under the previous order the Senate will now proceed to the consideration of S. 1308 which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1308) to set forth a national program for the full development of energy supply, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, beginning with line 1, strike through and including page 17, line 16, and insert in lieu thereof the following:

That this Act may be cited as the "Priority Energy Project Act of 1979".

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PURPOSES

SEC. 2. (a) The purposes of this Act are to utilize to the fullest extent the constitutional power of Congress to regulate interstate and foreign commerce and to provide for the national defense in order to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(b) Congress finds and declares that these purposes can be served by—

(1) providing a coordinated, prompt, and simplified process for approval of non-nuclear energy facilities that are determined to be in the national interest;

(2) expediting the approval process without unduly interfering with the present statutory authority and responsibilities of Federal, State and local agencies; and

(3) fostering the integration of Federal, State, and local procedures for permitting, licensing, and approving energy projects which are determined to be in the national interest pursuant to section 11.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "applicant" means any persons planning or proposing a project which has been designated a priority energy project;

(b) "approval" means any permit, license, lease, certificate, right-of-way, or other grant, rate, ruling, or decision authorized or issued by an agency of Federal, State, or local government;

(c) "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

(d) "Board" means the Energy Mobilization Board created under section 4 of this Act;

(e) "Chairman" means the Chairman of the Board;

(f) "class of energy projects" means any set, collection, or group of energy projects with common characteristics of which no single project has an expected cost in excess of $5,000,000, and the total cost of which is not expected to exceed $250,000,000, as adjusted to take into account the rate of inflation since the date of enactment, as measured by the adjusted gross national product implicit price deflator;

(g) "designation request" means an application filed with the Board pursuant to section 10(a) of this Act for an order by the Board designating an energy project or class of projects as a priority energy project;

(h) "energy facility" means any physical structure, including any structure which incorporates active and or passive solar devices, any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, or installation, or any combination thereof, which will facilitate energy conservation or invention, exploration, research, development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including, but not limited to, any facility owned or operated in whole or in part by Federal, State, or local government or any combination thereof;

(i) "energy project" means any plan, proposal, program, scheme, or design to produce, build, install, expand, modify the operation of, or alter in any other way, an energy facility;

(j) "Federal agency" means an executive agency as defined in section 105 of title 5 of United States Code;

(k) "local agency" means any executive agency of local government;

(l) "local government" means (i) any government body, including any special purpose government body, of any political subdivision of any State, (ii) any recognized government board of any Indian tribe or Alaskan Native Village which performs substantial governmental functions, or (iii) any general or special purpose government among States or within a State;

(m) "local law" means the rules, regulations, ordinances, codes, case law, and other laws of any local government;

(n) "member" means a member of the Board other than the Chairman;

(o) "person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, nonprofit institution or any entity organized for a common purpose, and any instrumentality of Federal, State, or local government;

(p) "Priority energy project" means any project or class of projects which has been determined by the Board to be in the national interest pursuant to its authority under sections 9 and 11 of this Act;

(q) "Project Decision Schedule" means an unrevised Project Decision Schedule promulgated pursuant to section 17 or a revised Project Decision Schedule promulgated pursuant to section 17 and revised pursuant to section 18;

(r) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(s) "State agency" means any general or special purpose executive agency of State government; and

(t) "State law" means the laws, rules, resolutions and case law of any State.

ESTABLISHMENT OF THE ENERGY MOBILIZATION BOARD

SEC. 4. (a) There is hereby established a special executive agency to be known as the Energy Mobilization Board.

(b)(1) The Board shall consist of a Chairman, who shall hold office at the pleasure of the President, and three members. The Chairman and the three members shall be appointed by the President, by and with the advise and consent of the Senate.

(2) The Chairman shall be an individual who, as a result of his training, experience, and attainments in academia, industry, commerce, public interest activities, and or government is exceptionally well qualified to perform the duties of his office.

(3) Members of the Board shall be appointed for a term of three years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years.

(4) The Chairman of the Board shall serve as a full-time employee of the Board and shall receive compensation at the rate prescribed for offices and positions at level I of the Executive Schedule (5 U.S.C. 5312). Members of the Board shall receive compensation at a rate equal to the rate prescribed for offices and positions at level I, including travel time, for each day such member is engaged in the actual performance of duties as a member of the Board. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(5) The Chairman shall not engage in any other employment or hold any other office or position in the Federal Government during the period of his employment. Members shall not hold any other office or position in the Federal Government during the period of their employment.

(6) The Chairman shall be subject to the same restrictions and requirements imposed upon supervisory employees under title VI, part A of the Department of Energy Organization Act (42 U.S.C. 7211–7218), except that in applying the provisions of title VI, part A to the Chairman, the term "the Board" shall be substituted in place of "the Department."

(7) Members of the Board shall be subject to the reporting requirements imposed upon individuals who are nominated by the President to positions which require the advice and consent of the Senate by title II of the Ethics in Government Act of 1978 (5 U.S.C. App. I).

(8) Except as provided in subsection (b) (7) of this section, members of the Board shall not be subject to any conflict of interest, disclosure, or divestiture requirements of any law solely by virtue of their service on the Board.

(c) The Board shall be administered under the supervision and direction of the Chairman, and except as provided in section 11, the Chairman shall have final and exclusive decisionmaking authority on all matters within the jurisdiction of the Board. The members of the Board shall advise the Chairman in carrying out his duties.

(d) There shall be a General Counsel to the board who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314).

MEETINGS, EXECUTIVE DIRECTOR, SUBPENA POWER

SEC. 5. (a) The Board is authorized to sit and act at such places and times as it may determine.

(b) The Chairman may appoint an executive director who shall exercise such powers and duties as may be delegated to him by the Board. The executive director shall receive compensation at the rate provided for level III of the Executive Schedule (5 U.S.C. 5314).

(c)(1) The Chairman shall have the power to issue such subpenas as are necessary for the purpose of monitoring compliance with any Project Decision Schedule or for the purpose of carrying out its authority under section 21. Such subpenas may require the attendance and testimony of witnesses and the production of any records, material or evidence from any Federal, State, or local agency body or any person that relates to any matter within the jurisdiction of the Board. The Board or any member of the Board or any agent designated by the Board for such purpose, may administer oaths and affirmations, examine witnesses, and receive records, materials, or evidence. Such attendance of witnesses and the production of such records, materials or evidence may be required from any place within the United States at any designated place.

(2) In any case of recalcitrance or refusal to obey a subpena issued under subsection (c)(1), the district court of the United States within the jurisdiction of which said person guilty of recalcitrance or refusal to obey is found or resides or transacts business, upon application by the Board shall have jurisdiction to issue to such agency or person an order requiring them to appear before the Board, its members, or agents there to produce records, materials or evidence if so ordered, or there to give testimony touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Except as provided in section 32, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review an order of a district court pursuant to this section. The Temporary Emergency Court of Appeals shall expedite such review pursuant to the provisions of this Act.

(3) Process and papers of the Board, its members, or agents may be served either upon the agency or person subpenaed in person or by registered or certified mail or by telegraph or by leaving a copy thereof at the residence or principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered or certified and mailed or telegraphed shall be proof of service of the same. Witnesses summoned before the Board, its members or agents shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(4) The Board may, with the approval of the Attorney General, issue an order requiring any person to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, in the same manner and subject to the same restrictions as a government agency which may issue an order pursuant to section 6004 of title 18, United States Code.

(5) All process of any court to which application may be made under this Act may be served in the judicial district wherein the person required to be served resides or may be found.

(6) Oral testimony given under compulsion of a subpena or materials furnished to the Board pursuant to a subpena shall be matters of public record to the extent required by section 552 of title 5, United States Code.

POWER AND AUTHORITY OF THE BOARD

SEC. 6. (a) The Board shall have the authority, subject to the provisions of this Act and, within the limits of available appropriations, to carry out the purposes of this Act including the authority to—

(1) make full use of competent personnel and organizations outside the Board, public or private; form advisory committees and special ad hoc interagency task forces; and make other personnel arrangements in accord with Federal law; as the Board determines to be appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Board with any agency or instrumentality of Federal, State, or local government, or with any person, with or without reimbursement, with or without performance or other bonds and with or without regard to section 5 of title 41, United States Code: *Provided*, That the Board shall not use its authority to become directly involved in the actual construction or operation of any priority energy project;

(3) make advance, progress, and other payments which relate to the functions of the Board without regard to the provisions of section 529 of title 31, United States Code;

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Board and provide transportation and subsistence as authorized by section 5703 of title [illegible], United States Code, for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, personal property of all kinds necessary for or resulting from the exercise of authority granted by this Act;

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board; and

(7) act without regard to the Federal Advisory Committee Act (5 U.S.C. App. I).

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related record as will facilitate an effective audit of the execution of such contracts or arrangements in such detail and in such manner as shall be prescribed by the Board, and such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purposes of such audit and examination.

(c) The Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly and expeditiously to the Board upon its request.

(d) On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this section.

(e) The Board may obtain services of experts in accordance with section 3109 of title 5, United States Code.

(f) In carrying out the provisions of this Act, the Board is authorized to appoint such personnel, subject to the provisions of title 5, United States Code, governing appointments and compensation in the competitive service, as may be necessary. The Board may appoint not to exceed thirty individuals without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) In carrying out the provisions of this Act, the Board is not authorized to interfere with labor-management relations, nor to take any actions which conflict with the terms of an existing labor-management contract.

(h) The Board may alter Federal, State, and local law only as authorized by sections 13, 17, 18, 21, 22, 28, 34, and 36 of this Act.

REPORTS OF THE BOARD

SEC. 7. In addition to the specific duties assigned to the Board by this Act, the Board is authorized and directed to review, monitor, and report annually, or more often as necessary, to the Congress on—

(a) the current status of activities and programs being conducted by the Board;

(b) the status of each priority energy project including any significant delays in the completion of the priority energy project and the causes thereof; and

(c) the need for legislation to expedite the completion of priority energy projects, including the need for legislation to waive Federal, State, or local laws.

ABOLITION OF THE BOARD

SEC. 8. (a) The authority of the Board under section 9 shall expire ten years after the date of enactment of this Act: *Provided*, That the provisions of this Act shall continue to be applicable to all energy projects designated as priority energy projects prior to the expiration of the Board's authority under section 9.

(b) On the last day of the first year after all agency decisions necessary for the completion and initial operation of all priority energy projects have been made, the Board shall be abolished. The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the operation of the Board shall be transferred to the Treasury or to such agencies of the Federal Government in such fashion as the Director of the Office of Management and Budget shall determine. For the purpose of this section, if an agency issues a final decision denying an approval or declining to perform an action necessary to the completion of a priority energy project, any other agency approvals or actions not yet performed or obtained by the project shall not be deemed necessary.

(c)(1) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Board shall abate by reason of the abolition of the Board. No cause of action by or against the Board shall abate by reason of the abolition of the Board.

(2) If, before the date of the abolition of the Board, the Board is a party to a suit, then such suit shall be continued with the Director of the Office of Management and Budget or his designee substituted.

AUTHORITY TO DESIGNATE PRIORITY ENERGY PROJECTS

SEC. 9. The Board is hereby authorized to designate any energy project or class of energy projects as a priority energy project pursuant to the procedures and criteria provided in this Act.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 10. (a) Any person planning or proposing an energy project or class of projects may apply to the Board for an order designating such project or class of projects as a priority energy project. An application shall include such detailed information concerning the project as the Board may require by rule to enable the Board to make a designation, including a detailed design proposal for the project, detailed economic data on the costs of the project, and an analysis of environmental impacts of the project: *Provided*, That the adequacy of an application under this section shall not be subject to judicial review.

(b) Not later than five days after the receipt of a designation request, the Board shall publish notice of the filing of the designation request, together with a brief description thereof in the Federal Register. The Board shall also keep on file and make available for public inspection and copying at the main office of the Board and in such other places as the Board deems appropriate such portions of the full designation request which are not matters listed in section 552(b) of title 5, United States Code. Interested persons shall be afforded at least thirty days from the date such request becomes available to the public for submitting written comments for the Board's consideration.

(c) A designation request for an energy project or class of projects may be submitted to the Board at any time prior to the completion of the project or class of projects notwithstanding any previous decision by the Board denying the same or a similar request for that project or class of projects.

PROCEDURES AND CRITERIA FOR DESIGNATING PRIORITY ENERGY PROJECTS

SEC. 11. (a) Not later than sixty days after receipt of a designation request, the Board shall determine whether the proposed energy project or class of projects is of sufficient national interest to be designated a priority energy project and shall publish its decision in the Federal Register. If the Board designates the project as a priority energy project, such publication shall contain a brief summary of the reasons for the Board's decision.

(b) No project or class of projects shall be designated a priority energy project without the concurrence of the Chairman and at least two of the three members of the Board.

(c) No project or class of projects shall be designated a priority energy project unless the Board finds that the project is likely to reduce directly or indirectly the Nation's dependence upon imported energy.

EXTENSION OF DEADLINES

SEC. 12. The Board may extend the deadline for receiving public comments under section 10(b) and the time for ruling on an application for priority energy project status under section 11 if more time is necessary to afford interested persons a reasonable time to comment.

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 13. (a) A determination by the Board under section 11 of this Act is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Promulgation or revision of a Project Decision Schedule is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Before publication of the Project Decision Schedule, the Board shall determine, after providing a reasonable opportunity for public comment, if any Federal action relating to the priority energy project will be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and shall publish notice of its determination in the Federal Register. Such a determination shall be immediately subject to judicial review under the provisions of this Act. If the Board determines that a priority energy project will require such a major Federal action, the remaining parts of this section shall apply.

(d) Notwithstanding any other provision of law, the Board may require that one final environmental impact statement be prepared and that such statement be used by any or all Federal agencies to satisfy the National Environmental Policy Act of 1969 and by any or all State and local agencies to substitute for any comparable statement required by State or local law: *Provided*, That if the

Board requires that such statement substitute for a comparable requirement of State or local law—

(1) such statement shall include discussion of all matters required under the comparable State or local law to the same degree and extent as required by such law: and

(2) the Federal agency or agencies preparing such statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law.

(e) Before publishing the Project Decision Schedule pursuant to section 17 of this Act but after consulting with the Council on Environmental Quality, the Board shall designate the Lead Agency for the preparation of the environmental impact statement.

(f) Before publication of the Project Decision Schedule under section 17 of this Act, the Lead Agency shall convene one or more scoping meetings with such other Federal agencies as it deems appropritate and, if the Board has determined that the Federal environmental impact statement shall substitute for any comparable State or local statement or other assessment, with representatives of such States or localities. The purposes of the scoping meetings shall be to identify significant issues, establish the content of the environmental impact statement, and determine whether and how responsibilities should be apportioned among other Federal agencies.

(g) After the scoping meeting(s), the Lead Agency, with the concurrence of the Board, may determine to prepare the environmental impact statement without requiring assistance from any other Federal agency, notwithstanding any decision of the Board to require that one such statement be used by any or all Federal, State or local agencies: *Provided*, That any comments, opinions, or materials submitted by Federal, State, or local agencies shall be considered by the Lead Agency and made available to the public.

(h) At any time prior to the completion of the priority energy project, the Board may assign responsibilities in the preparation of the environmental impact statement to any Federal agency. The Board shall publish such assignments in the Federal Register, and such assignments shall be subject to procedures and deadlines specified by the Board. Such procedures and deadlines shall be incorporated in the Project Decision Schedule and shall be treated as part of the Schedule for the purposes of this Act. Except as provided in this section, the deadlines and procedures for carrying out such assignments shall be consistent with the provisions in section 17 of this Act. Such assignments, and the deadlines and procedures for carrying out such assignments, may be modified at any time subject to the limitations in section 18.

(i) All Federal agencies shall comply with the assignments, deadlines and procedures established pursuant to subsection (f) of this section. Nothing in this section shall authorize the Board or the Lead Agency to require any action from any State or local agency in the preparation of the environmental impact statement.

(j) The Board may require any Federal agency to prepare the environmental impact statement at the same time as it performs other actions necessary to process an application submitted by the applicant: *Provided*, That no Federal agency shall issue a final decision on a major Federal action significantly affecting the quality of the human environment until at least fifteen days after the environmental impact statement has been completed.

(k) Notwithstanding any other provision of law, the Project Decision Schedule established under section 17 shall provide that in preparing an environmental impact statement, agencies shall give interested persons an opportunity to submit written data, views, or arguments with or without opportunity for oral presentation and such opportunity shall constitute the exclusive opportunity for parties to submit written data, views, or arguments pertaining to any matter to be considered by the agency pursuant to its obligations under the National Environmental Policy Act.

(l) Notwithstanding any other provision of law, the Board may require any two or more Federal agencies to consolidate any or all aspects of their proceedings for preparing an environmental impact statement.

(m) For the purposes of this Act, the term "Lead Agency" means the Federal agency designated by the Board to supervise the preparation of an environmental impact statement on a priority energy project.

EARLY ACTION REQUIREMENT

SEC. 14. The Board shall encourage prospective applicants under section 10 to contact the Board and to file applications for any necessary Government actions or approvals with the appropriate agencies as soon as possible in order that any eventual action or decision may be expedited. The Board shall consider any failure to contact the Board or file such applications in a timely fashion in making its determination under section 11 on an application under section 10.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 15. Not later than thirty days after notice appears in the Federal Register of a decision by the Board designating an energy project or class of projects as a priority energy project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion and initial operation of such project or any part thereof, shall transmit to the Board—

(a) a compilation of all significant actions required by such agency before a final decision or action on any approval(s) necessary to the completion and initial operation of the priority energy project can be rendered or performed;

(b) a compilation of all significant actions required of the applicant before a final decision or action by such agency can be made;

(c) a tentative schedule for completing actions listed in subsections (a) and (b) of this section within two years unless a longer period is necessary;

(d) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(e) information regarding the amount of funds and personnel available to such agency to perform the actions required by such agency before any final decisions can be made and the impact of giving priority status to the applicant on other applications pending before such agency.

INFORMATION FROM STATE AND LOCAL AGENCIES

SEC. 16. (a) Not later than five days after notice appears in the Federal Register of a decision designating a proposed energy project as a priority energy project, the Board shall notify the Governor of any State which is likely to exercise jurisdiction over the priority energy project of the designation and shall request the Governor to compile and transmit to the Board within twenty-five days—

(1) a compilation of all significant agency actions required by all State and local agencies within the State before a final decision or action on any approval(s) necessary to the completion and initial operation of the priority energy project can be rendered or performed;

(2) a compilation of all significant actions required of the applicant before a final decision or action by such agencies can be made;

(3) a tentative schedule for completing the actions listed in paragraphs (1) and (2) of this subsection within two years unless a longer period is necessary;

(4) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(5) information regarding the amount of funds and personnel available to such agencies for performing the actions required by such agencies before any final decisions can be made and the impact of giving priority status to the applicant on other applications pending before such agencies.

(b) If at any time the Governor fails to cooperate with the Board in complying with this section, or any State or local agency which is likely to have authority to grant or deny an approval or perfrom an action necessary to completion of such project fails to cooperate with the Governor, the Board may instruct such agencies directly to provide the information enumerated in subsection (a) and such agencies shall comply with the instructions of the Board.

PROMULGATION OF THE PROJECT DECISION SCHEDULE

SEC. 17. (a) Not later than sixty days after designating a proposed project or class of projects as a priority energy project, the Board shall publish in the Federal Register and in such other places as the Board deems appropriate a Project Decision Schedule containing reasonable deadlines for all significant final agency actions and decisions and all significant applicant actions about which the Board has received notice pursuant to sections 15 and 16 of this Act, and for any other actions or decisions which the Board, in its discretion, deems significant. A deadline may require that decisions and actions be performed in a shorter period of time than would be required if the project was not a priority energy project.

(b) Notwithstanding any other provision of law the Board may establish special procedures in the Project Decision Schedule for any Federal agency subject to such Schedule. Such procedures shall be consistent with all statutes and rules, regulations, and orders promulgated by the agency except that the Board may require the agency to—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may sub-

mit such written data, views, or arguments and such written responses to the data, views, or arguments submitted by other parties, as the Board, agency, or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions;

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify. The agency itself shall omit a tentative or recommended decision if the Board determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection:

Provided, That no requirement under this subsection (b) shall be binding on any State or local agency.

(c) In setting deadlines pursuant to this section, the Board shall consult with the Federal agencies subject to such deadlines. The Board shall also consult with the Governor of any State if any government agency within such State has authority to grant or deny any approval or perform any action necessary to the completion of the priority energy project and shall request the Governor to act as an intermediary between the Board and all State and local agencies: *Provided*, That if the Governor fails to cooperate with the Board or if any State or local agency fails to cooperate with the Governor under this section, the Board may consult directly with such State or local agency.

(d) No Project Decision Schedule shall encompass a period of more than two years unless the Board finds that additional time is necessary.

(e) The deadlines in the Project Decision Schedule shall be consistent with the deadlines submitted to the Board pursuant to sections 15 and 16 unless the Board determines that different deadlines would help expedite or coordinate Government review.

(f) Notwithstanding any other provision of law, the deadlines and special procedures imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines and procedures for reviewing applications filed by the applicant.

REVISIONS IN PROJECT DECISION SCHEDULES

SEC. 18. At any time prior to the completion of the priority energy project, the Board may (i) revise the special procedures for Federal agencies on the Project Decision Schedule; (ii) add new special procedures for Federal agencies on the Project Decision Schedule; (iii) revise any deadline on the Project Decision Schedule; or (iv) add any new deadline on the Project Decision Schedule: *Provided*, That no modification in the Project Decision Schedule shall be allowed unless the Board determines that—

(a) such modification would further the purposes of this Act; and

(b) continued adherence to the Schedule would be impractical or would not be in the public interest; and

(c) in the case of a request for a modification by an agency, that the agency has exercised due diligence in attempting to comply with section 15 or 16 and with the Schedule; and

(d) in the case of a request for a modification by an applicant, that the applicant has exercised due diligence in attempting to comply with the Schedule; and

(e) except as provided by this section, such modification is consistent with the provisions of section 17 and is published in the Federal Register.

AGENCY AUTHORITY TO ADOPT SPECIAL PROCEDURES

SEC. 19. All Federal, State, and local agencies governed by a Project Decision Schedule may establish special procedures which the agency determines to be appropriate for meeting the deadlines on such Schedule. Any agency which is likely to be governed by a Project Decision Schedule at any time may also establish special procedures to govern agency actions and decisions relating to priority energy projects. These procedures shall be consistent with all statutes governing the agency's actions, except that, notwithstanding any other statutes, the agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such Schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may submit such written data, views, or arguments and such written responses to the data, views, or arguments submitted by other parties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions;

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but such analysis of the record as the agency may specify. The agency itself may omit a tentative or recommended decision if it determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection.

AUTHORITY TO TERMINATE PRIORITY DESIGNATIONS

SEC. 20. (a) At any time after an energy project has been designated a priority energy project, the Board may terminate the priority designation if—

(1) the Board detemines that the applicant has not exercised due diligence in attempting to comply with any Project Decision Schedule;

(2) the Board determines that the applicant has not attempted in good faith to comply with any law governing the priority energy project;

(3) the Board determines that the priority designation is no longer necessary to expedite agency action or decisionmaking which is necessary to completion and initial operation of the priority energy project;

(4) the Board determines that an agency has denied an application for an approval which is essential for the completion and initial operation of the project and that the denial is not likely to be reversed by the agency or invalidated by a reviewing court; or

(5) the applicant has requested that the priority designation be withdrawn: *Provided*, That no such request shall be granted if a previous request by the applicant for the same project had been granted and the project had subsequently been redesignated a priority project.

(b) If the Board terminates the priority designation for any priority energy project, the deadlines and procedures in the Project Decision Schedule for that project shall no longer be binding upon any agency, and unless the Board redesignates the project pursuant to section 11, the Board shall no longer have authority to establish binding deadlines for agency actions and approvals relating to the project. In addition, except as provided by subsection (c) of this section, judicial review of any action relating to the project shall no longer be governed by the provisions of this title: *Provided*, That—

(1) jurisdiction over any action pending at the time the priority designation is terminated shall be retained by the court in which such action is pending if the court determines that the interests of justice be served by retaining jurisdiction; and

(2) any action or approval relating to a priority energy project which was valid before the priority designation for that project was terminated shall not be deemed invalid on the ground that the priority status has been withdrawn or that a Project Decision Schedule is no longer legally binding.

(c) A decision by the Board to withdraw a priority designation shall be subject to judicial review under the provisions of this Act.

(d) Termination of a priority designation is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

ENFORCEMENT OF THE PROJECT DECISION SCHEDULE

SEC. 21. (a)(1) If any Federal, State, or local agency has failed to make a decision or take an action within the time required by a Project Decision Schedule, the Board may make the decision or perform the action in lieu of the agency.

(2) In making the decision or performing the action in lieu of the agency, the Board shall apply the decision criteria in the Federal, State, or local law that would have been applied had the Federal, State or local agency made the decision.

(3) If the Board notifies an agency that it has determined that the agency has failed to make a decision or perform an action within the time required by a Project Decision Schedule and that the Board will decide in lieu of the agency, the agency shall transmit to the Board forthwith all records in the possession of the agency pertinent to that decision or action. The Board may take whatever additional action is necessary to develop an adequate record for a final decision or action.

(b)(1) If any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the Board may bring an enforcement action in United States district court.

(2) In any action brought under this subsection, if the court determines that any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the court shall order the agency to act in accordance with the existing schedule where such action would be practical and would not deny any person due process of law.

(3) If the court determines that the agency has failed or is reasonably likely to

fail to comply with a Project Decision Schedule but that action in accordance with the Project Decision Schedule would clearly be impractical or would deny any person due process of law, the court shall instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request as soon as practicable consistent with due process of law. Immediately upon receipt from the Board of a certified copy of the revised Project Decision Schedule, the court shall issue an order directing the agency to comply with such Schedule.

(4) Notwithstanding any other provision of law including any other provision of this title, any action brought under this subsection shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at the time, and shall be expedited in every way by such court. Except as provided in section 32, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review all rulings of the district court pursuant to this section. The Temporary Emergency Court of Appeals shall expedite such review pursuant to the provisions of this Act.

CERTIFICATION OF COMPLETED AGENCY REVIEW

SEC. 22. (a) If the Board has been notified by the agencies with authority to grant such approvals or perform such actions or by a reviewing court that all agency actions and approvals on the Project Decision Schedules relating to a priority energy project (i) have been granted, or (ii) have been performed, or (iii) are not necessary; and if judicial review of such actions or approvals is completed or is barred by section 25 of this Act, the Board shall certify the same to the project. Such certification shall indicate any conditions and the expiration date of any approvals that have been granted to the project.

(b) A certificate issued by the Board under subsection (a) of this section shall constitute conclusive evidence in any judicial or executive proceeding that all actions and approvals necessary to the completion and initial operation of the project have been granted for the duration and subject to the conditions specified on the certificate.

WATER LAW

SEC. 23. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for a priority energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for priority energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) No waiver under this Act shall apply to or alter in any way, any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

PRECEDENCE OVER OTHER LAWS

SEC. 24. Notwithstanding any other provision of law, the actions of Federal, State, and local officers or agencies pursuant to this Act shall not be subject to judicial review except as provided in this Act.

LIMITATION OF ACTIONS

SEC. 25. (a) Except as provided by subsection (b), any petition for review of any action pursuant to this Act or of the validity of this Act shall be brought not later than twenty days following the date of actual or constructive notice of the final agency action relating to the action which is being challenged.

(b) Any petition for review of the reasonableness of any deadline in a Project Decision Schedule shall be brought not later than thirty days after such deadline is listed on the Project Decision Schedule and published in the Federal Register or such challenge shall be barred. The party challenging the reasonableness of the deadline shall have the burden of proof.

(c) Any petition for review of the validity of this Act or of any action pursuant to this Act shall be barred unless a complaint is filed prior to the expiration of the time limits prescribed by this Act.

ADMINISTRATIVE PROCEDURES

SEC. 26. (a) Except as provided in subsection (b) of this section, the Board shall be exempt from sections 553 through 559 of title 5, United States Code.

(b) The establishment of procedures by the Board pursuant to this Act and the establishment of any special procedures by a Federal agency pursuant to section 19 of this Act shall be subject to sections 553, 704, and 706 of title 5, United States Code and any judicial review of such procedures shall be conducted in the Temporary Emergency Court of Appeals pursuant to section 27 of this Act.

REVIEW IN THE TEMPORARY EMERGENCY COURT OF APPEALS

SEC. 27. (a)(1)(A) A petition for review of the validity of this Act or of any action pursuant to this Act shall be filed in the Temporary Emergency Court of Appeals. Except as provided by this Act, such court shall have exclusive jurisdiction to determine such proceeding in accordance with procedures hereinafter provided and no other district court or Court of Appeals of the United States and no other court of any State or locality shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this Act.

(2) Notwithstanding any provisions of section 211 of the Economic Stabilization Act of 1970 as amended by the Economic Stabilization Act Amendments of 1971, Public Law 92-210, the Temporary Emergency Court of Appeals shall exercise its powers and prescribe rules governing its procedures in such manner as to expedite the determination of cases over which it has jurisdiction under this Act. Such rules may set page limits on briefs and time limits for filing briefs and motions and other actions which are shorter than the limits specified in the Federal Rules of Appellate Procedure.

(3) In any proceeding before the Temporary Emergency Court of Appeals, the chief judge of the Temporary Emergency Court of Appeals shall designate at least one judge from the circuit in which the priority energy project or the most significant portion thereof would be located to sit on the panel presiding over the proceeding.

(4) There are hereby authorized to be appropriated such sums as are necessary to expand the capacity of the Temporary Emergency Court of Appeals in order to carry out the provisions of this Act.

(b) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c)(1) Notwithstanding any other provision of law, jurisdiction over any challenge to agency action pursuant to this title which is pending before any court other than the Temporary Emergency Court of Appeals at the time such agency action becomes an action pursuant to this title shall remain with such court unless the Temporary Emergency Court of Appeals issues an order transferring such civil action to the Temporary Emergency Court of Appeals pursuant to subsection (d) of this section.

(2) If the court before which such civil action is pending retains jurisdiction, such court shall assign the case for hearing and completion at the earliest possible date, and shall expedite the case in every way. All appeals from such court shall be to the Temporary Emergency Court of Appeals and shall be filed within fifteen days of the final decision of such court. On appeal the Temporary Emergency Court of Appeals shall comply with the procedures established in subsection (b) of this section.

(d) If any appeal involving a challenge to any agency action pursuant to this Act is pending before any State appellate court or any United States Court of Appeals other than the Temporary Emergency Court of Appeals at the time such agency action becomes an action pursuant to this title, the chief judge of the Temporary Emergency Court of Appeals, or any other judge of the Temporary Emergency Court of Appeals designated by the chief judge, may issue an order transferring such civil action to the Temporary Emergency Court of Appeals. Such transfers may be made whenever the transfer will expedite judicial review of the civil action and will not cause material prejudice to any party. Proceedings for the transfer of an action under this subsection may be initiated by the chief judge of the Temporary Emergency Court of Appeals or by any other judge authorized by the chief judge on his own initiative, by the Board, or by any party to the appeal.

ACTIONS SUBJECT TO EXPEDITED REVIEW

SEC. 28. For the purposes of this Act "an action pursuant to this Act" means—

(a) any significant action by the Board pursuant to this Act including, but not limited to, any action pursuant to sections 21 and 22 of the Act. An action of the Board shall be deemed significant if the Board determines that expedited review of such action would expedite completion of any priority energy project; or

(b) any action by any Federal agency or officer if such action is subject to a deadline on a Project Decision Schedule, including any action which is an intermediate step to an action listed on such Schedule; or

(c) any action by any State or local agency or officer if such action is subject to a deadline on a Project Decision Schedule, including any action which is an intermediate step to an action listed on such Schedule;

(d) any other action by any Federal, State, or local agency or officer relating to a priority energy project which the Board determines requires expedited judicial review in order to expedite completion of a priority energy project; or

(e) any action by any United States district court or any State or local trial court with respect to a case involving an action pursuant to this Act.

JUDICIAL REVIEW UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 29. Except as specifically provided by this Act, the scope of judicial review under the National Environmental Policy Act of 1969 shall not be limited by this Act.

LIMITATION ON REVIEW OF PRIORITY DESIGNATIONS

Sec. 30. (a) A decision of the Board designating a project or class of projects as a priority energy project shall not be subject to judicial review and no court shall hold unlawful or set aside any Board or agency action, finding, rule, or conclusion on the basis of a decision designating a project or class of projects as a priority energy project.

(b) A decision of the Board denying a request for designation as a priority energy project shall be subject to expedited judicial review pursuant to the provisions of this Act.

INTERVENTION AUTHORITY

Sec. 31. The Board may intervene in any Federal, State, or local agency proceeding and shall appear as a party of right in any judicial proceeding, if such agency or judicial proceeding involves an action pursuant to this Act. The Board shall encourage expedited action or decisionmaking by the agency or court in such proceeding.

SUPREME COURT REVIEW

Sec. 32. (a) The Supreme Court shall have exclusive jurisdiction to review any interlocutory judgment or order of the Temporary Emergency Court of Appeals, or any United States Court of Appeals or the final court in any State in any case involving an action pursuant to this Act. The petitioner must file a petition for certiorari or a certification as provided in section 1254 of title 28, United States Code within fifteen days after the decision of the court of appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court.

INJUNCTIVE RELIEF

Sec. 33. (a) Except as provided in subsection (b), no court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this Act except in conjunction with a final judgment entered in a case involving an action pursuant to this Act.

(b) No court shall have jurisdiction to grant any injunctive relief preventing the enforcement of a Project Decision Schedule except in conjunction with a final judgment. If the court on review determines that a deadline on a Project Decision Schedule is not reasonable, the Court may instruct the Board to extend the deadline.

ACTION ON REMAND

Sec. 34. Immediately following any decision remanding to an agency any case or controversy involving the validity of this Act or, an action pursuant to this Act, the Board shall revise the Project Decision Schedule as necessary to expedite any further proceedings required by the decision of the court. Such revisions shall be consistent with section 18 of this Act.

AUTHORIZATION

Sec. 35. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

On page 63, beginning with line 17, strike through and including page 140, line 2, and insert in lieu thereof the following:

WAIVER OF NEW REQUIREMENTS

Sec. 36. (a) The Board is authorized to waive the application of any Federal, State, or local statute, regulation, or requirement enacted or promulgated after the commencement of construction of a critical energy facility, unless Congress explicitly prohibits such waiver. No waiver pursuant to this section shall take effect unless—

(1) the Board finds that the waiver is necessary to ensure timely and cost-effective completion and operation of the facility; and

(2) the Board, after consultation with the agency responsible for implementing the statute, regulation, or requirement to be waived, finds that the waiver will not unduly endanger public health or safety.

(b) For the purposes of this section, "commencement of construction" means that the owner or operator of a critical energy facility has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (1) begun or caused to begin, a continuous program of physical onsite construction of the facility including site clearance, grading, dredging, or land filling in preparation for the fabrication, erection, or installation of the building components of the facility, or (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time. For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

The PRESIDING OFFICER. The Chair states that since the committee amendments leave nothing of the original bill they will be considered and treated as an amendment in the nature of a substitute for the bill, striking all after the enacting clause and inserting new language in lieu thereof.

Mr. JACKSON. Mr. President, before making my opening statement I yield to the senior Senator from Connecticut for the purpose of offering a substitute amendment.

Mr. RIBICOFF. I thank the distinguished chairman.

AMENDMENT NO. 488

(Purpose: To establish an Energy Mobilization Board to reduce the delay in the governmental review process for nonnuclear energy projects determined to be in the national interest)

Mr. RIBICOFF. Mr. President, I call up my amendment No. 488 in the nature of a substitute and ask for its immediate consideration as the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Ribicoff) for himself, Mr. Muskie, Mr. Glenn, Mr. Roth, Mr. Percy, Mr. Stafford, Mr. Hart, Mr. Javits, Mr. Durenberger, Mr. Cranston, Mr. Williams, Mr. Proxmire, Mr. Mathias, and Mr. Weicker, proposes an amendment numbered 488. In lieu of the language intended to be proposed by the committee amendment insert the following:

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

Strike out all after the enacting clause and substitute the following:

PURPOSES

Sec. 2. The purposes of this Act are—

(a) to establish an Energy Mobilization Board to administer jointly with the Department of Energy a priority energy project program;

(b) to expedite the review process of energy projects determined to need accelerated decisionmaking so that such projects will contribute to a timely reduction in the use of imported energy supplies, without interfering with the present statutory authorities and responsibilities of Federal, State, and local agencies; and

(c) to foster, within proper limits, the integration of Federal, State, and local processes for permitting, licensing, and approving energy projects which are determined to be in the national interest.

DEFINITIONS

Sec. 3. As used in this Act the term—

(a) "applicant" means any person planning or proposing a project which has been designated a priority energy project;

(b) "approval" means any permit, license, lease, certificate, right-of-way, or other grant, rate, ruling, or decision authorized or issued by an agency of Federal, State, or local government;

(c) "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

(d) "Board" means the Energy Mobilization Board established by section 4;

(e) "Chairman" means the Chairman of the Board;

(f) "candidate priority energy project" means a designation request selected by the Secretary of Energy under section 9 to be forwarded to the Board;

(g) "designation request" means an application filed with the Secretary of Energy pursuant to section 8;

(h) "energy facility" means any physical structure, including any structure which incorporates active and or passive solar devices, any equipment, building, mine, well, rig, pipeline transmission line, processing facility, transportation device, manufacturing facility, or installation, which is designed to promote energy conservation or invention, exploration, research, development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including any facility owned or operated in whole or in part by Federal, State, regional, or local government or any combination thereof;

(i) "energy project" means any plan, proposal, program, scheme, or design to produce, build, install, expand, modify the operation of, or alter in any other way, an energy facility;

(j) "Federal agency" means an executive agency as defined in section 105 of title 5 of the United States Code;

(k) "local agency" means any executive agency of local government;

(l) "local government" means the government of any political subdivision of a State and any recognized government board of an Indian tribe or Alaskan Native village which performs substantial governmental functions;

(m) "Member" means a member of the Board other than the Chairman;

(n) "person" means any individual cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, nonprofit institution, or any entity organized for a common purpose, and any instrumentality of Federal, State, or local government;

(o) "priority energy project" means any project which has been designated as a priority energy project by the Energy Mobilization Board under section 10 of this Act;

(p) "project decision schedule" means a schedule established by the Board pursuant to section 16 of this Act;

(q) "Secretary" means the Secretary of Energy;

(r) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(s) "State agency" means any executive agency of State government; and

(t) "State law" means the law of any State or any subdivision thereof.

ESTABLISHMENT AND MEMBERSHIP OF THE ENERGY MOBILIZATION BOARD

SEC. 4. (a) There is hereby established the Energy Mobilization Board (the "Board"). The Board shall consist of three members appointed by the President, by and with the advice and consent of the Senate.

(b) The Chairman and members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board.

(c) No member of the Board may hold another office or position in the Government of the United States.

(d) The Board shall have its principal office in or near the District of Columbia.

(e) The term of office for each member of the Board shall be four years, coterminous with the term of the President. A member whose term has expired may continue to serve until a successor is appointed by the President, by and with the advice and consent of the Senate, but may not serve more than one year after the date on which the term of the member would otherwise expire under this section.

(f) A member appointed to fill a vacancy before the end of a term of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of this section.

OFFICERS OF THE BOARD

SEC. 5. (a)(1) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Board as the Chairman of the Board. The Chairman serves at the pleasure of the President as Chairman.

(2) The Chairman of the Board shall be the principal executive officer of the Board, and he shall exercise all of the executive and administrative functions of the Board, including functions of the Board with respect to (i) the appointment and supervision of personnel employed under the Board (other than personnel employed regularly and full time in the immediate offices of members other than the Chairman, and except as otherwise provided in this Act), (ii) the distribution of business among such personnel and among administrative units of the Board, and (iii) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this Act, the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

(c) During the absence or disability of both the Chairman and Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman. Two members of the Board shall constitute a quorum for the transaction of business.

(d) The Chairman and members of the Board shall not engage in any other business, vocation, or employment while serving on the Board. The Chairman shall receive compensation at the rate prescribed for offices and positions at level I of the Executive Schedule (5 U.S.C. 5312). Members of the Board shall receive compensation at the rate prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313).

(e)(1) There shall be a General Counsel to the Board who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(2) The General Counsel shall be an individual who, by demonstrated ability, background, training, or experience is especially qualified to carry out the functions of the General Counsel.

(f) The Chairman may appoint an executive director who shall exercise such powers and duties as may be delegated to him by the Board or the Chairman. The executive director shall receive compensation at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315).

POWER AND AUTHORITY OF THE BOARD

SEC. 6. (a) The Board shall decide and administer all matters within the jurisdiction of the Board under this Act subject to otherwise applicable provisions of law, and take final action on any such matter. The Board is authorized to—

(1) sit and act at places and times as it may determine;

(2) make full use of competent personnel and organizations outside the Board, public or private; from advisory committees and special ad hoc interagency task forces; and make other personnel arrangements in accord with Federal law, as the Board determines to be appropriate;

(3) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Board with any agency or instrumentality of Federal, State, regional, or local government or with any person, with or without reimbursement, with or without performance or other bonds, and with or without regard to section 5 of title 41, United States Code: *Provided*, That the Board shall not use its authority to become directly involved in the actual construction or operation of any priority energy project;

(4) intervene in any Federal, State, or local agency proceeding and shall appear as a party of right in any judicial proceeding, if such agency or judicial proceeding involves an action pursuant to this Act. The Board shall encourage expedited action or decisionmaking by the agency or court in such proceeding; and

(5) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board, and take other appropriate actions to fulfill the purposes of this Act.

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit of the execution of such contracts or arrangements in such detail and in such manner as shall be prescribed by the Board, and such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of such audit and examination.

(c) The Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly and expeditiously to the Board upon its request.

(d) On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this Act.

(e) The Chairman may obtain services of experts in accordance with section 3109 of title 5, United States Code.

(f) In carrying out the provisions of this Act, the Chairman is authorized, in accordance with section 5, to appoint such personnel as may be necessary, subject to the provisions of title 5, United States Code, governing appointments and compensation in the competitive service.

(g) In carrying out the provisions of this Act, the Board shall not interfere with labor-management relations, nor take any actions which conflict with terms of an existing labor-management contract.

REPORTS OF THE BOARD

SEC. 7. (a) The Board shall conduct periodic reviews of its activities under this Act and shall report annually, or more often as it may deem necessary, to the Congress on such activities including—

(1) the functioning of the selection and designation process for priority energy projects;

(2) the status of projects;

(3) the effectiveness of the Board's actions in expediting the development and construction of energy projects; and

(4) any significant delays in the completion of priority energy projects and the causes thereof.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 8. (a) Any person planning or proposing an energy project may apply to the Secretary of Energy for designation of such project as a candidate priority energy project.

(b) An application for designation shall—

(1) identify all Federal, State, and local licensing and permitting actions necessary for the approval and development of the project known to the applicant; and

(2) include such detailed information concerning the project as the Secretary may require by rule, including a detailed design proposal for the project, detailed economic data on the financing of the project, and an analysis of environmental impacts of the project.

(c) Not later than five days after the receipt of a designation request the Secretary shall publish notice of the filing of the designation request, together with a brief description thereof in the Federal Register.

AUTHORITY OF THE SECRETARY OF ENERGY

SEC. 9. (a) The Secretary shall consider applications for priority energy project designation, and shall select as candidate priority energy projects only projects that meet the criteria in sections 10 (c) and (d). The Secretary shall select those candidate priority energy projects that best meet the criteria of sections 10 (c) and (d), and that, to the maximum extent practicable, represent a diverse range of energy sources and technologies. The Secretary of Energy shall, not later than January 1, and July 1, of each calendar year following the effective date of this Act, prepare and publish in the Federal Register a list of candidate priority energy projects.

(b) The Secretary shall, in consultation with the Board, propose and promulgate regulations for the selection of candidate priority energy projects in accordance with the requirements of this Act.

(c) The Secretary shall, in considering applications from persons for candidate priority energy projects, adopt such procedures as are necessary to assure that potential applicants, affected agencies, and interested members of the public are provided an opportunity to participate in the process of selecting candidate priority energy projects.

(d) The Secretary shall transmit a list of not less than twelve nor more than thirty-six candidate energy priority projects to the Chairman of the Board, together with a statement describing each candidate priority energy project, and explaining the basis for his selection of each project. The Secretary shall also forward a copy of the application, and any other material received by the Secretary in connection with its consideration of the application. There shall be no judicial review of the Secretary's selection of a candidate energy project.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 10. (a) Upon receipt from the Secretary of the list of candidate priority energy projects and the other information specified in section 9, the Board shall immediately publish such list in the Federal Register and shall afford interested persons at least sixty days thereafter within which to submit written comments for the Board's consideration. The Board shall provide written notice of the candidate priority energy project to the Federal, State, and local agencies identified by the applicant under section 8(b)(1), and such agencies may present such written comments as they deem desirable, including information listed in sections 14 and 15. The Board shall consult with officials of those agencies of State and local government likely to be affected by the designation of a project as a priority energy project. The Board may hold hearings and adopt any other such procedures to aid in the Board's consideration. The Board shall keep on file and make available for public inspection and copying at the main office of the Board and in such other places as the Board deems appropriate the designation requests and comments received thereupon.

(b) The Secretary may forward and the Board may consider a designation request notwithstanding any previous decision by the Board denying the same or a similar request for that project.

(c) Not later than sixty days after the close of the comment period required in subsection (a), the Board shall review the candidate priority project list and determine whether any of the candidate priority energy projects is of sufficient national interest to be designated a priority energy project and shall publish its decision and the reasons therefor in the Federal Register. Not more than twelve projects may be designated in any one calendar year, and not more than thirty-six projects may have been designated and be pending certification at any one time. No project shall be designated a priority energy project unless the Board determines that such project—

(1) will affect interstate or foreign commerce;

(2) will significantly contribute to a reduction in the use of imported energy supplies (and the achievement of a 50 per centum reduction in the use of imported oil by calendar year 1990);

(3) needs the accelerated decisionmaking available under this Act to assure that such facility will be in operation so that it will make a timely reduction in the use of imported oil.

(d) In making a determination whether to designate a project as a priority energy project, the Board shall also consider—

(1) whether the environmental uncertainties or the potential adverse environmental impacts of the project are such that they cannot be adequately considered and resolved in the period of time permitted for review of the priority energy project;

(2) the extent to which the proposed facility would make use of renewable energy resources;

(3) the extent to which the proposed facility would promote energy conservation;

(4) the extent to which the proposed facility would contribute to the development of new energy production or conservation technologies and techniques;

(5) the degree of specificity in describing the proposed facility in the application;

(6) the probable long-term impact of the facility upon energy supply and demand; and

(7) comments submitted by the public and other governmental entities.

(e) The designation by the Board of priority energy projects pursuant to this section shall, to the maximum extent practicable, represent a diverse range of energy sources and technologies.

(f) The Board may designate as a priority energy project more than one related energy facility only if the Board determines that—

(1) the related energy facilities are located in the same or in contiguous geographic areas; and

(2) the principal use of each energy facility is to—

(i) contribute directly to satisfaction of the criteria specified in section 10(b) or

(ii) support a facility within the proposed energy project which satisfies the criteria specified in section 10(b) of this Act.

(g) The Board shall publish in the Federal Register a statement explaining the basis for its designation of each priority energy project. Each such designation shall be subject to judicial review in accordance with sections 21 to 26.

EXTENSION OF DEADLINES

SEC. 11. The Board may extend the deadlines for receiving comments under section 10(a) and the time for ruling on an application for priority energy project status under section 10(c) if such application is incomplete or if more time is necessary to afford interested persons a reasonable time to comment.

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 12. (a) Determinations by the Secretary under section 9 and by the Board under section 10 are not subject to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Promulgation or revision of a project decision schedule under sections 16 and 17 is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Promptly following designation of an energy project as a priority energy project pursuant to section 10, and prior to establishment of a project decision schedule under section 16, the appropriate Federal agency shall determine whether any Federal action relating to the priority energy project will be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and shall publish notice of its determination in the Federal Register. Upon publication, any person aggrieved may immediately commence a civil action seeking judicial review of that determination under the provisions of this Act. If a Federal agency determines that a priority energy project will be such a major Federal action, the remaining parts of this section shall apply.

(d)(1) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate State and local agencies, may require that one final environmental impact statement be prepared to reflect the actions of any or all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969 and by any or all State and local agencies to substitute for any comparable statement required by State or local law.

(2)(i) A lead agency shall supervise the preparation of the environmental impact statement if more than one agency either:

(A) proposed or is involved in the same action; or

(B) is involved in a group of related actions directly related to each other because of their functional independence or geographical proximity.

(ii) Federal, State, or local agencies, including at least one Federal agency may act as joint lead agencies to prepare the environmental impact statement.

(iii) If Federal agencies are unable to agree on which will be the lead agency or a lead agency is not otherwise designated within forty-five days of the determination in subsection (d)(1), any of the agencies or persons concerned may file a request with the Council on Environmental Quality asking it to determine which Federal agency shall be the lead agency. The Council shall determine as soon as possible, but not later than twenty days after receiving the request, which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

(3) If the Board requires pursuant to paragraph (1) that such statement substitute for a comparable requirement of State or local law—

(i) such statement shall meet the requirements of the comparable State or local law in the same manner specified under comparable State or local law; and

(ii) the Federal agency or agencies preparing such statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law. At the request of the State or local agency, such agency may prepare the position of the statement dealing with the applicable State or local law.

(e)(1) Before publication of the Project Decision Schedule under section 16, the lead agency designated under subsection (d) shall convene one or more meetings with such other Federal agencies as it deems appropriate and, if the Board has determined that the Federal environmental impact statement shall substitute for any comparable State or local statement or other assessment, with representatives of such States or localities. The purposes of such meeting(s) shall be to identify significant issues, establish the content of the environmental impact statement, and determine whether and how responsibilities should be apportioned among other Federal agencies.

(2) After such meetings, the lead agency with the concurrence of the Board and the Council on Environmental Quality, may determine to prepare the environmental impact statement without requiring assistance from any other Federal agency, notwithstanding any decision by the Board to require that one such statement be used by any or all Federal, State, and local agencies.

(f) At any time prior to the completion or the priority energy project and in accordance with the requirement of subsection (d), the lead agency may assign responsibilities in the preparation of the environmental impact statement to any appropriate Federal agency. The lead agency shall publish such assignments in the Federal Register, and such assignments shall be subject to procedures and deadlines specified by the Board. Such procedures and deadlines shall be incorporated in the project decision schedule and shall be treated as part of the schedule for the purposes of this Act. Except as provided in this section, the deadlines and procedures for carrying out such assignments shall be consistent with the provisions in section 219.

(g) All Federal agencies shall comply with the assignments, deadlines, and procedures established pursuant to subsection (f). Nothing in this section shall authorize the Board or Council on Environmental Quality or the lead agency to require any action from any State or local agency in the preparation of the environmental impact statement.

(h) The Board may require that proceedings in which the consideration of an environmental analysis is not required to commerce prior to the completion of such environmental statement: *Provided*, That no Federal agency shall issue a final decision significantly affecting the quality of the human environment until at least thirty days after the environmental impact statement has been completed.

(i) Notwithstanding any other provision of law, the Project Decision Schedule established under section 219 shall provide that, prior to the completion of agency preparation of the environmental impact statement, agencies shall give interested persons an opportunity to submit written data, views, or arguments with or without opportunity for oral presentation.

(j) For the purposes of this Act, the term—

(1) "lead agency" means the Federal agency designated under subsection (d) of this section to prepare an environmental impact statement on a priority energy project;

(2) "cooperating agency" means a Federal agency other than the lead agency which has jurisdiction by law or special expertise with respect to an environmental impact statement on a priority energy project and is designated by the lead agency as a cooperating agency.

EARLY ACTION REQUIREMENT

SEC. 13. The Secretary shall encourage prospective applicants under section 8 to notify the Secretary and to file applications for any necessary Government actions or approvals with the appropriate agencies as soon as possible in order that any eventual action or decision may be expedited. The Secretary and the Board may consider any failure to contact the Secretary in a timely fashion in making their respective determinations under sections 9 and 10.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 14. (a) Upon designation of a priority energy project, the Board shall promptly provide written notice of such designation to the head of—

(1) the Department of the Interior including the Fish and Wildlife Service;

(2) the Department of Agriculture;

(3) the Department of Commerce;

(4) the Department of Transportation;

(5) the Department of Energy;

(6) the Environmental Protection Agency;

(7) the Council on Environmental Quality;

(8) the Department of the Army; and

(9) any other Federal agency with authority to grant or deny any approval or perform any action necessary to the completion of such project or any part thereof.

(b) With respect to each project designated a priority energy project, not later than thirty days after receiving notice as specified in subsection (a), each agency so notified shall transmit to the Board—

(1) a compilation of all significant actions required by such agency before a final decision on any necessary approval(s) can be rendered, including an indication of any time limits established by statute or regulation for such actions;

(2) a compilation of all significant actions required of the applicant or of any other agency before a final decision by such agency can be made, including an indication of any time limits established by statute or regulation for such actions;

(3) a tentative schedule for completing actions listed in paragraphs (1) and (2) of this section and an environmental analysis necessary for the preparation of the environmental impact statement required by section 12 of this title, together with a preliminary indication of any points on such schedules that may present unusual delays anticipated by such agency;

(4) all necessary application forms which must be completed by the priority energy project before such approval can be granted; and

(5) an analysis of (i) the amount of funds and personnel available to such agency to perform the actions required by such agency before any final decisions can be made and (ii) the impact of giving priority status to the applicant on other activities of and applications pending before such agency.

REQUEST FOR STATE COOPERATION AND INFORMATION

SEC. 15. (a) Upon designation of a priority energy project, the Board shall notify the Governor and other appropriate local government agencies or officials of any State which would be significantly affected by a priority energy project and shall request them to supply—

(1) a compilation of significant actions required by the State and local governments before the priority energy project can be completed, including an indication of any time limits established by statute or regulation for such actions;

(2) a compilation of significant actions required of the applicant or any other agency before a final decision can be made, including an indication of any time limits established by statute or regulation for such actions;

(3) a tentative schedule for completing the actions listed in paragraphs (1) and (2) of this subsection, together with a preliminary indication of any points on such schedule that may present unusual delays anticipated by the affected agencies;

(4) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(5) an analysis of (i) the amount of funds and personnel available to the agencies of such governments for performing the actions required by such agencies before any final decisions can be made and (ii) the impact of giving priority status to the applicant on other applications pending before such agencies.

(b) The Board may provide any assistance authorized by law to assist State and local authorities (i) in complying with requests for cooperation from the Board, (ii) developing an adequate record for decisionmaking for priority energy projects, and (iii) in expediting decisionmaking for such projects.

PROJECT DECISION SCHEDULE ESTABLISHED BY THE BOARD

SEC. 16. (a) Not later than sixty days after designating a proposed energy facility as a priority energy project, the Board, in consultation with the appropriate Federal, State, and local agencies, shall publish in the Federal Register a reasonable project decision schedule. The project decision schedule shall (i) establish deadlines for all Federal, State, and local actions relating to such project and all applications required of such applicant; (ii) clearly identify the order in which licenses, permits, and other Government approvals must be obtained by the priority energy project before such project can be completed; and (iii) include deadlines for the completion of required portions of the environmental impact statement prior to and as a part of each scheduled agency action. In carrying out its functions under this section, the Board may set deadlines for completion of any significant intermediate step to a final agency action governed by the project decision schedule and may suggest concurrent review of applicants and joint hearings by agencies of Federal, State, and local governments. All relevant Federal, State, and local agencies shall comply with the project decision schedule.

(b)(1) The deadlines in the project decision schedule shall be consistent with the deadlines submitted to the Board under sections 14 and 15 unless the Board determines that different deadlines are essential in order to expedite and coordinate agency review, and publishes, togther with the project decision schedule, a brief statement of its reasons for such determination.

(2) Whenever the project decision schedule is not consistent with the schedule which would otherwise apply, such project decision schedule shall apply in lieu of such otherwise applicable schedule.

(3) The Board may require an agency to consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the project decision schedule with the proceedings of other agencies which are also subject to such schedule.

(c) The Federal project decision schedule established pursuant to subsection (a) shall expressly provide for the completion of all final agency actions and the issuance of all final agency decisions by a date no later than one year from the date the applicant's application for such actions or decisions is complete, unless a longer period is essential to enable the agency to comply with its statutory obligations or to assure that due process is not denied to any person.

(d) All Federal, State, and local agencies governed by a project decision schedule may establish special procedures which the agency determines to be necessary to meet the deadlines on such schedule. Any agency which is likely to be governed by a project decision schedule may, upon reasonable notice and opportunity for comment, also establish special procedures to govern agency actions and decisions relating to priority energy projects. These procedures shall be consistent with all statutes governing the agency's action, except that, notwithstanding any other statutes, the agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the project decision schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten the time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may submit such written data, views, or arguments and such written responses to the data, views, or arguments submitted by other par-

ties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions;

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify. The agency itself may omit a tentative or recommended decision if it determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection.

(e) The designation of any energy project as a priority energy project pursuant to this part shall not, except as provided by this section, affect the application to such project of any requirement established by, or pursuant to, Federal, State, or local law, shall not affect the basis on which any agency decision is made with respect to such project, and shall not affect or influence the outcome of any such decision.

(f) Except as specifically provided, nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

MODIFICATION OF PROJECT DECISION SCHEDULE

SEC. 17. (a) Upon the petition of any agency with authority governed by a project decision schedule, the applicant or other interested person, or on its own motion, the Board may modify the project decision schedule. No extension of any time period applicable to any agency under such schedule may be granted unless the Board determines that—

(1) continued adherence to the schedule would be impractical or would not be in the public interest;

(2) such modification is consistent with the other provisions of this section and is published in the Federal Register;

(3) in the case of a request for a modification by an agency, the agency has exercised due diligence in attempting to comply with the project decision schedule, taking into account the personnel and funds available to the agency for complying with such schedule; and

(4) in the case of a request for a modification by an applicant, the applicant has exercised due diligence in attempting to comply with the schedule.

(b)(1) The Board shall establish procedures for receiving, considering, and ruling in an expedited manner on requests for modifications of project decision schedules and shall publish a description of such procedures in the Federal Register. The Board shall allow a reasonable period for public comment on proposed modification of project decision schedules.

(2) Decisions of the Board on any request for a modification of a project decision schedule shall be issued in writing with a statement of the reasons for the decision. Such statement shall consider comments individually or collectively as the Board deems appropriate.

CERTIFICATION OF COMPLETED AGENCY REVIEW

SEC. 18. (a) If the Board has been notified by the agencies with authority to grant approvals or perform actions or by a reviewing court that all agency actions and approvals on the project decision schedules relating to a priority energy project (i) have been granted, or (ii) have been performed, or (iii) are not necessary; and if further judicial review of such actions or approvals is barred by section 23, the Board shall certify the same to the applicant. Such certification shall indicate any conditions and the expiration date of any approvals that have been granted to the project.

(b) A certificate issued by the Board under subsection (a) of this section shall constitute prima facie evidence in any judicial or executive proceeding that all actions and approvals necessary to the completion of the project have been granted for the duration and subject to the conditions specified on the certificate.

ENFORCEMENT OF PROJECT DECISION SCHEDULE

SEC. 19. (a) If any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a deadline established as part of a project decision schedule pursuant to section 16, the General Counsel of the Board may bring an enforcement action on behalf of the Board in the United States court of appeals for the circuit in which the priority energy project is, or is proposed to be, located. Except as provided in subsection (d), such court shall have exclusive jurisdiction to determine actions brought under this section.

(b) In any action brought under this section, if the court determines that a Federal, State, or local agency has failed, or is reasonably likely to fail, to comply with a deadline established as part of a project decision schedule established pursuant to section 16, the court, may exercise its powers at law and in equity and shall order the agency to act in accordance with the existing schedule. The court shall act within forty-five days after the filing of an enforcement action under this section, unless the court determines that a longer period of time is required.

(c) Notwithstanding any other provision of law, including any other provision of this Act, any action brought under this section shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court.

(d) In the case of a State or local agency, the General Counsel of the Board may in its discretion bring an enforcement action on behalf of the Board in the appropriate State court instead of the United States court of appeals.

MONITORING OF COMPLIANCE; TERMINATION OF PRIORITY DESIGNATION

SEC. 20. (a) The Board shall monitor compliance with the project decision schedule by the applicant and by the agencies to which the schedule applies and may require such agencies and applicant to submit to the Board such information regarding compliance with such schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a priority energy project is being delayed or threatened with delay, the Board shall determine the reason for such delay and notify the appropriate agencies and other persons of its determination together with suggestions on how to eliminate or reduce such delay. The Board shall publish such reasons and suggestions in the Federal Register and notify the President and the Congress of its determinations.

(b) At any time after an energy project has been designated a priority energy project, the Board, on its own motion or by a petition by an interested person, shall terminate the priority designation if—

(1) the applicant has not exercised due diligence in attempting to comply with the project decision schedule;

(2) the applicant has not attempted in good faith to comply with any law governing the priority energy project;

(3) the applicant has requested that the priority designation be withdrawn;

(4) the project has been certified under section or the Board determines that it is unlikely that the project will be certified under such section; or

(5) the Board determines that, notwithstanding the Board's earlier determination, the project will not satisfy the criteria specified in sections 10 (b) and (c).

(c) The Board shall publish in the Federal Register notice of its intent to terminate a priority designation and shall afford interested persons at least thirty days in which to submit written comments. A decision to terminate shall be subject to judicial review in accordance with sections 21 through 26. The Board shall publish a detailed statement explaining the basis for its decision to terminate a priority energy project.

(d) If the Board terminates the priority designation for any priority energy project, the deadlines in the project decision schedule for that project shall no longer apply to any Federal, State, or local agency, and unless the Board redesignates the project pursuant to section 10, the Board shall no longer have authority to establish deadlines for agency decisions relating to the project. Judicial review of any Federal action relating to such project shall no longer be governed by the provisions of this title: *Provided*, That—

(1) jurisdiction over any challenge to any action which is pending in the court specified in section 21 at the time the priority designation is terminated shall be retained by that court if the court determines that the interests of justice would be served by such action; and

(2) any Federal action or approval relating to a priority energy project which was valid before the priority designation for that project was terminated shall not be deemed invalid on the ground that the priority status has been withdrawn or that the project decision schedule is no longer legally applicable.

(e) Termination of a priority designation is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

JUDICIAL REVIEW

SEC. 21. (a) The granting or denying of an extension under section 11, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(b) The designation of a priority energy project under section 10 and the termination of a priority designation under section 20 shall be subject to judicial review in accordance with the other provisions of this title. In reviewing such actions, no court shall—

(1) stay or enjoin such action pending appeal; or

(2) conduct a trial de novo.

(c) Any civil action brought by any person seeking review of final Federal agency action (whether authorized by this Act or any other provision of law) shall be subject to the following provisions if the action for which review is sought is subject to a deadline in a Federal project decision schedule:

(1) Such action may only be brought in any United States court of appeals for the circuit in which the priority energy project is, or is proposed to be, located.

(2) Such action may only be brought within thirty days following the date on which such decision has become final or within a shorter time as may be required by other applicable law.

(3) The court shall assign such action for hearing, and shall complete such hearing, at the earliest possible date.

(4) Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same priority energy project which are brought in such court or in any other court of the United States.

BEST DOCUMENT AVAILABLE

(5) Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(6) Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

(d) The provisions of subsection (c)(1) through (5) shall also apply to any action by the Board pursuant to sections 10, 19, and 20 of this Act.

LIMITATION OF ACTIONS

SEC. 22. Any challenge to any action pursuant to this title, including any challenge to the constitutionality of this title, shall be brought not later than thirty days following the date of the final agency action relating to the action which is being challenged.

TIME BAR; JURISDICTION OF THE COURTS OF APPEALS

SEC. 23. Any claim arising out of action pursuant to this title shall be barred unless a complaint is filed prior to the expiration of the time limits prescribed by this title unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

SUPREME COURT REVIEW

SEC. 24. (a) The Supreme Court shall have exclusive jurisdiction to review any judgment or order of the court of appeals pursuant to this title and the petitioner must file a petition for certiorari or a certification as provided in section 1254 of title 28, United States Code, within fifteen days after the decision of the court of appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court of that time, and shall be expedited in every way of such court.

SCOPE OF REVIEW

SEC. 25. Notwithstanding any other provision of law, no action pursuant to this title shall be subject to trial de novo by the reviewing court.

ACTION ON REMAND

SEC. 26. Immediately following any decision remanding to an agency any case or controversy involving an action pursuant to this Act, the Board shall revise the project decision schedule as necessary to expedite any further proceedings required by the decision of the court. Such revisions shall be consistent with section 16 of this Act.

EFFECTIVE DATE

SEC. 27. The provisions of this Act shall become effective thirty days after the date of enactment of this Act, but no application may be submitted for designation of any project as a priority energy project before promulgation of regulations establishing criteria for designation of such projects.

EXPIRATION OF AUTHORITY

SEC. 28. The Board shall cease to exist, and the authority provided to the Board under this Act, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any project decision schedule established under this part for any priority energy project prior to the expiration of such authority, and the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

AUTHORIZATION

SEC. 29. There is authorized to be appropriated to the Board to carry out the provisions of this Act such sums as are necessary for fiscal years 1980, 1981, and 1982.

Mr. DOMENICI. Mr. President will the distinguished chairman yield for a parliamentary inquiry?

Mr. JACKSON. I yield.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is there any time agreement on the bill at this point?

The PRESIDING OFFICER. There is none.

Mr. DOMENICI. How much time did the Senator from Washington yield to himself?

Mr. JACKSON. I do not need to yield. I will be on this statement about 15 minutes.

Mr. DOMENICI. All right.

Mr. JACKSON. It will be 10 or 12 minutes, maybe.

Mr. DOMENICI. I wish to make a brief opening statement. I will have to leave the Chamber. Will it take the Senator 15 minutes?

Mr. JACKSON. Ten or 12 minutes.

Mr. DOMENICI. I thank the Senator.

Mr. JACKSON. Mr. President, S. 1308 would create an Energy Mobilization Board with the power to expedite permit and approval decisions on priority energy projects. No time could be more critical for considering this legislation. The United States is now dangerously dependent upon the Middle East and North Africa—one of the most unstable regions of the world—for a substantial portion of its oil. Each passing year, this dependence makes us more and more vulnerable to supply interruptions and drastic increases in the price of oil.

Last summer's gasoline lines are now gone but we must not be lulled into a false sense of security. The worldwide system for the production and distribution of petroleum is already stretched taut. Yet Iran continues to teeter on the edge of anarchy. At this very moment, reports of unrest in the oil fields there make even the present level of Iranian production uncertain. The dangers elsewhere are equally grave. Iraq, which exports over 2½ million barrels a day is plagued by religious schisms and an ever-present internal Communist threat. Consider also that we now import twice as much oil from Algeria and Libya as we imported from Iran when production in that country was at its height. The leaders of either Algeria or Libya, by threatening to reduce production, could quickly bring the United States to its knees.

The military perils to our supply are also grave. Sixty percent of the free world's oil passes through the Straits of Hormuz, a body of water only 25 miles wide. The lifeline of the Western economies are literally held together by this fragile thread.

But, lest you conclude supply interruptions are the only danger, let me remind you of the equally grave threat of rising oil prices. Because of our dependence upon imported oil, the price is simply out of our control. In 1973, before the embargo, the price was less than $3 a barrel. At the beginning of this year, the figure was almost five times higher or $14 per barrel. But now, only 10 months later, the world prices is almost $21 and further increases are likely. Just this past week, Nigeria threatened to lift its price to $26 a barrel.

Last summer, during the OPEC conference in Geneva, we saw how a handful of men meeting behind closed doors could rock the economies of the free world. Since then, we have heard a lot of talk about the problem, but we have yet to do anything about it. Now, with the Energy Mobilization Board, we have our first chance to really get something done.

The EMB offers the best hope in the short term for reducing our dependence upon OPEC oil. The Nation is now paralyzed by a bureaucracy that can delay vital energy projects for months and even years. Pipelines that could bring domestic oil to market and powerplants that could burn coal are hopelessly caught in a massive web of Government redtape.

The Sohio pipeline is a perfect example. The pipeline would have carried Alaska oil from California to Texas by a secure overland route. The project was proposed in 1974, but 5 years later, in 1979 it still needed a permit from California when the sponsors decided to give up. The pipeline was defeated not because it could not stand on its own merits, not because it would have reduced oil imports, but because it could not win a war of attrition against the bureaucracy. Government delays made the project uneconomic.

A powerful Energy Mobilization Board could cut through the redtape that holds up vital energy projects. Unlike synthetic fuels projects which will not bear fruit until the end of the next decade, the Mobilization Board could reduce oil imports substantially within the next few years. The Board would expedite synfuels projects, that is true, but it would also get faster decisions on a host of conventional proposals which could bring oil savings right away. These projects could include proposals to build coal-fired powerplants, pipelines to carry Alaska oil and gas, and projects to switch oil-fired burners to coal.

The concept of an Energy Mobilization Board is not new. In 1975, I introduced a bill that would create a Board and give it substantial powers. But public awareness was not as great then as it is now, and the bill received only modest support. Synfuels in those years fared only slightly better. In 1975 and 1976, the Senate passed synfuels legislation, only to witness defeat in the House of Representatives.

Look where we would have been had that been passed 4 years ago.

We now have a new opportunity to act on the energy problem and show our determination to succeed. The Nation, and the rest of the world will be watching to see how we respond. The proposal before us would create a strong EMB, one that would cut through the bureaucracy and dramatically reduce the time required to bring vital energy projects on line. The Board could set deadlines for Federal, State, and local agencies and see that the deadlines were enforced.

In vesting the Board with these powers we have been mindful of the dangers of concentrating too much authority in the hands of a small body of men. The bill, therefore, limits the power of the Board by giving it only the authority necessary to get its job done.

Attempts to weaken the bill are likely to have serious consequences. Indeed, they could undermine the entire legislation. The last thing we should do now is create a new layer of bureaucracy which will add new delays and new complications and cost the taxpayer even more money. We should either give the Board authority to get the job done, or not create a board at all. Going half way in this business is worse than going nowhere at all.

Mr. President, our dependence upon OPEC oil is a grave threat to the very security of this Nation. Yet here we stand helpless, caught in reams of redtape.

We can allow this pitiful situation to continue or we can break loose from our own bureaucratic chains.

The vote on the Energy Mobilization Board is nothing less than a test of our will. By weakening the bill, we will only cast new doubts on our determination. When the next oil crisis appears—and mark my words it is likely—those who vote for a weak Board will not find it easy explaining their vote.

A strong Board is essential for getting priority energy projects on line. The bill before us would give the Board the power to get the job done.

A vote for this bill is a vote to get the Nation moving. A vote to weaken it is a vote to stand still.

Mr. President, for the benefit of other Senators and the general public, I ask unanimous consent that the following summary of S. 1308, explaining what the bill would and would not do, be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS

S. 1308 would create an Energy Mobilization Board with authority to give priority to energy projects which are in the national interest. The Board could designate a project as a "priority energy project" if the Chairman and two of the three members agreed that it was likely to reduce, directly or indirectly, the Nation's dependence upon imported energy. The bill would not limit the number of priority projects to a specific number, but the Board would be directed to use its discretion in designating projects.

S. 1308 would authorize the Board to set reasonable deadlines which would be binding on all Federal, State and local agencies with authority over priority projects. The Board could also prescribe special procedures for Federal agencies for expediting decisions and could require that one environmental impact statement be prepared for all Federal, State and local agencies with authority over the project.

The bill would allow Federal, State and local agencies to streamline their procedures. Agencies would be authorized to consolidate hearings and avoid unnecessary duplication in processing applications. Agencies could substitute informal hearings for trial-type proceedings and eliminate unnecessary steps in reaching decisions. Many of these reforms are based on the recommendations of the Government Affairs Committee's study on regulatory reform and on a bill introduced this session by Senator Ribicoff which was co-sponsored by Senators Glenn, Javits, and Roth, among others.

The bill would allow the Energy Mobilization Board to enforce its deadlines, either by going to court or by making decisions itself when the responsible agency takes too long. If the Board decides in place of another agency it would have to apply all the standards and decision criteria in applicable law.

Finally, the bill would provide for expedited judicial review of all Federal, State and local agency actions involving priority energy projects. Review would be consolidated in the Temporary Emergency Court of Appeals, a Federal Court which has already demonstrated that it can dispose of cases in an expeditious manner. In reviewing agency actions, TECA would apply exactly the same standards of review that apply to nonpriority projects.

As for the equally important question of what the bill would not do:

The bill would not authorize the waiver of any substantive or procedural law unless it was enacted after construction of a project had already begun. In making decisions on priority projects, agencies would apply the same standards they would apply to nonpriority projects. Moreover, agencies could only use procedures which they were authorized to use by law. The Board's authority to waive or modify statutory law would be limited to "grandfathering" projects which are under way when the law is enacted. The grandfather provision would merely prevent the government from changing the rules of the game after work on a project had begun.

The bill would not allow the Board to set deadlines that forced agencies to ignore other statutes. The bill specifically provides that deadlines must be reasonable, and a deadline that would not allow an agency to comply fully with the law clearly would not be reasonable. Although deadlines should require agencies to act with dispatch, they cannot authorize or require agencies to ignore other requirements of law.

The bill would not give the Board broad authority to preempt State and local laws or take over the role of Federal, State, or local agencies. An agency with authority to grant or deny a permit today would still have that authority under S. 1308. Moreover, the standards for issuing the permit would not change. Decisions which are now made at the State and local level would still be made at those levels. Only when an agency failed to act within a reasonable time would the Board have authority to step in and decide using the criteria of the applicable law.

Mr. JACKSON. I also ask unanimous consent that an editorial from yesterday's New York Times endorsing the Energy Committee's Energy Mobilization Board be printed in the RECORD, and I also ask unanimous consent that a letter from the new Secretary of the Department of Energy, Mr. Charles Duncan, the letter being dated October 1, 1979, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ENERGY RISK WORTH TAKING

The bitter debate over the creation of an energy mobilization board is coming to a head in both houses of Congress. The House must soon decide between very different approaches sponsored by Representatives Dingell and Udall. But first will come a pivotal decision this week in the Senate, where a plan close to the one proposed by the Carter Administration is backed by Senator Jackson. Opponents of that bill raise some troubling objections. But given the need to assure speedy development of alternative energy resources, the Carter-Jackson approach deserves support.

Under the Administration's plan, the primary function of the energy mobilization board would be to trim red tape. It could set deadlines for Federal, state and local review of project permits. If these various authorities did not meet the deadlines, the board would be permitted to make decisions for them, within the constraints of existing law.

Once construction had begun on a project, the board could exert somewhat broader powers. It could block any imposition of added restrictions—new air quality standards, for example—unless health or safety were threatened. All challenges of projects requiring adjudication—whether Federal, state or local—would be heard by a single Federal appellate court.

Some environmentalists dislike the plan because they oppose enabling a Federal board to do what this one would—that is, prevent delay for the sake of delay. More thoughtful environmental opponents recognize the need to get moving on energy, but are worried that the board's discretion would be insufficiently constrained by law. A Carter-style board could not directly alter environmental laws, save in the special case of regulations imposed after the fact. By forcing rapid decisions, though, it might prevent careful review of environmental hazards.

That risk is real; bureaucracies do have a way of focusing on narrowly defined goals—like the completion of energy projects—and, in the process, of giving short shrift to competing concerns. In this case, however, the risks are acceptable, precisely because the alternatives are not.

The United States faces unprecedented dangers in continued dependence on foreign oil. Only with luck will the nation make it through the 1980's without catastrophic oil shortages or shameful foreign policy concessions to OPEC. An energy mobilization board alone can hardly be expected to solve the problem of dependence. But it would help, at a time when America will need all the help it can get.

U.S. DEPARTMENT OF ENERGY,
Washington, D.C., October 1, 1979.
Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, President Carter proposed creation of an Energy Mobilization Board (EMB) as part of the Oil Import Reduction Program announced on July 15, 1979. I very much appreciate the prompt action taken by the Energy Committee and its members to report a bill (S. 1308) which would substantially effectuate the Administration's objectives.

I understand that weakening amendments to S. 1308 may be offered and am writing to express the Administration's support for the adoption of S. 1308 by the Senate in the form reported by the Energy Committee.

As I am sure you agree, we, as a Nation, must take action now to avoid a growing and unacceptable dependence on foreign sources of energy. But this pursuit is doomed to failure unless we develop at once a mechanism to ensure that timely, coordinated decisions are made at all levels of Government concerning specific projects which will contribute to this effort.

The number of Federal, State and local requirements applicable to energy projects has grown dramatically in the last decade. While the merits of specific laws are not in question here, with few exceptions, each requirement has been adopted in isolation, with little or no attention to its relationship to an overall approval process for energy facilities. It can take as much as six to eight years to obtain final decisions on major energy facilities and even longer where substantial controversy is involved. Typically at least a dozen separate agencies must act, each following its own requirements, schedule and priorities.

Existing authority is plainly inadequate to the task of providing a workable decision-making process. New measures are essential to convert the now disparate, disconnected permitting process into a coordinated one which will provide final decisions in time to meet the energy needs which specific projects are designed to meet. S. 1308 provides these measures.

Specifically, S. 1308:

Provides the EMB with flexibility to designate a wide variety of non-nuclear energy projects for fast-track treatment;

Empowers the EMB, after consultation with affected government officials, to set decision schedules for critical energy projects which bind Federal, State and local agencies;

Provides a decision-forcing mechanism by authorizing the EMB to step in and make a decision where a particular agency fails to act in a timely manner, in accordance with the decision criteria the agency itself would have applied;

Empowers the EMB to waive new regulatory requirements adopted after a project has received all necessary approvals and construction has commenced, where necessary for timely completion or operation, and public health and safety would not be endangered; and,

Provides expedited judicial review of Federal, State and local decisions in a single Federal court.

The EMB is not intended as a vehicle to promote any specific type of energy project, as opposed for example to the proposed Energy Security Corporation which is directed at synthetic fuels, and would operate without altering the substantive Federal, State or local standards pertinent to securing required permits. Moreover, S. 1308 reflects the view that responsible Federal, State and local officials retain control over decisions as to whether energy facilities will be built, and if so, under what circumstances. At the same time, it ensures that often difficult decisions presented by energy facility proposals are confronted, not avoided.

In establishing an EMB, it is essential that Congress provide it with all legal tools necessary to do the job; otherwise, the Board could wind up as just another bureaucratic layer and even compound the problem it is intended to address. S. 1308 meets this test and, accordingly, the Administration looks forward to its prompt adoption by the Senate.

Sincerely,

C. W. DUNCAN, Jr.

Mr. JACKSON. In the comparison of S. 1308 with S. 1806, the latter is now amendment No. 483 in the nature of a substitute. And I ask unanimous consent that the comparison be printed in the RECORD.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

COMPARISON WITH S. 1806

S. 1308 would create an Energy Mobilization Board and give it authority to designate priority energy projects. The bill would require a decision from the Board on designation within 60 days.

Under S. 1806 the Board could not even consider a proposal until the Department of Energy had up to six months to review it. The proposal would split authority for designating projects between two agencies, would require two separate public comment periods, and would take up to ten months or longer just for a decision designating a priority project.

S. 1308 would give Federal, State and local agencies important new authority to streamline their procedures, authority which in more than one instance, is taken from the Government Affairs Committee bill, S. 262, on regulatory reform. S. 1308 would *not* authorize the Board, however, to tell State and local agencies to use specific procedures.

S. 1806 would not allow agencies to make decisions any faster than the minimum period required under existing law. The proposal does not even include some of the most important provisions of the Government Affairs Committee bill on regulatory reform.

S. 1308 would authorize the Energy Mobilization Board to make decisions in place of Federal, State, and local agencies that refused to decide within a reasonable amount of time. The Board would use the same decision criteria the agency would have used if the agency had not delayed.

S. 1806 would force the Board to go to court before the Board could enforce its deadlines. Enforcement orders could be subject to lengthy litigation and could lead to unnecessary confrontations between the Federal courts and the States.

S. 1308 would consolidate judicial review of all Federal, State and local agency actions involving priority energy projects in the Temporary Emergency Court of Appeals. This special Federal appellate court has already built an impressive record in deciding complicated energy cases in a short period of time.

S. 1806 has no special provision for expedited review of State and local agency action. Priority projects could be held up for months, or even years as they slowly wound their way through State courts.

S. 1308 authorizes the Board to "grandfather" priority projects by waiving the application of laws enacted after construction of a project has begun. The grandfather power would prevent agencies from changing the rules of the game after work on a project is already well under way.

S. 1806 has no grandfather provision.

Mr. JACKSON. I would also like to take this opportunity to praise Senator JOHNSTON for his outstanding leadership in chairing the committee meetings on the bill. The committee had 15 separate meetings to consider S. 1308 and Senator JOHNSTON attended each. He skillfully led the committee through an extremely complicated subject while showing fairness to every member and point of view. I know we can all agree we are indebted to Senator JOHNSTON for his efforts.

Mr. President, we are also indebted to Senator HATFIELD, Senator DOMENICI, and other Members on the minority side for their work on this bipartisan effort, and it has been a bipartisan effort. The minority worked in a true spirit of cooperation with the majority as both sides joined efforts to put together what I think is indeed an effective bill.

Mr. JACKSON. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Kenneth Young, director of the Department of Legislation, AFL–CIO, in support of the pending legislation and opposed to the substitute amendment now before the Senate.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
Washington, October 2, 1979.

DEAR SENATOR: On September 25, 1979, the Senate Energy Committee reported S. 1308, a bill to establish an Energy Mobilization Board. This important legislation can play a vital role in alleviating the threat to our nation's security and economy that now exists because of our dependence on imported oil. S. 1308 has the support of the AFL–CIO.

The United States has not built a major domestic refinery since 1963, and construction of vital energy projects throughout the nation is snarled in red tape. The energy crisis we face is real. We strongly urge the Senate to adopt S. 1308 as reported by the Senate Energy Committee and to reject weakening amendments intended to be offered, including the Muskie-Ribicoff amendment.

The proposed Energy Mobilization Board would speed up the decision-making process for national priority energy projects while at the same time preserving environmental values as well as state and local responsibilities.

Specifically, S. 1308 authorizes the Board to designate certain non-nuclear energy projects as national priorities and to establish binding schedules for Federal, state and local decisions on the project. Project schedules would be established only after full consultation with the affected Federal, state and local officials and must be sufficiently reasonable to pass judicial review. Only if a particular agency failed to make its decision on time would the Board be authorized either to seek court enforcement of the action or to make the decision for the agency within the constraints of existing law. In all cases, the right of Federal, state and local agencies to deny a project application would be fully protected.

To avoid unnecessary delay, all judicial challenges to decisions on priority projects would be reviewed in a single Federal appellate court, with appeals to the Supreme Court.

Finally, once construction had begun on a project, the Board could block the imposition of new restrictions—a change in the position of a local zoning board, for example—but only if the waiver was necessary for the timely and cost-effective completion of the project and did not endanger public health or safety.

The AFL–CIO strongly urges your support of the bill as reported to the Senate floor.

Sincerely,

KENNETH YOUNG,
Director.

Mr. ZORINSKY. Mr. President, I rise for the purpose of making an inquiry of the distinguished Senator, Mr. JACKSON, who is chairman of the Senate Committee on Energy and Natural Resources, who is so knowledgeable and helpful in these matters.

I will very briefly describe the situation about which I shall propound an inquiry. The Central Nebraska Public Power and Irrigation District owns and operates an on-river dam on the Platte River near Ogallala. It is the Kingsley Dam. The dam was completed in the early 1940's and has been in operation ever since. It is a good-size dam. The lake that it creates extends for over 20 miles and has a capacity of 2 million acre-feet and operates with a capacity of 1,800,000 acre-feet. The penstocks were installed when the dam was built but no hydroelectric generating facilities were placed in them at the time of construction. As we well know, the economic situation has changed and it is now economically feasible to install hydroelectric generating facilities in the penstocks at the Kingsley Dam.

The Central Nebraska Public Power and Irrigation District operates three other hydroelectric generating plants located at other points in its system. This proposed installation of hydroelectric generating facilities at Kingsley Dam would nearly double their capacity. This proposed installation would add 50,000 kilowatts maximum and an average of 38,000 kilowatts of power. Were this amount of power produced by the use of petroleum, it would take 150,000 barrels of oil annually with an estimated cost of $3 billion or probably more.

In other words, the dam is already in place—the water is there—there is an opportunity for the production of a very significant amount of energy from renewable sources which will in no small way contribute to the energy needs of the State of Nebraska, the surrounding area, and to the Nation as a whole. That energy would be produced without smoke stacks to pollute the air and the source of the power would be continuous.

The Central Nebraska Public Power and Irrigation District has had an application pending with the Federal Energy Regulatory Commission since a year ago April and there are some intervenors. The district has advertised for bids and has a very favorable bid pending. They are anxious to proceed and the district is anxious to avail itself of the provisions of the pending legislation.

In the light of these facts I would like to ask the distinguished chairman if it is the intent of the Congress that the Board which will be created upon the passage of this legislation should consider the application for a priority status of a project such as I have described?

Mr. JACKSON. Yes, that is the intent.

Mr. ZORINSKY. I thank the distinguished Chairman for his response and the clarification that he has placed on this legislation.

Several Senators addressed the Chair.

Mr. DOMENICI. Mr. President, will the chairman yield for a few opening remarks?

Mr. RANDOLPH. Mr. President, if the Senator from Washington will just yield to me for a moment.

Mr. JACKSON. I yield to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I ask this opportunity so that I may not pass a pleasantry on the chairman of the Energy and Natural Resources Committee, but so that the record will reflect my very genuine admiration for him as he has worked in the Senate over many years.

I say also personally that I appreciate the legislation he has brought us today which, in a modified form, can provide a vehicle for bringing energy projects on line quickly for the good of the entire Nation.

I also thank Senator DOMENICI, who is handling the present bill for the minority for the courtesies and the opportunities he has given as a member of our committee. He makes very diligent effort to be present and to participate in hearings of all types in connection with the subject matter before the Environment and Public Works Committee.

I say again that the chairman of the Energy and Natural Resources Committee has given, not only to the Senate and to the Congress, but to the people of the United States, a leadership role of which I am not unmindful. I do have a series of modifying amendments, somewhat middle ground, in connection with the Priority Energy Act of 1979, but I wish, to repeat Mr. Chairman, and to Senator DOMENICI as you join in the presenting of this bill, that your participation indicates further evidence of the dedication, the desire, and the determination you have to move forward at a critical time with regard to increasing our domestic energy supplies.

Mr. JACKSON. Mr. President. I want to thank the distinguished Senator from West Virginia (Mr. RANDOLPH) for his comments. He has been very gracious and very modest. I would point out that he was a leading cosponsor in the effort that resulted in the passage of the synthetic fuels bill program in the Senate by an overwhelming vote in 1975, and again in 1976. He also supported the effort for a Mobilization Board. The Board would have been created, would have gone forward, Mr. President, if we had something to mobilize. But when the House, after an overwhelming vote in favor in the Senate, voted down, in one case by one vote and in another case by a larger vote, such legislation there was not anything to mobilize.

I just want to point out that the United States Senate, Mr. President, has been ahead of the country in trying to find alternative sources of fuel, in this case synthetic fuels.

I just want to drive home this one point, Mr. President: The Senate has to put up or shut up. If Members of this body want to go back and face the electorate, especially during a period of rising prices and longer lines that can develop—and I predict will develop—I can only say that Senators who vote against this minimal effort to bring about a mobilization of our resources addressed to the energy problem are going to have a lot of explaining to do.

This is their chance, this is the first effort now that has ever been brought either to the House or the Senate other than what occurred in World War II and the Korean war, to address the question of how do you get things done.

Mr. President, we have an institutional crisis in this country. It is—and you hear it when you go back home and talk to your people, and what do they say? "You cannot get anything done any more." Now, that is the overriding issue. This bill makes it possible for local people to be heard, all groups, all elements of government to be heard. But what we are saying is that we will not tolerate filibusters. Mr. President, every year that the Alaska gas pipeline is delayed adds $1 billion to the cost of that project. Who pays for it? The consumers pay for it.

The tragedy of the Sohio pipeline—imagine, Mr. President, over a period of 4 years requiring over 700 permits. Now, what have we come to in this country? This is a challenge to the U.S. Senate to demonstrate that we can make the system work, and I am confident we will do it.

Mr. DOMENICI. Mr. President, I yield myself 15 minutes.

Let me say that it is really a pleasure to rise in support of this bill. At long last, the Senate as an institution, as our distinguished chairman has indicated, has an opportunity to put up or shut up, as I see it. We have an opportunity to say "yes" to an America that indeed is ready to say there must be some way to get rid of the delays that seem to have become a part of the American way of doing business—delays that sometimes are 5, 6, and 7 years—and in particular an opportunity to say, for critical energy projects in this country, "We are going to find a way to expedite without harming anyone."

So I am pleased to be the Republican who comes to the floor in an effort to convince the U.S. Senate that the time has come for us to act. I am also pleased to remind the Senate that some distinguished Senators on our side of the aisle who have heard almost every argument that will be made here today in opposition to this measure have joined in the report recommending that it be adopted as a new law of the land for America. They are Senators HATFIELD, BELLMON, and MCCLURE, from the Energy Committee. I believe that to have those three Senators on this report along with some distinguished majority Members clearly indicates this is a balanced field.

There will be those who will say that this is too drastic from the standpoint of expediting, or that it takes away some kind of rights on the part of the States to determine how long they need to approve projects, in a sense saying that this bill is not balanced in terms of America's energy needs versus other needs.

Well, let me say to the Senate, there is no Senator who has a more distinguished record in environmental matters than Senator JACKSON, who is reputed, and properly so, to have brought into being the NEPA law, the National Environmental Protection Act. And even knowing of the great environmental challenge and his concern, we heard him here today say there is also a concern for institutional prices in America.

Mr. President, this bill strikes an extremely delicate balance between the extreme necessity to cut bureaucratic redtape for priority energy projects and the continuation of protections under Federal, State, and local law. This balance was struck by the Energy Committee over the span of 15 lengthy markup sessions. I am convinced that the bill provides the strongest approach to cutting the procedural redtape, while at the same time positively preserving the substantive protections in our various statutes.

I need not reiterate in detail the problems which we face in our domestic energy situation today. We are dependent on imported foreign oil at levels approximating 8 million barrels per day. An interruption of even a portion of those imports would have devastating impact on our economy and national security. The transfer of wealth from the United States to the oil producing countries is running at the rate of $50 to $60 billion or more per year, with direct and indirect impacts on the economy, financial stability, and foreign policy.

It is completely obvious that we must act forcefully in many areas to break this virtual stranglehold on our Nation's well-being. We must develop fully all of our domestic energy resources. We must implement incentive measures to achieve meaningful, near-term conservation. And, we must act now to cut the bureaucratic redtape at all levels of Government which effectively handcuff new energy projects which are of national significance.

Twenty-eight Members of the Senate cosponsored S. 1308 when it was originally introduced on June 11 of this year. Eight Republicans, including four members of the Energy Committee, joined in cosponsoring the bill. One of our primary motivations in doing so was because of title II, the priority energy project title in the introduced bill, which was the original legislative vehicle for the bill before us today. Title II was the centerpiece of the introduced bill, and it remains the centerpiece today of any aggressive initiative to work toward the long-range solution to our devastating dependence on foreign oil.

President Carter acknowledged the critical importance of this priority energy project, or so-called fast track, proposal in his July 15, 1979, energy message, by proposing a similar concept with an Energy Mobilization Board. The details associated with the President's concept generally paralleled those in title II of S. 1308, as introduced, although certain provisions in the President's proposal involved broader powers and authorities. The Energy Committee carefully reviewed each provision in the President's proposal during the course of our markups. President Carter met with the committee on September 11, 1979, and generally endorsed our decisions in the bill before us, even though the committee did narrow some of the administration's broader powers and authorities.

Mr. President, we also received and benefited from comments during the August recess from the staffs of the Committee on Environment and Public Works and the Committee on Governmental Affairs. In attempting to strike the delicate balance I discussed earlier, we carefully considered the views forwarded by those committee staffs. While we did not adopt each and every recommendation, we did review them in our decision process and, I believe, developed a more careful balance as a result.

In all candor, Mr. President, throughout the 3 months of markup and the many interactions with the administration, other committees, and outside interests, both public interest and industrial, the committee agonized over the balance to be struck. Many proposed concepts were carefully considered and finally rejected as being too strong or too broad in authority. Some of the rejected concepts included: First, allocation of materials and prioritization of contracts and orders, as in the Defense Production Act; second, the establishment of a single Federal field inspector for any project, a de facto field czar; third, authority to waive in whole or in part the application of almost all Federal, State, and local laws; fourth, authority to reverse the decision of a Federal, State, or local agency which disapproves a required permit or other action; fifth, exempt generally the priority energy projects from the application of the Clean Air Act, the Clean Water Act and a host of other environmental and conservation laws; and sixth, eliminate all or most judicial review of regulatory actions at the Federal, State, and local level. Those concepts and many others are not in the bill before us today.

What is in the bill, Mr. President, simply is a series of procedural mechanisms which will set and enforce deadlines and will expedite the required regulatory and judicial actions for priority energy projects. All substantive provisions of all applicable Federal, State, and local laws are retained intact. All regulatory actions now subject to judicial review remain subject to judicial review. The only exception to these general statements is the so-called grandfather clause, which gives the Energy Mobilization Board authority to waive the application of certain future laws where there is no public health or safety impact. With that single exception, the bill only addresses procedural concepts necessary to insure that we can effectively expedite priority energy projects in this country.

The debate on this bill will develop further the detailed issues associated with the balance we have struck in this bill. I would urge my colleagues during the debate to retain uppermost in their consideration the critical nature of our Nation's energy situation. The real issue in the debate, which should not be obscured by the details, is whether or not we should proceed in the future with a business as usual approach to priority energy projects of national significance which will reduce our dependence on foreign oil.

If the answer is no and, we want to have a strong procedural mechanism, rather than business as usual, S. 1308 provides that mechanism. If, on the contrary, we are not ready to break through the business as usual syndrome, despite our critical energy situation, then we should reject the priority energy project concept. We should not water it down and get the worst of the alternatives. I believe the choice for the Nation is clear and that S. 1308 should be passed as reported. I urge the support of my colleagues for this bill.

I would urge my Senate colleagues to listen carefully to what we are trying to do here, to listen carefully to those who support this measure, because, as our good friend and chairman, the Senator from Washington (Mr. **Jackson**) says, the Nation is going to be looking to see whether we are willing to act as we have spoken. I think that any effort to significantly weaken the authority of a national board to expedite critical energy projects is a vote against action. This committee has considered what this national Board should do and what powers it should have, and we have had every color of proposed power from none—from a sham—to adding substantive law which protects the American people.

I believe we have prudently gone right down the middle. We want to expedite the time frames, which seem to be duplicative and incessant in America, but we do not waive any substantive law. There are going to be those who will argue that by saying to the States, "You can only have so much time for permitting and processing," we are waiving their law. I want to remind Senators that there are many who think that America is in such a critical energy situation that we should create a mobilization board that would waive substantive law generally, Nation and State.

We have not done that. We have not waived national laws of a substantive nature. We did not give this mobilization board that authority. We have not waived local laws of a substantive nature, and we have not waived State laws of a substantive nature; but, having said that, we had to do something, and the something is that if a project is deemed critical, time frames within which all processes and procedures are to be met may be set.

There may be a challenge to the reasonableness of that, but when it is set it is set, and I submit that if we decide not even to go with that, we might as well abandon any hope of expediting any energy projects in this country, be they synthetic fuels, pipelines, major refineries, or whatever.

So I hope that, while the Senate has many problems for consideration, it will not forget that the gaslines were here, the crisis has not disappeared, America is behind in the development of major energy projects that we know how to develop and that we know we should be developing, that there is either money for or money will be provided for, and that we cannot build them because of the maze of conflicting, duplicative, time-consuming laws that have been created a new jargon in financing, now called "regulatory risk," and that is not only regulatory as to price, it is regulatory risk as to the uncertainty of how long the private sector or the public has to have money waiting to build a project. It is to that particular risk that this bill addresses itself.

If we do not want to do anything about that, we better be willing to say, Everything is OK. Everything is OK; whatever major energy projects America needs, we will build them; the private sector and the public sector are having no problem. They are being built.

I submit that anyone who wants to take that position here on the floor would be confronted with a litany of projects that cannot get started, that need some relief from the regulatory risk.

Again, we are not waiving any substantive law aimed at protecting the American people's health, aimed at protecting clean air and clean water, and against toxic substances; but we ought to be bold and imaginative enough to say we can do it quicker.

I truly believe it cannot be emphasized enough that the United States, giant that it is, is on its knees in terms of energy dependence. If we are, we certainly ought to turn ourselves somewhat free to get off our knees. That is what this measure will do. It is kind of a middle ground for select major projects. It will provide a mechanism for expediting them.

So I believe the test is, Do we really want to permit America to move ahead in this regard, or do we want to continue to say, "Well, we do but," or "Well, we do, however"—"Well, we do, but we want to be sure of every little syllable, dot every 'i' and cross every 't,' "? That just assumes there are no unreasonable delays, which flies in the face of reality.

I hope everyone will realize the seriousness of this. It is not a synthetic fuel bill expediter. It may become that ultimately. But it provides a mechanism for major energy projects, to get the assistance of this body in terms of expediting time, the time that it takes, and that is all. In a nutshell, when you strip it of everything else, that is what it is.

So I hope that within the next 48 hours or so we will pass this measure substantially as reported, and certainly that we will not accept a total substitute for it to minimize its impact and unbalance or take out of balance the delicate balances of protection versus production which this bill attempts to provide.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, amendment No. 488 is in the nature of a substitute to S. 1308. The amendment represents a most careful balancing of the need for new mechanisms to expedite the construction of new mechanisms to expedite the construction of new energy supply facilities with the need to protect and preserve environmental values, State and local responsibilities, and individual rights of due process. It is a positive effort to reduce redtape, eliminate redundant regulatory actions, and to speed up the decisionmaking process for national priority energy projects. Yet it does so without undermining or destroying existing statutory safeguards.

The amendment's enforcement provisions are stronger and more effective than those proposed either by the administration or the Energy Committee. Under this proposal, the Energy Mobilization Board will act as a watchdog over the regulatory process for priority energy projects; it will be able to spot early on potential bottlenecks and dilatory action by Federal, State, or local agencies; and it will be given authority to go into court to force those agencies to meet the reasonable deadlines which they themselves have agreed to.

In the week since S. 1806 was introduced, the bill has attracted the interest and attention of a number of other Senators, as well as the support of many outside groups and individuals.

STATE AND LOCAL GOVERNMENTS

Mr. President, the proposals that Congress is considering to create an Energy Mobilization Board all will have a profound and far-reaching impact on intergovernmental relations. No organizations have a greater interest or more at stake in the legislation than those representing State and local governments. Thus, it is of great significance that as of Friday last week every major organization representing State and local governments had endorsed S. 1806, which is now amendment No. 488, as preferable to S. 1308, the Energy Committee alternative. The list of endorsements by these organizations include: The National Governors' Association, the National Association of Counties, the National Conference of State Legislatures, the U.S. Conference of Mayors, and the National League of Cities. In addition, the League of Women Voters and Common Cause have also joined the statements of support for S. 1806. My colleague, Senator ROTH of Delaware, placed letters of support in the RECORD on Friday.

I should like briefly to read excerpts from the letters and statement, to explain the reasons why these organizations find S. 1806 preferable to S. 1308.

The National League of Cities states the following:

> We believe your bill is much preferable to S. 1308 as reported by the Senate Energy and Natural Resources Committee. The central justification for an EMB is to force authorized local, state and federal decisionmakers to act expeditiously. We believe that your bill does this. And S. 1806 does it without running afoul of the historic and constitutional rights of state and local governments.
>
> By permitting the EMB to set enforceable schedules and deadlines for local, state and federal decisionmakers, your bill guarantees that decisions on priority energy projects will be made in a timely manner by duly authorized decisionmakers. By requiring that all decisions be made within a year of project application, your bill guarantees an expeditious decisionmaking process at all levels of government. And by allowing the EMB to monitor decisionmaking schedules and to obtain court orders forcing compliance when the schedule is violated or final deadlines are missed, your bill guarantees effective and efficient enforcement while avoiding serious constitutional problems that could embroil the EMB in litigation and keep it from exercising its power . . .
>
> Unfortunately, this rational approach to the EMB is missing from S. 1308, the Senate Energy Committee's bill. Many municipal officials have indicated to NLC their anxiety about just the kind of powers that S. 1308 grants the EMB. We are strongly opposed to Senate passage of S. 1308 as reported by the Energy Committee.
>
> Most objectionable to local governments is the power which S. 1308 gives the EMB to override substantive requirement of laws enacted after construction has begun on a priority energy project . . .
>
> Another major objection of local governments to S. 1308 is that it permits the EMB to make decisions under state and local law in place of duly authorized local and state officials. . . . Not the least of the problems with this provision is that it would necessitate another large bureaucracy with the expertise to make decisions based on local, state and Federal law.

The U.S. Conference of Mayors states:

> The U.S. Conference of Mayors is pleased to support your proposed legislation, S. 1806, the Energy Mobilization Board Act of 1979.
>
> The various proposals for creation of an EMB to move energy projects more expeditiously have been of great concern to Mayors for several months. S. 1806 meets many of these concerns directly, while still creating a mechanism which can get important projects going. Your proposal would keep all decisions within a one year after application framework, empower the EMB to monitor decisionmaking schedules, obtain court orders forcing compliance when the schedule is violated, and require consultation with state and local governments, among its most important components. These elements can be supported by Mayors who are intensely interested in playing an important part in reducing the nation's dependence on foreign energy sources.
>
> S. 1308 . . . has several flaws, including waivers of substantive requirements of laws enacted after construction of a project begins, waivers which are unchecked by any requirements for presidential or congressional concurrence, and the ability of the EMB to make decisions under state and local laws in place of duly authorized state and local officials.

The National Association of Counties endorsed S. 1806 with the following comment:

> While we support an Energy Mobilization Board we feel very strongly that state and local governments should retain authority over the final determination of decision deadlines as they relate to our laws and procedures. In addition, we feel that we should retain our procedures. In addition, we feel that we should retain our authority over siting and permitting decisions without fear of federal preemption. Consequently, we oppose any structure which would allow an appointed federal body to substitute its judgment for that of state and local decisionmakers.
>
> We have reviewed S. 1806 as introduced by yourself and others and we feel that of the EMB proposals currently under consideration by the Senate it strikes the best balance between protecting state and local prerogatives while insuring that decisions will be made quickly.

The National Governors Association lists a group of four objections to S. 1308, including power for EMB to set deadlines without obtaining the agreement of State and local governments; power of EMB to make decisions in lieu of State and local agencies; and the open-ended EMB authority to waive any statute passed after commencement of construction of a priority energy project. Because of these concerns the Governors Association states that it "supports the passage of S. 1806, the Ribicoff-Muskie-Roth substitute, as the alternative that best meets our concerns."

The National Conference of State Legislatures, in a thorough analysis of the two bills, wrote the following in explaining its support for S. 1806:

> We must take care that we do not create an agency that would only add to delays by imposing more cumbersome procedures fraught with more opportunities for litigation. The NCSL is concerned that the power proposed for the Mobilization Board in S. 1308 could well have just this effect.
>
> One of the most troublesome aspects of S. 1308 is the authority it gives the Board to make decisions in lieu of state or local agencies that fail to meet Board-set decision schedules. As a practical matter, substantial momentum could be lost during the time it would take the Board to complete decisionmaking record of the state or local agency, decide what information is

> most important, and review existing state or local statutes and case law to determine how they should be applied. Secondly the Board would probably be more subject to lawsuits because it would be perceived as a single-purpose agency whose primary mission is to facilitate energy projects, not to observe the spirit of state and local laws.
>
> (Another) question is whether the lean, fast-moving entity originally conceived by its authors could even pretend to know the intricacies of many state and local functions it might seek to displace. Simply to assume the responsibilities of a state or local agency, the Board would need substantial expertise to assure that its decisions are judicially sustainable. The likely result is thus not timely action but a redundant bureaucracy absorbed in defending itself against the unnecessary litigation its every action makes possible. Far better to let the state or local agency make the decision itself, under court order if necessary, than to create an untried entity with powers that tend to make self-justification its primary reason for existence.
>
> A second area of difficulty arises from the authority given the Board to waive state and local laws adopted after construction starts on a priority facility. We understand the apprehension that a change in the rules after this point could severely affect the timely and cost-effective completion and operation of such a facility, but we question the presumption on which this concern is apparently based: that state and local governments would impose new requirements simply to obstruct a critical facility. Studies . . . have shown that in an overwhelming majority of cases, federal agencies, not state or local governments, have been the primary cause for delay.
>
> For all these reasons, NCSL strongly opposes the adoption of S. 1308 in its present form. Given its sweeping power and the problems that could arise from them . . . this bill could be a major setback for the intergovernmental harmony so essential for effective national action.
>
> On the other hand, we commend you for your bill, Mr. Chairman, not only for the improvements it offers, but for the flaws it lacks. We agree with you and the bipartisan groups of Senators who have co-sponsored S. 1806 and the EMB would be most effective without the troublesome provisions I have mentioned . . . (S. 1806) will go far to promote the international cooperation that will be necessary for sound, timely decisions. We appreciate your care for state and local concerns, and wish you and the co-sponsors of your bill every success in the upcoming debate on the Senate floor.

ENVIRONMENTAL ORGANIZATIONS

Mr. President, a group of the most active and influential national environmental organizations have formed an energy coalition to respond to the administration's energy proposals for environmentalists. This coalition includes the following organizations: The National Wildlife Federation; the Sierra Club; the Wilderness Society; the Solar Lobby; the Natural Resources Defense Fund; Environmental Action; Environmental Defense Fund; Friends of the Earth; and the Environmental Policy Center.

The energy coalition has expressed strong support for S. 1806 as an alternative to S. 1308. In a letter to all Senators, the coalition stated:

> S. 1308 goes far beyond any reasonable response by Congress to the delays which have affected a limited number of well-publicized energy projects in recent years. The Jackson bill would:
>
> Give the EMB unlimited authority to designate priority energy projects without regard to social, economic or public health consequences;
>
> Empower the EMB to alter existing laws and, through a "grandfather waiver" to set aside laws and regulations yet to be written;
>
> Authorize the EMB to pre-empt Federal, state and local agency functions;
>
> Undermine the procedural safeguards of NEPA;
>
> And exempt the EMB from many of the accountability requirements which apply to other government agencies.
>
> In sharp contrast, S. 1806 will protect Constitutional rights of due process, the framework of our Federal system, and the concept of fairness and rule of law in the behavior of government agencies. It is carefully crafted to achieve a "fast track" in energy decisionmaking while avoiding the many problems of S. 1308. The Ribicoff-Muskie substitute is a far preferable—and far safer—approach for the EMB. We urge your support for S. 1806.

COMPARISON OF AMENDMENT NO. 488 AND S. 1308

Mr. President, I should like briefly to describe the major difference between amendment No. 488 and S. 1308.

First. Composition and accountability of the Energy Mobilization Board.

S. 1308 creates a four-member board, appointed by the President with the consent of the Senate. Except for the chairman, the members serve part-time and would not be subject to conflict of interest laws.

Amendment No. 488 creates a three-member Energy Mobilization Board appointed by the President and confirmed by the Senate. The Board would act collegially in regard to all the powers it exercises. Its members would serve full-time and it would be subject to conflict of interests, the Advisory Committee Act, and the Administrative Procedure Act.

It seems to me it is unwise to exempt the Board members from conflict of interest laws for the Board will routinely be dealing with large-scale construction projects in which millions and billions of dollars will be at stake. Thus, such an exemption would inevitably erode the credibility of the Board and open it to unnecessary suspicion even when its decisions were correct. In addition, given the substantial duties being granted to the Board, its members must devote their full time and attention to its activities.

Second. Designation of priority energy projects: National energy policy.

Furthermore, S. 1308 provides for a random selection of priority energy projects as they come in. It establishes an extremely loose criterion for designation, merely providing that the Board must find that a project is likely to reduce directly or indirectly the Nation's dependence on foreign oil. The designated decision is not judicially reviewable.

The amendment provides that no project could be designated unless it would contribute directly to a 50-percent reduction in the use of imported oil by 1990 and that it needs the fast track system to contribute to that goal. The designation would be judicially reviewable.

The amendment also establishes orderly procedures for managing the large volume of designation requests, for encouraging State and local participation in the designation process and for assuring consistency of the Board's action with national energy policies administered by the Secretary of Energy. Every 6 months, the DOE Secretary would initially screen the applications for priority status. This will assure that the projects follow national energy priorities and will provide a technical evaluation of each candidate, precluding the necessity of the Board building a large, redundant bureaucracy to render such technical judgment.

Third. Limitation of priority energy projects.

Mr. President, amendment No. 488 places no limit on the number of priority energy projects that may be designated.

The amendment limits the number of priority energy projects to 12 in any 1 year and a total of 36 at any one time. This restriction will give the Board the authority to place those projects that are truly of national significance and importance on the fast decision track, while at the same time foreclosing the possibility of wholesale use of this mechanism for projects of lesser importance that should utilize existing regulatory mechanisms. Without the discipline imposed by a numerical limit, the Board may designate so large a number of projects that agencies will not be able to carry out their regulatory functions properly.

Fourth. Deadlines for agency action.

S. 1308 requires the Board to establish a project decision with binding deadlines for every agency action that is no longer than 2 years from the date of designation, unless the Board determines that a longer period is necessary. This arbitrary 2-year deadline has no reference to the particular requirements of any statute which may be longer or shorter than the uniform deadline.

The amendment gives the Board authority to set reasonable deadlines for decisionmaking by Federal, State, and local agencies. The deadline can be no longer than 1 year after the completion of a permit application by the applicant, unless the Board finds that some special circumstance requires extension of the deadline. The amendment also provides for expedited judicial review of the reasonableness of deadlines.

Fifth. Waiver of procedural requirements.

S. 1308 authorizes the Board to adopt special procedures for Federal agencies governed by the deadlines set by the Board. Such special procedures include the consolidation of proceedings with other agencies, the establishment of permit requirements to eliminate unnecessary duplication, the substitution of legislative hearings in lieu of trial-type hearings and shortening the specific time period required by statute, regulation or rule for agency action. S. 1308 also authorizes State and local agencies to establish similar special procedures to meet deadlines imposed by the Board.

The committee report accompanying S. 1308, however, openly calls for an expansion of procedural waivers into areas that are normally thought of as substantive, thus opening the way for a much broader waiver of local, State, and

Federal statutes. The amendment will allow Federal, State, and local agencies to adopt special procedures to meet the deadlines imposed by the Board. It will not allow the Board to establish such procedures on its own for Federal agencies. In addition, the amendment will be limited strictly to procedural questions and will not allow substantive override of existing statutes under the guise of procedural changes.

Sixth. Enforcement of deadlines.

S. 1308 authorizes the Board to perform any agency decision in lieu of Federal, State, or local agency which has missed a deadline.

The amendment gives the Board power to seek a court order compelling action in accordance with the Project Decision Schedule. It also gives the Board the authority to monitor closely Federal, State, and local agency actions and to move in before a final deadline is missed if there is evidence that through neglect, lack of leadership or dilatory tactics an agency will at some future date miss a final deadline established in the Project Decision Schedule. This is a stronger, less complicated and ultimately more efficient and workable enforcement mechanism than the provision in S. 1308 calling the Board to step in and make the decision for the Federal, State, or local agency.

Giving the Board power to act in lieu of the agency is an unwise proposal. Specifically, it would: Lead to complications and inevitable delays in court actions if a court remands a case either to the Energy Mobilization Board or to an agency, to develop a further record for decision; or if a court decides that the Board has improperly applied the relevant law;

Decrease Government accountability by tempting agencies to "pass the buck" to the Energy Mobilization Board on particularly tough or policy-sensitive issues;

Erode the authority of independent regulatory agencies at all levels of Government;

Invite abuse of enforcement power for political purpose on decisions affecting large, capital-intensive energy projects;

Lead to the establishment of a large bureaucracy at the Board which would have to have the expertise to make decisions on a wide range of Federal, State, and local matters.

Seventh. Grandfathering priority energy projects.

S. 1308 permits the Board to waive any new Federal, State, or local law or regulation once construction has begun on a priority energy project.

The amendment contains no such "grandfather" provision. Providing for a "grandfathering" of priority energy projects fails to recognize that most new requirements are often enacted or promulgated as specific responses to problems which were unknown when a project was initially approved. Such an exemption would effectively prevent corrective action needed to protect the public and the environment.

Eighth. National Environmental Policy Act.

S. 1308 authorizes the Board to designate a lead agency before preparation of an environmental impact statement. The Board is also authorized to determine whether a Federal action requires an impact statement. In addition the Board is authorized to consolidate Federal, State and local impact statements into one Federal consolidated statement.

The amendment follows existing regulations in permitting the relevant agencies to decide among themselves the lead agency for preparation of the environmental impact statement. The lead agency then determines whether a particular Federal action requires an environmental impact statement. The amendment also allows State or local agencies to prepare their segments of a consolidated environmental impact statement if they so choose.

The amendment builds on the new expedited procedures recently promulgated by the Council on Environmental Quality and also more adequately protects State and local laws and concerns.

Ninth. Protection of rights of State and local governments.

While furthering the goal of a more expedited decisionmaking process for priority energy projects, the bill contains a number of provisions to protect the authority and rights of State and local governments. I am particularly indebted to Senator ROTH for his contributions in this area. The provisions include: A mandate to the Energy Secretary to consult with State and local agencies before making a final selection of candidates for priority energy project status;

Provision that where a single environmental impact statement is called for, that statement must include all the factors and criteria in a State or local law or ordinance in the manner provided in that law or ordinance;

Allowance for a State or local government to undertake to complete those parts of an environmental impact statement that relate to its jurisdiction and concerns;

Preservation of State court jurisdiction on purely State law matters;

Provision for the use of State courts for the enforcement of the Board's deadlines in matters related to State laws.

Finally, and possibly of greatest significance, the bill does not allow the Board to substitute its judgment for that of State or local agencies on regulatory matters relating to the priority energy projects.

In conclusion, Mr. President, I reemphasize that this amendment represents the most careful balancing of national needs and priorities with State and local responsibilities and the protection of individual rights and due process. It will reduce redtape. It will speed up the decisionmaking process for the Nation's most urgently needed energy projects. Yet it will do so without destroying the statutory safeguards Congress has so carefully constructed over the past decade.

The PRESIDING OFFICER (Mr. CULVER). The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, let us make one thing very clear: The Ribicoff-Muskie amendment would totally gut this bill.

If the Muskie-Ribicoff amendment is agreed to, we would be obliged strongly to oppose the bill as amended, for the reason that the amendment does nothing to help expedite time schedules but puts on another layer of bureaucracy and interjects the courts in that bureaucracy.

Mr. President, what is our problem? Our problem is that you cannot get anything built in the United States today.

I had hearings yesterday on refineries, and we have not been able to build a refinery in the Northeast part of this country for years. I have a list of them:

Shell Oil Co., Fuels Desulfurization, Northeast Petroleum, Supermarine, Inc., Commerce Oil, Steuart Petroleum, Olympic Oil Refineries, Inc., Occidental, Crown Central Petroleum, Ashland Oil, JOC Oil, Gibbs Oil, Granite State Refineries, Shell, Cumberland Farms, Saber-Tex, Pepco, Mobil.

All tried to build refineries in the Northeast and could not do so, and they gave up, because it is impossible to get anything done in this country with permits.

It is not just refineries. It applies also to oil terminal and pipeline projects.

For example, the Sohiols Pactex pipeline project was abandoned after $50 million was expended, after some 7 years, if I am correct on the amount of time. Fifty million dollars in 7 years, and they could not get the necessary permits. Tens upon tens upon tens of different permits, different agencies of Government, different time schedules, different attitudes toward the project, and they could not do it.

The Seadock Deepwater Port project, off the Texas coast, was abandoned after the expenditure of $20 million. Liquefied natural gas projects were abandoned or suspended. Others are as follows:

El Paso II, Eascogas LNG, Inc., Tenneco, Inc. Pending but threatened: Pac-Indonesia/Pac-Alaska, Tenneco Trinidad LNG, Inc., NPC–LNG, Inc., Southern California LNG Terminal Co.

Coal liquefaction projects have been abandoned. Some projects are as follows:

WESCO, El Paso Natural Gas Co., Panhandle Eastern Pipeline Co./Peabody Coal Co., Natural Gas Pipeline Co. of America, Northern Natural Gas Co. of America, Columbia Gas System, Inc., Exxon Corp./Carter Oil, Consolidated Natural Gas Co.

All projects were suspended or are inactive because of redtape delays and the permit process.

Coal liquefaction projects abandoned: Coalcon/Union Carbide, New Athens, Ill.

Nonnuclear electric power generating projects:

Kaiparowitz Project, Southern California Edison, Utah; Empire Energy Center, Empire District Electric Co., Missouri; Pioneer No. 1 and 2, Idaho Power Company, Idaho; Salem Harbor No. 5, North Shore No. 4, New England Power Co., Massachusetts; Sherburne County No. 4, Northern States Power Company, Minnesota; Sewaren No. 7 and No. 8, Public Service Electric & Gas Company, New Jersey; Rush Island No. 3 and 4, Union Electric Company, Missouri.

Mr. President, the list is almost unending of projects unable to be built in this country. If it were just a question of redtape, we could say it is bureaucratic irritation, and we can put up with irritation in this country. But at a time when inflation is raging at 13 percent, these delays are costing the consumer very dearly in this country.

This bill has nothing to do with nuclear power, but nuclear powerplants, they say, cost $120 million a year for every year of delay. Coal-fired plants, I would say, cost in the neighborhood of $50 to $60 million for every year of delay. So it is with these other projects as well. There is tremendous cost to the consumer because of delay.

What does our bill do, Mr. President? It rifles in on the question of delay.

Our bill was passed in the Senate Energy Committee—not noted for being a rightwing conservative committee at all, fairly balanced. Senators will recall that on natural gas, our committee was balanced, nine to nine, for what seemed like months on end. So it is a fairly balanced committee. Yet, we passed this bill in the Senate Energy Committee with only three dissenting votes.

This is a compromise, Mr. President. A number of us in the committee, including myself and the chairman of the committee, would like to have been able, under certain circumstances, not involving health and safety, to waive provisions of the substantive law of States.

And we discussed that over a period of many days, and finally we withdrew that amendment. We withdrew the amendment and came together as a committee on this bill that specifically does not waive substantive law except in the case of the grandfather clause, and we came together on that because we recognized that there are great sensitivities involved across this land and in this Senate on questions like waiving of subtantive law and we wanted to be able to put together a sensible, workable bill to which an overwhelming majority of the Energy Committee did subscribe to this bill.

It is very simple. It involves three main thrusts. First of all, time schedules which can be enforcible; second, grandfather clauses; and third, judicial review which is expedited. Those are the three main thrusts.

It totally preserves the right of a State or a local subdivision of a State to make its own decision. In no instance do we deprive a State or local jurisdiction of making that decision, except when they refuse to make a decision within the time schedule and moreover we give them the opportunity to go to court to test the reasonableness of that time schedule.

But in the case of recalcitrant local boards or recalcitrant State boards or indeed recalcitrant Federal boards, we authorize the Energy Mobilization Board to make that decision for them when they do not meet the time schedule.

Mr. President, under the substitute amendment the board could not even consider a proposal until the Department of Energy had up to 6 months to review it. The proposal would split authority for designating projects between two agencies, would require two separate public comment periods and would take up to 10 months, or longer, just for a decision as to whether to designate it as a priority energy project. That is contrasted with 60 days in our case.

So, Mr. President, where we are in a national emergency, to use a tired phrase now "the moral equivalent of war," under the substitute amendment you would have up to 10 months just to determine whether this project was a priority energy project under the Ribicoff amendment, up to 10 months just to make that determination. Once that determination is made and a time schedule is set and they fail to meet the time schedule under the Ribicoff amendment, you would have to go to court to try to enforce it.

In the first place, I think the procedure provided for under the Ribicoff amendment is illegal because in effect it provides a mandamus for a State board, which frankly I think does violence to the very foundation of our Constitution, one of separation of powers. But even assuming that it is legal, can you imagine, Mr. President, having to go to State court to make a mandamus against a local zoning board and having to go up through three levels of State court and most of them do have at least three levels—some have four levels—the trial court, the court of appeal and the supreme court, just to get an order to force them to make a decision?

And then after that order becomes final, and I do not know how long it takes to go through three levels of State court on the average—I would say on the average more than 2 years—then you have to get the local jurisdiction to make its decision and no telling how long that would be. So, what you would have, Mr. President, you would be worse off with that bill than you would under this bill. That is 10 months to decide whether it is a priority energy project. Then you have to set up the time schedule and then you have to go through three levels of State court and maybe even on certiorari to the U.S. Supreme Court. So you would have delay compounded to delay which is already in the statute.

Mr. President, if we had to rely on the Ribicoff amendment it would be a bonanza for lawyers, because you would have appeals going in every level of court, State and Federal, and there would be a proliferation of delay.

Mr. President, another item we deal with here is the grandfather clause. Under the committee compromise, and it is a compromise, we do not overrule State substantive law save in one case and that is the case where substantial sums of money have been spent in reliance upon a stautory and permitting scheme, for example, where a company wanting to build a synfuel plant would go into a State, get all its permits, go through all the process and they are ready now. They have spent, let us say, as the Sohio-Pactex pipeline spent.

Let us take the Sohio-Pactex pipeline. They spent $50 million trying to get a permit. Let us suppose a company wants to build a pipeline and they spent $50 million and they get all these local permits, all these Federal permits, and they are ready to go. Their men are out there on the site, ready to start digging and along comes the State and says, "Well, we gave you a permit but now we are going to pass a new law. Our new law says there can be no pipeline in southern California."

That is the kind of new law which would be prevented under the committee bill because, Mr. President, it is not only the fact that they do pass these kinds of laws that prevent ex post facto the building of a plant, but it is the fact that companies which are going to invest hundreds of millions of dollars know that these State and local boards have that power to pass these ex post facto laws and therefore they are afraid, with good cause, to make the investment.

And the number of examples of these kinds of ex post facto laws are legend.

One company wanted to build a refinery in Piney Point, N.C., for example. The legislature comes along and passes one of these ex post facto laws that says there shall be no refinery at Piney Point. I mean at least they were direct. At least they did not try to hide their purpose behind a lot of legalism. They just said there shall be no refinery. So we prevent that kind of thing in the committee compromise.

Finally, Mr. President, we provide for consolidated judicial review. We are not against courts. We are not against lawyers. And we certainly reinforce the right to due process of law. But, Mr. President, when we have a real energy shortage which threatens the lifeblood of this economy, which holds our whole system hostage to the whims of people abroad, then we think at least that there should be a consolidation of appeals in one court in order to expedite those appeals. So under this bill we consolidate all those appeals in the Temporary Emergency Court of Appeals called TECA. They can all be heard, and rapidly heard. Due process of law but a consolidated and rapid appeal.

Mr. President, at this time the Senator from Oregon, I believe, would like to be recognized, and I will resume my statement when he finishes. I yield the floor to him.

Mr. HATFIELD. Mr. President, I thank the Senator from Louisiana for his courtesy in yielding the floor. I have, like everyone here, conflicts today that are beyond my control, and I would like to make an opening statement on this particular piece of legislation.

Although the President has recently announced the oil import regulation program, the fact remains that our Nation has increased its dangerous dependence on foreign crude oil over the last decade. At the same time, there is clear evidence that many energy projects have been delayed in a thicket of regulatory redtape. These facts tend to underline the need for legislation to assist certain energy projects in overcoming regulatory and administrative hurdles. Under this bill, nonnuclear priority energy projects of significant national importance, which directly decrease our dependence on foreign imports, would be put on a "fast track" decisionmaking process.

The Senate bill creates an Energy Mobilization Board comprised of a Chairman and three members. The designation of a priority energy project would be made by the Chairman with concurrence of a majority of the members. In all other actions of the Board, the Chairman would have exclusive decisionmaking authority. Although the designation of priority energy projects would not be subject to judicial review, a decision not to designate a project as a priority energy project would be subject to expedited judicial review. This court review will deter the Board from abusing its discretion in designating certain projects.

Once the Board determines that a project should have priority status, it has the power to set "reasonable" deadlines for decisions by Federal, State, and local governments. At the Federal level, the Board will have authority, among other things, to consolidate into one environmental statement all Federal, State, and local documents and to designate one lead Federal agency to prepare the EIS. At the local level, the Board is expected to work closely through the Governor with local governments in order to set reasonable deadlines for decisionmaking. If an agency fails to meet a deadline set by the Board, which seems unlikely, the Board could either make the decision itself without the potential for long court delay, or it could seek a court order enforcing the deadline. In making a decision in place of another agency, the Board must apply the applicable law which would have been applied by that agency.

Aside from setting deadlines and in some cases limiting the application of NEPA, the committee does not authorize the waiver of Federal, State, or local substantive law. Let me underscore the term "substantive law." I have already been lobbied three or four times today by those who have the misunderstanding or misimpression that this does provide for the waiver of substantive law. There was strong feeling in the committee, however, that in order to give the Board any significant power it must have the authority to negotiate with State and local authorities to fix reasonable deadlines and set certain procedures in order to reduce the time involved in decisionmaking.

In order to implement these provisions, the bill before us would not significantly interfere or usurp rights of States or localities to regulate or restrict in any way the development of energy facilities. Although deadlines are established, local officials retain full authority for traditional activities such as facilities siting and permitting. Because no general waiver authority was granted to the Board, the committee felt that meaningful "fast-track" must give the Board power to expedite procedures at all levels of government.

One of the controversial issues during committee deliberations was the amendment on water rights offered by Senator court appeals. The number of lawyers in WALLOP. This amendment sought to clarify the Federal/State relationship over water rights as they relate to energy development.

The nature of the Federal/State relationship over water rights has been and continues to be a highly complex and frequently litigated issue. The flames of controversy were fanned recently when the Interior Department Solicitor issued his opinion on Federal water rights. Western States disagree with the Solicitor's legal conclusions which tend to broadly interpret the Federal Governments' rights to water. I share the concern which has been expressed by Senator WALLOP and others.

Coupled with my concern over the impact of energy development on scarce water supplies in the West, however, there was some question under the original language of the amendment as to its impact on Federal reserved water rights for management programs other than energy projects. Though technical changes in wording, I believe that the possibility of any misinterpretation of the amendment has been eliminated. This is clarified further by Senator WALLOP's additional views which state:

> Let there be no mistake. The amendment which the Committee adopted, and the expansion of that amendment which I believe is necessary and appropriate, would not limit rights the federal government might otherwise have to protect National Parks and Monuments, National Forests, or other reserved federal lands. This amendment, and its extension would clarify federal responsibilities regarding energy projects only.

Without going into further detailed discussion, let me conclude by stating that in my judgment the committee has fashioned a balanced, prudent bill to expedite decisions on critical energy projects. The specific provisions on judicial review, enforcement of deadlines, waiver of substantive law, and the so-called grandfather clause were debated extensively in a number of markup sessions. I believe that in these areas of controversy the committee-reported bill represents a good compromise and should be supported in principle by the Senate.

I thank the Senator.

Mr. DOMENICI. Mr. President, will the Senator yield before he concludes his remarks?

Mr. HATFIELD. Yes.

Mr. DOMENICI. I want to say to my good friend from Oregon, the ranking Republican on this committee, and I mean this in all seriousness, the statement which the Senator has just given is precisely the kind of statement, the kind of careful analysis and balancing, that we can always expect from the Senator as our leader on the Energy Committee. I commend the Senator for it.

I think the Senator is saying it is not an easy decision to go with an expediting process, but that in the interests of trying to solve a very, very major American crisis the Senator has found this is a good balance and all substantial interests are going to be protected in this process, and yet there is a chance of expediting some major projects. Is the Senator from New Mexico correct?

Mr. HATFIELD. The Senator is correct, and that is what I have tried to do in my attempt to find a compromise. I appreciate this overflattering and complimentary remarks.

I do want to say to the Senator he is in a position of leadership on this bill at my request because of his long involvement in this matter and in his own legislation that has been introduced into this Congress and upon which a major part of this bill really rests and depends. The Senator has been most active in this area, and I am very grateful for his taking the leadership at this time on this particular bill.

Mr. DOMENICI. I thank the Senator again for his superb remarks in support of the bill.

May I say to the Senator from Louisiana, that from what I know so far as speakers are concerned, Senator BELLMON would like a few moments to make a statement. He said he would be back shortly. He is the only one I know of, of the committee, who wants to speak at this time.

Mr. JOHNSTON. Mr. President, I frankly think, candidly think, that this amendment is very, very clear in what it does. I mean, to use again a tired and trite phrase, it guts the bill, and I understand that it does so.

Frankly, I think we have the votes to beat it and that, after all, is the bottom line. So what I propose to do and, frankly, I would like to do it right now, Mr. President, but I want to withhold for a short period of time because I know some of my colleagues want to be heard on this amendment, but I would like to move to table this amendment sometime in the next, well, let us say, by 2:30 or at such earlier time, if no one else is here to be heard, and I want to give that notice so that any colleagues who have something to say will have a chance to come over and say it.

We need to get on with the legislation and get it passed. I know there are a number of amendments pending and, Mr. President, if we cannot pass this kind of legislation to speed up the process of building energy projects we might as well find it out now. We might as well have Senators stand up and even endorse the status quo, which has been delaying, which has been killing, projects or not. We might as well let the people get on line on the issue.

As I said the other day, Mr. President, when we were debating the question of the breeder reactor, it seems that it is impossible in this country to build anything any more.

I do not want to overstate the question. I do not want to get carried away with semantics. But, Mr. President, I think it is palpably clear that in these United States of America we have lost something we had for decades, that made us great, and that is that "can do" attitude that says, "By gosh, let's go to the moon, let's make synthetic rubber; whatever it is, we as Americans are can-do people, and let's get out there and do it."

We have lost that, Mr. President, in project after project. Now we are specialists in bureaucracy. We are specialists in this country is mushrooming. When I graduated from law school, I think there were 40 people in my class. Now that same law school is graduating over 10 times that many, and the number of people has not increased 10 times.

What we have become is a litigious society, where the law school becomes an object that justifies itself, where, with public interest laws, both on the corporate side and on the consumer side, environmental laws with environmental impact statements, permits of all kinds required, we cannot do anything anymore, and we are slipping behind. We are over 10 years behind the French in breeder reactors. We are falling behind in other technologies. We are sending $70 billion a year out of this country to pay for that imported oil, and all the while we go to court, we go to the local zoning boards, or we go to whatever other board it is, and let them twist us around and tie us up.

Mr. President, at or before 2:30 I am going to move to table this amendment, and I want to put all Senators on notice of that intention.

Mr. DOMENICI. Mr. President, I compliment my friend from Louisiana. I say to him, "While you were in committee I complimented you. You conducted most of the hearings. The minority compliments you for the fairness in this bill. You did not get everything you wanted; I think it is fair to say you consider this a compromise in terms of an expediting process."

There are those who have conferred with me, I say to my friend, who do not think the bill is strong enough because it will not move things as quickly as they think necessary. On the other hand, there are those who say it moves things too quickly and takes too many chances with other factors as important as producing energy.

Is it not true that there are a number of proposals the committee turned down, ultimately voting, all but three members, in favor of this proposal, that would have waived substantive law, that would have moved us in a much more expeditious manner than this bill? Is that correct?

Mr. JOHNSTON. The Senator is correct. First let me thank him for the kind words. Mr. President, this is very much a bipartisan bill. The Senator from New Mexico, as the ranking minority member of the subcommittee, has been one of the strongest leaders in this whole field of energy, not just on this Energy Mobilization Board, in which he played a key and critical part, but in the whole field.

This bill was a bipartisan effort to put together the best bill we could, with the broadest constituency both in the Senate and in the country. I think it does so, in such a way as to be passable in the Senate and to achieve something really substantial, but not at the same time raising these terrible fears about overriding substantive law.

Yes, we had an amendment that frankly I think we ought to pass, that authorizes the waiver of substantive law in those instances where health and safety are not involved and where the national interest looms great. But I withdrew that amendment, Mr. President, in the interest of unity and in the interest of getting a very broad consensus.

But having once compromised, if we went all the way over to the Muskie-Ribicoff amendment, I think the Senator from New Mexico can speak for himself, but I believe he would join me in opposing the whole bill, if that is what we did.

Mr. DOMENICI. There is no question about that. I would consider that an Energy Mobilization Board that, on its face, would probably take as long as or longer than existing law, with new untried procedures in terms of permitting and going to court, would be worse than what we have now. At least under the present law there has been some court clarification of many of the long delays.

Let me add one word to what the Senator has said. He said we have turned from being a "can do" to a "can't do" society; but there is one thing we have become very good at, and that is delays. Whenever we are not sure of something in this country, we delay. That seems to be just the way to do business. Everybody is protected, but no action.

If there is anything we ought to be capable of doing, it is to preserve the substantive law that protects us and still say there is going to be less delay. That is all the bill does. When you boil it down, what we are saying is that the application of substantive law, national, local, and State, has for some reason begun to take way too long, so we are going to narrow that down in this bill, only in energy projects of national significance, under a board that has to be confirmed by the Senate, charged specifically under this bill with preserving substantive law and setting reasonable time frames which can be challenged, all of which we attempt to expedite, to expedite the court procedures permitted under it, to expedite the time of the local and State governments to get their requirements complied with, and the National Government.

I submit that if we cannot do that, in the most significant time of crisis in this Nation's history short of the Great Depression, we ought to just give up.

I thank the Senator from Louisiana.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. JOHNSTON. I do not have any time. Perhaps the Senator can get recognized.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I have a few questions now, and I am sure there will be more later as I examine this measure, and I hope all of our colleagues will. If the Energy Mobilization Board did not get my attention, the reference to going to the moon did.

I could not agree more with the two distinguished members of the committee that we must learn how to do things. The reason that we were able to do the kinds of things listed by the Senator from Louisiana was that we were capable of motivating young men and women to do them, to believe that it was the most important thing in their lives, whether it was going to the moon, digging the Panama Canal, building our weapons of war when we knew we needed them, when we were threatened by a totalitarian regime which was doing the same thing.

My question is whether this measure would motivate these who are going to build the projects to build them, whether it will truly expedite the process, or whether, in whatever form it ends up, it will just be another level of bureaucracy, subject to another level of litigation and further delay, rather than expedite the procedure.

Mr. JOHNSTON. Mr. President, I think the question is a good one, and I think the answer is a decided yes, with respect to the first part of the question, which deals with motivating people.

The big problem now, if you talk to industry across the board, whether it be those who are going to build synthetic fuel plants or electrical generators, or whatever they are going to build, is the uncertainty inherent in the present law, because they do not know how long it is going to take them to get to where they can build, and when they are risking their stockholders' or ratepayers' money, they have to have some degree of assurance.

Under this bill, they can get that kind of assurance.

First, they are assured that this is no ex post facto law, and that is very important, since, if that does occur, it can wipe out all their investment in building the facility, and that hangs very heavily over their decisionmaking process.

Second, it gives them the right to go in and get a schedule, a schedule they can rely upon, and they know if the State and local people do not meet that schedule, the Energy Mobilization Board will make the decision for them.

That is exceedingly valuable to the mindset of builders; that is, a schedule and a set of laws that they can rely upon.

I have heard, much more than once, people who want to build things say that it is really more important to have a decided policy, a certain policy, than it is to have an uncertain good policy, because a decided policy, even if it may be bad, is one thing they can rely upon and factor into their interest rates, their rate base, or their bank loans, or whatever.

Under the present law, there is no certainty. This gives that essential element of certainty.

Mr. SCHMITT. If the Senator will yield at that point, I am curious and would like to explore further later whether the certainty is really there. For example, has the committee made an estimate of the number of possible steps and the time required in those steps by which a particular decision by the agency—say, to step in ahead of a Federal or State or local agency—how many of those steps and how much time is going to be required before the decision is finally made and all litigation has passed?

Has the committee made a maximum worst case estimate of what that would be? Because the Senator knows as well as I do that somebody is going to find that worst case and utilize it.

Mr. JOHNSTON. We have not prepared a maximum worst case, but it is a pretty good case. For example, the designation as a priority energy project requires a decision from the Board within 60 days. We did not require a certain time frame for the decision process. We have report language, I believe, that speaks of 9 months. If we want to try to complete it within 9 months—excuse me; in no event, longer than 2 years. We decided not to put that 2-year language in the statute because we thought, frankly, that they could do it most times in less than 2 years. So we do not have an absolute time limit. But the Energy Mobilization Board is implored, mandated, to make the shortest possible time for decision.

If a local jurisdiction feels that the time allotted to it for decision is too short, then, within 30 days of the time that they are told the time is too short, they can appeal to the TECA court to get that extended. But they have only 30 days from the time they are told of the time limit to appeal. The appeal is limited to the question of reasonableness, and TECA should decide within a matter of weeks—we do not have a time limit on them, either. There is a time limit of 90 days on that.

Then, of course, they can appeal the substantive decision of the Energy Mobilization Board, but again, that goes direct to TECA, goes direct to one court. There is as much utility in this bill in the consolidation of appeals and in the expediting of appeals as in most any other section.

Mr. SCHMITT. Is there no appeal beyond TECA?

Mr. JOHNSTON. There is the appeal provided for, in effect, under the Constitution; that is, you can ask for a writ of certiorari in the U.S. Supreme Court. But those are quite rare.

Mr. SCHMITT. What about the interaction of State courts and the Federal courts?

Mr. JOHNSTON. Again, that is our very strong point here. Appeals from the local zoning board or from the local permitting agency go direct to TECA. They apply the decision criteria of State law, but the appeal goes direct to TECA. So you cut out the State court of appeals, the State supreme court, and all those intermediate steps. It goes direct to TECA.

Mr. SCHMITT. Would it be possible for the committee staff to prepare, maybe even in graphic form—if it is not in the report, and I admit, I am not finished reading the entire report—the normal flow and then what might be the diversion points in which legal appeal would be available and might prolong that flow? Is that possible?

Mr. JOHNSTON. I think they can do that. The Senator has to understand that the staff is here trying to guide a rather slow moving floor manager.

Mr. SCHMITT. It is merely a suggestion, obviously, not a request.

Mr. JOHNSTON. We can do that for the Senator. It is not one of the long, complicated processes that we have seen with the critical path that goes across the whole wall and all the little lines you cannot follow. This is rather a simple and clear-cut process.

Mr. DOMENICI. If the Senator will yield, on a timesaving policy, for example, I say to my colleague that we have a NEPA law which requires, in many cases, the way courts have interpreted things, more than one environmental impact statement for a major project. We all know that States have passed what have become known as little or mini-NEPA laws. Frequently, the State requires environmental impact statements.

For instance, in that regard, the bill provides the board with the option of seeing to it that all environmental impact statements for an energy project are consolidated into one and that a lead agency is designated, with the advice of the Council on Environmental Quality, to guide that single environmental impact statement for a major energy project.

We think that would, in many instances, be the difference between a project being doable or not, in the eyes of a private or public investing group. Because, as the Senator knows, we did not only have to prepare them, but courts interpreted them, then there was generic versus site specific; then there was Federal and State. Sometimes that took 3 and 4 years all by itself. I suggest that is a very worthwhile expediter in the bill.

Mr. SCHMITT. If there is conflict between State and Federal law with respect to NEPA, whose law would prevail? Is that a decision the Board can make?

Mr. JOHNSTON. We use the decision criteria of State law with respect to State permits and the TECA, the Temporary Emergency Court of Appeals—which, by the way, is not a temporary court any more. It was set up in EPA in 1973. That court would also use the decision criteria of the State law, much as the Federal courts do now on diversity cases under the doctrine of irreversible process.

Mr. SCHMITT. So if the State law were more stringent than Federal law, State law would prevail, is tnat correct?

Mr. JOHNSTON. Yes.

Mr. McCLURE. If the Senator will yield, on that one provision, I think the Board looks at the State law with respect to timetables and the Board has the authority to determine what the appropriate time frame is in which the State decision should be made. The State and the State agencies have the opportunity to make the decision under State law but within the time schedule established by the Board.

Mr. JOHNSTON. That is right. But when I say decision criteria, I mean both the State and the Board, the Energy Mobilization Board, as well as the TECA court use the decision criteria of substantive State law to decide whether someone is entitled or not entitled to a permit.

The Senator is correct on the question of time schedules. The State time schedules, which are procedural matters, would have to adhere to the Energy Mobilization Board time schedule.

(At this point, Senator HARRY F. BYRD, JR. assumed the chair.)

Mr. McCLURE. They would be given the opportunity at the local and State level to make this decision within that schedule established by the Board, and only in the event of their failure to do so would there by any Federal preemption of the decision. Then, if there were any Federal action to make the decision, it would apply the criteria of the State law, even though the State law might be of either greater or less stringency than the Federal statute. Then the appeal from that action, whether it be State action or Board action, would go directly to TECA.

Mr. SCHMITT. I thank the Senator.

One final question and then I will yield the floor.

Has there been any estimate by the committee of the number of projects on an annual basis that the Board would be requested to deal with, say, looking at present activity and estimates of how activity might increase during the next few years?

Mr. JOHNSTON. No. We have not tried to estimate or limit it. What we do is mandate the Board only to consider the important projects because if they get every single energy project that comes along, then the designation does not mean anything. They will be so bogged down with the bureaucratic problems involved that they would not be able to expedite them.

Mr. SCHMITT. I submit that the number of priority projects submitted in order to begin to relieve a 50-percent dependency on imports of oil and a growing dependency on imports of gas is a fairly large number.

My concern is that it will be saturated. That is why I am wondering what the estimate might be and the level of activity the Board is required to accept, what size staff is required, and, of course, the cost of the operation.

Mr. JOHNSTON. We did not put a limit on the Ribicoff-Muskie amendment—it provides for a maximum of 24 at any one time—which we thought was best left to the Board, to make their own determination of how many met the criteria, and of that number how many they could handle.

Mr. SCHMITT. So the Board would be, in a sense, playing God with projects that might show about an equal promise, and they would have to make a decision based on how many they could handle.

Mr. JOHNSTON. I would not say they were playing God any more than the courts with these projects, any more than the Department of Energy. Somebody has to make the decision.

In that sense, sometimes there would be some arbitrary decisions made to accept this project and not to accept that one.

Mr. SCHMITT. But as of this time, the committee has no estimate of how many projects are conceivably in that reservoir from which they could select?

Mr. JOHNSTON. No. But we hope they will not take more than they can handle nor less than the country needs.

Mr. SCHMITT. I am saying that if they take what the country needs, I can envision that saturating a very large bureaucracy.

As the Senator knows, I voted against the Department of Energy because I thought its management structure was inadequate to solve the problems it was being asked to solve.

I think that clairvoyance has been proved out, at least so far.

My concern is that the Board, being small, having the kind of decisionmaking process that is required, is going to saturate at a fairly small number of projects.

I will come back with more questions on that subject.

I hope the staff can look at that before.

Mr. McCLURE. Will the Senator yield on that point?

Mr. SCHMITT. I am happy to yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

I only wanted to respond to say that the committee very early in its deliberations confronted the specific question the Senator is asking now about how many projects should be expedited, or priority energy projects.

The distinguished floor manager of the bill at that time offered, in essence, a kind of two-tier system, one with a very small number of very highly expedited projects and then a larger number of projects that would not be expedited so drastically.

I think had the committee agreed with the Senator from Louisiana's suggestion, it would have been possible for us to address that first very small group with even some substantive waiver in order to get them done rapidly and they would be very large, very important, very nationally significant projects.

But that failed in the committee. I voted for it. I thought the Senator from Louisiana was correct. But, nevertheless, it did fail in the committee.

Having gone past that point, then the committee said, "Well, we're going to have to be more careful because we're dealing with a much broader and less defined group of projects."

That was part of the reason we ended up in the committee with what I think may prove to be an inadequate procedure, but it is certainly an improvement over present procedure.

But there is no way to tell how many projects will be involved because the Board will have to make that determination.

Mr. SCHMITT. I hope the Senator will yield.

Mr. McCLURE. I am happy to yield to the Senator.

Mr. SCHMITT. I hope it would be possible before our final conclusion on this measure that some estimate could be made, because that is a very important part of my thinking, is this thing going to work, are they going to be so inundated with everybody's high priority projects that nothing happens?

Mr. McCLURE. I say to the Senator that the Senator from Idaho expects that that is the first problem the Board is going to confront, how to determine out of the mass of applications made to them which ones to entertain as priority energy projects and which ones to exclude. The Board itself will have to wrestle with that determination because it is not defined in the legislation.

I do not think there is any way we can answer that except to say that the Board will have to make that determination. It will be based on its own estimate of its ability to digest all of the applications that come to it.

Mr. SCHMITT. I suggest the magnitude of the problem in this way. The bill excludes nuclear powerplants. But if it had included them, the number it would have to deal with right now is something on the order of 80 or 85. That is a big number. It would be very difficult to say one clear project was of less priority than another.

The only criteria might be, when could it come on line?

The same situation, I am sure, exists with respect to coal-fired plants, synfuel plants, and so forth.

I think the number is large and it will be extremely difficult for the Board to make those decisions.

Mr. McCLURE. I say to the Senator from New Mexico that the Board has the opportunity to look at some very large projects that would consume a great deal of its time and effort. It will have the opportunity to look at relatively smaller projects that either have great difficulty, and therefore exclude them because they simply cannot devote the time to it, or perhaps a smaller project that has very little potential for difficulty but would add to the Nation's energy supply, and expedite it.

So the Board will have rather large discretion under this statute.

I certainly agree with my friend that the task is very large. But I think in spite of that difficulty the opportunities for expediting some and to significantly gain time with respect to meeting our energy needs is enhanced by this bill as compared to where we are now, where every project, regardless of its significance, is equally bogged down in the redtape we have constructed at the local, State, and Federal levels.

Mr. SCHMITT. I hope the Senator is right. I will try to make up my own mind whether he is right.

Mr. McCLURE. I understand.

I yield the floor.

Mr. JOHNSTON. Mr. President, I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, we debate in this body today the establishing of an Energy Mobilization Board. President Carter has characterized it as "an important ingredient in the battle to win our energy independence, a battle that all Americans must fight together."

We are debating this as the continuing crisis in energy continues to besiege us. The long lines at the filling stations are gone, for the present, but the ingredients that caused the gas lines and energy crisis, as a whole, in the United States of America are as real now, perhaps more real, than they were a few months ago.

In the section-by-section analysis of the report accompanying the Priority Energy Act of 1979 (S. 1308), the members of the Energy and Natural Resources Committee state that its primary objective is to increase the Nation's security by reducing its dependence upon imported oil. "The Congress is therefore justified in calling on all of its war powers as well as its powers to regulate commerce in order to reduce our dependence on foreign oil."

In my congressional career, I have worked toward common goals with my colleagues and my constituents with good and highly effective results. I believe others in the Senate generally feel accomplishment comes through cooperation.

I believe others in the Senate feel as I do: That accomplishments can come, not by polarization—polarization never settles any difference of opinion. If you are polarized and win the point, those who represent the other side, even though you have won your point, will constantly snipe at your legislative effort to break down what you have brought into existence.

What we do here today must be a cooperative effort. For too long we have had continuing rhetoric and inaction which stultify the Congress of the United States. This is the prevailing opinion, and properly so, of the American people. We toss measures back and forth consuming a great deal of time, but the necessary action has not been forthcoming.

I simply believe that accomplishment comes when we work very closely together, and we must accomplish final resolution on creation of an Energy Mobilization Board together.

With respect to the need for cooperation in the development of an Energy Mobilization Board, I have tried very much to avoid, as is known at the desk, a request for sequential referral of this legislation because I believe in saving time and trying to get approval, so that we can act, on a measure of high priority.

Senator Byrd, our majority leader, sensing the need for cooperation in the development of an Energy Mobilization Board, asked committee chairmen with jurisdiction over this issue to work together to avoid requests for sequential referral on this measure designed to compress the time it takes for Government approval or disapproval of high priority, nonnuclear projects including synthetic fuel plants, refineries, and pipelines.

Members of the Senate know that the National Environmental Policy Act, and other environmental statutes, are within the jurisdiction of the Committee on Environment and Public Works. I consented to this strategy of cooperation to try and expedite consideration of this energy legislation. Members of our committee, including Senator Muskie and Senator Hart, who chaired the temporary subcommittee of the Senate Budget Committee to examine fast track energy proposals, felt the environment and public works committee should "move immediately to set hearings" because of our "major interest in and responsibility for these matters."

The regulatory procedures to be expedited under the Energy Priority Act of 1979 are within the jurisdiction of our committee. These include the National Environmental Policy Act already mentioned, the Clean Air Act, the Federal Water Pollution Control Act, the Endangered Species Act, and others.

I believed it necessary to hold full committee hearings because, as indicated in the majority leader's August 27 letter to Chairman Jackson—

> I (Senator Byrd) requested Senators Randolph, Muskie, Proxmire, and Ribicoff to direct the staffs of the committees they chair to work with the Energy Committee staff during the recess. It is my hope that this type of common effort will be effective and will lead to early consideration of this critical legislation.

Mr. President, I wish these efforts had been more effective. On September 5, an eight-page memorandum was sent to the Energy Committee staff from the staff of our committee. That document supported the concept of expediting the construction and operation of new energy projects. It also contained recommendations to limit the power of the Board so that procedural delays could be eliminated, and that is the feeling of Senator Johnston, without undermining the advances in environmental protection that have been achieved. This memorandum contained recommendations on designation and definition of priority projects, expediting environmental impact statements, waiver of substantive law through grandfathering, judicial review, and other suggestions contained in S. 1308 relating to formation of an Energy Mobilization Board. Senator Jackson, on September 14, assured me in a letter that his committee staff had communicated to all members of his committee the views of the Environment and Public Works members and staff, but that communication obviously does not insure total agreement.

During markup of S. 1308, Energy Committee members approved changes in the powers to be granted to the Emergency Mobilization Board, we had strong reservations and had so indicated. When we are indeed asking the Congress to call on all of its war powers as well as its powers to regulate commerce, all committees with legitimate jurisdiction affected should participate.

Mr. President, I cannot support in its entirety either the Priority Energy Project Act (S. 1308) or the Energy Redtape Reduction Act (S. 1806) which will be discussed during this debate. This Nation needs to streamline its regulatory procedures so we can develop alternative domestic energy sources without duplicative, cumbersome, and uncoordinated Government processes. But we must be sure we understand exactly what the Energy Mobilization Board will do, whether it is absolutely necessary, and whether it is wise to give it complete power to preempt most State and local authority. Remember, there was reason for establishing the procedures in the Clean Water Act, the Clean Air Act, the Surface Mining Act, and the Endangered Species Act, and they represent preservation of certain rights and values in our country.

If a grandfather waiver is granted now to a facility and it is later seen that such a waiver was a clear mistake because of the significant environmental impact created by the plant, what recourse would be available? Could the Government take away the waiver? Or would this be deemed a taking without due process of a right that had been bestowed by the Government and would therefore require some compensation? Members of the Senate must have adequate information and input to assess the impact of an Energy Mobilization Board. This Senator will try and collect essential facts during our debate.

Mr. President, in closing, to say that the action we take on this legislation will not only determine, to a large extent, the direction of the President's program, but also have much to do with its ultimate success or failure. This Senate and this Congress will have to make that decision in the next few days.

One issue confronting us in this bill is how to expedite the development of synthetic fuels and alternative energy sources, as Senator Domenici, not just a layman but an expert in this field, has stated, without incurring unacceptable costs in terms of money and of possible damage to our ecology.

Other aspects of the President's energy package must be measured by the same criteria, as a basis for determining whether or what changes may be needed in their form and substance.

I have thought much about this subject matter. Recently, I prepared an article for the Constructor magazine, the September issue, in which I have given a look at the background of the chaotic dilemma in which we find ourselves. As the poet has said, "The past rises before me like a dream." I can say to my colleagues that the way we have handled our energy matters over a period of years, both within the Congress and the administration, causes the past to rise before me like a nightmare. Absolutely. That is the situation for one who has labored in this field since 1942, who held hearings in 1943 and 1944 from which came the Synthetic Liquid Fuels Act, and then labored to assure that appropriations under that act were used for the pilot project plant in coal gasification, the development of oil shale and even agricultural and forestry products and waste.

That all was allowed to die after World War II, when what happened? The U-boats that had been patrolling our eastern waters and New England waters went home. The war was over. I say to those Members who are in the Senate today that everyone after the war said, "Let us go back to doing business as usual."

Of course, you could not do business as usual in World War II. We were faced with a shortage of petroleum products flowing into the United States. We were not then, however users of petroleum products to the degree that we are today. But there was a suspension of shipments of petroleum products into the United States of America. And so what happened? The only law ever placed upon the books to date on synthetic fuels was allowed to die.

I was not here, in the House or in the Senate. I was unable, because of being outside in private business, to do what I wish I might have been here to do. We never even used the amount of money that had been appropriated for the program. It was returned to the Treasury of the United States.

Well, we act after the fact, do we not? So very often we do, rather than act before the fact.

Because this article, which I call "A Crisis and a Challenge" is not just another article, I ask unanimous consent that it be printed in the Record at this point.

There being objection, the article was ordered to be printed in the Record, as follows:

[From the Construction, September 1979]

A CRISIS AND A CHALLENGE

(By Senator Jennings Randolph)

A few months ago I attempted to assess the shape and nature of problems which might confront the Congress and the Administration this year. It was my general conclusion that they would encompass at various times the "three E's"—energy, economy and environment—with each demanding some type of high-priority attention.

Even viewing the situation from that relatively short-range perspective, however, I did not anticipate that the prediction would prove quite so accurate quite so quickly or that we as a Nation would already be confronted with a situation posing serious and interlocking problems simultaneously involving all of those three areas.

Yet that is precisely where we are today.

It is not over-stating the case to suggest that, short of war, we have faced few situations more critical than that created for us by reliance on foreign fuel and energy sources. By the same token, the crash program for synthetic fuel development and related measures being proposed by the Administration as a way of escape from that economic stranglehold could well become the most ambitious and costly federal spending program in peacetime history.

There appears now to be no way of avoiding the issue, with development of alternate fuel sources the obviously preferable course to continued long-range dependence on foreign oil.

That change of course is, in fact, already overdue and could have been achieved much more smoothly and with far less cost if the signs and portents of the future had been more generally recognized and needed when they first became evident.

The concept of synthetic fuels is not new. It is only the fulfillment that is still to be realized.

I recall with mixed feelings, my introduction in 1943 of a bill [H.R. 3209] which authorized the Secretary of Interior, through the U.S. Bureau of Mines, to build and operate plans to produce liquid fuels from coal and other substances.

In urging its adoption I observed that: "we certainly do not want to let ourselves be panicked into emptying our natural petroleum reserves of every drop while waiting for satisfactory coal liquefication methods to be developed."

President Roosevelt provided additional initiative when he signed in 1944 our bill mandating development of new technologies to produce ethanol, methanol, and other liquid fuel from coal, oil shale and agricultural wastes. The program was terminated 11 years later after an outlay of $82 million because at that time the synthetic fuels could not compete economically with petroleum and natural gas supplies. (Unfortunately, while the decision was understandable on that basis, it resulted in loss of data which could have formed the basis for a sound synfuel program. That data would have been immensely valuable now, allowing the vast sums presently being proposed for such ventures to be used for advanced technologies rather than being devoted in part to further basic research to rediscover the evidence which had previously been compiled.

That would apply particularly in the areas of coal liquefaction and gasification. I am persuaded these offer the greatest promise for practical reshaping of the energy program in the relatively near future. The raw resources for these fuel innovations are already available in ample supply.

I had very much hoped that we would be well along that road long before now. I was not in Congress when the first synthetic fuels program was terminated, but I began working on a national fuels and energy program again shortly after my election to the Senate in 1958.

In 1961 I observed in testimony before the Senate Interior Committee: "Every year that passes in which we become more and more dependent on foreign oil to buttress our national economy and security perhaps is one year nearer to disaster. We are gambling on our Country's future."

Evidence suggests following that course has been a losing proposition in the intervening years and that the mounting risk is no longer acceptable.

There is no need to dwell further on what might have been, except to the degree that it helps chart a new national course for the future.

And that is the task which challenges Congress and the Administration now.

It must be recognized at the outset that the dimensions of the Administration's new energy plan are awesome and its provisions complex and potentially controversial.

That is inevitable in any proposal which envisions a $142-billion outlay—$88 billion of it for synthetic fuels—and creation of two new federal entities armed with sweeping powers to operate the program.

Each of the steps being proposed for reaching the program's ultimate goal—a reduction of oil imports by 4.5 million barrels a day by 1990—will demand close scrutiny and carefully-crafted enabling legislation if it is to effectively serve the intended purpose.

Measures already being proposed in this area suggest that, while there is general consensus on the objective of the alternative fuel concept, there may be a disparity of views on how to achieve it.

Among those differences is the question of how much authority should be given to the operating agencies in carrying out the program, how they should be structured, and what their precise mission should be in the process of synfuel producton to replace oil and natural gas.

A key issue which could prove the most troublesome of all is the question of program financing and what action Congress will take with respect to the oil industry windfall tax on which the President is relying to pay for the massive alternate fuel undertaking.

Those questions will not be resolved speedily, nor should they be. The stakes are too high and the issues too critical to permit any hasty judgment.

A significant start toward that goal is possible, now, however, even while the parameters of the long-range effort are being established. All that is needed is an Administration commitment to, and effective use of, some key provisions of existing law and policy.

That applies particularly to the potential for greater coal utilization over the next two to three years.

It is there that failures to capitalize on available possibilities have been most evident and most damaging from an energy standpoint.

A case in point is the Federal Non-Nuclear Energy Research and Development Act adopted in 1974 and financed in 1977. It established a loan guarantee program for commercialization of synthetic fuel production—in effect making the federal government a partner with private industry in coal liquefaction and gasification efforts, oil shale utilization, solar and geothermal energy research, and examination of other renewable source technologies.

The Department of Energy, given responsibility for operation of the program, has fallen far short of the Congressionally-mandated target.

The same kind of failure is evident in implementing other provisions for coal utilization provided by existing law.

For example, the proposed Department of Energy budget request for coal research and development in fiscal year 1980 eliminates certain demonstration projects which could be used immediately and allocates money to more complicated coal projects which will take years to perfect. The small gasifiers program will receive no support in 1980, although Congress in 1976 called for a transfer of DOE funds from another program to build 24–26 additional small gasifiers. These small gasifiers can be utilized to fill energy requirements for individual buildings, shopping complexes, and industrial parks. Full exploitation of this concept could possibly result in enormous energy advances in a relatively short period of time. But these systems are apparently being ignored by the Department of Energy.

Another largely-unrealized potential for oil use reduction is coal conversion. Admittedly this effort has been hampered to some degree by a flood of conflicting and complex regulations. There is no question as to the need for better coordination and flexibility in those control efforts.

Yet the President's Coal Commission, on which I serve, has located more than 60 existing coal-capable electric utility plants now burning oil which should be reconverted to coal. These plants also could meet existing sulphur emission limitation standards in that changeover.

That reconversion, the commission reported on July 12 to the President, would save 400,000 barrels of oil a day by 1985.

The commission also recommended replacement of oil and gas-fired boilers (which do not have the capacity for conversion) with new coal-fired units. It is estimated that such replacement would save 500,000 barrels of oil by 1985 and a million barrels daily by 1990. Finally, the report urged that no new large industrial boilers be permitted to burn oil or natural gas.

In combination, those three recommended actions would result in a saving of 1.3 million barrels daily by 1985 and 2.3 million barrels by 1990. This represents a 25 percent reduction in oil imports by that date and accounts for half of the goal the President has established.

The fact that there have not been more conversions already is simply the result of delays and inaction on the part of the Department of Energy. At last count DOE had issued orders for only seven of 30 facilities certified by the Environmental Protection Agency for the changeover.

That is not a satisfactory record. It is essential that this DOE performance be substantially improved without delay so that the benefits of these already authorized programs can be realized to the degree intended by Congress. I have stressed to President Carter on several occasions the need for a greater commitment to these ongoing efforts. It is particularly true now as we seek a base from which to embark on a full-scale alternate fuel exploration. It could also be an important factor in the forging of a coalition of Congressional and Executive initiatives needed to produce a consensus on the form and substance of such a program.

It is too early to predict how closely the final product will resemble the President's energy package unveiled in mid-July.

It is already possible, however, to anticipate with some degree of certainty the sort of results which any undertaking of this size and nature may have.

And that is the point at which the "three E's" come into the picture together.

There will, first of all, be environmental problems and issues associated with synthetic fuels production which must be anticipated and addressed by Congress in fashioning legislation for full-scale program development. We must insure that any measure we adopt provides safeguards against possible hazards stemming from the altered approach and not covered by existing legislation.

Many questions are certain to arise during the course of that consideration but some are obvious at the very outset. Among those which we must ask ourselves are:

How severe is the trace element problem often produced as a byproduct of many synthetic processes such as nickel, benzene, hydrocarbons and lead? To what extent will these elements be spread throughout the environment? In addition, will the fact that synthetic fuels create twice as much carbon dioxide as direct coal burning require intensive reforestation efforts to absorb the excess?

Should a large synthetic fuel effort be linked to mandates to limit fossil fuel use, including reduction of gasoline sales?

Can effective environmental control be built into commercial plants to protect the health of workers and others living near synthetic fuels plants?

What will be the cost of a full-scale environmental control plan for a synthetic fuels industry?

It has been recognized that final and definitive answers to some of those questions can be secured only through construction and testing of actual commercial size plants.

By anticipating environmental requirements in advance at each stage of the program development process, however, it may be possible to eliminate, or at least minimize, problems which might otherwise delay or jeopardize the undertaking.

To be most effective, that "from the ground up" environmental involvement would figure in design and evaluation of synthetic fuel facilities. It would also be taken into account in assessment of water requirements and site selection needs for such facilities and in judgments on the economic and social impacts on affected communities.

I hope that through this approach it will be possible to develop a synthetic fuel industry which can make the Nation more energy self-sufficient without degrading its environment or creating new and serious health hazards.

Any concept which fails to meet both goals would, in my judgment, be unacceptable as a solution to the National dilemma we face and I would oppose its adoption.

Any assessment of the alternate fuels plan, I would stress, must also recognize its farreaching economic implications.

With double-digit inflation already a grim reality the addition of a $142-billion new enterprise—with predictions in some quarters that the total could be much higher—is bound to have some tremendous reverberations in our financial structure. Such a venture into new energy areas will certainly translate into higher costs and higher taxes for business, industry and the consumer for many years to come.

It will involve the taking of some very significant technological risks to determine whether, or how soon, new and sophisticated fuels can be produced in sufficient quantity to meet demands at an economically feasible price. There will certainly be some failures, perhaps dramatic ones, before there are successes. And they will be expensive.

New fuels will also require new distribution methods, facilities and techniques, resulting in some serious disruption in established systems and in patterns of consumer energy use.

Here again, the costs of change are going to be high, perhaps astronomical.

That imposes a special responsibility on Congress to examine every facet of the proposed program at each stage. We must assure, as far as is possible, that the vast investments which the program would require are justified, that they will be earmarked for the correct purposes, and that they can be reasonably expected to bring the Nation to a new energy era.

I believe the plan must, and should, be judged on that basis and accepted, rejected or modified to the degree necessary to achieve those goals in a reasonable and practical way.

Finding the right formula to resolve this energy crisis may be the most difficult of this or any other recent Congressional year. It will require our best efforts and those of the Administration in formulation of a program and all the innovative enterprise and ingenuity of American business and industry to carry out its mandate.

That is the shape of the opportunity and the challenge inherent in this crisis situation.

It is a test we cannot afford to fail.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. RANDOLPH. I yield to my able colleague.

Mr. DOMENICI. Let me first commend the Senator for his tremendous remarks here today. Obviously it must be very difficult for him, having seen the problem of America being without alternatives in terms of energy, and yet having so much coal and other resources, to be unable to act, when he knows we had a chance to bring those technologies into fruition years ago. It must be enormously frustrating for him.

In the Senator's honest opinion, does he believe that we could bring onboard 8 or 10 synthetic fuel plants—and I say 8 or 10—the 3 major conversions, with 8 or 10 technologies, 50,000 barrels a day or so for each conversion. Does the Senator think we could bring them onboard with business as usual in terms of the regulatory process in this country?

Mr. RANDOLPH. Absolutely not.

Mr. DOMENICI. So whether this Mobilization Board says synthetic fuels or not, if they happen to end up being energy projects, it is the Senator's opinion that without an expediting procedure, they will not be built, is that correct?

Mr. RANDOLPH. That is my feeling. I have so said and I am glad to reaffirm it now.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, I simply want to thank the distinguished Senator from West Virginia for putting this whole matter into context, particularly in historical context. As he says so very eloquently, if we do not change this law, if we stay with business as usual, then, by the time that I have been in this body as long as the distinguished Senator from West Virginia has been in Congress, we shall still be talking about synthetic fuels and the opportunity we missed back in the late 1970's.

I thank the Senator for putting it so well in the context of his leadership.

Mr. DOMENICI. Does the Senator from Louisiana really think he is going to be here that long?

Mr. RANDOLPH. Mr. President, I have served for and with eight Presidents. You know, Presidents come and go. It is a privilege to be here with all of the Senators.

Mr. JOHNSTON. Hope springs eternal, I say to the Senator from New Mexico.

Mr. DOMENICI. I am sure the Senator's people will continue to exercise their good judgment and continue to bring him here. But we hope we do not have to make that hindsight observation.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. JOHNSTON. I thank the Senator for his comments

The question of committee jurisdiction is a sensitive one, and all of us, to the maximum extent, should try to accommodate it, not just by the strict text of the rules but also by the spirit of what the rules provide.

I say to the Senator that I had an amendment in committee which would have waived substantive law, and that was really the key amendment, it seems to us, which might go right up to the edge of the jurisdiction of the Committee on Environment and Public Works.

The first thing we did was to check with the Parliamentarian on the question of whether that, in fact, would encroach upon the jurisdiction of the Senator's committee. We were advised that so long as the Energy Mobilization Board would make the decision for the local boards or for the Federal boards, it would not, in his judgment, encroach on the jurisdiction of the Senator's committee.

Nevertheless, we determined in our committee that, in the event we were able to agree to that amendment in the committee, we would present it on the floor as a committee amendment and not present it as part of the bill—that is, to keep from encroaching on the jurisdiction of the Senator's committee.

As it happened, we compromised the whole issue and withdrew any waiver of substantive law and came up with this joint bill, which we do not feel and which we hope does not encroach on either the letter nor the spirit of the jurisdiction of the Committee on Environment and Public Works.

But the Senator has been a strong leader in this whole field and a strong leader on the consolidated approach. I recall he was the coauthor, and in fact the principal author, of Senate Resolution 45, where we studied this whole energy thing and had a joint committee effort.

Mr. RANDOLPH. Senator Jackson and I and many others worked together.

Mr. JOHNSTON. I hope we have achieved a proper respect for the various committee jurisdictions. To the extent that we have not—and I hope the Senator agrees that we have—but to the extent that we have not, I, for one, will certainly redouble my efforts to continue to work with the Senator from West Virginia in this area in the future because it is a sensitive one and I respect not only his committee's jurisdiction but the distinguished Senator from West Virginia has been a great leader in this whole field, as well as the distinguished Senator from Maine and others on the committee.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. RANDOLPH. Yes; I yield.

Mr. MUSKIE. This colloquy, I think, offers an appropriate opportunity to discuss the procedure for disposing of this legislation on the floor. The fact is that most of the substantive legislation impacted by the pending bill is within the jurisdiction of the Environment and Public Works Committee. We agreed prior to the August recess to not insist on sequential referral in order to make our contribution to the shape of this legislation and agreed that as a substitute we will try to work at the staff level on a consultative and cooperative basis in order to expedite this legislation.

The staffs did consult, and I gather the staff of the Energy Committee was cooperative in the sense that they received suggestions from our staff and communicated them to the members of the Energy Committee. What I find happened is the members of the Energy Committee, without our background in the substantive law, produced a result that to me does not sufficiently reflect the substantive problems that we see emerging.

The Energy Committee has undertaken to try to make a distinction between substantive and procedural law.

It has been a long time since I was a law student; not quite as long as when I was a lawyer. But I remember an admonition of my law professors that a substantive right without a remedy is no right. It is not quite that easy to separate substantive law from procedure. I think the pending legislation has problems in that respect that we seek to address.

Not having had an opportunity, as members of the Environment and Public Works Committee, to make our impact on the pending legislation we have worked informally and included in our group members of the Governmental Affairs Committee because of Senator Ribicoff's, Senator Roth's, and Senator Percy's very great interest in these issues to try to develop a common approach to the problems that we see.

Senator Ribicoff took the leadership in shaping the substitute which has been offered. I think the substitute that has been offered is a good piece of legislation and it moves, I think, effectively in the two directions of expediting regulatory decision and also protecting important issues of substantive law.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. RIBICOFF. I am pleased the majority leader is in the Chamber. Before the recess the majority leader, because of his deep concern to move the President's energy program, called to his office the distinguished Senator from Washington, the chairman of the Energy Committee, the Senator from Maine (Mr. Muskie), of the Public Works Committee, myself of Governmental Affairs, and Mr. Proxmire of the Banking Committee. He asked us to cooperate together in such a way as not to delay this bill. All of us promised the majority leader that we would try to work this out, not have sequential referrals, since we wanted to expedite the legislation, and that during the recess the staffs would meet for substative discussions and then after the recess they would come back to the distinguished Senator from Maine, the Senator from Wisconsin (Mr. Proxmire), and myself, for further discussions to see whether we could have an input coming out of our varied jurisdictions.

There were some desultory conversations between the staffs, but little of substance was changed by the members of the Energy Committee. All of us from the other committees devoted many hours to try to fashion this legislation to have meaning. All of us had an interest in this legislation and we were, for all purposes, willing to give up our jurisdictional rights so that we would satisfy the request of the majority leader to have something of substance and in which we could all have an input.

It is very interesting that here we have as cosponsors of the substitute five chairmen of major committees. We came in here this noon. We discussed with the distinguished Senator from Washington and the Senator from New Mexico the possibility of working out a time agreement of some 6 hours for a discussion of this substitute so we could have a full debate on major issues and then we would have a vote. There was no intention to either filibuster or to have a delay. But there were so many Members of this body who wanted to have an input in the debate that we felt that 3 hours on a side was a minimum and that we would debate most of the day with votes coming early tomorrow. It was to my amazement that I find now that the distinguished Senator from Louisiana, who was not part of this agreement, now intends to move to table this legislation without giving an opportunity to really discuss this measure in its entirety.

This legislation is of such substantive meaning for the entire Nation. There is an alternative that has the support of many organizations. Every governmental group—the Governors, the counties, the cities—and every environmental group is in favor of the substitute and yet there is not any opportunity for a discussion.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to the Senator.

Mr. JOHNSTON. I simply say to the distinguished Senator from Connecticut, as I told the distinguished Senator from Maine, I do not want to cut off Members who have important statements to make. At the time I talked about the motion to table there was virtually no one on the floor and we were speaking to ourselves. At least that is one way to get the attention of those who wish to speak. As long as there is someone who really wants to speak and has a substantive statement to make, we will certainly allow that.

Mr. RANDOLPH. That is exactly what I am doing.

Mr. RIBICOFF. Mr. President, if the Senator will yield for a second, the majority leader is here. There was a willingness, apparently, for a time agreement and there is still willingness on our side for a time agreement where we could have a full debate and then have an opportunity to vote. I thought as we discussed this with the members of the Energy Committee that there was this understanding. I had cleared this with the distinguished Senator from West Virginia, the Senator from Maine, and the Senator from Delaware, Mr. Roth. All of us had come to what we thought was agreement for a 6-hour time limitation.

On a bill of such major importance I do not think that that is too much time to discuss this.

Mr. JOHNSTON. May I say to the Senator that is fine with our side. We are willing to go along with any time agreement that you wish.

Mr. ARMSTRONG. Mr. President, we cannot hear.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. RANDOLPH. I yield to my majority leader.

Mr. ROBERT C. BYRD. I would like to make this observation to what the distinguished Senator from Connecticut has said. On a time agreement, I was approached with the idea of having a 6-hour time limitation on the substitute and 1 hour on any amendment. I understood in talking with the minority there were some problems over on that side at that time. However, it was indicated that we might proceed and yet be able to arrive at some kind of a time agreement, and I hope we can.

So, if at the moment, as I have listened to the distinguished Senator from Louisiana, and where I have gathered from what he has stated that he does not intend to press a tabling motion immediately so that the debate can go forward, we can reach a conclusion on the matter or we can get a time agreement hopefully that will be fair to all sides, that may be accomplished.

Mr. MUSKIE addressed the Chair.

Mr. RANDOLPH. The Senator from West Virginia now has the floor.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I will yield; yes, sir.

Mr. MUSKIE. You know, it is one thing to be given time at the sufferance of the floor manager of the bill, to decide when and if he will offer a tabling motion. It is another thing to have time as a matter of right.

I understand the Senator from Louisiana is a generous man, but if I were in his shoes floor-managing a bill, controlling time at my own will as to when I will make a tabling motion, I could use that pretty arbitrarily, and I think those who support Senator Ribicoff's substitute have a right to sufficient time to make the case.

What we wanted to do was to use that time, rather than a series of amendments, and I have 40 amendments at the desk which I would be glad to call up one at a time in order to get the time. But what we prefer to do would be to have an adequate time to cover the range of issues indicated so that Senators could be informed and then make a decision.

I have no objection to that. I have no desire to prolong this debate. I am not a natural filibusterer.

Mr. JOHNSTON. I would be willing to go along with anything the Senator wishes.

Mr. MUSKIE. Would 6 hours do it?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. JOHNSTON. That is agreeable to me. If the minority agrees, 6 hours are fine with me.

Mr. DOMENICI. Let me say to my good chairman he knows that from early this morning I was unable to get agreement, because some Members are absent, to a time certain, but I have clearly indicated that I do not want to be part of cutting anyone off from debate. I told Senator Johnston that you wanted to speak and Senator Ribicoff wanted to speak, and he knew you were coming down here. He is of the opinion that we eventually ought to have a motion to table, and I think you agree that is certainly an acceptable procedure. From our standpoint, even though we cannot agree to 6 hours, 3 hours, or 2 hours, you have our assurances that we in no way intend, at least I do not as the floor manager for our side, to hurry the matter up and to deny you, or any of those who support the substitute, time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to my majority leader.

Mr. ROBERT C. BYRD. Why do we not use this approach so that all Senators will know when a vote will occur: I suggest that, perhaps, we agree that a vote occur, say, tomorrow in respect of the substitute at a given hour, say, at 2 o'clock, and in the meantime there be a time limitation on any amendments thereto of, say, 1 hour. That would give ample time to debate the matter—or make it 3 o'clock—ample time to debate the matter, and Senators would know when there was going to be a final vote.

We could leave intact a Senator's right to table if he wished, but in any event we would know that there would be a showdown on the amendment or on a tabling motion at a given hour tomorrow. Would that be agreeable?

Mr. DOMENICI. Mr. President, reserving the right to object, let me say to the distinguished majority leader that I cannot agree to any time limit. I want my friends to know that this bill is in a very complicated parliamentary position. Your bill is a substitute to a substitute. We have amendments that are not drafted to the substitute but drawn to the original bill, a very important water amendment, and they do not know whether it belongs on yours or it belongs on this, and those are all very natural things, and they have asked that we not agree to a time limitation. I think it will evolve that we will vote on your proposal before the day is out. I am willing to be here and it will come about. You said you do not want to filibuster, is that not right, I say to my good friend from Maine?

Mr. MUSKIE. I never found that skill.

Mr. DOMENICI. You do not know of anyone on your side who intends to?

Mr. MUSKIE. There are a number of Senators, and the number seems to grow as the Senators focus on the implications of the legislation, who want to speak. There are a half dozen of us who have been involved in the Ribicoff substitute, including the distinguished chairman of the Public Works Committee (Mr. RANDOLPH), and he has amendments of his own to which he will address himself before too long, but if we could have some assurance—it does not necessarily have to be a time agreement—someone else may come here and make a motion to table—but if we can have some assurance of 6 hours——

Mr. RANDOLPH. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Perhaps it will help the debate if I say I will not move to table before, say, 6 o'clock or before—or unless we have the opportunity to have a unanimous-consent agreement in the meantime.

Frankly, at 6 o'clock if somebody has to have more time, then I would be inclined to go along with that. But there is one thing about a motion to table hanging over one's head and that is it does get people over on the floor to debate.

Mr. MUSKIE. I would rather be holding it up.

Mr. JOHNSTON. I will tell the Senator from Maine, if it will suit him, that I will not move to table before 6 o'clock. Will that satisfy the Senator?

Mr. MUSKIE. Make it 7.

Mr. JOHNSTON. I would hope that we could be through by 7.

Mr. MUSKIE. Make it 7.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to my majority leader.

Mr. ROBERT C. BYRD. I hope, if it is going to be beyond 6 o'clock, that it will be tomorrow.

Mr. JOHNSTON. I think the Senator makes a good point.

Mr. MUSKIE. Yes; I think he does.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from West Virginia (Mr. RANDOLPH).

May we have order? The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, I think somebody ought to thank my senior colleague (Mr. RANDOLPH) for his patience and good nature and courtesy in yielding so many times, and I personally want to thank him.

Mr. RANDOLPH. I thank the majority leader. It is my desire always—and I said it during the remarks I made—it was my desire to work very closely with all the individuals and committees concerned on this important matter because we are not leaving an energy crisis, we are in it, and perhaps will be even more deeply in it in the months and years ahead.

(Further remarks by Mr. RANDOLPH and a colloquy in connection therewith are printed earlier in the RECORD at the conclusion of Mr. RANDOLPH's previous statements.)

Mr. STAFFORD. Mr. President, as the Senate begins consideration of S. 1308, I wish to make a few observations regarding the need for this legislation and some of its specifics.

Let me say at the outset that there is considerable doubt in my mind as to exactly to what kinds of projects the Energy Committee intends this bill to apply. I shall go into more detail on that in a minute, but I am puzzled, since this legislation was first proposed, as this Senator understands it, to help build synthetic fuel plants that would lessen our dependence on foreign oil. But I now understand that this bill will probably be used for projects like deep-water oil ports or refineries, and that these ports or refineries could very well be used to refine crude from overseas sources.

Frankly, I am helpless to understand how a deepwater oil terminal to unload foreign crude in the Delaware Bay will lessen the death-grip which other countries have on our energy supplies and our economy. That kind of policy is not avoiding disaster, but inviting it. It is possible, I concede, that I am misreading this bill, and if so, I shall be glad to have the distinguished chairman and ranking minority member of the Energy Committee assure me that these kinds of projects will not be expedited under this bill.

Setting that issue to one side for a minute, I should like to make one other preliminary observation. That concerns the bill's underlying premise that if the Nation needs energy, the legitimate concerns of State and local citizens and their government must be overriden.

Quite aside from the specifics of S. 1308—by that I mean the particular Federal, State and local laws which it will affect—I am concerned about the precedents which it establishes for preemption of State authority and the delegation of legislative power.

Section 6 of S. 1308 in describing the "Power and Authority" of the Energy Mobilization Board states:

> (h) The Board may alter Federal, State and local law only as authorized by sections 13, 17, 18, 19, 21, 22, 28, 31, 34 and 36 of this Act.

The sections enumerated deal with the National Environmental Policy Act, agency deadlines, agency procedures, judicial review and substantive requirements of law developed or implemented in the future to protect the public from hazards not effectively addressed by present requirements. Section 6(h) sets forth an unprecedented delegation of authority by Congress to an executive agency—not simply to administer or implement the laws but to "alter" the laws. Not a particular law, but any law—Federal, State, or local.

Section 6(h) makes it clear that S. 1308 is designed to empower the Board to use its authority to affect Federal, State and local agencies' administration of substantive laws. The Board would exercise legislative, executive and judicial functions over Federal, State and local agencies alike. Such a concentration of power is unprecedented and far in excess of what is either necessary or desirable to expedite energy projects.

In addition, S. 1308 empowers the Board to take over Federal, State and local agency functions. Section 17 of S. 1308 authorizes the Board to set a schedule for Federal, State and local decisions and to impose procedures on Federal agencies. If State Governors fail to cooperate with the Board, the Board would be empowered to "instruct [State or local] agencies directly," (section 16(b), and see section 17(c)). Section 21 of S. 1308 states:

> (a)(1) If any Federal, State or local agency has failed to make a decision or take an action within the time required by a Project Decision Schedule, the Board may make the decision or perform the action.

Although the Board would be required to apply the "decision criteria" that would have been applied by the agency, it would not be required to comply with agency policies or procedures.

This provision may very well cause delays and bad decisions, since the agencies the Board would displace have specialized expertise and experienced staffs. Whatever their failings, they are better qualified to perform the functions assigned to them by law than the Board would be. Any agency that failed to meet a deadline would already have months of work invested in data collection and analysis. The Board would be compelled either to develop its own record and expertise, a time-consuming exercise, or to render an ill-informed, poorly justified decision that would be vulnerable to litigation. Within a few years, with dozens of projects designated, the Board would require an enormous staff to process decisions taken over from a variety of Federal, State and local agencies involving expertise from land-use planning to toxic waste disposal. The members and chairman would be entangled in the net of their own power, unable to carry out all of their functions. The Board would become the ultimate unresponsive bureaucracy.

Finally, the Board's mission is to get projects built, not to protect the public. The Board would inevitably bring that outlook to decisions taken over from agencies, rendering decisions reflecting its own specialized set of priorities, not those set by the statutes administered by the displaced agencies.

I find it hard to believe that the national need for energy is inconsistent with the fundamental principle of Federalism upon which the Nation is based. Although the principle may be honored more in the breach than respect these days, it nevertheless remains a sound integral part of the United States. Each of the 50 States is a sovereign entity of the United States. Where the national security or some other interest is of paramount importance and where the national interest is inconsistent with State exercise of authority, the principle of federalism must yield. But that should be used only sparingly and only where absolutely necessary. At a time when the individual States have shown more willingness to develop energy resources than the U.S. Government, at a time when the bulk of the energy resources of this country are owned by the Federal Government and not the States, it seems inconceivable to me that they should be preempted in such a blanket fashion.

I think that such an approach is objectionable as a matter of policy and foolhardy as a matter of practice. If the Members of the Senate believe that a project can be forcibly jammed down the throats of an objecting public, they are deceiving themselves. People who object to a project will fight it every step of the way, from construction through operation. Those who doubt the simple truth of this proposition need look only to the Boston Tea Party two centuries ago or Seabrook demonstrations a few weeks ago. The essential character of the American people has not changed in all that time, nor has their response to a dictatorial and central government. Federal force will not expedite projects, it will delay them. But again, perhaps I misread this bill and its potential.

Having expressed those two general concerns, I would like to move on to some specifics. First, I think the Members should understand some of the general health, safety, and environmental problems which could be associated with the projects this bill will place on the so-called "fast track." Second, I think the Members should be alerted to a more personal concern of mine regarding the presumption of the Energy Committee in directly and indirectly amending statutes under the jurisdiction of other committees.

IS THERE A NEED FOR S. 1308?

When it became apparent several weeks ago that the Senate would soon be considering either S. 1308 or something very much like it, I asked the Library of Congress to provide me with several case studies of energy projects. The case study review was to ascertain the causes of delays in the selected energy projects for the purpose of determining whether a "fast track" bill was necessary.

Mr. President, the report was printed in the RECORD last Thursday.

The Library selected the following energy projects for review:

1. Kaiparowits—a large, coal-fired, mine-mouth electric generating facility located in Utah, originally proposed in 1962 and finally abandoned in 1976.

2. Dickey-Lincoln—a hydroelectric project, originally authorized in 1965, on the St. Johns River in Maine; bills both to fund construction and to deauthorize the project are pending before Congress.

3. Eastport refinery—proposed in 1973 to be built in Maine, the project at present is stymied, in part because of EPA's rejection of certain permits.

4. Hampton Roads refinery—proposed in 1975 to be built in Virginia, the project is at present awaiting a decision by the Corps of Engineers.

5. SOHIO pipeline (PACTEX)—proposed in 1975 as a route for transporting excess Alaskan crude oil to the Gulf States area, the project was abandoned in 1979 after delays in approval reportedly pushed its completion date beyond the time when costs could be expected to be recovered, based on expected oil supplies.

6. Oil shale—leasing programs began in 1971, but progress has been slow and commercial production is not expected before 1983.

These six cases were chosen by the Library of Congress for reasons of convenience, familiarity, and diversity.

Despite their readily apparent differences a review of the case studies points to two basic conclusions: First, that it is difficult to attribute the delay or foreclosure of construction of energy development facilities solely to substantive Federal environmental protection laws; and second, that usually it appears that a general lack of consensus on the need for the project, at least as proposed, underlies the difficulty promoters of the projects have faced in trying to obtain necessary regulatory approvals.

For each of the six case studies, factors other than environmental statutes were important in causing delays.

For Kaiparowits, changing environmental requirements, particularly air pollution control requirements, did substantially disrupt planning; however, at the same time changes in the economy and energy demand were also important.

For Dickey-Lincoln, present delays can be attributed to congressional hesitation to authorize funding for the project; it may be that some of that reluctance stems from environmental considerations, but it is Congress which is in a position to decide whether it should go ahead.

For the Eastport refinery, the proposal is at present stopped because of the rejection of a permit on the grounds that approving it would violate the Endangered Species Act; however, there is every reason to believe that numerous other probable roadblocks to the project exist, including international considerations that would transcend domestic environmental protection constraints.

For the Hampton Roads refinery, the proposal is at present awaiting a final decision on a key permit.

For the SOHIO pipeline (PACTEX), the working out of new air pollution regulatory procedures was a major cause of delay; however, at the time the project was abandoned these had been overcome, and it appears that environmental requirements would not have foreclosed construction; this, then, is a case where delays caused the economics of a project to cross a threshold of unacceptability.

For oil shale development proposals, the issue is one of developing new technologies; environmental controls are but one of the uncertainties affecting their development.

In short, although environmental considerations have been important constraints on the proposers of these projects, they have not been the sole constraints. In fact, the case studies suggest that the regulatory delays and obstacles suffered by these projects most often arose from underlying doubts about the projects, and that these doubts have often found their readiest expression in regulations based on environmental considerations.

In some of the cases, the underlying uncertainty arises from the fundamental question of whether the project is needed at all; in others it arises from uncertainty about siting, about alternatives, or some other aspect of the proposal. Of course, for virtually any proposal, someone will have objections or criticisms; but the more that this type of uncertainty is present, the more objectors there are likely to be and the greater their legitimacy. Most importantly, the greater the doubts, the more likely it is that critics will find sympathetic ears among decisionmakers. This, combined with the multitude of regulations and of governmental interests involved, increases the probability that a veto or holdup will occur at one or more of the numerous decision points.

Two of the case studies shed light from different angles on the nature of this source of delay: The PACTEX proposal illustrates that when consensus on the need for a project exists, it does move ahead; the Dickey-Lincoln project illustrates that when consensus does not exist, the absence of regulatory holdups does not mean it will automatically go ahead.

The Sohio pipeline proposal was widely perceived as being in the national interest. Much of the delay concerned how to implement new procedures, but some hardline objectors existed, too. However, the general consensus that the project should go forward was reflected in a number of ad hoc efforts to clear roadblocks; and a bill passed the California legislature to resolve litigation challenging approval of the project. It appears that the underlying consensus in favor of the project was sufficient to get most of the roadblocks cleared (albeit too late for the economics of the project to be sustained).

In the Dickey-Lincoln case, the roadblock is legislative, not regulatory. And in this congressional arena where, presumably, action by consensus would be possible without the project having to run the regulatory maze, funding is still doubtful. It appears, then, that consensus for or against the project is lacking, so it languishes.

This illustrates that where an underlying consensus is lacking, projects will not necessarily go forward even if there are no significant regulatory hurdles; or put the other way, the delays of the regulatory hurdles generally seem to reflect a genuine uncertainty about the proposal. Indeed, when clear agreement on the national essentiality of any particular project is lacking, achieving final approval becomes exceedingly difficult—in either the regulatory or the legislative arenas. But once a critical level of consensus is reached relief is forthcoming. The opportunity for Congress to clear the way for energy projects is illustrated by the enactment of the TransAlaska Pipeline Act.

The studies clearly indicate that the real need in this area is not a new bureaucracy, but leadership. Perhaps the Energy Mobilization Board will provide that, although I personally would prefer to see such a function performed by one elected to lead, such as the President of the United States. Whether this Board will be able to confer a consensus of need on projects is doubtful in my mind. I honestly question whether a group of three political appointees who enjoy no particular expertise or public confidence can, by fiat, persuade the citizens of a State or local government that a project is vitally necessary to the national security. In many cases, the stakes to these people will be not energy, but a way of life for them, their families, and their children. The proposals to develop synthetic fuel programs illustrate this very well.

HEALTH AND ENVIRONMENTAL PROBLEMS ASSOCIATED WITH SYNTHETIC FUELS

SUMMARY

We can fully expect a wide variety of health, safety, and environmental hazards to be created by nonconventional energy projects. Their exact nature will not be known until a few commercial-scale facilities are actually constructed and placed in operation. Indeed, one purpose of constructing the first generation of these facilities is to identify with certainty the risks they create. If these projects are exempted (or "grandfathered," to use a popular term) from later-imposed laws or regulations, there will be no way to eliminate the hazards discovered in operating them. Although it may seem unlikely that public pressure could not force remedial action, it is worth remembering that industry, or even the Government itself, will have invested literally billions of dollars in projects which could be made unprofitable through the implementation of a single law or regulation. The incentive to escape the grasp of remedial effort will be tremendous.

One special problem believed to be associated with all synthetic fuel projects is worthy of special mention. Oil shale, coal liquefaction, and coal gasification programs all essentially modify naturally occurring organic compounds by adding some elements (notably hydrogen), and removing others, usually under great heat and in the absence of oxygen. As such, they are in effect creating a wide array of new synthetic organic compounds. These compounds will vary from one place to another because geology does. Many of these mineral-bearing strata also contain heavy metals such as cadmium, lead, nickel, et cetera.

A massive synthetic fuel program could result not only in localized releases of these chemical unknowns, but also nationwide distribution of these new compounds, which, coincidentally, are energy sources. In these respects, synthetic fuel programs are very different from conventional energy facilities.

BACKGROUND

Three types of nonconventional energy technologies are prime candidates for the Energy Mobilization Board "fast track." They are oil shale conversion, coal liquefaction, and coal gasification. Immediate emphasis is likely to be placed on oil shale and coal liquefaction, because liquid fuels are in the most demand in this country and are most vulnerable to interruption by foreign suppliers. However, with dependence on foreign gas also increasing, projects to gasify coal are also likely to be placed in a priority status.

The health, safety and environmental consequences of each of these technologies are unknown at present, but research indicates that each may produce unusual or even unique problems. Many of these problems, especially those of a regional or local nature, cannot be determined without constructing one or more commercial scale plants.

A commercial shale oil shale project, for example, is expected to consume 50,000 acre feet of water per year. These plants would be constructed in the arid regions of Colorado, Wyoming, or Utah, where experts believe the ground water supplies will be adequate—but just barely—to meet the ultimate oil shale needs. However, if the experts are wrong and the water drawdown by oil shale plants causes an increased salinity level in the Colorado River—a possibility that is considered very real by some hydrologists—the grandfather clause could preclude later laws or regulations to solve this problem. An increase in the salinity level of the Colorado is subject to treaty. Comparable questions arise with respect to the emissions, effluents, and wastes produced by these plants.

The exact nature and extent of the consequences cannot be determined by further debate, however. Answers must come from construction and operation of commercial scale facilities. It is only after, for example, an oil shale plant is built and operating that its impacts on ground water supplies and salinity concentrations can be determined. Similarly, only the construction and operation of commercial scale coal liquefaction and gasification plants will tell us what health, safety, and environmental hazards they pose.

Despite the general lack of knowledge, potential problems have been isolated.

OIL SHALE FACILITIES

Oil shale projects produce a form of liquid crude by heating oil-bearing shale and, in effect, sweating the fluids out. This can be done in two ways: First, mining the rock and heating it in a separate vessel called a retort; or second, tunneling extensively through the shale formations, dynamiting the rock to underground rubble, then heating it and drawing off the produced liquids and gases. The first method is commonly referred to as "surface retorting" and the second as "in situ" retorting.

In addition to mining and retorting facilities, an oil shale project may also require associated refining capacity (to refine the produced liquids and gases) and new electric generating capacity (about one coalstrip-sized plant for every eight surface retorts).

The environmental questions concerning oil shale facilities have been summarized as follows:

First. How much groundwater will be intercepted during mining?

Second. What will the quality of potential discharges be?

Third. Can groundwater quality be protected during and after in situ retorting?

Fourth. Can processed shale be disposed of properly without degrading ground or surface water quality?

Fifth. Will revegetation of processed shale be successful over the long term?

Sixth. What are the concentrations of various sulfur species in retort off-gas streams?

Seventh. What will be the air quality and visibility impacts on existing areas?

Eighth. What are the expected trace element concentrations in air, water, and solid waste residual streams?

Ninth. Is conventional pollution control technology directly applicable to oil shale residuals?

Tenth. What is the expected population growth associated with the development of an oil shale industry?

COAL LIQUEFACTION

Coal liquefaction is the process of converting pulverized coal to synthetic liquid fuels, also known as syncrude. Coal liquefaction processes include some technologies which are well established and others which are still in the demonstration stage. The most well established process is currently employed by South Africa in its SASOC plant.

Since coal liquefaction plants are already operating on a commercial scale elsewhere in the world, it is likely that some SASOL-type proposals would be included as priority energy projects in the first round of Energy Mobilization Board designations. If proposals for projects utilizing the other technologies were not included in the first round of designations, they would almost certainly soon follow.

With the possible exception of the SASOL-type process, the health, safety, and environmental hazards posed by coal liquefaction processes are uncertain. Since many of the intermediate steps are similar to those utilized in coal gasification, the charts which I shall insert in the RECORD will help indicate possible problem sources for liquefaction as well.

COAL GASIFICATION

Coal gasification is the production of gaseous fuel from pulverized coal. The processes are divided according to whether the gas they produce has a high, low, or medium energy content. The energy content is measured in Btu's, so the projects are referred to high-, low-, or medium-Btu.

Of the three, low-Btu gasification is the most well established commercially, followed by medium-Btu technology. Each of these is adequate for some types of business or industrial processes, but not as a substitute for naturally occurring gas. Natural gas has a high Btu content, and in order to raise synthetic gas to that energy level, considerable processing is required. It becomes quite similar to coal liquefaction, both in terms of the technologies employed and the health, safety, and environmental consequences.

I ask unanimous consent that tables identifying the health, safety, and environmental problems which may be associated with coal gasification projects be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DISCHARGES FROM LOW AND MEDIUM-BTU GASIFICATION OPERATIONS[1]

Waste stream source and waste stream	Description	Remarks
COAL PRETREATMENT OPERATION		
Storage, handling, and crushing/sizing:		
Dust emissions	Air emission from coal storage piles, crushing/sizing and handling will consist primarily of coal dust. The amouht of these emissions will vary from site to site depending on wind velocities and coal size.	Asphalt and various polymers have been used to control dust emissions from coal storage piles. Water sprays and enclosed equipment have been used to control coal handling emissions. Enclosures and hoods have been used for coal crushing/sizing.
Water runoff	The data on dissolved and suspended organics and inorganics in runoff water produced for coal storage piles and dust control or suppression processes are minimal.	Proper runoff water management techniques have been developed. More data on the characteristics of this waste water need to be obtained to determine the need for treating this effluent.
Solid wastes from crushing and sizing	This stream consists of rock and mineral matter rejected from crushing and sizing coal. There are few data concerning the trace components in this stream and the potential of these components to contaminate surface and ground waters is not known.	This waste has been disposed of in landfills. Leaching data need to be obtained to evaluate the potential environmental impacts associated with this solid waste.
Coal drying, partial oxidation and briquetting: Vent gases	This emission will contain coal dust and combustion gases along with a variety of organic compounds liberated as a result of coal devolatilization reactions. There are currently few data on the characteristics of these organic species.	The organic compounds need to be characterized to determine whether this discharge stream needs to be controlled. Afterburners in addition to particulate collection devices may be required.
COAL GASIFICATION OPERATION		
Coal feeding device: Vent gases	There are currently no data on the characteristics of these gases. These vent gases may contain hazardous species found in the raw product gas exiting the gasifier.	Vent gases from coal feeders can represent a significant environmental and health problem. Control of these emissions is required; however, the characteristics of these gases need to be determined to implement an adequate control method.
Coal gasifier:		
Start-up vent stream	There are currently no data on the composition of start-up vent stream. Depending on the coal feedstock, there may be tar and oil aerosols, sulfur species, cyanides, etc., in this stream; therefore, control of pollutants generated during start-up is required.	This stream can be controlled using a flare to burn the combustible constituents. The amount of heavy tars and coal particulates in this stream will affect the performance of the flare. Problems with tars and coal particles can be minimized by using charcoal or coke as the start-up fuel.
Fugitive emissions	There are no data available on these emissions. They can be expected to contain hazardous species that are in the raw product gas such as hydrogen cyanide.	These emissions will determine the extent of workers' exposure to hazardous species and define the need for continuous area monitoring of toxic compounds and personnel protection equipment.
Ash removal:		
Vent gases	There are currently no data on the characteristics of this discharge stream. This stream may contain hazardous species found in the raw product gas and may require control.	Many sources of contaminated water may be used for ash quenching. Therafore, volatile organics and inorganics may be released in these vent gases. Characterization of emissions is needed to define control technology elements.
Spent ash quench water	There are limited data on this discharge stream which will contain dissolved and suspended organics, and inorganics. This stream will require control.	Characterization of this waste stream is required to define control technology requirements. Further treatment of this stream is essential.
Ash or slag	There are limited data on the characteristics of the ash and slag, especially concerning the amount of unreacted coal, trace elements, and total organics.	Leaching tests need to be done on this solid waste to determine whether further treatment is necessary before ultimate disposal. The organic content of the liquor used to quench the ash may affect the final disposal of the ash.
GAS PURIFICATION OPERATION		
Particulate removal: Collected particulate matter	There are few data on the characteristics of this solid waste stream, which will contain unreacted carbon, sulfur species, organics and trace elements.	Characterization of this stream is needed to determine whether it can be used as a byproduct or whether further treatment is necessary before disposal. Current data indicate that there is a significant amount of unreacted carbon in this stream and it may be used as a combustion fuel.
Gas quenching and cooling: Spent quench liquor	There are few data on the composition of this stream; however, current data indicate that there are significant quantities of suspended and dissolved organics (primarily phenols) and inorganics present.	Characterization of this stream will determine the type of water pollution control techniques required to treat the spent quench liquor. These techniques will vary depending upon the quantity and composition of this effluent stream.
Acid gas removal:		
Tail gases	There are few data on the composition of these tail gases, which will contain sulfur species and hydrocarbons.	These gases are the primary feedstock to the sulfur recovery and control processes. Trace constituents such as hydrocarbons, trace elements, and cyanides will affect the performance of these sulfur recovery processes.
Spent sorbents and reactants	No data have been reported on these streams, which will contain hazardous species such as cyanides, heavy metals, and organics and will require further treatment before disposal.	Characterization of this stream is required if it is to be treated using on-site pollution control devices.

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[1] Source: "Environmental Impact of Synthetic Fuels Development", Chemical Engineering Process, June 1979.

Mr. STAFFORD. Mr. President, although only low- and medium-Btu projects are described, similar hazards may be posed by high-Btu projects. We are less sure of these, however, since the technology for high-Btu gasification is at a much less advanced stage.

I ask unanimous consent to have printed in the RECORD other tables and charts indicating the types of hazardous constituents which may be associated with synthetic fuel production.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POTENTIALLY HAZARDOUS SUBSTANCES SUSPECTED PRESENT IN COAL CONVERSION PLANT PROCESS STREAMS[1]

Chemical classification, compound	Phase
Acids and anhydrides:	
Maleic acid	Liquid.
Cresylic acid	Liquid.
Sulfuric acid	Liquid.
Anthraquinone disulfuric acid	Liquid.
Alcohols:	
Aliphatic alcohols	Liquid.
Aromatic alcohols	Liquid.
Amines:	
Diethylamines	Gas.
Methylethylamines	Gas.
Ammonia	Gas/liquid.
Inorganic salts: Ammonium sulfate	Liquid.
Carbonyl compounds:	
Ketones	Gas/liquid.
Aldehydes	Gas/liquid.
Combustion gases:	
Carbon monoxide	Gas.
Sulfur oxides	Gas.
Nitrogen oxides	Gas.
Heterocyclics:	
Pyridines	Gas/liquid.
Pyrroles	Gas/liquid.
(Mono) benzofurans	Gas.
Hydrocarbons:	
Bezene	Gas/liquid.
Toluene	Gas/liquid.
Xylene	Gas/liquid.
Aliphatics	Gas.
Olefins	Gas.
Phenols:	
Phenols	Gas/liquid.
Dimethyl phenol	Liquid.
Cresols	Gas/liquid.
Xylanols	Gas/liquid.
Phenyl phenols	Gas.
Alkyl phenols	Gas.
Alkyl cresols	Gas.
Polynuclears:	
Anthracenes	Gas.
Benzo(a)pyrene	Gas.
Benzo(e)pyrene	Gas.
Perylene	Gas.
Benzo (g, h, i) perylene	Gas.
Coronene	Gas.
Phenanthrene	Gas.
Fluoranthrene	Gas.
Chrysene	Gas.
Benzo(a)anthracene	Gas.
Acridine	Gas.
Benzo(a)anthrone	Gas.
Dibenzo(a, l)pyrene	Gas.
Dibenzo(a, n)pyrene	Gas.
Dibenzo(a, i)pyrene	Gas.
Methyl pyrene	Gas.
Indeno(1, 2, 3-c, d)pyrene	Gas.
Benzoacridine	Gas.
Sulfur compounds:	
Sulfides	Liquid.
Sulfonates	Liquid.
Mercaptans	Gas.
Thiophenes	Gas/liquid.
Hydrogen sulfides	Gas/liquid.
Methyl mercaptans	Gas/liquid.
Carbon disulfides	Gas.
Carbonyl sulfide	Gas.
Methyl thiophene	Gas.
Trace elements:	
Vanadium	Gas/liquid.
Nickel	Gas.
Lead	Gas.
Cobalt	Gas.
Molybdenum	Gas.
Strontium	Liquid.
Beryllium	Gas.
Selenium	Gas/liquid.
Cadmium	Gas.
Mercury	Gas.
Antimony	Gas.
Arsenic	Liquid.
Phosphorus	Gas/liquid.
Manganese	Gas.

Footnote at end of table.

Chemical classification, compound	Phase
Organo-metallics:	
Nickel carbonyl	Gas.
Cobalt carbonyl	Gas.
Fine particulates:	
Sulfur particulates	Gas.
Catalyst fines	Gas.
Coke	Gas.
Coal dust	Gas.
Cyanides:	
Hydrogen cyanide	Liquid.
Ammonium thiocyanate	Liquid.

[1] U.S. Energy Research and Development Administration. Synthetic Fuels Commercialization program. ERDA-1547. December 1976. p. IV-19.

TRACE ELEMENTS RELEASED DURING COAL GASIFICATION[1]

Element	Concentration (in raw coal parts per million)	Portion emitted during gasification process (percent)
Antimony	0.15	33
Arsenic	9.6	65
Beryllium	.92	18
Cadium	.78	62
Chromium	15	0
Lead	5.9	63
Mercury	.27	96
Nickel	12	24
Selenium	1.7	74
Tellurium	.11	64
Vanadium	33	30

[1] Data are for the Hygas process using Pittsburgh No. 8 coal. Ibid. pp. IV-17.

Source: A. Attari, Fate of Trace Constituents of Coal During Gasification,: EPA-650/2-73-004, Environmental Protection Agency, Research Triangle Park, N.C., August 1973.

SPECIFIC PROVISIONS OF S. 1308

Mr. STAFFORD. In addition to my general concerns about the possible adverse consequences of massive synthetic fuel development, I have some specific questions I would like to raise regarding S. 1308 itself.

Composition of the Energy Mobilization Board—S. 1308 provides for a three-member Board appointed by the President and confirmed by the Senate. Board members would serve only part time and would not be subject to conflict of interest laws. Is there any good reason why a board member should vote on a project in which he has a financial stake?

DESIGNATION OF PRIORITY ENERGY PROJECT

S. 1308 requires that a project not be designated unless the Board finds that it is likely to reduce directly or indirectly the Nation's dependence on foreign oil. This is an extremely loose criterion and the designation decision is not judicially reviewable. Therefore, even a tightening of the criterion would seem to be meaningless because the Board is not accountable for justifying its decisions once a designation is made.

I prefer that the Board be required to make a finding that a project will contribute a 50 percent reduction in the use of imported oil by 1990, the President's goal, and that it needs the fast-track system to make that contribution to the goal. This is much preferable a set of criteria in that it provides a specific measuring rod against which the project can be evaluated, and it provides more guidance to the Board in the designation decision. The designation should also be judicially reviewable, which will deter the Board from abusing its discretion in this area.

DEADLINES FOR AGENCY ACTION

S. 1308 requires the Board to promulgate a project decision schedule with binding deadlines for every agency action relating to a priority energy project. That deadline may be no longer than 2 years from the date of designation, unless the Board determines that a longer period is necessary. This kind of arbitrary deadline has no reference to the particular requirements of any statute, which may be longer or shorter than a uniform deadline imposed for every action. The 2 years includes the time during which the applicant submits his permit application and the agency determines exactly what must be contained in the application. This process in itself has proved time-consuming; the actual analysis by an agency once an application is complete can, in most cases, be made expeditiously. A 2-year deadline for the entire permit process may be too short in some cases and, therefore, trigger the provision in S. 1308 authorizing the Board to make the permit decision in lieu of the agency.

A preferable approach would require the Board to set deadlines binding on agencies which must perform actions relating to the approval of a priority energy project. That deadline would be no longer than 1 year after the completion of a permit application by the applicant. This approach provides the flexibility absent in a uniform deadline. It also provides an incentive to both the applicant and the agency to determine the contents of an application and to complete the application as soon as possible.

WAIVER OF PROCEDURAL REQUIREMENTS

S. 1308 authorizes the Board to adopt special procedures for Federal agencies governed by the deadlines set by the Board. The bill provides that such procedures must be consistent with all statutes, rules, and regulations promulgated by the agencies with enumerated exceptions. The exceptions permit the consolidation of the proceedings with other agencies, the establishment of permit requirements to eliminate unnecessary duplication, the substitution of legislative-type hearings in lieu of trial-type hearings, and shortening the specific time periods required by statute, regulation or rule for agency actions. This approach is questionable, in the opinion of this Senator, because the Board may impose such special procedures on an agency without any regard for the particular statutory requirement that the agency is implementing and the particular procedural needs associated with it.

ENFORCEMENT OF DEADLINES

S. 1308 authorizes the Board to perform any agency decision in lieu of an agency which has missed its deadline. This approach is objectionable for a number of reasons. First, in making a substantive decision for another agency the Board has only one mission in mind, and that is to expedite construction of the priority energy project; second, it requires a duplication of expertise in the Board as well as a duplication of analysis already partially complete by an agency; and third, this approach is more time consuming in that the Board must begin its analysis after the agency has missed its deadline.

S. 1308 also authorizes the Board to seek a court order compelling agency action once the deadline has been missed, as an alternative enforcement mechanism. This is such a preferable approach that it should be the only one available.

GRANDFATHER PROVISION

S. 1308 contains a grandfather provision authorizing the Board to waive the application of any Federal, State or local statute, regulation or requirement enacted or promulgated after the commencement of construction of a priority energy project. Commencement of construction is broadly defined to include any activity from site clearance through to operation of the facility. This approach fails to recognize that new requirements are often enacted or promulgated as specific remedial responses to problems which were unknown or unknowable at the time a project was initially approved. As I have indicated earlier, such a prohibition would effectively prevent corrective action needed to protect public health or the environment. In addition, the Energy Committee has not provided any information indicating that this sort of substantive waiver is, in fact, necessary as a result of past problems.

THE NATIONAL ENVIRONMENTAL POLICY ACT

Finally, S. 1308 amends the National Environmental Policy Act by authorizing the Energy Mobilization Board to designate a lead agency before preparation of an environmental impact statement. The Board is also authorized to determine whether a Federal action requires an impact statement. This changes the the existing procedure substantially, although it has been satisfactory. In addition, the Board is authorized to consolidate Federal, State, and local impact statement requirements into one Federal consolidated statement. The one single statement must, however, cover the matters required in any State or local statement.

JURISDICTION ISSUES

I will not discuss the merits of the changes which S. 1308 proposes to make in the National Environmental Policy Act, because that provision raises the serious question of what authority the members of the Energy Committee have to amend laws which in the opinion of many Senators lie within the jurisdiction of many committees. That matter has been discussed earlier this afternoon in the Senate.

When the matter of Senate consideration of S. 1308 first arose in July, the leadership of the Energy Committee agreed to abide by an informal referral process. That also has been discussed earlier here in the Senate this afternoon.

I think, Mr. President, that I had discussed matters that have concerned me long enough. I hope that the members of the Energy Committee recognize the serious precedent they are setting. Environmental laws may not be very popular these days with some segments of the society, but neither is the Department of Energy.

I say, though, that I agree that steps must be taken to expedite our entry into the synthetic fuels area as rapidly as we can and for that reason I have joined as a cosponsor with the distinguished Senator from Maine (Mr. Muskie), the distinguished Senator from Connecticut (Mr. Ribicoff), and several others in cosponsoring S. 1806, which we believe, moves us forward along the Energy Mobilization Board tract effectively but without creating some of the unknown dangers which we perceive in the committee bill.

Mr. President, I am glad to yield for a question to Senator Melcher.

Mr. MELCHER. Mr. President, I thank my friend from Vermont. I listened with a great deal of interest to his very thoughtful and excellent analysis of S. 1308.

I do wish to make one point clear and I hope the Senator has not missed it, and this is the purpose of my question.

In discussing whether or not an oil board or refinery or some energy project should be built within a State, I hope the Senator has not missed the point that is extremely important to me, and that is that S. 1308 does not interfere or dilute a State's right under its own law to say no, a flat no.

I hope the Senator has not missed that point because it is absolutely essential, I think, that that be maintained in this law, if it is enacted by Congress, and that we preserve that.

I hope the Senator is very cognizant of that point in S. 1308.

Mr. STAFFORD. I will say to my distinguished friend that he may well be satisfied on this point, but that the Senator from Vermont would have to examine it further to make sure he agreed with the Senator from Montana.

Mr. MELCHER. I ask the Senator from Vermont or any other Senator to alert me to any construction or interpretation of the bill which either dilutes or interferes with or waives the State's right to say "no" to an energy project in a particular State under their own law, because I would have serious trouble with the bill if that were the case.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. STAFFORD. I yield to my distinguished friend from Maine.

Mr. MUSKIE. May I say to my distinguished friend from Montana that I intend to cover that at some length because I do not believe it is quite so clear-cut as the Senator now believes, and I hope to get into that in quite an extensive discussion because Governors, State legislators, and administrators of State and local programs in this field are very much concerned about that very point.

I will try to cover it. But at the moment I simply want to express my appreciation to the distinguished Senator from Vermont for his excellent presentation. He has covered significant points in the pending legislation and in the substitute, which I hope will be useful to the Senate. I expect to expand on some of those, hopefully usefully, before the afternoon is over. At this time I simply want to compliment him on his contribution.

Mr. STAFFORD. I thank the distinguished Senator, and I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont yields the floor. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I simply want to say that we are very close to getting an agreement on a time, an agreement the substance of which, when we ask for it, will be that the vote will occur tomorrow on the Muskie-Ribicoff amendment at 12 noon. We would go today until 6 o'clock, and we would come in tomorrow at 10 and vote at 12 noon and, hopefully, we would not have any amendments in the meantime to vote on.

I have a technical amendment which I do not believe anyone will object to, and which probably will not require a rollcall vote. But I just want him to understand on the floor, and I want to make this announcement on the floor, that that is the direction in which we are moving, and we should be in a position to ask for that unanimous-consent very shortly, I believe.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MUSKIE. I understand those talks are going on. That result would be agreeable to me and, and I hope, to other Senators who are interested.

UP AMENDMENT NO. 586

Mr. JOHNSTON. Mr. President, at this time I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Johnston) proposes an unprinted amendment numbered 586.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 140, line 7, insert "priority energy project" in place of "critical energy facility".

On page 140, line 12, insert "project" in place of "facility".

On page 140, amend lines 18 to 19 to read: "construction" means that the applicant has obtained all necessary preconstruction ap-".

On page 140, line 22, insert "project" in place of "fa-".

On page 140, line 23, delete "cility".

On page 141, line 3, insert "applicant" in place of "owner or operator".

On page 141, line 4, insert "project" in place of "facility".

On page 140, lines 8 to 17, strike all after "such waiver.".

On page 141, line 8, insert the following after the word "continuous.":

"(c) Any waiver pursuant to this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived.

"(d)(1) No waiver of any requirement pursuant to this section shall take effect unless the Chairman and two of the three members of the Board find, after taking into account any terms or conditions imposed upon or accompanying such waiver, that the waiver is necessary to completion of the priority energy project in a timely fashion.

"(2) No waiver of any requirement pursuant to this section shall take effect unless the Chairman and two of the three members of the Board find, after taking into account any terms or conditions imposed upon or accompanying such waiver and after consulting the agencies responsible for implementing the affected laws, that the waiver will not result in any condition which may reasonably be anticipated to unduly endanger the public health or safety.

"(e) No waiver pursuant to this section shall modify in any way—

"(1) any law, regulation or rule of law governing labor management relations, pensions, working conditions (including health and safety) or minimum wages and maximum hours of employment;

"(2) any law, regulation or rule of law guaranteeing equal employment opportunities or prohibiting discrimination on the basis of race, creed, sex, or national origin;

"(3) any law prohibiting any act similar to any crime at common law;

"(4) any antitrust law of the United States.

"(f) No waiver isssued pursuant to this section shall continue in effect after the last day of the fifth year after such waiver is issued or renewed unless the Board finds, after consulting with the appropriate agencies, that the conditions in subsection (d) of this section are satisfied at such time. If such conditions are satisfied the Board may renew the waiver with or without modifying any conditions on such waiver, and with or without adding any new conditions to such waiver.

"(g) The power of the Board under this section shall be transferred to the President or his designee on the day the Board is abolished.

"(h) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any waiver pursuant to this section in accordance with the procedures for review established by this Act."

Mr. JOHNSTON. Mr. President, this amendment simply makes clear with reference to the provisions of the grandfather clause that the waiver is very narrow. Let me tell you the sections of the amendment, and I do not believe anybody will have any objection.

It provides that any waiver pursuant to this section—that is the grandfather section—"may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived." That is section (c). That means that if a State should come in with, in effect, an ex post facto law, that the Board in its judgment could condition the waiver of that ex post facto law based on a less stringent requirement.

Second:

(d)(1) No waiver of any requirement pursuant to this section shall take effect unless the Chairman and two of the three members of the Board find, after taking into account any terms or conditions imposed upon or accompanying such waiver, that the waiver is necessary to completion of the priority energy project in a timely fashion.

In other words, they have got to make that finding that it is a necessary waiver.

Section (d)(2) provides:

(2) No waiver of any requirement pursuant to this section shall take effect unless the Chairman and two of the three members of the Board find, after taking into account any terms or conditions imposed upon or accompanying such waiver and after consulting the agencies responsible for implementing the affected laws, that the waiver will not result in any condition which may reasonably be anticipated to unduly endanger the public health or safety.

So that is again a limitation on the power of the Board that the chairman and two of the three members must, in effect, make that finding that no health or safety requirements are being dispensed with.

Section (e) provides:

> (e) No waiver pursuant to this section shall modify in any way—
>
> "(1) any law, regulation or rule of law governing labor management relations, working conditions (including health and safety) or minimum wages and maximum hours of employment;
>
> "(2) any law, regulation or rule of law guaranteeing equal employment opportunities or prohibiting discrimination on the basis of race, creed, sex, or national origin;
>
> "(3) any law prohibiting any act similar to any crime at common law;
>
> "(4) any antitrust law of the United States.

Section (f) provides:

> (f) No waiver issued pursuant to this section shall continue in effect after the last day of the fifth year after such waiver is issued or renewed unless the Board finds, after consulting with the appropriate agencies, that the conditions in subsection (d) of this section are satisfied at such time. If such conditions are satisfied the Board may renew the waiver with or without modifying any conditions on such waiver, and with or without adding any new conditions to such waiver.

So they would have to come back in and get a renewal of the waiver after 5 years.

Next (g):

> (g) The power of the Board under this section shall be transferred to the President or his designee on the day the Board is abolished.

Finally, (h):

> (h) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any waiver pursuant to this section in accordance with the procedures for review established by this Act."

So there is court review to TECA under the grandfather clause amendments.

In effect, Mr. President, this amendment narrows and clarifies the scope of the grandfather clause. There is, to my knowledge, no objection to it, and I ask for its consideration at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. JOHNSTON. I might add, Mr. President, that this amendment responds to many of the concerns of the distinguished Senator from West Virginia (Mr. RANDOLPH), and I think it would go a long way toward satisfying anyone who has any concern about the grandfather clause waiver being too broad.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I yield.

Mr. DOMENICI. I ask unanimous consent that I be shown as a cosponsor, original cosponsor, of that amendment as it was introduced.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I will indicate from this Senator's standpoint that this is a clarification because we never intended the ex post facto provisions to apply to labor-management relations, pensions, minimum wages, which are the exclusions that are clearly identified in the amendment. We certainly did not intend a waiver where the public health or safety was involved, and that is another clarification.

So I commend the Senator for offering, and I am delighted to be part of it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I am pleased to join with my distinguished chairman of the Governmental Affairs Committee and with my former chairman of the Intergovernmental Relations Subcommittee as a principal sponsor of the substitute amendment.

Our amendment makes substantial reforms in our regulatory process while at the same time preserving the constitutional powers of our States and local governments. It expedites our critical energy projects, it brings certainty and accountability to energy regulation. It gets our country moving toward energy independence.

On the other hand, I want my colleagues to see S. 1308—the bill our amendment would be a substitute for—for what it really is: A serious erosion of the rights of State and local governments.

The Energy Committee bill empowers the Energy Mobilization Board to substitute its own decision for the decisions of State and local governments on such strictly local issues as zoning, land use planning, and building permits. It would permit the Federal Government to ride roughshod over local zoning boards, county commissions, city councils, and State agencies in order to get an expedited decision on energy projects.

I am concerned that S. 1308 would not be limited to energy projects which reduce our dependence on imported oil, but would also allow the Board to ramrod through deep water ports, pipelines through the coastal zones, refineries, and other projects that would not reduce our imported oil one drop.

As a matter of fact, Mr. President, one of my greatest concerns is the very broad definition given energy facilities, to include:

> Any physical structure, including any structure which incorporates active and/or passive solar devices, any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, or installation, or any combination thereof, which will facilitate energy conservation or invention, exploration, research, development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including, but not limited to, any facility owned or operated in whole or in part by Federal, State, or local government or any combination thereof;

It is my understanding, Mr. President, that a priority energy project can be determined by the Board, by a majority of the Board, without any judicial review; and I think that the language "energy facility" is so broad, so all inclusive, that it would be——

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. ROTH. Yes, I am happy to yield.

Mr. JOHNSTON. The designation of a priority project requires the concurrence of three, the Chairman plus two members of the Board.

Mr. ROTH. Yes, three of the four members would have to approve it. But the fact remains that the language is so broad, so all inclusive, that it seems to me we are going very, very far in permitting the Federal Government to intrude upon what have been considered traditional State and local rights.

We are not talking about just synfuel plants. We are not talking about just energy facilities that would reduce our reliance upon foreign oil. It could very well refer to facilities that expedite, as I understand, the utilization of imported oil.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. ROTH. I am happy to yield.

Mr. JOHNSTON. The grand compromise of this bill is that it deal with the very concern the Senator just mentioned, that is, the intrusion upon State and local rights.

Some of us on the committee frankly wanted to waive discriminatory State statutes such as the North Carolina State statute with specific reference to the refinery at Piney Point, which just flatly says, "You cannot build it here." We thought that was discriminatory.

However, we came to the grand compromise, or great compromise, you might say, which provides that substantive law of the State, local community, or subdivision cannot be waived except in the case of the grandfather clause, and that is the ex post facto law. All that can be done is to set a time schedule for the State or local subdivision to decide itself, and we are assured that that time schedule would be reasonable, and if it is not, they can appeal the reasonableness of it.

It is only where they fail to decide within the time limit, as extended by the court, that the Energy Mobilization Board can decide on a time limit, and even then, they must use the decision criteria of local law, and there is an appeal from that decision to the temporary court of appeals, which is also mandated to use the decision criteria of local law.

So I submit to my distinguished colleague that this is not an intrusion on local rights, but rather an upholding of local rights. It is simply the recalcitrant State or local subdivision which refuses to decide, and which is delaying the project, where the Board may decide for it.

Mr. ROTH. I would say to my distinguished friend and colleague from Louisiana that the point that I am raising at the present time is not specifically as to the power of this Board, as to what it can do, but as to the breadth or scope of the legislation.

I was just pointing out that as I read the language, it not only applies to energy facilities that would reduce our dependence upon foreign oil or imported oil, which, of course, is our principal concern, but could be used in other circumstances, including, as I say, refineries or deepwater seaports that were built for the purpose of utilizing foreign oil.

I am, I would say to the distinguished Senator, very much concerned that, in effect, what we are saying in this legislation is that the Chairman of this Board can substitute his judgment when the local or State government is, as he says, recalcitrant in its approach to these problems.

As a principal advocate of sunset and regulatory reform legislation, I am convinced the States are not the major cause of energy project delays.

By trying to make the States out as bad guys and the Federal bureaucracy as good guys, the administration is turning our Federal system upside down.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. ROTH. I will be happy to yield later, after I have concluded my statement.

There is no question that all regulatory processes—State and local, as well as Federal—need to be streamlined and expedited if we are to get going on our critical energy projects. There is no question we need certainty—a quicker yes—or no, if you will—at all levels of government on energy projects if we are to achieve energy independence. But I strongly oppose the notion we need the Federal Government to ride roughshod over local governments in order to get an expedited decision on these projects.

I was interested that a member of the Energy Committee, the Senator from Wyoming (Mr. WALLOP), in a very interesting minority report, pointed out that:

> Throughout the consideration of this legislation, it has been assumed, but not demonstrated, that state laws and regulations have presented substantial impediments to energy development. This assumption is subject to challenge. My own state stands as testimony to the opposite conclusion, that energy development has taken place and can continue to take place without an Energy Mobilization Board. In spite of stringent environmental and industrial citing laws that Wyoming has enacted, the State's resources are vigorously being developed. Wyoming is fifth in the nation in crude production; seventh in natural gas production; first in uranium production; coal production has tripled since 1974 and may soon lead the nation; the thermal generating capacity has increased by 50 percent in the last five years; and the state is perhaps undergoing the most ambitious oil and gas exploration and development program in the history of the lower 48 states. And all of this without an Energy Mobilization Board substituting its judgment for state and local governments!

Mr. President, in contrast, the amendment sponsored by Senators MUSKIE, RIBICOFF, and myself preserves State and local rights without affecting the powers of the Board to expedite priority energy projects. Section 19 provides that, if a State or local government fails or refuses to make a decision according to the deadline set by the Board, the Board, by means of expedited action in State or Federal court, can order the State or local government to make the decision. This method of enforcing the deadlines set by the Board respects—and I think this is an important difference—the constitutional boundaries in our Federal system, unlike S. 1308, which allows the Federal Government to substitute its decision for that of the State and local governments.

In short, if my colleagues like national land-use planning done by an unelected, unaccountable board acting outside the sunshine laws, they will like S. 1308. But if my colleagues want an Energy Mobilization Board which will expedite our national priority energy projects while, at the same time, preserving State and local rights, our substitute amendment is the answer.

I think it is most significant, Mr. President, that the National Governors Association, the National Association of Counties, the National League of Cities, the Conference of Mayors, the National Conference of State Legislatures, the League of Women Voters, and Common Cause have all endorsed our amendment and oppose the Energy Committee bill. In my judgment, it is most important, as we approach this problem of energy, that we have the wholehearted cooperation of the other levels of government. I think that that is the great deficiency of the Energy Committee bill.

I think it is worth repeating, Mr. President, what the chairman of the National Governors Association Committee on Natural Resources and Environmental Management, Governor Lamm, wrote to me as well as to other Members who have been supporting the substitute amendment, and I quote:

> The nation's Governors are deeply troubled by several provisions contained in S. 1308, the Senate Energy Committee's version of the Energy Mobilization Board. These provisions raise profound constitutional questions and threaten to undermine state and local decision-making processes. Specifically, we are concerned about:
>
> (1) Sec. 21(a)(1) which empowers the EMB to intervene and make decisions in lieu of a state or local agency that has missed a decision deadline. This provision threatens to disrupt the basic system of federalism and raises serious constitutional issues that are certain to be litigated by the states. Reliance solely on the court order approach in Sec. 21(b)(1) would avoid these problems while offering effective enforcement.
>
> (2) Sec. 23 does not insure adequately that the exercise of state water laws will be exempt from EMB interference. Decisions on the appropriation of water are quasi-judicial decisions and as such cannot and should not be subject to the Project Decision Schedule or the enforcement mechanisms of this bill.
>
> (3) Sec. 36 allows the EMB open-ended authority to waive any statute passed after commencement of construction of a designated energy facility. On matters of such gravity, only the Congress should make the decision on a case-by-case basis. Such broad waiver authority should not be granted to the EMB.
>
> Given these serious reservations concerning S. 1308 the National Governor's Association supports the passage of S. 1806, the Ribicoff-Muskie-Roth substitute as the alternative that best meets our concerns. I urge you to support S. 1806.

Mr. President, I point out that this concern has been voiced eloquently, not only by the National Governors Association but by other groups as well, such as the National Association of Counties. Bernard Hillenbrand, the executive director, wrote to Senator RIBICOFF that—

> The National Association of Counties supports the concept of an Energy Mobilization Board and supports expediting the Federal permitting procedure.
>
> We feel that State and local governments should work in close consultation with a federal board to develop concurrent reviews, joint hearings, consolidated data collection efforts and other methods of reducing "red tape."
>
> While we support an Energy Mobilization Board we feel very strongly that state and local governments should retain authority over the final determination of decision deadlines as it relates to our laws and procedures. In addition, we feel that we should retain our authority over siting and permitting decisions without fear of federal preemption. Consequently, we oppose any structure which would allow an appointed federal body to substitute it's judgment for that of state and local decisionmakers.
>
> We have reviewed S. 1806 as introduced by yourself and others and we feel that of the Energy Mobilization Board proposals currently under consideration by the Senate it strikes the best balance between protecting state and local prerogatives while insuring that decisions will be made quickly.
>
> We commend you for your efforts in this area and offer our assistance on behalf of passage of this or a similar proposal.

Again, Mr. President, we heard from the National League of Cities, who wrote:

> The central justification for an Energy Mobilization Board (EMB) is to force authorized local, state and federal decision makers to act expeditiously. We believe the Ribicoff-Muskie bill does this. And S.1806 does it without running afoul of the historic and constitutional rights of state and local governments.
>
> By permitting the EMB to set enforceable schedules and deadlines for local, state and federal decision makers, S.1806 guarantees that decisions on priority energy projects will be made in a timely manner by the duly authorized decisionmakers. By requiring that all decisions be made within a year of project application, S.1806 guarantees an expeditious decision making process at all levels of government. And by allowing the EMB to monitor decision making schedules and to obtain court orders forcing compliance when the schedule is violated or final deadlines are missed, S.1806 guarantees effective and efficient enforcement while avoiding serious constitutional problems that could embroil the EMB in litigation and keep it from exercising its power.
>
> Equally important from the cities' point of view, S.1806 envisions a cooperative process for expediting priority energy projects. Municipal officials want to cooperate in the national energy effort. They welcome the opportunities this bill presents for involvement. Requirements in the bill, such as consultation with state and local officials in designating priority projects, will encourage a cooperative and workable relationship among all levels of government.
>
> Unfortunately, this rational approach to the EMB is missing from S.1308, the Senate Energy Committee's bill. Many municipal officials have indicated to NLC their anxiety about just the kind of powers that S.1308 grants the EMB. We are strongly opposed to Senate passage of S.1308 as reported by the Energy Committee.

Mr. President, I could refer to other letters, but I think the point has been made that other levels of government are unified in their opposition to the bill as proposed by the Energy Committee and in support of the substitute amendment, because they see it accomplishing the same goals—first by providing a procedure to set a schedule for energy projects, and then by providing the means by which to enforce them.

Our amendment is only the beginning of a national energy policy; the hard questions are still to be answered. The Energy Mobilization Board only gets us a quicker "Yes" or "No." Considering the depths of redtape to which we have descended, I would say that alone is a significant accomplishment.

Our amendment and the Energy Committee bill are no different in that respect: They both streamline the regulatory process at the Federal level, and that, we all agree, is a good thing.

But I warn my colleagues against passing the buck to an Energy Mobilization Board to ramrod energy projects down the throats of our State and local governments.

Such a steamroller approach will only divide our Nation, provoke open revolt by the States, lead to endless litigation, and shatter any consensus we achieve by designation of our priority energy projects.

The buck stops here, Mr. President. Until we in this Congress resolve the conflicts between our environmental and energy goals and achieve a consensus on what kind of environmental quality and economic growth our Nation wants for its future generations, we will never truly have a national energy policy.

I urge my colleagues to vote for the substitute amendment to get our country moving toward energy independence without destroying State and local rights.

Mr. PROXMIRE. Mr. President, I am opposed to S. 1308, the Energy Mobilization Board bill, as it was reported by the Committee on Energy and Natural Resources. While I agree that some provision may be necessary to insure that priority energy projects are not subject to unnecessary bureaucratic footdragging, I believe that S. 1308 may go too far in its efforts to remove such obstacles.

One of my concerns is that S. 1308 sets no limits on the number of energy projects which can be designated for priority treatment. Strict limits should be set, to be sure that only those projects of the utmost urgency will be eligible for special treatment. Otherwise, we run the risk that designation as a priority project will become the norm.

The Banking Committee, which has oversight responsibility over the Defense Production Act, has noticed an analogous tendency with regard to the national defense priorities system. A procedure which was intended to apply only to the most urgent national defense procurements has gradually been accepted as the regular means of doing business. Now, defense planners have no way to distinguish between routine procurements and those which genuinely require priority consideration. The result could be the same with regard to energy projects unless we establish limits at the outset.

I am also concerned about the fact that S. 1308 would permit all directors of the EMB other than the Chairman to be part-time employees of the EMB. We should make sure that the persons given such extraordinary powers do not have private sector jobs that would detract from their attention or cause possible conflicts of interest.

I am also concerned about the provision which allows the EMB to step in and take over decisionmaking responsibility from other Federal agencies. If fast-track legislation is to be adopted, we should make sure that agencies perform their duties within the prescribed deadlines, but I question the need to allow the EMB to take over these responsibilities.

Finally, although I am pleased that S. 1308, as reported, does not provide blanket authority to waive Federal laws, I am concerned about the waiver provisions. S. 1308 gives the EMB authority to waive applicable Federal laws enacted after the commencement of construction of a priority project. This provision ignores the fact that the environmental and health consequences of these new technologies are unknown at this time. Our experience with nuclear power has shown how unexpected consequences may become known only in the light of operational experience. After all, what is the purpose of the synthetic fuels development program? A primary purpose of the first phase of the synthetic fuels development programs is to gather knowledge about these health and safety effects, and it would smother the benefits of this program if we exempted all energy projects in advance, before we know what effect they might have.

This provision is particularly objectionable in light of the bill's failure to set limits on the number of projects which would be eligible for priority treatment. In its deliberations on the synthetic fuels bill, the Banking Committee was aware of the need to provide some protection to project developers against capricious changes in Federal law or regulations, and I know that the Energy Committee print of S. 932 also contains a provision for limited "completion guarantees." I believe that S. 1308, which provides for complete waiver of new laws, goes entirely too far, particularly in light of the Energy Committee's completion guarantee provisions in S. 932.

In short, S. 1308 is substantially improved from the original version of the fast-track legislation. However, because of the concern I have outlined, I cannot support this bill.

This is the reason I support the Muskie-Ribicoff substitute. I think it would be far preferable to S. 1308. If that substitute is not adopted, I feel I cannot support the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, this agreement has been cleared on all sides.

I ask unanimous consent that with respect to the amendment offered by Mr. RIBICOFF and Mr. MUSKIE, there be an agreement as follows: That a vote occur tomorrow at the hour of 12 noon on a tabling motion, that time between this point today and 6 p.m. today and again beginning at 10:30 a.m. tomorrow and 12 noon tomorrow be equally divided between Mr. RIBICOFF for the proponents and Mr. JOHNSTON for the opponents, with the proviso that no amendments be in order other than amendments with respect to the Ribicoff amendment that are satisfactory to Mr. RIBICOFF and Mr. MUSKIE, which would, therefore, be accepted by them and, in essence, constitute a modification of the amendment by the authors, and with respect to the committee substitute that no amendments be in order up until 12 noon tomorrow that are not acceptable in the same way, to wit, acceptable to Mr. JOHNSTON and Mr. DOMENICI, which, in essence, would constitute a modification by the authors of the committee substitute.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, the majority leader, of course, is correct. We have conferred at length on this agreement. It is a suitable arrangement as far as I can ascertain on our side.

I have one inquiry, the amendments that might be dealt with between now and tomorrow noon would be only those amendments which the proponents of the substitute would be willing to accept?

Mr. ROBERT C. BYRD. That is correct. The substitute, in each instance.

Mr. BAKER. Mr. President, I have no objection to the request.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I think it would be understood that these amendments we have referred to would be germane, is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. I think that would have been understood. But we made it a subject of each sponsor, and that it further be germane.

Mr. ROBERT C. BYRD. Let us accept that. In any event, they would not be acceptable to the authors of the committee substitute and the Ribicoff substitute, respectively.

Mr. DOMENICI. Reserving the right to object, I would like to make one further inquiry of the Senators that have been party to the understanding.

I think we are all aware that sometime tomorow Senator STEVENS has to leave. He had a pending substitute. I wonder if we could agree that in the event the Ribicoff-Muskie-Roth substitute is tabled that Senator STEVENS could proceed with his immediately thereafter.

Does anyone have any objection to that?

Mr. JOHNSTON. That we proceed——

Mr. DOMENICI. With Senator STEVENS. He has a pending substitute. That would not be in order until and unless the substitute offered by Senator RIBICOFF and Senator MUSKIE is disposed of.

I was asking, would there be any objection there, in the event it is tabled, to proceed next with Senator STEVENS' amendment. He has asked that I ask the Senate this request, and I see no problem with it, myself.

Mr. MUSKIE. Reserving the right to object, I would have no objection myself. I am not sure I am in a position to agree to making that a part of the agreement. I would personally have no objection, but ought to reserve——

Mr. ROBERT C. BYRD. Let us not include that in the agreement then. Then the Senator would have no objection.

We will have that as part of an understanding, that Mr. STEVENS will be able to proceed with his amendment.

That is not an order of the Senate, and perhaps——

Mr. DOMENICI. I do not understand the difference. Is the Senator saying that those of us who are here would understand that, but it is not binding as a matter of unanimous consent?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I am perfectly willing to go with the request as it was made.

I think the majority leader would indicate his intention to join us to see that Senator STEVENS has that opportunity tomorrow. So far as I am concerned, that is as good as an order. That would satisfy me.

Mr. DOMENICI. I say to the Senator from Maine that that is the same, is it not?

Mr. MUSKIE. Mr. President, reserving the right to object, the one question I have with respect to what is proposed is this: If the substitute is defeated by a close vote, there may be an amendment that builds on that close vote to amend the committee bill in a narrower way, and I would not want to bind myself to losing whatever momentum I have at that point.

Mr. DOMENICI. I say to the Senator from Maine that I do not know how we can put that into a unanimous-consent agreement. Yet, I agree with him that that is a legitimate concern, and I would not push the other as a matter of accord.

However, I ask the majority leader and the minority leader if they would express, on behalf of Senator STEVENS' request, that they would do what they could to see that it is the next matter after the disposition of the Muskie amendment, if it is disposed of.

Mr. ROBERT C. BYRD. We have to recognize that the majority leader and the minority leader cannot guarantee that that would be the case. So I would not want any of us to go into this with our eyes closed. If it is an order of the Senate, it is one thing; but if it is not, we can have a sort of gentlemen's understanding. But that does not keep some Senator tomorrow from wanting his amendment called up in contravention of the understanding.

Mr. BAKER. I think we have a good agreement, and I believe it would be adequate for Senator STEVENS' purposes if there were a general understanding that if the Muskie-Ribicoff substitute is tabled, we will try to accord the Senator from Alaska an opportunity to offer his substitute.

As the distinguished majority leader points out, nobody can guarantee that. But if that is our general intention and purpose, I think that will be satisfactory to Senator STEVENS, who understands the circumstances.

Mr. ROBERT C. BYRD. That would not be binding. The Senator from Alaska has some circumstances governing his situation that make it necessary for him to leave at a reasonably early hour tomorrow, and we would like to accommodate him.

Mr. BAKER. I see a representative of Senator STEVENS on the floor, and I understand that that is a satisfactory arrangement; but I believe there will be no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the agreement follows:

> *Ordered*, That on Wednesday, October 3, 1979, during the consideration of S. 1308 (Order No. 344), a bill to set forth a national program for the full development of energy supply, and for other purposes, the time between 10:30 a.m. and 12:00 noon be equally divided and controlled by the Senator from Connecticut (Mr. Ribicoff) and the Senator from Louisiana (Mr. Johnston).
>
> *Ordered further*, That no amendment to amendment No. 488 be in order during that period, except those that are accepted as germane modifications by the Senator from Connecticut (Mr. Ribicoff) and the Senator from Maine (Mr. Muskie).
>
> *Ordered further*, That no amendment to the reported amendment in the nature of a substitute be in order during that period, except those that are accepted as germane modifications by the Senator from Louisiana (Mr. Johnston) and the Senator from New Mexico (Mr. Domenici).
>
> *Ordered further*, That a vote on a motion to table amendment No. 488 occur at 12:00 noon on Wednesday, October 3, 1979.

Mr. ROBERT C. BYRD. Mr. President, I take it that there will be no more rollcall votes today, based on the agreement that the Senate has reached, so I think our respective cloakrooms can so notify Senators.

Mr. JOHNSTON. Mr. President, a question has been raised by at least two Senators with respect to the legality of the Energy Mobilization Board displacing State and local decisions. I know that the distinguished Senator from Utah (Mr. HATCH) had a question and the distinguished Senator from Delaware (Mr. ROTH) had a question on this.

I would like to read a couple of paragraphs from a memorandum from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, on this question, because I think it is quite clear and precise. The amendment reads, in part, as follows:

> Congress may preempt local decisionmaking altogether and totally deprive local government from exercising its sovereign power. Preemption of State and local laws which interfere with Federal energy policy is commonplace. See, for example, section 6(b) of the Emergency Petroleum Allocation Act.
>
> The critical distinction under the case law is between removing decisionmaking from State and local authorities, on the one hand, and forcing State and local authorities to implement Federal programs, on the other. This distinction is made clear by the Court of Appeals cases that considered constitutional challenges to the Clean Air Act and the Environmental Protection Agency's implementing regulations.

So what the Attorney General is saying is that the legal approach of the Muskie-Ribicoff amendment is illegal, under Supreme Court decisions, because it requires, as they state here, that forcing State and local authorities to implement Federal programs is not constitutional, according to this amendment. It is constitutional, as the Attorney General says, to preempt State and local laws which interfere with Federal energy policy.

Mr. President, this is a long memorandum, which discusses this precise point of the board substituting its decision judgments where the State or local bodies fail to make the decision on time. I commend this memorandum to my colleagues, because I believe it answers this legal question precisely and definitively. I think it is eminently correct, and I hope the Senator from Maine will take that into consideration in amending his amendment.

I ask unanimous consent to have this memorandum printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR THE HONORABLE STUART E. EIZENSTAT, ASSISTANT TO THE PRESIDENT FOR DOMESTIC AFFAIRS AND POLICY

Re Constitutionality of the Energy Mobilization Board Proposal.

For the past several weeks this office has been providing your staff with legal advice regarding the Administration's proposal to create an Energy Mobilization Board ("EMB"). The purpose of this memorandum is to expand on and memorialize that advice.

The EMB, which would be established in the Executive Office of the President, would be comprised of three members appointed by the President with the advice and consent of the Senate. The Board's central purpose would be to expedite the completion of designated "critical energy facilities"—projects that would reduce the nation's reliance on imported oil.

Expedition would be achieved by the Board's establishment of a Project Decision Schedule ("Schedule"), which would set a timetable for all federal, state, and local decisionmaking necessary for the completion and operation of a critical energy facility ("CEF"). If any agency failed to render a decision within the time provided by the Schedule, the EMB would be empowered to make the decision. In doing so, it would apply the federal, state, or local law that the supplemented agency would have applied. In establishing the Schedule, the EMB would be authorized to waive federal, state, and local procedural decisionmaking requirements, such as requirements relating to timing and the methods of decisionmaking. While substantive environmental and other standards could not be changed, the EMB could either: (1) designate a lead agency to prepare a single comprehensive environmental impact statement ("EIS") for a CEF, or (2) waive federal, state, and local EIS requirements, provided that it adopt another method of evaluating the environmental impact of a CEF. The EMB would also be authorized to waive federal, state, and local laws and regulations enacted or promulgated after the commencement of construction of a facility if the new requirement hindered expeditious completion of the project and so long as grant of a waiver would not unduly endanger public health or safety.

The Administration's proposal also seeks to put CEFs on a "fast track" by limiting and expediting judicial review. Decisions by the EMB designating a CEF and establishing a Schedule would not be subject to review. All other actions of the EMB and relevant agencies would be subject to review only in a federal court of appeals. Parties challenging agency action would have 60 days from the completion of the permitting process to bring suit unless the EMB determines that earlier review is necessary to expedite completion of the process or to assure fairness. In reviewing decisions by agencies, or the EMB acting instead of an agency, the courts of appeals will apply the appropriate federal, state, and local substantive law.

The EMB proposal raises constitutional questions of first impression which it is the purpose of this memorandum to resolve.

I. EMB DECISIONMAKING AUTHORITY

The purpose of the EMB is to expedite completion of energy projects that will reduce national dependence upon foreign sources of oil. Effectuation of the important national interests of reducing oil imports and increasing domestic energy production is within Congress' broad power under the Commerce Clause of the Constitution, Art. I, § 8, cl. 3. But the Supreme Court has recognized limits on the exercise of Congressional power under the Commerce Clause when legislation interferes with the exercise of traditional state functions. *See National League of Cities* v. *Usery*, 426 U.S. 833 (1976). The proposal is subject to challenge on this ground because it empowers the EMB to: (1) set decision schedules binding on state and local agencies; (2) waive state and local procedural decisionmaking requirements; and (3) supplant state and local decisionmakers. We will treat these challenges in order.

A. Scheduling

Under the proposal, all state and local agencies that make decisions related to approval of a CEF would be required to forward to the Board a proposed timetable for such actions. The Board would set a deadline for each decision, which could be shorter than the deadline set by state or local law in cases of "exceptional national need."

It could be argued that Congress would exceed its power under the Commerce Clause by authorizing a federal agency to order a state or local agency to make a decision by a certain time. This argument takes on force when one considers the possibility that such decisions may be made by local units of government—*e.g.*, town councils.

In *National League of Cities* v. *Usery*, *supra*, the Court invalidated extension of the Fair Labor Standards Act's minimum and maximum hour standards to state and local governments. The Court's opinion, written by Justice Rehnquist, found that the federal requirements had a significant impact upon the functioning of the state and local governments, forcing localities to forego governmental activities and displacing local policies regarding the manner in which governmental services would otherwise be supplied. *Id.*, at 847–48. Thus, the statute was found to "impermissibly interfere with the integral governmental functions" of States and localities. The Court concluded that "insofar as the challenged amendments operate to displace the States' freedom to structure integral operations in areas of traditional governmental functions, they are not within the authority granted Congress by Art. I, § 8, cl. 3." *Id.*, at 852.

The reasoning of the Court's opinion provides the framework for the analysis of the constitutionality of the Administration's EMB proposal. It may forcefully be argued safety are traditional state functions and that local decisions on land-use, health and that federal shortening of deadlines is an intrusion into the decisionmaking process—one that "may substantially restructure traditional ways in which local governments have arranged their affairs." 426 U.S., at 849.

Notwithstanding these arguments, it is our opinion that the scheduling mandate of the EMB is not contrary to the holding in National League of Cities. First, the Court's opinion stresses the financial burden that the FLSA imposed on States and localities. Here, Congress would not be imposing a burden that will alter fiscal policies, curtail traditional state and local activities or regulate provision of traditional services. The federal government would not be directing the local governing bodies to decide a matter in a particular way; the localities are free to grant or deny the permits and licenses involved pursuant to state and local standards. Nor would the EMB require the localities to perform a new function; it would simply set a deadline for a decision which would otherwise be made at some time. We would emphasize that, analytically, state and local decisionmakers and procedures are not being displaced in fact because there is no power in the EMB to require such agencies to follow the schedule. The EMB cannot, for example, seek injunctive relief in the courts to require a state agency to meet the schedule. Rather, the situation here is analogous to several complex federal regulatory programs, such as the Clean Air Act discussed below, which lay down specific ground rules for state action and provide for preemption by federal agencies of the state role if those rules are not followed. Such programs have been sustained against constitutional challenges similar to those which we may anticipate being brought against a statute enacting the Administration's EMB program. We therefore believe that the EMB may be empowered to set reasonable deadlines for local decisions.

Moreover, Justice Blackmun joined the Court's opinion in National League of Cities on the belief that it "adopts a balancing approach, and does not outlaw federal power in areas such as environmental protection, where the federal interest is demonstrably greater and where state facility compliance with imposed federal standards would be essential." 426 U.S. at 856.

We believe that this balancing approach suggested by Justice Blackmun would sustain the authority of Congress to empower the EMB to shorten state and local deadlines. The seriousness of the energy crisis is apparent, and its impact on foreign policy, national security and international monetary policy will, we assume, be the major focus of congressional deliberations over this proposal. A CEF may be designated only if a project has been determined "to be critical in contributing to the reduction of the nation's dependence upon imported oil or petroleum products;" and state and local deadlines may be shortened only "[i]n circumstances of exceptional national need." We are persuaded that these interests would be sufficient to override a local agency's interest in deciding when to decide. The national interest in expedition seems strong enough to overcome state and local decisionmaking processes which, Congress finds, delay decisions necessary to the expeditious completion of CEFs.

B. Waiver of State procedures

For the same reasons discussed above, we believe that the authority of the EMB to waive state and local procedural requirements is constitutional. Since substantive standards such as those regarding the environment, land use, health and safety are specifically excluded from the waiver, the authority does not threaten the provision of traditional state and local services. Waivers impose no financial burden on the States or localities; if anything, they are likely to conserve state and local resources. Again, we believe that the critical national interest at stake outweighs state or local interest in any particular decisionmaking procedures. This conclusion, however, is subject to two qualifications. First, the waiver power of the EMB is subject to due process limitations. Since it is likely that private rights will be at stake when property is taken or a particular land-use permitted, wholesale waiver of procedures could deny injured persons due process rights. Second, wholesale waiver may obstruct a local agency's ability to make a rational decision or to carry out a traditional function. For example, total waiver of state and local environmental impact requirements might make it impossible, in particular cases, for a State to evaluate adequately the impact of a facility and thus could hinder its traditional function of protecting public health and safety.[1] But these are problems of degree, not kind. The possibility that a court might find that a particular instance of waiver denied a party constitutional rights or unconstitutionally interfered with a State's performance of its sovereign functions does not void the waiver provision as a whole. So long as the Board applies a procedural waiver reasonably and "in circumstances of exceptional national need," we believe such action would be constitutional.

C. Displacement of State and local decisionmaking

The proposal provides that if a state or local agency fails to meet a deadline established by the Schedule, the EMB may make the decision in lieu of the agency. Obviously, this provision intrudes on authority presently exercised by state and local officials. Indeed, it could be argued that supplanting decisionmaking strikes at the heart of state and local sovereignty. Nothing is a more integral governmental function than government itself.

However, the constitutional power of Congress to supplant local decisionmakers is well established. Under the Commerce Clause, Congress may preempt local decisionmaking altogether and totally deprive local government from exercising its sovereign powers. Preemption of state and local laws which interfere with federal energy policy is commonplace. *See, e.g.*, § 6(B) of the Emergency Petroleum Allocation Act, 15 U.S.C. § 755(b).

The critical distinction under the case law is between removing decisionmaking from the state and local authorities on the one hand and forcing state and local authorities to implement federal programs on the other. This distinction is made clear by the court of appeals cases that considered constitutional challenges to the Clean Air Act, 42 U.S.C. § 1857, *et seq.*, and the Environmental Protection Agency's implementing regulations. That Act gives States the opportunity to establish plans implementing federal air pollution standards. If a State fails to develop an adequate plan, the EPA is authorized to promulgate a plan for the State. 42 U.S.C. § 1857c-5(c)(1).[2] EPA adopted regulations which would have subjected States to an injunction or criminal penalties for failure to implement the EPA-promulgated plan. The States challenged the constitutionality of the regulations, claiming that Congress could not authorize the EPA to compel state enforcement of federal programs. Three Courts of Appeals suggested that the EPA regulations exceeded Congress' power under the Commerce Clause by invading state sovereignty. *Brown* v. *EPA*, 521 F.2d 827, 834–40 (9th Cir. 1975); *District of Columbia* v. *Train*, 521 F.2d 971, 992–94 (D.C. Cir. 1975); *Maryland* v. *EPA*, 530 F.2d 215, 225–28 (4th Cir. 1975).[3] The courts of appeals found a constitutional difference between federal regulation of commerce and federal regulation of state regulation of commerce. To the extent the EPA regulations forced state legislatures to enact laws or be subject to penalties, those regulations impermissibly intruded upon state sovereignty. The District of Columbia Court of Appeals found that EPA was "attemping to commandeer the regulatory powers of the states, along with their personnel and resources, for use in administering and enforcing a federal regulatory program. . . ." 521 F.2d. at 992. The court stated that the EPA could seek state cooperation; if it did not receive cooperation, the "recourse contemplated by the Commerce Clause is direct federal regulation of the offending activity and not coerced state policing of the details of an intricate federal plan under threat of federal enforcement proceedings." *Id.*, at 993. Similarly, the Fourth Circuit noted the difference between inviting a State to administer regulations and compelling administration under threat of injunction and criminal sanctions. While questioning the constitutionality of the EPA regulations, it had no problem with the "time honored and constitutionally approved device of threat and promise. . . . The threat is a federally imposed regulation with federal administration; the promise is the invitation for Maryland to enact a suitable implementation plan and administer it with state employees, thus avoiding federal interference." 530 F.2d at 228. None of the courts of appeals suggested that the authority of the Administrator to promulgate compliance plans for States that failed to comply was unconstitutional.

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[1] This problem is mitigated by the proposal's requirement that in each case of waiver, the Board shall establish alternative procedures for the assessment of environmental impacts of the facility.

[2] The Federal Water Pollution Control Amendments, 33 U.S.C. § 1313(b), contain a similar provision.

[3] The judgments of the three courts of appeals were subsequently vacated and remanded by the Supreme Court based on a concession by the EPA that its regulations went beyond the power granted to it by the Clean Air Act. *See EPA* v. *Brown*, 431 U.S. 99 (1977).

The distinction drawn by these cases strongly supports the constitutionality of the proposed EMB procedures. We believe that Congress on an adequate record could preempt all state and local law that interfered with the construction of a critical energy facility. The Administration's EMB proposal, however, does not go so far; it seeks to achieve state and local cooperation without altering state and local law. The proposal sets a deadline for state action, inviting the States to act; if that deadline passes, the EMB is empowered to make the decision for the state or local agency. There is no conscription of state or local personnel or services; there is no compulsion of state or local action. States and localities are given the opportunity to act within a certain time or they lose their ability to act. Such a scheme seems clearly to fit within the "time honored and constitutionally approved device of threat and promise." *Maryland* v. *EPA*, supra, 530 F.2d, at 228. In fact, the proposal is less intrusive than a scheme of total preemption because the EMB will apply the substantive law of the States and localities [4] and its decisions will be subject to judicial review under the relevant state and local standards.

II. JUDICIAL REVIEW OF STATE AND LOCAL DECISIONS

As outlined above, review of EMB actions and decisions by federal, state, and local agencies under the Schedule would be lodged exclusively in the federal courts of appeals. The reviewing court would apply the federal, state or local law governing the challenged decisions. This proposal raises the questions whether Congress may oust state courts of jurisdiction and whether federal courts are capable of receiving such jurisdiction under Article III of the Constitution.

A. Divesting State court jurisdiction

Congress has clear authority to vest exclusive jurisdiction of cases within the purview of Art. III of the Constitution in federal courts. *Bowles* v. *Willingham*, 321 U.S. 503, 511-512 (1944); *The Moses Taylor*, 71 U.S. (4 Wall.) 411, 429-30 (1867). And federal courts may entertain state cases, applying controlling state law, if Congress so provides. *The Mayor* v. *Cooper*, 73 U.S. (6 Wall.) 247 (1867) (civil removal); *Tennessee* v. *Davis*, 100 U.S. 257 (1879) (criminal removal). Nor is it unusual for federal courts to apply and intepret state law. Since *Erie RR. Co.* v. *Tompkins*, 304 U.S. 64 (1938), federal courts sitting in diversity have applied substantive state law. Federal courts also apply state criminal law under the Assimilative Crimes Act, 18 U.S.C. § 13, and under removal statutes. *See Tennessee* v. *Davis*, 100 U.S. at 271-72; *Miller* v. *Kentucky*, 40 F.2d 820 (6th Cir. 1930). And cases brought under the Federal Torts Claim Act are governed by state tort liability standards. 28 U.S.C. § 1346(b).

Thus, we see no constitutional impediment to vesting exclusive jurisdiction in federal circuit courts or in having those courts apply the appropriate state or local law. The question that remains, however, is whether the courts of appeals are constitutionally empowered to decide such cases—that is, whether challenges to state and local permitting decisions come within Art. III.

B. Jurisdiction in the courts of appeals

Under the Administration's EMB proposal, decisions made by the EMB in lieu of state and local decisionmakers would be subject to review in the courts of appeals. The basis for federal jurisdiction in such cases is clear because a suit challenging the EMB's decision would be a suit in which the United States is a party.

If, however, a state or local agency renders a decision within the time limit prescribed by the Schedule, the basis for jurisdiction in a federal court of appeals is less certain because the state or local agency's decision will not have necessarily involved decisions on issues of federal law.[5] In such a situation, the question would be presented whether such cases would "arise under" federal law and thus could be made subject to federal jurisdiction under Art. III.

Before examining the possible bases for Congress' conferring on federal courts jurisdiction to review state actions governed by state standards as provided in the Administration's proposal, we believe it would be useful to focus on the context in which such litigation may arise.

First, state court jurisdiction is being preempted under the Administration's proposal because of the critical need for expeditious judicial review of state and local (as well as federal) decisions which affect the planning, construction and operation of CEFs. This judgment, which was not reached lightly, necessarily reflects a belief that the state courts cannot be relied on to reach decisions as promptly as required in order to meet the national objectives established for CEFs.

Second, the federal government will have substantial interest in virtually all approval decisions rendered by state and local agencies. As proposed by the Administration, the Energy Secruity Corporation would be a government-sponsored enterprise which would have broad range of powers to shape the overall development of CEFs and to become directly involved in the sponsorship of CEFs through direct grants or loans, or, indeed, through construction of a limited number of CEFs. More importantly, the decision to bring a specific energy project under the federal umbrella provided by the Administration's EMB proposal by designating it as a CEF triggers a range of actions open to the EMB which further illustrates the federal interest present in any approval decision by a state or local agency.

Third, as a practical matter judicial review of most decisions made by state and local agencies may generally be expected to present at least some substantial federal questions. Where, for example, the EMB has granted a waiver to a state agency of state procedural requirements in order that the agency might meet its deadline for decisions prescribed by the Schedule, the federal question of whether that waiver power was exercised arbitrarily by the EMB and whether the state agency's procedure comported with federal constitutional requirements might well be part of the litigation.

The Administration's EMB proposal as presently drafted provides neither for any overriding principle of federal law to control the interpretation of state substantive law nor specifically for incorporation of state law as a federal standard to be administered by state or local decisionmakers as federal law. Thus, when either the EMB or state and local agencies make approval decisions pursuant to state substantive law, they are applying that law qua state law. If Congress expressly incorporated state law as the federal law of decision by the EMB and state and local agencies, suits challenging those decisions would "arise under" the laws of the United States. *See Macomber* v. *Bose*, 401 F. 2d 545 (9th Cir. 1968); *Stokes* v. *Adair*, 265 F. 2d 662 (4th Cir.), *cert denied*, 361 U.S. 816 (1959); *Quadrini* v. *Sikorsky Aircraft Division, United Aircraft Corp.*, 425 F. Supp. 81, 87 (D. Conn. 1977); *Textile Workers Union* v. *American Thread Co.*, 113 F. Supp. 137, 140 (D. Mass. 1953). Cases establish not only that Congress may incorporate state law as the federal standard but that it may also leave to the States the authority to amend the substance of those state laws that are on the books when the federal statute effecting such incorporation is enacted. *See, e.g., United States* v. *Sharpnacks*, 355 U.S. 386 (1958).[6]

Assuming, however, that there is at least some symbolic reason to allow state decisionmakers to continue to apply state law qua state law, we believe that federal court jurisdiction under the so-called "protective jurisdiction" theory would be available.

At least in theory, there might be a 10th Amendment objection to federalizing the state law to be applied by state agencies even though federal law is substantively identical to the displaced state law. The objection would be that the state or local agency has, in effect, been instructed with regard to the law to be applied by it and is therefore being required to administer a federal program without having any freedom to decline to do so. *See Maryland* v. *EPA, supra.*

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[4] We note that the incorporation of state and local laws as the federal standards for decisions made by the EMB in lieu of state and local decisionmakers is not novel. In the area of federal taxation, the Internal Revenue Service routinely interprets and applies state laws establishing property rights in determining the federal liability. *See, e.g.*, *Morgan* v. *Commissioner*, 309 U.S. 78 (1940).

[5] We note that parties to the state or local agency proceedings may have raised before an agency or might raise before a Court of Appeals federal constitutional issues related to the agency's action which would be adequate to vest jurisdiction in the court of appeals at least over those federal issues. State claims arising out of the same agency decision would be cognizable in the federal courts under the doctrine of "pendent" jurisdiction. *See generally United Mine Workers* v. *Gibbs*, 383 U.S. 715 (1966).

[6] Incorporation would permit Congress to freeze state law standards as presently in force. The Administration's EMB proposal, however, does not seek to freeze such standards as may evolve, which would appear to us to suggest that there are no significant policy reasons to have state law directly incorporated here, except to the extent incorporation brings actions relating to a CEF within Art. III.

In *International Brotherhood of Teamsters* v. *W. L. Mead, Inc.*, 230 F.2d 576 (1st Cir. 1956), the Court of Appeals upheld the constitutionality of § 301 of the Taft-Hartley Act on the theory of "protective jurisdiction." Under that theory, Congress is not required to displace totally (or presumably to incorporate) all otherwise applicable state law in its comprehensive regulation of a specific area of activity. Rather Congress may leave issues to be decided by reference to state law but place litigation over those issues and others in Art. III courts. 230 F.2d, at 580–81.

In reaching its conclusion, the First Circuit relied on *Williams* v. *Austrian*, 331 U.S. 642 (1947), a case in which federal jurisdiction was held to exist in a bankruptcy suit in which only state law would be applied by a federal court.[7] The First Circuit appeared to suggest that some limits on the "protective jurisdiction" might be derived from Art. III, one such limit being the requirement of a high degree of overall federal regulation of an area before federal "protective" jurisdiction could be established. In this case, we think it clear that the Administration's overall CEF proposal would clearly meet that threshold test. We would add that the First Circuit's analysis received the explicit approval of Justices Burton and Harlan in *Textile Workers Union* v. *Lincoln Mills*, 353 U.S. 448 (1957), in which the Court upheld the constitutionality of § 301 of the Taft-Hartley Act on other grounds.

Although we conclude that federal jurisdiction consistent with Art. III's "arising under" requirement may be conferred under either an "incorporation" or "protective jurisdiction" rationale, we would add that such jurisdiction could also be established by empowering the EMB to intervene as a party in any case brought in the Court of Appeals challenging an approval decision made by a state or local agency. In these circumstances, jurisdiction would be established as an Art. III matter by virtue of the United States or one of its instrumentalities being a "party" to the suit, *see United States* v. *San Jacinto Tin Co.*, 125 U.S. 273 (1888), having a judicially cognizable interest in the subject matter of the suit.

III. CONCLUSION

It is our opinion that authority may constitutionally be granted the EMB to subject state and local agency decisionmaking to the Schedule, to waive non-constitutional procedural requirements imposed on those agencies by state law, and to act in the stead of such agencies when they fail to meet the Schedule. If the Schedule is met, then state sovereignty is respected; if the Schedule is not met, then decisionmaking power passes to the EMB. We reach these conclusions acknowledging that these are novel questions of constitutional law for which there is no direct precedent either in judicial decisions or historical experience.

We also believe that jurisdiction may be vested in the federal courts to hear all challenges to approval decisions made by state and local agencies even in cases involving questions of substantive state law and that the EMB may be made a party to any such actions in order to assure that the interests of the United States are adequately represented and that the requirements of Art. III are met.

Mr. MUSKIE. Mr. President, I would like to step back with respect to the details of this legislation for just a moment and make a few observations which may have been obscured in the past few months since the President sounded the call for energy mobilization.

First, the President proposed the creation of a new executive agency, an Energy Mobilization Board, to carry out a portion of his national energy program, a new executive agency, a concept that generally would be subject to extraordinary scrutiny by the Senate, particularly the Committee on Governmental Affairs.

However, this was not just a new Federal entity, as is clear from the debate that has taken place thus far this afternoon. It was one with extraordinary powers to alter Federal, State, and local laws relating to energy facilities. Most specifically targeted were laws such as environmental protection.

I was concerned 3 months ago, as I remain today, about the rush to create this new body, with little of the thorough and searching examination usually accorded to such major legislative initiatives. I am not opposed to the development of synfuels to reduce our dependence on imported oil. I am not opposed to increased use of coal to reduce our dependence on foreign oil. I am not opposed to expediting the review of energy facilities to achieve the President's goal of a 50-percent reduction in the use of imported oil by 1990.

What I do oppose is a headlong rush to create a powerful, new Federal entity, without consideration of alternate, perhaps existing, mechanisms to expedite energy facility review, the failure to identify the specific problems associated with energy development which the Senate must address, and the failure to agree on the purpose for which the legislation is being enacted.

As a product of that concern, which obviously was shared by other Members of this body, including Senator RIBICOFF, the principal sponsor of the substitute; Senator ROTH, the principal cosponsor of the substitute; and other Senators, S. 1806 was developed.

Frankly, I think it is superior legislation in its entire structure, apart from issues raised by the committee bill which the substitute seeks to address. I simply think it is a sounder piece of legislation.

So we have tried today to make one last attempt to focus the attention of the Senate on the magnitude of the implication of S. 1308, the Federal, State, and local laws especially as they apply to environmental matters at the State, Federal, and local level.

We must continually remind ourselves during this debate that the original goal of this legislation was to reduce our dependence on foreign oil. The President presented us 3 months ago with a many-faceted plan to reduce our dependence on foreign oil by 50 percent by the year 1990. One mechanism he proposed to achieve this goal was the creation of an Energy Mobilization Board to expedite consideration and review of proposed energy facilities to replace imported oil. Yet the Energy Committee has chosen to give expedited treatment and substantive and procedure waivers to any energy facility which the Board finds could directly or indirectly reduce the Nation's dependence on foreign oil.

I ask my colleagues, can they think of any energy project which could not claim that it indirectly reduces our dependence on foreign oil through some sort of convoluted reasoning?

Surely, we cannot assume that the Board will exercise the restraint that has not been shown by the authors of the legislation.

And is the Board accountable to anyone in deciding which facilities receive special expedited treatment? That is an important question, Mr. President, because the Board puts in place a loose, ambiguous test, the only one in the committee bill, as a criteria and then gives to the Board the power to decide which projects go on the fast track. The Board's decision is not reviewable in the court or anywhere else.

There is no judicial review available of the decision to fast-track any number and any type of nonnuclear energy facilities.

This legislation is targeted obviously on environmental laws, and most specifically the Clean Air Act, but including others as well. Yet there is no requirement in this bill that in deciding whether or not to fast-track a project the Board should at least identify the environmental considerations, values, and risks that are involved.

It will make a nonreviewable decision to fast-track a project only upon its own notion of the projects that need to be built for energy purposes, without consideration at that point of the environmental implications.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. MUSKIE. I am glad to yield.

Mr. JOHNSTON. The Senator does understand that we did make the decision on the committee, and the bill reflects it, not to waive any substantive law. The only thing it waives here is a time limit so that the State, local, and Federal decisionmakers must comport their decision time to the decision schedule. But all of the substantive requirements of the Clean Air Act or the Clean Water Act or all of these acts to which the Senator refers that do involve environmental values are all preserved; and, indeed, when the Board finally decides for the recalcitrant agency, it must use the decision criteria of that particular agency—State, local, or Federal. The Senator does understand that provision?

Mr. MUSKIE. I understand it, but I am not impressed by it.

I have been in the business of writing environmental laws since 1963 and I have come to understand the importance that procedural requirements and procedural safeguards have with respect to protecting the substantive law itself, a lesson I learned in law school years ago, as I started to say earlier this afternoon: Substantive rights can be destroyed by a denial of procedural rights. And time schedules we found in environmental laws are all too often too short to present either the interest of those who would be regulated by environmental legislation or those whose interests are designed to be protected.

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[7] See also *Shumacher* v. *Beeler*, 293 U.S. 367 (1934). See generally Mishkin, *The Federal "Question" in the District Courts*, 53 Colum. L. Rev. 157, 195 (1953).

What we have here is a board which would be waiving procedural safeguards and requirements, shortening deadlines in some instances, extending them in other instances, without the kind of appreciation for the substantive implications of those decisions. That is what troubles me.

On the face of things the language to which my good friend refers indicates an intent on the part of the committee to separate substantive and procedural law. I just do not think it is going to work, especially when what you have, in effect, is an across-the-board deadline setting mechanism instead of a deadline setting mechanism that to the maximum extent possible reflects the differences in deadlines and their importance in different laws. It is just an across-the-board, I will not use the word "meat-ax," but an across-the-board sweeping kind of deadline setting that may or may not adequately protect the substantive values involved.

Mr. JOHNSTON. Mr. President, will the Senator yield further?

Mr. MUSKIE. Yes, I yield.

Mr. JOHNSTON. I invite the Senator's attention to two other provisions of the bill. That is not only the protection which I have just referred to. That is that no substantive law is waived, except in the case of the grandfather clause, but also the fact that if the time limit set is unreasonable then that decision itself is appealable to the TECA court. So if a State or other litigant is not able within the time limit to perform those procedural steps that are essential to protecting the substance, then he has full remedy to go to the Temporary Emergency Court of Appeals. Moreover, we do not supplant the right of the State, local, or the Federal people to make their own decision. They still have the right to say no.

Mr. MUSKIE. Yes. I have heard that argument. But let me ask my good friend a question.

I will let the Senator finish his point while I find the document I was looking for.

Mr. JOHNSTON. I also invite the Senator's attention to page 39 of our report which makes this description which, I think, is very accurate. It says:

> Although the deadlines and procedures established by the Board could be binding, they do not authorize agencies to ignore any other statutory requirements in their efforts to meet their deadlines. Agencies must still comply with such laws in every respect.

So it is a balancing, on the one hand, when you set deadlines, but reasonable deadlines subject to appeal.

On the other hand, all of the substantive criteria must, as the report says, comply with such laws in every respect.

So I fail to see the Senator's concern, given the elaborate safeguards of the bill, of how it would be possible to roll over the substantive requirements so carefully built into the law by the Senator from Maine and others in this body.

Mr. MUSKIE. Well, Senator, in this agency, whose primary responsibility is to expedite energy projects, you would not for a moment suggest that that body is as qualified to consider the administration of the Clean Air Act as those now in charge.

Mr. JOHNSTON. No, absolutely not.

Mr. MUSKIE. If I may complete my thought, and the whole bias is going to be to push energy projects and to minimize obstacles. That is the word that will be used "obstacles."

I am not one, having struggled to write the Clean Air Act for all these years, who regards the Clean Air Act as an obstacle. I regard it as a protector of public health. But those whose primary responsibility is to build energy projects will be inclined to look on safeguards of the Clean Air Act and the Clean Water Act as obstacles standing in the way of the performance of their primary responsibility, and they are going to look upon those who raise such questions as aggravating and undesirable interferers in the discharge of their responsibility.

Moreover, they are not going to have at their disposal, unless what is contemplated is a bureaucracy the size of which is not projected in this legislation, the expertise or the background in dealing with the problems encountered in the administration of the Clean Air Act or the understanding of the implications of the legislative language and the regulatory language that is in place, that the administrators of the Clean Air Act have accumulated over the year.

So whether it is deliberate or intended by the pending bill or simply the product of unfamiliarity, ignorance, lack of expertise, or whatever, the Board will be making procedural decisions which could have significant substantive impacts. I think examples of that could be listed in ways that would take a week to cover them all.

Mr. DOMENICI. Mr. President, will the distinguished Senator yield for an observation and a discussion with him?

Mr. MUSKIE. Of course.

Mr. DOMENICI. I do not want the floor, but just to share a few thoughts.

I think you know that two of the Senators who spoke before, and who are on the committee, Senator McClure and myself, while we have not struggled nearly as long as the Senator from Maine with either the Clean Air Act or the Clean Water Act, both of us went through two conferences, saw one of our bills killed on the floor in the waning hours, and then had to go through it all again, as the Senator will recall, and the Senator had the support of both of us, Senator McClure and myself, and, in fact, I think the Senator will recall that one of the Members who is on this report, Senator McClure, as I recall the Senator's words, for the first time asked that a report be subject to committee scrutiny in detail.

Mr. MUSKIE. That is right.

Mr. DOMENICI. And we made more than 150—I ask him today—changes in the report because we were so concerned that it is difficult to write into a statute the things you want to write into it, and we were even having a report helping to interpret the second Clean Air Act.

Mr. MUSKIE. The Senator is making my argument better than I am.

Mr. DOMENICI. I will say this: We did not get on this bill thinking we were substituting this Board for the substantive environmental laws of this land. In fact, I can tell the Senator that what I have assumed was this, and I will give the Senator a simple hypothetical, knowing full well that he can find very complicated issues in terms of clean air.

But before I give you my example I want to say that I, for one, having been part of all that, do not assume for one moment that there are not delays in that process that are uncalled for, that could be constrained without in any way changing the substantive law, meaning the mandate of performance in terms of clean air in a factory, in a pipeline or refinery or whatever it is. So I assumed the following: That if one of these projects was going to be fast tracked that this Board would not determine compliance with the Clean Air Act either the United States or New Mexico, but rather New Mexico's EPA will, and the United States will, and if there is not compliance they will say "No."

The only thing we are saying is we are going to, within reason, set the time within which you say, "You are in compliance," or, "You are not in compliance." In no way would you be saying to either EPA or New Mexico, using my State, that they need to say to this Board, "You, Board, take over for us and dictate to us the standards of clean air required by some kind of construction."

I do not know how else we can do it, but that is the intention from this Senator's standpoint. Yet I want to see it expedited as much as possible.

Mr. MUSKIE. Let me say to my good friend from New Mexico that if we had followed a similar process of assumptions or good intentions in writing the Clean Air Act the clean air law would be much shorter, much simpler, much clearer. But among those Senators who insisted that you could not make such assumptions, in order to protect the interests with which they were concerned, the law had to be made more complicated, clearer as to its safeguards, clearer as to the rights of judicial review. I mean a lot of the complications in the Clean Water Act are written in to protect those who are regulated, and the members of the committee would accept no assumptions that the bureaucracy would not abuse businessmen trying in good faith to comply or industries trying in good faith to comply. They wanted it written into the law.

We are told that we have written an overcomplicated law, that the bureaucracy uses that overcomplicated law to delay and stretch out decisionmaking. I mean if we could write a law the way the Senator describes he wrote this one we would not be here, because I would have made sure that we wrote crystal-clear objectives in the law and assumed that with the Administrative Procedure Act the rights of interested parties would be protected.

Now you tell me that I do not have to fear a similar approach of yours. That the shortening of a deadline—there cannot be anything wrong with shortening a deadline—who on the face of it can object to the shortening of a deadline? Well, the Senator knows the kinds of discussion and deliberation and disagreement that went into establishing the deadlines in the Clean Air Act and Clean Water Act in the first place. There were some who said they were too long, too far in the future. Others said they were too short. Why did that arguing go on? Because those offering either one or the other argument knew that their substantive rights could be affected if a deadline was too short, and those who were interested in implementation of the law feared a deadline too far in the future would not protect the public interest.

So when you tell me changing a deadline has no substantive impact, I am not impressed, Senator. I am not impressed. I have been hearing that argument since 1963. I am not the one who offered the deadline, or who originated it.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. MUSKIE. So if the Senator tells me, "Look, we are only asking to shorten deadlines and that that surely has no substantive effect," baloney. That is not the fact.

Mr. DOMENICI. Let me say this to the Senator. If the Senator would just give me a moment——

Mr. MUSKIE. Well, it is my time, and I will yield it to the Senator when I have finished, and I will be glad to at that point.

Mr. DOMENICI. If the Senator is saying to me and to the American people that the Clean Water Act and the Clean Air Act have not caused any delays that could be cured without doing any violence to the health of these people, then I am not impressed, because you know they have.

Mr. MUSKIE. I have yielded for a question and not for a diatribe, but I have not said any such thing.

Mr. DOMENICI. You said you were not impressed about any delay.

Mr. MUSKIE. I am suggesting that this additional bureaucracy you would create could produce more delays, and if you tell me and the American people it will not, then you are disabusing the American people.

You are talking here about a process that will put you in confrontation with State and local agencies and with Federal agencies, which after all, do have a duty, and they are not dreamers.

They are charged with doing what? Protecting two other scarce resources.

You emphasize energy. How about air? How about air? There are many cities in this country today that do not have enough clean air or enough air of sufficient quality to protect public health; and that quality is being protected by what? By deadlines requiring people to do something about it by a certain time.

You tell me that deadlines have nothing to do with substantive rights or the health of people or the quality of our water or the state of our economy?

I am tempted, you know, perversely tempted to suggest that those of us who have questions about this legislation just sit down, be quiet, let the proponents have their way and write this into law, so that after 15 years of arguing for legislation and regulation to protect the public health, those who find them a burdensome kind of regulation can have their way to go ahead and expedite these projects, without limit. There is no limit in the bill. These projects can be rubber-stamped—50, 100, 150, or 200, it does not matter.

Let them have their way and build these synthetic fuel plants. After they have turned the first shovelful of earth, you grandfather them, so that no matter what you learn about danger to the air, while it is under protection, we are forbidden to do anything about it.

Then just let these pollutants discharge into the air and begin finally to destroy the atmosphere, without which combustion of your energy is not possible, and then the first city becomes unlivable for a day, for 2 days, for a week, and then you will have to explain why you impressed this kind of a law on the American people. Then I can say, "I told you so."

That would be a nice feeling, except that I do not want to see that day come. I mean, what is wrong with having the decision on the fast track judicially reviewable? What is wrong with that? Those who seek to advance the issues of big business want judicial review wherever they can write it into the statute books. You bet your boots they do.

Mr. JOHNSTON. Will the Senator yield?

Mr. MUSKIE. I want to finish my argument first; then I will yield.

But, no, you designate the fast track with nothing in the statute requiring that you even take a look at the environmental implications, without any limitation on the numbers of facilities, and without any real demonstration that the decision will contribute to a reduction of our dependence on foreign oil by 50 percent by 1990. Not even that is written into the law.

Of course you do not want it judicially reviewable; there is nothing to review. Absolutely nothing to review.

So, having made that start, for which the only consideration is that it be just any project, any old project having anything to do at all with energy, it can be put on the fast track. I have been told that deepwater ports which receive foreign oil are being considered, or at least are lining up as candidates for designation. I do not know what is going to prevent them from receiving preferred treatment. There is one in my State that will be a candidate. From the beginning of its design, almost a decade ago, the whole thing was premised on importing foreign oil. It is lining up to get on the fast track, and I do not see anything in the criteria of this bill that will prevent or prohibit an administrative decision that will permit it to do so.

All the environmental considerations that are of concern to Canada as well as to my State, impacting on the air as well as the water which are being adjudicated in the courts and administrative agencies, none of those would amount to a hill of beans, because they are going to be on the fast track. And let me say this to my good friend from New Mexico: Here is another fact. You know, you put a project on the fast track and a signal is sent through the bureaucracy, Federal, State, and local, that this project is a project the country needs, because Congress has said so. That is a green light for all such projects.

Just what kind of consideration will an environmental agency give to a fast track project? They are going to give it the green light. They are going to give it minimal consideration, at least that will be the pressure: "Push this thing through, or you will be hauled up before a congressional committee, or the GAO will be sicced on you," or whatever.

Once they give it the green light, there is nothing in the criteria that sends up any red flags about the environment—no criteria, except that a Board whose opinion is not going to be second-guessed by anybody says this is a fast track project. This means it has got to be built, hell or high water. Once you turn the first shovelful of earth, anything you learn about its environmental effects, however toxic, dangerous, or damaging to the health, goes by the board. You cannot do anything about it. That is the grandfather clause; you cannot do anything about it.

When an environmental agency gets the signal that an energy project has gotten that kind of a blessing from the Energy Mobilization Board, what inclination will it have to discharge its principal obligation, which is protecting the health of people and protecting the quality of the environment?

Mr. President, it is possible—and this is what frustrates me about this whole thing—the substitute makes possible the expediting of the regulatory process with respect to environmental law in a sound way. You know, what the writers of this legislation overlooked is the enormous ingenuity which groups and individual citizens in this country have found, in such a public policy, to delay, to have court tests, and to do whatever we do to try to write laws to prevent it. You think you have eliminated judicial review of the designation of fast track projects. I would be willing to make a small bet that somebody will find a way to get you in court on that. Somebody is going to find a way to get you in court, and not just once. By denying judicial review to that decision, you are just going to trigger efforts on the part of environmental groups and other groups to get that decision into court.

There is no way that you can guarantee what the courts will decide with respect to it. I have my doubts that you will succeed in keeping that issue out of court. But by writing it in, you almost guarantee time-consuming delay and frustration at the new level of administrative bureaucracy that you are creating with this bill.

They will get you into court. You can bet your boots they will. We have tried as have other committees to cut down on the litigation on issues involved in policies that we have established by legislation. It just is not the name of the game any more.

When you start to cut off the State agency and to assume its decisionmaking powers because it has failed to meet your deadline, whether failing to meet it was for good cause or not— this bill assumes that the delay by the State agency was completely without justification. When a Federal bureau comes in to make that decision under State law, without the expertise, without the background, the whole State will rally against the Federal bureaucracy. You are going to find yourself caught up in a tangled web of litigation when you try to substitute the Federal administrative agency's judgment in the administration of State or local law for that of the State or local agency.

It is not going to stand up; it is not going to last. It is just not the kind of thing that the American political system will accept. And to hear it proposed by people who come from areas of the country that I have always identified with strong support for States rights as against the Federal bureaucracy, I find myself somewhat stunned. The fact is that you can argue the details of your language and your provisions, but what you are doing here is creating an agency that can alter substantive law. As a matter of fact, the bill says that. The bill says in section 6, "The Board may alter Federal, State, and local law."

The amendment that was offered a little earlier narrowed its application to environmental legislation. As far as I can tell from my present analysis, until that amendment was offered, the Board could alter any law—civil rights, labor laws. To that, apparently, the proponents of the bill, having been alerted to the dangers of that language by the opposition that we have raised and the allies that we have acquired along the way in opposition to it, have offered a modification.

The fact that they have stricken some of these laws from its application does not mean that the application is any wiser or any sounder with respect to what is left. If it was bad law with respect to labor-management relations, pensions, working conditions, minimum wages, maximum hours of employment; if it was bad law with respect to State civil rights laws; if it was bad law with respect to State criminal laws; if it was bad law with respect to the antitrust law of the United States, then it is bad law with respect to environmental laws. Is there something peculiarly abhorrent about environmental laws that they should be set aside in this way?

Suppose that laws dealing with labor-management relations do, in fact, delay the construction of an energy project. Why is that delay any different than a delay attributable to environmental laws? If a civil rights law, in fact, because of threatened practices at the project or in the vicinity, results in a delay of the construction of the project, why is that delay any different than a delay generated by environmental laws?

So, I think it is a bad, bad precedent. The sponsors of the legislation recognize it in the amendment they offer. If it is bad there, it is bad with respect to environmental legislation.

Mr. President, the bill undertakes to modify the National Environmental Policy Act. I am one of the authors of the National Environmental Policy Act. Congress enacted that law because of the mistakes being made by Federal officials, who obstinately refused to consider the consequences of their actions for the human environment. The Senate report on NEPA states it very well:

> Environmental problems are only dealt with when they reach crisis proportions. Public desires are seldom consulted. Important decisions concerning man's future environment continue to be made in small, but steady, increments which perpetuate rather than avoid the recognized mistakes in previous decades.

There is nothing to suggest, Mr. President, that anything but NEPA stands between the more or less informed decisionmaking of today and the tunnel vision of a decade ago. The problem at that time was not rooted in the intransigence of individuals or individual officials but in the nature of institutions. If the mission of an institution is to get something built, it inevitably looks on all considerations other than how to complete that mission as obstacles to be overcome, not essential issues to be addressed.

What were the examples before us when we wrote NEPA? The Corps of Engineers, which was created to build projects; the Department of Interior in the reclamation program, created to build projects.

My good friend from Louisiana is a principal advocate of water projects. I believe in their development.

The Defense Department, involved in construction. So every Federal agency that was involved in building something before NEPA paid absolutely no attention to environmental considerations. Witness after witness came before us in the Environmental Pollution Subcommittee in those days and said, "Well, now, you have a nerve, asking us in business and private life to meet certain standards and then you refuse to meet them in Federal activities, Federal programs, Federal agencies and departments."

So NEPA was written for that purpose. The purpose is to broaden the vision of governmental officials to make them think before they act, to look before they leaped. It was more than a mandate to stop and think. It contained a set of procedural requirements for agencies to follow, and the reason is simple. As Senator JACKSON, principal architect of NEPA, said:

> [R]ealistically what is needed in restructuring the governmental side of this problem is to legislatively create those situations that will bring about an action-forcing procedure the departments must comply with. Otherwise, these lofty declarations are nothing more than that.
>
> (Senator HENRY JACKSON, Hearings on S. 1075, S. 237 and S. 1752 Before Senate Committee on Interior and Insular Affairs, 91st Cong., 1st Sess. 116 (1969).)

So now we are going to reverse that, go back to the pre-NEPA period, tell these agencies the only thing they have to be concerned about now is energy, energy projects of any kind, whether they affect importation of oil or not.

The purpose of all of the procedural requirements set forth in section 102(2) of NEPA is to structure environmental analysis into Federal decisionmaking—to force Federal officials to obey the law, The purpose of the written record required in an EIS is, in short, to prove that the law has been obeyed.

S. 1308 preserves the form of NEPA but abandons the substance. While an EIS will be written on most priority energy projects, S. 1308 renders that EIS a meaningless exercise. The Board would choose the agency to write the EIS (S. 1308, section 13(e)) and could order that agency to proceed "without requiring assistance from any other Federal agency" (section 13(g)) including, I suppose, EPA, the principal agency that could advise the Board on the environmental implications.

So we are going to have an environmental impact process, the lead agency picked by that Energy Board, and that Board can order the lead agency to proceed without requiring assistance from any other Federal agency.

The Board could then "[n]otwithstanding any other provision of law" require that the statement prepared in isolation by a single agency—

> be *used* for any or all Federal agencies to *satisfy* [NEPA] and by any or all State or local agencies to *substitute* for any comparable statement required by State or local law. S. 1308, section 13(d) (emphasis supplied).

The result would be a heavy book describing environmental issues, but it would have nothing to do with the thinking of agency decisionmakers. The decisionmakers would be released by S. 1308 from the NEPA requirement that they consider the environmental consequences of their actions. There is no purpose in writing EIS's for show, their only function is to force Federal officials to demonstrate that they have analyzed the impact of their decisions on the human environment.

When we have an EIS ordered by an Energy Board, written by a lead agency, not skilled with background in environmental issues, with environmental agencies excluded, as the Board can order from any consideration of environmental issues, of what value would that be?

I can hear the supporters saying that they do not mean it to come out that way. Well, then they should not have written it that way.

The Ribicoff-Muskie substitute preserves the substance of NEPA while streamlining the process. It permits agency compliance with NEPA to be reflected in a single EIS (S. 1806, section 12(d)(1)), and requires that that compliance be completed within deadlines set by the Board (S. 1806, section 12(f)). There is no language in S. 1806 purport-ing to authorize the Board to alter NEPA.

Mr. President, there is one final subject I would like to address before I yield the floor. I have referred to it already, and that is the "grandfather clause."

S. 1308, unlike the Ribicoff-Muskie substitute, permits the Board to set aside laws and regulations yet to be written.

Section 36 of S. 1308 empowers the Board to—

> waive the application of any Federal, State or local statute, regulation or requirement enacted or promulgated after the commencement of construction of a priority energy project.

That has been modified by the amendment offered today, as I described, and as the sponsors described it earlier. But the grandfather clause still applies to environmental laws.

The only conditions for the exercise of this "grandfather waiver" authority are that the Board must find the waiver necessary to "insure timely and cost-effective completion and operation of the project" (section 36(a)(1)) and that the "waiver will not unduly endanger public health or safety" (section 36(a)(2)). Thus the Energy Mobilization Board would have authority to balance industry's dollars against the health of the public.

The energy technologies most often suggested as candidates for environmental "grandfathering" are new synthetic fuel technologies. It is because they are new that the dangers to public health that they present and the means for their control have not yet been evaluated. Yet it is known that oil shale and coal liquification processes generate toxic wastes and carcinogens. The health and safety statutes to which such technologies would be subject were enacted by Congress with full consideration of which provisions should permit the application of rules to new sources of pollution only and which warranted application to existing sources. Virtually all of those statutes provide for agency consideration of costs and benefits. That function should not be transferred to the EMB. The prospective grant of "grandfather" authority to the EMB implies that we neither can nor should learn from experience. Imagine the situation today if an EMB had been in existence to waive the control and cleanup requirements related to the disasters from PCB's polyvinyl chloride, kepone, and Three Mile Island.

The new energy technologies, because they are new, involve dangers that have not been assessed. As the data to assess these dangers become available, the power to respond should be left with the agencies created by Congress to make such judgments, agencies whose responsibility is to protect the public and whose expertise renders them competent to do so.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Maine is eloquent, persuasive, and has done a magnificent job of tearing down some strawmen which we did not erect.

I am sure he has unintentionally misconstrued some of the provisions of the bill, and I will be very brief, just to set the record straight.

I do not want to keep arguing and repeating some various things, but just to set the RECORD straight and make a couple of things quite clear.

First of all, the Senator read from a section of the bill. He read this statement:

> The Board may alter Federal, State, and local law.

The bill does say that in subsection 6(h) on page 31. Unfortunately, the Senator did not read the rest of the sentence which says:

> only as authorized by sections 13, 17, 18, 21, 22, 28, 34, and 36 of this Act.

Mr. MUSKIE. Will the Senator yield.

Mr. JOHNSTON. That refers to the so-called grandfather clause. It was, as a matter of fact, an amendment put in by the Senator from Arkansas (Mr. BUMPERS) who wanted it to be crystal clear in this act that there was no implied waiver, that the only waiver of State law, really, was that which applied to the project decision schedule with respect to time limits and to the grandfather clause.

So he put that amendment in, not to broaden the effect of the argument, but to make it very clear there was no implied waiver.

The report makes it particularly clear in discussing this section 6, on page 36 of the report, as follows:

> The intent of section 6(h) is to make it clear that the Board could alter Federal, State and local law only as authorized by the enumerated sections. The provision is included to eliminate any doubt about the scope of the Board's powers. The Board does not have any implied authority to alter Federal, State, or local laws.

Another section of the report, in section 17, on page 39, also makes it clear, as follows:

> Although the deadlines and procedures established by the Board would be binding, they do not authorize agencies to ignore any other statutory requirements in their efforts to meet their deadlines. Agencies must still comply with such laws in every respect.

So all I am saying, Mr. President, is that there is a waiver of State law in a very limited way, and that is principally with deadlines, where the Board can set the deadlines for State, local, and Federal decisions, with the procedure being provided for expanding those deadlines where they are unreasonable, with access to the courts and the grandfather clause, which prevents States, particularly States or local subdivisions, from coming in with this kind of after-the-fact, discriminatory law which says, "Yes, we know you spent 7 years and $50 million getting all these permits, but now we have changed our minds, and now we have a new requirement for you."

We say they can make that new requirement if it deals with health and safety. But if it is another of those laws the State of North Carolina passed, which says, "We changed our minds; no refinery at Piney Point, North Carolina"—yes, that is prohibited by the grandfather clause, but it is a very narrow grandfather clause indeed.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Let me finish these points, and I will yield.

Mr. President, there is also a statement here about the EIS, about the fact that the Board does not have to consult with respect to the EIS.

One of the problems with building energy projects has been the proliferation of environmental impact statements—separate statements required by more than one Federal agency and more than one State and local agency—and they are all to serve the same decisionmaking process. They all involve precisely the same interests, the same values.

So, in discussing this legislation with the committee—by the way, we had a proliferation of hearings and 15 markup sessions—we said, "Let's consolidate this."

So the scheme is this: The Board, after discussion with the Council on Environmental Quality and before making this project schedule, shall designate the lead agency. After that lead agency is designated, it has what we call "scoping" meetings. The purpose of the scoping meetings is to identify the issues, to establish the content of the environmental impact statement, and to determine whether and how responsibilities should be apportioned among the Federal agencies.

Mr. President, that only makes sense, to designate a lead agency and not have a committee with no centralization of authority and that the work be scoped so that it is all moving together with some sense of direction, rather than proliferated, without any sense of direction or responsibility.

However, it specifically provides that any comments, opinions, or materials submitted by Federal, State, or local agencies shall be considered by the lead agency and made available to the public.

So it is absolutely clear here that any Federal board or any State agency has the right to have its comments, the facts it wants to adduce, any other material which it wants to provide—it has a right to have that considered by the Federal agency, and that, in turn, shall be made public.

So, Mr. President, not only is there no intent to cut off any Federal agency or State or local agency from having its material considered; to the contrary, the right of such agency with respect to Federal, State, or local law is guaranteed, that they shall have that considered.

Two other quick points:

First, we get these doomsday pictures of the Clean Air Act and all its values and all its injunctions and all its protection for the public somehow being thrown out the window. That is a compromise we made in this bill early on. There is no surrender—let me repeat—there is no surrender of any requirement of the Clean Air Act, of the Clean Water Act, or any public law, whether it deals with toxic substances or any other Federal law, save in two respects: First, the right of the Board to make a project decision schedule; second, the grandfather clause, which says you cannot change the rules of the game after companies have relied upon permits and spent a considerable amount of money, except for purposes of health and safety. If those purposes are served by the ex post facto laws, then ex post facto laws are legal.

Not only do we require that every provision of Federal, State, or local law be adhered to in terms of the decision criteria for all these decisions—every one of those criteria must be adhered to—but, also, there is an appeal; and in addition, there is the right to say, "No." We are not telling the State, local, or Federal people how to decide. We are not telling them, "You have to give them the clean air permit." We are not telling them that they are entitled to a zoning permit or any other permit. But we are saying that there is a time for decision. Give us your yes or no, but make it timely.

Mr. President, I will close by saying this: I read into the RECORD a list of 20 or 30 projects, when I started my presentation this afternoon, that had been stopped by delay, by delay, by delay. I suppose that probably the most conspicuous example—at least, the most recent conspicuous example—is the Sohio pipeline.

Consider this, Mr. President: The Sohio pipeline people wanted to build a pipeline from California across the midpart of the country, terminating in Midland, Tex., as I recall. It was to handle the Alaskan oil which right now must go through the canal or all the way around the Cape. The extra cost of that to the consumers of this country is tremendous. To have to go all that distance, it was dollars and dollars on the backs of every American user of gasoline. So they were going to build this pipeline.

Do Senators know what they were faced with? They had 700 permits to file for. Seven hundred permits, Mr. President, and they spent 5 years applying for those permits; and they spent $50 million applying for those permits. Seven hundred permits, 5 years, and $50 million.

Do Senators know what happened during that period of time? The cost of the pipeline went from $500 million to $1 billion, and they never could get their permits, and they gave up.

We can talk about all these wonderful values of the Clean Air Act. That happens to be one law. But what do you do when you are trying to build a project to provide energy to get away from the Arabs, away from OPEC, to provide energy at cheaper prices for Americans, and get away from $1.05 a gallon of gasoline, and come up with something that says you have to have 700 permits and we will let you spend $50 million in 5 years, and we still are not going to give it to you?

If anybody on the floor of the Senate can defend that kind of action, I would be very surprised to hear any logical argument.

Why do we say that we object to the Muskie approach, that you go to court every time you want to enforce one of these deadlines? That makes the Sohio thing that much more difficult. I would rather have the present status quo than to have the Muskie approach. Do Senators know what we would have in the Muskie approach? We would have 700 permits, the same as we have now——

Mr. MUSKIE. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. I will yield in a moment.

Seven hundred permits, with the possibility of 700 lawsuits, some of them going through the Federal courts here, some of them going through one county court and another in another county court, some in the State court of appeals, some in the State supreme courts.

Mr. President, if that costs $50 million unsuccessfully by the time you put lawyers fees on top of the Sohio pipeline you might have a billion dollars in legal fees. Well, I guess that is an exaggeration.

Why do I oppose the Muskie amendment in going to court, Mr. President? It is because courts are the problem now.

Mr. MUSKIE. Let me answer.

Mr. JOHNSTON. I will yield in 1 minute.

Mr. MUSKIE. The Senator asked the question.

Mr. JOHNSTON. Courts and attorneys are the problem. And, oh, I used to love all these laws you know because as my dear departed father used to say when I came into law practice with him, "Son, the safety of the Republic lies in a well paid bar."

I took that to mind and to heart, at least while I was a lawyer, trying to prove the truth of that. Since I have gotten in the Senate I see the safety of the Republic lying in quite another aspect. I see the safety of the Republic literally lying in trying to get some energy for this country.

Unless we cut through some of this redtape and unless we eliminate some of the lawyers, some of the appeals, and some of the lawsuits, we are likely to be around here 10 years from now and still not have the Sohio pipeline built and still not have any of these refineries—this is the list of about 20 I read—that they have been trying to build on the east coast and certainly no synfuels projects and no oil terminals and no pipeline projects, and we will just be worse off, more into recession, more into inflation, with higher interest rates and all that goes with being dependent upon OPEC oil.

Let me say one thing and then I will yield. This will be very short. Just last week there was an article in the Washington Post that I would have thought would have shook this Nation to its very foundation. That article said that the SPOR project, the Strategic Petroleum Oil Reserve which this Nation, this Congress decreed as its first priority in dealing with the energy crisis—that was the program under which we were going to try to put over a billion barrels of oil in salt domes in Louisiana in case we have an interdiction of supply. It was very important and Congress voted it and provided for it. That article in the Washington Post said that the Executive had stopped that program because Saudi Arabia had objected. Because Saudi Arabia objected this country stopped doing what we considered and this Congress considered to be the most important thing we could do for energy independence.

Mr. President, we are being strangled in our economy, in our independence, in our foreign policy, indeed in the very essence of America we are being strangled by lack of energy. We better get this bill or something like it and get away from the lawyers, the lawsuits, and the delays. If we do not we are in bad shape.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. MUSKIE. I will not take more than a minute or two because I know Senator JEPSEN wishes to speak and Senator PERCY is also coming over to the Chamber to speak.

I find myself sort of at the wrong end of a shotgun. At least I implied from what the Senator said that I am responsible for Saudi Arabia's interruption of some project and that I am responsible for the Sohio problem, and so on. I wish to get the Senator's attention. I conclude from what the Senator had to say on my bill that his bill would eliminate the 700 permits and his bill would eliminate judicial review.

Mr. JOHNSTON. Mr. President, no. There would still be 700 permits. There would still be the 700 statutes.

Mr. MUSKIE. That is my point.

Mr. JOHNSTON. But what the Energy Mobilization Board would do is provide a project decision for the 700 permits, so they would not all be in sequence, so they would all be decided within a reasonable time and then on the appeal if they wished to take appeal all of those appeals would be consolidated and considered in one court, the Temporary Emergency Court of Appeals. Instead of going to 17 different county courts, different levels of State courts, and different Federal courts, it all goes into one court of appeals for a decision.

Mr. MUSKIE. The question I want to focus on is, first, you would not eliminate the 700 permits. If the Senator had answered otherwise he would have been getting into substantive law which is a source of contention between us.

Mr. JOHNSTON. The Senator is correct.

Mr. MUSKIE. So you would not eliminate the 700 permits but would put them on a rational time scale, something with which the substitute as well as the Senator's bill is concerned. So to suggest that we are not concerned about that problem is not an accurate description of the substitute.

Let me ask the Senator this about the 700 permits in the Sohio case: How many of them were appealed to the courts?

Mr. JOHNSTON. I do not know how many lawsuits were involved. Some of them never have been decided in a period of 5 years. Perhaps staff has that information as to how many appeals were taken.

Mr. MUSKIE. In any case I agree with the Senator on that kind of problem. I do not want to take up too much time lest we take time away from Senator JEPSEN and Senator PERCY. That kind of problem is a legitimate problem to address. Whether or not such judicial review as there is should go into the temporary court of appeals or to the court of appeals of the district in which the project is located is a difference between the two bills. I prefer my own. But whether it is one court or the other, I do not know how lawyers are going to be constrained from doing whatever their clients want or what their clients may be permitted to do under either piece of legislation.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. MUSKIE. Yes; of course.

Mr. JOHNSTON. Let me read from a memo on this project, which really focuses in. It says this:

> Sohio has stated that even if all PACTEX—

Pactex is the pipeline in question.

> permits had been granted immediately, pending and threatened litigation (primarily on environmental issues) would still significantly delay the initiation of the project, further endangering its economic attractiveness. All of the pending litigation relates to local or State actions, and has occurred in State courts. A suit challenging the adequacy of the basic California Environmental Impact Report (EIR) was pending in the California Supreme Court for a year. On March 29, 1979, the court remanded that case to a trial for hearing, meaning that the appeal process had to start over from the beginning. No construction can begin, moreover, until the EIR is declared adequate.

Mr. MUSKIE. Let me make the point. First, the Senator is talking about the 700 permits. It should be clear for the record that that involved legislation in the several States. I do not recall how many states through which the pipeline would go. And that created a problem because of the nature of our Federal system.

The Senator is not proposing to eliminate the Federal system, as I take it. As a matter of fact, he has said in rebuttal to my interpretation of the implications of his bill that the requirements of State and local law must be observed.

Mr. JOHNSTON. That is correct.

Mr. MUSKIE. So if a pipeline of this kind has to traverse several States and meet each of their requirements of substantive law, about all you have succeeded in doing, after court challenges, is the rationalization of deadlines. Whether or not this can be accomplished, given the diversity and the structure of these various State and local laws, I do not know. I have no view of that. But it is going to be a tremendous problem to rationalize and accommodate all these varying requirements, and there is a frustration. I concede that. Whether or not you can really do so and still retain the prerogatives of State and local governments is going to be an interesting test. I do not know.

Mr. JOHNSTON. It is a great compromise as we say in our bill because, on the one hand, we preserve the decisionmaking criteria, State and local law.

Mr. MUSKIE. I am not sure about that. That is the point of disagreement.

Mr. JOHNSTON. We do it in explicit language.

Mr. MUSKIE. That is the Senator's intent. I doubt he can achieve it.

Mr. JOHNSTON. Moreover, we give them an appeal on using the criteria—excuse me—in the first instance, the State, local, or Federal people have the right to make their own decision. They can say "no."

Mr. MUSKIE. If they do it within the deadline.

Mr. JOHNSTON. That is right or they can go to court and ask for an extension of the deadline based on unreasonableness. That is a first right to go to court and say, "Look, 1 year within which to make this decision is not enough time." They have that right to that appeal at that point. Then——

Mr. MUSKIE. They will be pushed and prodded by environmental groups and other citizen groups who will think, who will believe, who will argue the unreasonableness of the new deadline. You are going to be caught up in litigation just as expensive and as frustrating and time-consuming as that——

Mr. JOHNSTON. If the Senator please, this would go all to one court, you see, all through the TECA court, and the beauty of this mechanism is that it centralizes these appeals so that if you had conceivably 700 appeals on the question of time——

Mr. MUSKIE. One court is going to handle 700 appeals?

Mr. JOHNSTON. Yes, but all on this same subject.

Mr. MUSKIE. How could you? I mean, if the 700 permits involved 700 State laws and Federal laws, how is the court going to handle it as though it was one case? Are you going to have the one court handle 700 appeals?

Mr. JOHNSTON. I did not say as one case. Obviously there would not be 700.

Mr. MUSKIE. It is a tremendous caseload for one court, 700 appeals for just one project. And if you pose 700 appeals under my substitute, I do not know why it is not legitimate to pose 700 appeals under yours. One court is going to handle yours and several courts are going to handle mine.

Mr. JOHNSTON. Mr. President, I would like to answer all of these questions but——

Mr. MUSKIE. We will have an hour and a half tomorrow.

Mr. JOHNSTON. Do I have the floor, Mr. President?

Mr. MUSKIE. I think you do.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. JOHNSTON. I was going to suggest that there are two Senators who are going to ask for time, Senator JEPSEN and Senator BENTSEN.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Senator BIDEN be added as a cosponsor of the Ribicoff-Muskie amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I have one memo and, at the request of Senator RIBICOFF, I ask unanimous consent that the memo entitled "Greater Effectiveness of S. 1806's Remedies to Avoid Delay" be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

GREATER EFFECTIVENESS OF S. 1806's REMEDIES TO AVOID DELAY

Both S. 1308 and S. 1806 seek to eliminate delays in completing vital energy projects by establishing an Energy Mobilization Board to cut through red tape and secure prompt action. One of the major differences between the two bills is how they seek to ensure compliance with any schedule the Board establishes for completing action on an energy project. Under the provisions of S. 1308 the Board would substitute its judgment for that of any federal, state, or local agency which failed to meet a deadline by even one day. The provisions of S. 1806 would instead empower the Board to go to court to obtain a court order, requiring the agency to act if the agency has missed, or appeared likely to miss, a deadline.

Past experience demonstrates that the approach of S. 1806 is both workable, and effective. It will result in better decisions, less delay, and less intrusion into the workings of other federal, state, and local agencies. On the other hand the approach proposed by S. 1308 will only result in more delay and more litigation.

AMPLE PRECEDENT FOR JUDICIAL ENFORCEMENT OF DEADLINES

The principal import of section 19 of S. 1806 is to allow the Board which sets the schedules to go to court and obtain a court order directing another agency to conclude its deliberations and decide the matter one way or the other. This remedy is available either when a deadline has already been missed, or when a future deadline is likely to be missed. As this memorandum demonstrates impressive precedent for this approach demonstrates its effectiveness and workability. As the Court of Appeals observed the establishment of time limits "should serve like adrenalin to heighten the response and to stimulate the fullest use of resources." *NRDC* v. *Train*, 510 F.2d 692, 712 (D.C. Cir. 1973).

The right to sue over agency action unreasonably delayed is one already provided parties under the Administrative Procedure Act. It is one which the courts already enforce. Section 706(1) of the Administrative Procedure Act has long authorized a court to compel agency action on the grounds that it has been unlawfully withheld. See *Deering Milliken, Inc.* v. *Johnston*, 295 F.2d 856, 865 (4th Cir. 1961). See generally, Note, *Judicial Acceleration of the Administrative Process: the Right to Relief from Unduly Protracted Proceedings*, 72 Yale L.J. 574 (1963).

There follow some examples of actual cases demonstrating that the provisions of Section 19 will work in practice. In some cases the court actually forced an agency to act by a certain date, and the deadline was met. In other cases, the mere filing of a lawsuit was enough to secure rapid agency action, without even the need for a judicial hearing. All of the examples demonstrate that the reality of a lawsuit, including the possibility of contempt, plus the asurance of unfavorable publicity from continuing to delay action on vital energy projects, will prove highly effective in seeing to it that if deadlines are missed, it will not be for long.

In many of the cases listed below the court established and enforced a deadline on its own even though there was no specific deadline established by law. The Board will have a far easier time winning any case it brings under Section 19 since there will already be a specific deadline established by it pursuant to a clear Congressional directive.

EXAMPLES OF COURT SUITS RESULTING IN PROMPT AGENCY ACTION

North American Van Lines v. *United States*, 412 F. Supp. 782 (N.D. Ind. 1976).

The court held that the Interstate Commerce Commission had unlawfully "flagged" North American Van's applications for new operating authority thereby delaying action on it while it completed a separate investigation to determine North American Van's fitness. The court ordered the Commission to grant or deny the illegally delayed applications within sixty days. In response to the court order, the ICC acted promptly on each application.

Home Box Office, Inc. v. *FCC* (D.C. Cir. 1977).

The court held that the Commission had unreasonably delayed the completion of its "program exclusivity" rulemaking proceeding. Although only eighteen months had had elapsed since the publication of the notice of proposed rulemaking and twelve months since the close of the comment period, the Commission had been studying the problem for nearly six years. The court ordered the Commission to "terminate" its program exclusivity proceeding within 180 days. As ordered, the FCC acted within 180 days to terminate the proceeding.

Booth American Company v. *FCC*, No. 23862 (D.C. Cir. 1970).

Plaintiffs application for an emergency license had been pending before the Federal Communications Commission for 17 months. Even though there was no applicable statutory deadline the court ordered the agency to act on the license request within 20 days or explain its failure to do so. Fifteen days after the court order the FCC granted the license.

Natural Resources Defense Council, Inc. v. *Environmental Protection Agency*, 475 F.2d 968 (D.C. Cir. 1973).

The Natural Resources Defense Council challenged the EPA's administration of the Clean Air Amendments of 1970, 42 U.S.C. § 1857 et. seq. (1970), which required that each state formulate within a fixed period of time a plan to implement the environmental quality standards established by EDP. After determining that EPA had not followed proper procedures in granting states extensions under the Act, the court established time frames for both the States and the EPA to meet. The court first set a date by which all states were required to have submitted implementation plans to the EPA. It also set deadlines by which EPA was either to have approved or rejected these plans. In compliance with the court order the states submitted proposed plans within the time specified, and EPA acted promptly to approve or reject the plans.

Commonwealth of Pennsylvania v. *Environmental Protection Agency*, 500 F.2d 246 (3rd Cir. 1974).

The court found that EPA could, if necessary, institute proceedings under § 113 of the Clean Air Amendments of 1970 to enforce compliance by a state with a transportation control plan which included deadlines for its implementation. By analogy, S. 1806 would direct the EMB to set similar deadlines for compliance and would allow that agency to seek enforcement in the federal courts.

Public Citizen Health Research Group v. *Califano*, Civil Action No. 77–0911, D.D.C.

On April 22, 1977, a petition was filed to remove the drug phenformen from the market as an imminent hazard, pursuant to 21 U.S.C. § 355(e). When no action occurred, suit was filed on May 27th, and in mid-July without a court order, the Secretary of HEW ordered the drug removed from the market.

Public Citizen v. *Cook*, Civil Action No. 743–73, D.D.C.

A petition for rulemaking was filed with the SEC on March 15 1972 and was denied on August 25, 1972. After a petition for review and a motion for summary reversal were filed in the Court of Appeals, the agency agreed to ask for comments on the proposal. All comments were due on December 1, 1972 and responses to them were filed promptly thereafter. Despite several promises of immediate action, nothing was forthcoming. Therefore, suit was filed on April 18th and within three weeks, the action was taken by the agency.

PROD v. *Train*, Civil Action No. 74–999, D.D.C.

EPA was required under the Noise Control Act to issue a report on the principal sources of noise, and to propose regulations for them, by April 27th, 1974. When it failed to meet that deadline, PROD, a group of drivers of trucks and other vehicles, wrote the EPA on May 1, 1974, demanding that action be taken. The report, but not the proposed regulations, was issued on June 21st, and on July 2nd, suit was filed. The government obtained several delays in responding, but after it did, and before the Court could rule, EPA issued the rules on October 15, 1974.

Nader v. *Browne*, Civil Action No. 1240–72, D.D.C.

Ralph Nader had asked the CAB to deal with the problem of smoking on airlines by a petition filed on December 16, 1969. A colleague of his, Reuben Robertson, filed a formal third party complaint with the CAB on August 13, 1970, asking for an investigation of alleged violations of the ownership reporting requirements by 16 carriers. When the Board had not responded to either request, a lawsuit was filed on June 12, 1972, and a motion for summary judgment filed on July 18th. Just three days before its response was due, the CAB issued a major proposal on smoking, thereby mooting the Nader claim. It failed to act on the Robertson complaint, and so on November 10, 1972, the Court issued an order giving the Board 30 days to issue its response to the complaint filed by Robertson. The Board acted in compliance with the court order by issuing its response to the petition on the thirtieth day.

It should be noted that this list of examples does not include numerous cases involving the Freedom of Information Act where an agency has missed its statutory deadline under 5 U.S.C. § 552(a)(6), and the filing of a lawsuit brought forth immediate and substantial relief.

It is true that there have been other instances where courts have been reluctant to adopt or enforce a deadline against an agency. But in these situations, either an inflexible deadline was established by a statute without regard to the particular circumstances of the case, or the court was asked to establish a deadline of its own without the expertise or knowledge the agency itself possesses. Courts have also occasionally resisted adopting a deadline which would force the agency to put one proceeding ahead of another, or otherwise choose between competing priorities.

None of these situations will apply with deadlines set by the EMB. First, the deadline will have been established and monitored by an expert body with the difficulty and importance of the particular proceeding in mind. Second, the court will be asked to enforce a deadline that was adopted only after full consultation with the agency, and after consideration of what it can reasonably be expected to do. Finally, the court will be able to rely on the expert judgment of the EMB to tell it whether the agency could reasonably have been expected to meet the deadline and what court action is necessary to ensure rapid completion of the proceeding.

It should also be noted that, under the Ribicoff substitute, the EMB will be monitoring the agency action on a continual basis. If EMB determines the need for judicial intervention it will be able to file suit early in the process, before the agency falls hopelessly behind in its schedule. The court will not be confronted with a situation already doomed, as a realistic matter, to result in considerable delay regardless of what action it takes.

Enactment of legislation establishing an Energy Mobilization Board will establish a clear national policy that certain designated projects should be given top priority by the agencies because of overriding national needs. Thus the court under S. 1806 will only be called upon to enforce the deadline which an expert body, the EMB, has already determined is reasonable and necessary and consistent with the overriding national policy established in this Act. The Court will not be asked to choose on its own between several competing and equally important priorities, as is the usual case when courts are asked to impose deadlines.

One additional factor will further increase the effectiveness of EMB beyond anything experienced to date. Although the right to obtain a court order requiring agency action is well established, many parties and their attorneys are reluctant to seek relief in court from agency inaction for fear of only angering the agency that must act on its request. Since the Board will not be a party but merely seeking to obtain compliance with its schedule, and since it will have the full prestige of the United States government behind it in support of these projects, this will not be a problem.

MORE DELAY WILL RESULT FROM THE ALTERNATIVE APPROACH

In contrast, the alternative approach of allowing the Board to take over and actually make decisions for agencies which are tardy will only produce more delay. Almost by definition, the issues raised in these proceedings will be difficult, if for no other reason than that the projects will be large. Unlike the agency with the normal decisional authority, the Board will have no expertise in the areas covered, and will have to pick up in the middle of a particular case and start from scratch. Given those two factors, and assuming that the Board will attempt to do its substantive jobs properly, it is virtually certain that the Board will be unable to issue a reasoned decision in less than the time that the responsible agency could. And, if there is more than one missed deadline at a time, the prognosis for an accelerated decision is even less favorable.

Knowing that the EMB will step in and make a decision for it could also produce delay for another reason. It could lead federal and state agencies faced with difficult policy decisions to delay their decision until after the deadline. This would shift the responsibility for any unpopular decision to EMB, but only at the cost of considerable delay in obtaining final agency action. S. 1308 would thus achieve exactly the opposite effect than the one intended.

Then too, any provision giving EMB the authority to make the substantive decision will inevitably create only more litigation. And this will in turn mean only more delay.

The Board would have to apply substantive law with which it is unfamiliar. It may have to apply both state and federal law. Even assuming the Board can correctly identify the substantive law to be applied, it is a virtual certainty that every decision the Board makes of this kind will be appealed. There will be a real problem of the quality of the Board's decisions if it is called upon to decide a Clean Air Act question one day, a strip mining issue the next, and a local zoning variance the third—and still continue its duties of setting schedules and providing overall monitoring for the program. Given its lack of expertise, decisions of the Board are likely to be reversed far more often than those of agencies who originally had responsibility for making the decision. The Board will then have to spend time to redecide the case. And more delay will result.

Thus, even without considering the undesirable effects of establishing another substantial bureaucracy to make decisions properly left to state or local governments, or to other federal agencies with the substantive expertise, the procedures in S. 1308 are unwise because they will produce more, not less, delay.

Mr. MUSKIE. With that I yield the floor so that other Senators may have some time.

Mr. JOHNSTON. How much time, Mr. President, does the Senator from Iowa wish? I yield 10 minutes to the Senator from Iowa, and after that 10 minutes to the Senator from Texas, and the remainder of the time to the Senator from New Mexico.

Mr. DOMENICI. Let me ask the Senator from Maine, if you please, is the Senator going to remain here until the debate is finished?

Mr. MUSKIE. Tonight?

Mr. DOMENICI. Yes.

Mr. MUSKIE. I will unless someone else on my side wishes the floor, unless Senator Percy would like the floor.

Mr. DOMENICI. I wanted a couple of minutes to just respond to the Senator's observations about clean air in this bill, and if the Senator was not going to be here I was not going to make them, that is all.

Mr. MUSKIE. I am here and the Senator can go ahead.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, the distinguished Senator from California has asked that I yield him 2 minutes.

Mr. CRANSTON. I thank the Senator. I will be brief and I will not take the time of the Senators waiting to speak.

I was one of those Senators who was an original cosponsor of S. 1308, the Energy Supply Act. I have become a cosponsor of the Ribicoff-Muskie substitute.

I supported that legislation in its original form because I believe it is vital that we reduce our dangerous dependence on imported oil, and get on with the task of conserving and producing energy domestically, particularly renewable energy.

I supported S. 1308 in its original form, not because I thought it was perfect, but because, with some reservations, I believe it represented a good start toward domestic energy production. Of course, much of that original bill has been left behind in the committee as we focus on the Energy Mobilization Board portion of the original bill.

Under the able leadership of the Senator from Washington (Mr. Jackson), the committee has worked hard and made many changes in S. 1308.

And, in the meantime, other Senate committees with direct jurisdictional interest in various sections of S. 1308 have had an opportunity to focus on the issues which it raises.

Amendment No. 488, the Ribicoff-Muskie substitute, focuses the expertise of the Governmental Affairs Committee and other Senators on the so-called fast-tracking mechanisms of S. 1308, which the Energy Committee has reported separately.

Both this portion of the original S. 1308 and the Ribicoff-Muskie amendment would create an Energy Mobilization Board.

At debate here is the delicate balance at all levels of government between the need to license priority energy projects as rapidly as reasonable, and the need to preserve and protect environmental values and the quality of life in the Nation in which we live.

Those who advocate extreme positions in this debate would force us to choose one over the other, but I do not believe that is a necessity.

Mr. President, I believe that S. 1308 on the one hand, and the Ribicoff-Muskie amendment on the other, represent the acceptable parameters of that debate.

Doing less than the Ribicoff-Muskie amendment would do would not change the status quo enough to accelerate the production of energy significantly.

Doing more than S. 1308 as reported would sacrifice the important environmental protections which many of us have worked hard to establish.

I believe that the argument that to produce energy we must sacrifice reasonable environmental laws and regulations or we cannot get anything done is essentially specious.

I believe, Mr. President, that our licensing procedures need overhaul and coordination.

I believe that duplicative and unnecessarily burdensome regulations need to be eliminated.

I believe that endless challenges to energy production projects need to be forestalled, and that reasonable deadlines need to be set for final decisionmaking.

But I believe that it is possible to do all these things very carefully. We must not ignore, in the name of energy development, the interests our environmental laws are designed to protect.

After careful consideration of the two approaches, I find that I greatly prefer the Ribicoff-Muskie amendment, which I am now cosponsoring.

Mr. President, supporters of the Energy Committee approach have repeatedly referred to the Sohio pipeline project as a case justifying the procedure in S. 1308 as reported.

That project is located primarily in my State, and is one with which I am thoroughly familiar:

I was a supporter of the construction of that pipeline.

I believe it was in the national interest.

I worked hard in an unsuccessful attempt to get the pipeline built, and to resurrect it after Sohio's first decision not to proceed.

I am still hopeful we will find a way—without Sohio—to connect Long Beach to Texas by pipeline.

The final decision which the Sohio Corp. made was that the pipeline whether or not it was in the national interest, was not in the corporate interest.

And the corporation chose not to build it.

No environmental or licensing constraints remained as impassable obstacles to the project when the final corporate determination was made—in fact, the final State permit was in the process of being granted.

And, while the company blamed regulatory delays for changing the economics of the project, the record, which I have carefully examined, does not bear out that contention.

Rather, the record reveals that the company sought to circumvent environmental laws and requirements, while an attempt was made to create an atmosphere in which those laws would be overridden, almost from the beginning of the project.

Many of the delays in the regulatory process were a direct result of the failure and unwillingess of the corporation to submit applications or required information in a timely fashion.

I believe that to permit the confusion and delay created by such tactics to be used as an argument for legislation to remove from Federal, State, and local regulatory agencies the authority given to them by Congress or the legislatures of the several States—and to give that authority to a board which cannot possibly have their expertise, their experience nor the same sensitivity to the local environment, and which has as its sole mission expediting energy projects—is to invite just such tactics as we saw demonstrated by the Sohio Corp.

Yet this is where S. 1308 as reported would take us.

I believe that the weakness of the committee-reported bill is that it lends itself to—and indeed may encourage—this kind of abuse in the name of energy production, when it is possible to get the energy production with more careful procedures.

I believe that the Ribicoff-Muskie substitute, which stresses coordinated efforts among the regulatory agencies at all levels of government and greatly expedites their decisionmaking, eliminates the danger, while accomplishing what we are seeking to do: to cut through the redtape holding up energy development while giving full faith and credit to laws which the States and this Congress have adopted.

It was clear to me during the consideration given to the Sohio case that there were many who were prepared to ignore the interests of California's citizens in order to encourage the corporation to build the pipeline.

The relationship between the States and the Federal Government is delicately balanced.

I believe that the Ribicoff-Muskie substitute woud preserve that balance better than S. 1308 as reported.

I urge my colleagues to adopt the amendment.

I thank the Senator for his courtesy.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I rise in opposition to the Muskie-Ribicoff substitute and to give my general views on the subject of an Energy Mobilization Board, the need for such a board, and the necessary powers of such a board. Let me preface my remarks by expressing my concern about and desire to have; clean air, clean water, and blue streams jumping with fish, and green forests full of animals. I support environmental policies and laws. I even support the Environmental Protection Agency. Yes, I supported EPA when it meant Environmental Protection Agency but the record shows that EPA now means end productivity altogether.

Mr. President, first of all I would like to say that I wish it were not necessary to establish an Energy Mobilization Board. It seems to me that it is a sad state of affairs when the Congress must establish a quasi-independent board to fast-track needed energy projects when the Congress itself is responsible for passing the laws which hinder the building of such projects. A more responsible approach would be for the Congress to reopen debate on the laws in question, such as the Clean Air Act, the National Environmental Policy Act, the Endangered Species Act, and many others. If the laws are acting as a barrier to the building of needed energy projects then let us change the law, not establish an energy mobilization board to do our dirty work for us.

Let me just list for a moment some of the laws passed in recent years which have, at one time or another, been used to delay or stop major energy projects:

The Clean Air Act.

The Clean Water Act.

The Coastal Zone Management Act.

The Resource Conservation and Recovery Act.

The Federal Land Policy and Management Act.

The Endangered Species Act.

The Wilderness Act of 1964.

The Marine Protection Research and Sanctuaries Act.

The Outer Continental Shelf Lands Act.

The Fish and Wildlife Coordination Act.

The Bald Eagle Protection Act.

The National Environmental Policy Act.

The Wild and Scenic Rivers Act.

The Toxic Substances Control Act.

The National Historic Preservation Act.

Now, I would like to add to this list another list of energy projects, including refineries, oil terminal and pipeline projects and others, which have been canceled as a direct result of delays caused by environmental problems, Federal regulatory delays, delays in obtaining State and local permits, and delays caused by litigation or threatened litigation. I will not read the entire list but I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST

I. REFINERIES

Company, location, and size B/D

Shell Oil Co., Delaware Bay, DE, 150,000.

Fuels Desulfurization (1970),[1] Riverhead, L.I., 200,000.

Northeast Petroleum (1971), Tiverton, RI, 65,000.

Supermarine, Inc. (1972), Hoboken, NJ, 100,000.

Commerce Oil, Jamestown Island, RI—Narragansett Bay, 50,000.

Steuart Petroleum (1974), Piney Point, MD, 100,000.

Olympic Oil Refineries, Inc. (1974), Durham, NC, 400,000.

Occidental, Machiasport, ME, 300,000.

Crown Central Petroleum, Baltimore, MD, 200,000.

Ashland Oil, Fort Pierce, FL, 250,000.

JOC Oil, Jersey City, NJ, 50,000.

Gibbs Oil, Sandorf, ME, 250,000.

Granite State Refineries, Rochester, NH, 400,000.

Shell, Gloucester Co., NJ, 150,000.

Cumberland Farms, Portsmouth, RI, 40,000.

Saber-Tex, Dracut, MA, 100,000.

Pepco, Saybrook, CT, 400,000.

Mobil, Paulsboro, NJ, 150,000.

II. OIL TERMINAL AND PIPELINE PROJECTS

A. Sohio PACTEX pipeline project with receiving terminal at Long Beach, California, and pipeline to Midland, Texas. Abandoned after expenditure of $50 million.

B. Seadock Deepwater Port project off the Texas coast. Abandoned after expenditure of $20 million.

III. LIQUIFIED NATURAL GAS PROJECTS

A. Abandoned or suspended:

Project and site

El Paso II, Port O'Connor, TX.

Eascogas LNG, Inc., Rossville, Staten Island, NY.

Tenneco, Inc. St. John, New Brunswick, Canada.

B. Pending but threatened:

Project and site

Pac-Indonesia/Pac-Alaska, Point Conception, CA.

Tenneco Trinidad LNG, Inc., NA.

NPC–LNG, Inc., Engleside, TX.

Southern California LNG Terminal Co., Deer Canyon, CA.

IV. COAL GASIFICATION AND LIQUEFACTION PROJECTS

A. High btu coal gasification projects suspended or inactive:

Project, site, and output MMcf/d

WESCO, Four Corners, NM., 275.

El Paso Natural Gas Co., Four Corners, NM, 144.

Panhandle Eastern Pipeline Co./Peabody Coal Co., Eastern Wyoming, 275.

Natural Gas Pipeline Co. of America, Dunn City, ND, 270.

Northern Natural Gas Co. of America, Powder River Basin, Montana, 275.

Columbia Gas System, Inc., Illinois, 300.

Exxon Corp./Carter Oil, Northern Wyoming.

Consolidated Natural Gas Co., Southwest Pennsylvania.

B. Coal liquefaction projects abandoned:

Project, site, and output

Coalcon/Union Carbide, New Athens, IL, 22 Mmcf/d 2900 bbl/d.

V. NON-NUCLEAR ELECTRIC POWER GENERATING PROJECTS

Each of these facilities was proposed prior to 1976 but was cancelled prior to January 1, 1979. (Kaiparowitz was proposed in 1963).

Project, location, and proposed output

Kaiparowitz Project, Southern California Edison, Utah, 3000 megawatts.

Empire Energy Center, Empire District Electric Co., Missouri, 325 MW.

Pioneer No. 1 and 2, Idaho Power Company, Idaho, 1022 MW.

Salem Harbor No. 5, North Shore No. 4, and New England Power Co., Massachusetts, 1666 MW.

Sherburne County No. 4, Northern States Power Company, Minnesota, 810 MW.

Sewaren No. 7 and No. 8, Public Service Electric & Gas Company, New Jersey, 767 MW.

Rush Island No. 3 and 4, Union Electric Company, Missouri, 1112 MW.

Mr. JEPSEN. Mr. President, it is clear that the Congress has gone too far in its efforts to protect the environment and has imposed on the country an economic cost which was never contemplated. It is equally clear that the power of the environmental lobby is as great as any in Washington and that the Congress has no intention of reopening debate on any of the laws in question. It is unfortunate that those who ultimately bear the cost of these environmental laws are some of the poorest and weakest members of our society—those who have lost jobs or were denied jobs because of a lack of energy or a plant closing caused by environmental laws, or those who must pay higher prices for electricity and fuel oil so that the rich may be able to hike or camp in a pristine wilderness.

Mr. President, I am strongly inclined to agree with William Tucker's assessment of the environmental movement as one more concerned with protecting its own position and privileges than with protecting the environment. It is, as Tucker points out, the current manifestation of what Veblen called the leisure class. The environmental movement is largely made up of upper middle class people who can afford to live outside the cities where they can enjoy the clean air and jealously protect it; who can afford to take vacations in Alaska and enjoy its wilderness. They will not lose their jobs or suffer from a no-growth economy and are perfectly willing to force everyone to pay so that they may enjoy a pristine environment.

Perhaps the greatest absurdity of the environmental movement is the Alaska lockup. The goal is to deny all the people of the United States, and especially the people of Alaska itself, the benefits of its vast resource potential so that three-quarters of the State may be kept in a State of pristine wilderness, accessible only by dogsled. Yet the environmentalists are exceedingly clever in making it appear that the exact opposite case exists, that all Americans will benefit rather than suffering from a lockup of this vast area. Moreover, their lack of concern for the rights of the people of Alaska is absolutely incredible.

Mr. President, for all these reasons I feel that I must support an Energy Mobilization Board. We must start somewhere to roll back the tide of "ecomadness." We must reassert the rights of all Americans to a healthy, growing economy. And we cannot do that without adequate energy supplies.

Mr. President, as a former Lieutenant Governor I am very sensitive to the charge that an Energy Mobilization

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[1] Fuels Desulfurization also attempted unsuccessfully to construct the same 200,000 barrel/day refinery in South Portland, Maine; Seaport, Maine; and Brunswick, Georgia.

Board will trample over States rights. And I am inclined to believe those who argue that State and local laws have not been responsible for stopping important energy projects. It is Federal law which is the villain.

Unfortunately, I feel that if a board is established which only has jurisdiction over Federal law this will only create a loophole for those opposed to any energy development to use State and local laws instead of Federal laws to accomplish their ends. It would surely be absurd, for example, to have a vital energy project which has passed every other hurdle to be stopped by a local zoning law. I fear that such situations may arise unless we give the board comprehensive powers. If, on the other hand, we go the other route and establish a board which has only procedural powers I am afraid that it will be simply another useless bureaucracy on top of all the other bureaucracies.

In other words, Mr. President, I feel we must go all the way with an Energy Mobilization Board and give it the substantive powers it needs, or forget the whole idea.

In conclusion I will repeat my initial point, that I would prefer the Congress to deal with the laws hampering energy development and revise them or repeal them where necessary, rather than appointing a quasi-independent board to do its dirty work. But given the political reality that the environmentalists will successfully block such an effort I feel that there is no other alternative except to establish a board which has substantial powers to get vital energy projects going.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. PERCY addressed the Chair.

Mr. BENTSEN. Does the Senator from Illinois seek recognition?

Mr. PERCY. I just wanted to inquire how long the Senator wishes to proceed, so that I might possibly fulfill another appointment.

Mr. BENTSEN. Ten minutes.

Mr. PERCY. Would it be possible for the Senator from Illinois to follow, then, in approximately 10 minutes, the Senator from Texas?

Mr. JOHNSTON. Mr. President, I think the Senate has agreed to go out at 6 o'clock. The Senator from Texas has 10 minutes and the Senator from New Mexico has 3. I am sure the Senator from Illinois could get whatever other time is left, which, by my calculation, is 2 minutes.

Mr. PERCY. Is there any reason why the Senate has to go out at 6 o'clock?

Mr. JOHNSTON. There was a unanimous-consent agreement.

Mr. PERCY. Could we ask unanimous consent that it stay in session until 6:10?

Mr. DOMENICI. Can the Senator speak tomorrow?

Mr. PERCY. It will be rather difficult tomorrow.

Mr. DOMENICI. I will take time tomorrow to address my remarks in rebuttal to the Senator from Maine.

Mr. BENTSEN. I will reduce my time to 7 minutes.

The PRESIDING OFFICER. There is no unanimous-consent agreement to recess. The Senate may continue in session as long as Senators wish to continue.

Mr. BENTSEN. Mr. President, this country is facing a full-blown energy crisis that threatens our future as the most powerful and prosperous Nation in the world, jeopardizes our national security, and leaves us in a position of extreme vulnerability. We import 46 percent of the oil we consume, and the price of that oil has almost doubled this year alone.

Throughout its history, the United States of America has developed a proud tradition of responding successfully to challenge, particularly when our vital national interests are at stake. We have consistently demonstrated an ability to mobilize our enormous talents and resources behind worthwhile national objectives.

Today one of our primary national goals is greater energy self-sufficiency—an objective we can and must achieve. This country has vast untapped energy assets. There is more oil trapped in the mountains of Colorado, Wyoming, and Utah than under the sands of Saudi Arabia. The United States of America has the means to overcome its energy problems, break the OPEC hammerlock, and regain control of our own destiny.

But do we have the will? Is our energy crisis large enough, compelling enough, and urgent enough to evoke an exceptional effort on our part to deal with it? Or should we just look the other way and stumble along with the policies that have brought us to this impasse?

That is the question the Senate will decide as it deals with the various proposals to establish an Energy Mobilization Board.

As one who submitted proposals for an EMB earlier this year, many of which are included in S. 1308, my position is clear and unequivocal. The policies and practices of the past will no longer suffice. We need new procedures, new approaches to problem-solving that will break the cycle of increasing, costly, and dangerous energy dependence. We need an Energy Mobilization Board that can blaze a trail through the wilderness of redtape and bring the creativity, the ingenuity of our economic system to bear on the problem of alternative energy development.

I would like to commend Senator JACKSON and the members of the Committee on Energy and Natural Resources for their leadership in developing proposals for an Energy Mobilization Board that makes sense for America. S. 1308 is consistent with the notion of mobilization. It calls for exceptional measures to deal with a vast and urgent problem.

S. 1308 recognizes that we cannot tackle the problem of energy self-sufficiency with one hand tied behind our back. It recognizes that this Nation can no longer afford a fiasco like the Sohio pipeline: 5 years, 700 permits, $50 million in expense, and a vitally needed project abandoned out of frustration, a victim of the regulatory system.

I do not wish to be overly dramatic, Mr. President, but let us just consider for a moment what might have happened during World War II if this Nation had attempted to mobilize with all the restrictions and redtape we confront today. Shortly after World War II broke out, we marshaled our resources, established a partnership between the public and private sectors and had major synthetic rubber plants in production in a matter of 287 days. That was a key element in the success of our war effort. If a similar situation were to occur today, the war would be over before we even got permission to site the plants.

Faced with a real crisis, we are talking about mobilization in a regulatory atmosphere which virtually precludes prompt, effective action. S. 1308 is a welcome breath of fresh air in that environment. It gives us hope for the future. It offers us an EMB that can do a job which urgently needs to be done.

Opponents of S. 1308 offer us instead a proposal that should be called the Energy Stagnation Board, a proposal that, frankly, I think will not contribute much to cutting through redtape, that clings stubbornly to the status quo and skirts the real problem.

What is that problem? And how does S. 1308 cope with it?

The problem, simply stated, is that it can currently take 6 to 8 years to get permission to set up an alternative energy project in this country, no matter how urgently it is needed, no matter how successful it promises to be. Even if the proposal survives all the environmental impact statements, permitting requirements and legal actions, there is still no assurance that a billion dollar facility will not at some future time be jeopardized by new decisions or regulations not on the books when the project began. The disincentives to establishing an alternative energy facility are immense, they are costly, and they frustrate our ability to develop our energy assets.

S. 1308 is designed specifically to deal with many of these disincentives. It establishes a mechanism for designating priority projects with potential for decreasing our energy dependence. It establishes a fast-track process and gives the EMB authority to establish deadlines and procedures to insure expedited decisionmaking. It gives the EMB power to see that its deadlines are adhered to. They can make that decision themselves, as I understand the legislation. It streamlines but does not compromise the process of judicial review. And, as long as public health and safety are not impaired, S. 1308 insures that, once approved and underway, a priority energy project will not be torpedoed by subsequent legislation or local decisions.

At a time when the American public is fed up with the heavy hand of government regulation and interference, S. 1308 gives us a tool to cut through the web of redtape that hinders our ability to respond to the challenge of meeting our energy goals.

The EMB, as proposed by the Energy Committee, will not trample on State and local prerogatives. It will not have the power to force alternative energy facilities on reluctant jurisdictions. The State, the city, the county can always say "no"—just as they can today. What S. 1308 will do is streamline the procedure, eliminate regulatory overlap, speed the process of judicial review, and guarantee a decision—yes or no—within 2 years. Mr. President, I do not think that is an unreasonable time frame. If anything, I would like to see it shortened. If we cannot make up our minds on desperately-needed alternative energy facilities in 2 years, then I despair for our ability to take effective action to reduce our energy dependence in the future.

It is also important to understand, Mr. President, that S. 1308 does not alter substantive laws or establish unrealistic requirements. Its purpose is, rather to do away with unnecessarily prolonged hearings processes and harassing legal tactics that can tie a project up for years and, in the process, condemn this Nation to a future of dependence.

I do not pretend that S. 1308 is some simple, magical solution to our energy problems. Under ideal circumstances, it will be years before we reap substantial benefits from alternative energy production.

If the Senate balks at establishing a strong and effective Energy Mobilization Board, this country may never realize its energy potential. Failure to enact S. 1308 will send a clear and unequivocal message to our people and to the world; the message will be that the United States of America is not serious about its energy problems, that we see no urgent requirement for effective action. That, Mr. President, is a message I want no part of.

I urge adoption of S. 1308 as proposed by the Energy Committee.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Texas for his remarks. I think he is right on target.

Mr. PERCY. Mr. President, I rise to say I fully support the establishment of an Energy Mobilization Board. I think it is essential. Energy must be given a higher priority than it now has. It must be differentiated from our other priorities. The strength of our economy, the entire strength of our country, depends upon our having adequate energy.

The question, therefore, is not whether we have a Board. I am fully supportive of this concept. The question is: What kind of a Board should we have, and what powers should that Board have?

It is the hope of the Senator from Illinois that he can vote favorably on the creation of an Energy Mobilization Board. If the present substitute does not prevail, and I happen to think it does provide the best alternative route, then I hope that we can continue to modify and remove some of the dangerous features of the Energy Board provided in S. 1308. That bill will be strongly resisted by local and State officials and would cause them to feel coerced in this effort, rather than have a cooperative attitude toward it.

I am most interested, Mr. President, that Senator JOHNSTON has just introduced an amendment to clarify S. 1308's grandfather clause to waive a future law. I have not had an opportunity to study this clarification amendment in detail, but a cursory examination of it indicates that it recognizes some of the concerns that many of us have had about the Energy Mobilization Board, as envisioned by the Energy Committee. The Johnston amendment is a step toward providing answers for some of our concerns.

In connection with another piece of legislation that Senator GLENN and I have introduced together, the nuclear waste disposal bill, I have met with a great many representatives of State and local governments. I have heard their concerns, and we have drafted and redrafted our legislation as a result. The form in which it was finally introduced takes into account all these concerns.

It was our desire to create legislation that would have a cooperative, constructive, positive attitude toward local and State governments in matters that vitally affect them. That same principle, I think, applies to the amendment originally offered as S. 1806, by Senators RIBICOFF, MUSKIE, and six other Senators, including the senior Senator from Illinois.

It is the feeling of Senators RIBICOFF and MUSKIE that the balance that has been achieved in the substitute amendment we are now considering answers many of the strongest held objectives of State and local governments. It is, therefore, legislation that will lead to a cooperative spirit among State and local governments and among many, many private interest groups. With amendment 488, these groups will not get the feeling that they are being coerced, overridden, that their concerns are not being considered. They will not feel that we are, in a sense, forgetting that we are a Federal Government that shares power with the State and local communities.

Mr. President, we have seen what can happen in other countries when an individual lives under laws, but is able to obviate those laws, get around them, circumvent them, or cut right straight through them.

This, I think, would be a bad precedent to set here. It is with that in mind that Senators RIBICOFF and MUSKIE and others of us have worked together to try to find a way to accomplish what we want responsibly: to improve, facilitate, and speed up the decisionmaking process. To put energy highest in our national priorities.

And when we hear that word "energy," it must be a call for action by every group that is dealing with it. They must appreciate and understand that there are procedures established to insure that they do not just sit around at their own leisure. They have to make decisions and make them on time, in accordance with a schedule that the Energy Mobilization Board is empowered to set down, and one that the courts will be empowered to uphold.

It is with a great deal of admiration and appreciation that I thank my colleagues on the Energy Committee who have wrestled with this problem, who have cut through their own procedures to bring forward legislation that we can consider now.

We could not even consider the amendment pending were it not for the fact that the Energy Committee and its staff had worked diligently to bring this legislation forward.

Mr. President today we are being asked to consider two different proposals, to create an Energy Mobilization Board to hasten the construction of new, crucial, nonnuclear energy facilities.

Both bills—S. 1308, as reported out by the Energy Committee, amendment 488, the substitute introduced last week by Senator RIBICOFF and eight other cosponsors including myself—are intended to avoid roadblocks and unnecessary regulatory procedures that needlessly and pointlessly jeopardize essential energy projects.

The difference between them, of course revolves around the questions, "What is a necessary regulatory procedure? Where can corners be cut responsibly?"

These are vitally important questions, for certainly we are going to need as much consent and cooperation as possible from the Federal, State, and local officials who now plan and license our Nation's energy projects if we truly expect to achieve a streamlined, "fast-tracked," process. Should we establish a Mobilization Board that even has the appearance of being able to run roughshod over the Federal, State, and local laws that have been so carefully crafted over the years, we are going to incur the wrath of communities where fast-track projects are planned, and we are going to endanger the chance of fast-tracking working at all.

Colorado's Gov. Richard Lamm, chairman of the National Governor's Association's Committee on Natural Resources and Environmental Management, spoke eloquently recently about this need for Federal, State, and local cooperation in national energy planning. He explained:

> The states must be included as partners and not perceived as combatants, antagonists, or obstacles. What is sorely needed is not confrontation with state interests and concerns, but an accommodation that leads to good, timely and effective decisions. The senior Senator from Wyoming, Mr. WALLOP, who quoted Governor Lamm in the additional remarks he inserted into the Energy Committee's Report on S. 1308, added to these views when he said that cooperative—not coercive—federalism, is the key to energy development in our country.

Mr. President, it is my belief that the Energy Committee's Mobilization Board bill—S. 1308—could possibly encourage a coercive, not a cooperative, relationship between our Federal, State, and local governments. It gives the Mobilization Board powers it does not need, to expedite the licensing of priority energy projects—extraordinary, excessive powers that could seriously infringe on the responsibilities and rights of existing governing authorities. In so doing, it threatens to hurt our efforts to create a streamlined licensing process endorsed by all Americans much more than it figures to help them.

By contrast, Mr. President, the Ribicoff substitute Mobilization Board bill creates a fast-track process with teeth, but also one with responsibility—to our energy needs, to our environment, to our governing authorities, and to our people.

We already have substantial evidence that amendment 488 will be more than tolerated by our Nation's State and local licensing authorities, and by a large segment of our population: 488 has this week received the endorsement of the National Governors Association, the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties. The League of Women Voters, the Sierra Club, and the Environmental Defense Fund are among the other groups that have already endorsed this legislation.

Mr. President, I would like to take a few minutes, if I may, to briefly discuss some of the real problems with the Mobilization Board bill reported out of the Energy Committee, and some of the strengths contained in the substitute legislation, amendment 488:

First, while the Energy Committee wisely chose not to give its Board power to waive substantive law—a provision the administration has flirted with and the House Commerce Committee has endorsed—it did retain a Board waiver of procedural law, without bothering to define the distinction between the two. It is often impossible to distinguish procedural from substantive issues—good cases could be made, for example, that public hearings, or pollution control monitoring, are both. Allowing the Board to decide what procedures can safely be waived could be disastrous in our effort to keep fast-track projects under responsible control. The Ribicoff substitute prohibits the waiver of procedural law.

Second, the Energy Committee not only has given the Board power to make decision schedules for licensing agencies, but also to take actions in lieu of agencies that miss these deadlines. Under amendment 488, the Board has full power to set expedited decision schedules, and it is authorized to go to court at any time to force compliance with these schedules. It cannot, however, make any decision for agencies that are negligent. Fast-track licensing decisions should be made by knowledgeable bodies that are sensitive to the special concerns of affected communities. There must be a full appreciation of the intent and purpose of the laws to be followed in decisionmaking. I am convinced, Mr. President, if S. 1308 passes, we will end up with a weighty, unwieldy new bureaucracy to take into account the thousands of existing Federal, State, and local laws that will be affected.

Another unfortunate byproduct of this part of the Energy Committee bill is the possibility that agencies would pass off all sensitive decisions to the Board, rather than make unpopular rulings themselves. Government accountability could be severely impaired by this provision of the legislation.

Third, the Energy Committee bill places no limit on the number of projects that can be fast-tracked at any one time. It was the full intent of the President, in his July energy speech requesting legislation for a Mobilization Board, that only the most crucial energy projects be placed onto a fast-track. Given the clear advantage that fast-track projects are to receive, it is proper that this is so. In fact, the Energy Committee's own bill—S. 1308—is called the Priority Energy Project Act of 1979, and its report makes clear that fast-tracking loses its value as soon as too many projects are placed onto it. Yet, the committee has done nothing to insure the placement of only the most worthy of projects onto the fast track. The Ribicoff substitute, by contrast, establishes a ceiling of 24 projects that can be fast-tracked at any one time.

A fourth problem area with S. 1308 is the watered down seemingly anything goes criteria for projects that are eligible for fast-tracking. At one time, the committee's staff recommendations called for the Board to select only projects that were "likely to contribute to the national security by significantly reducing the Nation's dependence upon imported oil." This language is proper, and we have adopted similar wording in amendment 488.

Now, however, S. 1308 entitles the Board to select any project it wants, as long as it finds that the project "is likely to reduce directly or indirectly" our dependence on foreign energy. This is a drastic reversal away from the original intent of fast-tracking as an extraordinary designation, to be bestowed only upon extraordinary energy projects.

A fifth problem lies in the Energy Committee's giving the Board sole power to designate fast-track projects. It is obvious, Mr. President, that no project should be given priority status if it is known to be an exceedingly problematic or inefficient venture. The Department of Energy is the existing Government body charged with researching and developing potential new energy technologies and could make a valuable contribution in the selection process. But S. 1308 has created no role at all for DOE to share its expertise with the Mobilization Board in selecting fast-track projects. Under 488, the Secretary of Energy would screen applications for fast-tracking, and would twice a year transmit a list of final candidates to the Mobilization Board for consideration.

Finally, Mr. President, under the Energy Committee bill, the Mobilization Board would be allowed to exempt a priority energy project from any substantive law passed after a project has begun. Although Congress would have the power to disapprove any waivers, this is one more example of the Board being given powers in excess of those that are required to expedite energy licensing. In future years, we may see the passage of essential, vital legislation, responding to a myriad of environmental and public policy concerns. What is the possible value of waiving all of these laws now? Is this not taking the chance that future Congresses will fail to act prudently in deciding whether fast-track projects deserve the waivers they have? Congress alone should be entrusted with exempting fast-track projects from new substantive laws as they are passed, on a case-by-case basis. It retains this right in the Ribicoff substitute.

I hope the full contrast between these two bills, as a result of today's full discussion, can now be seen.

In the former, a situation exists where, conceivably, a biased Mobilization Board could have total discretion to select an unlimited number of energy projects for fast-tracking, all of which were known to be impractical for any number of reasons, and none of which were expected to ever play a direct or significant part in reducing our imports of oil. Future environmental laws could even be waived for these dubious projects.

I do not think that 488 is a weak amendment. In it, we have created a Board that is solely entrusted with finally selecting priority energy projects; it is entrusted with establishing decisionmaking schedules for agencies, and with going to court, if need be, to insure that the schedules are maintained. It is mandated to choose a limited number of projects, those that it deems likely to play a significant role in reducing our imports of foreign oil.

Further, this bill calls for all agency decisions regarding licensing to be completed within a year, evidence that the fast-track process envisioned here will indeed be fast.

But at the same time, the Board will be responsible—it is empowered to streamline licensing only through cooperation, with the Department of Energy and with the many Federal, State, and local agencies that must retain the decisionmaking powers they presently have. Our bill recognizes that coercing should play no role in assuring that vital energy projects are licensed quickly, and responsibly, and with the backing of the American people.

My good friend and colleague, Senator GLENN, submitted valuable remarks accompanying the introduction of our substitute last week. He said:

> A responsible fast-track process is aimed at tightening deadlines, coordinating efforts at various governmental levels, and consolidating procedures wherever and whenever possible. It does not mean ignoring, skirting, or otherwise short-circuiting the substantive responsibility of any Federal, State, or local entity. They are far too important for that. We want to expedite intelligently, not rush blindly.

I view 488 as expediting intelligently, streamlining a process that we all agree is too lengthy and time consuming now. I urge my colleagues to give it their full support.

Mr. President, in addition, I would like to elaborate on a few other points that I believe have not been fully addressed in our consideration of this new agency, the Energy Mobilization Board. First, I would like to take up the question of the composition of the Board. As you know, the Energy Mobilization Board, as it would be established in S. 1308, would make the chairman of the Board responsible for virtually all action of the Board aside from the designation of projects. The three Board members who may serve part time, who are not required to give up private employment—in whatever capacity—to serve on the Board, and who are to be paid at the level of Cabinet secretaries for the days they spend doing the Board's business, have no other function than to advise the Board on the designation of projects. I am particularly concerned that these persons will not be subject to a series of laws that we have enacted to address widespread concern about the ethical conduct of Government officials and those who advise them. S. 1308 would exempt them from application of the conflict of interest laws and would exempt the Board generally from the Federal Advisory Committee Act.

Mr. President, these laws are a matter of deep interest to many in our society who care about responsible government.

As we handle nominations of individuals to carry out the highest responsibilities in our Government, we are continually confronted here in the Senate with questions as to whether a conflict of interest may exist for an individual. In drafting these provisions, I am sure the Energy Committee was concerned that talent and expertise from the private sector could be brought in to solve the Nation's energy problems. However, I am also sure that if individuals from prominent energy firms, banks, or others who advise the leading firms in the energy industry are nominated to the Board, it will indeed pose a certain burden on us in the Senate to distinguish between actual conflict of interest, potential conflict of interest, and the general public perception of conflict of interest in carrying out these important duties. Angels to serve on such a Board are few and far between.

Let me just note for you the reactions of several national groups deeply concerned by this legislation to this particular provision. In a letter dated September 27, 1979, the League of Women Voters wrote endorsing the Ribicoff Muskie substitute. In part they said, "Members of the Board would not be exempt from conflict of interest laws, as they would be under S. 1308. There is no excuse for exempting officials who will be making decisions of tremendous monetary significance." The Energy Coalition points out that, "S. 1308 would exempt the Board from many accountability requirements." They continue in this vein: "Reacting to years of abuses, the Congress has enacted a variety of laws to make executive branch officials accountable for their actions. S. 1308 would exempt the Board from many of these. Members of the Board (but not the chairman) would be exempt from conflict of interest laws and can serve as officers of the very industries whose applications they would pass upon (S. 1308, section 4(b)(5), 4(b)(7)). The Board would be largely exempt from the Administrative Procedure Act (section 26). The Board would be exempt from the Advisory Committee Act (section 6(a)(7)). The decision to designate a priority project would not be reviewable. The powers of the Board are broadly defined, they are exercised subject to few criteria. The Nation's experience with misuse of power is too recent to comfortably accept the argument advanced by one administration official that with respect to energy we must be prepared to accept a "Government of men and women, not of laws." The Ribicoff Muskie substitute would exempt the Board from neither ethics requirements, nor the Administrative Procedure Act. It prohibits Board members from holding other employment (S. 1806, section 4(b), 5(d)), requires as S. 1308 does not, that Board policies be publicly stated, be consistent with strict statutory guidelines and bind the actions of the Board. (See, e.g. S. 1806 sections 5(a)(3), 6(a), 6(a)(4), 9(b), 10)."

Mr. President, I would simply like to point out that in many cases when we have a nomination before the Senate the full extent of an individual's financial background is not apparent. We act in good faith. But it does not take many experiences with serious ethical problems to weaken the respect and admiration of the people of this country for those in high office. We must avoid this sort of problem before it occurs. The Ribicoff substitute would do this.

It would make Mobilization Board members accountable.

Mr. President, I believe that both S. 1306 and amendment 488 would contribute to more effective implementation of the National Environmental Policy Act. Let me just note one provision of our substitute that I believe has particular merit. Both bills would provide that a lead Federal agency supervise the preparation of a single environmental impact statement. However, 488 also provides that the Board shall consult with appropriate State and local officials during the preparation of the statement, with respect to any portions which will substitute for comparable requirements under state or local law. At the request of the State or local agency that agency may prepare the portion of the statement dealing with applicable State or local law.

Mr. President, in many cases State and local agencies will have more expertise, more concern, and more knowledge of practical alternatives than a small but powerful Federal office that is new to both the project and the area in which it is to be constructed. Those agencies should be given the opportunity to consult, as fully as possible, with the Federal officials supervising preparation of environmental statements and where their expertise is greater they should step in and do the job. Clearly, amendment 488 offers a preferable alternative in this important area.

ACCOUNTABILITY

Mr. President, the question of accountability is an important one, and it is at the very heart of this legislation. As reported, S. 1308 would allow the Energy Mobilization Board to make decisions in lieu of agencies of Federal, State, and local government that have been charged to make them by statute, regulation or other ordinance. Section 21(a)(1) empowers the Energy Mobilization Board to intervene and make decisions in lieu of a State or local agency that has missed a decision deadline. There are many problems with this provision. In my view it would allow agency officials who are simply not interested or who do not feel they have the time and resources to make the tough decisions, to avoid performing their duty, and instead to pass off their responsibility for these decisions onto the Energy Mobilization Board. Would it be surprising if a small agency of local government, faced with a particularly troubling problem, simply decided to hand over the decision to this powerful White House agency that we are now creating? I am concerned that this power could be highly disruptive. Governor Lamm, chairman of the National Governor's Association's Committee on Natural Resources and Environmental Management, has written that "this provision threatens to disrupt the basic system of federalism and raises serious constitutional issues that are certain to be litigated by the State." He prefers the mechanisms contained in the Ribicoff Muskie substitute. The National Conference of State Legislatures has written that, "As a practical matter, substantial momentum could be lost between the time it would take the Board to complete the decision-making record of the State or local agency, decide what information is most important, and review existing State or local statutes and case law to determine how they should be applied. Secondly, the Board would probably be more subject to lawsuits because it would be perceived as a single-purpose agency whose primary mission is to facilitate energy projects, not to observe the spirit of State and local laws." The conference continues by raising the question of whether "The lean fast-moving entity originally conceived by its authors could even pretend to know the intricacies of the many State and local functions it might seek to displace. Far better to let the State or local agency make the decision itself, under court order if necessary, than to create an untried entity with powers that tend to make self-justification its primary reason for existence."

Mr. President, these quotes are but a sampling. I believe we should put the emphasis on making our Government agencies at all levels more accountable by adopting the enforcement mechanism contained in the Ribicoff Muskie substitute.

CRITERIA FOR DESIGNATING PROJECTS

Mr. President, I believe we are agreed that the primary rationale for the Energy Mobilization Board is to get energy projects moving, and to reduce this Nation's dependence upon increased imports of foreign oil. However, there are many other consequences of major projects that can effectively be examined, and should be, before a project is designated as a national priority. For one thing, I believe those making the decisions should examine the extent to which the proposed facility would make use of renewable energy resources, or promote energy conservation. These are two areas of great promise which should not be neglected by the Board. Potential environmental impacts, economic information, and most importantly, the comments submitted by the public and by

BEST DOCUMENT AVAILABLE

responsible Government agencies that would be directly or indirectly affected by such projects, should be available to the Board for evaluation before it makes its decisions. If S. 1308 is adopted, all of these considerations may be ignored, not just for one project or five projects, but for all the projects the Board considers.

I am not advocating that we spend a great deal of time generating such information. In the case of major projects, much of it will already exist. And the Board must move quickly to make its decisions, as we provide in amendment 488.

However, I do believe the Board's actions will be viewed as more responsible if these questions are addressed before the determination is finally made.

Finally, Mr. President, I ask unanimous consent to have printed in the RECORD a brief comparison of S. 1308 and Amendment No. 488.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

A BRIEF COMPARISON OF S. 1308 (JACKSON ET AL.) AND AMENDMENT NO. 488 (RIBICOFF ET AL.)

(1) S. 1308 lets Board exempt all projects from any law passed after the projects have begun construction. Congress can veto any waiver. Waiver must be "required for speedy operation of project" and cannot injure public health.

Amendment 488 allows for waivers of new laws only if Congress approves these waivers, on a case-by-case basis. (This is not written into the bill, but neither is it prohibited.)

(2) S. 1308 lets the lead agency writing an Environmental Impact Statement write it for State and local agencies, if the Board so chooses.

Amendment 488 lets State and local governments write sections of the EIS that pertain to State and local law.

(3) S. 1308 lets the Board choose fast-track projects completely on its own, save public comment.

488 requires the Secretary of Energy to consult with State and local agencies before deciding upon final candidates.

(4) S. 1308 would place all judicial review in the hands of a central, national court. (Temporary Emergency Court of Appeals.)

488 retains State court jurisdiction on purely State law matters. (e.g.: rate disputes.) All project decision schedule disputes go to local U.S. Court of Appeals.

(5) S. 1308 lets Board make licensing decisions for State local agencies, when they miss deadlines.

Amendment 488 lets the Board go to court to force agency compliance.

Mr. DOMENICI. Mr. President, I do not want to unduly delay the Senate, so I will yield myself just 1 minute.

I say to my good friend from Maine that I will attempt to find myself on the floor when he is here again in the morning so I may talk to him a bit about a number of points he made.

But I close tonight using as an example a subject he would be familiar with and an environmental law he would be familiar with that I had something to do with drawing for this country. I will just use it as an example.

Under the Clean Air Act, there is a section on no significant declaration, which is based not on public health, but other environmental characteristics that we as a Nation seek to protect.

It is my understanding that under the bill proposed, if a new refinery or a new coal burning fire plant was contemplated within a pristine area as defined in that Clean Air Act, that if that plant could not comply with the requirements of State or national law regarding the degree to which it has to clean up its pollution, that this law in no way abridges or changes that. That would remain the law. It is the substantive test, and if the State or Federal Government said, "You don't comply," you do not comply.

On the other hand, if there are more judicial remedies for review than provided here, to that extent, time would be cut. If States or National Government have unduly long times to make the decision I have just described, in the affirmative or negative, this Board would only have authority to cut the time for the decisionmaking process to what is prescribed in this particular legislation.

I believe those who worked on environmental laws will understand that example in terms of nonwaiver of substantive law as an example of the intent to which we intend to comply with the requirements of substantive law, but merely to expedite the time required for such compliance.

TARIFF ON TUNA NETS

Mr. CRANSTON. Mr. President, on October 1 I introduced S. 1851, amending the Tariff Act of 1930 to continue the duty-free status of repair parts, materials, and equipment purchased in Panama by the U.S. domestic tuna fleet.

S. 1851 is a straightforward attempt to resolve what I believe to be a prohibitive situation for our tuna industry—a situation that has occurred unwittingly through passage of the Panama Canal implementation legislation.

Prior to the passage of the canal implementation measure, the Panama Canal Zone was not considered foreign soil. For years, the American tuna fleet has docked in Panama, adjacent to the fleet's historical fishing grounds, for repairs and for installation of the highly specialized netting these purse-seine vessels require. The sophistication of the netting stems, in large part, from the fleet's attempt to meet the low-porpoise-kill mandate of the Marine Mammal Protection Act. Our domestic tuna fishermen have done an outstanding job in their continuing reduction of porpoise mortality incidental to the catching of yellowfin tuna. They have combined a high degree of skill with a complicated series of panels and webbing to allow porpoise to escape the nets intended for the yellowfin tuna.

Up to now, the U.S. purse-seine tuna fleet has bought its nets from Panamanian manufacturers using foreign webbing. U.S. net manufacturers have been unable to provide the kind and size of webbing and nets required by the industry. While much progress is being made by domestic net producers to acquire both the equipment and skills needed to outfit our large tuna vessels, they need additional time to meet these strict requirements.

In the meantime, because the Panama Canal Zone is now considered a foreign country, the tuna fleet faces a 50-percent tariff on its net importations, bringing the cost of a $250,000 net to $375,000.

Mr. President, I do not believe that the Congress wants to apply this tariff to an industry that purchases complicated and expensive equipment in order to comply with the Marine Mammal Protection Act. The webbing and nets have been of tremendous help in saving porpoises as required by Federal law and regulation. Although negotiations between the tuna industry and domestic net manufacturers are in progress, additional time will be required to match tuna industry requirements with the capability of domestic net manufacturers to meet those requirements.

I have introduced S. 1851 with these needs in mind. I look forward to the Senate Finance Committee's favorable consideration.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

PROPOSED ADDITIONS TO THE WILD AND SCENIC RIVERS AND NATIONAL TRAILS SYSTEMS—MESSAGE FROM THE PRESIDENT—PM 115

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents and papers, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In my Environmental Message of August 2, 1979, I proposed legislation to add a number of rivers and trails to the National Wild and Scenic Rivers and National Trails Systems.

Enclosed are reports and draft legislation that would add the following three river segments to the National Wild and Scenic Rivers System as federally administered components:

—Gunnison River, Colorado
—Encampment River, Colorado
—Priest River, Idaho

I am reaffirming my support for designation of a segment of the Illinois River in Oregon for which legislation was submitted to the Congress last year. I am also reaffirming my support for the following four river segments proposed in my last Environmental Message for inclusion in the System:

—Bruneau River, Idaho
—Dolores River, Colorado
—Upper Mississippi River, Minnesota
—Salmon River, Idaho

In addition, I am transmitting to you new study reports on eight rivers which have been found to qualify for inclusion in the National Wild and Scenic Rivers System as State-administered components. Each of the States in which the rivers are located has expressed an interest in administering these rivers as components of the national system. The rivers are:

- —Pine Creek, Pennsylvania
- —Buffalo River, Tennessee
- —Youghiogheny River, Pennsylvania-Maryland
- —Shepaug River, Connecticut
- —Kettle River, Minnesota
- —Lower Wisconsin River, Wisconsin
- —Housatonic River, Connecticut
- —Illinois River, Oklahoma

In my 1977 Environmental Message, I proposed 20 additional river segments for study as potential additions to the National Wild and Scenic Rivers System. Several of those rivers have already been designated. Except for rivers where subsequent development has affected the river's qualification for designation, I continue to support legislation authorizing the study of these rivers. Moreover, I am submitting legislation to add the North Umpqua River in Oregon to the list of those rivers to be studied.

In order to assist full congressional deliberation on the proposed Upper Mississippi Wild and Scenic River, I have directed the Secretary of the Interior to complete, with full public participation, a conceptual master plan for the river which will set forth the specific requirements for lands or interests in lands to protect the river corridor and provide public access, campgrounds and other recreational facilities. This is to be completed by April 1980.

My recent Environmental Message also contained a number of proposals relating to the National Trails System. The system is still in its fledgling stage and should be expanded to meet widespread public interest. With this objective in mind, I have directed the Federal land managing agencies to enlarge the National Recreation Trails System. In addition, I am transmitting the study report and legislation to designate the 513-mile Natchez Trace National Scenic Trail through Tennessee, Alabama and Mississippi. I am also resubmitting proposed legislation to establish the Potomac Heritage Trail through Pennsylvania, Maryland, West Virginia, Virginia and the District of Columbia. Furthermore, I am reaffirming my support for the enactment of legislation to create the North Country Trail from the State of New York to North Dakota. Legislation to create this 3,200-mile trail has already passed the House of Representatives in the form of H.R. 3757.

Finally, I am transmitting a report from the Secretary of the Interior recommending that a 13.6-mile segment of the Big Thompson River in Colorado not be added to the National Wild and Scenic Rivers System. This river segment is located entirely within the Rocky Mountain National Park and is managed and protected by the National Park Service. Further, approximately 80% of this 13.6-mile river segment is in a wilderness proposal now before the Congress. Therefore, I believe that the protection afforded by the National Wild and Scenic Rivers Act is unnecessary.

I urge that the Congress promptly act on my recommendations in order to protect these rivers and trails for the recreational and aesthetic enjoyment of all Americans.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1979.*

DESIGNATION OF THE TUOLUMNE RIVER IN CALIFORNIA—MESSAGE FROM THE PRESIDENT—PM 116

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying document, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

Pursuant to Section 4(a) of the Wild and Scenic Rivers Act (P.L. 90-542), I am transmitting to the Congress my recommendations and proposals with respect to the designation of the Tuolumne River in California.

The Tuolumne River has been jointly studied by the Departments of Agriculture and Interior. Of the 92 miles which were studied, 82 miles have been found eligible to be added to the national system of Wild and Scenic Rivers. The study proposes that if added to the national system, the river would be jointly managed by the Departments of Interior and Agriculture.

On the basis of information now available, I concur with the findings of the study and recommend that the mileage found to be eligible to be added to the system should be designated as a Wild and Scenic River as part of the national system. A draft bill to accomplish this is attached.

The final printed version of the study has not yet been prepared. In order to meet the statutory deadline of October 2, 1979, however, I am transmitting this recommendation. I intend that the study of the river be finalized and I shall have it transmitted to you when it is complete. Should any other pertinent information become available however, which would call for a different recommendation, I shall transmit a revised proposal to you along with the completed study.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1979.*

PROPOSED OWYHEE WILD AND SCENIC RIVER—MESSAGE FROM THE PRESIDENT—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying document, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I am transmitting herewith draft legislation to add two segments of the Owyhee River in Idaho and Oregon totalling 178 miles to the National Wild and Scenic Rivers System. These segments would be administered by the Secretary of the Interior as units of the national system.

I also recommend that an additional 14-mile segment of the river be administered by the State of Oregon under its Scenic Waterways program.

These recommendations are based on the accompanying report prepared by the Secretary of the Interior under section 5(a) of the Wild and Scenic Rivers Act.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1979.*

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with reports, documents, and papers, which were referred as indicated:

EC-2238. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Alternatives to Consider in Planning Integrated Logistics Support for the Trident Submarine," September 28, 1979; to the Committee on Armed Services.

EC-2239. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, the October 1978–March 1979 (first half of fiscal year 1979) listings of Department of Defense contracts negotiated under authority of Section 2304(a)11 and 2304(a)16; to the Committee on Armed Services.

EC-2240. A communication from the Secretary, Interstate Commerce Commission, reporting pursuant to law, that the Commission is unable to render a final decision in Docket No. 37146, Transit on Wheat Between Reshipping Point and Destination, within the specified seven-month period which is to expire at the earliest on October 17, 1979; to the Committee on Commerce, Science, and Transportation.

EC-2241. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of Outer Continental Shelf Leasing Systems, Sale No. 42; to the Committee on Energy and Natural Resources.

EC-2242. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Fusion—A Possible Option for Solving Long-Term Energy Problems," September 28, 1979; to the Committee on Energy and Natural Resources.

EC-2243. A communication from the Administrator, Energy Information Administration, Department of Energy, a quarterly report for the period April through June 1979 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories (data on exploratory activity, exports, nuclear energy, and electric power are also included); to the Committee on Energy and Natural Resources.

EC-2244. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report of the Secretary of the Treasury on the Antirecession Fiscal Assistance Program, covering calendar year 1978; to the Committee on Environment and Public Works.

EC-2245. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, an announcement of the focused water research and development areas of interest for fiscal year 1980 funding consideration; to the Committee on Environment and Public Works.

EC-2246. A communication from the President of the United States, reporting, pursuant to law, his intention to withdraw the designation of Ethiopia as a beneficiary developing country for purposes of the Generalized System of Preferences; to the Committee on Finance.

EC-2247. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Proposition 13—How California Governments Coped With a $6 Billion Revenue Loss," September 28, 1979; to the Committee on Governmental Affairs.

EC-2248. A communication from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia; to the Committee on Governmental Affairs.

EC-2249. A communication from the Assistant Secretary for Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, the fourth annual report of the Advisory Council on Education Statistics; to the Committee on Labor and Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-472. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on the Judiciary:

"RESOLUTION

"Resolution to express to the House of Representatives and the Senate of the United States the desire of the People of Puerto Rico to have the right to vote in the General Election for the President and Vice President of our American Nation; and to reiterate the will of the People of Puerto Rico to maintain a permanent union with the United States, reaffirming the need of the Puerto Ricans to have the right to the presidential vote as part of our prerogatives as American citizens

"STATEMENT OF MOTIVES

"At present the People of Puerto Rico do not have the right to vote for the President and Vice President of the United States, in spite of the fact that a great many of our fellow citizens do participate in the internal processes of the National political parties, including the conventions to select the Presidential and Vice Presidential candidates of our American Nation.

"The President of the United States continually makes decisions that affect the People of Puerto Rico, without us having the right to vote for him.

"It is the conviction of the Senate of Puerto Rico that the right of the Puerto Ricans to the presidential vote should be among the prerogatives of our American citizenship and our relationship of permanent union with the United States.

"The immense majority of the Puerto Rican people are interested in maintaining a permanent union with our American Nation with the full exercise of the rights and prerogatives of our American citizenship.

"Be it resolved by the Legislature of Puerto Rico:

"Section 1.—To express to the House of Representatives and the Senate of the United States the desire of the People of Puerto Rico to have the right to vote in the General Election for the President and Vice President of our American Nation; and to reiterate the will of the People of Puerto Rico to maintain a permanent union with the United States, reaffirming the need of the Puerto Ricans to have the right to the presidential vote as part of our prerogatives as American citizens.

"Section 2.—That a copy of this Resolution be sent to the House of Representatives and to the Senate of the United States, to the President of the United States, to the United Nations Organization, and the communications media of Puerto Rico and the United States and that for this purpose it be translated into the English language.

"Section 3.—This Resolution shall take effect immediately after its approval."

POM-473. A resolution adopted by the Board of Directors of the Council of Governments, relating to continuing operation of special fuel crisis intervention payments and state gasoline set-aside programs; to the Committee on Appropriations.

POM-474. A resolution adopted by the Kansas Independent Oil & Gas Association, relating to the crude oil excise tax; to the Committee on Finance.

POM-475. A resolution adopted by the Kansas Independent Oil & Gas Association, relating to natural gas; to the Committee on Energy and Natural Resources.

POM-476. A resolution adopted by the Kansas Independent Oil & Gas Association, relating to underground injection; to the Committee on Environment and Public Works.

POM-477. A resolution adopted by the Kansas Independent Oil & Gas Association, relating to fractional interests and limited partnership sales; to the Committee on Banking, Housing, and Urban Affairs.

POM-478. A resolution adopted by the Kansas Independent Oil & Gas Association, relating to the Interstate Oil Compact Commission; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **LONG**, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 3434. An act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes (together with additional views) (Rept. No. 96-336).

By Mr. **KENNEDY**, from the Committee on the Judiciary without amendment:

H.J. Res. 303. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. **KENNEDY**, from the Committee on the Judiciary:

Joseph C. Howard, Sr., of Maryland, to be U.S. district judge for the district of Maryland.

Shirley B. Jones, of Maryland, to be U.S. district judge for the district of Maryland.

Lynn C. Higby, of Florida, to be U.S. district judge for the northern district of Florida.

James C. Paine, of Florida, to be U.S. district judge for the southern district of Florida.

James W. Kehoe, of Florida, to be U.S. district judge for the southern District of Florida.

Eugene P. Spellman, of Florida, to be U.S. district judge for the southern district of Florida.

Gene E. Brooks, of Indiana, to be U.S. district judge for the southern district of Indiana.

Albert Tate, Jr., of Louisiana, to be U.S. circuit judge for the fifth circuit.

William L. Beatty, of Illinois, to be U.S. district judge for the southern district of Illinois.

Hugh Gibson, Jr., of Texas, to be U.S. district judge for the southern district of Texas.

George J. Mitchell, of Maine, to be U.S. district judge for the district of Maine.

Jerry L. Buchmeyer, of Texas, to be U.S. district judge for the northern district of Texas.

Samuel D. Johnson, Jr., of Texas, to be U.S. circuit judge for the fifth circuit.

Edward B. Davis, of Florida, to be U.S. district judge for the southern district of Florida.

Nathaniel R. Jones, of Ohio, to be U.S. circuit judge for the sixth circuit.

By Mr. **RIBICOFF**, from the Committee on Governmental Affairs:

The following-named persons to be Governors of the U.S. Postal Service:

William J. Sullivan, of Maine;
George Watson Camp, of Georgia; and
Richard R. Allen, of North Carolina.

(The above nominations from the Committee on Governmental Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. **RIBICOFF**, from the Committee on Governmental Affairs:

Frankie Muse Freeman, of Missouri, to be inspector general, Community Services Administration.

Ronald P. Wertheim, of the District of Columbia, to be a member of the Merit Systems Protection Board.

(The above nominations from the Committee on Governmental Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. **NELSON** (for himself and Mr. KENNEDY):

S. 1853. A bill to amend the Higher Education Act of 1965 to extend the Teacher Corps Program; to the Committee on Labor and Human Resources.

By Mr. **CRANSTON** (for himself, Mr. BAYH, Mr. CHILES, Mr. GOLDWATER, Mr. HAYAKAWA, Mr. HELMS, Mr. JEPSEN, Mr. LUGAR, Mr. MORGAN, Mr. NUNN, Mr. THURMOND, and Mr. TOWER):

S.J. Res. 106. Joint resolution authorizing and requesting the President to proclaim the week of October 14 through October 20, 1979, as "National Mobile Home Manufactured Housing Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself and Mr. KENNEDY):

S. 1853. A bill to amend the Higher Education Act of 1965 to extend the Teacher Corps program; to the Committee on Labor and Human Resources.

● **Mr. NELSON.** Mr. President, today Senator KENNEDY and I are introducing legislation to reauthorize the Teacher Corps through fiscal year 1983.

This bill authorizes an appropriations level of $100 million for the Teacher Corps in fiscal year 1981 and for each of the 2 succeeding fiscal years. This is the same appropriation that is authorized for the current fiscal year.

The original legislation, enacted as part of the Higher Education Act of 1965 (Public Law 89-329), established a Teacher Corps to strengthen educational opportunities for children in areas having concentrations of low-income families, and to encourage colleges and universities to broaden their teacher preparation programs accordingly. To achieve this purpose, the Teacher Corps was to attract and train qualified teachers and inexperienced teacher interns, and make them available to local education agencies for service in low-income areas.

Grants and contracts were authorized for institutions of higher education and local education agencies for recruiting, selecting, and training Teacher Corps members and for the operational costs of Teacher Corps projects. Funding has been provided for projects designed to meet the special educational needs of children from migrant worker families, juvenile delinquents, youth offenders, and adult criminal offenders.

Initially, the Teacher Corps was regarded as a "service" program—somewhat similar to the Peace Corps—in the sense that it provided additional education opportunities for low-income children through the provision of superior teacher training and certification for many young college graduates who would not otherwise have chosen to become teachers. In sum, the initial emphasis of the Teacher Corps was on training new teacher-interns, and on providing "services" to local universities and colleges needing assistance in their preservice teacher training programs.

Amendments to the Teacher Corps legislation in 1974 (Public Law 93-380) expanded the responsibilities of the Teacher Corps by adding authority to encourage institutions of higher education and local education agencies to improve their programs for training and retraining currently active teachers. The focus of the Corps, therefore, shifted from preservice training of teacher interns to an emphasis on retraining experienced teachers and teacher aides, so that they might be better equipped to address the educational needs of children in low-income areas. The purpose of the Corps also gradually shifted from an emphasis on improving the skills of individual teachers to an emphasis on improving entire schools and institutions of higher education as the best means for achieving lasting benefits from limited resources.

Other amendments to the Teacher Corps in 1976 (Public Law 94-382) enabled a shift from providing "services" to colleges and universities in their efforts to provide preservice teacher training to an emphasis on showing—providing evidence to those who are responsible for individual Teacher Corps projects—how institutions of higher education are employing new teaching techniques in their efforts to prepare or retrain teaching personnel for service in low-income areas. In other words, each Teacher Corps project must show evidence of staff development that is responsive to student needs and furnish proof that participating institutions will continue project achievements once Teacher Corps funding has ended. Corps staff must also document and evaluate the achievements of projects, and information on project successes and failures must be made available to other local education agencies.

Changes in the authorizing legislation also increased the project length from 3 to 5 years, and the mandate of the Corps was expanded from teachers only to all professionals—such as teachers, teacher aides, and school administrators—involved with the education of low-income children.

A typical project now includes all the educational staff of three or four schools, all of which serve a low-income community. The historic cooperation between an institution of higher education and a local education agency is continued. However, since 1978, an elected community council, consisting of parents and other community members, has been added to the governing structure. This governing structure determines the types of improvements or changes in the schools and educational personnel that are to be achieved through the training and retraining offered by the Teacher Corps program.

If the project proposal is approved, the first year is devoted to detailed project development; the last 4 years consist of the actual training, with an emphasis on disseminating information on project successes and failures during that last 2 years. All information documented at the local level is to be included in a large national evaluation of the Teacher Corps.

The Teacher Corps is often confused with another Office of Education program for the training of educational personnel—the teacher centers program. Because there are some similarities between the Teacher Corps and the teacher centers, it has been suggested that these two programs are overlapping, competing, and even conflicting in their objectives and activities.

But, in fact, nothing could be further from the truth. Despite similarities, there are very important differences between the two programs; in a sense, the Teacher Corps and teacher centers are complementary to one another.

The teacher centers are concerned solely with the training of teachers. The Teacher Corps, on the other hand, aims to train all educational personnel in project schools—teacher interns, teacher aides, and school administrators as well as teachers;

The Teacher Corps has a specific focus on the educational needs of some of society's most disadvantaged students—children from low-income areas. Teacher centers make no distinction among students;

Whereas teacher centers are designed to help teachers become more effective with their students, the Teacher Corps is designed to improve the nature and effectiveness of entire institutions (colleges and universities) so that their teacher preparation programs are more responsive to student as well as teacher needs; and

Responsibility for approving grant applications rests with the teacher center policy boards, where teachers comprise the majority of members. In the Teacher Corps, by comparison, a policy council governs projects; this council includes the superintendent of the local education agency, the dean of education of the institution for higher education, and the chairperson of the elected community council (composed of parents and other community members).

Over the past 10 years, a number of evaluative studies of the Teacher Corps have been conducted by such organizations as the U.S. General Accounting Office (GAO), the Center for Education Policy Research at Harvard University (1971), and the Office of Education (1975). These studies have found that the Teacher Corps attracted a special type of person to teaching in low-income areas—persons who tended to be more effective than other teaching personnel in such areas as the use of community resources, initiating contact with parents, and the development of ethnically relevent curricula. These studies also have suggested that more Teacher Corps interns remain in schools serving low-income populations after becoming teachers than teacher interns prepared in traditional ways.

The comments of current or former participants in the program also attest to the impact of the Teacher Corps program on individuals and whole communities. In a letter to Dr. William Smith, director of the Teacher Corps, the chairperson of the community council in Wise, Va., wrote the following:

> The project has done many things to bring our school and community closer together. It has involved community members in the school as volunteers and resource persons. It has increased community support for services to strengthen the school program, such as the Reading is FUNdamental Program and the Outdoor Education Center. Through various activities parents have gained a better understanding of the academic program and learned how they can help their children at home. Teachers, parents, and community representatives have been able to discuss issues and to understand each others' points of view. Because of our Teacher Corps project we have been able in two years, to progress to a point which otherwise would have taken us a decade.
>
> Even though our project was not refunded for a '78 cycle, the Council plans to continue its activities. In fact, we have already taken steps to expand the Council to include repre-

> sentatives from the primary school and the high school. We feel that we have made a good start. We intend to remain active and to work toward bringing resources such as the Teacher Corps to our area.

The Teacher Corps remains a useful and timely program for the training of professionals who are central to the education of some of this society's most disadvantaged students. It is anticipated that an average of 16,000 experienced educational personnel and 320 teacher interns will be trained each year through the Teacher Corps program. This educational personnel is located in approximately 320 schools and 80 school districts throughout the country. An average of 80 colleges and universities are involved with the activities of the Teacher Corps each year. In my judgment, the Corps remains essential to the achievement of the goal that children from all sectors of American society receive an education of quality and relevance.

Funding for Teacher Corps projects is made on a competitive grant basis. The Corps follows standard Office of Education practices for the administration of discretionary grant programs. Grants are made annually, although projects cover 5 years. The Teacher Corps has typically funded 60 new project starts in each of its first 12 years. In 1978, this number was increased to 80 because the first year costs of the new projects—since they will be devoted to planning and development—will be lower than the full operational costs.

The administration requested an appropriation of $37.5 million for the Teacher Corps in fiscal year 1980. Unfortunately, the Senate approved only $30 million for the Corps. This means that no funds will be available for technical assistance contracts or new project starts, and that grant awards to current program participants will have to be reduced. It is my hope and expectation that these funds will be restored next year.

Teacher Corps authorization under the Higher Education Technical Amendments of 1979 is scheduled to expire at the end of fiscal year 1980. Since a new 5-year cycle in the Teacher Corps program just started last summer, and a major long-term evaluation of the program has just been initiated in response to current authorizing legislation, no revisions are being proposed in the Teacher Corps at this time. Instead, this legislation would extend the Teacher Corps legislative language in the higher education authorization for fiscal year 1981 and the 2 succeeding fiscal years.

The Senate Labor and Human Resources Subcommittee on Education, Arts and Humanities, chaired by the distinguished Senator from Rhode Island, Senator PELL, has just initiated hearings on the reauthorization of the Higher Education Act. The subcommittee will be considering the reauthorization of the Teacher Corps as part of the Higher Education Act, and will be reporting its recommendations for the entire act by May 15, 1980.●

By Mr. CRANSTON (for himself, Mr. BAYH, Mr. CHILES, Mr. GOLDWATER, Mr. HAYAKAWA, Mr. HELMS, Mr. JEPSEN, Mr. LUGAR, Mr. MORGAN, Mr. NUNN, Mr. THURMOND, and Mr. TOWER):

S.J. Res. 106. Joint resolution authorizing and requesting the President to proclaim the week of October 14 through October 20, 1979, as "National Mobile Home/Manufactured Housing Week"; to the Committee on the Judiciary.

● Mr. CRANSTON. Mr. President, in these days of rapidly spiraling housing costs, Americans are finding an increasingly attractive alternative that is providing housing for millions of American families who otherwise could probably not afford to own their own homes.

I am speaking, Mr. President, of the mobile home/manufactured housing industry. This industry has captured a large portion of the Nation's housing market. Mobile homes produced in 1978 totaled over 274,000 units. The average cost of all sizes of mobile homes sold last year was $16,300—less than one-fourth the median price for a single-family house in 1978.

The post World War II nationwide housing shortage gave the mobile home/manufactured housing industry its first big boost. The Federal Government recognized the benefits of these homes as residences. The Federal Housing Administration began financing mobile home construction to meet the housing needs of returning veterans, and within a decade the shift in emphasis was complete. Now mobile homes mean stability and year-round livability. With growth came sweeping innovations in design to the point where these manufactured homes are now equipped with almost every convenience that one would expect in a conventional home. Today mobile homes account for 25 percent of all new single-family homes sold at any price.

Mobile homes are a major source of housing for people of low and moderate means. Last year mobile homes represented 76 percent of all new, single-family homes under $25,000. By 1983, the mobile home market is expected to outpace conventional housing, according to the 1979 industrial outlook.

Mr. President, if anyone doubted the impact and vital role of mobile housing in our country's total housing industry, these facts should end those doubts. In my own State of California, the mobile-home industry contributes over $500 million annually to the State economy, and provides affordable, comfortable housing to hundreds of thousands of our elderly, and low- and moderate-income citizens who might otherwise be without adequate housing. On a national scale, the economic impact of the industry is well over $6 billion a year.

Several of my colleagues are joining me in cosponsoring a resolution to declare the week of October 14 through October 20 to be "National Mobile Home/Manufactured Housing Week." I am joined by the distinguished junior Senator from California, Mr. HAYAKAWA, and Mr. BAYH, Mr. GOLDWATER, Mr. CHILES, Mr. NUNN, Mr. LUGAR, Mr. MORGAN, Mr. HELMS, Mr. THURMOND, Mr. TOWER, and Mr. JEPSEN.

This resolution is offered in conjunction with an exhibit of mobile homes on the Federal Mall, October 16 and 17. I would urge my colleagues in the Senate to take a few minutes from their busy schedule to see the exhibit. I believe that those who see the display will be very impressed with what technology can do to lower housing costs and provide affordable, safe, and attractive housing for Americans.●

ADDITIONAL COSPONSORS

S. 1090, S. 1091, AND S. 1092

At the request of Mr. TALMADGE, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 1090, S. 1091, and S. 1092, bills to amend the Employee Retirement Income Security Act and the Internal Revenue Code relating to church plans.

S. 1735

At the request of Mr. HATCH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1735, the Congressional Pay Cap Act of 1979.

AMENDMENT NO. 488

At the request of Mr. RIBICOFF, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of amendment No. 488 proposed to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

PRIORITY ENERGY PROJECT ACT—S. 1308

AMENDMENT NO. 494

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

AMENDMENT NO. 495

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to S. 1308, supra.

AMENDMENTS NOS. 496 AND 497

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted two amendments intended to be proposed by him to S. 1308, supra.

AMENDMENTS NOS. 498 THROUGH 500

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted three amendments intended to be proposed by him to amendment No. 488 proposed to S. 1308, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, will hold a hearing on the continued oversight on fraud and abuse in GSA. The hearing will take place on

Wednesday, October 10, 1979, at 9:30 a.m. in room 457 of the Russell Senate Office Building.

If you have any questions, please contact the subcommittee office at 224-0211.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. PRYOR. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will begin hearings on the use of consultant services by the Federal Government on October 12, 1979, at 10 a.m. in room 1114 of the Dirksen Senate Office Building.

Anyone wishing additional information about the hearings may contact the subcommittee staff at 224-4551.●

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, will hold a hearing on the continued oversight of fraud and abuse in the General Services Administration. This hearing will take place on Wednesday, October 10, 1979, at 10 a.m. in room 457 of the Russell Senate Office Building.

If anyone has any questions concerning this hearing, they may contact the subcommittee office at 128 C Street NE., or call 224-0211.●

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs will hold a hearing on fraud and abuse in the Community Services Administration. This hearing will take place on Thursday, October 18, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

If anyone has questions concerning this hearing they may contact the subcommittee office at 128 C Street NE., or call 224-0211.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the sessions of the Senate today and on Wednesday, October 3, 1979, and Thursday, October 4, 1979, to hold markup sessions on the windfall profits tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate Wednesday, October 3, 1979, and Thursday, October 4, 1979, to hold markup sessions on synthetic fuels legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on energy productivity amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Credit and Rural Electrification Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the sessions of the Senate on Thursday, October 4, 1979, Friday, October 5, 1979, and Tuesday, October 9, 1979, to hold hearings on S. 1465, amendments to the Farm Credit Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HURRICANE RELIEF IN THE CARIBBEAN

● Mr. CHURCH. Mr. President, in the aftermath of Hurricanes David and Frederic, the U.S. Government, private American citizens, and other people of many other nations have joined together to help the people of those islands rebuild their property and their lives. This disaster relief and rehabilitation effort represents the finest of the humanitarian traditions of our Nation.

The President has sent to the Congress a request for additional funds for disaster relief and rehabilitation in the Caribbean. The House Committee on Foreign Affairs has reported the bill to the House with the recommendation that it pass. The Committee on Foreign Relations will consider the President's request as soon as time permits. Meanwhile, relief and rehabilitation efforts will continue with funds previously appropriated.●

THE PUBLIC AND THE PAY RAISE

● **Mr. HATCH. Mr. President, I noted an** interesting editorial in Monday's edition of the Salt Lake Tribune. I think it represents the view held by most of my fellow Utahans, and I would venture, most of the citizens of the United States. Lest there be any doubt about this issue in the minds of my colleagues here in the Senate and House, I ask that the editorial, "Wrong Pay Raise Time" be printed in the RECORD.

The editorial follows:

WRONG PAY RAISE TIME

United States House of Representatives members who last week successfully prevented a pay raise for themselves and various other top level federal employees are correctly reading the public mood. They may also be aiding significantly the fight against inflation.

Not that approving a 5.5 or 7 percent increase—the most commonly discussed options—for congressmen, judges and sundry high echelon bureaucrats would super fuel inflationary fires. But setting an example of foregoing an opportunity to dig deeper into the national treasury could help strengthen the argument for self-denial and sacrifice during these times of run-away living costs.

By any measure, there is political poison in elected officials granting themselves handsome pay raises. Something should be said for the occasions on which they have let that draught pass.

Although, according to federal law, congressmen are entitled to annual increases based on the cost-of-living index, a 5.5 percent raise was not taken last year and this year's increment, which technically could be 12.9 percent, may be waived also.

The late Sen. Everett Dirksen once said of a congressional salary hike: "senators have to eat, too." But none of those presently being deprived will starve.

Representatives and senators now make $57,500 annually. The judges and high post employees slated for the now disputed raise are in the $47,500 category. It is expensive to live in Washington, D.C. Still, that complaint doesn't elicit much sympathy coming from those who asked or angled to be either sent or summoned there.

Unquestionably, no perfect opportunity exists for elected public officials to award themselves higher pay. But now, when life among taxpayers who finance such items, seems endlessly more expensive, the proposal, in the political sense, is utterly without redemption.●

A TAX REFORM WITH MEANING

● Mr. DOLE. Mr. President, a few years ago there was much talk of tax reform. At that time, most people thought of tax reform as meaning closing "loopholes" that are available to individuals and corporations. These "loopholes" are the exemptions, credits, and deductions that Congress has enacted in order to encourage certain behavior by corporations and individuals. One example is the charitable deduction, designed to encourage philanthropy. Another is the deduction for interest on mortgage payments, which makes it easier for people to own their own home. Because so many people benefit from these loopholes, it is difficult to get a consensus about which of them could profitably be eliminated. As a result, "tax reform" as it was understood a few years ago appears to have faded away as a significant issue.

Whatever the merits or drawbacks of various tax loopholes, they have one thing to be said for them. They were all passed by Congress and signed into law by the President. Each exemption, credit, and deduction in the Internal Revenue Code was thoroughly examined, discussed, and debated in the course of the legislative process before it was enacted. Furthermore, these provisions of the code are frequently scrutinized by the courts and analyzed by the news media and by professional journals. There are no secrets whatever concerning tax loopholes.

But what if these loopholes had been put into the Internal Revenue Code without action by Congress, and without notice to the public and an opportunity for the issue to be discussed? Certainly the public outcry at such an arbitrary and antidemocratic action would be heard loud and clear by the Congress. No one could reasonably claim that such a fundamental legislative concern as tax policy should be left to the IRS alone. Such an abuse of administrative discretion would have to be stopped.

In this context, the most meaningful tax reform would be to return tax policy to the congressional process, where there are plenty of opportunities to analyze the relative merits of various proposals.

Believe it or not, that is the situation we face today: one of the most serious questions of tax policy is now decided without discussion or notice to the public and without action by Congress. That policy matter is the rate of tax imposed on individuals each year. The rates go up each year unless Congress acts to reverse that, and no one is told what is happening. Why is this so?

The answer is inflation and the progressive tax scale. When income rises to keep up with inflation, people move into higher tax brackets and are taxed at a higher rate. Yet their real income is no greater than before, and they are automatically forced to pay a higher real rate of tax. As a result, the tax burden grows every year with inflation (and we have gone more than a few years now without stable prices). This is taxflation: An unlegislated, annual tax increase, imposed by the IRS without publicity or notice to anyone. Here, if anywhere, is a cause for meaningful tax reform.

Mr. President, the necessary reform is ready and waiting. The Tax Equalization Act, S. 12, has been introduced in this Congress by the Senator from Kansas. It would adjust the tax brackets, zero bracket amount, and personal exemption by the rate of inflation (measured by the Consumer Price Index). It is unjust to impose a hidden tax on our citizens, and the Tax Equalization Act would bring tax policy back into the open, where it belongs. There is no justification for hesitating on this matter. Reform is needed now, for the hidden tax will not remain hidden much longer, as the public's awareness of the problem grows. Congress would do well to keep ahead of this issue, rather than wait to bear the brunt of public pressure. Tax Equalization would also have the not incidental virtue of correcting an injustice.●

THE FUTURE OF SALT II

● Mr. BIDEN. Mr. President, events of the past 24 hours have served, I believe, to restore a proper perspective, in the Senate as in the Nation at large, to the confusion that has been allowed to develop between the issue of Soviet troops in Cuba and the deliberate consideration of the SALT II treaty upon the merits of that agreement itself.

In his address to the Nation last night, President Carter employed a rational perspective in reviewing the "tempest" in the Caribbean. While 2,000 Soviet combat troops is a matter to be taken seriously—within its own frame of reference—it is a matter that must be balanced off against the global and enduring significance of a responsibly negotiated treaty. Both issues involve the national security of the United States, but their significance differs in orders of magnitude.

I think it should be a matter of pride and gratitude on the part of all the Members of this body which has long claimed to be the greatest deliberative assembly in the world, that this necessary perspective has been maintained calmly and persistently throughout the Cuban controversy by our majority leader, the distinguished Senator from West Virginia. Senator BYRD yesterday summed up the comparative import of these two issues in an outstanding and well-reasoned article that appeared opposite the editorial page of the Washington Post.

Mr. President, I commend Senator BYRD's important statement to those of my colleagues who have not yet had the opportunity to read it, and I am grateful to my distinguished colleague from California, Senator CRANSTON, for having yesterday inserted the majority leader's article in the RECORD.●

ORDER FOR RECESS TO 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:15 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME OF LEADERSHIP TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders not extend beyond 9:30 a.m. tomorrow, and that the time for the two leaders be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS AND RESUMPTION OF PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 9:30 a.m. tomorrow, Mr. TOWER be recognized for not to exceed 15 minutes, that he be followed by Messrs. EAGLETON, RIEGLE, and LEVIN, each for not to exceed 15 minutes, and that at no later than 10:30 a.m. the Senate resume consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PORT WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 303.

Mr. STEVENS. No objection.

The PRESIDING OFFICER (Mr. STEWART). The joint resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (H.J. Res. 303) authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 7, 1979, as "National Port Week."

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the joint resolution.

The question is on the third reading and passage of the joint resolution.

There being no objection, the joint resolution (H.J. Res. 303) was ordered to a third reading, as read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:15 tomorrow morning.

The motion was agreed to; and at 6:09 p.m. the Senate recessed until tomorrow, Wednesday, October 3, 1979, at 9:15 a.m.

EXTENSIONS OF REMARKS

ENERGY DEPARTMENT FIGURES ARE USELESS

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1979

● Mr. BEDELL. Mr. Speaker, I wish to advise our colleagues of some concerns that have been expressed by the Small Business Subcommittee on Antitrust and Restraint of Trade about the distribution of middle distillate fuels—heating oil and diesel fuel. The subcommittee, which I chair, has been studying this subject since last spring and we have released several reports on it.

Earlier this week the subcommittee sent a letter to Charles Duncan, Secretary of Energy. While we are pleased to see that the national inventory of distillate fuel in primary storage facilities will soon reach the administration's goal of 240 million barrels, we are concerned that the heating oil and diesel fuel still is not flowing at a normal rate to local distributors. Primary inventory figures become irrelevant if the fuel is not reaching the consumers.

Several times the Department of Energy has assured the Antitrust Subcommittee that they would reassess the dis-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tribution situation at the secondary and tertiary levels as soon as it completed its own study of dealer and customer inventories. The DOE last week released its findings, and we are greatly disappointed; the data is of no immediate use to us or anyone else.

We are presented with a statement as to how much distillate fuel was in the tanks of small distributors in mid-June 1979. There is no suggestion in the report as to what fraction of total storage capacity the inventory figures represent, nor are we told what the normal or historic levels are. Moreover, the DOE does not have any figures for us at all, regarding customer inventory and wholesale jobber stocks.

What is especially troubling is that the head of DOE's Energy Information Administration, Lincoln Moses, continues to point to data about primary stocks in a futile effort to explain what the situation is at the local level. There is a serious information gap there.

In an internal memo dated September 18, 1979, Moses says:

> A KEY FACT ABOUT SECONDARY STOCKS
>
> The keen interest in secondary stocks of heating oil grows largely from apprehension that refiners may have "starved" the downstream distribution in order to build primary stocks.
>
> EIA data give little support to such apprehension. Total quantities of distillate supplied to distribution channels during the four months, May, June, July, August, were as shown below (in millions of barrels):

1977	330.0
1978	343.6
1979	342.2

> These figures show no pinching of supplies of distillate put into trade channels since the end of the heating season, as compared to either last year or the year before.
>
> As further Census work (sponsored by EIA) matures, a more detailed understanding of the secondary stock situation should emerge.

That is very interesting, but it does nothing to explain why many refiners had their dealers on allocation fractions of 60 to 80 percent during that period. In four separate hearings our subcommittee attempted to find an explanation for the discrepancy between shipments out of primary inventory and quantities delivered to dealers for distribution at the local level. We had hoped the long-awaited DOE report might be a useful tool in understanding this, but it is not.

Mr. Speaker, I heard this week that Phillips Petroleum currently has its dealers in the upper Midwest on a 65 percent allocation this month, and it is expected to be the same next month. Amoco dealers are now at a 70 percent fraction for distillates in the Midwest, and it is expected that the figure will be the same again in October.

These companies are two of the largest suppliers of diesel and heating oil in my home State of Iowa. It will be very difficult for me to explain to my constituents that, even though their local dealers are getting 30 percent less than they did at this time last year, the DOE tells us there is plenty of heating oil.

At this point, Mr. Speaker, I wish to insert in the RECORD a copy of the letter sent by the Antitrust Subcommittee to Energy Secretary Duncan.

The letter follows:

WASHINGTON, D.C.
September 25, 1979.

HON. CHARLES W. DUNCAN,
Secretary of Energy,
Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: The Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business continues to be concerned about local-level distribution of middle distillate fuels—diesel and home heating oil. We appreciate the Department of Energy's recent attention to secondary and tertiary inventories of heating oil, and we hope that we can count on your prompt attention to the following problems.

First, we are pleased to see that it appears as if the administration's goal of 240 million barrels of distillate fuel in inventory will be met. This will be somewhat irrelevant, though, if the fuel does not reach end-users when they need it.

Some of the major refiners have indicated that they have increased their inventory at the primary level by curtailing shipments of fuel to their distributors. This has resulted in lower than normal inventory levels in some local areas, as has been pointed out in several reports prepared by our Subcommittee staff. (See enclosure).

In the upper Midwest and Great Plains States, for instance, we are concerned because several of the largest fuel oil suppliers have had their dealers on relatively low allocation fractions for several months now. Amoco is still at 70 percent and Phillips is at 65 percent. Gulf has adopted a bizarre formula that has the effect of reducing some dealers' allocations to less than 40 percent of last year's supply. The combined effect of these and other suppliers' reduced shipments into the area has been to create a very tight supply situation as the fall harvest and heating season approach.

While it does appear that overall supply levels may be adequate to meet minimum needs, we are concerned that the local-level distribution system remains stretched so thin that there is little capacity to absorb any unusual demand. Therefore, we urge you to expedite deliveries from primary inventory to local dealers.

Second, we have a continuing concern over the fact that some refineries still are not maximizing their output of middle distillate fuel. In fact, it is our understanding that the DOE-established price "tilt" remains in effect, encouraging maximized gasoline production, even though gasoline inventories now appear to be adequate. If the government is going to influence refinery yields, encouraging the production of one fuel over another, clearly the need for middle distillates must supersede any desire for added inventories of gasoline.

Our third concern is with the kerosene shortage that is developing in New England and upstate New York. Our field hearing in Maine two weeks ago first brought this problem to light, and our staff has since discussed our concerns with officials of your Economic Regulatory Administration.

The Subcommittee understands that the Department of Energy has made arrangements with the Department of Defense and local government agencies to establish procedures to deal with spot shortages of kerosene. We welcome that news.

Finally, there is the Department of Energy's continuing lack of useful information on local inventory levels.

On August 17 in Cedar Rapids, Iowa, we held a hearing on middle distillate supplies in the Midwest. On September 10 we held a hearing in Bangor, Maine, to study the heating oil situation in New England. At both hearings DOE witnesses declined to comment on our staff reports on secondary and tertiary inventory, saying that the Department was conducting its own study which would be completed "soon." That study was released last week, and it is a great disappointment to us.

The report, prepared as a joint effort by the Energy Information Administration (EIA) and the Census Bureau, is limited to giving figures only for the amount of fuel oil in retail distributors' tanks as of mid-June 1979. There are no figures given for inventory at jobber distributors or in customer tanks. Nor are there any figures given for prior years. Thus, the report is of little or no value as an analytical tool.

It is very disturbing to us to read the comments of Lincoln Moses, Administrator of the EIA. In a memo discussing the new report he says, "Despite the impossibility of answering many natural questions from a single month's data, this report does 'mean something.' First, it shows that secondary stocks data collection is in process . . ." His memo goes on to say that some time around Christmas we will find out what local dealers' inventories were in June 1978.

While we welcome the development of a reporting system that will, for the first time, provide us with reliable figures about local-level inventories of fuel oil, we also must note that the reporting system as it now functions is not producing information in a timely or useful fashion.

Again, Mr. Secretary, we wish to state our appreciation for your willingness to address these complicated and sometimes controversial issues. In your brief tenure at the Department of Energy we have observed considerable improvements in the Department's attention to these issues, and we look forward to cooperating with you in our mutual efforts to resolve these problems.

Sincerely,

Dan Quayle, ranking minority member, Subcommittee on Antitrust; Berkeley Bedell, chairman, Subcommittee on Antitrust; Thomas J. Tauke, James M. Hanley, Olympia J. Snowe, Richard H. Ichord, Tony P. Hall, Tom Steed.

RESTRICTIONS ON POLITICAL PARTICIPATION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1979

● Mr. VANDER JAGT. Mr. Speaker, the distinguished gentleman from Minnesota, BILL FRENZEL, has done an outstanding job in leading the battle against H.R. 4970—the Obey-Railsback bill. Those of us who support his position commend him for his effort and his well reasoned rebuttal to many of the points advanced by the bill's supporters.

But whether one supports or opposes the Obey-Railsback bill's restrictions on political action committees, I am sure that all of my colleagues will agree that BILL FRENZEL is one of the leading experts in the field of election law and is hardly an individual who would present a distorted partisan argument. This is demonstrated by his clear and precise editorial explaining his opposition to this bill which appeared in the September 27 New York Times.

Mr. Speaker, I strongly recommend that my colleagues read the following editorial and consider the advice of the learned gentleman from Minnesota:

ON THE BILL CURBING INTERESTS' GIFTS

(By BILL FRENZEL)

WASHINGTON.—A bill that the House may be soon asked to consider is designed to reduce the amount of money that a political-action committee, or PAC, can give a House candidate and the amount any candidate can receive from all PAC's. Its high-minded sponsors believe it would magically prevent alleged "special-interest" manipulations of the Congress. None of the bill's supporters has been able to identify any House member who has been unduly influenced by any interest, nor have they shown that PAC contributions are a greater, or less great, influence than editorials, direct lobbying, demonstrations or independent expenditures.

Before Congress changes a law, there is usually, and ought to be, proof that a system needs repair and that the proposed repair will be successful with a minimum of undesirable side effects. There has been no such demonstration with the bill under consideration, sponsored by Representatives Tom Railsback, Republican of Illinois, and David R. Obey, Democrat of Wisconsin, partly because its sponsors so far have been afraid to subject it to committee hearings, and partly because their rationale that PAC's are evil is based on subjective "feelings."

Every nickel that PAC's contribute to candidates is voluntarily given by individuals. Those contributions are subject to disclosure and limitations just as they would be if direct contributions were made to candidates.

The growth of PAC's is normal and natural. They were not sanctified by regulations and law until 1974. Since then, they have grown rapidly because individual contributors like them. People like to be identified with their union, professional group, corporation, or ideological group. They also like to have their contributions identified with the PAC's of the so-called special-interest groups.

In the last 20 years, as political parties have become less popular and confidence in government has fallen, PAC's have been the greatest—in fact, the only—institution in our society that has encouraged and expanded political participation by the public. PAC's have encouraged tens of thousands of people who never were active politically to participate in our political processes.

Every cure has some side-effects. The Obey-Railsback measure, which cures only a fantasy, has a ton of adverse side-effects in addition to quashing political participation. Many of them, especially protection of incumbents, are wholly intentional. The bill would have the following effects:

1. It would leave typical candidates defenseless against rich candidates whose unlimited right to contribute to their own campaigns is protected by the Constitution. PAC contributions are often the only balance to rich candidates.

2. It especially penalizes challengers who need to spend heavily to gain identification equal to incumbents. The Kennedy Institute at Harvard recently reported to Congress that not enough money was being spent in campaigns, a finding that we believe supports our position.

3. It would leave Big Labor with its enormous legal advantages to spend the involuntary contributions of its members—union dues—for political purposes. Without PAC's, labor's political power is unbalanced.

4. It would increase fund-raising costs. Current limits on contributions have forced candidates to use direct mail, by far the most expensive fund-raising device. That trend would be exacerbated by the bill.

5. It would penalize candidates with competitive primaries who would have to squeeze two elections out of one contribution limit.

6. It discriminates against an oppressed minority, Republicans. Fourteen of the 16 Republican challengers who defeated incumbent Democrats in 1978 elections received more contributions from PAC's than they would be allowed under the bill. Under its limits, many of them probably would not have won.

The bill seems to rely on the same limited constituency that unsuccessfully tried to pass taxpayer financing of House elections—incumbents, Common Cause, and the A.F.L.-C.I.O. Each group would be aided by its passage. Their strategy is to limit PAC contributions so that Congress will be forced to turn to taxpayers' money to pay for its own re-election. Taxpayer financing ought to be able to stand on its own feet, or fall, as it did, of its own weight.

The Federal election law that restricts contributions and requires disclosure provides ample opportunity for people to decide if certain contributions add up to "undue influence." The people's best defense against alleged corruption in Government is to vote the rascals out.

Laws that further restrict political participation and political expression deserve to be defeated.●

MENTAL HEALTH NEEDS OF OLDER AMERICANS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1979

● Mr. PEPPER. Mr. Speaker, the loneliness and despair of millions of older Americans suffering from mental illness should be a matter of concern to all of us in this body. Yet, oftentimes the more visible problems of income security, housing, malnutrition, and mandatory retirement obscure the subtler but equally as devasting effects of mental illness. While the elderly constitute only 11 percent of the population of this country, more than 25 percent of all suicides are committed by persons over 65.

As a member of the Select Committee on Aging, which I have the honor to chair, addressing the gaps in mental health coverage under medicare is a matter of the highest priority. I am pleased to report that the Ways and Means Subcommittee on Health, has reported out H.R. 3990 with provisions extending mental health coverage under medicare.

Mr. Speaker, no member of the committee has worked harder to make all the Members of this body aware of this insidious but underpublicized problem than ROBERT DRINAN. As chairman of the Aging Committee's National Conference on Mental Health and the Elderly, Mr. DRINAN worked tirelessly to insure that the conference went beyond the usual philosophical discussions of what could be done, and effectively mapped out a strategy for firm legislative action. At this time, I wish to call the attention of my colleagues to Mr. DRINAN's opening remarks before the American Phychological Association on "Meeting the Mental Health Needs of Older Americans: A Failure in Public Policy."

MEETING THE MENTAL HEALTH NEEDS OF OLDER AMERICANS: A FAILURE IN PUBLIC POLICY

In a recent presentation by Mrs. Rosalyn Carter, the chairperson of the President's Commission on Mental Health, before the Select Committee on Aging, on which I serve, Mrs. Carter noted that she first became interested in the mental health problems of the elderly when she was visiting nursing homes during her husband's Presidential campaign. Mrs. Carter revealed the contents of a letter from one woman who said: ". . . it is a terrifying experience getting older in America. You suddenly find yourself an outsider . . . indeed, one reaches an age where one is considered not to exist . . .".

Although most politicians have had the same experience as Mrs. Carter in visiting nursing homes, the fact is that somehow the enormous needs of senior citizens for better mental health care has not become a reality in the Congress. The reality is that those senior citizens who need assistance in the area of mental health are generally invisible. They are probably not present in large numbers among the more resourceful senior citizens who participate in organized groups of older Americans.

I would like to talk with you about three things: (1) the extent of the problem; (2) what the federal government should do in this area; and (3) how our new concern for the mental health needs of the elderly fits into federal programs in the area of mental illness.

I. Extent of the problem:

Every ninth citizen, or eleven percent of the total population, is over the age of 65. This population of 23 mililon is increasing at twice the rate of the population in general. As a result, this phenomenon has been called "the greying of America".

By the year 2000 every fifth American will predictably be over the age of 65. The public policy implications of this startling phenomenon are, of course, enormous.

There are now 134 separate federal programs charged with serving the elderly. Despite this broad array of programs, many needs of the elderly are not reached—especially in the area of mental health.

It should be noted, however, that Congress has been relatively responsive to the needs of older Americans. Congress enacted Medicare in 1965, the Supplementary Security Income program (SSI) in 1972, and in 1978 raised the mandatory retirement age from 65 to 70. Congress also inserted an escalator clause in the Social Security program so that senior citizens each July 1 receive an increment in their benefits measured by the rate of inflation during the previous twelve months.

There are, however, still great gaps in the benefits available to senior citizens. Medicare does not reach prescription drugs, eyeglasses, dental care or hearing aids. The lack of these often increases the isolation and conseqent mental health problems of senior citizens.

Meals on Wheels, moreover, reaches only a very small proportion of those who would be eligible for this enormously useful program. In addition, a massive program of federal reimbursement for property taxes for the elderly is needed. Bills have been presented to the Congress for many years that would allow a retired person or couple to remain in their home after the age of 65 with the federal government offering on a matching basis a portion of the property taxes which this couple would be paying. Very clearly, this proposal would be expensive, but it would alleviate the tremendous trauma which senior citizens often experience when they are required for financial reasons to leave the home which they have occupied for some 30 or 40 years.

Possibly the most under-discussed problem of the elderly is that of mental illness. In April 1979 the House Select Committee on Aging sought to identify the problems in this area in a two-day conference. Here are some of the findings of that landmark symposium:

1. Fifteen to twenty-five percent of the elderly have significant mental illnesses. Some of these illnesses—perhaps many—are

correctible if they are diagnosed at an early stage.

2. The suicide rate among senior citizens is appalling. Twenty-five percent of all of the suicides are persons over the age of 65.

3. Depression and psychosis increase significantly among people over the age of 65. This is even more so among those over the age of 75. This is a very significant statistic, since members of the over-75 group constitute the fastest-growing segment of the senior population.

4. Twenty percent of all persons in America suffering from alcohol-related problems are elderly. It appears that 1.6 million people out of the 23 million senior citizens may be alcoholics. It is calculated that 22 per 1,000 are alcoholics in the 65–74 age group. There is a vast literature about alcoholism among the elderly. It is generally assumed in this literature that a state of depression might frequently be the reason why senior citizens acquire an addiction to alcohol.

5. The elderly consume 25 percent of all of the prescription medications used in America. Again, a vast literature points to abuses in this area, although accurate statistics are apparently not available.

6. The statistics which are presently available with regard to the incidence of mental illness among the elderly totally underestimate the actual extent of mental health problems. Senior citizens are isolated by low income and by lack of mobility in obtaining existing services. It should also be noted that one-fifth of the men over 65 are widowers and that over fifty percent of women over the age of 65 are widows.

Clearly contributing to conditions adverse to good mental health is the fact that 3.3 million senior citizens—or one-seventh of all of the elderly—live under the poverty line: that line is now $3,417 for a couple and $2,720 for a single person.

7. The American Psychological Association has estimated that 80 percent of senior citizens requiring mental help do not obtain it. Only 2 percent of all patients in private psychiatric care are over the age of 65. Only 4 percent of all persons seen at public outpatient mental health clinics are senior citizens.

Clearly we are confronting a tragedy of enormous proportion. It is tragic because, as Dr. Robert Butler, the Director of the National Institute of Aging, has told us, there are some 100 reversible conditions that mimic senility. Dr. Butler reported that many physicians unfamiliar with geriatric medicine labelled forgetfulness or confusion as indicators of fixed organic brain disease when frequently these symptoms do not indicate anything that serious.

II. What the Federal Government should do:

It is sad to note that the National Institute on Aging receives only 1 percent of the budget of the National Institutes of Health. Only 2 percent of all Medicare funds go to mental health coverage for the elderly. Medicare pays only $250 annually for outpatient treatment for mental illness. This clearly should be increased to at least $750. Mrs. Carter and the Administration inserted funds in the budget for 1980 to provide for the $750 figure.

We should also change the 20–80 co-payment for mental illness to 50–50, as is the case for physical illness.

The limitation of $250 annually and the 20–80 copayment for mental illness clearly are built-in acts of discrimination against mental illness.

Another discrimination exists in present law in that inpatient psychiatric hospital care is limited to 190 days during the entire lifetime of the insured! This clearly should also be changed, so that at least the same coverage is offered to mental illness as to physical illness.

Congress should also enact a measure which would alter existing law so that the referral of a mentally ill patient by a physician or a psychiatrist should not be required before Medicare reimburses for treatment given by a licensed clinical psychologist. This change alone would introduce a whole new cadre of mental health professionals into the treatment of the elderly.

Congress should also enact laws which would decrease the incentives to institutionalize senior citizens which now exist in federal programs. It is distressing to note that 60 percent of elderly patients now admitted to state mental hospitals have received no previous psychiatric treatment. Similarly distressing is the fact that 30 percent of all patients in public mental hospitals are over the age of 65.

Congress should also increase the allowable reimbursement for outpatient treatment of mental conditions. Similarly, there should be an increase in funding for the National Institute on Aging. If this sum were raised to $78.5 million, this would give to this important agency the modest increase which would be only 5 percent above inflation. The total sum is pathetically small when it is considered that the National Institute on Aging serves 23 million Americans.

Clearly home care should be expanded, especially to include preventive mental health care.

All are agreed that we need to launch a major national research program on organic brain disease, the most devastating mental health problem of older persons.

All are agreed once again that training in geriatrics should be mainstreamed into the curriculum of the pre-clinical years of medical schools. Likewise, federal programs should be increased for training fellowships for graduates of psychology and students in social work schools.

There appears to be a consensus that the National Institute on Aging should be designated as the lead agency on research into the problems of the aging. For pragmatic reasons as well as humanitarian, research into brain disease is important; unless we discover ways to contain brain disease and thereby to limit the incidence of senility, in two generations, or by the year 2020, there will be 2½ million Americans in nursing homes.

There are several other things which the Congress could do to improve the mental health of senior citizens. One, for example, would be to encourage the availability of services in underserved areas by foregoing the payback under the Community Mental Health Systems Act and the Nurse Training Act.

III. The mental health of senior citizens in relation to the overall Federal program for mental illness:

In 1963, President Kennedy called for the deinstitutionalization of mental hospitals in America. Pursuant to that policy, Congress enacted the Developmental Disabilities Act and the Rehabilitation Act of 1973. Medicare and the SSI program are also designed in part to carry forward the goal of deinstitutionalization.

Today, 16 years after President Kennedy called for deinstitutionalization, one-half of the occupants of mental hospitals have left.

The Supreme Court confirmed the wisdom and indeed the constitutional need for the deinstitutionalization program. In 1975, the U.S. Supreme Court in the case of O'Connor v. Donaldson ruled that no nondangerous person may be deprived of his or her liberty if he or she is "capable of surviving safely by himself or with the help of willing family members and friends".

Five Presidents and eight Congresses have followed up this program which, in the words of the Developmental Disabilities Act, requires that the state give treatment which is "the least restrictive of the person's personal liberty".

At this time, Congress funds over 700 community mental health centers. Unfortunately, these centers reach only 40 percent of those who need care; some 1500 centers would be needed.

It is startling to note that in 1969 427,700 persons were institutionalized for mental illness. In 1977, this figure had dropped to 160,600, a drop of 62 percent.

The impact on elderly citizens of this policy of deinstitutionalization was enormous.

In 1969, there were 133,000 elderly persons in mental institutions. By 1977 that figure had dropped to 44,000—a reduction of 66 percent.

What happened to the nearly 100,000 senior citizens who have been deinstitutionalized over the past several years?

Unfortunately, almost every bit of evidence which we have suggests that these 100,000 people have not been adequately cared for. We hear of horror stories about 500 homes for deinstitutionalized elderly persons in New York City with some 23,000 occupants. The statistics on deinstitutionalized persons are not adequate, however, since there has been little follow-up. We do know that right now, 64 percent of all admissions to mental hospitals are readmissions. A survey in the February 1975 issue of the magazine, "Scientific American" reported that 50 to 75 percent of all readmissions could have been avoided if comprehensive mental health care had been available in the community.

Again, pragmatic reason suggests that federal policy should be more vigorous in carrying out the goals of deinstitutionalization. The average cost per institutionalized patient in 1977 was almost $21,000 whereas the same cost in 1969 was only $5,600.

In the further implementation of the federal policy of deinstitutionalization of persons in mental hospitals particular care should be extended to the elderly. Mentally disabled persons should not, for example, lose one-third of their SSI benefits because they live with relatives. Likewise, there should be a change in the regulations of the Comprehensive Employment Training Act (CETA) to encourage the training and employment of mentally disabled persons. Likewise, additional HUD funds should be available for homes for mentally disabled citizens.

We must not separate the mental problems of the elderly from the overall problems of mental health in the United States. The final report of the President's Commission on Mental Health gives us some startling conclusions which are enormously relevant in any discussion of the problems of mental health or senior citizens. Among these conclusions are the following:

1. Twenty to thirty million Americans will need some form of mental health care at any one time.

2. Two million Americans have been or will be diagnosed as schizophrenic.

3. Six million Americans are mentally retarded.

4. The current direct cost of providing mental health care is $17 billion—a figure which excludes all costs of alcoholism.

Despite these startling statistics, the federal research budget for mental health has actually in real dollars decreased over the past decade. The actual amount available to the National Institute of Mental Health is incredibly small.

In 1979 the federal government is spending $52.7 billion on health—exclusive of the Veterans Administration programs. About 12 percent of that total goes to problems related to mental health.

If there is any one recommendation that should be followed through by those interested in the health of senior citizens, it is the call for a unit or centralized agency to diagnose and treat the mental health problems of senior citizens. These persons, who are vulnerable to depression and other forms of mental illness cannot really be expected to discover which of the 134 federal agencies related to aging can give them what they need in housing, nutritional needs and transportation or—most essential of all—access to outpatient mental health services. These centers for mental health treatment should be the key and the focal point of all services for senior citizens across the nation.

The Mental Health Systems Act proposed by the Administration seeks in part to do that. This proposal contains several creative measures, such as a measure that would give funds for outreach programs to try to give preventive mental health care. But the National Council of Senior Citizens on June 12, 1979 criticized this measure severely. This group feels that the community mental health centers, as they now operate, discriminate against the elderly. That de facto discrimination was validated in the recent study made by the U.S. Commission on Civil Rights.

On June 25, 1979, the American Federation of State, County & Municipal Employees also criticized the Administration's proposed Mental Health System Act. This group desires to have federal law require the states to follow up on every person who has been deinstitutionalized from a mental institution.

CONCLUDING RECOMMENDATIONS

It is easier to make a case for research into diseases of the heart and blood than it is for illnesses that relate to the mind and spirit. Cardiovascular mortality has fallen by over 10% in the recent past in every adult grouping. Consequently, Congress has increased the budget for research into this disease over the next three years from $456 milion to $610 million per year.

Similarly, it is known that over 45 million Americans now alive will die of cancer. As a result, the budget of about $1 billion per year passes without difficulty.

Mental illness, however, is much more difficult to dramatize. The stigma surrounding mental illness unfortunately continues to live on. The President's Commission report notes this stigma in these words:

". . . the misunderstandings surrounding mental and emotional problems are so great that there is insufficient support for needed services and further research . . . the stigma and the fears exist and they are deeply ingrained in our society . . ."

The President's Commission concluded its report on this rather gloomy note:

". . . At present our efforts to prevent mental illness or to promote mental health are unstructured unfocused and uncoordinated . . . they demand few dollars, limited personnel and little interest at levels where resources are sufficient to achieve results . . ."

Legislation and adequate funding can of course achieve a great deal in the area of mental health. But ultimately it is those who work in the field of mental health—and especially psychologists—who are the indispensable agents involved. This role is much more difficult than the role played by those who care for physical illnesses. Each day you are up against the unfathomable causes of personal anguish. I commend and salute you because each day you seek to turn torment into tranquility and transform pain into peace.●

MARINE RESOURCES PROTECTION ACT

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1979

● Mr. DICKS. Mr. Speaker, on Friday, my distinguished colleagues from Washington State, Representatives SWIFT, LOWRY, and myself introduced the Marine Resources Protection Act. This bill is exceedingly important and urgently needed for the State of Washington and the Nation as a whole. While this legislation does not contain any new congressional policy, it will insure that existing Federal policies are properly carried out.

During the 95th Congress, the House and Senate agreed upon legislation which would provide a comprehensive examination of whether or not a new west to east pipeline for the transshipment of Alaskan and other crude oil is needed. If, after exhaustive review, the administration determines that such a pipeline is needed, then expedited Federal permitting and waivers of Federal law will be available for those pipeline systems the President selects. You may remember this as title V of the Public Utilities Regulatory Policies Act passed into law November 8, 1978.

Title V was enacted to provide for an in-depth look at the need, the environmental impacts, the economic impacts, the available financing, the safety factors, national security considerations of an east to west pipeline system. It set up a process for the various competing pipeline applications to be thoroughly reviewed and analyzed based on 16 separate and specific criteria. This process has almost run its course, and a decision is expected shortly on which, if any, pipelines will be selected by the President to be eligible for expedited Federal permits and the possible waiver of Federal laws. There are many arguments both for and against the building of a transshipment pipeline, and I am not here to discuss the merits or demerits of building such a pipeline. I am here to make sure that if a pipeline is built through my State of Washington, then Washington State is afforded the proper environmental protection it needs and deserves.

My particular concern, and the concern of my colleagues stems from the fact that two of the competing applications, those submitted by the Trans-Mountain Pipeline Co., and the Northern Tier Pipeline Co. travel through Washington State.

If one or both of these pipelines are selected in the title V process and one of them is subsequently built, then I firmly believe that reasonable environmental safeguards, which are easily obtainable and not costly must be a condition of any such transshipment of crude oil through Washington State.

The potential environmental problem posed by the title V process for Washington State involves the fact that we already have four refineries—operated by Arco, Mobil, Texaco, and Shell—located in northern Puget Sound, and they are currently receiving approximately 350,000 barrels a day by tanker. These refineries were historically supplied by pipeline, but since 1972, they have been forced to increasingly rely on tanker delivery. This is the result of the decision by Canada to curtail its crude exports upon which Washington State refineries depended. Unfortunately, this caused increasing levels of tanker traffic inside Puget Sound and adjacent waters—waters which are unspoiled and contain immense resources. This increased tanker traffic has posed very serious threats to water quality and the many industries dependent upon that good water quality. The effects of a major oilspill on these important water-based industries of the Pacific Northwest have been thoroughly documented by many studies, including a recent study done by the National Oceanographic and Atmospheric Administration which demonstrated that the dispersal of a major oilspill in northern Puget Sound would have disastrous long-term consequences on the marine environment.

I might also add that many of the tankers which now transport oil to the Washington State refineries are foreign flag vessels originating in the Persian Gulf. These vessels are notorious for disregarding safety regulations and have the highest oilspill casualty record of any tankers, as they are oftentimes leaky and rusty and operating outside the parameters of the law. These ships pose a double threat to the unspoiled waters of the sound, and increase the risk of a spill tremendously.

Therefore, if President Carter, under the title V process, chooses one or both of the pipelines beginning in Washington State, then the four northern Puget Sound refineries must be required to hook up to that pipeline and be supplied by it instead of by their own separate tanker traffic.

I wish to make it clear that I am not advocating that an east-west oil pipeline be built. I am stating quite emphatically that if a pipeline is built, then the present tanker traffic and oilspill potential must be taken into account.

If the four Puget Sound refineries hook up to a transshipment pipeline, all tanker traffic will be centralized at a single terminal whether it be for transshipment use, or for use by local refineries. Then, if Washington State must be the transshipment point for the crude oil going east, it will have been afforded a degree of environmental safeguard which will make the risk easier to accept.

This idea to hook up the existing refineries to a transshipment pipeline should one be built is certainly not new. In fact, when Congress enacted title V, this was precisely what we had in mind. Section 507(b) of that act sets forth the criteria which govern how the President is to approve a proposed crude oil pipeline. One of the criteria specifically states that a finding is required of "environmental impacts to the proposed systems and the capability of such a system to minimize the environmental risk resulting from the transportation of crude oil." And when we approved this language (which is supposed to govern the President's decision), the conferees said the following in the statement of managers on the conference report:

> In adopting language setting forth the criteria to be considered by the President in making the decision under this section, the conferees agreed that the provision requiring the executive to consider the "environmental impacts of the proposed systems and the capability of such systems to minimize environmental risks resulting from transportation of crude oil" should be understood as setting forth the intent of Con-

> gress that the executive should take actions to minimize both existing and future environmental risks from the transportation of crude oil. In specific, the conferees noted that there are environmental and economic risks associated with the existing crude oil tanker traffic serving refineries on Puget Sound—an invaluable and irreplacable national resource. Risks to the economically and esthetically important resources dependent on good water quality in Puget Sound would be substantially reduced if the Washington refineries were connected to and utilized a northern crude oil delivery system, if one is built.

In the final environmental impact statement released in mid-August, the Environmental Protection Agency specifically states that a necessary proposal modification of the Transmountain and Northern Pipelines should be noted:

> The terminal and pipelines should be designed and constructed to serve all of the Greater Puget Sound Refineries so that all crude-carrying tanker traffic on Puget Sound would be eliminated. This would provide valuable protection to important American and Canadian marine resources. Requiring this modification to the facility would insure that the crude oil transportation policies of Washington State's Federally approved Coastal Zone Management program would be fully implemented as part of this Federal Action.

So you see, Mr. Speaker, it is not just Federal legislation which requires that the President assure that the northern Puget Sound refineries are connected to any crude oil transportation system built in my State. This has long been a part of State policy as well. Both the Washington State legislature and the State's approved coastal zone management plan have specifically addressed themselves to this question and strongly reinforce the provisions of title V of the Public Utility Regulatory Policies Act. There is overwhelming support in my State for doing everything possible to protect the fragile and economically important resources found in Puget Sound and the adjacent waters. While neither I nor most of my colleagues are in favor of a new oil port at or west of Port Angeles, we do feel that if one is built, everything reasonably possible to minimize environmental risks from the transportation of crude oil should be made part of that decision.

Mr. Speaker, this legislation is intended to help implement existing policy; it will fill a gap in legal authority to accomplish that policy. While Congress has already decided to hook up the northern Puget Sound refineries to any transshipment facility built through Washington State, there is still insufficient legal authority to absolutely guarantee that this will happen. Section 507 (a) of the Public Utility Regulatory Policies Act provides the President with the authority to condition any permit issued to a pipeline under title V on hooking up to the northern Puget Sound refineries. But again, this may not guarantee that hookup takes place, because the President does not currently have specific legal authority to require the refiners to hook up to an approved system. While it is possible that public pressure could free the refiners to hook up, again there is no assurance that they will. And, in fact, the refiners have indicated in the past that they would not hook up on their own.

Therefore, it is our feeling that the President should be provided with the authority necessary to accomplish this vital goal. Accordingly, the legislation we are introducing today will provide the President with authority to assure that hookup takes place if a pipeline is built through Washington State.

Mr. Speaker, this legislation does not automatically force the northern Puget Sound refineries to hookup. Instead, it provides for a 6-month period of voluntary negotiation between any approved pipeline system and these refineries in order to assure that adequate opportunity is present for voluntary agreement. If, after a 6-month period, no agreement has been reached, then the President is directed to assure that hookup takes place. All tariff and cost disputes will be resolved by the Federal Energy Regulatory Commission, the appropriate regulatory body for such a decision. Finally, specific exemptions are set forth to assure that refineries that are located too far away from these proposed pipelines—in Vancouver or Tacoma, for example, would not be affected, since to hook them up would be too costly. Also, existing shipments of high paraffin content crude oil to the Shell refinery would not be affected, since this type of oil cannot flow efficiently through a pipeline unless heated.

Finally, Mr. Speaker, let me say a few words about cost. We are all very aware that environmental protection can be expensive. With respect to the question of hooking up the northern Puget Sound refiners, there has been some talk about how much it would actually cost. Fortunately, we are in a unique situation when looking at the cost of this important and sensible move. The refineries in northern Puget Sound, with the exception of Arco's, were never built to receive crude oil by tanker. Instead, their dock facilities were primarily designed to ship out refined products, and are in need of substantial modifications and repairs. In 1974, it was estimated that the shore side facilities of Mobil, Shell, and Texaco alone needed $54 million worth of repairs and modernization.

The refineries also now bear substantial operating costs which they could avoid if hooked up to an approved crude oil transportation system. Regulations on tanker traffic inside Puget Sound and the adjacent waters are far more stringent than they are at or west of Port Angeles. Tanker size is limited, and there are requirements for tug escorts, dual pilots and other safeguards in order to assure maximum safety inside the narrow and confined passages east of Port Angeles. Substantial savings will be gathered by these refineries by moving to a centralized crude oil delivery terminal outside Puget Sound and its adjacent waters; in conformance with State and Federal law.

I should also point out some of the costs of failing to remove as much of the tanker traffic from Puget Sound and adjacent waters as we can while at the same time constructing a large transshipment facility. In 1975, the University of Washington, after a careful study estimated the economic value of the resources that would be affected by a major spill in this area and found that the combined economic value of fisheries, tourism, and recreational resources in the Sound was $330,652,000. In 1977 the total income accruing to Washington residents from fishing alone was $302,786,800, so it is safe to say that the economic value of Puget Sound is much greater today. We can hardly afford not to take all reasonable measures to protect that valuable a resource.

Mr. Speaker, I am looking forward to working with all affected parties in order to assure that any oil port siting decision affecting my State is one which is well coordinated and accomplished in a manner which minimizes damage to the environment.●

THE POPE MAKES AN EXTRAORDINARY APPEAL FOR PEACE AND JUSTICE FOR IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1979

● Mr. BIAGGI. Mr. Speaker, the world has been captivated by the trip of Pope John Paul II. The world is seeing the Pope embark on an extraordinary mission of peace and conciliation.

Nowhere was this theme more evident than during the Pope's trip to Ireland. The Pontiff's speech at Drogheda—a town just 30 miles from the border separating Northern Ireland from the Irish Republic was one the most moving pleas for peace in Ulster ever registered. The Pope said:

> I appeal to you in language of compassionate pleading . . . on my knees I beg you to turn away from the path of violence and return to the ways of peace. You may claim to seek justice, but violence only delays the work of justice—violence destroys the work of justice.

The Pope's words were not limited to a condemnation of violence. He recognized that the violence in Ireland is not motiveless. The Pope in a reference to British and Dublin Government policies said:

> To all who bear responsibilities for the affairs of Ireland I want to speak with the same urgency and intensity with which I have spoken to the men of violence. Do not cause or condone or tolerate conditions which give excuses or pretext to the men of violence.

The responsibility for peace rests with those in political power according to the Pope. I serve as chairman of the 130 member Ad Hoc Congressional Committee for Irish Affairs. The committee has as its sole goal to advance the role which the United States can and should play on behalf of achieving peace and justice for Ireland. We seek to accomplish this goal by appealing to all sides to meet and discuss peace. We exist in part because of a continuing political vacuum which exists both in London and Dublin which has permitted the Ulster question to fester without resolution for decades. The Pope in his statement addressed himself directly to this point when he said:

> I urge you who are called to the great calling of politics to have the courage to face up to your responsibility, to be leaders in the

> cause of peace, reconciliation and justice. If politicians do not decide and act for just change then the field is left open to the men of violence. Violence thrives best when there is a political vacuum and refusal of political movement.

The Pope helped to dispel a major myth which is perceived by many in the world that the problem in Northern Ireland is a sectarian one. He said:

> The tragic events taking place in Northern Iseland do not have their source in the fact of belonging to different churches and confessions, that this is not, despite what is so often repeated before world opinion a religious war between Catholics and Protestants.

The problems of Ulster are multifaceted and involve the very core of human existence the Pope said it quite eloquently—

> As long as injustices exist in any of the areas that touch upon the dignity of the human person be it in the political, social, or economic field, be it in the cultural or religious fields—true peace will not exist.

Pope John Paul II has delivered not just a message of words, it should be a catalyst for action—for resolution of the agony of Ireland. There are optimistic signs that movement toward a cease fire may already be underway. I maintain as I have throughout my tenure as chairman of the ad hoc committee that such a cease fire is vital to the peace process however no cease fire will be called unless it can be demonstrated that political initiatives are forthcoming.

As we reflect on what the Pope has said—it is important to recognize the overriding desire of many in this world that there be a just and lasting peace for Ireland. That has been the motivating factor behind the 2 years of activity of the ad hoc committee. In the months ahead we intend to continue to work for the enactment of House Concurrent Resolution 122 which I introduced with some 70 cosponsors calling on Great Britain to embark on a new political initiative for Ireland which restore lost human rights and promotes self-determination. Our efforts will also be directed at conducting a full investigation of reports that American firms in Northern Ireland are practicing discrimination against the Catholic minority. The element of economic discrimination has clearly existed and has contributed to the stalemate which exists in the six counties. We must work vigorously for its elimination especially where American firms are involved. This investigation will be conducted by our committee with special assistance from my colleague from New York, BENJAMIN GILMAN.

Mr. Speaker, Pope John Paul II saw millions in Ireland and his message was a clear one. He concluded his remarks at Drogheda with the following:

> Let history recount that at a difficult moment in the experience of the people of Ireland the Bishop of Rome set foot in your land, that he was with you and prayed with you for peace and reconciliation for the victory of justice and love over hatred and violence. ●

SENATE—*Wednesday, October 3, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the Apostle Paul in his first letter to the Thessalonians:

NATIONAL DAY OF PRAYER

Pray without ceasing.—I Thessalonians, 5: 17.

God of our Father's and our God, we thank Thee for a nation so grounded on Thy truth and so steeped in Thy word that we celebrate a national day of prayer. We lay before Thee our continued dependence upon Thee. Bless this land and its people. Help us to pray when we are alone, to pray in church, to pray in our homes, to pray in Congress, to pray while we work. Teach us to pray the prayer of brotherhood and unity. Teach us to pray the prayer that brings peace and power. Teach us to pray without ceasing.

Give Thy higher wisdom to the President and all who bear the responsibilities of government. And may we all pray—

"Breathe on me, Breath of God,
Fill me with life anew,
That I may love what Thou dost love,
And do what Thou wouldst do."
—EDWIN HATCH.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., October 3, 1979.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I do not believe I have any time under the order.

The ACTING PRESIDENT pro tempore. The majority leader and the minority leader are sharing the time until 9:30.

Mr. ROBERT C. BYRD. Does the Senator from Wisconsin wish me to yield?

Mr. PROXMIRE. Three minutes.

Mr. ROBERT C. BYRD. I yield 3 minutes to the distinguished Senator from Wisconsin.

REAPPOINTMENT OF ADM. H. G. RICKOVER

Mr. PROXMIRE. Mr. President, I received word today that the Secretary of the Navy has extended Admiral Rickover on active duty for 2 more years beyond January 31, 1980, when his current tour of duty was scheduled to expire.

I applaud this decision by the Secretary. Admiral Rickover has compiled a truly impressive record as head of the naval nuclear propulsion program since its inception more than 30 years ago. Today, the nuclear submarine fleet is the backbone of our national defense with the ballistic missile submarine undoubtedly our most effective deterrent.

While his technical accomplishments in more than a half century of Government service are unsurpassed, Admiral Rickover has always demonstrated that characteristic which we too seldom find in the Federal Government—a personal commitment to promote effective and efficient Government for the people of the United States.

Admiral Rickover is one of the few Government officials with the courage to demand that Government contractors live up to their contracts. He has rooted out waste and corruption on numerous occasions. His career is eloquent testimony to the wisdom of keeping experienced, dedicated persons in office and to the fact that incorruptibility can prevail in the Government bureaucracy.

Over the years Members of Congress have come to rely on Admiral Rickover because of his honesty and candor as well as his technical expertise. He speaks

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

BEST DOCUMENT AVAILABLE

his mind regardless of the DOD's party line. The public owes him a debt of gratitude for his tireless efforts in the public interest.

In short, Admiral Rickover is an exemplary public servant. He is a great asset for the Navy. We need more like him.

I commend the Secretary of the Navy for his decision and extend to Admiral Rickover my appreciation for the many services he has rendered to this Nation.

GENOCIDE: A PROPER SUBJECT FOR A TREATY

Mr. PROXMIRE. Mr. President, over the last 25 years, the Genocide Convention has been trapped in this Chamber by criticisms which have been repeatedly shown to be without substance. Of all the arguments raised against the treaty, one is particularly shortsighted—the claim that genocide is not a proper subject for a treaty.

Since the genocide treaty was introduced to the Senate on June 16, 1949, President after President has insisted that an international treaty is an appropriate means of curtailing genocide.

Eighty-three other nations agreed with our chief executives and adopted the convention as a suitable response to the most heinous of international crimes.

The United Nations' General Assembly Resolution 95(I) described genocide as "a crime under international law" the punishment of which "is a matter of international concern." In fact, the General Assembly specifically recommended a treaty as the proper means of dealing with genocide.

Our Presidents, our neighbors, the United Nations, and indeed a large number of my distinguished colleagues, have always believed that genocide is a proper subject for a treaty. The Senate has been irresponsible in their failure to face the facts—there is simply no better method at our disposal to prevent the occurrence of genocide.

It is no longer feasible to hide behind the claim that genocide is only of domestic concern. Genocide—the attempt to destroy any national, racial, ethnic, or religious group—is an international matter. It cannot be restricted, practically or morally, by national boundaries. A crime of such magnitude must be dealt with on a global level.

As President Carter explained in a speech before the General Assembly:

> No member of the United Nations can claim that mistreatment of its citizens is solely its own business.

Without ratification of the treaty, we are allowing the most fundamental human right—the right to live—to remain a domestic issue, subject to the whims of illegal governments and irrational dictators. I ask my distinguished colleagues to ratify the Genocide Convention and confirm the truism that genocide is a crime against humanity.

Mr. President, I thank the majority leader for his generosity.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Mr. President, I yield the minority leader's time to the distinguished Senator from Texas who has the first special order.

RECOGNITION OF SENATOR TOWER

The **ACTING PRESIDENT** pro tempore. Under the previous order the Senator from Texas (Mr. TOWER) is recognized for not to exceed 15 minutes.

THE SOVIET CHALLENGE

Mr. TOWER. Mr. President, the uninspired address by the President of the United States to the American public the night before last leaves unanswered the vital question:

What is U.S. strategy for coping with accelerating Soviet efforts to become the dominant influence in the world? That central question has preoccupied allied political circles for $2\frac{1}{2}$ years as Soviet challenges to Western interests have gained momentum. The question has been raised again in recent weeks over the matter of Soviet forces in Cuba. This latest Soviet test of American competence to understand the global dimensions and instruments of its campaign can only be heartening to the Soviet leadership.

Declaring at the outset that the "status quo was unacceptable," President Carter after a month of rationalization, ineffectual posturing, accommodation, hand wringing and chaos has decided that the status quo is acceptable—the troops will remain—only our perceptions of them will change.

The series of measures to be taken are all on our side and are empty of content or tangible result: The Soviets are required to do nothing.

The specific actions which the President has indicated he will take in the Caribbean are cosmetic. Setting up a "headquarters" in Key West and increasing the number of exercises in the area are certainly not going to impress anyone. The President failed to note, for instance, that we already have an established naval command in Puerto Rico, that Marine battalions have routinely made cruises in the Caribbean and that the Navy conducts regular training from Guantanamo Bay in Cuba itself. With the forces we realistically have available, it is unlikely that these low-level activities will be noticed. It is certainly no demonstration of resolve.

The President's assurances of our military strength to the contrary notwithstanding, it is fact that we do not now possess the military capability to support a long term global strategy aimed at protecting our vital national interests. The assertion that our "defenses are unsurpassed" is arguable. The statement that "those defenses are stronger tonight than they were 2 years ago" and that "they will be stronger 2 years from now" is grossly misleading since it ignores that the pace of Soviet growth greatly exceeds our own. The administration's own 5-year plan is not even fully funded and if not significantly expanded will concede to the Soviets military superiority in conventional, theater nuclear, and strategic power for the last two decades of this century.

Thus the fundamental question—what is our strategy—remains open. To all appearances, the answer is "that we will do little or nothing to inhibit the remorseless pursuit of their objectives by the Soviets."

This absence of leadership in responding to this most fundamental issue of our generation is extremely worrisome in its implications. This latest nonanswer can only be encouraging to Russia and disheartening to our allies. Now faced with the Soviet takeover of the Kurile Islands, and a significant military buildup thereon only a stone's throw from Hokkaido, what can the Japanese expect in the way of support? What can our allies in the Middle East—who have witnessed the largest Soviet airborne exercise in history take place in South Yemen—expect of us? The answer is accommodation and appeasement.

In the months ahead, the issue will be raised again as the SALT II treaty—the political centerpiece of United States-Soviet relations—lies before the Senate. By its action the United States will either ratify this history of decline or signal a renewed determination of the American people to restore their strength and get on with the defense of our interests. The shoddy record of this latest episode is by no means encouraging. It surely weakens any argument for entering into yet another Soviet deception of the magnitude of SALT II.

Mr. President, I yield back the remainder of my time and I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ENERGY MOBILIZATION BOARD: COORDINATING OUR NATIONAL ENERGY POLICY

Mr. ROBERT C. BYRD. Mr. President, yesterday the Senate turned to a new and potentially important element of our national energy program—the Energy Mobilization Board bill.

A broad sweep of events has led us to this point. Since the Second World War, the United States has experienced unprecedented economic growth, especially during the latter part of the 1960's. A growing, hard-working population and a country endowed with vast amounts of raw materials was the formula for a large measure of our economic prosperity.

During those years, scant attention was paid to the great amounts of energy being wasted in all parts of our economy. Perhaps that is understandable, as the economy itself was so strong and energy seemingly so plentiful that wasted energy was not a matter of major concern.

Conditions began to change at the beginning of this decade. The Organization of Petroleum Exporting Countries (OPEC), which had been formed in 1960 as a loose federation of oil producers, became the center of world attention in late 1973. The embargo of oil to the United States and the subsequent quadrupling of the price of oil are events with which we are all too familiar. The world price of oil before the embargo was just over $3 per barrel. Shortly after the embargo, the price rose to $12 per barrel.

The shock visited on the U.S. economy by this jump was immediate and substantial. Industries heavily dependent on fuel oil or petrochemicals experienced a quick downturn. There were long lines at gasoline stations, a situation repeated less than 3 months ago in many parts of the Nation. Odd-even gasoline rationing systems were the order of the day in 1973 and again in 1979.

These occurrences lead us to the central fact of our energy problem: With the exception of 1978, U.S. oil imports have increased each year for the last decade. Until that trend is reversed, our national security and our economic well-being are diminished.

Congress has acted to reverse the trend. Less than 1 month after the October 1973 embargo, Congress approved a bill permitting construction of the Alaska oil pipeline. Shortly after that, the Emergency Petroleum Allocation Act was passed. That law established a distribution system for the reduced supply of crude oil and refined products available to the United States.

When the limitations of the emergency allocation law became evident, Congress undertook a major revision of this legislation. The result was the Energy Policy and Conservation Act of 1975, which formed the basis of our nonnuclear energy policy. The law set price and allocation controls on crude oil and refined products and established a system whereby the President would submit proposed changes in the controls to Congress. It is under this law that the President exercises his authority to decontrol oil prices.

The unusually harsh winter of 1976–77 brought a new energy problem into focus—a shortage of natural gas. Within days of convening in January 1977, the 95th Congress passed the Emergency Natural Gas Act. High-priority users of natural gas were identified by the law, and special distribution authority was given to the President, so that gas supplies would be divided fairly.

For the remainder of the 95th Congress, comprehensive energy legislation was labored over, and five major laws were produced.

First of these is the National Energy Conservation Policy Act, which authorizes utilities to perform energy audits for homeowners. Home improvements to increase the efficient use of energy can be financed with loans from the utilities, based on the results of the energy audit. The act also sets up a program to encourage conservation by schools, hospitals, and other public institutions, primarily by the use of grants. The law contains guidelines for energy use in Federal buildings, and aims to reduce oil consumption by increasing the use of solar heating equipment wherever practical.

The second piece of the comprehensive energy package is the Fuel Use Act, which requires new powerplants and industrial facilities to burn coal, and requires existing powerplants to burn coal after 1990, and authorizes the Secretary of Energy to require existing industrial facilities with coal capabilities to burn coal. The purpose of this important measure is to directly reduce the amount of oil imported to produce electricity, and to spur the direct use of our most plentiful energy resource—coal. This act is currenty being implemented under the watchful eye of Congress, and is crucial to a meaningful national energy policy.

The third segment of the package is the Natural Gas Policy Act. That law phases out price controls on natural gas in a gradual manner and redefines priority users of gas. More plentiful supplies of natural gas transported in an efficient and timely fashion have resulted in large part from this law.

Another element in the comprehensive package is the Public Utility Regulatory Policy Act. The main purposes of this law are to promote fair rate structures and encourage energy conservation by utilities.

The fifth portion of the package adopted last year is the Energy Tax Act of 1978. This law provides tax credits for energy conservation improvements and includes incentives for conversion of industrial equipment from oil or gas to more abundant fuels.

As I noted on the Senate floor on August 21, 1978, Congress has taken many important actions in the energy field. Laws were enacted in the 95th Congress on such diverse energy topics as mine safety, small business energy loans, and the establishment of the Department of Energy. In total, the list includes nearly 50 important energy-related measures passed by the Senate during the 95th Congress, most of which were enacted into law.

The overview provided by this synopsis of events in the area of energy and the congressional response to our energy problems is clear: We must reduce our reliance on imported oil. The measures approved to date address that problem in varying degrees. The bill we are now considering, to create an Energy Mobilization Board, gives us another opportunity to confront the problem.

The United States has to decide whether it will continue to pay as much as $25 per barrel of imported oil, or whether it will make the effort to produce enough energy on its own to insure energy independence.

The Energy Mobilization Board, as set out in S. 1308, is proof that the United States chooses to make that effort. The primary purpose of the Board is to oversee a clear and unambivalent "fast track" process. Vital energy projects such as pipelines and synthetic fuel plants are two types of activities the Board could designate as priorities.

The first test for any project being considered for designation as a priority is this: Is the project likely to reduce our Nation's dependence on foreign oil? If the answer is "yes," then the Energy Mobilization Board will be able to provide a reliable timetable under which the project can be constructed. This policy, Mr. President, makes very good sense.

Several avenues will be available to the Board as it seeks to cut redtape and add predictability to the regulatory process. Under the Jackson bill, the Board will set strict deadlines for decisions affecting energy projects which must be made by Federal, State, or local agencies. Should any of these agencies fail to meet a deadline, the Board could make the decision itself. In making such a decision, the Board will have to make whatever findings are required of the agency under law, and use whatever information the agency would use to make the decision. Agencies are requred to submit information to the Board which is necessary to make such decisions.

Another means of expedited decisionmaking available to the Board is its ability to obtain a court order forcing an agency to make crucial decisions within specific time limits. In such cases, the Board is empowered to enforce a timetable for a priority project but does not have to make the decision. These different means of enforcing deadlines will give the Board the flexibility it needs to carry out its purpose.

The Energy Committee has wisely prohibited the Board from becoming involved in the disposition of water rights. Water law has been purely a State function, and it will remain so under S. 1308.

On the question of environmental impact statements, the Jackson bill gives the Board the authority to require one such document, in compliance with the National Environmental Policy Act, and to designate a single agency to prepare it.

I have noted the most important energy legislation Congress has passed. The distinguished chairman of the Energy Committee, Senator JACKSON, has made his mark on all of them. He and his committee have labored long and hard to produce numerous pieces of legislation; Senator JACKSON has been a knowledgeable and effective floor manager; he has been a tireless leader of Senate conferees. By his able participation at every stage of the legislative process, he has made an invaluable contribution to an emerging, comprehensive energy policy.

I want to express my admiration for the expeditious fashion in which Senator JACKSON and the Energy and Natural Resources Committee have acted in reporting this bill. The bill went through 15 markup sessions, and has received painstaking consideration.

It is also appropriate for me to note at this time that other committees, other committee chairmen, have played a significant and helpful role in developing not only the legislation before us today, but other pieces of energy legislation which I expect will be reported in the near future. Mr. RANDOLPH, chairman of the Environment and Public Works Committee, Mr. Ribicoff, chairman of the Governmental Affairs Committee, Mr. Muskie, chairman of the Budget Committee, Mr. Proxmire, chairman of the Banking, Housing, and Urban Affairs Committee—these Senators have all cooperated in expeditious and thorough consideration of various energy proposals.

I want to express my appreciation to the distinguished Senator from Louisiana, Mr. Johnston, who is the majority floor manager of this bill. He is performing an admirable job.

I also wish to congratulate the Senator from New Mexico (Mr. Domenici), the minority floor manager, and the Members on the Republican side of the aisle, especially Mr. Hatfield, the ranking minority member of the Energy and National Resources Committee, and Mr. McClure, for the support that they have given to Mr. Jackson in bringing the Energy Mobilization Board proposal to the floor.

I want to commend here Mr. Stafford, ranking minority member of the Environment and Public Works Committee, Mr. Percy, ranking minority member of the Governmental Affairs Committee, Mr. Bellmon, ranking minority member of the Budget Committee, and Mr. Garn, ranking minority member of the Banking, Housing, and Urban Affairs Committee.

In this body, we advocate bipartisan efforts in dealing with the energy problem, and because we have had bipartisan support, we have moved difficult, contentious legislation to passage. I know of no subject that is any more divisive or any more contentious than the subject of energy. The leadership on this side has always advocated cooperation with the minority, and we have had the support of the minority. By dealing in this bipartisan fashion, we have been able to pass difficult legislation.

Mr. President, I am a cosponsor of S. 1308, and I would like to express my views on it directly. There are some who feel that this legislation does not go far enough. They argue that the urgency of energy development requires a stronger, more centralized Federal authority than that contained in this bill.

On the other hand, some feel the legislation reported by the committee already goes too far—that too much emphasis has been put on expediting energy development and too little attention has been paid to the role of the States and environmental concerns.

In my view, the Energy Committee has struck a good balance among the concerns of all parties involved. In the interest of our common goal of energy independence, it is my hope that we not jeopardize this balance by adopting amendments that overreach that purpose. I know that all Senators have carefully studied the matter, and I am sure that this debate will be productive.

I yield to the Senator from Texas.

Mr. **TOWER**. Mr. President, if the Senator will yield for a brief comment, he has made a good, comprehensive statement. I suppose it would be well to say at this point that 10 years ago, when we were buying Arab oil for $1 or $1.50 a barrel and raising import quotas to allow it to come in, it had an enormous effect on the oil and gas industry in this country. Rigs were stacked, production was inhibited, and I think we are paying the price for that now.

In connection with the majority leader's remarks on the Energy Mobilization Board, I think we must take appropriate steps. I think the Energy Mobilization Board is simply the first step. We are probably going to have to address ourselves to the fact that we may be currently retaining some unreasonably rigid and perhaps too harsh environmental protection standards that are going to cost us in terms of energy development and economic growth.

I know the Senator from West Virginia represents a State with great energy-producing potential, not only in the field of coal, but oil and natural gas as well. I hope he will give consideration to the fact that sometimes our environmental protection efforts may have gone a little bit to far, and that if we are going to sustain economic growth and energy production in this country, we are going at some time to have to reexamine some of those environmental protection measures.

Mr. **ROBERT C. BYRD**. I thank the Senator for his statement. I agree that we need a balanced approach. We need to recognize that this country has a very serious energy problem that could become a crisis overnight, brought on perhaps by some international emergency. It is absolutely imperative that we walk the middle course.

Mr. President, I yield the floor.

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Chair recognizes the Senator from Missouri (Mr. Eagleton).

RUSSIAN TROOPS IN CUBA

Mr. **EAGLETON**. Mr. President, for the next half-hour or so it is my anticipation that several Members of the Senate will wish to address themselves to the question of the Russian troops in Cuba. I have some remarks thereon, but I am going to defer mine at this time because we have with us the distinguished second-ranking majority member of the Foreign Relations Committee; he has another obligation which begins promptly at 10 o'clock, and I yield such time as he may require on this subject to the Senator from Rhode Island (Mr. Pell).

Mr. **PELL**. Mr. President, I thank my friend from Missouri, and congratulate him on taking the leadership in articulating some of our thoughts about the Soviet brigade issue.

A SENSIBLE SOLUTION TO THE SOVIET BRIDAGE ISSUE

Mr. President, the night before last President Carter spoke to the Nation about what he has achieved and what he plans to do in connection with the problem that has arisen over the presence of Soviet troops in Cuba. In my own view, the combination of the assurances received from the Soviets and the specific measures that the United States will undertake unilaterally represent a measured, but firm, response to a development that has generated controversy and tension far out of proportion to the problem involved.

In my view, the President has put the question of the Soviet brigade in its proper perspective and has outlined a response that is appropriate for the situation. The presence of a small Soviet unit in Cuba with no capability to wage combat anywhere but on the island of Cuba is not the same thing as the emplacement of missiles that perpetrated the genuine Cuban crisis of 1962. President Carter fully realized that and acted accordingly.

On September 12, I outlined my views on what would be an acceptable solution to the brigade issue. I said at that time that it must be clear "(a) that Soviet forces in Cuba will not be given a capability to threaten directly either the United States or any other nation in the hemisphere, and (b) that Soviet forces in Cuba are not designed in any way to support Cuban military adventurism in Latin America. If these tests are met, we should not, in my view, be concerned about whether some Soviet presence in Cuba continues." I believe that the Soviet assurances, together with the other actions announced by the President last night, meet these tests; and I therefore support the President's handling of this matter, and join the President in hoping that the whole business about the 2,500-man Russian brigade, a unit that has been in Cuba for more than 15 years, will fade into the global and national insignificance it deserves when compared with the SALT treaty. As one of our colleagues has said, perhaps a little lightly, if that brigade came to Miami it might be lost in the traffic there. I do believe we have blown this whole thing so far out of proportion that we have lost sight of the real issue here, which is whether we should get on with our discussions and ratify the SALT II treaty. So I hope and urge that the Senate will now get on with the business at hand concerning SALT II. We owe it to our constituents and to the cause of peace to face up to deciding whether the SALT II package is in our national interest. Whether or not SALT II is approved, it must no longer be held hostage to the brigade issue. The time has come for the ones who oppose the treaty to stop hiding behind a handful of sea-locked Soviet soldiers.

I hope and trust that we can now get this issue back into focus, recognizing that for more than 17 years these men have been there. Maybe they have been different men, replacing one another. Undoubtedly they have, or they would all have long gray beards by now. Perhaps they have different weapons and different uniforms, but a unit has been there, no matter whether it is called a training unit or a combat unit.

I hope, once again, we can now get on to the serious business at hand, which is deciding whether we should have a SALT treaty. The SALT II treaty may not be the greatest thing in the world, but it is not the bogey bear its opponents make it out to be. Nor is it the panacea that many of its supporters say. But it is a good, useful step on the road toward the point where we want to go; it is a small but useful step in the right direction as the Joint Chiefs of Staff said. I hope we get on with it as quickly as we can.

Mr. TOWER. Will the Senator yield?

Mr. PELL. Yes, I yield.

Mr. TOWER. The Senator has made the observation that this combat brigade has been there for more than 15 years. What intelligence do we have that indicates that it has been there more than 15 years, constituted as a combat brigade? I was not aware that there was certain intelligence that we could believe with high confidence that it had been there for 15 years, constituted as it is now, as a combat brigade.

Mr. PELL. As I mentioned in my remarks, it could be called either a combat unit or a training unit. But as to the quantity of men in the brigade, we have known that there are around 3,000 people there. There were 20,000.

Mr. TOWER. But the question was: Has it been constituted into a combat brigade in its present configuration for 15 years?

Mr. PELL. That I do not know.

Mr. TOWER. Then I do not think we can make the assertion that it has been.

Mr. PELL. Presumably, if it is a training brigade, it is also a combat brigade. Whether the Senator is wearing a blue suit or a brown suit, he is still my good friend, JOHN TOWER.

Mr. TOWER. Well, I do not wear brown. But getting back to the question, the question is not whether the Soviets have been present in Cuba for 15 years. We know that they have been. How long have they been constitued into an independent combat brigade? Not there for training purposes; that is something that we know with high confidence. In fact, we suspended our aerial surveillance, our SR-71 flights, for 2½ years. Is it not possible that they could have been constituted into a combat brigade in that period of time?

Mr. PELL. I think they could have been constituted years ago as a training or a combat brigade. They are trained, equipped if they want to be used for training. I am not quite sure what powerful effect a unit of 2,500 men would have in combat, but they could be used either way. They could have been 15 years ago.

We should think back to 1962, when there were 20,000 men there and after they withdrew the missiles, they lowered it to 5,000. It has been pretty steady ever since.

Mr. TOWER. Is it not a fact that 2½ years ago, we had no intelligence that led us to the conclusion that there was indeed a combat brigade constituted as such, a Soviet combat brigade, in Cuba?

Mr. PELL. My own belief, from the briefings I have had, is that if we had decided we wanted, for one reason or another, to draw that conclusion 2 years ago or 12 years ago, we could have. As I said earlier, I take it for granted that the Senator does not wear a brown suit. I often do. I am the same man whether I wear a blue suit or a brown suit. Whether you call it a combat brigade or a training unit, it is the same.

Mr. TOWER. I do not think it is the same, because the intelligence is that it is a combat brigade, organized as a combat brigade, equipped as a combat brigade. It is not a training brigade. It is not there for the purpose of training Cuban troops. It could be there for the purpose of giving a Russian combat brigade some exercise in climatic or environvental conditions of that sort.

Too, the Senator makes another interesting assertion. That is that this brigade could not constitute any threat to any other Central American country.

Mr. PELL. I did not say that. I said to the United States. It might get lost in the traffic in Miami.

Mr. TOWER. Certainly, they are not going to invade Miami. I do not think anybody gives any reasonable thought to that. But, given the most rudimentary environment or any kind of air or sealift, is it not possible they could have been inserted into other areas?

Mr. PELL. Certainly, the way we often want to insert our Marines and often have. I hope they would not.

Mr. TOWER. The Senator mentions our Marines. With regard to our Marines, the fact is that our sealift and airlift has diminished over the years, as the Soviet air and sealift have been vastly enhanced. General Meyer made the statement in this morning's Washington Post that we do not have the lift capability to deploy a rapid combat force, as it is suggested that we would use in a contingency situation.

Mr. PELL. That could be, but I thought we had the ability to deploy a large number, many times 2,500 men, to NATO and have done that in exercises.

Mr. TOWER. The next crisis may not occur in NATO. Obviously, we have a lot of prepositioned equipment in Western Europe. We could logistically support activities there, but even there, reinforcement becomes a problem because of a lack of sea and airlift capability, certainly a lack of rapid resupply capability.

In terms of this combat brigade that is in Cuba, does the Senator from Rhode Island think that any Central American army would be a match for this brigade, given the sealift capability to get them to Central America?

Mr. PELL. I do not think any Central American army probably would. But I think even a smaller unit might be a real threat to most of those armies there, if the Soviets could get there.

Mr. TOWER. Do we not consider anything that constitutes a threat to the western hemisphere or to the political stability or the territorial integrity of nations in the western hemisphere to be a threat to the United States?

Mr. PELL. It is an unpleasant fact. It is far less of a threat than it was 15 years ago. Certainly, it is a disagreeable business and we wish that Russians were not in Cuba at all. But they are there and they have a presence, but not a significant one.

My point is that the presence has not really changed in these years. It would be nice if we could push them all out, but that does not seem in the cards for the moment.

Mr. TOWER. Does the Senator from Rhode Island feel that anything has really changed over the past month? Has there been any movement by the Soviet Union?

Mr. PELL. No, it is my understanding that things have remained pretty much the same over the last month and over the last 15 years.

Mr. TOWER. Therefore, everything that is being done in response to the Soviet presence in Cuba is being done by us. Nothing is being done by the Russians.

Is it not true in that case, then, that President Carter once said the status quo is unacceptable, but changed his mind and decided Tuesday night that it is acceptable? Does that not represent a change in the administration's thinking?

Mr. PELL. That is a conclusion the Senator can draw. That is his own conclusion, not mine. I let my remarks stand as they do.

Mr. TOWER. Does the Senator from Rhode Island think it is a little bit superfluous to establish a headquarters in Key West when we already have a sea frontier command in Puerto Rico?

Mr. PELL. I think it gives some response to the American desire to exhibit our macho, somewhat like we did with that vessel, the *Mayaguez*, in Southeast Asia, where we lost more lives taking it than we saved. Also, I think that we have some 5,000 troops at Guantanamo. I made the suggestion at one point that perhaps we ought to land an additional 2,500 troops at Guantanamo in order to give them tit for tat.

I think these actions are designed to bolster the desire to show the American macho. I think this desire is perhaps more prominent in the U.S. Senate than it is in the United States. Nevertheless, the SALT treaty has to pass the U.S. Senate.

Mr. TOWER. Does the Senator think it is going to impress anyone when we land Marines at Guantanamo, supported by 10 A-4's, which is obviously an obsolete airplane and no match for the Soviet Mig jets now confronting them?

Mr. EAGLETON. Mr. President, how much time do I have remaining of my 15 minutes?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. EAGLETON. I should like to reserve the remainder of my time, since I have not spoken in any of it myself.

Mr. TOWER. Mr. President, I am sorry I have intruded on the time of the Senator from Missouri. I shall see if I can intrude on somebody else's time later.

Mr. EAGLETON. Mr. President, I yield to the Senator from Rhode Island (Mr. CHAFEE) and I shall see if I can get some more from somebody else.

Mr. CHAFEE. Mr. President, I should like to say about this whole fuss over the Soviet troops in Cuba that it is entirely unwarranted, in my judgment. We are the land of the free and the home of the brave and we are shivering in our boots because there are 2,000 to 3,000 Russian combat troops in Cuba who have been there for—is it 2 years or 17 years? What kind of threat do they present to the United States, Mr. President? It seems to me that this is an entirely unfortunate diversion.

Let me say that I think the administration shares in the blame. I think the administration has not handled it well. I think the administration erred, to come forward with a statement that the status quo is completely unacceptable—and then, of course, it is acceptable. The changes made as a result of the statements made in the President's speech the other night were rather minor, if they achieved even that dignified status.

The real point is that the fuss should never have arisen. These troops present no threat to us. What are they going to do, swim to Florida, are they, and attack us up the beach with their fins? Of course not.

The ironic thing, it seems to me, Mr. President, about this whole affair is as follows: There is a tremendous fuss because there are 2,000 or 3,000 Soviet combat troops which have no way of going anywhere. They have no sealift. They have no airlift.

But people say that if they are only there to train troops, to train Cubans, it is perfectly all right if they are there to train the Cubans to go and attack people all over, wherever they might be. That is satisfactory. But if they are combat troops, that is bad.

It is clearly recognized, Mr. President, no matter whose statistics we take, that they have been there a long time.

The PRESIDING OFFICER. The Senator's time has expired.

The PRESIDING OFFICER (Mr. HEFLIN). Under the previous order, the Senator from Michigan (Mr. RIEGLE) is recognized for not to exceed 15 minutes.

Mr. CHAFEE. Will the Senator yield me 3 minutes?

Mr. RIEGLE. I am delighted to yield 3 minutes to the Senator.

Mr. CHAFEE. I thank the Senator very much.

Mr. President, let us look at what the United States has around the world.

We have about 4,500 uniformed military personnel in Turkey. Then, of course, we have the 2,000 uniformed military personnel in Guantanamo Bay, by right, by treaty, for many years.

But the point, it seems to me, Mr. President, is that we are getting diverted from the main object. I mean, what principally concerns this Nation is the SALT treaty.

Now, there are some against it and some for it. But, certainly, it ought to be debated—that is the big league, SALT. Let us not get diverted from talking about what is important to this Nation, for the future of the country, for the future of our children and grandchildren, by some 2,000 or 3,000 Soviet troops.

Mr. President, when we look at a picture from the air, how do we tell combat troops from training troops?

That must be one of the most skillful things undertaken by our intelligence in many years.

So they have 40 tanks. They are not amphibious. They cannot crawl all the way to Florida.

Mr. President, I just hope we can put this into perspective.

I do not think the President has come out of this very well. But that is neither here nor there. The point is, they are no threat to the country. They have been there for years. Let us get back concentrating on what counts.

I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I assume that only the time the Senator from Rhode Island actually consumed will be taken from my time.

I now yield 2 minutes to the Senator from Nebraska.

Mr. ZORINSKY. I thank the Senator from Michigan.

SOVIET TROOPS IN CUBA

Mr. President, if I were a cynic I would stand before the Senate today and note the groudswell of concern from the four corners of the Earth about 2,000 to 3,000 Soviet soldiers in Cuba. I would, for example, highlight the cry for help emanating from Mexico City, Tokyo, New Delhi, Ankara, and London. The message, I would announce, is the same for all quarters—"Save us from those Soviet troops stationed in Cuba."

But, Mr. President, being a realist, I have to recognize the situation as it exists. Instead of concern there is disinterest, and instead of a cry for help there is a plea for sanity. And the message is that the rest of the world greets this episode with boredom, if not dismay. Indeed, once you get beyond the beltway you find Americans scratching their heads and wondering why they are supposed to be concerned. Americans have pride in their country and confidence in its military establishment. After 4 weeks, they are still waiting for those who have nurtured this crisis to explain what it is they have to fear.

With no plausible explanation at their fingertips, the crisis-mongers have turned to the SALT II treaty and endeavored to join the two. It is as though we should bestow our acceptance of SALT upon the Soviets in return for their withdrawal from Cuba. I, for one, am unwilling to hinge my support for the SALT II treaty on this kind of flimsy if not irrelevant, condition. While some may perceive such a trade as adequate protection of American strategic interests, I do not. If SALT protects the U.S. strategically, then it should be accepted. If the treaty is adverse to our interests, then it must be rejected regardless of what the Soviets do in Cuba or anywhere else for that matter.

Mr. President, I do not wish to belabor the matter further. The long and short of it is that, yes, for the last several weeks "Chicken Little" has been lose in Washington but no, the sky is not falling. It is time now to confront reality. The reality is that the Senate is constitutionally charged with passing judgment on an agreement to limit nuclear arms, and 2,000 to 3,000 Soviet troops do not exempt the Senate from making this difficult decision. The American people deserve to hear a public debate on the merits and demerits of the SALT II treaty, and to receive the decision of its elected officials. That is what they pay us for. So let us get on with it.

Mr. RIEGLE. I thank the Senator from Nebraska.

Does the Senator from California seek time?

Mr. CRANSTON. Four minutes.

Mr. RIEGLE. I yield 4 minutes to the Senator.

Mr. CRANSTON. I thank the Senator.

Mr. President, over the past few weeks, we in the Senate have learned that the Soviet military personnel in Cuba have been there for some time and that they do not constitute a direct military threat to the United States.

Indeed, the United States has overwhelming military power in the Caribbean, including a permanent military installation on Cuba itself—one which has served as the training ground for the United States naval fleet of the Atlantic since 1943.

If anything, the Cuban or Soviet military threat to the United States in the Western Hemisphere has greatly decreased since the 1960's when tens of thousands of Soviet troops were based in Cuba and military equipment was being shipped there in increasing numbers.

In sharp contrast to this relatively insignificant current threat is the steady rise in the deadly power of the Soviet and United States nuclear arsenals since the 1960's. Even the SALT I agreement proved hardly more than a minor irritant to the crushing momentum of advanced nuclear weapons technology which allows each side to add new warheads virtually daily even within arms control limits. This is the threat with which we must concern ourselves today. This is the legacy we must not leave to our children.

I challenge any Senator to demonstrate to the Senate and to the American people how he or she can better protect U.S. national security in the face of this ever-growing threat by rejecting the SALT II treaty in response to the nonthreat posed by a miniscule conventional military capability based in Cuba with neither the airlift or the sealift to bring it to our shores.

I challenge any Senator to specify what he or she would be willing to give up or to pay in order to force the dispersal of Russian troops or the dismantling of Russian tanks in Cuba.

Should we give up Guantanamo Bay? If so, where will you have the Atlantic Fleet train? Will you recommend that the United States abandon the Western Euopean based nuclear weapon modernization program which directly threatens the Soviet Union?

On the other hand, should we invade Cuba to oust the Soviet troops? Should we put a blockade around Cuba? Should the United States threaten nuclear retaliation?

I have not heard anyone make these suggestions, which clearly lack great wisdom. But, I have not heard other suggestions that might be any wiser as to what we should be doing to force those troops to be removed.

Let us set aside false hopes of coercion and the emotion and illogic of false linkage. Let us take the hard, practical steps available to us today to meet the real threats we face from the Soviet Union.

First, let us support the restrained and reasonable demonstration of our existing strengths and interests in the Caribbean which President Carter has proposed. Second, let us move ahead with favorable consideration of the SALT II Treaty—for it is the only direct way I know of by which the United States can lessen the strategic nuclear threat of the near future.

For example, it is the only way I know of to keep the Soviet Union from putting more than 10 warheads on its one new type of ICBM;

Keep the Soviet Union from putting up 30 warheads on its heavy ICBM's instead of only 10;

Limit the Soviet Union to 2,250 strategic weapons systems when it could easily produce 3,000 by 1985; and

Achieve force reductions, though small, instead of increases in Soviet strategic forces.

These are the specific opportunities open to the Senate, open to the country, open to mankind. And any Senator who believes that the United States can better protect its national security interests without them bears a heavy burden to recommend specific achievable alternatives.

I think it appropriate to note what His Holiness John Paul II said yesterday in our country. He stated:

> We are troubled also by reports of the development of weaponry exceeding in quality and size the means of war and destruction ever known before. In this field also we applaud the decisions and agreements aimed at reducing the arms race. Nevertheless, the life of humanity today is seriously endangered by the threat of destruction and by the risk arising even from accepting certain 'tranquilizing' reports.

Finally, I would like to say a word about the President of the United States.

I think it would be wise to grant that a mistake was made in making the statement about the status quo not being acceptable. That was stated first by the Secretary of State. It was restated by the President of the United States. Nonetheless, I think a case can be made that the status quo has been changed by our actions.

When we change the status quo, it involves a change in the military situation, in the matters relevant to this discussion, and that has been changed by steps the President announced he will take in the Caribbean.

Finally, I note that it is frequently said that a leader of a nation in times of political difficulties may often seek a foreign diversion and seek to show great strength, great manliness, great "macho," in order to retrieve his political situation. I suspect that the President received some political advice to do just that in this situation. I respect him tremendously for putting his country first in the light of his judgments. I respect him for resisting that advice or that temptation and putting first what he deems to be the national security interests of our country, by taking the very restrained and very moderate but nonetheless effective steps that he took in relation to this situation.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. I do not have any time remaining.

Mr. TOWER. Will the Senator yield some time?

Mr. RIEGLE. The Senator spoke for 15 minutes earlier today.

Mr. TOWER. Only 5 minutes.

Mr. RIEGLE. It seemed like 15. [Laughter.]

If I could finish with the Senators with whom we have made arrangements to speak and if we have time remaining, I would be happy to yield.

Mr. TOWER. I hope some of them will stick around.

Mr. RIEGLE. I yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, I have been listening very carefully for the past several weeks as my colleagues have debated when and whether we ought to begin consideration of SALT II. That debate has been helpful but I do not believe it should deter us further. There is, we are told, a time and a place for every purpose. This Nation's purpose is peace. The Constitution teaches that the Senate is the place to discuss it. And I rise to join my colleagues in saying that the time for the Senate to discuss it is now.

Some disagree with that judgment. They point, for example, to the Soviet brigade in Cuba and say that until it is removed, debate and decision should be delayed. They seek to link our deliberations to factors unrelated to the purposes of the treaty itself.

I fail to understand the logic of this linkage.

If the treaty is a gift to the Russians, a present to be withdrawn if they misbehave, then we ought to reject it and renounce it. But if the treaty is a gift to ourselves, a present whose value can be verified, then we should accept it and adopt it.

For me, the issue is clear: Is SALT II as a strategic arms control agreement, in our own national self-interest? If it is, then why should we deny ourselves its advantages, because the Cubans or Soviets seek to contest us in areas not related to strategic arms control? The other side of the coin is equally true: If it is not in our national self-interest, should Soviet or Cuban restraint motivate us to adopt it?

Those who ask for an environment free of superpower tension before SALT is considered fail to realize that SALT cannot produce, and should not be asked to produce, a world of harmony and understanding. With or without SALT, our relationship with the Soviet Union will continue to be what it is: A delicate dance of conflict and cooperation.

Assuming that SALT is in our national self-interest and that its conditions are adequately verifiable, actions by our Government or the Soviets unrelated to the limits it imposes, cannot reduce its value. If the Soviet brigade in Cuba is a source of concern—and I believe it is—it is of concern whether we each have 10,000 nuclear warheads or whether we each have 20,000. But as we face that brigade and other incidents like it, I would prefer we do so at the lower levels of mutual annihilation.

Ratification or rejection of SALT will not alter the appropriate available responses to Soviet action. And Soviet action unrelated to strategic nuclear weapons ought not alter our decision to ratify or reject SALT.

The only thing that should affect that decision is debate in this body about the nature of SALT. The Constitution mandates such a debate. It requires that the Senate give its advice and consent to any treaty before it goes into effect. In the past, this body has discharged that solemn duty with dignity, with wisdom, and with statesmanship. We have put aside partisan politics and regional differences and focused on our highest duty: to serve the best interests of this Nation. A failure to consider SALT soon is simply a way of shirking this duty—it is a way to condemn the treaty without considering it. It is a way this body should not take. It is a way this Nation should not accept.

We may, in the end, reject this treaty. But let us do so because we have examined it and found it wanting and not because we held it hostage and waited for a ransom that was unreasonable to expect and which other nations refused to pay.

If there is logic in linking the presence of a Soviet brigade in Cuba to the question of whether we should ratify SALT, then let the logic of that linkage be put to test in a debate on whether to ratify—not in a debate on whether to debate.

The time to begin our examination is upon us. I urge my colleagues to focus on the task that confronts us and to begin to judge the Strategic Arms Limitation Treaty as a strategic arms limitation document and not as the best or only path toward other desirable goals.

Mr. President, I yield the remainder of my time to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I take that to mean that the 15 minutes subsequently to be allocated to the Senator from Michigan, he desires to yield to me.

Mr. LEVIN. That is my intent.

The ACTING PRESIDENT pro tempore. The time has now been transferred.

Mr. RIEGLE. Mr. President, how much of my 15 minutes remains?

The ACTING PRESIDENT pro tempore. The time of the Senator has just expired.

Mr. EAGLETON. Mr. President, I yield 3 minutes to the distinguished Senator from Maryland (Mr. MATHIAS).

Mr. MATHIAS. I thank the distinguished Senator from Missouri for yielding me this time.

Mr. President, this morning, the editors of the Sun, a great newspaper published in Baltimore, begin their lead editorial by saying:

> This country's response to the discovery of a Soviet combat brigade in Cuba is a major national embarrassment that reflects poorly on President Carter and legions of American politicians trying to exploit the issue for a variety of purposes.

They conclude that editorial by saying:

> Damage limitation was the object of the President's Monday night speech, as he

sought to recover from self-inflicted wounds, and it ought to be the leading impulse in the Senate. For once, President Carter was right on target when he said the greatest danger to U.S. security is not a few thousand Soviet troops in Cuba but "the breakdown of a common effort to preserve the peace, and the ultimate threat of a nuclear war."

Mr. President, I think there is some positive fallout from this whole unhappy situation. One of the elements of positive fallout, it seems to me, is the President's proposal to increase the surveillance by United States intelligence forces of the Caribbean area. That surveillance in recent years has fallen temporarily to a dangerously low level, so the President is right in proposing to improve our intelligence capabilities in that area.

I think this is a good thing, because, if, as the Soviets and the Cubans insist, this is not a combat brigade, we will be able to perceive that they are right or prove that they are wrong. Even if they are wrong now, let us hope that they will be right in the future, and we ought to competent to be sure of that.

As Dr. Samuel Johnson, the great moralist of the 18th century, said:

> Nothing is so conducive to a good conscience as the possibility of being observed.

The Soviet Union and Cuba can be well assured that they will be observed closely in this matter in the days and months ahead.

More than that, I believe that this question has focused some attention on the economic needs of the Caribbean. We have desperately poor people in the Caribbean.

The **ACTING PRESIDENT** pro tempore. The Senator's 3 minutes have expired.

Mr. **EAGLETON**. I yield the Senator 1 additional minute.

Mr. **MATHIAS**. The President has proposed, as part of our program for response to the political needs of the Caribbean, that we will give some greater attention to the economic problems of the Caribbean nations.

This is absolutely necessary because the Soviet brigade is not a military threat. No one thinks it is a military threat. But it is a political problem, not a domestic partisan political problem, but a political problem in the sense that it introduces concern and tension among the peoples of the Western Hemisphere.

If we can help to resolve that political problem by political means, then the threat of that Soviet brigade will be vastly reduced.

In this connection I am moved to applaud the great speech, the moving speech that was given yesterday by His Holiness, Pope John Paul II, before the United Nations in which he referred to human rights among which he enumerated "the right to food, clothing, housing, sufficient health care, adequate working conditions, and a just wage and rest and leisure," all of these things which are denied to so many of the peoples of the Caribbean nations.

These elements of life identified by the Pope as basic human rights are essential ingredients of the solution to the political problems of the whole Caribbean area. When they receive the attention the Pope advocates as a matter of universal human responsibility, the threat of the brigade will recede.

Mr. President, in conclusion, I ask unanimous consent to print in the RECORD an editorial entitled "Limiting the Damage" from today's Baltimore Sun.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIMITING THE DAMAGE

This country's response to the discovery of a Soviet combat brigade in Cuba is a major national embarrassment that reflects poorly on President Carter and legions of American politicians trying to exploit the issue for a variety of purposes. If SALT II falls victim to this imbroglio, let not the White House point an accusing finger at opposing senators. They indeed will have to answer for their votes against the process of trying to curb the nuclear arms race threatening mankind. But the Carter administration will have plenty to do just to atone for its own ineptitude and miscalculation.

Consider what a spectacle the United States has made of itself on the world stage. The Kremlin must be getting a lot of quiet enjoyment over having faced down Mr. Carter by refusing to change a status quo that he had declared "unacceptable." Leftist elements in Latin America must be getting ready to depict the beefing up of U.S. Caribbean forces as a return to Yanqui imperialism. Our major allies must be disquieted by the turmoil in Washington and the thought that so great an initiative as SALT could be endangered by so peripheral an issue.

The Soviet-Cuban military alliance is, of course, a serious problem for this country. One need only consider the use of Cuban troops in Africa or the conduct of Cuban agents and diplomats worldwide to appreciate how Fidel Castro serves Moscow's purposes. But it hardly serves U.S. interests to respond by endangering top-priority efforts to limit nuclear arms or by offering a degree of military protection to Latin America that may no longer be appreciated. Despite some military maneuvers on Guantanamo in the next few weeks and the establishment of a "Permanent, Fulltime Caribbean Joint Task Force Headquarters" in Key West, we suspect the Carter White House would be relieved to have this whole sorry episode fade away. Unfortunately, it will not be so easy. Republicans have a certified issue for the 1980 political year, especially if Mr. Carter is renominated. Military hawks have a new opportunity to push up defense spending as the administration bows to demands for an added aircraft carrier and more Rapid Deployment Forces. And the Soviet-Cuban issue will remain at the heart of the SALT II debate—where it does not belong—until some magical formula is concocted to permit a few key waivering senators to vote for ratification.

Damage limitation, as Senator Mathias had suggested, is the task of the moment. This was the object of the President's Monday night speech, as he sought to recover from self-inflicted wounds, and it ought to be the leading impulse in the Senate. For once, President Carter was right on target when he said the greatest danger to U.S. security is not a few thousand Soviet troops in Cuba but "the breakdown of a common effort to preserve the peace, and the ultimate threat of a nuclear war."

Mr. **EAGLETON**. Mr. President, I thank my colleague.

I yield 1 minute to the distinguished Senator from Michigan, Senator RIEGLE.

Mr. **RIEGLE**. Mr. President, like other colleagues who have spoken this morning, I am also in general agreement with the position President Carter has taken on the issue of Russian troops in Cuba. I believe his response is a reasonable one. I think it is prudent and appropriate to the situation.

After studying the information available concerning the brigade of Soviet troops deployed in Cuba, apparently present there for some several years, I personally do not feel that this matter has any significant bearing on the SALT II consideration.

I think the SALT II treaty should be considered on its own merits as a reciprocal formula for limiting the continuing buildup of strategic weapons by both countries. The ultimate strategic meaning of the SALT II treaty——

Mr. **TOWER**. Mr. President, will the Senator yield for a question at that point?

Mr. **RIEGLE**. When I finish I will be happy to yield.

The ultimate strategic meaning of the SALT II treaty is of a scale and consequence, that attempts to link it to the Russian brigade in Cuba is, in my judgment, nonsense or worse.

The opponents of the SALT II treaty have tried one device after another for months now to kill this treaty. That they should repeat the same tactic with the Russian brigade in Cuba should surprise no one. Anyone who finds comfort in accelerating the development and proliferation of nuclear weapons really should have their head examined.

SALT II should be considered in its own right and accepted or rejected on its merits.

Frankly, the opponents of SALT II have not been successful thus far in discrediting the treaty on its merits. That is why we have seen attempts to cripple it in other ways with amendments, reservations, side issues, and now Russian troops in Cuba, and I am frank to say I expect other things. When this particular tactic fails, I fully expect that we will see the opponents reach for another tactic that will be invented in the future.

The fact is, that America's vulnerability today does not stem from too few nuclear weapons. Our vulnerability in this country today stems from inflation, the absence of a national energy strategy, and the financial difficulties facing millions of our citizens struggling to cope with the rising cost of living and recession.

In the military area, our deficiences, and we have some, are also not in the areas of strategic weapons.

I think the best article in today's paper on that subject is on the front page of the Washington Post where it talks about the fact that in terms of our conventional militray capabilities, we are way behind, and there is some question as to whether we could even respond in a conventional manner to a threat if we had to. Those are the kinds of issues we should be talking about.

But in terms of weapons systems, I have here a sheet prepared by the Department of Defense which I wish to print in the RECORD, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD as follows:

DISTRIBUTION OF COST CHANGES BETWEEN DEVELOPMENT ESTIMATES AND CURRENT ESTIMATE BY CATEGORY OF CHANGE AS OF MAR. 30, 1979

[In millions of dollars]

		Program changes in program base year constant dollars																Prog. chg. related escalation [2]		Economic escalation		Total cost changes	
		Quantity changes		Engineering		Support		Schedule		Estimating		Contr. cost overrun		Other [1]		Total							
Weapon system	Base year	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr.	To date	This qtr. [3]	To date
ARMY																							
Patriot (fire sections)	1972	-5.9	-1,384.1		-551.1	5.9	143.1		237.6		442.3		24.5			0	-1,087.7	0	30.4		1,448.7		391.4
Pershing II	1979																						
Hellfire	1975		-1.1		5.3	1.0	-1.2		6.0		.7					1.0	9.7	.3	10.2		60.6	1.3	80.5
CH-47 modernization	1975										2.7						2.7		3.2		211.1		217.0
UH-60A (Black Hawk)	1971		-20.2		-25.1	.6	-130.2	1.1	-65.4	-0.1	-16.6	1.7	12.2		1.2	3.3	-243.9	2.7	114.6		1,472.7	6.0	1,343.4
YAH-64 (AAH)	1972				9.5	1.1	-40.7		27.3		2.3					1.1	-1.6	.9	18.5		407.9	2.0	424.8
SOTAS (division sets)	1979				4.6					-1.0						-1.0	4.6	-.1	1.0		11.3	-1.1	16.9
FVS (MICV)	1972	51.6	1,235.1	-2.3	290.1		26.7	.8	13.9	-6.2	25.7	3.5	10.5		-.8	47.4	1,601.2	190.9	3,879.6	25.0	278.0	263.3	5,758.8
XM-1	1972		1,578.3	4.0	45.9		9.9		96.5		278.3					4.0	2,008.9	2.2	3,556.8		580.5	6.2	6,146.2
Roland (fire units)	1975		17.8		21.3		40.7		27.4		492.8		60.8				660.8		405.6		123.8		1,190.2
Copperhead (CLGP)	1975	-1.7	-96.6		11.5		8.0		-6.2	1.4	35.2	1.7	3.9	-1.4	.7	0	-43.5	0	97.7		80.5		134.7
DIVAD gun	1978		59.5			-48.2	-4.7			48.2	27.3					0	82.1	0	7.2		54.2		143.5
M 198	1972		-29.6		1.4	.6	1.2		2.8	.6	26.5				0	1.2	2.3	.8	.4		55.7	2.0	58.4
NAVY																							
E-2C	1968		698.7		70.9		247.4		35.9		74.3				0		1,127.2	.1	1,220.6		83.1	.1	2,430.9
F-14A	1969		1,379.7		61.1	-10.0	779.6		317.7	10.8	422.6		60.8		4.7	.8	3,026.2	-.6	2,674.3		342.3	-.2	6,012.8
F-18	1975		3,079.6		80.0		893.9		168.7		284.2						4,506.4		5,430.7		1,210.9		11,148.0
P-3C	1968		964.9	5.7	261.1	2.2	-67.6		414.2	-5.5	99.3		4.3			2.4	1,676.2	.8	2,240.1		283.3	3.2	4,199.6
Lamps MK III	1976		8.4		-72.3		-86.2		-27.5		-13.6						-191.2		-186.0		48.5		-328.7
Aegis	1970				63.6		13.3		32.7								109.6		69.5		23.9		203.0
Captor	1971		-6.4		107.4		75.6		63.3		172.9		.1				412.9		545.9		233.2		1,192.0
Harm	1978		-15.9		12.0				3.2								-0.7		8.5		21.0		23.8
Harpoon	1970	51.6	-2.4		96.5		35.6		20.8	-.5	54.0					51.1	204.5	68.7	454.8	-3.7	256.6	116.1	915.9
Phoenix	1963	26.0	113.9		38.1		28.7		174.1	-.1	4.3		42.9	7.1	9.6	33.0	411.6	44.0	694.6		219.8	77.0	1,326.0
Sidewinder AIM-9L	1971		18.5		19.2		28.0		21.0		32.8		.9		-1.3		119.1		102.2		25.7		247.0
Sparrow AIM-7F	1968		-149.0		33.5	-2.5	22.4		132.9	.2	23.9				28.9	-2.3	92.6	-2.4	210.0		323.9	-4.7	626.5
Tomahawk	1977		-651.9		83.7		-95.8		32.1		53.1						-578.8		-294.4		1.6		-871.6
Trident	1974		1,604.8		68.7	.6	28.4		799.5	-.6	911.4		232.6		40.7	0	3,686.1	0	6,021.4		3,406.8		13,114.3
MK-48 MOD 1	1972		-480.4		9.0		-78.3		118.5	-.8	139.4					-.8	-291.8	-.5	156.3		89.7	-1.3	-45.8
5-in guided proj	1977		-2.5		6.1			6.6	11.6							6.6	15.2	1.1	2.5		7.5	7.7	25.2
SURTASS	1975				36.8		5.3	.2	15.6		57.5		7.2			.2	122.4		90.1		43.7	.2	256.2
TACTAS	1976		-69.0		63.9		57.9		29.0		-1.1				2.0		82.7		102.7		96.2		281.6
SSN-688	1971		924.0		59.6	1.4	-4.5		14.6	3.1	-342.7				298.5	4.5	949.5	2.4	2,255.7		1,860.4	6.9	5,065.6
DD-963	1970		82.1		14.7		12.0		-2.0		38.9		94.0		53.9		293.6		855.3		622.5		1,771.4
DDG-47	1978				185.3		6.1				103.3						294.7		159.5		337.0		791.2
CGN-38	1970		191.7		11.2		-1.5				34.8				28.3		264.5		173.0		50.6		488.1
LHA	1969		-436.9		53.1		25.1		10.8		10.5		80.1		203.7		-53.6		276.3		70.0		292.7
FFG-7	1973	-79.2	826.0		502.5		66.6		205.7		890.5					-79.2	2,491.3	-124.1	4,144.0		2,231.9	-203.3	8,867.2
PHM	1973 74		-482.7		0.1		.4		74.0		19.1		24.7		1.3		-363.1		16.9		12.0		-334.2
CVN-68 class	1967 72				96.0		17.1		42.6		3.1		102.3		19.8		280.9		101.8		356.4		739.7
AIR FORCE																							
A-10	1970		0		165.7		34.3		326.3	-.2	-24.2				22.8	-.2	524.9	-.1	909.8		898.0	-.3	2,332.7
F-15	1970				233.1		-21.8		740.2	-.5	-126.5		62.7		556.4	-.5	1,444.1	-.4	1,306.1		3,197.6	-.9	5,947.8
F-16	1975		2,946.7	-6.4	267.1		1,054.4			-.2	-116.7		-.7		23.6	-6.6	4,174.4	-1.7	3,312.5		1,543.1	-8.3	9,030.0
E-3A (AWACS)	1970		-62.5		33.0		-22.8		595.4	-.2	-148.5		-2.2		-5.2	-.2	387.2	-.2	775.0		341.5	-.4	1,503.7
E-4 (AABNCP)	1974		-196.6		17.4		-21.4		80.8		85.0						-34.8		-25.3		57.8		-2.3
EF-111A	1973				-14.0		62.9		126.4		62.7		8.7				246.7		267.2		16.8		530.7
PLSS	1977		-394.9		-2.1		-85.2		17.4	.3	6.5					.3	-458.3		-233.7		5.9	.3	-686.1
Harm (AGM-88)	1978		72.1								35.2						107.3		76.7		32.8		216.8
Maverick (IIR)	1975		26.7				-.6		15.1		-35.3						5.9		173.2		86.1		265.2
Sidewinder AIM-9L	1971		68.0		8.5		14.5		10.3	.3	80.7		1.2			.3	183.2	.2	130.5		58.0	.5	371.7
Sparrow AIM-7F	1968		139.5		7.2		6.1		101.2	.2	-0		1.4			.2	255.4	.1	234.2		149.0	.3	638.6
DSCS III (space seg)	1977				15.8						-42.8						-27.0		-32.1		14.7		-44.4
ALCM	1977		-15.1		84.8		-22.2		-2.5	-2.8	-6.1	-.2	-.2			-3.0	38.7	-.6	149.7		81.1	-3.6	269.5
GLCM	1977		-1.2	-9.7	3.5		10.4		6.7	9.0	35.3					-.7	54.7	-.2	105.0		15.8	-.9	175.5
SUMMARY																							
Army		44.0	1,359.1	1.7	-186.6	-39.0	53.0	1.9	339.9	42.9	1,317.2	6.9	111.9	-1.4	1.1	57.0	2,995.6	197.7	8,125.2	25.0	4,785.0	279.7	15,905.8
Navy		-1.6	7,595.2	5.7	1,961.8	-8.3	2,009.5	6.8	2,709.0	6.6	3,072.5	0	649.9	7.1	690.1	16.3	18,688.0	-10.5	27,526.3	-3.7	12,258.5	2.1	58,472.8
Air Force		0	2,582.7	-16.1	820.0	0	1,008.6	0	2,017.3	5.9	-194.7	-.2	70.9	0	597.6	-10.4	6,902.4	-2.9	7,148.8	0	6,498.2	-13.3	20,549.4
Grand total		42.4	11,537.0	-8.7	2,595.2	-47.3	3,071.1	8.7	5,066.2	55.4	4,195.0	6.7	832.7	5.7	1,288.8	62.9	28,586.0	184.3	42,800.3	21.3	23,541.7	268.5	94,928.0

[1] Other includes unpredictable, contract performance incentive, and miscellaneous changes.

[2] Escalation associated with program changes estimated from the base year of the program involved. The escalation related to each program change and the cost of the program change in base year dollars make up the cost of the program change in then year dollars (the actual or current cost of the change).

[3] Does not include an additional cost increase reported this quarter of $481.0M ($267.2M base-year dollars and $213.8M escalation) for the FVS (MICV) program. This amount is excluded from this table because it is a change to the development estimate and not a cost variance category. This amount is included in the "SAR program acquisition cost summary."

Note: 53 programs—total cost growth is $95 billion over lifetime of R. & D.

Mr. RIEGLE. Mr. President, this sheet shows all the present weapons systems for which the United States is now spending money. And the cumulative cost overruns to date now total some $95 billion.

So there is an enormous waste, goldplating, inefficiency, and misdirection of resources with the money that we already spend with respect to our military capability.

But I am frank to say that the people who have this preoccupation with strategic weapons alone apparently cannot think in terms of an overall defense capability or in terms of national security that can fit that into a context of the broader definition of national interest that has to do with problems that are affecting people every day here in the United States.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. Mr. President, the Senator from Texas well knows we are under very secure time constraints. Since I am in charge of the allocation of time, Senator STENNIS must have a minute and a half on a related subject, and we cannot yield at this time.

Mr. RIEGLE. Mr. President, as I stated at the outset, I agree with President Carter that the presence of some 2,000–3,000 Soviet troops in Cuba, does not pose a security threat to the United States. Appropriate U.S. diplomatic efforts should proceed with the Soviet Union to pursue the matter to a conclusion that is consistent with U.S. security interests.

That task is not an assignment for the Senate Foreign Relations Committee, Congress, or Presidential contenders, among others; it is the proper responsibility of those directly charged with the administrative duty of conducting American foreign policy.

Those of us with constitutional responsibilities for oversight of American foreign policy can fully meet these responsibilities without attempting to usurp the proper role of the President and his Secretary of State.

This is neither a time, nor a situation, in which hysteria or exaggerated responses by either side are warranted or useful.

At a moment when the American Presidency is in a severely weakened domestic political posture, we must, as a nation, remain calm and prudent. We must not let domestic political adventurism distort our national judgment or alter the prudent exercise of American diplomacy and other power initiatives.

The United States today has sufficient strength in all forms to appropriately deal with any strategic threats posed by the Soviet Union. The Soviet Union should have no illusions about the ability and willingness of the United States to use whatever resources are necessary to promptly and fully defend our strategic interests—in this hemisphere and others.

Finally, we should have no illusions about the Soviet Union. They are a determined and dangerous adversary who will attempt to take full advantage of any situation ripe for exploitation. We would be foolish to expect anything but unremitting pressure from the Soviets, and we must plan and act accordingly.

Mr. EAGLETON. Mr. President, I yield a minute and a half to the distinguished chairman of the Armed Services Committee, Senator STENNIS, who wishes to make an announcement.

Mr. STENNIS. Mr. President, I certainly thank the Senator from Missouri.

Mr. President, we have been trying to arrange, and when I say "we" I mean the members of our committee, which certainly includes the ranking minority member, Senator TOWER, for a resumption of the so-called SALT hearings by our committee.

We had in mind if possible to open those hearings up for this week, but we have decided to go over until next week partly because of the now pending energy bill or bills. We have settled on starting next Tuesday, October 9. I have completed a list of witnesses, most of whom were carried over from the former hearings. Some will now be held in closed sessions. There will be a few more. These lists represent the desires of the committee as a whole, I think, as witnesses.

Not flattering our committee one bit, I think our hearings have contributed to an understanding of the problems particularly as they relate to our military policies.

I think the forthcoming continued hearings will be of the same caliber, and I believe they will be helpful to anyone in making up their, mind as to what their final position will be.

So we will have the hearings open where possible, and closed where we must. We expect to proceed to try to get through within 5 or 6 days.

I think we should face the situation then, and bring this matter to the floor for full debate and a decision. We have grave problems at home and abroad that delay will not cure. To the contrary, I am afraid the situation will become more involved and possibly suffer from delay.

Mr. EAGLETON. Mr. President, I thank my colleague.

Mr. President, for the past 18 years, ever since the United States severed diplomatic and economic ties with the Government of Cuba, we have been at odds with our island neighbor. Our relationship has vacillated between periods of extreme strain and relative calm. We have swung between incidents like the 1962 "missile crisis," which brought us close to the brink of war, and the signing of the 1973 antiskyjacking agreement, which signaled a genuine interest in normalizing relations.

During the Carter administration, the movement toward the normalization of United States-Cuban relations has intensified. The United States has removed the ban on travel and spending of U.S. currency in Cuba, and the Cubans took the initiative in proposing the fishing talks with the United States. As summer began, the United States and Cuba were closer to a normalized relationship than at any time during our 18-year estrangement.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. I am sorry, I cannot yield at this time. I have to complete my remarks and the Senator from Alabama needs a minute.

Then came the events of August—the disclosure of a U.S. intelligence assessment that a Soviet brigade was conducting maneuvers on the island, and the pandemonium which ensued in the media and in the Halls of Congress. Some even have gone as far as to suggest that the SALT treaty should be scrapped if the Soviet troops in question are not removed from Cuba.

Mr. President, let me make myself clear on this matter. I am concerned over the presence of Russian combat troops a mere 90 miles from our shore. But, I hasten to add, I do not believe we are living a crisis. I do not find these times even remotely reminiscent of the 1962 missile facedown.

Considering the fact that there were as many as 20,000 Russian troops in Cuba in the early 1960's, and considering the fact that the Russians have maintained a military presence of varying size in Cuba ever since then, it is ludicrous to consider the presence of 2,000 to 3,000 Russian troops in Cuba as any kind of imminent threat to ourselves or to this hemisphere.

Mr. President, this issue has been blown into a matter of such enormity that one would think we are on the brink of some international catastrophe. In truth, Mr. President, the current controversy comprises much too much ado over something that is neither all that new nor all that earth-shaking.

I remain undecided on ratification of SALT II. However, I remain firmly committed to the proposition that SALT II should rise or fall on its own merits or lack thereof. The current frenzy over Cuba should not, in my opinion, impact upon the thoughtful and rational analysis which SALT II deserves.

Mr. CRANSTON. Mr. President, will the Senator from Missouri yield me 30 seconds?

The ACTING PRESIDENT pro tempore. The time of the Senator from Missouri has expired.

Mr. CRANSTON. I want to pay tribute to Senator EAGLETON for his leadership.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senator from California may have 1 minute.

[Laughter.]

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. I want to pay tribute to the Senator from Missouri for organizing this discussion this morning. I think it has been helpful in focusing attention on a very important matter. He always comes through on important issues when they need our attention, and I thank him for doing so today.

Mr. TOWER. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. I have about 20 seconds, yes.

Mr. TOWER. Does he really call this a discussion? We have really had very little dialog here. It seems like we have had a lot of monologs here, but I hardly call it a discussion.

Mr. CRANSTON. I wish we had more.

Mr. ROBERT C. BYRD. Mr. President,

if the Senator will yield, the first monolog I heard today was the monolog ably conducted by my friend from Texas.

Mr. TOWER. I was fully prepared to yield for questions throughout the course of it. No one asked any.

Mr. ROBERT C. BYRD. He had a 15-minute order and did not consume it. I am sorry he did not.

Mr. TOWER. I shall ask for 15 minutes more tomorrow.

● Mr. MUSKIE. Mr. President, President Carter's comments on the question of Soviet troops in Cuba, and the steps he outlined in response to the Soviet brigade, were valuable for several reasons:

First, by confirming that the troops do not represent a Soviet escalation in our hemisphere, he did much to allay the deep concern of Americans committed to the principle of Soviet nonintervention here.

Second, by outlining the local and global reaction of the United States, he demonstrated to the Soviets that any action on their part would meet with firm reaction from us in any place important to American interests.

Third, by dealing with the issue in a dispassionate way, he helped cool the rhetoric on the Cuban situation, and I think he accurately concluded that we ought to turn our attention to SALT II, which is much more important to our national security.

It was inevitable that the troop question be linked to SALT II, simply because the troops came to light during a time of intense debate over United States-Soviet relations. The President sent a strong signal to the Soviets that we will protect our interests with every appropriate means at our command. And he sent a signal to the Senate and the country that the real issues of arms control are too important to be sidetracked by a debate over questions of less crucial significance.

I hope the Senate and the country will move now to the real issues of SALT II.●

PRIORITY ENERGY PROJECT ACT OF 1979

The PRESIDING OFFICER (Mr. HEFLIN). Under the previous order, the hour of 10:30 having arrived, the Senate will now resume consideration of the pending business, S. 1308, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1308) to set forth a national program for the full development of energy supply, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The time between now and 12 o'clock noon is equally divided and controlled by the Senator from Connecticut and the Senator from Louisiana. No amendments to amendment No. 488 shall be in order during this period unless they are accepted as germane modifications by the Senator from Connecticut and the Senator from Maine.

No amendments to the reported amendment in the nature of a substitute shall be in order during this period unless they are accepted as germane modifications by the Senator from Louisiana and the Senator from New Mexico.

A vote on a motion to table amendment No. 488 shall occur at 12 noon.

Who yields time?

Mr. SCHMITT. Mr. President, I see the Senator from Connectict is here. Will he yield me 5 or 10 minutes for some general comments?

Mr. RIBICOFF. Is the Senator for amendment No. 488 or against it? I have so many requests for time.

Mr. SCHMITT. This Senator is trying to make up his mind.

Mr. ROBERT C. BYRD. Mr. President, in that case I will yield 5 minutes to the Senator on behalf of Mr. JOHNSTON.

Mr. SCHMITT. I appreciate the Senator's courtesy.

Mr. President, as I said yesterday, my concerns about the creation of an Energy Mobilization Board under which every set of procedures is adopted by this body stem in part from a general concern that the Board may not be able to do what we all hope it will do, and that is streamline the regulatory process to find a balance between the preservation of our environmental heritage and the absolute mandatory need to reduce our dependency on foreign imports of oil and gas.

Mr. President, I spent a fair amount of time in the executive branch of Government in an environment of extremely complex management. As I read the bill, S. 1308, and see the vast charter that is going to be given to this Board, I become concerned that the Board may not be able to carry out that charter in any kind of reasonable fashion.

I had the same concerns about the Department of Energy, and at that time voted against the Department because I did not believe they were going to be able to manage what Congress has told them to do, and that, in fact, they have not been able to manage it. Many who supported the Department of Energy in the last Congress, I think, have had second thoughts about that support today.

My questions yesterday were, and later on in this debate will be, focused on whether or not alternatives have been fully considered to the Board for doing what we all want to do, and that is to accelerate the development in a reasonable way of major energy projects in this country.

Obviously, if we were true to the tradition of this deliberative body and the Congress as a whole, we would look at those problems in law and in regulations created under law that are preventing the development of various energy projects, and we would then work to improve that law by repealing what existed, or by modifying it as required.

Apparently, the Energy Committee and others have generally agreed that this is impossible; that this body and the Congress could never work out satisfactorily the alteration or repeal of substantive law so that these projects could go ahead under existing authorities.

Another alternative might have been to create the Board, but, rather than giving them the mandate this bill would give them, would require them to study existing law and come back to Congress with recommendations on how the bottlenecks could be removed through the legislative process.

I hope that later on in this debate those two alternatives can be discussed further.

Mr. President, having been through an extremely complex process of putting men on the Moon and returning them safely to Earth, I see many similarities in complexity, if not in substance, to what the Board is being asked to do. I ask what are the qualifications of a Board chairman with the various authorities that will be given to that chairman?

The bill, of course, does not discuss this, and I presume it was discussed in committee, but I must say that I would feel much more comfortable if some general qualification had been spelled out in the bill.

Management systems dealing with deadlines and schedules are very important and should be utilized more.

The PRESIDING OFFICER. The 5 minutes yielded have expired.

Mr. SCHMITT. If there is no demand for time, I wonder if the majority leader would continue to yield me 5 more minutes?

Mr. ROBERT C. BYRD. For the moment may I yield 2 minutes. Mr. JOHNSTON is in control of the time, and I do not know how many demands he may have for time. I yield 2 minutes.

Mr. SCHMITT. It is my understanding they are meeting in caucus trying to work things out.

Mr. ROBERT C. BYRD. I yield 3 minutes.

Mr. SCHMITT. I will try to terminate at that point, and I thank the majority leader.

This business of managing schedules is certainly one of the best ways in which we can accomplish various tasks of Government, of trying to meet deadlines and setting goals for ourselves, but it does require, particularly where large numbers of individuals, agencies and variables must interact, very special competency on the part of the managers.

There are not a great number of these people in this country at this time, at least those who have been faced with these kinds of problems. Clearly businesses, large businesses, must meet schedules and deadlines, so that it could be within the business community that we could find that exceptional person who could act as chairman of this Board. It may be that within certain agencies of Government we have seen those kinds of individuals.

But I would hope that if this Board does come into existence, we will encourage in some way or another the President to find that very special person, independent of political persuasion, who can in fact manage a process of this complexity.

Another major area of concern that I hope and I am sure will be debated is whether in fact due process has been protected by the accelerated procedures for judicial review that are contained in the bill. The question there is whether, in the accelerated procedures, not only is due process being protected, but are we forcing litigation into very narrow channels that will clog those channels?

I do not have an answer to that. I see no discussion in the report of the judicial impact of this measure. I think that is an issue that must be discussed on this floor before we come to a final decision.

Mr. President, I see the managers of the bill on the floor, and I will reserve further comments until later.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SCHMITT. Mr. President, if the distinguished Senator from Louisiana has no other task in front of him, I would be happy to pursue further some of the questions that I have.

Mr. JOHNSTON. I have very little time. I think I have 35 minutes.

The PRESIDING OFFICER. Thirty-six minutes and seven seconds.

Mr. JOHNSTON. I have a request from the Senator from New Mexico (Mr. Domenici) for 10 minutes. I need 15 minutes to wrap up, and we need to accept a Wallop amendment, which will take a little bit.

Mr. SCHMITT. There under those circumstances, I will wait until the determination of the outcome on the Muskie amendment.

Mr. JOHNSTON. I think that might be helpful from the time standpoint. I thank the Senator.

The PRESIDING OFFICER. Who yields time? If neither side yields time, the time runs equally.

UP AMENDMENT NO. 587

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Louisiana (Mr. Johnston), for himself and Mr. Domenici, proposes an unprinted amendment numbered 587:
>
> Page 53, line 25, after the period, insert the following new subsection:

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Page 53, line 25, after the period, insert the following new subsection: "(c) Nothing in this Act shall be construed as denying any Federal, State or local agency the authority, pursuant to applicable law, to disapprove any application for a permit, license, lease or other approval required by applicable law for a priority energy project, except at such time the Board exercises its authority pursuant to subsection (a) to make the decision or perform the action in lieu of such agency.

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of myself and the distinguished Senator from New Mexico (Mr. Domenici). The amendment, by its words, speaks for itself and states as follows:

> Nothing in this Act shall be construed as denying any Federal, State or local agency the authority, pursuant to applicable law, to disapprove any application for a permit, license, lease or other approval required by applicable law for a priority energy project, except at such time the Board exercises its authority pursuant to subsection (a) to make the decision or perform the action in lieu of such agency.

So, Mr. President, in effect what this amendment does is make clear that the Federal, State, or local agency still has the power to say "No." All we are doing by this bill is expediting the getting of an answer, so that the local zoning board, the local permit board, the local building board, the local environmental board, whatever that local board is, or State or Federal board, it shall have the final power to say "No," as under the present law. We do not take away that power to say "No."

What we do do is tell them, "You have got to say no or yes within a reasonable time, and if you refuse to say no or yes in a reasonable time, we are going to decide the matter for you."

That is what the amendment does, Mr. President. It makes it very clear—makes very clear and in effect repeats what we think, frankly, is already clear from the bill, but makes clear beyond any peradventure of any doubt that we do not take away that power.

I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, one of the ghosts that haunts this Energy Committee bill is that it does more than it says. I join with the floor manager on the majority side to clarify that with reference to State substantive law.

I would add, for those who are leaning in opposition to the Energy Committee's bill because of so-called violation of States' rights, to consider that many of those organizations that oppose this bill were not concerned about States' rights when the national legislation that has been passed in the last 10 years was passed. But, so that there will be no opportunity to expedite, they now join in saying that we should have not even the time that it takes for the Federal Government and the States to decide altered, because that is in some way seriously violative of States' rights.

Mr. RIBICOFF. Mr. President, I yield 10 minutes to the distinguished Senator from Colorado.

Mr. HART. Mr. President, the pending substitute, in my judgment, is a far better bill than that reported by the Energy Committee. I join with its sponsors in urging my colleagues to support it.

The substitute bill is a tough, effective measure to keep bureaucratic redtape or delaying litigation from bogging down an important energy project.

To do this, the substitue bill, it establishes an Energy Mobilization Board; it authorizes the Board to pick the energy projects most likely to reduce our imports of foreign petroleum; it puts those projects on a "fast track" requiring all Federal, State, and local agencies to make decisions on all necessary permits according to a quick, binding schedule; it consolidates and shortens requirements for environmental impact statements; and it expedites judicial review of agency decisions.

These are the same legitimate fast-track provisions as those contained in the Energy Committee bill. I think they represent real reforms. These extraordinary new measures cut across all levels of government, to make sure that all agencies marshal their resources to rule quickly on projects necessary to meet our overriding energy needs. These reforms will prevent unnecessary delays of energy projects—whether the delays are caused by government agencies, private opponents to energy projects, or the courts.

However, the substitute bill does this without undercutting laws carefully crafted to protect public health and environment, as the distinguished Senator from Maine has pointed out so eloquently. I think this is the major difference between the substitute, which I support, and the Energy Committee bill.

The most important specific difference between the two versions is that the Energy Committee bill allows substantive waiver of Federal, State, and local laws. Since the Energy Committee did not adopt as sweeping a substantive waiver provision as adopted by the House Commerce Committee, some people have mistakenly thought the Energy Committee did not approve any substantive overrides. This is not true. Section 36 of the Energy Committee bill authorizes the Mobilization Board to waive substantive Federal, State, or local laws. The Board could block any new Federal, State, or local laws or regulations enacted after a project begins construction from applying to that project.

This provision is broad enough to apply to any Federal, State, or local laws or regulations. The EMB would only have to decide that a new law inhibits the "timely and cost-effective completion and operation" of an energy project to keep that law from applying to the project. The Board could suspend new civil rights laws. The Board could suspend new labor laws.

The Board could suspend a new windfall profits tax. The Board could suspend a new State severance tax. The Board could even suspend a new provision in a State constitution.

The only new laws the committee bill explicitly leaves outside the Energy Mobilization Board's waiver authority are State water laws. Although the committee bill does not say so, theoretically, at least, one could presume the Board could not suspend a new amendment to the U.S. Constitution.

We should think about the Constitution as we consider this proposed waiver authority. The waiver would be clearly unconstitutional. Put simply, the Constitution gives Congress the authority to pass laws, the President the authority to execute the laws, and the judiciary the authority to interpret the laws. Nowhere is there room in the Constitution for a new, fourth branch to suspend the laws. That mere thought flies in the face of every fundamental principle on which our Government is based.

There are other reasons, beyond its certain unconstitutionality, to oppose this proposal.

Although the waiver authority is broad enough to encompass all laws, it is clearly intended to provide relief from environmental laws.

At first glance, the idea of barring new environmental controls after a plant has begun construction may seem reasonable. After all, the waiver would not apply to the standards in effect when the plant begins construction.

But environmental standards adopted after a plant is operating may be the most important ones.

Even if we require the control of all known pollutants from an energy plant, we might not learn of the most serious pollution problems until the plant is in operation—just as we did not learn the real hazards of kepone, PCB's, and asbestos until they were in common use. This is especially likely with synthetic fuel plants, where our knowledge is so sketchy. Research done to date suggests the possibility of known and suspected carcinogens being produced during the production of synthetic fuel from coal and oil shale. Our knowledge is not yet great enough to let us say whether these possible problems would ever require new pollution controls.

The best course is to proceed with synthetic fuel production, controlling what we now know presents a health problem, and maintaining the freedom to impose new controls if they become necessary. If, however, the possibility of future controls is barred, we are left with an unnecessary Hobson's choice. We could decide to avoid synthetic fuels and other potentially risky technologies because of the possibility of a future health hazard. This choice, of course, would keep us from meeting our energy needs.

Or, on the other hand, we could proceed with those uncertain technologies, knowing we could discover a significant new health hazard. If we did discover that health hazard, the Government could be blocked by the Energy Mobilization Board's waiver from protecting its citizens. The Government would be unable to insure the safety of plantworkers and neighboring people from the newly discovered health hazard.

If the Energy Mobilization Board can let a plant with unknown technology continue unfettered, no matter what it does to the health of the people living nearby, it would be doing far more than just designating a priority energy project. It would be designating the area around the plant a potential national sacrifice area. It would be putting the energy from a single facility above all else—even if we learn that the facility ruins people's health and destroys the environment.

Mr. President, I think we all know our energy needs are great. But they are not so great that we have to abandon all other national goals in a single-minded pursuit of new energy plants. We do not have to abandon our ability to protect the health, safety, and welfare of our citizens.

The Senator from Louisiana yesterday said that we used to be a "can do" Nation and now we have forgotten how to be that. I disagree with that strongly, Mr. President. I think the people of this country still have as much confidence in themselves and their Government to take the necessary steps to do what needs to be done as they ever did. But times have changed. People are demanding more protection for the environment and for their health. They are demanding more protection for the future generations than we knew, in the 1930's and 1940's, that we needed. I think it is inaccurate to compare the 1980's with the good old days of the 1930's and 1940's, when we were a supposedly "can do" Nation without any of these regards for the quality of life and health and the safety of future generations.

Mr. President, we can have new energy supplies and environmental protection. Perhaps the most stringent environmental standards now in place are the provisions of the Clean Air Act that prevent the deterioration of air quality in relatively clean areas.

The Senator from Maine has detailed the importance not only of these provisions but also how much farther we have to go to solve these problems. We have not solved the clean air problems of this country in many areas, including, unfortunately, on too many days, my own home city of Denver, where we still have air that is unfit to breathe. We have energy problems and we are going to have to solve those and I think the Congress and the people of the United States are committed to that. It does not mean that we have to breathe foul air in the process.

I think what the substitute represents here is the kind of balance between those two national goals that we need.

Mr. President, since these standards were enacted as part of the 1977 Clean Air Act amendments, EPA has considered 76 applications for new coal-fired powerplants, and has approved 75 of the 76 applications. These 75 new plants will increase the use of coal by utilities by almost 25 percent over current levels. The one plant that was turned down has submitted a new application. While EPA has not made a final decision on the new application, the Agency is proposing to accept it. The experience of oil shale plants under the same standards is similar. Of four applications, EPA has granted all four—including one near an area classified for maximum protection under the standards.

So, we can still have major new energy production even under the most stringent environmental controls. These controls, which have not blocked energy development, are likely far stricter than any that would be waived under the Energy Committee bill. All of our environmental laws include the "grandfather" concept—a legitimate grandfather concept, not the substantive waiver the Energy Committee calls a grandfather clause. When passing environmental laws, Congress consistently has decided it is more equitable to set out tough pollution standards for plants that are not yet built than to require retroactive pollution control from existing plants.

Under the legitimate grandfather concept in our existing laws, the major means of Government control over pollution is the permit initially given a new plant, which limits the pollution the plant can produce. Only new sources—or sources undergoing significant expansion or change—must get permits. After a source gets a permit, it is not normally subject to any new or additional standards.

New or additional standards—the kind which would be blocked by the Energy Committee's substantive waiver—are applied to an existing plant only in unusual circumstances when they are necessary to protect the public health. In these rare instances, applying new standards to existing plants lets us protect the public health without crippling the existing industry. An example is vinyl chloride—a gas byproduct of the plastics industry.

In 1974, scientists discovered that vinyl chloride from existing plants posed a serious threat to plastics workers and people living near plastics plants. Using the kind of authority that the Energy Committee bill would let the Energy Mobilization Board block, EPA and OSHA developed new standards for exposure to vinyl chloride. These new standards did not cripple the plastics industry. The new standards did not put a single plant out of business. But the new standards do protect the health of hundreds of thousands of people.

We need this same flexibility to control any newly discovered health hazard produced by energy plants. Without the ability to discover and correct our mistakes, we might have to live—or die—with unnecessary, avoidable health hazards.

The Ribicoff substitute is superior to the Energy Committee bill primarily because the substitute does not include the open-ended, reckless waiver clause in section 36 of the Energy Committee bill. However, there are also many other important differences between the two versions. The Ribicoff substitute is better in every instance. I will mention briefly just the major remaining differences.

COMPOSITION OF THE BOARD

The Energy Committee bill does not really set up an Energy Mobilization Board. Except for the designation of key energy projects and the waiver decision, all decisions made in the name of the Board would actually be made solely by the Chairman of the Board. This Chairman would serve at the pleasure of the President and would not be subject to conflict of interest rules. In effect, the Energy Committee proposes to give a Presidential assistant, who could own stock in an energy company, sweeping powers over Government decisions on approval of energy projects.

The substitute bill would set up a Board in fact as well as in name. The members of the Board would be subject to normal conflict of interest requirements.

AGENCY DECISIONMAKING

Under both proposals, the Energy Mobilization Board would set binding deadlines for all decisions by Federal, State, and local agencies.

Under the Energy Committee bill, if any agency—Federal, State, or local—did not act on time, the Chairman of the Board would step in and make the decision. This is a bad idea for several reasons.

First, the purpose of the Board is to speed up decisions. Having the Board's Chairman replace the normal decisionmakers would actually slow down the process. The permit application and other information would have to be sent to the Chairman. The limited staff of the Board would have to start from the very beginning, repeating the basic review of the information the agency would already have conducted.

Second, making these substantive decisions would be an enormous drain on the limited resources of the Board, which would have a staff no larger than 50 people. The Board should not waste its time and resources granting permits and ruling on zoning variances. The Board's efforts should be concentrated where they are most important: designating key projects and determining decisionmaking schedules.

Third, the Board is a single mission agency. It is set up to speed energy projects through the bureaucracy. No board with this narrow a mandate should be given the power to make decisions that are intended to protect the public health and environment from the damaging effects of energy development.

Fourth, the Board would replace not just Federal decisionmakers, but also State and local decisionmakers. This would be an unprecedented assault on our federalist system of government.

DESIGNATION OF PROJECTS

The Energy Committee bill provides very close guidelines on the types of energy projects which could receive fast-track designation. The substitute bill sets out specific criteria to insure the designated projects are the most important ones for reducing our oil imports, and the projects actually need the fast-track system to get moving. This will make sure that agency resources are concentrated on the projects that are most in need of the fast-track consideration.

DEADLINE FOR AGENCY ACTIONS

The Energy Committee bill provides that all Federal, State, and local agencies must decide on a critical project within 2 years after it is designated. While there is a need for short deadlines, the deadlines should not begin running until the agencies have before them the information they need to make their decisions. Otherwise, an applicant could actually delay giving the necessary information to an agency, knowing the agency would have to make a decision within 2 years.

To avoid this problem, the substitute bill requires that all agencies make their decisions within 1 year after the applications for the priority project are completed. In most instances, this will lead to quicker decisions than the committee bill, while insuring the agencies are not making their decisions in the dark.

Mr. President, there are many other differences between the Energy Committee bill and the substitute bill that will be discussed at greater length as we address special amendments later this week. For now, the most important decision before the Senate is which bill provides the best framework for expediting energy projects, without undercutting other important national values. The substitute bill proposed by Senator **Ribicoff** is a much more balanced and reasonable bill, and I urge my colleagues to support it.

I thank the Senator from Connecticut for yielding time.

The **PRESIDING OFFICER**. Under the previous order, amendment No. 587 is accepted as a germane modification to the reported amendment.

Mr. **JOHNSTON**. Mr. President, I yield myself 1 minute.

Mr. President, the Senator from Colorado made a very eloquent speech. The only problem is he was not talking about our amendment, our bill. Our bill makes it very clear that there is no substantive waiver save and except in one instance. That is under the grandfather clause. Under the grandfather clause, all it says in that respect is that a State or local subdivision or the Federal Government cannot come in and change the rules after the company has already gotten its permits, made substantial investment; it cannot change those rules unless it might unduly endanger public health or safety.

I thank the Senator from Connecticut for yielding time.

The **PRESIDING OFFICER**. Under the previous order, amendment No. 587 is accepted as a germane modification to the reported amendment.

So in the instance that the Senator from Colorado talked about—that is, the polyvinylchloride—that would very clearly fit into the public health or safety clause. And of course, a State or local or Federal rule could be changed and escape the effect of the grandfather clause in that instance.

Mr. President, we have made it very clear in this bill that there is no substantive waiver save and except in the grandfather clause and in the grandfather clause is expected anything that endangers public health or safety. Also, it excepts anything related to pensions, minimum wages, maximum hours, anything prohibiting discrimination because of race, creed, sex, or national origin, anything that might be a crime or an antitrust law, and equal opportunity obligations.

So, Mr. President, this bill does not do what the distinguished Senator from Colorado charged. Perhaps that is because he is not familiar with the amendment which has already been adopted to the bill.

Mr. **HART**. Will the Senator yield for a question?

Mr. **JOHNSTON**. On the Senator's time.

Mr. **HART**. I do not have any time. May I have 1 minute for a question?

Mr. **RIBICOFF**. Yes.

Mr. **HART**. I am familiar with section 36. Unless that has been changed, it seems to me it gives the Board the authority to waive.

It says: Authorized to waive the application of any Federal, State, or local statute, et cetera.

Then in subsection (a)(2), and these waivers take effect unless:

> (2) the Board, after consultation with the agency responsible for implementing the statute, regulation, or requirement to be waived, finds that the waiver will not unduly endanger public health or safety.

The decision about what endangers unduly—which is an interesting word—is left with the Board.

There is no override on the part of the EPA, or anyone else, or any public agency. The Board makes that decision. That is the objection I have to this amendment.

Mr. **RIBICOFF**. I yield 2 minutes to the Senator.

Mr. **JOHNSTON**. I might say the answer is that that is subject to judicial review, that question of public health or safety. The Board must initially make the finding it does not endanger it and that, in turn, is subject to judicial review.

Mr. **HART**. Is the waiver operating while it is being reviewed? That can take years. In the meantime, people can be getting carcinogens in their lungs.

Mr. **JOHNSTON**. There is a possibility of injunction, but we vest it in TECA, under expedited procedures, which is one of the greatest utilities of this bill, the expedited procedure in TECA. So it is the fastest way to get the relief sought.

Mr. **HART**. One more question, what is the standard for judicial review, which in the law is arbitrariness and capriciousness?

Mr. **JOHNSTON**. It is the same as existing law.

Mr. **HART**. The Board has to be arbitrary or capricious——

Mr. **JOHNSTON**. That is not the standard in existing law, that is whether or not, in the case of evidence, there is a preponderance of evidence. In the case of law, whether or not it is legal.

There is no presumption with respect to law, but there is a preponderance test with respect to evidence.

Mr. **MUSKIE**. Will the Senator from Connecticut yield?

Mr. **RIBICOFF**. I yield 2 minutes to the Senator from Maine.

Mr. **MUSKIE**. Mr. President, I am very familiar with the Senator's amendment. I wholeheartedly agree with the analysis of it made by my good friend from Colorado (Mr. **Hart**).

Mr. President, I would like to add some comments of my own.

Mr. President, I expressed my general concern yesterday about the Energy Mobilization Board legislation reported from the Energy Committee. I would like to make a few additional observations about that bill as well as the alternative legislation I have cosponsored and on which we will vote on later today.

I would like to reiterate that I still have considerable doubt that the Energy Mobilization Board is a necessary body. I still have doubt as to exactly what kinds of projects the Energy Committee has in mind for special treatment.

I still have doubt that the Energy Committee bill will be a major contributor to the goal of the President to reduce oil imports by 50 percent by 1990.

And most important, I still have grave doubt that the serious intrusions into Federal, State, and local safeguards are really necessary to achieve energy independence.

S. 1806 answers my concerns in a manner which S. 1308 could not. And frankly, Mr. President, if the kinds of authorities taken away from State and local governments and given to the Board by the Energy Committee are necessary to speed up the review process for energy facilities, then I do not think that fast track legislation should be enacted.

But I refuse to believe that the legitimate concerns and protections for our citizens must be overridden to achieve energy independence. If this is the case, then perhaps we should be examining the principles of federalism upon which our system is based. A bill creating an Energy Mobilization Board is not the appropriate vehicle for this examination.

I would now like to discuss the specific provisions of S. 1806 which address my concerns, concerns I believe are shared by many Members of the Senate.

DESIGNATION CRITERIA

S. 1806 requires the Board to make a finding that a project will contribute to a 50-percent reduction in the use of imported oil by 1990, the President's goal, and that it needs the fast track system to make that contribution to the goal.

Mr. President, this set of criteria embodies the rhetoric that others have used as only a justification for their meat axe approach. That rhetoric has never been translated into a statutory requirement except in the Ribicoff substitute. The designation of a project as a priority energy project will result in significant consequences no matter what bill is accepted today. It is only equitable that a facility should make this contribution to the Nation and its citizens in return for an alteration of existing procedural and substantive safeguards.

The committee bill does not require the Board to even consider the social, economic or environmental consequences of the exercise of its powers over a project. Nor could the Board be required to consider the views of other Federal agencies, State or local government, or the public. Nothing in S. 1308 would even compel the Board to choose the best among competing projects.

Since the number of projects would be unlimited, and indeed the Board could designate an entire "class of projects" as one project, the impact of designation upon an agency's capacity to deal with other nonpriority applicants might be significant. Yet S. 1308 does not require that the Board consider the consequences, necessity or practicality of priority treatment for a project.

The Ribicoff substitute on the other hand, requires the Board to consider all of the consequences of designation. It also provides for consultation with Federal agencies and State and local governments. It sets forth clearly specified criteria for designation and requires that the projects selected represent a diverse range of energy sources and technologies.

In addition, only 24 priority energy projects may be designated for fast track treatment at any one time under S. 1806. The numerical limit, not contained in the Energy Committee bill, has the obvious advantage of limiting the number of projects which can receive any sort of expedited treatment and thus prevent the clogging of a fast track system with unwarranted designations.

JUDICIAL REVIEW

We all know that the purpose of judicial review is accountability. The expansion of the concept of standing to sue to any person affected by an agency action is one of the most important developments in recent decades. To a large extent, in fact, the expanded availability of judicial review of agency action in environmental statutes may be the single most important factor in the fulfillment of congressional mandates.

Yet the Energy Committee has insulated the Mobilization Board from any sort of accountability for its designation decisions. Thus, even if the designation criteria were more satisfactory, they remain meaningless without judicial review because the Board is not bound by the applicable criteria in any practical sense.

The Energy Committee does however, provide judicial review to those who are denied designations. In other words, those who are singled out to share in the largess will not have their status jeopardized by an outside party challenging the designation; but a project which misses out on the competitive advantage of the fast track may indeed challenge the Board's judgment. This unequal treatment cannot be justified on any grounds relating to the goals of the legislation.

The Ribicoff bill does provide for judicial review of designation decisions. The review is of an appellate nature, that is, simply a review by the court of whether information on which the Board based its designation actually meets the criteria. It involves no additional trial type techniques which can be time consuming.

The mere existence of the availability of judicial review will deter designations which abuse the discretion given to the Board. This safeguard against unwarranted designations will also prevent the clogging of the fast track system with projects which do not deserve expedited treatment.

DEADLINES FOR AGENCY ACTION

If one accepts the concept of an Energy Mobilization Board, it is necessary to set deadlines by which required agency actions must be completed. S. 1806 would require the Board to set deadlines binding on agencies which must perform actions relating to the approval of a priority energy project. That deadline could be no longer than 1 year after the completion of a permit application, unless a longer period is clearly necessary. This approach provides the flexibility absent in the uniform deadline in S. 1308. It also provides an incentive to both the applicant and the agency to determine the contents of an application and to complete it as soon as possible.

The uniform 2-year deadline imposed on all agency action under the Energy Committee bill is arbitrary and unworkable. It has no reference to the particular requirements of any statute which may be longer or shorter than a uniform deadline imposed for every action. It may preclude any possibility of obtaining four-season baseline data for evaluating later environmental changes. It may result in inadequate substantive review of permit applications and, this inflexibility virtually guarantees that the Board will be given the opportunity to make the decision in lieu of an agency which misses its deadline.

ALTERATION OF LAWS

There seems to be an assumption on the part of many Members that because S. 1308 contains no across-the-board substantive waivers, it is therefore acceptable. This is not the case. S. 1308 specifically states that the Board is empowered to "alter" laws dealing with the National Environmental Policy Act, agency deadlines, agency procedures, judicial review, and substantive requirements of laws developed or implemented in the future. This power could be used to alter any Federal, State, or local law.

The Board is thus given legislative, executive and judicial functions over Federal, State, and local agencies alike. Do we really believe this is warranted to achieve energy independence?

The Ribicoff substitute preserves both the procedural and substantive requirements of law and the Federal-State relationship.

PREEMPTION OF STATE AND LOCAL DECISIONMAKING AUTHORITY

The Energy Committee bill authorizes the Board to enforce deadlines it has set for an agency by making the decision for that agency once a deadline is missed. This is an unprecedented and unwarranted intrusion into the prerogatives of State and local governments.

The provision has other flaws as well. The Board will be unfamiliar with the Federal, State or local law it must implement, thus adding unnecessary time to the decisionmaking process. The Board's sole mission is to expedite construction of energy facilities, a concern which will be at odds with the mission of the involved Federal, State or local agency. This is likely to lead to imbalanced decisions, and to more court challenges.

S. 1806 preserves the prerogatives of Federal, State, and local responsibilities while providing an alternative effective mechanism for enforcement of deadlines. The Board is authorized to obtain a court order either in Federal or State court to compel agency action. This will expedite the review process without preempting the significant protections enacted by Federal, State, and local governments for the good of their citizens. This approach has been endorsed by the National Conference of State Legislatures, the National Governors Conference, the National League of Cities, the U.S. Conference of Mayors, and the League of Women Voters.

PROCEDURAL WAIVERS

The Energy Committee bill authorizes the Board to adopt special procedures for Federal agencies governed by the deadlines set by the Board. This approach is objectionable because the Board may impose such special procedures on an agency without any regard for the particular statutory requirement that the agency is implementing and the particular procedural needs associated with it.

I understand that the intention of the Energy Committee to expedite the procedural requirements of Federal, State, and local laws is central to this legislation. Some procedural requirements are of such fundamental importance, however, that they rise to the level of substantive law.

In some cases, the exercise of a substantive right hinges on a procedural requirement. In such cases eliminating the procedural right is tantamount to eliminating the substantive right itself.

The goal of this legislation, that is, to expedite decisionmaking, can be best accomplished by the establishment of realistic deadlines for agency action, coupled with a court order enforcement mechanism, the approach of the Ribicoff substitute.

GRANDFATHER PROVISION

Another provision of the Jackson bill which strikes at the heart of State and local governments' ability to protect the rights of their citizens is the grandfather provision. This authority would authorize the Board to waive any laws or regulation enacted or promulgated by a Federal, State or local body after commencement of construction of a priority project.

I think the best way to put it would be this: I would be interested in the reaction of the proponents of this grandfather clause and this whole Energy Mobilization Board, if administration of this act were placed in the Environmental Protection Agency.

Obviously, they would argue we were putting the fox in charge of the chicken coop.

However, they are trying to persuade us that putting their fox in charge of the environmental chicken coop is sound and that the Board will be as sensitive to environmental considerations as EPA or the State or local environmental agency.

Well, it works two ways. I say to my good friends. I just do not accept the argument that this Board—first, would be as knowledgeable about the intricacies and the background and the precedents of State and local laws dealing with the environment as those boards would be.

Second, it would not be as knowledgeable as EPA would be.

Mr. President, the grandfather provision would authorize the Board to waive any laws or regulation enacted or promulgated by Federal, State, and local bodies at the commencement of construction of a priority project. This approach would have the following serious results, and this is not procedural, this is substantive:

It removes the ability of all levels of government to deal with unknown or unanticipated toxic environmental effects of energy facilities that were not anticipated before the first shovelful of earth was turned;

It bars the possibility that technology to minimize these problems would be developed to insure the commercial viability of these processes;

Failure to develop controls will also guarantee continued resistance to the more widespread construction of energy facilities without adequate protection of the public health and safety of affected citizens.

Now, to argue that a provision that has those potential consequences is not substantive is the height of legislative cynicism, Mr. President.

Just yesterday an amendment was accepted to this provision which exempts from the waiver laws relating to labor management, pensions, safety, civil rights, crimes, and antitrust. Why do the alleged delays associated with those statutes have more significance than those which protect the public health and the environment or those relating to energy facility siting; ratemaking; rights-of-way for Federal, State or local lands; land acquisition and relocation; planning and zoning; allocation of energy supplies; regulation of transportation, including pipelines; tax determinations, including severance taxes; and historic preservation. It seems to me that our priorities are misguided in a very serious way if this amendment reflects them.

That is another list of laws that would be waived by this provision.

The amendment of yesterday did not touch those.

Now, why did they pick the ones they did to exempt from the waiver? To pick up votes, not because they had any doubts about the wisdom of the original provision.

So they conveniently overlooked these other significant and substantive provisions of State law.

S. 1806 contains no authority to waive substantive requirements, whether they be existing or future. No compelling reason for such a waiver has yet been provided by its proponents. I think that this waiver authority is simply another example of using the goal of energy as a shield for amending certain statutes a backdoor fashion. I have tried to get information on the need for the grandfather provision; yet none has been provided. I must assume then that the real motivation for the provision is not that it is necessary to expedite the operation of energy facilities but that environmental statutes are simply an inconvenience to some, who will try to avoid the requirement of law through any tactic.

NATIONAL ENVIRONMENTAL POLICY ACT

Congress enacted NEPA in 1969 to redress the mistakes being made by Federal officials who obstinately refused to consider the consequences of their actions for the human environment. Yet the Jackson bill would take us back to that very situation. The statute would be amended to give the Board the power to say who prepares the statement, and whether an impact statement was even necessary.

The Ribicoff substitute preserves the substance of NEPA while streamlining the process. It retains the current role of the Council on Environmental Quality and requires that deadlines be set for completion of each agencies role in the EIS. Again, there has been no indication that the existing process has not worked. Thus our bill seeks to simply speed up that process.

Mr. President, I think Senators ought to understand the limitations of the amendment yesterday, as well as the substantitve impact of the grandfather clause.

I thank my good friend from Connecticut for giving me an opportunity to make those points in the RECORD at this time.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Mr. President, how much time does the proponent of the substitute have and how much does the opponent have at this point?

The PRESIDING OFFICER. Would the Senator repeat his inquiry?

Mr. DOMENICI. How much time does the proponent of the substitute (Mr. RIBICOFF) have and how much does the opponent's side have?

The PRESIDING OFFICER. The Senator from Connecticut has 26 minutes and the Senator from Louisiana has 25 minutes.

Mr. DOMENICI. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order for Mr. JOHNSTON to make the motion to table now, notwithstanding the fact that the debate has not expired and will not expire until 12 o'clock.

Mr. MUSKIE. Reserving the right to object, may I ask the majority leader, the motion will be voted on at 12 o'clock?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I so move, Mr. President, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered for 12 o'clock noon.

Mr. RIBICOFF. I yield 1 minute to the Senator from Maine.

Mr. MUSKIE. Mr. President, the Senator from Connecticut yielded me 1 minute.

I would like to read this language from page 39 of the committee report:

> The Committee intends to authorize agencies to make the changes enumerated in this section whether or not they can be categorized as procedural or substantive and whether or not they have substantitve as well as procedural implications.

Mr. President, that has been the burden of my argument for 2 days. I thought the Senate would be interested in finding support for that analysis in the committee report itself.

Mr. JOHNSTON. Mr. President, I yield 2 minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, I intend to support the motion to table the substitute because, as is pointed out in the committee report, I filed some minority views indicating my position that the committee bill does not go far enough.

I am rather surprised to hear that the substitute is supported on the basis of attempting to protect States rights. I think that is a red herring. The only thing in the bill before us from the committee that is affected is the time of action under State law.

My substitute would provide for waiver of State substantive law, would provide for waiver of Federal substantive law, and would permit these priority projects to be placed on a fast, fast track.

The committee substitute sets forth a time frame concept and will provide some priority consideration. I do not think it will be sufficient, but certainly the concept of States' rights has not been affected by the committee bill.

The one States' rights area with which I am familiar, the question of the validity of rights created under State law for water, is fully protected by the committee bill. It seems to me that that is a property right. It is not a question of procedural law. It is not a question of State procedural law, such as a little NEPA law or a little water pollution law or a little clean air law, as I call them—copies of the Federal law.

Unfortunately, the substitute would exacerbate the situation further. It would be so bad that I think we could have litigation going on both in State courts and Federal courts at the same time, on the same projects, trying to determine what the situation should be with regard to the State law and with regard to the Federal procedural law. The committee bill is a step in the right direction.

I wish we would try to realize, if we are going to expedite these projects of national significance, that we should try to run and not just crawl toward the concept of expediting the projects. The substitute is a step backward. In terms of projects such as the Alaska oil pipeline, it would not have gotten that pipeline moving at all. As a matter of fact, it would further harass those who wanted to build the Alaska oil pipeline, in my opinion.

I hope the motion to table is supported by a majority of the Senate.

I would like to see some amendments offered to the committee bill to strengthen it, rather than a substitute which would completely destroy the concept we are trying to work out, and that is a procedure to expedite energy projects which are of national significance.

I thank the Senator for yielding me time.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. I thank the Senator for yielding.

Mr. President, I join others in congratulating the Senator from Louisiana and the Senator from New Mexico for bringing this bill to the Senate, because it addresses what is really the central aspect of the energy problem in this country today, and that is the bureaucratic redtape that makes it almost impossible to produce energy, no matter what the market forces or the capital forces are. The thing tying us in knots is the bureaucratic redtape.

At the same time, I congratulate the Senator from Connecticut and the Senator from Maine for the concerns they have raised, and they are concerns which I share.

I am eager to cut the redtape, but I want to do it in a way that is fully protective of States rights, particularly State concerns about water and environmental and similar considerations.

As I understand the parliamentary situation, if the tabling motion is adopted, we then have the committee version of the bill before us, and presumably Senator RIBICOFF, Senator MUSKIE, and others will offer a series of amendments to the committee bill. If the tabling motion fails, then presumably we can go ahead and offer perfecting amendments to the Ribicoff-Muskie substitute.

We have a complex parliamentary situation, and it seems to me that the best and most orderly way to resolve that is not to table the pending substitute and to permit those of us who have additional perfecting amendments to offer to do so.

Therefore, I will vote against tabling, but I make it clear that that is not necessarily, in my mind, a final judgment on the merits of the proposed substitute. Either way, whether the substitute is or is not tabled, I think both versions of the bill require further amendment, and I will have two and possibly three suggestions of my own. I know that others will, also.

I wanted to get that explanation on the record, because the parliamentary situation is complex and potentially subject to confusion. My interest is to find a way to cut the redtape, as the Senator from Louisiana, the Senator from New Mexico, and others on the committee are trying to do, and to preserve and protect States rights and environmental considerations which have been spoken of eloquently by a number of Senators.

I am going to withhold offering my amendments for the time being. I shall vote against tabling and offer my perfecting amendments sometime this afternoon.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Wyoming.

UP AMENDMENT NO. 588

(Purpose: To set forth a national program for the full development of energy supply, and for other purposes)

Mr. WALLOP. Mr. President, I offer an amendment to the substitute.

The PRESIDING OFFICER (Mr. DECONCINI). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP), proposes an unprinted amendment numbered 588 to amendment 488.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, between lines 5 and 6, insert the following:

SEC. 21. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

Renumber remaining sections accordingly.

On page 27, line 10, insert the following after "action.": "Where possible, the Energy Mobilization Board shall negotiate and enter into written cooperative agreements with each affected state and local government establishing the deadlines."

Mr. WALLOP. Mr. President, I ask unanimous consent that the names of Senator HATCH, Senator HAYAKAWA, Senator SIMPSON, and Senator GARN be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, the amendment I offer would insure that the integrity of State water allocation systems would not be breached by this act. In so doing, I believe we remove a cloud that now exists, and in fact improve the climate for necessary energy development.

My amendment would do four things:

Insure that nothing in this act is construed as granting the United States or its agents a new right to use water;

Insure that appropriations of water for a priority energy project or any energy project be made pursuant to State law;

Insure that if a State exercises conditions on water permits, that exercise will not be prohibited as being a burden on interstate commerce; and

Insure that nothing in this act shall alter after any provision of State water law.

I believe it is a necessary amendment. Our renewed interest in domestic energy production has rekindled fears in my State of Wyoming, and throughout the West, that our already tightly stretched water supplies will not be capable of supporting the additional development without injury to present water users. In the normal course of events, new development, be it agricultural, industrial, or municipal would not be feared. The system of water law which has developed in the West, fashioned around what is known as the appropriation doctrine, protects those who use water by recognizing the proprietary right of those who first divert water and put it to a beneficial use.

The system is comprehensive, and regardless of the amount of water that is available in any given year, all water users are certain of their rights to water in relationship to all other water users on a stream.

This system of water allocation by prior appropriation is not a roadblock to a new user, who may either acquire rights to unappropriated water should it be available, or purchase and transfer rights from existing water users. But all users will be protected, for they will either have their water, or be compensated for loss of it.

But the massive Federal push to develop domestic energy resources, of which this bill is a major part, along with recent Federal claims which run contrary to the long recognized authority of the States to allocate water supplies, is taking its toll. Opposition is mounting to many proposed energy developments not only for environmental and socio-economic reasons but because water users fear that water for that development will be acquired or exercised without regard to their prior rights.

I believe it is important that any legislation clarify that regardless of who develops energy in this country, through priority energy projects or garden variety energy projects, the water necessary for that development will be acquired and used in conformity with existing State water allocation systems. Such clarification is proper for three reasons. It acknowledges that only through State systems will all rights be recognized and protected, and meshes with careful congressional deference which has consistently been afforded State systems. Second, it will speed necessary energy development by removing the specter of shadow Federal rights and thus allaying many of the fears that now exist. And finally, it will serve to clarify Federal intent regarding water for energy development, and remove the need to address the issue in each piece of energy legislation which Congress enacts.

Let there be no mistake. My amendment would not limit rights the Federal Government might otherwise have to protect national parks and monuments, national forests, or other reserved Federal lands. This amendment would clarify Federal responsibilities regarding energy projects only.

● Mr. ROTH. Mr. President, as the principal Republican sponsor of the substitute amendment, I am pleased to accept the amendment offered by the Senator from Wyoming, my good friend. This amendment preserves and strengthens fundamental State and local rights against the Federal Government. The amendment strengthens the most fundamental State rights of all in our Western States: water rights. I think my colleagues should know that with this amendment added, our substitute amendment provides much stronger protection to State water rights than the Energy Committee bill.

As the ranking member of the Intergovernmental Relations Subcommittee which oversees Federal-State relations, I believe this amendment strengthens and sustains our federal system, preserves State and local rights. It deserves the full and wholehearted support of the Senate.●

Mr. WALLOP. Mr. President, it is my understanding that the sponsors of the substitute find this amendment acceptable.

Mr. RIBICOFF. Mr. President, under the unanimous-consent agreement, the amendment of the Senator from Wyoming is acceptable.

The PRESIDING OFFICER. Under the previous order, amendment No. 588 is accepted as a germane modification to amendment No. 488.

Mr. JOHNSTON. Mr. President, we also accept that amendment as an amendment to the committee bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I thank both Senators for their courtesy and for their understanding of the problems involved.

Mr. JOHNSTON. Mr. President, I yield 2 minutes to the Senator from Oklahoma (Mr. Boren).

Mr. BOREN. Mr. President, I support S. 1308, the Energy Mobilization Board, recommended to Congress by the President. In so doing, Mr. President, I am strongly reminded of a comment made by one of my constituents recently during one of the frequent town meetings I hold in Oklahoma.

I had been reporting on various matters before Congress and the difficulties I saw in getting some needed measures enacted. At the conclusion of my remarks, an elderly gentleman arose from the audience and said, "It seems to me that we are working just as hard as we can to defeat ourselves."

Mr. President, those words put very completely and concisely both the reason for the creation of any Energy Mobilization Board. A major reason why we do not have adequate energy facilities to meet the needs of our Nation and end our dependence on foreign sources is a classic case of buck-passing and decision postponement.

The President had demonstrated bold leadership in his concept of this Board.

We must act now to increase our domestic production, refinement and transportation of energy.

Even if the drilling of oil increases dramatically, as a result of decontrol, if it takes 12 years for a company to get permits to build a refinery, and over 4 years to build needed pipeline so that we can use the oil we produce, then such an important step is for nothing.

Mr. President, the American people have felt the pinch of short supplies due to unrest overseas, and they are demanding that the Congress get its house in order here at home to produce the energy we need. The people have a great sense of urgency.

The President has recognized this and has devised a strategy to cut through the bureaucracy and provide our citizens with the energy they demand.

Just as we in Congress are quick to criticize the President when we believe he is wrong, so we should be quick to praise him when he is right, and in this case, he is absolutely right.

If the Congress fails to pass a bill with teeth, such as S. 1308, our energy problems will continue, disruptions will be back. We will not be able to point the finger of blame at the President, the people will be justified in pointing the finger of blame directly at the Congress itself.

The bill passed out of the Energy Committee is far from perfect. I would have liked to have seen more private sector involvement as was the case during WW II on the War Production Board. But I do believe that the Energy Committee bill is strong enough to do the job we so desperately need.

I believe that S. 1308 is a far stronger bill than the substitute measure now under discussion and here are just six areas of significant differences.

First, the committee bill sets firm decision deadlines for Federal, State, and local action on priority energy projects and the substitute does not.

Second, the substitute contains no procedures to enforce established deadlines except by going to court. Mr. President, a great deal of our problem is that we spend far too much time in court now.

Third, the grandfather clause contained in the committee bill with respect to the waiver of substantive laws is vitally needed. No such provision is contained in the substitute. Projects should not be delayed because the law is changed after they are commenced.

Fourth, the committee bill contains a much needed provision for the consolidation of lawsuits. I view this as an extremely important timesaving measure.

Fifth, I do not agree with the concept contained in the substitute that there be a limit on the number of energy priority projects that would be established and pursued by the Energy Mobilization Board. The Energy Committee bill rightly contains no such restriction.

And finally, Mr. President, under the substitute proposal now being considered, every designation for a fast track project could be challenged in court.

Mr. President, I firmly believe that no bill at all is better than a bill with no teeth in it. We must have the courage to strike the needed balance between energy production needs and environmental concerns.

I certainly have strong concern for the environment and my record as Governor and here in the Senate will reflect that. But in this matter, balance is needed, and more than that, enforceable balance is needed. The committee bill will provide that balance. Every one should have his or her "day in court" but then a decision must be reached in a timely fashion.

One final point, Mr. President. The concept of an Energy Mobilization Board is based on the need to cut through the bureaucracy and reduce redtape. I find no consistency in achieving that end through the creation of more bureaucracy and more redtape. That is precisely what this substitute measure would do.

I urge my colleagues to support the motion to table that will be made later today and support the President and the Energy Committee in their efforts.

So, I urge the adoption of the committee version of the bill and the rejection of the substitute.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 1 minute to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from Louisiana.

Mr. President, with the adoption of my water amendment on the committee bill, S. 1308, as well as the substitute, many of the reservations which I expressed in my additional views have been laid to rest.

I say that the mere fact that the Senate and Congress is looking at this subject at all, the need for an Energy Mobilization Board, is a recognition that we have a structural defect in the law in our ability to try to move the country forward in the production of its energy resources at a time when we need them most. Anything we can do to ease and deal with that structural defect is valid.

I say one of the best things that is in S. 1308 is the required report back to Congress at the end of the period of time of what they have identified as being the most serious problems that they have come across.

I also point out that one of the things I like is that there are no set limits, although I express some reservations on the committee in my additional views. It seems to me that in a competitive world where the free enterprise system is at work you cannot take two similar projects and fast track one and refuse to fast track the other, and thereby make a decision that is worth a couple of years and a couple hundred million dollars in the competitive field.

So there is also a recognition of that in S. 1308 that there is an appeal from the decision of the Energy Mobilization Board not to designate.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. WALLOP. Mr. President, I thank the Senator from Louisiana and just tell him my support is on his side.

Mr. RIBICOFF. Mr. President, on behalf of Senator DOMENICI I yield to my distinguished colleague from Connecticut (Mr. WEICKER).

Mr. WEICKER. Mr. President, I am pleased to join my distinguished colleague from Connecticut and the distinguished Senator from Maine in cosponsoring the substitute which is being offered to S. 1308.

There are many reasons why I am opposed to the Energy Committee bill. However, at this time I will confine my remarks to two sections of S. 1308 which are of dubious constitutional validity. Specifically, I am referring to the provisions that would authorize the Energy Mobilization Board to act in lieu of a State or local agency, and that which would vest in the Federal Temporary Emergency Court of Appeals exclusive jurisdiction to review an action by a State or local agency or a decision rendered by a State or local trial court. Unfortunately, although these sections have been referred to in passing during the course of debate on this bill, proper attention has not been given to these issues.

Subsection 21(a) of S. 1308 would authorize the Energy Mobilization Board to make a decision or take an action in lieu of any agency—whether it be Federal, State or local—if the agency fails to meet a project decision schedule deadline established by the Board. Congress is thus seeking to regulate the activity of States acting in their sovereign capacities. In the memorandum prepared by the Justice Department on the constitutionality of the administration's proposal for an Energy Mobilization Board—which was cited yesterday by the distinguished Senator from Louisiana, the floor manager of the bill now before us—it was admitted by the Justice Department that the provision for displacement of State and local agency decisionmaking:

> Obviously . . . intrudes on authority presently exercised by state and local officials. Indeed, it could be argued that supplanting decisionmaking strikes at the heart of state and local sovereignty. Nothing is a more integral governmental function than government itself.

Despite this stark admission, the Justice Department attempts to justify this provision on the broad power to act given Congress under the commerce clause, article I, section 8, clause 3 of the Constitution. Additional support is sought in a series of cases that considered constitutional challenges of the Clean Air Act.

However, in discussing the displacement of State and local decisionmaking, the Justice Department does not even discuss the seminal U.S. Supreme Court Decision establishing limitations on the congressional power to act under the commerce clause to interfere with the role of the States in the Federal system.

In its 1976 decision in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), the Supreme Court invalidated extension of the Fair Labor Standards Act's minimum wage and maximum hour standards to State and local governments. The Court stated that:

> We have repeatedly recognized that there are attributes of sovereignty attaching to every state government which may not be impaired by Congress, not because Congress may lack an affirmative grant of legislative authority to reach the matter, but because the Constitution prohibits it from exercising the authority in that manner. *Id.* at 845.

In its decision, the Court established a test by which the constitutionality of every attempted commerce clause regulation of State and local governmental activity must be judged. The test has two tiers to determine intrusions on State sovereignty.

First, it must be determined whether the governmental activity being regulated is "essential to the States' separate and independent existence." To identify those governmental functions deserving an affirmative constitutional protection, the Supreme Court used several phrases: "integral"; "traditional"; "essential"; and "functions * * * which (State) governments are created to provide."

Is there any doubt that the State and local activities which the Energy Mobilization Board would be empowered to displace under subsection 21(a) of this bill are those functions which are traditionally relegated to the States? Under the Energy Committee bill, the Energy Mobilization Board is empowered to act in lieu of the States or local agency in such traditional State governmental functions as zoning decisions, land-use controls and safety regulations as they are applied to energy facilities. If the Federal Government is empowered to preempt local zoning decisions, our State and local governments would be reduced to mere appendages of the Federal Government. Clearly, this result would transgress the constitutional scheme.

Having ascertained that the State and local agency activities are "essential to the States' separate and independent existence," the test established in National League of Cities requires an examination of the degree of interference imposed by the Federal regulation. If the regulation either imposes significant financial burdens on the governmental body subject to the regulation or displaces the States' freedom to carry out essential activities, then the Federal Government has unconstitutionally interferred with State sovereignty.

The displacement powers granted the Energy Mobilization Board under S. 1308 empowers it to impose conditions on the State without either relieving the State completely of regulatory responsibility or providing it with feasible alternatives to operating under the Federal dictates.

While a State is aware of the deadlines and waivers present in its decision schedule before it embarks on its regulatory process, it is not, as a practical matter, given the option of not initiating the process so as to avoid the deadlines.

It must start the process, hoping to comply with the schedule; if not, the process is prematurely ended and Federal decisionmakers take over. Because a State cannot be expected to abandon such traditional and essential functions as zoning, land-use control, and health and safety regulation, it must enlist its regulatory resources each time with the possibility of premature termination of the process, together with its attendant waste of State money and personnel time.

The two prongs of the National League of Cities test are satisfied by the provision in S. 1308 empowering the Energy Mobilization Board to act in lieu of State and local agencies. Thus, the provision is an unconstitutional intrusion by the Federal Government into an area sovereign to the States.

I might add that the Justice Department's reliance on the courts of appeals decisions in the so-called clean air cases, is misplaced. Simply put, the Courts of Appeals of the Fourth, Ninth, and District of Columbia circuits in these cases rejected an interpretation of the Clean Air Act which would force States to enforce implementation plans by enacting statutes or regulations, or face the possibility of compliance decrees or civil or criminal penalties. As the court stated in *EPA* v. *Brown*, 521 F.2d 827, 839 (9th Cir. 1975), to adopt such an interpretation of EPA's enforcement powers "would authorize Congress to direct the States to regulate any economic activity that affects interstate commerce in any manner Congress sees fit. A commerce power so expanded would reduce the States to puppets of a ventriloquist Congress." It may similarly be argued that to enable the Energy Mobilization Board to step in for State or local agencies would make the States Muppets. Therefore, the Board should not be given the authority to displace State and local agency decisionmaking.

I also have reservations about the constitutionality of vesting the Temporary Emergency Court of Appeals with jurisdiction to review "any action by any State or local agency or officer if such action is subject to a deadline" and to review any action by "any State or local trial court with respect to a case involving an action pursuant to the act."

Article III, section 2 of the constitution of the United States provides that Federal courts may be given jurisdiction "over all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

In determining whether a case "arises under" the Constitution or laws of the United States, one must start with Chief Justice Marshall's opinion in *Osborn* v. *Bank of the United States*, 22 U.S. 738 (1824). Marshall reasoned that the "arising under" provision would be satisfied because the validity of a federally-chartered bank's capacity to sue or contract would always be an "original ingredient" of every suit.

However, cases coming to the Temporary Emergency Court of Appeals from State agencies pursuant to S. 1308 would lack even an "ingredient" of a Federal question. The plaintiffs in such suits would be State citizens or corporations, the defendants State officers and agencies, and the governing law would be found in State statutes. The absence of any federally created cause of action or parties operating under Federal control or auspices would take appeals from State agency action outside even the most expansive reading of article III.

The Department of Justice, in defense of the administration's proposal, has offered two theories to embrace these cases within Federal jurisdiction. These defenses have likewise been offered for S. 1308. One argument is that Federal law could incorporate State law and in effect adopt it as Federal law. The notion of "protective jurisdiction" has also been proffered as a justification. Neither of these theories withstand close scrutiny.

S. 1308 does not purport to incorporate State law as Federal law. Nor has "Congress expressly incorporated State law as the Federal law of decision by the EMB and State and local agencies * * *," as the Justice Department memo has suggested is necessary.

Additionally, four of the five cases cited by the Justice Department in support of the incorporation theory are in fact cases involving State law being applied in national parks, which are Federal enclaves. Thus, these cases—unlike S. 1308—involve areas of exclusive Federal sovereignty and law enforcement gaps would exist if State law was not held to be incorporated. Finally, in the Quadrini case cited by Justice, the court expressly limited its discussion of Federal court application of State law to the Federal enclave situation. The Court expressed doubts about its applicability in the commerce clause context—which is the context in which the incorporation theory under S. 1308 would have to be considered.

Nor can Federal jurisdiction be predicated on the "protective jurisdiction" theory. The Supreme Court has not affirmed either variant of this theory. In fact, as Justice Frankfurter said in his dissent in Textile Workers Union of America against Lincoln Mills:

> Protective jurisdiction, once the label is discarded, cannot be justified under any review of the allowable scope to be given to Article III.

Many have adopted the Frankfurter view. As Professor Wright observes in his treatise on Federal Practice and Procedure:

> It is difficult to believe that the Supreme Court, if clearly confronted with the question, would accept . . . proposals for "protective jurisdiction" when to do so would have such drastic consequences on the accepted understanding of Article III as a limitation on the federal courts.

There clearly exists substantial questions concerning the constitutionality of vesting the Temporary Emergency Court of Appeals with exclusive jurisdiction to review actions of state and local agencies and decisions rendered by State and local trial courts. Accordingly, review of these decisions should be left to the review procedure adopted by the appropriate State.

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mr. WEICKER. I make the final point that voting for the Muskie-Ribicoff amendment vitiates the objections which I have stated or have in my statement here today. Failing their amendment, I will offer them as amendments to the bill.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, I thank my friend from Louisiana.

S. 1308 appears to be that rare legislative product which has reached the middle ground which successful legislation usually seeks but rarely finds. The middle ground is that we have found this position which will make is possible for the Nation to move ahead in solving the energy crisis without unduly stepping on the rights and prerogatives of State and local governments.

The fact is that we must have, as a very minimum, a procedure to get decisions in the energy area made in a prompt, timely manner or we are never going to be able to solve our problem; and the fact also is that the substitute does not provide these procedures and, therefore, is not a valid solution to the difficulties that major energy developments face in trying to get the permits and overcome the redtape that presently impede these major projects.

There are some in the Senate who feel S. 1308 goes too far and that it may impair processes designed to assure careful consideration of environmental concerns. On the other hand, there are those who consider the legislation to be lacking in that it does not provide authority to directly override State and local authorities. As a member of the Energy Committee and one who spent many hours in the consideration of this legislation, I must say that, while I personally favored a stronger bill, I feel S. 1308 holds the potential for moving the United States sharply forward toward the direction of solving the Nation's energy problem.

Mr. President, my interest in this legislation is not new. On December 6 and 7, 1973, the CONGRESSIONAL RECORD, beginning on page 40081 and intermittently through page 40232, records debate on an amendment which I offered to S. 1283, a bill intended to establish a national energy research and development policy. My amendment was intended to remove what I considered to be impediments which would prevent S. 1283 from accomplishing its role.

During the debate, I stated:

> The effect of my amendment is to put the program into action almost immediately so that we would have results in time to help in the resolution of the immediate energy crisis as well as to help solve it on a permanent, lasting basis. (Page 40086.)

Also during that debate, the distinguished Senator from Louisiana, BENNETT JOHNSTON, stated on page 40088:

> As the President has said, being energy self-sufficient in 1980 is a top priority for the United States. So, in the sense that this amendment is intended to make us energy self-sufficient, we are in accord with that feeling.

In retrospect energy self sufficiency in 1980 seems like an impossible dream. We are far worse off now than we were in 1973.

Mr. President, the fact that we have come far short of energy self-sufficiency in 1980 is one more reason why I strongly support the measure before us today.

The fact is that either intentionally or inadvertently, Congress has wasted the 6 years since 1973. The legislation which the Senate has passed, while well intended, has been so encumbered by restraints of one kind or another that the effective development of alternative fuels has been paralyzed.

There is no question that this Nation has the energy resource base needed to meet our energy requirements indefinitely. The problems in getting commercial oil shale, coal liquefaction or coal gasification plants into production are actually two. The first is the problem of economics. No investor is willing to build an energy plant which may cost hundreds of millions or perhaps billions and produce a product which is sold at a price too low to show a reasonable return on investment.

Of equal importance, experience such as the Sohio/California pipeline incident have made investors fully aware that the impediments which Congress and other governments has placed in the road of major energy developments are so onerous that needed projects may never get off the ground because they become entangled in either State, local, or Federal redtape.

S. 1308 comes as close as it is legislatively possible to walking the narrow line between creating a governmental monster which has the power to trample upon the prerogatives of the States or the lives of our citizens and the timidity which has made past legislative endeavors in this area unproductive.

Without the legislative authority provided in S. 1308, as well as the financial support anticipated in the passage of the Energy Security Corporation legislation which will follow, this Nation is likely to wait another 6 or perhaps 60 years before the multibillion-dollar investment needed to bring our abundant energy resources to the marketplace are made. Admittedly, there are risks in this legislation but they are risks which can be quickly remedied if Congress feels that the authority granted by S. 1308 is being abused.

Many studies have shown that numerous energy development projects are being held in abeyance until the legislative authorities contained in S. 1308 are in place. Unless approval and licensing of these demonstration-type projects is accelerated, there is simply no way to get to the commercial scale plants which will be required if this Nation's dependence on costly, unreliable crude oil imports is to be diminished. A recent editorial in the October 1, 1979, issue of the New York Times states an argument on this topic which I find compelling.

I ask unanimous consent to have the New York Times editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE ENERGY RISK WORTH TAKING

The bitter debate over the creation of an energy mobilization board is coming to a head in both houses of Congress. The House must soon decide between very different approaches sponsored by Representatives Dingell and Udall. But first will come a pivotal decision this week in the Senate, where a plan close to the one proposed by the Carter Administration is backed by Senator Jackson. Opponents of that bill raise some troubling objections. But given the need to assure speedy development of alternative energy resources, the Carter-Jackson approach deserves support.

Under the Administration's plan, the primary function of the energy mobilization board would be to trim red tape. It could set deadlines for Federal, state and local review of project permits. If these various authorities did not meet the deadlines, the board would be permitted to make decisions for them, within the constraints of existing law.

Once construction had begun on a project, the board could exert somewhat broader powers. It could block any imposition of added restrictions—new air quality standards, for example — unless health or safety were threatened. All challenges of projects requiring adjudication—whether Federal, state or local—would be heard by a single Federal appellate court.

Some environmentalists dislike the plan because they oppose enabling a Federal board to do what this one would—that is, prevent delay for the sake of delay. More thoughtful environmental opponents recognize the need to get moving on energy, but are worried that the board's discretion would be insufficiently constrained by law. A Carter-style board could not directly alter environmental laws, save in the special case of regulations imposed after the fact. By forcing rapid decisions, though, it might prevent careful review of environmental hazards.

That risk is real; bureaucracies do have a way of focusing on narrowly defined goals—like the completion of energy projects—and, in the process, of giving short shrift to competing concerns. In this case, however, the risks are acceptable, precisely because the alternatives are not.

The United States faces unprecedented dangers in continued dependence on foreign oil. Only with luck will the nation make it through the 1980's without catastrophic oil shortages or shameful foreign policy concessions to OPEC. An energy mobilization board alone can hardly be expected to solve the problem of dependence. But it would help, at a time when America will need all the help it can get.

Mr. BELLMON. Therefore, the legislation before us is key to future energy development in this country. In my opinion, this bill is the centerpiece for the effective development of our unconventional energy resources such as oil from shale and gas or liquids from coal. Without this legislation, Mr. President, we remain at square one in our continuing energy dilemma; for without the expedited procedures contained in this bill, all the money we authorize, or all various incentives we may make available for the development of synthetic fuels in this country will go for naught. The time has come to untangle the bureaucratic web which has stiffled major energy development in this country. S. 1308 provides the means for moving ahead toward a solution of the Nation's energy problem.

Others have explained the details of S. 1308 and I will not add greatly to this burden of explanation. This bill simply provides the mechanism and authority for expediting the decisionmaking process associated with priority energy projects. It preserves the integrity of substantive laws which may affect such projects at every level of Government. This legislation only addresses procedural delays, not substantive problems, and in doing so, a balance has been struck between those who are frustrated by unnecessary delays within the governmental process and those who fear a wholesale destruction of our environment.

Mr. President, as a Member of this body for almost 11 years, I feel I am safe in saying that the Senate has yet to pass a perfect piece of legislation. I certainly do not represent that S. 1308 qualifies for that description. However, I would like to say to all my colleagues that none of us can have everything we want in this bill. I believe it represents a responsible and workable approach to the problem of removing the bureaucratic barriers which have held back energy development in this country and, at the same time, it avoids trampling unnecessarily on the rights of our citizens and on the prerogatives of State and local governments. I doubt we can do better and, for that reason, I support S. 1308 and urge others to do the same.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry. May we know the times remaining for the distinguished Senator from Louisiana and myself?

The PRESIDING OFFICER. The Senator from Louisiana has 14 minutes, 54 seconds; the Senator from Connecticut has 12 minutes, 23 seconds.

Mr. RIBICOFF. I yield 2 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas has taken a careful look at both S. 1308 and S. 1806. I am fully aware of the need to expedite domestic energy projects in order to reduce this country's dependence of foreign oil—oil sold at prices artificially high; prices which are devastating our economy.

Mr. President, as I see the situation, we have before us today two alternatives which seek to deal with this problem. First, we can create an energy mobilization board with far-reaching power to waive State and local procedural and substantive law, such as S. 1308 contemplates.

The Senator from Kansas is aware of the arguments that the proponents of S. 1308 put forth. They deny that the Energy Mobilization Board would have these drastic powers to override State and local statutes and regulations. Nevertheless, I am concerned about the constitutionality of such a proposal.

In the recent case of National League of Cities against Usery, the Supreme Court struck down the application of Federal wage and hour provisions to State and local government employees, on the grounds that such application unconstitutionally impaired the States' "Freedom to structure integral operations in areas of traditional Government functions."

Mr. President, the Senator from Kansas fears that this and similar other cases could and would be used as precedents for States to bring many actions in court challenging the constitutionality of the far-reaching energy mobilization board as envisioned in S. 1308. This bill gives the Board too much far reaching power to waive State laws and to force States to comply with its decision schedules. In addition, judicial review would be available only in the temporary emergency court of appeals, the constitutionality of which may also be challenged by States. If the States proceeded to litigate the Board's and Court's constitutionality, the entire Energy Mobilization Board might very well be tied up in court for months or even years. This would certainly not aid in the swift approval of energy project construction permits.

The second alternative we have is the so-called Ribicoff/Muskie amendment, No. 488, which would set up an Energy Mobilization Board with less drastic powers. I support the concept of placing the Energy Mobilization Board in more of a consulting role, rather than a role of supreme decisionmaker.

The only way that such a board can legitimately function and subsequently aid in alleviating our energy problems is for Federal, State, and local governments to work hand in hand with one another. Too many times we have seen a new Federal agency created to eliminate a given problem only end up, in the final analysis, as a further impediment to the solution. The energy crisis we face today is much too threatening to our economy and to our total way of life to permit this to occur. Therefore, our job must be to provide a mechanism that will enhance a feeling of cooperation, rather than the ultimate subjugation of State and local prerogatives.

While I am inclined to view the Ribicoff proposal as the lesser of two evils, I am concerned that it may become too weak to have any significant impact on smoothing the path for energy projects. It seems to me that it would just create another costly Federal bureaucracy without any effective power.

My concerns about the Ribicoff amendment can be addressed by the adoption of three amendments which I plan to offer.

The Senator from Kansas would like to state for the record his intention to offer these amendments, without which I cannot support the Ribicoff substitute.

First, the Senator from Kansas believes it to be specious, at best, to permit passage of State or local legislation which would inhibit the completion of a priority energy project after it has been designated as such. Accordingly, I plan to propose an amendment to the pending substitute which would provide for a "grandfather" clause, enabling the Energy Mobilization Board to waive the application of any Federal, State, or local statute, regulation or requirement enacted after the designation of a priority energy project for a period not to exceed 5 years. This "grandfather" provision would tighten up the Ribicoff amendment without running into serious constitutional problems.

The waiver power granted to the Energy Mobilization Board in my "grandfather" provision would permit a waiver to be granted only after the Energy Mobilization Board consults with and secures the consent of those Federal, State, and local agencies involved. By adopting language such as I propose we can assure that the Energy Mobilization Board will not be enpowered to overrule statutes or regulations promulgated by a State or local government without their approval.

Mr. President the proposal of the Senator from Kansas is a realistic compromise to this delicate issue. It is a compromise that both sides of this question can support. It would simply allow the Energy Mobilization Board to grant a waiver of any new statute for a maximum of 5 years. It is not an open-ended waiver with no time limitation. This 5-year waiver would certainly be enough time to allow for either compliance with the new statute or regulation or the final completion of the project itself.

Second, the Senator from Kansas would like to provide for a sunset provision to be included in the legislation to terminate the Energy Mobilization Board in 5 years, and require the Government Accounting Office to issue a report of the Board's accomplishments and recommendations for future action. We must be careful not to create a monster of an agency which would continue beyond its useful life. Bureaucracies have an innate tendency to perpetuate themselves.

The report requirement would be a way of assuring that the life of the Board would not be extended beyond its usefulness. The GAO report would provide the Congress with an independent and comprehensive assessment of the Board's performance.

The Senator from Kansas envisions that the report would include the following: First, has the Board accomplished its goals; if not, why not? Second, how many years and dollars has the Board saved us? Third, by how much has our imported oil been reduced? Fourth, should the Board's authority be terminated or extended?

Finally, the Senator from Kansas would like to propose that the composition of the Energy Mobilization Board be bipartisan. This would insure that political or philosophical differences would not dictate national energy policy. There is a clear need for balance in the philosophical and political outlook of the Board's members. This amendment would insure that the Board would not be used as a political tool of the party which controls the White House.

We must not play politics with the energy needs of the country. Without this amendment, the Senator from Kansas fears that the Board could be used to designate priority energy projects on the basis of political patronage rather than actual need and merit. Furthermore, the Board is far more likely to insure a willing compliance with its decisions by States and localities if it is bipartisan, because its motives will be looked upon as sincere, and as being in the national interest.

For these reasons, Mr. President, I would like to offer an amendment requiring that not more than two of the Board members may belong to the same political party.

Mr. President, the Senator from Kansas would like to state for the record his sincere concern with the deficiencies of both S. 1308 and S. 1806. Without the three amendments which I have offered, this Senator does not see how he can support either bill.

UP AMENDMENT NO. 589

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 589.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, insert the following between lines 4 and 5:

SEC. 28(b). Not later than March 30, 1985, the Government Accounting Office shall prepare and transmit a report to the Congress concerning the activities of the Energy Mobilization Board since the date of enactment of this Act. Such report shall contain a detailed analysis of the number of years and dollars saved and of the amounts by which imported oil use was reduced by the Federal Government and the private sector due to the activities of the Board in carrying out this Act, and estimates concerning such savings and usage if the authority of the Board were extended until September 30, 1990.

Mr. DOLE. I may say I discussed this amendment with the distinguished Senator from Delaware and the distinguished Senator from Connecticut. What it does is to terminate the Energy Mobilization Board in 5 years, and require the Government Accounting Office to issue a report of the Board's accomplishments and recommendations for future action. That is the substance of the amendment I am offering to the Senate, and I think it is acceptable.

Mr. RIBICOFF. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. Under the previous order amendment No. 589 is accepted as a germane modification to amendment 488. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 590

(Purpose: To provide that not more than two members of the Board may be members of the same political party)

Mr. DOLE. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 590.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, between lines 6 and 7, insert the following:

(g) Not more than two members of the Board may be members of the same political party.

Mr. DOLE. All this amendment does is to make certain that the composition of the Energy Mobilization Board will be bipartisan and will assure that political or philosophical differences will not dictate national energy policy. This amendment will require that not more than two of the Board members may belong to the same political party.

Mr. RIBICOFF. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. Without objection, the amendment is acceptable under the previous order as being a germane modification to amendment No. 488. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE. Mr. President, in the time I have remaining I would just suggest that after the motion to table has been defeated, I will offer a grandfather clause, a grandfather amendment. It seems specious, at best, to permit passage of State or local legislation which would inhibit the completion of a priority energy project after it has been designated as such. I will discuss that in more detail following the vote.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. JOHNSTON. Mr. President, I congratulate the proponents of the substitute for being able to keep a straight face throughout this entire debate and to be able to present this amendment as if it really would cut redtape and help the situation.

The fact of the matter is, Mr. President, that the substitute amendment would make matters worse than they are now, and they could hardly be worse than they are now. We have the Sohio pipeline that, after 5 years, and $50 million invested, with 700 permits, was still not able to get a permit.

At Seadock they spent $20 million and were unable to get a permit. Eighteen different refineries have tried to locate on the east coast and are still unable to build their refineries. In the meantime the administration gives them $5 per barrel, a subsidy paid by other people.

The present situation is untenable, Mr. President. What they would do under the substitute is allow the Energy Mobilization Board to set a time schedule, but there are two provisions: One, it could not be inconsistent with any local procedural law; and second, it could not be enforceable unless you go to local courts. So, Mr. President, what you would have is a time schedule that could not be any shorter than it is right now, and then to get it enforced you would have to go to a proliferation of local courts.

Then, Mr. President, on appeals there is no consolidation of appeals in their legislation. You would be going to different State and county courts, courts of appeal on the State level, the supreme court at the State level and, Mr. President, it is a bonanza for lawyers, the substitute amendment is; and, of course, there is no grandfather clause, so they make it entirely feasible for States to come in and change their minds after permits have been granted, after construction has started, after millions and perhaps even hundreds of millions of dollars have been invited.

Under our bill, Mr. President, there is a real ability to make that time schedule. There are consolidated appeals, and there is a grandfather clause which says that after you have invested money and gotten your permits, the permits cannot be changed except in the interest of health or safety. In the interests of health or safety, they can be changed.

Mr. President, if this substitute amendment passes, I think everyone on the committee, certainly myself, would strongly oppose this bill because it would be adding a layer of bureaucracy, it would be adding a new series of lawsuits, a new series of appeals to an already overburdened situation.

Mr. President, the situation is more than serious in this country with respect to energy. The situation is critical. Unless we are able to face up with courage and intelligence today to this issue, then, in my judgment, there is almost no hope for this country in energy. Unless we are willing to cut through this redtape, we are in bad shape.

I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, will the Senator yield 3 minutes to the Senator from New Mexico?

Mr. JOHNSTON. I yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, if there is one thing the people of this country have been clamoring for and that a compelling majority of almost every person in a leadership position in this country has been saying, it is that America must find a way to cut the redtape and get on with building needed critical energy projects.

The Senate should have no misunderstandings about where we are. The Energy Committee was charged with the responsibility of trying to come up with some legislation to permit the so-called fast track for critical energy projects.

I believe we came forth with a bill, and the 11-to-3 vote clearly indicates on that committee while it is not an extreme bill on the side of waiving substantive law, yet it has a chance of getting some expediting.

For those who want to support the bill prepared by the Environmental Committee in the Senate, supported by Senator Ribicoff and Senator Muskie, those people had better be prepared to acknowledge that they are not for a fast track at all under any circumstances.

Because a clear reading of that proposal will indicate that there is no intention to really expedite even the time involved. All that we do is say, "Business as usual is not going to work." They say, "Business as usual with a new bureaucracy equals fast track." Mr. President, it equals nothing.

To those Senators who think that we are causing the environment of America to be deteriorated, I want to make just one point: It is the substantive law of America that keeps it clean. It is the substantive law of a State that keeps it clean. We cannot repeat too often that we do not waive that. We even put in clarifying language that we do not intend to give anybody authority to waive that.

So to the argument about a plant, a synthetic fuel plant or refinery hurting our health, let me say it will not hurt it any more than the adherence to the substantive law which the environmentalists want to keep.

They want to go overboard and be overbalanced on that side. That is not what happens here. The States rights argument is an absolutely patent red herring for those who do not want any fast track. They would go to their States and say, "Come up here and object to this, because it is taking some rights away."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Thirty seconds.

All it is doing is set a reasonable time frame, even for the States; but if the permit is not credible under substantive law within the time frame, it is not granted. That is where the clean air would be affected, the clean water would be affected, the toxic substances would be affected, the pristine areas would be affected. If you waive the substantive law, it will increase the consolidation of the time frame. We cannot repeat often enough, we do not do that. So we urge that that proposal be tabled and our bill be subject to amendment. Certainly it can be clarified and amended, but it ought to be the pending business, not a substitute that did not even come under committee jurisdiction.

Mr. RIBICOFF. Mr. President, I yield 30 seconds to the Senator from Minnesota, to be followed by 30 seconds to the Senator from New York.

Mr. DURENBERGER. Mr. President, I am pleased to cosponsor the Ribicoff substitute. We are indebted to Senator Ribicoff and Senator Muskie for this thoughtful, reasonable, workable legislation that has great promise to facilitate decisions regarding national energy priority projects and I want to join in comments offered by the senior Senator from Illinois, Mr. Percy, on yesterday afternoon. I believe the Ribicoff substitute achieves this without circumventing either the spirit or substance of environmental law.

This bill reflects much of what I learned in discussions with Minnesota citizens, environmentalists, energy industry members, and State agency staff. Several meetings have been held in Minnesota since the energy mobilization concept was first raised last June. As a result, several recommendations were made which have been included in this bill. I would like to call to your attention, two of the recommendations we forwarded to Senator Ribicoff, Senator Muskie, and the Energy Committee and compare the treatment in the Ribicoff substitute and S. 1308 also being considered today.

A single Federal/State EIS was recommended by the Minnesotans who reviewed the Energy Mobilization Board concept. However, this was treated quite differently in each bill, although both included the single EIS provision.

In S. 1308, the EIS, instead of being a meaningful technique to provide for sound decisions, is reduced to a meaningless exercise. The Board chooses the "lead" agency to write the EIS and can order that the agency act, "without requiring assistance from any other Federal agency."

The Board may allow the EIS prepared by a single agency without consultation with other Federal or State agencies to be used by "any or all Federal agencies to satisfy NEPA and by any or all State or local agencies to substitute for any comparable statement required by State or local law." The EIS under S. 1308, clearly does not require that agency officials have considered significant environmental impacts. It merely makes an appearance of meeting the NEPA requirement.

In the Ribicoff substitute the Board, after consultation with the CEQ and the appropriate Federal/State and local agencies, may require the preparation of a single EIS that would satisfy Federal, State, and local obligations pursuant to NEPA. This procedure will strengthen the CEQ's recently prescribed rules and regulations designed to streamline the EIS process. The Ribicoff substitute encourages Federal/State/local support, depends on simplified regulations, which are the result of years of experience with the Federal EIS process, and is in keeping with the intent of NEPA to encourage wise decisions regarding project development.

Careful development of criteria to guide project designation was stressed by the citizens representatives. Again, this provision provides for clear comparison between S. 1308 and the Ribicoff substitute.

S. 1308 has only one criteria for the designation of the unlimited number of projects which it appears can be submitted to the Board for designation as a priority project. The one criteria is that the project is likely to directly or indirectly reduce the Nation's dependence on imported energy.

Further, the Board's decision to designate a project is not subject to judicial review, although its failure to designate a project can be appealed to the courts. Despite language in the bill report that states, "the committee fully intends that the Board carefully limit the number of projects receiving treatment at any one time. * * *"

S. 1308 actually provides enormous decisionmaking power in a Presidentially-appointed Senate-confirmed Board, with only the broadest single criteria to guide their actions. No judicial review is allowed to assess the decisions or number of projects they designate for the "fast track" process. The Board is allowed only 60 days to make a decision in a project regardless of the number of applicants. Obviously, the pressure, political and statutorially dictated would be considerable. It would seem that decisions of the Board would be made under a good deal of duress.

This bill has provided a structure that could result in chaos, but cannot be challenged. Because of the potential workload in the priority project designation process, the growth of a sizable bureaucracy seems predictable. Certainly an increase in the bureaucracy was not recommended by my constituents.

On the other hand, the Ribicoff substitute has limited the designation to not more than 8 projects per calendar year, with not more than 24 projects that may be designated and pending certification at any one time.

The Board must make their decision in relation to a statutorily established list of criteria which relate to the projects potential for reducing oil imports.

As well, the Board must consider during the designation process, the projects ability to make use of renewable energy resources, promote energy conservation and develop new energy production or conservation and public comments.

The designation process will be conducted with the Secretary of Energy's assistance. The Secretary will limit the list of applicants to those deemed to satisfy best the criteria in the bill. The Board will make the final decision, which is subject to judicial review. Again, the Ribicoff substitute provides a well-thought-through system and provides congressional criteria for decisionmaking.

There are other strong negative contrasts between S. 1308 and the Ribicoff substitute such as the grandfather waiver in S. 1308 and the right to make decisions in lieu of agencies if a deadline is missed, which I object to in S. 1308. It is fair to say that S. 1308 is one of the most significant changes in intergovernmental operations in recent memory and if enacted it will have great impact on States and municipalities.

It seems to me that in a democratic society, until there is consensus as to the overriding necessity for taking certain actions, such as the development of synthetic fuels, it is extremely important to construct the Energy Mobilization Board with great care. We must be sure that we achieve the goal of expedited decisions and projects without jeopardy to Federal-State relations and the public health and safety.

Our present energy problems have not resulted from State and local inaction or obstinence. We must listen to the Governor's Conference assertion that cooperative—not coercive federalism is the key to energy development in this country.

I believe the Ribicoff substitute provides for and builds in a cooperative accountable, coordinating system which will provide an expeditious path to national energy independence. I strongly urge your support for the bill.

Mr. JAVITS. Mr. President, I am a cosponsor of and support S. 1806, the Ribicoff-Muskie Energy Mobilization Board Act of 1979 offered as a substitute on this bill. I believe this substitute has three characteristics which distinguish it from the bill: First, it will speed up energy facility permitting processes; second, it protects the constitutional right of the people to due process; and, third, it maintains the character of our Federal system.

Let us remember the effort will be made to table the substitute and that would kill it. I feel it should be kept alive in which case it would be amendable.

I would like to emphasize right at the beginning of my remarks the somewhat neglected fact that this is the only proposal which is entirely certain to get up to 2 dozen critical projects at a time moving much faster toward final implementation than would otherwise be the case. It runs none of the dangers of, being challenged and delayed on constitutional grounds as does the Energy Committee proposal. If, as I indeed believe, the Nation wants its governmental system to break out of redtape and mismanagement and to implement expeditiously sound choices about our energy future, this substitute offers the tools to do so.

The importance of designing an institution which fits within our Federal framework cannot be overstated. The substitute, both designates critical energy projects and establishes its binding deadlines in consultation with the States. As the National Governors' Association has pointed out in a letter of September 28 to Chairman RIBICOFF—there will be a serious constitutional question raised as to whether at least some of such decisions are enforceable unless arrived at through such a voluntary project decision schedule agreement. Furthermore, it is likely to be impractical to force a State into a schedule it is unable or unwilling to meet. Indeed, I doubt the Board proposed by the Energy Committee would end up in many cases in fact forcing a schedule which States or relevant localities did not agree to.

Most important, the only proposal which is going to be sure to get desirable energy projects moving faster is the Ribicoff-Muskie proposal, S. 1806.

It is obvious that one major threat of delay should S. 1308 become law stems from the probability of constitutional challenge to the possibility of mandatory deadlines being imposed on States, by the substitution of a Board decision for a State decision in a matter where no Federal law pertains, and finally by the question of denying State courts jurisdiction over State laws affecting critical projects. This legislative question could be before the next session of Congress again, so that a year would thus be lost before a fast-track procedure is in place.

Suppose, however, that the Board set up by S. 1308 does in fact exist and that upon failure of a State body to decide, it undertakes to substitute its own judgment. First, it must build a record, which will probably not exist if truncated or incomplete procedures are involved, then it must assess the data, and the options. This will involve a large staff of legal and environmental and economic experts. Mr. President, the Board should not be another monstrous bureaucracy of the sort we are trying to curtail. It is a coordinating and facilitating body, not a new EPA. The promises of S. 1308 make it impossible to build a lean and fast-acting entity that can unsnarl the problems facilities face today without creating new ones. The size of a staff that can handle 75 such projects, instead of the more reasonable 24 contained in S. 1806, is, frankly, mindboggling.

Finally, there are incentives for delays built into S. 1308, as some parties may well prefer decisions to be passed to the Board. State and local officials may find it useful to pass the buck on controversial proposals, especially when they would have to commit staff resources to timely decisionmaking. Applicants whose projects are controversial or politically visible may well prefer a decision by Presidential appointees unfettered by conflict of interest laws.

Indeed, when one looks dispassionately at the causes of delay in past projects—Federal and State procedures are rarely the major problem. Marginal economics, other substantive questions, congressional inaction, and delay by the applicant are just as important as delay factors. I ask unanimous consent that a letter from the chairman of the Council on Environmental Quality, Mr. Gus Speth, and a summary of a study prepared by the Congressional Research Service of the Library of Congress, and a chart prepared as a draft by the Office of Management and Budget be printed in the RECORD following my remarks, all of which demonstrate the real causes of project delays in contrast to the rhetoric on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. JAVITS. In summary, what we need is a body that can clean up the complex decisionmaking process the Nation has put into law in fragments so as to make sound decisions regarding a few energy facilities which have the potential for significantly furthering our national energy goals and reducing imports. We should not be expecting to approve projects which fall short of energy and environmental standards Americans have decided are important; but we should be finding better ways to judge on the basis of those standards. I suspect that a body which can program and coordinate sound decisionmaking will end up being a model for permanent reforms in our permitting practices; but it should be tried first, as the exact nature of the changes needed is simply not known to us today.

The second quality of the substitute is that it protects important procedural rights. For example, the carefully designed administrative practices which Federal agencies have adopted pursuant to the Administrative Practices Act exist for the purposes of insuring individual rights be protected in agency proceedings as well as for establishing a clear record for making and evaluating agency decisions. Yet section 19 of S. 1308 permits waivers of these practices. Nor are such waivers apparently subject to judicial review.

Furthermore, the right of the public to participate in decisions is inadequately protected. As the chairman of the Senate Judiciary Committee Senator KENNEDY has written to the chairman of the Senate Energy Committee:

> These projects will often have enormous health, safety and environmental ramifications. Thus, legislation eliminating "red tape", should be careful not to preclude input from those groups which will contribute substantially to understanding these ramifications.
>
> I would urge the inclusion of a number of administrative procedures to increase participation in the Energy Mobilization Board decision-making process—particularly with respect to the designation decision. These procedures would not unduly slow down the process, and would improve the quality of the Board's proceedings.
>
> It is also crucial to give standing rights to persons who wish to challenge, on public health grounds, decisions concerning the designation or construction of Priority Energy Projects.

And, finally, as I have noted, it is clear there are likely to be constitutional challenges to the powers of the Board proposed in S. 1806. National attention has been given to the more visible issue of whether the Board may substitute its decision for that of the State or locality if a deadline is missed. The substitute does not propose to inject the Board's judgment instead of that of the appropriate body in our Federal system. Rather, it enforces the original schedule through the courts.

Further, our legislation also provides for expedited judicial review in Federal court and for use of the State courts to enforce the Board's deadlines where matters of State law are involved. As the chairman of the Senate Judiciary Committee pointed out in his September 13 letter to the Energy Committee chairman:

> Noted legal scholars have viewed the 'protective jurisdiction' doctrine, which is used to justify federal jurisdiction over cases arising from actions based entirely on state or local law as a difficult one which has not been determined by the Supreme Court.

And, the National Association of Attorneys General expressed its concerns in a memo of September 11. The memo says:

> The constitutional question is naturally the initial concern. It is unclear what the White House has in mind as a source of authority for the EMB to modify procedural requirements. A related EMB power, that of exercising state and local agency powers if the agencies in question fail to meet an EMB deadline, simply asserts that the offending agencies must delegate their authorities to the EMB. This is a questionable theory. Consider in this regard a state energy facility siting law, which is implemented by a state agency. Note that there is no federal analogue to such legislation, and that there is no federal law prohibiting such legislation. It is immediately difficult to see how Congress can authorize the EMB to exercise the powers of that state agency, since Congress did not create the agency and is not the source of its powers.
>
> Bear in mind that the Constitution is a sort of checklist, identifying the powers of the federal government and implicitly denying the federal government powers that are not on the checklist. There does not appear to be any power of the Congress which can force the state to delegate authority, the EMB cannot tinker with state procedures. In fact, a strong case can be made that any such attempt to mandate state delegation would be an unconstitutional intrusion on the sovereignty of state governments. While this case is likely to be strongest where an exercise of the commerce clause power is specified, it is likely to be sound no matter what Congressional authority is asserted.

The proposal for "grandfathering," so that laws passed after inception of a project may be waived by the Board, has similarly been questioned. There are legitimate reasons related to protection of the public health and safety as to why State laws affecting new energy technologies might be enacted as new projects are designed, scrutinized and found to be in need of corrective action. To deny this possibility to the public and the States is not, and should not be, the purpose of this measure.

Mr. President, the management of so large and complex a society as our own is always difficult. Our job is to reform and build on the knowledge and decisionmaking tools we have, the substitute meets the need far more effectively and will give our national energy program the underpinnings it needs.

EXHIBIT 1

NEPA LITIGATION AND ENERGY PROJECTS

The Council's review of NEPA litigation shows that during the first 8 years since NEPA's enactment (January 1, 1970 through December 31, 1977) 70 Federal agencies have prepared more than 10,000 EISs on their major Federal actions significantly affecting the environment.

During this 8-year period 938 NEPA lawsuits were filed. This represents slightly less than 10 percent of all projects involving the preparation of an EIS. Overall, NEPA-related injunctions were issued in 202 cases or in approximately 21.5 percent of all NEPA lawsuits. It is important to note, however, that these NEPA-related injunctions represent only 2 percent of all major federal actions involving the preparation of an EIS.

With respect to energy projects and NEPA lawsuits, the Council's review reveals the following: of the 938 NEPA lawsuits brought during NEPA's first 8 years, 94 cases involved specific energy projects. This represents approximately 10 percent of all NEPA lawsuits. The type and number of energy projects involved in NEPA lawsuits is summarized as follows:

Type of Energy Project:	*Number of NEPA lawsuits*
Nuclear Power Plants	26
Electric Transmission lines	15
Hydroelectric Power Projects	10
Outer Continental Shelf Oil & Gas Lease Sales	9
Fossil Fuel Power Plants	9
Coal Prospecting and Mining Activities	9
Oil & Gas drilling projects (other than OCS)	6
Miscellaneous Energy Projects	6
Pipelines	4
Total	94

About 50% of these cases involved energy projects where the federal agency with lead responsibility failed to prepare an EIS. The Council anticipates that this kind of NEPA lawsuit will significantly decline in the future especially in light of the Council's NEPA regulations which go into effect July 30, 1979. In the remainder of cases, inadequate compliance with NEPA's procedural requirements was alleged, often as a subsidiary claim (that is, where the principal legal claim was a violation of a statute other than NEPA).

Looking at NEPA-related injunctions involving energy projects, the Council found that of the 94 NEPA lawsuits involving energy projects filed during the first 8 years after NEPA's enactment, only 15 cases resulted in NEPA-related temporary or preliminary injunctions. These 15 cases represent about 16% of NEPA cases involving energy projects but only 1.6% of all NEPA lawsuits.

The Council believes that NEPA's requirements, which have been enforced by the courts, have produced more careful consideration by Federal agencies of less environmentally damaging alternatives and mitigation measures for proposed energy projects in furtherance of NEPA's national environmental goals and policies. The presence of judicial review has provided a healthy impetus for federal agencies to observe NEPA's requirements and has resulted in better federal decisions involving energy projects.

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., July 23, 1979.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy & Power, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: During my testimony at the hearing on Friday, July 20, you asked me to provide you with available information on the time it takes agencies to prepare EISs. I said that I would promptly supplement my answers with a letter. The best available information is contained in CEQ's 1976 Report Environment Impact Statements: An Analysis of Six Years' Experience by Seventy Federal Agencies. Enclosed is Table 5 of the Report which summarizes the agency experience in the time required to prepare EISs. As the Table shows, 20 out of 28 agencies experienced an average time of less than 12 months in preparing their draft EISs. We have no updated figures covering the period 1976 to the present on the time required by agencies in preparing EISs.

However, as you know the Council has taken steps since 1976 to accelerate the process. In 1977, at President Carter's direction, the Council began a year and a half effort to reform the NEPA and EIS process to reduce delays, reduce paperwork, and improve agency decisions. The result of this effort is the Council's NEPA regulations which become effective next week, July 30, 1979. These regulations have, as you know, been greeted with enthusiasm from a broad range of affected Americans, from business to the Governors' Association to environmentalists.

The NEPA regulations will reduce delay by:

1. Requiring agencies to set time limits appropriate to specific actions when applicants request them, and encouraging agencies to set time limits on EIS preparation;
2. Requiring agencies to integrate the NEPA process into early planning;
3. Emphasizing interagency cooperation before the EIS is prepared rather than submission of adversary comments after the EIS is done;
4. Providing for a swift and fair resolution of lead agency disputes, with time limits;
5. Establishing the scoping process for early identification of what are and what are not the real issues;
6. Requiring agencies to prepare the EIS as early as possible;
7. Requiring agencies to integrate their NEPA compliance with other environmental review and consultation requirements;
8. Providing for joint Federal-State-Local preparation of EISs, joint Federal-State-Local public hearings and other means to eliminate duplication;
9. Requiring agencies to combine their environmental documents with other documents to avoid duplication, and permitting incorporation by reference;
10. Providing for accelerated procedures in preparing EISs for proposals for legislation;
11. Providing for categorical exclusions (identification of all actions exempt from environmental review because they will not have significant environmental effects);
12. Providing for a concise finding of no significant impact to document cases where no EIS is necessary;
13. Providing for page limits on EISs (normally less than 150 pages; for complex proposals, normally less than 300 pages).

As a result of these reforms in implementing NEPA and in particular the environmental impact statement requirement the Council believes that agencies will be able to achieve substantial reductions in the time they have required, up to now, for preparing EISs. As I testified on Friday, it is very realistic to anticipate timely completion of the EIS process in the vast majority of cases even under the most rigorous accelerated decision schedule (not less than 12 months under the Administration proposal) set by the proposed Energy Mobilization Board. As we said in the Council's testimony, CEQ stands ready to assist in insuring that this happens. The one exceptional case might be that of scientific uncertainty—where we cannot predict effects, which may cause severe harm, of an untried technology. While the EIS could be completed, the data in it, like any other data needed for the decision, might be incomplete. In that regard I would reinforce Eliot Cutler's testimony on the issue—that in such a case it would be appropriate either (1) for the decisionmaker to turn down the proposal, or (2) to extend the time until answers are available. By way of further answer I enclose 40 C.F.R. Sec. 1502.22 (effective July 30, 1979), which represents the Council's handling of this difficult issue in its NEPA regulations issued pursuant to President Carter's Executive Order 11991.

Please do not hesitate to call on us if we can be of further assistance.

Yours truly,
NICHOLAS C. YOST,
General Counsel.

EXHIBIT 2

ENERGY DEVELOPMENT PROJECT DELAYS

At the request of the Senate Subcommittee on Environmental Pollution, we undertook a review of delays in non-nuclear energy development projects. This review focuses on ascertaining the causes of delays in selected energy projects, with a view toward providing background on the need for and implications of proposed "fast track" legislation.

We selected the following energy projects for review:

1. Kaiparowits—a large, coal-fired, minemouth electric generating facility located in Utah, originally proposed in 1962 and finally abandoned in 1976.
2. Dickey-Lincoln—a hydroelectric project, originally authorized in 1965, on the St. Johns River in Maine; bills both to fund construction and to deauthorize the project are pending before Congress.
3. Eastport refinery—proposed in 1973 to be built in Maine, the project at present is stymied, in part because of EPA's rejection of certain permits.
4. Hampton Roads refinery—proposed in 1975 to be built in Virginia, the project is at present awaiting a decision by the Corps of Engineers.
5. SOHIO pipeline (PACTEX)—proposed in 1975 as a route for transporting excess Alaskan crude oil to the Gulf States area, the project was abandoned in 1979 after delays in approval reportedly pushed its completion date beyond the time when costs could be expected to be recovered, based on expected oil supplies.
6. Oil shale—leasing programs began in 1971, but progress has been slow and commercial production is not expected before 1983.

These six cases were chosen for reasons of convenience, familiarity, and diversity. It is not suggested that they are representative or nonrepresentative of any particular type or class of regulatory problems.

When assessing these case studies in terms of their implications for "fast track" proposals, two caveats are necessary:

1. The case studies are of projects that were proposed in a period of innovation and flux in environmental statutes and regulations. Consequently, there has been a problem of "moving targets," and planning these projects has been particularly difficult. It is possible that environmental statutes and regulations are maturing, and that for the next several years changes in requirements will be fewer and less burdensome; nevertheless, the case studies are illustrative of the sorts of regulatory problems cited as justifying the "fast track" concept.

2. Extracting the actual implications of environmental regulations on these projects is made difficult by other unsettling forces affecting planners. The economy, so stable during the 1960's, has changed in puzzling and unpredicted ways. And energy prices and availability, taken for granted in the 1960's, have become major uncertainties. As a result, many planning assumptions, particularly concerning rates of growth of energy demand and rates of inflation, have been disrupted. These energy and economic uncertainties to some extent are compounded by any environmentally caused delays, since if the time required to obtain various construction and environmental permits is extended, economic considerations may cross a threshold that would not otherwise have been reached. But to some extent it is probably also true that environmental controls have been the whipping boy for other negative economic forces.

Given these caveats, a review of the case studies points to two basic conclusions: First, that it is difficult to attribute the delay of foreclosure of construction of energy development facilities solely to substantive Federal environmental protection laws; and second, that usually it appears that a general lack of consensus on the need for the project, at least as proposed, underlies the difficulty promoters of the projects have faced in trying to obtain necessary regulatory approvals.

1. For each of the six case studies, factors other than environmental statutes appear important in causing delays.

For Kaiparowits, changing environmental requirements, particularly air pollution control requirements, did substantially disrupt planning; however, at the same time changes in the economy and energy demand were also important.

For Dickey-Lincoln, present delays can be attributed to Congressional hesitation to authorize funding for the project; it may be that some of that reluctance stems from environmental considerations, but it is Congress which is in a position to decide whether it should go ahead.

For the Eastport Refinery, the proposal is at present stopped because of the rejection of a permit on the grounds approving it would violate the Endangered Species Act; however, there is every reason to believe that numerous other probable roadblacks to the project exist, including international considerations that would transcend domestic environmental protection constraints.

For the Hampton Roads refinery, the proposal is at present awaiting a final decision on a key permit.

For the SOHIO pipeline (PACTEX), the working out of new air pollution regulatory procedures was a major cause of delay; however, at the time the project was abandoned these had been overcome, and it appears that environmental requirements would not have foreclosed construction; this, then, is a case where delays caused economics of a project to cross a threshold of unacceptability.

For oil shale development proposals, the issue is one of developing new technologies; environmental controls are but one of the uncertainties affecting their development.

In short, although environmental considerations have been important constraints on the proposers of these projects, they have not been the sole constraints. In fact, the case studies suggest that the regulatory hangups suffered by these projects most often arise from underlying doubts about the projects, and that these doubts have often found their readiest expression in regulations based on environmental considerations.

2. In some of the cases, the underlying uncertainty arises from the doubt about the need for the project at all, in others it arises from uncertainty about siting, about alternatives, or some other aspects of the proposal. Of course, for virtually any proposal, someone will have objections or criticisms: but the more that this type of uncertainty is present, the more objectors there are likely to be and the greater their legitimacy. Most importantly, the greater the doubts, the more likely it is that critics will find sympathetic ears among decisionmakers. This, combined with the multitude of regulations and of governmental interests involved, increases the probability that a veto or holdup will occur at one or more of the numerous decision points.

Two of the case studies shed light from different angles on the nature of this source of delay: the PACTEX proposal illustrates that when consensus on the need for a project exists, it does move ahead; the Dickey-Lincoln project illustrates that when consensus does not exist, the absence of regulatory holdups does not mean it will automatically go ahead.

The SOHIO pipeline proposal was widely perceived as being in the national interest. Much of the delay concerned how to implement new procedures, but some hardline objectors existed, too. However, the general consensus that the project should go forward was reflected in a number of ad hoc efforts to clear roadblocks; and a bill passed the California legislature to resolve litigation challenging approval of the project. It appears that the underlying consensus in favor of the project was sufficient to get most of the roadblocks cleared (albeit too late for the economics of the project to be sustained).

In the Dickey-Lincoln case, the roadblock is legislative, not regulatory. And in this arena where, presumably, action by consensus would be possible without the project having to run the regulatory maze, funding is still iffy. It appears, then that consensus for (or against) the project is lacking, so it languishes—just as are so many projects lost in the regulatory maze.

This illustrates that where an underlying consensus is lacking, projects will not necessarily go forward even if there are no significant regulatory hurdles; or put the other way, the delays of the regulatory hurdles generally seem to reflect a genuine uncertainty about the proposal. Indeed, it appears that environmental requirements have become a convenient and effective point of access to decisionmaking for critics of individual energy projects, whether on environmental or on social, economic, philosophical or other grounds. When clear agreement on the national essentiality of any particular project is lacking, achieving final approval becomes exceedingly difficult—in either the regulatory or the legislative areas. Once a critical level of consensus is reached, however, relief is likely to be forthcoming. The opportunity for Congress to clear the way for energy projects is illustrated by the enactment of the TransAlaska Pipeline Act.

Mr. JOHNSTON. I yield 30 seconds to the Senator from Wyoming.

UP AMENDMENT NO. 591

(Purpose: Provide for cooperative agreements between State and local governments and the EMB for establishing deadlines)

Mr. WALLOP. Mr. President, I send an amendment to the substitute to the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. Wallop), for himself, Mr. Armstrong, Mr. Roth, and Mr. Hatch, proposes an unprinted amendment numbered 591 to amendment No. 488.

Mr. WALLOP. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 16 after the period insert the following: "Where possible, the Energy Mobilization Board shall negotiate and enter into written cooperative agreements with each affected state and local government establishing the deadlines."

Mr. WALLOP. Mr. President, what this amendment would do is ask the Energy Mobilization Board, wherever possible, to try to establish a project decision schedule through written cooperative agreements between affected States and the EMB and between affected local governments and the EMB. A written cooperative agreement will establish a legal basis for the decision schedule.

The amendment does not make cooperative agreements mandatory but rather permits the EMB to use cooperative agreements as an option to establish decision schedules.

This amendment is needed because it is questionable from a constitutional standpoint whether a decision deadline set by the Federal Energy Mobilization Board would be legally binding on a State or local agency if such agency had not explicitly agreed to the deadline. This is a particular problem in cases where the State statute in question has no Federal antecedents such as is the case with the Wyoming industrial siting law. A written cooperative agreement will provide the basis for later use of enforcement mechanisms if the deadline is missed. Without the cooperative agreement, it is questionable constitutionally whether any enforcement mechanism could be legally enforced.

There is precedent for cooperative agreements as this amendment provides for. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 permits the Secretary of Interior to delegate authority to the States to enforce surface mining regulations on Federal lands. This delegation of authority is established through cooperative agreements signed by the individual States and the Department.

Mr. President, this amendment is strongly supported by the National Governors Association and is consistent with my interest in forging a cooperative, rather than a coercive, Federal-State relationship toward the shared goal of energy self-sufficiency.

I understand the amendment is acceptable to Senators Ribicoff and Muskie, and I ask unanimous consent that the names of Senators Armstrong, Roth, and Hatch be added as cosponsors of this amendment, and that the name of Senator McClure be added as a cosponsor of the previous amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Connecticut accept the amendment as an amendment to amendment 488?

Mr. RIBICOFF. I accept it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the Senator from Washington.

Mr. JACKSON. Mr. President, an important part of the debate on the Energy Mobilization Board is now drawing to a close. I will not try to summarize that debate here. But I do want to note how curious it is that much of the discussion has been about the risks of giving the Board authority to get things done. Do not misunderstand me. I do share the concerns of my colleagues about protecting the environment and preserving the proper role of the States. I am, after all, the author of the National Environmental Policy Act. But somehow our punctilious concern for the environment and States' rights has dominated this debate, while many of us seem to have forgotten that it is our future, and the very future of this Nation which is the essence of what is at stake. I therefore want to devote my remarks to the risks of not giving the Energy Mobilization Board enough power, and to mention the key points with which we should concern ourselves.

Never before in the history of this Nation have we been more vulnerable to foreign blackmail, foreign intimidation, and foreign intrigue. The United States now consumes over 19 million barrels of oil a day and over 8 million barrels or 42 percent comes from abroad. A drop of less than 3 percent in imports could wreck havoc on our economy, as evidenced by the Iranian cutback earlier this year. Yet I could reel off a dozen scenarios, any of which could occur tomorrow, in which we would experience an even greater shortfall in supply.

Iran is teetering on the brink of anarchy. Smouldering religious unrest in Iraq could erupt overnight. The Saudis, ever sensitive about offending their neighbors, could cut back production, or hostile leaders in Algeria and Libya could suddenly shut off their supplies. Any one of these events, or a score of others, could quickly bring the United States to its knees.

Mr. President, we are now so vulnerable we cannot even protect ourselves without being threatened with retaliation. We have the best army, the biggest nuclear arsenal, and the greatest navy in the world, but we cannot fill our strategic petroleum reserve because Saudi Arabia will cut back our oil. We are a pitiful helpless giant in the eyes of the rest of the world. This Congress now has a chance to do something about it—by supporting an Energy Mobilization Board.

Mr. President, this debate has focused too much upon remote and hypothetical dangers of a powerful Energy Mobilization Board, and not enough on the clear and present danger of our continued dependence upon imported oil.

Peace efforts in the Middle East, monetary agreements with Europe and Japan and efforts to stabilize our own economy are undermined by our dependence upon imported oil.

The value of the dollar is plummeting, gold is now over $425 an ounce, wage earners, the elderly and others on fixed income cannot make ends meet, because of our dependence upon imported oil.

And if another shortage occurs this winter, and mark my words it is likely, Americans will go without heat and workers without jobs, because of our dependence upon imported oil.

You can talk all you want about hypothetical risks and speculative dangers. I am talking about real risks, real dangers and they are here with us now—because of our dependence upon imported oil.

Mr. President, the American people are a strong and resilient people and they respond with courage and determination to a challenge. But in fighting the threat of oil dependence, the greatest obstacle to success is ourselves. We have created an institutional crisis in this country. We no longer can get anything done. Everyone has the power to delay decision on energy projects, and too many decisionmakers are unwilling to decide.

Take Colstrip 3 and 4—powerplants in the State of Montana. Regulatory delays will block this project at least 5 years. As a result, the final cost to consumers will be over $1 billion higher, and we will import up to 40 million barrels of oil more over the next 5 years.

Take the Alaska natural gas pipeline—regulatory delays have blocked this project for several years. Each day of delay costs the consumer $3 million and increases oil imports by 600,000 barrels.

The list goes on and on—vital energy projects killed or seriously wounded by our own bureaucracy.

Mr. President, it is time that we stand up and make a choice—are we going to let this situation continue, or are we going to break loose from our own bureaucratic chains?

I would not deny there are risks in creating a strong Energy Mobilization Board and giving it the power to get things done. There are risks in doing anything worthwhile that has not been done before. But I will tell you one thing—the kinds of risks we are talking about are nothing compared to the price we pay each day for our dependence upon imported oil.

The vote on the Energy Mobilization Board is nothing less than a test of our will. By weakening the bill, we will only cast new doubts on our determination. The substitute amendment would create a new layer of bureaucracy, new complications, more redtape, and lead to even more delay. No Energy Mobilization Board is better than the impotent Board created by the substitute bill.

Mr. President, our dependence upon OPEC oil is one of the gravest threats this Nation has ever faced. It is time that we met this threat headon.

A vote for S. 1308 is a vote to meet the challenge. A vote for the substitute amendment is a vote to back down.

Surely, Mr. President, the country is not worried about doing too much. Senator after Senator has gone back to his State, and been asked, "Why are you not doing something about energy?" That is the issue.

Mr. President, if this substitute is adopted, I can only say to the people back home that we have decided to set up a paper tiger and we are not going to get anything done. We are going to have more and more bureaucracy.

That is what the people of this country are fed up with. They know that when a problem comes up you have to have a hearing. That is fine. But then we appeal from the hearing, and it goes on for years and years and years. The country would be getting that message from Congress again.

Mr. President, you can pass energy legislation until kingdom come, and without authority to implement the energy legislation that we pass, it is meaningless.

Under the substitute proposal, you have to go into court. Mr. President, if we had followed this same argument there would be no oil moving through the Alaska pipeline. I authored the Alaska pipeline bill with Senator STEVENS and others. The argument was, "Oh, you have got to have all these hearings, you have got to go on and on and on." The same thing is happening, Mr. President, on the Alaska gas pipeline measure. Because of the delays, it is costing $3 million a day, or $1 billion a year more.

What is the context in which we are acting here today? We face a world in which, as powerful as the United States with all its might is, we have to be humble to the Saudis, so we cannot even fill up our strategic reserve.

Mr. President, the sources of our supply are so fragile that we do not know tomorrow whether we will have oil, and we are dependent for 42 percent, currently, at this hour, on imports.

Mr. President, what about price? What about price? I turned the radio on this morning, and the Japanese were advised that the price under the new contract from Indonesia—some of my colleagues, I am sure, heard that broadcast—was at $36 and $38 a barrel. That is what this bill is about. $36 and $38 for a barrel of oil that, in 1973, was selling for less than $3 a barrel. It is the supply, the unreliability of it, and the price that can kill the Western world, and we stand here helpless, trying to get something done.

I can only say this, Mr. President: Woe be it to the Senator who has to face the electorate and say, "Well, I voted to set up this procedure which is going through this long, tedious process."

The **PRESIDING OFFICER**. The Senator's 5 minutes have expired.

Mr. **JACKSON**. May I have 1 minute?

Mr. **JOHNSTON**. Mr. President, how much time do I have?

The **PRESIDING OFFICER**. The Senator has 2 minutes and 8½ seconds left.

Mr. **JOHNSTON**. I yield 1 minute to the Senator from Washington.

Mr. **JACKSON**. Mr. President, the centerpiece of everything that we do in the area of energy is at stake in this vote at 12 o'clock, because without it, we cannot do anything about synthetic fuels. We cannot have a program to really move effectively to build the pipelines, to build the necessary facilities, whether it is refineries or what have you. The whole area of energy is meaningless. I do not care what bills we pass, unless procedurally, the American people can have due process. That is the issue.

It is not just a lot of talk about this right, that right. The rights of all of our citizens are amply protected. But as a great English jurist once said, "Justice delayed is justice denied." The American people cry out for justice and for action.

Mr. **RIBICOFF**. Mr. President, I yield myself 1 minute.

Mr. President, when the administration submitted its energy proposals in July, a White House assistant stated that, in the energy area, the time had come to move "from a government of law to a government of men." While I do not underestimate the gravity of the energy crisis, I do not agree with that assertion. I believe that Congress can fashion sensible, workable systems to bring online needed energy facilities more expeditiously without, at the same time, trampling our State and local communities and overturning our citizens' rights to due process. The pending amendment accomplishes this goal, while S. 1308 would take us far down the road toward an arbitrary government of men rather than a government of laws.

Let me briefly review the issues presented by the two bills.

First. Openness of government and public accountability.

S. 1308, in reality, does not create a collegial board, for in all matters except one, the chairman has sole decisionmaking authority. The chairman, who will act as a political officer in, or close to, the White House, is being granted unprecedented and dangerous authority to intrude upon Federal, State, and local responsibilities and destroy due process protections. Acting alone, he will not be subject to the Government in the Sunset Act, nor will he be subject to the normal safeguards included in the Administrative Procedures Act. Thus, decisions affecting the lives of hundreds of thousands of our citizens and many State and local communities will be made behind closed doors and with little or no public involvement. I can think of no better mechanism or scheme for producing turmoil and outright defiance from State and local communities than the imposition of such an unchecked czar.

In addition, the three other members of the Board who advise the chairman will not be subject to the normal conflict of interest laws. The administration and the Energy Committee have stated openly that the reason for this exemption is to allow major executives from energy companies to serve in these part-time positions. Thus, the chairman will be advised on decisions to eliminate State and local responsibilities, shortcut and curtail due process protections for affected citizens by a group of persons who may well have a direct interest in the projects under discussion. I do not see how such an arrangement could possibly achieve the credibility necessary to attain public support.

By contrast, the pending amendment provides for a three-member Board that makes its decisions collectively and is subject to the Government in the Sunshine Act, the Administrative Procedures Act and to conflict-of-interest laws.

Second. Enforcement.

The amendment provides for an efficient and effective means for the Board to enforce deadlines for regulatory actions by Federal, State, and local agencies. It gives the Board power to seek a court order compelling action in accordance with the Project Decision Schedule. It also gives the Board the authority to monitor closely Federal, State, and local agency actions and to move in before a final deadline is missed if there is evidence that through neglect, lack of leadership or dilatory tactics an agency will at some future date not meet the deadline established by the Project Decision Schedule.

S. 1308 allows the Board to step in and make the decision if a Federal, State, or local agency fails to meet a deadline. This alternative enforcement mechanism will inevitably lead to more litigation and greater delay. Almost by definition, the issues raised in these priority energy project proceedings will be difficult, if for no other reason than that the projects will be large. Unlike the agency with the normal decisional authority, the Board will have no expertise in the areas covered, and will have to pick up in the middle of a particular case and start from scratch. Given those two factors, and assuming that the Board will attempt to do its substantive jobs properly, it is virtually certain that the Board will be unable to issue a reasoned decision in less than the time that the responsible agency could. And, if there is more than one missed deadline at a time, the prognosis for an accelerated decision is even less favorable.

Knowing that the EMB will step in and make a decision for it could also produce delay for another reason. It could lead Federal and State agencies faced with difficult policy decisions to delay their decision until after the deadline. This would shift the responsibility for any unpopular decision to EMB, but only at the cost of considerable delay in obtaining final agency action. S. 1308 would thus achieve exactly the opposite effect than the one intended.

Then too, any provision giving EMB the authority to make the substantive decision will inevitably create only more litigation. And this will in turn mean only more delay.

The Board would have to apply substantive law with which it is unfamiliar. It may have to apply both State and Federal law. Even assuming the Board can correctly identify the substantive law to be applied, it is a virtual certainty that every decision the Board makes of this kind will be appealed. There will be a real problem of the quality of the Board's decisions if it is called upon to decide a Clean Air Act question one day, a strip mining issue the next, and a local zoning variance the third—and still continue its duties of setting schedules and providing overall monitoring for the program. Given its lack of expertise, decisions of the Board are likely to be reversed far more often than those of agencies who originally had responsibility for making the decision. The Board will then have to spend time to redecide the case. And more delay will result.

Thus, even without considering the undesirable effects of establishing another substantial bureaucracy to make decisions properly left to State or local governments, or to other Federal agencies with the substantive expertise, the procedures in S. 1308 are unwise because they will produce more, not less, delay.

S. 1308 also raises serious due process questions. When the Energy Mobilization Board makes its decision, there is no requirement for a hearing, no requirement for cross-examination, no provision for witnesses to testify, no opportunity for affected parties to be represented by counsel. In short, it provides none of the protections that individuals or businesses would normally have when a Government agency makes a decision that directly affects them. And all of this will take place before a board which has no expertise in applying a law—whether it be an environmental law, antitrust law, zoning law, water law, or other law. Perhaps more important, the Board will not be a neutral decisionmaker; its single mission of promoting energy projects makes likely the appearance, if not the presence, of bias.

By contrast, our amendment insures that decisions will be made by agencies having specific expertise in the law which is to be applied, and the agencies will do so under procedures which protect the due process rights of affected parties. At a minimum, no decision can be made under our amendment without notice to all affected interests, opportunity for comment, and opportunity for representation by counsel. Full rights of cross-examination will be provided where it is needed. And it will be the agencies—not the Energy Mobilization Board—that will determine when to make cross-examination available.

Third. Intergovernmental relations.

Mr. President, during the past few years, the onset of the energy crisis has greatly exacerbated sectional and Federal-State tensions and conflicts. Yet if we are to work out solutions to our energy problems, the Federal Government must have the cooperation and support of State governments and local communities. S. 1308 does little or nothing to ease the existing intergovernmental conflicts. By contrast, the amendment has been crafted with help of State and local officials and for that reason has the endorsement of every organization representing State and local governments, including the NACO, National Governors Association, the National League of Cities, the U.S. Conference of Mayors, and the National Conference of State Legislatures.

The bill contains a number of provisions to protect the authority and rights of State and local governments. These include:

A mandate to the Energy Secretary to consult with State and local agencies before making a final selection of candidates for priority energy project status;

Provision that where a single environmental impact statement is called for, that statement must include all the factors and criteria in a State or local law or ordinance in the manner provided in that law or ordinance;

Allowance for a State or local government to undertake to complete those parts of an environmental impact statement that relate to its jurisdiction and concerns;

Preservation of State court jurisdiction on purely State law matters;

Provision for the use of State courts for the enforcement of the Board's deadlines in matters related to State laws;

Reenforcement of States' rights in the area of water law.

Mr. President, there are a number of other issues that are raised by S. 1308, but these are the most important. The solutions proposed in the amendment have received the endorsement of two of the most thoughtful and responsible organizations in the country, the League of Women Voters and Common Cause. In addition, this morning, the Washington Post directly endorsed the Ribicoff-Muskie amendment.

The following editorial appeared in this morning's Washington Post in support of amendment No. 488, the amendment in the nature of a substitute introduced by myself and Senators MUSKIE, GLENN, ROTH, PERCY, STAFFORD, HART, JAVITS, DURENBERGER, CRANSTON, WILLIAMS, PROXMIRE, MATHIAS, WEICKER, and BIDEN:

HOW FAST A TRACK

> If the Nation is serious about expanding domestic energy production a mobilization board is needed to steer crucial projects on a "fast track" through the regulatory labyrinths. But how much muscle should such a board have? The Senate energy committee's bill, backed by the White House, takes an expansive approach. It would, for instance, let the mobilization board step in to make a decision if a federal, state or local agency missed a deadline. The board could also waive any impeding law or regulation adopted after construction had begun.
>
> The Senate committee's bill goes too far. The case for it rests on some large and untested assumptions: that a number of big projects should be built in a hurry; that most regulatory agencies, especially in the states, will be unsympathetic and intolerably slow, and that mid-course adjustments will be few.
>
> In fact, the Senate is showing more and more reluctance to rush into a huge synfuels program. A number of states, especially in the West, have responded to energy pressures and the threat of federal preemption and are overhauling their own laws. Indeed, delay at the state level is often less a problem than conflicts among federal agencies—not to speak of Congress' own uncoordinated actions.
>
> All this argues for a more temperate approach that puts some projects on a fast track and lets the mobilization board enforce deadlines in court but nonetheless encourages decision-makers at every level to accept their responsibilities. The Ribicoff-Muskie substitute meets this test. It would create a sensible fast track but not a greased skid. It should be passed.

Mr. President, for all of these reasons, I urge my colleagues to vote against the motion to table this amendment.

Mr. President, I yield the remainder of my time to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, I want to emphasize in the closing 2 minutes what that Post editorial said.

The distinguished Senator from New Mexico argued that those who are for the committee substitute are against expedited procedure. Mr. President, that is not the issue at all. The issue is, as stated in this last sentence of the Post editorial:

> The Ribicoff-Muskie substitute meets the test. It would create a sensible fast track but not a greased skid.

Not a greased skid. My good friend from Washington argues that what we are concerned about is an energy problem. Of course we are. But he would imply that, therefore, we need not be concerned about another limited resource, the air within which the energy must burn. With what consequences? Constructive production, but also, pollution risks for the environment which not only affect the health of people but the capacity of the environment to sustain productive activity.

So, in his preoccupation with energy, he is not sensitive, as he should have been and as the committee should have been, to procedures which would protect not only the energy priorities of this country, but the environmental quality priority of this country.

The Senator from New Mexico argued that there is nothing in here that affects substantive law. We have discussed that for 2 days, and I read once before the language of the committee report dealing with section 19, which establishes the Board's authority to adopt special procedures—special procedures designed to modify the procedures created under existing law by the agencies involved.

What does the committee report say about that section? The committee intends to authorize agencies to make the changes enumerated in this section whether or not they can be categorized as procedural or substantive and whether or not they have substantive as well as procedural implications.

There is no provision of the bill which highlights this point more than the grandfather provision. That provision, Mr. President, would authorize the Board to waive any laws or regulation enacted or promulgated by a Federal, State, or local body after commencement of construction of a priority project.

What would be the implications of that waiver? It would say that it would remove the ability of all levels of Government to deal with unknown or unanticipated toxic environmental effects of energy facilities. Principally, we are focusing on the production of synthetic fuels. We do not have a synthetic fuels plant in a commercial state today. It is impossible to anticipate before the first shovelful of earth what the pollution implications of this new technology would be.

Senator Ribicoff, in his Committee on Governmental Affairs, conducted hearings on those dangers. What this waiver provision does is remove the ability to act, once the first shovelful of earth is turned, to deal with such unanticipated pollution.

Second, it bars the possibility that technology to minimize these problems would be developed to assure the commercial viability of these processes. We have learned in the environmental laws that American industry and science have developed technology to meet the requirements of public health mandated by law. Now, if we prohibit, if we write into law this provision which says they do not have to worry about it, what incentive is there for American industry to develop the very technologies that make synthetic fuels a viable—viable not only from the point of view of energy but the environment as well—option in the energy crisis ahead?

The Senator from Washington speaks about the delays that would be generated by the substitute. Mr. President, the failure to develop controls will also guarantee continued resistance to the more widespread construction of energy facilities without adequate protection of the public health and safety of affected citizens.

If you think that, by limiting the right of judicial review—and with respect to the designation of fast-track projects, you eliminate it entirely except for those who are denied fast track. So there is unequal justice. If the Energy Board says, yes, you have a green light, no appeal. But if it says, no, you have no green light, no appeal. Well, if you think that kind of restriction on judicial review protects your bill from the judicial process once it becomes law, no one could be more mistaken.

The people of this country have found it possible, using all kinds of ingenuity, to get into the courts, whatever the law says.

The **PRESIDING OFFICER**. The Senator's time has expired.

Who yields time?

Mr. **JOHNSTON**. Mr. President, I yield myself the remainder of the time.

Mr. President, this bill does not, I repeat, and anyone who can read the English language will tell you that the committee bill does not waive substantive law save and except the grandfather clause. Then you can come in and change the rules even after you get the permit if it is in the interest of health and safety.

Mr. President, the substitute bill is, I hate to characterize it as a joke, but I can find no other word that fits it because, Mr. President, while it allows the Board to set a time schedule, they cannot set a shorter time schedule than that allowed by local law and you have to go to a local court to enforce it. Do you know how long it takes to get on the docket of a local court? About a year. That is what happened to the Sohio pipelines, Mr. President. They were tied up in local court for a year trying to enforce the permit. They finally went to the Supreme Court and the Supreme Court remanded it down to the district court and it started all over again.

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **BIDEN**. Mr. President, today we in the Senate are debating not whether or not we will expedite action on priority energy projects. But rather how such priorities will be expedited. There are those in this body, however, who would have one believe that acceptance of anything less than the Energy Mobilization Board bill reported by the Energy Committee—S. 1308—is tantamount to obstructing our national goal of lessening U.S. dependence on foreign sources of energy.

Mr. President, I support the establishment of an Energy Mobilization Board as an important ingredient in the complex mix of legislative responses needed to help us solve our long, simmering energy problems. That is why I am pleased to be a cosponsor of the Ribicoff-Muskie substitute to the Energy Committee bill before us today. This substitute amendment provides for expedited decisionmaking for carefully selected new energy facilities required to achieve our national energy goals. However, unlike S. 1308, our substitute amendment would not sacrifice due process, or environmental, and public health protections provided under the law.

Mr. President, every Member of this body appreciates the importance of quickly coming to grips with the realities of the energy situation and making whatever tough decisions are necessary to lessen our increasing dependence on foreign oil. Yet, let us not be blinded by the need for quick, aggressive action into accepting the draconian measures presented to us by the Energy Committee in S. 1308.

How does empowering yet another Government agency with unprecedented authority to alter or waive existing laws in the process of expediting energy projects insure wise decisionmaking?

How does insulating the Board's project designations from the Secretary of Energy's policy priorities provide for a coordinated national energy policy?

How does a Board invested by us with such broad authority serve this country's best energy interests by exempting Board members from the conflict of interest requirements we subject lesser Federal officials to?

Mr. President, I submit these provisions do not serve our best national interests, and that is why I support the Ribicoff-Muskie substitute now before us.

Mr. President, to the extent we seek to achieve our national energy goals by violating other fundamental American principles, we jeopardize both objectives.

Yes, the times call for aggressive energy action now. However, let us not misconstrue speed for haste.

Mr. President, 6 years ago when the Senate voted on the trans-Alaskan pipeline I was 1 of only 5 who opposed final passage of S. 1081 authorizing the project. At that time I stated that it was quite clear to me "that little, if any, Alaskan oil would find its way directly to the east coast of the United States." I am sorry to say my prognosis was correct. The Alaskan oil pipeline takes precious American crude oil to where we have a crude surplus, while we on the east coast continue to import increasing volumes of foreign oil.

Mr. President, the Alaskan oil pipeline was a decision taken in haste. We responded to a genuine need with a hasty solution. And now do not have the full advantage which a more deliberate decision on the proper pipeline route would have yielded.

Mr. President, we have lost sight of other important goals in consideration of S. 1308. How does the preemption of State and local government decisions on local issues like land-use planning or zoning insure wise decisions?

By empowering the Board to take over Federal, State, and local agency functions, S. 1308 would, in fact, cause delays. The agencies the Board would displace have specialized expertise and experienced staffs. If the Board were to assume the decisionmaking role for which it is empowered, it would require an enormous staff to process decisions taken over from a variety of Federal, State, and local agencies involving expertise from land-use planning to toxic waste disposal.

Furthermore, by providing the Board authority to decide for agencies that have not met the Board's timetable for action we may, in fact, be encouraging delay. Developers seeking a more favorable forum for decisions could frustrate local consideration of a project until the Board would step in because of missed deadlines.

Mr. President, I do not believe the creation of another Federal bureaucracy usurping local authority with a potentially insatiable appetite will help cut through redtape. In fact, I believe S. 1308 will actually encourage further delays on critical energy projects.

However, the substitute bill which I support skillfully balances the authority and rights of State and local governments with the need for expedited energy project action.

Finally, Mr. President, we must not accept what the proponents of S. 1308 would have us believe is a benign grandfather clause permanently waiving the application of any Federal, State or local law or regulation after a project has begun.

The simple truth is that we have very little idea of the health and environmental risks associated with the development of new energy technologies—especially those which would be prime candidates for expedited approval by the Energy Mobilization Board.

S. 1308's grandfather clause might very well prevent a community from seeking to protect itself from yet unknown toxicities associated with new energy technologies. In fact, as Senator MUSKIE, the distinguished chairman of the Senate Subcommittee on Environmental Pollution, has pointed out, new environmental laws or regulations are often enacted "as specific remedial responses to problems which were unknown or unknowable at the time a project was initially approved." How can we seriously consider waiving our right to protect the public health under any set of circumstances?

Mr. President, we must secure the energy future of this country, we must prepare to do that now. The decisions required of us will not be easy ones. Nevertheless, let us not confuse bad decisions with the right decisions simply because they hurt.

I submit to my colleagues, Mr. President, that S. 1308 embodies a series of unwise decisions taken in haste, representing an unbridled commitment to energy development—regardless of the consequences. I believe the substitute Ribicoff-Muskie amendment, of which I am a cosponsor, is a much more reasonable piece of legislation. This amendment balances our urgent need for additional domestic energy supplies with what should be our overriding concern to protect the public health.

Mr. President, the decisions we take here today will seriously impact on the lives of generations of Americans for years to come. What will we have gained if in the process of trying to secure our energy future, we irreparably damage our environment—the life support system on which we all depend?

I urge my colleagues to support the Ribicoff-Muskie amendment to S. 1308.

Mr. BAUCUS. Mr. President, I rise to speak against the motion to table the Muskie substitute.

Mr. President, there is little doubt that the United States faces an energy crisis, or that the decisions we make this week, and in the months ahead, will determine to a considerable extent how energy independent this Nation is going to be.

The legislation being considered today is just the first of several energy bills the Senate will act on, but the issues raised in this bill go to the heart of the relationship between the Federal Government and the States that was envisioned by our Founding Fathers.

The sponsors of S. 1308 state that the proposed Energy Mobilization Board is an effort to cut redtape in the permit process for siting energy-producing facilities, particularly the synthetic fuel plants that play such a critical part in the administration's latest energy plan.

Modifications of Federal and State permitting processes are long overdue. Unnecessary delays—especially at the Federal level—have held up siting decisions and burdened investors with expensive delays.

Proper steps to end duplication in the regulatory process are long overdue. Too much money is being spent just filling out forms and conducting studies to meet the requirements of a multiplicity of agencies. One form or one process conceivably could fulfill all the essential Federal, State, and local requirements.

But, is the creation of the kind of Energy Mobilization Board proposed by S. 1308 the best way to accomplish these goals? I think not.

No matter how great the need to streamline permit review processes, the question remains: What happens to State and Federal laws that may conflict with the wishes of members of the Energy Mobilization Board.

Will the right of Montanans, and the laws enacted by the Montana State Legislature, be protected and respected or will they be trampled upon by this Board?

Simply stated, to what extent would an EMB decision to shorten the amount of time in which a State agency could make a decision affect the outcome of that decision?

The Senate Energy Committee and the administration argue that the EMB would have the authority to alter only "procedural" law. They say the "substance" of applicable law would remain in effect.

But nowhere in S. 1308 is there an adequate distinction between "procedure" and "substance." Instead there are ambiguities in the Energy Committee's report expressing the committee's intent to "alter institutional mechanisms for making decisions" while on the other hand Federal and State agencies are told that this "subsection is not intended * * * to give the Board any additional authority."

I believe the answer to these questions and to the ambiguity in the committee report is obvious. A decision by the Board to shorten the time a State agency has to make a decision will affect the substance of the law. Procedures do affect substance.

For example, the Montana State Department of Natural Resources staff tell me that telescoping the timeline for a decision would gravely interfere with their ability to carry out the law requiring selection of the best, least vulnerable sites for facility development.

They say abbreviating the amount of time could mean not being able to gather and analyze even the most elementary baseline data.

Speeding up very complex processes could mean that the wrong decision is made, that an alternative is selected based on the wrong study assumptions, that a potentially dangerous facility is approved posing health and safety dangers in the future.

The committee's affirmation of a tough grandfather clause further limits the State agency's ability to develop the information that might uncover the potential for health and safety hazards.

S. 1308 is disturbingly indecisive about water allocation rights for energy development. The committee bill states that Federal water rights would not be expanded nor would existing rights be relinquished in any way. That is well and good. But nothing in the bill specifically states that water use requirements for development of federally fast-tracked, or any other federally backed energy project, must be determined pursuant to State law. The question is left glaringly unanswered.

Anthony Lewis expressed the fears of many Montanans in a recent New York Times column when he wrote:

> If a coal liquefaction plant were to be built in Montana requiring immense quantities of water, would the people of Montana and nearby states be content to have the crucial and complicated issues of Western water decided by Washington lawyers?

The projections for how much water is needed for synthetic fuels plants shows how complicated and murky this question becomes. One plant is projected to require nearly 300,000 acre-feet, at 325,900 gallons per acre-foot, per year. This is enough water to irrigate nearly 100,000 acres and support over 300 farm families.

So far there seems to have been very little effective planning about the relation of water use for energy development to all other water uses in the West.

Montana contains much of the West's remaining free-flowing surface water, and its appropriation among all uses must be determined with the greatest care.

Third, Mr. President, I am concerned about the judicial review portions of S. 1308.

The right to appeal decisions made by Congress or the executive branch is essential to our form of government. Congress must weigh very carefully the precedents set when we disrupt the process.

S. 1308 centers all court review in the Temporary Emergency Court of Appeals (TECA) sidestepping the Federal District and trial courts, as well as the entire State court system.

In my view that is a grave mistake.

Finally, let me state that our system of government was built on the existence of a healthy tension between State and Federal interests. The system is built upon the premise that those interests can be worked out in a responsible manner.

We must think very carefully before we give the Federal Government the power to reduce that tension and give the Federal Government the upper hand.

The spirit in which we must proceed is one of cooperation between State and Federal Government. The Energy Mobilization Board in its present form sends a message to States that the Federal Government must have the primary role in determining what energy development does and does not take place in the individual States. That is not a model of decisionmaking that is in keeping with the spirit of the Constitution.

Montanans as much as any other citizens in this country are fed up with prolonged litigation and prolonged decisionmaking by Government. But Montanans want to know their traditional means of access to the decisionmaking process will not be dried up. Montanans want to know that if they have legitimate grievances with where energy projects are located or grievances with respect to other aspects of energy development that they can use their own State courts or the Federal courts to address those grievances.

S. 1308 as reported by the Energy Committee is just not acceptable in view of these concerns. The Muskie-Ribicoff legislation although not perfect goes a long way to correcting these faults. In my view it would be a serious mistake to table the substitute.

Mr. STENNIS. Mr. President, I am pleased to support the establishment of an organization that is necessary for the achievement of energy independence.

The urgency of obtaining the capability to control our Nation's energy and economic destiny is now abundantly clear to the Members of this body and to the citizens of our great country. Rampant inflation, unemployment, a weakened dollar, and a slowdown in economic growth are oil price shock waves which are being felt by all Americans. I believe it is now commonly understood that these economic pressures will persist as long as our Nation is dependent on foreign sources for its supply of energy. I further believe that the people of the United States expect leadership from this 96th Congress.

It has been recognized by three Presidents that we must achieve energy independence if we as a Nation are to continue to prosper and enjoy the fruits of our land. Recent petroleum price increases and political upheavals and instabilities in major oil exporting countries reminded us that we must get on with achieving national energy self-sufficiency. Establishment of an energy authority which is empowered to mobilize our industry toward the construction of high priority nonnuclear energy development projects is a first and vital step toward recognizing the urgency of the energy situation. The authority of the organization created by this act to eliminate when necessary Federal, State, and local procedural slowdowns, and to set deadlines for completion of reviews for the siting, design, and construction of energy facilities is essential to the proper execution of high priority energy projects. The authority to waive procedural law and set priorities is now a necessity to meet the demands for the energy we must have.

This act recognizes the importance of energy to our society and the need to cut the redtape and to proceed with developing our own sources of energy supply. I strongly urge passage of the Priority Energy Project Act of 1979. Experience will doubtless prove the necessity of further amendments to present law. We must make up our minds now to adopt whatever patterns of change that may prove necessary to meet our energy needs of the future.

The immediate amendment would strip the bill of the necessary authority to make essential changes and programs to meet our situation. I hope the amendment will be defeated.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table UP amendment No. 488 of the Senator from Connecticut (Mr. RIBICOFF). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HEINZ) is absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ) would vote "nay."

The VICE PRESIDENT. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—58

Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Danforth
DeConcini
Domenici
Durkin
Eagleton
Exon
Ford
Hatfield
Hayakawa
Heflin
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Laxalt
Long
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Morgan
Nunn
Pell
Pryor
Randolph
Sasser
Schweiker
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Young
Zorinsky

NAYS—39

Armstrong
Baker
Baucus
Bayh
Biden
Chafee
Cohen
Cranston
Culver
Dole
Durenberger
Garn
Glenn
Gravel
Hart
Hatch
Helms
Humphrey
Javits
Kassebaum
Kennedy
Leahy
Levin
Mathias
McGovern
Muskie
Nelson
Packwood
Percy
Pressler
Proxmire
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Stafford
Weicker
Williams

NOT VOTING—3

Goldwater
Heinz
Moynihan

So the motion to lay on the table amendment No. 488 was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Miss Lynn Wanlund, of my staff, be accorded the privilege of the floor during debate and voting on the pending legislation.

The VICE PRESIDENT. Without objection, it is so ordered.

UP AMENDMENT NO. 592

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) for himself and Mr. RANDOLPH, Mr. FORD, Mr. WARNER, Mr. YOUNG, and Mr. BAYH proposes an unprinted amendment numbered 592.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . The Board shall designate any utility, which applies for such designation, as a priority energy project if such project involves the conversion of a facility from the use of oil or natural gas to another type of fuel, or the construction of a new facility which would replace an existing oil or gas fired facility.

Mr. HUDDLESTON. Mr. President, this amendment is submitted on behalf of myself, Senators RANDOLPH, FORD, WARNER, YOUNG, and BAYH.

The PRESIDING OFFICER (Mr. BURDICK). The Senate will be in order.

Mr. HUDDLESTON. I thank the Chair.

This amendment would automatically grant fast track status to any utility which applies for it in order to convert from oil or natural gas to coal or coal-fired derivatives.

This amendment goes to the very fundamental question of whether or not we are serious about converting to coal.

We have certaintly been saying that we are serious about reducing the amount of oil that we are using, particularly foreign oil. We have been talking about conversions for years. Three Presidents have said that coal is the key to our short-term problems. We in Congress have passed two major conversion bills—the Economic Security and Environmental Coordination Act (ESECA) and the Fuel Use Act.

But the fact is the conversions just are not taking place.

They are not happening for two very basic reasons:

They are not happening for economic reasons, though the economics are turning around in their favor now.

And, they are not happening for the simple and understandable reason that utilities do not want to spend years in a regulatory maze. It is not worth the time, the effort, or the expense. In short, it is not worth the hassle.

Mr. President, Government should not be throwing up roadblocks to conversions. Government should be doing everything possible to encourage conversions and accomplish them as quickly as possible.

Any individual conversion may not offer the kind of savings that would appeal to the Energy Mobilization Board if we force them to take these conversion projects on a case-by-case basis. But, in the aggregate, conversion projects are well worth the Board's time and attention.

Preliminary estimates, compiled by ICF, Inc., for the President's Commission on Coal, indicate that the reconversion of coal capable utility plants could save as much as 724,000 barrels of oil per day—most of it by 1985.

Replacing oil- and gas-fired utility boilers with new coal units could yield additional savings of over half a million barrels of oil per day by 1985 and 1 million barrels per day by 1990.

No other energy path we could choose to take can offer this kind of savings this quickly.

The goal of the Energy Mobilization Board is to cut through any redtape and obstacles which impede the construction and operation of energy projects which could help us end this dangerous and expensive dependence on foreign oil. The amendment we are offering now does not in any way affect the powers and authorities which the Board may ultimately have at their disposal to accomplish their task.

It merely says that whatever authority the Board does have must be used to assist any utility which seeks help in converting from oil and gas to coal or coal derivatives.

This commitment to coal conversion is in keeping with the stated commitment of every administration since the Arab oil embargo.

It is in keeping with the congressional commitment to coal conversion evidenced by ESECA and the Fuel Use Act.

It will give some meaning to those commitments—meaning that those commitments do not now have.

Almost 6 years after the Arab oil embargo, can there be any question that business as usual is not going to get the job done?

Business as usual has resulted in thousands of unemployed coal miners and tons of coal lying on the ground or going unmined.

It is inexplicable to me that we are not burning every ton of coal we can get our hands on. I need only to drive through the coalfields of eastern and western Kentucky, I need only see the idle coal producing capacity, to know that a lot of our energy problems are self-imposed.

We just simply have to get serious about coal conversions, and this amendment is just a small start in that direction.

Mr. STAFFORD. Mr. President, will the distinguished Senator yield for a question?

Mr. HUDDLESTON. I will yield to the Senator from Vermont.

Mr. STAFFORD. I thank the Senator. I am much in sympathy with our converting from oil to coal in this country wherever it can appropriately be done. But I would like to ask the Senator if we convert to coal does he contemplate that that coal would be domestically produced or could coal produced, say, in Australia or Poland be used as a substitute for American coal?

Mr. HUDDLESTON. I would certainly hope it would be domestically produced, and it will be domestically produced unless through Government action and Government regulation we force domestic production out of the market. That is being done to some extent right now, and that is one of the things we need to be concerned about.

I want to emphasize again that this amendment does not address the myriad of problems we have in coal production and utilization in the country. It does not change the authority that the Energy Mobilization Board will have when this legislation is completed here and is finally enacted into law, if, indeed, it is. It just simply makes it automatic that when a project is for the purpose of converting from oil or natural gas, the fuel supply that is in such short supply at the present time, to coal, the one source of energy that is in abundant supply, then it would automatically be given the attention of the Board, it will be on the fast track basis.

Mr. STAFFORD. I appreciate the Senator's answer. I assume from what he has said it is the intention of the sponsors that American coal will be the coal to which the generating facilities might be switched.

Mr. HUDDLESTON. Absolutely. This amendment would help make sure that American coal would have a better shot at it.

Mr. STAFFORD. I thank the Senator from Kentucky.

Mr. HUDDLESTON. I yield at this time to the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, I consider it a privilege to join with my good friend and neighbor across the Ohio River, the Senator from Kentucky. It has been a privilege to have had a chance to work with him and the distinguished Senator from West Virginia (Mr. RANDOLPH) as a member of the Coal Caucus which, basically, was formed to try to prick the Nation's consciousness about the tremendous opportunity available to us to develop coal, our most abundant domestic energy source.

We have heard a good deal of discussion about the energy crisis. The fact is we do not have an energy shortage, we have a liquid energy shortage. We have close to 300 or more years worth of coal. The question is how we use coal to substitute for oil. In my State of Indiana we rely heavily on coal for electric generation and other uses, and we know what an important resource coal is. Other States lack such experience.

So there has been an effort on the part of some of us, who have banded together from States that produce significant amounts of coal, to try to get the Nation on the track necessary to utilize this vast and valuable resource.

It has been almost unbelievable to the Senator from Indiana as I have reviewed decisions made by Federal agencies that work directly at cross-purposes with the President's stated goal of doubling our coal production and consumption by 1985.

One of the major catalysts for putting together the Coal Caucus was a tentative set of regulations proposed by EPA. These new regulations were not advanced as necessary to protect the public health. Technology was not available to enable coal users to comply with the regulations which were proposed. Finally, the impact of these regulations, for which there was no technology and no public health need, would have been to shut down all the soft coal fields of Illinois, Indiana, Ohio, and much of West Virginia.

But I must say, Mr. President, that the folks down at EPA, after a visit by some of us to the White House, and in discussion with others, did withdraw those proposed regulations and modify them significantly.

The strip mining bill which passed, and which the Senator from Indiana supported in 1977, because I do not think as we move out and develop coal resources we can just rape the land—and that is a sad chapter in our history—was an effort to try to return stripped land to a useful and productive condition so it could remain an asset to communities in coal mining areas. But the implementation of this statute has been inexcusable.

There was delay by the Office of Surface Mining in promulgating the regulations.

When the regulations were promulgated, they appeared to go far beyond the statutory intent of Congress. So, just recently, the Senate passed the Rockefeller amendment which said, "Wait a minute, State plans must only comply with the intent of Congress and not the intent of people writing reams and reams of regulations which far exceed the intent of Congress." Further, we extended the deadline for submitting State plans, to assure that enforcement would take place at the State level, as Congress intended, and that rational plans could be developed.

So I think we have already made some progress in trying to stimulate the production and use of coal.

But, as I view the amendment of my good friend from Kentucky, basically what he is trying to do is to put some teeth in the laws that have already been passed by Congress, one in 1973 and one in 1978, when we were first hit by the energy crisis, at the time of the Yom Kippur war. We passed a coal conversion bill at that time, and the administration seemed to recognize the need to move from oil and gas to coal as quickly as we could. But that legislation was never implemented. No facilities were ordered to convert to coal. This was a great disappointment to coal mining operators—many of them small businessmen—and coal miners, with families to support, and many of us who believe coal is an important natural resource. So the Congress came back and passed another coal conversion bill last year.

But almost before the President had signed the bill, Secretary Schlesinger was sitting in my office, and the offices of other Members, saying that we were not going to convert to coal because we had a bubble of natural gas. Mr. President, I believe that bubble is going to burst in a couple of years. But this switch in positions, and uncertainty about EPA policy, was enough to stop most fiscally responsible corporate managers from making corporate decisions involving large capital outlays and long lead times. So there was a continuation of burning oil in boilers, or, in some cases, natural gas, when we should have been turning to coal. Oil is just too valuable and scarce a fuel to be wasting in boilers.

So, I just want to say that this amendment proposed by the Senator from Kentucky is absolutely on target. It would automatically extend fast track treatment to facilities converting to coal. He has already mentioned the amount of oil that could be saved if all possible conversions took place, and I would just like to underscore them for the Senate's consideration. The President's Coal Commission estimated that there are some 60 oil-burning facilities that could be switched in a relatively short period of time. The Congress endorsed that policy some time ago, yet there has not been one single conversion, despite the fact that we first passed legislation in 1973. In the last few months one initial immersion order has been issued, I believe, for conversion of a utility in the New York metropolitan area. And if it happens, it is going to save those consumers a lot of money, and perhaps assure them should we have another cutoff.

Mr. RANDOLPH. Mr. President, will my colleague yield again? In 1973, and in 1978, in both years we acted on coal conversion legislation.

Mr. BAYH. Neither of which has been passed.

Mr. RANDOLPH. Neither has been effectively implemented downtown.

Mr. BAYH. That is correct.

Mr. President, in a relatively short period of time, it is possible to convert a large number of major facilities from oil to gas or to coal. The amendment we are offering today would make sure this is done with a minimum of regulatory delay. We can save hundreds of thousands of barrels of oil a day, make the United States less dependent on imported energy, and decrease the stranglehold foreigners have on our energy supply.

Mr. President, I would hope that Senators will see that this amendment will assist the President's energy program, rather than hinder it. I am pleased to join with Senators HUDDLESTON, RANDOLPH, FORD, WARNER, and YOUNG in the hope that we will be successful in moving coal out there to the marketplace, and into the Nation's boilers, and in reducing our use of oil.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from West Virginia, Senator RANDOLPH, have control of the time? I simply want to add my name as a cosponsor.

The PRESIDING OFFICER (Mr. CHILES). Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON addressed the Chair.

Mr. RANDOLPH. The Senator had yielded to me. If I can accommodate my colleague, I would want to do that.

Mr. JOHNSTON. Surely. I just thought I could say a word to which the Senator could respond.

Mr. RANDOLPH. That would be agreeable.

Mr. JOHNSTON. Mr. President, we very much agree that development of coal is one of the highest priorities in terms of our Nation's energy. Converting to coal, which is domestic, as an alternative for imported oil, there can be no higher priority than that.

We would suppose, Mr. President, that the Board, in the exercise of their discretion, will grant priority energy project status to the great majority, perhaps all, of this kind of projects. But, Mr. President, the reason that we did not designate coal conversion facilities, the reason that we did not designate synfuel facilities, the reason that we did not designate anything, was because when you start designating different projects, pretty soon you are getting them all included—all synfuel, all pipelines, all strategic oil reserves, all refineries.

Mr. RANDOLPH. Will the Senator yield to me at this point?

Mr. JOHNSTON. Yes.

Mr. RANDOLPH. The production of synfuels is not tomorrow, it is not next year nor the next. But the conversion of coal is now. There is a difference, I say, in relationship to the other alternatives of which the Senator speaks.

Mr. JOHNSTON. I find myself in a very difficult position, because I agree with almost everything that the proponents of this amendment say, except that we do not want to accept this as part of the definition. We would rather leave that to discretion, because it may be unnecessary. We may have cooperative States and Federal agencies that do not hang up the process at all, and it may take more time, effort, and redtape to go through the Energy Mobilization Board than to proceed down the track of current law.

I would imagine, for example, the State of West Virginia would be very accommodating to this kind of project. So, Mr. President, that is my concern, and I wish the distinguished Senator from West Virginia would respond to that concern.

Mr. RANDOLPH. Mr. President, I support as a principal sponsor, a member of this team with Senator HUDDLESTON and others, this amendment. I am also glad the majority leader has become one of its sponsors. I only wish that the Senator from Louisiana (Mr. JOHNSTON) could be a sponsor.

What would this amendment do if it were accepted and becomes law? We would automatically grant priority fast track status to any utility which converts from oil or natural gas to coal. What is wrong with that? The cheapest alternative now—not 5 years from now—to imported oil and the way to achieve a significant reduction of imported oil is the direct use of clean burning coal. This option would have a high payoff value. It will reduce oil consumption immediately compared with the 10 to 15 years necessary for developing other alternatives being considered by the Congress. Those other alternatives are very important—I support them. Synthetic fuels, for example, are a critical ingredient to our domestic energy future.

Mr. President, we have not had the significant increase in direct coal utilization. Yet the statutes have been upon the books since 1974 and 1978. We now hope that by having these projects designated as fast track, for expedited treatment by the EMB, existing coal capable utilities and replacements for existing oil and gas-fired units will be able to proceed immediately to convert to coal.

Why have we not had a significant increase to date in direct coal utilization? Michael S. Koleda, Executive Director of the President's Commission on Coal, asked this and other related questions in an address to the fourth annual Governors' Conference 2 weeks ago. Mr. Koleda asked, why do we continue to burn precious oil and gas under stationary boilers when oil imports are disrupting our economy and causes inflation? Why do we continue to burn precious oil and gas under stationary boilers when oil dependence threatens our Nation's security? Why do we continue to burn precious oil and gas amid a glut of readily available coal and thousands of unemployed miners? When coal costs one-third to one-half—I hope my colleagues read and understand this clearly—when coal costs one-third to one-half the cost of oil, why do electric utilities continue their dependence on costly imported oil at a rate of millions of barrels per day?

Mr. President, one of the reasons for the under utilization of coal is that many people in areas where conversion of utility boilers could occur, think back to when coal was in widespread use as a utility boiler fuel. They remember what that meant for the quality of the air. I do not believe they realize that today, with our new source performance standards and advanced cleanup technologies, a new coal-fired plant is cleaner than most oil-fired plants that are in operation today. This is proved; this is factual; this is known.

Utilities themselves also have reservations. They are fearful that many groups will try to abort attempts to build new coal-fired plants and will resist programs encouraging coal conversion. They fear that unchecked rail rate increases will wipe out the current cost advantage coal currently enjoys over oil.

Environmentalists, although not the entire community, are often too quick to identify the negative environmental aspects of the coal option.

Most of the environmentalists I work closely with in my capacity as chairman of the Environment and Public Works Committee realize that beyond solar and conservation, direct burning of coal is the option we can best control from an environmental standpoint. I feel that the environmental community should show significant support for clean burning of coal in place of oil and gas in utility boilers.

Mr. President, one of the reasons for the underutilization of coal is that many people in areas where conversion of utility boilers could occur still focus back to a time when coal was in widespread use as a utility boiler fuel. They remember what that meant for the quality of the air. I do not believe they realize that today, with our new source performance standards and advanced cleanup technologies, a new coal-fired plant is cleaner than most existing oil-fired plants.

Utilities themselves also have reservations. They are fearful that many groups will try to abort attempts to build new coal-fired plants and generally will be against programs encouraging coal conversion. They fear that unchecked rail rate increases will wipe out the current cost advantage coal currently enjoys over oil.

Some environmentalists, although not the entire community, are often too quick to identify the negative environmental aspects of the coal option. I believe they should realize that beyond solar and conservation, direct burning of coal is the option we can best control. I feel that the environmental community should provide support for clean burning of coal in place of oil and gas in utility boilers because it is the best of a difficult set of remaining options which include synthetics, oil shale, and others.

Utilities should support clean burning of coal because their prime objective should be to provide electricity from the cheapest and most dependable source.

It is the best of a series of remaining options, which include, of course, synthetic fuels, oil shale, fuel from agricultural wastes and other forms of biomass.

Mr. President, utilities should be united in their support for clean burning of coal. Many are beginnng to do this. I place in the RECORD a list of utilities that have, without the actual mandate of the administration, gone to coal burning from oil and gas. This has taken place in several areas of our country: New England, Florida, and other places.

The list follows:

TABLE 1.—UTILITY POWERPLANTS PREVIOUSLY IDENTIFIED AS CAPABLE OF BURNING COAL THAT ARE NOW BURNING COAL

State and utility	Plant	Units	Megawatts
Alabama: Alabama Electric Coop	McWilliam	1-3	41
Colorado:			
City of Colorado Springs	Drake	5-7	264
Public Service of Colorado	Arapahoe	1-4	252
	Cameo	1, 2	75
	Cherokee	1-4	767
	Valmont	5	180
Central Telephone & Utility	Clark	1, 2	44
Delaware: Delmarva Power & Light	Delaware City	1-3	120
Florida:			
Florida Power Corp	Crystal River	1, 2	964
Gulf Power Co	Crist	4-7	1, 054
Tampa Electric	Gannon	5, 6	552
Georgia:			
Georgia Power	McDonough	1, 2	458
	Yates	1, 2	1, 394
Savannah Electric	Port Wentworth	1-4	333
Illinois:			
Central Illinois Public Service	Hutsonville	3, 4	150
Central Illinois Light	Wallace	3, 7	271
Commonwealth Edison	Crawford	7, 8	538
	Fisk	19, 20	495
	Joliet	6-8	1, 196
	Waukegan	6-8	774
Illinois Power Co	Hennepin	1, 2	310
City of Springfield	Lakeside	1-7	161
Illinois Power Co	Havana	6	450
	Woodriver	4, 5	503
Indiana:			
Northern Michigan Public Service	Michigan City	2, 3, 12	540
	Bailey	7, 8	590
	Mitchell	4-6, 11	472
Indianapolis Power & Light	Stout	5-7	651
	Pritchard	3-6	283
Commonwealth Edison (Indiana)	State Line	3, 4	536
Iowa:			
City of Ames	Ames	5-7	57
East Iowa Light & Power Coop	Fair	1, 2	63
Cedar Falls Utilities	Streeter	4-6, 47	67
Cornbelt Power Coop	Humboldt	1-4	45
	Wisdom	1	60
Iowa Electric Light & Power	Sutherland	1-3	158
Fairmont Public Utility	Fairmont	1-5	13
Interstate Power Co	Dubuque	2-4	82
	M. L. Kapp	1,2	237
Iowa Illinois Gas & Electric	Riverside	3-5	99
Iowa Power & Light	Council Bluffs	1-3	781
	Des Moines	6, 7	189
Iowa Public Service Co	Carroll	1, 2	11
	Eagle Grove	1	8
	George Neal	1-3	987
	Hawkeye	1, 2	20
	Maynard	7	57
Iowa State University	Iowa State	1, 2, 4, 5	24
City of Muscatine	Muscatine	5-8	125
Pella Municipal Power	Pella	6	26
University of Iowa	University of Iowa	1, 5, 6	21
Kansas:			
Kansas City Board of Public Utility	Kaw	1-3	171
	Quindaro	1, 2	218
Kansas Power & Light	Lawrence	4, 5	553
	Tecumseh	7, 8	229
Empire District Electric	Riverton	7, 8	91
Kentucky: Louisville Gas & Electric	Cane Run	1-6	983
	Paddy's Run	1-6	302
Maryland:			
Baltimore Gas & Electric	Wagner	3	359
Potomac Electric Power	Morgantown	1, 2	1, 148
	Chalkpoint	1, 2	788
Michigan:			
Consumers Power	Weadock	7, 8	326
	Karn	1, 2	550
Detroit Edison	St. Clair	1-4, 6, 7	1, 382
	River Rouge	2, 3	558
	Conners Creek	15, 16	300
	Trenton Channel	7, 8, 9A	778
	Pennsalt	11-18	39
Holland Bd. of Public Utility	DeYoung	1-5	77
Michigan State University	MSU No. 65	1-3	39
Minnesota:			
Austin Utilities	N. E. Station	1	32
Northern States Power	Minnesota Valley	3	46
	High Bridge	3-6	363
	Riverside	1, 2, 6-8	358
	Black Dog	1-4	488
	Redwing	1, 2	24
	Wilmarth	1, 2	26
Minnesota Power & Light			
	Aurora	1, 2	116
	Clay Boswell	1-3	515
Hibbing Public Utilities	Hibbing	1, 3	15
New Ulm Public Utilities	New Ulm	1-4	25
City of Rochester	North Broadway	1, 2	13
	Silver Lake	1-4	99
United Power Association	Elk River	1-3	47
Mississippi: Mississippi Power	Daniel/Jackson Cnt	1	500
Missouri:			
Kansas City Power & Light	Hawthorne	1-5	969
	Grand Avenue	5, 7-9	94
Missouri Public Service	Green	1, 2	44
City of Independence	Blue Valley	1-3	102
Union Electric	Meramec	1-4	880
Marshall Municipal	Marshall	4, 5	23
St. Joseph Power & Light	Lake Rd	2, 4	124
Montana: Montana Power	Lewis & Clark	1	50
Nebraska:			
City of Fremont	Fremont 2	6-8	135
Nebraska Public Power District	Sheldon	1, 2	216
	Kramer	1-3	114
Omaha Public Power	North Omaha	1-5	646
Nevada:			
Nevada Power	Reid Gardner	1-3	330
Southern California Edison	Mohave	1, 2	1, 608
New Jersey:			
Atlantic City Electric	BL England	1, 2	299
Public Service Electric	Mercer	1, 2	606
New Mexico: Public Service of New Mexico	San Juan	1, 2	656
New York: Rochester Gas & Electric	Rochester	3	80
North Carolina: Carolina Power & Light	Sutton	1-3	588
North Dakota:			
Minnokta Power Coop	Wood	1-3	22
	Young	1, 2	648
Montana Dakota Utilities	Heskett	1, 2	100
Ohio:			
Cincinnati Power & Light	Miami Fort	5-8	1, 254
Dayton Power & Light	Tait	4, 5	278
Painesville Municipal Lightings	Painesville	1-6	60
Piqua Municipal	Piqua	4-7	39
City of Hamilton	Hamilton	3, 8, 9	80
St. Marys Municipal	St. Marys	4-6	19
Ohio Edison	Toronto	5-7	172
Ohio Power Co	Cardinal	1-3	1, 800
Oklahoma: Oklahoma Gas & Electric	Muskogee	4, 5	1, 030
Pennsylvania:			
GPU-Pennsylvania Power	Seward	2-5	243
Phildelphia Electric	Cromby	1	150
	Richmond	2	108

TABLE 1.—UTILITY POWERPLANTS PREVIOUSLY IDENTIFIED AS CAPABLE OF BURNING COAL THAT ARE NOW BURNING COAL—Continued

State and utility	Plant	Units	Megawatts
South Carolina:			
S. Carolina Power & Light	Robinson	1	174
South Carolina Electric & Gas	Canadys	1-3	422
	McMeekin	1, 2	252
	Urquhart	1-3	250
South Carolina Public Service	Jefferies	3, 4	300
South Dakota:			
Black Hills Power & Light	French	1	26
Northwestern Public Service	Aberdeen	3	8
	Mitchell	3	9
Tennessee: Tennessee Valley Authority	Allen	1-3	879
Texas: San Antonio Public Service	Deely	1, 2	836
Utah: Utah Power & Light	Gadsby	1-3	252
	Hale	1, 2	60
Vermont: Burlington Electric	Morgan	1-3[1]	30
Virginia:			
Virginia Electric & Power	Chesterfield	5, 6	991
Danville Water, Gas & Electric	Branlty	1-3	31
Appalachian Power	Glenlyn	5, 6	335
Wisconsin:			
Wisconsin Public Service	Pulliam	3-8	380
	Weston	1, 2	148
Wisconsin Electric Power	North Oak Creek	1-4	442
	South Oak Creek	5-8	1,034
Marshfield Electric & Water	Wildwood	4, 5	32
Lake Superior District	Baylont	1-6	84
Total			49,648

[1] Also burning wood.

Mr. RANDOLPH. So we feel that the utilities cannot be reluctant in converting to coal. They should support the clean burning of coal, because the utilities' prime objective, Mr. President, should be to provide electricity from the cheapest and the most dependable source. Clean burning of coal must be supported, by everyone who studies this question, because a ton of coal mined and burned means an increase in jobs and coal sold. The resource provides the economic base to the mining sections of this country, to the operators, and to the miners who work beneath the earth in deep mines and work on the earth in surface mining. Our Nation as a whole responds to this sort of program.

Mr. President, in a letter of September 25, which I sent to my colleagues of the Coal Caucus, individually the savings from any one conversion of a utility or major fuel burning installation may seem too small to the Energy Mobilization Board to merit their assistance. In the aggregate, however, the savings from conversions would be substantial and offer one of the very best possibilities for short-term relief from excessive oil imports. Preliminary estimates compiled by ICF, Inc., for the Coal Commission, of which I am a member, indicate that the reconversion of coal-capable utility plants, just these utility plants alone, could save as much—this is not in dispute—as 724,000 barrels of oil per day. I hope that Members of the Senate, with the opportunity they will be provided to vote for this amendment, will realize that that staggering sum, and significance of this figure.

Of course, Senator HUDDLESTON and those of us who speak for this amendment know that the direct burning of coal will free up to 2.5 million barrels of imported oil per day. This will more than satisfy the criteria for designation that, frankly, Senators MUSKIE and RIBICOFF believe should be required in making Energy Mobilization Board decisions. By placing these projects on the fast-track system, we shall be able to combat institutional obstacles that have developed in regard to direct burning of coal.

Mr. President, if we speak earnestly on this subject, it is understandable. Anyone who believes in the conversion from oil and natural gas to coal should speak earnestly, because our case is right and our mission clear. The time is now and the need can be met, at least to a substantial degree, by the passage of the amendment now pending.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. I assume there is no time limit on the amendment; therefore, no time in opposition.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I only want to yield myself 5 minutes so that, when 5 minutes are up, I want to know that.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Mr. President, let me say to my good friend, the chairman of the Committee on Environment and Public Works (Mr. RANDOLPH), as I have said on the floor within the last 48 hours, there is no one who has sounded the alarm to the United States, to its leaders, on the need for getting on with using alternate fuels for as long as he and as well as he has. There is no one. He is absolutely right in the substance of his argument here today that, in the time analysis, we can talk about all the different alternates, but for the very short term, there is an excess of coal, there is an abundance of coal-producing capacity, regardless of what some people think. There is an excess of inventory of coal all around. In fact, it is so strange, it is looked at from afar in an almost incredulous manner that, in this time of crisis, we are having miners laid off from work; that we search so hard for alternate fuels when we have such a good one in coal.

I have no difficulty with the priority the Senator attempts to place on coal utilization, coal conversions contained in the Huddleston amendment. For the time being, however, I want to say that I am not prepared to accept the amendment at this point. I want to discuss it a little more. I want to try to understand its impact on the overall philosophy of the bill and the policy and direction that we are going to take.

I hope those who are sponsors of it, all of whom, from what I can tell, have been diligently attempting to get some of our energy projects expedited—I note that the sponsors are the kind of people who want to get on with that. I commend them for it and certainly, from the Energy Committee standpoint, appreciate the support.

So, I say to the Senator from Virginia and to my good friend, the Senator from Kentucky, that I prefer that we wait just a while while we discuss it further. I must be absent for about 15 minutes and I ask that we not proceed with it until I return. The chairman will be back shortly and he asked the same. I ask that in his behalf at this point.

Mr. HUDDLESTON. Will the Senator allow me to make just a couple of points before he leaves, because I hope he will take them into account in the next few minutes?

First of all, the question is asked, and I think very validly, as to why this particular type of project ought to receive any special attention and whether or not, by requiring that conversion from oil and natural gas to coal or coal derivatives is any different from a number of other energy type projects that we all have interest in. Some Members have more interest in particular ones than others—the question of refineries, the question of synthetic fuels projects, and this type of activity. The reason, as I see it, and it is one of national interest at this particular point in time, is that the conversion from oil and natural gas to coal is virtually the only method we have right now—aside from conversion—of reducing the amount of foreign oil that we bring into this country.

It is the only way we can do it in the near term to any substantial degree.

When we take that fact and add to it the fact that the President of the United States has said that we will not import more foreign oil ever again than we did in 1977, at which time the import supply was 8.2 million barrels a day, we can see that we are on a collision course again in our oil supply.

While right now there are no gasoline lines at the service stations, certainly within a reasonable period of time, if demand continues at the rate it is now, we will be bumping against those import limitations.

One way to avoid that, in fact the only way, is to bring about greater utilization of coal and displace the direct use of oil. That is why I think this amendment is so important. It recognizes those conditions. It recognizes those facts. It makes it an automatic process for the Board to consider when there is proposed a conversion from oil or natural gas to coal.

It just makes sense. I am convinced that if there were lines in our gasoline stations, as there were a few months ago, that this amendment would receive unanimous consent.

I am convinced we would have a better Energy Mobilization Board come out of this Congress if the lines were still at the stations. But they are gone temporarily.

With the import limitations that are going to be imposed, there is no doubt that sooner or later, and probably sooner, they are going to reappear.

I think it is a recognition of those facts that makes this amendment appropriate at this time and sets these projects apart from long-term synthetic fuels projects, or projects such as refineries which do not in fact save any oil.

So I hope the Senator will take that into account in his deliberations.

Mr. DOMENICI. I will.

Mr. President, I appreciate the Senator's taking the time to express to me why he thinks this is a special kind of project, which is, obviously, the case he is making, not special to any part of this country, but rather, special in terms of the immediate problem and how we might address it.

Nonetheless, let me say that I would like to have a little bit of time to consider it in light of the fact that, to this point, it would be the only specific mandate, in a sense, to the Energy Mobilization Board in terms of a kind of project that they have to consider.

I think that is a very important decision for us to make here.

Mr. RANDOLPH. Did I understand that we are just waiting, or should there be a quorum call asked for?

I want to be certain of the situation.

Mr. DOMENICI. Mr. President, I talked with Senator Johnston just before he left. He said that he would be back in 15 or 20 minutes. I think he will be back in a few minutes. It should not be over 10 minutes.

If Senators have further things to say, obviously, I would not want to suggest the absence of a quorum. But if he wants to just give up his time, does not have anything to say, I would suggest the absence of a quorum.

I did not want to shut out anybody.

Mr. RANDOLPH. I understand that Senator Domenici wishes to leave the floor. Is that correct?

Mr. DOMENICI. Yes. That is correct. I will not be long.

We are going to confer with Senator Jackson. I want to confer with Senator Hatfield for just a moment on the Senator's amendment. I would like to dispose of it.

Mr. RANDOLPH. I think that is better.

Mr. DOMENICI. So would it be appropriate to suggest the absence of a quorum?

Mr. HUDDLESTON. If the Senator will withhold on that, then we will suggest the absence of a quorum.

UP AMENDMENT NO. 592

Mr. HUDDLESTON. Mr. President, I send to the desk technical modifications of this amendment, and I move they be accepted at this time.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment (UP No. 592), as modified, is as follows:

> On page 35, after line 2 insert the following:
>
> "(d) The Board shall designate any fossil-fuel fired electric generating plant for which such designation is requested as a priority energy project if such project involves (1) the conversion of a facility from the use of oil or natural gas to coal or a coal-derived fuel, or (2) the construction of a new facility which would replace an existing oil or gas fired facility with coal or coal-derived fuel fired capacity."

Mr. DOMENICI. Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I want to announce for the information of all Senators that we would like to make a determined effort to finish this bill this evening, hopefully even this afternoon, and we do invite all Senators who have amendments to bring them forward.

With respect to the Huddleston amendment, we are working on different ideas under that amendment, and I would hope we could suspend consideration of it for the time being. Hopefully we will be able to work it out to the satisfaction of the Senator from Kentucky, the Senator from West Virginia, and others, and we would like to get on with the process of considering any other amendments any other Senators have at this time, if we may, with the idea of finishing tonight.

The PRESIDING OFFICER. Without objection, the amendment will be temporarily set aside.

Mr. WARNER. Mr. President, will the Senator from Louisiana yield me a minute?

Mr. JOHNSTON. Yes, I yield the Senator 1 minute.

Mr. WARNER. I ask that the suspension of the Huddleston amendment await the conclusion of my remarks, since I am a cosponsor of that amendment.

Mr. JOHNSTON. Yes. Mr. President, I ask unanimous consent that the suspension of that amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I rise today in support of Senator Huddleston's amendment which will designate any fossil fueled fired electric generating plant as a priority energy project, if requested, and if the facility will be converted to coal or a coal-derived fuel.

The President's Commission on Coal in its July 12 report to the President found that:

> (G)rowing American reliance on imported oil threatens our security; constrains our foreign policy; and undermines our ability to manage the economy, to control our balance of payments, to keep the dollar sound worldwide, and to bring inflation under control at home.

The Commission also found that the recessionary effect of escalating world oil prices will severely hamper the country's attempts to balance its budgets.

The Commission declared:

> Now is the time for government to act and to do so decisively. . . .
>
> We recommend a program of actions involving both the direct use of coal and the creation of a synthetic fuels industry to decrease oil imports.

The Commission recommended that coal-capable electrical utility boilers now burning oil and gas should be reconverted to burn coal, and that oil and gas fired utility boilers not capable of burning coal should be replaced by new coalfired units.

In 1974 Congress passed the Energy Supply and Environmental Coordination Act of 1974, which created a Federal regulatory program aimed at replacing oil and gas with coal in the industrial sector. The act authorized the administration to prohibit existing "major fuel-burning installations" from burning oil or natural gas and to order new equipment to be designed to be capable of burning coal.

Similarly Congress enacted in 1978 the Powerplant and Industrial Fuel Use Act which gave the President the power to prohibit existing electric powerplants from using petroleum or natural gas and instead burning coal as a fuel.

But the performance under these two acts has been dismal. For many reasons, some of which have been regulatory delays, these provisions have not been effectively implemented.

Senator Huddleston's amendment will complement these two acts and will allow powerplant conversions to be placed as priority projects.

I support Senator Huddleston's amendment and have joined with him as a cosponsor.

Mr. President, there are no less than five plants in my State of Virginia that now in accordance with recently enacted legislation, have applications pending before appropriate Government agencies, principally EPA and DOE, requesting conversion from oil to coal. I do not criticize the Secretaries or the staff members of those agencies and departments, but I do say the applications have been pending now for many months. I am confident that this type of legislation can help reduce that period of time within which oil plants can be converted to coal plants.

Three different administrations have called for the increased usage of coal but to no avail.

In my own State of Virginia over 2,000 miners are out of work, mines are closing, families dependent upon the coal industry are being subjected to untold hardship and communities are in danger of economic demise because of this nations inability or unwillingness to increase its production of coal.

This amendment has the potential to create the demand for increasing the production of one of this Nation's most abundant resources—coal. This increased demand will help to alleviate the economic distress prevalent throughout much of this Nation's coalfields.

Just as important, Mr. President, this amendment when enforced will allow this Nation to cut back drastically on its usage of imported oil. It is estimated that by 1990 this amendment will reduce our dependency on foreign oil by 1.5 million barrels per day. At the current world oil price this is a savings to the American public of $30 million per day.

Any measure which will put Americans back to work, reduce our dependence on foreign oil, increase our coal production, and reduce this country's inflationary spiral deserves to be supported by this body.

I urge my colleagues to join with me and vote for this amendment.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. MELCHER). Without objection, it is so ordered.

Mr. **ROBERT C. BYRD**. I would like to echo the sentiments expressed by the Senator from Louisiana (Mr. JOHNSTON) and the managers of the bill on the other side of the aisle that if Senators have amendments, they should call them up. The Senate is wasting a lot of time at a very good point during the day. Debate could be going forward and votes occurring. The best part of the day, at the moment certainly, is apparently being wasted. There may be a good bit of work going on outside the Chamber on amendments, but I do not know whether there is or not. I just want to underwrite what the Senator said, that if Senators have amendments, let them call them up and let them be acted on.

Today is Wednesday, tomorrow is Thursday, the next day is Friday. We will be out on Saturday and Sunday, and we will be out on Monday, that being a holiday. I would like to complete this bill this week. Wednesday is a good day. At 1:45 in the afternoon is a good time of the day for getting the people's business done.

I will try to avoid putting on pressure for final passage for the moment, but I urge Senators to present their amendments.

I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **JOHNSTON**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **JOHNSTON**. Mr. President, I ask at this time that the amendment of the distinguished Senator from Kentucky be set aside temporarily.

Mr. **HUDDLESTON**. Reserving the right to object, set aside for what period of time?

Mr. **JOHNSTON**. Until the Senator wants to bring it up.

Mr. **HUDDLESTON**. We need to have a conversation on it, so we should suggest the absence of a quorum.

Mr. **JOHNSTON**. Understanding, of course, any time, the Senator from Kentucky wants to bring it up, that he can, and we will not seek any time agreements or any unanimous consent that would cut off his right to do so.

I was going to have the committee substitute adopted so we can have that as a vehicle to amend.

Mr. **HUDDLESTON**. Reserving the right to object, the Senator does not anticipate any intervening amendments to mine at this particular point, other than the one he is suggesting?

Mr. **JOHNSTON**. I would like to go ahead and have the committee substitute adopted. Then, if the Senator wishes to bring up his amendment——

Mr. **HUDDLESTON**. No objection.

The **PRESIDING OFFICER**. Without objection, the amendment of the Senator from Kentucky will be laid aside temporarily.

Mr. **JOHNSTON**. Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER**. The Senator will state it.

Mr. **JOHNSTON**. Have we adopted the committee substitute at this point?

The **PRESIDING OFFICER**. The committee substitute has not been adopted.

Mr. **JOHNSTON**. Mr. President, I would move for adoption of the committee substitute at this point.

The **PRESIDING OFFICER**. The Chair would advise the Senator that adoption of the committee substitute precludes any other further amendment.

Mr. **JOHNSTON**. That precludes any further amendment?

The **PRESIDING OFFICER**. If the Senator asks it be considered original text, it would still be open to further amendment.

Mr. **JOHNSTON**. Have we adopted the committee substitute for the purpose of considering it as original text for further amendment?

The **PRESIDING OFFICER**. Not at this time.

Mr. **JOHNSTON**. Then, Mr. President, I would move the committee substitute for the limited purpose of considering it as original text for the purpose of further amendment.

The **PRESIDING OFFICER**. Is there objection?

Without objection, the committee substitute is agreed to as original text for the purpose of further amendment.

Mr. **JOHNSTON**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Mr. LEVIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **JOHNSTON**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **JOHNSTON**. Mr. President, I ask that the amendment of the Senator from Kentucky now pending be temporarily withdrawn from consideration while we adopt some other amendments.

The **PRESIDING OFFICER**. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 593

(Purpose: To exempt the transportation system authorized by the Alaska Natural Gas Transportation Act of 1976 from the jurisdiction of the Energy Mobilization Board)

Mr. **STEVENS**. Mr. President, is the bill now open to amendment?

The **PRESIDING OFFICER**. The bill is open to amendment.

Mr. **STEVENS**. I send an amendment to the desk.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 593:
>
> On page 141, add the following new section following line 8:
>
> "THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM
>
> "SEC. 37. No provision of this Act shall modify, alter, or repeal any portion of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719). This Act shall, however, apply to the Alaska Natural Gas Pipeline system to the extent that the provisions of this Act may be used to expedite the construction of such system."

Mr. **STEVENS**. Mr. President, I believe this is a straight-forward amendment. I have discussed it with the managers of the bill.

In the Alaska Natural Gas Pipeline Act which we passed, that became law on October 22, 1976, the Congress gave the President the authority to waive under certain circumstances provisions of Federal law.

It also provided a series of authorities to Federal officials to take actions that would expedite the construction of the Alaska gas transportation system. Included in that act is a judicial review section and supplemental enforcement authority.

We are very desirous, of course, of having that pipeline move ahead, and we are desirous of having—to the extent that the provisions of this act could be used to expedite the construction of that project—this act applies to that project. We would not want any court or agency to interpret the designation of the pipeline project under the Priority Energy Project Act to reduce, modify, alter, or amend in any way the authority given to the President and to the agencies and officers of the Federal Government to expedite the construction of that pipeline once it commences. That is the intent of this amendment.

Under this amendment, the Board still retains the authority, should application be made, to designate the Alaska natural gas pipeline system as a priority project. We who support this project would welcome any assistance provided under this act to expedite that project.

However, neither I nor anyone supporting this project would want some official to later say that such action, in and of itself, subjected the Alaska natural gas pipeline transportation system solely to the provisions of this act, as authority already exists to expedite the construction of the gas pipeline system, since it is in the interest of our Nation to complete it.

I point out to the Senate that this is a very complicated project. It involves a pipeline system that will go not only through portions of our own country but also through our neighbor to the north—Alaska's southern neighbor—Canada, and it involves the operation of a treaty which the Senate already has ratified.

Certainly, this is a best-of-both-worlds amendment.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. JACKSON. Mr. President, this is potentially the largest construction project ever undertaken. It seems to me that the importance of it is obvious—the need for the natural gas is clear.

I think the amendment will be helpful, because it will provide the benefit of existing law plus whatever supplementary assistance can be obtained from the Energy Mobilization Board legislation.

Is that not the essence of the amendment?

Mr. STEVENS. That is the intent of the Senator from Alaska. I am grateful to the Senator from Washington for his understanding of my intent.

This project is estimated to cost $15 billion, and I think the time may come when only those projects that are designated as priority projects would receive assistance from, for example, the Energy Security Corporation. That could be of substantial assistance to the Alaska natural gas transportation system somewhere downstream. Right now, however, I would not want anyone to interpret this act—if passed and if designation of the gas pipeline project as a priority project occurred—as detracting from or reducing the authorities we have given to the President and the executive officers to expedite the pipeline.

Mr. JOHNSTON. Mr. President, the Senator from Alaska has stated accurately the scope of his amendment, which simply makes clear that this does not take away authority already given under the Alaska natural gas pipeline legislation. Therefore, on behalf of the majority of the committee, we accept the amendment.

Mr. STEVENS. Mr. President, I move to allow adoption of my amendment.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. STEVENS. I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 594

(Purpose: To require the Energy Mobilization Board to enforce compliance with a decision schedule within 60 days)

Mr. BENTSEN. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 594:

Add a new subsection "(c)" to section 21:

"(c) The Board shall act as provided for in subsections (a) or (b) within sixty (60) days following failure for any Federal, State, or local agency to comply with a Project Decision Schedule."

Mr. BENTSEN. Mr. President, this amendment is straightforward and is designed to reinforce the intent of S. 1308 that Federal, State, and local permitting agencies act expeditiously on priority applications.

The amendment gives the Energy Mobilization Board a maximum of 60 days in which to act to enforce compliance with a decision schedule.

Let me make clear that it does not require them to approve it. They can approve it or disapprove it, or they can decide to send it TECA, and TECA could decide whether or not those schedules are reasonable or should be changed.

Under the enforcement provisions of S. 1308, the Energy Mobilization Board is given two options to deal with permitting entities which will not meet decision schedule deadlines. It can either act in place of the dilatory agency—applying the relevant criterion—or it can institute court action to force compliance with the decision schedule.

It is my belief that such an impasse will occur rarely, if at all. It is unlikely that any capable agency head will set idly by and permit the EMB in Washington to make his decisions for him.

I am concerned, however, that the enforcement provision of S. 1308 will create a gray area of indecision for permitting agencies confronting a decision schedule deadline. As drafted, S. 1308 does not require the EMB to initiate enforcement action within a specific time period.

What I am trying to do is to finally close the circuit. The way it is now, if you are talking about starting a project, there is no certainty that at the end of 2 years you are going to have it or a decision. This amendment says that at the end of 2 years and 60 days, you get a decision up and down or it is sent to TECA to make a decision as to whether the schedules are appropriate or not.

It is important that EMB have flexibility in enforcing compliance with the decision schedule. It is simply more efficient and desirable for the permitting agency to act on priority applications, than for the EMB to do so.

But we do not want that flexibility to be unduly exploited. It is conceivable, for example, that a bargaining process of many months could occur involving the EMB and a major permitting agency—one where the EMB sits waiting for the agency to act, but with the agency refusing to do so, gambling that the EMB will not enforce the decision schedule.

The result would be exactly what we are seeking vigorously to avoid with S. 1308—dilatory decisionmaking by permitting and licensing entities.

I want to insure that each and every permitting agency knows we are serious about compliance with decision schedules and I want the Board to know, as well, that the Congress expects it to act expeditiously when faced with violations of decision schedule deadlines.

My amendment will not tie the Board's hands. It will still enjoy substantial flexibility—60 days—in which to negotiate a resolution in the event a deadline is missed.

If the agency decides to approve the project, well and good; but if it decides to turn it down, they have that privilege. Then, if they still do not have enough time, they can go to TECA and let TECA decide.

At the same time, however, both the Board and any errant agency will know that the clock is ticking—that the Board must act—and that tactics to delay hard, serious bargaining on a permitting decision are futile.

My amendment, then, will encourage compliance by permitting agencies with decision schedules. It will thereby, I believe, minimize or even eliminate those occasions when the EMB must initiate enforcement action—an action none of us want to see occur.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. JACKSON. Mr. President, I commend the Senator from Texas for this amendment. What he really has done is to plug a loophole. I know that may not be appropriate language.

Mr. BENTSEN. It could happen.

Mr. JACKSON. There could be an unnecessary delay, which could be avoided.

I commend the Senator for the amendment, because I think it will result in more expeditious action by the Board, knowing that they have to act within 60 days.

Mr. BENTSEN. I think it is not just the Board. It tells the agencies——

Mr. JACKSON. They are on notice.

Mr. BENTSEN. Everybody is on notice. It tells them that we are serious about it.

Mr. JACKSON. The Board cannot get the relief they may want in the form of endless delays.

Mr. DOMENICI. Mr. President, let me state to the distinguished Senator from Texas that I agree. However, it seems to me that we need to add a thought to his amendment which might be considered to be an escape clause. In other words, the Senator wants to have a decision-forcing mechanism which is 60 days. But I think we have to say that there may be a situation where it may be more expeditious not to do that.

Mr. BENTSEN. Under that kind of situation then let them go to TECA and let TECA decide. If these schedules have not been appropriate and they need to be extended let TECA go ahead and bring about that process.

Mr. DOMENICI. No. I am not talking about going to court. I am talking about the fact that the Board and the State may agree that another 10 days beyond the 60 would be the most expeditious way to handle things. Let me just read the Senator this language and see if it does not do what I am suggesting.

Mr. BENTSEN. No. I think if you get into that kind of situation where, say, both the Board and the permitting agency says, "Another 10 days we have got it made," then I think EMB has taken action. I think they made a settlement. I agree that is appropriate.

Mr. DOMENICI. I think the Senator would agree if we added the following.

If the Senator agrees, I will submit it. I want to tell what it says: "Except where the Board determines that it would be more expeditious"—let me try it another way.

Mr. BENTSEN. Do not cut the ground from under this, where they have a full escape clause.

Mr. DOMENICI. No; I am not going to, not at all.

Mr. BENTSEN. All right.

Mr. DOMENICI. Except where a more expeditious result would come from a deferral of action under subsection (a) or (b). I think that does leave the Senator with everything he wants. So it would say, "except where the Board determines that more expeditious results would follow on from a deferral of action under subsections (a) or (b)."

Mr. BENTSEN. I frankly like specificity in being more definitive than 60 days, I say to my good friend. We are trying to arrive at the same thing. I know that.

Mr. DOMENICI. Yes.

Mr. BENTSEN. And I have the escape clause in effect in there for them to go to TECA.

Mr. DOMENICI. But I am not talking about them going to court to do it. I am saying that there is a situation where they could agree that it might take longer than 60 days but the 60 days would be under (a) or (b) they would agree that it is the most expeditious way. I believe we are really making the amendment more workable and it clearly is what the Senator intends.

Mr. BENTSEN. It is clearly what I intend. I am not sure we are keeping enough pressure on the agency if we give them that kind of an out. How would the Senator be able to keep them from just using that for dilatory tactics? They are entitled to know that we are serious about this, putting these time limitations on. There should be some way after 2 years and 60 days that whoever starts a project would know that they are either on or off, have something or they do not.

Mr. DOMENICI. I am not trying to take pressure off anyone, because the agreement would have to be mutual that there is a better way than the 60 days, using expeditious handling.

Mr. BENTSEN. Both agencies would have to agree.

Mr. DOMENICI. Yes.

Mr. BENTSEN. I see. If not then the 60 days would prevail.

Mr. DOMENICI. I am even willing to say the Board would have to determine it is more expeditious and then they would agree.

Mr. BENTSEN. I think I can go with that.

Let me see what my friend from Louisiana says. What does he think of that?

Mr. JOHNSTON. Mr. President, I think the Senator's amendment is a good one provided that we can be sure it is consistent with section 18. Section 18 provides:

> At any time prior to the completion of the priority energy project, the Board may * * * (iii) revise any deadline on the Project Decision Schedule; or (iv) add any new deadline on the Project Decision Schedule.

Mr. BENTSEN. I do not quarrel with that at all. I have stated that in the comments I have made.

Mr. JOHNSTON. So section 18 makes clear——

Mr. BENTSEN. I understand that.

Mr. JOHNSTON. That the Board can extend the project.

Mr. BENTSEN. Absolutely. And I explained that as I was explaining the amendment. All I want is that that Board act, that it does not just sit there and take dilatory action.

Mr. JOHNSTON. Mr. President, I think as explained we have the protection of section 18 which would give to the Board the right to extend the Project Decision Schedule, but it would require that they either extend or act within the time limit and not just sit there and sit on their hands and do nothing.

Mr. BENTSEN. Absolutely. I frankly think that takes care of the concern of my friend from New Mexico.

Mr. JOHNSTON. I wonder if the Senator will, to make it crystal clear, add the following action, "Subject to the provisions of section 18, the Board shall act."

Mr. BENTSEN. Yes. I have no objection to that at all.

Mr. JOHNSTON. Will the Senator offer that amendment, subject to the provisions of section 18?"

Mr. BENTSEN. I so amend and I will send the language up to the desk.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. BENTSEN. I am in the process of doing that.

The modified amendment is as follows:

> On page 53, after line 25, insert:
>
> "(c) Subject to the provisions of Section 18, the Board shall act as provided for in subsections (a) or (b) within sixty (60) days following failure of any Federal, State, or local agency to comply with a Project Decision Schedule."

Mr. DOMENICI. Let me say to my good friends from Louisiana and Texas, I do not want to belabor the point. The exception does not help because we have to change the whole scheduling back to the provision he suggested. I am talking about the Board determining that there is a more expeditious way to get this done than the 60 days. They make that finding and then they agree to how that will be done, and I think if we go with the Senator's amendment we do not give them that latitude.

Mr. BENTSEN. All right. I will go along with that. I really think we are going into something that gets beyond obviously the probabilities.

I will go with that as long as it is the Board that has to agree to that.

Mr. DOMENICI. Right.

Mr. JOHNSTON. Let me say, Mr. President, if I may say to my friend from New Mexico, the language in section 18 speaks of not revising the whole schedule but revising any deadline on the project decision schedule and then it provides for certain tests that must be met, including the concern of the Senator from New Mexico, stating that, for example, continued adherence to the schedule would be impracticable or would not be in the public interest.

Mr. DOMENICI. But I say to my good friend from Louisiana the deadline has expired, the 60 days is running, and they found that there is a more expeditious way to let the 60 days run. They found there is another way and they think another way is expeditious, provided under provisions (a) and (b) of that section. Why can they not agree to that?

Mr. JOHNSTON. They could, under section 18. They could revise the deadline.

Mr. DOMENICI. Let me read this language, "Except where the Board determines that more expeditious action would result from deferral of action under sections (a) and (b)."

Mr. BENTSEN. Will the Senator send me a copy and see where we can fit it into the amendment?

Mr. DOMENICI. Sure.

Mr. BENTSEN. I think we have frankly gone far beyond the realm of probabilities. To satisfy my distinguished friend, I am pleased to do so.

Mr. DOMENICI. I thank the Senator very much. I do not think it is beyond probabilities, but I appreciate his willingness.

Mr. BENTSEN. I did not describe his term "possibilities."

They do have to take some kind of action here anyway. All right, let us send up the amendment now. Mr. President, I am perfecting my amendment and sending the language to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as further modified, is as follows:

> On page 53, after line 25, insert: "(c) Subject to the provisions of section 18, the Board shall act as provided for in subsections (a) or (b) within sixty (60) days following failure of any Federal, State, or local agency to comply with a Project Decision Schedule, except where the Board determines that more expeditious action would result from deferral of action under subsections (a) and (b), and the appropriate Federal, State, or local agency concurs."

Mr. JOHNSTON. Mr. President, we would have no objection, the majority of the committee, to the amendment, as modified, of the Senator from Texas.

Mr. DOMENICI. We have no objection.

Mr. BENTSEN. Mr. President, I urge the adoption of the amendment.

Mr. MELCHER. Mr. President, I wonder if the Senator from Texas will provide me with the intent of his language. Does the Senator propose that this amendment would take effect so that the Board could act to force a State to make a decision in less than 2 years if that was a project schedule?

Mr. BENTSEN. This does not change any options that the Board now has in that respect other than to say after the 2 years had expired—that is all this changes—then there is a maximum of 60 days within which the Board has to take action by either sending it to TECA or making a determination for or against or now the additional provision that has been put in there at the request of my friend from New Mexico. It does not change anything prior to the time.

Mr. MELCHER. If I understand the Senator correctly, it is his intent that the

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State involved on a project decision that involves 2 years, any time during the 2 years may make a decision adverse to the project, in other words, turn down the project?

Mr. BENTSEN. It does not affect that, I say to my distinguished friend.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Texas.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 595

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has the right to bring up his amendment at any time. Is he seeking recognition for that purpose?

Mr. HUDDLESTON. We are seeking recognition to reinstate the pending amendment that was set aside.

Mr. JOHNSTON. We are prepared to accept the Bumpers amendment.

Mr. HUDDLESTON. Mr. President, I withhold my motion so that the Senator from Arkansas may present his amendment, with the understanding that I will follow.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I will be very brief. One of the major debates about this legislation was to what extent the Energy Mobilization Board would have the right to waive State or local law, if at all.

The PRESIDING OFFICER. Will the Senator withhold until the clerk reports the amendment? The clerk will report.

The legislative clerk read as follows:

> The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. DURKIN, proposes an unprinted amendment numbered 595:
>
> On page 31, line 4, insert the word "specifically" between the words "as" and "authorized".

Mr. BUMPERS. Mr. President, I rise to introduce an amendment intended to clarify the purpose of section 6(h), the substance of which I introduced during the course of committee deliberations upon S. 1308.

It is important to recall and, by recalling, to emphasize the genesis of this legislation. For a period of years, important energy projects have been needlessly delayed by the simple inability or unwillingness of Government agencies, at Federal, State, and local levels, to render decisions. This legislation attempts to rectify that situation by creating the Energy Mobilization Board to expedite the decisionmaking process, primarily by coordinating the activities of the relevant agencies, to avoid redundancy and, if necessary, to establish a decision schedule, providing deadlines where they may not otherwise exist.

The committee's discussion on this legislation demonstrated its resolve that, as a rule, no laws should be waived in order to accomplish the objectives of expediting decisions. The committee, however, recognized that certain statutes, as well as agency regulations which carry the force of statutes, could possibly inhibit expedition. It accordingly set forth specific methods by which appropriate deadlines could be met. For example, this legislation would authorize agencies to adopt new procedures which would permit quicker hearings and decisions than would be allowed under prevailing procedures.

In doing so, the committee did not merely rely upon constitutional principles of due process, but rather continued to insist upon the more specific protections secured by current procedures, although it provides somewhat greater latitude to the agencies in employing them. The imposition of deadlines and the exercise of procedure changes to achieve them must be leavened by the committee's adoption of a 2-year yardstick, which incorporates the flexibility to go beyond that period, rather than the inflexible 9-month limit which was once proposed. Similarly, the "grandfather clause" protects an approved project from changes in law which may prove expensive to the project because of retrofitting, unless the change is required to protect the human invironment. Rather than being a broad grant, it is a carefully and narrowly hedged protection.

The committee has provided for full judicial review of the adequacy of agency procedures and the reasonableness of all agency decisions. Thus, the reasonableness of the project decision schedule is subject to judicial review, and such review should be strongly influenced by the committee's oft-expressed intention to preserve existing law and to avoid imposing an overriding and inflexible statutory deadline.

Finally, the legislation reveals the committee's special concern that environmental laws be preserved. None of the substantive standards have been altered, and, with the exception of possibly preparing a simple EIS, current procedures are adhered to.

In order to make clear the committee's intent to allow only very limited adjustments of law, my amendment simply adds the word "specifically" in section 6(h), to protect that provision's intent to restrict, not expand, the Board's authority to alter laws. Thus the provision allows only those alterations which are expressly and specifically authorized, and it permits none which might be implied.

Mr. President, during the course of deliberations of the Energy Committee I offered an amendment to state that the Board would only waive State or local law as specifically provided in the bill, so that there would be no question about what the Board's rights were.

The Senator from Washington (Mr. JACKSON) offered a substitute which was accepted at that time. Unfortunately, in the RECORD during the debate on his substitute the word "specifically" was never mentioned, although it was in my original amendment.

What this amendment does, Mr. President, is to simply modify the language of section 6(h) to add the word "specifically" so that it will read that "the Board may alter Federal, State, and local law only as specifically authorized" in the sections listed there, which, for example, allow the Board to set up project deadlines.

It is just that simple, and I can tell you in one sentence that it is designed to prohibit any appellate court or any other court from ever deciding that there is a permissive right to imply any further rights. I want to remove the possibility of an implication of the right to waive State and local law.

Mr. JOHNSTON. Mr. President, I hope Senators have listened to the Bumpers amendment because we are about to accept it. It nails down and makes absolutely clear there is no implied waiver of State or local law, and it is consistent entirely with what we have been saying all morning that the only powers the Board has with respect to State and local law are those specifically set forth, and that is on the project decision schedule and to the very limited extent provided for in the grandfather clause. So this nails it down and makes it clear.

I hope no one will be confused any more. Mr. President, we will accept the Bumpers amendment.

Mr. FORD. Before the Senator does that, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. FORD. Does the Senator understand that Federal, State, and local law is included in this?

Mr. BUMPERS. Federal law is included. I did not say "Federal" in my remarks, but it is included.

Mr. FORD. Federal law is included in this.

Mr. BUMPERS. Yes.

Mr. JOHNSTON. The Senator is correct.

Mr. DOMENICI. Mr. President, I too on behalf of the minority want to accept the amendment. I personally want to thank the many Senators who obviously believe that is exactly what we intended in this bill when they indicated their support for it heretofore. This clearly indicates that the good Senator from Arkansas who offered the language in committee, the original language, clearly intended that it be an inclusive rather than exclusive type of statement.

Now we have used the word of art, and I commend him for bringing it to us. I thank Senators for knowing that we were telling them that is what was intended, and I think the Senator has now nailed it down.

Mr. BUMPERS. I thank the Senator very much for his remarks. I thank the distinguished floor manager for accepting the amendment, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

UP AMENDMENT NO. 592, AS MODIFIED

Mr. HUDDLESTON. Mr. President, we are now back on my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself, Mr. RANDOLPH, Mr. FORD, Mr. WARNER, Mr. YOUNG, Mr. BAYH, and Mr. ROBERT C. BYRD proposes an unprinted amendment numbered 592.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 35, after line 2 insert the following:

"(d) The Board shall designate any fossil-fuel fired electric generating plant for which such designation is requested as a priority energy project if such project involves (1) the conversion of a facility from the use of oil or natural gas to coal or a coal-derived fuel, or (2) the construction of a new facility which would replace an existing oil or gas fired facility with coal or coal-derived fuel fired capacity."

Mr. HUDDLESTON. Mr. President, this is the amendment which has already been discussed at some length here on the floor. It was temporarily set aside some time ago. It is now up for consideration.

Just by way of review, this amendment would simply require that any energy project to convert a utility boiler from the use of oil or natural gas to coal would be considered as a priority energy project and given fast-track treatment by the Board.

The purpose, of course, is to really give some impetus to the imperative we have in this country of reducing our use of foreign oil. The only way we have immediately to deal with the question of reducing oil use is the greater use of coal.

It is because of that fact, and the fact that we have imposed upon us now by the President an import limitation on oil equal to that amount we imported in 1977, that it is extremely important that we have onstream as quickly as possible a method to reduce the consumption of oil. This is the best and virtually the only method available to us at this time. That, in my judgment, justifies this kind of treatment for these specific projects.

I yield to the Senator from West Virginia for such remarks as he cares to make at this time.

Mr. RANDOLPH. Mr. President, we have debated the pending amendment earlier today at some length. I simply wish to reemphasize that in 1973 and 1978, the Congress of the United States, after careful consideration of the conversion from natural gas and oil to coal, gave to the administration the opportunity, in fact the responsibility, to move into a program for conversion, reconversion, and replacement of utilities to coal from natural gas and oil.

Mr. President, I know that the able manager of the bill, the Senator from Louisiana, knows that practically nothing has been done with these statutes, even though the legislation passed in 1978 was part of the National Energy Act. Make no mistake about it. It would be clean burning of coal, and we could save approximately 1.5 million barrels of oil per day by doing exactly what is proposed in the amendment that is now pending. We would free the amount of foreign oil being burned presently in utility boilers for generation of electricity.

I have been a strong advocate of synthetic liquid fuels. Certainly the record indicates that the original synthetic liquid fuels bill, as my colleague from New Mexico (Mr. DOMENICI) has pointed out, passed this body in 1944, and that Senator O'Mahoney of Wyoming and I coauthored that legislation.

We found through rigorous testing that the production of synthetic fuels, not only derived from coal, but oil shale, and agricultural and forestry products, was all technically feasible.

We found we could produce synthetic fuels. We did it through the modified Lurgi and Fischer-Tropsch processes successfully used by the Germans, using it in their war machine both in the air and on the ground. Tanks were even run on fuel made from coal. But, after the war the synthetic liquids fuels bill was allowed to die.

Today I am still a strong advocate of synthetic fuels. I have cosponsored, with the able Senator from New Mexico, legislation to create an Energy Security Corporation. However, we know that this industry cannot grow or service our domestic energy needs immediately. If the bill were passed today, if the President signed it before nightfall, nothing could happen, because it would take time to develop.

We should have it. We needed it then. We need it now. It should never have been permitted to wither and die on the legislative and administrative vine. But it did so, and $3 million was returned to the Federal Treasury. It was a sad chapter in the history of America but it did happen.

Then, as we continued to use huge quantities of oil and gas in the years following the war, I said before, the Interior Committee, in 1959 and again in 1961—that, each year that we delayed perhaps brought us one year nearer to disaster." That was a fact then, and it continues to be a tragic fact today. The gas lines, of course, have now disappeared from in front of the filling stations, but the crisis in energy is as real now, and even more so than that experienced a few short months ago by the American people.

Everyone said then, "We must do something, and do it now." Well, here is the opportunity to do it now, to use coal, the most abundant fossil fuel we have, in clean burning programs already approved by the EPA.

The programs are feasible, the costs are in its favor over other alternatives. I repeat 1.5 million plus barrels of oil can be saved daily if we will do this.

I have spoken earnestly and vigorously, and I trust that Senators JOHNSTON, DOMENICI, and others from this committee will accept this amendment which is offered by Senator HUDDLESTON, and in which I have the privilege, with other Senators, of joining.

In doing so, you will be doing what the President has so often said, that we must have not only the increase in domestic petroleum production, but also increase the use of coal which we can already produce.

This amendment is not only an opportunity to do something now on a program that can be placed into effect immediately, but it is proof positive that the continued indecision on Capitol Hill and downtown, the constant rhetoric with which the American public is overly tired, will end. We will act now on a program that is immediate in its effect on the conservation of petroleum and makes it available for home heating and other uses far more suitable than in the coal boilers of the electric-generating plants.

Mr. JOHNSTON. Mr. President, I certainly agree with what the able Senator from West Virginia has said and what the able Senator from Kentucky has said as to the national need to convert facilities from the use of oil or natural gas to the use of coal. There is no greater priority, it seems to me, in the country than that.

We considered, when we marked up this bill, including specifically designated kinds of facilities, just designating them for fast track. We considered, for example, the major, one-of-a-kind synfuel demonstration plants. We considered these plants. But we thought it better to leave in the act a general description of the kinds of facilities defined with reference to what they do for the domestic energy supply and getting us off imported energy, to define it in a general way and leave it to the Board, in their discretion, as to what to designate or not to designate.

However, we certainly agree that this is a very high priority. I guess our only concern—I would not ripen that concern into a real objection—is that it sort of violates the drafting purity of the bill by designating one kind of facility.

We would certainly oppose getting into a whole list of the kinds of facilities that are entitled to fast-track treatment. This is, in a way, the first step in stating that list as opposed to leaving that to the discretion of the Board under the general directions contained in the definitions.

Mr. President, if the committee shows some ambivalence, that is exactly true: We are ambivalent toward this amendment. We agree that it is a high national priority; we resist the idea of setting forth the whole list of plants.

So, Mr. President, we are willing to let the Senate decide this matter without recommendations and, indeed, without objection. I shall, therefore, Mr. President, ask for the yeas and nays on the amendment. I should like to go ahead and submit it at this point for consideration.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I agree with the statement of the distinguished majority manager of this bill, the Senator from Louisiana. The issue is really not whether this is the highest priority in terms of our short-term solutions, to cut back on imported crude oil, because the answer is yes; there is no question about that.

In fact, I think it could be agreed, at least by a compelling majority, that experts would agree that coal conversion, drilling for oil and natural gas, and conservation are the three most economical ways to address America's dependence. Obviously, this is one of the three, conservation is another and the expedited drilling for oil in America is the third. There can be no doubt about that.

Now, we are in a peculiar position here because this fast-track Board, in its authority as it comes out of committee, is charged with making its own determination of what is a priority energy project within the boundaries of the goals and definitions in this bill, and none are specific. There is no question in my mind that this should be one of those specifics. The question is whether it should be mandated in the bill or not.

I think the Senate clearly understands the issue: Should it be totally up to the Board; should we say, pick the most important one and run with it and take it and consider it immediately, or not? That is the issue.

I believe that, as long as we keep it within a reasonable dimension of those that everybody agrees are most important and must be considered, there is no great violence to the bill. But I, too, think the Senate should decide, so I am not willing to accept the Senator's amendment.

Mr. JOHNSTON. Mr. President, I had asked for the yeas and nays. I still have no recommendations, but I should like to vitiate the order for the yeas and nays unless somebody else wants them. I am willing to submit it to the Senate on a voice vote unless any Senator desires to have a record vote.

The PRESIDING OFFICER. Is there any objection to vitiating the yeas and nays?

Mr. MUSKIE. Mr. President, I find myself tangled up, which has been my posture all day.

I have read the amendment and I have listened to the discussion and also had the opportunity to discuss it with the proponents. My information and my reaction to it are the same, I gather, as that of the floor manager. I think it is just not good legislation to create a Board of this kind and give it discretionary authority, and then mandate the application of that discretionary authority in the same legislation. I think it is simply bad legislation.

I am not inclined to push that point any further, because I have a couple of other things I should like to get involved in and would like to call up an amendment when this one is disposed of. So I am not disposed to ask for a recorded vote. I simply rose in order to indicate my reservations about this kind of procedure, which is a bad procedure.

If we create discretion in an agency and we have adequate guidelines—and the proponents of the bill argue that there are adequate guidelines—then we ought to leave it to the Board to make decisions. I expect that the Board probably would give consideration to the list of projects that have been brought to my attention as eligible for consideration. I do not know that much about them, but from what I have been told about them, I would expect that, without any action on this amendment, the Board would probably give consideration, even up-front consideration, to the projects on that list. But that, to me, is not a justification for this amendment; it is an argument against it.

Having said that, Mr. President, I say to the floor manager, I am not disposed to ask for a record vote.

I yield the floor.

Mr. FORD. Mr. President, may I have just 1 minute?

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. First, let me thank the floor manager for his cooperation. I associate myself with the remarks of my distinguished colleague (Mr. HUDDLESTON) and the distinguished Senator from West Virginia.

I do recognize the position of the Senator from Maine, the helpful position he has taken. Let me make two quick points.

Two bills have been passed. Both of those bills made an attempt to convert to coal. That has not happened. Three administrations have said we should convert these utilities to coal. Nothing has happened. I think it is time now that the Senate make its voice heard, as it has in the past. Everyone here today admits that we must back off from the oil we purchase from foreign sources. My distinguished colleague from Kentucky has said that we have a limit, and we are going to be pushing that limit for some time, on imported oil. Why, then, should we not find a way to keep our dollars at home, use our own energy, create new capital investment, give additional Americans jobs, and do it with American resources?

I hope all my colleagues will vote "aye" and that this amendment will be accepted.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the vitiation of the order for the yeas and nays?

Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. FORD. I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE and Mr. ARMSTRONG addressed the Chair.

Mr. MUSKIE. Mr. President, I think the Senator from Colorado is seeking recognition and would like to call up an amendment.

Mr. ARMSTRONG. Mr. President, I am seeking recognition for the same purpose as the Senator from Maine. I shall be happy to defer to him at this time.

Mr. MUSKIE. I appreciate that, Mr. President, and I shall accept the Senator's generous offer, because I think maybe this will bring to a head a couple of key issues in the bill.

AMENDMENT NO. 486

(Purpose: To amend S. 1308)

Mr. MUSKIE. Mr. President, I call up amendment No. 486 and I think that might expedite consideration of this bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) for himself, Mr. STAFFORD, and Mr. RIBICOFF, proposes an amendment numbered 486.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 140, line 3, strike all through page 141, line 8.

Beginning on page 51, line 23, strike "(a)" and all after through "(b)" on page 52, line 17.

(Mr. TSONGAS assumed the chair.)

Mr. MUSKIE. Mr. President, what this amendment does is, first, strike the grandfather clause in the bill. We have had considerable discussion on that clause over the past 2 days, so I think that single reference will clearly indicate what it is that I seek to do.

The second part of the amendment strikes the authority of the Board to make a decision in lieu of State and local agencies.

This issue, also, has been debated in the course of the last 2 days. I think it speaks for itself.

The first provision is found on page 140 of the bill, line 3, and the amendment would strike all through page 141, line 8. That language to be stricken constitutes the grandfather clause in its present form.

The second part of the amendment begins on page 51, line 23, and the amendment would strike (a) and all after through (b) on page 52, line 17.

That second section to which I have referred is described in the bill as "enforcement of the project decision schedule."

With respect to the grandfather clause, Mr. President, I have indicated at great length my concern about the clause. I do not know that it is necessary at this time to discuss it at great length.

But I, and the other sponsors of this amendment, support the basic principle of S. 1308.

As a method of expediting decision-making on energy projects that would contribute to reducing the Nation's dependence on imported oil, it is clearly desirable. But because of two flaws that this amendment seeks to strike, S. 1308 will not lead to expeditious decision-making.

The ability of the Board to substitute its judgment for that of State, local, and Federal decisionmakers and to waive all State, local, or Federal requirements adopted subsequent to contruction, will complicate, not ease the development of new energy facilities. I emphasize that it is my conviction these authorities will complicate the development of new energy facilities and not expedite them.

These provisions will lead to a morass of contention and indecision for every project in which they are involved. As the National Conference of State Legislatures has observed:

> We must take care that we do not create an agency that would only add to delays by imposing more cumbersome procedures fraught with more opportunities for litigation. The National Conference is concerned that the powers proposed for the Mobilization Board in S. 1308, the Energy and Natural Resources Committee bill, could well have just this effect.

Our amendment strikes section 36 and 21(a) of S. 1308. Both of these provisions are directly contrary to the heart of our federal system. They both allow the legitimate decisionmaking processes of State and local government to be flung aside in favor of a narrow interest. Statutes and other requirements adopted to protect workers and the general public can be abrogated by a single-minded Federal official.

Such proposals are of dubious constitutionality, infringing on the sovereign powers of States to protect their citizens. But beyond that, they directly conflict with the cooperative spirit which will be essential to speedy determinations on critical energy projects. These two provisions will bog the Energy Mobilization Board down in matters it is not suited to address, which it cannot become competent to address. The use of these authorities will inevitably lead to litigation in which State and local governments are the complaining parties.

Mr. President, on September 28, 1979, Senator ROTH placed in the RECORD letters of opposition to these two provisions from every State and local government group. The National Governors' Association, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the National Conference of State Legislatures—every one of these spokesmen for State or local officials protested these intrusions into areas of State and local responsibility. Mr. President, an energy mobilization effort will not work unless it has the cooperation and support of all levels of government. These two provisions are major obstacles to that cooperation.

Mr. President, section 36 of the Energy Committee bill allows the waiver of all requirements adopted after a priority energy project has commenced construction.

We referred to that over and over again today.

This "grandfather" provision is apparently based on the motion that imposing any new requirement, no matter what its motivations or justification, will threaten an energy facility's viability. Are the projects this fast-track legislation seeks to advance truly so economically vulnerable? Must they be protected from all the benefits of later acquired wisdom?

This approach fails to recognize that new requirements are often developed and adopted as specific remedial responses to problems which were unknown or unknowable at the time a project was initially approved. The waiver provision could effectively prevent corrective action needed to protect workers, or the public, or the environment.

Mr. President, the Nation's priorities shift, as rapidly as our knowledge advances. The consequences of any waiver of subsequently adopted requirements is to freeze in place the values and judgment of a single moment. The ability of State and local decisionmakers, or indeed the Federal Congress, to respond to future developments with effective action would be severely hampered.

The National League of Cities stated:

> While S. 1308 limits substantive waiver to future laws, this is nevertheless a major incursion on the rights of local government. Many of the projects designated as priority will be new and untested technologies. They may cause new and unforeseen problems. To impair a local government's ability to deal with those problems, as S. 1308 does, is an unconstitutional intrusion on the right of local government to protect the health and welfare of its citizens.

A common example of the energy projects for which accelerated consideration is thought necessary is synthetic fuels production. Yet such projects have the potential for creating serious new toxic pollutants.

We do not know how harmful the pollutants are.

We do not know how sweeping the contamination would be.

But we do know that splitting the molecules of coal to make oil or gas creates some different pollutants from the mere combustion of coal. And these pollutants are frequently cancer-causing or suspected of being so.

Too often we waited to observe the effects of long-term exposure and only then recognized that mistakes were made. We should not duplicate that same process knowingly. Yet, we are close to adopting an energy policy that would guarantee such an approach. Facilities would not have to meet any additional requirements once construction had had commenced.

No additional cleanup, even if we find the toxic levels are threatening local populations.

No additional cleanup, even if groundwater supplies of the local population become contaminated by discharges.

No additional cleanup, even if we discover that workers in the plants are developing cancer-like skin lesions.

Such impacts on workers are not mere conjecture. In 1960, Union Carbide closed a synthetic fuels plant precisely because such lesions were appearing on plant workers.

Particularly in a new area, we should not bar our capability to improve a facility after we place it in operation.

This provision could actually hurt the development of synthetic fuels. It would bar the orderly development of environmental controls, and create continued resistance on environmental grounds.

Not only environmental requirements would be affected by this waiver provision, but also siting laws, tax laws—such as the severance tax, especially—zoning laws, environmental laws, and others which I described this morning, could be waived if the Board—a body whose sole purpose is expeditious energy development—feels these requirements affect the "cost effectiveness" of the project.

Detailed examination of section 36 reveals further problems. It is not a board, but a single official, the chairman, who actually wields the waiver authority. The only check is that the waiver is "necessary to ensure timely and cost-effective completion" and "will not unduly endanger public health and safety"—again, as determined by this single Federal official.

We have no assurance whatsoever of what standards will be applied in the terms "cost-effective" and "unduly endanger." The legislative history on this provision contains nothing but a repetition of the language of the bill. I submit that the phrase "unduly endanger" is too vague to be entrusted to the sole discretion of an individual whose primary orientation is energy development. If the phrase means anything, it suggests a balancing process which demands agency-type expertise, public participation, and the consideration of alternative measures to attain the same end. There is no hint of any of these needs in section 36.

The section does provide that the Congress may explicitly prohibit the waiver of subsequently enacted requirements. But there is no direction on how such a prohibition must be expressed. This invites future conflicts between the executive branch, or at least the Energy Mobilization Board Chairman, and the Congress.

One major ambiguity in section 36 is the reference to "public health and safety." This phrase customarily does not include workers, yet occupational exposure may be one of the most serious problems of these newer facilities. Section 36 does not require the Board Chairman to consider protection of workers before granting a waiver.

We have learned that major plants often act as restraints on further growth in an area. Their air emissions, water use, sewage discharges, or demands for public services make it impossible for newer plants to locate in the surrounding area. This waiver provision would prevent a State or community from requiring any reductions in such consumption, even those well within technological capability. There would be no effective way to make room for new growth. A "fast-tracked" plant would have priority for all time.

Mr. President, the National League of Cities summarized its concerns with section 36 in this way:

> Most objectionable to local governments is the power which S. 1308 gives the EMB to override substantive requirements of laws enacted after construction has begun on a priority energy project. Such unprecedented power for a federal agency is very probably an unconstitutional infringement of local and state rights. It will undoubtedly be challenged in court by a number of parties, which would hinder EMB from functioning effectively for some time.

> The power of the EMB to waive laws is also unchecked by any requirement for presidential or congressional concurrence. This would leave local officials without any recourse or appeal from a decision by the EMB to waive a local ordinance.

Similarly persuasive observations were made by the National Conference of State Legislatures:

> Despite the sparse evidence for state intransigence, S. 1308 would give the EMB unprecedented power to annual state and local laws. This power itself raises major constitutional questions about state sovereignty and due process, and could well draw the Board into more litigation. New energy technologies will almost certainly develop unanticipated problems, and state and local governments should retain their rights to protect public health and safety. Yet the Board's decisions to waive these rights would be subject to the procedures designed to protect the facility, not the rights. The Board would have to consult the affected state or local agency and find that the waiver would not "unduly endanger public health or safety," but there is no requirement for public participation, no requirement for a formal record, not even a commitment to impose alternative measures to reduce public risks. A waiver would take effect unless Congress "explicitly prohibits" it, but the bill says nothing about the form of this prohibition, or when it must be considered, or whether it must be considered at all. These are hardly adequate safeguards against such a far-reaching and constitutionally questionable intrusion into state and local prerogatives.

There are several principal objections to section 21's authority for the Board to make decisions in lieu of State, local, or Federal agencies that have not met deadlines in the project decision schedule. Again, this is a power which under S. 1308 would be exercised by one person, the chairman, and not the Board as a whole. And the chairman's full-time job is accelerating energy development, not the cultivation of those values the State, local, and Federal substantive agencies are intended to protect.

The National Conference of State Legislatures has criticized section 21 with these words:

> One of the most troublesome aspects of S. 1308 is the authority it gives the Board to make decisions in lieu of state or local agencies that fail to meet Board-set decision schedules. As a practical matter, substantial momentum could be lost during the time it would take the Board to complete the decision-making record of the state or local agency, decide what information is most important and review existing state or local statutes and case law to determine how they should be applied. Secondly, the Board would probably be more subject to lawsuits because it would be perceived as a single-purpose agency whose primary mission is to facilitate energy projects, not to observe the spirit of state and local laws.
>
> A more important question is whether the lean, fast-moving entity originally conceived by its authors could even pretend to know the intricacies of the many state and local functions it might seek to displace. Simply to assume the responsibilities of a state or local agency, the Board would need substantial expertise to assure that its decisions are judicially sustainable. The likely result is thus not timely action but a redundant bureaucracy absorbed in defending itself against the unnecessary litigation its every action makes possible. Far better to let the state or local agency make the decision itself, under court order if necessary, than to create an untried entity with powers that tend to make self-justification its primary reason for existence.

Mr. President, I have read at length from these communications I have received from these distinguished conferences representing State legislatures, State governments, and State Governors, because I think that anyone reading what they have had to say, anyone hearing what they have had to say should be impressed with the thoughtfulness and sense of responsibility with which they addressed these issues.

For those who have lost faith in the ability of State and local government to perform the responsibilities which are theirs, they should read these letters. Are these the people who are responsible for our energy crisis? Are these the people who created all these problems that are going to be solved overnight with the passage of this bill? These are responsible legislators and Governors and State officials, who are conscious of their responsibility, also, perceptive as to the risks for local government and for an effective energy program which lie within the parameters of the legislation pending before us.

Either the Board will have to develop a parallel bureaucracy to provide a defensible basis on which it can make these critical decisions, or it will make them in ignorance. Neither of these alternatives is attractive. Another large bureaucracy to make decisions on State and local law is the last thing we want, especially at the Federal level. And the temptation to spend all its time and effort defending its decisions against the inevitable litigation will paralyze the Board.

Of course, a fundamental objection to this approach is that it usurps State and local decisionmaking responsibilities, as well as those of Federal agencies charged by law with specific tasks. As the National Association of Counties observed:

> While we support an Energy Mobilization Board we feel very strongly that state and local governments should retain authority over the final determination of decision deadlines as it relates to our laws and procedures. In addition, we feel that we should retain our authority over siting and permitting decisions without fear of federal preemption. Consequently, we oppose any structure which would allow an appointed federal body to substitute its judgment for that of state and local decisionmakers.

So, Mr. President, I called up this amendment not simply as a reflection of my own concerns with this legislation, which I have amply described, but because I think I have a duty to insure that these representatives of State and local governments whom I have quoted are effectively and vigorously represented in the Chamber of this body, presenting their protests against the threatened intrusion upon their responsibilities, upon the performance of their responsibilities, upon the very viability of local government to act in these areas and to respond to the unanticipated, unknowable, unpredictable risks which the people of their constituencies will call upon them to address if these energy projects create the kind of risks for public health, public safety, and the environment that I think clearly lie in the future.

For anyone to vote on this legislation on the assumption there are no such risks is to perform a disservice to the people of this country and to the future of their health. To handcuff the agencies which have been created over the last 15 years, with widespread public support, to deal with such unknown, and unanticipated risks is a second disservice.

That is what these distinguished public servants from the State and local levels of this federal system are saying to us. The letters I can only describe as thoughtful, perceptive and deserving of serious consideration.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, this is essentially the same amendment we considered this morning, not in all its parts, but in its principal parts. That is the grandfather clause, which we debated over a period of hours, and the essential part of the enforcement of the projects schedule. That is the right of the Energy Mobilization Board to decide in place of the agency or the State or local agency should they fail to make the decision within the reasonable time provided. The amendment simply guts the bill.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Certainly.

Mr. DOMENICI. When the Senator says it guts the bill I say to my good friend is he saying that this is not an amendment that modifies or changes the grandfather section but totally deletes and leaves the bill totally void of any grandfather provisions?

Mr. JOHNSTON. The Senator is correct. Not only the grandfather provisions but the so-called bumper provisions by allowing the Board to decide in place of the agency should the agency itself fail to meet the deadlines.

Mr. DOMENICI. So, as to the grandfather provisions, and some kind of grandfather provisions are thought by most people to be necessary to carry out some of the critical purposes of a Mobilization Board, then if this amendment is adopted that characteristic is gone from the bill. There is no ability to grandfather anything even qualified, conditioned, or otherwise. It is gone. Is that correct?

Mr. JOHNSTON. The Senator is correct and, as I repeat, not only the grandfather but the right of the Energy Mobilization Board to decide in lieu of the recalcitrant State or the Federal agency.

So if this amendment were passed, I think this bill would have lost its utility. I think it would be an empty shell and, Mr. President, a turkey whether baked, broiled, or basted is still a turkey. It is the same amendment essentially that we voted on this morning.

So, Mr. President, I am going to move to table because it is the same thing we have debated all this while. Therefore, I move to table the amendment.

Mr. MUSKIE. Mr. President, will the Senator withhold, please? This is not the same thing. This is not another substitute. This is two bills addressed to the principal issues which have been debated.

The distinguished Senator from Connecticut, who is a coauthor of these amendments, would like to speak. If the sponsors' position on these amendments is so unassailable, as they would suggest it is, they surely ought not to be afraid of whatever arguments we may offer. These two amendments address the very heart of the issue that separates us, and to dismiss it so casually as to table it immediately after they are presented, I think to me is to ignore the public stake that is involved in this legislation.

Mr. JOHNSTON. Mr. President, I certainly do not want to treat the amendment in cavalier fashion. To the contrary, I think the amendment guts the bill, and——

Mr. MUSKIE. Then you ought to be forced to make a case.

Mr. JOHNSTON. Mr. President, every argument I would make against the amendment has already been made, has already been made over and over to almost the point of distraction, and all we can do by further debate, Mr. President, is to prolong the decision on this bill.

Mr. President, yesterday I spoke about tabling the amendment of the distinguished Senator from Maine and the distinguished Senator from Connecticut. Of course, I was more than willing to extend the time to allow full debate.

Mr. MUSKIE. Mr. President, will the Senator yield at that point?

Mr. JOHNSTON. I will yield for a question.

Mr. MUSKIE. I am really struck by the Senator's attitude. This legislation is principally within the jurisdiction of the Committee on Environment and Public Works. We yielded our right to request sequential referral in the interest of expediting it, so we were given no opportunity as a committee to address these issues.

When we try to do it on the floor the Senator likes to suggest he is being magnanimous in allowing one or another of us to speak. That is my concern with the bill, that environmental values will be treated just as cavalierly by an Energy Board, created with an energy emphasis, as it is the disposition of the proponents of this bill to treat us.

You do not even want to hear the case. You may think that the amendment has been adequately covered by debate up to this point. We do not, and State legislatures do not, State Governors do not, and the counties of this country do not think so, because they are calling me now urging me to present these amendments. Now the Senator wants to cut us off.

Mr. JOHNSTON. Mr. President, may I ask the Senator from Maine how much time he would like? Is he willing to go with a unanimous-consent request that a vote on the motion to table occur at a time certain?

Mr. MUSKIE. Half an hour would be fine.

Mr. JOHNSTON. Mr. President, I therefore ask unanimous consent that on my motion to table a vote occur at 4:05 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I have no objection to a vote being taken on this matter at 4:05, providing that during that time the Senator from Colorado is allocated 5 minutes.

Mr. MUSKIE. Not later than 4:15.

Mr. JOHNSTON. Mr. President, I would amend the unanimous-consent request to state that the vote occur on the motion to table the amendment of the Senator from Maine no later than——

Mr. MUSKIE. Just a moment, if the Senator will withhold. There is a possibility that we might want to get to the point where we would want to consider a modification of the amendment. If we agree to a unanimous-consent request at this point, we may be foreclosed.

One of the reasons why I called up the amendments, in addition to wanting to present them certainly on their merits was to open up the opportunity for modification.

Mr. DOMENICI. May I say to the Senator from Maine I would have to object, not on a substantive basis, but I have told the Senator from Alaska that he would go immediately after your substitute, and we accommodated others. He must leave at 5 o'clock, and he wants to offer his substitute no later than 4:15, 4:30, and if we cannot accommodate him I would not go along with the unanimous-consent request.

Mr. MUSKIE. May I say to the Senator, No. 1, I was not a party to that agreement. No. 2, I did not call up the amendment from the time we voted on the motion to table at 12 o'clock until 3 o'clock waiting for Senator Stevens to offer his amendment. I understood he wanted to offer it immediately after the vote on the tabling motion. He did not do so.

Now I am being asked to cut short my discussion of my amendment because he did not. I am sorry, I would like to accommodate other Senators, and I thought I was doing so.

Mr. JOHNSTON. The Senator, of course, would have the right to put in a modified amendment after this, and we do not mean to cut off any negotiation if the Senator wants to negotiate. We simply want to bring this matter to a head. The Senator from Louisiana desires to push this to a vote as quickly as possible consistent with the ability of the Senator to be heard.

Mr. MUSKIE. There are other Senators who have modifications of the grandfather clause. Senator Randolph has one, Senator Dole has one, and there may be others.

Mr. JOHNSTON. This will not cut off their rights.

Mr. MUSKIE. This creates the opportunity for resolving all these issues at one point. It would seem to me that is a constructive objective. We can instead proliferate the debate on various grandfather clause amendments and stretch out the time on this bill indefinitely. If that is the pleasure of the managers of the bill, so be it. But I think we have called this one up, we are on the issue——

Mr. JOHNSTON. The Senator wants the ability to modify his amendment?

Mr. MUSKIE. I think other Senators may.

Mr. JOHNSTON. And to have votes on those?

Mr. MUSKIE. I might consider them. I am not going to initiate one because I think—I like the amendment as it is.

But, on the other hand, I also can count votes; at least I understand where the votes are, and if Senators are interested in promoting one modification or another, it seems to me this is a good opportunity to do so. I do not know why we should cut it off arbitrarily at this point only to have to resurrect the opportunity subsequently.

Mr. DOMENICI. Mr. President, reserving the right to object, I want to say to my good friend from Maine I was not implying a while ago that the Senator was in violation of any agreement with the minority whip, Senator Stevens, but rather Senator Johnston had made a motion to table, and the Senator was asking that it be delayed, and in agreeing to a time I was just concerned that we were not going to let another Senator down with whom we had agreed. So I am not in any way saying the Senator is a party to that agreement to help Senator Stevens. I did not mean that at all.

Mr. RIBICOFF. Mr. President, may I make a comment? I would hope that the manager of this bill would not compound a pyrrhic victory being achieved by the administration in creation of this EMB by trying to be heavyhanded. By being so heavyhanded, you are denying the opportunity of the opponents to discuss this proposal.

A very able newspaper person in the Washington Star today has pointed out the unholy alliance between the White House and the energy lobbyists to try to defeat the Ribicoff-Muskie proposal.

Frightened at the prospect of support for the proposal, they called upon a lobbyists for the oil companies, the gas companies, the coal companies, and others to bring pressure against the Ribicoff-Muskie proposal.

I believe the President, in following such policies, has done great damage to his energy proposals, which are now in tatters.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. RIBICOFF. No. It will be a mistake to continue this effort on the floor of this body to cut off debate on behalf of a group of Senators who, in my 18 years in the Senate, have never indulged in a filibuster, never held this floor unnecessarily, and are always willing to agree upon time. Those attempting to prevent a full discussion, I believe, have exercised a degree of bad faith concerning the understanding that was entered into in the majority leader's office before the August recess. We had agreed to try to work out proposals and bring a degree of understanding and statesmanship to this program.

The Senator from Louisiana can move to table if he so wishes, but it is my opinion that the whole energy program will pay a heavy price for tactics such as this.

Mr. JOHNSTON. Mr. President, I think the Senator from Connecticut knows that I do not want to cut him off from debate.

We certainly do not want to be heavyhanded.

If I had intended to cut him off, I would have moved to table without withholding, as the Senator from Maine asked, or without even suggesting—I asked how much time he would need, which was the reason I requested unanimous consent. If the Senator thinks it is being heavyhanded to ask how much time would be needed, I am willing not to ask for it.

I only ask that if we withhold our parliamentary right, which is a right to move to table on a matter which I believe was debated this morning—you can disagree with that if you wish—I would hope we could bring the matter to a reasonably rapid conclusion.

With that statement, Mr. President, I will withdraw my request for unanimous consent, I will withdraw my motion to table, and I will simply appeal to the sense of expedition of the two Senators.

Let me say one thing further with respect to an agreement in the majority leader's office. I, of course, was not there, as the Senator knows.

Mr. MUSKIE. You were not there, but the chairman of your committee was there.

Mr. JOHNSTON. At the same time let me say, Mr. President, the staff advises me, first, that the Committee on Environment and Public Works never adopted by vote a position. Second, they——

Mr. MUSKIE. What difference does that make?

Mr. JOHNSTON. Well, the difference is simply that there are certain members of the Environment and Public Works Committee which had concerns which were, to a large extent, accommodated, I am advised, in this bill.

Mr. MUSKIE. They were not accommodated. We agreed to yield our rights as a committee, and now that has been thrown at us as some kind of abrogation of duty. I do not understand this at all.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Let me say one thing; then I will yield to the majority leader.

I am not aware of any agreement being reached. As I say, we are very sensitive to the conflicting jurisdictions. It is at best always a difficult thing to reconcile conflicting jurisdictions. I hope it was done adequately in this case. If it was not, I personally regret it, and we will try in the future to harmonize, reconcile, and accommodate the desires of Senators, as I am doing at the present time by withholding the motion to table and withholding the unanimous-consent request.

Whatever was done in that respect, it is too late now to go back and correct the past, but if the Senator has an amendment, he can of course bring it up at the present time.

I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, we have spent about 10 minutes here talking about nothing, with all due respect to everyone.

I ask unanimous consent that the Senator may have an up-or-down vote on his amendment, and that the vote occur not later than 4:30 p.m. today, and that it be followed by an amendment by Mr. STEVENS and Mr. HUDDLESTON.

We did have a kind of gentlemen's understanding yesterday to the effect that Mr. STEVENS would be given an opportunity to call up his amendment after the disposition of the first amendment by Mr. MUSKIE. today. I do not know what happened at that point, but at any rate, this will give Messrs. RIBICOFF and MUSKIE an up-or-down vote on their amendment, and give Mr. STEVENS and Mr. HUDDLESTON an opportunity to present their amendments today. I think that would be a good day's work.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE. Mr. President, reserving the right to object, I do need to offer a technical amendment.

Mr. ROBERT C. BYRD. I temporarily withdraw my request.

Mr. MUSKIE. I would like to conclude on the amendment. If it creates any problem, it is simply technical and does not change the substance of the amendment.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

Amendment 486 is modified to read as follows:

Beginning on page 140, line 3, strike all of section 36.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

Beginning on page 140, line 3, strike all of section 36.

Beginning on page 51, line 23, strike "(a)" and all after through "(b)" on page 52, line 17.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. MUSKIE and Mr. RIBICOFF occur no later than 4:30 p.m. today. That protects them against a motion to table. If the distinguished Senator from Louisiana objects, I will certainly have no feeling about it.

Mr. JOHNSTON. I have no objection to that.

Mr. DOMENICI. Mr. President, reserving the right to object, I want to take only about 30 seconds of the time that remains.

I do not want to deny you any right to amend the bill, but we do want to make this point: This amendment is an amendment that merely strikes two provisions in the bill.

Mr. MUSKIE. I am aware of that.

Mr. DOMENICI. Well, there is a slight difference in terms of the debate on something that strikes versus a modification. I thought we had made that point, and we did not, in prerogative to our motion to table.

I want to say I am not for tabling it. I want to vote up or down. I do not have a unanimous-consent request; I just want to say there is a difference, to some people, between an amendment and a motion to strike in an amendment.

Mr. MUSKIE. May I say to the Senator, half-way between zero and 10 is five, so you get to five from zero.

Mr. DOMENICI. I understand.

Mr. ROBERT C. BYRD. Mr. President, I am not trying to inject myself into the management of the bill. If the managers want to object, fine. But I do hope we will have an up-or-down vote, which would give the authors of the amendment a feeling that they have had their day in court.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

AMENDMENT NO. 490—AS MODIFIED

(Purpose: To provide for the postponement of new requirements (other than those relating to occupational or mine safety) adopted after the commencement of construction of a priority energy project)

Mr. RIBICOFF. Mr. President, on behalf of the Senator from West Virginia (Mr. RANDOLPH), I send to the desk an amendment or modification of amendment No. 490, to modify the Muskie amendment.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

The amendment follows:

Beginning on page 140, line 3, strike all through and insert in lieu thereof the following:

POSTPONEMENT OF NEW REQUIREMENTS

SEC. 36. (a) The Board by majority vote, is authorized to waive the application of any Federal, State, or local statute, regulation, or requirement enacted or promulgated after the commencement of construction of a priority energy project, for only such time as necessary to allow compliance with such statute, regulation, or requirement with no resultant substantial delay in the completion or commencement of operation of the affected energy facility, but in no event longer than five years. Such waiver may be granted only where (1) the Board finds that the waiver is necessary to avoid a significant delay in the completion and commencement of operation of the facility, and (2) the Administrator of the Environmental Protection Agency has not disapproved such waiver on the basis that it may result in the discharge, emission, or release of any toxic or hazardous pollutant or any other pollutant which may reasonably be anticipated to present a substantial endangerment to the public health or in any other condition which may reasonably be anticipated to present such endangerment, and (3) the Secretary of the Interior has not disapproved such waiver on the basis that it may result in any irretrievable loss of fish or wildlife which cannot be mitigated.

(b) For the purposes of this section, "commencement of construction" means that the owner or operator of a priority energy project has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (1) begun or caused to begin, a continuous program of physical onsite construction of the facility, or (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time. For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

(c) Any extension pursuant to this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be extended.

(d) This section shall not apply to or modify in any way—

(1) any law, regulation or rule of law governing labor management relations, pensions, working conditions (including health and safety), or minimum wages and maximum hours of employment;

(2) any law, regulation or rule of law guaranteeing equal employment opportunities or prohibiting discrimination on the basis of race, creed, sex, or national origin;

(3) any law prohibiting any act similar to any crime at common law;

(4) any antitrust law of the United States.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to get a clarification from the Chair?

Is it the understanding of the Chair that following the disposition of the pending amendment, Mr. STEVENS and Mr. HUDDLESTON will be recognized to call up their amendment next?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. RIBICOFF. Mr. President, giving the Board power to act in lieu of an agency which misses its deadline is an unwise proposal. Specifically, it would:

Lead to complications and inevitable delays in court actions if a court remands a case either to the Energy Mobilization Board or to an agency, to develop a further record for decision; or if a court decides that the Board has improperly applied the relevant law;

Decrease Government accountability by tempting agencies to "pass the buck" to the Energy Mobilization Board on particularly tough or policy-sensitive issues;

Erode the authority of independent regulatory agencies at all levels of government;

Invite abuse of enforcement power for political purposes on decisions affecting large, capital-intensive energy projects; and

Lead to the establishment of a large bureaucracy at the Board which would have to have the expertise to make decisions on a wide range of Federal, State, and local matters.

Senator MUSKIE's and my amendment seeks to eliminate delays in completing vital energy projects by establishing an Energy Mobilization Board to cut through redtape and secure prompt action. One of the major differences between our approach and S. 1308 is how we seek to insure compliance with any schedule the Board establishes for completing action on an energy project. Under the provisions of S. 1308 the Board would substitute its judgment for that of any Federal, State, or local agency which failed to meet a deadline by even 1 day.

Our amendment would instead empower the Board to go to court to obtain a court order, requiring the agency to act if the agency has missed, or appeared likely to miss, a deadline.

Past experience demonstrates that the approach is both workable and effective. It will result in better decisions, less delay, and less intrusion into the workings of other Federal, State, and local agencies. On the other hand, the approach proposed by S. 1308 as it now stands will only result in more delay and more litigation.

The principal import of our approach—and which is contained in part of S. 1308—is to allow the Board which sets the schedules to go to court and obtain a court order directing another agency to conclude its deliberations and decide the matter one way or the other. This remedy is available either when a deadline has already been missed, or when a future deadline is likely to be missed. Impressive precedent for this approach demonstrates its effectiveness and workability. As the District of Columbia Court of Appeals observed, the establishment of time limits "should serve like adrenalin to heighten the response and to stimulate the fullest use of resources." *NRDC* v. *Train*, 510 F.2d 692, 712 (D.C. Cir. 1973).

It is true that there have been instances where courts have been reluctant to adopt or enforce a deadline against an agency. But in these situations, either an inflexible deadline was established by a statute without regard to the particular circumstances of the case, or the court was asked to establish a deadline of its own without the expertise or knowledge the agency itself possesses. Courts have also occasionally resisted adopting a deadline which would force the agency to put one proceeding ahead of another, or otherwise choose between competing priorities.

None of these situations will apply with deadlines set by the EMB. First, the deadline will have been established and monitored by an expert body with the difficulty and importance of the particular proceeding in mind. Second, the court will be asked to enforce a deadline that was adopted only after full consultation with the agency and after consideration of what it can reasonably be expected to do. Finally, the court will be able to rely on the expert judgment of the EMB to tell it whether the agency could reasonably have been expected to meet the deadline and what court action is necessary to insure rapid completion of the proceeding.

It should also be noted that, under the Ribicoff substitute, the EMB will be monitoring the agency action on a continual basis. If EMB determines the need for judicial intervention, it will be able to file suit early in the process, before the agency falls hopelessly behind in its schedule. The court will not be confronted with a situation already doomed, as a realistic matter, to result in considerable delay regardless of what action it takes.

Enactment of legislation establishing an Energy Mobilization Board will establish a clear national policy that certain designated projects should be given top priority by the agencies because of overriding national needs. Thus the court will only be called upon to enforce the deadline which an expert body, the EMB, has already determined is reasonable and necessary and consistent with the overriding national policy established in this act. The court will not be asked to choose on its own between several competing and equally important priorities, as is the usual case when courts are asked to impose deadlines.

One additional factor will further increase the effectiveness of EMB beyond anything experienced to date. Although the right to obtain a court order requiring agency action is well established, many parties and their attorneys are reluctant to seek relief in court from agency inaction for fear of only angering the agency that must act on its request. Since the Board will not be a party but merely seeking to obtain compliance with its schedule, and since it will have the full prestige of the U.S. Government behind it in support of these projects, this will not be a problem.

In contrast, the alternative approach of allowing the Board to take over and actually make decisions for agencies which are tardy will only produce more delay. Almost by definition, the issues raised in these proceedings will be difficult, if for no other reason than that the projects will be large. Unlike the agency with the normal decisional authority, the Board will have no expertise in the areas covered, and will have to pick up in the middle of a particular case and start from scratch. Given those two factors, and assuming that the Board will attempt to do its substantive jobs properly, it is virtually certain that the Board will be unable to issue a reasoned decision in less than the time that the responsible agency could. And, if there is more than one missed deadline at a time, the prognosis for an accelerated decision is even less favorable.

Knowing that the EMB will step in and make a decision for it could also produce delay for another reason. It could lead Federal and State agencies faced with difficult policy decisions to delay their decision until after the deadline. This would shift the responsibility for any unpopular decision to EMB, but only at the cost of considerable delay in obtaining final agency action. S. 1308 would thus achieve exactly the opposite effect than the one intended.

Then, too, any provision giving EMB the authority to make the substantive decision will inevitably create only more litigation. And this will in turn mean only more delay.

The Board would have to apply substantive law with which it is unfamiliar. It may have to apply both State and Federal law. Even assuming the Board can correctly identify the substantive law to be applied, it is a virtual certainty that every decision the Board makes of this kind will be appealed. There will be a real problem of the quality of the Board's decisions if it is called upon to decide a Clean Air Act question one day, a strip mining issue the next, and a local zoning variance the third—and still continue its duties of setting schedules and providing overall monitoring for the program. Given its lack of expertise, decisions of the Board are likely to be reversed far more often than those of agencies who originally had responsibility for making the decision. The Board will then have to spend time to redecide the case. And more delay will result.

Thus, even without considering the undesirable effects of establishing another substantial bureaucracy to make decisions properly left to State or local governments, or to other Federal agencies with the substantive expertise, the procedures in S. 1308 are unwise because they will produce more, not less, delay.

Mr. STAFFORD. Mr. President, proponents of the Energy Committee bill have argued that S. 1308 does not waive the application of substantial Federal, State, or local laws. However, section 36 does empower the Energy Mobilization Board to waive any future Federal, State, or local law, regulation or requirements if "necessary to completion of the priority project in a timely fashion." It is clear to this Senator from the debate, Mr. President, that the so-called "grandfather clause" is directed at new environmental requirements.

What may not be clear is that the grandfather clause may also be applied to a variety of statutes which are not environmental in nature. The only justification that the Board needs to waive such laws is the timely completion of a priority energy project. Senators should realize that the laws of their States can be effectively overturned by a simple finding that the progress of a priority energy project will be slowed down. This clearly, in the opinion of this Senator, empowers the Board to waive a State's energy facility siting law or changes in local building codes. And, to the extent that they would inhibit the progress of a priority energy project, other type of actions prohibited by the grandfather clause may include:

The enactment of a severance tax;

Changes in rates or rate structures for electricity;

Increases in property tax or method of property valuation; or

An increase in royalty or other Government or tribal share of mining revenues.

Clearly, none of these statutes would threaten public health or safety but they could delay a project's completion or otherwise threaten a project's economic viability.

Where waivers are applied to new environmental requirements, I shall repeat the concerns I expressed yesterday, but do so briefly. The grandfather clause fails to recognize that new requirements are often enacted as specific remedial responses to problems which were unknown before the project was begun. Such a prohibition would effectively prevent corrective action needed to protect public health in the environment. Although Senator Johnston's amendment to section 36, which was adopted yesterday permits the Board to impose a lesser requirement, the Board cannot know what those requirements ought to be better than the State or Federal agencies charged with protecting public health and the environment.

Subsection 21(a) which authorizes the Board to substitute its judgment for that of any Federal, State, or local agency, is also a major defect in this bill, in the opinion of this Senator.

This provision may very well cause delays and bad decisions, since the agencies the Board would displace have specialized expertise and experienced staffs. Whatever their failings, they are better qualified to perform the functions assigned to them by law than the Board would be.

The Board would be compelled either to develop its own record and expertise, a time-consuming exercise, or to render an ill-informed, poorly justified decision that would be vulnerable to litigation. Within a few years, with dozens of projects designated, the Board would require an enormous staff to process decisions taken over from a variety of Federal, State, and local agencies involving expertise from land-use planning to toxic waste disposal. The members and chairman would be entangled in the net of their own power, unable to carry out all of their functions. The Board would become the ultimate unresponsive bureaucracy.

Again, Mr. President, we are not just talking about environmental laws; we are not just talking about shortening the time to reach a decision. The grandfather clause empowers the Board—a Federal agency—to interfere in some of the most fundamental powers traditionally reserved by State and local governments.

Therefore, Mr. President, I urge my colleagues to reject the grandfather clause and support the amendment offered by my distinguished colleagues, Senators Muskie and Ribicoff. I hope that vote will come, as planned, at 4:30.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. I ask the distinguished Senator from Maine for 10 minutes.

Mr. MUSKIE. Mr. President, I yield 10 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Chair informs the Senator that there is no time agreement to this amendment.

Mr. WEICKER. Mr. President, I direct my attention toward that portion of the Muskie-Ribicoff amendment which would delete subsection 21(a) of the bill. This subsection would authorize the Energy Mobilization Board to make a decision or take an action in lieu of any agency, whether it be Federal, State, or local, if the agency fails to meet a project decision schedule deadline established by the Board.

Mr. JOHNSTON. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. WEICKER. Yes.

Mr. JOHNSTON. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from Connecticut modifying the existing language.

Mr. JOHNSTON. The Senator from Connecticut?

The PRESIDING OFFICER. Senator Ribicoff.

Mr. JOHNSTON. Mr. President, we do not have a copy of that amendment. I was informed that another amendment was pending, the Muskie amendment.

A further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. I wonder if the Senator from Maine or the Senator from Connecticut intended the so-called Randolph amendment to be in lieu of the Muskie amendment and to be voted on at 4:30 p.m., or whether they intended the original Muskie amendment to be voted on?

Mr. MUSKIE. I am sorry, may I say to the Senator from Louisiana, I did not hear what he was saying.

Mr. JOHNSTON. The question is, if the pending amendment is the so-called Ribicoff amendment, which is a reincarnation, as I understand it, of the Randolph amendment, that now is the pending amendment, is that in lieu of the Muskie amendment for which a unanimous-consent request was ordered for a vote at 4:30?

Mr. MUSKIE. I understood, caught up in the pressures of the request for unanimous consent, that Senator Randolph wanted to modify the first part of my amendment, and, if he succeeded, then the vote would come on my amendment, as modified in the first part. In other words, the motion to strike section 21 would be the second part.

That is what we were contemplating.

Mr. McCLURE. Is it offered as an amendment to the amendment?

Mr. MUSKIE. The difficulty, may I say to the Senator from Idaho, is that the unanimous consent having been agreed to, we are facing the problem of whether any amendment is in order.

I do not know whether that has been worked out. The Parliamentarian has been consulted.

The PRESIDING OFFICER. To inquire of the Senator from Maine, is it his understanding that if the Randolph-Ribicoff language is accepted, that would then result in the second part of his amendment to be acted upon at 4:30, without the first part?

Mr. MUSKIE. I have no objection to that, whether or not that is the parliamentary situation——

The PRESIDING OFFICER. The Chair would inform the Senator, that is what the precedents would require.

Mr. MUSKIE. So if I understand correctly, what I am being asked is whether, if the Randolph amendment is offered to the first half of mine and is accepted, that would resolve the Randolph amendment issue, and the remaining issue would be the second half of my amendment.

The PRESIDING OFFICER. The Senator is partially correct.

Mr. MUSKIE. I would have no objection to that, if that is the Parliamentarian's ruling, as the result of what has taken place.

The PRESIDING OFFICER. The Chair also informs the Senator the language introduced by the Senator from West Virginia and the Senator from Connecticut is to the bill, not to the language of the Senator from Maine's amendment. It would perfect the language that the Senator from Maine would strike and, therefore, takes precedence.

Mr. MUSKIE. What the Chair is saying is that if the Randolph amendment is adopted it would, in effect, amend the bill and not my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. MUSKIE. And, nevertheless, it would impact upon my amendment to the extent that all that would be left of my amendment to be voted on at 4:30 would be the second half?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. There is already a unanimous consent entered into by this body that says that the Muskie amendment will be voted upon at 4:30.

If, as a matter of fact, any intervening action interferes with that unanimous consent, is not the intervening action out of order?

The PRESIDING OFFICER. The unanimous consent to vote at 4:30 does not preclude other amendments being offered that have preference.

Mr. McCLURE. Even though the intervening amendments that would otherwise have preference have the effect of vitiating and nullifying the unanimous-consent agreement already entered into by the Senate?

Mr. President, before answering that question and, therefore, making a precedent, I wonder if we might not solve this problem by propounding another unanimous-consent agreement, because I am concerned that if, as a matter of fact, the Chair should rule that it would have the effect of vitiating the unanimous-consent agreement, then unanimous-consent agreements do not mean anything.

I would much prefer to solve the question in a different manner, if, indeed, that is the wish and desire of the Members present.

The PRESIDING OFFICER. The Chair does not——

Mr. McCLURE. Mr. President, I suggest the absence of a quorum so that we might see if we can arrive at such a unanimous-consent request.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER (Mr. BAUCUS). Will the Senator withhold his request?

Mr. WEICKER. Mr. President, I yielded for the purposes of this parliamentary inquiry and debate here. I see no reason why my statement should interfere.

Mr. McCLURE. I withdraw the request.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, although the Muskie-Ribicoff amendment would delete subsection 21(a), it would retain subsection 21(b). This is the provision which enables the Energy Mobilization Board to go into court to seek enforcement of a schedule deadline. Thus, the Board would act as a watchdog over the regulatory process for priority energy projects. The Board will be able to spot early on in the process potential bottlenecks and will be authorized to go into court to force these agencies to meet the reasonable deadlines which they themselves have agreed to.

I might add that this amendment would not necessarily slow down the expedited process contemplated by S. 1308. As the Energy Committee stated in its report on S. 1308:

> In some instances it will be faster and more efficient for the Board to obtain a court order forcing an agency to decide rather than to attempt to make a decision in lieu of the agency.

My objections to subsection 21(a) are founded upon its dubious constitutional validity. In this subsection, Congress is seeking to regulate the activity of States acting in their sovereign capacity.

In the memorandum prepared by the Justice Department on the constitutionality of the administration's proposal for an Energy Mobilization Board—which was cited yesterday by the distinguished Senator from Louisiana, the floor manager of the bill now before us—it was admitted by the Justice Department that the provision for displacement of State and local agency decisionmaking:

> Obviously . . . intrudes on authority presently exercised by state and local officials. Indeed, it could be argued that supplanting decisionmaking strikes at the heart of state and local sovereignty. Nothing is a more integral governmental function than government itself.

Despite this stark admission, the Justice Department attempts to justify this provision on the broad power to act given Congress under the commerce clause, article I, section 8, clause 3 of the Constitution. Additional support is sought in a series of cases that considered constitutional challenges of the Clean Air Act.

However, in discussing the displacement of State and local decisionmaking, the Justice Department does not even discuss the seminal U.S. Supreme Court decision establishing limitations on the congressional power to act under the commerce clause to interfere with the role of the States in the Federal system.

In its 1976 decision in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), the Supreme Court invalidated extension of the Fair Labor Standards Act's minimum wage and maximum hour standards to State and local governments. The Court stated that:

> We have repeatedly recognized that there are attributes of sovereignty attaching to every state government which may not be impaired by Congress, not because Congress may lack an affirmative grant of legislative authority to reach the matter, but because the Constitution prohibits it from exercising the authority in that manner. Id. at 845.

In its decision, the Court established a test by which the constitutionality of every attempted commerce clause regulation of State and local governmental activity must be judged. The test has two tiers to determine intrusions on State sovereignty.

First, it must be determined whether the governmental activity being regulated is "essential to the States' separate and independent existence." To identify those governmental functions deserving an affirmative constitutional protection, the Supreme Court used several phrases: "integral"; "traditional"; "essential"; and "functions * * * which (State) governments are created to provide."

Is there any doubt that the State and local activities which the Energy Mobilization Board would be empowered to displace under subsection 21(a) of this bill are those functions which are traditionally relegated to the States? Under the Energy Committee bill, the Energy Mobilization Board is empowered to act in lieu of the State or local agency in such traditional State governmental functions as zoning decisions, land use controls, and safety regulations as they are applied to energy facilities. If the Federal Government is empowered to preempt local zoning decisions, our State and local governments would be reduced to mere appendages of the Federal Government. Clearly, this result would transgress the constitutional scheme.

Having ascertained that the State and local agency activities are "essential to the States' separate and independent existence," the test established in National League of Cities requires an examination of the degree of interference imposed by the Federal regulation. If the regulation either imposes significant financial burdens on the governmental body subject to the regulation or displaces the States' freedom to carry out essential activities, then the Federal Government has unconstitutionally interfered with State sovereignty.

The displacement powers granted the Energy Mobilization Board under S. 1308 empowers it to impose conditions on the State without either relieving the State completely of regulatory responsibility or providing it with feasible alternatives to operating under the Federal dictates. While a State is aware of the deadlines and waivers present in its decision schedule before it embarks on its regulatory process, it is not, as a practical matter, given the option of not initiating the process so as to avoid the deadlines. It must start the process, hoping to comply with the schedule; if not, the process is prematurely ended and Federal decisionmakers take over.

Because a State cannot be expected to abandon such traditional and essential functions as zoning, land-use control, and health and safety regulation, it must enlist its regulatory resources each time with the possibility of premature termination of the process, together with its attendant waste of State money and personnel time.

The two prongs of the National League of Cities test are satisfied by the provision in S. 1308 empowering the Energy Mobilization Board to act in lieu of State and local agencies. Thus, the provision is an unconstitutional intrusion by the Federal Government into an area sovereign to the States.

I might add that the Justice Department's reliance on the courts of appeals decisions in the so-called Clean Air Act cases is misplaced. Simply put, the Courts of Appeals of the Fourth, Ninth, and District of Columbia Circuits in these cases rejected an interpretation of the Clean Air Act which would force States to enforce implementation plans by enacting statutes or regulations, or face the possibility of compliance decrees or civil or criminal penalties. As the court stated in *EPA* v. *Brown*, 521 F.2d 827, 839 (9th Cir. 1975), to adopt such an interpretation of EPA's enforcement powers "would authorize Congress to direct the States to regulate any economic activity that affects interstate commerce in any manner Congress see fit. A commerce power so expanded would reduce the States to puppets of a ventriloquist Congress." It may similarly be argued that to enable the Energy Mobilization Board to step in for State or local agencies would make the States muppets. Therefore, the Board should not be given the authority to displace State and local agency decision-making.

Mr. President, the points I have tried to raise in this presentation are made for the purpose of getting an expedited energy policy worthy of consideration by my colleagues. If legislation passed here this afternoon is unconstitutional, then, believe me, we will have set back for years, not weeks or months, the very cause which is espoused on the floor by the advocates of this legislation.

Clearly, in my mind, subsection 21(a) and another section, to which I will refer later, during deliberation of this matter put the legislation into constitutional jeopardy.

The decision has been rendered by my colleagues that we are to have this Board. I have no doubt that it is going to pass.

It is solely my intent here this afternoon to see to it that what we do here today is constitutional. I want to insure that the legislation does not provide the basis for endless lawsuits, possible ending up with a victory by those who oppose the Board, thereby necessitating starting the entire legislative process all over again. With regard to subsection 21(a), I hope my colleagues will support the amendment as offered by the Senator from Maine and the Senator from Connecticut.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, while we are at ease, I would like to take a moment to comment on what I believe to be the pending amendment.

I am unclear as to the parliamentary situation, but the amendment I want to speak to is the so-called Muskie amendment, on which we are going to vote at 4:30.

As the bill has come to us from the committee, it really tramples on the ancient, honorable concept of States rights. The issue of States rights in this Chamber may seem quaint to some, but I do not want to let the occasion go by without letting the Senate know that there are still a few of us who think the idea of leaving to the States a broad area of discretion is a good idea, and to remind Senators that, as a matter of law, even in this era, our courts have said that there are large areas of day-to-day life which the Federal Government may not invade.

I recall that, a while back, Congress enacted a statute which purported to regulate the wages and hours of State and municipal employees. I was one of those who voted against it, because I believed it violated the constitutional prohibitions on the scope of the National Government's power as against the States; and I was pleased when the Supreme Court upheld that position. I think it may be, as a matter of law, that this bill goes too far and invades that area of States' rights.

However, there is a far more urgent and practical and somewhat less academic reason why I hope the Muskie amendment will be adopted, and it is simply this:

First of all, there really has been no serious effort to show, no real showing, that it is the States which are holding up the development of energy projects. I am aware that there are some instances, particularly in the siting of refineries, in some pipeline issues, and I understand that a couple of States have particularly poor records of expediting needed energy projects.

However, by and large, the evidence is exactly the opposite, that it is not the State and local jurisdictions which are throwing road blocks in the way of pipelines and coal leases and oil and gas drilling permits in the development of coal and oil shale and all the other things we need for the Nation's energy future; it is the agencies of the Federal Government itself. I do not think we should lose perspective, that by implication we should pass the buck to State and local jurisdictions.

I would like to share a couple of episodes in my own State of Colorado that underscore the problem that is going on. At this point, I would like to insert in the RECORD four specific instances—the facts concerning four specific instances—of delays, truly unconscionable delays, in the development of energy projects in my State of Colorado.

I will take the time of the Senate to mention just one, which is of particular significance and is symbolic of a very widespread problem.

Coal Fuels Corp., a Colorado coal mining firm, has a coal operation on 440 acres of private land in western Colorado. This company applied for leases on adjacent Federal lands to continue their operation and in 1968 preference right lease permits were granted.

The lands were prospected, drilled, and commercial quantities of coal were established. All necessary paperwork, detailed mine plans, maps, and reserve calculations were submitted. The operation on Federal lands would be an underground mine, affecting less than 50 surface acres.

At present, the company has driven three entries into the private lands and had to terminate this mine development at the boundary of the Federal land because the preference right lease has not been issued.

It has been more than 10 years since the permits were first granted and the company has invested approximately $5 million in this project. They are still waiting.

I stress this has not been denied. It simply has not been acted on.

I say to my friends this is not an isolated case. I will now send to the desk and ask unanimous consent that some other instances which we have documented in Colorado be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WYOMING FUEL COMPANY

Small mine operation will shut down because of delays in processing of lease application.

Wyoming Fuel Company has a small coal operation in Colorado, mining 640 tons per day and a payroll of 16 employees. The company knew it needed additional coal reserves to sustain coal sales and in March of this year they applied to the Bureau of Land Management (BLM) for a short term criteria lease on federal lands adjacent to their current operation.

Their application was reviewed by BLM and found complete. BLM then turned the application over to the United States Geological Survey (USGS) for its review. USGS said they would have to drill to test reserves and the company offered to do this with its rig to expedite the process. However, USGS used its drill rig and took seven weeks to drill two holes, each 150 feet deep. The normal time for a company rig for this operation would be about four days. (It was reported that the USGS rig had a flat tire and the entire rig was hauled into town to have the flat fixed!)

Another 12 weeks went by before USGS returned the application to BLM for further processing . . . now late August of this year.

BLM then notified the company that new regulations on short term criteria coal leases had been put into effect July 19, 1979 and a new reserve study would be necessary.

As of this date, BLM is preparing an environmental assessment on the property with the possibility that a lease could be issued by February 1980 at the earliest. Which is fine because by that date the company figures it will be completely out of coal and will shut down.

But, after the lease is issued, a total mining plan will have to be submitted to the Office of Surface Mining (OSM), the USGS, the BLM, and Colorado state agencies. According to OSM regulations, only after this plan is approved can mining begin. It is estimated that this approval process will take at least another 6 months. So at best this company will not begin operations until August of 1980. By then the company will have been shut down for six months and 13 of the 16 employees laid off.

SHERIDAN ENTERPRISES, INC.

Federal agencies quick to stop production, slow to approve.

Sheridan Enterprises, Inc., a Colorado coal mining company, had been issued an approved exploration plan in December of 1976 to mine on four separate sites on its issued federal leases. The company was proceeding with this operation when in June of 1979 they were notified by the United States Geological Survey that their approved plan was no longer valid and it had been determined that the production exceeded exploration. With the same notice, the company was given two weeks to resubmit a complete plan for its operations to the Office of Surface Mining or face a cease and desist order.

The company recently submitted seven copies of a mine permit application to the

Office of Surface Mining in Denver, Colorado. The Office of Surface Mining in turn distributes copies of this application to other federal agencies for their review.

At the same time, Sheridan Enterprises submitted separate copies of the application to the Mined Land Reclamation Board of the State of Colorado for their review. Before all the federal agencies have even received from OSM the distributed copies of the application, the state agency had advised Sheridan that the permit submittal was considered complete and a hearing was scheduled before the Mined Land Reclamation Board.

The Colorado Mined Land Reclamation Board is operating under a state statute which limits the period of time that a state agency has to review and determine if an applicant's permit is complete or incomplete. There is no comparable federal statute limiting the period of time a federal agency has to review an operator's mine permit application.

COAL FUELS CORPORATION

Coal company waits 10 years for lease.

Coal Fuels Corporation, a Colorado coal mining firm, has a coal operation on 440 acres of private land in western Colorado. This company applied for leases on adjacent federal lands to continue their operation and in 1968 preference right lease permits were granted.

The lands were prospected, drilled, and commercial quantities of coal were established. All necessary paperwork, detailed mine plans, maps and reserve calculations were submitted. The operation on federal lands would be an underground mine, affecting less than 50 surface acres.

At present, the company has driven three entries into the private lands and had to terminate this mine development at the boundary of the federal land because the preference right lease has not been issued.

It has been more than 10 years since the permits were first granted and the company has invested approximately $5 million in this project. They are still waiting. And, if they could proceed today, it would still take another three years to get major production established on this property.

PARAHOE

Environmental Impact Statement for oil shale company delayed 4 years.

Since 1971, Parahoe has been involved with various private and government funded oil shale demonstration programs on the Anvil Points oil shale research facilities located on the Navel Oil Shale Reserve near Rifle, Colorado. Following their initial demonstration program, Parahoe has been seeking funding from various sources in order to design, build and operate a full sized module.

The Energy Research and Development Administration (ERDA), in 1975, determined that such a project, because of the increased mining and increased shale retorting, required a site of specific EIS. In testimony before the Senate Energy Committee's Subcommittee on Energy and Materials Production, Mr. Harry Pforzheimer, Parahoe project director, said ERDA promised the draft EIS would be completed within six months.

Now almost four years later a draft EIS has not been completed for release to the public and the interested Federal agencies. As a result of this delay, Parahoe no longer has enough time remaining under their Anvil Points lease to permit the construction and operation of such a module. To continue their work, Parahoe has sought to extend the Anvil Points lease, but the Department of Energy (DOE) has determined that such a request is "premature."

OSGOOD

Oil and gas drilling still pending in New Mexico after 4-year delay at Bureau of Indian Affairs (BIA), and now the USGS, to possible detriment of Navajo Indian aliottees.

In August 1975, Charles E. Osgood, Denver, Colorado, requested that several allotments be advertised by the BIA for leasing bids. In March 1979, 3½ years later, the allotments were advertised for bids. At present, the commencement of drilling is pending USGS approval. Over the four year delay the individual Indians have been denied substantial royalty payments and have been subjected to possible depletion of their oil and gas deposits.

MESA PETROLEUM INC.

Leasing of land still pending in New Mexico after 2½ year delay at BIA, to possible detriment of Navajo Indian allottees.

This Denver, Colorado company requested that several allotments be advertised by the BIA for lease bids. This was a written request dated December 2, 1976. The allotments are not subject to drainage but the Indian allottees desired to lease the land to receive royalty payments. To date, the BIA has refused to act, citing administrative convenience.

Mr. ARMSTRONG. Let me also point out that the instances which have been printed in the RECORD are by themselves by no means a catalog of the horror stories which we have in our files and which I believe other Senators also could vouch for.

I am told by my friends in Utah that there is a tar sands fuel operation which is ready to go and which has been petitioning for sometime to get the necessary Federal lease approvals.

In New Mexico they tell me that there has not been a new coal lease granted by Federal authorities in over 3 years.

My friends from Wyoming have indicated to me that the same situation exists there. In fact, one of the Senators from Wyoming said within my earshot they had so much coal up there that they could supply half the country and yet they cannot get a coal mine operation going because Federal officials will not get off the dime.

The relevance of this to the Muskie amendment is very simple. The bill addresses itself to two issues: First, Federal redtape; second, very improperly in my judgment, to an imposition of Federal control over local processes. I object to the Federal interference in the State and local process because, first, there has not been any real showing that energy development has been significantly slowed by State and local jurisdictions; second, because if the Energy Mobilization Board actually undertook to live up to the mandate of the bill as it is now written it would have to acquire the expertise which now resides in State and local jurisdictions in order to fulfill that mandate.

I think they would end up actually slowing rather than expediting the process of energy development to the extent that they actually sought to exercise the option of preempting State and local jurisdictions.

Last but not least, I hope this amendment, which has been proposed by the Senator from Maine, will be adopted because, frankly, I think any time we have a chance to leave something to State and local officials we are better off.

I have had contact over the years with a lot of State legislators and a lot of county commissioners. My experience with them is they are knowledgeable, they are well informed, and as it relates to their own jurisdictions they are far better informed than any national legislator or national body could be.

In the bill we have a proposition which says that we are going to preempt these responsible local elected officials and that the preempting agency will be an appointed board. So to me on every ground, on legal grounds, on practical grounds, and just on the kind of cooperative and mutually respectful relationships that should obtain between the Federal Government and the State government it seems to me that the bill goes too far and intrudes too much on States' rights. So for that reason I am going to vote for the Muskie amendment.

At least, Mr. President, if the parliamentary situation is such that I am permitted to do so that is my intention.

While I still have the floor may I address to the Chair this inquiry: What was the resolution of that issue? Will we vote at 4:30 p.m., on the Muskie amendment?

The PRESIDING OFFICER. Under the unanimous-consent agreement the vote will occur at 4:30 p.m. on the Muskie amendment. However, the amendment offered by the Senator from Connecticut takes precedence over the amendment by the Senator from Maine. Therefore, under the present situation the vote will first occur on the amendment offered by the Senator from Connecticut (Mr. RIBICOFF).

Mr. ARMSTRONG. I thank the Chair, and I yield the floor.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I think we have worked out an agreement which may take a couple of minutes to draw and about 5 minutes to explain. So I, therefore, ask to vitiate the unanimous-consent order for the 4:30 p.m. vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is that in order?

The PRESIDING OFFICER. There are two amendments pending, the amendment offered by the Senator from Maine and also the amendment offered by the Senator from Connecticut.

Mr. MELCHER. Mr. President, I ask unanimous consent that the pending amendments be set aside temporarily.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, will the Senator be agreeable to making that no longer than 5 minutes.

Mr. MELCHER. No longer than 2 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

UP AMENDMENT NO. 596

Mr. **MELCHER**. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 596:

Add a new subsection (d) to section 11 on page 35, as follows:

"(d) No project shall be designated a priority energy project unless the Board determines that the applicant for priority status has taken reasonable steps to apply for all necessary approvals from State and local agencies and a copy of the applicant's designation request has been given to the Governor of every State in which the project or any portion thereof would be located."

Mr. **MELCHER**. Mr. President, this amendment simply ends one questionmark in the bill and that is, Will the States start to act at the same time the Board starts the time frame running on a priority project? It is something that the States would like. It is something that would clarify that particular point in the bill, and I hope the managers will accept the amendment.

Mr. **DOMENICI**. Did the Senator ask that his amendment be adopted?

Mr. **MELCHER**. Yes.

Mr. **DOMENICI**. We have no objection.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Montana.

Mr. **JOHNSTON**. Mr. President, will you withhold that so that I can get a copy of the amendment?

Mr. President, this is the amendment which we had discussed with the Senator from Montana, as drafted, and it simply insures that prior to designation as a priority energy project that the applicant will have taken reasonable steps with the State and local permitting agencies to put them on notice prior to seeking the designation, so we have no objection.

The amendment was agreed to.

Mr. **STEVENS**. Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER**. The Senator will state it.

Mr. **STEVENS**. Under the previous agreement is it now in order for me to offer my amendment?

The **PRESIDING OFFICER**. No. The question now recurs on the amendment offered by the Senator from Connecticut.

Mr. **JOHNSTON**. Mr. President, I send an amendment to the desk, if it is in order to send an agreed amendment, in lieu of the amendment of the Senator from Connecticut on behalf of myself, the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from West Virginia (Mr. RANDOLPH), and I would like to send it to the desk and ask for its immediate consideration.

VISIT TO THE SENATE BY TWO MEMBERS OF THE ITALIAN PARLIAMENT

Mr. **DOMENICI**. Mr. President, would the Senator from Louisiana withhold until I introduce two parliamentarians visiting here?

Mr. **JOHNSTON**. Yes.

Mr. **DOMENICI**. Mr. President, there are two parliamentarians from Italy, Mario Usellini, and Mario Segni. They are our guests, and we have been privileged to have them here on the floor watching this particular parliamentary procedure this afternoon.

I would like to introduce them and give the Senators a minute to meet them and say hello.

RECESS

Mr. **DOMENICI**. I ask unanimous consent that we stand in recess for 1 minute while the Senators have an opportunity to greet Mario Usellini and Mario Segni. We welcome them.

[Applause.]

There being no objection, the Senate, at 4:33 p.m. recessed until 4:34 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

PRIORITY ENERGY PROJECT ACT OF 1979

The Senate continued with the consideration of S. 1308.

Several Senators addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Louisiana.

UP AMENDMENT NO. 597

Mr. **JOHNSTON**. Mr. President, I propose an amendment which is at the desk as a substitute for the pending Ribicoff amendment.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and others proposes an unprinted amendment numbered 597.

Mr. **JOHNSTON**. Mr. President, I ask unanimous consent that further reading of the amendment be disposed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language intended to be proposed by Mr. RIBICOFF No. 490 (as modified) insert the following:

POSTPONEMENT OF NEW REQUIREMENTS

SEC. 36. (a) The Board, by majority vote, is authorized to waive the application of any Federal, State, or local statute, regulation, or requirement enacted or promulgated after the commencement of construction of a priority energy project, such time as necessary to allow compliance with such statute, regulation, or requirement with no resultant substantial delay in the completion or commencement of operation of the affected energy facility. Such waiver may be granted only where (1) the Board finds that the waiver is necessary to avoid a significant delay in the completion and commencement of operation of the facility, and (2) the Administrator of the Environmental Protection Agency has not disapproved such waiver on the basis that it may reasonably be expected to result in the discharge, emission, or release of any toxic or hazardous pollutant or any other pollutant which may reasonably be anticipated to present a substantial endangerment to the public health or in any other condition which may reasonably be anticipated to present such endangerment, and (3) the Secretary of the Interior has not disapproved such waiver on the basis that it may result in any irretrievable loss of fish or wildlife which cannot be mitigated. This section shall not apply to any requirement or regulation under the Federal Mine Safety and Health Act of 1977 or the Occupational Safety and Health Act of 1970.

(b) For the purposes of this section, "commencement of construction" means that the owner or operator of a priority energy project has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (1) begun or caused to begin, a continuous program of physical onsite construction of the facility, or (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time. For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

(c) Any waiver pursuant to this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived.

(d) This section shall not apply to or modify in any way—

(1) any law, regulation or rule of law governing labor management relations, pensions, working conditions (including health and safety), or minimum wages and maximum hours of employment;

(2) any law, regulation or rule of law guaranteeing equal employment opportunities or prohibiting discrimination on the basis of race, creed, sex, or national origin;

(3) any law prohibiting any act similar to any crime at common law;

(4) any antitrust law of the United States.

(e) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any waiver or veto of a waiver pursuant to this section in accordance with the procedures for expedited review established by this Act.

Mr. **JOHNSTON**. Mr. President, this amendment is offered as a substitute in order to try to mollify the concerns with respect to, and to accommodate to the concerns of, Senator MUSKIE, Senator RIBICOFF, and Senator RANDOLPH, and others with reference to the grandfather clause.

What it does is to allow the Board by majority vote to waive the application of any State, Federal, or local statute, regulation or requirement enacted or promulgated after the commencement of construction of a priority energy project for only such time as is necessary to allow compliance with such statute, regulation, or requirement with no resultant substantial delay in the completion or commencement of operation of the affected energy facility.

Let me explain that first part initially, and that is the Board may waive a State, local, or Federal statute enacted after the commencement of construction for only so long as to allow no resultant substantial delay in the completion or commencement of operation of the energy facility.

It further provides that such waiver may be granted only where the Board finds that the waiver is necessary to avoid a significant delay in the completion and commencement of operation of the facility.

Further, that the Administrator of the Environmental Protection Agency has not disapproved such waiver on the basis that it may be reasonably expected to result in the discharge, emission, or release of any toxic or hazardous pollutant or any other pollutant which may reasonably be anticipated to present a substantial endangerment to the public health or in any other condition which may reasonably be anticipated to present such endangerment.

Further, that the Secretary of the Interior has not disapproved such waiver on the basis that it may reasonably be expected to result in any irretrievable loss of fish or wildlife which cannot be mitigated.

What this means, Mr. President, is that in those instances which the Senator from Maine described this morning where some new condition arises after the commencement of construction, the discovery, for example, of the discharge, emission or release of a toxic or hazardous substance, where EPA should find that such discharge may reasonably be expected to result in endangerment to public health, then EPA may veto that waiver, and that veto is a forever veto, that is, it is not subject to the clause first mentioned that it be in existence only for such time as to allow compliance but, rather, that veto, if made under the conditions described, is a permanent veto.

That veto, either by the Environmental Protection Agency with respect to matters of public health or the veto by the Secretary of the Interior with respect to fish or wildlife, is also subject to appeal to the Temporary Emergency Court of Appeals.

The language on appeal reads as follows:

> The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any waiver or veto of a waiver pursuant to this section in accordance with the procedures for expedited review established by this act.

So it means that the waiver or the veto of a waiver shall be subject to expedited review in the TECA court.

Mr. President, the amendment goes on to define commencement of construction as in the original amendment, and it goes on to also state that any extension or should I say any waiver pursuant to this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived.

What that means, of course, is that if the State—say a State should enact a law which is the kind of ex post facto law we are trying to get at in this grandfather clause, but the Board finds that an allowance in part of the requirements of the law does not do violence to the construction schedule, then they can put in part of the requirement or some alternative requirement, in the discretion of the Board.

The amendment also makes clear that the section shall not apply to or modify in any way labor-management relations laws, pensions, working conditions, minimum wages, maximum hours of employment, equal opportunity, discriminatory laws on race, creed, sex, or national origin, any law prohibiting an act similar to a crime at common law, or antitrust regulations.

Frankly, Mr. President, the modified amendment which I have just submitted goes a little bit further than I would like, because such phrases as "may be expected to result in harm to the public health" could perhaps be more broadly construed than I would like.

Nevertheless, it carries out what has been our intention all along, and that is to waive these ex post facto laws except where there is a clear and present danger to public health.

The Senator from Maine has eloquently brought out that danger, and this amendment is an attempt to accommodate to his purposes on not protecting the public health. We want to protect the public health, and I think this amendment carries that out.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield to the distinguished Senator from Maine.

Mr. MUSKIE. I would like, first of all, to express my appreciation to Senator Randolph, who is the original author of this modification which has been modified further somewhat, but the essence of what he proposed is here.

Second, as in the case of most compromises, this does not deal with all of the implications of the committee bill which have troubled me and which I have described here today, but this is the principal problem I found with the committee bill and the grandfather clause, that is, that if unanticipated pollution effects occurred after construction of a project, there ought to be clear authority to deal with them. This does provide clear authority.

Of course, there must be a finding that emissions would reasonably result in substantial endangerment to the public health, in accordance with the criteria here, but nevertheless there is authority to deal with such unanticipated pollution risks.

Recognizing the need for a compromise at this point, I was delighted to collaborate with Senator Randolph, principally, and Senator Ribicoff, Senator Johnston, and others, in the development of this compromise.

On this point, I think it is appropriate that Senator Randolph speak for himself, rather than through me.

Mr. DOMENICI. Mr. President, does the Senator from West Virginia have the floor?

Mr. ROBERT C. BYRD. Mr. President, will my distinguished senior colleague yield to me for a unanimous-consent request?

Mr. RANDOLPH. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the Stevens amendment and the Huddleston amendment, the Senator from New Jersey (Mr. Bradley) be recognized to call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, reserving the right to object, may I inquire if it is possible to fix a time for the vote on the Muskie amendment? We did have 4:30. That was vitiated by this effort to separate the issues in the Muskie amendment. I would like to see if we could get a time certain to dispose of the Muskie amendment; that would trigger the Huddleston amendment and my amendment.

Mr. ROBERT C. BYRD. Mr. President, would it be agreeable that the Senate vote at 5 o'clock on the amendment by Mr. Ribicoff and perhaps Mr. Randolph?

Mr. JOHNSTON. Mr. President, if anyone requires a rollcall vote on that, I do not know of it. I would not require a rollcall vote.

The PRESIDING OFFICER. The Chair would inform the Senator that the pending amendment is the Johnston amendment to the Ribicoff-Randolph amendment.

Mr. DOMENICI. Mr. President, reserving the right to object, at this point we are not expected to have an up-or-down vote on this one, are we?

Mr. McCLURE. Mr. President, if the Senator will yield, this Senator expects to.

Mr. DOMENICI. I mean we had not up to this point.

Mr. McCLURE. Well, we do now.

Mr. ROBERT C. BYRD. Very well. Could we begin voting on the Johnston amendment at 5?

Mr. JOHNSTON. If the Senator will yield. I wonder if the Johnston amendment to the Ribicoff-Randolph amendment could be adopted, and then vote on the Randolph-Ribicoff amendment as amended by the Johnston amendment?

Mr. McCLURE. Mr. President, I suspect the Senator from Connecticut would allow his amendment to be modified by the Johnston amendment, and I would have no objection to that, but I think there ought to be a rollcall vote on that amendment as so modified.

Mr. ROBERT C. BYRD. Then I ask unanimous consent that a vote occur on the amendment by Mr. Ribicoff on behalf of Mr. Randolph, as modified if modified, at 5 p.m. today.

Mr. McCLURE. Mr. President, reserving the right to object, I think that is reasonable, but I would hope the Senator from Idaho could be recognized for 5 minutes somewhere within that time.

Mr. ROBERT C. BYRD. I modify that request to make it 5 minutes after 5, with the additional time to be allotted to Mr. McClure.

The PRESIDING OFFICER. That the vote occur on the amendment as amended, or as modified?

Mr. ROBERT C. BYRD. As amended or modified, in either event, and that upon the disposition of that amendment, the Senate vote on the second half of the Muskie amendment immediately, and there will be rollcall votes on those amendments. I ask unanimous consent that the second vote be a 10-minute rollcall vote.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, I wonder if we could have 10 minutes of debate, 5 minutes on the side, on the second half of the Muskie amendment.

Mr. DOMENICI. Reserving the right to object, I would like to be assured of 5 minutes on the second half of the Muskie amendment and the Johnston modification.

Mr. ROBERT C. BYRD. Make it 15 minutes, with 5 minutes to Mr. DOMENICI.

The PRESIDING OFFICER. The Chair would inquire of the Senator, if the Ribicoff-Randolph amendment is not agreed to, does the Senator wish a vote to occur on the whole Muskie amendment?

Mr. ROBERT C. BYRD. Yes; I am glad the Chair made that observation on the distinction.

I ask unanimous consent that the vote occur on the Johnston amendment at 5 minutes after 5, with the time up to 5 o'clock being equally divided in accordance with the usual form, and the remaining 5 minutes to be under control of Mr. MCCLURE; that if that amendment is adopted, the vote occur after 15 minutes of debate, with the time to be divided in accordance with the usual form in connection with the first 10 minutes, with the last 5 minutes to Mr. DOMENICI, and that the vote then occur on that amendment.

Mr. JOHNSTON. Mr. President, reserving the right to object, I think the Senator meant to say that the vote would occur on the Ribicoff amendment as modified, if modified; is that correct?

Mr. ROBERT C. BYRD. No; I had already passed that point. Let me restate the request.

I ask unanimous consent that the vote occur at 5 minutes after 5 on the amendment by Mr. JOHNSTON, the time to be equally divided in accordance with the usual form with respect to the first 10 minutes, the last 5 minutes to be under Mr. MCCLURE's control; and if that amendment is agreed to, then the vote occur on the Ribicoff-Randolph amendment 15 minutes after that time, with 10 minutes to be equally divided and 5 minutes to be under the control of Mr. DOMENICI. Is that correct?

Mr. JOHNSTON. Mr. President, reserving the right to object, I do not think it is necessary to vote on the Johnston amendment but, rather, on the Ribicoff amendment as modified, if modified.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the vote occur at 5 minutes after 5 on the Ribicoff amendment as modified or amended by the Johnston amendment, the 10 minutes of that time to be under control as in the usual form, with the last 5 minutes to be under Mr. MCCLURE's control; then, if that amendment is adopted, that the vote then occur on the second part of the Muskie amendment within 15 minutes after that, 10 minutes under control as in the usual form and 5 minutes under Mr. DOMENICI's control.

Mr. DOMENICI. Reserving the right to object.

Mr. ROBERT C. BYRD. And that, in the alternative, if the Randolph amendment is objected to, the vote occur within 10 minutes after the disposition of the Randolph amendment on the entire Muskie amendment, the time to be divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, Mr. President, is there some way the Senator can modify that to put my 5 minutes in with Senator MCCLURE's on the first part? I do not want 5 minutes after the amendment has been adopted if adopted. I want it on that one.

Mr. RANDOLPH. That is OK with me.

Mr. ROBERT C. BYRD. Fine. I make that adjustment, Mr. President, that the vote occur at 10 minutes after 5, with Mr. DOMENICI having 5 minutes under his control.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I now ask to put the question on the Johnston amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON.)

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, I yield myself such time as I may need.

Mr. President, this is, to say the least, a rather involved situation. I do want to say for the RECORD, and I shall speak very briefly, that, as Senator MUSKIE knows, the original amendment which I presented was not hastily drafted. It was an amendment on which I had worked, and it was printed and was at the desk. It is not something that evolved here, in the Senate, itself.

I was trying very much to take a middle ground. I have done that often in the Senate. I was troubled with the problems that Senator MUSKIE had and the problem that Senators JOHNSTON and DOMENICI have had.

Mr. President, I am troubled by the provisions of S. 1308 which allow the Board to waive substantive requirements of State, local, and Federal law adopted after a priority energy project begins construction. Even with the midifications offered yesterday by Senator JOHNSTON, section 36 of S. 1308 is essentially still a device to immunize energy projects from regulation in perpetuity, no matter what advances are made in knowledge.

In a very fine letter, the League of Women Voters pointed out:

> Environmental laws and regulations are not luxuries we can do without: They are vital to the health and welfare of our people. . . . Discovery of new problems will require application of new solutions. Energy projects should not be exempt from those solutions.

Of course, not only environmental laws could be waived under the Energy Committee bill. Severance taxes, siting requirements, economic mitigation measures such as public facility dedication requirements—all could be waived.

I understand, however, that many Senators are concerned about the problems that changing the rules after construction starts could create for critical energy facilities. Therefore, I am offering amendment 490 as a middle ground between the unacceptable waiver provisions of S. 1308 and the complete absence of any protection from later-imposed requirements. I have modified the amendment to reflect some of the improvements put forward yesterday by Senator JOHNSTON.

My amendment would allow a majority of the Board to extend the time for compliance with any requirement imposed after construction commences which would otherwise cause a significant delay in the completion of a priority energy project. This is preferable to a complete waiver. The extension would last only as long as necessary to phase in compliance without any significant delay in startup for the energy facility, up to 5 years.

In addition to the Board's finding that the waiver is necessary to avoid delay, the Administrator of the Environmental Protection Agency can veto the waiver if it may reasonably be expected to result in the release of any toxic or hazardous pollutant or in a condition which "may reasonably be anticipated to present a substantial endangerment to the public health." These are words with defined meaning, used in the Solid Waste Disposal Act and the Clean Air Act.

Also, the Secretary of the Interior can veto the waiver if it will cause an irretrievable loss of fish or wildlife which cannot be mitigated.

I have incorporated the exemptions for labor and occupational safety laws, civil rights laws, and antitrust laws suggested in the Johnston amendment.

The definition of "commencement of construction" is modified to prevent simple earthmoving or site clearance from qualifying a facility for the protection of this section. The test really should be whether the owner has expended so much effort, time, and expense that he cannot modify his program of construction without substantial loss.

For those who are seeking a reasonable way of protecting priority energy projects against the disruption of later enacted requirements, I offered this amendment.

First of all, I think the characterization by the floor manager on the majority side of this legislation is correct. I could talk further about it, but I think that he has characterized it in a reasonable fashion.

I commend Senators DOMENICI and MCCLURE upon their steadfastness to something that they believe in connection with an alleged deficiency in the modification which has been made. Certainly, the record is proof positive that no one in the Senate has been more interested over a longer period of time and has helped to develop legislation, with Senator DOMENICI and others in more recent days and months, than the Senator from West Virginia who now speaks. I refer to synthetic fuels. It is my feeling that what we have done in the modification from the original amendment would not in any way stop the construction of synthetic fuels plants.

I know that Senator DOMENICI and Senator MCCLURE feel otherwise. But I do not think that that is going to happen. If I felt so, I would stand here, and I have never engaged in a filibuster, but I would filibuster now if under the rules I could do so.

We must use judgment in a matter of fears are not grounded in fact, that there will be a way to proceed reasonably, without violence to health and safety in the United States of America, or the pushing into the background of the environmental considerations of which I am very conscious. I believe that now, we have an opportunity to proceed with synthetic liquid fuel production, which we have worked for, in a reasoned manner.

I have tried to take the middle ground, but in doing so, I have not attempted to withdraw from something that I believe in very much. I am on the ramparts for synthetic fuels development. I am not within the recesses, somewhere back there. But there comes a time, I say to my dear friends, when I think we have to compromise.

Sometimes our differences can become our strengths if we try, in this body, to bring a modification of an amendment previously offered.

I was troubled as to the original amendment. I want to proceed with the construction of synthetic fuels facilities. I want health and safety and the environment to be very much a part of that proceeding, and it can be.

The **PRESIDING OFFICER**. The time of the Senator from West Virginia has expired.

Mr. **RANDOLPH**. I thank my colleagues.

The **PRESIDING OFFICER**. Who yields time?

Mr. **DOMENICI**. Mr. President, Senator RANDOLPH indicated that he would not want to be part of anything which might seriously jeopardize the future construction of a synthetic fuel plant—at least, from the standpoint of this Board and its authority-making. It is reasonably certain from the outset that a plant can be built.

Let me say to my good friend from West Virginia, I do not know if this amending language does that or not. But having said that, the mere fact that I am not sure it does and I am not sure it does not, I submit, means that there will not be any bill. I regret to say that, because, what is going to happen—and I shall just ask anyone here with any kind of business judgment to advise a corporate board or the public sector that they should commence a plant that would cost $3 billion and take 9 years to build when a State or the Federal Government can come along at any time during its construction and pass a law that might very well stop its construction so long as they find that—and I am going to read the language. I say to the Senator from West Virginia, because I just want to say that it is very uncertain to me and I think uncertainty is what precludes them from being built.

It says that so long as "EPA has not disapproved on the basis that it may reasonably result in the discharge, emission, or release of any toxic or hazardous pollutant or any other pollutant which may be reasonably anticipated to present a substantial endangerment to the public health or in any other condition which may reasonably be anticipated to present such endangerment."

Senator JOHNSTON may be right. That may end up being construed to mean that there is a real danger to the public health. I submit it may be interpreted to mean any toxic substance which a synthetic fuel plant may emit, which we do not know about, so "it may reasonably be expected to release any toxic substance which may be reasonably anticipated to present a substantial endangerment to the public health" probably means it is so uncertain that you would not tell anyone to invest $3 billion.

Mr. **RANDOLPH**. If my able colleague will yield, I do not want to break the continuity——

Mr. **DOMENICI**. I am really finished, I say to my good friend. I am not going to make a big issue out of this.

I truly hope it means what the Senator thinks it means, because if it means what the Senator thinks it means, we are all right. If it means what I have seen courts interpret language like this in the past to mean, then I submit they will not make the first investment.

They may take 3 to 4 years to interpret this and it may come out what the Senator thinks. But the point is that at the beginning we have to be told about the uncertainties.

I am asking whether an attorney will tell somebody this really means that only if they pass a law, and if that law finds that the plant is truly dangerous to the public health, they will have to stop, and should stop, Mr. President, they say to them.

But I will say this does not mean that nobody knows what it means. So I am afraid we are back into the unexpected.

I yield whatever time——

Mr. **RANDOLPH**. One minute.

Mr. **McCLURE**. Mr. President, a parliamentary inquiry.

Mr. **RANDOLPH**. Forty-five seconds.

Mr. **DOMENICI**. How much time does the Senator from New Mexico have?

The **PRESIDING OFFICER**. The Senator from New Mexico has 35 seconds.

Mr. **DOMENICI**. I yield my remaining time to the Senator.

Mr. **RANDOLPH**. Mr. President, this amendment, modified, will not restrain synthetic fuels development. In fact, it will help, by removing opposition on environmental grounds.

The words of this amendment will allow a reasonable judgment on environment risks. There is no automatic bar to any plant—the EPA Administrator would have to find a real problem and then act to veto the waiver.

These words have a specific meaning, drawn from the Solid Waste Disposal Act and the Clean Air Act.

The test in the Senator's bill was just "unduly endanger"—more uncertain and vague than the language to which the Senator objects.

The **PRESIDING OFFICER**. The Senator's time has expired.

Who yields time?

Mr. **McCLURE**. Mr. President, I understand the Senator from Idaho has 5 minutes.

The **PRESIDING OFFICER**. The Senator is correct.

Mr. **McCLURE**. Mr. President, I share the concern my friend from New Mexico has already expressed. I will state it a little more strongly.

I believe the Senator from West Virginia, who has been speaking, is sincere. I think he believes what he has said.

But I read the language in the way which simply says that if the EPA administrator has reasonable grounds to believe, and reasonable or reasonableness is repeated three times in the amendment, that the EPA administrator can make any judgment he wishes and the court cannot overturn him, as a practical matter.

This reminds me of the insurance policy in which the bold print giveth and the fine print taketh away.

We are saying that we are going to give a certainty to these projects and we are just now injecting uncertainty.

Rather than giving them the green light that they know they can go ahead and make the investment and complete the project, we have said to them, "Here is the yellow light."

It is a very pink yellow light that does not just say "caution". It says, "Hey, watch out, friend, this is probably a blinking red light that says more than just caution. You are probably going to have to stop here." That they are going to find a way somewhere during the process of construction to stop the construction.

What happened under RCRA, the Resource Recovery Act, EPA gave somewhat similar but more restricted authority set under their broad definition criteria:

> Almost all oil production, muds, brines, crude oil residue, and mining tailings, may be determined to be hazardous.

Mr. **JOHNSTON**. Will the Senator yield for a question?

Mr. **McCLURE**. Let me complete this, if I may, because I am very much concerned that the standards established in this amendment and the standards for appeal have not really been thought through.

I do not object to what the Senator from Maine and the Senator from West Virginia are attempting to accomplish by saying that if there is a real health hazard involved, and everybody is in agreement with that, and that judgment is based on substantial evidence and the court can review that and can then make the finding that the judgment was correct, that we ought to respond to that health hazard.

But that is not what the amendment says. That is my concern, that we have erected not a green light for these projects, but a flashing red light that says to anybody who invests in these projects that the very uncertainty we were going to take away with this statute has now been erected, and rather than expediting the process, it will probably halt the process.

I am happy to yield to the Senator.

Mr. **JOHNSTON**. I have tremendous respect for the Senator from Idaho. I do not believe he is correct in his fear in this amendment because it requires that two probabilities be found before the waiver can be vetoed.

Mr. McCLURE. If he is going to ask a question, the Senator better hurry because I am about out of time and I want to respond.

Mr. JOHNSTON. First, reasonably be expected means a probability.

Mr. McCLURE. It does not mean a probability. It means reasonable in the judgment of the EPA Administrator.

Mr. JOHNSTON. The intention of the language——

Mr. McCLURE. If, as a matter of fact, they want to say what the Senator just said, the language fails to say it.

Mr. JOHNSTON. It is my intent that it means a probability, as opposed to a possibility.

Mr. McCLURE. All right. I do not misunderstand the Senator from Louisiana's intention. I just say the language did not do it.

I think the Senator from Maine has everything he wanted. The grandfather clause has been eliminated and he can declare a big victory.

Mr. RANDOLPH. I do not think that is true.

Mr. McCLURE. Reasonable men can differ on that subject, Mr. President.

Mr. RANDOLPH. I want to say that this is a national day of prayer. If it is proper, I want to pray the Senator is wrong.

Mr. McCLURE. All I say to my friend from West Virginia is that he may get a special dispensation from the Pope this week, but the Pope is not always going to be here.

He may have a little problem getting that on some of these issues when we may need it the most.

Mr. President, I think I understand what is up here. We have all kinds of people now on the wave of euphoria thinking we have found an answer rather than creating a problem.

Mr. President, I ask unanimous consent that the yeas and nays on this be withdrawn.

The PRESIDING OFFICER (Mr. Leahy). They have not been ordered.

Mr. McCLURE. They have been ordered under the unanimous-consent agreement, I say to the Parliamentarian and the Chair.

The PRESIDING OFFICER. The Chair advises that they have not been ordered, so that they cannot be withdrawn.

Mr. McCLURE. I do not wish to quarrel with the Chair, but I wish the Parliamentarian would listen to the unanimous-consent request.

The PRESIDING OFFICER. Does the Senator from Louisiana wish to yield time? He has 4 minutes remaining.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time and put the question of the Randolph-Ribicoff amendment.

The PRESIDING OFFICER. The question is on agreeing to the Randolph-Ribicoff amendment.

The amendment (No. 490) was agreed to.

Mr. McCLURE. Mr. President, I ask that the Record may reflect that the Senator from Idaho voted "no."

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. And the Senator from New Mexico.

The PRESIDING OFFICER. The Record will reflect the objections.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to table was agreed to.

Mr. HAYAKAWA. I want to be recorded as voting "no," also.

Mr. MUSKIE. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. There will now be 10 minutes of debate on part II of the Muskie amendment, with a vote to follow, a rollcall at the expiration of that.

The yeas and nays have not been ordered on the amendment.

Mr. MUSKIE. Mr. President, I take it the 10 minutes are available to me. I yield myself such time as I may take, and I will not take 5 minutes.

Mr. President, I just want to make clear to my colleagues that the second half of my amendment, which is now before us, involves section 21(a), Enforcement of the Project Decision Schedule, which gives the Energy Mobilization Board—namely, its chairman—the power to make a decision or take an action involving Federal, State, and local laws if the Federal, State, or local agency has failed to take action within the time required by the project decision schedule.

This issue has been described at length yesterday and today, and this afternoon I discussed it at length. I am quite sure that all my colleagues have been alerted to the issue and the concerns that have been expressed about this provision by the National Conference of State Legislatures, by the National Association of Counties, by the National Governors Association, and by the National League of Cities; and there is no need for me to expand further the arguments with respect to this provision.

This is a grave intrusion, a significant intrusion, upon State and local prerogatives and their responsibilities to administer their laws, and I urge my colleagues to vote "aye" on this amendment.

I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I oppose this amendment in the strongest possible way.

This amendment would gut the enforcement provisions of the setting of the deadline provisions. The very essence of this bill is to give to the Energy Mobilization Board the power to set a schedule. We are assured that that schedule will be reasonable, because we grant the right of appeal if it is unreasonable. But once that schedule is set, it is the intent of this bill to require that the State, local, or Federal agencies decide within that schedule; and if they do not, it is essential that the Energy Mobilization Board be able to decide in their place.

If you have to go to court every time you want to enforce a deadline, this will be another of those bills that is a bonanza for lawyers, and it puts delay upon delay and, in effect, works counterproductive with respect to the purpose we are trying to achieve.

In my view, if this amendment is agreed to, this bill will be worse than a paper tiger. It will be a paper bureaucracy that results in delay rather than expedition.

Mr. President, what we are voting on is the very essence of this bill, the very centerpiece of the bill; and I urge all Senators to vote against this amendment and at least to give us this essential part of the bill. I think we have accommodated to the serious objections about the grandfather clause. Some believe we have accommodated too much.

I implore Senators to give us the centerpiece of this bill, and that is those provisions which are necessary to enforce a deadline.

Mr. President, I yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. Mr. President, on a number of occasions, Senators have indicated, as I see it, that they want a bill that has a chance of expediting major energy projects for this country.

Some said that the committee's bill was a toothless tiger. We did not think so. But I assure Senators that if we accept this amendment, which will place almost every one of these before a court instead of the Board we are creating, we will have produced not only a toothless tiger, but also it will be a stuffed toothless tiger, incapable of doing anything.

I hope Senators will vote to turn down the amendment and leave the bill with a reasonable chance of expediting energy projects which this country needs desperately.

I thank the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MUSKIE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. Culver) and the Senator from New York (Mr. Moynihan) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. Danforth), the Senator from Iowa (Mr. Jepsen), and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Heinz) is absent on official business.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted who wish to vote?

The result was announced—yeas 34, nays 60, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—34

Armstrong
Baker
Baucus
Bayh
Biden
Chafee
Cohen
Cranston
Dole
Durenberger
Gravel
Hart
Javits
Kassebaum
Kennedy
Leahy
McGovern
Mathias
Muskie
Packwood
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Tsongas
Wallop
Weicker
Williams

NAYS—60

Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
DeConcini
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Levin
Long
Lugar
McClure
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Nelson
Nunn
Pell
Pressler
Pryor
Sasser
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—6

Culver
Danforth
Heinz
Jepsen
Moynihan
Schweiker

So Mr. Muskie's amendment (No. 486), beginning on line 2, was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we have two amendments we are prepared to accept: The Javits amendment——

The PRESIDING OFFICER. If the Senator can withhold for just a moment, if the Chair understands correctly, there had been an order entered earlier for the recognition of the Senator from Alaska (Mr. Stevens). If the Chair is correct in that regard, the Senator from Alaska would have to yield—would be recognized by the Chair at this point but would have to yield—to the Senator from Louisiana.

Mr. JOHNSTON. Would the Senator from Alaska yield so that I can inform the Senators with respect to other votes?

Mr. STEVENS. I will do that if we can work out with the Senator from Kentucky to vote on an amendment that he will offer following the disposition of my amendment, by 6:40.

Mr. JOHNSTON. By what time?

Mr. STEVENS. By no later than 6:40.

Mr. HUDDLESTON. Six-forty or 6:30 will suit me.

Mr. MUSKIE. Mr. President, reserving the right to object——

Mr. STEVENS. Mr. President, it is my intention to offer my amendment and withdraw it and explain why. Then I will yield to the Senator from Kentucky and vote for his amendment and I expect the vote for his amendment will be in time for some of us to catch a plane.

Mr. MUSKIE. His amendment, as I understand it would give the Board authority to waive substantive law.

Mr. STEVENS. That is correct. It would be approximately an hour under my amendment.

Mr. MUSKIE. I am not sure that the amendment can be discussed in an hour. We were talking all day about language that the Senators disagree on as to whether or not it affects substantive law. His amendment, as I understand it, is positively an amendment that gives that kind of authority, and I think Senators ought to understand it before we vote. So I am not sure an hour will do it before we vote.

Mr. JOHNSTON. Mr. President, will the Senator yield to me? We are aware of an amendment by Senator Javits which we are prepared to accept; an amendment by Senator Bradley which we are prepared to accept; an amendment by Senator Durkin which we are prepared to accept; an amendment by Senator Huddleston which will take some debate and a vote, and one by the Senator from Ohio (Mr. Glenn).

Mr. GLENN. I have one which we have not discussed with you, and I am not sure it will be acceptable.

Mr. JOHNSTON. The Senator from Alaska also has an amendment.

I wonder if the Senator from Alaska could tell me how much time his amendment will take?

Mr. STEVENS. Depending upon the circumstances of the Senator from Kentucky's amendment, but not very long. If we are going to debate all the rest of these, it might take a little time. Let me yield to the Senator from Kentucky to see if we can get agreement.

Mr. JOHNSTON. I wonder if we could work out an agreement whereby we disposed of these noncontroversial amendments and then set all of the others for a time-limitation tomorrow with a time certain to vote?

Mr. HUDDLESTON. Well, reserving the right to object, Mr. President, if we could have some idea from the distinguished Senator from Maine about how much time he anticipates he might need on my amendment then we can make some determination. We might be able to start it now and complete the amendment by 6:30 and then hold the other amendments until later. That would be my hope. I do not want to hold up the Senate.

Mr. MUSKIE. I do not really need that much time. What I think about the amendment is that I want to be sure that the Senators have time to understand what the amendment means, and that conceivably could be enough, but I understand the Senator from Alaska wishes to offer his amendment first. How much time would that take?

Mr. STEVENS. If my amendment comes up and there is a vote on it, not very long. With respect to the understanding we reached yesterday, my amendment was supposed to come up in the afternoon, and I deferred all day under the circumstances, which was a very good arrangement so far as I was concerned. I am not objecting. My amendment deals with waiving State and local law. His deals with waiving Federal law, and I am prepared to have a vote on his amendment, if we can, tonight.

Mr. MUSKIE. How much time will be involved in discussing the Senator's amendment before we get to his amendment? I may say I withheld my amendment today from 12 o'clock until 3 waiting for you to offer your amendment. I did not rush to offer my amendment.

Mr. STEVENS. I understand, and the Senator has been very kind, but we both gave way to other amendments. I am sure the Senator realizes that.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. What is the pending business?

Mr. STEVENS. My amendment is the pending business.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized and does have the floor, holds the floor, to be recognized to call up an amendment, which amendment has not yet been called up.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Alaska has to leave no later than 6:30 tonight, and he will not be back tomorrow, he cannot come back. So I think it is fair to him and reasonable to all the others that I ask unanimous consent that a vote occur on the amendment by Mr. Huddleston, with the understanding that Mr. Stevens would offer his, would withdraw it, within this time context, very, very shortly, as he indicated, at 6:30 tonight.

Mr. MUSKIE. Mr. President, reserving the right to object, and I will not, that is perfectly agreeable to me. I find I will not consume a whole lot of time, anyway. I am glad to yield.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, the Senator from Alaska is recognized to call up an amendment which he will then withdraw, and yield to the Senator from Kentucky, who will call up his amendment, on which a vote will occur no later than 6:30 p.m.

AMENDMENT NO. 487

(Purpose: To create an independent civil energy priority projects board which shall assign priority status to certain energy projects, and for other purposes)

Mr. STEVENS. Mr. President, I call up my amendment No. 487.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an amendment numbered 487.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask unanimous consent that the amendment be printed in the RECORD at this point.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 17 delete all after line 18 through the end of the bill and insert in lieu thereof the following:

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) the lack of constant and reliable supply of energy has the potential to cause devastating effects on the interstate commerce and general welfare of the Nation, and poses a threat to national security and world peace;

(2) a clear need exists to decrease reliance on foreign sources of energy and to promote the development, production, and transportation of domestic sources of energy in interstate commerce;

(3) there is a lack of central focus for the development and implementation of common policies and programs for energy development and production among Federal agencies and State and local governments; and

(4) many important energy projects, which have an overriding effect on interstate commerce whose prompt completion is clearly in the national interest have been delayed or terminated due to the conflicting actions of Federal agencies and State or local governments and the length of time needed to meet Federal, State, and local requirements.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act to create the Civil Energy Priority Projects Board which shall assign priority status to certain energy projects whose completion is determined to be in the national interest and necessary to prevent disruptions in interstate commerce and to establish policies, procedures, and directives for their timely completion.

CIVIL ENERGY PRIORITY PROJECTS BOARD

SEC. 3. (a) ESTABLISHMENT.—There is established as an independent instrumentality of the Federal Government the Civil Energy Priority Projects Board (hereinafter referred to as the "Board").

(b) MEMBERSHIP.—(1) The Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate. The President shall appoint the members of the Board from among representatives of groups concerned with the development and production of energy, including representatives of the energy development and production industry, economists, environmental specialists, and Federal, State, and local officials; at least three of which shall be persons in private life. No more than three members of the Board shall be members of the same political party. The President shall designate one of the members of the Board as Chairman.

(2) Members of the Board shall be appointed for a term of three years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment one at the end of one year, two at the end of two years, and two at the end of three years.

(c) TRANSACTION OF BUSINESS.—Three members of the Board shall constitute a quorum, but one or more such members designated by the Board may hold hearings. A vacancy in the Board shall not affect its power to function.

(d) STAFF AND ADMINISTRATION.—(1) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(2) In carrying out the provisions of this Act, the Board is authorized—

(A) to appoint such personnel as may be necessary without regard to the provisions of title 5, United States Code, Government appointments in the competitive service, and to pay such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(B) to employ experts and consultants in accordance with provisions of section 3109 of such title;

(C) to promulgate such rules, regulations, and procedures as may be necessary to carry out the functions of the Board;

(D) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal departments and agencies and of State, local, and private agencies with or without reimbursement therefor;

(E) to enter into agreements with other Federal departments and agencies and State and local governments as may be appropriate;

(F) without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions of the Board, with any public agency or with any person, and make payments (in advance, by transfer, or otherwise) and grants to any public agency or private nonprofit organization;

(G)(i) to accept voluntary and uncompensated services, without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(ii) to accept volunteer service in accordance with section 3111 of title 5, United States Code; and

(H) to request such information, data, and reports from any Federal department or agency as the Board may require and as may be produced consistent with other law.

(3) Upon request of the Board, the head of each Federal department or agency shall promptly make available to the Board the services, equipment, personnel, facilities, and in formation of the department or agency including suggestion, estimates, statistics, and proprietory information.

(e) ADVISORY COMMITTEES.—The Board shall appoint advisory committees to assist the Board in carrying out its functions under this Act. The Board shall include on such committees representatives of Federal agencies, State and local governments, the private sector, and the public.

(f) DIVESTITURE OF HOLDINGS.—Members of the Board shall not be subject to Federal rules or regulations requiring divestiture of holdings.

(g) TERMINATION OF THE BOARD.—The Board shall terminate fifteen years after the date of enactment of this Act.

FUNCTIONS AND POWERS OF THE BOARD

SEC. 4. (a) PRIORITY ENERGY PROJECTS.—(1) The Board shall coordinate and expedite the approval of projects for the exploration, development, demonstration, transportation, production, or commercialization of any form of energy designated by the Board as priority energy projects.

(2) The Board on its own motion or at the request of any person planning, proposing, or implementing an energy project shall designate a project as a priority energy project under this paragraph if it determines that—

(A) the commencement or implementation of the energy project, which is found to be in the national interest and necessary to prevent disruption in interstate commerce, is being delayed by a conflict between the actions of two or more Federal or State agencies or between Federal, State, and local governments in granting or denying a license, permit, certificate, lease, right-of-way, or other authorization for the project:

(B) any Federal, State, or local regulatory requirements which must be met by the applicant are or will cause undue delay for the commencement or implementation of an energy project found to be in the national interest and necessary to prevent disruptions in interstate commerce;

(C) any Federal, State, or local regulatory requirements will cause delay for the commencement or implementation of any energy project whose immediate commencement or implementation is found to be of critical national interest and necessary to prevent disruptions in interstate commerce.

(b) COORDINATION OF FEDERAL ACTIVITIES.—The Board shall coordinate and expedite the actions of Federal agencies necessary to a final decision concerning any project designated under subsection (a) as a priority energy project. Notwithstanding any other provision of law in carrying out the provisions of this Act, the Board may—

(1) require any Federal agency with authority to grant or deny an application for license, permit, certificate, lease, right-of-way, or other authorization with respect to a priority energy program to submit to the Board a list of significant actions taken by the agency concerning the project, a list of significant actions required of the applicant prior to a final decision by the agency concerning the project, a list of significant actions which must be taken by the agency prior to a final decision by the agency concerning the project, and a schedule of action by the agency and the applicant for completion of the application process;

(2) establish deadlines for any such agency to complete action concerning any application for a license, permit, certificate, right-of-way, or other authorization required for any such project;

(3) if an agency fails to meet a deadline established pursuant to paragraph (2), make a decision concerning the application concerned;

(4) order any Federal agency to grant or deny an application for a license, permit, certificate, or lease or make a specific rulemaking;

(5) establish policies, procedures, plans and methods, promulgate rules and regulations, and issue orders to coordinate and expedite agency actions concerning any such project; and

(6) provide procedures and methods for the modification of State and local programs which carry out Federal statutes if such programs adversely affect the expedition of procedures and policies for a priority energy project.

Federal agencies shall comply with the policies, procedures, plans, methods, rules, regulations, and orders of the Board.

(c) COORDINATION OF STATE ACTIVITIES.—The Board shall as necessary coordinate, or expedite the actions of State or local governments necessary to a final decision concerning any project designated under subsection (a) as a priority energy project. Notwithstanding any other provisions of law in carrying out the provisions of this Act, the Board may—

(1) request any State or local government with authority to grant or deny an application for license, permit, certificate, lease, right-of-way, or other authorization with respect to a priority energy project to submit to the Board a list of significant actions taken by the State or local government concerning the project, a list of significant ac-

tions required of the applicant prior to a final decision by the State or local government concerning the project, a list of significant actions which must be taken by the State or local government prior to a final decision by the State or local government concerning the project, and a schedule of action by the State or local government and the applicant for completion of the application process;

(2) establish voluntary deadlines for any such State and local government to complete action concerning any application for a license, permit, certificate, right-of-way, or other authorization required for any such project;

(3) request a State or local government to grant or deny an application for a license, permit, certificate, or lease or make a specific rulemaking;

(4) in any case where a State or local government fails to comply with a request or meet a deadline established pursuant to this section, or issue or deny a license, permit, certificate, or lease or make a specific rulemaking as requested by the Board, the Board may make a decision concerning the application concerned, upon such action by the Board the State shall have no further authority; and

(5) establish policies, procedures, plans, and methods, promulgate rules and regulations, and issue orders to coordinate and expedite State or local government actions concerning any such project.

(d) No State may adopt any law or regulation or attempt to enforce any State law or regulation that will abrogate or will have the effect of abrogating the authority granted to the Board under this Act to coordinate and expedite the exploration, development, demonstration, transportation, production, or commercialization of any form of energy by designating certain projects a priority energy project.

(e) National Environmental Policy Act of 1969.—The actions taken by the Board pursuant to this Act shall be taken without action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(f) Judicial Review.—The actions taken by the Board pursuant to this Act shall not be subject to judicial review under any law except claims alleging either that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by the Act which shall be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States or any State, territory, or possession of the United States or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

(g) Annual Report.—The Board shall transmit to the President and Congress by January 31 of each year an anunal report. Such report shall contain among other things a review and study of the activities of the United States pursuant to existing Federal laws and regulations which affect the planning, proposal, implementation, and expedition of energy projects.

WATER RIGHTS

Sec. 5. (a) Nothing in this title shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to appropriate, use, or divert water.

(b) The United States, its agents, permittees, or licensees shall not appropriate water within any State for a priority energy project, or any energy facility or project unless such appropriation takes place pursuant to State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law of terms or conditions, including terms or conditions terminating use of permits or authorizations for the appropriation, use, or diversion of water for priority energy projects, or any energy project, shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) No waiver under this title shall apply to, or alter in any way, any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

AUTHORIZATION OF APPROPRIATIONS

Sec. 6. To carry out the functions of the Board, there are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

Mr. STEVENS. Mr President, as I have stated to the Senate——

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Alaska is entitled to be heard.

Mr. STEVENS. As I have stated to the Senate, I filed minority views as a member of the Energy Committee on this bill, and voted against reporting it.

I did so because I feel the experience we went through with the Alaska oil pipeline demonstrates that only if Federal officials have the authority to waive substantive law, and that includes State laws, will we get national energy projects completed on a priority basis.

Now that the floor managers have accepted my Alaska pipeline amendment, it is my intention to support the bill.

I understand the reticence of many people from the West and elsewhere in the country in wishing to protect the integrity of State law, and I share that feeling. It was my intent that we waive only State laws that would impede the expediting of priority energy projects. Anyone who raises these scarecrows indicating we are going to waive any other laws is sadly mistaken. However, I would point out that the history of the Alaska oil project shows that extremists will seize on any small issue to delay a national energy project if they wish to do so.

I believe it is necessary to obtain at the least a waiver of Federal law, and I would point out that the Alaska natural gas transportation system bill that the Senate passed gave the President the right to do that under precisely the terms the Senator from Kentucky will propose; that is the right to waive those laws.

I do hope there will be support for the amendment of the Senator from Kentucky. It goes half as far as mine would go. I have decided to support his amendment because I believe that at least if we give the authority to waive Federal laws, perhaps the legislatures of the individual States will do the same regarding their laws. This would in fact achieve a fast track on both the Federal and the State level.

If that does not occur, I predict that we will be here when construction on the first synthetic crude plant is sought and will be compelled to enact an Alaska pipeline type amendment. This will be an emergency amendment; it will exacerbate again not only the Senate, but the House, and involve a long, drawn out conference, and we will have to do it on an individual, project-by-project basis. That would be wasting precious time in the fight to make this county independent of foreign oil.

So I do intend to yield to my good friend from Kentucky regarding his amendment. Let me ask my good friend from Louisiana one question, though, as I do so.

It is my understanding that there has been some question raised about the size of the projects that would be covered by the Energy Mobilization Board. Has there been any change in this bill on the floor that would indicate the Board would not apply to a small project in an individual State, should completion of that project have national significance?

Mr. JOHNSTON. Mr. President, if I may say so to my friend, we have not put any limitations on the size of the projects to be considered by the Energy Mobilization Board, nor on the number, because we want to leave it to the Board to pick only those projects which are of high priority, without reference to size. We want to make it clear, and we have so stated in our report, that we hope the Energy Mobilization Board will not take so many projects as to water down the effect of the designation.

Mr. STEVENS. But it would apply to a project as large as the $15 billion Alaska gas pipeline system, or a small project, for example, in the State of Nebraska, if it so desired?

Mr. JOHNSTON. That is correct.

Mr. STEVENS. I thank the Senator.

Mr. President, I withdraw my amendment, and I would urge the support of the Huddleston amendment by those in the Senate who feel, as I do, that it is time to get on with this war. If we have the moral equivalent of a war in this energy crisis, we need the legal equivalent of the old war production board. We need to give those downtown the tools to get the job done, at least on the Federal level. The Senator from Kentucky in his amendment would provide that tool. I yield to the Senator from Kentucky, and thank all those Senators who helped me secure this time to speak.

The PRESIDING OFFICER. The amendment is withdrawn, and the Senator from Kentucky is recognized.

UP AMENDMENT NO. 598

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) on behalf of himself and Senators FORD, STEVENS, WARNER, and McCLURE proposes an unprinted amendment numbered 598.

Mr. **HUDDLESTON**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 5, strike "and" and insert after 36 "and 37"

At the end of the bill, add the following new Sections:

WAIVERS OF FEDERAL LAW

SEC. 37(a) If at any time after designation under Section 11 and within 90 days following the date for any final agency action covered by the Project Decision Schedule, the Board determines, in consultation with the agencies concerned, that any Federal law, regulations standard, or requirement presents a substantial impediment to the planning, development, construction or operation of a Priority Energy Project, or to the implementation of the Project Decision Scedule, the Board may recommend to the President that such law, standard or requirement be waived in whole or in part. Such recommendation shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. The agency responsible for making the agency decision concerned may submit its views respecting such recommendation to the President and may make such views public during the 30-day period specified in subsection (b).

(b) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under subsection (a), the President may, if he determines a waiver to be in the national interest and that such a waiver would not unduly endanger the public health and safety, transmit such determination to the Congress together with a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such determination. Any waiver transmitted under this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver. The President's transmittal under this section shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

(c)(1) Except as provided in paragraph (3), any waiver with respect to which the President has made a determination which is transmitted to Congress under subsection (b) shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives unless, before the expiration of such sixty-day period, such determination is disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

(2) In applying the provisions of section 551 of the Energy Policy and Conservation Act to a determination under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a determination transmitted under this section, subsections (a), (c), (e), (f)(2)(A), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section 551 to five days shall be treated as a reference to thirty days, and any reference to a fifteen-calendar-day period shall be treated as a reference to a sixty-calendar-day period.

(3) A determination transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such determination.

(d) The agencies responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver, and such terms and conditions shall be enforced by such agencies in a manner consistent with their authorities pursuant to otherwise applicable law.

PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

Section 38. No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 37 if such waiver would—

(1) waive any Federal requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) criminal laws,

(D) civil rights laws;

(2) have the effect of impairing or abridging any rights of any person arising under the Constitution of the United States;

(3) have the effect of abridging or impairing the rights of any person under any provisions of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

Mr. **HUDDLESTON**. Mr. President, this amendment is offered on behalf of myself and Senators FORD, STEVENS, WARNER, and McCLURE to provide authority to the Energy Mobilization Board to recommend to the President, on a case-by-case basis, the waiver of Federal laws, standards or requirements—Federal only—that substantially impede a priority energy project.

Such a waiver recommendation could be made at any time after the designation of the project until 90 days after any agency action covered by the project schedule.

Most important, any decision of the President to waive a Federal statute would be subject to a one-House congressional veto.

Also, this amendment does not authorize the waiver of certain Federal laws.

It does not authorize the waiver of laws relating to worker safety and compensation; of antitrust laws; of laws relating to constitutional rights and property compensation; of criminal laws; or of civil rights laws.

Mr. President, this amendment would give the Board a tool absolutely necessary to deal in a realistic way with the morass of redtape and legal impediments we face.

The committee bill as reported provides a mechanism to deal with most procedural roadblocks to the development and operation of facilities which can help achieve energy independence. However, it falls short of dealing with the situation where we recognize that, regardless of the merits of a proposed project, whether it be converting an oil-fired powerplant to coal, opening a new coal mine or building a new synfuels plant, we just cannot get there from here because of some legal impediment which may be truly insignificant when compared with the proposed project.

"Fast track" per se deals with getting quicker decisions from the multitudes of agencies which must approve a project. My amendment deals with a situation where the answer, no matter how fast it comes, must be no. Regardless of the merits.

My amendment would not authorize the Board to issue waivers. The President would issue the waiver.

It would not delegate legislative responsibility to the executive branch. Either House of Congress could veto any waiver.

It would not ignore the responsibilities of agencies administering constraining statutes and regulations. They would be consulted.

Waivers would not be authorized on spurious grounds. The Board's recommendation to the President must be published in the Federal Register, along with an explanation of the reasons for the recommendation.

It would not mean that the environmental laws would be gutted. If anything, it would protect them from a broadside attack by providing some flexibility.

My amendment would make it possible for the Board to identify situations in which our national priorities demand that a modicum of flexibility be available to help alleviate the intolerable situation we are in with respect to energy; to make it possible to utilize the bountiful resources we have been blessed with.

Any waiver recommended by the Board, approved by the President, and not vetoed by Congress would contain terms and conditions to insure that it goes only as far as necessary to get the job done. In other words, we are not talking about wholesale waivers; we are talking about tightly drawn modifications on a case-by-case basis.

We have to create an atmosphere which matches our often-stated policy to encourage energy self-sufficiency.

We have all heard the horror stories of energy projects canceled because of our redtape and legal constraints. We have to add to that all of the energy projects that never got out of the board room because everyone recognized, right off the bat, that the impediments were insurmountable.

Our current situation where energy self-sufficiency is consistently thwarted by our own laws and regulations is nothing short of a national disgrace.

We have to give this Energy Mobilization Board sufficient authority to do this very important—this imperative—job they have to do.

As the Senator from Alaska has suggested, if there is a situation that can be accurately described as the moral equivalent of war, certainly, extraordinary measures must be available when nothing else will do to meet the national interest. I suggest that if we had tried to fight World War II with the idea that every law that had been passed in previous years was sacred, I suggest that we would probably still be trying to fight that war or would long ago have lost it.

We are in a difficult situation in this country. Every day we become more vulnerable to foreign capriciousness with the supply of our energy. Our economy is in a tremendous strain because of the costs that we have to bear, most of which we have no control over at all. So this small step is to make the Energy Mobilization Board just what its name implies—a Board with the authority, with the power, to make a difference as to whether or not we go forward with energy projects or we continue to stand still. As I pointed out, there are sufficient safeguards within this proposed amendment to make sure that we do no violence to the environment, that we do not, in any way denigrate our air to the extent that it would be harmful to our people.

I ask, Mr. President, that the Senate accept this amendment, that we go on record as indicating that we do mean business about our energy situation. The people of America are asking when Congress is going to do something. I suggest that we tell the entire world that we are serious, that we are going to do whatever is necessary to make sure this country does not continue to be dependent for its energy sources.

Mr. President, I yield the floor.

The **PRESIDING OFFICER.** Who yields time?

The Senator from Louisiana.

Mr. **JOHNSTON.** Mr. President, the amendment of the Senator from Kentucky would authorize a waiver of Federal requirements under the circumstances stated in his amendment. Frankly, there was some strong sentiment in the Energy and Natural Resources Committee for such a waiver. Under some circumstances, Mr. President, I personally am in favor of such a waiver.

However, legislation is made up of the compromise and reconciliation of opposing views. As I announced in my opening statement on this bill, we were able to put together what I think is a meaningful, a significant, an important bill and break the logjam. We did so by reconciling many divergent views. We were able to pass the bill by a vote of 13 to 3 out of committee, with only 3 dissenting votes. We were able to do that principally, Mr. President, because we agreed to a strong, enforceable fast track with respect to time schedules, but we also made the compromise within the committee that there would be no waiver of Federal law.

So, Mr. President, in spite of the fact that I have a great deal of sympathy personally for the view of the Senator from Kentucky and in spite of the fact that others on the committee had similar sentiments, I believe that to be true to the compromise, to the thrust of this bill, and to the presentation we have made here for the last 2 days on the floor, we would reluctantly have to oppose the amendment of the Senator from Kentucky.

Mr. **HUDDLESTON.** Mr. President, have the yeas and nays been ordered?

The **PRESIDING OFFICER.** The yeas and nays have not been ordered.

Mr. **HUDDLESTON.** I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **MUSKIE.** Mr. President, I am not sure that I can speak to this amendment or that, given the evident mood of the Senate, to speak serves any useful purpose. I have had a great deal to say today about the pending bill—my concerns, the dangers that I see. This amendment would simply compound them all.

Mr. President, I have watched the legislative process in this Chamber for, now, my 21st year. I have to say that in that 21 years, I have observed that we do our worst job of legislating when we respond in the name of a current crisis and adopt just anything by way of legislation in order to demonstrate to the people back home that we are coming to grips with the problem, that we are tough, that we are going to be effective.

Every time I have seen one of those tough, effective laws passed, I have observed the cycle turning and inevitably—in 2 years, 3 years, 4 years, 5 years—I begin to hear criticisms of the overregulation that we wrote into that law, of the arbitrary decisions that are coming out of the administrators of that law, of their insensitivity to the interests of this group or that group. In my 20 years, I suppose I have been exposed to the greatest revulsion of arbitrary Government authority, from the imperial Presidency through the bureaucracy to the present antiregulation mood, the anti-Government mood, the make-Government-smaller mood. And here I see it happening all over again in the name of another—and I use the word used by the distinguished Senator from Kentucky—another untouchable.

Anything done in the name of energy legislation is untouchable. And the justification is that we have on the books other laws that are untouchable.

Maybe they were written, too, in large part in response to an earlier outpouring of public emotion and feeling about a current problem. But we are going to do it again.

I tell you this: I shall have no part of this bill with this amendment on it. I am not sure I shall vote for it without this amendment. It is bad enough without it.

Mr. President, what does this do? This proposes that an administrative agency, headed by one man, since the committee would not even make the other two full-time members, one man can suspend laws written by the Congress of the United States, by State legislatures, by local government bodies. Executive fiat, changing laws, substantive laws, deliberately in the name of a national emergency.

Let us suspend the Constitution, let us suspend this body, let us not do it by indirection.

What is the case for this? I have not heard in 2 days anybody give us a list of the substantive laws that are creating the roadblocks against which this legislation is aimed. Not a word. Not a syllable.

The Department of Energy concluded in a report this July that waiver of subtantive laws was not necessary to establish a synthetic fuels industry.

Whence comes the necessity then? People looking for ghosts in a closet? People just willing to do anything in the name of demonstrating to the people back home that, by God, they are concerned about energy?

In a way, I rather hope this amendment succeeds, that it passes. It has already been adopted by the House committee, so it would not be in conference. Then let the sponsors bear the responsibility, bear the responsibility of the consequences that would stretch out into the years into the future for this kind of arbitrary authority.

I mean, what amuses me about it is that the sponsors say, "We have got to do it this way because the people who administer environmental laws are arbitrary."

Where are they going to find the Christlike figure who administers this program without being accused of being arbitrary? Where?

Have they got a field of candidates, of persons, men or women, who are going to fulfill these places of responsibility with a guarantee of no arbitrariness?

If that is the case, they have not reassured the National Conference of State Legislators, or the National Association of Counties, or these other agencies of State officials. They surely have not assured me.

I concede the bureaucrats are arbitrary. I think the Administrator of EPA from time to time is inclined to be. I have never found a bureaucrat who totally escapes the temptation to arbitrariness.

But to give this one a whole field, not only of environmental law, it does not exempt all of the other laws that could be set aside. It does not even name them. I doubt the sponsors could list them.

I mean, yesterday the manager of the bill offered a technical amendment to the grandfather provision which exempted some of the other laws that would be impacted by the committee bill, which we have not yet had listed. We identified a lot of other laws overnight that were not exempted. If we study it over tonight, we will find others.

So nobody in this body, including the sponsors of this amendment—if I am wrong, I will apologize—can tell me or the Members of this body what laws, other than environmental laws, could be set aside and waived by administrative fiat if this amendment is adopted.

And we do this blithely. I have seen Senators voting today, Senators who I have heard argue against legislation because it trespassed upon State authority or local prerogatives, because it delegated too much authority to administrative agencies that only the Congress should wield, against Presidential use of congressional prerogatives. All of this suddenly goes out the window because we have another untouchable.

God save us from the untouchables in the name of which legislation is enacted. This is not the first one I have seen. It probably will not be the last one. But I say that we see the impact of these untouchables in the Federal budget. We see it in overregulation. We see it in a public saying, "Get off our backs. Get out of our pockets."

How many times have I heard this loudly recited in this pre-election year, "Off our backs. Out of our pockets. Out of our hair. Cut down the size of Government."

If we think adoption of this amendment will eliminate litigation, keep these issues out of the courts, we have not been looking at what has been going on around this country.

In the last 10 years the enraged citizens and enraged citizen groups in this country have used the ingenuity of a proliferating number of lawyers to put these things in court, and they get there. Even when the statute says they have no right to be there, they find a way to get there.

I say to the sponsors of this amendment and to the sponsors of this bill, offend people sufficiently, and they will find a way to get to the courts and we will find ourselves tangled up in litigation, in a case we have not dreamed about.

If they think they are shortcutting anything with this, they could not be more wrong.

I say these things with a sense of having watched the votes, that it is useless. The Senate is inclined to embrace another untouchable.

We are not going to touch it in conference because the conference has the same thing.

I say this, if that is what happens, this is going to be a case where I am not going to be responsible for the public policy. I am not going to have to take the heat of the criticism that has been directed against environmental laws and other laws for which I have been responsible. I will be in a position to say, "I told you so," and, believe me, there will be an "I told you so" to which my constituents and other Senators' constituents will say, "Amen."

Mr. DOMENICI. Will the Senator from Kentucky yield to the Senator from New Mexico for 3 minutes?

Mr. HUDDLESTON. Yes.

Mr. DOMENICI. I want to support the position of Senator Muskie. Maybe I should ask him.

Who controls the time in opposition?

The PRESIDING OFFICER (Mr. Boren). We are not under controlled time.

Mr. DOMENICI. Mr. President, I yield myself 3 minutes, if the Chair would advise me when I have used 3 minutes.

I say to my good friend from Maine, what I am going to say is going to make neither the Senator happy, nor the Senator from Kentucky happy.

Mr. MUSKIE. The Senator has not made me happy all day.

Mr. DOMENICI. So I might as well be consistent, except that I will vote with the Senator. That is the point I wanted to make. I am going to support the committee.

But I truly believe the truth of the matter is that many of the things the good Senator from Maine has said about the environmental laws, including clean air, as he indicated, the people say that they will do this and that, and holding up this, that, and the other, are true.

I do believe we have drawn a body of law in terms of clean air, clean water, and toxic substances, that but for a serious crisis in energy we would not be here on the floor.

On the other hand, if we were considering those laws with this energy crisis when we were discussing them, I believe we would have found a way to adjust to some very serious delays and some laws where we did want to risk anything for a project.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. DOMENICI. Let me finish.

Mr. MUSKIE. I commend that process now.

Mr. DOMENICI. Having said that, I am in accord that we came to the floor, as a committee, saying we do not want to waive any substantive law. This might be the right mechanism to address those needs, because there is a need to make some exceptions. But I am going to live up to my commitment to the committee.

There is a provision in the bill for a study and a report back by this Board on matters other than time delay on projects, and we are going to accept an amendment from Senator Boschwitz to make the study more in depth and the report back even more in depth, as to what is delaying things, which will give us a chance to take a look, rather than to amend the bill.

I join Senator Johnston in saying that we have a reasonably good bill, with a chance of success, and I will support the committee position.

Mr. HUDDLESTON. Mr. President, I want to take a few minutes to respond to the distinguished Senator from Maine. I always have admired his performance in the Senate and his judgment, and I hold him in extreme high regard.

The Senator made a much more eloquent presentation on behalf of my amendment than I have been able to make. He talked about my reference to untouchable legislation. Frankly, I was referring to the body of environmental law. He talked about untouchable legislation referring to energy law, and that is the very point we are trying to get at here.

All of us have some untouchable legislation; and while we worry among ourselves about our untouchable legislation, the country goes down the drain, wondering what we are going to do about the energy problems.

There is no mechanism available to resolve the differences when these untouchables clash, so that we can determine where the national interests lie; and surely somebody in this great country is in a position to make that determination—whether we are going to forfeit an opportunity to provide us with energy and reduce our dependence on foreign oil; whether we are going to uphold every law that has been passed, as if it were sacred, without any modification to meet any kind of emergency need. That is all we are asking to be done here.

The Senator said it was very dangerous that one man could make this kind of determination, and I agree. My amendment does not provide that in any way. Not one man, not even the Board we are creating here, can make that decision. The Energy Mobilization Board can only recommend to the President that some waiver or some modification, some deferment, some delay of a Federal statute or a regulation, be made in order to provide for an energy project in this Nation.

We have not taken it away from the Congress of the United States; because once the Board recommends, and if the President decides to accept that recommendation, if he, too, believes that the national interest requires that some modification be made, then he has to publish that in the Federal Register. He has to supply the reasons; he has to supply the comment from the agency that has jurisdiction, as to how they feel about it; and then Congress has 60 days in which to veto that decision. Frankly, I think that is too loose, and I would rather not have it in the amendment, but it is there. So Congress has a role to play, the Board has a role to play, and the President of the United States has a role to play.

If we are a country, and if we are a government, somebody has to be able to make the kind of decisions that have to be made to wage this war against our energy crisis.

Several Senators. Mr. President, will the Senator yield?

Mr. HUDDLESTON. Let me address two more points the Senator from Maine made.

Mr. MUSKIE. I want to get to that point.

Mr. HUDDLESTON. I yield.

Mr. MUSKIE. The Senator from Kentucky says that somebody should make these decisions. According to the testimony before the House committee, the most recent OMB update shows that PSD permits for 81 coal-fired utilities have been issued since the program began in 1975, and permits for only 2 plants have been denied.

The Senator from Kentucky says somebody needs to make these decisions. They are being made. If there is evidence to the contrary, why is it not brought to the floor? Why are we not told?

Here are some facts, part of the hearing record, and that shows a disposition to be positive with respect to coal-fired plants. Only two were denied.

Mr. HUDDLESTON. The Senator should read the hearing record of the Small Business Committee, which looked into the problem of governmental regulations on various aspects of our energy needs.

Mr. MUSKIE. What does that hearing record show?

Mr. HUDDLESTON. It indicates that not only are they not able to move forward because of clean air standards——

Mr. MUSKIE. I would like to see that record. The record of the Energy Committee on this legislation has not been printed yet.

Mr. HUDDLESTON. But, more important, it indicates that some projects are not even started because of the difficulty they have encountered.

Mr. MUSKIE. Is that the evidence?

Mr. HUDDLESTON. We have evidence.

Mr. MUSKIE. I would like to hear it.

Mr. HUDDLESTON. There are two areas in which the Senator from Maine expressed considerable concern that simply are not in the amendment.

One was his reference to the ability of the Board to waive State law or State regulation. This does not cover that at all, nor does it cover local. The opposition to which he referred from the National Association of State Legislatures and the National Association of Counties was based on that authority, which is not in this bill.

The Senator said that there would be cases in which waivers that were not necessary would be made. Well, that is ridiculous per se. If there is no necessity for a waiver, no waiver would be forthcoming, and the project would be going forward. So it would be highly unlikely that there would be a request for a waiver.

So far as the arbitrariness is concerned of those who might have some part to play in this process, I think we are at a point in history in this country not because people are arbitrary but because people are trying to administer laws that have been passed here. Laws are passed where there is no way to resolve differences as they try to achieve a particular objective—a very desirable objective in nearly every case.

That is all we are trying to do here—to provide some mechanism so that we can resolve impasses, so that we can resolve conflicts when desirable objectives hit head on, and so that we can move forward with an energy program.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. METZENBAUM. Mr. President, I support the Senator from Maine. I want to address myself to the issue, because it is not a new issue.

The issue was before the Energy Committee when we had this legislation before us, and it is fair to point out there was not unanimity one way or another in connection with this particular matter of waiving substantive law. As a matter of fact, the maker of the motion to make it possible to waive substantive law, according to reports to me, took a head count and found the vote would be 7 to 7 and decided to withdraw the amendment. The fact is that I, and I think a number of other members of the committee, would have voted against the legislation had there been this amendment or anything stronger or anything similar to it which would have provided for the waiver of substantive law.

I thought then and I think now that the procedural aspects, long delays, litigious procedures that drag out the court process for years on end are not in our national energy interests. But be that as it may, I thought we could accelerate the process, but I felt very strongly and feel very strongly and have no reservations in saying that if the amendment of my good friend from Kentucky were to be adopted I would vote against this legislation.

I see no basis whatsoever to make it possible to void substantive laws of the Federal Government nor of the States. This amendment goes only to the Federal Government laws, but I think that we should have no process in the law where you can absolutely void a congressional enactment, even with the safeguards that the Senator from Kentucky would provide.

I think the piece of legislation without this amendment provides a reasonable compromise. It provides a reasonable solution. I understand the concern of the Senator from Maine and others who have expressed reservations with respect to the entire piece of legislation.

But on the issue of procedural as against substantive changes, or waivers, I could not feel more strongly that we should not have any procedure whatsoever to make it possible for one man or any other group of men or women to change the law or to waive the law. I hope that the amendment proposed by the Senator from Kentucky will not prevail.

I would like to vote for this legislation, but I think I, as well as others, would find it necessary to vote against it were it to be adopted in this legislation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, will the Senator from Kentucky let me address a question to him about this proposal?

Mr. HUDDLESTON. Yes.

Mr. NUNN. As I understand it the proposal basically would allow the Board to make a recommendation to the President. He could either turn down that recommendation for a waiver or he could approve that recommendation for a waiver. Then if the President did approve the recommendation of the Board for a waiver, it would be up to the House of Representatives or the Senate to veto that Presidential waiver if they deemed it prudent. Is that correct?

Mr. HUDDLESTON. That is correct.

Mr. NUNN. Is there any limit to the number of waivers that could occur under this? Could there be 10,000 waivers in a single year or would there be a limit of 5 or 10? Would there be a pilot project concept, or would there be just an unlimited number of authority to waive the law?

Mr. HUDDLESTON. There is no limit in the amendment. I think, however, that practicality would indicate that there is not going to be that many projects and certainly not that many waivers. The waiver, in my judgment, would be a very, very rare request.

Mr. NUNN. What concerns me is that if everyone that does not like the substantive law, and I happen to have a lot of constituents who do not and I am sure other Senators also do, but if everyone of them starts petitioning this Board to waive the substantive law, how can they handle this number and, on the other hand, how can the President of the United States handle this if the Board starts recommending a tremendous number of waivers? I can understand this approach on large projects, very important projects, but if there is no limit, have we in effect just created a bureaucratic nightmare?

Mr. HUDDLESTON. I do not think so because the Board has certain procedures to follow in every case, and it is only after following those procedures to the fullest extent and reaching an absolute impasse that a waiver would even be considered. If it were waiving a clean air standard that would very detrimentally affect the clean air of an area to the extent of being harmful to the citizens, I do not think they would even consider that waiver very long. That would never be recommended, in my judgment, to the President. And so, I think when you apply the rule of probability, practicality, and reason you are going to reduce the number of requests considerably.

Mr. NUNN. Is there any reasonable limit that could be established? The Senator has studied this subject more than I have.

Mr. HUDDLESTON. Limits have been suggested, but it seems to me that is just another unnecessary restriction. We really do not know. I think we can test and see. If the volume gets too great, maybe we better do something about the law. Once you do something about the law there would not be any need for a waiver.

Mr. NUNN. I am just concerned about the situation where even if the Board turned down every request, they could be so flooded with requests that to analyze them long enough to turn them down would bog the whole process down.

Mr. HUDDLESTON. I think by the time they go through their normal procedures and processes, they have accumulated enough data already to be in a position to determine whether or not the waiver of a specific regulation or specific provision would be justified for further consideration and recommendation.

Mr. NUNN. I thank the Senator.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCLURE. Mr. President, will the Senator yield 30 seconds to the Senator from Idaho?

Mr. HUDDLESTON. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I shall ask unanimous consent to print in the RECORD a list of major nonnuclear energy facility project terminations, cancellations or amendments. I think that is pertinent to the question that was asked earlier and the comment made earlier and there is an impressive list of refineries, 18 of them; oil terminal and pipeline projects, 2 of them; liquefied natural gas projects, 3 abandoned or suspended, 4 pending but threatened; coal gasification and liquefaction projects, there are 9 of them; nonnuclear electric power generating projects, 7 companies involved and 11 projects abandoned.

I ask unanimous consent that that be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MAJOR NON-NUCLEAR ENERGY FACILITY PROJECT TERMINATIONS, CANCELLATION OR ABANDONMENTS

The following list of major energy facility projects which have in recent years been cancelled, abandoned or terminated consists of projects for which substantial funds were expended, but which eventually failed for a variety of reasons. These reasons include economic, market, and environmental problems; Federal regulatory delays; delays in obtaining local and State permits; and delays caused by litigation or threatened litigation. The list was compiled from documents published by the Department of Energy and other Federal agencies; research compiled by the American Gas Association, the American Petroleum Institute, the National Petroleum Refiners Association, the Edison Electric Institute, the Atomic Industrial Forum; and interviews with officials of the companies which sponsored the energy facility projects.

The problem of energy project terminations and cancellations due to litigation and regulatory delays is critical to our nation in the development of an appropriate and adequate national energy policy. Project terminations often frustrate Federal energy policy, dampen private initiative, and may leave critical national policy questions in the hands of State and local governments. The large amounts of time, money and other resources expended by private companies on the innumerable local, State and Federal permitting processes which are required for individual energy projects is staggering. The extremely high rate of energy project cancellations, abandonments and terminations over the past decade has forced many responsible and prudent energy company managers to seek diversification, alternative investments and offshore opportunities as better investments of their shareholders' money. Of course, the unattractive climate for energy projects has restricted our domestic supply options.

One major deterrent to the development of domestic energy projects is litigation or the threat of litigation. The testimony of the Chairman of the Council on Environmental Quality (CEQ) to the Energy and Environment Subcommittee of the House Interior and Insular Affairs Committee on July 11, 1979, provides an indication of the amount of Federal litigation which has occurred concerning the legal sufficiency and factual adequacy of environmental impact statements. The Chairman testified that:

". . . during the first 8 years since NEPA's enactment (January 1, 1970 through December 31, 1977) . . . 988 NEPA lawsuits were filed. . . ."

". . . NEPA-related injunctions were issued in 202 cases. . . ."

". . . of the 988 NEPA lawsuits . . . 94 cases involved specific energy projects."

The nation is struggling through a continuing energy crisis which challenges the foundation of our entire economy. Yet, any incentives for energy development which may be provided by our federal energy policy may be nullified completely by the types and frequency of litigation which the nation has experienced in the last decade. The litigation problem must be resolved if sufficient domestic energy resources are to be developed. A process must be created to identify those energy projects which uniquely serve the national interest and to determine the tradeoffs which will be permitted to make the projects operational.

Creating an adequate and viable process will not be easy. One way to start developing such a process is to determine why the energy facility projects on the attached list were terminated, abandoned or cancelled.

I. REFINERIES

Company, location, and size B/D:

Shell Oil Co., Delaware Bay, DE, 150,000.

Fuels Desulfurization (1970),[1] Riverhead, L.I., 200,000.

Northeast Petroleum (1971), Tiverton, RI, 65,000.

Supermarine, Inc. (1972), Hoboken, NJ, 100,000.

Commerce Oil, Jamestown Island, RI—Narragansett Bay, 50,000.

Steuart Petroleum (1974), Piney Point, MD, 100,000.

Olympic Oil Refineries, Inc. (1974), Durham, NC 400,000.

Occmidental, Machiasport, ME, 300,000.

Crown Central Petroleum, Baltimore, MD, 200,000.

Ashland Oil Fort Pierce, FL, 250,000.

JOC Oil, Jersey City, NJ, 50,000. .

Gibbs Oil, Sandorf, ME, 250,000.

Granite State Refineries Rochester, NH, 400,000.

Shell, Gloucester Co., NJ, 150,000.

Cumberland Farms, Portsmouth, RI, 40,000.

Saber-Tex, Dracut, MA, 100,000.

Pepco, Saybrook, CT, 400,000.

Mobil Paulsboro, NJ, 150,000.

II. OIL TERMINAL AND PIPELINE PROJECTS

A. Sohio PACTEX pipeline project with receiving terminal at Long Beach, California, and pipeline to Midland, Texas. Abandoned after expenditure of $50 million.

B. Seadock Deepwater Port project off the Texas coast. Abandoned after expenditure of $20 million.

III. LIQUEFIED NATURAL GAS PROJECTS

A. Abandoned or suspended:

Project and site:

El Paso II, Port O'Connor, TX.

Eascogas LNG, Inc., Rossville, Staten Island, NY.

Tenneco, Inc., St. John, New Brunswick, Canada.

B. Pending but Threatened.

Project and site:

Pac-Indonesia/Pac-Alaska, Point Conception, CA.

Tenneco Trinidad LNG, Inc., NPC-LNG, Inc., Engleside, TX.

Southern California LNG, Terminal Co., Deer Canyon, CA.

IV. COAL GASIFICATION AND LIQUEFACTION PROJECTS

A. High Btu coal gasification projects suspended or inactive

Project, site, and output MMcf/d:

WESCO, Four Corners, NM, 275.

El Paso Natural Gas Co., Four Corners, NM, 144.

Panhandle Eastern Pipeline Co./Peabody Coal Co., Eastern Wyoming, 275.

Natural Gas Pipeline Co. of America, Dunn City, ND, 270.

Northern Natural Gas Co. of America, Powder River Basin, Montana, 275.

Columbia Gas System, Inc., Illinois, 300.

Exxon Corp./Carter Oil, Northern Wyoming, none.

Consolidated Natural Gas Co., Southwest Pennsylvania, none.

B. Coal liquefaction projects abandoned

Project, Site, and output:

Coalcon/Union Carbide, New Athens, Il, 22 Mmcf/d 2900 bbl/d.

V. NON-NUCLEAR ELECTRIC POWER GENERATING PROJECTS

Each of these facilities was proposed prior to 1976 but was cancelled prior to January 1, 1979. (Kaiparowitz was proposed in 1963).

Project, Location, and proposed output:

Kaiparowitz Project, Southern California Edison, Utah, 3000 megawatts (MW).

Empire Energy Center, Empire District Electric Co., Missouri, 325 MW.

Pioneer No. 1 and 2, Idaho Power Company, Idaho, 1022 MW.

Salem Harbor No. 5, North Shore No. 4, New England Power Co., Massachusetts, 1666 MW.

Sherburne County No. 4, Northern States Power Company, Minnesota, 810 MW.

Sewaren No. 7 and No. 8, Public Service Electric & Gas Company, New Jersey, 767 MW.

Rush Island No. 3 and 4, Union Electric Company, Missouri, 1112 MW.

Mr. McCLURE. I thank the Senator for yielding.

Mr. FORD. Mr. President, I will take but just a minute or two. We are to vote at 6:30 p.m.

I wish to just take a moment to talk about the speech that the distinguished Senator from Maine made. He said this piece of legislation would offend more people than anything we could do.

Mr. MUSKIE. Mr. President, I am not sure I added the last, but the Senator got the first right.

Mr. FORD. He turned around and said that he had been in this Chamber 21 years and he was now going through the problem of people saying too much government, too many regulations, Big Brother is loving us too much. And somehow along the way those pieces of legislation have been voted into being by some who have been here longer than I have.

If we have too much government and we have too much regulation and we have too much Big Brother, we should have the opportunity to make some changes. That is all we are asking.

One thing I want to add to the Senator from Georgia who was questioning my distinguished colleague. There is one additional item the President has. He has the ability to restrict or modify the request of the Energy Mobilization Board to him. So three things can happen: First, he can turn it down; it is dead. Second, he can restrict it or modify it and send it on. Or, third, he can let it come on to Congress in the manner in which the Energy Mobilization Board recommended it to him.

Then if we want that responsibility to land on our shoulders, then we can veto it and the responsibility is here and it is as Harry Truman said, "The buck stops here." We need a few more Harry Truman philosophies and attitudes around here, so we can get some things done..

The security of this country is at stake. We are not waiving all the substantive law. We are not getting into a Governor's office or a mayor's office or county judge's office. We are only doing what we have done.

We ought to have the opportunity to do that.

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[1] Fuels Desulfurization also attempted unsuccessfully to construct the same 200,000 barrel day refinery in South Portland, Maine; Seaport, Maine; and Brunswick, Georgia.

Mr. President, I hope my colleagues will take this under consideration that we are making an effort just to say that we are going to do those things that are necessary to maintain the security and the well-being of this country so that we can say to the rest of the world, "We are not going to tuck our tail in and run." We have the ability to do it and we are men and women big enough to do it.

I thank the Chair.

The PRESIDING OFFICER. The hour of 6:30 having arrived, under the previous order, the vote will now occur on the amendment of the Senator from Kentucky. The question is on agreeing to the amendment of the Senator from Kentucky. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall today.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Delaware (Mr. BIDEN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Iowa (Mr. JEPSEN), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HEINZ) is absent on official business.

The PRESIDING OFFICER. Are there any Senators present who desire to vote?

The result was announced—yeas 37, nays 56, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—37

Bayh
Bellmon
Bentsen
Boren
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
DeConcini
Exon
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Laxalt
Long
Lugar
McClure
Morgan
Sasser
Simpson
Stennis
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—56

Armstrong
Baker
Baucus
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Church
Cochran
Cohen
Cranston
Dole
Domenici
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Hayakawa
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Stafford
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams

NOT VOTING—7

Biden
Culver
Danforth
Heinz
Jepsen
Moynihan
Schweiker

So Mr. HUDDLESTON's amendment (UP No. 598) was rejected.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey (Mr. BRADLEY) is recognized.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Montana (Mr. MELCHER) be added as a cosponsor of my amendment No. 587.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY was recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BRADLEY. I yield.

Mr. ROBERT C. BYRD. I thank the Senator. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess over until tomorrow, and we will determine the meeting time a little later; but that the Senate resume its consideration of the pending business no later than 10:45 a.m. tomorrow, and that a final vote occur, with paragraph 3 of rule XII waived, on the measure no later than 2 p.m., with the understanding that there be 1 hour of debate, equally divided, on an amendment by the Senator from Mexico (Mr. SCHMITT) within that time.

This would mean that if the hour of 2 o'clock arrived and Mr. SCHMITT had still not had an hour on his amendment, the time of the final vote would be that much delay.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, does that time include the vote on the amendment, if we are going to have a yea or nay vote?

Mr. SCHMITT. Yes. Reserving the right to object, Mr. President, and I shall not object, it would include a rollcall vote on the amendment, most probably; and I will be happy to tell the managers what the amendment is if they want to know, or not if they want to be surprised.

Mr. ROBERT C. BYRD. The 1 hour would be for debate. It would not be inclusive of the rollcall vote.

Mr. SCHMITT. Yes.

Mr. DOMENICI. Does that include amendments to the amendment, I ask the leader?

Mr. ROBERT C. BYRD. It could very well. As I understand it, Mr. SCHMITT wants to be sure there will be 1 hour for debate on his amendment. It would be ruling out amendments.

Mr. SCHMITT. The majority leader is correct.

Mr. DOMENICI. If there are amendments and debate, that would not be included in the Senator's hour

Mr. SCHMITT. I think that is correct.

Mr. DOMENICI. I have no objection.

Mr. HATCH Reserving the right to object. Mr. President, I have no objection for tomorrow, but I do have an objection tonight. I probably shall not have an objection tomorrow, but I do have an objection tonight to this form of the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, for the moment, then, I withdraw my request and yield the floor to the Senator from New Jersey.

Mr. BRADLEY. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Will the Senator yield again?

Mr. BRADLEY. Yes, I yield.

Mr. ROBERT C. BYRD. I like to strike while the iron is lukewarm.

Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for yielding.

The text of the agreement follows:

Ordered, that the Senate resume consideration of S. 1308 no later than 10:45 a.m. on Thursday, October 4, 1979, that the vote on passage occur no later than 2:00 p.m., provided that there be one hour of debate guaranteed on an amendment to be offered by the Senator from New Mexico (Mr. SCHMITT).

UP AMENDMENT NO. 599

Mr. BRADLEY. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 599:

On page 34, line 23, insert the following:

(c) No project or class of projects shall be designated a priority energy project unless the Board finds that the project directly or indirectly will materially reduce the United States dependence on insecure foreign oil or petroleum products—

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 23, insert the following:

(c) No project or class of projects shall be designated a priority energy project unless the Board finds that the project directly or indirectly will materially reduce the United States dependence on insecure foreign oil or petroleum products by, but not limited to increased energy production, transportation, conservation, refining, storage, or the demonstration of new energy technologies.

Mr. BRADLEY. Mr. President, the amendment which is before the Senate at this time, and which I am glad to say has been agreed to by both the majority and minority floor leaders on this bill, addresses the very critical national issue of reducing our dependence and vulnerability to insecure foreign oil supplies, for example, in the Persian Gulf area.

Our energy planning has tended to underestimate the seriousness of the potentially enormous political and economic costs of our continued dependence on insecure supplies.

We have also, I think, not made a sufficient distinction between energy imports per se and oil from unreliable foreign sources. This distinction is critical to developing effective policies for enhancing our energy security and reducing our vulnerability to political and economic coercion.

The U.S. energy security is not threatened by imports of Mexican oil or gas or of Canadian hydroelectric power, or oil, or gas, or even of heavy oil from Venezuela. Mexico, Canada, and Venezuela, because of their proximity to the United States and their relative political stability, are much more secure sources of energy for our supplies than, for example, the Persian Gulf area.

Moreover, the best form of protection against unreliable oil supplies is a diversified competitive supply, both foreign and domestic. Therefore, Mr. President, the only justification for the extraordinary powers proposed for the Energy Mobilization Board, I believe, is that it will give us the promise of substantial benefits to our energy security. For this reason, we must not accept the costs and risks the exercise of these powers entails, there is a substantial likelihood that a project will address the real issue as I am describing it.

The issue is not building more energy projects; it is not just reducing our imports; it is reducing our dependence on and vulnerability to insecure sources of supply, particularly of Persian Gulf, Lybian, and Algerian oil. The criteria set forth in my amendment will insure that only projects that the Board finds addresses this critical energy vulnerability, this vulnerability to supply interruption as I have outlined, will be eligible for accelerated decisionmaking under the act. This stringent test will both limit and justify the costs and risks involved.

Mr. President, I ask that the Senate adopt this language. I appreciate the understanding on the part of the majority floor manager.

Mr. MATSUNAGA. Will the Senator yield for a question?

Mr. BRADLEY. Certainly, I yield.

Mr. MATSUNAGA. As I look at the amendment, the language says "No project or class of project shall be designated a priority energy project unless the Board finds," and so forth. Would ocean thermal energy conversion, for example, be qualified for priority designation under the Senator's amendment?

Mr. BRADLEY. This will be a decision that will be made by the Board, but I assume that it would have an equal chance to qualify with any other form of energy.

Mr. MATSUNAGA. I find further that the Senator's amendment provides that unless the Board finds that the project directly or indirectly will materially reduce the U.S. dependence on insecure foreign oil, and so forth, "materially." Does this mean that in the case of Hawaii, while Hawaii will reduce the import of, say, as much as 10 or 20 percent of foreign oil by going into the development of OTEC, because it is such a minute percentage of the national energy or national amount of oil imported by the United States, the Board could not then find that this project in Hawaii qualifies under the Senator's amendment?

Mr. BRADLEY. I say to the distinguished Senator from Hawaii that there is nothing in this amendment that I would construe would exclude any particular form of energy production. I assume that the purpose of "materially" is simply that it not be de minimis, and it would be somewhat more than de minimis. I assume that that amount in Hawaii would qualify. That is a Board decision.

Mr. MATSUNAGA. So that the term, "materially," does not mean that it is a matter to be taken in consideration of the entire import of foreign oil for the entire United States?

Mr. FORD. Will the Senator yield?

Mr. MATSUNAGA. The Senator from New Jersey has the floor.

Mr. BRADLEY. Certainly, I yield to the Senator from Kentucky.

Mr. FORD. I say to the distinguished Senator from Hawaii that I associate myself with the remarks of the distinguished Senator from New Jersey. He and I worked very closely on wording as it relates to his amendment. The "materially" was agreed upon and then agreed upon by both the majority and minority, because this gives us an opportunity—if it helps you, then that is material. It works. If it helps the country—it gives us a better perspective and ability to get to those things that might be in a position to help the Senator's area and would help mine or someone else's. It does not limit them as much as other wording could.

Mr. MATSUNAGA. Then, if the Senator will yield further, the term "materially," could be applied to the specific sector, a specific State, for example, like Hawaii. And where the project would materially affect the energy situation in Hawaii, then this amendment would permit such designation.

Mr. FORD. I say Hawaii would have special significance here because of its location and some of the problems as it relates to transportation. I think the word "materially" would assist the Senator in his area. But we have to look at the total picture as far as the country is concerned and give an opportunity to make a significant contribution to the Senator's problems. It might be a much smaller one that would be effective on the mainland, we shall say, but the word "materially," I think, benefits the Senator much more than any other language could.

Mr. MATSUNAGA. So the word "materially" would be one as applied to the State of Hawaii itself in this instance.

Mr. FORD. That would be my opinion.

Mr. MATSUNAGA. With that understanding and with the understanding that this colloquy will constitute legislative history on this amendment, I shall not object.

Mr. BRADLEY. I suggest further that the Senator might look at the last line where OTEC, I think, might come under a second category which is "demonstrate energy technology." So he should be doubly assured.

Mr. JOHNSTON. Mr. President, this is an excellent amendment. We accept it with enthusiasm because it makes clear what the job of this Energy Mobilization Board is and what the scope of its intended endeavors is.

We have made very clear at all stages of consideration of this bill that we want to leave it to the discretion of the Board as to what projects qualify and what projects do not qualify, that we put no limit on the number of those projects. But we implore and mandate the Board not to consider so many projects that the meaning of and the ability of the Board to fast track a proliferation of the projects would be watered down.

In other words, if every corner service station applied and got a designation of a priority energy project and the Board was dealing with hundreds, or conceivably even thousands of projects, the term "priority project" would be meaningless. Not only would the term be meaningless, but the Board would be totally incapable of devoting its attentions to a matter of "priority."

So what the Senator from New Jersey does in this amendment is further mandate this Board in the exercise of its discretion to consider projects which are material. Projects, to say it another way, which are important, important because they increase energy production, or transportation, or conservation, or refining, or storage, or because they demonstrate some new energy technology.

This would not prohibit, on even a project smaller than the OTEC problem, if it demonstrated some new technology. A 1-megawatt electric powerplant demonstrating a new technology would certainly qualify if it is important as a new technology.

We think it is a good amendment and for the majority of the committee we will accept it.

Mr. DOMENICI. Mr. President, I join in the comments of the Senator. I think it adds to the bill, adds to what we had in mind for the Board and its decisionmaking.

I would just ask the Senator from New Jersey, by "materially" he means it is not de minimis, it is not an insignificant kind of contribution?

Mr. BRADLEY. The Senator is exactly right.

Mr. DOMENICI. I thank my good friend.

Mr. President, I support the amendment and urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 599) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I would like to thank the distinguished floor managers for acceptance of the amendment. I think it contributes significantly to the formulation of criteria for this Energy Mobilization Board.

I think it also puts the whole problem of energy security in perspective by defining vulnerability in a very careful manner.

Mr. JOHNSTON. I thank the distinguished Senator from New Jersey.

This does put the matter in a much better perspective. I think it is a most constructive amendment.

Mr. BRADLEY. I hope it is very helpful in determining criteria eligibility for this entire Board.

Mr. DOMENICI. Mr. President, I say to the Senator from New Jersey that I, also, am most appreciative of his patience, not only in waiting, but negotiating with us to arrange for this satisfactory amendment.

I personally thank him for it.

Mr. BRADLEY. I thank the Senators, and the Senator from New York.

Mr. President, I would also like to take this opportunity to express my appreciation for the fine work of Ms. Gina Des Pres of my staff on this amendment.

UP AMENDMENT NO. 600

Mr. JAVITS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. DURENBERGER, proposes an unprinted amendment numbered 600.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 5 and 6, insert the following:

(1) If the Board recommends that any State or local agency be provided financial assistance for the purposes of implementing sections 16 and 17 of this Act, the Secretary of Energy shall provide such assistance under authorities available to him.

Mr. JAVITS. Mr. President, this amendment proposes that where a State or local agency which is complying with sections 16 and 17—section 16 is the preparation for an action timetable which is required by the law; and section 17 relates to the actual promulgation of the timetable, to wit, the project decision schedule—so where a local or State agency is required to act in that regard, and where in order to do so it needs some financial help, it just cannot do it, it may not have enough help, it may not have the means for taking the action which is required on its part, then, if the Board so recommends, the Secretary of Energy shall provide the necessary assistance under authorities available to him. But only if the Board so recommends, and I assume that would be for proper cause.

I point out to my colleagues who have very graciously been considering this amendment that this could happen because section 16(b)—I am sure they are very familiar with these references—enables the Board to move directly to deal with local agencies, if for any reason it cannot get satisfaction at the State level, or to deal with the Governor if it cannot get satisfaction locally; and similarly, section 17(c) does the same thing. That is, it says that the Board may consult directly with such State or local agency, where it cannot get satisfaction from the Governor.

So it will facilitate keeping whatever we can of local activity and local initiative where the Board thinks some help in order to do that is deserved.

It is for that reason I have submitted the amendment.

Mr. JOHNSTON. Mr. President, the Senator intends, I believe, that the question of the Board's recommendation to the Department of Energy for such funding is a discretionary act, not subject to the appellate process?

Mr. JAVITS. Entirely.

Mr. JOHNSTON. Mr. President, we think this is an excellent amendment. On behalf of the majority of the committee, we accept it with some enthusiasm because it will help State and local agencies have the wherewithal to make these decisions within the time limit.

I think it is constructive. We, therefore, will accept it.

Mr. DOMENICI. Mr. President, for the minority, we not only accept it, but commend the Senator for offering it.

The theory of this bill is going to require a great deal of cooperation between the Federal Government and not only State governments, but local governments. Some of that cooperation will require activities on the part of local government, and wherever we can help them financially it will make the culmination of those cooperative efforts far more satisfactory.

I think it is a good amendment. I urge its adoption.

Mr. JAVITS. I thank my colleagues very much.

Mr. DURENBERGER. Mr. President, I am pleased to cosponsor this important amendment. I am complimented by the language of the Senator from Louisiana and the Senator from New Mexico.

I would, if I may, like to ask two questions about this amendment and thereby make a suggestion to DOE on how it might be implemented.

First, would the Senator expect DOE to define a State assistance program through which States might request moneys for purposes of satisfactorily presented intent of the legislation?

Mr. JAVITS. Not to define it, but I take very seriously what Senator JOHNSTON and Senator DOMENICI said, that where, as a matter of discretion, this is required in order to carry out the intent of sections 16 and 17, I would expect that discretion would be exercised.

I do not think it is the kind of thing that would lend itself necessarily to some kind of regulatory procedure, that is, lay down a rule or regulation for it, because it may not happen very often. If it does, then they might wish to standardize it.

But, again consistent with the fact that there is complete discretion by the Board, I would expect the agency, that is, the Energy Department, to do whatever is necessary to facilitate it.

Mr. DURENBERGER. Within the purview of that discretion, would it be an appropriate purpose to encourage adequate public participation in the State and local regulatory process?

Mr. JAVITS. Again, if the Board—and remember that this discretion is with the Board—feels that any public participation is required in order for the Board to meet its objectives, then it can so recommend to the Department of Energy. I do not think I would anticipate this, nor could anybody.

Mr. DURENBERGER. Would a grant that paid 50 percent of the permitting cost realized by a State, if that State met the deadline and paid 50 percent of the permitting cost, if the State met certain standards, be consistent with this amendment?

Mr. JAVITS. I do not know whether it can be considered reasonable or unreasonable. It will be entirely within the discretion of the Board to recommend and the Department of Energy to perform according to its recommendation.

I imagine that unless there are many cases, it will be an ad hoc situation, depending on each case. I cannot say that 50 percent would be reasonable or unreasonable. But certainly it could do whatever the situation required and the Board recommended.

Mr. DURENBERGER. I thank the Senator.

Mr. JAVITS. Mr. President, I am ready for a vote on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank the managers of the bill for their graciousness and for their recognition of the worth of this amendment.

Mr. JOHNSTON. I thank the Senator from New York.

AMENDMENT NO. 496

(Purpose: To eliminate duplicative paperwork requirements for energy project approvals)

Mr. ARMSTRONG. Mr. President, I call up my amendment No. 496.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 496.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, strike out line 19 and insert the following:

"EXPEDITION OF APPLICATIONS".

On page 39, between lines 19 and 20, insert the following:

"SEC. 14. (a) In order to simplify the procedures for an application for any necessary action or approval by a Federal agency with respect to any project for energy exploration and development, the Director of the Office of Management and Budget shall—

"(1) review the application and reporting forms required by all Federal agencies of any person planning or proposing any such project;

"(2) prescribe, to the extent practicable, a single application form for use by all agencies; and

"(3) take such action as may be necessary to eliminate duplicative application and reporting forms in order to prevent the filing of similar or identical information by any such person with different Federal agencies.".

On page 39, line 20, strike out "Sec. 14" and insert "(b)".

Mr. ARMSTRONG. Mr. President, this amendment addresses itself to a problem which our friends in the energy business believe is a serious one, and that is the proliferation of paperwork in the process of seeking applications.

In testimony before the Senate Banking Committee and other testimony, industry people have told us that frequently they are called upon to answer identical or very similar questions propounded by more than one Federal agency or to tabulate data in similar but not quite identical forms; and as a consequence, they face the problems, more or less continuously, of filling out several sets of applications.

This amendment simply directs the Office of Management and Budget to consolidate these forms so that, to the maximum extent practicable, a single application form will be used by all the agencies that are in this permitting process.

Mr. President, I think this is not controversial. I have discussed it with the managers of the bill, and with that brief word of explanation, I ask for the adoption of the amendment.

Mr. JOHNSTON. Mr. President, this is an excellent amendment. The only problem with it is that we did not think of it first. I congratulate the distinguished Senator from Colorado. It will help expedite these applications, and we are very pleased to accept it.

Mr. DOMENICI. Mr. President, on the minority side, we commend the Senator from Colorado.

This is totally consistent with the intentions of this bill—not to have energy projects filling out more than one form when only one is needed, only one application when one is needed.

We commend the Senator from Colorado for the consolidation of this, and we urge the adoption of the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 601

(Purpose: To provide for the expedition of energy projects)

Mr. ARMSTRONG. Mr. President, I send an unprinted amendment to the desk.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 601.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 21, add a semicolon and the following: "EXPEDITION OF ENERGY PROJECTS".

On page 46, between lines 13 and 14, insert the following:

"(g)(1) Any Federal agency with authority to grant or deny an application for an approval for the exploration or development of Federal land in connection with coal, oil, or gas production shall—

"(i) expedite all actions necessary to grant or deny such approval;

"(h)(1) Oil and gas exploration and drilling activities on onshore Federal mineral estate in areas described in this subsection shall be designated by the Board as a separate class of priority energy project. These areas shall include all sedimentary basins in the United States with particular emphasis in sedimentary basins in the states of Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming.

"(2) This class of priority energy project shall be separate from any limit on the number of priority energy projects.

"(3) The Board shall require that the relevant Federal agency issue individual permits for oil and gas exploration and drilling activities within the lands described in subsection (a) within a maximum of 100 days of receipt of the application for the permit, unless the Board determines that an extension of time is justified and consistent with the purposes of this act. The Board shall establish a goal for the Federal agency issuing permits of 30 days for issuance of drilling permits.

"(4) The Board shall ensure that, to the maximum extent practicable, Federal requirements in the permitting process do not duplicate requirements of state and local governments. Duplication identified by the Board shall be reduced by applying state and local government requirements and eliminating the Federal requirement.

"(5) The Board's determinations concerning this class of priority energy project and the issuance of permits shall not be subject to the provisions of § 102(2)(c) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(g)]. However, procedures maintained by the U.S. Geological Survey in accordance with the general objectives of the National Environmental Policy Act as 'Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases, No. 6' shall act as the environmental assessment mechanism prior to permit issuance. The Board shall ensure that NTL–6 is appropriately revised to reduce to one (1) the total number of environmental assessments required from the time the lease is issued until all exploration and drilling permits are issued on the lease. Further, if, after the preliminary environmental review and the U.S. Geological Survey surface managing agency consultation (both described in NTL–6), no significant environmental actions are identified, then the environmental assessment requirement referred to in NTL–6 is waived.".

"(ii) take final action to grant if the requirements of applicable law and regulations have been met or deny such approval not later than twelve months after the date of receipt of an application for such approval; and

"(iii) publish in the Federal Register a notice which describes the final action of the agency concerning such approval.

"(2) The President may waive the provisions of this subsection with respect to a particular application for an approval if he determines that such waiver is in the national interest. Within fifteen days after the issuance of any such waiver, the President shall transmit a report to the Congress which explains the reasons for such waiver and which states why such waiver is in the national interest.

Mr. ARMSTRONG. Mr. President, this amendment consists of two parts. The first part of the amendment, in substance, is very similar to amendment No. 497, which I submitted previously.

The second part is an amendment really drafted by the Senator from New Mexico (Mr. DOMENICI), who joins me in offering this unprinted amendment.

I believe copies of this amendment have been furnished to the managers on both sides, so I will make my explanation brief.

The basic purpose of S. 1308, as we know, is to establish a fast track procedure to grant the necessary permits for designated priority energy projects.

The amendment which the Senator from New Mexico and I now offer provides a form of modified fast track for conventional energy projects particularly, and limited to oil, natural gas, and coal. This amendment simply provides that whenever a Federal agency has the power to grant or withhold approval for oil, natural gas, or coal, it must reach a decision within 12 months of the date the application is filed. It does not say that the application must be granted, only that a decision must be reached.

This amendment comes to the floor as a result of numerous—literally hundreds—of known instances in which such application for coal leases, for drilling permits for oil and natural gas have been on file for years—meritorious, in most cases—but are simply bogged down in the maze of desks and in the various bureaus within these departments. It is an effort to cut down the paperwork and delay, without shortcircuiting any substantive environmental requirements.

Mr. President, this amendment also has been discussed with the managers. In fact, I believe it has been conformed to their desires. With that word of explanation, I ask for its adoption.

Mr. JOHNSTON. Mr. President, we have discussed the first section of this amendment and are very much in favor of it.

The second section, which is the addition of the part by Senator DOMENICI, contains some possible drafting problems that will have to be adjusted overnight.

I wonder whether the distinguished Senator from Colorado would be willing to modify his amendment by deleting therefrom the Domenici section of the amendment and save the latter section until tomorrow, and we will try to work it out. In the meantime, we can accept the amendment of the Senator from Colorado. The amendment of the Senator from Colorado, the first section referred to, is an excellent section, because it will expedite permits for the exploration and development of coal, oil, or gas, and it will insure that these permits will not sit on someone's desk, neither granted nor denied, for years on end, as is the case at present.

With that comment, I hope the Senator will modify his amendment. We are willing to accept it.

In my own State of Colorado, we have known of—and I have read into the record earlier today—a number of cases in which simple applications, apparently meritorious applications, have taken from 2½ to 10 years to be approved.

I stress that the amendment affect only the processing time. It does not require the waiver of environmental or safety standards. In the event there were a case in which it was necessary to waive this 12-month requirement, the President, with a report to Congress, could do so. That is the first half of the amendment.

The second half of the amendment, to which the Senator from New Mexico may well want to speak, relates to the question of environmental assessments in a certain category of oil and gas wells.

Basically, without waiving the substantive environmental rights, it consolidates the four or five environmental assessments that might be necessary into a single procedure in simple cases.

Mr. DOMENICI. I thank the Senator from Colorado. Mr. President, for agreeing to affix my amendment so that we could expedite this matter. I am sorry we have not been able to clear this with the majority staff, who want to take a look at it.

My intention was that it be a consolidator of a present permit system which is tremendously bulky and duplicative, and perhaps by tomorrow we can do that.

So I urge the Senator from Colorado to modify his amendment by deleting the section he and I added, and then we will be prepared, on the minority side, to recommend strongly the adoption of the amendment.

Mr. ARMSTRONG. I will be glad to do that.

I inquire of the Chair whether the amendment can be split.

The PRESIDING OFFICER. The understanding of the Chair is that it is page 3 of the amendment.

Mr. JOHNSTON. That is correct. It is the third page of the amendment.

Mr. ARMSTRONG. Mr. President, if it is in order then I will ask that the amendment be modified in that way and will add only this word of explanation: I think that in its real effect upon the energy production of this country this amendment may be very far reaching indeed because, while the attention of the pubic is focused on new kinds of energy development and properly so for the foreseeable future, the great potential of this country for the next 5, 8, 10, 12 years, the real increase in domestic energy production must come from the known sources of coal, natural gas, and oil. What we are trying to do is provide a modified fast track for these projects.

So with that explanation, with the modification we have agreed to, I renew my call for the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

On page 42, line 21, add a semicolon and the following: "Expedition of energy projects".

On page 46, between lines 13 and 14, insert the following:

"(g) (1) Any Federal agency with authority to grant or deny an application for an approval for the exploration or development of Federal land in connection with energy, coal, oil, or gas production shall—

"(i) expedite all actions necessary to grant or deny such approval;

"(ii) take final action to grant if the requirements of applicable law and regulations have been met or deny such approval not later than twelve months after the date of receipt of an application for such approval; and

"(iii) publish in the Federal Register a notice which describes the final action of the agency concerning such approval.

"(2) The President may waive the provisions of this subsection with respect to a particular application for an approval if he determines that such waiver is in the national interest. Within fifteen days after the issuance of any such waiver, the President shall transmit a report to the Congress which explains the reasons for such waiver and which states why such waiver is in the national interest.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Colorado.

The amendment was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 602

Mr. DURKIN. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) for himself and Mr. LEAHY, proposes an unprinted amendment numbered 602.

Mr. DURKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, after line 2 insert the following:

"(e) The Board shall designate any prospective small hydro-electric facility as a priority energy project if such designation is requested. For purposes of this section 'small hydro-electric power project' means any hydro-electric power project which is located at the site of any existing dam, which uses the water potential of such dam, and which has not more than 30,000 kilowatts of installed capacity."

Mr. DURKIN. Mr. President, in one sentence what this does is add small scale hydroelectric projects and existing dams under the fast track provision.

It is my understanding that it has been cleared by the majority leader and the floor manager from the minority side and it speaks for itself.

Mr. JOHNSTON. Mr. President, the Senator from New Hampshire (Mr. DURKIN) has been the leader in bringing to the attention and championing the cause of low-head hydro in the Northeast and indeed in the whole country.

I think before the Senator from New Hampshire began calling this to our attention the Senate and perhaps even the rest of the country was not aware of the importance of this great resource. It is a very significant resource and the Senator from New Hampshire has proposed to us on a number of occasions plans whereby the resource may be developed.

We have pending legislation for a loan program in the Appropriations Committee which I hope we can work out and I am confident we can have a program that will be meaningful for the immediate development of low-head hydro nationwide, not only in the Northeast.

This amendment is a recognition of the importance of low head hydro and in the spirit of granting a preferred and a priority status to the important resource of low head hydro, we have accepted the amendment with our congratulations to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Louisiana.

It is my understanding the Senator from New Mexico has no objection.

Mr. DOMENICI. Yes. I have discussed the matter with my good friend from New Hampshire and I have no objection.

Mr. DURKIN. Fine.

Mr. President, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURKIN. I thank everyone concerned, and I thank the Senator from Minnesota. I guess I interrupted the procedure, but I thank him for his graciousness.

UP AMENDMENT NO. 603

(Purpose: To require the Board to report to the Congress not later than December 31, 1981, and annually thereafter, concerning laws and regulations that significantly hinder the completion of energy projects)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an unprinted amendment numbered 603.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 7, immediately before "In" insert "(a)".

On page 31, line 11, strike out "(a)" and insert "(1)".

On page 31, line 13, strike out "(b)" and insert "(2)".

On page 31, line 16, strike out "(c)" and insert "(3)".

On page 31, between lines 18 and 19, insert the following:

(b) Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that sig-

> nificantly hinder the completion of energy projects, and which includes an analysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

Mr. BOSCHWITZ. Mr. President, this entire Energy Mobilization Board is an effort to patch up a system that has not worked properly, that caused great delays.

This amendment would give the Board in addition to other duties assigned to it that the Board is authorized and directed to provide to Congress no later than December 31, 1981, and annually thereafter, a comprehensive listing of all Federal laws and regulations that significantly hinder the completion of any energy projects. This listing is to be accompanied by analysis of why each law and regulation is a significant hinderance to the energy projects that are attempted in this country.

Mr. President, in an effort to move energy projects through I think it is important that we identify those laws and regulations that serve as hinderances so that the appropriate committees and also Congress itself can act if necessary to remove or to reform such laws and regulations.

In this connection, Mr. President, I do not mean to create within the Energy Mobilization Board a new bureaucracy to sort of catalog and review every Federal law and regulation, but rather to look to the appropriate agencies, the Environmental Protection Agency, the Interior Department, Agriculture, or the Department of Energy which has certainly adequate staffing and adequate legal capacity to find these laws and regulations and, of course, the Energy Mobilization Board itself will during the process of its deliberations on the various projects also be alerted to these laws and regulations.

Mr. President, I yield.

Mr. DOMENICI. I wonder if the Senator will permit me to discuss his amendment with him for a moment.

Mr. BOSCHWITZ. Yes.

Mr. DOMENICI. First, I commend him for the amendment and for his patience in waiting here to get it adopted tonight. I hope it will be adopted.

I merely state that I agree with him that we do not have to have a large bureaucracy to study and report as required by his amendment, because as the Senate will see on page 30 of the bill under powers and authority of the Board section (d) says:

> On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this section.

I believe what the Senator has in mind is that the Board take from the agencies of this Government their analysis of laws under their jurisdiction and that it compile them and report to us on the effectiveness of this bill with reference to expediting, indicating what other laws may be impediments or inhibitors to energy self-sufficiency or projects. I do not believe we need a new bureaucracy. I think the section I have read plus the fact that this Board will be asking other executive agencies from time to time for information clearly indicates we have enough expertise within the agencies to provide most of that which is needed.

In addition, I commend the Senator for asking that the reports to the Board be further amplified and expanded upon as provided in his amendment, because we are all assuming that this Board and its functions and its powers are going to work. And if it does not we certainly should know why. If it does but not as well as some say we should know why and basically, if I understand the Senator's amendment, it would study those reasons in depth and analyze them and report. Is that correct?

Mr. BOSCHWITZ. That is correct, I say to Senator DOMENICI.

The Board itself is created to deal with many agencies some of which very often find themselves in contest one with the other, one delaying the other and certainly fulfilling the intentions of obtaining the quickest possible energy projects and so that is the purpose, and the Senator's amplification certainly states my intent.

Mr. DOMENICI. From the minority side we not only commend him but we urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this is an excellent amendment because it requires a specific response and a statement on each of these laws listed in the bill, and I think it strengthens the bill.

I think it insures that the report will be more responsive to the needs of Congress in finding out really what it is that is holding up these projects, if indeed they are held up by certain substantive laws.

We, therefore, commend the Senator from Minnesota and accept the amendment.

Mr. BOSCHWITZ. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT ON MR. GLENN'S AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be not to exceed 1 hour on an amendment by Mr. GLENN tomorrow equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe that about winds it up for today.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and Senators may speak therein up to 5 minutes each, and the period not to extend beyond 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMPLOYEE STOCK OWNERSHIP

Mr. LONG. Mr. President, the concept of employee stock ownership has come a long way since 1973 when this Congress passed its first bill to encourage employers to provide stock ownership for their employees. Since the enactment of that first law, the Regional Rail Reorganization Act (Public Law 92-236), we have passed seven other laws to further this important national concept.

This year, I have become even more encouraged that other Members of Congress, as well as government leaders in other countries, are looking at employee stock ownership as a means of helping to resolve many of our current economic problems.

In this session of Congress, under the strong and continued advocacy of Senator DONALD STEWART and others, the Senate has passed two additional bills dealing with employee stock ownership. These bills are extremely important because their effect will not cause any revenue loss to the Federal Government, a complaint which other short-sighted Members of Congress have raised about the tax incentives which we have in the past created to promote employee stock ownership.

On July 31, I wrote Margaret Thatcher, Prime Minister of Great Britain, about our efforts in the area of employee stock ownership. For the information of other Senators, I will ask that her thoughtful response be printed in the RECORD. It seems clear that under her leadership, Great Britain will be looking for ways to broaden stock ownership among its working men and women.

Two weeks ago, the distinguished majority leader made an excellent speech in favor of tying any Federal relief to Chrysler Corporation to employee ownership. I welcome him and his support for this idea. As many Senators know, I have been fortunate to be associated with the entire employee stock ownership concept for many years. In recent years, I have been delighted to have Senators like MIKE GRAVEL, DON STEWART, and others join me in this effort.

With regard to Chrysler, I believe that it is imperative that we require that its employees be given the opportunity to share in any relief which we provide for this crippled company. After all, it is the employees on whom Chrysler must ultimately depend in its revitalization and recovery. This week, I and other Members of Congress will be sending a letter to the editors of the major newspapers in the United States. The message which we will convey in this letter is that the employee stock ownership concept will be an integral part of any Chrysler recovery plan.

In addition, Mr. President, I was pleased to learn that the United Automobile Workers Union, as part of its new collective bargaining agreement with General Motors Corporation, demanded and received the right to participate in an employee stock ownership plan. I consider this to be extremely significant in that organized labor has traditionally been very ambivalent about employee stock owenership. I commend the UAW for its farsightedness and I would strongly suggest that other labor unions approach this issue with an open mind in representing their members.

Finally, Mr. President, I would like to advise other Senators that the Committee on Finance has been developing statistics that clearly reflect the motivational and productivity effects of employee stock ownership. Since May, we have been conducting a survey among companies with employee stock ownership plans; to date, 75 companies have responded to our request for information. They have advised us that in the average 3-year period since the establishment of an employee stock ownership plan, as opposed to an average 24-year period prior to the establishment of such a plan, they recognized a 72 percent increase in sales, employed 37 percent more employees, recognized an increase of 157 percent in pretax profits, and paid 150 percent more in Federal income taxes. At a time when the newspapers and financial publications are full of articles about our declining national productivity, these numbers carry a clear message to the average American businessman: Employee stock ownership works.

Mr. President, I ask unanimous consent that the letter from Prime Minister Thatcher be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE PRIME MINISTER,
August 31, 1979.

DEAR SENATOR LONG: Thank you for your letter of 31 July and the interesting material you enclosed. Thank you also for your kind comments.

I certainly agree that there are very real benefits to be derived from encouraging wider stock ownership and I think that this applies not only to owning shares in the company in which people work but also to investing in company shares more generally. Like you, I am convinced that by increasing the commitment of employees to the financial wellbeing of their company, and perhaps by making them more aware of problems and requirements of other aspects of the operation of the company, employee share ownership schemes can make a significant contribution to improving productivity and consequently profitability. This can only be to the advantage of all those associated with the company, including the existing shareholders, and clearly if these improvements were to be reflected across the whole of industry the impact on the economy would, I am sure, be substantial.

As you may know, last year the previous Government introduced a fairly limited concession which provided tax relief for certain approved employee share ownership schemes. We have undertaken to expand and build on the existing schemes for employee share ownership and we will also be giving the employees of the nationalized concerns an opportunity to purchase shares in their respective companies if these are sold back into private ownership. However, we are not yet clear quite what form our proposals on wider share ownership will take, but your comments and the material you have provided will be very helpful.

Thank you again for taking the trouble to write.

Yours sincerely,
MARGARET THATCHER.

CHILE: THE EXTRADITION DECISION

Mr. HELMS. Mr. President, critics of the Pinochet government are now calling for Chile's scalp because the Chilean Supreme Court has reaffirmed its decision not to extradite or put on trial three former secret police officers wanted in the killing of the Cuban DGI agent, Orlando Letelier, in Washington in 1976.

This is a very curious position for those who are charging that a state of lawlessness exists in Chile. At the same time that the critics of Chile are accusing that government of acting against the rule of law, they are demanding that the laws of Chile be set aside to suit their political predilections here in the United States. But the fact is that it would no more be appropriate for President Pinochet to dictate to the Chilean Supreme Court what its decisions ought to be than it would be for President Carter to dictate to the U.S. Supreme Court.

Their demands are based on the arrogant assumption that the judicial systems of foreign countries are necessarily inferior to our own. This is the kind of ethnic prejudice which Latin countries have long suffered at the hands of so-called liberals in the United States who adopt a condescending attitude towards Latin nations and institutions.

The truth is that the Chilean judiciary has long had a reputation of total independence from the executive. Even during the Allende regime, the judiciary had the courage to hand down decisions declaring the arbitrary decrees of the Marxist dictator to be illegal and unconstitutional. In taking such a stand they defied threats of retaliation, including even the threat of death.

Unlike the United States, where Supreme Court appointments are often made on the basis of political favoritism or cronyism, the Chilean judiciary is based upon career professionalism. Every member of the Chilean Supreme Court entered the judicial system as a career professional before 1945. The senior member of the court began judicial service 58 years ago. Of the 13 members of the Supreme Court, only 5 have been appointed since the beginning of President Pinochet's administration. Under the constitution, all appointees to the Supreme Court must be made from a list of sitting judges chosen by the judicial system itself. Furthermore, these appointments are for life, further insulating them from executive or legislative pressure.

I believe that anyone who gives an objective reading to the basic court decision, handed down last May, would have to come to the same conclusion as the Chilean court.

The fundamental issue is the 1902 extradition treaty between the United States and Chile. Like many other such treaties, it exempts nationals of the country from extradition proceedings. The United States has similar clauses in extradition treaties with other countries, and the U.S. Supreme Court has upheld their validity. To demand that the Chilean court should set aside an explicit provision of a treaty would set a dangerous precedent that the United States itself would not want to sanction.

Although the central witness in the U.S. case, Michael Townley, was sent to the United States from Chile, it should be noted that he was a U.S. citizen. Furthermore, he was deported, not extradited.

The Chilean court's decision also notes that Townley's evidence was obtained by plea bargaining and is therefore tainted under Chilean law. There are not many civilized countries that allow plea bargaining in exchange for evidence, since the party who gives such evidence has an obvious self-interest in giving false testimony, if false testimony is what will get him a light sentence. Indeed, the widespread use of plea bargaining in the United States has brought U.S. justice into a state of low repute among ordinary citizens, and constitutes one of the darker sides of our judicial system. Chilean law, unlike that of the United States is based on Roman law, and allows proceedings to be brought against an accused only when the evidence is overwhelming. The principal case against the three Chileans is Townley's tainted evidence. The evidence, therefore, not only fails to meet the criterion of being "overwhelming"—it is practically nonexistent so far as judicial process is concerned.

Indeed, Chilean laws of evidence are very strict. The courts can accept as evidence only:

First, original documents;

Second, personal testimony;

Third, a confession by one of the parties to the legal action;

Fourth, a personal examination by the Court itself;

Fifth, expert testimony; and

Sixth, presumptions or circumstantial evidence.

However, the evidence presented to the Chilean court by the United States consisted mainly of photographs and photostats of documents. Such evidence is inadmissible. The only other evidence offered was the tainted testimony of Townley, and the court noted that many of the statements of Townley were self-contradictory on their face.

Mr. President, as I see it, the court had very little choice, granted the evidence presented to it. The court would have had to set aside the civil rights of three Chilean citizens, rights guaranteed by international treaty. The court would then have had to hand them over to the United States to be tried by U.S. courts using a lesser standard of evidence. Alternatively, the court could have ordered them to be tried in Chile, ordering the trial court to admit evidence that is inadmissible under Chilean law.

Mr. President, where are the great champions of civil rights who would demand that any court do such a thing? Or to go even further than that, and demand that the President order the court to violate the civil rights of its citizens?

Such demands are ludicrous. Those who are demanding that Chile move away from authoritarian government toward greater freedoms and greater respect for human rights should be in the forefront of those demanding that the Executive not interfere in the judicial system and that the judicial system observe correct judicial process.

Mr. President, in order that my colleagues may read the court decision of May 13, 1979, for themselves, I ask unanimous consent that an English translation thereof be printed in the RECORD at the conclusion of my remarks.

There being no objection, the translation was ordered to be printed in the RECORD, as follows:

TRANSLATION

Whereas: The Government of the United States has formally petitioned the Government of Chile for the etxradition of Juan Manuel Contreras Sepúlveda. Pedro Espinoza Bravo and Armando Fernández Larios in Diplomatic Note No. 60 dated September 20, 1978, from the United States Embassy, signed by U.S. Ambassador Mr. George W. Landau and brought to the attention of the Supreme Court in the form of a restricted official letter from the Legal Department of the Foreign Affairs Ministry bearing Number 22 and dated September 21, 1978.

According to the petition, the aforementioned individuals have been indicted by the Federal Grand Jury of the District of Columbia as perpetrators of the following crimes:

"1. Conspiracy to assassinate a foreign official, namely Orlando Letelier, punishable under Title 18, Section 1117 of the United States Code;

2. Murder of the foreign official, Orlando Letelier, on September 21, 1977, punishable under Title 18, Section 1111 and 1116 of the United States Code;

3. First degree murder against the person of Orlando Letelier on September 21, 1976, punishable under Title 22, Section 2401 of the District of Columbia Code;

4. First degree murder against the person of Ronni Moffit on September 21, 1976, punishable under Title 22, Section 2401 of the District of Columbia Code;

5. Damages and injuries caused by explosives in a 1975 Chevrolet Malibu Classic used in interstate traffic and carrying Orlando Letelier, Ronni Moffit and Michael Moffit from the State of Maryland to the District of Columbia on September 21, 1976, causing the death of Orlando Letelier and Ronni Moffit, punishable under Title 18, Section 844(1) of the United States Code."

The petitioning Government requests that its petition be duly processed and that extradition be eventually granted, as requested, basing its plea on the provisions of the 1902 Extradition Treaty between the United States and Chile currently in effect.

The aforementioned petition is accompanied by supporting facts presented in English and duly translated, as well as by various exhibits, a copy of all pertinent laws, miscellaneous statements, photographs, documents and copies of the warrants of arrest issued by the United States District Court for the District of Columbia.

According to the information presented, the defendants "did unlawfully, willfully and knowingly conspire and agree together to kill Orlando Letelier, a foreign official, in violation of 18 U.S. Code S 1116.

The purpose of the conspiracy was allegedly that of the assassination of Orlando Letelier.

According to the requisition, the facts were allegedly as follows: One of the defendants, then Colonel Manuel Contreras, acting in his capacity as Director of the National Intelligence Agency (DINA) ordered the assassination of Orlando Letelier, proceeding to issue pertinent instructions to his subordinate Major Pedro Espinoza Bravo, DINA Operations Director, who, in turn, passed these same orders on to Army Lieutenant Armando Fernández Larios and Michael Vernon Townley. The mission was allegedly carried out using DINA resources and funds, falsifying passports and arranging the various details in collaboration with other intelligence agencies.

Lieutenant Fernández allegedly traveled to the United States in pursuance of his mission in order to study all of Orlando Letelier's movements, habits and routines to subsequently turn this information over to Michael Townley.

Once in possession of the information, Townley then allegedly collaborated with a group of Cuban exiles in planning the assassination.

On or around September 19, 1976, Townley allegedly personally planted a bomb in Letelier's automobile, a fact he communicated to his wife, Mariana Callejas, who was to pass the information on to DINA by phone.

The bomb was detonated two days later, resulting in the aforementioned consequences.

The explosion occurred somewhere around the 2300 block of Massachusetts Avenue, N.W. more or less half-way around Sheridan Circle in Washington, D.C. The vehicle was carrying Orlando Letelier, Ronni Moffit, and her husband Michael Moffit, whose statement appears on page 51 of the Translation File.

According to the Spanish version of his statement appearing on page 123 of the respective translation file, Michael Vernon Townley Welch declares, in brief, that sometime either late in June or early in July of 1976 Lieutenant Fernández Larios had requested him to meet with Colonel—at that time Major—Pedro Espinoza, a meeting that was to be strictly confidential. During the course of such meeting the latter asked him whether he would accept a special assignment outside Chile—an assignment which he accepted on certain conditions.

In the course of a second meeting held a few days later the Major informed him that "the DINA mission in which I was to take part was the assassination of Orlando Letelier". They were to use falsified Paraguayan passports and the death was to appear accidental. However, the mission was to be accomplished at all costs, even, if necessary, through the use of a bomb.

Colonel Espinoza allegedly also informed him that the mission to assassinate Letelier was to be a joint endeavor to be carried out by himself (Townley) and Lieutenant Fernández.

As part of the mission, he accompanied Fernández to Paraguay where they were to obtain falsified passports which were to be used in the assignment. He adopted the alias of Juan Williams Rose and Lieutenant Fernández went under the alias of Alejandro Romeral Jara.

A little while later, Colonel Espinoza would have informed him that Fernández was conducting "pre-operative" intelligence operations in the United States, that the Letelier mission was still on and that he was to follow him to the States to "make contact" with a group of Cuban exiles who were to eliminate Letelier.

He traveled to the United States under the alias of Hans Petersen Silva and he says to have been met at Kennedy International Airport by Fernández who was waiting for him accompanied by a woman and by his (Fernández's) sister Rosemarie. The woman had accompanied him as his "cover" on his assignment for the DINA to gather information on the movement and lifestyle of Letelier.

Upon his arrival in Washington, he (Townley) proceeded to work with the Cuban Virgilio Paz in verifying the information supplied by Fernández and to purchase the materials required to prepare the bomb and plant it in Letelier's automobile. When the bomb was ready, Townley personally planted it on the outer crosspiece of the automobile chassis under the driver's seat, securing it with adhesive tape purchased at an earlier date. All this took place on September 19, 1976.

On September twenty-first, he was informed by Ignacio Novo that "something had happened in Washington".

He returned to Santiago on September 23rd and reported to Colonel (at that time Major) Pedro Espinoza Bravo, describing what he had done.

In his statement appearing on page 52 of the translation file, Michael Moffit, who was a passenger in Orlando Letelier's automobile at the time of the explosion, says that while the vehicle driven by Letelier was traveling along Massachusetts Avenue N.W., just as it entered Sheridan Circle, out of the corner of his right eye he suddenly "saw a flash of light which seemed to come from directly behind Ronni, who was seated to his right. I also heard a buzzing sound which lasted less than a second. It was loud enough for me to hear it and sounded like water falling on a burning hot wire". "It seemed barely a fraction of a second after the flash when the car broke out in flames".

The statement, in Spanish, appearing on page 174 of the same file, was made by FBI special agent Stuart E. Case, who offered a detailed description of the components and method used in preparing the bomb, in planting it and in activating it for detonation.

Page 187 contains the Spanish translation of the statement made by María Inés Callejas de Townley who, briefly, states that she is Michael Townley's wife, that she knows of the agreement entered into between her husband and the United States Government, from which she was read pertinent excerpts, that her husband himself told her that he had accepted the assignment of assassinating Orlando Letelier and that these orders were given to him by Colonel Espinoza and that, furthermore, her husband called her six or seven times from the United States to give her messages to be passed on to DINA which she did by telephoning someone named Cristoph Willike.

Page 87 contains the translation of the autopsy report on Orlando Letelier which gives the cause of death as loss of blood, traumatic amputation of the lower extremities, injuries caused by an explosion; circumstances: murder.

The translated version of the autopsy report on Ronni Moffit, female, 25 years of age, appearing on page 105, gives the cause of death as "inhalation of blood, laceration of the larynx and right carotid artery, injuries suffered as the result of an explosion."

The file of documents is accompanied by several photographs of the scene of the crime, of the damaged automobile, of the bodies of the deceased and of various documents allegedly used in pursuing the mission, as well as by film showing several sequences of an explosion in a car similar to that being driven by victim in the case at hand.

Volume One, page 8, *verso*, of the records of the proceedings instituted in Chile contains an order to proceed with the investigation referred to in Articles 647 and 649 of the Code of Criminal Procedure, the indictment drawn up and the order to hold the defendants under arrest.

Pages 50, 51, 52, 53, 54, 57 and 58 contain the minutes written up in the different locations at which the Court convened to conduct the various proceedings of physical examination.

Volume I, pages 59 and 68, contains the testimony offered by Armando Fernandez Larios, born in Washington, D.C., 29 years of age, single, Captain in the Army, assigned to the Infantry, residing at José Domingo Cañas 2937, in his appearance before the Court. Upon being duly sworn in, he states that he is aware of the reason for his arrest; that he denies all charges preferred against him and derived from the statement made by Michael Townley and denies having been instructed either by Colonel Contreras or by Commander Espinoza to assassinate Orlando Letelier; admits that he accompanied Townley to Paraguay and obtained two falsified passports to be used to travel to Washington under orders from Colonel Contreras and Commander Espinoza, who supplied the details on the assignment which consisted of contacting United States Army General Vernon Walters, head of the United States Central Intelligence Agency (CIA) to obtain information on certain high-ranking American politicians who were willing to support Chile and wanted to know exactly what the country's situation was; explains that he never actually made the trip and that sometime in August of 1976 he was sent to the United States "in reward for his services" simply as "back-up" for a woman who was to perform an assignment in that country.

The name of the woman, as it appeared in the passport, was Liliana Walker Martinez. During the time he spent in the United States, he stayed mostly with his sister, Rosemarie, both in Virginia and in New York. He ends his testimony by stating that his father's serious illness forced him to return to Chile and reaffirming that his stay in Washington and in the United States from late August to September 9, 1976, was for no other purpose than those mentioned in this statement and that he attributed Michael Townley's attitude whereby he accuses him of having taken part in the crime to a measure of convenience in an attempt to lighten the penalty or penalties which could allegedly be inflicted on him (Townley) for the commission of crimes which he personally confessed to.

Page 72 *verso* contains the testimony presented before the Court by Pedro Octavio Espinoza Bravo, born in Santiago, 46 years of age, married, literate, Colonel in the Army attached to the Infantry, residing at O'Higgins 559 in Punta Arenas, in which he states that he knows the reason for his being arrested and after being advised by the Court of the charges preferred against him declares that the accusations are all untrue and denies any guilt whatsoever in connection with the criminal acts culminating in the deaths of Orlando Letelier and Ronnie Moffit.

He explains that the fact is that sometime late in June 1976 Colonel Contreras, who was at the time head of DINA, informed him that he was to send two persons on an assignment to the United States where they were to contact General Vernon Walters. He thought of Townley, who he knew only as Andrés Wilson, because of his good command of English and suggested that he accompany Lieutenant Fernández on the mission. Actually, they only got as far as Paraguay where they obtained falsified passports as circumstances prevented them from making contact with Walters.

He also recalls that sometime in mid-August, acting under orders from Colonel Contreras, he sent Lieutenant Fernández to New York as "back-up" for another agent who was to investigate the actions of certain employees of Corfo-Codelco who were causing operational problems at the company's New York office. Lieutenant Fernández was chosen for this assignment as a type of reward for his services to DINA. He adds that he had no say in the selection of Liliana Walker for such mission. Therefore, all the statements made by Michael Townley and his wife Mariana Callejas with respect to Mr. Fernández's alleged mission in the United States are "lies".

Page 80 contains the testimony offered by Juan Manuel Guillermo Contreras Sepulveda, born in Santiago, 49 years of age, married, literate, Retired Army General attached to the Corps of Engineers, residing at Principe de Gales 7045 in his appearance before the Court who, after being duly sworn in, states that he knows the reason for his being held under arrest at the Military Hospital. He states that the allegation to the effect that the Agency under his command—DINA—was involved in the planning, design or any other aspect of the assassination or death of Mr. Letelier was totally untrue.

He, likewise, denies any and all direct and indirect accusations against him personally made by Townley in his statements to the authorities.

He says that he knew that one of DINA's outside agents or "collaborators" was a person who went by the name of Andrés Wilson and who supplied electronic equipment for intelligence operation and who was recently identified as Townley.

As to Fernández and Townley's trip to Paraguay from where they were to continue on to the United States, he states that their purpose was to make contact with General Vernon Walters, head of the CIA, who was to provide them with information on certain U.S. politicians who wanted or who might be willing to help Chile—a mission which was subsequently canceled.

He maintains that both Colonel Guanes and the United States Ambassador to Paraguay knew the real identities of Fernández and Townley when they arrived in the country and applied for the passports.

As to Captain (then Lieutenant) Fernández's trip to the United States late in August of 1976, it was decided to use him merely as "back-up" for a mission to be performed by a woman in the New York offices of Corfo-Codelco as a type of reward for his many years of efficient service to DINA. He, moreover, denies that Captain Fernández Larios was given any mission other than that mentioned above while on this trip.

Page 95 contains the testimony offered by Army Captain Cristoph Georg Paul Willeke Floel who, after being duly sworn in, stated that, contrary to the remarks made in Mariana Callejas' statement, he never received nor was he aware of any telephone call from her on any matter or mission whatsoever. As for Townley, he knew him only as a mechanic by the name of "Mike" who was working in an automotive repair shop. Some time later he saw him at DINA headquarters where he was known as Andrés Wilson. He has no ideas as to the work or services he performed in DINA.

Page 105 contains the minutes of the Court's physical examination at the Central Identification Office of the dossier and other records on "Ana Luisa Pizarro Avilés".

Page 104 contains the testimony offered by Army Captain René Miguel Riveros Valderrama, who had been working for DINA since 1974 and who, after being duly sworn in, states that sometime in mid-August 1976 Colonel Contreras entrusted him with a mission in the United States, where he was to make contact with Colonel Vernon Walters of the CIA, who was to supply them with information favorable to Chile. The mission was to be carried out in conjunction with Lieutenant Rolando Mosqueira. Both went to Washington but were unable to make the contact and returned.

Page 106 sets forth the testimony offered by Army Captan Manuel Rolando Mosqueira Jarpa, who, after being duly sworn in, informs the Court that he worked for DINA and was entrusted with a mission in which he was to travel to Washington to obtain information on certain Americans with great political influence who were sympathetic to Chile. His orders came from Colonel Contreras while the detailed instructions, as well as the passports and money were supplied by Commander Espinoza. "My partner was Captain Riveros." He knew nothing whatsoever about a Lieutenant Fernández at that time.

The appearance of Rolf Gonzalo Wenderoth Pozo, Lieutenant Colonel in the Army, is annotated on page 108. Upon being questioned in conformance with the law as to the identity of Liliana Walker Martínez, the witness, who was working for DINA, replied that he did not know the woman and had been supplied only with her name and references as a "ear" or "informant" for the Agency.

Page 116 contains the testimony presented to the Court by Rosemarie Catherine Guest, sister of Armando Fernández Larios, resident of Arlington, Virginia, United States, who states that her brother arrived at National Airport on August 26, 1976, accompanied by a woman whom she did not know. The next day she took him home with her to Virginia where he remained until September 6th when they left together for New York, remaining there until September 9th when he was forced to return to Chile after receiving an urgent message to the effect that their father had been taken seriously ill.

As far as she recalls, her brother devoted himself to rest and relaxation and played tennis every day at the place where she worked. She asserts that he never hid his true identity during his stay in the United States at this time.

She adds that Attorney Propper prevented her from making this same statement before the Grand Jury despite her having been subpoenaed.

The testimony offered by Lawrence Arthur Guest, Armando Fernández Larios' brother-in-law, in response to a questionnaire submitted by the latter's defense counsel, appears on page 119.

Page 136 contains the act of constitution of the Court convening at the Military Hospital in this city recording the fact that the Court examined the clinical records on hospital patients for the month of August 1976. The files corresponding to this month showed no record whatsoever of Ana Luisa Pizarro Avilés' being treated as a patient.

Page 141 contains a deposition by Physician Oscar Novoa Allende on the medical care he rendered to Miss Pizarro, as recorded in the certificate of discharge of the Military Hospital in August of 1976.

On page 225 is the testimony offered by Jerónimo Pantoja Henríquez, in response to a questionnaire submitted by the defense counsel for Manuel Contreras.

Page 227 reproduces the written report submitted by General Héctor Orozco Sepúlveda regarding his alleged interview with Michael Townley in the United States in April of 1978.

Page 230 contains a similar statement by Major (J)[1] Jaime Vergara Lonnberg.

Page 231 *verso* contains the decision declaring the investigation closed and ordering that the attorney representing the petitioning Government be notified of the evidence assembled.

On page 238, the attorney representing the United States of America with respect to its petition for extradition explains the grounds for such petition in the form of a detailed brief in which, after a few general remarks and an analysis of the requirements of the bilateral treaty between the two countries with respect to form and content, launches into a full-scale study of the *corpus delicti* and of the role played by each of the defendants in the commission of such crime, concluding his brief with a reference to the option of extraditing nationals, pleading that the extradition of the defendants be granted inasmuch as the present case fulfills all the extradition requirements and inasmuch as the cumulative evidence constitutes sufficient proof that a crime has been committed and represents well-founded, admissible presumptions of guilt on the part of the defendants.

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[1] Translator's Note: "J" signifies legal branch of the Chilean Army.

On page 311 *verso* the Court orders that the defendant Armando Fernández Larios be informed of the facts of the case. Attached to page 312 we find the brief prepared by Fernández's defense counsel where the attorneys present their own comments, analyse the charges preferred against their client, present grounds for their being challenged as to their validity, subsequently launch into an analysis of the evidence presented in the extradition file and conclude by pleading that the petition for the extradition of Army Captain Armando Fernández Larios be denied. The brief is accompanied by numerous exhibits.

On page 344 *verso* the Court acknowledges the comments made by Fernández Larios and the exhibits presented and orders that Juan Manuel Contreras Sepúlveda and Pedro Octavio Espinoza Bravo be informed of the proceedings within a period of twenty days.

The defense counsel for Pedro Espinoza Bravo presents its comments in a brief appearing on page 413, challenging the evidence presented and presenting various exhibits as well as a report having the force of law. The brief analyses the charges serving as basis for the bill of indictment drawn up by the Grand Jury, the evidence presented, as well as the investigation conducted by the President of the Supreme Court, makes reference to statute law and to legal doctrine on extradition and to their application to the case at hand, finally arriving at the conclusion that extradition is not warranted and must be denied.

Page 502 contains the detailed brief prepared by the defense counsel for Juan Manuel Contreras Sepúlveda in which the attorneys present their comments, challenge the evidence, introduce exhibits and petition for various proceedings.

The defense counsel begins with an analysis of the proceedings and charges brought by the Grand Jury, goes into a lengthy and detailed exposition on the evidence presented, ending this portion of the brief with an analysis of the extradition process from the legal point of view in a series of closing statements. It then proceeds to challenge the admissibility of the petition, launches into an analysis of the alleged role played by its client, of the jurisdiction of the Chilean courts and of the concept of political offense and ends pleading that the petition for extradition be denied.

Page 693 *verso* contains the decision ordering that the facts be made known to the "*Fiscal*"[3]

Following a detailed examination of the trial and of the various Court proceedings, the "*Fiscal*" arrives at a conclusion to the effect "that the extradition of Juan Manuel Contreras Sepúlveda, Pedro Octavio Espinoza Bravo and Armando Fernández Larios presented by the United States Government should be denied".

On page 714 *verso* the Court gives notice that it is ready to announce judgment.

In view of the above and considering:

With respect to the petition for extradition and the grounds for such petition:

1. That the Government of the United States has formally petitioned the Government of Chile for the extradition of Juan Manuel Contreras Sepúlveda, Pedro Octavio Espinoza Bravo and Armando Fernández Larios in Diplomatic Note No. 60 dated September 20, 1978, from the United States Embassy (signed by U.S. Ambassador George W. Landau and brought to the attention of this Supreme Court in the form of a restricted official letter from the Legal Department of the Foreign Affairs Ministry bearing Number 22 and dated September 21, 1978) and that, according to the petition these individuals were indicted by the Federal Grand Jury in the District of Columbia, United States law as perpetrators of the following crimes:

"1.—Conspiracy to assassinate a foreign official, namely Orlando Letelier, punishable under the U.S. Code, Title 18, Section 1.117; 2.—Murder of a foreign official, namely Orlando Letelier, on September 21, 1976, punishable under U.S. Code, Title 18, Sections 1.111 and 1.116; 3.—First degree murder committed against the person of Orlando Letelier on September 21, 1976, punishable under the District of Columbia Code, Title 22, Section 2.401; 4.—First degree murder committed against the person of Ronni Moffit on September 21, 1976, punishable under the District of Columbia Code, Title 22, Section 2.401; and 5.—Damages and injuries caused by explosives in a 1975 Chevrolet Chevelle Malibu Classic used in interstate traffic and carrying Orlando Letelier, Ronni Moffit and Michael Moffit from the State of Maryland to the District of Columbia on September 21, 1976, causing the death of Orlando Letelier and Ronni Moffit, punishable under the U.S. Code, Title 18, Section 844(1.)"

As stated in the introductory portion of the present ruling, the petitioner requests that its petition be duly processed and that extradition be ultimately granted, as requested, basing its plea on the provisions of the 1902 Extradition Treaty between the United States and Chile, currently in effect. In pursuit of this goal, the petition is supported by various exhibits in English, accompanied by their respective Spanish translations, as well as by statements, affidavits, photographs and copies of pertinent legislation and of the arrest warrants issued by the United States District Court for the District of Columbia.

All the information presented in support of the petition for extradition and serving as grounds for such petition including copies of pertinent legislation and warrants of arrest, photostats of original documents such as transcript of statements made by witnesses under interrogation and testimony presented before the Federal Grand Jury in the District of Columbia, testimony given to FBI agents and to attorneys attached to the United States Attorney's Office, as well as the various photographs and other types of material evidence described in the index beginning on page 15 of the original English file, whose Spanish translations have been checked by experts Gloria Jiménez Matus and Marta Anders de Vargas, appointed by this Court (page 23), and appear in the corresponding translation file, have been duly certified as to their authenticity by competent officials of the petitioning government in the manner prescribed by Article III, Paragraph 2 of the 1902 Extradition Treaty signed by the United States and Chile and legalized in conformance with the law in the presence of the United States as well as Chilean authorities pursuant to the provisions set forth in Paragraph 1 and in Paragraph 2, Number 3, Article 345 of the Chilean Code of Civil Procedure in harmony with the provisions of Paragraphs 1, 2 and 4, Article 186 of the Chilean Code of Criminal Procedure, as set forth in the corresponding proceedings appearing on pages 7, 8, 9, 10 and 11 of the aforementioned original English volume or file. The proceedings appearing on page 11 refer to the authentication of the signatures of Mr. George W. Landau, United States Ambassador to Chile and Mr. Edwin L. Beffel, U.S. Consul. The former has presented the petition for extradition of the aforementioned individuals in accordance with Article III, Paragraph 1, of the 1902 Extradition Treaty.

With respect to the procedural admissibility or validity "in limine" of the evidence presented:

2. That to ensure a logical line of reasoning and due to its particular importance from the legal standpoint to the extradition process under consideration and to the very concept of extradition, it is advisable to, first of all, refer to the statement made by the defense counsels for defendants Fernández, Espinoza and Contreras on pages 340 *verso*, 425 and 512 *verso*, respectively, which corresponds to the assertion made by Mr. Manuel Urrutia Salas, attorney and professor of procedural law in his report appearing on page 401 and which is attributed the force of law, as well as to the statement made by the *Fiscal* for the Supreme Court in his opinion reproduced on page 694 of the present file—a statement representing a general attack on all the supporting evidence presented with the petition for extradition and explained in detail in the first supplementary petition to each of the briefs presented by defendants Espinoza and Contreras—an attack which essentially maintains that our procedural law determines which means of proof are admissible in court of law (Article 457 of the Code of Criminal Procedure) and that admissible evidence is, thereby, limited to documents, witnesses, to a confession by one of the parties to the legal action, to a personal examination by the Court itself, to expert testimony and to presumptions or circumstancial evidence and that all other other means of proof which are not included in this list or "catalogue" are, therefore, inadmissible; that, in view of the foregoing, all the photographs and other enclosures comprising the file of exhibits, "as it has been called by the court", presented with the petition for extradition, "must be declared inadmissible and of no value whatsoever as evidence inasmuch as they do not represent means of proof of the type required by Chilean law"; that Chilean procedure law—

> "requires that all means of proof must be compatible with the probative process previously defined by the law with respect to the method, timeliness and circumstances under which each means of proof must be presented";

> that, in view of the above, it follows, in brief, that

> "the petitioner in the present action has failed to present any evidence against the defendants both in its petition as well as in any and all subsequent proceedings inasmuch as the photographs are inadmissible and the unofficial documents are challengeable on the grounds that they have not been duly authenticated, have not been duly acknowledged by their alleged authors in the presence of this Court, have not been duly checked and compared, have not been certified by the corresponding clerk with respect to their authenticity and have not been duly legalized, were the petitioner attempt to endow them with another *status*".

Further, the aforementioned opinion expressed by the *Fiscal* of the Supreme Court with respect to the testimony made by Michael Vernon Townley subsequent to the time he would have made a deal with the United States Government under which he would not be tried for the murder of Orlando Letelier and Ronni Moffit and obtained other promises, both for himself and for his wife Maria Inés Callejas, indicates that when making his statement Townley "was obviously intent on saying what he believed was

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[3] Translator Note: The "Fiscal" is a career officer of the Supreme Court.

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best for himself with regard to the aforesaid agreement" and concludes that:

"Article 323 of our Code of Criminal Procedure prohibits the use of promises, coercive acts or threats in attempting to extract the truth from a defendant. Pursuant to Article 10 of the Civil Code all acts prohibited under the law are null and void."

Yet another paragraph of the same opinion states that:

"Consequently, Townley's statement in which he supplied information to the Federal Attorney and subsequently repeated before the District of Columbia Grand Jury is invalid under Chilean law since as mentioned above, it violates Article 323 of the Code of Criminal Procedure. The same holds true for all the accusations derived from Townley's statement to the District of Columbia Grand Jury."

At the end of his report *Fiscal* Chamorro states:

"The other presumptions of guilt mentioned by attorney Etcheberry derived from sources other than Townley's statement which as mentioned above, is worthless, do not fulfill the requirements set forth in Article 488 of the Code of Criminal Procedure for them to constitute full proof."

3. That as maintained in the defense briefs for defendants Espinoza and Contreras in support of their arguments and as similarly maintained by Fernández Larios, by the report by Professor Urrutia attributed the force of law and by the opinion issued by *Fiscal* Chamorro, the decisions handed down by the Chilean Supreme Court "have been consistent in the sense that they regard extradition as an act of sovereignty and, therefore, subject to the country's procedural legislation, particularly as regards the procedure for evaluating the evidence."

4. That the foregoing is effective only insofar as our Supreme Court has consistently ruled that extradition is an act of sovereignty, as demonstrated by the jurisprudential quotations included in the defense brief prepared by the counsel for Espinoza appearing on pages 450 and 450 *verso*. The following quotation applies to the extradition proceeding brought against José Sarmiento or José Doblado in 1954:

"In effect, the judicial authority responsible for determining the identity of the criminal, whether the crime in question is a common-law crime or a political offense or whether, for any reason, it falls outside the sphere of offenses subject to extradition, etc., performs an inherent act of sovereignty in deciding whether or not to extradite the party concerned.

"All this justifies the examination of the evidence by the Court inasmuch as the omission of such procedure would mean the inadequate protection of the rights of the suspect who could easily find himself extradited on the basis of ad-hoc evidence."

However, it is particularly important to put forward that this is not the only point expressed in the verdict invoked, but that in the same clause, the decision adds:

"Thus, this doctrine is consistent with Article 647 of our Code of Criminal Procedure which authorizes a brief investigation into the identity of the defendant, the perpetration of the crime and the role played by the defendant. And yet he can be held (Article 646 of the Code of Criminal Procedure.) The person responsible for conducting the extradition proceeding may introduce evidence (Article 649, Paragraph 1 of the Code of Criminal Procedure) and is heard under identical conditions to those granted to the defendant (Articles 652–654 of the Code of Criminal Procedure), all of which indicates that there is no obvious conflict between Governments who are party to such proceedings with respect to their sovereignty."

Lucchini (*Revista Penale*, I. 348) rightfully declared that:

"A State which opts for or grants a petition for extradition and subsequently effectively extradites a person who has committed a crime in a foreign country neither disavows nor gives up its own jurisdiction over the matter inasmuch as it has already conducted proceedings derived from such jurisdiction such as a summary proceedings and the temporary or permanent arrest of the guilty party.

"We must add that these summary proceedings, arising out of a nation's sovereignty, are essential to the legal process of extradition. And it is reasonable that before extraditing any person, the government must be certain that it is performing an act of justice. Furthermore, as to these proceedings which represent an inherent part of the passive extradition process, it should be remembered that the government answering the petition for extradition is not up against a case of *ius puniendi* since, as mentioned above, the petition is not founded on the right to exact punishment but, rather, on international assistance which demands that the legal system be preserved—a need common to all nations of the civilized world."

One of the whereas clauses introducing the Chilean Supreme Court decision handed down in the extradition proceeding brought against Héctor Cámpora and others by the Government of Argentina in September 1957 and quoted in the defense brief prepared by the attorneys representing defendant Espinoza reads as follows:

"Supplementing the rule of law established by Paragraph 2, Article 647 as mentioned above in connection with another line of reasoning, Paragraph 3 of the same rule of law requires that the native court substantiate the petition for extradition under examination specifically by determining whether or not the persons named as defendants actually committed the crime of which they have been accused. Thus, a petition for extradition based on facts which the petitioning judge or authority deems sufficient to warrant that the petition be approved shall not be automatically granted. The courts examining the petition must arrive at their own decision and since this falls under national jurisdiction it is the national courts who have jurisdiction over the matter and who must, therefore, judge the case independently from the opinions of the foreign tribunal."

However, this does not mean that our Supreme Court has declared in this particular ruling or, as maintained by the petition, has consistently declared:

"That extradition is an act of sovereignty and, therefore, must comply with the country's procedural legislation, particularly with regard to the procedure followed in examining the evidence presented."

The latter conclusion or doctrine does not appear to have been ratified, nor expressed in any explicit or implicit declaration made in any Supreme Court decision handed down in a similar case of passive extradition or in any other case with legal characteristics similar to the case at hand.

5. That such a position is unacceptable, in view of the principle of international law upholding the sovereignty of nations—an undisputable principle—for any country to be prevented from applying its internal legislation which, through its constitutional or executive channels it considers appropriate, adequate or necessary. Each State, in an act of sovereignty, lays down rules of public law which must be complied with within its national borders, the most important of which are the rules of procedure for civil or criminal actions or all other matters brought before its respective courts of justice which safeguard the nation's exercise of its sovereignty, which serve as the very foundation of a country's independence and as the philosophical basis for yet another indisputable principle—that of a given country's nonintervention in the internal affairs of another country, without prejudice to any eventual pertinent agreements entered into by the two countries.

6. That with respect to these proceedings, the Governments of the United States and Chile are bound by the provisions of the 1902 bilateral extradition treaty, presently in effect. Under the terms and conditions of Article One of such treaty, both governments "mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been there committed."

7. That the appropriate Chilean laws for determining whether or not the evidence of guilt presented in support of the present petition for extradition offer sufficient grounds for the apprehension and prosecution of the defendants Fernández, Espinoza and Contreras, in conformity with the provisions of the treaty, are none other than those found in Paragraph 3, Title IV, Part One, Book II of the Code of Criminal Procedure and, more specifically, the provision of Article 274 of such Code which reads:

"Article 274. After questioning a suspect, a judge shall charge him and bring action against him in all cases where the facts:

"1. Prove that the crime in question has in fact been committed; and

"2. Show that there are, at least, well-founded presumptions of the guilt of the defendant either as perpetrator, accomplice or accessory to the crime in question."

8. That the court must analyse, weigh and evaluate the facts and evidence presented by the government petitioning for extradition solely on the basis of this rule of procedure and may resort to no other rule of Chilean procedural law, particularly with regard to its method of evaluating the evidence, as presented in these proceedings.

Furthermore, in attempting to demonstrate the illogical nature of the argument under consideration, as well as its lack of legal context within the framework of the good faith in which contracts must be entered into and executed if the contracting parties are to achieve what they had in mind when formalizing the agreement, it suffices to point out that adherence to the aforementioned doctrine would make the extradition process completely inoperative inasmuch as this would mean requiring that the country petitioning for the extradition—in this case the Unitd States—adapt its summary investigative proceedings and legal prosecutions to the principles of the Chilean Code of Criminal Procedure to ensure their value as evidence in this country, which, in turn, means requiring its judicial authorities and courts of justice to investigate crimes committed within its borders and subsequently file suit with its court based on Chilean procedural law which is obviously different from its own legislation. Moreover, if in presenting a petition for extradition, Chile was required to do likewise, this would become a "dead letter" in our own legislation, because all summary investigations and court proceedings must comply with Chilean law.

Finally, the mere enunciation of this theory which signifies an *in limine* rejection of the evidence presented by the United States Government in support of its petition for extradition, and leads to such evidence being declared inadmissible under formal rules of procedure which are irrelevant to the case at hand would mean disclaiming that country's sovereignty to resort to the procedural legislation which it considers appropriate in conformance with the legal precepts referred to in ground number 5 of the present ruling—a theory which, in practice, can be upheld only in the case of two countries with identical penal codes.

Extradition per se and the grounds for extradition:

9. That, according to ground number 6, the Governments of the United States and Chile are bound with respect to these proceedings and pleadings by the provisions of the 1902 Extradition Treaty and the last paragraph of Article III of this agreement stipulates that: "The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the Republic of Chile, respectively, in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made".

Paragraph 2, Title VI, Book III of the Chilean Code of Criminal Procedure governs the process of passive extradition in which the first trial is handled by the President of the Supreme Court, and states the rules of procedure which must be followed. Article 647 provides as follows: "The investigation will be essentially limited to the following points: 1.—to determine the identity of the defendant; 2.—to determine whether the crime attributed to the defendant is among those subject to extradition under the provisions of the treaties in force and, in tne absence of any such treaties, in accordance with the principles of international law; and 3.—to prove whether or not the defendant has in fact committed the crime with which he has been charged."

10. That the identity of the defendants whose extradition has been requested by the United States Government appears to have been legitimately established in legal proceedings and by the evidence presented in support of the petition, as well as by the summary investigation conducted by this court. They have, thus, been identified as Armando Fernández Larios, Pedro Octavio Espinoza Bravo and Juan Manuel Guillermo Contreras Sepúlveda, who are identified and present testimony on pages 59, 72 *verso* and 80, respectively, of the case file; the two first defendants, an Army Captain and Colonel on active duty, and the latter a retired Army General.

11. That Article II of the treaty in force limits the crimes and offenses for which the contracting parties agree to grant a petition for extradition, with N°1 listing "Murder, comprehending assassination, parricide, infanticide, and poisoning; attempt to commit murder; manslaughter, when voluntary".

12. That the common denominator in the five crimes with which the petition for extradition charges the defendants Fernandez, Espinoza and Contreras as perpetrators and circumstantially referred to in Argument N°1 of the present ruling is that of murder. However, as rightfully expressed by the Prosecuting Attorney to the Supreme Court on page 703, the crimes of "conspiracy", "damages" and "destruction" mentioned on the list included in the first petition for extradition and the other two in Number 5 of the aforesaid petition are not among those which, in accordance with Article II of the Extradition Treaty of 1902 and in its Supplemental Protocol, give grounds to an extradition. Therefore, it is useless to make any further references to such crimes in the present decision inasmuch as the petition for extradition of the defendants, which is founded on such facts, is to be rejected without further argumentation.

13. That, regardless of whether or not the existence of the crimes of murder committed against the persons of Orlando Letelier and Ronni Moffit has been duly determined in accordance with Chilean criminal law, the existence of such crimes appears to have been legitimately established by legal proceedings recorded in the exhibits accompanying the petition for extradition presented by the United States Government which, as mentioned in the last paragraph of Argument No. 1 of the present decision, "have been duly certified as to their authenticity by competent officials of the petitioning government in the manner prescribed by Article III, Paragraph 2 of the 1902 Extradition Treaty signed by the United States and Chile and legalized in conformance with the law in the presence of United States as well as Chilean authorities pursuant to the provisions set forth in Paragraph 1 and in Paragraph 2, Number 3, Article 345 of the Chilean Code of Civil Procedure in harmony with the provisions of Paragraph 1, 2 and 4 Article 186 of the Chilean Code of Criminal Procedure as set forth in the proceedings appearing on pages 7, 8, 9, 10 and 11 of the forementioned original English volume or file whose translations into Spanish appear in these proceedings, which have been checked, in part, by experts appointed by the present court of original jurisdiction, in the form of the following pieces of evidence:

(a) exhibits 1, 2, 3, 4 and 5, namely testimony by Michael Moffit, who occupied one of the back seats in the automobile in which she was riding; by police officers Walter Johnson and Charles Kucmovich, who were among the first to arrive at the scene of the crime and who indicate that they treated the victims, and by FBI special agent Carter Cornick, who indicates that he arrived at the scene of the crime shortly after the crime took place or, in other words, at nine o'clock A.M. on the morning of September 21, 1976, as indicated by the deponents;

(b) exhibits 32 and 36 transcribing the autopsy reports on Orlando Letelier and Ronni Moffit prepared by Drs. James M. Luke and Leroy Riddick, respectively, which conclude that the cause of death for the former victim was "loss of blood, traumatic amputation of the lower extremities, injuries suffered as a result of an explosion; circumstances of death: "homicide", and for the latter victim "inhalation of blood, laceration of the larynx and right carotid artery; injuries suffered as a result of an explosion; circumstances of death: homicide.";

(c) exhibits 14 to 31 consisting of photographs of the scene of the crime taken by FBI agents after the fact showing the condition of the car driven by Letelier, after the explosion;

(d) exhibits 34, 35, 38, 39 and 40, all photographs of the bodies of Letelier and Mrs. Moffit accompanying the aforesaid autopsy reports; and (e) exhibits 76 and 95 consisting of reports by explosives experts Stuart W. Case and William H. Koopan.

14. That as to the involvement of defendants Fernández, Espinoza and Contreras in the deeds alluded to in the petititon for extradition and, more specifically, their alleged involvement in the crimes of murder committed against the persons of Orlando Letelier and Ronni Moffit, the existence of which has been established by the court sitting in the petitioning country and in the present extradition proceedings through the means of proof referred to in paragraph 13 above, in order to limit the line of reasoning leading directly to a determination of whether or not there has been criminal involvement in the deeds on the part of the defendants in accordance with Article I of the Treaty of 1902, it might be desirable to begin with the introduction to an analysis of this point by the attorney for the United States Government appearing on page 257 *verso* as part of his brief beginning on page 238 setting the grounds for the petition for extradition in which he says:

"There are multiple, serious, precise, direct and concordant presumptions of the defendants' involvement in these deeds, which have been presented in the course of the proceeding in the manner outlined in the indictment, all of which are based on real, proven facts and not on other legal or artificial presumptions. There is also abundant testimony and documentary evidence on different aspects of their involvement sufficient not only to force the defendants to undergo trial under Chilean law, but to actually convict them as well".

15. That there do not exist in these proceedings such multiple presumptions of the criminal involvement of defendants Fernández, Espinoza and Contreras in the crimes with which they have been charged in the indictment handed down by the Federal Grand Jury for the District of Columbia in the United States. Nor can it be said that the presumptions characterized as "*well-founded*" by the aforesaid petition are in fact *well-founded* presumptions or can, in fact, be qualified as such under Chilean law (Article 274 of the Code of Criminal Procedure) or under the provisions of the Extradition Treaty of 1902 which has the force of law for both parties thereto, Article I of which stipulates that the Governments of the United States and Chile agree to turn over to the other government any person accused of any of the crimes or offenses specified in Article II who seek asylum or who are found within their own borders—

"provided that this shall only be done upon such evidence of criminality as, according to the laws at the place where the fugitive or person charged shall be found [in this case Chile], would justify his or her apprehension and commitment for trial if the crime or offense had been there committed".

16. That, in fact, a thorough examination of each of the antecedents presented in the proceeding and which are used to infer presumptions of guilt against the defendants immediately shows that all such facts, as indicated by the Fiscal of the Supreme Court in his legal opinion, are essentially either directly or indirectly derived from the accusations made against them by Michael Vernon Townley in his testimony in response to questioning by Assistant U.S. District Attorney for the District of Columbia, Eugene M. Propper, appearing on pages 123 in the translation file and on pages 97 to 143 in the original English file.

In this version of his statement, in which he confesses to having been involved as a principal in the crimes of murder committed against the persons of Orlando Letelier and Ronni Moffit, Townley asserts, in brief, that at or around the end of June or the beginning of July 1976, Army Lieutenant Armando Fernández Larios requested him to come to a meeting with Colonel, formerly Major, Pedro Espinoza, which was to be strictly confidential. In the course of the meeting the latter asked him whether he would accept a special assignment outside of Chile—an assignment which he did accept after laying down certain conditions. In a second meeting held a few days later, Espinoza informed him that "the DINA mission in which he was to take part was for the assassination of Orlando Letelier", that they were to use falsified Paraguayan passports, and that the death was to appear accidental but that the assassination was to be accomplished in any event, even through the use of a bomb, if necessary. He said that Colonel Espinoza had informed him that the Letelier assassination was to be a joint endeavor between himself and Lieutenant Fernández. As part of the assignment, he allegedly accompanied Fernández to Paraguay to obtain false passports. He uses the alias Juan Williams Rose.

while Fernández went by the alias of Alejandro Romeral Jara.

However, they did not continue on to the United States at that time but returned to Santiago under orders received by Fernández. Some time later Colonel Espinoza informed him that Fernández was conducting "preoperative" intelligence in the United States, that the Letelier mission was still on and that he (Townley) was also to travel to the United States and "make contact" with a group of Cuban exiles so that they would do away with Letelier. He traveled to the U.S. under the alias Hans Petersen Silva and was met at Kennedy International Airport in New York by Fernández, who was accompanied by a woman and by his sister Rosemarie. The former was traveling with Fernández to provide him with "cover" for the DINA mission in connection with which he was to collect information on Letelier's movements and lifestyle.

He also stated that Fernández handed him a sheet of paper containing a sketch of Letelier's residence and office, as well as written details on Letelier's and his wife's automobiles. Once in Washington, he worked with the Cuban Virgilio Paz in confirming the information supplied by Fernández and purchased the materials needed to prepare the bomb and to plant it in Letelier's automobile. When the bomb was ready he says personally to have planted it on the outer crosspiece of the automobile chassis under the driver's seat, fastening it with adhesive tape which he had purchased earlier for this very purpose. All these events are said to have taken place on September 19, 1976. On the 21st he was advised by Ignacio Novo Sampol that "something had happened in Washington". He returned to Santiago on September 23rd, reporting directly to Colonel, or at that time Major, Pedro Espinoza Bravo.

As to Colonel Contreras, who was director of DINA at the time of Letelier's assassination, the version of Townley's same statement reads more or less as follows: In March of 1978 as a result of some letters rogatory sent by the United States government (requesting that he be surrendered to police officers) but before his photograph and the name Juan Williams Rose had been published in the Santiago press,

"I met with General Manuel Contreras Sepúlveda concerning the future strategy to be followed in answering any questions which might be raised with respect to my trip to Paraguay with Captain Fernández and our subsequent trip to the United States to assassinate Letelier." He then adds: "we met in an automobile and drove around Santiago while Contreras suggested that I immediately flee Chile to avoid being questioned and that when I refused to leave he thought up a plan whereby I was to answer any questions as follows: I went to Paraguay on an official DINA mission. I was to give no details, citing reasons of national security. I returned to Santiago from Paraguay after completing my assignment for DINA. I never traveled to the United States on any DINA mission. If they interrogated me further, I was to admit that Captain Fernández and I had planned to travel to the United States on assignment for DINA whereby we were to obtain a list of U.S. politicians who were sympathetic to the Chilean cause. However, the mission was never accomplished."

Townley also states that this meeting was followed by yet another interview with Contreras and Armando Fernández to go over what they were going to say about this trip to Paraguay, adding that Espinoza was not present and took no part whatsoever in any of these meetings. Another part of his statement reads as follows:

"As to what I know about how DINA operated, being, as I was, with the agency almost from the beginning, I know that no one in DINA, with the sole exception of Manuel Contreras, was authorized to order the accomplishment of a mission outside of Chile, particularly something like an assassination. Furthermore, only General Contreras was empowered to authorize the issue of false identification papers such as passports and only he could authorize the disbursement of any funds."

Following the investigation conducted by the U.S. District Attorneys' Office through Assistant Attorneys for the District of Columbia Messrs. E. Lawrence Barcella and Eugene M. Propper and, in general, through the intermediary of special agents attached to the Federal Bureau of Investigation (FBI), as well as the investigation by the Grand Jury attached to the U.S. District Court for the District of Columbia, it is easy to see that all the statements presented by the witnesses, the depositions made by FBI agents, all the exhibits, photographs, copies of bills of sale for electronic and other types of components, the list of passengers and fares traveling by air from Chile to the United States and vice versa, the identification papers and the other documents presented, most of which are unofficial instruments, were simply a means of corroborating the statements made by Michael Townley for the obvious purpose of proving the truth of the accusations against defendants Fernández, Espinoza and Contreras made by Townley in his aforementioned statement, as dramatically demonstrated by a simple examination of the analysis of "arguments" presented by U S. government attorney Mr. Etcheberry appearing on page 257 *verso* through page 299 *verso* and included in his brief beginning on page 238 used as grounds for the extradition petition.

17. That, however, none of these previous investigation proceedings carried out by the Office of the U.S. Attorney or the judicial actions conducted by the Grand Jury of the District Court of the United States give grounds to deduce "well-founded presumptions" of guilt to the effect that Townley received, through Pedro Espinoza, the order or mission of murdering Orlando Letelier and, consequently, Ronni Moffit, which order is said to have been issued by Juan Manuel Contreras when, as a colonel in the Chilean Army, he was Director of National Intelligence (DINA), and that Captain Armando Fernández Larios participated directly in such plot by order of Contreras and under the leadership of Espinoza as Chief of Intelligence Operations of DINA, when the latter was assigned there with the rank of Lieutenant Colonel in the Army during the months of August and September 1976, when the events that gave rise to the extradition occurred, and, in view of the fact that the murders of Letelier and Ronni Moffit, as has been established in this trial, were perpetrated in Washington, D.C., U.S.A., on September 21, 1976. [sic]

18. That Michael Townley's statement, despite Townley's unquestionable status as perpetrator of the aforementioned murders, must be considered the statement of a witness under the definition of that word in the Dictionary of the Royal Academy of the Spanish Language:

"A person who witnesses or gains direct and true knowledge of something";

However, because the statement in question is that of a singular witness, in order that it may be considered conclusive, and so that the weight of evidence may be attached to it with the scope of "a well-founded presumption", it is necessary to take into account, together with it, not only such other background as may serve to verify it, as herein done, but very specially, the impartiality of the witness, whether he has been consistent, and the circumstances in which were made the statements that are being used to support the charges against the accused.

19. That, with respect to Townley's impartiality and the circumstances in which were made the statements charging Fernández, Espinoza, and Contreras, it should be pointed out that, as recognized by United States attorney Etcheberry in folio 270, *verso*, of the document beginning in folio 238, on which he bases the request for extradition, before Michael Townley made his statement to Deputy Attorney Eugene M. Propper, he concluded an agreement with the Government of the United States on April 17, 1978, through the District of Columbia Attorney, the text of which agreement appears in the statement made to the District of Columbia Grand Jury by Maria Inés Callejas, Townley's spouse, which appears in folio 188 of the Translations file, and paragraph 6 of which reads literally as follows:

"The United States agrees not to bring legal action against Michael Vernon Townley for any other crimes that it may discover which occurred before the date of this agreement. That date is April 17. It is understood that the United States does not have knowledge on the date of this agreement that any crime of violence has been committed in the United States involving Michael Vernon Townley, except for the case of Orlando Letelier and Ronni Moffit. The United States also agrees not to bring legal action against the wife of Michael Vernon Townley—Mariana Callejas H. Townley—for any crime that it may discover. This agreement not to bring legal action does not apply to crimes of violence, as that term is defined in Title 23, D. D. Code, Section 1331 (4). It is understood that the United States does not have knowledge on the date of this agreement of any crime by Mariana Callejas H. Townley."

[Translator's note: the foregoing quotation has been translated without reference to its original text.]

20. That, in those conditions, it is obvious that Townley's statement confessing to his participation in the murders in question and implicating as accomplices Fernández, Espinoza, and Contreras, is a "Compensated Declaration", since in return for it he is "exempted" from direct criminal liability for the murders of Letelier and Ronni Moffit, with the Government of the United States agreeing "not to bring legal action against Michael Vernon Townley" and promising, in addition, "not to bring legal action against the wife of Michael Vernon Townley—Mariana Callejas H. Townley—for any crime that it may discover.

21. That, consequently, it must be concluded, in view of such promises, which denature the criminal procedure and diminish the strength of the credibility of the persons they favor, that Townley's incriminating statement lacks impartiality; it was undoubtedly made under the influence of the aforementioned "agreement" and, therefore, it cannot be considered evidence with the scope of a "well-founded presumption" of guilt against the accused.

22. That, moreover, the lack of consistency of the various statements made by Townley regarding his participation in the crimes under consideration, in some of which he denies direct and culpable participation in the acts and acknowledges it in others, as has been established in this record (statement mentioned in ground N° 16 and statement made to Military Judge Hector Orozco in the proceeding for "false documents et al"), strengthens what has just been expressed in the preceding paragraph and undermines the credibility of his assertions.

23. That, with respect to the statement of Mariana Ines Callejas to the Grand Jury of the United States District Court in the District of Columbia, which appears in folios 187 et seq. of the Spanish Translations File, after she was advised by Deputy Attorney Barcella of the existence of the "agreement"

between the Government of his country and her husband, Michael Townley, which agreement is transcribed in Whereas clause N° 19 of this decision, in which statement she says that she knew about the order to get rid of Orlando Letelier, which order, according to what her husband told her, had been given him by Pedro Espinoza, it should be pointed out that, in the Court's opinion, the hearsay testimony of Mrs. Townley lacks impartiality and cannot be given the weight of a "well-founded presumption" of guilt for the same reasons adduced in ground N° 21 of this decision in considering the incriminating statements made by Michael Townley.

24. That, as a logical corollary to that set forth in whereases 6 to 23, the judge pronouncing the decision considers that, up to this point in the case, there had not been attached nor produced such evidence of guilt against Fernández, Espinoza, and Contreras, the accused, as according to Article I of the 1902 Treaty and Chilean law—especially that established in Article 274(2) of the Code of Criminal Procedure warrants their "apprehension and commitment for trial" in the event the crimes of murder of Orlando Letelier and Ronni Moffit had been committed in Chile. Consequently, the extradition request presented by the Ambassador of the United States of America in the name of his government should be rejected.

25. That, it therefore seems even more advisable to the court to refer to that agreed to in Article V of the 1902 Treaty by the Governments of the United States and Chile, both because this matter is dealt with extensively in folio 238 of the brief submitted by Attorney Etcheberry, representing the Government of the United States, in the chapter titled "The Option of Surrendering Nationals" which begins on folio 300, and because other reasons for a rejection of the extradition request can be derived from the examination and application of that treaty by the courts of the United States.

26. That in Article I of the aforementioned 1902 Extradition Treaty it is agreed that:

"The Government of the United States and the Government of Chile mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committee within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other . . ." etc., and it is further agreed in Article V that:

"Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treaty."

The opinion handed down by United States Court 299, October 1936 term, states that:

"The persons named in the extradition request filed *habeas corpus* to prevent their extradition to France under 1909 Treaty. 37 Statute 1526. They are citizens born in the United States and are accused of committing crimes in France that appear among the extraditable offenses specified in the treaty. Having escaped to the United States they were arrested in New York City upon the request of the French authorities by virtue of a preliminary order issued by a United States Commissioner and were arrested as a part of extradition proceedings. The writ of *habeas corpus* contested the basis of the Commissioner's jurisdiction inasmuch as the treaty exempted United States citizens and the President had no constitutional authority to deliver up to the French authorities the persons named in the extradition request."[3]

The governing provisions of the treaty are the following:

ARTICLE I

"The Government of the United States and the Government of France mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: *Provided*, That this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been there committed."

ARTICLE V.

"Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.

The Court of Appeals of this Circuit, vacating the orders of the District Judge, upheld the allegation of the accused and ordered the stay. 81 F (2d) 32. This Court granted certiorari."

The District Court of Appeals for the Second District of the City of New York upheld this decision on, among others, the following grounds:

"It is a customary rule that treaty obligations should be liberally interpreted in order to be consistent with the clear intent of the parties. Tucker v. Alexandroff 183 U.S.A. 424, 437; Jordan v. Tashiro, 278 U.S.A. 123, 127; Factor v. Laubenheimer, 290 U.S.A. 276, 293, 294. However, in this instance, there is no doubt concerning the interpretation of the obligations set forth in the treaty. The treaty explictly denies any obligation to deliver up citizens in a state of asylum—'Neither of the contracting parties shall be bound to deliver up its own citizens'."[4]

Inasmuch as Article V stipulates that neither of the two parties shall be bound to deliver up its own citizens, such citizens are necessarily excepted from the agreement set forth in Article I and from the "persons" described therein. The fact that the exception is contained in a separate article does not alter its effect.

This effect is precisely the same one that led to the provision in Article I that both Governments "shall agree mutually to surrender persons other than their own citizens or individuals".

Of such greater significance is the fact that one common clause, used in many of our treaties and authorizing the exception of nationals by expressly granting discretionary authority to surrender them, was omitted in the treaty with France.

The 1886 treaty with Japan stipulates in Article VII:

"Neither Contracting Party shall be bound to surrender its own citizens or individuals under this Treaty, but they may do so if at their discretion they deem that appropriate".

A similar stipulation is included in the extradition treaties of 1896 with Argentina and of 1896 with the Orange Free State. The treaties with Mexico (1899), Guatemala (1903), Nicaragua (1905), and Uruguay (1905) expressly place the discretional authority in the "executive authority". We thus find the following article (Article IV) in the 1899 treaty with Mexico:

"Neither Contracting Party shall be bound to surrender its own citizens under the stipulations of this agreement, but the executive power of each will have the authority to surrender them if, at its discretion, it deems it appropriate to do so. . . ."

Applying, as we must, our own laws in determining the powers of the President, we are obligated to maintain that his power, in the absence of any statute vesting an independent power in him, must be based on the terms of the treaty, and that, since the treaty with France does not grant the necessary authority, the President does not possess the power to surrender the persons sought. Regrettable as such lack of authority may be, any move to supply it is a matter for the Congress or the treaty-making authorities, provided that the Parties agree to allow the surrender of their nationals, and not for the courts.

27. That, nothing being known to indicate otherwise, this is apparently the consistent jurisprudence of United States courts in all cases in which extradition treaties with other countries provide for the exception established in Article V of the Treaty with the Republic of Chile, viz.

"Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treaty".

If it is known in advance how the United States courts will apply this clause in cases in which Chile as the requesting State might seek extradition of a U.S. citizen, no moral obligation to accede to the extradition request in question would be discernible even if the evidence presented against the defendants met the requirements established by the 1903 treaty and Chilean law.

28. That on folio 305 *verso* of the observation on which the United States Government Attorney bases his argument for extradition we find the following statement cited from United States Jurisprudence:

"Nevertheless, as it has been mistakenly said out of this Court that the United States would never have granted a foreign country extradition of a U.S. citizen, we shall cite what are merely a few representative examples: extradition of Blas Aguirre, (murder, granted March 26, 1900); extradition of George P. Monroe (murder, granted January 8, 1912); extradition of Juan Delgado Ortiz (robbery with murder, granted December, May 12, 1939); extradition of Robert W. Hart, Gerald Bellis, and Leroy Downing (armed robbery, granted July 19, 1957)".

However, the enumeration of those cases of extraditions said to have been granted by United States courts is not accompanied by any indication as to the requesting State and the terms of the respective treaties: it is not said whether or not the treaties contained the exception clause included in Article V of the Treaty of 1902 with Chile; therefore, the assertion just quoted is irrelevant to the question under examination.

The foregoing is confirmed precisely by the reference with which Mr. Etcheverry next proceeds to "Charlton c. Kelly, 229 U.S. 447 (1912), in which the U.S. Supreme Court confirmed the extradition of a U.S. citizen sought by Italy. The decision says:

"The conclusion we reach is, that there is no principle of international law by which citizens are excepted out of an agreement to surrender 'persons' where no such exception is made in the treaty itself. Upon the contrary, the word 'persons' includes all persons when not qualified as it is in some of the treaties between this and other nations. That this country has made such an exception in some of its conventions and not in others, demonstrates that the contracting parties were fully aware of the consequences unless there was a clause qualifying the word 'persons'. This interpretation has been consistently upheld by the United States, and enforced under the several treaties which do not exempt citizens".

Any other commentary would be useless in view of this decision of the United States Supreme Court which removes any doubt about the matter in question.

29. That, in order to justify the decision that will duly be made and in compliance with Article 83(2) of the Code of Criminal Procedure, some of the contradictions and

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[3] [Translated without reference to the original.]

[4] Translated without reference to the original.

absurd or contradictory responses to certain facts established in the proceeding during the investigation conducted by this Court should be made a matter of record.

(A) The accused Armando Fernández Larios says in his statement (folio 63) that in his trip to the United States at the end of August 1976 he was the "support agent" for a woman named Liliana Walker Martinez, who was to carry out a mission in that country. They traveled in a Braniff plane from Pudahuel to Miami and then proceeded in an Eastern Air Lines plane to Washington (this last fact verified by the Court's inspection of folio 51 *verso*) where they took one room in a hotel as if they were a married couple. However, the accused Pedro Espinoza and Manuel Contreras in their statements, folios 72 *verso* and 80, respectively, say that this mission of Liliana Walker was to be carried out in the offices of Corfo-Codelco in New York.

Fernández Larios traveled with Liliana Walker, and slept with her in a room in a hotel in Washington as if they were married, on a trip that lasted 15 days, and he states that he does not know who she is, why she went to the United States, and he cannot identify her.

(B) On folio 82 *verso* of his statement, the accused Manuel Contreras says:

"I never knew this Mrs. Callejas as an informant or 'ear' of the DINA, so I do not believe that she worked in any way for the service".

However, this Mrs. Callejas, whose name is Mariana Inés Callejas Honcres, appears on the identification card issued by the Central Nacional de Informaciones [National Intelligence Agency] as "A Pizarro" and, according to the statement of Army Captain Cristoph Georg Willike Floel (folio 95) (who worked in the DINA and in its successor, the aforementioned C.N.I., from 1973 to July 1978) this identification card is signed by the former Director of the Service, Colonel Manuel Contreras Sepúlveda. Moreover, it was determined in the court's inspection of folio 103 that the identification card with the name "A. Luisa Pizarro Aviles" and the existing photograph in the identification files that corresponds to "Inés Callejas Honores" are of the same person, namely "Inés Callejas Honores".

In the personal investigation of folio 136 at the Military Hospital of this capital, the patient's record of release from that establishment—a photocopy of which appears with N° 102 of the file of documents accompanying the extradition request with the name of Ana Luisa Pizarro Aviles—was shown to María Angélica Munóz Mendoza, the gynecology assistant, and the signature of the physician stamped on that card immediately was recognized by Mufizo and by Dr. Juan Lombari Borgoglio, a colonel in the medical service and the director of the Military Hospital, as being that of Dr. Oscar Novoa Allende. Dr. Novoa, in his statement on folio 141, acknowledges that all the writing on that release record is in his own handwriting. The patient entered the hospital on August 7, 1976, and was released on August 14, 1976, as stated on the release record.

For those reasons and pursuant to the provisions of Article 653 of the Code of Criminal Procedure,

It is declared:

1. In view of what is set forth in grounds 1–8, it is contrary to law to accept the objections stated in the first complementary petition of the pleading of folio 502;

2. The request for extradition brought by the Ambassador of the United States, in the name and as representative of his government, against the accused Armando Fernández Larios, Pedro Octavio Expinoza Bravo, and Juan Manuel Guillermo Contreras Sepúlveda, is denied, and they are to be released if this decision becomes a final judgment; and

3. A certified copy of this decision shall be duly transmitted to the Second Military Court in Santiago for the purposes of preparation of the appropriate proceeding, if one is not already in progress, to investigate, in conformity with the provisions of Article 3(2)(2) of the Code of Military Justice, what responsibility may be charged to Fernández, Espinoza, and Contreras in the murders of Orlando Letelier and Ronni Moffit in Washington, D.C., U.S.A. on September 21, 1976.

To be reviewed if not appealed.

This decision to be recorded.

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Handed down by Israel Borquez Montero, President of the Supreme Court of Justice of Chile.

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ADDRESS OF CHAIRMAN A. LEE FRITSCHLER BEFORE NATIONAL ASSOCIATION OF POSTMASTERS

Mr. STEVENS. Mr. President, recently the new Chairman and Vice Chairman of the Postal Rate Commission, A. Lee Fritschler and James Duffy, were sworn into office. Their swearing-in marked the close of an outstanding stewardship by former Chairman Clyde DuPont. Clyde, as many of you know, was Senator Hiram Fong's chief assistant, and has done an excellent and commendable job as Chairman of the Postal Rate Commission. Clyde's continued service on the Commission, I know, will benefit this Nation. I want to take this opportunity to not only commend Clyde in his achievements, but to wish the new Chairman every success, as well.

Recently, Chairman Fritschler addressed an organization of dedicated individuals, the National Association of Postmasters of the United States. Chairman Fritschler's comments deserve close attention for he has succinctly outlined the role of the Postal Rate Commission and emphasized the problems and issues which they face in the coming years.

Mr. President, I ask unanimous consent to insert at the end of my remarks the complete text of Chairman A. Lee Fritschler's comments before the National Association of Postmasters of the United States on September 27, 1979.

There being no objection, the speech was ordered to be printed in the Record, as follows:

SPEECH OF CHAIRMAN A. LEE FRITSCHLER

Good morning. I want to thank Ms. Turney, Mr. Copham, and Mr. Miklozek for giving me the opportunity to speak with you this morning.

As a newcomer to the postal system, I am pleased to have the chance to speak to this important group of postmasters. I have spent much of my time during the past two months immersing myself in postal matters in general, and specifically, in the issues before the Commission. I have learned a great deal about the postal service in this country through my visits to a large number of postal facilities and by participating in meetings, such as this NAPUS conference. Talking with folks like you who are charged with implementing postal policies is the best way to learn about the Postal Service. I am impressed with your accomplishments and your dedication to the public service.

My colleague, Simeon Bright, was here yesterday to present you with an overview of the PRC—its authority and areas of responsibility. I would like, this morning, to discuss those elements of PRC activity that directly impact your role in the Postal Service. I also want to talk about my goals for the future of the Commission.

The Postal Service was established in 1970 as part of the Postal Reorganization Act. The Act, a result of the 1968 report of the Kappel Commission, set up an independent establishment that would serve the Nation's need for an efficient and economical postal system. The primary goal in this new, independent Postal Service was the achievement of a self-sustaining, professionally managed modern industry responsive to the public interest.

The Rate Commission was also established in 1970. It was charged with setting the prices of postal services upon the periodic request of the Service, based upon supporting data and presented in fully open public hearings. In addition, as Commissioner Bright indicated yesterday, the Commission has authority over mail classification changes, changes in the nature of postal service, complaints, and the closing of small post offices. I realize that the latter area is of particular national concern. The PRC has commissioned an independent study to look at the role played by the post offices in small communities, and to assess the impacts of post office closings.

To analyze and work with the Postal Service is a complex and time-consuming task. Expediting our case load and streamlining our own regulatory processes is of particular concern to me. The analysis of data and testimony, which consumes thousands of pages, is a difficult job requiring the skills of carefully trained professionals. The Commission employs a highly qualified staff of 40 professionals. They are assigned to technical and legal analysis and have backgrounds in law, economics, operations research, rate analysis, accounting and auditing. Many of them have years of experience with other regulatory bodies.

The PRC has a unique regulatory role. We are the only regulatory body whose sole function is overseeing another Federal agency. It is natural for tension to exist when one body regulates another. Regulation is not pleasant—the word itself has negative connotations. When two Federal agencies are established simultaneously—as we were—each mandated to establish itself in the same public service area, there will be friction probably beyond what is normal in a regulatory situation.

The friction must be overcome so each agency can attempt to establish its own management boundaries and find roles which are mutually supportive—not hostile, but critical, tough and supportive. Open, fair and tough minded regulation is a public service. Furthermore, it is important to the Postal Service itself, and the industries and employees associated with it. Regulation, properly done, assures the public and all those connected with the postal business that rate and mail classification proposals, for example, have stood the test of public and professional scrutiny in an open, quasi-judicial forum. The results of a sound regulatory process are confidence in and public support of decisions made.

There are several contentious issues involving the relationship between the Postal Service and the Commission. Officials of both agencies recognize most of these problem areas and are moving to establish a cooperative and workable climate. There will be occasions in the future when we will disagree. There will be times when we render decisions which could be misinterpreted. I ask for a careful reading of our decisions and no prejudgment. I pledge to the postal community that I will work for decisions which will benefit us all—the public, the postal employees, the postal business community and the Service itself.

Successful, useful regulation must be conducted in an environment of full cooperation and information sharing. In order for the PRC to continue streamlining its regulatory procedures and to enable the Service to be responsive to the public's needs without undue delay—cooperation, information and trust must be the code words between the two agencies. At times our decisions are delayed because of a lack of appropriate data. The Service must understand that we can only move ahead when accurate and complete data are provided in a timely manner.

The Commission has recently responded to the needs of a modern Postal Service by calling a public conference to discuss the implementation of new rules and procedures for experimental mail service proposals. Instead of requiring a full-scale, on-the-record evidentiary hearing procedure, a more streamlined procedure is being considered. This procedure would remove some of the time-consuming formalities of an evidentiary hearing and reduce or eliminate the need to provide data where virtually no data exists. The PRC and the Service might go a step further and work jointly to seek legislation which would authorize temporary, limited implementation of experimental services using rulemaking processes rather than trial-type or quasi-judicial hearing processes.

Although I cannot review all of the substantive points presently before the Commission, you might be interested in a brief summary of the dockets currently pending.

The Commission is presently in its final decision phase of a Service proposal to offer lower rates for bulk mail machinable parcels. There would be a surcharge on nonmachinable parcels as well, and the rates would distinguish between intra-BMC area parcels and those moving between BMC areas. The issue in this case is whether or not the Postal Service has shown that cost differentials justify the proposed rate differentials. Of course, as with any parcel post case, there is always the issue of competition between the Service and private carriers in a highly competitive industry.

Another case nearing decision involves electronic computer originated mail. This case provides a new challenge to the PRC in that it involves the highly technical issues of telecommunication methods and computer sciences. The issue of market competition is a major concern to the PRC. Issues have been raised as to the proper role of the Service in the field of electronic communications, as well as what type of system configuration would offer the best electronic mail service to the public.

We anticipate that both the parcel post and E-COM decisions will be issued before the end of the year.

Other dockets before the Commission concern the possibility of a red-tag surcharge for second-class mailers, a reduction for non red-tag second-class mail, expansion of eligibility for red-tag treatment, discounts for third-class carrier route presorts, and Express Metro Mail Service—which the Service states will increase the usefulness of the Postal Service to those who require high-speed service within a metropolitan area.

Each of these cases and issues pose potential major impact for both large mailers and "Aunt Minnie." It is, therefore, understandable that they are highly charged issues creating areas of tension and problems for the Service and the PRC.

There are four phases in a regulatory agency's life cycle—Gestation, Youth, Maturity and Old Age. During the first cycle, gestation, a rather pronounced degree of social momentum leading to the development of enabling legislation establishing the regulatory body takes place. The establishment of the PRC and the Service was the result of a need to improve the efficiency of the postal system. During the early 1970's both the Service and the Commission worked to clarify their roles.

The PRC now is in its youthful stage. Kenneth Culp Davis describes the youthful regulatory agency as one "dominated by the qualities of youth—noted for its energy, ambition and imagination." The PRC has set regulatory precedent in several court cases and has begun to establish itself as a model regulatory commission in its administrative process. The PRC commissioners are dedicated and committed to innovation in the highly technical and specialized fields within its jurisdiction.

The next regulatory cycle, "maturity," will be reached only when postal regulation becomes more settled and understood by all parties. It is to this next level that I will be working to bring the Commission during the next several years in a cooperative effort with the Service.

The PRC has come a long way in improving regulatory management in the last few years. The Commission has done away with the process of holding hearings before an Administrative Law Judge. The alternative of having the Commissioners sit together, with one of our five commissioners presiding, has eliminated the time involved in evaluating a judge's written decision. The PRC has taken other steps to streamline and improve its work. All decisions regarding postal rates are issued within a 10-month time frame. The Commission has also taken steps, as I mentioned, to limit full hearings for experimental service requests. We have recently reorganized the internal units within the Commission, bringing the technical and planning units together and improving the coordination between that unit and our legal staff. Combined these actions have aided our administrative procedures and have enabled us to operate as an effective regulatory body.

I believe our recent actions at the Commission can serve as an example of regulatory reform. President Carter has strongly encouraged regulatory bodies—and indeed has introduced legislation—to reduce delay in agency proceedings by streamlining hearing procedures, increasing reliance on written submissions and increasing the effectiveness of public participation. He has done more to improve the regulatory process than any modern president. This administration has established a regulatory council composed of representatives from each regulatory agency and executive department. The PRC has taken an active role in the work of the council and will continue to do so. The council will soon be publishing its second regulatory calendar, a compendium of major regulatory agency activities. The PRC has been a major contributor to the calendar—further evidence of its commitment to a leadership role in the processes of streamlining regulatory management. The PRC will be issuing bi-weekly summaries of activities beginning in October as well as an annual report. Where appropriate, other management innovations will be introduced at the commission, both to facilitate our work and to make certain our work is understandable to the public.

There are many issues lying ahead for the Commission as it continues to mature. The postal system of the United States must continue to find ways to meet increased demand, and new technological challenges. The Commission must and will cooperate in facilitating these goals.

The Commission has traveled a great distance in nine years. I look forward to the challenges in my new role and hope that together we can continue to provide the public with the kind of first-rate postal service it demands and deserves.

Thank you very much.

VISIT OF POPE JOHN PAUL II

Mr. HEFLIN. Mr. President, in this time of national malaise, concern over Soviet troops, energy uncertainty, and worldwide inflation, the visit of Pope John Paul II comes as a most remarkable and welcome event.

This man, religious leader of the world's 700 million Roman Catholics, has given this Nation and the world something better to think about than our problems. He has shared with us his wisdom, vision, and love, and has given us his counsel.

Pope John Paul II, the first non-Italian Pope in more than four centuries, has proven himself truly a citizen of the world. His dignity, humility, compassion, and unrelenting faith in God and His creations have given the people of this beleaguered world desperately needed respite from despair—and possibly the hope, will and determination to strive for a more perfect earthly life.

The First Lady, Mrs. Rosalynn Carter, said in welcoming the Pope to the United States Monday that he has touched the world as few have ever done before. This is certainly correct.

The Pope is a man of strong moral and fundamental beliefs—and he is not afraid to voice his views.

Pope John Paul has shown courage throughout his life. As Archbishop of Cracow, Poland, under a Communist regime that restricted religious activity, the Pope spoke out for religious freedom.

Earlier this year he returned to his native land and again braved official repression to speak out for the Polish peoples' right to religious freedom. His visit to Poland has rekindled the spirit of the people of that nation.

In Ireland this week he also spoke out strongly. He condemned the violence and terrorism that have ravaged that island nation for decades. He braved threats of violence against himself to carry on his sacred mission of peace and justice.

But the Pope recognizes that hatred, violence, and selfishness not only threaten strike-torn Ireland or Communist bloc nations, but the entire world.

Pope John Paul has begun to give his advice to us in the United States, and I hope and pray the millions of people who will hear him this week will heed it.

He has given us an affectionate but stern warning not to lose sight of the noble principles upon which this great Nation was founded. He has embraced our people with the love and joy that he became famous for and he has pleaded with us to "fulfill our noble destiny of service to the world."

Before we can meet the Pope's challenge it is essential that we reexamine our goals and principles and return to basic beliefs in moral discipline, family orientation, brotherhood, compassion, education, and religion.

The Pope was eminently veracious when he admonished our young people not to be afraid of honest effort, hard work, truth, and justice—these are the basic American qualities that built this Nation.

I welcome Pope John Paul II to the United States and I welcome his challenge to us.

VISIT OF POPE JOHN PAUL II

Mr. PELL. Mr. President, it was a great honor and pleasure for me to be in Boston the day before yesterday to join in welcoming His Holiness, Pope John Paul II, to the United States. It was particularly gratifying that His Holiness began his visit in New England, and I was deeply touched by the tremendous outpouring of affection and respect on the part of New Englanders for the newly chosen Pope.

Pope John Paul II is destined, in my view, to become one of the most popular and beloved Pontiffs in history. He combines down-to-earth qualities, to which every man, woman, and child can personally relate, with a truly inspirational vision of mankind and individual worth that uplifts everyone with whom he comes into contact.

Pope John Paul II has demonstrated, in recent visits to Poland and Ireland, that the appeal of his words and actions is universal. What better leader, therefore, for a universal church than this wonderful man? His Holiness' visit comes at a time of great social and spiritual uncertainty in our country, and I am confident that all Americans, of whatever faith, look forward to being touched, even if indirectly, by the wisdom and genuine love that Pope John Paul II has to offer.

I believe that as time goes on his impact will continue to grow. It has already gone beyond the circles of those who are Catholic, and it will soon have an impact throughout Christendom and then will come to permeate the world. I believe he will prove to be the largest single figure on the world stage of the coming decade.

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:22 p.m., a message from the House of Representatives delivered by Mr. Guthrie, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 303. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 7, 1979, as "National Port Week."

The enrolled joint resolution was subsequently signed by the Vice President.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2250. A communication from the Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting, pursuant to law, the initial commodity and country allocation table showing the planned programming of food assistance under title I of Public Law 480; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2251. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Two Contracts for Nuclear Attack Submarines Modified by Public Law 85-804—Status as of December 23, 1978"; to the Committee on Armed Services.

EC-2252. A communication from the Under Secretary of Energy, transmitting, pursuant to law, a modification to the power agreement between Ohio Valley Electric Corp. and the United States; to the Committee on Energy and Natural Resources.

EC-2253. A communication from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a proposed plan for the use and distribution of Yankton Sioux judgment funds in docket 332-C-1 before the U.S. Court of Claims; to the Select Committee on Indian Affairs.

EC-2254. A communication from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation to amend the jurisdiction and venue requirements and damage provisions in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

EC-2255. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, interim final regulations establishing standards relating to audits, records, financial responsibility, administrative capability, institutional refunds, and misrepresentaton (20 U.S.C. 1088f-1 497A of the Higher Education Act of 1965, as added by section 133 of Public Law 94-482, Education Amendments of 1976); to the Committee on Labor and Human Resources.

EC-2256. A communication from the President of the United States, transmitting an amendment to the request for appropriations for the fiscal year 1980 for the Department of the Treasury in the amount of $20,000,000,000; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Select Committee on Ethics, without amendment:

S. Res. 249. An original resolution concerning the Select Committee on Ethics' investigation of Senator HERMAN E. TALMADGE (together with additional views) (Rept. No. 96-337).

By Mr HART, from the Committee on Armed Services, without amendment:

S. Res. 250. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 595. Referred to the Committee on the Budget.

By Mr. HART, from the Committee on Armed Services, with an amendment and an amendment to the title:

H.R. 595. An act to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes (Rept. No. 96-338).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 74. A bill for the relief of Puangpaka Vertrees and Puangtip Vertrees (Rept. No. 96-339).

S. 122. A bill for the relief of Clarita Valdez Aragones (Rept. No. 96-340).

S. 132. A bill for the relief of Dirk Vierkant (Rept. No. 96-341).

S. 173. A bill for the relief of Duk Chan Byun, his wife Yung Ja Byun, and his children Hye Ja Byun, Hye Sun Byun, Hye Ryung Byun, and Yung Eun Byun (Rept. No. 96-342).

S. 1578. A bill for the relief of Dr. Halla Brown (Rept. No. 96-343).

H.R. 898. An act for the relief of Rodney L. Herold and others (Rept. No. 96-344).

H.R. 929. An act for the relief of Eun Kyung Cho and Hei Kyung Cho (Rept. No. 96-345).

H.R. 946. An act for the relief of Maria Estela Sims (Rept. No. 96-346).

H.R. 1153. An act for the relief of Nyoman Rahmawati (Rept. No. 96-347).

H.R. 1163. An act for the relief of Gladys Venicia Cruz-Sanchez (Rept. No. 96-348).

H.R. 1486. An act for the relief of Dang Peterson (Rept. No. 96-349).

H.R. 1628. An act for the relief of Susan Katherine Adamski (Rept. No. 96-350).

H.R. 1753. An act for the relief of Sergio and Javier Arredondo (Rept. No. 96-351).

H.R. 2098. An act for the relief of Antonio Rivera Aristizabal (Rept. No. 96-352).

H.R. 3142. An act for the relief of Michael Carl Brown (Rept. No. 96-353).

H.R. 3146. An act for the relief of Patrick A. and Wayne L. Thomas (Rept. No. 96-354).

H.R. 3218. An act for the relief of Rebecca Sevilla DeJesus (Rept. No. 96-355).

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment:

S. 274. A bill for the relief of Sang Sun Russo (Rept. No. 96-356).

By Mr. LONG, from the Committee on Finance, without amendment:

S. 493. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes (Rept. No. 96-357).

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON THE JUDICIARY, EXPENDED BETWEEN JULY 19 AND SEPT. 5, 1979

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Barney D. Dusenbury: Switzerland	Swiss franc	313.35	192.00					313.35	192.00
Jerry M. Tinker: Switzerland	Swiss franc	313.35	192.00					313.35	192.00
Richard W. Velde: Switzerland	Swiss franc	313.35	192.00					313.35	192.00
Jan H. Kalicki: Korea	Won	72,600	150.00					72,600	150.00
Jan H. Kalicki: China	Yuan	461.97	300.00					461.97	300.00
Total									1,026.00

Sept. 28, 1979.

EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES, EXPENDED BETWEEN AUG. 3 AND AUG. 25, 1979[1]

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
S									
Tenator Henry M. Jackson: China	Yuan	1,203.24	781.37					1,203.24	[2] 781.37
Travel within China				1,606.40	1,043.18			1,606.40	1,043.18
ransportation United States/China/United States					2,051.61				2,051.61
Total			781.37		3,094.79				3,876.16

[1] Arrived Seattle, Wash., Aug. 25, 1979, returned Washington, D.C., Sept. 4, 1979.

[2] For record: Refund to U.S. Government of unused portion of per diem while in China: Yuan 834.00 equals $541.59. Returned to: U.S. Disbursing Officer, American Embassy, Beijing.

HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources.

Sept. 28, 1979.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
Jacques J. Gorlin:									
France	Franc	1,139.4	270.00	100	23.70			1,239.4	293.70
Switzerland	Franc	478.35	288.00					478.35	288.00
United States	Dollar				943.00				943.00
Richard L. McCall:									
Egypt	Pound	1,055	1,507.00	19.9	30.66			1,074.9	1,537.66
United States	Dollar				975.80				975.80
Johannes A. Binnendijk:									
Algeria	Dinar	250	58.00					250	58.00
Morocco	Dirham	1,652	435.00					1,652	435.00
Egypt	Pound	409	585.00	19.9	29.00			428.9	614.00
United States	Dollar				2,257.80				2,257.80
Stanley Sienkiewicz:									
Morocco	Dirham	1,620.56	425.00						425.00
Egypt	Pound	210	300.00						300.00
United States	Dollar				1,418.00				1,418.00
John B. Ritch III:									
France	Franc	765	180.00					765	180.00
Switzerland	Franc	476	288.00					476	288.00
Italy	Lire	122,700	150.00					122,700	150.00
Austria	Shilling	3,851	288.00					3,851	288.00
United States	Dollar				1,249.00				1,249.00
Pauline H. Baker:									
Algeria	Dinar	200	46.40					200	46.40
Morocco	Dirham	979.46	253.09	77.40	20.00	38.70	10.00	1,095.56	283.09
United States	Dollar				1,588.80				1,588.80
Total			5,073.49		8,535.76		10.00		13,619.25

FRANK CHURCH,
Chairman, Committee on Foreign Relations.

Sept. 30, 1979.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON:

S. 1854. A bill to amend the Internal Revenue Code of 1954 to provide an election for income from certain spacecraft to be treated as income from sources within the United States; to the Committee on Finance:

By Mr. RIBICOFF (for himself, Mr. BAYH, Mr. BRADLEY, Mr. BURDICK, Mr. DECONCINI, Mr. DURKIN, Mr. FORD, Mr. HUDDLESTON, Mr. INOUYE, Mr. LEAHY, Mr. MOYNIHAN, Mr. SASSER, Mr. STEWART, Mr. ZORINSKY, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. GOLDWATER, Mr. HATCH, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. LUGAR, and Mr. WEICKER):

S.J. Res. 107. A joint resolution authorizing and requesting the President to issue proclamations designating the weeks of January 21 through January 27, 1979, and January 20 through January 26, 1980 as "Junior Achievement Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 1854. A bill to amend the Internal Revenue Code of 1954 to provide an election for income from certain spacecraft to be treated as income from sources within the United States; to the Committee on Finance.

● Mr. JOHNSTON. Mr. President, I introduce and send to the desk a bill providing for an election to treat income from certain spacecraft as income from sources within the United States.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTION TO TREAT INCOME FROM CERTAIN SPACECRAFT AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

Section 861(e) of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended by substituting the phrase "aircraft, vessel or spacecraft" for the phrase "aircraft or vessel" wherever the latter phrase is used in section 861(e).

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply to all spacecraft first leased by a taxpayer after December 31, 1978.●

ADDITIONAL COSPONSORS

S. 715

At the request of Mr. BELLMON, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 715, a bill to allow State and local governments to collect their applicable excise taxes on alcoholic beverages and tobacco products sold or consumed on military or other military reservations.

S. 1096

At the request of Mr. STEVENS, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 1096, a bill to amend title 39, United States Code, to provide for an extension of the provisions of section 3626(a) relating to reduced rates.

S. 1179

At the request of Mr. BAYH, the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Montana (Mr. MELCHER), the Senator from Alaska (Mr. STEVENS), the Senator from Nevada (Mr. LAXALT), and the Senators from Wyoming (Mr. WALLOP and Mr. SIMPSON) were added as cosponsors of S. 1179, a bill to incorporate the Gold Star Wives of America.

S. 1203

At the request of Mr. BAYH, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1203, a bill to amend title II of the Social Security Act regarding disability benefits.

S. 1214

At the request of Mr. BIDEN, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1214, the Auto Theft Prevention Act.

S. 1468

At the request of Mr. BAYH, the Senator from Montana (Mr. BAUCUS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Alabama (Mr. HEFLIN), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 1468, a bill to amend the Clayton Act to provide for contribution in antitrust price-fixing cases.

S. 1579

At the request of Mr. BOREN, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1579, the Family Welfare Demonstration Program Act.

S. 1609

At the request of Mr. WILLIAMS, the Senator from New Hampshire (Mr. DURKIN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1609, the Employee Protection and Community Stabilization Act of 1979.

S. 1656

At the request of Mr. KENNEDY, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1656, the National Fishery Development Act.

S. 1703

At the request of Mr. CHAFEE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income abroad attributable to certain charitable services.

S. 1724

At the request of Mr. WILLIAMS, the Senator from Washington (Mr. JACKSON), the Senator from Montana (Mr. MELCHER), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 1724, the Home Energy Assistance Act.

S. 1792

At the request of Mr. MCGOVERN, the Senator from Indiana (Mr. BAYH), the Senator from Maine (Mr. COHEN), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of S. 1792, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

S. 1845

At the request of Mr. EXON, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1845, a bill to provide that no salary increases shall be given Members of Congress or the Federal judiciary until the Federal budget is balanced.

S. 1846

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1846, a bill to amend the Internal Revenue Code of 1954 to provide for a $250 exclusion from gross income of interest and dividends received by an individual.

SENATE RESOLUTION 235

At the request of Mr. BELLMON, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Resolution 235, a resolution relating to the vote on the SALT II Treaty.

AMENDMENT NO. 443

At the request of Mr. JAVITS, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of amendment No. 443 intended to be proposed to S. 1204, the Child Health Assurance Act.

AMENDMENT NO. 493

At the request of Mr. SCHWEIKER, his name was added as a cosponsor of amendment No. 493 intended to be proposed to S. 1110, a bill to provide for reduced postal rates for small newspapers and magazines.

SENATE RESOLUTION 249—ORIGINAL RESOLUTION REPORTED CONCERNING THE INVESTIGATION OF SENATOR HERMAN E. TALMADGE

Mr. STEVENSON, from the Select Committee on Ethics, reported the following original resolution:

S. RES. 249

Whereas from January 1, 1973, through June 30, 1978, fifteen vouchers were submitted to the Senate in the name of Senator HERMAN E. TALMADGE which claimed and recovered Senate reimbursements in the aggregate amount of $43,435.83 for official expenses which were not incurred ($37,125.90 having been repaid by Senator TALMADGE on August 18, 1978, for overreimbursements between 1972 and 1978 inclusive); and

Whereas Senator TALMADGE failed to sign, as required by law, and properly supervise the preparation of all the aforesaid vouchers; and

Whereas the financial disclosure reports required to be filed by Senator TALMADGE under Senate rules for each of the years 1972 through 1977 were inaccurate; and

Whereas Senator TALMADGE failed to file in a timely fashion the candidate's receipts and expenditures reports for 1973, as required by Federal law, and inaccurate reports were filed for the period January 1, 1974, through December 31, 1974; and

Whereas campaign funds of Senator TALMADGE in excess of $10,000 were not reported, as required by law, and were deposited by his campaign chairman between July 3, 1973, and November 29, 1974, in an account maintained at the Riggs National Bank of Washington, D.C., in the name of Herman E. Talmadge/Talmadge Campaign Committee and were disbursed by said campaign chairman for noncampaign purposes.

Resolved, it is the judgment of the Senate that Senator TALMADGE either knew, or should have known, of these improper acts and omissions, and, therefore, by the gross neglect of his duty to faithfully and carefully administer the affairs of his office, he is responsible for these acts and omissions.

SEC. 2. It is the judgment of the Senate that the conduct of Senator TALMADGE, as aforesaid, is reprehensible and tends to bring the Senate into dishonor and disrepute and is hereby denounced.

SEC. 3. That Senator HERMAN E. TALMADGE be required to reimburse to the United States Senate the sum of $12,894.57 plus interest on overreimbursements in the aggregate amount of $43,435.83 at such rate and for such periods as are determined by the Secretary of the Treasury, in accordance with established procedures for collecting overreimbursements.

Mr. STEVENSON. Mr. President, as chairman of the Select Committee on Ethics, I am submitting herewith a resolution, and a report accompanying that resolution, in connection with the committee's investigation of Senator HERMAN E. TALMADGE. The Select Committee on Ethics, by unanimous vote, agreed to report this resolution for consideration by the full Senate, on September 14, 1979, in accordance with the provisions of Senate Resolution 338, as amended, and the committee's rules of procedure.

SENATE RESOLUTION 250—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HART, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 250

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 595, a bill to authorize the appropriation of funds for the acquisition of stockpile materials and to authorize the disposal of three excess stockpile materials.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

It was impossible for the Committee on Armed Services to properly review and give adequate consideration to H.R. 595 before the May 15, 1978, deadline due to the press of other priority legislation, namely, S. 428 the annual military procurement authorization bill, and S. 1319 the military construction authorization bill. Further the Committee on Armed Services considered and on June 6, 1979, reported H.R. 2154 which constitutes a complete revision to the Stock Piling Act requiring for the first time authorization for appropriations for stockpile acquisitions; this revision (H.R. 2154), which represents a major initiative by the Legislative Branch, logically required consideration and action before implementing legislation (H.R. 595) on specific commodities could be acted on.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 595 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF ENERGY CIVILIAN PROGRAMS AUTHORIZATIONS—S. 688

AMENDMENT NO. 501

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to S. 688, a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

• Mr. STAFFORD. Mr. President, Senator LEAHY and I are submitting an amendment to S. 688, the Department of Energy authorization bill.

This amendment would eliminate the ceiling for incidental repairs with regard to weatherization of houses occupied by low-income individuals under the National Energy Conservation Policy Act (Public Law 95-619). While this amendment seeks to remove the limit on repairs it does not remove the overall limit on expenditure of $800 per dwelling unit under the act.

A cost effective weatherization program must include repairs as well as weatherization activities. The current $100 repair limit severely limits the ability of the local weatherization programs to accomplish the stated goals of the act.

Mr. President, the Department of Energy weatherization program was designed to help millions of elderly, handicapped, and low-income people to reduce their energy consumption. Unfortunately, the limitation of $100 per home for repair places an unrealistic demand on the program.

In the communities where the programs are conducted the housing suffers from general lack of repair in addition to weatherization needs. Roofing needs are common and usually cost more than the $100 allowance. Doors and windows are often beyond repair and reframing is usually necessary in the same house that requires roof repair. This, plus costly repairs on the heating system, could require an expenditure several times the limitation of current law.

The Vermont Community Action Agency Directors Association surveyed its weatherization program records of completed and pending jobs this spring. It found that of the total of 1,228 homes weatherized, more than 71 percent needed more than $100 in repair material to accomplish the weatherization of those homes.

Thus, Mr. President, in order to meet the national objectives of energy conservation as they relate to the housing of low-income people, a flexible and comprehensive approach is needed. This means that local weatherization programs need the latitude to do what is necessary to get the maximum benefit for the people living in these homes and to achieve national goals for energy conservation. Authority is also needed to make these repairs while at the worksite to avoid unnecessary delays and omissions, and to avoid unnecessary administrative overhead. The $100 limitation of the law makes the program self-defeating.

Mr. President, the amendment we are introducing will provide the flexibility the weatherization programs need to be more effective than they are now.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 501

On page 83, insert the following between lines 2 and 3:

AMENDMENT TO THE ENERGY CONSERVATION IN EXISTING BUILDINGS ACT OF 1976

SEC. 603. Section 415(c)(1)(D) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking "(not to exceed $100)".•

PRIORITY ENERGY PROJECT ACT—S. 1308

AMENDMENT NO. 502

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE (for himself and Mr. HART) submitted an amendment intended to be proposed by them, jointly, to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

AMENDMENTS NOS. 503 AND 504

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted two amendments intended to be proposed by him to S. 1308, supra.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

• Mr. FORD. Mr. President, on Thursday, October 18, at 10 a.m., and on Friday, October 19, at 9:30 a.m., the Committee on Energy and Natural Resources will convene hearings in room 3110 of the Dirksen Senate Office Building on energy impact assistance legislation. The measures to be considered are S. 1699, the Energy Impact Assistance Act of 1979, and amendment No. 395 to S. 1308, the Inland Energy Impact Assistance Act of 1979. The invited witnesses are:

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Hon. Charles W. Duncan, Jr., Secretary of Energy, Department of Energy, Washington, D.C.

Hon. Alex P. Mercure, Assistant Secretary for Rural Development, Department of Agriculture, Washington, D.C.

Hon. Elmer B. Staats, Comptroller General of the United States, General Accounting Office, Washington, D.C.

OCTOBER 19

National Governors' Association.

National Association of Regional Councils.

As background for these hearings, Chairman HENRY M. JACKSON has arranged for publication of a committee print entitled "Energy Impact Assistance: A Background Report," prepared by Wendell Fletcher of the Environmental and Natural Resources Policy Division of the Congressional Research Service. Single copies may be obtained next week by writing the Committee on Energy and Natural Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.

Inquiries should be directed to Richard D. Grundy, Committee on Energy and Natural Resources, room 3106 Dirksen Senate Office Building, Washington, D.C.•

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

• Mr. LEAHY. Mr. President, I rise to announce that as a continuing effort to make Federal programs work the best they possibly can in rural America, the Rural Development Subcommittee which I chair, of the Committee on Agriculture, Nutrition, and Forestry, will hold an oversight hearing on rural people moving transportation.

It is my opinion that the oversight responsibilities of Congress have not been given the high priority they must have and that these responsibilities are often overlooked for the more glamorous congressional duties. However, I believe there is no reason to create a program if Congress is not going to live up to its responsibilities to see to it that it is running smoothly. This is why my Rural Development Subcommittee will continue to hold oversight hearings on programs affecting the quality of life in rural America.

The hearing will review the implementation of the section 18 bus program for rural and smaller urban areas, the effects of air deregulation on rural airports, and the Department of Agriculture's Rural Transportation Task Force.

The hearing will convene at 8 a.m. on October 24 and will conclude at noon. Testimony will be taken from public and administration witnesses. Anyone desiring further information on the hearing should contact Ken Pierce of my staff at 224-4242.•

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

• Mr. MATHIAS. Mr. President, the Governmental Affairs Subcommittee on Governmental Efficiency and the District of Columbia has scheduled hearings on the water supply network of the Washington metropolitan region on Wednesday, October 10, 1979, in room 357 of the Russell Building from 9 a.m. until 12 noon.

Anyone wishing to submit testimony should contact Eileen Mayer of the subcommittee staff in room 6222, Dirksen Senate Office Building, Washington, D.C. 20510.•

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CANNON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on S. 1656, the National Fishery Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND THE HUMANITIES

Mr. CANNON. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and the Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today to consider extension of the Higher Education Act.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POPE JOHN PAUL'S NOBLE VISION OF PEACE AND JUSTICE

● Mr. **McGOVERN**. Mr. President, perhaps more than any other individual in the world today, Pope John Paul II has come to embody mankind's hopes for the dignity of each human person, for peace among nations, and for justice among peoples. His travels have filled whole nations with joy. This simple man of peace has shown that morality is a real force in international life and that spiritual values can inspire a reverence which weapons are powerless to create. Yesterday at the United Nations, Pope John Paul II made an eloquent call for greater progress toward peace and disarmament and for greater respect for the human rights of all people.

Mr. President, as we observe the Pope's visit to America with fascination and humility, the most fitting response we can make as a nation is to examine our own attitudes and convictions, our intentions and aspirations—as he calls on us to do—to enable us to help translate his clear and stunning vision into concrete acts and policies.

We must leave our children a greater inheritance than the arms race. By following the Pope's plea, I believe we can.

Mr. President, since the text of Pope John Paul's speech deserves widespread study, I am submitting it for printing in the RECORD for the benefit of my colleagues and the Nation.

The text of the speech follows:

TRANSCRIPT OF POPE JOHN PAUL II'S UNITED NATIONS ADDRESS

Mr. President, my address today will be published in its entirety just as I wrote it. Because of its length, however, I shall now read it in a shortened form.

I desire to express my gratitude to the General Assembly of the United Nations, which I am permitted today to participate in and to address.

My thanks go in the first place to the Secretary General of the United Nations organization, Dr. Kurt Waldheim. Last autumn, soon after my election to the chair of St. Peter, he invited me to make this visit, and he renewed his invitation in the course of our meeting in Rome last May.

From the first moment, I felt greatly honored and deeply obliged. And today, before this distinguished assembly, I also thank you, Mr. President, who has so kindly welcomed me and invited me to speak.

SPECIAL BOND OF COOPERATION

The formal reason for my intervention today is, without any question, the special bond of cooperation that links the Apostolic See with the United Nations organizations, as is shown by the presence of the Holy See permanent observer to this organization.

Besides attaching great importance to its collaboration with the United Nations Organization, the Apostolic See has always since the foundation of your organization expressed its esteem and its agreement with the historic significance of this supreme forum for the international life of humanity today.

It also never ceases to support your organization's functions and initiatives which are aimed at peaceful coexistence and collaboration between nations.

This confidence and conviction on the part of the Apostolic See is the result, as I have said, not of merely political reasons but of the religious and moral character of the mission of the Roman Catholic Church.

OFFERS SPECIAL CONGRATULATIONS

This is the real reason, the essential reason, for my presence among you. And I wish to thank you, to thank this distinguished assembly, for giving consideration to this reason, which can make my presence among you in some way useful.

Here, before the representatives of the states, I wish not only to thank you but also to offer you my special congratulations, since the invitation to the Pope to speak in your assembly shows that the United Nations Organization accepts and respects the religious and moral dimension of those human problems that the church attends, in view of the message of truth and love that it is her duty to bring to the world.

The questions that concern your functions and receive your attention, as indicated by the vast organic complex of institutions and activities that are part of or collaborate with the United Nations, especially in the fields of culture, health, food, labor and the peaceful uses of nuclear energy, certainly make it essential for us to meet in the name of men in his holiness, in all the fullness and manifold riches of his spiritual and material existence, as I have stated in my encyclical *Redemptor Hominis*, the first of my pontificate.

GREETINGS WITHOUT EXCEPTION

Now, availing myself of the solemn occasion of my meeting with the representatives of the nations of the earth, I wish above all to send my greetings to all the men and women living on this planet, to every man and every woman without any exception whatever. Every human being living on earth is a member of a civil society, of a nation, many of them represented here.

Each one of you distinguished ladies and gentlemen represents a particular state, system and political structure, but what you represent above all are individual human beings. You are all representatives of men and women of practically all the people of the world—individual men and women; communities and peoples who are living the present phase of their own history, and who are also part of the history of humanity as a whole. Each of them a subject endowed with dignity as a human person, with his or her own culture, experiences and aspirations, tensions and sufferings, and legitimate expectations.

This relationship is what provides the reason for all political activities, whether national or international, for in the final analysis, this activity comes from man, is exercised by man and is for man.

I would like to expres the wish that in view of its universal character, the United Nations organization will never cease to be the forum, the high tribune from which all man's problems are appraised in truth and justice.

THE FUNDAMENTAL DOCUMENT

It was in the name of this inspiration, it was through this historic stimulus, that on the 26th of June, 1945, towards the end of the terrible Second World War, the Charter of the United Nations was signed. And on the following 24th of October, your organization began its life. Soon after, on the 10th of December, 1948, came its fundamental document, the Universal Declaration of Human Rights: the rights of the human being as a concrete individual and of the human being in his universal value.

This document is a milestone on the long and difficult path of the human race.

The progress of humanity must be measured not only by the progress of science and technology, which shows man's uniqueness with regard to nature, but also and chiefly by the primacy given to the spiritual values and the progress of moral life.

Today, 40 years after the outbreak of the Second World War, I wish to recall the whole of the experiences by individuals and nations that were sustained by a generation that is largely still alive. I had occasion not long ago to reflect again on some of these experiences in one of the places that are most distressing and overflowing with contempt for man and his fundamental rights, the extermination camp of Auschwitz, which I visited during my pilgrimage to Poland in June.

This infamous place is unfortunately only one of the many scattered over the continent of Europe. But the memory of even one should be a warning sign on the part of humanity today in order that every kind of concentration camp anywhere on earth may once and for all be done away with. And everything that recalls those horrible experiences should also disappear forever from the lives of nations and states, everything that is a continuation of those experiences under different forms, namely the various kinds of torture and oppression, either physical or moral, carried out under any system, in any land.

This phenomenon is all the more distressing if it occurs under the pretext of internal security or the need to preserve an apparent peace.

You will forgive me, ladies and gentlemen, for evoking this memory, but I would be untrue to the history of this century. I would be dishonest with regard to the great cause of man which we all wish to serve, if I should keep silent—I who come from the country on whose living body Auschwitz was at one time constructed. But my purpose in evoking this memory is above all to show what painful experiences and sufferings by millions of people gave rise to the Universal Declaration of Human Rights, which has been placed as the basic inspiration and cornerstone of the United Nations Organization.

PRICE NOT PAID IN VAIN

This declaration was paid for by millions of our brothers and sisters, at the cost of their suffering and sacrifice brought about by the brutalization that darkened and made insensitive the human consciences of the oppressors and of those who carried out a real genocide. This price cannot have been paid in vain.

If the truth and principles contained in this document were to be forgotten or ignored and were thus to lose the genuine self-evidence that so distinguished them at the time they were brought painfully to birth, then the noble purpose of United Nations organization would be faced with the threat of a new destruction.

This is what would happen if the simple yet powerful eloquence of the Universal Declaration of Rights were decisively subjugated by what is wrongly called political interest, but often really means no more than one-sided gain and advantage to the detriment of others, or a test for power regardless of the needs of others, everything which by its nature is opposed to the spirit of the declaration.

Political interest understood in this sense—if you will pardon me, ladies and gentlemen—dishonors the noble and difficult mission of yourselves, for the good of your countries and of all humanity.

QUOTES POPE PAUL VI

Fourteen years ago, my great predecessor, Pope Paul VI, spoke from this podium. He spoke memorable words which I desire to repeat today:

"No more war. War never again. Never one against the other, or even one above the other, but always in every occasion, with each other."

Paul VI was a tireless servant of the cause of peace. I wish to follow him with all my strength, and continue his service. The Catholic Church in every place on earth proclaims a message of peace, prays for peace, educates for peace.

This purpose is also shared by the representatives and followers of other churches and communities and of other religions of the world. And they have pledged themselves to it.

TROUBLED BY ARMED CONFLICTS

In union with efforts by all people of good will, this work is certainly bearing fruit. Nevertheless, we are continually troubled by the armed conflicts that break out from time to time. How grateful we are to the Lord when a direct intervention succeeds in avoiding such a conflict, as in the case of the tension that last year threatened Argentina and Chile.

It is my fervent hope that a solution, also, to the Middle East crisis may draw nearer. While being prepared to recognize the value of any concrete step or attempt made to settle the conflict, I want to recall that it would have no value if it did not truly represent the first stone of a general, overall peace in the area, a peace that being necessarily based on equitable recognition of the rights of all, cannot fail to include a consideration and just settlement of the Palestinian question.

Connected with this question is that of the tranquility, independence and territorial integrity of Lebanon within the formula that has made it an example of peaceful and mutually fruitful coexistence between distinct communities. A formula that I hope will, in the common interest, be maintained with the adjustments required by the developments of the situation.

I also hope for a special satute that, under international guarantees as my predecessor Paul VI indicated, would respect the particular nature of Jerusalem, a heritage sacred to the veneration of millions of believers of the three great monotheistic religions—Judaism, Christianity and Islam.

APPLAUDS EFFORTS TO LIMIT ARMS

We are troubled also by reports of the development of weaponry exceeding in quality and size the means of war and destruction ever known before. In this field, also, we applaud the decisions and agreements aimed at reducing the arms race. Nevertheless, the life of humanity today is seriously endangered by the threat of destruction and by the risk and I think even from accepting certain tranquilizing reports. The continual preparation for war demonstrated by the production of ever more numerous powerful and sophisticated weapons in various countries shows that there is a desire to be ready for war and being ready means being able to start it. It also means taking the risk that sometime, somewhere, somehow someone can set in motion the terrible mechanism of general destruction.

It is therefore necessary to make a continuing and even more energetic effort to do away with the very possibility of provoking war and to make such catastrophes impossible by influencing the attitudes and convictions, the very intentions and aspirations of governments and peoples. This task is certainly served by initiatives aimed at international cooperation for the fostering of development. As Paul VI said at the end of his encyclical *Populorum Progressio,* if the new name for peace is development, who would not wish to labor for it with all his power? However, this task must also be served by constant reflection and activity aimed at discovering the very roots of hatred, destructiveness, and contempt—the roots of everything that produces the temptation to war—not so much in the hearts of nations as in the inner determination of the systems that decide the history of all our societies.

NEW VISION OF CAUSE OF PEACE

The universal declaration of human rights has struck a real blow against the many deep roots of war since the spirit of war in its basic primordial meaning springs up and grows up, grows to maturity where the inalienable rights of men are violated. This is a new and deeply relevant vision of the cause of peace. One that goes deeper and is more radical. It is a vision that sees a genesis and in essence the substance of war. In the more complex forms emanating from injustice viewed in all its various aspects this injustice first attacks human rights and thereby destroys the organic unity of the social order. And it then affects the whole system of international relations. By applying this criterion, we must diligently examine which principal tensions in connection with inalienable rights of man can weaken the construction of this peace which we all desire to ardently and which is the essential goal of the efforts of the United Nations organization.

Man lives at the same time both in the world of material values and in that of spiritual values. For the individual living and hoping man, his needs, freedoms and relationships with others never concerns only one sphere of values alone but belong to both. Material and spiritual realities may be viewed separately in order to understand better that in the concrete human being they are inseparable. And to see that any threat to human rights, whether in the field of material realities or in that of spiritual realities, is equally dangerous for peace since in every instance it concerns man in his entirety.

CONSTANT RULE OF HUMANITY

Permit me, distinguished ladies and gentlemen, to recall a constant rule of the history of humanity, a rule that is implicitly contained in all that I have already stated with regard to integral development of human rights. The rule is based on the relationship between spiritual values and material or economic values. In this relationship, it is the spiritual values that are preeminent both on account of the nature of these values and also for reasons concerning the good of man. It is easy to see that material goods do not have unlimited capacity for satisfying the needs of man. They are not in themselves easily distributed and in the relationship between those who possess and enjoy them and those who are without them, they give rise to tension, dissension and division that will often even turn into open conflict. Spiritual goods, on the other hand, are open to unlimited enjoyment by many at the same time without diminution of the goods themselves. A critical analysis of our modern civilization shows that in the last hundred years it has contributed as never before to the development of material goods; but that it has also given rise—both in theory and, still more, in practice—to a series of attitudes in which sensitivity to the spiritual dimension of human existence is diminished by greater or less extent.

As a result of certain premises which reduce the meaning of human life chiefly to the many different material and economic factors—I mean the demands of production, the market, consumption, the accumulation of riches—or of the growing bureaucracy with which an attempt is made to regulate these very processes: Is this not the result of having subordinated man to one single conception and sphere of values?

OVERCOMING STATE OF NEED

What is the link between these reflections and the cause of peace and war? Since, as I have already stated, material goods by their very nature provoke conditionings and divisions, the struggle to obtain these goods becomes inevitable in the history of humanity. If we cultivate this one-sided subordination of man to material goods alone, we shall be incapable of overcoming this state of need. We shall be able to attenuate it and avoid it in particular cases but we shall not succeed in eliminating it systematically and radically unless we emphasize more, and pay greater honor before everyone's eyes in the sight of every society, to the second dimension of the good of man—the dimension that does not divide people but puts them into communication with each other, associates them and unites them.

I consider that the famous opening words of the Charter of the United Nations—in which the peoples of the United Nations determined to say succeeding generations from the scourge of war solemnly reaffirmed faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small—are meant to stress this dimension. An analysis of the history of mankind, especially at its present stage, shows how important is the duty of revealing more fully the range of the goods that are linked with the spiritual dimension of human existence. It shows how important this task is for building peace and how serious is any threat to human rights. Any violation of them even in a peace situation is a form of warfare against humanity.

TWO THREATS TO HUMAN RIGHTS

It seems that in the modern world there are two main threats. Both concern human rights in the field of international relations and human rights within the individual states of all societies. The first of these systematic threats against human rights is linked in an overall sense with the distribution of material goods. This distribution is frequently unjust, both within individual societies and on the planet as a whole. Everyone knows that these goods are given to men not only as nature's bounty. They are enjoyed by him chiefly as the fruit of his many activities ranging from the simplest manual and physical labor to the most complicated forms of industrial production and to the highly qualified and specialized research and study. Various forms of inequality in the possession of material goods and in the enjoyment of them can often be explained by different historical and cultural causes and circumstances. But while these circumstances can diminish the moral responsibility of people today, they do not prevent the situations of inequality from being marked by injustice and social injury. People must become aware that economic tensions within countries and in the relationships between states and even between entire continents contain within themselves substantial elements that restrict or violate human rights.

Such elements are the exploitation of labor and many other abuses that affect the dignity of human persons. It follows that the fundamental criterion for comparing social, economic and political systems is not and cannot be the criterion of hegemony and imperialism.

It can be—and indeed it must be—the humanistic criterion, namely the measure in which each system is really capable of reducing, restraining and eliminating, as far as possible, the various forms of exploitation of man, and of insuring for him through work not only the just distribution of the indispensable material goods, but also a participation, in keeping with his dignity, in the whole process of producton and in the social life that grows up around that process.

Disturbing factors are frequently present in the form of the frightful disparities between excessively rich individuals and groups on the one hand and, on the other hand, the majority made up of the poor or, indeed, of the destitute, who lack food and opportunities for work and education, and are in great numbers condemned to hunger and disease.

And concern is also caused at time by the radical separation of work from property, by immense indifference to the production enterprise to which he is linked only by work obligation without feeling that he's working for a good that will be his or for himself.

It is no secret that the abyss separating the minority of the excessively rich from the multitude of the destitute is a very grave symptom in the life of any society. This also must be said—with even greater insistence—with regard to the abyss separating countries and regions of the earth.

COORDINATED COOPERATION NEEDED

Surely the only way to overcome this serious disparity between areas of satiety and areas of hunger and oppression is through coordination cooperation by all countries. This requires, above all, a unity inspired by an authentic perspective of peace.

Everything will depend on whether these differences and contrasts in the sphere of the possession of goods will be systematically reduced through truly effective means; on whether the belts of hunger, malnutrition, destitution, underdevelopment, disease and illiteracy will disappear from the economic map of the earth, and on whether peaceful cooperation will avoid imposing conditions of exploitation and economic or political dependence, which would only be a form of new colonialism.

I would now like to draw attention to a second systematic threat to man in his inalienable rights in the modern world, a threat which constitutes no less a danger than the first to the cause of peace. I refer to the various forms of injustice in the field of the spirit.

Man can indeed be wounded in his inner relationship with truth, in his conscience, in his most personal belief, in his view of the world, in his religious faith, and in the sphere of what are known as civil liberties. Decisive for these, these last, is equality of rights without discrimination on grounds of origin, race, sex, nationality, religion, political convictions and the like.

For centuries, the thrust of civilization has been in one direction—that of giving the life of individual political societies a form in which there can be fully safeguarded the objective rights of the spirit of human conscience and of human creativity, including man's relationship with God.

Yet, in spite of this, we still see in this field recurring threats and violations, often with no possibility of appealing to a higher authority or of obtaining an effective remedy.

Besides the acceptance of legal formulas safeguarding the principles of the freedom of the human spirit, such as the freedom of thought and expression, religious freedom and freedom of conscience, structures of social life often exist in which the practical exercise of these freedoms condemns man in fact, if not formally, to become a second-class or third-class citizen.

It is a question of the highest importance that in internal social life as well as in international life, all human beings in every nation and country should be able to enjoy effectively their full rights under any political regime or system. Only the safeguarding of this real completeness of rights for every human being, without discrimination, can insure peace at its very roots.

REPEATS VATICAN PRINCIPALS

With regard to religious freedom which I, as Pope, am bound to have particularly at heart, precisely with a view to safeguarding peace, I would like to repeat here, as a contribution to respect for man's spiritual dimension, some principles contained in the Second Vatican Council declaration "Dignitatis Humanae."

In accordance with their dignity, all human beings because they are persons—that is beings endowed with reason and free will and therefore bearing personal responsibility—are both impelled by their nature and bound by a moral obligation to seek the truth, especially religious truth. They are also bound to adhere to the truth once they come to know, and to direct their whole lives in accordance with its demands.

The practice of religion, of its very nature, consists primarily of those voluntary and free internal acts by which a human being directly sets his course towards God. No merely human power can either command or prohibit acts of this kind. But man's social nature itself requires that he give external expression to his internal acts of religion, that the communicate with others in religious matters, and that he profess his religion in community.

These words touch the very substance of the question. They also show how even the confrontation between the religious view of the world and the agnostic or even athiestic view—which is one of the signs of the times of the present age—could preserve honest and respectful human dimensions without violating the essential rights of conscience of any man or woman living on earth.

Respect for the dignity of the human person would seem to demand that when the exact tenor of the exercise of religious freedom is being discussed or determined with a view to national laws or international conventions, the institutions that are by their nature at the service of religion should also be brought in. If this participation is omitted, there is a danger of imposing in so intimate a field of man's life rules or restrictions that are opposed to his true religious needs.

The United Nations organization has proclaimed 1979 the Year of the Child. In this perspective we must ask ourselves whether there will continue to accumulate over the heads of this new generation of children the threat of common extermination, for which the means are in the hands of the modern states, especially the major world powers. Are the children to receive the arms race from us as a necessary inheritance? How are we to explain this unbridled race?

The ancients said *Si vis pacem, para bellum*. But can our age still really believe that the breathtaking spiral of armaments is at the service of world peace. In alleging this threat of a potential enemy, is it really not rather the intention to keep for oneself a means of threat in order to get the upper hand with the aid of one's own arsenal of destruction? Here, too, it is the human dimension of peace that tends to vanish in favor of ever new possible forms of imperialism.

It must be our solemn wish here for our children, for the children of all the nations on earth that this point will never be reached.

And for that reason I do not cease to pray to God each day so that in His mercy he may save us from so terrible a day.

At the close of this address I wish to express once more before all the high representatives of the said states who are present a word of esteem and deep love for all the peoples, all the nations of the earth, for all human communities.

Each one has its own history and culture. I hope that they will live and grow in the freedom and truth of their own history. For that is the measure of the common goals of each one of them.

HOPE FOR RESPECT FOR AUTHORITIES

I hope that each person will live and grow strong with the moral force of the community that forms its members' assistance. I hope that the state authorities, while respecting the just rights of each citizen, will enjoy the confidence of all for the common good.

I hope that all the nations, even the smallest, even those that do not yet enjoy full sovereignty, and those that have been forcibly robbed of it, will meet in full equality with the others in the United Nations Organization.

I hope that the United Nations will ever remain the supreme forum of peace and justice, the authentic seat of freedom of peoples and individuals in their longing for a better future.●

NATO AND DEFENSE

● Mr. HUMPHREY. Mr. President, Mr. Robert Battersby, a British member of the European Parliament who recently visited this country, has written a short critique of NATO's defense posture as well as a summary of the SALT II treaty. Mr. Battersby's paper discusses these issues from a European perspective and, therefore, provides a valuable insight to some of the defense concerns of our NATO allies.

For this reason, Mr. President, I ask that Mr. Battersby's article be printed in the RECORD.

The article follows:

NATO AND DEFENCE

There are three areas in which NATO must provide a credible response to any aggressive move by the U.S.S.R.—strategic nuclear weapons, tactical nuclear weapons, and conventional warfare. NATO must be able to counter a threat from the air, from land in continental Europe or at sea against its supply lines, particularly in the Atlantic and Indian oceans.

STRATEGIC NUCLEAR WEAPONS

In the nuclear field the U.S.A. has lost its superiority over the U.S.S.R. SALT I codified a broad parity between the two superpowers, the Soviet having a superiority in numbers and the Americans in more technically advanced systems. Since this agreement was signed, the U.S.S.R. has introduced three new intercontinental rocket systems and is experimenting with other systems. The U.S.A. has the new MX missile on the drawing board. The same situation exists at sea. The latest Soviet submarines carry missiles with a range of approximately 5,000 miles which can hit the industrial heart of America from Russian waters. The first new American Trident submarine "Ohio" will not be at sea until 1981. There are 24 of U.S.S.R. "Delta" class missile submarines at sea today.

TACTICAL NUCLEAR WEAPONS

From the European point of view the tactical or battlefield nuclear weapon situation is even more disquieting. SALT II does not include the new Soviet SS20 rocket system in its SNDV ceilings. This weapon has a range of over 3,000 nautical miles and is targeted on Europe. This weapon can be fired from Russian territory, and is fully mobile. The best counter of the SS20 is probably the cruise missile now being developed in the U.S.A. The range of these missiles is, however, restricted by SALT II and there are doubts as to whether the Americans can transfer this technology to their European allies should the agreement be signed and passed by the Senate.

CONVENTIONAL WARFARE

The line of direct land contact between the Warsaw Pact forces and those of NATO is in Europe. This front is divided by NATO into Northern, Central and Southern commands. The Central front covers the traditional lines of invasion.

Here the picture has changed drastically in the past few years. The Warsaw Pact forces used to occupy a defensive posture. They are now organised for offence. The number of tanks now outnumber those of NATO by nearly 3 to 1. Each Soviet division has a regiment of new BMP60's, a powerful armoured personnel carrier designed to spearhead an invasion force. Divisional rocket launchers, have been increased from 192 to 720. They are all mobile as is the entire artillery park. Over 80 percent of Soviet anti-tank weapons are in armoured vehicles, compared to the 43 percent in NATO forces. The latest bridging equipment could cross the Rhine in 30 minutes. The fighter-bomber force has increased by 200 percent in the last two years, as has the troop-carrying helicopter force.

Most Soviet military exercises are based on a number of simultaneous thrusts, successful breakthroughs being rapidly re-inforced and exploited. All exercises include chemical and bacteriological warfare, and the Soviet command operates on the assumption that any major war would rapidly escalate to a tactical or even strategic nuclear exchange.

This change of posture, together with the world-wide expansion of the Soviet Navy has at last caused NATO to react. In 1977 two separate NATO programmes were agreed. These were:

1. a short term programme designed to increase the number of anti-armour weapons, to accelerate the speed of allied re-inforcements from the U.S.A., Canada and Britain, and to increase the stocks of fuel and ammunition which had been allowed to run dangerously low, and

2. A long-term programme, which was accepted in 1978. This set up ten working parties to examine a number of NATO requirements up to the mid-1990's; such as communications electronic warfare standardisation, etc. One of the results was that NATO governments agreed to spend 3 percent more in real terms on defence in the next few years. This may not be enough!

DEFENCE EXPENDITURE

The Warsaw Pact is now spending 11–13 percent of their GNP on "defence" compared to 5 percent in the U.S.A. and 4.7 percent in Britain. Soviet spending has been increasing at 3–4 percent annually for a number of years with all the benefits of long-term arms development programmes.

THE BATTLE FOR RESOURCES

(a) Sea communications: From the European point of view the tactical critical area is the Northern flank, and the early warning and defence capability in the Norway-Iceland-Greenland gap.

However, strategically the Supreme Allied Commander Atlantica has recently written "our most serious deficiencies in the realm of resupply stem from the problem of the control of the seas OUTSIDE the NATO area that is, South of the Tropic of Cancer and into the Pacific and Indian oceans". This view has also been echoed by the man responsible for the continental defense of Europe, General Haig, the Supreme Allied Commander, Europe, who has said that we "neglect Soviet activity in the third world at our peril".

The Soviet Northern Fleet contains their most modern vessels, the new aircraft carrier "Kiev" the world's heaviest arms cruisers of the "Kara" class and the destroyers of the "Krivak" class. In all, some sixty major surface combatants plus 440 lesser vessels, amphibious warfare ships and auxiliaries. Murmansk also acts as a base port for over 170 submarines, of which some 90 plus are nuclear powered. The Murmansk Kola Peninsular complex is protected by 8 Soviet divisions, 16 airfields and a multiplicity of missile systems.

(b) Oil: Western Europe is vulnerable to strangulation of raw materials, especially of oil, in times of war. North Sea oil supplies would be vulnerable to direct attack. Essential supplies would have to come from the Persian Gulf area round the Cape of Good Hope by highly vulnerable tankers. The task of NATO sea power to give them protection should the war last longer than a few weeks. However, today the only NATO base in the Indian ocean is the island of Diego Garcia, and tankers can only be protected by a convoy system using South African Ports. Soviet military aircraft now operate from Aden in the Indian Ocean, where the U.S.S.R. also maintains a permanent squadron of some 20 to 25 ships. If this continues NATO may be forced to reinforce its strength in this area.

A direct Soviet attack on the Gulf would, in all probability, initiate World War III. The Soviets will therefore aim for the gradual erosion of Western influence in Arab lands and Turkey which carries less risk. The revolution in Iran and Soviet tactics in exploiting the situation may well indicate the shape of things to come.

(c) Other raw materials: It is also worth noting that the power which controls Southern Africa, controls 94 percent of the world's platinum production and 99 percent of its reserves, 67 percent of its chrome production and 84 percent of its reserves, 62 percent of its manganese and 93 percent of its reserves, 62 percent of its gold and 68 percent of its reserves, 70 percent of its vanadium and 97 percent of its reserves, with very similar figures for such important minerals as fluorspar asbestos titanium and probably in the case of South West Africa uranium.

SALT II

1. GENERAL

The Salt II Treaty is of great importance to the whole of the Western world. A summary of the present position and future plans is as follows:

The U.S.S.R.

The Soviet Union is now introducing its fourth generation of ICBMs, the SS17, 18 and 19 at a rate of approximately 125 a year. All these missiles carry either high yield single warheads or multiple independent re-entry vehicles (MIRVs).

The Soviet submarine force also continues to expand and now has a total of 27 Delta class submarines with the SSN8, a single warhead missile with a range of 7,800 Km. The new Delta III—now undergoing sea trials—is said to be fitted with a new SSNX18, a longer range liquid fuel missile carrying up to three MIRVs.

Construction of the older Yankee class submarines has stopped at 34 units and 544 launching tubes but it is believed that a new solid fuel missile, the SSNX17 with greater range and accuracy, will be backfitted to these vessels.

As far as the Soviet air force is concerned their heavy bomber capability still rests on the now aging "Bears" and "Bisons" though it is rumoured that a new heavy bomber is now in the design stage. There is no evidence that air launch cruise missiles have yet been developed.

Outside the scope of the SALT Treaty comes the "Backfire" bomber which, with a range of 2,700 Km and air re-fuelling, could reach the United States. There is also the important SS20, a mobile medium range missile with 3 MIRV's targeted on Europe.

The USA

The United States developments are considered in many quarters to be far less spectacular. The standard Minuteman III ICBM system is being improved in yield and accuracy by fitting a new re-entry vehicle and nuclear warhead. 300 of the 500 Minutemen IIIs will be so equipped by the early 1980s and this programme would not be affected by the SALT II Treaty.

The new American ICBM, and the MX, is under development but would not be deployed before 1983 and so would also not be directly affected by SALT II. This programme is designed to provide a mobile option and will have four times the throw weight and three times the number of reentry vehicles as the improved Minuteman III. It is suggested that it will be moved from silo to silo on a probability scale of 20 silos per missile so that a potential enemy would not know where to strike. This technique is referred to as the multiple aiming points system.

The US "Trident" submarines will displace 18,700 tons and will carry 24 SLBM's; the first USS "Ohio" should be commissioned by 1981. It is planned that they will be built every three years allowing fourteen to be deployed by 1989.

Two cruise missile programmes are under way, one by General Dynamics and one by Boeing. The ALCM–B, intended to be launched from heavy bombers (120 B52G's may be converted to carry these missiles between 1980 and 1986) and the Tomahawk which can be launched from aircraft, submarines, surface ships or ground launchers.

It will thus be seen that at present the Soviets are ahead in modern missiles though the US programme would more than catch up to them up by the mid-1980s.

Effect of SALT II

If the projected Treaty goes through the main effects will be:

(i) A basic agreement of five years' duration (i.e. until 1985) setting overall ceilings on strategic weapons as follows:

An initial level of 2,400 strategic systems to be reduced to 2,250 during the term of the Treaty,

A sub-ceiling of 1,320 for all launchers with MIRV including heavy bombers with long range cruise missiles,

A sub-ceiling of 1,200 or ballistic missiles with MIRV,

A sub-ceiling of 820 land based ICBM with MIRV and a limitation on the conversion of light to heavy launchers, and

A limit on the total number of MIRV's carried by a single missile to 10.

(ii) A protocol of three years' duration which would:

Ban the deployment of mobile ICBM launchers and the flight testing of ICBM's from such launchers,

Put limitations on the flight testing and deployment of air to surface ballistic missiles (ASBMS), and

Ban the deployment of sea and land launched cruise missiles with ranges of over 600 Km.

Arguments against ratification advanced by Senator Jackson and others include:

(a) The danger that the United States could lock itself in a position of strategic inferiority as regards the Soviet Union.

(b) The vulnerability of the US ICBM's to a Soviet counterforce strike owing to the increasing accuracy of Soviet missiles and the fear that the development of the US's new MX missile would be prejudiced.

(c) The Soviet "Backfire" bomber is excluded yet is capable of intercontinental missions.

(d) The limitation in the protocol on the range and development of cruise missiles may become permanent while the Soviet mobile SS20 is not included.

(e) Transfer of cruise missile technology to European allies is not safeguarded.

(f) There is therefore a danger that the Alliance may become locked into a position of inferiority in medium range and theatre nuclear missiles even though these are not covered by the Treaty.

(g) Verification of any agreement is essential and this problem still has to be solved.

Senator Javits and those who support the Administration's policy take a broader and less technical view. They argue that:

(a) The main aim is to prevent a nuclear arms race. This the Treaty achieves by providing equal limits on strategic nuclear weapon delivery systems and impeding technological development.

(b) The areas of uncertainty regarding the threat will be reduced.

(c) In fact the agreement will impose reductions on current Soviet activities and, as the USSR now has more launch-vehicles than the USA, some 300 would have to be withdrawn by 1985.

(d) A SALT II agreement would be of considerable political advantage in East-West relations and an essential precursor to SALT III which would include the British and French nuclear forces and US aircraft stationed in Europe as well as Soviet medium range systems targeted on Europe.

(e) The range limitation on cruise missiles is only for three years and these missiles could not be available and deployed before the end of this period.

European interest in SALT II appears to be divided on much the same lines as in the US Senate. On one hand Europeans want to prevent a renewed arms race while still retaining the protection of the US strategic nuclear deterrent. On the other hand they realize that the cruise missile could become a vital weapon as far as Europe is concerned. Europe is now facing an increasing threat from the SS20. The Protocol's limitation of range, which is initially only for three years, could become five years or even longer (depending on how long it takes to negotiate SALT III) and the transfer of technology is further endangered. This is of particular importance, as cruise missiles could prolong the life of the British and French strategic nuclear deterrent forces.

2. IMPLICATIONS

SALT II has immense implications: for President Carter's political future, for U.S./Soviet relations, and for the relationship between the United States and Western Europe. There is even a sense in which it gives the Soviet leadership a veto on President Carter's hopes of re-election. In any event, it marks the beginning of a new and more dangerous period in international affairs.

In terms of disarmament, the treaty will achieve next to nothing. The Soviet Union, as a result of it, will have to scrap a few dozen near obsolete heavy missiles; the United States an even smaller number of already mothballed strategic bombers.

Its purpose is arms limitation, not disarmament, but even in those terms, it represents a very limited gain, and the concerns of those who oppose it, are not completely unfounded. If the Senate should flatly refuse to ratify it, there can be no serious hope of any further progress on strategic arms limitation, either between the two superpowers, or in terms of non-proliferation by other governments such as Pakistan, Israel, South Africa, Argentina, etc. This is unlikely and ratification of a treaty of some kind is more probable. The majority in the Senate appears to be in such a mood of suspicion, both of the Soviet Union's intentions, and of the Carter Administration's strength, that it is likely that it will not ratify the text signed in Vienna without considerable amendments. Moreover, this process may not be completed before the 1980 presidential election campaign.

In this event, the following may happen:

1. The United States will increase its expenditure on strategic arms systems.
2. President Carter's position in domestic politics will be severely damaged.
3. The general credibility of the U.S. government in international relations may be hurt.
4. U.S. leadership in Western Europe may be seriously affected.
5. In Europe the discrediting of American leadership may force Helmut Schmidt to dissociate himself from Carter and help those, like Herbert Wehner, who have been arguing that Germans must look to their security in the future by neutralising both the Germanies; and those, like Franz-Josef Strauss, who will argue that, if the U.S.A. can no longer be relied on to defend Europe, then Europe must defend itself.
6. More generally, the credibility of the U.S. strategic "umbrella" must be called into question. This will revive discussion in Europe of more powerful "theatre" nuclear weapons. In view of the massive Soviet weaponry now targeted on Western Europe.
7. The SALT II situation will, inter alia, decide who is to become the next President. This puts the Russians in a strong bargaining position relative to the present administration.

The Soviet leadership presumably wants a treaty, if only because any treaty on approximately the lines of the one signed in Vienna does give some recognition to the rough equivalence of American and Soviet strategic power. However, the Soviets may prefer a period of further negotiation from a position of strength in view of the political gains to be made in influencing U.S.A. and European internal politics.●

THE NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

● **Mr. BENTSEN.** Mr. President, all of us are concerned about the state of our national economic health. Numerous economic indicators are flashing ominous signs of continuing inflation, slowing output, lackluster retail sales, and, most recently, rising levels of joblessness. As the current recession becomes more pervasive, unemployment in our individual States will become more visible and accurate guidance for relief will become crucial. The unemployment rate is our signal that something is going awry with the Nation's work force. Unemployment rates are integral to our decision process whether for the formulation of macroeconomic policy or for regional aid to our individual constituencies.

There have been allegations in the past that the unemployment rate no longer measures accurately the unemployed. In some cases, criticism included undercounting, for example, the discouraged worker; on other occasions, the problem stemmed from overcounting, for example the student who wants only part-time work.

The extent of our reliance on this indicator makes its accuracy doubly necessary. In order to determine the accuracy of these statistics, Congress created the National Commission on Employment and Unemployment Statistics to review and evaluate the Nation's labor force statistics. For 18 months the Commission has commissioned background papers from experts, held public hearings around the country and consulted with a wide variety of public and private sources. I am pleased to say that the Joint Economic Committee aided the Commission by publishing the three volumes of the public hearings. In addition, Mr. Javits, Mr. Bolling, and myself served as advisory members to the Commission. The Commission recently has issued its final report containing a series of 88 recommendations. Those proposals, if enacted, have far-ringing implications for the data base of our current programs that use labor force statistics to allocate funds. I urge my colleagues to familiarize themselves with the proposals in the report. Mr. President, because a full discussion of even the most important recommendations would be too lengthy, I ask that a summary of the recommendations be printed in the Record.

The summary follows:

Discussion of Recommendations

STATE AND LOCAL DATA

To combat weaknesses in the present state and area statistics, the panel put forward specific proposals for surveying more households each month. By achieving better interstate standardization of labor force measurement, the proposals would assure greater equity in the distribution of federal money. The commission warned, however, that even with adoption of its recommendations, totally reliable data on job fluctuations in thousands of small areas would remain unavailable with the frequency and minute detail now required by Congress. Getting all the information presently prescribed by means of an expanded household survey would entail an annual cost of $2.3 billion, as against the $20 million currently spent, the commission said. It described such an outlay as "prohibitive." Instead the panel urged Congress to consider increased reliance on data that reflect longer-term characteristics, such as average family income, in allocation formulas for state and local grants. Such data could be obtained from the 1980 and subsequent censuses.

Congress has mandated the application of official unemployment rates as a base for allocating federal employment and area development funds to some 6,000 local districts. The commission set forth flatly its conviction that there is no way, at reasonable cost, to produce accurate job and jobless statistics for so many small areas every month. "The changes the commission recommends are therefore only incremental, as are the improvements they will yield," the report concluded.

The group recommended that the Current Population Survey be expanded by 40,000 households beyond the 70,000 level slated to be reached next month. This increase in the sample size would improve the reliability of annual average statistics for all of the 50 states, metropolitan areas with a population of 1 million or more, and 11 major cities. It would also improve the reliability for the balances of states in which these metropolitan areas and big cities are located. A separate expansion of about 10,000 would increase the number of minority households in the sample. The larger sample would improve the accuracy not only of the state and area statistics but also of data on various groups among the national population.

To improve monthly or quarterly estimates for states and major areas, the commission put forward recommendations for technical revisions intended to overcome defects in the 70-step handbook method. This complicated system bases rough estimates of total unemployment in an area on a variety of information—most importantly the number of workers who are receiving unemployment compensation. In addition, the commission proposed expansion of the survey of nonagricultural employers to provide monthly employment data for all Standard Metropolitan Statistical Areas and balances of states. Expansion of this survey would also yield more reliable data on particular industrial sectors of the economy. The commission also favored a larger sample in the Agriculture Department's survey of farm employers.

For smaller areas, however, the commission urged Congress to recognize that no feasible modification of present data-gathering methods will remove the danger of gross inequities in fund allocation. As a safeguard against large errors in the monthly data, the panel advocated a review of allocation formulas to encourage more reliance on quarterly and annual data and on labor force information that might be derived from the quinquennial censuses, beginning next year. The commission suggested that Congress designate an appropriate congressional office to work with executive statistical agencies in developing the technical information needed for the design of improved allocation formulas (chapter 16).

LINKING EMPLOYMENT AND INCOME

The panel recommended that the Federal Bureau of Labor Statistics prepare an annual report on economic hardship associated with low wages, unemployment and part-time or sporadic participation in the labor force. This proposal, which may potentially turn out to be one of the most important commission recommendations, grew out of a recognition that the increased number of families with two or three wage-earners, plus the widespread availability of unemployment insurance, food stamps and other forms of income transfer, have reduced the correspondence of existing unemployment statistics with economic hardship. The report also noted that some full-time, year-round workers are poor because they receive low wages or have large families.

The panel was unanimous in urging that such data be prepared on a national basis. However, the problem of defining economic hardship and the analytical need to relate hardship to diverse types of labor market difficulties were cited by the commission as reasons for avoiding a single composite index. Instead, the commission advised the Bureau of Labor Statistics to present a variety of measures in the proposed annual report (chapter 5).

REVISING DEFINITIONS

The commission urged a comprehensive updating of definitions now used to differentiate between persons counted in the labor force and those excluded. Most of the suggested changes in labor force definitions pertained to data gathered in the Current Population Survey, the monthly household survey on which the national unemployment rate and many other key labor market indicators are based.

The panel proposed an end to the present exclusion of the armed services from the count of employed workers. The introduction of an all-volunteer military has removed the rationale for excluding members of the armed forces stationed in the United States from the estimate of national employment. "Workers are now free to choose between employment in the military and civilian sectors, and pay scales and job tenure conditions in the sectors have become more comparable," the report noted (page 49).

However, the commission qualified its recommendation by suggesting that the military be excluded from state and local job totals because military employment in an area might not represent job opportunities for the local labor force. "Local workers who enlist are likely to be assigned to posts outside their home community, and military jobs at a local installation are filled mostly by recruits from elsewhere," the report pointed out. "Hence, job opportunities for a local labor force are best represented by statistics that pertain only to civilian employment."

The commission advocated no change in the age floor of 16 years for tabulating the labor force, despite suggestions in some quarters that a higher age be used because of the large proportion of teenagers in school who are interested only in part-time work. "Age 16, as the legal minimum age for most employment under the Fair Labor Standards Act and the age at which compulsory school attendance ends in most states, remains a reasonable lower bound despite the trend toward longer school enrollment," the panel said. It also rejected the idea of setting an upper age boundary for inclusion in the labor force. A change at either end of the age spectrum, the commission said, might have the unfortunate effect of diverting attention from the special labor market problems of younger or older workers (page 89).

Another issue addressed by the commission was how to measure and whether to include in the official unemployment total so-called "discouraged workers"—jobless persons who indicate that they would like employment but are not currently looking for work because they believe none is available for them. The commission proposed changes in the present method of identifying discouraged workers to get a better reading of their willingness to work. The new method, which would produce monthly rather than the present quarterly estimates, would count persons not presently in the labor force who are currently available for work, express desire for work and have actively sought it in the last six months. The six-month search requirement would serve as a test of at least minimal attachment to the labor market.

The quarterly tabulation of discouraged workers now published by the Bureau of Labor Statistics estimates their number at roughly 800,000. Under the commission's proposed definition, this number would be reduced. Whatever the number of discouraged workers, the commission concluded that it was appropriate to continue the present practice of excluding such workers from the unemployed tally on the ground that they were not in the active labor market. "Undoubtedly," the commission stated, "some of those who indicate they have not sought work because of discouragement about job prospects conform to the popular conception of unemplyoment, but no method has yet proved successful in isolating this group (page 34)."

ADDITIONAL DATA

The commission recommended the collection of additional data to illuminate the dynamics of the flow of workers in and out of the active labor market and to make faster and more dependable the detection of turning points toward recession or recovery in the business cycle. In recent years, major labor force changes have been due not only to shifts between employment and unemployment, but also to large inflows of people from outside the labor force who have decided to seek jobs.

The panel, therefore, urged the Census Bureau to develop "gross flow" data, which would reveal the number of unemployed individuals in one month who remained unemployed, found work, or left the labor force in the next month. Similar information would be provided on changes in status among the employed and those not in the labor force.

The panel also stressed the need for additional information to better understand and identify structural labor market problems. The commission supported a doubling of the Current Population Survey's sample of minority households to "permit the publication of more reliable monthly data on blacks and Hispanic Americans, as well as more frequent figures than are now available on Asian and Native Americans (page 93)." Rural areas were also cited as requiring special attention in future redesigns of the survey (page 95). The commission recommended expansion of the occupational employment statistics program and research on the feasibility of determining the occupations in which the unemployed are seeking work (p. 106).

The commission found little virtue in proposals for a national program of job vacancy statistics. It acknowledged the conceptual attractiveness of job vacancy estimates, but expressed doubt that useful date on job vacancies could be collected in a cost-effective manner (p. 120).

WAGE DATA

The commission was also critical of the long-standing "real spendable earnings" series statistics derived from a monthly survey of nonagricultural employers. The series purports to measure the average weekly earnings adjusted for inflation and federal taxes that would be paid by a married man with a nonworking wife and two children, but the series actually uses the average earnings of all workers in the survey, regardless of their family status. The panel recommended that the Bureau of Labor Statistics develop spendable earnings statistics from the Current Population Survey (in which quarterly earnings information could be related to the true family situation of the worker) and, if these data prove sufficiently reliable, discontinue publication of the series based on the employer survey (p. 206).

CENSUS UNDERCOUNT

The commission urged that the Current Population Survey data be adjusted by the Bureau of the Census to offset the officially estimated census undercount for various demographic groups. The undercount in the 1970 census ranged from 1.4 percent for white women to 9.9 percent for black men.

Because the census population figures are used to inflate the Current Population Survey data into national estimates, the census undercount results in underestimates of the current labor force. These underestimates are more pronounced for demographic groups that experience large undercounts and for states with heavy representation of these groups. According to the commission, adjustment for the census undercount would yield more accurate current statistics and more equitable distribution of the funds dependent on the estimates (page 139).

SEASONAL ADJUSTMENT

The commission advanced suggestions for improving the system of seasonal adjustments now used to modify the national index of unemployment. The proposed changes, while highly technical in nature, are intended to make the adjusted statistics more accurate indicators of trends in the economy (chapter 14).

SPECIAL SAMPLE

The commission also favored a special sample of about 10,000 households as a supplement to the regular household survey (page 148). This sample, which would be implemented for a 2-year trial period, "would be used for collection of special labor force data, such as detailed information on job search activities, underemployment, or labor force attachment."

INDEPENDENCE OF DATA PRODUCERS

The commission commended the Bureau of Labor Statistics for conducting its work in a thoroughly nonpolitical and nonpartisan manner and warned that any move toward politicing its interpretation of job figures would seriously erode the public support BLS now enjoys. The panel recalled that the bureau had been under intermittent political pressure in the mid-years of the Nixon administration and was often caught in a crossfire between the news media and the administration over news management and political intrusion in the bureau's affairs. Emphasis by congressional committees, the press, academics and business and labor groups on the need for insulating the BLS against political interference helped preserve the integrity of the statistics through this

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period though morale within the bureau was shaken, the commission said.

The commission coupled its call for continued independence from partisan influence with a caution to the bureau that this did not mean divorcing the array of figures it offers from responsiveness to the needs of policymakers and other users. To reduce the danger that the agency's statistics or methods might become obsolete, the panel counseled the BLS to foster a more active role for advisory councils representing major users of its figures. It also suggested that another comprehensive review of the whole labor statistics system be undertaken within ten years (p. 270).

DATA PRESENTATION

The commission considered what has come to be known as the "one-number syndrome"—the focusing of major attention on a single monthly indicator, the official seasonally adjusted unemployment rate. While recognizing that a careful analysis of fluctuation in employment conditions requires close scrutiny of numerous labor market yardsticks, the panel observed that the public, press and policymakers who do not specialize in labor market assessment can hardly be expected to conduct such a far-reaching review each month.

The commission applauded the introduction by the late Julius Shiskin, former head of BLS, of six alternatives to the official unemployment rate. Each one embodies different concepts of how to measure the nation's volume of joblessness. These alternate measures help meet the needs of persons who consider the official rate too inclusive or too restrictive in its criteria. The panel recommended that BLS continue to publish and give greater prominence to a flexible array of alternate measures in its dissemination of labor force information. The commission, however, did not recommend regular publication of unemployment rates adjusted for changes in the age or sex distribution of the labor force on the grounds that such adjustments would lead BLS into controversial interpretations of labor force data. The commission urged continued publication of a separate index showing the percentage of the noninstitutional working-age population that is employed. It said the employment-population ratio represents a useful supplement to the official unemployment rate, but not a substitute for it (page 273).

COMMENTS, RESERVATIONS OR DISSENTS

Although its membership was chosen to reflect diverse societal viewpoints including those of labor, business, academia, state and local government, minorities, women, and other data users, the commission agreed unanimously on scores of concrete suggestions for conceptual and technical changes. However, the report does not necessarily reflect the views of all members on all issues discussed in the report. Members of the commission recorded comments, reservations or dissents on five issues:

Four panel members believed that counting discouraged workers among the unemployed would provide a more complete measure of the nation's job deficit (page 56).

Three members questioned whether the recommended Current Population Survey expansion to improve state and local data would be worth the cost (page 263).

Two members supported publication of an age-standardized unemployment rate (page 282).

One member favored the preservation of the real spendable earnings series based on the employer survey (page 208).

One member expressed support for a composite measure of labor market related hardship anticipating that such a measure would emerge in time (page 71).●

MARRIAGE TAX TASK FORCE REPORTS

● Mr. MATHIAS. Mr. President, one of the greatest strengths of our American society lies in its approach to change. We are flexible enough to respond to changed circumstance and to alter our laws to reflect the realities of the world we live in. Over the last 20 years we have experienced a major reshaping of our labor force. More and more women are working outside the home to help supplement the family income. I understand that one-half of all married women are working today; by 1990 this figure will rise to three-quarters.

Yet, one of our most powerful means of promoting social policy—our system of taxation—has ignored this trend. This year, I reintroduced a bill, S. 336, that would remove our outdated method of taxing married couples. At present, married people aggregate the total family incomes and file their returns jointly. Although this system is beneficial to traditional one-wage-earner families, it places a severe penalty on couples in which both spouses work. This penalty occurs when the two incomes are combined and filed jointly, placing the second income in a higher tax bracket.

My marriage tax bill would resolve this inequity by allowing all married couples the additional option of filing their returns as single individuals. If it is adopted, each spouse would be taxed according to his or her income, independently of the other spouse's earnings. More than 20 of our colleagues have cosponsored this bill, and Congresswoman FENWICK has, at last count, attracted 175 cosponsors in the House. I think it is clear that the reform effort is gathering momentum.

Mr. President, last week President Carter's Interdepartmental Task Force on Women published a study of the marriage tax penalty. Thoroughly analyzing four possible solutions to this problem, the task force has come out strongly in favor of the approach embodied in my bill as "the simplest way to permanently eliminate the marriage penalty."

Mr. President, so that all of my colleagues may read this report and see the need for reform, I ask that the report be printed in full in the RECORD.

The report follows:

REPORT OF THE ACTION GROUP ON THE MARRIAGE TAX PENALTY TO THE TAX SUBCOMMITTEE OF THE INTERDEPARTMENTAL TASK FORCE ON WOMEN

The Action Group on the Marriage Tax Penalty—Janet Hart (chairperson), Judith Bartnoff, Sydney Key, and Sam Sanchez—met at the Task Force office on May 22, 1979 and had a number of informal consultations thereafter.

This report consists of two parts: first, an explanation of the marriage tax penalty on two-earner couples; and second, the Action Group's recommended solution to the problem.[1]

I. THE MARRIAGE TAX PENALTY

The basic structure of our present federal income tax laws provides a substantial subsidy to married one-earner couples at the expense of both single individuals and married two-earner couples. Thus the common view that the marriage tax penalty represents a conflict between married taxpayers and single taxpayers is incorrect. The marriage tax penalty affects only two-earner married couples, that is, couples in which both the husband and wife work. Such couples, which used to be the exception, have become the norm; at the present time, two-earner couples outnumber one-earner couples. The tax laws, however, still reflect the traditional view of the American family where the husband worked and the wife stayed at home. As a result, according to the most recent estimates, approximately 19 million two-earner couples—38 million individuals—pay a marriage tax to the U.S. government.

Under the present tax system married one-earner couples get the most favorable tax treatment, singles are in the middle, and, in general, married two-earner couples fare the worst. As a result, if a single working person marries someone with no income, marriage will lower the tax bill; this is a comparison frequently made by single taxpayers. But, if two single workers marry (and continue to work), their taxes will usually be higher as a result of their marriage. The difference between the tax bill of two married workers and the total tax bill of the same two workers if they were single constitutes the marriage penalty.

The amount of the marriage tax penalty for a two-earner couple can vary greatly. In general the dollar amount of the marriage tax tends to increase both with the couple's total income and with the similarity of the two incomes. However, the incomes of the two spouses do not have to be equal for the couple to pay the marriage tax. A very rough rule-of-thumb is that two-earner couples pay a marriage tax when the spouse with the lower income earns one-fifth or more of the couple's total income. When the dissimilarity in the spouses' incomes is greater than this, the couple begins to resemble a one-earner couple and may enjoy the traditional tax benefits from marriage.

It is important to realize that, contrary to popular belief, the marriage tax penalty does not affect only the so-called "two lawyer" couple, that is, it does not affect only couples in high income brackets. According to a study by Peter Sailer, an Internal Revenue Service statistician, at least 13 million two-earner couples paid the marriage tax in 1974.[2] Of these 13 million couples, 20 percent had combined incomes under $10,000; 54 percent had combined incomes in the $10,000 to $20,000 range; and 25 percent had combined incomes between $20,000 and $50,000. Considerably less than one percent of the couples paying the marriage tax had combined incomes of more than $50,000.

Mr. Sailer's study also showed that the vast majority of two-earner couples in lower income brackets paid the marriage tax, that is, they did not enjoy the traditional tax benefits from marriage and joint return. For example, 83 percent of all two-earner couples with combined incomes under $10,000 paid the marriage tax in 1974; 70 percent of all two-earner couples with combined incomes between $10,000 and $20,000 paid the marriage tax; and 66 percent of all two-earner couples with combined incomes in the $20,000 to $50,000 range paid the marriage tax. By contrast, of those two-earner couples with combined incomes of $50,000 or more, 48 percent paid the marriage tax.

Moreover, while the dollar amount of the marriage tax may seem relatively small in lower income brackets, it may still represent an enormous increase in a couple's tax bill. For example, a couple earning $5,000 each, as shown in Table 1, would pay a marriage

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Footnotes at end of article.

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tax of $202; this amount represents a 40 percent increase over the couple's tax bill as two singles. For a couple earning $10,000 each, the increase is 17 percent; the increase is 24 percent for a couple earning $25,000 each.

The major factor causing the marriage tax is the use of tax rate schedules with both rates and zero bracket amounts that differ according to marital status. The tax rate schedules are used to compute one's tax bill on the basis of taxable income, that is, adjusted gross income minus personal exemptions[3] and minus excess itemized deductions, if any.[4] (The tax tables are mathematically derived from the tax rate schedules for the convenience of the taxpayer.) There are four different tax rate schedules. The highest rates are those in the schedule for marrieds-filing-separately; the next highest rates are in the singles' schedule; third, there is the unmarried heads-of-households schedules; and finally, there is the lowest rate schedule, the schedule for married-filing-jointly.[5] The singles' schedule was created by the Tax Reform Act of 1969 in order to reduce somewhat the taxes paid by a single person relative to a one-earner couple with the same income. Until this schedule went into effect, singles had to use the high rates of the schedule for marrieds-filing-separately. Married two-earner couples, however, still must use either the high rates of the schedule for marrieds-filing-separately or aggregate their incomes and use the schedule for marrieds-filing-jointly. Since the U.S. has a progressive tax system, that is, the rate of tax increases as income increases, aggregating the two incomes results in the second income being taxed at higher rates than the first.

In addition to the rates per se, the zero bracket amounts, that is, the amounts of income subject to a zero rate of tax, differ according to marital status. These amounts are $3,400 for a married couple and $2,300 for each single person. Thus even when both spouses work, a married couple has a zero bracket amount of $3,400, which is $1,200 less than the total zero bracket income for two single wage earners, $4,600.

The dependence of a person's actual tax bill on his or her marital status and, if married, on whether his or her spouse works, can be illustrated by the four possible tax bills a person earning $15,000[6] might have to pay:

(1) $1,635 if married to a non-working spouse;

(2) $2,236 if an unmarried head-of-household;[7]

(3) $2,345 if single; or,

(4) $2,796.50 if married to a working spouse with the same income.[8]

The marriage tax of a two-earner couple each earning $15,000 that was shown in Table 1 can, of course, be derived from these figures. It is simply the difference between their actual tax bill (2x$2,796.50 or $5,593) and their tax bill as two singles (2x$2,345, or $4,690), which amounts to $903. Clearly the present tax laws provide an incentive for two wage earners not to marry, and for two married wage earners to divorce and continue living together; it is, however, impossible to measure the effects of this incentive.

Another question raised by the heavy tax burden on two-earner couples is the incentive provided for a non-working wife to remain at home rather than enter the active labor force. The amounts involved can be illustrated by examining the change in the couple's overall financial status as a result of the wife's new income. The entrance of a married woman into the active labor force (assuming her husband is also employed) results in a dramatic increase in taxes. From the calculations above it can be seen that when the couple lives on the husband's $15,000 salary, he will pay $1,635 in taxes each year. If, however, the wife begins to work at a salary of $15,000, their taxes will increase to $5,593. (The wife's additional salary of $15,000 results in an additional tax of $3,958.) Thus doubling the couple's income multiplies their tax bill by a factor of 3.4. This result occurs because of aggregation of the spouses' incomes, which means that the first dollar of the wife's income is taxed at her husband's marginal rate of tax, that is, at the tax rate on her husband's highest dollar of income. If the husband earned $10,000 and the wife took a job also earning $10,000, once again doubling their income, the impact on the couple's total tax bill would be even greater—the tax bill would quadruple, increasing from $702 to $2,745. It is, of course, extremely difficult to ascertain to what extent the tax system keeps non-working wives out of the labor force, but it certainly provides an incentive for them to stay at home.

Footnotes at end of article.

II. RECOMMENDED SOLUTION

There is an important constraint on removing the marriage tax penalty on two-earner couples; specifically, the taxes on singles relative to one-earner couples with the same income (a difference that was reduced but not eliminated by the Tax Reform Act of 1969) must not be increased. Under the progressive U.S. tax system, there is only one way this can be accomplished; namely, by making a distinction between one-earner and two-earner married couples.

At present, married couples with the same total income pay the same tax regardless of by whom or in what proportions the income is earned. The incomes of the spouses are simply aggregated. In economic terms, however, there is a distinction between a one-earner couple and a two-earner couple with the same total dollar income. The most important reason is that the dollar income of the one-earner couple does not include the quite considerable value of the homemaker's services in the home. And it might be noted that, compared with other industrial countries, the United States is almost alone in adhering to the principle that only the total income, and not who earns it, matters.

The Action Group has concluded that there is no compelling reason for one-earner and two-earner married couples with the same dollar income to pay the same tax, and believes that this principle of spousal aggregation of dollar income should not be taken as a given in the tax system of the United States. Without it, it is possible to have a progressive tax system that is neutral with respect to marriage. In other words, it is possible to have a progressive tax system that has both no penalty for marriage (no difference between the taxes paid by two married wage-earners and two single taxpayers with same individual incomes) and no penalty for remaining single (no difference between the taxes paid by a single wage earner and a wage earner with the same income married to a non-working spouse).[9]

Once the idea is accepted, there are several policy options for removing the marriage tax penalty on two-earner couples.

The Action Group has concluded that the best solution would be to tax every individual's own income on the same rate schedule (same tax rates, same zero bracket amounts[10] regardless of marital status. This solution would be similar to the situation that existed under pre-1948 tax law in the United States, but with the critical difference that, unlike pre-1948, an individual's own income would, for Federal income tax purposes, be determined without regard to State community property laws.[11] It is generally agreed that Congress has the authority to legislate such a provision. Under the proposed system of one tax rate schedule applicable to every individual's own income, family responsibilities could be accommodated through the use of extra dependency deductions.

Under any system involving individual taxation of each spouse's "own" income, there would have to be some means for allocating income from jointly held income producing property between spouses, and also for dividing deductions between spouses. Generally, with respect to ownership, title should be the determining factor. Where property is jointly owned or deductible expenses are incurred jointly, there should be a presumption that ownership or expense is split 50/50. However, it could be possible for the taxpayers to demonstrate that a different allocation should be allowed. For example, if ownership of a piece of income producing property is split 75/25, the income and associated deductions should be allocated accordingly. Deductions not attributable to property should be split evenly unless the taxpayers choose to allocate these in proportion to their shares of earned income.[12]

The Action Group recognizes that this suggested scheme for property allocation might give couples some leeway for tax planning. However, the Group considers this scheme to be far superior to the current system, under which many couples enjoy the benefits of income-splitting without being required to pay the concomitant costs of transferring title from one spouse to another. This system has, in practice, operated to allow men to retain title to property while, at the same time, "splitting" the income from such property with their wives for tax purposes; this was one of the clear disadvantages to women of the introduction of joint returns and income splitting into the tax system.

Taxation of each spouse's "own" income as an individual does not mean that every married couple would have to file two physically separate returns. The Action Group recommends that for administrative convenience and cost savings both to the Internal Revenue Service and to the taxpayer, married individuals use the same return (hereinafter a "combined individual return"[13]) even though the spouses would *not* aggregate their incomes. The tax would be computed separately of each income without reference to the income of the other. (A similar procedure is used in the District of Columbia, where married persons calculate their taxable incomes and tax bills separately in separate columns on the same return.[14])

The solution of taxing every individual's own income on the same rate schedule does entail problems of revenue loss and political feasibility. In effect, this proposal collapses the present four tax rate schedule into one tax rate schedule to be used by every individual regardless of marital status. If this new tax rate schedule were to be the present schedule for marrieds-filing-jointly, the lowest of the four existing tax rate schedules (as repeatedly proposed, to no avail, by former Representative Edward Koch, now mayor of New York), the resulting loss of tax revenues would be substantial; $25 billion has been suggested as a rough order-of-magnitude estimate. In general terms, this proposal would not change taxes for one-earner couples but would lower taxes for everyone else—unmarried heads-of-households, singles and two-earner couples. If, however, tax revenues were to be preserved by using a new schedule with rates higher than those of the present schedule for marrieds-filing-jointly (for example, the present schedule for heads-of-households or the present schedule for singles), tax rates for one-earner couples would be raised, a political impossibility.

The Action Group believes the most realistic and politically feasible method of achieving the goal of individual taxation would be a two-stage approach. The first stage would consist of allowing married two-earner couples the option of being taxed on each spouse's own income on the tax rate schedule for single (same zero bracket amount and same tax rate as a single person.)[15] As described above, the spouses would file a "combined individual return" with the tax on each spouse's own income computed using the singles' tax rate schedule. This first stage proposal is, in fact, contained in bills now pending in the House (H.R. 3609, introduced by Representative Fenwick and 158 co-sponsors) and in the Senate (S. 336, introduced by Senator Mathias and 20 co-sponsors). It should be emphasized that this proposal does not take away any of the benefits gained by singles compared with one-earner couples in the Tax Reform Act of 1969.

Moreover, if this first stage proposal were adopted, since two-earner couples would always have the option of being taxed as single individuals on each spouse's own income, the interests of single and two-earner couples would be identical in effecting the second stage of the transition to individual taxation. The first stage proposal, that is, the Fenwick and Mathias bills, in effect reduces the number of tax rate schedules from four to three by collapsing the schedule for marrieds-filing-separately into the schedule for single individuals. Revenue estimates for the first stage proposal range from $5 to $9 billion, considerably less than the revenue loss from a complete switch to one tax rate schedule using the present schedule for marrieds-filing-jointly. In any event, it is important to keep in mind that the revenue estimates also indicate the seriousness of the problem: the U.S. government is collecting $5 to $9 billion in extra taxes from about 19 million two-earner couples—38 million individuals—simply because they are married rather than living together without being legally married. Thus the Fenwick-Mathias proposal is a critical first step toward the eventual goal of individual taxation with one rate schedule regardless of marital status.

The second stage in achieving the final goal would be to reduce the three remaining tax rate schedules to one tax rate schedule. At this time, wage earners with non-working spouses could be allowed an extra personal exemption for the non-working spouse to reflect the greater burden on that worker's income. Similarly, if desired, some provision could be made for a partial or full extra exemption for unmarried heads-of-households. The important point is that the personal exemption, not rate schedules based on marital status or spousal aggregation of income, is the appropriate policy tool for adjusting tax bills for family responsibilities.

Implementing the second stage would entail a substantial additional revenue loss. This suggests that the two remaining higher rate schedules should be lowered steadily according to a fixed timetable. The gradual alteration of the rate schedules could be carried out as part of the tax reductions Congress enacts almost every year.

Finally, the Action Group would like to indicate why it has ignored the all-too-frequently mentioned policy option of a deduction or credit for the second wage earner. Such credits or deductions are usually equal to a fixed percent of the earnings of the spouse with the lower income, subject to a specified maximum dollar amount.[16] (One example of this approach is contained in a bill introduced by Senator Gravel, S. 1247.) The Action Group has rejected the idea of a deduction or credit for the second wage earner as unfair and arbitrary. It bears no relationship to, and indeed perpetuates, the differences in tax rate schedules according to marital status that cause the marriage tax penalty in the first place.

FOOTNOTES

[1] Some of the material in this report was contained in "Let's Stop the Tax on Marriage," by Sydney J. Key, *The Washington Post* (Outlook), January 29, 1978, in Dr. Key's testimony "The Marriage Tax on Two-Earner Couples" before the House Ways and Means Committee on April 5, 1978, and in "The Marriage Tax" by Sam Sanchez, which appears in the *Interim Report to the President* by the Task Force on Sex Discrimination, Civil Rights Division, U.S. Department of Justice.

[2] According to Mr. Sailer's calculations, 5 million two-earner couples enjoyed the traditional tax benefits from marriage and a joint return. For these latter couples, the spouses' contributions to family income were so dissimilar that the benefits from income splitting outweighed the factors causing the marriage tax. See Peter J. Sailer "Using Tax Returns to Study Wage and Taxpaying Patterns, 1969 and 1974," *1976 American Statistical Association Proceedings*, Social Statistics Section, pp. 34–40.

[3] Under 1979 tax law the amount of the personal exemption is $1,000 per person.

[4] Itemized deductions may be subtracted from adjusted gross income (AGI) only to the extent that they exceed the "floor" on itemized deductions, that is, only excess itemized deductions may be subtracted. The floors on itemized deductions are, at the present time, equal to the zero bracket amounts: $3,400 for a married couple and $2,300 for a single person, which amounts to a combined floor of $4,600 for two singles. The effect of the difference in floors on the marriage tax penalty depends on the amount of itemized deductions and their division between spouses. At one extreme, two married taxpayers could subtract $1,200 more of their itemized deductions from their AGI than if they were single; their marriage tax penalty would be reduced somewhat but by no means eliminated. At the other extreme, which occurs when only one spouse has deductible expenses, the effect of the different floors is to increase the marriage tax penalty. See Walter Stromquist "Federal Income Tax Treatment of Married and Single Taxpayers," *Tax Notes*, June 11, 1979, p. 735.

[5] The married-filing-jointly schedule incorporates the idea of income splitting, the source of the tax subsidy for one-earner couples. A married couple filing jointly with a total taxable income of $13,000 (which corresponds to an AGI of $15,000 with no excess itemized deductions) is taxes as if they were using the married-filing-separately schedule to compute taxes on two taxable incomes of $6,500 each, regardless of how the income is in fact divided between husband and wife. This can result in a considerable tax savings, because the United States has a progressive federal income tax. In other words, since the rate of tax increases as income increases, the tax on the second $6,500 of a total taxable income of $13,000 is greater than the tax on the first $6,500. When a married one-earner couple with a taxable income of $13,000 implicitly splits their income by using the married-filing-jointly schedule, both halves of their income are taxed at the low rate applicable to the first $6,500. (Rather than going to the trouble of calculating the taxes on the two $6,500 halves and then adding them up, taxpayers can simply look up the tax for a taxable income of $13,000 on the schedule for marrieds-filing-jointly, which has the income splitting calculation built in.) For a one-earner couple with a taxable income of $13,000, the tax savings from income splitting is about $840. On the other hand, a husband and wife with identical incomes gain no benefit from income splitting, since their incomes are in fact divided equally; thus the tax for their total taxable income on the schedule for marrieds-filing-jointly is the same as the sum of their taxes on each individual income on the schedule for marrieds-filing-separately.

[6] The calculations assume that there are no dependents and no excess itemized deductions and that each spouse pays in proportion to his or her share of total earnings.

[7] Most people using the heads-of-households schedule would have at least one dependent; this calculation, based on the assumption of no dependents, is hypothetical only. Introducing dependents into all of the calculations would not, however, change the relative tax bills of the different categories of taxpayers.

[8] If incomes are equal between spouses, it generally makes no difference whether the rate schedule for marrieds-filing-separately or the schedule for marrieds-filing-jointly is used. If incomes are unequal, it is almost always advantageous to use the rate schedule for marrieds-filing-jointly.

[9] The history of the Federal income tax as it relates to these principles is discussed in detail in Stromquist, *supra* note 4, pp. 731–734.

[10] It is assumed that, as at present, the floor on itemized deductions would equal the zero bracket amount and thus be the same for every individual taxpayer. If the floor on itemized deductions should in the future be "cut loose" from the zero bracket amount, the Action Group would recommend that the new floor on itemized deductions be the same for every individual taxpayer, that is, it should not be dependent on marital status.

[11] A major problem in the pre-1948 system and, indeed, a major reason for the change to joint taxation with income splitting, was the decision of the U.S. Supreme Court in *Poe* v. *Seaborn*, 282 U.S. 101 (1930), which held that married residents of community property states could split their incomes for federal tax purposes. (Under community property rules, half of any married person's income belongs, in effect, to the spouse.) The Court's decision obviously gave married one-earner couples in community property states a great advantage over those in common law states, with the result that a number of states began adopting community property laws solely to give their citizens this benefit on their federal income tax returns. After passage of the Income Tax Act of 1948, which extended the benefits of income splitting to married couples everywhere, these states returned to their former common law status. The *Seaborn* decision was, however, based on the legislatively enacted Internal Revenue Code and not on the Constitution, which means that Congress could change the federal income tax law so that each individual would be taxed on his or her own income for federal purposes, without regard to the property laws of the state in which he or she resides. In *Fernandez* v. *Wiener*, 326 U.S. 340 (1945), the Supreme Court held that the federal tax definition of property could supersede the state definition for federal tax purposes.

[12] A similar procedure could be followed for exemptions for dependents.

[13] The term "joint return" should be avoided, since it has become associated with concepts of spousal aggregation of income and income splitting.

[14] The standard deduction in the District of Columbia does, however, depend on marital status. See p. 6 above regarding zero bracket amounts.

[15] In such a first stage approach, allowing two-earner couples to file as singles should be at the option of the couple; at this first stage there is no reason to remove the tax benefit from marriage for two-earner couples

where spouses have widely divergent incomes. It would be relatively easy to have the tax form instructions contain a table showing, for various total income ranges, the income splits at which a two-earner couple would benefit from exercising the option of being taxed as singles. Couples with large excess itemized deductions and/or couples with income splits near the borderline would probably want to calculate their tax bills both ways; the potential tax savings would clearly be worth the extra calculations involved.

[16] It would, of course, be mathematically possible to devise a credit based on each spouse's own income and deductions that would equal the exact amount of the marriage tax for each two-earner couple. Such a credit would produce the same result as the first stage proposal discussed on pp. 12–13 above. However, such a credit would be an unnecessarily complicated way to eliminate the marriage tax penalty. By contrast, the first stage proposal, that is, giving married two-earner couples the option of being taxed as singles on each spouses own income, is much simpler; moreover, not only would it eliminate the marriage tax penalty but also it would reduce the number of tax rate schedules from four to three.●

TAXES AND THE SOCIAL CONTRACT

● **Mr. DOLE.** Mr. President, the administration's new pay committee will soon be faced with the problem of establishing a wage guideline for the coming year. As is usual with wage standards, the strategy is to use moral suasion and move toward an informal social contract with American workers. The workers are expected to accept wage increases that are below the rate of inflation, the theory being that scaled-down wage demands will dampen inflationary pressures.

It should not be necessary to point out that such an approach can at best be a temporary expedient. So long as the need to finance an expanding Federal deficit keeps feeding inflation, wage restraint can only cause diminished expectations and reduce inflation to the extent that higher wages contribute to the cost-push side of inflation. There is no guarantee that lower real wages will dampen demand so long as people see a never-ending inflationary spiral ahead of them. In any event, at some point the guidelines will be lifted, and whatever progress may have been made against inflation will soon vanish.

The notion of wage and price standards, of a social contract to restrain inflation, has gained much attention in this decade, with its overall high rates of inflation. But wage and price standards do not alone make a social contract, because they are totally one sided. The necessary contract is not between business and labor. It is a dangerous misconception to claim that the private sector alone can keep inflation going and (conversely) that the private sector alone can restrain inflation given proper guidance. No, the necessary social contract is between business and Government, and between labor and Government. A contract means promises on both sides of the bargain, yet we have not heard the Government say what it will do in return for wage and price restraint from the private sector. While this administration often speaks of fiscal restraint and wringing out inflation, it has made no real commitment to the American people that would achieve those goals. Anyone would be well advised to proceed with caution in negotiating a social contract with this administration.

There are concessions the Government can make to the public if it desires wage restraint. The Senator from Kansas has been suggesting many of these, including balancing the budget, moderating the deficit, and adjusting the tax laws to encourage savings and investment that can lead to stable economic growth. But the most significant measure of self-restraint the Government could take would be to forgo tax increases caused by inflation. Workers trying to keep up with inflation demand higher wages, but their salary increases in dollar terms often mean no change in purchasing power—in real income. But wage increases have another consequence—they push people into higher tax brackets. Given the progressive structure of the income tax, higher income means higher tax rates. The income tax is not set up to take account of the fact that high inflation slashes the value of given levels of nominal income.

The outcome is a steady growth in the effective rates of income tax, periodically offset by tax cuts passed by Congress. But those tax cuts do not eliminate all of the inflation tax increase, or taxflation, and they do not benefit the same people as are hit hardest by taxflation. Because the Government has a revenue windfall from taxflation, it has every reason to allow inflation to continue. Ending taxflation should be the first step the Government has to take before it can ask for wage restraint from the public.

The Tax Equalization Act, S. 12, would end taxflation. I introduced this legislation earlier in the year to adjust the progressive income tax brackets for inflation. With these tax bracket adjustments, the tax rates will correspond to levels of real, not nominal, income. Let us show the people that the Government is willing to exercise self-restraint before we ask them to make concessions. We can do it by passing the Tax Equalization Act.●

LIQUEFIED NATURAL GAS TERMINAL

● **Mr. HAYAKAWA.** Mr. President, over the past 6 years, the Western LNG Associates have negotiated with various Government agencies for approval to finance and construct a terminal to receive Alaskan and Indonesian liquefied natural gas. Since 1973, they have faced interminable delays and barriers, and have come very very close to losing the contract with Indonesia to purchase this gas so desperately needed in California. I believe this situation certainly exemplifies the need for a strong Energy Mobilization Board to expedite such crippling procedures, and I would like to share with my colleagues an excellent editorial from the Los Angeles Herald Examiner which details the situation.

The editorial follows:

A TERMINAL STORY THAT SHOULD LEAVE YOU LAUGHING (OR CRYING)

Have you been following the progress of the proposed liquefied natural gas (LNG) terminal through the state and federal regulatory maze? If you have, then you know why President Carter wants to set up an Energy Mobilization Board to expedite approval of critical energy projects.

To put the travails of Western LNG Associates in perspective, understand that affiliates of Southern California Gas first contracted to buy Indonesian gas in 1973. A few months later, the Japanese also signed gas contracts with the Indonesians. Since then, the Japanese have planned, approved, financed and constructed two LNG terminals. The first was completed in August 1977, the second in September 1978.

By contrast, California's LNG terminal has just received final federal approval. It must now be financed and constructed. And before that can happen, Western LNG Associates must run the gauntlet of environmental suits in the courts, a process expected to take 6 to 18 months.

So if all goes as planned, we'll have an LNG terminal on line in 1983, six years after the first Japanese terminal opened for business.

It's not as if we don't need the gas. California uses clean-burning natural gas to satisfy half its energy needs. When the terminal is operational, the Indonesian and Alaskan LNG it handles will provide fully 25 percent of California's gas in the '80s.

So what's been holding the terminal up? You name it. First the Economic Regulatory Administration (ERA) deliberated at delirious length over whether to approve the price of the Indonesian gas. Then the price was approved, and the siting circus began.

Pt. Conception, you see, is no one's idea of a superlative place to stick an LNG terminal. Little Cojo Bay has vicious weather and notoriously rough seas. The area also hosts a seismic fault of as yet undefined proportions. And the Chumash Indians consider the site sacred, which leads them to look dimly on its future as an industrial park.

All the above caused the staff of the Federal Energy Regulatory Commission (FERC) to decide that the terminal should be cited at Oxnard, not Pt. Conception. But the Legislature's 1977 Liquid Natural Gas Terminal Act specifically prohibited siting the terminal near a populated area. Hence everyone involved with the project was on tenterhooks for six years, waiting to see if the feds would preempt the state Legislature, and demand that Oxnard be the terminal site.

Then the state's Public Utilities Commission got into the act. The PUC tried to do the impossible, and somehow satisfy the objections of the Chumash Indians (which can't be satisfied short of nixing the project), without actually doing that.

What followed was a classic example of jurisdictional bickering between government agencies all trying to "do their job," all pulling in radically different directions, all wasting an inordinate amount of time in the process. And that bickering is largely to blame for the "extraordinary procedural delays and changes of law and policy" which plagued the project, in the asesssment of a man who should know, David Bardin. Bardin heads the Economic Regulatory Administration, through whose offices FERC worked in approving the project.

The federal government, in its wisdom, finally chose to ignore the potential jurisdictional conflict between the Legislature and the Department of Energy. Instead, it gave its untrammeled support to the Pt. Conception site. This was appropriate, since further regulatory delays would have probably caused the Indonesians to cancel their gas contracts with us. The Japanese, recently bereft of Iranian supplies, would have snapped the extra gas up in a flash, and the Indonesians knew it.

Still, the approval process required far too much time to be completed. When you consider that the Sohio pipeline had to clear more than 700 permits to be built, you know why the pipeline is no longer with us. But when you contrast the size of that shopping list with the 64 major permits the LNG terminal required, it is hard to understand what took six years.

What you may deduce, however, is that an Energy Mobilization Board is an idea whose time has come. We're not talking about the sort of Star Chamber, empowered to override existing environmental legislation, which is envisioned by legislation proposed in the House of Representatives. But we are talking about the kind of board proposed by the president, one with the power to set deadlines for bureaucratic decisions, and expedite the completion of critical energy projects.●

TEACHER CORPS

● Mr. KENNEDY. Mr. President, yesterday Senator Nelson introduced a bill (S. 1853) to extend the authorization for the Teacher Corps through 1983. The current authorization expires at the end of this fiscal year. As chief cosponsor of this legislation I would like to have my statement included in the Record.

Fourteen years ago when I first proposed the creation of a Teacher Corps I said:

> If a good education is the key to a better future for the disadvantaged child, then a good teacher is the key to that education . . . if we want these children to learn now, we must provide them with such teachers.

My conviction that this is the case is unchanged today.

Since that time, the Teacher Corps has established a remarkable record. In its earlier years when there was a general teacher shortage, it trained over 10,000 new teachers for disadvantaged children. In more recent years its focus has been on increasing the quality of teachers who are already on the job. A total of almost 30,000 experienced teachers have participated. These teachers have served in schools with more than a million and a half pupils, all of whom have been from low-income families.

Under amendments in 1974 and 1976, which Senator Nelson and I introduced, the course of the Teacher Corps was changed decisively. For the first time it was able to train entire school staffs. For the first time parents and community members were able to participate equally with teachers and college staff in developing and carrying out training programs. For the first time local projects were assured of sufficient time, up to 5 years, to develop and install lasting improvements in their educational systems. For the first time the Teacher Corps was provided with the authority and resources for a long term and extensive program evaluation.

All of these changes were effective last year, during the 1978–79 school year. The first of the new 5-year programs will be completed in 1983, and we should have good evidence of its effectiveness by that time. Our bill, therefore, proposes the continuation of the Teacher Corps authorization without any revision until that time.

While many of the program characteristics of the Teacher Corps have changed over the years, one has not. That is its dedication to solving the most difficult among the educational problems of our Nation—seeking ways to bring lasting improvement to schools serving low-income populations. In supporting the proposed authorization extension my intention is to underscore my belief that the Teacher Corps should continue steadfast on that course, and that it should remain a vital, independent, and strong program within the new Department of Education.●

PAY RAISE LEGISLATION

● Mr. BOSCHWITZ. Mr. President, I agreed with the action taken by the Senate recently to deny pay increases for Members of Congress, and I decry the efforts of the House which raised the issue again, whereupon the House sent it to us and left town on a recess.

I support the motion made by my colleague from Florida, Senator Stone, which would defer any future congressional pay increases until after the next general election. This will enable taxpayers to make their wishes known.

I further believe that Congress should not receive pay raises while inflation is not under control.

However, I do feel that top-level Federal employees should not be penalized for Congress inability to bring inflation under control by limiting Government spending. For this reason, I supported the motion to give those Federal employees a 5.5 percent pay raise.

Had either of the measures effecting congressional pay been brought to a vote, I would certainly have recorded an "aye."●

FEDERAL ELECTION COMMISSION AUTHORIZATION

● Mr. HUMPHREY. Mr. President, recently, the House leadership pulled from immediate consideration the routine Federal Election Commission authorization, S. 832. This action was apparently taken because of the controversy which has arisen in recent days over a proposed nongermane amendment which strikes at the very heart of our election system, the so-called Obey-Railsback amendment. The Obey-Railsback amendment would limit political action committees' participation in the election process.

The American people and their elected representatives must not be deluded by the proponents of this amendment who foster the false idea that political action committees are evil. The fact is political action committees have increased grassroots participation in politics by citizens who never before involved themselves.

A brilliant rebuttal by Congressman Bill Frenzel of Minnesota appeared today on the editorial page of the New York Times. His thoughtful analysis of the role that political action committees play should be thoroughly considered by all of us here in Congress. Many have been seriously misled about the consequences of a measure such as the Obey-Railsback amendment. I commend this article to the attention of my colleagues. I ask that it be printed in the Record at the close of my remarks.

The article follows:

[From the New York Times, Sept. 27, 1979]

On the Bill Curbing Interests' Gifts

(By Bill Frenzel)

Washington.—A bill that the House may be soon asked to consider is designed to reduce the amount of money that a political-action committee, or PAC, can give a House candidate and the amount any candidate can receive from all PAC's. Its high-minded sponsors believe it would magically prevent alleged "special-interest" manipulations of the Congress. None of the bill's supporters has been able to identify any House member who has been unduly influenced by any interest, nor have they shown that PAC contributions are a greater, or less great, influence than editorials, direct lobbying, demonstrations or independent expenditures.

Before Congress changes a law, there is usually, and ought to be, proof that a system needs repair and that the proposed repair will be successful with a minimum of undesirable side-affects. There has been no such demonstration with the bill under consideration, sponsored by Representatives Tom Railsback, Republican of Illinois, and David R. Obey, Democrat of Wisconsin, partly because its sponsors so far have been afraid to subject it to committee hearings, and partly because their rationale that PAC's are evil is based on subjective "feelings."

Every nickel that PAC's contribute to candidates is voluntarily given by individuals. Those contributions are subject to disclosure and limitations just as they would be if direct contributions were made to candidates.

The growth of PAC's is normal and natural. They were not sanctified by regulations and law until 1974. Since then, they have grown rapidly because individual contributors like them. People like to be identified with them. People like to be identified with their union, professional group, corporation or ideological group. They also like to have their contributions identified with the PAC's of the so-called special-interest groups.

In the last 20 years, as political parties have become less popular and confidence in government has fallen, PAC's have been the greatest—in fact, the only—institution in our society that has encouraged and expanded political participation by the public. PAC's have encouraged tens of thousands of people who never were active politically to participate in our political processes.

Every cure has some side-effects. The Obey-Railsback measure, which cures only a fantasy, has a ton of adverse side-effects in addition to quashing political participation. Many of them, especially protection of incumbents, are wholly intentional. The bill would have the following effects:

1. It would leave typical candidates defenseless against rich candidates whose unlimited right to contribute to their own campaigns is protected by the Constitution. PAC contributions are often the only balance to rich candidates.

2. It especially penalizes challengers who need to spend heavily to gain identification equal to incumbents. The Kennedy Institute at Harvard recently reported to Congress that not enough money was being spent in campaigns, a finding that we believe supports our position;

3. It would leave Big Labor with its enormous legal advantages to spend the involuntary contributions of its members—union dues—for political purposes Without PAC's, labor's political power is unbalanced.

4. It would increase fund-raising costs. Current limits on contributions have forced

candidates to use direct mail, by far the most expensive fund-raising device. That trend would be exacerbated by the bill.

5. It would penalize candidates with competitive primaries who would have to squeeze two elections out of one contribution limit.

6. It discriminates against an oppressed minority, Republicans. Fourteen of the 16 Republican challengers who defeated incumbent Democrats in 1978 elections received more contributions from PAC's than they would be allowed under the bill. Under its limits, many of them probably would not have won.

The bill seems to rely on the same limited constituency that unsuccessfully tried to pass taxpayer financing of House elections—incumbents, Common Cause, and the A.F.L.-C.I.O. Each group would be aided by its passage. Their strategy is to limit PAC contributions so that Congress will be forced to turn to taxpayers' money to pay for its own re-election. Taxpayer financing ought to be able to stand on its own feet, or fall, as it did, of its own weight.

The Federal election law that restricts contributions and requires disclosure provides ample opportunity for people to decide if certain contributions add up to "undue influence." The people's best defense against alleged corruption in Government is to vote the rascals out.

Laws that further restrict political participation and political expression deserve to be defeated.●

FINANCIAL MANAGEMENT SYSTEMS IN DISTRICT OF COLUMBIA

● Mr. EAGLETON. Mr. President, on October 1, the District of Columbia Government began implementation of a computerized accounting system known as the Financial Management System (FMS). This is an important landmark on the path to full and fiscally responsible home rule for the District.

The origins of the FMS go back to 1976, when the accounting firm of Arthur Andersen & Co., reported that serious deficiencies in the District's accounting and financial management practices made it virtually impossible to conduct a meaningful audit of the District's books. Andersen found that the problems had evolved over a long period of time, attributable in large measure to the fact that prior to home rule, the District was treated as a Federal agency, not a municipality. The accounting firm fully documented the depth of the problem and recommended creation of a new financial system.

In response to the Andersen report, Congress, in September 1976, enacted Public Law 94–399, which established the Temporary Commission on Financial Oversight for the District of Columbia. Comprised of three members each from the Senate and the House, the Mayor of the District and the city council chairman, the Commission was charged with organizing, directing and overseeing the new system. The legislation also assigned to the General Accounting Office the responsibility of monitoring the Commission's work and approving phases of the system's implementation. As a benchmark of the city's general health, the legislation called for a full audit of the District's books for fiscal year 1980.

Now, 3 years after its formation, the Commission, in conjunction with GAO, has determined that the new FMS is ready for implementation. Designed by American Management Systems, Inc., the system represents the most up-to-date utilization of computer technology for accounting and budgetary planning. When fully operating, the system will provide reliable information about the District's assets, liabilities, expenditures, and fund surpluses or deficits. The system will keep track of cash accounts, supply inventories and, together with subsidiary systems, the daily status of bills and payments for traffic tickets and such items as water-sewer services, health treatments, and even library fees.

Any new elaborate computer system carries with it some bugs. The Commission anticipates some complications and slowdowns, and in certain areas, perhaps up to a year of minor problems which will call for public and congressional patience. But the Commission believes that the benefits of implementing FMS at this time far outweigh any minor inconveniences. With FMS operational, the District should receive a clean bill of fiscal health for fiscal year 1980, enabling the city to enter the municipal bond market. In fact the Commission believes that through the process of preparing for FMS, the District has already made significant progress toward capable fiscal management. For that reason, the Commission, with the enthusiastic support of the city, has recently commissioned a balance sheet audit for fiscal year 1979. This partial audit—undertaken a year in advance of the statutorily required full-scale audit—should serve as a midterm exam, highlighting progress and pinpointing any areas of remaining difficulty. If successful, it would also allow the District to enter the bond market a year earlier than it otherwise could.

Many people in the city, in the Federal Government, and in the private sector, have contributed to the job of making the FMS a reality and improving the District's financial management in general. Special tribute should be paid to Mayor Marion Barry and Council Chairman Arrington Dixon, who have recognized that improved financial management deserves to be given the highest priority by the city government. City Administrator Elijah Rogers and Assistant City Administrator Colin Walters have given full support and provided leadership for the many city employees who have been deeply involved. Comptroller General Staats and GAO have contributed countless hours and careful analysis to this problem. I also want to commend Bruce Rohrbacher, the Commission's indefatigable Executive Director, who after 25 years as a partner in the noted consulting firm of McKinsey & Co., has brought his great expertise to the Commission. It is his efforts more than any other which have made implementation of FMS possible at this time.

Mr. President, the Federal Government has an absolute responsibility to help correct problems encountered by the District government, when those problems arise from conditions which the Federal Government created, or imposed prior to home rule. That is simple justice. By rights, Congress should have insisted on fixing the financial management system of the District prior to passage of home rule legislation. Through the work of the Commission, we rectify that error and lay the groundwork for sound financial management in the years to come.●

THE WASHINGTON OFFICE ON LATIN AMERICA

● Mr. KENNEDY. Mr. President, recent events in Latin America such as the overthrow of President Somoza in Nicaragua, the discovery of extensive oil reserves in Mexico, and the rapid economic and political development in Brazil demonstrate that United States relations with our southern neighbors can no longer be on the back-burner of our foreign policy.

In my own work, and I am sure the work of many of my colleagues, the Washington Office on Latin America, under the able direction of Rev. Joseph Eldridge, has long been a valuable source of information and advice. I would not call WOLA dispassionate or neutral. Indeed, WOLA is completely dedicated to the cause of human rights and progress in Latin America. And it is totally committed to the truth about this vital part of the world.

I wish to commend to my colleagues this private, church-affiliated organization, known and respected as a dependable source of information on current issues from the Rio Grande to Tierra del Fuego.

I am not the only one to recognize WOLA's effectiveness and concern. For in a letter of September 6, 1979, the Conferencia Nacional Dos Bispos Do Brasil wrote of their "high regard" for WOLA. The National Conference of Brazilian Bishops has represented a consistently credible voice in one of the most important countries of this hemisphere. I would like to draw my colleagues' attention to the Bishop's letter concerning WOLA, and in the process to let my colleagues know of this organization's fine work.

Mr. President, I ask that the September 6, 1979, letter of the Conferencia Nacional Dos Bispos Do Brasil be printed in the RECORD.

The letter follows:

BRASILIA,
September 6, 1979.

MS. FRANCES NEASON,
Secretariat for Latin America, National Conference of Catholic Bishops, Washington, D.C.

DEAR MS. NEASON: I would like to bring to your attention the fine work of the Washington Office on Latin America. We have high regard for the work of this office, finding its goals very consistent with the goals of the Church in Brazil. Any support the Secretariat for Latin America of the US National Conference of Catholic Bishops can provide the Washington Office on Latin America would be regarded as a service to the Church of Brazil itself.

With highest regards for you and for the Secretariat for Latin America, I am.

Sincerely yours,
LUCIANO MENDES DE ALMEIDA,
General Secretary of CNBB.●

JUDICIARY APPOINTMENTS

● Mr. HUMPHREY. Mr. President, there is language in the Senate version of the continuing resolution (H.J. Res. 404) which refers to the standing of a Senator to challenge in Federal district court the appointment of anyone appointed during the 96th Congress to the U.S. Court of Appeals for the District of Columbia, on the ground that his appointment and continuance in office are in violation of article I, section 6, clause 2, of the Constitution. This language has been included to insure that the judicial branch will have an opportunity to exercise their constitutional duty, under the authority of Marbury against Madison, to say what the law is. With this language, the legislative branch recognizes that the judicial branch is the interpreter of the Constitution. Senate continuation of a person prohibited by the Constitution from taking a civil office would render a Senator's vote void, as if he had never cast it. Additionally, an unconstitutional appointment would deprive a Senator of his future opportunity to vote for an individual who, in contrast, actually was constitutionally qualified for appointment to and the holding of that particular office. Since the appointment of a constitutionally disqualified person diminishes the effectiveness of a Senator's representation of the people of his State, venue should lie in his home State.●

TELLICO DAM

● Mr. BAUCUS. Mr. President, President Carter has just signed into law a bill providing money for the completion of the controversial Tellico Dam in Tennessee. Thus ends more than a decade of wrangling which saw the issue debated in the Supreme Court, the Congress and the executive branch.

Opposition to the project centered early on its impact on the snail darter, a tiny fish whose only habitat would have been destroyed by the dam. In time, the fish was successfully transplanted to other streams in Tennessee and Kentucky, thereby lessening the endangered status of this species and removing this obstacle from construction of the dam.

Another issue remains unresolved, however, even with the President's signature. This has to do with the fiscal integrity of the project—and of similar water projects. I am vitally interested in this issue because a dam in my State is receiving similar attention.

This Nation has a long history of support of multipurpose dams. The structures have permitted reclamation of huge areas of land for farming; they provide much-needed electricity to power our homes and factories; they impound waters which are used by tens of millions of recreation enthusiasts annually; they have prevented untold billions of dollars of devastation by flooding.

Because such projects have been universally viewed as positive, many have also been authorized and built with little critical review. As a result, huge sums of money have been poured into some projects when careful analysis might have shown a better use. Tellico is a good example.

The snail darter issue stopped Tellico when construction was well over 90 percent complete. The pause permitted analysts to review the benefit-to-cost ratio. A specially constituted Cabinet-level review board concluded that upon completion, annual benefits would total $6.52 million while the annual cost would be $7.25 million. In the process, it would flood 20,000 acres of prime farmland worth approximately $40 million and displace 350 families, many of whom have been on the land for generations. Even the Tennessee Valley Authority, under whose auspices the project was initiated, dropped its support for completion of the project.

The Tellico Dam was kept alive by questionable parliamentary tactics in the Congress and then inserted in an omnibus energy and water bill which the President could veto only at great risk to other parts of his program. Mr. Carter reluctantly signed the bill.

Proponents used the argument that so much money had already been spent that it would be wasteful not to proceed with the project. This is a familiar argument to me. Similar rationale is being used with respect to a dam in my State. The difference is that our dam, a smaller reregulating structure to be located below Libby Dam in northwestern Montana, has hardly proceeded beyond the groundbreaking stage. But the same reluctance to reexamine its economic underpinnings is being shown.

Libby Dam was authorized by the Congress in 1950, but had to await the signing of a United States-Canadian treaty in 1964 so that its impounded waters could back across the Canadian border. Construction began on the main dam in 1966, the reservoir began to fill in 1973, and power began to flow from the first four turbines in 1976. The schedule had called for installation of the remaining four turbines, bringing the total output to 840 megawatts, by 1983.

From the moment the first four turbines became operational, the Corps of Engineers began using them for peaking power. The resultant river fluctuations caused a public outcry which in turn resulted in a major reexamination of the entire project. Special attention was focused on a planned reregulation dam 10 miles downstream on the Kootenai River which would even out the surges of peaking power released by the main dam.

Ultimately a law suit was filed and a Federal judge ruled that: First, the reregulation dam was never authorized by Congress; and second, violations of the National Environmental Protection Act occurred during its planning. An injunction against further construction was issued, and it remains in effect today. In addition, serious questions were raised about the operation of the main dam for peaking power—a commodity which many claim is in surplus in the Northwest today.

Mr. President, the Libby reregulation dam will ultimately cost, counting inflation, at least a quarter of a billion dollars. This sum is small in comparison to that of Tellico. However, it is substantial and the principal involved in spending for each project is the same. Are we getting our money's worth? Is this the wisest way to invest our money?

How is a legislator expected to make a judgment on the validity of a costly project? What objective analytical tool is available to one who wants to make the right decision? I submit that the only way is a thorough, impartial review of benefits and costs, periodically updated if need be.

The President coupled his signing of the Tellico measure with a call for a high-level review board under the direction of the Water Resources Council. I support the creation of this type of body whose sole job will be to sort out the charges and countercharges on water projects. Had this service been available many years ago, we would probably have been spared the agony of Tellico—and hundreds of farm families would be getting on with their lives in central Tennessee.

Such a board would also be most helpful in establishing facts on the Libby reregulation dam. The Libby project was originated in 1950 by act of Congress. During the long waiting period, lifestyles and public values changed but were not reflected in the mandate for the dam. With the Court injunction, an enforced lull has resulted. I attempted to get the Corps of Engineers to go back to ground zero and reestablish the economic justification for the project. The agency refused. I have since asked the General Accounting Office to perform the task. The GAO is now performing a study, but of necessity it is less detailed than I would have preferred.

Mr. President, I do not wish to prejudge the Libby reregulating dam. I simply want the facts on which to make the most informed decision. But there is great resistance to the search. I would say to the proponents of construction that they have as much to gain as anyone from an airing of the facts. One's integrity is intimately tied to the validity of one's arguments; where questions arise as to the dependability of facts, there is no substitute for an openminded search for the truth.

We are embarked in the Congress and in the Nation on the creation of a national energy package. Hydropower will play a heightened role in the production of energy. But we must place our energy tax dollars in those technologies which yield the greatest return. In some cases, it will be hydropower. In others, it may be power swaps, or insulation, or renewable power sources. The times demand a critical review of every energy project, especially those which are costly and about which serious questions are raised.

I endorse creation of an impartial Water Projects Review Board and I will continue to insist on a thorough reexamination of the Libby reregulation dam project.

I thank the Chair.●

CITIZEN RESPONDS TO RHODES PROFESSOR

● Mr. HUMPHREY. Mr. President, in a speech on the Senate floor last week, the distinguished minority leader (Mr. BAKER) called on Secretary of State

Cyrus Vance to apologize to the distinquished Senator from North Carolina for what the minority leader called "the spreading of untruth about Senator **Jesse Helms**."

The State Department had earlier leaked to the press a statement to the effect that the British Foreign Minister had lodged a complaint over the presence of two aides of our distinquished colleague from North Carolina, at the London Conference on Rhodesia. The report was categorically refuted by the British Foreign Minister.

These erroneous press reports led to unfavorable reaction on the part of some editorial writers and by a few writers of letters to newspaper editors.

In response to such reporting by the Washington Post, a Rhodes professor at Oxford University wrote a letter of criticism of the distinguished Senator from North Carolina.

A private citizen, Mr. Tom E. Moore of Springfield, Va., has written a letter in response to the Oxford professor.

Mr. President, I ask that Mr. Moore's letter to Prof. J. R. Pole at Oxford University, be printed in the Record.

The letter follows:

Springfield, Va.,
September 27, 1979.

Prof. J. R. Pole,
St. Catherine's College, Oxford University, Oxford, England

Dear Professor Pole: Regardless of the rights, wrongs, or even indifference involved in Senator Helms' actions vis-a-vis the discussions now on-going concerning Rhodesia, actions which are not subject to any approvals by "high" officials in the United States or Great Britain, the Senator has grave concerns about the British position, which, in effect, declares an "open season" on white people and others, and a recognition of Marxist guerrillas, "freedom fighters," as "the Patriotic Front." No U.S. law is involved.

Senator Helms seems to take the following positions, as I have deduced from what he has said, reported in the Congressional Record:

1. White people have the right to survive in peace and safety in Africa, even in Zimbabwe-Rhodesia.

2. Black people who are reasonable enough to understand that all people, white and black, attempting to live in peace and safety in Zimbabwe-Rhodesia, should also be permitted to survive in that condition of peace and safety. (This is a cause badly misunderstood by "the Patriotic Front.")

3. Contingent upon the foregoing is the belief that airline passengers (black, white, yellow, red, or green) have a right of peaceful transit in all the safety which technology can provide, which, also, is a cause misunderstood by "the Patriotic Front."

4. Missionaries from Britain, and their families, have the same rights, also a cause misunderstood by "the Patriotic Front."

5. The commerce, industry, and defense of the free (non-Marxist) world depend heavily upon raw materials from Rhodesia and South Africa; materials which make the wheels go 'round. The availability of some of the materials otherwise is controlled by our common enemy.

6. Andy Young, whose influence in Africa, upon Jimmy Carter, upon Lord Carrington, and upon Mrs. Thatcher has been of undue weight, does not speak and has never spoken for the people of this country.

7. The government which was established recently in Zimbabwe-Rhodesia represents the majority of the war-weary people of that beleaguered land, and we, on both sides of the pond, should applaud and support that government rather than continue to erect stumbling blocks in its way. It is as legitimate as the government of these colonies.

I applaud the Senator's efforts, and in my estimation his "name (leads) all the rest" (apologies to Leigh Hunt, Englishman, of another and perhaps more noble generation). I cannot judge your motivations in being so highly critical of Senator Helms, but I should expect similar action from the university intelligentsia in this country, the principal repository of sympathy for, "understanding," and admiration of all things Marxist and pro-Russian.

Sincerely,

Tom E. Moore.

A WARM WELCOME FOR POPE JOHN PAUL II

● Mr. **WILLIAMS**. Mr. President, the United States has the great privilege this week of hosting Pope John Paul II.

Millions of Americans, Catholic and non-Catholic alike are welcoming him to our country and listening to his message. He is the first Pope to ever make such a tour of the United States and the first in centuries to undertake a world tour. The uniqueness of his visit makes his stay here all the more precious and I am sure I voice the hopes of millions when I wish that he could be with us much longer than a week.

The exuberance and joy which has greeted his visit is, I believe, testimony to his special kind of spiritual leadership of one of the world's largest religious groups, and to his warmth and love for all of mankind. He has personalized the papacy, and infused it with the celebration of his own priesthood, encouraging others to take inspiration from their faith, and to draw closer to one another in unity and peace.

Seeking to carry his pastoral mission worldwide, Pope John Paul II has welcomed everyone to join his mission to build the family of mankind, and he has encouraged people of all faiths to put aside their prejudices and disagreements. As he stated in Ireland last weekend before an audience hailing from the war-torn north, "I beg you to turn away from the paths of violence and return to the ways of peace." His mission carries an important message to all people, all ages, and all races.

He is proof that a strong and growing faith is alive in Poland and other Communist countries, and he reminds us that political, national, and social diversities do not have to override a strong faith. His message, I believe, can be appreciated by people from all walks of life and his lessons can be understood by all faiths.

I join my colleagues in the Senate and millions of Americans in welcoming Pope John Paul to the United States, knowing that his message will be received by open hearts.●

ILLINOIS BRICK LEGISLATION

● Mr. **STEWART**. Mr. President, one of the most difficult and complex issues that I have considered since coming to the Senate is the so-called Illinois Brick legislation, S. 300. This bill would overturn the Supreme Court decision which held that indirect purchasers from antitrust violators may not sue and recover treble damages under the Clayton Act. After a long and detailed study, I have concluded that I cannot support the enactment of S. 300 as reported by the Judiciary Committee.

Few people would argue that the country needs effective antitrust litigation. I am well aware of the deterrent effect of the Clayton Act. However, the interest of neither business nor consumers would be served by the enactment of S. 300.

When the Supreme Court considered Illinois Brick in 1977, they expressed several concerns in rejecting suits by indirect purchasers. One of their concerns was over the burden that the court system would be forced to bear if indirect purchasers were allowed to sue. Our courts are already overcrowded. Antitrust lawsuits are perhaps the most complex cases to ever enter our court system. To ask our courts to handle these cases would place on them an additional case load, ultimately resulting in increased expenditures of taxpayer dollars. This burden would, in my judgment, outweigh any benefit to consumers resulting from S. 300.

Even though indirect purchasers will not have the right to sue for antitrust damages if S. 300 is not passed, direct purchasers will still have this right. And, direct purchasers brought the vast majority of price-fixing cases in the years preceding Illinois Brick. The real deterrent, then, is the fear of suit by such a direct purchaser, with the possibiilty of treble damages. This deterrent exists presently, without the passage of S. 300.

Another problem that I have with S. 300 is that it would subject innocent middlemen to expensive litigation. Businessmen across America already are forced to bear expensive legal costs in order to comply with Government regulation. I do not believe we should add additional costs to these businesses by the passage of S. 300.

So, even though S. 300 is offered as a consumer bill, I am not sure that it would protect the consumers of America. In fact, it might harm the consumers, as well as business. For these reasons, I oppose S. 300 as written.●

PARENTS—HOME LIFE: THE SINEWS THAT BIND OUR NATION TOGETHER

● Mr. **WARNER**. Mr. President, today in the capital city of the Commonwealth of Virginia which it is my great honor to represent, a large group of concerned citizens from Virginia and elsewhere has come together for the Statewide Conference on Parenting. They are meeting because they believe that parents make the vital difference in improving our lives and our children's lives.

And it is my own firm conviction that parents lay the foundation for the very moral fabric of our great Nation.

Mr. President, I attach such importance to this subject and I am so proud of the work being done by the dedicated members of this conference, that I wish to submit my statements to them to be printed in today's RECORD.

The remarks follow:

It's appropriate that your Statewide Conference is being held in Richmond—not only because it's the capital of our Commonwealth, but because the Richmond Public Schools "Follow Through" program has achieved such national distinction. As a Virginian and a parent, I am proud of that recognition—and I join you in applauding the leadership of Dr. Russell Busch, Mrs. Virgie Binford, and all the dedicated participants in that excellent program.

The success of Follow Through—not only in Richmond but around our state and nation—is a tribute to the enlightened efforts of all of you—teachers, parents, administrators, and para-professionals alike.

You are engaged in one of society's most important works—helping and guiding our children, by helping and guiding their parents.

You recognize, I know, that parents are the most important teachers a child will ever have. You seek, I know, not to shift responsibility from the home to the school or to any other institution—but to help parents do a better job themselves.

You seek not to substitute for parents, but to supplement and strengthen them. And in so doing, you are shoring up the foundations of our society.

For the ultimate, rock-bottom underpinning of our social order and our free system is the responsible home that raises up responsible citizens to take their places in a responsible society.

Being a parent can be the world's toughest job—and I think most parents would agree that they can use all the help they can get.

It's tough enough to be a parent in any age—but it's especially difficult in today's chaotic and changing world. There's an awful lot of "parental panic" going around.

The world changes every day. Old truths are challenged. Old values are turned upside down. Many parents are unsure and confused. They're not quite certain what they themselves believe in—let alone what they should tell and teach their children.

Some parents have lost their way, and don't know how to help their children to find theirs. Often they hestitate to saddle their children with their own values—believing and hoping, instead, that their children can be better off if left to find their own way and establish values for themselves.

But what a tragedy it is—what waste and loss—when parents give up on parenting; throw up their hands in despair, and by their own example tell their children that nothing matters anymore—nothing is solid, nothing is real—that ideas, like right and wrong, truth and falsehood, responsibility and self-indulgence, have no enduring meaning anymore.

For parents are teachers, whether they want to be or not and—they are teaching even when they refuse to teach. Children will learn. The only question is: What will they learn?

Sure, parents are people—and people make mistakes. But I think parents need to understand that mistakes made out of love and caring and mutual respect are never irreversible.

Every parent can do a better job if only he or she remembers what it was to be a child—if only he or she can listen with a child's ears, see with a child's eyes, and feel with a child's heart.

Parents can foster open, free communication with their children, without surrendering their rightful, necessary role. In the give-and-take of a warm and loving family, children can learn both to assert themselves and to respect others.

Children can even learn to negotiate—boy, can they ever! But they can also learn that some values are truly non-negotiable.

They can learn—and parents can learn with them—that some of the old, traditional values still apply and work as well today as ever in the past.

Honesty works. Responsibility works. Self-reliance, discipline and diligence all work. Religion works. Love works.

It seems to me that the two great needs that children have are *love* and *limits*. Providing both at once is the parent's highest calling—and its fulfillment can be warm and rewarding to the child and to the parent.

Parenting is the greatest challenge that any man or woman ever faces. It's tougher work than being a United States Senator. And it's the greatest opportunity any of us will face in all our lives.

So I salute you, dedicated workers all. Next to the task of parenting itself, no calling is more important than your own—to strengthen the home life of American families.

For home life is the sinew that binds our Nation together, and is the greatest hope of our future.

Thank you very much.●

THE RETIREMENT OF GEORGE MEANY

● Mr. WILLIAMS. Mr. President, last Friday George Meany announced that he will retire in November when he completes his 12th term as head of the Labor Federation.

Mr. Meany is a man who has been at the center of American economic and political life for more than a quarter century.

In every generation, there are a handful of men and women who, because of their ideas, courage, and determination, rise to and remain at center stage in the political life of their country. George Meany is one of those men. He has combined a strong will, keen intellect, an unswerving commitment to his cause and a clear vision of the future, to mold a strong and important role for the people he represents.

George Meany's roots are in the American trade union movement. His commitment to win greater dignity and economic security for workers has remained with him since the early struggles of the labor movement. His outlook today continues to reflect his deep faith in the uniquely American conception of the role trade unions should play in our society.

George Meany has never wavered in his belief that democracy is the only sure way to protect the true interests of working men and women. He has believed that workers themselves must articulate their goals and run their own institutions rather than delegating this responsibility to others. He has understood that the clearest and best means of providing workers with economic power depends on their ability to organize and engage in free collective bargaining.

The mark of a true leader is one who can harness the divergent forces of a movement, articulate the broad goals and common interests of its members, and mold it into a united, proud, and efficient organization capable of uncommon deeds.

From the moment he became President of the American Federation of Labor in 1952, Mr. Meany set about to unite a labor movement which had been bitterly divided for almost 20 years. Three years later, that goal was achieved and Mr. Meany became the president of the Labor Federation, the post he holds today.

It is a sign of his sound judgment and understanding of history that Mr. Meany considers the successful merger of the two great factions of American labor as his proudest and most significant achievement.

But if the federation's unity has been central to the labor movement's ability to represent the interests of its members, it has been Mr. Meany's refusal to take a narrow view of that role which has had the most significant impact on the life of workers in our country. For he has understood that the ability to attain economic security may be diminished if workers do not exercise a corresponding right to full participation in the political process.

From the time he became president of the New York State Federation of Labor in 1934, George Meany has been involved in virtually every great legislative battle in our time. Many have directly concerned the interests of union members. But the majority have addressed issues far broader in scope. George Meany has always believed that workers must join the poor, the disadvantaged and the disenfranchised in their struggle for equality and dignity.

As one who has sponsored or supported most of the major pieces of social legislation enacted by the Congress over the past 20 years, I can unequivocally state that most of that legislation simply could not have been passed without the assistance and support of George Meany.

Samuel Gompers, who first molded and brought unity to the American trade union movement, spoke of a tradition which George Meany inherited. Gompers said in 1898:

> Trade unions . . . were born of the necessity of workers to protect and defend themselves from encroachment, injustice and wrong; to protect their lives, their limbs, their health and their liberties as men, as workers, as citizens.

For 50 years, George Meany has continued in the tradition of Samuel Gompers. He has never wavered from his commitment to democracy—both for our country and the trade union movement. He has remained unswervingly committed to the use of the ballot box and the legislative process in the pursuit of labor's goals, and he has been steadfast in this commitment even when labor's opponents have sought to minimize or deny workers the opportunity to participate in this process.

Between now and the time Mr. Meany retires in November, I will have more to say on his lengthy and illustrious career. From now I will conclude by expressing my own gratitude to him for the support and friendship he has shown me in the past and for the service he has rendered to our country and its working people.●

SHORE UP NICARAGUA'S MODERATES

● **Mr. CRANSTON.** Mr. President, yesterday's Wall Street Journal carried a thoughtful article on Nicaragua by Roy Prosterman and Jeff Riedinger, two development specialists from the University of Washington, who recently returned from 2 weeks in Nicaragua. While the political and economic situation in Nicaragua remains fluid, the new Nicaraguan leaders are struggling to rebuild their country and are looking for assistance in their efforts. It appears that the Sandinista leaders have not, as many feared, become surrogates for Fidel Castro. Based on their firsthand observations, Prosterman and Riedinger point out—

> Indeed, the refrain "Sandinismo si, communismo no" has begun to be heard, typified by a recent incident in Moninbo, where the villagers rejected Cuban help in reconstruction that did not include the rebuilding of their church.

However, we should not discount Castro's interest in Nicaragua nor Cuba's potential for exploiting a bankrupt country torn apart by civil war. But if we understand the vulnerability of Nicaragua's precarious economy—which provides such tempting opportunities for exploitation—the United States can also respond in constructive ways to meet the challenge of Nicaragua's reconstruction head on.

The authors recommend four specific courses of U.S. action:

First. An immediate infusion of commodity assistance;

Second. An increase in private, risk-guaranteed commercial lending;

Third. Short-term debt rescheduling; and

Fourth. An expanded international aid program over the next 4 or 5 years.

As my colleagues contemplate what the nature and level of U.S. assistance to Nicaragua should be, I urge the Members of this body to consider these four proposals, as well as think about the consequences of inaction.

The authors caution us that—

> If we do not act, adequately and in time, there will be a Vietnam-style flow of hundreds of thousands of refugees that will almost certainly end up costing us much more than a direct aid program would—this apart from the vast indirect costs of such a failure.
>
> But, with an effective U.S. response, there is, in the words of one foreign businessman who has long lived in Nicaragua, "not just a long shot but an excellent chance, that a moderate, democratic solution will last." Such U.S. flexibility in adapting to and supporting this moderate alternative would, moreover, do much to pave the way for similar outcomes in such presently chaotic Central American societies as El Salvador and Guatemala, and beyond.

Mr. President, I agree completely with that final analysis and commend the entire article to my colleagues' attention. I submit for the RECORD the article entitled "Shore Up Nicaragua's Moderates."

The article follows:

SHORE UP NICARAGUA'S MODERATES

(By Roy Prosterman and Jeff Riedinger)

The new Nicaraguan government to date has proved a surprise: far more rational, moderate and democratic than almost anyone could have hoped in mid-July. There have been no officially sanctioned executions and few reprisals, a free press is functioning side-by-side with Sandinista organs and the broadly representative junta leads the government not only in name but to a considerable extent in practice.

Nationalizations have been limited to Somoza-controlled enterprises, except for domestically owned banks, where reasonable compensation arrangements have been made and a huge burden of debts of doubtful collectibility has been assumed. The land redistribution has started as a flexible one, with a mix of individual holdings, small co-ops and larger units to be tailored to crop and region, and the business community has been reassured.

Indeed, the refrain "Sandinismo si, communismo no" has begun to be heard, typified by a recent incident in Moninbo, where the villagers rejected Cuban help in reconstruction that did not include the rebuilding of their church.

Still, the situation is precarious. Perhaps 20% of the Sandinista movement that overthrew the Somoza dictatorship are dedicated Marxists. In Managua, the capital, street vendors sell the last of the goods stolen during the upheaval of the revolution. Within weeks, unless sufficient aid is received from the outside, the last inventories will be gone, and Nicaragua will run out of all imported commodities—everything from toothpaste to gasoline to raw materials for industry and agriculture.

The economy, already ravaged by war and systematically pillaged by Somoza, will suffer the most catastrophic collapse experienced by any Latin American economy in this century. Amost certainly, in the wake of an economic collapse, the extreme radical minority within the Sandinista army will come to the fore. Heretofore constructive village committees might become a vehicle for political mischief. Instead of a new model of pluralistic and democratic governance in Central America, Nicaragua will experience a new Castroism. Instead of the Mensheviks, the Bolsheviks.

A SMALL MIRACLE

That there is still the opportunity for U.S. support of a moderate result in Nicaragua is, in itself, a small miracle. A history of aiding the Somoza plutocracy for 41 of its 43 years, with the military hardware we had previously supplied being used to kill 20,000 to 40,000 Nicaraguans in the past year, hardly sets the stage for a U.S. role in shaping the post-Somoza outcome.

Yet, surprisingly, as we can attest from our recent travels, there is great friendliness to Americans in the country, and a widespread willingness to structure a new, amicable relationship based upon their genuine nonalignment.

But the economic situation is desperate. Unemployment is running 30% to 40% and will spread total paralysis of the economy unless closed businesses can obtain the resources needed to make repairs and replenish inventories. Only 30% of the acreage of the chief foreign-exchange earner, cotton, could be planted because of the widespread fighting, and much of that may be lost unless sufficient pesticide can be imported during the next two months.

Before they left, the Somozas followed a virtual "scorched earth" policy. Besides sacking opponents' businesses, they borrowed heavily from outside using the convenient apparatus of a government that was synonymous with the family financial empire, looted the treasury and left behind a staggering short-term foreign debt. They depleted the cattle herds on their vast estates—probably one-third of the agricultural land in the country, they are now being redistributed to the *campesinos*—selling off so many head that Nicaragua's entire beef export quota to the U.S. was essentially filled by May.

During the waning hours of his rule, Somoza's cohorts stripped the warehouses in Corinto, the major port, fleeing with their loot to Honduras in scores of small boats, in a modern-day parody of Dunkirk. What the Somozas leave behind is a bankrupted society, its infant-mortality rate higher than that of India.

But one great "plus" of the situation is that Nicaragua is small—only 2.5 million people, living in a country the size of Oregon—and that the amount of aid required is correspondingly modest. Many have already responded. Holland, which has no geopolitical interests at stake, has just made an initial contribution of $11.7 million; Panama, which does, has mobilized a $20 million loan through its banking system and business community—the proportionate U.S. contribution, considering our vastly larger GNP, would be $16 billion, but this is many times more than what is needed.

What is needed, according to the best outside estimates, is some $1.3 billion over the next three years, divided about evenly between new aid and the rescheduling of old debt. The leadership must lie with us, and involves a sequence of four steps over the next year:

Step 1: Provide $100 million to $150 million, most of it in the next 90 days, in U.S. commodities to restore the basic functioning of the Nicaraguan economy and make crucial repairs. This, beyond the $15 million which we have already committed in emergency and reprogrammed aid, would be the U.S. share of an overall international package of $250 million to $350 million needed for this purpose. It cannot be emphasized too strongly that time is crucial here, and that these resources must begin to flow by late October if economic, and political, catastrophe is to be averted.

Step. 2: Provide, via our commercial banking system, $50 million to $100 million in medium-term loans to the Nicaraguan private sector, also within the next 90 days, to restore basic business activity. This should be facilitated with convertability and political-risk insurance written by the Overseas Private Investment Corporation, a government agency that regularly offers such guarantees.

Step. 3: Renegotiate the heavy short-term debt, as part of a process of international consultations involving both public-sector and private-sector indebtedness, rescheduling payment over the next several years. Most of this is owed to commercial banks, with about 40% of the $300 million in private-sector debt owed to U.S. banks. Close to $100 million of the amount due to U.S. banks is due in 1979. Short-term public-sector debt to the banks is as large or larger.

Step 4: Put together an international aid program that—in the hands of a government which is clearly committed to basic human needs—will correct the ravages of two generations of economic fiefdom. The U.S. share, if around 40% to 50% of the total, would come to roughly $75 million to $100 million in each of the next three years, and might continue at or near that level until the mid-1980s. Between $25 million and $35 million annually of this development assistance would fulfill AID's strong new commitment to support of land-reform programs, finally recognized as the key to agricultural development in settings such as Nicaragua. Providing support for credit, land-improvement and ancillary facilities under the flexible land redistribution which is projected would not only permit the new owners to sharply raise productivity—as did our support in postwar Japan and Taiwan—but would give the Nicaraguan peasantry a political and economic stake in the functioning of a vigorous private sector.

TOTAL U.S. COST

The total cost to the U.S. for these four steps would be less than the $750 million which we currently spend in one year for development-aid and commodity imports for Egypt. Paradoxically, if we do not act, adequately and in time, there will be a Vietnam-style flow of hundreds of thousands of refugees that will almost certainly end up costing us much more than a direct aid program would—this apart from the vast indirect costs of such a failure.

But, with an effective U.S. response, there is, in the words of one foreign businessman who has long lived in Nicaragua, "not just a long shot, but an excellent chance, that a moderate, democratic solution will last." Such U.S. flexibility in adapting to and supporting this moderate alternative would, moreover, do much to pave the way for similar outcomes in such presently chaotic Central American societies as El Salvador and Guatemala, and beyond.

It is probably the best investment opportunity this country has been given since the Truman Doctrine and the Marshall Plan.●

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow, it be at 9:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER REDUCING LEADERS' TIME TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 5 minutes each on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF VARIOUS SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent after the two leaders are recognized or their designees on tomorrow Messrs. WEICKER, TOWER, COHEN, CRANSTON, and EAGLETON be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF S. 1308 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow or no later than 10:45 a.m., whichever is the earlier, the Senate resume consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:15 a.m. tomorrow.

The motion was agreed to; and at 7:34 p.m., the Senate recessed until Thursday, October 4, 1979, at 9:15 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 4, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To continue hearings on S. 1465, proposed **Farm Credit Act Amendments.**
322 Russell Building

Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings to examine the enforcement and administrative authortiy of the Federal Trade Commission.
235 Russell Building

Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To resume hearings on S. 1413, to extend through January 19, 1986, existing antitrust exemption for oil companies that participate in the international energy agreements.
6226 Dirksen Building

9:30 a.m.
Foreign Relations
To receive testimony on the proposed Agreement Between the United States and Australia Concerning Peaceful Uses of Nuclear Energy (PM-90).
4221 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
Business meeting, to continue mark up of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

*Judiciary
To resume hearings on S. 1722 and 1723, bills to reform the Federal criminal laws and streamline the administration of criminal justice.
2228 Dirksen Building

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

Select on Small Business
To hold oversight hearings to review the minority assistance programs of the Small Business Administration.
3302 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation for September.
1318 Dirksen Building

OCTOBER 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To resume hearings on S. 1465, proposed Farm Credit Act Amendments.
322 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To hold hearings on H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits.
2221 Dirksen Building

Joint Economic
To hold hearings to examine the minority job prospects in the next five to ten years, focusing on population shifts, labor force changes and employment trends for minorities.
340 Cannon Building

2:00 p.m.
Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To receive a report from officials of the General Accounting Office on the state insurance regulation.
5110 Dirksen Building

OCTOBER 10

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Patricia P. Bailey, of the District of Columbia, to be Federal Trade Commissioner.
235 Russell Building

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings to examine the current water supply network of the Washington Metropolitan region.
357 Russell Building

9:30 a.m.

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the current Chrysler financial situation, focusing on the long term effects of proposed federal aid programs on our free enterprise system.
5302 Dirksen Building

*Energy and Natural Resources
To hold hearings on H.R. 3756, authorizing funds for fiscal years succeeding fiscal year 1980, to provide a medical care and environmental research program for the Marshall Islands, resulting from U.S. nuclear weapons tests, and to administer and enforce certain taxes and customs duties in the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa; and H.R. 3758, to stipulate that U.S. income tax laws will not become effective in the Northern Mariana Islands as a local territorial income tax until January 1, 1982.
3110 Dirksen Building

Finance
To continue hearings on H.R. 3464 and 3236, bills to remove certain work disincentives for the disabled recipients of supplemental security income benefits.
2221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume oversight hearings to examine alleged fraud and mismanagement practices in the General Services Administration.
457 Russell Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the implementation of the President's Executive order dated March 23, 1978, directing each executive agency to adopt procedures to improve existing and future regulations.
3302 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
1318 Dirksen Building

Select on Intelligence
Charters and Guidelines Subcommittee
To hold a closed business meeting.
Room S–407, Capitol

10:30 a.m.

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

OCTOBER 11

9:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on S. 531, to allow State-inspected meatpacking plants which meet Federal requirements, to sell their product to federally-inspected plants for further processing, and efficiency throughout the meat industry, and help put an end to the destruction of the smaller plants.
322 Russell Building

Judiciary
To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation
To resume hearings on S. 1798, to reduce regulations governing the household moving industry.
235 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.
1202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To resume oversight hearings on the Administration's anti-inflation program, and to review inflationary trends.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To resume markup of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

2:00 p.m.

Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and to restructure or Federal water resource policy.
5110 Dirksen Building

OCTOBER 12

9:00 a.m.

Judiciary
To hold hearings on S. 680, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on S. 6 and 80, bills to extend through September 30, 1981, the current price support levels for dairy products.
324 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To resume oversight hearings to examine the current Chrysler financial situation, focusing on the long-term effects of proposed federal aid programs on our free enterprise system.
5302 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on S. 1637, to modify the existing oil and gas leasing system on public lands.
3110 Dirksen Building

Finance
To continue markup of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on the use of consultant services by the Federal Government.
1114 Dirksen Building

Judiciary
Constitution Subcommittee
Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.
154 Russell Building

11:00 a.m.

Conferees
On S. 640, authorizing funds for fiscal year 1980 for the Maritime Administration, Department of Commerce.
H–128, Capitol

OCTOBER 15

9:30 a.m.

*Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
6226 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on E. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
235 Russell Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry, on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
235 Russell Building

Environment and Public Works
To hold hearings to determine the best means for securing architectural service and designs for buildings constructed, maintained or renovated by the General Services Administration.
4200 Dirksen Building

2:00 p.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

OCTOBER 16

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong. 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

OCTOBER 17

9:30 a.m.

Labor and Human Resources

Child and Human Development Subcommittee

To hold oversight hearings on the implementation of older American volunteer programs by ACTION agencies.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To resume oversight hearings on the Federal Trade Commission's study of the life insurance industry's cost disclosure policy.

235 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).

4221 Dirksen Building

OCTOBER 18

10:00 a.m.

Energy and Natural Resources

To hold hearings on S. 1699, and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).

4221 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To hold oversight hearings on alleged fraud and mismanagement practices in the Community Services Administration.

3302 Dirksen Building

*Labor and Human Resources

Health and Scientific Research Subcommittee

Business meeting, to consider S. 1177, to establish a partnership between the Federal Government and the States in the planning and provisions of mental health services.

4232 Dirksen Building

Joint Economic

To resume hearings to examine the minority job prospects in the next five to ten years, focusing on population shifts, labor force changes and employment trends for minorities.

340 Cannon Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 19

9:30 a.m.

Energy and Natural Resources

To continue hearings on S. 1699 and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

10:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1724, to provide grants to States to assist low and moderate income individuals to meet the rising home energy costs.

4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 23

9:30 a.m.

Joint Economic

Economic Growth and Stabilization Subcommittee

To resume hearings to promote equitable economic deregulation of the railroad industry.

5110 Dirksen Building

10:00 a.m.

Labor and Human Resources

To hold oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training and educational programs.

4232 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.

457 Russell Building

OCTOBER 24

8:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To hold oversight hearings to review the implementation of rural transportation programs and how they affect the quality of life in rural and small urban areas in America.

324 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordination program in weather modification within the Department of Commerce.

235 Russell Building

10:00 a.m.

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

Labor and Human Resources

To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.

4232 Dirksen Building

OCTOBER 25

9:30 a.m.

Veterans' Affairs

To hold joint oversight hearings with the House Committee on Veterans' Affairs on admission policies to Veterans' Administration's medical care facilities.

345 Cannon Building

10:00 a.m.

Judiciary

To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings in S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

235 Russell Building

10:00 a.m.

Joint Economic

To resume hearings on the Consumer Price Index figures and inflationary trends.

5110 Dirksen Building

OCTOBER 29

9:30 a.m.

*Veterans' Affairs

To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

5110 Dirksen Building

OCTOBER 31

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings to review proposed techniques in the field of industrial development.

235 Russell Building

Select on Small Business

To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.

424 Russell Building

NOVEMBER 1

9:30 a.m.

Select on Small Business

To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.

424 Russell Building

NOVEMBER 2

9:30 a.m.

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jursdiction of the FBI.

2228 Dirksen Building

NOVEMBER 7

9:30 a.m.

Commerce, Science, and Transportation

To resume oversight hearings to review proposed techniques in the field of industrial development.

235 Russell Building

NOVEMBER 14

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

235 Russell Building

CANCELLATIONS

OCTOBER 5

9:30 a.m.

Agriculture, Nutrition, and Forestry

Foreign Agricultural Policy Subcommittee

To hold hearings on proposed sales of American grains to the Soviet Union.

457 Russell Building

10:00 a.m.

Environment and Public Works

Subcommittees on Environmental Pollution and Resource Protection

To continue consideration of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.

4200 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To resume oversight hearings to examine alleged fraud and mismanagement practices in the General Services Administration.

3302 Dirksen Building

Judiciary

Constitution Subcommittee

Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.

Room to be announced

OCTOBER 10

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 12

10:00 a.m.

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.

4232 Dirksen Building

SENATE—*Thursday, October 4, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Dear Lord and Father of mankind, at this perilous moment in history, wilt Thou draw together in a firm spiritual alliance the forces of righteousness in every nation. Reveal once more man's true nature and his ultimate destiny in Thy kingdom. Make known to us the invincibility of goodness and the power of redemptive love. Show us the way of sacrificial service, even the way of the Cross. Rally the people who know Thee and trust Thee to a deeper fellowship with one another, to seek and to find their security in that perfect love that casteth out all fear. Keep our hearts open to the movements of Thy spirit not only when we pray but while we work.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 4, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, my reservation is for the purpose of informing the majority leader that all the items on today's Executive Calendar are cleared on this side, and we have no objection to proceeding to their confirmation.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will go into executive session to consider the nominations on the Executive Calendar.

Mr. SARBANES. Mr. President, I wish to make a statement with respect to two nominations that are on the Executive Calendar to which the majority leader has referred. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator.

NOMINATION OF JUDGE SHIRLEY B. JONES AND JUDGE JOSEPH C. HOWARD

Mr. SARBANES. Mr. President, I rise in strong support of the Judiciary Committee's recommendations that the Senate confirm the appointments of Judge Shirley B. Jones and Judge Joseph C. Howard for the U.S. District Court for the District of Maryland.

It is my firm conviction that Judge Jones and Judge Howard will bring strength and quality to the Federal District Court for the District of Maryland. They are seasoned trial judges of outstanding ability, character, and integrity. I believe their selection carries out the commitment expressed by the President and the Congress, a commitment which I strongly share, to seek out men and women for the Federal courts whose selection will be based on merit.

Judge Jones was born and brought up in Cambridge on Maryland's Eastern Shore. Following her graduation from Cambridge High School in 1942, she went to Baltimore to attend the University of Baltimore. She did her prelaw and legal training in 4 years and received her law degree from the University of Baltimore in 1946 with the highest scholastic average in her class. She was admitted to the Maryland Bar in June 1947 at the age of 22.

From the time of her admission to the bar until going on the bench in 1961, Judge Jones held a number of public legal positions. From 1947 to 1952 she served as an attorney and appeals referee with the Maryland Department of Employment Security. She then served 6 years, 1952–58, as an assistant city solicitor for Baltimore City and 1 year, 1958–59, as an assistant attorney general of the State of Maryland, the first woman to hold this position. From 1959–61 Judge Jones served on the Orphans' Court of Baltimore City. Throughout this period she engaged in the general practice of law as a sole

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

practitioner and was counsel to First Women's Building and Loan Association.

On September 22, 1961, Judge Jones, then 36 years old, was appointed to the supreme bench of Baltimore City by Gov. J. Millard Tawes, the first woman ever to serve on the supreme bench and the second woman in Maryland to serve at the circuit court level. In November 1962, she was elected to a 15-year term and this past November reelected to a second 15-year term.

From 1961 to 1968, Judge Jones was a lecturer on legal ethics at the University of Baltimore Law School and served on the board of trustees of the university from 1965 to 1974. During her tenure on the bench, Judge Jones has also served on a number of study commissions involving sentencing, the correctional system and other legal and judicial matters. She has been honored as Alumna of the Year by the University of Baltimore Alumni Association and Woman of the Year by the Business and Professional Women's Club.

In her own quiet way, Judge Jones has broken barrier after barrier in Maryland. Her career achievements are testimony to her determination and her competence. She is a thoroughgoing professional—sensitive to high standards and with an established record of meeting them. She has been a hardworking, capable, knowledgeable, and highly respected trial judge.

Judge Howard was born on December 9, 1922 in Des Moines, Iowa. His father, Charles P. Howard, Sr., was a founder along with George H. Woodson and others of the National Bar Association. Judge Howard served in the U.S. Army from 1944–47 beginning as a private and eventually serving as an officer. He received his undergraduate degree from the University of Iowa and his law degree from Drake University in 1955 followed by an M.A. from Drake University in 1957.

Judge Howard moved to Baltimore in the late 1950's and worked as a probation officer with the supreme bench of Baltimore City. He was admitted to practice in Maryland in October 1959 and from 1960 until 1968, when he was elected to the supreme bench of Baltimore City, practiced law in the small firm of Howard & Hargrove. From 1964 until early 1968, Judge Howard served as an assistant State's attorney for Baltimore City and was chief of the trial section 1966–68. In 1968 he served for a short period of time as assistant city solicitor for Baltimore City. Later that year, he ran for and was elected to the supreme bench of Baltimore City for a 15-year term.

Judge Howard has taught as a visiting professor or lecturer at the National College of State Trial Judges, National College of District Attorneys, Morgan State University and the Johns Hopkins University. He has published a number of articles both on legal subjects and on the role of blacks in American society.

Judge Howard has been active on behalf of a number of organizations and institutions including the National Bar Association, Antioch College, Urban Coalition, Monumental City Bar Association, Legal Aid Bureau and the U.S. Commission on Civil Rights—Maryland branch. His achievements have been recognized by a number of awards and honors including the Bicentennial Judicial Award from the Black American Law Students Association and an honorary law degree from Morgan State College.

Judge Howard in his way, like Judge Jones in her way, has been a pathbreaker. His commitment to justice and his extraordinary abilities have made him a leader in the continuing efforts to make our legal system work for all our people. His keen intellect, strength of character, and determination of purpose have contributed to a better community His judicial work has reflected his commitment to high standards and his highly developed legal skills.

Mr. President, Maryland and the Nation will benefit from the great strength and quality these two able jurists will bring to the Federal bench. I join with the Senate Judiciary Committee in recommending them to the Senate and urge the Senate to confirm their nominations.

NOMINATION OF GEORGE J. MITCHELL TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MAINE

Mr. MUSKIE. Mr. President, I am proud to recommend to the Senate George J. Mitchell of South Portland, Maine, for confirmation as U.S. district judge for the District of Maine.

George's personal and professional qualifications for the bench are outstanding. He has distinguished himself as a lawyer and as a public servant in Maine and in Washington. He is a graduate of Georgetown University School of Law. He served as assistant attorney in the Antitrust Division of the Department of Justice, and as assistant county attorney in Cumberland County, Maine. He practiced law with a distinguished firm in Portland, Maine. In 1974 he was the Democratic nominee for Governor of Maine. He was appointed U.S. attorney for Maine, and has served with distinction in that capacity since 1977.

George Mitchell's nomination is the result of a merit review process which involved people from all segments of Maine society.

I am pleased to count George Mitchell as a personal friend. He is from my own home of Waterville, Maine, and served on my staff as legislative and executive assistant. I look forward to witnessing his distinguished service on the bench.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

COMMUNITY SERVICES ADMINISTRATION

Frankie Muse Freeman, of Missouri, to be Inspector General, Community Services Administration.

U.S. POSTAL SERVICE

William J. Sullivan, of Maine, to be a Governor of the U.S. Postal Service.

George Watson Camp, of Georgia, to be a Governor of the U.S. Postal Service.

Richard R. Allen, of North Carolina, to be a Governor of the U.S. Postal Service.

MERIT SYSTEMS PROTECTION BOARD

Ronald P. Wertheim, of the District of Columbia, to be a member of the Merit Systems Protection Board.

THE JUDICIARY

Albert Tate, Jr., of Louisiana, to be U.S. circuit judge for the 5th circuit.

Samuel D. Johnson, Jr., of Texas, to be U.S. circuit judge for the 5th circuit.

Nathaniel R. Jones, of Ohio, to be U.S. circuit judge for the 6th circuit.

Joseph C. Howard, Sr., of Maryland, to be U.S. district judge for the district of Maryland.

Shirley B. Jones, of Maryland, to be U.S. district judge for the district of Maryland.

Lynn C. Higby, of Florida, to be U.S. district judge for the northern district of Florida.

James C. Paine, of Florida, to be U.S. district judge for the southern district of Florida.

James W. Kehoe, of Florida, to be U.S. district judge for the southern district of Florida.

Eugene P. Spellman, of Florida, to be U.S. district judge for the southern district of Florida.

Gene E. Brooks, of Indiana, to be U.S. district judge for the southern district of Indiana.

William L. Beatty, of Illinois, to be U.S. district judge for the southern district of Illinois.

Hugh Gibson, Jr., of Texas, to be U.S. district judge for the southern district of Texas.

George J. Mitchell, of Maine, to be U.S. district judge for the district of Maine.

Jerry L. Buchmeyer, of Texas, to be U.S. district judge for the northern district of Texas.

Edward B. Davis, of Florida, to be U.S. district judge for the southern district of Florida.

Mr. ROBERT C. BYRD. I move to reconsider, en bloc, the vote by which the nominations were confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will resume the consideration of legislative business.

Mr. ROBERT C. BYRD. I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no present need for my time. If the majority leader has no need for it, I will be happy to reserve it until after the time for special orders.

Mr. ROBERT C. BYRD. Yes; I would like to do the same.

Mr. BAKER. I reserve my time.

ORDERS FOR RECOGNITION OF SENATORS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I observe that the Senator from Connecticut is not here at the moment. I am advised that he is unavoidably detained, and will be on the floor a little later. If the majority leader will do so, I would favor a unanimous-consent request that a part of the time of the Senator from Texas (Mr. TOWER), which is the next special order, be yielded to the distinguished junior Senator from Virginia, who is on the floor and wishes to speak.

Mr. ROBERT C. BYRD. Mr. President, I make that request and also, I ask that it not prejudice the order for Mr. WEICKER.

Mr. BAKER. I thank the majority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Does the Senator from Virginia take the time of the Senator from Texas (Mr. TOWER)?

Mr. BAKER. That is the intention I had meant to express to the majority leader and I believe it was included.

The ACTING PRESIDENT pro tempore. Under the unanimous consent, the Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I prefer to await the arrival of Mr. TOWER. We had planned to engage in a colloquy together.

Mr. BAKER. Mr. President, if the majority leader has no other plans, I suggest the absence of a quorum, charged against the time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I earlier asked that time consumed in the call of the roll to ascertain the presence of a quorum be charged against the time allocated under the special order for Mr. TOWER this morning. I wish to change that. Since he was not aware of the fact that he was going to be on at this hour instead of at 9:30, following after the Weicker special order, I now ask unanimous consent that the time consumed in the call for the quorum be charged against the Weicker order instead of the Tower order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. That will be 6 minutes, 30 seconds.

The Senator from Texas is recognized for 15 minutes.

THE LINKAGE BETWEEN SALT II AND UNITED STATES-SOVIET RELATIONS

Mr. TOWER. Mr. President, anyone who has spent any time reading Marxist-Leninist doctrine must understand the question of linkage, which I should like to discuss this morning.

Those who support the separation of SALT II from the other dimensions of United States-Soviet relations make their case on the premise that SALT is too important to be compromised by other considerations, no matter how harmful a given series of events may be. It is often said that the limitation of strategic arms involving the very survival of mankind is too important to be interrupted by diversions, whatever the cost.

I believe this logic to be seriously flawed in several respects. First, it must be recognized that Soviet purposes in SALT are identical to their purposes in daily activities to enhance their relative power and influence vis-a-vis the United States. The Soviet leadership has a very clear concept of linkage which motivates their political, economic, and military actions at every level. None of these is distinguishable from the others. To them, SALT is no more than another instrument for establishing predominance over the West. The subversion of pro-Western governments in Afghanistan, the sponsorship of Cuban surrogates in Angola, Ethiopia, and a dozen other places are part and parcel, with SALT, of a comprehensive, coherent strategy for accelerating Western decline.

SALT is certainly not separated out from other political acts in Soviet thinking. That this is very clearly the case was acknowledged by statements of Soviet strategists reported as recently as last November.

In an interview published in the International Herald Tribune at that time, Georgi Arbatov, the leading Russian American analyst—and a gentleman who, I think, is well known to many of us personally—warned that:

> If China becomes some sort of military ally of the West, even informally . . . we would have to reexamine our relationship with the West. . . . Then there would be no place for détente.

Echoing the same grasp of linkage, a Pravda article in June of last year commented as follows:

> Alignment (of the United States) with China on an Anti-Soviet basis would rule out the possibility of cooperation with the Soviet Union in the matter of reducing the danger of a nuclear war and, of course, of limiting armaments.

Thus, the Soviets have made it clear that our behavior in other issues clearly influences their attitudes, to include their attitudes on SALT.

A second but related reason for discounting those who would separate SALT from the overall fabric of United States-Soviet relations concerns the contradiction such an interpretation contains with respect to the mutually agreed principles the two countries have accepted for governing their relations. The fundamental tenet of these principles was that neither side was to seek to gain unilateral advantage at the expense of the other and that their relations were to be based upon strict reciprocity. The corollary requirement of U.S. policy was that, when such efforts arose, we must be prepared to meet the challenge with an effective reply, terminating measures which benefited the Soviets and, if necessary, responding with appropriate force.

Over the course of the past 2 years, the Soviets have clearly tried and succeeded in gaining unilateral advantage in numerous places from Africa to Indochina. The current state of affairs was best expressed by former Secretary of State Kissinger in February of this year, as follows::

> We have had Cuban troops in Angola, Cuban troops in Ethiopia, two invasions of Zaire, a Communist coup in Afghanistan, a Communist coup in South Yemen, and the occupation of Cambodia by Vietnam, all achieved by Soviet arms, with Soviet encouragement, and in several cases protected by the Soviet veto in the United Nations. In addition, Soviet-advanced aircraft piloted by Soviet personnel are protecting Cuba—presumably against us—so that Cuban pilots and aircraft are operating all round Africa—also presumably against us. That cannot go on and have SALT survive. It is doing nc favor to Soviet-American relations to pretend that these areas are unrelated. Sooner or later it will lead to a confrontation.

The thrust of Secretary Kissinger's remarks is that sooner or later a time must come when the United States expresses its opposition to this blatant Soviet effort to expand its influence at the expense of Western interests. Where and when we take that stand is the question before us. As Dr. Kissinger said, we do ourselves or the Soviets no favor by pretending that these matters are unrelated. Moreover, to acquiesce in accepting a manifestly unequal treaty would add but one more Soviet victory to this unrelieved chain of successes they have achieved.

Anyone who has spent any time reading Marxist/Leninist doctrine must understand that the Soviet Union pursues its interests by probing at points of weakness, continuing when unopposed and withdrawing when they encounter resistance. Our posture over the past 2 years has been not to oppose Soviet efforts but to accommodate and appease. As a result of our timidity and lack of strategy for using the means at our disposal, Soviet efforts have accelerated. If we allow these activities to continue and increase, the difficulty and dimension of any ultimate response necessarily becomes much greater. We do ourselves no favor by delaying that day. The day of reckoning will come. If we do not demonstrate the strength and resolve expected of us as a leader and an ally, the day will come when our allies will see the writing on the wall and will make their own accommodations.

Mr. President, I have raised these points today because it is vital that we recognize the inextricable linkage between the SALT II treaty and the broader trends in United States-Soviet relations. In every area, the trends are against us. Testimony before the Armed Services Committee by the Joint Chiefs of Staff has made it clear that we have lost our historical superiority in conventional and theater nuclear forces and that, under the terms of the SALT treaty, we face Soviet superiority in strategic nuclear power in the early 1980's.

That condition—military inferiority—will severely worsen our ability to counter the Soviet advance. The inevitability of more serious challenges in the years ahead becomes clear from a review of recent history and the evolution of the Soviet propensity to take risks.

For as long as we were clearly superior in military power the Soviets seldom risked a confrontation. When they did, as in Cuba in 1962, they were humiliated.

As that condition of inferiority was removed over the past few years in two of the three measures of military force, the pace of Soviet adventures in areas ever closer to vital U.S. interests increased dramatically. The trend is clear.

Surely the removal of the last inequality in power—essential equivalence in strategic nuclear weapons—will entirely remove any incentive for restraint. The SALT II treaty codifies the erosion of the last measure of the military balance.

The message is clear. The United States must take a stand. There can be no more appropriate instrument than a treaty which seeks to perpetuate their inexorable drive for supremacy. It is in this context that I urge my colleagues to consider their decisions in the weeks ahead. Linkage is an undeniable fact of life. Ignoring that fact will not make it go away, although it is true, that continuing to ignore it will one day, make our response irrelevant.

Mr. President, it is my understanding that the distinguished junior Senator from Virginia (Mr. WARNER) has advocated the consideration of the SALT II treaty be delayed, but has not directly linked the SALT II treaty to the presence of Soviet troops in Cuba.

He is present on the floor. I would like to have him comment on that, if he will, because I think it would add a great deal to our discussion.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I yield to the Senator on my time.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, I join the distinguished Senator from Texas in his opinion that the subject of linkage is an essential element in the Senate's deliberation on the SALT treaty.

I do not predicate this opinion entirely on the situation of Soviet military—land, sea, and air—in Cuba. I think that situation is but one of the many worldwide Soviet-Cuban interventions that we must consider in the context of the SALT II agreement.

The United States views SALT as a process to lessen global tensions and to promote the only goal that this Nation has ever had, namely, peace. As a secondary consequence, we may incur some savings in military expenditures, if we can get a truly effective and fair long-term arms control agreement. I shall always be a tireless supporter of these goals.

The Soviets, on the other hand, being a closed-secret society, we have to carefully observe their actions and rely more upon such actions than their words to judge their true intentions.

That is why I feel that the worldwide incidents referred to by the distinguished Senator from Texas have to be considered in the context of our SALT deliberations.

It is very difficult for the average citizen, indeed, perhaps, a Senator, to be convinced that Soviet actions worldwide in any way comport with the U.S. objectives in the SALT process, namely global peace.

To the contrary, Soviet actions may well indicate that they have little interest in global peace, or world stability, or in reducing tensions. Actions often speak more affirmatively than words.

This is why I cautiously approach Soviet intentions with respect to the SALT agreement.

Mr. President, I ask unanimous consent to have printed in the RECORD four articles published recently by distinguished commentators on the subject of SALT and, in particular, the question of linkage: while I do not necessarily agree with all of their points, their articles deserve careful study.

The first is by the Honorable Melvin R. Laird, former Secretary of Defense, appearing in the forthcoming Reader's Digest. The second appears in this morning's Washington Post by columnist Joseph Kraft. The third is by an editorial commentator in my State of Virginia, Ross MacKenzie. The fourth is by George F. Will, again appearing in the Washington Post, of October 4, 1979.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SALT II: THE SENATE'S MOMENTOUS DECISION

(By Melvin R. Laird)

The Second Strategic Arms Limitation Talks (SALT II) treaty, now before the U.S. Senate, presents that body with one of the most important challenges of this century—the reassertion of American strength and purpose in the cause of world peace.

To make that bold and timely reassertion, the Senate must amend the treaty which, in its present form, seriously compromises American strength and promotes global instability. In nearly seven years of deliberation, it was negotiated largely by men whose devotion to the bright theoretical prospects of arms control seems to have blinded them to the realities of Soviet military power and political ambition.

The much-touted SALT II "process" of "delicate" and "intricate" negotiations has in fact proved to be a series of American retreats before a vigorous and determined Soviet government. Indeed, the talks have provided a lulling background to a profound and disturbing change in the global equation. Since the talks began in 1969, the backbone of America's strategic forces—1054 intercontinental ballistic missiles (ICBMs) and 656 submarine-launched ballistic missiles (SLBMs)—has remained static (except for the addition of more and newer warheads). But in that period the Soviets have increased their ICBMs at least 36 percent to 1400 (the figure may well be higher) and their SLBMs 417 percent to 1015, and markedly improved the accuracy and number of their missile warheads.

THREAT TO SECURITY

This growth in Soviet strategic power—the greatest buildup in history—has been accompanied by a growth in the Kremlin's inclination to throw its weight around the globe. In the last five years, Soviet-allied Marxist governments have been forcibly established in five nations: South Vietnam, Laos, Angola, Ethiopia and Afghanistan.

SALT II might be acceptable if it (1) reduced the vulnerability of our nuclear deterrent to surprise attack and (2) constrained the burgeoning growth of Soviet strategic forces. It achieves neither goal. In the words of Lt. Gen. Edward Rowny, a dedicated believer in arms control who retired this summer after six years on the SALT II negotiating team: "This treaty does not meet minimal accepted standards. The agreement we now have before the Senate and the nation establishes conditions which threaten our security."

The threat may be hidden from the average American by the complex anatomy of the treaty itself—the numbers of "launchers,"[1] the arithmetic of nose cones and "fractionated" warheads, and the computations of "aggregate throw-weights" (the total amount of destructive weaponry that can be directed against chosen targets). But the torrent of raw data, to which the nation has been exposed daily for the past few months, may be distilled into one inescapable and frightening point:

SALT II allows the Soviets military advantages which are denied to the United States—advantages which, if unchecked, will give them clear strategic superiority within a matter of two or three years.

Among the most flagrant of the treaty's inequities:

SALT II permits continued Soviet deployment of 308 heavy ICBMs (SS-18s), missiles of such overwhelming power and accuracy that they alone will hold our entire ICBM force under threat. With these missiles, Soviet planners could generously target at least two warheads to every one of our Minuteman silos, thus freeing the balance of their ICBMs for other targets in the United States and elsewhere in the free world.

The Joint Chiefs repeatedly warned of these heavy missiles at the outset of the arms-limitation talks, and I, as Secretary of Defense, warned that with their large tonnage warheads the Soviets were attaining a first-strike capability. But our negotiators failed to press the issue. So now the Soviets have these missiles explicitly permitted in the treaty—missiles whose destructive power exceeds that of all our ICBMs and SLBMs combined. We, on the other hand, are allowed no such heavy missiles.[2]

SALT II allows the Soviets to deploy perhaps 375 supersonic intercontinental heavy bombers of the type known as the TU 22M "Backfire." This plane can reach the United States without refueling, and can be equipped to fire long-range nuclear missiles. And, in an incredible display of Soviet arrogance, just such a long-range missile was tested at the height of the SALT negotiations. Since our air defense is virtually dismantled (it now consists of 331 aging fighters sprinkled throughout the continent), the Backfire thus poses a formidable threat to the entire country. But it is not even counted in SALT II, while all our bombers—even mothballed B-52s and four test models of the now-canceled B-1—are counted under treaty limits. As a sop, we have been given the "good word" of Soviet Premier Leonid Brezhnev that the Backfire will not be employed as a long-range bomber.

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[1] Rather than count actual missiles, SALT II counts "launchers"—the devices from which nuclear weapons are launched, which include in-ground missile silos, aircraft and submarine missiles tubes.

[2] The only U.S. missile that comes near to being "heavy" is our obsolete Titan, a relatively inaccurate ICBM, 54 of which are still deployed. It has less than a third of the throw-weight of the SS-18.

SALT II, through a special protocol to the treaty, severely hampers the effectiveness of one of our most promising weapons—the land- and sea-launched cruise missile—by limiting its range to 600 kilometers (373 miles). A child with a ruler and a map of the Soviet Union can see the advantage this gives the Russians. Under SALT limits, our land- and submarine-launched cruise missiles cannot reach many Warsaw Pact reserve areas, weapon depots and air bases, or the vital three western military districts of the Soviet Union. On the other hand, the Soviet SS-20, an intermediate-range ballistic missile of great power and exceptional accuracy, of which 120 are already deployed—holding all of our Western European allies under threat—is not even mentioned in the SALT treaty.

SALT II explicitly permits the Soviets to hide data on the test performance of their missiles by encoding it. The electronic data which flow from missiles during test flights are one of the chief ways in which we learn the characteristics of Soviet missiles and determine that arms agreements are not being violated. But in one of our most ludicrous cave-ins to the Russians, we allowed them to encrypt some test data—letting them decide what would and would not be encrypted! And remember, encryption has only one purpose: the denial of information to other parties. (We encode none of our test data.)

In addition, there is serious doubt about whether the treaty will permit any of the options we have considered for protecting our ICBM force against a first strike. Relocation of silos, construction of deeper ones, any deployment that imparts some mobility to our ICBMs appear either to be banned or, because of the language of the treaty, can be interpreted by the Soviets as prohibited. This includes any of various schemes we have envisioned for the movement of a small number of our missiles in and out of a larger number of silos at random intervals. Thus, the treaty clearly enhances the Soviet threat to our Minuteman (by permitting the heavy missiles, for example) and clearly diminishes our options to create a defense against that threat.

NO COSMETICS

For these reasons, the Senate's clear duty of advice and consent under the Constitution takes on a more compelling urgency and necessity. SALT II, as written, is not an instrument of stability or balance. It does not place real restraints on the growth of the Soviet strategic arsenal. It is pernicious to our interests and security. Therefore, it must be changed.

The changes cannot be mere cosmetic ones—"senses of the Senate" or "reservations" or "understandings or any of the other sugar-coated maneuverings already contemplated by pro-treaty Senators. Such addenda will have little standing in international law and will be totally ignored by the Soviet Union.

Look at the Soviet record of abuse of similar understandings in connection with SALT I. We believed we had barred the building of heavy missiles by issuing a unilateral declaration against them. The Soviets answered by building the huge SS–19, half again as large as its then biggest ICBM. We believed we had barred the development of antiballistic-missile capability under the 1972 ABM treaty. The Soviets answered by opening a new ABM test range and by conducting at least 16 illegal ABM tests. They further abused American "understandings" regarding missile-submarine construction and even resorted to elaborate camouflage and concealment to hide submarine construction sites from our satellite cameras.

The Senate must either carefully remodel SALT II through a series of precise, unequivocal and binding amendments or else recommit the treaty for further negotiations along lines exactly reflecting the will of the American people. At a minimum, Senate revision should:

Ban heavy missiles on both sides, thus requiring the Soviets to dismantle their 308 large ICBMs which have such a destabilizing effect on the power balance.

Place all bombers of unrefueled intercontinental range under the "launcher" limits of the treaty.

Erase the grossly inequitable 600-kilometer limit on ground- and sea-launched cruise missiles—or bring Soviet missiles like the SS-20 under similar restrictions.

Ensure that all limitations in the treaty can be fully verified by our intelligence-gathering apparatus or by other agreed procedures. This must include the outright ban on all encryption of telemetry from test missiles. As a backup to such revisions, the Senate should consider postponing ratification until the Administration and Congress have reached agreement on a new five-year defense plan that will assure military equality between the signers of SALT II. The presently approved five-year plan, taken with the treaty as proposed, ensures Soviet superiority.

THE SENATE'S DUTY

In asserting its role, the Senate must not be deterred by a false sense of urgency or by the use of scare tactics—employed by both the Administration and the Soviets—in an effort to rush a flawed document into law. Soviet Premier Brezhnev's threat of "grave and even dangerous consequences" if the treaty is changed is more than matched by those in this country who tell us that our only choice is between quick rubber-stamping SALT II or disaster.

The fact is, the treaty has been a disaster already. It has atrophied our defense effort: the B–1 bomber canceled, the Trident missile-submarine program delayed, cruise-missile development hobbled, the MX—a needed follow-up to our aging Minuteman ICBMs—delayed. And, at the same time, it has served to enhance Soviet strategic efforts while screening them from view behind a facade of diplomacy.

The argument that rejecting SALT or tinkering with it will unleash a new "arms race" is likewise phony. The Kremlin is already spending around 15 percent of the Soviet gross national product on the military. (We spend less than five percent.) How much more can its notoriously inefficient economy afford?

The most striking aspect of the SALT "process" has been the fact that it has been carried on with the Soviet military machine operating at or near full capacity. There is no real balance on the American side for the Soviet heavy missiles, for the Soviet Backfire bombers, for the Soviet SS–20 ballistic missiles. Most of all, there is no way one can imagine equity in the treaty-sanctioned 4.5-to-1 Soviet advantage in ICBM throw-weight.

This treaty, wrought in the closed rooms of Geneva where accommodation and acquiescence have answered Soviet intransigence and pathological secrecy, does not fare well in the open light of honest debate. Global stability will not be achieved by genuflection to the threats of the Soviet leaders. The world is watching the United States Senate. Its duty is clear. The inequities and inconsistencies of SALT II must be eliminated, or peace will not be served.

REVERSE LINKAGE

(By Joseph Kraft)

President Carter used the device of implicit choice to move from a discussion of Russian troops in Cuba to an appeal for Senate ratification of the arms-control treaty with Russia. This was the key paragraph in his speech to the nation on Monday night:

"My fellow Americans, the greatest danger to American security tonight is certainly not the 2,000 or 3,000 Soviet troops in Cuba. The greatest danger to all the nations of the world—including the United States and the Soviet Union—is the breakdown of a common effort to preserve the peace and the ultimate threat of nuclear war."

Implicit in those words is an either/or decision. Either the United States forces a showdown with Russia over the troops in Cuba. Or it moves forward toward peace and security with the Strategic Arms Limitation Treaty.

If that were indeed the choice, almost all of us—and certainly this columnist—would be for instant ratification of SALT. But it is a phony choice, and with respect to both the troops and SALT.

As regards the troops, the president was almost insouciant in minimizing their importance. He wasn't sure whether the number was 2,000 or 3,000. Nor how long they had been there. Nor whether they were there for combat purposes, as U.S. intelligence showed, or for training purposes, as the Russians maintained.

In fact, the Russian troop presence in Cuba is an element of a global strategy the United States has found difficult to handle. The strategy uses Cubans as a proxy for Russians in the Third World. To that end the Cubans have backed up regimes favorable to the Soviet Union, and hostile to the United States, in Angola, Ethiopia and South Yemen.

In all honesty, the president's speech should have mentioned the Soviet-Cuba cooperation around the world. It should have indicated this country's particular concern with the Cuban presence in the approaches to the Middle East and Persian Gulf. It should have expressed America's determination to call the Russians and Cubans to account for their threat to this country's vital interest in that area.

With respect to SALT, the president overstated its benefits enormously. The treaty does not put a cap on the arms race. On the contrary, the immediate consequence of ratification will be an upsurge in defense spending.

Neither does the treaty express "a common effort to preserve the peace." On the contrary, the Russians and their Cuban allies have, in the very midst of the SALT negotiations, taken steps that jeopardize the peace, especially in the Middle East.

Together, trivialization of the troop issue and inflation of SALT benefits create a reverse linkage. Willy-nilly, whether he wants it or not, the president has in effect told the world that SALT is too precious to justify an assertion of other American interests.

The Russians must now be under the impression that President Carter needs SALT so badly that it doesn't matter how recklessly they behave in areas of confrontation. Worse still, the same estimate is probably being made by countries that base their actions on assessments of the balance between Washington and Moscow. The list starts with China and includes Saudi Arabia and the other oil-producing countries of the Persian Gulf.

Perhaps it was too much to imagine that the Carter administration could have used the uproar over the troops to forward this country's interest with Russia. An administration inept enough to stumble into the troop issue was unlikely to extricate itself with advantages. Indeed, realists probably ought to express relief that Carter did not make matters worse. Some of his counselors, after all, advised that he admit in public that he had made a mistake by allowing the troop issue to become so big. Others counseled that he play the China card.

But if the administration might have done worse, the Senate can still do better. Now that the president has established reverse linkage, now that he has fed the impression that the United States is loath to assert its interest for fear of jeopardizing the treaty, discriminating senators will want to right that balance. They can and should insist that, before ratification, they have from the president certification of more reasonable behavior by Russians and Cubans in areas that constitute—far more than the threat of nuclear holocaust the president tosses about so loosely—a true danger to international security.

Soviets, Cubans, and SALT

(By Ross Mackenzie)

The mind goes back to October, 1962, and the Cuban missile crisis.

For the preceding 18 months the American temper had been running way ahead of President Kennedy, demanding that something—anything—be done about Cuba. Being an accommodating fellow, Nikita Khrushchev provided Kennedy with a solution satisfactory to all involved.

If he possibly could, Khrushchev wanted to preserve the Castro regime intact as a Communist state in the Western Hemisphere. If he somehow could extract from Kennedy a promise not to invade Cuba, then Castro would remain secure and the island once again could serve unhampered as the Western center for polwar in Latin America.

Then, as now, obliqueness persisted at the heart of Marxist-Leninist doctrine. By constructing missile bases, Khrushchev gave Kennedy the issue he needed to satisfy American demands that something be done. The equation was made: Kennedy declared that either the missiles must go or we would take "the necessary action" to remove them ourselves.

Khrushchev announced that in the name of world peace he would withdraw the missiles, which he said he never needed in the first place. Reciprocally, Kennedy promised not to invade. And thereby the Castro regime was secured.

But possibly Comrade Brezhnev has offered Mr. Carter a better equation still: In return for SALT ratification, which he wants even more than Mr. Carter does, he may agree to withdraw the Soviet brigade that he demonstrably doesn't need. If Brezhnev makes the equation, and if it works, Brezhnev—like Khrushchev before him—will know that the victory is his. In giving Mr. Carter or the Senate an opportunity to act tough, he will win his coveted prize (SALT II), just as Khrushchev won his American guarantee to leave Castro alone.

Other troubling aspects of the Soviet brigade abound. Is it not strange that soon after America in effect has withdrawn from Panama and Nicaragua, Soviet troops should show up in Cuba?

And if those troops have been there for months or years and we have been unable to discover or verify them, what does that say about our ability to monitor likely Soviet violations of SALT II? The last time the Soviets abided by a Soviet-American treaty was . . . never.

Finally, if we refused to demand the removal of Soviet MIG 23s in December, how can we demand the removal of a Soviet brigade now?

Still and all, the equation—SALT II ratification in exchange for the brigade's withdrawal—seems likely to be made. Whether the U.S. accepts the equation is the key. Yesterday there were rumblings that the SALT debate may be postponed, just as LBJ postponed the SALT I debate in 1968 after the Soviet invasion of Czechoslovakia. The best outcome would be scrapping SALT II entirely and demanding that both the MIGs and the brigade be withdrawn.

In support of Khrushchev's statements that his Cuban missiles were not essential to his military framework, one need recall only that the defense policies of the Eisenhower administration had been predicated on the knowledge that the Soviets could reach the American heartland with Russian-based missiles. Given that knowledge, we had multiplied our radar networks and had set up the Ballistic Missile Early Warning System in Greenland, Canada, Alaska, and the Aleutians.

Which brings us to the news of a Soviet brigade in Cuba. For many months the American temper has been running ahead of Jimmy Carter, demanding that the administration toughen up its lackadaisical responses to Soviet probings abroad. Probe after probe has been met only by moralistic claptrap, with the consequence that America has seen loss after loss.

And now, SALT II—a bizarre historical phenomenon that would confirm American military inferiority because even now we do not have the power to negotiate anything better. SALT II is the culmination of a protracted Soviet effort to deny the American opponent the credibility of his deterrent force.

In an effort to dispel the spreading public notion that he possesses something more than a Classic Comics view of geopolitical warfare, Jimmy Carter has sought an equation of his own: In return for Senate ratification of SALT, which he desperately desires, he has proposed increasing military spending by $4 billion.

Another Bluff

(By George F. Will)

In his first response, weeks ago, to what he now dismissively calls "the highly publicized" Soviet combat brigade in Cuba, Jimmy Carter went on national television in the afternoon. He warned the Soviets that the status quo was "unacceptable."

But many people have been schooled in skepticism by his record of unreciprocated concessions in defense policy and unmet challenges in geopolitics. Such people tried to imagine what microscopic change by the Soviets would satisfy Carter's criterion of an acceptable change in the status quo.

No skeptic was skeptical enough. No one anticipated that Carter would take prime television time to announce that "the highest levels of the Soviet government" have given him "assurances" that they intend to maintain the status quo. All he could say was this:

Although "persuasive evidence" shows that the Soviets are lying when they assert that the brigade has a non-combat nature, Soviet statements about the future non-combat nature are "significant." The Soviets say they will not change the brigade's "function or status," and we "understand this to mean" they will not enlarge or alter the brigade.

That is, because the Soviets insist they will not change the status quo that Carter has called "unacceptable," he infers that they will not do anything to make it more unacceptable, and so it is acceptable.

Recognize this? Carter's response is similar to, but even weaker than, his response to the Soviet Backfire bomber.

Backfire is, unquestionably, a strategic weapon, capable of a nuclear attack over intercontinental distances. But the Soviets blandly deny this (just as they deny the brigade's combat capability). So Carter has acquiesced in the Soviets' demand that Backfire not count against their SALT totals. In exchange, the Soviets have promised that they will produce Backfires at about the rate they have been producing them and that they will not give Backfire the strategic capability we know it has.

Having stressed that the brigade, by itself, constitutes no military threat, Carter is deploying forces in a way that would only make sense as a response to a military threat. Having decided on a purely symbolic response, rather than one that would inconvenience the Soviets, he has symbolized the floundering of the United States, just as he did when he sent an aircraft carrier steaming in circles in the South China Sea and sent fighter planes to Saudi Arabia unarmed. To the Soviets, the significant fact about Carter's response is that he declines to mention the possibility of considering even mild new restrictions on the eastward flow of grain, technology and credit.

According to Carter, the principal threat Americans should worry about is not Soviet adventurism, of which the militarization of Cuba is just one facet. No, the threat is . . . the U.S. Senate, which does not show proper enthusiasm for the SALT II deal he struck with the Soviets. To the men in the Kremlin, it now is obvious that if they add to their nuclear-capable aircraft in Cuba, to their submarines and to their ground combat forces, Carter's response probably will be a televised warning to Americans about the dangerous buildup of bad vibrations in the Senate chamber.

If anyone had any doubt, this episode should have erased it: nothing the Soviets could do would cause Carter to question the wisdom of proceeding with SALT II. Indeed, SALT II had better be brought to a vote before Carter, who now says it is the key to "the survival of the human race," exhausts the English language's store of hyperbole.

By all means: let's vote.

Since July, the administration has skillfully—too skillfully for its own good—manufactured a sense of inevitability. It has conveyed the impression that the debate is over and won and that ratification will be perfunctory. But the problem with skillful propaganda is that the propagandizers begin to believe it. Administration vote-counts have been studies in wishful thinking.

Sen. Frank Church, who somersaults around the political landscape with the airy lightness of a jolly jester not weighed down by worries about appearances, originally said SALT II should be shelved until the combat brigade is eliminated. Now that Carter says the brigade will neither leave nor change, Church wants to proceed with the ratification process.

So do many opponents of SALT II. Although the administration says it has the votes, many opponents know, as the Soviets know, how safe it is to call this administration's bluff.

Mr. WARNER. Mr. President, I wish to direct a question to the distinguished majority leader.

Previously on September 25, I raised the question of the time period within which the Senate might reach a fair, objective and balanced final judgment with respect to the SALT II agreement.

In looking back over the period of deliberation on the Panama Canal Treaty, that consumed, at a minimum, I believe, over 2 months of intensive deliberation, I am led to believe that there is a basis on which to plan for a period of deliberation in connection with SALT II of an equal or even greater amount of time; for the SALT II treaty, in my judgment, not only embraces fundamental interests of the United States but of the whole free world.

I yield to the distinguished majority leader with respect to that question.

Mr. ROBERT C. BYRD. Will the distinguished Senator repeat the question please?

Mr. WARNER. The question is a comparison between the time consumed by this body with respect to deliberations on the Panama Canal Treaty, as to that being a precedent for the time that is likely to be consumed in connection with the SALT II treaty.

Mr. ROBERT C. BYRD. I thank the Senator.

I believe that the discussion on the Panama Canal treaties—and there were two treaties—extended over a period of 8 weeks, which, as I recall, was more time than was spent on any treaty other than the Treaty of Versailles. The Panama Canal treaties were, I believe, debated in the context of a much more emotional atmosphere than I would think SALT would generate.

If I recall, the people of this country, at least in the beginning, were overwhelmingly—when I say "overwhelmingly," if I were to think in terms of West Virginians, probably 85 percent to 95 percent—against the treaties. I do not believe that situation exists in connection with SALT II.

Actually, the Panama Canal treaties need not have been debated 8 weeks.

The **ACTING PRESIDENT** pro tempore. The time of the Senator from Texas has expired.

Mr. CRANSTON. I yield the majority leader 5 minutes of my time.

Mr. ROBERT C. BYRD. That debate was prolonged, and the people of Panama were listening to their radios, as people often listen to ballgames. I was concerned lest incendiary remarks made in this body would stimulate an uprising or a demonstration or some outburst in Panama. I am not saying that was the purpose of perpetuating the debate, but I often was concerned that that might happen.

I do not see any necessity for that kind of prolonged debate here. The committees have held lengthy hearings. The Committee on Foreign Relations has continued its hearings following the August recess. The Committee on Armed Services will hold some further hearings next week.

So we have had lengthy, valuable hearings. Many of the hearings were televised and the American people have had an opportunity to develop a better understanding of the SALT II treaty. I believe—and I think even some of those who oppose the treaty agree—that once we get into the debate, 3 or 4 weeks should be sufficient, if we can spend our full time on it.

I thank the Senator for his observation.

The **ACTING PRESIDENT** pro tempore. The time of the Senator has expired.

Mr. BAKER. Mr. President, I yield to the Senator from Virginia 3 of the 5 minutes available to me under the standing order.

Mr. WARNER. I thank the distinguished minority leader.

I judge that the majority leader believes that the Panama Canal Treaty, having endangered greater public emotion, required more time for deliberation than will SALT II.

I need not bring to the attention of the distinguished majority leader the fact that we have just witnessed a very confusing debate in the public mind with respect to Soviet troops in Cuba, and this morning there is the announcement of a very substantial grain sale to the Soviet Union, another confusing issue. Both issues within a time span when our President has acknowledged—a considerable disappointment that the Soviets had not been more forthcoming in meeting his requests during the series of negotiations conducted by his Secretary of State.

I believe, with all due respect to the majority leader's observations, that we can and should expect an increasing public concern—or emotion—with respect to SALT II. Therefore, I do not believe we can expect a shorter period of time than was used during the course of the Panama Canal deliberation.

Mr. BAKER. Mr. President, will the Senator yield for a moment, in order to expedite the procedure for the continuation of this important colloquy?

Mr. WARNER. I yield.

Mr. BAKER. Mr. President, I ask unanimous consent that time allocated to the distinguished junior Senator from Maine (Mr. Cohen) for this morning be transferred to the distinguished Senator from Texas (Mr. Tower).

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. WARNER. One last observation.

The distinguished majority leader this week wrote an article for the Washington Post, now in the Record, in which he set forth his views with respect to a delay or prolonged SALT II debate; he observed that the Soviet Union might pursue an additional arms buildup during the period of time, assuming the period was unduly substantial.

However, I respectfully question that observation. If the Soviets are conscientiously in favor of obtaining a SALT agreement, and the United States, either in the Senate debate or in a Presidential election, or both, is conscientiously pursuing a national debate on the many issues of SALT II, I cannot see why the Soviets would jeopardize the treaty by suddenly and publicly announcing an accelerated arms buildup.

Since I defer to the Secretary of Defense with respect to my knowledge on that subject, I inquire if the majority leader would join me in a letter to the Secretary of Defense, asking his views with respect to the probable actions of the Soviet Union should this debate in the Senate go into 1980 and even possibly be further delayed as a consequence of the forthcoming Presidential election?

Mr. ROBERT C. BYRD. No, I do not think I would want to accept the invitation to join in such a letter. I think it would be more appropriate for the Foreign Relations Committee and the Armed Services Committee, which are continuing their hearings, to pursue this question. I believe that would be the proper manner to pursue the subject.

I join the Senator from Virginia in feeling that there is a growing interest among the American people, but I believe it is an enlightened interest. As the interest grows, and as the people know more about the treaty and the ramifications of either rejection or approval, I have a feeling that the majority of the American people will come down on the side of approval of the treaty.

Again, I am withholding my judgment, and I have had plenty of time to make up my mind. All Members of the Senate can do as they wish. They can set their own timetables. I did not reach an early judgment on this treaty and have not reached it yet. I am attempting to continue my study of the Intelligence Committee report. But as I go along with my study of the treaty, I can see how the American people could feel that there are advantages to approving the treaty that would outweigh the disadvantages. So I hope for that enlightenment.

As I indicated yesterday, a major theme that emerged from these hearings was the necessity to take action to modernize our strategic systems. We will have to act with our NATO allies in correcting the growing imbalance of theater nuclear forces in Europe and the imbalance in conventional forces.

Defense Secretary Brown said on September 19—I was reading that transcript last night—that if SALT II were not approved, our NATO allies would probably not go forward with plans to modernize their conventional and theater nuclear forces this December, when they are going to meet in Brussels.

So I am all for the American people knowing more about just what this subject involves.

When we talk about television, it may be that we could have a time agreement on the treaty and televise it. We could have a time agreement that would allow opponents and proponents an equal opportunity, and it would guard against any individual taking undue advantage of the cameras, including myself.

I like the idea of televising this Senate debate if we get a time agreement on it, so that it will not go on and on ad infinitum. I think this fits into the context of the question the Senator asked. Maybe we need 8 weeks or 10 weeks. I do not think we need that much time. Perhaps it can be done in 4 weeks under a time agreement and it would be televised. Let the American people see and hear for themselves the arguments. Let them weigh the persuasiveness of the arguments of the proponents and the opponents. And who knows, I may be one of the opponents by then. Do not count me 100 percent for this treaty yet.

But I have been unable to bring myself to the point of relating this Cuban molehill—this pseudocrisis—with the treaty.

I want to go back to the statement

made by the distinguished Senator from Texas a little while ago. He referred, I believe, to the times when we were clearly superior to the Soviet Union back in 1962 and how we stood toe-to-toe with them. We backed them down and humiliated them, he said. We did not back them down in Czechoslovakia in 1968. We did not back them down in Hungary in 1956. We were clearly superior to the Soviets back in those days in our strategic nuclear weapons. It happened that these events were in their backyard.

Mr. TOWER. If the Senator will yield, I do not think the situations are analogous, because Czechoslovakia and Hungary are clearly recognized within the Soviet sphere of influence, indeed a part of the Soviet Gemini. In fact, the mistakes we made in Yalta and Tehran assured that, so we were victims of our own mistakes or lack of vision in that sense. I submit that that situation is not quite analogous to the action that President Kennedy took in meeting the Soviet threat to this hemisphere in 1962.

Mr. ROBERT C. BYRD. There is something in what the Senator has just stated. But I do not think we should go too far in saying that in the past, when we were clearly superior in nuclear forces, that we had our way in everything. We did not. We had our way in Cuba in 1962. We were clearly superior, but that was in our backyard. The Soviets had their way in 1968. A lot of us made speeches at that time. I was one of those who made a lot of speeches on that subject.

In 1956 I was in the House of Representatives at the time of the Hungary uprising. We all made our speeches, but the Soviets went right ahead with their plans. Although I think what the Senator says has some merit, we should balance it out by taking into account what I have just said.

Returning to the subject of television, there is little food for thought here. Maybe we can have this debate televised and get a time agreement on it. That would be my quid pro quo: have a time agreement on the treaty and get on with the debate, assuring the American people that they would be in on it.

Mr. BAKER. Mr. President, who has control of the time?

Mr. TOWER. There are only 6 minutes remaining. I wish to yield to the minority leader such time as he may require if I may reserve 2 minutes.

The PRESIDING OFFICER (Mr. BOREN). The Senator from Texas has 14 minutes remaining.

Mr. TOWER. Fourteen.

Mr. BAKER. I will not need but just a moment. If the Senator from Texas will give me 2 or 3 minutes, I will be grateful.

Mr. TOWER. I yield to the minority leader whatever time he may require.

Mr. BAKER. Mr. President, I thank the Senator from Texas.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BAKER. Mr. President, I am pleased beyond words to observe the tranquillity of the floor today. I believe debate on the SALT treaty will incite the interest, even the enthusiasm and certainly the concerns of every Member of this body. That is as it should be, for as the Constitution contemplates the Senate is the national forum for the ventilation of grave issues of foreign policy.

I think, frankly, we do too little of that.

I expressed privately to the majority leader a day or so ago my pleasure that we usually have had the opportunity early in the day to express with enthusiasm our conflicting views. But it also gives me special pleasure this morning to say I have equal enthusiasm for my agreement with the majority leader. I do not think that we should take forever on this treaty. I do not think we need to make a career out of it.

I think we should get on with it, although I must say, Mr. President, I respect those Senators who strongly advocate a contrary view.

For instance, the recent suggestion made by the Senator from Virginia about a delay beyond the Presidential election was an important statement of position and represents a significant body of opinion on our side of the aisle, as does the concern expressed by the Senator from Oklahoma (Mr. BELLMON). But for my part, I would frankly like to proceed with SALT.

Most of all, Mr. President, I would like to see this Senate perform its historic constitutional function of serving as the national forum for the examination of an important foreign policy issue. And that is what SALT is all about.

SALT represents more than just the prospect of nuclear parity or superiority in the years ahead. SALT is one of those events that not only offers but demands that we use it as the focal point for a searching reexamination of our national commitments, in this case a review of foreign policy and national defense.

The Senate, I believe, could make a historic contribution to the country's understanding of these issues. The appropriateness of the foreign policy and the adequacy of the defense could be examined here in a truly significant and profound debate.

As I have said earlier, I am convinced if we had television in the 19th century or the 18th century, Senate proceedings would then have been televised. Television is today's equivalent of the public gallery. It is an extension of the public gallery. Television enhances the opportunity of the citizen to participate in the legislative process. I have seen no suggestion that would be useful to citizen participation in Government than to televise the SALT debate.

I do not know what the effect on public opinion would be. It may be that television would predispose the country to a greater support for SALT. It might be that the country in great numbers would decide SALT is a risk not worth taking or that it is the wrong treaty at the wrong time. There are thousands of variations on the theme.

But my concluding observation, Mr. President, would be that while we all conflict on political matters at one time or the other in this Chamber, I believe we all agree on one proposition, which is that America has been remarkably right on the major decisions that she has made not because she always had great leaders, great Presidents, great Senators, great Congressmen and public officials, but rather because the people have been right and have expressed their sovereign judgment in unmistakable ways on the major confrontations which have faced the United States.

I believe that the public exposure through the electronic media as well as the printed press of the nature of our debate and undertaking not only would serve to improve the quality of our judgment on SALT, but it would reiterate the value and utility of the Senate as an organ for the expression of public sentiment and sovereign determination.

So I am pleased to say to the majority leader today that his encouragement, not his commitment, but his encouragement to think of that is important to me. As far as I am concerned I am perfectly willing to sit down with him to explore possibilities of time limitations—within which a procedure can be arranged so that everyone has his fair share of the time and there is a fair exchange of ideas.

I think these are problems that we could work out.

Mr. President, I would be more than pleased to sit down in good conscience and in good faith to try to work those things out with the majority leader.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. I have been exploring with other Senators the possibility of having televised debate, and I have been doing it for a long time—contrary to a report in the local newspapers to the effect that I was reviewing my earlier opposition. There was some reference to my earlier "opposition."

There was no earlier opposition on my part. If that writer had come to me I could have given him an accurate statement. It is something we could have gone into. Televising the debate is a fascinating and gripping idea.

But when we talk about television in the context of one of the most important issues, perhaps, that many of us will have the opportunity of voting yea or nay on, then we ought to be careful. The first priority is not televising the Senate; that is not the first priority. The first priority is to do whatever we can to see that the Senate reaches a considered judgment on the matter.

But I have been discussing this matter with representatives of the networks, and with representatives of public television. There are problems, many problems, involved. The key issue for me is whether or not television will detract from a considered judgment or whether it will enhance the reaching of a considered judgment. That is the important question, not whether the debate is to be televised.

I am continuing to explore the matter of televising the debate, and will continue to explore it with my colleagues, and certainly with the distinguished minority leader.

I thank the Senator from Virginia for his precipitation of this subject into the debate.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, if I may just have one more moment——

Mr. TOWER. I yield to the minority leader.

Mr. BAKER. I thank the Senator from Texas.

I only wish a moment to confirm what the majority leader has just said. I have never known of his opposition to this, and he and I have discussed it over a period of months.

On the contrary, I found the majority leader has the usual careful concern for this matter that he has for all matters. We have kidded about it, we have discussed it seriously, we have discussed it casually, and once or twice we have discussed it formally.

But I would verify that the majority leader has never expressed to me an opposition to this, but rather a careful consideration of it, and my remarks this morning are to describe my pleasure that things seems to be—moving toward the final stages of the consideration on this important point.

I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. TOWER. I just want to make a comment, too. I yield myself such time as I may require.

On the matter of delaying the treaty, the Senator from Tennessee, the distinguished minority leader, has suggested that we should not try to make a career of it. Certainly I can appreciate that remark because it has virtually become my life's work and has preoccupied me at a time when I need to focus my attention on other very important matters, and from that standpoint I would like to see this whole matter behind us.

However, suggesting that we bring it up right away, I might note that those of us who are opponents of the treaty in its present form, who are not prepared to accept it as is, perhaps might support that movement very heartily because if it is brought up and disposed of soon I think there are many, so many, conditions that many Senators have for support of the treaty that the treaty probably would fail and would be rejected and would not be ratified.

It is impossible to get any kind of accurate head count on where people stand on the treaty because it is not a clear black and white issue. There are concerns about the treaty that range across the spectrum from being only minor concerns to very serious concerns, indeed, and these concerns take different forms.

There are some Members of the Senate who link consideration of the treaty with increased defense expenditures, an expanded 5-year program for our defense.

There are others who make their support of the treaty conditional upon actual substantive amendments being adopted by the Senate to the treaty itself.

Some would be simply satisfied with the language in the resolution of ratification.

There are still others, however, who do link the treaty to Soviet behavior throughout the world.

Now, we can debate the question of whether or not the treaty can be linked, but what we must do is face up to the reality that in the minds of many Senators who are key to the ratification or rejection of this treaty it is already linked with Soviet behavior on other fronts.

I might note that the first Senator to link the consideration of the treaty to the presence of the Soviet combat brigade in Cuba was the Democratic chairman of the Committee on Foreign Relations, who was not one on this side of the aisle.

May I note, too, a great deal of time has been spent here ridiculing the notion that the presence of the Soviet combat brigade might constitute a direct military threat to the United States.

To begin with, it is ridiculing a notion that has been advanced by no one. It is arguing against a contention that has not been made. Nobody believes that the presence of a Soviet combat brigade in Cuba constitutes a direct military threat to Florida or any other part of the United States.

But it is viewed in context as one element in a whole pattern of Soviet conduct, and it does have some symbolic importance because it is regarded by many as the Soviets thumbing their noses at the United States, feeling they can do what they please without serious challenge by the United States and, therefore, it heightens the perception of the United States that it is a paper tiger, that it does not have the will or the resolution to deal with the problem of Soviet efforts of self-aggrandizement that are going on throughout the world, the pursuit of Soviet objectives that are incompatible with our own objectives in this world.

There is a growing perception that the principal drive of the Soviets is to achieve a peace, yes, but simply a peace or a climate of peace in which they can pursue their global objectives uninhibited by any serious challenge from the United States of America.

We should get the combat brigade in context. It is just a part of a larger picture. But from the standpoint of expeditious action on the treaty, there are many things on the minds of many Senators. There are some, as I have noted, who will not vote for the treaty at all unless it is considered in the context of making up our deficiencies in defense.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator's time has expired.

RECOGNITION OF MR. WEICKER

The PRESIDING OFFICER. Under the previous order, the Senator from California (Mr. CRANSTON) is recognized for not to exceed 10 minutes.

Mr. ROBERT C. BYRD. What about Senator WEICKER? The order earlier, it was understood, would not be prejudicial to Mr. WEICKER as a result of rearranging the sequence.

The PRESIDING OFFICER. The Senator is correct.

Mr. PERCY. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 8 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have a little time I will yield to the Senator. His time was consumed by the quorum call. How much do I have remaining under my 5-minute order?

The PRESIDING OFFICER. The majority leader has 2 minutes.

Mr. BAKER. Mr. President, how much time do I have under the order?

The PRESIDING OFFICER. The minority leader has a minute and a half.

Mr. CRANSTON. How much time do I have?

Mr. ROBERT C. BYRD. I yield 2 minutes to the Senator from Connecticut.

Mr. BAKER. I yield my minute and a half.

Mr. CRANSTON. I would also be glad to yield 5 minutes if the Senators need it.

Mr. WEICKER. I thank you very much.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. WEICKER. Yes.

Mr. PERCY. Would it be possible, because I did not reserve any time this morning, to get 2 minutes at some point from someone?

Mr. EAGLETON. Mr. President, I have 15 minutes, I believe, somewhere along on this calendar. I will yield to the Senator from Illinois.

Mr. PERCY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, first let me thank my colleagues for yielding of their time.

The PRESIDING OFFICER. The Senator may proceed.

THE CARTER RESPONSE

Mr. WEICKER. Mr. President, I listened very attentively to the President's speech on Monday night. I came away uncertain as to the point of it, either in terms of what inspired it, or in terms of the President's intended response to that inspiration.

And so I read the text very carefully, and then reread it. As nearly as I can now determine, the gist of the thing is this: The Soviets have a number of troops on the island of Cuba which, to quote Mr. Carter, "appears to be a brigade of two to three thousand men." Three thousand being 50 percent greater than 2,000, we are left to ponder the precision and accuracy of the intelligence upon which our actions in this matter are based.

The President says we have persuasive evidence that this unit is a combat brigade; the Soviets say it is not, and the President—as nearly as I can understand his remarks—assures us that the Soviets have assured him that the unit which is or is not a combat brigade will not be a combat brigade in the future.

Mr. Carter tells us that this unit has been in place for many years—in other words, it did not happen on his watch. Nobody knew anything about it for several years, probably since the mid-1970s and possibly even longer. Then he tells us that this unit of indeterminate size, with uncertain armament, whose mission is a matter of dispute, and which was there for years without anyone knowing about it—that this unit "contributes to tension in the Caribbean and Central American region."

And what shall be our response to all this? Well, first, we are going to keep an eye on the Soviets. Second, we will assure that they will not contribute to the tension we just found out they have been contributing to for years and years. Third, we are going to set up a full-time Caribbean joint task force headquarters in Key West, Fla. Then we are going to expand our military maneuvers in the region, which will no doubt improve our standing down there. Nothing improves the Caribbean horizon like a fleet of American warships steaming across it.

With a few minor changes, all this would sound like the libretto from a Gilbert and Sullivan opera. It has a splendid coda, that unblushing plunge into hypocrisy which is the distinctive Carter touch.

> We must not play politics with the security of the United States.
>
> We must not play politics with the survival of the human race.

Mr. President, I do not hold Mr. Carter responsible for the nature of our relationship with Cuba and all that it entails. That can be shared by at least four other American Presidents and as many Secretaries of State and U.S. Congresses. But I do hold him responsible for using the Presidency to give the illusion of new problems and not using the Presidency with imaginative courage.

In the island Nation of Cuba, Mr. President, we have, as we have had for many years, an unparalleled opportunity to confront Soviet communism in its most virulent form, and overcome it. Cuba is Moscow's only successful—I use the word advisedly—only successful noncontiguous satellite. By successful, I mean the only place to which Moscow has been able to export its peculiar vision of man's destiny and to maintain it in the cruel grasp of economic necessity and human bondage. Even Russia's European satellites have risen up from time to time, and no doubt will rise up again someday to confront Soviet imperialism. Even today, citizens of the European worker's paradises risk their lives to break through the Iron Curtain.

With Russia and her European satellites, however, we have diplomatic, cultural, and trade relations, and the light of freedom shines through those cracks and threatens Communist tyranny.

Toward Cuba, we turn our backs.

Mr. President, Cuba is one of a handful of nations whose friendship we have shared most genuinely; not a friendship based on the Marshall plan, or on foreign aid, or as the beneficiaries of a big-brother, little-brother relationship. We helped them gain their freedom from Spain, and we toasted together the common experience and common love of freedom. Then, much was lost in the horrors of the Batista era. And out of that came Fidel Castro. It is pointless to argue the wisdom of a dead policy; real wisdom rests with knowing when a policy has run its course and is dead.

For good and sufficient reasons we decided that Mr. Castro was not our dish of tea. Because it suited us to believe it, we professed to believe that Castro would not last 60 days just as, in 1949, we persuaded ourselves that Mao Tse-Tung and his people would not last 6 months.

To hurry the demise of Castro, we began to build a wall around the island of Cuba. No diplomatic relations. No trade. No markets for the sugar. We were so adamant that we even went so far as to deprive ourselves of Cuban cigars. How is that for self-discipline? And whenever we could, we cut Cuba off from our allies. So the wall got thicker and higher. The lot of the Cuban people got worse and worse, and we shared the blame for it in their eyes, while hoping they would blame it all on Castro. We clung to the notion that there would be a great uprising, and there was not. We told ourselves the Cuban people hated Castro, with no evidence to support it—not that it would have mattered. We even got up an assault force to trigger the revolution we had prepared in our imaginations, and to use the Presidential vernacular, we got our asses whipped.

What came of it all, Mr. President, was this: We woke up and found that we had not walled Castro out, we had walled the Soviets in. And here we sit today giving Monday night Presidential spectaculars on the results of our handiwork.

We agonize, over our power relative to Soviet power. And, of course, we construe the relative equations in military terms. But in one respect, the Soviets do have greater power than we, and it consists of this: That however rigid the Soviets are in their ideology, they are very flexible about how they export it. They deal with the world as it is and, apparently, from time to time, subject themselves to the inconvenience of thought.

They see the world as a chessboard, while we see it as a checkerboard where our adversaries all move in straight predictable lines and our goal from time to time is to create a little king which can leap about and do our heavy work for us. We treat the world as we wish it was, making of positions that were once simple political expediencies, hard irrevocable policy positions. And Russia, with less technology, with an economy that is a perpetual shambles, with a system of government which is an affront to human dignity—with all these disadvantages, Russia is slowly constructing a ring of steel around us while we shrink from genuine provocation and make brave nonresponses to nonprovocations, as Mr. Carter did last Monday night.

The answer to the Cuban dilemma is to see at last that it is a dilemma of our own making, and that we can undo it. The daring and effective way to confront the Soviet Union is not to heighten the coventry of Cuba but rather to take down the wall that has already masked two crises and promises only more of the same in the future.

Let the negotiations to get Russian troops out of Cuba be conducted with Fidel Castro not Anatoly Dobrynin or Andrei Gromyko.

Resume trade, lift the economic sanctions, establish diplomatic relations and give Castro the leverage and the running room to end the indignity of ruling over a proud people totally dependent upon handouts from Moscow.

I do not say that we can do in 1 year or 2 in Cuba what we have refused to begin for over two decades. But I believe we must start. We must reach out. We must look to Castro, and we must look beyond him. For I do not believe that the Cuban people, given a choice, will content themselves with having their sons comprise the front rank shield for Soviet adventurism at home and around the world.

I am not even prepared to believe that Fidel Castro himself does not find somewhere in himself a sorrow at the course which circumstances have set him on. Surely he did not set out to free his people from serfdom under Batista so that they could be slaves under Moscow. Other leaders have not found it impossible to uproot their Soviet patrons and guests. President Sadat of Egypt did it. He did it when he had the opportunity, and he got the opportunity when we finally had the wisdom to reach out to him. I believe the time to reach out to Castro and to our historical friends in Cuba is now.

Let us end now the practice of using Cuba to show how tough we are. I do not think Cuba requires a joint task force headquarters in Key West or the 82d Airborne at the Fountainbleau.

A nation's power does not rest solely with its military strength. The debacle in Iran proved that. There is also a moral strength, and it comes from a people's confidence in their purposes, in the processes by which they govern themselves, in the manner in which their leaders define the great questions confronting them, the trust they give to their leaders, to be honest with them and to trust them in return. This power is not merely internal, it is projected. For as others perceive those strengths in us, they understand the real muscle of America and know that it matters more than the arms we may grasp if necessity brings us to it.

With this in mind, I come to my overriding concern about Mr. Carter's Monday night performance. We must assume that he knows what is the real situation regarding the putative combat brigade in Cuba. I do not believe that what Mr. Carter knows is consistent with his representations on the issue Monday night. I do believe that the whole thing was and is a charade, another piece of Rafshoonery aimed at the President's efforts to be reelected—an effort harkening back to 1962 to show that he's as hard and tough as any Kennedy.

It would be most irksome if we did not have the truth of the situation, but what is more painful and dangerous by far is that while we might not have the truth of the situation, the Soviets most assuredly do. And from their privileged position, they can judge our leadership, and the value of the trust we place in it. They can judge the integrity of our free institutions and know how vulnerable these are. They can determine from their own vantage point of knowing the truth just how sound is the real strength of America.

Mr. Carter tells us that the peace we enjoy is the peace of the strong. In fact, the peace we have is the peace of the lucky. And we shall be very lucky indeed if we escape his Presidency and this Congress without some major, and entirely unnecessary confrontation somewhere in the world as a result of old attitudes and new ambitions.

The dollar cost of American posturing will be ridiculous. But that America, in the words of the fable, should still have no clothes—that is tragic.

Mr. BAKER. Mr. President, will the Senator yield to me for just a moment?

Mr. WEICKER. I yield as much time as he needs.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator's time has expired.

Mr. CRANSTON. I yield 1 minute.

Mr. WEICKER. I thank the distinguished Senator from California. I yield to the distinguished Senator from Tennessee.

Mr. BAKER. I shall take half of it.

I thank the Senator from California and the majority leader.

Mr. President, I only want to say that I have known the Senator from Connecticut for a long time and it has been my privilege to serve with him in this Chamber, on committees, and to be associated with him over that period. I have never known him to make a clearer, more concise, direct and forceful, nor a more important statement than he made today. I commend him for it, and I want to say that it is in the very best traditions of the quality of representation that he has brought to this Chamber.

Mr. ROBERT C. BYRD. Mr. President, in the 15 seconds left, I want to say that I, too, found the Senator's address to be very interesting and thought provoking.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I also want to express my appreciation to the Senators who have entered into this colloquy to express their views on this situation and to clarify the issue for the country. My respect for our distinguished colleague from Connecticut is well known.

Mr. President, in looking at this whole situation as objectively as we possibly can, I feel that it has been handled in a way that is less than desirable, both from the standpoint of the administration and the Congress. I think, at this stage, it is important for us now to try to clarify exactly what has happened and where we stand, and to put in perspective the task we have ahead of us now, particularly with SALT and the relationship we have with the Soviet Union. I have tried to inform myself as best I can, spending hours with our Ambassador to the Soviet Union, with General Seignious to get his perspective, and yesterday morning with a representative of the Cuban interests section here in Washington to get firsthand information.

Of course, many of us have discussed these matters with Secretaries Vance and Brown and Mr. Brzezinski and Admiral Turner.

I look upon it as a self-inflicted wound, in a sense. I think I would have much preferred to have Secretary Brown or Secretary Vance handle this matter before the American public the other night. I really did not feel the President should have had to do this. But, be that as it may, I think, in perspective, it is much different from the crisis we had in 1962, when there were 40,000 Soviet troops in Cuba by admission, with nuclear missiles. Compare that with the several thousand that are there now, without nuclear missiles, and—by everyone's admission—no capacity to endanger us in any respect, but with now a limitation placed on their future activities. Most importantly, what I think the administration has done is clearly signal to Cuba and the Soviet Union that in this hemisphere, whether the Soviet action has violated the spirit of the Monroe Doctrine, as the Secretary of State has said, or the letter and the spirit, as I happen to think their actions have—clearly, we have put them on notice that, no matter what they do, our counteraction in this hemisphere will make minuscule whatever they have done.

They are now far worse off than they were 2 months ago, whatever they do in the future, I think the precedent has been established that we shall take a counteraction.

In other words, those who say the status quo is exactly the same as it was, I think, read it wrong. The status quo would have been for the forces on either side to remain the same. We have now strengthened considerably our intelligence and our forces available in that particular area of the Caribbean. They know it. And they are on clear notice as to the seriousness with which we look on any foreign military activities in this hemisphere.

With respect to SALT I, I think it is very important that we separate the two issues. I would not feel that 7 years' work on the most important single issue facing not just the United States and the Soviet Union but all mankind and all nations should rest on a decision by two powers on something that is, in a sense, no crisis whatsoever.

I have not reached my own decision at this stage, although prior to the markup. I hope to come to conclusions on the conditions under which I can clearly support SALT II. It is my hope that the Senate will respond in such a way that we can, two-thirds of us, at least, support SALT II. It cannot be ratified as it now stands. The administration, I am sure, understands that.

As with the Panama Canal treaties, the Senate must work its will. As Jack McCloy, the eminent lawyer, has said, the President is an agent in treatymaking. The Senate must have the final say. We must work our will.

We are deeply grateful to our distinguished majority leader for making it perfectly clear to the Soviet Union the responsibility, the role, and the duty of the U.S. Senate in this regard. There can be no misunderstanding, either, by the administration. We are going to work our will.

I shall oppose those who, by working their will through amendments, will try to wreck the treaty. We can adopt understandings and reservations that are necessary and essential, without which I myself could not vote to ratify the present treaty. What we are asking for can be done.

Mr. President, President Carter's statement was a calm, measured response which should reassure the nations of Latin America and the people of our own country. Since the Soviets refused to take the desired steps, the United States has acted to strengthen our own position in the Caribbean and to put the Soviets and Cubans on notice that we will not countenance any threat to the region.

With a military force of 2 million strong and a weapons arsenal second to none in the world, we have no reason to fear 2,000 to 3,000 Soviet troops in Cuba. It would be a sign of weakness for the United States to behave as though we are in a crisis situation.

We should improve our intelligence coverage of Cuba. We should make it clear that we will not tolerate a Soviet military base in Cuba from which Soviet troops interfere in the domestic affairs of our Latin American neighbors. And we should increase our vigilance in the entire hemisphere so that we have early warning of Soviet or Cuban meddling and can take appropriate countermeasures.

We should continue to consider the SALT II treaty and we should vote it up or down on its own merits. Is it beneficial to our national security or is it not?

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The Senator from California has 4½ minutes remaining.

Mr. CRANSTON. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, if Senator EAGLETON is agreeable, I will proceed.

Mr. President, I was called to the floor because of the debate which is ensuing on SALT and on Cuba.

Mr. President, this is an hour for sophistication by the American people and by their leaders, and that includes us. We have to learn that this struggle will be fought on many fronts and that this front has to be handled differently according to what is required of it.

I thought Senator WEICKER's idea that we should leapfrog the Soviet Union in negotiations with Castro may be a very interesting one.

The only problem is that it is costing the Russians $8 million a day, or roughly $1 billion a year, for the privilege. I do not know that we are ready to pay that or that Castro himself is ready for that kind of action.

It will be remembered that in 1974 Senator PELL and I made the first breakthrough by puddle jumping from Florida to Castro's Cuba in order to open this door. The door can be opened. But we will have to play it coolly and quietly.

But, Mr. President, the administration is identical to the American people. It, too, is not yet sophisticated enough to deal with the Russians. This never should have been glamourized into a big issue. It was a mistake to get on board the idea it was some big deal in which we were being threatened.

We are making up for that. We have to have the humility and determination for that.

There is only one way. To go ahead with SALT, indicate equivalency in terms of military preparation of the United States. Go ahead with all the commercial and monetary problems, which are very great and could bring us down as easily as could war or military preparation, which could break our backs.

In short, let us do our thing without any regard to feeling we have to counter every time the Soviets make a move. That is their business. Let us do our thing and do it right, with consistency, with a strength we still have, so long as we have it. We will build it if we use it. Then I think we will be on the right road.

I believe this incident has gone a long way to prove to us what the right road is. That is to saw wood on what we believe is good for us. The fact the Russians may think so, too, as they do in SALT II, that does not mean it is bad.

I have seen lots of football games in which the opposing quarterback thought the quarterback who was calling the play was making a pretty good play, and it was, and he could not counter it. It was that good.

The same with us. We can be with them on SALT and dead set against them in Africa, Eastern Europe, Cuba, or any other place.

We cannot be squeamish about it, that is my judgment, as to what we ought to do now, and I hope the Senate will be consistent in that endeavor.

I thank the majority leader, the majority whip, and Senator EAGLETON.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. CRANSTON. I thank the Senator from New York for making a very good use of the time originally allocated to me.

Mr. President, I would like to join in saying that I think the Senator from Connecticut laid out a very interesting idea, proposing policy for dealing with Cuba that deserves careful consideration from this body and the administration.

I am glad that we are talking about having the debate on SALT televised. The discussion in the Foreign Relations Committee was televised. I think those hearings strengthened the cause of ratification of SALT in the country and in the Congress.

I believe that televising the Senate debate will likewise strengthen the case for SALT in this country.

If in the full Senate debate the opponents can expose some hitherto undiscovered, fatal flaw in the treaty, then the treaty should not be ratified. But, I do not believe there is any such fatal flaw in the treaty.

The Senator from Virginia has given this matter very careful thought, and, I think, in a very prudent way, to all these matters. I am delighted we are discussing them together on the floor.

I have a slightly different concept of the purpose of SALT. I do not really believe it is designed to necessarily lessen global tensions. I do not believe that the Soviets necessarily have any desire for global peace, for world stability, for fewer global tensions. The Senator from Virginia shares those doubts. But I do not think SALT necessarily is hope for achieving a better world in that sense.

The objective, as I understand it, is to recognize that the United States and the Soviet Union have had collisions in the past. We have had one now over Cuba, to some extent.

The objective of SALT is to contain those collisions so they do not escalate to nuclear war. If nothing more than that is accomplished at this stage of world events, that would be, I think, a truly great accomplishment, if there is a delay, simply a delay.

I think the Senator from Virginia made a good case that we should not necessarily expect the Soviets to suddenly commence a big buildup if consideration of SALT is delayed. However, if the treaty was rejected by the Senate, I think we might well expect that. I think that is another question that should be examined in the Foreign Relations Committee and in the Armed Services Committee hearings.

The hostilities and suspicions that would probably be aroused by Senate rejection of the treaty after all the years in those negotiations would probably lead to a breakdown in certain monitoring capacities that each possesses presently. They would probably encrypt everything. They might start jamming our satellites. We would probably respond likewise. Then each would be in the dark about what the other was doing and each would have to assume, prudently, the worst case. A buildup would begin, probably, under those circumstances.

Also, the Soviets are hearing presently all the statements being made in the course of the SALT debate about great weaknesses on the part of the American defense effort. They also hear the assertions that now we will build up and invest much more in strategic and other aspects of our defense establishment.

Hearing all that, I think we have to expect the Soviet Union may think they had better step up the already rapid pace of their defense effort to be sure they stay not too far behind, or continue the effort to catch up.

There are some people who say, "Will the Soviets make the capacity to keep pace with that?"

We have been hearing that for many years, but somehow they seem to do a great deal despite their domestic economic problems, and they are great.

I asked one member of the Joint Chiefs of Staff what he thought, whether he believed the Soviets could.

I will say that he responded—

> I keep hearing that the Soviets can't do something, but, if they want to, I notice they usually do it.

I yield the floor, Mr. President.

Mr. EAGLETON. Mr. President, I yield 2 minutes to my colleague from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. I thank the Senator for yielding.

Mr. President, as one Member of this body, which is charged with the responsibility of advising and consenting on matters of treaties, I was greatly relieved, despite what has previously been said by some Members on the floor, to hear the President's message Monday night.

President Carter has proposed what I believe to be a commonsense approach to dealing with the situation involving Soviet troops in Cuba. He reiterated his belief, based on intelligence reports, that the 2,000-plus Soviet troops, without any airborne or seagoing capability, constitute no direct threat to the United States. He has obtained Soviet assurances of future noncombat status of Russian troops in Cuba. He also proposes to establish a Cuba task force to keep an eye on the situation and to step up our surveillance of the area while boosting economic assistance and assurances of their security to neighboring countries in Latin America and the Caribbean.

Mr. President, I believe the President's reaction to be adequate and appropriate. I agree with him that the ratification of the SALT II treaty is of vastly greater significance to the security of the United States than the removal of a brigade of Soviet troops from Cuba.

In any event, I am strongly of the opinion that the Cuban situation should have no bearing on the SALT II treaty ratification.

I thank the Senator for yielding.

Mr. EAGLETON. Mr. President, I compliment the Senator from Hawaii (Mr. MATSUNAGA). In a brief time, he has very ably analyzed the lack of relationship between the recent events in Cuba and the thoughtful and prudent consideration of the SALT II treaty, at such time as that may occur.

I would also like to compliment two of my colleagues who spoke earlier this morning on this subject.

Senator PERCY stated, in part, that the recent events in Cuba "are almost miniscule by comparison" with the other events involving Cuba since 1962. In 1962, there were 20,000-plus Russian troops in Cuba, with varying lesser numbers of Russian troops in Cuba since that date.

For the purpose of emphasis, I underscore the remarks of the distinguished Senator from New York (Mr. JAVITS). He said this matter "should never have been glamorized into such a big issue." I think those words are very apt and well chosen.

I spoke yesterday on this question of Cuba, Mr. President, and I will not repeat those remarks. However, after my remarks, a couple of my colleagues came up to me in the cloakroom and in the corridors and said:

> Well, we ought to do something in return to the Russians. We ought to hit them where it hurts. They've done something we don't like in Cuba, and we ought to retaliate with something that will hurt them.

Well, this morning's Washington Post has a headline which points to that opportunity, if we wish to avail ourselves of it. The headline reads, "Huge Grain Sale to Soviet Union Approved by U.S."

This article goes on at great length to point out that this grain sale will constitute the largest grain sale in world history.

I suggest to those who want some form of retaliation, who want to do something that will hit the Russians where it hurts, here is a golden opportunity. We can embargo all sale of grain to the Soviet Union.

So I plan to sit here on the Senate floor all day, waiting for one of these retaliatory Senators to come over and

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suggest this embargo. I am waiting with great anticipation for any Senator, say, from the great Midwest, to come over and tell us we have a means now of socking it to the Russians and that we can cancel this sale and embargo all future sales of wheat, corn, and soybeans to the Soviet Union until they do something about this combat brigade.

We have the means, we have the mechanism, and I await the arrival of those who are so interested in retaliatory behavior to come and exercise their leadership role in utilizing this option.

That is all I have to say on this subject at this time.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. I yield.

Mr. TOWER. Will the Senator expand that to include not just removal of the Soviet brigade but also the removal of Cuban surrogate forces from other parts of the world that are simply now doing the bidding of the Soviet Union, implementing Soviet global objectives?

Mr. EAGLETON. If we get into the business of ultimatums, we might as well issue the most broad-reaching ultimatum. We can demand that the 2,000 to 3,000 brigade be withdrawn. We can demand that they do something with respect to the islands north of Japan which they have held since World War II. We can demand that they do something or not do something in Afghanistan.

We could make all these demands of them. It might even take 106 pages to draw up our demands. We could say, "Here are our demands. If you don't honor each and every one of these, we're going to cancel this sale and never ship you another boatload of grain."

I still await any Member of the Senate to suggest exercising that option, especially a Senator, say, from the great heartland of the Midwest, whence I come—even from Texas, although it has cattle, oil, and some people and a baseball team that finished second. [Laughter.]

Even Texas, I guess, has some grain, and I do not think the Senator from Texas would suggest that we exercise this retaliatory option.

Mr. TOWER. I would like to compare the record of the Dallas Cowboys to the St. Louis Cardinals.

[Laughter.]

Mr. EAGLETON. The Senator always has been known as a very crafty and adroit debater.

[Laughter.]

Mr. CRANSTON. Mr. President, I believe that if the Department of the Defense will speed preparation of its 1981 defense budget and its current 5-year plan for modernization of United States military forces, the SALT II Strategic Arms Limitation Treaty with the Soviet Union could be brought to a vote this year, with a reasonable chance of success.

I believe that we have within reach the formula for success in ratifying SALT II. That formula would be agreement on a reasonable defense modernization program, coupled with insistence in SALT II—by reservation or understanding—that our SALT III negotiators will dedicate themselves to bring about substantial reductions in United States and Soviet nuclear weapons.

A good SALT III agreement could make unnecessary, quite possibly, some of these otherwise significant increases in our defense expenditures. That is the formula for a success in SALT, in my view.

I have urged Pentagon officials to complete their estimate of defense needs through 1985 by early next month, instead of sometime in January, the time that the Secretary of Defense had indicated previously to Senator NUNN that they expected to complete that work.

I agree with Senator NUNN that there is no reason why the Department of Defense cannot get that letter up to us by early November, and I have been given assurances by the Department of Defense that they expect to meet that sort of time schedule.

So I believe we have an opportunity here to resolve differences, to move ahead with SALT. An agreement in this frame of reference on our national defense expenditures could develop a national consensus that I think would contribute tremendously to the stability of our arms control program, to the stability and capability of our defense effort, and be a major contribution to the national unity in these affairs.

There have been many disagreements in this Chamber and in this country about defense expenditures. I think here we have the seeds of an agreement that can be of great significance.

Mr. WARNER. Mr. President, I am one Senator who initiated this discussion of timing with reference to a final decision of the SALT II agreement by my remarks on the 25th of September. In that RECORD it is clear that I am not one who alines myself with delay tactics as being a means to kill the treaty. Quite the contrary. I hope to be one casting a vote in favor of a proper, fair Arms Limitation Treaty.

Likewise, never have I used Soviet troops in Cuba as being a roadblock to the consideration, merely but one factor.

Three reasons support my suggesting to the Senate that more time be taken with reference to our deliberation: First, to increase public understanding of the treaty; second, to obtain an objective and fair consideration, and I pose the question of whether that can be attained during a period of time in which one-third of this body will be seeking either reelection or their seats being considered for filling by others, and a Presidential election; and third was the national defense issue just referred to by my distinguished colleague from California.

Senator NUNN has, I think, spoken eloquently to this last point and likewise President Ford recently addressed the Nation and he said as follows and I am quoting the President:

> Let me emphasize the point. Some suggest they are for the treaty on assumption that the necessary defense spending decisions will be made.
>
> That is not my position. My position is I am against the treaty unless the necessary defense spending decisions have been made and have been written into law. I do not believe vague, short-term or revocable assurances are enough. We must be certain of our strength before we accept limits upon it.

I respectfully ask a question of the distinguished majority leader. In view of the proposal set forth by the distinguished Senator from California that forthcoming in the next 30 days will be responses by the Secretary of Defense, will those responses meet the criteria that many of us have set and enunciated by Senator NUNN and President Ford?

Mr. ROBERT C. BYRD. I am in no position to comment as to what the responses will be. I do not know what form they will take. But I urge the administration early on, the President, Mr. Brzezinski, Secretary of State, and the Secretary of Defense, to act to expedite presentation of the 5-year program to the Senate so that all Members will be aware of what is projected. I have not attempted to advocate exactly what should be in it or how much of an increase there should be, but I have suggested that they expedite it.

I join with the distinguished whip in saying that I believe it can be done by November. I will go further to say not only that it should be done, but that it had better be done, because I do not anticipate this treaty being called up prior to the presentation of the 5-year program to the Senate.

I think we are entitled to know that. I am not tying defense to SALT. If I am going to be for SALT II, I will be for it regardless of defense. But I think the whole context of this defense picture is very important. Any Senator who reads these transcripts of the committee hearings will understand the need for knowing where we are going, whether we have SALT II or not.

More importantly, if we do not have SALT II, we are going to have to spend a lot more money than we would with SALT II to modernize theater nuclear forces and the conventional forces. And without SALT II the overall defense budget will be bled for strategic weapons—to some extent at least robbing the conventional forces and the theater nuclear forces programs of much needed funding.

So we need to know where we are going. The administration can get that 5-year program up here and it will get it up here before this SALT treaty is called up.

Mr. WARNER. Mr. President, first I observe that the distinguished majority leader has set an example for all Senators in his personal study of this treaty and the manner in which he has been open minded and fair to all Members of this body. His knowledge, in my judgment, of the intricacies of this treaty and the record thus far in the Senate is second to no one's knowledge.

But the question that I pose is will these forthcoming representations from the Department of Defense be in a form that will be convincing upon not only our President but successive Presidents.

Mr. ROBERT C. BYRD. I cannot say that. I do not think that the Defense Department could bind successive administrations, just as this Congres cannot bind future Congresses. But much of these force-funding items and weaponry require a long leadtime. So if we can see where we are going and be assured that we are definitely moving as I think we should, that should reassure some of us with respect to correcting the developing imbalance in theater nuclear forces in Europe and conventional forces.

I do not think we could require that to be binding but at least we will know what this administration has programed.

I thank the Senator.

Mr. CRANSTON. Mr. President, the Senator from California wishes to reply further to the Senator from Virginia on the questions he posed which are very important questions in this discussion.

I do not believe that there is any constitutional way to bind this Congress through its appropriating process or to bind this or future executive branches on defense expenditures. However, I spoke of the potential for achieving—in this body and in the country—a national consensus. I think that is possible if we agree on expenditures over a 5-year period now and if we also agree on SALT III efforts to cut nuclear arsenals back on a mutual basis with the Soviet Union. We have had very close votes in this body. Sometimes those who want to spend more win. They usually do. But sometimes those who want to spend less win on specific amendments and issues.

If there develops a consensus to do the following things in the interest of national defense and in the interest of arms control, I think we could then assume far more than under any other circumstances that the commitment was a binding commitment as far as Congress is concerned for defense expenditures in this 5-year plan.

Mr. ROBERT C. BYRD. Mr. President, the Senator from California has made an excellent suggestion and I think it is probably the course we should make every attempt to pursue—to get a consensus within the Senate.

Mr. CRANSTON. I thank the Senator.

Mr. ROBERT C. BYRD. I applaud him for his suggestion.

Mr. CRANSTON. I thank the Senator.

Mr. WARNER. Mr. President, I fully recognize the constitutional impediments on binding successive Presidents as well as the Senate but the 1980 Military Appropriation Act can and certainly must be a clear indication of our will. I hope that if we follow the procedures represented by the distinguished whip, we make a record on which Senators can say in the future, "It was for that reason, the assurances that I received from my colleagues and the administration that I went ahead and voted 'aye' on the SALT II treaty."

Mr. CRANSTON. I totally agree with that concept.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to exceed 10 minutes, and that Senators may speak therein up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RURAL HEALTH CLINIC SERVICES ACT

Mr. LEAHY. Mr. President, rural America is the home of 56 percent of the medically underserved people in this Nation. One out of every 2 rural residents lives in an area without primary health care, as compared to 1 out of every 10 urban residents.

Rural America contains almost one-third of the country's population, yet it is served by only 12 percent of the Nation's physicians and a dismal 18 percent of our nurses.

There are 208 physicians for every 100,000 urban area residents and only 83 physicians for every 100,000 rural residents.

Our Federal health programs, medicare and medicaid, are biased against rural Americans. The average payment under medicare to an elderly rural resident in 1972 was $296, as compared to $425 for the metropolitan resident. The average medicaid health expenditure for a poor child in a central city was $75. The poor child in rural America received $5.

Grand Isle County in Vermont is typical of many rural areas in the Nation. Almost 60 percent of the residents live at or below the poverty level. The unemployment rate for the county is inordinately high. Solo physicians have come and gone from the area. None were able to support a practice in this rural county.

When the last physician left Grand Isle County a few years ago, nine women banded together to form a health council and to begin a true community effort to establish a health center. In 1976, a clinic, staffed by nurse practitioners was opened. But the clinic could not allow for the reimbursement under Federal health programs of the services provided by nurse practitioners except when a physician was present at the clinic.

Clinics across the country were faced with this same "Catch 22" situation. They could not get or keep a physician, so they attempted to get nurse practitioners and physician assistants. But the valuable services rendered by these health professionals could not be reimbursed under medicare or medicaid because there was no doctor available and present at the clinic at all times.

As a direct result of the problems being faced by Vermont health clinics, I introduced, with Senator Dick Clark of Iowa, legislation that would remove some of the barriers under medicare and medicaid to the effective delivery of health care in rural areas. The Rural Health Clinic Services Act was enacted in December 1977.

This legislation recognizes the contribution of nurse practitioners and physician assistants by allowing the services they provide in rural health clinics to be reimbursed under Federal health programs.

The Rural Health Clinic Services Act has also provided an impetus for private insurance coverage of these health professionals' services. Blue Cross/Blue Shield of New Hampshire-Vermont recently voted to cover the services of physician extenders in Vermont and New Hampshire. They deserve great praise for their leadership and dedication to improving access to health care in rural areas. Almost half of the Blue Shield plans around the country are now recognizing the need to reimburse nurse practitioners and physician assistants.

The Rural Health Clinic Services Act is the first and only attempt thus far to put medicaid and medicare reimbursement under a single regulatory and reimbursement structure. This was done to simplify the administration of the program for small, rural clinics and to insure equal payment under the two Federal health programs for the services rendered by physician extenders.

As chairman of the Rural Development Subcommittee of the Committee on Agriculture, I held an oversight hearing on the Rural Health Clinic Services Act on September 12, 1979. The purpose of this hearing was to determine the legislative and, in particular, the regulatory changes necessary to insure a successful implementation of the rural health clinics program.

Mr. President, it has been said that the hallmark of our age is the tension between related aspirations and sluggish institutions. While Congress intended that the rural health clinics program be as simple to administer as possible, keeping in mind the nature of small, rural clinics, the Department of Health, Education, and Welfare has done a mediocre job of carrying through on the legislative mandates of the Rural Health Clinic Services Act.

Representatives of numerous public interest groups and professional medical associations who testified at the hearing reaffirmed their strong support of the Rural Health Clinic Services Act as a means of providing access to primary health care in rural areas, at the same time noting the difficulties which have been encountered by rural health clinics because of a morass of guidelines, reporting requirements, and regulations.

Dr. Donald Fisher, president of the American Academy of Physician Assistants stated:

> The Rural Health Clinic Services Act is the only legislation passed in recent years which particularly addresses the health care needs of rural Americans. By reimbursing for the services of physician assistants, Americans living in medically underserved areas have the opportunity to receive first class heath care in clinics throughout the United States.

Dr. Fisher further believes that—

> The Act seems to provide ample financial incentives for the establishment and maintenance of clinics in underserved areas.

Mr. Thomas Van Coverden, director of the National Association of Community Health Centers believes that—

> Despite the many problems which have arisen in its implementation, Public Law 95–210 (The Rural Health Clinic Services Act) is basically a sound law with great potential to improve access to care for the medicaly underserved.

Ms. Jean Julius, administrator of a rural health clinic in Londonderry, Vt., stated in her testimony that—

> The legislation increases the accessibility of health care for the elderly and poverty

> residents by aiding the feasibility of establishing and maintaining these centers in physician shortage areas . . . There is general support for this law throughout Vermont and the nation, though there are some problems in its implementation.

Finally, the witness from the American Nurses Association reiterated their belief in the Rural Health Clinic Services Act:

> When this legislation was proposed, many rural health clinics were faced with closing because reimbursement by Medicare was not available unless there was on-site supervision by a physician. We recognize that large segments of our rural population would lack primary health services without such clinics, therefore, we strongly supported the efforts to change the reimbursement mechanism for Medicare to allow reimbursement for the services conducted by nurses in rural areas. We continue to support the basic intent of Public Law 95–210 but recognize a number of obstacles to its effective and desired implementation.

Witnesses testifying before the Rural Development Subcommittee were dissatisfied with the Health Care Financing Administration of HEW for not appointing a single official who would have responsibility for the rural health clinics program and who would coordinate activities between the Federal regional offices and State medicaid agencies.

They stated that rural health clinics around the country were unable to meet the arbitrary, unrealistic, and inflexible administrative and productivity guidelines that were issued to them by HEW. When clinics did not meet these guidelines, their rate of financial reimbursement dropped dramatically. It is no wonder then that a few clinics are dropping out of the program. The purpose of the legislation was to allow clinics a greater chance for financial stability, and current HEW guidelines are in direct opposition to that goal.

As an example of the burdensome administrative requirements on small, rural health clinics, the director of several rural health clinics in Tennessee stated that he was required to fill out 42 separate forms for a patient who was hospitalized for 42 days. In addition, he was required to send the elderly patient 42 forms explaining the patient's medical benefits. Consider the amount of postage, time, and human effort wasted because of these requirements. Many small clinics do not even have an administrator or bookkeeper. In these cases, a nurse practitioner or physician assistant has to take time away from their patients to fill out the required forms.

In addition, many rural health clinics also receive some grant support from other Federal programs. They are required to fill out what are known as cost report forms for each of the Federal programs. While a common cost report form has been developed for rural health centers that receive Federal funds from more than one source, it has not yet been issued to rural health clinics because of objections on the part of the Health Care Financing Administration.

Witnesses before the Rural Development Subcommittee pointed out that HEW has been able to certify 371 rural health clinics across the Nation thus far, although it was projected there would be 600 clinics participating in the program by this time. While the program has been successful in States such as Vermont and North Carolina, there are still some 18 States and territories that do not have rural health clinics under this program. This is in part due to the fact that several States do not yet allow physician extenders to practice in their States.

In a recent letter to the Administrator of the Health Care Financing Administration, I requested that 12 major changes in the administration of the rural health clinics program be instituted within the next 90 days. I ask unanimous consent that a copy of that letter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, I shall be introducing legislation in the near future to make several minor changes in the Rural Health Clinic Services Act. The Senate Finance Committee has already approved legislation to ease the billing and accounting problems which rural health clinics have experienced.

But just as it is useless for the sheep to pass resolutions in favor of vegetarianism while the wolf remains of a different opinion, the efforts on the part of Congress and numerous public interest and medical groups will be for naught unless the Health Care Financing Administration is more fully committed to providing access to primary health care in rural areas.

At another hearing Senator STEWART and I recently held in rural Alabama on the Federal community health centers and National Health Service Corps programs, problems similar to those encountered with the rural health clinics program were discovered. But the Bureau of Community Health Services, which administers those programs, has, to its credit, reduced the number of required forms from nine to one, and it is in the process of trimming down that final form. Surely the Health Care Financing Administration can follow the example of another HEW bureau and do what the Congress intended it to do to make the rural health clinics program as simple to administer as possible. The health of rural Americans depends on their success at accomplishing this noteworthy goal.

I thank the Chair.

EXHIBIT 1

U.S. SENATE,
Washington, D.C. September 21, 1979.

Mr. LEONARD SCHAEFFER,
Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SCHAEFFER: As you are well aware, I am deeply concerned about the inability on the part of the Health Care Financing Administration (HCFA) to resolve several problems related to the implementation of the Rural Health Clinic Services Act, Public Law 95–210.

The witnesses before the Rural Development Subcommittee on September 12, 1979, as well as those groups which submitted written testimony to the Subcommittee, almost unanimously agreed that several of the major difficulties facing rural health clinics under this program might well have been prevented or more adequately addressed by HCFA.

First, while it was stated in the July 14, 1978, rural health clinic regulations that prospective reimbursement regulations would be issued by March 1, 1979, those regulations have not yet been issued in proposed form. March 1, 1980, the statutory deadline for the implementation of a prospective reimbursement system is fast approaching. HCFA should issue proposed regulations no later than November 30, 1979 in order to ensure adequate public comment on the regulations.

As I requested at the hearing, I would like to receive a copy of the current draft of the prospective reimbursement regulations, which is currently being circulated at HCFA.

Second, I am aware of the efforts on the part of the Public Health Service (PHS) and the HCFA, as well as numerous public interest groups, to develop a common cost report form for those clinics which are also Public Health Service grantees. I am dismayed that objections on the part of HCFA to the final common cost report have inordinately delayed its issuance to rural health clinics. I do not believe that clinics should have to wait until March 1, 1980 for relief of the administrative burdens caused by duplicative cost report forms.

In addition, HCFA should report to the Rural Development Subcommittee on the feasibility of eliminating or substantially reducing cost reporting requirements for clinics which have low rates of reimbursement.

Third, written and oral testimony given to the Subcommittee stressed the fact that the current administrative and productivity screens which are applied to rural health clinics are inappropriate, arbitrary, and inflexible. The screens have substantially reduced reimbursement rates for the majority of rural health clinics.

These screens were applied despite the objections of the Public Health Service, which has responsibility for primary health programs. As early as March 14, 1978, you were aware of the PHS' objections. Dr. George Lythcott, current Administrator of the Health Services Administration, sent you a memorandum stating his opposition to the application of proposed screens. Dr. Michael Samuels, Associate Director of the Bureau of Community Health Services, reiterated the position of the Public Health Service that the application of screens had been harmful to clinics.

Administrative and productivity screens are especially harmful to clinics with hospital practices. They do not reflect the additional time required for hospital, obstetric and home visits. The current screens should be substantially revised, or if necessary, eliminated to reflect clinics' actual experiences.

Fourth, current regulations governing the determination of the all-inclusive rate for clinics do not take into account the clinic with a hospital practice. If a clinic's rate of reimbursement is $16 per visit, and a physican provides obstetric services in a hospital for eight hours, that physician is only reimbursed the $16 for his visit. That physician might be reimbursed up to 20 times that amount if he were paid on a usual and customary basis. To my knowledge, only regulations and administrative guidelines would have to be changed to exclude hospital services rendered by physicians from the all-inclusive rate determination. The current policy surely creates a disincentive for physicans to participate in the rural health clinics program.

Fifth, there is no single official within the Department of Health, Education and Welfaree who has authority for the rural health clinics program. No reasonable explanation has been offered regarding your opposition to the designation of such an official.

Sixth, in the HCFA-PHS response to the Inspector General's report, there is an admission that state survey teams have not been adequately trained on how to apply health and safety standards to rural health clinics, and state teams have been unnecessarily strict in their reviews and demands. No training sessions have been held by HCFA for state surveyors. I was pleased to learn that you are planning training sessions for the survey teams in the next few months, but I am sorry that until now this problem has not been adequately addressed by HCFA.

Seventh, HCFA has not impressed upon State Health System Agencies the need to quickly and completely update current health manpower shortage designations.

Eighth, HCFA has not provided adequate technical assistance to State Medicaid Agencies and should convene a meeting in the near future of the directors of State Medicaid Agencies which are not complying with Public Law 95-210. Additional technical assistance should be provided to intermediaries and clinics.

Ninth, HCFA should revise its current form, SSA 1483, for rural health clinics. Currently a separate form must be filled out for each patient encounter, and a separate form must be filled out for each day a patient is in the hospital. One witness testified that because a patient had stayed 42 days in a hospital, the clinic was required by its intermediary to fill out 42 billing forms and send 42 Explanation of Benefit forms to the patient. This billing requirement presents unnecessary difficulties for clinics and the patients themselves.

Tenth, intermediaries have been directing clinics to exclude Public Health Services grants as allowable costs in the determination of the all-inclusive rate. If it is the policy of HCFA to consider these grants as eligible costs, then that position should be restated immediately to all intermediaries for the rural health clinics program.

Eleventh, donated services have not been allowed to be considered eligible costs by HCFA. This has caused hardships for many clinics. For example, one clinic in Rhodell, West Virginia lost a good share of its revenue during a United Mine Workers strike. The clinic reported the full salaries of employees on its cost report, noting that approximately $20,000 in services were donated. The intermediary instructed the clinic to pay the staff's salaries back. The clinic borrowed $20,000 from a bank, and then the staff donated the $20,000 back to pay off the bank loan. I question whether this whole paper charade was necessary.

Twelfth, there are not satisfactory cross-over arrangements between Medicare, the Black Lung Disease Fund, the Railroad Retirement Program, and the non-federal United Mine Workers Health Fund.

These are some of the more pressing problems which are prohibiting successful implementation of the Rural Health Clinic Services Act.

I would appreciate it if you would provide me with a response to my letter of August 31, 1979, by October 3, 1979, in order that it may be included in the hearing record. I have enclosed an additional list of questions to which I would like you to respond by October 3, 1979.

I was pleased that you were able to testify before the Rural Development Subcommittee. I am hopeful that the problems I have outlined above can be addressed in an expeditious manner. The Health Care Financing Administration, to its credit, was able to promulgate final regulations for this program 90 days after the enactment of Public Law 95-210.

If HCFA could accomplish that task in 90 days, I am certain that it will be able to correct the deficiencies I have mentioned in this letter within the same amount of time.

I have enclosed for your use a copy of the testimony provided to the Subcommittee for the September 12, 1979 hearing.

Thank you for your interest and cooperation.

Sincerely,

PATRICK J. LEAHY,
U.S. Senator.

Enclosures.

HEALTH CARE FINANCING ADMINISTRATION

1. What is the average reimbursement rate for rural health clinics? How does this compare with reimbursement to other primary care programs such as the physician directed, federally funded program? Compare the reimbursement ceilings and floors for the programs.

2. How many certified clinics are actually receiving reimbursement at the present time under Medicare? How many are receiving payments under Medicaid?

3. How many provider based clinics are there? How many independent clinics are there under the rural health clinics program? Does the average reimbursement rate differ for the two types of clinics?

4. On how many clinics has HCFA collected data at this point? Has HCFA provided to the Public Health Service full access to the available data?

5. How many of the clinics have met the administrative guidelines? How many of the clinics have met the productivity standards? How many clinics have been able to meet both screens?

6. Why do current administrative and productivity standards not reflect the additional time required for hospital, obstetric, and home health services?

7. What has been the average loss in reimbursement to clinics for their inability to meet the administrative and productivity screens?

8. For how long has HCFA been aware that clinics were having difficulties meeting the current administrative and productivity standards?

9. Why have prospective reimbursement regulations not yet been issued?

10. Please provide to the Subcommittee a copy of the current draft of prospective reimbursement regulations being circulated at HEW.

11. Do you anticipate that under the prospective reimbursement system the administrative and productivity standards will still be applied to clinics? Will the reimbursement floors and ceilings be adjusted on an annual basis to account for inflation? Will donated services be considered eligible costs?

12. For each state, on what date was a reimbursement option for Medicaid payments chosen? On what date did each state begin payments to clinics under Medicaid?

13. In what states is Public Law 95-210 absolutely impossible to implement because of restrictive state practice acts? For which states has a conservative interpretation of statutes which do not prohibit nurse practitioner and physician assistant practice resulted in the inability to implement Public Law 95-210?

14. Has HCFA or any other branch of HEW developed a model State Practice Statute with regard to nurse practitioners and physician assistants?

15. What are HCFA's objections to the common cost report which has been developed in recent months?

16. What is the basis for your opposition to designating a lead person with line authority over the rural health clinics program?

17. Please provide the Subcommittee with a list of the names of those persons who have been designated by HCFA to serve as heads for the program in HEW Regional and Washington offices.

18. Why have the administrative costs for intermediaries for the rural health clinics program been so high?

19. What is the basis for HCFA's objection to the use of "encounter" versus "visit" as a billing unit?

20. Has any attempt been made to revise form SSA-1483 for rural health clinics? Why must a separate form be filled out for each patient encounter?

21. Would HCFA support the exclusion of hospital services from the determination of the all-inclusive rate? Should physicians in rural health clinics be reimbursed as a usual and customary fee basis for hospital services provided?

22. Does HCFA feel it is statutorily compelled to interpret the provision that a clinic "directly provide" laboratory services excludes mailout laboratory services?

23. What has HCFA done to assist State Health System Agencies in designating health manpower shortage areas?

24. Why have the urban demonstration projects authorized by Public Law 95-210 not yet been conducted? The statute requires HEW to report to Congress on the results of these demonstrations no later than January 1, 1981.

25. The Committee Report to H.R. 8422 directed HEW to conduct preventive health demonstration projects in rural and urban areas. What are HCFA's plans to conduct these projects?

26. Please submit to the Subcommittee a copy of HEW's study on the feasibility of adopting a co-payment for rural health clinics in lieu of the current co-insurance and deductible requirements.

27. Please provide to the Subcommittee all reports, papers, and action plans mentioned in the HCFA-PHS response to the Inspector General's report on the rural health clinics program.

28. Mr. Schaeffer stated at the September 12, 1979 hearing that it will be difficult to ensure the financial viability of rural health clinics. With this in mind, does he believe that a permanent subsidy in either grant or entitlement form may be required in order to ensure access to primary care in rural areas?

29. Please provide the Subcommittee with a copy of HCFA's Fiscal Year 1981 legislative proposal.

30. What are the current cross-over arrangements between Medicare, the Black Lung Disease Fund, and the United Mine Workers Health Retirement Funds?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there be no further morning business, the period for morning business is concluded.

PRIORITY ENERGY PROJECT ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 1308, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1308) to set forth a national program for the full development of energy supply, and for other purposes.

The Senate resumed consideration of the bill.

Mr. LEVIN. Mr. President, I ask the floor manager of the bill to clarify one aspect of the bill which I think is significant. The bill provides that, if a Federal, State or local agency fails to make a decision or perform an action within the time constraints imposed by a Project Decision Schedule adopted by the Board, the Board may decide or act in lieu of that agency. A petition for review of the validity of that Board action could then be filed in the temporary emergency court of appeals. My question of the floor manager is whether that petition for review could challenge, whether the Board has appropriately applied the statutory decision criteria which should govern such a decision in accordance with Federal, State or local law? Can the Senator inform me as to whether the bill would permit a challenge to a Board action on those grounds?

Mr. JOHNSTON. Mr. President, the bill would allow TECA to consider a petition of a Board action on the grounds to which the Senator has referred. If I may trace the basis of that statement through the bill, I would point out that section 27 requires petitions for review of the validity of any action pursuant to this act to be filed in the temporary emergency court of appeals. Section 28 defines "an action pursuant to this act" to include any significant action by the Board pursuant to sections 21 and 22 of the act, and section 21(a)(3) states that "in making the decision or performing the action in lieu of the agency, the Board shall apply the decision criteria in the Federal, State, or local law that would have been applied had the Federal, State, or local agency made the decision." Such a decision or action by the Board would certainly be considered significant, and would thus constitute valid grounds for a petition for review of the Board action.

Mr. LEVIN. I thank the Senator for that clarification.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

UP AMENDMENT NO. 604

Mr. LEVIN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 604:

On page 52, delete lines 8 through 16, and insert in lieu thereof the following:

Mr. LEVIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, delete lines 8 through 16, and insert in lieu thereof the following:

"(3) If the Board determines that an agency has failed to make a decision or perform an action within the time required by a Project Decision Schedule and that the Board will decide in lieu of the agency, the Board shall so notify the agency, and the agency shall, upon receiving such notification, transmit to the Board forthwith all records in the possession of the agency pertinent to that decision or action. The Board may take whatever additional action is necessary to develop an adequate record for a final decision or action within the time period permitted by this Act. Such action may, in the discretion of the Board, include a period for written public comment.

Mr. LEVIN. Mr. President, the present section reads that if the Board notifies an agency that it has determined that the agency has failed to make a decision or perform an action within the time required by a project decision schedule and that the Board will decide in lieu of the agency, certain things shall follow.

This amendment is intended to make clear that if the Board determines that an agency has failed to make the determination within the time called for by the schedule, the Board will notify the State or local agency, and then those same things shall follow.

The only change in this regard in the language in the bill is the requirement that the Board notify the State or local agency which has not met the project decision schedule before those subsequent actions are taken.

In addition to that, this amendment would provide that the Board may take whatever additional action is necessary to develop an adequate record for a final decision or action, which is the pending language, and would add to that "Within the time period permitted by this act, such action may, in the discretion of the Board, include a period for written public comments."

The purpose of this is to suggest to the Board, particularly where no written public comment period had previously been provided at the State or local level, that they might want, in their discretion, to allow for such a period for written public comment to take place.

I believe this amendment is acceptable to the majority and minority both, but I yield to them to speak in their own behalf.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Michigan, I believe, has a very useful and helpful amendment.

We want to accomplish two things, Mr. President, at the stage of the proceedings referred to by the Senator from Michigan. First of all, we want to get a decision made within the time limits provided by the bill. Senators will recall that yesterday the Senator from Texas (Mr. BENTSEN) put in an amendment which specifies that the Board must act. It must either decide itself, or it must go to court, within the time limits and under the conditions described in the Bentsen amendment.

At the same time, Mr. President, within those time limits, we want the Board to satisfy itself, within its own discretion, that it has the proper basis for making that decision. In some instances, the Board may well consider it useful to have a full hearing record, probably an informal hearing record not subject to all the formalities of the Administrative Procedures Act, but they may well consider it to be useful to have an informal hearing record prior to making their decision on State law.

What the Senator from Michigan does is, first of all, require that all the local boards be informed. That was really an oversight in the bill, and that requirement certainly is a helpful one. Second, it highlights this discretionary power of the Board to have a hearing record, an informal hearing record, so as not to mandate but to highlight and to emphasize that this may well be useful, before the Board makes a decision in lieu of a State, local, or Federal agency.

So we accept the amendment and congratulate the Senator from Michigan for his service in this regard.

Mr. LEVIN. I thank the Senator from Louisiana.

The PRESIDING OFFICER. Does the Senator from New Mexico wish to be heard?

Mr. DOMENICI. Mr. President, we in behalf of the minority have had an opportunity to review the amendment and to work with the Senator on some modifications which are incorporated in it.

I think it certainly is consistent with what we intended. It makes that intention clearer with reference to notification and also, in a permissive manner, permits the Board to take written comments during the period if they, in the exercise of their discretion, think it is necessary.

I think that is a good addition to the bill, and we not only accept it, but we urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 604) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 605

Mr. LEVIN. Mr. President, along the same lines, I now send to the desk a second amendment, which I believe may also be accepted by the majority and the minority.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 605:

On page 41, line 13—

Mr. LEVIN. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 13, after "designation," add a comma and insert the following: "and other appropriate officials of political subdivisions of any State which might be significantly affected by a priority energy project,".

Mr. LEVIN. Mr. President, the bill before us provides that after the notice that a proposed energy project is going to be designated as a priority energy project is printed in the Federal Register, the Board shall notify the Governor of any affected State of that fact, and request the Governor to do certain things.

This amendment would simply state specifically that in addition to notifying the Governor of the State that would be affected, the Board would also notify other appropriate officials of political subdivisions of any State which might be significantly affected by a priority energy project.

That change is made because the people who are likely to be significantly affected should be given notice of the fact that they are in that time table, so that they would be in a position to act expeditiously, so that they could take whatever actions are permitted to them under the bill.

I believe this language is acceptable to both the majority and the minority sides.

The **PRESIDING OFFICER**. The Senator from Louisiana.

Mr. **JOHNSTON**. Mr. President, this amendment as well is a constructive amendment. It provides for local officials significantly affected to be informed. We intended to do that, and it should have been written in in the first place. I am glad that the Senator from Michigan caught the oversight. The amendment helps the bill, and we accept it.

The **PRESIDING OFFICER**. The Senator from New Mexico.

Mr. **DOMENICI**. Mr. President, we have reviewed this amendment, and it merely places a responsibility on the Board to be very congenial and cooperative with local governments. Although the bill, at the suggestion of Senator HATFIELD, places the governor in the position of speaking for local governments in many respects, this says that this kind of activity will cause notice to go to them directly from the Board. I, too, think it is a good idea, and we have no objection and urge its adoption.

The **PRESIDING OFFICER**. The question is on the adoption of the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. **LEVIN**. I thank the Chair, and I thank the Senators from Louisiana and New Mexico.

I move to reconsider the vote by which the amendment was agreed to.

Mr. **JOHNSTON**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **JOHNSTON**. Mr. President, I thank the Senator from Michigan for his significant contributions in these amendments.

I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **SCHMITT**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **SCHMITT**. Mr. President, will the distinguished manager of the bill, the Senator from Louisiana, agree to let the Senator from New Mexico proceed with a discussion of the amendment, understanding that the actual amendment will be introduced somewhat later, when the printed version is available?

Mr. **JOHNSTON**. Mr. President, I appreciate the willingness of the Senator from New Mexico to begin the debate. In the meantime, the Senator from Ohio has come down. If the Senator from New Mexico would prefer to wait until his amendment comes and let the Senator from Ohio go ahead, we could proceed in that way. Or if the Senator wants to go ahead with the debate——

Mr. **SCHMITT**. What I might do is introduce the subject so that we can have further discussion for 5 or 10 minutes. Then I shall be happy to yield to the Senator from Ohio.

Mr. **JOHNSTON**. I thank the Senator.

Mr. **DOMENICI**. Where will we be then?

Mr. **SCHMITT**. Mr. President, I ask unanimous consent that I be allowed to proceed for 10 minutes, the time to be taken out of the time that eventually would be allowed for the amendment when introduced.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. **SCHMITT**. Mr. President, as I think my colleagues and the managers of the bill are aware, I have some problems with this bill as it is currently drafted and as it has been modified on the floor. It seems to the Senator from New Mexico that the bill merely treats the symptoms of the problems we face in energy development in this country, but does not treat the basic roots of those problems which lie in the regulatory and judicial delays that we in Congress have allowed to develop. A large number of major and significant assumptions are implicit in this bill. It assumes that one more bureaucracy will make all other bureaucracies work more efficiently. Instead of fixing the Department of Energy, for example, which we created in the last Congress and which has obviously not worked, we go back in time to reenact the czar concept for energy management.

This bill assumes that there is a person, a czar, if you will, who exists who can be all wise in the exercise of the impossible task of interrelating a specific set of schedules for energy project development with numerous Federal agencies; an unknown number of laws and regulations with numerous State agencies; and an unknown large number of laws and regulations with a vast number of local entities with, again, a large number of unknown local codes and regulations; with project plans, design plans, construction plans, and operation plans of the projects themselves; and with the economics of the marketplace.

I submit Mr. President, that we have, indeed, defined an impossible task for this as yet unknown person.

This bill assumes that due process for all the people of this country who would be affected by the bill will be protected in the accelerated judicial process envisioned, such as that contained in section 21(b)(3).

The bill assumes that the mandate that the court direct the imposition of a schedule does, in fact, not violate due process.

The bill assumes that the judicial system can process the focused attention of those in opposition to energy development which, in hopes of streamlining, it has, nonetheless, concentrated into some very narrow channels that, more than likely, will clog with the demand that they will face.

The bill assumes that the Board needs to acquire property and, although I do not know that that has been developed on the floor as yet, I still do not understand the need for this Board to acquire property in various ways.

The bill assumes that other agencies can and will react to the dictates of the Board for information and actions.

The bill assumes that the federal system—that is, the union of States—can withstand the Board's attack on State and local law and regulations, a very broad philosophical issue, far broader than the very serious considerations of energy development.

The bill assumes that the exemption of water laws and relations with Indian tribes in the provisions of the bill will not be a litigation loophole that will continue to stymie energy projects, particularly those in the Western United States.

The bill assumes that the Board can determine that there would be danger or would not be danger to public health and safety and that it can assume this in an adequate as well as a timely manner.

The bill assumes that those whose purpose is to prevent any energy development whatsoever, whether safe or not, will not find a tortuous path of judicial delay within the provisions of the act—again which, with all good intentions, are designed to reduce judicial delay.

The bill assumes that the acceleration of schedules of a limited number of priority projects will not further delay the progress of nonpriority projects with the net result of the loss of domestic energy production when the total picture is taken in aggregate.

The bill assumes that the Board will be capable of establishing commonsense and realistic Project Decision Schedules within the complexity of existing law, regulation, and inherent bureaucratic and judicial inertia.

For the Board to carry out the purposes of this act, and purposes with which I agree completely, all—Mr. President, I repeat "all"—of these assumptions must prove to be valid. If any one of them proves to be invalid, the Board will be incapable of acting and may well further delay the implementation of the very projects it has been created to accelerate.

That all of these assumptions can prove to be valid would seem to be an unlikely possibility.

The amendment which I will introduce later in the discussion would require that the Board's first responsibility after being created would be to do what I think any prudent manager, hopefully, will do anyway. That is, to look at the root of the problem that caused this act to be passed.

The roots of that problem of course, lie in existing law and regulation at the

Federal level, and those laws and regulations at the State level that have been promulgated in response to Federal law.

More specifically, the amendment would require the Board to spend the first 90 days after its first meeting getting organized, and getting organized in a very specific way, looking at those laws and regulations which are, in fact, producing the bottlenecks that prevent this country from doing that which it can do so well, which is to produce.

It would submit a report on those laws and regulations at the end of that 90-day period, along with recommendations for those actions the Congress could take that would ease the future task of the Board, either by repealing or by modifying such laws and regulations by act of Congress.

The amendment that I will propose would then require that this report lie before the Congress for 60 days before the Board would begin to exercise the powers mandated to it by the act.

Mr. President, I believe we must take this more deliberate approach to the early life of the Board if we are to have any hope of its success during the exercise of its future responsibilities and activities.

Mr. President, I will reserve the remainder of my time with those introductory remarks and yield the floor in anticipation of continuing it a little bit later in the morning.

Mr. GLENN. Mr. President, I think before we come to a final vote on this bill this afternoon, it is time to pause to reassess the situation, to look back a little bit about where we have come.

I do not want to take up a lot of time doing this because I know the Senate is on a fast track at this particular point in trying to get this bill through.

But if we look back at where we have come from and where we have been with the energy problem since 1973 and 1974, I think it might affect our votes this afternoon, perhaps, and I hope will influence the amendment which I will submit later on this morning.

The energy problem has turned out to be probably the most complex problem we have ever had in this country, outside of a wartime situation. It has been building for 50 years, and it has been warned against by scientists and energy experts for at least the last 15 years.

Our Government's approaches to the energy problem prior to the establishment of a Department of Energy were very fragmented. We had the Energy Research and Development Administration, the Federal Power Commission, and the Federal Energy Administration, all three of which we finally combined into a Department of Energy.

We thought this new Department of Energy was going to be a very strong department, department that would formulate policy, implement policy and do the research that was necessary to see we had a decent energy future, or at least some hope in the future for energy independence.

DOE was responsible, as we saw it, for that most massive and complex job. It had the responsibility—I repeat that word—for getting the job done.

But any job that has a lot of responsibility needs an equal amount of authority.

When we were setting up the Department of Energy—and I was right in the middle of that because I was on the Governmental Affairs Committee and chaired its Subcommittee on Energy—and when we went through all our hearings and debate in committee, and all our debate on the floor, I did my level best to make the Department of Energy as strong a department as we possibly could make. I did so because I thought that on this most complex of issues we had to put as much authority as possible in one spot to fulfill these responsibilities

I was accused at that time of trying to set up an energy czar. But we certainly did not set up an energy czar. In fact, at that time we left all control over nuclear matters with the NRC, over any transportation matters with the Department of Transportation, over any environmental matters with the EPA. We even took the old source of much of the problem, the Federal Power Commission, and put it under the new Department of Energy, but reconstituted as a Federal Energy Regulatory Commission, not under the control of the new Secretary of Energy but under him only for administrative purposes. He buys the pencils and paper, furnishes the office space, but has no control of what comes out of FERC. He can only do that on appeal to the President.

So we left this so-called czar, to my way of thinking, pretty well hamstrung, as to what he could accomplish in this most complex of fields.

Let me go back to the CONGRESSIONAL RECORD of May 18, 1977, 2½ years ago, and read parts of a statement I made on the floor of the Senate when we were considering the legislation that set up the Department of Energy. I spoke as follows:

> Mr. President, I do not think most people yet appreciate the complexity of the monumental task we are going to give to this new Secretary of Energy once the department is established. I have been concerned, all through our legislative process, that considering the enormity of the task that we are giving to this new Secretary, we be very careful to give him the tools to accomplish that job once the department has been established.
>
> We are dealing with something that is so complex and so all-pervasive throughout our whole society and throughout the Government that every single department of the Government is involved in some way with energy and the energy problem. The reason we are trying to set up a new department is that in the executive branch, as well as in the legislative branch, those dealing with energy matters have found the authority so proliferated all over the place that there has been no one spot we could turn to get things done. This legislation will go a long way toward addressing that problem in the executive branch.
>
> Let me try to indicate for a moment the complexity of the problem, and why I think that we should not have any weakening amendments on this bill. Very frankly, Mr. President, I think this bill is as weak as it can be and still afford a hope of getting the job done. And I do not say that lightly. I think too many people have looked at this legislation as concentrating all energy-related authority in this new department, that we were setting up an energy czar who was going to be all-powerful. I say to my colleagues in the Senate and to the President that that is not being done in this bill. We are not setting up an all-pervasive, all-powerful czar of energy in this country with this legislation. If anything, I question whether he is going to have enough power to get the job done.
>
> The amendments I proposed in committee were those that I felt would strengthen the department and not weaken its functions any further. Some of those amendments were accepted. I am sorry that all of them were not accepted, because I think we are going to need a very strong department to accomplish what has to be done in this energy field.

I went ahead in that statement to outline the fact that the new Secretary of Energy would have nothing to say about EPA matters, would have nothing to say about leasing arrangements from the Interior Department with regard to drilling rights, would have nothing to say about nuclear matters, would have nothing to say about standards to be set by the Department of Transportation. Then I went on with this statement:

> These are just a few of the things, Mr. President, that I wish to have on the record. Simply because we pass a new Department of Energy bill, which I believe we need and which I have been in favor of for a long time, I would not want the American people or this body to think that suddenly all things involving energy are now going to come under the close scrutiny and control of this new Secretary. That is just not going to be the case.

I suppose this next line would be almost prophetic, in retrospect:

> We are going to need the utmost of direction and guidance from the Presidential level, from one man speaking to his department heads and to the various agencies of the executive government, in order to bring them into line so they cooperate with this new Department of Energy head.

I will skip some of the statement now. I closed with these comments, at the end of that May 1977 statement:

> Once again I commend Senator Ribicoff for his leadership on this bill. He did a magnificent job in the committee. This is extremely tough legislation to deal with because of the complexities across the board. It gets into every single department of Government. There is not a single department in Government which does not have something to do with the energy picture in this country. Energy affects every pocketbook, every household, every man, woman, and child in this country. Indeed, it may be the determining factor as far as unemployment, jobs, the future society of this country, the standard of living we have, and what we can do in helping other nations around the world. There is nothing more important than coming to grips with this energy problem.

Those excerpts are from the RECORD of May 18, 1977, and they commence on page 15280.

So, even at that time we were questioning whether there was enough authority to do the job that the Department of Energy was responsible for doing.

We tried to strengthen it on the floor and in the committee.

Now we have 2 years of experience in the operation of that Department of Energy. It seems that most people in the

Senate and most people in the House evidently have expected the Department of Energy to take this somnambulant attitude we have had for 50 years with regard to energy and suddenly solve it, or to come into full-blown force as a department and solve this problem in 2 years. They have expected energy officials to do all this while forming a brand-new department, while getting experts from all over the country to staff this department, and while improving a data base which we knew was not adequate, which they said was not adequate, which committee testimony had indicated was not adequate. It takes time to get that together.

I think that might be our situation today, in setting up this Energy Mobilization Board, and we still expect the Department of Energy ultimately to be the governmental entity that does this job on energy for us.

The public wants that. I think the administration wants that. I think Congress wants that. But I say that the public and the administration and Congress are very unhappy that these problems have not been solved until now.

We have not lacked for congressional criticism of the Department of Energy and the Secretary of Energy. Congress once again is looking at this problem. We are recognizing belatedly the need for additional authority to do the job that somebody in Government has to be responsible for doing.

The question, then, that we come to today is this: Where does that authority go? Where should that authority lie? Should it be with an EMB? Should it be with DOE? I think Congress has now said it should not be with DOE, and that idea is on a fast track, obviously.

However, I submit today that if we separate these powers further—the power to get things done, the authority to get things done—if we separate those authorities from the responsibility even further by setting up an Energy Mobilization Board, we are employing as poor management principles as anything I can think of.

Is there a businessman in this country who would give one of his vice presidents the responsibility for getting a certain job done with that business and then deny him the authority to do the things that had to be done? No. I am sure we would say that would be ludicrous. Yet, that is the position we are placed in with respect to the meausre before us today.

We are further dissecting the authority, already a limited authority, that the Department of Energy has to get this done.

I am concerned, also, that we might set a precedent. What is our precedent? We have big transportation problems in this country. We have transit problems. No one will deny that. Do we, then, one of these days, because we happen to have a transit problem, depart from the Department of Transportation and say that we obviously cannot depend on the Department to take care of this and we cannot give them enough authority to take care of this? That would be ridiculous. Do we then set up a transportation mobilization board? I do not know. I do not want to set that precedent.

It has been said that the mobilization board in World War II days got things done because they could cut redtape. In World War II that probably was necessary, and it probably did a great job, and no one would quarrel with that. But since World War II, we have established a Defense Department in this Nation.

If we have a problem with defense, which we do—and we debated that in the past 2 weeks, and we know the problems—do we say that we not go to the Department of Defense? Do we recommend that we go to an outside group? Are we to go to an outside defense group—some blue-ribbon group—that is going to tell the Department of Defense what the defense of this country is going to be? Once again, we would think that is ludicrous.

One of the biggest problems in our country is inflation. Has anybody proposed that we bypass Treasury, that we bypass the Federal Reserve Board, and go on a fast track with Bill Miller, or that we do something that will designate to him what our inflation-solving solutions from this body will be?

I submit that the problem of energy is every bit as complex as our problems with inflation. In fact, it is one of the key components of it.

I turn now to something slightly different.

There is not a person in this body who has not risen on his home turf, in his home State, and made great and glowing speeches about the fact that we must cut the bureaucracy in this country, that we must control the proliferation of bureaucracy.

I hope that anybody who votes for this bill goes home and tells the people the truth about what is going on, that what we are doing here today is Washington whitewash for the problem. It is a Washington charade. We are forming another committee, commission, board, council—anything to make it look like action that is going to be substantive. We will all go home and take great pride in talking to our constituents about the Energy Mobilization Board and how we were on the floor of the Senate fighting for an Energy Mobilization Board, when actually what we were fighting for, if we are honest about it, was a proliferation of the bureaucracy, which we all castigate in almost every speech and every appearance before our constituents.

Let us be honest: What we are for in this is an expanded bureaucracy, instead of correcting the original mistakes we made when we put the Department of Energy into effect more than 2 years ago.

The truth is that we are splitting further the responsibility and authority so that, in effect, I predict that it will be more difficult to get things done, because no one will have this act, no one will have final authority. Who will be the final authority, when we are here a year or two from now, with our energy situation still in a muddled mess—which I have no doubt parts of it will be in—even with the Energy Mobilization Board?

When we come back again, are we going to once again say EMB should have done that, or are we going to point out that DOE should have done that?

Where is the split in authority here? Who has the knack on getting things done?

What we are doing is instead of making one group—namely, the Department of Energy—the charged group with doing something and the final authority for getting things done, we are proliferating this further, and we are setting up an Energy Mobilization Board which just splits further the authority from the responsibility for getting things done.

I even thought last night, Mr. President, halfway in jest and with tongue in cheek, about submitting an amendment today, but I will not waste the Senate's time with this particular amendment. Washington is famous for its acronyms for different agencies. I thought going home last night that perhaps a good idea for this agency, the Energy Mobilization Board, might be to put in an amendment to change the title of it to come up with an acronym that would better describe what I think we are about to do in further separating responsibility and authority. We should call this the Fuel Inventory and Supply Council, FIASCO.

I do not think we could get that on a fast track through here on an amendment today so I will not submit it. But we are on a fast track that is greased here in the Senate, and at least we can try today with an amendment to correct at least a small part of what I see as the problem with this bill.

UP AMENDMENT NO. 606

(Purpose: Designation of priority energy projects)

Mr. GLENN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 606.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 33, strike lines 1 through 5 and insert in lieu thereof:

AUTHORITY OF THE SECRETARY OF ENERGY

SEC. 9. (a) The Secretary shall consider applications for priority energy project designation, and shall select as candidate priority energy projects only projects that meet the criteria in sections 10(c) and (d). The Secretary shall select those candidate priority energy projects that best meet the criteria of sections 10(c) and (d), and that to the maximum extent practicable, represent a diverse range of energy sources and technologies. The Secretary of Energy shall, not later than January 1, and July 1, of each calendar year following the effective date of this Act, prepare and publish in the Federal Register a list of candidate priority energy projects.

(b) The Secretary shall, in consultation with the Board, propose and promulgate regulations for the selection of candidate priority energy projects in accordance with the requirements of this Act.

(c) The Secretary shall, in considering applications from persons for candidate priority energy projects, adopt such procedures as are necessary to assure that potential applicants, affected agencies, and interested members of the public are provided an opportunity to participate in the process of selecting candidate priority energy projects.

(d) The Secretary shall transmit a list of not less than twelve nor more than thirty-six candidate energy priority projects to the chairman of the Board, together with a statement describing each candidate priority energy project, and explaining the basis for his selection of each project. The Secretary shall also forward a copy of the application, and any other material received by the Secretary in connection with its consideration of the application. There shall be no judicial review of the Secretary's selection of a candidate energy project.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 10. (a) Upon receipt from the Secretary of the list of candidate priority energy projects and the other information specified in section 11(a), the Board shall immediately publish such list in the Federal Register and shall afford interested persons at least sixty days thereafter within which to submit written comments for the Board's consideration. The Board shall provide written notice of the candidate priority energy project to appropriate Federal, State, and local agencies, and such agencies may present such written comments as they deem desirable. The Board shall consult with officials of those agencies of State and local government likely to be affected by the designation of a project as a priority energy project. The Board may hold hearings and adopt any other such procedures to aid in the Board's consideration. The Board shall keep on file and make available for public inspection and copying, at the main office of the Board and in such other places as the Board deems appropriate the designation requests and comments received thereupon.

(b) The Secretary may forward and the Board may consider a designation request notwithstanding any previous decision by the Board denying the same or a similar request for that project.

(c) Not later than sixty days after the close of the comment period required in subsection (a), the Board shall review the candidate priority project list and determine whether any of the candidate priority energy projects is of sufficient national interest to be designated a priority energy project and shall publish its decision and the reasons therefor in the Federal Register. Not more than thirty-six projects may be designated and be pending certification at any one time. No project shall be designated a priority energy project unless the Board determines that such project—

(1) will affect interstate or foreign commerce;

(2) will significantly contribute to a reduction in the use of imported oil;

(3) needs the accelerated decisionmaking available under this Act to assure that such facility will be in operation so that it will make a timely reduction in the use of imported oil.

(d) In making a determination whether to designate a project as a priority energy project, the Board shall also consider—

(1) whether the environmental uncertainties or the potential adverse environmental impacts of the project are such that they cannot be adequately considered and resolved in the period of time permitted for review of the priority energy project;

(2) the extent to which the proposed facility would make use of renewable energy resources;

(3) the extent to which the proposed facility would promote energy conservation;

(4) the extent to which the proposed facility would contribute to the development of new energy producion or conservation technologies and techniques;

(5) the degree of specificity in describing the proposed facility in the application;

(6) the probable long-term impact of the facility upon energy supply and demand; and

(7) comments submitted by the public and other governmental entities.

(e) The designation by the Board of priority energy projects pursuant to this section shall, to the maximum extent practicable, represent a diverse range of energy sources and technologies.

(f) The Board may designate as a priority energy project more than one related energy facility only if the Board determines that—

(1) the related energy facilities are located in the same or in contiguous geographic areas; and

(2) the principal use of each energy facility is to—

(i) contribute directly to satisfaction of the criteria specified in section 10(c), or

(ii) support a facility within the proposed energy project which satisfies the criteria specified in section 10(c) of this Act.

(g) The Board shall publish in the Federal Register a statement explaining the basis for its designation of each priority energy project.

And renumber the following sections accordingly.

On page 33, line 7, strike "10" and insert in lieu thereof "11".

On page 33, line 8, 11, 19, 21, 23, 24 and on page 34, line 6, strike "Board" and insert in lieu thereof, "Secretary".

On page 33, line 12 and on page 34, line 8, between the words "the" and "Board", insert the words "Secretary and the".

On page 34, strike lines 10 through 24.

On page 35, strike lines 1 and 2.

Mr. GLENN. Mr. President, this amendment would have only three features to it, but it would take a tiny step back, as I see it, in to getting the Department of Energy involved in this whole process of what we are doing here.

It would provide: First. A meaningful role for the Department of Energy in the designation process of projects to be considered. DOE, which has the experts, would make the initial selections which would then be sent to the Energy Mobilization Board for final designation;

Second. There is a cap of 36 on the number of projects on the fast track in any given time; and

Third. There would be no judicial review in the designation process.

Mr. President, in our desire to establish a means for accelerated review of priority energy projects, I think we have gotten our own priorities a little jumbled: We have been spending all our time figuring out how to breed and nurture a good pacing horse, in some respects, and have not paid much attention to how we want to pick out the carts he will have to pull.

We have been looking, in other words, at only half of the energy mobilization question. The focus here has been almost entirely on how to accelerate the priority projects, not on how to select them in the first place. I think that is a dangerous oversight because both elements are critical. Without a careful process for designating priority energy projects, the Energy Mobilization Board may well end up trying to push unfit projects down its fast track. And I can think of no better way of killing the fast track idea than to put a project on it that might be a technological, economic, and environmental "dud."

I am, therefore, offering this amendment that seeks to improve the front end of energy mobilization: The designation process. I believe that if the first step—the selection of a project—is taken thoughtfully and firmly, then we will have a much more effective Energy Mobilization Board.

I do want to interject that, although the Energy Mobilization Board concept seems to be one whose time has come in the Senate, I am not greeting it with any enthusiasm obviously. In fact, I am disappointed that we even need it. Had Congress set up the Department of Energy as it should have, I doubt that we would now need this new agency.

But if we are going to create an energy mobilization board, I want to make sure it is the best board possible. I think one way we can do that is to provide for a careful designation process and to give a significant role in that process to the Department of Energy.

Under the amendment I am proposing, the Department of Energy will screen applications for designation and forward its selections—between 12 and 36 in any 6-month period—to the Energy Mobilization Board. The Board will then designate its projects from among those selected by DOE. It may designate up to 12 in any 6-month period, so long as no more than 12 are designated in any calendar year and no more than 36 hold that status at any one time. These limits will help insure more thoughtful designations and more efficient review of the designated projects.

My amendment differs from similar language in the Ribicoff-Muskie substitute in that it does not provide for judicial review of the Board's designations.

Project designation will reflect national energy policy and that policy is DOE's responsibility. I believe this designation amendment to S. 1308 is important because it will give a significant role to DOE, which can marshal more resources and more expertise than any other Federal entity to help select proposed priority energy projects.

Now let us be clear as to what is likely to happen if we do not give a significant role to the Department of Energy in this bill, and we do not put a cap on the total number of projects on the fast track at any given time. The Energy Mobilization Board will then have the authority to choose so many projects for the fast track that in effect they will be setting national energy policy. In fact, they will be setting national energy policy by themselves. I repeat that. The Department of Energy will be reduced to nothing more than a technical arm for the Energy Mobilization Board. As far as I am concerned we might just as well repeal the legislation that created the Department of Energy and give the Energy Mobilization Board Cabinet status. The thing that I find so surprising about this situation is that the administration which fought so hard to create the Department of Energy in the first place, has now abandoned its own Department on the grounds that something must be done in the area of energy legislation. I am sorry that the Senate has apparently been panicked into going along with it.

We have heard words during the debate on this bill that this is a national security issue that unless we create an Energy Mobilization Board to put projects on fast track we will be in mortal danger because of our dependence upon imported oil from the Middle East. Well let me say that I agree that we have a national security problem with respect to the importation of oil from the Middle East and there is none in this body who would like to see us reduce our dependence on that supply of oil more than I do.

But if I may introduce a bit of reality into the debate, let me point out that there is very little that the Energy Mobilization Board can do on the production end to reduce our dependence on imported oil over the next 15–20 years. The question is how are we going to address our national security problem over that period of time? One of the tools we will have at our disposal besides conservation programs is the strategic petroleum reserves. Is the Energy Mobilization Board going to run that? Is the Energy Mobilization Board going to run our conservation programs? In fact, in order to determine what makes the most sense as to the projects going on the fast track, one should have an understanding about the amount of technological progress in all of the various energy areas. Where is the Energy Mobilization Board going to obtain this technological expertise?

There is only one agency they can turn to—the Department of Energy. What I am suggesting is that the Energy Mobilization Board, in order to do its job properly, is going to have to give consideration to what our national energy policy ought to look like at any given time. On that basis, their role becomes almost indistinguishable from that of the Secretary of Energy, except in terms of the direction of the Department of Energy itself.

What we are therefore doing is diluting the role of the Secretary of Energy and the role of the Department of Energy and we are creating a bureaucracy that will make decisions that are no better informed than if the decisions were made by the Department of Energy today.

But I am a realist, Mr. President, and I see the direction in which the Senate is moving on this legislation. If the Energy Mobilization Board is to become a reality, I want the Department of Energy to have a significant role in the designation process. The end result of that will be to only partially undercut the Department. The end result of not having any role for the Department in the designation process will be to undercut the Department entirely. I do not know whether I can support the bill even with the Department of Energy in the designation process to the limited degree that is provided for in my amendment. I do know that I cannot support the legislation if there is no role for the Department of Energy at all.

I reserve the remainder of my time.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. GLENN. Yes, I yield to the Senator from New Mexico.

Mr. SCHMITT. If the Senator will yield 2 or 3 minutes, I would like to speak in support of his amendment.

Mr. GLENN. I will.

Mr. SCHMITT. I think the Senator from Ohio has reinforced the concerns of many in this body about this legislation. Certainly it has reinforced the concerns of this Senator. I associate myself completely with the entire statement he has given us this morning, and it makes a great deal of sense, very good commonsense, in spite of the problem of energy to ask that agency and to require that agency to provide the Energy Mobilization Board with its technical input, its policy input, on what projects should be and are reasonable to be priority energy projects.

The amendment will, I think, dovetail very neatly with the proposal that this Senator has introduced, and will make in the form of an amendment somewhat later in the day, which would during this period of activity by the Department of Energy permit the Board to concentrate on organization, on determining what laws and regulations are going to inhibit priority energy project development, and so report to Congress for congressional action, if appropriate.

So the Senator from Ohio, I think, has done a great service to this debate by pointing out in a way at least some of the defects of the Energy Mobilization Board that could be mitigated, if not eliminated, and clearly has put his finger on many of the inherent difficulties of a project of this kind.

I particularly associate myself with his questions about what is the next mobilization board that we may create.

Mr. GLENN. We will have one, I can guarantee the Senator that. We will be back repeating these things out of the CONGRESSIONAL RECORD, I can guarantee that.

Mr. SCHMITT. Mr. President, if the Senator will allow me to ask one question, I just scanned the amendment, and it appeared the Senator was tying the first report, the July 1 report, to the effective date of the act. Is there a provision in the amendment where, if this act's effective date does not provide a significant amount of time before that first report, that that first report could be waived? It would seem to me that about a 6-month period would be a reasonable time that the Department of Energy would have in order to develop its priority project list.

Mr. GLENN. I would concur with that comment, and I think we could fix that up all right. I think January 1, 1980, would be too soon to expect them to come up with that type of recommendation, although I think what we might need is just a waiver of the provision if they wanted to send it back. We thought they would be prepared by January 1, and I would not want to delay it beyond that date if they were prepared to submit it.

Mr. SCHMITT. I think the Senator is probably correct, and maybe the staff could modify the amendment so that it would give them that option to waive the first report if, in the judgment of the Secretary, more time is necessary.

Mr. HART. Mr. President, will the Senator from Ohio yield?

Mr. GLENN. Yes.

Mr. HART. I think the Senator from Ohio may have come upon one of the more serious defects in this approach, and I would like to understand it better, if I may.

It is my understanding, in listening to part of the presentation of this amendment, that what the Senator from Ohio is trying to do is to place more of the authority for designating priority energy projects and making the fast track work with the established Cabinet officer for this area, the Secretary of Energy. Is that correct?

Mr. GLENN. That is very much correct. That is at the heart of this. I think in the original legislation we separated the authority and responsibility for getting the energy job done too much, and we now are about to compound that further with an Energy Mobilization Board.

I realize what the Department of Energy is going through, and what I am trying to get at is to get them back, and let them as experts do the job that they have to do in the energy field. They have more data than anyone else has gathered in this period of 2 years' time. We expected, perhaps, too much. I am saying let them designate what they consider to be the energy priority projects to the Energy Mobilization Board. They should be in on the fast track.

Mr. HART. Let me ask philosophically, regardless of what he thinks will happen in the Senate today, whether the Senator believes such a Board is unnecessary.

Mr. GLENN. I support that completely.

Mr. HART. A better substitute for this bill would have the Secretary of Energy, given his legislatively mandated authority, recommend a list of priority projects to the President and recommend a fast track to be taken by those projects, and mandate decisions by OSHA and EPA and others on a fast-track timetable—without having an Energy Mobilization Board.

Mr. GLENN. I would be happy to support such a recommendation. I think what the President should have done in this legislation is not put something out which is a brand new approach, which it is not, but he should have asked to give the Secretary of Energy the same authority this Mobilization Board is going to have. If they wanted to have some review board outside to give some advice to the President as to whether he should follow the mandate of the Secretary or not, that would be up to him. But I think we have the cart before the horse here. I think we are now going outside and setting up a new authority outside that dilutes further the authority and the ability of us to get an energy program onstream.

Who is going to be responsible, as I asked a while ago, 2 years from now if we still have problems—which we will have 2 years from now, and we know that—who is going to be responsible? Whose feet do we hold to the fire the next time around? We have too many people here who have castigated the Secretary of Energy just leaving; he is now out, and I guess we hounded him out of office. Yet he really did not have the authority to do some of the things we expected him to do. Whom are we going to call to account the next time around—the head of the Energy Mobilization Board or the Secretary of DOE? We have just fragmented this authority further.

Mr. HART. I must say from the standpoint of the Senator from Colorado, yesterday I began to seriously question the whole concept of an Energy Mobilization Board. The President gave a speech in July, and he laid down the goals and the outlines of the energy security corporation and the Energy Mobilization Board, and the committees of Congress began to work on that. For myself, not being on the Energy Committee, I really then began to seriously question the concept of what we are doing here, the marginal constitutionality of it, the overlapping and duplicating of bureaucracies, and seriously questioning the whole idea of whether we even need this Board and whether we might not get a fast-track system by reducing the duplication and the delay through the established Cabinet officers that we have, making the President the responsible official.

If the President needs to send somebody up here to acount to Congress for whether or not they have gotten the fast track and permit and licenses, he should send the Secretary of Energy and make him accountable.

Mr. GLENN. I could not agree with the Senator more. The whole theme of my speech this morning was that we should have kept responsibility and authority together when we set up the Department of Energy. We probably did not give the Secretary enough authority to get the job done which he was charged with doing.

Now we realize more authority is needed, and we need a fast track for some of this, but instead of going back and correcting that, and instead of putting some of this authority where it should have been, in DOE, we are going outside and establishing a wholly separate entity. We are adding to the bureaucracy, swelling it, and telling our people at home that we are against bureaucracy and, at the same time, setting up a new bureaucracy.

Mr. HART. While we created a new one.

Mr. GLENN. While we created a new one. We do not know where we are going.

Mr. HART. I thank the Senator from Ohio.

Mr. GLENN. I thank the distinguished Senator from Colorado very much for his remarks.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Ohio is a very persuasive and eloquent Senator. As I sat and listened to him today, I was about persuaded that he was right, that this bill was not strong enough.

As he told us, in effect, what a toothless tiger this bill was, and how it ought to be strengthened, in the words of the famous old hymn, Mr. President, I was "almost persuaded," until I realized that yesterday the distinguished Senator from Ohio was in the company of the distinguished Senator from Maine and the distinguished Senator from Connecticut in offering an amendment which would have gutted this bill.

In introducing and arguing for that amendment yesterday, their rhetoric was scarlet, it was crimson; the woods were on fire, Mr. President, yesterday because of the power that this bill had. This bill was so powerful, Mr. President, that it was going to grind through all the State and local officials, grind them in the dirt under the great jackboot of this strong Federal agency, which was going to be empowered to overrule subsequent State and local law, was going to be able to ignore health, safety, and every other consideration in its rush to judgment to get these priority projects built.

That, in effect, was what they said yesterday as they were trying to shoot down our bill with a crippling amendment.

Mr. GLENN. Will the Senator yield for a comment?

Mr. JOHNSTON. In a moment. Now, Mr. President, the same group is coming back from the other side, saying the bill does not do a thing, it is just another level of bureaucracy, it is just a fiasco, whatever fiasco stood for. That was a good joke; and we are going to have to save that word as an acronym for some Federal agency.

Mr. GLENN. "Fuel Inventory and Supply Council."

Mr. JOHNSTON. I think perhaps we ought to rename the Department of Energy with that name.

But, Mr. President, in all seriousness, this amendment would do the same thing as the amendment we defeated yesterday, although it would do it in a different way.

It would put all the initial decisionmaking power in the Department of Energy. Mr. President, that was the first decision we made in the Committee on Energy and Natural Resources, to get away from the Department of Energy. That slow-moving, ponderous bureaucracy over there with over 20,000 employees cannot move fast enough. They cannot move fast enough.

Indeed, we accepted an amendment from the distinguished Senator from Colorado yesterday designed to make the DOE move on some of this leasing, because, as he pointed out so eloquently, these requests for drilling and permits languish in the Department of Energy sometimes for months and sometimes for years on end.

We want to get away from DOE and create a small, elite group in the Energy Mobilization Board, and give them some real powers to cut some redtape.

So that is the first problem with this amendment, Mr. President, that it transfers over to DOE—they still keep the Board; you would just first have to go to DOE, and then go to the Board; another level of bureaucracy.

The second problem with the amendment, Mr. President, is that it limits to 36 projects the number at any one time, or the total number, shall I say, that may be considered by this Board.

Mr. President, what is magic about 36? The distinguished Senator from New Hampshire yesterday came in and convinced the Senate that we should go with low-head hydro projects, of which there are a proliferation in the Northeast. But he pointed out with great logic that these low-head hydro projects are energy savers, they are ready to go, they will produce electricity, they will directly back out foreign oil, and we agreed to that amendment and the Senate accepted it.

Under this 36 limitation, you could use up all the 36 on low-head hydro, which must be accepted, the way the bill is presently drawn.

Next, Mr. President, the criteria stated under the Glenn amendment for designation of projects are totally unworkable, very strict, very narrow, and in fact would take away most of the utility of this Board. If I may read just one sentence, I will not state all that is wrong, but let me tell you this much. It says:

> No project shall be designated a priority energy project unless the Board determines that such project . . .
>
> (2) will significantly contribute to a reduction in the use of imported oil;

"Significantly contribute to a reduction in the use of imported oil." First of all, Mr. President, refined petroleum products are not involved, and the local refinery does not significantly reduce the use of imported oil; but refineries are indeed, in the opinion of the President and in the opinion of our committee, among the most important projects the country needs. But they are ruled out under this language.

So is the strategic petroleum oil reserve. So is a pipeline—the Sohio pipeline, for example, Mr. President, which probably more than any other project has served as the trigger for this legislation. The Senate will recall that $50 million, 5 years, and 700 permits finally defeated that project, which was to bring oil from the west coast to Midland, Tex. for refining.

The reason we need to do that is that Alaska oil must now either travel through the Panama Canal and up to the Gulf Coast or all the way around the tip of South America, at great cost to the consumer in the United States. That, to a large extent, contributes to the gasoline prices at $1.05 a gallon or even higher in some areas. So that project is vital to us. But it does not, to use the words of the amendment, "significantly contribute to a reduction in the use of imported oil." It simply makes domestic oil cheaper.

There are many other types of projects which would not qualify under the amendment. A super port would not qualify, even thought it would save the consumer money. Gasohol plants are too small to be considered to significantly contribute to a reduction in the use of imported oil. Probably too small also are most biomass projects, because biomass tends to be relatively small. So are a whole host of other things.

Mr. DOMENICI. Mr. President, will the Senator yield on that point, the use of the word "significant" or "significantly"?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from New Mexico.

Mr. DOMENICI. I will ask the Senator if it is not also true that the Senate accepted an amendment yesterday afternoon which addressed this issue. The word used there was "materially" instead of "significantly," and that was then described by the author of the amendment to mean that just so it was not a de minimis impact, it was qualified.

Also, product was included rather than just foreign crude, is that not correct? That is already in this bill.

Mr. JOHNSTON. That is correct and "direct and indirect."

Mr. DOMENICI. Right.

Mr. JOHNSTON. And it went on to state such things as refining and other things that were clearly intended, I think, by the Senate and certainly by the President to be included.

On this limit of 36 projects, Mr. President, under the amendment of the distinguished Senator from West Virginia (Mr. RANDOLPH) yesterday, which required all coal conversion projects to be designated automatically, there are more than 36 of those ready to go right now. The Senate voted to require coal conversions for all the great reasons that my distinguished friend from West Virginia said. So, if this amendment were adopted, Mr. President, we would be able to consider nothing else other than the first 36 coal conversion projects—only the first 36 and not the rest; no other projects. We might as well just shut this bill down if we are going to accept this amendment.

So, Mr. President, for these and other reasons, we strongly oppose this amendment and hope the Senate will reject it.

Mr. DOMENICI. Will the Senator from Louisiana yield me 5 minutes?

Mr. JOHNSTON. Yes, I yield 5 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICI. I do not think I need to say much, but I am reminded of a couple of things.

To listen to my good friend from Colorado (Mr. HART) discuss with the sponsor of this amendment the situation we are in, one would conclude that we do not really have any problem in this country; we should just give the DOE a little more authority and then give the President some authority to waive some laws in the case of a project that he and the Department think are very important to our country. Let me submit to the Senate, let somebody draw that legislation and run it through the committees of the U.S. Senate and see what we end up with. In my opinion, we would never get it passed. There is no question in my mind that this is the best we can do and it is not very strong.

Mr. HART. Will the Senator yield?

Mr. DOMENICI. In just one moment.

I want also to comment a minute about the fiasco. I regret to say that in both this bill and the bill that is going to come out of the committee—at least the Energy Committee—on synthetic fuel and the acceleration of that technology in the country, a majority of the committee are convinced that the fiasco is the Department of Energy and that both this and the other should be removed from it, because there is no way that we can cure and clarify the shortcomings of that bureaucracy. Yet the country is without energy, without any decisions, nobody is deciding what we ought to do. We have just decided we have to do something different than that. That is why we are here.

The road to wherever that is is paved with good intentions. That is an old saying. Well, good intentions do not bring on board energy projects. The good intention to clear up the Department of Energy's bureaucratic shortcomings is tremendous, but it has not happened yet. We just reorganized it 2 years ago—or organized it. So from our standpoint, we feel that the Nation is in such desperate shape that we ought to try something that has a reasonable chance of success.

I also say that I, as one who has worked hard on this bill, do not think it is going to solve anything, I say to my good friend from Ohio.

Yes, you may be here in 2 years, very critical of it. But if it causes 10 or 15 major projects to be expedited from 5, 6, or 7 years to turn the first shovel to where we have them so we start them in 2 years, it is more than we shall get without it.

Mr. HART. Will the Senator yield?

Mr. DOMENICI. If it points up the difficulty of getting things done and we can take a look at it here on the floor in 2 years, it will have served a good purpose, in my opinion.

Now, I do not think we can have it both ways. We cannot say the problem is serious, but a little bit of fixing up over in the Department of Energy and giving the President a little authoriy will do it. We just cannot have it that way and also say that this Board has either too much authority or not enough authority.

We have to make a decision on something that has a chance of working. I believe that we ought to proceed to vote on this amendment and leave this Board with the broad authority that the energy Committee gave it.

I thank my friend from Louisiana for yielding. I am pleased to yield to the Senator from Colorado.

Mr. HART. First of all, Mr. President, I think it is important that all of us who consider a piece of legislation that is this important, not only to energy but the structure of our Government, avoid the suggestion that if you are serious about solving the energy problem you are going to be for this bill. That is not helpful at all. Equating the degree of one's seriousness and concern with one's support for this approach does not advance the cause of the debate at all. So I think that is important to set aside.

To suggest, directly or indirectly, that if somebody is serious about energy and solving the energy problem, then they will support this bill, I think the Senator will agree, is not the best way to lead off an argument.

Mr. DOMENICI. No, I do not agree at all.

Mr. HART. It was strongly suggested by the Senator from New Mexico in his opening remarks that this is the test of whether a person is serious about solving the energy problem. I think reasonable people and honest and thoughtful people can disagree about the approach without disagreeing on the seriousness of the problem.

Mr. DOMENICI. I said that because I believe it. If the Senator thinks there is a better way—first, the energy problem and the crisis are serious. We all agree with that. If the Senator thinks there is another way, the way he described while he was discussing it with the good Senator from Ohio, then I submit, if he tenders that to the Senate and the Senate does not want to accept it because they say, "We do not agree with you, that is not the way to solve this problem," then I think maybe he would say, "I am as serious as the committee."

But I have not seen a proposal down here that says, let the Department of Energy determine the projects and let the President agree with him and then he has authority to expedite them through the agencies and let somebody vote on that. I have not seen that. So we do not have anything else to determine the seriousness other than fixing this bill up or voting for or against it.

I am merely saying that this amendment does not make it any more apt to work than the bill we have before us. That is the point I was trying to make.

Mr. GLENN. Mr. President, to respond to the Senator from New Mexico, he says we cannot deal with DOE because it is so bad. Are we truly, in this body, to say that a department of Government is so bad that we are going to leave it in effect, let it run, but we are going to set up other agencies to do the job it was set up to do? Is that what we have come to in this country? That is the problem of our bureaucracy now. We have one level built on another until it is about to fall of its own weight.

We are all pledged to go back home and say we are cutting down our bureaucracy. Yet the department of Government that has the authority for doing our energy work is the Department of Energy, and we are setting up this supra group outside of the DOE to take even more authority away from them and do the job that they are set up to do right now.

Mr. DOMENICI. Was the Senator asking me a question?

Mr. GLENN. No, let me set forth a couple of other things.

The Senator from Louisiana said our group sponsored certain things on the floor here yesterday. That is true, except that I did not speak on the floor in behalf of that substitute, and I supported it because it had in it a section that does exactly what I am proposing to do in this amendment.

If we check back in the RECORD, we shall find that I voted against subsequent legislation when the substitute became impossible yesterday.

I say, too, in answer to why DOE has perhaps not had the authority to do some of these things, that if we gave DOE this fast-track authority and made the President responsible for seeing this fast-track authority is exercised, a lot more would get done.

As far as the comments on the qualifications of what the Board could determine in that list of three items on page 3 of the amendment that the Senator referred to, I would say the intention was that a project would have to contribute to one or more of those items. His criticism of the No. 2 item in particular strikes me as inappropriate, because this is a national security matter that we are charged with dealing with. That is what it is proposed to be, a piece of legislation to deal with a national security matter. If No. 2, contributing to a reduction in the use of imported oil, is not national security, then I do not know what it is. I would be happy to accept the word changes that were in the Bradley amendment of late yesterday afternoon, and I think perhaps the comments that were made on that were apropos.

But I do think that No. 2 goes right to the heart of this. We are trying to cut down the use of imported oil. That is our security risk.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. GLENN. I yield for a question.

Mr. JOHNSTON. Is the Senator saying that these are conjunctive, that it will affect the interstate or foreign commerce or significantly contribute to the use of imported oil?

Mr. GLENN. No. As I just said, and I do not think the Senator was listening, I would be happy to change the wording above that to say that those items there listed, one or more of them will contribute, or should be considered.

Those things are to be considered, and all these would be considered in designation of priority energy projects.

As far as limiting to 36, all we tried to do was make certain we did have a proper top-notch priority given to these things and not spread so many on priority listings that nothing would really happen.

The House had 75. I would be happy to recede to that, or perhaps go with no cap, with the idea the Board would set the listing of priorities and they would, hopefully, be looked at in order as they were established.

So I would not insist on the cap. The main thing I want to see is that DOE stays in the role they should have had to begin with, as the authoritative group making recommendations.

They will be giving advice to the Energy Mobilization Board, anyway. So it seems to me, establishing a priority list for them just makes commonsense because they are going to have expert advisers coming in from all over, with all their information, and still be devoid of any information from DOE. They will still be the data bank, their experts will be used. It makes commonsense they will send, with all their expertise, a listing of the best with no cap on the number, as far as that goes.

So the Energy Mobilization Board will have all the best advice possible in an orderly fashion.

Mr. SCHMITT. Will the Senator yield on that?

Mr. GLENN. How much time do I have left?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. GLENN. I yield to the Senator.

Mr. SCHMITT. I would just comment that the Senator and I have both been involved in activity in our past that was project decision scheduling.

If we try to imagine how a small, elite group, to quote the Senator from Louisiana, is going to basically manage the project scheduling and implementation of 36 major energy projects, which I presume is not the intent of the bill, an unknown number of coal conversion projects which were accepted as part of an amendment by the Senator from Kentucky, the low heat hydroprojects which probably will not be as difficult to manage, we imagine a small, elite group overseeing that number of projects, total value of which probably approaches $50 billion, and they are arguing against the cap.

The Senator can give up his cap if he wants to, and I do not have any objection to that, but I just think the discussion points out the extraordinary management difficulty this Board faces.

If we find a czar to head as chairman, who can handle it, I do not know who that person is, I certainly have never met anyone in my experience, including NASA, who would have the decision-making background and experience and capacity to oversee project schedules on 12, not to mention 36, of these kinds of efforts.

I think the point the Senator raised is extraordinarily valid. It underlines other points that have been made during this debate of just whether or not a board of this constitution will, in fact, work, whether it solves any problem whatever.

I thank the Senator.

Mr. GLENN. Mr. President, I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time and vote at this time.

Mr. GLENN. Mr. President, in a moment I will suggest the absence of a quorum.

We would be happy to take out that 36 limit here with the idea, perhaps, that it is too high. Although I agree, basically, with Senator SCHMITT's remarks of just a moment ago, I think they might affect some of the votes on this. I would not want to see any coal projects, of those projects on now, taken out of consideration, and I would remove that part of it.

I would suggest the absence of a quorum for the purpose of giving us a few minutes to make certain we have those sections removed from the bill.

The PRESIDING OFFICER. Does the Senator suggest that the time be charged equally against the proponents and opponents?

Mr. GLENN. If that is agreeable to the floor manager of the bill.

Mr. JOHNSTON. Mr. President, our time is really short. We have a vote at 2 o'clock.

If we could by unanimous consent lay the amendment aside and take up some others, because I am prepared to yield back the remainder of my time and get a vote; if the Senator wants time to modify his amendment, we could be working on another amendment in the meantime.

Mr. GLENN. The time required to do this will not be great. But I will suggest the absence of a quorum charged to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I send an amendment——

Mr. GLENN. Reserving the right to object, do I understand I will still have the floor after the Senator from New Mexico finishes?

Mr. DOMENICI. Mr. President, I ask unanimous consent that an unprinted amendment which I am going to send to the desk be in order and that immediately after its disposition we return to the pending amendment of the Senator from Ohio, without in any way changing his position.

The PRESIDING OFFICER. A quorum call is in progress. No debate is proper at this time until the quorum has been rescinded.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GLENN. Reserving the right to object, with the understanding I expressed a moment ago, is that correct?

The PRESIDING OFFICER. With that reservation.

Mr. GLENN. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOMENICI addressed the Chair.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the unprinted amendment which I will send to the desk be in order and that the amendment of the Senator from Ohio be set aside for 1 minute while that amendment is considered and acted upon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 607

(Purpose: To expedite drilling permits)

Mr. DOMENICI. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 607.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 141 add a new section:

(a) Oil and gas drilling activities on onshore Federal lands subject to Federal oil and gas leases (including land held by the United States in trust for any Indian tribes or individual Indians) in areas described in this subsection are hereby designated as priority energy projects. These areas shall include all sedimentary basins in the United States with particular emphasis in sedimentary basins in the States of Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming.

(b) Notwithstanding the provisions of section 17(a) of this Act, the Board shall not promulgate a Project Decision Schedule for priority energy projects designated by this section, but rather the Board shall require that the relevant Federal agency issue a decision granting or denying an application for a permit to drill for oil and gas within the lands described in subsection (a) within a maximum of 100 days of receipt of the application for the permit, unless the board determines that an extension of time is justified and consistent with the purposes of this act. The Board shall establish a goal for the Federal agency issuing permits of 30 days for issuance of drilling permits.

(c) In addition to the authorities of the Board pursuant to section 17, the Board shall ensure that, to the maximum extent practicable, Federal requirements in the permitting process do not duplicate requirements of state and local governments. Duplication identified by the Board shall be reduced by applying state and local government requirements and eliminating the Federal requirement.

(d) The provisions of section 13 of this Act shall not apply to projects designated by this section. The procedures of the U.S. Geological Survey in the "Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases, No. 6" (hereinafter referred to as NTL–6) shall act as the environmental assessment mechanism prior to permit issuance. The U.S. Geological Survey shall appropriately revise NTL–6 to reduce to one (1) the total number of environmental assessments required from the time the lease is issued until all drilling permits are issued on the lease, and the Board is thereby authorized to ensure revision in a timely manner. Further, if, after the preliminary environmental review and the U.S. Geological Survey surface managing agency consultation as described in NTL–6, no significant environmental concerns are identified, then the environmental assessment requirement referred to in NTL–6 is waived.

Mr. DOMENICI. Mr. President, this amendment will expedite the issuance of oil and gas drilling permits on Federal lands.

The backlog of applications for permits to drill on Federal onshore oil and gas leases has increased from 240 at the end of 1978 to over 350 just recently. Although the average time for drilling permit issuance may be 45 to 60 days, this average is increasing. And, in many cases, applications take from several months to several years to be acted upon. Four hundred applications per month are now being filed with the U.S. Geological Survey. That rate is about 100 per month more than last year.

With the backlog becoming weightier, and with complaints from operators increasing about delays in processing permit applications, the time has come to cut some of the morass of red tape and expedite the issuance of drilling permits. Mr. President, my amendment will cut the backlog by eliminating several of the redundant environmental reviews and by classifying oil and gas exploration and drilling activities on Federal lands, with particular emphasis on the Overthrust Belt, as a separate class of priority energy project. A "class" designation is appropriate in this case since their are so many applications and since the permit decision process, while quite detailed, is not a major action in the same arena as say a refinery expansion. Delays in issuing permits in the Overthrust Belt could be especially troublesome given the resource potential of this area. Perhaps 18.2 billion barrels of oil and 62 trillion cubic feet of gas are contained in the Belt.

I envision that while the Board is implementing this provision of the Energy Priority Act that the U.S. Geological Survey, the Bureau of Land Management and other relevant Federal and State agencies will continue to process permit applications as expeditiously as possible under their existing procedures. Under no circumstances would a moratorium or a "slow-down" on permit issuance be appropriate while this provision is being implemented.

Mr. President, I ask unanimous consent that an accompanying explanation of current procedures for the processing of applications for permit to drill is stated in the RECORD.

As is apparent from the chart, the amendment will streamline considerably the existing procedures, primarily in two areas:

First. By combining the, on average, 4 or 5 separate permit decision processes into one process for issuing all drilling permits on a lease; and

Second. By eliminating the redundancy of environmental assessments in the permit issuance process.

The amendment does not affect current USGS procedures for preliminary environmental review, surface management agency consultation, surface use and operations plan, or the "application for permit to drill" process. The amendment does eliminate the last environmental assessment, but only where the earlier environmental reviews have shown no evidence of significant environmental concern in permit application areas.

The "earlier environmental reviews" to which I refer are numerous and detailed:

Currently, before BLM issues a lease, a number of environmental and resource analyses must be prepared:

A regional environmental assessment to assess the cumulative impacts of leasing and development in a region;

A site-specific environmental assessment record to identify specific impacts and mitigating measures;

An archeological report to assess archeological values and recommend preserving measures;

A land use plan to determine appropriate mixes of land and resource use;

And, of course, if the surface managing agency finds that lease issuance is a "major Federal action," then under NEPA an EIS is required.

After all this, but before issuing a drilling permit, the U.S. Geological Survey requires:

An environmental assessment to "identify methods for mitigating the potential adverse environmental effects associated with the proposed operation";

If the district engineer determines that the drilling constitutes a "major Federal action," then an EIS would be prepared;

There is more—an environmental analysis and perhaps another EIS is required for any "subsequent operations" such as alterations to existing facilities, reconstruction, or road extensions.

In addition to these environmental analysis requirements, the lessee—operator—must prepare for the U.S. Geological Survey's approval a detailed description of the technical aspects of the proposed operation, the magnitude of surface disturbance, surface rehabilitation procedures, and, in general, all activities planned for exploration, development and production, and "an appropriate surface use plan." This report is required under a set of procedures known as "Notice to Lessees No. 6" or NTL–6.

In conclusion, this amendment to the Energy Priority Project Act is needed to reduce the backlog of drilling permit applications and to reduce to a reasonable period of time the issuance of oil and gas drilling permits.

Mr. President, I ask unanimous consent that a list of statistics concerning drilling permits and the USGS procedures prepared in accordance with the National Environmental Policy Act and known as "Notice to Lessees, No. 6" be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Current Procedures

[Drilling permits for an onshore Federal oil and gas lease]

LEASE ISSUED BY BLM

Regional and site specific environmental assessments, and possible EIS, completed prior to lease issuance.

PRELIMINARY ENVIRONMENTAL REVIEW

Drill site(s), access roads and other potential surface disturbances identified. Review of cultural values, critical habitat, endangered species, etc. requested of surface managing agencies.

SURFACE USE AND OPERATIONS PLAN

USGS to appraise environmental effects, resource conflicts and land use alternatives of proposed operations. Lessee (operator) to provide for protection of surface resources and rehabilitation of distributed lands. Plan to describe in detail: existing and planned roads, production facilities, gathering lines, well site layout and existing wells, water supply, source of construction materials, waste disposal, restoration of the surface.

APPLICATION FOR PERMIT TO DRILL

Application to include: surveyed drill site(s), equipment to be used, drilling depth, casing program, pressure control equipment, anticipated hazards (such as H_2S) and mitigating measures, duration of operation.

ENVIRONMENTAL ASSESSMENT

Assessment identifies methods for mitigating the potential adverse effects associated with the proposed operation and provides basis for EIS determination.

ENVIRONMENTAL IMPACT STATEMENT

If USGS determines proposed drilling activities constitute a major Federal action, then an EIS is required.

PERMIT DECISION

Permit issued, modified or rejected.

SUBSEQUENT OPERATIONS ENVIRONMENTAL ASSESSMENT

A subsequent assessment may be required for secondary recovery operations, workovers, or alteration of existing facilities. If significant disturbance is anticipated, an EIS may be required.

This amendment classifies oil and gas exploration and drilling activities on Federal lands in the U.S., with particular emphasis on the Overthrust Belt, as a separate class of priority project under the aegis of the Energy Mobilization Board.

Increased interest in oil and gas development on Federal lands, particularly in the West's "Overthrust Belt", is causing backlogs in issuing drilling permits for Federal leases.

Over 350 applications for permits to drill

BEST DOCUMENT AVAILABLE

are pending nationwide. This backlog has increased from 240 in just nine months.

It calls for permit issuance within 100 days, unless the Board finds an extension is justified, and an issuance goal of 30 days is established.

The current time it takes, on the average, to issue a drilling permit is 45 to 60 days and increasing. However, many permits take 6 months to several years to issue because of redundant procedures, slow Federal interagency coordination, and a proliferation of overlapping environmental assessments.

The amendment would reduce the average processing time by eliminating redundant procedures, and reiterates the USGS goal of 30 day processing.

The amendment calls on the Board to minimize the redundancy between Federal, State and local government requirements and to use the local procedures where Federal requirements duplicate them.

And, finally, the amendment reduces to one (1) the number of environmental assessments to be completed prior to permit issuance. This environmental assessment requirement is waived if no significant environmental concerns are identified in the preliminary environmental review and in the USGS-surface managing agency consultation.

Many environmental reviews are now required: Before a *lease* is issued, BLM prepares a regional environmental assessment, an archaeological report, a site-specific environmental assessment and a land use plan. Before a *drilling permit* is issued, the USGS and/or Forest Service complete a preliminary environmental review, a surface managing agency consultation and field inspection, require a detailed surface and operations plan from the operator, and a complete application for permit to drill, an environmental assessment, and, perhaps, an environmental impact statement.

In all but about 10 of the over 4,000 applications filed last year, according to the USGS, this process involved simply too many overlapping environmental assessments. The amendment would reduce the environmental assessments to one per lease (rather than 4 or 5) and eliminate the last assessment where no significant environmental concerns were identified in the preliminary environmental review and in the surface management agency consultation.

GEOLOGICAL SURVEY,
Reston, Va., September 26, 1979.

1. (a) As of December 31, 1977, there were 114,223 onshore public and acquired lands oil and gas leases in effect embracing 93,087,310 acres.

(b) As of December 31, 1978, there were 115,789 onshore public and acquired lands oil and gas leases in effect embracing 98,677,527 acres.

2. (a) There were 3,674* Applications for Permit to Drill (APD's) filed during 1977.

(b) There were 4,056* APD's filed during 1978.

3. (a) There were 2,568* APD's approved without modification during 1977.

(b) There were 3,025* APD's approved without modification during 1978.

4. (a) There were 676* APD's approved with modification during 1977.

(b) There were 528* APD's approved with modification during 1978.

5. (a) There were 150* APD's rejected during 1977.

(b) There were 264* APD's rejected during 1978.

6. (a) There were 280* APD's pending as of December 31, 1977.

(b) There were 239* APD's pending as of December 31, 1978.

7. (a) Of the 150 APD's rejected during 1977, 1 was rejected because of wilderness conflicts.

(b) Of the 264 APD's rejected during 1978, 8 were rejected because of wilderness conflicts.

8. (a) Of the 280 APD's pending as of December 31, 1977, 2 were being held in abeyance because of wilderness concerns.

(b) Of the 239 APD's pending as of December 31, 1978, 6 were being held in abeyance because of wilderness concerns.

9. 1979 (January 1 thru July 31, 1979). 2215* APD's filed. 1411* APD's approved without modification. 266* APD's approved with modification. 187* APD's rejected. 351* APD's pending as of July 31, 1979.

[Department of the Interior, Geological Survey, Conservation Division]

APPROVAL OF OPERATIONS

(Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases (NTL–6))

In accordance with the National Environmental Policy Act of 1969 (83 Stat. 852), the United States Geological Survey must assure that operations on oil and gas leases under its jurisdiction are conducted with due regard for protection of the environment. All operations which are conducted on onshore Federal and Indian oil and gas leases must conform to the requirements of this Notice as well as those contained in the lease and in the Oil and Gas Operating Regulations, Title 30 CFR Part 221. Operations on Osage Indian oil and gas leases and exploration activities under Title 43 CFR 3045 are not included within the purview of this Notice.

As used in this Notice, the term "District Engineer" means that Officer of the United States Geological Survey who is the head of the District Office supervising operations in the geographic area in which the operation is located. In the State of Alaska, the Area Oil and Gas Supervisor will administer the requirements of this Notice. In some special instances, other Area Oil and Gas Supervisors will act on permit applications.

I. GENERAL

In order that the environmental impact of proposed operations may be properly evaluated, all applications to conduct leasehold operations or construction activities must be accompanied by an appropriate surface use plan. As a minimum, such applications and surface use plans must provide a detailed description of the technical aspects of the proposed operation or activity, the magnitude of surface disturbance involved, and the procedures to be followed in rehabilitating the surface once the operation or construction activity has been completed. Specific requirements in this regard are set forth in Sections II.B., III., and V. hereof. One copy of the surface use plan must be attached to each copy of the application to conduct operations or construction activities.

Applications to conduct operations or construction activities with attached surface use plans should be filed at least 30 days in advance of the contemplated starting date of any operation or construction activity in order to allow sufficient time in which to schedule and conduct, if necessary, a joint field inspection by appropriate personnel of the Geological Survey, the Federal surface management agency, the lessee or operator, and, if practical, the lessee's or operator's contractors and subcontractors who will perform the work. Any interested party who wishes may also attend the field inspection. The early filing of a complete application is no guarantee that approval thereof will be granted within the 30-day period, as environmental considerations or the volume of applications in the affected Federal agencies may result in more than 30-day delay.

All applications will be processed as quickly as possible in all Federal agencies consistent with other work in the offices. In general, the processing of applications will be assigned a high priority and individual applications will be processed according to the date the complete application is filed. A higher priority due to an emergency, such as an imminent lease expiration date, will be duly considered but no special consideration will be given simply because a late filing is made. If it is not possible for Geological Survey action to be taken prior to lease expiration or within 30 days of the filing date, whichever occurs first, the lessee or operator will be advised both orally and in writing. Said advice will detail the reasons for the delay so that the lessee or operator may take such appeal or other recourse as is allowed by law and/or regulation.

Lessees and operators have the responsibility to see that their exploration, development, production, and construction operations are conducted in a manner which (1) results in diligent development and efficient resource recovery; (2) affords adequate safeguards for the environment; (3) results in the proper rehabilitation of disturbed lands; (4) assures the protection of the public health and safety; and, (5) conforms with the best available practice. In that regard, lessees and operators will be held fully accountable for their contractors' and subcontractors' compliance with the requirements of the approved permit and surface use plan.

All approvals of proposed operations as well as subsequent instructions and regulation thereof will be by the District Engineer of the Geological Survey. However, the Federal surface management agency will establish the rehabilitation requirements and will be available for consultation during rehabilitation operations. Names, addresses, and phone numbers of appropriate personnel of the Geological Survey and the Federal surface management agency, as well as approved surface use areas, will be furnished the lessee or operator with its approved copy of the permit and surface use plan.

Lessees and operators, as well as their contractors and subcontractors, must not commence any operation or construction activity on a lease without the prior approval of appropriate official of the Geological Survey. Said approvals may be oral in emergency situations or in instances such as subsurface holes or failures. Any oral approval so received must be followed by a written application and approval thereof for confirmation. Likewise, the terms and conditions of an approved permit and surface use plan may not be altered unless the Geological Survey has approved an amended or supplemental permit and/or plan covering any such modifications. Approval of subsequent operations is addressed in Section V. of this Notice.

II. DRILLING OPERATIONS

A. Preliminary Environmental Review:

A preliminary environmental review is required on all future drilling operations prior to entry on the ground for the purpose of staking the location, access roads, and other surface use areas. The lessee or operator, upon finalizing plans to drill but prior to the actual surveying, must file with the Geological Survey's District Engineer and the appropriate office of the involved Federal surface management agency, a topographic map, or such other map as is acceptable to the Distrit Engineer, scale not less than 1 inch=1 mile which shows the preferred location and general topographic features in the area. This will permit the Federal surface management agency, prior to the lessee's or operator's expenditure of time and money for surveys, to review its records for any potential conflicts with other resource values If conflicts are noted, a joint conference or field inspection, as appropriate, by the Geological Survey, the Federal surface management agency, the lessee or operator, and other interested parties may be scheduled to resolve problem areas. If the lessee or operator has not been advised to the contrary within 15 days from the date of submitting the preliminary map, it may assume that there are no objections to entry on the land for the purpose of required surveying and staking and may proceed accordingly. It is anticipated that the need for a joint field conference and/or inspection prior to staking will be very unusual.

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*Includes both Federal and Indian lands.

B. Application for Permit to Drill:

Drilling operations must not be conducted without a permit which has the prior approval of the District Engineer. Although multiple wells may be covered in a single surface use plan, the application for permit to drill must be submitted on an individual well basis.

The permit application filed for approval will consist of Form 9-331C (Application for Permit to Drill, Deepen, or Plug Back) and a multi-point surface use and operations plan. Where private surface is involved, it should also include a copy of the written agreement between the lessee or operator and the surface owner, a letter from the lessee or operator setting forth the rehabilitation requirements agreed to with said owner, or a letter stating the reasons why such agreement is not obtainable. The requirements for surface use and operations plans and the rehabilitation of private surface are contained in Sections III. and VI., respectively, of this Notice.

The application for permit to drill must provide information concerning (1) the location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the District Engineer; (2) the elevation above sea level of the unprepared ground; (3) the geologic name of the surface formation; (4) the type of drilling tools and associated equipment to be utilized; (5) the proposed drilling depth; (6) the estimated tops of important geologic markers; (7) the estimated depths at which anticipated water, oil, gas, or other mineral bearing formations are expected to be encountered; (8) the proposed casing program including the size, grade, and weight of each string and whether it is new or used; (9) the proposed setting depth of each casing string and the amount and type of cement (including additives) to be used; (10) the lessee's or operator's minimum specifications for pressure control equipment which is to be used, a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency; (11) the type and characteristics of the proposed circulating medium or mediums to be employed for rotary drilling and the quantities and types of mud and weighting material to be maintained; (12) the testing, logging, and coring programs to be followed with provision made for required flexibility; (13) any anticipated abnormal pressures or temperatures expected to be encountered or potential hazards such as hydrogen sulfide gas, along with plans for mitigating such hazards; (14) the anticipated starting date and duration of the operation; and, (15) any other facets of the proposed operation which the lessee or operator wishes to point out for the Geological Survey's consideration of the application. The District Engineer will require additional information as warranted.

A copy of the approved application for permit to drill and the accompanying surface use and operations plan along with any conditions of approval shall be available to authorized personnel at the drillsite whenever active construction or drilling operations are underway.

III. MULTI-POINT SURFACE USE AND OPERATIONS PLAN

A surface use and operations plan in sufficient detail to permit a complete appraisal of the environmental effects associated with the proposed project must be submitted, in triplicate, to the District Engineer with the application for permit to drill.

The Geological Survey will send a copy of such plan to the Federal surface management agency. When possible, a preliminary field development plan or drilling schedule concerning the lessee's or operator's plans for additional development should also be submitted to allow lead time for evaluating environmental considerations, resource conflicts, and land use planning alternatives.

The surface use and operations plan shall, in its context, provide for adequate protection of surface resources, other environmental components, and include adequate measures for rehabilitation of disturbed lands. The plan shall be developed in conformity with the provisions of the lease, attached stipulations, and the guidelines provided by this Notice. In developing the plan, the lessee or operator will make use of such information as is available from the Federal surface management agency concerning the surface resources, environmental considerations, and local rehabilitation procedures. The plan will be reviewed for adequacy by the Geological Survey and the Federal surface management agency. The Geological Survey will act as the lead agency in assessing the effects of the plan. If the plan is considered inadequate, the Geological Survey will, in consultation with the Federal surface management agency, require modification or amendment of the plan or otherwise set forth such stipulations or conditions of approval as are necessary for the protection of surface resources and environment, including rehabilitation of the disturbed areas.

A. Guidelines for the preparation of surface use and operations plan:

In the preparation of surface use and operations plans, lessees and operators should submit maps, facility layouts and narrative descriptions which adhere closely to the following:

1. Existing roads. A legible map (USGS topographic, county road map, or such other map as is acceptable to the District Engineer and the Federal surface management agency) shall be used for locating the proposed well site in relation to a town or other locatable reference point. The proposed route to the location including appropriate distances from the reference point to the point where the access route exists the highway or county road shall be shown. All proposed access roads shall be appropriately labeled or color coded. Additionally, all existing roads within a radius of three miles (including information relative to the type of surface, condition, and load capacity) from the location of a proposed exploratory well should be shown. For the purpose of this Notice, an exploratory well is defined as a well which is located two miles or more from the boundary of a Known Geologic Structure (as such term is defined by USGS) or a producible well. For all other drillsites (development wells), existing roads within a one-mile radius of the location should be shown.

Any plans for the improvement and/or maintenance of existing roads should also be stated.

Information required by item Nos. 2, 3, 4, 5, 6, 7, and 9 of this subsection may also be shown on this map if appropriately labeled.

2. Planned access roads. Information in this regard is to be submitted on a map of suitable scale and shall appropriately identify all permanent and temporary access roads that are to be constructed, or reconstructed in connection with the drilling and production of the proposed well. Width, maximum grade, turnouts, drainage design, location and size of culverts, and surfacing material, if any, shall be stated. At the time of submittal, the center line location of all proposed new or reconstructed roads shall be staked with the stakes being visible from any one to the next. However, modification of proposed road design may be required after the location is accepted for drilling. If the well is completed for production, final road design and construction will depend on the amount and type of hydrocarbon found by the well. Information should also be furnished to indicate where existing fences will be cut and whether gates or cattleguards will be used. Additionally, the discussion should make reference to any existing gates which are to be replaced by cattleguards. Cattleguards which are installed or replaced must be designed to adequately carry anticipated loads.

3. Location of existing wells. This information should be submitted on a map of suitable scale and include all wells (water, abandoned, temporarily abandoned, disposal, and drilling) within a two-mile radius of the proposed location of an exploratory well and all wells (water, producing, abandoned, temporarily abandoned, shut-in, injection, disposal, and drilling) within a one-mile radius of the proposed location of a development well.

4. Location of tank batteries, production facilities, and production, gathering, and service lines. Existing tank batteries, production facilities, and production, gathering, or service lines within a one-mile radius of the proposed location which are owned or controlled by the lessee or operator should be shown on a map or plat of suitable scale. The type of each present facility and the exact nature of each existing line (oil flow line, gas gathering line, injection line, or water disposal line) should be identified and it should be noted which, if any, of said lines are buried. If new facilities (tank battery, other production equipment, and lines) are contemplated in the event production is established and those facilities are to be located at other than on the well site itself, the map or plat furnished in this regard must also indicate the location of all proposed new facilities. The dimensions of these facilities, the proposed construction methods and materials, and the protective measures and devices to be employed to minimize hazards to livestock, waterfowl, and other wildlife will be stated. The approximate center locations of all production facility locations and the center lines of proposed gathering and service lines will be staked. A plan for rehabilitation of all disturbed areas no longer needed for operations and maintenance will also be submitted. Future prospects for additional development of the leasehold should be considered in the siting of new facilities. However, final approval to construct such new facilities will not be granted until after detailed plans have been submitted and evaluated pursuant to Section V. hereof.

5. Location and type of water supply (rivers, creeks, lakes, ponds, and wells). This information may be shown by quarter-quarter section on a plat or map of suitable scale or may be a written description. The source of all water to be used in drilling the proposed well must be noted if located on Federal or Indian land or if water is to be used from a Federal or Indian project. The method of transporting the water shall be stated, and any access roads crossing Federal or Indian land needed to haul the water will be described in item Nos. 1 or 2, as appropriate. However, the Survey's approval of the surface use and operations plan does not relieve the lessee or operator from obtaining any other authorization which may be required for the use of such water. Moreover, if a water supply well is to be drilled on the lease,

it must be so stated under this item, and the District Engineer may require the filing of a separate application for permit to drill.

6. Source of construction materials. This information may be shown by quarter-quarter section on a plat or map of suitable scale or may be a written description. The proposed source (if located on Federal or Indian land), character, and use of all construction materials such as sand, gravel, stone, and soil material should be stated. Any access roads crossing Federal or Indian land needed to haul such material should be described in item Nos. 1 or 2, as appropriate.

7. Methods for handling waste disposal. A brief, written, description should be given of the methods and location proposed for safe containment and disposal of each type of waste material (cuttings, garbage, salts, chemicals, and sewage) which results from the drilling of the proposed well. Likewise, the narrative should include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

8. Ancillary facilities. The plans or subsequent amendments to such plans shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the methods and standards to be employed in their construction. Such facilities shall be shown on a map of suitable scale. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

9. Well site layout. A plat of suitable scale (not less than 1 inch=50 feet) including cross section diagrams of the drill pad showing all cuts and fills and the relation to topography are required. The plat should also include the proposed location of the mud tanks, pits (reserve, burn, and trash), pipe racks, access roads, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit should be indicated.

Until such time as the location is approved, it will be necessary to stake only the actual location of the well. After approval and before construction commences, the exterior dimensions of the pad and reserve pit will be staked on the ground. The stakes should be appropriately marked to indicate proper cuts and fills to the dirt contractor.

10. Plans for restoration of the surface. State the proposed program for surface restoration upon completion of the operation such as determination of the reshaped topography, drainage system, segregation of spoils materials, surface manipulations, waste disposal, revegetation methods, soil treatments, and amendments, plus other practices necessary to rehabilitate all disturbed areas including any access roads no longer needed. Such plans will be reviewed for adequacy by the appropriate Federal surface management agency. A proposed timetable for the commencement and completion of rehabilitation operations must be provided.

11. Other information. Include a general description of the topography, soil characteristics, formation lithologies, geologic features, flora, fauna, and other aspects of the area such as other surface use activities. The surface ownership (Federal, Indian, State, or private) at the well location and for all lands which are to be crossed by newly constructed or upgraded roads should be indicated.

Any other available information which is considered by the lessee or operator as being useful to the Geological Survey and Federal surface managing agency in evaluating the environmental impact of the proposed operation, including proximity to steep hillsides and gullies, water wells, ponds, lakes, or streams, occupied dwellings, or other facilities, and archeological, historical, or cultural sites, should be included.

Information concerning required cuts and fills during the construction of roads and the location and all construction practices necessary to accommodate potential geologic hazards should be discussed under the appropriate items of the plan.

12. Lessee's or operator's representative. Include the name, address, and phone number of the lessee's or operator's field representative who is responsible for assuring compliance with the approved surface use and operations plan.

13. Certification. The following statement is to be incorporated in the plan and must be signed by the lessee's or operator's field representative who is identified in item No. 12 of the plan:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drillsite and access route; that I am familiar with the conditions which presently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and, that the work associated with the operations proposed herein will be performed by ———— and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved.

———— ————

Date Name and Title

IV. ENVIRONMENTAL ANALYSIS REQUIREMENTS

If a preliminary inspection was not made prior to staking, an onsite inspection will normally be required following the filing of the application for permit to drill. If made, it will include representatives of the District Engineer, the lessee or operator, the Federal surface management agency, and such other interested parties as the lessee's or operator's dirt contractor. The purpose of this inspection will be to select the most feasible and environmentally acceptable areas for well sites (considering geologic factors and Federal and State regulations), access roads, and other proposed surface use areas. Accordingly, lessees and operators are encouraged to designate their future development or drilling sites so that several locations may be inspected at one time.

When such an inspection is made, an Environmental Analysis will usually be prepared by the office of the District Engineer. Said analysis will identify methods for mitigating the potential adverse environmental effects associated with the proposed operation and will be the basis of the approving official's determination as to whether approval of the proposed activity would constitute a major Federal action significantly affecting the quality of the Human environment as defined by Section 102(2)(C) of the National Environmental Policy Act of 1969. Any surface protection and rehabilitation requirements specified by the Federal surface management agency will normally be made a part of any subsequently approved permit and/or the surface use and operations plan.

Due to the probability of an onsite inspection, the required input from other Federal agencies, and the variations in the level of drilling activity, lessees and operators are encouraged to file applications well in advance of the time when it is desired to commence operations.

V. APPROVAL OF SUBSEQUENT OPERATIONS

Before repairing, deepening, or conditioning a well, i.e., work that will involve change in the original or plugged back depth, casing arrangement, and/or present producing interval(s) including separation or commingling, a detailed written statement of the plan of work must be filed on Form 9-331A or 9-331C with the District Engineer and approval obtained before the work is started. Any proposed change in any such plan of work must also receive the prior approval of the District Engineer. Routine well work such as pump, rods, tubing and surface production equipment repairs will not require submittal of Form 9-331A unless specifically required by the District Engineer.

Lessees and operators are also required to submit for the approval of the District Engineer a suitable plan prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities, including roads, dams, lines or other production facilities on any lease when additional surface disturbance will result. However, emergency repairs may be conducted without prior approval, provided that prompt notification is provided to the District Engineer. Sufficient information must be submitted to permit a proper evaluation of the proposed surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse environmental effects.

The environmental analysis procedures discussed in Section IV of this Notice will also apply to such subsequent operations which have the potential for significant surface disturbance although these requirements may be somewhat less in established producing areas.

VI. AGREEMENT FOR REHABILITATION OF PRIVATELY OWNED SURFACE

Where the surface is privately owned or is held in trust for Indian benefit, each application for permit to drill or to conduct other surface disturbance activities, shall contain information concerning the private surface owner's or Indian rehabilitation requirements. A written agreement between the lessee or operator and the surface owner is not necessary if a letter from the lessee or the operator setting forth the surface owner's rehabilitation requirements is furnished. In those cases where it is impossible or impractical to obtain the private surface owner's or Indian rehabilitation requirements, a letter from the lessee or operator describing the situation will be acceptable. Payment of damages in lieu of full restoration will not be an acceptable substitute for a normal cleanup and rehabilitation program.

If no arrangements have been made, or if information concerning such arrangements is not furnished, the District Engineer will request the appropriate Federal agency to recommend the necessary surface restoration requirements. In such cases, the lessee or operator will be expected to comply with these rehabilitation requirements, if any, regardless of the arrangement made with the surface owner. Provided, however, that subsequent reasonable requests by the surface owner that pits, roads, and other facilities be left intact may be honored. If written proof of prior arrangements has been provided, the appropriate Federal agency will be asked to recommend surface rehabilitation requirements to the District Engineer giving full consideration to the preferences of the landowner.

VII. WELL ABANDONMENT

No well abandonment operations may be commenced in the absence of the prior approval of the District Engineer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the District Engineer subject to confirmation by written application. For existing wells not having an approved surface use plan, a sketch showing the disturbed area and roads to be abandoned along with rehabilitation plans must be submitted with the application. However, the Federal surface management agency may request additional surface rehabilitation measures at abandonment and, these requirements are normally made a part of the Geological Survey's approval of abandonment. Upon completion of the abandonment and rehabilitation operations, the lessee or operator should notify the District Engineer that the location is ready for inspection usually via an additional Sundry Notice. Final abandonment will not be approved until the surface rehabilitation work required by the drilling permit or abandonment notice has been completed and the required vegetation is established to the satisfaction of the appropriate Federal surface management agency.

VIII. WATER WELL CONVERSION

The complete abandonment of a well which has encountered usable fresh water will not be approved if the Federal surface management agency wants to acquire the well. If, at abandonment, the Federal surface management agency elects to assume further responsibility for the well, it will reimburse the lessee or operator for the cost of any recoverable casing or well head equipment which it requests to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator will abandon the well to the base of the deepest fresh water zone of interest as required by the District Engineer and will complete the surface cleanup and rehabilitation as required by the drilling permit or abandonment notice immediately upon completion of the conversion operations.

Mr. DOMENICI. Mr. President, yesterday evening, Senator ARMSTRONG submitted an amendment which included as the third portion of it the subject matter of this amendment. At that time, we withdrew it so the staff could correct it. I now submit it on my own.

It, basically, is the same matter the Senator from Louisiana and Senator JACKSON are aware of. I ask it be accepted by the Senate.

Mr. JOHNSTON. Mr. President, the Senator from New Mexico is correct. We temporarily detached the Domenici part of the Armstrong amendment to work on it last night. We discussed it at that time. We are satisfied with it at this time, and will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 607) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 606

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from Ohio.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I send to the desk an amendment, a modification of the amendment I had heretofore.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 606, as modified.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 33, strike lines 1 through 5 and insert in lieu thereof:

AUTHORITY OF THE SECRETARY OF ENERGY

SEC. 9. (a) The Secretary shall consider applications for priority energy project designation, and shall select as candidate priority energy projects only projects that meet the criteria in section 10 (c) and (d). The Secretary shall select those candidate priority energy projects that best meet the criteria of section 10 (c) and (d), and that to the maximum extent practicable, represent a diverse range of energy sources and technologies. The Secretary of Energy shall, not later than January 1, and July 1, of each calendar year following the effective date of this Act, prepare and publish in the Federal Register a list of candidate priority energy projects, except that the first designation period shall commence no later than 6 months from the date of enactment.

(b) The Secretary shall, in consultation with the Board, propose and promulgate regulations for the selection of candidate priority energy projects in accordance with the requirements of this Act.

(c) The Secretary shall, in considering applications from persons for candidate priority energy projects, adopt such procedures as are necessary to assure that potential applicants, affected agencies, and interested members of the public are provided an opportunity to participate in the process of selecting candidate priority energy projects.

(d) The Secretary shall transmit a list of not less than twelve nor more than thirty-six candidate energy priority projects to the Chairman of the Board, together with a statement describing each candidate priority energy project, and explaining the basis for his selection of each project. The Secretary shall also forward a copy of the application, and any other material received by the Secretary in connection with its consideration of the application. There shall be no judicial review of the Secretary's selection of a candidate energy project.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 10. (a) Upon receipt from the Secretary of the list of candidate priority energy projects and the other information specified in section 11(a), the Board shall immediately publish such list in the Federal Register and shall afford interested persons at least sixty days thereafter within which to submit written comments for the Board's consideration. The Board shall provide written notice of the candidate priority energy project to appropriate Federal, State, and local agencies, and such agencies may present such written comments as they deem desirable. The Board shall consult with officials of those agencies of State and local government likely to be affected by the designation of a project as a priority energy project. The Board may hold hearings and adopt any other such procedures to aid in Board's consideration. The Board shall keep on file and make available for public inspection and copying, at the main office of the Board and in such other places as the Board deems appropriate the designation requests and comments received thereupon.

(b) The Secretary may forward and the Board may consider a designation request notwithstanding any previous decision by the Board denying the same or a similar request for that project.

(c) Not later than sixty days after the close of the comment period required in subsection (a), the Board shall review the candidate priority project list and determine whether any of the candidate priority energy projects is of sufficient national interest to be designated a priority energy project and shall publish its decision and the reasons therefore in the Federal Register. No project shall be designated a priority energy project unless the Board determines that such project—

(1) will affect interstate or foreign commerce;

(2) will significantly contribute to a reduction in the use of imported oil;

(3) needs the accelerated decisionmaking available under this Act to assure that such facility will be in operation so that it will make a timely reduction in the use of imported oil.

(d) In making a determination whether to designate a project as a priority energy project, the Board shall also consider—

(1) whether the environmental uncertainties or the potential adverse environmental impacts of the project are such that they cannot be adequately considered and resolved in the period of time permitted for review of the priority energy project;

(2) the extent to which the proposed facility would make use of renewable energy resources;

(3) the extent to which the proposed facility would promote energy conservation;

(4) the extent to which the proposed facility would contribute to the development of new energy production or conservation technologies and techniques;

(5) the degree of specificity in describing the proposed facility in the application;

(6) the probable long-term impact of the facility upon energy supply and demand; and

(7) comments submitted by the public and other governmental entities.

(e) The designation by the Board of priority energy projects pursuant to this section shall, to the maximum extent practicable, represent a diverse range of energy sources and technologies.

(f) The Board may designate as a priority energy project more than one related energy facility only if the Board determines that—

(1) the related energy facilities are located in the same or in contiguous geographic areas; and

(2) the principal use of each energy facility is to—

(i) contribute directly to satisfaction of the criteria specified in section 10(c), or

(ii) support a facility within the proposed energy project which satisfies the criteria specified in section 10(c) of this Act.

(g) The Board shall publish in the Federal Register a statement explaining the basis for its designation of each priority energy project.

And renumber the following sections accordingly.

On page 33, line 7, strike "10" and insert in lieu thereof "11".

On page 33, line 6. 11. 19. 21, 23, 24 and on page 34, line 6, strike "Board" and insert in lieu thereof, "Secretary".

On page 33, line 12 and on page 34, line 8, between the words "the" and "Board", insert the words "Secretary and the".

On page 34, strike lines 10 through 24.

On page 35, strike lines 1 and 2.

The PRESIDING OFFICER. Is there objection to the modification of the amendment offered by the Senator from Ohio?

Mr. JOHNSTON. Mr. President, reserving the right to object—and I shall not object—if I may see a copy of that amendment very quickly——

Mr. SCHMITT. Mr. President, I believe the Senator can modify his own amendment, inasmuch as the yeas and nays have not been ordered.

The PRESIDING OFFICER. The Senate, having entered into a unanimous-consent agreement on the amendment, has taken action on the amendment, and therefore it does require a unanimous-consent request for the Senator to modify the amendment.

Mr. SCHMITT. I thank the Chair.

Mr. JOHNSTON. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. GLENN. Mr. President, we make two changes. One is that there will be no cap on the number of projects which are to be considered.

Second, to satisfy the objection raised by Senator SCHMITT, which I think is a valid one, we say, "except that the first designation period shall commence no later than 6 months from the date of enactment," which gives a time period.

So we have made those two changes. Basically, what the amendment would do is to give a meaningful role for the Department of Energy in the designation process. DOE would make the initial selections, which then would be sent to the Energy Mobilization Board for final designation.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, the Senator has removed one of my three major objections—that is, the cap—but the two major objections remain.

For all the reasons I have described earlier, this is a very bad amendment, at least two-thirds as bad as it was, and it may be 75 percent as bad as it was. In any event, it is a bad amendment, and I hope the Senate will defeat it.

Mr. GLENN. Mr. President, I am about to yield back my time so that we can get on with a vote on this amendment.

To summarize, I submit that what we are doing is proliferating bureaucracy in this country. It is the flasco I referred to earlier.

When we cover up the inefficiencies we built into a department by making another board that is supposed to build on the first efficiencies, and still do not change any of the responsibilities of that Department of Energy to begin with, we are just separating authority even further from responsibility; and I think that is what led us into some of the bureaucratic nightmare we have in Washington now.

I am prepared to yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified, by the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER) is necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. BAKER. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The PRESIDING OFFICER (Mr. EXON). Is there any other Senator in the Chamber wishing to cast his vote?

The result was announced—yeas 28, nays 65, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—28

Cohen
Cranston
Glenn
Gravel
Hart
Heinz
Humphrey
Inouye
Javits
Kennedy
Leahy
Levin
Mathias
McGovern
Muskie
Nelson
Percy
Proxmire
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Stafford
Stewart
Stone
Tsongas
Williams

NAYS—65

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Heflin
Helms
Hollings
Huddleston
Jackson
Johnston
Kassebaum
Long
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Morgan
Moynihan
Nunn
Packwood
Pell
Pressler
Pryor
Randolph
Sasser
Schweiker
Stennis
Stevenson
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—7

Biden
Culver
Hayakawa
Jepsen
Laxalt
Simpson
Stevens

So Mr. GLENN's amendment (UP No. 606) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

UP AMENDMENT NO. 608

Mr. MELCHER. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 608.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, after line 25, insert the following:

"*Provided*, That the Board may not exercise its authority pursuant to subsection (a) to make a final decision under a State comprehensive siting law before the last deadline on the project decision schedule."

Mr. MELCHER. Mr. President, this is a clarifying amendment to make sure when the Board would be authorized to use the power in subsection (a). I hope the managers of the bill will accept it.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the amendment is a technical one, a good one, and we accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

UP AMENDMENT NO. 609

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 609.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, at line 10, after the period add the following:

"Where known to the applicant, any application may identify (i) any duplicative, overlapping or conflicting requirements, or other requirements which would substantially delay a final decision on the project if all other decisions were timely made and (ii) the critical regulatory problems likely to be encountered by the applicant with recommendations for the resolution of such problems."

Mr. WALLOP. This is the first of two amendments which I propose to offer and which I have cleared with the managers of the bill. This amendment would modify section 10 of the bill ("authority to apply for priority status") to allow the applicant to identify, where known to it:

First. Any duplicative, overlapping or conflicting requirements or other requirements which would substantially delay a final decision on the project if all other decisions were timely made; and

Second. The critical regulatory problems likely to be encountered by it with recommendations for resolving such problems.

This amendment will:

First. Facilitate the work of the board in identifying the regulatory bottlenecks likely to be encountered by an energy project applicant; and

Second. Allow the energy project applicants to make recommendations to the Board for the expeditious processing of its various applications.

Mr. President, it is common practice in the planning phase of any energy project, particularly from the standpoint of securing financing, for the energy company to ascertain what regulatory requirements it will have to meet before commencing construction or operation, as the case may be. In doing so, the company becomes all too familiar with those requirements which are duplicative, overlapping, conflicting, or likely to cause delay in getting a final rejection or go-ahead on the project.

The EMB, on the other hand, is not nearly as well equipped to make these determinations. It would require substantial time and effort to arrive at the conclusions that the applicant could more readily supply. By asking the applicant to supply information it is likely to have, we also will deter a proliferation of EMB staff to make these same findings.

To the extent that the applicant can identify its problems for the Board, the EMB will be able to focus its energies and resources on resolving the specific delay-producing problems. Not only will this be advantageous to the particular applicant whose problems will be more readily resolved, it will also free up valuable time for the Board to consider other applications. This will better carry out the intent of the committee and the legislation that there be no limitation placed on the number of projects that can be granted priority status.

In essence, then, my amendment will help the Board do its job on an accelerated basis, by targeting its efforts at easing specific regulatory bottlenecks cited by applicants.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the amendment is constructive, and we accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

UP AMENDMENT NO. 610

Mr. WALLOP. Mr. President, I send an amendment to the desk on behalf of myself, Mr. ROTH, Mr. HATCH, Mr. GARN, and Mr. ARMSTRONG.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Wyoming (Mr. WALLOP), for himself and others proposes an unprinted amendment numbered 610.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 45, line 23, after the period, insert the following: "Where possible, the Energy Mobilization Board shall enter into a written cooperative agreement with each affected state and local government establishing the deadlines."

Mr. WALLOP. Yesterday, Senators ARMSTRONG, HATCH, and ROTH joined with me in offering an amendment to the Muskie-Ribicoff substitute for S. 1308 which was designed to encourage the Energy Mobilization Board to establish a project decision schedule through written cooperative agreements between the Governors of the affected States and the EMB and between affected local governments and the EMB. The second amendment to S. 1308 I offer now, along with Senators HATCH, GARN, ROTH, and ARMSTRONG, is virtually identical to the amendment we offered and which was accepted yesterday.

The amendment does not make cooperative agreements mandatory but rather permits the EMB to use cooperative agreements as an option to establish project decision schedules with affected States and local jurisdictions over which they will be assisting some authority. A written cooperative agreement will establish a legal basis for the decision schedule. It will alleviate in most instances the obvious points of tension that may exist between the Board and State and local governments.

This amendment is needed because it is questionable from a constitutional standpoint whether a decision deadline set by the Federal Energy Mobilization Board would be legally binding on a State or local agency if such agency had not explicitly agreed to the deadline. This is a particular problem in cases where the State statute in question has no Federal antecedents such as is the case with the Wyoming industrial siting law. A written cooperative agreement will provide the basis for later use of enforcement mechanisms if the deadline is missed. Without the cooperative agreement, it is questionable constitutionally whether any enforcement mechanism could be legally enforced.

There is precedent for cooperative agreements as this amendment provides for. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 permits the Secretary of the Interior to delegate authority to the States to enforce surface mining regulations on Federal lands. This delegation of authority is established through cooperative agreements signed by the individual States and the Department.

Mr. President, this amendment is strongly supported by the National Governor's Association and is consistent with my interest in forging a cooperative, rather than a coercive, Federal-State relationship toward the shared goal of energy self-sufficiency.

I have also checked with the managers of the bill and understand they find this amendment acceptable.

Mr. JOHNSTON. Mr. President, this amendment merely repeals the Clean Air Act—excuse me; I mean it implores the Mobilization Board to cooperate with the affected State and local governments, and we accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 610) was agreed to.

Mr. WALLOP. Mr. President, I thank the Chair and I yield the floor.

UP AMENDMENT NO. 611

(Purpose: To make the Energy Mobilization Board a full-time Board and to reduce the power of the Chairman)

Mr. RANDOLPH. Mr. President, I send a modified printed amendment to the desk, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. RANDOLPH) proposes a modified version of amendment numbered 492.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 24, strike lines 20 through 25 and insert in lieu thereof the following:
>
> "(c) The Board shall be administered under the supervision of the Chairman."
>
> On page 22, line 24, and line 25 strike "three" each time it appears and insert in lieu thereof "four".
>
> On page 23, strike lines 13 through 23 and insert in lieu thereof the following:
>
> "(4) The Chairman of the Board shall serve as full-time employee and shall receive compensation at the rate prescribed for offices and positions at Level I of the Executive Schedule (5 U.S.C. 5312). The members of the Board shall serve as full-time employees and shall receive compensation at the rate prescribed for offices and positions at Level II of the Executive Schedule."
>
> On page 34, strike lines 20 through 22 and insert in lieu thereof the following:
>
> "(b) No project or class of projects shall be designated a priority energy project without the concurrence of a majority of the Board.".

Mr. RANDOLPH. Mr. President, during the debate on the War Mobilization Board—let us call it war for the moment, because it is a war that we hope we can win, to provide adequate energy supplies for the people of the United States, something that we have failed miserably to do for many, many years—I believe we must consider this amendment which, has been discussed with the managers for the majority and the minority, Mr. JOHNSTON and Mr. DOMENICI.

Because of the magnitude of the task that is going to be done by the Energy Mobilization Board, I submit to my colleagues some thoughts that I believe should be taken into consideration.

It is best to be positive in a matter of this kind. I am very positive. I know that those in charge of this legislation are negative about what I am going to offer, but I know it is right. That is an important statement for me to make.

Let us think back to the Postal Reorganization Act. We created a part-time Board, and that is exactly what is proposed in this legislation.

Has the Postal Service not been ineffective? Yes, to a degree. There has been an impairment in the postal service in the United States of America, because there has not been an on-the-job, full-time Board to administer the postal programs under present law.

I believe that it is not enough to have well-meaning men and women of expertise, whoever they may be, that fly into Washington once a month for meetings, if they are to fulfill their responsibilities, especially in a matter of emergency mobilization for energy purposes. We need a competent board. I trust that such a board will be appointed. Not only should they be competent; they must be on the job—not flitting in and out of Washington, or holding a meeting anywhere. Otherwise they cannot give the attention necessary for the almost hour-by-hour decisions, or at least counseling, that should take place on this subject matter.

Under the legislation pending, we have a chairman, who is given vast authority, and we have three part-time members whose only responsibility—and I underscore "only responsibility"—is to consider what the chairman has recommended as priority energy projects.

Among other decisions to be made under this act when it is enacted are the project time schedules and the application of Federal, State, and local laws. These are matters of magnitude. They are not matters for casual concern. They are substantive decisions, Mr. President, that must be made by a full-time Energy Mobilization Board if we are to have well-reasoned consideration and action from those who serve on the Board.

I realize that I am not getting much attention from the majority and minority managers in this matter, and I am not critical of that. I have talked with them prior to this time, but I would like for them to understand——

Mr. DOMENICI. You have our attention, Mr. Chairman.

Mr. RANDOLPH. Well, it is like the mountain fellow who did not have rapport with his son, who finally could not stand it any longer, and he said, "Son, are you listening?"

The son said, "Yes, Pappy, but I ain't paying no attention." I want you to pay attention as well as listen, because what I am saying is the absolute truth. Flitting in and out by three part-time members—listening to a chairman only on these decisions of high importance is not acceptable.

Mr. President, this body would be very unwise, and I am very earnest and very quiet when I say that, to impose the responsibility for what is done here upon one individual. I say to you, Mr. JOHNSTON, and I say to you, Mr. DOMENICI, my friends, the Chairman of the Board will not have been elected as you have been elected. They have not been elected to office. He may be good or bad. But he will not be directly responsible to the American people.

In S. 1308, we vest—and I use the word again—we vest vast powers in the Chairman of the Board. Too much power, this Senator feels, for one man or woman, no matter how brilliant they may be, or how dedicated to the job, to exercise in connection with this decisionmaking process.

The administration, in its outline for the Energy Mobilization Board—let me ask you, Chairman JOHNSTON, did not the administration propose a full-time Board?

Mr. JOHNSTON. The administration proposed a full-time Board with the Chairman as the single decisionmaker. So the administration, in its original proposal, was halfway between what you are proposing and where we end up.

Mr. RANDOLPH. Well, it is good to have the administration halfway right and the committee halfway right.

Mr. DOMENICI. Well, was it five members?

Mr. RANDOLPH. Three members.

Mr. DOMENICI. And what is yours?

Mr. RANDOLPH. I have five.

Mr. JOHNSTON. Of course, you understand, our bill does not prohibit full-time members. It simply makes that possible, if that seems, in the judgment of the President, to be the best choice available. We do not want to exclude the best person available simply because he does not want to serve full time.

Mr. RANDOLPH. I respect the members of the Energy Committee, but, for reasons you do not disclose in your report you have abandoned the proposal of the President and what I call traditional wisdom that must be exercised in this nature of matter.

When we have an Emergency Mobilization Board, we must charge the full Board with implementing the provisions of this act. I submit to my colleagues that this amendment, which provides for a full-time Board of five members is the right way to proceed. All substantive decisions of the Board should be made, I say to Senator JOHNSTON, by majority decision.

I think this is highly important. I shall not take more time. I know the problem of the final rollcall on this bill within approximately 45 minutes, but I do appreciate the Senator's consideration of this amendment. I know that it is right. If I call a rollcall, I do not know how many votes I would receive. Will the Senator comment on the proposal? I should appreciate that.

Mr. JOHNSTON. Mr. President, I greatly appreciate the cooperation of the distinguished Senator from West Virginia (Mr. RANDOLPH) on this bill. He has worked hard with it. He has made it a better bill. He has offered numerous amendments which we have accepted.

Mr. President, I cannot characterize this amendment as a terrible amendment, because it is not. But it chooses the other alternative to that which the Energy Committee chose. Let me say why we chose the way we did.

First, we differed from the distinguished chairman in that we—that is, the administration proposal—would vest in the Chairman decisionmaking power except for the decisions of the Board in those instances required by the act, such as the designation of priority energy projects. But, principally, it vests the power in the Chairman, much as corporate power is vested in a president or chairman in the corporate world.

Second, Mr. President, we have a smaller Board than that proposed in the amendment, which is a sort of difference of choice. We thought a smaller Board would be better.

Third, we do have a permissive ability to have a part-time Board, recognizing that the members are not necessarily the ones who are going to be carrying out the details of putting together project schedules but, rather, voting in meetings from time to time on the status of projects and other major decisions.

The reason we left that open, to be decided by the President, is that, as in corporate America, as with General Motors, Ford, or other big corporations, they have part-time boards of directors. It is not that their work is any less important; it is that, in some instances, a part-time person from civilian life can bring to the Board an influence, an experience, a background that will be helpful.

To pick an example from today's newspaper, the President recently commissioned a group of lawyers and ex-Government people—Clark Clifford and others—to help advise him on the question of Cuba. It was not that the Cuban crisis was any less important that he took it out of the State Department and took it away from the professionals full time and asked for advice from part-timers. It was simply that they had something to contribute. We do not want to prevent or preclude that alternative. That is the reason we went in the direction we did in the bill.

I thank the distinguished chairman from West Virginia (Mr. RANDOLPH) for offering not to push the measure.

(Mr. MELCHER assumed the chair.)

Mr. DOMENICI. Mr. President, I do not want to comment at any length, I say to my good friend from West Virginia, other than to say that he does provide the Senate, if it is his desire that we vote on this, with a very distinct option. I will say that it was considered by the committee and they thought better of it.

I should like to use this opportunity to say that I hope the President, in selecting the people that will make up this Board, understands that, while we envision the chairman to be the busiest person, certainly, he ought to select the others with the thought in mind that they may have to spend a great deal of time with this job. I hope that he will not select members thinking that they might get by with one meeting a month or the like. The bill provides that they will serve as much as needed and it could very well be that for the first year or so, they would have to spend a lot of time with this job.

Does the Senator from Louisiana agree with that?

Mr. JOHNSTON. I certainly agree.

Mr. DOMENICI. I thank the Senator from West Virginia (Mr. RANDOLPH) for the comments he made on the floor today.

Mr. RANDOLPH. Mr. President, I yield to the Senator from Nebraska.

Mr. EXON. I thank my distinguished colleague from West Virginia.

Mr. President, I associate myself with the remarks that have been made by the Senator from West Virginia (Mr. RANDOLPH) here today. As the committee knows, I have voted down the line with them on every amendment that has come up to this bill, especially the ones that they objected to. I happen to feel that, just listening to the debate here, it is critically important that the Members of the Senate understand what this vote is all about. I happen to feel that the remarks that have just been made by my good friend from Louisiana in opposition to the amendment offered by the Senator from West Virginia (Mr. RANDOLPH) with particular regard to the selection of the wise men to advise the President on the difficult situation of the Soviet troops in Cuba, is proof positive of what the Senator from West Virginia (Mr. RANDOLPH) is trying to explain.

I call the attention of my colleagues to the fact that the wise men—the example used was a temporary problem on which the President of the United States needed some temporary help and assistance. I think the President acted wisely in calling in the wise men. However, when we are talking about the creation of this Mobilization Board, we are talking about facing what most of us feel is, if it is not the most important problem facing America in the months and years ahead, certainly one of the most important. Therefore, I do not think we can afford a part-time Board.

I remind the President and the Members of the Senate that if this legislation is as important as many of us think it is, we should certainly have some of the best minds that we can have to serve on this Board. I suggest that if it is that important, which I think it is, I am sure that the President will be able to find enough of the best minds in the United States to give up for a while, if they have to, the endeavors in which they are engaged to come in and help out America in its time of need.

The other point I want to emphasize in the remarks made by the Senator from West Virginia (Mr. RANDOLPH) is the fact that if there is any concern I have with the Energy Mobilization Board, it is that too much of the power is concentrated in one individual. I think this is a very important issue and I should think the Senate would weigh the suggestions that have been made by the Senator from West Virginia carefully. I really believe that we would strengthen what we want to do with this Board if we would accept the amendments offered by my distinguished colleague from West Virginia (Mr. RANDOLPH). I thank the Chair.

(Mr. EXON assumed the chair.)

Mr. RANDOLPH. Mr. President, I am, of course, personally grateful for the support so well documented in the earnest address of the Senator from Nebraska.

In a corporation, the board of directors elects the chairman of the board. But remember, those directors are elected by the stockholders. Am I right? It is a business practice. I think that that is sound. I think the present occupant of the Presiding Officer's chair, the able Senator from Nebraska, the former Governor of that State, supporting this amendment, is correct. I hope that there is a sufficient number of Members in the Senate who would feel that this amendment has merit and that it ought to elicit their support.

Having said that, I will try to talk to as many Members as I can. Mr. President, I hope we can convince some of them.

I believe the amendment is valid. I believe it is necessary.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RANDOLPH. A 10-minute rollcall is agreeable to me.

Mr. JOHNSTON. I object to a 10-minute rollcall.

Mr. RANDOLPH. All right.

The PRESIDING OFFICER. The rollcall will be the usual 15 minutes.

The question is on agreeing to the amendment of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER) and the Senator from Idaho (Mr. CHURCH) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. BAKER. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 43, nays 50, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—43

Baucus
Bayh
Burdick
Byrd, Robert C.
Chafee
Cohen
Cranston
Dole
Durenberger
Exon
Garn
Glenn
Gravel
Hart
Hatch
Heflin
Heinz
Helms
Hollings
Humphrey
Javits
Kennedy
Leahy
Levin
Long
Mathias
McGovern
Morgan
Muskie
Nelson
Nunn
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Simpson
Stafford
Stewart
Warner
Williams

NAYS—50

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Cochran
Danforth
DeConcini
Domenici
Durkin
Eagleton
Ford
Goldwater
Hatfield
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Moynihan
Packwood
Pell
Pressler
Pryor
Sasser
Schmitt
Schweiker
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Weicker
Young
Zorinsky

NOT VOTING—7

Biden
Church
Culver
Hayakawa
Jepsen
Laxalt
Stevens

So the amendment (UP No. 611) was rejected.

Mr. JACKSON. I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Idaho.

UP AMENDMENT NO. 612

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 612.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 56, line 24, insert a new subsection (c) as follows:

"(c) Any waiver by the Board of the application of any Federal, State or local statute, regulation or requirement pursuant to section 36 and any disapproval by the Administrator of the Environmental Protection Agency or by the Secretary of Interior of such a waiver pursuant to section 36 shall require that the President concur in any such waiver and in any such disapproval. The President shall publish notification of any such concurrence or nonconcurrence in the Federal Register, with a statement of his reasons for such concurrence or nonconcurrence.

The PRESIDING OFFICER. The Senate will please be in order, so that we can continue with the orderly business of the Senate.

Mr. McCLURE. Mr. President, this amendment deals with the question we discussed yesterday with respect to the grandfather clause. It was decided yesterday that if a subsequent law—Federal, State, or local—affected a major project, the EPA Administrator or the Secretary of the Interior could veto that project, could veto the waiver of the State's law.

My amendment would simply add to that provision in the procedural section a provision that any action with respect to the waiver under the grandfather clause would have to be approved by the President. Either an affirmative waiver would be subject to that requirement, a veto of that action by EPA, or the Secretary of the Interior would be subject to that requirement.

Mr. President, this matter has been discussed with the managers of the bill on both sides, and with others who are interested in the action that was taken yesterday.

Mr. President, I ask the managers of the bill if they are prepared to accept the amendment. If they are I am prepared to take no further time on the amendment at this time.

Mr. JOHNSTON. Mr. President, this amendment simply adds more protection to either the giving of a waiver or the

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giving of a veto of a waiver by putting it to the President to join in that request. We think it is a good amendment. We will accept it.

Mr. DOMENICI. Mr. President, for the minority we concur it is a good amendment and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. METZENBAUM. Mr. President, will the Senator from Colorado yield to me for 1 minute?

Mr. HART. I yield without losing my right to the floor.

UP AMENDMENT NO. 613

Mr. METZENBAUM. Mr. President, I ask that the amendment I have at the desk be called up.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 8, insert after the words "may determine" the following: "*Provided*, That it shall meet no less than once a month for the purposes of conducting its business."

Mr. METZENBAUM. Mr. President, the amendment that I propose would further implement the sunshine law. It would make it necessary that the Board meet at least once a month. It would preclude the possibility of the chairman operating the Board in his pocket, being the only one involved in connection with activities of the Board. I think it moves in the direction of the intent of the sponsors of the legislation.

It is my understanding that the manager of the bill as well as the ranking minority member are prepared to accept it.

Mr. JOHNSTON. Mr. President, the Senator from Ohio accurately describes the amendment. It is a good one. We will accept it.

Mr. DOMENICI. Speaking for the minority, we concur.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. METZENBAUM. I thank the Senator from Colorado for yielding.

AMENDMENT NO. 495

(Purpose: To ensure agencies have appropriate information on which to base decisions on approval of priority energy projects)

Mr. HART. Mr. President, I have at the desk printed amendment No. 495, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) for himself and Mr. SIMPSON proposes an amendment numbered 495.

Mr. HART. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, lines 20 and 21, and page 42, line 3, strike "within two years unless a longer period is necessary".

On page 46, strike lines 1 through 3 and insert in lieu thereof:

"(d) The Project Decision Schedule established pursuant to subsection (a) shall expressly provide for the completion of all final agency actions and the issuance of all final agency decisions by a date no later than one year from the date the applicant's application for such actions or decisions is complete, or otherwise determined by the appropriate agency to be acceptable, unless a longer period is essential to enable the agency to comply with its statutory obligations or to assure that due process is not denied to any person.".

Mr. HART. Mr. President, I offer this amendment on behalf of myself and the distinguished Senator from Wyoming (Mr. SIMPSON), my colleague on the Environment and Public Works Committee. Section 17 of the bill provides that the Energy Mobilization Board would direct each agency's decision on a permit for a priority energy project within 2 years after the Board designates the project as a priority project. Our amendment would substitute for this provision a requirement that each agency make its decision within 1 year after the application for the permit is complete.

Mr. President, let me repeat that because this is the heart of the amendment. The bill in section 17 provides that after a project is designated as a priority energy project that it must receive a permit from the respective agency involved within 2 years. This amendment would shorten the time but the time would run from the time that an application for a permit was received completed in that agency.

Our amendment preserves the fast-track principle. In fact, under our amendment, most agency decisions would be made sooner than under the Energy Committee provision. However, the amendment insures an agency is not acting in the dark, but instead has the necessary information before making its decision. Let me explain the problems with the Energy Committee's 2-year deadline.

The Energy Mobilization Board could designate a priority project at a very early stage in the planning for the project. As soon as the project is designated, the clock on the 2-year deadline begins to run. Even if the final design of the project is not complete within 2 years after the designation, the arbitrary deadline would still force agencies to grant or deny permits. The agencies would then be forced to act in ignorance of what the project would actually be like and what its effects would actually be.

There also would be a possibility for the operator of a priority project to abuse the process, by not giving to an agency in a timely fashion the information required for the permit. An unscrupulous operator or applicant could do this, knowing that the agency would be forced to make a decision without all the information that it needs.

While an agency could theoretically turn down a necessary permit for a priority project if it does not have enough information, it would be very difficult for the agency to do so. Once a priority energy project has been designated by the Energy Mobilization Board, pressures for approval of the project will be even greater than they are without the fast-track process. It would be very difficult for an agency to reject a permit solely on the ground that it does not have as much information as it needs.

Our amendment would remove these potential problems, while still preserving the expedited decisionmaking process. Under our amendment, an agency would have to act within 1 year after it has a completed application from the priority project, or earlier if the agency is otherwise satisfied that it has all the information it needs.

Region 8 of the Environmental Protection Agency has reviewed its permit procedures and experience under the Clean Air Act. This review provides information that is helpful as we consider how best to shorten permit procedures. The major conclusion of this review is that the completion of a project's application is the most important part of the permit process.

Mr. President, I want to emphasize that the amendment offered by Senator SIMPSON and myself is not designed to stretch out the fast-track process. By imposing a 1-year deadline rather than a 2-year deadline, our amendment would actually force quicker decisions when the project design is already or nearly complete when the project is designated by the Mobilization Board. Only in a situation where the Mobilization Board designates a project before detailed design work has been completed, or in a situation where the operator of the project withholds information from an agency, would our amendment allow an agency to make a decision more than 2 years after the project is designated.

Put simply, the Energy Committee has a 2-year deadline. The clock on that deadline begins to run as soon as the project is designated. Our amendment has a 1-year deadline. The clock on that deadline begins to run as soon as an application for a permit is complete.

One effect of this amendment is to give the operator of a priority energy project the ability to get even quicker decisions than allowed by the committee bill. The operator can file a complete application whenever it wants to. With our amendment the operator would be assured of a final agency decision within 1 year of that filing.

This amendment goes to the fundamental question of whether we are going to adopt on a fast track so well greased it will not slow down under any circumstances, or whether we will make sure the fast track allows intelligent decisionmaking. We should force agencies to make quick decisions. But we should not force them to make decisions when they do not have adequate information. There is no better way to get bad decisions than to base them on too little information. We need quick decisions, but we also need good decisions.

Although this amendment does not amend the grandfather clause in the bill, that clause makes this amendment doubly important.

Although the grandfather clause was substantially improved yesterday, it still makes it possible that the only controls that would apply to an energy project are those in effect before the project begins construction. The Energy Mobilization Board could waive the application of any new environmental controls enacted after the project is constructed. In other words, the grandfather clause gives us only one chance to make sure that an energy project operates within acceptable limits. That one chance would be in the initial permits necessary for the construction of the project. If we are only to have that one opportunity for decisions on environmental controls, we need to make sure that those decisions are based on complete and correct information.

Under any circumstances, we must exercise care that agencies are able to make intelligent, informed decisions. That is the purpose of this amendment.

I yield to my colleague from Wyoming, a cosponsor of this amendment.

Mr. SIMPSON. I thank the senior Senator from Colorado.

Mr. President, I am pleased to join with the Senator from Colorado (Mr. HART), my colleague on the Subcommittee on Nuclear Regulation and my colleague in this amendment, in cosponsoring this amendment.

While I remain wholly and firmly convinced that action must be taken by this body to adopt an effective means, I think, for reducing the extraordinary bureaucratic delay and the often absurd agency redundancy in authorizing the exploration, development, and production of domestic energy resources, this legislation should not be allowed to throw into disarray presently efficient State and local permit programs.

I represent a State whose elected and appointed officials have acted boldly and painstakingly to reduce adverse environmental effects and to mitigate the socioeconomic impacts related to energy development. These initiatives have generally been well received by the responsible corporate citizens of Wyoming who are mining the coal, milling the uranium and exploring for and producing the oil and gas that is so vitally necessary for our society.

There should be no doubt in this Chamber, I think, that Wyoming is a likely candidate for siting priority energy facilities under the proposed mobilization board's authority. The White House Oil Import Reduction Task Force has already identified six counties in Wyoming which contain a suitable standard of energy and water resources which would sustain construction of major synthetic fuel plants.

The Wyoming Environmental Quality Act and the Wyoming Industrial Siting Act have well served the interests of the Nation, State and responsible industry itself. It is critically necessary to assure the existing statutory discretion—as to issues of the completeness and acceptability of permit applications—solely to those appointed officials who administer these programs. These individuals have the responsibility and knowledge required for such decisions. No agency, board, or official headquartered in Washington, D.C., should substitute its judgment for that of experienced State elective and appointed officials.

Early application filings, although often incomplete, have become useful measures for assuring an early coordination of industry with industrial siting issues and mining programs within the State. However, the fundamental basis for any final permit decision is always sound information. The determination as to the accuracy and completeness of the data required for making such decisions should clearly be placed with the licensing agency.

Once that determination is reached, a period of 1 year would then begin to run unless existing statutory obligations would direct otherwise. The undesirable impact on State-Federal relations which could possibly flow from the proposed legislation was ably addressed by my fine friend and fellow Senator from Wyoming (Mr. WALLOP) in the additional views he filed with the report on this bill.

The adoption of this amendment would certainly make the administration of this bill, should it become law, much more in harmony with the successful State legislative efforts, such as the Wyoming Environmental Quality Act and the Wyoming Industrial Development Information and Siting Act, and similar such laws in other States.

I thank the Chair.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, no further debate is in order except on the amendment——

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Debate is not in order except on the time of the amendment and being controlled by the Senator from New Mexico.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes on the Schmitt amendment.

The PRESIDING OFFICER. The Senator has no time on that amendment until it is offered.

Is there a sufficient second?

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. PERCY. Mr. President, the Senator from Illinois has been trying to gain recognition for some time, as the Chair knows. Senator SCHMITT, who has time available, will yield a couple of minutes so that I can explain my amendment. Would it be in order for Senator SCHMITT to yield a few minutes so that I can present an amendment, although the Senator from Illinois recognizes that, if it is not accepted, he may ask for a rollcall vote?

The PRESIDING OFFICER. That can be done by unanimous consent.

Mr. PERCY. Therefore, Mr. President, I ask unanimous consent that I be permitted to offer an amendment which, if not accepted, I would have a rollcall vote on, and I do so at this time.

Mr. JOHNSTON. Mr. President, reserving the right to object, I do not want to cut any Senator off, but this has been a unanimous-consent measure that has been set since last night. We have gone through a lot of time today.

The PRESIDING OFFICER. If I may interrupt, debate is not in order.

The question is on agreeing to the amendment of the Senator from Colorado. Is there a sufficient second?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What was the ruling of the Chair?

The PRESIDING OFFICER. There is no debate in order since time has expired.

The question is on agreeing to the amendment of the Senator from Colorado.

Mr. HART. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH) and the Senator from Iowa (Mr. CULVER) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. BAKER. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The PRESIDING OFFICER (Mr. BRADLEY). Are there any Senators present who wish to vote?

The result was announced—yeas 31, nays 62, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—31

Armstrong
Baucus
Boschwitz
Bradley
Burdick
Chiles
Cohen
Cranston
DeConcini
Durenberger
Exon
Glenn
Hart
Kassebaum
Kennedy
Leahy
Mathias
Muskie
Nelson
Packwood
Percy
Proxmire
Ribicoff
Riegle
Sarbanes
Schmitt
Simpson
Stafford
Tsongas
Wallop
Williams

NAYS—62

Baker
Bayh
Bellmon
Bentsen
Boren
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cochran
Danforth
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Goldwater
Gravel
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Levin
Long
Lugar
McClure
McGovern
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Nunn
Pell
Pressler
Pryor
Randolph
Roth
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Warner
Weicker
Young
Zorinsky

NOT VOTING—7

Biden
Church
Culver
Hayakawa
Jepsen
Laxalt
Stevens

So Mr. Hart's amendment (No. 495) was rejected.

UP AMENDMENT NO. 614

Mr. PERCY. Mr. President, I send an amendment to the desk on behalf of myself and Senators Levin, Ribicoff, Javits, and Muskie, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. Percy) for himself, Mr. Levin, Mr. Ribicoff, Mr. Muskie, Mr. Javits, and Mr. Nunn proposes an unprinted amendment numbered 614:

On page 24, lines 17 and 18, strike "conflict of interest,".

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Chair advises the Senator that debate is not in order.

(The following statement explaining the amendment was submitted for the Record by Mr. Percy:)

The Board's members are going to be officials making important decisions concerning national energy policy. Furthermore, they will be making choices among competing applicants which may mean millions and perhaps billions of dollars to the successful applicants. Yet these important officials, possessing the most extreme power ever given to an agency in peacetime, would be exempt from the conflict of interest laws under the energy bill's proposal.

These are exactly the kind of officials that should be subject to the conflict of interest laws. This is especially so when they have such power to reward their friends and punish their enemies. The exemption from certain conflict of interest laws is particularly disturbing since there has been no demonstrated need for such an exemption. I therefore, urge that no exemption be granted to these important officials.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to say this amendment is acceptable to the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 615

(Purpose: To provide that the authority of the Board to designate priority energy projects will be effective after the transmission of a report to Congress and after congressional review of that report)

Mr. SCHMITT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. Schmitt) for himself, Mr. Harry F. Byrd, Jr., and Mr. McClure proposes an unprinted amendment numbered 615.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 6 and 7, insert the following:

Sec. 7. (a)(1) Within 90 calendar days of continuous session of Congress after the first meeting of the Board, the Board shall prepare and transmit to the President and the Congress a report which specifies each major Federal law and regulation and each major State law, regulation, or plan enacted in accordance with criteria set forth in Federal law, which significantly delays the planning, design, construction, or initial operation of energy projects. The Board shall not report on any law, regulation, or rule described in section 36(d) of this Act. The report shall include recommendations for legislative action concerning any such law or regulation if the repeal or modification of such law or regulation would significantly enhance the capability of the Board to carry out the functions assigned to it by this Act.

(2) For the purposes of this subsection and of section 9 of this Act—

(A) continuity of session of Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

On page 31, line 7, strike out "Sec. 7." and insert "(b)".

On page 31, line 11, strike out "(a)" and insert "(1)".

On page 31, line 13, strike out "(b)" and insert "(2)".

On page 31, line 16, strike out "(c)" and insert "(3)".

On page 33, line 2, strike out "The" and insert "No earlier than 60 days of continuous session of Congress after the date of transmittal of the report required by section 7(a) of this Act, the".

The PRESIDING OFFICER. The Chair advises the Senator that there are 52 minutes left on this amendment, 22 to the Senator from New Mexico, 30 to the Senator from Louisiana.

Mr. SCHMITT. Mr. President, while some of my colleagues are on the floor, the Senator from New Mexico will not take a great deal of time, having already spoken on this amendment. I shall merely summarize what the amendment does.

It establishes that the Board's responsibility after being created would be to look at the roots of this problem that this act and the purposes of this act would address. The roots of the problem are, of course, in existing law and regulation.

Specifically, the Board would be required, within 90 calendar days of continuous session of Congress after the first meeting of the Board, to prepare and transmit to the President and Congress a report which specifies each major Federal law and regulation and each major State law, regulation, or plan enacted in accordance with criteria set forth in the Federal law which specifically delays the planning, design, construction, or initial operation of each energy project. The Board shall not report on any law, regulation, or rule that was described in section 36(d) of this act, which was an amendment taken earlier in this debate to exempt certain labor and equal opportunity and other laws.

The report shall include recommendations for legislative action concerning any such law or regulation if the repeal or modification of such law or regulation would significantly enhance the capability of the Board to carry out the functions assigned to it by this act.

Mr. President, the amendment also would have the report so produced by the Board lie before the Congress for 60 days of continuous session after the date of transmittal of the report.

Then, at that time, the Board would be authorized to designate priority projects. This process, then, of the Board designating priority projects and beginning the production of project decision schedules would begin after the Board had studied the roots of the problems and after the Congress had had 60 days to consider the laws and regulations which had caused those problems.

I might add that if I were the energy czar of this Board, I would hope that it would be possible to do just that, better understand the task before me, and to ask Congress for help in that task once the problems had been fully and completely identified. I believe we must take this more deliberate approach to the early life of the Board if we are to have any hope of success for its future.

Mr. President, I reserve the remainder of my time at this point.

Mr. JOHNSTON. Mr. President, this is not a real bad amendment. It is, nevertheless, a bad amendment, for this reason: The amendment would require the Board to make a report to Congress within 90 days or 90 legislative days after it begins work. When this Board begins work, we want them to begin work on expediting projects. We do not want them to have to spend their time making reports to Congress. If it has to make a report within 90 days, this Board, before it ever gets in action, is going to have to start reporting.

What we want the Board to do is get in action and start trying to get on-line projects, priority energy projects. It is only by going through that process of getting on-line priority energy projects that they will determine what the laws are that are impeding those projects.

You do not find out what is impeding projects without actually getting in the field and doing it unless you just want to go to the library or unless you just want to talk to people, which you can do right now. We do not need an Energy Mobilization Board to do that.

We do require reports in the statute. Indeed, those reports should be made. But as I recall, the deadline in our statute is to report to Congress in not later than 2 years. The reason for that is that we want the Board to get a fund of information from actual experience, because that is the only thing that is going to be worthwhile to Congress, to have actual experience encountered in the field as to what these impediments are to fast action.

So, Mr. President, we think it works counter to the purpose of the Board to require them to spend their first 90 days writing more reports to Congress and more delay in getting to the purpose of this act, which is the designation of projects and the making of priority schedules. For that reason, we oppose the amendment, Mr. President.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield 2 minutes to the Senator from New Mexico?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Mr. President, I say to the Senate that I do not know if this amendment is a real bad amendment, but it seems to me the ideas contained in it are rather helpful. But I, for one, do not think that it will get us anywhere.

I think we are going to have an opportunity to pass on these five members, pass on their qualifications. The President has to send them up. They come before the Senate.

I think we can hope that these five men, with one leader, will be truly distinguished Americans, good heads on their shoulders, and will understand we have an energy crisis. They may very well see fit to do some of this studying. There is nothing that precludes them from doing that. They can study and recommend. They are not immune from communicating with the President and the Congress.

But I do not know if we need a study to know there are substantive laws of the land which will inhibit the development of certain energy projects. We have already decided we will not waive those for the time being.

We ought to get on with checking the real problem, deciding whether it will work or not and, where it will not, we can make some modifications and changes.

If they send up a special list of substantive laws that need changing, I would submit we would not have accomplished anything except that we will know what the Library of Congress and the committees could go get now, and give us a list.

The thing is that what we want this Board to do is pick some that are important, we have such a criteria, and then to expedite the time within which they can begin. If it turns out that only works for 25 projects, and we need make other changes, we will find out about it.

But I really believe it is but a waste of the time necessary to do this. They are perfectly capable as adult Americans, with a challenge from their President and Congress, to make management decisions that will make their job workable.

Mr. JOHNSTON. Mr. President, the implications of this amendment are really just coming home to me as I do a little mathematics.

It provides that the report must be filed within 90 days of continuous session, and then 60 days of continuous legislative session, and it must repose in the Congress before any project is designated. That means 90 legislative days, plus 60 legislative days, or 150 legislative days before any action can be taken.

Those 150 legislative days are broken by recess of more than 3 days. For example, the recess we took last October 15 to January 15. That is 3 months. We would add that onto it if that happens to intervene. Any August recess, of course, would come in the middle.

So we could effectively have 9 months to 12 months of inaction of this Board while Congress waits here to read a report, which report is not based on any experience. It is just based on whatever they can slap together in the first 90 days.

I said this was not a really bad amendment. Mr. President, on reflection, it is a very bad amendment.

Mr. DOMENICI. If the Senator will yield for an additional comment, I want to state, also, for the Senators that are hearing this, as I understand it, I was there for a great deal of the time, it has a list prepared by industry witnesses as to statutes, laws, and others things delaying energy projects.

I say to my good friend, and I have the greatest respect for him, my colleague from New Mexico, that if he really wants a study in the bill, that can be provided for.

If the study is not adequate, we can go ahead and provide it.

I think with Senator BOSCHWITZ' amendment, it will be studied in detail and they will tell us where the hold-ups are.

I believe we can expect somebody as competent as the Senator, I say to my good friend, to be the head of this. I think they will prepare a management schedule and an administration schedule for themselves that will get something done from the very beginning.

I regret that I cannot recommend the Senator's amendment be accepted.

Mr. SCHMITT. Mr. President, I will yield in a moment to my good friend from Idaho. But I would like to respond first to the comments just made.

It is unfortunate my two distinguished colleagues and good friends managing this bill have not been exposed to the real world of management in the Federal bureaucracy.

If I were going to take over this Board, and I am not sure I would, given the constraints under the bill, the first thing I would do is want to compile the list of substantive laws and regulations that would be considered.

I am not sure the political appointee we will get will know anything about management. I am not sure who will be confirmed by the Senate.

I am saying that it is up to the Senate to do a little management direction for that Board.

If anybody was around after ERDA was created, he knows exactly what will happen. Every Member of this Congress will start lobbying that Board for his own priority project. That Board will not have time to do anything but react. They will be up here testifying and reacting to individual Members of Congress. It will be a shambles of management.

This amendment statutorily builds in some time for the Board to get its act together and understand what is causing the problem that they have been asked to solve.

The committee has not done it fully, but they can do it by talking to individual State and local government, and I think very quickly in this period we will have the report necessary.

It is not just writing it. It is doing good substantive work that they should do anyway.

Finally, I say that with this report the Congress can evaluate how we can help the Board get their job done. If we are not willing to do that, Mr. President, then we are just turning loose a monster out there that we will have absolutely no control over because we are not going to know what they are doing.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. SCHMITT. I will yield to the Senator for a question, and then to the Senator from Idaho.

Mr. JOHNSTON. Is the Senator aware that on June 21 we were still on the legislative day of June 1?

Mr. SCHMITT. I intended to correct the record that the Senator established. These are not legislative days, and continuous session is defined as the calendar days of Congress in session. It is more than a 150 calendar days, but not legislative days, and the record and the amendment are corrected.

I yield to the Senator.

Mr. McCLURE. Mr. President, I thank the Senator for yielding, because I do not view it with the alarm my colleagues on the committee do. I think it does have some of the criticisms that have been leveled at it in occupying Board time.

But the 150 legislative days are going to occur before midsummer of next year. Unless I miss my guess, the Congress is not about to adjourn yet. And if the rumors around here are correct, if we deal with the SALT question, we may well be yet greeting that man with white whiskers and the red suit before we get out of here.

There will certainly be some time taken up in Congress this year and this time will have expired before midsummer of next year.

I do not think the most optimistic members of the committee really expect that this Board, once appointed and functioning, will immediately designate some priority energy projects and that they will be in being by midyear, next year. So I do not think the delay question is that important.

But I think fundamentally the reason I support the amendment, and I do support it and I have asked the Senator from New Mexico to add me on as a cosponsor, is because, really, what this legislation does is avoid the issue.

The real issue is, what is it we have done as a Congress and as a Nation to erect in substantive statute unacceptable barriers to progress that must be met in meeting the energy needs of this country?

We are erecting here a means by which we can avoid the laws we have passed.

What the amendment of the Senator from New Mexico will do is force the Board to identify what those laws are, what the problem areas are that this Congress should address rather than passing the buck to a Board to avoid the laws we have passed.

I do not think that necessarily means once they have identified those problem areas that this Congress will have more courage than we have now. But at least we might have more knowledge.

I think rather than being a mischievous amendment that it is an amendment that has the potential for some good, and that that potential far outweighs the potential for evil, even though neither this amendment nor the bill itself will guarantee we meet the energy needs on the time schedule this country must require.

I do support this legislation although, very frankly, it is not a very enthusiastic support for the bill as a whole, because I do not believe when we decided to avoid substantive waiver that we addressed the fundamental questions that are involved; and the critics of the bill, who charge that the passage of this bill will force us not to look at the substantive, basic problem, that we will avoid looking at it because we saw we have to have a chance for it to work before getting back to substantive law, may be right. This amendment goes at least part way toward solving that and meeting that criticism, and I support the amendment.

Mr. SCHMITT. I thank the Senator Also, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) is a cosponsor.

Does the Senator from Ohio wish me to yield?

Mr. GLENN. Two minutes.

Mr. SCHMITT. I yield the Senator from Ohio 2 minutes.

Mr. GLENN. I support the concept of the bill. I think we should be making these decisions, and this seems a logical way to do it.

The only question I have on the amendment is whether we can provide any waiver for those activities that might be obviously needed and that we do not wish to have held back for this 150-day period.

Is there any provision the Senator has considered for such projects which we want to get underway right away and which we would not want to see go through this 5-month holdback period?

Mr. SCHMITT. Because of the time, I have thought of that. That is why I supported the Senator's amendment, because that would be an easy vehicle by which we could tie the two processes together. Unfortunately, the Senator's amendment was rejected.

If this amendment should prevail, I think it would be in the interest of the conference to work out that arrangement in conference. I am not sure that we have time, under the situation we face, to have the amendment drafted in that way.

Mr. GLENN. The Senator is correct.

If this amendment is agreed to and goes to conference, I would welcome an effort by the conferees to work out some sort of waiver operation whereby if there are projects that should go now, projects we do not want to wait 5 months to get going, they should not be held up, if there is that unanimity of opinion with regard to them.

I plan to vote for the amendment.

Mr. SCHMITT. I thank the Senator.

Mr. President, I really am sorry—and disappointed, to some degree—that the committee managers feel that this is a bad amendment. I think that had they spent the kind of time the Senator from New Mexico has spent in a management environment, with complex issues, they would realize that this is a perfectly sane and legitimate way to make sure that the priority projects actually are accelerated.

If the Board gets into this thing at the rate they are going to be forced to get into this thing by Congress, it will be massive chaos, just as the Department of Energy was.

I reserve the remainder of my time, and I believe we can move to a vote fairly quickly.

Mr. JOHNSTON. Mr. President, I am not aware of any other amendments to be promulgated.

Does anyone else have an amendment?

Mr. SCHMITT. I do not believe any other amendments are in order.

Mr. JOHNSTON. I thought I would ask for unanimous consent that we have back-to-back votes with this amendment and final passage, with the second vote to be a 10-minute vote. I will withhold that request momentarily and yield to the senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to my good friend from New Mexico that I did not say his amendment was bad. In fact, I said I did not know if it was real bad or bad. I said I thought it had real merit.

The problem I have is that if the Senator wants to offer as a new law for this land the creation of a board to go out and find out what is wrong with the laws of our country which are holding up energy projects, that would be a very good law. Maybe that would get it done, and maybe some good would come of it after it was finished.

My argument is that an Energy Mobilization Board should be able to find some energy projects without having to go through all this, especially since we are saying that all that is going to be waived is time.

If they report back that there are 50 laws in this country that impact on energy, I know what is going to happen. We will have at least six committees in the Senate with jurisdiction. They will begin the process of hearings, and in the meantime, the Energy Mobilization Board will have done us a good research service, the preparation of a good litany and perhaps the evaluation of this litany of laws that inhibit. However, I submit that we still will not have done anything except what the oversight committees should be doing, anyway.

I have been here a little while, and I believe that would be another valuable study, but the Mobilization Board would not make any decisions. In all seriousness, I think we should do what the Senator is saying. I do not think the Mobilization Board should do it.

Mr. SCHMITT. I have not been in the Senate as long as the senior Senator from New Mexico has, but I have been around this town in a management position. If the chairman of this Board does not do what this amendment proposes, then he is going to be in one heck of a fix. He has to do it. He has to find out what his problems are before he tries to solve those problems.

Mr. DOMENICI. I have said that. I said that if the junior Senator from New Mexico were the chief executive officer, that is probably what he would do.

Mr. SCHMITT. But I am not sure whom we are going to get. I do not know whether we are going to get a political hack or somebody who knows what he is doing. Even if we get somebody who knows what he is doing, it will be an impossible task. Let us at least give them 6 months to get their act together.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. SCHMITT. I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. Culver) is necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from California (Mr. Hayakawa), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The PRESIDING OFFICER (Mr. Tsongas). Are there other Senators who wish to vote?

The result was announced—yeas 39, nays 54, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—39

Baucus
Boren
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Chafee
Cochran
Cohen
Dole
Garn
Glenn
Gravel
Hatch
Hatfield
Heinz
Helms
Humphrey
Kassebaum
Kennedy
Leahy
Lugar
McClure
Mathias
Melcher
Muskie
Nelson
Packwood
Percy
Pressler
Proxmire
Ribicoff
Riegle
Roth
Schmitt
Simpson
Stafford
Thurmond
Warner
Zorinsky

BEST DOCUMENT AVAILABLE

NAYS—54

Armstrong
Bayh
Bellmon
Bentsen
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Goldwater
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Long
McGovern
Magnuson
Matsunaga
Metzenbaum
Morgan
Moynihan
Nunn
Pell
Pryor
Randolph
Sarbanes
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Wallop
Weicker
Williams
Young

NOT VOTING—7

Baker
Biden
Culver
Hayakawa
Jepsen
Laxalt
Stevens

So Mr. SCHMITT's amendment (UP No. 615) was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate is about to pass legislation to establish an Energy Mobilization Board which has been represented as a step in the direction of energy self-sufficiency. The new EMB is supposed to slash through the morass of regulations and requirements which heretofore has slowed development of domestic energy projects.

Certainly, there is rampant throughout the country a desire to see government redtape cut, a demand for action to alleviate the energy crisis, and a feeling that Americans must reduce dependence on uncertain foreign fuel supplies. Since 1974, Congress has wrestled with energy problems with only limited success.

The necessity of identifying and then building energy projects of significant national interest is obvious. What is not so obvious is a general understanding of the whys and wherefores inhibiting such construction. Lest we forget, it was Congress that passed the National Environmental Protection Act, the Clean Air Act, the Surface Mining and Reclamation Act, the Toxic Substance Control Act, the Water Pollution Control Act, and a host of other public laws designed to protect and preserve the Nation's environment from the pollution that has come to be associated with a strong and growing industrial free society.

In a decade of responding to a justifiable concern over preserving the Nation's environment, we created a set of laws which in their implementation have hobbled our ability to meet a new and present danger to our way of life in future decades—our vulnerability to energy blackmail.

To grapple with this new danger, we have sought ways and means to recapture a healthier degree of energy self-sufficiency. As a means of achieving this goal, the Senate is about to vote to create a new Energy Mobilization Board.

This Board will not guarantee the construction of "priority" national energy projects; it will only focus our attention on those projects to be designated for such attention.

Granting authority to an EMB to waive procedural environmental requirements will do little to accomplish what is necessary for our free enterprise system to meet the challenge of vulnerability to the dangers of heavy reliance on imported fuel.

Such a board, with powers to identify projects and speed up the regulatory process which otherwise would stymie construction, can provide marginal help in some cases, but the prospect of true relief may be illusory.

The EMB provides a mechanism to support faster approval of energy projects but does not authorize exemptions from environmental requirements.

I shall support the EMB, but without enthusiasm and without illusions. I have had to admit, like many of my colleagues, that this Congress is not so constituted, nor is it in the mood to tackle, the hard, thankless, and politically unattractive task of a thorough review of the entire environmental regulatory system.

I believe that if we put our minds to it, this Congress could simplify substantive prerequisites to energy project approval and could balance needed environmental protection with the necessity to meet the challenge resulting from our over-dependence on foreign energy supplies.

There is a danger that the creation of the EMB will result in a fast shuffle of redtape rather than as fast track system for approving critical energy projects.

If the American people and the Congress believe there is an overriding necessity for certain energy projects, then we should amend substantive Federal law that inhibits the building of such projects.

For example, it took years to achieve, but the Congress did provide for the construction of the trans-Alaskan oil pipeline. During debate on the current bill, we acknowledged the "priority" status of another project—the Alaska natural gas pipeline—by exemption from the bill because it is already on somewhat of a "fast track." We also acknowledged that it is in the national interest to speed conversion of oil-fired or gas-fired utilities to the use of coal—our most abundant natural resource—by accepting the Huddleston amendment to the EMB, which I cosponsored.

Perhaps an EMB is necessary in the current congressional and public environment. But we must not be lulled into a complacent national attitude because of this new board. When the next foreign-forced fuel crisis is dropped on our doorstep, we shall have to face up to the fact of life that environmental concerns must be balanced against national energy security. With or without the EMB, the sooner we face this fact of modern-day life, the better.

In the meantime, it is my hope that the new Energy Mobilization Board will act as judiciously and quickly as possible to bring on line new domestic energy projects which are vital to our national security.

● Mr. WALLOP. Mr. President, when the Senate defeated the Ribicoff-Muskie subsitute for S. 1308 yesterday by a vote of 58 to 39, the handwriting was on the wall that, barring some unforeseen circumstance, S. 1308 would win Senate approval on final passage. And indeed, the hour is upon us and adoption of the Energy Mobilization Board legislation is a virtual certainty. Even though the bill, as amended, does not resolve to my complete satisfaction some of the concerns expressed in my additional views, I am voting for the bill because, on balance, I believe it is in the national interest to do so.

My vote rests primarily upon the State water law amendment the bill now contains, and the Senate's pledge to retain this provision in conference with the House. This provision reserves for the States the right to control energy development within their borders where that development depends upon the appropriation of water, a scarce and precious commodity in so many of our States. In addition, several other amendments adopted on the floor during the debate on this bill respond to some of the complaints lodged by many respected groups representing State and local interests. In particular, I am pleased that the bill contains an amendment I offered with several of my colleagues which would require the Board to enter into cooperative agreements with State and local governments which would be affected by an energy project. This will foster a cooperative, rather than a coercive, Federal-State relationship toward the shared goal of energy self-sufficiency.

Notwithstanding my affirmative vote, there are some problems with this legislation, many of which I am confident can be worked out in conference with the House.

Mr. President, we are at a critical stage in our history. We must increase domestic production of energy sources and redouble our efforts at conservation if we are to control our own destiny and free ourselves from the clutches of foreign energy producers. We cannot survive dramatic increases in oil prices as Iran and Indonesia put the world on notice of just yesterday. While I do not think this legislation is perfect by any means, I do believe that it will help us achieve energy self-sufficiency in the coming years.

This vote is not an easy one, but on balance, I cast my vote in the affirmative because I believe it is in our Nation's interest to do so. Finally, I am hopeful that the bill that finally emerges from conference will achieve all of these important goals while preserving traditional notions of federalism.●

● Mr. BURDICK. Mr. President, I am going to vote against this bill. Many of the roadblocks to an accelerated energy program lie in substantive law. This bill makes no changes in that regard. The administrative process could be speeded up without this law. I fear that we will have created another layer of bureaucracy that could impede not stimulate programs to meet our energy needs.●

Mr. GLENN. Mr. President, I must oppose S. 1308. I must do so even though I see a great need for accelerating the review of critical energy facilities. I am in no way blind to this Nation's urgent energy needs, and I am in no way belittling the efforts of the Committee on Energy and Natural Resources to address them. But, as I explained at length this morning during debate on the amendment I offered, I am convinced that the proposed Energy Mobilization Board will add to our bureaucratic woes and sap the strength of the Department of Energy—and that it will do only those two things.

Earlier today I spoke in detail about these inherent problems and their inevitable results. My fears in this regard—and my resultant opposition to this legislation—are not new-found or hastily voiced. As I made clear in my remarks this morning, the concerns I have today are rooted in the concerns I had when we set up the Department of Energy 2 years ago. And unless we defeat this legislation, these same concerns will be reflected 2 years from now—if it takes that long for us to realize how we have worsened our energy predicament.

Let me sketch again, just briefly, why my worries about this legislation are so great that I must vote against it. First—and this hardly requires restatement—we have all been around long enough to learn that bureaucracies are burdensome. Yet we insist on adding layer after layer of Federal bureaucracy, and with each layer we come closer to smothering ourselves with government. We all know that, so let us not fool around with semantics: The Energy Mobilization Board will be just another bureaucracy, and a bureaucracy by any other name will cause just as much trouble as the rest.

Furthermore—and this may be iconoclastic of me—I have been, still am, and expect to remain a champion of the Department of Energy. This 2-year-old Department was born out of perceived need, active thought and great urgency.

Urgency is not the same as desperation, but it can have a similar side effect: a lack of both thoroughness and foresight. We thought, in pulling together the Energy Research and Development Administration, the Federal Power Commission and the Federal Energy Administration to make the Department of Energy, that we were creating a strong and unified whole, a full-fledged and fully viable new Department that would formulate national energy policy, implement it through its various divisions, and flesh out the policy with smoothly functioning, highly productive research operation.

We expected the Department to do all that at the same time that it was getting organized and learning to manage itself. We expected, in short, the infant DOE to spring forth full-grown and behave like a very wise adult. People cannot do that, and neither can departments—which, after all, are made up of people.

Because we had such inflated expectations of the Department of Energy, we failed, I believe, to equip it fully with necessary tools—authority to go along with its huge responsibilities.

That we are now discussing the formation of an Energy Mobilization Board provides clear evidence of DOE's handicaps. We should have foreseen, in our fervent attempt to cure our energy ills by creating a Department of Energy, the problems we are now thinking of treating with an Energy Mobilization Board. Had we done so, we would not need to be here today and we would have, I believe, a comprehensive energy policy and an effective Energy Department.

But I am not here to cry over spilt milk. I am here to urge bureaucratic conservation: to urge this Senate to lend its support to the Department of Energy it helped create. Creating an Energy Mobilization Board will do just the opposite.

Maybe a few analogies will help define my concern. Imagine, if you will, the administration and Congress deciding to give special status to outstanding cancer research projects through a system wholly outside the Department of Health, Education, and Welfare or any of its divisions. Or consider the prospect of mobilizing to meet urgent military needs without consulting the Department of Defense. Or a fast-track program for major mass transit efforts that snubs the Department of Transportation. I could go on, but I think the point is clear. The two-year-old DOE may not yet have proven itself a child prodigy. That, however, is no excuse for emphasizing its failings over its strengths and closing it out of the decisionmaking on priority energy projects. Selection and accelerated review of those projects is tantamount to energy policymaking. The Department of Energy is responsible for energy policymaking, and we should enable it to fulfill that responsibility rather than further disable it from doing so.

This bill is, in reality, disabling legislation. I cannot support, and I urge its defeat.

For a more complete expression of my views, I would urge perusal of my statement of earlier today.

Mr. DOLE. Mr. President, yesterday, the Senator from Kansas had hoped that the motion to table the Ribicoff-Roth amendment to S. 1308 would not have passed. It was the intention of this Senator that with appropriate amendments, the Ribicoff-Roth substitute would have been the more acceptable proposal.

However, having tabled that amendment, we are now faced with the alternative of either doing nothing, or approving the very drastic concept of an Energy Mobilization Board with far-reaching powers as provided for in S. 1308.

Mr. President, the Senator from Kansas feels that to allow this Energy Mobilization Board to become a part of the Federal bureaucracy, with such vast powers, would be devastating to the principle of States' rights. The creation of such a board, with such far-reaching power to ride roughshod over State and local substantive and procedural law, in the absence of a clear national emergency or need, would involve serious constitutional problems.

In the recent case of National League of Cities against Usery, the Supreme Court struck down the application of Federal wage and hour provisions to State and local government employees, on the ground that such application unconstitutionally impaired the States' "freedom to structure integral operations in areas of traditional government functions."

Mr. President, I fear that this and similar other cases could and would be used as precedents for States to bring many actions in court challenging the constitutionality of this Energy Mobilization Board. This bill gives the Board too much power to waive State laws and to coerce States into complying with its decision schedules. In addition, judicial review would be available only in the temporary emergency court of appeals, the constitutionality of which may also be challenged by States.

If the States proceeded to litigate the Board's and Court's constitutionality, the entire Energy Mobilization Board might very well be tied up in court for months or even years. This would certainly not aid in the swift approval of energy project construction permits.

Because of the very serious constitutional problems which S. 1308 presents, the Senator from Kansas feels that there are a number of improvements which if adopted would make the proposal before us more palatable. An amendment which would trigger the Energy Mobilization Board to come into existence only if the President determines that a state of "national energy emergency exists" is one such clarification.

For such a state of national energy emergency to exist, he must find that a national energy supply shortage exists, which:

First. Has resulted in a loss to the United States, or an allocation away from the United States under international obligations, of more than 20 percent of the U.S. supply of petroleum for a period of time exceeding 3 days.

Second. Cannot be managed adequately through withdrawals from the strategic petroleum reserve nor through acquisition of supply of petroleum through other sources.

Third. Is not manageable under other energy emergency authorities and is of a level of severity where conservation contingency plans are not sufficient to protect the national interest.

Fourth. Is expected to persist for a period of time sufficient to seriously threaten the adequacy of stocks of crude oil or petroleum products.

Fifth. Is having and can reasonably be expected to continue to have a major adverse impact on national safety or the national economy.

Sixth. Has resulted from an interruption in the supply of petroleum by an act of God, sabotage, or by decisions of the governments of the several oil producing countries to prohibit the export of crude oil either to the United States directly, or collectively to governments with which the United States has obligations.

The Board would exist only for the duration of this national energy emergency. This proposal would insure that the States' and localities' rights would be interfered with only if a true state of emergency justifies this.

Mr. President, we have been told that this Board will ameliorate our energy problem, for which the States' rights should be sacrificed. But the administration's energy plan will not produce significant increases in domestic energy production in the short run. The gains are uncertain and long term, at best. With such uncertain benefits, I cannot see how we can allow such usurpation of States' rights by the Board.

Second, the Senator from Kansas feels that the temporary emergency court which is set up in section 27 of the bill may constitute an unconstitutional infringement by usurping the rights of State courts to pass judgment on State substantive and procedural law. Accordingly, I would support an amendment to nullify this court.

Third, Mr. President, the Senator from Kansas would like to see a sunset provision included in the legislation which would terminate the Energy Mobilization Board in 5 years, and which would require the Government Accounting Office to issue a report on the Board's accomplishments and recommendations for future action. We must be careful not to create a monster of an agency which would continue beyond its useful life. Bureaucracies have an innate tendency to perpetuate themselves.

The report requirement would be a way of assuring that the life of the Board would not be extended beyond its usefulness, and would provide the Congress with an independent and comprehensive assessment of the Board's performance. I would envision the report to include the following:

First. Has the Board accomplished its goals; if not, why not?

Second. How many years and dollars has the Board saved us?

Third. By how much has our imported oil been reduced?

Fourth. Should the Board's authority be terminated or extended?

In addition, the Senator from Kansas would favor an amendment requiring that the composition of the Energy Mobilization Board be bipartisan. This would insure that political or philosophical differences would not dictate national energy policy. There is a clear need for balance in the philosophical and political outlook of the Board's members, and a need to insure that the Board would not be used as a political tool by the party which controls the White House.

We must not play politics with the energy needs of the country. Without this amendment, the Senator from Kansas fears that the Board could be used to designate priority energy projects on the basis of political patronage rather than actual need and merit. Furthermore, the Board is far more likely to insure a willing compliance with its decisions by States and localities if it is bipartisan, because its motives will be looked upon as sincere, and as being in the national interest.

Finally, the Senator from Kansas feels that the grandfather clause of the bill, section 36, dangerously usurps States' constitutional rights. I would like to see an amendment giving States and municipalities a veto power over the Board's waiver of their own statutes, regulations, and requirements enacted after construction of a critical energy facility has begun. Such an amendment would insure that if some dangerous hitherto unknow poisons or pollutants would be created by an energy facility, appropriate laws could still be passed to require that this danger be curtailed or eliminated. Without such a veto power, States would be helpless to prevent future dangers to the health and well-being of their people caused by new energy facilities.

Mr. President, at this point I would like to state for the record my sincere concern over the deficiencies within S. 1308. Without the clarifications I have discussed, this Senator does not see how he can support such a drastic bill.

Mr. President, the Senator from Kansas feels that this bill before us today has been fast-tracked too quickly by one committee only. Consequently, it has emerged with many serious flaws which could have been obviated if it had been referred to the appropriate committees.

Accordingly, Mr. President, I wish to state for the record that I will support a motion to recommit and jointly refer S. 1308 to the Committees on Judiciary; Environment and Public Works; Energy and Natural Resources; and Governmental Affairs, in order to resolve the pressing problems which the bill poses.

Many serious constitutional questions that will certainly arise if this legislation is enacted into law might very well be resolved if brought before the Judiciary Committee for consideration. The Board is, in essence, a legal entity with legal powers. These powers should be spelled out adequately by the standing committee which has jurisdiction.

The disturbing bureaucratic problems which might result if this legislation is enacted could very well have been resolved if the bill had been brought before the Governmental Affairs Committee. This committee should take a close look at providing the proper sunset and reporting provisions necessary to insure that a new arm of the bureaucracy is not created. We have seen, all too often, the creation of Federal agencies that totally disregard the legislative intent granted to them. At a time when the American public is asking for less government interference in their daily lives, let us be certain that whatever we create is responsible and necessary.

Also, Mr. President, the troublesome environmental problems which this legislation may possibly present to clean-air and clean-water rights should be discussed by and considered before the Environment and Public Works Committee.

Finally, the exact costs and benefits in terms of reducing our dependency on imported oil which this legislation may bring about if enacted might be better and more adequately explored by the Energy and Natural Resources Committee.

Mr. President, the administration has assured us that this Energy Mobilization Board is essential to fast-track necessary energy projects. However, the Senator from Kansas feels that this bill itself has been fast-tracked through the Congress at great cost to State and local constitutional rights. Unless we pause now to reconsider and resolve the problems which its enactment would create, and which have been brought before the full Senate during this debate; this Senator cannot in good conscience support this proposal.

Mr. President, 2 years ago we were told by the Carter administration and their spokesmen in Congress, that a new department of energy was needed to alleviate our energy crisis. Since its inception it has only exacerbated the problem, by issuing a maze of confusing and contradictory rules and regulations. We were told that the creation of this multibillion dollar bureaucratic nightmare would be the ultimate solution. However, one only need look at the current situation to see that the cure was worse than the disease. The administration is now asking the Congress to create yet another level of bureaucracy to cut through the very redtape that the Department of Energy and other agencies have created.

Mr. President, is there no limit to the arrogance of the philosophy which seeks to impose more and more bureaucratic control over our lives?

Today, Mr. President, we are told the Board will consist of only four members. Tomorrow we will be told that it is necessary to arm another Federal agency with hundreds, perhaps thousands of new bureaucrats who will be needed in order to meet the objectives of this proposal.

Mr. President, the Senator from Kansas raised the issue of bureaucratic and constitutional objection to the Board proposal on the floor of the Senate on July 17, this year. On that date, I proposed amendment No. 333 to the nuclear regulatory commission authorization bill, the text of which appears on pages 18900–18901 of the CONGRESSIONAL RECORD of July 17, 1979.

In that proposed amendment, the Senator from Kansas provided that the Energy Mobilization Board would act in an advisory capacity to the 50 States, and that State and local government would cooperate together in expediting final decisions. This provision insured that the Board could not conflict with the States' rights.

In addition, my amendment included a "sunset" provision to make it clear that the Board would only be a temporary entity, and not a bureaucratic nightmare.

Mr. President, the Senator from Kansas would like to quote from my statement on the floor July 17:

> I do not envision, however, this Board becoming another bureaucratic nightmare for the American consumer, or for American industry, or for anyone else who may have some energy project in mind.
>
> We also provide for appeals. We have tried, in drafting the proposal, to balance the concerns, the concerns of everyone, of the executive branch, of the environmentalists, of those who would produce.
>
> Again, I suggest that if there is any crisis of confidence in America, much is due to Federal regulation, Federal bureaucracy, delay and finally, frustration on the part of the American people.

The Senator from Kansas understands the process in the Congress. It is not my inten to circumvent the hearing process or to somehow avoid the hearing process because I know of the importance of obtaining all views and incorporating, in some cases, those views into the legislation.

In closing, Mr. President, I would only say that rather than creating new Federal agencies with far-reaching powers over States rights, the Senate should take a more responsible approach which would take into consideration all of the concerns I have discussed—an approach such as that proposed by the Senator from Kansas.

The Nation would be better served by being treated to the abolition of some Federal agencies which now strangle our economy, than by being imposed upon by yet another bureaucracy without reasonable limitations as to its powers, and subsequent threats on the States.

● Mr. HELMS. Mr. President, for too long our country's energy policy has been a disastrous series of patchwork programs, rules and regulations which have frustrated the energy producers and the American people. With the passage of the Energy Mobilization Board legislation today, I fear that we will have worsened our plight.

In any event, the Senate has acted in customary Washington style: When confronted with a perceived problem, simply create a new Government bureaucracy.

I honestly wonder if more than a handful of Senators have the faintest idea what we are creating today. The Judiciary, Governmental Affairs, and Environment and Public Works Committees all have complained that their input into this legislation was inadequately considered in the rush to bring this bill up for Senate action. A dozen or more amendments, unknown to most Senators, have been accepted on the floor by the bill's managers. Massive confusion is perhaps the best assessment of the situation on the floor during consideration of this legislation.

One point is abundantly clear: Whatever it is that we have created will simply get the Government more deeply involved in the energy business, instead of getting it out. This has been our problem all along. And more of the same just is not the answer.

This Senator from North Carolina is as anxious as anyone to move ahead with vital national energy projects—without unnecessary delays. But how absurd it is to create a new Federal agency just to cut the red tape and bypass the logjams of existing Federal agencies. It would appear that the elimination of the sources of the impediments themselves would be a better approach to the problem. This is why I cannot in good conscience support the establishment of the so-called Energy Mobilization Board.●

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Washington may have up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in order. The Senate is not in order.

Mr. JACKSON. Mr. President, I want to take this opportunity to thank the members of our committee, and especially the committee staff, the Committee on Energy and Natural Resources, for their hard work and sound advice on this vital legislation.

First, Jim Pugash, one of our newest and youngest staff people, has carried the major responsibility in an outstanding manner.

Chuck Trabandt and Dave Swanson of the minority staff have maintained the committee's tradition of bipartisan professionalism.

Mr. President, I want to convey my special thanks to the distinguished junior Senator from Louisiana (Mr. JOHNSTON), who is the floor manager of the bill, and who was ably assisted in all of this by the distinguished senior Senator from New Mexico (Mr. DOMENICI).

I also want to thank various members of the committee on both sides of the aisle, the ranking minority member, the distinguished Senator from Oregon (Mr. HATFIELD), and I want to especially thank, too, Senator FORD from Kentucky and other members of the committee who were actively involved in the debate.

Mr. President, this has been probably one of the most complicated pieces of legislation, and yet, Mr. President, it will go down as one of the most far-reaching pieces of legislation as it pertains to our country as a whole.

I say that because this legislation must, of necessity, be the centerpiece by which we really move in the field of energy. I say that because the country cries out for action on the part of Congress. Congress, Mr. President, is not being criticized for doing too much. Congress is being criticized for not doing enough.

This legislation will make it possible to really implement the ongoing legislation that we will have to deal with, whether it is synfuels, whether it is solar energy, whether it is the building of pipelines and refineries, and all of the other conventional requirements in the field of energy.

So I salute the Senate as a whole, my colleagues on the committee, and the staff; and finally, Mr. President, the general counsel of our committee, Mike Harvey, who has so managed the direction of our work on this committee as to avoid a lot of pitfalls that we would otherwise have found ourselves in.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JACKSON. Yes.

THE SENATE HAS FASHIONED A BALANCED ENERGY MOBILIZATION BOARD

Mr. ROBERT C. BYRD. Mr. President, the Senate is coming to the close of 3 days of constructive debate on the Energy Mobilization Board bill. I commend Senators on both sides of the aisle for their cooperative approach on this legislation. Senator JOHNSTON, as the majority floor manager, has been responsive to Senators on both sides of this issue, and has represented the Energy and Natural Resources Committee well.

The work of the minority floor manager, Mr. DOMENICI, has been equally commendable during consideration of this matter.

A balanced piece of legislation has resulted from their efforts and the efforts of many other Senators. The Energy Mobilization Board, as set forth in this bill, will help expedite vital projects. It will do so without undermining environmental laws. The primary purpose of the bill has been reinforced as the Senate has acted on it. That purpose—to reduce unreasonable delays in the regulatory process—has been preserved.

Creating an appropriate balance between energy and environmental requirements is always a difficult task. That challenge has been central to the formation of a national energy policy. The debate on S. 1308 has outlined the major issues involved in the development of energy and environmental policies, and shows how they may be reconciled.

The amendment adopted to section 36 of the bill—the grandfather clause—illustrates this point. A reasonable compromise was worked out on a potentially divisive portion of the bill by this amendment. The new language, fashioned by Senators RANDOLPH, JOHNSTON, and others, allows waivers of laws passed after construction of a priority energy project has begun, with several conditions.

First, the members of the Board must approve the waiver by majority vote;

Second, the waiver must be necessary to prevent significant delay in the completion or operation of the project;

Third, the Environmental Protection Agency may disapprove the waiver if it would result in the release of toxic pollutants which would endanger public health.

The Federal Mine Safety and Health Act and the Occupational Safety and Health Act are not subject to the waiver provision of this bill.

This is one example of the accommodation of diverse interests which has occurred in this bill. I again congratulate the respective floor managers for their part in this process, as well as the chairmen and ranking minority members of the Energy and Natural Resources Committee, Senators JACKSON and HATFIELD, and the chairmen and ranking minority members of the Environment and Public Works Committee, Senators RANDOLPH and STAFFORD.

I also commend the chairman and ranking minority member of the Budget Committee, Senators MUSKIE and BELLMON, and the chairman and the ranking minority member of the Governmental Affairs Committee, Senators RIBICOFF and PERCY for the contribution each has made to this legislation. It is a good piece of legislation and the result of the hard work of the Senate.

Mr. MUSKIE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Washington yield?

Mr. JACKSON. Yes, I yield.

Mr. MUSKIE. Mr. President, I regret that I cannot support this legislation. I would like to explain the reasons for my position:

I do not believe that the unprecedented intrusions made by this bill into State and local prerogatives to protect the health and safety of citizens are necessary to achieve energy independence;

I do not believe the Energy Mobilization Board is a necessary body as constituted in this bill. It will be only a new bureaucracy contributing more redtape, not less, to the approval process for energy facilities;

I do not believe that this bill will be a major contributor to the President's goal of reducing our dependence on foreign oil by 50 percent by 1990. In fact, the bill makes projects which would use foreign oil eligible for special treatment.

I cosponsored a substitute bill which did expedite the review process without overriding the protections enacted at the Federal, State, and local levels to address legitimate concerns. I also attempted to remove the most onerous provisions from this bill. The Senate declined to take what I regard as the responsible course.

Mr. President, we all appreciate the necessity of dealing with the realities of the energy situation and making adjustments in order to lessen our dependence on foreign oil. I was prepared to do that, and I still am. But the bill before us is not going to accomplish that purpose.

We have confused speed with haste in our rush to take aggressive action to achieve national energy goals.

How does yet another bureaucracy, headed by one man, to implement laws written by the Congress of the United States, the State legislatures and local governing bodies insure wise decision-making?

How important is overriding Federal, State, and local protections if the only result is irreparable damage to the world in which we must live?

How can the alleged expediting process set up by this bill function without the support of the State and local governments, whose opposition has been expressed by the National Conference of State Legislatures, the National Governors Conference, the League of Cities, and the Conference of Mayors?

And how many projects have actually been delayed by the protections this bill surgically removes?

These questions have not been adequately answered in the debate.

I do not believe the supporters of this legislation have considered the consequences of their bill, and I cannot be a party to what I believe is blind acceptance of unsupported assertions in the name of energy independence.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. JACKSON. I yield back the remainder of my time.

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Yes.

The PRESIDING OFFICER. The question is, Shall the bill pass? All those in favor——

SEVERAL SENATORS. Yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill as amended pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER) is necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "nay."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from California (Mr. HAYAKAWA), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The PRESIDING OFFICER. Are there other Senators who wish to vote?

Mr. SIMPSON voted in the affirmative.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The result was announced—yeas 68, nays 25, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—68

Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Danforth
DeConcini
Domenici
Durkin
Eagleton
Exon
Ford
Goldwater
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
McClure
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Nunn
Pell
Percy
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—25

Armstrong
Baucus
Burdick
Cohen
Dole
Durenberger
Garn
Glenn
Gravel
Hart
Hatch
Helms
Humphrey
Kassebaum
Lugar
McGovern
Muskie
Nelson
Packwood
Pressler
Proxmire
Ribicoff
Roth
Schmitt
Weicker

NOT VOTING—7

Baker
Biden
Culver
Hayakawa
Jepsen
Laxalt
Stevens

So the bill (S. 1308), as amended, was passed as follows:

S. 1308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Priority Energy Project Act of 1979".

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PURPOSES

SEC. 2. (a) The purposes of this Act are to utilize to the fullest extent the constitutional power of Congress to regulate interstate and foreign commerce and to provide for the national defense in order to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(b) Congress finds and declares that these purposes can be served by—

(1) providing a coordinated, prompt, and simplified process for approval of non-nuclear energy facilities that are determined to be in the national interest;

(2) expediting the approval process without unduly interfering with the present statutory authorities and responsibilities of Federal, State, and local agencies; and

(3) fostering the integration of Federal, State, and local procedures for permitting, licensing, and approving energy projects which are determined to be in the national interest pursuant to section 11.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "applicant" means any person planning or proposing a project which has been designated a priority energy project;

(b) "approval" means any permit, license, lease, certificate, right-of-way, or other grant, rate, ruling, or decision authorized or issued by an agency of Federal, State, or local government;

(c) "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

(d) "Board" means the Energy Mobilization Board created under section 4 of this Act;

(e) "Chairman" means the Chairman of the Board;

(f) "class of energy projects" means any set, collection, or group of energy projects with common characteristics of which no single project has an expected cost in excess of $5,000,000, and the total cost of which is not expected to exceed $250,000,000, as adjusted to take into account the rate of inflation since the date of enactment, as measured by the adjusted gross national product implicit price deflator;

(g) "designation request" means an application filed with the Board pursuant to section 10(a) of this Act for an order by the Board designating an energy project or class of projects as a priority energy project;

(h) "energy facility" means any physical structure, including any structure which incorporates active and or passive solar devices, any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, or installation, or any combination thereof, which will facilitate energy conservation or invention, exploration, research, development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including, but not limited to, any facility owned or operated in whole or in part by Federal, State, or local government or any combination thereof;

(i) "energy project" means any plan, proposal, program, scheme, or design to produce, build, install, expand, modify the operation of, or alter in any other way, an energy facility;

(j) "Federal agency" means an executive agency as defined in section 105 of title 5 of United States Code;

(k) "local agency" means any executive agency of local government;

(l) "local government" means (i) any government body, including any special purpose government body, of any political subdivision of any State, (ii) any recognized government board of any Indian tribe or Alaskan Native Village which performs substantial governmental functions, or (iii) any general or special purpose government among States or within a State;

(m) "local law" means the rules, regulations, ordinances, codes, case law, and other laws of any local government;

(n) "member" means a member of the Board other than the Chairman;

(o) "person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, nonprofit institution or any entity organized for a common purpose, and any instrumentality of Federal, State, or local government;

(p) "priority energy project" means any project or class of projects which has been determined by the Board to be in the national interest pursuant to its authority under sections 9 and 11 of this Act;

(q) "Project Decision Schedule" means an unrevised Project Decision Schedule promulgated pursuant to section 17 or a revised Project Decision Schedule promulgated pursuant to section 17 and revised pursuant to section 18;

(r) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(s) "State agency" means any general or special purpose executive agency of State government; and

(t) "State law" means the laws, rules, resolutions and case law of any State.

ESTABLISHMENT OF THE ENERGY MOBILIZATION BOARD

SEC. 4. (a) There is hereby established a special executive agency to be known as the Energy Mobilization Board.

(b)(1) The Board shall consist of a Chairman, who shall hold office at the pleasure of the President, and three members. The Chairman and the three members shall be appointed by the President, by and with the advise and consent of the Senate.

(2) The Chairman shall be an individual who, as a result of his training, experience, and attainments in academia, industry, commerce, public interest activities, and/or government is exceptionally well qualified to perform the duties of his office.

(3) Members of the Board shall be appointed for a term of three years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years.

(4) The Chairman of the Board shall serve as a full-time employee of the Board and shall receive compensation at the rate prescribed for offices and positions at level I of the Executive Schedule (5 U.S.C. 5312). Members of the Board shall receive compensation at a rate equal to the rate prescribed for offices and positions at level I, including travel time, for each day such member is engaged in the actual performance of duties as a member of the Board. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(5) The Chairman shall not engage in any other employment or hold any other office or position in the Federal Government during the period of his employment. Members shall not hold any other office or position in the Federal Government during the period of their employment.

(6) The Chairman shall be subject to the same restrictions and requirements imposed upon supervisory employees under title VI, part A of the Department of Energy Organization Act (42 U.S.C. 7211–7218), except that in applying the provisions of title VI, part A to the Chairman, the term "the Board" shall be substituted in place of "the Department".

(7) Members of the Board shall be subject to the reporting requirements imposed upon individuals who are nominated by the President to positions which require the advice and consent of the Senate by title II of the Ethics in Government Act of 1978 (5 U.S.C. App. I).

(8) Except as provided in subsection (b)(7) of this section, members of the Board shall not be subject to any disclosure or divestiture requirements of any law solely by virtue of their service on the Board.

(c) The Board shall be administered under the supervision and direction of the Chairman, and, except as provided in section 11, the Chairman shall have final and exclusive decisionmaking authority on all matters within the jurisdiction of the Board. The members of the Board shall advise the Chairman in carrying out his duties.

(d) There shall be a General Counsel to the Board who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314).

MEETINGS, EXECUTIVE DIRECTOR, SUBPENA POWER

SEC. 5. (a) The Board is authorized to sit and act at such places and times as it may determine: *Provided*, That it shall meet no less than once a month for the purposes of conducting its business.

(b) The Chairman may appoint an executive director who shall exercise such powers and duties as may be delegated to him by the Board. The executive director shall receive compensation at the rate provided for level III of the Executive Schedule (5 U.S.C. 5314).

(c)(1) The Chairman shall have the power to issue such subpenas as are necessary for the purpose of monitoring compliance with any Project Decision Schedule or for the purpose of carrying out its authority under section 21. Such subpenas may require the attendance and testimony of witnesses and the production of any records, material or evidence from any Federal, State, or local agency body or any person that relates to any matter within the jurisdiction of the Board. The Board or any member of the Board or any agent designated by the Board for such purpose, may administer oaths and affirmations, examine witnesses, and receive records, materials, or evidence. Such attendance of witnesses and the production of such records, materials or evidence may be required from any place within the United States at any designated place.

(2) In any case of recalcitrance or refusal to obey a subpena issued under subsection (c)(1), the district court of the United States within the jurisdiction of which said person guilty of recalcitrance or refusal to obey is found or resides or transacts business, upon application by the Board, shall have jurisdiction to issue to such agency or person an order requiring them to appear before the Board, its members, or agents there to produce records, materials or evidence if so ordered, or there to give testimony touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Except as provided in section 32, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review an order of a district court pursuant to this section. The Temporary Emergency Court of Appeals shall expedite such review pursuant to the provisions of this Act.

(3) Process and papers of the Board, its members, or agents may be served either upon the agency or person subpenaed in person or by registered or certified mail or by telegraph or by leaving a copy thereof at the residence or principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered or certified and mailed or telegraphed shall be proof of service of the same. Witnesses summoned before the Board, its members or agents shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(4) The Board may, with the approval of the Attorney General, issue an order requiring any person to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, in the same manner and subject to the same restrictions as a government agency which may issue an order pursuant to section 6004 of title 18, United States Code.

(5) All process of any court to which application may be made under this Act may be served in the judicial district wherein the person required to be served resides or may be found.

(6) Oral testimony given under compulsion of a subpena or materials furnished to the Board pursuant to a subpena shall be matters of public record to the extent required by section 552 of title 5, United States Code.

POWER AND AUTHORITY OF THE BOARD

SEC. 6. (a) The Board shall have the authority, subject to the provisions of this Act and, within the limits of available appropriations, to carry out the purposes of this Act including the authority to—

(1) make full use of competent personnel and organizations outside the Board, public or private; form advisory committees and special ad hoc interagency task forces; and make other personnel arrangements in accord with Federal law; as the Board determines to be appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Board with any agency or instrumentality of Federal, State, or local government, or with any person, with or without reimbursement, with or without performance or other bonds and with or without regard to section 5 of title 41, United States Code: *Provided*, That the Board shall not use its authority to become directly involved in the actual construction or operation of any priority energy project;

(3) make advance, progress, and other payments which relate to the functions of the Board without regard to the provisions of section 529 of title 31, United States Code;

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Board and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, personal property of all kinds necessary for or resulting from the exercise of authority granted by this Act;

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board; and

(7) act without regard to the Federal Advisory Committee Act (5 U.S.C. App. I).

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit of the execution of such contracts or arrangements in such detail and in such manner as shall be prescribed by the Board, and such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purposes of such audit and examination.

(c) The Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly and expeditiously to the Board upon its request.

(d) On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this section.

(e) The Board may obtain services of experts in accordance with section 3109 of title 5, United States Code.

(f) In carrying out the provisions of this Act, the Board is authorized to appoint such personnel, subject to the provisions of title 5, United States Code, governing appointments and compensation in the competitive service, as may be necessary. The Board may appoint not to exceed thirty individuals without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) In carrying out the provisions of this Act, the Board is not authorized to interfere with labor-management relations, nor to take any actions which conflict with the terms of an existing labor-management contract.

(h) The Board may alter Federal, State, and local law only as specifically authorized by sections 13, 17, 18, 21, 22, 28, 34 and 36 of this Act.

(i) If the Board recommends that any State or local agency be provided financial assistance for the purposes of implementing sections 16 and 17 of this Act the Secretary of Energy shall provide such assistance under authorities available to him.

REPORTS OF THE BOARD

SEC. 7. (a) In addition to the specific duties assigned to the Board by this Act, the Board is authorized and directed to review, monitor, and report annually, or more often as necessary, to the Congress on—

(1) the current status of activities and programs being conducted by the Board;

(2) the status of each priority energy project including any significant delays in the completion of the priority energy project and the causes thereof; and

(3) the need for legislation to expedite the completion of priority energy projects, including the need for legislation to waive Federal, State, or local laws.

(b) Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

ABOLITION OF THE BOARD

SEC. 8. (a) The authority of the Board under section 9 shall expire ten years after the date of enactment of this Act: *Provided*, That the provisions of this Act shall continue to be applicable to all energy projects designated as priority energy projects prior to the expiration of the Board's authority under section 9.

(b) On the last day of the first year after all agency decisions necessary for the completion and initial operation of all priority energy projects have been made, the Board shall be abolished. The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the operation of the Board shall be transferred to the Treasury or to such agencies of the Federal Government in such fashion as the Director of the Office of Management and Budget shall determine. For the purpose of this section, if an agency issues a final decision denying an approval or declining to perform an action necessary to the completion of a priority energy project, any other agency approvals or actions not yet performed or obtained by the project shall not be deemed necessary.

(c)(1) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Board shall abate by reason of the abolition of the Board. No cause of action by or against the Board shall abate by reason of the abolition of the Board.

(2) If, before the date of the abolition of the Board, the Board is a party to a suit, then such suit shall be continued with the Director of the Office of Management and Budget or his designee substituted.

AUTHORITY TO DESIGNATE PRIORITY ENERGY PROJECTS

SEC. 9. The Board is hereby authorized to designate any energy project or class of energy projects as a priority energy project pursuant to the procedures and criteria provided in this Act.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 10. (a) Any person planning or proposing an energy project or class of projects may apply to the Board for an order designating such project or class of projects as a priority energy project. Where known to the applicant, any application may identify (i) any duplicative, overlapping or conflicting requirements, or other requirements which would substantially delay a final decision on the project if all other decisions were timely made and (ii) the critical regulatory problems likely to be encountered by the applicant with recommendations for the resolution of such problems. An application shall include such detailed information concerning the project as the Board may require by rule to enable the Board to make a designation, including a detailed design proposal for the project, detailed economic data on the costs of the project, and an analysis of environmental impacts of the project: *Provided*, That the adequacy of an application under this section shall not be subject to judicial review.

(b) Not later than five days after the receipt of a designation request, the Board shall publish notice of the filing of the designation request, together with a brief description thereof in the Federal Register. The Board shall also keep on file and make available for public inspection and copying at the main office of the Board and in such other places as the Board deems appropriate such portions of the full designation request which are not matters listed in section 552 (b) of title 5, United States Code. Interested persons shall be afforded at least thirty days from the date such request becomes available to the public for submitting written comments for the Board's consideration.

(c) A designation request for an energy project or class of projects may be submitted to the Board at any time prior to the completion of the project or class of projects notwithstanding any previous decision by the Board denying the same or a similar request for that project or class of projects.

PROCEDURES AND CRITERIA FOR DESIGNATING PRIORITY ENERGY PROJECTS

SEC. 11. (a) Not later than sixty days after receipt of a designation request, the Board shall determine whether the proposed energy project or class of projects is of sufficient national interest to be designated a priority energy project and shall publish its decision in the Federal Register. If the Board designates the project as a priority energy project, such publication shall contain a brief summary of the reasons for the Board's decision.

(b) No project or class of projects shall be designated a priority energy project without the concurrence of the Chairman and at least two of the three members of the Board.

(c) No project or class of projects shall be designated a priority energy project unless the Board finds that the project directly or indirectly will materially reduce the United States dependence on insecure foreign oil or petroleum products by, but not limited to increased energy production, transportation, conservation, refining storage, or the demonstration of new energy technologies.

(d) The Board shall designate any fossil-fuel fired electric generating plant for which such designation is requested as a priority energy project if such project involves (1) the conversion of a facility from the use of oil or natural gas to coal or a coal-derived fuel, or (2) the construction of a new facility which would replace an existing oil or gas fired facility with coal or coal-derived fuel fired capacity.

(e) The Board shall designate any prospective small hydroelectric facility as a priority energy project if such designation is requested. For purposes of this section "small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water potential of such dam, and which has not more than 30,000 kilowatts of installed capacity.

EXTENSION OF DEADLINES

SEC. 12. The Board may extend the deadline for receiving public comments under section 10(b) and the time for ruling on an application for priority energy project status under section 11 if more time is necessary to afford interested persons a reasonable time to comment.

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 13. (a) A determination by the Board under section 11 of this Act is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Promulgation or revision of a Project Decision Schedule is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Before publication of the Project Decision Schedule, the Board shall determine, after providing a reasonable opportunity for public comment, if any Federal action relating to the priority energy project will be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and shall publish notice of its determination in the Federal Register. Such a determination shall be immediately subject to judicial review under the provisions of this Act. If the Board determines that a priority energy project will require such a major Federal action, the remaining parts of this section shall apply.

(d) Notwithstanding any other provision of law, the Board may require that one final environmental impact statement be prepared and that such statement be used by any or all Federal agencies to satisfy the National Environmental Policy Act of 1969 and by any or all State and local agencies to substitute for any comparable statement required by State or local law: *Provided*, That if the Board requires that such statement substitute for a comparable requirement of State or local law—

(1) such statement shall include discussion of all matters required under the comparable State or local law to the same degree and extent as required by such law; and

(2) the Federal agency or agencies preparing such statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law.

(e) Before publishing the Project Decision Schedule pursuant to section 17 of this Act but after consulting with the Council on Environmental Quality, the Board shall designate the Lead Agency for the preparation of the environmental impact statement.

(f) Before publication of the Project Decision Schedule under section 17 of this Act, to Lead Agency shall convene one or more scoping meetings with such other Federal agencies as it deems appropriate and, if the Board has determined that the Federal environmental impact statement shall substitute for any comparable State or local statement or other assessment, with representatives of such States or localities. The purposes of the scoping meetings shall be to identify significant issues, establish the content of the environmental impact statement, and determine whether and how responsibilities should be apportioned among other Federal agencies.

(g) After the scoping meeting(s), the Lead Agency, with the concurrence of the Board, may determine to prepare the environmental impact statement without requiring assistance from any other Federal agency, notwithstanding any decision of the Board to require that one such statement be used by any or all Federal, State, and local agencies: *Provided*, That any comments, opinions, or materials submitted by Federal, State, or local agencies shall be considered by the Lead Agency and made available to the public.

(h) At any time prior to the completion of the priority energy project, the Board may assign responsibilities in the preparation of the environmental impact statement to any Federal agency. The Board shall publish such assignments in the Federal Register, and such assignments shall be subject to procedures and deadlines specified by the Board. Such procedures and deadlines shall be incorporated in the Project Decision Schedule and shall be treated as part of the Schedule for the purposes of this Act. Except as provided in this section, the deadlines and procedures for carrying out such assignments shall be consistent with the provisions in section 17 of this Act. Such assignments, and the deadlines and procedures for carrying out such assignments, may be modified at any time subject to the limitations in section 18.

(i) All Federal agencies shall comply with the assignments, deadlines and procedures established pursuant to subsection (f) of this section. Nothing in this section shall authorize the Board or the Lead Agency to require any action from any State or local agency in the preparation of the environmental impact statement.

(j) The Board may require any Federal agency to prepare the environmental impact statement at the same time as it performs other actions necessary to process an application submitted by the applicant: *Provided*, That no Federal agency shall issue a final decision on a major Federal action significantly affecting the quality of the human environment until at least fifteen days after the environmental impact statement has been completed.

(k) Notwithstanding any other provision of law, the Project Decision Schedule established under section 17 shall provide that in preparing an environmental impact statement, agencies shall give interested persons an opportunity to submit written data, views, or arguments with or without opportunity for oral presentation and such opportunity shall constitute the exclusive opportunity for parties to submit written data, views, or arguments pertaining to any matter to be considered by the agency pursuant to its obligations under the National Environmental Policy Act.

(l) Notwithstanding any other provision of law, the Board may require any two or more Federal agencies to consolidate any or all aspects of their proceedings for preparing an environmental impact statement.

(m) For the purposes of this Act, the term "Lead Agency" means the Federal agency designated by the Board to supervise the preparation of an environmental impact statement on a priority energy project.

EXPEDITION OF APPLICATIONS

SEC. 14. (a) In order to simplify the procedures for an application for any necessary action or approval by a Federal agency with respect to any project for energy exploration and developemnt, the Director of the Office of Management and Budget shall—

(1) review the application and reporting forms required by all Federal agencies of any [person planning or proposing any such] project;

(2) prescribe, to the extent practicable, a single application form for use by all agencies; and

(3) take such action as may be necessary to eliminate duplicative application and reporting forms in order to prevent the filing of similar or identical information by any such person with different Federal agencies.

(b) The Board shall encourage prospective applicants under section 10 to contact the Board and to file applications for any necessary Government actions or approvals with the appropriate agencies as soon as possible in order that any eventual action or decision may be expedited. The Board shall consider any failure to contact the Board or file such applications in a timely fashion in making its determination under section 11 on an application under section 10.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 15. Not later than thirty days after notice appears in the Federal Register of a decision by the Board designating an energy project or class of projects as a priority energy project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion and initial operation of such project or any part thereof, shall transmit to the Board—

(a) a compilation of all significant actions required by such agency before a final decision or action or any approval(s) necessary to the completion and initial operation of the priority energy project can be rendered or performed;

(b) a compilation of all significant actions required of the applicant before a final decision or action by such agency can be made;

(c) a tentative schedule for completing actions listed in subsections (a) and (b) of this section within two years unless a longer period is necessary;

(d) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(e) information regarding the amount of funds and personnel available to such agency to perform the actions required by such agency before any final decisions can be made and the impact of giving priority status to the applicant on other applications pending before such agency.

INFORMATION FROM STATE AND LOCAL AGENCIES

SEC. 16. (a) Not later than five days after notice appears in the Federal Register of a decision designating a proposed energy project as a priority energy project, the Board shall notify the Governor of any State which is likely to exercise jurisdiction over the priority energy project of the designation, and other appropriate officials of political subdivisions of any State which might be significantly affected by a priority energy project, and shall request the Governor to compile and transmit to the Board within twenty-five days—

(1) a compilation of all significant agency actions required by all State and local agencies within the State before a final decision or action on any approval(s) necessary to the completion and initial operation of the priority energy project can be rendered or performed;

(2) a compilation of all significant actions required of the applicant before a final decision or action by such agencies can be made;

(3) a tentative schedule for completing the actions listed in paragraphs (1) and (2) of this subsection within two years unless a longer period is necessary;

(4) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(5) information regarding the amount of funds and personnel available to such agencies for performing the actions required by

such agencies before any final decisions can be made and the impact of giving priority statutes to the applicant on other applications pending before such agencies.

(b) If at any time the Governor fails to cooperate with the Board in complying with this section, or any State or local agency which is likely to have authority to grant or deny an approval or perform an action necessary to completion of such project fails to cooperate with the Governor, the Board may instruct such agencies directly to provide the information enumerated in subsection (a) and such agencies shall comply with the instructions of the Board.

PROMULGATION OF THE PROJECT DECISION SCHEDULE; EXPEDITION OF ENERGY PROJECTS

Sec. 17. (a) Not later than sixty days after designating a proposed project or class of projects as a priority energy project, the Board shall publish in the Federal Register and in such other places as the Board deems appropriate a Project Decision Schedule containing reasonable deadlines for all significant final agency actions and decisions and all significant applicant actions about which the Board has received notice pursuant to sections 15 and 16 of this Act, and for any other actions or decisions which the Board, in its discretion, deems significant. A deadline may require that decisions and actions be performed in a shorter period of time than would be required if the project was not a priority energy project. Where possible, the Board shall negotiate and enter into written cooperative agreements with each affected State and local government establishing the deadlines.

(b) Notwithstanding any other provision of law, the Board may establish special procedures in the Project Decision Schedule for any Federal agency subject to such Schedule. Such procedures shall be consistent with all statutes and rules, regulations, and orders promulgated by the agency except that the Board may require the agency to—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may submit such written data, views, or arguments and such written responses to the data, views, or arguments submitted by other parties, as the Board, agency, or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions;

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify. The agency itself shall omit a tentative or recommended decision if the Board determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection:

Provided, That no requirement under this subsection (b) shall be binding on any State or local agency.

(c) In setting deadlines pursuant to this section, the Board shall consult with the Federal agencies subject to such deadlines. The Board shall also consult with the Governor of any State if any government agency within such State has authority to grant or deny any approval or perform any action necessary to the completion of the priority energy project and shall request the Governor to act as an intermediary between the Board and all State and local agencies: *Provided*, That if the Governor fails to cooperate with the Board or if any State or local agency fails to cooperate with the Governor under this section, the Board may consult directly with such State or local agency. Where possible, the Board shall enter into a written cooperative agreement with each affected State and local government establishing the deadlines.

(d) No Project Decision Schedule shall encompass a period of more than two years unless the Board finds that additional time is necessary.

(e) The deadlines in the Project Decision Schedule shall be consistent with the deadlines submitted to the Board pursuant to sections 15 and 16 unless the Board determines that different deadlines would help expedite or coordinate Government review.

(f) Notwithstanding any other provision of law, the deadlines and special procedures imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines and procedures for reviewing applications filed by the applicant.

(g)(1) Any Federal agency with authority to grant or deny an application for an approval for the exploration or development of Federal land in connection with coal, oil, or gas production shall—

(i) expedite all actions necessary to grant or deny such approval;

(ii) take final action to grant if the requirements of applicable law and regulations have been met or deny such approval not later than twelve months after the date of receipt of an application for such approval; and

(iii) publish in the Federal Register a notice which describes the final action of the agency concerning such approval.

(2) The President may waive the provisions of this subsection with respect to a particular application for an approval if he determines that such waiver is in the national interest. Within fifteen days after the issuance of any such waiver, the President shall transmit a report to the Congress which explains the reasons for such waiver and which states why such waiver is in the national interest.

REVISIONS IN PROJECT DECISION SCHEDULES

Sec. 18. At any time prior to the completion of the priority energy project, the Board may (i) revise the special procedures for Federal agencies on the Project Decision Schedule; (ii) add new special procedures for Federal agencies on the Project Decision Schedule; (iii) revise any deadline on the Project Decision Schedule; or (iv) add any new deadline on the Project Decision Schedule: Provided, That no modification in the Project Decision Schedule shall be allowed unless the Board determines that—

(a) such modification would further the purposes of this Act; and

(b) continued adherence to the Schedule would be impractical or would not be in the public interest; and

(c) in the case of a request for a modification by an agency, that the agency has exercised due diligence in attempting to comply with section 15 or 16 and with the Schedule; and

(d) in the case of a request for a modification by an applicant, that the applicant has exercised due diligence in attempting to comply with the Schedule; and

(e) except as provided by this section, such modification is consistent with the provisions of section 17 and is published in the Federal Register.

AGENCY AUTHORITY TO ADOPT SPECIAL PROCEDURES

Sec. 19. All Federal, State, and local agencies governed by a Project Decision Schedule may establish special procedures which the agency determines to be appropriate for meeting the deadlines on such Schedule. Any agency which is likely to be governed by a Project Decision Schedule at any time may also establish special procedures to govern agency actions and decisions relating to priority energy projects. These procedures shall be consistent with all statutes governing the agency's actions, except that, notwithstanding any other statutes, the agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such Schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may submit such written data, views, or arguments and such written responses to the data, views, or arguments submitted by other parties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions;

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify. The agency itself may omit a tentative or recommended decision if it determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection.

AUTHORITY TO TERMINATE PRIORITY DESIGNATIONS

Sec. 20. (a) At any time after an energy project has been designated a priority energy project, the Board may terminate the priority designation if—

(1) the Board determines that the applicant has not exercised due diligence in attempting to comply with any Project Decision Schedule;

(2) the Board determines that the applicant has not attempted in good faith to comply with any law governing the priority energy project;

(3) the Board determines that the priority designation is no longer necessary to expedite agency action or decisionmaking which is necessary to completion and initial operation of the priority energy project;

(4) the Board determines that an agency has denied an application for an approval which is essential for the completion and initial operation of the project and that the denial is not likely to be reversed by the agency or invalidated by a reviewing court; or

(5) the applicant has requested that the priority designation be withdrawn: *Provided*, That no such request shall be granted if a previous request by the applicant for the same project had been granted and the project had subsequently been redesignated a priority project.

(b) If the Board terminates the priority designation for any priority energy project, the deadlines and procedures in the Project Decision Schedule for that project shall no longer be binding upon any agency, and unless the Board redesignates the project pursuant to section 11, the Board shall no longer have authority to establish binding deadlines for agency actions and approvals relating to the project. In addition, except as provided by subsection (c) of this section, judicial review of any action relating to the project shall no longer be governed by the provisions of this title: *Provided*, That—

(1) jurisdiction over any action pending at the time the priority designation is terminated shall be retained by the court in which such action is pending if the court determines that the interests of justice would be served by retaining jurisdiction; and

(2) any action or approval relating to a priority energy project which was valid before the priority designation for that project was terminated shall not be deemed invalid on the ground that the priority status has been withdrawn or that a Project Decision Schedule is no longer legally binding.

(c) A decision by the Board to withdraw a priority designation shall be subject to judicial review under the provisions of this Act.

(d) Termination of a priority designation is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

ENFORCEMENT OF THE PROJECT DECISION SCHEDULE

SEC. 21. (a)(1) If any Federal, State, or local agency has failed to make a decision or take an action within the time required by a Project Decision Schedule, the Board may make the decision or perform the action in lieu of the agency.

(2) In making the decision or performing the action in lieu of the agency, the Board shall apply the decision criteria in the Federal, State, or local law that would have been applied had the Federal, State or local agency made the decision.

(3) If the Board determines that an agency has failed to make a decision or perform an action within the time required by a Project Decision Schedule and that the Board will decide in lieu of the agency, the Board shall so notify the agency, and the agency shall, upon receiving such notification, transmit to the Board forthwith all records in the possession of the agency pertinent to that decision or action. The Board may take whatever additional action is necessary to develop an adequate record for a final decision or action within the time periods permitted by this Act, such action may, in the discretion of the Board, include a period for written public comment.

(b)(1) If any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the Board may bring an enforcement action in United States district court.

(2) In any action brought under this subsection, if the court determines that any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the court shall order the agency to act in accordance with the existing schedule where such action would be practical and would not deny any person due process of law.

(3) If the court determines that the agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule but that action in accordance with the Project Decision Schedule would clearly be impractical or would deny any person due process of law, the court shall instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request as soon as practicable consistent with due process of law. Immediately upon receipt from the Board of a certified copy of the revised Project Decision Schedule, the court shall issue an order directing the agency to comply with such Schedule.

(4) Notwithstanding any other provision of law including any other provision of this title, any action brought under this subsection shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at the time, and shall be expedited in every way by such court. Except as provided in section 32, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review all rulings of the district court pursuant to this section. The Temporary Emergency Court of Appeals shall expedite such review pursuant to the provisions of this Act: *Provided:* That the Board may not exercise its authority pursuant to subsection (a) to make a final decision under a State comprehensive siting law before the last deadline on the project decision schedule.

(c) Nothing in this Act shall be construed as denying any Federal, State and local agency the authority, pursuant to applicable law, to disapprove the application for a permit, license, lease or other approval required by applicable law for a priority energy project, except at such time the Board exercises its authority pursuant to subsection (a) to make the decision or perform the action in lieu of such agency.

(d) Subject to the provisions of section 18, the Board shall act as provided for in subsection (a) or (b) within sixty days following failure of any Federal, State, or local agency to comply with a Project Decision Schedule, except where the Board determines that more expeditious action would result from deferral of action under subsections (a) and (b), and the appropriate Federal, State, or local agency concurs.

CERTIFICATION OF COMPLETED AGENCY REVIEW

SEC. 22. (a) If the Board has been notified by the agencies with authority to grant such approvals or perform such actions or by a reviewing court that all agency actions and approvals on the Project Decision Schedules relating to a priority energy project (i) have been granted, or (ii) have been performed, or (iii) are not necessary; and if judicial review of such actions or approvals is completed or is barred by section 25 of this Act, the Board shall certify the same to the project. Such certification shall indicate any conditions and the expiration date of any approvals that have been granted to the project.

(b) A certificate issued by the Board under subsection (a) of this section shall constitute conclusive evidence in any judicial or executive proceeding that all actions and approvals necessary to the completion and initial operation of the projects have been granted for the duration and subject to the conditions specified on the certificate.

WATER LAW

SEC. 23. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriations, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

PRECEDENCE OVER OTHER LAWS

SEC. 24. Notwithstanding any other provision of law, the actions of Federal, State, and local officers or agencies pursuant to this Act shall not be subject to judicial review except as provided in this Act.

LIMITATION OF ACTIONS

SEC. 25. (a) Except as provided by subsection (b), any petition for review of any action pursuant to this Act or of the validity of this Act shall be brought not later than twenty days following the date of actual or constructive notice of the final agency action relating to the action which is being challenged.

(b) Any petition for review of the reasonableness of any deadline in a Project Decision Schedule shall be brought not later than thirty days after such deadline is listed on the Project Decision Schedule and published in the Federal Register or such challenge shall be barred. The party challenging the reasonableness of the deadline shall have the burden of proof.

Any waiver by the Board of the application of any Federal, State or local statute, regulation or requirement pursuant to section 36 and any disapproval by the Administrator of the Environmental Protection Agency or by the Secretary of the Interior of such a waiver pursuant to section 36 shall require that the President concur in any such waiver and in any such disapproval. The President shall publish notification of any such concurrence or nonconcurrence in the Federal Register, with a statement of his reasons for such concurrence or nonconcurrence.

ADMINISTRATIVE PROCEDURES

SEC. 26. (a) Except as provided in subsection (b) of this section, the Board shall be exempt from sections 553 through 559 of title 5, United States Code.

(b) The establishment of procedures by the Board pursuant to this Act and the establishment of any special procedures by a Federal agency pursuant to section 19 of this Act shall be subject to sections 553, 704, and 706 of title 5, United States Code and any judicial review of such procedures shall be conducted in the Temporary Emergency Court of Appeals pursuant to section 27 of this Act.

REVIEW IN THE TEMPORARY EMERGENCY COURT OF APPEALS

SEC. 27. (a) A petition for review of the validity of this Act or of any action pursuant to this Act shall be filed in the Temporary Emergency Court of Appeals. Except as provided by this Act, such court shall have exclusive jurisdiction to determine such proceeding in accordance with procedures hereinafter provided and no other district court or Court of Appeals of the United States and no other court of any State or locality shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this Act.

(2) Notwithstanding any provisions of section 211 of the Economic Stabilization Act of 1970 as amended by the Economic Stabilization Act Amendments of 1971, Public Law 92-210, the Temporary Emergency Court of Appeals shall exercise its powers and prescribe rules governing its procedures in such manner as to expedite the determination of cases over which it has jurisdiction under this Act. Such rules may set page limits on briefs and time limits for filing briefs and motions and other actions which are shorter than the limits specified in the Federal Rules of Appellate Procedure.

(3) In any proceeding before the Temporary Emergency Court of Appeals, the chief judge of the Temporary Emergency Court of Appeals shall designate at least one judge from the circuit in which the priority energy project or the most significant portion thereof would be located to sit on the panel presiding over the proceeding.

(4) There are hereby authorized to be appropriated such sums as are necessary to expand the capacity of the Temporary Emergency Court of Appeals in order to carry out the provisions of this Act.

(b) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c)(1) Notwithstanding any other provision of law, jurisdiction over any challenge to agency action pursuant to this title which is pending before any court other than the Temporary Emergency Court of Appeals at the time such agency action becomes an action pursuant to this title shall remain with such court unless the Temporary Emergency Court of Appeals issues an order transferring such civil action to the Temporary Emergency Court of Appeals pursuant to subsection (d) of this section.

(2) If the court before which such civil action is pending retains jurisdiction, such court shall assign the case for hearing and completion at the earliest possible date, and shall expedite the case in every way. All appeals from such court shall be to the Temporary Emergency Court of Appeals and shall be filed within fifteen days of the final decision of such court. On appeal the Temporary Emergency Court of Appeals shall comply with the procedures established in subsection (b) of this section.

(d) If any appeal involving a challenge to any agency action pursuant to this Act is pending before any State appellate court or any United States Court of Appeals other than the Temporary Emergency Court of Appeals at the time such agency action becomes an action pursuant to this title, the chief judge of the Temporary Emergency Court of Appeals, or any other judge of the Temporary Emergency Court of Appeals designated by the chief judge, may issue an order transferring such civil action to the Temporary Emergency Court of Appeals. Such transfers may be made whenever the transfer will expedite judicial review of the civil action and will not cause material prejudice to any party. Proceedings for the transfer of an action under this subsection may be initiated by the chief judge of the Temporary Emergency Court of Appeals or by any other judge authorized by the chief judge on his own initiative, by the Board, or by any party to the appeal.

ACTIONS SUBJECT TO EXPEDITED REVIEW

SEC. 28. For the purposes of this Act "an action pursuant to this Act" means—

(a) any significant action by the Board pursuant to this Act including, but not limited to, any action pursuant to sections 21 and 22 of the Act. An action of the Board shall be deemed significant if the Board determines that expedited review of such action would expedite completion of any priority energy project; or

(b) any action by any Federal agency or officer if such action is subject to a deadline on a Project Decision Schedule, including any action which is an intermediate step to an action listed on such Schedule; or

(c) any action by any State or local agency or officer if such action is subject to a deadline on a Project Decision Schedule, including any action which is an intermediate step to an action listed on such Schedule;

(d) any other action by any Federal, State, or local agency or officer relating to a priority energy project which the Board determines requires expedited judicial review in order to expedite completion of a priority energy project; or

(e) any action by any United States district court or any State or local trial court with respect to a case involving an action pursuant to this Act.

JUDICIAL REVIEW UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 29. Except as specifically provided by this Act, the scope of judicial review under the National Environmental Policy Act of 1969 shall not be limited by this Act.

LIMITATION ON REVIEW OF PRIORITY DESIGNATIONS

SEC. 30. (a) A decision of the Board designating a project or class of projects as priority energy project shall not be subject to judicial review and no court shall hold unlawful or set aside any Board or agency action, finding, rule, or conclusion on the basis of a decision designating a project or class of projects as a priority energy project.

(b) A decision of the Board denying a request for designation as a priority energy project shall be subject to expedited judicial review pursuant to the provisions of this Act.

INTERVENTION AUTHORITY

SEC. 31. The Board may intervene in any Federal, State, or local agency proceeding and shall appear as a party of right in any judicial proceeding, if such agency or judicial proceeding involves an action pursuant to this Act. The Board shall encourage expedited action or decisionmaking by the agency or court in such proceeding.

SUPREME COURT REVIEW

SEC. 32. (a) The Supreme Court shall have exclusive jurisdiction to review any interlocutory judgment or order of the Temporary Emergency Court of Appeals, or any United States Court of Appeals or the final court in any State in any case involving an action pursuant to this Act The petitioner must file a petition for certiorari or a certification as provided in section 1254 of title 28, United States Code within fifteen days after the decision of the court of appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be asigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court.

INJUNCTIVE RELIEF

SEC. 33. (a) Except as provided in subsection (b), no court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this Act except in conjunction with a final judgment entered in a case involving an action pursuant to this Act.

(b) No court shall have jurisdiction to grant any injunctive relief preventing the enforcement of a Project Decision Schedule excpt in conjunction with a final judgment. If the court on review determines that a deadline on a Project Decision Schedule is not reasonable, the Court may instruct the Board to extend the deadline.

ACTION OF REMAND

SEC. 34. Immediately following any decision remanding to an agency any case or controversy involving the validity of this Act or, an action pursuant to this Act, the Board shall revise the Project Decision Schedule as necessary to expedite any further proceedings required by the decision of the court. Such revisions shall be consistent with section 18 of this Act.

AUTHORIZATION

SEC. 35. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

POSTPONEMENT OF NEW REQUIREMENTS

SEC. 36. (a) The Board, by majority vote, is authorized to waive the application of any Federal, State, or local statute, regulation, or requirement enacted or promulgated after the commencement of construction of a priority energy project, for only such time as necessary to allow compliance with such statute, regulation, or requirement with no resultant substantial delay in the completion or commencement of operation of the affected energy facility. Such waiver may be granted only where (1) the Board finds that the waiver is necessary to avoid a significant delay in the completion and commencement of operation of the facility, and (2) the Administrator of the Environmental Protection Agency has not disapproved such waiver on the basis that it may reasonably be expected to result in the discharge, emission, or release of any toxic or hazardous pollutant or any other pollutant which may reasonably be anticipated to present a substantial endangerment to the public health or in any other condition which may reasonably be anticipated to present such endangerment, and (3) the Secretary of the Interior has not disapproved such waiver on the basis that it may reasonably be expected to result in any irretrievable loss of fish or wildlife which cannot be mitigated.

(b) For the purposes of this section, "commencement of construction" means that the owner or operator of a priority energy project has obtained all necesesary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (1) begun or caused to begin, a continuous program of physical onsite construction of the facility, or (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time. For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

(c) Any waiver pursuant to this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived.

(d) This section shall not apply to or modify in any way—

(1) any law, regulation or rule of law governing labor management relations, pensions, working conditions (including health and safety), or minimum wages and maximum hours of employment;

(2) any law, regulation or rule of law guaranteeing equal employment opportunities or prohibiting discrimination on the basis of race, creed, sex, or national origin;

(3) any law prohibiting any act similar to any crime at common law;

(4) any antitrust law of the United States.

(e) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any waiver or veto of a waiver pursuant to this section in accordance with the procedures for expedited review established by this Act.

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 37. No provision of this Act shall modify, alter, or repeal any portion of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719). This Act shall, however, apply to the Alaska Natural Gas Pipeline system to the extent that the provisions of this Act may be used to expedite the construction of such system.

EXPEDITION OF DRILLING PERMITS

SEC. 38. (a) Oil and gas drilling activities on onshore Federal lands subject to Federal oil and gas leases (including land held by the United States in trust for any Indian tribes or individual Indians) in areas described in this subsection are hereby designated as priority energy projects. These areas shall include all sedimentary basins in the United States with particular emphasis in sedimentary basins in the States of Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming.

(b) Notwithstanding the provisions of section 17(a) of this Act, the Board shall not promulgate a Project Decision Schedule for priority energy projects designated by this section, but rather the Board shall require that the relevant Federal agency issue a decision granting or denying an application for a permit to drill for oil and gas within the lands described in subsection (a) within a maximum of one hundred days of receipt of the application for the permit, unless the board determines that an extension of time is justified and consistent with the purposes of this Act. The Board shall establish a goal for the Federal agency issuing permits of thirty days for issuance of drilling permits.

(c) In addition to the authorities of the Board pursuant to section 17, the Board shall ensure that, to the maximum extent practicable, Federal requirements in the permitting process do not duplicate requirements of State and local governments. Duplication identified by the Board shall be reduced by applying State and local government requirements and eliminating the Federal requirement.

(d) The provisions of section 13 of this Act shall not apply to projects designated by this section. The procedures of the United States Geological Survey in the "Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases, No. 6" (hereinafter referred to as NTL–6) shall act as the environmental assessment mechanism prior to permit issuance. The United States Geological Survey shall appropriately revise NTL–6 to reduce to one (1) the total number of environmental assessments required from the time the lease is issued until all drilling permits are issued on the lease, and the Board is hereby authorized to ensure revision in a timely manner. Further, if, after the preliminary environmental review and the United States Geological Survey-surface managing agency consultation as described in NTL–6, no significant environmental concerns are identified, then the environmental assessment requirement referred to in NTL–6 is waived.

The PRESIDING OFFICER. Without objection, the title will be appropriately amended.

The title was amended so as to read:

A bill to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes.

Mr. JOHNSTON. I move to reconsider the vote by which the bill passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the bill as passed be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 30 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY LEGISLATION

Mr. TSONGAS. Mr. President, in recent weeks I have introduced two bills that would speed the essential transition to energy efficiency and renewable energy resources. I would like to make the terms of this proposed legislation available to my colleagues.

The Conservation Bank Act (S. 1748) would establish a Conservation Bank within HUD to make low interest and principal-deferred loans to homeowners and businesses for energy efficiency measures. The Community Energy Efficiency Act (S. 1829) would initiate a major grant program for energy conservation and renewable resource planning, programs, and capital projects at the local level.

I ask unanimous consent that the text of the Conservation Bank Act and the Community Energy Efficiency Act be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Conservation Bank Act".

PURPOSE

SEC. 2. It is the purpose of this Act to encourage the use of energy conservation measures, and thereby lessen the Nation's dependence on foreign sources of energy supplies, by establishing a Conservation Bank to provide subsidies for below-market interest rate and principal-deferred loans made to owners or builders of commercial and residential structures for the purchase and installation of energy conservation measures in such structures.

ESTABLISHMENT OF THE BANK

SEC. 3. (a) There is hereby created the Conservation Bank which shall be in the Government National Mortgage Association. The Conservation Bank shall have succession until September 30, 1984.

(b) The General Accounting Office shall periodically audit the financial transactions of the Conservation Bank, and, for this purpose, shall have access to all of its books, records, and accounts.

(c) The Conservation Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

POWERS

SEC. 4. The Secretary of Housing and Urban Development (HUD) shall have the power to fix different levels of subsidies, not to exceed 6 per centum below the current maximum interest rate permitted on a mortgage insured under section 203(b) of the National Housing Act, on loans subsidized by the Bank and the interest rate paid by borrowers on such loans, and from time to time to alter the levels of subsidy and interest rates for new loans subsidized by the Bank. In doing so the Bank shall give consideration to such factors as it shall deem appropriate, including, but not limited to the following:

(1) the prevailing market rates of interest for home mortgages, home improvement loans, and commercial loans, as well as prevailing market rates of interest for Government and corporate bonds;

(2) the availability of other Federal Government incentives and subsidies for energy conservation equipment, including Federal income tax credits;

(3) the costs of nonrenewable energy resources and systems;

(4) the costs of energy conservation measures; and

(5) the levels of subsidy needed to induce consumers and builders to install energy conservation measures in residential and commercial buildings.

SUBSIDY PAYMENTS

SEC. 5. (a)(1) The Conservation Bank shall, beginning with fiscal year 1980, make payments to financial institutions for the purpose of subsidizing below-market rate and principal-deferred loans which are made by such institutions to owners of commercial and residential structures for the purchase and installation of energy conservation measures in such structures and which meet the requirements of this section.

(2) For purposes of this act, the term "energy conservation measures" shall be defined as in section 210, subpart (11), excluding subpart (11)(H), and section 391, subpart (2), excluding subpart (2)(E) and (2)(F) of the National Energy Conservation Policy Act.

(3) The amount of any payment made with respect to any loan or qualifying portion of a loan shall be a lump-sum payment and shall be in an amount necessary, as determined by the Conservation Bank, to compensate the financial institution for the difference between making such loan at an interest rate determined by the Secretary of HUD and the yield it would have received if the loan were made at a market rate and, in the case of a principal-deferred loan, the difference between the borrower's interest payments during the deferred period and the discounted value of these payments minus interest as if the principal were amortized over the entire life of the loan. The Secretary of HUD shall set the interest rate subsidy for principal-deferred loans so that the cost to the Government National Mortgage Association of providing just a loan subsidy equals the cost to the Government National Mortgage

Association of providing a subsidy for a principal-deferred loan.

(4) The Conservation Bank may, with respect to any loan for which a subsidy payment is made under this Act, require the financial institution to repay the Conservation Bank any amount to which the Conservation Bank is entitled as a result of the borrower's failure to meet his or her obligation under the loan.

(b) A payment may be made under this section with respect to a loan or qualifying portion of a loan only if—

(1) the term or repayment does not exceed fifteen years and is not less than five years, except that there shall be no penalty imposed on the borrower if the loan or advance credit is repaid at any time before the term of repayment expires;

(2) the amount of such loan allocable to purchase and installation of energy conservation measure does not exceed $5,000 per unit in the case of any one- to four-family residential structure, $2,500 per unit in the case of any residential structure with five or more dwelling units (not to exceed $250,000 per loan), and $200,000 in the case of any commercial structure;

(3) the security for the loan meets requirements of Government National Mortgage Association; and

(4) the energy conservation measures to be financed will be purchased and installed after the date of enactment of this Act, except as provided in section 9.

(c) At least 75 per centum of the amount of subsidy payments made under this section in any year shall be for the purpose of assisting the financing of energy conservation measures in residential structures.

PENALTIES

SEC. 6. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any loan assisted under this Act shall be fined not more than $10,000 or imprisoned not more than one year, or both.

REPORT

SEC. 7. The Secretary of HUD shall report to both Houses of Congress within nine months from the date of enactment, the market penetration of assistance provided by the Conservation Bank. If market penetration is less than that necessary to expend the funds provided in the Act, the Secretary shall recommend alternative financial delivery systems including the involvement of nonprofit energy conservation and development finance corporations dedicated to the purposes of the Act. The report shall also include a detailed accounting of the activities of the Conservation Bank.

PROMOTION AND COORDINATION

SEC. 8. The Secretary of HUD and the Government National Mortgage Association shall promote the program established by this Act by informing financial institutions and consumers of the benefits of such program and by actively seeking their participation in the program. The Secretary of HUD shall also assure effective coordination with promotion and assistance programs in the Department of Energy.

RETROACTIVITY

SEC. 9. Consumers who have borrowed money from a financial institution for the purchase and installation of energy conservation measures after September 13, 1979, shall be eligible for assistance by the Conservation Bank if the original loan is refinanced after the date of enactment of this Act.

RULES

SEC. 10. The Secretary of HUD may issue rules to insure the quality and effectiveness of the conservation measures subsidized under this Act.

LOW- AND MODERATE-INCOME HOUSING

SEC. 11. The Government National Mortgage Association shall implement the authority provided under section 242 of the National Energy Conservation Policy Act and shall coordinate the program under section 242 with the Conservation Bank.

FUNDING

SEC. 12. There are authorized to be appropriated to carry out the purposes of this Act not to exceed $150,000,000 for fiscal year ending September 30, 1980, $850,000,000 for fiscal year ending September 30, 1981, $1,700,000,000 for the fiscal year ending September 30, 1982, $1,700,000,000 for the fiscal year ending September 30, 1983, and $1,700,000,000 for the fiscal year ending September 30, 1984.

S. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Community Energy Efficiency Act of 1979".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) policy and program coordination between the Federal, State, and local levels is essential to an efficient energy program;

(2) resources are not effectively directed to resolve important national energy problems at the appropriate level of government;

(3) recognizing that energy conservation and renewable resource development require a reliance on decentralized action;

(4) programs are needed to strengthen citizens awareness of, and involvement in, energy conservation and renewable resource use; in concert with their respective local governments; and

(5) development of conservation and renewable resource strategies at the local government level and at the neighborhood level are needed.

(b) It is the purpose of this Act to—

(1) promote the conservation of nonrenewable resources through local government action;

(2) hasten the transition to renewable energy-based community activity;

(3) promote the development of local energy plans which draw upon local authorities and decisionmaking and complement national energy objectives;

(4) insure that local laws, policies, and decisions recognize the particular needs of decentralized, renewable resource technologies;

(5) promote the development of local energy programs that specifically address the need of low- and middle-income residents;

(6) encourage the participation of neighborhood and community-based organizations in the nation energy effort; and

(7) promote local energy programs that are cognizant of the needs of the local economy, particularly for employment, industry, and personal mobility.

ELIGIBILITY

SEC. 3. Any general purpose local government except a county with a population over 50,000 and a county with a population over 100,000 excluding other eligible general purpose local governments with a population over 50,000, which meet the application requirements shall be eligible to receive community energy action grants and community energy efficiency investment grants established under this Act. Any general purpose local government with a population below 50,000, a county with a population below 100,000 excluding eligible cities, and metropolitan or areawide planning agencies representing a population over 100,000 shall be eligible for discretionary grants to implement all or part of the requirements of sections 6 and 7.

PREAPPLICATION REQUIREMENTS

SEC. 4. To be eligible for a grant under section 5 the applicant shall have implemented the following measures before an application can be approved:

(1) demonstrate commitment to national and local energy targets including a commitment to maintain local energy expenditures;

(2) certify that the requirements of sections 6 and 7 can be achieved by the applicant;

(3) assess the energy savings resulting from existing local energy conservation, renewable resource, and other production programs;

(4) create a citizen's energy advisory committee, which draws upon community-based and neighborhood organizations, to assist in the development of local energy programs especially in poverty areas; and

(5) designate a lead agency or establish a local energy office to coordinate and implement local energy programs.

COMMUNITY ENERGY ACTION GRANTS

SEC. 5. (a) The Secretary of Housing and Urban Development in consultation with the Secretary of Energy shall make community energy action grants under sections 6 and 7 for—

(1) the basic community energy action program; and

(2) community energy action program.

(b) The amount of each grant shall be based on population, heating, and cooling needs.

(c) The Secretary of Housing and Urban Development is authorized to set aside funds for grants to applicants on a discretionary basis who can comply with all or part of the requirements of sections 6 and 7.

(d) There are authorized to be appropriated to carry out the provisions of sections 6 and 7, $300,000,000 for the fiscal year ending September 30, 1980, $350,000,000 for the fiscal year ending September 30, 1981, $400,000,000 for the fiscal year ending September 30, 1982, $450,000,000 for the fiscal year ending September 30, 1983, and $500,000,000 for the fiscal year ending September 30, 1984.

BASIC COMMUNITY ENERGY ACTION PROGRAM

SEC. 6. An application for a basic community energy action program grant shall include a work plan leading to full implementation of the following programs within two years:

(a) a program to disseminate the information to the general public and private industries on the potential savings from community conservation, the availability of alternatives, the savings realized by utilizing such alternatives, and the availability of assistance from various Federal, State, and local energy programs;

(b) adoption of local targets for energy conservation and renewable resource development and plans for aggressive implementation of programs to reach these targets;

(c) a program to incorporate, coordinate, and promote energy conservation and production activities at the neighborhood level;

(d) a program to assist low-income residents in implementing energy conservation and renewable resource measures;

(e) a program to integrate energy conservation and renewable resource measures with those at the metropolitan or areawide level;

(f) a program to amend local land use controls such as building codes and permits, transportation controls and policies and ordinances in order to facilitate conservation and renewable resource development; and

(g) a program to coordinate local energy activities with the State energy plan and other Federal energy programs and policies.

COMMUNITY ENERGY ACTION PROGRAM

SEC. 7. (a) A recipient of a grant under section 6 who has made significant progress in implementing the requirements of the basic community energy action program, may apply for grants for the development of a community energy action program.

(b) All recipients of grants under section 6 shall apply for a grant under this section not later than the end of the third year of the program established under section 6.

(c) An application for a community energy action program grant shall include evidence that all requirements of section 6 have been met, and shall include a work plan leading to full implementation of the following programs within three years:

(1) plans for adoption of a renewable resource ordinance which provides access and facilitates the use of renewable energy systems in the community;

(2) adoption of conservation standards for new and existing residential and commercial properties;

(3) development of an emergency energy contingency plan;

(4) a program to displace existing nonrenewable resource consumption; and

(5) development of a capital energy plan which utilizes existing Federal and State programs to implement energy-efficient projects.

(d) Each grantee under this section and section 6 shall make available at least ten per centum of each year's grant to neighborhood organizations for special energy projects under coordination of the grantee. Such projects shall promote community outreach programs or provide grants for energy conservation and renewable resource projects.

COMMUNITY ENERGY EFFICIENCY INVESTMENT GRANTS

SEC. 8. (a) The Secretary of Energy after consultation with the Secretary of Housing and Urban Development shall make grants to any local government to undertake energy efficiency capital programs appropriate to the community level. Recipients of grants under sections 6 and 7 shall be allowed to apply for community energy efficiency investment grants only if the projects are consistent with the programs developed under the community energy action program. Priority shall be given to projects which leverage local public and private funds.

(b) Community energy efficiency grants shall be available for, but not limited to—

(1) energy-efficient city block demonstration projects;

(2) low-head hydro development;

(3) district heating development;

(4) urban waste-based energy production facilities;

(5) industrial residential cogeneration;

(6) solar energy systems development;

(7) weatherization of low-income housing;

(8) building conservation and renewable resource retrofit; and

(9) neighborhood energy projects.

(c) There are authorized to be appropriated to carry out the provisions of this section $200,000,000 for the fiscal year ending September 30, 1980, $300,000,000 for the fiscal year ending September 30, 1981, $500,000,000 for the fiscal year ending September 30, 1982, $800,000,000 for the fiscal year ending September 30, 1983, and $1,200,000,000 for the fiscal year ending September 30, 1984.

LOCAL ENERGY REFERENCE CENTER AND REGIONAL PANELS

SEC. 9. (a) A Local Energy Reference Center shall be established by the Secretary of Energy to serve as a data bank and clearinghouse for information on locally based energy conservation and renewable energy resource development efforts. The Local Energy Reference Center shall be established outside of the Department, through a contractual arrangement with an organization or consortium of organizations with expertise in disseminating information to local government officials.

(b) The Center shall—

(1) keep on file and compile a periodically updated list of all materials published through the documentation and distribution grants program;

(2) collect information on other locally based initiatives;

(3) utilize a computer data base to maximize the flexibility and usefulness of the available information;

(4) assemble the technical assistance panels in accordance with subsection (c);

(5) respond to information requests from local officials, by drawing upon its own information resources or by referring such requests to a member of a Technical Assistance Panel or an appropriate public or private agency;

(6) organize conferences and seminars for local officials on issues pertaining to energy conservation and renewable energy resources development; and

(7) publicize the services offered by the Center.

(c) The Center shall establish and maintain regional Technical Assistance Panels, to provide a vehicle for direct communication between localities which are working to conserve energy or develop renewable energy resources, as to provide a source of assistance for local energy program development efforts. All localities receiving documentation and distribution grants under section 10 shall be represented on such panels. The Secretary of the Department of Energy shall appoint not more than ten additional qualified individuals to serve on each panel. Panel members shall respond to information requests from localities and the Local Energy Reference Center by—

(1) sending documents describing efforts with which they have been affiliated,

(2) engaging in direct consultation via telephone or written correspondence, or

(3) undertaking site visits.

DOCUMENTATION AND DISTRIBUTION GRANTS

SEC. 10. (a) In order to encourage the dissemination of information on innovative programs undertaken by local energy offices the Secretary of Energy shall make grants to local governments for the purpose of preparing and distributing practical information on measures which they have undertaken, or propose to undertake, to conserve energy or develop renewable energy resources. The grant shall be awarded to localities whose proposed publications would offer a unique contribution to the body of knowledge in these areas.

(b) Each grantee shall be required to—

(1) publish (within sixty days after receipt of such grant) a document or series of documents describing in detail its current and proposed energy conservation and renewable development measures,

(2) make these published materials available to other localities free of charge, either in response to direct requests from localities or in response to requests from the Local Energy Reference Center, and

(3) appoint one person to serve on a Technical Assistance Panel, which would be coordinated by the local Energy Reference Center.

(c) There are authorized to be appropriated to carry out the purposes of this section $4,000,000 for the fiscal year ending September 30, 1980 and for each of the next four succeeding fiscal years.

COORDINATION WITH STATE PLANS

SEC. 11. (a) In order to insure compatibility and full coordination of local plans developed under this Act with State plans and programs, each State within sixty days of enactment of this Act must provide eligible recipients of grants under sections 6 and 7 a description of applicable State energy programs and policies which shall identify areas of local responsibility.

(b) Each eligible recipient of grants under this Act must—

(1) evidence consideration and coordination as required for grant applications under section 6 with the State information provided pursuant to subsection (a) of this section; and

(2) file a copy of any application for a grant under this Act with the State energy office or designated lead energy office.

ADMINISTRATIVE PRACTICES AND PROCEDURES

SEC. 12. (a) The Secretary of Housing and Urban Development shall—

(1) issue regulations, after consultation with the Secretary of Energy and within one hundred and twenty days after the date of enactment of this Act, for grants to be made under section 5; and

(2) monitor the progress of the recipients of the Community energy action grants through the regional offices to insure that the requirements of this Act are being fulfilled.

(b) The Secretary of Energy shall—

(1) issue regulations, after consultation with the Secretary of Housing and Urban Development and within two hundred and forty days after the date of enactment of this Act, for grants made under sections 8, 9, and 10; and

(2) monitor the progress of the recipients of energy efficiency grants through the regional offices to insure that the requirements of this Act are being fulfilled.

(c) The Secretaries of the Department of Housing and Urban Development and Energy shall—

(1) convene an interagency task force including representatives from the Department of Transportation, Department of Energy, ACTION, Community Services Administration, and the Department of Health, Education, and Welfare to improve existing Federal policies and programs in order to promote and facilitate the purposes of this Act; and

(2) make a report to Congress, two years from the date of enactment, on the operation and the actual and potential energy impact of the programs established under this Act.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts and joint resolution:

On September 28, 1979:

S.J. Res. 105. A joint resolution to provide for a temporary extension of certain Federal

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Housing Administration authorities, and for other purposes.

On September 29, 1979:

S. 230. An act to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes; and

S. 737. An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.

MESSAGE FROM THE HOUSE

At 11:34 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 497. An act to extend the authorizations of appropriations relating to emergency medical services systems under title XII and section 789 of the Public Health Service Act; to increase the authorizations of appropriations for sudden infant death syndrome counseling and information projects and revise and improve authorities under title XI, part B, of such act; and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2257. A communication from the Deputy Assistant Secretary of Defense (Installation and Housing), reporting, pursuant to law, a construction project to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC-2258. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting, pursuant to law, a summary of revenues derived from recovered materials, for fiscal year 1978; to the Committee on Armed Services.

EC-2259. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee and insurance transactions supported by Eximbank during August 1979 to Communist countries (as defined in section 620(f) of the Foreign Assistance Act of 1961, as amended); to the Committee on Banking, Housing, and Urban Affairs.

EC-2260. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the new area studies program containing the 18 studies completed by the National Park Service in 1979, the list of those areas included in the Registry of Natural Landmarks and the list of those areas of national significance included in the National Register of Historic Places which exhibit known or anticipated damage or threats to the integrity of their resources; to the Committee on Energy and Natural Resources.

EC-2261. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a final supplement to an environmental impact statement on Sun River, Great Falls, Mont., project; to the Committee on Environment and Public Works.

EC-2262. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Stronger Federal Direction Needed to Promote Better Use of Present Urban Transportation Systems," October 4, 1979; to the Committee on Environment and Public Works.

EC-2263. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report on regulatory actions to protect the stratospheric ozone; to the Committee on Environment and Public Works.

EC-2264. A communication from the Acting Secretary of the Air Force, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to eliminate the requirement that a member of the Armed Forces on active duty maintain a household in the United States in order to be eligible for the earned income credit; to the Committee on Finance.

EC-2265. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Simplifying the Medicare/Medicaid Buy-In Program Would Reduce Improper State Claims of Federal Funds," October 2, 1979; to the Committee on Finance.

EC-2266. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-2267. A communication from the Privacy Act Officer, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-2268. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Indian Health Care Improvement Act; to the Select Committee on Indian Affairs.

EC-2269. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered under the authority contained in section 13(b) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC-2270. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC-2271. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the 1977 Annual Report of the Immigration and Naturalization Service; to the Committee on the Judiciary.

EC-2272. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, a delay in submitting a report assessing the National Area Health Education Center program; to the Committee on Labor and Human Resources.

EC-2273. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, a delay in submitting a report on public and community health personnel; to the Committee on Labor and Human Resources.

EC-2274. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, a delay in filing a report on the administration of the health professions schools' financial distress grant program; to the Committee on Labor and Human Resources.

EC-2275. A communication from the Director, Federal Mediation and Conciliation Service, transmitting, pursuant to law, the 31st report of the Service for fiscal year ending September 30, 1978; to the Committee on Labor and Human Resources.

EC-2276. A communication from the Assistant Secretary of the Interior, the Assistant Secretary of the Army, and the Assistant Secretary of Energy, transmitting a draft of proposed legislation to authorize the Secretary of the Interior and the Secretary of the Army to plan, design, construct, rehabilitate, operate, and maintain hydroelectric power facilities not specifically authorized by the Congress at existing projects under the jurisdiction of their respective departments; to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Assistant Secretary of the Interior, the Assistant Secretary of the Army, and the Assistant Secretary of Energy, transmitting proposed legislation authorizing hydroelectric power facilities, be referred jointly to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC-2277. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Irrigation Water Use and Management," June 1979; to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Agriculture, Nutrition, and Forestry, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of the Interior, transmitting a report entitled "Irrigation Water Use and Management," be referred jointly to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Agriculture, Nutrition, and Forestry.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations, with amendments:

H.R. 4473. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-358).

By Mr. BENTSEN, from the Committee on Environment and Public Works, without amendment:

S. 1728. A bill to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the "John H. Wood, Jr., Federal Courthouse" (Rept. No. 96-359).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

The following-named persons to be Members of the Federal Farm Credit Board, Farm Credit Administration:

Jewell Haaland, of Minnesota; and
Dwight L. Tripp, Jr., of Maine.

(The above nominations from the Committee on Agriculture, Nutrition, and Forestry were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER:

S. 1855. A bill to amend the Tribally Controlled Community College Assistance Act of 1978; to the Select Committee on Indian Affairs.

By Mr. HATFIELD:

S. 1856. A bill to require the Secretary of the Interior, the Secretary of Agriculture and the Secretary of the Army to utilize specified procedures in carrying out the Federal Reclamation Program, the Small Watershed Program and the Civil Works Program with respect to interstate water projects; to authorize assistance to the States with respect to intrastate water projects; and for other purposes; to the Committee on Environment and Public Works, that if and when it is reported, to the Committee on Energy and Natural Resources for not to exceed 15 days, by unanimous consent.

By Mr. WARNER (for himself and Mr. Harry F. Byrd, Jr.):

S. 1857. A bill to authorize the expansion of the boundaries of the Manassas National Battlefield Park, Virginia; to the Committee on Energy and Natural Resources.

By Mr. BAYH:

S. 1858. A bill to amend title 28, United States Code, to provide that the Federal tort claims provisions of that title are the exclusive remedy in medical malpractice actions and proceedings resulting from federally authorized National Guard training activities, and for other purposes; to the Committee on the Judiciary.

By Mr. PERCY (for himself and Mr. Dole):

S. 1859. A bill to amend the Internal Revenue Code of 1954 with respect to the special valuation of farm property for purposes of the estate tax; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. Weicker, Mr. Bayh, Mr. Dole, Mr. Nunn, Mr. Culver, Mr. Huddleston, Mr. Bumpers, Mr. Sasser, Mr. Stewart, Mr. Baucus, Mr. Levin, Mr. Hatch, Mr. Hayakawa, Mr. Durkin, Mr. Johnston, Mr. Leahy, Mr. Pressler, Mr. Chafee, and Mr. Packwood):

S. 1860. A bill to establish a Federal program to assist innovative small businesses by strengthening the role of such businesses in federally funded research and development and by fostering the formation and growth of such business; to the Select Committee on Small Business solely to consider titles I, II, and IV, and if, and when reported, the bill be referred to the Committee on the Judiciary solely to consider titles II and IV, and if and when reported, the bill be referred to the Committee on Finance solely to consider title III, by unanimous consent.

By Mr. STONE:

S. 1861. A bill to amend the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

By Mr. MELCHER:

S.J. Res. 108. Joint resolution to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER:

S. 1855. A bill to amend the Tribally Controlled Community College Assistance Act of 1978; to the Select Committee on Indian Affairs.

Mr. MELCHER. Mr. President, today I am introducing a bill which would increase the funds authorized to be appropriated for technical assistance in the Tribally Controlled Community College Assistance Act of 1978 (Public Law 95–471) to $10 million for fiscal year 1981 and fiscal year 1982.

The purpose of the Tribally Controlled Community College Assistance Act of 1978, which became law on October 17, 1978, is to "provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students." The act is necessary to provide tribally controlled community colleges with a stable base of financial support for their continued development and operation.

In keeping with that general goal, Public Law 95–471 emphasized technical assistance needs for developing Indian community colleges. The act authorized $3,200,000 to be appropriated for technical assistance to tribally controlled community colleges for fiscal years 1980, 1981, and 1982. Although the Select Committee on Indian Affairs conducted extensive hearings on this legislation during the 95th Congress, it now appears that the act does not authorize adequate funds to assist tribally controlled colleges in their planning or development stages.

While there are presently 23 Indian controlled colleges, only 4 are accredited and an additional 4 are candidates for accreditation. The remaining 15 schools, in addition to those which may be established in the future, are in dire need of technical assistance funds if they are to be brought up to an operational level to be eligible for direct funding, accreditation, or candidacy for accreditation. Without sufficient technical assistance funds, tribally controlled colleges are unable to start to take the most basic steps to gain accreditation and become viable and meaningful community colleges.

Technical assistance funds are essential for tribes pursuing the establishment of community colleges as a form of postsecondary education. These funds are required to develop a needs assessment, a chartering document, a philosophy, a curriculum, a plan of operation, a management system, and an accreditation relationship with a cooperating institution. In addition, such technical assistance funds are necessary to develop proposals for financial assistance, to find and recruit faculty and administrators and to develop long-range planning. All these steps are essential to the accreditation, growth, and the eventual delivery of meaningful higher education services on Indian reservations.

Mr. President, I believe that we must place greater emphasis on the planning and development aspects of the tribally controlled colleges if there is to be real progress toward the accreditation of these institutions. I hope my colleagues on the Select Committee on Indian Affairs will support this legislation so that these community-oriented institutions can meet the specific needs of particular tribes and teach skills that contribute to the welfare and development of the community.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109(a)(2) of the Tribally Controlled Community College Assistance Act of 1978 is amended to read as follows:

"(2) For the purpose of providing technical assistance pursuant to section 104, there is authorized to be appropriated for the fiscal year ending September 30, 1980, the sum of $3,200,000, and for each of the fiscal years ending September 30, 1981, and September 30, 1982, the sum of $10,000,000.".

By Mr. HATFIELD:

S. 1856. A bill to require the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of the Army to utilize specified procedures in carrying out the Federal reclamation program, the small watershed program and the civil works program with respect to interstate water projects; to authorize assistance to the States with respect to intrastate water projects; and for other purposes; to the Committee on Environment and Public Works, that if and when it is reported, to the Committee on Energy and Natural Resources for not to exceed 15 days, by unanimous consent.

FEDERAL WATER ACT OF 1979

Mr. HATFIELD. Mr. President, I am introducing legislation to overhaul Federal water resource conservation and development, and bring some order and purpose to a moribund program.

The past few years have seen some mighty battles in the area of water policy. President Carter has bravely attacked the water resource development process, and Congress has tussled with him over cost sharing, "hit lists," independent project review, and other issues. While I have joined with my colleagues in opposition to many of the President's initiatives, I share his unhappiness with the status quo, and welcome the fresh thinking the controversy has generated.

However, I cannot agree with the President's proposals embodied in S. 1599, or with the innovative recommendations of Senators Domenici and Moynihan in S. 1241. The President's proposal, I believe, imposes too great a financial burden on the States in the name of injecting them into the process. On the other hand, S. 1241 would allocate Federal funds to the States on a formula basis and too drastically diminish the congressional role in the name of expediting project development according to State priorities.

My legislation strikes a fair balance between these proposals requiring financial contributions by the States but maintaining an active Federal role in project authorization.

In brief, Mr. President, my legislation would accomplish the following:

First. Create a distinction between intrastate and interstate projects. Intrastate projects are defined as those which satisfy the following criteria:

The project's facilities are all located within one State;

The flood plain controlled by the project (if it has a flood control purpose) is all within the State of the facilities;

The energy produced by the project (if it has an energy production purpose) is all marketed within the State of the facilities;

The municipal, industrial, irrigation or other water supplies provided by the project (if it has a water supply purpose) are all used in the State of the facilities;

The water quality improvement due to the project (if it has a water quality purpose) substantially accrues within the State of the facilities;

The fish and wildlife enhancement caused by the project (except mitigation of losses caused by the project, and if it has a fish and wildlife enhancement purpose) substantially accrues to animals which do not migrate into or out of the State of the facility; and

The value of the navigation benefits of the project (if it has a navigation purpose) are less than 50 percent of the total value of all benefits of the project.

An interstate project is one that does not meet the definition of an intrastate project.

Second. Authorize the Secretary of the Army, through the Corps of Engineers, the Secretary of the Interior, through the Bureau of Reclamation, and the Secretary of Agriculture, through the Soil Conservation Service, to conduct investigations of water resource development projects at the request of the Governor of any State, provided the State agrees to reimburse 25 percent of the investigation's cost within 2 years of the completion of the investigation.

Third. Authorize the Secretaries to provide technical assistance to the States for their own investigations, again provided that 25 percent of the cost of the assistance be reimbursed by the State within 2 years of completion of the assistance.

Fourth. Require that feasibility reports prepared for intrastate projects shall address the problems raised by the Governor in his request, propose a recommended solution to those problems, and suggest possible alternatives.

Fifth. Require that feasibility reports for interstate projects shall be submitted to Congress describing and analyzing the water resource problems of the area with respect to five planning objectives of national economic development, regional development, water resource conservation, environmental quality, and social well-being.

Sixth. Provide that the feasibility report on an interstate project recommend a proposed solution to the water problems of the area, plus suggest three alternatives, one maximizing national economic development, one maximizing regional economic development, and one maximizing environmental quality.

Seventh. Establish the resource development project purposes to be energy production, flood control, municipal and industrial water supply, water conservation, irrigation, navigation, recreation, water quality improvement, fish and wildlife enhancement, and local economic development, and require that the feasibility report specify the dollar value of all benefits and costs attributable to each of the purposes.

Eighth. Establish the interest rate for the project at the internal rate of return, which is defined as the rate at which the benefits over the first 50 years of the project equal the costs.

Ninth. Provide that a feasibility report for a project producing hydroelectric power shall include a determination of the cost of producing power from an alternative source.

Tenth. Authorize the secretaries to undertake construction of an intrastate project upon:

Request of the Governor of the State;

Agreement by the State to repay without interest the entire Federal cost during the first 50 years of the life of the project; and

Authorization by Congress.

Eleventh. Require that for interstate projects, the Federal Government shall be reimbursed by a non-Federal entity for 100 percent of the costs attributable to energy production, 100 percent of the costs attributable for municipal and industrial water supply, 50 percent of construction costs and 100 percent of operation and maintenance costs for recreation, 25 percent of construction costs and 100 percent of operation and maintenance costs for fish and wildlife enhancement, and costs for irrigation in accordance with existing law.

Twelfth. Eliminate the phase I phase II authorization process and return to authorization of advanced engineering and design and construction in one step, except where significant differences from original planning objectives arise.

Mr. President, these are the principal provisions of my bill. I believe the legislation could establish a streamlined, efficient, and effective water resource development program. We are facing a severe water crisis, Mr. President, and we must revive our national water policy from its present moribund state. I believe this legislation will do that, and I hope for its favorable consideration and welcome the support of my colleagues.

Mr. President, I ask unanimous consent—and I have cleared this with the leadership of the majority and minority, and cleared it with the chairman of the three committees involved and the minority members of those committees involved—I ask unanimous consent, as the Parliamentarian has indicated, that this be referred to the appropriate committee of jurisdiction, and if that committee acts upon that bill, that it then be referred to the Energy and Natural Resources Committee for not to exceed 15 days.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered, and the bill will be so referred.

By Mr. WARNER (for himself and Mr. HARRY F. BYRD, JR.):

S. 1857. A bill to authorize the expansion of the boundaries of the Manassas National Battlefield Park, Va.; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, I am today introducing a bill authorizing the expansion of the boundaries of the Manassas Battlefield National Park. The senior Senator of Virginia, Mr. HARRY F. BYRD, JR., is a cosponsor.

Manassas was the scene of two historic battles during the War Between the States. However, the expansion issue has generated such a controversy over the past 5 years that it has come to be known as the "Battle of Third Manassas" by the citizens of Prince William County, Va. Hopefully, this issue can be resolved once and for all—in a manner that will allow the people who live there to plan their own private lives and economic futures, and to continue developing their community.

This bill is a compromise of several proposals which have been brought forth over the years. In my judgment, it is a compromise which maximizes historical, environmental, and cultural considerations, and minimizes economic losses to private landowners and to the community.

The bill also represents a substantial reduction in cost to the American taxpayer over previous proposals. Our objective, particularly in these inflationary times, is to hold Federal expenditures to the smallest practicable amount, and yet preserve as much historical ground as possible for future generations of scholars and visitors.

I propose to add to the existing park about two-thirds of the tract of land known as the Brawner Farm. The farm was the scene of the first skirmish in the Battle of Second Manassas, when Gen. Stonewall Jackson deliberately exposed his troops' position and engaged the Union Army before it could become entrenched. Some historians have called this one of the bloodiest engagements of the entire war.

Also to be included is an historic stone bridge over Bull Run just east of the present park boundary. The bridge was part of a major staging thoroughfare for Union and Confederate troops in both Manassas battles, as well as the Union Army's line of retreat after both battles.

Most historians agree that these two sections are the most significant historical acreage not now in the park, and are amazed that they were not included within the original boundaries.

Mr. President, in drafting this legislation I have accorded great weight to local community interests which must bear the burdens as well as enjoy the benefits of Federal land acquisition. Accordingly, this is the only proposal which has received the endorsement of the Prince William County Board of Supervisors.

I have also sought and received the advice of historians, and the consensus of opinion is that the greater proportion of the remaining historically significant land will be protected by this bill. Of particular significance is a statement by Mr. Michael Jeck, who has done exhaustive research on behalf of the National Park Service, and whose extensive report, including several detailed maps, is part of the collection of the Library of Congress. I ask unanimous consent that Mr. Jeck's report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

HISTORICAL INTEREST OF AREAS UNDER CONSIDERATION FOR INCLUSION IN MANASSAS NATIONAL BATTLEFIELD PARK

(1) Stone Bridge Area: The Stone Bridge extends across Bull Run just north of present-day 29–211. While it has been restored, much, if not most, of the structure is original.

The Stone Bridge figured most prominently in the first battle: here rested the northern flank of the Confederate line, and here the first shots were fired. The Union turning movement, which precipitated the entire battle, was designed to get around the obstacle posed by the Bridge; and Union Gen. Tyler's failure to forge the Bridge and link up with the main force beyond—for which commanding general McDowell always blamed him—did much to contribute to the Union defeat. After that defeat the Bridge served as a principal line of retreat for the Union forces.

At Second Bull Run, the Bridge's part was considerably less prominent until the Union rout on the third day, when it served as their only line of retreat, and thus was the ultimate objective of the Confederate attacks in the last stage of the battle. One of the two most often reproduced pictures of this battle is a depiction of the Union retreat across this Bridge.

(2) The present-day Wheeler Farm: Within this area lies the site of the Lewis house, "Portici." This was Confederate commander-in-chief Joseph E. Johnston's headquarters during the first battle, and it was from here that he directed forward the reinforcements that turned the left flank of the Union line and won the battle for the Confederates.

(3) The Brawner Farm: Of unquestionable primary historical importance, as this is the site of the Iron Brigade fight, the battle of Groveton, the battle of Brawner's farm, etc., etc. that is, the first day's engagement of the three day battle of Second Bull Run. This engagement was in fact the catalyst of the entire battle as without it the battle would probably never have taken place.

After Stonewall Jackson's raid on the Union supply depot at Manassas Junction he had put his men into encampment along the abandoned railroad line north of present-day 29–211. Because of the strength of this position, and of his awareness of Longstreet's near approach, Jackson did not fear attack. In fact he wished to provoke one, for if Union Gen. Pope did not find him and attack him, thus bringing on a general engagement, the Union forces might well simply retreat further toward Washington and junction with McClellan's advancing force, giving them overwhelming strength. So, when toward sunset of Aug. 28, 1862, Jackson saw a Union force advancing east along present-day 29–211, he immediately ordered an attack. His forces consisted of three brigades of Taliaferro's division and two of Ewell's. All were veterans.

The Union force was Gibbon's brigade of King's division of the 3rd Corps of the Union Army of Virginia, later reinforced by two regiments from Doubleday's brigade. None of these troops had ever been in action before and they were outnumbered 2 to 1. Nonetheless, at Jackson's approach they wheeled left from column into line and advanced north from the road to meet him, until the left of their line rested in the area of the Brawner farmhouse and orchard. (The present-day farmhouse is situated on the *exact* site of the historical house and for all anyone knows—the site is in the privately owned area proposed for acquisition and has not been examined—may in fact *be* a still-existing historical structure.) The line extended east from there, through the western boundary of the present-day park, with its right resting midway across the large field just west of the present-day Stonewall Memorial Gardens. The Confederate line was parallel and to the north, on the edge of woods existing at that time.

The lines began to fire at each other at a distance of 100 yards and continued to do so for over two hours until darkness became complete. Several hours later the Union forces fell back to Manassas. Jackson had signalled his location to Pope and thus precipitated the battle of Second Bull Run.

The severity of the fighting may be noted by the fact that the Union forces lost one third of their men, with four of the six regimental commanders being killed or wounded. Gibbon himself said that the firing was the severest he had heard in the war. (And he should know, as he went on to achieve one of the most distinguished Union records, including commanding the defense against Pickett's charge.) The Confederate losses are unrecorded overall, but both the divisional commanders, Taliaferro and Ewell, were severely wounded, Ewell losing a leg, while the Stonewall Brigade itself lost over 50 percent of its men.

Gibbon's brigade, after more fights like this, went on to become known as the Iron Brigade, renowned for its stand at Gettysburg, and undoubtedly the most famous single unit of the Army of the Potomac, and thus of all the Union forces.

(Michael Jeck—In 1976, Mr. Jeck under contract to American University, which in turn was under contract to the National Park Service, spent over six months researching and drawing up a series of maps that show the topography and other physical features of the area at the time of the battle. Reproductions of these extremely detailed maps—the scale was 1" to 400'—and of the 18 page written report detailing procedures and sources, now rest in the collection of the Map Department of Library of Congress.)

By Mr. BAYH:

S. 1858. A bill to amend title 28, United States Code, to provide that the Federal tort claims provisions of that title are the exclusive remedy in medical malpractice actions and proceedings resulting from federally authorized National Guard training activities, and for other purposes; to the Committee on the Judiciary.

NATIONAL GUARD TORT CLAIMS ACT OF 1979

● Mr. BAYH. Mr. President, today I am introducing a bill which will include the National Guard under the Federal Tort Claims Act, the National Guard Tort Claims Act of 1979. The Federal Tort Claims Act waives the Government's tort immunity and holds the Government answerable on a respondent superior theory of liability for the work-related torts of its employees. The National Guard serves a vitally important role as part of the Nation's military establishment. When in training, they are training to perform basically national functions. The constitutionality of the Federal laws authorizing pay, allowances, and other benefits (including administrative settlement of tort claims) for members of the National Guard performing title 32 training has never been challenged. And on April 10, 1979, Deputy ASD (Reserve Affairs) Harold W. Chase, testifying before the Manpower Subcommittee of the Senate Armed Services Committee, submitted a statement, reading in part, "we favor legislation to bring National Guardsmen under the Federal Tort Claims Act—on the same basis as for their reserve and active duty counterparts."

Mr. President, this bill will finally acknowledge that the National Guard are employees of the Federal Government and grant to them the rights enjoyed by all Federal employees.

The first part of section 1 would amend section 2671 of title 28 to include within the definition of "employee of the Government" members of the National Guard on active duty status who are performing federally authorized duties or training exercises. Since the National Guard possesses a dual character—it is both a State military organization and a component of the United States military forces—most members of the National Guard, unless their unit has been called into active service by the President, were not considered employees of the Federal Government for purposes of recovery under the FTCA. *Maryland* v. *United States*, 381 U.S. 41 (1965) remanded on other grounds, 382 U.S. 159 (1966). There was one notable exception to this rule. As a result of remedial legislation, civilian technicians and caretakers employed by the National Guard are now considered Federal employees, (see 33 U.S.C. section 709) and the United States is therefore answerable for their torts in an action brought under the FTCA. Military members of the National Guard, however, had not been brought within the purview of the FTCA although the National Guard Claims Act fills the vacuum to some degree by authorizing a limited administrative remedy against the United States for damage of injury caused by Guardsmen performing federally authorized duties, 32 U.S.C. section 715. Section 1 of my bill would extend FTCA coverage to claims arising from the negligent conduct of National Guardsmen who are performing federally authorized duties or training activities.

The second part of section 1 would also amend section 2671. The FTCA limits the obligation of the United States to pay compensation for the torts of its employees only to those torts which are committed while the employee is acting within the scope of his employment. The FTCA provides that in the case of the Armed Forces scope of employment means "in the line of duty". The second part of section 1 would amend section 2671 to make clear that Guardsmen are to be treated like members of the Armed Forces respecting the scope of employment requirement. That is, a Guardsman will be deemed to be acting within the scope of his employment if he is acting in the line of duty.

Section 2 of the proposed bill would amend section 1089(a) of title 10. That section now provides that a claim against the United States under the FTCA is the exclusive remedy for claims based upon the malpractice of army medical personnel. Section 2 would also make the FTCA the exclusive remedy for claims based upon the malpractice of National Guard medical personnel who are performing federally authorized training duties or exercises.

Section 3 of the proposed bill would repeal 32 U.S.C. section 334 under which the United States has assumed liability for certain malpractice claims against National Guard medical personnel. Section 334 would no longer be needed if the proposed bill is enacted since the FTCA would provide the exclusive remedy for the negligent rendering of treatment by Guard medical personnel.

I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2671 of title 28, United States Code, is amended—

(1) in the second paragraph, by inserting a comma and "members of the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, or any other provision of law for which such a member is entitled to, or has waived, pay under title 37," after "United States"; and

(2) in the third paragraph, by inserting "or a member of the Army National Guard or Air National Guard" after "United States".

Sec. 2. Section 1089(a) of title 10, United States Code, is amended by inserting "the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32 of the United States Code, or any other provision of law for which such a member is entitled to, or has waived, pay under title 37 of the United States Code," after "armed forces".

Sec. 3. Section 334 of title 32, United States Code, is repealed.●

By Mr. PERCY (for himself and Mr. Dole):

S. 1859. A bill to amend the Internal Revenue Code of 1954 with respect to the special valuation of farm property for purposes of the estate tax; to the Committee on Finance.

SPECIAL USE VALUATION FOR FAMILY FARMS

● Mr. PERCY. Mr. President, I am pleased to introduce with the distinguished Senator from Kansas (Mr. Dole) a bill to correct an inequity in the implementation of the special use valuation for family farms.

The Tax Reform Act of 1976 allowed a special valuation for certain farm property at its current use rather than its highest and best use for the purposes of estate taxation. This section was designed to insure that land used for farming both before and after its owner's death would be valued for estate tax purposes on the basis of its value as farmland and not at an inflated value which would necessitate the breakup of family farms.

The formula used by the Internal Revenue Service for determining special use valuation of farmland requires that net annual gross cash rent for comparable farmland located in the area of the farm in question be divided by the average annual effective interest rate charged by Federal land banks on new agricultural loans to farmers and ranchers. The estate tax value is the average of the resulting amount for the 5 most recent calendar years ending before the decedent's death.

In Illinois, Kansas, and several other States, little farmland is cash rented, rather it is share leased on a percentage basis in which the lessor and lessee divide the expenses and profits of the farm operation. It is difficult in these States to find local cash rents.

In Illinois, recent statistics show that less than 8 percent of rented land in Illinois is leased on a cash-rent basis. I have been contacted by a number of experts in Illinois who attest to the fact that in every appraisal they have had extreme difficulty in finding cash rents.

In proposed regulations issued by the Internal Revenue Service on July 19, 1978, an exception was made to the requirement of gross cash rental figures in situations in which no farm property existed in the particular locality that was both comparable and leased on a cash basis. The proposed regulation would have permitted the cash rent to be determined by appraisal using share rents.

On September 10, 1979, however, the IRS reversed itself by issuing proposed regulations which prohibit the use of crop share rentals for the purpose of valuing farm property. The new proposed regulations will make the election of the special use valuation prohibitively difficult in those States where share leasing of farmland is predominant. This is an obviously inequitable result.

The bill which Senator Dole and I are introducing today will allow the use of crop share rentals in valuing farm property for estate tax purposes. This clarification is clearly consistent with the intent of Congress to allow family farms to continue to exist after the death of the original owner.

This bill has been introduced in the House of Representatives by Congressman Madigan as H.R. 5234 and I urge Congress to expeditiously consider and enact it.●

By Mr. NELSON (for himself, Mr. Weicker, Mr. Bayh, Mr. Dole, Mr. Nunn, Mr. Culver, Mr. Huddleston, Mr. Bumpers, Mr. Sasser, Mr. Stewart, Mr. Baucus, Mr. Levin, Mr. Hatch, Mr. Hayakawa, Mr. Durkin, Mr. Johnston, Mr. Leahy, Mr. Pressler, Mr. Chafee, and Mr. Packwood):

S. 1860. A bill to establish a Federal program to assist innovative small businesses by strengthening the role of such businesses in federally funded research and development and by fostering the formation and growth of such business; to the Select Committee on Small Business solely to consider titles I, II, and IV, and if, and when reported, the bill be referred to the Committee on the Judiciary solely to consider titles II and IV, and if and when reported, the bill be referred to the Committee on Finance solely to consider title III, by unanimous consent.

SMALL BUSINESS INNOVATION ACT OF 1979

Mr. NELSON. Mr. President, technological innovation is at the heart of our free enterprise system. More innovation means more jobs, a higher rate of productivity, reduced inflation, and an improved export performance. Innovation enables us to create a cleaner environment to be less dependent on foreign energy sources, and to have safer and more satisfying work. There can never be too much innovation.

That is why I am today introducing the "Small Business Innovation Act of 1979." The comprehensive legislation will assist small businesses, our country's best innovators, by strengthening their role in federally funded research and development and by fostering the formation and growth of independent enterprises.

I am pleased to be joined by Senators Lowell P. Weicker, Birch Bayh, Bob Dole, Sam Nunn, John Culver, Walter D. Huddleston, Dale Bumpers, Jim Sasser, Donald Stewart, Max Baucus, Carl Levin, Orrin Hatch, S. I. Hayakawa, John Durkin, Bennett Johnston, Patrick Leahy, Larry Pressler, John Chafee, and Bob Packwood in introducing this bill.

Title I of the bill addresses the problem of inadequate Federal Government research and development support for small business. Under the bill, each Federal department or agency would be required to target a 1-percent increase in R. & D. procurement set-asides of prime contracts for small business. The increase would begin in fiscal year 1980 and would continue until small business receives a prime contract dollar volume equal to at least 10 percent of each department total R. & D. budget. This proposal would add more than $310 million annually in Federal research and development support to small businesses, enabling them to provide a needed boost to American innovation.

Title II of the bill is modeled on the patent legislation introduced earlier this year by Senators Bayh and Dole. It is extremely significant because this bill addresses two major patent problems facing small business. First, this title allows small business to retain, under certain provisions, patent rights on inventions made under federally sponsored research. This provision would allow small businesses to keep the patent rights to their inventions and prohibit Federal agencies from assuming those rights.

This title reflects improvements that will be offered as amendments by Senators Bayh and Dole, when the Judiciary Committee marks up the Bayh-Dole bill later this month. I am grateful for the cooperation of these Senators in making those amendments as part of the present legislation.

Second, the title also reflects legislation introduced earlier this year by Senator Bayh which authorizes the U.S. Patent and Trademark Office to reexamine contested patents and obviates the need for expensive litigation in U.S.

District Court. Patents upheld by the office could not be appealed. Patents invalidated by the office would be appealed. The average patent litigation costs now run approximately $250,000. Few small businesses can afford the time or money to defend themselves against patent infringements. This proposal would substantially reduce their costs while providing a fair, equitable procedure for deciding patent disputes.

Title III of the bill is a series of amendments to the Internal Revenue Code. First, it allows for capital gains realized on the sale of securities of a small business to be deferred if "rolled over" or reinvested in another small business within an 18-month period.

Second, a small business which spent an average of 3 percent of its gross revenues on R. & D. in each of 3 taxable years, or spent 6 percent of its gross revenues on R. & D. in any one of 3 taxable years could: first, have a loss carry forward of 10 years instead of the present 7-year period; second, write off in 1 year specialized equipment and instrumentation for R. & D. and write off over a minimum 10-year period facilities used for R. & D. purposes; and third, allow that shareholders selling securities of such small firms would pay only half the normal capital gains tax provided the securities had been held for at least 5 years.

In addition, title III allows small businesses to establish a limited tax-free cash reserve for future R. & D. expenditures, allows subchapter S corporations to increase their number of shareholders from 15 to 100, and reinstates the pre-1976 qualified stock option provision which was recently included in a bill introduced by Senator PACKWOOD. The tax proposals in title III may need some future modifications, but they all deserve serious consideration and debate in the Senate.

And finally, title IV of the bill is modeled after the Regulatory Flexibility Act which Senator CULVER and I introduced earlier this year. This bill authorizes all Federal agencies to consider the size of a firm when issuing regulations and to tailor the regulations according to firm size so that the regulatory burden on small business is reduced.

Three Federal task forces have concluded that Federal policies systematically exclude small firms from fully participating in Government sponsored or initiated research and development. This despite the fact that numerous Government and academic studies have conclusively demonstrated that small companies are producing a disproportionately large share of innovative ideas and products.

There are untold economic benefits if we can foster innovation among small businesses. For example, in the period of 1969 to 1974, a series of small firms experienced sales growths of 42.5 percent—roughly three times as great as their larger counterparts. Their employment in that period grew by 40.7 percent—almost 10 times the rate of large innovative firms and some 65 times as much as large, mature firms. Small firms have a special role in securing for society the benefits of technological innovation.

However, while a National Science Foundation study shows conclusively that smaller firms were responsible for half of all major industrial inventions and innovations since World War II, these firms received only 3.4 percent of Federal research and development money. This, in spite of the fact that small firms produced 24 times as many major innovations per research dollar as did large firms.

Small, innovative firms are being placed in the middle of a closing vice. They receive an inadequate and disproportionate share of Federal research and development dollars, they are being strangled by unnecessary regulations and a prohibitively costly patent litigation system, and are being starved of necessary venture capital. The Small Business Innovation Act directly addresses and helps to solve each of these problems.

Because we are taking our technological superiority for granted in this country, we are in danger of losing it. Other nations are competing hard to capture world markets and our own domestic market.

The ability to innovate is what has kept us ahead and small business has been in the vanguard. It is in the national interest to strengthen the ability of small business to be innovative. More innovation means more jobs, a higher rate of productivity, reduced inflation, and an improved export performance and balance of trade.

A comparison of technology-intensive manufacturing industries with other industries in the period 1957–73 shows that:

Technology-intensive industries grew 45 percent faster;

Employment in technology-intensive industries grew 88 percent faster;

Productivity in technology-intensive industries grew 38 percent faster; and

The ratio of price to units produced increased 44 percent less in technology-intensive industries.

Recently, some disturbing trends have appeared in the Nation's inventiveness, entrepreneurship, productivity, inflation rate and world trade.

According to the Commerce Department, the U.S. share of patents filed worldwide and the number of U.S. patents awarded to U.S. citizens has decreased in the last decade.

The number of innovative technology based companies that are starting in the United States is much less than a few years ago.

The U.S. worldwide lead in productivity has been narrowed by 50 percent since the 1950's and current U.S. productivity growth is below its historical trend.

The Nation's large favorable balance of trade in R. & D. intensive industries has come to depend more and more on exports to developing countries and lands.

This startling combination of facts is indicative of the situation we are getting ourselves into and which we must pull out of immediately.

Small Business can play an important role in boosting American technology and solving our country's problems.

Antibiotics, pesticides, helicopters, Polaroid cameras, automatic transmissions, and air conditioners are just a few of the innovations pioneered by independent inventors and small businessmen.

We can multiply these benefits in other industries if we encourage the ideas of small enterprises and help them develop into the marketplace.

Mr. President, I ask unanimous consent that the text of the Small Business Innovation Act of 1979 and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Innovation Act of 1979".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds and declares that—

(1) technological innovation creates jobs, increases productivity, competition, and economic growth, and is a valuable counterforce to inflation and to the United States balance of payments deficit.

(2) small business is a principal source of the Nation's major innovations;

(3) small businesses receive less than four percent of Federal funds for research and development;

(4) private technology expenditures in the United States are highly concentrated in certain fields and industries, as only six industries account for over 85 percent of all industrial research and development spending and only 31 companies, many of them multinational companies, account for 60 percent of total United States research and development;

(5) the tax structure of the Internal Revenue Code of 1954 provides insufficient support for the formation, growth and long-term independent operation of small businesses; and

(6) it is in the national interest—

(A) to strengthen the ability of small businesses to be innovative;

(B) to increase private sector commercialization of innovations derived from Federal research and development;

(C) to increase the proportion of Federal research and development expenditures which go to small businesses;

(D) to assure small businesses of the opportunity to compete for Federal research and development contracts; and

(E) to stimulate technological innovation by all possible means.

TITLE I—RESEARCH AND DEVELOPMENT CONTRACTS

SMALL BUSINESS SET-ASIDE; SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 101. The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting immediately after section 9 the following new section:

"SEC. 9A. (a) The Administration shall—

"(1) advise and assist Federal agencies in meeting the small business research and development set-asides required under subsection (b), and monitor the activities of Federal agencies in meeting such set-asides;

"(2) develop and maintain a source file and an information program to assure each qualified and interested small business concern the opportunity to participate in Federal agency Small Business Innovation Research (SBIR) programs;

"(3) coordinate the development of a schedule for release of SBIR solicitations with participating agencies, and prepare a master release schedule to preclude several Federal agencies from releasing such solicitations at one time and thereby limiting the opportunities of small business concerns to respond to some solicitations;

"(4) independently survey and monitor the operation of SBIR programs within participating Federal agencies; and

"(5) report annually to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives on the activities of Federal agencies in meeting the small business research and development set-asides required under subsection (b), the SBIR programs of the Federal agencies, and the information and monitoring efforts of the Administration related to the SBIR programs.

"(b) For fiscal year 1980, each Federal agency shall set-aside for award to small business concerns a percentage of the total dollar amount of its budget for prime research and development contracts equal to the percentage of the total dollar amount of such contracts awarded to such concerns in fiscal year 1979 plus one percentage point. In fiscal year 1981 and in each succeeding fiscal year, each Federal agency shall increase the percentage of the total dollar amount of such contracts set-aside for small business concerns pursuant to this subsection by one percentage point, until such percentage set-aside for award to such concerns equals 10 percent of the total dollar amount of such contracts. The set-asides required by this subsection apply to contracts for basic research and development and applied research and development.

"(c) Each Federal agency which has a research or research and development budget in excess of $100,000,000 for any fiscal year beginning with fiscal year 1980 shall establish an SBIR program which meets the requirements of this section and section 102 of the Small Business Innovation Act of 1979 and shall expend not less than 1 percent of such budget for fiscal year 1980 and for each succeeding fiscal year with small business concerns specifically in connection with such Act. Contract awards under this subsection shall be considered as meeting the set-aside requirement of subsection (b). Contract awards to small business concerns for research or research and development which result from competitive or single source selections other than under an SBIR program shall not be counted as meeting any portion of the percentage requirements of this section.

"(d) Each Federal agency required by subsection (c) to establish an SBIR program shall, in accordance with this Act and regulations issued under this Act—

"(1) determine categories of projects to be in its SBIR program;

"(2) issue SBIR solicitations in accordance with a schedule determined cooperatively with the Administration;

"(3) receive and evaluate proposals resulting from SBIR proposals;

"(4) select awardees for its SBIR contracts;

"(5) administer its own SBIR contracts (or delegate such administration to another agency);

"(6) make payments to SBIR contractors on the basis of progress toward or completion of the contract requirements; and

"(7) make quarterly reports on the SBIR program to the Administration.

"(e) Each Federal agency subject to the requirements of subsection (b) or (c) of this section shall report quarterly to the Administration the number of research and development contract awards to small business concerns under this section (for contracts over $10,000 in amount) and the dollar value of all such contract awards, identifying SBIR awards and comparing the number and amount of all research and development contract awards with awards to concerns which are not small business concerns.

"(f) For purposes of this section—

"(1) the term 'contract' means any contract, grant, or cooperative agreement entered into between any Federal agency and any organization or person for the performance of experiments, developmental, or research work and includes the assignment of any such contract, the substitution as parties to any such contract, and the letting of any subcontract to any such contract;

"(2) the term 'Small Business Innovation Research program' or 'SBIR' means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small business concerns through a simplified, standardized acquisition process having a phase for determining, insofar as possible, the practicability of ideas proposed under the program, and a phase for the principal research effort to develop the proposed idea to the product production level, in order to promote greater utilization of small science and technology firms in United States Government research and development and conversion of that research to technological innovation in the private sector or for technological innovation in products intended for Government use; and

"(3) the terms 'research' and 'research and development' have the meanings given to such terms by the Cost Accounting Standards Board.".

REGULATIONS FOR THE SBIR PROGRAM

SEC. 102. (a) The Administrator for Federal Procurement Policy, in conjunction with the Small Business Administration and the National Science Foundation, is authorized and directed to promulgate and issue appropriate regulations, in accordance with the provisions of this Act and within one hundred and twenty days of its enactment, for conduct by Federal agencies of Small Business Innovation Research programs established pursuant to section 9A of the Small Business Act. Such regulations shall—

(1) provide for simplified standardized and timely SBIR solicitations, proposals, and evaluation processes;

(2) require Federal agencies to coordinate SBIR solicitation release schedules with the Small Business Administration; and

(3) include uniform requirements for patent rights and rights in data that are commensurate with the intent of this Act.

(b) The National Science Foundation and the Small Business Administration shall provide the Administrator of the Office of Federal Procurement Policy with advice and assistance in the promulgation of regulations under this section.

RESEARCH AND DEVELOPMENT CONTRACT REGULATIONS

SEC. 103. (a) The Administrator for Federal Procurement Policy, in cooperation with the Small Business Administration, shall establish simplified regulations for all Federal agencies for the award of research and development contracts to small business concerns and procedures for insuring compliance with such regulations by all Federal agencies. In establishing such regulations, the Administrator shall consider means which will facilitate the participation of small business concerns in the research and development contracts of Federal agencies.

(b) The Administrator shall insure that regulations established pursuant to subsection (a) shall—

(1) provide for the elimination of provisions of Federal research and development contracts which require businesses to absorb expenses of performance of the contract, and require that a Federal agency, when awarding any such contract to a small business concern, negotiate fees for all services and expenses provided to the agency under such contract;

(2) prohibit each Federal agency and each office or component thereof from excluding any small business concern from competition for any research and development contract on the same terms and conditions as any other business concern;

(3) require each Federal agency to consider unsolicited research and development proposals from small business concerns and to promptly and fairly review such proposals based upon their merits;

(4) require each Federal agency to consider small business concerns on an equal basis with any other business concern in the award of sole source research and development contracts;

(5) require that, for purposes of determining expenses of a research and development contract, the independent research and development costs and the bid and proposal costs incurred by small business concerns shall be attributable to expenses of the contract in the fiscal year in which such expenses are incurred;

(6) require each Federal agency to evaluate the fesability of dividing all proposed large scale research and development contracts into smaller segments in order to facilitate the participation of small business concerns in such contracts;

(7) require each Federal agency which lets research and development contracts to develop, in cooperation with the Small Business Administration, programs to—

(A) inform the staff and consultants of the agency of the need to provide fair and equal opportunity to small business concerns owned by women and minorities for participation in the research and development contracts of the agency; and

(B) require such staff and consultants to provide guidance and counseling to small business concerns to strengthen the ability to such firms to compete for and receive research and development contracts of the agency:

(8) require each Federal agency to include in the evaluation of personnel involved with the awarding of research and development contracts an appraisal of the achievements and attitudes of such personnel in carrying out the provisions of paragraph (7); and

(9) establish the responsibility of each Federal agency to identify and study the areas of agency procedures for the award of research and development contracts which discriminate against small business concerns and to take such action as may be necessary to change or eliminate such discriminatory procedures.

DEFINITIONS

SEC. 104. For purposes of this title—

(1) the term "Federal agency" means an Executive agency as defined in section 105 of title 5, United States Code, or a military department as defined in section 102 of such title;

(2) the term "contract" means any contract, grant, or cooperative agreement entered into between any Federal agency and any organization or person for the performance of experiments, developmental or research work and includes the assignment of any such contract, the substitution of parties to any such contract, and the letting of any subcontract to any such contract;

(3) the term "small business concern" has the same meaning as in section 3 of the Small Business Act;

(4) the term "Small Business Innovation Research program" or "SBIR" means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small

business concerns through a simplified, standardized acquisition process having a phase for determining, insofar as possible, the practicability of ideas proposed under the program, and a phase for the principal research effort to develop the proposed idea to the product production level, in order to promote greater utilization of small science and technology firms in United States Government research and development and conversion of that research to technological innovation in the private sector or for technological innovation in products intended for Government use; and

(5) the terms "research" and "research and development" have the meanings given to such terms by the Cost Accounting Standards Board.

TITLE II—PATENTS

Subtitle A—Patent Procedure for Small Business

SEC. 201. AMENDMENT OF TITLE 35, UNITED STATES CODE, PATENTS.

(a) Title 35 of the United States Code is amended by adding after chapter 17, a new chapter as follows:

"Chapter 18.—PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE

"Sec.
"200. Policy and objective.
"201. Definitions.
"202. Disposition of rights.
"203. March-in rights.
"204. Return of Government investment.
"205. Preference for United States industry.
"206. Confidentially.
"207. Uniform clauses.
"208. Domestic and foreign protection of federally owned inventions.
"209. Regulations governing Federal licensing.
"210. Restrictions on licensing of federally owned inventions.
"211. Precedence of chapter.
"212. Relationship to antitrust laws.

"§ 200. Policy and objective

"It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the costs of administering policies in this area.

"§ 201. Definitions

"As used in this chapter—

"(a) The term 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined by section 102 of title 5, United States Code.

"(b) The term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency and any person for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

"(c) The term 'contractor' means any person that is a party to funding agreement.

"(d) The term 'invention' means any invention or discovery which is or may be patentable or otherwise protectable under this title.

"(e) The term 'subject invention' means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement.

"(f) The term 'practical application' means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

"(g) The term 'made' when used in relation to any invention means the conception or first actual reduction to practice of such invention.

"(h) The term 'small business firm' means a small business concern as defined at section 2 or Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

"(i) The term 'nonprofit organization' means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)).

"§ 202. Disposition of rights

"(a) Each nonprofit organization or small business firm may, within a reasonable time after disclosure as required by paragraph (c)(1) of this section, elect to retain title to any subject invention: *Provided, however*, That a funding agreement may provide otherwise (i) when the subject invention is made under a contract for the operation of a Government-owned research or production facility, or (ii) in exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of this chapter. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (c) of this section and the other provisions of this chapter.

"(b)(1) Any determination under (ii) of paragraph (a) of this section shall be in writing and accompanied by a written statement of facts justifying the determination. A copy of each such determination and justification shall be sent to the Comptroller General of the United States within thirty days after the award of the applicable funding agreement. In the case of determinations applicable to funding agreements with small business firms copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

"(2) If the Comptroller General believes that any pattern of determinations by a Federal agency is contrary to the policy and objectives of this chapter or that an agency's policies or practices are otherwise not in conformance with this chapter, the Comptroller General shall so advise the head of the agency. The head of the agency shall advise the Comptroller General in writing within one hundred twenty days of what action, if any, the agency has taken or plans to take with respect to the matters raised by the Comptroller General.

"(3) At least once each year, the Comptroller General shall transmit a report to the Committees on Judiciary of the Senate and House of Representatives on the manner in which this chapter is being implemented by the agencies and on such other aspects of Government patent policies and practices with respect to federally funded inventions as the Comptroller General believes appropriate.

"(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

"(1) A requirement that the contractor disclose each subject invention to the Federal agency within a reasonable time after it is made and that the Federal Government may receive title to any subject invention not reported to it within such time.

"(2) A requirement that the contractor make an election to retain title to any subject invention within a reasonable time after disclosure and that the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such time.

"(3) A requirement that a contractor electing rights file patent applications within reasonable times and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

"(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world, and may, if provided in the funding agreement, have additional rights to sublicense any foreign government pursuant to any existing or future treaty or agreement.

"(5) The right of the Federal agency to require periodic reporting on the utilization or efforts at obtaining utilization that are being made by the contractor or his licensees or assignees: *Provided*, That any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under the Freedom of Information Act.

"(6) An obligation on the part of the contractor, in the event a United States patent application is filed by or on its behalf or by any assignee of the contractor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

"(7) In the case of a nonprofit organization, (a) a prohibition upon the assignment of rights to a subject invention in the United States without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee shall be subject to the same provisions as the contractor) (b) a prohibition against the granting of exclusive licenses under United States Patents or Patent Applications in a subject invention by the contractor to persons other than small business firms for a period in excess of the earlier of five years from first commercial sale or use of the invention or eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance unless, on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use shall not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention shall not be deemed to end the exclusive period to different subsequent products covered by the invention; (c) a requirement that the contractor share royalties with the inventor; and (d) a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research or education.

"(8) The requirements of sections 203, 204, and 205 of this chapter.

"(d) If a contractor does not elect to retain title to a subject invention in cases subject to this section, the Federal agency may consider and after consultation with the contractor grant requests for retention of rights by the inventor subject to the provisions of this Act and regulations promulgated hereunder.

"(e) In any case when a Federal employee is a coinventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Federal agency employing such coinventor is authorized to transfer or assign whatever rights it may acquire in the subject invention from its employee to the contractor subject to the conditions set forth in this chapter.

"(f)(1) No funding agreement with a small business firm or nonprofit organization shall contain a provision allowing a Federal agency to require the licensing to third parties of inventions owned by the contractor that are not subject inventions unless such provision has been approved by the head of the agency and a written justification has been signed by the head of the agency. Any such provision shall clearly state whether licensing may be required in connection with the practice of a subject invention and/or specifically identified work objects. The head of the agency may not delegate the authority to approve provisions or sign justifications required by this subparagraph.

"(2) A Federal agency shall not require the licensing of third parties under any such provision unless the head of the agency determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreements and that such action is necessary to achieve the practical application of the subject invention or work object. Any such determination shall be on the record after an opportunity for a hearing. Any action commenced for the judicial review of such determination shall be brought within sixty days after notification of such decision.

"§ 203. March-in rights

"With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this chapter, the Federal agency under whose funding agreement the subject invention was made shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder to require the subject inventor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such request, to grant such a license itself, if the Federal agency determines either—

"(a) that such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use; or

"(b) that such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees; or

"(c) that such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

"(d) that such action is necessary because the agreement required by section 205 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of its agreement obtained pursuant to section 205.

"§ 204. Return of Government Investment

"(a) If after the first United States patent application is filed on a subject invention, a nonprofit organization, a small business firm, or an organization to whom such invention was assigned for licensing purposes receives $70,000 in gross income for any one calendar year from the licensing of a subject invention or several related subject inventions, the United States shall be entitled to fifteen (15) percent of all additional such income for that year other than any such additional income received under non-exclusive licenses (except where the non-exclusive licensee previously held an exclusive or partially exclusive license).

"(b) If after the first United States patent application is filed on a subject invention, a nonprofit organization, a small business firm, or an assignee of a subject invention of such an organization or firm receives gross income of $1,000,000 on sales of its products embodying or manufactured by a process employing one or more subject inventions, the United States shall be entitled to a share, to be negotiated but not to exceed five (5) percent, of all additional gross income for that year accruing from such sales; provided, however, that in no event shall the United States be entitled to an amount greater than that portion of the Federal funding under the funding agreement or agreements under which the subject invention or inventions was or were made that was expended on activities related to the making of the invention or inventions less any amounts received by the United States in accordance with paragraph (b) of this section 204. In cases when more than one subject invention is involved, no expenditure funded by the United States shall be counted more than once in determining the maximum amount to which the United States is entitled.

"(c) The Director of the Office of Federal Procurement Policy is authorized and directed to revise the dollar amounts in paragraphs (b) and (c) of this section 204 at least every three years in light of changes to the Consumer Price Index or other indices which the Director considers reasonable to use.

"(d) This section applies only to subject inventions upon which United States patents are granted and in effect.

"§ 205. Preference for United States Industry

"Notwithstanding any other provision of this chapter, no small business firm or nonprofit organization which receives title to any subject invention and no assignee of any such nonprofit organization shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency under whose funding agreement the invention was made upon a showing by the small business firm, nonprofit organization, or assignee either that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

"§ 206. Confidentiality

"Federal agencies are authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

"§ 207. Uniform Clauses and Regulations

"The Office of Federal Procurement Policy, after receiving recommendations of the Office of Science and Technology Policy, may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 205 of this Chapter and the Office of Federal Procurement Policy shall establish standard funding agreement provisions required under this chapter.

"§ 208. Domestic and Foreign Protection of Federally Owned Inventions

"Each Federal agency is authorized to—

"(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

"(2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 28 of this title as determined appropriate in the public interest;

"(3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract; and

"(4) transfer custody and administer, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.

"§ 209. Regulations Governing Federal Licensing

"The Administrator of General Services is authorized to promulgate regulations specifying the terms and conditions upon which any federally owned invention may be licensed on a nonexclusive, partially exclusive, or exclusive basis.

"§ 210. Restrictions on Licensing of Federally Owned Inventions

"(a) No Federal agency shall grant any license under a patent or patent application on a federally owned invention unless the person requesting the license has supplied the agency with a plan for development and/or marketing of the invention, provided, that any plan may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under the Freedom of Information Act.

"(b) A Federal agency shall normally grant the right to use or sell any federally owned invention in the United States only to a licensee that agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

"(c)(1) Each Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

"(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

"(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

"(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

"(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

"(2) A Federal agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

"(3) First preference in the exclusive or partially exclusive licensing of federally owned inventions shall go to small business firms submitting plans that are determined by the agency to be within the capabilities of the firms and as likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms.

"(d) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, any Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that a Federal agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

"(e) The Federal agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

"(f) Any grant of a license shall contain such terms and conditions as the Federal agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following:

"(1) periodic reporting on the utilization or efforts at obtaining utilization that are being made by the licensee with particular reference to the plan submitted: *Provided*, That any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under the Freedom of Information Act;

"(2) the right of the Federal agency to terminate such license in whole or in part if it determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Federal Agency that it has taken or can be expected to take within a reasonable time, effective steps to achieve practical application of the invention;

"(3) the right of the Federal agency to terminate such license in whole or in part if the licensee is in breach of an agreement obtained pursuant to paragraph (b) of section; and

"(4) the right of the Federal agency to terminate the license in whole or in part if the agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee.

"§ 211. Precedence of chapter

"(a) This Chapter shall take precedence over any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations contractors in a manner that is inconsistent with this chapter, including but not necessarily limited to the following:

"(1) section 10(a) of the Act of June 29, 1935, as added by title 1 of the Act of August 14, 1946 (7 U.S.C. 427i(a); 60 Stat. 1085):

"(2) section 205(a) of the Act of August 14, 1946 (7 U.S.C. 1624(a); 60 Stat. 1090);

"(3) section 501(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 951(c); 83 Stat. 742);

"(4) section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1935(c); 80 Stat. 721);

"(5) section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360);

"(6) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182; 68 Stat. 943);

"(7) section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457);

"(8) section 6 of the Coal Research Development Act of 1960 (30 U.S.C. 666; 74 Stat. 337);

"(9) section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920);

"(10) section 32 of the Arms Control and Disarmament Act of 1961 (22 U.S.C. 2572; 75 Stat. 634);

"(11) subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5);

"(12) subsection (a)(2) of section 216 of title 38, United States Code;

"(13) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901; 88 Stat. 1878);

"(14) section 3 of the Act of June 22, 1976 (42 U.S.C. 1959d, note; 90 Stat. 694);

"(15) subsection (d) of section 6 of the Saline Water Conversion Act of 1971 (42 U.S.C. 1959(d); 85 Stat. 161);

"(16) section 303 of the Water Resources Research Act of 1964 (42 U.S.C. 1961c–3; 78 Stat. 332);

"(17) section 5(d) of the Consumer Product Safety Act (15 U.S.C. 2054(d); 88 Stat. 1211);

"(18) section 3 of the Act of April 5, 1944 (30 U.S.C. 323; 58 Stat. 191);

"(19) section 8001 of the Solid Waste Disposal Act (42 U.S.C. 6981; 90 Stat. 2829);

"(20) section 306(d) of the Surface Mining and Reclamation Act of 1977 (30 U.S.C. 1226(d); 91 Stat. 455);

"(21) section 21(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(d); 88 Stat. 1548);

"(22) section 6(b) of the Solar Photovoltaic Energy Research, Development and Demonstration Act of 1978 (42 U.S.C. 5585 (b); 92 Stat. 2516); and

"(23) section 12 of the Native Latex Commercialization and Economic Development Act of 1978 (7 U.S.C. 178(j); 92 Stat 2533).

The Act creating this chapter shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

"(b) Nothing in this chapter is intended to alter the effect of the laws cited in paragraph (a) of this section or any other laws with respect to the disposition of rights in inventions made in the performance of funding agreements with persons other than nonprofit organizations or small business firms.

"(c) Nothing in this chapter is intended to limit the authority of agencies to agree to the distribution of rights in inventions made in the performance of work under funding agreements with persons other than nonprofit organizations or small business firms in accordance with the Statement of Government Patent Policy issued by the President on August 23, 1971 (36 Fed. Reg. 16887), agency regulations, or other applicable regulations or to otherwise limit the authority of agencies to agree to allow such persons to retain ownership of such inventions.

"§ 212. Relationship to Antitrust Laws

"Nothing in this chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defense to actions, under any antitrust law.".

SEC. 202. AMENDMENTS TO OTHER ACTS.

The following Acts are amended as follows:

(a) Section 156 of the Atomic Energy Act of 1954 (42 U.S.C. 2186; 68 Stat. 947) is amended by deleting the words "held by the Commission or".

(b) The National Aeronautics and Space Act of 1958 is amended by repealing paragraph (g) of section 305 (42 U.S.C. 2457(g); 72 Stat. 436).

(c) The Federal Nonnuclear Energy Research and Development Act of 1974 is amended by repealing paragraphs (g), (h), and (i) of section 9 (42 U.S.C. 5908 (g), (h), and (i); 88 Stat. 1889–1891).

SEC. 203. EFFECTIVE DATE.

This title shall take effect one hundred and eighty days after the date of its enactment, except that the regulations referred to in section 201, or other implementing regulations, may be issued prior to that time.

Subtitle B—Reexamination of Patents

SEC. 210. PRIOR ART CITATIONS AND REEXAMINATION.

(a) Title 35 of the United States Code is amended by adding after chapter 29 the following chapter:

"Chapter 30—PRIOR ART CITATIONS TO PATENT OFFICE AND REEXAMINATION OF PATENTS

"Sec.
"301. Rules established by Commissioner of Patents.
"302. Citation of art.
"303. Request for examination.
"304. Determination of issue by Commissioner of Patents.
"305. Reexamination ordered by Commissioner of Patents.
"306. Response or amendment by patent owner.
"307. Appeals.
"308. Certificate of patentability; unpatentability and claim cancellation.
"309. Reliance on art in court.
"310. Stay of court proceedings to permit Office review.
"311. Dismissal of complaint.

"§ 301. Rules established by Commissioner of Patents

"The Commissioner shall establish rules and regulations for the citation to the Office of prior art patents or publications, pertinent to the validity of patents, and for the reexamination of patents in the light of such prior art.

"§ 302. Citation of art

"Any person may, at any time within the period of enforceability of a patent, cite to the Office prior patents or publications which may have a bearing on the patentability of any claim of the patents: *Provided*, That the person citing such prior art identifies in writing the part(s) of the same considered pertinent and the manner of applying the same to at least one claim of the patent. The writing identifying and applying the same shall become a part of the official file of the patent. The identity of the person citing the prior art will be excluded from such file upon his request to remain anonymous.

"§ 303. Request for examination

"Any person may, at any time within the period of enforceability of a patent, request reexamination of the patent as to the patentability of any claim thereof in the light of any prior art cited under the provisions of section 302 of this chapter, by filing in the Office a written request for such reexamination accompanied by a reexamination fee prescribed according to this title and by a statement of the relation of such prior art to the patentability of the claim or claims involved. Unless the requesting person is the patentee, the Commissioner shall promptly send a copy of such request and statement to the owner of the patent appearing from the records of the Office at the time of the filing of the request.

"§ 304. Determination of issue by Commissioner of Patents

"(a) Within 90 days following the filing of a request for reexamination under section 303 of this chapter, the Commissioner shall make a determination as to whether a substantial new question of patentability affecting any claim of the patent concerned, not previously considered in examination or reexamination of such claim, is raised by the consideration, with or without any other prior art, of the prior art which has been cited in relation to the patent according to section 302 of this chapter. The Commissioner on his own initiative may make such a determination at any time.

"(b) A record of the Commissioner's determination under paragraph (a) of this section shall be made in the file of the patent, and a copy of it sent promptly to the owner of the patent.

"(c) A determination by the Commissioner pursuant to paragraph (a) of this section that such a new question of patentability is not so raised shall be final and nonappealable.

"§ 305. Reexamination ordered by Commissioner of Patents

"If, in a determination made pursuant to paragraph (a) of section 304, the Commissioner finds that a substantial new question of patentability affecting a claim or claims of the patent is raised by consideration of the patents and publications that have been cited in relation to the patent according to section 302 of this chapter, he shall order a reexamination of the patent for the resolution of the question, and shall proceed to resolve it as though the claim or claims involved were present in a pending application. The patent owner shall be given a reasonable period, not less than two months, after the filing of the reexamination order within which he may file a statement on such question for consideration in the reexamination. The patentee shall serve a copy of such statement on any person who has requested examination according to section 303 of this chapter and such person shall have the right, within a period of two months from such service, to submit a reply to the patentees statement. Any reexamination proceeding under this section shall be conducted with special dispatch within the Office.

"§ 306. Response or amendment by patent owner

"The patent owner shall be provided an opportunity in any reexamination proceeding under this chapter to amend any claim of his patent in order to distinguish the claim from prior art cited according to section 302 of this chapter, or in response to a decision adverse to the patentability of the claim, but no amendment enlarging the scope of a claim shall be permitted in a reexamination proceeding under this chapter.

"§ 307. Appeals

"The owner of a patent involved in a reexamination proceeding under this chapter may appeal from a final decision in such proceeding adverse to the patentability of any claim, or amended claim, of the patent.

"§ 308. Certificate of patentability; unpatentability and claim cancellation

"When in a reexamination proceeding under this chapter the time for appeal has expired or any appeal proceeding has terminated, the Commissioner shall issue and publish a certificate canceling any claim of the patent finally determined in such proceeding or on appeal therein to be unpatentable, confirming any claim of the patent so determined to be patentable, and incorporating in the patent any amended claim thereof so determined to be patentable.

"§ 309. Reliance on art in court

"(a) No patent or (printed) publication may be relied upon as evidence or nonpatentability in a civil action involving an issue of validity or infringement of a patent unless (a) the patent or publication was cited by or to the Office during prosecution of the application for the patent or was submitted for consideration by the Office in accordance with sections 302 and 303 of this chapter and was actually considered in accordance with section 304, or (b) the court, upon motion, concludes such submission and reconsideration to be unnecessary for its adjudication of the issue of validity or infringement.

"(b) The limitation provided by this section shall apply in any civil action in which a pleading presents a claim for infringement or for adjudication of the validity of a patent, upon the basis of the contents of the patent file as it existed on the date of the filing of such pleading, excepting that a party may rely upon a patent or publication cited later, and upon the final determination had on a request for reexamination in the light of such patent or publication if such patent or publication was cited and such request was filed in the Office within the period of a stay ordered by the court in accordance with section 310 of this chapter.

"§ 310. Stay of court proceedings to permit Office review

"(a) Any party to a civil action against whom a pleading presents a claim for infringement or for adjudication of the validity of a patent shall have the right, by motion brought before any responsive pleading, to secure a stay of all proceedings in the action by order of the court for a period, not less than four months, sufficient to enable such party to search for and cite patents or publications considered pertinent to the patent and to request reexamination of the patent in view of such prior art according to sections 302 and 303 of this chapter. If such party files a request for such reexamination in the Office and serves and files a copy of it in the action within the period of the stay provided by such order, the stay shall be extended by further order of the court until at least 20 days after the final determination of the request for reexamination.

"(b) The court, on motion and upon such terms as are just, may at any time stay the proceedings in a civil action in which the validity of a patent is in issue for a period sufficient to enable the moving party to cite to the Office newly discovered additional prior art in the nature of patents or (printed) publications and to secure final determination of a request for reexamination of the patent in the light of such additional prior art, provided the court finds that such additional prior art, in fact, constitutes newly discovered evidence which by due diligence could not have been discovered in time to be cited to and considered by the Office within the period of a stay of such proceedings that was or could have been secured according to subsection (a) of this section.

"§ 311. Dismissal of complaint

"The party or parties whose complaint commencing a civil action presents a claim for infringement or for adjudication of the validity of a patent shall have the right, by notice served upon the other party or parties and filed in the action at any time within the period of a stay ordered by the court pursuant to section 310 of this chapter, to dismiss such complaint without prejudice and without costs to any party.".

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SHORT TITLE; AMENDMENTS TO 1954 CODE

SEC. 301. (a) This title may be cited as the "Small Business Research and Development Tax Incentive Act of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

RECOGNITION OF GAIN ON SALE OF SMALL BUSINESS STOCK

SEC. 302. (a) (1) Part III of subchapter C of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALES OF SMALL BUSINESS STOCK.

"(a) NONRECOGNITION OF GAIN.—If small business stock is sold, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the taxpayer's sale price exceeds the cost of small business stock purchased by the taxpayer within 18 months after the date of such sale.

"(b) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) SMALL BUSINESS STOCK.—The term 'small business stock' means common or preferred stock issued by a small business concern.

"(2) SMALL BUSINESS CONCERN.—

"(A) IN GENERAL.—The term 'small business concern' means a domestic corporation or small business investment company (other than an electing small business corporation as defined in section 1371(b))—

"(i) which does not, for the taxable year in which such stock is issued, have passive investment income (as defined in section 1372(e)(5)(C)) in excess of the limitation set forth in section 1372(e)(5)(A), and

"(ii) the equity capital (within the meaning of the last sentence of section 1244(c)(2), as in effect on November 5, 1978) of which does not exceed $25,000,000.

"(B) CONTROLLED CORPORATIONS.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a)(1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1)(A) of this subsection, as the equity capital of the issuing corporation.

"(3) STOCK ACQUIRED BY UNDERWRITER.—No acquisition of stock by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as a purchase for purposes of subsection (a).

"(4) Definition of small business investment company.—The term 'small business investment company' has the same meaning as when such term is used in title III of the Small Business Investment Company Act of 1958 (15 U.S.C. 681 et seq.), except that such term shall not include an electing small business corporation (as defined in section 1371(b)).

"(c) Limitation.—Subsection (a) shall only apply to gain attributable to sale of small business stock with respect to which the taxpayer's holding period is more than 12 months.

"(d) Basic of Small Business Stock.—The basis of small business stock purchased by the taxpayer during the 18-month period shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one share of small business stock is purchased, such reduction in basis shall be applied to each such share in chronological order of purchase. The amount of the reduction applicable to each share shall be determined by multiplying the maximum gain not to be recognized pursuant to subsection (a) by a fraction the numerator of which is the cost of such share and the denominator of which is the total cost of all such shares.

"(e) Statute of Limitations.—If during a taxable year a taxpayer sells small business stock at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing small business stock which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase property within the period specified in paragraph (2), or

"(C) a failure to make such purchase within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period nothwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(2) Section 1223 of such Code is amended by redesignating paragraph (12) as paragraph (13) and by inserting a new paragraph (12) as follows:

"(12) In determining the period for which the taxpayer has held small business stock the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale of small business stock, there shall be included the period for which small business stock with respect to which gain was not recognized had been held, and the period such replacement small business stock was held as of the date of such sale or exchange.".

(3) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of small business stock.".

(b) Section 1202 (relating to deduction for capital gains) is amended by redesignating subsection (c) as (d) and by adding after subsection (b) the following:

"(c) Small Business Deduction.—

"(1) In general.—If for any taxable year a taxpayer other than a corporation has a net small business capital gain, 80 percent of the amount of such gain shall be a deduction from gross income.

"(2) Net small business capital gain.—

"(A) In general.—The term 'net small business capital gain' means the excess of—

"(i) an amount equal to the excess of (I) the gain from the sale or exchange of any small business stock held for more than 5 years, over (II) any loss from the sale or exchange of any small business stock held more than 1 year, over

"(ii) the net short-term capital loss from the sale or exchange of small business stock.

"(B) Coordinator with subsection (a).—If a taxpayer has net small business capital gain for any taxable year, any gain or loss taken into account in computing such gain shall not be taken into account for purposes of computing net capital gain under subsection (a).

"(3) Small business stock.—The terms 'small business stock' means common or preferred stock issued by a qualified small business concern (within the meaning of section 172(j)).".

(c) The amendments made by this section shall apply with respect to stock acquired after December 31, 1979.

NET OPERATING LOSS CARRYOVERS

Sec. 303. (a) Subsection (b)(1) of section 172 (relating to net operating loss deduction) is amended by adding at the end thereof the following new subparagraph:

"(J) In the case of a qualified small business concern (as defined in subsection (j)), a net operating loss for any taxable year beginning after December 31, 1979, shall not be a net operating loss carryback to any taxable year preceding the year of such loss, but shall be a net operating loss carryover to each of the 10 taxable years following the year of such loss.".

(b) Section 172 is amended by adding at the end thereof the following new subsection:

"(j) Qualified Small Business Concern.—For purposes of this section, the term 'qualified small business concern' means a small business concern (within the meaning of section 1041(b)(2)) which during the 3 taxable years preceding the taxable year, or if the concern has not been in existence for 3 taxable years, during all taxable years of the concern (including the taxable year), had research and experimental expenditures (within the meaning of section 174)—

"(1) the average of which was 3 percent or more of gross revenues during such taxable years, or

"(2) which exceeded 6 percent or more of gross revenues during any one of such taxable years.".

(c)(1) Subparagraph (A) of section 172(b)(1) is amended by striking out "and (H)" and inserting "(H) and (J)".

(2) Subpargraph (B) of section 172(b)(1) is amended by striking out "and (F)" and inserting ", (F), and (J)".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

RESEARCH AND EXPERIMENTATION DEDUCTION

Sec. 304. (a) Section 174 (relating to research and experimental expenditures) is amended by redesignating subsection (e) as (f) and by inserting after subsection (d) the following new subsection:

"(e) Qualified Small Business Concern.—Notwithstanding the provisions of subsection (b)(1)(C) or (C), a qualified small business concern (within the meaning of section 172(j)) may elect—

"(1) for purposes of subsection (a), to treat research and experimental expenditures for the acquisition or improvement of property which is subject to an allowance under section 167 or 611 and which constitutes research equipment as expenses not chargeable to capital account, and

"(2) for purposes of subsection (b), to treat research and experimental expenditures for any property subject to an allowance under section 167 or 611 as deferred expenses, except that in the case of a building or its structural components, the term '120 months' shall be substituted for '60 months' in paragraph (1) of such subsection.".

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1979, for expenditures made after such date.

EXCLUSION FOR AMOUNTS DEPOSITED IN RESERVE FOR RESEARCH AND DEVELOPMENT

Sec. 305. (a) Subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to taxable year in which items of gross income included) is amended by adding at the end thereof the following new section:

"Sec. 459. Reserve for Research and Development.

"(a) Exclusion of Certain Deposits into Reserve for Research and Development.—

"(1) In general.—In the case of a small business concern engaged in a trade or business other than real estate, the gross income of the taxpayer shall not include the amount of any income received by the taxpayer during the taxable year which is deposited into a reserve for research and development.

"(2) Limitation on exclusion.—Paragraph (1) shall not apply to the amount of income which is deposited in a reserve for research and development during the taxable year to the extent that the amount of such income exceeds the least of the following amounts:

"(A) 10 percent of the gross revenues of the taxpayer for the taxable year from such trade or business,

"(B) $100,000, or

"(C) the amount of research and experimental expenditures which may be taken into account by the taxpayer for such year under section 174.

"(b) Exclusion for Amounts Used for Research and Development.—In the case of any amount which is paid from a reserve for research and development and which is used by the taxpayer for research and experimental expenditures which may be taken into account by the taxpayer for such year under section 174, no deduction shall be allowable for such expenditures.

"(c) Inclusion in Gross Income for Amounts From Reserve Not Used for Research and Development.—In the case of any amount which is paid from a reserve for research and development for any purpose not described in subsection (b), the gross income of the taxpayer shall include, for the taxable year in which such amount is paid or otherwise made available to the taxpayer or any other person, an amount equal to 150 percent of the amount so paid or otherwise made available during the taxable year.

"(d) Special Rules.—

"(1) Contributions to reserve only in cash.—A contribution to a reserve for research and development may be made only in cash, and any reserve for research and development to which a contribution other than cash is made shall not be taken into account under this section.

"(2) Treatment of reserve where taxpayer ceases to be a small business concern.—

"(A) In general.—In the case of a small business concern which ceases to be a small business concern (other than by reason of the acquisition of stock or assets of such concern by any other person), the reserve for research and development of such concern shall continue to be treated as such a reserve for a small business concern, except that no further contributions may be made to such reserve beginning with the taxable year in which such concern ceases to be a small business concern.

"(3) Inclusion in income where small business concern acquired by other business.—In the case of a small business concern which ceases to be a small business concern by reason of the acquisition of the stock or assets of such concern by any other person, 150 percent of the amount of the reserve for research and development of such concern as of the date of such acquisition shall be immediately included in gross income as of such date.

"(e) SMALL BUSINESS CONCERN DEFINED.—For purposes of this section, the term 'small business concern' means any small business concern within the meaning of section 1041(b)(2).

"(f) RECORDS; REPORTS; REGULATIONS.—

"(1) RECORDS AND REPORTS.—Each taxpayer who maintains a reserve for research and development shall keep such records and make such reports as the Secretary shall by regulation prescribe.

"(2) REGULATION.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section.".

(b) The table of sections for such subpart B is amended by inserting after the item relating to section 458 the following new item:

"Sec. 459. Reserve for research and development.".

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

RESTORATION OF PRIOR LAW FOR QUALIFIED STOCK OPTIONS

SEC. 306. (a)(1) So much of section 422(b) (relating to qualified stock options) as precedes paragraph (1) thereof is amended to read as follows:

"(b) QUALIFIED STOCK OPTION.—For purposes of this part, the term 'qualified stock option' means an option granted to an individual—

"(A) after December 31, 1963 (other than a restricted stock option granted pursuant to a contract described in section 424(c)(3)(A)), and before May 21, 1976 (or, if it meets the requirements of subsection (c)(7), granted to an individual after May 20, 1976, and before January 1, 1980), or

"(B) after December 31, 1979 (other than such a restricted stock option),

for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporation, but only if—".

(2) Paragraph (7) of section 422(c) (relating to special rules) is amended by inserting "and before January 1, 1980" after "May 20, 1976" each place it appears.

(b) Paragraph (3) of such section 422(b) is amended by striking out "5" and inserting "10".

(c) The amendments made by this section shall apply to options granted after December 31, 1979, in taxable years ending after such date.

SUBCHAPTER S CORPORATIONS MAY INCLUDE 100 SHAREHOLDERS AND SUBCHAPTER C CORPORATIONS

SEC. 307. (a) Paragraph (1) of section 1371(a) of the Internal Revenue Code of 1954 (defining small business corporation) is amended by striking out "15 shareholders" and inserting in lieu thereof "100 shareholders".

(b) Paragraph (2) of section 1371(a) of such Code is amended—

(1) by striking out "and other than" after "estate" and inserting in lieu thereof a comma, and

(2) by inserting ", or a corporation which is a venture capital corporation described in subsection (f)" after "subsection (e)".

(c) Section 1371 of such Code is amended by adding at the end thereof the following:

"(f) VENTURE CAPITAL CORPORATION.—The term 'venture capital corporation' means any corporation—

"(1) which is engaged or proposes to engage primarily in the business of furnishing capital (other than short-term paper) to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, or reorganizing companies or similar activities; and

"(2) at least 60 per centum of the net assets of which (exclusive of Government securities, short-term paper and cash items) at cost consist of securities which were—

"(A) acquired directly from the issuer thereof in a transaction or transactions not involving the registration of the securities under the Securities Act of 1933 or pursuant to the exercise of options, warrants, or rights acquired in such transactions;

"(B) received in a reorganization or in an exchange offer in exchange for securities acquired pursuant to subparagraph (A) of this paragraph; or

"(C) distributed on or with respect to any securities referred to in subpaagraph (A) or subparagraph (B) of this paragraph.".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

TITLE IV—REGULATORY FLEXIBILITY

SHORT TITLE

SEC. 401. This title may be cited as the "Regulatory Flexibility Act".

FINDINGS AND PURPOSES

SEC. 402. (a) The Congress finds that—

(1) in numerous instances compliance with Federal regulatory and reporting requirements imposes inequitable demands and burdens on individuals, small businesses, small organizations, and small governmental jurisdictions;

(2) regulatory efforts to protect the health, safety, and economic welfare of the Nation have in many instances imposed unnecessary and burdensome legal, accounting, and consulting costs upon individuals, small businesses, small organizations, and small governmental jurisdictions and are adversely affecting competition in the marketplace;

(3) the scope and volume of rules or regulations have created high entry barriers in many industries and have discouraged potential entrepreneurs from introducing beneficial products and processes;

(4) the practice of treating all regulated individuals, businesses, organizations, and governmental jurisdictions as equivalent has led to inefficient use of regulatory agency resources, enormous enforcement problems, and, in some cases, actions inconsistent with the legislative intent of health, safety, environmental, and economic welfare legislation;

(5) in many instances reasonable alternative rules or regulations could be adopted to minimize adverse economic effects on individuals, businesses, organizations, and governmental jurisdictions subject to regulation without significant loss of regulatory efficiency;

(6) Government information collection has not adequately weighed the privacy rights of individuals and enterprises against the need of the Government for information because the design of the regulatory process has encouraged regulators to treat information as a free good; and

(7) deep public dissatisfaction with the regulatory process has stemmed in large part from a public perception that burdensome rules or regulations fail to correct key national problems.

(b) It is the purpose of this title to establish as a principle of regulatory issuance that regulatory and informational requirements fit the scale of the individuals, businesses, organizations, and governmental jurisdictions subject to a rule and that fewer and simpler requirements be made of individuals, small organizations, small businesses, and small governmental jurisdictions. To achieve such principle, agencies are empowered and encouraged to issue rules or regulations which apply differently to different segments of the regulated population and are required to solicit and consider alternative regulatory proposals from the public prior to the adoption of final rules.

AGENCY RULEMAKING REQUIREMENTS

SEC. 403. (a) Section 553(b) of title 5, United States Code, is amended—

(1) by striking out the word "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding immediately after paragraph (3) the following:

"(4) the goals and purposes of the proposed rule;

"(5) the estimated number of individuals, businesses, organizations, and governmental jurisdictions to which the proposed rule would apply;

"(6) a statement that the agency seeks and shall consider alternative proposals to the proposed rule which would accomplish the goals and purposes of the proposed rule while substantially reducing the adverse economic impact of the rule on individuals, small businesses, small organizations, and small governmental jurisdictions affected by the rule through—

"(A) the establishment of differing compliance or reporting requirements that take into account the amount of resources available to individuals, businesses, organizations, and governmental jurisdictions;

"(B) an exemption from coverage of the proposed rule, or any part thereof, for such individuals, businesses, organizations, and governmental jurisdictions whose activities are of a nature which makes the inclusion of such individuals, businesses, organizations, and governmental jurisdictions of minimal value to the realization of the goals and purposes of the proposed rule;

"(C) the clarification, consolidation, or simplification of requirements of the proposed rule; or

"(D) other suitable means, including performance standards and differing timetables for compliance for such individuals, businesses, organizations, and governmental jurisdictions; and

"(7) with regard to any reporting or recordkeeping requirement which the agency anticipates requiring of ten or more members of the public pursuant to the proposed rule—

"(A) a statement of the purpose of the requirement, its form, its length, and the type of professional skills necessary for its completion;

"(B) an estimate of the number of persons who would be required to submit or maintain reports or records;

"(C) a statement of each proposed use of the information required to be recorded;

"(D) a statement of the method to be used to store such information, the length of time such information would be maintained, and the identity of the persons who would have access to such information; and

"(E) an estimate of the average amount of time necessary for each person to comply with the requirement.".

(b) Section 553(c) of such title is amended to read as follows:

"(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in rule making through submission of alternative proposals, written data, views, or arguments with or without opportunity for oral presentation. After consideration of all relevant matter presented, the agency shall incorporate in the rule adopted a concise general statement of its basis and purpose. In addition, the agency shall publish a description of any alternative proposals to the proposed rule which were considered and a statement of the reasons for adopting the final rule rather than any alternative proposals which would have had a lesser adverse economic impact on individuals, small businesses, small organizations, or small governmental jurisdictions. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.".

(c) Section 553 of such title is amended by adding at the end thereof the following new subsection:

"(f) For the purposes of this section, the term—

"(1) 'individual' does not include any individual who is affected by a rule primarily in his capacity as an officer or employee of a business, organization, or governmental jurisdiction:

"(2) 'small business' has the same meaning as the term 'small business concern' in section 3 of the Small Business Act (15 U.S.C. 632), and includes such additional businesses as the agency shall establish by rule;

"(3) 'small organization' includes unincorporated businesses, sheltered workshops, not-for-profit enterprises which are not dominant in their fields, and such other groups or enterprises as the agency shall establish by rule;

"(4) 'small governmental jurisdiction' includes—

"(A) governments of cities, counties, towns, villages, school districts, water districts, or special assessment districts, with a population of less than one hundred thousand; and

"(B) other governmental jurisdictions which the agency shall establish by rule to be of limited means or resources based on factors such as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction.".

DEFINITIONS

SEC. 404. Section 551(4) of title 5, United States Code, is amended by inserting "recordkeeping or reporting requirements estimated to apply to ten or more persons in any calendar year, and" immediately after "includes".

REVIEW OF REGULATIONS

SEC. 405. (a) Within one hundred and eighty days after enactment of this Act, each agency shall publish a plan for the review of the rules or regulations of that agency. The purpose of such review shall be to determine whether the rules or regulations of the agency are achieving, in an efficient and equitable manner, the goals of the legislation under which such rules or regulations were promulgated. Each plan for the review of agency rules or regulations shall include a statement of the criteria the agency will employ to select which rules or regulations shall be reviewed in accordance with the provisions of this section. Each agency shall periodically review its rules and regulations in accordance with the schedule and criteria set forth in its published plan.

(b) In selecting and evaluating rules or regulations, the agency shall consider factors such as—

(1) the continued need for the rule or regulation;

(2) the type and number of complaints or suggestions received concerning the rule or regulation;

(3) the burdens imposed on persons directly or indirectly affected by the rule or regulation, especially the burdens placed on individuals, small business, small organizations, and small governmental jurisdictions;

(4) the need to simplify or clarify language of the rule or regulation;

(5) the need to eliminate overlapping and duplicative rules or regulations;

(6) the need to resolve conflicts between the rules or regulations of the agency and the rules, regulations, or laws administered by other agencies; and

(7) the length of time since the rule or regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule or regulation.

(c) Each year, each agency shall publish in the Federal Register a list of rules or regulations which it expects to issue during the following twelve months and a list of rules or regulations to be reviewed during the following twelve months. Such publication shall be accompanied by a brief description of the rule or regulation, the need for such rule or regulation, and the legal basis for such rule or regulation.

SECTION-BY-SECTION ANALYSIS

Short-title, legislative findings and purpose:

The bill first states its short-title, and then states the Congressional findings upon which the proposed legislation is predicated. The bill states that Congress has made a number of findings which tend to show that although research and development (R & D) and technological innovation are important, small businesses are largely precluded from involvement in this area.

Section 1. While not numbered in the draft bill, the first section of the bill states that the law may be referred to as the "Small Business Innovation Act of 1979" [the Act].

Section 2. The second section of the Act states that Congress declares and finds that technological innovation is desirable because it "creates jobs, increases productivity, competition, and economic growth, and is a valuable counterforce to inflation and to the United States balance of payments deficit." Furthermore, the Act states that Congress has found that while small business is a principal source of major innovation, it is not permitted to engage substantially in this activity, noting that less than four percent of Federal funds for R & D go to small businesses and that the private expenditures for R & D are highly concentrated in a few industries, with large companies dominating. This section of the Act supports this finding with the fact that six industries account for over 85 percent of all industrial R & D expenditures and only 31 companies, many of which are multinational companies, account for 60 percent of all United States R & D expenditures. The Federal tax structure too, the Congress finds, provides insufficient support for the formation, growth and long term independent operation of small businesses. Act § 2(a)–(5).

Consequently, section two of the Act states a Congressional finding that it is in the interests of the United States to strengthen the ability of small businesses to be innovative, to increase the private sector commercialization of innovations derived from Federal R & D, to increase small businesses' share of all Federal R & D expenditures, to provide small businesses the opportunity to compete for Federal R & D grants, and to stimulate technological innovations by all possible means. Act § 2(6).

Title I. Research and development contracts:

Title I of the Act appears generally designed to correct perceived deficiencies in Federal funding of the R & D activities of small businesses. The Title amends the Small Business Act, which is presently overseen by the Small Business Administration, 15 U.S.C. §§ 631 *et seq*. The Title's four sections relate generally to Federal financing of small business R & D, and to the creation and funding of Small Business Innovation Research Programs.

Section 101. Every Federal agency will be required to set aside a percentage of its total prime R & D contracts budget in fiscal year 1980 for small businesses. The percentage to be set aside is one percentage point over the percentage of the total budget awarded to such businesses in fiscal year 1979. In each succeeding year, the agency must increase the percentage of its budget set aside for small businesses by another percentage point, until the set aside reaches ten percent. Act § 101(b).

The set aside program for small businesses applies to all "Federal agencies." The Act adopts the definition of a "Federal agency" found in 5 U.S.C. § 105, which includes an "Executive department, a Government corporation, and an independent establishment." An "independent establishment," defined in 5 U.S.C. § 104, includes the General Accounting Office and any establishment in the executive branch of the United States Government, other than the Postal Service, the Postal Rate Commission, Executive departments, military departments, Government corporations, and parts thereof. The Act also requires set-asides by al! "military departments," defined in 5 U.S.C. § 102 as the Departments of the Army, Navy and Air Force. Act § 104(1).

Set asides must be made for contracts for R&D, and the Act defines "contract" to include any contract and any "grant, or cooperative agreement entered into between any Federal agency and any organization or person for the performance of experiments, developmental or research work." "Contract" also includes the assignment of any such agreements, the substitution of parties to such agreements, and the letting of subcontracts. Act § 101(f)(1). This is the same definition used generally for this Title of the Act. See Act § 104(2).

Set asides are required for both contracts for basic R & D and contracts for applied R & D. "Research" and 'research and development" are to mean the same thing they mean under interpretations of the Cost Accounting Standards Board. Act § 101(f)(3). This is the same definition used generally for this Title of the Act. See Act § 104(5).

Every Federal agency with a research budget or a R & D budget in excess of $100 million for fiscal year 1980, must establish a Small Business Innovation (SBIR) program and spend at least one percent of its budget for fiscal year 1980 and each succeeding fiscal year in connection with that program. The SBIR program requires competitive contract solicitation for small businesses, modeled after the National Science Foundation program. Act § 101(e).

Under the SBIR program a portion of a Federal agency's research or R & D efforts are reserved for award to small business concerns by way of a "simplified, standardized acquisition process" under which the practicability of ideas proposed will be determined, insofar as possible, and under which also a principal research effort will be made to develop the proposed idea to the product production level. The program's purpose is to "promote greater utilization of small science and technology firms in United States Government research and development and conversion of that research to technological innovation in the private sector or for technological innovation in products intended for Government use." Act § 101(f)(2). This is the same description of the program used generally for this Title of the Act. See Act § 104(4).

A small business concern is defined with reference to the Small Business Act. Under the Small Business Act, such a concern includes, but is not limited to: enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries, shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria the Administrator [of the Small Business Administration], in making a detailed definition, may use these criteria, among others: Number of employees and dollar volume of business. Where the number of employees is used as one of the criteria in making such definition for any of the purposes of this chapter, the maximum number of employees which a small-business concern may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors, 15 U.S.C. § 632.

The regulations of the Small Business Administration would logically be implicitly adopted by reference for purposes of the Act, as well.

Contracts awarded by an agency under the SBIR program will satisfy the set aside requirement under section 101(b) of the Act. Other awards to small businesses for research or R & D which are not made on the basis of competitive contract solicitation do not satisfy the requirements of the SBIR program created in this section of the Act. Act § 101(c).

Agencies required to establish a SBIR program must determine categories of projects to be included in the program, issue SBIR solicitations in accordance with a schedule determined cooperatively with the Small Business Administration, select awardees for its contracts, administer its own contracts or delegate such administration to another agency, and make progress or completion payments to contractors.

Each agency required to establish a SBIR program or to make set asides must make a quarterly report to the Small Business Administration. Act §§ 101(d), (e). These reports must include the number and dollar amount of R & D contract awards to small business concerns for contracts over $10,000 in amount, designation of the awards which were made under the SBIR program, and a comparison of the number and amount of all R & D with those which are not made to small business concerns. Act § 101(e).

The Small Business Administration is required to assist in certain small business R & D programs. It must develop and maintain a source file and an information program to assure that each qualified and interested small business concern has the opportunity to participate in the SBIR program. The Small Business Administration must also advise and assist Federal agenices in meeting the small business R & D set asides required by the Act, and monitor independently, the activities of the agencies in meeting these set aside requirements, as well as their SBIR program requirements. It will also coordinate the development of a schedule for the release of SBIR solicitations with participating agencies, as well as a master release schedule, in order to prevent having several agencies release solicitations at the same time. Such simultaneous release could limit a small business concern's opportunities to respond to the solicitations. The Small Business Administration will also make annual reports to the Senate Select Committee on Small Business and the House Small Business Committee, on the activities of Federal agencies in complying with the set aside requirements and the SBIR program requirements. Act § 101(a).

Section 102. Regulations for the conduct of SBIR programs by Federal agencies will be issued by the Federal Procurement Policy Administrator, in conjunction with and with the advice of the Small Business Administration and the National Science Foundation, within 120 days of the date of enactment of the Act. The regulations will provide for simplified, standardized and timely SBIR solicitations, proposals and contract evaluation, require all Federal agencies to coordinate their SBIR solicitation release schedules with the Small Business Administrator, and provide uniform requirements for patent rights and rights in data that are commensurate with the intent of this Act. Act § 102.

Section 103. The Federal Procurement Policy Administrator, again in cooperation with the Small Business Administration, must also establish simplified regulations for Federal agencies governing the award of R & D contracts to small business concerns, considering the means which will facilitate the participation of small business concerns in the R & D of all Federal agencies. The Federal Procurement Policy Administrator will also establish procedures to insure compliance with tht regulations. Act § 103(a).

The regulations established by the Federal Procurement Policy Administrator in conjunction with the Small Business Administration must require each Federal agency to eliminate from its R & D contracts any provisions requiring a business to absorb expenses of performance, require the agency to negotiate fees for all services and expenses under the contract when awarding such contracts to small business concerns, and require that the independent R & D costs and the bid and proposal costs incurred by small business concerns will be attributable to expenses of the contract in the fiscal year in which they are incurred, for purposes of determining the expenses of a R & D contract. Act § 103(b)(1), (6).

These regulations must also prohibit Federal agencies and their offices or components from excluding any small business concern from competing for any R & D contracts on the same terms as other concerns and require each agency to consider small business concerns on an equal basis with any other business concerns in the award of sole source R & D contracts. They must also require each agency to consider unsolicited R & D proposals from small business concerns and to review such proposals promptly and fairly on their merits. Under the regulations, furthermore, every Federal agency which lets R & D contracts must be required to inform its staff and consultants of the need to provide fair and equal opportunity to small business concerns owned by women and minorities for participation in R & D contracts, and to require such staff and consultants to provide guidance and counseling to small business concerns to strengthen the ability of these firms to compete for and receive R & D contracts. The agency must include in the evaluation of personnel who award or grant contracts their compliance or noncompliance with these objectives. Act § 103(b)(2)–(4), (7).

The regulations must also require every Federal agency to evaluate the feasibility of dividing all proposed large scale R & D contracts into smaller segments in order to facilitate participation of small business concerns, and establish the responsibility of every Federal agency to identify and study the areas of agency procedures for the awarding of R & D contracts which discriminate against small business concerns. Act § 103(b)(6), (9).

Section 104. Section 104 of the Act defines terms used in the first Title of the Act. With the exception of the definition of a "small-business concern," all of the other definitions are also separately stated in identical language elsewhere in the first title of the Act, making section 104 largely surplusage.

Title II. Certain patents and inventions:

The second title of the Act generally permits small businesses to retain, under certain conditions, patent rights to their inventions made under Federally-sponsored research projects. This is a modified version of S. 414, introduced by Senator Bayh in the 96th Congress and referred to the Senate Committee on the Judiciary.

Presently, a number of specific Federal statutes require that inventions and discoveries created under certain Federal projects are the sole property of the Government. See *e.g.*, Tennessee Valley Authority Act of 1933, 16 U.S.C. § 831(d), as examined in *Alco Standard Corp.* v. *Tennessee Valley Authority*, 448 F. Supp. 1175 (D. Tenn. 1978); and the National Aeronautics and Space Act, 42 U.S.C. § 2457(a). Generally, further, Executive Order Number 10096, 15 Fed. Reg. 389 (Jan. 23, 1950), establishes a basic policy for all Federal agencies that inventions by Government employees inure to the United States Government if the invention was developed during working hours, if it was developed with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other Government employees on official duties, or if it bears a direct relation to or is made in consequence of the inventor's official duties. See also 37 C.F.R. 100.4 *et seq.*

The Act woud also permit the Patent and Trademark Office to reexamine contested patents rather than require potentially expensive litigation in a Federal District Court. This is identical to S. 1679, also introduced by Senator Bayh in the 96th Congress and referred to the Senate Committee on the Judiciary. Presently, contested patent claims must be litigated by the parties in the United States District Court. 28 U.S.C. § 1338(a).

Section 201. This section of the Act adds a new chapter, consisting of twelve sections, to the United States Patent Code. The chapter governs the rights to patents created under Federal projects and grants. In this summary and analysis, the sections of this new chapter will be referred to by the citation "Chapter §," rather than by reference to section 201 of the Act.

Chapter § 200. The new patent chapter is based on a series of Congressional policies: to use the patent system to promote the utilization of inventions from Federally supported R. & D. to encourage maximum participation of small business concerns in Federally funded R. & D. efforts, to promote collaboration between commercial and nonprofit concerns, including universities, to insure that inventions made by nonprofit organizations and small business firms are used in a manner designed to promote free competition and enterprise, to promote the commercialization and public availability of inventions but also to ensure that the United States obtains sufficient rights in patents derived from Federally sponsored R. & D. to meet its needs and to protect the public against non-use or unreasonable use of such inventions, and to minimize the costs of administering these policies.

Chapter § 201. The patent chapter adopts the same definitions of "Federal agency" and "small business firm" used in Title I of the Act. Chap. § 201 (a), (1). Other definitions will be discussed throughout this summary and analysis.

Chapter § 202. The new patent chapter authorizes the execution of certain funding agreements between a Federal agency and a person, containing specific provisions regarding rights to subject inventions created under the project. Chap. § 202. Under the Act a "funding agreement" is a contract, grant or cooperative agreement entered into between any Federal agency and any person for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Chap. § 201(b). The other party to the funding agreement with the Government is the "contractor" and the agreement includes any assignment, substitution of parties, or subcontract of agreement work. Chap. § 201 (b), (c).

Under the Act an "invention" is any invention or discovery which is or may be patentable and a "subject invention" as any invention of the contractor "conceived or first actually reduced to practice in the performance of work under a funding agreement." Chapt. § 201 (d) (e).

The Act provides that a nonprofit organization (which includes a university or other institutions of higher learning and a public charity exempt from Federal income taxes and described in section 501(c)(3) of the Internal Revenue Code of 1954) or a small business firm may elect to retain the title to a subject invention within a reasonable time after making required disclosure to the Federal agency of the existence of such invention.

However, a funding agreement may provide that the nonprofit organization or small business firm cannot obtain rights to the patent if the subject invention is made under a contract for "the operation of a Government-owned research or production facility" or if there are exceptional circumstances and the agency determines that the restriction or elimination of the organization's and firm's right to the patent would "better promote the policy and objectives of this chapter." Chapt. § 202(a).

Such a determination must be made in writing and accompanied by a written statement of its justification, and will be sent to the Comptroller General of the United States within 30 days after the award of the applicable funding agreement. If the agreement is applicable to a small business firm, a copy shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. Chapt. § 202(b)(1).

The Comptroller General is directed to advise the head of any Federal agency when he or she finds a pattern of determinations or policies and practices of that agency are inconsistent with this chapter's policies or objectives and the head of the agency is to respond within 120 days as to what action, if any, has or will be taken with respect to this issue. Chapt. § 202(b)(2). Annually or more often the Comptroller General will report to the Judiciary Committees of the House and Senate on the manner of implementation of these patent policies and practices. Chapt. § 202(b)(3).

If a contractor does not elect to retain title to a subject invention the Federal agency may consider and, after consultation with the contractor, may grant requests for retention of rights by the inventor subject to the other provisions of the Act and regulations which may be promulgated thereunder. Chapt. § 202(d). A Federal agency may transfer or assign any rights it may acquire in the subject invention from one of its employees who is a co-inventor with a small business firm or nonprofit organization, to the contractor subject to the other conditions set forth in this chapter. Chapt. § 202(e).

Funding agreements with a small business firm or nonprofit organization must contain provisions stating the requirements imposed on the parties under section 203 through 205 of this chapter (march-in rights, return of the Government's investment, and preference for United States industry), and to require that the contractor disclose each subject invention to the Federal agency within a reasonable time after it is made and that the Government may receive title to any subject invention not reported to it within such time, that the contractor elect to retain title within a reasonable time after disclosure of the existence of the subject invention and that the Federal Government may have title if no timely election is made, that any contractor who elects to retain the invention must file a patent application within reasonable times and that the Government receives title to any subject invention in the United States or another country in which the contractor has not filed a timely patent application. These agreements must also give the United States a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf itself any subject invention worldwide and, if provided in the agreement, the right to sublicense any foreign government pursuant to treaty. Chapt. § 202 (c)(1)–(4), (8).

The agreement will also insure the Federal Government's right to require periodic reporting on the contractor's utilization or efforts to utilize the patent and such reports will be confidential for purposes of the Freedom of Information Act, and obligate the contractor to include the specification in any patent application that the invention was made with Government support and that the United States has certain rights in the invention and patent. Chapt. § 202(c)(5), (6).

If the agreement is entered into with a nonprofit organization, it will prohibit the assignment of the subject invention within the United States unless the Federal agency grants approval. An exception is made for assignment of the patent to an organization which manages inventions as one of its primary purposes and which does not itself and does not hold a substantial interest in other organizations which manufacture or sell or produce or use the processes of the invention or are in competition with the "embodiments of the invention." Additionally, such assignees are always treated as contractors for purposes of the provisions of the funding agreement. Chapt. § 202(c)(7)(a).

A funding agreement with an exempt organization will also prohibit any exclusive licensing of the patent or patent application in a subject invention by the contractor other than to a small business firm for five years from the first commercial sale or use of the invention or, if earlier, eight years from the date of exclusive license, not counting the time before the necessary Federal regulatory agencies grant pre-market clearance, on a case-by-case basis. If an exclusive field-of-use license is granted, the timing noted above shall be determined separately for each field-of-use. Chapt. § 202(c)(7)(b).

If the funding argreement is made with a nonprofit organization, the contractor will be required to share royalties with the inventor and the balance of any net royalties or income earned by the contractor with respect to the subject invention must be utilized for the support of scientific research or education. Chapt. § 202(c)(7)(c).

Funding agreements with small business firms and nonprofit organizations cannot, however, contain provisions permitting a Federal agency to require the licensing of the contractor's inventions to third parties unless the agency head determines that such use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement, and that such action is needed to achieve the practical application of the subject invention or work object. Such special licensing requirements must be approved in writing and signed by the head of the agency in a statement clearly setting forth whether the requirement relates to the practice of a subject invention, to specifically identified work objects or both. The obligation to sign and authorize this exception cannot be delegated by the agency head to any other person. Opportunity will exist for a hearing on such determinations in accordance with 5 U.S.C. ch. 7, to be brought within 60 days from notification of the determination. Chapt. § 202(f).

Chapter § 203. In certain cases a Federal agency may require a subject inventor or the inventor's assignee or exclusive licensee, to grant a nonexclusive, partially exclusive, or exclusive license in any field-of-use to a responsible applicant on reasonable terms and, if the inventor refuses to issue such a license, the agency can issue the license itself. Such licenses may be required if the agency determines that it is necessary because the contractor or assignee has failed to take effective steps to achieve practical application of the subject invention in a field-of-use or because the contractor or assignee is not expected to do so within a reasonable time. Also, the agency may require licensing of the subject invention if it determines that such act is needed to meet health or safety needs or public use requirements specified by Federal regulations and such standards are not being met by the contractor, licensee or assignee, or if the agency finds that the agreement is in breach or that no statement of preference for United States industry has been made.

Chapter § 204. This portion of the new patent chapter is designed to provide for repayment to the United States of the Federal funding of commercially successful inventions on which United States patents are granted and in effect. Chapt. § 204(d). First, the United States is entitled to fifteen percent of all licensing income over $70,000 received in a single year by a small business firm, a nonprofit organization, or an assignee of one of these, to whom a subject invention or several related subject inventions, the licensing of which generated this income, were assigned. The income upon which the fifteen percent royalty is based does not include additional income received under a non-exclusive license, unless the license was previously held as an exclusive or partially exclusive license. Chapt. § 204(a).

The United States is also entitled to an amount to be negotiated, but not over five percent, of gross income above $1 million received in a calendar year by a small business firm, nonprofit organization, or assignee of one of these, from the sales of its products embodying, or manufactured in a process employing, one or more subject inventions. This amount paid to the United States is not to exceed the share of the funding under the funding agreement attributable to the subject invention, less any amounts previously received by the United States under this provision. Chapt. § 204(b).

The Director of the Office of Federal Procurement Policy is required to revise the $70,000 and $1 million figures at least every three years to correspond with changes in the Consumer Price Index or other indices deemed to be reasonable to measure such changes. Chapt. § 204(c).

Chapter § 205. A small business firm or nonprofit organization which receives a patent under this Act and their assignees cannot grant any exclusive right to "use or sell" any subject invention within the United States unless the licensee agrees that any products embodying the invention or produced through use of the invention will be manufactured substantially in the United States. This agreement may be waived in individual cases if there is a showing that the small business firm or nonprofit organization or their assignee has made reasonable efforts to grant similar rights to licensees who would be likely to produce or use the invention in the United States but that such attempts were unsuccessful, or that its domestic manufacture is not commercially feasible.

Chapter § 206. Information on inventions in which the United States may have any interest may be withheld from the public for a reasonable time in order for the patent application to be filed and Federal agencies are not required to release copies of any document which is part of a domestic or foreign patent application.

Chapter § 207. Regulations implementing Chapter §§ 202 through 205 and standard funding agreement provisions may be issued by the Office of Federal Procurement Policy, after receiving recommendations from the Office of Science and Technology Policy, and the regulations may apply to Federal agencies implementing these sections of this Chapter.

Chapter § 208. Each Federal agency may apply for and maintain domestic and foreign patents for inventions in which the United States has an interest, grant various licenses for Federally-owned patents and applications, with or without royalties or other consideration, and on such terms and conditions as the agency determines appropriate in the public interest. Chapt. § 208(1), (2). Furthermore, each Federal agency may undertake all suitable and necessary steps to protect and administer any Federally-owned invention either directly or through contract, and transfer custody and administration of the interest in such inventions, in whole or in part, to another Federal agency. Chapt. § 208 (3), (4).

Chapter § 209. The General Services Administrator may promulgate regulations specifying the terms and conditions under which Federally-owned inventions may be licensed.

Chapter § 210. Federally-owned inventions cannot be licensed unless the prospective licensee supplies the agency with a plan for development and/or marketing of the invention, which plan is confidential for purposes of the Freedom of Information Act. Chapt. § 210(a). Licenses shall normally be granted on Federally-owned inventions only if the licensee agrees that any products embodying the invention or produced through its use will be manufactured substantially in the United States. Chapt. § 210(b).

Federally-owned inventions (patented or for which a patent application has been made) may be licensed only after public notice and opportunity for filing written objections, and only upon a finding that the interests of the Federal Government and the public will be best served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote its public utilization. The Government must also find that the desired practical application of the invention has not yet been achieved or that it is not likely to be achieved expeditiously under any nonexclusive license which has or may be granted, that exclusive or partially exclusive licensing is a reasonable and necessary incentive to generate investment capital needed to bring the invention to public utilization, and that the proposed terms and scope of the exclusivity of the license are not greater than reasonably needed to provide such needed capital. Chapt. § 210(c)(1). Federal agencies must retain a record of all determinations to grant exclusive or partially exclusive licenses. Chapt. § 210(e).

The licensing Federal agency will not issue an exclusive or partially exclusive license of a Federally-owned patent (either domestic or foreign patent) if it determines that the license will tend substantially to reduce competition or result in undue concentration in any section of the country in any line of commerce to which the technology relates, or to create situations otherwise inconsistent with antitrust laws. Chapt. § 210(c)(2), (d).

Preference in the licensing of Federal patents will be given to small business firms submitting plans determined by the Federal agency to be within their capability and as likely to bring the invention to practical application as plans submitted by other types of applicants. Chapt. § 210(c)(3).

A Federal agency may grant an exclusive or partially exclusive license in a Federally-owned invention subject to a foreign patent, if it is found that interests of the Federal Government or United States industry in foreign commerce will be enhanced, and written notice and opportunity for comment are afforded. Chapt. § 210(d).

All licenses granted by a Federal agency must contain terms and conditions deemed appropriate by the agency for the protection of the interests of the Federal Government and the public, including required periodic reporting by the licensee on the utilization or efforts at utilization, of the invention, with particular reference to the licensee's submitted plan. This information is confidential and not subject to disclosure under the Freedom of Information Act. Chapt. § 210(e)(1).

Licenses granted by a Federal agency must also contain terms establishing the agency's right to terminate the license in whole or in part if the agency determines that the licensee is not following its submitted plan and that the licensee has not demonstrated or cannot demonstrate that it is able to take steps required to achieve practical application of the patent within a reasonable time, that the United States production clause of the agreement is in breach, or that termination is needed to meet the public use requirements of Federal regulations issued after the date of the license. Chapt. § 210(e)(2)-(4).

Chapter § 211. This Chapter takes precedence over any other Act which requires inconsistent disposition of the rights in subject inventions of small business firms or nonprofit organizations. A non-exclusive list of overridden provisions is provided. Other Federal laws respecting the disposition of rights in inventions made in the performance of funding agreements with persons other than nonprofit organizations and small business organizations are unaffected by this Chapter, and disposition under such agreements made in accordance with the Statement of Government Patent Policy (36 Fed. Reg. 16887), agency regulations or other applicable law is unaffected.

Chapter § 212. This Chapter does not in any way immunize any person from any civil or criminal liability under antitrust laws.

Section 202. Section 202 provides correlative technical amendments to other statutory provisions of Federal law.

Section 203. This new Chapter of the Federal patent law is effective 180 days after its date of enactment. The effective date of any regulations issued after the effective date of this Chapter appears not necessarily to be affected by this effective date.

Section 210. Another additional chapter is added to the United States patent laws authorizing reexamination of certain patents by the Commissioner of Patents. Sections of this new Chapter will be referred to in this summary and analysis by the designation "Chapter §."

Chapter § 301. The Commissioner of Patents must establish rules and regulations for the citation to the Patent Office (Office) of prior art patents and publications pertinent to the validity of existing patents, and for the reexamination of such patents in light of such prior art.

Chapter § 302. Anyone may refer a prior patent or publication relevant to the validity of an existing patent to the Patent Office by a writing which identifies the part or parts of the referred patent or publication which is believed to be pertinent to the validity of the existing patent and how it may be pertinent. This writing becomes part of the official file on the existing patent, but the identity of the person making the referral may be excluded upon his or her request.

Chapter § 303. Anyone may request in writing a reexamination of an existing patent for its patentability in light of the existence of any prior art which has been submitted to the Patent Office. Such a request may be made at any time during the existing patent's period of enforceability, and must be accompanied by a reexamination fee and a statement of the relevance of the submitted material to the unenforceability of the existing patent. A copy of the request is sent to the owner of the existing patent, unless it is that owner who requested the reexamination.

Chapter § 304. The Commissioner of Patents must make a determination as to whether there exists "any substantial new question of patentability" raised by the new art, within 90 days following a request for reexamination. The Commissioner may make such a determination at any time on his or her own initiative. Chapt. § 304(a). A record of this determination will be made and will be kept in the patent file. The owner of the existing patent will also be sent a copy of this record. Chapt. § 304(b).

A determination by the Commissioner that no new question of patentability has been raised is final and nonappealable. Chapt. § 304(c).

Chapter § 305. If the Commissioner finds that a substantial new question of patentability has been raised by the art and publication submitted, a reexamination of the patent must be ordered for resolution of the question and shall resolve the question as though the claim or claims involved were present in a pending patent application. The owner of the existing patent must be given a reasonable period of at least two months within which to file a statement on the question of reexamination, and a copy of that statement must be served by the patentee on any person who has requested reexamination, who may submit a responsive statement within another two months. Reexamination of the patent shall be conducted "with special dispatch within the Office."

Chapter § 306. The patentee may amend the patent claim during the reexamination proceeding in order to distinguish the patentee's claim from the prior art submitted, or in response to an adverse decision of the Office on patentability. No amendment may be submitted enlarging the scope of a claim in a reexamination proceeding.

Chapter § 307. The owner of the patent may appeal from a final adverse decision of the Office.

Chapter § 308. When the time for appealing from a determination has lapsed or the proceeding in appeal has terminated, a certificate canceling or confirming the patent claim will be issued by the Patent Office.

Chapter § 309. In certain civil actions, no prior patent or printed publication may be relied upon as evidence of the nonpatentability of an invention, unless such items have been cited by or to the Patent Office during prosecution of the patent application or were submitted to the Office in a reexamination request, or the court concludes, upon motion, that such submission or reconsideration is unnecessary for its adjudication of the issue of validity or infringement. Chapt. § 309(a). This limitation applies to any civil action in which a pleading presents a claim for infringement or for adjudication of the validity of a patent on the basis of the contents of the patent file as it existed on the date the pleading was filed. A party may, however, rely on a later cited patent or publication and upon a final determination had on a request for reexamination in the light of such patent or publication if it was cited to the Patent Office and if such request was filed in the Office within the period of a judicial stay order as provided for in the next section of this Chapter. Chapt. § 309(b).

Chapter § 310. A stay of any civil action in which a claim for infringement or adjudication of a patent's validity will be available for at least four months to enable a party to search for and cite patents or publications to the Patent Office and request reexamination of the patent.

If a request for reexamination is filed within the period of the stay, the stay will be extended by further court order until at least twenty days after the final determination of the request for reexamination. If the court finds that such additional prior art to be submitted to the Patent Office constitutes "newly discovered evidence which by due diligence could not have been discovered in time to be cited to and considered by the Office within the period of a stay," it may stay the proceedings for a period sufficient to enable certification of the art to the Patent Office.

Chapter § 311. A party may move to dismiss without prejudice or costs, a complaint which that party filed in any civil action for infringement or adjudication of patent invalidity by notice served upon the other parties and filed within the period of the stay. Chapt. § 311(a).

Title III. Tax changes:

The third Title to the Act would amend the Federal income tax laws to provide further incentives to small business innovation. The first section of the Title, dealing with deferral of recognition of the capital gains realized on the sale of certain small business stock, is similar to S. 653, introduced in the 96th Congress by Senator Nelson and referred to the Senate Finance Committee.

Section 301. The short title for this portion of the Act is the "Small Business Research and Development Tax Incentive Act of 1979." All amendments made by this portion of the Act, unless otherwise noted, are made to the Internal Revenue Code of 1954, as amended to date [hereinafter cited as "Code"].

Section 302. This section of the Act adds a new section to the Code permitting indefinite deferral of any gain recognized by a stockholder in a small business corporation who sells the stock and reinvests the proceeds in stock of another small business corporation. This concept is substantially similar to that embodied in a number of present Code sections, including section 1031 (permitting deferral of gain recognized on the exchange of business or investment property for other property of a like kind), section 1033 (permitting deferral of gain recognized on the destruction or theft of property when the insurance proceeds are reinvested in substantially similar property), and section 1034 (which permits deferral of the gain recognized on the sale of a personal residence if the proceeds are reinvested in an equally expensive or more expensive personal residence).

Under new Code section 1041, a taxpayer could elect not to recognize the gain on a sale of small business stock to the extent that the proceeds are reinvested in other small business stock within 18 months. The nonrecognition would only be available if the taxpayer had held the stock twelve months at the time of the sale, so that only long-term capital gains would not be recognized, rather than short-term capital gains. Additionally, acquisition of stock by an underwriter in the ordinary course of the underwriter's trade or business will not be treated as a satisfactory purchase of stock for purposes of deferral under this section.

Small business stock is, for this purpose, stock of a domestic corporations or small business investment companies which is not a subchapter S corporation, the income of which is taxed directly to the shareholders. A small business investment company, for this purpose, is defined with reference to the meaning of that term in 15 U.S.C. § 681, *et seq.*, the Small Business Act. Additionally, however, this section is inapplicable to a corporation if it has over $25 million in equity capital or if it had more than twenty percent of its gross receipts from passive investment income for the year in which the stock was issued. If the corporation in question is a member of a controlled group, as defined for consolidated tax return purposes, the equity capital of all of the corporations in the group must be combined to meet the $25 million requirement.

Many of the terms used in this new section are defined with reference to other, existing Code sections. Passive income and the twenty percent limitation are derived from the rules of subchapter S. The term "equity capital" is defined with reference to the meaning the term has in section 1244, which permits ordinary loss deduction on the worthlessness of certain small business stock.

Generally, the shareholder will take a basis in the new stock equal to the basis the shareholder had in the old stock, increased by any gain which is recognized and not deferred. If more than one share of small business stock is acquired as a replacement for sold stock, the shares will take a proportionate basis. Additionally, the holding period in the replacement stock, for tax purposes, will include the holding period in the former stock.

If the benefits of this new Code section are elected, the statute of limitations for assessment of deficiency is extended. The I.R.S. could assess a deficiency up to three years from the date on which the Secretary of the Treasury (through the I.R.S., normally) is notified by the taxpayer that the section has been elected and that either replacement stock has been acquired or that the 18 month period has elapsed without such acquisition.

The Act would also permit a noncorporate taxpayer to pay less tax on a gain recognized on the sale of small business stock, as defined for purposes of net operating loss carryover adjustment, discussed below, if the taxpayer's gain is not deferred under new Code section 1041. The taxpayer would be taxed on only twenty percent of the net small business capital gain, as opposed to forty percent under present tax laws. See Code § 1202. The taxpayer's net small business capital gain refers only to the excess of any gain on the sale of small business stock held for more than five years over any losses from all sales of small business stock.

Both the deferral provision and the change in the capital gains rates for small business stock sales would be effective only for stock acquisitions after 1979.

Section 303. This section of the Act would modify the present tax rules relating to net operating loss carryovers, to permit a greater carryover for losses sustained from small business research and experimental (R. & E.) expenditures. Present tax laws generally permit a net operating loss carryback of three years and a carryforward of seven years. Under present law, a net operating loss must be carried back three years before it is carried forward. Code § 172(b)(1).

Under the Act, however, net operating losses for taxable years beginning after 1979 can be carried forward for ten years without any carryback. This would apply only to "qualified small business concerns," defined as a small business concern (as defined for purposes of new Code section 1041, see above) which has made a certain level of R. & E. expenditures for the past three years or, if it has not been in existence for three years, the entirety of its existence. During this period the corporation must have spent an average of three percent or more of its gross revenues on R. & E., or more than six percent of the gross revenues during any single year.

Section 304. This section permits qualified small business concerns, as defined above, to write-off expenditures made after 1979 for specialized R. & E. equipment at a faster rate than would otherwise be allowed under present tax laws. Under this amendment to Code section 174 (dealing with the deductibility of R. & E. expenses), a qualified small business concern may elect either to deduct currently capital expenditures for R. & E. equipment or to treat them as "deferred expenses." A deferred expense is not currently deductible but, rather, is deducted over a 5-year period (or more) after the expenditure has begun to return revenues, under present law. Code § 174(b)(1).

Section 305. A new section 459 would be added to the Code permitting the creation of reserve accounts for R. & D. expenditures, to which currently deductible contributions could be made as a means of pre-funding R. & D. expenses with deductible payments. A small business concern engaged in a business other than real estate, would be permitted to establish a reserve account for R. & D. expenditures, and to deduct cash payments to the reserve account up to ten percent of the corporation's gross revenues for the taxable year or $100,000, or the amount of R. & E. expenditures which may be taken into account for deduction purposes under Code section 174, whichever is the least.

When amounts are paid from the account, no deduction under Code section 174 will be allowed for expenditure of the money on R. & D. However, if the money is not spent on R. & D., the taxpayer will be required to include in income in the year the money is expended an amount equal to 150 percent of the amount so spent. If the taxpayer ceases to be a small business concern, the reserve continues to be treated as an existing reserve for R. & D. but no further contributions made to it may be deducted. If the corporation ceases to be a small business concern because it is acquired by another corporation, the taxpayer will be treated as if the entire amount in the reserve account were withdrawn and spent on non-R. & D. items.

Each taxpayer maintaining an R. & D. reserve account must keep such records and make such reports as may be required by regulations of the Treasury Department.

This section applies for taxable years beginning after 1979.

Section 306. Prior to the Tax Reform Act of 1976, Pub. L. 94–455 § 603, 94th Cong., 2d Sess. (1976), the income tax treatment of a stock option acquired by an employee of a corporation depended upon which of two types of option the employee received: a qualified stock option or a nonqualified stock option. Generally, if the option was a "qualified" stock option the employee recognized no income on the receipt of the option or on its exercise, but only upon the sale of the stock received from the exercise of the option. Code § 421. If the option was a "nonqualified" stock option, however, the employee recognized gain at the time the option was received, if the option had an ascertainable fair market value, or at the time the option was exercised if the option had no ascertainable fair market value at the time it was received. Code § 422. A qualified stock option had to meet certain statutory requirements: it had to be granted pursuant to a plan approved by the corporate shareholders, it must be exercised, by its own terms, within five years from the date it was granted, the purchase price of the shares could not be less than their fair market value on the date the option was granted, the stock could not be disposed of by the employee within three years of its receipt, and the option holder had to be an employee of the corporation at the time it was exercised or could not have ceased employment for more than three months. Code § 422. The Tax Reform Act of 1976 repealed the provisions for qualified stock options with respect to options granted after May 20, 1976, with certain exceptions.

This section of the Act would reinstate the provisions for qualified stock options with respect to options for stock of a qualified small business concern, as defined for purposes of the deferral provisions of new Code section 1041, for all years beginning after 1979. The old requirements for a qualified stock option, summarized above, would be retained except that the requirement that the stock option must be exercised within five years of the date it was granted is changed to a ten year period.

Section 307. The present income tax laws permit the shareholders of certain small corporations to elect to have the corporate income taxed directly to the shareholders, rather than having it taxed at both the corporate and shareholder levels. Code

§§ 1371 *et seq*. This type of corporation is known as a subchapter S corporation because the rules governing it are contained in subchapter S of chapter 1 of the Code.

Two of the requirements for subchapter S status would be changed by this Act. First, present law limits a subchapter S corporation to fifteen shareholders. Code § 1371(a)(1). Prior to the Revenue Act of 1978, the ceiling on subchapter S corporate shareholders was ten. See Pub. L. 95-600 § 341, 95th Cong., 2d Sess. (1978). The Act would permit a subchapter S corporation to have as many as 100 shareholders.

Second, present law limits the type of persons who may hold stock in a subchapter S corporation to individuals who are United States citizens or resident aliens, estates and certain trusts. Code § 1371(a)(2), (3). The Act would permit stock in a subchapter S corporation to be held by a "venture capital corporation." The Act defines a venture capital corporation as a corporation which is engaged or proposes to engage primarily in the business of furnishing capital to industry (not counting short-term paper), financing promotional enterprises, purchasing securities of issuers for which there is no ready market, reorganizing companies or similar activities, and at least 60 percent of the net assets of which (not counting government securities, short-term paper and cash) consist of certain securities. These securities must have been acquired directly from the issuer in a transaction which did not require registration under the Securities Act of 1933, or by the exercise of stock options, warrants, or other rights received in such an unregistered transaction, or in an exchange for or distribution with respect to securities of the type just described.

This provision would apply for taxable years beginning after 1979.

Title IV. Regulatory flexibility:

The fourth Title of the Act is identical to S. 299, introduced in the 96th Congress by Senator Culver, and authorizes all Federal agencies to consider the size of a firm when issuing regulations, in order to reduce the burden of such regulations on small businesses.

Section 401. The short title to this portion of the Act is the "Regulatory Flexibility Act."

Section 402. This section states the Congressional findings and purposes of this Title of the Act. The Congress finds, under this section, that Federal regulatory and reporting requirements may, in many cases, impose disproportionately great burdens on small businesses, organizations and governmental jurisdictions, that regulatory efforts to protect the national health, safety and economic welfare may have adversely affected the marketplace by imposing unnecessarily burdensome legal, accounting, and consulting costs upon individuals and small businesses, organizations and governmental jurisdictions, and that the scope and volume of rules and regulations has discouraged potentially beneficial entrepreneurs by creating high entry barriers in many industries. Act § 402(a)(1)-(3). Furthermore, the Congress finds that the practice of treating as equal all regulated persons, without regard to ability to comply with the regulations, has led to inefficient use of the regulatory agency resources and substantial enforcement problems which, in some cases, were inconsistent with the legislative intent of the underlying legislation, that reasonable alternative rules or regulations could be adopted in many instances to reduce this burden, and that Government information collection has not adequately weighed the need for privacy against the need for information. Act § 402(a)(4)-(6). Finally, the Congress finds that deep public dissatisfaction with the regulatory process has arisen in large part because of a perception that burdensome rules and regulations fail to correct key national problems. Act § 402(a)(7).

Consequently, this section of the Act states that it is the purpose of this legislation to establish a principle for guidance in regulatory issuances that fewer and simpler regulations and rules will be made applicable to individuals and small businesses, organizations and governmental jurisdictions than are generally applicable to large businesses, organizations and governmental jurisdictions. Agencies are encouraged to solicit and consider alternative regulatory proposals in order to accomplish this end. Act § 402(b).

Section 403. This section of the Act amends the Administrative Procedure Act, 5 U.S.C. § 553(b) [A.P.A.] increasing the required contents of a notice of proposed rule making. A notice of proposed rule making would still have to include a statement of the time, place and nature of public rule making proceedings, reference to the legal authority under which the rule is made, and the terms or substance of the proposed rule or a description of the issues involved. 5 U.S.C. § 553(b)(1)-(3). However, under the Act the notice would also have to include a statement of the goals and purpose of the proposed rule and the estimated number of individuals, businesses, organizations and governmental jurisdictions to which the rule would apply. It would have to include a statement that the agency seeks and will consider alternative proposals which would accomplish the same objectives while reducing substantially any adverse economic impact on individuals and small businesses, organizations and governmental jurisdictions through clarification, consolidation or simplification of the proposed rule, the establishment of differing compliance or reporting requirements considering relative available resources of such entities, exemptions from coverage, where such exemptions would not affect the realization of the goals and purposes of the proposed rules, or any other suitable means, "including performance standards and differing timetables for compliance."

The notice of proposed rule making would also have to include a statement of the purpose of any requirement of reporting or recordkeeping which the agency anticipates will apply to ten or more members of the public, as well as its length, its form, and the type of professional skills required to complete the report, and an estimate of the number of persons who would be required to submit reports or maintain records. The notice would also have to state each proposed use of the record or report, the method to be used to store such information, the length of time such information would be maintained, and the identity of the persons who would have access to the information, along with an estimate of the average amount of time needed for each person to comply with the reporting and recordkeeping requirements. Act § 403(a).

For purposes of this section of the Act, the term "individual" does not include persons who are affected by a proposed rule primarily in their capacity as officers of employees of a business, organization, or governmental jurisdiction. The term "small business" is defined to mean the same thing as a "small business concern," as defined in the Small Business Act, 15 U.S.C. § 632. (See discussion above) The term "small organization" is defined to mean any unincorporated business, sheltered workshop, or non-profit enterprise, if the entity is not dominant in its field, as well as other groups the agency shall establish by rule. The term "small governmental jurisdiction" includes cities, towns, counties, villages, school districts, water districts, or special assessment districts, with a population below 100,000, and any other governmental entity which the agency determines by rule is "of limited means or resources based on factors such as location in rural or sparsely populated areas of limited revenues due to the population of such jurisdiction." Act § 403(c).

The Act would also expand the requirements for agency rule making hearings by requiring that the agency permit persons to suggest alternative rules and by requiring that, the agency publish in its final rule making notice a statement of the alternative proposals which would have had a lesser adverse economic effect on individuals and small businesses, organizations and governmental jurisdictions, and why they were rejected in favor of the rule which was adopted. Act § 403(b).

Section 404. An amendment is made in the A.P.A. definition of a "rule," by including rules setting "recordkeeping or reporting requirements estimated to apply to ten or more persons in any calendar year."

Section 405. The Act also requires each agency to publish within 180 days of the date of enactment of this Act, a plan for the review of rules and regulations, designed to determine whether these rules and regulations are achieving the goals of the underlying legislation in an efficient and equitable manner. These plans must include a statement of the criteria the agency will employ in selecting rules and regulations for review, including such factors as the continued need for the rule or regulation, the type and number of complaints received about the rule or regulation, the burdens imposed upon persons directly or indirectly affected by the rule or regulation, especially individuals and small businesses, organizations, and governments. The factors of review will also include such factors as the need to simplify or clarify language of the rule or regulation, the need to eliminate overlapping or duplicate rules and regulations, and the length of time since the rule or regulation has last been evaluated or the degree to which the affected area may have been altered by technology, economic conditions, or other factors.

Each agency will periodically review its rules and regulations in accordance with the schedule and criteria set forth in its plans. Each year each agency will publish in the Federal Register a list of the rules and regulations it expects to issue during the next 12 months and a list of those rules and regulations it expects to review, accompanied by a brief description of the rule or regulation, the need for it and the legal basis of the rule or regulation.

Mr. NELSON. Mr. President. I ask unanimous consent that the bill be referred to the Select Committee on Small Business solely to consider titles I, II, and IV, and if, and when reported, the bill be referred to the Committee on the Judiciary solely to consider titles II and IV, and if and when reported, the bill be referred to the Committee on Finance solely to consider title III.

The **PRESIDING OFFICER.** Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not, the request has also been cleared with the majority leader and the minority leader.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

● **Mr. WEICKER.** Mr. President, I am pleased to join in introducing the Small Business Innovation Act of 1979. The legislation contains numerous measures designed to strengthen technological innovation and promote increased productivity.

Hearings held by the Select Committee on Small Business over the past 2 years substantiate the conclusion of a 1977 OMB report on small firms and Federal research and development that the ability of America to innovate—for commercial as well as defense purposes—is in "serious decline." Furthermore, as evidenced in the OMB report, "there is now considerable evidence that product innovation has either leveled off or declined."

Mr. President, I am disheartened to say that America is no longer the obvious leader in technology. A National Science Foundation study shows that the U.S. patent balance declined 47 percent between 1966 and 1975 while foreign-origin patents increased 91 percent over that period. The share of U.S. patents granted to foreign residents has more than doubled in 15 years, to a point of more than 35 percent in 1975.

The decline in American innovation manifests itself in the low productivity growth in the United States—which lags behind that of most of our economic competitors—and has contributed to unemployment, inflation and a serious trade imbalance. The measures contained in the Small Business Innovation Act are designed to restore America to a leadership position in innovation.

Mr. President, small businesses have historically been in the vanguard of our Nation's innovative advances. Small businesses and individual inventors have been responsible for the invention of insulin, titanium, helicopters, the Polaroid camera, the ballpoint pen, automatic transmission, pesticides, oxygen steelmaking, and much more.

According to the National Science Foundation, since World War II firms with fewer than 1,000 employees were responsible for one half of the "most significant new industrial products and processes." Firms with less than 100 employees produced 24 percent of such innovations—and developed 24 times as many major innovations per research dollar as did large firms. All this was accomplished despite the fact that these smaller firms received only 3.5 percent of Federal research and development money. Furthermore, according to an OMB study, small firms are far more cost effective, with a cost per scientist or engineer of only half as much as large firms.

Other benefits are derived from these small, innovative enterprises. A study conducted by the Massachusetts Institute of Technology Development Foundation shows that, in sales, large mature companies grew only 11.4 percent during the 1969–74 period, while innovative firms grew 11.4 percent and young, high technology grew 42.5 percent. Furthermore, over that 5-year period small, high-technology firms, with sales equaling only 2 percent of the industry leaders, created almost 35,000 new jobs while the mature companies created 25,000 jobs.

Mr. President, despite these impressive contributions by small, innovative businesses, they are being squeezed out of our national research and development picture. They receive an inadequate and disproportionate share of Federal research and development money. They are prejudiced by regulations and a tax structure which encourages short-term profit at the expense of long-term growth, thereby diminishing the firm's desire to take major risks and plan for the future.

America's genius must be nourished to enable this Nation to maintain its leadership in the worldwide economy. The measures contained in this legislation will help nourish our small, innovative businesses and will improve the climate needed to encourage innovation by increasing Federal research and development assistance, improving the patent system, clearing up the regulatory processes and providing tax incentives for research and development.

Under this legislation, Federal agencies would be required to increase its research and development funding support for small businesses to a point where these firms receive 10 percent of each agency's research and development funds. Small businesses would be able to retain exclusive patent rights on inventions financed by Federal funds.

Additionally, Federal agencies would be authorized to alter their regulations according to the size of the business. Thus, a small firm with limited capital will not have to expend the same amount of funds as a large firm to comply with regulations which, in fact, are unnecessary for the small business. Finally, tax incentives will be given to encourage research and development by small firms. Capital gains realized on the sale of securities of a small business would be deferred if reinvested in another qualifying firm within 18 months. Additionally, qualifying small businesses could have a loss carry forward of 10 years, instead of the 7 under existing law, and would be given a liberalized depreciation schedule for specialized equipment and instrumentation for research and development.

Mr. President, I urge my colleagues to closely examine this legislation. I do not endorse each of the provisions contained in the bill. Nor do I believe that the legislation is exclusive. There are provisions which would be beneficial to small, innovative firms which are not found in this legislation. However, I do feel that this bill will serve to focus our attention on the urgent needs of our Nation's small innovative firms.

Mr. President, the climate for innovation must be improved. Our small, innovative firms must be nourished to enable us to arrest the precipitous decline in research and development. As Dr. Arthur Obermayer of Moleculon Research in Cambridge, Mass., has observed:

> It took five years from the Wright Brothers' first flight to convince the U.S. government to buy an airplane from them. Even then, the government was afraid to take a chance on a little guy with a big idea. As a result, all the U.S. airplanes flown in World War I were made in Europe. So far, we have not learned from our mistakes.

Mr. Obermayer was one member of an SBA Task Force on Small Business and Innovation whose suggestions provide the framework for this legislation.

An Innovation Task Force established by the Secretary of Commerce in 1967 reached conclusions similar to those of the SBA panel. However, no reforms were enacted. I have already mentioned the 1977 OMB study—again similar conclusions and no reforms.

Mr. President, we must not miss the opportunity for reform again. This Congress must enact meaningful reforms to encourage the expansion of small innovative firms.●

● Mr. BAYH. Mr. President, there are few issues which have generated as much concern in the Congress as the increasing evidence that something has gone wrong with the American economy. We have grown so used to being the leading innovators of the world that it comes as a rude awakening to realize that the United States now has one of the slowest productivity rates of any industrialized free nation, that the number of patents filed has been going steadily down since peaking in the early 1970's, that foreigners are now filing about 35 percent of the patents in the United States each year, and that the second highest burden on our economy right behind foreign oil is the importation of foreign manufactured goods.

I have also been concerned that while various studies have shown that small businesses are responsible for approximately one-half of the most important innovations made in this country since World War II, and have also created more new jobs than any other segment of the economy, they have been virtually shut out of our multibillion-dollar Government research and development effort. Small businesses have shown a willingness to take chances that many larger companies simply cannot match. Small businesses have proven their ability to get the maximum return on each research dollar, yet these same small companies receive less than 4 percent of the Government research and development contracts given out each year. This is a loss not only to the small business community, but to all of us, and comes at a time when we should be doing everything that we can to spur innovation and productivity. This is essential if we are going to keep up with our international competition.

I am happy to be joining with Senator Nelson and my other Senate colleagues in introducing the Small Business Innovation Act of 1979. This bill contains two pieces of legislation that I have introduced separately—S. 414, the University and Small Business Patent Procedures Act, which Senator Dole and I introduced on February 9, 1979, and S. 1679, the Patent Law Amendments Act, which I introduced on August 3, 1979. These items, coupled with the other provisions in the Small Business Innovation Act, will demonstrate that the Congress is sensitive to the special problems of the small business. I think that this legislation wil benefit all segments of the business community by clearing the way for more innovative ideas to reach the marketplace when they can benefit the public.

The version of the University and Small Business Patent Procedures Act contained in this new bill includes a number of amendments that Senator Dole and I will be offering when S. 414 is considered by the Senate Judiciary Committee sometime this month. These amendments reflect many of the suggestions that were made for improving S. 414 by small business witnesses during the hearings that were held before the Senate Judiciary Committee, over which I presided.

Revising present Government patent policies is crucial if we are to have more small business involvement in the Government's massive research and development efforts. Present patent policies covering ownership of inventions made under federally supported research and development are a good example of the kinds of frustrations that the innovative small company constantly encounters from the Government.

There are at least 24 different patent policies in effect among our agencies right now. Sometimes the same agency will have more than one patent policy depending upon which division of the agency is funding the research. This confusion is very hard on a small business concern interested in participating in a research and development program. The problem becomes even worse when it is learned that the underlying philosophy of all of the patent policies is that the Government is better able to develop and market new products than the private sector.

All of the available evidence shows quite clearly that the agencies have compiled a very poor success ratio for the patents that they hold. Of the more than 28,000 patents now in the Government patent portfolio, less than 4 percent are ever successfully licensed to private industry for development and possible commercialization. The rest are simply left to gather dust on some agency's shelves because of lack of interest and incentive for using them. This is not a good use of the taxpayer's money.

I introduced the University and Small Business Patent Procedures Act along with Senator Dole and 28 of our colleagues to address this problem and I am happy that Senator Nelson has included it as a part of the present legislation. This new patent policy will allow small businesses, universities, and nonprofit organizations to retain patent rights to the inventions that they make under Government contracting and will allow the funding agency to use the invention without paying any royalties.

The bill also includes language that will prohibit any agency from automatically retaining a small businesses' "background rights" which might include privately held patents or information that the agencies can now require be made available to any future contractors engaged in similar research for the agency. This problem is especially serious to the product oriented small business which has only its technology to use in carving out a place for itself in the marketplace against larger competitors.

By losing background rights to their competitors a small business can find itself unable to successfully compete. Not surprisingly, many of the most innovative small businesses refuse to seek Government contracts because of the patent and background rights problems. The passage of this bill will end this threat and the uncertainty caused by having so many Government patent policies.

The Patent Law Amendments Act will benefit all patent holders by offering an inexpensive, quick avenue for determining the validity of an issued patent. The American Patent Law Association has estimated that it presently costs both parties to a patent validity suit over a quarter of a million dollars apiece, and a considerable amount of time, before any decision can be made in court on a patent's worth. Many independent inventors and small businesses simply cannot afford such costs and are easily "blackmailed" by larger competitors who can use their patents with little danger of a patent infringement suit to stop such unauthorized use. This revision in the patent law will allow the Patent Office to inexpensively reexamine most issued patents in order to determine their validity if it should be questioned. S. 1679 has been endorsed unanimously by the American Bar Association's Patent and Trademark Section, and is supported by the American Patent Law Association and by the Association for the Advancement of Invention and Innovation.

Passage of the patent reexamination idea will also reduce the burden on our overworked courts and will go a long way toward restoring confidence in our patent system which is one of the keys to innovation.

The Small Business Innovation Act will remove many of the barriers to full-scale participation by small businesses in our research efforts. The bill also helps the innovative small business by encouraging more investment in research through a revision in the tax code, and by requiring all Government agencies to consider the impact of any new Government regulations on the small business community before they are adopted. This is the kind of positive, concrete help that small businesses need and deserve It is time for the Congress to act forcefully in this important area, and I urge my colleagues to give the Small Business Innovation Act their study and support.

I ask unanimous consent to have printed in the Record a recent editorial from the Washington Star entitled "Has America Lost Its Genius," which summarizes the problems that we face and the contributions that small businesses could make if we would only allow them to reach their full potential.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Has America Lost Its Genius?

How can it be that the land of Thomas Edison, Henry Ford and Alexander Graham Bell—and Xerox and Polaroid—is declining so in technological innovation? No one has a single answer, perhaps, but some recent studies suggest that federal policies are making things harder for small, innovative businesses than they should be.

There is wide agreement that the decline in American research and development (R&D) is serious. It affects jobs, inflation, productivity and the balance of trade. America's ability to innovate will have much to say about all these things, as well as how the nation copes with the energy shortage.

Today, America is no longer the obvious leader in technology. A National Science Foundation (NSF) study showed that the U.S. patent balance declined 47 per cent between 1966 and 1975, with a corresponding 91 percent increase in foreign-origin patents. It showed that the share of U.S. patents granted to foreign residents more than doubled in 15 years, reaching a level of more than 35 per cent in 1975. Since 1970, Japanese patenting has increased more than 100 per cent in almost every major industrial category.

The historic role of small, innovative businesses casts a sharp light on the problem. The NSF concluded, for example, that in the post-World War II period, firms with fewer than 1,000 employees were responsible for half of the "most significant new industrial products and processes." Firms with 100 or fewer workers produced 24 per cent of such innovations—and developed 24 times more major innovations per R&D dollar. Yet these small firms received only 3.5 per cent of federal R&D money.

Such studies are immensely suggestive. Another, by the Massachuetts Insitute of Technology Development Foundation, took three groups of companies—"mature" (such as DuPont and General Electric), "innovative" (such as Xerox and Polaroid) and "young, high technology" (such as Data General)—and compared their average annual growth in the years 1969–74. In sales, the mature category grew some 11.4 per cent, the middle group 13.2 per cent and the high-technology group 42.5 per cent.

The MIT report went on to observe that in a five year period, the high-technology companies, with sales equaling only 2 per cent of the industry leaders, created almost 35,000 jobs compared to the 25,000 jobs created by mature companies.

In spite of such statistics, small, innovative businesses are not doing well. Has there been a deterioration of the climate needed to encourage innovation?

The House Committee on Small Business released in August a collection of reports on the subject, including draft legislation which proposed increased tax incentives to balance the risks of small-scale R&D research and improvements in the patent system to protect a firm's exclusive rights. It also proposed simplified regulations for R&D procurement awards. (Only about 8 per cent of such awards are competitive.)

The reports also tended to fault federal policies, such as regulations which treat large and small firms alike—and which, in effect, discriminate against risk-taking firms. Obviously, regulations and a tax structure which encourage short-term profit at the expense of long-term growth will diminish a desire to take major risks and plan for the future.

It would be pointless here to advocate specific legislative proposals, but perhaps useful to point out again that the tendency to regulate everyone equally can work great unfairness. And it is a bit scary to consider how federal policies may contribute to this, and other, national problems.

There is, we suspect, much truth in the legend of the lone inventor, the productivity of what physicist Freeman Dyson call the "tinkerer" in "the little red schoolhouse." A General Electric study showed that between 1950–74, high-technology companies had three times the output, twice the productivity and one-sixth the price increases of low-technology firms.

But American genius needs to be nourished, and that nourishment affects nothing less than our future. Dr. Arthur Obermayer of Moleculon Research, Cambridge, Mass., who served on a task force for the Advocacy Office of the Small Business Administration, put it another way:

> "It took five years from the Wright Brothers' first flight to convince the U.S. government to buy an airplane from them. Even then, the government was afraid to take a chance on a little guy with a big idea. As a result, all the U.S. airplanes flown in World War I were made in Europe. So far, we have not learned from our mistakes."

America's precipitous R&D decline surely suggests that it is time for us to learn from our mistakes.●

● Mr. DOLE. Mr. President, the important role that small business has traditionally played in the promotion of inventions, from the Polaroid Land Camera to the laser beam and xerography, is a fact. The impact that an archaic patent system, added to an assortment of outdated laws has had on these same small businesses who were so instrumental in bringing the United States to the role of leadership it once held in the field of technology, is undeniable.

It is in full recognition of these two factors that I am cosponsoring today the bill introduced by my distinguished colleague from Wisconsin, Senator NELSON, the Small Business Innovation Act of 1979. This is not to say that I am doing so without any reservations. However, I shall address these later in this statement.

The Small Innovation Act of 1979 incorporates, in title II, a major portion of two bills with which I have good reasons to be familiar. The first one is S. 414, the University and Small Business Patent Procedures Act of 1979 which Senator BAYH and I introduced last February, and S. 1679 introduced in August 1979 by my distinguished colleague from Indiana and which I cosponsored. S. 414 aimed at facilitating the transfer to the private sector of technology from the federally funded innovation stage.

More specifically, it allowed universities, nonprofit organizations, and industry to obtain limited patent protection on discoveries they have made under Government-sponsored research. It also established a uniform policy to replace the multiplicity of statutes that now regulate the granting of patent rights throughout governmental agencies. The second part of title II includes the terms of S. 1679, by which the task of reexamining challenged patents would be transferred from the courts to the Patent and Trademark Office, where the particular expertise that this agency has available would be most useful in solving cases both rapidly and correctly. The benefits would be threefold: it would speed up the process by which the decision is handed down to the contestants, it would decrease the costs to both parties considerably, and finally it would greatly ease the burden on our already overworked Federal court system.

The portion of S. 414 and S. 1679 which were incorporated in the Small Innovation Act of 1979 clearly recognize the specific needs of small business who lack the financial resources and legal apparatus available to larger corporations. I take this opportunity to congratulate Senator NELSON on his good judgment in including that legislation in his bill today. I might add at this point that I could hardly oppose a bill that includes S. 414, albeit in part, and S. 1679.

More altruistic reasoning guides my support of title I. While it does not diminish the relationship established between large corporations and the Government in R. & D. programs, it does insure that small business is not left out and receives a fair share of such programs. This has not always been the case under the existing situation.

I feel that more thought needs to be given to title IV, dealing with regulations as they pertain to businesses of varying size. My gravest reservations, however, lie with title III. Without going into the specifics of its provisions, which can be addressed in detail later in committee, I should like, at this time, to merely express my doubts in general terms. I understand too well the special vulnerability of small business not to agree that a need exists to apply fairness and justice to small companies. It is true indeed that the existing system has more or less created two categories of classes: big business on one hand and small companies on the other. The special tax provisions of title III simple perpetuate this situation from a different angle without really solving the problem. While supporting the Small Innovation Act of 1979, I felt an obligation to place these reservations on record.●

● Mr. CULVER. Mr. President, I am pleased to join Senator NELSON and my other distinguished colleagues on the Senate Small Business Committee in cosponsoring S. 1860, the Small Business Innovation Act of 1979.

For too long, the Federal Government has ignored the ability of small businesses to research, produce, and market new ideas and inventions.

Indeed, the Federal Government often has discouraged the inventiveness of small business through discriminatory tax laws, through overly complex patent laws which have made it difficult to protect inventions in the free marketplace of ideas, through lack of available Federal grant moneys for research and development on a small-scale level, and through overly burdensome Federal regulations.

The bill introduced today does much to reverse this trend. It would finally make it desirable for individuals and owners of smaller enterprises to introduce and protect new ideas in the marketplace.

This bill proposes four major areas of Federal encouragement to small business. First, it would stimulate research and development by redirecting the amount of Federal money available for such programs to small businesses. Second, it would develop tax incentives to encourage the small business owner to reinvest in the marketplace. Third, it would tailor our patent laws to spur innovation, and finally, it would establish the principle that regulations should be designed to fit the scale and abilities of the organizations being regulated.

We are proposing these measures as possible incentives for greater innovation by small businesses, in the hope that a full discussion of its merits and of its costs will be aired.

Of all the efforts Congress can make this year, I feel most strongly about the need to tap this potential in our Nation's small businesses. Earlier this year, in hearings before both the Subcommittee on Administrative Practice and Procedure, which I chair, we heard the same message from each of our witnesses: That billions of dollars in investments are being lost due to the policies of the Federal Government—in unfair tax structures, in lack of available incentive grants, in overburdensome regulations.

No hearing testimony was more compelling than that we heard in Des Moines, Iowa. Iowa's small businessmen, mayors and community officials at that hearing unanimously called for Federal regulatory reform.

One Marshalltown, Iowa, carwash owner testified that "a lot of small business people are getting discouraged and giving up," because they cannot make a profit and comply with Federal regulations.

A Des Moines homebuilder said that regulations "tend to stymie competition and inflate the cost of housing." One county official noted that "the sheer magnitude of regulations and paperwork" deter local governments from applying for Federal grants.

It is time that we act to end the frustration, the anxiety, and the anger generated by Federal policy which has scuttled innovation for far too long.

The Subcommittee on Administrative Practice and Procedure is moving toward enacting regulatory reform legislation which will hopefully remove much of the paperwork, delay, the nonaccountability which has plagued our regulatory process.

Title IV of this bill is based upon a bill I originally introduced in the 95th Congress entitled the Regulatory Flexibility Act. I reintroduced this bill this year as S. 299. Title IV, like S. 299, directs Federal agencies to tailor their regulations to fit the scale and abilities of the institutions being regulated. It encourages agencies to adopt alternatives which reduce the burden of compliance for small businesses and organizations while still accomplishing the goals of the legislation or regulations involved.

The Small Business Innovation Act of 1979 represents a major effort to enhance production on other fronts. By granting incentives to encourage the development of new and marketable ideas, our economy will receive a major boost, our employment will rise dramatically, our attack on inflation will progress, and our society will be able to benefit from technological innovation which we have come to expect from our ingenuity and sense of purpose as American people.●

● Mr. LEVIN. Mr. President, I am pleased to join several of my colleagues on the Senate Small Business Committee in sponsoring the Small Business Innovation Act of 1979.

Small business traditionally has come forth with innovative products and processes and I believe this legislation will continue to encourage that output. Generally, I feel the measures contained in this bill will remove nonproductive bureaucratic barriers and redirect Federal funds to where they can do the most good in increasing productivity, stimulating the job market, and improving small business' share of the export market.

The first section of this bill requires that each Federal agency target a 1-percent increase in research and development procurement set-asides for small business. Increases would begin in fiscal year 1980 and continue until small business receives a prime contract dollar volume equal to at least 10 percent of the department's total R. & D. budget. At this point, small businesses only receive 3.4 percent of Federal research and development contracts, and it is estimated that this section of the bill, if adopted, could add over $300 million annually into the small business community.

The second section of the bill would amend the patent law. Small businesses have been the sector of our economy that has more often come up with new ideas and inventions. This provision would simplify the legal procedures of patent law and allow small business to retain, under certain conditions, patent rights on inventions made under federally sponsored research.

Included is a payback provision that requires, under a number of situations where a profit is being made from the invention, for the small business to pay the Government for the research funds which were used to develop the invention. I believe the Treasury is entitled to some form of repayment if tax money is used to make a profit. However, by permitting the inventor to retain patent rights we encourage the development and marketing of new products and processes that might not occur if the Federal Government retained the patent.

The tax provisions of the bill include some interesting concepts which are certainly worthy of fuller exploration before the Senate Finance Committee. The special tax breaks provided to small firms or investors in those firms which spend a higher than average amount on research and development would help to encourage innovation within small businesses which are already the most innovative segment of the national economy. I am concerned however about some of the proposed changes in the tax code which appear in the bill.

The "roll-over" of capital gains when they are reinvested in another small business has merit; but there is a substantial potential for benefits of this tax provision to flow to firms or investors who are not involved in the growth orientated segment of the economy. Unless a way is found to target this special assistance to those firms which need encouragement, the revenue impact of the provision may greatly outweigh its benefits.

Increasing the number of shareholders in a subchapters corporation from 15 to 100 could have the impact of increasing the availability of capital for high risk ventures. Because risk could be spread to more shareholders, the pool of venture capital should expand. However, I am again concerned that if this special tax treatment is not targeted to those high-risk firms most in need, the loss in revenue might outweigh the economic benefit.

The final section of the bill should provide small business with some relief from Federal regulation. It authorizes all Federal agencies to consider the size of a company when issuing regulations so that the regulatory burden on small business may be reduced. I have always maintained that the heavy hand of Federal regulation often stifles creativity, innovation, and risk taking. All of these are essential to the success and growth of the small business sector and it is my belief that this regulatory flexibility approach is worth pursuing.

Small business innovation effects all our lives. These firms have been responsible for half of all major industrial invention and innovation since World War II. Small businesses importance to our economy and their effectiveness as innovators is further demonstrated by the facts that these firms produce 24 times as many major innovations per research dollar as did large firms and they are the major new producers in our economy. It is also important to recognize that in order to bolster our overseas trade and improve our balance of payments we must continue to be innovative. New high technology products appear to have a great potential for export and their development should be encouraged.

Considering the importance of encouraging innovation among the private sector of our economy and small businesses great contribution to that task, I am pleased to be a sponsor of the Small Business Innovation Act of 1979.●

● Mr. HATCH. Mr. President, I read recently that following the historic events of Kittyhawk in 1903, the Wright brothers turned to Washington for the financial commitment they needed to pursue their dream of aeronautical research. They did not come here with a crackpot idea, or wild drawings of an obscure concept, but with proof-positive that man could fly. What they met with was a turn of the century bureaucratic runaround that could rival any of the horror stories one hears today. According to this article, the history of manned flight was delayed for 5 years while Wilbur and Orville battled for a small slice of the Federal R. & D. pie. It is of no consolation to me that this bureaucratic tradition has been maintained. Our small, innovative entrepreneurs of today are on the losing end of the same evasive tactics of an endless bureaucratic tangle. While billions are being doled out each year in R. & D. funds, small business is getting less and less in terms of real dollars.

According to hearings held in the Senate Select Committee on Small Business, on which I serve, within the last 2 years, out of the millions of dollars in R. & D. funds distributed by the Federal Government, less and proportionately less is being distributed to the most productive sector of the economy: Small business.

A 1977 study from the OMB concluded that in the last two decades small businesses accounted for one-half of the countries innovations.

The NSF estimated these same firms produced four times as many innovations per R. & D. dollar as their larger counterparts. Lack of capital is now crippling these firms and, I might add, is crippling the image of the United States as the world's innovation leader. Inventive genius is worthless without the capital available to transform an idea into reality. Nearly all business leaders agree that venture capital investments in innovative projects with relatively high risk, and deferred profits are an endangered species. Large manufacturing concerns may be affected by this trend, but not nearly to the extent that small, high-technology, innovative firms have felt the same squeeze.

Mr. President, these small firms belong to that part of the sector which has been found to be responsible for the creation of 96 percent of the jobs in the private sector in the last decade; and those firms not so adversely affected by the R. & D. squeeze, the top Fortune 1,000, have accounted for only 4 percent of the job growth in the same period. To me, the inescapable conclusion is that R. & D. funds provided to the most dynamic sector of our economy—small, high-technology, innovative firms—is the most efficient way, perhaps the only way, to innovative leadership, increased employment, and economic growth.

Mr. President, the bill we have introduced today is drafted to help restore the balance to Federal R. & D. funding.

We propose to inject new life into the innovative drive of our small businessman.

We have designed this legislation to mandate Federal agencies to set-aside a specific percentage of their R. & D. prime contracts for small businesses. In addition, patent rights to inventions developed with Federal assistance will vest in the developer when certain provisions are met. Finally, the tax benefits combined with the foregoing elements lead me to congratulate those I am joining in cosponsorship for promoting a measure worthy of consideration by all Republicans.

Mr. President, I urge my colleagues from both sides to join us in promoting the private sector, especially that most efficient of all producers within the private sector: the small, high-technology, innovative firms.●

● Mr. HAYAKAWA. Mr. President, I am extremely pleased to join the chairman and colleagues on the Senate Select Committee on Small Business as an original cosponsor of the Small Business Innovation Act of 1979.

On August 2 of this year I attended an excellent hearing held by the committee to examine how the Federal Government is helping—or hindering—small, innovative companies. The focus of the hearing was a report issued by the Small Business Administration's Office of Advocacy entitled, "Small Business and Innovation." This is a report of an unusual consensus among three citizen study groups on a matter of serious concern, and I wish to take this opportunity to acknowledge the excellent work of the task force members and the service they have performed to small innovators and to us as well.

The task force study made it very clear that there is a need for additional Federal support and commitment to small innovators and creative individuals who dare to "think big." While large businesses certainly are equipped to carry on innovative activities and to finance research and development techniques, small enterprises are often more adventuresome and willing to take necessary risks, to move faster, and to use resources more efficiently.

I think it is necessary that we maintain a positive climate in our country that permits and encourages small innovators, and I believe that the bill we introduce today is at least a step in the right direction. After all, small inventors brought us the electric light, the telephone, helicopters, Land cameras, and other delightful products, and we should be willing to assist the small creative enterprises rather than act as a deterrent, which now seems to be the case.

One of the members of the citizen task force was Mr. George Lockwood, founder of Monterey Abalone Farms in Monterey, Calif.—one of the innovative firms in the infant aquaculture industry. Aquaculture is a word we will hear with increasing frequency in the future, hopefully. It is simply the growing of plants and animals in fresh, brackish or marine waters under controlled conditions. Or at least it sounds simple until we review the myriad of Government regulations, requirements, and policies that make it far more difficult than it should be.

In an address before the American Association for the Advancement of Science last year, Mr. Lockwood discussed the existing small business innovative climate in our country and the regulatory environment in which new industries must emerge and operate.

Some 42 Federal, State, regional, county, and municipal government agencies enter directly into his privately financed company's decisionmaking process. Between 50 and 70 percent of his time is spent dealing with government instead of applying his energies to his company as the chief scientist, chief engineer, financial officer, and general manager. This makes you wonder why anyone would even start a small business today.

The tremendous amount of government regulation has evolved because we expect a great deal from our government: Protect the environment, the quality of the food we eat, employee safety and welfare, navigable waterways, and on and on. In addition, we ask government to use our tax structure for the distribution of wealth and to encourage savings for retirement. Even when a company does not receive any Federal financial assistance or government business, it is vitally affected by the Federal policies and overregulation that are making it impossible for many to succeed.

Mr. President, I would like to share Mr. Lockwood's thoughts and ideas with my colleagues and ask unanimous consent that his address be printed in the Record.

The Small Business Innovation Act does not address all the problems of innovators, but it does call for increased application of Federal research and development funds to assure small business a fair portion; amendments to the Internal Revenue Code of 1954; improvements in patent rights provisions, and regulatory flexibility.

I shall conclude my remarks, Mr. President, by quoting from a very perceptive article in the September 1978 issue of Harper's magazine, written by George Guilder. In his article, entitled "Prometheus Bound," Mr. Guilder gives the strongest plug for small business I have ever read. He wrote that the real split in the world today is not between capitalists and workers, technocrats and humanists, government and business—it is a struggle between the existing configuration of industries and of the new industries that will some day replace them. It is the conflict between the risk-taking businessmen and the risk-taking governments, for that matter, as opposed to the risk avoiders. It is the fight between the past and the future. Big governments, he said, tend to be extremely conservative, whether they call themselves liberal or conservative, and tend to preserve the status quo. So do big corporations and so does a majority of big unions. But, he claims, the future, because of its unpredictability, lies in the hands of small businessmen and the innovators who will make some of the things we know today obsolete tomorrow.

There being no objection, the address was ordered to be printed in the Record, as follows:

Some Causes and Consequences of Declining Innovation

(By George S. Lockwood)

(". . . a status quo is a symptom of a society which has come to the end of its development." Alexander Solzhenitsyn [1])

When Bill Carey* asked that I participate in this morning's session he requested that I discuss the constraints to innovation that we have experienced as a small company pioneering a new technology. In fulfilling his request, I hope to define the serious consequences for our country of the failure of our government policy-makers to understand the critical role of the entrepreneurial function in the process of putting scientific knowledge to beneficial economic use. In addition, I will share with you my observation that we are a nation of people who have developed a great aversion to risk, who are asking government at all levels to respond with increasing regulation and greater involvement in our private activities.

Both of these factors—ignoring the critical entrepreneurial function in economic growth and our culture's growing aversion to risk—are resulting in serious constraints to innovation. Consequently, we are experiencing long-term economic stagnation. Much of the scientific knowledge we are developing is not being used, and there has emerged, in my mind, a serious question of why our government should continue to finance the development of science if government is simultaneously going to create major structural constraints preventing its useful application?

In describing to you how I have reached these conclusions, I would first like to tell you about: 1) my company, Monterey Abalone Farms; 2) the infant aquaculture industry; 3) the existing small business innovative climate in our country; and, 4) the historic and current need for the innovative process to properly function. In doing this, I will point out the apparent reasons for the economic stagnation our country is experiencing as well as what I believe to be the basic, underlying causes.

MONTEREY ABALONE FARMS

Monterey Abalone Farms was founded in 1972 to domesticate the abalone. Abalone is a large snail of commercial importance in the western U.S. and in the Far East, accounting for $200 million in world commerce annually. In Japan, abalone is served raw in thin slices as sushi. In other areas of the Orient, it is sliced and cooked in sauces with vegetables. In the U.S. we pound sliced abalone into thin steaks that are fried in egg batter, and the English, of course, boil it in a stew.

In the early 1970's, we saw significant changes occurring in the supply and demand for abalone. Due to rising standards of living, a strong demand had developed (and was continuing to develop) for this premium restaurant item in world markets. Simultaneous with this increase in demand was a substantial decline in the availability of abalone from natural resources. As a result, prices for abalone products were increasing, motivating us to explore the possibility of growing abalone under controlled conditions. I must emphasize that the principal incentive for us to pioneer abalone culture was to build a viable and profitable business. In economic terms, we undertook the "entrepreneurial function" to combine labor, capital and scientific knowledge to develop a profitable product for consumption.

In response to this economic opportunity we founded our company in 1972 to undertake the biological and economic research to determine the feasibility of such a venture and to develop a laboratory technology. Ten individuals jointly invested $250,000 of "seed" capital for this risky undertaking. None of us were particularly wealthy individuals, and this initial high-risk capitalization came from our personal flow of savings. During the next two years, we successfully developed a laboratory technology for spawning abalone, hatching their eggs, growing their larvae, producing their food, and growing the young animals into marketable adults.

In 1974, we began to scale-up our operations and increased our investment by an additional $1,000,000. As before, this investment was supplied by individuals willing to risk part of their personal savings on this promising yet unproven venture. Although the profit potential was attractive, professional sources of venture capital were not interested in such a long-term project. Our company was entirely privately financed by a small group of local people with confidence in me and in our product.

During the next three years, we experienced major problems in scaling-up our laboratory procedures. However, in 1977 we began limited production after further experimentation, frustration, and hard work. I must emphasize the word "limited"—the reason for this emphasis will be apparent later.

In developing this production technology, we directly utilized ten basic sciences and five disciplines in engineering. Included are molluscan reproductive physiology, marine bacteriology, marine protozoology, organic and inorganic seawater chemistry, phycology, pharmacology and toxicology, nutrition and genetics; and civil, mechanical, electrical, electronic, and chemical engineering. The fields of poultry nutrition, poultry medicine and poultry husbandry also made important contributions. Many of these areas of science are basic and their development has been supported by NSF, NIH, and the USDA for the purpose of increasing knowledge without specific economic justifications. In contrast, our technology has not utilized any of the

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Footnotes at end of article.

applied development work so popular in marine sciences today. Such heavy applied development programs have been of no value to us.

Earlier I stated that our abalone culturing technology was in *limited* operation. To understand "limited", let me next describe the status of the aquaculture industry.

THE AQUACULTURE INDUSTRY

"Aquaculture" is a word that you will hear with increasing frequency in the future. It is simply the growing of plants and animals in fresh, brackish or marine waters under controlled conditions. Aquaculture is emerging as part of the natural evolutionary process to use science to produce goods in response to favorable market demand and production economics when they develop. I am convinced that if aquaculture could develop untrammeled, it would make substantial contributions to the elimination of the world food shortage with the production of large quantities of low cost food.

In the United States, several segments of the aquaculture industry have already developed. Almost all of our catfish, trout, and eels are produced in aquaculture, as are substantial quantities of oysters, clams and freshwater crayfish. I would estimate that aquaculture contributes at least $250 million to the U.S. economy annually.

In addition to this more mature section of the aquaculture industry that emerged prior to the early 1970's, a number of species are at the take-off stage and could be in large-scale production within the next five years. They include abalone, scallop, shrimp and salmon. A number of other species such as lobster, crab, conch and mussel also hold promise for large-scale production sometime in the future.

Because of the developing worldwide interest in aquaculture as a potential major food source, the U.S. Department of Commerce approximately eighteen months ago commissioned the National Academy of Sciences to study the prospects and constraints to aquaculture development in the U.S.[2] The private sector was urged to contribute to this study and our firm prepared a detailed report, entitled "An Analysis of Constraints and Stimulants to Aquaculture Development in the United States."[3] Our study reached the following conclusions:

1. Aquaculture's development is not being constrained by a lack of scientific knowledge. An adequate scientific base exists for the development of many species for high-intensity, large-scale culturing. This does not mean that all technical problems are solved, but a substantial scientific base has already been developed in the sciences of marine biology, oceanography, animal husbandry, etc., to form the foundation upon which production technologies for many species can be developed.

2. A major constraint to the development of aquaculture is massive and diverse government regulation and involvement in decision making. For instance, there are 42 government agencies at the federal, state, regional, county and municipal levels which regulate our new company in one way or another.

3. The principal constraint to the development of aquaculture in the United States is an array of federal policy decisions that are preventing the formation of risk-capital and blocking its flow into all forms of innovative small businesses.

Let me first describe to you the regulatory environment in which our new industry must emerge and operate.

GOVERNMENT INVOLVEMENT IN AQUACULTURE

Some 42 federal, state, regional, county and municipal government agencies enter directly into our company's decision-making process. At least 50 percent (and closer to 70 percent) of my time is spent dealing with government instead of applying this time as the chief scientist, chief engineer, chief financial officer and general manager of our company. A great deal more of my emotional and creative energy is spent with government than these figures reflect.

This tremendous amount of government regulation has evolved because we Americans expect a great deal from our government. For instance, we ask government to:

Protect our environment;
Protect the quality of food we eat;
Protect wildlife;
Protect employee safety and welfare;
Protect investors against security fraud;
Protect navigable waterways; and
Protect land uses (particularly coastal lands).

In addition, we ask government to use our tax structure for the distribution of wealth and to encourage savings for retirement. Each of these areas of government involvement directly impacts upon aquaculture.

It is my opinion that most of these areas of protection and public policies are justified in themselves. Most of us don't want to live in a contaminated environment, nor eat impure foods, nor see our wildlife disappear, nor be employed in unsafe places, nor to be the victims of security fraud, nor to see our navigable waterways destroyed by dangerous encroachments, nor to see our land (notably coastal lands) become over-developed. As a result of our desires, our government has responded with well intended legislation and has constructed efficient, well-managed agencies to fulfill our expectations.

However, when it is all added together this broad spectrum of government protection places an insurmountable burden on those of us attempting to pioneer new technologies, particularly those of us who must use small companies to do this pioneering.

I cannot possibly discuss all 42 agencies at this time. Let me relate a few examples of how the quest for protection has impacted upon my company:

"Government activities that cause uncertainty

"Because of our desire to eat pure food, the Food and Drug Administration was created to administer laws and regulations for growing or producing food. Rules for such production are changing almost daily, and the technology for detecting minute parts per trillion of some contaminating compounds from municipal and industrial wastes is evolving very rapidly. As a result, all sorts of microscopic levels of contamination are being discovered in a wide range of foods. It is my belief that a substantial portion of the east-coast shellfish industry will be prevented from selling its products in the next decade as a result of small levels of contaminants concentrated in the tissues of these animals.

"Such uncertainty over future regulations compounds the risks of pioneering new technologies such as ours, particularly where large investments in crops must be carried out over several years.

"Rules designed to apply to others

"In the area of environmental protection, it is now illegal for fish to go potty in the water. All levels of government, from municipal to federal, have regulations affecting discharges of water from "point sources." The question of which precise regulation applies is still confusing, and aquaculture operations probably will be treated the same as sewage treatment plants. Enormous amounts of time and creative energy are going to be necessary for our industry to achieve reasonable regulations under which we can survive.

"This type of regulation requires time, capital and creative energy to assure that satisfactory modifications are made to existing rules and laws that have been designed to apply to others.

"The initial rulemaking process

"In the area of employee protection, the involvement of OSHA in the affairs of business is notorious. The Assistant Chief of the California OSHA program recently stated that there are more than 28,000 rules of his agency that are enforced upon California businesses. Having been a victim of an ill-founded OSHA inspection, and having to have spent upwards of 1,000 hours of my time litigating appeals and variances (OSHA was overruled in 70% of their citations) in order to save valuable start-up capital, I can personally testify to the oppressiveness of this particular agency.

"In addition to rules applied to all businesses, OSHA now has a new area of regulation that will have a substantial impact on the future of our industry. This new area is diving.

"Approximately two years ago, federal OSHA became concerned about the safety of men diving to depths as great as 1,000 feet with elaborate equipment and breathing gas mixtures in the Gulf of Mexico from off-shore oil drilling ships and platforms. As a result, OSHA held a public hearing in New Orleans and established an elaborate array of diving standards that would apply to any employer whose employees dive under water. In our operations, we rely upon shallow water SCUBA diving for scientific research observations, the collection of breedstock, and maintaining plastic pipelines that run into the ocean. In no case do we dive deeper than 40 feet. Without this diving capability we could never have started our business, nor could we continue to operate, nor could we continue to advance our technology.

"In all respects our type of diving is substantially different from off-shore oil drilling diving for which the OSHA standards are designed. Nevertheless, they apply to us. Or, should I say they did apply to us until the California aquaculture industry and research diving community obtained a one-year exemption to prove that our operations were different. At this time, this group, under the direction of California OSHA, is preparing "reasonable" standards. The time involved in this matter has put a significant strain on my company.

"This is just one example of how the energy of creative people in innovative new technologies can be drained by the regulatory rule-making process—yet our survival is dependent upon being directly involved in such rule-making when we are aware that it is occurring.

"Absolute prohibitions

"Another significant area of regulation concerns our California Coastal Zone. Several years ago, California voters decided to prevent our coastlines from being developed on a wall-to-wall, Miami Beach basis. As a result, our state government is requiring all 68 zoning jurisdictions within the coastal zone to develop precise plans for all lands within their jurisdiction. Because aquaculture must have access to clean water, our California Aquaculture Association asked all 68 zoning jurisdictions to allow aquaculture access to areas of clean water in the ocean. They responded by assuring us that they were considering aquaculture's needs by making our use allowable within areas zoned "industrial." We then informed them that the water quality in most industrial areas of our state was incompatible with growing of fish and shellfish (particularly in view of changing FDA standards relative to concentrations of contaminants in seafood), and we therefore requested access to rural areas where water quality would be substantially superior. The zoning jurisdiction then responded "the oil industry is requesting the same favorable treatment—how are you different?

Footnotes at end of article.

"Again, the burden of proof was placed upon the shoulders of our struggling industry. There is no way that we can appear before 68 zoning jurisdictions to plead our case. In this situation of land use regulation, I am convinced that our new industry, with its new technology, will be precluded from the quality of water we need in order to grow our animals successfully. Because of the overbearing nature of this situation, I consider this type of government involvement to be an absolute constraint."

I could go on and on relating similar situations with most of the 42 agencies. In some cases I believe it is the intention of our lawmakers to protect us from legitimate problems and address real social needs. In other cases it is to fulfill the wants and desires of the voters that may not represent real problems or needs. In responding to these real needs or voter wants, our government has put together good and efficient organizations with well-meaning people to administer these laws and policies. These good, well-meaning people in their efficient organizations then become our adversaries. When in doubt, thir choice is to err on the safe side, that is, to protect (no matter what the consequences) whatever the regulators are charged to protect. In almost all cases there is no consideration of the costs of regulation upon the entity being regulated; indeed, the costs to you are rarely important to them. As a result, many of these government programs are truly oppressive, and I am not using the word "oppressive" carelessly or emotionally. Our society is paying an enormous price for these programs in terms of stymied creativity and initiative, particularly as they pertain to small innovative businesses.

I hope that my comments about these examples are not perceived as being from "just another complaining businessman." Nor is the issue I am raising one of equity or fairness to the little guy. The problem is much more far reaching, and it has profound ramifications affecting our nation's economic health.

Not only is there the direct cost of compliance with this regulatory octopus that innovators must absorb into their initial capitalizations, but there are large hidden costs requiring the innovator's direct participation that are significantly blocking his creative processes.

In reviewing the status of aquaculture and our attempt to emerge as a new industry, several conclusions can be drawn that may apply to new technologies yet to be developed:

1. Uncoordinated, widespread and intense government regulation and involvement in the aquaculture industry is a major constraint. It is unrealistic to expect 50–70% of an innovator's time to be spent on government relations. The alternative of "going underground" is an invitation to disaster, yet some firms in our new industry are deliberately ignoring government and maintaining the lowest possible profile, hoping not to get caught.

2. Although our situation may sound extreme due to the "high regulatory profile" possessed by aquaculture, I believe our experiences probably indicate the governmental environment in which many, if not most, new technologies must develop and operate in the future. Aquaculture is simply the forerunner of new technologies being pioneered in the new regulatory environment.

3. The make-up of our future economy will consist to a large extent of only a few new industries that are able to emerge because they have a low government regulatory profile.

4. The only innovators who will succeed in putting science into profitable production are ones who have the skills to map and navigate successfully the government regulatory maze. This will probably preclude many potential innovators who know their fields of science and who could cope with normal business problems, but do not have the knowledge, skills and patience to deal with such heavy and diverse government involvement.

5. Free entry is a basic principle of economic growth. Our present regulatory environment is constraining "free entry" in aquaculture, as well as in other needed new technologies.

If we are to achieve economic benefits from the profitable utilization of science, someone must put it to work. That someone must be free to create, yet the plethora of well intended involvements of government in business affairs—particularly the affairs of innovative small businesses—is blocking the creative process. This blockage has virtually halted small business innovation in America.

Let us next look at how federal policies are precluding the availability of capital for innovative small businesses.

INVESTMENT CAPITAL FOR INNOVATION

Most small business innovators require outside sources of capital to launch their businesses. Initial "seed" capital requirements are greater today than ever before due to inflation and the high costs of complying with government involvement. Unfortunately, however, the availability of risk-capital of all kinds—seed, start-up, and expansion—has all but disappeared since 1970 due to an array of federal policy decisions.

In my opinion there is no greater constraint to technological innovation in America than this recently developed lack of investment capital for small innovative businesses.

This decline can be readily seen from the following table[1] that shows the capital acquired by firms with less than $5 million in net worth from public offerings since 1969.

	No. of Offerings	Total Amount (Millions)
Year:		
1969	548	$1,457.7
1970	209	383.7
1971	224	551.5
1972	418	918.2
1973	69	137.5
1974	8	13.1
1975	4	16.2

The catastrophic disappearance in capital available to small businesses is clearly apparent, yet during the same period money raised for all corporations in the public securities market increased from $28 billion in 1972 to over $41 billion in 1975, or almost 50 percent.

This disastrous trend is also true for other sources of small business financing, including professionally managed venture capital pools and high-risk investments by individuals.

Let us look at some of the reasons for this decline in small business financing.

Savings are now flowing into large pension funds

The principal source of investment capital in the U.S. is the stream of savings flowing from the American public. Savings is defined as the difference between Personal Disposable Income and what we consume or spend. As these savings accumulate, millions of Americans in the past have had to decide how to invest them. Some have gone into savings accounts, some into homes and other real estate, some into marketable securities of local and federal governments and large corporations, and, until recently, a small but significant amount has gone into new small ventures to pioneer new technologies.

This later portion of the flow of savings into seed and start-up capital has been the principal source of financing small innovative businesses in the past, and it has been critical and essential to technological innovation and economic growth in our country. Unfortunately, this flow of capital has now ceased.

This cessation of the flow of individual savings into innovative small businesses is the result of federal policies initiated in the late 1960's and early 1970's to encourage our populace to save for retirement security. At that time Congress enacted tax incentives (through IRA and Keogh plans) for individuals to place their savings into large, centralized professionally managed pension funds. Congress then passed ERISA legislation in 1973 to protect these savings and required such funds to be "prudently" invested in mature securities.

Before the enactment of IRA, Keogh and ERISA, hundreds of thousands of individual savers such as doctors, lawyers, farmers, small businessmen, etc. in the towns and cities throughout America had a broad range of investment opportunities available at their discretion, including, in some cases, participation in worthy small innovative ventures in their local communities. Since IRA and Keogh, tax incentives encourage these individuals to send their savings to a few large pension funds located in major financial centers that then "prudently" invest these savings in stocks and bonds of mature, secure, well established companies or into government financial instruments. The investment decision-making has shifted from many local savers to a few centralized fund managers. These fund managers are not only unable by law, but are disinterested in investing in small innovative businesses scattered around the country that are pioneering new technologies.

The evil in the IRA, Keogh and ERISA package is twofold:

1. It has diverted the flow of savings that previously went into high-risk innovative investments into markets for mature, secure investments, and

2. It has shifted investment decision-making from hundreds of thousands of people on the local scene to a few centralized "professionals."

The net result is that Congress has inadvertently eliminated seed and start-up capital investments in innovative small businesses in response to society's demand for greater retirement security.

The centralization of investment decision-making

In the case of my company, I can say with absolute certainty that the local aspect of our first "seed" capital and of our second "start-up" capital acquisitions was of paramount importance. Investors at each stage knew me well and knew our product opportunities well. In fact, some of them were essential driving forces in getting me to undertake this venture and to continue it at times of frustration and failure. I am sure that this is the situation in thousands of other cases of successful start-up ventures when deciding whether or not to begin or to continue pioneering new fields.

Conversely, the professional managers of "venture" capital pools have been of no help to us. Although our potential economic returns were attractive to them, our project was either too risky or had time period to first profitability excessively long for their sophisticated investment criteria. Without the local investment decision, we would have never started.

This shift in small business investment decision making from local investors who are patient and possess a greater depth of human understanding and who invest because they have faith in the entrepreneur and his project, to professional, sophisticated finan-

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cial managers is, in my opinion, another substantial deterrent to seed capital investment in innovative ventures. The professionals do not take risks to initiate many worthy ventures, nor do they have the psychological make-up and patience to nuture the entrepreneur and his small business through the inevitable hard times.

This shift in seed capital and start-up investment decisionmaking is another factor contributing to the decline in small business financing. It, too, has resulted from our society's demands of government for greater security for our retirement investments.

Our desire to prevent security fraud

Over the years our governments at the state and federal levels have moved with increasing intensity to protect investors from security fraud. As a result we have a very active group of lawyers at the Securities and Exchange Commission, and in various state commissions, policing investment offerings, both public and private. The net effect of this protection is that a company such as mine desiring to raise upwards of $500,000 in new capital from public markets is faced with an outlay before the offering of $200,000 in legal, accounting and printing costs to obtain the necessary S.E.C. registration.

Our security regulators have done such a good job of protecting us from security fraud that they have completely slammed the door to public financing for many honest and worthy innovative businesses.

And there are other reasons

Although capital gains taxation is a controversial subject in Washington these days, there is no doubt in my mind that the increase in capital gains taxation that has occurred since 1969 has greatly diminished investor interest in small high-risk ventures such as ours.

Our unduly complex tax laws are a major determinant of the flow of savings into investments, and our present tax structure substantially hinders investment in high-risk, small innovative businesses.

All of this adds up to a major disaster to all forms of innovative new businesses. Again, well-meaning government policies have had major, unpredicted, secondary effects. These secondary effects have virtually eliminated investment capital from innovation and are a major factor in the inability of our economy to utilize the discoveries of science to provide economic growth.

The main thrust of my presentation so far has concerned the consequences of governmental actions on small innovative businesses. It might be helpful then, to take a look at the importance of the individual innovator and his small business.

PAST CONTRIBUTIONS BY INDIVIDUAL INNOVATORS

In our American economy much of the application of science to accomplish technological innovation occurs in large corporations. Although research policies in American industry are changing towards low-risk research investments (a trend that I believe is adverse to the continued development of our country), large companies undoubtedly will continue to make major technological advancements. However, an examination of American business history from the late 1700's through 1970[5] clearly shows that a major, if not the major, source of technological advancement has resulted from the work of individual inventors and individual entrepreneurs working independently of our large industrial corporations. This is particularly true when radically new concepts have been introduced.

In our early history we had Eli Whitney in 1793 with his cotton gin and Robert Fulton with the steamboat in the 1840's. These two innovations had an enormous impact on young America. Then came the railroads, and next we had Morse, Bell and Marconi in the field of communications whose contributions greatly accelerated the growth of our economy. Similarly, the Wright Brothers, McCormack, Edison, Westinghouse, Ford and DeForest, using science and engineering, made introductions that laid the foundation for further economic advancements. This is obviously only a partial list. All of these innovators were small guys.

The same trend continues after World War II. We are all familiar with the success stories of Edwin Land at Polaroid and the Watsons at IBM. During the 1960's we saw the emergence of many companies such as Xerox, Digital Equipment Corporation and Hewlett-Packard, each beginning as individual small-guys with their small companies who were able to use science to innovate. In addition to these better known names, there were thousands of small, less known, high-technology companies spawned during the 50's and 60's and which have created real growth to our economy and have increased the quantity and quality of employment.

Since 1970, the process of formation for new high-technology companies has virtually ceased. Yet it is clear to me that we cannot rely solely upon big corporations to make all of our future advances. What about the mavericks? What about whole new industries? Or radical innovations necessary to shake existing industries into lower cost production and expanded markets?

To a large extent the pioneering of entirely new industries (in contrast to expanding existing technologies or making them more efficient) is largely up to individuals in new businesses. This need is more prevalent today than pre-1970, since there is a well established trend by large companies to apply their reduced research efforts to the improvement of existing products in existing markets where the risks are easily defined, and where the pay-off of investment is a shorter distance into the future. This phenomena of large corporation hesitancy to enter new fields clearly exists in aquaculture where, with few exceptions, large companies are unwilling to pioneer this new technology but are instead, waiting for individuals and their small businesses to pioneer their technologies and establish profitability before the large companies acquire the small pioneers.

The role of small innovative businesses in stimulating economic growth also can be seen from two recent independent studies. The first, by The M.I.T. Development Foundation in 1975[6] shows compounded average annual growth from 1969 to 1974 for the following three groups of companies:

[In percent]

	Sales	Jobs
Mature companies	11.4	0.6
Innovative companies	13.2	4.3
Young high-technology companies	42.5	40.7

In this study, mature companies were Bethlehem Steel, DuPont, General Electric, General Foods, International Paper, and Procter & Gamble. Innovative companies were Polaroid, 3M, IBM, Xerox, and Texas Instruments. Young high-technology companies included Data General, National Semiconductor, Compugraphics, Digital Equipment, and Marion Laboratories.

The M.I.T. report states:

"It is worth noting that during the five-period the six mature companies with combined sales of $36 billion in 1974 experienced a net gain of only 25,000 jobs, whereas the five young, high-technology companies with combined sales of only $857 million had a net increase in employment of almost 35,000 jobs. The five innovative companies with combined sales of $21 billion during the same period created 106,000 net jobs."

Similar conclusions emerged from a study of 260 electronic firms by the American Electronic Association. This past February, Dr. Edwin V. Zschau of the AEA presented the conclusions of that study to the Senate Select Committee on Small Business. The report showed the following growth of employment for new established firms as contrasted to more mature companies:

Years since founding/Stage of development	*Employment growth rates in 1976 (percent)*
20+/Mature	0.5
10-20/Teenage	17.4
5-10/Developing	27.4
1-5/Start-up	57.7

Dr. Zschau also reported that annual benefits to the economy realized in 1976 for each $100 of equity capital that had been invested in start-up companies founded between 1971 and 1975 were:

[Per year]

Foreign sales	$70
Personal income taxes	15
Federal corporate taxes	15
State and local taxes	5
Total taxes	35

This data shows that the benefits of investment in small innovative ventures are large (e.g., a new $35 per year flow in tax revenues for each $100 initial investment) and that this flow of benefits starts soon after the investment. These benefits are large and powerful.

The projections for my company, Monterey Abalone Farms, are similar. During the next five years we anticipate employment growth of 50 percent annually, new foreign exchange earnings in excess of $200 for every $100 invested, and a new annual tax flow in excess of $150 per year for each $100 of new investment.

The need for a climate of favorable small business innovation is clearly apparent from this review of the contributions that have been made by individual entrepreneurs in their small companies to the past and recent economic growth of our country. If we are to continue to enjoy the benefits of innovation, then individual entrepreneurs and their small companies must be able to carry a very large share of the burden of innovation. Therefore, the climate for the formation and nuturing of small innovative businesses is of critical importance. Those government policies that constrain the formation and nurturing of small businesses must be removed.

Let us next look at how these conclusions concerning the role of individual innovation relate to economic theory.

ECONOMIC THOUGHT ON INNOVATION

Economists have been telling us for centuries that technological innovation is essential to economic growth. As one examines the writings of the classic, neoclassic and present-day economists, there clearly emerges a predominance of thinking that technological innovation is the principal (or perhaps even sole) stimulus to economic growth. Some economists such as John Stuart Mill[7] in the early 1800's feared that economic growth would someday cease since there were "ultimate boundaries" to technological progress. He believed that everything that could be invented soon would be invented. Others, such as Karl Marx,[8] feared that continued technological development would be used to exploit the working masses by depressing real wages and increasing the margin between the wealth of the capitalists and the poverty of labor, thereby increasing the "misery" of labor. Marx also saw an important role to be played by technological innovation.

Footnotes at end of article.

As we come into the twentieth century, we find such economists as John Maynard Keynes[9] in the 1930's being concerned, like Mill, that technological innovation would not continue to provide the stimulus that it had earlier. In the 1940's and 1950's we find the profound writings of the Harvard economists Joseph P. Schumpeter[10] and Sumner H. Slichter[11] articulating the need for vigorous technological innovation to prevent economic stagnation. Both Schumpeter and Slichter recognized the absolute essential nature of the entrepreneur as middle-man in the process of putting scientific knowledge to work to fill consumption needs. Schumpeter, much to his chagrin, predicted the destruction of capitalism and major economic stagnation as a result of the inhibition of the entrepreneurial process by such external forces as government involvement in private decisions and the imposition upon the entrepreneur of the accomplishment of a wide range of social goals. Schumpeter (in 1942) accurately predicted the present state of economic stagnation with chronic unemployment in America, and its causes. In my opinion, it will take widespread awareness and understanding of Schumpeter's theses by our political leadership before our nation will solve the problems of economic stagnation that we are now experiencing.

Slichter disagreed with that part of Schumpeter's thesis that the stagnation of American business would occur because, amongst other things, Slichter believed that American management with its "energy, diligence, and perseverance" would continue to "make profit promising innovations and thus to discover investment opportunities." About entrepreneurs he said, "The tremendous absorption that many managers have in their jobs springs from the fact that they find their work exciting and challenging—*for them the job is fun rather than drudgery"* (Italic supplied).

Slichter wrote this in the late 1950's. In the context of my experiences 20 years later, I must respectfully disagree. The 30 percent of my time that I am able to spend creatively on abalone culturing is enjoyable and rewarding (although sometimes frustrating and demanding). It is indeed fun. And, it is the fun of pioneering with the realization of accomplishments that has been the driving force to keep me plodding ahead. But there is now 50 percent to 70 percent of my time that must be spent to ministering to the affairs of government.

Who wants to be an entrepreneur when he knows there are tens of thousands of regulations, many of which the violation is criminal? Take OSHA as an example. No one individual can precisely understand and memorize OSHA's code book of 28,000 regulations. As a result, you are always inadvertently in violation of something, no matter how careful you are! Because you are a small guy without a staff of expert safety engineers and you can't know the code book, you are a sitting duck for zealous OSHA cops—with criminal penalties and fines that can be applied if they feel like it. Add to the 28,000 OSHA regulations the many more enforced by EPA, FDA, IRS, SEC, ERISA, Coastal Zone, Fish and Game, Workmen's Compensation, Unemployment boards, Corps of Engineers, Planning Commissions, Affirmative Action, etc., etc., with their reports, applications, permits, licenses, standards, EIS's, variances, rule-makings, hearings, burdens of proof, appeals, etc., etc., and rapidly growing enforcement budgets at all levels of government to "make business comply." Is it fun to be on the receiving end of all of this?

In a small business it is the innovator who is the criminal who violates these laws and regulations, and only a few zealous entrepreneurs have "fun" working in such an environment where they are treated by government at best as adversaries, and often as criminals. Couple this with a seemingly continuous flow of litigation expenses against your governments to protect your trade secrets that they want to use in competition with you or to make public—"the public must know your technology." Or threats that if you go to the legislative branch of government to stop their encroachments upon your business they will "put you out of business." Or, "you had better support our legislation or we'll make it rough on you." Or, "if a judge orders my agency to stop—I'll stop—but not until then." What a great environment in which to create!

Slichter was correct when he said managers of innovation are motivated by the excitement of being creative. But, it is no longer fun, and maybe this explains why innovative entrepreneurs are now an endangered species. Where will our society get good people who are willing to undertake this important function if it is so unpleasant? Our capable business managers will stay with large companies instead—or speculate in real estate—or will seek secure employment as government regulators.

So we have the views of the past economists: technological innovation is essential for economic growth, and the entrepreneur-middleman is the essential link between science and consumption. But will the entrepreneur survive? Schumpeter says no—external social forces will kill him; Slichter says yes—it's fun to be an entrepreneur. From my position at this stage of the game it looks as though Schumpeter is correct.

WHAT DO OUR CONTEMPORARY ECONOMISTS THINK?

When reviewing contemporary economic thought, Samuelson in his very well read college textbook, "Economics,"[12] clearly recognizes the critical role of technological innovation in providing economic growth. Unfortunately, however, Samuelson almost completely ignores the entrepreneurial function. Of 1,000 pages of text he has only three paragraphs describing the entrepreneur. This major omission is clearly reflected in contemporary economic thinking and I believe this omission is a major cause for the economic mess we find ourselves in today.

Present day economists are so concerned about monetary and fiscal matters as they relate to business cycles that they have overlooked the fact that these are only tools to help control economic growth. These economists and government policy makers are ignoring the process by which science is used to produce real economic growth.

During the 1930's, John Maynard Keynes contributed a needed theory of consumption to the body of economic knowledge. Unfortunately, in their pursuit of Keynes' theory, contemporary economists and government planners are placing much too great an emphasis upon consumption, short-term industrial productivity, short-term unemployment, inventory accumulation, expenditures for plant and equipment, consumer moods, and M1 and M2 growth. They are ignoring the principal contributor to long-term economic growth—the development of scientific knowledge and the use of it through technological advances for the creation of consumption by way of the entrepreneurial process. As a result, I believe our country is in a state of long-term depression, a depression in which massive unemployment is being prevented by pumping more and more money into our economy without real growth. The result is chronic inflation.

The evil of inflation is going to persist until their is sufficient real growth to offset labor's firm demands for 8 percent or more annual wage increases. There will be insufficient real growth in our economy to meet or exceed labor's demands until the entrepreneurial function is unburdened and risk capital is again available from local investors to small innovative businesses, so science can be used again to create those innovations necessary for real economic growth. If I may criticize our contemporary economists, they are preoccupied with the problem of keeping our present stock of men and machines fully employed by our large corporations—and they are not facing the longer cycle problem of real growth through innovation.

Our investment in science will produce minimal returns until the constraints to innovation are recognized and removed and the entrepreneur-middleman is again allowed to put science to work in the private sector on a more or less untrammeled basis. Until then, inflation, high unemployment, limited job opportunities for our youth, and currency erosion will continue to be the product of a stagnated economy in a stagnated society.

So much for economics.

WHAT DOES THIS MEAN?

The picture is not a good one. The question arises as to why such enormous constraints exist.

It seems to me that there are two basic causes underlying all of the symptoms of stagnation that I have been discussing:

1. Our current generation of economists and government policy makers are overlooking the absolute critical role of the entrepreneur, and

2. We are a society of people who have a great aversion to risk.

Can we expect no-risk policies to produce profits and growth? I personally do not believe growth is possible without a higher degree of risk than we are willing to take at this time.

At some point our leadership must ask if zero-risk and solving a broad range of voter desires is worth the cost of stopping economic growth. Are the burdens of absolutely pure foods, a pristine environment, "safe" work places, precise land zoning and protection of public viewsheds, the prevention of investment fraud, the encouragement of savings to flow into a few central large trust funds, the establishment of strict fiduciary responsibilities and standards for pension trustees, the comprehensive protection of wildlife, affirmative action, navigation protection in even the small creeks and miniscule estuaries, the distribution of wealth through a compext tax structure, etc., etc., really worth the cost? Each of these areas of social desire may be worthy in their own right, but together are they worth it if our economy and our whole society stagnates? And it must be realized that such stagnation remains a long time. It takes years to put science into profitable production and even longer for the real major innovations to have economic impact.

Some people believe that it is possible to pursue these wide-ranging areas of risk aversion and social concern and not inhibit the entrepreneurial process by modifying our governmental processes to "make it easier for the small guy." These people would somehow make law and rule-making and administration more sensitive to the blocking effects they are having on innovation while still hotly pursuing social and zero-risk objectives in each area of concern. I personally doubt if this can happen. Some degree of social risk-taking is going to be necessary.

The question continuously re-emerges: is our society willing to assume more risk and reduce our expectations of government, thereby relaxing the stranglehold on innovation in order to eliminate the stagnation we are now experiencing with high unemployment, high inflation, and the sinking value of our currency in foreign markets?

This trade-off problem in our priorities probably makes most of us uncomfortable, since we all expect a lot from government. However, I believe that this is a very real

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question that our nation and our political leadership must address actively and honestly. And soon.

CONCLUSIONS

I have covered a lot of ground in this presentation on the constraints to the use of science in the U.S. economy and the consequences. We have examined how basic scientific knowledge that was developed elsewhere for non-economic reasons provided the foundation for a new working technology at Monterey Abalone Farms. We have looked at how a diversity of government regulations being enforced with increasing intensity is preventing the emergence of a badly needed and economically viable aquaculture industry. And we have observed how well intended federal policy decisions in the early 1970's have almost entirely eliminated investment capital that is required for small business innovators.

We have discussed the important contributions that individual inventors and entrepreneurs and their small innovative businesses have made to our nation from the 1790's through the 1960's, including the impact of high-technology firms founded in the 1960's, on employment, tax revenues, and foreign exchange. We have seen the importance that past economic thinkers have placed upon scientific discovery and its application through the entrepreneurial process to produce economic growth. In contrast, we have seen how contemporary economists have become so occupied with designing solutions to immediate business-cycle problems that they are overlooking the critical importance of innovation and a healthy entrepreneurial environment in order to achieve continuous long-term growth.

It is clear to me that the ignorance of the critical entrepreneurial function by contemporary economists and our government policy-makers, coupled with our society's great aversion to risk in recent years, has led to a depression as serious as those in the past. This time our economy is stagnated due to a major slowdown of technological innovation and we are experiencing long-term inflation, high unemployment, unexciting job opportunities for our youth, and a declining currency in world markets. It will take courage by our political and intellectual leadership to unburden the entrepreneur and accept a greater degree of risk.

I am not alone in these conclusions. In early June Alexander Solzhenitsyn addressed the graduating class at Harvard University on the subject of "The West's Decline in Courage."[1] He said:

"A decline in courage may be the most striking feature which an outside observer notices in the West in our days."

"Should one point out that from ancient times a decline in courage has been considered to be the beginning of the end?"

"No, I could not recommend your society in its present state . . ."

It is my understanding of American history that we are a Christian society built by hardworking people of courage who were free to create and were willing to assume risks as the evolution of science produced new opportunities. The advancement of science has continued at a rapid rate, and there are still people who are willing to undertake the challenge of putting science to work to create economic benefits. Unfortunately, the burden of government involvement in our attempts to innovate has become so diverse and so intense that the innovator cannot do his job. The present climate is "discouraging"—in the strictest sense of the word—at a time when we need more courage.

As a result our stagnated economy and our stagnated culture are maintaining the status quo. To this Solzhenitsyn said, ". . . a status quo is a symptom of a society which has come to the end of its development."

In my mind, Solzhenitsyn is correct in his assessment of contemporary America; we are a society lacking courage that has stopped development. I believe, however, that he may be underestimating the ingenuity of Americans to solve our problems, once they are recognized, even the massive problems now blocking innovation and causing stagnation. In my case, I am confident that my small company, Monterey Abalone Farms, will succeed (probably as a subsidiary of a larger corporation). And I am confident that American ingenuity will demand that government attend to the real needs of the creative process with appropriate risk taking. When this occurs, scientific discovery will again be the beginning point of the innovative processes and America will enjoy all of the benefits of real economic growth.

FOOTNOTES

[*] Mr. William D. Carey, Executive Officer, American Association for the Advancement of Science.

[1] Solzhenitsyn, Alexander, *The West's Decline in Courage*, address to the graduating class of Harvard University, June 1978.

[2] National Academy of Sciences, *Aquaculture in the United States, Constraints and Opportunities*, (A report by the Committee on Aquaculture National Research Council, available from: Printing and Publishing Office, National Academy of Sciences, 2101 Constitution Avenue, Washington, D.C. 20418. Library of Congress Catalog Card No. 78-52270, 1978).

[3] Lockwood, George S., *An Analysis of Constraints and Stimulants to Aquaculture Development in the United States*, (Monterey Abalone Farms, 300 Cannery Row, Monterey California 93940, 1977).

[4] U.S. Small Business Administration, *Report of the SBA Task Force on Venture and Equity Capital for Small Business*, (available from: SBA 1441 L Street, NW., Washington, D.C. 20416, January 1977).

[5] An excellent study of American business history that, amongst other things discusses technological change is *The Visible Hand—the Managerial Revolution in American Business*, Alfred D. Chandler, Jr., (Belknap Press of Harvard University Press, Cambridge, Massachusetts, 02139, 1978).

[6] Flender, John O., and Morse, Richard S., *The Role of New Technical Enterprises in the U.S. Economy*, (M.I.T. Development Foundation, Inc., 501 Memorial Drive, Cambridge, Massachusetts, 02139, 1978).

[7] Mill, John Stuart, *Principles of Political Economy*, Book IV, Ch. VI, (Ashley ed., London, Longmans, 1909).

[8] Marx, Karl, *Capital*, (3 vols.: Chicago, Charles H. Kerr Co., 1926).

[9] Keynes, John Maynard, *The General Theory of Employment, Interest and Money* (New York, Harcourt, Brace and Co., 1936).

[10] Schumpeter, Joseph A., *Capitalism, Socialism and Democracy* (New York, Harper & Brothers, 1942).

[11] Slichter, Sumner H., *Economic Growth in the United States—Its History, Problems and Prospects* (Louisiana State University Press, 1961).

[12] Samuelson, Paul A., *Economics*, 10th Edition (McGraw-Hill Book Company, New York, 1976). ●

● **Mr. PRESSLER.** Mr. President, I am pleased to introduce today, with Senator NELSON and others, the Small Business Innovation Act of 1979.

Throughout America's economic development, small businesses have contributed much toward the innovation of new products and ideas. Because of a number of reasons, small businesses, although they contribute a great deal, are not able to offer as much as they could under more responsive economic conditions.

The Small Business Innovation Act of 1979 would increase the potential of small businesses to produce innovations. It would do so by allowing more businesses the means to start technology-based small businesses.

This legislation contains four titles. Title I deals with research and development contracts. Each Federal department or agency would target a 1-percent increase in research and development procurement set-asides of prime contracts, beginning in 1980 and continuing until small business receives a prime contract dollar volume equal to at least 20 percent of each department's total research and development budget. Under title 1, each Federal department or agency having a research and development budget exceeding $100 million would set up a small business competitive solicitation program. This program has been modeled after the present National Science Foundation program, which has been highly successful.

Title II of the Small Business Innovation Act of 1979 deals with patents and inventions. Small businesses would be allowed to retain, under certain provisions, the patent rights on inventions of their own made under federally sponsored research. Such a provision should greatly enhance a small business willingness to participate in federally sponsored research projects.

Title III of this legislation amends the Internal Revenue Code. It would allow income realized on the sale of securities of a small business to be deferred if reinvested in another small business within an 18-month period. It also changes the tax code to encourage revenue to be spent on research and development. A small business which spends an average of 3 percent of its gross revenues on research and development in each of 3 taxable years or 6 percent in any one of 3 taxable years would be given several options. The business could carry a loss forward for 10 years instead of the present 7 years. It could include as business expense in one years tax return the specialized equipment and instrumentation for research and development, and it could include over a minimum 10-year period the facilities used for research and development purposes. The business could also establish a cash reserve for future research and development expenditures. Title III would also allow subchapter S corporations to have 100 shareholders, including qualified venture capital corporations.

Title IV would allow all Federal agencies to consider the size of a firm when issuing regulations. This could greatly alleviate much of the present regulatory burden that our Nation's small businessmen are facing.

Mr. President, this legislation will allow us a mechanism to discuss needed reform in the area of small business and innovation. Although it may not be in final form, it will provide the format to hold hearings and to determine our role in increasing small businesses involvement in the innovation process. I ask that my colleagues give their favorable consideration to cosponsorship of this legislation. ●

By Mr. STONE:

S. 1861. A bill to amend the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

INCLUDE 19-YEAR-OLDS UNDER THE TARGETED JOBS CREDIT PROGRAM

● Mr. STONE. Mr. President, I am today introducing a bill that makes legislation the Congress passed last year more effective in stimulating employment of youth in America. Under my proposal, the 16- to 18-year-old group that current law targets for jobs tax credits would be expanded to include 19-year-olds who participate in high school or vocational school sponsored work-study programs.

My proposal addresses one of the more significant socioeconomic problems in America, youth unemployment. The present level of unemployment for youth aged 16–19 as a whole is approximately 20 percent, while the level among minority youths approaches 40 percent. Moreover, recent increases in the Federal minimum wage (as well as scheduled increases for 1980 and 1981) have had the effect of vastly increasing mechanization within certain industries with the resulting reduction or curtailment in expansion of job opportunities for youth. This has been especially true in entry level jobs. We need to do more, Mr. President, to combat the problem of youth unemployment.

To stimulate employment within certain targeted groups, in 1978 Congress established a targeted jobs tax credit for seven groups, one of which included 16–18-year-olds who participate in a high school or vocational school sponsored work-study program. My bill makes the 1978 legislation even more effective by covering 19-year-olds. It should be noted that similar legislation sponsored by Congressman ROSTENKOWSKI and 12 other Congressmen (H.R. 3586) is currently pending in the House of Representatives. Further, in testimony on that bill before the Subcommittee on Select Revenue Measures of the Committee on Ways and Means, the Department of the Treasury indicated that it did not oppose covering 19-year-olds under the targeted jobs tax credit.

While the work-study program has proven particularly valuable, the current law targeted group of 16–18 impacts less than half (approximately 40 percent) of the students enrolled in work-study programs. My bill, if enacted, would have the effect of impacting about 70 percent of the work-study students and would, therefore, stimulate employment of these students.

The 16–19 grouping also more clearly recognizes the demography of the work-study program. Many students in these programs simply do not graduate from high school at the age of 18 or earlier because of the social, academic, or economic environment in which they have grown up. A "typical" work-study student is from a low-income family. For example, a 1975 survey of post high school work-study students indicated that 77.7 percent of the students were from families with income levels below $12,000 yearly. A 1976 survey in eight Southern States indicated that 65 percent of the high school work-study students were from families with income of $10,000 or less. Moreover, many work-study students are dropouts who have been persuaded to return to school. Raising the targeted age bracket of students to include 19 will further encourage dropouts to return to school and will encourage employment of these dropouts.

Both Government and outside agencies will be evaluating the effectiveness of the targeted jobs credit. The Department of Labor uses 16–19 as a "natural" grouping in the analysis of youth employment. Evaluations of the jobs tax credit and ease of administration in the required reporting by the Secretaries of Labor and Treasury will be facilitated by my legislation.

Finally, the revenue cost of my bill is minimal. It has been estimated that this bill would reduce budget receipts by less than $5 million annually.

In summary, I urge my colleagues to support this legislation. The 16–19 grouping more effectively stimulates employment, recognizes the demography of the work-study program, would encourage the return to school and employment of dropouts, and is not expensive.●

By Mr. MELCHER:

S.J. Res. 108. Joint resolution to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; to the Select Committee on Indian Affairs.

VALIDATING CERTAIN JUDGMENT FUND DISTRIBUTION PLANS

Mr. MELCHER. Mr. President, today I am introducing a resolution which validates a number of plans for the use and distribution of Indian judgment funds which were not submitted to the Congress by the Secretary of the Interior within the statutory time limit of 180 days after the funds were appropriated.

The Distribution of Judgment Funds Act (25 U.S.C. 1902) requires the Secretary of the Interior to develop a plan for the use and distribution of Indian judgment funds. The act further requires the Secretary to submit a plan to the Congress within 180 days after the funds are appropriated.

After submission by the Secretary of a plan, either the House or Senate may disapprove the plan within 60 days by resolution. The plan becomes effective upon no action within 60 days by either the House or the Senate. Since 1973, 54 plans have been submitted to Congress and approved. However, in almost all cases the plans were not submitted by the Secretary within the 180-day time limit. Most of these plans have been implemented and funds have been disbursed either totally or partially.

On July 9, 1979, the U.S. District Court for the District of Columbia in Seminole Indian Tribe of Florida against Andrus (Civil Action 78-994) held that the plan which had been submitted by the Secretary of the Interior providing for a division of a judgment award between the Seminoles of Oklahoma and the Seminoles of Florida, was void because it failed to meet the 180-day deadline. The Secretary was enjoined from implementing the Seminole plan. This court decision may have the effect of invalidating the 54 plans which have already been approved by the Congress and disbursed or partially disbursed. Furthermore, the United States may be liable for those funds improperly paid out.

This resolution validates these plans, except for the Seminole plan and the Warm Springs plan, which is currently being litigated.

Mr. President, a similar resolution, House Joint Resolution 383, passed the House of Representatives on September 17, 1979. No hearings were held on House Joint Resolution 383. I understand that now a number of questions have been raised by Indian groups regarding this resolution, and the Select Committee on Indian Affairs intends to conduct a thorough hearing on the matter as soon as possible.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Whereas, pursuant to Public Law 93-134 (Act of October 19, 1973; 87 Stat. 466; 25 U.S.C. 1401), the Secretary of the Interior or his designee has submitted plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; and

Whereas none of such plans have been disapproved by congressional action; and

Whereas a recent July 9, 1979, decision of the United States District Court for the District of Columbia in the case of Seminole Indian Tribe of Florida versus Andrus has called into question the effectiveness and validity of those plans submitted to Congress under Public 93–134; and

Whereas it is the purpose of this resolution to validate the effectiveness of the plans (other than the plan involved in the Seminole decision and a plan involving the tribes of the Warm Springs Reservation which is the subject of pending litigation) which were submitted to the Congress pursuant to Public Law 93–134 and which had been presumed to have become effective prior to the July 9, 1979, United States District court decision: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93–134 are hereby declared to be valid and effective as of the dates indicated:

Tribe or group, docket number(s), and effective date:

Washoe, ICC 288, September 25, 1974.

Seneca, ICC 342–A and 368–A, September 26, 1974.

Fort Berthold (Three Affiliated Tribes), ICC 350–A, E, and H, October 2, 1974.

Paiute, Northern, ICC 87, October 10, 1974.

Nez Perce, ICC 175–B, October 10, 1974.

Cherokee, Eastern, ICC 282–A through L, October 10, 1974.

Ponca, ICC 322, 323, and 324, November 23, 1974.

Tuscarora, ICC 321, December 18, 1974.

Chippewa, Red Lake, ICC 189, February 3, 1975.

Sioux, Yankton, ICC 332–B, February 7, 1975.

Kikiallus, ICC 263, February 18, 1975.

Skagit, Lower, ICC 294, February 18, 1975.

Lummi, ICC 110, March 3, 1975.

Apache, Chiricahua, ICC 30 and 48 and 30–A and 48–A, March 16, 1975.

Sioux, Cheyenne River, ICC 114, March 16, 1975.

Iowa, ICC 135, March 24, 1975.

Ottawa, Oklahoma, ICC 304 and 305, June 17, 1975.

Pueblos de Jemez, Santa Ana, and Zia, ICC 137, June 17, 1975.

Apache, Jicarilla, ICC 22-K, July 8, 1975.

Suquamish, ICC 132, September 14, 1975.

Winnebago, ICC 243, 244, and 245, October 30, 1975.

Cabazon, ICC 148, October 30, 1975.

Apache, Western, ICC 22-D, December 3, 1975.

Cherokee, ICC 173-A, November 5, 1975.

Navajo, Ct. Cl. 49692, November 17, 1975.

Creek, Oklahoma, ICC 167-273, November 16, 1975.

Angoon, ICC 278-B, February 1, 1976.

Samish, ICC 261, December 10, 1975.

Swinomish, ICC 233, December 10, 1975.

Shawnee, ICC 334-B, March 5, 1976.

Mohave, ICC 283 and 295, April 12, 1976.

Chippewa, Pillager, ICC 144, April 28, 1976.

Yakima, ICC 161, 222, and 224, May 13, 1976.

Colville, ICC 161, 222, and 224, May 21, 1976.

Kiowa-Comanche, Apache, ICC 257 and 259VA, June 8, 1976.

Fort Berthold (Three Affiliated Tribes), ICC 350-F, June 20, 1976.

Flathead (Confederated Salish and Kootenai), Ct. Cl. 50233 No. 8 and No. 9, August 25, 1976.

Seneca, ICC 84; 342-B, C, and 368; 842-F and I, January 29, 1977.

Six Nations and Stockbridge Munsee, ICC 84 and 300-B ICC 300, March 4, 1977.

Devils Lake Sioux, ICC 363, July 23, 1977.

Saginaw Chippewa, ICC 57, November 12, 1977.

Fort Berthold Three Affiliated Tribes, ICC 350-C and D, March 13, 1978.

Fort Mohave, ICC 295-A, November 12, 1977.

Potawatomi, ICC 15-K, 29-J, 217, 15-M, 29-K, and 146, March 6, 1978.

Mescalero (Lipan), ICC 22-C, April 9, 1978.

Taos Pueblo, ICC 357, April 10, 1978.

Colville-Nez Perce, ICC 186, May 1, 1978.

Creek, ICC 275, June 15, 1978.

Seneca Nation, ICC 342-G, February 1, 1979.

Lake Superior and Mississippi Chippewa, ICC [illegible]-C and 18-T, February 1, 1979.

Sisseton-Wahpeton, ICC 363 (1867 and 1872), March 26, 1979.

Pyramid Lake, ICC 87-B, June 12, 1979.

Bois Forte Chippewa, ICC 18-D, June 5, 1979.

SEC. 2. The following plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93-134 are hereby declared to have been validly submitted and are exempted from the submission deadline in Section 2 of said Act and shall be effective as provided in section 5 of said Act:

Tribe or Group and Docket Number(s):

Caddo, ICC 226.

Goshute, ICC, 326-B and J.

Nisqually, ICC 197.

Potawatomi, Prairie Band, ICC 15-K, 29-J, 217, 15-M, 29-K, and 146.

ADDITIONAL COSPONSORS

S. 414

At the request of Mr. BAYH, the Senator from Wisconsin (Mr. NELSON) and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 414, the University and Small Business Patent Procedures Act.

S. 1203

At the request of Mr. BAYH, the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. SARBANES), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1465

At the request of Mr. TALMADGE, the Senator from North Carolina (Mr. HELMS) and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1647

At the request of Mr. INOUYE, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 1647, a bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9006, and for other purposes.

S. 1655

At the request of Mr. LEVIN, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1655, a bill to designate the building known as the Department of Labor Building in Washington, D.C. as the "Francis Perkins Department of Labor Building."

S. 1656

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1656, the National Fishery Development Act.

S. 1679

At the request of Mr. BAYH, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1679, the Patent Law Amendments of 1979.

S. 1693

At the request of Mr. MELCHER, the Senator from North Dakota (Mr. BURDICK), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Iowa (Mr. JEPSEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. DOLE), the Senator from Nebraska (Mr. EXON), the Senator from Oregon (Mr. HATFIELD), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 1693, to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or supporting a labor organization shall not be required to do so.

S. 1776

At the request of Mr. TOWER, the Senator from South Dakota (Mr. PRESSLER) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1776, to impose quantitative restrictions on the importation of lamb meat.

S. 1792

At the request of Mr. MCGOVERN, the Senator from Kansas (Mr. DOLE), the Senator from New Jersey (Mr. BRADLEY), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of S. 1792, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

S. 1794

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maryland (Mr. SARBANES), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1794, a bill to amend the Public Health Service Act to provide for research concerning Reye's syndrome, and for other purposes.

SENATE JOINT RESOLUTION 101

At the request of Mr. INOUYE, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of Senate Joint Resolution 101, authorizing the President to designate the 7 calendar days beginning October 7, 1979, as "National Port Week."

SENATE RESOLUTION 235

At the request of Mr. BELLMON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Resolution 235, relating to Senate consideration of SALT II.

SENATE RESOLUTION 247

At the request of Mr. MCGOVERN, the Senator from New Mexico (Mr. DOMENICI), the Senator from Maryland (Mr. SARBANES), the Senator from California (Mr. CRANSTON), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Senate Resolution 247, a resolution to state the sense of the Senate that an emergency food and medical relief program for the people of Cambodia should be initiated by the United Nations.

AMENDMENT NO. 428

At the request of Mr. MCCLURE, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 428 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

SENATE CONCURRENT RESOLUTION 43—SUBMISSION OF A CONCURRENT RESOLUTION HONORING THE 14TH CENTENNIAL OF ISLAM

Mr. STONE submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 43

Whereas November 21, 1979, marks the fourteenth hundredth anniversary of the founding of Islam, an event which will be commemorated throughout the world, including in the Holy Cities of Islam;

Whereas Islam is one of the mankind's great religions in history and today, followed by approximately eight hundred million people encompassing every major region of the world;

Whereas the word "Islam" derives from Abraham's willingness to accept all God's commands, an example profoundly meaningful to all monotheistic religions;

Whereas the "House of Islam" extended gracious hospitality to philosophy and science in both the East and West when these scholarly disciplines were threatened by narrowness and prejudice, thus preserving this precious heritage for subsequent generations;

Whereas Islam strives for a world-wide community which, in the words of one Islamic poet-philosopher, "does not recognize the superficial differences of race, or history or nationality";

Whereas the United States and countries of the Islamic world hold in common many benefits and values with respect to human dignity and human rights, including the concept of world community, which inspired the founding fathers of our own country; and

Whereas international understanding and peace are strengthened by free and open communications among nations representing various historical and religious traditions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Islam is hereby recognized for the rich religious, scientific, cultural, and artistic contribution it has made to mankind since its founding.

SEC. 2. The Congress takes note of the contribution of Islam and wishes success to the Fourteenth Centennial commemoration.

SEC. 3. On the occasion of this anniversary, the Congress pledges its efforts to achieve better understanding, reduction of tensions, and the pursuit of improved relations with all nations of the world.

SEC. 4. The Congress requests that the President forward a copy of this resolution to the Chief of State of each country where Islam has a significant following and where celebrations will mark this important international event.

THE 14TH CENTENNIAL OF ISLAM

● Mr. STONE. Mr. President, I submit today a concurrent resolution honoring the 14th centennial of Islam. Congressman HAMILTON, chairman of the Europe and Middle East Subcommittee of the House Foreign Affairs Committee introduced the same resolution in the other body.

Mr. President, November 21, 1979, will mark the 1,400th anniversary of the founding of Islam. This event will be commemorated throughout the world.

In the United States, an ecumenical commemoration will mark this date. It is hoped that this resolution and Presidential proclamation can be presented at that time.

President Carter is already on record encouraging the participation and attention of all Americans to this centennial celebration.

In honoring an important world faith and culture we do honor to our own traditions of tolerance and compassion.

As part of the American ecumenical commemoration, a Preparatory Committee was formed and a National Committee to honor the 14th centennial of Islam is now in the process of being established. The Honorable Lucius D. Battle, former U.S. Ambassador to Egypt and former Assistant Secretary of State, is serving as chairman of the National Committee. Senator MCCLURE and I have agreed to serve on this committee.

Mr. President, the work of the National Committee offers a unique opportunity for us:

To show appreciation for the cultural legacy of Islam;

To improve our understanding of a richly rewarding culture;

To emphasize the ethical and moral traditions we share;

To show respect for valuable old friends and to invite new ones;

And to join a celebration of national and international religious dimensions.

The National Committee is in the process of organizing a year-long calendar of events in the arts, humanities, and sciences in an effort to foster understanding among peoples by honoring the contributions of Islamic civilization and culture to mankind.

Mr. President, I urge my colleagues to join me in wishing this National Committee success in its endeavors over the coming year and to join me in supporting this resolution honoring the 1,400th anniversary of the founding of Islam.●

AMENDMENTS SUBMITTED FOR PRINTING

DEFENSE PRODUCTION ACT—S. 932

AMENDMENT NO. 505

(Ordered to be printed and referred jointly to the Committee on Banking, Housing, and Urban Affairs and the Committee on Energy and Natural Resources.)

Mr. CHURCH (for himself, Mr. JOHNSTON, Mr. BAYH, Mr. STONE, Mr. FORD, Mr. HUDDLESTON, Mr. BUMPERS, and Mr. MELCHER) submitted an amendment intended to be proposed by them, jointly, to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

GASOHOL MOTOR FUELS ACT OF 1979

Mr. CHURCH. Mr. President, today Senator JOHNSTON, Senator BAYH, and I are introducing an amendment to S. 932, the Defense Production Act, to provide incentives for accelerating the production and use of alcohol fuels in the United States.

In the past several months, we have seen a great deal of emphasis placed on the development of synthetic fuels to extract ourselves from the vise of our dependence on imported oil. Yet most of these technologies are years away from yielding any significant contribution to our energy supply picture. Another known technology, the production of alcohol fuels from renewable resources, is readily available to immediately begin to stretch our domestic liquid fuel supply. The Alcohol Fuels Policy Review Panel, which was convened by the Department of Energy, has filed a report which supports this conclusion. The report stated that ethanol—

> Is the only alternative fuel commercially available now and the only one likely to be available in quantity before 1985.

However, despite the great potential of alcohol production from renewable resources, the Department of Energy has indicated that, at the present pace, the contribution of alcohol fuels to the Nation's energy supply will continue to be insignificant for years to come.

The Church-Johnston-Bayh amendment can change this pessimistic production outlook for alcohol fuels. During the 3 days of gasohol hearings before the Subcommittee on Energy Research and Development, which I chaired in Idaho and here in Washington during July, I heard too many accounts from individual, agricultural, and business concerns that their attempts to involve themselves in alcohol production had been frustrated. The Church-Johnston-Bayh amendment will provide incentives for rapidly accelerating alcohol production which can, once and for all, cast aside the impediments that have prevented alcohol from becoming a major energy source in this country.

The Church-Johnston-Bayh amendment will: Provide purchase guarantees to the producers of alcohol, thereby assuring a market for the alcohol produced; provide loan guarantees for the construction of new plants and the retrofitting of existing plants; order the utilization of Commodity Credit Corp., surplus sugar for processing into ethanol; and establish an autonomous office within the Department of Energy whose sole responsibility will be to administer and promote the provisions of this amendment.

Mr. President, if the incentives of the Church-Johnston-Bayh amendment are provided, I am certain that, by 1982, an annual production rate of approximately 1 billion gallons of alcohol can be achieved, and added to our fuel supplies. If this interim goal is realized, I see no reason why, by 1990, 10 percent of all transportation fuel cannot be provided by alcohol derived from renewable resources.

I am hopeful that the Senate will have an opportunity to vote on this provision of S. 932 within the next several weeks, so that the Nation can immediately begin to harvest its valuable dividends.

Mr. President, I ask unanimous consent that a section-by-section analysis of the amendment be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION BY SECTION ANALYSIS

Sec. 401. The name of this title is the "Gasohol Motor Fuel Act of 1979".

Sec. 402. Findings.

Sec. 403. Purposes.

Sec. 404. General Definitions.

Subtitle B—Establishment of the Office of Alcohol Fuels:

Sec. 410. Requires the President to establish the Office of Alcohol Fuels Production as an independent office in the Department of Energy. The office will be headed by a Director, as provided in this section.

Sec. 411. Establishes the organizational responsibilities of the Director.

Sec. 412. Establishes the office as an independent Office of DOE, except that the Director shall be responsible to the Secretary.

Sec. 413. Requires a separate report in the annual budget submission of DOE.

Sec. 414. Requires the submission of an Annual Report. On or before September 30, 1990, the Corporation is required to submit a report on the status of alcohol fuel projects and a plan for the termination of the Office.

Sec. 415. Requires interagency coordination with Treasury, Agriculture, and Commerce.

Subtitle C—Alcohol Fuel Production:

Sec. 420. The President shall seek to achieve a national goal of a volume of alcohol fuel from renewable resources equal to 10 percent of the estimated gasoline consumption in the United States by 1990. As a first step in achieving this goal, the President shall achieve the production of 60,000 barrels per day of alcohol fuels from renewable resources, by 1982.

Requires the Office to solicit and negotiate proposals for the achievement of a production goal of 60,000 barrels per day of alcohol, by 1982.

By September 30, 1982, the Office shall submit a comprehensive strategy for the achievement of the national goal for alcohol fuel production and report on the feasibility of achieving this goal.

Sec. 422. The Office is authorized to solicit proposals.

Subtitle D—Financial Assistance:

Sec. 430. Authorizes the Office to issue financial assistance, and requires certain terms and conditions thereof.

Sec. 431. Authorizes the Office to issue loan guarantees.

Sec. 432. Authorizes the Office to price guarantees.

Sec. 433. The Office is authorized to issue purchase guarantees.

Sec. 434. The Office is only allowed to acquire an alcohol fuel project by foreclosure, and shall dispose of it according to existing law.

Sec. 435. The Office may charge up to a one percent fee for financial assistance.

Sec. 436. The Secretary of Treasury may sell any notes, bonds, or other evidences of indebtedness which the Office may own, pursuant to this Title.

Sec. 437. The Director may require as a condition of the contract that any title to an invention, which is made or conceived in the course of or under a loan guarantee, shall vest in the United States.

Subtitle E—Authorization and Fund:

Sec. 440. The Office may sign financial assistance agreements, not to exceed $650,000,000 in the aggregate.

Sec. 441. Establishes a revolving fund for the Office, in the Treasury. Authorizes $200,000,000, without fiscal year limitation, of which $10,000,000 shall be for administrative expenses in fiscal year 1980.

Sec. 442. The authorities provided in Subtitle D and under Sections 440 and 441 shall be effective only to the extent provided for in appropriation acts.

Subtitle F—Utilization of Excess Sugar:

Sec. 450. Requires the Commodity Credit Corporation to sell its stock of sugar of processing into ethanol for use in gasohol or to contract for the processing of its stocks of sugar into ethanol.

Subtitle G—Federal Use of Gasohol:

Sec. 460. Requires the Federal government to use gasohol where available in motor vehicles under its control.

Subtitle H—Motor Vehicle Study:

Sec. 470. The Secretary of Energy shall transmit a report to Congress within 9 months, discussing the opportunity to increase the percentage of alcohol in gasohol, and the institutional and technical barriers to increased consumption of alcohol as a motor fuel.

Mr. JOHNSTON. Mr. President, I join Senator CHURCH in sponsoring the Gasohol Motor Fuel Act of 1979 as an amendment to S. 932, the synthetic fuels legislation. My support for this gasohol provision is based on two considerations.

First, I believe that alcohol made from renewable resources must play a significant role among our Nation's liquid energy resources of the future. In the consideration of S. 932 and the synfuels corporation, it is abundantly clear to me and to the other members of the Committee on Energy and Natural Resources, that even if the synfuels corporation succeeds as we hope, it will be about a decade before significant production of synfuels occurs. Therefore, as an adjunct to the synfuels corporation, we need to support development of alternatives to petroleum that will be available in the midterm.

Right now, well over 800 stations are pumping gasohol to motorists. The technology for producing alcohol from biomass is not only well known, it was probably man's earliest chemical endeaver, aside from fire. However, technological improvements in the production of this alcohol could of course improve the economics of this alternative fuel, making it even more attractive.

The demand for alcohol in the form of ethanol is strong even now. Motorists find that a 10 percent blend of ethanol to 90 percent gasoline results in a 2 to 3 point improvement in the octane rating of unleaded gasoline, which will reduce the pinging and poor performance of new automobile engines. Therefore, alcohol produced from biomass may help take the strain off our refineries that are running their equipment at maximum severity to produce high octane unleaded gasoline.

The basic problem at the moment is a shortage of production capacity to process renewable resources into alcohol. The "Report of the Alcohol Fuels Policy Review" (June, 1979) stated—

> For most of the 1980's production capacity for converting raw materials to ethanol will limit the production and use of gasohol.

In short, we need to stimulate the construction of plants to produce alcohol for use in gasohol.

According to DOE analyses, current incentives will result in about 20,000 barrels per day of alcohol production by 1982. This act which Senator CHURCH and I intend to offer as an amendment to S. 932 will aim to triple this figure to 60,000 barrels per day of alcohol by 1983.

Looking further down the road, the bill has a tentative goal that the Nation will produce enough alcohol by 1990 to convert all of our gasoline to gasohol. That would in effect reduce our total gasoline consumption by 10 percent. This goal will be reviewed and updated as necessary based on a study that will be performed in 1982.

This bill relies on financial assistance in the form of loan guarantees, purchase agreements, and price guarantees to stimulate the construction of new plants. It does not take the approach of mandating the purchase or supply of gasohol, an approach that I believe ultimately would not have succeeded. The one exception is that Federal motor vehicles are required to use gasohol, if it is available in reasonable quantities and at reasonable prices.

The second basic reason why I am cosponsoring this legislation is that one of its provisions will result in the conversion of the sugar surpluses held by the Commodity Credit Corp., into ethanol for use in gasohol. The "Report of the Alcohol Fuels Policy Review," prepared by DOE, shows that sugar is the most attractive feedstock for ethanol from the viewpoint of net energy balance. That is, if one considers the total energy input for the growing and processing of sugar into ethanol compared to the energy obtained in burning the ethanol, then sugar is the most attractive of all the ethanol feedstocks.

The Commodity Credit Corp. obtains through forfeiture on price support loans vast quantities of sugar that could be converted to alcohol. One Department of Agriculture spokesman said that the CCC will take in approximately 1 million tons of sugar from the 1978 crop. The 1977 surplus was about 200,000 tons of sugar. Note that 1 ton of fermentable sugar cane will yield 136 gallons of ethanol. Therefore, using that yield per ton, the 1978 surplus alone could be converted into about 136 million gallons of ethanol for use in gasohol.

Another benefit of this provision is that a new demand will be created for sugar, thereby helping our sugar producers who are now facing relatively large surpluses held by the Commodity Credit Corp.

Mr. President, this legislation by itself will not turn the Nation away from foreign oil or achieve energy independence. It is but one of many small, but truly significant steps, toward reducing in a substantial way our dangerous dependence on foreign oil. Yet it is the aggregate of these steps that will lead the Nation to a relatively secure energy posture.

● **Mr. BAYH.** Mr. President, I am pleased to join with my distinguished colleague, the Senator from Idaho, Senator CHURCH, and the Senator from Tenessee, Mr. JOHNSTON, in proposing an amendment to S. 932, providing for the creation of an Office of Alcohol Fuels within the Department of Energy to administer a program of financial incentives for alcohol fuels. Senator CHURCH has provided forceful leadership in the Senate on alcohol fuels, which the Senator from Indiana would like to take this opportunity to acknowledge. I look forward to working with him in the days ahead as the National Alcohol Fuels Commission on which we both serve continues its work. I hope our investigation will contribute to the effective implementation of this program. I commend him for his initiative in making this proposal today.

Increased reliance on alcohol fuels is one of the most promising short-term answers to our energy shortage. But if we are going to really get the ball rolling in this area, we must address ourselves to commercialization of alcohol production efforts. One of the unique characteristics of alcohol fuels, compared to other new liquid fuels, is that the technology is available now. As the report of the Department of Energy's National Alcohol Fuels Policy review stated—

> Alcohol fuels represent sources that can substitute for petroleum products now and increasingly through the 1980's, drawing on abundant supplies of renewable materials and coal.

Mr. President, we must exploit this potential. Our amendment will do just that, by giving the new Office of Alcohol Fuels the authority to extend loan guarantees, guaranteed purchases or guaranteed prices to applicants interested in commercializing alcohol fuels from renewable resources. In considering applications for such assistance, new technologies, especially those utilizing new and multiple feedstocks will be given a top priority by the new office.

The amendment we are submitting also sets production targets of 920 million gallons of alcohol fuel per year by 1982 and 10 percent replacement of oil with these alternative fuels by 1990. The extent of assistance provided in this amendment will, we believe, be adequate to stimulate production at these levels.

This new program is geared toward the private sector, and to me represents the most effective means of setting goals consistent with our national needs and meeting them. There are three distinct groups from which future alcohol producers will be drawn. These are large commercial producers, such as agribusiness and food processing and marketing companies, distillers, and the oil companies; smaller community-based organizations, including small refiners, farm cooperatives, jobbers, and small businesses, and individual farmers who desire to produce alcohol themselves for their own on-farm use. By giving the Office of Alcohol Fuels the flexibility of using various methods of financial assistance—guaranteed loans, guaranteed prices, and guaranteed purchases—the program will be responsive to the different needs of potential producers likely to apply for participation.

Mr. President, the merits of this proposal are clear. The additional emphasis on alcohol commercialization provided by the Office will make it possible to turn the effort to solve one of our most critical national problems—insecure foreign and ever-more-expensive energy supplies—into an important opportunity for American farmers and businesses. In this way it can have a positive effect on local economies all over this country while at the same time assuring the people of this country that our needs for energy will be met in the years ahead through American ingenuity and resourcefulness.●

FOREIGN ASSISTANCE APPROPRIATIONS, 1980—H.R. 4473

AMENDMENT NO. 506

(Ordered to be printed and to lie on the table.)

Mr. **KENNEDY** submitted an amendment intended to be proposed by him to H.R. 4473, an act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

FAMINE IN CAMBODIA

● Mr. **KENNEDY**. Mr. President, I am offering an amendment today to the pending foreign assistance appropriations bill to assure that funds appropriated under the act can be used immediately to respond to famine relief efforts now underway in Cambodia.

If one of the most massive human tragedies of modern times is to be avoided, we must act now to assure that there is no question that U.S. foreign assistance funds are available to support the international relief program in Cambodia.

Mr. President, famine and disease today threaten the lives of millions of men, women, and children in Cambodia. Indeed, the very existence of the Khmer people is at stake.

Having suffered the loss of nearly half its population from the ravages of war and the cruel programs of the Pol Pot regime, Cambodia now faces famine and the relentless spread of disease among its remaining population.

Worse still, this terrible danger has been known for months. We and others in the international community have seen the Cambodian crisis coming for many weeks. Whatever we do today to help will already be too late for countless thousands.

The statistics, Mr. President, are some of the worst the world has seen. Following hearings I held as chairman of the Judiciary Committee on July 26, receiving testimony from Secretary of State Vance, it became clear that unless immediate relief efforts were undertaken by the international community, some 2.5 million Cambodians would face severe starvation. More recent estimates place the figure as high as 3.5 million people.

A report I received last week from American officials in the field, along the Thai border, suggests that over 200 Khmer refugees are dying every single day in just 5 camps they were able to observe along the border. The report finds that perhaps as many as 200,000 hungry Khmer civilians are now pressed up against the Thai border in search of food and safety. Tens of thousands are not far behind.

The report notes:

> The physical condition of newly arrived refugees over the past few days was among the worst we have witnessed. Assuming that only the strongest are able to make the trek into Thai territory, it appears that those still inside Cambodia are reaching the point where it is no longer possible for them to survive.

Other observers who have visited Cambodia, including delegates of the International Committee of the Red Cross and voluntary agency representatives, paint a picture of an entire country on the move in search of food. They report the roads are filled with villagers wandering without direction, in the vain hope of finding some food.

They also report that food production this harvest will be only 20 percent of normal—a fact that has been confirmed by our intelligence satellites. This drastic shortfall in food production will be exacerbated by the complete breakdown of Cambodia's neglected medical system. There is an acute shortage of doctors, medicine, hospital supplies, and medical facilities. As a result of the Pol Pot regime's policy of eliminating Cambodia's intellectual classes, including doctors and nurses, there is only a handful of competent medical personnel in the entire country. There have been reported outbreaks of bubonic plague, widespread malaria, hemmoraghic fever, and dysentery that is especially fatal to young, undernourished children.

Mr. President, the physical and human destruction inflicted upon the Khmer nation over the past decade surpasses, in proportional terms, the worst devastation of World War II or famine conditions in either the Sahel or Biafra. Following years of war, the Pol Pot regime's mass evacuations and brutality reduced Cambodia's population from an estimated 8 million to some 4 to 5 million.

In the process, Cambodia's towns and cities, transportation and infrastructure were destroyed. Phnom Penh, the capital, remains a ghost town.

Not surprisingly, the surviving population today in Cambodia is weakened and debilitated. All are endangered by disease and starvation—especially the children. Recent travelers to Cambodia say it is a country with very few small children. There are 10 deaths to every birth. And that ratio stands to worsen rapidly in the days ahead, unless something is done to help.

That phrase, Mr. President—"unless something is done to help"—has haunted the international community for many weeks. I raised it last July 26 with Secretary Vance, when it was clear that famine would soon stalk Cambodia, and the refugee crisis would escalate in Thailand, unless a massive relief effort was launched.

But, despite the best efforts of several international agencies, it was not until just last week that general agreement was reached with Cambodian authorities and the International Red Cross and UNICEF to begin a significant international relief program.

I welcome this agreement, which provides for the timely distribution of relief "consistent with the principles of impartiality and nondiscrimination."

As was the case in Biafra and Bangladesh, both international agencies have pledged that they will assure that this relief "will in no way contribute to the war effort of either of the belligerents."

Mr. President, these are important principles and they remind us forcefully that food, medicine, and shelter cannot be permitted to be used as instruments of war. Common decency dictates that the current relief effort must reach all the Khmer people, regardless of where and under whose control they live in their war-ravaged land.

Recent reports confirm that the first relief flights have begun to arrive in Phnom Penh and more will follow, if we and the international community move immediately to support this emergency effort.

The United States needs to act now. Having expressed our strong concern over the humanitarian needs of the Cambodian people for many months, we must not fail now to provide tangible and generous support to the International Red Cross and UNICEF.

It is for this reason, Mr. President, that I am introducing this amendment to the pending foreign assistance appropriations bill—the first legislative vehicle—to assure that funds will be available to provide an American contribution to the famine relief effort in Cambodia.

The amendment simply stipulates that funds appropriated under the bill—as well as Public Law 480 food-for-peace commodities—should be available for famine relief in Cambodia. Next Monday, the International Red Cross and UNICEF will issue their appeals, and it is anticipated that some $100 million will be required for just the first 6 months. Over the coming year that would mean the

U.S. share would be approximately $20 million in cash and $30 million in food commodities.

Mr. President, there should be no question that it is the intent of Congress that funds should be available for this purpose. My amendment will resolve any questions that have arisen in the past as to the intention of Congress—whether only international disaster assistance funds could be used in countries where legislative prohibitions have been established. The amendment states the clear sense of Congress that the administration ought to use every tool and every fund available under the pending foreign assistance bill to support the famine relief effort in Cambodia.

Mr. President, I ask that the text of the amendment be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page , between lines and , insert the following:

Sec. . It is the sense of the Congress that the United States should generously support international relief efforts to alleviate famine among the people of Cambodia. Such sums as may be necessary, including sums appropriated or otherwise made available pursuant to this Act and sums appropriated or otherwise made available to carry out the provisions of title II of the Agricultural Trade Development and Assistance Act of 1954, should be used to provide relief and rehabilitation assistance for the people of Cambodia, to be administered by and through the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), or other appropriate international organizations or private voluntary agencies.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

● Mr. LEVIN. Mr. President, I would like to announce that the Subcommittee on Oversight of Government Management, of which I am chairman, will hold an oversight hearing on implementation of Executive Order 12044, "Improving Government Regulations," Wednesday, October 10, 1979, at 10 a.m. in room 3302 Dirksen.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, on Monday, October 22, 1979, the Subcommittee on Energy Regulation will hold a hearing to receive a report from the Energy Information Administration of the Department of Energy on the current price and supply outlook for petroleum fuels. This hearing will commence at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building. Questions about this hearing should be addressed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

SUBCOMMITTEE OF FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs will hold a joint hearing with the Small Business Committee on the continued oversight of the Small Business Administration's 8(a) program. The hearing will take place on Friday, October 5, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

Anyone having questions regarding this hearing should contact the subcommittee office in room 44, 128 C Street NE., or telephone 224-0211.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing will be held on November 30, 1979, in Phoenix, Ariz. Testimony is invited regarding the Indian Health Service and Indian health related issues. The time and location in Phoenix of the hearing is to be announced.

For further information regarding the hearing you may wish to contact Max Richtman of the committee staff on extension 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution, Committee on the Judiciary, has scheduled a markup session on S. 506, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing.

The markup will be held in room 154, Russell Senate Office Building on Friday, October 12, 1979, at 10:00 a.m.●

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION

● Mr. HUDDLESTON. Mr. President, I wish to announce that the Agriculture Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices has scheduled a hearing on S. 6 and S. 80. These bills would extend the milk price support level at not less than 80 percent of parity through September 30, 1981.

The hearing will be held on Friday, October 12, at 9:30 a.m. in room 324. The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome. Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, on Monday, October 29, 1979, the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources will hold a hearing on S. 1335, the Residential Furnace Improvement and Cost Savings Act of 1979, and on S. 1336, the Residential Energy Audit Act of 1979. The hearing will begin at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building. Questions about this hearing should be directed to James T. Bruce and Benjamin S. Cooper of the subcommittee staff at 224-9894.●

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Committee on Judiciary be authorized to meet during the session of the Senate today to hold a hearing on balancing the budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SAVING OIL BY BURNING WOOD

● Mr. COHEN. Mr. President, the lead story in this week's Time magazine's "Economy & Business" section is about the concern with which those of us who live in the northern part of the country view the coming winter. Appropriately enough, the article is illustrated with a photograph of a Maine couple cutting logs so that they might heat their home this winter without relying on expensive and uncertain supplies of heating oil.

Wood is Maine's most plentiful energy resource. Thousands of Maine families are adding wood-burning stoves and heating systems to their homes. Thousands more would do so if only they had the financial ability to pay for the needed equipment.

The Senate Finance Committee is now considering a package of incentives to encourage conservation of fossil fuels and development of alternative energy resources. No single incentive would, in my judgment, do more to further these goals than would a tax credit for wood-burning heating systems. I sincerely hope that the Finance Committee and the Senate will seize this opportunity to provide real relief for the hard-pressed residents of the Northern Tier of States by approving such a tax credit.

I submit for the Record the Time article, "Those Fear-of-Freezing Blues."

The article follows:

THOSE FEAR-OF-FREEZING BLUES

Our Lady of Pity, a Roman Catholic church in North Cambridge Mass., had never before seemed so aptly named. Looking ahead to the coming winter, the priests were stunned to discover their heat-oil bill for 1979 will make even the $12,000 they paid last year look like a bargain. To cut costs, they plan to close off the 1,100-seat main sanctuary during the cold months and hold services in the church chapel and chapel hall, which together can accommodate only 500 worshipers. Explains one priest: "It is simply a question of 45 gal. an hour to heat the big church against 6 gal. for the chapel."

People throughout the nation's Northern states are already gloomily pondering similar trade-offs. Just about now, the owners of the 16 million houses, apartments and mobile homes—more than one-fifth of the U.S.'s housing—that use oil heat are getting their first big fuel deliveries. They are discovering with a dismaying jolt that the great '79 fuel crunch has moved from the gas station to the furnace room. Since January the average price of heating oil has jumped from less than 56 cents per gal. to more than 80 cents, an increase well in excess of 40 percent. The countrys total heating-oil bill, about $10 billion last year, will rise by 54.3 billion.

This is a burdensome new "tax" that will worsen the already deepening recession by reducing the amount of cash Americans have for spending on all sorts of nonessentials, ranging from new cars and skiing holidays to Christmas presents and charitable contributions. A typical fuel bill for an oil heated home, about $650 last year, is expected to climb to between $1,060 and $1,200 this year. In 1978 the average American worker had to labor for 19 hr. every month of the heating season to pay his fuel-oil bill; this winter he will have to work a walloping 34 hr. per month.

Homeowners are using both simple and desperate means to cut oil consumption, everything from buying flannel pajamas and woolen sweaters to closing off rooms and even whole floors for the duration. In Agawam, Mass., Ernest Bleeck, 73, a retired sales manager, and his wife Mary, 66, spent $2,000 to build a greenhouse on the sunny kitchen side of their two-story frame house. In addition, they have placed several water-filled 55-gal. barrels among their geraniums and lettuce plants where the sun will warm the water, then the warmth can flow into the house through the kitchen windows. The Bleecks hope to reduce the 1,500 gal. of oil that they usually burn every year by as much as 20 percent. Says Mary Bleeck: "If we have the sun, we can practically live in the kitchen."

Others are switching from oil to cheaper natural gas or firewood, though both of these are also rising in price. In Maine, where a huge pile of wood on the lawn or the front porch has become a ubiquitous symbol of Yankee-style energy independence, the cost of a cord (128 cu. ft.) of wood has risen in the past year from $80 to $150. In Nevada, so many would-be Bunyans are buying the $3.50 permits that allows people to cut wood in the remote areas of federal lands where timber can still be found that the Bureau of Land Management's Reno office is considering opening hitherto closed-off forest areas to them. In Idaho, the highways that snake out of the mountains are jammed every weekend with pickup trucks and station wagons swaying under the weight of freshly cut logs. Ted Cooper, chief forester for the Hoff Lumber Co. of Boise, complains that the amateur lumberjacking has become so intense that "the forests are cleaned out of any dead wood within 200 feet of all roads."

Wood-burning-stove sales are also climbing, and not just in the sticks. Once favorites of rural folk, the stoves are now appearing in the living rooms of $150,000 suburban ranch houses—when they can be bought at all. For the first time, the Sears catalogue lists a complete wood-burning furnace for home use. Sales of insulation and weather stripping are surging, as are those of new oil-fired boilers and furnaces that promise greater efficiency. A particularly hot seller is the Blueray furnace, which generally retails for a hefty $1,400 but operates at almost 90 percent efficiency, compared with 70 percent for a conventional model that costs $800. Many people are paying up to $700 to have their existing oil-heating systems overhauled and fitted with more fuel-efficient burner guns.

Also in demand are automatic vent dampers, which cost $200 or more but save much heat by blocking off chimney flues when the burners are not firing. Because warm air is held inside the furnace, when the burners turn on again they do not have to reheat the furnace so much before it can begin heating the house. Other fuel-saving gizmos that are selling well: timers that at night shut off hot-water heaters (the second biggest energy consumer, after furnaces, in the typical home); setback thermostats that automatically drop temperatures to as low as 45° F when everybody is sleeping, then rewarm the house in time for breakfast; reduced-flow shower nozzles, which use as little as 2 gal of water a minute, vs. 8 gal. for conventional nozzles.

Even fans are being promoted for a winter application: recirculating air down from ceilings, where temperatures can be as much as 30 higher than at floor level. The Casco Bank & Trust Co. of Portland, Me., is luring depositors by offering some energy-saving devices as bonuses for new accounts. Bank officials concede that only a year ago this come-on would have seemed "crazy."

The fuel price pinch has created a new breed of specialists: the energy auditors. For $75 to $200, they make house calls in which they may use infra-red scanners to uncover sources of heat loss, like drafts under doors and windows, and through electrical outlets on outside walls. Formed only last January, the Eneraudit Co. of Cranston, R.I., has already signed up more than 100 fuel-oil dealers to sell the company's audit services to customers.

Thoroughgoing weatherization of a house can chop its energy consumption by anything from 10 percent to 40 percent, making the investment pay off in only a few years' time. Even so, the conservation gains are not likely to be enough to offset the latest price increases. For poverty-line people and the elderly, the situation can be desperate. In Morrisville, Vt., a welfare mother of four made headlines by ripping up the front stoop of her mobile home to use as firewood because oil costs had risen beyond her reach.

Congress so far has done nothing to ease this new burden by approving either Jimmy Carter's request for $400 million for special low-income assistance in paying fuel bills or his proposed windfall-profits tax, which budgets some $1.2 billion in additional help. As a result, states are moving on their own. Massachusetts, Maine and Rhode Island are all looking into setting aside funds to provide heating money to the needy. In Virginia, Winchester Memorial Hospital's emergency-room staff is studying the treatment for hypothermia caused when severe cold, combined with poor nutrition, makes body temperature drop, a potentially fatal problem for the aged.

There may be no outright fuel shortages this winter. Since April the Administration has been pressing petroleum companies to build up stocks, and now they have stored 217 million bbl., vs. 207 million bbl. at this time last year. As a result, Energy Secretary Charles Duncan last week said that the Government will stop its three-month-old program of paying $5-per-bbl. subsidies for imports of foreign heating oil refined in the Caribbean. This was an ill-conceived scheme that enraged Europeans, who charged that Washington was forcing up the price of heating fuel worldwide.

The fear now is that bureaucratic meddling may create distribution bottlenecks and local shortages later in the winter. New York state officials, for example, are concerned that in order to maintain their inventories at levels mandated by the Energy Department, oil companies are holding back shipments to jobbers, distributors and other middlemen, something the oil firms deny.

As in the gasoline squeeze, angry consumers are putting most of their heat on the retailers, in this case the heating-oil sales and delivery companies. With prices and interest rates climbing, refiners are tightening up on credit terms, forcing the retailers to demand quicker payment from homeowners. But many of their customers are starting the new heating season with unpaid charges from last year.

With resentments rising, the Department of Energy last week opened hearings into the familiar but unsubstantiated charges of heating-oil profiteering by refiners, even as a group of 15 Senators, led by New York Republican Jacob Javits and New Jersey Democrat Harrison Williams, was urging Duncan to reinstate heating-oil price controls. The restrictions were lifted in 1976, but can be reimposed by Executive order at any time; the Administration's resistance to such controls could weaken as the 1980 election campaign heats up.

Freezing prices would only create shortages for everyone, because demand for the fuel would once again surge and the Government would wind up having to allocate supplies, just as with gasoline last summer. Washington would be wiser to quit looking for scapegoats and start enacting production-boosting programs that will bring more fuel of all shorts—solar, hydroelectric, synthetic and nuclear—to market, and at an affordable cost.

That becomes more urgent with every boost in OPEC prices, and the increases now occur with taunting frequency. Since last December the cartel has increased prices by 61 percent. Now Nigeria, Algeria and Libya appear to be preparing to raise their price of oil by as much as $5 per bbl. If they do, the $23.50 "ceiling" that OPEC set only last June will be shattered, and the cost of all petroleum products, including heating oil, will move up yet another notch.●

WELCOME POPE JOHN PAUL II

● Mr. BAYH. Mr. President, it is a true privilege that all Americans are able to welcome Pope John Paul to our Nation. It is in the truest sense of peace and friendship that we do this.

Pope John Paul II is not only the pontiff of the Catholic Church, but he also serves as an inspiration to all Americans. From the time he landed and kissed the ground at Logan Airport in Boston, through his visit to New York and the United Nations, and most recently to Philadelphia, he captured the hearts of all he met. He not only has brought us the message of his religion and his vision of the world today, but he has given all of us the power and warmth of his personality.

When in Philadelphia—the city where the principles of freedom and democracy were laid by our Founding Fathers—he urged all Americans to better understand these values and strive to preserve these sacred concepts.

Mr. President, I recently had the privilege to visit the Pope in the Vatican. One cannot help but be impressed with the fact that he is truly a figure of enormous influence. He speaks of truth and justice for all in a world which sorely is in need of these qualities.

These first days of the Pope's week-long tour through the United States have shown us just what a charismatic leader he is. He has generated to us a unique intimacy with the American people. The crowds in Boston, New York, and Philadelphia have been of every faith and every age but the effect was the same. The cheering and love for this pontiff never ceased. He has gone from Boston to Harlem, to the City of Brotherly Love and now he travels to Chicago—our Nation's city with the largest catholic population—to the cornfields of Iowa. Never does he stop in his plea to urge us all to work for peace in the world.

Mr. President, I have the great privilege to accompany Bishop Grutka, from Gary, Ind., and representatives from Indiana's other dioceses, to visit with Pope John Paul II at a congressional reception at the White House. I am gratified that some of my friends from Indiana will have this sacred opportunity to met with the Pope and transmit his message to those at home.●

NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

● Mr. TOWER. Mr. President, I was pleased to join as a cosponsor of Senator Nunn's resolution to designate the week of October 1 as "National Productivity Improvement Week." This body is to be congratulated on the prompt passage last Saturday of the resolution.

Mr. President, one of the most serious and perhaps the least understood problems facing that country is lagging productivity—what we might call a national productivity gap—a gulf between what we are producing and what we can produce.

Since World War II, we have witnessed other countries close the distance on America's productivity leadership. For example, Japan's productivity has grown four times faster than that of the United States in the past decade. Not only has American productivity growth fallen behind other countries, it has recently taken downturns.

Most economists have reached a consensus that an important cause of our high rate of inflation, decline of the dollar, trade deficits, and low rate of growth is our dismal productivity performance.

Ultimately, this will lead to a lower standard of living for many Americans, lost job opportunities for the disadvantaged and a decline in confidence in our democratic institutions.

These abysmal productivity numbers have many roots including the changing age composition of the population, the entrance into the labor force of untrained persons, the shift to less productive service occupations, and the slow growth of savings and investment.

Although the causes of the decline in the U.S. rate of productivity growth are many—one thing is clear—Government is the main culprit.

Virtually all studies cite low capital stock due to the recent inadequate levels of investment as a major cause of the productivity slowdown.

Yet confiscatory Federal taxes are discouraging savings and investment. Under the present tax laws, the Federal tax burden will increase to unprecedented levels over the next few years, both as a percent of gross national product and as a percent of personal income.

Effective tax rates on real business profits have been increased by inflation from about 40 percent in 1965 to between 50 and 60 percent, on average, in the last few years. When the true cost of depreciation is counted, some industries pay heavy taxes when they are really losing money on continuing operations.

Inflation is the most insidious tax of all.

It is the hidden tax that a dishonest government saddles its citizens with because its leaders do not have the courage to face up to their responsibilities to match revenues with expenditures.

It penalizes savers and discourages investors by hiking the capital gains tax rate—in real terms—in excess of 100 percent.

It inhibits productivity growth.

Ill conceived and poorly administered Government regulation is another major cause of the decline in the growth of our productivity.

It has long been recognized that the costs of compliance with regulation are either passed on to the consumer in inflationary price increases or on to the shareholders in loss of equity—in either event, discouraging investment. Estimates of these costs have ranged as high as $135 billion per year.

More recently it has been recognized that regulation has shifted capital from productive, job-creating investment into social, welfare, or environmental activities which may or may not be beneficial to the populace at large. For example, the Joint Economic Committee has estimated Government requirements for installation of pollution abatement equipment in 1977 diverted $6.9 billion, or more than 5 percent of the total expenditures for new plants and equipment for the industries surveyed.

Whether it is taxes, inflation, or regulation, an insatiable, tax-hungry bureaucracy in Washington is devouring too large a share of the citizens resources and thereby widening the productivity gap.

The following steps should promptly be taken to close the productivity gap:

Cut Government spending and balance the budget to reduce inflationary pressures that are discouraging investment.

Reduce Government regulation.

Revise the Tax Code to encourage savings, capital accumulation and investment.

Increase the skills and job performance of American workers by labor, management, and educators working together to restore the historical pride of Americans in their work product.

Mr. President, closing the productivity gap will not be easy. It is a many-faceted problem which needs to be attacked from many angles. The focusing of attention on the problem is an important step toward its solution.●

THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS ACT

● Mr. INOUYE. Mr. President, on September 13, 1979, the executive committee of the Leadership Conference of Civil Rights unanimously passed a resolution supporting S. 1647, the Commission on Wartime Relocation and Internment of Civilians Act, which I introduced on August 2. The members of the executive committee are: A. Philip Randolph Institute, Omega Psi Phi Fraternity, Anti-Defamation League of B'nai B'rith, National Low Income Housing Coalition, International Union of United Automobile Workers, National Council of Negro Women, U.S. Catholic Conference-Division of Urban Affairs, League of Women Voters of the U.S., National Association for the Advancement of Colored People (NAACP), National Urban League, National Legal Aid and Defender Association, Organization of Chinese Americans, Women's Equity Action League, United Church of Christ—Office for Church In Society, American Coalition of Citizens With Disabilities, National Organization for Women (NOW), Opportunities Industrialization Centers, Delta Sigma Theta Sorority, Inc., International Union of Operating Engineers, AFL-CIO, National Council of La Raza.

Senators Armstrong, Cranston, Church, Gravel, Goldwater, Hayakawa, Jackson, Leahy, Magnuson, Matsunaga, McClure, and Melcher have joined me in cosponsoring this bill. A companion bill, H.R. 5499, was introduced by Representatives Wright, Rodino, Mineta, Matsui, Brademas, and 109 other cosponsors on September 28, 1979.

Recently, Clarence Mitchell, well known to all of us here in the Senate, wrote an article on "The Wrongs of Executive Order 9066" which appeared in the Baltimore Sun. I would like my colleagues to note this article and the human rights issue it addresses. I respectfully request that the article be printed in the Record in its entirety.

The article follows:

[From the Baltimore Sun, Sept. 23, 1979]

The Wrongs of Executive Order 9066

(By Clarence Mitchell)

Wearing medals on his uniform and obviously having been wounded in combat, Captain Daniel K. Inouye tried to get a haircut in a San Francisco barbershop. He was told, "We don't serve Japs in here."

That incident and other information make instructive reading in a publication of the Japanese American Citizens League. It seeks to rally support for S. 1647, "a bill to establish a commission to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Exectuive Order 9066."

Executive Order 9066 authorized military commanders to exclude any and all persons from areas considered militarily sensitive. It also empowered commanders to house those evacuated. This seemingly generalized authorization during World War II began the most incredible mistreatment of our citizens in modern times. Its chief targets were Americans of Japanese ancestry living in California.

Captain Inouye, now a United States Senator from Hawaii, was joined in introducing S. 1647 by Senators Spark Matsunaga (D., Hawaii) and S. I. Hayakawa (R., Calif.). Perhaps it is a measure of maturity in our country that these three Americans of Japanese ancestry have been elected to our highest law-making body. If any one of the three had walked on the Senate floor when Executive Order 9066 was issued in February, 1942, there would have been a riot in that august body because of prejudice against Japanese after the Japanese attack on Pearl Harbor.

It is ironic that the real objective for many in California was to grab lands, property and other assets of those affected by the order. The JACL pamphlet states that General John L. DeWitt, military commander, issued over 100 orders stripping rights from American citizens as well as resident aliens. He is quoted as saying: "A Jap is a Jap, it makes no difference whether the Jap is a citizen or not."

This paragraph from the JACL booklet describes what many of us knew and observed in numbed shock at the time:

"There were 15 temporary detention camps scattered throughout Arizona, California, Oregon and Washington. They were mostly county fair grounds, race tracks and livestock exhibition halls hastily converted into detention camps with barbed wire fences.

Each camp held about 5,000 detainees, except for Santa Anita race track near Los Angeles which held over 18,000 and Mayer, Arizona which held only 247. Living quarters consisted of horse stalls, some with manure still inside."

As evidence of the blundering associated with the displacement of Japanese-Americans from their mainland homes and possessions, plans to apply the executive order in Hawaii had to be scrapped because the commander in the islands decided that military necessity required the Japanese-Americans to be free to help maintain the islands' economy. The JACL writers note that in contrast to California, "Hawaii was 3,000 miles closer to the enemy and in far greater danger of invasion and sabotage."

Japanese-American seamen were denied jobs on U.S. merchant vessels even though they were experienced and we needed manpower. When I discussed this at the time with our former ambassador to Japan, he said the British had caused the problem because seamen of Japanese ancestry were arrested and put in jail when our ships entered British ports. Eventually, this problem was solved

The climax of events associated with Japanese-American displacement came when permanent camps were established. These were set up in Arizona, Arkansas, California, Colorado, Idaho, Utah and Wyoming. Those seeking to leave without permission ran the risk of being shot. JACL asserts that "dozens of detainees and internees were shot and wounded and eight were killed by guards."

"Living quarters were crowded" JACL states and "large extended families or groups of unrelated individuals were squeezed into tiny unpartitioned 16 by 20 feet units."

It may be difficult to establish accurate measurements of the harm done to those who were put in the detention centers because there is no real way to compensate for hurt to pride, destruction of dignity and unjust humiliation. Nevertheless, S. 1647 gives us a chance to try.

What should be easier and should leap from the records of land and property transactions at that time are the farms, businesses and homes that were acquired by the types of persons who are always ready to capitalize on the misfortune of others.

If the bill becomes law and those appointed to carry it out do a great job, our country will be able to speak with greater confidence and credibility when it rightly calls for respect for human rights in other parts of the world.●

PROMPT CONSIDERATION OF SALT II URGED

● Mr. **GOLDWATER**. Mr. President, several times lately I have heard the distinguished majority leader call for prompt action on the SALT II treaty. Several times he has made reference to the extreme rightwing groups which oppose this legislation. I would like to make two points. The first one is that I am completely opposed to this treaty. Yet, I hope it will be called to the Senate floor soon and I mean within a few weeks for consideration. I doubt seriously that there are enough votes now to pass this, so let the Senate as a whole determine it and not have it tied up any longer in committee. The second point I would like to make is that I am a Conservative, therefore, I must belong to some rightwing group that the majority leader is referring to, and I can tell him that, not only do Conservative or rightwing groups oppose this treaty, it is opposed by a great majority of Americans all across this country, and if he has any doubt of that ask the Senators who have been home during August and what they heard about it. Again, I join the majority leader in urging prompt consideration of this SALT II treaty.●

INFLATION OVERSIGHT HEARING

● Mr. **RIEGLE**. Mr. President, the inflation oversight hearing that had originally been scheduled for September 21 by the Subcommittee on Economic Stabilization of which I am chairman, was postponed at the request of the administration since the issue of whether to create a 15-member Pay Advisory Committee had not been resolved at that time. This issue has now been resolved and the Pay Advisory Committee, which is intended to provide greater public participation and advice to the Council on Wage Price Stability (COWPS), has been organized under the chairmanship of Dr. John T. Dunlop, a former Secretary of Labor. I am therefore pleased to announce that the inflation oversight hearing has been rescheduled for Thursday, October 11. The witnesses will be Alfred E. Kahn, President Carter's adviser on inflation, and R. Robert Russell, the Director of COWPS. The hearing will be held at 10 a.m. in room 5302 of the Dirksen Senate Office Building.

This should be a particularly important and timely hearing in view of the formation of the pay board and the expectation that, with its assistance, COWPS will issue revised pay standards at the end of this month.

The inflation rate in the United States has been accelerating at an alarming rate. Consumer prices rose 5.8 percent in 1976, 6.5 percent in 1977, and 7.7 percent in 1978. They virtually exploded to a rate of 13.2 percent in the first 8 months of this year. The rate of increase of employee compensation per hour in the private business sector has also risen, but the acceleration has been quite modest. Nevertheless the unit labor cost increases have been running at double digit rates because of exceedingly poor productivity performance during the first half of this year.

The effort to control inflation has become enormously more complicated in recent months as evidence mounts that the economy has entered a new recession. Real GNP fell in the second quarter; industrial production has stagnated since February; employment gains have been meager and the unemployment rate rose from 5.7 percent in July to 6 percent in August. Adjusted for price change, retail sales in July were almost 3 percent below a year ago. And while the most recent survey of business plant and equipment spending intentions shows a slight increase to 13.2 percent over the 12.7-percent increase reported in March, this gain does not offset the concurrent acceleration in capital goods prices. The economy is sinking into recession and each new piece of economic news confirms this fact.

With both unemployment and inflation on the rise the task for traditional fiscal and monetary management becomes infinitely more complicated and the application of these policies becomes exceedingly dangerous. The Federal Reserve's anti-inflation priority has caused it to tighten credit and force up interest rates. The prime lending rate recently rose to 12¾ percent which amounts to an increase of almost 3 percentage points over a year ago. The risk that such restrictive policy will dampen the long awaited revival of capital spending and cause a drying up of home construction financing is enormous. The risk on the other side is that easier money will further fuel inflation.

Similarly, the Senate Budget Committee has taken virtually no steps to take the deteriorating economic situation into account in formulating its second budget resolution for fiscal year 1980. Once again the fear of inflation appears to have been the dominant factor. But the risk of this policy decision is a longer and deeper recession than would otherwise occur.

The dilemma conditions in which the traditional policy tools find themselves during a period of worsening stagflation makes it imperative that new supplementary tools of inflation control be found and that existing tools be strengthened. This is where the President's anti-inflation program comes in and why the work of COWPS is even more important now than it has been in the past. The anti-inflation effort deserves Congress careful attention and scrutiny, and, if need be, congressional action to toughen it up if it is not sufficiently forceful.

It should also be recognized that much of the acceleration of inflation that has occurred this year has been caused by factors that are not reversible by restrictive fiscal-monetary policies. For example, the inflation caused by the roughly 50-percent rise in the cost of oil imports cannot be reversed by tight money and tight budgets. To attempt to do so merely contributes to economic slowdown and higher unemployment. The experience of 1974–75 testifies to the folly of that approach.

Hopefully, that approach can be avoided in response to the most recent wave of energy inflation. Testimony taken by the Subcommittee on Economic Stabilization indicates that today's inflation is simply not susceptible to control by restrictive policy. For example, witnesses have testified that a $100 billion GNP loss due to tight budgets and tight money would be split into a $90 billion loss in real output, and only a $10 billion gain in lower prices. This fact is all the more reason why supplementary anti-inflation tools are needed and why the work of COWPS is therefore of such great importance.

Mr. President, in view of what I have said, I think it is self-evident that the President's anti-inflation program is a very important program. And I am very pleased to announce that the Subcommittee on Economic Stabilization will be exploring revisions in that program with the administration's two principal inflation fighters.

Questons concerning this hearing should be addressed to Thomas F. Dernburg, staff director of the Subcommittee on Economic Stabilization, at 224-3608.●

NATIONAL PORT WEEK

● Mr. **DANFORTH**. Mr. President, I was pleased this week to join several of my colleagues in cosponsoring legislation to designate the week of October 7-13 "National Port Week."

Mr. President, the State of Missouri has the largest inland port in the Nation. The Port of Metropolitan St. Louis comprises some 70 miles of river, 7 independent port authorities, and 105 docks. It is the third busiest port on the Mississippi, handling approximately 24 million tons of cargo annually. More than one-third of the Nation's population lives within 500 miles of the port: 29 industrial centers, located as far away as Wyoming, can be reached from St. Louis by barge.

What this means to the region is 2,100 port jobs and an additional 43,000 manufacturing jobs. What this means to the country is inestimable. Recently the president of the Port of New Orleans Board of Commissioners said:

> It is through the actions of exporters and importers of the greater St. Louis area that our port remains strong and the U.S. remains at an even keel in international trade.

Yet, in spite of this rosy picture, the Port of Metropolitan St. Louis is not without its problems. It has been estimated that over the next several years new investment and development totaling an estimated $3.5 billion will be required to prevent the port from lapsing into gradual stagnation and decline. And unfortunately this situation is not unique to the Port of St. Louis.

It is my hope, Mr. President, that this resolution will be the start of a new awareness of our Nation's ports—of a new movement to preserve and to invest in these ports which are so important to our Nation's prosperity.●

WHERE TAXFLATION HITS HARDEST

● Mr. **DOLE**. Mr. President, as inflation continues unabated, we should consider who in our society suffers most from inflation and how we can best alleviate their plight. Obviously no one is immune from the ravages of inflation, but some of our citizens are better able to control their financial situation so as to minimize inflation's impact. It is equally clear that the most important thing the Government could do to relieve the burden of inflation on all of us would be to cut the growth of Government, reduce Federal spending, and end the perpetual cycle of Federal deficit. But short of that there are other steps the Government ought to take for the economic well-being of its citizens.

It is often, and rightly, emphasized that inflation hits hardest those on fixed incomes: those with the least ability to pay in the first instance. It is also true that our citizens at the lower income levels are among those who suffer most from inflation, for their income goes primarily to the purchase of basic commodities, and they have no room to maneuver when the prices of those commodities—food, shelter, and energy—rise uncontrollably. These are compelling reasons why those who advocate greater Government spending to better the lot of the disadvantaged should rethink their position, and consider whether burgeoning Federal deficits do not undermine the position of our less fortunate citizens.

But there is another aspect to this story. The Senator from Kansas has been endeavoring to educate his colleagues, and the public, in the evils of taxflation—the automatic tax increases that are caused by inflation. Simply stated, taxflation results when taxpayers are pushed into higher income tax brackets as a result of increasing their income to match inflation. They then pay a higher rate of tax although they have experienced no growth in real income. The effect of this phenomenon on the higher bracket taxpayers is apparent, because the marginal rates in those brackets are steeper than in the low to moderate income brackets. However, in a very real sense, the impact of taxflation is most devastating on low-income taxpayers.

This is partly because, as I have stated above, the significance of each additional dollar gained or lost is much greater to people with marginal incomes. Thus, an increase of even $50 in annual liability can force people to have to make very real and significant sacrifices if their budget is already stretched to the limit. What is not so widely recognized is that lower income taxpayers are much more likely to experience the full brunt of taxflation.

This is so because of the way the income brackets are structured. Each of the brackets, as income rises, contains a higher marginal rate of tax. The marginal rate takes over after a certain threshold of taxable income is passed. Taxflation takes effect both by pushing people into higher brackets, and by giving a larger share of income that is subject to the marginal rates within each bracket—keeping in mind that we are talking about nominal, not real, income.

The extra difficulty faced by lower income taxpayers is that the distance between bracket cutoff points is much smaller at lower income levels. It takes a relatively small boost in income to push the low-income taxpayer into the next higher bracket, and a relatively small income gain to increase the significance of the marginal rate. Once this is understood, it becomes crystal clear that low-income taxpayers have the most to lose to taxflation. Each extra dollar of nominal income, added on by inflation, threatens to cost the low-income taxpayer dearly when tax time comes. These are the people who we most desparately need to keep in productive work, and they are the ones most burdened by inflation. To subject them to taxflation as well is to add insult to injury.

Mr. President, the Tax Equalization Act, S. 12, can reduce the burden on our lower income citizens. I introduced this legislation to do just that, to end automatic tax increases by adjusting the progressive income tax to the rate of inflation. Rather than interfering more in the lives of our citizens, we should eliminate the penalty taxflation imposes on them. The well-intentioned spokesmen for the disadvantaged should speak out for their constituency and support tax equalization.●

SOVIET INTERFERENCE IN THE AMATEUR RADIO BAND

● Mr. **GOLDWATER**. Mr. President, I want to bring to my colleagues' attention a matter which I am afraid demonstrates once again the one-way street that cooperation with the Soviet Union has become.

Recently, the amateur radio frequencies have been subjected to an increasing amount of radio frequency interference. The source of this interference has been traced to the operation by the Soviet Union of an over-the-horizon radar system in the amateur band. Both the Federal Communications Commission and the Department of State have attempted to resolve the problem, but have been met by a lack of cooperation from the Soviet Union.

Mr. President, in my view—both as an amateur radio operator and a U.S. Senator—this is a serious matter which must be resolved satisfactorily. The public service that this country's amateurs perform must be able to continue.

I do not pretend that this is a matter which should hold up the SALT treaty. However, I hope that my colleagues at least will have this in mind as we hear about Soviet cooperation and good intentions from the White House.●

FIFTIETH ANNIVERSARY—HENRY FORD MUSEUM, DEARBORN, MICH.

● Mr. **RIEGLE**. Mr. President, I am both proud and pleased to bring to my colleagues' attention the following tribute to a national treasure—one located in my home State of Michigan—one which plays a significant role in telling the important story of our country's history and development.

The Edison Institute, founded by auto pioneer Henry Ford on October 21, 1929, in tribute to the inventive genius of Thomas Alva Edison, has become the most visited showcase of American history in the world. Each year more than a million and a half visitors—Americans and those from abroad—pass through the gates of the institute's Greenfield Village and Henry Ford Museum in Dearborn, Mich., to experience the sweeping panorama of 300 years of American history.

The Edison Institute's role in preserving our Nation's heritage and perpetuating the ideals upon which America's moral leadership and wealth are based puts it in a particular position of trust among the world's museums.

Henry Ford shared his vision of showing Americans and the world "history * * * as it was lived" when he began to assemble pieces of our past to preserve and present to the world.

Then, in 1929, Mr. Ford invited his idol, Thomas A. Edison, President Herbert Hoover, and hundreds of world dignitaries to share in the founding of the institute which would declare to the world the virtues of honest labor, creativity and perseverance as embodied by the aging inventor, then 82.

Mr. Ford had sent technicians to Menlo Park, N.J., the location of the laboratory which Edison used in his most productive decade, and the remains of an entire complex of buildings were gathered, removed to Dearborn, reconstituted and reconstructed at Greenfield Village in minute historical detail. This Menlo Park complex of seven buildings now forms the epicenter of the Edison Institute.

It is particularly appropriate to honor Edison and the Edison Institute this year for it is the Centennial of Light. It was 100 years ago October 21 that Edison invented the first practical incandescent light bulb, in the Menlo Park laboratory.

Today visitors can see the very room in which Edison performed his experiment. In 1929, when Mr. Edison saw the reconstructed laboratory for the first time, he told Mr. Ford that it was 99½ percent accurate. When Mr. Ford asked what was wrong, he replied, "We never kept the place this clean."

It is this dedication to exacting detail and historical preservation which led Mr. Ford to create a 260-acre complex, including 100 historical buildings complete to authentic period furnishings and a 14-acre museum which celebrates the ingenuity for which Americans have been known throughout our history.

Because Mr. Ford dedicated his efforts to preserving our heritage, Americans can experience the bicycle shop in which the Wright Brothers worked on the first airplane, the house in which Robert Frost wrote poetry, the homestead where Noah Webster completed the first American dictionary of the English language, and where we can see crafts such as blacksmithing, broommaking, weaving, tinsmithing, pottery, glassblowing, and many more as our forebears practiced them.

And in Henry Ford Museum, we can view horsedrawn carriages, trains, airplanes, and the early automobiles which transformed us into a mobile society, the machinery which made an agrarian society into a mechanical one, the farm machinery which boosted our farming production beyond all previous limits, and the household, fine arts, and communications artifacts which marked our progress from colonial days to the 20th century.

But a museum, like a nation, is a living, evolving organism. In observance of its 50th anniversary, Henry Ford Museum this year opened a newly redesigned interpretive center and hall of technology, to assist the visitor in interpreting the museum's 14 acres of collections covering three centuries of American history. This hall of technology and continuing improvements to the museum's decorative arts collection are evidence that the Edison Institute's commitment to America's future is as great as its contribution to America's past.

The tradition of presenting America's "history * * * as it was lived" is strong and vital at Greenfield Village and Henry Ford Museum in Dearborn, Mich.○

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● **Mr. CHURCH.** Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on October 2, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 2, 1979.
DR. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.●

SALT II WITNESS STATEMENTS IN HEARINGS BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

Mr. CHURCH. Mr. President, the Committee on Foreign Relations continued its hearings on the SALT II treaty on September 18, by hearing from the following Members of Congress: Senator JAKE GARN, Senator MARK O. HATFIELD, Congressman ROBERT E. BAUMAN, Congressman JONATHAN B. BINGHAM, Congressman BOB CARR, and Congressman THOMAS J. DOWNEY.

On September 19, we heard from Secretary of Defense Harold Brown on the Defense Budget. On Friday, September 21 testimony was given by former director, Arms Control and Disarmament Agency, Fred Ikle; former Member of Congress, Hamilton Fish, Sr., and Members of Congress for Peace Through Law, Congressman DONALD J. PEASE, JOHN F. SEIBERLING, and PAUL SIMON.

The following week, on September 24, the committee took testimony from the executive director of the Arms Control Association, William Kincade, Senator DANIEL PATRICK MOYNIHAN, Avery Post, president of the United Church of Christ, and Richard Falk, of Princeton University. On Tuesday, September 25, the hearing focused on SALT I compliance with testimony from the U.S. Commissioner to the Standing Consultative Commission, Arms Control and Disarmament Agency, Robert Buchheim, and former U.S. Commissioner to the Standing Consultative Commission, ACDA Sidney Graybeal.

The committee plans to continue its hearings next week by hearing from members of the Senate Select Committee on Inteligence, Senators BIRCH BAYH and BARRY GOLDWATER, on monitoring capabilities.

Mr. President, I ask that the statements of the witnesses who appeared before the Senate Foreign Relations Committee be printed in the RECORD.

The material follows:

STATEMENT ON THE SALT II TREATY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE BY SENATOR JAKE GARN

Mr. Chairman and Members of the Committee, I thank you for the opportunity to testify before you today. You have already heard the testimony of many witnesses, and you have graciously allowed me to sit with you for some of that testimony, so I will not belabor the specific points that have been made. I will describe what I believe to be the setting in which SALT II should be considered. I will then attempt, briefly, to outline what I believe is an appropriate and growing consensus as to the perspective from which to examine the SALT Treaty now before this committee.

Finally, Mr. Chairman, I will offer some thoughts on our situation and some suggestions which I hope will help to ensure that SALT II, and the SALT process, can be made to serve the best interests of the United States and the prospects of a peaceful world. Let me emphasize that last point. Some might think it is inconsistent with my criticism of this treaty, but I have said it all along, and I continue to say it: I want a SALT Treaty.

I believe the majority of Americans want a SALT Treaty, as several surveys of public opinion have shown. My concern is with this SALT Treaty and with its failure to confront the realities of the world today, particularly the undeniable trend toward Soviet military superiority. In short, Mr. Chairman, this treaty, as it is presently written, will have a negative impact on our national security.

THE SETTING

SALT II is the result of many events and processes. It is the product of a series of events, doctrines and principles. As such, it is a document that makes a statement reflecting the forces that have created it. However, it should and will also set the tone for the future. Consequently, it should at least imply the direction in which we should move and establish objectives towards which we can plan and work.

The treaty, then is an important document. It is an historic document. It is not an inconsequential piece of paper. This Committee knows that better than I do. But there are some who seem to think that the treaty is merely symbolic, that it can be ratified and tucked away in the national archives.

while we move on at will to correct the admitted, serious deficiencies in our military posture. I think they are wrong.

If we do not have the resolve to vote for the amendments and reservations which will allow us to achieve our basic military requirements, then it is clear to me that we will find excuses not to cast the much harder votes for manpower, hardware, and training which will make us more than the crippled giant that we have become. This is a nation of laws, and a Treaty is the supreme law of the land.

Therefore, let's not vote for a law which says to the world, we are willing to accept second place militarily. If we do, the other nations of the world will never forgive us, because while a strong "second" to the Soviets may be enough in the near term to protect our own paradise of consumer satisfaction, it will not be enough of a basis upon which allies and neutrals can safely pin their own security.

I favor making SALT II a success for U.S. security and a milestone for real arms control. I am not, however, interested in voting for a SALT II Treaty that would legitimize a global "Brezhnev Doctrine", a doctrine that justifies intervention anywhere in the world to support so-called "fraternal socialist forces." It is clear that the Brezhnev Doctrine and Monroe Doctrine have now clashed—only one will prevail.

A SHIFT OF POWER

During the late sixties and seventies both the United States and the Soviet Union have taken new directions in establishing their role as world leaders. The Kremlin has sought to improve its security and power by a massive military buildup. Using this as a base, the Soviets have continued repression at home, intervention abroad, and have attempted one-sided agreements which promised future arms control.

The Soviets have worsened their situation, but are now a more dangerous adversary in many ways. Their ideology is bankrupt as is their economy and their client states are disgusted with their arrogance, but impressed by their power. Their military forces must now face the combined power of the U.S. and its NATO allies, China and Japan. The Soviets do not have influence through the attractiveness of their system, but only on the basis of their military power.

We, on the other hand, have chosen a different approach. In part we took this course because we seriously wanted peace and in part because we lost faith in ourselves. Vietnam and other events led us to this loss of faith; many believe that it was our arrogance and power that allegedly led us into war, that tempted us to interfere with the governments of small nations, and that created Soviet paranoia and thus the Soviet drive to build a military colossus.

In recent years, consequently, there has been and is a conscious effort on the part of key leadership elements to diminish U.S. power and the healthy self-confidence upon which it rested. These people believe that the rule of international law will be enough without military power to back it up, that nations should be left to carry on their own struggle for democracy—even when faced with overwhelming power—and that the Soviets will be satisfied with military parity. Theirs has been and is a policy founded on hope—not reality. Events of the past decade do not support these expectations.

Yes, we have tried their approach. We quit Vietnam, normalized relations with China while shrugging off too quickly our responsibility to the people of Taiwan, undermined our commitment to Korea, left the democratic government of Thailand essentially naked, spurned a democratic revolutionary movement in Angola, turned away from democracy in Rhodesia, signed the Helsinki Agreement legitimizing the subjugation of Eastern Europe in the unfulfilled hope that the Soviets would agree to mutual force reductions in Europe and move open societies in Eastern Europe, and muttered nervously as our once staunch ally Iran was racked by externally encouraged religious reactionaries whose commitment to human rights is even less than that shared by the Shah. We have demonstrated a serious lack of concern for the security and well-being of some of our most loyal allies.

In a word, we have been irresolute to a fault. I suppose there will be some who say that when the Soviets and Cubans encourage instability and support revolution in Mexico, we must not interfere in the "internal" affairs of another nation and that Soviet combat troops in Cuba are a stabilizing influence. I consider this a convenient but eventually self-destructive oversimplification of reality.

So, we have tried the path of a reduced military posture and of detente. At the same time, we have seen the rise of the monopoly power of cartels, the continued escalation of terrorism and the rebirth of terror states such as Uganda and Cambodia, and constant aggressiveness by Soviet military and political action forces.

I suggest that it is time that we change our policy toward the Soviets from one of detente on their terms to one of determination to cooperate where possible but face down the Soviets and other ruthless and immoral governments where necessary; we must move from a stance of listlessness to one of leadership. In this context, we should demand certain standards of global behavior and clear military equality under SALT II; then we must do what is necessary unilaterally to protect our interests.

As many have stated, we must rebuild our power but first we must restore our confidence. That can be done by refusing to submit to Soviet scare tactics. We need not be fearful or desperate. Although many seem to believe it, the Soviets do not have all the cards in their hand. If we act with purposefulness and vigor, we can cement the relationship between the U.S., Europe, Japan, and China.

This formidable lineup would strengthen our own hand and cause the Soviets to think twice about fomenting trouble. But this lineup will melt away if the U.S. does not provide leadership. That leadership can best be exhibited by accurately evaluating the SALT II Treaty and then either amending it where necessary or rejecting it.

THE SENATE

The Senate has been considering SALT II for a long time. The first vote on SALT II was for the Jackson Amendment to SALT I. Acknowledging that SALT I allowed the Soviets certain advantages in order that they might achieve parity with the U.S., the Jackson Amendment was a statement of intent that SALT II should be equitable.

We made the mistake of thinking that a United States Public Law would substitute for the B-1, MX, Cruise Missiles, and Trident. We hoped our restraint would be matched by Soviet restraint. We were wrong, and now the Soviets are asking us to codify in the eyes of the world the growing nuclear superiority which they hope to firmly establish by 1985.

Yes, every single vote on the path to SALT II has been one that gave the Soviets an advantage in the hope that they would see the light. Gentlemen, the light has now gone out. The truth has been protected by a bodyguard of self-delusion. The truth is that the Soviets want to become the predominant power in the world and dictate the terms of political and economic life to the rest of us. That is the truth. Our protestations for peace are looked upon as the bleatings of a sheep before a snarling wolf.

Fortunately, I believe a consensus is emerging in the Senate—it is based on a recognition of the truth that the Soviet Union, having lost its opportunity to achieve dominance through the attractiveness of its ideology, society, and economy, is no working to achieve that predominance by military and paramilitary means.

Despite the serious domestic economic problems of the Soviet Union, the facts dramatically illustrate their growing military strength. Their internal problems only make them more dangerous, because in desperation for relief they might strike out with the only real weapon at their disposal—if they think they can achieve a military success.

As I said, I believe a consensus is emerging in the Senate, and, I might add, throughout the country and among our allies. It consists of these elements:

There are too many nuclear weapons on each side and there will be more by 1985.

We do not intend to let the Soviet side obtain any political or military advantage from strategic arms.

The potential for crisis instability through the growing vulnerability of our ICBM and bomber forces is increasing.

The static and dynamic indicators of the strategic nuclear balance indicate that we have "goofed off" for 10 to 15 years.

We must spend more on strategic forces with or without SALT II.

Verification is once again considered to be a major issue because of the clear failure of U.S. intelligence to detect the creation of a Soviet combat force in Cuba.

A flawed SALT II Treaty and our other foreign policy problems are linked to a perceived weakness in theater nuclear, chemical, general purpose force, and intelligence capabilities.

SALT II must be linked to Soviet respect and behavior toward other vital U.S. interests.

What does all of this mean for Senate action on SALT II? I believe it means that we are now correctly considering SALT in the perspective of our overall defense posture and considering our military forces in the context of the role we wish to play in the world. We need this broad perspective to make us realize that resolutions and reservations which contain broad generalities are not the answer to ensuring the security of two nuclear armed nations that are hostile to one another. I don't think the Senate should dodge the issue by voting for the Treaty on the basis of reservations which the American people think are meaningful and the Soviets believe are non-binding and meaningless.

THE SITUATION

Henry Kissinger's recent testimony before the Senate Foreign Relations Committee and the Senate Armed Services Committee on SALT II has done much to clarify the situation we now face. There is much in what Dr. Kissinger has said with which I agree. I certainly support his call for increased defense expenditures. While his analysis of the problem is excellent, however, I believe his proposed solution does not adequately resolve the dangers of the SALT II treaty.

There is no way the Congress can permanently bind either itself or the executive branch to increased levels of defense expenditures as a pre-condition of SALT II. Even if it could, the agreement itself limits the options of the United States to significantly improve our posture in the crisis period of the early 1980s. Furthermore, if it is ratified in its current form it will make effective arms control in the future all but impossible.

The Kissinger analysis of Soviet objectives

Dr. Kissinger's statement points out that "If present trends continue, we face the chilling prospect of a world sliding gradually out of control, with our relative military power declining, with our economic lifeline vulnerable to blackmail, with hostile forces growing more rapidly than our ability to deal with them, and with fewer and fewer nations friendly to us surviving." It is certainly true that, "There is now general agreement that their improvements in missile accuracy and warhead technology will put the Soviets in position to wipe out our land-based force of Minuteman ICBMs by 1982," and that this "reverses and hence revolutionizes the strategic equation on which our security and that of our friends have depended through most of the postwar period."

It is also true that "A Soviet superiority in theater striking forces is therefore upon us," and that "Rarely in history has a nation so passively accepted such a radical change in the military balance." It is certainly unacceptable that "We now face the challenges of the early Eighties with forces designed in the Sixties."

We must look at the relationship of SALT to the world balance of power, as Dr. Kissinger suggests: "The Senate cannot deal with the SALT Treaty in a vacuum; it must simultaneously seek to restore the military and geopolitical balance. No responsible leader can want to face the 1980s with the present military prospects."

We can expect no miracles from SALT. Indeed, writes Dr. Kissinger, "The SALT process does not seem to have slowed down Soviet strategic competition and in some sense may have accelerated it." I basically agree with Dr. Kissinger that "If we want equality, we must build equality." However, this should not deter us from addressing some of the terms of SALT II which allow an enormous buildup of forces on both sides and limit our ability to deal with the threat.

The Defense budget solution

Dr. Kissinger proposed a large increase in military spending as a pre-condition to ratification of SALT II. Without such an increase, he has declared his opposition to the Treaty. This view has been endorsed by a number of Senators. Others have demanded that the President submit a basing mode for the MX missile, and that the Congress authorize it, prior to the ratification of SALT II.

The problem with this approach is that promises can and have been broken. Former Chairman of the Joint Chiefs of Staff Admiral Thomas Moorer records that the following promises for military programs were given to the Joint Chiefs of Staff in 1972, if they would support SALT I:

1. A broad range of intelligence capabilities and operations to survey Soviet compliance with the terms of the ABM treaty and the Interim Offensive Agreement;

2. Vigorous research and development programs designed to maintain technological superiority of our weapons systems; this included a continuation of testing to assure the effectiveness of new and anticipated nuclear weapons systems;

3. Aggressive improvement and modernization of strategic forces in order to maximize capabilities within the constraints of the Interim Offensive Agreement. These improvements and modernization programs were to include the acceleration of the Trident construction; maintenance of the B-1 bomber program on schedule so as to provide the option to deploy the first aircraft in the late 1970s; a national command authority defense as permitted by the ABM treaty; a satellite basing program for strategic bombers; deployment of submarine launched cruise missiles; and, finally, improved re-entry vehicles for ballistic missiles.

It is not that a few of these promises were broken, almost all of them were despite a continued Soviet buildup. We curtailed intelligence expenditures and indeed cancelled the satellite collector that could have compensated for the loss of Iran. The U.S. negotiated the Threshold Test Ban Treaty and is nearing the completion of a complete ban on testing nuclear weapons.

The Carter Administration killed the B-1 program, delayed MX by at least three years, slowed the Trident program, stopped Minuteman III production, cancelled the Minuteman II upgrade program and delayed cruise missile deployment on submarines by at least three years. Over the years virtually the entire U.S. air defense system was closed down. Dr. Kissinger himself observes that "Every one of these programs has been cancelled, delayed or stretched out by the current Administration, so that we are at a point where only the Trident (with only the most limited counterforce capability) can be operational during the period of the projected SALT Treaty." To condition ratification on promises from the Carter Administration—or any Administration—provides absolutely no insurance for the security of our country in the early and mid 1980s. It is possible that the Administration may attempt to secure votes for SALT II with a one-time increase in the defense budget. But once the treaty is ratified there is no way that the President can be forced to maintain his commitments without the support of at least two-thirds of the membership of both houses of Congress.

The crisis of the early 1980s

As far back as 1969, Secretary of Defense Melvin Laird pointed to the impending vulnerability of the Minuteman ICBM force to ICBM attack and of the bomber force to Soviet submarine attack. A decade later, the U.S. has done nothing. Secretary of Defense Harold Brown now tells us that:

> The Soviets will . . . exceed 5000 warheads in their ICBM force by the early to mid-1980s. . . . The combination of accurate guidance and the large number warheads expected in the early 1980s will give their ICBM force the capability to destroy most of our ICBM silos with a relatively small fraction of their ICBMs. This is the most serious problem we face, probably in terms of threat to our strategic forces and certainly in terms of perceptions of equivalence."

But Secretary Brown goes on to assure us that "We can afford to have a degradation in the ICBM force for a temporary period because our overall strategic capability remains very good, thanks to our concept of our strategic Triad, whose other legs are not now threatened in the same way."

How long will this temporary period be? Are there other threats to the bomber and submarine leg of the Triad? Mr. Brown does not address the first question, but his Deputy for Research and Engineering, Dr. Perry, does. The MX deployment now contemplated by the U.S. will not reach the midpoint until 1988 and, as Dr. Perry has stated, "you begin to get the major value of an MPS system when you reach the halfway point in the deployment." Consequently, ICBM vulnerability is virtually assured for the next decade, and thus through the life of the proposed treaty.

On the issue of the viability of the bomber leg of the Triad, we have some further disconcerting words from Secretary Brown:

"Under some circumstances SLBMs could pose a significant counterforce threat to our bombers, by barrage attack on our Present Strategic Air Command bases. There is also the potential of our bombers being destroyed with an ICBM barrage attack, whose larger numbers could compensate for the longer bomber escape time, so that even if the bombers got off the ground, they may not escape the area that is barraged."

What Mr. Brown is saying is that even the 30 percent of our bombers that are on alert may not survive. The 70 percent that are not on alert are virtually assured of destruction. Moreover, those bombers that do get airborne, the Secretary wrote, "also have to deal with the growing Soviet air defense threat posed by look down-shoot down interceptors and advanced surface-to-air missiles currently under development." Under Secretary of Defense William Perry has stated that he believes our bombers would have great difficulty in penetrating Soviet defenses after 1985.

What Secretary Brown has admitted in a backhanded fashion is that by the early 1980s, the Soviet Union will have an effective threat to both the U.S. bomber and ICBM force. If most of our bombers are not survivable, then obviously the cruise missiles they will carry in the mid-1980s will not be survivable. Interestingly enough, the Soviets agreed in SALT II to allow U.S. cruise missile deployment on our potentially vulnerable bomber forces while prohibiting the deployment of cruise missiles on submarines and ground vehicles—two potentially survivable basing modes.

To summarize, there was a U.S. intelligence failure in the mid-70s. It is clear from published Defense Department material that the highest threat to Minuteman projected in 1976 by the U.S. intelligence estimates which was to be experienced in the mid-1980s is about equal to the expected threat today. This failure lost the U.S. three to five years in ICBM survivability. The response of the Carter Administration to new intelligence information apparently obtained in late 1977 ocncerning the dramatically improved Soviet accuracy was to:

Delay the MX program.

Cancel the B-1 bomber production.

Delay the ALCM and SLCM.

End Minuteman III production.

While some of these decisions were made before the new intelligence was obtained, none of them was reversed as a result. The Carter Administration has done absolutely nothing to deal with the problem of Minuteman, bomber, and cruise missile vulnerability in the early 1980s.

There is the one remaining leg of the U.S. deterrent Triad—the missile-carrying submarines. Secretary Brown argues that we are "quite confident" that "our SLBMs cannot be located by Soviet antisubmarine warfare forces sufficiently well for an ICBM barrage attack to be effective against them". Yet, we cannot simply assume that our SLBM force will remain invulnerable indefinitely.

What about a combination of an ICBM attack and traditional ASW naval operations? Secretary Brown is silent. What about the survivability of the U.S. SLBM force during a protracted conventional war in Europe? Secretary Brown does not deal with this problem.

How has the Carter Administration dealt with the recognition that the SLBM force is the only survivable leg of the U.S. deterrent in the early 1980s. Part of the vigorous Carter Administration response to this problem has been:

A plan to deactivate 25 percent of the U.S. missile submarine forces in 1980 (Polaris submarines).

A delay in the Trident II missile program.

A reduction in the construction rate for Trident submarines.

A willingness to accept a tenuous communications mechanism with our missile submarines.

By the end of 1980, we will go down from about 550 deployable missile launch tubes to about 400. Only half of these will be at sea at any time. The combination of the phase out of our Polaris submarines and the conversion of Poseidon submarines to Trident I missiles will mean that we will have at least a one-third reduction in the number of missile submarines at sea at all times before the first of the new Trident submarines can go to sea.

As a consequence of these growing dangers, Secretary of Defense Brown had indicated that he is considering two options to improve our deterrent during the critical period of the early 1980s: one is to increase the number of warheads on SLBMs on the Poseidon submarines to 14, and the other is to put more B-52 bombers on alert. These moves will not remove the danger. Simply putting more of these aging bombers on alert is not highly effective as long as many may not be able to get airborne before Soviet ICBM or SLBM warheads arrive. What we need is an advanced bomber with quicker escape time or an active defense of the bomber bases.

The refit of additional warheads on the SLBMs on our Poseidon submarines could actually be counterproductive. The range of these missiles would be reduced to such an extent that they would have to operate virtually in the Soviet backyard. This will dramatically improve Soviet ASW capabilities against them.

We are literally coming into a period of crisis. We must reject any SALT II limits on the survivable basing modes for our forces and immediately take action to reduce their vulnerability. We should initiate the deployment of a Multiple Protective Structure (MPS) system for MX immediately and consider deploying the Minuteman III in an MPS mode also.

We must accelerate the development of MX and revive the B-1 bomber or a bomber version of the FB-111H. If we do not, we will almost certainly face a theoretical Soviet war-winning capability in the early 1980s. If SALT II is ratified in its current form, it will encourage the vulnerability of U.S. strategic forces in the early 1980s.

SALT II and the crisis of the early 1980s

In the early 1980s Soviet strategic capabilities will peak in relation to the United States. The Soviets will have more nuclear warheads (even disregarding Backfire), two or three times the area blast destructive capability and five or six times as much fallout generating capability. They will have a near monopoly on civil defense, missile defense, bomber defense and survivable command and control.

Thus, by the mid-1980s the Soviets will have a theoretical war-winning capability; that is an ability to reduce U.S. retaliatory capability to such a degree that it will be unable to destroy Soviet industry sufficiently to prevent its reconstruction. Also, under some scenarios of attack, massive disparities in population fatalities between the U.S. and the Soviet Union will probably result. In terms of surviving forces, the Soviets would clearly retain a massive strategic nuclear advantage, even in the postwar world.

The Chairman of the Joint Chiefs of Staff, General David C. Jones has noted that "In the static indicators, the Soviet Union will have a substantial advantage in most categories in the early 1980s." Admiral Thomas Hayward, Chief of Naval Operations has warned the Senate that "with respect to essential equivalence it is my view that without any question, the Soviets will attain a first-strike capability in the next few years. If that is not a loss of essential equivalence, I don't know what is, and we have to do something to correct it." But just what can we do to correct it?

The SALT II agreement, especially the Protocol, is written in such a way that it would facilitate the emergence of this state of affairs, even if it is not extended. The Protocol eliminates virtually all of our short term options to improve the survivability of our forces (especially when it is viewed against the background of the President's defense cuts of 1977 and 1978). Under the Protocol we can do nothing concerning any of the limited systems until January 1982.

Under the Protocol we cannot "deploy mobile ICBM launchers or flight-test ICBMs from such launchers." Since we cannot even test an ICBM from a mobile launcher until January 1982, the Protocol assures the vulnerability of the U.S. ICBM force until the tail end of the SALT II Treaty, even if we were to initiate a crash program to deploy a mobile or survivable ICBM to limit the period of vulnerability. (We of course, are not. The President's expected MX program will not improve the survivability of our ICBM force significantly until 1988. The Administration has admitted as much.)

The Protocol prohibits deployment of "cruise missiles capable of a range in excess of 600 kilometers on sea-based launchers or on land-based launchers". It prohibits even the testing of multiple warhead cruise missiles. The testing or deployment of Air-to-Surface Ballistic Missiles is also banned.

The option of deploying cruise missiles on submarines, naval vessels and ground launchers is one of the few cheap, quick fix options we have in the early 1980s. The option of deploying Minuteman III in vertical multiple protective shelters is another viable quick-fix option. What other options are there for the early 1980s? The President cannot significantly speed up Trident submarine production. He has no intention of reviving production of the B-1. Unless we amend the Protocol there will be essentially no quick fix options available to us to meet the crisis of the early 1980s.

The amendment of or defeat of SALT II is essential for real arms control

SALT II would result in a 10 percent reduction in the number of Soviet launchers. This agreement took seven years to negotiate. Does anyone seriously believe that SALT III would result in more? I do not. But for arguments sake, let me suggest, hypothetically, that SALT III will result in an absolutely incredible level of arms reduction—an agreement to reduce the number of strategic nuclear delivery vehicles by 50 percent! Is this real arms control? The Soviets would be reduced to some 1,125 delivery vehicles. Yet if one postulates the SALT II qualitative constraints, the following force posture is still possible:

600 MIRVed ICBMs with 10 warheads each or 6,000 warheads.

500 MIRVed SLBMs with 14 warheads each or 7,000 warheads.

25 cruise missile carriers with 28 cruise missiles or 700 warheads.

Hence the net result of SALT I, II and III, despite a proposed decrease of 1,500 Soviet delivery vehicles would be an increase in the Soviet strategic force from 1,000 warheads in 1969 to 5,000 warheads in 1979 to 13,700 warheads in the late 1980s. This is not even counting the Backfire force that may reach 350 to 400 by 1985 and 500-550 by 1990. Assuming four to ten bombs per aircraft, we have another 1,600 to 5,500 warheads that could be used against the United States.

If we ratify SALT II, this threat, or something very close to it, will have to come into existence irrespective of the outcome of SALT III. If the qualitative limits go into effect and both sides procure forces designed up to these levels, qualitative changes cannot be made. The forces themselves would lock us into this posture. For example, the SS-18 already has 10 warheads (and has been tested so that it can release at least 13 warheads).

The U.S. Poseidon SLBM has carried up to 14 warheads. The MX and possibly the "new" Soviet missile will carry ten warheads. The Soviet Typhoon SLBM could easily be designed to carry 14 warheads far larger in megatonnage than the U.S. Poseidon would be able to carry.

We should renegotiate the SALT II limits before weapons development programs cast them into concrete. At most, both sides should be limited to no more than 308 heavy ICBMs with 10 warheads each. "Light" ICBMs should be limited to no more than the 6 weapons carried by the SS-19. Under the SALT II constraints this alone would reduce the maximum threat by 2,000 warheads. While the U.S. Poseidon has been tested with 14 warheads, none are deployed with more than 10. The future U.S. Trident missile is to be armed with 8 warheads. The Soviet SS-N-18 has 7.

We should consider negotiating a limit of no more than 8 MIRVs on future SLBMs while "grandfathering in" the Poseidon in the same manner as a number of Soviet systems have been grandfathered in by the SALT II agreement. (We could allow 14 warheads on the SS-N-18 if the Soviets insist on parity.) Under the SALT II constraints this would mean a reduction of the threat to the U.S. by almost 2,300 warheads.

Counting the Backfire bomber as I have proposed in Senate Resolution 221 at ¾s of a delivery vehicle would result in the elimination of 300 SS-11 or SS-N-6 Soviet SLBMs by 1985; they would have to be eliminated by the Soviets in order to maintain their Backfire force under the limits of SALT II.

Verification

In the current debate, we have had almost a complete refusal on the part of Administration officials to give a clear answer to the obvious question of what margin of uncertainty is acceptable for verification purposes. They constantly talk around this problem and give us bland assurances that SALT II is adequately verifiable.

I suspect that the Administration really believes that SALT II is adequately verifiable. Within the world view of this Administration, which is based on minimum deterrence, virtually no amount of cheating would be strategically significant. Secretary Vance in hearings before this Committee indicated that no improvements in missile range, accuracy, yield, or reliability of Soviet weapons would significantly increase the threat to the U.S. Dr. William Perry, Under Secretary of Defense, assigned re-entry vehicle weight to the status of a "factor of secondary importance."

Secretary Brown went so far as to contend that "If we lost all our overseas, our non-U.S. intelligence sites, our ability to monitor SALT II would be degraded somewhat, but I think it would be adequately verified, but I would be very much less comfortable."

The real Carter Administration position on verification is that we don't have to verify much of SALT II because we can always lay waste to some 200 Soviet cities with our SLBM force. Soviet ASW improvements, Soviet civil defense and our own SLBM communications problems and many other factors have apparently been ignored in reaching this conclusion as has the real possibility of a Soviet ABM deployment either covertly through upgrade of Surface-to-Air Missiles or breakout from the Treaty.

It is legitimate for the Carter Administration to take the position that it does not matter if we can verify SALT II as long as we can destroy 200 Soviet cities. I do not, however, regard it as fair to characterize this position as "adequate verification." I do not believe that the American people, if they were told that the Soviets could secretly deploy thousands of extra warheads and megatons, would conclude that SALT II is adequately verifiable.

On the issue of SALT I violations we are repeatedly told that all of these have been equitably settled or if the Soviets violated the agreement they stopped after we brought the matter to their attention. They did not stop the deployment of the SS-17 and SS-19. Indeed SALT II legitimizes this and allows the further upgrading of the SS-19 if the Soviets exercise their option for a 10 warhead version.

The Soviets did not stop the construction of "launch control silos." They have not completely rectified the dismantling violations of ABM launchers or SS–7 silos. Yes, they did stop the testing of the SA–5 radar in an ABM mode but only after 40 or 50 tests were completed. The Soviets have not stopped extensive concealment and deception activities.

Perhaps more revealing is what we did not protest. We have not protested the construction of possible ABM battle management radars by the Soviet Union. We have allowed them to continue to develop a rapidly deployable ABM system based upon a movable ABM radar. We have not protested the deployment of the SS–20 or demanded evidence that the SS–16 has not been deployed in a mobile mode. We have allowed the Soviet Union to lie to us with impunity in a number of compliance areas.

Within the last year and a half there have been several Soviet nuclear tests that could have exceeded the Threshold Test Ban Treaty (TTBT) limit and at least two tests that probably exceeded it by a considerable margin. We have not demanded that the Soviets provide us evidence that these tests were not above the TTBT limits. We have merely raised the issue with the Soviets and then accepted their assurances that the tests were below the limit. This is not arms control compliance. This is simply self-delusion.

We will never seriously protest a violation to the Soviet Union unless the evidence is overwhelming. It almost never is. The Soviets fully recognize what they have gotten away with under SALT I, the 1963 Test Ban Treaty and the TTBT. They do not quake in fear of detection.

NEW DIRECTIONS FOR U.S. NATIONAL SECURITY STRATEGY

What does all of this mean for the direction of United States national security strategy? And what, then, does that strategy mean for SALT II?

The national security strategy of the United States must clearly recognize the military strength of our major adversary, the Soviet Union. Since the time of the Cuban missile crisis, the Soviet Union has been engaged in the most massive arms build-up in the history of the world. It has gone, with the help of SALT I and U.S. unilateral restraint, from a position of inferiority to the United States to a position today where its military strength is more than equal to our own. The capabilities of its conventional forces in the Warsaw Pact countries is vastly superior to that of the NATO alliance.

The impressive technological improvements in Soviet strategic forces have been coupled with a counterforce targeting and damage-limiting doctrine to pose a real and direct threat to our own strategic forces.

The near-term vulnerability of our ICBM force is acknowledged by virtually every responsible analyst, even in the Administration. The Soviet Union has rejected the concept of Mutual Assured Destruction and its basic assumption that nuclear war is unthinkable. The Soviets believe it is possible to not only fight and survive a nuclear war, but to win it, and they have designed their military forces and civil defense program accordingly.

Our response to this growing Soviet strength must be based on these realities, not on the idealistic hopes of the SALT process which, so far, have provided little reason for confidence. With or without SALT, our national security policy must be modified along the following lines: We must change our strategic targeting—aiming most of our own weapons at Soviet military targets, instead of at cities; reduce the vulnerability of our ICBM force; develop the technology which will allow us to build defenses against in-coming missiles, both for our own civilian population and our weapons; modernize our bomber force; ensure the survival of effective command, control, communications and intelligence systems even under attack; modernize our capacity to conduct limited theater nuclear operations; improve our conventional forces with modest increases in the number of Army and Marine divisions; improve our ability to project our conventional forces by expanding our tactical air, Naval and military transport forces; expand military consultation with, and consider increasing military assistance to, our allies and pro-Western governments and parties; and, we should assist our allies and freedom-loving people in deterring Soviet proxies, such as Cuban forces in Africa, by providing them with funds, arms, training and intelligence. We must have a vigorous program and ready forces in all areas of our defense posture. The fabric of our military cloak must be a seamless web of capabilities. As Professor Michael Howard of Oxford University said in a recent article in *Foreign Affairs*:

"The maintenance of adequate armed forces in peacetime, and the will to deploy and support them operationally in war, is in fact a symbol of that social unity and political resolve which is as essential an element in nuclear deterrence as any invulnerable second-strike capability."

We can no longer afford to be passive in the world. Our allies and friends need to know that they can rely on the United States for assistance. The Soviet Union must know that we will not stand by idly while it attempts to create a new, world-wide Russian Empire. Winston Churchill said it very well on a visit to the U.S. in 1946:

"From what I have seen of our Russian friends and allies during the war, I am convinced that there is nothing they admire so much as strength, and there is nothing for which they have less respect than for weakness, especially military weakness. For that reason, the old doctrine of balance of power is unsound. We cannot afford, if we can help it, to work on narrow margins, offering temptations to a trial of strength."

Mr. Churchill went on to say, in essence, that peace could be maintained in the world only if the democracies remained united and strong. The policies I have mentioned would make it possible for the United States and her allies to preserve and protect international peace through strength.

ESSENTIAL CONDITIONS FOR SALT II

What can we say, then, about SALT II in the context of a new, more active, although not provocative, U.S. national security strategy? I believe such a strategy suggests five basic criteria for acceptance and ratification of a new SALT treaty:

First, the treaty must meet the criteria of equality, stability, and verifiability, and it must arrest the growth of Soviet strategic nuclear forces.

Second, we and our allies must be prepared to modernize and improve theater nuclear forces or obtain agreement to equitable arms limitations in this area with the Soviet Union and her allies.

Third, we and our allies must be willing to modernize and expand our conventional forces so as to pose an effective conventional deterrent.

Fourth, we and our allies must be prepared to resist the destabilization of third world nations by Soviet power and proxy forces.

Fifth, we must rebuild our vital intelligence organizaltons and restore their effectiveness.

If these conditions cannot be met, then SALT II should not be ratified. Instead, we should then seek to restore and maintain strategic nuclear "parity-plus" with the Soviet Union and declare our intent to use strategic nuclear weapons to protect ourselves and our allies.

THE SOLUTION

The solution to the SALT II Treaty problem must be in two parts. The first part must be a Soviet response to a U.S. demand that Soviet combat troops be removed from Cuba and anywhere else in the Western Hemisphere where, the Administration in its zeal to discover and report such Soviet transgressions, may find them to be. This must be a condition precedent to any consideration of SALT II.

The Chairman of this Committee has rightly made this point for the entire Senate. If the Soviets no longer respect U.S. power enough to withdraw their troops, then I suggest SALT II should be deferred until we can rebuild and exercise the power necessary to obtain the Soviets' attention on this matter.

The second part of the solution to the problem presented by a flawed SALT II Treaty is to embrace some or all of the amendments which you will find appended to my statement. These amendments represent the thoughts and concerns of many Senators; the amendments seek equity, greater arms control, crisis stability, and verifiability. This is the right first step. If the Soviets agree to these reasonable changes, then both nations will have saved billions and the likelihood in the long-term for a cooperative relationship will be increased. If the Soviets refuse to negotiate these changes then we will have been given a clear signal of their intent, and we will have the time to reinvigorate our military forces in such a way that the Soviets will have a real incentive to negotiate viable treaties. In effect, whatever the outcome our security will not be impaired. I believe that amending or rejecting SALT II now is the lowest risk policy over the long-term. Let's admit that we have a problem and not construct a palace of mirrors consisting of SALT III "hopes," unilateral "reservations", and non-budget year "projections" of how much we plan to spend on defense.

Proposed Amendment

BACKFIRE AMENDMENT

I propose an amendment to Treaty Article II, Paragraph 3 of the Treaty to make the treaty more equitable and improve the arms control impact of the treaty. This "Backfire amendment" would require counting each Soviet Backfire bomber as three-quarters of a Strategic Nuclear Delivery Vehicle (SNDV) and each U.S. based FB–111 as one-half of an SNDV. These treaty counting rules would match the capabilities of the aircraft.

Now, the Soviets don't really argue for exclusion of the Backfire on the basis of its range. They believe that it should be excluded on the basis of intended use—that is its mission. And, the Soviets tell us that it has a mission as a theater attack system. So, that is the crux of the argument. Are strategic systems to be defined as those that have strategic capabilities or only those which are intended and scheduled for a strategic use?

I believe that we must stick to a definition of strategic which is written in terms of capabilities. To not do so would open up a huge loophole in which both sides would build systems with a strategic reach but disclaim their limitation under any SALT agreements by virtue of the fact that "they do not have a strategic mission".

If the proponents of excluding Backfire really believe in their own case, why have they insisted on a "phony" Backfire letter which alleges to limit Backfire but has no force of international law? Do they suspect the Soviets might use the Backfire in a strategic role after all, only then to use the letter as proof of their efforts to preclude this?

If SALT III is productive, then both sides can consider more refined measures of what is "strategic" and "peripheral" and "theater" and so forth, and weapons can be allocated to the various categories on both a capabilities and mission basis. But we are not at that point yet. By leaving out Backfire the Soviets will have some 2750 SNDVs (2250 plus 500 or so Backfire bombers) to our

2315 (2250 plus 66 FB-111s) by 1985. This will allow them to have more ICBMs, SLBMs, and bombers than the U.S. This is hardly the stuff of which essential equivalence is made.

I therefore urge my colleagues to vote for this amendment, and by so doing perhaps save the U.S. several billions of dollars. If the Soviets were to agree to include Backfire then we would not be encouraged to produce an aircraft equivalent to the Soviet Backfire. Let's find out now whether the Soviets are serious about equity and real arms control.

Amendment to Treaty Article II, Paragraph 3, to require counting each Backfire bomber as three-quarters of a Strategic Nuclear Delivery Vehicle (SNDV) and each U.S. based FB-111 as one-half of an SNDV.

Add the following new subparagraph b and redesignate the other subparagraphs: "(b) also currently for the Soviet Union the Backfire bomber, and for the United States the FB-111. However, owing to their lesser capabilities, the Backfire will count as three-quarters of a Strategic Nuclear Delivery Vehicle (SNDV) and the FB-111 as one-half SNDV."

HEAVY MISSILE AMENDMENTS

I propose two amendments, to Treaty Article IV, Paragraphs 3, and 9, to provide for equity between the Parties in terms of "heavy" ICBMs. The two amendments would have the effect of allowing the U.S. to modify 308 light ICBM silos to a heavy silo configuration and to test and deploy 308 "heavy" (of SS-18 size) ICBMs. They would not require the Soviets to dismantle their "heavy" ICBMs and they would not require that we build any heavy ICBMs.

These amendments do nothing to slow the Soviet buildup of heavy ICBMs, they do nothing to encourage the U.S. to build such missiles, they do not offset our Minuteman ICBM vulnerability and they do not affect any plans for the MX ICBM. So, one might ask what do they accomplish?

Are they merely an attempt to kill the treaty with a very reasonable amendment that should have wide support in the Senate? No, the real purpose is to underscore the need, stated by the Administration, that we must maintain essential equivalence with the Soviet Union. This is a fundamental requirement that we all recognize.

These amendments will establish the principle of equality for sublimits, and ensure the Jackson Amendment to SALT I is not disregarded. If we are not even allowed the option of building heavy ICBMs, I believe many in the world would be right to question the ability or intention of the U.S. to maintain parity with the Soviets. A failure to pass these amendments would expose essential equivalence as the charade that many now suspect it may be. Let's either pass these amendments or tell the American people and the world that we do not intend to maintain essential equivalence.

MODIFICATION OF SILO LAUNCHERS TO HEAVY CONFIGURATION AMENDMENT

Amendment to Treaty Article IV, Paragraph 3, to allow for modification of 308 U.S. light ICBM silo launchers to a configuration which would allow them to launch SS-18 size ICBMs.

Add to the following: "The United States will, however, be allowed to modify light ICBM silo launchers to a configuration which would allow them to launch heavy ICBMs in numbers equal to the number deployed by the Soviet Union.

U.S. HEAVY ICBM TEST AND DEPLOYMENT AMENDMENT

Amendment to Treaty Article IV, Paragraph 9, to allow the U.S. the option of deploying heavy ICBMs of the SS-18 size (in addition to the MX.)

Add the following sentence: "In addition, the U.S. may flighttest and deploy one new-type heavy ICBM."

MPS BASING MODE AMENDMENTS

These amendments would allow the construction of a multiple protective structure basing mode for ICBMs. This may be absolutely essential if we are to ensure the invulnerability of our ICBMs. It is far from clear that the current draft of the SALT II Treaty allows the construction of most types of MPS. The Carter Administration is arguing that the Soviets have agreed to MPS in principle provided that we provide for adequate verification.

This is not clear, and is indeed little more than an assertion by the State Department. Paul Nitze has testified that he does not believe that the current SALT II draft allows the MPS. I believe that the most promising MPS systems are banned by the Treaty and that the only type that may be allowed will be far more costly and less effective as a result of Treaty constraints.

The Soviet Union will have essentially no real verification problem relating to MPS. The U.S. is an open society and the Soviets could verify the number of MX missiles produced without even satellite photography. Yet we are planning to spend enormous sums to obtain a system that is verifiable by national technical means. To make matters worse the Soviets are very unlikely to agree that any system would be verifiable by national technical means. Preventing the deployment of MX is a major Soviet objective and they have every reason to attempt to prevent such a deployment.

The Administration answer to this is that they will ignore Soviet objections and go ahead and deploy the MX. I find this highly unlikely and a rather bad precedent if this policy was implemented. We have no interest in spurring on a race to determine who can interpret arms control agreements in the least restrictive manner.

I have proposed two amendments that would assure U.S. deployment of the MX in an MPS mode and would allow the use of the most cost-effective deployment mode by introducing the opportunity for cooperative verification, including on-site inspection.

MPS BASING MODE AMENDMENT

Amendment to Treaty Article IV, Paragraph 1, to allow for construction of a Multiple Protective Structures or other basing mode for ICBMs.

Add the following to Paragraph 1: "This provision does not prohibit construction of vertical or horizontal shelters, trenches, or hard points that would be essential to ensure the effective invulnerability of ICBMs, so long as each Party provides a means of verification to the other to include if necessary an authorization for no-notice, on-site inspection."

DEFINITION OF MPS AS NON-MOBILE AMENDMENT

Amendment to Protocol Article I, to allow the deployment of MPS ICBM Launchers if satisfactory verification procedures can be established.

Add the following language: "The term mobile shall not be interpreted to mean vertical or horizontal multiple protective structures, trenches or other survivable type basing modes, but shall refer to road and cross-country transporter-erector-launchers systems. If a Party offers to provide satisfactory verification procedures, then the Party may develop and deploy one survivable ICBM basing mode and its associated ICBM."

NON-CIRCUMVENTION AMENDMENT

This amendment would assure that the non-circumvention provision of the Treaty will not be used as a wedge by the Soviet Union to disrupt the NATO alliance by preventing cooperation between the United States and our NATO allies in the modernization of European defensive forces.

The Soviet Union hopes to undermine the confidence of our allies and stunt the growth of their military capabilities by prohibiting the transfer of essential technology and hardware from the U.S. to our allies. On the one hand our lead in technology is "ballyhooed" as the offsetting strength to Soviet and Warsaw Pact quantity, and then our comparative advantage is traded away.

The meaning of the non-circumvention provision of the SALT II Treaty is almost completely ambiguous in its present form. What it does and does not prohibit could be a subject of endless confrontation unless this provision is clarified by an amendment to the Treaty. The Soviets are certain to object to almost every U.S. technical exchange or weapons transfer program under the non-circumvention amendment.

The Soviets recognize that without sophisticated weaponry and communications there is simply no chance that NATO could defend itself against a Soviet attack. Thus, the use of the SALT negotiations to hamper NATO defense planning and cooperation has long been a major objective of the Soviet Union.

NON-CIRCUMVENTION AMENDMENT

Amendment to Treaty Article XII, to clarify U.S. ability to assist the NATO alliance in maintaining the Eurostrategic balance.

Add the following to the end of Article XII: "This provision shall not be interpreted so as to prevent either Party from supplying scientists, data, technology, systems or other assistance and cooperation to allies, for the purpose of modernization or force buildup."

VERIFICATION AMENDMENT

I have proposed this amendment because telemetry is vital to the verification of the qualitative aspects of the agreement. Photography or other sources of intelligence are inadequate substitutes. The legitimization of encryption in SALT II allows the Soviets to hide essential design features of their missile systems. No one should seriously believe that the Soviets will abide by U.S. interpretation of what can and cannot be encrypted anymore than they abided by U.S. interpretations of SALT I.

Indeed, the Secretary of Defense admits that there is no current agreement on what can and cannot be encrypted and that this issue will be ultimately resolved by the Standing Consultative Commission. Any encryption of telemetry opens the possibility that false or misleading information is being broadcast and the real data is being sent out over encrypted channels.

Senator Glenn observed before this Committee that the current margin of uncertainty in the technical parameters of Soviet missile systems is as large as 50 to 70 percent. To put this in perspective, we must recognize that the Soviet missiles are already three to seven times greater in terms of throw weight and launch weight as U.S. ICBMs. We are literally dealing in potential increments in Soviet capabilities due to cheating that are equal to entire U.S. strategic systems or even all U.S. strategic forces. How, then, can the Carter Administration claim that SALT II is "adequately verifiable?"

Current U.S. capabilities to monitor the critical qualitative terms of SALT II are grossly inadequate. Short term substitutes for the U.S. monitoring sites in Iran have severe limitations and are comparatively easy to counter if the Soviets took intelligence counter-measures. The effectiveness of the proposed U-2 collection depends on active Soviet cooperation, or at least no conscious policy to deny information. The Soviets can almost completely negate the effectiveness of the U-2 collector if they so choose.

There is simply no agreement under SALT

II on what constitutes National Technical Means of verification. Administrative spokesmen have admitted that the Soviets do not even regard overseas collection bases as National Technical Means of verification. The SALT II agreement, as written, would legitimize the encryption of telemetry. The Secretary of Defense has admitted that "Neither party can unilaterally determine whether denial impedes verification. If questions arise on this issue they will be resolved in the Standing Consultative Commission."

It is not a question of "if." Questions *will* arise and when they do it could take years to settle them if they ever are. The Standing Consultative Commission has been generally ineffective in settling issues unless there has been a clear, unequivocal Soviet violation. The encryption issue clearly would not be such an instance.

We have publicly taken the position that existing levels of encryption have not impeded National Technical Means of verification. We will certainly take the position that most of the fifth generation Soviet ICBMs will be modifications of existing missiles. Otherwise we would have to charge the Soviets with violating SALT II. Yet they can be almost completely different in their technology and existing levels of encryption would significantly hurt our ability to determine their characteristics. We will be caught in a dilemma of our own making. We cannot claim they are new (they might not actually be, by the ineffective SALT II definition) and yet we would be claiming that suddenly we cannot verify the capabilities of "old" Soviet ICBMs.

Any encryption of telemetry will make it easier for the Soviets to broadcast false information on the open channels and deliberately deceive U.S. intelligence analysts. While there is a limit concerning the degree to which this can be exploited, it is clearly possible to go well beyond the Treaty limits either through telemetry denial or the broadcast of false information—even if we regained collection capabilities comparable to what we had prior to the loss of Iran.

I have proposed an amendment that would completely ban the encryption of telemetry and would provide protection for required ground based telemetry collection stations. Without such an amendment it will not be possible to verify SALT II unless one is willing to accept levels of uncertainty that could permit the clandestine deployment of thousands of additional warheads and megatons. This is not what I regard as "adequate verification."

Amendment to Treaty Article XV, Paragraph 2, to prohibit specific forms of interference.

Add the following to Paragraph 2: "In this context, 'National Technical Means' shall be defined as both Party's technical intelligence systems; it shall also include the geographic location necessary for the proper functioning of such systems. Specifically, each side will not encrypt any missile telemetry nor will it seek to pressure nations assisting the verification process, through location of systems on their soil or agreement for overflight rights, to halt such assistance."

(Also, the Second Understanding should be conformed by deletion of all the language of the Second Understanding).

PROHIBITION AGAINST DELIBERATE CONCEALMENT MEASURES AMENDMENT

The President, Secretary of State and Secretary of Defense constantly assure us that there will be no deliberate concealment measures allowed under SALT II. The wording of the SALT II concealment prohibition is identical to the SALT I prohibition. This has not stopped Soviet concealment activities. The Soviet Union has a concealment and deception program under way right now, and this will continue under SALT II.

It has involved, according to official and unofficial reports, various forms of photographic concealment at the ICBM test ranges, ICBM base areas, and submarine construction and maintenance facilities. There have been reports of heavy concealment related to the mobile SS-16 ICBM program and the construction of submarine berth tunnels. The Soviets have been encrypting telemetry.

The word "impede" verification is often interpreted by the U.S. government to mean "prevent" verification, opening a wide range of "legitimate" Soviet concealment activities that are supposedly ineffective in preventing verification.

This proposed amendment is designed to prevent the Soviet Union from legitimately engaging in activities that can degrade our verification capabilities without technically violating the current practices exception. We want to assure that the Soviets will not be allowed submarine berthing tunnels, that they will not construct enough aircraft hangars to prevent us from monitoring the number of Backfire bombers deployed, that they will not be allowed to conduct silo loading operations at night or in bad weather so as to prevent U.S. photographic coverage.

Amendment to Article VX, Paragraph 3, to require changes in current practices where necessary to prohibit the use of deliberate concealment measures.

Delete the last sentence of Paragraph 3 and add: "This obligation shall require reasonable changes in current construction, assembly, conversion, and overhaul practices necessary to ensure verification. Where a Party is unwilling to change certain practices because of certain reasons (cost, weather, or others), then that Party must allow for on-site inspection by the other."

GLCM/SLCM RANGE EXTENSION AMENDMENTS

I am proposing two amendments to the Protocol. The amendments would extend the range of both unMIRVed and MIRVed GLCMs and SLCMs that are not limited by the Protocol from 600 to 2,500 km. This change is necessary if U.S. cruise missiles are to overcome the disadvantages of Eurasian geography and be able to reach targets in the Soviet Union from Western Europe or contiguous seas.

Immediate deployment of our SLCMs and GLCMs should be allowed under the protocol, because the Soviets already have SLCMs with less than a 600 km. range on submarines. These can approach our coasts so as to give these SLCMs strategic target attack capability. Also, they have MRBMs which can strike Western Europe from the Soviet Union with three MIRVs. These do not count under SALT II. For that reason our equivalent systems, the MIRVed GLCMs/SLCMs of less than 2.500 km. range should not count under SALT II.

GCLM/SLCM RANGE EXTENSION AMENDMENT

Amendment to Protocol Article II, Paragraph 1, to allow the deployment of SLCMs and GLCMs with ranges of up to 2500 km.

Substitute "2500" for "600."

MIRVED GLCM/SLCM RANGE EXTENSION AMENDMENT

Amendment to Protocol Article II, Paragraph 2, to allow flight testing of MIRVed GLCMs and SLCMs with a range of less than 2500 km.

Substitute "2500" for "600".

(Also, conforming changes in the statements and understandings of Protocol Article II will be necessary. This should be done by changing "600" to "2500" wherever it appears.)

PROTOCOL EXTENSION AMENDMENT

Mr. President, I propose an amendment to the Protocol of the SALT II Treaty by adding to the Protocol an Article V. This Protocol Extension Amendment states that the Protocol shall not be extended beyond December 31, 1981 unless the Senate concurs by a two-thirds vote. Moreover, failure to extend the Protocol by either Party will not be grounds for violations or abrogation by the other Party of the provisions of the Treaty.

This issue is of the utmost importance and concern to our allies in Western Europe, particularly in light of the disadvantageous shift in the balance of power that has taken place over the past decade. The Soviets have moved from a position of strategic nuclear inferiority vis-a-vis the United States to that of parity or essential equivalence. In addition, they have undertaken a marked quantitative and qualitative upgrading of their conventional force capabilities in Europe. And with the deployment of the SS-20, a mobile Intermediate/Medium Range Ballistic Missile with three MIRVed warheads, the Soviet Union has taken a significant step forward in the area of theater nuclear forces.

Our allies are sincerely troubled that SALT II places no restrictions on the deployment of the SS-20, which poses an immediate threat to their security, yet severely limits the range of the ground- and sea-launched cruise missiles. It is often argued that the United States will be free to deploy cruise missiles of unlimited range after the termination of the Protocol. However, it is widely recognized that the Soviets will vigorously attempt to have the restrictions contained in the terms of the Protocol extended beyond December 31, 1981.

Our distinguished colleague from Colorado, Senator Hart, on offering clarifying language to the resolution of ratification with respect to this issue of extending the Protocol correctly noted: "It is vital that the Soviet Union understand that these issues are not permanently resolved, and that serious negotiations must continue to seek mutually acceptable answers." It is essential, therefore, that the Senate make explicit as part of the Protocol text the interpretation of the United States government that the Protocol cannot be extended without the concurrence of two-thirds of the Senate.

Mr. President, I urge my colleagues to support this amendment, and thereby assure our allies in Western Europe that our commitment to their security will not be weakened by our desire to achieve bilateral arms control agreements with the Soviet Union.

PROTOCOL EXTENSION AMENDMENT

Amendment to the Protocol by adding a Protocol Article V, to require the approval of two-thirds of the Senate before the Protocol could be extended beyond its termination date of December 31, 1981.

Add the following new article (Article V) to the text of the Protocol: "The Protocol shall not be extended by the U.S. beyond December 31, 1981 unless the Senate concurs by a two-thirds vote. Failure to agree to an extension of the Protocol by either Party will not be grounds for violations or abrogation by the other Party of the provisions of the Treaty."

AGREED STATEMENTS AND COMMON UNDERSTANDING AMENDMENT

This amendment proposes the incorporation by reference of the agreed statements and the common understandings in the Treaty. As the Treaty stands now, many of the key terms are not in the Treaty itself, but are in the agreed statements and common understandings. The Soviet Union has not printed these in its version of the Treaty. The proposed amendment assures that there will be no confusion concerning the legal status of these statements and understandings. Without such protection, the Treaty itself is largely without content.

AGREED STATEMENTS AND COMMON UNDERSTANDING AMENDMENT

Amendment by addition of a new Treaty Article XIX (redesignate present Article XIX as Article XX), to provide that the agreed statements and common understandings are considered part of the Treaty.

Add the following:

"ARTICLE XIX

"Each Party agrees that the agreed statements and common understandings, the Joint Memorandum on Data Base, and the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations are an integral and inseparable part of the Treaty."

WASHINGTON, D.C.,
September 18, 1979.

TESTIMONY BEFORE FOREIGN RELATIONS COMMITTEE: SALT II

On a September day in 1945 I set out in a small landing craft from Kure up the estuary to Hiroshima. We arrived to be among the first outsiders to view the destruction of the bomb which had been dropped there the previous month. Many of those who had died from that atomic bomb and its after effects had yet been buried.

"My personal response was compounded by the fact that the bomb, in all probability, had saved my life. I was with the naval forces which had been through Iwo Jima and Okinawa; we were scheduled to invade mainland Japan, with an expected huge number of U.S. casualties. So as we approached Hiroshima, I remember wondering what the cost of this act, which had probably preserved my life, was.

What I saw in Hiroshima that day was beyond the comprehension of my mind and spirit. The devastation was so total, so indiscriminate, and so stark that it is difficult to recount my reaction.

I witnessed then the effects of a horror that is too terrible to imagine. It jarred me to the depths of my being and burned a lasting image in my conscience.

My attitudes and convictions about nuclear weapons and the arms race are rooted in that experience. It is my reference point as I try to respond to the ongoing arms race, the negotiations intended to control it, and the SALT II treaty now being considered by this Committee.

The bomb which was dropped on Hiroshima immediately killed 78,150 people, injured 84,000, and demolished 62,000 buildings. It destroyed the city. Thousands more died later, and today its aftermath is still being felt in the lives of those who were its victims.

By today's standards it was a very small bomb, equaling about 13 kilotons (13 thousand of tons of dynamite).

Since that day, the United States has built an arsenal of more than 30,000 tactical and strategic nuclear weapons. The 9,994 strategic nuclear weapons of this arsenal, when compared according to what specialists call "equivalent megatonage," meaning the area on the ground which is destroyed by a bomb, are equal to 76,363 Hiroshima bombs. When compared according to raw explosive power, our present strategic arsenal equals 246,000 Hiroshimas. And when our entire stockpile included—tactical and strategic—the raw explosive power equals that of 615,385 Hiroshima bombs. The potential kill-power of this stockpile, it has been estimated, is sufficient to destroy all humanity not once, but a dozen times.

Futuba Kitayama, who was a 33-year-old housewife when the atomic bomb fell on Hiroshima, remembers what she saw and felt:

"Under the bridge were floating, like dead dogs or cats, many corpses, barely covered by tattered clothes. In the shallow water near the bank, a woman was lying face upward, her breasts torn away and blood spurting. A horrifying scene . . . I wondered if the hell that my grandmother had told me so much about in my childhood had fallen upon the earth."

The United States' nuclear arsenal, matched by a comparable Soviet arsenal, can now create this hell on earth tens of thousands of times.

The stated purpose of the strategic arms limitations talks, when they began more than a decade ago, was to bring a halt to the escalating quantity and quality of nuclear weaponry. Judged according to that goal the process has failed. Since we first began talking about limiting nuclear weapons, the U.S. has tripled its strategic nuclear stockpile. Since the first SALT agreement was signed, both the U.S. and the Soviet Union have roughly doubled their arsenals.

The prospects under the proposed SALT II treaty are no better and in some respects are worse.

Since SALT I, the United States has been producing 2.2 new strategic weapons per day, or 800 annually. During the time of SALT II, the United States will produce 4.9 new strategic nuclear bombs each day. The rate of production will more than double.

Some of these bombs will replace existing ones which will be dismantled. Others will be net increases in the overall number of U.S. warheads, which will rise from 9,994 to about 13,054 by 1985.

Specifically, these warheads will be placed on new U.S. strategic nuclear weapons systems:

As many as 2,840 bombs on cruise missiles;

2,688 warheads on the Trident missiles; and

2,000 warheads, now likely to be 550 kilotons each, on the MX missiles (after 1985).

The following replacements on existing weapons systems will be made:

1,000 new and very powerful bombs placed on our B-52s;

900 new Mark 12 A warheads put onto 300 Minuteman III missiles; and

The probable replacement of the present 3,000 warheads on our Poseidon missiles with 3,000 new warheads.

Thus under the terms of the SALT II treaty the U.S. is able and likely to manufacture a total number of weapons equal to and perhaps even surpassing the total number of nuclear weapons in our present strategic arsenal. Including the MX warheads, and assuming that the present Poseidon warheads are replaced with new ones, the U.S. will produce 12,428 new nuclear bombs. These warheads, built with the SALT II treaty, will equal in their destructive power on the ground, 83,909 Hiroshimas.

Since many of these new warheads will replace existing ones, the net gain to our arsenal is less. But the rate of U.S. strategic nuclear bomb production will more than double during the time of SALT II.

Soviet warhead production is likewise unrestrained. Under SALT II their present 4,500 strategic warheads will be doubled. Though smaller in total number, many of these warheads are more powerful in raw terms than those of the U.S., although less accurate.

I do not understand, therefore, how the SALT II treaty can be heralded as a significant step in arms control. I do not even know how it can honestly be termed a Strategic Arms Limitation Treaty.

It allows the arms race to continue and to accelerate. What modest curtailments it does impose shrink into near insignificance, in my judgment, in the face of what the treaty permits.

This includes not only the quantity of nuclear warheads which are added, but even more so, the qualitative leaps which will be made. The new generation of nuclear weapons systems, all allowed under SALT II, will grant to the U.S. an assured ability to eliminate Soviet land-based missiles. As both sides deploy weapons capable of a first strike, the actual use of nuclear weapons becomes all the more likely; nuclear war is put on a hair trigger.

Thus SALT II fails to reverse the two most central dangers of the arms race: the increase in weapons and the qualitative improvements which increase the likelihood of using those weapons.

In the years which will be covered by the SALT II treaty, each day the possible use of nuclear weapons will become a more likely rather than a less likely event. With first strike counterforce weapons on both sides, the strategic environment will become increasingly insecure; the world will become less safe.

In response to such realities it is commonly asked, "Wouldn't this situation be even worse without SALT II?" But that is the wrong question.

Rather, the Senate must ask how, in giving advice and consent on SALT II, we can rescue ourselves from this desperate situation.

We cannot merely express the hope that SALT III will be better. We simply do not have the time. Weapons with a clear first strike counterforce capability will be in place before then. And it seems, in my judgment, to be naive and foolhardy to trust that the negotiating process, dominated by the military bureaucracies of both countries, will do any better in the future; in the past, it has barely inched along, while the arms race has sped us on toward oblivion.

The Senate and the public have a rare opportunity now to dramatically affect the course of those negotiations, reshaping them with the force of moral conscience and sanity. It will most likely be years before we will have such an opportunity again.

We must convert SALT II into an effective instrument for stopping the nuclear arms race.

The most simple way to do so is for both sides to agree to stop where they now are, knowing that for either side to continue adding to its arsenal is fruitless, meaningless, and irrational. This recognizes that notions of being ahead or behind in the competition for greater global overkill are without sanity or worth.

For this reason I have introduced an amendment to the SALT II treaty which would mutually prohibit further testing, development, or deployment of any new strategic weapons system not already deployed. It would prohibit deployment of any additional number of strategic arms beyond what each side possesses. This moratorium amendment would freeze the strategic arms race; it would stop escalation by simply halting it.

In so doing it would prevent the full deployment of first strike counterforce weapons on both sides; it would stop the next and most dangerous step in the arms race. But most importantly, it would represent a joint declaration that this race is not worth winning, and that we each passed long ago the threshold of sanity in our nuclear weapons competition.

The strategic nuclear arsenals of both countries are more roughly equal now than they have been for decades. Specific differences still exist in accuracy, numbers of warheads, throw-weight, and explosive power of bombs. The concept of SALT II is to allow each side to escalate their arsenals in a proscribed manner in order to reach a greater future parity.

Why not instead simply stop where we are; and then negotiate how each side will reduce their arsenals in order to eliminate any possible one-side advantages.

Though such an idea sounds fundamental, it has not been proposed by the U.S. negotiators. Neither the Soviet response, nor that by the U.S. government, can be known for certain until the moratorium proposal is set into the heart of the negotiating process.

If adopted, such an amendment would dramatically change the climate of the SALT negotiations. Obviously, its incorporation into the SALT II treaty would require further discussions with the Soviets. But those talks would focus, finally, on what the SALT negotiations were intended to do: how to halt the arms race and fairly reduce our nuclear arsenals. It would also set an essential foundation to stop the menacing proliferation of nuclear weapons into third world nations.

The hell which I witnessed at Hiroshima is like a small spark when compared to the capacity for inferno which we now possess, and will greatly increase, under SALT II.

We must break free of the mindset which allows us to multiply the potential for the horror of Hiroshima thousands of times over without any moral qualm, without any spiritual hesitation, and without any deeper cry of conscience.

Reverend Kiyoshi Tanimoto was just outside Hiroshima when the bomb fell. He came into the city after the blast and recalls:

"I remember people lying in the park near our home, swollen to two times their size, crying, 'Water, water!' On the right bank of the river where I was, everything was so quiet. People were lying on the ground with me, dead. . . . There was no animosity towards Americans, but since we saw the worst part of war, which had never before been seen in human history, we began to hate war itself. . . . So we regretted we had been involved in war itself. . . . We should not repeat this war psychology."

I trust that the Senate could hear and heed these memories and break the psychology which so binds us to this race toward oblivion.

Statement of Representative Robert E. Bauman, Before the Senate Foreign Relations Committee, September 18, 1979

Mr. Chairman, thank you for this opportunity to come before you today and speak to the most important issue this nation has faced in several years: the SALT II treaty.

It is a tragedy that we should come this far: Holding Committee hearings on a treaty, already signed by the President, which constitutes an official decision on the part of our government that henceforth and forever, the United States is to be a second rate power. With all due respect to whichever members of the Committee may disagree with that assessment, I would like to take no more than a few minutes to explain why it *is* the truth, the bitter, deadly truth about SALT.

The truth is that the American people have never been so confused about so important a matter in our foreign policy. The public wants arms limitation, no doubt about it, and so do I. The American people have devoted too much blood and treasure in this century to horrible wars. And when our President offers us a treaty, with his endorsement that it will prevent future conflicts, our natural tendency is to welcome it.

For the average American, the SALT debate is a morass of diplomatic and military jargon—fractionation, megatonnage, throw-weight, ICBM, IBM, MIRV, M-X, RV, SLBM—all this is just so much alphabet soup. It makes for impressive debate in the Congress, but it means nothing once you get beyond the Washington Beltway.

So it is no wonder that the public time and again, tells the pollsters that, yes indeed, we are in favor of a new arms limitation agreement with the Soviets. Why? Because we want peace. But the public also insists to the pollsters that we are against any unilateral disarmament, against unwarranted concessions to the Soviets, against any SALT treaty that cannot be verified. Why? Because, as much as we want peace, we want our freedom and our national security even more.

Because the debate has been so far removed from the realm of understanding for most Americans, they have been forced to place an increasing amount of faith in their elected officials to see that their security and the security of their nation and its allies are ensured. Acting in this trust, which knows no political party or affiliation, the United States Senate must decide the fate of SALT II.

The debate on this treaty has taken many turns during which there have been many developments in the international scene. Experts on the issues of armaments and foreign policy have testified to the necessity of the SALT process and the continuance of the policy of détente. Some have called the proposed SALT treaty equitable and verifiable. Others have termed the treaty neither equitable nor verifiable. All have concluded that, regardless of the outcome of the SALT debate, our defenses need to be upgraded in a major way.

The need for increased attention to our defense spending is one with which I firmly agree. The contrasting figures of gross national product that the United States and the Soviet Union have spent on military hardware during the last decade is distressing. Clearly, the United States is in a catch-up game.

With the submission of the SALT II treaty we are finally taking the time to recall that we do have an adversary whose goal it is to drive liberal, democratic forms of government out of existence and that it is necessary for us to have the means to protect ourselves against this ever present threat. But where was this attention five, or even two years ago? As crucial as the issue is, we should not confuse the debate on the substance of this proposed treaty with the growing consensus on the need for increased defense spending. I am here to talk about the proposed SALT II treaty, not its price for passage.

Once the diversion of increased defense spending is cast aside, proper attention can be given to this SALT treaty and its implications. Because this treaty is ambiguous, unequal and unverifiable, as countless experts have testified, I urge its sound defeat. Furthermore, this treaty would in effect give our stamp of approval to the current tendencies of international relations.

In considering SALT II, it is worth noting what SALT I has wrought. From unquestioned military superiority, we moved toward parity and with SALT II to the edge of inferiority. In short, SALT I conceded numerical superiority to the Soviets. The real issue now is whether the proposed SALT treaty threatens to formalize the qualitative U.S. strategic inferiority established in SALT I.

Even proponents of SALT II concede that by 1982, the Soviets will have acquired the ability to destroy our land-based ICBM force, thus acquiring strategic superiority. Carter policy-makers have yet to address the problem of overcoming the ICBM vulnerability that would be formalized in this treaty.

The SALT process is geared to maintaining peace. Peace, SALT-sellers argue, can only be accomplished through the continued adherence to the policy of detente. However, detente rests on the presumption of strategic parity—not Soviet superiority in strategic weapons.

To amplify these remarks, the Cold War is worse than ever, although we persist in believing otherwise; despite the public confusion about SALT, the overall pattern of international events is becoming crystal clear. That pattern is one of Soviet expansion and audacity unrivaled since 1945. I am not just speaking of this year. I am referring to the consistent direction of Soviet Russia's geopolitical maneuvers for the last decade or more, both before and after the United States concluded the SALT I treaty with the Kremlin. It was after that solemn treaty was signed that the Soviet Union attempted to upset the global balance by fomenting a deadly assault against the state of Israel in the Yom Kippur War. It was after that solemn treaty that the Soviet Union's unqualified political and military support facilitated the brutal conquest of South Viet Nam.

And, in the period of detente generated by the SALT I treaty, we have seen the Soviet momentum—sometimes translated into war by proxy—in Angola, in Ethiopia, in Zaire, in Yemen, in Afghanistan, in Iran, and I say this without hesitation, in Nicaragua. They have conducted their bloody business around the world during the benevolent reign of SALT I. Only the blind and self-deceptive refuse to see the correlation between missiles and geopolitics.

The truth about this treaty is that it will make America geopolitically impotent. In the intervening years between SALT I and II, the Soviet Union has moved more aggressively in support of so-called wars of "national liberation." Not only do they believe that detente does not preclude "wars of liberation," but it is also an inherent imperative to support such wars as the strategic balance shifts in Moscow's favor. I think that Americans subscribe neither to the concept of selective detente nor military inferiority. Soviet adventurism in Africa and the Middle East can be arrested only when the Soviet-American military equilibrium is restored. Short of this minimal condition, no foreign policy is credible.

The handwriting is already on the wall, in our weakness after the first SALT treaty. What can we do about those thousands of Cossacks in Cuba? Why, nothing at all, because we cannot match the Soviets in a threatening situation. What can we do to dissuade Castro from slaughtering black Africans in Angola and perhaps Zimbabwe? Well, that is none of our business, weak as we are in the face of Soviet power. But how can we protect America's vital strategic and material interests in the Middle East? How can we meet our commitments to our beleaguered allies there? What do we do if Soviet tanks show up on the streets of Tehran one morning? The answer is: We don't rock the boat because we aren't steering it any more.

As to verification, it is high time that Americans are informed that short of onsite inspection, no genuine verification is possible. Satellite photography has its limits. It cannot tell us how many warheads are produced or deployed. Faith in other sources of intelligence to supplement satellites would be blind and misplaced in light of the recent Cuban developments to which ratification of this treaty is now inextricably linked. How can we presume to know whether the Kremlin is producing and/or deploying new weapons if we are unable to learn of the presence of 3,000 Soviet troops ninety miles from the beaches of Florida?

The truth is, Mr. Carter has signed a treaty which cannot be verified. It cannot be forced upon the Soviets. It cannot be guaranteed. It cannot be checked. It cannot be proven.

The worse falsehood about SALT II is that the Soviet Union can be expected to abide by its provisions. Just as they have abided by all their other treaties. Just as they abided by their declarations of friendship while sneaking troops into Cuba right under the President's nose.

As weighty as the criticism of verification is, there is another truth that must be told about this treaty: The fundamental problem of misperception. The underlying presumption of the SALT process is the discredited doctrine of deterrence called "Mutual Assured Destruction" (MAD). Defense Secretary Harold Brown, in his testimony before this committee, characterized this doctrine as:

"Our strategy requires us to be able to inflict such damage on a potential adversary—and for him to be convinced in advance of our ability—that, regardless of the circumstances, the prospect of that damage will preclude his attack on the United States or our vital interests. To achieve this, we need, first of all, a survivable capability to devastate the industry and cities of the Soviet Union, even if the Soviets were to attack first, without warning. That capacity, called assured destruction capability, is the bedrock of nuclear deterrence."

Yet, for any such strategy to be effective and especially if it is used as the basis of an agreement, both parties must adhere to it.

The truth is that this is not the case. A growing number of experts argue this point quite effectively. They point to the fact that Soviet defense literature explicitly rejects the Western doctrine of Mutual Assured Destruction. It rejects specifically the notion that nuclear war means suicide. Soviet forces are structured to fight, survive and win nuclear war.

Why, then, have we placed all of our eggs, so to speak, in the basket of the doctrine of Mutual Assured Destruction? Why have policy-makers allowed this immoral doctrine to become "the bedrock" of our nuclear deterrence capability? And, especially why if the Chairman of the Joint Chiefs of Staff states that this doctrine of Mutual Assured Destruction is an extremely dangerous policy?

While it is indeed refreshing to see that differences of opinion are allowed to exist within this Administration, it is surprising and without doubt frightening to note such a fundamenal and doctrinal difference. Since our President has finally decided who will execute this country's foreign policy, is it not time for a decision that will guarantee this nation's ability to defend itself?

The truth is that this treaty before you is grossly unequal in the way it treats the Soviet Union and the United States. Point after point, item after item, we get the short end of the stick.

Other witnesses before me have revealed in shocking detail just how unfair this treaty is to the United States and how deadly it will be to our defense posture. I will not bore this Committee with a recital of what you have already heard from the best military experts: Men like Rowny and Haig and Nitze and Graham.

I can only hope the Senate will set aside political considerations and partisan commitments and decide the fate of this treaty, not with the President's future in mind, but with our children's future, and our grandchildren's.

For myself, as a member of the House of Representatives, I have pondered long and painfully all summer how I could bring to light just how awful this treaty really is. I have wrestled with the alternatives available to me. Speaking here today as candidly as possible is one of them and I hope you gentlemen will forgive my bluntness on this occasion. And so, for all our sakes—for the American people's sake, and most of all for the safety of our country—I urge this treaty's sound defeat.

Statement of Hon. Jonathan B. Bingham Before the Committee on Foreign Relations, U.S. Senate, September 5, 1979

SALT II AND NATIONAL SECURITY: THE NUCLEAR NONPROLIFERATION COMPONENT

Mr. Chairman and Members of the Committee. The case for SALT II has grown stronger over the past few months. Hundreds of hours of sharp scrutiny by your Committee and others have produced a broad consensus that SALT II places tangible and verifiable limits on both sides' strategic nuclear arsenals. The SALT II Treaty has been shown to strengthen the national security of the United States in a number of ways. The arms control gains are modest, but rejection of SALT II would be a calamity.

Whatever the Treaty's shortcomings, those shortcomings would not be remedied by rejecting SALT II. Its repudiation, in fact, would exacerbate most of the conditions condoned by the treaty which we might find less than ideal. The edge that is gives the Soviets, for example, in some weapons categories, such as heavy missiles, would certainly become greater in the absence of SALT II. And verification, of course, would be much more difficult without the access and cooperation required by the agreement.

Recent debate on SALT II, however, has become—to my mind—somewhat distorted. Critics have focused Congressional and public attention on increased defense spending as if this were the sole measure of United States national security. Two things need to be said about that:

First, the major proposals for increasing defense spending are in no way precluded by SALT II. I personally do not support deployment of MX missiles, for example, but such development and deployment is not prohibited by SALT II.

Second, the controlling decisions on the MX missile and other defense proposals will be made at the appropriate time by the Congress. Recent actions taken by both the House and Senate are of interest in that connection: the House cut $1.3-billion from the Pentagon's $2.4 billion FY 79 supplemental defense appropriations request; the Senate passed an FY 80 Defense spending bill slightly smaller than the Administration's request; no amendments were offered for expensive new weapons systems and spending increases such as are now being demanded as a price for SALT II. Opponents of SALT must not be allowed to change the rules of the Congress so that Defense spending is determined by one-third of the Senate, instead of by the majority of both Houses.

In my testimony today, I should like to focus on one facet of the SALT debate which so far has been only lightly touched upon: the impact of SALT on one of the most crucial aspects of national and international security—the very real threat of nuclear weapons proliferation around the world.

President Carter addressed this aspect of SALT II upon his return from the Vienna Summit when he claimed that rejection of SALT II would lead to ". . . vastly increased dangers of nuclear proliferation among other nations of the world who do not presently have nuclear explosives." In fact both the President and Secretary Brezhnev pledged, at that Summit, to strengthen the international nonproliferation regime.

Ambassador Gerard Smith, the widely respected former SALT negotiator now focusing on nuclear nonproliferation, recently stated in a speech that "To my mind the threat to American security from horizontal proliferation is substantially greater than that presented by the continuing improvements in Soviet forces."

In testimony before the Senate Armed Services Committee, General George Seignious, Director of the Arms Control and Disarmament Agency, said that "Apart from the collapse of the SALT process itself, the most important casualty of SALT failure could be our vitally important effort to prevent the spread of nuclear weapons . . . Terrorism and local conflicts could escalate to threaten the security of every American."

In testimony before the Foreign Affairs Subcommittee on International Economic Policy and Trade, which I have the honor to chair, our former colleague, Charles Whalen, now President of New Directions, said this: "Seen from a nonproliferation perspective, SALT II assumes an importance that far exceeds its immediate provisions. SALT II may represent the last chance to provide our own government with the moral authority to persuade others to remain outside the Nuclear Club." *

Just why is the nonproliferation issue so central to the SALT II debate?

By the end of the 1980's, fifteen more nations could acquire a nuclear bomb. Moreover, without stringent international nonproliferation controls, nuclear material could easily find its way into the hands of highly skilled and ruthless terrorists groups. We could end up with a world-wide illicit plutonium traffic that would dwarf the problems we face from such traffic in other dangerous substances. It is very hard to imagine a worse and less controllable nightmare unfolding for U.S. and international security interests. Few Americans have thought about the difficulty of defense planning in a nuclear-armed world where a madman or an insecure or ill-informed national leader could set off the holocaust which both our arms control and defense spending policies have sought to avoid. The doctrine of Mutual Assured Destruction which has so far successfully prevented nuclear war would become totally inapplicable.

Consequently, the United States must continue to do all in its power to prevent this potentially devastating spread of nuclear weapons. Already we have, through effective leadership, helped stop three countries from taking that course. Ratification of SALT II will bolster U.S. strength and international leadership capabilities at precisely the time when they are so sorely needed.

The next two years will be a time of particular danger for our policy of inhibiting the spead of nuclear weapons. In the coming months we face the very grave threat of a Pakistani nuclear explosion. No one can predict what then will happen in India, where Prime Minister Charan Singh recently threatened to resurrect that country's nuclear option if Pakistan proceeds on its apparent course. In 1980 four key tests face us: (1) the Nuclear Nonproliferation Treaty Review Conference which may result in the collapse of the NPT structure; (2) development of an international consensus on nuclear nonproliferation policies following the completion of the International Nuclear Fuel Cycle Evaluation (INFCE) study; (3) completing negotiations on a Comprehensive Test Ban Treaty; and (4) carrying out the 1978 Nonproliferation Act mandate tying U.S. commercial nuclear exports after this year to acceptance of comprehensive international safeguards.

(1) The threat to the Nuclear Non-Proliferation Treaty

In Article VI of the Nuclear Non-Proliferation Treaty, the major nuclear States promised ". . . to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control." Relying on that promise, over 100 nations have agreed to foreswear nuclear weapons under this Treaty since it came into effect in 1970. But the superpowers have more than doubled their strategic nuclear warheads, casting doubt on the value of the compact in Article VI. If SALT II is rejected after seven years of negotiations, there is a very real danger that the NPT structure will come crashing down.

The Committee will recall the severe and repeated criticisms leveled against the U.S and U.S.S.R. at the First NPT Review Conference in 1975. Speaking for most of the nonnuclear Conference participants, the Swedish delegate and Review Conference President stated that ". . . What was a failure was not the conference but the way in which the superpowers proved themselves unable to show the world not only their genuine will but also their capacity for disarmament." Ambassador Thorsson further remarked at the United Nations Committee on Disarmament meeting later that year that ". . . the nonaligned nonnuclear weapons states shall have to continue and increase our political and moral pressure on the super-powers . . . We shall have to make them understand that we expect results, soon, of their talks which will imply not a rising but a significant lowering of armament ceilings."

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* Hearing on "The Second Nuclear Nonproliferation Treaty Review Conference: Implications of Recent Nuclear Developments," July 16, 1979, before the Subcommittee on International Security and Scientific Affairs and on International Economic Policy and Trade, U.S. House of Representatives.

This pointed criticism has grown stronger. In the final document produced by the 1978 United Nations Special Session on Disarmament, 149 countries represented agreed that the U.S. and the U.S.S.R. "should conclude at the earliest possible date the agreement they have been pursuing for years . . . (SALT II) should constitute an important step in the direction of nuclear disarmament and, ultimately, of establishment of a world free of such weapons."

Ratification of SALT II, and a commitment to pursue greater reductions in SALT III negotiations, should give the United States some much-needed political and diplomatic leverage at the 1980 NPT Review Conference. Moreover, it will weaken the position of those states which have either refused to participate in any international nonproliferation regime, such as India and Pakistan, or have otherwise used the super-power arms race as an excuse for their own failure to help strengthen international safeguards and to devise an effective, yet equitable nuclear technology control system.

(2) *Need for consensus on nuclear fuel cycle questions*

As I mentioned earlier, the international conference, INFCE, commissioned by President Carter to review all aspects of the commercial nuclear fuel cycle, will wind up its two-year proceedings in early 1980. Contributions to INFCE from over 50 nations and four international organizations have already significantly raised international consciousness about the dangers of nuclear proliferation associated with fuel cycle activities. The real challenge, however, lies ahead. International strategies for long-term nuclear energy development must be negotiated which reflect this growing concern, and which effectively strengthen the international safeguards system. There is no question these negotiations will be tough, or that United States leadership will be essential in impressing upon both developed and developing countries the international security interests we believe are at stake. Failure to ratify SALT II would severely undercut our effectiveness in this area, not least by denying to these same countries a Treaty which many regard as addressing another vital international security concern.

(3) *Threat to a Comprehensive Test Ban Treaty*

The United States, the U.S.S.R., and Great Britain are very close to completing negotiations for a Comprehensive Test Ban Treaty (CTBT). This would cap over 15 years of arms control initiatives in this area and set genuine qualitative limits on the arms race. A final CTB accord, as well as several other important pending nonproliferation agreements, have all been placed on the back burner until SALT II is resolved.

(4) *Carrying out the Nuclear Nonproliferation Act*

Under the terms of the 1978 Nuclear Nonproliferation Act (passed overwhelmingly by both Houses), it is the policy of the United States to require acceptance of comprehensive international safeguards as a precondition for continued nuclear trade after March 1980. This is entirely consistent with the Non-Proliferation Treaty and with often expressed U.S. and international commitments to strengthen the nonproliferation regime. The delayed effective date of this provision was intended to permit constructive international dialogue on this issue. Unfortunately, certain countries have refused to see the wisdom of our position. If this situation persists, they may force the United States to discontinue further nuclear collaboration. It is encumbent upon the United States to work closely with its allies and others to carry out this provision and to demonstrate to the world the heavy costs of circumventing the international nonproliferation regime. Had the United States exercised similar decisiveness in 1974 after India misused U.S. and Canadian materials to set off a nuclear explosion, we might well have avoided the very grave threats facing us today in Pakistan and elsewhere.

I fervently believe that what is true for U.S. national security and foreign policy interests generally, is particularly true with our nonproliferation concerns: rejection of SALT II would be severely damaging to our interests and would serve no constructive objective. Furthermore, it is in the national security interest of this country to demonstrate, through ratification of SALT II, our commitment to seek greater arms reductions in SALT III, and to pursue international policies which will curb the spread of nuclear weapons worldwide. Restraint, in this case, is leadership. And the U.S. has a vitally important leadership role to play in arms control and nonproliferation over the coming years.

Thank you.

HON. BOB CARR, TESTIMONY BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS

CARR FLAYS BACKFIRE AS SALT ISSUE

In testimony before the Senate Foreign Relations Committee today, Rep. Bob Carr (D-Mich.), attacked the Backfire bomber as an objection to SALT II. Carr is a member of the House Armed Services Committee and an official advisor to the SALT delegation.

Backfire is not a significant strategic weapon, Carr argued, because of its range-payload limitations and because it is optimized for other missions. Nevertheless, Carr argued those who are concerned about such weapons should be the strongest supporters of SALT II, since the treaty imposes some constraints on Backfire but none on the much more numerous and potentially more capable U.S. systems.

Whereas the Soviets will have only three or four hundred non-counted aircraft which could strike the U.S. by 1985, Carr argued, the U.S. has more than 3000 which can similarly threaten the Soviet Union.

Finally, Carr pointed out that there is no way rejection of SALT II can make the Backfire picture more favorable for the U.S. On the contrary, it will certainly make it worse.

Full text of Carr's testimony, together with his charts, follows.

SALT II AND THE BACKFIRE BOMBER

Mr. Chairman, I recall a conversation I had about a year ago with a prominent opponent of SALT II who told me he could live, albeit unhappily, with everything in the agreement except the failure to count Backfire as a strategic launch vehicle. I, too, would prefer to see Backfire counted and our counterpart weapons uncounted. But given the agreement as it is and the up-or-down choice we face, there is no way the Backfire problem will be improved by rejection of SALT II. Neither will it be improved by an amendment requiring the counting of gray-area manned bombers, even if such an an amendment were accepted by the Soviets.

Let us place the Backfire in historical perspective. Subsequent to the Vladivostok accord a new weapon type on each side came into increasing prominence, and correspondingly threw further SALT negotiations into some uncertainty.

For the United States, it was the cruise missile: A revolutionary development by any standard. Technologically, it incorporated major breakthroughs in small turbofan engine design, in super-precise guidance, and in reduction of radar image. To this day, the Soviet Union remains non-competitive in all three fields. Strategically, at one stroke it erased any hope the Soviets may have had of protecting their industry through hardening. It also erased any hope they may have had that their investment of tens of billions of dollars in air defense might eventually neutralize the air-breathing arm of the U.S. retaliatory force.

For the Soviet Union, the new weapon was the Backfire bomber. This aircraft was anything but revolutionary in the strategic role. Technologically, the Backfire was unimpressive. Nearly a decade earlier, the U.S. had developed and deployed the F-111 family of low-altitude, high-speed bombers incorporating three major advances: terrain-following radar, variable-sweep wing, and escape capsule. Of these, the Backfire incorporated only the variable-sweep wing. Strategically, even the Backfire fleet expected by 1985 can add no perceptible increment to the theoretical intercontinental damage done by Soviet ICBMs many hours before the Backfire arrives. Being slow and second strike, it is a "mop up" weapon at best.

Some will dispute my view of the Backfire's capability. It has been asserted that a Backfire carries three times the equivalent megatonnage of a Soviet SS-19, and that it should therefore be SALT-counted as three launchers. It has also been asserted that the 1985 Backfire fleet can carry 40 percent of the total Soviet strategic megatonnage. While neither of these claims involves an outright lie, both involve statistical charlatanry and selective assumptions which do not represent the real world; they should be discarded out of hand. I have prepared an analysis of this manipulation and, using similar techniques, I have done a tongue-in-cheek demonstration of how the FB-111A is equivalent to eighteen Minuteman III ICBMs and presumably should be so counted by SALT. I've supplied this to the Committee as an appendix to my testimony.

Mr. Chairman, I think we should ask ourselves what is so impressive about the Backfire. Certainly not its range or payload—these are exceeded by the much older Bear. The Backfire's new capability is its high dash speed: supersonic at high altitude, high subsonic at low altitude. Yet if it exercises either capability to any significant degree, its intercontinental range, marginal at best in any case, disappears. So as a strategic bomber it is, in effect, nothing but a small Bear. The fact that it is nearly the physical size of the B-1 should not blind us to the more significant fact that its range and payload are more in the league of the FB-111A.

What is the SALT II significance of Backfire? It is sometimes asserted that it gives the Soviets a "free ride" in the forum of a major strategic capability not limited by SALT II and not matched by the U.S. This is untrue, because the U.S. has an analogous capability unmatched by the Soviets: our aircraft carriers and foreign bases which ring the Soviet Union. The other side has only ASW aircraft carriers which fly only vertical takeoff jets which have very small range and payload; the other side's only forward land base is Cuba, which for various political and military reasons cannot began to match our forward base structure. In addition, our tactical air refueling capability is substantial; theirs is almost nonexistent.

I now direct the Committee's attention to my first chart.

[Chart not printed in RECORD.]

This chart lists the non-SALT-counted nuclear capable aircraft available to both sides for strategic missions today. The shaded red area indicates permitted Soviet Backfire expansion during the SALT II period. I have not bothered to show permitted expansion of U.S. forces, since this is infinite in all cases. Changes in the U.S. force between now and 1985 will include deployment of large numbers of F-16s and about 300 F-18s, accompanied by retirement of some of the older and less capable aircraft at the bottom of the chart. The degree to which the bars are filled represents my subjective judgment of the qualitative capability of each aircraft type in the strategic mission, based on terrain-following ability, avionics, and low-altitude speed, payload, and range. The aircraft in the box would rank in the middle or upper middle of the chart by these criteria, but I have excluded them since they are not wired for nuclear carriage—a distinction the Soviets would have difficulty verifying.

Even excluding the aircraft in the box, it is evident that our non-counted aircraft are nearly twice as numerous as all our counted strategic weapons combined. Thus, if we were to insist on and achieve a SALT provision counting all vehicles that can deliver a thermonuclear weapon to the other side, the net effect on the U.S.-Soviet balance would be adverse in the extreme. We'd have to scrap either our entire strategic force, or half our tactical air force, or some combination of the two.

It may be argued that the U.S. aircraft are in most cases less capable than the Backfire on a one-for-one basis. This is true. But they are not that much less capable, and there are a lot more of them. I ask the Committee to note that Gen. Richard Ellis, the SAC Commander-in-Chief, has said it would not be a good bargain for our side to count Backfire if the price were the counting of merely the FB-111A and the F-111. So apparently the top professional in the field considers our F-111 family to be more capable than the 1985 Soviet Backfire force.

It may also be argued that, with the exception of the FB-111A, the U.S. aircraft on the chart are not based for strategic missions, don't train for them, and wouldn't be used for them because they're better suited to other roles. But all that is equally true of the Backfire.

To summarize my testimony up to this point, I do not regard the strategic Backfire as a problem for the United States. Nevertheless, I recognize that there are those, including some members of this committee, who in all sincerity will disagree with me. I therefore direct your attention to my second chart, which considers four options we might take to match or counter the capability of the Backfire.

[Chart not printed in RECORD.]

The first column refers to a cruise missile accuracy-improvement program graphically named DIGISMAC, or Digital Scene-Matching Area Correlator. This is a device being developed for the non-nuclear tactical cruise missile which improves accuracy by a factor of about ten. Its weight and space penalty is 1) small, 2) the cost of adding it to the strategic cruise missile force would be small as these things go, and its 3) initial operating capability is expected in 1982. It would give us an aggregate hard target kill capability about one hundred times greater than the Soviet Union's in 1985.

I don't think we need this capability. The accuracy of the strategic cruise missile is already more than twice as good as Paul Nitze told you it was, and as good as it needs to be to destroy any hard point target. But if we're looking for an image solution to an image problem, if we want something to shift the balance toward our side on those simplistic charts which compare U.S. vs. Soviet strategic capability, here is the opportunity.

Second, we have the FB-111B, which is a near-term upgrade of the FB-111A and F-111D including twice the weapon load, twice the fuel capacity, full B-52 range, and new engines. While one may argue whether the FB-111A is or is not equivalent to the Backfire, there is no question that the FB-111B will be superior in all respects. In fact, it will probably be superior to the expected new Soviet heavy bomber design. Thus, it may be SALT counted. But this would present no problem for us, since the SALT II 2250 ceiling gives us enough headroom to deploy the proposed 155 of these aircraft without retiring anything. This headroom could be increased further by scrapping the older B-52 we presently maintain as walking dead but which will never carry a weapon again.

Third, we can deal with the Backfire by shooting it down. For about $4 billion we could deploy a modern air defense system, described in detail in a position paper I prepared with my colleague Congressman Tom Downey and have supplied to the Committee as a second appendix to my testimony. It would shoot down a large proportion of the Backfires and greatly reduce the effectiveness of the remainder by forcing them to fly low.

A modern air defense system would also give us a capability unmatched by the Soviets, which I suppose would be of some use in the image war which seems to obsess us. The Soviets don't have an effective air defense system. They have a lot of interceptors and a lot of radars, but none of them have the technology needed to track bombers at low altitude, which is the only way we fly. We have the technology, and we've been building and deploying it for years for non-strategic missions.

Finally, I turn to the last option which is to reject SALT II, either directly or by crippling amendments, because of Backfire. Mr. Chairman, anyone who takes this position is shooting a gun with a U-shaped barrel.

The direct cost would be high. Rejection of SALT II is estimated by the Defense Department at $25 to $30 billion during the SALT II period. Or we may have reduced security because we may not pay the price. Soviet bomber capability could increase in the three ways shown on the charts. They could build more than 30 Backfires per year, they could put long-range cruise missiles on them if and when they get the technology, and they could build large numbers of a true intercontinental bomber without penalty. There is no benefit whatever in this course for the national interest of the United States.

In conclusion, Mr. Chairman, on the merits, I do not recommend many of the alternatives on this chart. I would be willing to support the first plus one of the middle two if that becomes the necessary political price for SALT. And I challenge any and all SALT opponents to tell us how they believe the Backfire picture would be improved if SALT II were rejected.

DOWNEY CALLS HEAVY ICBMS A LIGHTWEIGHT ISSUE

WASHINGTON.—Rep. Thomas J. Downey (D-NY) today described Soviet heavy ICBMs as "a lightweight issue" which should not be allowed to interfere with ratification of the SALT II treaty. Testifying before the Senate Foreign Relations Committee, Congressman Downey pointed out that Soviet heavy ICBMs supply only 1232 ICBM MIRV warheads above the 4920 the Soviets could have if SALT II permitted them no heavy ICBMs. Since only 2318 can be effectively used in an attack against U.S. missile silos, heavy ICBMs are of no significance to the Soviet threat against U.S. ICBMs.

Nor are they significant to the survival of U.S. bombers and missile submarines, Downey argued, since "no number of ICBMs can compensate for the absymally poor Soviet capability to locate our missile submarines, and no number of ICBMs can compensate for the fact that all ICBMs are too slow to threaten our bombers and cruise missile carriers."

Addressing those senators who nevertheless were concerned about heavy ICBMs, Downey suggested they should be the strongest supporters of SALT II, since it limits Soviet heavy ICBMs four different ways. If the treaty is not ratified, Downey said, continuation of present deployment patterns will permit the Soviets to increase heavy ICBM missiles 262 percent, throwweight 243 percent, megatons 322 percent, and warheads 435 percent above the SALT II permitted levels. Downey described the warhead increase as particularly significant, in that it would preclude deployment of a survivable U.S. MX ICBM in a multiple-aim-point mode.

Text of Downey's statement follows:

"HON. THOMAS J. DOWNEY BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, SEPTEMBER 5, 1979

"HEAVY ICBMS: A LIGHTWEIGHT ISSUE

"Mr. Chairman, when I first took an interest in strategic weapons upon entering Congress five years ago, I was struck by the amount of disagreement among the experts. I found some highly qualified people insisting U.S. strategic forces are inadequate while others, equally qualified, insisted they are more than adequate. Further, I found that these disagreements rarely involved mis-estimation or deliberate mis-representation of the facts. Rather, the differences of opinion almost invariably stemmed from selection of facts; that is, from the choice of which yardstick to use. I expect your Committee has had the same experience in the course of its hearings on SALT II.

"Mr. Chairman, I submit that most of the difficulty can be resolved simply by deciding to judge strategic capability in terms of damage inflictable upon real targets, rather than by the more abstract, academic and inbred yardsticks which permeate the debate. After all, the purpose of strategic force is not merely to exist but to destroy, or to threaten to destroy, real-life targets.

"If we thus examine the Soviet strategic arsenal in terms of damage inflictable upon real targets, we find that the presence or absence of 308 heavy ICBMs, within the context of SALT II is of no significance. I am aware that Senator Baker disagrees with this, and believes that if the Soviets had no heavy ICBMs we would not have a silo-vulnerability problem. I look forward to a constructive discussion with him this afternoon.

"I will begin by addressing that specific issue.

"The most modern and effective versions of the Soviet heavy SS-18 and the medium SS-19 have been reported to carry the same warheads; the only difference is the heavy carries ten of them while the medium carries six; these limits are locked in concrete by SALT II.

[Chart not printed in RECORD.]

"My first chart indicates by the lower hatched area the optimum number of warheads needed for a Soviet attack against Minuteman. This is based on two warheads per target plus 10 percent extra to compensate for unavailable missiles.

"A number of SALT opponents have expressed the view that SALT II should limit the Soviets to 150 heavies rather than 308. I have gone them one further, and have considered the consequences of dropping the heavy ICBM limit all the way to zero. This is indicated by the combination of the lower hatched and clear areas. As you can see, under these circumstances the Soviets would still have over twice the optimum force. In fact, they would have enough to target three warheads per silo, and to target our launch control centers as well.

"Heavy ICBMs, as Senator Biden demonstrated back in July, do nothing but add to the surplus. This is represented by the hatched area at the top. And just as heavy ICBMs add nothing to what will eventually be a high Soviet capability to destroy our silos, they also add nothing to the very low Soviet capability to destroy the rest of our strategic force—which is several times what is needed to devastate the Soviet Union. No number of heavy ICBMs can compensate for the abysmally poor Soviet capability to locate our missile submarines. No number of heavy ICBMs can compensate for the fact that all ICBMs are too slow to threaten our bombers and cruise missile carriers.

"It may perhaps be argued that aggregate hard-target lethality is a better measure than numbers of warheads. If this is the case, the significance of heavy missiles is even weaker. It is interesting to note that the lethality impact of a total heavy ICBM prohibition can be washed out by a mere 12 percent accuracy improvement, which historically has taken us about one year to achieve; presumably the Soviets are moving at about the same pace from their lower starting point.

"There are those who concede the military non-significance of heavy ICBM's, but who nevertheless are concerned that SALT permits the Soviets something which is denied to us.

"Mr. Chairman, this is an academic debating point. The provision in question is Paragraphs 1 and 3 of Article IV, which deal with heavy fixed missile launchers. The U.S. Air Force has no interest in building fixed ICBM launchers of any weight. Let us now consider the real penalties we would incur if we were to reject SALT II for the sake of this mirage inequality.

[Charts not printed in RECORD.]

"On the left, we have Soviet heavy ICBM capability under SALT II: 308 missiles, ten warheads each, maximum throwweight about 6800 kg. per missile.

"Let us now ask, if we were the Soviets and the U.S. rejected SALT II, what could we do and what would we do?

"We would not reduce our heavy ICBM force below the SALT II level. But we could make a number of additions to this force.

"First, we could trot out the 308 SS-9 older heavy ICBM's which SALT II is now forcing us to retire as we deploy SS–18's. In a matter of months and a very low cost, we could have these missiles deployed on above-ground soft launching pads. Given a bit more time and money, we could put these missiles into the SS–18 silos and softmount the SS–18's as a first strike counterforce, while retaining the SS–9's for third-strike countervalue. And given about three years—still well within the SALT II period—we could have silos built for all these missiles.

"Second, we could refuse to stop SS–18 deployment at 308, but simply continue to produce and deploy them. The posture statements of the Joint Chiefs of Staff suggest an SS–18 deployment rate of about 100 per year. Extending this until the end of the SALT II period would produce about 500 additional SS–18's. In the context of the traditional Soviet make-work attitude toward their missile design bureaus, the effective cost of this option would be zero.

"Third, we could increase the number of warheads on each SS–18. 30 or 40 warheads per missile presents certain difficult technical problems and would probably not be a good idea. But 20 per missile presents no major problems and allows each warhead to be comparable to the U.S. Mk. 12A, which is an excellent size for a counterforce first-strike mission. This option involves some serious development work and is moderate in cost.

"Finally, we could build an entirely new missile, somewhat larger than the SS–18. This would be a high cost option and would require several years' development, but it is far from impossible.

"Now let's look at what this will produce in terms of static capability.

"If we follow the counsel of those who would have us reject SALT II because of heavy Soviet ICBM's, here is what can happen to the Soviet heavy ICBM force.

"Deployed missiles can increase 262 percent.

"Throwweight can increase 243 percent.

"Megatons can increase 322 percent.

"Warheads can increase 435 percent.

"I emphasize that these calculations are conservative in a number of respects. No allowance is made for a new super-heavy missile, since I have seen no unclassified specifics on it. And full allowance is made for the fact that in some respects these improvements are antagonistic; for example, fractionation decreases megatonnage; if the Soviets decide to maximize megatons they can do much better than I have indicated here.

"I will now deal with two objections which may be made to the foregoing analysis.

"First, it may be argued that we don't know the Soviets would do these things. That is true. It is conceivable that, following SALT II rejection, the Soviets will voluntarily observe the treaty we have refused to ratify. It is conceivable that they will break with all past practice by voluntarily retiring ICBMs while they are still functional and effective. It is possbile that they will break with all past practice by voluntarily closing down an ICBM asembly line even though it is turning out viable products.

"All of these things are possible. But anyone who believes them to be probable has a faith in Soviet pacifism which I cannot share.

"Second, it may be argued that the static measures I have cited are not good measures of damage to real U.S. targets. This is true of the first three measures—as, indeed, it is true of all heavy ICBM capabilities under SALT II. But it is not true of warheads.

"By increasing the number of hard target warheads, the SALT opponents will hand the Soviets the ability to destroy the MX/Multiple Aim Point system we are now proposing to build.

"Mr. Chairman, I do not personally support this system. While I see some strategic utility in its survivabiilty, I do not regard a survivable ICBM as being worth the cost. There are those who disagree with me on this point, and I respect both their sincerity and their judgment. In any case there is no doubt in my mind that, should SALT II be ratified, they will prevail and we will get MX in a multiple basing mode whether I support it or not.

"But I cannot understand how anyone can support MX and oppose SALT II at the same time. With the deployed warhead cap provided by SALT II, the Soviets are limited to 3080 heavy ICBM warheads. We can with high confidence build a system which presents them with significantly more than that number of launch points. We can then extend this limit into SALT III—hopefully we can reduce it somewhat—and ICBM survivability will continue.

"But if SALT II is defeated, the Soviets can increase their number of heavy ICBM warheads fourfold by 1985. Of course, this doesn't mean the cost of a basing system to match it will go up fourfold; there are economies of scale. But it does mean that every time we build another launch point the Soviets can deploy another warhead, and the Secretary of Defense will tell you the cost of this operation to them is not prohibitive. So no matter how much we spend and no matter how much we build, we cannot have a survivable ICBM unless we have SALT II.

"Mr. Chairman, I recognize that many who would describe themselves as "hawks" are in a difficult position. On the one hand, they can serve national security as they see it, and take SALT II as the price of MX. On the other hand, they can serve ideology and oppose arms control with the Soviets—but the price will be the abandonment of all hope for a survivable multiple-aim-point ICBM.

"I urge any who support MX and oppose SALT II to focus hard on the fact that you cannot have it both ways. And I urge them to focus on the fact that there is no way to improve the heavy ICBM problem, as they believe it exists, by rejecting SALT II."

STATEMENT OF HON. HAROLD BROWN, SECRETARY OF DEFENSE, BEFORE THE COMMITTEE ON FOREIGN RELATIONS OF THE U.S. SENATE, SEPTEMBER 19, 1979

Mr. Chairman and members of the Committee, I welcome this opportunity to discuss the FY80 Defense budget and our military posture in the context of the SALT II Ratification hearings. The Defense budget is the concrete and immediate expression of our defense policies and programs. It provides the basis for our national defense capabilities during the near future.

Arms control is but one side, albeit an important one, of the national security coin. Quite understandably, therefore, these SALT II ratification hearings have now turned also to a broader consideration of both the arms control aspects and the defense policy and program aspects of our National Security Policy. Defense budgets and our arms control policy can be best understood in a context that involves them both. In turn, the overall national security policy of the United States can be properly evaluated only in the context of the policies and programs of our allies, the national security objectives of the United States and its allies and the challenges posed by our adversaries. Further, we must not only consider these "strategic" or international factors in our defense planning but also the "structural" or domestic context of our decisions. That context includes our domestic strengths like technology and skilled manpower and our domestic constraints such as inflation, energy and competing budgetary priorities.

As you know, the President announced last week that he intends to meet the mutual commitment of the Alliance to a 3 percent real increase in defense spending annually by submitting a $2.7 billion amendment to the FY 1980 budget. This amendment is required to compensate for the fact that inflation has exceeded the estimates which were built into the FY 1980 defense budget in such areas as higher fuel costs, caused by the OPEC decision to raise prices, depot maintenance cost increases, transportation of goods, and more adverse foreign exchange rates. All of these changes have already occurred and the increased costs are certain. Increased fuel costs alone account for nearly one third of the $2.7 billion dollar amendment. These developments could not appropriately have been included in the budget when it was presented to Congress in January. Although these cost increases are unpleasant, they must be met by budgetary increases if we are to preserve the integrity of our commitment to a 3 percent annual real increase in defense spending.

Meeting this commitment is of fundamental importance to our national security. For the past 15 years, Soviet spending on military forces has been increasing steadily, while our own has actually declined during that period. With our allies, we have pledged to reverse the trend, and instead make modest, but sustained and significant increases in our spending. As I will explain in more detail in the balance of my statement, that increase, coupled with the efforts of our allies and with a more efficient allocation of our spending, will enable us to continue to meet our objectives, not just in strategic forces and NATO, but in the Pacific and worldwide. If we fail to fulfill our responsibilities, other allies—virtually all of whom face problems of inflation and competing demands for funds no less pressing than our own—will be far less likely to meet the goal. Our efforts to get our allies to do their part will be fatally undermined if we, as leaders of the Alliance, don't meet the 3 percent ourselves.

Today I would like to outline to you the rationale behind our goal of that three percent real increase in defense spending. As is often the case, some members of this Committee and other members of Congress and the public would prefer larger increases. There are others who believe that our proposal is excessive. My own judgment is that in this case the correct choice at this time falls in the middle and that three percent is a proper figure at this time, not because there is some great magic in that number, but because the programs that such a real growth rate will finance are adequate to meet our objectives and arrest the dangerous trends we see.

THE SOVIET CHALLENGE

The Soviet Union is certainly our largest and most formidable competitor on the international scene. It is the only nation which can thereaten the very survival of the United States and our vital Allies in Europe, Asia and the rest of the world. Comparative defense spending is only one indication of overall strength. By most measures the United States is the strongest nation in the world. No other country—certainly not the Soviet Union—can compete with us in economic power, political stability, technological capability, or appeal as to way of life and international policies. But military power is important. In the light of Soviet military power, we must look at the relative trends in US and Soviet military spending. If we measure our recent defense spending against that of the Soviet Union we find the trends disturbing. Soviet defense spending has increased steadily each year for more than 15 years. As the Soviet gross national product has grown, so has its defense effort, which has remained a roughly constant percentage of that GNP. While the exact size of the Soviet defense budget is hard to measure precisely, we know it would cost the US 45 percent more than our present budget to do what the Soviet military establishment is doing this year.

Most fundamentally, the trend of continued real growth is unmistakable. Soviet spending has not responded to US restraint. When we built, they built; when we cut back on our spending, they continued to build.

The discrepancy in our efforts is disturbing, even more in terms of investment than in annual operating costs. Indeed in many areas the US has been living on past investments. For instance, in the strategic forces area the Soviets have been outspending us two or three to one over the past decade and have as a result effectively reached a level of overall parity. A reasonable worldwide balance still exists because of our past efforts, but unless we act as the program provides to increase our efforts, the difference in current effort would soon be reflected in an unacceptable imbalance. In order to maintain essential equivalence in the strategic area we must have a judicious increase in spending, even with SALT II. If SALT II does not come into effect, significantly larger increases in spending would be needed, with no increase in security and perhaps dangerous increases in risk.

Our task is to maintain a balance, reflecting our objectives, priorities, and advantages—not to duplicate Soviet forces. We need not, therefore, indeed we must not, simply try to match the Soviet dollars for rubles, tank for tank, man for man. What we must do is deploy the forces that will allow us to maintain a countervailing strategy and capability to prevent the Soviets—or any other adversary in this difficult and dangerous world—from jeopardizing our vital interests or those of our allies. The security needs of the US and the Soviet Union are not symmetrical. Our naval power projection and sea lane protection costs, for example, have little counterpart in Soviet military spending, just as the Soviet strategic air defense or border defense costs have little in ours. Consequently, we cannot conclude from the differences in US and Soviet defense spending what the level of our defense spending should be.

What does determine our defense budget needs is the cost of those programs needed to meet our national security objectives considered in the context of the threats posed to those objectives by the Soviet Union or other adversaries. In judging those needs we must take into account contributions of (as well as responsibilities to) our allies and the limitations imposed on the threat by arms control agreements. Moreover, we must come to a judgment as to the degree to which we must rely on defense programs to meet our national security objectives as opposed to political or economic means.

The United States is not called upon to shoulder the defense of the free world alone. Our European and Asian allies make a major contribution to our security as we do to theirs. Our NATO allies, for example, provide over 90 percent of NATO's in-place peacetime ground forces and 75 percent of NATO's in-place tactical air. Moreover, in real terms, NATO Europe's total defense spending has risen significantly in the years since 1970, while ours fell. We have taken the military potential of our allies into account in determining the size of the FY80 defense budget, and in setting forth our commitment to 3 percent real annual increases.

Our assessment of the various considerations which I have outlined has led us to the conclusion that the program we proposed and a three percent real annual growth in defense spending to fund it is the proper amount to be devoted to defense programs in support of our national security objectives. I would like now to review briefly the rationale for each major area of defense responsibility and outline how we propose to use the funds in the defense budget to meet the challenges that we face.

I want to begin by reiterating that the FY80 budget, including the amendment announced last week by the President, provides for a real rate of spending growth for FY80 of 3 percent after full allowance for inflation. In FY81 we plan for a similar real increase. That budget is still being developed, so that it would be premature to go beyond noting that it will continue the broad thrust of our defense program and to support our mutual commitment to our allies. These increases are required to meet our defense needs. They are not a concession or a trade to win approval for SALT.

STRATEGIC FORCES

As outlined in my Defense Report of last January, our strategic objectives are:

Deterrence
Stability—both crisis and arms control
Essential equivalence.

In the course of these hearings we have outlined the various programs we have underway to continue to meet these, our highest priority objectives. Dr. Perry has recently testified on how the deployment of the MX missile in a survivable basing mode fits into our strategic force plans. We are also improving our air breathing (bomber and ALCM) forces and our SLBM force. As to the air-breathing leg of the triad, we are advancing in the development of air launched cruise missiles. The competitive flyoff between two versions of the air-launched cruise missile (ALCM) is in progress, and our first B-52 ALCM squadron will come on line in 1983. By 1985, 80 percent of our B-52Gs will be ALCM equipped, and the remainder soon thereafter. Finally, a new Cruise Missile Carrier aircraft is planned to be ready by 1987—or even earlier should the need arise. The first of our new and more capable Trident I submarine launched ballistic missiles will be deployed next year. The following year our first 24 tube Trident submarine will join the service. It will be followed by one SSBN annually through 1983 and two boats every three years thereafter.

The first priority in the defense of the United States is to insure that no nation will be tempted to use nuclear weapons against us, our military forces wherever they might be, or against our allies or other countries whose security is important to us, and to ensure that our nuclear capability contributes to our security and that of our allies from other forces or threats against our interests.

In addition to maintaining deterrence and stability with the Soviet Union, the United States has adopted both a strategic policy of essential equivalence or rough parity between the strategic forces, and a countervailing strategy involving the acquisition of the forces needed to deny the Soviets achievement of any of their national objectives they might seek through nuclear attack, or to deny them any gain in that direction without offsetting losses. Essential equivalence is intended to deny the Soviet Union any political or military advantage that might be derived from perceptions of relative capabilities or the actual use of nuclear weapons.

President Carter has already indicated that the spending on strategic systems will be boosted in the FY 1981 defense budget. The modernization programs in this and next year's defense budget are designed to maintain the reliability, survivability, and defense penetration capabilities of our strategic retaliatory forces and our corresponding command control communications capabilities, and will insure that their contribution to stability and credible deterrence remains undiminished for the foreseeable future.

There are a number of principal threats which potentially could upset the stability of the nuclear balance. The first is unrestrained nuclear competition which would result in vastly increased defense budgets and continuing insecurity. SALT II, which is now pending before you, will permit us to maintain the nuclear balance at lower levels, with both sides limited to fewer strategic nuclear delivery vehicles than the Soviets could deploy in the absence of an agreement. Let me emphasize also that SALT will in no way hinder our effort to maintain essential equivalence or to acquire and maintain the forces necessary for our defense needs.

A particular threat to US strategic policies is the growing vulnerability of US ICBMs in the early to mid-80s. This vulnerability is the product of the expansion and modernization of the Soviet ICBM force. The Administration proposes to counter the growing vulnerability of our land-based systems through both arms control and strategic programs. On the one hand, SALT II will limit the extent of the threat to US land-based systems. On the other, the decision has been made to proceed with the full-scale engineering development and deployment of the MX in a mobile basing mode. The MX will have an initial operational capability in 1986, and be fully operational three years later. It will insure that an adequate number of our ICBMs would survive a Soviet preemptive attack.

Another challenge we face is the need to modernize some of our aging systems. In addition to MX, we are modernizing both the submarine and airbreathing legs of our Triad.

I think it appropriate at this point to address specifically a false dichotomy presented by some critics of our strategic programs in general and SALT II in particular. They pose a scenario in the early to mid-1980s when the theoretical vulnerability of our land-based ICBMs will put us in a position to be blackmailed. The claim is that a nuclear attack on our ICBMs by a small number of highly accurate MIRVed Soviet ICBMs would present the President with a dilemma of surrender or the equivalent of a suicide because, the US would be left with no active response but to devastate Soviet cities and thereby assure our own devastation.

In connection with this issue, let me emphasize that the vulnerability of our ICBMs is not equivalent to the vulnerability of the US or of our deterrent. In particular, even after a hypothetical loss of virtually all of our ICBMs, we would not face the supposed dilemma of surrender by inaction or unleashing an all-out attack on Soviet cities, our own cities hostage to a Soviet counter attack. The problem of ICBM vulnerability is real and requires solution, but the crisis of deterrence forecast by the purveyors of such a false dilemma is imagined. Even under the most pessimistic scenario, the United States would have several thousand surviving warheads including our remaining submarine bomber and cruise missile, and even our depleted ICBM force. These would allow us a number of counter-military, counter-industrial and urban options, not just a massive attack on population centers. We could, for instance, target remaining Soviet strategic forces, theater nuclear and conventional military targets, and selected industrial and control targets in reprisal and still have sufficient warheads in reserve to deter a counter-city exchange.

As to the political or psychological impact of the Soviets being relatively more capable for a period of several years of threatening one leg of our triad than we are of theirs, I think this has been exaggerated. First, we are and will be increasing our capability in the other two legs of our strategic triad. Second, we will have significant and growing capability against that element of their force.

In terms of the political impact of ICBM vulnerability, I would agree that perceptions count. But because perceptions count, a program to achieve a future capability is also of political significance, not only an actual in-place capability. For instance, in large measure our estimate of our ICBM vulnerability is based on calculations of 308 SS-18s with 10 RVs each. Yet the Soviets have just begun deploying the 10 RV version of the SS-18 and still have some 100 SS-9 silos left to convert to SS-18s. A significant portion of their 308 "heavy" ICBMs are single RV SS-9s and the vast majority are now SS-9s and single RV SS-18s. Yet we rightly pay great attention to their projected future capability. Because the ALCM, the Trident, and now the MX programs are real ones, we will benefit from some of the same anticipatory effect.

In sum, with SALT we can meet strategic objectives, and we have the programs to do it. Without SALT we face increased uncertainties, increased risks and, in all likelihood, increased costs.

NATO

The NATO alliance shares the common objective of maintaining sufficient military strength to deter aggression and, should it be necessary, of being able successfully to defend the territorial integrity of the Alliance. The adequacy of NATO's capabilities to accomplish these goals must be evaluated in light of the capabilities of the Warsaw Pact, but this does not mean NATO forces have to mirror Warsaw Pact forces in size or composition. It would be too simplistic to judge whether NATO's defenses are sound in terms of equipment and spending statistics alone. Nevertheless, the continued modernization and expansion of the Warsaw Pact forces must be a matter of concern.

The Conventional Balance in Europe—Over the last ten years, Soviet and non-Soviet Warsaw Pact forces have grown in size and improved qualitatively. Approximately 150,000 men have been added in the last decade to the Soviet forces stationed in Eastern Europe, including the 70,000 men and five divisions deployed in Czechoslovakia since 1968. During this same period, the traditional Pact lead in tanks has widened and the Soviets now have some 45,000 medium tanks dedicated to the NATO area. Although there has only been a slight increase in numbers of their tactical aircraft since 1973, most of the Soviet frontal aviation fighters and fighter bomber forces are models which have been introduced since 1970. They have significantly improved radius of action, avionics and support systems, ordnance, and reconnaissance sensors. Soviet military doctrine continues to emphasize the virtues of cover, deception, and surprise. Soviet tactics stress overwhelming firepower, shock, and rapid offensive movement. The qualitative and quantitative changes in Warsaw Pact capabilities make it increasingly likely that the Pact could bridge the gap between doctrine and practice.

The Warsaw Pact build-up, however, has now had a bracing effect on NATO. The defense plans which have been adopted by the alliance—if they are fully implemented—promise to offset, and indeed to overshadow, the Warsaw Pact's gains. In 1978 the NATO heads of government adopted a Long Term Defense Plan with more than 120 specific measures to improve NATO's conventional forces. This decision was paralleled by agreement on a common aim of an annual real increase of 3 percent in the defense spending of each member nation. By and large, the NATO countries have honored this pledge. In fiscal year 1978-9 defense spending of the other NATO states averaged an increase of 2.9 percent.

The LTDP provides across the board improvements in NATO capabilities. Among the most important initiatives are plans significantly to improve NATO's ability to respond to a short warning attack. Specific programs to increase NATO readiness include increasing the number of tanks in Europe, improving NATO anti-armor units, modernizing and increasing holdings of air to surface weapons, improving NATO defenses against chemical warfare, and increasing NATO capabilities to upload ammunition at short notice.

U.S. efforts have proceeded in tandem with the LTDP. In the last two years, we have added 47,000 anti-tank guided missiles to our NATO inventory, have begun upgrading our M-60 tanks, have introduced more helicopters, and have added two more artillery battalion equivalents to those already in Europe. U.S. forces stationed in Western Europe have increased by 9,500 since early 1975. The current five year defense plan provides for the acquisition of 3900 XM-1 tanks and 3400 armored personnel carriers by the mid-80s.

A second LTDP objective is to upgrade NATO's capability for rapid and effective reinforcement of Allied Command Europe through early reinforcement and rapid mobilization. Central to this effort is the U.S. commitment to double by 1984 and triple by 1986 (as compared with the present rate) its ground reinforcement rate in the first ten days after mobilization, by pre-positioning equipment in Europe. We are also funding programs which, by 1985, will result in a 50% increase in the number of U.S. based Air Force tactical aircraft that can start deploying to Europe on two days notice.

As a result of U.S./allied force, improvement programs and the LTDP, NATO will significantly strengthen its conventional forces over the next few years, especially its ground and air forces in the Central Region. The Warsaw Pact also will continue to improve its forces, but present trends suggest that if NATO's current programs are fully funded, the Alliance should make a net military gain by the mid-1980s. The primary reason for the net gain is that NATO's programed dual-effort of modernizing its forces and accelerating the ability rapidly to deploy U.S. reinforcements to Europe more than offsets Warsaw Pact improvements, which derive from modernization alone.

However, full implementation of our defense programs is a fundamental requisite for a net gain. In this respect, failure to approve the full 3 percent increase in the FY80 defense budget would undermine the momentum behind the LTDP. Should the U.S. default, the other NATO countries can be expected to follow suit. If NATO falls short in its force enhancement effort, the result will be at best no improvement in an uncomfortable military balance. A more likely result is a serious deterioration in the Alliance's security.

Theater Nuclear Forces—NATO is also taking steps to improve both its battlefield and longer-range theater nuclear weapon systems. NATO's TNF policies are designed to provide a credible deterrent both to theater nuclear and to overwhelming conventional attack. These policies require that our theater nuclear forces be diversified so that they can pose the risk of a nuclear response to any level of Warsaw Pact aggression, and sufficiently survivable so that they do not invite a Soviet preemptive attack.

For at least 20 years the Soviets have maintained a nuclear threat pointed at Western Europe with their SS-4 and SS-5 ballistic missiles and their medium range BADGER bombers. Over the past ten years, the Soviet Union has improved and expanded its theater nuclear forces. Perhaps the most dramatic and potentially dangerous improvement in Soviet long-range theater nuclear forces has been the deployment of the Backfire bomber and the mobile, MIRVed SS-20 IRBM. In response, we and our NATO allies are engaged in a number of TNF modernization and improvement efforts which will offset the Soviet advances.

Both to meet the threat posed by the long-range Soviet TNF and to ensure that the Soviets do not perceive a gap in NATO's range of response and escalatory capabilities, NATO is engaged in a major review of its own long range TNF systems and of possible arms control approaches involving TNF. Extensive examinations and consultations on force sizing, basing and other issues are entering their final stages, and we are aiming at Alliance decisions on modernization and arms control by the year's end. The US strongly supports these efforts to strengthen NATO's defense posture and security. The leaders of the NATO nations whose support for this effort is central to a decision by the Alliance to move forward on LRTNF modernization have made it clear that failure to ratify SALT II would have a grave, and probably fatal, effect on those modernization plans. Candidate systems for modernizaiton include ground launched cruise missiles and the PERSHING II ballistic missiles. Both systems are mobile (and therefore survivable), have high probabilities of penetrating to their targets, and are extremely accurate.

We are also in the process of modernizing our short and medium range systems by introducing weapons which provide improved range and accuracy, greater flexibility, and enhanced safety and security. The aggregate result of these improvements should enhance the credibility of NATO's flexible response strategy in Soviet eyes, strengthen deterrence, and increase NATO's capabilities to respond to Soviet aggression.

Before turning to other areas of the world I want to speak directly about the credibility of the US commitment to the defense of Europe. To put this issue in historical perspective, I would note that it is a concern that has surfaced periodically in our relation with our Allies. It arose after WWII during the period of the Greek Crisis, the Czech coup and Berlin blockade. We responded with Point 4, the Marshall Plan and the North Atlantic Treaty. It arose again after the Soviet atomic explosion of 1949 and the Korean invasion and we responded with the creation of the integrated military structure—SHAPE—and the basing of U.S. combat forces in Europe. It arose in the mid 1950s as a result of the Soviet thermonuclear capability and long range bomber developments and we responded with tactical nuclear weapons and dual-key nuclear systems under programs of cooperation.

It arose during the missile gap and 1961 Berlin crisis and we responded with the commitment of Polaris and later Poseidon warheads to SACEUR, the adoption of MC-14/3 and the creation of the Nuclear Planning Group. It is therefore not surprising that the issue has come up again as the Soviets have begun to attain strategic parity. We are responding again, not only with the LTDP and TNF modernization efforts but with the increased vigor of our own strategic programs.

But even as we consider our responses, it is important to recognize that part of the questioning of our credibility is unnecessary handwringing that rests on the false dilemma I discussed earlier. We would not, as I have stressed earlier, be faced with a cruel choice where the only possible way of using our strategic forces for the defense of Europe would be by a massive attack on Soviet cities, virtually assuring the destruction of our own nation. Our strategic—and theater—nuclear forces and our conventional capability are and will remain (as they must) regardless of the circumstances of an attack capable of defeating the purposes of the attack or inflicting damage out of proportion to the gains to be expected and therefore capable of deterring an attack. This is the essence of flexible response and of a countervailing strategy.

Let me state quite clearly for all to hear—including those in Europe and this country who should know better but still tend to question our commitment to the defense of Europe: the United States is committed to the security and integrity of Western Europe not only because it is in the interest of Europe but because it is in the vital interest of the United States. This has been the fundamental bedrock of U.S. national security policy since at least 1947 and arguably since 1917. This is our policy because any threat to Western Europe is a threat not only to our cultural and intellectual roots but a vital threat to our economic, political and military security. This has been our policy. It is our policy.

And we have and will continue to have the military means to secure that objective. In particular, the commitment of U.S. central strategic forces to NATO security remains valid. President Carter reaffirmed that commitment early in his administration:

"Let there be no misunderstanding. The U.S. is prepared to use *all* the forces necessary for the defense of the NATO areas."

Parity has not changed the validity of that commitment. It has never been a commitment free of risk, and ever since the Soviet Union acquired substantial and survivable nuclear forces, those risks have been great indeed. Not for decades has America's commitment to Europe depended on—or enjoyed the luxury of—an ability to limit to low levels the damage to the U.S. from an all-out Soviet attack.

It is a grim but inescapable aspect of nuclear reality that in the nuclear era deterrence depends much more on our ability to use nuclear weapons to impose losses on an enemy as on our ability to limit damage to ourselves. There are, of course, great uncertainties about what would happen if nuclear weapons were used. No one can be confident in his predictions how a nuclear exchange would evolve. Indeed, this uncertainty, coupled with the horrible results sure to follow from maximum escalation, is an essential element of deterrence.

However, US nuclear forces, with parity as before parity, do more than dramatize the risk of uncontrolled escalation. They can impose costs on the Soviets in excess of any possible gains on their part from aggression. With increasing numbers of warheads, the US will have an increasing capability for flexible responses against a wide variety of target sets. Such counterattacks could destroy both military and economic targets of very high value to the USSR and would still leave the US with sufficient forces to deter or execute an ultimate massive urban industrial exchange in such a hypothetical scenario. The objective of having the capability to impose very high costs on the Soviets, if necessary, while seeking to continue to control escalation, has been for many years the central role of US central strategic forces in the NATO doctrine of flexible response. It remains so, even as we all recognize that there can be no assurance that nuclear war would not escalate to a general exchange fatal to both sides.

The inherent and growing flexibility of US forces will continue to present the Soviets with the prospect of losses outweighing their gains in a wide range of levels of attack. Therefore, even before the Minuteman vulnerability problem is solved by the M-X deployment in its survivable basing mode, the flexible response doctrine and the commitment of US central strategic forces to NATO defense remain viable.

Attention to the capability of US forces to destroy military targets is not a shift in our strategy but a further, continuing process of implementing that strategy effectively. US forces have always had substantial counter-military capability as well as a counter urban industrial capability. We have always regarded it as important in case of a war to be able to target the forces that could do damage to the United States and our allies. We have done this even while we have recognized that it is not possible for either side to destroy all, or even most, of the forces of the other side that could inflict massive damage.

This attention to military targets does not contradict or weaken deterrence. It supports and strengthens it. It is, we think, important as a matter of deterrence, to be able to target not only urban industrial targets but also military targets that are valuable to our potential adversaries. The prospective loss of those potential military targets, as well as urban industrial damage, may well serve to deter a war.

RAPID DEPLOYMENT FORCES (RDF)

Although a NATO/PACT conflict is the most serious contingency which the US must plan for, it is far more likely that the US will find its interests challenged in other parts of the world either by the Soviet Union or by some other power of circumstances. The disruption of oil supplies caused in part by the turmoil in Iran was a vivid reminder of how US interests can be jeopardized by events in the third world. The Middle East, Africa, and Asia remain areas of potential conflict. The US must maintain the capability to dispatch appropriate forces to remote places in support of our friends and allies. As has been the case since 1969, our policy is to maintain sufficient general purpose forces in conjunction with our allies so that we can deal simultaneously with one major contingency (of the magnitude that could arise in Central Europe) and one lesser contingency.

We are engaged in a programmatic and planning effort to enhance U.S. capabilities to rapidly deploy forces to distant parts of the world, the details of which I will be discussing later. The first step in this effort has been to identify units which are not earmarked or assigned for early deployment in the event of a NATO contingency for use as rapid deployment forces. Our goal is to have forces available which can be used to respond to a limited contingency or send to a second theater during a NATO war without degrading NATO defenses.

Let me take a moment to correct a popular misconception. We do not intend to set up a rapid deployment force as a separate unit of a given size. Instead we will have rapid deployment forces which would be available for use in limited contingencies. The forces designated for rapid deployment would constitute a reservoir from which a specific force would be drawn and tailored to meet the requirements of the contingency at hand. The army component, for example, could range from a platoon of rangers up to a multi-division corps, numbering over 100,000 men with supporting units. The army elements would operate in conjunction with air force, marine, and naval elements as appropriate.

As part of the RDF concept, we plan to program support units and supplies to enable our limited contingency forces to operate for extended periods in austere environments.

As the name implies, rapid response is likely to be crucial in a limited contingency. The defense budget, therefore, gives a high priority to improving U.S. mobility forces.

ASIA

Asia, like Western Europe, is of vital concern to the United States. Our defense policies are designed to preserve regional stability in Asia, to deter aggression in Korea, and to protect U.S. interests and the interests of our allies in the event of aggression.

In recent years Soviet forces in Asia have greatly expanded. In 1965 the Soviets had 20 divisions and 210 fighter/attack aircraft in the region. Today there are well over 40 divisions and more than 1,000 fighter/attack aircraft. Since 1976 the Soviet Pacific Fleet has received additional surface combatants to include the MINSK (a KIEV class aircraft carrier), the IVAN ROGOV (an amphibious assault transport) and several nuclear submarines.

Events, however have strengthened the U.S. position in Asia. We have gained significant advantages from normalization of our relations with the Peoples' Republic of China. Specifically, the ending of our confrontation with Beijing has freed U.S. resources and provided us greater flexibility in our global planning. Beijing also supports a strong NATO and no longer seeks to undermine the U.S.-Japanese defense relationship.

During the past year, we have strengthened our relations with the Republic of Korea. Although the North Korean Order of Battle was revised upward, I must note that this was not the result of a sudden increase in North Korean forces. Rather, as a result of better analysis of intelligence data, we uncovered trends that were overlooked in the early and mid-1970's. South Korean capabilities are also increasing. The share of GNP which they devote to national defense rose from roughly four percent in the early 1970's to almost 7 percent in 1977. For our part, President Carter has placed further withdrawals of U.S. combat forces in abeyance, and we have strengthened our air forces in Korea by deploying an additional F-4 squadron from CONUS last November.

U.S.-Japanese security relations are probably better now than at any previous time. Japanese attitudes toward defense matters have also changed, in part because of a growing awareness of the increases in Soviet military capabilities in the region. There is a growing public acceptance of the need for the Japanese Self-Defense Forces and the U.S.-Japanese Security Treaty.

The U.S. honored its pledge of over a year ago that it would maintain its military strength in Asia. We will continue to maintain significant forces in the Western Pacific to include the 2nd Infantry Division (whose deployment plans will be considered again in 1981), 10 squadrons of land-based fighter/attack aircraft, the Third Marine Amphibious Force including its organic air wing on Okinawa, and the 20 to 25 naval combatants of the Seventh Fleet.

THE NAVAL BALANCE

Historically, the U.S. Navy's two basic functions have been sea control and power projection. The ability to perform these functions is a requirement if the United States is to utilize the seas to support its national policies and to defeat the forces of any nation that would seek to deny such use.

U.S. defense policy is to utilize sea control and power projection to: 1) maintain the sea lines of communication (SLOCs) to Europe; 2) protect other essential SLOCs; 3) support allied forces on the flanks of NATO; and 4) support allied forces in the Western Pacific or other areas of the world. In short, we must be able to exercise maritime superiority wherever and whenever we are required to do so. The challenge to our ability to do this emanates from our most formidable potential adversary—the Soviet Union.

In the past we have seen the Soviet navy grow in size. However, since the mid-70s, the Soviet naval challenge has taken on new forms with an emphasis on qualitative improvements. Only two years ago the Soviet submarine force (including its cruise missile capability) was the principal naval threat to U.S. interests. However, the growing force of cruise missile capable BACKFIRE bombers assigned to Soviet naval air forces is becoming a serious threat to our naval forces, as I reported in January of this year.

For the future, we see the Soviet naval challenge continuing to increase—greater numbers of BACKFIRES, improved Soviet submarines and the emergence of Soviet V/STOL aircraft carriers such as the KIEV and MINSK.

We have designed our defense program in conjunction with those of our allies to meet these challenges and to enable us to carry out our basic strategy of maintaining sea control in areas important to our security, in the face of these threats.

We are building the AEGIS equipped guided missile destroyers, DDG-47s, to enable our battle groups to withstand the BACKFIRE cruise missile threat while carrying out their mission of sea control. AEGIS provides us with a major improvement in defense capability; one DDG-47 can handle many times as many cruise missiles as our current guided missile ships. We are in turn facing the Soviets with a cruise missile threat that will concern them, through the deployment of our HARPOON anti-ship missiles and the development of the new TOMAHAWK missiles.

These systems are not only capable of being launched from surface ships, but already, in the case of HARPOON, are being provided to our P-3 aircraft and our SSNs. The deployment of HARPOON will vastly increase our threat to Soviet ships. By the end of the program period we plan to have HARPOON deployed on a large number of surface, subsurface and air platforms, enabling us to threaten Soviet ships on millions of square miles of the ocean's surface.

We have taken steps, including the request for a new aircraft carrier in the FY 80 budget request, to maintain our sea-based air capabilities. The maintenance of 12 deployable aircraft carriers with their modernized air wings and associated escorts presents the Soviets with their greatest challenge at sea—their need to counter the US power projection capability.

A second response to the Soviet naval challenge is our effective anti-submarine warfare capability. We maintain a half dozen different ASW systems for use in a complementary manner. In the event of war, Soviet submarines would have to run a gauntlet of barrier, area and point defense systems on their way to interdict or attack our forces and again as they returned to port. Numerous DOD studies—including several done by the Navy—indicate the cumulative impact of our ASW systems, and those of our allies, to be capable of countering the Soviet submarine threat, though perhaps after a costly battle of some weeks or months.

We are continuing to utilize our technological edge in ASW as we program Surveillance Towed Array Sensor Systems (SURTASS) which will be employed by our new TAGOS ships and greatly increase our detection capabilities. Our Tactical Towed Array Sonar (TACTAS) will provide our ASW KNOX-class frigates and 963-class destroyers with greatly improved long range detection capabilities. Complementary to these systems is our procurement of the LAMPS MK III helicopters which will enable our surface ships to exploit their long range detections with weapons deliveries at extended ranges. The continued development and procurement of our CAPTOR mine will provide yet another threat to Soviet submarines as they attempt to egress through natural choke points such as the GIUK gap. The continued procurement of our attack submarines and the future development of a new, cheaper, but effective class of SSNs in the mid-80s also assures us that we will be prepared to meet any challenge the Soviets may present on the high seas.

CONCLUSION

I believe it fair to say that consideration of SALT II has been the occasion of the first in-depth post-Vietnam review of American defense policy and programs. The FY 1977 defense budget that the Congress approved in 1976—President Ford's last—when the first real increase in non-Vietnam defense budget authority in over a decade occurred, showed signs of an emerging view that more needed to be done in defense. The trend of increased real defense spending after a decade of decline has been made clear under President Carter in three successive budgets.

In part, this is a recognition of the increased Soviet threat. In part, it is in response to needs left unfilled during the anti-defense aftermath of Vietnam. In this sense, I believe this budget debate in the context of SALT II is a healthy sign for the vitality of our nation and its democratic process. I believe that the 3% proposed by the President provides the proper balance between what our defense contribution to our national security objectives should be and what is prudent in terms of keeping up our economic and international political strength and meeting our other pressing needs. To do more would risk adding to inflation and undercutting the emerging consensus for a defense effort. To do less would not only threaten essential US programs but also undermine the entire NATO LTDP effort. If SALT is rejected we may face a cruel choice between spending even more on strategic forces and risking the former effects or cutting into conventional forces to fund strategic programs and precipitating the latter. I therefore strongly urge you both to support the 3% real annual growth of President Carter's defense program and speedily to ratify SALT II. With both of these together we can satisfy our national security objectives in the face of real Soviet and other challenges in the years ahead. Unless we achieve both, we will face cruel choices and increasingly dangerous difficulties in the early 1980s.

STATEMENT OF HON. FRED C. IKLE, FORMER DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY BEFORE THE COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE, SEPTEMBER 21, 1979

Mr. Chairman, Members of the committee, the long debate about the new SALT treaty has become the vortex of a much larger debate. Like the deadly jousts of medieval knights that took the place of battles between entire armies, our SALT debate is both serious in itself and a surrogate for a broader conflict of views. Thus, the Senate now faces a double responsibility. Not only has it been asked by the President to give its advice and consent to this treaty, but it also is expected to act as the nation's jury on contending views for our national security policy and on conflicting interpretations of our relations with Russia.

This puts an added burden, both on the Senate's deliberations and on the Administration's defense of the treaty. But, Mr. Chairman, the Administration has brought this enlargement of the policy conflict upon itself. It was not necessary. SALT II could have been presented with greater modesty as to its purposes and accomplishment, with greater honesty regarding its flaws. And it was not necessary for the Administration to turn the SALT negotiations into such an all-consuming enterprise to which a great many other objectives became subordinated—ranging from our relations with Turkey to the premature hobbling of our cruise missile program in anticipation of the SALT restrictions.

It was not necessary for the Administration to sacrifice on the altar of SALT, realism and objectivity about the Soviet military threat. When the American people learn that Soviet defense spending continues to increase 4 to 5 percent each year, with or without SALT, and that the Soviets are spending three times as much as we on strategic arms, with or without SALT, then it does not make sense to the American people to argue, as the Administration does, that rejection of SALT II would bring about a new arms race. And when, despite these assessments by our intelligence community, our Commander-in-Chief says that "in nuclear weapons" both the United States and the Soviet Union "accepted the concept of equivalency," when the American people are told by their President that the Soviets "accepted" equivalence although they are spending three times more on these weapons than we, when such contradictions occur, Mr. Chairman, this creates a groundswell of anxiety about the philosophy that seems to drive our SALT policy, an anxiety about the realism and sense of direction of our national security policy that is now spilling over into these hearings. The Senate is therefore confronted not only with the question of amending this treaty, but with the larger task of amending our security policy, and amending the Administration's interpretation of the threat to our nation.

It is not convincing to the American people to argue that SALT II is needed in order to continue the "SALT process." During the ten years or so while we negotiated SALT, we have witnessed a massive stategic build-up by our adversary, a build-up that will continue during the lifetime of SALT II, essentially unabated. The Russians, of course, knew all along that we had been cutting back our strategic budgets and curtailed many of our weapons programs in the anticipation that they would exercise similar restraint.

Yet, we witnessed in this very period of our self-imposed strategic restraint a vast transformation in the global military balance—a transformation second in this century only to that of the 1930s.

We have been had, Mr. Chairman. We have been had by the "SALT process."

Hence, what we must now do is to redirect this process fundamentally, not—as the Carter Administration argues—continue it.

Mr. Chairman and members of the Committee, let me now turn to some brief comments on certain contentious issues of the treaty and on suggestions that have been made for dealing with them.

First, on the question of equality. The treaty does, indeed, contain inequalities favoring the Soviet Union; these must be rectified. One such inequality discussed in this Committee is the fact that the Soviets are permitted to keep over 300 launchers for their super-heavy missiles without the slightest reduction, while we are allowed none. This fact is important, neither because we would want such large missiles (we do not), nor because eliminating these missiles would solve our ICBM vulnerability problem (it would only alleviate it). The inequality is important because we must begin now to get rid of the large missiles if SALT III is to lead to the major reductions that the Administration hopes for. We were rebuffed in SALT II in our efforts to begin to reduce these missiles. If today, seven years later, we again accepted the Soviet contention that these missiles must not be reduced we would create an enormous obstacle for reductions in SALT III.

Now, as a justification for the heavy missile inequality, Administration spokesmen have offered the argument that it was a quid pro quo for the Soviets dropping their demand that U.S. aircraft overseas and French and British nuclear arms be counted in SALT. But then again we are given this same argument to justify the omission of the Backfire. Apparently this Soviet concession is so generous that it must count twice.

I want to examine the merit of this argument because you have heard it so many times. It is true that a large number of highly destructive nuclear offensive arms of less than intercontinental range are not covered by SALT. But it is false to argue that in an agreement covering the early 1980s the Soviet Union therefore has a legitimate claim for compensation in intercontinental arms. On the contrary, if all these medium-range arms were included, it is the United States and our allies who would have a claim for massive compensation:

The Soviet Union has some 600 older, medium-range ballistic missiles and is now adding several hundred SS–20s. On our side, France only has 18 medium-range land-based ballistic missiles, the United States has none; and France and Britain together have 128 SLBMs. The ratio for ballistic missiles, thus, is more than 5 to 1 in favor of Russia.

The Soviet Union has about 600 older medium-range bombers and can have about 300 Backfires under the treaty; but on NATO's side there are only 160 roughly comparable aircraft (U.S. and British medium bombers and the French Mirage). Again a ratio of 5 to 1 in favor of Russia.

Lastly, for nuclear-capable combat aircraft (land- and carrier-based) the ratio is roughly 1½ to 1 in favor of Russia.

Evidently, those who argue the Soviets made a concession by leaving our Allied nuclear arms and U.S. forward-based aircraft have a peculiar counting rule in mind: such arms are to be counted only if they can travel from Britain, France, and China to the Soviet Union, but not if they travel in the opposite direction.

Next, I want to make a point regarding the written statement on the Backfire that President Brezhnev handed President Carter. The problem I have in mind is not the fact that this statement is outside of the treaty. That, it seems to me, is a minor issue.

Mr. Chairman, I understand members of this Committee might favor a reservation to the Treaty, to the effect that the Soviet statements regarding the Backfire are "legally binding." For the production limit on the Backfire, such a reservation would express our determination to insist on compliance. This may be useful. But for the alleged capabilities of the Backfire, the Senate reservation would create an awkward problem. The Soviet assertions as to these capabilities, according to our best intelligence, are deceptive. To put it less diplomatically, they contain lies. Brezhnev's statement says the Soviet side "does not intend to give this airplane the capability of operating at intercontinental distances." Yet, the Backfire, according to our best estimates, already has such a capability. We cannot make the Russians keep a promise that is already contrary to fact.

The Soviets truthfully may not now intend to prepare the Backfire for missions against the United States, but they are deceptive in stating that the aircraft does not have the necessary "radius of action." I believe, Mr. Chairman, that the Senate should keep a clear distance from this statement, to avoid becoming an accomplice in Soviet deception.

My next point relates to the Protocol and to the precedent it tends to set for hobbling our ground- and sea-based cruise missiles. I favor a balanced view on this question of a precedent. On the one hand, our accepting these deployment restrictions, at Soviet insistence, for a short period while we cannot deploy the missiles, surely can have only one value for the Soviets, namely to set a precedent for a prolongation of the restrictions. What else is in it for them? On the other hand, we clearly are not now legally obligated to prolong the restriction and, given enough determination, precedents can be broken.

Even though the precedent may be surmountable in Geneva, it may have its impact here in Washington. The cruise missile programs prohibited by the Protocol will have rough going with the Budget Bureau and perhaps in Congress.

Several Senators have suggested the Senate should adopt a resolution to the effect that the Protocol should not be extended without Senate consent. With greatest respect for those who made this suggestion, I fear such a resolution, or reservation, cannot solve the problem.

We must recall that there is already a law on the books that would impose a requirement for Congressional approval for such an extension, yet this law has been violated or circumvented by the Carter Administration on at least two occasions. (This requirement is contained in Section 33 of the Arms Control and Disarmament Act, which requires that "no action shall be taken . . . that will obligate the United States . . . to limit . . . armaments" except with treaty approval by the Senate or affirmative legislation by Congress.)

The two circumventions of this law are: (1) the extension of the SALT Interim Agreement without Congressional approval, and (2) the indefinite acceptance of the limitations of the threshold test ban, a treaty on which the Carter Administration halted the Senate ratification process. The lame excuse of the White House for these violations of Section 33 of the Arms Control and Disarmament has been that both sides were abiding by these limits "voluntarily," and that the negotiated arms control obligations that the Administration assumed were "nonbinding." Using precisely the same argument, this Administration could indefinitely extend the limits of the Protocol without consulting Congress. Hence, why bother to reenact into law what Congress has already enacted?

Mr. Chairman, my last point concerns the question of verification. I am troubled by the position the Administration has taken on this issue. It would have been far preferable to level with the Congress and the public and to admit that this treaty has many provisions which can easily be verified, some provisions that are very difficult to verify, and some that cannot be verified at all.

The range limit for cruise missiles, for example, is not verifiable at all. A few years hence, when the Soviet Union deploys new cruise missiles on aircraft or ships, it can claim that their range is less than 600 km. and hence that these missiles fall outside of SALT. Our intelligence community cannot count on observing anything that would tell us the true range of such missiles.

Perhaps it would not matter too much if our Navy were outgunned in a nuclear or conventional naval battle by Soviet ship-to-ship (or air-to-ship) cruise missiles with twice or three times the range of ours. But what surely does matter is the honesty of our intelligence community. How will our intelligence officers testify before you, a few years hence, on the range of new Soviet cruise missiles? Will they admit that they cannot find out, thus contradicting what the President and other senior officials told the country during this ratification debate? What will this do to the credibility of our government? Would it not be better to avoid deceptive statements now, so that no one has to cover up later on?

Mr. Chairman, I want to conclude my opening statement. In my view, the treaty before you clearly has several desirable features and many of its details have been negotiated with meticulous care. One would expect this from an effort on which so many dedicated and capable Americans have spent so many years. But this treaty, in its present form, also has some fatal flaws. Hence, I fully agree with those Senators who have taken the position that this treaty must be amended to repair its major defects, indeed that such amendments are required to prevent a dangerous crisis in follow-on negotiations. But, if there is total unwillingness on the part of either the Administration or the Soviets to negotiate these necessary changes we must not accept a seriously flawed treaty out of fear. Nor should we use this flawed treaty as a platform from which to launch the badly needed improvements in our military capabilities. To the American people such a tactic would seem confusing, if not deceptive.

The essential task for the United States is to change the unfavorable trends of the last 15 years, during at least 10 of which we were influenced by our expectations for strategic arms control. By negotiating in SALT we have been trying to swim upstream slowly, while the disparity in the U.S. and Soviet military efforts has been dragging us downstream much faster.

SPEECH OF HON. HAMILTON FISH BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE SEPTEMBER 21, 1979

THE SALT II TREATY AS WRITTEN MAKES THE UNITED STATES A SECOND CLASS NUCLEAR POWER AND INVITES A NUCLEAR HOLOCAUST

I am not a prophet or the son of a prophet and before I am a Republican, I am an American who loves the United States and believes that the American people have a right to know the truth instead of having it kept from them, making them targets as sheep to slaughter, from a massive arsenal of huge communist nuclear weapons. The most vital issue is the survival of the nation and the lives of the American people. That issue is the most vital since the declaration of independence.

We are now a second class nuclear power and SALT II confirms it. Its passage, without firm and substantial amendments, invites a surrender or die ultimatum or a nuclear holocaust, wiping out our minutemen ICBM's and killing more than 100 million Americans.

I propose to emphasize the survival issue throughout my remarks but will for a few minutes refer to the abject surrender of the canal to a communist dictator in Panama. Obviously some Senators were fooled when the Administration and their spokesmen said that the giveaway of the Panama Canal would not cost the taxpayers anything. It now appears that it will cost the taxpayers four billion dollars which could well have been spent on strengthening our nuclear defense by building thousands of cruise missiles. But far more important, Panama has become, along with Cuba, the strategic center, promoting terroristic and communist revolutions in Central America, urging that we give up our naval base in Guantanamo Bay and voting with the Soviet Union in the United Nations. Castro and Torrijos are spreading propaganda throughout the Caribbean nations that we surrendered the Panama Canal out of fear and cowardice. This is successfully undermining our prestige, helping the communists in Cuba and Panama to spread into Nicaragua and other Central American nations and even into former British colonies. This is the tragic result of the awesome surrender of the canal which was so bitterly and openly opposed by the American Legion, Veterans of Foreign Wars and 75 percent of the American people.

I am not here to tell Senators how to vote. This is a free country and anyone has a right to his own views and to vote according to his conscience. But United States Senators have manifold issues that confront them constantly regarding various types of important legislation. No Senator has the opportunity or the time to study the origin, plans, purposes and objectives of Soviet Communism as established by Lenin, its creator and only god who is still worshipped, and whose edicts are the very foundation of modern Soviet communism and its foreign policies. Lenin made it crystal clear that the main policy of the communist would be to communize the world and he said that it didn't make any difference if three-quarters of the world were destroyed if one-quarter remained communist. Lenin was a powerful leader, a man of great vision and made other statements regarding the future of communism and its destiny that have come true. He also said, you must surround the United States and if they do not surrender, destroy them. This has become part and parcel of the present foreign policy of the Soviet Union, and the reason that they have built up for the last ten years, a huge arsenal of enormous nuclear ICBM's, that could destroy the United States and kill well over 100 million Americans in a first strike.

J. Edgar Hoover entitled his bestseller, "The Communists Are Masters of Deceit." This is true as the Soviets have very generally violated the terms of their treaties, including SALT I.

Americans want peace through strength and not through weakness or unilateral disarmament and naturally oppose the attempts of one worlders, pacifists, and appeasers of the Soviet Union to cover up the weakness of our own nuclear deterrence which is well known in Moscow.

If the Senate does not amend the treaty by seeking either parity or sufficiency, to defend the United States, they will be playing Russian roulette with the lives of the American people and aiding and abetting our enemies. In time of war, this is treason but it comes very near being treason when it involves the survival of all Americans. Our people regardless of partisanship want to preserve their own freedoms, independence, and their own lives and not become a satellite of the communists. To do so Senators must amend the treaty by striking out numerous limitations on our right to build nuclear weapons of various types and sizes, especially cruise missiles to create a strong deterrence against any nuclear attack.

The Soviet Union is a tyrannical government of absolutism, atheism and terrorism. It is the mortal enemy of freedom everywhere. There are in America, extremists, fellow travelers and pro-communists who minimize the communist nuclear superiority that threatens the lives of the American people and the very existence of the United States. These appeasers seek to cover up the real issue—our survival, the destruction of our freedoms and having the United States become a satellite under a despotic dictatorship in Moscow and under the red flag of communism. This will never happen provided the American people insist on strengthening our nuclear defense on land, sea and air so that no nation will ever dare launch a first nuclear attack against the United States. It can only be done by very substantial amendments or by the postponement or defeat of the treaty.

The SALT Treaty as written is in the interest of the Soviet Union and is an abomination of desolation that seriously endangers America and the lives of over 100 million of our people. It is soft on communism and weak on the survival of the United States.

Our survival, our freedoms, our religion, our lives and our country, together with the survival and freedom of half the world is at stake. We must meet the communist challenge with courage, sacrifice and determination to win the ideological battle of freedom and if attacked be able to retaliate. We must be fearless as lions, wise as sages and gentle as doves when the occasion or events require. There is no substitute for freedom or survival. It will be either freedom and survival, or communism. In 1960 at the end of the Eisenhower Administration, we had a five to one nuclear superiority over the Soviet Union. But within the next eight years, McNamara destroyed most of our big nuclear weapons and the Soviet Union built theirs so that by 1968 there was a virtual parity or equality. By 1972 when SALT I was ratified, the Soviet Union was already slightly ahead but by 1975 the communists had a superiority in almost all nuclear weapons and today the Soviet Union has a virtual 2 to 1 superiority over our Army, Navy and in nuclear weapons.

The present administration has permitted our defense capabilities to decline, jeopardizing the security of the nation and the lives of our people. President Eisenhower at the christening of the nuclear aircraft carrier that bears his name said: "Until war is eliminated from international relations, unpreparedness for it is well nigh as criminal as war itself." To sin by silence when we should protest, makes cowards of men. The American people are not cowards and will protest overwhelmingly at the polls unless SALT II is very substantially amended in order to provide for their common defense and the security of the nation.

James R. Schlesinger, Jr., former Secretary of Defense, a Democrat, said five years ago: "The Soviets have in recent years produced four times as many submarines and surface aircraft as we have. In ground forces equipment, the production rate is 7 to 1. What we have is a flight from reality."

President Carter has repeatedly abandoned or delayed action on cruise missiles, neutron bombs for NATO, B-1 bombers and strengthening minuteman 3. In consideration of SALT treaty II, our failure to achieve reciprocal concessions from the Soviet Union is incomprehensible and unconscionable.

I urge all Senators to demand the strengthening of our nuclear defense at the utmost speed as a top priority and request the Senators not to ratify the pending SALT II even with drastic amendments until the Congress and the President have agreed on a definite plan to build thousands of cruise missiles and their deployment or delivery, to strengthen our nuclear defense and prevent a nuclear holocaust from fear of a ruinous retaliation within the next three to five years. The American Legion and Veterans of Foreign Wars who fought for freedom and democracy in many wars and the American people and Senators from those States bordering on the Gulf of Mexico will agree with them on insisting that no action be taken on SALT II until the Soviet's armed forces including submarines, are removed from Cuba.

In case the President and the Congress are unable to agree on a speedy, comprehensive nuclear defense plan (not conventional), SALT II should be held in abeyance until after the Presidential election in 1980—only 13 months away. The pending SALT II, if ratified without substantial amendments including removal of limitations on cruise missiles, would freeze the United States into a second class nuclear power and within a few years into a third class nuclear nation. This would be a crime against freedom and democracy and would subject the United States to continuous humiliation, blackmail, the loss of prestige throughout the world and the constant menaces of an all-out nuclear holocaust.

There has been and still is a conspiracy of silence by those in high authority in government and in our media to cover-up our weakness in nuclear defense. This is by far the greatest and most disastrous cover-up in the history of our country.

The Watergate cover-up in which no one was wounded, killed, or drowned, was spread all over our newspapers, night and day for a number of years. Now we are faced with a far more dangerous cover-up because it threatens the lives of most of our citizens and the existence of the nation. The main reason for this gigantic cover-up is that the President and the administration is afraid to tell the truth to the public—that in the last 2½ years they have done nothing to strengthen our nuclear defense. Now they support SALT II which freezes the United States into a second class nuclear power and which even Secretary of Defense Brown admits that within a few years the Soviet Union will have deployed an arsenal of nuclear weapons that will be three times more powerful than our own. It would be bad enough to enter into a treaty with the Soviet Union which freezes us into a second class nuclear nation, but this treaty goes twice as far and would encourage unlimited Soviet blackmail regarding Israel, throughout Africa, Cuba, Panama and Central America and probably eventually withdrawal from Turkey, Greece and possibly from the NATO; the latter almost ignored and forgotten.

I challenge any Senator, any representative from our Armed Forces, or government to show me one nuclear weapon in which the Soviet Union is not far superior to us from their huge SS 18's and 19's including their 400 submarines, to our 150, and their 91 modern subs to our 41. It is time, and long since, to tell the truth that their navy is twice as large as ours. Their army is three times as large. Their number of tanks is ten times larger. Their Air Force is far greater than ours and their airplanes and armaments for defense are 40 times greater than ours. In addition, they have built a vast underground network, 500 feet deep, for civilian defense and we have none except for a few airships for the special service of the President. They have 308 SS 18's of 25 megatons each, any one of these hydrogen bombs can destroy any city from Los

Angeles to New York for forty miles around. We have no 25's, no 20's, no 15's, no 10's and only a few obsolete 5's and 1,000 minutemen—which even the Pentagon admits can be destroyed by these monstrous nuclear weapons with their 10 MIRVS. In addition, and it has taken me a lot of special research to find out they have 600 to 1,000 SS 19's—three or four times as large as our minutemen, carrying a firepower greater than all of our nuclear weapons combined. This sleeper of from 600 to 1,000 ICBM's has been so well hidden that the American people have never even heard of them. Half of them have already been deployed. This SS 19 is probably larger than the proposed MX that the administration is talking about putting on railroad tracks underground, which would not be completed for 8 or 10 years.

The apex of the total Soviet nuclear power will be in 1983 and that is when the danger point will be reached unless we build sufficient cruise missiles to prevent it. Why, someone might ask, do the communists at Moscow want to destroy the United States and the American people? On that issue, I think I speak with more authority than any living American because I was chairman of the first Congressional committee to investigate communist activities, plans and objectives. We did not investigate liberals or radicals, but those communists who had run for President and other top communist leaders and they made no effort to cover-up their plans or their policies. They were in favor of communizing the world and were opposed to our form of government, freedom of religion and of democracy. They were in favor of the communist dictatorship at Moscow and for the red flag against the American flag. This was back 40 years ago when the communists dominated the CIO labor organization and there were large numbers of fellow travelers. Our committee sent out to the labor organizations the testimony of the leading communists and ever since then, organized and unorganized labor became more opposed to communism than Wall Street, which often for the profit motive, has helped to strengthen the Soviet Union. Thank God we have very little to fear from the communists within the United States but we have a million times more to fear from the ever growing arsenal of huge nuclear weapons and the rapid growing armada of over 400 submarines, one-fourth with a range of 4,000 miles.

As chairman of the first committee to investigate communism, I learned that these Godless Communists worshipped Lenin as their only god who told them that they must communize the world, and surround the United States and if they do not surrender, destroy them. Now that they have such enormous nuclear power and we have been lulled to sleep they will decide the opportune time to press the button. Why would they do it? Because they believe it is their manifest destiny to communize the world and if they destroy the United States, the whole world will surrender in ten days. We will never press the nuclear button because we are a moral nation and want no additional territory and certainly have no hatred of the Russian people or any others. The monstrous communist regime in the last 62 years, have killed 30 million of their own people and Solzhenitsyn, one of the greatest freedom fighters in the world says I am wrong—it was double that. It must be evident to you Senators that a nation that would exterminate 30 million of its own people would not hesitate to kill more than 100 million Americans, avoid a European war and then communize the entire world within ten days.

If one of the Soviet's huge 25 megaton bombs drops on any part of our country, it will kill within a radius of 40 miles but it will not ask, are you a Democrat, Republican, black or white, mother or chid? A first attack, unless we strengthen our nuclear defense immediately, will according to the Pentagon, kill 100 million Americans. The nuclear scientists say half our population, 115 million would be killed. Admiral Zumwalt, former head of Naval Operations, said: "If we do not build any adequate deterrence within the next few years, that we will lose 160 million and the communists will only lose 10 million. Actually, if we lose 100 million upwards, it really makes no difference what our small retaliation is because it will be the end of our country. Our nuclear deterrence at the present time is very weak compared to the Soviet Union and leaves us almost naked and defenseless against a holocaust attack.

We are so weak that we are even afraid to protest effectually the 40,000 Cuban mercenaries in Africa trying to communize various nations. We are so weak that we are afraid to protest building underground submarine bases in Cuba or even to protest the arrival of some 30 top Soviet airplanes, additional bombers, submarines and 3,000 Soviet troops.

F.D.R. as President gave the British 50 destroyers without the consent of Congress in time of peace. What is to prevent the Soviet Union if the SALT Treaty is ratified without strong amendments, from giving Cuba or having based there, 50 submarines where they can be refueled and rearmed and most of them have a firing range of 3,000 to 4,000 miles.

None of this is told to the American people nor are they told that we have lost our finest and best verification units in Iran and that our listening posts in Turkey are uncertain. In spite of that we are led to believe that in another year we will probably be able to discover a mosquito on the top of Brezhnev's head.

The American people would overwhelmingly support, and I urge the Senate to do so, a motion to recommit the SALT II to the Foreign Relations Committee with the suggestion or instructions that the President renegotiate the treaty and urge the Soviet Union, as they have repeatedly advocated nuclear disarmament, even if China did not go along, to mutually reduce all nuclear weapons of every category by one-third. This would leave the Soviet Union and the United States far ahead in nuclear armaments than any other nation. Then, within two years the Soviet Union and the United States would agree to arrange for a conference of all nuclear nations to mutually agree to reduce their nuclear armaments by 25 percent for four years under total inspection and supervision. The ultimate objective would be to abolish all nuclear weapons six years from now.

The pending SALT II does not reduce nuclear weapons but actually encourages further nuclear armaments on a big scale. All the treaty does is to freeze us into a second or third class nuclear nation for the next five years and promote and encourage greater and more extensive, ruinous, deadly nuclear weapons.

Premier Brezhnev for the last 50 years has been leading a crusade to destroy religion and faith in God, hypocritically said, God have mercy on us if we fail in the passage of the SALT II. My answer to that is God have mercy on all the religions of the world, all the free nations, all the captive nations and the entire freedom of the world, if the Senate does not amend adequately the SALT II so as to provide for our own common defense and the lives of the American people. The treaty should be returned for negotiations on a mutual reduction of one-third of all nuclear weapons between the United States and the Soviet Union, proving definitely that the American people favor a substantial mutual reduction of nuclear weapons and favor the preservation of peace throughout the world.

Blessed are the peacemakers for they shall be called the children of God.

(Regarding our weakened nuclear defense:)

AN INDIAN AT THE BURIAL PLACE

(By William Cullen Bryant)

But I behold a fearful sign,
To which the white men's eyes are blind;
Their race may vanish hence, like mine,
And leave no trace behind,
Save ruins o'er the region spread,
And the white stones above the dead.

In case of a nuclear holocaust, there will be no white stones above our dead unless we strengthen our own defense.

As I stated, I am not here to tell Senators how to vote. I am sure they will vote according to their own conscience and what they think is in the best interest for the common defense of the United States and the lives of the American people. But those Senators who voted to give away the canal to a communist dictator, and now vote for the SALT II without very strong amendments, for the protection of the American people, will face on election day, aroused non-partisan voters who are determined that this country should remain free and strong and are overwhelmingly opposed to any public officials who are soft on communism.

MEMBERS OF CONGRESS FOR PEACE THROUGH LAW

(MCPL signatories of the SALT II Task Force joint statement presented in testimony before the Senate Committee on Foreign Relations, September 18, 1979)

Representative Don Pease, Chair; Representative Les Aspin; Representative Les AuCoin; Representative Michael Barnes; Representative Berkley Bedell; Representative Robert Drinan; Representative James Johnson; Representative Stewart McKinney; Representative Patricia Schroeder; Representative John Seiberling; Representative Paul Simon.

Joint Statement of the SALT II Task Force of Members of Congress for Peace through Law before the Senate Foreign Relations Committee, September 18, 1979

Chairman Church and Members of the Committee: we welcome your invitation to testify on the proposed Strategic Arms Limitation Treaty now before the Senate. As you know, MCPL has always taken a special interest in examining and promoting international measures that reduce confrontation and tensions leading to confrontation. Since we believe ardently in the rule of law rather than force, the SALT II debate is a particularly fitting forum for the discussion of our military posture and that of the Soviet Union in the context of arms control and eventual mutual disarmament.

SALT II requires our support not because it represents the arms control we seek, but because without it U.S.-Soviet relations will lack even the semblance of stability. Without it, indeed, we would lose the crucial threads of understanding, now tenuously strung between our two overarmed nations, that could be the hair-trigger difference between coexistence and mutual annihilation.

SALT II represents only the most modest progress in terms of weapons reduction. It does, however, serve our security needs by precluding several major Soviet threats: it prohibits what would be at least a two fold increase in the number of independently targetable nuclear warheads on the SS–18; it bans the deployment of their mobile intercontinental missile (the SS–16, which has already been tested); it limits the U.S.S.R. to 8,000 ICBM warheads—which is a large number, admittedly, but it is far short of the 21,000 re-entry vehicles they could deploy without SALT II; it restricts production and upgrading of the Backfire bomber; and it sets essential rules by which both sides can verify compliance. We therefore support the ratification of SALT II.

We cannot, however, let the debate over the Treaty—and the accompanying calls for an increase in arms—pass without drawing the attention of the American people to the consequences of setting aside the ideals of arms control. We believe that the Senate ratification process is an appropriate forum for a review of our military posture in the world and what goals we ought to set for ourselves in the coming decade. In this context, without a major commitment by us, by the Soviets, and by all countries with or nearing a nuclear capacity, we question whether indeed SALT II—let alone the SALT process—can lead us toward a reduction in arms.

In 1970, the United Nations named the 1970's the "disarmament decade." Their optimism derived from and is promoted by the successful negation of the Antarctic Treaty, the Limited Test Ban Treaty, the Non-Proliferation Treaty, The Outerspace Treaty, the Tlatelolco Treaty for the prohibition of nuclear weapons in Latin America, and the initiation of the "hot line" between the two superpowers.

Now, at the end of the 1970's, accelerated technological advances introduce a new urgency to efforts to limit the proliferation of strategic weapons. Moreover, new conventional weapons such as the anti-personnel cluster bomb can, in certain contexts, approximate the devastation of tactical nuclear weapons, and must be considered a significant and growing threat to world security. The largest share of the responsibility in both areas rests with the United States.

As the world's leading arms exporter, and yet as the proclaimed leader of the free world, we must—as we enter the '80's—ask ourselves the tough questions:

Why is it that between the U.S. and the U.S.S.R., with only 11 percent of the world's population, we produce more than 60% of the world's arms and 80% of all arms research?

Why is it that for every dollar given in aid to developing countries, we spend 20 on military hardware?

Why is it that we and the Soviets contribute fully half of the 400 plus billion dollars spent each year on arms—more than one billion dollars each day?

Why is it that we outdistance the Soviets on arms exports in this "decade of disarmament" by a ratio of more than 2 to 1?

Why is it that in the third World, where nations and people seek to improve their lives, men under arms outnumber medical, social and educational personnel by a ratio of 16 to 1—and this is a world where one and a half billion people lack medical care and sanitary drinking water, where one billion people are undernourished, and where the average family pays more to support the arms race than to educate its children?

Now, in 1979, as the "decade of disarmament" draws to a close, we hear that the U.S. military budget must be increased by 5 percent each year—after inflation—to correct a perceived military imbalance. The incongruity of this suggestion mandates that we ponder the words of the Swedish writer and disarmament official Inga Thorsson, who said, "we live in a world where new weapons tend to search for new tasks, and where new weapons lead to development of new counter-weapons."

Entering the '80's, we must consider whether or not our perceptions of security are to be expressed in the coming decade through the production and exportation of arms which draw away needed revenues in a world of diminishing resources.

If, by the end of 1985, we heed calls to increase our military budget by five percent, on top of a conservatively estimated annual inflation factor of eight percent, the dollar value of the military budget will have soared to $265.8 billion.

That is more than twice the present military budget of $125 billion.

It is more than we and the Soviets together presently spend for military purposes.

It is almost as much as all developed countries—the U.S., the U.S.S.R., and NATO countries, the Warsaw Pact countries, Scandinavia, Australia, Canada, Israel and Japan—spend for military purposes.

That is unacceptable.

It is unacceptable because it represents a "decade of rearmament" rather than a "decade of disarmament," and because it threatens rather than enhances our security.

Instead of taking the path of increased world instability, we believe the Congress and the Executive should seek together to negotiate the reduction of arms in those areas that will most threaten world peace in the coming decade.

We must take action now in five major areas.

First, in achieving a comprehensive ban of all nuclear testing—a goal which has escaped us for the past fifteen years since the plan's inception;

Second, in military competition in space, where 80 percent of the 5,000 satellites are military purpose vehicles;

Third, in accuracy flight testing—which is the formula for counter-force strategies;

Fourth, in particle beam technology;

And fifth, in unverifiable cruise missile technology.

In the first two of these areas a beginning has been made, but negotiations should be accelerated and resolved. In the latter three, in order to halt a new weapons technology race, steps must be initiated without delay.

The chief value of SALT II will be its preparation for SALT III. What we have outlined above must be accomplished after the ratification of SALT II, and with the negotiation of SALT III.

MCPL SALT II TASK FORCE STATEMENT OF HON. DONALD J. PEASE, OF OHIO, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, SEPTEMBER 18, 1979

At the history making Peace Conference in Berne, Switzerland in 1892, the Swedish inventor of modern explosives, Alfred Nobel, declared in justification of his research that "the day when two army corps will be able to destroy each other in one moment, all civilized nations will recoil from war in horror, and disband their armies . . ." He noted that the advance of warfare technology would one day offer a single horrifying alternative to multilateral disarmament, "the peace of the cemetery."

We do not have to be reminded that at this moment the superpowers possess many times over the nuclear firepower to make the northern hemisphere the ultimate cemetery of human civilization. Gentlemen, the treaty before you falls far short of what this world needs in terms of a guarantee of its survival. But SALT II is the only step in that direction which it is our choice to take. Its value is principally that: for want of more effective measures we must act on those meager ones that have been so far negotiated.

A new note of optimism, voiced by Senator Biden and others while on a recent visit to the Soviet Union, should not go unmentioned. The Russian leadership apparently viewed with hope the chances of near term negotiations that will embrace some of the most contentious areas of nuclear weapons reduction, namely the so-called "gray-area systems," which are intermediate range theatre nuclear weapons such as the Pershing and SS-20 missiles, more significant limitations on bombers such as the Backfire, and most importantly, on-site verification. At present these are only optimistic statements from the wire services. But the fact that they represent the views of top Soviet officials expressed to members of the United States Senate should give pause to those many vocal Americans whose opposition to the process of arms control and disarmament has long been premised on the belief that such sentiments would never come from the Kremlin.

Despite the many important strategic issues which SALT II does not address, the proposed treaty has a peculiar value fo confidence-building by moving both parties toward more significant and comprehensive reductions in strategic armaments. Its defeat could set the stage for the most unstable of all possible military scenarios, one in which the Soviets decide that even with adequate monitoring capability we do not expect them to adhere to the treaty, that we have immovable doubts about the value of negotiation with them no matter what the stakes and worst, that a month by month march toward an increasingly inevitable confrontation is more reassuring to the U.S. national psyche than a negotiated formula for world survival. If the treaty fails here in the Senate the nightmarish possibilities that heretofore have been only theoretical "worst case scenarios" on a Pentagon conference table could become realistic contingencies. What comfort will we have afforded ourselves then? The illusory goal of superiority, construed as synonymous with national security, will have drawn us away from the o path to safety.

Essentially, then, I am saying that the SALT II accords lie on the safer side of a very thin line. This realization reminds us of what we have not accomplished. That is, the limits of SALT II constitute the raison d'etre of SALT III or any follow-on agreement that further restricts nuclear deployment.

In this connection I would like to point out, for the benefit of all who are involved in the SALT II discussion, both pro and con, that we should not be saying, as many of us are, that the SALT process is by its nature a tediously slow mechanism for world security, that each phase of U.S.-Soviet negotiations must perforce take a few years, and that lowered expectations will better prepare us for limited results. For example, this syndrome is reflected in the counting of obsolete strategic systems in the proposed treaty—though I acknowledge that the allocation on each side is equitable in the context of the entire treaty. We should instead recognize that nuclear weapons technology has a pace of its own. We must gear up the negotiations to match that pace if they are to have any meaning at all.

It is my belief that if the Soviet leadership did not have a great fear of the military ramifications of currently emerging weapons technology, Senator Biden would never have been told of Russian interest in on-site inspection, which until now has been the ultimate anathema to Soviet military leaders. Nor would he and his colleagues have been told of Soviet interest in broad negotiations in the near term that include limitation of theatre nuclear weapons such as the American FB-111 bomber, the Soviet Backfire bomber, the American Pershing missile, and the Soviet SS-20 mobile missile.

At present the Soviet Union deploys an estimated 6,000 tactical nuclear weapons. We deploy more than 12,000, with approximately 7,000 forward based in Europe. For this reason it is crucial not merely to ratify SALT II but to move quickly to take advantage of more fruitful opportunities that may follow. Ratification by itself may mean little if we backtrack later, having failed to act in the grace period the limited treaty afforded us.

The MCPL SALT II Task Force general statement makes reference to the fact that

SALT II, as it has developed so far, is demonstrably not arms control. Since the signing of SALT I the number of ICBM warheads we have added to our arsenal is by itself greater than the total number in the Soviet arsenal. As with every major weapons system we have deployed, the need to achieve the feeling of security through overwhelming strength has spurred dramatic increases in the destructive capacity of our weapons. The issue has always been one of perceptions of threat, and these not always based on physical realities. For example, in the early '50's we believed in a "bomber gap" which we set about eliminating, even though we already had a four-to-one advantage in strategic bombers over the Soviet Union.

In the early '60's we perceived a missile gap, when we enjoyed a huge lead in nuclear strike power. Now the military community perceives that we have "lost" the arms race by allowing the Soviets to achieve nuclear parity and that massive infusions of public funds are immediately necessary to correct the perceived imbalance. We must not remain inured to the possible implications of major misperceptions.

We have the singular chance to benefit from our past mistakes and guarantee our national survival by judicious negotiation of armaments reduction across the board, not only in areas of intercontinental nuclear systems but also in the arena of major conventional force deployments.

Which brings me to my final point. Nuclear weapons were developed according to the same purpose of all weapons, to pursue national aims by force or threat of force. They are no more and no less than a mightier version of the perennial drawn sword. Therefore we cannot divorce the strategic systems from the general process of multilateral armaments reduction, in the mistaken belief that containment of nuclear weapons is the doorway to world peace. It is not. For as long as the nations of the world seek to accomplish their ends by violence or threat of violence, ever-bigger weapons will seem ever more expedient. Alfred Nobel erred when he predicted that the possibility of mutual annihilation would be the catalyst of permanent peace. For the superpowers stand today at the brink of global destruction, weapons in hand; and the only question remaining is who will move first.

Only when the major powers negotiate a comprehensive nuclear control treaty that leads directly to multilateral reductions in conventional armaments,—only then—can any meaningful containment be employed to limit proliferation of lethal weapons systems among the many eager smaller powers in the world.

The pursuit of peace through multilateral disarmament in all its diverse applications answers to the fundamental purpose of MCPL.

Statement of Hon. John F. Seiberling on the SALT II Treaty Before the Committee on Foreign Relations of the U.S. Senate, September 18, 1979

Mr. Chairman, I am grateful for this opportunity to appear with some of my fellow Members of Congress for Peace Through Law to testify on the Strategic Arms Limitation treaty.

In my view, SALT II does not, in itself, represent a significant step forward in the long and difficult process of arms reduction. Like some Senators, I am disappointed that the treaty does not provide for more meaningful arms reductions. On the other hand, it does not appear to me that our national security would be imperiled or weakened by the treaty, as some have charged. It may even be enhanced.

SALT II provides for equivalence in the number of strategic launchers permitted the United States and the USSR. Article III of the treaty places an initial ceiling of 2,400 on the number of strategic delivery vehicles permitted to each side. The ceiling will be lowered to 2,250 in 1981. The U.S. and the USSR will then be given one year in which to dismantle systems which exceed that number. The Soviet Union will have to destroy, it is estimated, as many as 250 of its offensive systems in order to comply with the 2,250 aggregate figure. The U.S. will probably not have to dismantle or destroy any of its operational systems.

Article V of the treaty imposes an equal sublimit of 1,320 for the combined number of ICBM's, SLBM's, and ASBM's equipped with multiple independently targetable reentry vehicles (MIRV's) or long-range air-launched cruise missiles. The treaty also places significant restrictions on fixed-silo ICBM's. Under the terms of the treaty, neither the U.S. nor the USSR will be able to construct additional fixed-silo ICBM's or convert light ICBM's into heavy ICBM's. Of equal importance is the fact that the treaty limits the number of reentry vehicles permitted on strategic launchers. The reentry vehicle limit will prevent the Soviet Union from exploiting its throwweight advantage. The U.S. will also have a somewhat better ability to monitor Soviet weapons testing that we would have in the absence of the treaty.

While these are genuine accomplishments, SALT II clearly does not provide for either a reduction in stockpiles of strategic nuclear warheads or a freeze on the development of new strategic weapons systems. Indeed, by permitting—at the insistence of our own government, I might add—accelerated weapons development, production, and eventually the deployment of the M–X, a first strike counterforce weapons system, it is, to that extent, explicitly sanctioning the continuance of an ever more costly and ever more menacing strategic weapons escalation. If deployed, the M–X would be the most devastating and destabilizing weapons system the U.S. has ever developed. The rationale used to justify this is that the M–X is needed to forestall the inevitable vulnerability of our land-based ICBM force.

However, the M–X will be just as vulnerable as the Minuteman ICBM, unless some invulnerable basing system is devised and built. And, of course, if such a system were to be created, it would be no less invulnerable if it contained our present missiles or if it contained the M–X. Mr. Chairman, earlier this month I wrote a letter to President Carter on this subject which I believe may be of interest to this Committee, and I would offer it for inclusion in your record following my statement, if the Committee wishes to include it.

Despite my reservations about the real benefits derived from SALT II in terms of arms reduction, I do not think that it would serve our national interests to reject the treaty. While the treaty would permit increased military spending on strategic weapons, failure to ratify the treaty is likely to result in an even greater acceleration of nuclear weapons stockpiling and development.

The treaty does put a temporary cap on that process, even though the cap is too high and has a number of holes in it. Moreover, to reject the treaty or to attach unacceptable reservations to it would put at risk, if not destroy, the SALT process itself. It is the continuation of that process that provides the possibility for a timely and meaningful reduction and eventual elimination of weapons of mass destruction. Fortunately, the Soviets have indicated their desire to move quickly into negotiations for SALT III once SALT II is ratified.

Our joint statement indicates some of the major areas that require prompt attention once SALT II is behind us. The importance, indeed the urgency of moving ahead in these areas cannot be overemphasized. Subsequent to the preparation of our joint statement, as well as the foregoing portion of this statement, there appeared in the "Outlcok" section of the Washington Post for Sunday, September 9, an outstanding article by Richard J. Barnet, the distinguished foreign policy and arms control expert, entitled "Do We Want to End the Arms Race?" Because it is so pertinent to the issue before this Committee and the Senate, I am calling it to your attention.

I inserted it in the Congressional Record for September 10, 1979, where it appears at pages 23830 and 23831. I would recommend that it be included in your hearing record, and will be glad to supply a copy if the Committee wishes to have it.

Dr. Barnet points out that the treaty should be ratified, not because the world will be substantially safer with it, but because it will be even more dangerous if negotiations on arms with the Soviet Union are broken off. But he also points out that unless those negotiations bring an early moratorium on the development of new weapons systems, the next round of the arms race can only work to the economic and strategic disadvantage of this country and create new perils for the entire world.

As we pointed out in our joint statement, the nations of the world are already spending more than a billion dollars a day on military weapons. The Soviet Union and the U.S. together account for more than half that total. The skewing of our national priorities is starkly illustrated by the fact that for every dollar we give in aid to developing nations, we spend $20 in military hardware. Although our objections to Soviet military presence and weapons outside their borders are well justified, it is also true that the U.S. has led the Soviet Union in arms exports by a margin of more than two-to-one for the past decade.

Despite the cutbacks that the Administration and Congress have made in many programs providing essential services to our people the President this year submitted an enormous arms budget of $125.8 billion in outlays, and your Committee has heard former Secretary of State Kissinger and others recommend that, if SALT II is ratified, then this extraordinary peacetime military budget should be substantially increased. I need hardly point out the implications of this in terms of our effort to curb inflation and to solve the many grievous social problems afflicting this nation.

If SALT III does not result in major real growth limits and cutbacks with regard to both weapons production and research and development, or if, like SALT II, it provides the occasion for expanding the Department of Defense budget, including a new shopping list for the very kinds of weapons systems that the SALT process was intended to curb, then I think we would have to conclude that the bilateral strategic arms negotiating process has ceased to be productive, and that some other approach is needed to lift the unconcionable burden and the intolerable menace of nuclear weapons from mankind.

WASHINGTON, D.C.,
September 10, 1979.

Hon. JIMMY CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last winter, at your meeting with the House Democratic Steering and Policy Committee, I raised a question as to the advisability of developing the M–X missile, at an estimated cost of $30 billion. You responded that you had not made a decision to develop it but were merely keeping the option open. From reading last Saturday's Washington Post, it would appear that you have now decided to proceed with the development and deployment, at a cost currently estimated at $33 billion.

Of course, actual deployment of the M–X will take years and will require authorizing legislation and appropriations, so in a sense it may still be a case of simply keeping the option open. However, these projects have a way of acquiring a momentum all their own once it becomes apparent that a "green light" has been given. A good example is the B-1 bomber project, which I personally fought in Congress for 7 years and which you finally managed to quash, but only after a veto by you and after several billion dollars had been spent by predecessor administrations. By that time, it had become clear that the ultimate cost would be, not the $20 billion originally forecast, but over $100 billion.

I am sure you obtained the most expert advice available within the Executive Branch before making a decision on the M–X. Nevertheless, experts have misled presidents before. I would like to bring to your attention, for whatever it is worth, my layman's thinking on this subject.

The argument for the M–X has been focused on the increasing vulnerability of land based ICBMs to a first strike by the prospective new generation of super accurate Soviet missiles. However, the solution of the vulnerability problem does not appear to require the deployment of a new ICBM but simply the redeployment of existing ICBMs in a less vulnerable basing mode. Conversely, without such an invulnerable basing mode, the new M–X missile will be just as vulnerable as the existing Minuteman. In other words, Minuteman vulnerability is not a logically valid justification for deployment of M–X.

It seems clear also that the proposed basing mode for the M–X will not eliminate the ability of the Soviets to knock out the 200 M–X missiles that would be deployed, even though each missile will be secretly shifted among 23 separate launching points. Once the Soviets develop missiles of sufficient accuracy to inactivate one of our missiles at any particular launching point, they could then achieve destruction of practically all of the 200 M–X missiles by directing one of their warheads to each of the 4000 potential M–X launching points. While this may stretch out the invulnerable period a little longer, until the Soviets produce a sufficient number of highly accurate warheads, and while it would mean the Soviets would have to "waste" over 4000 warheads, they could still do the job and have 5600 warheads left over, assuming the SALT II ceiling of 10,000 warheads is applicable. That is quite a sufficient number to destroy all of our other land based ICBMs and to wipe out all of our urban population centers several times over.

A second argument that has been advanced to justify the M–X is that if the Russians are going ahead with their deployment of first strike capability, then we must do it too, in order to maintain "equivalence". This may have some superficial political appeal, but I think it will eventually become apparent to most Americans that our acquiring first strike capability is a colossal waste and that in fact, it will make us less secure. The Soviets are not going to take the risk of launching a first strike against U.S. land based ICBMs so long as our submarine launched missiles remain invulnerable and can destroy all of Russia's major population centers and military bases. Therefore, I see no strategic justification for us to create a hair-trigger balance of nuclear terror by deploying our own array of missiles capable of taking out Soviet ICBMs.

Because of my conclusions that M–X would be a costly mistake, I will, unless persuaded that these conclusions are in error, feel compelled, regretfully, to take part in a campaign in Congress to block deployment of M–X. Of course, I would be happy to discuss it with you and your advisers at any time.

In a larger sense, one of the reasons we find ourselves in this predicament is the failure of the SALT process thus far to produce an agreement freezing the continued technological drive, by both U.S. and Soviet military establishments, toward ever more sophisticated strategic weaponry. It is undoubtedly too late to do anything about this as part of SALT II. However, it may not be too late for you to offer to freeze deployment of M–X if the Soviets will halt deployment of their new generation of strategic missiles and will agree to include a permanent freeze as one of the subjects for negotiation in SALT III.

I realize that you may not feel able to take such a position while SALT II is pending before the Senate, though I hope you will consider it. I believe that such a position could actually help counter the negative atmosphere that surrounds SALT at present by focusing public attention on the importance of and the possibilities for future progress toward the goal you proclaimed in your inaugural address—the removal of all nuclear weapons from this Earth.

Sincerely,

John F. Seiberling,
Member of Congress.

Statement by William H. Kincade on Behalf of the Arms Control Association, on the SALT II Agreements Before the Committee on Foreign Relations, U.S. Senate, September 24, 1979

Mr. Chairman, members of the Committee, I am Bill Kincade, Executive Director of the Arms Control Association, a nonpartisan, national membership organization established to promote public awareness and understanding of the contribution of arms control to national and international security. With me is Barry Carter, a Director of the Association. We appreciate your invitation to present the views of the Association's directors on the SALT II agreements and to offer our own perspective on some of the issues presently under consideration by the committee.

With the Committee's permission, I will submit for inclusion in the record the full text of the statement on SALT II adopted by a majority of the Association's Board of Directors after the summit. In my prepared remarks, I would like to summarize very briefly the main points of this statement and comment on certain features of the agreement which—even after the committee's very thorough hearings—still seem deserving of further attention. Mr. Carter and I will then be glad to answer any questions which the committee may have regarding my testimony or other points connected with the treaty.

The Board of Directors of the Arms Control Association strongly supports the SALT II agreements and urges their ratification by the United States without substantive change. The Board is concerned, however, that the failure of the negotiating parties to achieve further reductions and constraints and their acceptance of the deployment of one new type of land-based missile for each side may endanger the future of strategic arms limitation.

The SALT II agreements represent a significant, if long overdue, achievement in defining and maintaining the strategic nuclear balance and in improving the predictability of military threats to American security. Upon entry into force, the Treaty would enhance Western and world security through 1985. Its effectiveness beyond 1985 will depend on force decisions under the terms of the SALT II agreements and on the nature of subsequent limits toward which both parties have pledged continuing efforts.

The agreements themselves would not by any means bring the strategic arms competition to an end and in several cases would leave undesirable opportunities for the deployment of weapons that could render the nuclear stand-off more fragile. Nevertheless, the SALT II Treaty is the first agreement in the nuclear age to require the dismantling, without replacement, of deployed, offensive nuclear weapons. The agreements also provide a firm and agreed starting point for further limitation. More specifically, the agreements limit both MIRVed launchers and the number of MIRVs placed on any given launcher; the deployment of new ICBMs, and production of the Soviet Backfire bomber. They permit the U.S. to deploy the new TRIDENT submarine and aircraft equipped with cruise missiles.

The theoretical vulnerability of fixed, land-based missile silos is solvable by arms control agreements only if the reliable, land-based, MIRVed missiles capable of destroying silos are severely reduced or prohibited on both sides, an outcome not achieved in SALT II. The Board questions the advisability of deploying land-based, silo-destroying missiles in a mobile mode because of their potential first strike capability and the high costs and uncertainties of a verification system for mobile ICBMs. There is no guarantee that the Soviet Union will adopt a similar system. Moreover, the future effectiveness of the U.S. mobile missile system seems to depend largely on arguable assumptions about Soviet strategic decisions over the next decade.

Further reductions in land-based, MIRVed ICBMs are a far safer and more effective solution to the technical problem of silo vulnerability than are new or improved weapons which could stimulate an intense and perilous competition in silo-destroying capability in the late 1980s, jeopardizing SALT and international security.

With respect to the issue of verification, any activity important enough to affect U.S. security would have to affect the major dimensions of Soviet forces (numbers and types of weapons, numbers of warheads, new weapons, etc.), where it would be detectable by American surveillance. Despite the closing of U.S. intelligence facilities in Iran, the provisions of the SALT II agreements can be verified satisfactorily by other means, such as reconnaissance satellites and U.S. monitoring facilities near the reentry end of Soviet missile test ranges.

While the SALT II agreements are imperfect and leave unresolved the critical problems of silo-destroying missiles and potentially unverifiable weapons, their achievements should not be minimized. If ratified, the SALT II agreements will improve the strategic climate by reducing current risks and uncertainties; they will benefit U.S. security by ending until 1985 the numerical rivalry and by beginning to control the burdensome costs and dangerous risks of an unconstrained competition in offensive nuclear weapons. On those who contend that American defense will benefit more from no SALT II agreements or from postponing still further their long-delayed conclusion rests an enormous burden of proof and responsibility. The Directors of the Association do not believe it can be met.

The Association recognizes that the ultimate effectiveness of the Treaty and associated undertakings will be determined nearly as much by the nuclear force decisions of the signatories during the life of these agreements as it will by the provisions of the agreements themselves. Nevertheless, the treaty and related agreements on their own terms make a unique and indispensable contribution to the security of the United States. Besides restraining the competition in current strategic systems, SALT II contains the basic terms of reference for further strategic arms limitation. SALT II establishes a comprehensive and detailed framework for defining and counting strategic nuclear forces, which, while superficially similar, are quite disparate in composition, capability, and purpose. Within this framework, it provides equal aggregate ceilings and sub-ceilings, while allowing both parties to shape their forces in terms of their particular strategic situations and doctrines.

Without these basic terms of reference, no lasting future progress will be possible or viable, yet achieving agreement on basic terms of reference is no simple task when the forces are so disparate and the signatories so antagonistic as they are in the Soviet-American competition. That the Treaty is as carefully drafted as it is results largely from the exertions of the American negotiators over the years. Typically, the Soviet Union favors more sweeping and generalized agreements, with less attention to technical detail. We owe to the U.S. negotiating team a particular debt for achieving a document which so much adheres to the American view of these matters, not the Soviet.

In this context, I would like to mention in particular certain specific features of the agreement that commend its adoption by the United States, quite apart from its impact on the strategic balance, which has been addressed at length by earlier witnesses. These features are (1) provisions that are especially in our interest but so far little noticed and (2) provisions that aid in the crucial task of monitoring compliance.

An example of the former provision is contained in the Third Agreed Statement to paragraph 10 of Article IV of the Treaty, which limits the weight reduction of ICBM re-entry vehicles. The effect of this measure is to prevent the Soviet Union from deploying an ICBM bus with, for example, 12 dispensing points while testing only six re-entry vehicles at a time so as to achieve a capacity for technological "break-out" from the terms of the agreements. There are in the treaty several other such restrictive clauses which prevent the Soviet Union from exploiting permitted activities in order to acquire forces for a sudden, massive abrogation of the Treaty. These are only a few of the measures which anticipate and prohibit practices that could confer an advantage on the U.S.S.R.

As regards verification, a close examination of the treaty text reveals that it has been drafted with the state of independent monitoring capability as a primary consideration. Special attention has been given to provisions which assist or complement current verification technology. In an appendix to my testimony are listed a dozen general aids to verification contained in the Treaty and related documents. There are more; indeed, the majority of the 98 agreed statements and common understandings contain provisions aimed at facilitating the monitoring of compliance.

Examples of these aids are the requirements for advance notification of certain missile tests, in particular the requirement for advance notification of the first and 25th or last test of the new ICBM permitted each side under the Treaty. Besides allowing the U.S. to put its monitoring facilities in the highest state of readiness, this provision avoids possible ambiguities about what is the new missile and what is a modified missile as defined in the treaty (Article IV, paragraph 9).

We will be able to discriminate clearly between the new missile and any missile modifications, making it easier to detect any missile modifications that exceed the limits established in SALT II. Concern about Treaty verifiability is a legitimate consideration and I hope that all those who share this concern will give particularly studious attention to the detailed contributions to verifiability made by the Treaty.

It is also important to recall that verification capability serves a purpose that goes well beyond its role of detecting violations after they have occurred. While it is often overlooked in discussions of the issue, a technologically sophisticated, redundant monitoring capacity such as the United States possesses also acts as a deterrent to cheating because it reduces the probability of successful evasion for the country considering clandestine violations. Fundamentally, deterrence of any kind—of crime, of nuclear attack, of cheating—is an effort to intervene in the decision-making process of the would-be violator so as to maximize the risks and penalties of being caught. I know the Committee has been briefed in closed session on U.S. verification techniques and capability. From this background, I am sure you can appreciate that the probability of escaping detection for significant violations or sustained, low-level evasion in very low indeed, given the variety of information sources available to the U.S. and the sophistication of the techniques used to correlate, integrate, and analyze this information. A decision to cheat on any of the numerous SALT II provisions must be made in the recognition that it will quickly be detected and appropriate sanctions invoked. In other words, the calculus of risks and benefits in cheating on the Treaty is not favorable to evasion.

Yet this is not all. The careful drafting of the Treaty means that, to achieve a given strategic weapon outcome, the would-be cheater will probably have to violate, not one provision, but several. This increases still further the probability of detection and of subsequent sanctions that could overwhelm the presumed benefits of cheating in the first place. U.S. verification resources and the painstaking care with which the Treaty was drafted thus raise a double barrier to a decision in favor of cheating by making the possibility of successful evasion very low.

Revelations in Cuba, however, have raised some doubts about our verification capacity. It is essential, though, that basic distinctions be made between military intelligence and arms control verification. Both intelligence-gathering and verification use the same techniques and both are simplified by knowing what to look for. Yet the standards for assessing the information differ. Military intelligence requires quite detailed information on weapon performance characteristics and overall manpower strengths, to gain a full picture of specific capabilities in order to evaluate the total threat and develop countermeasures. Verification, on the other hand, requires more limited data sufficient to determine only whether prohibited characteristics, numbers, and deployments are being attained. Moreover, an arms control agreement tells you much more precisely what to look for. The SALT II Treaty requires the Soviet Union to take a variety of measures—from providing us with confirmable data to modifying their systems—to ease verification.

Without these provisions, our analysts will have a lot harder time and a lot less certainty in monitoring Soviet strategic forces.

In addition, one of the hardest things to determine accurately in military intelligence is the actual strength, equipment, deployment and mission of troop formations, especially small units of less than division strength. These formations are simply too fluid, too ambiguous, too subject to rapid change to identify permanently and precisely. The experience of the allied and axis forces in World War II and our own experience in Vietnam reveal numerous cases to support this observation. Defectors, POWs, and reconnaissance behind enemy lines, even when coupled with the most modern intelligence sensors, do not always provide an accurate picture of troop units. Fortunately, these problems do not apply to strategic nuclear weapons and associated equipment and activities.

Before anyone hastily concludes that there has been an "intelligence failure" with implications for SALT II, we would do well to examine in a discriminating fashion the many and difficult factors involved in these two cases. For very sound national security reasons, our government does not make public either its intelligence methods or results. This leaves the public, and often the Congress, with misapprehensions and misconceptions about the strengths and limits of intelligence collection, analysis, and interpretation, as well as about verification. Yet this broader context is essential to an accurate assessment of SALT verification. Those who have had an exposure to this context have a special responsibility, therefore, to make clear, if only in a general way, the kinds of distinctions and principles that underlie these crucial efforts.

The burden of my testimony, Mr. Chairman, is that the substantive terms of the SALT II agreements are in the supreme national security interests of the United States and that the agreements have been written with special care and ingenuity not merely to protect but to further those interests. I have attempted to show, albeit briefly, that the broad effect of the SALT II limits and sublimits is buttressed by detailed provisions to ensure that the desired effect of the limits is attained, that ambiguities are minimized and that significant undetected evasion is precluded.

It is evident from a close reading of the text that the treaty anticipates and avoids the kind of ambiguities, possible evasive techniques and interpretive problems raised and subsequently settled under the interim offensive weapons agreement. To the extent that the provisions of the SALT II agreements reflect some ambiguity, it tends to favor the United States, as, for example, in the definition of national technical means of verification, which the Soviet Union would prefer to specify, and therefore limit, or in the language regarding mobile ICBMs, which does not foreclose the various options under consideration by the Department of Defense.

This is not to say that the treaty is without flaws. Some of them are spelled out in the accompanying statement of the Board's position. But these imperfections are neither fatal nor incorrigible. These, we believe, can be satisfactorily resolved under the guidelines contained in the Statement of Principles for further negotiations or in the proven mechanism of the Standing Consultative Commission. Yet it is simply not true that the Treaty "codifies" Soviet strategic superiority for the 1980s, any more than it codifies U.S. superiority.

Instead, the Treaty carefully balances the interests of both countries so as to produce the kind of equitable package of trade-offs that will merit the support of both signatories. No treaty between sovereign nations that fails to achieve this basic objective of equity will long endure.

The Treaty must therefore be seen for what it is, and not through the lenses of exaggerated expectations or exaggerated fears. After ten years of SALT negotiations, we should be able to adopt a dispassionate and realistic view of what strategic arms control can achieve and how it can achieve it. It is folly—politically, militarily, diplomatically, and technically—to expect the first formal Treaty limiting strategic offensive weapons to roll back the Soviet build-up of the last fifteen years or to produce steep reductions in the inventories of these still competitive powers.

SALT II, then, is not only a culmination or a way station. It is, in a very real sense, a beginning. It codifies for the first time a common language for describing disparate forces; it provides a system for counting and trading among these forces; it establishes several important principles for verification of compliance; and it reduces the total of strategic nuclear delivery vehicles while constraining future warhead deployment potential. In achieving these objectives, SALT II puts in place the basic framework for further arms limitation and reduction. This is an essential, significant and difficult accomplishment, especially difficult given the political and technical realities with which the negotiators had to contend. Without this achievement, future limitations would likely be impossible, or, if not impossible, impermanent and perhaps dangerous.

An understandable impatience with the arduous and often slow business of negotiating mutual limits on nuclear weapons should not blind us to the merits of SALT II, nor lead us to saddle arms control with expectations it cannot readily meet. The goal of arms control will now be best served by an imaginative, pragmatic and searching analysis of ways to overcome those obstacles—encountered during a decade's experience of SALT—to improving our national security through arms limitation.

APPENDIX A: MAJOR VERIFICATION-RELATED PROVISIONS OF SALT II

Interference and Concealment.—The SALT II Treaty repeats and extends the provisions of SALT non-interference with "national technical means" (NTM) of verification, which are defined. It specifically forbids the encryption of missile performance data if such would impede verification. The broadness of the definition of NTM serves the U.S. interest in multiple techniques and sensors. Several specific examples of what will or will not be considered deliberate concealment are set forth in Article XV of the Treaty.

Standing Consultative Commission.—The role and authority of the SCC, which has served well since it was set up following SALT I (of 34 complaints on SALT I registered in the SCC by both sides, all were resolved by discontinuance of the objectionable activity or by an acceptable explanation of it), are broadened, in particular with regard to establishing criteria for discriminating among weapons systems not as yet produced or deployed by either party—another aid to verification.

Definitions of Systems and Other Terms.—In sheer-wordage, much of the SALT II Treaty is taken up with defining weapons, launchers, weapons-related activities and associated equipment. Though certain ambiguities remain (many of them favorable to the preservation of U.S. program options, such as deployment of the MX ICBM system in Multiple Protective Structures), the relevant characteristics of most weapons are spelled out in detail. This directly and indirectly contributes to verifiability by easing categorization of systems, spelling out significant features, and reducing the occurrence of disputes such as that which attended the deployment of the Soviet SS-19 missile.

Counting Rules.—The SALT II rules for classifying and counting the weapons covered by the agreements simplify verification (and, incidentally, build "worst case" planning into the Treaty) by treating every weapon that is difficult to inspect internally as the most lethal it could be. Launchers tested with MIRVed missiles are assumed to contain MIRVed missiles; missiles of a type tested with MIRVs are assumed contain MIRVs; launchers of both IRBMs and ICBMs will be counted as launchers of ICBMs; missiles tested with MIRVs will be counted as possessing the highest number of MIRVs with which they have ever been tested. There are several other instances of this "worst case" approach, which tends to overestimate Soviet capacity and remove the necessity for verification of the contents of each individual missile or launcher; instead, delivery vehicles and launchers need only be recognized as belonging to a particular class.

Observable Differences.—SALT II provides that certain systems, especially aircraft but also launchers, be fitted with functionally-related observable differences or externally observable design characteristics if they are not to be counted under the "worst case" criteria for that system. This allows heavy or long-range aircraft to serve in other non-combat roles, such as tankers or cargo aircraft, or in combat roles, such as bombers, cruise missile carriers, or air-to-surface ballistic missile (ASBM) carriers, while making their function evident for verification purposes. Operational or test and training launchers for non-MIRVed ICBMs must possess externally observable design features if they are not to be counted as launchers for MIRVed ICBMs.

Agreed Data Base.—The SALT process long relied solely on the United States providing the essential data on the systems under negotiation—itself a testament to the adequacy of U.S. verification capability. However, under SALT II, both parties must provide their own data in ten categories and this data must be accepted by the other party before it becomes part of the agreed data base. In addition, this data must be updated twice a year by each party, subject to the other party's confirmation of its accuracy. This verification breakthrough will permit U.S. cross-checking of its independent information. It will also provide, for major provisions of the Treaty, an additional deterrent to cheating. Not only must the Soviets decide to violate the agreement's crucial limits, they must at the same time decide to present false data on a regular basis to the U.S., as well as how to disguise violations in so doing, thus running a still higher risk of detection when the U.S. checks this information.

Rules for Inclusion.—Article VI provides specific guidelines for which strategic weapons (in operation, in production, in reserve or in storage, and in overhaul) will be included in the ceilings and subceilings and at what precise stage weapons in production or in conversion will be considered included under the relevant treaty limitations. This affects, principally, production of new weapons, launchers of non-MIRVed ballistic missiles being converted to launchers of MIRVed ballistic missiles, and bombers being equipped to carry long-range cruise missiles. Also provided for is the case of weapons lost by accident, such as a submarine sinking or a bomber crash. Like the other verification provisions, these rules will help minimize the ambiguities that arose from the looser provisions of the Interim Offensive Weapons Accord.

Test and Training Launchers.—To avoid verification problems, ICBM and SLBM launchers used for both operational purposes and testing and training are counted under the relevant SALT II ceilings. In addition, the SALT II agreements provide more specific limitations on launchers used only for test and training, including no increase in the number of such launchers above 15%, based on the number in use when the Treaty takes effect. There is no exemption from the SALT II ceilings for heavy bombers used for testing or training, although a special provision exists in Article VIII for specified cruise missile and ASBM test aircraft. Test and training launchers must also be deployed only at the specified test ranges of both parties, not at operational missile fields. Notification of new test ranges for ICBMs is required. Eighteen launchers at Tyuratam associated with the Soviet fractional orbital bombardment system (FOBS) will be dismantled (12) or converted (6) to test launchers meeting the requirements for such launchers.

Procedures for Dismantling and Destruction—Similarly, Article XI of the Treaty provides deadlines for the destruction and dismantling of various types of weapons prohibited by or in excess of the Treaty limits at the time it enters into force and assigns the SCC the task of working out specific procedures for destruction and dismantling. Hence, Soviet methods for the destruction or dismantling of its 250 or so excess weapons will not be determined by the U.S.S.R. alone but must be agreed to by the U.S. Meanwhile, provision of specific deadlines for this process precludes doubt as to what the levels of specific types of weapons should be on given dates, removing another possible verification ambiguity.

Advance Notification of Tests.—The Treaty also provides for specific (as opposed to general) advance notification of ICBM test launches from test ranges or operational fields, except in the case of single missile launches not intended to extend beyond national territory. Although U.S. surveillance capacity already provides tip-offs of such launches, the advance notification requirement provides still further assurance that U.S. monitoring facilities will be in a high state of readiness for Soviet ICBM tests.

SS-16 Limits.—American concern that the mobile launcher for the two-stage SS-20 IRBMs could be readily adapted to launch the similar three-stage SS-16 ICBM represents another revelation of the precision of U.S. intelligence data on Soviet systems. The SALT II treaty resolves the verification problem inherent in this situation by obliging the U.S.S.R. not to produce, test, or deploy SS-16 ICBMs, nor to produce the components unique to this missile, specifically, its third stage, re-entry vehicle (RV) or post-boost vehicle for targeting the RV. Besides clearing up a potential verification issue, this provision is one of several which limits Soviet breakout potential by prohibiting deployment of non-limited systems that might be adapted clandestinely to an intercontinental mission. (See also Paragraph 6 of Article IV on strategic offensive weapons construction schedule limits for another provision constraining breakout potential).

Missile Deployment.—To prevent still another type of verification ambiguity, neither side will be allowed to supply ICBM deployment areas with more than one missile per launcher. Besides limiting the possibility of clandestine "rapid reload" capacity, this requirement reduces concern that additional missiles are destined for adjacent, covert launchers.

STATEMENT OF THE BOARD OF DIRECTORS OF THE ARMS CONTROL ASSOCIATION ON THE SALT II AGREEMENTS

The Board of Directors of the Arms Control Association strongly supports the SALT II agreements and urges their ratification by the United States without substantive change. The Board takes this position despite its concern that the failure of the negotiating parties to achieve further reductions and constraints and their acceptance of the deployment of one new type of land-based missile for each side may endanger the future of strategic arms limitation.

The SALT II agreements represent a significant, if long overdue, achievement in defining and maintaining the strategic nuclear balance and in improving the predictability of military threats to American security. During more than six years of difficult negotiations in an era of rapid technological change, successive U.S. teams have effectively protected American strategic interests, while obtaining important concessions from the Soviet Union. Upon entry into force, the Treaty would enhance Western and world security through 1985. Its effectiveness beyond 1985 will depend on force decisions under the terms of the SALT II agreements—such as the new U.S. MX missile and basing system and analogous Soviet developments—and the nature of subsequent limits toward which both parties have pledged continuing effort.

A series of interlocking provisions, the agreements should be considered as a whole in relation to the total balance of stratetgic offensive nuclear forces, rather than in isolation. Through compromises and trade-offs among dissimilar offensive forces serving different strategic requirements, the agreements establish a comprehensive and equitable framework for balancing and constraining offensive strategic arsenals. This will enhance the stability of the strategic balance, help prevent dangerous inequalities, and provide a foundation for future limitations and reductions.

The four major accomplishments of the SALT II agreements are:

1. Establishing equal aggregate ceilings of 2250 by the end of 1981 on the total number of all types of offensive strategic nuclear delivery vehicles (all intercontinental ballistic missile launchers and heavy bombers) each side may possess, as well as subceilings on specific types of multiple warhead launchers. These ceilings will slow the competition that would otherwise lead to increased numbers of strategic nuclear delivery vehicles.

2. Providing a lower sub-ceiling of 820 on the number of land-based missile launchers for intercontinental ballistic missiles (ICBMs) with multiple, independently-targetable re-entry vehicles (MIRVs), and limits on the number of warheads that each type of ICBM may carry. These are the systems regarded as most threatening to a stable strategic balance.

3. Establishing a series of important restrictions on improved or new types of intercontinental ballistic missiles.

4. Introducing a variety of special measures for verifying compliance with the agreements and increasing the predictability of an enemy threat.

The agreements would not by any means bring the strategic arms competition to an end and in several cases would leave undesirable opportunities for the deployment of weapons that could render the nuclear standoff more fragile. Nevertheless, the SALT II agreements build on and complement the virtual prohibition of ballistic missile defenses contained in the Anti-Ballistic Missile (ABM) Treaty. They also substantially improve on the Interim Offensive Weapons Agreement of 1972 and the 1974 Vladivostok Accords. Finally, they provide a firm and agreed starting point for further limitations.

The SALT II Treaty is of historic importance because it is the first in the nuclear age to require the dismantling, without replacement, of deployed, offensive nuclear weapons. Of equal practical significance are the accompanying limits and constraints on improvements in weapons technology, which increasingly stimulates competition and threatens to upset the existing nuclear standoff.

AMERICAN SECURITY

The SALT II agreements improve U.S. security most significantly by:

1. Preventing Soviet deployment by 1985 of an officially estimated minimum of 500 additional strategic offensive delivery systems (ICBM launchers, submarine ballistic missile launchers, and long-range aircraft) and requiring the dismantling of over 250 existing Soviet intercontinental delivery systems by December 31, 1981, with over 100 to be dismantled in the first six months after entry into force. This would not only reduce by over 250 the current number of modern Soviet delivery vehicles but would also prevent their replacement with improved models. The Treaty would permit the Soviet Union to retain its 308 very large ICBMs, but it would prohibit the Soviet Union from increasing the size or number of these missiles, from building new ones, and from placing more than ten warheads on each.

2. Placing effective upper bounds on the total number of Soviet intercontinental ballistic missile warheads, by limiting the total number of launchers for missiles with MIRVs, by additionally limiting the number of land-based missiles with MIRVs, and by limiting the number of MIRVs placed on any given missile. Since the U.S.S.R. is presently below these limits, they would still be permitted to build up to these upper limits in warheads. However, these upper limits will provide a fixed basis for American defense planning.

3. Restricting the U.S.S.R., as well as the U.S., to a single, new type of ICBM, which, if deployed by the U.S.S.R., would have to replace existing weapons. This will prevent the past Soviet practice of testing and deploying as many as four new ICBM models at a time. The agreements will also severely limit modernization of existing ICBM types.

4. Prohibiting the Soviet Union from testing, deploying, or producing the potentially mobile SS-16 intercontinental missile and the components unique to it.

5. Providing American defense planners with improved information on Soviet strategic forces, permitting more realistic planning and diminishing the need for "worst case" estimates which have historically led to excessive nuclear forces.

The additional predictability in the strategic nuclear environment established by SALT II is particularly important in view of the impending change in Soviet leadership, which may reopen Soviet debate on defense issues. The SALT II limits would constrain the strategic force decisions made by any new Soviet leadership in ways favorable to nuclear stability.

The agreements permit the U.S. to:

1. Add to its overall number of strategic nuclear delivery vehicles by deploying the new Trident or other replacement submarine. The new Trident I missile is also permitted. The increased range of this missile allows Poseidon and Trident submarines to disperse over broader ocean areas, increasing their already high invulnerability to detection and attack.

2. Deploy 120 aircraft each equipped with an average of 28 air-launched cruise missiles of unlimited range (or more such aircraft, if the U.S. prefers to cut back on MIRVed missiles). This deployment will improve the future effectiveness of the airborne portion of the strategic deterrent.

3. Continue development and testing of long-range sea-launched and ground-launched cruise missiles at the rate currently envisioned in American development plans, thus keeping open the option for NATO deployment of such weapons should NATO deem them necessary after the Protocol to the Treaty expires at the end of 1981.

The SALT II agreements would not permit the United States to test or deploy very large land-based missiles, which historically American defense planners have not wanted to do. Yet they would permit the U.S. to deploy a new land-based missile with as many as 10 warheads, which is the limit permitted for the Soviet very large missiles.

In a concession favorable to the United States, the Soviet Union has agreed to limit production of its medium-range Backfire bomber to the current level of 30 per year and to forego any extension of its capabilities to an intercontinental range. At a production rate of 30 per year, the Backfire would add very little to Soviet coverage of strategic targets, while its use in a strategic role would reduce significantly Soviet ability to cover theater targets—the primary mission for which Backfire is designed.

U.S. negotiators were able to achieve these Backfire limits, a breach of which would be considered a breach of the SALT II Treaty, without accepting any parallel limits on American forward-based delivery systems (aircraft based in Europe, in Asia, and at sea capable of delivering nuclear weapons on Soviet territory) or limits on French and British nuclear weapons targeted on the Soviet Union.

The range and payload limitations of Backfire and the inadequate number of Soviet tanker aircraft available for inflight refueling make the Backfire a very poor weapon for intercontinental missions. The U.S. forward-based aircraft can reach the Soviet Union more easily than the Backfire could reach the U.S. Finally, should the Soviet Union equip Backfire bombers for long-range, air-launched cruise missiles, these aircraft would automatically come under the aggregate SALT II limits and would require one-for-one reductions in the numbers of either Soviet ballistic missiles or bombers unequipped for cruise missiles.

INTERNATIONAL SECURITY

The SALT II agreements will improve world security generally by constraining the competitive build-up in land-based, multiple-warhead missiles which fosters fears of surprise attack and may thus provoke a nuclear war, especially in a crisis. The agreements also contain a basis for, and a commitment to continue, the reduction in the superpower nuclear arsenals. Many nations have argued that they need nuclear weapons because the U.S. and the Soviet Union have failed to make good on earlier treaty pledges to limit and reduce their arsenals. The SALT II Treaty will be an important step toward undercutting their arguments.

The completion of negotiations for a comprehensive ban on all nuclear testing is now stalled until SALT II is ratified. Such a ban, together with current and future SALT limits, would also reduce the incentives and arguments of other countries for acquiring nuclear weapons. If the spread of nuclear weapons to other nations is not checked, American and global security will be greatly complicated and threatened.

Similarly, while it is clear that the conclusion of SALT II will not necessarily stimulate progress on other arms control initiatives, such as the anti-satellite warfare talks, it is equally clear that no progress will be made in these areas until SALT II is completed.

ARMS CONTROL IMPACT

While protecting essential security interests during the life of the Treaty, the agreements would make important strides in both checking and, for the first time, reversing the offensive weapons rivalry in several crucial areas. SALT II would:

1. Require the unprecedented dismantling of operational offensive nuclear weapons, ban the development, testing, or deployment of certain new types of delivery systems, and commit both sides to work for limits on other new types not yet produced.

2. Limit the number of all operational MIRVed ballistic missile launchers on each side to 1200, place a sublimit of 820 on operational, MIRVed, land-based ballistic missile launchers, and place a ceiling on the number of multiple, separately targetable warheads on each missile, thereby placing for the first time some controls on the two most dangerous features of the nuclear forces of both countries.

3. Prohibit the testing or deployment of land-based, intercontinental ballistic missiles from mobile launchers for the duration of the Protocol.

4. Limit the testing and deployment of a new system of advanced land-based missiles for each country to a single type. If MIRVed, this new type must count against the lower ceiling of 820 allowed for MIRVed, land-based missiles. It cannot be a heavy or very large missile and must conform to the characteristics set forth in the Treaty for the light class of weapons in terms of launcher and missile payload (or throw-weight), launcher and missile dimensions, and fuel. The Treaty would not limit guidance systems, which determine missile accuracy.

5. Provide a framework for comparing and counting varied and complex, offensive nu-

clear forces—an essential first step in achieving additional reductions and limitations.

6. Ensure that any deployment of aircraft equipped with long-range, air-launched cruise missiles by either side must be counted against the 2250 total and the 1320 subtotal allowed for strategic launchers, so that deployment would be at the expense of an equal number of land-based or sea-based ballistic missiles or standard, long-range, nuclear bombers. This will prevent unrestrained competition in this new type of weapon system.

VERIFICATION

The essential requirement of verification is the capacity to detect any activity in violation of the SALT II provisions before that activity could have a significant impact on U.S. security. Any activity important enough to affect U.S. security would have to affect the major dimensions of Soviet forces (numbers and types of weapons, numbers of warheads, new weapons, etc.), where it would be detectable by American surveillance. The SALT II agreements contain numerous provisions which would enhance the already thorough monitoring capacity of the United States. To aid verification, the agreements provide for:

1. The initial exchange and subsequent updating of agreed data on numbers of weapons constrained by the agreements, providing for the first time information from the U.S.S.R. on its weapons. The accuracy of Soviet data is confirmed independently by the U.S. before being agreed to. The exchange of agreed data will improve U.S. ability to check and challenge apparent discrepancies and will reduce ambiguities about future Soviet activities.

2. Expanding and reinforcing the prohibitions in earlier agreements against deliberate concealment from and non-interference with "national technical means" of verification (reconnaissance satellites, etc.) including a ban on encoding of missile performance data (telemetry) which impedes SALT verification.

3. Elaborate counting rules (e.g., in effect, every missile would be counted as carrying the maximum warheads with which it has ever been tested; long-range cruise missiles would be counted as nuclear, whether or not equipped with nuclear warheads); associated rules requiring procedures for differentiating controlled systems from uncontrolled systems; and definitions of some of the weapons and improvements permitted by the Treaty.

The Treaty will also extend the mandate of the Standing Consultative Commission (SCC), established by SALT I, to resolve ambiguities related to compliance and to establish procedures for dismantling missile launchers. The SCC will play an important role in the implementation of the new agreements. All difficulties raised by either party in SALT I have been satisfactorily resolved through the SCC.

Confirmation of compliance with arms limitation agreements involves many of the same techniques employed to gather military intelligence. Verification of the specific terms of agreements, however, requires less information and less exacting standards of evaluation than are desired for general military intelligence. Therefore, notwithstanding the closing of U.S. intelligence facilities in Iran, the SALT II agreements can be verified well enough so that no Soviet action with significant potential impact on American defense interests could go undetected. Verification of the overall SALT II ceilings and restrictions on MIRV's is not significantly affected by the closing of the sites in Iran. These provisions can be verified satisfactorily by other means, such as reconnaissance satellites and U.S. monitoring facilities near the re-entry end of Soviet missile test ranges. With less reliability, the limits on new weapons and on modernization of existing types can still be satisfactorily verified at present. Verifiability will be improved by additional U.S. monitoring programs before any significantly new missile could be produced. Certain provisions of the SALT II agreements can also be verified with a lesser probability of detection. But high confidence verification of these provisions is not essential to American security. Monitoring of these less significant provisions would, however, reinforce U.S. confidence in Soviet compliance with the crucial terms of the agreements. A material violation of even a minor technical provision would provide the U.S. with grounds for a formal complaint to the Soviet Union, backed up by the sanction that, if no satisfaction were forthcoming, the U.S. could withdraw from the Treaty or take other action on the grounds of the violation.

ICBM VULNERABILITY

Experts agree that a single, fixed, land-based missile silo could be destroyed by a reliable missile system which has a warhead with the necessary combination of accuracy and explosive power (yield). But the lack of experience with multiple missile firings means that no defense planner could have high confidence in the success of an essentially simultaneous, salvo attack involving up to two warheads aimed at each of more than 1,000 separate silos. An attack on ICBM silos would, in addition, invite devastating retaliation against the attacker from airborne and seaborne nuclear weapons, which are even more impervious to a successful, simultaneous attack, especially if on alert. Therefore, the problem of ICBM silo vulnerability is largely hypothetical from an operational standpoint. It nevertheless impairs the assurance of the superpowers in the survival of their land-based forces, in particular during a crisis.

The theoretical vulnerability of fixed, land-based missile silos is solvable by arms control agreements only if the reliable, land-based, MIRVed missiles capable of destroying silos are severely reduced or prohibited on both sides, an outcome not achieved in SALT II. The SALT II agreements are an improvement on the Vladivostok Accords, constraining on both sides the numbers of land-based ICBMs and MIRVs with adequate accuracy and yield available to pose a potential threat of a barrage attack on the other party's silos. Yet the agreements do not limit these presumptive silo-destroying weapons sufficiently to eliminate fears of an attack.

CONCERNS

It is in the area of silo vulnerability that the SALT II agreements fail to meet the objective of improving American security by mutual and equitable limits on weapons which threaten or are believed to threaten the United States. The agreements do not bar the Soviet Union or the United States from a major increase in silo-destruction potential by increasing the accuracy of their missiles or expanding, in some cases up to ten apiece, the number of high-yield warheads on current or proposed ICBMs. The United States would be allowed to test and deploy its proposed new mobile, silo-destroying, land-based Experimental Missile (MX) after the Protocol expires in 1981. The Soviet Union would also be permitted to test and deploy a new, perhaps analogous, system. In the meantime, the U.S.S.R. can increase the accuracy and number of MIRV's in its existing ICBM force, especially its very large ICBMs. These developments could well create a climate of heightened mutual fear and uncertainty, especially in a crisis. The combination of MIRVs, accuracy, and yield permitted by the agreements could thereby undermine the continuation of nuclear deterrence and spur new rounds in weapons competition.

Deployment of more land-based, silo-destroying missiles will threaten nuclear stability and erode the basis of SALT still further if they are emplaced in mobile basing modes which multiply potential targets, forcing an adversary to program additional warheads for targets which, in fact, contain no missiles. No system of verification for mobile ICBMs has yet been devised that would clearly be acceptable to both sides and would permit the kind of high-confidence monitoring on which SALT is based. Moreover, if the United States deploys a silo-destroying missile, such as the MX, in a basing mode that is verifiable (a judgment that rests ultimately with the Soviet Union, not the U.S.), there is no guarantee that the Soviet Union would adopt a similar system because of the different characteristics of its ICBMs, particularly their use of liquid fuels. To protect their ICBMs against American MX missiles, the Soviets could develop very different and less verifiable mobile basing systems or they could develop an anti-ballistic missile system designed to guard ICBMs, thereby threatening the viability of the ABM Treaty.

The deployment of silo-destroying mobile missiles and the difficulty of verifying the number of these missiles in deceptive basing modes could well induce fears propelling the superpowers into a competition that would proliferate mobile missile targets and silo-destroying warheads, with a decline in the security of both nations. The prospect of the developments could lead, as well, to an unwillingness to agree to further reductions in the next phase of SALT, to an unwillingness to renew the SALT II Treaty in 1985, or to pressures to raise the SALT II ceilings on ICBMs and MIRVs. Since ICBMs form a far larger proportion of Soviet strategic forces, the future Soviet leadership will be under particularly strong pressures to resort to such remedies for Soviet silo vulnerability.

Ironically, however, a mobile, silo-destroying ICBM system (which could not be completely deployed in the U.S. until about 1990) would not be viable without the limitations of the SALT I and SALT II treaties. Without the ICBM and MIRV constraints in SALT II, missiles in the multiple-aim-point basing system proposed for the U.S. could theoretically be pinned down or overwhelmed by additional Soviet MIRVed missiles. Without the constraints on ABM systems in SALT I, confidence in the effectiveness of silo-destroying missiles would be reduced. Hence, mobile, silo-destroying ICBMs threaten the continuation of the very arms limits on which their effective operation depends. These new, mobile systems could lead to the demise of the SALT process before their deployment is completed, making this a counterproductive approach to the theoretical problem of silo vulnerability. Land-based, mobile systems for silo-destroying missiles will pose a far greater danger to American security, and to the SALT process and its accomplishments, than does the current prospect of a hypothetical, Soviet attack on American land-based missiles.

A similar, but less critical, problem is presented by ground-launched and sea-launched cruise missiles which are difficult to verify and can achieve great accuracy. Deployment on both sides could seriously reduce the predictability of the strategic environment and undermine the basis of negotiated limits, since, once developed and tested, the deployment of these weapons may be difficult to verify.

FUTURE STEPS

The SALT II agreements do not oblige either party to increase its silo-threatening potential or to adopt mobile, deceptive basing systems. There are several options for increasing the survivability of strategic nuclear forces. Land-based, multiple-aim-point systems are the worst of these options in effectiveness, cost, and impact on the nuclear stand-off. The United States should therefore not commit itself in any irrevocable way to missiles, such as the MX, with increased silo destruction capability or to mobile, deceptive basing modes. In particular, it should not decide on a particular missile before a conclusive decision on its basing mode.

Further reductions in land-based MIRVed ICBMs are a far safer and more effective solution to the technical problem of silo vulnerability than are new or improved weapons which will stimulate an intense and perilous competition in silo-destroying capability in the late 1980s, jeopardizing SALT and international security. The latter approach is inconsistent with fifteen years of American strategic policy of stabilizing the nuclear environment through arms limitation and maximizing investment in more survivable airborne and seaborne weapons.

While the SALT II agreements are imperfect and leave unresolved the critical problems of silo-destroying missiles and potentially unverifiable weapons, their achievements should not be minimized. If ratified, the SALT II agreements will improve the strategic climate by reducing current risks and uncertainties; they will benefit U.S. security by ending until 1985 the numerical rivalry and by beginning to control the burdensome costs and dangerous risks of an unconstrained competition in offensive nuclear weapons.

These benefits for American security can only be fully and lastingly realized by advancing the step-by-step SALT process. Moreover, the pace of technological innovation continues to outrun the painstaking course of negotiations, creating new threats to U.S. security. Therefore, American defense interests are best served by quickly attaining the immediate and substantial advantages of SALT II and, on this foundation, moving rapidly to resolve the remaining problems in future talks.

The first priority in subsequent negotiations must be to achieve significantly lower numbers of MIRVed ICBMs and total numbers of warheads on both sides, to seek limitations on flight testing, and to close the self-defeating option for a concealed, mobile ICBM for both sides before the expiration of the Protocol in 1981. The best means of negotiating further limits will be to seek a series of separate, limited modifications of the SALT II Treaty, rather than through comprehensive negotiations, and by precluding new systems before they can be deployed.

On those who contend that American defense will benefit more from no SALT II agreements or from postponing still further their long-delayed conclusion rests an enormous burden of proof and responsibility. We do not believe it can be met.

TESTIMONY OF REV. DR. AVERY D. POST, NEW YORK, PRESIDENT OF THE UNITED CHURCH OF CHRIST, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, SEPTEMBER 24, 1979

My name is Avery D. Post, I am President of the United Church of Christ. The 1.8 million member United Church of Christ is a 1957 union of two historical Protestant denominations. One is the Congregational Christian Churches which were founded by the Pilgrims and the Puritans of Massachusetts Bay. The other is the Evangelical and Reformed Church, of Germanic background, which was established in Pennsylvania in the early 1700's and in the Texas Gulf area and the Mississippi Valley soon after 1848.

The United Church has congregations in Puerto Rico and all of the states except Alaska. Our members are a cross section of the people of the United States.

The General Synod of the United Church, which is our central delegate body, endorsed ratification of the SALT II Treaty overwhelmingly when it met last June. We were the first major denomination to vote such an endorsement. While the General Synod does not speak for all of our churches or members, it does reflect the views that are generally held among us.

Endorsement of Salt II, was especially significant because it was based upon studies that were conducted in our local churches. More than three months in advance of the General Synod we circulated to our 6,491 churches a proposed pronouncement on disarmament, together with study materials to help them arrive at decisions. Action on the Salt II Treaty became a part of this Pronouncement. Our churches responded with advice to the delegates to the General Synod. After deliberating, the delegates voted approval of Salt II.

I have gone into this detail so you will understand with what care we reached our decision to support Salt II. It was a representative decision. We now know that it is in accord with the wishes of the vast majority of church people in the United States and, indeed, with Christians throughout the world.

We were under no illusions when we voted to support Salt II. We saw clearly that it is but a small step forward. But it is a critical one toward sane judgments about nuclear arms.

We have watched with great disquiet the Soviet arms buildup of the 1960's and 1970's, and its arming of surrogate nations to intervene in local wars in Africa and Asia. Each increase in Russian armed might, each response that we and our allies must forge makes the world at once less secure and more dangerous.

"The arms race cannot be won. It can only be lost." That is a quotation from a joint statement by American and Russian church leaders that addressed itself to what we perceive to be "fantasies of destruction being acted out in our history on a global scale." I would like to offer our entire theological statement, titled "Choose Life," for inclusion in the record.

The arms race is absurd. Rational beings—as I trust we are—can find nothing in reason to justify it. Therefore, we must begin to move toward a halt in the arms race, and ultimately to its reversal. Salt II can afford us that beginning, can be made the foundation for more far-reaching bilateral negotiations in the future. On that basis alone, the treaty deserves to be approved by the Senate.

The Salt II Treaty also embodies real advantages for the United States. I will not detail them, since you have heard them many times. I urge you, however, not to hold these gains hostage to settle passing political issues.

The question of whether or not we need more money for armaments is one that should be debated on its merits, as it is in years when there is no treaty similar to Salt II before this body. It is morally indefensible to prolong the world's nuclear terror by making a partisan, emotional issue of the one thing which, above all others, should be considered with cold logic on the basis of verified facts.

The alleged presence of Soviet combat troops in Cuba is a delicate political issue that cannot be ignored. The United States needs to be continuously alert to what is going on in the nations on and near its borders. We cannot be comfortable with any outside military force in those nations, whatever may be its purpose. What we need with respect to Cuba and similar situations near our borders is efficient observation, coupled with vigorous diplomatic action, speedily applied. There is no basis in morality for us to jeopardize our chance to back away from nuclear holocaust in order to try to solve the Cuba problem by back door means. Let us, by all means, develop a positive and determined policy with respect to Cuba. But let it stand on its own feet. Then we will not need to be reacting to things we should have foreseen and moved to control.

Salt II is something more than an agreement on limitation and expansion of bombers and missile systems. It has a theological dimension that is just as crucial for determining policy as is the weighing of other issues. There is very little trust between the United States and the Soviet Union. Yet, true security for ourselves and for the world can be attained only in relationships of trust. The approval of Salt II is one step on the road toward trust. The way we and the Soviet handle our responsibilities under this treaty may be made a second step on that road. A new and more sweeping disarmament agreement might then become a third.

There may never again be a chance to start along the road toward mutual trust unless we adopt Salt II and carry out its provisions to the letter. History will judge us not for our political acumen, but on the moral stand we take—on our "yea" or "nay." Any initiative, however small, that limits arms is a moral act. Any rejection of even a small chance to limit arms is an immoral act. Our great Judeo-Christian heritage has only one advice for government under these circumstances: "Choose peace. Choose life."

CHOOSE LIFE

(Joint statement of the representatives of the churches of the USSR and the USA meeting in Geneva in a Consultation on Disarmament, on March 27–29, 1979)

"I call heaven and earth to witness against you this day, that I have set before you life and death, blessing and curse. Therefore, choose life, that you and your descendants may live."—Deuteronomy 30: 19.

We make this appeal as servants of Christ gathered from among the churches of the USA and the USSR. We have been drawn together across the differences of languages and culture by our common Christian calling to foster life in the midst of a race towards death. We affirm our unity in confessing Christ as Lord and Saviour.

Gathered in Geneva during the season of Lent we have been especially conscious of the sufferings of our Lord who offered Himself that we might have life and have it abundantly (John 10: 10). From our faith in Christ, the All Powerful, the Conquerer of Death, we have drawn strength to choose life in spite of the spreading power of death.

Our three day session was marked by acts of worship and included presentation and discussion of theological and technical papers as well as dialogue on issues of peace and disarmament. During this time we heard and considered reports from Ambassador Victor Israelian, USSR, and Ambassador Adrian Fisher, USA, the heads of our two delegations in the Committee on Disarmament in Geneva.

We have been encouraged by the engagement of our two governments in an unprecedented range of disarmament negotiations; by the strengthening of the more significant measures taken by the United Nations for disarmament; by the renewed vitality of non-governmental organizations in the disarmament field; and by the indications that the peoples of the world are calling for disarmament. But our ambasadors' presentations and other information set before us have also filled us with profound anxiety for the future of our own and all peoples.

THE ARMS RACE

We are convinced that the arms race cannot be won; it can only be lost. All of us have long been aware of the nuclear terror. Many people have accepted it as an inescapable part of our contemporary world. Numerous voices in the church have been raised against it in both our countries. Our experience in this consultation now compels us to cry out against it with one voice. The existence of forces having the capacity to devastate our planet not once or twice, but many times, is absurd and cannot be tolerated. It must be confronted and overcome in the name of the Christ who lives and reigns forever.

We express profound concern about the danger of a precarious balancing of humanity on the brink of nuclear catastrophe. We know that still more terrible weapons are being developed which can only lead to greater fear and suspicion and thus to a still more feverish arms race. Against this we say with one voice—NO! In the name of God—NO!

We are opposed to the arms race not only because of the danger that we will all lose it in the future, but also because we are in fact losing the race now. Already in 1978, the nations of the world were spending more than one billion dollars per day—400 billion per year—on armaments, a sum which is increasing every day. We were informed that the World Health Organization required a mere 83 million dollars, to wipe out smallpox. What could be done with the other thousands of millions? Could the hungry be fed? Could the sick be made whole?

Nor can the cost be measured in money alone. The gifts of God given to his people for the service of the new creation in Christ are everywhere diverted to the destruction of peace and order. Peoples are forced by economic and political pressure to offer up their lives in the manufacture of death. Nations already ravaged are wounded again as their irreplaceable natural resources are consumed in the arms race rather than being employed in the development of just, sustainable and participatory societies for their own people. Widespread moral devastation, cynicism and hopefulness are the only rewards.

THEOLOGICAL REFLECTIONS

To address the danger of these fantasies of destruction being acted out in our history on a global scale, we have sought to renew our vision. We have listened again to the ancient words of the prophet Isaiah:

"He shall judge between the nations, and shall decide for many peoples; and they shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more." (Isaiah 2:4)

We confess that the nations which, with the help of God, can transform swords, can also disarm missiles. We bear witness that the Lord our God is a God of peace who wills the well-being of the whole of His creation. He has granted us and all His people a vision of shalom for the present time and for the ages to come in which all peoples and nations will dwell together in security.

Yet we acknowledge that this, the very longing for security on the part of the nations, is often used to justify the arms race. The possession of arms by some breeds fear and suspicion among others which they seek to quell by acquiring their own arms. This in turn breeds more fear and suspicion, which results in an escalation of terror rather than the establishment of full security.

We recognize that we ourselves and the peoples of our two nations, and indeed, every man, woman and child in all the world, are caught in this spiral of terror. We perceived that the threat of this escalation is slipping beyond human control. We were then reminded of the Apostle Paul's exclamation that "we wrestle, not against flesh and blood, but against principalities, against powers" (Ephesians 6:12). We confessed that seeking our security through arms is in fact a false and idolatrous and that true security can be found only in relationships of trust. These relationships we believe to be possible, for Christ has overcome the principalities and powers (Colossians 2:15). Jesus is Lord!

CALL TO ACTION

We therefore pledge ourselves, and encourage our brothers and sisters:

To press for the earliest possible approval of the SALT II accords. While we understand that SALT II does not provide for more substantial arms reduction, it does provide a new and essential framework (of parity) for negotiating substantial and equal reductions in SALT III, and further steps in the direction of general and complete disarmament. It promises a new opportunity to consolidate institutions for halting the spread of nuclear weapons. The success of SALT II would open the way to decisive progress on other critical disarmament issues. It would enable our two governments to share more fully in the constructive works of peace in economic, technical and cultural affairs. It would help to promote a new climate of international relations in general.

To call for a full and general prohibition of: nuclear arms testing; the development and deployment of new nuclear weapon systems; and the production and accumulation of chemical and radiological arms as well as other weapons of mass destruction.

To support the role of the UN in disarmament negotiations and such international forums as the Special Session on Disarmament and other initiatives in this field. The arms race produces hardships and lethal dangers, not only for our two countries, but for all nations of the world, especially those having nuclear capability. Therefore, all governments have the right and the duty to participate constructively in the process of disarmament.

To support ecumenical programmes concerned with disarmament, especially the World Council of Churches Programme for Disarmament and Against Militarism and the Arms Race; and to cooperate with other non-governmental programmes for disarmament.

To express readiness to unite our efforts for peace and disarmament with the followers of all religions and all persons of goodwill.

To call upon our churches to make available staff persons and financial resources for disarmament programmes.

To call upon our churches to make available staff persons and financial resources for disarmament programmes.

To urge our churches in their teaching and preaching programmes to emphasize the Biblical vision of peace; and also to stress the devastating social and personal consequences of the arms race.

To give special attention to strengthening and enlarging the community which has been nurtured among the Christians in the USSR and the USA for more than twenty years, and which we have again experienced here, including the possibility of further consultations on disarmament and other visitations of a general nature, as well as joint days of prayer for peace using the Ecumenical Prayer Cycle (World Council of Churches) and respective liturgical materials of the churches involved.

Finally, our sisters and brothers, we call to your attention the authoritative predictions that nuclear war by the 1990's is an increasing probability. In that decade of high risks we will be approaching the end of our millenium. Even now, only twenty years separate us from the moment when we will be called upon to mark prayerfully the bimillenary anniversary of the coming to the world of our Lord and Saviour, Jesus Christ, the Prince of Peace. How shall we meet that day? In what state shall we present our planet to the Creator: shall it be a blooming garden or a lifeless, burnt out, devastated land?

Thus the Lord has set before us again life and death, blessing and curse: therefore choose life that you and your descendants may live.

STATEMENT OF RICHARD FALK, ALBERT G. MILBANK PROFESSOR OF INTERNATIONAL LAW AND PRACTICE, PRINCETON UNIVERSITY AND SENIOR FELLOW, INSTITUTE FOR WORLD ORDER BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE IN CONNECTION WITH THE SALT II HEARINGS ON SEPTEMBER 24, 1979

It is always a privilege to appear before the Senate Foreign Relations Committee and I am especially grateful for the opportunity to present my views on the vital subject-matter of these hearings. There was a time that I shared the rather cavalier attitude of one editorial observer: "The SALT initiative can't lose. If it goes through, it will set a good mood for what needs to be done internationally. If it flops, it will emphasize [that] what needs to be done needs to be done."[1] Now I take a far more concerned and pessimistic view of the situation. If SALT II passes, the price will be so high on several different counts that it will make no net contribution to the safety of the world or the security of the nation. If SALT is defeated, however, it will almost certainly contribute to increased international tensions and to an even greater investment in the arms race.

As an American citizen long concerned with the subject matter of international security, I find the drift of national debate on the SALT treaty to be of far more disturbing consequence than the various pros and cons about the provisions of the agreement itself. At best, SALT II offers a marginal achievement from an arms control point of view, one that does not go nearly far enough given the dangers and social costs of a continuing arms race. But the pressures exerted on treaty advocates by SALT critics have negated even this small hope. As is now well-known, the price for possible SALT ratification is a 3–5 percent increase in real defense expenditures, as well as the accelerated development and deployment of several destabilizing weapons systems, including at least Trident, MX, and cruise missile technology. These "compensating steps" to secure greater support have the additional effects of adding to the dangers of war and economic decline over what they would have been had the SALT II arrangement never been negotiated.

In this debate the hidden agenda has become predominant. In the name of counteracting an alleged Soviet threat, never more tangibly specified than as one of shifting the perceptions of White House policymakers and planners, the United States is moving toward the incorporation into its strategic posture of a group of First Strike weapons systems, including Trident, MX, and cruise, that is, weaponry whose utility is associated with plausible first strike missions. This kind of weaponry, together with the doctrines it generates and the plans it engenders, erodes the nuclear weapons firebreak, encourages Soviet planners to follow suit with neutralizing weapons systems and doctrines of their own, and helps convince potential nuclear powers that nuclear weapons are essential instruments of big-time international diplomacy.

In actuality, Soviet military capabilities, now or projected, pose no genuine threat to American security properly conceived. That is, there is no prospect of a militarily usable Soviet advantage at the strategic level, as even if United States land-based missiles were to become in some sense vulnerable after the mid-1980s, sea and air systems would continue to provide an enormous easily sufficient deterrent. It is difficult to envisage a Soviet leader, other than a psychopath (who might provoke war under any geo-

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political conditions), provoking World War III because of a conviction that the magnitude of catastrophe would be smaller for the Soviet Union than its adversary or that it could "recover" more rapidly. These notions, now popular among anti-SALT hawks, seem farfetched and misleading. It is true that the failures of Soviet leadership, especially the failure to satisfy their own citizenry, could engender Soviet military adventurism as a way out. To escalate the arms race on our side at this stage is likely to foster a militarist frame of mind in Moscow.

Fortunately, leaders (and their supportive bureaucracies) in both superpowers have so far demonstrated a consistent resolve, especially after the scare produced by the Cuban Missile Crisis of 1962, to avoid crisis confrontations with escalatory potential. There is no plausible "win" scenario for either side that follows from general nuclear war, even assuming, which is not at all assured, the ecological resilience of the biosphere.

Perhaps more importantly, the geopolitically adverse political developments that have occurred since the American defeat in Indochina are completely unrelated to any shift in the ratio of East/West resolve or capabilities, much less a reflection of a deteriorating American strategic position relative to the Soviet Union. Starting with the long period of involvement in Indochina, the overwhelming recent lesson of geopolitics is the diminishing utility of military intervention as a successful mode for structuring the political, social, and economic destiny of Third World countries. How could a larger American strategic investment in the last decade have altered the outcomes in Iran, Nicaragua, or a series of African countries? It is sheer phantasy to suppose that these outcomes were achieved because of any Soviet interventionary role or that they could have been prevented by timely United States intervention, much less that these political developments were influenced by the ratio of strategic strength or resolve of the superpowers. A government that provokes its people, or a substantial fraction thereof, to revolutionary opposition cannot often be successfully contained by outside military intervention. After more than $150 billion spent and over 55,000 lives lost to reverse the political tide in Indochina, it should be obvious that the United States cannot hope to control the flow of revolutionary nationalism in the Third World. And can it be responsibly maintained that the Shah or Samoza were defeated because they lacked the military wherewithal to withstand internal challenge? The point is that overwhelming military capabilities cannot necessarily assure stability in the absence of a minimally appropriate political infrastructure.[2]

And besides, to impose a political solution by military means, as the Soviet Union did through its Czech intervention in 1968, contradicts American ideals so fundamentally that such serious divisions at home arise; domestic turbulence is bound to ensue, straining the democratic process itself. We are not generally a repressive society and cannot comfortably go beyond a certain point in supporting repressive solutions for the unresolved conflicts of a foreign society.[3] In essence, we are inhibited to some uncertain variable extent by our ideals associated with the rights of peoples to determine their own political destiny. Indeed, it is this inhibition that explains part of the tendency in the past to rely to the extent possible on covert operations to thwart revolutionary nationalism.

Aside from the special instance of Eastern Europe, the Soviet Union has also not fared well with its military excursion in the Third World. This record of failure is surprising considering the consistent Soviet anti-colonial stand and "its clean hands" (with respect to vested economic interests) in the countries of Asia, Africa, and Latin America. Yet, in fact, Soviet military involvements in Indonesia, Ghana, Egypt, and Somalia all backfired, and one wonders how long would even its presence in Cuba or Vietnam persist if American pressure on these countries was removed. Third World nationalist governments are not willing to compromise their independence by ceding significant influence to outsiders, especially to a clumsy superpower.

Cuban experience in Africa is still quite new and difficult to interpret. In a sense, aside from the fact that Cuba is a Third World country and closely aligned, if not subordinate, to the Soviet Union in its foreign policy, there is nothing very unusual about having an outside country send troops to assist the recognized government in response to an invitation to do so. As such, the role of Cuban forces in such countries as Ethiopia and Angola is fully consistent with the rules of the international game on such matters. The impact may be "interventionary," but it is difficult to claim that the Cuban presence is a departure from consistent geopolitical practice by the United States (e.g. it was the basis of the American military presence in Indochina). Many African governments have availed themselves of this sovereign right.

At last count, for instance, there were French troops in a series of African countries. It seems worth considering the preoccupation with Cuba's African presence and the virtual disregard of the French constabulary role in Africa. Does not this one-sidedness of perception suggest that we are becoming unduly agitated by the flow of international political developments? This agitation feeds the current mood of anxiety about the sufficiency of American resolve in world politics and helps build a national determination to reinforce that resolve by augmenting our military capabilities. At best, such a logic leads to the acquisition of superfluous weaponry; at worst, it leads toward a militarist foreign policy, a revival in some new form for the 1980s of the kind of counterinsurgency thinking that was so popular in the 1960s. The earmarking by the Pentagon of a contingency strike force of 100,000 combat troops for action in the Persian Gulf region is an alarming indication that my fears are not misplaced.

It is essential that our leaders in Congress and the White House deal more forthrightly with the limits that pertain to interventionary diplomacy at this stage in history. As matters now stand, the false debate about how to meet the challenge of Soviet expansionism is helping to create a dangerous political climate in which the public will expect its elected leaders to do something, that is, to arrest the perceived decline in United States power on the global stage by deploying force. As I have argued, such a posture is likely to make matters worse. It is as if with present weather technology we built a public expectation that hurricanes could, and hence, should be neutralized before they caused damage. Revolutionary nationalism, mobilized above a certain threshold, amounts to a political hurricane—it can be observed and accommodated, but it cannot be stopped.

The bearing of these considerations on the SALT debate should be obvious. The buildup of weaponry does nothing to enhance the capacity of the United States to assure the resources or markets it requires to keep viable the American political economy. In fact, it aggravates the situation by increasing inflationary public spending in the defense sector, an area of investment that does virtually nothing to restore the productivity of the economy; the defense budget does not make American goods any more competitive with those produced by other countries. The decline in the relative productivity of the American economy is a far more serious threat to the stability of the East-West balance than is the relative increase in Soviet military capabilities, and the decline of the value of the dollar is a far worse threat to "the American way of life" than is the menace of Soviet military power.

It is, perhaps, sobering to study carefully how large international wars have begun in the past. A series of tendencies are taking shape in international relations that have in the past led to wars, and more specifically have produced the sort of climate out of which World Wars I and II emerged. If I am correct that the present climate is raising the risk of World War III higher than at any point since 1945, then it should be the highest priority to analyze the situation and take steps to avoid this terrifying calamity. It is my further conviction that a realistic response to the experience of American decline as a world power could arrest, if not reverse, the decline and, at the same time, not make the perception of decline a likely occasion of global warfare or domestic discontent.

To clarify this contention let me briefly give some reasons why I think we are heading into the 1980s in such a dangerously inappropriate frame of mind. In essence, the prospect of continuing relative decline in Western economic, political, and cultural leadership accompanied by low rates of growth in an inflationary environment is one that tends to produce protectionist pressures and neo-mercantilist policies. In these circumstances, the declining side is always vulnerable, especially if militarily powerful, to the illusion of "a military fix," and its leaders and citizenry can become easily convinced that the protection of national interests require high-risk or desperate strategies. The Japanese initiation of World War II can be largely conceived in these terms.

A part of the American difficulty involves the misperception of decline. It is mainly in here, not out there. What exists within our society can be overcome, what is external is difficult, if not impossible, to control. Therefore, rebuilding our security requires some difficult, yet liberating, economic and, possibly, ethical adjustments well within our national capacity (e.g. conservation, collapse of sunset industries, stimulation of productive enterprise). The longer these adjustments are deferred, the harder they will be to make. I find the SALT debate partly disturbing because it discloses a bipartisan unwillingness to analyze the threat to American security correctly and, hence, leads to policies that only worse the objective situation.

Instead of the exquisite sophistication of our approach to the relative force structures and war-fighting prospects of the United States and the Soviet Union, we urgently require a crash program on alternative security options, including the possibilities to initiate a movement for feasible disarmament and supranational peacekeeping. These ideas sound more unrealistic than "deterrence" only because we find ourselves entrapped in a societal consensus that has not been tested in a serious way by contrary positions.

Yet, it can be asked, why should the United States contemplate these alternatives when the Soviet Union fails to do so. The reason to consider these alternatives is, in the first instance, because we should spare no effort to minimize the risks of general war or of our own economic collapse. Certainly these risks are associated with the present drift of events in the world and there is no good reason for our failure to discover whether any way out exists.

And can we be so confident that the Soviet leadership would be unresponsive? The Soviet Union has in recent years consistently proposed matching defense spending cuts on a percentage basis, as well as a moratorium on the development of new weapons systems. We have neither seriously responded, nor proposed comparable alterna-

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Footnotes at end of article.

tives. For years now the United States Arms Control and Disarmament Agency (ACDA) has acted as if disarmament was not part of its name (or mandate). An acute bureaucratic fear prevents even the contemplation of alternative forms of security fit for the nuclear age. This fear is a handicap of momentous consequence, undermining our long-term security in a most critical manner.

This assessment of the challenges facing the United States suggests several broad conclusions:

(1) The Soviet military buildup should not be perceived as a threat to American security;

(2) Exaggerating the Soviet threat undermines American security by increasing the risk of military adventurism, general warfare, and economic collapse;

(3) Strengthening American security at this time depends primarily on reducing the risks of nuclear war and restoring confidence in the viability of the American economy and life-style.

In light of this line of analysis, the approval or rejection of the SALT treaty is mainly a matter of symbolic consequence. In my judgment, the symbodic value of approval seems less adverse than does rejection. Unfortunately, as the debate has been structured either outcome will give considerable aid and comfort to militarist interpretations of the security challenges facing the United States. Nevertheless, on balance, the pro-treaty outcome seems less damaging, primarily because it keeps the framework of détente intact and does not aggravate the strains between the United States and its Western European allies. Yet, for reasons I have earlier suggested, ratification of the treaty, even if it comes, will hardly provide an occasion for celebration.

FOOTNOTES

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[1] *World Peace News*, May 1979, p. 7.

[2] A repressive government may be stable without the support of a substantial majority of the population (e.g. South Africa, Eastern Europe), and it may for a long time prevent the mobilization of an effective challenge. However, once the challenge is mounted then superior arms, even if used in a brutal way, may not break the will of a resistance movement (e.g. Iranian Revolution).

[3] However, it is alarming to note how far we can and have gone in the direction of stabilizing repressive regimes abroad. For documentation see Noam Chomsky and Edward S. Herman, *The Washington Connection and Third World Fascism: The Political Economy of Human Rights*, Boston, South End Press, Vol. I, 1979.

ORDER FOR CONSIDERATION OF H.R. 4473 ON TUESDAY, OCTOBER 9, 1979

Mr. ROBERT C. BYRD. Mr. President, the distinguished acting Republican leader (Mr. Tower) and I have cleared the following request, I believe. He is here to speak for himself.

I ask unanimous consent that on Tuesday, after routine morning business or after the two leaders have been recognized, whichever happens to be the case, the Senate proceed to the consideration, without any time agreement thereon, of H.R. 4473, the foreign assistance bill for 1980.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

SENATOR ED MUSKIE—MAKING THE BUDGET PROCESS WORK

Mr. KENNEDY. Mr. President, it is fair to say that the loneliest and most thankless job in the U.S. Senate is the job of trying to make the budget process work.

At the same time, it is also fair to say that the best thing that has happened to the Senate in recent years has been the enactment of the Budget Reform Act of 1974. And the best thing that has happened to the Senate under the Budget Reform Act has been the installation of Senator Ed Muskie of Maine as chairman of the Senate Budget Committee.

Other members of the Budget Committee also deserve credit for their influential role in making the process work—primarily Senator Henry Bellmon of Oklahoma, who has been so effective in insuring that the process avoids the pitfalls of partisanship.

But, Mr. President, I wanted to take the floor today to add my own commendation to the acclaim that Senator Muskie deserves for his brilliant work in shepherding the second concurrent resolution on the fiscal year 1980 budget through the Senate in recent weeks.

All of us who participated in the debate were well aware of the issues facing the Senate in our attempt to reconcile the demands of fiscal responsibility with the preservation of vital domestic programs. The lengthy debate on the floor and in our caucuses testified clearly to the potential divisiveness of the major issues in the resolution.

In the course of the debate over many days, however, Senator Muskie was able to persuade a reluctant Senate to accept the discipline required over Federal spending if we are to reach the goal of bringing our sick economy back to health.

When they called the roll at the end of the debate, the vote was 90 to 6 in favor of Senator Muskie's substitute amendment—perhaps the most important victory the budget process has won so far in the Senate, and a tribute to the eloquence, perseverance, and extraordinary legislative skill of our distinguished colleague from the State of Maine.

Mr. President, I ask unanimous consent that an article from the Washington Post of September 20, reflecting Senator Muskie's achievement, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 20, 1979]

A Lonely Figure: Muskie Tries to Hold Off Fiscal Wolves

(By Ward Sinclair)

The travail of Sen. Edmund S. Muskie (D-Maine) will be understood by anyone who has tried to ward off creditors demanding payment and children wanting toys—with nothing but an astronomically unbalanced checkbook at hand.

Muskie has been a lonely sort of figure this week on the Senate floor, playing the role of an adamant patriarch trying to bring restraint and horse-sense to a squabbling, grasping family.

The fight this week is over federal spending—who gets the money, who gets cut and who gets boosted, where the priorities will rest in divvying up the tax dollars.

As chairman of the Senate Budget Committee, which sets the guidelines and rides legislative shotgun on these matters, Muskie is the man with the unhappy task of holding off the fiscal wolves.

Muskie lost his effort to thwart the hawkishness that led to Senate approval Tuesday of a big increase in defense spending. But efforts to hold down domestic spending were successful.

On paper, nothing could be quite as sleep-inducing as the prospect of a Senate debate over what is aridly described as the second concurrent resolution on the budget, fiscal 1980.

But the reality on the floor has been something far different. Contrary to the Senate's often-illusory clashes, this has been a genuine collision between philosophy, politics, personality and senatorial turf.

The central player is Muskie and, in many ways, it has been vintage stuff—voices lifted to a shout, fingers being pointed, emotion thick enough to slice and no little amount of overstatement.

Muskie's message this week has been simple: the United States faces no greater threat to its security than rampant inflation and that spending restraint—not increases for defense or anything else—is the only way to deal with it.

Everyone in the Senate favors restraint, of course, unless it hurts a pet program.

"You cannot have it two ways," Muskie said at one point. "All aspects of the budget, defense and nondefense, have to be controlled by this body if we are to control inflation."

The Maine senator's emergence as an evangel of restrained spending (he always has been viewed as one of the Senate's premier liberals) is due in part to the way congressional process has changed dramatically in a few years.

For a century or more until the mid-1970s, the process called for each committee to pass its programs, each chamber to pass out appropriations and then, if spending happened to coincide with the reality of federal income, it was a nice bonus.

Then, after former President Nixon began impounding funds already appropriated by Congress, the genie of reform was loosed on Capitol Hill. Muskie, the late Sen. Lee Metcalf (D.-Mont.) and former Sen. Sam J. Ervin (D.-N.C.) in 1973 proposed creation of congressional budget committees.

Those committees' task would involve more than just reconciling federal income with federal spending. For the first time, Congress would have a counterbalance to the budget proposals of the executive branch.

The budget act was passed, the committees set up and Muskie was chosen as chairman of the Senate panel. That was 1974 and every year since, Muskie has been insinuating the committee deeper and deeper into the process.

That has meant stepping on the toes of the more influential committee chairmen, sometimes telling them no—a thousand times no—they cannot exceed the spending limits put on their committees each spring.

A watershed, as Muskie staffers remember, occurred on the fiscal 1976 budget. In one week, defense and food stamp spending bills were rejected because they came in over limits.

And during that year, with each appropriation and authorization bill that came to the floor, Muskie would stand up and remind the Senate how each of those measures would have an impact on overall spending.

That underscored the seriousness of the senator and his message was understood.

The process has worked to a reasonable degree in large part, most Senate observers agree, because Muskie and Sen. Henry Bellmon (R.-Okla.), the ranking Republican on the committee, have stood shoulder-to-shoulder in chasing away budget predators.

Generally, Muskie, now 65 and in his fifth term, is better known nationally for his work as an architect of the landmark environmental protection laws of the 1960s and early 1970s.

Muskie continues as chairman of an environment subcommittee, but the emphasis of his work these days is on the budget process—watching it, advancing it, pushing away the empire builders.

"He has said he would rather be budget chairman than majority leader," said one of his assistants. "He takes the budget thing very seriously and he sees it as his lasting legacy here, to solidify the process and make it permanent."

Which means, of course, stepping on toes and saying no—even to Maine. He caught some hell this week from constituents when he objected to increases in veterans benefits and school lunch spending.

PRODUCER PRICE INDEXES

Mr. PROXMIRE. Mr. President, the Bureau of Labor Statistics issued a report on producer price indexes for September today, and the news could not be worse.

The increase to the finished goods prices in September shows the beginning increase of the year of 1.4 percent in the month of September. The increase in intermediate goods was 1.5 percent, one of the biggest in the year, foreshadowing future increases as time goes on. The increases include basic resources in our society, 2.1 percent, an enormous increase, one of the biggest in a long time.

Mr. President, this report indicates that the increase in the price level for producer prices in the third quarter of the year was the highest we have had this year. The month of September was the highest in a year, and this year is the highest inflation rate in the history of this country except in a very few months during wartime in the past.

I think we should realize what an appalling situation we confront economically and recognize, as painful and difficult as it is, that we have to enforce the most stringent fiscal policy and hold down spending, even where it hurts, because the No. 1 cause is inflation today.

THE VISIT OF POPE JOHN PAUL II AND THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, Pope John Paul II has come to America, not merely as the highest authority of the Catholic Church, but as a champion of morality and a defender of human rights. On October 2, before the General Assembly of the United Nations, John Paul II delivered a message directed at the entire civilized world. Haynes Johnson, of the Washington Post, accurately described the pope as—

> . . . attempting to reach people of all faiths and creeds, and those with none. And he was speaking not now just in the name of Catholic theology, but in the cause of humanity.

The Pope spoke on a multitude of moral and economic issues, some of which I will deal with in the next few days. For the moment, however, I would like to focus on one major point emphasized by John Paul II—there exists an urgent need for individuals to join together in a common effort to defend and preserve human rights.

Although he praised the general trend toward the more complete protection of human rights, John Paul lamented that—

> . . . in spite of this we still see in this field recurring threats and violations often with no possibility of appealing to a higher authority or of obtaining an effective remedy.

Who will provide this needed remedy? How will these unjust violations of human rights be arrested?

John Paul II has given the nations of the world a challenge. He gives it not as a religious leader, but as a determined servant of humanity. And this is no easy challenge to meet.

The United States, however, can make a first step. American ratification of the Genocide Treaty would greatly augment the worldwide effort to protect the most basic of human rights—the right to live. By joining the Convention, the United States may demonstrate its commitment to the cause of humanity.

I urge my distinguished colleagues to seek prompt ratification of the Genocide Treaty.

Mr. President, at this point I ask that Pope John Paul II's remarks before the General Assembly be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF POPE JOHN PAUL II'S UNITED NATION'S ADDRESS

Mr. President, my address today will be published in its entirety just as I wrote it. Because of its length, however, I shall now read it in a shortened form.

I desire to express my gratitude to the General Assembly of the United Nations, which I am permitted today to participate in and to address.

My thanks go in the first place to the Secretary General of the United Nations organization, Dr. Kurt Waldheim. Last autumn, soon after my election to the chair of St. Peter, he invited me to make this visit, and he renewed his invitation in the course of our meeting in Rome last May.

From the first moment, I felt greatly honored and deeply obliged. And today, before this distinguished assembly, I also thank you, Mr. President, who has so kindly welcomed me and invited me to speak.

SPECIAL BOND OF COOPERATION

The formal reason for my intervention today is, without any question, the special bond of cooperation that links the Apostolic See with the United Nations organizations, as is shown by the presence of the Holy See permanent observer to this organization.

Besides attaching great importance to its collaboration with the United Nations Organization, the Apostolic See has always since the foundation of your organization expressed its esteem and its agreement with the historic significance of this supreme forum for the international life of humanity today.

It also never ceases to support your organization's functions and initiatives which are aimed at peaceful coexistence and collaboration between nations.

This confidence and conviction on the part of the Apostolic See is the result, as I have said, not of merely political reasons but of the religious and moral character of the mission of the Roman Catholic Church.

OFFERS SPECIAL CONGRATULATIONS

This is the real reason, the essential reason, for my presence among you. And I wish to thank you, to thank this distinguished assembly, for giving consideration to this reason, which can make my presence among you in some way useful.

Here, before the representatives of the states, I wish not only to thank you but also to offer you my special congratulations, since the invitation to the Pope to speak in your assembly shows that the United Nations Organization accepts and respects the religious and moral dimension of those human problems that the church attends, in view of the message of truth and love that it is her duty to bring to the world.

The questions that concern your functions and receive your attention, as indicated by the vast organic complex of institutions and activities that are part of or collaborate with the United Nations, especially in the fields of culture, health, food, labor and the peaceful uses of nuclear energy, certainly make it essential for us to meet in the name of men in his holiness, in all the fullness and manifold riches of his spiritual and material existence, as I have stated in my encyclical *Redemptor Hominis*, the first of my pontificate.

GREETINGS WITHOUT EXCEPTION

Now, availing myself of the solemn occasion of my meeting with the representatives of the nations of the earth, I wish above all to send my greetings to all the men and women living on this planet, to every man and every woman without any exception whatever. Every human being living on earth is a member of a civil society, of a nation, many of them represented here.

Each one of you distinguished ladies and gentlemen represents a particular state, system and political structure, but what you represent above all are individual human beings. You are all representatives of men and women of practically all the people of the world—individual men and women; communities and peoples who are living the present phase of their own history, and who are also part of the history of humanity as a whole. Each of them a subject endowed with dignity as a human person, with his or her own culture, experiences and aspirations, tensions and sufferings, and legitimate expectations.

This relationship is what provides the reason for all political activities, whether national or international, for in the final analysis, this activity comes from man, is exercised by man and is for man.

I would like to express the wish that in view of its universal character, the United Nations organization will never cease to be the forum, the high tribune from which all man's problems are appraised in truth and justice.

THE FUNDAMENTAL DOCUMENT

It was in the name of this inspiration, it was through this historic stimulus, that on the 26th of June, 1945, towards the end of the terrible Second World War, the Charter of the United Nations was signed. And on the following 24th of October, your organization began its life. Soon after, on the 10th of December, 1948, came its fundamental document, the Universal Declaration of Human Rights: the rights of the human being as a concrete individual and of the human being in his universal value.

This document is a milestone on the long and difficult path of the human race.

The progress of humanity must be measured not only by the progress of science and technology, which shows man's uniqueness with regard to nature, but also and chiefly by the primacy given to the spiritual values and the progress of moral life.

Today, 40 years after the outbreak of the Second World War, I wish to recall the whole of the experiences by individuals and nations that were sustained by a generation that is largely still alive. I had occasion not long ago to reflect again on some of these experiences in one of the places that are most distressing and overflowing with contempt for man and his fundamental rights, the extermination camp of Auschwitz, which I visited during my pilgrimmage to Poland in June.

This infamous place is unfortunately only one of the many scattered over the continent of Europe. But the memory of even one should be a warning sign on the part of humanity today in order that every kind of concentration camp anywhere on earth may once and for all be done away with. And everything that recalls those horrible experiences should also disappear forever from the lives of nations and states, everything that is a continuation of those experiences under different forms, namely the various kinds of torture and oppression, either physical or moral, carried out under any system, in any land.

This phenomenon is all the more distressing if it occurs under the pretext of internal security or the need to preserve an apparent peace.

You will forgive me, ladies and gentlemen, for evoking this memory, but I would be untrue to the history of this century. I would be dishonest with regard to the great cause of man which we all wish to serve, if I should keep silent—I who come from the country on whose living body Auschwitz was at one time constructed. But my purpose in evoking this memory is above all to show what painful experiences and sufferings by millions of people gave rise to the Universal Declaration of Human Rights, which has been placed as the basic inspiration and cornerstone of the United Nations Organization.

PRICE NOT PAID IN VAIN

This declaration was paid for by millions of our brothers and sisters, at the cost of their suffering and sacrifice brought about by the brutalization that darkened and made insensitive the human consciences of the oppressors and of those who carried out a real genocide. This price cannot have been paid in vain.

If the truth and principles contained in this document were to be forgotten or ignored and were thus to lose the genuine self-evidence that so distinguished them at the time they were brought painfully to birth, then the noble purpose of United Nations organization would be faced with the threat of a new destruction.

This is what would happen if the simple yet powerful eloquence of the Universal Declaration of Rights were decisively subjugated by what is wrongly called political interest, but often really means no more than one-sided gain and advantage to the detriment of others, or a test for power regardless of the needs of others, everything which by its nature is opposed to the spirit of the declaration.

Political interest understood in this sense—if you will pardon me, ladies and gentlemen—dishonors the noble and difficult mission of yourselves, for the good of your countries and of all humanity.

QUOTES POPE PAUL VI

Fourteen years ago, my great predecessor, Pope Paul VI, spoke from this podium. He spoke memorable words which I desire to repeat today:

"No more war. War never again. Never one against the other, or even one above the other, but always in every occasion, with each other."

Paul VI was a tireless servant of the cause of peace. I wish to follow him with all my strength, and continue his service. The Catholic Church in every place on earth proclaims a message of peace, prays for peace, educates for peace.

This purpose is also shared by the representatives and followers of other churches and communities and of other religions of the world. And they have pledged themselves to it.

TROUBLED BY ARMED CONFLICTS

In union with efforts by all people of good will, this work is certainly bearing fruit. Nevertheless, we are continually troubled by the armed conflicts that break out from time to time. How grateful we are to the Lord when a direct intervention succeeds in avoiding such a conflict, as in the case of the tension that last year threatened Argentina and Chile.

It is my fervent hope that a solution, also, to the Middle East crisis may draw nearer. While being prepared to recognize the value of any concrete step or attempt made to settle the conflict, I want to recall that it would have no value if it did not truly represent the first stone of a general, overall peace in the area, a peace that being necessarily based on equitable recognition of the rights of all, cannot fail to include a consideration and just settlement of the Palestinian question.

Connected with this question is that of the tranquility, independence and territorial integrity of Lebanon within the formula that has made it an example of peaceful and mutually fruitful coexistence between distinct communities. A formula that I hope will, in the common interest, be maintained with the adjustments required by the developments of the situation.

I also hope for a special statute that, under international guarantees as my predecessor Paul VI indicated, would respect the particular nature of Jerusalem, a heritage sacred to the veneration of millions of believers of the three great monotheistic religions—Judaism, Christianity and Islam.

APPLAUDS EFFORTS TO LIMIT ARMS

We are troubled also by reports of the development of weaponry exceeding in quality and size the means of war and destruction ever known before. In this field, also, we applaud the decisions and agreements aimed at reducing the arms race. Nevertheless, the life of humanity today is seriously endangered by the threat of destruction and by the risk and I think even from accepting certain tranquilizing reports. The continual preparation for war demonstrated by the production of ever more numerous powerful and sophisticated weapons in various countries shows that there is a desire to be ready for war and being ready means being able to start it. It also means taking the risk that sometime, somewhere, somehow someone can get in motion the terrible mechanism of general destruction.

It is therefore necessary to make a continuing and even more energetic effort to do away with the very possibility of provoking war and to make such catastrophes impossible by influencing the attitudes and convictions, the very intentions and aspirations of governments and peoples. This task is certainly served by initiatives aimed at international cooperation for the fostering of development. As Paul VI said at the end of his encyclical *Populorum Progressio*, if the new name for peace is development, who would not wish to labor for it with all his power? However, this task must also be served by constant reflection and activity aimed at discovering the very roots of hatred, destructiveness, and contempt—the roots of everything that produces the temptation to war—not so much in the hearts of nations as in the inner determination of the systems that decide the history of all our societies.

NEW VISION OF CAUSE OF PEACE

The universal declaration of human rights has struck a real blow against the many deep roots of war since the spirit of war in its basic primordial meaning springs up and grows up, grows to maturity where the inalienable rights of men are violated. This is a new and deeply relevant vision of the cause of peace. One that goes deeper and is more radical. It is a vision that sees a genesis and in essence the substance of war. In the more complex forms emanating from injustice viewed in all its various aspects this injustice first attacks human rights and thereby destroys the organic unity of the social order. And it then affects the whole system of international relations. By applying this criterion, we must diligently examine which principal tensions in connection with inalienable rights of man can weaken the construction of this peace which we all desire to ardently and which is the essential goal of the efforts of the United Nations organization.

Man lives at the same time both in the world of material values and in that of spiritual values. For the individual living and hoping man, his needs, freedoms and relationships with others never concerns only one sphere of values alone but belong to both. Material and spiritual realities may be viewed separately in order to understand better that in the concrete human being they are inseparable. And to see that any threat to human rights, whether in the field of material realities or in that of spiritual realities, is equally dangerous for peace since in every instance it concerns man in his entirety.

CONSTANT RULE OF HUMANITY

Permit me, distinguished ladies and gentlemen, to recall a constant rule of the history of humanity, a rule that is implicitly contained in all that I have already stated with regard to integral development of human rights. The rule is based on the relationship between spiritual values and material or economic values. In this relationship, it is the spiritual values that are preeminent both on account of the nature of these values and also for reasons concerning the good of man. It is easy to see that material goods do not have unlimited capacity for satisfying the needs of man. They are not in themselves easily distributed and in the relationship between those who possess and enjoy them and those who are without them, they give rise to tension, dissension and division that will often even turn into open conflict. Spiritual goods, on the other hand, are open to unlimited enjoyment by many at the same time without diminution of the goods themselves. A critical analysis of our modern civilization shows that in the last hundred years it has contributed as never before to the development of material goods; but that it has also given rise—both in theory and, still more, in practice—to a series of attitudes in which sensitivity to the spiritual dimension of human existence is diminished by greater or less extent.

As a result of certain premises which reduce the meaning of human life chiefly to the many different material and economic factors—I mean the demands of production, the market, consumption, the accumulation of riches—or of the growing bureaucracy with which an attempt is made to regulate these very processes: Is this not the result of having subordinated man to one single conception and sphere of values?

OVERCOME STATE OF NEED

What is the link between these reflections and the cause of peace and war? Since, as I have already stated, material goods by their very nature provoke conditionings and divisions, the struggle to obtain these goods becomes inevitable in the history of humanity. If we cultivate this one-sided subordination of man to material goods alone, we shall be incapable of overcoming this state of need. We shall be able to attenuate it and avoid it in particular cases but we shall not succeed in eliminating it systematically and radically unless we emphasize more, and pay greater honor before everyones' eyes in the sight of every society, to the second dimension of the good of man—the dimension that does not divide people but puts them into communication with each other, associates them and unites them.

I consider that the famous opening words of the Charter of the United Nations—in which the peoples of the United Nations determined to save succeeding generations from the scourge of war solemnly reaffirmed faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small—are meant to stress this dimension. An analysis of the history of mankind, especially at its present stage, shows how important is the duty of revealing more fully the range of the goods that are linked with the spiritual dimension of human existence. It shows how important this task is for building peace and how serious is any threat to human rights. Any violation of them even in a peace situation is a form of warfare against humanity.

TWO THREATS TO HUMAN RIGHTS

It seems that in the modern world there are two main threats. Both concern human rights in the field of international relations and human rights within the individual states of all societies. The first of these systematic threats against human rights is linked in an overall sense with the distribution of material goods. This distribution is frequently unjust, both within individual societies and on the planet as a whole. Everyone knows that these goods are given to men not only as nature's bounty. They are enjoyed by him chiefly as the fruit of his many activities ranging from the simplest manual and physical labor to the most complicated forms of industrial production and to the highly qualified and specialized research and study. Various forms of inequality in the possession of material goods and in the enjoyment of them can often be explained by different historical and cultural causes and circumstances. But while these circumstances can diminish the moral responsibility of people today, they do not prevent the situations of inequality from being marked by injustice and social injury. People must become aware that economic tensions within countries and in the relationships between states and even between entire continents contain within themselves substantial elements that restrict or violate human rights.

Such elements are the exploitation of labor and many other abuses that affect the dignity of human persons. It follows that the fundamental criterion for comparing social, economic and political systems is not and cannot be the criterion of hegemony and imperialism.

It can be—and indeed it must be—the humanistic criterion, namely the measure in which each system is really capable of reducing, restraining and eliminating, as far as possible, the various forms of exploitation of man, and of insuring for him through work not only the just distribution of the indispensable material goods, but also a participation, in keeping with his dignity, in the whole process of production and in the social life that grows up around that process.

Disturbing factors are frequently present in the form of the frightful disparities between excessively rich individuals and groups on the one hand and, on the other hand, the majority made up of the poor or, indeed, of the destitute, who lack food and opportunities for work and education, and are in great numbers condemned to hunger and disease.

And concern is also caused at times by the radical separation of work from property, by immense indifference to the production enterprise to which he is linked only by work obligation without feeling that he's working for a good that will be his or for himself.

It is no secret that the abyss separating the minority of the excessively rich from the multitude of the destitute is a very grave symptom in the life of any society. This also must be said—with even greater insistence—with regard to the abyss separating countries and regions of the earth.

COORDINATED COOPERATION NEEDED

Surely the only way to overcome this serious disparity between areas of satiety and areas of hunger and oppression is through coordination cooperation by all countries. This requires, above all, a unity inspired by an authentic perspective of peace.

Everything will depend on whether these differences and contrasts in the sphere of the possession of goods will be systematically reduced through truly effective means; on whether the belts of hunger, malnutrition, destitution, underdevelopment, disease and illiteracy will disappear from the economic map of the earth, and on whether peaceful cooperation will avoid imposing conditions of exploitation and economic or political dependence, which would only be a form of new colonialism.

I would now like to draw attention to a second systematic threat to man in his inalienable rights in the modern world, a threat which constitutes no less a danger than the first to the cause of peace. I refer to the various forms of injustice in the field of the spirit.

Man can indeed be wounded in his inner relationship with truth, in his conscience, in his most personal belief, in his view of the world, in his religious faith, and in the sphere of what are known as civil liberties. Decisive for these, these last, is equality of rights without discrimination on grounds of origin, race, sex, nationality, religion, political convictions and the like.

For centuries, the thrust of civilization has been in one direction—that of giving the life of individual political societies a form in which there can be fully safeguarded the objective rights of the spirit of human conscience and of human creativity, including man's relationship with God.

Yet, in spite of this, we still see in this field recurring threats and violations, often with no possibility of appealing to a higher authority or of obtaining an effective remedy.

Besides the acceptance of legal formulas safeguarding the principles of the freedom of the human spirit, such as the freedom of thought and expression, religious freedom and freedom of conscience, structures of social life often exist in which the practical exercise of these freedoms condemns man in fact, if not formally, to become a second-class or third-class citizen.

It is a question of the highest importance that in internal social life as well as in international life, all human beings in every nation and country should be able to enjoy effectively their full rights under any political regime or system. Only the safeguarding of this real completeness of rights for every human being, without discrimination, can insure peace at its very roots.

REPEATS VATICAN PRINCIPLES

With regard to religious freedom which I, as Pope, am bound to have particularly at heart, precisely with a view to safeguarding peace, I would like to repeat here, as a contribution to respect for man's spiritual dimension, some principles contained in the Second Vatican Council declaration "Dignitatis Humanae."

In accordance with their dignity, all human beings because they are persons—that is beings endowed with reason and free will and therefore bearing personal responsibility—are both impelled by their nature and bound by a moral obligation to seek the truth, especially religious truth. They are also bound to adhere to the truth once they come to know, and to direct their whole lives in accordance with its demands.

The practice of religion, of its very nature, consists primarily of those voluntary and free internal acts by which a human being directly sets his course towards God. No merely human power can either command or prohibit acts of this kind. But man's social nature itself requires that he give external expression to his internal acts of religion, that he communicate with others in religious matters, and that he profess his religion in community.

These words touch the very substance of the question. They also show how even the confrontation between the religious view of the world and the agnostic or even athiestic view—which is one of the signs of the times of the present age—could preserve honest and respectful human dimensions without violating the essential rights of conscience of any man or woman living on earth.

Respect for the dignity of the human person would seem to demand that when the exact tenor of the exercise of religious freedom is being discussed or determined with a view to national laws or international conventions, the institutions that are by their nature at the service of religion should also be brought in. If this participation is omitted, there is a danger of imposing in so intimate a field of man's life rules or restrictions that are opposed to his true religious needs.

The United Nations organization has proclaimed 1979 the Year of the Child. In this perspective we must ask ourselves whether there will continue to accumulate over the heads of this new generation of children the threat of common extermination, for which the means are in the hands of the modern states, especially the major world powers. Are the children to receive the arms race from us as a necessary inheritance? How are we to explain this unbridled race?

The ancients said *Si vis pacem, para bellum*. But can our age still really believe that the breathtaking spiral of armaments is at the serivce of world peace. In alleging this threat of a potential enemy, it is really not rather the intention to keep for oneself a means of threat in order to get the upper hand with the aid of one's own arsenal of destruction? Here, too, it is the human dimension of peace that tends to vanish in favor of ever new possible forms of imperialism.

It must be our solemn wish here for our children, for the children of all the nations on earth that this point will never be reached.

And for that reason I do not cease to pray to God each day so that in His mercy He may save us from so terrible a day.

At the close of this address I wish to express once more before all the high representatives of the said states who are present a word of esteem and deep love for all the peoples, all the nations of the earth, for all human communities.

Each one has its own history and culture. I hope that they will live and grow in the freedom and truth of their own history. For that is the measure of the common goals of each one of them.

HOPE FOR RESPECT FOR AUTHORITIES

I hope that each person will live and grow strong with the moral force of the comunity that forms its members' assistance. I hope that the state authorities, while respecting the just rights of each citizen, will enjoy the confidence of all for the common good.

I hope that all the nations, even the smallest, even those that do not yet enjoy full sovereignty, and those that have been forcibly robbed of it, will meet in full equality with the others in the United Nations Organization.

I hope that the United Nations will ever remain the supreme forum of peace and justice, the authentic seat of freedom of peoples and individuals in their longing for a better future.●

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I wish to ask a question of the distinguished Senator from Idaho (Mr. CHURCH).

Is it his intention to call up the conference report on the international security assistance bill today?

Mr. CHURCH. It is.

Mr. ROBERT C. BYRD. Does the Senator anticipate a rollcall vote on that conference report?

Mr. CHURCH. I, myself, do not intend to ask for a rollcall, but, of course, I cannot guarantee that other Senators might not wish one.

Mr. ROBERT C. BYRD. Yes.

Does anyone wish to ask for a rollcall vote?

Mr. TOWER. I do not know of anybody.

Mr. ROBERT C. BYRD. I take it it is safe that we can announce there will not be a rollcall vote on this bill?

Mr. CHURCH. If the majority leader thinks it is safe, I will go along.

Mr. ROBERT C. BYRD. Does the acting Republican leader join me?

Mr. TOWER. I know of no Senators on this side of the aisle who want to bring it to a rollcall vote.

So, under those circumstances, I would say it could be voiced.

Mr. ROBERT C. BYRD. We could order one so that Senators would know, if the Senator thinks there is a possibility there might be one.

Many Senators left under the impression, without having been so told, that there would be no more rollcall votes.

Mr. TOWER. I suggest to the distinguished majority leader that this matter can be disposed of by a voice vote.

Mr. ROBERT C. BYRD. Very well. Then I am going to announce that there will be no more rollcall votes today.

Mr. President, for the information of the Senate, it will be the intention of the leadership to go over until tomorrow at 11 o'clock with no rollcall votes tomorrow. There will be transaction of routine morning business only. There is no other measure we can call up on tomorrow.

The only measure that is eligible for action, and it is not eligible tomorrow because of the 3-day rule, is being called up next Tuesday and, even so, only by virtue of the waiver of the 3-day rule by the Republican side.

So no rollcall votes tomorrow. There will be rollcall votes, I would expect, on Tuesday when the Senate begins debate on the foreign assistance appropriation bill. There is no time agreement on that bill.

Mr. President, I yield the floor.

Mr. TOWER. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. I would suggest that this will give the Members of this body an opportunity to spend the day in reflection and meditation prior to their audience with the Pope on Saturday.

STANDBY GASOLINE RATIONING PLAN

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Idaho will allow me to prevail upon him for just a moment, while the distinguished Senator from Washington (Mr. JACKSON) is on the floor, I would like to ask him a question.

Mr. CHURCH. I am glad to yield for that purpose.

Mr. ROBERT C. BYRD. I would like to know what the prospects are for Senate action on the conference report on the standby gasoline rationing plan.

Is it possible the Senate might be able to get to this tomorrow, or even Tuesday?

Mr. JACKSON. Mr. President, I regret to state that while the conferees have reached an agreement, the conference report has been signed, due to the fact that the House is not in session, our staff people have not been able to work out the final language for the report, although it is all agreed upon, because of the fact that the House will not be back until October 9.

So I would have to say to the distinguished majority leader that we will not be able to complete work until after the House returns on October 9. It will probably take 2 or 3 days thereafter.

The legislation, the conference report, is ready for action except for that contingency, and it could have been resolved if the House had remained here.

Mr. ROBERT C. BYRD. Then, I ask the distinguished Senator whether he feels that the leadership in the Senate could plan on action being taken on the conference report one day next week.

Mr. JACKSON. Yes. I believe that that goal can be reached, and we will do everything in our power to get the staff together from the House—our staff is standing by—to act on it.

Mr. ROBERT C. BYRD. This is S. 1030, the emergency energy conservation bill.

Mr. JACKSON. That is right.

Mr. ROBERT C. BYRD. The Senate acts first.

Mr. JACKSON. Yes.

Mr. ROBERT C. BYRD. So the Senate would be in a position, it is hoped, to act soon after the House returns.

The leadership, with the approval and cooperation of the distinguished Senator, will plan to schedule that conference report for one day next week; if not the 9th, certainly the 10th, 11th, or 12th.

Mr. JACKSON. That will be very helpful to those of us who are trying to push it.

Mr. ROBERT C. BYRD. Or even the 13th, Saturday.

Mr. JACKSON. Yes.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1979—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on H.R. 3173 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3173) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CHURCH. Mr. President, as reported by the conferees, this bill authorizes $2.823 billion for international security assistance programs for fiscal year 1980. This is a $101.5 million reduction from the President's request and is less than the appropriated amount for these programs in fiscal year 1979. It thus bears the impact of the effort of the Foreign Relations Committee to recognize that American spending abroad must be reduced, along with spending on domestic programs, if the Federal budget is to be balanced and the present raging inflation brought under some semblance of control.

The bill also authorizes about $1.8 billion in military and economic aid for Israel and $750 million in economic aid for Egypt.

It further authorizes $450 million in assistance for Turkey. This includes $250 million for military aid, of which $50 million is on favorable repayment terms.

Also included is $198 million in economic aid for Turkey, of which $75 million is to be grant aid.

This formula for aid to Turkey was worked out carefully in consultation with the House conferees and meets with the approval of the majority leader, Senator ROBERT C. BYRD, and I believe it also meets with the approval of the distinguished Senator from Rhode Island—both of whom led the debate on the floor several months ago for a military grant-in-aid program for Turkey.

I say to both the majority leader and the distinguished Senator from Rhole Island that the members of the committee who acted as conferees on the part of the Senate did everything possible to maintain the position of the Senate, and I think we succeeded in doing the very best that could be done under the circumstances. Every effort having been made and the conferees of both Houses having agreed upon this conference report, I hope it will be possible now to bring the matter to a vote.

I see my able and distinguished colleague Senator JAVITS in the Chamber, and I would like to thank him for his cooperation, his efforts, and his support on this bill throughout these past months.

Mr. JAVITS. Mr. President, I think Senator CHURCH has handled the chairmanship of the committee with high skill and great sensitivity and has bound the committee together for the effective purpose of foreign policy in an excellent way. I congratulate him, as he is the new chairman of the committee, on his successful performance in what is a very difficult and turbulent period in foreign policy.

It has been a great privilege to work with Senator CHURCH, and I am pleased that he is pleased at our consummation of our legislative responsibilities.

However, as we look at what the Appropriations Committee has done with what we decided in this conference report, I think we have a big job cut out for us next week—not necessarily as a committee, but with the sense of responsibility which we bear as Senators to fight for the policies we believe is best for our country.

In that connection, I express my profound disappointment at some of the results we have seen, and I hope very much that consideration and debate may lead to a somewhat different result.

Interestingly enough, the amounts of money are not great, but the changes which have been made in policy as a result of various denials by the Appropriations Committee can be a very important adverse development for our country and for the policy we had hoped to develop and establish in the measure on international security which is before us.

Speaking first of the measure before us, I think that both Senator ROBERT C. BYRD and Senator CHAFEE should be congratulated highly for their fortitude, their skill, and their perseverence not only during the debate and in carrying the measure in the Senate but also in connection with the conference. This conference was quite extended because of the debate over Turkey.

It was really a considerable tour de force to bring about a settlement at all, which could not have been accomplished, I think, unless the conferees had the feeling that the Senate would have it no other way; and we conveyed to our House colleagues the feeling that it simply could not be without it. We owe that kind of strength and backing to Senator ROBERT C. BYRD and Senator CHAFEE for their fight here on the floor with respect to this matter.

I believe the result is a very good one. It is not exactly what had been desired by Turkey in its requests, but I think it comes so close to it that one would really have to cavil to say that this does not meet, in substance and in principle and policy, what Turkey felt it should have for its own security.

I believe, too, that the fact that there is no opposition to this conference report is a tribute to those led by Senator SARBANES and Senator EAGLETON, who differed with this view and finally were able to see their own views reconciled in the final pact.

So I think this particular struggle has been very useful and helpful to our country, and I am very gratified to see it now settled in an agreeable way.

Second, I call attention to the fact that we have done a good deal about international narcotics control in providing some $16 million for narcotics control in Colombia, which is very meaningful to the United States and especially to the part of the United States which I represent and which the Senator from Florida (Mr. STONE) represents.

Mr. STONE. Mr. President, will the Senator yield for a brief comment?

Mr. JAVITS. I yield.

Mr. STONE. Mr. President, the Senator from New York is eminently correct in describing and supporting this extra funding for narcotics control in Colombia.

The new administration of Colombia is declaring itself as even more anxious than in the past. The country of Colombia has been willing to help eradicate this problem which to a great extent originates narcotics production down there which comes into the State of Florida among other main points of entry.

I thank the Senator from New York for his description and for his support of this provision.

Mr. JAVITS. I thank my colleague very much.

Mr. President, I referred before to the action of the Appropriations Committee which we will consider on Tuesday. I mentioned the actions which I think need to be very seriously evaluated by the Senate as to their wisdom in terms of our foreign policy.

I appreciate the great pressures upon the Appropriations Committee in respect of money but really the amounts involved are not very great, but the policies involved are great.

I mention them now so that Members may think about this over the weekend. This is not a forensic effort on my part. It should not be. It simply is the elementary question of whether some things we cannot afford but some things we cannot afford not to do considering where we are positioned, and this is the kind of matter which I wish to call to the Senate's attention.

One is that we were seeking $6.1 million to allow the 200 U.S. observers which we have had monitoring the situation in the Sinai desert between Egypt and Israel. We wanted that money in order to convert this unit into an observer unit as the situation is realined in the Sinai and Israel withdraws and Egypt steps in where Israel was with certain treaty responsibilities.

And the mission is very important to the security of this very critically vital peace arrangement in the Sinai between Egypt and Israel. The failure to add this money could jeopardize the mission's future and therefore, have a negative impact upon what is a great world achievement.

Second, a modest amount has been cut from military sales, only $12 million, but when you look at what is likely to happen in a Senate-House conference the cut then is likely to be perhaps as much as $20 million. That deals with $220 million because you only pay 10 percent on FMS. You only appropriate at 10 percent—$220 million in foreign military sales.

Here are the countries which it hurts that are adversely affected.

First, the Sudan. I have been on a special mission to the Sudan. It is the largest country in Africa, critically important as the seat of the Nile for Egypt and critically important to our hopes in the Middle East for peace.

We hurt Oman. We hurt Morocco, Thailand, Indonesia, and Malaysia. All those initiatives would be lost in respect of the FMS.

Other major programs that will have to be materially curtailed are Greece and Turkey, South Korea, Spain, Jordan, and the Philippines.

I hope Members will think it over, Mr. President. I do not think it is worth it, considering the amount of the cut and rather lethal effect upon so many programs.

Then, as I just spoke of the Sudan, we increased the economic support fund for the Sudan by $10 million, and we increased also by $10 million its aid appropriations and we have provided $1.7 million so they could buy some spare parts which they so urgently need for their military forces. All this was deleted.

Also the Appropriations Committee deleted a whole authorization for Syria, $45 million. Again a question: Should we allow this to happen now when it is so important to keep whatever vestiges there still remain of hope for some form of peace agreement between Israel and its other Arab neighbors?

I argued the case myself very actively here on the floor, and again I think that needs to be reconsidered very seriously.

So I hope, Mr. President, that Members will consider that the promise of the authorization legislation especially where matters of policy are deeply involved and the amounts are not great should have the very careful attention of the Senate.

Again, I repeat some things are so important that you do not have to wax the exclamatory about them, and I believe these matters which I have mentioned fall in that category.

This conference report was very hard fought, and it was considerably delayed. It is a great tribute to Senator CHURCH and the other conferees that it was finally effectuated and to Senator BYRD and Senator CHAFEE for their fortitude and their strong support for the Turkish part of it.

I hope very much the Senate will approve this conference report.

Mr. ROBERT C. BYRD. Mr. President, the Senate conferees on the international security assistance bill are to be commended for their vigorous and persistent efforts to obtain a satisfactory agreement on this legislation—an agreement consistent with the Senate's position as much as possible.

Security assistance is an important component of U.S. foreign policy and this legislation authorizes funding for our security assistance programs.

The conference report includes a number of important provisions. Of particular significance, I believe, is the assistance to be provided to Turkey under this legislation.

In 1978 Congress acted to lift the embargo on arms to Turkey—an embargo that had become counterproductive, in my view, to our own interests. That action was significant from a symbolic standpoint, and it set the stage for a revitalization of United States-Turkish relations. It was followed by the Turkish Government's action to allow the reopening of U.S. defense installations in Turkey on a 1-year basis, while negotiations were undertaken on a more permanent arrangement.

Although the embargo was ended, Turkey's economic condition was highly precarious, and its military forces, having been subjected to the arms embargo, were badly in need of assistance and still are.

It was for this reason that during Senate consideration of the security assistance legislation earlier this year, I offered an amendment, along with the Senator from Rhode Island (Mr. CHAFEE), the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. STEVENS), the Senator from Maine (Mr. MUSKIE), the Senator from Oklahoma (Mr. BELLMON) the Senator from Georgia (Mr. NUNN), the Senator from Texas (Mr. TOWER), the Senator from Montana (Mr. MELCHER), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), and others, to provide $50 million in grant funds to Turkey through the military assistance program. That $50 million grant had originally been requested by the administration, along with other assistance for Turkey. However, the Foreign Relations Committee had recommended that the grant be converted to foreign military sales credits.

The Senate approved my amendment, by a convincing vote of 64 to 32, on May 22. However, the House of Representatives did not approve any grant assistance for Turkey. Indeed, the House voted 303 to 107 on June 21 to instruct its conferees to insist on disagreement to the Senate amendment.

I deeply regret the adamant position the House has taken on this issue—a position that I believe fails to recognize the vital interests of the United States, the vital interests of NATO, the vital interests of Greece, and the vital interests of Turkey in this matter.

With the House and Senate having taken contrasting positions on this issue, it became the subject of lengthy and difficult consideration within the conference. Inability to resolve this issue held up action on the bill.

Finally, however, agreement was reached on the question of aid to Turkey. While not fully satisfactory, in my view, it would nonetheless provide substantial aid to Turkey—including $75 million in grant funds for economic assistance. Thus, the agreement will serve the primary purpose of providing much-needed assistance to Turkey.

The overall aid package for Turkey, as approved by the conference includes:

A sum of $250 million in foreign military sales credits, which can be used for the purchase of military equipment. Of this $250 million, $50 million will be on special repayment terms, similar to the loans approved earlier this year for Israel and Egypt. As a nation receiving FMS credits, Turkey will be eligible to purchase excess U.S. defense articles at fair market value. This is important to Turkey because in recent years its military forces have had great difficulty maintaining and operating their military equipment and are badly in need of spare parts and replacements. Although the inventory of excess defense articles is somewhat limited at present, I am hopeful that this will be helpful to Turkey.

A sum of $198 million in economic aid. As I mentioned, $75 million of this will be in grant form. The remaining $123 million will be in long-term loans.

A $2 million grant for the training of Turkish military officers, both in the United States and in Turkey.

The overall total of $450 million in aid for Turkey will make it the third largest recipient of U.S. assistance, after Israel and Egypt.

The House had approved no grant funds for Turkey, except the $2 million for military training, and a total of only $300 million. Therefore, although there is no direct military assistance grant in the conference report, I believe we made substantial progress by obtaining agreement for the $75 million economic grant and the overall package of $450 million.

This level of assistance should be extremely valuable to Turkey and I hope that it will help alleviate that country's serious economic difficulties and thereby bolster Turkey's ability to fulfill its important NATO responsibilities.

I intend to continue my efforts in support of U.S. aid to this valuable democratic ally and strategically located NATO member.

I would also reiterate, Mr. President, my contention that this must not be viewed as a question of Turkey versus Greece. Both of these countries are important allies and I am a strong advocate of close relations with Greece. Under this legislation, Greece would receive $200 million in foreign military sales credits, including $42 million on a low-interest, long-term basis.

Mr. President, I want to see us maintain positive relationships with both Greece and Turkey. And I want to see progress toward resolution of the long-standing and difficult Cyprus issue.

The Eastern Mediterranean remains one of the critical regions of the world. U.S. interests are very much at stake, as should be evident from the current negotiations with Turkey on the continuation of our military installations there. I hope those negotiations will soon lead to a new defense cooperation agreement between Turkey and the United States.

In conclusion, Mr. President, I support the conference report before us. I believe that it represents a reasonable approach to this important issue of aid to Turkey, but the best approach we can get in view of the fact that if we had been forced to go the continuing resolution route Turkey would not have fared nearly as well as it fares in the conference report.

If there had been another card in the deck we could have played for Turkey in this conference I would have been for playing it. But there would have been nothing left.

We did the very best we could have done, and I want to congratulate Mr. CHURCH and Mr. JAVITS—not only to congratulate but also to express my gratitude to them—for holding out for the Senate position.

They held out as long as they could hold out. They showed no inclination, no indication whatsoever, of yielding on the Senate's position until it became absolutely evident, in view of the alternative—the alternative being a continuing resolution under which Turkey would suffer—they held out until that was the only alternative, and so I commend them and I congratulate them, I thank them and I also want to thank the other members of the conference in that regard.

I want to express my appreciation to the chairman of the House Foreign Affairs Committee (Mr. ZABLOCKI) for his efforts to resolve this matter.

I want to thank Mr. CHAFEE, the distinguished Senator from Rhode Island, who stood with us in this fight, and who has given his unstinting support to what we believe, to an effort which we believe, is in the best interests of Turkey, also Greece—not only to Turkey and Greece but also to NATO and, in the final analysis, our own country of the United States.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would just like to pay tribute to the Senate majority leader in connection with the splendid job he did on this very difficult problem concerning aid to Turkey in this bill, the conference report for which we are considering today. But for his unstinting, deep and thorough interest and knowledge of this subject I doubt that the vote that we had in the Senate of 64 to 32 would have produced the very significant results that we had in the conference. So I think he deserves the deep gratitude of all of us who are concerned about that area of the world and the situation as it involves NATO and the interest of the United States.

Now, Mr. President, I would also like to pay tribute to the Committee on Foreign Relations. Originally I must say I was disappointed that the committee did not include the $50 million of MAP that was requested by the administration for military aid to Turkey. That result, as I mentioned, was overcome on the floor of the Senate. That vote, which was 2 to 1, showed that the Senate recognized the importance of Turkey to NATO and to the United States.

However, I think we all should pay tribute to the Senate conferees, the leader of the Committee on Foreign Relations, Senator CHURCH, and the ranking minority Member, Senator JAVITS. Neither of them had voted for this amendment on the floor, but once it was adopted they got behind the Senate's position and battled for it in the conference. I think it is splendid that they would so reflect the views of the Senate in that conference, which was a difficult one.

Now, as the Senate majority leader mentioned, the House appeared to be adamant about not giving military assistance to Turkey. They apparently saw it differently than we did, so the Senate conferees, recognizing the position as set forth by the majority leader, that all we could fall back on was a continuing resolution and that the continuing resolution did less for Turkey than the position on the bill which the House conferees were prepared to agree to, the Senate conferees reasonably, I believe, and rightfully, accepted the compromise.

After all, that is what it is all about here. We have to compromise on occasion. But I thoroughly subscribe to all the views that the distinguished majority leader has set forth in his statement, and particularly where he states that he intends to continue his efforts in support of U.S. aid to this valuable democratically and strategically located NATO member. So say I likewise.

Also, I subscribe to his view that this should not be seen as a contest, the question of Turkey versus Greece. It is just not that. They are both important allies. I, like the majority leader, am a strong advocate of close relations with Greece. Under this legislation, Greece receives $200 million in foreign military sales credits, including $42 million on a long-term low-interest basis.

I want to see us maintain positive relations with both those nations, and also to see progress toward solving the long-standing, difficult Cyprus issue. I believe the action we are taking today, that we have heretofore taken, and that we took when we lifted that arms embargo, is the best route toward solution of the Cyprus situation.

So, Mr. President, I support the conference report and commend the conferees, both from the Senate and those from the House under the leadership exerted by Mr. Zablocki.

Mr. JAVITS. Mr. President, I thank Senator Byrd and Senator Chafee for their very gracious remarks about Senator Church and myself.

Unless Senator Tower wishes to be heard on this conference report, I know of no other speakers. We are ready for a vote on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, that terminates our action on the conference report.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 251—RELEASE OF DOCUMENTS AND INFORMATION TO RELEVANT FEDERAL AGENCIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Florida (Mr. Chiles) I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 251) to authorize the withdrawal and release of certain records, documents, papers, and other information created or obtained by and in the possession of the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs to the Department of Justice, the Internal Revenue Service, the Securities and Exchange Commission, the General Services Administration, and the Interstate Commerce Commission.

Mr. ROBERT C. BYRD. This resolution would permit the Subcommittee on Federal Spending Practices and Open Government of the Governmental Affairs Committee to release documents and information in the subcommittee's possession to relevant Federal agencies pursuant to their requests.

I move that the Senate approve this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the Department of Justice, the Internal Revenue Service, the Securities and Exchange Commission, the General Services Administration, and the Interstate Commerce Commission have requested certain materials and information created or obtained by and in the possession of the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs as a result of its official activities;

Whereas, by the privileges of the Senate of the United States and by rule XXX of the Standing Rules of the Senate, no Member, officer, or employee of the Senate is authorized to produce documents, papers, or records of the Senate but by order of the Senate and information secured by Members, officers, and employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate: Now, therefore, be it

Resolved, That the Chairman of the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs is authorized, at his discretion and subject to such conditions as he may deem appropriate, to provide the Department of Justice, the Internal Revenue Service, the Securities and Exchange Commission, the General Services Administration, and the Interstate Commerce Commission with certain records, documents, papers, and other information, or copies thereof, created or obtained by and in the possession of the Subcommittee as requested by the Department of Justice, the Internal Revenue Service, the Securities and Exchange Commission, the General Services Administration, and the Interstate Commerce Commission.

Sec. 2. The Secretary of the Senate shall transmit copies of this resolution to the Attorney General, the Commissioner of Internal Revenue, the Chairman of the Securities and Exchange Commission, the Administrator of General Services, and the Chairman of the Interstate Commerce Commission.

ORDER FOR RECESS FROM CLOSE OF BUSINESS TODAY UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, there be a period for the transaction of routine morning business of not to exceed 1 hour, in which Senators may speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Whereupon, at the hour of 4:15 and 15 seconds p.m., the Senate adjourned until 4:15 and 45 seconds p.m. the same day.

AFTER ADJOURNMENT

The Senate met at 4:15 and 45 seconds p.m., pursuant to adjournment, and was called to order by Hon. Max Baucus, a Senator from the State of Montana.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of the last legislative day be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that no resolution come over under the rule, and that no actions be taken under rule XIV.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe that under the order the Senate will recess over until tomorrow at 11 a.m.

The PRESIDING OFFICER. The Senator is correct.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

ORDER FOR RECESS FROM CLOSE OF BUSINESS TOMORROW UNTIL 11 A.M. ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the Senate completes its business, the Senate stand in recess until the hour of 11 a.m. on Tuesday next.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. **ROBERT C. BYRD**. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 4:17 p.m. the Senate recessed until tomorrow, Friday, October 5, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate, October 4, 1979:

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion in the Foreign Service to the classes indicated:

Foreign Service officers of class 1:

J. Bruce Amstutz, of Virginia.
William G. Barraclough, of Pennsylvania.
Robert L. Barry, of New Hampshire.
Richard Elliot Benedick, of California.
James K. Bishop, of New York.
Everett E. Briggs, of Maine.
William A. Brown, of New Hampshire.
Robert W. Duemling, of California.
William J. Dyess, of Alabama.
John Eaves, Jr., of New York.
Harvey J. Feldman, of Florida.
John A. Ferch, of Ohio.
Rudy V. Fimbres, of Arizona.
Robert H. Frowick, of Texas.
Fred J. Galanto, of Massachusetts.
Wever Gim, of Utah.
Samuel F. Hart, of Rhode Island.
Kenneth Allen Hartung, of New York.
Erland H. Heginbotham, of Maryland.
Herbert Eugene Horowitz, of Florida.
Denis Lamb, of Ohio.
Clint A. Lauderdale, of California.
Stephen J. Ledogar, of Connecticut.
Nelson C. Ledsky, of Maryland.
Samuel Eldred Lupo, of California.
Richard C. Matheron, of California.
Vernon D. McAninch, of Texas.
Ruth A. McLendon, of Texas.
Frazier Meade, of the District of Columbia.
Jay P. Moffat, of New Hampshire.
Richard B. Moon, of Connecticut.
William D. Morgan, of Virginia.
Robert J. Morris, of the District of Columbia.
John D. Negroponte, of New York.
John Hall Rouse, Jr., of Maryland.
Richard T. Salazar, of the District of Columbia.
Carl W. Schmidt, of New Jersey.
Michael B. Smith, of Massachusetts.
Richard W. Smith, of Maryland.
Richard Noyes Viets, of Vermont.
Julius W. Walker, Jr., of Texas.
Lannon Walker, of Maryland.
James W. White, of Florida.
Marshall W. Wiley, of Florida.
William D. Wolle, of Iowa.
Warren Zimmermann, of Virginia.

Foreign Service officers of class 2:

Madison M. Adams, Jr., of Florida.
Alan D. Berlind, of Virigina.
L. Paul Bremer III, of Connecticut.
Kenneth L. Brown, of California.
Harvey A. Buffalo, Jr., of Arkansas.
Walter Leon Carter, of the District of Columbia.
Glenn Richard Cella, of New York.
John R. Clingerman, of Michigan.
Jane Abell Coon, of the District of Columbia.
John R. Countryman, of New York.
Marion V. Creekmore, Jr., of Tennessee.
T. Frank Crigler, of Arizona.
Robert G. Deason, of California.
Edmund T. DeJarnette, of Virginia.
John J. Eddy, of New York.
William H. Edgar, of the District of Columbia.
Emil P. Ericksen, of California.
David Meredith Evans, of Pennsylvania.
David C. Fields, of California.
Charles W. Freeman, Jr., of Rhode Island.
Louis P. Goelz, of New Jersey.
Olaf Grobel, of Tennesee.
Samuel J. Hamrick, Jr., of Kentucky.
Stanley P. Harris, of Maine.
Stephen J. Hayden, of Oregon.
John P. Heimann, of Connecticut.
M. Charles Hill, of New Jersey.
Robert G. Houdek, of Illinois.
Peter B. Johnson, of California.
George F. Jones, of Texas.
Curtis W. Kamman, of Arizona.
Robert E. Kaufman, of the District of Columbia.
Edward E. Keller, Jr., of California.
George E. Knight, of Pennsylvania.
Anthony S. Kochanek, Jr., of New Jersey.
Harry Kopp, of Virginia.
Norbert J. Krieg, of California.
Robert B. Lane, of California.
Perry W. Linder, of California.
Wingate Lloyd, of Pennsylvania.
Joseph P. Lorenz, of New York.
John W. MacDonald, Jr., of New York.
Robert W. Maule, of Washington.
Sherrod B. McCall, of Illinois.
Mary E. McDonnell, of the District of Columbia.
Thomas J. O'Donnell, of Florida.
Robie M. H. Palmer, of Vermont.
William T. Pryce, of Pennsylvania.
Alexander L. Rattray, of California.
Frank M. Ravndal, of Maryland.
Fernando E. Rondon, of Virginia.
Charles E. Rushing, of Illinois.
M. Virginia Schafer, of Washington.
Robert E. Service, of California.
N. Shaw Smith, of Virginia.
Wayne S. Smith, of California.
Peter Solmssen, of Pennsylvania.
Walter E. Stadtler, of New York.
Charles R. Stout, of California.
Clyde Donald Taylor, of Maine.
T. Elkin Taylor, of Georgia.
Charles H. Thomas II, of New Hampshire.
George F. Twohie, of Florida.
Jan B. Verschuur, of Colorado.
Harold E. Vickers, of Massachusetts.
Sandra Louise Vogelgesang, of Ohio.
Howard K. Walker, of Maryland.
John A. Warnock, of California.
Walter Frederick Weiss, of California.
Richard L. Wilson, of Iowa.
Joseph A. B. Winder, of Maryland.
Roderick M. Wright, of California.

Foreign Service officers of class 3:

Alvin P. Adams, Jr., of Virginia.
John H. Adams, of California.
Theodore L. Austin, Jr., of Maryland.
Michael I. Austrian, of New York.
Richard W. Baker III, of New Jersey.
James E. Baldridge, of Illinois.
John A. Barcas, of New Jersey.
Margaret J. Barnhart, of Pennsylvania.
Thomas F. Barron, of California.
Samuel B. Bartlett, of Massachusetts.
David Russell Beall, of Michigan.
Frank L. Berry, of Kentucky.
David L. Blakemore, of the District of Columbia.
John W. Bligh, Jr., of Florida.
Charles F. Brown, of Nevada.
George E. Brown, of Texas.
Albert Peter Burleigh, of California.
Weldon D. Burson, of Texas.
Duane C. Butcher, of Oklahoma.
Michael Carpenter, of Florida.
James H. Cheatham, of Tennessee.
Edward J. Chesky, Jr., of Kansas.
Henry L. Clarke, of California.
Lewis I. Cohen, of New York.
Lemuel David Coles, of Massachusetts.
Peter Collins, of New York.
Carl B. Cunningham, of California.
Rolfe B. Daniels, of California.
Timothy E. Deal, of California.
Francis J. Dennett, of Florida.
Gerald de Santillana, of California.
Richard C. Devine, of Connecticut.
Diane Dillard, of Texas.
Don J. Donchi, of New Jersey.
Robert S. Driscoll IV, of New York.
Adolph H. Eisner, of Florida.
Edward M. Featherstone, of Pennsylvania.
John D. Finney, Jr., of Missouri.
Alan H. Flanigan, of Tennessee.
Townsend B. Friedman, Jr., of Illinois.
Frederick H. Gerlach, of Virginia.
John R. Graham, of Pennsylvania.
Jay R. Grahame, of Virginia.
Ernest Thomas Greene, of New Hampshire.
George G. B. Griffin, of Maryland.
Marvin Groeneweg, of Virginia.
Scott S. Hallford, of Tennessee.
Charles R. Hartley, of the District of Columbia.
Frederick H. Hassett, of Florida.
James M. Hawley III, of West Virginia.
Richard E. Hecklinger, of New York.
Marianne B. Hewitt, of Washington.
Irvin Hicks, of Maryland.
H. Kenneth Hill, of California.
Wilbur W. Hitchcock, of New Jersey.
Herbert A. Hoffman, of Pennsylvania.
Sean M. Holly, of Virginia.
W. Nathaniel Howell, Jr., of Virginia.
Arthur H. Hughes, of Nebraska.
Richard L. Jackson, of Massachusetts.
Louis F. Janowski, of Illinois.
Larry Craig Johnstone, of Washington.
M. Gordon Jones, of California.
Richard Dale Kauzlarich, of Illinois.
John H. Kelly, of Georgia.
Dennis W. Keogh, of Virginia.
Dalton V. Killion, of California.
Susan M. Klingaman, of New York.
Arthur L. Kobler, of New Jersey.
John C. Kornblum, of Michigan.
John J. LaMazza, of New York.
William E. Landfair, of Maryland.
Douglas Langan, of New Jersey.
Warren A. Lavorel, of California.
James E. Leader, of Delaware.
Lawrence B. Lesser, of the District of Columbia.
Roscoe C. Lewis III, of the District of Columbia.
George Q. Lumsden, Jr., of New Jersey.
Lewis R. MacFarlane, of Washington.
Arturo S. Macias, of Wisconsin.
Jim B. Marshall, of Tennessee.
Charles A. Mast, of South Dakota.
Philip R. Mayhew, of the District of Columbia.
Henry Young McCown, Jr., of Texas.
Richard A. McCoy, of New Jersey.
Howard L. McGowan, of Ohio.
J. Phillip McLean, of Washington.
Thomas E. McNamara, of New York.
Roger B. Merrick, of Colorado.
William B. Milam, of California.
George E. Moose, of Colorado.
Richard W. Mueller, of Connectict.
Lewis Roy Murray, Jr., of Tennessee.
Robert P. Myers, Jr., of California.
Robert F. Ober, Jr., of Illinois.
Jerome C. Ogden, of New York.
Thomas F. O'Herron, of Maryland.
Donald K. Parsons, of California.
John H. Penfold, of Colorado.
Philip E. Penninger, of North Carolina.
Gordan R. Powers, of Idaho.
Robert Maxwell Pringle, of Virginia.
Robert E. Prosser, of Virginia.
Mark S. Ramee, of New York.
Arnold L. Raphel, of New Jersey.
Richard J. Redmond, of Nebraska.

Thomas R. Reynders, of Maryland.
Cecil S. Richardson, of New York.
George L. Rueckert, of Wisconsin.
William E. Ryerson, of Maryland.
Edward Michael Sacchet, of Maryland.
Richard C. Schenck, of New York.
Lange Schermerhorn, of New Jersey.
Elaine Barbara Schunter, of Washington.
William C. Sergeant, of Florida.
Leonard G. Shurtleff, of Massachusetts.
Manuel Silberstein, of California.
John P. Spillane, of Illinois.
Steven E. Steiner, of Pennsylvania.
John C. Stephens, of California.
Michael D. Sternberg, of New York.
Robert S. Steven, of Virginia.
David H. Swartz, of Illinois.
Maurice M. Tanner, of Utah.
James Tarrant, of California.
Lawrence Palmer Taylor, of Ohio.
Richard S. Thompson, of Washington.
W. Kenneth Thompson, of the District of Columbia.
James C. Todd, of California.
Peter Tomsen, of Ohio.
Archelaus R. Turrentine, of Arkansas.
Charles H. Twining, Jr., of Maryland.
Erwin W. von den Steinen, of California.
William J. Waller, of California.
Phillip J. Walls, of Michigan.
A. Joseph Williams, Jr., of Georgia.
Michael G. Wygant, of New York.

Foreign Service officers of class 4:

Victor A. Abeyta, of New Mexico.
Michael J. Adams, of Pennsylvania.
Carolyn M. Allen, of Oklahoma.
Fredrick C. Ashley, of Ohio.
Robert M. Beecroft, of Maryland.
James P. Bell, Jr., of Alabama.
John E. Bennett, of New Hampshire.
Ross E. Benson, of California.
Michael Billick, of Florida.
James E. Blanford, of Wyoming.
James Taylor Blanton, of California.
Charles Henry Blum, of Texas.
Barbara K. Bodine, of California.
Joseph J. Borich, of South Dakota.
George T. Boutin, of California.
Edwin L. Brawn, of Maine.
Aurelia E. Brazeal, of Georgia.
Raymond F. Burghardt, Jr., of Florida.
Thomas H. Carter, of Florida.
James C. Cason, of Florida.
Geoffrey W. Chapman, of New Jersey.
Harry E. Cole, Jr., of Pennsylvania.
James F. Collins, of Illinois.
Joan Ellen Corbett, of Massachusetts.
Michael W. Cotter, of the District of Columbia.
Ryan Clark Crocker, of Washington.
Jeffrey R. Cunningham, of Idaho.
Karl Imants Danga, of New York.
Ann E. Darbyshire, of Hawaii.
J. Hall Diggs, of Michigan.
David Bryan Dlouhy, of Texas.
Gilbert J. Donahue, of Florida.
Shaun Edward Donnelly, of Indiana.
Michael W. Donovan, of Indiana.
Quetzal Doty, of Virginia.
Gordon J. DuGan, of the District of Columbia.
James W. Eighmie, Jr., of the District of Columbia.
Richard W. Erdman, of New Jersey.
Stanley T. Escudero, of Florida.
Lawrence F. Farrar, of Washington.
Bernard J. Fennell, of Florida.
Dan W. Figgins, Jr., of New York.
John Seabury Ford, of Ohio.
George P. Fourier, of Oregon.
W. Douglas Frank, of Indiana.
Robert A. Gehring, of Connecticut.
Richard M. Gibson, of California.
Jack L. Gosnell, Jr., of South Carolina.
George A. Gowen III, of North Carolina.
Hilton L. Graham, of Oregon.
Daniel V. Grant, of Virginia.
Robert E. Gribbin III, of Alabama.
Lawrence Marshall Grossman, of Nebraska.
James L. Halmo, of Washington.
Mark G. Hambley, of Idaho.
John Randle Hamilton, of Virginia.
Carolee Heilman, of Nebraska.
Paul W. Hilburn, Jr., of Texas.
Sherman N. Hinson, of Vermont.
Thomas L. Holladay, of Arizona.
John F. Hoog, of Missouri.
Paul M. Hooper, of Texas.
Richard W. Hoover, of Ohio.
Robert F. Hopper, of Virginia.
Joszet S. Hudson, of Georgia.
Cameron R. Hume, of New York.
David H. Hutchison, of Kansas.
Stanley R. Ifshin, of Florida.
Anne D. Jillson, of Connecticut.
Sandor A. Johnson, of California.
Douglas Hugh Jones, of California.
George A. Kachmar, of New Jersey.
John F. Keane, of New York.
Jerrell G. Keathley, of Texas.
George B. Kettenhofen, of Colorado.
Donald Willis Keyser, of Virginia.
Melinda L. Kimble, of Arizona.
C. Michael Konner, of New York.
John Kriendler, of New York.
Russell August LaMantia, Jr., of Illinois.
Richard K. Landers, of California.
Nicholas R. Lang, of New York.
Ishmael Lara, of California.
Alan P. Larson, of Iowa.
James D. Lee, of Virginia.
John Hargraves Lewis, of Pennsylvania.
Richard P. Livingston, of Tennessee.
Kenneth Longmyer, of California.
Ronald Dean Lorton, of Virginia.
Michael S. Lucy, of Massachusetts.
B. Jerry Lujan, of New Mexico.
Ann Griffin MacFarlane, of California.
Richard S. Mann, of California.
Edward J. Marcott, of Massachusetts.
Joanna W. Martin, of California.
Thomas H. Martin, of Illinois.
Edward E. Martinez, of Texas.
J. Richard Mason, of Texas.
David P. Matthews, of Texas.
Gerald McCulloch, of Michigan.
Bruce McKenzie, of California.
Michael John McLaughlin, Jr., of New York.
Martin McLean, of New Jersey.
Gregory L. McLerran, of Texas.
Michael L. Milligan, of New York.
William C. Mims, of Georgia.
Malachy T. Minnies, of Virginia.
George H. Mitchell, Jr., of Virginia.
John Scott Monier, of Illinois.
David Richard Moran, of Virginia.
Richard A. Morford, of Indiana.
George Mu, of California.
Stanley T. Myles, of Louisiana.
Jeremy Nice, of the District of Columbia.
V. Edward Olson, of Florida.
Cristobal Roberto Orozco, of California.
Allen R. Overmyer, of Ohio.
Michael P. Owens, of Texas.
David A. Pabst, of Washington.
Raymond J. Pardon, of New York.
Kenneth W. Parent, of Illinois.
Hal W. Pattison, of New Jersey.
David J. Peashock, of Pennsylvania.
Clarence E. Pegues, Jr., of Alabama.
John L. Pitts, of California.
Laurence E. Pope II, of Massachusetts.
Blaine D. Porter, of Utah.
Marilyn Ross Povenmire, of Virginia.
Ronald Benjamin Rabens, of Illinois.
Charles E. Redman, of Indiana.
Robert C. Reis, Jr., of Missouri.
Thomas Lee Robinson, of Michigan.
H. Clarke Rodgers, Jr., of Georgia.
David A. Ross, of New York.
John W. Salmon, Jr., of Missouri.
Joseph A. Salmon III, of Florida.
Barbara L. Schell, of Pennsylvania.
David L. Schiele, of California.
Paul J. Schlamm, of the District of Columbia.
Kenneth M. Scott, Jr., of Pennsylvania.
William Henry Skok, of New Jersey.
Kirby L. Smith, of Florida.
Raymond F. Smith, of Pennsylvania.
Sylvia G. Stanfield, of Texas.
Theodore Eugene Strickler, of Texas.
Donald J. Sutter, of New Jersey.
James W. Swihart, Jr., of Maine.
James Edward Taylor, of California.
Philip Bates Taylor III, of Texas.
Robert Taylor, of Texas.
William H. Twaddell, of Rhode Island.
Elayne Jeannette Urban, of Ohio.
Mary von Briesen, of Wisconsin.
Marsha D. von Duerckheim, of Maryland.
David M. Walker, of California.
Matthew P. Ward, Jr., of Pennsylvania.
Gerald J. Whitman, of California.
Kent M. Wiedemann, of California.
John Hurd Willett, of New York.
Edward L. Williams, of New Jersey.
Arlen Ray Wilson, of Wyoming.
David M. Winn, of Texas.
Ira Wolf, of New York.

Foreign Service officers of class 5:

William Howard Barkell, of Arizona.
Julian Leotis Bartley, of New York.
Thomas V. Biddick, of California.
James D. Bindenagel, of Illinois.
John William Blaney, of Virginia.
Clifford George Bond, of New Jersey.
Steven M. Brattain, of Ohio.
Kenneth C. Brill, of California.
Steven Robert Buckler, of Michigan.
Jeffrey J. Buczacki, of Connecticut.
Nicholas Burakow, of Indiana.
Donald Camp, of Maryland.
John Campbell, of Virgiina.
Robert C. Campbell, of Oregon.
Anne O. Cary, of New Hampshire.
James W. Chamberlin, of Alabama.
Thomas L. Chittick, of Texas.
Gwen C. Clare, of Connecticut.
Frederick Bishop Cook, of Florida.
Caryl M. Courtney, of West Virginia.
Francis Xavier Cunningham, of Delaware.
Matthew Patrick Daley, of the District of Columbia.
Mary Marchany Daniel, of Puerto Rico.
Howard Caldwell Davis, of Oklahoma.
Kenneth B. Davis, of Maryland.
James R. Dawson, of the District of Columbia.
Bohdan Dmytrewycz, of Virginia.
Milton K. Drucker, of Connecticut.
Mark Craig Eaton, of South Dakota.
Carolyn H. Ervin, of California.
Timberlake Foster, of California.
Bonnie Ann Frank, of Oklahoma.
Jeffrey Gallup, of California.
John Alexander Hamilton, of the District of Columbia.
Stephen Michael Harner, of California.
Timothy P. Hauser, of Illinois.
Franklin Huddle, Jr., of Massachusetts.
Nancy Hudson, of Texas.
Paul F. Hurley, of Massachusetts.
Stanley P. Jakubowski, of Connecticut.
Richard H. Jones, of Nebraska.
Theresa Paulette Jones, of Virginia.
Charles Kartman, of the District of Columbia.
Patricia A. Kim, of California.
Helen Brady Lane, of Texas.
Paul B. Larsen, of Hawaii.
Michael Craig Lemmon, of Virginia.
John W. Limbert, of Vermont.
Joseph A. Limprecht, of California.
Marisa R. Lino, of Oregon.
Dennis M. Linskey, of New York.
Thomas A. Lynch, Jr., of Virignia.
David L. Lyon, of Maryland.
Nancy J. Mackie, of California.
William C. McCahill, Jr., of Massachusetts.
Kenneth R. McKune, of Kentucky.
Margaret K. McMillion, of Pennsylvania.
William W. Millan, of Virginia.
John Holmes Miller, of California.
Thomas Joel Miller, of Illinois.
Jeffrey V. S. Millington, of New Jersey.
Mark C. Minton, of Florida.
Christine Shelley Monroe, of Kentucky.
John L. Moran, of New York.
Thomas J. Morgan, of California.

William A. Muller, of Michigan.
Frank V. Nash, of Connecticut.
Larry A. Nelson, of Oklahoma.
Marc E. Nicholson, of California.
Clyde G. Nora, of New Jersey.
Edward B. O'Donnell, Jr., of Tennessee.
Bernard F. Oppel, of Pennsylvania.
John Malcolm Orway, of California.
Giovanni Palazzola, of Georgia.
Gerard R. Pascua, of Virginia.
Charles N. Patterson, Jr., of Texas.
Bronson E. Percival, of Connecticut.
Robert W. Pringle, Jr., of Virginia.
Robert A. Proctor, of California.
Angel M. Rabasa, of Florida.
David E. Randolph, of Arizona.
Eleanore McGroarty Raven, of California.
Karla Reed, of Florida.
Ronald MacDonnell Roberts, of California.
Kathryn Dee Robinson, of Tennessee.
Gregg A. Rubinstein, of Illinois.
Constance McCready Rush, of Rhode Island.
Timothy M. Savage, of Iowa.
Nancie Anne Schalk, of Virginia.
Peter G. Schoettle, of California.
James F. Schumaker, of California.
Nicholas A. Sherwood, of Maryland.
Mary C. Shoemaker, of Virginia.
Joseph T. Sikes, of Alabama.
Stephen T. Smith, of Nebraska.
Nicholas A. Stigliani, of Connecticut.
Russell J. Sveda, of New York.
Herbert S. Thomas III, of Tennessee.
Stephen H. Thompson, of Arizona.
James E. Tobin, of Iowa.
David Goforth Wagner, of Pennsylvania.
Richard G. Watkins, of Ohio.
Earl A. Wayne, of California.
George MacDonald White, of Indiana.
Gary Williams, of Florida.
Patricia A. Woodring, of California.
Foreign Service officers of class 6:
Richele Keller, of South Carolina.
Glen David Preston, of Illinois.
Carl Frederick Troy, of Oregon.

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Abbott, Douglas A., 363-42-9156.
Abernathy, Albert L., 532-40-7017.
Abt, Peter F., 060-32-4873.
Achter, Gilbert J., Jr., 573-56-6248.
Adams, Louis J., 137-34-1084.
Adamson, Daniel P. Jr., 456-54-6023.
Ahrens, Darrell J., 508-40-5494.
Alberts, Donald J., 172-32-7207.
Albrecht, Jerry E., 543-44-3502.
Alderman, Jerald R., 265-66-3835.
Aldrich, Robert M., 387-36-3709.
Alexander, William R., III, 253-60-2368.
Alford, Lester D., 262-64-1366.
Allen, John J., 465-74-2516.
Allen, Raymond L., 411-64-0803.
Allison, Jeffrey B., 261-68-7418.
Almassy, Robert J., 381-42-6121.
Alpers, John H. Jr., 523-46-7634.
Alt, William E., 523-44-7302.
Aman, Alroy A., 503-46-5123.
Ambrose, John W. III, 181-34-9214.
Anders, William H., 198-32-5978.
Anderson, Carl E., 024-30-6182.
Anderson, Carson E., 517-40-6591.
Anderson, James N., 329-32-3885.
Anderson, Marty D., 565-52-4160.
Anderson, Michael G., 568-54-4266.
Anderson, Ronald W., 296-36-5126.
Anderson, Wayne R., 354-34-6395.
Andreski, Philip J., 130-32-9996.
Andrews, Adolphus, 265-62-2078.
Andrews, Francis J. Jr., 205-32-4086.
Andrews, Melville M., Jr., 225-54-7012.
Anker, Peter B., 520-44-2119.
Anthony, John T., 547-60-7862.
Apel, Charles L., 253-66-7562.
Aplin, Charles C., 416-56-8311.
Arbuckle, James H., 189-34-8107.
Archey, Walter J., Jr., 577-58-0083.
Arnestad, James A., 371-42-2910.
Asboth, Julius, Jr., 374-38-2657.
Ashdown, Floyd A., 345-34-9119.
Ashley, Raymond W., 457-66-6813.
Aspenson, Donald L., Jr., 482-50-7558.
Atkinson, Larry B., 529-44-0240.
Atkinson, Robert W., Jr., 428-88-1269.
Aulwurm, Henry C., 267-60-6190.
Austin, Edward G., 250-54-7223.
Ayers, Barrett W., 145-30-4979.
Bacchieri, Roger G., 023-32-5285.
Badger, Jimmy L., 494-40-6089.
Baergen, Edward, 371-36-5887.
Ball, Charles E., II, 196-30-3231.
Bailey, Brooke P., 553-66-0591.
Bailey, John C., 172-34-7655.
Bailey, Richard C., 528-50-1309.
Bailey, William F., 273-38-5488
Bainter, Jimmy R., 491-44-9769.
Bair, Thomas E., 210-30-2103.
Bair, William K., 233-68-0850.
Baker, Dan S., 526-54-9784.
Baker, Jeffrey D., 573-56-8140.
Baker, John E., 505-46-4506.
Baker, Kennieth W., 455-62-0942.
Baker, Norman D., 343-34-7071.
Baker, Roy B., III, 014-32-5992.
Balazs, Arthur J., 337-34-9987.
Baldwin, Richard F., 047-34-5896.
Ball, Henry A., Jr., 165-34-4976.
Ballas, Andrew W., Jr., 292-38-6281.
Balstad, Richard W., 501-42-5894.
Banks, Tommie L., 318-36-3000.
Barber, John E., 570-54-9648.
Barber Tommie R., 455-64-9633.
Barber, William D., 506-54-8306.
Barbin, Albert R., Jr., 011-32-6805.
Barfoot, Norman G., 499-42-1164.
Bargmeyer, Robert W., 310-46-2172.
Barker, Edward R., 519-42-6684.
Barlow, Frederick J., 058-34-6943.
Barnes, Barry L., 231-50-2546.
Barnett, Miles T., Jr., 428-80-1522.
Barrett, Jackie H., 233-68-4230.
Bart, Richard L., 555-48-1144.
Bartlett, Michael W., 507-46-1814.
Bartlow, Gene S., 445-40-8616.
Barton, Lloyd H., 550-52-8474.
Barton, Melvin W., 464-52-1762.
Barwick, Leon S., Jr., 250-62-5007.
Basler, Edward W., 335-36-4295.
Bassetti, Robert D., 464-64-1160.
Bastien, Peter M., 362-44-4672.
Bateman, Wilbur W., Jr., 452-60-1473.
Batterson, Paul N., 465-68-3993.
Battin, John J. W., 349-32-5508.
Beadle, Leonard C., III, 430-74-0841.
Beardslee, Stephen A., 544-42-7957.
Beauregard, Richard J., 006-36-3333.
Bechtol, Joseph J., 526-50-1226.
Beck, Paul A., 013-32-1951.
Beck, Roger A., 485-46-1876.
Becker, Larry L., 503-50-5459.
Beebe, David A., 275-36-1293.
Begg, Ronald B., 501-46-1318.
Belardo, Dominick S., Jr., 146-32-4387.
Belden, Kenneth R., 555-52-6642.
Bell, Jeffrey, 524-50-3579.
Bell, Kenneth B., 263-68-6072.
Benedict, Horace E., 457-62-1377.
Benedict, Rettig P., Jr., 022-34-9478.
Bennett, Barry D., 499-42-7054.
Bennett, Richard B., 549-54-5253.
Bentley, Stewart W., Sr., 248-58-6491.
Benton, David R., 242-68-5228.
Benzinger, Richard, Jr., 054-34-2002.
Berard, Robert D., 519-46-6292.
Besch, Lawrence E., 058-34-4316.
Bethea, Philip P., III, 278-38-6038.
Bethurem, Richard C., 395-40-3598.
Beyer, Mary D., 457-66-6185.
Billesbach, Robert L., 506-44-0366.
Biniewski, Daniel J., 544-64-4433.
Bird, Robert J., 311-44-9088.
Bishop, Douglas C., 565-56-1855.
Bishop, William M., 450-64-1976.
Blackburn, Charles E., 505-42-3909.
Blackledge, Ronald G., 456-74-0313.
Blackwood, Jimmie, 429-68-3767.
Blair, John D., Jr., 148-30-8717.
Blakeley, William B., 227-54-9544.
Blessing, Don H., 345-36-7872.
Block, David M., 378-40-7140.
Bloemker, Carl F., 179-34-5673.
Blume, Jay D., Jr., 461-60-8055.
Bode, Richard D., 267-32-6200.
Bodenheim, Bodie R., 229-58-3765.
Boesen, Dennis L., 518-46-1950.
Boles, John L., Jr., 456-64-7782.
Bolick, Carl A., Jr., 517-44-7928.
Bollman, James R., 461-56-1715.
Bonck, Lionel N., 439-60-2955.
Bonner, Walter B., 256-50-9634.
Boone, Jimmie A., 429-64-5215.
Booth, David M., 461-64-2053.
Borkowski, Robert, 191-34-0357.
Boscia, Michael J., 055-32-0214.
Boselly, Shirley E., III, 535-36-4485.
Boulware, John H., 216-40-7407.
Bourne, Alan M., 404-58-0503.
Bourne, Robert B., 238-62-9008.
Bowen, Paul B., 419-54-4825.
Bowen, Robert L., III, 219-38-3107.
Bowers, Jimmie L., 448-40-6643.
Box, David M., 302-32-2533.
Boyd, Billy M., 427-86-6468.
Boyette, Paul A., 266-48-1417.
Boyle, James, 138-32-4973.
Boyle, Marcus J., 031-30-6703.
Boyle, Peter J., Jr., 541-40-5104.
Bradham, John H., 248-62-4602.
Bradley, Rayburn E., 430-72-0203.
Brande, Wendell S., 244-74-0806.
Brandon, Eric H., 428-70-9133.
Brandt, Ronald L., 355-34-7687.
Brannum, Edward S., 422-52-9964.
Brian, Elton L., 466-46-6524.
Briggs, Thomas W., 446-38-4413.
Brigman, James L., 228-46-2323.
Briley, Wilson D. Jr., 429-72-3763.
Brisby, Johnny M., 454-64-1753.
Briscoe, Jerald D., 444-36-3285.
Brogdon, James E., 491-44-2761.
Bron, Robert P., 049-30-2239.
Bronson, Thomas E., 067-34-3287.
Bronstein, Abraham, 125-32-1224.
Brooks, Harry W., 245-62-6441.
Brooks, Neil R., 023-30-9289.
Brosveen, Douglas A., 471-44-1286.
Brothers, Walter L., 045-30-3970.
Brower, George, 457-56-3873.
Brown, Alan E., 187-34-8715.
Brown, David E., 244-52-1862.
Brown, James D., 110-34-9516.
Brown, James H., 008-30-9326.
Brown, James R., 252-64-0723.
Brown, Mervin R., Jr., 248-66-3513.
Brown, Richard J., 097-34-1564.
Bruce, Robert W., 544-40-9979.
Brunello, Lawrence F., 394-38-9097.
Brunz, Wayne W., 505-56-5679.
Bryant, Lucious, E., Jr., 261-50-0137.
Bryant, William L., 403-50-8297.
Buck, Erhard, 137-30-2651.
Buckey, Jerome V., 501-46-5585.
Buckingham, Frederic N., 315-42-7867.
Bucknell, Edward K., 280-38-3736.
Bullard, Edward M., 569-62-5327.
Bulloch, Donald C., 436-64-2588
Bullock, Gerald E., 524-52-5142.
Bunch, Ronald L., 225-54-0238.
Burkard, Dick J., 497-36-3892.
Burkart E., Robert, Jr., 213-40-0809.
Burkhardt, John T., 287-36-8131.
Burks, William N., 434-42-8450.
Burnett, Paull C., 260-70-5388.
Burnette, Herman C., Jr , 244-62-8691.
Burnette, William R., 231-52-2587.
Burnham, Robert F., Jr., 579-56-4558.
Burns, William A., 284-34-1088
Burrell, Stephen F., 253-60-4257.
Burrill, Lanny L., 542-42-2934.
Burroughs, Mark M., 196-30-8821.
Burton, Larry D., 512-34-1202.
Buser, Lamoyne G., 482-48-0882.
Bush, Don G., 405-50-7131.
Bushnell, Mart H., 552-48-3260.
Busse, Daniel E., 475-46-1066.

Butler, Jerome J., III, 228-56-4323.
Butterly, Glenn M., Jr., 443-38-5268.
Buttimer, Neil J., 337-34-1057.
Buys, Richard E., 470-42-5479.
Byrd, Henry C., Jr., 249-66-6128.
Cachuela, Jose M., Jr., 567-52-2666.
Caffrey, Dennis F., 092-32-6656.
Calcote, James D., 426-80-4477.
Caldwell, Robert O., 318-32-9487.
Caldwell, Thomas M., 439-58-9992.
Cameron, Charles R., 435-58-8937.
Cammarota, Richard S., 089-32-1595.
Campbell, Alfred Q., III, 408-64-1537
Canavan, Thomas E., 343-34-5243.
Cannon, Wilbert W., 252-60-5860.
Capillupo, Frank J., 523-48-9747.
Capshaw, Billie D., 446-34-6035.
Carey, John F., Jr., 239-64-7249.
Carl, Ronald W., 571-56-3140.
Carleton, Roger E., 252-66-3676.
Carlson, Charles F., 541-46-5541
Carlson, Robert J., 321-32-4382.
Carlson, Robert W., Jr., 330-28-8011.
Carney, William L., 303-42-1641.
Carothers, Harry H., III, 143-34-5683.
Carpenter, John P., 238-54-1779
Carr, John W., 241-62-3777.
Carr, Philip T., 474-46-6651.
Carson, Donald D., 223-54-8250
Carter, Robert W., Jr., 230-54-5386.
Carver, Charles F., III, 219-38-3105.
Carvey, Edward T., 043-32-0483.
Casleton, Jeffrey L., 361-34-2803.
Casper, John R., 398-40-7100.
Castle, Francis M., 531-30-3147.
Caswell, William M., 253-64-6314.
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Vasquez, Jesse S., 467-40-2738.
Venezia, Robert A., 263-68-1738.
Verstreate, James P., 095-32-8249.
Veverka, Joanne S., 263-42-9658.
Vickerman, Bruce E., 518-42-5286.
Violette, James G., 517-40-8524.
Voigt, David A., 552-58-6443.
Volloy, Gerald R., 295-36-5150.
Voxland, Michael D., 476-46-8622.
Vycital, Mark A., 319-32-3508.
Wade, William J., 306-42-0368.
Wadell, James A., 411-66-4062.
Wagner, Jon G., 321-32-4052.
Wakeham, Ernest W., 564-52-5736.
Walen, Darrell J., 502-32-3992.
Walk, Wayne D., Sr., 234-54-8320.
Walker, Donald R., 089-36-5493.
Walker, Fred W., 275-38-8455.
Walker, Jerry L., 521-42-2839.
Walker, Joseph P., Jr., 333-34-1853.
Walker, Ralph J., 269-36-8407.
Walker, William H., II, 239-68-3668.
Wallace, David M., 411-62-8312.
Wallace, Jere T., 505-50-6945.
Walls, Leonard L., 134-34-6932.
Walsh, Richard C., 365-42-2807.
Walsh, Robert B., 374-42-4315.
Walsh, Robert P., 102-36-5059.
Walsh, Thomas H., Jr., 018-32-8839.
Walters, Gary E., 497-36-7449.
Walters, William T., Jr., 264-58-1481.
Wanner, Thomas D., 154-30-9199.
Ward, Gerald M., 229-46-1618.
Warner, Raymond M., Jr., 521-56-1859.
Warniment, Daniel A., 273-38-3534.
Washburn, James L., Jr., 522-46-4574.
Waters, Joseph G., 413-62-2270.
Watson, Robert N., 233-62-1214.
Wattawa, Verne V., 561-58-9888.
Waugh, Thomas W., 279-38-2283.
Way, Carolyn E. L., 163-34-8158.
Wayne, John B., 082-28-1206.
Wayne, Stephen A., 314-44-5450.

BEST DOCUMENT AVAILABLE

Weaver, Windol C., 456-60-2621.
Webber, John S., 726-07-4595.
Webster, Joseph B., III, 249-62-2877.
Wedding, Joseph P., Jr., 464-68-0177.
Wege, Robert W., 399-34-3371.
Weidman, James D., 355-34-9557.
Welborn, Lawrence B., 429-68-7372.
Welch, David N., 196-30-8073.
Welch, Russell C., 255-62-3194.
Welde, John L., 144-34-7495.
Wells, Hewett S., Jr., 276-38-8744.
Wells, Rodney A., 353-32-4869.
Welty, Terrence A., III, 233-64-2703.
Wendfeldt, Larry S., 468-46-7757.
Wendrock, Robert F., Jr., 437-64-0537.
Wenger, John C., 203-32-5611.
Wenker, Kenneth H., 554-54-2505.
Wenzel, Thomas E., 302-30-2157.
Werner, Thomas J., 271-36-5421.
West, Hugh C., 230-52-7292.
West, Walter T., 419-48-3495.
Weston, Thomas A., 248-70-2288
Westover, Timothy O., 462-62-8812.
Whatley, Hugh C., 526-56-4853.
Wheatley, Robert L., Jr., 220-38-1825.
Wheeler, James C., 021-30-4777.
Wheeler, James F., 281-38-0047.
White, Douglas W., 436-52-6077.
White, James S., 566-50-1798.
White, Lawrence L., 188-32-7197.
White, Louis E., 446-44-2944.
White, Richard A., 326-32-1819.
Whitehead, Ronald S., 457-64-0347.
Whitfield, Glenn T., Jr., 358-26-2869.
Whitley, Jerry F., 251-54-9398.
Whitney, Donald K., 085-32-7653.
Widic, Frank A., Jr., 216-38-8160.
Widmayer, Karl C., III, 556-56-1026.
Wieck, Gary M., 473-46-7030.
Wiedemeier, Dennis W., 524-56-3010.
Weiss, Martin P., 148-32-8873.
Wilburn, William N., 165-34-8683.
Wilder, Michael C., 217-42-0412.
Wildes, James S., 471-46-1555.
Wilkerson, David A., 301-34-1257.
Wilkins, Donald L., 263-70-2279.
Willey, Lester R., 537-40-5026.
Williams, David M., 311-40-0379.
Williams, David T., 082-34-2445.
Williams, George B., Jr., 243-62-5030.
Williams, George L., 489-38-0708.
Williams, Jimmy R., 256-60-6092.
Williams, John H., 566-60-7562.
Williams, John, O. S., 049-30-0907.
Williams, Richard T., 346-34-5130.
Williams, Tate P., 242-64-0467.
Williford, James V., 218-44-7848.
Wilson, Charles E., 443-40-0435.
Wilson, Raymond L., Jr., 404-24-7162.
Wilson, Thomas L., 445-38-1510.
Wilson, William E., 159-32-2049.
Wilson, William E., 540-44-8508.
Wimberly, Charles H., 255-62-7348.
Wimer, Glenn C., 503-48-9551.
Wimer, James K., 429-80-2406.
Windham, James E., Jr., 429-74-7587.
Winsett, Joseph C., 420-50-2180.
Winters, George R., II, 190-32-5306.
Winters, James J., 312-44-8209.
Wisdom, William A., Jr., 525-90-0081.
Wisler, Richard A., 236-60-5421.
Wisler, Walter D., 234-64-0416.
Wittenberg, Frederick F., 113-32-4940.
Wolcott, David T., 392-44-1609.
Wold, Hal W., 392-40-6745.
Wolfe, George F., 128-30-6156.
Wolfrom, James A., 126-32-5903.
Wonner, Michael H., 296-36-2760.
Wood, Emery G., 407-46-2766.
Wood, John T., 248-76-9278.
Wood, Phillip D., 410-66-8421.
Wright, Peter W., 185-32-3505.
Wurzburger, Nils L., 357-34-2622.
Wyatt, Milton R., 423-48-6261.
Yajko, John A., 178-32-5253.
Yax, Thomas J., 505-48-3085.
York, Wayne P., 006-36-0622.
Yoshina, Thurston T., 575-38-4160.
Yoste, Florian H., III, 426-86-5558.
Young, James R., II, 511-40-1587.
Young, William C., 559-54-5620.
Youngblood, Robert W., 503-48-3806.
Younginer, Jacob M., 248-64-3028.
Younkin, David L., 268-36-7679.
Yurkiewicz, Joseph A., 169-32-1414.
Zajicek, Thomas P., 455-72-6639.
Zaniboni, Robert J., 019-30-9908.
Zazworsky, Raymond M., 135-34-6881.
Ziccardi, Vincent, A., 144-28-8881.
Zickert, Martin J., 396-40-7212.
Zimmerman, John E., 272-36-1521.
Zimmermann, Hanspeter, 119-32-7765.
Zlochen, Stanley D., 127-28-0446.
Zwolinski, Ronald J., 218-36-4628.

CHAPLAIN CORPS

Andrews, Francis G., 047-46-0558.
Bluschke, Derrick W., 074-30-4538.
Cardoza, Edward A., 558-32-5077.
Christianson, Thomas N., 502-34-6147.
Gasparovic, Eugene C., 151-12-1074.
Hadalski, Andrew D., 399-52-2449.
Keller, Ralph E., 490-32-8789.
Kircus, Ernest E., 439-50-8001.
Lewis, Keith H., 299-34-5496.
Mahon, John J., 115-22-8663.
Patrick, John H., 218-36-8806.
Pryor, George R., 477-16-9698.
Steen, Raymond A., 026-24-0823.
Stricklin, William M., 496-32-1420.
Wiemers, William R., 466-44-3073.
Zimbrick, Edward C., 501-28-0472.

JUDGE ADVOCATE

Blommers, James J., 479-44-7136.
Brancato, John R., 209-32-1281.
Burgan, Jack A., 307-38-6069.
Carter, Alfred W., 719-16-9873.
Dixon, Richard D. S., III, 238-64-9050.
Flowers, Raymond R., Jr., 437-60-1470.
Gallington, Daniel J., 193-30-1077.
Henderson, Fergus, 524-56-3019.
Houston, Bruce R., 065-34-3991.
Kansala, Dennis E., 517-46-7849.
Kelly, Thurman A., 509-30-4886.
Kretsinger, Carll J., 500-44-7313.
Matlock, Joseph D., 203-30-0554.
Mayer, John W., 143-34-4555.
O'Neill, Philip F., 520-32-3858.
Patterson, Kenneth O., Jr., 115-30-1685.
Rogers, Peter N., 032-32-5108.
Shea, Gerald C., 041-34-0966.
Spillman, Barton L., 307-36-6453.
Thompson, William C., Jr., 225-54-3177.
Townsley, Emory, Jr., 135-34-4006.
Waldrop, Olan G., Jr., 417-60-9065.
Waller, Charles W., 458-70-5314.

NURSE CORPS

Beahan, Alice L., 175-26-1515.
Blanchard, Kay L., 393-44-5726.
Burwell, Dawn R., 205-32-1999.
Casey, Kathleen F., 023-30-9904.
Elliott, Mabel E., 425-64-6428.
Fletcher, David R., 534-38-2090.
Gebhart, Eileen G., 162-32-1741.
Genco, Mattie K., 414-64-8794.
Glenn, Mattie L., 248-54-0642.
Hall, Jerrie J., 422-46-3079.
Hardy, Mary P., 004-40-2065.
Honig, Janet E., 043-30-7025.
Jackson, Annie L., 436-48-6583.
Johnson, Dawn R., 194-32-2458.
Lofberg, Maureen S., 463-58-1161.
Manucy, Judith M., 263-54-0909.
Meier, Karen A., 446-40-9629.
Mohr, Thomas C., 181-26-6589.
Mootz, Paul E., 130-30-7267.
Purdy, Patricia A., 274-34-7681.
Rieck, Gwendolyn A., 481-52-4576.
Spors, Hiltrud G., 499-38-7388.
Turner, Sue E., 337-34-9605.
Ugenas, Aldonna J., 379-32-4400.
Vinson, Iris L., 237-50-6581.
Walsh, Mary C., 118-32-3028.
Wiseman, Patricia J., 263-52-1145.
Yonker, Barbara J., 166-32-1576.
Young, Willie E., 428-72-1303.

MEDICAL SERVICE CORPS

Bellisario, Peter C., 196-30-3043.
Dorsey, Emmett E., 317-36-9732.
Dressler, Forrest G., Jr., 230-38-3003.
Eckrem, Jack L., 501-46-3228.
Ellis, James A., 459-32-6607.
Grabowski, John J., Jr., 185-34-6258.
Hammond, Douglas J., 521-54-8144.
Hauser, Robert S., 331-30-7459.
Hutchison, Gordon L., 128-28-8925.
Johnson, Gerald A., 318-36-0519.
Leuthold, Peter P., 040-36-0344.
Lombardo, Raymond B., 039-18-7947.
Martin, Howard L., Jr., 440-40-5972.
McClean, Raymond R., 282-30-7798.
Meyer, David E., 536-36-3662.
Miller, Roger T., 402-52-1825.
Milligan, Joseph E., 141-34-4044.
Morton, Edward C., Jr., 004-42-2818.
Newton, Duane W., 544-36-8573.
Nugent, Jerry J., 512-28-8766.
Rheinscheld, John H., 300-32-7234.
Richey, Wayne L., 303-38-5907.
Schindel, Donald L., 359-32-8162.
Smith, Collins E., Jr., 422-50-2762.
Stephen, Frederick R., 242-64-9165.
Trezza, Anthony, Jr., 153-28-8100.
Vago, Frederick A., 205-32-0652.
Velthuis, Philip B., 220-40-2996.
Zizzi, Martin E., 444-42-6056.

VETERINARY CORPS

Bruner, Richard H., 249-66-0987.
Harwood, Baxter, 551-46-8315.
Heading, Thomas D., 272-40-0553.
Hubbard, Gene B., 501-44-6156.
Obeck, Douglas K., 152-30-1546.

BIOMEDICAL SCIENCES CORPS

Birch, Shelton R., 439-60-5872.
Bomar, John B., Jr., 420-54-6771.
Bukovac, Ruby P., 362-40-4252.
Bullock, Charles W., 245-64-1744.
Cleary, Thomas J., 306-44-8315.
Daley, Peter S., 116-32-4721.
Genco, Louis V., 327-34-7811.
Kane, Donald A., 493-44-6260.
MacNaughton, Michael G., 219-38-5663.
Milner, Eldon S., 514-32-8844.
Mudge, Stephanie E., 232-68-3945.
Ohearn, Thomas P., Jr., 094-32-4212.
Robinson, John S., 001-32-3637.
Rudolph, Russell R., 338-36-5455.
Ryan, Michael J., 495-44-8525.
Simpson, David C., 535-36-1956.
Varner, Harold L., 453-42-3294.
White, Joyce S., 189-34-2786.
Williams, Jerry P., 412-64-2479.
Wilson, David K., 482-48-2103.
Wooten, Rutherford C., Jr., 451-66-5571.

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force.

To be major

Ayers, Barrett W., 145-30-4979.
Baker, Roy B., III, 014-32-5992.
Barrett, Jackie H., 233-68-4230.
Beauregard, Richard J., 006-36-3333.
Benton, David R., 242-68-5228.
Blackburn, Charles E., 505-42-3909.
Booth, David M., 461-64-2053.
Bowers, Jimmie L., 448-40-6643.
Cammarota, Richard S., 089-32-1959.
Carlson, Charles F., 541-46-5541.
Chambers, Corwin E., 510-42-3110.
Chernay, Serge A., 449-56-3404.
Christensen, William O., Jr., 079-34-0256.
Coladarci, Barbara, 149-32-0558.
Crosby, Glen E., 266-60-7775.
Crowder, Fred M., 263-80-5465.
Davis, Mervin G., 171-32-5909.
Delaino, William E., Jr., 262-68-8590.
Durfee, William F., 563-50-7683.
Ekwall, Donald F., 017-30-1874.
Emma, Joseph A., 040-34-0675.
Flynn, Lawrence D., 037-26-3492.
Gere, David A. B., 034-30-3095.
Glista, Robert A., 170-32-1682.
Grau, David W., 367-44-1290.
Gruber, Wayne F., 460-64-6744.
Hagler, Ronald E., 340-34-6187.

Hardgrove, James T., 525-96-3280.
Hasselquist, John W., 508-52-0864.
Helvilin, Thomas S., 482-38-8499.
Henton, Harold H., 163-32-8122.
Herbster, Donald T., 502-42-6243.
Herndon, Frank M., III, 426-78-9709.
Hoffler, Joseph W., 240-56-5392.
Humphries, Horace J., 258-68-2409.
Jack, Gary L., 482-50-1860.
Jobe, John T., 189-32-6569.
Kennedy, Fred G., Jr., 227-52-3137.
Kowalske, Richard J., 377-42-3228.
Kuhn, John M., 054-34-0191.
Lagerloef, Joseph P., 340-30-1326.
Lamias, James G., 390-38-3776.
Larson, David G., 396-40-4342.
Lingo, Roy W., 444-34-6628.
Lusk, Richard J., 074-34-2147.
Macaw, Harold G., Jr., 559-56-7370.
Maddock, Michael W., 126-30-5155.
McDonald, Ralph O., 443-40-6055.
McKinsey, Thomas M., 308-46-3091.
Morrison, William L., II, 233-62-4737.
Mulrey, Brian D., 023-30-5272.
Nelson, Herman, 430-78-8075.
Nugent, Mark H., 455-62-9077.
O'Brien, Michael B., 552-56-2021.
Parish, Anson G., 289-32-7481.
Peyton, Keith S., 363-44-0703.
Powell, Michael L., 223-56-8209.
Pribble, John P., 462-64-8710.
Reesing, Joedale T., 457-64-7635.
Richards, Robert C., 472-44-1047.
Roberts, Curtis L., 251-62-8227.
Rudolph, Vernon L., 370-36-3342.
Rustigian, George A., 048-30-7125.
Scarborough, Talvania L., Jr., 276-64-9746.
Schultz, Robert F., 029-32-3504.
Smith, Arthur D., 264-64-2692.
Smith, Kenneth F., 076-36-3988.
Smith, Michael H., 079-32-7649.
Swander, Jay A., 564-56-0883.
Terry, Marvin L., 433-62-9633.
Thomas, Anthony W., 406-56-5273.
Toman, Ronald G., 507-50-8359.
Twine, Bruce D., 279-40-0732.
Weston, Bruce D., 279-40-0732.
Wilkins, Donald L., 263-70-2279.

To be captain

Moser, Robert L., Jr., 239-66-7247.
Zickert, Martin J., 396-40-7212.

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provision of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force.

MEDICAL SERVICE CORPS

To be major

Bellisario, Peter C., 196-30-3043.
Hammond, Douglas J., 521-54-8144.
Meyer, David E., 536-36-3662.

BIOMEDICAL SCIENCES CORPS

To be major

Wilson, David K., 482-48-2103.
Wooten, Rutherford C., Jr., 451-66-5571.

NURSE CORPS

To be captain

Genco, Mattie K., 414-64-8794.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

MEDICAL SERVICE CORPS

To be colonel

Flannery, Colbert L., 310-26-6230.
Rusiewicz, Lawrence, 169-24-1156.

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, sections 3442 and 3447:

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

Fontanella, David A., 034-26-0351.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Abrahamson, James L., 344-28-1871.
Adams, Charles M., 559-50-1921.
Adams, James W. R., 534-32-1071.
Adams, Melvin M., 247-68-5252.
Adkins, Thomas J., 415-52-7691.
Aidif, Thomas H., 383-28-1359.
Akin, Jere H., 252-58-3705.
Alden, John H., 016-26-6658.
Aleksiunas, Robert, 046-24-4462.
Alhouse, Robert D., 106-28-0494.
Allen, Richard H., 222-22-9644.
Alley, Frank M., 524-44-6162.
Allingham, Edgar R., 389-28-7665.
Amidon, Bert C., 123-28-8949.
Ammons, David C., 421-46-6809.
Anderson, Morris D., 414-54-9437.
Appleton, Forrest W., 453-58-5319.
Arflack, Kenneth B., 407-48-0379.
Arwood, Thomas B., 283-30-0658.
Averill, Ronald H., 556-46-3372.
Babcock, Charles S., 417-46-8021.
Badger, William W., 418-40-4498.
Bair, Arthur H., 204-28-3668.
Baker, David G., 436-50-6950.
Baker, Larry A., 507-34-2236.
Baldwin, Ronald C., 241-48-2075.
Balkovetz, Fred W., 516-34-1594.
Banks, James H., 257-46-2428.
Banks, John W., 070-28-5848.
Banning, Robert D., 488-40-5437.
Barmore, Fredrick, 180-30-1437.
Barnes, Jimmie E., 447-30-6794.
Barnes, William R., 239-56-6969.
Barnes, Wilson E., 227-44-6418.
Barnett, John R., 458-56-8802.
Barnwell, Isaiah E., 247-52-7864.
Barnwell, Marion L., 247-52-3972.
Barr, Grady W., 464-54-1875.
Barrett, Peter J., 051-30-8710.
Barrett, Richard J., 119-28-7051.
Barrett, Thomas E., 410-60-6043.
Barrett, William M., 422-52-3412.
Barros, John J., 014-28-9793.
Barrow, John P., 160-30-1733.
Batcheler, George E., 450-54-8123.
Baugh, Raymond C., 182-26-4639.
Beard, Louin L., 542-38-3885.
Beasley, John D., 515-32-7114.
Beaty, William E., 259-38-6529.
Beck, Buddy G., 499-38-2467.
Beech, Gary D., 511-30-5864.
Belisle, Aldorien E., 004-30-8750.
Benagh, William E., 374-32-9568.
Bennett, Richard C., 313-36-5532.
Bentley, Robert G., 076-30-6895.
Berta, Thomas L., 182-28-9442.
Best, David M., 317-30-3602.
Beurket, Raymond T., 216-34-5917.
Bickford, James E., 406-44-8692.
Bihn, Marvin A., 282-32-4167.
Birrane, John H., 219-26-1813.
Bisbey, Jay B., 452-54-4223.
Bishop, Edward L., 132-28-0790.
Biskup, Robert L., 460-46-3622.
Black, Joe D., 453-48-8847.
Blake, Robert E., 450-54-3794.
Blaseo, Andrew P., 215-34-7819.
Blevins, Dean S., 217-30-7421.
Bliss, Richard A., 369-36-8917.
Bloom, John D., 311-36-7498.
Boes, Richard W., 270-28-6964.
Boles, Wayne T., 458-48-4589.
Boliaris, Daniel F., 361-28-8698.
Bopp, James E., 421-44-4114.
Borlund, Thomas V., 103-30-7514.
Borstorff, Allan R., 176-30-8687.
Boss, Jerry L., 304-36-9475.
Boston, Louis J., 217-34-3338.
Bowen, Guy P., 577-46-4386.
Bowers, Robert F., 366-34-8865.
Bowser, William H., 530-16-8247.
Boyd, James R., 296-28-6623.
Boyd, Robert C., 493-36-2878.
Boyle, Clarence E., 431-52-4219.
Boyle, Russell T., 230-42-2381.
Boysen, John H., 466-50-6286.
Bradley, Peter W., 095-28-5908.
Braithwaite, David A., 369-34-3420.
Branagan, Brian J., 083-28-8277.
Brandl, Joseph W., 081-32-5543.
Brashear, Hollis N., 457-40-8421.
Brasher, Thurman W., 459-52-7387.
Brass, Ronald W., 060-30-8124.
Bratisax, Roland J., 080-30-6883.
Bray, Robert F., 380-34-1919.
Breedlove, Joe J., 256-52-5304.
Brehaut, Joseph W., 019-26-3089.
Breslin, Frederick, 124-28-8860.
Briggs, David B., 168-30-9725.
Briggs, Harold L., 217-32-0547.
Brisker, Morton S., 261-46-2411.
Broksieck, Don E., 503-44-4513.
Broocke, Nathan I., 525-72-3114.
Brooke, Arthur L., 424-42-7201.
Brooks, Lawrence E., 231-38-3398.
Broome, John M., 400-50-1632.
Brown, Patty E., 411-60-4107.
Brown, Richard L., 232-56-8701.
Brown, Roy E., 259-50-2758.
Brownfield, Boyd J., 261-50-0757.
Browning, David B., 242-60-1758.
Buchanan, William J., 540-38-3609.
Buckley, Benjamin C., 154-28-7947.
Buckner, James L., 431-64-2775.
Buczek, Richard C., 194-28-0954.
Buell, William C., 263-60-4095.
Buff, Max L., 416-48-0439.
Buffaloe, Lawrence W., 227-42-6723.
Buford, Alfred E., 464-56-2992.
Bunij, Edwin W., 353-30-9076.
Burba, Edwin H., Jr., 224-52-4942.
Burbank, Arlene G., 252-56-6792.
Burchell, Larry E., 227-44-0096.
Burke, James A., 456-52-4438.
Burleson, Willard M., 212-38-8303.
Burley, Earl B., 382-34-0686.
Butts, Orville N., 540-36-8910.
Byrd, Melvin L., 225-36-2403.
Cain, Morton G., 505-38-4490.
Camp, Junius W., 227-38-3844.
Campbell, George C., 173-32-3179.
Campbell J. Frank, 240-46-2282.
Campi, Francis V., 173-30-0320.
Cantrell, Ralph D., 411-48-8240.
Capps, Eugene S., 246-46-1464.
Carlisle, Allen D., 528-38-2613.
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O'Meara, Andrew P., 578-48-9972.
Ondecker, Lawrence, 284-32-2686.
O'Neill, Kevin J., 230-46-1404.
Orndorff, John F., 400-54-1944.
Orr, Paul F., 287-32-5296.
Ostrowidzki, Joseph, 121-28-9172.
Ota, Harry S., 549-48-8689.
Ott, John S., 542-38-2538.
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Paquette, Roger K., 374-32-7617.
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Parker, Raymond L., 463-54-3704.
Parker, Robert W., 207-28-6941.
Parkhurst, Henry A., 351-30-0469.
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Paschall, Jim R., 457-50-3927.
Passarella, Patrick, 219-26-8817.
Patterson, Joseph M., 152-24-1033.
Pattison, John A., 375-36-1047.
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Pawlik, Eugene A., 348-32-4585.
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Peterson, Humphrey, 419-46-0657.
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Pfister, Cloyd H., 052-32-9906.
Phillips, Alan B., 008-26-1423.
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Pietsch, Robert C., 322-28-6090.
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Pike, Gerald D., 536-32-3684.
Pike, Thurston E., 419-40-2207.
Pike, Verner N., 141-28-7923.
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Poe, Thurel J., Jr., 413-48-1820.
Pokorny, Anthony G., 351-30-3858.

BEST DOCUMENT AVAILABLE

Porter, Kelly A., 406-40-4533.
Porter, Norman A., 027-26-0020.
Posey, Dudley M., 515-36-5765.
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Powell, Roger E., 403-44-5276.
Powers, Byron L., 382-32-3649.
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Proctor, Michael J., 162-30-3485.
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Quattlebaum, Charles, 453-54-3715.
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Ramey, Harold M., 519-34-3401.
Rasmussen, Richard, 520-30-1999.
Ratcliffe, John P., 521-42-8083.
Ray, Harry D., 452-52-7516.
Rebholz, Edward S., 393-30-1771.
Redding, Frank J., 258-50-6880.
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Warren, Warren J., 513-30-2106.
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Welch, Richard D., 262-50-6873.
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Whitworth, David C., 248-54-9144.
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Williams, Donald B., 516-40-2789.
Williams, Joe E., 430-64-5171.
Williams, Phillip J., 008-24-6593.
Williams, Stuart H., 362-32-8437.
Willis, Jerry T., 238-60-5501.
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Wilson, Charles C., 251-52-3132.
Wilson, Gifford D., 431-64-7189.
Wilson, John S., 515-32-8262.
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Winter, Maurice G., 568-44-3601.
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Wolfe, Rodney D., 506-34-7117.
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Womack, Daniel Jr., 241-50-1809.
Wood, Leroy A., 549-42-4993.
Woodhouse, Donald L., 520-30-5633.
Woods, Roy S., Jr., 429-64-2411.
Worthington, Wayne, 188-28-9186.
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Wright, Willie F., 229-44-7044.
Wunder, William H., 512-26-9512.
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Yeosock, John J., 206-30-1111.
Yon, Frank E., 267-58-7887.
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Youree, James F., 411-56-5109.
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Zahn, Kenneth C., 527-44-0866.
Zaldo, William T., 452-54-5387.
Zierak, Robert A., 107-24-1431.
Zoller, Harvey F., 302-28-4200.
Zutter, Donald S., 397-32-8030.

CHAPLAIN CORPS

To be lieutenant colonel

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Alexander, George W., 406-46-7419.
Alexander, Harold L., 412-50-3633.
Allen, Eugene E., 263-42-6366.
Bezanson, Ronald S., 546-48-5784.
Borson, Bernard K., 330-22-8159.
Brough, Alfred E., 167-24-5537.
Compton, David O., 413-56-0811.
Craig, Arthur P., 467-72-4961.
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Foreman, William E., 161-30-7284.
Garrett, Robert G., 241-48-5470.
Hansen, James E., 329-24-3061.
Hoh, David W., 395-26-0217.
Lembke, Paul W., 287-26-2874.
Linderman, James R., 452-48-9292.
Martin, Richard K., 227-40-2987.
McMillan, Whitfield, 456-38-7115.
Merrill, Thomas R., 220-28-1022.
Mouchette, Edward D., 127-26-0076.
Myers, Glenn L., 170-26-0046.
Ness, Leroy T., 503-30-6521.
Peacock, William L., 254-38-7263.
Peck, Ernest B., 416-38-3509.
Pember, Martin D., 510-40-1072.
Roque, Francis X., 039-12-4892.
Scott, John C., 038-16-5818.
Selph, Justus P., 410-48-3232.
Sparling, Darryl E., 264-52-0669.
Strawser, Ray A., 185-24-5539.
Swim, Vernon G., 511-30-8804.
Thompson, James G., 410-50-7535.
Tuller, Jerome D., 388-22-7927.
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Walker, Conrad N., 331-26-0574.
Walker, Norman G., 428-26-1211.
Warren, Donald C., 369-30-7384.
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Webster, Norris M., 303-34-7483.
White, Buster P., 465-50-0180.
Wilk, Max W., 398-30-4979.
Woehr, David J., 206-26-3626.

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To be lieutenant colonel

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Blaho, Daniel M., 152-28-7102.
Braun, Edward S., 203-28-6110.
Brown, George O., 389-38-9037.
Edington, Ernest M., 410-58-8263.
Eichel, Thomas F., 392-28-4529.
Ellis, Herman B., 429-66-5501.
Fagouri, Edward L., 105-28-7461.
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Hatch, Edward A., 404-50-2292.
Henry, Samuel W., 451-54-3922.
Holdren, Richard C., 569-34-3914.
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Kempf, Kenneth K., 505-44-5696.
Kirchoff, Rodney M., 458-58-6753.
Klonaris, Nick S., 247-52-3844.
Larr, Edwin T., 248-60-2083.
Lorio, Gary P., 434-60-7239.
Marshall, Keith J., 529-40-1814.
Martin, Robert L., 415-58-4324.
Masterson, Martin P., 283-32-9087.
Matich, Joseph A., 539-32-2951.
McDonald, Frederick, 432-62-9470.
Merten, Robert L., 511-30-8858.
O'Connor, Randolph P., 418-40-0203.
Roth, Neal A., 173-30-1298.
Schultz, Rudane E., 172-28-6084.
Spano, Donald M., 126-30-9498.
Tempel, Thomas R., 523-46-2995.
Tortorelli, Alfred, 095-30-5823.
Tsaknis, Peter J., 292-30-0066.
Woody, Ronald D., 385-34-1927.
Yearwood, Lionel L., 106-28-1683.

MEDICAL CORPS

To be lieutenant colonel

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Alexander, Byron B., 525-78-2304.
Allison, Howard H., 182-30-3724.
Barreca, Nicholas E., 104-30-6670.
Blumer, Robert B., 413-56-2715.
Blumhardt, Ralph, 151-30-4307.
Bogart, John N., 449-56-2821.
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Buck, Edward G., 536-36-9380.
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Clarke, John S., 278-32-1119.
Eversmann, William, 182-28-1383.
Fauver, Howard E., 223-50-3902.
Gernon, William H., 356-30-8428.
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Gober, Lowman E., 452-58-4816.
Gum, Ronald A., 457-56-4817.
Hammond, James B., 232-40-9913.
Harris, Hugh G., 498-38-9607.
Howard, Freeman I., 400-54-1899.
Johnson, Lawrence F., 224-50-2829.
Kearney, John J., 112-28-0836.
Lehman, Richard H., 533-38-8847.
Llewellyn, Craig H., 179-30-6343.
McConnell, Michael, 122-36-5623.
McCormick, Wilbur S., 206-16-0722.
Nelson, James H., 521-44-6695.
Nogueras, Pablo J., 583-01-9842.
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Slaughter, John C., 505-38-2520.
Spicer, Melvin J., 118-30-7577.
Stark, Fred R., 345-30-9877.
Steahly, Lance P., 215-46-7882.
Thomas, Stephen R., 520-34-7938.
Treanor, John J., 051-24-3441.
Walker, Olyn M., 247-68-5188.
Zuck, Thomas F., 290-28-6739.

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To be lieutenant colonel

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Beckley, Leander K., 576-24-3039.
Belcher, Lillard F., 444-24-9511.
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Bonner, Harry E., 184-28-9936.
Borth, Alfred G., 299-30-3369.
Brady, Patrick H., 535-30-4962.
Brewer, Jerry R., 455-48-7633.
Cobbs, John R., 195-30-0162.
Cohen, Meyer W., 505-38-7914.
Corn, Poe R., 525-68-6033.
Craft, Jimmie L., 263-50-7536.
Crow, Kenneth E., 425-72-6951.
Cygan, Herbert E., 320-28-5388.
Dupuy, Lloyd C., 439-46-8851.
Ellingson, Mayo K., 502-30-9926.
Field, Richard W., 295-32-9975.
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Hansen, Louis J., 387-30-8130.
Hanson, Robert L., 482-36-6115.
Harris, Jon N., 571-46-0263.
Helgeson, Jomes G., 394-34-7545.
Hill, William R., 251-58-6021.
Hoke, Mark L., 216-30-2947.
Jackson, Thomas C., 277-30-6775.
Jessen, Gary C., 478-36-8105.
Kearns, William J., 154-26-2400.
Keller, Thomas E., 174-26-5078.
Kennan, James S., 229-46-7320.
Kielman, Roger W., 504-30-1722.
Korte, Thomas H., 156-26-8686.
Lamb, William O., 497-32-1309.
Lander, Robert J., 168-26-9849.
Lavalley, John W., 101-24-1631.
Lingle, Kenneth C., 245-48-3898.
Lynch, George R., 164-26-5001.
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Moore, Douglas E., 429-60-6892.
O'Donnell, Frank P., 350-28-7053.
Paul, C. Peter, 390-34-3644.
Payne, John C., 391-34-4972.
Peacock, James L., 465-48-3090.
Pedersen, Edward R., 048-22-6264.
Picha, Norbert O., 387-30-1386.
Pittman, Thurman M., 237-54-0856.
Pollock, Archie D., 405-48-5231.
Quillin, Robert M., 301-32-4482.
Rasmusson, James A., 502-32-7180
Sandleback, Eugene, 391-30-7699.
Schiefer, Donald D., 501-28-2407.
Simpson, Calbrieth, 257-48-9318.
Slyman, George L. 448-30-3962.
Sobocinski, Philip., 010-28-3749.
Souter, John R., 124-24-0508.
Summary, Robert J., 353-26-5342.
Taylor, Edward J., 115-28-5967.
Travis, Edward E., 507-40-5221.
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Tuten, William R., 263-44-0276.
Young, John W., 427-62-6077.

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Iacoboni, Frances A., 023-28-0722.
Johnson, James E., 531-20-0110.
Lucas, Mary E., 249-56-5158.
Walker, Hilda L., 237-54-5300.

VETERINARY CORPS

To be lieutenant colonel

Barck, John C., 282-22-7056.
Freel, Marvin E., 506-32-3904.
Fruin, John T., 359-32-9304.
Gustin, Philip N., 275-36-7995.
Hilmas, Duane E., 474-34-0408.
McSweeney, Richard, 018-28-0727.
Robinson, David M., 268-36-0331.
Sims, James E., 300-34-5855.
Taylor, James F., 296-32-2275.
Vanzytveld, William, 380-28-2025.
Via, Robert E., 235-54-9318.

ARMY NURSE CORPS

To be lieutenant colonel

Christ, Nancy M., 135-24-2800.
Faubion, Merle L., 489-34-9950.
Gosling, Bernadine, 086-30-7655.
Herman, James W., 202-28-6775.
Hernandez, Nilza R., 581-20-0695.
Hiers, Francos A., 258-42-6601.
Huber, James O., 516-32-6620.
Johnson, Evelyn V., 481-40-7120.
Kalandros, Konstant, 212-30-8149.
Kamensky, Richard J., 015-28-9177.
Kelley, Joan M., 026-26-7598.
Mahoney, Rosemarie, 194-20-1870.
Matthews, Charles D., 274-30-0442.
McKenzie, Nancy J., 237-50-3582.
McLeod, Darlene K., 353-30-3045.
Pavlakovic, Dorothy, 305-32-6915.
Rausch, Francis M., 474-34-2904.
Sinclair, Janie A., 472-44-6302.
Soltys, Anthony W., 020-28-6403.
Troniar, Maryrose F., 101-30-2497.
Vineys, Eugenia A., 549-48-3698.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTIONS

To be first lieutenant

Abbott, Bruce C., 067-50-8366.
Abercrombie, Charles, 252-98-7072.
Achey, Patrick B., 537-46-2565.
Acker, Robert H., 138-44-5178.

Acosta, Tony J., 467-11-3915.
Adamcik, Patrick V., 454-84-4487.
Adams, Gregory A., 311-58-1448.
Adams, James R., 262-17-1970.
Adams, John C., 219-68-2804.
Adamson, Michael W., 135-54-4201.
Adelstein, Daniel J., 503-64-4228.
Agosta, Paul P., 056-46-6858.
Ahrens, David A., 244-98-2872.
Akers, Bruce E., 234-90-5855.
Alberico, Daniel K., 325-46-4253.
Alderson, Frederick, 225-80-6763.
Alexander, Richard, 431-13-8620.
Alleman, Stuart B., 530-50-0465.
Allen, Charles B., 440-56-7338.
Allen, Kenneth, 526-90-3572.
Altizer, Bruce E., 544-68-5235.
Altland, John T., 440-54-9506.
Altoma, Nicholas, 112-44-9675.
Amadee, Joseph C., 175-42-3888.
Anders, William S., 564-02-5889.
Anderson, Jack M., 536-46-0251.
Anderson, Paul W., 471-70-8319.
Anderson, Richard W., 456-13-5211.
Andon, Alan S., 329-40-0013.
Andrew, Jami M., 258-94-4667.
Andrews, Kurt A., 512-60-1937.
Andrzejewski, Joseph, 209-42-6363.
Angell, Jesse L., 520-66-3544.
Anselmi, David E., 575-64-8615.
Antal, John F., 468-76-4909.
Apodaca, Miguel S., 585-68-0981.
Appelfeller, Frank, 270-48-0651.
Ardner, Bradley R., 468-66-7694.
Arlotta, Donald S., 138-42-5146.
Arndt, Douglas R., 527-19-7175.
Arnold, Lisa J., 537-52-8811.
Artman, Larry T., 165-48-5628.
Ascani, Timothy R., 001-46-1352.
Ascenio, Carlos J., 400-80-8631.
Asher, Kent C., 263-86-8512.
Ashworth, Kenton L., 573-96-1336.
Aslinger, Jerry A., 412-02-9177.
Atkinson, Robert K., 231-64-8576.
Atterbury, Robert T., 442-58-1584.
Atwood, Basil W., 248-04-7063.
Austin, Isaac P., 321-50-1573.
Aylward, Arthur T., 046-52-0130.
Baello, Juan E., 584-66-1697.
Baillie, John, III, 436-96-1984.
Baker, Vance J., 353-48-3937.
Ball, Donald J., 088-40-6054.
Ball, Robert L., 414-80-7553.
Ballard, James B., 446-56-1494.
Ballard, Rand A., 530-48-8408.
Bankey, Robert M., 118-48-2753.
Banks, Gregory S., 336-48-4156.
Banks, Larry V., 584-72-1482.
Banky, Randall G., 217-64-1860.
Barbour, Wesley E., 223-90-3943.
Barchet, John W., 186-46-2483.
Barnes, Robert S., 231-82-4402.
Barnett, Vaughn D., 406-82-3352.
Baron, Hazen L., 154-46-1201.
Barton, Stephen K., 225-80-6461.
Bartram, Dirk A., 533-62-6287.
Bass, Roger S., 573-06-2181.
Batchelder, Christopher, 076-44-7797.
Bates, Dennis G., 567-86-7511.
Baumanis, Aivars Z., 321-52-0630.
Baumgartner, Jerry, 394-64-0124.
Baxter, Bruce R., 554-92-0180.
Bayles, William J., 304-50-6752.
Beasock, Michael K., 244-92-7373.
Beaver, Robert L., 254-80-6051.
Bechtold, John D., 192-46-9590.
Beck, Mark T., 220-62-2668.
Becker, Alan B., 491-64-3902.
Beckham, Ricky L., 415-90-8233.
Begines, Thomas J., 308-62-3681.
Beitler, Alan L., 102-44-3926.
Belcher, Gerald J., 462-04-3199.
Benkert, Howard J., 111-44-1911.
Benko, Francis M., 176-46-9613.
Benko, Linda J., 154-48-3570.
Bennett, David B., 266-15-6831.
Bennett, Paul D., 034-44-6040.
Benson, Kevin C., 399-56-6517.
Benton, Donald L., 431-06-0970.
Berry, Dean C., 481-72-0453.
Bertha, Ronald L., 179-44-4432.
Betros, Lance A., 132-42-9298.
Beverley, Raymond M., 451-02-9012.
Bibby, Michael C., 541-68-0575.
Bickerstaff, Billy, 414-92-2723.
Bickford, James H., 545-04-4313.
Bierwirth, Diane D., 085-38-3776.
Bierwirth, James G., 382-60-5889.
Bilodeau, Denis P., 046-38-9093.
Bilodeau, Robert T., 001-36-6368.
Bitto, Joseph P., 197-40-8707.
Black, George R., 561-08-2553.
Black, Michael A., 254-96-6381.
Black, Stewart V., 540-72-3251.
Blackmon, Irvin R., 244-90-1709.
Blanset, Kenneth R., 330-50-0334.
Blauvelt, Peter W., 218-58-8214.
Blevins, Leonard C., 240-90-1332.
Block, Dennis C., 390-60-5013.
Bloom, Edward M., 232-76-0130.
Blythe, Dewey L., 223-66-4386.
Boatner, James G., 226-86-0033.
Bode, Brian E., 507-70-5861.
Bodenhamer, Nancy W., 259-94-6847.
Bodman, Dale B., 141-38-7147.
Bohen, Dennis W., 389-48-9938.
Bohn, Ilsa M., 108-42-2565.
Boley, Timothy J., 256-96-3396.
Bolte, David L., 191-46-2599.
Bombaugh, Keith D., 611-50-3219.
Bomier, Barry D., 367-56-7349.
Bonville, John E., 120-46-2707.
Bookert, Phillip, 251-02-0302.
Bocne, Arthur N., 246-96-5255.
Boor, Wayne A., 278-56-7695.
Bordwell, John H., 556-08-2744.
Born, Christopher, 073-38-4279.
Borzcik, Michael A., 204-44-3414.
Bosanco, Mark W., 560-94-5182.
Boson, Michael L., 451-04-5929.
Boose, Raymond J., 284-46-6340.
Bott, James A., 548-06-7299.
Bouchard, Ronald M., 002-46-7342.
Boucher, Dennis M., 048-52-5867.
Bourquin, Grant G., 517-64-7982.
Bouton, Schmidt F., 046-52-0866.
Bowers, Francis A., 575-62-8697.
Bowers, Greg A., 558-08-0575.
Bowman, Robert L., 501-74-4693.
Bradbury, James M., 226-84-0345.
Braddick, Merton L., 460-02-0653.
Bradish, Nanette E., 285-58-0259.
Bradstock, Alden S., 214-66-7086.
Brakefield, Arthur, 522-86-9541.
Bramlett, Ronald J., 438-92-2243.
Brannis, John S., 545-92-5209.
Brecher, James G., 527-15-7627.
Brescia, Robert, 046-48-0679.
Brewer, James B., 250-06-2225.
Breyfogle, William, 238-92-9490.
Bricker, Martin P., 301-56-7278.
Briesacher, Jeffrey, 328-50-8197.
Brinson, Robert K., 575-66-5216.
Broda, Richard A., 301-56-9704.
Bromberg, Howard B., 041-44-2959.
Brooks, David R., 402-82-1617.
Brooks, Mark S., 304-64-3531.
Brookshire, Steven, 404-82-5767.
Broussard, Anthony, 438-88-1942.
Brown, Arthur A., 223-82-0777.
Brown, Drusilla, 586-22-6524.
Brown, Frederick R., 191-46-6129.
Brown, Kirby R., 510-54-1482.
Brown, Michael E., 513-60-2458.
Brown, Michael P., 414-02-6828.
Brown, Richard E., 235-78-2496.
Brown, Robert M., 217-66-0115.
Brown, Thomas B., 251-80-7796.
Bruce, George R., 425-02-9893.
Bryant, Arthur T., 255-90-7464.
Bryant, Kathy A., 067-52-8272.
Bryant, Mark H., 377-60-0889.
Bryson, Dale A., 228-86-3212.
Bucci, Steven P., 134-46-0420.
Buchanan, David P., 004-64-2114.
Buck, Charles F., 315-54-4643.
Buck, Larry W., 450-04-8452.
Buck, Lon L., 511-60-5553.
Buckland, Eric W., 042-52-1298.
Bucklew, Keith J., 315-58-8189.
Buckner, Randy L., 365-50-0952.
Budrus, Wayne E., 390-50-7914.
Bugaj, Joseph K., 299-46-0759.
Buie, John V., 226-66-4662.
Bunch, Harold G., 460-80-7816.
Burdan, John W., 215-66-3719.
Burden, Jeanne M., 115-48-2977.
Burgess, Thomas A., 001-46-4831.
Burkard, Michael C., 513-58-5915.
Burkett, Steven L., 235-92-9680.
Burn, Marion L., 247-98-0712.
Burns, Harold J., 226-82-2967.
Burns, Richard A., 016-46-5576.
Burns, Ruth A., 166-48-8929.
Burton, Donald J., 184-46-3703.
Burton, Richard C., Jr., 274-42-8835.
Busbey, Charles P., 537-58-1746.
Busby, Thomas E., 563-88-1606.
Bush, Jerry A., 531-52-2298.
Busick, Charles N., 039-36-1374.
Butler, Bruce E., 252-74-4717.
Butler, Cranson A., 158-44-5201.
Butler, Shawn A., 286-54-6715.
Butler, Steve V., 431-84-8041.
Butts, Steven J., 554-98-6045.
Byers, Michael F., 255-94-3595.
Cadle, Ricky G., 421-70-5091.
Cailteux, Konrad L., 512-58-0889.
Calderon, Carlos A., 157-50-5559.
Calkin, Warren D., Jr., 237-94-2547.
Calkins, David N., 585-66-5642.
Callender, Scott D., 256-02-8551.
Camden, Donald F., 230-80-9627.
Cameron, Duncan S., 209-38-8097.
Camp, George M., 240-94-8558.
Campbell, Michael R., 567-92-5221.
Campbell, Philip L., 309-64-5506.
Campbell, Ray A., 420-67-4890.
Campbell, Steven L., 287-58-5517.
Caniglia, Richard R., 505-70-0299.
Cannon, Douglas F., 285-46-5891.
Carafano, James J., 125-48-8342.
Caravella, Frank J., 530-44-9586.
Carey, Mark D., 206-36-9583.
Caris, John R., 371-62-7196.
Carlson, Bruce W., 502-68-5483.
Carmack, Lloyd D., 017-46-7527.
Carman, Virgilal, Jr., 269-54-9222.
Carpenter, William, 165-44-9807.
Carr, Dale A., 576-70-5771.
Carr, Terrell L., 461-19-9095.
Carrico, Harold T., 310-64-7414.
Carrillo, Mario A., 570-96-9765.
Carrington, William, 048-48-8908.
Carroll, Neal E., 216-68-2762.
Carson, Ivory D., 527-11-6812.
Carter, Donald A., 057-50-2015.
Carter, Robert D., 319-50-5905.
Carvajal, Joe C., 452-88-1595.
Cash, Stanley V., 246-90-9689.
Casmus, Kathleen A., 038-36-5043.
Cathell, David R., 169-48-5101.
Cathey, Patrick D., 537-60-7274.
Cecchini, Charles A., 258-96-9353.
Celentano, Karen M., 074-48-3306.
Celotto, Paul J., 045-54-8094.
Centra, Mark A., 196-44-9677.
Cessna, Marion L., 456-80-4806.
Chadwick, David M., 091-48-7643.
Chagnon, Michael D., 045-40-7381.
Challans, Timothy L., 521-86-0884.
Chamberlain, Samuel, 116-48-1079.
Chambers, Edward T., 437-86-4814.
Chancellor, Richard, 487-52-0656.
Chandler, Joseph M., 462-04-2147.
Chapman, John R., 292-56-2451.
Chapman, Kim T., 471-62-6564.
Chapman, Reginald K., 244-92-6453.
Chappee, Warren P., 358-48-0910.
Charles, Horace R., 429-13-2512.
Charvat, John L., 507-76-1940.
Chellman, Warren G., 394-58-1461.
Chepauskas, David R., 144-48-7519.
Chilton, James Y., 060-50-0707.
Chin, Westley K., 126-40-3192.
Chin, William F., 149-50-9923.
Chiusano, Wayne M., 142-50-9644.
Chmar, Andrew T., 225-78-5545.
Christensen, Andrew, 068-46-7768.
Christian, Paul A., 410-04-4078.

Christian, Robert W., 443-54-0573.
Christiansen, Jeffery, 537-64-8279.
Christopoulos, Stephen, 007-52-9639.
Chritton, Michael R., 226-86-1157.
Church, Michael L., 536-56-8158.
Chute, Alan D., 473-70-5345.
Cicerelle, John, Jr., 426-96-3092.
Clapp, Frederick L., 259-74-6264.
Clark, David L., 266-80-4022.
Clark, Edward D., 507-82-1393.
Clark, Geoffrey A., 220-48-3832.
Clark, Julius E., 247-06-8545.
Clark, Mary L., 422-78-1334.
Clark, Robert A., 004-58-5914.
Clay, James J., 513-60-7229.
Clegg, William J., 032-46-4058.
Clement, Kevin M., 038-38-9928.
Clemons, Stanley B., 418-80-1046.
Clemons, Stephen L., 418-80-1037.
Cochran, William J., 289-48-1945.
Cocke, Clyde W., 573-94-4748.
Cody, Kevin W., 017-44-4048.
Cody, Michael, 418-78-7902.
Coffey, Roger L., 401-84-5673.
Cogossi, Bruce R., 166-46-1195.
Cole, David T., 120-40-9131.
Cole, William F., 215-64-7478.
Coleman, Tracey A., 515-62-9712.
Collier, Kenneth S., 262-13-3350.
Collins, Charles D., 496-64-9027.
Collins, Gilbert R., 524-88-1986.
Collins, James L., 551-88-8217.
Collins, James R., 225-84-5076.
Collins, Marc K., 314-50-3611.
Collins, Mark E., 258-72-2091.
Comodeca, Peter J., 300-44-4792.
Compton, John M., 264-21-7996.
Conitz, Cass C., 516-68-7671.
Conley, Michael D., 407-74-6506.
Connell, Anne M., 271-54-2201.
Connelly, James G., 220-62-3595.
Conner, Billy E., 259-96-0270.
Connors, John W., 262-19-5927.
Connors, Robert E., 012-48-0496.
Considine, Timothy, 429-08-3656.
Cook, Johnie R., 341-50-1041.
Cooks, Charles E., 587-52-0878.
Cooney, John J., 093-46-8440.
Cope, Kenneth C., 546-86-2798.
Copperthite, Gregory, 215-66-8139.
Corbin, Richard C., 579-64-5101.
Cory, Timothy J., 315-64-2809.
Costales, Armando A., 555-72-4031.
Costigan, John A., 188-42-2544.
Cottrell, Pat R., 545-04-6972.
Courter, Stephen E., 488-64-0556.
Cowan, Robert S., 523-62-5399.
Cowart, Paul M., 255-88-3773.
Cox, Rachel R., 418-80-9297.
Cox, Robert E., 576-68-7763.
Cox, Stephen M., 397-62-0891.
Cox, Steven J., 217-68-4550.
Craig, Gregory P., 313-62-0572.
Craig, Rober A., 245-86-9140.
Crain, Timothy W., 443-58-0477.
Crane, William J., 049-42-7837.
Creighton, Mark W., 132-36-3277.
Crocker, Richard T., 213-66-2317.
Crooks, Mark E., 174-46-6680.
Crosby, Robert C., 191-42-9072.
Crouch, James R., 231-78-0821.
Crow, Frank J., 420-84-5390.
Crutchfield, William, 240-02-6455.
Cruz, Armin J., 261-33-3144.
Cullinan, Leo R., 492-62-1396.
Cullinane, William, 587-82-9969.
Culp, Joe C., 432-08-5510.
Curlee, Steven A., 258-92-3782.
Curry, John J., 073-42-6105.
Curtis, Robert G., 252-02-3775.
Curtis, Winston G., 009-40-2309.
Cuthbertson, Kent, 018-48-4343.
Cymbalski, Robert S., 375-58-7166.
Dade, Ronald C., 496-64-8373.
Dahl, David J., 382-62-6780.
Daly, James T., 291-56-3119.
Daly, Terrence J., 086-46-0560.
Dames, Edward A., 562-78-5102.
D'Amico, John M., 138-50-1266.
Damoth, John A., 424-64-8366.
Daniels, Jesse E., 257-88-6854.
Daniels, Mark A., 347-48-9049.
Danielson, Scott G., 520-68-7799.
Darley, William M., 558-86-5520.
Daugherty, Virgle E., 440-62-8670.
Davis, David A., 517-62-7166.
Davis, Donald V., 250-96-0400.
Davis, Gregory A., 234-88-9979.
Davis, Gregory D., 287-52-8444.
Davis, Lisa A., 430-11-3004.
Davis, Michael W., 230-62-6858
Davis, Nathaniel J., 226-84-7283.
Davis, Richard F., 217-70-7111.
Davison, Alan D., 510-56-5364.
Dean, Benjamin P., 239-96-9805.
Dean, Catherine R., 119-36-3341.
Dearborn, Michael C., 231-76-4292.
Debose, Thomas C., 443-60-2973
Decker, John E., 523-82-6412.
Deegan, Raphael P., 234-76-9689.
Dees, Robert N., 585-66-7724.
Delapp, Cyril D., 262-19-8600.
Delauter, Richard S., 449-11-0624.
Delvillan, Clark A., 294-50-0601.
Dennison, Ezekiel J., 247-04-1208.
Denzler, Herman E., 433-72-6423.
Deplitch, John E., 029-44-7600.
Deren, Lawrence A., 209-44-6477.
Derickson, Gary W., 465-92-1873
Derr, Ricky D., 209-46-2634.
Derrick, Robert R., 216-64-6338.
Desosa, Maximo T., 511-58-6355.
Devens, Robert M., 224-82-0846.
Devita, Mark R., 267-21-8383.
Deweese, Glen K., 411-90-6597.
Dewitt, Tony M., 250-96-6131
Diazpons, Rodolfo R., 319-52-9689.
Diener, Nick I., 448-58-8902.
Diloreti, Joseph D., 022-40-9063.
Dimmick, Kenneth R., 445-54-9906.
Dingle, Dennis W., 271-46-3636.
Dinnell, John S., 179-46-5912.
Dittman, Jerome J., 205-46-5748.
Dixon, Michael L., 359-50-5163.
Dodds, Randy G., 301-56-9471.
Dodson, Alan F., 275-56-8966.
Doede, Daniel P., 396-48-0687
Donahue, Michael J., 295-54-5302.
Donegan, Thomas G., 146-48-1024.
Donnelly, William P., 155-42-8589.
Dorman, David M., 151-50-3661.
Dorney, Scott D., 192-46-9828.
Doubler, Michael D., 415-90-4007.
Dougall, Thomas F., 228-82-7545
Douglas, Richard K., 507-78-7413.
Dow, Robert A., Jr., 110-48-0855.
Dowd, William C., 311-60-5969.
Dowe, Ray M., III., 157-50-0721.
Dowell, George S., 269-58-4997.
Downs, Wallace T., 409-84-4979.
Draper, Roger L., 512-60-1041.
Driscoll, Daniel T., 059-46-5579.
Dun, Weysan, 493-64-3859.
Dunkley, Paul N., 064-48-6007.
Dunn, James L., 421-62-9481.
Dunn, James M., 219-66-9417.
Durham, William C., 466-98-7368.
Durso, Joseph A., 063-48-6917.
Early, Bradley W., 484-74-8693.
Ecklin, Donald C., 144-52-1794.
Econ, Eugene N., 357-50-2578.
Edmiston, Howard W., 240-98-3299.
Edmond, Rodney, 250-11-1278.
Edwards, James F., 253-92-8301.
Eilts, Theodore B., 305-66-8845.
Eisenhard, Scot D., 302-50-2352.
Elkins, Virgil L., 261-29-0174.
Ellermets, Arne, Jr., 418-82-9634.
Elliott, James W., 524-90-2825.
Elliott, Robert M., 001-40-3888.
Ellis, Kennieth W., 451-06-3251.
Ellis, Mark A., 496-52-1977.
Elting, Jeffrey A., 115-42-3640.
Emmick, Ann, 263-37-6109.
Enderle, Scott W., 225-64-5607.
Engelhardt, Carl F., 573-94-3396.
England, Steve, 423-80-6174.
English, Robert W., 430-13-8059.
Engstrom, David R., 444-52-2093.
Esplin, Delane B., 529-88-1245.
Eugene, Bernhard G., 163-48-7054.
Evans, Robert M., 110-44-8429.
Evans, Victor L., 532-52-5053.
Ewing, Leonard K., 482-72-2744.
Ezzo, Michael R., 265-31-4779.
Fahlsing, George A., 501-64-1626.
Fair, Matthew J., 531-58-7004.
Farley, Daniel H., 552-98-6827.
Fears, Karl A., 219-60-1106.
Fedako, Werner S., 462-06-0336.
Felt, Timothy C., 132-44-2030.
Fenoglio, Paul B., 325-46-8282.
Ferguson, John R., 263-13-7910.
Ferrand, Robert E., 462-08-6030.
Ferrell, Kelly D., 293-42-9312.
Ferrer, Mariane, 584-82-3906.
Ferris, Christopher, 007-56-2956.
Fette, Daniel H., 458-76-9307.
Filbeck, George P., 255-94-4954.
Findlay, Stephen G., 543-70-0150.
Fink, George B., 218-50-2856.
Fink, Jody A., 264-19-4174.
Finley, Rex G., 515-46-0459.
Fiorino, Donald P., 271-56-8011.
Fisher, Timothy P., 559-02-3570.
Fitch, James A., 327-52-6956.
Fitzgerald, William, 541-72-5766.
Flake, Jackson L., 249-04-2659.
Flanagan, Timothy J., 084-46-0149.
Flanigan, Alvin C., 409-98-9785.
Fleming, Wayne T., 216-58-1275.
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Porto, Justin E., 144–52–0835.
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Smith, Charles F., 249–98–8008.
Smith, Charles L., 441–46–5156.
Smith, Clayton G., 215–60–8645.
Smith, Darrell J., 530–56–2499.
Smith, Donald, 577–76–1724.
Smith, Edgar E., 455–92–4362.
Smith, Emmitt E., 237–94–7201.
Smith, James B., 521–86–1699.
Smith, Jon R., 507–62–3272.
Smith, Marian F., 091–42–5997.
Smith, Paul R., 561–92–3462.
Smith, Zachary L., 523–88–9132.
Snapp, Paul E., Jr., 411–96–3838.
Snider, John C., 572–72–6068.
Snyder, Allen N., 262–35–0117.
Snyder, Robert L., 306–58–7174.
Sobey, Robert L., 449–02–6911.
Sollner, Richard F., 140–44–3934.
Solomon, Alonza, 263–15–1907.
Solyntjes, Craig P., 504–60–9876.
South, John H., 479–72–8390.
Southern, Carl F., 421–78–3174.
Sowder, James L., 451–06–9091.
Sozio, Michael A., 110–46–2112.
Speaker, Gregory C., 261–88–7070.
Sperl, Louis J., 202–44–8686.
Spiker, Robert P., 200–44–0217.
Sprowl, John W., 573–02–3277.
Squitier, Judd E., 121–42–9805.
Stackhouse, Robert, 311–54–2795.
Stafford, Arthur T., 451–98–4921.
Stall, Robert P., 295–50–9143.
Stallsmith, Robert, 315–62–6797.
Stallworth, John R., 416–76–1262.
Stanhagen, Eric W., 231–64–4814.
Stanley, John L., 569–04–9795.
Stark, Kenneth J., 498–60–0639.
Starkweather, Gary, 111–48–7143.
Stautz, Thomas R., 383–48–4667.
St Clair, Ronnie D., 537–56–1619.
Steckel, Paul W., 263–19–9715.
Steger, Wayne M., 479–72–2638.
Stein, Michael J., 351–40–8653.
Stephens, Loren D., 248–82–5429.
Stevens, James G., 228–82–3358.
Stevenson, David, 258–88–4382.
Stevenson Kenneth, 394–56–5361.
Stewart, Milton A., 227–80–1949.
Stewart, Terry G., 324–52–7293.
Stinner, Richard E., 132–42–4125.
Stirnaman, Steven E., 512–54–9236.
Stoetzer, Charles E., 265–92–9059.
Stone, Meredith P., 467–96–6313.
Stone, Stephen, 495–54–7830.
Stott, Harold T., 418–76–8298.
Stoutamire, William, 227–82–1065.
Strader, Lacy E., 406–80–7012.
Strat, Thomas M., 138–48–5280.
Streett, St Clair, II, 229–88–5192.
Strehle Thomas W., 504–66–4501.
Struder, Kurt L., 223–86–9413.
Stubbs, Cynthia, 545–02–9781.
Stull, Robert W., 435–96–2210
Sturgill, John M., 526–13–6872.
Sturrup, Warren B., 261–90–3483.
Suarez, James A., 417–78–3688.
Suarez, Larry A., 459–02–6953.
Sullivan, Joseph R., 352–50–4527.
Sullivan, Randall D., 241–94–4254.
Summers, Diane R., 198–46–6470.
Summers, Harry G., 512–62–4816.
Sutcliffe, Mark S., 204–42–4870.
Sutherland, Gregg V., 416–68–5478.
Sutton, William L., 231–82–4923.
Swackhamer, Thomas, 495–64–0236.
Swanson, Carl A., 012–46–3477.
Swaringen, Mark A., 043–54–4304.
Swarts, John C., 566–80–5790.
Sweatman, John C., 178–46–6924.
Sweeney, Thomas B., 154–42–1535.
Sylvester, Vernon W., 512–62–6749.
Tabayoyon, Alfred T., 575–66–3883.
Taflan, Simon J., 234–86–8588.
Takao, Robert K., 540–72–6857.
Takasugi, Rex S., 560–86–1557.
Talbot, Erik S., 484–72–6086.
Taliaferro, William, 585–66–4466.
Tamashiro, Lester Y., 576–60–1940.
Tarantino, Frederick, 059–46–4959.

BEST DOCUMENT AVAILABLE

Tarpein, James K., 499-58-3348.
Tate, Gregory S., 035-36-2456.
Taylor, Allen B., 527-19-3306.
Taylor, Benjamin H., 265-92-7275.
Taylor, Gilbert L., 400-64-3957.
Taylor, William C., 558-04-9647.
Tedesco, Joseph M., 161-44-7505.
Tensfeldt, Jeffrey, 570-70-6875.
Terrell, Constance, 079-48-2698.
Terry, Dean P., 009-46-5656.
Terry, William R., 155-48-3118.
Tesdahl, Douglas B., 537-56-3933.
Tetro, William R., 540-68-0134.
Thacker, Royce E., 415-90-8993.
Thady, Randall J., 351-50-7257.
Thiel, James A., 342-46-0964.
Thomas, James R., 247-06-6716.
Thomas, Randolph J., 344-46-1007.
Thomas, Terrance N., 198-46-7198.
Thompson, Kevin P., 101-46-8564.
Thompson, Michael A., 458-94-4144.
Thompson, Philip S., 222-42-5884.
Thompson, Terrance, 237-98-2306.
Thorsted, Edward C., 528-76-7071.
Thummel, William M., 458-92-4531.
Tierney, Paul F., 178-44-9954.
Tierno, Ralph T., 198-44-9566.
Tiffany, John R., 460-11-7222.
Tillery, George C., 254-02-6415.
Tilley, George M., Jr., 117-48-7326.
Tippett, David E., 285-46-8832.
Tise, Victor, 567-11-7838.
Tocchet, Gary J., 062-52-2898.
Tocci, Denis P., 176-46-5361.
Tombrella, Jack B., 461-98-2850.
Tomsen, Chris E., 514-60-3482.
Toole, Robert W., 529-78-9938.
Torres, Steven, 556-04-0446.
Tosi, Amadio J., 298-52-9093.
Toski, Mary P., 190-46-4553.
Totaro, Jeffrey A., 154-50-5430.
Townsend, Robert N., 467-02-4475.
Trafton, Cynthia J., 401-84-1825.
Trehey, Kevin W., 389-46-4898.
Trimble, Michael D., 436-70-3030.
Trotter, Richard M., 182-48-8618.
Trubia, Michael L., 019-46-7774.
Tryon, John A., 143-44-4440.
Tucker, James W., 230-82-4071.
Tucker, Kenneth H., 241-90-3324.
Tupper, Stephen H., 007-46-7107.
Turk, David H., 258-80-6497.
Turner, Frank D., 230-76-8961.
Turowski, John C., 014-48-1829.
Twilleager, Eugene, 572-98-8769.
Twomey, Andrew B., 018-46-6117.
Tylenda, Leonard J., 197-46-3607.
Uhland, David L., 444-48-2955.
Ulrich, Douglas L., 517-68-9995.
Unangst, John C., 553-90-5151.
Urban, Stephen A., 170-44-4794.
Uson, Jose, Jr., 575-78-0677.
Utterback, Gary W., 352-48-7070.
Utzig, Martin T., 562-96-6311.
VanArk, William J., 392-56-8035.
Vance, Jackie L., 431-08-7255.
Vandenbeldt, Jack R., 527-86-4261.
Vandrie, Mark L., 372-62-6535.
Vane, Timothy D., 045-54-9870.
Vanjel, Peter M., 003-44-6018.
VanGorden, Wayne J., 144-50-9885.
Vann, Claude, III, 012-46-4892.
Vantresca, Guy P., 078-38-9525.
Varney, Gary W., 006-60-6045.
Vaughan, Patrick J., 519-74-0174.
Vaughn, James A., 061-50-0483.
Vaughn, Steve C., 429-86-6970.
Vawter, Rene, 432-06-8720.
Vega, Raymond A., 584-20-5884.
Velez, Angel D., 583-54-8011.
Vellella, Frank P., 223-82-2609.
Vermette, William R., 002-46-7477.
Vinacco, John J., 036-38-0818.
Vincent, James C., 253-92-0982.
Vincent, Michael P., 551-82-0166.
Viola, Vincent J., 063-48-1590.
Vogl, Mark K., 094-48-6650.
Vogt, Ronald B., 277-52-7149.
Voichoski, Mark A., 507-80-1344.
Voigts, Kevin D., 842-68-2572.
VonBergen, Donald, 347-48-0466.
VonKaenel, Thomas D., 251-06-0163.
Vreuls, Jean P., 263-37-3725.
Wade, Phillip L., 378-58-6977.
Wagner, Barry G., 263-13-9917.
Wagner, Richard A., Jr., 112-48-9410.
Walcott, Craig R., 029-46-8192.
Waldrep, Douglas A., 247-06-3450.
Walker, Dana A., 224-82-9575.
Walker, David L., 499-64-0798.
Walker, Donald P., 585-68-2260.
Wall, Marvin O., 415-84-4947.
Wallace, Alan L., 474-64-1891.
Wallace, Stephen O., 400-66-4118.
Waller, James L., 558-90-0046.
Wallin, Kendall S., 115-44-7412.
Walling, Craig A., 100-46-5060.
Walsh, Edward W., 587-88-8254.
Walsh, Michael J., 086-50-0884.
Walsh, Michael L., 527-19-3247.
Walsh, Patrick B., 555-96-9027.
Walters, Donald E., 576-64-4360.
Walters, Wesley F., 567-08-2106.
Ward, Anthony W., 430-08-3485.
Ward, James E., 101-42-3121.
Warner, Andrew M., 235-90-8200.
Warren, Robert S., 421-76-1755.
Warrick, Stanley L., 429-13-7690.
Wartski, Joseph F., 058-44-5158.
Washington, Donald, 450-94-7488.
Watkins, William B., 098-42-8614.
Watson, Broadus E., Jr., 250-06-2358.
Watson, Donald P., 006-50-9526.
Watson, Larry, 261-11-0137.
Watson, Thomas P., 201-40-3028.
Waugh, Michael L., 264-11-5474.
Webb, Anthony M., 549-76-1414.
Webb, Carl R., Jr., 523-70-1685.
Webb, Harold W., 422-82-5834.
Weber, Frederick W., 547-98-6798.
Webster, David W., 224-76-3673.
Weed, John L., 560-08-6442.
Weems, Steven G., 421-78-8677.
Weidenthal, Kurt, II, 300-44-0855.
Weinzettle, John P., 492-64-9473.
Welch, Murray M., 400-86-2269.
Weller, Robert W., 122-48-9030.
Wells, John E., 428-02-6669.
Welsch, Peter G., 302-50-4775.
Westfall, Ethan A., 430-92-7399
Weyrick, Bruce L., 577-70-2413.
Whaley, Robert K., 508-74-4085
Whealy, Michael T., 504-56-2187.
Wheatley, John B., 216-70-6262.
Wheeler, Jeffrey B., 569-88-1387.
Wheeler, Larry L., 503-72-6545.
White, Frank W., 548-98-7770.
White, K[illegible] W., 458-02-8025.
White, Wayne M., 038-38-3824.
White, William A., 292-52-5844.
Whitehurst, Anthony, 228-80-3559.
Whiteman, James K., 524-84-3687.
Whiteside, William, 455-02-4042.
Whitman, Jeffrey P., 162-48-1584.
Wicinski, John L., 283-52-9748.
Wiggins, Richard A., 145-50-9898.
Wiley, Mark C., 119-44-0104.
Willard, Drew M., 146-50-3379.
Willey, Monty E., 223-86-7153.
Willhite, Weldon B., 436-98-6781.
Williams, David J., 302-54-6175.
Williams, Faye W., 226-86-6678.
Williams, Grayling, 303-62-7447.
Williams, John C., 315-60-7808.
Williams, Lester R., 430-08-5387.
Williams, Michael G., 529-78-0205.
Williams, Michael J., 269-52-7544.
Williams, Robert L., 217-68-3707.
Williamson, Ronald, 229-76-2288.
Willis, Kevin D., 579-78-7630.
Willis, Robert G., 263-29-3723.
Wilson, Alfred A., 151-46-0203.
Wilson, Larry K., 577-76-7966.
Wilson, Michael B., 156-50-6530.
Wilson, Michael J., 538-52-9671.
Wilson, Walter, Jr., 466-98-9672.
Wilt, James A., 233-92-0668.
Wimbish, William L., 399-60-2721.
Winfield, William M., 231-80-5342.
Wise, Mark R., 534-60-8032.
Wisthoff, Bernard S., 215-60-4852.
Witcher, Carl J., 550-04-5674.
Wnek, Roy M., 338-52-9410.
Wojciechowski, Paul, 156-50-2542.
Wolfe, William R., 574-26-9735.
Wolters, John B., 349-38-0491.
Womack, Dennis R., 450-02-1928.
Womack, James K., 494-52-5083.
Womack, Willie T., 418-76-7370.
Womble, Edward F., 240-94-9934.
Wood, Daniel D., 244-96-4292.
Wood, David A., 273-44-4330.
Woodcock, William P., 044-54-3948.
Woodruff, Steven D., 263-13-8883.
Woodson, William H., 519-58-3140.
Woolley, Alton L., 144-50-1600.
Wright, Bruce P., 019-44-4825.
Wright, Kenneth L., 225-74-9287.
Wright, Richard E., 247-02-2919.
Wuensch, David T., 306-64-0959.
Wunder, Stephen J., 071-48-5243.
Wyman, James B., 275-56-9416.
Yamashita, John G., 023-46-4064.
Yandl, Steven J., 534-60-5016.
Yates, Douglas R., 217-70-4392.
Yates, Roland J., 560-96-9697.
Yeater, Robert G., 401-84-7227.
Yerrick, Earl M., 281-56-9251.
York, Ken C., 565-86-7918.
York, Rudy L., 477-50-4289.
Young, Anna L., 192-46-4343.
Young, David N., 553-90-9788.
Young, Hazel L., 435-88-2565.
Young, Raymond S., 449-15-4320.
Youngker, David A., 219-66-1432.
Youngs, Raymond R., 095-38-5380.
Yurk, Michael J., 394-54-7761.
Yuzakewich, Michael, 044-48-1386.
Zachmann, Lawrence, 115-48-8522.
Zaiss, Patrick H., 179-46-2323.
Zambetti, Denis E., 138-40-4365.
Zamecnik, David C., 259-96-1334.
Zazzera, Jerome F., 163-44-6875.
Zeiher, Garland R., 315-60-3993.
Zellmer, John G., 393-60-0013.
Zerishnek, David C., 190-38-6007.
Zib, Louis J., Jr., 574-28-3743.
Zielinski, Peter M., 042-48-1311.
Zimmerman, David C., 385-50-3988.
Zohner, Jeffrey R., 487-60-7249.
Zona, Donald S., 311-62-4892.
Zuehlke, Bradford K., 399-62-7808.
Zyck, Robert F., 274-58-8219.

MEDICAL SERVICE CORPS

To be first lieutenant

Anderson, George W., 220-54-3862.
Anderson, Karen D., 217-56-5281.
Ashley, Vincent E., 224-80-9707.
Baldwin, Mary C., 491-64-4255.
Biggerstaff, Douglas, 071-46-0877.
Christy, Betty J., 463-90-0222.
Curley, Bruce A., 006-54-3150.
Davis, Jeffrey S., 459-08-3600.
Deets, Michael R., 420-68-0826.
Doehling, John M., 523-86-6069.
Drerup, Karl A., 269-52-7199.
Dyer, Philip D., 514-60-2148.
Elias, Brooke T., 171-46-2847.
Erpelding, Joseph M., 517-66-8028.
Fay, Richard J., 022-34-7195.
Fountaine, Cynthya, 264-37-3782.
Franklin, Tony R., 419-78-9364.
Frisina, Michael E., 122-46-6422.
Fuzy, James A., 317-62-6228.
Gansel, Sandra L., 211-46-1408.
Garr, John H., 350-52-0308.
Gaule, David A., 483-72-9135.
Geddie, S. Gwynn, 455-78-7522.
Getts, Alan G., 341-50-1414.
Gombeski, Robert W., 454-96-2831.
Gordon, Timothy D., 560-96-2817.
Griese, Herman J., 439-88-3327.
Havrilla, John F., 187-44-9175.
Horna, Frank A., 211-36-1565.
Johnson, Jeffrey D., 180-46-8461.
Johnson, Michael G., 455-54-1883.
Kaminski, Michael S., 017-48-3679.
Keagle, Richard L., 486-56-9280.
Keenan, Deirdre M., 062-50-0026.
Kendall, Howard M., 478-60-3583.
Lawrence, Walter J., 279-50-9564.

Lebeaux, Arlie E., 465-94-6287.
Lundgren, Stephen S., 518-66-7218.
Maggio, Margaret A., 184-48-4452.
Marbury, Darryl W., 457-98-3297.
Martinez, Ted A., 576-66-5273.
McCandless, William, 587-18-1186.
McGaha, James F., 557-92-7442.
Mengel, Mark B., 456-02-8474.
Moloff, Alan L., 141-48-5519.
Norton, Samuel C., 415-96-2193.
Odom, Darwin R., 464-72-7246.
Parker, James E., 509-64-0825.
Polk, Robert L., 430-92-2878.
Price, Sam, III, 247-04-4824.
Randolph, Gaston M., 249-08-2435.
Robert, John P., 123-48-0583.
Roberts, Jeanne C., 008-40-5216.
Rubenstein, David A., 455-96-6677.
Sanders, Jamille B., 346-48-2576.
Savage, Donald R., 455-82-1384.
Shuman, Jeffrey S., 405-76-3677.
Silkowski, Peter A., 204-46-2992.
Smith, Michael J., 547-08-7109.
Spaulding, Stephen, 079-50-1399.
Sullivan, Michael H., 267-90-4124.
Templin, Bobby R., 423-76-8538.
Tucker, Jonathan E., 002-44-1480.
Vanbuskirk, John C., 264-74-8865.
Williams, Calvin E., 218-62-3174.

ARMY MEDICAL SPECIALIST CORPS

To be first lieutenant

Ferwerda, Kendra K., 504-74-6386.
Ford, Daniel T., 263-66-7681.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1979:

COMMUNITY SERVICES ADMINISTRATION

Frankie Muse Freeman, of Missouri, to be Inspector General, Community Services Administration.

U.S. POSTAL SERVICE

William J. Sullivan, of Maine, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1984.

George Watson Camp, of Georgia, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1985.

Richard R. Allen, of North Carolina, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1986.

MERIT SYSTEMS PROTECTION BOARD

Ronald P. Wertheim, of the District of Columbia, to be a Member of the Merit Systems Protection Board for the remainder of the term expiring March 1, 1981.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Albert Tate, Jr., of Louisiana to be U.S. circuit judge for the fifth circuit.

Samuel D. Johnson, Jr., of Texas, to be U.S. circuit judge for the fifth circuit.

Nathaniel R. Jones, of Ohio, to be U.S. circuit judge for the sixth circuit.

Joseph C. Howard, Sr., of Maryland, to be U.S. district judge for the district of Maryland.

Shirley B. Jones, of Maryland, to be U.S. district judge for the district of Maryland.

Lynee C. Higby, of Florida, to be U.S. district judge for the northern district of Florida.

James C. Paine, of Florida, to be U.S. district judge for the southern district of Florida.

James W. Kehoe, of Florida, to be U.S. district judge for the southern district of Florida.

Eugene P. Spellman, of Florida, to be U.S. district judge for the southern district of Florida.

Gene E. Brooks, of Indiana, to be U.S. district judge for the southern district of Indiana.

William L. Beatty, of Illinois, to be U.S. district judge for the southern district of Illinois.

Hugh Gibson, Jr., of Texas, to be U.S. district judge for the southern district of Texas.

George J. Mitchell, of Maine, to be U.S. district judge for the district of Maine.

Jerry L. Buchmeyer, of Texas, to be U.S. district judge for the northern district of Texas.

Edward B. Davis, of Florida, to be U.S. district judge for the southern district of Florida.

HOUSE OF REPRESENTATIVES—*Friday, October 5, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
October 2, 1979.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore on Friday, October 5, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

For the beauty of the earth,
  For the glory of the skies,
For the love which from our birth
  Over and around us lies:
Lord of all, to Thee we raise
This our hymn of grateful praise.

For the joy of human love,
  Brother, sister, parent, child,
Friends on earth, and friends above:
  For all gentle thoughts and wild:
Lord of all, to Thee we raise
This our hymn of grateful praise.
  Amen.

—FOLLIOTT S. PIERPOINT, 1835–1917.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5419. An act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3173) entitled "An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 3, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted September 28, 1979, the Clerk has received this date the following message from the Secretary of the Senate:

That the Senate passed without amendment H.J. Res. 303, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week".

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker on Friday, September 28, the Speaker did on Wednesday, October 3, sign the following enrolled joint resolution:

H.J. Res. 303. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week."

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 1, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:05 P.M. on Monday, October 1, 1979, and said to contain a message from the President wherein he transmits the 1st special message for FY 80 under the Budget Impoundment Control Act of 1974.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

FIRST SPECIAL MESSAGE FOR FISCAL YEAR 1980 UNDER THE BUDGET IMPOUNDMENT CONTROL ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–198)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $113,673 in unneeded funds appropriated to the International Communication Agency, and report 31 deferrals of fiscal year 1980 funds totaling $1,003.2 million. The deferrals are primarily routine in nature and do not, in most case, affect program levels.

The details of the rescission proposal and each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *October 1, 1979.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 2, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:00 P.M. on Tuesday, October 2, 1979, and said to contain a message from the President wherein he transmits reports and various legislative proposals regarding the National Wild and Scenic Rivers and National Trails Systems.

With kind regards, I am.
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

PROPOSALS TO ADD RIVERS AND TRAILS TO NATIONAL WILD AND SCENIC RIVERS AND NATIONAL TRAILS SYSTEMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–199)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs, and ordered to be printed:

To the Congress of the United States:

In my Environmental Message of August 2, 1979, I proposed legislation to add a number of rivers and trails to the National Wild and Scenic Rivers and National Trails Systems.

Enclosed are reports and draft legislation that would add the following three river segments to the National Wild and Scenic Rivers System as federally administered components:

—Gunnison River, Colorado
—Encampment River, Colorado
—Priest River, Idaho

I am reaffirming my support for designation of a segment of the Illinois River in Oregon for which legislation was submitted to the Congress last year. I am also reaffirming my support for the following four river segments proposed in my last Environmental Message for inclusion in the System:

—Bruneau River, Idaho
—Dolores River, Colorado
—Upper Mississippi River, Minnesota
—Salmon River, Idaho

In addition, I am transmitting to you new study reports on eight rivers which have been found to qualify for inclusion in the National Wild and Scenic Rivers System as State-administered components. Each of the States in which the rivers are located has expressed an interest in administering these rivers as components of the national system. The rivers are:

—Pine Creek, Pennsylvania
—Buffalo River, Tennessee
—Youghiogheny River, Pennsylvania-Maryland
—Shepaug River, Connecticut
—Kettle River, Minnesota
—Lower Wisconsin River, Wisconsin
—Housatonic River, Connecticut
—Illinois River, Oklahoma

In my 1977 Environmental Message, I proposed 20 additional river segments for study as potential additions to the National Wild and Scenic Rivers System. Several of those rivers have already been designated. Except for rivers where subsequent development has affected the river's qualification for designation, I continue to support legislation authorizing the study of these rivers. Moreover, I am submitting legislation to add the North Umpqua River in Oregon to the list of those rivers to be studied.

In order to assist full congressional deliberation on the proposed Upper Mississippi Wild and Scenic River, I have directed the Secretary of the Interior to complete, with full public participation, a conceptual master plan for the river which will set forth the specific requirements for lands or interests in lands to protect the river corridor and provide public access, campgrounds and other recreational facilities. This is to be completed by April 1980.

My recent Environmental Message also contained a number of proposals relating to the National Trails System. The system is still in its fledgling stage and should be expanded to meet widespread public interest. With this objective in mind, I have directed the Federal land managing agencies to enlarge the National Recreation Trails System. In addition, I am transmitting the study report and legislation to designate the 513-mile Natchez Trace National Scenic Trail through Tennessee, Alabama and Mississippi. I am also resubmitting proposed legislation to establish the Potomac Heritage Trail through Pennsylvania, Maryland, West Virginia, Virginia and the District of Columbia. Furthermore, I am reaffirming my support for the enactment of legislation to create the North Country Trail from the State of New York to North Dakota. Legislation to create this 3,200-mile trail has already passed the House of Representatives in the form of H.R. 3757.

Finally, I am transmitting a report from the Secretary of the Interior recommending that a 13.6-mile segment of the Big Thompson River in Colorado not be added to the National Wild and Scenic Rivers System. This river segment is located entirely within the Rocky Mountain National Park and is managed and protected by the National Park Service. Further, approximately 80% of this 13.6-mile river segment is in a wilderness proposal now before the Congress. Therefore, I believe that the protection afforded by the National Wild and Scenic Rivers Act is unnecessary.

I urge that the Congress promptly act on my recommendations in order to protect these rivers and trails for the recreational and aesthetic enjoyment of all Americans.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1979.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 2, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:00 P.M. on Tuesday, October 2, 1979, and said to contain a message from the President wherein he transmits his recommendations and a draft bill to include the Tuolumne River, California, into the Wild and Scenic River system.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

PROPOSAL TO INCLUDE THE TUOLUMNE RIVER IN CALIFORNIA IN THE WILD AND SCENIC RIVERS SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-200)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs and ordered to be printed:

To the Congress of the United States:

Pursuant to Section 4(a) of the Wild and Scenic Rivers Act (P.L. 90-542), I am transmitting to the Congress my recommendations and proposals with respect to the designation of the Tuolumne River in California.

The Tuolumne River has been jointly studied by the Departments of Agriculture and Interior. Of the 92 miles which were studied, 82 miles have been found eligible to be added to the national system of Wild and Scenic Rivers. The study proposes that if added to the national system, the river would be jointly managed by the Departments of Interior and Agriculture.

On the basis of information now available, I concur with the findings of the study and recommend that the mileage found to be eligible to be added to the system should be designated as a Wild and Scenic River as part of the national system. A draft bill to accomplish this is attached.

The final printed version of the study has not yet been prepared. In order to meet the statutory deadline of October 2, 1979, however, I am transmitting this recommendation. I intend that the study of the river be finalized and I shall have it transmitted to you when it is complete. Should any other pertinent information become available however, which would call for a different recommendation, I shall transmit a revised proposal to you along with the completed study.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1979.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 2, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received this date at 4:00 p.m. in the Office of the Clerk, and said to contain a message from the President wherein he transmits a report and draft legislation to add two segments of the Owyhee River in Idaho and Oregon to the National Wild and Scenic Rivers System.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

PROPOSAL TO ADD TWO SEGMENTS OF THE OWYHEE RIVER IN IDAHO AND OREGON TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM — MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-201)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs and ordered to be printed:

To the Congress of the United States:

I am transmitting herewith draft legislation to add two segments of the Owyhee River in Idaho and Oregon totalling 178 miles to the National Wild and Scenic Rivers system. These segments would be administered by the Secretary of the Interior as units of the national system.

I also recommend that an additional 14-mile segment of the river be administered by the State of Oregon under its Scenic Waterways program.

These recommendations are based on the accompanying report prepared by the Secretary of the Interior under section 5(a) of the Wild and Scenic Rivers Act.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1979.*

CONFERENCE REPORT ON H.R. 3173

Mr. ZABLOCKI submitted the following conference report and statement on the bill (H.R. 3173) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96-495)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3173) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "International Security Assistance Act of 1979".

CONTINGENCIES

SEC. 2. (a) The heading for chapter 5 of part I of the Foreign Assistance Act of 1961 is amended by striking out "CONTINGENCY FUND" and inserting in lieu thereof "CONTINGENCIES".

(b) Section 451 of such Act is amended—

(1) By striking out "CONTINGENCY FUND" and inserting in lieu thereof "CONTINGENCIES"; and

(2) by amending subsection (a) to read as follows:

"(a)(1) Notwithstanding any other provision of law, the President is authorized to use not to exceed $10,000,000 of funds made available in any fiscal year to carry out any provision of this Act (other than the provisions of chapter 1 of this part) in order to provide, for any emergency purposes, assistance authorized by this part in accordance with the provisions applicable to the furnishing of such assistance.

"(2) The President shall report promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate each time he exercises the authority contained in this subsection.".

INTERNATIONAL NARCOTICS CONTROL

SEC. 3. (a) Section 482(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $51,758,000 for the fiscal year 1980.

"(2) Of the amount authorized to be appropriated for the fiscal year 1980 by paragraph (1), $16,000,000 shall be available only for the Republic of Colombia for the interdiction of drug traffic. Such funds may be used only (A) for helicopters, patrol vessels, fixed radar equipment, transport vehicles, and fuel, which will be used exclusively for interdicting drug traffic, and (B) for training personnel with respect to the interdiction of drug traffic.

"(3) Funds appropriated under this subsection for the fiscal year 1980 may not be used for a contribution to the United Nations Fund for Drug Abuse Control in an amount which exceeds the lesser of $3,000,000 or 25 percent of the total contributions by all countries to such Fund for the calendar year with respect to which the United States contribution is made.

"(4) Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) Section 481(d)(1) of such Act is amended by striking out "or used for any program involving" and inserting in lieu thereof "for the purpose of".

HUMAN RIGHTS

SEC. 4. Section 502B of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(f) In allocating the funds authorized to be appropriated by this Act and the Arms Export Control Act, the President shall take into account significant improvements in the human rights records of recipient countries, except that such allocations may not contravene any other provision of law.".

SEC. 5. (a) Section 504(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $110,200,000 for the fiscal year 1980. Not more than the following amounts of funds available to carry out this chapter may be allocated and made available for assistance to each of the following countries for the fiscal year 1980:

"Country	Amount
Portugal	$30,000,000
Spain	3,800,000
Jordan	30,000,000
Philippines	25,000,000

The amount specified in this paragraph for military assistance to any such country may be increased by not more than 10 percent of such amount if the President deems such increase necessary for the purposes of this chapter.".

(b) Section 506 of such Act is amended to read as follows:

"SEC. 506. SPECIAL AUTHORITY.—(a) If the President determines and reports to the Congress in accordance with section 652 of this Act that—

"(1) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

"(2) the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed $10,000,000 in any fiscal year.

"(b)(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress.

"(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section.

"(c) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.".

(c) Section 516(a) of such Act is amended by striking out "until September 30, 1981," and all that follows thereafter and inserting in lieu thereof "shall remain available for a period of three fiscal years next following any fiscal year after the fiscal year 1977 for which assistance under this chapter has been authorized for a country, to the extent necessary to carry out obligations incurred under this chapter with respect to such assistance for such country on or before September 30 of such fiscal year.".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

Sec. 6. (a) Section 514 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (b)(2), by striking out "$90,000,000 for the fiscal year 1979" and inserting in lieu thereof "$95,000,000 for the fiscal year 1980"; and

(2) in subsection (c), by inserting "the Republic of Korea or" immediately after "stockpiles located in".

(b) The President shall transmit to the Congress not later than December 31, 1979, a report regarding the stockpiling authorities for the Republic of Korea. The report shall—

(1) detail the goals of the stockpiling program for the Republic of Korea, including projections for additional stockpiling authority;

(2) review the procedures for the transfer of stockpiled materiel in time of war and recommend changes if necessary; and

(3) state the intentions of the executive branch with regard to the eventual peacetime disposition of the stockpiled materiel, including the general terms and conditions of any peacetime transfer.

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

Sec. 7. Section 515 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (b)(1)—

(A) by striking out "fiscal year 1979" and inserting in lieu thereof "fiscal year 1980"; and

(B) by inserting "Greece," immediately after "Panama,"; and

(2) in subsection (f), by striking out "December 31, 1977" and inserting in lieu thereof "December 31, 1978".

ECONOMIC SUPPORT FUND

Sec. 8. (a) Section 531(b)(1) of the Foreign Assistance Act of 1961 is amended by striking out "for the fiscal year 1979, $1,902,000,000" and inserting in lieu thereof "for the fiscal year 1980, $1,935,000,000".

(b) Section 532 of such Act is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1980, not less than $785,000,000 shall be available only for Israel and not less than $750,000,000 shall be available only for Egypt. Not less than two-thirds of such funds shall be provided on a grant basis to each such country.

"(2) The total amount of funds allocated for Israel under this chapter for the fiscal year 1980 may be made available as a cash transfer. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfers made to Israel does not cause an adverse impact on the total amount of nonmilitary exports from the United States to Israel.

"(c) It is the sense of the Congress that programs which stress regional development or regional scientific and technical cooperation in the Middle East can contribute in an important way to the mutual understanding that must serve as the basis for permanent peace in the Middle East.

"(d) It is the sense of the Congress that—

"(1) funds made available under this chapter for countries in the Middle East are designed to promote progress toward a comprehensive peace settlement in the Middle East; and

"(2) for Syria and Jordan to continue to receive funds under this chapter, it should be judged by the President that they are acting in good faith to achieve further progress toward a comprehensive peace settlement and that the expenditure of the funds will serve the process of peace in the Middle East.

"(e) None of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1980 may be used to provide assistance for Syria, unless the President determines, and so reports to the Congress, that assistance for Syria is in the national interest of the United States.".

(c) Section 533 of such Act is amended to read as follows:

"Sec. 533. Southern Africa Programs.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1980, $68,000,000 shall be available for the countries of southern Africa and for a southern Africa regional refugee support, training, and economic planning program to address the problems caused by the economic dislocation resulting from the conflict in that region and for education and job training assistance. Such funds may be used to provide humanitarian assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links interrupted or jeopardized by regional political conflicts, and to provide support to countries in that region.

"(b) No assistance may be furnished under this section to Mozambique, Angola, Tanzania, or Zambia, except that the President may waive this prohibition with respect to any such country if he determines, and so reports to the Congress, that furnishing such assistance to such country would further the national interests of the United States.".

(d) Section 534 of such Act is amended to read as follows:

"Sec. 534. Turkey and Cyprus Programs.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1980, $15,000,000 shall be available only for Cyprus for refugee relief, reconstruction, or other activities consistent with a reconciliation on Cyrus.

"(b) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1980, not more than $98,000,000 shall be available for Turkey.".

(e) Chapter 4 of part II of such Act is amended by adding at the end thereof the following new section:

"Sec. 535. Sudan Program.—Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1980, not less than $40,000,000 shall be available for Sudan.".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 9. Section 542 of the Foreign Assistance Act of 1961 is amended by striking out "$31,800,000 for the fiscal year 1979" and inserting in lieu thereof "$31,800,000 for the fiscal year 1980, except that no part of such amount may be made available for Inter-American regional programs unless the foreign countries participating in such programs collectively contribute an equivalent amount to carry out the purposes of such programs".

PEACEKEEPING OPERATIONS

Sec. 10. (a) Section 552(a) of the Foreign Assistance Act of 1961 is amended by striking out "$30,900,000 for the fiscal year 1979" and inserting in lieu thereof "$21,100,000 for the fiscal year 1980".

(b) Section 551 of such Act is amended by adding at the end thereof the following new sentence: "Such assistance may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945, except that such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specifically authorized by this section.".

(c) Section 552 of such Act is amended by adding at the end thereof the following new subsection:

"(c) If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may exercise the authority of section 610(a) of this Act to transfer funds available to carry out chapter 4 of this part for use under this chapter without regard to the 20-percent increase limitation contained in such section, except that (1) the total amount so transferred in any fiscal year may not exceed $10,000,000, and (2) earmarked funds may not be transferred.".

COOPERATIVE CROSS SERVICING AND LEAD-NATION PROCUREMENT ARRANGEMENTS WITHIN THE NORTH ATLANTIC TREATY ORGANIZATION

Sec. 11. Subparagraph (C) of section 3(d)(3) of the Arms Export Control Act is amended to read as follows:

"(C) to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

"(i) for cooperative cross servicing, or

"(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 36(b) of this Act with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.".

RECIPROCAL QUALITY ASSURANCE, INSPECTION, AND CONTRACT AUDIT SERVICES

Sec. 12. Section 21 of the Arms Export Control Act is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting the following new subsection (h) immediately after subsection (g):

"(h) The President is authorized to provide (without charge) quality assurance, inspection, and contract audit defense services under this section—

"(1) in connection with the placement or administration of any contract or subcon-

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tract for defense articles or defense services entered into after the date of enactment of this subsection by, or under this Act on behalf of, a foreign government which is a member of the North Atlantic Treaty Organization, if such government provides such services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government; or

"(2) in connection with the placement or administration of any contract or subcontract for defense articles or defense services pursuant to the North Atlantic Treaty Organization Infrastructure Program in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.".

MODIFICATION OF THE ANNUAL ARMS SALES PROPOSAL

SEC. 13. Section 25(d) of the Arms Export Control Act is amended—

(1) by inserting "weapons or weapons-related" immediately after "major";

(2) by striking out "defense articles or defense services" and inserting in lieu thereof "weapons or weapons-related defense equipment";

(3) by adding at the end thereof the following new sentence: "Sales deemed most likely actually to result in the issuance of a letter of offer during such fiscal year shall be appropriately so identified in the reports submitted pursuant to this paragraph and paragraph (2) of this subsection."; and

(4) by inserting "(1)" immediately after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The President shall notify the Congress in writing at intervals of six months of any changes in the Arms Sales Proposal for such fiscal year, together with the reasons therefor.".

MULTILATERAL ARMS SALES INFORMATION

SEC. 14. Section 25 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(e) The President shall transmit to the Congress, at the time of the transmittal of each Arms Sales Proposal required by subsection (d)(1), a classified report detailing the executive branch's best estimates with regard to the international volume of arms traffic. The report shall include estimates on an annual basis of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries during the preceding three years.".

NORTH ATLANTIC TREATY ORGANIZATION COOPERATIVE PROJECTS

SEC. 15. Chapter 2 of the Arms Export Control Act is amended by adding at the end thereof the following new section:

"SEC. 27. NORTH ATLANTIC TREATY ORGANIZATION COOPERATIVE PROJECTS.—(a) For purposes of this section, the term 'cooperative project' means a project described in an agreement, entered into after the date of enactment of this section, under which—

"(1) the North Atlantic Treaty Organization, or one or more member countries thereof, agrees to share with the United States the costs of research on and development, testing, and evaluation of certain defense articles, and the costs of any agreed joint production, ensuing therefrom, in order to further the objectives of standardization and interoperability of the armed forces of North Atlantic Treaty Organization member countries; or

"(2) the North Atlantic Treaty Organization, or one or more member countries thereof other than the United States, agrees to bear the costs of research on and development, testing, and evaluation of certain defense articles (or categories of defense articles) and to have such articles produced for sale to, and licensed for production within, other participant member countries including the United States, and the United States agrees to bear the costs of research on and development, testing, and evaluation of other defense articles (or categories of defense articles) and to have such defense articles produced for sale to, and licensed for production within, other participant member countries in order to further the objectives of nationalization of the industrial and technological resources within the North Atlantic Treaty area.

"(b)(1) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under section 21(e) of this Act (and, in the case of agreements described in subsection (a)(2) of this section, may reduce or waive the charges for reimbursement of the costs of officers and employees of the United States Government which would otherwise be required) in connection with sales under section 21 and section 22 of this Act in furtherance of cooperative projects. Notwithstanding the provisions of section 21(e)(1)(A) and section 43(b) of this Act, administrative surcharges shall not be increased on other sales made under this Act in order to compensate for reductions or waivers of such surcharges under this section. Funds received pursuant to such other sales shall not be available to reimburse the costs incurred by the United States Government for which reduction or waiver is approved by the President under this section.

"(2) The provisions of paragraph (1) shall apply only if for each cooperative project the other countries which participate in such cooperative project reciprocate by waiving comparable charges for their sales related to such cooperative project and if the President determines that the magnitude of the contribution of a member country of the North Atlantic Treaty Organization to such cooperative project would help the United States conserve defense resources and promote a stronger alliance.

"(c)(1) Not less than thirty days prior to signature on behalf of the United States of an agreement for a cooperative project, the President shall transmit to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, and the chairman of the Committee on Armed Services of the Senate, a numbered certification with respect to such proposed agreement, setting forth—

"(A) a detailed description of the cooperative project with respect to which the certification is made;

"(B) an estimate of the amount of sales and exports expected to be made or approved under this Act in furtherance of such cooperative project;

"(C) an estimate of the dollar value of any charges expected to be reduced or waived under this section in connection with such cooperative project, such dollar value to consist of expenses that will be charged against Department of Defense funds without reimbursement and amounts not to be recovered and deposited to the General Fund of the Treasury;

"(D) an estimate of the dollar value of the costs to be borne by the North Atlantic Treaty Organization or by the member countries thereof in connection with such cooperative project; and

"(E) a statement of the foreign policy and national security benefits anticipated to be derived from such cooperative project.

"(2) The provisions of subsection (b) of section 36 of this Act shall not apply to sales made under section 21 or section 22 of this Act, and the provisions of subsection (c) of section 36 of this Act shall not apply to the issuance of licenses or other approvals under section 38 of this Act, if such sales are made, or such licenses or approvals are issued, in furtherance of a cooperative project.".

REPORTS ON PRICE AND AVAILABILITY ESTIMATES

SEC. 16. (a) Chapter 2 of the Arms Export Control Act, as amended by section 15 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 28. REPORTS ON PRICE AND AVAILABILITY ESTIMATES.—(a) The President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, within five days after the end of each calendar quarter, a report listing each price and availability estimate provided by the United States Government during such quarter to a foreign country with respect to a possible sale under this Act of major defense equipment for $7,000,000 or more or of any other defense articles or defense services for $25,000,000 or more. Each such listing shall specify the name of the country to which the estimate was provided, the defense articles or services involved, the quantity involved, and the price estimate provided.

"(b) Such reports shall also list each request received by the United States Government from a foreign country, during the quarter in question, for the issuance of a letter of offer to sell defense articles or defense services if (1) the proposed sale has not been the subject of a listing pursuant to subsection (a) of this section, and (2) the issuance of a letter of offer in accordance with such request would be subject to the requirements of section 36(b) of this Act. Each such listing shall include the name of the country making the request, the date of the request, the defense articles or services involved, the quantity involved, and the price and availability terms requested.".

(b) Section 36(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) In addition to the other information required to be contained in a certification submitted to the Congress under this subsection, each such certification shall cite any quarterly report submitted pursuant to section 28 of this Act which listed a price and availability estimate, or a request for the issuance of a letter of offer, which was a basis for the proposed sale which is the subject of such certification.".

AUTHORIZATION AND AGGREGATE CEILING FOR FOREIGN MILITARY SALES CREDITS

SEC. 17. (a) Section 31 of the Arms Export Control Act is amended—

(1) in subsection (a), by striking out "$682,000,000 for the fiscal year 1978 and $674,300,000 for the fiscal year 1979" and inserting in lieu thereof "$673,500,000 for the fiscal year 1980";

(2) in subsection (b), by striking out "$2,152,350,000 for the fiscal year 1978 and $2,085,500,000 for the fiscal year 1979, of which amount for each such year" and inserting in lieu thereof "$2,235,000,000 for the fiscal year 1980, of which";

(3) in subsection (c), by striking out "fiscal year 1979" and inserting in lieu thereof "fiscal year 1980"; and

(4) in subsection (d), by striking out "$150,000,000" and inserting in lieu thereof "$250,000,000".

(b) Of the principal amount of loans guaranteed for the fiscal year 1980 under section 24 of the Arms Export Control Act—

(1) with respect to Turkey, not to exceed $50,000,000,

(2) with respect to Greece, not to exceed $42,000,000, and

(3) with respect to Sudan, not to exceed $25,000,000.

shall be repaid in not less than 20 years, following a grace period of 10 years on repayment of principal.

RESTRAINT IN ARMS SALES TO SUB-SAHARAN AFRICA

Sec. 18. Section 33 of the Arms Export Control Act is amended to read as follows:

"Sec. 33. Restraint in Arms Sales to Sub-Saharan Africa.—It is the sense of the Congress that the problems of Sub-Saharan Africa are primarily those of economic development and that United States policy should assist in limiting the development of costly military conflict in that region. Therefore, the President shall exercise restraint in selling defense articles and defense services, and in providing financing for sales of defense articles and defense services, to countries in Sub-Saharan Africa.".

REPORTS TO THE CONGRESS

Sec. 19. (a) Section 36(a) of the Arms Export Control Act is amended—

(1) by striking out "thirty" in the text preceding paragraph (1) and inserting in lieu thereof "sixty";

(2) by inserting "and" immediately after the semicolon at the end of paragraph (7);

(3) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period; and

(4) by striking out paragraph (9).

(b) Section 43 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Not later than January 15 of each year, the President shall submit to the Congress a report containing an analysis and description of the services performed during the preceding fiscal year by officers and employees of the United States Government carrying out functions on a full-time basis under this Act for which reimbursement is provided under subsection (b) of this section or under section 21(a) of this Act. Such reports shall specify the number of personnel involved in performing such services.".

(c) Section 36(b)(1) of such Act is amended by adding at the end thereof the following: "If the President states in his certification that an emergency exists which requires the proposed sale in the national security interest of the United States, thus waiving the congressional review requirements of this subsection, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security interests involved.".

NATIONAL DISCLOSURE POLICY FOR SENSITIVE WEAPONS TECHNOLOGY

Sec. 20. (a) The President shall undertake a thorough review of the interagency procedures and disclosure criteria used by the United States in determining whether sensitive weapons technology will be transferred to other countries. Not later than February 15, 1980, the President shall transmit a report to the Congress setting forth the results of such review, together with such recommendations as are necessary to improve the current disclosure system.

(b) Section 36(b)(1) of the Arms Export Control Act is amended by inserting after the first sentence the following: "Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles or defense services proposed to be sold.".

CEILING ON COMMERCIAL ARMS SALES

Sec. 21. Section 38(b)(3) of the Arms Export Control Act is amended by striking out "$25,000,000" and inserting in lieu thereof "$35,000,000".

DEFINITIONS

Sec. 22. Section 644(d) of the Foreign Assistance Act of 1961 and section 47(3) of the Arms Export Control Act are each amended by inserting "(except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity)" immediately after "source material".

TRANSFER OF WAR RESERVE MATERIEL AND OTHER PROPERTY TO TAIWAN

Sec. 23. (a) Notwithstanding any other provision of law, during the calendar year 1980 the President is authorized to transfer to Taiwan, under such terms and conditions as he may deem appropriate, such United States war reserve materiel that was located on Taiwan on January 1, 1979, as he may determine.

(b) Notwithstanding any other provision of law, during the calendar years 1979 and 1980 the President is authorized to transfer to Taiwan, under such terms and conditions as he may deem appropriate, such rights of the United States in property (other than war reserve materiel) that was located on Taiwan on January 1, 1979, as he may determine.

AMMUNITION SOLD TO THAILAND

Sec. 24. The Royal Thai Government shall be released from its contractual obligation to pay to the United States Government such amount as is due on or before October 30, 1979, as a condition precedent under the letter of offer accepted by the Royal Thai Government on April 12, 1977, to the transfer of title to the last increment of United States ammunition stocks sold to the Royal Thai Government under such letter of offer pursuant to the Memorandum of Agreement of March 22, 1977, relating to the storage of ammunition in Thailand.

ASSISTANCE FOR JORDAN

Sec. 25. Funds authorized to be appropriated by the amendments made by sections 5, 9, and 19 of this Act may be used to furnish assistance for Jordan only if the President determines and reports to the Congress that Jordan is acting in good faith to achieve further progress toward a comprehensive peace settlement in the Middle East and that the expenditures of such funds will serve the process of peace in the Middle East.

SHABA AIRLIFT

Sec. 26. Notwithstanding any other provision of law, the President is authorized to make available the services of the Department of Defense for the purpose of facilitating the removal from Zaire of those foreign armed forces which were transported to Zaire by the United States at the time of the crisis in Shaba Province in 1978.

FISCAL YEAR 1979 SUPPLEMENTAL AUTHORIZATION FOR TURKEY

Sec. 27. (a) It is hereby determined that the national interests of the United States would be served by the furnishing of additional economic support fund assistance to Turkey in order to promote the economic and political stability of that country, and to strengthen its ability to fulfill its responsibilities as a member of the North Atlantic Treaty Organization.

(b) In furtherance of subsection (a) of this section and in addition to amounts otherwise available for such purposes there are authorized to be appropriated to the President to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961 $100,000,000 for the fiscal year 1979, which amount shall be available only for Turkey.

(c) Amounts appropriated under this section may be made available until expended.

(d) Notwithstanding any assistance authorized for Turkey under this Act, it remains the policy of the United States that all foreign troops in Cyprus, except those stationed in Cyprus under the auspices of the United Nations, should be withdrawn from Cyprus.

(e) It is the sense of the Congress that the recent announcement by the leaders of the Greek Cypriots and the Turkish Cypriots to resume intercommunal negotiations is an encouraging recognition by the parties that the human rights and fundamental freedoms of all the citizens of the Republic of Cyprus will be respected. The Congress urges all parties to the negotiations to demonstrate good faith in the negotiations and to move promptly toward a full, just, and lasting settlement.

PROHIBITION ON ASSISTANCE TO PANAMA

Sec. 28. None of the funds authorized to be appropriated by this Act shall be made available to the Republic of Panama or its agencies or instrumentalities. The President may waive this prohibition in order to provide assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (international military education and training), or to provide assistance under section 23 or 24 of the Arms Export Control Act (foreign military sales financing) involving the financing of sales of defense articles (other than weapons) and defense services, if the President determines that providing such assistance would further the national interests of the United States and reports that determination to the Congress at least 30 days before providing such assistance.

And the Senate agree to the same.

Clement J. Zablocki,
L. H. Fountain,
Dante B. Fascell,
Benjamin S. Rosenthal,
Lee H. Hamilton,
Lester L. Wolff,
Jonathan B. Bingham,
Stephen Solarz,
Wm. Broomfield,
Ed Derwinski,
Tennyson Guyer,
Dan Quayle,
Managers on the Part of the House.

Frank Church,
John Glenn,
Richard (Dick) Stone,
Jacob K. Javits,
C. H. Percy,
Jesse Helms,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3173) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS

The conference substitute contains authorizations for appropriations for international security assistance and other assistance programs for fiscal year 1980 of $2,823,358,000. This is $69,442,000 below the Senate figure, $1,943,041,000 above the House figure and $101,442,000 below the executive branch request. Including the Economic Support Fund (ESF), funds for which the House authorized in the International Development Cooperation Act of 1979 (H.R. 3324), the total authorization represents an increase of $66,041,000 over the amounts authorized by the House. The conference substitute also contains a fiscal year 1979 supplemental authorization of appropriation of $100 million for Turkey under the ESF program.

The amounts approved by the committee of conference compared to the amounts requested by the executive branch and recommended by the House and Senate follow:

[In millions of dollars]

	Executive request	Senate recommendation	House recommendation	Conference agreement
Grant military assistance	$160.2	$159.6	$110.2	$110.2
Grant military education and training	32.9	31.3	32.359	31.8
Foreign military sales credits	658.8	[1] 673.5	657.9	673.5
FMS aggregate ceiling	[2] (2,088.0)	[2] (2,235.0)	[2] (2,079.0)	[2] (2,235.0)
Subtotal: Military assistance and sales program	851.9	864.4	800.459	815.5
Peacekeeping operations	[3] 21.1	15.0	28.1	21.1
Economic Support Fund	[3] 2,014.0	1,959.0	[4] (1,877.0)	1,935.0
International narcotics control	37.8	54.4	51.758	51.758
Total	2,924.8	2,892.8	880.317 [5] (2,757.317)	2,823.358

[1] The Senate bill authorized appropriation of $673,500,000 for foreign military sales credits, which would have been reduced by $5,000,000 if the conference had accepted the Senate position on grant military assistance for Turkey.

[2] The FMS aggregate ceiling represents the total program which could be funded under FMS credit authorization. The aggregate ceiling is not an authorization of funds for appropriation.

[3] Requested by the executive branch as security supporting assistance.

[4] Economic Support Fund moneys were authorized by the House in H.R. 3324, the International Development Cooperation Act of 1979.

[5] Total including $1,877,000,000 authorized for the Economic Support Fund in H.R. 3324.

GRANT MILITARY ASSISTANCE

Authorization

The House bill amended section 504 of the Foreign Assistance Act of 1961 to authorize the appropriation of $110,200,000 for grant military assistance in fiscal year 1980.

The Senate amendment authorized the appropriation of $160,200,000 for such programs in fiscal year 1980.

The committee of conference agreed to accept the House position.

Grant military assistance for Turkey

The Senate bill contained a provision to authorize $50 million in grant military assistance for Turkey.

The House bill did not contain a comparable provision.

The committee of conference agreed to a compromise which does not permit grant military assistance to Turkey but which will permit that country to purchase $50 million in defense articles and defense services on concessionary terms; that is, a 10-year grace period with an additional 20 years to repay the contractual obligation. In agreeing to the House position concerning grant military assistance, the committee of conference agreed that all elements related to the compromise would be reviewed in future years.

GRANT MILITARY ASSISTANCE—SPECIAL DRAWDOWN AUTHORITY

Committee approval

The Senate amendment amended section 506 of the Foreign Assistance Act of 1961 to require prior approval of the House Foreign Affairs Committee, Senate Foreign Relations Committee and the appropriations committees of both Houses of Congress before the President is authorized to use the special authority provided in section 506 to drawdown up to $10 million in Department of Defense (DOD) stocks in emergencies.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision with an amendment changing "prior approval" to "prior notification." Section 506 does not mandate automatic appropriation of funds for reimbursement of drawdowns from DOD stocks directed by the President pursuant to section 506.

Reimbursement

The House bill amended section 506 of the Foreign Assistance Act of 1961 to specifically authorize appropriations for reimbursement to DOD when the President uses the special authority provided in section 506 to drawdown up to $10 million in DOD stocks in emergencies.

The Senate amendment did not contain a similar provision but would have required a specific authorization for reimbursement on a case by case basis.

The committee of conference adopted the House provision.

ENVIRONMENTAL MILITARY EDUCATION AND TRAINING

Authorization

The House bill amended section 542 of the Foreign Assistance Act of 1961 to authorize $32,359,000 for grant military education and training programs.

The Senate amendment authorized $31,300,000 for such programs.

The committee of conference agreed to a compromise authorization of $31,800,000.

Latin American regional program

The House bill amended section 542 of the Foreign Assistance Act of 1961 to set a limit of $800,000 on the funds made available for fiscal years 1980 and 1981 for education and training in peacekeeping, arms restraint, and arms control under a Latin American regional program. The development and offering of such courses was to be accomplished in consultation with, and subject to the approval of, the Director of the Arms Control and Disarmament Agency.

The Senate amendment amended section 542 of the Foreign Assistance Act of 1961 to provide that no funds in fiscal year 1980 may be made available for Inter-American regional programs unless participating countries collectively contribute an equivalent amount to carry out the purpose of such programs.

The committee of conference adopted the Senate provision.

PEACEKEEPING OPERATIONS

Authorization

The House bill amended section 552 of the Foreign Assistance Act of 1961 to authorize the appropriation of $28,100,000 for peacekeeping operations in fiscal year 1980.

The Senate amendment authorized the appropriation of $15 million for such programs in fiscal year 1980.

The committee of conference agreed to a compromise figure of $21,100,000 for international peacekeeping programs in fiscal year 1980. Assistance for Spain is authorized under the Economic Support Fund.

This figure includes authorization of the full executive branch request of $12.1 million for the Sinai support mission. Authorization of the full amount was recommended by the House and has become necessary in light of the tentative agreement reached by the United States, Egypt, and Israel to continue the operation of the Sinai field mission for purposes of monitoring and verification of the provisions of the Egyptian-Israeli Peace Treaty. However, pending presentation to Congress of the full proposal and related documentation in order that Congress may determine whether further legislation is needed, the committee of conference stipulates that the operations of the Sinai field mission for these purposes shall be guided by and be consistent with the authority provided to the President under House Joint Resolution 683 (Public Law 94–110). Also relevant are the understandings established in the correspondence exchange between Secretary of State Cyrus R. Vance and Hon. Clement J. Zablocki, chairman of the House Committee on Foreign Affairs, Hon. Lee H. Hamilton, chairman of the Subcommittee on Europe and the Middle East, and Senator Richard Stone, chairman of the Subcommittee on Near East and South Asian Affairs of the Senate Foreign Relations Committee, which occurs at the end of this joint statement.

General authority—Reimbursement for peacekeeping operations

The Senate amendment amended chapter 6 of part II of the Foreign Assistance Act of 1961 as follows: (a) To provide for reimbursements from the peacekeeping operations assistance account to the Department of Defense, not to exceed $5 million in any fiscal year unless specifically authorized, for expenses incurred under the U.N. Participation Act of 1945; and (b) to provide emergency authority to transfer funds, not to exceed $10 million in any fiscal year, and not of earmarked funds, from the economic support fund account to the peacekeeping operations account without regard to the 20-percent transfer-of-funds limitation provided for under section 610 of the Foreign Assistance Act. The Senate amendment would also have eliminated authorities under section 553 relating to the fiscal year 1979 authorization for Middle East Special Requirements Fund.

The House bill did not change authorities in existing law for peacekeeping operations.

The committee of conference adopted the Senate provision.

The committee of conference also agreed to retain section 553 of the Foreign Assistance Act of 1961.

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

Feasibility report on reserve stocks

The House bill amended section 514 of the Foreign Assistance Act of 1961 to require a Presidential report by December 31, 1979, on the feasibility and advisability of establishing a system of reserve stocks of defensive weapons for contingency use by friendly developing countries in military emergencies.

The Senate amendment did not contain a comparable provision.

The committee of conference adopted the Senate position.

Report on Korean stockpiles

The Senate amendment contained a provision requiring a Presidential report by December 31, 1979, detailing the goals of the stockpiling program for Korea, reviewing procedures for the transfer of stockpile material in time of war and stating intentions on eventual peacetime disposition of stockpiled material.

BEST DOCUMENT AVAILABLE

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision.

The committee of conference also wishes to clarify the intent of existing law with respect to the transfer of equipment to Korea. The wording of section 23(a)(1) of Public Law 95-384 specifies that the transfer of equipment to Korea take place "only in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea." This is not intended by the Congress to prohibit the transfer of material which is not the property of a specific unit and which has broad application. The committee of conference understands that this clarification will allow only for transfer of three Operations Project stocks to the Republic of Korea, as follows: Railroad bridge repair, of estimated acquisition value of $8.5 million; watercraft, of estimated acquisition value of $11 million; and airfield matting, of estimated acquisition value of $24.1 million.

FOREIGN MILITARY SALES

Authorization

The House bill amended section 31(a) of the Arms Export Control Act to authorize the appropriation of $657,900,000 to finance the sale of defense articles and defense services in fiscal year 1980.

Section 19(a) of the Senate amendment authorized the appropriation of $673,500,000 for this purpose in fiscal year 1980.

The committee of conference agreed to accept the Senate figure.

In adopting the Senate figure, with respect to the foreign military sales program, the committee of conference made specific recommendations with respect to the levels of foreign military sales credit guarantees for Zaire, Morocco, Greece, and Turkey. For Zaire, the committee of conference recommends a figure of $8 million. However, it is the intent of the conferees that no funds made available under this authorization may be obligated for the benefit of Zaire unless the President receives satisfactory assurances that equipment purchased through credits guaranteed under this authorization will not be used corruptly or to violate the human rights of Zairian citizens, and so reports to the Senate Foreign Relations Committee and the House Foreign Affairs Committee. In addition, the committee of conference expects the administration to consult with, and take under serious advisement, the views of the House Foreign Affairs and Senate Foreign Relations Committees before concluding a fiscal year 1980 foreign military sales financing agreement with the Republic of Zaire.

In the case of Morocco, the committee of conference recommends that $45 million in foreign military sales credit guarantees be provided. The committee of conference expects the administration to consult with, and take under serious advisement, the views of the House Foreign Affairs Committee and the Senate Foreign Relations Committee before approving military sales or credit guarantees in fiscal year 1980 for significant items of military equipment to Morocco.

With regard to Greece and Turkey, the committee of conference recommends $200 million and $250 million in credit guarantees, respectively.

The committee of conference also stipulated special repayment terms for $50 million of the total FMS financing provided to Turkey, $42 million of the total FMS financing provided to Greece, and all of the FMS financing ($25 million) for Sudan. With respect to the above amounts for these countries, the special repayment terms call for repayment of the principal amounts of loans guaranteed under section 24 of the Arms Export Control Act in not less than 20 years, following a grace period of 10 years on repayment of principal.

Aggregate ceiling

The House bill amended section 31(b) of the Arms Export Control Act to set an aggregate ceiling of $2,079 million on the quantity of defense articles and defense services that may be sold in fiscal year 1980.

The Senate amendment established a ceiling of $2,235 million for fiscal year 1980 for this purpose.

The committee of conference agreed to accept the Senate ceiling.

NATO PROVISIONS

Exemption of transfers within NATO of U.S. supplied defense articles or services

The House bill amended section 3(d)(3)(C) of the Arms Export Control Act to exempt from prior notification to Congress, and possible disapproval by concurrent resolution, third-country transfers of U.S.-provided defense articles or services among NATO members and between NATO and any of its members. (Existing law exempts cooperative cross-servicing arrangements among NATO members.)

The Senate amendment amended section 3(d)(3)(C) of the Arms Export Control Act to exempt cooperative cross-servicing and lead-nation procurement arrangements among NATO members and between NATO and its members provided that certifications transmitted to Congress under section 36(b) of that act with regard to lead-nation procurement arrangements identified the transferees on whose behalf the lead-nation procurement was proposed.

The committee of conference adopted the Senate provision.

Limit of Presidential waiver authority

The House bill amended chapter 2 of the Arms Export Control Act to add a new section 27, authorizing the President to reduce or waive certain administrative and other charges in furtherance of NATO cooperative projects.

The Senate amendment amended chapter 2 of the Arms Export Control Act to add a new section 27 to do the same, provided other NATO participants reciprocate by waiving comparable charges and if the President determines that the magnitude of the contribution of a NATO member country would help the United States conserve defense resources and promote a stronger alliance.

The committee of conference adopted the Senate provision.

Congressional disapproval provision

The House bill authorized the President to reduce or waive administrative or other changes in furtherance of NATO cooperative projects and also waived the requirements under sections 36 (b) and (c) of the Arms Export Control Act for sales made and licenses issued in furtherance of NATO cooperative projects.

The Senate amendment did the same but included a concurrent resolution provision enabling Congress to disapprove a proposed NATO cooperative project.

The committee of conference adopted the House provision.

MODIFICATION OF THE ANNUAL ARMS SALES PROPOSAL

The Senate amendment amended section 25(d) of the Arms Export Control Act: (a) To make "weapons or weapons-related defense equipment" rather than "defense equipment" and "defense articles or defense services" the subject of the annual report to Congress under section 25(d); (b) to require that "sales deemed most likely" to result in the issuance of a letter of offer during the next fiscal year shall be appropriately so identified in the annual report to Congress; and (c) to require Presidential notification to Congress every 6 months of changes in the arms sales proposal provided to Congress, together with reasons therefor.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision, with modification and with the understanding that at least two notifications of changes required in section 25(d)(2) shall be transmitted to Congress relating to each arms sales proposal.

MULTILATERAL ARMS SALES INFORMATION

The Senate amendment amended section 25 of the Arms Export Control Act adding a new subsection (e) to require a classified report, at the time of the transmittal of the annual arms sales proposal, detailing best estimates on international volume of arms traffic, including annual estimates of sales and deliveries during the preceding 3 years.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision.

NATIONAL DISCLOSURE POLICY FOR SENSITIVE WEAPONS TECHNOLOGY

The Senate amendment contained a provision stating congressional findings that U.S. national disclosure policy and procedures have failed to prevent the transfer of sensitive weapons technology to countries with potentially unstable political systems. It further stated that such transfers may be harmful to U.S. national security interests. It also directed the President to undertake a thorough review of interagency procedures and disclosure criteria and report to Congress. The provision also required that notifications to Congress of proposed arms sales under section 36(b) of the Arms Export Control Act identify the sensitivity of technology contained in defense articles or services proposed to be sold.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision with an amendment. The amendment struck the portion of the Senate provision dealing with congressional findings concerning the transfer of sensitive weapons technology to countries with potentially unstable political systems.

REPORTS ON PRICE AND AVAILABILITY ESTIMATES

The House bill amended chapter 2 of the Arms Export Control Act to add a new section 28 requiring a quarterly report: (a) Listing price and availability estimates provided to foreign countries with respect to possible major sales; and (b) listing requests received from foreign countries for issuance of letters of offer if the proposed sales are not subject to the above listing and issuance of these letters of offer would be subject to requirements of section 36(b) of the Arms Export Control Act. The House bill also required, together with other information provided to Congress pursuant to section 36(b), the citing of any quarterly report listing price and availability estimates or requests for issuance of letters of offer which were the basis for the proposed sale.

The Senate amendment did not contain a comparable provision.

The committee of conference adopted the House provision.

PANAMA PROHIBITION

The House bill contained a provision prohibiting use of funds in the International Security Assistance Act of 1979 for Panama.

The Senate amendment did not contain a comparable provision.

The committee of conference adopted the House position, with an amendment that allows the President to waive this prohibition in order to provide assistance under Chapter 5 of part II of the Foreign Assistance Act of 1961 (International Military Education and Training) or assistance under section 23 or 24 of the Arms Export Control Act (Foreign Military Sales Financing) to finance sales of defense articles (other than weapons) and defense services, if the President determines that providing such assistance would further the national interests of the

United States and reports that determination to the Congress at least 30 days before providing such assistance. The committee of conference does not regard the prohibition on assistance to Panama to apply to security assistance to Panama in future fiscal years, providing Congress authorizes such assistance.

RESOLUTION OF THE CYPRUS DISPUTE

The Senate amendment contained a provision stating the sense of the Senate concerning the Cyprus dispute, the resumption of the intercommunal talks on Cyprus and future negotiations to achieve a just and lasting settlement on Cyprus.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision with some minor changes. The committee of conference also agreed to make the sense of the Senate provision a sense of the Congress provision and included the language as part of the Senate provision authorizing supplemental fiscal year 1979 Economic Support Fund (ESF) assistance to Turkey. This section also provides that it remains U.S. policy that all foreign troops in Cyprus, except those under U.N. auspices, should be withdrawn from Cyprus. This provision is not considered a reference to British troops since they are there on sovereign bases and are not considered to be in Cyprus.

AFRICA REGIONAL CEILING

The Senate amendment repealed section 33 of the Arms Export Control Act, which imposes a $40 million aggregate ceiling on amounts of grant military assistance and sales credits and principal amount of loans guaranteed in each fiscal year for African countries.

The House bill did not contain a comparable provision.

The committee of conference adopted a substitute to the Senate provision. The substitute, while eliminating the $40 million aggregate ceiling on military assistance and sales financing to Africa, replaces existing section 33 with a new section 33 expressing the sense of Congress that the problems of sub-Saharan Africa are primarily those of economic development and U.S. policy should assist in limiting the development of costly military conflict in the region. New section 33 requires that the President exercise restraint in selling defense articles and defense services and in providing financing for sales of defense articles and services to African countries in sub-Saharan Africa.

REPORTS TO CONGRESS

U.S. services on a reimbursable basis

The House bill amended section 43 of the Arms Export Control Act by adding a new subsection (c) to require an annual report to Congress not later than January 15, containing an analysis and description of services performed by U.S. officers and employees on a full-time basis for which reimbursement is provided. It also required that such reports shall specify the number of personnel involved in performing such services.

The Senate amendment amended section 43 of the Arms Export Control Act by adding a new subsection (c) to require an annual report to Congress on or before February 15, containing the number of U.S. officers and employees carrying out functions on a full-time basis for which reimbursement is provided.

The committee of conference adopted the House provision.

Section 36(b) waiver

The House bill amended section 36(b)(1) of the Arms Export Control Act to require the President to set forth a detailed written justification, if he certifies an emergency exists which requires a proposed arms sale because of U.S. national security interests, thus waiving congressional review requirements of section 36(b).

The Senate amendment did not contain a comparable provision.

The committee of conference adopted the House provision.

PUBLIC DISCLOSURE OF COMMERCIAL SALES INFORMATION

The Senate amendment amended section 38(e) of the Arms Export Control Act by adding a provision that was intended to exempt information on arms export license applications from public disclosure under the Freedom of Information Act.

The House bill did not contain a comparable provision.

The committee of conference adopted the House position. In doing so, the conferees note that the issue of protecting from public disclosure under the Freedom of Information Act information provided by private contractors relative to arms export license application is already being addressed in a provision contained in the Export Administration Act of 1979 (Public Law 96-72). Since this provision would clarify the intent of existing law on the subject and would be incorporated by reference in section 38(e) of the Arms Export Control Act, a provision in this legislation is therefore not required.

DEFINITIONS

The House bill amended section 644(d) of the Foreign Assistance Act of 1961 and section 47(3) of the Arms Export Control Act to provide that the definition of "defense article" include uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high-density or pyrophoric characteristics unrelated to radioactivity.

The Senate amendment did the same but did not make reference to "pyrophoric characteristics."

The committee of conference adopted the House provision.

TRANSFER OF WAR RESERVE MATERIEL AND OTHER PROPERTY TO TAIWAN

The House bill contained a provision authorizing the President to transfer to Taiwan war reserve materiel and rights of other United States property which was located on Taiwan on January 1, 1979.

The Senate amendment did the same but referred to the "people on Taiwan" rather than "Taiwan," in describing the transferee.

The committee of conference adopted the House provision.

The conferees intend that the definition of "Taiwan" contained in the House provision shall be consistent with the term "Taiwan" as defined in section 15(2) of the Taiwan Relations Act (Public Law 96-8).

SHABA AIRLIFT

The Senate amendment contained a provision that authorizes the President to make services of the Department of Defense available for the purpose of facilitating the removal of foreign armed forces, which were transported to Zaire by the United States at the time of the crisis in Shaba Province in 1978.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision.

The committee of conference's approval of the Senate amendment authorizing a U.S. airlift of part of the Inter-African Force out of Shaba Province reflected unique circumstances and does not establish a precedent for U.S. airlifts or other military intervention in internal conflicts. In addition, the authority provided in the Senate amendment should not be construed as providing authority for any future airlifts from Zaire.

ASSISTANCE TO JORDAN

The House bill contained a provision stipulating that military assistance in the bill for Jordan may be furnished only if the President' determines and "certifies" that Jordan is acting in good faith to achieve further progress toward a comprehensive peace settlement and that expenditures will serve the process of peace.

The Senate amendment did not contain a comparable provision.

The committee of conference adopted the House provision with an amendment which substitutes "reports to the Congress" for "certifies to the Congress".

SINAI FIELD MISSION FACILITIES TRANSFER

The Senate amendment contained a provision authorizing the President to transfer to Egypt facilities and related property of the Sinai field mission, upon termination of its activities, in accordance with the terms of the Egyptian-Israeli Peace Treaty.

The House bill did not contain a comparable provision.

The committee of conference adopted the House position.

The Special International Security Assistance Act of 1979, Public Law 96-35, includes a provision for the Sinai field mission facilities transfer.

HUMAN RIGHTS RECORDS OF RECIPIENT COUNTRIES

The Senate amendment amended section 502(b) of the Foreign Assistance Act of 1961 to require that the President take into account significant improvements in the human rights record of recipient countries in allocating funds authorized by the Foreign Assistance Act and the Arms Export Control Act provided that such allocation does not contravene any other provision of law.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision.

EFFECTIVE DATE

The House bill provided that amendments made by the bill shall take effect October 1, 1979; that new authorities whose exercise would involve the expenditure of appropriated funds shall apply only with regard to funds appropriated after the date of enactment. Provisions of law amended by the bill which were specifically applicable to programs of assistance for fiscal year 1979 shall remain in effect with respect to those programs.

The Senate amendment provided that amendments providing for the authorization of appropriations and limitations of authority for fiscal year 1980 made by the Senate bill shall take effect October 1, 1979.

The committee of conference did not adopt a provision on this issue. Neither the House nor Senate provision is necessary since the bill will not be enacted into law until after October 1, 1979.

INTERNATIONAL NARCOTICS CONTROL

Authorization

The House bill amended section 482 of the Foreign Assistance Act of 1961 to authorize $51,758,000 for the international narcotics control program in fiscal year 1980.

The Senate amendment authorized $54,400,000 for such a program in fiscal year 1980.

The committee of conference agreed to the House provision.

Colombian earmark

The House bill earmarked $16 million of the fiscal year 1980 international narcotics control authorization for Colombia and provided that such funds shall be used only for equipment and fuel, which would be used exclusively for interdicting drug traffic and training for interdiction of drug traffic.

The Senate amendment amended section 482(a) of the Foreign Assistance Act of 1961 to provide that not less than $16.6 million of that authorization be available for Colombia and that such funds be available for narcotics interdiction programs.

The committee of conference adopted the House provision with the understanding that the United States should strive to upgrade

Colombian narcotics control enforcement and intelligence collection capabilities through formal training, advisory assistance, and necessary material assistance including, to the maximum extent feasible, provision of funds to the Colombian Attorney General's narcotics unit. This should be accomplished through the effective use of project agreements which obtain Colombian commitments concerning the use of the equipment in return for United States assistance. The program agreements should provide, to the maximum extent practicable, for onsite inspections by qualified U.S. officials—including Drug Enforcement Agency officials—as part of a formal end-use monitoring system. The major target of the United States-assisted effort in Colombia should be the major trafficking networks and commercial production.

In order to adequately monitor this program, the committee of conference respectfully requests that the President submit a report to the Congress not later than June 1, 1980 (1) setting forth the degree of implementation of the Colombian assistance effort as described above, and (2) on the progress made toward elimination of Colombia as a source and transit country for cocaine and marihuana and the extent to which this has reduced the U.S. supply of cocaine and marihuana.

UNFDAC contribution

The House bill further amended section 482(a) of the Foreign Assistance Act of 1961 to limit the U.S. contribution to the United Nations Fund for Drug Abuse Control (UNFDAC) from funds authorized in this legislation to $3 million or 25 percent of the total contribution by all countries for the calendar year with respect to which the U.S. contribution is made, whichever is less.

The Senate amendment did not contain a comparable provision.

The committee of conference adopted the House provision.

Report on end-use monitoring

The House bill amended section 481(b)(2) of the Foreign Assistance Act of 1961 to require that the presently mandated semiannual report to Congress include the findings from a formal end-use monitoring system that equipment furnished under the international narcotics control program has been used in accordance with established requirements and assistance has not been used for purposes not related to control of illicit drugs.

The Senate amendment did not contain a comparable provision.

The committee of conference adopted the Senate position.

It is the intent of the conferees, however, that the Bureau of International Narcotics Matters will include in each second semiannual report submitted by the President to the Congress the findings from a formal end-use monitoring system including assurances that equipment provided for the international narcotics control program has been used in accordance with the requirements established at the time the agreement for such equipment was concluded with a recipient country and that the assistance has been used for purposes related to the control of illicit drugs. In any case where the Bureau of International Narcotics Matters cannot verify that all of the assistance has been used for purposes related to the control of illicit drugs, the report shall specify the reasons therefor and shall include an assurance that such assistance has been used primarily for the control of illicit drugs and, to the extent known, shall indicate in what manner such assistance was used for purposes not related to the control of illicit drugs.

With regard to international narcotics control, the committee of conference wishes to clarify the intent of Congress concerning an amendment adopted in last year's international security assistance legislation and incorporated into law as section 481(d)(1) of the Foreign Assistance Act of 1961.

Over 2 years ago it was learned that a substantial percentage of the marihuana seized at the Mexican border was contaminated with the highly toxic paraquat. In 1978, the Congress amended section 481 of the Foreign Assistance Act of 1961 to prohibit assistance for the purpose of spraying of marihuana with herbicides that are likely to cause serious harm to the health of potential users. In a subsequent study, HEW determined that paraquat-contaminated marihuana did present a serious health hazard to users.

There has been concern expressed among some government officials as to the action required in order to be in compliance with the terms of the amendment, and questions raised regarding the intent of Congress with respect to its implementation. The author of the amendment, Senator Charles Percy, stated on the Senate floor on September 18, 1978:

"If no acceptable replacement for the hazardous herbicide is found or no effective warning agent is used in conjunction with the herbicide, U.S. funds or assistance shall not be used for the purpose of marihuana eradication. The intent of this provision is not to stop or impede in any manner the funds authorized under this act from being used to eradicate poppy plants. If the Government of Mexico refuses to halt its spraying of paraquat on marihuana, or add an effective warning agent, or provide an accurate accounting of the allocable costs of using U.S. funds and assistance in that program, by implication it becomes incumbent on the part of the Secretary of State to undertake such an accounting and deduct that share from the $13.5 million authorized in the act. The share of those funds directly or indirectly used for the eradication of marihuana—including aircraft, spraying equipment, and technical assistance—must be deducted from the total amount of appropriated funds. The remaining sum, which is the accurate cost of the poppy-eradication program, shall continue to be available for use in the poppy program."

Section 481(d)(1) is not intended to jeopardize the Mexican poppy eradication program. It demonstrates the concern of the Congress and the people of America about the health risks of paraquat. Unless the law is observed, the spraying of paraquat could spread beyond Mexico to other nations, such as Colombia, that will see paraquat as a viable and U.S. Government-approved means for stopping their marihuana problem. If this takes place the United States will be facing a serious health epidemic, far beyond present circumstances.

Section 481(d)(1) is intended, and the Government should take every possible step, to safeguard the health of United States citizens while at the same time recognizing the health hazards implicit in the usage of marihuana itself. Furthermore, it is intended to encourage the U.S. Government to effectively reduce the availability of marihuana through a herbicide that itself does not constitute a health hazard, or through the use of a readily identifiable marker in conjunction with any herbicide that does pose such a health risk.

There must be no question, however, as to the intent of Congress to provide continuing assistance to other aspects of narcotics eradication and control efforts, and particularly with respect to poppy eradication.

To bring implementation of this provision into line with its intent not to jeopardize the poppy eradication program in Mexico, the Committee of Conference agreed to a perfecting amendment which strikes out the words "or used for any program involving" in section 481(d)(1) of the Foreign Assistance Act and inserts in lieu thereof "for the purpose of". Assistance designated by the United States for the purpose of poppy eradication or narcotics interdiction, and accepted by the recipient government for such purposes, should not be reduced.

FISCAL YEAR 1981 AUTHORIZATIONS

The House also authorized appropriations for fiscal year 1981 for the various security assistance programs and other programs authorized under the International Security Assistance Act of 1979.

The Senate amendment did not provide authorization of appropriations for fiscal year 1981 for such programs.

The committee of conference adopted the Senate position.

The committee of conference on H.R. 3324, the International Development Cooperation Act of 1979, which also amends the Foreign Assistance Act of 1961 with respect to economic assistance, agreed to include authorizations for economic and security assistance in one piece of legislation for fiscal year 1981.

ECONOMIC SUPPORT FUND

The Senate amendment amended chapter 4 of part II of the Foreign Assistance Act to authorize fiscal year 1980 appropriations for the Economic Support Fund (ESF) and to otherwise amend this chapter. The House bill contained no comparable amendments, because the amendments to ESF for fiscal year 1980 passed by the House were contained in a separate bill, H.R. 3324, the International Development Cooperation Act of 1979. However, in the conference on H.R. 3324, it was agreed that ESF would be dealt with in the conference on H.R. 3173, the security assistance legislation, rather than in H.R. 3324, which focuses on economic development assistance. The conferees agree that for fiscal year 1981, authorizations under amendments to the Foreign Assistance Act and to the Arms Export Control Act should be in one bill, and they requested the executive branch to submit its draft legislation for such amendments in one bill.

Accordingly, the committee of conference on H.R. 3173 included ESF provisions in this conference. While only the Senate amendments relating to ESF were officially before the conference, the House conferees urged the adoption of the ESF provisions of House-passed H.R. 3324 to the extent that such provisions were within the scope of the conference. Following are the funding levels and other ESF provisions agreed to by the conferees:

ECONOMIC SUPPORT FUND LEVELS FOR FISCAL YEAR 1980

[In millions of dollars]

	Executive branch request	House bill (as in H.R. 3324)	Senate amendment	Conference substitute
Israel	785	*785	*785	*780
Egypt	750	*750	*750	*755
Southern Africa	100	*68	[1] 75	*68
Cyprus	2	*15	*15	*15
Sudan [2]	40	0	*50	[3] 50
Other programs	337	277	284	267
Total	2,014	1,895	1,959	1,935
5 pct. cut		[4] −18		
		1,877		

*Earmarked

[1] The Senate earmarked $60,000,000 plus an additional $15,000,000 if the President determines and certifies in writing to Congress that the availability of such additional amount is in the U.S. national interest.

[2] Request submitted after House had acted.

[3] The committee of conference agreed to authorize up to $50,000,000 for Sudan, but earmarked $40,000,000.

[4] H.R. 3324 as passed by the House included a 5-pct. cut applicable to ESF except for the funds for Israel and Egypt.

Those provisions adopted by the committee of conference in which H.R. 3324 as passed by the House had no comparable provision, or a provision not identical to the Senate amendment, follow:

Total authorization levels

The Senate amendment amended section 531(b)(1) of the Foreign Assistance Act of 1961 to authorize an appropriation of $1,959 million for fiscal year 1980 for the Economic Support Fund.

The House bill did not contain a comparable provision.

H.R. 3324 amended the same section to authorize an appropriation of $1,877 million.

The committee of conference agreed to an authorization of $1,935 million.

Cash transfers to Israel

The Senate amendment provided that the total amount of funds earmarked for Israel may be available as a cash transfer if the President insures that it does not have an adverse impact on U.S. nonmilitary exports to Israel.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision.

Grant assistance to Israel and Egypt

The Senate amendment provided that not less than two-thirds of the funds earmarked for Israel and Egypt be provided on a grant basis to each country.

The House bill did not contain a comparable provision.

The Committee of conference adopted the Senate provision.

Southern African programs—Earmarking

The Senate amendment earmarked $60 million for economic programs in Southern Africa, with an additional $15 million available for these programs if the President certifies that these additional funds are in the national interest, for a total of $75 million.

The House bill did not contain a comparable provision.

The committee of conference agreed to earmark $68 million for Southern African programs, the amount earmarked in H.R. 3324.

In agreeing to the House figure of $68 million for Southern Africa, the conferees do not intend to affect the funding for assistance to any region other than Africa. In regard to Africa, the conferees recognize that H.R. 3324, as approved by the Foreign Affairs Committee, increased certain bilateral development assistance accounts above the administration's request by the same amount as it reduced ESF for Southern Africa. The committee of conference intends that projects in Malawi, Swaziland, and Lesotho which were included in the Senate amendment be funded instead under the appropriate development assistance accounts.

Sudan—Earmarkings

The Senate amendment earmarked $50 million for economic programs in Sudan.

The House bill did not contain a comparable provision.

The committee of conference agreed to authorize up to $50 million for Sudan, but earmarked $40 million, which was the executive branch request for fiscal year 1980. The committee appreciates the policy of Sudan, which continues its moderating role in the region. The Congress will sympathetically consider requests by the administration for increased assistance to the Sudan in future fiscal years.

Aid to Turkey

Authorization for fiscal year 1980—

The Senate amendment provided that no more than $98 million of the funds authorized for ESF in fiscal year 1980 be available for Turkey.

The House bill did not contain a comparable provision.

The committee of conference agreed to the Senate provision. The House had also authorized $98 million for Turkey in H.R. 3324.

Supplemental authorization for fiscal year 1979—

The Senate amendment authorized a supplemental authorization of $100 million for Turkey for fiscal year 1979, such amount to remain available until expended.

The House bill did not contain a comparable provision.

The committee of conference agreed to the Senate provision and further stipulated that of the total amount authorized for fiscal years 1979 and 1980 for economic support ($198 million), $75 million will be in the form of a grant. This action is taken to help alleviate Turkey's current serious economic difficulties, and thereby strengthen its ability to fulfill its NATO responsibilities.

The conference substitute authorizes an additional $100 million in supplemental fiscal year 1979 assistance from the Economic Support Fund for Turkey. This amount has already been appropriated in the Supplemental Appropriations Act, 1979 (Pub. L. 96-38), to remain available until expended. Both the authorization and appropriation represent supplemental fiscal year 1979 assistance, with the authorization fully effective upon enactment for all purposes of the appropriation already made.

Syria/Jordan actions toward peace settlement

The Senate amendment stated the sense of Congress that Syria and Jordan, to continue to receive economic support funds, should be "deemed by the President" to be acting to achieve further progress toward a comprehensive peace settlement and that the expenditure of the funds will serve the process of peace in the Middle East.

The House bill had no comparable provision. H.R. 3324 had a comparable provision, except that it stated the sense of Congress that Syria and Jordan should act "in good faith" to receive the continued ESF funding, without a Presidential judgment being specified.

The committee of conference agreed to a compromise provision stating that Syria and Jordan should be "judged by the President" to be acting "in good faith" toward the stated objectives.

Regional cooperation

The Senate amendment contained a sense of Congress statement that programs which stress regional development or scientific and technical cooperation "in the Middle East" can contribute in an important way to the mutual understanding that must serve as the basis for permanent peace in the Middle East.

The House bill did not contain a comparable provision. (H.R. 3324 contained a comparable provision stressing regional cooperation "between Israel and its Arab neighbors," as distinguished from "in the Middle East.")

The committee of conference agreed to the Senate provision.

Southern Africa prohibitions

The Senate amendment prohibited use of the fiscal year 1980 Economic Support Fund assistance for Southern Africa for any military or military related purpose.

The House bill did not contain a comparable provision. (The existing section 531(c) of the Foreign Assistance Act already prohibits the use of economic support funds for military or para-military purposes.)

The committee of conference agreed to the House position.

The Senate amendment also permitted a waiver of the prohibition against Economic Support Fund assistance to Mozambique, Angola, Tanzania, or Zambia, when the President determines and reports to the Congress that furnishing such assistance would further "the national interests of the United States."

The House bill did not contain a comparable provision. H.R. 3324 had an identical provision except that the waiver required a Presidential finding that the aid would further "the foreign policy interests of the United States."

The committee of conference agreed to the Senate provision.

Presidential determination on Cyprus

The Senate amendment amended section 534 of the Foreign Assistance Act to earmark $15 million in fiscal year 1980 economic support funds for Cyprus for refugee relief, reconstruction, or other activities consistent with a reconciliation on Cyprus.

The House bill did not contain a comparable provision. (H.R. 3324 contained a comparable provision plus a requirement that the funds may be made available for such activities only if the President certifies to Congress that such activities promote or are consistent with a reconciliation on Cyprus and with progress towards a settlement of the Cyprus dispute.)

The committee of conference agreed to the Senate provision.

CORRESPONDENCE EXCHANGE BETWEEN SECRETARY VANCE AND CHAIRMAN ZABLOCKI, REPRESENTATIVE HAMILTON AND SENATOR STONE ON THE EXTENSION OF U.S. RESPONSIBILITIES WITH RESPECT TO THE SINAI SUPPORT MISSION

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., September 21, 1979.

Hon. CYRUS VANCE,
Secretary of State, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We write concerning the recent discussions among Israeli, Egyptian and American officials regarding peacekeeping ventures in the Sinai peninsula between now and the spring of 1982 and the expanded American role which was apparently agreed upon by all three parties during your meetings.

In order to make it possible to consider this matter during the Senate-House conference on the International Security Assistance Act of 1979, answers to the following questions are essential:

1. Will a final copy of what was agreed to, with all its annexes and understandings, written and verbal, be submitted to the Congress?

2. What precedent will this new arrangement have for the permanent U.N. or multilateral peacekeeping force envisaged after the spring of 1982? Is there a relationship now contemplated between this agreed American presence over the next two years and the envisaged permanent U.N. or multilateral peacekeeping force?

3. What is the exact task of the U.S. peacekeeping monitoring force?

4. What is the nature of the United States undertaking and what new Congressional authority, if any, is needed?

5. What is the duration of the American undertaking,and will it be terminated in the spring of 1982 when the Sinai withdrawals are completed?

6. How will the functions, mandate and operations of the American personnel operating in the Sinai over the next two years differ from their current operations?

7. How many Americans, of what type of profession and background, will be deployed and what will be their relationship to the United States Government and to whom will they be responsible?

8. What precise verification and reconnaissance roles will the United States play and how will the reconnaissance role differ from the present?

9. What will be the relationship of this force over the next two years to the United Nations Truce Supervisory Organization? Is the up to 300-man UNTSO force likely to remain in some capacity? On what will the continued U.N. presence depend?

10. What interrelationship will there be between the agreement for the continued American role in Zones A and B and the envisaged Israeli-Egyptian agreement for the Buffer Zone? What role, if any, will the United States play in setting up, financing, operating or equipping Buffer Zone patrols?

11. What financial commitments have the United States undertaken and what new equipment and or facilities, if any, will be necessary? Will the $12 million authorization be sufficient for the next year and what are the estimated budgetary needs beyond fiscal year 1980? Does the U.S. financial commitment extend only to support American observers and facilities in Zone B?

12. What will be the role of the Sinai Field Mission base camp during the coming two years and on what will that depend?

We appreciate your consideration of this matter. A reply is needed prior to Tuesday, September 25, 1979, if it is to be considered by the conference committee on the International Security Assistance Act of 1979.

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

THE SECRETARY OF STATE,
Washington.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs.
Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEAR MESSRS. CHAIRMEN: I am pleased to provide the attached responses to the questions you submitted in your letter of September 21.

Sincerely,

CYRUS VANCE,
Secretary of State.

[Attachment]

As Stated.

Question 1. Will a final copy of what was agreed to, with all its annexes and understandings, written and verbal, be submitted to the Congress?

Answer. Yes. All agreements and understandings to which the U.S. is a party will be provided to the Congress.

Question 2. What precedent will this new arrangement have for the permanent UN or multilateral peacekeeping force envisaged after the spring of 1982? Is there a relationship now contemplated between this agreed American presence over the next two years and the envisaged permanent UN or multi-national peacekeeping force?

Answer. In his letters to President Sadat and Prime Minister Begin at the time the Egyptian-Israeli treaty was signed, President Carter stated that:

"* * * The United States believes the Treaty provision for permanent stationing of United Nations personnel in the designated limited force zone can and should be implemented by the United Nations Security Council. If the Security Council fails to establish and maintain the arrangement called for in the Treaty, the President will be prepared to take those steps necessary to ensure the establishment and maintenance of an acceptable alternative multinational force."

It should be noted that this assurance comes into effect only with respect to permanent arrangements for final withdrawal, and it was made clear during the September 18–19 talks that any agreements reached there for arrangements during the interim period would be without prejudice to the assurance concerning these permanent arrangements. Secretary Vance agreed that the United States will meet with the parties one year before the beginning of final withdrawal to commence work on the establishment of this force. The Secretary made it clear that our first preference, with respect to permanent arrangements, would be a UN force.

Question 3. What is the exact task of the U.S. peacekeeping monitoring force?

Answer. The United States has undertaken to verify force levels specified in Annex I of the treaty in the area of Sinai west of the interim buffer zone (described as Zones A and B in the Peace Treaty) through:

—increasing the frequency of our present aerial surveillance flights conducted over all areas from which Israel has withdrawn to an average of once weekly;

—on the ground (including by helicopter) inspection tours conducted at least twice monthly;

—additional verification inspections within 48 hours of a request from either party.

The U.S. will report the results of these verifications directly to the parties.

Question 4. What is the nature of the United States undertaking and what new Congressional authority, if any, is needed?

Answer. The U.S. undertaking is presently a proposal which would constitute a binding agreement if it is accepted by all three governments. It has been made clear that we would not proceed without the approval of Congress. The U.S. participation would constitute a peacekeeping operation under Part II, Chapter 6, of the Foreign Assistance Act of 1961, as amended. If funds for this activity are included in the authorization we would be prepared to proceed.

Question 5. What is the duration of the American undertaking and will it be terminated in the spring of 1982 when the Sinai withdrawals are completed?

Answer. The American undertaking is to terminate at the time of final Israeli withdrawal from the Sinai in April 1982, when peacekeeping duties are to be assumed by a UN or other multinational force, unless the parties request its termination at an earlier date.

Question 6. How will the functions, mandate and operations of the American personnel operating in the Sinai over the next two years differ from their current operations?

Question 7. How many Americans, of what type of profession and background, will be deployed and what will be their relationship to the United States Government and to whom will they be responsible?

Question 8. What precise verification and reconnaissance roles will the United States play and how will the reconnaissance role differ from the present?

Answers. SFM's original mission was to provide an early warning capability in the vicinity of the Giddi and Mitla passes. This was accomplished chiefly through the use of fixed manned watch stations and sensor fields located at the approaches to the passes. Our new responsibilities call for a more active type of verification: in addition to intensified aerial photography (one flight per week), there would be inspection tours in the western two-thirds of the Sinai and on-site inspections. This activity will of course require increased mobility, as well as decreased reliance on electronic devices. It may also require some changes in SFM personnel, to ensure that those assigned will have the necessary expertise. Precise operational procedures and requirements for the new role are under study. However, we expect the general composition of the Mission to remain the same: civilian contractor personnel supervised by a small cadre of non-military USG employees. Their number will not exceed the current limit of 200 and will include no military personnel.

Question 9. What will be the relationship of this force over the next two years to the United Nations Truce Supervisory Organizations? Is the up to 300-man UNTSO force likely to remain in some capacity? On what will the continued UN presence depend?

Answer. As stated earlier, the United States would assume responsibility for verification in the areas west of the interim buffer zone, and Egypt and Israel would assume this responsibility for the buffer zone itself. While it was agreed that UNTSO would thus not have direct responsibility for verification in any zone, both Egyptian and Israeli negotiators agreed to put before their governments the proposal that UN Secretary General Waldheim be asked to make UNTSO observers available to be present in these areas and to play a supplemental role. Secretary Vance made it clear the United States strongly favored such a role for UNTSO.

Question 10. What interrelationship will there be between the agreement for the continued American role in Zones A and B and the envisaged Israeli-Egyptian agreement for the buffer zone? What role, if any, will the United States play in setting up, financing, operating or equipping buffer zone patrols?

Answer. The American commitment to a verification role in the area west of the buffer zone is separate and distinct from the Egyptian-Israeli agreements on joint supervision in the buffer zone. The United States will have no responsibility for the buffer zone or for the arrangements made between Egypt and Israel for its verification, nor is there any U.S. commitment to money or equipment for operations in the buffer zone.

Question 11. What financial commitments has the United States undertaken and what new equipment and or facilities, if any, will be necessary? Will the $12 million authorization be sufficient for the next year and what are the estimated budgetary needs beyond fiscal year 1980? Does the U.S. financial commitment extend only to support American observers and facilities in Zone B?

Answer. We believe, subject to completion of a careful review now underway, that the original $12 million authorization will probably be sufficient for SFM operations through FY 80 on the assumption that the SFM base camp can remain at its present location. A fresh submission concerning the SFM will of course be submitted as part of the FY 81 budgetary process. We intend, as in the past, to maintain tight rein on budget outlays consistent with the obligations for verification that we have assumed. The U.S. financial commitment extends only to the support of American civilian observers and their facilities in Zones A and B.

Some expenses will be incurred in support of the weekly aerial reconnaissance operations. Although the increased frequency of aerial surveillance will *not* require an increase in either personnel or equipment in the region, the additional photo-interpretive burden and increased frequency of courier movements are expected to cost an additional $500,000 per year. We anticipate meeting these expenses for FY 80 without additional funding requests.

Question 12. What will be the role of the Sinai Field Mission base camp during the coming two years and on what will that depend?

Answer. Assuming agreement by Egypt, the SFM base camp will remain in its present location and will continue to be occupied and used by SFM until completion of the new mission in 1982, or earlier if the parties so request.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 21, 1979.

Hon. CYRUS VANCE,
Secretary of State, Department of State
Washington, D.C.

DEAR MR. SECRETARY: As Chairman of the Senate Foreign Relations Subcommittee on Near East and South Asia, I have been informed that on September 19, 1979, an agreement was reached between the U.S., Egypt and Israel regarding the composition of peace keeping forces in the Sinai peninsula between now and April 25, 1982. Officials from the State Department have briefed my subcommittee staff as to the measure and role that the Sinai Field Mission and American civilian personnel will have in accordance with this agreement.

Today you were sent a letter by my colleagues in the House of Representatives, Chairman Zablocki of the Committee on Foreign Affairs and Chairman Hamilton of the Subcommittee on Europe and Middle East, which included a list of 12 questions concerning this agreement. They requested a reply prior to Tuesday, September 25, 1979, in order for this matter to be considered by the conference committee on the International Security Assistance Act of 1979. I am attaching a copy of this letter and request that you provide a copy of your response to our subcommittee in conjunction with your response to the House of Representatives.

In addition, I would appreciate your response to the following questions:

Will the American forces be able to withdraw unilaterally should their lives be in danger? Considering Israeli experience with the unilateral withdrawal of U.N. forces in 1967 is the Israeli government satisfied with this arrangement?

If the U.S. personnel detect an Egyptian violation of the limited forces zone, how will the situation be managed?

Your consideration in this matter is appreciated.

Most cordially,

RICHARD STONE.

[Responses by the State Department follow:]

Question 13 Will the American forces be able to withdraw unilaterally should their lives be in danger? Considering Israeli experience with the unilateral withdrawal of UN forces in 1967 is the Israeli Government satisfied with this arrangement?

Answer. The 1975 Agreement which established the Sinai Field Mission specifically stated that the United States could withdraw its personnel if it concluded that their safey was jeopardized. The new U.S. proposal specifically incorporates this provision. (Note that there will be no "American forces" involved, only civilians of U.S. nationality.)

Question 14. If the U.S. personnel detect an Egyptian violation of the limited forces zone, how will the situation be managed?

Answer. The U.S. Mission will report the results of its inspections directly to the parties, normally via the mechanism of the joint Egyptian-Israeli military commission established by the Treaty. Once the results of these inspections have been reported, it is the responsibility of the Joint Commission to determine whether a violation has in fact occurred, and if so, how to deal with it. In the event the Joint Commission is unable to resolve the issue itself, the Treaty stipulates that such disputes should be resolved by negotiation between the two Governments.

It should also be recalled that, in a memorandum of agreement between the U.S. and Israel signed at the same time as the Peace Treaty, it was stated that should we be satisfied that a violation has occurred, we will consult with the parties with regard to measures to halt or prevent the violation, and take whatever remedial measures we deem appropriate.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., September 25, 1979.

HON. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: This is to acknowledge and thank you for your responses to our September 21 letter concerning the recently agreed upon U.S. willingness to continue its presence in the Sinai for purposes of verification of the Egyptian-Israeli Peace Treaty. Because some of the answers to our questions lacked precision, it is necessary to ask the following additional questions:

1. When will all agreements, annexes and understandings, written and verbal, be made available to the Congress? Do you also plan to inform the Congress, formally and or informally, of any agreements, annexes, and understandings, written or verbal, to which the United States is not a party, but that will nonetheless affect the U.S. presence or peacekeeping efforts in the Sinai?

2. You have stated in your response to question 2 of our September 21 letter that the United States "made clear that any agreements reached (at the September 18-19 talks) for arrangements during the interim period would be without prejudice to the assurance concerning these permanent arrangements."

(a) What does this statement mean?

(b) Has a formal U.S. presence as part of the permanent arrangements for implementing the Treaty provisions been ruled out?

3. In response to question 4 of our September 21 letter, you state that "the U.S. undertaking is presently a proposal which would constitute a binding agreement if it is accepted by all three governments." You further state that "the U.S. participation would constitute a peacekeeping operation under Part II, Chapter 6, of the Foreign Assistance Act of 1961, as amended."

(a) What is a "binding agreement" and how is it different from a treaty commitment in this instance?

(b) Should not the U.S. participation in this arrangement be guided by House Resolution 683 (Public Law 94-110) and not by Part II, Chapter 6 of the Foreign Assistance Act?

We appreciate your further cooperation in this matter. A reply to these additional questions will be necessary before the conference committee on the International Security Assistance Act of 1979 can be reconvened.

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEPARTMENT OF STATE,
Washington, D.C., September 26, 1979.

HON. CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs.

DEAR MR. CHAIRMAN: I am pleased to provide the attached responses to the questions you submitted to the Secretary in your letter of September 25.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.

Enclosure.

Question 1. When will all agreements, annexes, and understandings, written or verbal, be made available to the Congress? Do you also plan to inform the Congress, formally and or informally, of any agreements, annexes, and understandings, written or verbal, to which the U.S. is not a party, but that will nonetheless affect the U.S. presence in the Sinai?

Answer. When the proposal has been accepted by both governments and we confirm our own agreement to it, it will be put in final form and copies will promptly be made available to the Congress. If there should be any exchange of letters to supplement this agreement with respect to the areas for which we have undertaken responsibility, these will also be promptly made available to Congress. We do not anticipate reaching this stage before early October. In addition, the Department hopes to be able to brief the Congress as fully as possible on the Egyptian-Israeli understandings on the buffer zone which, while related to our proposal, do not bear on it directly. Since these would be direct Israel-Egypt understandings, it will be up to the two parties themselves to decide how they wish to proceed with respect to disclosure.

There are no other related understandings of which we are aware aside from the treaty or its associated documents.

Question 2. You have stated in your response to question 2 of our September 21 letter that the U.S. "made clear that any agreements reached (at the September 18-19 talks) for arrangements during the interim period would be without prejudice to the assurance concerning these permanent arrangements."

(a) What does this statement mean?

(b) Has a formal U.S. presence as part of the permanent arrangements for implementing the treaty provisions been ruled out?

Answer. The statement means that these are arrangements which apply to the interim period only and do not in themselves determine what permanent arrangements may be made for the period after final withdrawal. With respect to the arrangements for the final withdrawal, the guiding instruments are the treaty and its associated documents, including the President's letter to President Sadat and Prime Minister Begin of March 25, 1979.

The U.S. has agreed to sit down with the parties one year before the beginning of final Israeli withdrawal to discuss these permanent arrangements. We have not thus far gone into the substance of what those arrangements might be. The possibility of a U.S. role in these arrangements has not been ruled out; nor has it been suggested. You will recall, however, that we have gone on record on several occasions to rule out any role for U.S. military personnel in such arrangements.

Question 3. In response to question 4 of our September 21 letter, you state that "the U.S. undertaking is presently a proposal which will constitute a binding agreement if it is accepted by all three governments." You further state that "the U.S. participation would constitute a peacekeeping operation under Part II, Chapter 6, of the Foreign Assistance Act of 1961, as amended."

(a) What is a "binding agreement" and how is it different from a treaty commitment in this instance?

(b) Should not U.S. participation in this arrangement be guided by House Resolution 683 (Public Law 94-110) and not by Part II, Chapter 6 of the Foreign Assistance Act?

Answer. By use of the term "binding agreement," in our September letter, we meant one constituting a legally binding international undertaking. It will be an executive agreement, and, on the international level, there is no difference between the legally binding character of those of our international commitments which have been undertaken by treaty and those which we conclude as executive agreements.

Both are relevant. The U.S. proposal presently before the parties for the Sinai Field Mission role was guided by and designed to respect the views incorporated in H.J. Resolution 683 (Public Law 94-110) which authorized the 1975 Sinai II peacekeeping proposal. The present proposal, however, might be construed as distinct from the 1975 proposal, since it relates to the security arrangements created by the Peace Treaty which will, upon Israeli withdrawal, supersede the 1975 Sinai II arrangements. For this reason, we cited Chapter 6, Part II of the Foreign Assistance Act of 1961, as amended, the later and more general statutory provision, in response to the question concerning statutory authority. In addition, we would have no objection to considering the present proposal as a continuation in modified form of an early warning system authorized in H.J. Resolution 683. In any event, we intend to continue to be guided chiefly by the provisions of that resolution, including the pattern of reporting to Congress.

Clement J. Zablocki,
L. H. Fountain,
Dante B. Fascell,
Benjamin S. Rosenthal,
Lee H. Hamilton,
Lester L. Wolff,
Jonathan B. Bingham,
Stephen Solarz,
Wm. Broomfield,
Ed Derwinski,
Tennyson Guyer,
Dan Quayle,
Managers on the Part of the House.

Frank Church,
John Glenn,
Richard (Dick) Stone,
Jacob K. Javits,
C. H. Percy,
Jesse Helms,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Whitten), to revise and extend their remarks and to include extraneous matter:)

Mr. Diggs, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Whitten), and to include extraneous matter:)

Mr. Mazzoli in five instances.
Mr. Eckhardt.
Mr. Bedell.
Mr. Holland in five instances.
Mr. Anderson of California in three instances.
Mr. Gonzalez in three instances.
Mr. Solarz.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1398. An act to establish energy efficiency standards for industrial equipment; to the Committee on Interstate and Foreign Commerce.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 303. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 7, 1979, as "National Port Week."

ADJOURNMENT

Mr. WHITTEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 11 minutes a.m.), under its previous order, the House adjourned until Tuesday, October 9, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2567. A letter from the Director, Selective Service System, transmitting his semiannual report for the period ended March 31, 1979, pursuant to section 10(g) of the Military Selective Service Act, as amended; to the Committee on Armed Services.

2568. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting recommendations for amendments to the Age Discrimination Act of 1975; to the Committee on Education and Labor.

2569. A letter from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the programing and obligation of funds for relief and rehabilitation assistance to the victims of the March 4, 1977, earthquake in Romania, pursuant to section 495D(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2570. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 1120 (a); to the Committee on Foreign Affairs.

2571. A letter from the Inspector General, Department of Health, Education, and Welfare, transmitting notice of proposed changes in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2572. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Harry R. Melone, Ambassador-designate to Rwanda, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2573. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on regulatory actions to protect the stratospheric ozone, pursuant to section 155 of the Clean Air Act, as amended (91 Stat. 729); to the Committee on Interstate and Foreign Commerce.

2574. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of June 1979, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2575. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

2576. A letter from the Acting Secretary of the Air Force, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to eliminate the requirement that a member of the Armed Forces maintain a household in the United States to be eligible for an earned income credit; to the Committee on Ways and Means.

2577. A letter from the Comptroller General of the United States, transmitting a report on how the Department of Transportation promotes better use of existing urban highways and public transit systems through its urban transportation planning regulations and how urban areas have been carrying out those regulations (CED-79-126, October 4, 1979); jointly, to the Committees on Government Operations and Public Works and Transportation.

2578. A letter from the Comptroller General of the United States, transmitting a report on problems States have in administering their medicare medicaid buy-in programs (HRD-79-96, October 2, 1979); jointly, to the Committees on Government Operations, Ways and Means, and Interstate and Foreign Commerce.

2579. A letter from the Assistant Secretary of the Interior, Assistant Secretary of the Army, and the Secretary of Energy, transmitting a draft of proposed legislation to authorize the Secretary of the Interior and the Secretary of the Army to plan, design, construct, rehabilitate, operate, and maintain hydroelectric power facilities not specifically authorized by the Congress at existing projects under the jurisdiction of their respective Departments; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 27, 1979, the following reports were filed on October 4, 1979*]

Mr. ZABLOCKI: Committee of conference. Conference report on H.R. 3173. (Rept. No. 96-495). Ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 4774. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; with amendment (Rept. No. 96-496). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 5386. A bill to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States (Rept. No. 96-497). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 5288. A bill to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes; with amendments (Rept. No. 96-498). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted October 5, 1979*]

Mr. HANLEY: Committee on Post Office and Civil Service. H.R. 2584. A bill to amend title 5, United States Code, to provide survivor benefits to certain dependent children; with amendments (Rept. No. 96-499). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MOAKLEY:

H.R. 5504. A bill to require persons who manufacture cigarettes or little cigars for sale or distribution in commerce to comply with processing standards prescribed by the Consumer Product Safety Commission which insure that such cigarettes or little cigars will stop burning within a period of 5 minutes after being ignited if such cigarettes or little cigars are not smoked during such period, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI (for himself, Mr. Cotter, Mr. Jones of Oklahoma, Mr. Duncan of Tennessee, and Mr. Vander Jagt):

H.R. 5505. A bill to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 337: Mr. Erdahl.

H.R. 2447: Mr. Bonior of Michigan, Mr. Fauntroy, Mrs. Fenwick, Mr. Guarini, Mr. Hamilton, Mr. Hughes, Mr. Jenrette, Mr. Kastenmeier, Mr. Kogovsek, Mr. Lent, Mr. Markey, Mr. Mavroules, Mr. Mazzoli, Mr. McHugh, Mr. Nolan, Mr. Studds, Mr. Thompson, Mr. Charles Wilson of Texas, Mr. Yatron, and Mr. Anthony.

H.J. Res. 180: Mr. Boland, Mr. Paul, Mr. Guyer, Mr. Symms, Mrs. Holt, Mr. Hansen, Mr. Corcoran, Mr. Cavanaugh, Mr. Marriott, Mr. Lungren, Mr. Dannemeyer, and Mr. Skelton.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

203. By the SPEAKER. Petition of the Joint Interim Committee on Energy of the Arkansas General Assembly, Little Rock, relative to an inventory of energy sources in lands being set aside as wilderness; to the Committee on Interior and Insular Affairs.

204. Also, petition of the National Congress of American Indians, Albuquerque, N. Mex., relative to the proposed windfall profits tax on domestic crude oil; to the Committee on Ways and Means.

SENATE—*Friday, October 5, 1979*

(Legislative day of Thursday, October 4, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. Howell Heflin, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Almighty God, who has given us minds to know Thee and hearts to love Thee, remove from us all that obstructs knowing Thee and loving Thee that we may do Thy will. Break through our jaded and cynical secular lives with a fresh visitation of Thy spirit. May the coming days of fellowship with Thy emissary, John Paul II, bring to this city and to the world a renewed hope of peace and justice and joy among all peoples. May we behold in these events Thy handwriting in the sands of time and steadfastly follow in the steps of Him who was and is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., October 5, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Howell Heflin, a Senator from the State of Alabama, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

FEDERAL FIREARMS LAW REFORM ACT OF 1979—S. 1862

Mr. McCLURE. Mr. President, I am today introducing some legislation which is designed carefully to correct a series of abuses without fundamentally affecting the law which has led to those abuses.

Mr. President, in recent years, the Government and people of the United States have focused considerable attention on the cause of civil liberties as guaranteed by our Constitution. Indeed, many of this Nation's laws have, within the past 15 years, been closely scrutinized and, in some cases, gross illegalities and injustices were found and subsequently reformed.

One such law that has, however, gone unchecked in this effort, is the Gun Control Act of 1968. Passed in haste during a time of high nationwide emotion, the act was unfortunately pervaded with a host of vague provisions originally intended to strengthen current gun statutes. Rather than accomplish this goal, however, these vague statutes led to a series of self-made regulations, which in turn have led to a long list of well-documented but relatively unpublicized civil rights abuses perpetrated by the Government's gun control agency, the Bureau of Alcohol, Tobacco and Firearms.

Perhaps because the emotion-charged issue of firearms and firearms ownership has polarized so many Americans, virtually every civil rights organization has blatantly refused to protest the abuses of BATF. Similarly, Congress has only recently begun to review the issue. The Senate Treasury Appropriations Subcommittee held 2 days of hearings on the matter in mid-July of this year. Based on the startling testimony received at those hearings, as well as documented legal evidence received from individuals throughout the country, it has become abundantly clear that now is the time to rectify the breach of civil liberties caused by this twisting of the Gun Control Act of 1968.

Mr. President, I bring before the Senate today legislation designed to do just this. The Federal Firearms Law Reform Act of 1979 is designed solely for the purpose of statutorily realining those provisions of the Gun Control Act that have led to the greatest abuses. Although I personally favor the total repeal of the Gun Control Act of 1968, this legislation does not tamper with the true intent of the act and, in fact, strengthens the act so that the BATF will spend more time pursuing criminals rather than harassing law-abiding citizens who choose to exercise their second amendment rights. Following is a summary of the major provisions of the Federal Firearms Law Reform Act.

Existing law and regulations do not define what constitutes "engaging in the business" of dealing in firearms or ammunition, and the Bureau of Alcohol, Tobacco and Firearms consistently refuses to issue such a definition. As a result, each year numerous otherwise law-abiding citizens are charged with engaging in the business without a license after selling one or more firearms to undercover BATF personnel. Since the law does not prohibit sales by individuals as long as they are not "engaged in the business," and since BATF refuses to define that act, citizens are at the not-so-tender mercies of BATF agents, who are under pressure to "make cases" to demonstrate activity by the Bureau, and of Federal prosecutors.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Abuses in this area have been widespread. In many cases, arrests are made, accompanied by massive publicity efforts by BATF and confiscation of the individual's firearms, and then no prosecution is forthcoming. The unfortunate individual has no course of action to clear his name, which has usually been prominently displayed in local newspapers. The proposed changes will hopefully eliminate these abuses.

"Engaged in the business" is defined for each type of Federal firearms licensee. For firearms manufacturers, it is any person who manufactures one or more firearms per year for purposes of sale or distribution; for ammunition manufacturers, it is any person whose gross sales of his own manufactured ammunition exceed $1,000 in any calendar year—this provision exempts persons who handload their own ammunition and load limited amounts for friends and neighbors, for which they recover the costs of the powder and components; and for importers of firearms, it is any person who imports one or more firearms in a calendar year; for importers of ammunition, it is any person who imports any ammunition for sale or distribution.

The definition of "engaged in the business" for dealers, which is the crux of the problem, is somewhat more complex. The bill draws a careful distinction between persons who are actually engaged in the business of selling firearms, and private citizens who may from time to time sell, purchase or exchange a firearm, with the latter not being subject to regulation by the Federal Government.

Three elements are included in the definition. To be considered to be "engaged in the business" a person must: First, deal in firearms as a regular course of trade or business; second, do so with the principal objective of making a livelihood and profit through the purchase and resale of firearms; and third, do so on a repetitive basis. These are the elements that distinguish a businessman from a hobbyist in any field, and they are particularly appropriate for the firearms where his collection is located—usually his home—whenever they desire.

The bill will eliminate from the law the concept of a licensed ammunition dealer. Individuals in this category are primarily convenience dealers—bait-and-tackle shops and general stores—who do not sell firearms. There are over 7½ billion bullets sold yearly, and the present recordkeeping requirements for ammunition do nothing but generate paperwork and provide another class of persons for the Government to regulate.

There is no evidence that ammunition recordkeeping has solved any crimes. Both the Justice and Treasury Departments have gone on record in favor of exempting .22 caliber ammunition from recordkeeping because of this, and their statements are equally applicable to other types of ammunition.

It is important to note that these new definitions will not in any way relax the current prohibitions on dangerous criminals possessing or obtaining firearms. In fact, other provisions of the bill which will be discussed later, improve these prohibitions. The bill merely removes Federal regulations from transactions between law-abiding private citizens, thereby insuring that those citizens will not be entrapped by Government agents, for supposedly committing a crime the Government refuses to define until after it accuses a citizen of committing it.

The bill revises the law significantly with respect to gun collectors. Present law provides licenses for collectors of "curios and relics," which are defined by regulations issued by the Treasury Department. A collector is permitted to purchase his "curios and relics," some of which are operational firearms, in interstate commerce via the mail. In return for this limited privilege, he must meet the same paperwork requirements as licensed dealers, and must permit BATF agents to inspect his records, his firearms, and the premises on which his collection is located, usually his home, whenever they desire. The bill revises this to provide the licensed collector the opportunity to collect whatever type of firearm he desires, by eliminating the "curios and relics" provision from the law. Since collectors do not "engage in the business" of dealing in firearms, a new, limited requirement is established for recording their transactions in firearms. Collectors will be required to record the name, address, and other relevant information about purchasers, and maintain it in a bound volume, the nature of which BATF already prescribes from licensed dealers. Collectors are afforded the protections from arbitrary searches discussed below with respect to dealers.

Since collectors, like dealers, must be investigated prior to the issuance of a license, this action should have no law enforcement implications whatever. It will simply reduce Government paperwork and control over private hobbies. The concept of Government regulation of a hobby would normally be extremely difficult to justify, but the ban on mail-order firearms sales to the general public enacted as part of the Gun Control Act of 1968 (and not altered by this legislation) requires some such measure if collectors were not to be forced to abandon their hobby. This legislation serves to insure that the Government is not in the business of telling citizens what firearms they may collect.

The bill amends present provisions dealing with licensing, inspection of licensees, and reports from licensees to eliminate abuses that have occurred and enhance fourth amendment rights of licensees.

The major change in this area is to require Treasury agents to have reasonable ground to believe a violation of this chapter has occurred, and that evidence of this violation may be uncovered, in order to enter a licensee's premises and inspect his records or inventory. This will bring an end to the present practice of inspections bordering on harassment, generally for no cause whatever. It will also serve to move the law in the direction of the recent Supreme Court decision (Barlow against Marshall) limiting the inspection power of the Occupational Safety and Health Administration (OSHA).

There is no good reason for "compliance" inspections. Proper law enforcement can best be served by concentrating resources on cases where there is actual reason to believe a licensee may be violating the law, such as prohibited persons being found in possession of firearms originating with the licensee. In this manner, cases can be made against persons who are committing serious violations of the law. The present system of inspecting licensees merely to insure that their paperwork is in order is a waste of personnel at a time when BATF is seemingly unable to achieve the primary purpose of the law—keeping firearms out of the hands of criminals.

The bill also moves to protect firearms licensees against vindictive actions by BATF personnel. There have been documented instances where charges against licensees have been dismissed by the courts, and the BATF personnel responsible for the charges being filed have subsequently attempted to have the person's license canceled for the very accusations dismissed by the court. In effect, the agency is ignoring the verdict of the courts and placing the unfortunate citizen in double jeopardy, to say nothing of double legal fees.

Accordingly, the bill prohibits the Secretary from taking into account any such charges for which a licensee has not been convicted when making any decisions as to the issuance or revocation of a license.

In order to prohibit a repetition of BATF's attempt at firearms registration by decree, the bill specifies that onsite inspections, as discussed above, will constitute the sole means for inspecting licensees' records.

Finally, the bill amends the provisions of existing law which permit the Secretary to make available to State and local governments any information he may obtain from licensee records, when so requested by those governments. This could conceivably result in names of firearms owners or purchasers being distributed by the Government. The bill restricts this information to details regarding prohibited persons obtaining a firearm, and provides that the Secretary may issue this information upon his own initiative.

Major problems have occurred as a result of indiscriminate seizures of firearms under the provisions of current law. Firearms have been seized that are not even remotely connected with charges being brought against their owner; seized firearms have not been released when the owner is acquitted of charges (in fact, forfeiture proceedings have been instituted in cases where owners were acquitted of the charges on which the seizures were made); and firearms have been seized and no charges have been brought against the owner. In some such cases, the owners have been advised that charges would be filed if the owner attempted legal action to recover his property. Examination of BATF confiscation reports indicate that most firearms so confiscated are not "crime guns," but are expensive rifles and shotguns. Many of these are "retained for official use," including boltaction hunting rifles that have no conceivable law enforcement use.

These cases primarily involve firearms collectors, although dealers are occasionally also so treated. Even in instances where the collector ignores the threats of prosecution and attempts to recover his firearms, there are substantial legal fees involved. The bill accordingly provides that in any case of successful action to recover property seized under the provisions of the Gun Control Act, the judge shall award attorneys fees to the prevailing party.

To further control abuses, the bill specifies that only firearms actually involved in the violation may be seized, eliminating the present standard of "used or intended to be used". Enforcement personnel have generally interpreted this language to mean any and all firearms owned by any person accused of violating the law may be seized. Properly, only a firearm actually involved in an illegal action, such as offering it for sale to a prohibited person, should be seized. The notion that a person accused of a crime must have all of his property similar to that involved in the alleged violation confiscated, presumably on the assumption that he will also use it illegally, is completely foreign to our concepts of justice.

Because of the widespread abuses in arrests and prosecutions under the firearms laws, the bill provides judges with discretionary authority to award attorneys fees in cases that are without foundation or brought in bad faith. While neither this provision nor the other changes being proposed will guarantee an end to such abuse, it will at least reimburse the victims for some of their monetary losses.

Although the additional penalty provisions of the law, requiring an additional 1-to-10 year sentence for anyone who uses a firearm to commit a crime, are apparently being universally ignored by the judiciary, the bill tightens such provisions in the hope that they will be utilized, by insuring that anyone sentenced under these provisions may not be paroled before completing his sentence.

Abuses of the rulemaking authority by the Secretary, particularly his undercutting of the exemption of black powder from recordkeeping requirements, specifically provided by Congress, and the recent attempt at firearms registration by regulation, have resulted in four restrictions on that authority being placed in the bill.

The first specifically prohibits him from issuing any regulations regarding the transfer of firearms records maintained by licensees, or of any of their contents, to any facility controlled by the government, thus eliminating the possibility of any new attempts at "backdoor" registration. The second restriction requires a 90-day public comment period for any proposed regulation dealing with firearms. Present law only requires an opportunity for comment without specifying its extent.

The third, and most important restriction is the inclusion of a legislative veto over any regulation issued with respect to firearms.

The fourth, in response to BATF's decision to ignore congressional action exempting black powder in quantities up to 50 pounds from recordkeeping requirements, nullifies any regulations the Secretary may issue with respect to the retail sale of black powder, manufactured for sporting purposes, in quantities of up to 50 pounds.

These restrictions will hopefully take BATF out of the political arena, leaving the Treasury Department free to administer the law and the Congress unchallenged in its authority to make the law.

The present law is riddled with exceptions almost to the point of being chaotic when it deals with the interstate sale or transfer of firearms. One may inherit a firearm from a person in another State, but may not receive the same firearm as a gift from that person while he is alive. An exception is made for rifles and shotguns if the persons happen to live in adjacent States and the legislature has passed a law permitting sales and transfers between the adjacent States (as all but seven have done).

However, a person traveling two or more States from his home may not purchase or otherwise obtain a firearm, unless he is hunting, in which case he may rent or be loaned a firearm; or unless his gun is lost, stolen, or becomes inoperable while hunting or target shooting, in which case he may purchase a replacement by filling out a form stating that his gun was lost, stolen, or became inoperable.

The bill will replace all this with a uniform standard, providing that any person not otherwise prohibited from obtaining a firearm may purchase a firearm in any State, so long as the purchase is legal under the laws of the State in which the sale is made and the State and locality in which the purchaser resides. All other provisions of law, such as identification of the purchaser and the various recordkeeping requirements, would remain in force.

This change is made for two reasons in addition to a desire for rational laws. First, there is little, if any, evidence that lawfully obtained firearms are involved in any illegal interstate transfers for criminal purposes; accordingly there is no reason for such an arbitrary restriction on transfers by law-abiding citizens. Second, BATF annually publishes a complete list of State and local firearm laws. This insures that dealers will be able to meet the "legal at both ends" requirement proposed in this bill, and removes whatever arguments might exist against such action on the grounds it might undercut State or local firearm laws.

Existing law prohibits anyone convicted, or under indictment for a felony, who is a fugitive from justice, a drug addict, a mental patient, an illegal alien, or who fits in any of several related classifications from possessing a firearm under any circumstances, unless pardoned and specifically authorized to possess a firearm. The bill would change this in two ways.

First, a specified number of offenses, involving actual or implicit violence in their commission are substituted for the blanket term "any felony." Prohibiting possession of firearms by persons whose past history indicates a predisposition to use them on others is only commonsense; however, this objective can be achieved without similarly disabling other persons who were convicted of an offense that did not threaten the physical safety of others. Once these persons have "paid their debt to society" and are presumably rehabilitated, there is no real reason why they should be prohibited from hunting or other legitimate uses of firearms. The crimes enumerated in the bill represent a "best judgment" as to what should be disabling; it is quite possible that other crimes should be added to the list, and attention should be given to this as the bill is given legislative consideration.

Second, the term "under indictment" is dropped from the law. There is no justification for imposing a penalty prior to a conviction. A person must be considered innocent until convicted, and the law in fact does that with respect to firearms licensees, who are permitted to continue operations under their license if charged with a crime until all appeals are exhausted. Similarly, if their license is revoked or not renewed, they may continue to operate until all appeals are concluded. The bill applies a similar standard to ordinary citizens. Current law can easily result in a person being forced to dispose of his firearms, including valuable collections, before he has a chance to defend himself against the charges, no matter how baseless they may be.

Problems have recently arisen due to local officials, particularly in New York City, interfering or threatening to interfere with the transportation of firearms through their jurisdictions. In a typical case, a person would be traveling from State A to State B on a hunting trip and would use one of the New York airports to make a connecting flight. Having his guns in his baggage, he is in violation of New York City's gun control laws, even though his possession of the firearms was perfectly legal in both his point of origin and his destination. And he was transporting them in accordance with Federal regulations.

This is unwarranted interference with interstate commerce, and the bill therefore prohibits any State or local laws or regulations which have the effect of prohibiting such legal transportation, provided that the firearm is unloaded and not readily accessible to those engaged in the transportation. This would in no way interfere with local officials' ability to prosecute anyone for using a firearm in violation of local laws, but would preserve the right of free travel for legitimate firearms users.

This legislation is a reasonable, positive approach to correcting the civil rights abuses of the Bureau of Alcohol, Tobacco and Firearms. Moreover, it will provide clear and definitive direction to the BATF to aim enforcement of the Gun Control Act of 1968 only at true criminals, not law-abiding citizens. I hope my Senate colleagues will recognize the gross injustices and breach of civil rights the enforcement of this act has inflicted on many U.S. citizens and take quick action on passage of this legislation.

Mr. President, I ask unanimous consent that the text of the Federal Firearms Law Reform Act of 1979 be printed in its entirety in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Firearms Law Reform Act of 1979".

TITLE I—AMENDMENTS TO GUN CONTROL ACT OF 1968 (18 U.S.C. 921–928)

AMENDMENTS TO SECTION 921

SEC 101. (a) Subsection (a)(10) is amended by deleting the words "manufacture of" and inserting in lieu thereof the words "business of manufacturing".

(b) Subsection (a)(11) is amended:

(1) by deleting the words "or ammunition" in subparagraph (A);

(2) by deleting subparagraph (B); and

(3) by (i) deleting the words "or ammunition" in subparagraph (C) and (ii) redesignating the subparagraph as "(B)".

(c) A new subsection (14) is inserted after subsection 13, to read as follows; and the following subsections are renumbered accordingly:

"(14) The term 'engaged in the business' means:

"(A) As applied to a manufacturer of ammunition, a person whose gross sales of his own manufactured ammunition exceed $1,000 in any calendar year.

"(C) As applied to a dealer in firearms, a person whose time, attention and labor is occupied by dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of an inventory or firearms. The term shall not include a person who makes occasional sales, exchanges, or purchases of firearms or who sells all or part of his personal collection of firearms.

"(E) As applied to an importer of firearms, a person other than a dealer who imports one firearm in any calendar year.

"(F) As applied to an importer of ammunition, a person who imports any ammunition for sale or distribution.".

(d) Subsection (a)(14) is amended by deleting the words "punishable by imprisonment for a term exceeding one year" and inserting in lieu thereof the words "defined in subsection (a)(20) of this section".

(e) Subsection (a)(20) is amended to read as follows: "The term 'disabling crime' shall mean a violation of chapters 5, 7, 12, 35, 37, 39, 42, 49, 51, 55, 68, 77, 81, 84, 95, 96, 99, 102, 103, 105, 113, 115, and 117 of title 18, attempts at violations of the aforementioned chapters, or any similar crime punishable in a court, except a State offense classified by the law of a State as a misdemeanor and punishable by a term of imprisonment of two years or less.

"Any conviction which has been expunged or set aside shall not be considered a conviction for the purposes of this chapter.".

AMENDMENTS TO SECTION 922

SEC. 102. (a) Subsection (a)(1) is amended to read as follows: "for any person (A) except a licensed importer, licensed manufacturer, or licensed dealer to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport or receive any firearm in interstate or foreign commerce, and (B) except a licensed importer or licensed manufacturer to engage in the business of importing or manufacturing ammunition, or in the course of such business to ship, transport, or receive any ammunition in interstate or foreign commerce".

(b) Subsection (a)(2) is amended by deleting the words "or ammunition";

(c) Subsection (a)(3) is amended to read as follows:

"(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside the State, if such purchase or acquisition of such firearm would be in violation of any published ordinance or law of the State or locality where such person resides".

(d) Subsection (a)(5) is amended to read as follows:

"(5) for any person to transfer, sell, trade, give, transport, or deliver any firearm to any person when the transferor knows or has reasonable grounds to believe that the acquisition of such firearm by such person would be in violation of any published ordinance or law in the State or locality where the recipient resides (or in which its place of business is located if the recipient is a corporation or other business entity); except that this paragraph shall not apply to the loan or rental of a firearm to any person for temporary use for lawful purposes; and".

(d) Subsection (a)(6) is amended by deleting the words "or ammunition" both times they appear.

(g) Subsection (b) is amended:

(1) by deleting subparagraphs (2) and (3) and redesignating subparagraphs (4) and (5) as (2) and (3) respectively; and

(2) by (i) deleting the words "Paragraphs (1), (2), (3) and (4)" and inserting in lieu thereof the words "paragraphs (1) and (2), and (ii) deleting the words "Paragraph (4)" and inserting in lieu thereof the words "Paragraph (2)".

(h) Subsection (d) is amended: (i) by deleting the words "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first time they appear and inserting in lieu thereof the words "any person"; and (ii) by amending subparagraph (1) to read as follows: "has been convicted in any court of a disabling crime";

(i) Subsection (g) is amended:

(1) by deleting the words in subparagraph (1) and inserting in lieu thereof the words "who has been convicted in any court of a disabling crime";

(2) by inserting after subparagraph (4) the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship"; and

(3) by deleting the words "to ship or transport any firearm or ammunition in interstate or foreign commerce" and inserting in lieu thereof the words "to possess, ship, transport or receive in commerce or affecting commerce any firearm or ammunition".

(j) Subsection (h) is amended:

(1) by inserting after the word "any" and before the word "person" the words "individual who to his knowledge and while being employed by any";

(2) by deleting the words in subparagraph (1) and inserting in lieu thereof the words "who has been convicted in any court of a disabling crime";

(3) by inserting after subparagraph (4) the following:

"(5) who, being an alien, is illegally in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who having been a citizen of the United States, has renounced his citizenship"; and

(4) by deleting the words "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" and inserting in lieu thereof the words "to possess, ship, transport, or receive any firearms or ammunition in commerce or affecting commerce in the course of such employment".

AMENDMENTS TO SECTION 923

SEC. 103. (a)(1) Subsection (a) is amended by deleting the words "No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer unless he has filed an application with, and received a license to do so from the Secretary." and inserting in lieu thereof the words "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."

(2) Subsection (a)(3)(B) is amended by deleting the words "or ammunition for firearms other than destructive devices,".

(b) Subsection (e) is amended by inserting before the word "violated" the word "knowingly":

(c) Subsection (f) is amended by inserting at the end thereof the following new subparagraph:

"(4) If criminal proceedings are instituted against a licensee alleging violations of this chapter or regulations promulgated thereunder, and the licensee is not convicted of such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under the provisions of this chapter where such denial or revocation is based on violations alleged in the criminal proceedings.".

(d) Subsection (g) is amended to read as follows:

"(g)(1) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale or other disposition of firearms at his place of business for such period, and in such form, as the Secretary may prescribe. The Secretary, when he has reasonable grounds to believe a violation of this chapter has occurred, and that evidence thereof may be found on such premises, may enter during business hours the premises (including places of storage) of any firearms importer, manufacturer, or dealer, or any importer or manufacturer of ammunition for the purposes of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, or dealer under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such importer, manufacturer, or dealer at such premises. This entry and onsite inspection, based on such reasonable grounds, shall be the sole and exclusive procedure for inspecting such records, documents, firearms or ammunition maintained or possessed by such importers, manufacturers, or dealers. The Secretary may make available to any State or political subdivision thereof any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons prohibited from purchasing or receiving a firearm who have purchased or received firearms, together with a description of such firearms, and he may provide information as to the ownership of any firearm, to the extent such information may be contained in the records required to be maintained by the provisions of this chapter, when so requested by any Federal, State or local law enforcement agency.".

(2) Each licensed collector shall maintain in a bound volume, the nature of which the Secretary may by regulation prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells, or otherwise disposes of a firearm, and may be inspected only in accordance with the provisions of paragraph (1) of this subsection.

(e) Subsection (j) is deleted.

AMENDMENTS TO SECTION 924

Sec. 104. (a) Subsection (a) is amended by inserting after the word "Whoever" the word "willfully".

(b) Subsection (b) is amended by deleting the words "an offense punishable by imprisonment for a term exceeding one year" each time they appear and inserting in lieu thereof the words "a disabling crime".

(c) Subsection (c) is amended by inserting after the words "probationary sentence" the words "nor shall such person be paroled or furloughed before completing his minimum sentence.

(d) Subsection (d) is amended to read as follows:

(1) Any firearm or ammunition involved in or used in any violation of the provisions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States shall be subject to seizure, and upon conviction of the owner or possessor of such firearms or ammunition, may be forfeited. All provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture and disposition of firearms, as defined in Section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under this chapter: *Provided*, That any dismissal of charges upon which such seizure is based, any verdict or disposition on such charges other than "guilty", or any failure of the United States to prosecute such owner or possessor on such charges within one hundred and twenty days of such seizure, shall constitute an absolute bar to such forfeiture, and the seized firearms or ammunition shall thereupon be returned to the owner or possessor.

(2) (A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, may allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States, shall be subject to seizure, forfeiture, and disposition.

AMENDMENTS TO SECTION 925

Sec. 105. (a) Subsection (b) is amended by deleting the words "crime punishable by imprisonment for a term exceeding one year" and inserting in lieu thereof the words "disabling crime".

(b) Subsection (c) is amended by deleting the words "crime punishable by imprisonment for a term exceeding one year" and inserting in lieu thereof the words "disabling crime".

(c) Subsection (d) is amended:

(1) by deleting the words "may authorize" and inserting in lieu thereof the words "shall authorize"; and

(2) by deleting the words "may permit" and inserting in lieu thereof the words "shall permit".

Sec. 106. Section 926 is amended by:

(a) redesignating existing section 926 as section 926(a);

(b) deleting the words "The Secretary shall give reasonable public notice, and afford interested parties opportunity for hearing, prior to prescribing such rules and regulations." and inserting in lieu thereof the words: "*Provided*, That no such rule or regulation may require that records required to be maintained under this chapter, or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established".

(c) inserting a new subsection (b) as follows: "The Secretary shall give not less than ninety days' public notice, and shall afford interested parties opportunity for hearing, prior to prescribing such rules and regulations.".

(d) inserting a new subsection "(c)" as follows:

"(c) (1) Simultaneously with the promulgation of any rule or regulation under the provisions of this Act, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Such rule shall not become effective if within ninety days of continuous session of Congress, one House of Congress adopts a resolution, the matter after the resolving clause which is as follows: "That the ———— disapproves the rule promulgated by ———— dealing with the matter of ————, which rule was transmitted to Congress on ————"., the first blank to be filled with the House of Congress acting, the second blank being filled with the name of the agency issuing the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the date of transmission to Congress.

"(2) (A) The provisions of this paragraph are enacted by the Congress:

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (1) of this subsection; and they supersede other rules only to the extent that they are inconsistent with such rules;

"(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(B) Resolutions of disapproval of such rule or regulation shall, upon introduction, be immediately referred by the Presiding Officer of the Senate or of the House of Representatives to the standing committee having oversight and legislative responsibility for the provisions of this chapter, in accordance with rules of the respective Houses; and shall not be referred to any other committee.

"(C) If a committee to which is referred a resolution of disapproval does not report out such resolution within forty-five days of continuous session of Congress after its referral, it shall be in order for the sponsor or sponsors of any such resolution to move to discharge such committee from further consideration of such resolution, whereupon such resolution is automatically discharged. A motion to discharge is highly privileged in the House, and privileged in the Senate (except that it may not be made after the committee has reported a resolution of disapproval with respect to the same rules or regulations).

"(D) When a committee has reported or has been discharged from further consideration of a resolution of disapproval, it shall be in order at any time thereafter to move to proceed to the consideration of the resolution. The motion is highly privileged in the House and privileged in the Senate. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed or disagreed to.

"(E) Debate on the resolution shall be limited to not more than one hour, which shall be divided equally between the sponsor of the resolution and an opponent of the resolution chosen by the Presiding Officer of the appropriate House of Congress. A motion to further limit debate is not debatable.

"(F) Motions to postpone, made with respect to the discharge from the committee or the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(G) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution shall be decided without debate.

"(H) The Secretary may not promulgate new rules or regulations identical to any rules or regulations disapproved pursuant to the provisions of this section unless the Congress enacts additional legislation with respect to the Secretary's powers with relation to the subject matter of the disapproved rule regulation.".

(e) by inserting a new subsection (d) as follows:

"(d) The Secretary may not prescribe regulations that require purchasers of black powder under the exemption provided in 18 United States Code 845(a)(5) to complete affidavits or forms attesting to that exemption."

Sec. 107. Section 927 is amended by inserting after the words "stand together" the words "*Provided, however*, That any legislation enacted, or any rule or regulation promulgated, by any State prohibiting the transfer of a firearm or ammunition in interstate commerce through such State, when such firearm is unloaded and not readily accessible shall be null and void."

TITLE II—AMENDMENTS TO TITLE VII OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 (18 U.S.C. APP. 1201–1203)

Sec. 201. Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (sections 1201, 1202, and 1203 of the appendix to title 18, United States Code) is hereby repealed.

Mr. McCLURE. Mr. President, I might note that the current Presiding Officer, the occupant of this Chair, is a cosponsor of this measure. I welcome that cosponsorship, along with the one-third of the membership of the Senate that has already indicated their support for this legislation. The present law is a striking abuse of the rights of the American people. I think we need to be acting strongly and swiftly to correct those abuses. I thank the Chair.

Mr. President, I reserve the remainder of my time.

● Mr. DOLE. Mr. President, it seems that for every problem the Nation faces, a new Federal bureaucracy is created, which only exacerbates the problem and imposes added burdens on our innocent citizens: Those very individuals the agency claims to try to protect.

In the field of crime, the bureaucracy's answer is no exception to this general rule. The bureaucratic answer to our gun control problems has been to create the Bureau of Alcohol, Tobacco and Firearms, namely "BATF", a massive Federal agency which rides roughshod over the civil liberties of law abiding gun dealers and owners, while doing little or nothing to stop gun-related crime.

Mr. President, the Senator from Kansas believes that repressive and abusive enforcement of the Gun Control Act of 1968 by the BATF is not the answer to the serious crime problem our Nation faces. Those who support this approach base their beliefs on the false premise that "guns shoot", when, in actual fact, it is people who shoot.

This Senator has received extensive correspondence from constituents of all areas of the country complaining about the abuses by the BATF. This agency seems to eat up tax dollars only in many cases to use repressive tactics in seizing guns for some technical, and frequently unjustified, reason. Activities like these must be stopped at once. Those who support these tactics do so in the name of carrying out the enforcement requirements of the Gun Control Act. Not long ago, I learned of a disabled veteran, David Moorhead of Wentworth, N.H., who was driven out of business by a BATF raid on his premises, because he had allegedly, and I must emphasize allegedly, failed to register a gun he felt to be inoperable. Although this case was dismissed in court, Mr. Moorhead suffered severe financial set-backs and was forced to give up his gun retail business, and relocate to Plymouth, N.H., in order to seek new employment. I shall submit for the Record a newspaper article of September 2, 1979, relating Mr. Moorehead's personal tragedy.

Mr. President, it is abuses such as the one I just mentioned, which I feel must be stopped. The present Gun Control Act has too many loose provisions which enable the BATF to write its own regulations and carry out these regulations without regard to the constitutional rights of the gun dealer and owner.

Mr. President, if we allow one group's constitutional rights to be violated by the promulgation of Federal regulations by an unaccountable group of bureaucrats, we leave the door open to all sorts of abuse.

Accordingly, the Senator from Kansas is pleased to cosponsor the bill being introduced today by the distinguished Senator from Idaho (Mr. McClure). This bill seeks to curb some of the abuses of the BATF by plugging the loopholes in the Gun Control Act—loopholes which have enabled this bureaucratic monster to trample over the rights of law-abiding citizens.

Senator McClure's bill amends the Gun Control Act provisions which deal with the licensing procedures of the law. His bill would help to restore the licensees' fourth amendment rights to be free from unreasonable search and seizure. By requiring the BATF agents to have reasonable grounds to believe that there has been a violation of the recordkeeping provision or other requirements of the act committed by the licensees, the constitutional rights of these individuals will be properly protected.

Mr. President, this provision of the McClure bill will stop the current BATF practice of conducting harassing inspections done in the name of the "compliance" section of current law. With this clarification to existing statute the BATF will have more time and resources to concentrate on fulfilling its only justifiable reason for existence—to keep firearms out of the criminal hand.

The bill also helps to protect firearms licensees against vindictive attempts by the BATF to cancel or refuse to renew their licenses for accusations dismissed against the licensees in a court of law.

Mr. President, the BATF's abuses include not only harassment of law-abiding gun owners and dealers, but also the maintenance of extensive information banks on licensees—information which is currently made available to State and local governments for virtually any reason whatsoever. This practice involves not only potentially unjustifiable invasions of the privacy of such licensees and gun owners, but also is a waste of taxpayers' dollars.

The McClure bill would remedy this situation by restricting the BATF to releasing only that information regarding prohibited persons from obtaining firearms. The bill will further aid in curbing BATF abuses by specifically prohibiting the Secretary of the Treasury from issuing any regulations regarding the transfer of firearms records maintained by licensees to any Government facility. This provision would obviate any possible attempts by the BATF to install a "backdoor" system of gun owner registration. In addition, I would like to commend my able colleague from Idaho for including a provision in his bill requiring congressional veto over any proposed BATF regulation regarding firearms.

Mr. President, people in this country are concerned about crime. They are so concerned, and so skeptical of the Government's ability to protect them from crime, that they feel the need to arm themselves for self-defense. Under current law, these law-abiding citizens are being prevented from legitimately acquiring firearms from a State other than that in which they live. However, this provision of the Gun Control Act is riddled with exceptions which make it virtually chaotic, and in fact does little to aid in preventing criminal acquisition of firearms, while restricting the rights of law-abiding citizens.

Senator McClure's bill would impose a uniform standard, providing that anyone, not otherwise prohibited from obtaining a firearm, may legally purchase one in any State.

In addition to these provisions, the McClure bill clarifies the definitions in the Gun Control Act—definitions which are so ambiguous and so vague as to be subject to varied interpretation and subsequent abuse by the BATF.

Mr. President, the Senator from Kansas is sincerely interested in the gun control issue, and plans to offer some of his own amendments to the bill, which would further restrict abusive BATF activity and which would further protect the rights of law-abiding citizens to own guns.

Mr. President, the Senator from Kansas believes that crime in this country is a serious problem, and that the answer to the problem is not going to be found in vesting extensive powers in a Federal agency. The BATF does little or nothing to solve the crime problem, and seems instead to go out of its way to trample upon the rights of innocent citizens.

In the Judiciary Committee, of which I am a member, we are currently wrestling with the problem of reforming the Federal criminal code. This is where the problem of crime should and must be addressed, not in the area of gun control legislation. It is my intention to offer amendments to the criminal code bill aimed at curtailing crime and protecting society.

The people of this country are tired of big government taking their ever-depreciating tax dollar and spending it only to create bigger bureaucracies, which do nothing to solve the basic problems confronting them—problems such as crime.

Accordingly, the Senator from Kansas is pleased to cosponsor this bill, a bill which will aid in curbing the powers of the BATF and in clarifying the existing gun control law.

GUNSMITH'S CAREER RUINED BY FEDS

(By Peter Harrigan)

WENTWORTH.—On Nov. 12, 1975, federal agents entered the shop of gunsmith David Moorhead, a disabled Vietnam veteran, and told him he was under arrest for secretly possessing a "machine gun."

They took Moorhead in handcuffs to the U.S. District Court building in Concord, where he was put in a holding cell and forced to post a $10,000 bond. From his shop agents confiscated an M14 rifle, a 37mm flare gun and more than 100 firearms.

The agents were from the Boston office of the U.S. Treasury Department's Bureau of Alcohol, Tobacco and Firearms. The charge was possession of an unregistered Title II (automatic) weapon in violation of the National Firearms Act.

To Moorhead, the M14 rifle was a collector's item that he never considered to be a machine gun. To the agents, it made him a potential criminal.

Today, Moorhead stands totally exonerated. He was declared innocent of the charge in 1976 by U.S. District Court Judge Hugh Bownes. When Moorhead recently related his experience to a Senate subcommittee in Washington, the current BATF director was moved to agree an apology was in order and called the case one of "extremely poor judgment."

But for David Moorhead, 32, things will never be the same. His shop went out of business the day he was arrested nearly four years ago. Forced to sell his home in Wentworth, he has moved to Plymouth, where he now drives an oil delivery truck. Gunsmithing remains his first love, but he says he can't afford to start up again, and that even if he did, he would never trust the government.

"I don't think I'd want to go back into business knowing a federal agency can do anything to someone, any time it wants, without even reprimanding the agents who do wrong," Moorhead said.

The story of Moorhead's gunsmithing career begins in Vietnam, where he was hit by eight bullets while serving as a point man for a 1st Cavalry Division unit during the Tet offensive in 1968.

Partially disabled upon discharge, Moorhead trained as a gunsmith through a Veterans Administration rehabilitation program.

The work fit him well since it could be done at home, where he needed to rest during the day, and there was a need for more gunsmiths in New Hampshire.

Moorhead set up his shop next to his home in the small town of Wentworth, and all went well until the fall of 1975 when an undercover agent tried to buy firearms from him without the required paperwork. Not knowing the man was an agent, Moorhead reported him to the local BATF agent in Concord. But during the visit the agent learned that Moorhead personally owned an M14 rifle.

In testimony before a U.S. Senate Appropriations subcommittee last July, Moorhead related how he obtained the rifle and his belief then and now that it was not an automatic weapon.

"I obtained it through some good old Yankee swapping and trading. I traded a canoe for a nice weapon and was taught by the Army that it was a rifle.

"Everything I've ever seen, Army manuals on how to repair it, and literature I've ever read referred to it as a rifle. I never had even the slightest inclination it was a machine gun. I never even saw it fired fully automatic in the service," Moorhead told the subcommittee.

After the first visit from the undercover agent, Moorhead related, the man returned with a friend he described as a collector of military weapons, but the M14 was inaccessible as it was stored beyond a painted floor.

"Then on Nov. 12, (1975), they came to my door in the morning with the local sheriff, the high sheriff of Grafton County, who is a disabled veteran himself. They shoved him to one side, and they came in through the door and said they had a warrant for my arrest because I was secretly possessing a machine gun."

Moorhead voluntarily handed over the M14 rifle when he realized it was what the agents wanted, but they continued to search his home and confiscated a 37mm flare gun which Moorhead knew to be exempt from the law under the BATF's own definitions.

"I said to them, 'Why are you taking that?' And he says, 'Well, I'm not sure if you can have it.' I said, 'What do you mean you're not sure?' He says, 'Well, there are so many laws, we can't expect to know them all.' And I looked at him and said, 'And you expect me to know them all?' And then he told me ignorance of the law was no excuse," Moorhead related to the subcommittee.

While Moorhead was being taken to Concord in handcuffs, Boston BATF agents confiscated more than 100 firearms from his Wentworth shop, many of them .22 cal. target rifles he had cleaned and stored for the winter for a local Boy Scouts of America camp. In his absence his wife Janet couldn't find the records.

Soon after Moorhead went on trial in April of 1976, Judge Hugh Bownes directed that a verdict of innocent be entered and dismissed the case for lack of evidence. Bownes called the entire incident "a travesty."

Bownes apologized to Moorhead in behalf of the government, and expressed hope that through his lawyer the gunsmith could get his federal firearms license restored. But for Moorhead, the acquittal came too late. The BATF still had his stock of guns purchased for the hunting season, plus his records, and he effectively was put out of business.

The Small Business Administration forgave a loan of more than $13,000 it had extended Moorhead, but he still had to auction off his equipment to pay his debts. Altogether he lost about $40,000, Moorhead told the Sunday News this weekend.

Only after Rep. James Cleveland paid a call on then-BATF Director Rex Davis did the agency return Moorhead's gun stocks and the Boy Scout rifles. He never did get back his M14. It was "administratively forfeited," and the Moorheads didn't have the money to contest its loss.

Ironically, the M14 rifle for which Moorhead was arrested reportedly had the selector switch cut welded shut and was otherwise altered to prevent automatic fire.

In testimony before the Senate Appropriations subcommittee, Mrs. Moorhead blamed the incident on "the arrogance of the agents out of Boston." If the matter had been left to the local BATF agent he would have checked with her husband or the local sheriff and the incident would have been avoided, she said. The sheriff, Herbert Ashe, was Moorhead's chief character witness.

BATF Director G. R. Dickerson indicated under questioning that the agents involved in the Moorhead case were never reprimanded. "Under our current instructions that kind of action couldn't be taken," Dickerson told the subcommittee.

Moorhead wasn't the only one BATF New England agents arrested in November of 1975. Fourteen persons were taken in on similar charges, and more than 250 firearms confiscated. Of those, according to Moorhead, only two were eventually convicted. One, he said, was an elderly man who suffered from a bad heart and wanted to avoid the strain of a trial.

Today, Moorhead says it would cost him at least $100,000 to reopen his gunsmith business, money he says he'll never have. He and his wife have two children, ages 10 and 17, and Mrs. Moorhead is enrolled at Plymouth State College.

"I've sort of gone from the frying pan into the fire. I like my job, but it's physically demanding work, and the whole point of the gun shop was to avoid that. The worst part was that when I got arrested we were in the third year of business and just beginning to break even. Who knows, it could have become very prosperous.

"I'm not bitter against the United States. It's my country and I'm very proud to be an American. I'd do what I did in Vietnam again to be free. But I'm very bitter against government agencies at what they did, and what they still can do," Moorhead said.●

The **ACTING PRESIDENT** pro tempore. The majority leader is recognized.

THE SENATE EXPORT CAUCUS

Mr. **ROBERT C. BYRD**. Mr. President, one of the most significant steps that the 96th Congress can take to bolster the U.S. economy is to foster our export performance.

The U.S. share of exports by the world's major free market countries has dropped from 15.4 percent in 1970 to 12.1 percent in 1978. This is a decline of more than 20 percent in less than a decade.

The decline in exports is one of the major factors contributing to the erosion in the value of the dollar.

Moreover, the decline has occurred at the very time that the importance of trade has grown. In 1970, imports and exports amounted to some 8.6 percent of our gross national product. By 1978, they were almost twice that amount—some 15.4 percent of our gross national product.

The growing division between our world trade role and the role of trade nationally is only one part of the overall export picture. The other is our chronic trade deficit. Last month we registered our 39th consecutive merchandise trade deficit.

The reorganization of our trade apparatus—of which I have been an advocate—is clearly something that needs to be done to promote U.S. exports. However, we also need an aggressive national export policy.

We must strive to insure that administration policies and congressional legislative efforts on trade support a strong export policy. In addition, we must insure that policies and efforts in nontrade areas support U.S. exports.

Toward these ends, the new Senate export caucus has been established. I am pleased to be a member of the caucus, which includes nearly three-fifths of the Senate membership. The caucus will seek to promote understanding of what needs to be done to foster our export performance and economic competitiveness.

The caucus can affect the economies of all the States of the Union. In my own State of West Virginia, for example, 1 of every 10 manufacturing jobs is tied to export markets. About $1 of every $12 of farm sales in West Virginia comes from exports. And West Virginia coal production is heavily dependent on export sales.

Mr. President, the development of U.S. export capabilities is one of the keys to the restoration of a strong national economy.

Mr. President, I reserve the remainder of my time. I may need it.

Mr. **McCLURE**. Mr. President, I yield back the remainder of my time.

Mr. **ROBERT C. BYRD**. I yield back mine.

ROUTINE MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 1 hour, with statements therein limited to 10 minutes each.

THE ECONOMY

Mr. **JAVITS**. Mr. President, yesterday's announcement that the September Wholesale Price Index had risen by 1.4 percent (seasonably adjusted)—an annualized average of 15.7 percent—only serves to heighten our disappointment at the dismal failure we have had in curbing inflation. In the face of this continuing double-digit inflation, I must once again bring to the attention of my colleagues and the Nation the stark reality of inflation's heavy impact on our economy and grave danger to our moral fiber as a nation.

The latest news on unemployment, showing no particular change in the figure—which is still unacceptable in size tends when compared with the index of producer prices, which has just shot up to a 5-year high, to confirm the No. 1 critical problem to be inflation.

I have, in previous speeches on the floor of the Senate and in other forums since the spring of 1977, warned the Nation about the dangers inherent in this emerging situation of rising prices coupled with real economic stagnation. The dollar crisis in which we find ourselves again, the severe fluctuations in gold prices, our very low savings and investment rates, and the very real danger of an economic depression are all directly attributable to our inability to show the signs of a real anti-inflation policy. We cannot have a governmental economic policy which continues to "do business as usual." In modern history we have not witnessed such price instability and the uncertainties that it breeds.

While OPEC and its oil price hikes since 1974 must bear a large degree of responsibility for our present inflation problems, many of the problems facing us today—a weakened dollar, stagnant domestic productivity, and prospectively rising unemployment—are the result of fundamental structural weaknesses in our economy and were evident even before the first oil crisis of 1973.

It has taken us years of short-sighted economic policies to find ourselves prisoners to the twin evils of deepening recession and endemic inflation. Unfortunately, we no longer have the unlimited resources or the range of policy options with which to combat these evils and to sustain the economic growth rates of the past.

We must reassess the weapons that we have available in our arsenal to fight inflation. Although their time has not yet come, we cannot rule out even the use of wage and price controls or of selective controls both on domestic credit and debt securities and on certain international capital movements as part of a more comprehensive anti-inflation program.

As a nation we simply cannot afford another decade of crisis containment policies where we shift from problem to problem without developing a consensus or an overall strategy to achieve clearly defined long-run goals.

The elements of such an overall strategy are known and have been discussed by myself and many other leading economic spokesmen for some time. We must act to implement such a program as I am about to outline because the American people in response to high rates of inflation are quickly adjusting their expectations and are consuming more, saving less, and turning to speculation. The skyrocketing price of gold is just another indication that people all over the world, including many Americans, no longer have any confidence not only in the dollar but in all paper currencies. They are investing rather in such nonproductive commodities as gold, silver, and even art.

What we need today is more than just a recognition of the problem by this administration; rather, we need an administration that will put into place programs that will change this inflation mentality which is beginning to permeate the American people. Such a policy will neither be glamorous nor will it result in an instant diminution of the inflation rate. The most important contribution that we in this body can make to the development of an economic consensus in this country is to demonstrate our awareness to the President and the administration that they will have our support if they put into place an overall program dealing with these structural problems. Such a policy must include:

First. A productivity drive that will offset the distortions that inflation ravages upon the Nation's tax structure. We must provide incentives that will increase the rate of capital formation and that will permit a realistic recovery which takes into account inflation, for business of the costs of replacing capital plant and equipment. We must provide incentives to stimulate new research and development spending through tax credits. Furthermore, we must encourage an increase in personal savings and investment in order to improve the ability of Americans to use their own incomes and the fruit of their labor.

Productivity will also be spurred by the institution of additional tax incentives for employment, targeted job training programs, particularly those that encourage greater linkages between the classroom and the workplace, and labor-management committees, which will improve the climate at the industry level and will reduce tensions between labor and management in noncollective bargaining aspects of the job situation.

Second. We must continue our efforts to launch a successful export drive. The depreciation of the dollar over the last 2 years will help our exports, but we must continue to build and strengthen the development of an export mentality in the U.S. private sector. At the Government level, we must weed out the disincentives to exports by insuring that regulation, no matter how well intentioned, does not overly burden our exports. Taken together with a productivity drive, an export drive will insure that the newfound competitiveness of U.S. industry can be translated into new markets abroad.

Third. We must review our trade laws to insure that imports provide the competition in our domestic market to U.S. products necessary to insure the fairest prices. While we must continue to insure that we have fair international competition, we cannot let this concern lead us to arbitrarily insulating our markets from fair competition but lower-priced products. In the long run, our economy will be strengthened if we coupled freer trade with the implementation of effective adjustment assistance programs that will train U.S. workers displaced by import competition to assume jobs in the emerging sectors of our economy. We must also review our agricultural laws to insure that the protection given our farmers has the least inflationary impact on consumers.

Fourth. While we cannot expect to change how the international monetary system operates overnight, we must include such a restructuring as part of a gradual, long-term policy to deal with inflation and dollar instability. The International Monetary Fund (IMF) meeting in Belgrade must result in an agreement among the world's monetary powers to begin to control the diversification process that is now underway in both the official and private foreign exchange markets away from the dollar and into other currencies. Central bankers cannot close their eyes to this process. The substitution account that is being discussed is an important first step; and while there are many outstanding technical issues, which have led many to recommend abandonment of the substitution account, I continue to believe that it must be established. While such an account in the IMF will not resolve all the problems facing the monetary system, it is an important first step toward an overall restructuring of the system.

Central bankers must also get control, through greater supervision of their banks and their foreign subsidiaries, and the use of regulatory measures available to them, of the monetary expansion inherent in last year's 25-percent increase in the Eurocurrency market. The IMF must be given broader powers to instill better discipline in their member countries, especially the nonoil importing developing countries facing large deficits. Because of the relative liquid state of the Eurocurrency market, countries are avoiding undertaking necessary internal discipline; this situation makes it increasingly important that a new, more formal relationship be developed between the IMF and the commercial banks.

Fifth. In the immediate future, we must address the question of whether or not the U.S. Treasury should continue to sell gold. By my rough calculation, the loss to the U.S. Treasury from gold sales since 1975 has been approximately $2 billion; and, even as important as the dollar loss to the U.S. Treasury is the fact that the other industrialized nations apparently do not share our objective of demonetizing gold; and, as a result, our gold sales may be only exacerbating the present gold rush. Therefore, it is a serious question whether we should not suspend our gold sales until the gold and other commodity markets have once again stabilized or until the other industralized nations join us in selling from their gold stocks.

Sixth. Our concern about inflation cannot overshadow the present and prospectively worsening problem of unemployment, which bear so heavily on youth and on minorities and those newly entering the labor force. We must have in hand a highly targeted and innovative Government program should the brakes be applied to tightly on the economy.

Presently the Federal Reserve Board's policy of tight money and high interest rates is the only anti-inflation game in town; and the foreign exchange markets are watching the Fed's every move very closely. In this climate, Chairman Volcker may see no choice but to continue that policy.

The immediate implementation of an overall strategy similar to the one that I have just outlined would, I believe, permit the Federal Reserve Board to loosen monetary policy. It is critical that we move quickly in this direction for if not, continued tight monetary policy will plunge this Nation into the economic slump about which I have been worrying my colleagues for these past 30 months. Such a worldwide slump—even a depression—is the real danger inherent in our inability to fight inflation. To avoid such a situation is the major challenge facing the U.S. public and private leadership today.

ORDER OF BUSINESS

The **ACTING PRESIDENT** pro tempore. The Senator from Colorado is recognized.

Mr. **ROBERT C. BYRD**. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. ROBERT C. BYRD. Mr. President, under the order, Senators may speak up to 10 minutes. I ask unanimous consent that they may speak up to 30 minutes during this period and that the period not extend beyond 2 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR SUBMISSION OF MATERIAL FOR THE RECORD UNTIL 4 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 4 p.m. today to submit statements, bills, and reports for the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ECONOMY

Mr. HART. Mr. President, before I make my remarks, I congratulate the Senator from New York (Mr. JAVITS) for his usual thoughtful analysis of one of the major problems that faces our society, but even more—which is characteristic of him—for the concrete and imaginative solutions to those problems.

I thank him very much for his consistency and approach to these very serious economic problems.

Mr. JAVITS. Mr. President, I appreciate that very much, and I thank the Senator for his comments.

SPENDING FOR NATIONAL DEFENSE

Mr. HART. Mr. President, I thank the majority leadership for their efforts in the last couple days in focusing the attention of the Senate on an equally important problem in the long-range future of this country, and that is the national security policy.

In the course of beginning to debate this matter, hearings have been held on the proposed SALT II treaty; and over the past number of weeks, attention has focused increasingly on the question of defense spending.

A couple of weeks ago, the Senate considered a proposal for percentage increases over the next 3 years in defense spending. We passed those measures—a 3-percent increase in 1980, a 5-percent increase in 1981 and 1982.

Unfortunately, as we project the debate on these issues over the next couple of weeks, there will be a lot of nonsense about what actually constitutes strong national defense; and in that connection, I would like to suggest that what I believe is in the interests of this country is an effort to use the discussion of the SALT II treaty and what our proper national security role is to focus on the possibility of constructing, once again, a consensus around national defense.

This is an issue with which I have been particularly concerned, as we look back over the last decade or decade-and-a-half, and the failure of consensus on a number of issues, but particularly as to what our proper national defense should be.

Because of our involvement in Southeast Asia, there have been two camps that have evolved in this country, and those camps have been represented very well, I think, in the U.S. Senate and in Congress.

One camp has been represented by those who think we have to spend more, and they have equated increased spending with stronger defense. Obviously, to a certain degree, that is true, but it is not inevitably true. There is a point beyond which merely spending more money does not make this country stronger.

On the other hand, many of those who opposed our involvement in Southeast Asia equated less spending with a strong national defense, that we were wasting money, that there was a lot of fat, and that the way to approach national defense was to attack specific systems.

This has had the effect of dividing the country along the lines of increased or decreased spending, which has been the framework of the debate about national security issues for the last 15 years.

What we will have to do—and I think the Senate of the United States can lead—is to try to develop a consensus between those two poles and get away from this question of quantification as the sole measure of whether we are stronger or weaker. We have to look at the quality of our national defense, not merely the quantity.

I think the Senate of the United States does not do itself or the American people any good by approaching these very important issues about new strategic systems, about expansion of our conventional forces, about All-Volunteer Forces, merely in numerical or quantitative terms. We have to look at the quality of what we are doing.

I propose the approach that "better is better"—not merely better is more or better is less, but better is better. What does that mean in concrete terms? I suggest that it means an intelligent definition of our long-term strategy and specific military missions necessary to fulfill that strategy.

We do not have that debate in the Senate. We debate the B-1 bomber; we debate the nuclear aircraft carrier; we debate an All-Volunteer Force. But we almost never debate what this country's long-term strategy is and what military missions are necessary to carry out that strategy.

I think "better is better" means selecting weapons to implement the strategy, letting the weapons systems flow from what our strategy is, what the missions are to accomplish that strategy, and then selecting the weapons systems necessary to carry out those missions.

Instead of giving every defense interest its customary bureaucratic slice of the pie, we debate how big the pie should be; and after we have made that decision, as to whether it should be 3 percent bigger or 5 percent bigger or 3 percent less, the military bureaucracies move in and carve up the pie, with little thought of the long-term strategy and mission I have suggested.

I think it means considering and exploiting innovative military concepts and technologies. We are the leaders of the world in terms of military technology. We are not exploiting that. We are letting ourselves fall into the trap that a 5-percent increase in defense makes us stronger, without looking at whether that 5 percent is being utilized properly.

It means focusing less on management efficiency in the Pentagon, which has been the hallmark of the critics of the Pentagon budget over the last number of years, and concentrating more on battlefield effectiveness.

We can buy and manage the most elaborate technical weapons systems procurement in the world; and if those weapons are not operating 50 percent of the time, as many are not in NATO and other parts of the world, then we are not effective in battlefield terms. I think the Senate should involve itself—not just the Armed Services Committee but the Senate at large—in that kind of consideration.

I think international security means the advancement of the most creative and imaginative officers who have an understanding of modern warfare concepts and doctrines.

Specifically, what kind of force structure is necessary to implement a progressive defense policy for the 1980's and 1990's for this country?

In my judgment, it means a much more immediate and dramatic expansion and reconstruction of our maritime capabilities. Since the end of World War II, we have considered ourselves a continental power, connecting ourselves with Europe and, naturally, with our NATO allies, as we should. But we have done so at the expense of a very important fact, and that is that we are an island Nation, dependent on the seas for trade and commerce—specifically imported petroleum—and we are very aware of the implications of that.

We have neglected our dependence on seapower to supply and support our NATO allies. Our security, as this century ends, will depend increasingly on our naval capabilities in the Atlantic and Pacific areas.

I believe we have to reform our ground force doctrine and structure. We must move much more rapidly to mechanization and increased mobility for our Army and Marine Corps. We have to take increased steps to increase our overall communications capabilities.

We have the best weapons systems in the world and the best fighting forces. If they cannot communicate with each other, if our control mechanisms and command structures are not adequate to fight World War III, then we are weaker rather than stronger, in spite of the fact that we may have spent 5 percent more.

I think there has to be a serious increase in our intelligence collection capability, technological and human.

I think, also, as I have indicated before, we have to exploit our superior technology in new ways. We have to develop weapons which are not only more powerful than our opponents', which has been the hallmark and standard before, but which are also easier to maintain, more reliable, and affordable in larger numbers.

It does this country no good to have the best fighter aircraft, the best aircraft carrier, the best tank if it is broken those who feels that there is no larger purpose in this Senate than the limitation of nuclear weapons. It is the ultimate responsibility, the only serious, indeed, the only truly serious, thing we deal with. But we are not going to get such a limitation if the price of getting to the limitation of nuclear arms is, among other things, a vast escalation of nuclear arms. I would say that is continuing to happen.

When we proposed SALT to the Soviet Union in 1967 at Glassboro, the Soviets had 700 warheads; the end of SALT II they will have upward of 12,000. Nevertheless, people in the White House, who suppose that the public is incapable of noticing such things, simply say that without SALT they might have even more, when the relevant fact is that with SALT we are getting to the point where the Soviets will have four warheads for every county in this Nation, and we shall have four for every rayon in theirs.

The point I wish to make is that this agreement is never going to survive a series of pretend accommodations. "I pretend to be for an increase in the defense budget because I know you will vote for SALT if I do." "I pretend that I am not going to let the social programs be crushed in consequence, but I really do not mean that." "I will say that I am for a nuclear weapons system, which I am actually not for."

We are going to have to open up our minds and be candid here if we are to get some agreement.

I am for increasing defense spending, but I am not willing to do it by wiping out the social programs.

Mr. HART. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. HART. First of all, the Senator from New York and the Senator from Colorado have discussed the relationship of SALT to the pressure for increased defense spending. It is the conviction of the Senator from Colorado that the pressure for arbitrary percentage increases in defense spending would have been present whether or not we were considering a SALT treaty. It turns out that those who have taken the lead in urging those increases have linked the response of the administration and this body to that initative in connection with their support for the SALT treaty. I do not think one can blame the SALT treaty for that. The SALT treaty is not designed, nor is the SALT process designed, to eliminate the demand of Senators or anybody else for increases in the defense spending, and I think the Senator points up an irony, but not a logical connection.

Mr. MOYNIHAN. The Senator is sufficiently immune from the pathetic fallacy of blaming the treaty for everything. It is the people who have signed the treaty and who are trying to get it ratified whose behavior I find less than reassuring. They will promise anything. It would be one thing for the President to say, "I no longer think what I thought, I have changed my mind," but he has not said this at all. He just said, "If you want to hear me talking about an increased budget, I will do that for you."

What I wish to make clear is that I want candor and I do not want nuclear annihilation.

Mr. HART. Mr. President, will the Senator yield for one more point? In defense of the President of the United States, in campaigning for the Presidency there is a broad sense on the part of the American people—it is a little like those who want a balanced budget but also want their favorite programs—there are two senses on the part of the American people where our national defense is concerned. One is somehow we are falling behind, and the other is there is a lot of waste in the process of catching up. It seems to me it is a very popular political device on the part of those running for office, not just on the Democratic side, to say, "When I am President of the United States, I am going to eliminate that waste in the Pentagon," and somewhere in the $125 billion there are a few billion being thrown away.

Mr. MOYNIHAN. The Senator is generous to the President. I would like to remark that when I ran in New York State I had a constituency which was, and indeed still is, a lot more susceptible to those views than the Nation as a whole. I said then that the next President of the United States, no matter who he is, is going to increase the defense budget.

Mr. HART. Is or should?

Mr. MOYNIHAN. Is; I said "is."

I see the Senator from California and the Senator from Wyoming are on the floor.

Mr. CRANSTON. I appreciate very much the Senator from New York's statement, first, that he is more dedicated to the cause of avoiding nuclear war than to any other. I know that is his feeling, and I totally share that feeling. I believe the Senator from Colorado does likewise, as do other Senators.

We have many, many problems, but if we fail to resolve the problem of nuclear war, the other problems may not bother us.

Mr. MOYNIHAN. They are moot.

Mr. CRANSTON. They may not bother us, they are moot. So we do have to come to grips with how we avoid nuclear war and what it takes in terms of a total policy for our country to meet that goal.

The Senator from Colorado, I think, spoke very wisely about not just spending money but figuring out defense missions and improving, in whatever way we can, the true strength, not just the dollar expenditures, of our defense efforts. He said we should outthink rather than just to outspend the Soviet Union, and I totally agree with that concept.

To place missions as the key in considering the defense budget is very sound, much sounder than just thinking about dollars.

I think we have to go back a few further steps. We should think about foreign policy in relation to what we do in the military programs and policy. Beyond that we should think of national security and all that that means. Further, we should think about the national interest, and that requires a sound foreign policy and a sound defense policy.

It also requires what the Senator from New York was talking about, a sound social policy. If we have social unrest, wasted resources, and a waste of human talent, then we will not have a sound country, we will not have a sound economy, and we will have a harder time defending ourselves if we are directly challenged. We have to take all of that into account.

Considering what we can do with our limited resources for national defense, for peace and for domestic tranquility and the well-being of the American people—which are all part of one package—I greatly respect the Senator from New York for stating that we should be sincere about whatever agreement we may enter into. If we develop a consensus, we had better understand exactly what we are doing and what we mean by all of this.

A number of factors present us with the whole problem—the dire dangers that we and the entire human race face because of the nuclear threat; the danger of nuclear war generally; the responsibility we have, therefore, to deal with the SALT treaty; national defense on our domestic needs; and the fact that we have inflation and budget deficit.

Out of this I hope we and other Senators and our constituents and leaders in the country can work for a consensus that may lead to an increase in defense spending and in support for greater reductions in nuclear arms. The Senator has noted to me privately and, perhaps, he did publicly today that usually I wind up not supporting increases, and I often try to bring about decreases, although that is not my total position.

Mr. MOYNIHAN. That, I think, I said privately. It is out now.

Mr. CRANSTON. I grant publicly that is my position. I have looked at individual weapons systems and I have looked at individual issues, and usually I vote for less rather than more. But I am prepared to vote for a reasonable increase on the basis that we need it not just for SALT, but for our national security, if that can be done in the context of firm instructions to our SALT III negotiators to seek deep cuts. I tend to believe, and I think there is some evidence to substantiate the belief, that the Soviet Union would like to get serious about such cuts now that we have gone through the steps of SALT I, SALT II, and now on to SALT III.

The Senator from New York has suggested a way to tie all that together. I believe it should be tied all together, but not necessarily the way suggested by the Senator from New York. Meanwhile, we must do all we can to meet our domestic needs, seeking to do what we can to arrest inflation and to balance the budget.

If we can tackle all those problems in all those dimensions, we may be able to develop a national consensus that can be of very great significance.

Mr. HART. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. HART. Will the Senator from California, who has been in this body much longer than I, agree that we have been too deeply divided over the past number of years? I would say roughly 15; perhaps the Senator has a different figure, but from the beginning of our involvement in Southeast Asia; but gen-down half the time, and if we cannot afford enough numbers of them. What I am suggesting is to use the technological advantage to expand the numbers and make those systems more affordable and more operable more of the time, and these are the kinds of things that I mean when I talk about focusing on quality and not just quantity.

I think the Senate has to begin in the process of the SALT debate to consider the details of the kind of national security structure we are forming, whether in fact it is maintainable, whether in fact it is operable, whether in fact we have the best officers, exploiting the best command control and communications systems to make those defenses work, and all of the money spending in the world is not going to solve these problems if it is not well spent, if it is not wisely spent.

In conclusion, Mr. President, I think we have to outthink our opponents and not just try to outspend them.

We fought World War II and World War I because we had a greater military and industrial base than anyone else that we were facing, and we just overwhelmed our opponents, whether Germany or Japan, by the sheer force by our industrial base. We cannot do that with the Soviet Union, and we might as well give up trying. What we have to do is outthink the Soviets and then the United States will be stronger and not just by adding these arbitrary increases in spending.

Mr. PROXMIRE and Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. MOYNIHAN. Mr. President, I understood that the Senator from Colorado and I were going to have a colloquy. If the Senator wishes to proceed before us, that is all right.

Mr. PROXMIRE. I was only going to take a short time. If the Senator is going to have a consecutive colloquy, I am certainly delighted to yield for that purpose.

Is the Senator going to take about an hour? If so, I shall be back at 12:30 p.m.

Mr. MOYNIHAN. I thought it might take perhaps 20 minutes.

Mr. PROXMIRE. I shall come back later. I thank the Senator.

Mr. MOYNIHAN. The Senator is most gracious.

Mr. President, I should like most emphatically to congratulate the Senator from Colorado for the statement he has made. It is, indeed, only the most recent of the observations he has brought to this Chamber which refocuses the whole question and reorient us in a time when we have quite exhausted the possibilities of argument and elucidation from past premises.

I wish to say that I think he is right in what he has said and only wish to further enlarge the context in which he says it and to try to be more explicit. We must make it clear that it is a large event that is taking place.

This Chamber has been dominated for the last 15 years, in the main, by majorities of persons opposed to military expenditure. It's partly on this basis, and partly on the premise that if the United States has too much military capacity it will have too much temptation to use it, that defense expenditures have declined.

It was the commitment of the people who, in the main, lead our party that it should decline further. The President ran for office pledging to cut the defense budget $5 to $7 billion per year, and he did not say we would stop such that in fairly short order there would be no defense budget. That was his conviction, and the conviction of those around him. Then came SALT and a curious thing happened.

It was the priority that SALT had in this President's mind that led him to change altogether his position; whether he has actually changed his views however, we have never heard, because we no longer hear that those were, in fact, his views. Nonetheless, it is clear that he has changed his position and that he is requiring all those who support him in this matter to change their position also. To put it simply: the doves are in a hawk trap. They are told they have to get into this trap, which is SALT, and it will protect them from the thing they most fear. But make no mistake, they are now in a trap.

This was nicely described by the senior Senator from Massachusetts last January in his comments with respect to the 1980 defense budget. He said first, that in the strategic field we should not reorient our defense posture more to need fighting a nuclear war than deterring it, which is exactly what, in his view, the MX will do. And second, that we should not develop weapons systems that increase the threat of nuclear war, which is exactly what he also presumed the MX system will do. I know the Senator from California thinks this, and I believe that the Senator from Colorado thinks also. Weapons should not be bought solely to appease the opponents of SALT. They suggest that the President is doing this.

We learn in this morning's papers that the President will submit a 5-year defense budget to us which will show large increases. The National Security Adviser has pointed out that in 7 out of the 8 years of the previous Republican administrations defense spending declined in real terms; but for the first time during peacetime in the postwar history of America, we find that, under President Carter, defense spending has gone up and we will soon learn it is going to rise further still.

The junior Senator from South Carolina made an interesting comment in the Chamber just a few weeks ago when he said rather than having a disarmament or arms limitation agreement, we had in contrast a rearmament hearing, a rearmament conference and a rearmament treaty between the American people and our leadership.

That is what he says has come out of the SALT debate so far—a rearmament treaty between the American people and its leadership.

I ask two things, and I hope the Senator from Colorado will comment though I address both him and the Senator from California. The first thing I wish to know is: Is it only just the doves in the hawk trap, but liberals too, who are going to find their position altogether undermined in this Chamber because of the price they are paying in this process?

I hope there is not a person in this Chamber who regards the Senator from Georgia more warmly than I; I can imagine there are many who feel as warmly as I do, but I hope none feel more warmly. Yet I remember very much last year when the budget was considered, that the Senator from Georgia, with the Senator from Florida, introduced a bill to limit the budget of the Federal Government to a declining proportion of GNP—like the ceilings in one of those old mystery movies that starts coming down.

And now we have agreed on the amount, also on the insistence of the Senator from Georgia, and which the President seems happy to agree with, that the defense budget of the United States will rise continuously.

Will every social program in the last 20 years be crushed between that declining budget ceiling and that rising floor for defense?

I have not heard the Senator from Georgia on this point.

If the Senator from Colorado wishes to speak I am happy to yield to him.

Mr. HART. Mr. President, first of all, I quarrel with the historical analysis of the Senator from New York of what has occurred in this Chamber.

It was in fact the Senate, together with the House of Representatives, which from the period of 1964-67 through 1974 authorized and appropriated $350 billion taxpayers' dollars to prosecute the war in Southeast Asia.

Mr. MOYNIHAN. The Senator from New York does not contest that. That is obviously so, but recently.

Mr. HART. All right, recently.

Second, without making remarks in response to the last question as to partisanship, I think there are a number of individuals in both parties, but I would say particularly on the other side of the aisle, who are embarrassed by their own platform which seems to consist of three fundamental principles: A balanced Federal budget, a massive tax cut, and substantial increases in defense spending.

Mr. MOYNIHAN. The Senator would surely not confine that view to that side of the aisle.

Mr. HART. I did not.

Mr. MOYNIHAN. He did not.

Mr. HART. But wherever that program comes from it is obvious to all who know anything even fundamentally about the Federal budget that no two of those things are compatible, let alone all three.

The Senator from New York is precisely correct, and I think, as I tried to point out in response to the proposals of the Senator from South Carolina, it seemed to me, that almost all the people who are supporting a 5-percent increase in 1981 and 1982 were also those who had voted for the balanced budget proposal.

Mr. MOYNIHAN. And did again the next day, sir.

Mr. HART. Exactly.

Mr. MOYNIHAN. I thank the Senator from Colorado, and I am particularly happy to see the Senator from California on the floor because I am one of erally a time where there has not been agreement about what the long-term beliefs and interests of this country are in terms of our foreign policy supported by our national security, and both underpinned by our strategy, by our weapons systems, and that in fact the polarization between those who have voted for dramatic increases in spending and those who have voted for dramatic cuts in spending has weakened our country rather than strengthening it?

Mr. CRANSTON. I agree totally. We need a consensus. We should be able to develop one not only so that we will know our own direction, know how to direct our resources with a common understanding of our purposes but so that our friends and allies will have a growing sense of confidence about our certainty, about our own principles and purposes, and so that our adversaries in the world will realize we have achieved a purpose and a strategy that have been lacking for too many years.

Mr. MOYNIHAN. May I say I believe that this whole debate can be the occasion of our coming together. It can be used as a step in that direction, and indeed it can help us further avoid what have been almost irreconcilable differences both in Congress and among the people which has resulted in recrimination and bitterness.

Mr. HART. What the Senator from California means, if I understand him correctly, is that if this treaty fails, the possibility for forming that consensus is damaged very severely, with its very important consequences of further misdirection of funds away from increasing the quality of our conventional forces, and also, I think, of any possibility of a national consensus in this country about what our national security policy should be. That is what I fear the most; I think the poles would be that much farther apart.

Mr. CRANSTON. We must also be concerned with the shattering of faith on the part of our adversaries—with whom we are seeking to contain the dimensions of the conflict—that we are a people who can be confidently dealt with. This is important as well as the shattering of our allies' confidence in us.

Mr. MOYNIHAN. I am happy to see on the floor a colleague with whom I have had a working relationship with whom I do not always agree, but whose views I always welcome, the Senator from Wyoming (Mr. WALLOP).

Mr. WALLOP. I thank the Senator from New York. I will say that while I do not necessarily share the views of Senator HART as to the ultimate effect of the SALT treaty, because I think we have probably achieved the maximum that could be achieved by such means. Nevertheless, I welcome the debate this morning, because I think the American public would be totally distressed to find out that for the billions and billions spent on defense, there has not been a nickel's worth of defense, but only offense, under a scheme going back to Secretary McNamara, which proposes to hold the civilian populations of both countries hostage to the possibility of a holocaust. Now I think technology has caught up to the point where we can both look at real national defense instead of antiballistic battle stations, and seek to defuse for a little while the situation we now find ourselves in.

I have given hundreds of speeches, and the first question always is, "All right, you get your laser antiballistic battle stations up, and what happens if someone finds an effective offense against them?"

This is the situation we face every day in our lives, because we need to heed the demand that we have refused to heed to date.

If we could find a position where we could release each other from hostage, I think we could debate how to lower the tensions between us. But we will never do that as long as we subscribe to this theory of mutually assured destruction or MAD which I think is the most destructive acronym I have ever heard in my life.

Mr. MOYNIHAN. If the Senator will yield, that term was originally "assured destruction," and then Donald Brennan of the Hudson Institute added the third word for the purpose of developing the acronym.

Mr. WALLOP. I think much devolves around the responsible debate started here this morning.

I am fearful lest, in the debate over Cuba, we get into a slingshot effect: You get that rubber band stretched tighter and tighter, and if there is not some solution to release the tension. I am afraid it will really jolt everybody over the real issue of SALT, which is, where will we be at the end of it and what can we do in the meantime that is clearly in the interests of world peace?

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. WALLOP. Yes.

Mr. CRANSTON. I think it is very constructive to have the acting minority leader participate in this debate. He is well aware of our need for a very strong defense, and is an advocate of that, but he recognizes that defense spending has to be considered in the context of our entire national effort and purpose.

I am impressed by the Senator's concern about mutually assured destruction. I share that concern. I think it is madness that the human race presently seeks to survive in a world with so many weapons by merely adding to the destructive capability of both sides.

I remember Lewis Mumford once wrote a piece in the Saturday Review of Literature, in 1945 or 1946, called, "Gentlemen, You Are Mad."

The theme of the piece was that we the human race must stop toying with these awesome weapons and find a way to contain them before we destroy ourselves.

We have still not overcome the dangers inherent in those weapons. The SALT process is an effort to "find a way to contain them before we destroy ourselves," as Lewis Mumford said. We have a long way to go, however, and there are many difficulties in the present process.

The participation of the Senator from Wyoming in this deliberation, I think, can be exceedingly helpful when we get down to brass tacks and talk in detail, the details that the Senator from New York and the Senator from Colorado are demanding. Maybe then we can reach a consensus. The three of us standing together have often reached consensus. Perhaps with the Senator from Wyoming the four of us are a quorum and constitute an example of the consensus that must be developed in this body.

I should like to ask the Senator one question. He is probably more sensitive to the feelings of our closest and most reliable and longest term ally, the United Kingdom, than any Member of this body. Have the leadership and people of that country expressed concerns which he might pass on to us about SALT and the American handling of this issue. How do they view these issues in this broader context of the United Kingdom?

Mr. WALLOP. I thank the Senator for what he says. I should hate to speak for the United Kingdom, although I would be happy to speak to some of the private reservations I have heard of.

Let me say first that on the overall debate on SALT, it will bode this country very ill if we are unwilling to recognize what the track record of Soviet strategic philosophy has been. One of those things is simply the fact that they do not believe that the nuclear weapon is the ultimate weapon. They do believe that they can fight, survive, and win a nuclear war, which we should not ignore as a part of their philosophy when we are debating how we shall respond to it.

We should not, for example, count it destabilizing, as the President and some of his advisors have said, to engage in the business of an adequate civil defense. I do not see anything destabilizing at all in the face of their efforts in that area.

Mr. MOYNIHAN. Will the Senator yield at that point for a question?

Mr. WALLOP. Yes.

Mr. MOYNIHAN. I should like the Senator from California to hear it too.

The Senator from Wyoming has made an acute and accurate statement, as I understand it, of Soviet strategic defense doctrine. He has identified our doctrine and the difficulties that strategic defense would permit: that it is an avoidance of defense. But I must insist that if we are going to leave the doctrine of assured destruction behind, we should know that is where we were and remember why we were there.

Mr. WALLOP. I totally agree.

Mr. MOYNIHAN. I say why we were there because of a doctrine that said—not without nobility—"we will never be the first to use these weapons, we will never strike first." If we are going to change, let us remember why we have the position: because we define as the most unstable of all situations, one in which both parties have a counterforce capacity and know they have only 45 minutes to decide whether to use it before the other side might. The Senator probably agrees with that.

Mr. WALLOP. I totally agree.

Mr. MOYNIHAN. It is just a mathematical proposition.

Mr. WALLOP. It is. All I am saying is I do not think it will be in our best interests to ascribe to the Soviet Union more noble philosophies than they have demonstrated they possess or they have, indeed, the ability to perform.

Mr. MOYNIHAN. I used the phrase, a doctrine not without nobility. Let us just call it a doctrine, a theory of warfare. If your adversaries have a different one, you had better know that.

Mr. WALLOP. You had better know it and you had better test what your theory is against theirs.

Let me say to the Senator from California with regard to the United Kingdom that they do have some considerable concern over some of the limitations that have been negotiated into this treaty, not the least of which is the array of cruise missiles, which they figure is their only response to the Soviet SS–20, which is designed primarily as a strategic weapon against all of the NATO powers. It is "nonstrategic" in our minds because it cannot reach us, but it is of great concern to our European allies who are on the short end of the strategic arrow.

They have some real concerns, not necessarily related to SALT, about American commitment to the free world and, indeed, whether we would, in fact, respond to any kind of a provocation to NATO. They express that without ascribing that to us, but they are not entirely certain of the American political commitment. They are not frightened of the American military capability to respond if the political will and the political decisionmaking apparatus is in place to use it.

Mr. HART. Will the Senator from Wyoming yield on that question, because I think that is the type of issue that got us into this question of linkage—not just the Soviet Union, which has equated linkage with increased spending for defense forces and so on. One of the curiosities of the consideration of the SALT II treaty has been what it may or may not say about American will. I have never quite understood—perhaps the Senator from Wyoming can explain it, or at least say for himself whether he believes that ratification of the SALT II treaty is somehow a barometer of American will.

Mr. WALLOP. Absolutely none. All I am saying is that, as they review the total strategic relationships between the two superpowers and they view American desire to participate in the defense of NATO, which is, after all, a treaty obligation that we have, they are concerned by what they see has been left out of the strategic negotiations as it affects only the ability of ourselves and the Soviet Union to shoot across at each other and not really respond to a threat that might take place in NATO.

They are not linked in terms of whether SALT passes or not. That answer will be given. But I think they are linked in their minds as to the total relationship between our country and our ability to put ourselves, the Soviet Union and the United States, into a nuclear stand-off where neither country is really willing to risk the effects of the standoff, and, therefore, our conventional adventurism is somewhat more acceptable to the Soviet Union. If we were to wake up some Sunday morning and see a hundred square miles of West Germany occupied by Soviet troops, well, 100 square miles is only 10 miles by 10 miles. They are aware that we have negotiated ourselves into such a total standoff and are fearful that maybe the NATO commitment is slightly weaker than it has been.

Mr. HART. The Europeans with whom I have spoken seem to agree with the point of view that one of the reasons for supporting the treaty is that it may release resources, perhaps should release resources, for the kind of conventional defenses that they may need. It is only in that degree that I think the question of linkage of strategic and conventional comes up, that one can legitimately ask, if, in fact, we support this treaty, will it increase the possibility that we shall have resources, financial and otherwise, to commit to strategic and conventional.

Mr. MOYNIHAN. Did the Senator's European friends have the building of an MX missile system as their notion of releasing resources for conventional?

Mr. HART. Not at all. As the Senator well knows, it is not the fault of the treaty itself or the negotiation of the treaty that leads us into this further development of that missile.

Mr. MOYNIHAN. The Senator from New York has insisted that he blames the treaty for nothing. It is an innocent document in and of itself.

Mr. President, the Senator from Wyoming used the vivid image of the slingshot effect of Cuba. I ask unanimous consent that I may have printed at this point in the RECORD a statement that I made on September 6 in which I said simply that I have not been one of those who made an issue of Cuba. I have rather agreed with our distinguished majority whip that it is time to put aside childish things and childish ways, a biblical reference of some potence, which describes very much, I think, this business of Cuba.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RUSSIAN COMBAT TROOPS IN CUBA

Mr. MOYNIHAN. Mr. President, while the distinguished Senator from Virginia is on the floor, may I simply say that I have listened with great care to what he has said.

I came here this morning for the purpose of making three observations of my own. I speak as someone who is a friend of this treaty and is disposed to its purpose. But I have not been reassured by the statements attributed to our good friend, the distinguished chairman of the Committee on Foreign Relations, as quoted on the front page of today's Washington Post in which he said:

> There is no likelihood whatever that the Senate would approve SALT II as long as the Soviet combat troops remain in Cuba.

I would like to state that I hope there is no corollary that if the Soviet troops are withdrawn, if the Soviets withdraw their troops, then conditions have been sufficiently established to accept the SALT treaty.

I see the Senator rises.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, that is the position of the Senator from Virginia. The withdrawal of the Russian troops and the withdrawal of the Russian aircraft from Cuba would not change the position of the Senator from Virginia in regard to the SALT treaty.

My view is the Senate should not even consider the merits of the treaty until those two events take place. I think that is what the Senator from New York was indicating.

Mr. MOYNIHAN. I meant simply to say that it would be extraordinary if we were, in effect, to give the Soviets a military control over our policy decisions by rewarding them for not doing, for undoing, something they ought not to have done in the first place.

We used to talk about a "code of détente." Certainly combat troops in Cuba do not comport with that code. Having posed, as it were, this threat, we ask them if they will withdraw. It is not a very big threat, we are not exactly quaking. But we are asking what kind of people are we dealing with. We are not saying that if they withdraw the threat, then, "You can have your treaty."

May I refer to the ancient practice of our friends the Danes who used to show up along the coast of northern France, England, and Ireland every springtime and say, "Well, now, you have two choices. You can pay us to go away," a payment called the Dangegeld, "or we will burn down your town."

There was a great line of G. K. Chesterton:

If once you have paid him the Danegeld
You never get rid of the Dane.

Are we to look forward to an annual excursion of the Russian military into the Caribbean such that in return for their leaving we will perhaps give them wheat instead of selling it to them?

Mr. HARRY F. BYRD, JR. The Senator from New York phrased it so well that I think the way the Senator from New York has put the question and has answered his own question is the attitude that I would hope the Senate and the American people would take.

The withdrawal of Russian troops from Cuba should not in any way be a means of rewarding the Russians for doing, as the Senator from New York just stated, something they should not have done in the first place.

Mr. MOYNIHAN. Right.

Mr. HARRY F. BYRD, JR. But until they do that, until they do take that step, until they get their military aircraft and combat troops out of Cuba then, it seems to me, it would be unwise for the Senate to even consider the merits of the SALT Agreement.

I realize there are differences of viewpoints within the Senate as to whether the agreement now pending should be ratified or not ratified. But that is a different issue.

Mr. SCHMITT. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. SCHMITT. I must admit to having identically the same thought when I read this morning's headline and the first few paragraphs in the Washington Post.

I was afraid that we were being, in a sense, set up for the withdrawal of these troops, and that therefore everybody can agree that the SALT treaty is a good treaty.

The two events have no direct correlation with respect to the value of the treaty. The treaty is not only of value with respect to the words written on the page, but it has to be of value in the context of the total international and other defensive environment related to this country. I know the Senator from New York and the Senator from Virginia feel this way also.

This is an additional factor that has been introduced into the debate, but it in no way changes the need for the SALT Treaty to be evaluated in the context of everything else that will affect its implementation.

Mr. MOYNIHAN. Precisely. If the SALT treaty were to be adopted as a reward for the military adventurism of the Soviet Union, then the United States would be reduced to a condition not contemplated in our time.

We can think of a number of reasons why those troops may be there. I observe in this morning's New York Times a column by Mr. William Safire which speculates they might be there to protect Soviet telecommunications intercept facilities being built on the island.

I cannot imagine our Department of State will raise much objection to those facilities being in Cuba, as they do not object to the same practice in the city of Washington, much less my city of New York, where it began. If it is all right to intercept telephone conversations from Riverdale, I cannot see why they should feel that, coming from Cienfuegos or some place, it would be less appropriate.

A similar point I would like to make, and the last one, is not unconnected. We read in the Washington Post this morning that a unique event took place in Cuba yesterday. President Aristides Royo of Panama said something not hostile to the United States. The Washington Post reports that this is the first time in 3 days that something not hostile to us has been said at the conference of nonalined nations.

These are the nations with which the administration, from the President and the Secretary of State on down, repeatedly tell us relations have never been better. One begins to wonder. If our relations have never been better, while their pronouncements have never been more hostile, how does the Department of State and the administration define "better"?

I have read, during our recent recess, the 70-page draft of the final acts of the nonalined conference. I have agreed with the nonalined movement at times, and have been sympathetic with its purpose.

But, Mr. President, this draft is completely Sovietized. Two-thirds of the nations of the world are about to subscribe to it, and the administration says our relations with those two-thirds of the world's nations have never been better.

This is, I suppose, a variation on Senator Aiken's famous formula for getting out of Vietnam, which was simply to declare victory and leave. But it really does raise the question, how serious should—as the French say, serieux—how serious are the men who run our foreign policy?

I thank the Chair and my always gracious and distinguished friend from Virginia, and my uniquely scientifically capable friend, the Senator from New Mexico.

Mr. Schmitt. Mr. President, before the Senator from New York departs the floor. I would just associate myself with his remarks. His perspective on the history, not only the modern but the ancient history of the world, is as unique in the Senate as any capability I may have in the scientific profession. Having been a modest student of history myself, it is a delight to me to hear this perspective added to our deliberations and consideration of policy as well as more detailed legislative matters.

The issue that the Senator raises is one of great moment. We do see an increasing drift, if not a stampede, of the so-called nonalined nations toward the Soviet orbit. I think the people of those countries will be the losers by such a drift, for there is nothing in modern history, or any history, to indicate that a drift toward totalitarian domination will benefit the people of any country, certainly not in the long term, as history has shown.

This Nation and our allies offer, through technological development, through compassion, and through many other I think very fine attributes, a hope for the nonalined countries for their future light, even though the light at the end of the tunnel no longer has to be the light of an onrushing train. If the leaders of these nonalined nations do not realize that they are ignorant. If they do realize it, then they are subverting the interests of their people to their personal interests for power and for influence with the Soviet Union.

Mr. Moynihan. Will the Senator allow me a comment on what he has just said?

Mr. Schmitt. Be happy to.

Mr. Moynihan. I am sure the Senator has heard the argument advanced that one of the most important aspects of the SALT treaty is the sorting process; that the powers in the Soviet Government are divided between those who are for more weapons and those who are for less—although SALT provides for more in either case—in a sort of hawk-dove paradigm, and we must encourage the differences. Well, this may be so.

But may I say that in the nonalined nations with which I have had some experience, there is equally a continuum, and sometimes it is bimodal, between persons known to be pro-Western and persons known to be pro-Soviet. As long as the United States feels that the ascendancy of the pro-Soviet forces is an entirely agreeable condition so far as we are concerned, then they give no leverage whatever to the pro-Western forces.

No one in the pro-Western forces states, "You see, you have got them very upset, they don't like what you have just said about them, and there will be consequences here in our world, and so you should not take that Soviet line."

But while we are perfectly willing to encourage this kind of dichotomy in our adversaries, it seems never to occur to us, for example, that India is filled with persons of the greatest ability who are fundamentally democratic, pro-Western, and anti-Soviet. The United States will never support them; it only allows their adversaries to take the position. "Look we have a simple problem; the Soviets will mind, the Americans will not."

Will the Senator permit me to take one moment for a story?

Mr. Schmitt. Yes.

Mr. Moynihan. Up in the Tigris-Euphrates Valley, where you reach the Turkish border, there are a group of people who are despised by their Islamic neighbors because they are thought to be devil worshipers. This is not fair to them, and it is not just. They are not devil worshipers; they are a residuum of the old dualism of Middle East Manichaeism; they believe there are two principles, one good and one evil. They spend their time looking after the evil one. Bernard Lewis, the eminent scholar has called this a form of "theological nonalinement." They are like people who say, "If you are against the Soviet Union, that is a problem, but if you are against the United States, relations have never been better for their affinity with the Soviet Union."

Mr. Schmitt. The Senator's story, once again shows his perspective of world affairs, not only the current but the past.

The situation is clearly one where this country must, as he has indicated, provide an alternative articulation of good versus evil. It is that simple, but we must not just assume that everybody knows it. We have to give the basis for these more pro-Western or pro-human. I believe, nations to be able themselves to articulate their beliefs. At the same time, as we do that, we have to provide positive alternative relationships for these people.

We are entering into an era now of international conferences. The Law of the Sea Conference and the General World Administrative Radio Conference are becoming political forums. This country is still treating them as if they were still purely technical forums and they are not.

I must say, in due respect to Ambassador Richardson, he understands that. He understands the political nature of the Law of the Sea Conference, whereas, on the other hand, many other participants in things like WARC, World Administrative Radio Conference, do not, in my mind, fully understand how absolutely political those kinds of conferences become. We must go into those conferences and other international relationships not only with good solid technical alternatives for the developing world, for the Third and Fourth Worlds, but also good political alternatives for them, and we have not done that.

Mr. Moynihan. Good point.

Mr. MOYNIHAN. Mr. President, what I said on September 6 was that I anticipate the day when the President of the United States will let it be known that he has certain reservations regarding combat troops in Cuba. But, as soon as the treaty is passed, the reservation saying there must be no combat troops in Cuba will be dropped. This the President will so certify.

How could he not certify that small venial transgression when the fate of humanity itself is dependent upon the treaty going into effect?

Mr. WALLOP. It is the President himself who has done the best job of linkage.

Mr. MOYNIHAN. Unfortunately, I agree. I suppose it was in the minds of some persons that by raising the Cuban issue and linking it with SALT, it would place in the minds of everyone the thought that we must therefore have SALT.

Mr. WALLOP. I fear that is rather too simplistic a judgment of the Senate's mind.

Mr. MOYNIHAN. It does not say much for their view of us, and the President should know better. If there were childish ways here, there are childish ways there. The President has to be more open in what he is thinking. I mean, is he a dog in a trap again, or has he changed his mind?

Mr. HART. Will the Senator yield? I would like to pursue his thinking on the SALT II treaty.

Mr. MOYNIHAN. I yield.

Mr. HART. From the remarks made earlier today and before, the Senator from New York is puzzled and concerned about several things. One, the momentum behind development of the MX missile. Two, the momentum behind increased defense spending, particularly, as that may relate to the necessary domestic agenda.

Mr. MOYNIHAN. The MX missile, in the language of a distinguished Member of this body, is a hard-kill counterforce weapon.

I think sometimes they are mostly for SALT because we face a prospect that it will get a hard-kill counterforce weapon as a reward.

Mr. HART. But what is the Senator from New York's thinking on that?

Mr. MOYNIHAN. On the MX?

Mr. HART. On the two questions I have stated.

The role of the treaty with regard to the MX, and the role of the treaty with regard to increased spending for other priorities?

Mr. MOYNIHAN. I think SALT has become a process in which those who advocated it end up giving away all the objectives of the process in order to preserve the process.

It is the classical bureaucrat end of all idealistic or creative enterprises.

That is why, as the Senator knows, I proposed an amendment to the treaty which would take the language of the guiding principles for SALT III, which calls for significant and substantial reductions in SALT III, and make that language the last paragraph of the treaty. This amendment requires the two parties to agree to significant and substantial reductions during the life of the protocol: that is, by the end of 1981, else the treaty terminates.

As the Senator knows, I have not opposed increases in conventional weapons. I voted for them. But does anybody want the world destroyed, as this escalation will invite?

If 15 years ago we were told the United States would go for this, with 12,000 warheads as part of arms limitation, we would have thought Lewis Mumford right when he said we were mad. Surely, today, the U.S. Senate will not go that far.

Mr. HART. If the Senator will further yield, the problem, today and before, the Senator criticized the process in bureaucratic terms, for failures. The analogy, it seems to me, is a train racing down the track. The Senator wants, it seems to me, the train to reverse itself before it comes to a complete stop.

SALT II is to bring the train to a stop and then reverse it.

The Senator is criticizing the process because it did not simultaneously stop the train and reverse it in one stage.

I think deficiencies in the treaty are not the result of arms control bureaucracy so much as they are factors of a symmetrical strategic force. How does the Senator equate that, structuring of the forces on both sides and that SALT I left a lot of questions unanswered?

The facts are that our negotiators tried to address a wide range of interests from the Pentagon, to the CIA, to the White House, to the Members of Congress, involved in that bureaucratic process.

Equally so, on the Soviet side. We generalize today what they will and will not do, want and do not want.

I think all sophisticated people understand that is a complex society, not nearly as pluralistic as ours——

Mr. MOYNIHAN. Allow me to say that I think the description of the difficulties is as close to accurate as anybody is likely to get.

For the record I want to be very clear, I am not criticizing the arms control bureaucracy at all. I am saying this has become a bureaucratic process. That train speeding down that track may be accelerated in the consequence of the process. It may or may not change.

Mr. HART. In what way?

Mr. MOYNIHAN. In a way illustrated in a New York Times editorial yesterday which described the SALT treaty as having confined the arms race to recognized channels. With the sort of high school physics I carry in my head, I note that anytime energy gets confined, it increases the pressure at the open end of the system.

But the Senator says he wants to stop and reverse this engine before it slows down.

SALT II is fine by me if it could contain a condition that SALT III will accomplish what the parties say it will accomplish.

Mr. HART. What if it does not contain that condition?

Mr. MOYNIHAN. Then I ask, if we are around for SALT V, when there are 90,000 warheads on each side—though I do not think we will get that far as a species—will we be saying SALT VI is going to do something good?

Do we not have to shock the system?

Mr. HART. The way to shock is not to defeat the treaty.

Mr. MOYNIHAN. It would not be defeated if we had this amendment. This would be a way for the people in this Chamber to say: "All right, on those conditions I will risk the next 5 years in the hope we finally will get reductions."

The Senator wants reductions. The Senator from Colorado wants reductions in offensive nuclear weapons.

Mr. HART. The Senator is correct, and the Senator from Colorado is convinced the way to accomplish this is to ratify the SALT II treaty to get on to SALT III as soon as possible.

Mr. MOYNIHAN. That is right, and my amendment would accomplish that because they would have a 2-year deadline in which to get the work done. It would make people serious.

Mr. HART. Once again I will have to quarrel with the Senator from New York.

I participated at some arm's length in that process. I have never seen more serious people in my life, in every degree of the word, the people that negotiated that treaty. They were operating under a lot of constraints on both sides.

Mr. MOYNIHAN. Surely, the Senator knows that any process which has 5 years available to it would require 5 years.

Mr. HART. I would also point out there were previous Presidents who had a chance to wrap this process up and refused to for a lot of political reasons.

It need not have taken 5 years.

Mr. MOYNIHAN. I heard appreciative and confirming chuckles from the Senator from California.

It will take 5 years, whether in the OMB or in international negotiations.

Mr. HART. And, therefore, what?

Mr. MOYNIHAN. Therefore, if we want not to go ahead with the vast expansion of our counterforce capability, we can trade it off in a 2-year negotiation before it finally gets built, before it is inevitable.

The Senator knows perfectly well what will happen if we build the MX in SALT III. There will not be any SALT III. The Soviets have already as much as said it requires a counterresponse from them, and that will be to take off the 10-warhead limit.

Mr. HART. If the Senator from Colorado may repeat a question, if the Senator from New York's reservation is not attached, what, then, is the view of the Senator from New York on the merits?

Mr. MOYNIHAN. The Senator from New York cannot imagine that this body, the world's greatest deliberative body, will not see the wisdom, if not the virtue, of the amendment of the Senator from New York.

Mr. HART. That was not the question.

Mr. MOYNIHAN. That is the limit of my imagination, and I cannot reach that point.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. CRANSTON. I would like to observe, first, that the Senator's hearing is as acute as his intellect. I did not chuckle very loudly a moment ago.

I think the Senator's amendment addresses the need to gain assurances that SALT III will lead to reductions of the U.S. and Soviet nuclear stockpiles and reductions of the dangers of nuclear war and that SALT III will, quite possibly, obviate the necessity for some of the increased defense expenditures which are otherwise going to occur, whether or not SALT is ratified. But, if it is ratified, with a consensus that some increased defense spending is needed, along with firm instructions to our SALT III negotiators to achieve deep cuts in nuclear weapons, we may not have to spend all that money, after all, by 1985.

I am going to look again at the Senator's proposed amendment. I looked at it once and found it attractive in some respects but I had questions about other aspects. Perhaps that is the way to achieve the consensus we have been discussing.

Mr. MOYNIHAN. I thank the Senator.

Mr. President, I return to my opening remarks to say that the Senator from Colorado has said many exceptionally creative and thoughtful things. We have a chance in this debate to come together in an understanding of our foreign policy, to establish the strategic doctrine and the weapons systems that follow from it.

I think the Senator's statement that we are a seaborne power and acting like a continental power these many years, with an army on the line, is very acute. The Senator knows I support him in these matters.

I am very much for expanding conventional power in that respect. I am for an Indian Ocean fleet, I am for a Baltic fleet, but I am not for a "hard-kill counterforce weapons system", if such a system will take us closer to the brink of annihilation. That is my feeling.

I thank the Senator for his consideration of what I have said.

Mr. HART. I thank the Senator from New York for his kind comments. I will ask one more question:

The Senator is a student not only of domestic affairs and other things but also of history. Would he agree that the United States, in fighting World War II, facing industrialized powers but not nearly so expansive and vast as the United States, was able to prevail in World War II in two theaters because of the overwhelming base of support industrially and in terms of manpower, and that now, in 1979, we face a much different power which can perhaps overwhelm us?

Mr. MOYNIHAN. Not only do I agree with what the Senator just said, but also I will take him back to how we got into World War II.

The Washington naval treaties were the first great, serious arms limitation treaties in history. President Harding, the most creative President of the century in many respects, created arms limitation.

There is a theory that the effect of the naval arms limitation agreements was twofold: First, the Senator talks of asymmetry. There was asymmetry between those nations which did not want to expand their military capacities and those which did. There were those who were anxious to increase, to build up, and to invent new weapons, such as the battle cruiser. The other side did not want to expand, and the treaty became an excuse for not doing even what they could.

Second, because the treaty put its limitations on battleships—which are a lumbering kind of affair, defensive as well as offensive weapons—the aggressive powers went to aircraft carriers, and the defensive powers—ourselves—had to do likewise in response. An aircraft carrier is a first-strike weapon. Aircraft carriers cannot be pounded. They have to be used first, and they were used first against the United States by the Japanese at Pearl Harbor.

Did the Washington naval treaties lead to Pearl Harbor? Only the River Rouge plant saved us from the ill-advised doctrines of our diplomats.

I ask the Senator, is the MX missile the naval carrier of this treaty?

Mr. HART. Whether or not the answer to both questions is in the affirmative, I say with respect to the second—because the first is a question of historic debate—that in the judgment of the Senator from Colorado, the question of whether to build the MX missile is separate from whether we should ratify the SALT II treaty.

The SALT II treaty is not the cause of the issue of whether to build the MX missile. The cause of the issue of whether to build the MX missile is a technological act, not a political one.

I have answered the question of the Senator from New York about as well as he has answered mine.

Mr. MOYNIHAN. The Senator from New York thinks it may be best to stop this conversation while it is still agreeable. [Laughter.]

Mr. HART. I thank the Senator.

Mr. MOYNIHAN. I thank the Senator from Colorado.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECOND CONCURRENT RESOLUTION, 1980, 1981 AND 1982

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 36.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 36) entitled "Concurrent resolution revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982", do pass the following amendment:

Strike out all after the resolving clause, and insert: That, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $519,250,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $5,050,000,000;

(2) the appropriate level of total new budget authority is $631,807,000,000;

(3) the appropriate level of total budget outlays is $548,175,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $28,925,000,000; and

(5) the appropriate level of the public debt is $885,825,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $55,825,000,000.

SEC. 2. The Congress reaffirms its commitment to find a way to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16,000,000,000.

SEC. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $138,156,000,000;

(B) Outlays, $128,587,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,593,000,000;

(B) Outlays, $8,522,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,833,000,000;

(B) Outlays, $5,662,000,000.

(4) Energy (270):

(A) New budget authority, $36,266,000,000;

(B) Outlays, $8,801,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $12,525,000,000;

(B) Outlays, $11,926,000,000.

(6) Agriculture (350):

(A) New budget authority, $4,983,000,000;

(B) Outlays, $2,542,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $6,778,000,000;

(B) Outlays, $2,828,000,000.

(8) Transportation (400):

(A) New budget authority, $19,610,000,000;

(B) Outlays, $18,651,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,991,000,000;

(B) Outlays, $8,289,000,000.

(10) Education, Training, Employment and Social Services (500):

(A) New budget authority, $31,391,000,000;

(B) Outlays, $31,371,000,000.

(11) Health (550):

(A) New budget authority, $58,767,000,000;

(B) Outlays, $54,715,000,000.

(12) Income Security (600):

(A) New budget authority, $217,658,000,000;

(B) Outlays, $188,795,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,607,000,000;

(B) Outlays, $20,851,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,269,000,000;

(B) Outlays, $4,468,000,000.

(15) General Government (800):

(A) New budget authority, $4,484,000,000;

(B) Outlays, $4,301,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $9,076,000,000;

(B) Outlays, $9,075,000,000.

(17) Interest (900):

(A) New budget authority, $58,038,000,000;

(B) Outlays, $58,038,000,000.

(18) Allowances (920):

(A) New budget authority, $482,000,000;

(B) Outlays, $453,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, −$19,700,000,000;

(B) Outlays, −$19,700,000,000.

SEC. 4. The Congress projects the following budget aggregates for fiscal years 1981-1982, based on the policies assumed in sections 1 and 3—

(1) the level of Federal revenues is as follows:

Fiscal year 1981: $605,200,000,000;
Fiscal year 1982: $704,000,000,000;

(2) the level of total new budget authority is as follows:

Fiscal year 1981: $666,459,000,000;
Fiscal year 1982: $728,402,000,000;

(3) the level of total budget outlays is as follows:

Fiscal year 1981: $603,477,000,000;
Fiscal year 1982: $655,098,000,000;

(4) the amount of surplus in the budget is as follows:

Fiscal year 1981: $1,723,000,000;
Fiscal year 1982: $48,902,000,000;

(5) the level of the public debt is as follows:

Fiscal year 1981: $916,175,000,000;
Fiscal year 1982: $907,700,000,000.

SEC. 5. In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

Resolved, That the House insist upon its amendment to the resolution (S. Con. Res. 36) entitled "Concurrent Resolution revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the House amendments, agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Muskie, Mr. Magnuson, Mr. Hollings, Mr. Chiles, Mr. Biden, Mr. Johnston, Mr. Bellmon, Mr. Domenici, Mr. Packwood, and Mr. Armstrong conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute, to consider two nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

FARM CREDIT ADMINISTRATION

The second assistant legislative clerk read the nomination of Jewell Haaland, of Minnesota, to be a member of the Federal Farm Credit Board, Farm Credit Administration.

Mr. BOSCHWITZ. Mr. President, I know Mr. Haaland, having met him on a number of occasions. He will be a very valuable addition to the Farm Credit Board. He has vast experience in cooperatives and has been head of many large cooperatives in Minnesota. He is the kind of person who will make a valuable contribution to that Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Dwight L. Tripp, Jr., of Maine, to be a member of the Federal Farm Credit Board, Farm Credit Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ. Mr. President, I ask that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for an extension for the period of morning business not to exceed 10 minutes, and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GENOCIDE IN CAMBODIA

Mr. THURMOND. Mr. President, this country and nations of the free world are standing by and doing nothing while North Vietnam is committing genocide in Cambodia.

The present administration in Washington has based its foreign policy of recent years on the issue of human rights. Yet this same administration has hardly lifted a finger to save the people of this Southeast Asian nation.

As the last Member of Congress to visit Cambodia before its fall to the Communist forces of Pol Pot, I saw at that time thousands of these people who were half-starved, frightened, and puzzled.

Since then, the people of Cambodia have been harshly treated by the Pol Pot regime and now they are being destroyed by an invasion force from Communist Vietnam.

There is no doubt in my mind that pressure from world powers could do much toward easing the current destruction of the Cambodian society. Pressure should also be placed on the Soviet Union and China which have supported the forces that have resulted in the deaths of millions of innocent people. This is a clear case of genocide and should be resisted by all free nations.

Mr. President, if the United States Government had not withdrawn its aid from the Lon Nol government, this suffering may not be taking place today. Even if we had not been involved there, this Nation still has an obligation to raise its voice loud and often, to stop this effort by Vietnam to wipe out the civilization of a neighbor whose territory Vietnam has long coveted.

Mr. President, I ask unanimous consent that an article which appeared in the August 31 issue of the New York Times entitled "Thai Leader Says Cambodian War Threatens People With Extinction" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THAI LEADER SAYS CAMBODIAN WAR THREATENS PEOPLE WITH EXTINCTION

(By Henry Kamm)

BANGKOK, THAILAND, August 30.—Prime Minister Kriangsak Chamanand of Thailand declared today that the continuing fighting in Cambodia and the resultant famine threatened to extinguish the country's people and civilization.

In a speech in English at the Foreign Correspondents Club, which the Prime Minister termed a major statement, Mr. Kriangsak blamed the Vietnamese for Cambodia's woes.

"Firstly because they were instrumental in overthrowing an established legal Government," he said, "which therefore constituted interference and intervention in the internal affairs of a sovereign state. And now they are the source of continuing killing and fighting, which together with the resultant famine and starvation is putting in grave danger the very existence of the Khmer race and civilization."

Vietnam invaded Cambodia last December and overthrew the regime of Prime Minister Pol Pot. His troops are conducting a widespread guerrilla war against the Vietnamese Army and the regime of President Heng Samrin that Hanoi installed in Phnom Penh.

OFFERS USE OF THAI TERRITORY

Mr. Kriangsak offered the use of Thai territory and facilities for international efforts to send food to the starving Cambodians, if the international community is prepared to make them. But "it makes me wonder," he added, referring to his forecast of doom, "whether without an end to the fighting such relief efforts will solve the problem or merely postpone it."

Thailand recognizes a national interest in assisting any relief operations. It fears that continuing starvation will increase the number of refugees trying to reach Thailand. But a Western diplomatic source said that an expert whose advice he had sought doubted that there would be such pressure on the Thai border. The expert believes few Cambodians have the strength to reach it.

Thailand forced more than 40,000 Cambodians back across the border in June. Mr. Kriangsak, questioned on this today, said Thailand's action had been misunderstood and misrepresented.

He said outsiders believed Thailand had the capacity to accept unlimited numbers of refugees.

"I had talks with officials responsible for refugees but it proved to no avail," he said. "And therefore I had to persuade 48,000 Cambodians to leave within a single day."

In fact, the operation took about a week to complete. It was conducted by the military.

SAYS THAIS WERE DRIVEN OUT

The Prime Minister charged that masses of refugees "drove our own people out from their homes, took over their homes, destroyed their crops."

Mr. Kriangsak put the international community on notice that if it did not act quickly to relieve Thailand of any new Cambodian refugee burden he would again cause the refugees to be returned.

"If there is no adequate world attention given to this problem, the water is rising beyond our noses, it's the only human reaction for us to try to drive off some of this water," he said.

While stressing Thailand's neutrality in the struggle in Cambodia, Mr. Kriangsak vigorously restated Thailand's continued diplomatic support for the Pol Pot regime against the attempt by the Heng Samrin Government, conducted through Vietnam, to deprive it of international recognition.

Mr. Kriangsak urged the so-called nonaligned nations meeting in Havana to defend the principles of "national sovereignty, nonaggression, freedom from interference in domestic affairs and territorial interference in domestic affairs and territorial integrity." He also urged them to continue their recognition of the Pol Pot regime.

But the Prime Minister assured Vietnam that he was not taking this position at the expense of Thailand's desire to maintain and improve relations with Hanoi.

He rejected Hanoi's accusations that Chinese pressure was causing Thailand to take anti-Vietnamese positions. "Our policy toward Vietnam will be determined solely by Vietnam's own policies toward us," he said.

The Prime Minister, evidently addressing himself to Hanoi, emphasized that Thailand was ready to consider the "legitimate interests of all parties concerned" in Cambodia.

REPEAL OF THE EARNINGS LIMITATION ON SOCIAL SECURITY

Mr. THURMOND. Mr. President, in the last several Congresses, I have supported efforts to eliminate the earnings limitation on social security. I am pleased to join as a cosponsor of S. 1287 and S. 1418, to repeal the earnings limitation on social security for all recipients age 65 or older. That change would go into effect as of January 1, 1983, if either of these bills is enacted.

BEST DOCUMENT AVAILABLE

Under present law, there is no earnings limitation on individuals over age 70. I supported that amendment to the social security financing bill. I have also been a cosponsor on previous bills which sought to repeal the earnings limitation for those age 65–70.

Mr. President, there is no question as to the impact of the current limitation. Social security was never intended to be a complete pension. Nevertheless, for far too many, social security benefits are all the income they have. Given the high rate of inflation today, social security benefits alone are woefully inadequate to provide for the needs of the elderly. The costs of housing, food, fuel, and medical care are increasing daily. The impact of those increases on persons whose incomes are fixed is especially devastating.

As a result of the earnings limitation, many older persons are pressured into remaining idle. They fear that if they do work, they will lose even the limited benefits they receive. They are, in effect, being forced by the earnings limitation to live a life of privation, near or below the poverty level. An astonishing 25 percent of those over 65 fall into the poverty or near poverty category.

Furthermore, Mr. President, our country is thereby deprived of an untold supply of valuable skills acquired through many years of hard, honest work. The earnings limitation persists in spite of the wide recognition that the hiring and retention of older workers in all aspects of the economy is very "good medicine" for the elderly. It helps older people maintain their interest in life, helps them remain useful, contributing members of society for many years beyond formal retirement.

Mr. President, in my opinion, this aspect of the social security system is extremely inequitable. Neither pensions nor investment income, classified as "unearned income," is recognized when determining whether an individual's social security shall be reduced. This allows a wealthy man who receives thousands of dollars a year in interest and dividends to collect his full social security benefits. However, the average man who never had the time, much less the money, to enter the world of investments, and who might need to continue working in order to insure the economic survival of himself or his family, cannot work without being subject to this penalty. This is simply not right.

Let me point out, Mr. President, that social security benefits are a matter of entitlement. I do not begrudge a wealthy person the benefits he receives. If one works the required amount of time and contributes the required amount of money, he has earned those benefits, whether he be a corporate executive or an assembly-line worker. But let us put all other sources of income on the same footing.

Finally, Mr. President, it is said that the removal of the earnings limitation will be too costly. In my opinion, this begs the question. The people who receive social security are the citizens who have worked hard all their lives for their salaries. They have not been on the welfare rolls. These people are the backbone of America—they are men and women who believe in America and have quietly and loyally contributed their fair share to the social security program all their lives. To deny them the fruits of their labors now, when they need it most, is not only illogical, but unjust.

However, let me respond to the cost argument by pointing out that persons who continue or resume working as a result of the repeal of the earnings limitation will continue or resume paying taxes. Those newly generated tax revenues will help to offset the increase in payments. All of the estimates I have seen show some setoff, merely varying as to the amount of setoff.

Mr. President, let us remove this obstacle which stands in the way of thousands of senior citizens who want to work. Work contributes to the good health of our older citizens and of our economy. Removal of the earnings limitation is an equitable and reasonable step.

Mr. President, I urge my colleagues to consider this measure carefully, and to join us in the effort to bring a meaningful, much-needed reform to the social security system.

BRITISH PROTEST OF KENNEDY'S PROPOSED ENERGY LEGISLATION

Mr. **THURMOND**. Mr. President, the diplomatic protest that the British Government lodged recently with our State Department regarding the proposed energy legislation, S. 1246, is a matter of very serious concern for the U.S. Senate.

At this particular time, when energy supplies, world trade, and international relations need our most careful attention and direction, we must be sure we have a clear perspective of the likely impact of any proposed legislation on nations all around the world.

Mr. President, we must avoid unilateral actions that place too narrow limits on our worldwide trading companies, or that fail to recognize the adverse economic and political implications that would result from such unilateral actions. Senate bill 1246, the subject of the British Government's protest, typifies the kind of proposed legislation that would be extremely damaging to our international relations and thus to our national interest.

The Washington Star, on October 3, 1979, published an article "Britain Protests Kennedy Plan," by Bailey Morris, which describes the nature of the protest by the British Government. The article includes some of the background and the serious implications of S. 1246 on joint ventures between United States and British companies in developing the North Sea oil fields.

Mr. President, in order to share this informative article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 3, 1979]

BRITAIN PROTESTS KENNEDY PLAN

(By Bailey Morris)

The British government has lodged a diplomatic protest against Sen. Edward M. Kennedy's proposed energy legislation, which it says could sharply curtail development of North Sea oil fields, a top official has disclosed.

British Energy Secretary David Howell, in a speech here yesterday to the Women's Economic Roundtable, said his government is concerned over Kennedy's oil policy because it would prevent joint ventures between U.S. and British companies in developing the North Sea fields.

"We are concerned about the extra-territorial considerations and the British government has raised these concerns. If this legislation goes forward unamended, it would freeze up sensible, commercial business ventures. It could be awkward between our governments," Howell said.

A State Department official confirmed the existence of the "formal diplomatic communication," saying it was delivered Monday.

Describing the British concerns "as serious ones," he said top State Department officials will respond to them in hearings before the Senate Judiciary Committee on Thursday.

Additionally, he says the State Department has written to Kennedy and will also brief administration officials on Britian's concerns.

What triggered the diplomatic protest, according to an embassy spokesman, was a Justice Department advisory in September on the proposed Kennedy bill.

Generally, the bill would prohibit acquisitions by the 16 largest U.S. oil companies of any company with assets of $100 million or more.

The Justice advisory said, however, that the legislation will also affect formation of joint ventures by these companies.

"Speaking hypothetically, it could affect joint ventures in the North Sea, where there are well over 20 major oil companies," the State Department official said.

Future ventures between British Petroleum and Standard Oil of Ohio (Sohio), for example, are among those that could be affected, according to an oil company lobbyist.

"We prefer to describe it as a dialogue or a protest with a small 'p'," a British embassy spokesman said.

Howell, who is in Washington for meetings with Energy Secretary Charles Duncan and senior administration officials, disclosed his government's concerns in answer to a question on the Kennedy proposal.

Earlier, in his prepared speech, he made the point that the energy concerns of the United States and Britain are similar and in fact, "linked."

Despite its current energy wealth, Britain, too, will face a shortfall between what it consumes and what it produces "in the late 1980s and the 1990s," Howell said.

"Again, we will have to import oil. Our gas will follow a similar profile, but at a somewhat slower pace," he said.

Nuclear power and coal "will have to fill the gap," Howell said, and for that reason Britain has made the decision to enhance its nuclear capability greatly.

"We will expand it 20 percent by the early 1980s," Howell said.

Britain's decision to expand its nuclear capability was made only after very serious debate and a thorough review of the options, Howell said.

"I would not wish to suggest what course the United States should take. But I believe that judgments about the future of nuclear energy should be formed in the light of all the consequences," Howell said.

"What would really happen if we in Europe or you in the United States were to renounce the nuclear option because of its alleged risks?" Howell asked.

Even with synthetic fuels, increased coal production and strong conservation programs, Howell asked, can anyone be really certain that a nation can get by without future nuclear power?

Turning to other internal matters, he said the Thatcher government is determined to deregulate, in effect, some of the more cumbersome state policies governing oil exploration and ownership.

"We propose to spread the ownership of assets of the state-owned British National Oil Co.," Howell said.

The idea is to allow greater public ownership of the company by allowing the public to buy shares in it, Howell said.

In the past, in Howell's opinion, "There has been too much state-controlled leasing and interference, for example, which has stifled production in the North Sea."

Now, he says the British government is determined to "restore the confidence" of private investors and to seek out as many diverse sources of energy as possible.

LABOR UNIONS

Mr. THURMOND. Mr. President, labor unions play a big role in the economic situation of our Nation. Their demands and effect on labor productivity can often make or break a company. A recent editorial in the Press and Banner, Abbeville, S.C., points out that labor unions' membership have been declining due to empty promises and questionable leadership.

Mr. President, in order to share this editorial with my colleagues I ask unanimous consent that it appear in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Abbeville (S.C.) Press and Banner, Sept. 9, 1979]

For the most part we fail to appreciate the role big labor unions are playing in the national economy and do not feel that organized labor is serving even its own best interests—in truth, it appears labor today might well be in the throes of self-destruction.

Does the above indicate a lack of appreciation of labor by this newspaper.

It does not!

The economic health of the United States of America is directly dependent upon the productivity of its labor. That is the only wealth this nation has, it is the only thing that backs up our currency. This is an industrial nation, directly dependent upon its productivity.

We read that Chrysler Corp. is on the verge of bankruptcy and still the UAW extracts a production-reducing contract from General Motors, practically assuring a like contract from Ford. Is this contract in the long run actually going to prove beneficial to the many thousands directly affected and the additional thousands in related industries? Is it a contract that will help pull this nation out of its terrible economic predicament, caused primarily by inflation? Is it a contract that will foster a continuing expansion of the domestic automotive industry, or is it a contract that will give foreign producers an additional advantage?

Well, that's not Chrysler! No, it isn't, but Chrysler's predicament is indicative of a sickness within the entire industry, a sickness that will not be cured until domestic cars can compete with foreign cars and a sickness that can be contageous to the extent of encompassing both General Motors and Ford unless a cure be effected.

Labor unions—and we admit to some exceptions—have for several decades been mislead, usually by their leadership. The bait has ever been higher and higher wages—a higher minimum wage, more and more costly benefits, more and more non-work days, a complete revamping of the social security system to the point it can no longer maintain solvency. Labor would have been better served had the emphasis been on improving productivity.

It is reported that labor unions have not faired as well in recent years, for the American worker time and time again and over a wider and wider area has refused to fall for empty promises and those built on false promises. The American worker has become as well educated and as well informed as all the rest—this was not always true—and refuses to sacrifice any more of his freedoms as an individual.

Certainly, a factor in the decline of union membership has been the revelation of dishonesty in the highest levels of leadership in several of the major unions, and the revelations of inadequate and irresponsible leadership at lower levels. There is big money involved and it is unfortunate that crooks have been attracted.

Even so, this newspaper believes every individual should have the right to choose freely whether he will join and believes just as strongly that he should be protected from coersion in making his decision.

We cannot believe that union membership offers sufficient advantages, especially now, to offset the loss of individual freedom. We believe any disruption of industry at this time could cause problems of such a critical nature that all connected with industry would suffer.

These things we say now because this is one of the few sections of the nation which today is enjoying industrial growth and which it appears has a very good opportunity of weathering a recession without experiencing a major catastrophe.

Unions have until now, in the main, ignored the South. One of those reasons has surely been that we are for the most part extremely individualistic and prefer to handle any problems we might encounter on a one-to-one basis. We do feel many of us are unchanged in that desire.

Those who do have that desire had best stand up for those beliefs, for war has been declared on the South. We can expect an exceptionally high degree of activity within the next several months.

We would warn all to know what they are doing prior to making any commitment and to realize that just the signing of a card, supposedly to only permit an election, sometimes turns out to be a vote for a union. Good advice is, unless you have absolutely decided you want to give up some individual rights and give them to some union, don't sign anything. Be sure, too, that promises made can be fulfilled. And, don't forget, unions don't pay a worker's salary—they do extract dues.

SOVIET TROOPS IN CUBA

Mr. THURMOND. Mr. President, the American people are justifiably fed up with the weak and meaningless foreign policy decisions of the past few years.

The response of President Carter to the location in Cuba of first the nuclear capable Mig-23 aircraft, the continued construction of a submarine base and now a Soviet troop brigade is an example of these damaging policies.

Two weeks ago the President found the presence of these troops "unacceptable" but now he accepts them along with a Soviet promise that they will not be expanded: This promise is accepted despite the fact the Soviets have been gradually violating the 1962 agreements for the past few years.

Two excellent editorials on this subject appeared recently. I ask unanimous consent that an editorial entitled "Cuba Becoming a Clear Threat" which appeared in the September 13, 1979 issue of the Greenville News in Greenville, S.C., and an article by Seymour Weiss titled "Taking Salami Slices in Cuba" which appeared in the September 19, 1979 issue of the Wall Street Journal, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follow:

[From the Greenville (S.C.) News, Sept. 13, 1979]

CUBA BECOMING A CLEAR THREAT

The prospect of enemy attack submarines operating from Cuba and strewing mines in the shipping lanes off South Atlantic and Gulf Coast ports surely is enough to awaken Americans to the threat posed by the increasing military might based on Fidel Castro's Communist island.

Sen. Henry Jackson outlined the situation in commenting on word that the Soviet Union has given Cuba an attack sub and a training ship. The information, coupled with other evidence that Cuba is becoming a Soviet military stronghold, is alarming.

Jackson correctly notes the threat of Cuba-based subs to American oil supplies. But that is only the start. A relatively small number of subs could interfere with all shipping to and from Atlantic and Gulf ports, and could hamper our Navy.

This is more than a foreign policy matter. We are facing a military threat by an aggressive nation to our own backyard—to Charleston, South Carolina, the seaport which exports many products manufactured in the South Carolina Piedmont.

In addition, Cuba has become a direct threat to the stability of the American hemisphere. It is part and parcel of marxist revolutionary movements in numerous Latin-American nations.

The United States has shut its eyes for too long to the Red military build-up in Cuba. The time to awaken and to draw a hard line has come. If we continue to play patsy much longer, we will be trying to draw a line somewhere in Florida.

What to do?

Get as tough as the other side, that's what. Stop all negotiations with the Soviet Union. Stop action on the Strategic Arms Limitation Treaty. Stop trading with the USSR. Stop treating the Russians as superhumans. Exploit known Soviet weaknesses, including inability to feed the Russian people. Expel a number of Soviet diplomats. And, most important of all, launch an emergency program to rebuild the conventional military strength of the United States.

That is what we ought to do. Whether we have the courage to do so is another matter. Too many timid Americans fear the use of "cold war" tactics, refusing to recognize that the Soviet Union is conducting a very deadly cold war against us—with no let-up.

[From the Wall Street Journal, Sept. 19, 1979]

TAKING SALAMI SLICES IN CUBA

(By Seymour Weiss)

Why are Soviet ground forces in Cuba and how should the U.S. react?

One hears rationalization reminiscent of those advanced by a minority during the Cuban missile crisis, i.e., that the Soviet troop presence is no serious threat to the U.S. The enormous political and military consequences associated with this Soviet presence are subordinated to the simplistic view that 3,000 Soviet troops could not invade the United States. Another superficial argument is that the U.S. has no ground for complaint since we have forces stationed in

Europe. This view conveniently overlooks the fact that:

The U.S. is an insular power separated by 3,000 miles of ocean from its major allies against whom the Soviets have massed an enormous military threat. Conversely the U.S. is not threatening Cuba (it seems only yesterday that Carter sought to normalize relations).

U.S. forces in NATO are not training Europeans to foment revolution around the world.

Both sides' major alliances are an accepted part of the status quo while this introduction of Soviet troops is one in a series of Soviet attempts to challenge the existing status quo.

How then does one explain the Soviet action?

First, the presence of Soviet troops releases Cuban forces to support Communist revolutions around the world. Some tens of thousands of Cubans are overseas. By insulating Cuba from a possible U.S. reaction, Soviet forces make it possible for Cuban troops to pose even greater challenges for U.S. interests in the Middle East, Africa and elsewhere. Indeed it frees Cuban military forces for intervention within the Western Hemisphere itself.

THE CASUALTY CONCERN

As director of the State Department's Office of Politico-Military Policy (later renamed) during the Cuban missile crisis, I helped develop a contingency plan for an air attack against missile sites in the event that the naval quarantine failed to force the Soviets to withdraw their missiles from Cuba. One concern of U.S. policymakers was that such an attack would inevitably result in casualties to Soviet forces. Although U.S. policymakers were prepared if necessary to accept the inevitability of Russian casualties, they did so with reluctance. Now that the world-wide military balance is changing in favor of the U.S.S.R., how much stronger would be the reluctance to launch an attack against Cuba with thousands of Soviet troops present?

Another role which these Soviet forces fill is to prop up Castro. Under the Brezhnev Doctrine the Soviets assert a right to intervene in the affairs of "socialist" states. Castro has stated Soviet forces in Cuba are equipped to join Cuban forces "in defense" of the country. In 1963 Kennedy said "we would not accept a Hungary in Cuba; the use of Soviet troops against Cubans" to support Castro was unacceptable. What is our position today?

Finally, Cuba offers a strategically located base to the U.S.S.R. It threatens the Panama Canal, through which the U.S. moved 25 warships in the 1962 crisis. Attack submarines can threaten the U.S. shipping of supplies to our allies in Europe. It provides important intelligence and communication facilities and airfields which can handle bombers, military transports and fighters.

Viewed in a broader perspective, the drama unfolding in Cuba was predictable. The Soviets have been taking "salami slices" in Cuba for years. Soviet submarines of almost every type including diesels with ballistic missiles have visited Cuba. Only nuclear subs with ballistic missiles have not visited Cuba. Soviet Bear bombers configured as reconnaissance aircraft have flown intelligence gathering missions out of Cuba. Soviet-flown MiGs have long been in Cuba and now the Soviet ground combat forces. While the administration strains to explain away this growing Soviet presence it is simultaneously cutting U.S. naval and amphibious forces which would be stretched thin in a major conflict even without having to deal with a Soviet base in Cuba.

We have tolerated these salami-slicing tactics apparently on the grounds that the agreement reached at the culmination of the 1962 missile crisis only precluded the Soviets from stationing "offensive" forces in Cuba. But President Kennedy also made clear at the conclusion of the missile crisis that Cuba could not be used "for the export of aggressive Communist purposes." What has happened to that principle?

We should harbor no illusions: As Soviet military power grows and as U.S. power continues to decline, a continued reaching out of Soviet influence is to be expected. To Americans, events in Angola, the Horn of Africa, Afghanistan and South Yemen may well seem remote and unrelated to U.S. interests. But those events were simply a forerunner to what we are now seeing in Cuba. Soviet bases which threaten the vital Persian Gulf oil lifeline and bases in Cuba are part of a larger pattern.

The Soviets have made their purposes quite clear. They intend to extend their influence, if not their hegemony, as far as their military power will permit. What is new is that they apparently judge their power sufficient to permit movement to within 90 miles of the U.S. coast.

It was inevitable that SALT would be related to the Cuban problem. Unfortunately the issue is being posed inappropriately. Warnings are advanced that there is no chance for SALT passage if the brigade is not withdrawn. Is one to imply that conversely SALT should be passed if the Soviets oblige us by premoving their troops? And will advocates of SALT as a fully verifiable treaty—from "the first day," the President said—explain how 3,000 Soviet troops went undetected or unreported for so many years, if indeed that was the case?

The administration has refused to recognize any linkage between Soviet international misbehavior and SALT. Henry Kissinger has pointed out the absurdity of this position. The long trail of Soviet international troublemaking, which Cuba serves only to underline, makes it clear that there is presently no basis for entering into a solemn treaty with the U.S.S.R. on so vital a matter as strategic arms.

WHERE DO WE DRAW THE LINE?

If the administration does not act vigorously, it is a certainty that the Soviet brigade will be just another silce of the salami. Larger ground forces, more aircraft, doubtless supported by significant naval forces and naval bases, are in prospect. If, as some are rationalizing, the 3,000 combat troops are no threat to the U.S., what is the level of Soviet force which justifies a challenge? If President Kennedy had procrastinated at the time of the Cuban Missile Crisis, those missiles would still be in Cuba, moderinzed and increased in numbers.

The U.S. should insist on immediate withdrawal of all Soviet combat forces, ground, air and naval from Cuba.

Would the Soviets accede to our demands as they did in 1962? Some think not. If that is the case, all the more reason that we draw the line now. One positive result might be to help generate a new political consensus about our foreign and security policy requirements. As Senator Nunn has said in a different context, there is evidence that we have been tranquilized to the point where U.S. military budgets no longer provide for defense of our national interests. The Senator's view seems borne out by our demonstrated impotence 90 miles from our shore.

The wistful, manifestly unfulfilled hope that the U.S. can anticipate significant cooperation with the U.S.S.R. under a policy of detent must be reassessed in the light of Soviet actions such as those in Cuba.

TAKING STOCK

Mr. THURMOND. Mr. President, in a recent article in the Naval War College Review, Vice Adm. James B. Stockdale, the president of the Citadel, elucidates the importance of maintaining a corps of highly educated military commanders. Admiral Stockdale notes that the chances of global war breaking out in the next 20 years are great, and that it is, therefore, vital for America to maintain commanders who are capable of quick, moralistic decisions.

Mr. President, in order to share this excellent article, "Taking Stock," with my colleagues, I ask unanimous consent that it appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAKING STOCK

I don't believe anyone could read any of my articles of the past 2 years and reach the conclusion that systems analysts are my kind of guys. It may thus strike some readers as odd that I begin this final Taking Stock by advocating the application of the logic of the world's first systems analyst—the 17th-century mathematician and founder of modern probability theory, Blaise Pascal. His logic, in the matter of how to resolve issues of vast import, was not to apply the conventional wisdom of suspending judgment "until all the facts are in," but to choose ("wager" was the word he used) that outcome by which one stands to lose the least in case he's wrong. I don't think it's too whimsical or too insensitive to apply Pascal's wager to the number one dilemma of our age—the occurrence or nonoccurrence of global war in the decade or two ahead. I think Pascal would agree that the smart wager is that global war will occur.

To me, this wager is more than a fail-safe precaution; all the trends are tracking steadily in the direction of that outcome. Destabilization is in the wind and it seems an inevitable fallout of every political viewpoint. The liberal press feeds us a daily fare of what they perceive as the destabilizing influence of hawkish policies. What about dovish policies? Even the liberal *New Republic* is publishing articles that make a case for the destabilizing effects of them. A recent issue featured an article describing the deep lament of Moscow intellectuals who fear that the Kremlin's perception of American indecision and weakness will result in Soviet provocation, in the reckless pressing of their advantage. These intellectuals were described not as dissidents, but as scholars and coffee house skeptics who are conscious of their government's cynicism, and incredulous of an America on which they depended to keep the power balance stabilized, an America too sensitive to sideline heckling and so fickle and fainthearted as to drop the ball game in Vietnam and elsewhere. They don't understand us and are dismayed at the probable destabilizing results of our growing reputation for caving in.

Given the political fact that wars and rumors of wars can be made to follow from the logical extension of either hard or soft line policies, and the historic fact that war has blighted this planet in all but 268 of the past 4000 years, I think it was reasonable that while speaking recently in Annapolis I advised the midshipmen not to waste emotional energy on the twists and turns of every current event, "but to rest their nervous systems and gird their loins for World War III." Said another way, "put your money on the number dictated by Pascal's logic and concentrate on acquiring the traits you will need to meet the tests ahead."

A fallout of my philosophy course, "Foundations of Moral Obligation," has been the illumination of some seldom stressed aspects of leadership that may well be a part of those tests. I mean in particular those necessary in the new decisionmaking territory our middle and junior grade officers of today can expect to find themselves in before the turn of the century. The "new territory" might well be one of a nuclear war, one that lasts for months, one in which communication with deployed units may be intermittent or severed. There in the eye of the storm, leadership will entail many unique duties that will test and challenge. The ability of our leaders to function in such a do-it-yourself environment may influence the direction as well as the outcome of the battle, or perhaps the war.

To lead, they will face the need to be moralists, not as those who sententiously exhort men to be good, but those who elucidate what the good is. This requires first and foremost a clear idea of right and wrong. A disciplined military life will encourage a commitment to a personal code of conduct and from good habits a strength of character and resolve will grow. This is the solid foundation from which the good is elucidated—by action, by example and by tradition. A moralist can make conscious what lies unconscious among his followers, lifting them out of their everyday selves, into their better selves. All great men in history have relied on some measure of ethical resolution in their lives and it's been perfected in their work and heritage.

Secondly, there are times when our leaders must be jurists, when decisions will be based solely on their own ideas of fairness, their knowledge of the people who will be affected, and their strength of character. There won't be a textbook or school solution to go by. I'm not talking about petty legalistic arbitrations or controls, but about hard decisions with seemingly endless complications. As jurists, they will be writing law and that's a weighty responsibility. When they're in the hot seat, they'll need the courage to withstand the inclination to duck a problem or hand it off; they've got to realize that it's necessary to take it head on. And they must understand the peril of that fatal flaw of writing a law that cannot be obeyed.

Leaders will discover that part of their duty will involve teaching. Every great leader I've known has been a great teacher, able to give those around him a sense of perspective and to set the moral, social and particularly the motivational climate among them. This is not an easy task—it takes wisdom and discipline and requires both the sensitivity to perceive philosophic disarray in your charges and the knowledge to put things in order. I believe that a good starting point is to put some time in on that old injunction, "Know thyself."

There are footsteps of greatness to follow in any of the Service branches. During a military career, there are opportunities to leave those same clear footprints for future generations to follow. In John Ruskin's words such a process is "painful, continual and difficult . . . to be done by kindness, by waiting, by warning, by precept, by praise, but above all by example." Teachership (in my view) is indispensable to leadership and is an integral part of duty.

Another of those unique duties is that of being a steward. That requires tending the flock, even "washing their feet," as well as cracking the whip; it takes compassion to realize that all men are not products of the same mold. There is much more to stewardship than the carrot and stick enticements that some of our vaunted motivational experts would prescribe. It requires knowledge and character and heart to boost others up and show them the way. The old Civil War historian Dougles Southall Freeman described his formula for stewardship here at the Naval War College 30 years ago; he said you had to know your stuff, to be a man and thirdly, to take care of your men. That's a good formula to follow in the times ahead that will test stewardship.

One final aspect of leadership is the frequent necessity to be a philosopher, able to understand and to explain the lack of a moral economy in this universe, for many people have a great deal of difficulty with the fact that virtue is not always rewarded nor is evil always punished. To handle tragedy may indeed be the mark of an educated man, for one of the principal goals of education is' to prepare us for failure. To say that is not to encourage resignation to the whims of fate, but to acknowledge the need for forethought about how to cope with undeserved reverses. It's important that our leadership steel themselves against the natural reaction of lasting out or withdrawing when it happens. The test of character is not "hanging in there" when the light at the end of the tunnel is expected but performance of duty and persistence of example when the situation rules out the possibility of the light ever coming.

Finally, I think it is clear that in my view, education prepares men for leadership and survival. For the record, I am convinced that formal education is now more important than ever for those of us in uniform. Certainly we can all see clearly the side of Pascal's wager on which the Soviets come down. As revealed in a recent book, *The Armed Forces of the USSR* (written by an American military couple well acquainted in Moscow), Soviet officer education takes a top priority in professional development and the courses are continually being lengthened and made more rigorous. Today, a Soviet officer cannot be assigned command of an army brigade or higher, or command of a naval second rank ship or higher, unless he has had the "rough, equivalent" of our Postgraduate School or War College. I say "rough equivalent" because their course lengths are longer. Their shortest war college (the General Staff Academy) is a 2-year course; the shortest technical PG is 3 years, most are 4 and some are 5. Moreover, entrance to these "academies" is gained only through competitive examination for which junior officers in their late twenties spend thousands of hours preparing.

The future will test this nation's leadership, its resourcefulness, its imagination, its dedication, its creativity and its will. To bring the point closer to home, it will probably give several of our mid-career officers of today one (and if they're lucky, two) chances for a moment of magnificence. May they all be preparing themselves for that moment. May they never sell themselves short.

PUBLIC OPINION AND SOVIET FOREIGN POLICY: COMPETING BELIEF SYSTEMS IN THE POLICYMAKING PROCESS

Mr. THURMOND. Mr. President, the public perception of the Soviet Union has a tremendous impact on the formulation of our foreign policy. As pointed out in "Public Opinion and Soviet Foreign Policy: Competing Belief Systems in the Policy-Making Process," these perceptions range from ones which view the U.S.S.R. as an aggressive, powerful nation to ones which see it as powerful but, because of domestic problems, conservative.

Mr. President, in order to share this fine article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUBLIC OPINION AND SOVIET FOREIGN POLICY: COMPETING BELIEF SYSTEMS IN THE POLICY-MAKING PROCESS

(By James N. Rosenau and Ole R. Holsti)

For a variety of reasons, the central thrust of Soviet foreign policy has been the focus of debate in the United States ever since the 1917 revolution. It was Walter Lippmann who first called attention to the cyclical swings in American opinion toward the U.S.S.R., pointing out that several pronounced fluctuations occurred in the 1920s and 1930s, well before the favorable attitudes of the early 1940s gave way to the harsh ones of the late 1940s. And surely, given the way in which the premises of the cold war and the spirit of détente seem to vie constantly for cyclical predominance, the present era is no exception to Lippmann's observation.

Explanations of the fluctuations vary. Some analysts see them as inherent in the functioning of a free society, especially one like the United States that expanded episodically across a continent,[1] while others discern aspects of the American character that are conducive to moody shifts back and forth between withdrawal from and intervention in world affairs.[2] And still others stress external factors, noting that each fluctuation was accompanied by a corresponding alteration in the conduct of Soviet foreign policy. Thus, for example, Stalin's purges in the 1930s, the lend-lease agreements, the Cuban missile crisis, and Brezhnev's advocacy of détente are but a few of the landmark developments that have precipitated swings in the tide of American opinion.

It would not be difficult, moreover, to discern innumerable ups and downs within each of the major swings, so sensitive does the public appear to be to the question of Soviet intentions. It is not atypical, for example, that such daily events as a report from Senators hosted at the Kremlin, the granting of permission to a few dissidents to emigrate, or the reiteration of an unwavering position toward Angola, appear to underlie movement on the fever chart of American attitudes toward the Soviet Union, or at least to provoke journalists, pundits, politicians, scholars, and other observers into looking for and commenting on the larger meaning of each new development.

Yet it seems too simple to explain the fluctuations on the fever chart in terms of national characteristics, shifts in Soviet behavior, or even an interaction between the two.

Doubtless many Americans are ambivalent toward the U.S.S.R., at once yearning for an accommodation among the superpowers and yet fearing expansionist impulses on the part of Soviet leaders. And undoubtedly, too, Soviet policymakers, being both ideologues and pragmatists, do shift back and forth between moving forward and retreating in world affairs as opportunities arise and recede. To explain the fluctuations as expressive of an ambivalent public that vacillates back and forth in response to the vacillations of Soviet policy, however, is to posit American opinion as endlessly in flux, lacking in leadership, stable only in its instability. In effect, the interactive-vacillations interpretation presumes that leaders of American opinion, nongovernmental as well as governmental, do not have structured at-

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Footnotes at end of article.

titudes toward the world and the U.S. role in it, that they are susceptible only to the most recent developments, somehow free of prior experiences and enduring convictions.

This perspective seems insufficient and misleading. It treats both leaders and citizens as spongelike creatures who know only how to absorb. Some Americans may not be particularly sophisticated about world affairs, and there is evidence that members of the mass public are more likely to possess unstructured attitudes than are leaders.[3] But it seems doubtful whether the reactions of many in either the mass public or the leadership stratum to the Soviet Union are simply a consequence only of what the Soviets do or do not do, unrelated to any other orientations or values they may have. Whether the reactions are intense or cautious, cordial or hostile, they are embedded in a larger context that consists of memories of the past, of longstanding and deep-rooted values, and of complex attitudes towards constancy and change in human affairs, all of which serve as filters through which reactions to events and trends in the Soviet Union, as elsewhere in the world, pass and are invested with meanings.

We call these underlying attitudes and orientations "belief systems," by which we mean, following Converse, "a configuration of ideas and attitudes in which the elements are bound together by some form of constraint or functional interdependence."[4] Our work on the coherence and durability of the foreign policy belief systems of leaders in all walks of American life, particularly in the recent, post-Vietnam period, reinforces the inclination to reject the interactive-vacillations explanation. We have found that leaders in every occupational group tend to adhere to one of three internally consistent and almost mutually exclusive belief systems, each of which places Soviet actions and U.S. policies of détente in a larger context and, accordingly, sets limits within which fluctuating reactions to the Russians can occur.[5]

If the members of the attentive and mass publics are normally inclined to follow the cues of those they view as their leaders on foreign policy issues (and we assume that they do), and if our data on the cognitive processes of 2,282 American leaders are accurate (and their internal logic and consistency leads us to believe that they essentially are), it seems highly implausible that present and future fluctuations in American opinion toward the Soviet Union occur because lots of citizens are frequently ambivalently changing their views about Soviet intentions. The prevailing belief systems are too functionally interdependent and too all-encompassing to permit casual shifts in opinion.

Thus the fluctuations of the fever chart have to be explained in another way, one that allows for the constraints on attitude change inherent in coherent belief systems. Such is the purpose of this paper: to probe for an understanding of U.S. orientations toward the Soviet Union that embrace both their constancies and their changes. To anticipate our reasoning, we focus on the political process in the United States and the ways in which it variously attaches salience to one or another conception of the Soviets held by different segments of the public. This line of reasoning leads us to the hypothesis that fluctuations on the fever chart derive from a shifting ascendancy of at least three very different segments of the leadership stratum, none of which is ambivalent in its attitudes toward the Soviet Union, but two of which are quiescent while the third is dominant as a result of Soviet policies that seem to affirm its premises. Viewed in this way, the fluctuations on the fever chart emerge not as vacillations of opinion, but as vacillations in the predominance of one or another belief system. In effect, the fever chart is conceived as a reflection of underlying regularities built into the processes of American politics rather than into the dynamics of attitude formation and maintenance.

Belief Systems and Opinions. We do not use belief systems and opinions as interchangeable concepts. The former refers to the broad and enduring values and perspectives through which one filters one's responses to stimuli in one's personal world as well as in the distant worlds of politics at home and abroad. Opinions, on the other hand, refer to more limited and transitory phenomena. They are the responses to stimuli themselves, the immediate interpretations of events in the personal and political worlds that emerge from the filtering process to which belief systems subject the stimuli. In an important sense, therefore, opinions are the products of internalized belief systems as well as of external stimuli.

Being more fundamental and all-encompassing than opinions, belief systems do not change as readily as opinions. The empirical evidence that most individuals tend to keep the basic components of their belief systems intact by either ignoring or reinterpreting stimuli that might otherwise introduce discrepancies into the constraints that bind them together as a coherent, functionally interdependent whole is considerable.[illegible] This tendency toward cognitive balance is not, however, impervious to change or ambivalence. The more loosely the constraints of a belief system are bound together, the more is it susceptible to being unbalanced by new developments. Under these circumstances the functional interdependence of system components fails to filter the new development and either ambivalence or change may then ensue. On the other hand, normally foreign policy belief systems are tightly bound, or at least such has been found to be the case for the beliefs of the governmental and nongovernmental leaders who participate in the ongoing dialogue that gives the appearance of cyclical swings in opinion toward the Soviet Union. Indeed, there is a number of indicators that leaders tend to fall back on their belief systems most readily under conditions of uncertainty. Because the Soviets often engage in both aggressive and accommodative activities at any moment, uncertainty over their goals often arises and, accordingly, American leaders are normally inclined toward reinforcing, rather than altering (or allowing for ambivalence in), their belief systems as they participate in public debates over foreign policy issues.[9] An accumulation of similar but disparate events in a short period of time can undermine prevailing belief systems, as they did during the winter of 1945–1946; alternatively, traumatic events on the order of a Pearl Harbor or a Vietnam may be required to induce a significant restructuring of foreign policy belief systems and, in the case of some leaders, even traumas of this kind may not be enough to foster an alteration of the prevailing balance.

If this is the case, it follows that the components of a foreign policy belief system from which leadership opinions toward the Soviet Union derive are not likely to undergo change very often. Particular Soviet actions on the world stage do not, in themselves, amount to traumatic events, so that ordinarily leaders are likely to be inclined to perceive and evaluate Russian foreign policy as they always have.

THE FLEXIBILITY OF THREE BELIEF SYSTEMS

As previously indicated, our inquiry into the post-Vietnam foreign policy orientations of a broad sample of American leaders has led to the identification of three internally coherent, mutually exclusive, and (in effect) competitive belief systems relative to the U.S. role in the post-1975 world. We have labeled those who subscribe to the three belief systems as, respectively, the "Cold War Internationalists," the "Post-Cold War Internationalists," and "Neo-Isolationists."

Lest these labels evoke obsolete values and associations, it must quickly be noted that each of the systems is quite elaborate and comprised of a number of interconnected components, ranging from conceptions of the structure of the international system to the role of military force to the relative importance of domestic institutions.[10] However, their central emphases and the basic differences among them can be summarized along the lines set forth in Table I.[11] Here it can be seen that the three are divided in profound and pervasive ways. The gaps between any two of them are rooted in different notions about the structure of world affairs, the dynamics of conflict, and the effective limits of American power. It is obvious, too, that while attitudes toward the Soviet Union are critical components of each belief system, they are also embedded in and derived from a larger set of concerns. Or at least it is clear that both the Post-Cold War Internationalists and the Neo-Isolationists derive their views of Soviet goals and capabilities in the context of development and change, just as the Cold War Internationalists see Soviet aggressiveness and power as part of the more enduring features of world affairs.[12]

Indeed, the orientations of leaders toward change may be the most pervasive nutrient for the soil in which the three foreign policy belief systems are embedded and, as such, the prime source of differentiation among them. Where the Post-Cold War Internationalists and the Neo-Isolationists stress, each in their own way, that the socio-economic structure of the global system and the issues that sustain it have undergone substantial transformation, a loosening up of structure and a proliferation of issues, the Cold War Internationalists are more concerned about the changing military balance. For them the world is still bipolar in important respects and the main issues still revolve around the strategic competition of the superpowers. The demands of the Third World and the proliferation of economic issues are subordinate to the overriding dangers of East-West conflict. Accordingly, they emphasize that the Russians are expansionist, that the industrialization of the Soviet Union and its rise to superpower status has not had significant internal consequences other than increasing its military capabilities, that the perspectives with which successive generations of Soviet leaders approach their tasks and the domestic pressures with which they must contend have not demonstrated sufficient change to allow for a relaxation of American concerns. In its purest and most extreme form, the Cold War Internationalist belief system is thus founded on a presumption of constancy, of change in the context of continuities. Its adherents are inclined to be highly skeptical of accommodating actions on the part of the Soviets, viewing them instead as mere tactics, as planned deceptions, as lulling devices to hide a never-ending impulse to expand influence and control. Despite decades of economic development, a process which everywhere else in the world is acknowledged to be deeply unsettling and the source of enormous alterations in the conduct of life and the dynamics of policymaking, the Soviet system is posited as unswerving and undeviating in its outward thrusts.

Footnotes at end of article.

TABLE 1.—SUMMARY OF 3 FOREIGN POLICY BELIEF SYSTEMS CURRENTLY HELD BY AMERICAN LEADERS

	Cold war internationalists	Post-cold war internationalists	Neo-isolationists
Structure of the international system	Bipolar	Multipolar.	Multipolar.
Loci of primary problems	East-West issues	North-South as well as East-West issues	Within the United States.
Sources of the main threats to the United States	The Soviet Union	Poverty, inequitable distribution of resources, population pressures, and regional antagonisms in the Third World as well as the Soviet Union	Decaying cities, inflation, unemployment, cultural decadence, environmental depredation, etc., at home.
Nature of conflict	Zero sum	Non-zero sum	Non-zero sum.
View of the Soviet Union	Powerful and aggressive	Militarily powerful but not awesome as they otherwise resemble a developing country.	Powerful but beset with domestic problems and, thus, conservative.
View of the U.S. role in the world	Leader of the non-Communist world, protector of its integrity and values.	Selective leadership on key issues	U.S. capacity for leadership abroad highly limited and of doubtful desirability.
Bases of U.S. foreign policy	Keep up with the Soviets militarily and respond to their efforts to extend their influence in the Third World.	Promote a multiplicity of economic and political institutions to facilitate movement toward world order and away from confrontation.	Keep foreign involvements and commitments to a minimum (i.e., primarily to Western Europe, Japan, and Israel).

If the Cold War Internationalists tend to focus on geopolitical factors, the Post-Cold War Internationalists and the Neo-Isolationists tend to emphasize socioeconomic change. They are inclined to view industrialization as a conservatizing dynamic that can lead in only one direction: the opening up of political institutions and the evolution of a benign stance toward the world. Disposed to ignore the inertia of social systems and to downplay the capacity of authoritarian systems to maintain strict controls, the Post-Cold War Internationalists and the Neo-Isolationists tend to see the rapid progress of the Soviet Union toward an industrial order as moving the U.S.S.R. toward liberalization at home and accommodation abroad. In their most extreme form, their belief systems are thus founded on a presumption of convergence, of change in a context of processes whereby all industrial systems converge toward common values and institutions.

Any Soviet movement toward détente is interpreted as a reflection of fundamental alterations, as a moderating of goals, as an affirmation of the underlying trend toward convergence. Contrariwise, any aggressive action on the part of the Soviets is seen as in the halting nature of social change, as merely a natural two-steps-forward-one-back process. And with successive generations of Soviet leaders thus seen as less and less threatening, the Post-Cold War Internationalists and the Neo-Isolationists are inclined to stress the multipolarity of the global system and to treat economic instabilities as central and not peripheral issues for American foreign policy. The Post-Cold War Internationalists see the changes inherent in multipolarity as requiring a special policy emphasis on new, nonmilitary strategies for working with the Third World, while the Neo-Isolationists view them as reducing the potential for influence in the world and thus requiring a readiness to cut commitments abroad.

In short, although each of the three belief systems acknowledge that change is at work in the international system, they are founded on different emphases on which changes are major and which are minor. Most notably for present purposes, they all agree that the Soviet Union has become a world class industrial nation and a military superpower, but interpreted through three quite different lenses, these changes take on very different meanings and yield very different policy prescriptions for the Cold War Internationalists, the Post-Cold War Internationalists, and the Neo-Isolationists.

A more specific example will perhaps illustrate the point. There is presently little disagreement among informed Americans that the Soviet Union has been engaged in a sizable buildup of strategic and conventional forces during the past decade and a half. But inferences about the motives behind expanding military budgets and, more specifically, their implications for the recently signed SALT II Treaty, are very much a matter of controversy. On the one hand, the Post-Cold War Internationalists and some Neo-Isolationists are often inclined to find comfort, paradoxically, in two quite different lines of reasoning: (1) the Soviets are non-rational when it comes to weapons acquisition (the arms buildup reflects "bureaucratic politics" within the U.S.S.R., or a semiparanoid fear of China, and thus is not a valid index of Soviet intentions toward the United States), but (2) they are so hypercautious and highly rational that they have no intention of unleashing their forces in a way that might ultimately lead to a nuclear holocaust. On the other hand, starting with the premise that weapons acquisition programs reflect a careful calculation of Soviet goals and ambitions, the Cold War Internationalists are more than slightly alarmed by the implications of the same "facts" about Soviet force structures and rates of change therein. Unlike those who subscribe to the other belief systems, they are prepared to jettison the proposition that the Soviet arms buildup has been an exercise in reaching parity with the United States, a goal that, once reached, would be self-terminating.

Articulating Belief Systems in the Political Process. To posit leaders as equipped with belief systems that render them resilient rather than spongelike in their reactions to fluctuations in Soviet behavior is not to account for how they handle the fluctuations themselves. The central tendency may be one in which leaders focus on those aspects of a fluctuation that reinforce their belief systems, but few are so impervious to unexpected and discrepant developments abroad that they fail to perceive or acknowledge them. Thus, leaving aside the few who adhere to the polar extremes outlined above, the question arises of how leaders predisposed to perceive the Soviets as aggressive cope with Soviet accommodative actions designed to enhance détente and, contrariwise, how those who tend to see them as accommodative cope with the aggressive instances of Soviet behavior. Are the belief systems of leaders so thorough-goingly rigid as to reject such negations of their perspectives? Do they not experience any pause, any ambivalence, even if only momentarily so?

Our view is that most leaders in most walks of American life are not so ideological or so arrogant as to be totally certain of the righteousness of their views. The image of them as possessed of a hard-core, impenetrable shell is no more accurate than the one that posits them as spongelike. Among other things, people do not rise to the top in the United States without some flexibility, some capability for moving with the flow of events and suspending judgment until more information is in. A Post-Cold War Internationalist is no more likely to ignore hard evidence of a Soviet military buildup than is a Cold War Internationalist likely to dismiss offhandedly the more conciliatory gestures of a Brezhnev. Either may be dubious and suspicious, but successful leadership involves pausing to ponder whether discrepant behaviors signify unexpected and important alterations in conditions or situations. So, other things being equal, it does seem likely that most leaders will at least hesitate when confronted with Soviet negations of their belief systems.

Here is where we conceive of the political process as relevant. Our view is that under the circumstances where leaders are given pause by discrepant Soviet behavior, they stay out of extensive involvement in the ongoing debate until the next time a Soviet action coincides with their perspective and allows them to return to vigorous participation in the dialogue, giving speeches, writing letters, or otherwise making statements that reaffirm their longstanding positions.

In other words, we conceive of belief systems as sufficiently flexible to allow for vacillations in the articulation of underlying attitudes toward the Soviet Union, but also as sufficiently rigid to inhibit casual changes in the attitudes themselves. Viewed in this way, the continuum of attitudes toward the Russians is not unidimensional. At the very least it is two-dimensional, ranging from hawk to dove, hard to soft, resistant to accommodative, or whatever the proper designations of the extremes may be, along one dimension, but doing so simultaneously with movement along a dimension ranging from quiescence to vocality, passivity to activity, or whatever may best indicate varying degrees of involvement in the political process. For any given leader or citizen, therefore, fluctuating opinions about the Soviet Union are more appropriately traced not as temperature on a metaphoric fever chart, but as waves on a voice print, moving up and down as well as back and forth.

The significance of this active-passive dimension should not be dismissed as mere tactics, as lying low or seizing the moment in response to shifts in the political climate, as stressing the underlying rigidity of belief systems rather than highlighting their capacity for adjustment. We see the ups and downs of the metaphoric voice print as a form of attitudinal change which, given our conception of the role of public opinion in the political process, is hardly less significant than the resistant-accommodative dimension. Attitude change need not occur only when one perspective is abandoned and another adopted to replace it.

To suspend articulation or withhold comment is, for those in leadership roles at any rate, to substitute perspectives, to acknowledge doubt, to focus perceptions through different lenses. The fact that leaders may subsequently renew articulation of the original perspective, citing intervening events as justifying the reiteration, does not necessarily mean that they are impervious to external stimuli and incapable of change. It can mean that they are especially sensitive to developments abroad and inclined to change.

through voicing or silencing themselves, their basic postures toward them.

It should be noted, moreover, that movements from passivity to activity are not characteristic of attitudes toward all issues that persist across time. Union officials, agricultural leaders, and business executives characteristically use every available opportunity to express their positions on the bread-and-butter issues affecting their constituents. They are not given pause or otherwise inclined to refrain from seizing opportunities for articulation by developments in their respective fields. Wages have to be protected, farm prices supported, tariff levels adjusted, so that having and voicing an attitude on such issues is one and the same dimension. On the other hand, in the case of attitudes toward the Soviet Union, or toward any major issue or region of world politics, events and outcomes are more obscure and, aside from those leaders in the foreign policy field itself, the appropriate responses can thus be less clear-cut, thereby conducing to hesitation and the suppression of leadership activities without corresponding alterations in attudinal direction.

Furthermore, the structure of most nongovernmental leadership positions and the loose, fluid, and open structure of the political process in the United States allows most leaders to hesitate, to blow hot and cold, insofar as the Soviet Union is concerned. Their constituencies expect them to speak out on wages, farm prices, tariffs, inflation, and the like, but, with few exceptions, there are no expectations that they articulate opinions about the Soviet Union. If they wanted to, most could probably stay in office for life without ever mentioning the Russians. That is, leaving aside politicians, a few corporate executives with business interests in Eastern Europe, journalists and educators, a preponderance of the nation's leaders need not fear for their positions if they periodically subside into silence on the Russians. Moreover, the political process permits alternating periods of hesitation and articulation. Opportunities for national leadership are not institutionalized in the United States so much as they are self-generated. Labor, business, agricultural, educational, and other leaders volunteer their opinions in interviews, speeches, letters, organizational meetings, and a variety of other contacts. They are invited to speak out or they do speak out and the mass media report their opinions; but in either event they can reject the opportunity, or accept it but not refer to the Soviet Union, if they feel themselves in a period where pause is indicated.

Assuming the three-way division of the leadership community in terms of mutually exclusive foreign policy belief systems, it follows that an understanding of the dynamics of public opinion relative to the Soviet Union is to be found in the conditions under which the adherents of each system are inclined to subside into passivity or be spurred into activity. Some of the conditions involve dynamics internal to the domestic political process, such as the proximity of the next Presidential election or a perceived need to bolster the coherence of the rank and file who comprise a leader's constituency.

Primarily, however, the conditions that conduce to leadership activity and passivity involve the central tendencies of Soviet behavior at any moment in time. If the Soviets are in a period in which they accord primacy to efforts at establishing more cordial relations with the West, or if they only engage in one significant step expressive of détente, then the Post-Cold War Internationalists are likely to be activated and to dominate the channels of communications with their opinions. Under these circumstances they will press for greater attention to world economic problems and the demands of the Third World, while the Cold War Internationalists and the Isolationists will lapse into relative silence in the absence of any major developments abroad that evoke their anxieties and/or justify their perspectives. If the Soviets enter a period in which a pronounced arms buildup is launched and aggressive pressure for influence in the Third World sustained, the Cold War Internationalists are likely to enter the political arena with vigor and command the communications systems with their arguments for countermeasures and a more forceful exercise of power.

Under these circumstances the Post-Cold War Internationalists and the Isolationists will tend to hold back their participation in the public debate, aware that events abroad can make a seeming mockery of their arguments and, accordingly, undermine their influence. If Soviet behavior enters a period in which it is simultaneously aggressive and accommodative, all three groups are likely to be activated, each finding incidents supportive of their concerns and justifying their speaking out. Under this circumstance, of course, the result is an overflowing communications system, a babble that borders on incoherence and confounds friend and foe alike.

If space permitted, it would not be difficult to identify how and through whom these shifting ascendancies occur. There are columnists, politicians, admirals, corporation executives, labor leaders, intellectuals, and a host of other leaders who subscribe to each belief system and whose entries and exits into the political arena could be readily traced if time permitted. One need only mentally record the fluctuating preoccupations of a Joseph Kraft, a Drew Middleton, a Senator Church, a Henry Kissinger, a General Keegan, a George Meany, or the lead editorials of *The New York Times* to obtain a vivid microscopic picture of the dynamics whereby the American public responds to the nation's prime adversary. Such a mental exercise would also provide a keen insight into how it is that American opinion appears to oscillate ambivalently relative to the Soviet Union even as it is solidly, perhaps rigidly, locked into fixed positions.

Thus far, of course, much of the foregoing is largely speculative. A great deal needs to be done to test the idea that the belief systems of opinion leaders consist of an active-passive as well as an aggressive-accommodative dimension. We hope to build into a forthcoming second stage of our leadership survey variables that will enable us to perform some of these tests.

FOOTNOTES

[1] Cf. Frank L. Klingberg, "The Historical Alternation of Moods in American Foreign Policy," *World Politics*, January 1952, pp. 239–273.

[2] See, for example, Gabriel A. Almond, *The American People and Foreign Policy* (New York: Harcourt, Brace, 1950).

[3] Philip E. Converse, "The Nature of Belief Systems in Mass Publics," in David Epter, ed., *Ideology and Discontent* (New York: Free Press, 1964), pp. 206–261.

[4] *Ibid.*, p. 207.

[5] Ole R. Holsti and James N. Rosenau, "Cold War Axioms in the Post-Vietnam Era," in Alexander L. George, et al., eds., *Change in the International System* (Boulder, Colo.: Westview Press, forthcoming).

[6] For an elaboration of how leaders and mass publics interact over foreign policy issues, see James N. Rosenau, *National Leadership and Foreign Policy. A Case Study in the Mobilization of Public Support* (Princeton: Princeton University Press, 1963).

[7] See Ole R. Holsti and James N. Rosenau, "Vietnam, Consensus, and the Belief Systems of American Leaders," *World Politics*, vol. XXXII (October 1979).

[8] For evidence along these lines, see Robert Jervis, *Perception and Misperception in International Politics* (Princeton: Princeton University Press, 1976).

[9] For an elaboration of how one leader, John Foster Dulles, interpreted the fluctuations of Soviet behavior in such a way as to preserve his belief system intact, see Ole R. Holsti, "The Belief System and National Images: A Case Study," *Journal of Conflict Resolution*, v. VI, 1962, pp. 244–252.

[10] For an extensive presentation of all the variables used in our research instrument to compile the belief systems, see Ole R. Holsti and James N. Rosenau, "Vietnam, Consensus, and the Belief Systems of American Leaders," a paper originally presented at the Hendricks Symposium on American Politics and the World Order, University of Nebraska, Lincoln, Neb., 6–7 October 1977, and subsequently abridged for publication (see footnote 7).

[11] For a further discussion of these belief systems, see Ole R. Holsti, "The Three-Headed Eagle. The United States and System Change," *International Studies Quarterly*, vol. XXIII (September 1979). For evidence that the same belief systems exist among the public, see Michael Mandelbaum and William Schneider, "The New Internationalisms: Public Opinion and American Foreign Policy," in Kenneth Oye, Donald Rothchild and Robert Lieber (eds.), *Eagle Entangled* (New York: Longman, 1979).

[12] Stated differently, while all three groups indicated far more agreement (83 percent) with a questionnaire item that posited the Soviets as "generally expansionist" than with any of the other 111 items used to construct the belief systems, their differences on the other items were sufficiently pronounced to indicate that the relevance of the "expansionist" perception varies significantly in the three belief systems. It is at the core of the Cold War Internationalists' perspective; it is important but not central for the Post-Cold War Internationalists; and it is secondary for the Neo-Isolationists.

HEALTH INCENTIVES REFORM ACT

Mr. BOREN. Mr. President, on July 12, 1979, Senator DAVID DURENBERGER introduced one of the most important pieces of health legislation this Congress will consider. S. 1485, the Health Incentives Reform Act, calls for the introduction of new competitive incentives into the health care delivery system as the primary way of combating rising health care costs.

I am very pleased to have joined in cosponsoring this legislation with Senator DURENBERGER. I commend him for taking the lead in offering it as an alternative to increased Federal regulation of the health care system. He is providing important creative leadership in this field. Unlike many other proposals which would require more Federal spending and control in the health care area, S. 1485 builds on the strengths of the existing health care delivery system by enacting reforms which will make it more cost-conscious.

S. 1485 was the subject of an excellent article in the September 16, 1979, issue of Hospitals magazine. Because of growing interest in S. 1485, I believe my colleagues will find this article very informative. I therefore ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMPETITION IS DURENBERGER'S RESPONSE TO SYSTEM REFORM

(By Michael Lesparre)

Competition and greater consumer choice—these are the forces that Sen. David Durenberger (R I-MN) believes can save the nation's health care industry from relentlessly rising costs and overregulation by the federal government. They are common denominators of the provisions of S. 1485—his Health Incentives Reform Act (HIRA), which was introduced in midsummer—a bill through which Durenberger hopes to change the system and do away with numerous existing federal regulatory mechanisms that restrain it.

"Either we foster competition through the private marketplace," Durenberger warns, "or we impose government regulations to control spending. No change is not an option, and I feel the only real choice is competition."

Durenberger's bill is the first of what is likely to be a cluster of competition consumer choice proposals, almost all of which are based at least in part on the theories developed in recent years by Stanford economics professor Alain Enthoven. Among others in Congress, House Ways and Means Committee chairman, Al Ullman (D-OR), has endorsed its basic objectives and plans to introduce a similar measure himself. But Durenberger unquestionably has taken the lead.

The Durenberger style is firmly challenging but nonmilitant, unlike the zealous approach of many national health insurance proponents, present and past. The freshman Senator has attracted cosponsorship for his bill among several Senate colleagues, and he has generated strong encouragement from virtually all of his fellow members of the Senate Finance Committee.

He is an attorney, having received his law degree in his native state at the University of Minnesota Law School in 1959. He was elected to the Senate in November 1978—his first venture into the field of politics—to serve the remaining four years of the term to which Sen. Hubert Humphrey was elected in 1976.

A low-key strategist, Durenberger has identified potential sponsors for his bill in the House of Representatives and is gradually and systematically seeking support for it among health care provider organizations, labor groups, senior citizens, and others. HIRA, Durenberger says persuasively, "is the first step toward changing the present health care system so that incentives for cost-effectiveness are introduced and fortified." In simplest terms, he adds, "the program would reward providers for better care at less cost and reward consumers for choosing better quality care at lower premiums."

HIRA would require employers to offer each employee a choice of at least three alternative health care plans. No matter which of these the employee would choose, the employer's contribution would remain the same—no higher than the average premium cost for federally qualified health maintenance organizations (HMOs) across the country. This contribution would be tax free, but above the stated limit, employees would have to pay premiums with their own net after-tax income.

Initially, employees would most likely make choices largely on the basis of cost, but Durenberger feels that over time the program would encourage comparisons and raise the consumer's level of sophistication concerning quality and access. Comparison shopping consequently would fuel incentives for better performance by providers and, as a result, the system would change through its own dynamics—not through "counterproductive" regulations imposed by government.

"The essence of the bill," Durenberger says, "is to demonstrate that if you can get consumers involved in making choices by establishing a benefit package and simplifying the language, and getting employers involved by forcing the options, then you will see clearly the value of competition and consumer choice in determining both the quality and the cost of health care."

Durenberger contends that, in addition, his proposal would stimulate reassessment of existing regulatory processes and motivate the health care delivery system to phase out many of them. He says that professional standards review organizations (PSROs) are but one example— ". . . it may well be that for some period PSROs will be a very important part of the system, but inherent in HMOs or other prepaid plans is a kind of 'automatic PSRO,' and ultimately we could expect to have a form of similar review automatically within the system." Naturally, he says, some providers will choose not to be part of the system, so PSROs may continue to exist into the indefinite future. But as the system's incentives change, so will its methods of ensuring cost-effectiveness and quality control.

The certificate-of-need process is yet another mechanism that Durenberger concedes will continue, but he believes that "at some point—because you want the system to make decisions about which hospitals survive and which die," the process becomes counterproductive; it keeps the system from operating under the pressures and forces it generates from within.

The same holds true for some health systems agencies, Durenberger says. Unless they work within a competitive system, as in Minnesota, they conflict with competition, often imposing "irrational or counterproductive mandates" under the planning process. Ultimately their role will dwindle.

"This doesn't imply that we are proposing a system devoid of standards," Durenberger cautions. Under HIRA, all health plans would be required to provide at least a minimum set of basic benefits and provide family protection against catastrophic expenses above the $3,500 level. Moreover, they would have to provide continued group coverage for at least 30 days following termination of employment, divorce of an employee, or in the event of the employee's death, protection for his or her dependents. For an additional six months, an individual who lost his group coverage would be able to convert to an individual health benefit plan, without regard to prior medical condition or proof of insurability.

"Unlike more sweeping, universal proposals, HIRA would stop short of adding more revenue to an unbalanced system and would address system reform first," Durenberger says. "I feel it is our best chance to set the framework for a more cost-effective system of health care delivery."

The tie to average premium levels of federally approved HMOs—a target of early critics of HIRA and similar proposals—is explained by Durenberger as a matter of having to choose a known yardstick. It is his long-range intent, however, to arrive at an adequate definition of qualified alternative health plans so that state, as well as federally qualified, plans would be included. In addition, "a regional subqualifier, a regional denominator, will have to be included because hospital and health care costs vary from region to region."

Critics also have contended that the fostering of HMOs can be a disincentive to competition and could have a negative effect on the system, a theory with which Durenberger disagrees "unless a community had but one HMO totally dependent on the federal government for start-up funds. But if it had only federal money at the outset, it would die—HMOs aren't subsidized for operational costs. After start-up, the key ingredient is management skill, and there's no federal subsidy for that."

Durenberger does cite possible hazards, however—for example, a union, which might force an HMO on an employer, thereby ensuring the HMO's base for survival—"a thoroughly bad situation." He admits that such captive groups exist and could prevent the system from growing in some communities, although "in most instances I don't see that happening."

As for having federal money available to develop HMOs—a real need in some rural or hard-pressed areas—Durenberger does not foresee serious problems. On the contrary, he is optimistic that in most communities employers will want to create options and, in most instances, he predicts avoidance of federal funding "because of the unrealistic HEW regulations for HMOs that go along with it." As supportive evidence he points to the experiences in Minneapolis-St. Paul, the Twin Cities, where seven or eight proposed plans have sprung up without federal help.

"The key element will be the employer," Durenberger says. "You'll see a lot of neat, exciting things happening when an employer gets actively involved in his employees' health care, raises questions about options in the community, and perhaps supports the formation of one or more HMOs or other prepaid arrangements." In the Twin Cities, optional programs have been offered by large employers only since about 1970, but Durenberger says, "we now have some 170 such companies offering optional programs to their employees—a very good track record. Of course, the very presence in the community of such large firms as Honeywell, Control Data Corporation, and General Mills has stimulated the organization of different plans by providing a potential market."

An HMO option for Medicare beneficiaries to participate in HMOs or insurance plans would further boost HIRA's goal to increase the number of prepaid plans. A premium contribution to an HMO of a beneficiary's choice would equal 95 percent of the community average for Medicare Parts A and B services. This means that if the HMO could provide basic Medicare benefits for, say, 85 to 90 percent of the premium, the beneficiary could elect such additional services as dental care or preventive measures, or enjoy a reduction in premiums or cost sharing.

Opposed to the federalization of Medicaid and dubious that the foreseeable future Congress can seriously consider a comprehensive health care program requiring large federal expenditures, Durenberger feels that HIRA's procompetition changes would help low-income Americans.

"'Project Health' in Oregon has shown that low-income people can participate in competitive markets to their advantage and to the advantage of taxpayers," he maintains. "In that program, the county sets itself up as a sort of health care broker, and persons entitled to health benefits can select from several plans." With such an arrangement, as would be possible under HIRA, he believes, "we could piggyback onto the system any of the subsidized programs, including, for example, the Administration's proposed Child Health Assessment Program."

How would HIRA affect hospital costs? "The hospital that operates cost-effectively and has a lower per diem rate," Durenberger says, "will be more likely to gain a competitive plan's business—provided, of course, that its services are of top quality. This has been the case in the Twin Cities, with hospitals beginning to face intense competitive pressure to operate more cost-effectively. The plans are shopping around for hospitals that can provide then. with established hospital relationships. Some have negotiated discounts and are applying strong pressure for reforms leading to efficiency." Such incentives and the competition they would engender would make legislative proposals for hospital cost containment legislation unnecessary, according to Durenberger. In any case, in midsummer the Senator had serious doubts that the Administration's cost containment bill had a chance for enactment. The energy crisis was receiving deservedly higher priority, in his view, and it overshadowed most domestic issues. Moreover, he believed that members of Congress who voted for cost containment in committee were merely keeping their promise to the President.

"In the last analysis I don't think members of Congress feel any great liability in voting against hospital cost legislation," he says. "In fact, it is rather like voting against the government getting more deeply involved in the communities at home. And for this reason, it would take herculean efforts on the part of the President to get hospital controls enacted."

The fatal flaw in the Administration's cost containment bill, Durenberger says, is what it would do to the health care system. "If there were a way in such legislation to treat every hospital individually—and if there were not such alternatives as HIRA—then perhaps we should consider something like it, and I could support that. But such isn't the case, and I voted against the bill.

"Even the President can't justify his cost-containment bill. When he asked me to support it," Durenberger says, "I felt that his personal justification reflected a lack of understanding of the bill's implications. I assumed, then, that he wanted it mostly for political reasons, and I think that's not reason enough."

Meanwhile, Durenberger is working on his bill to reform—and to bring new incentives to—what he considers an ailing health care system. "The Health Incentives Reform Act represents a response to the overwhelming need to stop medical inflation," he says reflectively, and smiling, he adds, "I've really decided to run with it."

THE ECONOMY

Mr. PROXMIRE. Mr. President, the unemployment figures this month are very good. They show a fall in unemployment from 6 percent to 5.8 percent. They show a very big increase in the number of jobs available, over 600,000 increase. They contradict completely all of the expectations of the great majority of the economists in the administration and outside the administration.

Mr. President, this development epitomizes more than almost any recent event the present low state of the economics profession.

For months we have been fed a mass array of computer projections, predictions, forecasts and just plain guesswork. We have been told repeatedly that we are in a recession. Furthermore, and more alarming, many economists have been proposing policy actions based on mere prediction or forecast which do not fit the facts.

We are at the height of a roaring inflation. Incidentally, on Thursday we were told that the inflation in September was the worst in any month in 5 years, that the inflation in the past quarter was one of the worst we ever had in the history of this country, and that the inflation in the past year surpassed almost anything we ever experienced in the history of this country. Nevertheless, in effect, we have been told not to tighten our belts, not to be alarmed by a massive deficit, and not to cut spending, because of a recession, which has no basis in fact but merely in fiction—in forecasts, in predictions, in projections. Now, it may happen that we may have a recession.

Senator Paul H. Douglas, who was an eminent Member of this body, the only Senator in the history of this body who was the president of the American Economic Association, and was also chairman of the Joint Economic Committee for a number of years, and a trailblazer in economic thought, cautioned time and again against making policy on the basis of predictions or projections. His rule was to wait for the facts and to act on the facts.

A recession is two quarters of decline in the real GNP, not 1 month's projections based on the leading indicators.

A recession involves a rise in unemployment over a number of months, not an unemployment rate which is either steady or gradually falling, interrupted only by an occasional monthly aberration.

Policies to fight unemployment and inflation and to keep the economy going should be based on fact—not some computer prediction of the inflation rate projected a year into the future which in almost every year in recent times has turned out to be wrong—in some cases stupidly wrong.

The time is now long overdue for the Council of Economic Advisers, the Congressional Budget Office, the Office of Management and Budget, and the professional economic community to base proposed policies on the actual facts and not some future projections which at best have some mechanistic basis.

Economics is not engineering or science. Economics is a social science, an art, and an imperfect discipline.

The economy is made up of impetuous and not merely mechanistic factors. We cannot predict it.

When we face double digit inflation we should act to correct it.

When we have sustaind rising unemployment, we should move to correct it.

When we are in a recession we should put into play those countercyclical measures which can reduce its severity and limit its harshness.

When we have it, when the figures show we have sustained rising unemployment, we should move to correct it. We do not have that. Unemployment has been falling, as I pointed out, in the last month. It fell. It is now 5.8 percent.

But we should not promote or condone a massive deficit or vastly increased spending at a time of double digit inflation and act that way based on some computer projection that inflation will be down in the third quarter of next year.

We should not pull out the stops and promote tax cuts, public works, of business bailouts on the basis of projected rising unemployment at a time when unemployment is stable or falling.

It is time to base policy on facts and not projection. It is long overdue for the economics profession to forego proposing policies based on computer projections and base them on the facts of the real world when those facts have been shown and sustained.

WE SHOULD NOT KEEP SILENT ON GENOCIDE

Mr. PROXMIRE. Mr. President, in his speech before the General Assembly of the United Nations, Pope John Paul II made several references to the Auschwitz death camp in Poland. It was only last June that the Pope visited Auschwitz during his pilgrimage to his native land. The Pontiff surveyed the site where millions of Jews were ruthlessly slaughtered by the Nazi regime.

Despite the horrible memories stirred by what remained of Auschwitz, John Paul used his experience to reenforce his determination to battle injustice. He realized that the ruins of death camps which scar the face of Europe serve as a warning sign to the civilized world—a reminder of the need to speak out against the atrocities of the past, so as to avoid their recurrence in the future.

Every individual, or group of individuals, who serve humanity, must speak out against injustice. However unpleasant the subject might be, one cannot ignore the past. As John Paul explained to the U.N. representatives:

> I would be dishonest with respect to the great cause of humanity which we all wish to serve, if I should keep silent. . . .

Although America has been a leader in the field of human rights for over 200 years, on one issue we have remained silent. We have failed to speak out against the genocide of 6 million Jews. We have failed to accede to the Genocide Convention.

Should we avoid speaking out against this most heinous international crime? Should we ignore the past and disregard protecting the future of mankind?

The answer is, Mr. President, that we cannot.

The memories of Auschwitz John Paul II spoke of this week, are too grave to ignore. We must reaffirm our faith in the rights of man and declare genocide an international crime against humanity.

I urge my colleagues not to keep silent. Let us speak out by ratifying the Genocide Convention.

THE SALT DEBATE

Mr. WALLOP. Mr. President, undue confusion has arisen over whether it is proper for us to discuss SALT while Soviet combat troops are in Cuba. It is true that the issues which lie at the heart of the SALT debate are too important for us to pretend they do not exist, even for a little while. But it is also true that the Soviet Union has shown once again that it is dedicated to reducing the U.S. influence everywhere, including our own backyard. This suggests two apparently contradictory courses of action. On the one hand the United States ought not even to consider an important cooperative relationship with the Soviet Union at this time. On the other hand, the United States cannot afford to put off consideration of the issues involved in that relationship. Nevertheless it is both possible and advisable for the United States both to put aside the SALT treaty and take up the issues which make SALT important. There is a big difference between deciding the issues which lie at the heart of SALT and taking formal action on the treaty. The Soviet Union's actions make the latter improper, but increase the former's urgency.

The President has negotiated a treaty which provides for a certain level of Soviet forces and a certain level of American forces. The forces which the treaty would allow to the United States are those which the administration has judged necessary and sufficient to deter attack on the United States, to protect our allies from Tokyo to Tel Aviv, and to support a foreign policy capable of upholding our interests around the world. The administration is committed to maintaining those forces—no more, no less, whether the Senate acts upon SALT or not. The Senate cannot avoid its responsibility to judge whether the President has decided correctly or not.

The Soviet Union has committed a grave act, which is entirely in keeping with its ominous actions around the world recently. The Soviet Union or its proxies have conquered Afghanistan, Angola, Ethiopia, Cambodia, South Vietnam, South Yemen, and Nicaragua. The Soviet Union affirms the Brezhnev doctrine, according to which it is justified in using its own troops to prop up any Communist regime anywhere. It has now put combat troops in Cuba—troops which can protect a Communist regime against its own people. It should be noted that the Soviet brigade sits directly between Cuba's two major airfields, and is in a position to hold them in order to allow large Soviet units to be airlifted to the island to enforce the Brezhnev doctrine. Moreover this little brigade can intervene in Latin American crises facing us with the prospect of surrender or world war. Under these circumstances it is nonsense to consider ratifying a treaty the underlying premise of which is that the United States and the Soviet Union are mutually committed to a stable relationship with one another.

The proper response to the Soviet Union's action is a detailed reexamination of our own military forces. Because the Soviets have troops in Cuba it would be proper for the Senate to ask whether the forces we now have and which the administration has decided we should have in the future are sufficient to successfully support the demand which the administration originally made of the Soviet Union: that it remove its combat troops from Cuba. The Soviets refused, and the administration decided not to press its demand. But we have the duty to ask, in detail, just what conventional and naval forces we would have needed had we decided to press the administration's original demand. What forces do we need to defend our interests not only in Cuba but around the world against the determined efforts of our enemies, and what sort of strategic weapons we would need to back up these forces. At the very least the Senate should quickly agree to Senator BELLMON's proposal to create a special select committee on how we might overcome our present military dangers.

Instead, however, there is a growing reluctance to deal with the subject of strategic weapons at all. During September the Senate appeared to be moving away from SALT without having decided—or even considered—the issues which make SALT important, first among them whether our military forces are sufficient. But whether our forces are either sufficient or not is not affected by whether or not Soviet combat troops are in Cuba. If by magic those troops were to disappear tomorrow I fear that some of my colleagues would be tempted to vote for the SALT treaty without having given decent consideration to the issues which underlie it. In short, we should not make such momentous decisions by default or by jumping on bandwagons.

The most obvious issue in the SALT debate is the adequacy of the forces which the treaty allows to us for dealing with the forces which the treaty allows to the Soviet Union. We cannot discuss this issue without noting that the administration's understanding of our needs diminishes even further what SALT II would explicitly allow. For example, nothing in the treaty would prevent us from building 820 MX missiles. But Secretary Brown has told us that the administration itself unilaterally has set a ceiling of 550 MIRVed ICBM's, most of which would be little Minuteman III's. If and when we build our 200 MX's we would destroy 200 of our own Minuteman III's. Again, nothing in the treaty or in technology prevents us from putting powerful, accurate warheads on our submarine launched ballistic missiles. But this administration deems that unwise. As of today, the bulk of our strategic force consists of some 5,000 submarine launched warheads so small and inaccurate as to be incapable of destroying Soviet strategic weapons. None of our weapons are capable of reducing the Soviet Union's ability to strike the United States.

This administration is basically satisfied with this state of affairs. It looks at the Soviet Union's arsenal and basically wonders why the Soviets have spent so much effort to build weapons the administration considers useless. The Soviets will soon have over 5,000 warheads capable of destroying our land-based strategic forces and, therefore, of reducing our ability to strike back. If they were to attack our forces, the Soviets could then deter us from retaliating by credibly threatening to do much more harm to us than we could do to them.

The most obvious issue in SALT, then, is whether this state of affairs is tolerable for the United States, or whether it is intolerable. Much more than the SALT treaty is at stake here. If the administration is right, we should not radically improve our forces, even up to the limits of the SALT treaty, because to do so would be useless and would increase the risk of war. But if the President's critics are right, we risk a war that we would surely lose unless we change the character of our forces. Such a decision is logically prior to a decision on SALT.

Should we build forces capable of minimizing damage to our country in case of war, or should we not? The President and his principal advisers say we cannot and should not try. The New York Times' editorial of August 15, 1979, admits it may be possible to protect much of our population, but says that safety can only be ours if both the United States and the Soviet Union commit themselves to leaving their populations "forever vulnerable" to each other's offensive weapons. On the other hand, there are plenty of experts in military affairs who believe that it is entirely possible to protect most of the population of the United States from the worst effects of nuclear war.

They point out that the Soviets are working hard to build blast shelters for their people, and to give their country the best active defense technology provides. It is quite clear, by the way, that technology is about to give defensive weaponry a decisive advantage over offensive weapons. Nevertheless, the President claims that defense weaponry and civil defense are useless, and provocative. His critics claim that not to have the best defenses technology can provide is immoral, senseless, as well as provocative. Who is right? A decision to put off formal action on SALT does not diminish this question's urgency, nor its importance.

Do we now have the strategic military power we need to defend our vital interests in the world? The President says yes. The administration has told Western Europe that our willingness to commit suicide by launching missiles at Soviet cities will protect Europe from invasion or strangulation by the Soviet Union. But it seems that our strategic power today is not enough to keep the Soviets from putting combat troops in Cuba—an area where we have overwhelming conventional superiority. The President's critics note that we have clear conventional inferiority in Europe. They also note that, by 198[illegible], our inferiority in strategic weapons will be so much worse, that the strategic military balance of 1979 will look like a rosy dream world. They contend that our strategic forces are inadequate to defend our interest in Europe now, and that they will be laughably inadequate by 1982. Who is right? We have to decide, because the challenges to our position in the world and to our prosperity at home are not going to become milder.

Have we been following the right policy toward the Soviet Union during the past 15 years, or not? The administration wants to continue in today's policy which has enjoyed bipartisan support under four administrations. They contend that we should help the Soviet Union overcome its economic difficulties, that we should not take literally the Soviet Union's pronouncements of its determination to destroy our way of life, and that we should not become alarmed because the Soviet Union and its proxies have conquered some dozen countries and have built the world's mightest military machine. They contend that to change these policies would be to court a needless war with a nation we can and must get along with.

The President's critics, on the other hand, contend that by building the Soviet economy while the Soviet Union has expanded militarily at home and abroad has aided that expansion. They also contend that by not opposing the Soviet Union's enslavement of countries from Angola to Vietnam our Government has sent wrong and potentially disastrous signals to the Soviet Union, and has weakened our own ability to ultimately resist Soviet advances anywhere. If the President is right, we will be in serious trouble unless we stick close to the long-standing policy. If his critics are right, we will be in serious trouble unless we make a radical departure from it. Again we cannot escape the choice, whatever we do about SALT.

Therefore, while it is right and proper to put off formal action on the SALT II treaty, the country would not be well served if we did not debate and decide the above-mentioned questions. Everyone understands, I trust, that SALT is important not so much for itself but because it implies a series of serious choices. We can and should put off the treaty, but let us not put off the choices. We had them in front of us before Senator STONE told us about the Soviet brigade. Let us put aside the treaty and take up the questions that really matter.

The Soviets would truly have harmed us if, by putting combat troops in Cuba they could keep us from deliberating on what we may require for our own safety.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE U.S. SINAI SUPPORT MISSION—MESSAGE FROM THE PRESIDENT—PM 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith the Eighth Report of the United States Sinai Support Mission. It covers the Mission's activities during the six-month period ending October 1, 1979. This Report is provided to the Congress in conformity with Section 4 of the Public Law 94-110 of October 13, 1975.

The Peace Treaty which Egypt and Israel signed in Washington on March 26, 1979 calls for the United States to continue monitoring responsibilities in the Sinai until January 25, 1980, when Israeli armed forces withdraw from areas east of the Giddi and Mitla Passes. This mission will be completed on schedule.

Trilateral talks in Washington on September 18 and 19 resulted in tentative agreement for the United States, using the Sinai Field Mission, to verify force levels specified in Annex I of the Treaty, in the area of the Sinai west of the interim Buffer Zone. Administration officials have been in touch with appropriate Congressional committees on various aspects of the U.S. undertaking and will provide Congress with all agreements and understandings to which the United States is a party.

This year's funding of the Sinai Support Mission is authorized under Chapter 6, Part II of the Foreign Assistance Act, "Peacekeeping Operations." A request has been made to Congress to restore $6.1 million of the Sinai Support Mission funds for FY 1980, to cover anticipated outlays associated with the new U.S. undertaking in the Sinai.

The American peacekeeping initiative in the Sinai has been highly successful. I know the Congress will continue its support of the Mission, as part of United States efforts to meet our goal of permanent peace in the Middle East.

JIMMY CARTER.

THE WHITE HOUSE, *October 5, 1979.*

REPORT ON U.S. URANIUM ENRICHMENT CAPACITY—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Committee on Governmental Affairs, jointly, by unanimous consent:

To the Congress of the United States:

In accordance with Sections 103 and 104(c) of the Nuclear Non-Proliferation Act of 1978, I hereby transmit to Congress the U.S. Uranium Enrichment Capacity Annual Report.

This Report has been prepared by the Department of Energy in conjunction with the Department of State, the Arms Control and Disarmament Agency and the Office of Management and Budget and submitted to me as required by law. The Report discusses the need for additional U.S. uranium enrichment capacity and addresses the desirability of and options for foreign participation in new U.S. uranium enrichment facilities.

JIMMY CARTER.

THE WHITE HOUSE, *October 5, 1979.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the President transmitting a report in accordance with the Nuclear Nonproliferation Act of 1978 be referred jointly to the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on October 4, 1979, he had approved and signed the following acts:

S. 275. An act for the relief of Leah Mi Cohen; and

S. 544. An act to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment, but with a preamble:

H. Con. Res. 91. A concurrent resolution urging the Government of Syria, on humanitarian grounds, to permit Syrian Jews to emigrate.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

Robert Krueger, of Texas, to be Ambassador at Large and Coordinator for Mexican Affairs.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert Krueger.

Post: Ambassador at large.

Contributions (if none, write none), amount, date, and donee:

1. Self loans, $275,000, October 1978–February 1979, friends of Bob Krueger.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: Faye L. Krueger, $1,000, April 1978, friends of Bob Krueger.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: Arlene Seals, $1,000, May 1978, friends of Bob Krueger.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON THE BUDGET, EXPENDED BETWEEN AUG. 24 AND SEPT. 16, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Flickner Charles:									
Egypt	Pounds	846.5	1,209.29	24.9	35.57	36	51.43	907.4	1,296.29
Sudan	Pounds	146.68	293.95			3	6.01	149.68	299.96
Air fare from Washington to Egypt, The Sudan, Egypt and return.					1,275.00				1,275.00
Total			1,503.24		1,310.57		57.44		2,871.25
Delegation expenses (supplemental): Poland	Zloty			6,221	199.65	7,680	251.31	13,901	450.96
Total					199.65		251.31		450.96

NOTE: Supplemental Report to Committee on the Budget Report submitted for travel for the period Apr. 26 to May 7, 1979, report filed with Office of the Secretary of the Senate on June 27, 1979—published in Congressional Record Aug. 3, 1979.

EDMUND S. MUSKIE.
Chairman, Committee on the Budget.

Oct. 1, 1979.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES, EXPENDED BETWEEN AUG. 5 AND AUG. 22, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Stephen J. Paradise:									
Sweden	Krona	2,061.70	490.00					2,061.70	490.00
Denmark	Krone	2,283.75	432.00					2,283.75	432.00
Norway	Krone	2,100.40	420.00					2,100.40	420.00
England	Pound	154.18	345.00					154.18	345.00
					1,831.00				1,831.00
Michael L. Goldberg:									
Sweden	Krona	2,061.70	490.00					2,061.70	490.00
Denmark	Krone	2,283.75	432.00					2,283.75	432.00
Norway	Krone	2,100.40	420.00					2,100.40	420.00
England	Pound	154.18	345.00					154.18	345.00
					1,831.00				1,831.00
Harrison A. Williams, Jr.:									
Sweden	Krona	2,061.70	490.00					2,061.70	490.00
Denmark	Krone	2,854.70	540.00					2,854.70	540.00
Italy	Lira	306,375	375.00	134,000	164.01			404,375	539.01
					1,704.00				1,704.00
Delegation expenses (autos):									
Sweden	Krona			3,333.00	791.22			3,333.00	791.22
Denmark	Krone			4,053.50	766.76			4,053.50	766.76
Total			4,779.00		7,087.99		0		11,866.99

HARRISON A. WILLIAMS, JR.,
Chairman, Committee on Labor and Human Resources.

Oct. 3, 1979.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalen or U.S currency
Senator Birch Bayh: Europe									1,549.62
William G. Miller: Europe									1,605.53
Total									3,155.15

BIRCH BAYH,
Chairman, Select Committee on Intelligence.

Sept. 19, 1979.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCLURE (for himself, Mr. BOREN, Mr. THURMOND, Mr. LAXALT, Mr. BAUCUS, Mr. STEVENS, Mr. HATCH, Mr. SIMPSON, Mr. GARN, Mr. DOMENICI, Mr. GOLDWATER, Mr. WALLOP, Mr. BAKER, Mr. BURDICK, Mr. COCHRAN, Mr. COHEN, Mr. DANFORTH, Mr. HATFIELD, Mr. HELMS, Mr. HUMPHREY, Mr. LUGAR, Mr. MELCHER, Mr. STONE, Mr. TOWER, Mr. HEFLIN, Mr. LEAHY, Mr. SCHMITT, Mr. DOLE, Mr. CHILES, Mr. JOHNSTON, Mr. JACKSON, and Mr. MAGNUSON):

S. 1862. A bill to improve the administration of Federal firearms laws, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1863. A bill to authorize the Secretary of Commerce to charter the NS *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE (for himself, Mr. BOREN, Mr. THURMOND, Mr. LAXALT, Mr. BAUCUS, Mr. STEVENS, Mr. HATCH, Mr. SIMPSON, Mr. GARN, Mr. DOMENICI, Mr. GOLDWATER, Mr. WALLOP, Mr. BAKER, Mr. BURDICK, Mr. COCHRAN, Mr. COHEN, Mr. DANFORTH, Mr. HATFIELD, Mr. HELMS, Mr. HUMPHREY, Mr. LUGAR, Mr. MELCHER, Mr. STONE, Mr. TOWER, Mr. HEFLIN, Mr. LEAHY, Mr. SCHMITT, Mr. DOLE, Mr. CHILES, Mr. JOHNSTON, Mr. JACKSON, and Mr. MAGNUSON):

S. 1862. A bill to improve the administration of Federal firearms laws and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. McCLURE when he introduced the bill appear earlier in today's proceedings.)

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1863. A bill to authorize the Secretary of Commerce to charter the NS *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina; to the Committee on Commerce, Science, and Transportation.

CHARTER OF THE NS "SAVANNAH"

Mr. HOLLINGS. Mr. President, in 1972 the General Assembly of the State of South Carolina created the Patriots Point Development Authority for the purpose of establishing and maintaining a Naval and Maritime Museum in Charleston, S.C.

Patriots Point, which is now open, is located on a 500 acre tract of land in Mt. Pleasant, overlooking historic Charleston. The Authority has opened to the public the U.S.S. *Yorktown*, which had a distinguished role in World War II, and has recently acquired the charter for the destroyer *Laffey* and the submarine *Clagamore*.

I rise today to introduce together with my colleague, Senator THURMOND, legislation to transfer the charter of the NS *Savannah*, the world's first nuclear ship, to the Patriots Point Development Authority so that it, too, can be opened to the public for display and visitation.

The inclusion of the *Savannah* at Patriots Point is important to the education and historical nature of the museum. It will compliment the existing and future acquisitions of the authority and, because of the ship's unique place in U.S. naval history, will add a dimension that few vessels can provide. The public, having access to the ship, will be able to witness the first example of nuclear power harnessed for non-military purposes. It is important that this be made available and I am pleased that Patriots Point is anxious to provide it.

Besides transferring the vessel to Patriots Point, this bill provides for the proper maintenance and monitoring of the nuclear facility on board. This is in conformance with the Nuclear Regulatory Commission's standards and will assure that there is no threat to the public from the nuclear elements on the ship.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD and I hope that my colleagues will give this bill swift and favorable consideration.

The Senator from South Carolina (Mr. THURMOND) also has some remarks on this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce is authorized within one year after enactment of this Act, to charter the NS *Savannah* to Patriots Point Development Authority, without monetary consideration, for a minimum of five years and a maximum of thirty years, with options to renew for five-year periods thereafter, for use as a museum ship and for other public purposes, but not for transportation, together with such of her fixtures, tackle, apparel, furnishings, and equipment as the Secretary of Commerce, in the Secretary's discretion, determines.

SEC. 2. The charter authorized by section 1 shall include a provision that—

(a) the Secretary of Commerce shall be responsible for inspection and maintenance of the hull below the waterline and that Patriots Point Development Authority shall be responsible for all other maintenance, including the paying for the electrical power for the cathodic hull protection system;

(b) the Patriots Point Development Authority shall save the United States harmless from all liability with respect to the vessel;

(c) the Patriots Point Development Authority shall return the vessel to the Secretary of Commerce at the termination of the charter or any renewal thereof in the same condition, fair wear and tear excepted, as when the charter was entered into; and

(d) the Patriots Point Development Authority shall obtain such insurance and provide such other assurances as the Secretary of Commerce may require to carry out its obligations under this Act.

SEC. 3. The Secretary of Commerce, acting for the United States Government as owner of the vessel, and Patriots Point Development Authority shall apply to the Nuclear Regulatory Commission for a license to possess but not to operate the nuclear utilization facility under which the sole liability of the Secretary of Commerce shall be that the Secretary will bear the financial responsibility for the ultimate disposal of the reactor and other nuclear systems and radioactive contaminated components in the vessel, in accordance with a plan which the Secretary of Commerce will submit at the time the reactor, nuclear systems, and radioactive components are to be disposed of and which is then approved by the Nuclear Regulatory Commission as required by the Atomic Energy Act of 1954. The Authority shall be responsible for compliance with the license for the monitoring and security of the reactor and all nuclear systems and radioactive components in the vessel and for filing all reports that may be required as the licensee.

SEC. 4 Any funds appropriated pursuant to authorizations contained in the Acts of October 21, 1975 (89 Stat. 611; P.L. 94-121), July 14, 1976 (90 Stat. 937; P.L. 94-362), August 2, 1977 (91 Stat. 419; P.L. 95-86), and October 10, 1978 (92 Stat. 1021; P.L. 95-431) are authorized to be used for preservation work on the NS *Savannah*. Expenditures authorized by the preceding sentence for the preservation of the NS *Savannah* shall not exceed that amount which the Secretary of Commerce, in the Secretary's discretion, determines to be necessary to make the vessel suitable for use by the Patriots Point Development Authority pursuant to section 1 of this Act. No part of any funds authorized to be expended by this section shall be obligated or expended except in connection with work which the Secretary of Commerce determines would otherwise be performed on the NS *Savannah* if the vessel were to be laid up in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (60 Stat. 49).

SEC. 5. There are authorized to be appropriated such sums as may be necessary to tow the NS *Savannah* to a site at Patriots Point at Mt. Pleasant, South Carolina, and to inspect and maintain the hull of the NS *Savannah* below the waterline during the term of the charter and any renewals thereof.

Mr. THURMOND. Mr. President, I am pleased to join with my Senate colleague from South Carolina, Senator HOLLINGS, in introducing legislation to authorize the Secretary of Commerce to transfer the NS *Savannah*, the world's first nuclear-powered merchant vessel, to Patriots Point Development Authority, an agency of the State of South Carolina.

For the information of my colleagues and others who may not be familiar with Patriots Point Development Authority, I wish to point out that this project is a naval and maritime museum near Charleston, S.C., which was established pursuant to an act of the South Carolina General Assembly in early 1973. Since its formal opening on October 13, 1975, the Patriots Point project has prospered and expanded. The museum is comprised substantially of a series of decommissioned ships, the first of which was the aircraft carrier U.S.S. *Yorktown*.

The NS *Savannah* would be a most important educational addition to the project, as it would provide an opportunity for citizens to visit and learn about nuclear-powered naval vessels. Nuclear technology has been a vital component in the development of our U.S. Navy fleet, and it has also been vital as a source of power in a number of merchant ships, of which the NS *Savannah* was the first. With all the controversy today surrounding nuclear power, I believe it is especially important that the American people know that nuclear technology has been successfully and safely employed for years to power some of our largest Navy and commercial maritime ships. The transfer of the NS *Savannah* to the Patriots Point Authority would be one of the best ways that I know of in which our citizens could learn more about the many peaceful uses of nuclear reactor technology.

It is my understanding that prior financial and technical obstacles to this transfer have been resolved. I believe docking of the NS *Savannah* at Patriots Point would be the best use of this decommissioned vessel, and would clearly serve the public interest. For these reasons, I urge prompt approval of this legislation.

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. Thurmond, the Senator from Texas (Mr. Tower) and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 91, to amend title 10 of the United States Code to remove certain inequities in the survivor benefit plan, and for other purposes.

S. 92

At the request of Mr. Thurmond, the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 92, to amend title 5 of the United States Code to permit present and former employees of the Government to receive civil service annuity credit for retirement purposes for periods of military service to the United States as was covered by social security, regardless of eligibility for social security benefits.

S. 790

At the request of Mr. Williams, the Senator from Connecticut (Mr. Ribicoff) was added as a cosponsor of S. 790, to extend the college work study program to private employers on a limited basis using the cooperative education methods developed under title 8 of the Higher Education Act.

S. 1754

At the request of Mr. Moynihan, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 1754, the Acid Precipitation Act of 1979.

SENATE RESOLUTION 252—SUBMISSION OF A RESOLUTION URGING AID TO FAMINE STRICKEN CAMBODIA

Mr. DOLE submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 252

Resolved, That it is the sense of the Senate that the United States should generously support international relief efforts to alleviate famine among the people of Cambodia. Such sums as may be necessary, including sums appropriated or otherwise made available to carry out the Foreign Assistance and related programs for fiscal year 1980 and sums appropriated or otherwise made available to carry out the provisions of title II of the Agricultural Trade Development and Assistance Act of 1954, should be used to provide relief and rehabilitation assistance for the people of Cambodia, to be administered by and through the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), or other appropriate international organizations or private voluntary agencies.

● Mr. DOLE. Mr. President, a tragic era in human misery and tragedy is unfolding before our eyes in the Southeast Asian peninsula. After recklessly indulging in a war for power and imperium, the Vietnamese now face the prospect of becoming lords of a land racked by hopeless poverty, disease, and famine. Rape, loot, and pillage are not the bywords of a new Utopian order, but it seems to be the only legacy that all will inherit from the nefarious Pol Pot regime, and the internecine conflict that saw his ouster as an excuse for invasion.

Daily we receive reports that the unhappy remnants of the once-fruitful land of Cambodia are succumbing to starvation. This has prompted many calls for international relief efforts, calls directed at the national conscience of our own country as well. These distress calls should not be seen as obligations derived from our past involvement in the Vietnam war, as some would suggest. One of the greatest tragedies of that war was our failure to stem the tide of a rapacious striving for dominion by the various Communist insurgents. Now the results of that failure stimulate the guilt of antiwar liberals who failed to heed our warnings, dismissing them as so much propaganda. We cannot let their guilt cloud our feelings about the present situation in Indochina, or obscure our motivations in the aid we tender.

Our motivation is much more direct than that. It comes from our basic concerns for the well-being of all peoples, from the basic ideals and traditional commitments of our spiritual and national heritages. For we are witnessing one of the potentially greatest tragedies of our time: The possible death of an entire people. To the inevitable effects that wars—all wars—have on the people who are unfortunate victims (victims of political conflicts in which they are caught up without necessarily comprehending them) is added the failure of this year's poor rice crop. A famine of such magnitude stretches before these hopeless victims of history that it threatens to extinguish the total population of Cambodia.

The power of words is inadequate to fully convey the extent of the catastrophe as reported by the press. Photographs flashing across our television screens give us but a fleeting image of the effects of famine and starvation. Statistics are perhaps more easily understood by our Western minds. It has been reported that 8 million people were in Cambodia as late as the mid-1970's. It is believed that those who died from war, murder, disease, and starvation now number in the millions. How many are left is difficult to determine. It is known, however, that it is low enough, by recent estimates, so that all could be saved by rapid relief efforts despite logistical obstacles.

Yet, time is running out, 2 million people are expected to die of starvation and disease within the next 2 months unless massive outside help is forthcoming. I trust in our national conscience. I trust in the collective conscience of this congressional body to do all that can possibly be done to help alleviate the tragic famine affecting Cambodia. I join my distinguished colleague from Massachusetts, Senator Kennedy, in cosponsoring a measure designed to express congressional support for international relief efforts, as well as to direct that sums made available to carry out the provisions of title II of the Agricultural Trade Development and Assistance Act of 1954 be used for that purpose.

At this point, I should like to add that I have sponsored a letter to Secretary of State Cyrus Vance, presently being circulated, urging the President to nominate a White House coordinator to form a task force, to address not only this problem but that of refugees and the boat people in general, with details to be worked out by a special envoy or roving ambassador designated by Mr. Carter. It is my hope that you will join me in signing this letter.

The need for action is urgent if we want to stop the genocide, a word that the realities of modern history are threatening to turn into a regrettable cliché.

In addition to the amendment the Senator from Massachusetts (Mr. Kennedy) and the Senator from Kansas introduced late yesterday to the foreign aid bill, H.R. 4473, I am submitting as a sense of the Senate resolution a similar measure which I hope can receive the urgent attention of this body, with a view toward prompt and expeditious action.

Mr. President, I ask unanimous consent that the text of our joint letters to the colleagues and the Secretary of State be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C. September 27, 1979.

Dear Colleague: We are all painfully aware that while wars are fought between governments, it is the people who become the unfortunate and unwilling victims of political conflicts that often they do not comprehend, but in which they are caught. These conflicts result in thousands and sometimes millions being uprooted from the land of their ancestors and left wandering in strange countries, stigmatized with the label of "refugees".

The case of the Cambodians is certainly one of the most tragic examples of catastrophes that our century is witnessing. To the inevitable effects of war on their lives, this year's poor rice crop has added a famine of such magnitude that it threatens to extinguish the entire population of Cambodia.

An editorial in the New York Times of September 27 illustrates the extent of the disaster as follows: "The starvation in Cambodia is different in one important respect from past famines in, say, Bangladesh or Biafra: there are few enough Cambodians that they could all be saved. There were as many as eight million people there as late as the mid-1970's. No one knows how many have died since from war, murder, disease and now starvation. Probably millions".

Clearly, we cannot wait any longer before we act to stop the genocide, a word that the realities of modern history are threatening to turn into a regrettable cliche. I am attaching the text of a letter that I plan on addressing to Secretary of State Cyrus R. Vance on this issue. Should you like to cosponsor this letter, please contact Brenda Levenson of my staff at X-4-7563.

Sincerely yours,

BOB DOLE,
U.S. Senator.

U.S. SENATE,
Washington, D.C., September 27, 1979.

Hon. CYRUS R. VANCE,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We wish to convey to you our deep humanitarian concern for the Cambodian people, whose ultimate fate may stain the history of mankind much as previous genocidal catastrophes of our century have.

I am confident that our generation has learned from the past and will not let it happen again. But time is running short. It is estimated that 2 million people will die of starvation and disease over the next few months, unless massive outside help is forthcoming. An editorial in the New York Times of September 27 illustrates the magnitude of the tragedy as follows: "The starvation in Cambodia is different in one important respect from past famines in, say, Bangladesh or Biafra: there are few enough Cambodians that they could all be saved. There were as many as eight million people there as late as the mid-1970's. No one knows how many have died since from war, murder, disease and now starvation. Probably millions.

As Cambodia is confronted by a renewed Vietnam offensive, which will most likely create another mass exodus, the government of Thailand was recently moved into giving implicit assurances that it would no longer expel Cambodians. As Americans, we cannot relinquish the leader that we have assumed in the refugee crisis at this crucial time in the drama that is being played before our eyes.

The intent of this letter is to urge you to take immediate measures to prevent the extinction of an entire people. We suggest a White House coordinator nominated by the President to form a task force, with details to be worked out by a special envoy or roving ambassador designated by Mr. Carter.

It is our hope that you will give your urgent attention to this matter of priority.

Sincerely yours,

BOB DOLE,
U.S. Senator.●

NOTICE OF HEARINGS

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly and Business Rights will hold a hearing on the effectiveness of State regulation of insurance on October 9, 1979. The hearing will begin at 2 p.m. in room 5110 of the Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

GEORGE MEANY

● Mr. MOYNIHAN. Mr. President, George Meany leaves the presidency of the AFL-CIO after 25 years in it. It may be said that the first head of any great institution is its most important, for inevitably, he will establish the pattern for the future conduct of its leadership, and will provide the standard against which future achievements can be measured. In retrospect, success, when achieved, seems to have been inevitable. But it is never that way. One could not have known, in 1955, that the great merger of the American Federation of Labor and the Congress of Industrial Organizations would surely work out in fact. That it has makes it seem that it was destined to. But we know better.

Let us learn from President Meany's career that continuity and persistence are things to be valued, that despite the upsets which so often intrude into our national life, shocks can be absorbed when major social institutions have become unshakable. American labor is such an institution. Between 1881, when the AFL was formed, until 1955, when it joined with the CIO, the Federation had three presidents. The united organization created by the merger of the AFL and the CIO has, of course, had one. In that almost one century, 19 Presidents of the United States have come and gone, and American international life has been transformed, but the leadership of our trade union movement has shown remarkable durability. It has been endurable enough, so as to remember things worth knowing that others have forgotten. Circumstances may change, but principles can persist.

The career of George Meany coincides with the emergence of the most important political struggle of the 20th century—indeed, the overriding concern of our age—which is the emergence of totalitarianism and its threat to the liberal democracies of the world. American labor knew this before anyone else in our country knew this. It knew it in the 1920's, when the supposed "workers revolution" in the Soviet Union was already submerged in totalitarian brutality. It knew it, too, in the emergence of European fascism, another movement not above justifying its crushing of human and civil rights by reference to some alleged interest of ordinary working people. It may be said that the American labor movement, almost alone in the world during such periods of upset, would have none of this. It would not truck with threats to liberty, for it understood that without it, there could be no trade unionism of any real sort.

Thus there is that continuous thread, not merely of international concern, but of implacable opposition to the enemies of liberty, which runs through the history of our labor movement. It could see into the future. In the 1930's it saw into the nature of the totalitarian right, and fought it, and did likewise against the totalitarian left. In the 1930's, when the country as a whole failed to grasp what lay ahead, the labor movement saw value in international organizations which our political institutions had rejected, and thus secured American entry into the International Labor Organization, that child of Wilsonian vision which American labor itself had been instrumental in founding.

We think, sometimes, that the sanctity of contracts is a feature of commercial societies, which only corporations and entrepreneurs and lawyers would cherish. But since the time of its founding our labor movement has honored the contract it has entered into with the rest of the world, the commitment that it will never abandon the cause of human rights and individual liberty. More, that it will remain on the front line of that struggle. And so it was in 1975 that the AFL-CIO offered a forum to Alexandr Solzhenitsyn—when he was shunned at the White House—just as it had stood by the opponents of totalitarianism a generation earlier.

There is no finer tribute to be paid to George Meany than to say that as much as the American labor movement has been transformed by his leadership, he has nonetheless left the movement precisely as he found it—strong, patriotic, united with those who seek the rights of man. There is a great slogan of labor history, misappropriated by the totalitarian left, but belonging properly to those who, like George Meany, know how human freedom must be gained and defended. It is the slogan which belongs properly to the American labor movement most of all, as it does to him. Let no one doubt it, it will become again what it once was, the rallying cry for a great effort in behalf of liberty:

"Workers of the World Unite!"●

THE SCLC FACTFINDING MISSION

● Mr. PACKWOOD. Mr. President, Rev. Joseph Lowery, District of Columbia Delegate WALTER FAUNTROY, and eight other members of the Southern Christian Leadership Conference recently completed a tour of Lebanon. During their visit the SCLC contingent met with members of the Lebanese Government and religious leaders, and toured refugee camps. They also met at length with members of the Palestine Liberation Organization, including guerrilla leader Yasser Arafat.

The purpose of the SCLC factfinding mission was to urge the PLO to impose a moratorium on terrorist activities and to obtain PLO recognition of Israel's right to exist. Although I am pessimistic that such a reversal of policy will be forthcoming, I share the goal of the SCLC leadership.

The visit by the SCLC delegation included a tour of the city of Damour, Lebanon, a tour conducted by the PLO. The visit of the ruins of Damour was intended to demonstrate to Reverend Lowery and the others the effects of the Israeli bombings of Lebanon. The PLO makes a weak case that Israel's bombing attacks are indiscriminate or reckless.

The articles that I am submitting to the RECORD today show that the destruction of Damour was originally carried out by PLO and Lebanese leftists. In January 1976, Moslem forces sacked the city of Damour, a city that was inhabited by over 15,000 Lebanese Christians. A report in the Washington Post of January 22, 1976, summarizes the situation.

> But nearly every building seemed to have been methodically set on fire by the conquering Moslems.

The New York Times article identifies the commander of the Palestinian Assifa forces as one of the leaders of the joint attack on Damour. The article points out that Al Assifa forces are, " * * * the military branch of Yasir Arafat's Al Fatah, in Southern Lebanon."

Mr. President, these news accounts straighten out the record on who is responsible for the destruction of the town of Damour. This ruined Lebanese city is a consequence of the bloody, Lebanese civil war; it is not a result of Israeli bombing raids. The PLO must accept the responsibility for the destruction of Damour, just as the PLO must accept the responsibility for the September 19, 1979, bomb blast in Jerusalem that killed 1 Israeli and injured 38 others. This bombing occurred while the SCLC delegation was in Lebanon expressing its hope for a moratorium on violence and the PLO was accusing the Israelis of indiscriminate killings.

The articles follow:

[From the Washington Post, July 29, 1976]

VENGEFUL GANG DESECRATES LEBANON CHRISTIAN GRAVES

(By Peter Niesewand)

DAMOUR, LEBANON.—Lebanon's bloody civil war has not even spared the dead. The gang that descecrated the hillside graveyard in the ruins of this Christian town began in a fury. They pried locks off the heavy metal vault doors, piled corpses from their coffins and smashed them up. They built fires and burned some bodies.

Then as they worked their way down the hill through the 200 or so tombs, they grew tired, or lost interest. A handful of vaults were left untouched. Others were opened, with the decayed, waxy corpses simply turned out onto the ground.

The foul stink from some of the more recently dead showed that the desecration was only a few days old. Two colleagues and I were among the first to come across it in this deserted place.

Damour was destroyed in January, when leftists and Palestinian forces came 15 miles along the coastal road south of Beirut. That action—in which about 500 villagers were killed—was partly a reprisal for the destruction by Christian forces of the Karantina area in eastern Beirut a day or two before. The number dead in Karantina is estimated at 1,500.

January's attack was a revenge against the living who supported rightist leader Camille Chamoun. The latest atrocity was a blind reprisal against the dead in a ghost town where no home remains unlooted, unshelled and unburned.

We saw two people in Damour: old women in black picking carefully through the charred rubble of a house. There was no way of telling whether they were the last of the looters, or whether they had come back to what had once been theirs to search and see if some utensil or trinket had survived. You don't stop for interviews in Damour.

In the six months since the destruction of the town, weeds have grown up among the marble and the concrete, and they crackle drily as you walk through them. There are some white butterflies, and birds singing. Later you forget the birds and hear only the buzzing of flies around the corpses.

The tombs nearest the churches were the first to receive the gang's attention. Corpses lie around, half-bandaged, the toes a dull orange color sticking out the end. Other bodies have been burned, and bits of the skeletons protrude from the ashes. The skulls have been totally smashed.

It must have taken a considerable effort, because the gang only bothered to burn six or seven corpses. A little farther down the hill, bodies have been thrown into the ground. They lie there, rotting in their Sunday-best clothes, beside their smashed coffins.

The body of a man lies on the concrete path in what remains of his best black suit. He wears a gray silk tie with a Paris label, but someone has torn his head off, and we can't find it nearby.

A little farther on in this scene of horror, there's a drop of several feet down to the next level of tombs, and as we looked over the edge, we saw a skull thrown on the ground, its mouth agape as if screaming.

There is a baby's coffin with a white silk pillow but no sign of the infant corpse, and a child's coffin with two plastic roses inside. Wooden crucifixes have been ripped off lids and tossed aside.

The gang obviously grew weary at this point, or sick, and began missing vaults. One ornate wooden coffin simply had the lid pried off and pushed back a foot or two, so that only the decomposing head with its empty eye sockets looked out. Other vaults remained sealed—perhaps seven or eight.

We left and drove quickly out. The two old women were nowhere to be seen.

On the other side of town lay the Palestinian camp of Tal Zaatar, where the Christian forces are besieging thousands of men, women, and children. From the accounts of the International Red Cross, there are about a thousand wounded who need immediate evacuation. There are no medical supplies.

Hundreds of dead lie rotting in the streets. There is hardly any water and children die daily of dehydration. The Christian forces are refusing to permit any evacuation of the wounded, or allow supplies of medicines, food, and water to get into the camp.

In January the Christians attacked Karantina, so the Moslems attacked Damour, so the Christians attacked Tal Zaatar, so last week some Moslems smashed up a graveyard in Damour.

[From the Washington Post, Jan. 22, 1976]

STRIPPING OF A CITY

PALESTINE VICTORS LOOT DAMOUR

(By Jonathan C. Randal)

DAMOUR, LEBANON, Jan. 21.—It was a record day for Lebanon's only expanding economic activity—looting.

Hundreds of children, women and unshaven troops of the conquering coalition of Palestinians and Lebanese Moslems picked over the smouldering cadaver here of what once had been a prosperous city of 20,000 inhabitants, most of them Christians.

To the background accompaniment of occasional small arms fire, they loaded refrigerators, stoves, radios, blankets, chandeliers and anything else of possible commercial value and drove off in recently liberated Mercedes and other cars. The most professional among the looters brought their own pickup trucks.

So occupied were they that they paid no attention to the dramatic evacuation from Damour of more than 1,000 Christians. These were being taken away by fishing ships and motorboats dispatched from Saddiyat, the home town of Interior Minister Camille Chamoun, a Christian, across the Damour River to the south.

Some Moslem troops did shoot at the small craft as they sped the Christian refugees, mostly women and children, to larger coastal vessels waiting offshore that could transport them to the Christian port of Junich. Junich is 11 miles north of Beirut and Damour is 11 miles south.

In Damour itself, the larger-than-life portrait of Pierre Gemayel, leader of the rightist Christian Phalange Party, stared down on the city's main street where most of the buildings were either burned out, smouldering or in flames.

The coastal city showed no major signs it had been actively defended. The only building badly damaged was Phalange headquarters which an unshaven gunman proudly explained he had blown up with dynamite soon after Damour fell yesterday.

Complex sandbag positions on the main street and side streets of this city on a hillside were largely intact.

But nearly every building seemed to have been methodically set on fire by the conquering Moslems. They apparently sought revenge for recent successes by Christian troops who had conquered a Palestinian camp north of Beirut and forced poor Moslems out of a Beirut slum called Karantina.

Pushcarts, carriages and bicycles were pressed into service by looters here in their frenzy to make off with television sets and radios. Children carrying carefully folded plastic sacks rushed along the road leading from the neighboring Moslem village of Hamet Naame to join in the looting. A small boy staggered off with a cassette recorder and radio almost his own size.

Outside a store a pickup truck roared up. Out jumped a man in his 30s and a young woman in chic knee-length boots. Quickly and efficiently they stripped the store and loaded the truck.

In the street were pieces of other peoples' lives: a single rubber overshoe useless in the gently falling rain, a sun hat of the kind that European colonials once affected, before the sun set on their empires, cats and dogs wandering in search of absent or dead owners.

The outfits involved in the capture and sack of Damour as well as the reported massacre of many of its inhabitants paid the looters no mind. Nor did the Lebanese army, which had avoided the fighting.

A long convoy of army vehicles—trucks, armored cars, jeeps mounted with recoilless rifles and machine guns—had never gotten closer than two miles from Damour while it was being attacked.

[From the New York Times, Jan. 22, 1976]

CHRISTIAN TOWN BURNS AFTER FALL IN LEBANON

(By James M. Markham)

DAMOUR, LEBANON, Jan. 21.—This once proud town of 15,000 Christians, perched on a hill overlooking orange groves and the Mediterranean, is a smoking ruin.

Fires crackled today in the hulks of old stone buildings with shattered windows and walls notched with bullet holes. Smoke billowed over the area.

On the ground lay the burning body of a man.

One of the victorious leftist fighters wearing a cloth cap with the green cedar symbol of Lebanon and a crufix around his neck, said that the man's body had been deliberately set on fire.

"He deserved it," the leftist said, adding that the man had been a combatant of the right-wing National Liberal Party, which defended Damour until it finally fell yesterday after a siege by a force of leftists and Palestinians.

The young fighter and a comrade said they were both Christians and members of the largely Moslem Independent Nasserites' military wing, called the Morabitoun.

The point they wanted to make was that the warfare raging throughout much of Lebanon was not a religious but rather a political struggle. But the flight of almost all of this town's inhabitants, either to friendly villages in mountainous Chuf to the east or to the nearby village of Saadiyat, was evidence of the fear they felt, whether for political or religious reasons.

From the heights of the Chuf, where residents of small Christian villages appeared to be going about their business without disturbance, one could see eight ships coming and going from Ras Saadiyat, ferrying refugees from Damour to the Christian town of Junie, to the north.

In a handsome old house that had been turned into military headquarters, Abu Musa, commander of the Palestinian Assifa forces that led the joint attacks on Damour, said that 500 fighters of the National Liberal Party and the right-wing Phalangist Party had been killed in the battle, which began Jan. 12.

Abu Musa, a tall man who has not shaved recently, is the commander of Al Assifa forces, the military branch of Yasir Arafat's Al Fatah, in southern Lebanon.

"We have asked the people, if they want, to come back to Damour," he said. "All we ask is that they keep the road to Beirut open."

Damour is the only important Christian town on the coastal highway leading from Beirut to the Israeli border in the south. When tensions built up in the area, gunmen have here had a habit of closing the road and kidnapping people.

There was tension between Damour and neighboring Moslem villages, but the attack on Damour was pressed until the rightists laid siege to two Palstinian refugee camps on Beirut's eastern suburbs and seized a third, Dbaiye, northeast of the city, on Jan. 14.

"After they have seen what has happened here, there will be no trouble," said Abu Musa, whose nom de guerre means Father of Moses, when asked whether other Christian towns in the Chuf might become involved in the fighting.

Another Palestinian officer, a young man who slapped a leather riding crop against his side, led two foreign reporters through a heavily fortified church, stuffed with sandbags and littered with thousands of cartridge cases.

It was here, he said, that the "Tigers," militiamen of Interior Minister Chamoun hoped to make their last stand. Blood stains indicated that the battle had been severe.

In one large room, there was a box of mortar shells. In another, books and bedsheets were strewn on the floor.

Outside the church, two small cars had been set afire. A gunman walked away with a can of gasoline, scarce in Lebanon these days.

The young Palestinian officer was bitter about the rightists' seizure two days ago of Beirut's port quarter, inhabited by Lebanese Moslems, Kurds and Palestinians.

"From now on, there is going to be no mercy," he said. "After what happened there, there will be no forgiveness. It will be war."

He looked at the sea below, and added: "They used to say that Damour is the cemetery of the Palestinians, but now it's a cemetery for them."

[From the London Times, Jan. 18, 1976]

CHRISTIANS LOSE TOWN IN LEBANON'S WORST NIGHT

(By Our Foreign Staff)

Lebanon's civil war entered a bitter new phase yesterday when Moslem Left-Wing forces captured a Christian town for the first time in nine months of fighting. The Moslems, stiffened by mountain warriors of the Druse sect, pushed on to besiege other isolated Christian communities on the Mediterranean coast south of Beirut.

The Lebanese Interior Minister, the Christian Camille Chamoun, accused the Moslem militias—which are now operating alongside Palestinian guerrillas—of indiscriminate killings of Christians. Thirty children and 20 women and old men were said to have been found with their throats cut in the region of Damur, another Christian town.

On the other side Moslem leaders, including the country's Premier and Defence Minister Rashid Karami, have been incensed by Friday's air force strike agains Moslem forces established near Damur. The air strike, which followed a leftish ambush of an army convoy, was seen by the Moslems as bringing perilously close the moment when Lebanon's armed forces would be committed to the Christian cause. Premier Karami accused the army command of rebellion for disobeying his orders to withdraw the strike planes.

Yet another attempt to arrange a ceasefire failed on Saturday morning when both Christian and Moslem militia leaders rejected a truce agreed between the Lebanese army and Palestinian guerrillas. "The army and the Palestinians can do what they like," a spokesman for the National Liberal party militia said. "As for us, a ceasefire is only a Communist tactic to allow the other side to strengthen its positions before attacking again."

In the fighting on Friday, which carried on into Saturday morning, at least 179 people were killed and 368 wounded in Beirut and surrounding districts, according to police reports. Between 8,000 and 10,000 have been killed and upwards of 20,000 wounded in the nine months old war.

About 4,000 Moslem leftists, Palestinians and Druse warriors have been engaged in the attacks on Christian towns about 20 miles south of Beirut. For several hours yesterday there were conflicting claims about the fate of Jiye, where about 10,000 Christians live.

After Jiye, the Moslem militias said they were besieging Saadiyat, the fortress residence of Camille Chamoun, Interior Minister and National Liberal leader. His son, Dany, who is commander of the party's militia, yesterday issued an appeal to "the people of Lebanon" to march to save the Christian towns from being overrun by Moslems.

In Beirut, police said the city had had its worst night of violence since last April. Most of the fighting raged around the Quarantina slaughter house slum area near the port—a Moslem pocket in a Christian district. Moslem fire from the slums closed bridges leading north across the Beirut river. Christian militia retaliated with heavy shelling which set fire to wooden slum houses.

Radio Orient, a transmitting station near Beirut airport, was hit by mortar bombs yesterday and some antennae were damaged, but it stayed in operation, providing Lebanon with telegraphic links with the outside world at a time when most telex and telephone lines have been cut.

The debris of the fighting litters the area of Radio Orient. The bodies of three Leftwingers lie sprawled in the dust by the gate of the compound near two burned-out jeeps, apparently belonging to the Left Wing.

Moslem leaders say they will lift their siege of towns south of Beirut only when the Christians call off a two-week old food blockade of two Palestinian refugee camps in Beirut.

[From the Washington Post, Jan. 21, 1976]

LEBANESE MOSLEMS SEIZE TOWN

(By Jonathan C. Randal)

BEIRUT, January 20.—Palestinian and Moslem Lebanese troops captured the Christian city of Damour today and began massacring its inhabitants, according to a European eyewitness.

The seaside city of 20,000 people, 11 miles south of Beirut, fell around noon—apparently undefended after withstanding a week-long siege.

The Palestinian and leftist forces, which already controlled most of the countryside, also overran isolated police posts in the northern and eastern parts of the country, where they have long held sway.

There were no official casualty figures, but estimates ranged from 150 to 350 killed within the past 48 hours, with perhaps twice that many wounded.

Between 1,200 and 2,000 of the Palestinian troops crossed into Lebanon from bases in Syria, leading to fears that Syrian forces were invading and a call for intervention by the United Nations or the United States.

But foreign sources, including Israeli sources, discounted completely the Syrian involvement and said that the Palestinians who crossed the border were serving mainly as a backup force, with Lebanon-based leftists and Moslems doing most of the fighting.

(A second tank-led brigade of about 4,000 Palestinian troops later crossed from Syria and clashed in a fierce artillery battle with the Lebanese army, capturing a strategic crossroads near Mt. Lebanon, according to official sources quoted by United Press International.)

(Secretary of State Henry A. Kissinger said in Copenhagen that the United States would oppose "all outside intervention" in Lebanon, and White House press secretary Ron Nessen said the State Department had sent warnings through diplomatic channels to all outside parties not to interfere there. A State Department spokesman said that Washington has received no appeal for intervention and is not considering any such action.)

In the fighting in Damour, the eyewitness said, the conquering troops methodically cleared the inhabitants from house after house, firing rocket-propelled grenades and machine guns into the homes.

Screams and crying were heard as people were shot inside their homes, he said, adding that he saw the bodies of one family who were killed in this fashion.

As the slaughter continued apparently unabated, the army was said by Beirut sources to be trying to help Damour's inhabitants to flee.

Last week rightist Christian Phalangists and their allies besieged and captured a Palestinian refugee camp at Debayeh, just north of Beirut.

And Sunday the Phalangists, defying another cease-fire, launched a major offensive that largely succeeded in driving Palestinian commandos out of the Karantina slum area in Beirut.

Announcing the fall of Damour, Christian Interior Minister Camille Chamoun excoriated the Palestinians. The former president said he regrets the services he said he had rendered their cause since they sought refuge here in 1948 when driven out of Israel.

"I do not know if such a disgraceful act," he said, "will serve their cause at the United Nations, which will have to decide whether a people committing such crimes are entitled to ask for a homeland or claim the right to self-determination."

Chamoun spoke at the presidential palace at Baabda, where he had been flown by helicopter from his besieged mansion at Saddiyat, near Damour.

He estimated that 6,000 Christians had taken refuge in his mansion's grounds and "are threatened with death from indiscriminate shelling or massacre."

Chamoun once again called for international intervention, inside or outside a U.N. framework, to save the Christians in Saddiyat.

But in the purely Lebanese context, Chamoun's calls for international intervention are considered part of his political personality —or at least were so considered before Damour fell.

Chamoun was president in 1958 and persuaded the United States to land Marines to ward off an alleged Egyptian plot to take over the country. His political enemies charged that the civil war that year—a far milder version of the current nine-month-old violence—erupted because Chamoun sought an unconstitutional second presidential term.

On Dec. 22, Chamoun launched yet another call for international intervention because of the alleged Syrian military involvement.

Today Chamoun backed away from his dramatic middle-of-the-night charges that 8.000 Syrian troops had invaded Lebanon with tanks, armored vehicles, howitzers and heavy artillery.

The previous day, Israel warned that it would not stand by idly in case of foreign—specifically Syrian—intervention here.

But official Lebanese sources said "There is no truth in reports that Syria has sent its regular troops into Lebanon," and Chamoun toned down his pitch.

He suggested that the troops might belong to the Syria-based Yarmouk Brigade, which is part of the regular military establishment of Fatah, overall Palestinian leader Yasser Arafat's organization.

Elements of the Yarmouk Brigade, although trained and armed by the Syrians, are considered a purely Palestinian outfit. As such, they have been in Lebanon for some time—either, as was the case in September, at the Lebanese government's invitation, or as uninvited guests recently around the eastern city of Zahle.

Moreover, most Lebanese do not share Chamoun's and Israel's automatic assumption that the Yarmouk Brigade, or even the Syrian-controlled Saiqa Palestinian commando outfit, are Syrian troops even when they move across the border from Syria.

In the present Lebanese context, the movement of armed men across the border from Syria is interpreted as a means of shoring up the badly battered morale of the Palestinians and leftist Lebanese Moslems.

The best hope for ending the worsening spiral of death and destruction here still seems to lie in Syrian mediation.

The only genuinely positive news of the day was that Maj. Gen. Hikmet Shehabi, chief of staff of Syria's armed forces was expected back in Beirut Wednesday amid persistent rumors that the long-delayed summit meeting between Lebanese President Suleiman Franjieh and Syrian President Hafez Assad was finally about to take place.

Many Lebanese are convinced that the summit meeting will work out a detailed settlement and end the fighting here.

But a trip through the southern part of the Bekaa Valley, a flat, farming plain near the Syrian border, revealed more preparations for war than for peace.

From Masnaa, the border point on the Lebanese side, down to the town of Chiaura, armed Lebanese leftists and Palestinians controlled the main Beirut-to-Damascus road and manned numerous roadblocks.

At Chiaura, where many Christian families had fled Monday when the Lebanese army pulled out and moved to positions on the high ground of the hills and mountains nearer Beirut, cars, taxis and trucks were piled high with family possessions—a familiar sight here in recent months.

But at Masnaa itself, Lebanese army troops and immigration officials worked normally and denied reports of any Syrian army movement across the border. "No cannon, no Palestinian army, no nothing," the head immigration officer insisted, while admitting that large scale infiltration would normally take a more discreet route.

At nightfall other eyewitnesses saw entire companies of men assembling in side roads and either marching or riding in jeeps toward nearby Lahleh, Zahlieh, whose Christian defenders have now been bolstered by Lebanese army reinforcements.

It could not be established whether the troops belonged to the Yarmouk Brigade, which may have been recently infiltrated across from Syria or could have been in Lebanon for some time.

But 17 miles due south, at Karaoun, a check refuted Lebanese newspapers' assertions that Syrian-based Palestinian regulars had tried to fight their way past a Lebanese army unit guarding a vital dam on the Litani River last night.

It turned out that soldiers shot and killed two local leftist youths who had just returned three soldiers they had kidnapped to avenge the death of a friend killed in one of the many recent attacks on Zahich.●

ADDRESS BY LAURENCE W. LEVINE AT ARGENTINE-AMERICAN CHAMBER OF COMMERCE SEMINAR

● Mr. HOLLINGS. Mr. President, the crying need for American foreign policy is to look at the facts rather than promulgate slogans. Trying to implement a blanket policy for all the countries, or even all the countries in a particular region, is wrong-headed and surely counterproductive to the national interest of the United States.

Nowhere is this truer than as regards our relations with the Government of Argentina. Generally what we hear from the State Department or what we read in the newspapers about Argentina is filtered through the distorting glass of erroneous policy preconceptions.

I was therefore happy to read recently an address by Mr. Laurence W. Levine, given at the Argentine-American Chamber of Commerce Seminar in Chicago. While I do not necessarily endorse or agree with everything Mr. Levine suggests in this address, I do find it a refreshing breeze which blows away a lot of old myths and puts in their place the realities of the situation. It is thought-provoking, and there can be no question but that we need to develop some new thoughts and new approaches to our friend to the South.

"Short-term rhetoric is no substitute for long-term planning," Mr. Levine says, and his speech provides the kind of new perspective we are going to need for long term planning.

Mr. President, I hope that this piece can stimulate some thinking and clear up some misconceptions. I ask that the text of Laurence Levine's perceptive speech be printed in today's RECORD.

The text of the speech follows:

REMARKS BY LAURENCE W. LEVINE

INTRODUCTION

Ladies and gentlemen: Chicago is the industrial capital of the United States. More heavy machinery is manufactured here than anyplace else in the United States—your airport is the busiest in the world and your commerce and industry has had one of the greatest growths in our recent history. I know the City pretty well because part of my family has been here over 50 years in the publications business and I have watched the growth of the City through the growth of the trade journal publication. I hope what I tell you today will help you in knowing Argentina a little better and will add to the continual trade and human relationships our two nations have and should continually have.

I am basically a lawyer. Through the last 20 years I have represented a number of Argentine firms, industries and people in the United States. Through those contacts I have watched the Argentine scene very carefully for 20 years and since this is not a place for humility I will tell you that in my opinion I may not know the Argentine people or country better than any other American but I don't think that any other American knows it better than I do.

I've been asked to comment on the political situation today in Argentina which is a big order. But, in my opinion, it is absolutely essential that the American and Argentine business and professional community start to develop better relationships and binding ones and the only way to do that is by hard and constant work of groups like this Chamber and we must get more knowledge on Argentina.

For when we understand each other's systems the bonds will get stronger. And to be very blunt with you, there is a generation gap between Argentina and the United States and it will not be filled in 4 years and not filled at all unless we work at it on both sides. The gap exists because since 1941—as I will explain—it had been impossible to have continued strong ties because the Argentines could not deliver.

Now since 1976, they want to deliver and our government does not want to deliver. I think now that since it is our country that is at fault, we in the business and professional area have to take the bull by the horns and try to educate the people we elect and the people they appoint.

I want you to know one thing. I do not represent any individual or organizations in Argentina or here politically. I have no affiliation politically or militarily in Argentina. My remarks are based on my own personal assessment after 20 years of work and a knowledge of the panorama of Argentina and I do not support or propound any ideology except I believe in freedom and the individual—and peace.

I believe firmly that it is *not* the function of any American or of our country to claim success for Argentine victories or take the blame for Argentine failures. It is their country and it is their job to make of it what they want.

HISTORICAL PERSPECTIVE

In 1958, I thought Argentina would emerge as a major nation. It is a country that up to then had two main ingredients—food and finance—then it went full speed to make itself sufficient on the third F—fuel. I was wrong. Internal pressures stunted the development I expected.

Argentina was basically an agricultural nation that dealt with Europe. It sold its products there. We, in the United States were competitors in the sale of agricultural products. So, although there were wonderful relations between the two countries, they were not that important because of markets and distance. Argentina developed her primary relations until 1941 with her major trade buyer—Europe—but the Argentine constitution is a model of ours.

The period of the 1930's saw large waves of immigrants to Argentina—this time from western and eastern Europe, as opposed to the first waves from Italy and Spain. As the Country had been agricultural—the political parties such as they were, revolved around the agricultural interests. The new immigrants of the 1930's were not farmers. They went into small industry and large industry. Since Argentina had only 20 million people, the question really was—how do you develop an industrial society?

The United States had faced the same problems in the 1860's and we did it with the Civil War where the industrial north fought the agricultural south.

The basic problem, I think, in Argentina, was how do you divide the peso between agriculture and industry.

General Juan Peron came to power in the 1940's by forming a coalition of the newly created industrial unions and the newly created corporation organizations and the plan they thought would work was for a form of government based on state participation in industry based on the Italian model of the 1930's. The theory was that Argentina could not develop everything herself as she did not have the capital, the people or the technology so state help was needed. This resulted, I believe, because President Peron had been military attache in Italy in the 1930's and respected this system.

There began the problem in the development of the country—how do you divide the resources!

It is not for any of us here in Chicago to judge a president, a party or a plan of any foreign country and I won't do that. My own opinion is that Argentina, in 1941, was a nation like Switzerland—it had all the meat and wheat—Switzerland had the money. Argentina stayed neutral and because it was not involved in World War II, neither the then political leaders or the then military leaders were exposed to the new facts of life after the war, that is, that because of the mutual bankruptcy of England and France and Germany and Italy, (where the Argentines had their major pre-World War II connections) the capital of the world moved to New York and Washington!

But a combination of Argentine pride and the history of its past riches, its self-sufficiency on food and its basic wealth earned in World War II, made it complacent.

Argentina was like a rich son with a big trust fund. He gets lazy and does not keep up with what is happening. Argentina had everything in 1945—brains, minerals, food—a big surplus. It lacked world knowledge, and I think the political parties that were in power then will admit that to you.

From 1945 to 1976, with few exceptions, some leaders of Argentina were of the opinion that the United States was the "imperialist" nation of the world and for some reason we were not needed or to be trusted. They did not realize that, as Argentines had changed in the post-world war period, so had the Americans. We had a new generation, and a new world, and old words like "nationalism" and "imperialism" were dead—and the world capital moved to New York and Washington.

The period from the 1940's through 1953 was dominated by President Peron. He had never visited the United States. I think he still believed that the world was run from Europe, where he had served as a military attache. Since Argentina was dominated by his political dominance for 12 years, he had a great influence on the country.

After President Peron's departure in 1953, Argentine governments alternated between elected Presidents and military interventions. There was President Frondizi and he was deposed after he permitted elections in the Province of Buenos Aires and the Peron party won. He was replaced by President Guido, the then President of the Senate, with the military in de facto charge. Then an election was held and President Illia was elected president in 1963. He annulled the oil contracts that President Frondizi had approved and which built the Argentine oil industry. Argentina paid just compensation as they always do—but a bad taste was left in the United States--and in some quarters—in Argentina.

The Argentines had a state-owned oil company and they took over the private oil fields. When Saudi Arabia decided that they wanted to take over the private oil fields of their country, they did not nationalize them. They quietly asked to negotiate to buy the stock which they did. I have often wondered why the Argentines did not do the same. They would have paid less and still owned it.

Then, Dr. Illia was deposed by the Army in 1966 and President Ongania ruled until 1970. He was deposed by another Army General, General Levingstone, who lasted about a year and he was deposed by another Army General, General Lanusse, who called for elections in a year or two.

Then elections were held in 1972, the Peronists won again and General Peron returned to replace the party candidate, Dr. Campora.

Many Argentines and others thought that President Peron, in 1972, would unite Argentina which since his departure in 1953 had guerilla activity. But the United States had a theory which I believe was correct. Stay neutral—let the Argentines sort out their problems themselves.

We also believed that if President Peron could visit the United States, he would and change Argentine-United States relations.

President Nixon had been the arch anti-communist and he alone changed the relationship with China—Peron had been the arch "Anti United States"—so he could change the situation.

To that end, the Export-Import Bank loaned money for the purchase of a Presidential plane—a 707—equipped as a hospital for the Argentine President and arrangements were made for President Peron to visit the United States in December, 1973.

ARGENTINA TODAY

President Peron died, the head of the Senate took over and then Mrs. Peron took over and was President until the spring of 1976 when the military again stepped in as the country was on the verge of an economic collapse.

I believe that the military came in this time with a degree of sadness of all the Argentine people at what had happened to their country and I think that the military were determined this time that they had to create a system that would work and take Argentina into the 21st century and restore the confidence of the Argentines in themselves and restore the confidence of the world in Argentina. There is no last chance in government—but the Argentine people were tired.

Throughout all of this, I think you see that the military occupies in Argentine society a major source of power. I think that occurs because no real lasting political system continued in Argentina or where party politics was strong enough or disciplined enough to rule the nation and I think what is occurring now is a learning process where a highly intelligent, very cultured people, with the 3 F's (food, fuel, finance) are determined that the economic and political mistakes of the past will not happen. Argentina has a long history of political parties so politics is not a new game. What is new is the rules.

I believe that Argentina has gone the full cycle of 360 degrees and that everyone realizes that Argentines are no better than anyone else and that in order for them to have peace and prosperity they must, and I mean must, get out into the western world of the major first line nations and develop the economic and political intelligence and systems that reward efficiency and inspire individual initiative rather than state socialism in an Argentine way fitted to their needs and ability.

For the first time the Argentine private and public sectors are expanding into the United States, Europe and Japan. In New York, Los Angeles, San Francisco, Miami and Chicago they have their state banks, one also here in Chicago. Their airline is here. Their oil company is in Houston and more important than the state entities—the private sector is also coming here. This has not ever happened here before. All Argentine banks are coming here.

The private sector is no longer afraid to show its face and they know that it is they that must expand the Argentine presence abroad.

I think that there is a learning process going on—where they, Argentines, want to return to a system that rewards private initiative. That process will not be done in 4 or 5 years. It will take 10-20 years because of two reasons. (1) People in Argentina will want to be sure that the process continues and people all over the world will want to see that it continues; (2) the process will not be accomplished quickly in Argentina because you cannot change a nation's way of doing business or thinking quickly when they grew up in one way of thinking for a generation. But I am sure that the Argentines know what they must do—they want to do it—and they must be left to their own devices to work it out in their own way *without* foreign intervention. The Argentines have a lot of common sense and I rely on their good judgment. The further development of more business contacts with them will stimulate the process.

I hope that the Argentines realize that the worst mistake they could make now would be to try and take out their political frustrations at the administration in Washington by punishing American economic interests. The opposite should happen. If I am right that political relations follow from economic relations then it is in Argentina's interest to continue to stimulate business relations with the United States—irrespective of the political climate here now because the stronger the economic ties here the stronger the political ties will get. Economic power always brings political power and Argentina will develop political power internally and internationally again.

The one thing that I believe the Argentine military knows (and I think this because I have read their printed speeches in public media) is that the Argentine people want them to develop plans to return the country to a participatory system where unions and political parties will take their place. Those plans, as I read them, are taking place but the military as the political leaders today do not want to make the mistakes of the past and they want foundation laid which will result in lasting political processes

If I am right—I think that today in Argentina the people want to take their place in the community of nations as a major force in the geopolitical world in order to better themselves. In order to do that they need to join the Board of Directors of the western world whose capital is in New York and Washington in order to join in the economic-political fight for the hearts and minds of men. Argentina does not want to be neutral. It wants to be where the action is to take part in the fascinating struggle.

The political power today is in the military—a junta of 3 men representing the 3 services and they pick a 4th man—a president.

I think and hope that these military men who have the political power were entrusted with that power to develop a system that would incorporate a sound political, economic and social base before returning that power to the political parties and unions, they have said, in a gradual process that will insure democratic institutions. Right now the process is to insure peace and security.

But I do not comprehend how any foreign nation including ours, can try to tell any country how to run their nation even if we believe there are abuses in the process.

What would our people think if the Argentine Foreign Office held a press conference once a week or once a month and the press officer, a young and totally inexperienced, well-meaning young man said that Argentina took offense at the arrest of a group of pickets at a New York police station, a group of youths in a New York subway attack, a bust up of a dope ring, the killing of police or the Ku Klux Klan meetings?

We would be infuriated and particularly if our Vice President was off in China signing mutual aid agreements and offering the assistance of the Corps of Army Engineers to help rebuild China's hydroelectric plants which only 15 years ago we wanted to destroy and stating that we wanted a mutually good relationship with China which killed purportedly 15 million people and took over all private investment?

We do want and need a good relationship with China. It is 25 years too late. It took us

2 wars in Asia—in Korea and Watergate. It took the loss of two of our major assets, the dollar and a generation of our youth and now we want not only peace with China but we want to assist her to rebuild and use American machinery.

We, in my opinion, may not consider Argentina as important as China in the geopolitical world and it may not be as important—but I would like to ask you ladies and gentlemen from Chicago one simple question.

If you, without any political experience, saw a country with 10 billion dollars in assets, with a very great need for American technical assistance, with an open and expressed desire to purchase this heavy equipment and technology, with a 6% unemployment rate in the United States, with an oncoming planned recession here, with a 40 billion dollar deficit in our national budget, with a projected 10 billion dollar trade deficit, with a dollar that officially is devalued by 15% this year by inflation, and a nation like Argentina finally says to you, we want to try and reestablish a mutually acceptable relationship with you and buy from you billions of dollars of goods, which we can pay for and really don't need charity—would you in Chicago take one of your young public relations men and have him call a press conference once a week and try to tell them how to run their country and scare off the orders?

You would, I believe not only not do that—you would send not your assistant vice president of public relations to a press conference to denounce the purchaser—you would send your president or vice president as we did in China and try to create the conditions to sell them.

UNITED STATES POLICY TOWARD ARGENTINA TODAY

That is why I say that in my opinion the United States' attitude toward Argentina is ill thought out, destructive not constructive and it not only will have little effect in the human rights area but it will turn the country off in their attitude toward the United States, when, if I am correct, all segments of Argentine society want those restored and strengthened.

The policy today toward Argentina is like United States policy toward China in 1945–1976 when the United States lost not only billions of dollars in business but more important—we fought two wars in Asia and lost our two most precious assets—our youth and our dollar.

The United States Vice President, Mr. Mondale, has just returned from China and has given the Chinese a package which includes 5 billion dollars of Ex-Im credits and the use of our Corps of Army Engineers to assist China to build her hydroelectric plants that General MacArthur once wanted to destroy. The reapproachment was necessary—I helped with it in 1969-1972. But what do we have to do to make our leaders understand that for the first time in 30 years I believe all segments of the Argentines realize that they need a relationship with us—that the western world will benefit from a relationship with a strong agripower—that the Argentine people are closely tied to us ethnically from the same immigrant stock, that they have the political muscle to make that relationship—and that with the recession and 40 billion dollar deficit we have, they have 10 billion dollars and need the same hydroelectric material China does—and they can pay for it.

Why do we not mention human rights in China and in Argentina make it the number one subject when the matter can be handled as it should diplomatically? The answer is that the President and Vice President think China is important—and since they don't think Argentina is important—they let inexperienced underlings handle it with Argentina. It should be our Ambassador's job and I think he can get better results than a youngster in the State Department.

I say that while the Argentines are not perfect—nor are we—it's time for the Vice President and President to take hold of our Argentine policy and to recognize that short term rhetoric is no substitute for long term planning. Human rights are very, very, very important but the policy here was initiated to use with the Soviet Union as a bargaining wedge and since she won't listen to us as she keeps arming Cuba with one hand and signing agreements with the other—we use it against those we perceive as weak. That is not only immoral in an allegedly moral administration but Argentina is important—it has 10 billion dollars, needs our supplies and even forgetting her strategic importance facing the sea lanes where 75 percent of our oil supplies pass—she can be a partner of the western world in the economic war for the control of men's minds and hearts. I know she has some internal problems. So do we. But it's her business, not ours.

I suggest to you that twice before in the history of our lifetime, the United States has made historic mistakes in its political-economic relations with a nation. The first, of course, was in China, when at the end of World War II, Chou En Lai and Mao Tse Tung suggested to our Ambassador Patrick J. Hurley, that the United States could assist in the rebuilding of China. He did not pass the information along to Washington, but instead the two foreign service officers were fired.

That led to a 30 year war in Asia.

Then in Argentina, when an election was about to be held in the 1940's, the United States Ambassador, Spruille Braden, at the suggestion of the then Secretary of State, Cordell Hull, issued a White Paper and interfered in the internal affairs of the country publicly and one of the presidential candidates campaigned against the United States and won.

Now, while I don't know what the future will bring—a government wishes to have cordial relations and we are again violating the rule of doing what is best for us—which is at least staying neutral—and we are trying to tell them what is good for them. And the people who are trying to tell the Argentines what is good for them don't even know what is good for themselves—as exampled by the domestic-political climate here with a 13-percent inflation, a soaring crime rate, a deteriorating dollar, 320 dollar gold and a policy in Cuba where the right hand does not know what the left is doing.

Nations need an incentive to work. Argentina needs that incentive. Let them work it out for themselves.

CONCLUSION

The last decade was a political seminar for the Argentines. No case study at Harvard could have ever been set up like it.

Argentina, I think, is quiet now—a little sad at what happened but optimistically expectant as Ogden White has stated. I think phase one of the economy is over. Let's look at the scorecard. I said before that I don't represent the Argentine economic team or the military team and I don't. Banco de la Nacion which I set up in 1972 in New York and which makes millions changed their lawyers when this government came in because someone said our firm was not prestigious enough! I think the score is very good—

(a) Inflation is 150% or more down from 1000%. That's not great and it is a major problem but it is something—with full employment.

(b) Grain exports are at a record despite an alleged over-valued peso which again allegedly makes production a waste of time.

(c) Cattle stocks are at a record despite the highest record of consumption in the history of Argentina.

(d) Complaints are that it is uneconomic to raise cattle or to eat it but consumption is at an all time high.

(e) Oil production is near self-sufficiency.

I maintain that all of these results and complaints, some real and some unreal, show the start of the democratic process the Argentines need. No longer do you fire a Minister because you don't agree with him. The success of all of this is that people are arguing and that is the democratic process. You will not evolve a plan in four years—it may take 10 but the Argentines want a plan.

Finally, Argentina's booming exports have produced 7 billion dollars of exports due to good luck in harvests and management. There is another 2 billion dollars of inflow of cash because of the high interest rates in dollars. That is 9 billion dollars.

Argentina is now one of the most solvent nations in the world. It can have a reserve for bad crop years and can get international loans as a good risk, can discourage speculation, keep the local exchange market quiet and Argentines can travel and spend money freely—all because of these reserves. And I think these reserves will grow as international prices for raw materials continue to increase under the influence of higher oil prices. This favors Argentina—which I repeat has the three F's—food, fuel, finance. And the international prices of manufactured goods that Argentina needs will not rise at the same rate as agricultural products because the energy hit crisis countries will not be able to consume so much and these products will be sold cheaper abroad.

Now phase two must start—Argentina will have to modernize her industry, and can either import more goods or its local industry, if it sees stability, will have confidence to reinvest. I pray to God that after all these years the Argentines will work out their differences calmly, quietly and cautiously because with food, fuel and finances they have it all for the first time. They need to worry about their middle class, their industrial sector and how to resolve their differences.

And I pray that someone can convince our President, the Congress and our nation that with these assets and the Argentine needs and our recession, balance of payments deficit and general malaise, we ought to, at the minimum, be staying neutral and at the maximum we ought to be trying to sell to the Argentines and helping develop the root of a relationship which will produce for the next generation of Argentines and Americans peace and prosperity. That is how the human rights problem will be solved.●

ACID PRECIPITATION POSES GROWING THREAT TO HEALTH, NATURAL RESOURCES, AND PROPERTY

● **Mr. HEINZ.** Mr. President, as you are no doubt aware, mounting scientific evidence suggests that the phenomenon of "acid rain" so prevalent in Northeastern and other States is causing serious damages to plant and aquatic life, farmland, property, and human health.

I today had the opportunity to testify before the National Commission on Air Quality, which is investigating the causes, chemistry, transport, and environmental effects of acid rain. My testimony directed the Commission's attention to several recent studies of the harmful effects of acid rain and announced my cosponsorship of legislation to create a national acid precipitation task force. This measure, S. 1754, was introduced by my distinguished colleague from New York, Senator MOYNIHAN. In addition, I suggested a number of steps which could be taken immediately to reduce the environmental and health hazards posed by acid rain.

I ask that there be printed in the

RECORD the text of my statement before the Commission.

The statement follows:

STATEMENT OF SENATOR JOHN HEINZ

Mr. Chairman, I am most grateful for this opportunity to appear today before the National Commission on Air Quality as it investigates the problem of acid rain. I shall not occupy too much of the Commission's time as I understand you have several expert witnesses appearing before you today and I have pressing business at the Finance Committee. I would, however, like to take a few minutes to express my concern about the acid rain problem and offer a few suggestions for its resolution.

As you know, my interest in environmental issues is a longstanding one, dating back to my days in the House of Representatives when I helped organize the Environmental Study Conference and was one of the principal authors of the Clean Air Act Amendments. I am particularly interested in the topic of your meeting today because whatever solution the Commission and others now studying the acid rain problem ultimately produce will have a significant effect on the state which I represent, Pennsylvania.

First, although much remains to be discovered about the causes and potentially harmful effects of acid rain, preliminary investigation has established that Pennsylvania is in the "eye of the acid rain storm." According to an article in a recent issue of Pennsylvania Forests, which I am asking be printed in the Record, samples taken during the past year at the Northeastern Forest Experimental Station at Kane, Pennsylvania, have recorded on a continuing basis some of the most potent acid precipitation anywhere in the United States and possibly in the world. As evidence of the mounting concern in my state about acid rain, at a recent meeting of conservation groups in Pittsburgh which I convened to discuss the issues of Alaska lands and RARE II wilderness areas in the Allegheny National Forest, several spokesmen for environmental groups wanted to know what Congress intended to do about the acid rain problem. And just last week, the Philadelphia Inquirer ran a front-page article on the growing threat posed by acid rain.

Not only is Pennsylvania disproportionately affected by acid rain, some of its key industries such as coal and steel may well be called upon to bear the brunt of whatever solution to the acid rain problem that the Commission and others studying the problem may propose. As part of the national goal of energy independence, of which I am in full support, the nation's output of coal is to be doubled by 1985 to replace imported oil and scarce natural gas reserves, and air quality standards may be eased. Yet frequently cited as a cause of acid rain are particles of sulfur dioxide produced mainly by power generating plants and large industrial smelters—which use the coal so abundant in Pennsylvania and other states and so necessary if the dependence on imported oil now crippling the nation's economy is to be reduced. I am thus concerned that in the process of attaining energy independence, the health of our people and the productivity of our forest, agricultural, and water resources are not sacrificed. At the same time, I would hope that in attaining the equally worthy goals of air quality and reduced acid rain, we do not place an unreasonable burden on those industries whose continued vitality is crucial to meeting the nation's energy needs.

I shall not dwell at length on the effects of acid rain, leaving such a discussion to the expert witnesses from whom you will be hearing today. Suffice it to say that the reports I have seen, several of which I am inserting into the hearing record for the benefit of Commission members and staff, have established the following:

Scandinavian studies have demonstrated decreased forest growth in areas of acid rain. This phenomenon has been documented to a lesser extent in the Northeastern United States.

Farmers find themselves forced to counteract the effects of acid rain by adding fertilizer to replace nutrients leached from the soil and lime to neutralize acid. A strong acid rain can result in holes in lettuce, spots on tomatoes, damage to leaves, and retardation of plant growth.

Acidification of lakes and rivers can render them sterile. Not only does acidity adversely affect the reproductive capability of adult fish and the survivability of eggs and young fish, a sudden acid-laden snow melt may kill thousands of fish in a single day by acid shock or aluminum poisoning. In Scandinavia, there are already 15,000 fishless lakes. In Canada, scientists fear that as many as 50,000 lakes may become sterile over the next two decades. And in the Adirondack Mountains of New York, over 300 lakes are now sterile.

The quality of drinking water is harmed by acid rain as it deposits toxic metals into reservoirs, leaches metals out of the soil and into the water table, and picks up metal from pipes. Last year Dr. William E. Sharpe at Pennsylvania State University studied drinking water in Clarion, Pennsylvania, where residents depend on cisterns for drinking water. In several instances drinking water exhibited dangerously high levels of lead. Snow in the area showed high levels of lead and cadmium, both of which are toxic in sufficient quantities. "And those were just the ones we checked for," observed Dr. Sharpe. "There could have been other things—arsenic, mercury . . . we didn't check for those."

Acid rain has a corrosive effect on buildings and automobile paint. In fact, during the same week that the highest acid precipitation rate yet observed was recorded at Kane, Pennsylvania, over 200 cars in the Harrisburg area alone received damage to painted surfaces from acid dew. Even nylon stockings deteriorate more rapidly from acid rain.

Ironically, efforts to meet air quality standards by building taller smokestacks have contributed to the acid rain problem and spread it across vast distances. As a result, acid rain in Europe is borne by Atlantic air currents from North America. In fact, Norway and Sweden are considering taking the issue before the World Court to try to collect damages from other nations. Similarly, Canada receives three times as much sulfur dioxide from the United States as it sends back and therefore wants to negotiate an air pollution treaty with the United States. And here in the U.S., evidence suggests that much of the acid rain problem in the Northeastern states originates in the Midwest.

Because of the scope of the acid rain problem—and the fact that it respects no state or national boundaries—a nationwide research effort is needed to determine the origins of acid rain, identify its hazardous effects, and suggest solutions. In recommending such an effort I do not intend to denigrate the ongoing research of the Acid Precipitation Experiment (APEX); the National Atmosphere Deposition Program (NADP) at the Department of Agriculture; the Multistate Atmospheric Power Production Pollution Study (MAP3S) at EPA; and the Sulfate Regional Experiment (SURE) sponsored by the Electric Power Research Institute (EPRI).

However, I feel that a more comprehensive approach is warranted. In his 1979 Environmental Program President Carter has proposed a ten-year Acid Rain Assessment Program, an approach whose concept I support. That is why I am cosponsoring, along with my distinguished colleague from New York, Senator Moynihan, S. 1754, the Acid Precipitation Act of 1979. This bill would, among other things, do the following:

(1) Establish a federal Acid Precipitation Task Force chaired by the Administrator of EPA and composed of representatives from the Departments of Agriculture, Commerce, Health, Education and Welfare, and Interior, and from the National Science Foundation and the Tennessee Valley Authority.

(2) Direct the Task Force to develop a plan to coordinate the efforts of federal and state agencies, localities, universities and other research and demonstration centers, and public and private corporations.

(3) Authorize $152 million to be spent by the federal government over the next eleven years.

There are some modifications to the measure, however, which I would like the Environment and Public Works Committee to consider. First, I am concerned about the cost of the program and would want assurances that its work would not duplicate the ongoing research efforts which I cited previously. Second, there exists a more serious omission in the bill as introduced which is that representatives of state governments which will be called upon to implement the recommendations of the Task Force are not included among its membership. Similarly, I feel that the Task Force should include representatives of industries likely to be affected by its findings. Third, I would like to direct the Task Force to seek solutions to the acid rain problem which do not place an unreasonable burden on those industries whose continued vitality is crucial to meeting the nation's energy needs. The provision in S. 1754 for capital grants to states is a step in this direction.

More importantly, in calling for this long-term research effort I do not mean to suggest that there are not immediate steps which can be taken to reduce the environmental and health hazards posed by acid rain. Although additional scientific research is needed to demonstrate conclusively the causes and effects of acid rain, any reasonable man—or woman—can infer on the basis of evidence already available that:

(1) acid rain has harmful effects on plant and aquatic life, farmland, property, and human health; and

(2) the primary source of acid rain is emissions of sulfur and nitrogen from such sources as fossil fuel burning power plants.

I therefore suggest that the following steps be taken to alleviate the effects of acid rain:

First, the use of stopgap measures such as liming of acidified lakes to reduce the immediate hazards of acid rain while long-term solutions are being devised;

Second, a ban on further construction of tall stacks which heretofore have been used by many air pollution sources to comply with clean air standards;

Third, economic feasibility studies of retrofitting existing tall stacks and other pollutant sources with scrubbers;

Fourth, requiring that new power plants and other contributors to the acid rain problem not be sited where they will exacerbate the acid rain problem; and

Fifth, including funding in the national energy program of increased coal utilization and synthetic fuels development for emissions control equipment and other programs to combat acid rain.

In conclusion, I hope that this meeting of the Commission and proposals such as I have outlined today will help draw further attention to the problem of acid rain and expedite the development of much-needed solutions. I hope that the Commission has found my remarks today enlightening in this respect.

The article from Pennsylvania Forests follows:

[From the Pennsylvania Forests, Summer 1979]

NEW THREAT TO ENVIRONMENT—ACID RAIN ON PENNSYLVANIA FORESTS, WATERS

(EDITOR'S NOTE.—Until recently, there had been reason to hope that Pennsylvania was at last eliminating acid mine waters as a major source of pollution. Today, however, there is strong evidence that the same acid rain that has long plagued coal-burning Western Europe and recently destroyed 25 per cent of the cold water fishery in New York's Adirondacks also is falling here. The following is an in depth report by the new Executive Secretary of the Joint Legislative Committee on Conservation.)

(By Larry J. Schweiger)

A young tree planter clad in blue jeans and a cotton plaid shirt bends over a newly created hole in the ground. With the last of many White Pine transplants to be set into the soil this spring day, his hands spread the fine root system throughout the hole. While carefully pressing excavated soil back around the roots, sticky clay particles cling to his hands.

Completing the task, he unconsciously rolls the clay globs into a ribbon and looks over the day's work. Scattered throughout this clearcut can be seen small but ubiquitous mixed pine seedlings midst downed tree tops. He ponders about future fruits of his effort, knowing full-well these seedlings must fend against a miriad of natural enemies including insects, wildlife and forest fires.

Their future unfortunately, will be out of the planter's control and increasingly threatened. For on top of a number of natural enemies to tree seedlings, modern civilization is stacking many more insidious threats. One very critical to the future forest is acid rain from air pollution.

Worldwide concern has been growing in recent years about forest productivity that may be reduced by far away air pollution emissions. The rate of forest growth has declined in Southern Scandinavia and in the Northeastern United States between 1950 and 1970. Documentation of the cause of the decline is lacking, but acid precipitation is increasingly suspect.

Numerous laboratory experiments have shown that acid rain can damage leaves; alter trees responses to both beneficial and disease causing organisms; effect the germination of conifer seeds and interfere with the establishment of seedlings; effect the availability of needed nitrogen and potassium in the soils; decrease soil respiration; and increase leaching of nutrient ions from the soil.

A report entitled: "Environmental Effects of Increased Coal Utilization," by the Environmental Protection Agency, cites the above laboratory results but warns: "It has not yet been possible to demonstrate unambiguously decreased tree growth in the field." But in all probability, it is happening now.

Pennsylvania appears to be in the eye of the acid rain storm. Samples taken at the Northeastern Forest Experimental Station during the past year show its station at Kane, to be recording on a continuing basis some of the most potent acid precipitation anywhere in the United States and possibly in the world.

Debilt station in the Netherlands had a pH of 3.78 as a yearly weighted average in 1966–67 which is considered the highest acid precipitation in the world. The lowest pH reading at Kane occurred on the nineteenth of September of 1978 when a sample collected showed a pH readig of 2.32. During the same week over 200 cars in the Harrisburg area alone, received damage to painted surfaces from acid dew.

In a statement before the Environmental Quality Board on January 1979, Ralph Abele the Executive Director of the Fish Commission said, "As more data are received on this subject, it becomes clear that Pennsylvania is now a full partner with the problem of acid precipitation which was first observed in Scandinavia and in upper New York State.

Maps developed by researchers indicate that large areas of Pennsylvania are receiving the brunt of the acid precipitation in the eastern United States. The evidence seems to indicate that this may be the result of long-distance transport of pollutants from the midwestern industrial centers. In all probability, the problem has been intensified by states of the west of us allowing the construction of tall stacks without the use of scrubbers which would eliminate the source of much of the acid rain.

PH isopleths from 1955-56 to 1972-73 in the northeastern portion of the United States indicate the average annual pH has been decreasing steadily. The most recent data shows that this trend is continuing. In response to this problem, several networks of acid rain stations are being formed in the United States and more stations should be considered.

A thorough study of existing information and data has already caused the President's Council on Environmental Quality to call acid precipitation one of the two most critical environmental problems. (The other is the buildup of atmospheric carbon dioxide with it's long-term potential for profound climatic alteration. Atmospheric carbon dioxide has increased 12% since 1850.)

An acid rain report prepared by the National Atmospheric Deposition Program to the Council on Environmental Quality states: "The increasing acidity of precipitation has already caused measurable damage to aquatic ecosystems and has the potential for longer-term injury over decades to forest systems.

"It can severely impoverish sensitive soils and degrade the natural ecosystem so important to human welfare. The continuing, unchecked environmental degradation caused by acid precipitation could reach a stage where the damage to natural ecosystems would be irreversible."

There basically appears to be four forces in eastern United States to cause acid rainfall increases:

1. Increased consumption of high sulfur fuels to solve the energy crisis.

Pennsylvania, for example, has increased coal production by 23 million tons since 1961. Between 1960 and 1980, nationwide sulphur oxide emissions to the atmosphere will have nearly doubled. SO_2 emissions amounted to twenty-three million tons in 1960, thirty-three million tons in 1970 and estimates indicate emissions will reach forty-one million tons by 1980.

2. Increasing acid loads from the automobile.

Gasoline contains small quantities of thiophene which is an organosulfur compound. Thiophene is oxidized through combustion to form sulphur dioxide in the automobile engine. In new autos equipped with catalytic converters, some of the SO_2 may be converted to SO_3, which readily reacts with water vapor in the exhaust system to form H_2SO_4 or sulfuric acid.

Small quantities of acid then are emitted from the converter as acid aerosol. Despite this fact, the Environmental Protection Agency after study recommends that no automotive devices be added or altered to curb the sulfur related emissions primarily because this source is thought to be "minor".

3. Loss of buffering potential from fly ash reductions.

Fly ash is neutral to slightly basic in nature and has a tendency to act as a buffer against acids. The struggle to meet established air quality standards has been much more successful in the area of controlling particulates than that to control sulfates.

Electrostatic precipitators have been the primary device for controlling fly ash from coal burning power plants. First used in 1923, precipitators were increasingly applied to control particulates through the fifties and sixties. Today, the average particulate removal efficiency is 99.5 percent.

On the other hand, sulfur controls are moving much slower. As of May of 1978, only thirty-six scrubber-equipped-coal-fired plants were in operation nationwide, representing less than 5 percent of all coal generation. It has been estimated that only one hundred and thirty-eight flue gas scrubber-equipped-coal-fired utilities will be operational by 1986.

Additionally, a recent inter agency study on Ecological Effects of Increased Coal Utilization concluded that this trend will continue over the next twenty years as sulfur oxide emissions will increase 25 percent over 1975 levels by the year 2000 while the particulates will continue to be reduced to about 80 percent of the 1975 levels.

Since fly ash is known to have buffering effect on rainfall pH, the contention is made by many experts that high particulate loading from the combustion of coal in the past could have caused a buffering of acids. A study of Lichen and Borman of Cornell University for example, conclude that the installation of partical removing devices eliminates these alkaline substances consequently permitting appreciable quantities of SO_2 to be converted to free acid. Free acid is now believed by some to account for up to 80-100 percent of total acid.

4. The role of nitrogen oxide in the formation of acid is believed to be on the increase in eastern United States.

Nitrogen oxides are favored during high temperature combustion and come from atmospheric nitrogen that becomes part of combustion air (Nitrogen makes up 78 percent of the atmosphere.)

In the past, nitrogen oxides play a larger role in the formation of western acids but have played a much smaller role in the formation of those in the east. However, NO_x is currently believed to be increasing from 22 percent of the total to 30 percent of the total acid load.

With the National energy goal of double coal output by 1985 to replace imported oil and scarce natural gas reserves, we can only expect short and long-term impacts of acid rain to become more damaging to sensitive forest and water ecosystems. Further softening of air quality standards also appears imminent.

The Environmental Protection Agency is under pressure from many forces, and is proposing to relax air pollution standards for new coal fired plants by shifting from full to partial scrubbing on a sliding scale of 70-90 percent depending on sulfur content of coal consumed. The scale will be based upon meeting the ceiling of 1.2 pounds of sulfur per million Btu's.

This proposal is in violation of the 1977 Clean Air Act amendments which mandate the Environmental Protection Agency to require "best available control technology" (full scrubbing) on new facilities. According to estimates, this move may reduce future electric bills by an average of fifty-five cents per month. But the costs will be passed along to the owners of forest lands in terms of damaged to natural reproductivity.

Thus, acid rain has already become a destructive intruder into Pennsylvania's forests, frustrating the young tree planter and forest land manager alike. Over the past seventy years, foresters have made great strides in the direction of better forest resource management. It now appears that this work might be severely marred by forces largely out of the hands of those responsible for the resource.

There are however, many things that foresters can do to help win the battle against forest damages caused by acid deposition. The forest industry should support research projects to determine the long-term impacts and costs of acid on various soils and tree species. Foresters may also be helpful by supporting the various environmental group's efforts to prevent relaxation of air quality standards.

This Nation needs to minimize the dependence on foreign sources of energy. But in pursuit of that goal, we must also minimize the environmental damage caused by air pollution.

In the short-term, it might appear wise to relax air quality standards to burn more coal. In the long pull however, coal's future will largely depend on our ability to clean it to acceptable levels.

In 1976, Dr. Lichens of Cornell University suggested that desulfurization was the only realistic and viable alternative to minimizing the sulfur oxide problem. He estimated that the United States could cut sulfur emissions in half by spending four billion dollars in control measures.

Other researchers indicate the cost can further be reduced by the generation of "producer gas" from coal and by further "fine tuning" the combustion process to minimize emissions.

A study by Dr. Cooper in 1976, envisioned a system of sulfur recovery which included transporting sulfur wastes to western agricultural areas to supplement sulfur deficient soils thus increasing soil productivity and turning a liability into an asset.

The United States vitally needs coal-produced energy! However we do not need energy at the sacrifice of paper, wood, food, fish, and wildlife resources or environmental quality. With careful management and planning. We can have sufficient energy and a healthy environment at the same time.●

WHEN PRICES JUMP, SO DO TAXES

● Mr. DOLE. Mr. President, the wholesale price index jumped 1.4 percent in September. According to the Labor Department, this is the largest monthly rise in producer prices for finished goods in 5 years. The Office of Management and Budget now admits that the administration's estimate of a 10.6-percent inflation rate for 1979 will need to be revised upward. That is like Napoleon admitting he would have to revise his prediction that he would win the battle of Waterloo. The two predictions are about equally realistic.

However the September wholesale figures translate into consumer prices, the outcome is more bad news for American consumers. As the administration appears to be conceding, there is little that can be done now to affect the rate of price increases this year. Whether the administration will take effective action to restrain future inflation remains to be seen, but their track record gives little cause for optimism. When the Government shows unswerving determination to cut spending and end deficits, we may begin to see the country move away from an inflationary psychology. In the meantime, there is something we can do right now to help alleviate the burden of inflation on the American people.

What we can do is to eliminate the increases in the income tax liabilities of our citizens, that are caused by inflation. Keeping up with the cost of living is tough enough these days without having to worry that you may need to pay higher taxes as a penalty for keeping up. Yet that is what happens as a result of the progressive income tax.

When income rises to match inflation, by definition purchasing power remains the same. Yet that rise in nominal income pushes the taxpayer into a higher tax bracket because the progressive rate brackets are set in fixed dollar terms and do not take account of the declining value of each dollar in inflationary times. The result is an increase in real tax liability for virtually all of our taxpayers when inflation is running rampant.

Recent experience with high rates of inflation shows that this inflation tax penalty—taxflation—does not function as an automatic stabilizer to cool inflationary pressures. All it can do is discourage workers from becoming more productive, or make them more anxious about the threat to their standard of living. Taxflation helps no one but the U.S. Treasury because it gives the Government an automatic increase in revenues without the need for any action by Congress.

This is a problem that demands a solution, and there is a simple remedy available. All that needs to be done is to adjust the tax bracket cut-off amounts and other fixed dollar figures—such as the zero bracket amount and the personal exemption—to take account of the declining value of the dollar. This can be done by requiring the figures used in the tax tables to be adjusted by the rise in the Consumer Price Index for the previous fiscal year. This way, withholding tables can be prepared that will take into account the most recent available inflation figures.

The above description tells exactly what the Tax Equalization Act, S. 12, would do. The Tax Equalization Act has been introduced by the Senator from Kansas in order to end taxflation, which is an unjust and deceptive penalty on the American people. As the statistics on runaway inflation continue to pour in, we should consider our obligation to make a gesture of good faith to the American people. Tax equalization is the most appropriate and most needed action the Congress could take.●

THE BRADLEY ENERGY CONSERVATION PLAN

● Mr. MOYNIHAN. Mr. President, my distinguished colleague and cherished friend the junior Senator from New Jersey has made an imaginative proposal to encourage energy conservation by giving private contractors financial incentives to insulate houses, with the incentive itself based on the amount of energy conserved. This forward-looking and constructive "Bradley plan" was recently explained and lauded in an editorial in the New York Times entitled "How To Find Energy in the Woodwork." This bears our attention and I therefore ask that the editorial be printed in the Record.

The editorial follows:

[From the New York Times, Sept. 10, 1979]

How To Find Energy in the Woodwork

The most promising source of energy saving around. these days is home insulation. Yet for the typical homeowner bracing for winter, the task of calculating what ought to be done—and then finding someone to do it—is proving immensely frustrating. Therein lies the appeal of a program suggested by New Jersey's Senator Bill Bradley. He thinks he knows a way to promote home energy conservation at no cost to taxpayers or homeowners, and with minimal government interference in the marketplace. It is not certain that his plan is practical. But there is no doubt that the Bradley approach, or something equally clever, is needed to get the job done.

Consider the current plight of the homeowner. He or she is sure that some sort of additional weatherproofing makes sense, but probably has little faith that the local contractor knows which. Even if the contractor is knowledgeable, there is a real danger that the work will be "gold-plated," to run up the bill. Under Federal law, utilities are obligated to help out with an "energy audit," and if requested, a loan for insulation improvements. But many people have been disappointed. Local gas and electric companies may know a lot about selling energy, but little about saving it.

The Bradley plan would cut through these difficulties by redirecting profit incentives. The Government would offer cash directly to private energy conservation contractors to insulate houses. The Government's payments would not be based on the cost of the work—but on the amount of energy saved, as verified by an independent audit. In other words, a contractor would gain maximum profit by analyzing which improvements would have the most fuel and then doing the necessary work as cheaply as possible.

Who would foot the bill? Local utilities—and ultimately the owners of energy resources. The Government would charge individual utilities for the amount of energy actually saved within their service areas. The utilities, in turn, would be free to pass on the costs to their general customers, the way they routinely pass on the cost of a new power plant. However, since the alternative to buying conservation in most parts of the country is building expensive new facilities that burn expensive fuel, utility bills would actually rise less rapidly. The only real losers would be the owners of oil, gas, coal and uranium reserves, who would find the demand for their resources diminished.

Every step in the Bradley equation raises questions: What happens to the unlucky homeowner who has already paid for additional insulation? What would prevent builders of new houses from leaving out the insulation and letting the local energy conservation company do the work? Who could be depended upon to audit the work of the conservation companies? What would happen to utility bills in places like New York City where the demand for energy is not growing? Conservation won't hold down the average cost of energy sold if it is not a substitute for new power plant construction.

Such questions require good answers if the plan is to make any headway in the Senate Energy Committee. But skeptics tempted to dismiss the scheme without serious consideration owe the public some answers too. The country cannot pretend that homeowners now have the expertise or proper incentives to conserve energy. Nor should anyone think that any system requiring major government intervention in the home insulation market would be an effective approach. If Senator Bradley's approach won't work, what will?●

HUMAN RIGHTS VIOLATIONS IN ZIMBABWE-RHODESIA

● Mr. HATFIELD. Mr. President, as a member of MCPL (Members of Congress for Peace through Law), I would like to express my grave concern about the deteriorating human rights situation in Zimbabwe-Rhodesia.

The International Red Cross has requested that both sides in the Rhodesian conflict show greater concern for human rights. According to Amnesty International, human rights violations by both the government forces and the patriotic front forces appear to be increasingly common. Incidents of torture, arbitrary arrest, and detention are on the rise as the war intensifies.

There is, according to Amnesty International, every indication that secret trials and executions are as common under the administration of Prime Minister Muzorewa as they were under Ian Smith's government. Legal observers in the country have reported to Amnesty that special courts have wrongly convicted and sentenced to death a number of people brought before them.

Detention under martial law continues to be an important part of the antiguerrilla strategy of the Salisbury government, but there is, at present, no accurate count of the number of detainees involved. However, there are known to be at least 100 women detained in one prison alone under martial law provisions. Some of these women have young children with them and their condition has been of special concern to Amnesty International and other human rights groups which have requested permission to visit the camp. That permission has thus far been denied by the Salisbury authorities.

Since assuming office in early June, Prime Minister Muzorewa has announced that missionaries, deported by Ian Smith's government, would be allowed to reenter the country. According to information received by Amnesty International, this policy has yet to be tested. On July 3, the Muzorewa government made another welcome announcement: 141 political detainees would be released. But the fact that the release of these prisoners coincided closely with Prime Minister Muzorewa's visit to the United States suggested that his government, like its predecessor, intended to use political detainees in its efforts to influence Western public opinion.

I was especially disappointed that the Government of Zimbabwe-Rhodesia recently turned down a British request for the release of political prisoners so they could attend the peace talks now underway in London. I urge Prime Minister Muzorewa's government to reconsider its decision. I also call upon the authorities in Salisbury to stop its policy of secret executions and request the leaders of the Patriotic Front to show greater respect for human rights and to observe the Standard Minimum Rules for the Treatment of Prisoners. While these measures in themselves could not bring the war to an end, they could reduce the suffering and misery so prevalent today in Zimbabwe-Rhodesia.●

CAROL A. EDWARDS

● Mr. DURENBERGER. Mr. President, I would like to take this opportunity to bring to the attention of the Senate a woman who is a most remarkable example of fortitude, courage, and strength. Her name is Carol A. Edwards, and she is the recipient of the Outstanding Handicapped Federal Employee of the Year Award of 1979. I am particularly happy to pay tribute to Ms. Edwards because she was born and raised in Minnesota. Ms. Edwards represents the determination of so many other Minnesotans and Americans who have conquered the physical limitations of their handicaps.

In her capacity as HUD's neighborhood and consumer assistance representative in the office of the area manager in the city of Los Angeles, Calif., Ms. Edwards provides onsite technical assistance to community service functions throughout southern California. Her position requires substantial physical mobility, mental agility, a fine sense of humor, and a love of people. Time and again she has demonstrated these skills. For example, last year when tenant/management relations were tense at a local apartment complex, Ms. Edwards accomplished what was thought to be an impossible task. Through her efforts, a five-member task force was organized to develop a youth diversion and tenant relations program which succeeded in calming a potentially explosive situation. And this year, Ms. Edwards coordinated a series of workshops aimed at increasing neighborhood awareness of HUD programs, technical assistance and training, and increasing a neighborhoods' ability to compete successfully for grants and funding.

Carol Edwards is not unique solely because of her job skills and considerable achievements. Nor is Ms. Edwards unique because she was born with the congenital defect of arthrogryposis. For thousands of Americans are born without joints which limit their mobility to short walks on crutches. What singles Carol Edwards out is her tenacity and persistence in overcoming physical limitations and social prejudices to become a leader in her field. Our society is often frightened and intimidated by the unknown or the unusual. Individuals who are handicapped, such as Carol Edwards, spend much of their time and energy trying to overcome these biases. In her additional role as one of HUD's handicapped program coordinators, Ms. Edwards substantially increased managements' awareness of the needs, goals, and abilities of disabled persons.

As Carol Edwards will tell you, she has not been alone in her struggle to gain recognition as a capable and productive individual. Several people in my home State of Minnesota had the foresight to recognize her outstanding talents and abilities. Of particular importance has been the support and aid of her parents, Bill and Alice McFadzean. They helped Carol teach herself to do things that many of us take for granted, like driving a car. The Dowling School for Crippled Children was also instrumental in Ms. Edwards efforts to enter the mainstream of society. The school was founded in 1919 as a result of the efforts of Michael Dowling, a handicapped legislator, who succeeded in getting a bill passed in the Minnesota Legislature, which provided funding for State aid for education of handicapped children. As a graduate of the Dowling School for Crippled Children, Carol Edwards can attest to the dedication, commitment, and success of the school and the people who work there. But Ms. Edwards' career achievements would not have been possible if it were not for Mr. George Vavoulis. Mr. Vavoulis, who served as mayor of Saint Paul, Minn., as State employment services commissioner and as regional administrator of the Department of Housing and Urban Development in Chicago, Ill., gambled on an unknown quantity when, in his capacity as Regional HUD Administrator, he urged the Los Angeles regional office to employ Ms. Edwards. Mr. Vavoulis heard about Carol's motivation and skills from friends back home in Minnesota, and his instinct that Carol Edwards was deserving of a chance paid off. Ms. Edwards has received three promotions in 3 years and has been designated as acting supervisor of her unit at the Los Angeles regional office of HUD.

Carol Edwards' spirit and motivation is an example for all of us to follow. But it is not enough to confer awards and commend the achievements of people like Ms. Edwards. We must fashion a system that provides incentives for disabled people to enter the job market, while at the same time insuring that their health and well-being is maintained. Once disabled and handicapped people are viewed as capable and productive members of society, this Nation as a whole will benefit.

Carol Edwards, thank you for showing us that the human spirit is boundless. Your accomplishments have not only increased the awareness and sensitivity of other Minnesotans and of the rest of the Nation, but have focused attention on the importance of using effectively, all of America's resources. You have our admiration and respect.●

LAX SECURITY IN NUCLEAR FACILITIES

● Mr. HATFIELD. Mr. President, the Members of Congress for Peace Through Law Caucus has long been concerned with the dangers of nuclear proliferation, particularly the seemingly lax methods employed to prevent theft or loss by other means of weapons grade materials. I commend to the attention of all my colleagues an article which appeared in the New York Times on Wednesday, September 19, concerning the closure of a privately owned factory in Tennessee that makes fuel for the Navy's nuclear submarines. The closure was ordered because the facility was unable in a recent inventory to account for a significant amount of highly enriched uranium, a material that could be fashioned into an atomic bomb. What was originally thought to be a loss of about 25 pounds of weapons-grade uranium has been more recently revealed to be an unaccounted quantity of 245 pounds.

Recent examples of security breakdowns or failures both in the protection of nuclear weapons designs and the prevention of the theft or disappearance of enriched uranium and other nuclear materials should motivate us to firm action in containing this threat. The recent revelation at Los Alamos that documents which contained enough information to allow the construction of a thermonuclear weapon were available to the public does not inspire general confidence in our Government's present security measures. But private industry in the weapons business is also to blame in the Tennessee instance and elsewhere. Only 3 years ago, an undergraduate at Princeton University, John Phillips, was able to obtain information over the phone from private firms, who comprise our enormous weapons manufacturing establishment, sufficient to complete design of a working atomic bomb.

Considering the extremely grave consequences of nuclear proliferation, it is with great alarm that I receive this further evidence of an apparently careless attitude in the control and regulation of our nuclear facilities. While we as a Nation, along with over 100 other nations, have affirmed our determination to prevent the critically dangerous spread of nuclear armaments under the terms of the Nonproliferation Treaty, the methods we have pursued to safeguard our own nuclear facilities from these dangers have been less than thorough. Our commitment to the policing of other nations in the interest of nonproliferation suffers an extreme loss of credibility when we, as one of the foremost producers of nuclear products, are unable or apparently unwilling to take the necessary measures to insure effective control and regulation of our own industries.

The dangers inherent in lax security were well presented 2 weeks ago in the testimony of a fellow member of MCPL, Representative JONATHAN BINGHAM, before the Senate Committee on Foreign Relations. He cited the former SALT negotiator Ambassador Gerard Smith, who stated that—

> To my mind the threat to American security from horizontal proliferation is substantially greater than that presented by the continuing improvements in Soviet forces.

Confidence in our present security systems has been gravely undermined in the past by instances of nuclear materials that have "disappeared" or are unaccounted for. The loss of 600 tons of uranium ore from a ship on its way to West Germany 3 years ago is the most startling example of several serious security failures. Considering that the Nuclear Regulatory Commission has estimated that only 40 pounds of enriched uranium are required to construct a nuclear device, the seriousness of this disappearance cannot be overstated.

In addition to inadequate security, failures in the operational safeguards of nuclear powerplants such as Three Mile Island and examples of questionable siting decisions—such as Westinghouse's planned development of a nuclear powerplant 6 miles away from an active volcano in the Philippines—reveal a frightening lack of concern with which some firms approach the grave responsibilities of nuclear production.

In light of the foregoing facts, it is clear that effective safeguards are lacking. If nuclear energy is ever to prove viable, the NRC and the nuclear industry as a whole must be able to prove without a doubt that public safety and national security are not being compromised by lax or inadequate control measures. We must move boldly to contain and eliminate the serious threat that nuclear proliferation poses to our national security.

In this vein, I ask that the New York Times article referred to earlier be printed in the RECORD as my contribution to the "Nuclear Alert" series of the Members of Congress for Peace Through Law.

The article follows:

TENNESSEE FACTORY ORDERED SHUT IN A SEARCH FOR MISSING URANIUM

(By David Burnham)

WASHINGTON, September 18.—The Federal Government today ordered shut for at least 45 days a privately owned factory that makes fuel for the Navy's nuclear submarines because the Tennessee facility could not account in a recent inventory for a significant amount of highly enriched uranium, a material that could be fashioned into an atomic bomb.

The problem of assuring adequate protection for materials that can be turned into a bomb by small nations or even a highly organized terrorist gang has been a constant concern to the Nuclear Regulatory Commission and its predecessor agency, the Atomic Energy Commission.

A little more than two years ago, for example, the Federal Government announced that nuclear facilities similar to the Tennessee factory closed down today were unable to trace a cumulative total of more than 8,000 pounds of highly enriched uranium and plutonium since the beginning of the nuclear age.

While the Central Intelligence Agency has reported that it believes a significant amount of nuclear materials was stolen by a foreign power in at least one instance, other Government officials have contended there was no evidence of such a theft and that the losses occurred in the normal manufacturing process.

LONG HISTORY OF PROBLEMS

The factory affected by today's order of the Nuclear Regulatory Commission is situated in Erwin, Tenn., and is owned by Nuclear Fuel Services Inc. The factory, which has 400 employees, has a long history of accounting and security problems.

In April 1977, for example, the Erwin facility was fined $53,000 by the commission for failing to provide adequate guard services to test its burglary alarms and provide required security barriers.

The commission, while announcing the closing of the plant, did not immediately disclose how much of the uranium was found unaccounted for in a recent two-month inventory. The size of such inventory discrepancies are kept secret for six months to protect the Government from fraudulent extortion threats.

Under the terms of the factory's operating license, however, any discrepancy of 19.8 pounds or more requires a shutdown for inventory within 72 hours.

Experts do not agree on exactly how much highly enriched uranium would be required to make a nuclear device. In 1977, however, the commission said that 40 pounds of the material would be sufficient.

INVESTIGATORS AT FACILITY

William D. Dirks, head of the commission's Office of Nuclear Materials and Safeguards, said in an interview that seven commission investigators were now at the Tennessee facility examining "its physical security procedures" for the period when the inventory discrepancy was discovered.

"There is no indication right now that the material has gotten off-site, but we haven't ruled out that possibility," Mr. Dirks said.

The official added that the Federal Bureau of Investigation and an Energy Department agency called the Nuclear Emergency Search Team had been alerted that they might be called in to work on the case.

The F.B.I. would investigate if the commission decided there might be a possible criminal violation. The Nuclear Emergency Search Team, with headquarters in Las Vegas, is equipped with mobile detectors designed to enable its technicians to locate sources of radiation.

Mr. Dirks said that in addition to the examination of the factory's security procedures, the plant would be required to close down its operations and make a complete inventory to determine exactly how much of the highly enriched uranium could not be accounted for. The official said the inventory would require a minimum of 45 days.●

DIET, NUTRITION, AND CANCER

● Mr. LUGAR. Mr. President, in recent years, many private citizens, persons involved in health research, persons in the medical profession, and others have expressed an increasing awareness of the implications of diet on the health status of our Nation. Evidence continues to prove that diet plays a crucial role in both physical development and disease, and is a contributing or even primary factor in many of the health problems facing America today. This emphasis on preventive health care, which I strongly support, is in my judgment that best strategy for reducing medical cost inflation and reforming our national health care system.

The Senate Committee on Agriculture's Subcommittee on Nutrition conducted oversight hearings on October 2, 1979, on the relationship between diet and cancer. Dr. Arthur Upton, Director of the National Cancer Institute, presented impressive testimony, stating the Institute's tentative diet recommendations for minimizing the risk of cancer. This is the first time that any component of the National Institutes of Health has made diet recommendations for the American public.

Dr. Upton's remarks emphasize the critical importance of proper nutrition and healthy eating habits as an approach to preventing disease and promoting health.

At this time, I ask that the text of Dr. Upton's testimony be printed in the RECORD.

The testimony follows:

STATEMENT ON DIET, NUTRITION AND CANCER

Although no direct cause-effect relationship has been observed for nutrition and cancer in humans, numerous scientific studies suggest that dietary factors may affect the risk of the disease. Because many other variables also influence the occurrence of cancer, the exact role that diet plays remains unclear. The National Cancer Institute has undertaken a number of activities to explore the role of diet in the causation of cancer, but until definitive results of such studies become available, only tentative inferences are possible. Based on the incomplete evidence now at hand, the following would appear to be prudent interim principles:

In general, excessive body weight should be avoided by maintaining a balance between caloric intake and proper exercise. The appropriate balance should be determined by each person in consultation with his or her physician, depending on body build and medical status.

To facilitate control of body weight, and in view of the suggestive association between fat consumption and the risk of cancer, a high intake of fat should be avoided.

A generous intake of dietary fiber would seem prudent, based on the reduced incidence of bowel cancer in human populations and experimental animals that has been associated under certain conditions with a high intake of dietary fiber.

In addition to providing the minimal daily requirements of vitamins, minerals, fatty acids, and protein, the diet should be well balanced, including ample fresh fruits and vegetables. Such a diet, on the basis of present knowledge would not ordinarily be expected to require supplementation with additional minerals, vitamins, or other factors.

Alcoholic beverages should be consumed only in moderation, in view of the high correlation between heavy alcohol consumption and an increased risk of certain types of cancer.

Additional background information on fiber, fat, other dietary constituents, and their relation to cancer, follows.

BACKGROUND STATEMENT

Fiber

Diseases of the intestines, including appendicitis, diverticulosis, colonic polyps and colon cancer have been noted to occur with relatively low frequency in populations ingesting large amounts of fiber. These populations are usually found in less industrialized countries. When individual differences have been investigated between geographic areas, a high fiber intake has been correlated with larger, softer stools, more frequent defecation, and more rapid intestinal transit times. It has been theorized that these effects could result in a decreased duration of exposure of the colonic mucosa to carcinogens in the feces, as well as a relative decrease in the concentration of such carcinogens in the feces.

With the epidemiologic data as a basis, a number of researchers began investigating the fiber-cancer correlation in the laboratory. In one such study, rats were previously treated with a digestive tract carcinogen and then fed different amounts of cellulose. Those rats fed the least amount of fiber developed more intestinal tumors. In addition, the observed number of tumors decreased with the increase in dietary bulk. In other studies, increased dietary fiber resulted in a decrease in mutagenic activity in human feces.

Possible effects of dietary fiber on the enterohepatic circulation of bile salts may also occur. Since bile salts and fat degradation products have been implicated as colon carcinogens, binding or dilution of these by fiber may be of significance.

Dietary fiber is complex. There are vast differences in the sources and types of fiber. Fiber consists of plant wall and non-nutritive residues. Non-nutritive residues include all substances resistant to animal digestive enzymes. Some of these residues may be fermented by colonic bacteria and the subsequent products absorbed. Alterations in the initial fiber content of food may occur with its preparation.

There are six subcategories of dietary fiber: cellulose, hemi-cellulose, lignin, pectin, cutin and gum. These vary in their physical and chemical properties, biologic activity, natural sources, potential side effects and availability. With this in mind, it becomes obvious that fiber experimentation is dependent on the specific types studied and that generalizations concerning fiber may not be possible.

Fats

A theory, currently held by many cancer investigators is that the increase in cancer rates observed in animals on high-caloric diets may be due to the increase in fat in the diet rather than to the increase in total food consumption. A recent series of experiments showed that rats fed diets containing unsaturated fatty acids, like those found in olive oil and sunflower oil, had a greater number of cancers than those fed more saturated types of fat, such as butter and coconut oil. In human populations, both breast cancers and colon cancers have generally been associated with the level of consumption of animal fat, which is mainly saturated.

Several theories to explain the mode of action of dietary fat in carcinogenesis have been suggested in recent years. The most widely held is that fat in the diet has a "promotional" effect on the development of cancer. In other words, it does not cause cancer directly but somehow influences metabolic processes of normal cells to make them more susceptible to the development of cancer caused by other agents. It has also been proposed that fat—whether unsaturated or saturated—may act as a solvent to enhance the effect of other carcinogens. Fats also are known to change the metabolism of many tissues in humans, possibly affecting the relation of various hormones to tissue growth. The case for this is strongest for breast cancer, where hormonal environment has been shown to influence susceptibility to cancer.

Breast cancer strikes more women in the United States, Canada and Western Europe than any other form of cancer. Yet it is comparatively rare throughout the developing world. Some scientists have suggested that the fat content of today's diet in the industrialized countries alters the body's balance of sex hormones, which in some as yet undetermined way increases susceptibility to breast cancer.

Although Japanese women living in Japan seldom develop breast cancer, their risk of the disease increases when they move to the United States. Likewise, some populations within the U.S. have lower breast cancer rates. The Seventh Day Adventists are an example. One thing that the native Japanese and the Adventists have in common is a 20 to 50 percent less intake of fat in their diet than the general population of the United States.

Research on the initiation of mammary cancer in animals has supported this association. Despite differences in type or quality of fat or various elements of experimental design, scientists have found consistently that a high intake of dietary fat increased the development of mammary cancer in rodents.

One hypothesis being studied is that the synthesis and secretion of the hormone prolactin is affected by the fatty acid composition of the breast fluid. High levels of fat in the diet appear to promote the secretion of prolactin, which is a hormone that regulates the growth, milk production and other functions of certain breast cells, as well as affecting the amount of circulating estrogen.

Besides altering the hormonal environment, there are a number of other ways in which dietary fat might lead to breast cancer. These include influence on the metabolism of chemical carcinogens, on cell membrane structure, and on the immune system.

Cancer of the colon and rectum accounts for some 15 percent of the total cancer burden in the United States, and is second only to lung cancer in the number of deaths each year. Like breast cancer, colo-rectal cancer is much more common in the developed Western countries than in less developed areas of the world, and the high levels of fat in the Western diet may conceivably be a factor. Some investigators have postulated that the low levels of fiber in the Western diet may also be important.

Current research indicates that a diet high in fat increases the amounts of bile acids and sterols excreted during digestion. These normal breakdown products may conceivably be converted into carcinogens by bacteria which are normally present in the colon. Although no such carcinogen has yet been isolated, the biochemical mechanisms by which intestinal bacteria might produce carcinogens have been elaborately studied in the laboratory.

Body weight

Lean or underfed animals have been found to have a decreased incidence of spontaneous and induced tumors, as compared with normally fed controls. Recently, an expert panel convened by the American Society of Clinical Nutrition and the Association of American Physicians concluded that obesity increases the risk of death from heart disease and cancer; however, the panel noted that few controlled studies have been done on human populations, and that it is too early to establish a definite correlation between total caloric intake and the risk of developing cancer. Several studies have shown a relationship between obesity and at least two forms of cancer in women: cancer of the breast and cancer of the endometrium.

Naturally-occurring carcinogens

A number of substances that are mutagenic or carcinogenic for animals are present as natural constituents or contaminants of certain foods. Examples include safrole, various flavanoids, cycasin, and mycotoxins.

The contribution of such substances to the human cancer burden remains to be determined. In general, ordinary foods have not been studied thoroughly for carcinogens. In certain parts of the world where agricultural or dietary practices may expose populations to such materials in relatively large quantities, these naturally occurring carcinogens may conceivably account for a significant fraction of the cancer incidence. It is postulated, for example, that mycotoxin contamination of the diet may be a major causative factor in the high incidence of liver cancer in parts of Africa and Asia, where high temperature and humidity frequently cause food supplies to become moldy in storage.

Manmade food additives and contaminants

Of the hundreds of chemicals that are added to our food, few have been shown to be carcinogenic in animals, and at this point none have been conclusively shown to cause cancer in humans. It is important to note, however, that most food additives have not been carefully tested for carcinogenic effects. Most of the additives and other non-nutrient substances in our food supply have been manufactured and consumed in large amounts only in the last 20-to-30 years.

Saccharin, an artificial sweetener added primarily to diet beverages, is one of six substances that the FDA has sought to ban. It announced its intention to do so on April 15, 1977, but the Congress prohibited the ban and called for an in-depth study of the evidence that saccharin caused cancer in animals. That study was completed and reported in March, 1979, by a blue-ribbon panel of the Institute of Medicine and the National Academy of Sciences. It is entitled "Food Safety Policy—Scientifc and Societal Considerations." The study reviewed the scientific evidence that saccharin is a carcinogen and drew the following conclusions: (1) saccharin should be considered a carcinogen in rats "of low potency relative to other carcinogens;" (2) however, saccharin also "promotes" the cancer-causing effects of some other carcinogenic agents in "appropriate test systems;" (3) therefore, it should be considered a potential carcinogen in humans, "but one of currently uncertain consequence and potency in comparison with other carcinogens." The study recommended a number of options concerning the fate of the commercial use of saccharin, ranging from an outright ban to permitting its use as a prescription drug.

In January 1978 the NCI and the Food and Drug Administration began a case controlled Epidemiology Study of bladder cancer patients in five states and four metropolitan areas of the U.S. This study will seek to determine whether saccharin might play a role in bladder cancer in man. The results of this study will be analyzed by the end of 1979.

Other additives potentially associated with carcinogenesis, such as nitrites, have not been banned, but their legally acceptable levels have been reduced. Nitrites are added to some foods to enhance flavor and color or inhibit bacterial growth. Nitrites may also be produced by bacterial reduction from ingested nitrates that occur naturally in foods. The gastric conversion of ingested nitrates or nitrites to nitrosamines, compounds of high mutagenicity and carcinogencity, has been postulated as an etiologic factor for stomach cancer.

Other additives, such as butylated hydroxyanisole (BHA) and butylated hydroxytoluene (BHT), are used as food preservatives. These compounds are anti-oxidants and they can inhibit the tumorigenic response to a number of chemical carcinogens in animals.

The cooking of food has itself been observed to be a possible source of carcinogens. Carcinogenic polycyclic hydrocarbons have been identified in the smoke and charred material on the surface of smoked or grilled meat. More recently, mutagenic pyrrolysis products have also been isolated from the charred surface of such food. These observations are noteworthy in demonstrating that all of us are exposed to varying amounts of dietary mutagens and carcinogens in the course of normal everyday life. However, the significance of this exposure in terms of its potential contribution to our risk of cancer cannot be assessed on the basis of present epidemiological or experimental evidence.

Alcohol and cancer

There is no conclusive proof that alcohol alone causes cancer in either animals or humans. But scientific evidence strongly suggests that excessive intake of alcohol, especially in combination with smoking or dietary deficiencies, may lead to cancer.

A number of cancers are more prevalent among heavy alcohol drinkers, including cancers of the esophagus, mouth, throat, larynx and liver. Alcohol and tobacco are both well established as strong risk factors for cancers of the mouth and throat.

Among its other effects, alcohol is an irritant to the lining of the throat, esophagus and stomach. When combined with the physical and chemical insults of tobacco smoke, alcohol may promote abnormal cell proliferation at those sites. Nutritional and immunological deficiencies are commonly associated with or exacerbated by excess alcohol ingestion.

Vitamins and minerals

Just as there are substances that cause cancer, there may be substances that act on the body to prevent it. In this regard vitamin research has been of interest to cancer investigators. However, sufficient evidence is not yet available to advocate the supplemental use of vitamins in the prevention or treatment of cancer.

Vitamin C is of possible anticarcinogenic importance because of its interaction with ingested nitrites or nitrates. It is an active reducing agent and has been shown to inhibit nitrosamine formation in the gut. Another role for vitamin C as a chemopreventative has been suggested by a pilot study showing regression of rectal polyps in four of five treated patients with familial polyposis. These patients have a very high risk of colon cancer. A large clinical trial is now underway to determine whether daily doses of vitamin C can prevent colon cancer in patients with this inherited condition.

A second proposed role of vitamin C is that of a palliative and life-prolonging drug in "terminal" cancer patients. Unfortunately, this has not been confirmed in a well-designed, prospective clinical trial, in which vitamin C-treated patients showed no benefit over those treated with placebo.

The effectiveness of vitamin A and its analogues as active chemo-preventive agents for common forms of epithelial cancer has been demonstrated in animals. Vitamin A analogues have also been introduced into clinical trials. If their effectiveness in human patients is substantiated, it is possible that vitamin A analogues may be of benefit in delaying or preventing cancer, especially in high risk groups. However, the significant toxicity of Vitamin A and the lack of substantial clinical human data on its analogues preclude their general use at this time.

Along with vitamins, minerals in various amounts are crucial for the body's normal metabolism. As such, they also may play a role in carcinogenesis. Studies are underway in experimental animals on the roles that dietary zinc, selenium, and iron may play in the development of some cancers. At this time, however, very little definitive information exists about the importance of these and other trace elements for the development of cancer.●

ENERGY ASSISTANCE TO LOW-INCOME FAMILIES

● Mr. JAVITS. Mr. President, during last week's hearings on establishing a basic fuel assistance program, the Senate Human Resources Committee on which I serve was pleased to hear testimony from our distinguished former colleague, the former Senator from Massachusetts, Edward W. Brooke. Senator Brooke now serves as chairman of the National Low-Income Housing Coalition and it is in that capacity that he is continuing his work on behalf of the poor and the elderly.

While a Member of this body, Senator Brooke was known as champion of the civil and economic rights of the underprivileged. Among the many issues of social justice on which he led the fight was the problem of fuel cost affecting the poor following the OPEC price increases of 1973. He successfully led the fight in the Appropriations Committee to fund the Community Services Administration's crisis intervention program, the only means our Government presently has to assist low income and elderly persons facing high energy costs. He also authored the program to weatherize low income rental housing which is contained in the National Energy Act of 1978; and he attempted to prohibit utility shutoffs to the elderly and poor. His testimony last week comes at an especially critical time as we are striving to enact a long overdue permanent fuel assistance program to aid the low income and elderly who face escalating home heating oil prices. I would like to share Senator Brooke's testimony with my colleagues and ask that it be printed in the RECORD.

The statement follows:

LOW INCOME ENERGY ASSISTANCE

The National Low Income Housing Coalition appreciates this opportunity to testify on an urgent low income housing need: paying for the cost of residential energy. The Coalition is a public interest organization, with a broad base of individual and organizational members, addressing the programs needed to provide decent housing for low income people.

The National Low Income Housing Coalition shares my own intense concern for the problems of the poor as they face high and rapidly climbing energy bills. We will do our best to support your efforts to frame an adequate program and to get it enacted.

We recommend that the energy assistance program be based on the following principles:

Energy assistance should be an entitlement program, to assist all eligible owners and renters.

Priority should be given to meeting the most severe needs—those of the lowest income families.

Grants should be based on energy need, use, and cost. This would rule out per capita grants or grants based on household size.

The program should provide enough assistance to cover the gap between the amount low income people can afford to spend and their energy costs.

The program should provide for direct payments to energy suppliers, keyed to the delivery of the energy needed.

The program must protect low income consumers against excessive charges, utility shut-offs and delivery terminations.

At least initially, the entitlement program should be supplemented by a crisis assistance program, to meet emergency needs or to deal with gaps in the entitlement program.

The federal government should meet its own responsibilities by adequately retrofitting the rental housing it owns or subsidizes.

Adequate outreach must be built into the program, so that all those eligible will know they can receive assistance.

Weatherization and other energy conservation measures should either be a part of the program, or closely coordinated with it. A comprehensive approach to low income energy problems, including these elements is necessary, although time may not permit including them in a single bill.

It may already be too late to meet the crisis which poor people will face, just a few weeks hence, as cold weather sets in. But we should try to do so. If agreement cannot be reached on a longer-term program, we would support a substantially expanded crisis intervention program, well above the $400 million level proposed by the Administration. The full $1.6 billion included in the Administration's proposal could, in our view, be better used this winter through crisis intervention than by the proposed system of cash grants.

The impact of high housing costs exacerbates the income gap between rich and poor. For example, in 1977, the median very low income renter paid $120 monthly for shelter, including utilities. The median renter with more than ten times the income paid only 2½ times as much rent. In other words, after allowing for shelter costs, the richest renter households had more than twenty times the disposable income of the poorest renters. Moreover, there were almost 6½ times as many renters in the lowest income group as in the richest. [The specifics, from the 1977 Annual Housing Survey, are: (1) median rent for the 3,521,000 renter households with incomes below $3,000 was $120. (2) Median rent for the 545,000 households with incomes above $35,000 was $300.]

Moreover, rising energy costs are widening this gap. In 1973, the poor paid an average 8 percent of their income, directly or indirectly, for oil, while the wealthiest families paid 3 percent, although they used far more oil. Based on Congressional Budget Office data, by 1982, even if OPEC prices rise only a modest 1.5 percent in real dollars per year, the lowest income families will pay over 25 percent of their incomes for energy costs, while those in the highest brackets may pay no more than 10 percent. Thus, the gap between what the poorest and the wealthiest pay will have widened from a 5 percent differential to over 15 percent. Even taking increases in family income over the years into account, the poor will have lost a staggering 15 percent of their purchasing power to energy costs in nine years.

This is added to the losses in real income suffered by recipients of public assistance, which come to over 8 percent in the same period. And since the worst inflation in the decade has been in the cost of necessities, such as food, housing, and fuel, the poor, who spend nearly all their budgets on these items, are losing even more economic ground than the vast majority of Americans. All of us are feeling the pinch of inflation, particularly higher housing and energy costs. For most of us, this means discomfort and, perhaps, some deprivation. For the poor, it means suffering and disaster. The question before us, unfortunately, is not whether poor people will freeze in the dark this winter. The question is how many will do so—and therefore how fast and effectively we can meet this crisis.

We urge you to frame a program which will target at least $5 billion on the 13–14 million households with incomes below 125 percent of the poverty level, rather than spreading smaller amounts further. The Administration's own estimates are that the energy costs paid by low income people will rise by a total of $5–$6 billion this year because of decontrol, the impact of OPEC increases, and other causes.

Furthermore, assistance must be targeted to people who actually use the higher cost fuels, or live in larger housing units. As the table attached to this statement shows, two thirds of low income owners—many of whom are single individuals—live in houses with five rooms or more. We find the Administration proposals seriously deficient because they consider neither the size and type of the housing unit nor the cost of fuel used.

The Coalition urges that the energy assistance program provide for direct payments to suppliers. Not only is the level of cash assistance proposed by the Administration wholly inadequate, but utilities and fuel dealers frequently require payment in advance, or within 30 days. If these payments are not made, utilities are shut off or deliveries terminated. A $100 or $200 payment in November won't be of much help in January. Nor does direct cash assistance provide the leverage needed to require that dealers refrain from shut-offs or terminations and provide level payment plans to their low income consumers. Both of these features should be built into your program, as they are in several of the bills before you.

We recognize that many advocates of welfare reform object to assistance, such as food stamps, which is tied to a particular need, on the grounds that people should be able to choose how they spend their money, and welfare reform should provide them with sufficient income for a decent minimum standard of living. We support such welfare reform proposals, but we do not find them relevant to the immedate issue of energy assistance. No low income family is going to be able to spend less for energy than the amounts provided even in the most nearly adequate of the proposals before you.

Thus, the issue is not whether we are interfering with freedom of choice. The issue is how best to provide energy assistance when people need it and in the amounts they require. In other words, we see low income energy assistance not as a step toward welfare reform, but as a sad testament to the failure of our current programs to cover the needs of the poor. We would hope, however, that fuel assistance could be designed so that it could in the future be rolled into an adequate direct income transfer program.

We also urge the Committee to design a program with no more than the minimum necessary flexibility for state discretion in the distribution systems and criteria for fuel assistance. Our aim should be to cover the difference between energy costs and what low income people can afford to pay and to provide similar treatment to people in comparable situations. It would be unjust, for example, for one state to limit its program to elderly households—a minority of those affected—while an adjoining state with similar climate and energy costs served all low income households. Moreover, federal guidelines are needed to counter the inevitable pressures to scatter a little assistance to a larger number of people, rather than focusing our limited resources on the most urgent needs.

Thus, while we should permit variation to meet local needs and circumstances, we should also provide Governors with a clear structure, so the assistance will be fair and can be implemented quickly.

It is essential that any assistance program specifically include renters, who are a majority of the eligible households. Those who pay their own utilities—almost four out of five households—should be treated in the same manner as owners. Those in private housing whose fuel costs are rolled into the rent should also be assisted, and we are pleased that several of the measures before you recognize this need. This may be one instance where direct cash payments are the most feasible form of assistance. However, any program should be framed to prevent landlords from abandoning their properties because of rising fuel costs. This is a real danger in many northern communities.

We urge that public housing agencies and operators of other assisted projects with master meters receive direct assistance. The Javits bill makes explicit provision for such payments; the other measures leave it to the Governors. Insofar as possible, any such assistance should be tied to measures to retrofit the housing. There are over 1.2 million households with incomes below 125 percent of poverty living in subsidized housing. Surely, it behooves us to frame a program, which will certainly require special funds to minimize fuel costs in this housing, and the thousands of other rental units which HUD has acquired. Substantial improvements will be needed, not—as has all-too-often been the case, just putting in separate meters and leaving the family to cope.

Unfortunately, a provision in the National Energy Act authorizing modest start-up funds for such a program has not yet been funded.

Finally, we commend major reforms in weatherization programs to your attention. Any fuel assistance should be accompanied by the delivery of conservation services to recipients. Furthermore, the failed weatherization program of the Department of Energy should be replaced by a realistic effort, preferably run by the Community Services Administration with funds provided for necessary labor costs. It should be funded at the level of at least $500 million annually and should require weatherization of both renter and owner occupied housing.

In conclusion, let me emphasize that the process we are engaged in today is part of a desperate national effort to bandage up a system of supporting the poor which is too crippled to meet the new economic realities of the day. Twelve years ago, when I proudly joined this body, we worried about breaking the poor out of the cycle of poverty and offering wider opportunity. The bills before you now deal with ways to see how and whether we can keep the poor from becoming utterly destitute.

A decade of inflation has widened the gap between rich and poor, and black or Hispanic and white. And that division threatens the very foundations of our society. At stake are not college educations for the poor, but whether they will be evicted or frozen to death. In the absence of such reforms as a rational income, jobs, and housing policies, such measures as energy assistance are quite literally a matter of life and death.

TABLE 1.—*Selected housing and related characteristics of low income households in 1977*

Households with incomes below 125 percent of the poverty level [1]:

There were 13,432,000 households with incomes below 125 percent of the poverty level. This is 17.7 percent of all households.

56.3 percent, or 7,560,000, were families. This is 13.3 percent of all families. Mean income for these families was $4,240. Mean family size was 3.33 persons. At 25 percent of income, an average low income family could afford $92 a month for shelter, including utilities.

There were 5,872,000 individuals. This is 30.8 percent of all primary individuals. Mean income was $2,270. At 25 percent of income, the average person could afford only $47 a month for shelter, including utilities.

7,636,000, or 56.8 percent, of all low income households were renters. Of these, 983,000, or 12.9 percent, lived in public housing and 259,000, or 3.4 percent lived in other subsidized rental housing. Thus, a total of 16.6 percent of all low income renters occupied 1,242,000 assisted housing units.

Over one third (34.5 percent) of the low income households were elderly. This is 16.7 percent of all families (1,261,000 families) and 57.5 percent of all primary individuals (3,376,000).

Households with incomes below $3,000 [2]:

There were 6,172,000 such households.

3,521,000 (or 57.0 percent) were renters.

3,346,000 (or 54.2 percent) were single persons.

3,317,000, or 53.7 percent paid more than 35 percent of their incomes for shelter, including utilities. This is 33.6 percent of all owners, most of whom were elderly and owned free and clear, and 68.9 percent of all renters.[3]

Median shelter cost, including utilities, was $189 monthly for owners with a mortgage, $71 for those owning free and clear, and $121 for renters. [This compares with median shelter costs for all households, regardless of income, of $267 for owners with mortgages, $103 for those owning free and clear, and $179 for renters.]

2,533,000, or 41.0 percent lived in units with 5 or more rooms. This includes 744,000 renters (21.1 percent of all renters) and 1,789,000 owners (67.5 percent).

1,221,000 renter households lived in single-family units (1,109,000) or mobile homes

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[1] Source: Current Population Reports, Series P–60, No. 119, "Characteristics of the Population Below the Poverty Level: 1977," Tables 44 and 45. U.S. Bureau of the Census, March 1979.

[2] Data from 1977 Annual Housing Survey, Part C, Financial Characteristics of the Inventory, Table A–1 HUD/Bureau of the Census, Series H–150–77, June 1979.

[3] Regional differences here, which reflect higher fuel costs, are significant. In the northeast, 77.7 percent of all renters paid more than 35 percent of income for shelter, including utilities; in the midwest, 74.3 percent; in the west, 72.5 percent; in the south, 64.5 percent.

(221,000). This was 34.7 percent of all renters in this income group. All of these would have paid their own utilities. Another 991,000, or 28.1 percent, lived in structures with 2–4 units. A substantial proportion of them would pay their own utilities. 764,000, or 21.7 percent, lived in structures with 5–19 units. Only 546,000, or 15.5 percent, lived in structures with 20 units or more. Many of these, as well, would pay their own utilities. [Data from food stamp applicants in 1976 showed that 3.2 million, or 78.0 percent, of the 4.1 million renters paid their own utitities.] ●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALE

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications were received on October 3, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notice follows:

DEFENSE SECURITY,
ASSISTANCE AGENCY,
Washington, D.C., October 3, 1979.

In reply refer to: I–8517/79ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security, Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 3, 1979.

In reply refer to: I–7254/79ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 3, 1979.

In reply refer to: I–7384/79ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency. ●

ORDER FOR RECOGNITION OF SENATORS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that next Tuesday, October 9, 1979, after the two leaders or their designees have been recognized under the standing order, Mr. BRADLEY, Mr. CRANSTON, and Mr. ROBERT C. BYRD be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTIONS UNTIL 3 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 3 p.m. today to insert statements in the RECORD, to introduce bills, resolutions, petitions, and memorials, and to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY, OCTOBER 9, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the orders for the recognition of Senators, there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, and Senators may be permitted to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Tuesday the Senate will then proceed to the consideration of the foreign assistance appropriations bill, I believe by virtue of the order entered on yesterday; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

I would anticipate rollcalls on Tuesday when we return, and rollcalls daily.

We have other important matters, other appropriation bills, the standby gasoline rationing conference report, and other conference reports, so there will be work aplenty, rollcalls aplenty.

Having said that, I wish everybody a happy Friday, a good Saturday, and a clear and sunny Sunday, and a restful Monday, and a return to work on Tuesday.

RECESS UNTIL 11 A.M. TUESDAY, OCTOBER 9, 1979

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 11 a.m. on Tuesday next.

The motion was agreed to; and at 12:41 p.m., the Senate recessed until Tuesday, October 9, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate, October 5, 1979:

DEPARTMENT OF STATE

Thomas O. Enders, of Connecticut, a Foreign Service Officer of the class of Career Minister, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Barbara W. Newell, of Massachusetts, for the rank of Ambassador during the tenure of her service as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Billy M. Wise, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare, vice Eileen Shanahan, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate, October 5, 1979:

FARM CREDIT ADMINISTRATION

The following-named persons to be Members of the Federal Farm Credit Board, Farm Credit Administration, for the terms expiring March 31, 1985:

Jewell Haaland, of Minnesota.

Dwight L. Tripp, Jr., of Maine.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

WASHINGTON STAR HIGHLIGHTS DANGERS OF THE PROPOSED ENERGY MOBILIZATION BOARD

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1979

● Mr. SEIBERLING. Mr. Speaker, on Tuesday, October 2, the Washington Star published an editorial pointing out that the current disagreement over the scope of powers to be conferred on the proposed Energy Mobilization Board is not of the sort that can be resolved by splitting a few minor differences. Of course, the Star is absolutely right.

The proposal that would give the Board, in combination with the President and one House of Congress, the power to override substantive law, procedural due process, and judicial review strikes at the very heart of the American system of government. The proposal raises a most basic issue indeed: Are we going to remain a government of law? Or, to put it another way: In the name of solving our energy problems, are we going to overturn laws for the protection of the general public, under pressure from the very interests who fought for years to prevent the laws from being enacted.

In fact, the proposal goes beyond Federal law and would permit the overturn of State and local laws. As the Star points out:

> The concerns of those who oppose the waiver power are far from picayune. They reflect substantial worry about the proper balance of Federal vs. State and local authority. They also reflect the worry of Western legislators representing water-short States with a more than usual stake in environmental laws.

Certainly, it is time, as the editorial points out, for President Carter to clarify the administration's position. Not to do so could result in legislation that, as the Star says, "could stir up more time-wasting opposition to 'key' energy projects than it would overcome."

The full text of the editorial follows these remarks:

THE EMB: HOW MUCH POWER?

The current disagreement over the scope of powers to be conferred on the proposed Energy Mobilization Board, now reflected in competing bills sent forward by Senate and House committees, is not of the sort that can be resolved by splitting a few minor differences.

The idea of such a Board, proposed by President Carter in mid-July, is sound in principle. The Board would designate "key" energy projects (refineries, pipelines, synthetic fuel plants, for instance) and expedite their clearance by federal, state and local agencies. There is, of course, vast potential for time wasting in that clearance process. "To build a synthetic fuels plant," reported Bailey Morris in this newspaper, "a company might have to satisfy the requirements of 22 federal laws by more than 14 federal agencies."

There is no conflict over the nation of a "fast track" for priority energy projects. Both Senate and House bills readily embrace the notion that the Energy Mobilization Board should set deadlines for agency action and even act for them—applying relevant laws—if the deadlines go unmet.

Far more controversial is the notion that the Board should enjoy power not merely to accelerate clearance procedures but to alter or relax them by waiving established laws and regulations. Thus the conflict. The Senate Energy Committee version of the bill rejects that controversial power. It would rely on judicial processes to push dilatory agencies to discharge oversight functions in a timely manner.

But under a competing House Commerce Committee version, the Board would have power to recommend waiver of even substantive laws—environmental laws, or parts thereof—that stand in the way. The president, finding such waiver advisable, could execute it unless one or the other house of Congress objected.

But here is the curious part. President Carter is said privately to be cool to the waiver power. Yet White House lobbyists nonetheless supported the House Commerce Bill for "tactical reasons," explaining that they did so in hopes of negotiating a final version of the Energy Mobilization Board that would be "as close to our version as possible."

The White House explanation apparently offended both the bill's sponsor, Rep. John Dingell, and House members who were fighting to delete the extraordinary waiver powers. Moreover, a confidential memo to the president, soon leaked, showed that the administration itself is divided on the issue.

In that memo, the secretary of the Interior and the heads of the Council on Environmental Quality and the Environmental Protection Agency warned that "this posture undermines our credibility with all who look to the administration to develop an energy policy which is environmentally responsible and which enjoys the cooperative support of state and local governments." The memo also warned that the administration might paint itself into a corner.

The concerns of those who oppose the waiver power are far from picayune. They reflect substantial worry about the proper balance of federal vs. state and local authority. They also reflect the worry of Western legislators representing water-short states with a more than usual stake in environmental laws.

Now that the Senate is about to take up the Energy Mobilization Board legislation, it seems a good time for President Carter to clear up the administration's ambiguous attitude. From a practical point of view it is all too likely that a Board with the power to run rough-shod over hard-fought environmental legislation could stir up more time-wasting opposition to "key" energy projects than it would overcome.

After all, it is doubtful that even the toughest legislation could set aside constitutional due-process requirements. The president and his advisers need to ask themselves whether, in countenancing a House bill whose provisions they claim to oppose, they are borrowing trouble for an otherwise essential piece of legislation.●

WELCOME, BRADLEY RAYMOND LUNA

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1979

● Mr. MAZZOLI. Mr. Speaker, I would like to officially welcome the newest member of my staff, Mr. Bradley Raymond Luna, born September 30, 1979, to my legislative director, Sarah Luna, and her husband, Philip.

His résumé is impressive: Height, 22 inches; weight, 7 pounds, 11 ounces; hair, blonde; eyes, blue; disposition, feisty.

Bradley and his mother and dad are doing well. I wish them all much health and happiness.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1979

● Mr. MAZZOLI. Mr. Speaker, I was necessarily absent on Friday, September 28, 1979. Had I been present, I would have voted:

"Aye" on rollcall No. 523, to approve the conference report on S. 737, the Export Administration Act amendments.

"Aye" on rollcall No. 524, to approve the conference report on S. 237, the Magistrates Act.

"Aye" on rollcall No. 525, to approve H.R. 2795, the Travel Act amendments.

"Aye" on rollcall No. 526, to approve H.R. 3642, emergency medical services reauthorizations.

"No" on rollcall No. 527, to amend the rule House Resolution 367, for consideration of H.R. 2859, the Domestic Volunteer Service Act amendments.

"Aye" on rollcall No. 528, to approve the rule House Resolution 367, for consideration of H.R. 2859.

"Aye" on rollcall No. 529, to resolve into the Committee of the Whole to consider H.R. 2859.

"Aye" on rollcall No. 530, to approve the rule, House Resolution 393, providing for consideration of H.R. 2172, the International Sugar Stabilization Act of 1979.●

FAST ACTION NEEDED ON FEDERAL PAY BILL

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1979

● Mr. BARNES. Mr. Speaker, 1 week ago today the House passed the conference report on the continuing appropriations bill and adjourned for the October district work period. The Senate then rejected the conference report, killing the continuing resolution and leaving most agencies of the Federal Government without funds for the fiscal year which began Monday, October 1.

This situation is outrageous, embarrassing to the Nation and to this institution, and it cannot continue.

I have urged the leadership to call the House back into legislative session this week, and asked the President to consider ordering a special session. We should not be having "pro forma" sessions while Federal programs fall into limbo and millions of Federal civilian and military personnel stand in danger of missing their paychecks. These people have to pay their bills—mortgages, utility bills, tuition payments, food, clothing, and so forth—just like other Americans, and it is unconscionable to hold them hostage while we feud with the Senate over a handful of unrelated issues.

The House is due to return next Tuesday, October 9. We should immediately appoint conferees, if we do not do so today, and remain in session until the conferees reach agreement and a conference report again comes before us. We stayed in session late into the evening on September 28, waiting for the conference report. There is absolutely no reason for us to adjourn at the usual 5:30 time on Tuesday. I do not think the country will stand for further delay.

Mr. Speaker, I would hope that Members returning from the district work period come back prepared to work long and hard until a bill is passed and the Government is back on track. I realize things are often a little slow getting started after a recess. But this is a serious emergency, and we should be ready to drop the regular legislative schedule and go into session around the clock until this matter is resolved.●

SENATE—*Tuesday, October 9, 1979*

(Legislative day of Thursday, October 4, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. ALAN CRANSTON, a Senator from the State of California.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God of history and of grace help us to know Thee now, when peace and prosperity are our portion that we may look to Thee in the hour of need. We know not what a day may bring—the hidden forces which might arise to obstruct justice, the overt actions which might frustrate peace, the infidelities which can infect our common life. Only this we know, we must live one day at a time under Thy judgment. Then help us to store our minds with Thy truth, our hearts with Thy love, that we may be strong under stress, calm in a crisis, guided always by Thy inner light which never fails.

We pray in His name who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 9, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ALAN CRANSTON, a Senator from the State of California, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. CRANSTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A NATIONAL ACCORD

Mr. ROBERT C. BYRD. Mr. President, on Thursday, September 27, the Carter administration and the AFL–CIO reached agreement on creation of a tripartite board to help establish wage restraint guidelines for the coming years. The advisory board, composed of 15 members—5 each from labor, management, and the public—will have responsibility for shaping the Government's wage policies.

This agreement was reached after many months of meetings and negotiations. Accompanied by a statement of economic policy objectives titled "A National Accord," the pay board plan received the unanimous approval of the AFL–CIO executive council. This is a propitious step, because the second year of the voluntary wage guidelines began on Monday, October 1. New guidelines are expected to be announced shortly, and they will be subject to modification after review by the pay board.

Creation of the pay board represents an important step in the effort to control one of the causes of inflation—spiraling wage increases. In addition, it provides a forum for business, labor, and private citizens to formulate ideas for dealing with other inflationary pressures, such as increasing energy costs. It is my hope that this kind of participation will assist the Government in reaching a consensus on methods for dealing with inflation.

In addition to endorsing the pay board, the accord sets forth economic policy objectives designed to help achieve the national goals of full employment, price stability, and balanced growth set forth in the Full Employment and Balanced Growth Act of 1978.

The accord identifies "high and persistent rates of inflation" as the major impediment to realization of the expressed goals of the Full Employment and Balanced Growth Act. It states that inflation threatens our ability to achieve full employment; it reduces real income and values; it dries up job-creating investments; it impedes productivity; it breeds recession; and it falls most heavily on those least able to bear the burden.

The accord calls for American labor's involvement and cooperation with the administration to combat inflation so that the goals of full employment, price stability, and balanced growth can be achieved concurrently. It notes that an important aspect of the anti-inflation effort is responsible behavior with respect to both pay and prices. In addition, we must continue efforts to reduce our dependence on foreign oil, spur increased production of domestic sources of energy, and encourage conservation.

Finally, the accord states that:

> Direct participation by labor, business and other public representatives will make a major contribution toward a fair and workable program which will achieve the overall goals.

Mr. President, the Congress must continue its participation in overall efforts to combat inflation. On the energy front, the Senate just passed legislation to establish an Energy Mobilization Board. The Board will help expedite priority energy projects, and these steps should go far to lessen our dependence on foreign oil. On the economic front, the Senate recently confirmed its commitment to reducing the Federal deficit and controlling Federal spending with passage of the second budget resolution.

If we are to bring inflation under control, we must have a concerted effort from all sectors of the economy. The AFL–CIO accord calls for such an effort;

the newly created pay board should encourage such an effort; and the Congress will continue to do its part.

The agreement reached by the administration and labor seems a fitting culmination to the long and fruitful career of George Meany, president of the AFL–CIO since 1955. Mr. Meany was an able and commanding figure in the labor movement. He helped to build a strong foundation for labor to stand on, and I am sure the AFL–CIO will continue on this strong footing.

Mr. President, if I have any time remaining, I reserve it.

RECOGNITION OF THE MINORITY LEADER

The **ACTING PRESIDENT** pro tempore. The Senator from Tennessee.

Mr. **BAKER**. Mr. President, I thank the Chair. I have no need for my time under the standing order, and I will be happy to yield it to any Member on either side who may wish additional time, or yield it back. I see no requests, Mr. President; so, if the majority leader wishes, I will yield back the remainder of my time.

Mr. **ROBERT C. BYRD**. I thank the Senator. I yield back the remainder of my time.

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Senator from New Jersey (Mr. BRADLEY) is recognized for not to exceed 15 minutes.

THE TROOPS IN CUBA VERSUS THE REAL NATIONAL SECURITY ISSUES

Mr. **BRADLEY**. Mr. President, for more than a week we have had a chance to reflect on the President's response to the presence of Soviet troops in Cuba. A number of Senators have given their own views on this subject. Some have commented on the specifics of the troop issue or the specifics of the SALT treaty. Others have examined the issue within the context of the larger question of our defense posture worldwide, and the priorities that our Nation must choose among in the years ahead, particularly priorities pertaining to tax cuts, budget balancing, social spending, or, indeed, increasing the defense budget.

I am pleased to have a chance today to comment on these broader questions as well as the specific issue of the President's response to the Cuban issue.

I believe that the President's response was proportionate to the problem. I think it was sensible, moderate, and appropriate to the circumstances and to our position in the international order. These troops that are there, 2,000 to 3,000, are really the residue of the 20,000 that were previously there in the early 1960's; and although they may have some tanks now and conduct some elaborate exercises, they have no sea or airlift capabilities to give their purported bark any real bite.

What we should be concerned about is not the presence of 2,000 to 3,000 troops in Cuba, per se, but the possibility and prospects for the use of those troops in countries neighboring to Cuba. It is my view that this is precisely the question that the President addressed in enumerating policies to contain the impact of the presence of those troops in Cuba. These include improvements of our intelligence capabilities in the area, particularly increased surveillance and the establishment of task force in Key West to monitor troop developments, augmenting our ability to deploy forces into the area, and publicly putting the Soviets on notice that we will not tolerate an expanding Soviet presence or Soviet intervention in the Caribbean or Latin American area.

It seems to me that the President's action addresses the real problem. That is to make sure that the Soviet combat presence in Cuba does not have an adverse consequence on the hemisphere in general.

In this Chamber, some have given the impression that linking SALT to the troops in Cuba will somehow enhance our own credibility with our allies or with neutral countries potentially susceptible to Soviet influence. In fact, it is my belief that the contrary is true. The worst thing we could do to strengthen our credibility and assert our leadership is to overreact to this comparatively minor event. The best thing we would do, to underline our strength and responsibility as a major power, is to keep the focus on the real issues. The real issues are the SALT debate that I hope this body takes up in the near future, and the questions of inflation and increasing productivity in our Nation domestically. If we are looking for a Soviet threat, I would suggest that it not be located in the Caribbean but, rather, in the Persian Gulf.

What we must do also is focus on the issue of our energy vulnerability. We depend on supplies that must traverse an 8,000 mile distance for between 30 and 40 percent of our oil. We remain vulnerable to those cutoffs in two senses. One sense is strictly economic. Clearly, one need not go into great depth about this because in the last 4 to 5 months we have seen the price of oil worldwide increase 63 percent. It seems as if our friends in that region of the world have learned their lessons well to keep supply just below the market so that price pressure is constantly upward.

As long as we continue this amount of energy imports, oil imports, we will never control the falling dollar by raising interest rates. As long as we continue to pay these exorbitant prices for foreign oil, we will never be able to control our inflation rate with wage restraint.

It is clear that this is a real and continuing economic threat to the wellbeing of our country. But beyond that, I also believe there is a political threat—a political threat that boils down to the ability of a few foreign governments, nondemocratic in nature, having the ability to cut off that supply and, in some cases, not in control of the situation in their own country.

One has only to look at the region surrounding the Persian Gulf, on which we depend for 25 to 30 percent of our oil. Europe depends nearly 50 to 60 percent and Japan nearly 70 percent for oil in a region of the world that is unstable and that is increasingly vulnerable to supply interruptions.

Let us ponder the possible problems that could erupt in that part of the world. One only has to look at the events in Iran of last December to see that expectations have been aroused; that indeed the modernization process had elicited expectations that could not be controlled and that led eventually to the disintegration of the regime in Iran that we believed to be stable and created chaos for us in this country.

That is possible in other countries of the region. One has only to look at the festering subgroup nationalisms in the region. That is not just the Palestinian question, but for example, in Iran it is the Kurds, the Baluchis, and other Arab minorities. One has only to look at the conflict between nations in the area. For example, there are the designs that Iraq traditionally has had on Saudi Arabia, the designs South Yemen has had on Oman, not to mention the Egypt-Libyan dispute.

A fourth potential flash point is the existence of large numbers of foreign laborers in those countries upon which we are primarily dependent for our oil. This includes Saudi Arabia, as well as Kuwait.

So we have in the area that we are most dependent upon for our oil supply a series of festering potential problems—modernization, subgroup nationalism, the problem of foreign labor, and the problem of competition among nations and states in the region.

Mr. President, I would suggest that is not the sole problem in the area, for in the past decade we have seen a dramatic improvement in the Soviet ability to project power into the region. By that I mean air power. By that I mean their ability to overfly the region without protests coming from member countries. By that I mean their ability to use ground transport to move across Iran, transport that was built during the modernization process. By that I mean an increasing naval presence in the Indian Ocean, and by that I mean an increasing presence, including unknown military capabilities, in Yemen, Ethiopia, Afghanistan, leading to a virtual rim around the Persian Gulf area.

One has only to look at Afghanistan where in the past year 40,000 Soviet troops have been located, where 20,000 people have been killed in a genocide of sorts, where human rights have been denied and refugees have fled across the border into Pakistan.

One has only to look at this greater Soviet presence in the region and realize that the bulk of the oil in this region flows through a narrow strait $2\frac{1}{2}$ miles wide, the Strait of Hormuz, to have very serious questions raised about our energy security and the energy security policy that we do not have at this moment.

Mr. President, if it is not enough worry to focus on the festering internal problems and regional problems among the nations in that area, if it is not enough to focus on the growing Soviet military presence in that region, one has only to look at the recent projections by our own

CIA and other bodies that predict that when we reach the period 1982–83, the exact point at which our ICBM's are likely to become vulnerable to Soviet ICBM's, the Soviet Union will have an oil shortfall. Indeed the Soviet Union will not be able to produce enough oil for its own consumption. I would suggest that this development poses a grave danger for us in the years ahead, that it is a serious danger.

In sum, if we simply compare the two threats, the threat of 2,000 to 3,000 troops in Cuba with the overall threat to our energy security, our economic well-being, and our national security by unreliable energy sources and by a growing Soviet presence in the Persian Gulf area, I would suggest that the latter threat overwhelms the former.

I suggest that we need to respond clearly to that threat to our energy security.

We need to address clearly the matter of building our strategic petroleum reserve. We need to build it up and ask the hard questions as to why we have not built it up faster.

We need to have aggressive policies for conservation so that we can reduce that dependence on that region of the world.

We need to work more effectively with our allies in international energy agreements so that, in the event of an interruption in supply, we might coordinate our policies effectively.

We need to consider ways to encourage a diversification of our oil supply, whether it be selective tariffs or tax credits, to encourage the development of oil resources in regions of the world that are more secure than the Persian Gulf area and the Mideast generally.

I suggest that all of these things are steps we should take to secure our supply of oil. But beyond that, we also have to consider the hard realities of our dependence and consider even military steps if massive interruptions do indeed take place.

We now have no command to address that region of the world, no command to coordinate policy. We need an increasing naval presence in that region of the world. We also have to be able to respond and deploy forces across great distances in order to respond if necessary to an interruption in that region of the world.

We need all of these things as well as a general debate to formulate a policy for our energy security. I suggest, Mr. President, that one message that clearly emerged from the SALT hearings in the Committee on Armed Services was the Joint Chiefs' testimony that without SALT we would need to pursue even more aggressively expenditures on strategic weapons; and therefore conventional weaponry and conventional planning such as is necessary to secure energy security would suffer.

So I suggest that we are at a very critical time when we need to place relative threats in their proper perspective; that Cuba, compared to the danger in the Persian Gulf, is not nearly the threat that people in this body have portrayed it to be.

I hope that we can move on—move on to the real issues of SALT; move on to the real debate as to the merits of the treaty, as to whether it is an instrument of progress toward strategic stability and arms restraint; move on to questions of the ability of the United States, under the treaty, to take measures to forestall the emergence of any future vulnerability to our strategic triad; and to maintain our ability to assist and strengthen NATO in strengthening their deterrent to Soviet challenges in that region, the European theater.

Mr. President, I suggest, finally, that we need to develop this energy security policy within the context of a national debate on defense policy. I am not suggesting that the issues of energy security and SALT be linked. I think we should consider SALT on its merits. But then we must proceed to the consideration of how we insure the energy security of this country. In my view, we can also, at that point, proceed to a discussion of the 2,000 to 3,000 troops in Cuba, troops that have been there for 17 years. I hope that we can do this in a deliberate manner and in a way that establishes priorities and addresses the major national security issues such as SALT or our energy security first, and does not confuse them with subsidiary issues, such as that of 2,000 to 3,000 troops in Cuba.

The PRESIDING OFFICER (Mr. FORD). Under the previous order, the Senator from California (Mr. CRANSTON) is recognized for not to exceed 15 minutes.

Mr. CRANSTON. Mr. President, I want first to compliment the Senator from New Jersey on a very, very thoughtful statement concerning the truly important issues of this moment in our country's history. I agree with him totally that the issue of Soviet troops in Cuba is insignificant compared to other issues and other problems far more threatening to the well-being, the security, the survival of our country. The Senator is an increasingly knowledgeable and effective expert on energy and, certainly, any thoughtful American recognizes that, in that arena, there exist problems far more foreboding to the future of our country than the matter of the Cuban troops.

The debate, Mr. President, on the presence of 2,600 to 3,000 Soviet troops in Cuba continues, with much criticism of the reasoned and restrained responses of the President. It is my belief that these criticisms are unwarranted and that they all suffer from the same basic defect, a failure to offer a constructive alternative. I strongly believe in the right to criticize the Government, the right to criticize the President, the right to criticize any public official. But I also believe that the right to criticize carries a responsibility—a responsibility to offer a constructive alternative, a responsibility to suggest a different and more appropriate course of action.

To me, the Russian troops in Cuba issue has been marked by extensive criticism, but few, if any, constructive alternatives. Over the weekend, I noticed that the distinguished leader of the opposition in this body has again criticized the President over Cuba but, contrary to many other critics, the distinguished Senator from Tennessee did offer an alternative to the President's response to the Cuban issue. The Senator urged that the United States declare the 1962 Khrushchev-Kennedy accords devoid of further force and effect. The Senator asserted that, since the Russians had violated those accords, the United States should not feel bound by them and, he said, they should be terminated.

Mr. President, I submit that the distinguished minority leader is incorrect on both grounds. The Russians have not violated the 1962 accords. Those accords relate to offensive weapons in Cuba. In return for the removal by the Russians of then existing offensive weapons in Cuba, which did constitute a threat to our national security, and a commitment not to install any other offensive weapons in Cuba, the United States agreed not to violate the territorial integrity of Cuba or to take any direct military action against Cuba. The Russians complied by removing the missiles and no other offensive strategic weapons have been introduced into Cuba.

The presence of 2,600 to 3,000 troops, without air or sealift capacity, does not constitute a violation of those accords even if the troops are characterized as "combat," whatever that characterization may mean. The United States, of course, has not violated the accords and the accords are now in full force and effect.

Mr. President, I believe it is in our national interest to continue to respect the 1962 accords. What action would the Senator from Tennessee have the United States take if the accords were abandoned? What action would we be free to take that we cannot take now except to invade Cuba? Certainly, the Senator could not be advocating an invasion of Cuba.

And what if the Russians do provide offensive missiles to Cuba once the accords denying them that right are negated? Would not the United States then want to reinstate the accords? The alternative, presumably, would be to take appropriate military countermeasures equivalent to those taken during the immeasurably dangerous 1962 crisis if the Russians refuse to reinstate the accords and to remove the missiles.

The 1962 accords have served the cause of peace well. They have enhanced the national security of the United States, and have not been violated by the United States or by the Soviet Union.

The President's response to the Russian troop issue is consistent with the 1962 accords. And it is consistent with our genuine national security interests. And it is consistent with the cause of peace—I suspect most of the world breathed a large sigh of relief at President Carter's reasoned and restrained response.

Mr. President, the debate on the Russian troop issue will go on, and it is appropriate that it continue until all courses of action are explored and all doubts resolved—as best they can be in this imperfect world.

But as the debate continues, I submit that the President's response and action appear more and more wise, more and more correct, and more and more deserving of our support.

Certainly no alternative which I have heard advocated offers more promise of resolving the issue in a way consistent with our national security and interest.

So while the debate goes on and I hope, the doubts resolved, I again urge that we turn our attention to the real challenge to our national security and to the paramount challenge of the world's survival—how to insure that no conflict or confrontation between the two superpowers—Russia and the United States—escalates to nuclear resolution.

The next step to take—and a step we must take now—is ratification of SALT II. This we must do so that we may at the very least put a cap on the nuclear arms buildup and then proceed to genuine arms reduction in SALT III.

I again pledge my full support to ratification—The task of grappling with the danger of nuclear war is the important task I have participated in since I have become a United States Senator from California. Indeed, I submit, Mr. President, that it is the most important task to face the Senate since any Senator here became a U.S. Senator.

SALT will not end the danger of nuclear warfare. It will, I believe, reduce the danger. It is, at the very least, a significant step in the long journey mankind must take to a more secure and peaceful world.

The world is watching—and we must proceed.

SALT II

Mr. CRANSTON. Mr. President, I take this opportunity to agree with the Senator from Tennessee on another statement that he made on Sunday. I express my total agreement with the statement in which he is quoted as saying on Sunday:

> As of this moment, I think the treaty would fail by a wide margin.

The Senator added that he doubted the treaty supporters had "as many as 60 votes."

Of course, the treaty would fail if it were voted upon today. It has not been reported by the Foreign Relations Committee. Members are waiting for the committee's action and recommendation. There has not yet been adequate opportunity to absorb the report of the Intelligence Committee on verification. Many Members are now doing that.

There are other questions unresolved in the minds of many Senators leaning one way or another, or not yet certain at all which way even to lean.

The Senator from Tennessee knows, every Senator knows, the press knows, that a majority of Senators have not made up their minds about the SALT II treaty. A two-thirds majority, of course, is not yet committed to its support. A one-third plus one minority is not yet committed to its defeat.

Substantially more Senators are committed to ratification than to rejection. I believe that in the end the prospect is reasonably good, although I make no predictions that the Senate will ratify the SALT II treaty.

Mr. President, I reserve the remainder of my time.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. CRANSTON. Certainly.

Mr. BAKER. Mr. President, I shall not take a lot of time, but I thank my friend from California for yielding, especially since his remarks referenced my appearance on Meet the Press on Sunday.

I must confess, with deference and respect to NBC, that I am always startled and gratified when I find anybody watches the program. I have seen their ratings and they are not among the top 10. But I am pleased the Senator from California watched.

Of course, it came as no surprise to him to know we have substantially different opinions about the quality of the President's judgment on the troop situation in Cuba.

I am not sure, having seen the same intelligence reports as did the distinguished chairman of the Foreign Relations Committee, that I would have ever said anything about the Soviet troop presence in Cuba. I really am not sure I would have ever made any mention of it. Because, frankly, it was classified, and there are more hazardous challenges to America's vital interests around the world. Infinitely more important, for instance, are the Mig-23's the Russians have sent to Cuba, the Russian pilots in Cuba, the Cuban activity in Africa, East European forces in the Yemens, or the recent activities in Afghanistan.

Mr. President, I did not spotlight the Soviet troop issue and make it a challenge. It became a challenge when the presence of the troops was disclosed by my friend the distinguished chairman of the Foreign Relations Committee, who then linked this matter to the SALT treaty, and when the administration declared that the status quo was unacceptable.

At that time, I stated I would place a moratorium on public declarations about what I thought the President ought to do. I did so because we can have only one President at a time and he should enjoy a full range of options.

I honored that moratorium for a month. After a month, I stated the options that I considered might be available to a President. Even then, I did not try to say what the President should do because I do not think any President or, for that matter, any Senator or any candidate for President, ought to telegraph in advance what he would do in a particular situation.

But I gave a range of options, and that included an assertion that the Russians had violated the 1962 accords by the presence of these troops. On this proposal the distinguished Senator from California takes issue.

I do not challenge his right to take that position.

I think it would clarify matters if President Carter would make public the provisions of those accords. Nevertheless, I can state that even if this option were exercised and the accords were declared null and void, I certainly would not contemplate an invasion of Cuba in its wake.

Besides this, other options were open to the President. One such possibility was to put SALT on ice, so to speak. The Senator from California surely knows, as does my friend the majority leader, that I have never joined those, on both sides of the aisle, who say we should lay SALT aside in consideration of the Russian troop presence in Cuba.

On the contrary, it is my personal preference we get it up and get it over with. I am not sure we can do that. I respect those who have a different point of view. But that is my preference.

Most-favored-nation treatment would be a convenient thing to discuss. I expect that if there is anything the Russians want as much as SALT, it may be MFN. We might have talked about that.

There is a range of other options I identified at the time.

The point is, Mr. President, I did not make this challenge. I did not utter it. I did not assert that the status quo was unacceptable. The only assertion I have made is that I think the President dealt with the challenge inadequately, having created it.

Mr. President, I think it is time to move on from this and consider what happens next. Whether the President's judgment is right or wrong will be debated in the public forum. The more important thing, what is happening now? Why are those Russian troops there? I do not know why they are there. But if I accept the Russian statement that they are there as a training unit, then the inevitably following question is, What are they training for, with the most advanced Soviet armor? They certainly are not training for a mission in Cuba or in Africa. Where are they training for? Where next will the Cuban surrogates of the Soviet Union show up, trained to this level?

What is happening in Afghanistan? Why is there such an extraordinary concentration of strength in and around Afghanistan by the Soviet Union? What is going on in the Yemens? Why are East Europeans now in the Yemens? Why are we seeing a concentration of advanced Soviet equipment in that part of the Middle East?

The only important part about the Russian troop concentration in Cuba may be that the failure to deal with it adequately might embolden the Russians to take their next step in the escalating and growing challenge to the vital interests of the United States.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mr. ROBERT C. BYRD. Mr. President, I have time allotted to me, and I will be glad to yield 5 minutes to the distinguished minority leader.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. BAKER. I thank the majority leader. It will not take 5 minutes for me to conclude.

I thank the Senator from California for initiating this conversation and thank him for watching the TV program. I always sit there thinking that nobody is watching but the panel and I, but obviously that is not true.

I conclude, Mr. President, by saying that I think we should get on with the consideration not of what should have been done but what we should do next, and what effect these new situations and circumstances will have on the vital national security interests of the United States.

While I disagree with the course of action chosen by President Carter, he chose it. It is not disastrous. It is his choice to make, and he made it. I disagree with it. But that is behind us. The question is, What do we do in the face of these other challenges? That is far more important.

Mr. President, so far as I am concerned, I will focus my attention now on these more recent and later developments. I will be tempted from time to time to relate them to the Cuban episode, but I will be consoled by the fact that I did not create that confrontation or challenge, even though I was privy to the same information.

As to SALT, I believe that the debate on the treaty should serve as a forum for a real world discussion on the effectiveness of our foreign policy and the adequacy of our national defense. Call that linkage, if you will. But that is the purpose the debate should serve, and I expect that the Senate will avail itself of it.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CRANSTON. I thank the Senator for yielding.

Mr. President, I enjoyed spending Sunday with the Senator from Tennessee, as I enjoy spending Tuesday morning with the Senator from Tennessee.

I share the concerns expressed by the Senator from Tennessee. I totally share the concerns he has expressed regarding the Soviet behavior directly, by themselves, or through Cuban troops in Africa, Afghanistan, and the Yemens.

In regard to what we should do in the wake of the revelation that Soviet combat troops are in Cuba, however, I differ with the Senator, first, in this respect: We can put SALT on ice without abrogating the 1962 accord with the Soviet Union. I think that would be an overreaction to the Cuban troop incident, but that is within the power of this body, without any relevance to the 1962 United States-Soviet accord.

We can put most-favored-nation on ice. We can do other things along the lines that the Senator from Tennessee has suggested, none of which relate to what we can do or not do under the 1962 accord.

I should like again to ask the Senator from Tennessee, who suggested that we tear up the accord: What can we do, if we abrogate that accord, that we cannot do now, that we should do? I do not know the answer to that question. The only action I know of that we are precluded from taking under the 1962 accord is the invasion of Cuba. The Senator has said he does not advocate that we do that. I know that would not be his proposal.

I ask again: What else might we do, could we do, if the agreement of 1962 were shredded, that we cannot do presently in exercise of our national sovereignty and our freedom of choice in world affairs?

Mr. BAKER. Mr. President, will the majority leader yield to me so that I can answer the question?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I will attempt to restate the position I have taken earlier, on Sunday, and again this morning.

In dealing with a sovereign foreign power, only the President can make the judgment of what options he would exercise. I think it is constitutionally appropriate for me, as a Senator, to sav that SALT treaty. I do not think it is appropriate for me, as a Senator, to say that I would institute a blockade of Cuba or invade Cuba or anything of the sort. That is a Presidential judgment to be made. The President is the executor of the foreign policy of this country. We participate in the formulation of that policy.

While I imposed a moratorium on saying what I would do if I were President, I will not go beyond saying what I think the range of options may be. The options I described include measures that I think would have been effective and convincing to the Soviet Union in their consideration of whether or not it was in our mutual best interests either to change the nature and the formulation of that troop concentration from a combat brigade to something else or to take them out entirely.

How far we have come since Members on the majority side of the aisle said SALT is dead if the Soviets did not get those troops out of Cuba. I never said that. What I did say was that the President has to make a judgment and that the President should have his full range of options. He still should have that; and I decline, even at the request of the distinguished assistant majority leader, to usurp the privilege of a President to decide which of those options he would exercise. I withstood that temptation before, and I will do it again.

If I were President of the United States, there is one thing of which I can assure the Senator: If I were going to take some action with respect to a significant challenge to the national security interests of the United States, I would not advertise in advance what that action would be.

Mr. CRANSTON. I understand and respect the intent of the Senator from Tennessee not to usurp the powers of the President of the United States.

The Senator from Tennessee did suggest one action that is an action only the President can take—that is, the scrapping of the 1962 Soviet-United States accord. I note that, presumably, that is a suggestion that actions be taken once the accord is scrapped which cannot be taken while the accord is in place.

Mr. ROBERT C. BYRD. Mr. President, I have heard the distinguished minority leader say on two or three occasions that he "did not create the challenge," and he made reference again today to its having been created on the Democratic side of the aisle. He said that he had been privy to the same information that had been given to other Senators and that he did not create the challenge. I was given the same information, Mr. President.

What the Senator from Tennessee did say was that he would give the President a certain amount of time in which to take action. He said that the one thing the President could not do was "to do nothing." He was going to "stay off the President's back" if the President did something within a certain amount of time. So, in a way, that was a kind of challenge to the President—at least, I think it was.

The distinguished minority leader a moment ago stated that there were those on this side of the aisle who have said that the SALT treaty was dead, if Soviet troops were not gotten out of Cuba. The distinguished minority leader said, however, that he had not said that. But what he did say was, in essence, that the treaty was dead before the Soviet troops were discovered in Cuba. If I recall correctly, the distinguished minority leader indicated—and if I have misconstrued what he said, I am sure he will correct me—I thought that he indicated, even before the Foreign Relations Committee began conducting hearings on the treaty, that the treaty was dead unless it was amended somehow.

Mr. President, I hope this debate does not deteriorate into a partisan affair in connection with the SALT treaty.

I have long been under the impression that, when it came to foreign policy and defense policy, the partisanship ended at water's edge. But I must say that I have become increasingly concerned, as I have watched the debate develop on the SALT treaty, that it is giving the appearances of becoming a politically partisan debate to some degree.

I am happy to have seen several Senators on the Republican side of the aisle speak up recently for the SALT treaty. I know that there will be some opposition on my side of the aisle. But I hope that we will guard against letting the SALT debate deteriorate into a partisan vote. Nothing could be more damaging to this country's foreign policy than to see that kind of development take place.

I have been among the first to commend, and I still commend, the distinguished minority leader for showing the statesmanship that he demonstrated in connection with the Panama Canal treaties. Had it not been for the able minority leader and his efforts and the statesmanship that he demonstrated on that occasion, those treaties would not have been approved.

Mr. President, the distinguished Senator from Tennessee has every right to make a decision to be for or against the SALT treaty. I respect him for that. I am not letting the administration or anyone else make up my mind. I reserve the right to make up my own mind on the SALT treaty. I will do that before many days. The Senator from Tennessee has every right and I will respect his judgment. Perhaps he still has not closed the door, and I hope he has not.

But the one thing that I do hope that we will do is to heed the admonition of the distinguished minority leader that we "move on" from this troops-in-Cuba business.

I have no sympathies for Soviet troops in Cuba. I have told the Soviets that.

But, Mr. President, I do not think that we should link the SALT treaty with troops in Cuba. I think that the SALT treaty should be judged on its own merits. I believe that we should have long ago determined some kind of strategy for dealing with the use of Cuban proxies by the Soviets elsewhere in the world. But to begin by holding the SALT treaty hostage to the current Cuban situation is not the proper way to develop that strategy in my judgment.

I said at the beginning we should judge the SALT treaty on whether or not it is in this country's interests. If it is, then it should be approved; if it is not, it should be rejected. If it is in this country's interest, then, it should not be rejected because of an issue that is not relevant and which does not pose a threat to our Nation's security.

So I hope we will move on from this. And I hope that as we proceed to deal with the SALT treaty we will see nonpartisanship displayed in the debate and votes on the treaty. It is in the national interest to either reject it or to approve it, and I hope that that decision will not, in any degree, be shaped by party lines.

Mr. President, I am glad to yield to the distinguished minority leader.

Mr. **BAKER**. I thank the majority leader.

Mr. President, the majority leader and I meet here in this place every morning or virtually every morning and we go through the ritual of opening the Senate and hearing the prayer of the Chaplain or our guest Chaplain. Maybe no one observes but we begin those sessions invariably with a handshake because while sometimes we are allies and sometimes we are adversaries we are never enemies. We are not enemies today.

As the majority leader points out we have been together from time to time on important foreign policy issues, such as the Panama Canal Treaty or even my suggestion that we move on today, but we disagree on the SALT treaty. That does not create any ripples with me nor diminish our friendship or tarnish our relationship, and it does not create a partisan confrontation.

There is no party-line position on SALT, and as a Republican leader I have tried hard to keep there from being a party-line position on SALT. But I am sure the majority leader knows that the great majority of the Members on this side and a significant number on the other side have grave reservations about SALT.

Mr. President, I agree with the majority leader that foreign policy should not be a partisan issue, but I also assert, as I have in the past, that foreign policy in the nuclear age is too important to insulate from the political debate and it is important that there be a thorough, complete, and total ventilation of all of the aspects of SALT and its relationship to the real world as we find it. That spells linkage. "Linkage" is a bad word these days. But what I mean by "linkage" is a treaty that has to be considered in light of the real world circumstances.

I might have considered this treaty a good treaty in 1973 or 1971 in the rosy, first glow of détente. I may have thought that this new agreement would predispose the Russians to scale down their building military power, but they did not. They accelerated it. I am going to consider the second treaty, then, in light of that Russian development. They did not diminish their arms buildup; they increased it. So a treaty that might have been suitable at another time may very well be unsuitable now.

I believe in the SALT process. I voted for SALT I. I support the Vladivostok interim accords. I wish to vote for SALT II, but I will not vote for just any SALT II treaty.

I would like to see this treaty changed to accommodate the differences of opinion that I have with the distinguished majority leader, and I think that could be done, but I see no evidence that it will be done.

Rather than ratify a bad treaty, I think our country would be better served by rejecting it.

Mr. **ROBERT C. BYRD**. Mr. President, it remains to be seen as to whether or not the treaty is "bad". It may be bad in the judgment of the distinguished minority leader. He may have reached that judgment even before this Committee on Foreign Relations conducted its first hearing. But I hope that most Senators will wait until they study the hearings—which have been thorough, comprehensive, and valuable—and then determine whether or not the treaty is a bad treaty.

Mr. President, if I have any time left, I will be glad to yield it.

The **PRESIDING OFFICER**. The Senator's time has expired.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

PHYSICIANS AND MEDICAL CARE COSTS IN PERSPECTIVE

Mr. **HELMS**. Mr. President, the North Carolina Academy of Family Physicians was established in 1948 and has a membership of more than 1,000. The academy has had a long list of distinguished physicians to serve as its president, one of them being my good friend and family physician, Dr. A. M. Alderman, Jr., of Raleigh.

The current president of the academy is Dr. Lyndon K. Jordan, a 1961 graduate of the Duke University School of Medicine. Dr. Jordan practices family medicine in Smithfield. Writing in the May-June issue of the Tar Heel Practitioner, official publication of the North Carolina Academy of Family Physicians, Dr. Jordan addressed the issue of the rising cost of medical care from the perspective of a physician.

He noted that in 1977–78, physicians received less than 20 percent of all health care dollars spent. This amounted, on the average, to $146 for every American. According to Dr. Jordan, physician fees have actually failed to keep pace with inflation.

I believe that most Americans appreciate the high quality health care they receive as well as the physicians who are providing this care at reasonable cost. This, indeed, is something worth remembering whenever we hear the politicans clamoring for expensive nationalized health schemes that fail to recognize the success of private medical care in the United States.

Mr. President, I ask unanimous consent that the article by Dr. Lyndon K. Jordan in the May–June issue of Tar Heel Practitioner be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT'S MESSAGE

During the past year or two the news media has stepped up it's campaign to inform the public about the rising cost of medical care. There is considerable validity to the observation. The cost of health in our modern society has become higher than most of us would like and is often more than most of us can afford comfortably. Through newer diagnostic and therapeutic modalities, we have expanded the life expectancy to 75 years for females and 72 years for males in the United States. This has not been without cost, but I would suggest that it is the rising cost of diagnostic and treatment facilities, rather than the cost imposed by physicians, that is making this system unpalatable. It may be that we are approaching the time when we simply cannot afford to keep expanding our life expectancies in the eighth and nineth decades. Unfortunately, health care cost in the United States has, indeed, risen faster than the Gross National Product. One hundred and sixty-three billion dollars was spent on health care for Americans during the fiscal year 1977–78. Eighty-eight percent of this figure was for personal health expenses—the direct cost of getting well, and staying well.

Seventy percent of this amount was paid by "third parties," such as government and private health insurance. The United States government assumed forty-two percent of all health expenses in the nation in 1977–78.

As the captain of the health care team, the physician has been asked to bear responsibility for the high cost of health, and, indirectly, these accusations may be true. However, I find it difficult to assert that the physician is the culprit. It simply is the technology and the ancillary services that patients seem to require, and expect and, yes, demand.

In 1977–78 physicians received less than twenty percent of all health care dollars spent. That averaged one hundred forty-six dollars for every American. I do not feel that is a very high price to pay for the level of health care that we enjoy as Americans. Hospitalization with its multitude of ancillary services, took a much larger share at seventy-six percent.

How much are physicians responsible for the high cost of care? Let me direct your attention to the degree of inflation that has existed in this country since 1967. One dollar's worth of medical care services in 1967 now costs two dollars and twenty-three cents. Surprising? Not really! One dollar's worth of home financing, taxes and insurance now costs two dollars and sixty-nine cents. Home maintenance and repairs costs two dollars and thirty-seven cents. Water and sewage service costs two dollars and fifty-seven cents. Automobile maintenance and repairs now costs two dollars and twenty-four cents, and postal fees now cost two dollars and fifty-seven cents. This evidence certainly suggests that physicians fees have not kept pace with inflation and that we are apparently doing a pretty good job in holding down charges for our services.

To that I would add that medical care has become expensive, indeed. However, it has not kept pace with many of the other services that we now accept as essential. Somehow, we have taken somewhat more than our share of criticism when our track record really speaks very well for us.

THE BICENTENNIAL OF THE CONSTITUTION

Mr. HELMS. Mr. President, today, I would like to share with my colleagues the fourth in a series of lectures given as part of the 1979 Winter Symposium presented by the Student Bar Association of the Campbell University School of Law. The symposium, entitled "In Anticipation of the Constitutional Bicentennial: The Philosophical Foundations of the Creation of a Nation," accomplished its goal of identifying and evaluating the roots of American fundamental law by inviting distinguished speakers to present lectures on the Constitution and its history.

This lecture was presented by the Honorable Thomas J. Donnelly. Judge Donnelly, a Federal administrative law judge, was formerly adjutant general of the State of Massachusetts. He was instrumental in the planning and success of this symposium.

In his remarks, Judge Donnelly pointed out problems which faced Americans during the time of the first Constitutional Convention which are amazingly similar to issues facing Americans today—specifically defense needs, trade ties, and the need for a stable currency. One of his key conclusions is "that a higher justice beyond the arbitrary will of man is the ultimate source of American fundamental law."

Mr. President, I ask unanimous consent that the lecture delivered by the Honorable Thomas J. Donnelly at the Campbell University School of Law Winter Symposium on February 1, 1979, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the lecture was ordered to be printed in the RECORD, as follows:

ROOT VALUES AMERICAN FUNDAMENTAL LAW

Freedom under law matured in England. It was nurtured by English efforts to harness royal power to the rule of law. It was institutionalized by the parallel growth of parliament and the common law. Out of this struggle for freedom came the delineation of a foursquare base to freedom. We can isolate its parameters by key words: source—center—sovereignty—powers.

These keys suggest certain questions that can be asked: What is the source of fundamental law; what is the center of our law society; in whom is sovereignty vested; how do we restrain powers from abusing their authority. By finding the answers to these questions we shed light on the fundamental law structured in the U.S. Constitution.

The constitutional history of England furnished such answers. They were illuminated by the English and continental philosophers. Some of these basics can be traced back to Greek and Roman sources. We start with source. The traditional source of law was the "law of nature". It started with Plato and Aristotle. It developed into a system by the Stoics. The Romans, Cicero and Marcus Aurelius were both Stoics. St. Paul, a student of Stoicism, refers to the law of nature in his Epistle to the Romans.

Bracton, Hooker, Locke and Blackstone number among the great English writers on law. All prefaced their jurisprudence by a definition of the law of nature. Hooker wrote at the time of Elizabeth I. He studied the works of the thirteenth century Aquinas. He referred to the law of nature as the "law of reason". All lawyers are familiar with the honored place of reason as an element in law.

Today there is some theological division on the existence and meaning of the law of nature. As lawyers and judges we need not concern ourselves with these philosophical differences. We accept that in American law there is a sense of natural justice—of fair play. It permeates our legal system and influences the bench and bar. Some lawyers for instance, have referred to a particular judge as having a sense of "substantial justice". We can conclude this discussion of source by a restatement—that a higher justice beyond the arbitrary will of man is the ultimate source of American fundamental law.

We consider now the center of our law. The doctrine of natural rights was the center of the English legal system. It received increasing focus during the time of Milton, Sydney and Locke. All were in opposition to the royalist views of the seventeenth century Stuarts. "The rights of Englishmen" were nourished in fertile soil. The doctrine had been given an historical thrust by Magna Carta. It was spelled out in 1628 when the petition of right was signed under duress by Charles I. It culminated in the bill of rights of 1689. This was in the year following the "Glorious Revolution" that paved the way for the ascension of William and Mary to the throne. Our American Bill of Rights was derived from this tradition. It is commonly accepted that our first eight amendments is an extension into positive law of the natural rights of each individual.

John Locke, highly respected by leaders in the American colonies, was widely read. He was the philosopher of England's revolution of 1688. He defined natural rights in terms of inalienable rights to life, liberty and property. Jefferson also recognized the doctrine of natural rights. He included the inalienable right of each to pursue happiness in the Declaration of Independence. He made clear that these inalienable rights and their protection furnished the central reason why governments were instituted. Following the Lockian definition, the fifth and fourteenth amendments to the Constitution prohibit the alienation of "life, liberty, and property" "without due process of law". Magna Carta's "law of the land" had traveled a long ways down the road to freedom.

The development of the natural rights doctrine in the common law left its imprint on the early "federalist" judges. The "vested rights" theory is derived from this doctrine. It had special application to property. The individual has a "vested right" to property that cannot be alienated by arbitrary means. State legislatures often reflected the popular will of the more numerous "have nots". Their laws all too frequently were nothing short of predatory. The conservative federalist judges sought constitutional refuge in the vested rights doctrine to protect property rights. Later on, John Marshall used the "impairment of obligations of contract" clause in the Constitution. It was not that Marshall wished to benefit the creditor class over the debtors. He saw the sanctity of property as one of the pillars of a stable society.

The idea that each individual is born with inalienable rights survives to this day. Every now and then it shows itself in a different dress. Such was the Palko case. (See Palko vs. Connecticut, 302 U.S. 319). The issue in this 1937 case was double jeopardy. The Bill of Rights protected the individual against double jeopardy by Federal government. But did this apply to the states? The defense argued that the entire Bill of Rights was incorporated into the fourteenth amendment. A near unanimous court rejected this argument. It looked beyond the language of the Bill of Rights into the historical substance out of which the rights were shaped. The Supreme Court observed that the action by the State "did not violate those fundamental principles of liberty and justice which lie at the base of our civil and political institutions". Cardozo spoke for the court in this case. He said that such immunities were not due to the absorption of the Bill of Rights into the fourteenth amendment. It was because certain rights "have been found to be implicit in the concept of ordered liberty."

The inalienable right to liberty was given a special benediction during the Warren years. In the context of liberty versus order, we note a powerful egalitarian thrust at the outset of the Warren court. It was no doubt a response to the sociological mores of the times. In the delicate balance between the issue of law and order and individual liberty, the court weighed heavily in favor of the rights of the individual. In criminal cases we see this evidenced in such as the "Miranda" decision with which all lawyers are familiar.

The Burger Court tempered this libertarian development in favor of law and order. It was not a denial of the right of the individual that governed the Burger Court but rather a recognition of the practical realities of the law enforcement. Speaking of law and order brings into our focus the source of that authority. We consider now the subject of sovereignty. The sovereignty of the people is the third postulate developed in the historical quest for freedom. We see its institutional growth from Magna Carte in 1215 to parliamentary ascendancy in 1688. It paralleled the development of the natural law-natural rights nexus in the common law.

It is axiomatic in our free society that all authority to govern comes from the people. Many writers call it popular sovereignty. It does not mean the will of the majority. It means that all sovereign power flows upwards from its base in the people. The exercise of that authority in the voting franchise is something else again.

The Calvinist Puritans in England subscribed to this theory. Charles II was the third of the Stuart kings. During his reign the source of sovereignty became a national issue. Royal supporters were opposed to the Puritans. Before Robert Filmer died in 1650, he had written a book called, "Patriarcha". It had never been published. The Royalists published it to refute Puritan claims that that all sovereignty originated in the people. Filmer supported Rolayist contentions as to the "Divine Right of Kings". According to Filmer, society was organic. It was the family writ large. The father was its head. The king was the father. He had a divine right to rule his subjects. Sovereign power flowed downwards from the throne. The organic conception flaunted the compact theory of society held by the Puritans.

The adherents to royal prerogative ridiculed the puritan idea that self rule was the birthright of the people. The conflict had religious and political overtones, politically they divided into whigs and tories. In religious affiliation, they were divided into Anglicans and Puritans. The revolution of 1688 settled the issue by the supremacy of parliament. The "Divine Right of Kings" was sent into oblivion. Jefferson summed up the theory of popular sovereignty in the declaration when he referred to it as Government "by consent of the governed".

This theory of sovereignty of the people has broad implications, we see it in the courtroom as "The People vs John Doe". We see it in legislative process where it is conceded that laws are made solely in a representative capacity in behalf of the sovereign people. It has economic meaning. Our market economy reflects it. A free economy is based on supply and demand and posits ultimate sovereignty in the consumer. The market place as the voice of the people allocates the resources. Consumer sovereignty is the chief determinant of prices. This latter factor has been modified somewhat since World War Two. A "cost push" now influences prices along with the supply-demand equation. Deficit spending by Federal Government which in turn increases the money supply is a principal ingredient of "cost push". Nonetheless, consumer sovereignty still has relevance in our market economy.

It goes without saying that "self rule" is a cardinal doctrine of American freedom. There is no substantive power in the branches of government. Their authority is solely by delegation from the sovereign people. This brings up our fourth consideration—restraining powers. Once authority has been delegated, how do we prevent its abuse.

This question was very much in the minds of many delegates who gathered in Philadelphia in 1787. Defense needs and free trade were items requiring a much stronger national government than provided by the Articles of Confederation. Then there was the Indian problem—a need for a common postal system—a demand for a stable currency. Diplomatic and trade ties with foreign nations had to be established. The Annapolis Convention of the year before disbanded without settling the common trade question. But more importantly, they had paved the way for the Constitutional Convention of 1787. The delegates knew history. They knew that power corrupts. They knew the dangers of a concentration of power. The right to "self-rule" was now established both in doctrine and reality. But it required more. This brings us to the fourth root value of American freedom under law—constitutionalism.

Constitutionalism is the limitation, separation and balancing of powers. It results in a system of checks and balances. The object is to restrain powers from abusing their power. American colonial experience had been a school in political government. The colonies, whether charter, proprietary or royal, all had similar experiences with some degree of legislative autonomy in domestic matters. Colonial assemblies were always in contention with the Royal Governor and his Council. The Governor and Council embraced executive and judicial power. Additionally, they could dissolve the assembly in many instances. This concentration of powers bore fruit in the fertile mind of such as James Madison who saw the Royal Governor dissolve the House of Burgesses in Williamsburg, Virginia.

In the first half of the eighteenth century, Baron Montesquieu had written "The Spirit of the Laws". Montesquieu was an admirer of the English Constitution. He advocated a separation of powers into legislative, executive and judicial branches. He had great influence on the founding fathers. A system of checks and balances was created. Limitation was achieved by enumerating the powers of national government. Residual powers would remain in the states. A federal system was created by compromise. The large states wanted proportional representation. The smaller states wanted representation by a confederation of equal states. The system was designed to act on individuals—not on the states. Proportional representation gave the people a more direct voice. Many, such as Hamilton, thought a bill of rights was not needed in national government. He deemed that national government should concern itself with larger issues such as trade, war, manufacture, finance. The rights of the individual was a function of state governments. However, any such proposal met with stiff resistance. Many demanded a bill of rights. It became a confirmed reality within a few years.

A classic federalism would call for an equal balance between national government and state government. This has never been the case. This consideration brings us to two theories of federalism. We consider John Marshall first. He looked upon the Supreme Court as an instrument of national government. Like Hamilton and Washington, Marshall was a Nationalist. All were members of the "Federalist" Party. Parties were akin to faction, so none of these looked upon themselves as members of a "party" but in historical retrospect Hamilton was leader of the "Federalists" and Jefferson leader of the "Republicans". This was the origin of the two party system in American political life.

In any event, the Federalists all wanted strong national government and protection to property. They were the conservative element of their day. In their ideology they were pro-British. Marshall Federalism reflected this total view. The springboard for his thinking was the "supremacy" clause in the Constitution. Marshall had no difficulty in striking down state legislation. The Federal courts were dominated by "federalist" judges during the first ten years of our constitutional life. The Federalist position on the supremacy of national government and the protection to property was continued by Marshall after his appointment to chief justice in 1801. His influence on the court was vast. He died in 1835 and was succeeded by Roger Taney, Jackson's attorney general.

Taney gave us "dual federalism." Taney might be called in modern parlance as a "states righter". He supported national government but subject to strict limitations. He looked upon the Supreme Court as the arbiter between two competing but equal sovereignties: national government and state government. The keystone of Taney Federalism was the Tenth Amendment. The states enjoyed wide latitude in the exercise of their inherent police powers.

Adherents to the Marshall theory or to the Taney theory, all agreed that sovereign power ultimately rested in the people. But they differed as to the focal point of delegation. Some believed the national union was the repository of authority given by the people. Others believed that the people's sovereignty was vested in the separate states who had joined in a confederation. In a broad sense it was Taney Federalism that obtained right up to the constitutional revolutionary of 1937. Then Marshall Federalism took over. The economic imperatives of the times required strong national government. The flow of power was dislodged from states and local communities and transferred to the national level. The revolution of 1937 was clearly a revolution in federalism. This was the advent of experimental government and a new dispensation in social law. Correspondingly, there was a shift from conservatism to liberalism.

At the time of the pendulum swing, we had four constitutional doctrines. All were derived from the American notion of constitutionalism. Federalism as a constitutional doctrine has just been discussed. Separation of powers was considered. Government of laws and not men was a third constitutional doctrine. It had special application to unwarranted extensions of executive power. The fourth constitutional doctrine was "substantive due process". It was born during the era of "social Darwinism". It is no longer applicable. It disappeared in 1937.

The pendulum swing in federalism in 1937 resulted from a change in constitutional theories. We shall consider them. We have changed from an agrarian society to an industrial one. The imperatives of change produced the theories. The first we have mentioned—social Darwinism. The industrial revolution burgeoned in the second half of the nineteenth century. There were vast expansions of railroads, steel, oil, sugar, iron, and other industries. Mergers were formed. It was bound to call for a political evaluation. Railroads for instance had to cross State lines. It was impractical to allow each State to regulate a single railroad with different sets of rules. Giant corporations were being formed. Monopolies began to grow. Economic power was being concentrated. It generated political problems. Abuses were rampant. One response to abuses was the growth of the Granger movement soon after the Civil War. This symbolized farmer protest to banks, railroads, and warehouses. The Grangers had social and cooperative functions, but they also had political muscle especially in States such as Iowa, Illinois, Michigan and Wisconsin. There were other protests. Populism was growing. The labor movement was developing power. But it was Granger influence in Illinois that gave us a landmark case—Nunn vs. Illinois, 94 U.S. 113 (1877).

In the Munn case, Illinois had passed regulatory laws under their police powers designed to control fraudulent practices in warehousing. It was "vested with a public interest". This struck to the heart of the laissez-faire. Regulating morals, safety, education, etc. was one thing—regulating business was another. "Big business" reacted. The American Bar Association was formed the following year. Police powers had to be narrowed. Munn encouraged a flood of State laws regulating various businesses. The issue was joined. Business had laissez-faire. It needed a cogent constitutional theory to support it. It came in the form of "social Darwinism". The teachings of Herbert Spencer were taking root in American minds. On the Supreme Court, Justice Field became the prophet of Spencer's theories. Spencer had written "Social Statics" which reflected the evolutionary theory then being made currently popular by Charles Darwin and the teachings of the Manchester School of Political Economy. The latter was influenced greatly by the economic theories of David Ricardo.

Within twenty years, social Darwinism had implanted its doctrines in the Supreme Court. In some ways it brought back the "vested rights" thinking of the early Federalist judges. Property rights had a new weapon—the fourteenth amendment. Traditionally, the due process clause in the fifth amendment had been construed in a procedural light. By the turn of the century, due process in the fourteenth amendment had taken on a substantive hue. It now began to require that any law passed by a State must also be reasonable and fair. And the Court determined the "reasonableness". This went to the substantive content of the State law. Spencer's social evolutionary thinking had been absorbed by many members of the Court. It was bound to color their views as to what laws were "reasonable". Normally all State legislation had "presumed validity". The burden was on the one who challenged the law to show it was arbitrary. The Court now had a narrow view of the police powers of the State when it came to business. Any attempt to adjust wages and hours of labor would be viewed as a violation of "liberty of contract" which arose from the due process clause. Police powers were restricted to only such facts of which the Court could take judicial notice.

The pre-disposition of the Court was highlighted in 1905 by Justice Holmes, a few years after his appointment. The case was *Lochner* v. *New York*. The state had attempted to regulate the hours of bakers for health reasons. They put a limit of 10 hrs. per day. The court considered this as arbitrary. It violated the liberty of bakers to contract with their employers. The Court could not take judicial notice of the fact that working longer than ten hours was detrimental to the health of the baker. In one of Holmes famous dissents, he said, "Mr. Herbert Spencer's social statics was not enacted into the fourteenth amendment". This statement by Holmes brings us to another constitutional theory that was then emerging.

Holmes believed that laws should fit the changing needs of the people. They should not be considered a fixed set of rules. He placed great value on experience. In his book, "The Common Law" Holmes had written, "The life of the law is not logic, but experience". This was the advent of a new realism. Laws are not blind to the realities of society—to the practicalities of experience. Holmes believed that if the sovereign people wanted to experiment in social laws, it was their prerogative even if he personally disagreed with it. He did not want to substitute his judgement for that of the legislature that represented the will of the people.

Holmes reflected the thinking of many around him. He was a close personal friend of Charles Peirce and William James. In 1878, Peirce had written an article, "How to Make Our Ideas Clear." Ten years later, William James developed this thesis into what we now call "pragmatism". It was eminently suited to practical minded Americans. An idea is true if we can use it. Ideas are not fixed values—they are rules of action. We can see how Holmes arrived at his conclusions that laws should be adjusted to the current needs of society. Pragmatism placed great value on experience. It was this attitude that paved the way for experimental government.

Within a few years after *Lochner* came *Muller* v. *Oregon*. It was decided in 1908. Oregon had passed a law limiting the hours of work of women in the laundry industry to 10 hours. If *Lochner* was the precedent, then obviously *Muller* should have gone down the drain. But it didn't. On the contrary the Supreme Court upheld the law. Louis Brandeis was the lawyer for the state of Oregon. He was aware of the judicial notice test in matters involving liberty or property.

Brandeis prepared his celebrated brief by devoting the first few pages to agreement with the Court on the law. Then he used about 98 pages citing sociological facts to bolster Oregon's contention that women would be harmed by exposure to long hours of work in the laundry industry. This helped the Court to take "judicial notice" of sociological facts of common knowledge. Briefs larded with "facts" began to pour into the Supreme Court. Sociological jurisprudence was on its way. It reached its high point in 1937 when the old conservatism yielded to the new liberalism. Experimental government took over. The Court began taking account of social realities. It sustained the activism of the political branches. It exercised judicial self restraint. The trust of government was aimed towards social particulars. Universal values faded and were lost in the maze of particulars.

Stare decisis, which had given the law historical sanction and stability, was weakened if not lost. Our law has learned to reflect social realties. Notwithstanding, a normative jurisprudence appears to be in order.

In retrospect, we can see that the traditional and conservative ideas or ordered liberty that originated in England have had to complete with egalitarianism. The American revolution helped to spark the French revolution. The French revolution in turn ignited a wave of equalitarian idealism that spread to these shores. It has been with us ever since. Two centuries ago we had conservatives and we had liberals. The "Federalists" were the conservatives. They represented the views of the propertied interests. They leaned towards the British. The "Republicans" on the other hand were devoted to the French. These were for the most part the common people. They repudiated the excesses of the French revolution but were attuned to its egalitarian spirit. Hamilton and Jefferson exemplified the major differences in the "Federalists" and the "Republicans."

We have considered changes in our society. We have discussed two constitutional theories spawned from the industrial revolution. They are social darwinism and experimental government or sociological jurisprudence. We can detect in the change much of the dichotomy of two centuries ago. Social darwinism and experimental government are illustrative of the pendulum swings from conservatism to liberalism and vice versa.

It appears as though the pendulum swing is in the directory of conservatism. We hear about capital formation and balanced budgets. We hear about efforts to limit government. We see emphasis on production and less on consumption. Many discuss a return to basics in all fields of life. Polls indicate a conservative mood in the American people. It has been said that the Supreme Court follows the election returns. Past experience has shown that it is a good barometer of the winds of change. If so, we can anticipate a conservative complexion.

We have discussed the permanent parameters in freedom under law. Within these parameters we have discussed change—pendulum swings. We would be remiss if we did not include a capstone to the constitutional foundation erected on ordered liberty. We have one more root value to discuss—American purposes. Our broad purposes are aiming points. They give direction to the law. In some cases they can be controlling. The preamble to the Constitution and our pledge of allegiance bear witness to American goals. It is fitting that we conclude this lecture on a note of pride. We are the only nation launched into history dedicated to the achievement of liberty and justice for all among other reasonable and attainable goals.

(Mr. HEFLIN assumed the chair.)

FEDERAL RESERVE'S RESTRICTIVE MONETARY POLICY STEPS NECESSARY IN THE ABSENCE OF FISCAL STEPS TO RESTRAIN INFLATION

Mr. PROXMIRE. Mr. President, inflation is getting worse. Last week's news that prices of producer finished goods rose by 1.4 percent, or at a 16.8-percent annual rate in September, and at a 15.7-percent rate for the third quarter, was only one more piece of bitter evidence that prices are soaring and out of control.

FEDERAL RESERVE STEPS ARE CORRECT

In these circumstances, and in the absence of any strong anti-inflation policies through budget cuts or a reduced deficit, the strong anti-inflationary, tight money steps announced by the Federal Reserve this weekend are correct and appropriate painful as they are, and although they indicate that interest rates are going to be still higher, even beyond the historic highs which they have already achieved.

The Federal Reserve announced these three actions. First, the Federal Reserve will raise the discount rate from 11 to 12 percent. That is the rate charged by the Federal Reserve for loans to its member banks.

Second, the Federal Reserve will now focus on limiting bank reserves rather than on the Federal funds rate in tightening or limiting credit. This step is long overdue for the Federal funds rate has often been a misleading indicator or credit. The new policy shifts the focus from regulating interest rates to regulating the amount of credit.

Third, the Federal Reserve will require an 8-percent reserve for its member banks and some other credit institutions against short-term certificates of deposit, Eurodollar borrowings, and some other funds. This action is necessary to prevent banks and other institutions from vastly expanding credit through certificate of deposit and Eurodollar activities which had the effect of defeating restrictive credit activities by the Federal Reserve in other areas. What the Fed is doing is closing some loopholes which reduced the effect or nullified their past restrictive actions.

WHAT POLICY'S EFFECTS SHOULD BE

What this all means is a whopping increase in short-term interest rates. It should restrict credit and hence reduce borrowings. It should bring a slowdown in the rate of increases in prices. It should reduce the speculation in gold, commodities, and in the foreign exchange markets.

It is strong medicine. But as strong medicine is needed and as no one else is willing or has the fortitude to bell the cat, we should support the Federal Reserve when it acts.

The Federal Reserve had no other choice.

Not only are producer prices advancing at more than a double-digit rate but the administration and Congress have now proposed, and the Senate approved, a fiscal year 1980 budget which calls for spending of almost $32 billion more than receipts.

NOW IS THE TIME FOR A BALANCED BUDGET

If there was ever a year or ever a time when the Federal budget should be in a balance or run a surplus, this is the year.

Inflation is at a double-digit level.

Unemployment has fallen from more than 8 percent to a level which has stabilized at somewhat below 6 percent.

Action should be taken on the basis of the facts and not on the basis of predictions or forecasts.

The facts are that we are in the worst peacetime inflation in our history and an inflation which is worse than that we suffered in many periods of war.

NO OTHER ALTERNATIVE IN VIEW OF BUDGET DEFICIT

For those who abhor tight money, high interest rates, and reduced credit there are alternative policies. Outlays should be cut. Revenues could be increased. The deficits could be turned into a surplus. In those circumstances, monetary policy could be eased, interest rates would fall, and we might enter a period of sustained economic growth, relatively high employment, and relatively stable prices.

But until the Congress and the President—and those who are calling for more spending for defense, for education, for cities, for health, and other services—carry out a tough fiscal policy, what the Federal Reserve has done is the right policy.

It is the right policy, but it is not going to work all by itself. We are simply going to have inflation and high interest rates unless we also follow a far more stern and disciplined and painful fiscal policy. In the circumstances there is no other alternative.

THE GENOCIDE CONVENTION: ATTACKING THE ROOTS OF WAR

Mr. PROXMIRE. Mr. President, with the Pope's visit to this country having been such a success, I would like to say a final word about his historic speech at the United Nations last week.

While fulfilling his role as a defender of human rights, John Paul II made some interesting statements to the General Assembly about the roots of war. His observations show a depth of understanding about world problems. He pointed out that the most fertile ground for germinating the seeds of war are the areas in the world where the inalienable rights of man are grossly violated.

The Pope explained that "* * * injustice first attacks human rights and thereby destroys the organic unity of the social order. And it then affects the whole system of international relations."

He also, Mr. President, made a great point of the sacredness of human life, and I thought more than any other theme that sacredness, which the Pontiff spoke on so eloquently and so fervently, achieved a support on the part of the American people regardless of their religion that no other statement among the many that the Pope made did achieve.

History lends credence to John Paul's analysis. Warfare is inextricably bound up with issues surrounding violations of man's basic rights. In order to construct a true global framework for peace, human rights must first be protected.

America's desire for a peaceful world in which to prosper may be fulfilled on one condition—we must take a consistent and vigorous stand on human rights.

Why, then, have we not demonstrated our own commitment to the most basic of all rights—the right to live, the right about which the Pope spoke so fervently? Why then have we not ratified the Genocide Convention which would outlaw the planned, premeditated extermination of an entire people? Why, then, have we not ratified the Genocide Convention?

The Pope, and indeed history itself, has given us a warning—without mutual protection of human rights, we allow the roots of war to grow.

I ask my distinguished colleagues to better insure world peace and swiftly ratify the Genocide Convention.

I yield the floor.

FEDERAL RESERVE BOARD'S MONETARY POLICY

Mr. HARRY F. BYRD, JR. Mr. President, I rise to express support for the action taken over the weekend by the Federal Reserve Board.

Certainly the action is not one which is likely to meet with popular acclaim. Nevertheless, if inflation is to be gotten under control, strong action, such as the Federal Reserve Board initiated this past weekend, is, I believe, necessary.

I commend the leadership of Paul Volcker as the Chairman of the Federal Reserve Board, and the members of the Board. The Board undoubtedly found it difficult to take the action it took in regard to interest rates and in regard to increasing the reserve requirements of the banks. It took that action because it believed it to be necessary—necessary because of the raging inflation now plaguing the American economy.

I would like to see Congress bite the bullet. I would like to see Congress take some action, even though it not be popular action, to seek to stem the tide of inflation. Congress has done nothing to curb inflation. Indeed, Congress has gone the opposite way and has taken action which has stimulated inflation.

Within the past 10 days Congress has adopted a budget for the current fiscal year of $546 billion. That is an increase of $50 billion over the previous year's expenditures.

That is no way to curb inflation. If Congress wants to take steps toward curbing inflation, it should start by being willing to reduce the rate of increase of Federal spending. Congress has been unwilling to take that action.

So long as the Congress continues to approve large deficits, adding to the already massive national debt of over $800 billion and forcing enormous Government borrowing to finance that debt—so long as that policy continues, the Federal Reserve will be forced to impose unwelcome stringency on money and credit.

Moreover, Federal Reserve policy cannot carry on the war against inflation single-handed. No matter how restrictive its policies, it cannot curb inflation unless there is restraint in fiscal policy—specifically, in the spending voted by the Congress.

The Senate today will have before it the foreign aid bill. This bill provides for a $653 million increase in spending for foreign aid. All down the line all of these appropriation bills are calling for more and more Government spending. So, in commending the Federal Reserve Board for being willing to take unpopular and severe action, I would like to simultaneously express the hope that Congress one of these days—and hopefully sooner rather than later—will take similar action.

Mr. PROXMIRE. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. PROXMIRE. I commend the distinguished Senator from Virginia, and I agree wholeheartedly with him.

I might point out to him that the bill before us today is going to propose an increase of $818 million over the House in foreign aid. The House had the same problem, the same bill, before it, and there are going to be, I am sure, amendments which are going to try to increase that even more because some of them are listed here in the sheet we have that tells us what is coming up this afternoon.

I also want to commend the Senator on his position as to what the Federal Reserve Board has done. I think we are going to see, however, in the coming months a very, very serious situation in this country because what the Federal Reserve Board has done has not only taken the steps the Senator has properly pointed out but, in addition, they have said that in the future they are going to concentrate primarily on available bank reserves.

What that means is that instead of trying to peg the interest rate at a certain level, they are just going to limit the amount of reserves, which means the banks simply will not have the funds to lend. That means, of course, the price of those funds or interest is going to go higher still. It means those who want to borrow money to buy a house or buy a car will not be able to borrow that money.

That is tough, stern medicine. It is anti-inflationary medicine. It is medicine that the people in this country are not going to like, but it is medicine they are going to have to take as long as, as the Senator pointed out, we have an accompanying fiscal policy that provides that we simply hold down spending in the private sector through monetary policy and then spend more in the public sector through fiscal policy.

I commend the distinguished Senator from Virginia. I think he is on the right track.

Mr. HARRY F. BYRD, JR. I thank the Senator from Wisconsin. As the Senator points out, it is bitter medicine that the Federal Reserve has prescribed. It will work hardships. But our country is on an unsound basis. Somebody somewhere has got to take the first step. The Federal Reserve Board has done that, and now, as I see it, it is up to Congress.

Monetary policy alone is not going to stem inflation. Fiscal policy must play its part, and Congress must play its part, because it has control of the Government's finances.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GAO REPORT ON SBA AND FmHA DISASTER LOAN PROGRAMS

HISTORY OF THE PROBLEM

● Mr. MUSKIE. Mr. President, one of the most vexing problems the Congress faces in its efforts to balance the Federal budget is in the area of Federal disaster policy, particularly the disaster loan programs of the Small Business Administration and the Farmers Home Administration. In July 1977, production crop losses were declared eligible for SBA disaster loans, even though the Farmers Home Administration had been operating an agricultural disaster loan program for years. In fiscal year 1978, the year after the decision was made, SBA disaster loan volume increased from $200 million in the preceding year to $2.5 billion. FmHA loans rose from $1.2 billion in fiscal year 1977 to $3.4 billion in 1978. Eighty-eight percent of the loans in the two programs were for production crop losses.

In an effort to understand the reasons for this enormous and disturbing expenditure increase, and to provide guidance to Congress in designing a disaster policy that would be both responsive to the needs of disaster victims and yet fiscally prudent, Senator BELLMON and I requested that the General Accounting Office conduct an audit of the fiscal year 1978 operations of the SBA and FmHA programs to determine—the causes of the increase; the nature of the beneficiaries; the extent to which loan recipients could have secured credit from nongovernmental sources; and what the loans were used for.

The results of that audit are now available, and I call the findings to the attention of the Senate, for they have an important bearing upon a major issue confronting the conferees on S. 918, the Small Business Amendments of 1979. Mr. President, I ask that a summary of the GAO report entitled, "Farmers Home Administration and Small Business Administration Natural Disaster loan programs: Budget implications and Beneficiaries" (CED–79–111), be printed in the RECORD at the conclusion of my remarks.

SBA LEGISLATION NOW IN CONFERENCE

Mr. President, a distressing situation has developed in the Senate-House conference on S. 918. This important legislation provides congressional guidance on Federal policy toward the small business sector of the economy. It also reauthorizes programs that supply much-needed financial and technical assistance to small businesses. Mr. President, I am deeply concerned that passage of this bill is now jeopardized because of efforts to alter disaster loan provisions that have already been agreed to by both the Senate and the House.

Both bodies have passed bills this year that would resolve the impasse over agricultural disaster lending. Both the Senate- and House-passed versions of S. 918 provide that an agricultural enterprise would not be eligible for an SBA physical disaster loan other than for a residence or personal property unless the enterprise was declined for emergency loan assistance from FmHA. This agreement was the product of a long and delicate compromise worked out over a period of time by the administration, the House, and the Senate.

The compromise involved not only the issue of which Federal agency should be the primary provider of agricultural disaster loans but also issues of interest rates and credit elsewhere tests. Senators NELSON, HUDDLESTON, and WEICKER deserve ample credit for their roles in the difficult negotiation that led to the agreement, which—although it contains some provisions that I would prefer to see modified—was the best that could be accomplished considering the diverse interests that had to be accommodated.

S. 918, as passed by both Senate and House, would cause all but a very small proportion of agricultural disaster lending to be carried out by the Farmers Home Administration. It would also liberalize FmHA's lending program. Now that the bill is in conference, some of the House conferees are attempting to insert language that, if accepted, could lead the Small Business Administration to continue making large numbers of disaster loans. If this language is accepted, then the whole compromise involving not only agricultural disaster lending but also credit elsewhere and interest rate issues, would come undone. Mr. President, both the Senate and House have expressed their acceptance of the compromise by voting overwhelmingly for the legislation. The conference committee should not materially change these provisions upon which both bodies have already spoken in identical terms.

FINDINGS OF GAO REPORT

One look at some of the findings of the GAO report, Mr. President, should convince any reasonable person that Farmers Home should be the provider of agricultural disaster loans.

In a number of areas, SBA's inexperience in agricultural matters is painfully obvious. This is no fault of the Small Business Administration, which is simply not an agricultural agency. In contrast, the Farmers Home Administration has over 3,000 field offices located throughout the United States whose sole purpose is to serve agriculture.

There is a fundamental difference between agricultural production crop losses due, for example, to drought, and physical property losses, such as a factory building being destroyed in a hurricane or flood. In agriculture, crop yields vary from year to year due to normal variations in the weather or for other ordinary reasons. FmHA takes such normal variation into account through its requirement that a minimum loss be incurred before a farmer is eligible for a disaster loan. In contrast, SBA has no such requirement, and treats physical property losses and crop production losses almost identically.

Another important difference is that FmHA looks at total farm income in computing loan amounts, because a farm may have lower than normal crop production in one crop as a result of weather conditions that is offset by higher than average income in another crop. SBA does not consider this.

GAO found that the average size of SBA loans was almost 20 percent greater and that the average length of an SBA loan was about 13 percent longer than FmHA loans. GAO concluded that these differences are due at least in part to less stringent SBA requirements. The effect is to increase the cost of agricultural disaster lending above what it would be if Farmers Home alone administered the program.

Mr. President, I have farmers in my State, as does every member of this body. No Senator wants to take any action that would result in farmers being treated unfairly in relation to other small businessmen. But to argue, as some do, that the disaster loan programs of the Small Business Administration and the Farmers Home Administration must be identical is to ignore the basic differences between the farm and the nonfarm business sectors of our economy, and particularly to differences between agricultural production losses due to normal variations in weather conditions versus physical property destruction due to floods, tornadoes, or hurricanes.

Not unexpectedly, GAO auditors found that the existence of duplicative programs has created opportunities for abuse or fraud which have not gone unexploited. First, loan applicants were able to apply to both agencies and "shop" for the largest loan. While not illegal, the opportunity to shop for larger loans is evidence of poor program design. Second, and far worse, Mr. President, the duplicative programs opened the door to fraud. GAO auditors found numerous cases in which applicants estimated higher losses and more acres planted when they applied for SBA loans than when they applied for FmHA loans.

In a typical example, one applicant first applied to FmHA and then later to SBA for a crop loss loan. The SBA application showed more acres planted and a more severe loss. As a result, SBA approved a $43,000 loan while FmHA would have limited the amount to $32,000. Finally, GAO uncovered examples of the ultimate abuse of redundant programs: borrowers who had obtained loans from both SBA and FmHA for the same disaster loss. GAO believes that this situation will continue as long as both agencies make disaster loans to farmers.

Further, Mr. President, anyone who believes that this program benefits primarily the little people will be disabused of that notion by looking at the GAO findings. The average SBA farm borrower has a gross income of $102,000 per year and a net worth of $272,000. I insert at this point a table showing the average financial profiles of disaster loan borrowers.

AVERAGE FINANCIAL PROFILES OF SBA AND FmHA BORROWERS IN SAMPLE

		SNA borrowers		
	FmHA borrowers	Farm	Business	Homeowner
Gross income	$100,296	$101,515	$139,786	$18,189
Current assets	34,804	62,230	95,952	14,956
Total assets	367,989	434,073	182,609	76,042
Current liabilities	49,419	82,107	22,891	5,514
Total liabilities	185,207	164,949	78,494	19,197
Net worth	184,073	271,672	104,616	57,968
Size of farm [1] (acres)	752	849		

[1] Includes rented land.

Many of the borrowers are individuals of great wealth. And each of them received loans subsidized by taxpayers with far less wealth. I note several examples:

One businessman who operates several farms reported an annual gross income of $950,000, $42 million in total assets, and a net worth of $38 million. He received a $408,000 loan from SBA. The taxpayer subsidized this individual to the tune of $33,000 on the subsidized SBA loan.

Another agricultural borrower, with a net worth of $1.1 million, obtained an 8-year, $81,000 SBA disaster assistance loan. He paid $15,000 of the loan to a bank to reduce existing debt and invested the remainder in a certificate of deposit. The Government's subsidy of the loan amounts to $22,000.

The president and principal owner of a multimillion-dollar corporation, with a personal net worth of $4.8 million, received a $500,000 SBA farm loan. This borrower made every effort to hold the low-interest money as long as possible, including a successful appeal to extend the life of the loan from 15 to 20 years, even though the SBA loan officer noted that the farming losses did not reflect the overall operations of the borrower and that a 15-year repayment should be no problem. When the first annual installment was due, the individual sent SBA a check for the interest only, and requested a 1-year deferral of the principal amount due. This time SBA ruled against him. The Government subsidy of this man's loan amounts to $247,000.

Many other similar cases are described in the GAO report. Mr. President, loans of this type represent questionable use of scarce Government dollars. GAO concluded that "other credit sources could have loaned money to many recipients of SBA and FmHA disaster assistance loans." In fact, many of the loans that GAO describes were probably made improperly, because the Farmers Home Administration is authorized to make loans only in cases where the applicant cannot obtain credit elsewhere. SBA has no credit elsewhere test for disaster loans. GAO concluded that the credit elsewhere test mandated by law "was generally not used at all or received only cursory attention * * * even in some areas where a credit elsewhere test was used, we found it to be weak."

In one State, a letter from the State FmHA office to the county and district offices stated that:

> It is to be assumed when an applicant applies for a disaster assistance loan that he cannot obtain other credit on terms satisfactory to his needs.

This was apparently interpreted to mean that no credit elsewhere test needed to be used. In another case an applicant produced a credit-denial letter from his bank which read as follows:

> This is to inform you that the (bank) has carefully considered your application for a loan, and we declined your application per your request.

I draw two conclusions from these findings, Mr. President. First, Congress should seriously consider limiting eligibility in both programs only to borrowers who cannot obtain credit from other sources. And second, the credit elsewhere test must be implemented in a sound and sensible manner. The disregard of congressional intent in the implementation of this requirement by the Farmers Home Administration is very disturbing, and I hope that the Agriculture Committee will take steps to correct this abuse.

CONCLUSION

Mr. President, the enormous increase in spending under the SBA disaster loan program imperils congressional efforts to balance the budget. Limiting agricultural disaster lending to the Farmers Home Administration makes good sense according to both budgetary and program design criteria. It would insure that farmers are well served by a Federal agency with expertise in agricultural lending. At the same time, both bills include provisions that liberalize the Farmers Home Administration disaster loan program.

I call upon the conferees on S. 918 not to alter legislative provisions which both the Senate and the House have already overwhelmingly endorsed. Having come so far on these difficult issues of Federal disaster policy, I find it difficult to understand why any member of the conference committee would risk what has been achieved by altering the compromise provisions in a manner that will delay agreement on basic issues that appeared to have been resolved, that will seriously threaten our efforts to balance the budget, and that will, at the same time, needlessly jeopardize the passage of the entire SBA reauthorization bill—with its important policy guidance and program reauthorization provisions. I hope that the legislation will soon be reported from conference with the Senate- and House-passed agricultural disaster loan provisions intact.

The summary follows:

SUMMARY OF GAO REPORT CED–79–111: "FARMERS HOME ADMINISTRATION AND SMALL BUSINESS ADMINISTRATION NATURAL DISASTER LOAN PROGRAMS: BUDGET IMPLICATIONS AND BENEFICIARIES"

In fiscal year 1978, the Small Business Administration (SBA) disaster assistance loan volume increased from $200 million in fiscal year 1977 to a record $2.5 billion, and Farmers Home Administration (FmHA) disaster assistance loans increased from $1.2 billion in fiscal year 1977 to $3.4 billion. The increase caused a severe impact on the SBA budget but had little impact on the FmHA budget. This was due primarily to the different means used to finance the programs.

Three factors primarily accounted for the the increase in Federal disaster assistance loan activity in fiscal year 1978.

Widespread extreme weather conditions, especially drought, affected much of the Nation and drove up farm disaster assistance loan activity.

Lowering of interest rates provided borrowers a strong incentive for obtaining the SBA and FmHA disaster assistance loans rather than obtaining the loans from their usual credit source.

A broadening of SBA's disaster assistance loan program to include farmers' crop production losses.

Eighty-eight percent of the disaster assistance loans in fiscal year 1978 went to farmers. Borrowers were from every State but, naturally, more loans went to agricultural areas. An estimated $3 billion of the disaster assistance loans in fiscal year 1978 were made at a 3-percent interest rate while the Government cost of money, based on FmHA's average, was 8.3 percent.

GAO could not determine what correlation existed between disaster severity and the amount of loans made because a uniform factor for measuring severity could not be found.

The need for SBA to make natural disaster assistance loans to farmers seems questionable since FmHA has developed an expertise for dealing with farmers' unique needs, such as crop production losses. FmHA's and SBA's different methods in dealing with farm production losses have created a situation where farmers can shop for the most lucrative deal. For instance, FmHA required a minimum loss, while SBA did not.

GAO reviewed a sample of loans and found the average net worth was $180,000 for the sampled FmHA farm borrowers and $270,000 for the sampled SBA farm borrowers. Farm size averaged about 750 acres for the FmHA borrowers and 850 acres for the SBA farm borrowers, including rented land.

Many loans in GAO's sample apparently went to borrowers who could get credit from other sources. This was true for both SBA and FmHA disaster assistance loans, even though FmHA has a test to screen out those who can get credit elsewhere. GAO found the FmHA test was widely ignored or received only cursory attention. FmHA loan recipients who can get credit elsewhere should be referred to other sources to refinance their loans.

Generally, little or no assurance exists that disaster assistance loans are not used in frivolous ways, particularly by wealthier borrowers. Limiting the disaster assistance loans to borrowers unable to obtain credit elsewhere could target the loans to disaster-related needs.

In conjunction with this study, GAO compiled a list of other Federal disaster assistance programs available to farm and nonfarm businesses and individuals describing eligibility requirements and benefits offered

PREVIOUSLY MADE RECOMMENDATIONS STILL VALID

On May 25, 1978, GAO issued a report (CED–78–118) which included the following recommendations regarding the FmHA and SBA disaster assistance loan programs. The problems that prompted the recommendations in the earlier report still exist. Accordingly, these recommendations are still valid.

The Small Business Act should be amended so that SBA would no longer be authorized to make disaster assistance loans to farmers.

If the Small Business Act is not amended in this manner, the Congress should require that the two agencies work together to achieve consistency between their programs to avoid overlapping and duplicating efforts.

To avoid unnecessary costs and interference with traditional sources of agricultural credit, the Congress should maintain FmHA's credit-elsewhere requirement and, if SBA is to continue making disaster assistance loans to farmers, enact legislation to impose a similar requirement on SBA's program.

The Secretary of Agriculture should direct FmHA to propose legislation to the Congress revising the agency's minimum loss eligibility criteria so that the percent of loss determining eligibility is applied to the gross income from all farm enterprises and the loan is made only for the amount of the loss which exceeds that percentage.

At the time of GAO's previous report, SBA had no strong feelings about whether farm borrowers should be unable to obtain credit elsewhere, but it believed nonfarm business disaster assistance loans should be exempt from this criterion. SBA has continued to make disaster loans, regardless of the availability of credit elsewhere. However, in a statement before the Senate Select Committee on Small Business on April 24, 1979, SBA's Deputy Administrator revised the agency's position by proposing a test for credit elsewhere on SBA's disaster assistance loan program for businesses similar to that applied by FmHA on its borrowers.

FmHA's enabling legislation limits eligibility for disaster assistance loans to farmers unable to obtain credit elsewhere. However, as noted earlier, GAO found the FmHA test was widely ignored or received only cursory attention.

The Department of Agriculture has not proposed legislation to implement GAO's recommendation for changing the agency's minimum loss eligibility criteria. In response to the previous GAO report, FmHA stated that the Congress, in its best judgment, determined that the disaster assistance loan eligibility criteria would not be changed.

Under procedures soon to be implemented, FmHA will deduct 10 percent of production losses from disaster assistance loan amounts. In taking this action, FmHA recognized the need to consider normal variations in crop production from year to year; however, this action does not fully implement the GAO recommendation.

RECOMMENDATION TO THE CONGRESS

In view of the Department of Agriculture's reluctance to propose legislation to change the minimum loss eligibility criteria, the Congress should strengthen the criteria in the FmHA program in the manner described in the previous GAO report. The Congress needs to take this action if it wishes to restrict disaster loans to the amount of loss that exceeds drops in farm income in 1 year that would normally be expected in a farm operation.

Further, if SBA continues to make disaster assistance loans to farmers, the Congress should also establish in this program the same minimum loss eligibility criteria that was recommended in the previous report for the FmHA program.

RECOMMENDATIONS TO THE SECRETARY OF AGRICULTURE

The Secretary should direct the FmHA Administrator to clarify FmHA's test for credit elsewhere for all county supervisors and review all disaster assistance loans made in fiscal year 1978 for possible referral to other credit sources.

AGENCY COMMENTS

In commenting informally on this report, FmHA and SBA officials agreed that SBA should be out of the farm disaster assistance loan business. FmHA officials stated, however, that they did not want SBA's farm disaster assistance loan portfolio of existing borrowers to be transferred for servicing to FmHA. FmHA officials further stated that since the SBA loans were made according to laws and regulations different from FmHA's, collecting and servicing the SBA accounts would be a difficult task. SBA officials expressed no strong opinion concerning the transfer of the SBA portfolio of farm disaster assistance loans to FmHA and felt a satisfactory arrangement could be worked out between the two agencies.

FmHA officials did not fully support GAO's recommendation for revising the minimum loss eligibility criteria because they believed more time-consuming calculations would be required. However, FmHA was going ahead with its plans to deduct 10 percent of production losses from disaster assistance loan amounts. FmHA officials recognized that this step would not fully implement the GAO recommendation.

GAO believes its recommendation for revising the minimum loss eligibility criteria for the disaster assistance loans will not delay loan processing to any significant degree. FmHA already requires its applicants to provide most of the information needed to carry out the recommended approach.

SBA officials agreed that if FmHA has minimum loss eligibility criteria for farm production losses. then SBA should also have criteria which is consistent with FmHA's.

FmHA officials agreed with GAO's recommendation for clarifying for all county supervisors the test for credit elsewhere. Although they believe the present method of implementing the test is good and workable, they acknowledge that the problems GAO noted do exist in isolated cases and recognize the need to clarify the procedures. FmHA officials also agreed to review disaster assistance loans made in fiscal year 1978 for possible referral to other credit sources.

STUDY OF DESIGN OF FEDERAL DISASTER ASSISTANCE POLICY

GAO was asked also to conduct an inquiry into the basic design of Federal disaster assistance policy and recommend program changes, GAO plans to answer this portion of the request in a separate report.●

● Mr. BELLMON. Mr. President, last December, Senator Muskie and I requested a General Accounting Office audit of the Small Business Administration and Farmers' Home disaster loan activities in fiscal year 1978.

In that fiscal year, the cost of Federal disaster lending activities took us all by surprise. Small Business Administration disaster assistance loan volume jumped from a fiscal year 1977 level of $200 million to $2.5 billion, while Farmers' Home emergency loan volume shot up to $3.4 billion from a fiscal year 1977 level of $1.2 billion.

The results of the GAO audit are now available. GAO's report highlights not only the causes of this tremendous surge in disaster loan activity in Fiscal 1978 but also the extent to which disaster loan policies and practices encouraged fraud and abuse.

GAO found three major factors combined to drive disaster loan program costs in fiscal year 1978. These were the large number of disaster occurrences—especially the widespread drought conditions that prevailed, the lowering of interest rates on disaster loans, and the first-time eligibility under the Small Business Administration program of farmers experiencing farm crop production losses.

As you might remember, in 1977, Congress lowered the interest rate for SBA and Farmers' Home disaster loans to 3 percent on amounts up to $250,000. Prior to that action, the Farmers' Home rate was 5 percent and the SBA rate was set at the Government's cost of money, about 6.6 percent at the time. GAO estimates that $3 billion of the total $5.9 billion in fiscal year 1978 disaster loan assistance was loaned at 3 percent interest.

As a result of such a deep interest rate subsidy, the Federal Government incurs significant costs. According to GAO, the expense to the Federal Government of subsidizing $3 billion loaned at 3 percent interest is $159 million in the first year alone.

GAO points out that borrowers receive substantial benefits even if these Federal loans had been made at the Government's cost of borrowing—or at 8.3-percent interest under the Farmers' Home method of calculating the Government's cost of borrowing. Assuming commercial rates in the 9 to 10 percent range, GAO estimates that this 8.3-percent interest rate on all fiscal year 1978 disaster loans would have resulted in first-year savings to borrowers in the range of $42 to $102 million. Thus, Federal loans made at the Government's cost of borrowing would benefit disaster victims while saving the Federal Government the cost of the interest rate subsidy.

In addition, GAO points out that borrowers itemizing Federal tax deductions receive the additional benefit of the Federal deduction allowed for interest expenses.

GAO also found these low interest—3 percent—loans may provide an incentive to borrow, driving up loan demand and running up Federal costs even further. Many able to obtain credit from normal sources take advantage of these attractive Government loans for other than disaster-related purposes.

The amount of interest savings is substantial. Assuming the average interest rate for a conventional loan is around 10 percent, GAO estimates that a borrower obtaining a 7-year SBA loan for $250,000 at 3 percent and an additional $150,000 at 6⅝ percent could save $102,000 in interest costs over the life of the loan.

Such good business deals have not been overlooked. GAO cites an example of a farmer with nearly 1,000 acres of land, $39,000 in cash and a net worth in excess of a quarter million dollars who received an $83,000 SBA disaster loan for a 10-year period. Local lending officials reported that the farmer used the SBA loan proceeds as a down payment on real estate. The total cost of the Government subsidy over the life of this loan amounts to $28,000.

Another example is a $60,000 Farmers' Home loan for 20 years made to a farmer with a net worth of $266,000 and no current liabilities. Local banking officials told GAO that the borrower had invested the loan proceeds in certificates of deposit. The Government's subsidy over the life of the loan in this instance amounts to $44,000.

In addition to the low-interest rates, a contributing factor to the high fiscal year 1978 disaster loan volume was the 1977 extension of SBA disaster loan assistance to agricultural enterprises for crop production losses.

For the first time, farmers became principal beneficiaries of SBA's disaster loan assistance in fiscal year 1978. Farmers were found to account for $5.2 billion, or 88 percent, of the total $5.9 billion in SBA and Farmers' Home disaster assistance loan volume. Of the total $2.5 billion SBA disaster loan volume, $1.8 billion went to farmers.

The GAO report indicates that the eligibility of farmers under both the Farmers' Home and SBA disaster loan programs subjected these programs to much abuse. Farmers were able to "shop around" for the "more lucrative" deal, and most often found the better deal at SBA.

This is because the SBA program is more liberal in its standards for payment and coverage than the Farmers' Home emergency loan program. According to GAO, SBA gave larger loans, for longer terms, to more wealthy borrowers than did Farmers' Home.

Farmers' Home and SBA compute farm production losses differently, for example. In fiscal year 1978, Farmers' Home computed the loan amount by deducting crop gains from losses rather than using only crops which suffered losses, as did SBA. In addition, unlike SBA, Farmers' Home imposes a minimum loss requirement to recognize normal variances in crop production. GAO provides a hypothetical example where this computation difference results in a farmer receiving a $14,000 loan from Farmers' Home and a $20,000 loan from SBA—a $6,000 difference.

Such program differences did not go unnoticed. GAO found that some applicants even maximized on these differences to increase loan amounts. They did this by estimating higher losses and/or claiming more acres of crops affected by disaster when applying for SBA loans than when they applied to Farmers' Home. GAO gives several illustrative examples of such "shopping around" by farmers.

One example is of a farmer whose loan application was rejected by Farmers' Home because he did not meet the program's 20 percent minimum loss requirement. The farmer later applied to SBA claiming a 40-percent loss and received a $55,000 SBA loan.

In another instance, two farmers changed the acreage planted and crop yields on their Farmers' Home and SBA applications. This resulted in one farmer qualifying for a $78,000 loan rather than a $46,000 loan and the other farmer qualifying for a $61,000 loan rather than a $31,000 loan.

GAO also reported cases where farmers had obtained loans from both agencies. These cases were uncovered by pure accident. No formal mechanisms existed to check for such abuse.

As I said, GAO found SBA gave larger loans, for longer terms, to more wealthy borrowers, than did Farmers' Home. The average size of fiscal year 1978 SBA farm loans in the GAO sample was found to be $64,800, compared to $55,700 for Farmers' Home. Of the loans reviewed by GAO, the average repayment term for Farmers' Home loans was 8 years, compared to 9 years for SBA. The average net worth for sampled Farmers' Home borrowers was $180,000, compared to $270,000 for sampled SBA farm borrowers. SBA farmer borrowers were found to have higher incomes, more assets, greater net worth, and larger farms than Farmers' Home borrowers.

Let me give two of the examples GAO uncovered of wealthy farm borrowers, borrowers surely able to obtain credit elsewhere.

A farmer with $2,210,000 equity in a 6,300-acre farm and disaster year gross cash income of $908,000 received a $500,000 disaster assistance loan from SBA for 20 years. The borrower's total assets exceed $5 million. SBA officials and officials of lending institutions admitted that this borrower could have easily obtained credit from other sources. The Government's subsidy over the life of the loan will amount to $247,000.

A second example is of a farmer with $367,900 in gross income from farming who received a $123,400 Farmers' Home loan for 5 years. The farmer's net worth was $2,600,000. He had current assets of $277,000 of which $275,000 was in cash and $2,000 was in accounts receivable. The farmer had $1 million in nonfarm real estate and $2,500,000 in corporate interests. In addition to his farming operations, the borrower was part owner and operator of a grain elevator. According to Farmers' Home officials and private lending institutions, the borrower could have easily obtained credit elsewhere. The Government's subsidy over the life of the loan will amount to $21,000.

This Farmers' Home disaster loan should not have been approved. Farmers' Home requires a test for "credit elsewhere" to screen out applicants able to receive financial assistance from private sources. In fact, this is a key difference between the Farmers' Home and SBA programs, as SBA does not impose such a test. In practice, however, GAO found that the Farmers' Home test was very liberally applied, resulting in loans as the one just mentioned.

SBA loan approval, on the other hand, was conditioned on the applicant's repayment ability. GAO notes, however, that the best loan prospects under this test become the wealthier applicants—those in least need of Federal disaster assistance.

It is GAO's conclusion that an effective "no credit elsewhere" test can be a means of targeting disaster loans to disaster-related needs. It can also prevent Government competition with the private sector by screening out applicants with access to private credit sources.

GAO recommends that Farmers' Home clarify its credit-elsewhere requirements for all its county supervisors and that, if SBA continues to make disaster assistance loans to farmers, it impose a similar test.

GAO's overall recommendation, however, is that SBA get out of the farm disaster loan business altogether. Farmers' Home, not SBA, has the expertise in agricultural lending and in dealing with the needs of farmers.

Mr. President, since the fiscal 1978 experience, some of us have pressed the Senate to make needed reforms in our disaster lending policies to cut Federal costs and cut down on such fraud and abuse. The Senate made headway in this area in May of this year by passing S. 918, the Small Business Act Amendments of 1979.

The disaster loan provisions in that bill were presented to the Senate as a carefully constructed compromise intended to deal with the problem of duplicative Farmers' Home and SBA disaster lending activities. While not the ideal solution in my view, this compromise made the Farmers' Home and SBA programs so substantially similar with respect to interest rates and a credit elsewhere test as to allow a requirement that agricultural enterprises first seek Farmers' Home business disaster loan assistance before being eligible for such assistance at SBA. Similar provisions were contained in the House-passed companion bill.

Unfortunately, we have been informed that the conferees on this bill have been unable to reach agreement on the critical issue of farmer eligibility for SBA loans. I remain hopeful that we will yet see the disaster loan provisions approved by both the House and Senate reported intact by the conference committee.

Our efforts to restrain Government spending are at stake here. Enactment of the disaster loan provisions we passed in S. 918 go far to eliminate some of the costly problems which plague our disaster lending activities. Failure to enact these much needed reforms will add significantly to Federal program costs and seriously jeopardize our efforts to balance the Federal budget.

I would like to thank GAO for the excellent job it has done. A second GAO report covering the basic design of Federal disaster policy and recommended program changes is now underway. I am sure this report will be equally informative.●

POPE JOHN PAUL II

Mr. BAKER. Mr. President, this past week has been a special and memorable time for the American people as we welcomed Pope John Paul II to the United States.

I will leave the ecclesiastical implications of his pilgrimage here to more expert observers, but I must say, as one who has spent a good many years in politics, that John Paul II exhibited remarkable and enviable political gifts in the best sense of the term.

Seldom have so many Americans been drawn so close to one man in so short a time as with John Paul. Seldom have they seen such a deep and obvious respect for the dignity and worth of man, such a genuine and constant delight in children, such an open and unassuming man who demonstrates his faith in God and his love of humanity with virtually every word and deed.

It has been a captivating and rewarding experience for millions of my fellow countrymen of every religious persuasion, and His Holiness should know—as surely he does—that he has left this country in our friendship and that we will be pleased and honored to welcome him back again.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FOREIGN ASSISTANCE APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 4473, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4473) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments as follows:

On page 2, line 8, strike "$869,555,958" and insert "$812,301,997";

On page 2, line 13, after "Operations," insert "subject to the enactment of authorizing legislation,";

On page 2, line 16, after the colon, insert the following:

"*Provided*, That of such amount, not to exceed $175,000,000 shall be available for the new increase in the resources of the Fund, and not to exceed $50,000,000 shall be available for replenishment authorized by the Act of May 31, 1979:"

On page 3, line 9, strike "$163,079,165" and insert "$825,777,153";

On page 4, line 11, strike "$286,160,000" and insert "$292,000,000";

On page 5, line 3, beginning with the colon, strike through and including the word "Sudan" in line 10;

On page 5, line 13, strike "$355,464,687" and insert "$371,077,301";

On page 5, line 21, after "Fund" insert a comma and "subject to the enactment of authorizing legislation";

On page 6, line 7, beginning with the colon, strike through and including the word "Bank" in line 10;

On page 6, line 14, after "resources" insert a comma and "subject to the enactment of authorizing legislation";

On page 6, line 21, strike "$263,330,000" and insert "$253,590,000";

On page 6, line 22, strike "$10,000,000" and insert "$8,000,000";

On page 7, line 1, strike "$126,050,000" and insert "$120,000,000";

On page 7, line 12, strike "$659,000,000" and insert "$619,938,000";

On page 7, line 18, strike "$195,500,000" and insert "$183,600,000";

On page 7, line 24, strike "$140,590,000" and insert "$134,910,000";

On page 8, line 5, strike "$105,000,000" and insert "$101,000,000";

On page 8, line 12, strike "$118,590,,000" and insert "$105,187,000";

On page 8, line 19, strike "$399,750,000" and insert "$372,750,000";

On page 8, line 22, strike "$550" and insert "$588";

On page 8, line 22, strike "$900" and insert "$963";

On page 9, line 1, strike "$900" and insert 'or equal to $963";

On page 9, line 6, strike "$25,000,000" and insert "$20,000,000";

On page 9, line 13, strike "$21,800,000" and insert "$40,000,000";

On page 9, beginning with line 14, strike through and including line 15;

On page 9, line 17, strike "$100,000,000" and insert "$85,000,000";

On page 10, line 5, strike "$20,500,000" and insert "$20,700,000";

On page 10, line 10, strike "$1,927,000,000" and insert "$1,882,500,000";

On page 10, line 13, beginning with "and not less than" strike through and including the words "first step" in line 20, and insert in lieu thereof the following: '*Provided further*, That of the funds appropriated under this paragraph, not more than $5,000,000 shall be for refugee assistance through International Relief Organizations in Rhodesia: *Provided further*, That of the funds appropriated under this paragraph not to exceed $53,500,000 shall be available for programs in southern Africa.".

On page 11, line 4, strike "$22,000,000" and insert "$15,000,000";

On page 11, line 8, strike "$263,000,000" and insert "$261,000,000";

On page 11, line 17, after "Cooperation" insert a colon and the following:

Provided further, That not to exceed $2,500,000 of the funds made available pursuant to this paragraph may be used to finance the operating or administrative expenses of the International Development Cooperation Agency.

On page 11, line 23, strike "$51,758,000" and insert "$40,000,000";

On page 11, line 24, strike "$16,000,000" and insert "$7,242,000";

On page 12, line 10, strike "$15,964,000" and insert "$10,000,000: *Provided*, That not to exceed $1,036,000 of previously appropriated funds shall be available for necessary expenses during the fiscal year 1980";

On page 12, beginning with line 13, strike through and including line 17;

On page 13, line 3, insert "FUNDS APPROPRIATED TO THE PRESIDENT";

On page 13, beginning with line 4, strike through and including line 5;

On page 13, line 7, strike "ACTION" and insert "the President";

On page 13, line 9, strike "$105,000,000" and insert "$103,000,000";

On page 13, line 9, beginning with the colon, strike through and including the word "abortions" in line 11;

On page 13, line 22, strike "1158" and insert "1160";

On page 14, line 12, strike "$40,000,000" and insert "$25,000,000";

On page 13, line 21, strike "$110,000,000" and insert $110,200,000";

On page 15, line 4, strike "$25,000,000" and insert "$31,800,000";

On page 15, line 6, strike "not otherwise provided for,";

On page 15, line 8, strike "$645,000,000" and insert "$661,200,000";

On page 18, line 1, beginning with "for" strike through and including the word "amounts" in line 7, and insert in lieu thereof the following: for the "economic support fund" in an amount not to exceed $19,000,000 to be used for the Maqarin Dam and in an amount not to exceed $5,000,000 to be used for programs in Middle East Regional Cooperation and Development, are hereby continued available for the fiscal year 1980 in not to exceed the aforementioned amounts

On page 20, beginning with line 3, strike through and including line 17, and insert in lieu thereof the following:

SEC. 511. Not to exceed 75 per centum of the funds made available by this Act to any country for foreign nationals sponsored by the Agency for International Development to participate in training programs in the United States shall be available for such trainees who are selected directly or indirectly by the government of that country, and it is the sense of the Senate that at least 25 per centum of such trainees from each country should be chosen by independent selection panels designated by the United States ambassador assigned to such country, upon the recommendation of the mission of the Agency for International Development in such country, and that not less than 80 per centum of the members of each such panel should be citizens of such country.

On page 21, line 6, strike "514' and insert "512";

On page 21, line 11, strike "515" and insert "513";

On page 21, line 15, strike "561" and insert "514";

On page 21, line 18, strike "517" and insert "515";

On page 22, line 1, strike "518" and insert "516";

On page 22, line 9, strike "519" and insert "517";

On page 22, line 14, strike "520" and insert "518";

On page 22, line 19, strike "or is being sought by any other government for prosecution for, any war crime or" and insert "an";

On page 22, beginning with line 24, strike through and including page 24, line 4, and insert in lieu thereof the following:

SEC. 519. Each written or printed report, study, evaluation, plan, manual, presentation, publication, or other document prepared under the auspices of an agency for which funds are made available by this Act, any portion of which is provided by other than full-time employees of such agency, shall reflect in the lower right-hand corner of the title page of such document a cost component which reflects the full cost to the United States Government of such portion. A copy of each such document shall be supplied to the Director of the International Division of the General Accounting Office not later than ten days after the date of issue of such document. Each such document shall be recorded in order of receipt by the General Accounting Office and maintained by said Office for a period of five years following its date of issue.

On page 24, line 19, strike "523" and insert "520";

On page 25, beginning with line 17, strike through and including page 26, line 8, and insert in lieu thereof the following:

SEC. 521. None of the funds made available by this Act for expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961 shall be available for the Institute for Scientific and Technological Cooperation.

SEC. 522. Of the funds made available by this Act for the Agency for International Development, not to exceed $10,000 shall be available for entertainment expenses, not to exceed $100,000 shall be available for representation allowances, and not to exceed $110,000 shall be available for official residence expenses: *Provided*, That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: *Provided further*, That not to exceed $8,000 shall be available for entertainment expenses of the Overseas Private Investment Corporation: *Provided further*, That of the funds made available by this Act for the Export-Import Bank, not to exceed a total of $8,000 shall be available for entertainment allowances for members of the Board of Directors of the Bank.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I am pleased to report H.R. 4473, the foreign assistance and related programs appropriation bill for fiscal year 1980, which, as we all know, is now over a week old. I know that I need not point out to the Senate the very real costs which may be charged to delayed action on appropriation bills. Our failure to act on appropriations in a timely fashion is inevitably translated into a costly postponement of management decisions, a loss of momentum in the timing and execution of programs, and a deferral of necessary personnel actions. I hope, therefore, that we will concentrate on the work before us and pass a sound, well-considered bill appropriating funds for these programs.

Mr. President, if this sounds like a familiar refrain—if it sounds like something I might have said before—it is. Each year, when the foreign assistance appropriation bill comes before the Senate, we face the pressure of trying to pass a bill before the start of a new fiscal year. Yet, each year we are forced to delay because of the tardy enactment of authorization bills. This not only makes the work of the Appropriations Committee more difficult, it also puts an undue and unnecessary pressure on the Senate. This year the Appropriations Committee has not only had to contend with delays in authorization, we have also had to try to fix our sights on a moving target. I refer, of course, to the second concurrent resolution on the budget, which has not yet cleared conference. As it now stands, our best estimate is that this bill is $137 million over the estimated outlay allocation from the second budget resolution.

The bill before the Senate totals $8,365,113,018. This amount is $618,492,926 above the House allowance, but it is $976,976,386 below the President's amended budget estimate. It is a good bill, Mr. President. The amount recommended by the Appropriations Committee reflects our concern for budgetary restraint. We have reduced the President's amended budget estimate by nearly $1 billion. But, we have not approached this bill with the long knives of those who would kill foreign aid; the committee has made judicious and thoughtful reductions in specific programs, in many instances at the level of individual projects. There is no across-the-board percentage cut here, Mr. President. Instead, what you will find is the work of the Appropriations Committee as I believe it was intended that it be done. We have made specific reductions and we have provided detailed justification for them in the committee report.

Mr. President, the committee recommendation is above the House allowance. The primary reason for the difference between the two versions is found in the recommendation the committee has made for the World Bank—the International Bank for Reconstruction and Development. Allow me to explain.

The total difference between the House passed bill and the committee recommendation is $618.4 million. The difference between the two versions for the World Bank alone is $662.6 million. There are, of course, other accounts where the House allowance is higher than the committee recommendation or where the committee recommendation is higher than the House allowance, but this is, in truth, the principal difference between the two versions.

Mr. President, it is significant, I think, that $596.4 million of the $662.6 million which separates the House and the committee recommendation for the World Bank—that is, $596.4 million, or 90 percent of the difference—is the appreciation of callable capital. These are funds which, if appropriated, are unlikely to ever leave the U.S. Treasury. They are used to guarantee World Bank borrowings in private money markets. It is true that, because the United States incurs a contingent liability when its subscribes to a callable capital contribution, we must appropriate these funds. But, we must be realistic. Short of worldwide economic collapse, these funds will not be called. They are, nonetheless, critical to the Bank's operations. With the guarantee of stability provided by callable capital, the Bank can go into the private market and borrow funds to conduct its lending programs.

Mr. President, there are no outlays associated with callable contributions. Yet these contributions are the base for the Bank lending programs which are of considerable benefit to the United States. From 1946 to mid-1978, direct accumulated receipts by all segments of the U.S. economy have exceeded outflows to the Banks by $2.4 billion. In addition, real U.S. GNP increased annually by $1.2 billion and $1.8 billion as a result of exports of U.S. goods and services to markets directly created by multilateral development bank financed projects in developing countries. This means that every dollar paid into the multilateral development banks generated between $2.39 and $3.38 in real U.S. economic growth annually from 1946 to mid-1978.

We should not lose sight of this. The United States has benefited from participation in the World Bank and the other multilateral development banks. To cut callable capital contributions as sharply as the House has done is folly. We do not gain from such actions; we lose. It might be tempting to lash out at the World Bank, to enjoy a momentary flexing of U.S. power, but that would be self-defeating. I can illustrate this with one example: If the House reduction were allowed to stand, it would be unlikely that the World Bank's proposed lending program for energy exploration and development would ever get started. I would not be so foolish as to try to predict what this would mean to the energy situation in the United States, but, clearly, it is in our interest to support the World Bank's program of energy exploration and development; it is in our interest to support the World Bank.

Mr. President, the Committee on Appropriations has not been afraid to challenge the multilateral development banks whenever we thought it necessary. We are also not afraid to support them. The committee recommendations are well justified. I hope the Senate will carefully examine the record and support the committee recommendations.

Mr. President, I will not speak long on the remainder of the bill. The committee report details our recommendations. It also provides an explanation of the context within which the committee formed its judgments as to the proper level of funding for foreign assistance and related programs in fiscal year 1980. Undoubtedly, some will say that in certain instances the committee's judgments were too harsh, but we have tried—successfully, I believe—to meld American self-interest with compassion. One of the larger items in the bill recommended by the committee is $456 million for refugee assistance; 74 percent of this is for the "boat people" fleeing repression in Southeast Asia.

For the so-called functional development assistance accounts—the core of the U.S. bilateral assistance program—the committee has allowed only $12 million more than was appropriated last year. We recognize that the need for increased assistance is great, but the committee found that many of the projects and programs, which were proposed to meet that need, were not justified. The reductions that the committee has applied to the functional accounts are the results of an intensive review of individual projects and programs. Those projects which the committee found unsatisfactory are detailed in the committee report. Funding for these specified projects is not included in the amounts the committee has recommended to the Senate for appropriation.

Mr. President, the committee recommendation for the Economic Support Fund is $1,882,500,000. As was the case last year, over 85 percent of the funds recommended for appropriation will go to countries in the Middle East. Israel is again to be the largest recipient, with $785 million earmarked in the bill. Egypt is to receive $750 million, also earmarked, and Jordan is to receive $60 million. The committee deleted funding requested for economic assistance to Syria ($60 million).

Israel is also to be the largest recipient under the foreign military credit sales program, with a $1 billion arms program earmarked in the bill. Because of authorization provisions forgiving repayment of $500 million of this amount, the financing of the military credit sales program for Israel requires the appropriation of $550 million. The remainder of the amount recommended for appropriation ($111.2 million) will provide sufficient financing for a $250 million program for Turkey, a $200 million program for Greece, and lesser programs for several other countries.

Mr. President, the bill recommended by the committee responds to the needs of the developing world for economic and security assistance. It does not fully meet those needs—no one nation could provide that much—it does, however, provide enough to continue, to encourage, and to promise hope for a better world. The programs which are funded through this bill serve our own economic interests; they are important to our future and our hopes for a better world. I know the Senate will want to discuss these programs and will want to consider them carefully, and I am confident that the Senate will support the bill recommended by the Appropriations Committee.

Mr. President, I ask unanimous consent that during the debate the staff members, Mr. Jordan and Mr. Collins, and Miss Dackis be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

Mr. GARN. Mr. President, before I make some general comments on the foreign assistance appropriations bill for fiscal year 1979, I would like to pay my respects and thanks to the chairman of our subcommittee, the senior Senator from Hawaii. Senator INOUYE has at all times during the consideration of this legislation been fair and open with me, regardless of our differences on some of the matter before the Senate today. I look forward to my continued association with him.

Mr. President, the bill before the Senate today, while nearly $977 million below the President's budget, is nonetheless a staggering $620 million over the bill as passed by the House. In addition, the bill as reported by the committee, while only $11 million above the Senate second budget resolution in budget authority, is $132 million over the Senate second budget resolution in outlays. It is especially for this latter reason that I voted against reporting this bill to the floor and, as well, a major factor in explaining why I will be asking the Senate to reject some of the committee amendments which added large sums above the House bill.

Mr. President, I do not think it would serve any purpose at this time for me to repeat all of the details that the chairman has already explained, but I would like to highlight some of the aspects of this bill.

INTERNATIONAL FINANCIAL INSTITUTIONS

The President's request for the World Bank and the other development banks totaled $3.625 billion, a full 44-percent requested increase over last year. This is worth repeating:

When we have heard so much about fiscal restraining, holding wages and prices to 7 percent if we can in this country in our budgetary increases, the President's request for the international financial institutions is 44 percent over what was appropriated last year. Even though the committee has recommended an amount less than the President's request, its recommendation is 23 percent over last year. I do not think I have to remind my colleagues of the budget crunch we are in and the effect it has had on important domestic programs, which in most cases have not been able to keep up with inflation. Mr. President, there is no way I can suggest to my constituents that such a large increase for these banks is justified and, at the proper time, I hope my colleagues will support my efforts to reduce funding for these institutions.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Mr. President, under the international organizations and programs account, the committee is recommending a substantial reduction to the United Nations development program. This reduction is not made because of the inadequacies of UNDP but, rather, because of a continuing situation involving the funding of technical assistance which this committee has long been concerned with. I earnestly hope that the State Department will take this message as it is meant to be; that is, we want the United States to work as hard as it can to e[illegible] reform in the United Nations so that the funding of technical assistance will be voluntary and through the United Nations development program only. I do not think I need remind the State Department that is in fact what the UNDP was originally set up to do.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. President, it is ironic that the Agency which seems to have made so much progress under former Governor Gilligan is receiving substantial cuts under this bill. While I personally would have liked to see these levels a little higher, nonetheless, the budget situation dictates these cuts. Harking back to my discussion of the international financing institutions, I find it doubly ironic that we would be suggesting so much higher figures for these institutions over which we have so little control, while at the same time making cuts below this year's funding level to an institution over which we exercise a great deal of control.

MIDDLE EAST PROGRAM

The total economic and military assistance package for the Middle East totals $2,190,000,000 in appropriated funds. That is more than 25 percent of the entire U.S. foreign assistance effort, and includes security supporting assistance to Egypt, Israel, and Jordan, MAP assistance to Jordan, IMET assistance to Egypt, Jordan, and Lebanon, and FMS credits to Israel, Jordan, and Lebanon. Mr. President, as most of my colleagues, I appreciate the importance of the Middle East but the time has got to come for us to stop and contemplate what it means to have a foreign aid program which so heavily goes to one area.

INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Mr. President, after very careful consideration, the committee is recommending against any funding for this institute. From the very beginning it has been apparent that this program was ill-conceived, not well thought through, and presented to Congress in such a way and with such methods as to create more vagueness than clarity and more suspicion than light. As it stands now, should this institute be funded, the universities which have lobbied so hard to get this created would undoubtedly seek the research funding they feel is both important and deserved, thereby shrinking the amount available for research in underdeveloped countries where surely the need is the greatest. I suggest to the administration that they start over, and come back next year with a proposal which funds research in developing countries and is thus not seen as simply another Federal money pot from which the Brookings Institution and universities can extract Federal assistance.

REFUGEE ASSISTANCE

Mr. President, I should like briefly to mention the refugee assistance we are providing in this bill. It totals $456 million, which compares to an original fiscal year 1979 program of $50 million. This astronomical increase, is due, of course, to the fact that we are assisting the boat people who have been forcibly expelled from their own country.

EXPORT-IMPORT BANK

Mr. President, we have agreed to provide the Eximbank with the amount requested. At the early stages of our consideration of this bill, Senator MATHIAS and I had offered an amendment which sought to increase the level of activity for direct loans. It is an unquestionable fact that more is needed in this area. The following points bear this out:

First. The state of U.S. balance of payments is well known to most Americans via nearly monthly announcements that the deficit is growing. The 1977 balance of payments deficit totaled $31,000,000,000, while in 1978 the deficit increased to $34,000,000,000, a figure equal to the value of total U.S. exports only 10 years ago. This situation begs ever more emphatically for an increased Eximbank role in export financing.

Second. Currently high interest rates, which have hit historic heights, make it nearly impossible for private financing to compete with foreign government financing.

Third. Because comparable products, services, and technologies are widely available, the terms of financing may be the persuasive factor in securing an export market. Given this fact, other exporting countries have extensively used predatory financing, and attempts to negotiate restraint in officially supported export credit competition has failed. Because of this lack of progress in negotiations on this matter, we must up the stakes by increasing Eximbank credit activity. Hopefully, this action will help the administration in future negotiations while indicating strong congressional support in this area.

Fourth. The most recent information indicates that the level of preliminary commitments outstanding is $10,540,000,000, of which 40 percent will probably be converted into final loan authorizations. In addition, we know from data compiled over the last 2 years that 45 percent of direct credits was not a conversion of a preliminary commitment. Therefore, conservatively, it can be inferred that the total need in fiscal year 1980 would be nearly $8,000,000,000. It might be pointed out that some private concerns estimate this need at nearly $9,500,000,000.

Mr. President, before we are finished with this bill on the floor of the Senate, perhaps we shall be able to find room, because of other cuts that are made, that will allow us to provide at least some increased support for direct loans for the Eximbank.

Mr. President, this concludes my general remarks on this legislation, but before sitting down, I again thank the chairman for all of the courtesies he has extended me. Now, Mr. President, I believe the chairman will be making the customary motion to consider and pass the committee amendments en bloc and that the bill thus amended be open to amendment as if it were original text. I have asked the chairman to exclude from his unanimous consent the following committee amendments:

First. Committee amendment found on page 3, line 9, dealing with appropriations for the World Bank;

Second. Committee amendment found on page 6, lines 7-10, dealing with the question of Taiwans' continued membership in the Asian Development Bank;

Third. Committee amendment found on page 20, lines 10-14, dealing with the prohibition on direct and indirect assistance to Angola, Cambodia, Laos, and Vietnam;

Fourth. Committee amendment found on page 20, lines 15, 16, 17, dealing with direct and indirect assistance to Cuba.

I understand, Mr. President, that the Senator from North Carolina also has some amendments that he would like excluded.

Mr. HELMS. Will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. HELMS. I thank the able Senator.

Mr. President, I should like to ask the floor managers of the bill to exclude, on page 20, lines 3 through 9, concerning making available funds to Mozambique and, on page 25, lines 1 through 21, concerning aid to Panama.

Mr. INOUYE. I shall do so, Mr. President.

Mr. HELMS. I thank the chairman.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I understand that the distinguished floor manager of the bill, the Senator from Hawaii, will be making a unanimous-consent request that the committee amendments be adopted en bloc. When such request is made, I will note a temporary objection, and withdraw the objection if the following are eliminated from the unanimous-consent request:

On page 4, lines 11 and 12; the committee amendment on page 5, lines 3 through 10; on page 5, line 13; on page 22, lines 19 and 20; on page 22, line 24 through line 4 on page 24.

I understand that others will make a request. If not, I will do it at this point also:

On page 20, lines 3 through 17.

I think that would take care of it.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, with the exceptions set forth by Senators GARN, HARRY F. BYRD, JR., and HELMS, and that the bill, as thus amended, be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I now take up the first excepted amendment which appears on page 3, line 9.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 9, strike "$163,079,165" and insert "$825,777,153".

Mr. GARN. Mr. President, as I mentioned in my opening statement, this bill is not only substantially above the House-passed legislation but also above the Senate-passed second budget resolution in outlays by $132 million.

The main reason for this substantial difference between the two bills and, to a lesser degree, the reason for the situation in which we find ourselves with respect to the budget resolution is the committee's recommendation on the funding of the international banks.

I attempted to reduce the funding in committee, but unfortunately I was only partially successful. Therefore, I hope the Senate will reject this committee amendment, thereby upholding the House funding level, which is nearly $663 million below the committee position.

The House level which I am supporting is also the level we provided last year for this particular bank.

Mr. President, I know this cut is a substantial one, and the supporters of the banks would be disappointed, but I remind my colleagues again of the terrific budget crunch and remind them of the significant cuts that have been made in important domestic programs.

I want to expand on that statement. The budget resolution limits total spending to a specific amount and various categories to specific amounts. If we go over in the foreign assistance program, whether it is for the world banks or on other programs, we simply are denying budget authority and outlays for other programs within the total Federal budget.

We have had a great deal of discussion and debate on this floor about the need for fiscal responsibility. We have had to make cuts in some excellent domestic programs that should have been funded at a higher level.

On the whole concept, perhaps I am parochial and selfish so far as the interests of the United States are concerned, but I find it difficult even to consider voting for a 44-percent increase in World Bank financing at a time when we have some very difficult fiscal problems: inflation at more than 13 percent, the prime interest rate at 14.5 percent today by Chase Manhattan, and we are talking about huge increases of this kind over last year's funding—$632 million.

We will get into Interior appropriations this afternoon in the Appropriations Committee, and we will be trying to cut that down for domestic programs that have a great deal to do particularly with the Western part of this country.

So I am absolutely and completely opposed to what I consider an inordinate increase in these international banks, and I urge my colleagues to defeat this amendment by the Senate Appropriations Committee.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yeld to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I commend the distinguished Senator from Utah and I want to associate myself completely with his remarks. His position is particularly relevant, following the weekend announcement by the Federal Reserve Board, which will have a drastic effect on young people seeking to borrow money for homes.

To contemplate such an enormous increase in funds to the international banks when the money markets of the United States are in such a chaotic state borders on being reprehensible.

I hope Senators will be attentive to the remarks by the distinguished Senator from Utah, to which I subscribe, and again I commend him for his position.

Mr. INOUYE. Mr. President, this amendment to reduce the amount of $825,777,153 to $163,079,165 appears to be very significant, and it is. But the $825.7 million includes $743,199,438 in callable funds.

Mr. President, the World Bank was founded 33 years ago. Since that time, the United States and other contributing countries have been responding to their requests by funding callable accounts. But during the 32 years, not a penny of the callable accounts has been called. In fact, at the present time there is an account of $11 billion remaining in the U.S. Treasury under the callable account. The only reason the full amount has to be appropriated is that the Constitution of the United States requires appropriation because of this contingent liability. It affects the credit of the United States.

All other countries contributing to the World Bank do not contribute the full amount of their share of callable capital. They do it either by paper or by a percentage amount. We hope that some day soon we will be able to find some way legally to do likewise; but as of this moment, because of the constitutional requirement, we will have to appropriate the full amount.

However, it should be noted, and I think this is very significant, that even if the numbers are huge—$743,199,438—not a penny is set aside for outlays. In other words, nothing is spent.

However, the callables have a very significant impact upon the operations of the bank. Without the callable capital available to the World Bank, the World Bank will not be able to make the loans necessary to carry out their programs.

At the present time, a major concern of the World Bank, for the next decade or so, will be the exploration for energy. Moneys now will be made available to the developing countries to seek out energy resources, and I need not tell the Senate how important energy is to the United States, to its economy, and to its national welfare.

Furthermore, as I indicated in my opening remarks, without spending a penny, callable capital generates loans. Because of these loans the economy of the United States per year has been developing by more than $2 billion.

If we are looking for a bargain, the bargain is here. I think it would be rather foolish on the part of Congress to cut out this callable. Yes, it looks like a great feat on the part of Congress to cut off with one fell swoop $743 million; but actually, Mr. President, you are cutting out not even a penny. These are callable contributions. I wish to repeat that. It involves not a single penny in outlays. For 33 years not a penny has been called. So if we are to make cuts, it should be someplace where the cut would be significant and not damaging.

This would be damaging to our economy and damaging to our role in the bank. As I said, it is a bargain. I cannot see why Congress wants to set aside that bargain.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. INOUYE. I am happy to yield.

Mr. HARRY F. BYRD, JR. I note that the House figure is $163 million. The Senate committee raised that to $825 million, an increase of $663 million. Why the tremendous increase over the House figure?

Mr. INOUYE. Ninety percent of the increase is in the callable funds.

Mr. HARRY F. BYRD, JR. Regardless of what it is in why did the House feel that the world could get along and the World Bank could get along with $163 million and the Appropriations Committee feels it cannot get along with that sum and must have $825 million?

Mr. INOUYE. As the Senator is well aware, I cannot speak officially for the House, but I suppose that the House took this action so that they could present an appropriation bill in the House which indicated a major slash. But here you are not slashing anything. We are actually slashing our own economic throat. As the Senator is well aware, for 33 years we have been appropriating callables because the Constitution requires that. Not a penny has been called. But these callables are necessary if we are to generate loans, loans which incidentally are used to purchase goods from the United States.

Mr. HARRY F. BYRD, JR. As the able Senator so well pointed out in his opening comments on this amendment, this $825 million does affect the credit of the United States.

Mr. INOUYE. That is because the Constitution says if there is a contingent liability, funds to cover that liability should be appropriated.

Mr. HARRY F. BYRD, JR. That is right, and it is.

Mr. INOUYE. At the present time we have in the Treasury of the United States in paper $11 billion of contingent liability.

Mr. HARRY F. BYRD, JR. And this would add another $825 million to that.

Mr. INOUYE. That is money that has never been spent and never will be spent as far as I know.

Mr. HARRY F. BYRD, JR. But as the Senator indicated, it is a contingent liability of the Government.

Mr. INOUYE. We are hoping to find a means to fulfill the requirements of the Constitution without having to appropriate the full amount. No other country appropriates the full amount.

Mr. HARRY F. BYRD, JR. I prefer to see us, frankly, handle it the way we are handling it. At least we know a little bit more about what we are doing and what is going on.

Mr. GARN. Mr. President, will the Senator yield for a comment?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Utah.

Mr. GARN. The Senator from Hawaii is absolutely correct. Most of this is in callables. However, there is $66 million of budget outlays that would be eliminated by defeating this amendment. The rest of it is in callables, and he is correct that they have not been called. It is a contingent liability upon the U.S. Treasury.

Mr. HARRY F. BYRD, JR. Correct.

Mr. GARN. And it may be that we should change the accounting methods to take that out. The problem that I see is even though the majority of it is not direct expenditure, it is under our accounting procedure budget authority and therefore it does rob other domestic programs. It has to. It has to be included in that entire amount.

Mr. HARRY F. BYRD, JR. I think it should be included.

Mr. GARN. So I am not speaking that this is going to be lost to the Treasury—more than $66 million—but it does reduce the budget authority about $825 million for domestic programs, and when I have to make a choice in a tight budget situation I am going to choose domestic programs that help our own country and our own economy before I get into foreign aid.

In other years I might not be objecting to this at all, recognizing many of the things the chairman has said are true that the loans are made and the purchases are back in the United States, and there is some indirect return. There is no doubt about that. But we are fighting already substantial budget cuts in many areas of domestic programs. It is budget authority, and it does entail $55 million of budget outlays.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. JAVITS. Mr. President, I ask the Senator this question: If the Bank, which we have been affiliated with since its beginning, did not get this subscription, of which only 10 percent is cash, will it be able or unable to raise money in the bond market, in which the Bank's paper has currently the highest credit rating?

Mr. INOUYE. It will be unable to raise the funds.

Mr. JAVITS. Therefore, is it not true that whatever we get from our affiliation with the Bank in international economic stability and increased U.S. trade, and I will come to these points in a moment, would be missed by the United States completely?

Mr. INOUYE. The Senator is absolutely correct.

Mr. JAVITS. Coming now to the Bank's economic benefits for the United States. Is it not a fact that in competing internationally with Japan and Germany and other industrialized countries that we have found that our export trade is now primarily with the developing countries which are the clients and borrowers from the World Bank?

Mr. INOUYE. The Senator is correct

Mr. JAVITS. So that today we do 25 percent of our export trade or over $25 billion a year, and I might point out very heavily in agricultural products, with these developing countries which borrow from the World Bank?

Mr. INOUYE. The Senator is correct.

Mr. JAVITS. Also, may I point out that the Senator mentioned oil and the fact that the World Bank is now giving a high priority in exploration for oil. Is it not a fact that over the next 5 years the World Bank is projected to lend for energy development roughly $4.5 billion to $5 billion?

Mr. INOUYE. That is the plan as proposed by the World Bank.

Mr. JAVITS. And running a billion a year, they intend to raise this money out of the bond market?

Mr. INOUYE. The Senator is absolutely correct.

Mr. JAVITS. Let us leave out developmental reasons for our support of the World Bank. Is is not staggering, therefore, to contemplate that all these economic benefits to the U.S. could all be thrown in the trash can if we support this amendment?

Mr. INOUYE. The Senator is so correct. Without a single penny in outlays we can get returns amounting to about $2 billion per year.

Mr. JAVITS. That is right.

Mr. President, Senator INOUYE and the Appropriations Committee did not act in this matter without support from outside the committee. Twelve of us representing a broad cross-section of various points of view here in the Senate, which included the chairmen of the Budget Committee and the Foreign Relations Committee, as well as both Republican and Democratic members, wrote to him in great detail urging him to increase the funding for the World Bank.

I would like to read that list, with the Senator's permission; and I ask unanimous consent that our letter addressed to the chairman of the subcommittee, the letter being dated September 20, 1979, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 20, 1979.

Hon. DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN INOUYE: We understand that your Subcommittee will shortly mark up the FY 1980 Foreign Aid Appropriations Bill, including funding for US participation in the multilateral development banks. As you know, our nation's participation in these international institutions is extremely important for foreign policy, economic, and national security reasons.

We are, therefore, deeply distressed about the excessive cuts made by the House in the request for the banks, particularly the reductions for the World Bank. That cut was from $1.026 million to $163 million, or 84 percent of the Administration's original request. This was a much deeper cut than made in other parts of the Foreign Assistance Bill or in other government programs.

especially when one considers that only 10 percent of the money will actually be paid in by the United States. The effect of the cut is to eliminate completely the current year's request and to prevent the United States from covering subscriptions which were fully authorized by the Congress and scheduled to be made in prior years but are as yet unappropriated. Furthermore, cuts of such a magnitude are not required by the Second Concurrent Budget Resolution, which would accommodate more than 75 percent of the Administration's request.

We are surprised and disappointed that the House would slash support for the World Bank at a time when the Bank is helping to deal with the energy crisis by greatly increasing its emphasis on the expansion and diversification of sources of energy in non-OPEC developing countries—an emphasis, we might add, that has been strongly encouraged by the United States. Over the next five years, World Bank lending for energy development is projected to reach $4.5 billion to $5.0 billion. This is expected to result in the production of energy equivalent to two million barrels of oil a day. When hydroelectric power projects are included, about 20 percent of overall Bank lending during the next five years will be for energy purposes. Use of Bank funds will also facilitate additional private investment in this critical area. The result will be to improve significantly the oil supply and demand balance for the world as a whole, including for the United States.

The amount recommended in the House bill is clearly an inadequate level of support for an organization which effectively serves US economic and political interests around the world and does so at low cost. For each dollar lent by the Bank, the cost to the US taxpayer is only two cents. Furthermore, last year, US suppliers won contracts amounting to $366 million on World Bank projects, which represents a return to US firms of 18 cents for each dollar lent by the Bank in the form of payments for contracts they win on projects financed by the World Bank.

The indirect benefits to our economy of US participation in the Bank are even greater. The less developed countries comprise the largest and most rapidly growing single export market for US goods and services. They now take a quarter of all US exports, including $6.7 billion in agricultural products. As the incomes of these countries rise, a process which is effectively promoted by the World Bank, the level of exports of US goods and services to them will also rise—creating additional jobs and income in our own economy.

While we recognize that there are some very legitimate competing domestic demands for funds as a result of the softening of the US economy, we nevertheless believe it would be particularly harmful and short sighted to cut back on US support for the World Bank when a global recession is threatening. It is urgent that we continue our longstanding and bipartisan national policy of helping the Bank promote world development, which, as explained above, will help our economy.

The request for World Bank capital stands on its own merits. It is not a substitute for US subscriptions or contributions to other multilateral development banks, none of which should be reduced from the minimum levels to which they have been reduced by the House.

We urge you to substantially restore US funding for the World Bank. The proposed level is fully consistent with the international position of the United States, and it reflects the important national interests that we have in continuing to support World Bank lending programs.

Sincerely,

Frank Church, Chairman, Committee on Foreign Relations.

Paul S. Sarbanes, Chairman, Subcommittee on International Economic Policy, Committee on Foreign Relations.

Abraham Ribicoff, Chairman, Subcommittee on International Trade, Committee on Finance.

Adlai E. Stevenson, Chairman, Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs.

Edward M. Kennedy, Chairman, Subcommittee on Energy, Joint Economic Committee.

Edmund S. Muskie, Chairman, Committee on the Budget.

Daniel P. Moynihan, Member, Subcommittee on International Trade, Committee on Finance.

Jacob K. Javits, Ranking Minority Member, Committee on Foreign Relations.

Richard G. Lugar, Member, Subcommittee on International Economic Policy, Committee on Foreign Relations.

Charles H. Percy, Member, Foreign Relations Committee.

John Heinz, Ranking Minority Member, Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs.

Mark O. Hatfield, Ranking Minority Member, Committee on Energy and Natural Resources.

Mr. JAVITS. The Senators who signed this letter, aside from myself, Senator Church, and Senator Muskie, whom I have already mentioned, are Senators Lugar, Sarbanes, Ribicoff, Stevenson, Kennedy, Moynihan, Percy, Heinz, and Hatfield.

Mr. President, I deeply believe that in this particular case we are showing that hardheadedness in which we are always berated by those in the private enterprise system for being deficient in moving out into the modern world. To cut off this method of financing of such a vast amount of trade would be very unwise for our country.

I thank the Senator.

Mr. GARN. Mr. President, will the Senator yield?

Mr. JAVITS. Of course, I yield, with Senator Inouye's permission.

Mr. GARN. In our markups I tried to get, tried very hard to get, an increase of funds for the Export-Import Bank.

I certainly do not disagree with the distinguished Senator from New York in our need for trade, and we have been losing a lot of exports not because of our products or of our manufacturing, or construction products, of our Nation's businesses, but because we have not had sufficient financing to compete with the financing of foreign governments. So we have been losing these.

I spent a lot of time with members of the Export-Import Bank Board. The only reason—and Senator Inouye agreed we should increase that—was in going through all of these international bank categories, when we reached the bottom it happened that the Export-Import Bank was the last to be considered, and we were out of budget authority.

So although everybody agreed, it got chopped off. I do not disagree with the overall philosophy, that either you or the Senator from Hawaii is talking about, that the World Bank does some good.

There is some problem. Some of these developed countries, I wonder if they really should be borrowing some more money, if they cannot afford to borrow more money.

But, putting that aside, we are shortchanging the Export-Import Bank because of the huge increase. I would not be objecting if it had been a moderate increase, but the Bank got by all right with $163 million—I mentioned a 44-percent increase over all in international banks, but in this particular category it is more than a 500-percent increase, so we are really robbing some of the other banks, particularly the Export-Import Bank, and that was really my question of the Senator, how does the Senator feel about the Export-Import Bank's role in this, in the massive increase for the World Bank and not having any money for an increase in the Export-Import Bank?

Mr. JAVITS. I thoroughly agree with the Senator about the Export-Import Bank. I am sure the Senator from Utah (Mr. Garn) knows that I would with as much vigor and persuasiveness as I could muster fight for that if the Senator had raised it in the budget debate. I would have fought beside the Senator and fought for the Export-Import Bank.

We are behind the eight ball on credit terms. All know that a cut in their account would not be translated into other massive appropriations for other things, because it does not represent outlays, as Senator Inouye said.

I agree with the Senator about the Export-Import Bank, but this is not going to make any difference. I wish the Senator had made the fight.

So all I am saying is that in respect to the World Bank, we are making money, not spending it, and because our bookkeeping with respect to callable capital does not reflect reality regarding actual outlays does not mean we have to close our eyes to reality.

I appreciate it. I agree with the Senator, and we have tried to reform the budgetary approach, but there is some hangup around here that prevents us from doing it.

Mr. GARN. Well, bookkeeping aside, and I recognize there are some changes we need to make there. I will try to make my point once more that with the 500-percent increase in the World Bank, maybe some increase could be justified, and an increase in the Export-Import Bank, we are dumping it all in the World Bank to the exclusion of the Export-Import Bank.

I ask my colleague if the order of considering these in committee had been different and the World Bank had been at the end of the line and I was out here pleased as punch because I had a 500-percent increase in the Export-Import Bank, then what would the position of my colleague be respecting the World Bank? They would try to take some away from the Export-Import Bank and put it in the World Bank, and that is essentially what I am trying to accomplish.

Mr. JAVITS. We have been out on this floor and, led by Senator GARN and certainly Senator INOUYE, fighting for that World Bank because it represents no outlay.

Mr. GARN. But the Senator from Hawaii would agree with me that we were not aware of this situation.

We had an agreement prior to going into the subcommittee that a certain rise in Export-Import Bank would be appropriate, and then the Budget Committee people walked in in the middle of our markup and informed us about this. Believe me, we would have been out here had we known prior to that, but we were not informed because of the categories.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yield.

Mr. INOUYE. I would like to participate in this discussion here and note the following: The second concurrent budget resolution has not been passed yet. So as of this moment we are debating at a disadvantage. We have no idea officially where the budget limitations are. We have been assured by one source on the Budget Committee that this bill is clear, that we have not exceeded the authorization for outlays.

We have also been told by others on the Budget Committee that we may have gone beyond the requirements of the law.

I am prepared, Mr. President, to support and vote for an increase in the Export-Import Bank because we have no idea what the increase would do to the budget resolution. If, at the time of the conference with the House, it is shown to us that we did, in fact, exceed the limitations set forth in the resolution, then arrangements can be made.

But at this time I do not know whose word to take. We have been assured by one source saying there is no problem and another source saying, "You are over."

Well, if they are not certain, then I would say, let us go on with the Export-Import Bank, increase that, and if we do exceed it, then necessary arrangements can be made. So I support the Senator from Utah.

Mr. GARN. I appreciate the Senator's willingness to be of help. There is no question that we are over the Senate-passed budget resolution, and the Senator is correct, we cannot determine what will happen in the House-Senate conference.

● Mr. ROTH. Mr. President, as a leader of the save our bucks task force, I strongly support returning to the lower House passed level of funding for the World Bank.

The Senate committee amendment would increase funding for the IBRD by $663 million.

The figure of $163 million for the Bank adopted by the House is the same recommended by the Appropriations Committee last year. At that time, the administration's request was for $666 million, and the committee recommended $163 million.

This year, the administration requested $1,026 million, and the committee inexplicably changed its position, recommending funding of $826 million, or most of the request.

Yet the committee report itself points out a number of concerns with the management of the IBRD. It notes that 48 percent of the Bank's travel is first-class; that it booked some 367 Concorde SST flights last year; and that salary levels are still excessive, and because of Bank delays in accepting the report of the Joint Committee on Compensation will remain excessive for some time to come. These excessive overhead costs are not helping people in developing countries.

The April 1979 report of the Senate Governmental Affairs Committee on U.S. participation in the multilateral development banks cites a Treasury official who estimates that 10 percent of all Bank projects have "crippling problems" and 50 percent have "major or serious" problems during implementation.

It has been noted that much of the administration's budget request is for callable capital and does not represent a budget outlay. Callable capital does, however, represent an obligation on the resources of the United States. It also permits a major expansion of the Bank at a time when the United States has still not established effective monitoring and evaluation of Bank programs.

Mr. President, I believe the philosophy of the Appropriations Committee on foreign aid spending, cited with respect to the Sahel development program in the committee's report, should also govern policies toward the development bans.

The committee stated on page 91 of the report:

> In this year of economic uncertainty, we strongly feel that a special effort must be made on all fronts to restrain spending. We cannot overlook the fact that domestic programs are being held in check and even being cut because of our nation's economic situation.

I could not agree more fully. I am pleased the committee has recommended restraints on a number of bilateral AID programs that have been growing at rates far in excess of the rate of inflation. I hope the Senate will show equal restraint when it comes to the development banks and adopt the course pursued by the House of Representatives and recommended by the Senate Appropriations Committee last year.●

Mr. GARN. Mr. President, I have nothing further to say on this subject. We do have a problem that my majority colleague has just mentioned, that the Senator from Virginia wishes to speak.

But I wonder if, when we do finish the debate on this particular amendment, we could call for the yeas and nays and defer the vote until 2 o'clock.

Mr. INOUYE. That is agreeable. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the vote be deferred until 2 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the next committee amendment.

Mr. HARRY F. BYRD, JR. Mr. President, will the Chair delay that for a moment, until I can put a question to the managers of the bill?

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. HARRY F. BYRD, JR. The Senator from Virginia is in error. I think it is better to report the amendment; then I will seek recognition.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 4, line 11, strike "$286,160,000" and insert "$292,000,000".

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator from Hawaii will yield for a question, why the increase from $286 million to $292 million?

Mr. INOUYE. With the appropriation of $292 million, we would finish the appropriation for the fourth replenishment. This would fulfill our obligation.

Mr. HARRY F. BYRD, JR. Well, the fourth replenishment had been previously deferred or defeated by the Senate, had it not?

Mr. INOUYE. We have not completely deferred it. We have been paying increments, and we felt that the time had come to make the final payment.

Mr. HARRY F. BYRD, JR. This legislation already contains $800 million for the third installment of the fifth replenishment. We have not yet finished the fourth replenishment?

Mr. INOUYE. The $800 million fifth replenishment is one that I believe received the unanimous approval of the committee, because, unlike the first four replenishments, this has a trigger mechanism. When this amount is appropriated, it will automatically trigger the contributions from other countries.

Mr. HARRY F. BYRD, JR. Is it not correct, though, that Congress in the past has refused to appropriate funds for the fourth replenishment, that is why it is in this bill, and the fifth replenishment—this is the third installment, incidentally, of the fifth replenishment?

Mr. INOUYE. It is the final installment of the fifth replenishment, and this amount is also the final installment of the fourth replenishment.

Mr. HARRY F. BYRD, JR. So, Congress having refused in the past to fund the entire fourth replenishment, now we come along, several years later, and seek to make up for what Congress refused to do in previous sessions?

Mr. INOUYE. Congress did not vote it down. I think the record will show that we deferred payments. The committee felt that the time had come to make the final payment.

Mr. HARRY F. BYRD, JR. So, then, this bill contains the $292 million for the fourth replenishment for the U.S. contribution to the International Development Association, and it also contains $800 million for the third installment of the fifth replenishment.

Now, may I ask the Senator from Hawaii this question: Is it contemplated that there will be a sixth replenishment?

Mr. INOUYE. Sir?

Mr. HARRY F. BYRD, JR. Is it contemplated that next year or the following years there will be a sixth replenishment?

Mr. INOUYE. I cannot speak for the Bank, but I am certain there will be.

Mr. HARRY F. BYRD, JR. How much money has the United States contributed to the World Bank?

Mr. INOUYE. A sum of $17,889,100,000.

Mr. HARRY F. BYRD, JR. Now, this precise item deals with the soft loan window of the International Bank, the International Development Association. How much money has been put into that soft loan window, namely, IDA, and how much of that has been U.S. money?

Mr. INOUYE. I just read off the IDA contribution; $17,889,000,000.

Mr. HARRY F. BYRD, JR. The IDA contribution is $17,000,000,000. What is the total World Bank figure?

Mr. INOUYE. That is for the total. Our contribution was $5,314,900,000. Our percentage of the total is 29.7 percent.

Mr. HARRY F. BYRD, JR. I am a little confused as to the total for the World Bank vis-a-vis the total for the International Development Association.

Mr. INOUYE. The total for the World Bank is $31.9 billion.

Mr. HARRY F. BYRD, JR. Of U.S. dollars? Of U.S. money?

Mr. INOUYE. Of which our contribution was approximately $7.5 billion.

Mr. HARRY F. BYRD, JR. A sum of $7.5 billion to the World Bank as such?

Mr. INOUYE. Yes. And in IDA, the total contribution is $17.889 billion, and our contribution is $5.3 billion.

Mr. HARRY F. BYRD, JR. Now, IDA lends money; IDA makes loans to other nations at what interest rate, at the present time?

Mr. INOUYE. A 1 percent service charge.

Mr. HARRY F. BYRD, JR. There is no interest but a 1 percent service charge?

Mr. INOUYE. These loans are made to the poorest of countries, and I am sure the Senator will agree with me that the best interests of the United States would call for a stable world. I think these funds are well invested and well used. If we are to look at it selfishly, it has developed dollars for our Government, as I have tried to indicate to the Senate, as in the callable capital for the World Bank, without outlaying a penny——

Mr. HARRY F. BYRD, JR. This is not callable capital, is it?

Mr. INOUYE. No, this is not.

Mr. HARRY F. BYRD, JR. This is a direct appropriation.

Mr. INOUYE. But I think the principle is the same, that for every penny we appropriate we have been receiving dollars.

Mr. HARRY F. BYRD, JR. To get to the precise item we are speaking of, we are talking about $1,300 million of direct appropriation, as I understand it. It has nothing to do with callable capital, what we are talking about now. That is $1.3 billion of tax funds that will be appropriated to the International Development Association, a part of the World Bank operation. Now, that money, in turn, will be loaned to various countries at no interest rate, but with a 1 percent service charge.

Just so that the Senate and the public understand what we are doing, we are taking money out of the pockets of American taxpayers, money that we do not have; we go out and borrow the money, the Government is now paying 10.5 percent interest, and we are turning that over to other governments at no interest and a 1 percent service charge going to the international banking institutions.

This money is being appropriated under this legislation, under this section we are dealing with now, $1,300 million appropriated to the financial banking institutions which will then be loaned to other countries.

Mr. INOUYE. If I may, Mr. President, I think this is a very basic issue, which I think the Senate must discuss.

Twenty years ago when the United Nations made a study, the world was divided into two parts: the developed world and the undeveloped world. They went further to divide the people into haves and have-nots.

Twenty years ago, approximately 40 percent of the world's population was considered in the have category, and by have we meant any person with a per capita income of more than $400 a year. The have-nots were those with less than $400 a year, 60 percent of the world's population.

Today, it is approximately 30 to 70, according to those statistics. Thirty percent of the world is in the have category and 70 percent in the have-not.

At this moment, about 25 percent of the population is suffering from severe malnutrition. They are on the verge of dying from starvation. I am certain that all of us here will agree that these poor folks are not going to silently sit about and suffer. The reaction is being felt throughout the world. Revolutions are commonplace, assassinations are commonplace. The overthrowing of governments seems like a weekly affair. The one thing that this Nation requires is a stable world. We cannot survive by ourselves.

About a decade ago, the then President of the United States commissioned a study to determine the strategic needs of this country. He asked a panel of experts to come forth with a list of goods that are absolutely essential for the well-being of this country—steel, copper, aluminum, titanium, and the like. It was determined that of all the goods which were listed, we were able to provide ourselves with only 15 percent. Eighty-five percent had to come from the outside. This 85 percent, Mr. President, is not in the developed countries. You do not find them in Europe. You do not find them in Japan. You find them in the underdeveloped countries.

One of these days these poor, starving folks are going to catch on to the free enterprise system, and if you think the oil embargo was bad, imagine if they put embargoes on other things, such as aluminum. Detroit would close its doors in 2 weeks. We will not have to be worried about Chrysler because all the auto companies would fold up.

What we are trying to do through these banks is slowly and laboriously to help these countries develop themselves, feed themselves, clothe themselves, hold back their frustrations.

It is so trite to say this; it has been said so often. We are not an island. Even if we wanted to be, we could not be an island.

If we insist upon the benefits of this century, if we insist upon maintaining our position of leadership in this world, if we insist upon being a superpower, then let us behave like a superpower.

Mr. HARRY F. BYRD, JR. No one is questioning the generosity of the American people. American taxpayers have given to foreign countries more than $250 billion since World War II. No one can question American generosity.

But there is no assurance that this money goes to help poor people. This money goes to governments. I do not think there is any Member of the Senate who can say with assurance how much money might be siphoned off by these governments, government leaders, or officials. No one can say with assurance how much is getting down to helping the individual citizens. The Senator from Virginia thinks very little is trickled down to the individual citizens in these countries.

Those who vote for foreign aid in the United States Senate have the best of intentions. They want to help the poor in the poor countries. But the Senator from Virginia is convinced that in so many of these countries the leaders of government are the ones who are benefiting and not the poor people.

Mr. INOUYE. Mr. President, I ask unanimous consent that the vote on this amendment be deferred until 2 o'clock, following the 2 o'clock vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INOUYE. May we have the next amendment?

The PRESIDING OFFICER. The clerk will state the next amendment.

The assistant legislative clerk read as follows:

> On page 5, line 3, beginning with the colon on line 3, strike through and including the word "Sudan" in line 10.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I ask that the yeas and nays on this amendment be deferred until the first two amendments have been acted upon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 5, line 13, strike "$355,464,687" and insert "$371,077,301".

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Will the managers of the bill indicate the reason for that increased figure?

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, of all the multilateral development banks, the committee has felt over the last few years that the Asian Development Bank is the best managed, the most cost conscious, has been moderate in its pay scales, and has been very considerate in its travel allowances. Our share, unlike other banks, is a rather small one. It is 11.8 percent.

It does involve itself with the poorest of the poor in that part of the world. We felt that it was a wise investment.

Mr. President, the proponent of the first amendment on page 5 has not said anything in favor of the amendment, but I should like the record to show that the majority of the committee is opposed to the amendment submitted by the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. INOUYE. Yes.

Mr. HARRY F. BYRD, JR. The Senator from Virginia has not submitted any amendment.

Mr. INOUYE. The Senator from Virginia wanted a vote on the amendment.

Mr. HARRY F. BYRD, JR. The Senator from Virginia submitted no amendment. All the Senator from Virginia did was ask for a vote on the committee amendment.

Mr. INOUYE. Does he wish to tell us why?

Mr. HARRY F. BYRD, JR. I wanted a vote. I think it would be very appropriate to have a vote on this amendment, to have those who favor or those who may not favor, depending on the way he votes—many feel that it is not wise to use tax funds to finance assistance or reparations to Vietnam. Those who do not want to do that can vote against the committee amendment. Those who want to have these funds available, if the World Bank so decides, for Vietnam can vote for the amendment. All the Senator from Virginia did is ask for a vote on the committee amendment.

Mr. INOUYE. Mr. President, then I should like to say a few words on this.

This is a very important amendment. I believe it reaches to the heart of the concept of multilateral development banks. If the Congress of the United States supports the multilateral concept, then the proposal made by the Senate committee should be upheld. If we are out to gut the World Bank and to do away with multilateral development banks, then I say, support the House language.

If the United States, as one of the contributing countries, insists upon placing a restriction upon its contribution, then what will stop other countries from doing the same thing? Once that happens, the multilateral nature of the bank will disappear.

It might be pointed out that, at this stage in our history, the Israelis and the Arabs are considered to be enemies. Yet, when Saudi Arabia makes its contribution to the World Bank, it does not say, "However, none of these funds may be used for loans, directly or indirectly, to Israel." It is an unconditional contribution.

If we start putting in something like this, that none of the funds made available by this paragraph can be obligated or expended to finance any assistance to Vietnam, then I think every other country has the right to make conditional contributions, and once we do that, this bank is dead.

I think it is good enough that our representative on the World Bank, sensing the mood of this country, can speak up and at least vote against assistance to Vietnam. But to put a condition on our contribution would be the beginning of the end of the multilateral development banks.

So I say, Mr. President, if it is the intention of this body to destroy the World Bank, vote for the House language. If it is the intention of this body to support the World Bank and the purposes of that Bank to bring about stability in this world, then, I say, vote against the House language. It is that simple.

Mr. GARN. Mr. President, I want to make a brief comment at this point, because I have some other amendments. We are going to get into this discussion at much greater length on this bill before the afternoon is over. But I have heard Mr. McNamara come up here. I am always reminded, every time I see him, that he was the producer of the Edsel when he was at Ford Motor and president of that company. But we are continually told, and I think deceptively so, that the charters of these banks prohibit them from accepting any restrictions whatsoever. That is not a fact. There is no legislation that tells them that it is going to break them all up. It is regulations or policies developed by their board.

So McNamara comes back here and tells us this will split up multinational banks if we place restrictions. I am not about to sit here without a fight on these particular areas where money is going directly, American taxpayers' money, to South Vietnam. We are spending $456 million to help the boat people and, indirectly, one of the worst regimes ever on the face of this Earth, which is driving those people out, killing Cambodians, and money is going to them through these international banks.

I think the Senate and the House of the United States have a right to restrict our taxpayers' money. I used to be a mayor; the Senator from Virginia knows that. And, boy, the restrictions placed on Federal funds that I got, as an American citizen, elected by the citizens of Salt Lake City: I had to do this, cross that "t," dot that "i," report to GS-8's in Denver, Colo.

Now McNamara comes down and tells us if we place any restrictions on this whatsoever, directly or indirectly, to try to prevent money going to Communist dictatorships that are killing people, sending them out to sea without adequate facilities, I get a little angry, I get upset, I get a little tired of the baloney from Mr. McNamara.

It is not in their charters, it is not in law. They are using this as a kind of copout to continue these kinds of activities. I think they ought to be honest about it and say they probably cannot go to their boards and get them to change their policies. But it is a policy of their boards; it is not written into their charter. We shall have more to say about this later.

Mr. INOUYE. Mr. President, I am sure the record will show that I did not once mention the name, "McNamara," nor did I mention the word, "charter."

Mr. PERCY. Mr. President, I do want to mention the name of Robert McNamara, a friend of mine for 25 years in industry and Government and a man for whom I have the highest regard. I have discussed with him some of the amendments that were passed in the House and what effect they would have upon the World Bank.

I am an avowed supporter of the record of the World Bank. I think their bond rating is beyond reproach. The record of the Bank is an outstanding one and under Bob McNamara's leadership, I think the World Bank has made tremendous strides. We can be proud of the leadership our country has provided.

I have been deeply concerned about the long-term effects of our bilateral foreign aid program. Over and over, I have seen this country get into deep trouble, as we did in Vietnam, with a venture which starts as an aid program. We tried to rescue that program but got deeper, and deeper, and deeper into the quicksand. I have long shared the view articulated in the admonition this past week of Pope John Paul II, that it is unconscionable for wealthy nations not to have a role in reaching out to help other countries stand on their own feet, that it is a tradition this country can be proud of.

What if we had not had a Marshall plan for Europe? What if we had not had other assistance programs in the face of need? The assistance programs are not only the right thing to do but, I think, over a long period of time, they had proven to be a sound financial undertaking also.

The developing world today constitutes the market for 25 percent of the exports of the United States of America, including $6.7 billion in just agricultural products alone. They are the future trading areas for us in the United States.

Certainly, we are dependent, as a have-not nation in raw materials and in mineral resources, such as oil, and are certainly now approaching the point where we shall be importing more than we actually produce. And the trend will be even stronger in the future.

We are dependent upon the developing

world for raw materials, for the kinds of products necessary to keep our factories going. So that to have a stable world, to have a world where we develop future markets and to be able to do so in a multilateral framework, without the onus of bilateral programs with burgeoning bureaucracies, is highly desirable. I hope we could have a bipartisan policy to work toward strengthening these development banks and the multilateral emphasis of our aid and development programs. I say aid and development because they go hand-in-hand. We cannot have stability abroad unless people can foresee an opportunity for their individual advancement, and that is the whole intent and purpose of it.

Mr. President, the Senate's vote on the proposed drastic cut in funding for the World Bank is a very crucial one, and I urge every Senator to consider seriously what the results would be not only for the developing countries but for our own self-interest. I urge the strong support of my colleagues for the amount contained in the Senate bill.

The international financial institutions, and especially the World Bank, are a key factor in our efforts to build constructive relationships with Third World countries. There is no question that the economic well-being of the world's developed and developing countries are inextricably bound together, and will be even more so in the future. Developing countries need our resources to survive and grow. As they grow, we all benefit. These same countries represent important markets for our exports. It should not be lost on us that the LDC's now comprise the largest and most rapidly growing single export market for U.S. goods and services. They now take one-fourth of all U.S. exports. As their economies grow, these markets will grow.

Furthermore, many of these developing countries are major suppliers of raw materials. The United States is already a have-not country when it comes to many raw materials, and in the years ahead we will become increasingly dependent on developing countries for supplies. We also have a fledgling program in the World Bank for development of energy sources in non-OPEC developing countries. This program has great promise for the future, and we would be working against our own interests to slash funds which would affect this undertaking.

Mr. President, I would point out that the international community is facing the threat of a worldwide recession. Increasing aggregate world demand through increasing monetary flows to the developing countries can provide an important stimulus to world economic recovery. It is not in our interest to go in a negative direction given the current state of the global economy.

I urge the Senate to support the funding for the World Bank which has been recommended by the Appropriations Committee.

Mr. President, I am also greatly concerned about the impact on the proposed restrictions on the use of our contributions to the international development banks. Each institution has made it clear that a contribution which has conditions attached cannot be accepted and used. World Bank president Robert McNamara has stated that if the proposed amendment is adopted, the International Development Association, the "soft-loan" window of the World Bank, would be forced to stop lending. The IDA lends to the world's poorest countries. The position taken by the banks has been supported by the GAO, the Congressional Research Service, and the American Bar Association.

I simply cannot imagine a more disastrous vote that the Senate could cast following the triumphal visit to this country of a compassionate, understanding, decent human being, who exemplifies the spiritual leadership the world is thirsting for, Pope John Paul II. He could not have been more sincere in the remarks he made in Chicago, Washington, Boston, and New York—particularly New York—when he talked about the responsibility of developed countries to developing countries.

Another serious result of this kind of restriction, I believe, is that it could only encourage other donor countries to do likewise and place restrictions on their contributions. The CRS report on U.S. policy and the multilateral banks makes this point clearly:

> The United States runs an almost inevitable risk, as it introduces its own policy concerns in the banks, that its actions might encourage other nations to also use the organizations for their own national purposes by interjecting other, less welcome, issues in the multilateral institutions. For example, the Arab countries now attach no limitations to their contributions and loans to the banks and the Israelis have received several credits in recent years from the World Bank and International Finance Corporation. If non-economic criteria become legitimate grounds for allocating development assistance from the banks, the Arab countries might be encouraged to use their financial leverage to discourage loans for countries that do not adhere to their line on Middle Eastern affairs.

My position is certainly not to be interpreted as an endorsement of the governments being singled out. It is simply an acknowledgment of the reality that an action taken for the best of intentions can in the end work against our own interests. If the Banks cannot accept our contributions, what happens to those countries whose governments we do support and who rely on assistance from the Banks? They will become innocent victims of a misguided policy, and the first thing they will do is seek out bilateral aid from the United States.

Mr. President, the proposed amendment will disrupt the operations of the Banks and jeopardize the well-being of a great number of developing countries. This works against their interest, and it works against our interests. I urge the Senate to defeat the amendment.

Mr. President, the final point I wish to make is that there seems to be no intention on the part of the World Bank to make any loans to Vietnam. For us then to simply put ourselves in a straitjacket over a policy and thereby jeopardize the institutions we have long supported, works against our interests. To try to say, "Don't do something," which they have no intention of doing anyway, would just put them in an embarrassing position—to appear that they would have done it otherwise.

I just cannot see the wisdom of that policy, with all due respect to my colleagues in the House and my distinguished colleagues on the floor of the Senate.

Mr. GARN. Will the Senator yield?

Mr. PERCY. I yield the floor, Mr. President.

Mr. GARN. Mr. President, today I have heard several times on this that we are slashing, cutting, or gutting the World Bank.

I simply want to remind my distinguished colleague that we are talking about over a 500-percent increase over last year and we are talking about defeating that increase.

We are not talking about a cut in World Bank funds, only a decrease in the massive 500-percent increase over last year.

I only repeat on these restrictions of funds that it is not in the charters of these Banks that they cannot accept restricted funds. It is not in the law of the United States that they cannot. That is a policy adopted by the Board of Directors, and that is my point.

I only disagree, not in philosophy of what we are trying to accomplish with these funds, but doing everything this Senator can to make sure American taxpayer dollars do not go to a repressive, genocidal regime like exists in South Vietnam.

Mr. PERCY. Will the Senator yield for a moment?

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. What is the pending amendment?

The PRESIDING OFFICER. We are considering page 5, line 13, of the committee amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, is there time for one question?

Mr. INOUYE. Mr. President, I ask unanimous consent that the vote on the amendment be deferred until we are finished with the first three.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, because of the very high regard which I and my colleagues hold for the distinguished ranking minority member of the Appropriations Committee, who is managing the bill today (Mr. GARN), I think it would be very helpful if Senator GARN could amplify somewhat the commonality of interest we have and the degree of support that he does have for the concept of multilateral aid as against bilateral aid.

Mr. GARN. We had a great discussion of that earlier, and I wanted that increase in the Export-Import Bank; but the increase was so large in the World Bank that when we got to the bottom of the budget ladder, there was nothing left over.

I do not oppose the concept. I oppose the massive increase going on this year and the possibility, indirectly, of taxpayers' dollars going to these Communist countries.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on the second, third, and fourth rollcall votes, which will come back to back——

The PRESIDING OFFICER. Only three rollcall votes are now scheduled.

Mr. ROBERT C. BYRD. Then, I have been misinformed.

I ask unanimous consent that there be a 10-minute limitation on each rollcall vote—the second and third.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The time of 2 o'clock having arrived, by previous agreement, the Senate will now vote on the committee amendment on page 3, line 9. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Tennessee (Mr. SASSER), are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), would vote "yea".

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—53

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Lugar
Magnuson
Mathias
McGovern
Metzenbaum
Moynihan
Nelson
Packwood
Percy
Riegle
Sarbanes
Schmitt
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Tsongas
Williams

NAYS—41

Armstrong
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Cochran
Cohen
Dole
Exon
Ford
Garn
Hatch
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
McClure
Melcher
Morgan
Muskie
Nunn
Pressler
Proxmire
Pryor
Randolph
Roth
Schweiker
Simpson
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—6

Culver
Goldwater
Matsunaga
Pell
Ribicoff
Sasser

So the committee amendment on page 3, line 9, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 4, LINE 11

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the committee amendment to page 4, lines 11 and 12. The question is on agreeing to the committee amendment.

(Putting the question.)

The committee amendment was agreed to.

COMMITTEE AMENDMENT ON PAGE 5, LINE 3

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the committee amendment appearing at page 5, lines 3 through 10. The question is on agreeing to the committee amendment. The yeas and nays have been ordered, and the rollcall will be for 10 minutes by previous agreement. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Rhode Island (Mr. PELL), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—54

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Church
Cranston
Danforth
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lugar
Magnuson
Mathias
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Stevens
Stevenson
Tower
Tsongas
Weicker
Williams

NAYS—41

Bayh
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Cohen
DeConcini
Dole
Domenici
Exon
Ford
Garn
Hatch
Heflin
Helms
Hollings
Humphrey
Jepsen
Laxalt
Long
McClure
Melcher
Morgan
Pressler
Proxmire
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stewart
Stone
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NOT VOTING—5

Culver
Goldwater
Matsunaga
Pell
Sasser

So the committee amendment on page 5, lines 3 through 10, was agreed to.

COMMITTEE AMENDMENT ON PAGE 5, LINE 13

The PRESIDING OFFICER (Mr. LEVIN). Under the previous order, the Senate will now proceed to a 10-minute rollcall vote on the committee amendment appearing at page 5, line 13. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Pennsylvania (Mr. SASSER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who still wish to vote?

Mr. EXON voted in the affirmative.

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—52

Armstrong
Baker
Baucus
Bayh
Biden
Boren
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Church
Cranston
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Huddleston
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Lugar
Mathias
McGovern
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Ribicoff
Riegle
Sarbanes
Stevens
Stevenson
Stone
Tower
Tsongas
Williams

NAYS—45

Bellmon
Bentsen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Oohen
Domenici
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Laxalt
Long
Magnuson
McClure
Melcher
Metzenbaum
Morgan
Muskie
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stewart
Talmadge
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—3

Culver
Matsunaga
Sasser

So the committee amendment on page 5, line 13, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The second assistant legislative clerk read as follows:

> On page 6, line 7, beginning with the colon, strike through and including the word "Bank" in line 10.

Mr. GARN. Mr. President, I rise in opposition to the committee amendment just read. The House included a provision under the Asian Development Bank which simply conditions our funding to that institution to be continued on continued membership of Taiwan. The House felt that because of the new political situation vis-a-vis the PRC, some kind of guarantee was necessary so that our Taiwanese friends were not thrown out of this institution. This seemed to me to be a reasonable position which the Senate should support.

Mr. President, I urge the Senate to reject the committee amendment striking this provision, agreeing with the House language that would guarantee the continued membership of Taiwan in the Asian Development Bank.

I yield to my colleague from North Carolina.

Mr. HELMS. I thank my friend from Utah.

Mr. President, in my judgment, it is essential that we maintain at this time the language which the House inserted in title I, which provides that no payments may be made to the Asian Development Bank unless Taiwan continues its membership in that bank. I say that it is essential at this time because of the unseemly pressures which are being applied against the Republic of China with regard to the Aviation Treaty. Before anybody raises any questions about it, Mr. President, the Senator from North Carolina knows full well that there is no direct connection between the Aviation Treaty and the Asian Development Bank. But there is the very obvious indirect connection of whether the United States is going to keep faith with its promises to the Republic of China. As a matter of fact, a number of us have already asked whether the attempt to break the Aviation Treaty by the State Department is going to be the beginning of a pattern of downgrading our relationship with the Republic of China, and we have not yet received a satisfactory answer to that question. Indeed, we have received no reply at all.

So here we are: The Senate is presented with a House bill which includes language which is designed to reaffirm our commitment to Taiwan with regard to the Asian Development Bank. Indeed, the Taiwan Relations Act, which was the subject of such intense debate earlier this year says, specifically:

> It is the policy of the United States of America to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security of the social or economic system of the people of Taiwan.

So here we are, being put to the test. Did we mean what we said? We are being asked to maintain our capacity to resist any resort to any form of coercion that would jeopardize the security of the social or economic system of the people of Taiwan. The expulsion of Taiwan from the Asian Development Bank would certainly jeopardize its economic system, if not directly, then indirectly, because such an expulsion would tend to reduce Taiwan's international economic status. And since we already have evidence that the State Department is trying to undercut Taiwan in one economic field; namely, the rights covered by the Aviation Treaty, we have plenty of reason to doubt State's intentions in other economic fields as well. Therefore, Mr. President, it is the duty of the Congress to maintain the capacity of the United States to resist any form of coercion. We can maintain that capacity now by keeping the House language and voting "nay" on the committee amendment.

Furthermore, let me point out that the Taiwan Relations Act also says:

> Nothing in this Act may be construed as the basis for supporting the exclusion or the expulsion of Taiwan from continued membership in any international financial institution.

Now, Mr. President, that is what we said when we adopted the Taiwan Relations Act earlier this year. To be sure, that is a negative statement, but it is, nevertheless, a commitment to Taiwan that we will support Taiwan's continued membership in international financial institutions. The Asian Development Bank, of course, is precisely just such an institution. If the Senate at this point cuts out language which the House has approved strengthening our capacity to resist coercion against Taiwan's economic life, then the Senate would be casting doubt upon the will of the United States to keep its commitments. That doubt has already been raised by the antics of the State Department with regard to the Aviation Treaty. It is, therefore, incumbent upon Congress to reaffirm this commitment now.

Mr. President, there may be some who would say that this language is unnecessary, since the Asian Development Bank has taken no steps yet to expel Taiwan. Yet we know that it is the policy of Communist China to throttle Taiwan at every opportunity. It is Peking's policy to deny the legitimacy of the Republic of China's participation in any international institution or forum. We also know that it is the U.S. State Department's policy to toady to the Communist rulers in Peking at every opportunity. If the Senate votes to eliminate the House language today, it will send a clear signal to Peking that the door is open to insist upon the expulsion of Taiwan from the ADB.

In the opinion of the Senator from North Carolina, it probably would have been better if the issue had not been raised. Indeed, there was no need to raise it last July when the House acted on this provision. But now that it has been raised, it seems to me that we have no choice but to meet it head on. We must embrace the House's position, or we will look like we are inviting Communist China to take action in the Asian Development Bank to expel the Republic of China. We may not like the fact that we are faced with this issue, but we cannot avoid it or evade it. Every Member of the Senate who has ever stood up for Taiwan will be put on record today as to his constancy or fidelity to a great ally. His or her record on this vote will be subject to great scrutiny. It is simply a question of whether or not we will be faithful to our commitments. This Senator from North Carolina thinks that it would have been better had the issue not been raised. But the Senator from North Carolina did not raise it; the House of Representatives raised it. If we concur in the action of the distinguished members of the Appropriations Committee, we will be evading our obligations and our commitments.

The committee amendment, Mr. President, should be rejected.

Mr. INOUYE. Mr. President, one of the greatest foreign policy actions of this decade, without question, was the recognition of the fact that there are a billion people living in China, that the United States finally had the good sense to recognize this fact. The recognition of China was initiated by President Nixon and supported by succeeding Presidents.

I am well aware that there are many in this body who look upon the Republic of China or Taiwan with great friendship and nostalgia and who wish to have the people of Taiwan know of our continuing support and commitment. But, Mr. President, I maintain that this is not the place to indicate your commitment, your support, or your friendship.

Once again, we are trying to put a restriction on our contribution to a bank. I had hoped that the issue was resolved in the last vote, but here we are again.

Before we take a vote on this, Mr. President, even if we do have diplomatic relations now with the People's Republic of China and we have severed formal relations with Taiwan, the fact remains that we still continue with ever-increasing vigor our economic relations with the people of Taiwan. Our economic relationship flourishes. The people of Taiwan are well aware of this support and importantly, at this stage, we have not received any word, one way or the other, indicating that the Asian Development Bank is desirous of discontinuing the membership of Taiwan in the Bank.

I hope that the Senate will concur with the amendment of the Appropriations Committee.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. STEWART). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

COMMITTEE AMENDMENT ON PAGE 6, LINES 7–10

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 6, lines 7 through 10. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who desires to vote who has not done so?

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—58

Baker
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Cannon
Chafee
Chiles

Church
Cohen
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Stafford
Stevenson
Stewart
Tower
Tsongas
Weicker
Williams
Zorinsky

NAYS—39

Bayh
Boren
Byrd, Harry F., Jr.
Byrd, Robert C.
Cochran
Danforth
Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Laxalt
Long
Lugar
McClure
Morgan
Nunn
Pressler
Proxmire
Randolph
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Talmadge
Thurmond
Wallop
Warner
Young

NOT VOTING—3

Armstrong
Matsunaga
Sasser

So the committee amendment on page 6, lines 7–10, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

> On page 20, beginning with line 3, strike through and including line 17, and insert in lieu thereof the following:
>
> SEC. 511. Not to exceed 75 per centum of the funds made available by this Act to any country for foreign nationals sponsored by the Agency for International Development to participate in training programs in the United States shall be available for such trainees who are selected directly or indirectly by the government of that country, and it is the sense of the Senate that at least 25 per centum of such trainees from each country should be chosen by independent selection panels designated by the United States ambassador assigned to such country, upon the recommendation of the mission of the Agency for International Development in such country, and that not less than 80 per centum of the members of each such panel should be citizens of such country.

Mr. HARRY F. BYRD, JR. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for a division, a separate yea and nay vote on section 511, section 512, and section 513.

The PRESIDING OFFICER. The Senator has that right. The amendment will be so divided and the yeas and nays having been previously ordered prior to the division will apply to the three separate parts thereof.

The question is on agreeing to division I.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the House version of this bill, H.R. 4473, wisely cut off aid to Mozambique. I believe that the House prohibition should be preserved, because Mozambique stands today as the greatest threat to the peace and stability of sub-Saharan Africa in the Dark Continent.

It is not just that the regime of Samor Machel is a Marxist regime, intent on extinguishing the human rights of the people of Mozambique and the imposition of Marxist tyranny. It is not just that the Machel regime is incompetent to the point of criminal negligence, so much so that Mozambique today is in a state of chaos economically, socially, and politically. The real nub of the question is that Machel is the prime support and host of the notorious Marxist terrorist leader, Robert Mugabe.

I assume that there is no doubt in this Chamber that Mr. Mugabe is a doctrinaire Marxist, intent upon establishing a one-party totalitarian dictatorship over Zimbabwe-Rhodesia. He has been receiving help from both the Soviets and the Chinese. He is responsible for hundreds upon hundreds of terrorist raids against the blacks of Zimbabwe-Rhodesia, burning mission stations, raping nuns and teachers, and putting children and babies to the sword. Mugabe could not exist without the collaboration and support of Samor Machel.

It should be pointed out also that Mugabe is the biggest stumbling block to peace as a result of his actions at the London conference. He has been very blunt to the point of arrogance about his desire to set up a one-party, totalitarian dictatorship in Zimbabwe-Rhodesia. He has not tried to hide his intentions to deprive whites who have come to Rhodesia since 1964 of their citizenship, and to deprive all whites of their property without compensation. The version of the constitution which he has submitted to the London Conference is a perfect model of his dictatorial plan. And whereas Bishop Muzorewa, the freely elected Prime Minister of Zimbabwe, has made costly concessions to Lord Carrington—concessions that may well fatally weaken his government and weaken the cause of peace and progress—Mugabe has, nonetheless, remained adamant and rejected the Carrington proposals.

It is therefore appropriate that Congress act at this time to deny aid and assistance to Mugabe's host and collaborator, the Communist dictator, Samor Machel. If we want to see a Marxist Southern Africa, a Southern Africa embroiled in civil and tribal warfare and anarchy, then we must vote to keep U.S. taxpayers' money flowing to our enemies. This is the kind of vote which separates the sheep from the goats. It is the kind of vote which voters will be examining to see whether the American traditions of freedom and independence are being supported by Senators. They will be looking to see if they want to reelect Senators who consistently vote against American traditions of loyalty and freedom.

Mr. President, I submit that we cannot evade our consciences or the American people on this particular vote. I urge that we uphold the House language and vote against the committee amendment.

Mr. INOUYE. Mr. President, before proceeding further with the discussion, I wish to make a unanimous-consent request that the debate on sections 511, 512, and 513 be taken up before voting on these three sections and that the vote on section 511 be for 15 minutes and the vote on sections 512 and 513 be 10 minutes apiece.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, is the Senator willing to amend that just slightly and provide prior to the vote on section 513 that there be a 10-minute debate equally divided, 5 minutes to a side?

Mr. INOUYE. I so amend my unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, on section 511 I, too, concur with the Senator from North Carolina in my condemnation of the present regime in Mozambique. But, having said that, Mr. President, I do not wish to tie the hands of my President. The President of the United States has been the Chief Executive of our foreign policy, and I believe the record will indicate that during the last year he has not proposed any developmental loans or grants for Mozambique. I think that is the way it should be.

Furthermore, if circumstances should change, the committee amendment would give our President ample opportunity to provide assistance, if such be necessary.

So, Mr. President, I hope this Senate and this Congress will not unduly tie the hands of the President of the United States.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. INOUYE. I would be happy to yield.

Mr. HELMS. I want to suggest to the Senator that the House amendment, which the comittee would strike, does not tie the hands of the President. Beginning on line 5 it says:

> except that the President may waive this prohibition if he determines, and so reports to the Congress, that furnishing such assistance would further the foreign policy interests of the United States after all.

So the Senator's fear would be allayed, and I hope he will accept this amendment.

Mr. INOUYE. Why do we single out one country for this special treatment?

Mr. HELMS. Well, the Senator just finished saying he agreed with me in condemning the dictator of Mozambique.

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I think that is enough to say about a country.

The **PRESIDING OFFICER**. Is there further debate on division 1?

Mr. **HELMS**. Mr. President, I just want to make sure that the Senator is not willing to let the House amendment stand in light of his fears having been allayed with regard to tying the hands of the President.

Mr. **INOUYE**. My fears have not been allayed.

Mr. **HELMS**. What would it take to allay those fears?

Mr. **INOUYE**. The yeas and nays have been ordered.

Mr. **HELMS**. I understand that, but we can vitiate the yeas and nays.

Mr. **INOUYE**. If there is no further discussion, Mr. President, may we proceed to the second?

COMMITTEE AMENDMENT TO SECTION 512

The **PRESIDING OFFICER**. The Senator may proceed to debate on section 512.

Mr. **HATFIELD**. Mr. President, will the Senator yield?

Mr. **INOUYE**. I yield.

Mr **HATFIELD**. Mr. President, I ask unanimous consent that Tom Betman and Rick Rolf, of my staff be given the privileges of the floor.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HATFIELD**. I thank the Senator.

Mr. **INOUYE**. Mr. President, this is a very important section. The two key words are "directly" and "indirectly."

If a prohibition of making indirect assistance to any country is accepted, it will put a restriction on our contributions to the banks.

Second, I think it is interesting to note that the Central African Empire, appearing on line 13, no longer is in existence. A few weeks ago, while Emperor Bokassa I, was out of the country, he was dethroned and a new country came into being, the Central African Republic.

I am certain this amendment was aimed at the dictatorial rule of Emperor Bokassa, but if this amendment had been law today we would not be able to provide any assistance directly or indirectly to the new government of the Central African Republic.

Here again I think we should have trust in our President that he will carefully evaluate any asistance programs that might be proposed for Angola, the Central African Republic, Cambodia, Laos, and Vietnam. These in turn must be submitted to the committee for approval.

None of the funds in this bill have been requested for assistance to Angola, the Central African Empire, Cambodia, Laos, or Vietnam.

The major damage that this amendment will do to our relationship in this world is to place restrictions on our contributions to the several banks, and I think we have had adequate discussion on what it would do to the multilateral development banks. So I hope the Senate will support the committee recommendation and vote "aye" on this.

Mr. **GARN**. Mr. President, when this legislation was considered on the floor of the House, this particular amendment was offered, and passed on a recorded vote by a margin of more than 100 votes.

What it does is to prohibit direct and indirect assistance from going to a group of countries which, for obvious reasons, are considered as not less than outlaw type regimes. We are talking about governments which barely deserve recognition by the civilized world, governments such as Vietnam and Cambodia which have systematically exterminated thousands of its citizens. I am well aware of some of the arguments that will be used against my position that we should accept the House position, and in anticipation of some of these arguments I would like to make the following observations:

Surely the United States as the principal founder, donor and leader of the international institutions that will be affected by these provisions should exert some leadership with respect to human rights. Yes, these are multilateral institutions, but I do not see that as being justification to ignore human rights. While undoubtedly these institutions have done a great deal of good I do not believe that their integrity or the niceties of international legalism are so sacred that such things as human dignity or human life have a lower priority.

The assertion is going to be made that if a provision such as this is accepted, the international banks will not be able to accept any of our contributions because of charter limitations. There are no specific charter provisions which prohibit the acceptance of funds which contain restrictions.

I want to repeat that. Desipte the fact of the intense lobbying effort in the past couple of weeks to indicate otherwise, there are no specific charter provisions which prohibit the acceptance of funds which contain restrictions. In fact, it seems clear that it is not mandatory that the banks turn down a restricted contribution but rather it is something that is up to the discretion of the Board of Governors. The obvious point is that if the Boards of Governors so decide the U.S. contribution could be accepted with the restrictions the House has suggested, and I am recommending to the Senate that they do so.

Parenthetically, I might add that it is the various boards of the banks which make and adopt policy for them, and not the administrations of the banks. In the case of the World Bank for instance, it is not Robert McNamara who sets policy but rather the Board of Governors. Again, let me emphasize that it is within the powers of the Boards of Governors of these banks to accept U.S. contributions containing these restrictions. There are no charter restrictions, there are no restrictions in U.S. law.

There has been a great deal said recently concerning the status of loans or possible loans to Vietnam. Some have stated that such loans are frozen. No such action has been taken. Should such action be taken, the bank would be doing no less than what I am trying to do—introduce human rights considerations into lending policy.

Mr. President, during full committee consideration my distinguished chairman stated that it had been U.S. policy to oppose loans because of human rights considerations, and therefore nothing additional in the way of policy direction is needed. Let me refer to page 35 of our report. It reads as follows:

> There is one area of concern, however, in which no detectable progress has been made, and that is human rights. In our hearings, the Secretary of the Treasury told the Committee that the United States Government "raised human rights concerns in the banks by opposing, through 'no' votes or abstentions, 50 loans to 15 countries where we considered human rights situations severe." In not a single instance were any of these loans disapproved.

So we express our opinions, request that they disapprove them, and on 50 loans to 15 countries where we consider human rights violations severe, not one single loan was turned down or disapproved by the Board of Governors.

I noticed in an editorial in the Washington Post of yesterday that it spent considerable space attacking the House language on the basis that the Central African Empire, now the Central African Republic, should not be in that group. I do not disagree with that, and should the House provision be adopted by the Senate I will offer an amendment to delete the Central African Empire. With respect to the remainder of the Washington Post diatribe suffice it to say that it is my intention by supporting the House provision simply to insure that no U.S. taxpayer funds go to those countries named in the provisions. I am not out to wreck the banks. If I were I would take a much more direct approach.

Mr. President, before concluding I think it is important to point out that in another section of this bill we are providing more than $456 million for a refugee program which at the beginning of fiscal year 1979 was a program just over $50 million. The astronomical increase, as I mentioned in my statement on the bill, is due to the Vietnam refugee situation. While I support that refugee assistance, I do not support the giving of taxpayer funds to that same government.

Mr. President, after we have a vote on this provision we will next consider the provision which would prohibit direct and indirect assistance to Cuba. As far as I am concerned the arguments which I have made with respect to this amendment apply also to the Cuba situation and therefore will not spend a great deal of time discussing it.

I will conclude by stating that I hope my colleagues will support this effort to drag the international banks into this decade and the next decade where we will undoubtedly be considering more and more the human rights posture of all the countries of the world.

The **PRESIDING OFFICER**. The Chair will have to correct the parliamentary situation with regard to the division of the question.

Under the Senate rules, a motion to strike and insert, which is what this committee amendment is, is not subject to a division. Therefore, it will be treated as one question and voted on as one question.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Which amendment is the Chair addressing himself to?

The PRESIDING OFFICER. The amendment on page 20 striking sections 511, 512, and 513, and inserting in lieu thereof a new section 511 and renumbering the sections after that point. That is all one amendment, as the Chair understands it.

Mr. HARRY F. BYRD, JR. The insertion does not relate to the material that is being stricken.

The PRESIDING OFFICER. That does not matter.

Mr. INOUYE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. INOUYE. Is it not possible by unanimous consent to have separate votes?

The PRESIDING OFFICER. It is, by unanimous consent.

Mr. INOUYE. I did make a unanimous-consent request that there be separate votes on sections 511, 512, and 513, that the vote on section 511 be a 15-minute vote, and that the votes on sections 512 and 513 be 10-minute votes, but that before the vote on section 513 there be 10 minutes for debate, with 5 minutes to each side.

Mr. HARRY F. BYRD, JR. The Senator from Hawaii is quite correct.

The PRESIDING OFFICER. This was after the division had been demanded, but the division can only be done by unanimous consent.

Mr. INOUYE. I so request.

The PRESIDING OFFICER. Does the Senator ask unanimous consent?

Mr. INOUYE. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. Mr. President, reserving the right to object, I have an objection on my side only as to a part of the request, and that is the part that there be 10 minutes for debate in between. There is no objection on my part if the votes are all back to back, 15 minutes, 10 minutes, and 10 minutes, but there will be an objection to the 10 minutes in between.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. That has already been determined by unanimous-consent agreement, has it not?

The PRESIDING OFFICER. If the division is not obtained by unanimous consent, then the agreement with regard to the debate and separate votes would be wiped out.

Mr. GARN. Mr. President, if I may try to restate the unanimous-consent agreement, if they are separated, with separate votes on sections 511, 512, and 513 so that the first vote be for 15 minutes, the second vote be for 10 minutes, that there be 10 minutes prior to the third vote, and that the third vote be a 15-minute vote, that will solve the objection, and further, that the committee's new section 511 be agreed to.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as so modified? Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate had been advised that it was appropriate to seek a division and get a division on these three sections.

Mr. INOUYE. We have done that.

Mr. HARRY F. BYRD, JR. That has been settled now. But the Senate was under the impression it had been settled a long time ago. Then, when we are two-thirds of the way through, we are informed by the Chair that the procedure was not in order.

The PRESIDING OFFICER. The Chair was correcting an error, as he should have.

Mr. HARRY F. BYRD, JR. I suppose the Chair should correct an error if the Chair makes an error, but it was the Senator from Hawaii who got it straightened out, I might say, and I want to express my gratitude to the Senator from Hawaii for making clear that he had asked unanimous consent and was prepared again to ask unanimous consent that there be a division.

Mr. INOUYE. Mr. President, before we vote on these sections, I would just like to point out that the World Bank today has more than 130 contributor countries. None of those countries, much as they are tempted, have ever placed restrictions on their contributions. As I indicated, Saudi Arabia has never made its contribution subject to a prohibition of loans to Israel, nor has Pakistan made a contribution to the bank restricting any of its funds from going to India; and I could go on and on.

If the United States, as a superpower, should now initiate this practice of placing restrictions upon contributions, we are announcing to the world that we no longer believe in multilateral development banks. If that is the intention of the Senate, then so be it. But I believe that the Senate for many years has supported the concept of the multilateral development bank, and accordingly, I would hope that Senators will vote in favor of the committee recommendation.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question now occurs on agreeing to division I of the committee amendment on page 20, beginning on line 3. The yeas and nays have been ordered.

Mr. HARRY F. BYRD, JR. Mr. President, section 513 has not been called up yet.

The PRESIDING OFFICER. The Senator can debate it now, but once the vote occurs on division I, under the latest unanimous-consent agreement, it will be followed immediately by the votes on division II and division III.

Mr. HARRY F. BYRD, JR. No, that is not the understanding. First there was to be a vote on section 512.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. And then a vote on section 513 after 10 minutes of debate. I put that in the form of a parliamentary inquiry; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. Another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. What is the pending question?

The PRESIDING OFFICER. The pending question is on agreeing to the motion to strike section 511.

Mr. GARN. Mr. President, if the Senator will yield for a moment, there was an agreement that we would discuss all three prior to starting the first vote; so I believe I am correct that the Senator is free to go ahead and discuss the third division of the amendment, and when we are through with that debate, then we will go ahead with the process outlined in the unanimous-consent agreement.

Mr. HARRY F. BYRD, JR. I thank the Senator from Utah, but does not the clerk need to report the division of the amendment on section 513?

The PRESIDING OFFICER. That has been reported.

Mr. HARRY F. BYRD, JR. Mr. President, the House of Representatives said in section 513, "None of the funds appropriated in this act shall be used for any form of aid, directly or indirectly, to Cuba."

What the Senate committee did was to strike that. The Senate committee struck that section.

I would hope that the Senate would concur in the House position and make it clear that none of the funds appropriated in this act can be used to aid Cuba.

Mr. President, here is an opportunity for this Chamber to send a message to Cuba and to send a message to Russia that the United States does not like what is going on, that the United States does not like 40,000 Cuban troops being in Africa, that the United States does not like Russian combat troops being in Cuba, Russian military aircraft being in Cuba, and Russian missile carrying submarines being in Cuba.

I would hope that the Senate would utilize this opportunity, by voting down the committee amendment, to send a message to Cuba and to Russia.

DIVISION I—COMMITTEE AMENDMENT BEGINNING ON PAGE 20, LINES 3 THROUGH 9, SECTION 511

The PRESIDING OFFICER. The question is on division I, section 511. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church) and the Senator from Hawaii (Mr. Matsunaga) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. Laxalt) is necessarily absent.

The PRESIDING OFFICER (Mr. Baucus). Have all Senators in the Chamber voted?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—39

Baucus
Bayh
Bellmon
Biden
Bradley
Byrd, Robert C.
Chafee
Chiles
Cranston
Culver
Durenberger
Glenn
Gravel
Hart
Hatfield
Hollings
Huddleston
Inouye
Javits
Kassebaum
Kennedy
Levin
Lugar
Mathias
McGovern
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Ribicoff
Sarbanes
Sasser
Stevens
Stevenson
Tsongas
Williams
Young

NAYS—58

Armstrong
Baker
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jackson
Jepsen
Johnston
Leahy
Long
Magnuson
McClure
Melcher
Metzenbaum
Morgan
Nunn
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—3

Church
Laxalt
Matsunaga

So division I of the committee amendment was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which division I was rejected.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIVISION II—COMMITTEE AMENDMENT BEGINNING ON PAGE 20, LINES 10 THROUGH 14, SECTION 512

The PRESIDING OFFICER. The question now occurs on the motion to strike section 512. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 49, nays 46, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—49

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Chafee
Chiles
Cranston
Culver
Danforth
Durenberger
Durkin
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Huddleston
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Lugar
Mathias
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Ribicoff
Riegle
Sarbanes
Sasser
Stevens
Stevenson
Tower
Tsongas
Weicker
Williams

NAYS—46

Bayh
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Cohen
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Long
Magnuson
McClure
Melcher
Morgan
Nunn
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stewart
Stone
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NOT VOTING—5

Biden
Church
Laxalt
Matsunaga
Stennis

So division II, page 20, lines 10–14, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which division II was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIVISION III—SECTION 513

The PRESIDING OFFICER. There will now be 10 minutes for debate, equally divided, on section 513.

Who yields time?

Mr. HARRY F. BYRD, JR. I yield myself 2 minutes.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HARRY F. BYRD, JR. Mr. President, I shall take only a couple of minutes.

When the House of Representatives sent this bill to the Senate, it had this language in it:

> SEC. 513. None of the funds appropriated in this act shall be used for any form of aid, directly or indirectly, to Cuba.

The Senate committee has eliminated that language. It seems to me that it would be well for the Senate to adopt the House position. As we all know, during the entire month of September, both the Secretary of State and President Carter told the American people on a number of occasions that the presence of Russian combat troops in Cuba is not acceptable.

Not only do the Russians have combat troops in Cuba, but also, Cuba is permitting Russia to use her harbor there for Soviet submarines. There are Russian military aircraft in Cuba.

So it seems to me that here is an opportunity for the Senate of the United States to send a message to Castro and a message to the Soviet Union that the Senate is not at all enthusiastic—indeed, is less than enthusiastic—about what Cuba and Russia are doing throughout the world. Cuba has 40,000 troops in Africa, and the Soviet Union has troops and military aircraft and missile carrying submarines in Cuba.

I think it would be very unwise to pass this foreign aid bill without a prohibition on aid to Cuba.

Mr. President, I reserve the remainder of my time.

Mr. INOUYE. Mr. President, I yield my time to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, in light of the vote that just took place, I think it is pretty obvious that the Senate is inclined to support the House language.

However, I am going to submit an amendment that would delete from section 513 two words on line 16—"or indirectly."

The reason is this: It is one thing to send a message to Cuba, of which I probably would be supportive.

It is quite another, in essence, to withdraw the United States from the Multilateral Development Bank. The reason why the amendment is so important is that the language "or indirectly" in essence provides a linkage in terms of U.S. commitment to the development banks. That linkage, violating the charter, in essence negates U.S. participation in those banks.

My amendment simply is to strike the two words, which I think have an unintended impact in terms of the U.S. support for the Development Bank. Since Cuba has not participated, as I understand it, it is basically a nonissue. In the process of sending a message, we must not shoot ourselves in the foot at the same time. I hope that this will be acceptable to both sides and that the objective of the amendment is taken care of without the unintended consequences which I think over the long term would augur ill for our country.

I thank the Senator from Hawaii for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Hawaii has 3 minutes and 12 seconds remaining.

Mr. INOUYE. Mr. President, I wish to advise the Senate that I support the amendment which is about to be presented by the Senator from Massachusetts. I think it is a reasonable amendment. As has been indicated, it will send a message, if that is the intent, to President Castro and at the same time not do any havoc with our relationship with the Multilateral Development Bank.

The words "or indirectly" can do that damage, and I am certain it is not the intent of the majority of us in the Senate to divorce ourselves from the Multilateral Bank.

So I hope that the amendment submitted by the Senator from Massachusetts will be accepted.

Mr. GARN. Mr. President, I am not willing to accept the amendment. I think we need to send a stronger message to Cuba. The fact they are not a member of the bank does not pacify me. They have been getting funds and I think "indirectly" is the key. So I am not willing to accept the amendment.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. INOUYE. On the bill.

The PRESIDING OFFICER. There is no time remaining on the bill.

Mr. INOUYE. Mr. President, I ask unanimous consent that it not be taken from any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. LEAHY. Mr. President, will the Senator from Hawaii yield 1 minute?

Mr. INOUYE. I yield.

Mr. LEAHY. Mr. President, I appreciate the Senator from Hawaii yielding me time.

Mr. President, in 1969, the National Security Council issued a policy directive creating a special geographic code for bidding eligibility under the U.S. foreign assistance program. The category code 941 extended U.S. AID bidding eligibility to all AID recipients with a certain per capita income. The special category was considered to be necessary in order that certain advanced developing countries (ADC's) which were no longer receiving substantial levels of U.S. foreign aid would continue to be afforded some opportunity in the program. Geographic Code 941 opened AID procurement to these ADC's in third countries where larger assistance programs were underway. In 1975, the $1,000 per capita income requirement was dropped, leaving only the criteria that Code 941 nations be U.S. AID recipients.

It was felt that greater utility would be derived from the program, and that a more equitable distribution of the benefits would be accomplished. But this did not happen—the eligibility criteria for geographic Code 941 need to be reexamined.

There is evidence that the intended benefits of Code 941 policy are not being shared equally among eligible nations. An analysis of Code 941 participation in the AID construction program reveals that the policy has led to its domination by a small number of ADC's.

The domination of the AID construction program by a small number of ADC's is not in the best interest of the balance of Code 941 nations. I am also concerned that continued participation by these countries causes hardship for U.S. small businesses. It forces them to compete for U.S. AID-financed contracts with ADC competitors which are supported by their governments. We must improve our trade performance and increase the involvement of our small business in the export markets. A reevaluation of the AID bidding eligibility criteria for Code 941 nations would appear to be timely.

We should see that AID identifies and establishes criteria for the graduation of Code 941 nations which no longer exhibit the need for continued eligibility.

There is no reason for the U.S. to discriminate against its own firms in bilateral aid. Our economy cannot afford artificial barriers against our own companies, especially when the U.S. taxpayer is footing the bill. The Europeans do not even let us come near their bilateral aid projects—they are 100 percent French, German, or whatever. Why should U.S. bilateral aid not seek to help our own firms as much as possible? U.S. firms should at least be able to compete on an equal basis for AID-financed projects.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. TSONGAS. Mr. President, if the Senator will withhold, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. Mr. President, should the vote occur on the pending question would I then be in order to introduce my amendment following that vote should the motion be defeated?

The PRESIDING OFFICER. The proposed amendment of the Senator from Massachusetts would be in order following the disposition of the committee amendment.

Mr. TSONGAS. I thank the Chair.

The PRESIDING OFFICER. But that would not necessarily be following the vote.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, I do not wish to restate the question of the Senator from Massachusetts. If the vote is on the Byrd amendment first and the Byrd amendment is adopted, will the amendment of the Senator from Massachusetts then be in order?

The PRESIDING OFFICER. The vote is on the committee amendment to strike section 513. If that amendment is agreed to then the language proposed to be stricken by the Senator from Massachusetts will already be stricken. If the committee amendment is not agreed to then the proposed amendment by the Senator from Massachusetts would be in order.

Mr. HARRY F. BYRD, JR. Mr. President, the vote will occur not on the Byrd amendment. The vote will occur on the amendment put on the bill by the Appropriations Committee.

Mr. INOUYE. That is right.

Mr. HARRY F. BYRD, JR. If the negative prevails then the House language will remain in the bill and the House language says "None of the funds appropriated in this act shall be used for any form of aid directly or indirectly to Cuba."

It is a pretty clear-cut issue. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is now on agreeing to the committee amendment to page 20, lines 15 through 17. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 20, nays 76, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—20

Baker
Bellmon
Boschwitz
Chafee
Culver
Gravel
Hayakawa
Inouye
Javits
Lugar
Mathias
McGovern
Packwood
Pell
Percy
Ribicoff
Stevenson
Tsongas
Weicker
Williams

NAYS—76

Armstrong
Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
McClure
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—4

Biden
Church
Laxalt
Matsunaga

So the committee amendment to page 20, lines 15 through 17, was rejected.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which division III of the committee amendment was rejected.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. GARN. Mr. President, a point of order.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 22, line 19, strike "or is being sought by any other government for prosecution for, any war crime or" and insert "an";

The PRESIDING OFFICER. The Chair informs the Senator from Massachusetts that his amendment will not be in order until all the committee amendments have been disposed of.

Mr. TSONGAS. Mr. President, I wonder if I could inquire. Could I ask if anyone would object to a unanimous-consent request to call up an amendment?

The PRESIDING OFFICER. Does the Senator make that request?

Mr. TSONGAS. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Washington.

Mr. INOUYE. What is the pending business?

The PRESIDING OFFICER. The committee amendment on page 22, lines 19 through 21, is now the pending business.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, at first blush I would suppose that all members of this body would like to vote against the committee amendment. However, if the committee amendment is not accepted, and the House language becomes law, then we may have some difficulty, for example, with Mexico.

The Republic of Mexico at the present time is providing sanctuary for the Shah of Iran. I gather that the Shah of Iran is being sought by the new Government of Iran for prosecution. The language is very vague. General Somoza may decide to go to some other country and there—if he resides, let us say, in Colombia—we may find it difficult to do business with Colombia. I would hope that the committee language deleting "or is being sought by any other government for prosecution for any war crimes or" would be accepted.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. May we have a vote on this amendment?

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 22, starting with line 24, strike out over to and including line 4 on page 24, and insert in lieu thereof the following:

SEC. 519. Each written or printed report, study, evaluation, plan, manual, presentation, publication, or other document prepared under the auspices of an agency for which funds are made available by this Act, any portion of which is provided by other than full-time employees of such agency, shall reflect in the lower right-hand corner of the title page of such document a cost component which reflects the full cost to the United States Government of such portion. A copy of each such document shall be supplied to the Director of the International Division of the General Accounting Office not later than ten days after the date of issue of such document. Each such document shall be recorded in order of receipt by the General Accounting Office and maintained by said Office for a period of five years following its date of issue.

Mr. INOUYE. Mr. President, the committee acted to delete the House language because it is vague and it is ambiguous. What does one mean by "likely to be in surplus"? Or "is expected to become operative"? It would literally tie the hands of the Export-Import Bank and the Overseas Private Investment Corporation. I would hope that the Senate would concur with the recommendations of the Appropriations Committee and approve the committee language.

Mr. President, may we have a vote?

The PRESIDING OFFICER (Mr. RIEGLE). The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 25, strike lines 17 through 21.

Mr. HELMS. Mr. President, the House voted to prohibit economic or military aid to Panama, excepting those funds appropriated for food and medical assistance.

Mr. President, this bill includes $12,760,000 in AID assistance, $1,259,000 in Public Law 480 aid, and $5,506,000 in military aid to Panama. That is a grand total of $19,524,000.

It is only a week ago that the United States gave Panama a canal that is worth $4 billion both in real estate and in funds which could have accrued to the taxpayer's benefit in the U.S. Treasury. To this Senator, it is obscene that the U.S. taxpayer is being asked to fork over an additional $19,524,000 in fiscal year 1980 in aid. The House language rights the balance in favor of sanity by cutting out everything but the $1,259,000 in food aid, plus an undetermined amount of medical assistance.

It seems particularly outrageous that the U.S. taxpayer is being asked to hand out $5.5 million in military aid when Panama spent at least that much money running guns illegally exported from the United States and sent to Nicaragua to impose Marxist tyranny upon the hapless people of Nicaragua. If the Senate approves sending military aid to Panama, then we will be sending Panama a message. That message is that we do not care about their military activities on behalf of Marxism throughout central America. We will be saying to Panama: "Go ahead, spend as much money as you want on supporting Communist revolution. It does not matter what your policy is—we will back you to the hilt, even if it is against the interests of peace and freedom in the Western Hemisphere. We do not care if you become Castro's partner in the extinguishing of freedom in the Western Hemisphere. Since we have given up our exercise of sovereignty in the Canal Zone, we are at your mercy anyway. So just name your price—the American taxpayer will gladly pay through the nose."

Mr. President, I think that it needs to be pointed out that, according to the committee's report on page 12, the United States has provided $414.9 million in aid to Panama since 1946. Yet we received no gratitude, not even recognition of U.S. interests in the canal, or U.S. contributions to the development of Panama. Nor will we get such recognition in the future. It is asking just a little too much of the American taxpayer to give up our treaty rights, to give up potential earnings to the U.S. Treasury of almost $2 billion, to give up the security of exercising U.S. sovereignty over an area vital to our security, and then to give an additional $19.5 billion besides. We are beginning a new relationship with Panama this month, and it is time to get that relationship started off on a realistic footing. The American taxpayers are fed up with continually footing the bill to get kicked in the face.

It should also be pointed out that the forecasts are now that Panama will be getting $70 million next year from increased tolls. The administration kept telling us last year that it would be in the neighborhood of $40 million; but now the former Governor of the Canal Zone has testified on the House side that payments to Panama will reach $70 million in the first year.

It is only common sense, therefore, to vote to cut off the spigot to Panama. The voters of the United States will be watching this vote carefully. They will be watching to see which Senators voted to increase superfluous aid to the gangster leaders of Panama—men who have not held a free election in 15 years, men who have been engaged in dope peddling, gun running, prostitution, and the skimming of profits from gambling enterprises for all that time. And now after getting assets worth $4 billion over the next 20 years, after getting $415 million since 1946, and getting $70 million in the first year of the canal's operation alone, they want another $19.5 million.

If Senators oppose this rip-off, then vote against keeping the House language. If Senators and their constituents favor pouring more money into pockets of the anti-Americans south of the border, then go ahead and vote to kill the House language.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, over the years in our determination to be on the right side of all foreign policy issues, we have, consciously or otherwise, forced or pushed vast numbers of people into the hands of the Soviets. I think it is well that we look at the case of Cuba. We have just had a long debate on Cuba.

There was a time we supported, without much concern, a man called Fulgencio Batista. We were well aware of his dictatorial control of the country. We knew of the suffering and the oppression. We did not do anything about it. When the people rose, when we noted from some of the rhetoric used by the enemies of Batista that they were leftist, we did our best to oppose them.

I think history will indicate that at that point Fidel Castro was eagerly seeking the friendly hand of the United States. We not only denied that friendly hand; we shoved Cuba into the willing arms of the Soviet Union.

I would hate to be a party to shoving

the Panamanians into the willing hands of the Soviet Union.

The President of the United States, without question is able to decide whether economic or military aid to Panama would be in our national interest.

But at this time, right after we have concluded the treaty negotiations and the treaty vote, to come forth with a section such as this, which is obviously unfriendly, Mr. President, I contend, is not in our national interest. I hope that the Senate will concur with the action taken by the Senate Appropriations Committee and support the deletion of this House language.

I think it is about time that we behaved like members of a superpower and conducted our foreign policy accordingly.

I am ready for a vote.

Mr. HELMS. Mr. President, my friend from Hawaii, I am certain, does not want to be a revisionist insofar as historical perspective is concerned. He lamented the fact that we pushed back the hand of Castro. But let us look at the history as it was.

Throughout the whole period that the news media of this country were proclaiming that Mr. Castro was an agrarian reformer, the people were misled into believing that he was not a Communist. I remember one celebrated television commentator who said flatly on nationwide television that Castro was not a Communist.

U.S. policy went along with that misperception and Mr. Castro took over. And the historical fact is that Mr. Castro, the moment he took over, said:

> I have been a Communist all the time, I'm a Communist now, and I'm going to be a Communist as long as I live.

So what we are doing on this amendment is making a choice: We are going to send one message or another to Cuba. Are we going to say to Cuba and to Panama that we do not have the will to resist, that they may go ahead and take over the hemisphere; or are we going to say finally that we have had enough and enough is enough?

I fully believe that this vote is going to be watched very carefully by the American people. I do not have any problem about making up my mind on it. Mr. President, we had better stick with the House language. We had better stick with the House language if we have any will left in this body. I am ready to vote.

Mr. LEVIN. Mr. President, the committee would wisely strike the House language prohibiting economic and military assistance to Panama. Such a prohibition could not be proposed at a more inappropriate time than the present, just as we have entered into a new partnership with Panama to operate and defend the Panama Canal for the next 20 years, and just when the President has pledged an increase in aid to countries in Latin America to help them combat economic and social ills which could lead to unrest and threats of revolution or foreign adventurism.

Under the circumstances, it would be counterproductive in the extreme for us to jeopardize our new treaty relationship with Panama and the friendship which it would engender by cutting off all economic and military aid. I know some have argued that, considering the payments which Panama will be receiving under the new treaty, there is no reason to supply economic and military assistance as well. But, in fact, there is no relationship between the two.

The treaty payments which we negotiated and the Senate ratified represent what we consider to be a fair and equitable return on Panama's national resources, which are dedicated to the operation of the canal. All of these payments come entirely from tolls collected from shippers, not from the U.S. Treasury. The economic assistance to Panama is aimed at the poorest sections of the population, largely those in the interior of the country, who will be little affected by the new canal operation. In fact, Panama's assumption of new responsibilities under the treaty may force it to divert resources away from those sectors and toward the canal's accompanying operations.

In addition to the $12.7 million in economic development assistance contained in the bill—which, by the way, is roughly the same level of aid which we have provided in recent years—the bill contains $5 million in foreign military sales credits and $500,000 in international military education and training funds.

Mr. President, like the economic aid mentioned above, this military assistance is directly in our own self-interest. This assistance is needed to help Panama develop the capability to work with us in partnership to maintain the security of the Panama Canal, as they have pledged to do under the treaties. It is true that the Panama Canal Treaty permits us to take those steps necessary to defend the canal, and gives the United States that primary responsibility. But we will only make our task more difficult if we deny Panama the assistance necessary to develop their own defense capability, and thereby to assume a fuller role in protecting the canal's security.

Moreover, the treaty provides for Panama's National Guard to assume police functions in the former Canal Zone at the expiration of the 30-month treaty transition period. That means that they will be responsible for the protection of American lives and property in that area until the year 2000. Again, under those circumstances it makes no sense to deny the Panamanian Guard needed training or supplies, when we have such a great stage in insuring that they are well prepared to handle such an important task. Yet, that is precisely what this prohibition would do.

The cost of the aid package for Panama contained in this bill is marginal. Only the international military education and training funds, the funds most needed for assuring stability and protection of the canal amounting to half a million dollars, are a direct expense of the U.S. Government. The remainder, the economic and military assistance, are loans which Panama is obligated to repay. And Panama's record of repayment is very good: she has never defaulted on an aid repayment.

Thus, Mr. President, at a very small cost, the assistance to Panama contained in this bill will help us to insure the continued security of the Panama Canal for the next 20 years. It will help to insure stability for those Americans who will remain in Panama for the next 20 years, and whose knowledge and expertise is vital to keeping the canal functioning efficiently. And it will help maintain stability in a Latin American country which is of critical economic and military importance to the United States.

I believe that proposed prohibition could not be more ill-timed, and I hope the Senate will reject it and will adopt the committee amendment.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. LEVIN. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I say to the Senator, if he will remain with me, because it bears on just what he is arguing, this is a classic case of the left hand not knowing what the right hand is doing. Only last week, we adopted the conference report on the International Security Assistance Act of 1979, which deals in great particularity with this precise subject. Let me read it to the Senate so we do not really look foolish. The report was not dissented from, and it went through here without any dissent. The Senate had provided $5 million for FMS for Panama, and the House had provided nothing. This is the settlement which we made. I beg Members to look at the CONGRESSIONAL RECORD, October 5, 1979, p. 27371.

> SEC. 28. None of the funds authorized to be appropriated by this Act shall be made available to the Republic of Panama or its agencies or instrumentalities. The President may waive this prohibition in order to provide assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (international military education and training), or to provide assistance under section 23 or 24 of the Arms Export Control Act (foreign military sales financing) involving the financing of sales of defense articles (other than weapons) and defense services, if the President determines that providing such assistance would further the national interests of the United States and reports that determination to the Congress at least 30 days before providing such assistance.

Now, that is a carefully crafted provision of law to settle this particular problem. And, why was it settled? For two reasons. One, when we approved the Panama Canal Treaties, and I have not got the paper before me; I am talking from my recollection; so I stand subject to correction, but I am quite sure I am right. There was a provision in connection with the treaty saying we would try to use our best efforts to make available to Panama, I think it was $50 million, of military sales assistance at the rate of $5 million a year.

So, the feeling was just as Senator LEVIN expressed it; it was unwise not to do something about that, in view of the fact that our getting along in Panama also required a certain amount of good will on their part as they took over the operation of the canal.

Second, Mr. President, we had a call from a senior Army general who is our commander in Panama, General McAuliffe, urging us to make available training of Panama's forces and not to foreclose the training opportunity which carries the acronym IMET.

For those two reasons, we crafted this compromise.

It seems to me that having been carefully considered by both bodies and finally having developed a clearly articulated compromise, why sweep it aside with a broad provision, just sweeping it out, containing it in this bill in this form, which does not bear a relationship to precisely what we did?

It seems to me the Appropriations Committee was perfectly right to strike out this language and just let the law stand because we resolved the problem we had in the way I described.

I hope very much the Senate will do that.

Mr. HELMS. Mr. President, I think my friend from New York is laboring under a misconception. I think that if the distinguished Senator will go back and check he will find there is not one mention in the treaty about aid. I think what he is referring to is a letter from President Carter to the President, or from the Secretary of State to the equivalent official in Panama, in which the administration said, if I recall correctly, that it would make its best effort to persuade Congress to provide this aid.

Mr. JAVITS. I did not say it was in the treaty.

Mr. HELMS. I misunderstood. I thought he said there was "a provision" that we would make our best efforts to make aid available.

Mr. JAVITS. No. I said in connection with the treaty this matter came up.

Mr. HELMS. And then the Senator referred to law.

Mr. JAVITS. No. This is law, what I just read, which comes out of the conference report on International Security Assistance, in which the Senator was a conferee.

I am not charging that to the Senator. He could have signed the report for 100 other reasons than this provision. I do not say it is inconsistent at all with what he is doing. I did not make that point. I understand that perfectly. We do it all the time.

But, I think I was quite accurate about the fact I did not claim it to be in the treaty. The Senator stated it correctly. I knew there was some involvement and the Senator confirmed that relating—was it $50 million, by the way?

Mr. HELMS. Over 10 years.

Mr. JAVITS. That is right. That was my recollection.

Mr. HELMS. Yes.

Mr. JAVITS. So we do not disagree.

Mr. HELMS. Fine.

I wanted to make it clear in case the Senator had the same misunderstanding that I had, that there was a suggestion that we were bound by the treaty.

Mr. President, I say again, we should stick with the House on this amendment. On top of everything else, I find throughout America a deep resentment about the giveaway of the Panama Canal, and to heap further insult upon their wishes just seems to be an inappropriate thing.

Moreover, Mr. President, the $5 million in military aid happens to be precisely the amount of money that Panama has spent in gun trafficking, sending weapons to South America, to export Marxist revolution.

So what we are doing is indirectly financing that sort of thing. If Senators want to be a part of that, they will vote "yes" on the upcoming rollcall vote. If they want to vote against that sort of thing, then their vote is "no."

I want to know, as one Senator, at what point Panama is going to try to get along in this matter. All I hear is that we have got to concede this to Panama and concede to them that; we have got to back up here and back up there.

Where do the people of the United States come in? When will their interest be protected?

We have given away a $4 billion entity that belonged to the people of this country. We did not do it with the vote of the Senator from North Carolina. I think it will forever rank as one of the tragic judgments of the United States Senate.

But that is neither here nor there.

The very least that we should do at this point, Mr. President, is to examine again what kind of people we are dealing with in Panama. The record is replete. These are gangster leaders. No other description can be given.

There has not been a free election in Panama in 15 years. Officials of the Government have been tied into dope peddling, gun running, prostitution, the skimming of profits from gambling enterprises. For all of these 15 years, no free election. That is the kind of people with whom we have gone into partnership. I think it is an insult to suggest that this Senate ought to send them more aid, and, particularly, $5 million worth of military aid.

So it seems to me the question is clear. The Senators will vote their own judgments, of course, but this Senator will vote "no."

SEVERAL SENATORS. Vote! Vote!

COMMITTEE AMENDMENT ON PAGE 25, BEGINNING ON LINE 17 THROUGH 21

The PRESIDING OFFICER. The vote now occurs on the committee amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—56

Baker
Baucus
Bayh
Bellmon
Bradley
Bumpers
Byrd, Robert C.
Chafee
Chiles
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Gravel
Hart
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Mathias
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Tower
Tsongas
Weicker
Williams
Zorinsky

NAYS—39

Armstrong
Bentsen
Boren
Boschwitz
Burdick
Byrd,
Harry F., Jr.
Cannon
Cohen
Dole
Domenici
Exon
Ford
Garn
Glenn
Goldwater
Hatch
Hatfield
Heflin
Helms
Humphrey
Jepsen
Lugar
Magnuson
McClure
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Stone
Talmadge
Thurmond
Wallop
Warner
Young

NOT VOTING—5

Biden
Church
Cochran
Laxalt
Matsunaga

So the committee amendment on page 25, beginning on line 17 through line 21, was agreed to.

UP AMENDMENT NO. 616

Mr. TSONGAS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 616:
>
> On page 20, line 16, strike the following: "or indirectly"

Mr. TSONGAS. Mr. President, I am not going to take the Senate's time since I have explained this previously.

The Senate will recall that in section 513 we deal with U.S. aid to Cuba, and it was clearly an intent on the part of the Senate to send a message to Cuba.

Unfortunately, in that language there are the two words "or indirectly," which do not have any substantive import since there is no Cuban development assistance through international financial institutions. But that language, in essence, vitiates U.S. participation in the international development banks.

I suggest that we could remove that language without diluting the message that the Senate has sent. Thus we would avoid damage to our standing in these banks—which was not the intent. I think the language would have enormous consequences that the Senate does not intend. I, therefore, urge adoption of the amendment.

Mr. GARN. Mr. President, I rise in opposition to this amendment.

The PRESIDING OFFICER. Will the Senator suspend for just a moment to see if we can get the Chamber in order? I ask the Senators to find seats. May we have order so that the Senator can be heard?

The Senator from Utah.

Mr. GARN. Mr. President, I rise to oppose this amendment, and I will not belabor the time of the Senate because we have debated this issue several times in several different amendments directly and indirectly.

I do believe we need to cut off the indirect funds as well. Again, without getting back into an argument that has been made over and over again this afternoon, I will oppose the amendment of the Senator from Massachusetts.

Mr. HARRY F. BYRD, JR., addressed the chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate 30 minutes ago by a vote of 76 to 20 voted to deny any type of American taxpayer aid to Cuba, whether that aid be direct aid or indirect aid.

I would certainly think that the Senate would not now begin to reverse itself after such a strong vote of 76 to 20.

If the amendment offered by the Senator from Massachusetts prevails what we would be saying is that we do not want to use tax funds directly to aid Cuba but it is all right to go in the back door and have tax funds used for that purpose.

I hope the amendment offered by the Senator from Massachusetts (Mr. TSONGAS) will be voted down.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I rise to speak in support of the amendment. The amendment before us is in many ways a very fundamental and very basic one. It is a rather simple one also. The question should be: Is the Senate of the United States in favor of multilateral development banks? If the Senate is in favor of multilateral development banks then we should support the amendment submitted by the Senator from Massachusetts. If we are against then we should vote against the amendment.

As I indicated earlier in the debate, there are over 120 countries that are either contributors or subscribers to the World Bank. To this date, since the birth of the Bank 32 years ago, none of these countries has provided any restrictions on its contributions to the Bank. If the United States saw fit to place a restriction of this sort—and this is a restriction to our contribution—it may mean the death of the Bank because the Board of Directors has indicated that it cannot accept the funds because it will lead other countries to do likewise.

Not all countries are friendly with each other, unfortunately. If we should take this step this afternoon what is to stop Saudi Arabia from placing a restriction on its contribution by saying that none of these funds may be spent directly or indirectly to support Israel? What is to stop Pakistan from contributing money and saying that none of these funds may be used to support India? It will open the floodgates and, before long, the Bank will be dead.

This is a very important vote, Mr. President, and a very fundamental one. It goes beyond the issue of Cuba. It is a question of whether we support the multilateral banks, and I hope the Senate will support the amendment of the Senator from Massachusetts. I will support it.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. BRADLEY. The Senate might also consider what is the importance of multilateral banks to the security of this country. The importance is directly related to our present dependence upon insecure sources of oil in the Persian Gulf area.

A recent study completed by the World Bank, the Hydrocarbon Fund, states that there are 78 countries in the world that have oil resources that can be obtained if sufficient investment takes place. It will take $12 billion of investment coming, in part, from multilateral banks, that will produce in the next decade 3 to 4 million barrels of oil a day that come not from the Persian Gulf states that are vulnerable to supplies, that are open to interruption, but will come from more secure sources.

So I suggest there is much more in this amendment than simply cutting off and putting restrictions on banks. It relates very directly to the energy security of this country.

Mr. INOUYE. I agree with the Senator. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Nevada (Mr. LAXALT) and the Senator from Delaware (Mr. ROTH) are necessarily absent.

Mr. TSONGAS. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. DECONCINI). Are there any other Senators wishing to vote?

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—50

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Cranston
Culver
Danforth
DeConcini
Durenberger
Eagleton
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Huddleston
Inouye
Jackson
Javits
Kassebaum
Kennedy
Levin
Lugar
Mathias
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stevens
Stevenson
Tsongas
Weicker
Williams

NAYS—44

Bayh
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cohen
Dole
Domenici
Durkin
Exon
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Leahy
Long
Magnuson
McClure
Melcher
Morgan
Nunn
Pressler
Proxmire
Randolph
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—6

Biden
Church
Cochran
Laxalt
Matsunaga
Roth

So Mr. TSONGAS's amendment (UP No. 616) was agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 617

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 508)

(Purpose: To make available $16,000,000 for Colombia for the interdiction of drug traffic)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 617.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 24, strike out "$40,000,000" and insert in lieu thereof "$48,758,000".

On page 12, line 1, strike out "$7,242,000" and insert in lieu thereof "$16,000,000".

Mr. CHILES. Mr. President, the purpose of this amendment is to add approximately $7 million to the money that would be provided that would be available for fighting the importation of drugs from Colombia. This would be providing funds to Colombia.

Mr. President, I ask that the Senator from Florida (Mr. STONE), the Senator from Arizona (Mr. DECONCINI), and the Senator from Georgia (Mr. NUNN) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, figures of the National Narcotics Consumers Committee estimate that in 1977 from 10,000 to 15,000 tons of marihuana entered the United States and this generated from $14 billion to $20 billion in retail sales. Approximately 10 to some 23 tons of cocaine entered the United States, and this would have a street sale value of anywhere from $12 billion to $15 billion in retail sales.

Seventy percent of the marihuana came from Colombia and 80 percent of the cocaine came from Colombia, both by sea and by air.

In contrast, the traditional flow of marihuana used to be from Mexico. Some 70 percent used to come from Mexico and now that figure is down to less than 30 percent. So it is clear that Colombia has always been the center and shipping point for cocaine coming to the United States. The raw coco paste comes into Colombia from Peru and Bolivia and is converted in secret laboratories in Colombia into cocaine. From there it is shipped to the United States.

In this report we see that there is a high retail value of cocaine and marihuana sales estimated at about $35 billion. This is the illegal money that is circulating underground in the United States. An estimate for 1978 is due in the near future and indications are that these figures are even going to be higher.

We know that the estimated figure for marihuana is approximately a figure of a tremendous amount per ounce. We know that seizures of cocaine in the United States by Federal authorities in 1978 were 2,500 pounds and for marihuana we seized 6.5 billion pounds. Seizures of cocaine in Colombia for 1978 were estimated to be 3,000 pounds and some 25 cocaine laboratories were closed down and put out of business.

The marihuana seizures in Colombia have been estimated at being over 6.5 million pounds. A little over 2 weeks ago in Colombia, 650 pounds of cocaine was seized by Colombian authorities. That is the largest single bust of cocaine in the world to date.

The estimates I have shown, Mr. President, that so far Colombia has seized approximately six times the amount of marihuana that we seized this year, and approximately six times the amount of cocaine that we have been able to seize this year. So that kind of indicates that Colombia, with a population of about 24 million people, is able to do a pretty good job in seizing the contraband, or a much better job than we are able to do with all of our law enforcement forces that are working on this.

Last year Colombia spent from $10 million to $15 million on drug enforcement activities in their country. The United States spent an estimated $500 million, and the U.S. figure does not include the dollars that are spent by local and State governments. If we add in those figures, we probably spent over $1 billion, and Colombia seized the same amount that we did spending $10 million to $15 million. We are spending $1 billion to have an equal seizure last year. This year Colombia is making a much greater effort. This year they are seizing six times the amount we are seizing, and yet we see again that we are spending tremendous sums of money.

Last Saturday, at the invitation of the chairman of the Foreign Operation Appropriations Subcommittee I went to Colombia to see first hand if there was the need for increasing the drug enforcement assistance to that country and why a figure higher than the Senate committee's recommendation was needed. The President's budget had $2.2 million; the House had $16 million; and the Senate committee figure was $7.2 million.

While in Colombia I met with our Ambassador, Diego Asencio, DEA and customs people, advisers from the United States and the U.S. Embassy military adviser.

I also had a meeting with the President of Colombia, President Turbay, as well as the Attorney General of Colombia who has the lead responsibility in drug enforcement activities. I also met with General Nevarres, the Chief of the Joint Chiefs of Staff of the Military in Colombia and with Admiral Menendey, who is the head of Colombian customs.

Also during this brief stay, I flew over the Guajira Peninsula to view the areas where marihuana is being grown in such tremendous quantities and to see for myself the illegal air strips where much of the contraband is flown to the United States.

In my discussions with President Turbay and the other Colombian and American officials, I came back with the clear impression that Colombia is very serious about the drug cultivation and traffic, both as it impacts in Colombia as well as the United States. As we can see from the percentage of resources they are able to put into this effort compared with the excellent results, the Colombians wonder how serious the United States is in combating the flow of drugs into this country. They also look for a sign of our commitment to them to give them some of the tools they need to continue doing and to improve the outstanding job they are doing with a limited amount of resources.

I think the president of Colombia has made a personal commitment to this. He has turned the army loose and he is using army brigades to go into the areas. They have been able to seize approximately 200 planes in recent days and they have been able to seize tremendous amounts of marihuana. They have also been able to break up a number of cocaine laboratories.

Mr. President, another example of Colombia's good-faith effort in jointly combating this problem is that the Government of Colombia and the United States recently signed an extradition treaty which will permit either country to extradite individuals for trial after they are apprehended and charged for narcotics offenses.

The second example is an upcoming agreement which will be ready in the near future concerning the mutual development of evidence for presentation in prosecutions in either of our countries.

The Colombians view their country as a choke point in the control of this drug production and traffic.

We estimate that we are only able to apprehend at best 10 percent of the marihuana and cocaine that is entering this country. So the best place to try to stop it is in Colombia, before it gets out to sea or in the air, where we have such a difficult time.

We say that we acknowledge this fact, but the Colombians wonder how serious we are in providing assistance to them in the way of tools to accomplish their job. What they are looking for in this money, briefly, Mr. President, is some funds to put in some radar that will allow them to detect the planes that are coming in. We have provided them two radar sets now. They were surplus sets. They have been able to operate them approximately 40 days out of the last 200 days because they break down. They were very old sets that we have given them. It is costing them so much money to try to run them that they are not really any use at all.

They have also been using helicopters very effectively, but now all of their helicopters need to be overhauled. So part of this money will go for helicopter engines and overhauling, and perhaps a couple of new helicopters, also, to try to provide some kind of patrol ships, fast surface ships that will help them apprehend some of these freighters and other ships that are the mother ships that all of the cocaine and marihuana is being taken out to.

Mr. President, I came back from my trip convinced that the best thing we could do to further the effort of drug control in this country is to make available this small sum of money. As I say, in the overall spending of $1 billion that we are speaking of, it seems that to try to spend $7 million more to combat the problem where 70 percent of the marihuana and 80 percent of the cocaine is coming from, realizing these good results that Columbia is now getting, is not too much.

I think there is a time element in this, too, Mr. President. We see about 35 billion illegal dollars in the United States coming from this. We have figures just like this in Colombia. I wonder how long it will be before we shall not be able to get a President who will stand up and try to do something about this, or others, because this is now their largest cash crop. It is bigger than coffee. So there is tremendous pressure from the people who are realizing these illegal profits to try to legalize marihuana growth in Columbia and to try to stop the President from his efforts.

I hope that we shall be able to do something about this. I understand that we are not going to be able to finish this amendment tonight.

I see the distinguished Senator from Georgia. I am delighted to yield to him. He and I have had a number of hearings in the subcommittee which he chairs, the Subcommittee on Permanent Investigations. I know of his concern in the overall problem of trying to combat drugs in this country, a concern that many of us share. I remember the frustrations we had when we were holding hearings a year or a year and a half ago because, at that time, we felt that we were not getting any kind of cooperation from the source country and how could we really combat the problem? I remember we were saying that we wished the administration or someone would do something to get some help in the source country.

I say to the distinguished Senator from Georgia, as I was telling him, I think our Ambassador has done an outstanding job in Colombia, Ambassador Asencio. I heard very high compliments of our drug enforcement authority people and our customs people and all of our other law enforcement and military assistance people from the Colombians. Also, our DEA people tell me that they feel that Colombians are checking out all of the leads that they are giving them and they are trying to improve, for example, their customs services, from where it was considered to be one of the most corrupt services that there was in Colombia.

They are now reschooling and trying to build some esprit in that. They have the admiral that was vice commander that the President tapped after his retirement because he was considered to be one of the strictest, meanest men in Colombia, to try to head the customs service. He fired over 200 people. He put them back in school and we are assisting in those schools, trying to build an esprit de corps up for that customs service.

I am delighted to yield to the Senator.

Mr. NUNN. I will take the time of the Senate for just a moment to note that I think the Senator from Florida did a superb job and performed a real service for the Senate and the country in looking into this situation.

As he observed, my Subcommittee on Permanent Investigations of Government Operations looked at this overall narcotics problem for several years, back 4 or 5 years. It is an overwhelming problem. We realize that no matter how much they spend on law enforcement in this country, unless we do something about the supply coming in from other countries and cutting off their sources, we will not be able to put a real dent into the drug traffic in the United States that is so injurious to our young people and, indeed, our whole society.

I am particularly encouraged to get the Senator's report on the progress being made in Colombia, because, without any doubt, it has been documented that a great source of our drug traffic in this country originates in Colombia.

My top staff man, Marty Steinberg, accompanied the Senator from Florida to Colombia this past weekend. I have not had a chance to get a report from him. He is due back tomorrow.

But I think the Senator from Florida has performed a very fine service for the Senate. I think he pointed out an area where the money can be spent very effectively. I think Colombia needs some encouragement now. Certainly, when we cut down on one of the prime parts of an overall economy, whether it is Colombia, or a State in this country, it is a very severe political burden for those in leadership to bear.

Evidently, according to the report received today, the President of Colombia is bearing that political burden and is being supported by the other officials in Colombia.

I think that is the most encouraging news I have heard on the overall front for a long time.

So I support the Senator from Florida's amendment.

I regret I personally could not accompany him, but I am pleased he did get a firsthand view of this in light of the overall expenditures we have on drug enforcement in this country. I believe this $7 million will be a very sound investment. Even if it does not fulfill all our expectations, if it fulfills even 10 percent of them it can be the most effective money we are spending on drug enforcement.

Mr. CHILES. I thank the distinguished Senator from Georgia.

Mr. President, I have some figures I would like to have printed in the RECORD: A proposal to allocate the appropriation of $16 million for the Colombian antinarcotics campaign; some of the ways that these funds would be used.

Mr. President, I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSAL TO ALLOCATE APPROPRIATION OF $16 MILLION FOR COLOMBIAN ANTI-NARCOTICS CAMPAIGN

If the United States Congress approves the appropriation of $16 million for the anti-narcotics campaign in Colombia, it is proposed to spend the money in the following manner:

COLOMBIAN MILITARY

Inspect and repair as necessary 6 Colombian Air Force UH/205 helicopters	$1,800,000
Aviation spare parts (UH/205) (Air Force)	500,000
3 month lease Tri-Turbo fixed wing (Air Force)	273,000
3 65′ patrol boats with spares (Coast Guard-Navy)	2,000,000
Communications equipment (all services)	540,000
Pilot miscellaneous investigative equipment	100,000
Military vehicles (Army)	200,000
POL (all services)	1,000,000
Total	$6,413,000

ATTORNEY GENERAL'S OFFICE

The 212 helicopters and the two 206 helicopters now in the Attorney General's Air Group are to be traded in and the Air Group furnished with two 205 helicopters and one 206 helicopter (Ranger III).

1 205 helicopter; 1–206 helicopter (Ranger III) (With trade in)	$350,000
1 205 helicopter	950,000
1 Pilatus Porter	150,000
Aviation Contract and spares	1,500,000
Aviation Advisor	75,000
Aviation	3,025,000
Communications equipment	613,000
9 vehicles	72,000
	685,200
Total	3,710,200

NATIONAL POLICE

1 205 helicopter	$950,000
1 206 helicopter	275,000
Aviation spares	150,000
Aviation	1,375,000
Communications equipment	124,000
10 vehicles	80,000
10 motorcycles	15,000
	219,000
Total	1,594,000

CUSTOMS

2 206 helicopters (Ranger III)	$550,000
1 Tri-Turbo Modification with radar and Infra Red	1,600,000
Aviation spares	150,000
Aviation	2,300,000
2 aluminum hull boats, Monarch, 21′ length equipped with twin 85 HP outboard motors with 2 trailers	$50,000
10 vehicles	80,000
4 motorcycles	6,000
Communications equipment	710,000
	846,100
Total	3,146,100

COAST GUARD

1 65′ Patrol Boat with spares	$700,000
Boat advisor	75,000
	775,000

The total amount proposed is $15,638,300. The balance of $361,700 is a hedge for inflation and miscellaneous expenditures.

Mr. INOUYE. Mr. President, I wish to express the gratitude of my committee to the Senator from Florida for taking time to go on an exhaustive journey to Colombia during this past weekend. He has performed a service not only to the Senate, but to the country.

I am personally in complete accord with his amendment and wish I could have it resolved at this moment. But since we do not have the full body here, may I suggest that this be the first item of business Thursday afternoon.

I am certain at that time it will be unanimously accepted.

Mr. GARN. Mr. President, I would add to that that it may be possible just to accept this amendment on Thursday without the necessity for having a rollcall vote. But because we announced to our colleagues that there would be no more rollcall votes, it is impossible to clear it this evening.

We will check with our colleagues between now and Thursday and I guess it automatically will come up as the pending business—we are on this amendment—when we resume this particular bill.

Mr. CHILES. I thank the distinguished chairman and the ranking member.

That would be satisfactory to me.

I also want to say that I appreciate very much the Senator's interest and concern that this was something that needed to be looked into and sending me down to look at that. I appreciate that.

Mr. INOUYE. I think the Senator convinced all of us as to the good intentions of the new administration in Colombia.

I was vastly impressed with the Senator's statistics which indicated that in 1 month Colombia confiscated more cocaine than we did in all of 1 year.

Mr. CHILES. They certainly did it.

The interest I had, in part, of course, was generated from a trip my Governor and the attorney general of Florida took to Colombia and their view of the situation.

They contacted me later saying they really wished there was a way the Legislature of Florida could appropriate this money because they feel we are feeling such an impact of the drugs in Florida, in the corruption it causes, the tremendous amount of untaxed money that comes in, and competition in the young people that are being subjected to these drugs, that it is one of the major areas of concern, if not the major area of concern, to Florida, that we feel as it now is becoming Colombia's greatest cash crop. It is almost bigger in the business of Florida than tourism has been, and we do not like to be noted for that and we want to try to do something about it.

I thank the Senator.

DENYING DIRECT AID TO COUNTRIES WHICH HARBOR TERRORISTS

Mr. HELMS. Mr. President, I am pleased that this legislation contains section 518, prohibiting direct foreign assistance to any government "which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism."

This language is strikingly similar to language of an amendment I offered last year to this act.

Section 518 gives the United States the flexibility it needs in dealing with nations which harbor terrorists and benefit at the same time from U.S. assistance. We now have the ability to cut off that assistance unless those countries cease to grant sanctuary from prosecution to terrorists.

Thus, we finally have a lever to use against two of the most notorious terrorist havens, Zambia and Mozambique.

Daily, these two countries provide safe haven for thousands of terrorists of the so-called Patriotic Front. Not only do they provide a refuge to the terrorists, but bases for training, recruitment, and operations as well.

We in the United States are insulated from the acts of daily terrorism perpetrated by the forces of Mugabe and Nkomo. But the people of Zimbabwe are not. Children mercilessly knifed to death while in their mothers' arms; innocent farmers ruthlessly slaughtered for the sake of some foreign ideology; and the murderers allowed sanctuary in Zambia and Mozambique. The mind recoils at the senselessness of these terrorist acts. In the name of all that is just and right, the United States cannot condone the harboring of ZANU and ZAPU terrorists any longer.

Therefore, I urge that the President move immediately after this act is signed into law to begin the process of cutting off aid to Zambia and Mozambique. If President Kaunda or Mr. Machal give us signs that they no longer will willingly allow terrorists the sanctuary of their nations, then the President has the necessary flexibility to continue U.S. aid. If they are unwilling to deny safe haven to terrorists, then the President has no choice other than an aid cutoff.

Mr. President, Congress has put some teeth into this act with section 518. The President must cut off U.S. aid to Zambia and Mozambique, unless he determines that the national security requires otherwise.

With the so-called Patriotic Front showing increasing signs of its unwillingness to accept the reasonable compromise worked out by the British at the London Conference, there can be no compelling national interest propping up the supporters of the Front with U.S. aid.

If Nkomo and Mugabe cannot accept a reasonable British compromise constitution, how can they accept any reasonable attempt at integration of security forces under British control? Or a free election?

Mr. President, it is time for the laws of the United States to work their course. When this act becomes the law of the land, I shall do all that I properly can to see that it is diligently applied to Zambia and Mozambique if they continue in their support of the terrorists of the so-called Patriotic Front.

● Mr. HEINZ. Mr. President, as we near action on the foreign assistance appropriations bill, it would be worthwhile to pause a moment to reflect on a particularly ironic aspect of this bill. The bill contains an Export-Import Bank direct credit limitation of $4.1 billion, which is well below the Bank's own estimate of its needs for fiscal year 1980. At the same time, the financial needs of the multilateral development banks are adequately funded.

This, to me, represents a classic irony of U.S. international economic policy in recent years. Even though we have just recorded our 40th consecutive monthly trade deficit, we continue to place our own exporters at the bottom of the priority list of federally supported programs. Obviously, we must continue to participate in multilateral efforts to aid the less developed countries of the world. But to me it is just as obvious that economic development in the United States ought not to be neglected in the process.

On June 14, along with Senators GARN, DANFORTH, and STEVENSON, I wrote to Chairman INOUYE suggesting an increase in Eximbank's direct credit authorization from the administration's recommended level of $4.1 billion to at least $6 billion. We based our estimate of probable need on three documents.

First. Eximbank's own submission to the Office of Management and Budget for fiscal year 1980; second, an extensive analysis of Eximbank's needs issued by the Subcommittee on International Finance of the Senate Banking Committee in March publication of U.S. Export Policy; and third, President Carter's message reporting the failure of negotiations with our trading partners to end predatory export credit competition, in which he warned that we would have to reexamine our own efforts to assure we remain competitive in the export credit field. Subsequent correspondence with the Eximbank revealed that our original estimate of the Bank's probable direct credit needs were too low by possibly as much as $3 billion.

Because the foreign assistance bill as reported is already at the upper limit of the budget resolution, I will not make any attempt to amend it today. But I do want to go on record as saying that unless the administration sends up a substantial supplemental appropriations request for Eximbank's direct credit program early next year, we will be doing a great disservice to our exporting community and indeed to our entire economy. Because in the absence of adequate credit funding, the United States is likely to lose billions of dollars in exports which otherwise would have served to strengthen the dollar, pay for oil imports, and provide meaningful jobs for hundreds of thousands of Americans.●

● Mr. LAXALT. Mr. President, I strongly oppose H.R. 4473, the Foreign Aid Appropriations for fiscal 1980. At a time of double digit inflation, growing Federal deficits, and calls for budgetary austerity here at home, I cannot see any logic whatever in appropriating $8.37 billion for foreign aid.

Less than 1 month ago we in this body strenuously debated the second concurrent budget resolution, Senate Concurrent Resolution 36. In that debate we acknowledged the need to cut back on Federal spending in order to reduce the deficit and bring inflation under control. We discussed painful cuts and where they might fall in such things as school milk programs, veterans health, and water projects. And now this afternoon we are here seriously proposing to appropriate billions for the international banks and foreign assistance. This I cannot accept.

As many of my colleagues know, I am an opponent in longstanding of foreign assistance. This is not because I am unaware that this is a hard and difficult world or that I believe my country should be deprived of available instruments for making its way in it. Clearly it is and we should not be.

But neither this bill nor any of its predecessors have been able to answer for me the basic, fundamental questions: Why foreign aid? Foreign aid for what?

As long ago as 1963, the eminent University of Chicago political scientist, Hans Morgenthau addressed this fundamental point when he said in words even more true today:

> Our policy of foreign aid is fundamentally weak. It has been conceived as a self-sufficient technical enterprise, covering a multitude of disparate objectives and activities, responding haphazardly to all kinds of demands, sound and unsound, unrelated or only by accident related to the political purposes of our foreign policy.

The answer must be found in our own national interest. As I see it, unless foreign assistance directly enhances our national security or clearly benefits our economic position in the world, it cannot be justified in view of the pressing economic and social problems we face here at home. Far too much of H.R. 4473 simply fails to pass muster.

The committee's justification for the $3.1 billion for the international development banks is a clear case in point. This large sum is $626 million in excess of the House passed bill and it is not unfair to ask: Why so much money for the banks?

On the one hand, the committee argues that the poor will rise up in revolt shattering the economic and political foundations of the world if we do not. As the committee report on H.R. 4473 puts it:

> Does anyone believe that the poor will long remain in quiet desperation; that, without hope they will not rise to break the shackles of poverty with a violent force which could shake the economic and political foundations of the entire world?

On the other hand appropriating such sums to the banks is taken to be good business generating financial and economic benefits for the United States in terms of the purchase of goods and services and interest paid to U.S. holders of bank bonds.

While I categorically reject any suggestion of intimidation, I am quite prepared to believe that there are benefits forthcoming from the appropriating of $3.1 billion to the international banks; $3 billion put most anywhere will yield some benefits. What I would like to know is whether $3 billion put here as opposed to the bilateral aid program, giving it to a domestic program or best of all leaving it in taxpayers' hands is the most efficient use of taxpayers' money.

Mr. President, I sit on the Appropriations Committee. I understand the difficulty of making such judgments. But I disagree fundamentally with the idea that year after year we are asked to provide billions of dollars for the multilateral banks, the U.N. and the bilateral aid programs without any clear tie to our own national interest.

Indeed this year the question is more one of whether taxpayers' dollars are being used by the banks in a way directly counter to our interests. The committee is sensitive to these concerns. Quite rightly in the report on H.R. 4473 the committee states:

> Too long has America been asked to provide funds and then told how they would be spent.

But although decrying the situation, the committee proposes to continue funding it. The House version of H.R. 4473 categorically prohibits funding either directly or indirectly for the countries of Angola, the Central African Empire, Cambodia, Laos, Vietnam, or Cuba. The issue is not so much funding these countries; no one really seems to want to. Rather the issue is whether as a practical matter, the United States has a right to insist that its tax dollars not be used by the international banks to assist flagrant violators of human rights of perennial aggressors.

The House has said that the United States has such a right and has included language within its version of H.R. 4473 prohibiting assistance for these countries either "directly or indirectly." The committee reported bill in the Senate says no we do not. The U.N. and the international banks may continue to support Cuba, Angola, Vietnam or whoever they like with U.S. taxpayers' dollars and there is nothing the Congress as the body charged constitutionally with the oversight of those dollars can do about it.

The consequences of this action for Vietnam alone are enough to make the entire bill unacceptable. Representative Bill Young from Florida who has done such fine work as the ranking member of the Foreign Operations Subcommittee of the House Appropriations Committee has put it down in clear numbers:

Organization, date, and amount:

World Food Program, 1978	$59,000,000
United Nations Development Program, 1977–81	49,080,000
U.N. Fund for Population Activities, 1978	17,000,000
UNICEF, 1973–78	75,000,000
Asian Development Bank, 1978	22,900,000
International Development Association, 1978	60,000,000
International Development Association, pending, six additional loans for hundreds of millions of dollars.	

Mr. President, there is simply no way that I can go back to Nevada and defend numbers such as these, even if the U.S. share amounts only to about one-fourth of it.

As if this were not bad enough, H.R. 4473 continues the trend of granting an even greater share of the foreign aid dollar to the multilateral program; that is, to the international banks and the U.N. This runs directly counter to the stated committee policy with which I strongly agree that the United States should have a larger say in how its resources are spent, that "We too are a sovereign nation."

Taking the international banks alone and contrasting them over time with our bilateral program, the committee finds a slight decrease in the bilateral program and a "sharp increase" in funds requested for the international banks. For fiscal 1971 the bilateral requests were approximately twice the requests for the banks. Nine years later, after steady and continuous growth, requests for the banks exceed the bilateral program by a factor of nine.

How is this restoring our sovereignty over our own resources? How is this consistent with effective oversight of taxpayers' dollars, particularly when the committee-reported bill deletes the House language which at least would have kept the banks and the U.N. from using our money to fund particularly obnoxious regimes of which virtually all of us disapprove.

The growth of the multilateral programs in H.R. 4473 highlights another problem, which is coordination. The committee is sensitive to this problem. There is passing reference made in the committee report, particularly to AID programs overlapping with the efforts of the international banks in areas such as energy development, agriculture, and roadbuilding. But the difficulties of waste, duplication of effort, and overlap made clear by recent House Appropriations Committee study remain.

Funding for the United Nations in this bill is also ridiculously high. The committee quite rightly castigates the U.N. for mismanagement, exhorbitant salaries, expanding technical assistance, and the disorganized state of the U.N. development program. But with all of these problems the committee has seen fit to reduce the international organizations and programs account by less than 10 percent, most of which is taken from the U.N. development program. If the committee's patience is indeed exhausted as the committee report states, and I believe it should be, then in my judgment the cuts should have been far deeper.

Mr. President, H.R. 4473 quite frankly disturbs me. I question the need for $8.37 billion in foreign assistance when we have such a need for austerity here at home. I am not reassured by clear trends toward multilateralization of our aid effort and the growth of the international banks, which I see as giving us in the Congress less and less of a say over where taxpayers dollars are going. And I am concerned about overlap and duplication of our bilateral efforts and waste and mismanagement in the United Nations.

I oppose H.R. 4473 strongly. I will vote against it. And I urge my colleagues to do likewise.●

Mr. INOUYE. Mr. President, as noted by the majority leader and the minority leader, the consideration of this measure, the foreign assistance appropriation bill, will be resumed after the consideration and conclusion of Senate Resolution 249 Thursday afternoon.

With that, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

I ask unanimous consent that when the Senate completes its business today, the current business, H.R. 4473, go over until Thursday, following the disposition of Senate Resolution 249, the Talmadge matter, on that day. I make this request with the authorization of the distinguished manager of the bill (Mr. Inouye) and the distinguished ranking member (Mr. Garn).

I further request that, at 1:30 p.m. on Thursday, the Senate proceed to the consideration of Senate Resolution 249.

I make the further request that tomorrow, after the Appropriations Committee reports out the two continuing resolutions House Joint Resolution 412 and House Joint Resolution 413, the distinguished chairman of the Committee on Appropriations (Mr. Magnuson) may be authorized to call up either or both of those joint resolutions, with the understanding that there be no rollcall votes on tomorrow prior to the hour of 4 o'clock p.m., with the possible exception of a procedural vote. By that, I mean to confine it to a vote to get a quorum present.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not, the reservation is for the purpose of expressing my agreement with the majority leader to this arrangement.

The request now made by the majority leader has been cleared on this side with those Members who have indicated an interest in this matter. I think it is a workable arrangement and we have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to exceed 10 minutes, and that Senators may speak therein up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on October 6, 1979, he had approved and signed the following act:

S. 721. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980.

MESSAGE FROM THE HOUSE

At 5:21 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 817. An act to amend the Act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 412. A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; and

H.J. Res. 413. A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

HOUSE JOINT RESOLUTIONS REFERRED

The following joint resolutions were read by their titles and referred as indicated:

H.J. Res. 412. A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

H.J. Res. 413. A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2278. A communication from the Secretary of the Interior, reporting, pursuant to law, an overobligation of the appropriation occurring in the Bureau of Land Management (BLM); to the Committee on Appropriations.

EC-2279. A communication from the Secretary of Defense, transmitting, pursuant to law, a report of the financial condition and operating results of Working Capital Funds of the Department of Defense for the fiscal year ending September 30, 1978; to the Committee on Armed Services.

EC-2280. A communication from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend title 37, United States Code, to rectify an inequity in leave and travel entitlements; to the Committee on Armed Services.

EC-2281. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to establish a nutritionally adequate, consumer-acceptable ration for the armed forces, to authorize the issuance and sale of the ration, to prescribe special rations, and for other purposes; to the Committee on Armed Services.

EC-2282. A communication from the Director, Selective Service System, transmitting pursuant to law, the semiannual report of the Director for the period October 1, 1978 to March 31, 1979; to the Committee on Armed Services.

EC-2283. A communication from the Secretary of Commerce, transmitting five draft bills which comprise the five titles of a "Fair Financial Information Practices Act," together with a section-by-section analysis of each; to the Committee on Banking, Housing, and Urban Affairs.

EC-2284. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation transmitting, pursuant to law, a report for the month of June 1979, of (1) total itemized revenues and expenses, (2) revenues and expenses of each train operated, and (3) revenue and total expenses attributed to each railroad over which service is provided; to the Committee on Commerce, Science, and Transportation.

EC-2285. A communication from the Assistant Secretary of the Interior, reporting, pursuant to law, the application of Redwood Valley County Water District, California, in the amount of $2,513,000 for a cost allocation loan; to the Committee on Energy and Natural Resources.

EC-2286. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the seventh report of the Federal Trade Commission concerning the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2287. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "The Cost of Clean Air and Water," August 1979; to the Committee on Environment and Public Works.

EC-2288. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, its nineteenth quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC-2289. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 3, 1979; to the Committee on Foreign Relations.

EC-2290. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council and submitted to the Congress for a thirty-day review; to the Committee on Governmental Affairs.

EC-2291. A communication from the Inspector General, Department of Health, Education, and Welfare, transmitting, pursuant to law, a proposed alteration to a system of records of the Office of Inspector General, pursuant to the Privacy Act; to the Committee on Governmental Affairs.

EC-2292. A communication from the Chairman of the National Labor Relations Board, transmitting, proposed legislation to authorize the National Labor Relations Board to use certified mail for the transmission or service or matter currently required by Section 11(4) of the National Labor Relations Act, as amended, to be transmitted or served by registered mail, and for other purposes; to the Committee on Labor and Human Resources.

EC-2293. A communication from the Principal Deputy Secretary of Defense for Research and Engineering, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for the period October 1978 to March 1979; to the Select Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works, with an amendment:

S. 493. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes (Rept. No. 96-360).

By Mr. PELL, from the Committee on Rules and Administration, with amendments and an amendment to the title:

S.J. Res. 83. A joint resolution to authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a Memorial on Maine Avenue in the District of Columbia (Rept. No. 96-361).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. WARNER. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nomination of Lt. Gen. Thomas P. Stafford, USAF (age 48), for appointment to the grade of lieutenant general on the retired list; in the Army, Lt. Gen. John Royster Thurman III (age 55), Army of the United States to be placed on the retired list in that grade, and Maj. Gen. William Rowland Richardson, to be lieutenant general, and, there are 68 temporary appointments in the Army to the grade of brigadier general (list beginning with Col. Robert W. Riscassi). I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. WARNER. In addition, Mr. President, there are 188 officers in the Army of the United States for promotion to the grade of colonel and below (list beginning with John E. Ailor) and 360 appointments on the Regular Army to the grade of major and below (list beginning with Lloyd D. Borchert); in the Navy there are 282 chief warrant officers, W-3 for permanent promotion to the grade of chief warrant officer, W-3 (list beginning with Daniel W. Adcock), 1,645 temporary commanders for permanent promotion to that grade (list beginning with Charles Stevenson Abbott) and 23 nominations for promotion to the grade of commander and below (list beginning with Thomas W. Coale); in the Marine Corps, M. Sgt. Timothy W. Foley is appointed to the grade of first lieutenant and in the Marine Corps Reserve there are 180 appointments to the grade of lieutenatnt colonel (list beginning with Paul J. Albano); and, in the Reserve of the Air Force there are 548 officers for promotion to the grade of lieutenant colonel (list beginning with Victor E. Abraham, Jr.) and in the Air National Guard there are 55 officers for promotion in the Reserve of the Air Force to the grade of lieutenant colonel (list beginning with Maj. Wiley R. Ashley, Jr.). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of September 21 and September 26, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 1864. A bill for the relief of Odalis Beatriz Cardoza; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Hatch, Mr. Cannon, Mr. Randolph, Mr. Riegle, Mr. Metzenbaum, Mr. Schweiker, Mr. Javits, Mr. Garn, Mr. Mathias, and Mr. DeConcini):

S. 1865. A bill to amend title 28 of the United States Code to make the United States liable for damages to certain individuals, to certain uranium miners, and to certain sheep herds, due to certain nuclear tests at the Nevada Test Site or employment in a uranium mine, and for other purposes; to the Committee on the Judiciary and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. CRANSTON (for himself and Mr. Hayakawa):

S. 1866. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975, as amended, and for other purposes; to the Committee on Foreign Relations.

By Mr. DURENBERGER:

S. 1867. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Finance.

By Mr. EAGLETON:

S. 1868. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia; to the Committee on Governmental Affairs.

By Mr. LEAHY (for himself, Mr. Weicker, Mr. Lugar, and Mr. Randolph):

S. 1869. A bill to provide for the installation of telecommunications devices for the deaf in agencies of Federal, State, and local governments, in offices of Members of Congress, and in other locations, to amend the Internal Revenue Code of 1954 to provide tax incentives for the purchase of telecommunication devices by the deaf, and for other purposes; to the Committee on Governmental Affairs and the Committee on Finance, jointly, by unanimous consent.

By Mr. WILLIAMS:

S. 1870. A bill to expand access to institutions of higher education by extension of the Federal guaranteed student loan program to students purchasing degrees on less than a half-time basis, increase loan availability and reduce loan defaults; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself, Mr. Simpson, Mr. Stevens, Mr. Armstrong, Mr. Goldwater, Mr. Dole, Mr. Heflin, Mr. Mathias, Mr. Hatch, Mr. Ford, Mr. Stennis, Mr. Pryor, and Mr. Sasser):

S.J. Res. 109. A joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. Hatch, Mr. Cannon, Mr. Randolph, Mr. Riegle, Mr. Metzenbaum, Mr. Schweiker, Mr. Javits, Mr. Garn, Mr. Mathias, and Mr. DeConcini):

S. 1865. A bill to amend title 28 of the United States Code to make the United States liable for damages to certain individuals, to certain uranium miners, and to certain sheep herds, due to certain nuclear tests at the Nevada test site or employment in a uranium mine, and for other purposes; to the Committee on the Judiciary and the Committee on Labor and Human Resources, jointly, by unanimous consent.

RADIATION EXPOSURE COMPENSATION ACT OF 1979

Mr. KENNEDY. Mr. President, I am pleased to join with Senators Hatch, Cannon, Randolph, Riegle, Metzenbaum, Schweiker, Javits, Garn, Mathias, and DeConcini in introducing the Radiation Exposure Compensation Act of 1979. The major purpose of this legislation is for the Federal Government to accept responsibility for actions that it took during the 1950's and 1960's that resulted in irreparable harm to American citizens.

During that period of time, because of the compelling needs of national security, the U.S. Government conducted an extensive series of atmospheric nuclear tests at a test site in southeastern Nevada. This testing program, considered an integral part of our national security, enjoyed the wide support of the American people.

At hearings held in Washington, Utah, and Nevada over the past several months, more has become known about the atmospheric testing program, its health effects, and the nature of Government deliberations at that time than had been made public in the previous 20 years. And I am sorry to say much of what we have learned is tragic.

We have learned that the Federal Government deliberately and consistently minimized the health effects of fallout from the atmospheric tests. We have learned that the American people were not informed of the evidence that was gathered about the uncertainty of the health effects.

We have learned that the Atomic Energy Commission withheld evidence linking radiation from the fallout to higher incidences of leukemia and thyroid cancer and deaths of sheep herds. We have learned of open hostility within the Atomic Energy Commission to medical staff raising health issues. We have learned that Americans were sent down into uranium mines to mine the ore to keep the testing program going despite the fact that it was known that the conditions of the mines were unhealthy and the precautions that could have been taken to minimize the health risks were not taken. And, we have learned that in the face of all these known factors and uncertainties, an all-out public relations campaign was mounted by the Atomic Energy Commission to assure those affected that there was no danger.

Mr. President, we are now just beginning to fully understand the results of the Government's failure to fully protect the health of the citizens who lived near the test site and who mined the uranium. In February of this year, Dr. Joseph Lyon of the University of Utah published in the New England Journal of Medicine his study of childhood leukemias associated with fallout from nuclear testing. He concluded that a significant excess of leukemia deaths occurred in children up to 14 years of age living in Utah between 1959 and 1967. This excess was concentrated in the cohort of children born between 1951 and 1958, and was most pronounced in those residing in counties receiving high fallout.

Dr. Harold Knapp, a scientific analyst for the Atomic Energy Commission from 1960 to 1963, testified that in the downwind areas during the years of heavy testing, the dose of radiation to the thyroid of infants and young children who drank fresh milk could have been in the range of hundreds of rads. On the basis of his investigation, he found "a direct relation between the increase in thyroid cancers and fallout." Dr. Donald Frederickson, Director of the National Institutes of Health, when asked to explain the reasons for the increase in sheep deaths in areas near the test site, said that it would be "probably impossible to conclude that radiation was not at least a contributary cause to the death of the sheep." An analysis of 3,500 underground uranium miners by the Public Health Service showed that working in those mines significantly increased the incidence of lung cancer.

Mr. President, in order to give you an idea of the magnitude of the injustice, let me cite a comparison to the recent crisis at Three Mile Island. During that incident the Governor of Pennsylvania, after consultation with health and nuclear experts, advised evacuation of pregnant women and children living within a 5-mile radius of the reactor where the radiation doses were 2 to 25 milirems. And yet, no one warned citizens of Utah, Nevada, and Arizona who lived near the Nevada test site and who

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received radiation doses 40 to 500 times higher than that which triggered the evacuation near Three Mile Island.

At our hearing in Salt Lake City, Ms. Elizabeth Catalan who had grown up in St. George, Utah, and whose father had died of leukemia, expressed quite poignantly the feelings of many of those who lived in the affected areas:

> I don't feel bitter * * * but I feel used. I feel like we did what we were asked to do by the Government, and the community went all out. And in return, we were used, we were conned. They knew. They knew, and they did not tell us. And I feel that had they told us * * * people would have cooperated, but I feel that we had a right to know.

Mr. President, no legislation can completely rectify the wrongs that have been committed against this group of American citizens. However, the legislation I am introducing today attempts to do all that can be done 20 years after the fact and tries to guarantee that it can never happen again.

First of all, it would establish a just scheme of compensation for those individuals who resided in the affected areas during the period of testing and who died from, have or have had a radiation-related cancer; for those individuals who worked in uranium mines during the period of time when the Atomic Energy Commission was the sole purchaser of uranium and who have died from, have or have had lung cancer or other uranium-related disease; and for those ranchers whose sheep died as a result of exposure to the radiation. If an individual meets these requirements, there would be an irrebutable presumption that the damages alleged were caused by exposure to radiation or uranium. The court would then determine the amount of damages to which the individual is entitled.

Mr. President, I believe it is important to point out the precedent for this legislation. On March 1, 1954, the inhabitants of the Marshall Islands were exposed to radiation fallout from a U.S. thermonuclear detonation at Bikini Atoll. In 1964, Public Law 88-485 was enacted to compensate these people. Subsequently, the inhabitants began to suffer from thyroid cancer and other diseases, and in 1977 Congress enacted Public Law 95-134, which provided additional compensation for the people of the islands. I believe that we should show that same sense of responsibility and compassion for our own citizens.

I am also concerned about the health implications for the nearly 200,000 uniformed service personnel and the 195,000 employees of the Department of Defense and the Atomic Energy Commission who participated in our atmospheric testing program.

The Department of Defense reports that of those uniformed Service personnel who were issued film badges or carried dosimeters—and we must remember that many times these devices were provided only to a unit rather than to each individual—58 percent received some recorded dose of radiation. Literally hundreds of veterans and their survivors have filed claims with the Veterans' Administration for disability benefits based on their exposure to radiation during these tests.

Mr. President, under the leadership of Senator CRANSTON, the chairman of the Committee on Veterans' Affairs, and also my very able colleague on the Subcommittee on Health and Scientific Research, the Veterans' Affairs Committee held hearings on June 20 which focused on the problems that veterans and their survivors experience in pressing their claims for VA disability benefits based on exposure to radiation during atomic tests. Senator CRANSTON said then—and I concur—that there can be no doubt that the Federal Government today has a compelling moral responsibility to do everything possible to facilitate the presentation of VA disability and death claims related to nuclear weapons testing.

Mr. President, until very recently, the VA has clearly not done enough in the way of systematic efforts to assist veterans and their survivors in the claims process. Nevertheless, some progress has been made toward improvement in the handling of radiation claims by the VA.

First, the VA and DOD have formalized and improved procedures for investigation of Service personnel participation in atomic tests. All nuclear test-related claims which have been previously denied will be re-reviewed and where records are incomplete DOD will reconstruct an estimate of the highest likely exposure. In addition, a reconstructed exposure estimate will be made as promptly as possible, at the VA's request, for each future or pending claim based on alleged atomic test-related radiation exposure. Also, the VA has issued instructions to all of its facilities establishing guidelines for helping veterans develop radiation-related claims. These instructions detail procedures for obtaining relevant information about a veteran's participation in a test and provide for use of credible estimates of radiation exposure in adjudicating a veteran's claim, even if those estimates are higher than actual badge readings.

Second, the VA and the Department of Health, Education, and Welfare have agreed to develop and publish generally accepted medical principles concerning radiation-related illnesses.

Third, DOD has taken steps to notify all test participants whose single or cumulative exposure records indicate they received in excess of 5-rem—the Federal standard for annual exposure to radiation set forth in the Federal radiation protection guidelines—and urge such individuals to contact DOD for a medical examination at DOD expense. Similar notification and medical followup will be employed with respect to any DOD civilian employees and Atomic Energy Commission employees who were test participants and received radiation doses in excess of 5-rem.

Fourth, DOD agreed to make publicly available any document or section of a document that relates to personnel participation or radiation exposure and will declassify all or part of any such document as long as national security is not jeopardized.

Fifth, DOE has agreed to improve the master file system where dosimetry readings are recorded for individuals badged during the nuclear testing program.

Finally, Mr. President, on August 3, the Senate passed a provision (section 501 of H.R. 2282), that would direct that the "NIOSH exemption" in section 6103 (m)(3) of the Internal Revenue Code be used to locate and contact individuals who may have been exposed to radiation or other hazardous substances, such as the chemical dioxin in Agent Orange, as a result of their service in the U.S. Armed Forces in order to facilitate crucial followup studies relating to the long-term health effects of such exposure.

Mr. President, a great deal remains to be done to insure that claims of veteran nuclear test participants are treated equitably by the VA. Lengthy delays in the claims review process must still be eliminated, VA benefits counselors must receive better training to use the procedures necessary to help veterans and their survivors develop their claims as thoroughly as possible, and followup research studies must be completed. In addition, the VA must make sure that its commitment is actually fulfilled to process on a priority basis, radiation-related claims that involve very serious illnesses.

Also, when the legislation that I am introducing today is being considered by the Labor and Human Resources Committee, I believe a thorough examination of the procedures for radiation-related claims under the Federal Employees Compensation Act is warranted to insure that any claims from the 195,000 civilian employees who participated in the testing program are being handled expeditiously and that these individuals have been and will be treated equitably.

The second major provision of the Radiation Exposure Compensation Act of 1979 would authorize the Secretary of HEW to conduct or support a 5-year study of the adverse health effects resulting from the atomic weapons test program conducted at the Nevada test site since 1951. Unfortunately, the circumstances of the last 25 years have created for scientists a clinical laboratory in that part of the country proximate to the test site. As the debate about nuclear energy continues, it is important that we learn as much as we can about the effects on humans of exposure to radiation. Much good work has already been begun, principally at the University of Utah, and the research that would be supported by this legislation ($2 million for the next 5 years) would enhance what has already been started. It is important to recognize, Mr. President, that for many years we have supported efforts by the Japanese Government to study the long-term health effects to the populations of Nagasaki and Hiroshima since the bombings at the end of World War II. We currently spend approximately $7 million a year on that endeavor.

The legislation would also transfer to the Department of HEW all functions of the Department of Energy relating to research regarding the health effects of radiation on human beings and make the Secretary of HEW the coordinator of all

Federal programs of research into the health effects of radiation. One of the lessons to be learned from this painful chapter in our history is that it was impossible for the agency that was the major governmental proponent of the nuclear testing program to fairly and objectively analyze the adverse health effects of the testing and take the appropriate action. Currently, over $17 million is spent a year by the Federal Government to support research concerning human health effects of ionizing radiation. Over 75 percent of this research is done under the auspices of the Department of Energy. The Interagency Task Force on the Health Effects of Ionizing Radiation, formed by Presidential directive, filed its final report (known as the Libassi report) in June of this year. One of its recommendations was that the National Institutes of Health should take the lead responsibility for this area of research. When Secretary Califano transmitted the Libassi report to the President on August 2, 1979, Secretary Califano went even further:

> My recommendation goes beyond the task force's on this issue. I feel strongly that the major responsibility for research into the health effects of low-level radiation should be placed on an agency which has health-related research as its primary responsibility. The credibility of government-supported research in this area will be compromised if the major source of funding continues to be the agency responsible for developing nuclear weapons and developing and promoting energy sources that result in radiation exposure.

The legislation does not intend to transfer to HEW the experimental research that is currently being supported by DOE.

Many people have devoted considerable time and energy to these complex and difficult issues. I would particularly like to thank Senator HATCH, a member of both the Senate Health Subcommittee and the Judiciary Committee for his fine work and dedication to the matter, and Congressman GUNN MCKAY, who has established himself as a leader on these issues in the House and who has introduced legislation similar to that being proposed today.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Radiation Exposure Compensation Act of 1979".

SEC. 2. (a) Title 28 of the United States Code is amended by adding after section 2680 the following new section:

"§ 2681. Liability for certain nuclear tests

"(a) Notwithstanding section 2680(a) of this title, the United States shall be liable—

"(1) for damages to an individual who resided in an affected area for a period of one year between January 1, 1951, and October 31, 1958, or who resided in an affected area between June 30, 1962, and July 31, 1962, and who after January 1, 1952, died from, has, or has had leukemia, thyroid cancer, bone cancer, or any other cancer identified by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium under section 4 of the Radiation Exposure Compensation Act of 1979;

"(2) for damages to an individual who worked in a uranium mine in Colorado, New Mexico, Arizona, or Utah for at least one year between January 1, 1947, and December 31, 1961, and who after January 1, 1948, died from, has, or has had lung cancer, pulmonary fibrosis, or any other disease or illness identified by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium under section 4 of the Radiation Exposure Compensation Act of 1979; and

"(3) for damages to a qualified sheep herd.

"(b) In any action filed under subsection (a), the court shall admit and hear evidence upon the question of whether the plaintiff meets the requirements provided in paragraph (1), (2), or (3) of that subsection. If the court determines that the plaintiff meets such requirements, there shall be an irrebutable presumption that the damages alleged by the plaintiff were caused by exposure to radiation as a result of a nuclear detonation or exposure to uranium as a result of employment in a uranium mine, as the case may be. The court, after a determination that the plaintiff meets such requirements, shall admit and hear evidence solely upon the question of the amount of damages to which the plaintiff is entitled.

"(c) Notwithstanding section 2401(a) of this title, any action commenced for damages described in subsection (a) shall be barred unless—

"(1) with respect to an action for damages described in paragraph (1) or (2) of subsection (a), the complaint is filed—

"(A) within two years after the date on which the report is filed by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium under section 4 (f) of the Radiation Exposure Compensation Act of 1979;

"(B) within two years after the date on which any area is determined to be an affected area under subsection (e) (1) (B), if the individual resides in such affected area and otherwise meets the applicable requirements of paragraph (1) of subsection (a); or

"(C) within two years after the date on which the incidence of cancer is discovered; whichever is later; or

"(2) with respect to an action for damages described in paragraph (3) of subsection (a), the complaint is filed within two years after the date of the enactment of this section.

"(d) (1) Notwithstanding section 2678 of this title, no attorney shall charge, demand, receive, or collect for services rendered pursuant to an action brought under subsection (a), fees in excess of 15 percent of the amount of any judgment rendered under subsection (a) or in excess of 15 percent of the amount of any award, compromise, or settlement made pursuant to section 2672 of this title for a cause of action under subsection (a).

"(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this subsection, if recovery be had, shall be fined not more than $2,000, or imprisoned not more than one year, or both.

"(e) For the purposes of this section, the term—

"(1) 'affected area' means—

"(A) in the State of Utah, the counties of Millard, Sevier, Beaver, Iron, Washington, Kane, Garfield, Piute, Wayne, San Juan, Grand, Carbon, Emery, Duchesne, Unitah, Sanpete, and Juab; in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, and Eureka; and that part of Arizona that is north of the Grand Canyon and west of the Colorado River; and

"(B) any other area within the United States determined by the Secretary of Health, Education, and Welfare to have received a high level of fallout as a result of the nuclear detonations at the Nevada Test Site between January 1, 1951, and October 31, 1958, or between June 30, 1962, and July 31, 1962; and

"(2) 'qualified sheep herd' means any sheep herd which is the subject of an action commenced prior to the date of the enactment of this section for damages caused to the herd by the Nancy nuclear detonation on March 24, 1953, or the Harry nuclear detonation on May 19, 1953.

"(f) (1) Subject to the provisions of paragraph (2), the right to bring a civil action under this section is in addition to, and not in lieu of, any other remedy provided by a Federal law or program which provides for compensation or reimbursement to such person for damages described in subsection (a). The filing of an action under this section does not affect the rights of any person under such Federal law or program.

"(2) Any award for damages under this section shall be reduced by the amount of compensation or reimbursement that such person has received, or is entitled to receive, under any such Federal law or program.".

(b) The table of sections for chapter 171 of title 28, United States Code, is amended by adding at the end thereof the following:

"2681. Liability for certain nuclear tests.".

SEC. 3. Section 1346 of title 28, United States Code, is amended by adding at the end thereof the following:

"(g) The district court shall have exclusive original jurisdiction of any civil action under section 2681 of this title for damages recoverable under that section due to exposure to radiation or uranium.".

SEC. 4. (a) ESTABLISHMENT OF ADVISORY PANEL; RULES FOR CONDUCTING BUSINESS.—(1) There is established within the National Cancer Institute an Advisory Panel on the Health Effects of Exposure to Radiation and Uranium (hereinafter in this section referred to as the "Advisory Panel"), which shall consist of seven persons not otherwise employed by the United States, appointed by the Director of the National Cancer Institute without regard to the provisions of title 5, United States Code, relating to appointments in the competitive civil service.

(2) Members of the panel shall be appointed from among individuals who are distinguished in the subject of the health effects in human beings caused by exposure to radiation and uranium.

(3) The Advisory Panel shall be appointed, and shall convene, within three months of the date of enactment of this section.

(4) The Director of the National Cancer Institute shall designate one of the members of the Advisory Panel to serve as Chairman.

(5) The Advisory Panel shall meet at the call of the Chairman, or at the call of a majority of the members. Five members shall constitute a quorum for the conduct of business.

(6) A vacancy in the Advisory Panel shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(b) FUNCTIONS OF THE ADVISORY PANEL.—(1) The Advisory Panel shall identify, for the purposes of recovery under section 2681 of title 28, United States Code, those types of cancer, other than leukemia, thyroid cancer, or bone cancer, that are more likely than other cancers to develop in human beings after exposure to low level radiation, and those diseases and illnesses, other than lung cancer and pulmonary fibrosis, that are more likely than other diseases and illnesses to develop in human beings who worked in uranium mines for at least one year between January 1, 1947, and December 31, 1961

(2) The Advisory Panel may undertake an investigation or study of any appropriate

matter which is necessary in order to carry out its functions under this subsection.

(3) In order to avoid duplication of effort, the Advisory Panel may, in lieu of or as part of any necessary study or investigation required or otherwise conducted under this subsection, use a study or investigation conducted by another entity.

(4) The Advisory Panel may, for the purposes of carrying out its functions under this subsection, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Advisory Panel considers advisable.

(c) Assistance From Federal Agencies.—(1) The Advisory Panel is authorized to obtain from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government, records, reports, statistics, and any other information for the purposes of carrying out its functions under this section. Such records, reports, statistics, and any other information shall be furnished to the extent permitted by law and within available resources.

(2) The Advisory Panel shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its functions under this section.

(3) In any case in which the Advisory Panel obtains information under this subsection, the Advisory Panel shall not disclose any information exempt from disclosure under section 552(a) of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

(d) Personnel Assistance and Support Services.—(1) The Director of the National Cancer Institute shall, at the request of the Advisory Panel, appoint such staff personnel as may be necessary to enable the Advisory Panel to carry out its functions under this section. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the Director of the National Cancer Institute, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Advisory Panel to assist it in carrying out its functions under this section.

(3) The Director of the National Cancer Institute may procure, on behalf of the Advisory Panel, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(4) The Administrator of General Services shall provide to the Advisory Panel on a reimbursable basis such administrative support services as the Advisory Panel may request.

(e) Compensation of Members.—Each member of the Advisory Panel shall be entitled to the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day of service (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission. While so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed by the Government intermittently.

(f) Report to Congress; Termination.—(1) No later than nine months after the date the Advisory Panel convenes as required under paragraph (3) of subsection (a), the Advisory Panel shall file a report with the Congress setting forth its findings pursuant to paragraph (1).

(2) The Advisory Panel shall continue in existence until three months after the date the report is filed under paragraph (1) of this subsection.

(g) Federal Advisory Committee Act.—The Advisory Panel is not subject to the provisions of the Federal Advisory Committee Act.

(h) Authorizations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Sec. 5. Section 301(b)(2) of the Public Health Service Act (42 U.S.C. 241(b)(2)) is amended by adding at the end thereof the following:

"(C) The Secretary shall conduct, and may support through grants and contracts, a comprehensive assessment of the adverse health effects resulting from the atomic weapons test program conducted at the Nevada Test Site since January 1, 1951. For the purposes of carrying out this subparagraph, there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1980, and for each of the subsequent four fiscal years.".

Sec. 6. (a) There are transferred to the Department of Health, Education, and Welfare all functions of the Department of Energy relating to research regarding the health effects of radiation on human beings, including those functions described in sections 31 through 33 of the Atomic Energy Act of 1954 and sections 103 and 107 of the Energy Reorganization Act of 1974, which relate to research regarding the health effects of radiation on human beings.

(b) To the extent necessary or appropriate to perform functions and carry out programs transferred by this section, the Secretary of Health, Education, and Welfare may exercise, in relation to the functions so transferred, any authority available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(c) The Secretary of Health, Education, and Welfare shall coordinate all Federal programs of research into the health effects of radiation.

(d) The provisions of this section shall become effective one year after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the bill I am introducing, the Radiation Exposure Compensation Act of 1979, be jointly referred to the Committees on Labor and Human Resources and Judiciary. That has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Mr. President, the measure Senator Kennedy and I are today introducing comes in the wake of hearings and testimony we conducted during the course of this past spring and summer in Salt Lake City and St. George, Utah. In light of what we have learned from a representative range of witnesses, it can be said now with even greater confidence that the fallout tragedy our bill addresses is a distinctive problem. Never before has this Congress had to face up to the kind of problem we are here confronting. Never before have American citizens become the victims of the peacetime use of nuclear weapons; and victimized not by radiation exposure in an industrial workplace, or on an island in the Pacific, or as the next door neighbors of a nuclear plant, but victimized without their knowledge or consent within their own farms, homes and communities.

The legislation we introduce today will when enacted into law provide for the process of compensating the victims and their families of low-level ionizing radiation exposure caused by on site atomic energy testing which took place in my part of the country in the early 1950's. We also provide for the means of properly assessing the long-term effects of such radiation exposure and their treatment and prevention. And of course, the bill directly affects many of the people living in southern Utah, northern Arizona, and Nevada.

But any of my colleagues harboring the notion that this bill can be relegated to a mere regional action, that it has importance only for the citizens living in the three southwestern States to which I referred, would be mistaken. It affects all of us. The repercussions of what the Federal Government did or failed to do during the years of and since the tests may have touched many areas of our country, among them including Akron, Ohio, and the upper reaches of New York State where clouds that had earlier overcast the atomic test sites rained radioactively on the land and people in various parts of our country. And while no one person or agency is to blame for the negligence which at least contributed to the disaster, like the radiation itself, such negligence is cumulative. And when it is the negligence of the Federal Government, then the Government must be called to account. It must be made responsible to and for its actions, and the people of our country should know about it.

The lack of safety and health measures taken by test officials was atrocious. We have now learned that the Atomic Energy Commission was primarily concerned about keeping the tests on schedule. We also know a lot more now than we did then about what radiation does, and the intensity of its effects. What the Federal Government used to consider the maximum acceptable dosage of radiation was four times what it is today. So, Federal negligence combined with ignorance about the enormity of radiation's effects were the twin killers in question.

The Radiation Exposure Compensation Act of 1980 establishes in law the Federal liability every witness, Government and scientific expert from whom we on the Health and Scientific Research Subcommittee heard testimony, revealed in fact. Its provisions cover the damages of uranium miners in Colorado, New Mexico, Arizona, and Utah between January 1, 1947 and December 31, 1961, or who died from or contracted the various diseases connected to the fallout in question, after January 1, 1948.

Our bill establishes court jurisdiction for weighing the evidence for the amount of damages in question, limiting the court's scope of considering such damage suits to the amount of time necessary to solve any claims. The courts' tasks will be aided and the burdens made bearable by the establishment of an Advisory Panel within the National Cancer Institute. The panel will report to the Congress its findings no later than 9 months after the advisory panel convenes.

There is transferred to the Department of HEW the radiation health research functions previously and in my opinion mistakenly vested in the Department of Energy. The Secretary is authorized through grants and contracts to accomplish this task in order to assess the adverse health effects resulting from the on-site atomic testing program which began January 1, 1951.

Giving proper regard to the procedures of the peer review process established within the National Institute of Health, section 5 of our bill authorizing the Secretary's long term health research authority does not specifically cite an office or center where these functions can be maintained. This having been said, I believe that the Secretary would be wise to select the already established facilities at the University of Utah where these functions can be most efficiently, effectively and competently handled. As noted by the several comments made by experts during the Health Subcommittee's Salt Lake City hearings, the University of Utah pioneered the early research in this area. Their scientific and professional staff live and work closest to the problem, and it is to them that we will look for the many unanswered pending questions on the long term health care and treatment of ionizing radiation.

As I noted earlier, The Radiation Exposure Compensation Act covers the damages to the many citizens who lived or worked in the contaminated areas in question, and the bill includes damages to sheep herds as well. Where we have excluded from the bill's explicit provisions other kinds of claimants such as military or civilian government personnel who worked at the sites during the periods in question, it is only to assure that our bill does not conflict with or overlap pre-existing or pending legal authority to cover the claims in question. And to be sure, our legislation will address and solve the compensation questions of these additional groups before the end of the legislation's subcommittee markup.

Finally, Mr. President, the Secretary of HEW is given additional authority to extend the bill's provisions to claimants in geographic areas not covered by the bill such as the Akron, Ohio example cited earlier.

Since the full details of the Utah-southwest fallout story first became available, a number of us have grappled with the matter, trying to come up with the most effective and equitable legislation solution to the problem, and one which would not further violate the Federal balance or bankrupt the U.S. Treasury. I believe, Mr. President, that Senator KENNEDY and I have developed the most practical, humane and proper alternative available to us as lawmakers. The people of the southwest United States, and of my State of Utah in particular, have suffered unspeakable hardships in the last few decades because of ignorance and because of mistakes made by people in the Federal Government during the 1950's and 1960's. These mistakes were avoidable, especially in light of what we now know. They must never, ever again be repeated. The patriotism, strength and moral virtue of the citizens who testified at our Utah hearings this year were obvious to every person in the room at the time. They are part of our country's greatest natural resource, and with this bill we can do something practical to conserve it.

By Mr. DURENBERGER:

S. 1867. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Finance.

● Mr. DURENBERGER. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to provide an incentive for increased contributions of personal services to charitable organizations.

Philanthropy, the private giving of money and labor, plays a large role in the United States. The nonprofit segment of the private sector reaches into almost every field of human interest supporting a variety of institutions such as religious organizations, health clinics, civic organizations, museums and libraries, and social service organizations such as United Ways.

Throughout my career I have had the good fortune to be involved in a wide range of public service organizations. These opportunities have given as much to me as I hope I have to them.

I share the belief with millions of Americans that we must make a commitment to our neighbors, to our communities and to our country. In fulfilling that commitment, we must give both our time and our financial support to the extent we are able.

The goal of my bill is to recognize, at least in part, the value of the contributions made by those millions of Americans and to encourage greater private giving to nonprofit charitable organizations. It is appropriate because these volunteers play an indispensable role in American life, and because private giving is essential in maintaining the level of services and benefits our nonprofit organizations provide to ultimate beneficiaries.

Numerous studies have shown that the value of dollar given to a charitable organization is increased in value three to four times through the efforts of volunteers. When we in this country are looking for innovative ways to meet the demand and the need for public services, it is fitting that we should turn to these volunteers. In many cases, we can better accomplish our necessary social obligations without adding to the size of the Federal bureaucracy.

Year by year, Americans have given enormous sums of money and labor to support private charitable activities, but not nearly as much as was needed and could have been wisely used. Contributions have not kept up with inflation and the growing needs in human services.

One of the disincentives to the contribution of personal services is the policy of the Internal Revenue Service relating to mileage allowances. This policy provides that individuals who contribute their time and labor to charitable activities and use a personal automobile may deduct a standard mileage rate of 8 cents per mile as a contribution. Or, if they choose, they can instead deduct their actual unreimbursed expenses for gas and oil. Parking fees and tolls are deductible in either case, but depreciation, insurance, and repairs are not deductible.

Mr. President, it is my understanding that a 7 cents per mile figure was initially set in 1958 and was adjusted recently by 1 cent. The 7 cents a mile allowance figure was not realistic in 1958 and the insignificant 1-cent change hardly reflects the rate of inflation and the increase in the cost of fuel since that time.

The bill I am introducing would increase the mileage deduction to make it comparable to the allowable deduction for use of an automobile on Government business.

Mr. President, we do not know what the potential is for the private giving of service. But, we do know that our giving will grow to meet our needs if we remove the financial disincentives now facing volunteer service.●

By Mr. EAGLETON:

S. 1868. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia; to the Committee on Governmental Affairs.

EXTENSION OF DISTRICT OF COLUMBIA BORROWING AUTHORITY

● Mr. EAGLETON. Mr. President, the bill I introduced today would amend section 723(a) of the Self-Government Act of the District of Columbia to extend the District's interim authority to borrow funds from the Treasury of the United States to finance capital improvement projects. Under present law, the Treasury is authorized to lend to the city only those sums required to complete capital projects for which construction and construction services funds were authorized or appropriated "prior to October 1, 1979." The bill would extend the borrowing authority to cover projects for which funding is authorized or appropriated in the fiscal year 1981 appropriation act. Thus, continuing and new projects included in the fiscal year 1981 appropriation act would become eligible for Treasury loans.

The Congress included the interim borrowing authority in the Self-Government Act to prevent undue disruption in the District's capital program. Because of the unexpected delays in the development and implementation of the District's bonding program, a 2-year extension of the interim borrowing authority was approved by the Congress in 1977—Public Law 95-131, October 13, 1977, 91 Stat. 1155. It is now clear that an additional extension is necessary, for without approval of the proposed extension in the period for which Treasury loans may be made, vital ongoing improvement efforts will be halted and new projects may be delayed. Continuing projects in the District for which financing may not be available include roof and boiler repairs and replacements for the public schools, major repairs to water and sewer mains, installation of new water and sewer mains and fire hydrants, major repairs to city streets and bridges, and fire hydrant and street-lighting installations.

Financing for new projects being considered by the District for inclusion in the fiscal year 1981 budget may not be available in a timely manner unless the interim borrowing authority is revised and extended as proposed in this bill.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD and I hope my colleagues will give swift and favorable consideration to this bill, which is not expected to result in any additional cost to the Government of the District of Columbia.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 723(a) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-241 note) is amended by striking out "October 1, 1979" in the first sentence and inserting in lieu thereof "October 1, 1980, or upon enactment of the Fiscal Year 1981 appropriation act for the District of Columbia government, whichever is later".●

By Mr. LEAHY (for himself, Mr. WEICKER, Mr. LUGAR, and Mr. RANDOLPH):

S. 1869. A bill to provide for the installation of telecommunications devices for the deaf in agencies of Federal, State, and local governments, in offices of Members of Congress, and in other locations, to amend the Internal Revenue Code of 1954 to provide tax incentives for the purchase of telecommunication devices by the deaf, and for other purposes; to the Committee on Governmental Affairs and the Committee on Finance, jointly, by unanimous consent.

EQUAL ACCESS TO COMMUNICATIONS ACT OF 1979

Mr. LEAHY. Mr. President, there are more than 14 million Americans whose hearing is impaired. According to the National Association of the Deaf, impairment of hearing is the most prevalent chronic disability in the United States. More persons suffer from hearing defects than heart disease, visual difficulties, or other chronic disabilities.

The number of hearing impaired persons is great. The need to reach these people and allow them to share fully in a world dominated by sound is great. And yet, the hearing world has failed to break through the barriers and make room for the real participation of the hearing impaired.

We have not made it yet, but we are making progress.

Within the last decade, special telecommunications devices have been developed to enable deaf and hearing impaired Americans to "hear and be heard." The teletypewriter, or TTY as it is known, was invented by two deaf persons in the late 1960's.

It transmits printed information instantaneously through the use of an electronic device which is coupled to a standard telephone. A deaf person can thus communicate over telephone lines to anyone who has similar equipment. Unfortunately, the teletypewriter is expensive. It costs between $400 and $600. Long distance calls on the TTY are also costly because it takes five times longer to communicate by TTY than by telephone.

The cost of the teletypewriter has prevented many deaf and hearing-impaired persons from being able to enjoy the pleasure of "chatting" with friends and relatives.

The deaf and hearing impaired cannot ask the operator for assistance in the event of an emergency. They cannot call a hospital, the fire department, or the police. They can neither dial for weather information, nor even dial-a-prayer. And they cannot call their legislators or most Federal and State agencies directly.

There are only 20,000 telecommunications devices for the deaf in use in this country today. However, that number is expected to triple within the next decade. In my own State of Vermont, there are more than 25,000 deaf and hearing impaired individuals who could benefit from the teletypewriter, but there are only 25 of these devices in use in the entire State of Vermont.

It is ironic that the telephone, which originally resulted from Alexander Graham Bell's effort to provide communication for hearing-impaired persons, actually opened up communications for the world at large. The telephone has probably increased the difficulties that deaf people have in a hearing world.

Deaf and hearing-impaired persons have, until recently, been shut off from the medium of television as well.

In 1976, I initiated an effort, supported by Members of both Houses of Congress, urging the Federal Communications Commission to allow the television networks to televise captioned programs for the deaf on a permanent basis. In December 1976, the Commission did grant that authority, and line 21 of the television broadcast signal is now reserved for the captioning of programs so that the benefits of television could be extended to all hearing-impaired persons.

Early next year, equipment that will enable deaf and hearing-impaired individuals to receive "closed captions" on their television screens will be available. Closed captioning, as mentioned previously, is the result of a technological feat by which a portion of the TV broadcast signal—line 21—is used to transmit captions similar to the subtitles or "open captions" used in foreign films. However, in order not to disturb the viewing audience without hearing impairments, NBC CBS, and PBS have chosen to use closed captions.

The captions will not be seen by viewers unless they use special decoding equipment. In a few months, both an adapter unit for television, and a television set which has built-in decoding equipment, will be available. The cost of the adapter unit will be between $220 and $250. The cost of a color television with the equipment built in, known as the integrated TV receiver, is estimated to be $500. Both the adapter unit and the integrated TV receiver will be marketed by Sears, Roebuck & Co. in 1980.

The National Captioning Institute in Washington, D.C., has recently opened and has already begun to build up a supply of captioned programs for airing in 1980. More than 25 hours of programs a week will be captioned for NBC, ABC, and PBS. Unfortunately, CBS has not expressed interest in captioning programs.

Results from marketing surveys done by the Deafness Research and Training Center show that there is a strong demand for both the adapter unit and the integrated TV receiver, assuming a reasonable cost for the equipment and a reasonable volume of captioned public television and commercial television programing.

It is also expected that captioning may serve a distinctive educational purpose for children who are not hearing impaired, primarily as a reading aid.

But how many people will be able to benefit from the new technology which has resulted in the development of television captioning equipment and teletypewriters? How many will be able to afford these aids? Consider the countless numbers of deaf persons who are either unemployed or underemployed. Forty-three percent of those hearing-impaired persons who completed post-secondary education have lower paying jobs such as clerks, household servants, and manual laborers. The average annual income for employed deaf persons is less than $6,000. The prevocationally deaf, that is persons who became deaf before the age of 19, earn even less.

Mr. President, today I am introducing the Equal Access to Communications Act of 1979 to insure that deaf and hearing impaired individuals will be able to take advantage of the new, but costly, telecommunications devices and captioning equipment. This legislation will aid the hearing impaired public in several ways.

First, the legislation amends the Internal Revenue Code of 1954 to provide deaf, blind, and speech-impaired individuals a tax deduction of up to $200 for the purchase, installation, and the cost of servicing teletypewriters. In addition, any such taxpayer will be allowed a tax credit equal to 75 percent of the cost of making long distance teletypewriter calls in any tax year. As mentioned previously, it takes five times longer to communicate via teletypewriter than by telephone.

Second, the legislation will insure that deaf and hearing impaired persons have improved access to Federal, State, and local governments. The legislation establishes a 75/25 matching grant program for State and local governments interested in installing teletypewriters in their agencies. State and local governments will be required to make all reasonable efforts to inform deaf persons of the availability of such devices including the dissemination of information which states the purpose of such devices and the cost to the user and lists all the agencies and locations in which such devices are to be installed. Further, it would require five Federal agencies to install teletypewriters in their main and regional offices. The selection of agencies will be made by the Secretary of the Department of Health, Education, and Welfare after consultation with the Deafness and Communicative Disorders Office of HEW, the National Center for the Law and the Deaf, the National Association of the Deaf, and other appropriate organizations and individuals with special knowledge of the problems of deaf persons.

Teletypewriters would also be provided to those Members of Congress who requested one in order to facilitate communication with deaf and hearing impaired constituents.

Third, the legislation will allow hearing-impaired and deaf persons to a tax credit toward 50 percent of the costs of purchasing television captioning or subtitle equipment.

I have introduced the Equal Access to Communications Act of 1979 because deaf persons should not have to resort to expensive and time consuming procedures to deal with their Government. It is difficult enough for a person who has no hearing impairment to locate a social security check lost somewhere in the bureaucratic jungle. The bureaucracy is overwhelming to a person who is not deaf. It must certainly be a nightmare for a person with a hearing impairment to try to get assistance. For this reason, I ask unanimous consent to have printed in the RECORD at the end of my remarks a list of all Federal agencies which have installed teletypewriters in their main offices.

I have introduced this legislation because I believe that equal access to all means of communications, as well as equal employment, housing and educational opportunities, should be guaranteed to handicapped individuals.

It is surely the responsibility of Congress to protect the rights of all minorities. The enactment of this legislation will only serve to further that goal.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL GOVERNMENT TELECOMMUNICATION DEVICES: U.S. GOVERNMENT

Architectural & Transportation: Barriers Compliance Board, 202-245-1801.

(Provides information concerning compliance of the accessibility of federal buildings to all handicapped persons.)

Community Services Administration, 202-254-6218.

(Provides information on the procedures to follow to apply for a grant for a community service project, i.e., independent living projects, training, nutrition, and HEADSTART.)

Department of Health, Education and Welfare: Office for Civil Rights, 202-472-2916.

(This office is responsible for complaints filed under Section 504 of the Rehabilitation Act of 1973. They have installed TDDs in each of their regional offices.)

Regional Office in Philadelphia includes these states: Delaware, District of Columbia, Pennsylvania, Virginia and West Virginia, 215-595-6794.

Office of Information and Resources, 202-245-0574.

(Provides information and referral services regarding government agencies to handicapped persons.)

Office of Deafness and Communicative Disorders, 202-245-0574.

(Provides rehabilitation and training services to the deaf, hard of hearing and speech and language impaired individuals; serves as a liasion to organizations, agencies, and institutions concerned with deaf and communication disorders, including state governments and regional offices.)

Research Projects Branch, 202-472-1757.

(Supports and monitors grants and contracts coordinating research efforts to handicapped individuals.)

Media Services and Captioned Films, 202-472-1256, 202-472-1356.

(Information on captioned films and television. Support for developmental research on media and technology for all handicapped individuals.)

Department of Housing & Urban Development (HUD): Office for Independent Living for the Disabled, 202-755-5709.

(For information about HUD programs, i.e., Section 202.)

Department of the Interior: National Park Service, Community Services, 202-472-5264.

(Can be called for interpreted tour information.)

Department of Labor: Office of Federal Contracts Compliance Program, 202-523-9512.

(Administers Section 503 of the 1973 Rehabilitation Act banning employment discrimination against qualified handicapped workers in federally contracted work.)

Federal Communication Commission: Consumer Affairs Offices, 202-632-6999.

(Provides consumer with information pertaining to any problems that deals with communication, i.e., radio, television and broadcasting.)

Comments on FCC issues, 202-245-9292.

(Comments may be filed 24 hours a day via the FCC unattended TTY-phone.)

Hearing-impaired consumers with questions about the FCC should call the attended TTY-phone, 202-632-6999.

Internal Revenue Service:

For all states except Indiana, 800-428-4732

Indiana, 800-382-4059.

General Service Administration: Office of the Federal Register, National Archives and Records Service, 202-523-5239.

(Providing a service for persons who need information about documents published by the Federal Register.)

President's Committee on Employment of the Handicapped, 202-653-5337.

Smithsonian Institute: Office of Elementary and Secondary Education, 202-381-4411.

(24-hour information on Institution programs and events are available via a prerecorded message. This service can be used after regular office hours, and on weekends. The caller can also leave a message. Requests for interpreters for tours must be made 48 hours in advance.)

U.S. Consumer Product Safety Commission:

For all states except Maryland, 800-638-2690.

(Maryland only, 800-492-2938.)

(To report a defective product that may cause a safety problem or injury.)

U.S. Department of Commerce: Law Library 202-377-5588.

(Library may be used for reference. Call to make an appointment.)

U.S. House of Representatives, 202-225-2793.

U.S. Senate, 202-224-3997.

(24-hour service for requesting information from Congressmen or Senators.)

White House—Presidential Offices:

Comments Office, 202-456-6213.

(Information to help deaf citizens get help from other federal agencies. Also to receive comments on Presidential speeches or actions.)

Visitors Office, 202-456-2216.

(To arrange for a guided, interpreted tour of the White House.)

Department of Labor: Office of Federal Contracts Compliance Program, 202-523-9512.

(Administers Section 503 of the 1973 Rehabilitation Act banning employment discrimination against qualified handicapped workers in federally contracted work.)

Department of Treasury: Bureau of the Public Debt, 202-634-5688.

Smithsonian Institution: National Museum of History and Technology, 202-381-4233.

Courtesy of the National Center for the Law and the Deaf, Washington, D.C.

● Mr. WEICKER. Mr. President, I am pleased to join with Senator LEAHY and others in introducing the Equal Access to Communications Act of 1979. I offer my full support for this important legislation to make Government more accessible to all its citizens.

Specifically, this legislation would insure that all deaf and hearing impaired individuals have improved access to Federal, State, and local governments by establishing a matching grant program for the installation of teletypewriters in their agencies. The teletypewriter, or TTY, is used by the deaf to talk over regular telephone lines. After attaching a telephone handset to the TTY, a deaf person can type this message which is then simultaneously printed by a TTY at the other end of the phone. This bill would also require Federal agencies to install TTY's in their main and regional offices and provide Members of Congress with one in their offices. The deaf person would then be able to communicate with his or her elected representatives and government officials.

The Equal Access to Communications Act of 1979 would directly benefit the deaf community in this country by also offering tax deductions and credits for the installation, servicing, and other costs incurred by the purchase of TTY's. This would allow a new generation of deaf persons the opportunity to try modern means of communication and to show other generations the advantages.

And finally, this bill would provide a tax credit toward the costs of purchasing and operating television captioning equipment. All in all, this legislation offers a long needed helping hand to a much neglected and ignored sector of our society.

In October of 1977 my Connecticut offices were the first anywhere to install TTY units. In Hartford and Bridgeport. During the past 2 years, the deaf population in Connecticut have been able to express their opinions on national issues and receive the same constituent services available to those who hear. This one simple device has revolutionized communication for the deaf in Connecticut by connecting them with the world's most common and essential communication link: The telephone. With the enactment of the Equal Access to Communications Act of 1979, we can revolutionize communication for the 14 million Americans across this country whose hearing is impaired.

Mr. President, I felt then, as I still feel today, the deaf community should be able to contact their Congressmen or Senators or government officials—with a question, a problem, an opinion, or a request—just as quickly and as easily as everyone else. It is our responsibility to make this kind of communication possible. These millions of persons are constantly being limited in access to emergency and social services, as well as being obstructed from making quick contact with their elected officials.

In addition, when communication is possible, the deaf must pay outrageous toll charges because of the longer time it takes to complete a phone call using the TTY. A form of discrimination and financial hardship results where the deaf person must make a trip, with an interpreter, to the Congressman's district office, pay astronomical telephone bills or commit his or her thoughts in writing and wait days or perhaps even weeks for an answer.

Mr. President, there is a very simple solution. The time is right for the Congress to consider and enact legislation that will give equal access to communications to all deaf and hearing-impaired people. I, therefore, urge my colleagues to support the Equal Access to Communications Act of 1979.●

● Mr. RANDOLPH. Mr. President, March 23, 1979 was a historic day for the deaf. That was the day on which the Secretary of Health, Education, and Welfare announced that two of the major networks and the Public Broadcasting System, in conjunction with the Department of Health, Education, and Welfare, were initiating a new program for the captioning of television programing. That announcement concluded a long journey on behalf of deaf and hearing impaired individuals, including hearings before the Subcommittee on the Handicapped, which I am privileged to chair, highlighting the need for a system to provide access to television for deaf and hearing people.

Very briefly, closed captioning is a system whereby translations—or captions—are converted to electronic codes and inserted in the regular television signal in a portion of the TV picture that is normally not seen. In order to see the captions on a home, or institutional set, special decoding equipment must be used by the viewer. Closed captioning programs, on commercial networks and PBS, should become available in early 1980.

Now that the networks have joined together, and through the science and technology of telecommunications, made it possible for all hearing impaired Americans to enjoy a medium which the non-hearing impaired have enjoyed for many years, we must assure that as many hearing impaired individuals as possible be able to purchase the decoders.

Mr. President, as you know, many deaf and hearing impaired individuals, for a variety of reasons, have extremely limited incomes. The older deaf, in particular, because of past discrimination in employment, receive small, often inadequate, retirement incomes. Unless some way is found to lessen the initial cost of the decoders many of these individuals will be unable to purchase them, and to take advantage of this new system. In order for the line 21 captioning system to succeed, significant numbers of hearing impaired must buy decoding equipment and watch captioned programs. I am pleased to be a cosponsor of Senator Leahy's bill to provide among other things, a tax credit of 50 percent toward the costs of purchasing television captioning equipment.

I ask unanimous consent that there be printed in the Record at this point a fact sheet on closed captioning for the hearing impaired, prepared by the National Captioning Institute.

There being no objection, the material was ordered to be printed in the Record, as follows:

Closed Captioning for the Hearing Impaired

On December 8, 1976, the Federal Communications Commission granted authority to PBS and other broadcasters to televise "closed" captions for the approximately 14 million hearing-impaired viewers in the United States. The Commission's action cleared the way for implementation of a captioning system that has been in development for several years. When fully in service, the new system will extend the benefits of television to hearing-impaired persons for the first time.

THE CLOSED CAPTIONING SYSTEM: WHAT IT IS

Closed Captioning is a system whereby translations (or captions) are converted to electronic codes and inserted in the regular television signal in a portion of the picture that is normally not seen.* In order to see the captions on a home, or institutional TV set, special decoding equipment must be used by the viewer.

HOW CLOSED CAPTIONING WORKS

The closed captioning system operates through the imposition of encoded visual subtitles on Line 21 of the TV vertical blanking interval—a portion of the screen that does not ordinarily contain picture information. The encoded caption material is transmitted by the television station along with the normal audio and visual portions of a program. It becomes visible only when decoded by a special device attached to, or incorporated into, the viewer's TV receiver. (The attached device is known as an Adapter Unit; the television set with built-in decoding equipment is known as an Integrated TV Receiver.) Viewers not using decoding equipment will not be able to see the captions.

HISTORY OF CLOSED CAPTIONING

The system under development at PBS evolved from an experimental concept—pioneered by the National Bureau of Standards. PBS has been refining and testing the system since 1972, and has been under contract with the Department of Health, Education and Welfare's Bureau of Education for the Handicapped since 1973. Under Special Temporary Authority from the FCC, PBS began over-the-air tests of the system in 1974.

Using prototype decoders placed at selected public television stations nationwide, PBS transmitted programs with "closed" captions to an audience of hearing-impaired and deaf persons which received the programs over air at schools and institutions for the hearing impaired. The reaction of these viewers were collected and evaluated under the coordination of Gallaudet College of Washington, D.C., the nation's largest institution of higher learning for deaf and hearing-impaired students. The results of that study, along with technical information gained from the field trials, formed the basis for a PBS petition to the FCC in November 1975. The petition sought permanent authority to broadcast the caption material on Line 21. With FCC approval of this petition in December 1976, PBS has committed itself to seeing the project through to completion.

HOW HEARING-IMPAIRED AUDIENCES AND THE DEAF COMMUNITY HAVE REACTED

The test results reported by Gallaudet indicated that 90 percent of the hearing-impaired viewers surveyed would not have been able to understand the programs captioned during the test under normal viewing circumstances. Some 95 percent of the people participating in the test indicated a strong desire to have decoding equipment in their homes.

To further define the market for captioned programs and relate it to decoding equipment cost and program availability, PBS contracted with the Deafness Research and Training Center ("DRTC") to conduct additional marketing surveys.

Results from the market surveys indicate a strong demand for both the Adapter Unit and the Integrated TV Receiver assuming a reasonable cost for the equipment and a reasonable volume of captioned public television and commercial television programming.

The various associations that represent the deaf community have been eager onlookers to the development process for "closed" caption programming on television. Once decoding equipment is available in the marketplace, these organized groups have indicated that they are prepared to take whatever steps are necessary to publicize this fact and encourage their members (and the families of these members) to purchase the relevant products.

DECODING EQUIPMENT DEVELOPMENT AND DISTRIBUTION

In May 1977, and again in 1978, PRS contracted with two different manufacturers for the development of the decoding technology that would—when used in an Adapter Unit or an Integrated TV Receiver—take the hidden Line 21 signal and transform it into visible captions or subtitles superimposed at the top or bottom of the television picture.

By May 1979, PBS—in conjunction with the manufacturer and distributor of the Adapter Units and Integrated TV Receivers—

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*In contrast, "open" captioning is an interim service now being provided by PBS while the commercial development of decoding equipment is still underway. "Open" captions are broadcast as part of a television program and can be seen on any television set. Over the past three years, PBS has distributed several hours per week of programs with "open" captions, including a weeknight repeat of ABC's World News Tonight, captioned at WGBH Boston. While "open" captioning is less complicated than the technically sophisticated "closed" captioning process, its utility is limited. Since "open" captions are visible to all viewers, they must be used with discretion since viewers with adequate hearing ability find the captions disruptive. "Closed" captions can be added to all programs and accommodate both the hearing-impaired and hearing audiences.

expects to make a decision, based on cost, product capability, and other factors, as to the manufacturer that will be used for the decoding technology.

In June 1978, PBS assumed the responsibility for finding a manufacturer and a distributor for the Adapter Unit and the Integrated TV Receiver, which would incorporate the decoding circuitry. The manufacturer could not, however, be separated from the selection of the retail distributor. Thus, PBS' agreement with a national distributor has included the selection of a TV and Adapter Unit manufacturer that is acceptable to that retailer. Contract negotiations are still underway with the targeted national retailer and are expected to be finalized shortly. The retailer was selected because of its excellent proposal and the unique advantages which its participation in the Project offered, such as an extensive nationwide distribution network by mail order and retail outlets; a large-scale advertising and marketing effort; and complete servicing, warranty, and spare parts responsibility.

THE COST OF DECODING EQUIPMENT

Presently, the best estimates for the price to the consumer of the Adapter Unit are between $220–$250. Similarly, the Integrated TV Receiver is expected to cost approximately $500 (which includes about $75–$100 for adding the decoding feature to that model). When all arrangements with manufacturers/retailers are finalized, PBS should be able to provide more details on the expected price of decoding equipment to the general public.

THE CAPTION EDITING CONSOLE

The Caption Editing Console is the equipment which has been designed by PBS' engineers to enable professional caption editors to produce "closed" captions for a television program. The heart of the Console is a microprocessor for which PBS staff has developed software programs over the last two years. The sophistication of these programs is expected to considerably reduce the time required to caption television programs so that costs are now anticipated to be approximately $2,000 for each hour of programming.

PBS is now in the process of assembling twenty Consoles. Most of these will be transferred to the new National Captioning Institute (discussed below), which will hire and train caption editors to perform the captioning function for PBS, ABC, NBC, and other broadcasting entities. Additional Consoles will be constructed to meet the anticipated increasing demand for captioned programs.

To date, the captioning process has involved the encoding of television programs produced on videotape. Because of the need to encode television programs that are on film, PBS commissioned a study of the techniques that might be available to accomplish this purpose. Beginning in July 1978, the Rochester Institute of Technology, pursuant to a subcontract from PBS, engaged in an analysis of all potentially technically feasible methods for the captioning, of film. This study, which reviewed more than 20 techniques, is now in the process of being completed. Four techniques are being analyzed further for the selection of an appropriate methodology to be developed. PBS expects to make a final decision on the appropriate technique(s) by mid-1979. The lack of immediately available techniques for captioning film will not delay the implementation of the Captioning Project since sufficient programs are available which use the medium of videotape.

NATIONAL CAPTIONING INSTITUTE

The concept of a National Captioning Institute ("NCI")—based in the Washington, D.C. area—has evolved from numerous discussions and studies of the strategic and practical difficulties involved in the captioning of both public and commercial television programs. NCI will serve as a nonprofit organization and will have a Board of Directors comprised of people with expertise in the areas of public and commercial television network operations and management; television advertising and program production; and marketing, financing, and retailing. The primary function of NCI will be to caption programs on behalf of PBS, ABC, NBC and, in some instances, individual stations and/or television producers.

NCI will also perform the very unique role of serving as the focal point for various marketing aspects of the Captioning Project. It is felt that captioning should eventually become a self-sustaining operation. Accordingly, the volume of programs that NCI will caption should be directly related to the number of decoding devices purchased by the hearing-impaired community. To make this connection, a small royalty will come to NCI with each decoding device purchased. This revenue is expected to become a significant means of underwriting the costs of captioning, although funding from networks, private foundations, and ultimately the sponsors of television programs also is expected.

NCI will begin operations in early 1979. During virtually its entire first year, it will be performing training functions and building up a supply of captioned programs which can be aired beginning in early 1980, when the consumer decoding devices are expected to be available. The basic schedule of closed caption programs to be made available to the public during 1980 will build up to approximately 25 hours per week—using programs on PBS, ABC, and NBC and possibly other broadcasters as well. It is expected that revenues to cover the first year's operating costs will be derived from the commercial networks and public broadcasting, HEW, the Corporation for Public Broadcasting, and other private corporations and foundations which have previously shown an interest in the Closed Captioning Project.

After 1980, it is expected that the basic schedule of captioned programs described above will be paid for in much the same way—except that the HEW share will be phased out over a period of several years. HEW funds will be replaced by royalties derived from the sale of decoding equipment and from revenues derived from various private sources—including private companies which now fund both public and commercial television programs and possibly local stations which comprise both the public broadcasting and commercial networks.

It is expected that, over time, the quantity of captioned programs will exceed the approximately 25 hours per week in the basic schedule which number should be reached by the end of 1980. For this to occur, however, substantial sales of decoding equipment will have to occur.

OTHER ENDEAVORS RELATING TO CAPTIONING

It should also be noted that a number of other services can be performed by the decoding circuitry when placed in the decoding equipment. For example, within several years it is possible that captioning will be available for various "real-time" events such as news programs, Presidential messages, and sports events. The market impact of these further services is unclear. Finally, captioning may serve a distinctive educational purpose for children who are not hearing impaired, primarily as a reading aid. If this is the case, the market for decoding equipment would again expand to include elementary and secondary schools and parents of children with reading problems.

CONCLUSION

The technology necessary to implement closed captioning is either ready now or is well along in the development process. A major national retailer has been selected which has proposed a marketing policy consistent with the public interest orientation of the Captioning Project and a distribution plan that promises to reach the widest possible segment of the hearing-impaired community. As a result, it is expected that the Adapter Unit retail price will be within the range at which market survey information indicated that substantial numbers of the hearing-impaired will be prepared to buy the equipment. The retailer is also prepared to sell Integrated TV Receivers with similar distribution advantages. NCI has been incorporated and will proceed to hire staff and establish operating centers. Closed captioned programs—on commercial networks and the Public Broadcasting Service—should become available in early 1980. In short, the Closed Captioning Project is very close to implementation and can soon be expected to provide a unique service to millions of hearing-impaired members of the American public. ●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Vermont (Mr. LEAHY), relative to the installation of telecommunications devices for the deaf in agencies of Federal, State, and local governments, be jointly referred to the committees on Governmental Affairs and Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. WILLIAMS:

S. 1870. A bill to expand access to institutions of higher education by extension of the Federal guaranteed student loan program to students purchasing degrees on less than a half-time basis, increase loan availability and reduce loan defaults; to the Committee on Labor and Human Resources.

GUARANTEED STUDENT LOAN IMPROVEMENT ACT OF 1979

● Mr. WILLIAMS. Mr. President, I am introducing today the Guaranteed Student Loan Improvement Act of 1979, a measure to enhance access to college for millions of Americans.

This measure provides, for the first time, an inexpensive new loan program for part-time students—including women seeking careers, adults needing career advancement education, and older persons. In an era of financial hardships and massive declines in enrollments of traditional students, access to higher education for part-time and nontraditional students is essential. This measure authorizes loans of up to $1,500 a year to part-time students who take required courses leading to a degree or an occupational certificate.

The Guaranteed Student Loan Improvement Act is concerned with several basic changes in the federally insured student loan program. The improvements may be summarized as follow:

First, increased availability of loans to parents of students as well as traditional college students; second, reduction of defaults by using the national network of credit organizations for location of borrowers; third, establishment of a limited lender of last resort capability in the Student Loan Marketing Association; fourth, strengthening State guaranteed loan agencies by enabling them to consolidate a borrower's loans with repayment geared to the borrower's income; and fifth, establishment of a National Commission on Student Financial Assistance, appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives and the President of the United States, to examine the issues confronting the Nation's student assistance policy and to submit its recommendations to Congress.

Last year, Congressman ANDREW MAGUIRE of New Jersey and I jointly introduced S. 3428, the Capital Availability of Higher Education Act, a bill to expand loan coverage and to reduce the high loan default rate. S. 3428 set the stage for this proposed legislation.

Our intention has been to strengthen the present loan program while making it more efficient and responsive to students and their families. The Guaranteed Student Loan Improvement Act is true to those principles and builds upon the insured student loan program, a cornerstone of higher education in the United States.

The Nation's colleges and universities face unparalleled economic hardships in the coming decade. A study recently conducted for the Committee on Labor and Human Resources by Duke University, entitled "Higher Education in the 1980's: Enrollments, New Markets and the Management of Decline," predicts a 14 to 20 percent reduction in traditional college enrollment between 1980 and 1990. Since college budgets frequently are keyed to enrollment, financial crisis in higher education can best be avoided by maximizing financial access to college and by providing stable and reliable Federal student assistance.

This measure builds upon a decade of experience in student loan programs. It identifies the strong and weak points of the program and proposes remedies where necessary. It is predicated upon a belief shared by the vast majority of college and State financial assistance administrators: It is best to improve a successful student assistance program rather than experiment with risky and untried substitutes in an era of precarious college financing.

The Guaranteed Student Loan Improvement Act contains many important administrative reforms which have been endorsed by the higher education community. Loan applications are unified and simplified. For the first time, students fully independent of their parents are distinguished from students partly dependent on their parents. An effective lender referral service is recommended, permitting state loan agencies to connect student borrowers with private lenders.

In proposing a new loan program for parents of students, this measure recognizes family responsibility for assisting students' pursuit of higher education. The family loan program would not subsidize interest payments while students are attending school, but would provide capital in an amount not exceeding $3,000 per year up to a maximum of $15,000 at a rate of 7 percent interest. A condition is that repayment would begin not later than 60 days after disbursement. Coupled with loans made to students, the family loan program makes eminently good sense in distributing financial responsibility between student and family.

Defaults on student loans are of concern to the Nation. While estimates of default rates vary, many experts seem to agree that approximately 13 percent of loans are in default. This measure mounts a concerted attack on the many sources of default.

First, it authorizes the Commissioner of Education to notify credit bureaus when loans are made, and permits them to supply location information of defaulting borrowers. This should reduce enormously that aspect of default attributed to intentional avoidance of repayment.

Second, it permits consolidation and income contingent repayment of loans by both the Student Loan Marketing Association and State loan agencies. Flexible but steady repayment is made possible by these provisions.

The parent loan program should contribute to lowered defaults by spreading indebtedness between students whose postgradute income may be low and their families whose income is likely to be higher and more stable. It is expected that repayment will be aided substantially by this new program.

The Guaranteed Student Loan Improvement Act will greatly expand the capital available for higher education as a result of the Education Amendments of 1976, the Middle Income Student Assistance Act of 1978, and the Education Amendments of 1979. My bill will also reduce costs by lowering Federal interest subsidies in the national direct student loan program.

By raising NDSL interests rates to 7 percent from a current rate of 3 percent, cost savings of millions of dollars can result without imposing undue hardship on any borrower.

In summary, the measure proposed today builds upon the proven strengths of the present system of federally insured loans. It identifies areas of needed improvement. It sets in motion a process for continual refinement of Federal student assistance policy.

I ask unanimous consent, Mr. President, that a summary and factsheet be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE GUARANTEED STUDENT LOAN IMPROVEMENT ACT OF 1979

SUMMARY

Section 2. Extends the GSL program to students enrolled for not less than 2 nor more than 6 credit hours of courses required for a degree or certificate, in amounts up to $1,500 a year or $6,000 in the aggregate. Requires continuous study to toll the initiation of repayment, ordinarily to begin nine months after disbursement of the loan up to a period of 8 years and 9 months.

Section 3. Extends the National Direct Student Loan program to part-time students in accordance with the provisions of Section 2, up to 10% of the funds utilized by institutions of postsecondary education at the discretion of those institutions.

Section 4. Fixes the effective date of sections 2 and 3 as the date of enactment of this bill.

Section 101. Extends the Federally Guaranteed Student Loan Program for five years beyond September 30, 1980.

Section 102. Sets borrowing limits for Federally insured loans as follow:

—For independent students, $3,000 per academic year up to a maximum of $15,000 in undergraduate education.

—For dependent students, $2,500 per academic year up to a maximum of $12,500 in undergraduate education.

—For graduate and professional students, $5,000 per academic year up to a maximum of $25,000 in graduate and professional education.

Section 103. Establishes the conditions under which repayment of insured loans may be deferred.

Section 104. Mandates the Commissioner of Education to enter into cooperative agreements with commercial credit organizations to assure collection of loans in default status. Permits credit bureaus to forward to the Commissioner the location of defaulted borrowers and requires the Commissioner to provide such organizations with information related to a loan at the time of default.

Section 105. Establishes a new insured loan program to parents of students. Provides for insured loans up to $3,000 per year and $15,000 in the aggregate. Requires repayment to begin soon after disbursement. Pays no in-school interest subsidy, but provides the special allowance to lenders otherwise available to student loans.

Section 106. Limits allowances to State agencies or their permissible designates which generate student loan funds through means available to States or other governmental entities not otherwise provided for in the Guaranteed Student Loan Program.

Section 107. Set forth definitions and conditions of the Federally insured student and parent loan program.

Section 108. Amends authorization of the Student Loan Marketing Association and adds new authority permitting SLMA to become a lender of last resort directly to students when geographical areas of the Nation have been identified as locations of student capital shortage in consultation with State authorities. Permits SLMA to consolidate multiple loans into a single loan for borrowers under this program and permit SLMA to establish income contingent repayment schedules in its discretion.

Section 109. Creates new authority strengthening the State agencies responsible for student loans by permitting those agencies to consolidate multiple loans into a single loan for borrowers and to establish income contingent repayment schedules in their discretion. Authorizes State agencies to conduct activities as direct lenders of last resort and entrusts examinations of the mechanisms for so doing to a National Commission on Student Financial Assistance established in section 115 of this Act.

Section 110 thru Section 114. Extends the National Direct Student Loan Program, establishes loan limitations under that program, prescribes conditions for repayment deferral and collection practices under this program and raises the interest rate charged to students in the NDSL program from 3% to 7%.

Section 115. Sets forth general provisions guiding eligibility and related matters for the GSL program and creates a National Commission on Student Financial Assistance. The Commission is to be appointed by the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the President of the United States and is charged to examine listed issues facing Federal student financial assistance policy and to report its findings and recommendations by July 1, 1983. The Commission will be comprised of 12 members.

THE GUARANTEED STUDENT LOAN IMPROVEMENT ACT OF 1979—FACT SHEET

I. LOANS MADE, TOTAL GSL PROGRAM, FISCAL YEARS 1975-80

[Dollar amounts in millions]

Disbursements	Fiscal year— 1975	1976 [1]	1977	1978	1979 (estimate)	1980 (estimate) [2]
Current year	$1,208	$1,388	$1,470	$1,854	$2,250	$2,500
Cumulative to start of current year	6,825	8,033	9,768	11,238	13,092	15,342
Cumulative at end of current year	8,033	9,768	11,238	13,092	15,342	17,842
Average size loan	1,314	1,436	1,562	1,809	1,998	2,187
Loans in current year (thousands)	919	966	941	1,025	1,126	1,143

[1] 5-quarter transition fiscal year, adjusted by 0.80 to reflect annual trends for current years. Totals do not add because cumulative figures are not so adjusted.

[2] Does not reflect CBO estimate that 1.6 million loans, totaling about $3,500,000 000, will likely be made in fiscal year 1980 due to the Middle Income Student Assistance Act (MISAA) and normal program growth.

Source: U.S. Office of Education, budget printouts, December 1978, January 1979.

II. GROWTH OF STATE AGENCY COMPONENT, GSL PROGRAM, FISCAL YEARS 1975-80

[Dollar amounts in millions]

Disbursements	Fiscal year— 1975	1976 [1]	1977	1978	1979 (estimate)	1980 (estimate) [2]
Current year	$619	$852	$1,013	$1,437	$1,980	$2,256
Cumulative to start of current year	3,787	4,406	5,471	6,484	7,921	9,901
Cumulative at end of current year	4,406	5,471	6,484	7,921	9,901	12,151
Average size loan	1,317	1,405	1,566	1,821	2,014	2,201
Loans in current year (thousands)	470	606	647	789	983	1,025
Percent increase or decrease over prior year:						
Dollars in loans		+37.6	+18.9	+41.9	+37.8	+13.9
Number of loans		+28.9	+6.8	+21.9	+24.6	+4.3

[1] 5-quarter transition fiscal year, adjusted by 0.80 to reflect annual trends for current years.

[2] Does not reflect CBO estimate of 1.6 million loans totaling about $3,500,000,000, for fiscal year 1980.

Source: U.S. Office of Education, budget printouts, December 1978, January-February 1979.

III. DECLINE OF FEDERAL (FISL) COMPONENT, GSL PROGRAM, FISCAL YEARS 1975-80

[Dollar amounts in millions]

Disbursements	Fiscal year— 1975	[1] 1976	1977	1978	1979 (estimate)	[2] 1980 (estimate)
Current year	$589	$536	$457	$417	$270	$244
Cumulative to start of current year	3,038	3,627	4,297	4,754	5,171	5,441
Cumulative at end of current year	3,627	4,297	4,754	5,171	5,441	5,685
Average size loan	1,312	1,489	1,554	1,767	1,888	2,068
Loans in current year (thousands)	449	360	294	236	143	118
Percent increase or decrease over prior year:						
Dollars in loans		−9.0	−14.7	−8.8	−35.3	−9.6
Number of loans		−19.8	−18.3	−19.7	−39.4	−17.5

[1] 5-quarter transition fiscal year, adjusted by 0.80 to reflect annual trends for current years.

[2] Does not reflect CBO estimate of $1.6 million loans totaling about $3,500,000,000, for fiscal year 1980.

Source: U.S. Office of Education, budget printouts, December 1978, January-February 1979.

IV. LEVERAGE FACTORS IN THE GSL PROGRAM, FISCAL YEARS 1975-80: HOW MANY LOAN DOLLARS ARE DELIVERED BY A DOLLAR OF DIRECTLY BUDGETED FEDERAL OPERATING FUNDS

[Dollar amounts in millions]

	Fiscal year— 1975	1976 [1]	1977	1978	1979 (estimate)	1980 (estimate) [2]
(1) Total yearly operating costs, combined Federal-State program [3]	$460.4	$555.8	$513.4	$666.2	$951.7	$991.7
(2) Cumulative loans outstanding	5,320	5,676	6,193	6,825	7,792	8,889
Leverage factor (2)÷(1)	11.6	10.2	12.1	10.2	8.2	9.0

[1] 15-mo fiscal year.

[2] Does not reflect larger CBO estimates for same period.

[3] Includes annual amounts for interest subsidy, special allowance payments to lenders, default claims, default claims due to death, disability, or bankruptcy of student borrower, and administrative cost payments to State agencies.

Source: U.S. Office of Education, budget printouts, 1978-79.

V.—WHERE STUDENT LOAN FUNDS COME FROM—PERCENT DISTRIBUTION BY TYPE OF PRIVATE LENDER, FEDERAL (FISL) COMPONENT OF THE GSL PROGRAM ONLY, CUMULATIVE THROUGH Calendar Year 1978

[Dollars in millions]

Type of lender	Loan volume [1]	Percent total
National bank	$1,795,321	32.0
State bank (FDIC)	1,317,782	23.5
Vocational institution (as school lender)	667,508	11.9
Direct State loan	336,225	6.0
Federal savings and loan	274,174	4.9
Academic institution (as school lender)	264,814	4.8
Federal credit union	195,634	3.5
State bank (non-FDIC)	130,243	2.3
Mutual savings bank	124,283	2.2
State savings and loan	113,812	2.0
State credit union	96,307	1.7
Insurance company	36,165	.7
Other	250,407	4.5
Not coded	289	
Total	5,602,963	100.0

[1] Commitments (agreements to lend), not actual disbursements.

Note.—Figures for State-agency program component not available; above percentages may underrepresent or overrepresent particular distributions for the whole program due to different State-agency demographic factors associated with borrowers and lenders. Totals may not add due to rounding.

Source: U.S. Office of Education, Bureau of Student Financial assistance. Data submitted to Hon. William Ford, chairman, Subcommittee on Postsecondary Education, February 1979.

VI. WHO GETS GSL'S NOW

[Percent distributions, benefits and recipients, by income level and type of institution attended, fiscal year 1978 and academic year 1976–77]

	Income level—Family (dependent student) or student (independent) [1]		
	0 to $15,000	$15,000 to to $25,000	$25,000 plus
Percent of dollar benefits	63	32	5

Type of Postsecondary Institution Attended [2]

	Public		
	Univ.	4-yr	2-yr
Percent of benefits	26	19	5
Percent of recipients	27	12	7

	Private			
	Univ.	4-yr	2-yr	Proprietary
Percent of benefits	5	25	2	19
Percent of recipients	10	22	2	19

[1] Fiscal year 1978.

[2] Fiscal year 1976–77.

Source: Congressional Budget Office, "Federal Assistance for Postsecondary Education: Options for Fiscal Year 1979 (May 1978).

VII.—REPAYMENT TIMES, REDUCTIONS IN SUBSIDY COSTS AND NET SAVINGS UNDER FAIR ACCESS TO HIGHER EDUCATION ACT OF 1979, AS COMPARED TO PRESENT GSL PROGRAM, AY 1979–80

A. Time for debt retirement, by income class

	Years for complete repayment		
	Low	Middle	High
Lifetime income:			
GSL	10	10	10
Fair Acess Act	19	13	8

B. Rapidity of repayment per $1,000 borrowed in AY 1979–80 under Fair Access Act, by present value and as percent of present value of ultimate amount repaid, average of all income classes for former college students

	Amount paid (pdv)	Percent of ultimate total (pdv)
Year:		
5	$144	23
10	447	72
15	561	90
20	593	96

C. Effective gross rates of return, GSL and others versus Fair Access Act

	Percent
GSL	3.4
Fair Access Act	6.2
NDSL	1.0
TAF (weighted mean)	2.6

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. THURMOND, the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from South Dakota (Mr. PRESSLER) as cosponsors of S. 91, a bill to amend title 10, United States Code, to remove certain inequities in the survivor benefit plan provided for under chapter 73 of such title, and for other purposes.

S. 299

At the request of Mr. CULVER, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 299, the Regulatory Flexibility Act of 1979.

S. 616

At the request of Mr. DOLE, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 616, a bill to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations.

S. 1108

At the request of Mr. SASSER, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1108, a bill to amend the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970.

S. 1163

At the request of Mr. DOLE, the Senator from Virginia (Mr. WARNER), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1163, a bill to repeal the carryover basis provision in the tax law.

S. 1179

At the request of Mr. BAYH, the Senator from Minnesota (Mr. DURENBERGER), the Senator from Georgia (Mr. TALMADGE), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of S. 1179, a bill to incorporate the Gold Star Wives.

S. 1203

At the request of Mr. BAYH, the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MELCHER), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Vermont (Mr. LEAHY), the Senator from Nevada (Mr. CANNON), the Senator from New Mexico (Mr. SCHMITT), the Senator from North Dakota (Mr. BURDICK), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1287

At the request of Mr. GOLDWATER, the Senators from New Mexico (Mr. DOMENICI and Mr. SCHMITT) were added as cosponsors of S. 1287, a bill to repeal the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older.

S. 1382

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. BOREN), and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of S. 1382, a bill to amend title IV of the Social Security Act to improve operation of the AFDC program.

S. 1435

At the request of Mr. NELSON, the Senator from Alaska (Mr. GRAVEL), the Senator from Arizona (Mr. DECONCINI), and the Senator from Florida (Mr. STONE) were added as cosponsors of S. 1435, the Capital Cost Recovery Act.

S. 1783

At the request of Mr. DOLE, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 1783, a bill to provide loan guarantees for fuel oil dealers.

S. 1792

At the request of Mr. MCGOVERN, the Senator from Ohio (Mr. METZENBAUM), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 1792, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

S. 1805

At the request of Mr. NELSON, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. RIEGLE), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 1805, a bill to amend the Economic Opportunity Act of 1964 to establish a weatherization program designed to enable low-income and near-poor individuals and families to participate in energy conservation programs.

SENATE JOINT RESOLUTION 100

At the request of Mr. SASSER, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of Senate Joint Resolution 100, a joint resolution to authorize the President to proclaim May 1, 1980 as National Bicycling Day.

SENATE RESOLUTION 247

At the request of Mr. DOLE, the Senator from Pennsylvania (Mr. HEINZ) and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of Senate Resolution 247, a resolution to provide food and medical emergency aid to Cambodia.

AMENDMENTS SUBMITTED FOR PRINTING

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1979—H.R. 3434

AMENDMENT NO. 507

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

● Mr. SCHWEIKER. Mr. President, today I submit an amendment to H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979.

My amendment is similar to S. 731, a bill I introduced last March to make urgently needed improvements in title XIX (medicaid) program administration by requiring prompt installation of computerized medicaid management information systems (MMIS). Twenty-seven States have enjoyed tremendous savings by installing MMIS, but an estimated $400 million more can be saved if the remaining States bring the system into operation. The longer we wait to prod the laggard States into action, the more taxpayers' medicaid dollars slip through the cracks of antiquated administrative systems.

The amendment I submit today differs in three minor ways from S. 731. The changes have been made to insure that the required MMIS installation timetable is fair and achievable, and that small, efficient States are not unnecessarily penalized. The following changes have been made.

First. The dates by which MMIS installation and approval are required before penalties are assessed have been moved back 6 months. This establishes deadlines that are reasonable for all States.

Second. The provision waiving small, efficient States from the MMIS installation requirement has been rewritten to insure that the few (3 or 4) States that would not improve efficiency with MMIS installation are not penalized for failure to install.

Third. A provision has been added to waive imposition of fiscal penalties if a State's failure to install MMIS is due to circumstances beyond the control of the State and the Federal Government.

Mr. President, I ask unanimous consent that the text of my amendment, a section-by-section analysis, and a summary of the status of MMIS in the States be printed at this point in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 507

At the end of the bill insert the following new sections:

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 308. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new section:

"(r)(1) The amount otherwise payable for any quarter under paragraphs (2), (4), and (7) of subsection (a) (without regard to this subsection) shall be reduced by an amount equal to—

"(A) 25 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1980, and ending before July 1, 1981,

"(B) 50 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1981, and ending before July 1, 1982,

"(C) 75 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1982, and ending before July 1, 1983, and

"(D) 100 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1983, with respect to any State which fails to meet the requirements of paragraph (2).

"(2)(A) In order to receive payments under section 1903(a) without being subject to reduction under paragraph (1) of this subsection, a State must provide that mechanized claims processing and information retrieval systems of the type described in section 1903(a)(3)(A)(i) which are approved by the Secretary (whether such systems are operated directly by the State or by another person under a contract with the State) be operational with respect to the entire State, and that such systems meet the requirements of paragraph (3) of this subsection.

"(B) With respect to quarters ending before July 1, 1981, payments to a State shall not be subject to reduction under paragraph (1) of this subsection if such State has submitted, and the Secretary has approved, an advanced planning document which specifically describes the State's plans for installing and operating mechanized claims processing and information retrieval systems described in subparagraph (A).

"(3) (A) In order to be approved by the Secretary, or to be reapproved by the Secretary in the case of a system which is initially approved but is subsequently disapproved, mechanized claims processing and information retrieval systems must meet the following requirements:

"(i) The systems must include provider, physician, and patient profiles which are sufficient to provide charting of drug and service overuse.

"(ii) The State must provide that information on possible fraud or abuse which is obtained from the systems is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet the standards developed by the Secretary under paragraph (4).

"(B) Any mechanized claims processing and information retrieval system which does not meet the requirements of subparagraph (A) shall not be approved by the Secretary (in the case of a State which is seeking initial approval of its systems) or shall be disapproved by the Secretary (in the case of a State which has systems which were initially approved). The Secretary shall periodically reassess the systems in operation in each State to determine whether the systems should be disapproved.

"(4) The Secretary, with respect to State systems shall—

"(A) develop written approval procedures for use in approving State systems, including specific criteria for testing systems in operation to insure that all requirements are met;

"(B) periodically update the general systems design and the program regulations and guides with emphasis on the use of proven processing techniques;

"(C) assist States in developing medically acceptable definitions relating to medical practice for the purpose of correlating such factors as diagnosis, medical procedure, age, and sex, in order that the State systems can provide a check on consistency of billings based on these factors;

"(D) give priority to aiding States in the development and improvement of surveillance and utilization review subsystems to enable the State systems to effectively detect cases of fraud or abuse;

"(E) for the purpose of ensuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform identification numbering system for providers, other persons receiving payments under the State plans or under title XVIII, and beneficiaries of medical services under the State plans or under title XVIII, and develop standard coding systems for medical procedures, diagnoses, drugs, and medical supplies to be utilized in the administration of the State plans and title XVIII;

"(ii) provide liaison between States and carriers having agreements under title XVIII to resolve conflicts relating to the exchange of payment data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan or under title XVIII;

"(F) develop definitions of costs relating to the State systems which will be reimbursed under the provisions of subsection (a)(3) of this section, taking into account the differing sizes of States' programs under this title; and

"(G) report annually to the Congress on the efforts made to aid States in developing and operating effective mechanized claims processing and information retrieval systems.

"(5)(A) In any case in which a State's mechanized claims processing and information retrieval system is disapproved by the Secretary pursuant to paragraph (3)(B) of this subsection, the State (with the assistance of the Secretary) must develop a corrective action plan for bringing the system back into compliance with the requirements of paragraph (3)(A) of this subsection, and submit such plan to the Secretary within one year after the disapproval.

"(B) If the State's system has not been reapproved by the Secretary as being in compliance with the requirements of paragraph (3)(A) within two years after disapproval, payments to such State under this section shall be made without regard to the provisions of subsection (a)(3).

"(C) If the State's system has not been so reapproved within one year after the date on which payments to the State were reduced under subparagraph (B), the payments with respect to administrative costs made to such State under paragraphs (2), (3), (4), and (7) of subsection (a) shall be made at a reimbursement rate of 25 percent rather than the percentage specified in such paragraphs.

"(D) If the State's system has not been so reapproved within two years after the date on which payments to the State were reduced under subparagraph (B), no payments with respect to administrative costs shall be made to such State under paragraphs (2), (3), (4), and (7) of subsection (a).

"(E) If a State's system is reapproved, payments under this section shall be made without regard to this paragraph beginning with the first quarter that begins after the date of such reapproval.

"(6)(A) The Secretary may waive the provisions of this subsection for any State if he determines that the use of such systems would not significantly increase the efficiency of the administration of that State's plan due to reasons such as the low population, or small program under this title, of such State.

"(B) The Secretary shall submit to the Congress a report on each waiver granted under subparagraph (A) substantiating that the criteria for such waiver have been met.

"(C) A waiver granted under subparagraph (A) shall be withdrawn if the Secretary determines that the State no longer meets the criteria for such waiver. If such waiver is withdrawn, the Secretary and the State shall develop a plan to be followed by the State for the expeditious installation of a mechanized claims processing and information retrieval system. No reduction in payments to such State shall be made under paragraph (1) of this subsection.

"(7)(A) The reductions in payments to States required under paragraphs (1) and (5) of this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the requirements of such paragraphs due to circumstances beyond the control of such State and the Federal Government.

"(B) If the Secretary determines under subparagraph (A) that a State is not subject to such reductions, he shall recommend a plan for corrective action so that such State will expeditiously meet the requirements of paragraphs (1) and (5), and shall report to the Congress on each such determination, including a description of the plan for corrective action.".

EXCHANGE OF INFORMATION ON TERMINATED OR SUSPENDED PROVIDERS

SEC. 309. (a) Section 1862(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of any determination made under the provisions of this subsection.".

(b) Section 1866(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, the Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of such termination.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (40) the following new paragraph:

"(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action.".

SECTION-BY-SECTION ANALYSIS OF SCHWEIKER MEDICAID FRAUD AMENDMENT

Section 1:

Paragraph 1–2:

The first two paragraphs of the amendment establish penalties for states that fail to institute and have approved by HEW a computerized claims processing and information retrieval system (also known as a Medicaid Management Information System, MMIS). The penalties are in the form of reduced federal matching funds for the administration of the State Medicaid program. States (unless waived) must have submitted plans for installation by July 1, 1980, and must have the system operational by July 1, 1981.

Paragraph 3A:

Stipulates that in order for a state's computerized system to be approved, making the state eligible for increased matching funds, certain basic requirements must be met.

(1) The system must include provider, physician, and patient profiles which are sufficient to provide charting of drug and service overuse.

(2) The state must agree that all information on possible fraud or abuse obtained from the system be turned over to the State Medicaid Fraud Control Unit so that further action may be taken.

(3) The system must meet certain standards developed by HEW under the direction of Section 1, Paragraph 4 of this bill.

Paragraph 3B:

Requires HEW to review periodically state systems in operation to see if they continue to meet established standards. If they do not, they will be de-certified and subject to the penalties established in Section 1, Paragraph 5.

Paragraph 4:

Requires the Secretary of HEW to develop specific criteria for checking states' systems in operation, and forces HEW to take a more active role in advocating computerized systems and aiding states with technical problems. HEW is directed to give priority to developing the part of the computerized system that is designed to detect cases of possible fraud or abuse, to develop guidelines for states to follow so that their Medicaid and Medicare systems become compatible, and to define the precise kinds of costs that the federal government will reimburse as part of the mechanized management system. HEW must report to Congress annually on the progress of the states in developing effective systems.

Paragraph 5:

Outlines penalties to be assessed to states that fail to meet minimum established standards upon periodic inspection. States are given two years to bring their system into compliance with standards before they lose federal funds. HEW is to aid the noncomplying state to make necessary improvements. If states fail to meet standards after two years have elapsed from the finding of noncompliance, they become subject to penalties in the form of reduced matching funds for Medicaid administrative costs.

If a state system is recertified by HEW, full federal funds are restored.

Note that the penalties in this paragraph are different from those established in paragraphs 1–2. Paragraph 1–2 penalties apply to states that fail to install mechanized systems; these penalties apply to states that have installed an initially approved system but have failed to maintain it properly. These penalties will apply, for example, to any of the states that already have initially approved systems if inspection shows that their system does not meet minimum standards.

Paragraph 6:

A waiver provision—allows the Secretary of HEW to waive the requirement that a state install a mechanized system if he determines, and demonstrates in a report to Congress that the efficiency of administration of the state's Medicaid program would not improve with the installation of such a system. This section also gives the Secretary the authority to lift the waiver if he determines the situation has changed enough in the state that a mechanized system would be beneficial.

Paragraph 7:

Provides that the penalties for states outlined in paragraphs 1–2 and 5 of this amendment will not apply if the Secretary determines, and demonstrates to Congress, that a state is unable to comply with the reqirements of the amendment due to circumstances beyond the control of the state and the Federal Government.

Section 2:

Provides that information on the status of providers (e.g. "terminated," "suspended," or "On probation") must be exchanged between the federally administered Medicare system and each state's Medicaid system, and vice-versa.

STATUS OF MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)

1. States approved for 75 percent Federal Financial Participation (FFP) for operations of a mechanized claims processing and information retrieval system: (27)

Alabama
Arkansas
California
Florida
Georgia
Hawaii
Idaho
Indiana
Kansas
Louisiana
Michigan
Minnesota
Montana
Nebraska
New Hampshire
New Mexico
New York (N.Y. City only)
North Carolina
North Dakota
Ohio
Oklahoma
Texas
Utah
Vermont
Virginia
Washington
Wisconsin

2. State that do not have fully operational mechanized claims processing and information retrieval systems. Some states listed have partially operational systems, but have not yet met the standards for 75 percent FFP.

Alaska
Colorado
Connecticut
Delaware
District of Columbia
Guam
Illinois
Iowa
Kentucky
Maine
Maryland
Massachusetts
Mississippi
Missouri
Nevada
New Jersey
New York (Balance of State)
Northern Mariana Islands
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Virgin Islands
West Virginia
Wyoming

3. States with no Medicaid Program.

American Samoa.
Arizona.●

FOREIGN ASSISTANCE APPROPRIATIONS—H.R. 4473

AMENDMENT NO. 508

(Ordered to be printed.)

Mr. CHILES proposed an amendment to H.R. 4473, an act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources.

The hearing is scheduled for Monday, October 15, beginning at 10 a.m., in room 3110 Dirksen Senate Office Building. Testimony will be heard on S. 922, S. 924, S. 956, S. 1026, S. 1036, S. 1135, S. 1152, S. 1225, S. 1534, S. 1690, S. 1850, and Senate Joint Resolution 64.

Representatives from the Department of the Interior and the Department of Agriculture have been invited to testify.

For further information regarding the hearing, please contact Ms. Deborah Merrick of the subcommittee staff at 224–7150.

Those wishing to submit a written statement for the RECORD should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce a hearing that will be held by my Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs. On Friday, October 12, 1979, the subcommittee will hold a hearing on S. 742, the Nuclear Waste Management Reorganization Act of 1979. The hearing will be held at 10 a.m., in room 5110 of the Dirksen Senate Office Building.

If you have any questions regarding the hearing, you may contact the subcommittee staff at 224-2627.●

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT

● Mr. CRANSTON. Mr. President, the Subcommittee on Child and Human Development of the Committee on Labor and Human Resources has scheduled an oversight hearing on the ACTION Agency's Older American volunteer programs on Wednesday, October 17. The hearing will be held in room 4232 of the Dirksen Senate Office Building and will begin at 10 a.m., rather than the originally scheduled starting time of 8 a.m.●

SENATE SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, on Tuesday, October 24, 1979, at 9:30 a.m., the Select Committee on Small Business will hold a hearing on the subject of Small Business Administration and Farmers Home Administration loans and loan guarantees to industrialized cattle, hog, poultry, and dairy operations. The hearings will be held in room 424 of the Russell Senate Office Building. Persons seeking more information concerning the hearing should contact committee staff at 224–5175.●

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY

● Mr. EAGLETON. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia, of the Committee on Governmental Affairs, will hold a hearing on October 11 on the borrowing authority of the District of Columbia. The hearing will be held in room 3302 Dirksen Senate Office Building, beginning at 11 a.m.

Any questions about this hearing should go to Ira Shapiro or Peggy Crenshaw of the subcommittee staff at 224-4161.●

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. SASSER. Mr. President, I wish to announce the hearing schedule of the Subcommittee on Intergovernmental Relations, Committee on Governmental Affairs, for the month of November:

November 6, 9:30 a.m., room 3302, Dirksen Building: S. 1108, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

November 7, 9:30 a.m., room 1318, Dirksen Building: S. 1108, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

November 15, 9:30 a.m., room 3302, Dirksen Building: Oversight of General Revenue Sharing.●

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation has scheduled a hearing on S. 531 which was introduced by Senator BENTSEN. The bill would allow State-inspected meat packing plants in States which have been certified as having requirements that are "at least equal to" Federal inspection requirements, to sell their product to federally inspected plants.

The subcommittee will meet on Thursday, October 11, beginning at 9 a.m. in room 324. The subcommittee will hear from invited witnesses only, but statements submitted for the record are welcome. Anyone wishing further testimony

should contact the Agriculture Committee staff at 224-2035.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I would like to announce the cancellation of the hearing originally scheduled for October 24 at 9:30 a.m. on Economic Policy.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on ambassadorial nominations and a markup session on S. 1668, the refugee authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST SUBCOMMITTEE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Antitrust Subcommittee of the Committee on Judiciary be authorized to meet during the session of the Senate today to consider the GAO insurance report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 10, 1979, beginning at 2 p.m. to hold a hearing on the SALT II treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate today, Wednesday, October 10, 1979 and Thursday, October 11, 1979 to hold markup sessions on the synthetic fuels legislation and other pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 11, 1979 to consider the SALT II treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 11, to hold hearings on the military implications of the SALT II treaty and protocol.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that today's meeting be authorized for the same purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE DANGER IS DEFEAT, NOT DESTRUCTION

● Mr. LAXALT. Mr. President, Bob Weems is a close friend. He is dean emeritus of the College of Business Administration at the University of Nevada at Reno and a particularly thoughtful individual, who is not given to overstatement or exaggeration. So when he sends me something with a strong recommendation that I examine it closely, I tend to pay especially close attention.

The other day he sent me an article entitled, "The Danger is Defeat, Not Destruction." Although the author preferred to remain anonymous, he is obviously expert in the national security field. The article itself sets out in gripping detail the danger posed by the combination of Soviet strategic superiority and their counterforce targeting strategy.

It talks about Soviet aggressiveness embodied by irresistible power, of U.S. allies forced to acquiesce, of the United States itself disarmed and helpless before a Soviet tyranny, which as the author puts it might make "most Americans wish that Armagaden had come instead".

But it is not all gloom and doom. It contains useful policy prescriptions which can help us avert such a fate while there is still time. With that in mind and in the context of the SALT debate and the current discussions of expanding defense budgets, I believe this is a most timely piece, well worth the attention of my colleagues.

Accordingly, Mr. President, I ask that the article entitled "The Danger is Defeat, Not Destruction," by anonymous be printed in the RECORD.

The article follows:

THE DANGER IS DEFEAT, NOT DESTRUCTION

If the Soviet Union were to inflict a nuclear first strike upon the United States, well over 90 percent of the American people would read about the attack in their newspapers, or hear about it on radio or TV. Only a small percentage of Americans would see, hear, or feel any effects of the attack, and considerably less than 1 percent of us would become casualties. This is not wishful thinking, but rather a sober, detailed appraisal of the effects of the Soviet nuclear weapons which exist or are being built, if they were used according to the military strategy which the Soviet Union has been teaching to its forces since the beginning of the nuclear era. *Soviet weapons are made especially to destroy American weapons*—to defeat America while killing very few Americans and leaving our economy intact. Simply put, the Soviet Union is not out to destroy us, but to *defeat* us. We can take no comfort in this, because the Soviets have made tremendous strides toward being able to achieve this goal, and because, after being defeated by the Soviets, most Americans might wish that Armageddon had come instead.

All of this, of course, is contrary to the picture of nuclear war which has been propagated by most American politicians, academics, and publicists for a generation. According to their view, nuclear war would be a spasmodic exchange. Both the U.S. and the U.S.S.R. would shoot everything they had at each other's centers of population, literally bombing each other back into the Stone Age, or worse. Neither country could or would take any care, before or during the conflict, about limiting damage to itself. Each would strive only to annihilate the other even as it was being annihilated itself. As song writer Tom Lehrer once put it, "We will all go together when we go." This very popular and reassuring view is shared by people as different in their political preferences as George McGovern and Barry Goldwater.

The popular American picture of nuclear war has always been utter nonsense. Nonetheless, the technological advances of recent years have made it even more criminally stupid. First, the military capacity of the two sides has never been equal. During the 1950's, had we gone to war with the Soviets, nearly all our bombers would have gotten through to Soviet targets, while very few Soviet ones would have made it to our borders. During the early 1960's, our missiles, inaccurate as they were, could have knocked out the Soviets' few missiles, which were then located on soft pads well known to our satellites. During the remainder of the 1960's, when both we and the Soviets placed our missiles in hardened silos or submarines, there was some reason to believe that we and the Soviets were equally targeting each others' population. But it was not so. We targeted industries, while the Soviets targeted our air and naval bases. But we had a bigger force. Had we gone to war in the late 1960's, we would have lost most of our military power, while the Soviet Union would have lost a fourth of its population and less than half of its industry.

Since the early 1970's, it has been beyond dispute that the Soviet Union has a superior ICBM force built for one primary mission: destroying American missiles in their silos. (Roger D. Speed, *Strategic Deterrence in the 1980's* [Stanford: Hoover Institution, 1979].) By so doing the Soviet Union can diminish the United States' ability to strike back with it population-killing weapons. So, to sum up, at different times either side has had finite military ability to defeat the other and protect itself. Second, and most important, the American image of nuclear war as Armageddon is false because while American planners, beginning with Robert McNamara, have disapproved of destroying enemy weapons, and have not attempted to design plans which might allow the U.S. to survive a nuclear war, the men in charge of the Soviet military establishment have never waivered from the view that *wars have winners and losers* and that the job of the Soviet military is to protect the Soviet Union by *smashing the enemy's weapons*.

Thus while American policies have aimed at producing dead Russians while leaving intact Soviet strategic weapons, the Soviet Union has *never* targeted our population. (Fritz Earmarth, "Contrasts in American and Soviet Strategic Thought," *International Security* [Spring, 1978].) As a result of our misperception, we have been worrying needlessly about being burned to a crisp, or about dying of radiation sickness (a la the movie "On the Beach"). We have worried ourselves so irrationally about a far-fetched danger that we have rendered ourselves incapable of doing anything about the present danger—*the Soviet Union's growing ability to defeat us and to do to us what it has done to other peoples it has conquered*.

THE SOVIET FORCE

At the time of the Cuban missile crisis in 1962, the Soviets had less than ten SS-6 intercontinental missiles capable of striking the United States. These lumbering giants were aimed at U.S. Air Force bases. They were dangerous above all to the people who had to pump fuel into them. Today, Soviet missiles capable of reaching the United States number at least 2,400 modern types. (All figures for strategic deployments are taken from the book edited by Paul Nitze, *The Fateful Ends and Shades of SALT* [New York: Crane Russak & Co., 1979].) We must say "at least" because we really have no idea just how many missiles the Soviet Union has built and stored, ready for use. The Soviets have always refused to let us examine their facilities for producing missiles, while the United States' vaunted intelligence satellites simply cannot look through roofs, or darkness, or clouds. Nor can they overhear anything that is not broadcast in the clear. Nevertheless, at the beginning of the SALT negotiations 10 years ago, the United States agreed to believe officially that the Soviets had only as many missiles as they had silos in the ground and in launcher tubes on submarines. Thus the SALT treaties have not limited the production of missiles, but only the deployment of things which American intelligence systems can count—silos and submarines. At any rate, regardless of the missiles they might have hidden, 2,400 is the number of missiles and bombers the Soviets have openly deployed.

At least 326 of these missiles are SS–18's. These carry ten independently targeted warheads, each of which has a yield of about one megaton—one million tons of TNT. (This is a highly tentative estimate, because the United States really does not understand how Soviets build nuclear weapons.) These 3,000+ Soviet warheads carry more explosive power than the entire American missile force put together. These warheads by themselves are also sufficient to cover every American "hard target" twice over. They would have to, because prudent planners assign two warheads to critically important targets—such as missile silos and "command and control" points—which have been armored to resist nuclear explosions. The United States has less than 1,500 such sites overall, each able to resist pressures of 1,000 lbs. per square inch. (Figures for hardness of American and Soviet silos are reported in *Counterforce Issues* published by the Congressional Budget Office, 1978.) The SS–18's warheads are accurate enough to place their megaton within about one-tenth of a mile of the target—close enough to be quite sure of killing it. (Performance data for Soviet and American missiles are from *Jane's Weapon Systems*, 1978–79) The SS–18's alone can go a long way toward disarming the United States.

The Soviet Union either has deployed or is now deploying 500 SS–17's and SS–19's. These missiles carry four and six warheads respectively. Though not quite so accurate as the 18's, these twenty-five hundred megaton size warheads could kill "hard targets." But they could also be used to destroy "soft" military targets such as air bases, or be kept in reserve to threaten cities. In addition, there are almost 600 SS–11's, each carrying one megaton. The Soviet Union has also deployed some 900 missiles aboard submarines. Almost half of these are longer range than any thing aboard American ones, and about two hundred of these carry multiple warheads. By the early 1980's, the latter's number will rise to about 500. The Soviet submarine force should be expected to have over two thousand warheads, each of which would yield between 500 kilotons and one megaton. Such warheads, however, are only accurate to within a half mile. Therefore they can be used to attack air bases or to threaten cities.

The Soviet heavy bomber force is small—less than 150 operational Bears and Bisons. Yet it can easily be augmented by 200 Backfire medium to long-range bombers, or even by cargo aircraft. The reason is simple: Soviet aircraft seeking to drop bombs on the United States need not use speed, low altitude, or deception to counteract *American air defenses*, because *none exist*. They have been dismantled over the past two decades. *Even civilian cargo planes could be used to bomb the United States!*

The Soviet Union, on the other hand, has deployed 6,500 air-defense radars, 10,000 interceptor missiles, and 2,600 interceptor aircraft. It practices air-defense constantly. It has also built four huge phased-array radars which can be the core of a nationwide defense against ballistic missiles. The other components of such a defense already exist. The Soviet Union has but to mass produce them—which, for all we know, it may be doing—in order to have a respectable defense. To back up its active defenses, the Soviet Union has an expanding civil defense, featuring hard shelters for about one-fourth of the urban population, protection for vital industries, and sheltered food supplies.

AMERICAN FORCES

The *backbone* of the American force is the *Polaris-Poseidon fleet*. These 41 submarines carry 16 missiles each—a total of 656 missiles, which can carry some 5,000-5,400 nuclear warheads. About half of this force—some 2,500 warheads—is at sea at any given time. Most of it could survive any Soviet attack. *But the Polaris-Poseidon warheads are curious weapons*. They yield only 40 kilotons each, and are accurate to about four-tenths of a mile. Thus they are optimal for attacking soft targets, such as residential area. They are less useful for military targets, and *totally useless* against "hard" targets. *This is by design*. As Poseidon was being perfected, Secretary of Defense Robert McNamara rejected plans to fit it with three big, accurate warheads, on the grounds that the ability to strike "hard targets" was against America's strategic policy.

That policy, simply put, is to deter war by *threatening to kill Soviet civilians* in a *second* strike. According to that policy, any weapon which can destroy missile silos makes war more likely because it gives its owners several militarily rational options—including a first strike. The objective of nuclear strategy, according to people such as Robert McNamara and the Carter Administration, is to make war wholly irrational for all concerned. *The Poseidon with its many, small, inaccurate warheads, is certainly an irrational weapon*.

The *1,000 Minuteman II's and III's* are spread in silos at the following Air Force bases: Grand Forks, North Dakota; Malmstrom, Montana; Whiteman, Missouri; Warren, Wyoming; Minot, North Dakota; and Ellsworth, South Dakota. Fifity-four Titan II's are located at Davis-Monthan AFB, Arizona, and Little Rock AFB, Arkansas. Even the best of these, the 550 Minuteman III's, have but *slight chances* against Soviet silos and military communications centers "hardened" to some 2,500 pounds per square inch. These missiles, then, can best be used against industrial targets and relatively soft military ones. But, since the Soviets have weapons capable of destroying them on the ground, these missiles may do nothing more in wartime than "soak up" Soviet warheads.

The American bomber force is old. Its mainstay, the B–52, was designed during the Truman Administration. President Carter cancelled production of its successor, the B–1. The B–52's in service now are older than the pilots who fly them. Some 300 B–52's are flyable. Each carries about four bombs. In the future, they may carry cruise missiles. One-third of the B–52's are on ground alert at some 25 bases. If the Soviet Union attacked these bases with submarine-launched missiles, and also barraged the bombers' escape corridors, not many would survive to try their luck against Soviet air defenses.

American defenses are practically non-existent. The old Distant Early Warning (DEW) line of arctic radars is obsolete. Anyone with a terrain map of Northern Canada can figure out the holes in it. Once a Soviet pilot gets through that, he can be confident of flying to his destination undetected. Even if he were detected, little could be done. The United States has only 300 old F–106 interceptors, and no surface-to-air missiles deployed to defend the country. The United States has developed excellent technology by which to defend against ballistic missiles, but has renounced its use. According to American strategic doctrine, safety lies in mutual vulnerability. So far do American officials adhere to this doctrine, that the United States is wholly without civil defense. There are practically no blast shelters in the United States, and certainly no strategic storage of food.

HOW STRATEGIC FORCES MAY BE USED

It is clear that the biggest difference between the Soviet and the American force—bigger than the differences in hardware—concerns the purposes for which the weapons may be used. Soviet military writings refer to deterrence quite differently from American ones. Whereas American Defense intellectuals see the weapons as scarecrows by which to ward off attack on American cities, the Soviets see them as tools by which to achieve their ends. Thus, for them, deterrence is an offensive concept: that is, to keep the Americans from thwarting Soviet purposes. For them, deterrence is achieved by the ability to win the war. (J. Douglas and A. Hoeber, Soviet Strategy for Nuclear War [Stanford: Hoover Institution, 1979].)

The Soviets expect that the United States would be deterred from doing anything serious to stop the ultimate triumph of the Marxists "Socialist Commonwealth" by the following prospect. If pressed too far, the Soviet Union could launch its force of SS–18's and therewith destroy nearly all American land-based missiles and bombers. At the same time, Soviet ships or aircraft would mine the harbors where half of the American Polaris-Poseidon submarines lay. This would put the submarines out of action, and keep them where they could be destroyed at will by ICBMs, quite without killing Americans. Reduced to some 2,500 40 kilitron warheads, what could the United States do? The U.S.S.R. would still have about 7,000 warheads—all invulnerable. If the United States chose to strike back, it could not thereby reduce the threat to itself. At this point, the United States would have suffered militarily, but in no other way. The 3,000 Soviet megatons which would already have exploded over places such as Davis-Monthan Air Force Base, Arizona and Warren Air Force Base, Wyoming, would have killed less than a quarter-million Americans—5 years' traffic fatalities. Nearly all the casualties would have been military personnel or their dependents.

But if, at this point, an American President ordered a strike at Soviet cities, *he would risk a Soviet attack on America's population*. At this point, negotiated surrender would make far more sense. Moreover, even if the President of the United States, or several submarine crews acting on their own, were to launch Polaris-Poseidon on the Soviet Union, they could do relatively little damage. The Soviet civil defense system would have been on alert. The key industries would have shut down, "hardened" their machinery and sheltered their workers. The rest of the urban population, the non-essentials, would have been placed in lesser shelters or sent to outlying areas. Finally, the incoming American warheads would probably be met by some kind of antiballistic missile system. (It is doubtful the Soviets would initiate such an attack until their plans for missile defense were well along.) That fraction of the American warheads which arrived—probably far less than 100—would knock down a lot of buildings. (T. K. Jones and Scott Thompson, "Central War and Civil Defense," *Orbis* [Fall, 1978].) The future would belong to the Soviet Union.

This scenario could occur any time after 1981, when the Soviets will have completed deployment of their fourth-generation ICBM strike force. But because persons knowledgeable in military affairs know it could, *the Soviet Union may not need to carry out an actual strike*. In recent years American leaders have said loudly and often that military power no longer matters in world affairs. (Gen. Douglas Graham, *Shall America Be Defended?* [New Rochelle, New York: Arlington House, 1979].) They have been whistling in the dark. More people's fates have been affected by military victories and defeats since 1960 than during World War II. During these years India has beaten Pakistan twice, Israel has beaten Arab coalitions twice, North Vietnam, with Soviet help, has beaten the United States, Soviet clients have triumphed in Cuba, Nicaragua, Algeria, Angola, Mozambique, Guinea, Ethiopia, Afghanistan, Iran, Laos, and Cambodia. They narrowly failed in Zaire and Indonesia. Soviet clients or sympathizers have also waged inconclusive wars or have attempted *coups d'etat* in nearly every country of Africa, Asia, and Latin America. The Soviet Union has repeatedly vowed support for such enterprises, and has made clear that their success depends on the growth of Soviet power. Certainly the fear of greater Soviet involvement kept the United States from winning in Vietnam.

That fear has helped to convince American policymakers not to help America's beleaguered friends in places like Iran. In 1973, the threat of Soviet intervention into the Middle East led the United States to stop Israel from consummating its victory against Soviet-supplied Arab armies which had attacked her on her highest holiday. The same prospect frightened the United States into submitting to virtual expropriation of its oil production equipment in the Middle East, and the quadrupling of the price of oil.

As the Soviet Union's arsenal becomes more fearsome, it will become more reasonable for the Soviet Union's friends around the world to be bolder, and it will be more reasonable for the United States and its friends to do more and to suffer more to avoid antagonizing the Soviets.

THE RETREAT OF OUR ALLIES

The incentives for friendship with the United States can only drop. Consider Europe, which is tied to us by bonds of kinship, culture, and interest. What would happen if, in 1982, the Soviet Union (or East Germany) quickly seized just a couple of square miles of farmland on the German border on some transparent pretext? One thing is certain *not* to happen. The United States would surely not launch nuclear strikes against Soviet cities. That would serve no rational purpose whatever. Would NATO then attack to take back those few square miles? Given that the Soviet Union can muster on the central front 21,000 tanks to NATO's 7,000, over 4,000 aircraft to NATO's approximately 2,000, as well as almost two soldiers for each of NATO's, a NATO attack would make no sense. Of course the Soviets would call for negotiations. No doubt NATO would attend.

What would Europe have to gain by taking an intransigent attitude toward the Soviet Union? Such an attitude would get Europe nothing but military trouble, which the United States could not alleviate. The United States could not help to defend Europe because the United States could not protect itself. American ground and air forces in Europe could not stop a Soviet advance. But if American strategic weapons were used against Soviet forces in Europe, the Soviet Union could well afford to unleash a disarming strike upon the United States. Knowledge of this—not the small amount of force used to take the small border area—would quickly detach Europe from the United States. This end could be accomplished quickly with even less direct expenditure of force. The Soviets could stage a coup d'etat or other military action against Saudi Arabia. The PLO would gladly lend itself to such a venture. Would America risk World War III (which American planners have made sure the United States will lose) for the sake of the Saudi Royal Family? But with Saudi Arabia—the world's largest exporter of oil—in anti-imperialists' hands, the Soviet Union would be in a position to approach Europe with the offer to facilitate their oil supplies at stable prices—if only Europe would slip out of its relationship with the United States. Given the balance of forces between the United States and the Soviet Union in the early to mid-1980's, the Europeans would have to be heroes to refuse the Soviet's offer.

The decisive defeat of the United States in the world—a defeat which would leave no doubt in anyone's mind who ruled the world—could be accomplished even more easily, given the "cover" of decisive nuclear superiority. On Oct. 1, 1979, the pro-Soviet government of Panama becomes legally sovereign over the whole Panama Canal Zone. Anytime thereafter it can abrogate the treaties which preserve a residual role for the United States. Then it can ask the Soviet Union to send troops to help protect the Canal from the United States. Of course the United States would enjoy local military superiority. But, given the Soviets' ability to carry out a disarming nuclear strike on the United States, and the latter's inability to disarm the Soviet Union, would the United States actually risk killing Russian soldiers? It would be more reasonable to absorb the loss of the Canal, and of the last shreds of American influence in the world.

Such losses could not help but jar the United States into realizing that strategic inferiority to the Soviet Union can only lead to enslavement. But surely, by the mid-1980's, this realization would come too late. Surely the United States would begin to build the weapons it should have built during the 1960's and 1970's. But how would the United States respond to a Soviet declaration that the continuation of such an American buildup would be regarded as an act of war, for which the United States would bear full responsibility? If the United States chose to disregard the warning, the Soviets could look forward to losing their supremacy in a few years. Why should they not use it while they had it?

Subjugation of the United States would open new and more violent chapters in the history of the world. We can but speculate beyond the first one, the outlines of which are clear. The Soviet Union and its victorious coalition will still be hungry. Moreover, they are possessed of an ideology which tells them that the wealth of the formerly free world consists of goods somehow stolen from them. The rape of the United States would be swift. *Russians have never been very farsighted in the husbanding of golden geese*. The history of postwar Eastern Europe indicates the Soviets would set *unrealistic reparations quotas* and try to squeeze blood from stones. They would attempt to rid the economy of "parasitic" occupations—and to rid the earth of "useless mouths." All would be made even harsher by the inevitable campaigns against religion, the family, and other ancestral enemies of Communism. Those given power would be the most reliable. Reliability would be proved by harshness. Unfortunately, this is not speculation, but dreary experience. The history of Soviet rule consists of little else.

THE POSSIBILITIES FOR DEFENSE

The United States is not doomed to defeat. The Soviets have not built their nuclear forces by peculiar genius. The United States possesses technology to build weapons of the same kind that are even better. More important, the United States possesses the technology to build weapons of altogether different kinds, weapons which are likely to safeguard both our freedoms and our lives. Of course to build these things at all we would have to change the way our officials have been thinking about war and weapons. Much would happen, however, if the American people transmitted one simple message to their officials: "We want to survive any war with our freedoms intact."

With such a mandate, the next President of the United States would begin by ordering the U.S. Air Force to *remove the Minuteman II's and III's from their silos*, to place them inside their factory canisters, and *to keep them on the move aboard trucks, whence they could be launched*. (See *Aviation Week and Space Technology* [19 June, 1979].) This would remove the Soviet Union's ability to target and destroy these missiles. With that gone, the Soviet Union would lose a large part of the military incentive for a first strike.

Second, the President would order the abolition of the system by which the United States has acquired weapons since 1963. Before 1963 it took about 6 years to translate an idea into a weapons system. Now it takes about 15 years. This system has reduced the U.S. armed forces to one of the worst-equipped forces in the world. If we proceed as we have been, the MX missile, our first counterforce weapon, won't be fully developed until 1990. That will be years after the Soviets will have achieved a counterforce capability against the United States. 1990 is too late. With the WW II purchase system in effect, the United States could quickly build a mobile heavy missile, capable of taking out enemy silos. If we went about it on a crash basis, we could have the missile moving on American roads by 1983. Even more quickly, the United States could change the warheads on the Poseidon—reducing their number, and making them accurate weapon killers instead of terror bombs. A mere 1,200 big, accurate warheads aboard our submarines would do more to defend us than the 5,000 plus, little, inaccurate ones we now have. Once these weapons were in hand, our targeting strategy could stop aiming at producing dead Russians, and could begin to concern itself with protecting Americans. With the weapons we have in 1979, even a massive change in American targeting doctrine could not hope to reduce the threat to the United States. We simply need new weapons.

More important still, the United States could take advantage of new advances in the technology of anti-missile missiles and radars. These are especially efficient for defending mobile missiles deceptively based. The anti-missile missile need only shoot down the warheads which are actually heading for the right targets.

A National network of interceptor missiles for the defense of our population is expensive, but possible. Just as possible but less expensive is a defense against ballistic missiles based on laser stations in space. (See Sen. Malcolm Wallop, "The Emerging Possibilities for Defense," *Strategic Review* [Fall, 1979].) This is not a Buck Rogers system. The technology for it is well known in the United States. Lasers are not objects of speculation, as are particle beams. Megawatt-size lasers are weapons of today. With every passing year, technology is making it even more possible for defensive forces to seize the advantage over offensive ones.

CONCLUSION

By 1982 at the latest, the United States will enter the most dangerous period in its history. In order to avoid the risk of disastrous defeat, the United States must begin to take action now, and surely cannot afford to put off certain crash programs beyond the first days of a new Administration. These crash programs should: take our Minutemen out of their holes and fit them with counterforce warheads, fit Polaris-Poseidon with counterforce warheads, build a truly mobile MX, unhampered by Rube-Goldberg basing schemes, the B-1 bomber, anti-missile missiles, and space-based lasers. The country may not be able to complete these programs in time. But it can try.

NOTE.—Gary North published this article in *Remnant Review* inviting reproduction. He said, "I am putting my reputation on the line by publishing this report, and I assure you that I would not risk my reputation if I were not convinced that the man is reliable. I have known him for many years. He is a scholar. He holds the Ph.D in political science, and he has published in prestigious journals. He is regarded as one of the most informed conservatives in the field of European politics. He now devotes his skills full time to studying Soviet military strategy." ●

DISABILITY BENEFITS FOR TERMINALLY ILL PATIENTS

● **Mr. BIDEN.** Mr. President, I am pleased to be included as a cosponsor of S. 1203 which eliminates the 5-month waiting period terminally ill patients now must endure before they can begin to collect disability benefits. Four years ago I sponsored similar legislation. I hold the same concerns for the terminally ill and their families today as I did then.

The intent of this bill is quite clear: To provide additional income to terminally ill patients in order that they might better meet medical costs. Although this legislation will in no way provide enough funds so patients will be able to pay for all medical costs with this disability insurance, it can provide some relief.

Mr. President, catastrophic illness can create a tremendous financial burden for both the patient and his family. The burden begins to manifest itself during the first few weeks of one's illness, it does not suddenly appear 5 months into the illness. The average cost of a terminal illness is about $15,000. The cost can easily reduce a middle-income family to the poverty level. It is estimated that each worker would receive $1,620 if the law were changed. The aforementioned sum of $1,620 in disability insurance for a 5-month period may seem quite insignificant; but it could be quite significant for the patient and family involved. This additional disability insurance may provide the needed funds to save a family from indigency. Of course some patients will die before the entire 5-month period expires; in fact, the Social Security Administration estimates that the average period of payment will be only 2.5 months.

There are those who will argue that this bill will prove to be too costly. Mr. President, the terminally ill are the very same people, however, who have paid to support social security all their lives who are now being deprived from collecting their benefits. We are not giving these terminally ill patients a gift or dole, but merely some of the money which they have already paid into the system.

Terminal illness extracts a great emotional toll on both the individual who is sick and his family. Though there may be little that we can do to help relieve the emotional strain through legislation, we can definitely help alleviate some of the financial hardship.

The Senate Finance Committee is presently holding hearings on S. 1203. It is my belief that we should attempt to pass this legislation soon and I am gratified to see such strong support for this bill.●

WHILE FED FIGHTS, TAXFLATION MUST END

● **Mr. DOLE.** Mr. President, on Saturday the Federal Reserve announced new measures to control the supply of money and thereby restrain the rate of inflation by dampening demand and convincing people that the Government is serious about bringing inflation under control. The Fed's dilemma has been that despite sharp rises in interest rates, the money supply has not responded to traditional measures of restraint. Chairman Volcker now proposes to attack the money problem directly by controlling the level of bank reserves, which means that less money will remain available for lending. Changes in the nature of the money supply, due to new types of accounts, more rapid transfers of funds, and the growth of new sources of credit, have made the Fed's task more difficult, and Chairman Volcker deserves credit for seeking a better way to regulate monetary expansion.

We should remember, however, that the Government has by its fiscal policies consistently discouraged the Fed from taking a hard look at the devices it employs to restrain inflation. This is because the Federal Government consistently runs large deficits that must be financed; and that financing must come at the expense of the private sector, or from an expansion of credit. Because of the political problems associated with allowing credit to the private sector to dry up, the Fed was naturally encouraged to permit the money supply to expand in order that sufficient credit would be available to the public and private sectors of the economy. At the same time, dramatic moves such as last November's dollar-rescue mission were undertaken to show the Government's will to beat inflation. Some of these moves did restrain money growth. But over the last few years there has seldom been any real monetary discipline, and we are now paying the price.

The Fed must share some of the blame, for it too is subject to political pressures. But the real culprit is the Federal Government, which runs excessive deficits and expects them to be financed at no additional cost to society. As everyone knows, the cost is inflation, often called a "hidden tax" on society caused when governments refuse to balance revenues with expenditures. The great irony is that, even as the Government finances its growth by inflating the economy, it imposes an extra tax on its citizens besides. This additional tax is tax-inflation, or the inflation tax penalty that results when people are inflated into higher tax brackets. When income rises to keep pace with inflation, the taxpayer moves into a higher rate bracket because of the progressive income tax structure. He or she then pays a higher real rate of tax although purchasing power has not changed. Worst of all, this increase in tax liability occurs without any action by Congress or the executive branch, and without notice to the taxpayer, who may rightly wonder how Congress can pass a tax cut that apparently does not reduce tax liability at all.

Mr. President, until the Government and the Federal Reserve succeed in getting a grip on inflation, there is no excuse to penalize the taxpayer for the Government's failures. The Tax Equalization Act, S. 12, would end taxflation by adjusting the income tax rate brackets, personal exemption, and zero bracket amount according to the rise in the Consumer Price Index. Tax rates would then correspond to real income, and Congress would bear the responsibility for adjusting those rates as appropriate for purposes of fiscal policy. I introduced this legislation in January as a major tax reform, and it has never been needed more than it is now. It is time to stop penalizing the taxpayer for the Government's poor management of economic policy, particularly when our citizens are already paying the hidden tax of inflation. The urgent need for tax equalization cannot be denied.●

HARBOR BONDS

● **Mr. GRAVEL.** Mr. President, the fisheries resource off the Alaskan coast is one of the most valuable in the entire world. Each year millions of metric tons of fishery products are harvested off Alaska's shores. The greatest percentage, however, is taken by foreign fishermen. Americans are only minimally involved in some of the fisheries off our very shores. One indispensable precondition to full American involvement in the fisheries off Alaska is the construction of adequate port and harbor facilities so that American fishermen will have safe and sufficient berthing space for their increasingly costly fishing vessels. A recent article in the Southeast Alaska Empire explains a proposal I have made to help meet the port and harbor needs for my great State. I ask that the text of that article be printed in today's RECORD.

The article follows:

GRAVEL ASKS $300 MILLION HARBOR BONDS

(By Chuck Kleeschulte)

Alaska should build all boat harbor and fishery development facilities using a single state revenue bond issue rather than waiting for federal funding.

Alaska Sen. Mike Gravel said Wednesday his preliminary plans call for development of a string of major harbor projects to facilitate bottomfish development. He plans to tie the major improvements to numerous small boat harbor development statewide.

Gravel said the package, still under development, could cost more than $300 million and would be funded by a state revenue bond sale. Moorage fees and funds from harbor-related fishery land sales would retire the debt.

"If we wait for the federal government to fund harbor improvements we'll be waiting a decade and still will not have received very much. The Corps of Engineers simply doesn't have enough funds to meet our needs," Gravel said, by telephone from Washington, D.C.

Labeling his proposal "an exciting new approach," it would involve the construction of major port and fishery processing developments at Sitka in Southeast and in Yakutat, Seward, Kodiak and Unalaska. He said those ports would serve as major bottomfish processing points with the state helping to recoup some of the cost by setting up "industrial parks" at the towns and selling land for processing industries at the sites.

Gravel said those plants would be served by fleets tied at smaller harbor facilities. A preliminary list of sites where harbor expansion or construction is needed or underway includes Metlakatka, Hoonah, Kake and Juneau in Southeast and Cordova, Homer, Nanilchik, Kenai, Anchorage, Dillingham, Naknek, Bethel, Unalakleet, Yukon Delta, Nome, Teller, Selawik, Kotzebue, St. Paul Island and Shismareff.

Gravel stressed his staff aides are still putting together the package and that he won't have detailed information on whether the plan is financially feasible until late this fall. But Gravel, citing projected state revenue surpluses next year because of oil price hikes, said he expected the state could afford to float the bond sale for the projects.

"The fishing industry in Alaska won't ever be able to grow, really expand, unless there are sufficient stalls to handle the boats. It is fair, however, to expect the industry which will benefit from the improvements to foot the bill through increased user fees," Gravel said.

The Democratic senator said he has spoken with several members of the Legislature about the project and he said his staff aides have spoken with members of the Hammond administration who have expressed support for the "concept" of a speed-up in harbor construction.

He said he was seeking to launch meetings among his staff, legislative leaders, the administration and the U.S. Army Corp of Engineers to develop harbor priorities and details of individual projects.

He said such plans could then be drafted into a state legislative plan and readied for presentation to legislators early in January's session.

"If we get moving we could have all these harbors in place in five years, not twenty," Gravel said.

Gravel aides are drafting a two-pronged plan at the federal level to speed harbor development.

Tom Donnelly, Gravel's top water resources assistant, this week said the senator is seeking to change an administration proposal which calls for local cities and states to provide 5 to 10 percent of the cost of water-related harbor projects before the federal government would foot its traditional share of construction costs.

Gravel is seeking to change that formula, Donnelly said, so local government could fulfill its "matching" obligation by assisting in the planning and design of local projects. Gravel also is proposing that the state target 10 projects for rapid development and pick up the design costs for them to speed traditional Corps construction.

President Carter prohibited any water-related authorizations in 1977 saying states should be more financially involved in funding for local water resource development. Gravel has said he believes the administration's plan puts the states into debt for projects which they have no voice in planning.

Donnelly says the senator is expected to propose his change to require state and local participation in planning when the federal legislation comes up for mid-October markup in the Senate Public Works and Environmental subcommittee which he chairs.

Jim Edenso, special assistant to Gov. Jay Hammond for bottom-fish development, Wednesday said the state generally supports Gravel's two latter proposals to set priorities for harbor projects and to allow local participation in planning of the projects. But Edenso said the administration has seen no firm proposal for any other type of harbor work.

"We haven't talked site specifics or talked about financing, but we have said it (the latter proposals) sounded like a good concept," Edenso said.

Don Statter, director of the Division of Harbor Design and Construction for the state's Department of Transportation and Public Facilities, Wednesday, before Gravel unveiled details of his revenue bond proposal, said the state certainly is willing to set priorities for habor projects.

Statter, however, said he had not been briefed on the details of the Gravel plan and had no comment on the financial end of the proposal.

"In general we're in favor of anything that will break the logjam and hasten these projects along," Statter said. He added, however, most of the problems with harbor projects in the state have been caused by the lack of funding, federal funding, for the Corps of Engineers.

Edenso said the administration currently is studying the costs and needed facilities for bottomfishery development at five Alaska ports, including Dutch Harbor, Kodiak, Seward and Sitka. He said a report on those findings should be ready for release shortly.

He added the state also is studying port work at Homer, Sand Point, King Cove and is deciding whether to study harbor development at St. Paul Island.

"We already have considerable harbor design and planning underway," Edenso said.

Edenso said the state will be meeting with the Corps of Engineers in a previously set up attempt to more closely coordinate harbor development between the Corps and the state's Department of Transportation. That meeting, the third in a series, is set for mid-October.●

OIL IN ABUNDANCE

● Mr. COCHRAN. Mr. President, we will soon be considering the so-called "windfall profits tax" here in the Senate. Along with several other administration-backed pieces of legislation, this marks one of the central elements in the President's energy policy.

The need for such a policy has arisen for several reasons: declining domestic production of oil, increased dependence on foreign oil, obstructive government policies that have slowed energy development, and increased consumption of fossil fuels.

That we require such a policy is unarguable. Otherwise, we will jeopardize even further our country's future.

The bottom line of each and every item that the Senate considers should be this: Will it result in increased energy independence? If it will, then it should be passed as quickly as possible. If not, then it should be defeated.

Last week, I voted in favor of the Energy Mobilization Board. The Board will, I believe, expedite the emplacement of needed energy projects. It should result in increased energy independence.

I am concerned, however, that the windfall profits tax, as proposed, would not only not result in increased independence, but would in fact result in increased dependence on foreign oil.

In its October 1979 issue, "Harper's" magazine published an article outlining the possible problems that this tax might present. The article aptly details the potential fossil fuel that remains to be discovered throughout America and the world if sufficient economic incentives exist for that discovery.

I urge that my colleagues read and study this article and consider it during deliberation on the windfall tax. I ask that the article be printed in today's RECORD.

The article follows:

Oil in Abundance

(By Jude Wanniski)

Despite President Carter's ten days of struggling at Camp David to find a solution to the nation's energy shortages, he has moved further away from understanding the problem. Doubling his speed and losing sight of his goal, the President concluded that only massive intervention by the federal government could solve the problem, when in fact it is the energy and economic policies of the federal government that created it.

For all his talk of having consulted a cross-section of American society during these deliberations, Mr. Carter did not meet with a producer of any kind. Not an oil producer. Not even a farmer. He met with Democratic politicians, labor leaders, environmentalists, preachers, favorite corporate managers, obsolete Keynesian economists, stars of the news media, selected bankers, and state and local bureaucrats. The only energy expert consulted was Thornton Bradshaw of Atlantic Richfield, popular in the White House for having endorsed the windfall-profits tax that his company no doubt imagines will finance the conversion of its own vast coal holdings into synthetic oil and gas.

If there were a serious chance the President could find the support in the country and in Congress to implement his program, there would be cause for alarm. Taxing $140 billion from the private sector—to use the President's figure—to finance a synthetic-fuel, solar-energy program in the next decade would so decrease the efficiency of the stumbling American economy that the ensuing recession with inflation would guarantee Jimmy Carter's departure from the White House.

The President is the southern self-proclaimed populist who ran against the government in 1976. How remarkable that he would wrestle with the energy issue for three years—and for ten days at Camp David—and decide to throw a colossal amount of federal money at the problem. Even as Carter was at Camp David, editorials and news columns in the New York Times and the Wall Street Journal warned of the enormous costs of synthesizing oil from coal—synfuel, as it is called. With great luck, the scheme may yield one million barrels a day by 1990, these newspapers reported after consulting experts in the field. Yet the decontrol of crude-oil prices, without a windfall tax on domestic production, would yield an additional 2 million barrels per day by 1985, according to testimony before the Senate Finance Committee by the Independent Petroleum Association of America. The projections, based on established coefficients between price, exploration, and finding rates, have not been challenged by the Department of Energy.

This information has eluded the President. Worse, he seems to ignore the dimensions of the problem, his own plan, and the international economics of energy.

"Oil is found in abundance only if a great many people are looking for it at once in all sorts of unlikely places," Ruth Sheldon Knowles wrote twenty years ago in her history of the American oil industry, The Greatest Gamblers. That insight is vital to understanding why there is an energy shortage in the world today. It is not just that insufficient numbers of people are looking for oil and gas in the United States—although the policies of the federal government discourage domestic oil and gas exploration. Too few people are looking for oil and gas all over the world, because most foreign governments discourage exploration in unlikely places. These policies, which could change tomorrow, in a year, or five years from now, prevent the private capital markets from financing the development of synthetic fuels, because an unanticipated change in foreign governments' policies toward domestic oil exploration could wash away all private synfuel schemes with a flood of inexpensive, conventional oil and gas.

Liquid petroleum that comes from a manmade hole in the ground under its own pressure constitutes only one percent of all the oil in the earth's crust. The rest is "heavy," the shales and tar sands that must be extracted at great expense. If you took all the liquid petroleum produced from all the wells drilled on earth since the first, at Titusville, Pennsylvania, in 1859, and poured it into a lake the size of Chicago, roughly 227 square miles, the 330 billion barrels the earth has yielded so far would fill the lake to a depth of only 300 feet. The estimated petroleum, worldwide, that could be recovered at current prices and technology would fill the lake to a depth of 2,300 feet.

Even this amount may seem worrisome, until we add in a number of important facts. In 120 years, about 3.2 million oil wells have been drilled into the planet's crust. Of this number, 2.4 million were drilled in the forty-eight continental states of the United States, and most of these in the "oil patch," as oilmen refer to the oil-producing southern states. The rest of the world has been relatively unexplored, especially former colonial nations of Africa and Asia.

Of the 645,500 exploratory wells drilled on earth by the end of 1975, 616,000, or 95.4 percent, were drilled in the industrial countries. Africa, Latin America, South and Southeast Asia, and China have barely been touched. The United States accounts for 482,000 of the exploration wells, 74.7 percent of the total, and 34.9 percent of the oil in that imaginary Chicago lake of oil. The reason is not simply that the United States has had the skilled manpower, technology, capital, and market, but that it has had policies conducive to exploration and a stable government that has protected the property rights of its private landowners. Landowners have possessed the mineral rights to oil discovered on their property. The indigenous exploration industry could develop here because individual explorers could lease the mineral rights from private landowners and drill, with the sure knowledge that the explorer and the landowner would possess any oil discovered, and that high risk might yield high reward.

In addition, the U.S. government did not hoard land in the name of the collective interest, but sold the majority of western lands at $1.25 an acre to encourage settlement. Where this Jeffersonian pattern was not followed, there has been scant exploration. The U.S. government, for example, owns almost 90 percent of Nevada's 110,000 square miles, and much of Nevada has not been explored. Alaska, too, has been relatively untouched by oil exploration, and increasingly the environmentalists, with the eager assistance of President Carter, are keeping it this way by closing off public lands to any kind of mineral exploration. Even before the Carter Presidency, almost 500 million acres of federal lands, an area three times the size of Texas, had been effectively closed to mineral exploration. President Carter has closed off another 185 million acres, and some of his people would like to close off more. The North Slope oil field in Alaska, the largest field discovered in the United States (the East Texas field being second), covers an area of only 400 square miles in a state of 566,000 square miles.

In most developing countries, even in those with relatively stable governments, the conditions that fostered oil exploration in the United States are absent. Governments keep title either to most land or to the mineral rights of privately owned land. Income taxes are so confiscatory that should a native landowner possess mineral rights, be probably could not find native capital and labor willing to explore the land, as the government would capture the rewards through taxation. Governments will lease lands to the major international oil companies to explore, but these companies will look only in places where oil is most likely to be found, where seismology can at least hint at probable finds. Most oil, however, cannot be tracked by seismology, for, like the East Texas field, it is trapped in complex geology and will yield only to myriad explorers taking long shots. One half-joking rule of thumb among the international oil companies drilling in unstable countries is that you should try to pay all costs and make a small profit with the first tanker of oil that leaves the country, on the assumption that what oil remains will be nationalized or confiscated by taxation.

Madagascar, off the southeast coast of Africa, for example, is almost the size of Texas, and lies in one of the world's largest sedimentary basins where oil is most likely to be found. Prior to 1975, the French controlled the island and there was almost no exploration, possibly because the French believed that if oil was discovered they would be pitched out. Since 1975, the government and the international oil companies have been wary of one another, and as a result only eighty-three wells have been drilled on the island. Even in secure, developed parts of the world, the combination of high levels of government land ownership and steep personal taxation deters extensive exploration. Most of Australia's 3 million square miles is held in collective ownership. In 1978, a mere fifty-three exploratory wells were sunk, twice the number drilled in the previous year. In the Middle East, there is little exploration, the sheiks have no desire to find and produce oil at a rate that would diminish the price they can command for their known reserves. Since 1974, the Saudis have averaged a mere ten exploratory wells a year, Iraq only one a year, and the entire Middle East only ninety-five a year.

Enormous amounts of conventional oil are waiting to be discovered, and will be once governments around the world—including the United States—are prepared to match the high risks of exploration with commensurate rewards. And here, President Carter wants to tax between $140 billion and $200 billion from the domestic industry in the next decade, at the same time as he is shutting off more and more government lands to exploration, to finance synthetic-fuel projects that can, at best, produce a dribble of oil while exacting severe costs from the landscape. This is to be done in the name of energy independence, to free us from OPEC's alleged ability to set prices. Yet as Rep. David Stockman of Michigan has pointed out, even if by some miracle the government can produce 2.5 million barrels a day of synfuel by 1990, it will still be unable to control the world price. The synfuel supply will go into the world's base supplies of oil, and a country can influence the world price only if it can control the marginal supply. If, in other words, the United States were willing to shut down the synfuel plants when the world oil price got too low and crank it up again when the price got too high, it could influence the world price as the Texas Railroad Commission used to do, by regulating the output of the Texas oil fields.

The case against energy alternatives, including solar energy, is not that they will not free the United States from OPEC's pricing; OPEC's pricing is a function of U.S. monetary policy anyway. The reason is that the international and domestic potential for existing petroleum and gas is so enormous that synthetic fuels will be uneconomical well into the next century. If, in the 1980s, the United States were to increase only slightly the rewards for domestic exploration, or if a feeble attempt were made by governments in the developing world to do likewise, the relative price of world oil would resume its historic decline. The United States would then either be forced to scrap the uneconomical synthetic-fuel program or drain, through taxation, the rest of the economy for an interminable period to keep it operating.

In microcosm, the problem is the same as that of the proposed natural-gas pipeline from Alaska to the Midwest, which President Carter accuses the Alaska oil companies of dragging their feet on. By the most optimistic estimates, the pipeline would cost $10 billion, and the gas delivered in Chicago would cost $3.50 per thousand cubic feet. The pipeline cannot be built because no investor can count on anyone's buying $3.50 gas five or ten years from now. Should a President and Congress dedicated to increasing the supply of oil and gas be elected in 1980, and should government controls be lifted from production and pricing, natural gas would sell at much less than $3, according to the Department of Energy's own 1977 report, the so-called MOPPS study that the Carter Administration suppressed. Mr. Carter now proposes to pay $1.5 billion for the pipeline project, but even that will fail to make the gas competitive. As Congressman Stockman has pointed out, through 1974 "97 percent of the non-North American natural-gas resource base had yet to be disturbed by a production-well bore. Nor was this potential resource negligible in dimension. The remaining natural-gas resource base outside of North America may total the equivalent of 1.4 trillion barrels, a quantity of energy equal to four times all of the crude oil that has even been produced." Because the domestic price of natural gas has been kept low by government control for twenty-five years, almost all domestic exploration has aimed at finding crude oil, not gas. Freeing the price of natural gas would encourage more exploration in the continental United States, and this cleanest of fuels would be produced in such quantity that it would not only displace nuclear and coal as serious competitors, but also reduce demand for imported petroleum. The Alaska pipeline could be built only if the government promises to buy $3.50 (or $4 or $5) gas that it would transmit, while there are plentiful supplies at $2.25, and to pay the difference out of general revenues. The alternative would be to force customers in the Midwest to pay the tab through regulated utility rates; however, midwestern commercial and farming interests would become uncompetitive with areas not so bound.

By all rights, the Carter tax-and-spending energy scheme ought to fail in Congress after it is debated this autumn. The President has no mandate to sustain it. Neither in his 1976 election nor in the 1978 Congressional elections were voters asked to consider and ratify such a grandiose government energy program. Indeed, in the 1976 campaign, President Carter was identified with government decontrol of energy and greater reliance on private business for solutions. President Ford, although he did not beat the drums for it, was still identified with Vice-President Rockefeller's $100-billion program of synfuel subsidies. The 1978 Congressional elections provided sharp gains for free-market candidates over government interventionists, especially in the Senate.

The Senate is where the President's energy program should unravel. Reporters assessing the Carter energy speeches have pointed out that Congress was "already ahead" of the President in legislating a mammoth synthetic-fuel program as well as the windfall-tax revenues to finance it. But beneath the surface, the whole idea of an emergency energy scheme had been doing poorly on the financial end. In late June, the segment of the oil industry that would be devastated by the proposed excise tax on domestic production—the 10,000 independent producers who drill 90 percent of the exploratory wells—finally had their case heard on Capitol Hill, even as the major oil companies were accepting the inevitability of the tax. In a surprising vote on June 28, the House accepted a substitute amendment to the tax the President wanted, making it temporary instead of permanent and also reducing its effective bite. This 236–183 vote was a blow to White House strategists, who realized that the Senate Finance Committee and Chairman Russell Long would, in turn, take every opportunity to weaken the tax on domestic producers and produce a shadow of the bill the President wants. The Administration could see this inevitable path of defeat and knew that only something dramatic could give it a grip on the Senate. Camp David followed.

The melodrama of the President's Camp David retreat produced a moment of national enthusiasm for a synthetic-fuel program. The President did, after all, heighten public discussion about the energy issue to a level above that of clogged service stations. And, tempted to be bold, he placed the price tag of $140 billion on his program. The major oil companies, who see themselves as recipients of this largesse, either in peddling their billions of tons of coal to the government—like Atlantic Richfield and Exxon—or in getting government contracts to build synthetic-fuel plants, have naturally applauded the program. So has George Meany of the AFL–CIO, who envisions all that work for the building trades at cost-plus. The National Association of Manufacturers can be expected to make the same calculations, especially those member companies that believe they are in a good position to share the federal golden goose.

But the $140-billion cost of the program concerns the electorate, which understands that people, not oil, pay taxes. The expectation of dozens of shale-conversion stations or coal-liquefaction plants pouring fumes into the atmosphere has roused environmentalists. Sen. William Proxmire calls the synthetic-fuel scheme the "SST of the Eighties," and can be counted on to lead the charge against it in the Senate. Mike Gravel of Alaska, a liberal Democrat on the Senate Finance Committee, is alarmed at the implications of the windfall tax on his state's petroleum industry and vows a filibuster against it. Sen. Abraham Ribicoff, a Connecticut Democrat and also a member of the Senate Finance Committee, has become more outspoken against the idea of taxing domestic production. The mood of the committee as it recessed for August was to exempt the taxation of newly discovered oil, wells that produce less than twenty barrels per day, and small producers—up to perhaps 1,000 barrels per day. The tax may still be beaten altogether.

This possibility does not, however, take into account the determination and resourcefulness of the forces behind this mammoth tax and spending scheme. It will be hard for the Senate to resist. Democrats and Republicans, who have been held down by tightening budgets for several years, regard the excise tax revenues as a government windfall. Bruce Bartlett, a Senate staff member, writing in the August 6 and 20 issue of Inquiry, suggests where the money might go:

Senator Henry Jackson has come up with his own energy bill that would, among other things, authorize $5 billion to build fifteen synfuel plants. In order to spread the wealth around and attract cosponsors, Jackson made a point of specifying the following projects:

$500 million for the Solvent Refined Coal I project in Kentucky (supported by Senators Wendell Ford and Walter Huddleston);

$700 million for the SRC II project in West Virginia (supported by Senator Robert Byrd);

More than $1 billion for high- and low-BTU coal gasification projects in Ohio and Louisiana (supported by Senators Howard Metzenbaum and Bennett Johnston);

Geothermal plants now tentatively set for Idaho, California, and New Mexico locations (supported by Senators Frank Church, Alan Cranston, and Pete Domenici);

$300 million in loan guarantees for an urban and industrial waste conversion plants (supported by Senator Bill Bradley of New Jersey); and

$250 million for a fuel-cell demonstration program pushed by United Technologies Corporation of Connecticut (supported by Senator Lowell Weicker).

Business and labor see only the first-order individual gains of such largessee. They cannot see the colossal drain on the economy as a whole, which will drag down the standard of living for all Americans, themselves included. The parallels with 1929 are eerie. Fifty years ago exactly an engineer was in the White House as the Hawley-Smoot Tariff Act was under consideration in Congress. The same autarchic forces that were behind the industrial independence of Fortress America are now behind the Carter plan of energy inpendence. Business and labor backed Hawley-Smoot, which would shut out foreign imports with a massive tax. Now the President would hold crude imports to 1977 levels with a quota—which surely has the effect of discouraging the rest of the world from looking for oil to send to this biggest market—and he would impose the tax internally. Again, business and labor eye the pork barrel. As Congressman Stockman put it, in his important essay in the fall, 1978, Public Interest:

"The decision to eschew an economic policy of trading on the world market for the 90 percent of the non-U.S. oil and gas resource base that remains to be developed in favor of a cramped, inward-looking policy of autarchy may prove to be the most costly national error of the last half of the twentieth century—if it is not soon reversed."

At that point in the summer of 1929, it still seemed as if the internationalists might win. A majority coalition in the Senate still opposed the tariff. October, 1929, when the Senate coalition crumbled is when it become clear that the internationalists had lost. Should the present engineer win a similar victory for autarchy in 1979, the difference would be in a less palpably dramatic stock market crash. In 1929, the dollar still had a monetary standard—it was tied to gold—so all declines of value were real, there being no inflation. Now, inflation masks the decline in stock values. In the past eighteen months, relative to gold, the value of dollar-denominated financial assets has plummeted by 50 percent. With inflation, crashes take place quietly, but with a decrease in the nation's economic vitality that is as severe as the drain of the Depression.●

MAXENE ANDREWS: AN ANDREWS SISTER

● Mr. CRANSTON. Mr. President, today I had the pleasure of welcoming to my office Maxene Andrews, one of a former trio of great performers known as "The Andrews Sisters." Since their first hit recording in the late 1930's, the Andrews Sisters rose to fame entertaining millions of Americans here at home and thousands of our servicemen abroad. They rapidly became one of the brightest beacons set against the dark panorama of World War II.

This incredible trio recorded some 1,800 songs, sold over 75 million records, and have 19 gold records from their sparkling and unforgettable career.

It is a great satisfaction to welcome Maxene Andrews to her engagement in Washington. I feel certain that Members of the Senate both wish her well and give our thanks for her part in the joy the Andrews Sisters brought to our lives.●

CODE OF ETHICS FOR GOVERNMENT SERVICE

● Mr. STONE. Mr. President, more than 20 years ago Representative CHARLES E. BENNETT, who is now the dean of the Florida congressional delegation, authored a "Code of Ethics for Government Service." This code was adopted by both Houses of Congress and hung in many Federal offices until relegated to obscurity. In a recent article, the Washington Star reprinted the code and talked about its continuing relevance for Federal employees. I ask that the article and the text of the code be printed in the RECORD after my remarks.

The code exhorts Federal employees to work hard and honestly and to never forget that they serve the country and its citizens. I think these two principles are especially important during this period of increasing criticism of the productivity and responsiveness of the Federal Government. Rule No. IV which states, "Seek to find and employ more efficient and economical ways of getting tasks accomplished" should be embossed on the letterhead of every Federal agency and of every Senate committee, too.

The conflict of interest rules seem self-evident, but given the number of public officeholders who have not kept sight of the inexcusability of reaping private gain from the public trust, these principles need constant publicity.

There is a move afoot to pass legislation to require every Federal office to post the code. I certainly support the code being displayed, although I do not know if legislation is really necessary. The President could accomplish this by Executive order. Or, better yet, agency and department heads could take it upon themselves to post copies of the code. The important thing is that the existence and content of the code be publicized, the spirit of the code be reaffirmed, and public display be encouraged.

As the complexities and strains of Government service grow, employees need to remind themselves frequently of the limits of their authority and their responsibilities to their country. While having an ethics code for ready reference will not reform the unethical, it will serve as a guide for all Federal workers who want to uphold the highest standards of Government service.

I urge all Federal agency heads to circulate the text of the code, educate their employees as to its meaning and actively support its principles.

The material follows:

[From the Washington Star, Sept. 20, 1979]

Code of Ethics for Government Service

Any person in government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employe has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

VIII. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Almost Forgotten Federal Ethics Code May Be Born Again

(By Alan Ehrenhalt)

One of official Washington's best-kept secrets, the code of ethics for government employees, may emerge soon from the desk drawers and file cabinets where it has been largely hidden for 20 years.

Both chambers of Congress adopted the code in 1958, at a time of popular concern over conflicts of interest in an expanding federal bureaucracy. Most of the 10 guidelines in the code are hard for anyone to argue with—they encourage government workers to uphold the Constitution and give "a full day's labor for a full day's pay."

A few of the guidelines, like No. 9, "expose corruption wherever discovered," contain possible nuggets of controversy.

But there has been little occasion for controversy over any element of the code because so few people see it. When the Washington-based Ethics Resource Center surveyed congressional offices earlier this year, it found that only 4 percent of the offices displayed the code where employees would notice it.

When the Supreme Court asked for 12 copies of a color poster of the code earlier this year, it could locate only six. The Government Printing Office couldn't provide more because the negatives were all destroyed in 1972.

That bothers Ivan Hill, the retired advertising executive who heads the Ethics Resource Center.

"As of now," Hill says, "the only time people look at the code is when they want to know if they've done something they can be fired for."

After half a century in business, Hill doesn't think people will be good just because a framed code of ethics hangs on the wall. But he does think employees who want to do "the ethical thing" need symbolic evidence that right isn't just right, it's socially acceptable.

So Hill is urging legislation that would require posting of the 20-year-old code, slightly updated, in more than 20,000 U.S. government offices around the world.

The man who wrote the original code, Rep. Charles E. Bennett, a Florida Democrat, is now the chairman of the House ethics committee. Bennett feels an effort to revive the code would be a good idea, although he'd just as soon remain in the background.

"Since I'm the author of it," Bennett argues, "it would be a little self-serving for me to introduce it." Bennett, of course, says he will be happy to vote for such a bill on the floor.

Hill says he has found plenty of members more than willing to support such legislation.

Before pushing the campaign further, however, Hill wants to make sure sufficient funds are available to have the code printed and posted. A man of political caution, he doesn't want to risk any possible challenges on that score from fiscal conservatives. So he is raising funds privately. If necessary, he says, he would be willing to pay the estimated $40,000 cost out of his own pocket.

Hill feels the code has been made more timely than ever by the emphasis in recent years on "whistleblowers," bureaucrats who see something wrong in their agencies and try to stop it.

The very first sentence in the 1958 code calls upon employees to "put loyalty to the highest moral principles and to country above loyalty to persons, party or government department."

Ivan Hill wonders whether that sentence might be one reason the code has been so hard to find on federal office walls.

"It protects the whistle-blower," he says. "It makes whistle-blowing all right. This is why they got rid of it. This is why nobody uses it." ●

CITIZEN MOTTO OF VETERANS CRUCIAL NOW

● Mr. BRADLEY. Mr. President, I ask to have printed in the Record an article written by Gus Tyler, and published in the Long Island Press, on July 25, 1979, entitled "Citizen Motto of Veterans Crucial Now."

The article follows:

[From the Long Island Press, July 25, 1979]

Citizen Motto of Veterans Crucial Now

(By Gus Tyler)

New York.—For the last dozen years or so, I have been saying "no" to the American Veterans Committee whenever they asked me to serve as their national chairman. I had "more important" things to do.

This year, I said "yes," because I believe that AVC's rubric "Citizens First" has a special relevance and urgency in our troubled time.

When Charles Bolte, the author of "The New Veteran," and Gilbert Harrison, later editor and publisher of The New Republic, conceived AVC in the closing days of World War II, they were inspired with the vision of a returning legion of ex-servicemen and women (some 14 million of them) who would turn the energies of an anti-fascist generation into an engine for social change.

WORKING FOR THE NATION

They did not want the returnees to be a self-interest lobby, in the traditional mode, subordinating the well-being of the nation to the welfare of the veterans. Hence, their slogan: "Citizens First, Veterans Second."

As I look back now over the 35 years since AVC was founded, I get the feeling that more and more people—especially the social activists—have come to think in terms of "citizens last, everything else first."

The social order, national and international, seems to have become unglued as the dedicated drive in diverse directions.

We seem to be at the mad moment when "things fall apart, the center cannot hold."

I get exposed to this retribalization of mankind whenever I go to a coalition for something or other. The "get together" usually ends as a "pull apart" as dedicated souls rise to proclaim their primary purpose as women, blacks, hispanics, right-to-lifers, right-to-workers, old, young, handicapped, environmentalists, industrialists, homosexual, immigrants or Indians.

Repeatedly I have consoled myself with the thought that this disorder is merely the passing price we must pay for a better order.

PRELUDE TO CHAOS

Yet I cannot dispel the fear that present disorder is a prelude to a universal chaos such as descended upon Europe in the Dark Ages.

At a moment such as this, it seems appropriate that there be voices saying: Whatever we are, whatever our separate sincerities, whatever our private passions, we are citizens first—citizens of our land and citizens of the planet.

I do not fault those who are outspoken about "selfish" issues, for as Rabbi Hillel said, "If I do not speak for myself, who will?"

ANOTHER QUESTION

But I do suggest that we, the zealous, dare not disregard Hillel's second dictum: If I speak for myself, what am I?

Because I see "citizens first" as the modern version of Donne's admonition that "no man is an island, entire of itself," I have taken on the added load of chairing AVC.

It is my hope that we, veterans, can join with other groups dedicated to "special interests" in reasserting our common humanity.

Perhaps we can set a centripetal force in motion even as we are tossed about on the present centrifuge. Help, anyone? ●

NATIONAL COUNCIL OF NEGRO WOMEN SET EXCHANGE PROGRAM WITH TOGO AND SENEGAL

● Mr. GLENN. Mr. President, I take this opportunity to congratulate and compliment the National Council of Negro Women, Inc., which has just concluded an agreement with the International Communications Agency for an exchange program between the council and national women's organizations of Senegal and Togo.

Under the terms of the agreement, there will be a visit to the United States by a group of eight African women; four from Togo and four from Senegal. The teams will visit NCNW sections in several locations around the country, including Dayton, Ohio, to observe projects and to increase contacts and communications between African and black American women of all professional, educational and social levels. In early 1980, a team of

NCNW members will make a reciprocal visit to Togo and Senegal.

Mr. President, this is a positive and constructive program that has my complete support. It is one of several tremendously dynamic activities being conducted by the international division of the NCNW. NCNW will be celebrating its 40th national convention this November and the organization is now operating internationally applying many of its domestic experiences in combating rural poverty in the areas of hunger, housing and educational opportunity. I strongly support the NCNW in its international development efforts and I urge my colleagues to join in encouraging future efforts such as the exchange program with Togo and Senegal.●

BIRTHDAY GREETINGS TO ERNEST W. McFARLAND

● Mr. DECONCINI. Mr. President, today, the 9th of October, is a very special day for me and indeed for all those who have been involved in the political process in my home State of Arizona, and even for the residents thereof. Today, we celebrate the birth of one of Arizona's most distinguished citizens. Ernest W. McFarland is 85 years old today. Former U.S. Senator, former Governor, former chief justice of the Arizona Supreme Court, Mr. McFarland is the only Arizonan who has served with such distinction in all three branches of our Government—legislative, judicial, and executive. As some of my colleagues may remember of personal experience, Senator McFarland served as majority leader of this body in the early 1950's. Mr. McFarland went on to serve as Governor of Arizona for two terms in the mid-1950's, and then as a justice on the Arizona Supreme Court in the 1960's.

It is my wish to note the achievements of this distinguished gentleman before my colleagues in this way, and to say how fortunate we all are that he is still with us to provide us with the benefit of his experience when necessary. It is also my wish to say how glad I am personally that he is still with us to enjoy in quiet happiness that retirement and peace he has so justly deserved for so many years.

Happy birthday to you, sir, from the U.S. Senate.●

SENATE AID FOR THE MILWAUKEE RAILROAD

● Mr. CULVER. Mr. President, I want to state my support for the Senate's action in providing funds to maintain service on the Milwaukee Railroad until November 30, 1979.

It is not necessary to recount at great length the Milwaukee's recent financial misfortunes or the difficulty it has had in providing efficient and economical service to Iowa farmers and shippers. Bankrupt since 1977, the Milwaukee is seeking to embargo 6,800 miles of track, including approximately 1,000 miles in Iowa. On Wednesday, a Federal court judge approved a service suspension over the "noncore" segments of the Milwaukee system on November 1.

While there is general recognition that the Milwaukee cannot retain its entire system indefinitely, I am, nevertheless, deeply concerned about the implications of a service embargo at this time. It is likely that—should the embargo proceed on schedule—the Interstate Commerce Commission will order "directed service" along the Milwaukee line for an initial 60-day period. Just this week, however, the Commission ordered "directed service" for the Rock Island Railroad, another bankrupt line that is the second largest carrier in Iowa.

There is serious concern as to the ability of the ICC to order—and the other Midwestern railroads to effectively carry out—directed service for both the Rock Island and the Milwaukee Railroads concurrently. This would be an undertaking without parallel in the history of the American railroad industry, and raises the spectre of confusion, tie ups, traffic congestion, and poor service that can be ill afforded during this critically important harvest period.

The overriding goal must be the continuation of all essential services during this period of crisis in the midwestern rail industry. Such service cannot be carried out in an effective and timely manner. I believe, with two of the region's major carriers under directed service orders. Therefore, it is prudent to provide funds to permit the continued operation of the Milwaukee for a short specified period of time so that the efforts of the ICC and other midwestern lines can be focused upon the successful operation of directed service for the Rock Island.

The Senate's action also gives Congress the needed time to consider effective long-term solutions to the Milwaukee problem. Legislation currently being fashioned by the Commerce Committee will include effective labor protections and expedite procedures to sell "non core" segments of the Milwaukee to prospective purchasers.

The current crisis and uncertainty affecting midwestern railroads exacts a major burden upon farmers, shippers, and consumers nationwide. A sound, efficient freight transportation system is in the fundamental interests of all Americans. Congress must take bold, long-term steps to revitalize this essential industry. In the short term, however, keeping the Milwaukee system intact for a little longer is a prudent and responsible course of action.●

CONGRESSIONAL PAY RAISES

● Mr. STEWART. Mr. President, I would like to take this opportunity to announce my cosponsorship of S. 1845, legislation to prohibit pay raises for members of Congress and the Federal judiciary at any time when the Federal budget is not balanced. I commend the sponsor of the bill, Senator EXON, for his efforts to increase the pressure of Congress to finally come to grips with the problem of Federal deficit spending.

There is no doubt about the urgency of limiting excessive Government expenditures and taking meaningful steps to achieve a balanced budget. I do not have to reiterate the fantastic rate at which Government outlays and the national debt have increased over the past 5 years. With prices currently rising in excess of 13 percent, there has never been a more dramatic need to bring this Nation's inflationary spiral under control.

We have all listened to dozens of speeches on the Senate floor stressing the necessity of reducing Federal outlays; this measure gives us the opportunity to place a little bit of substance behind this rhetoric. I think there are few more effective ways for Congress to demonstrate its sincerity in working to balance the budget. In essence, this bill will force Members of Congress to be judged on how well we are performing one very crucial aspect of our jobs. Without question, the vast majority of Americans want the Federal budget to be balanced. I believe these people view the continued budgetary deficits of recent years as a failure on our part, one for which we should not be rewarded.

Mr. President, in recent weeks there has been much discussion about the need for a congressional pay raise, and what the size of this raise should be. Though I have heard and read all of the arguments in favor of a pay raise, I have not been convinced. I simply do not in good conscience see how the Members of Congress can justify any salary increase during these difficult economic times, when all Americans are being asked to make personal sacrifices to fight inflation. In my opinion, there is no way to justify a congressional pay raise to the average taxpayer, who is struggling to make ends meet, while earning only a fraction of our salaries. Until this Congress and this Government can get this economy back on its feet, I will oppose any pay raise for Congress.

To conclude, Mr. President, I have seen a great deal written in recent weeks about how the most important issue facing this Nation during the coming decade is leadership. I agree with this assessment and can think of no better way for this body to take the lead in fighting inflation and improving the economy than to tie our livelihood to our success in reducing Government spending.●

OPPORTUNITIES FOR EMPLOYMENT OF DISABLED INDIVIDUALS

● Mr. CRANSTON. Mr. President, the history of handicapped employment is the story of capable and willing persons, many with a strong desire to work, who have been denied employment opportunity by attitudinal barriers among employers and among themselves, and by architectural and environmental barriers.

There are more than 34 million physically and mentally handicapped persons in the United States according to the 1970 census. Of that number, approximately 11.7 million are listed by the census as having been disabled for more than 6 months, not institutionalized, and between the ages of 16 and 64.

At the time of the 1970 census, over 6 million disabled persons were not in the labor force—they were neither employed nor seeking employment. Some were not working by choice. They pursued roles as students or homemakers. But many disabled persons were not working for other reasons. According to the Social Security Administration Office of Research Statistics, partial disability has little effect on the proportions of men and women in the labor force but does result in an increase in the number of persons who are working part-time or are unemployed. However, according to 1972 figures published by the Social Security Administration, total disability forced more than three-fourths of the men and almost nine-tenths of the women out of the labor force. Definitive 1978 figures will be available soon, but the Office of Research Statistics informs me that, due to an overall increase in the rate of unemployment, the 1978 statistics for disabled employment are likely to be fairly close to the 1972 figures.

For years, many employers gave a stock response to questions about employment of disabled persons. They said they did not discriminate against anybody on the basis of a handicap, and that they had no objection to hiring handicapped individuals as long as the job applicants could do the work.

The signing into law of the Rehabilitation Act in 1973 signaled a new era for handicapped individuals. It was a clear statement by Congress that the "stock response" left a great deal to be desired since nondiscrimination in the case of disabled individuals necessarily implies some commitment from the employer as well as the employee to accommodate to special needs of qualified handicapped employees.

The Rehabilitation Act makes it illegal for companies who do at least $2,500 worth of annual business with the Federal Government to discriminate against handicapped individuals in employment practices. It also requires them to design "affirmative action" plans for hiring handicapped persons or face loss of Federal contracts. The act also places a nondiscrimination obligation upon all entities receiving Federal grant funds—and on the Federal Government's hiring and other practices as well. Although firm statistics on improvement in employment will not be available until we see the results of the 1980 census, I think that there is little doubt that we have made headway in the areas affected by the Rehabilitation Act.

Mr. President, in the past, we have often placed the burden for succeeding in a job squarely upon the shoulders of a handicapped person. We told these workers that their success depended entirely on the way they applied themselves. We did not acknowledge the known fact that a great deal depends upon the attitude of the employing company and its supervisors. Until recently the responsibility has never gone both ways. It should. In all cases, at least an equal portion of responsibility for the quality of a worker's performance and morale lies with the company as well as the worker.

The burden for helping people help themselves rests on the shoulders of several groups. Key forces affecting the employment future of handicapped individuals are Government employment, labor-related groups, professional associations, manufacturers of specialized equipment, transportation companies, communications and entertainment media, and vocational rehabilitation and educational programs, and handicapped individuals themselves and their advocates.

Groups which have already made an effort to provide opportunity for handicapped persons to participate fully in the work force are reporting positive and profitable experiences. Statistics from the U.S. Office of Personnel Management indicate that we are making progress in the employment of disabled persons in the Federal Government. Manufacturers of specialized equipment have also made tremendous technological strides that have increased the ability of handicapped persons to demonstrate their abilities to perform job tasks with only minor adjustments. Organized labor has shown a willingness to assist employers and disabled workers in efforts to accommodate the special needs of handicapped individuals in the workplace and in the provision of benefits.

Private business has often established exemplary practices in the effort to employ handicapped people. Some companies, like Sears Roebuck, Dupont, IBM, Metropolitan Life Insurance, and Bankers Trust of New York have participated in special projects to employ handicapped individuals. These projects have demonstrated that the effort can be successful—often with very minor job adjustments as to attitude, job descriptions, and workplace. Other, smaller businesses have shown that their industries are particularly easily adaptable to the needs of disabled persons. For example, some consumer products firms such as the Shaklee Corp. use programs of direct selling. That corporation has set a fine example by actively recruiting handicapped individuals who can mold their work around their own lifestyles and needs. I ask that a brochure from the Shaklee Corp.—which demonstrates that company's fine efforts in this area—be printed in the RECORD at the conclusion of my remarks.

Mr. President, we have come a long way in providing opportunities to disabled members of society, but we have a long way to go. Success will require the kind of attitude and commitment to a solution demonstrated by the exemplary programs I have mentioned. We must work together toward a policy the goal of which is to allow all persons to help themselves to the full limits of their capabilities.

The brochure follows:

OPPORTUNITY UNLIMITED

(By Robert C. Anderson)

SHAKLEE CORPORATION IS SHOWING HANDICAPPED PEOPLE NEW AVENUES TO SELF-REALIZATION THROUGH DIRECT SELLING

When Marlene Egerer was an active and popular high-school student in Modesto, Calif., she won a doll-design contest sponsored by a national magazine. Of course, she was delighted. The trip to New York City to receive her prize was like a marvelous dream. But a rude awakening came after the awards banquet. She learned that her prize was to have been a trip to Europe. However, contest officials gave the trip to another girl instead when they discovered that Marlene was confined to a wheelchair.

"They didn't want to be bothered making the extra little arrangements necessary to accommodate me." Marlene says indignantly. The shock and disappointment she felt that day 20 years ago still tug at her handsome features as she recalls the incident.

"That is exactly the kind of thing a handicapped person comes to expect," she says. "I have bucked up against it ever since I had polio when I was 8 years old and was not allowed to go to school. I have always worked hard to try to prove myself and then found that I would be deprived of the fruits of my effort."

Marlene tells her story in the spacious room she and her husband, Will, occupy in the Hilton Hotel in San Francisco. They are here attending a convention for new sales leaders of Shaklee Corporation, the manufacturer and distributor of nutritional supplements and foods, personal-care and household products which last year recorded $275 million in sales.

The company was co-founded in 1956 by Dr. Forrest Shaklee, a chiropractor, and his two sons. His golden-rule philosophy and principles of "thoughtmanship" ("What you think, you look; what you think, you do; what you think, you are.") still guide the firm's policies. Worldwide, Shaklee has more than a million independent distributors who buy the company's products wholesale, either for resale or for personal use. Of this number, about 7,500, like Will and Marlene Egerer, have made it to positions as sales leaders. There are four leadership levels—supervisor, coordinator, key coordinator, master coordinator—with increased recruitment, training and motivational responsibilities along with more income at each level.

Although she has been with Shaklee less than a year, the contrasts Marlene sees between her experience with the company and her former work as an educator are striking. Despite years of study, earning credentials in art and speech therapy, she says she found her teaching efforts thwarted by academic red tape. In some cases, administrative decisions seemed aimed at penalizing her for being handicapped.

For example, at one point, she was visiting several elementary schools a day. No special parking was provided for her. "I'd park two or three blocks away and wheel myself to school holding all my books and motivational materials in my lap. What a waste of time!" There once was a situation in which all therapists in the district were to handle two schools each, but the numbers worked out so that one had to take three schools. Marlene was the one! "It wasn't even common sense," she says. "If it wasn't something like that, they'd give me so many students I couldn't possibly be effective. I found teaching enormously frustrating."

In direct sales, she says, the opposite is true. "I feel that I can work up to my potential here and be treated with understanding. That's all I ask."

Marlene's commentary should be gratifying to Shaklee's executive staff because it is a positive result of their efforts to provide opportunity for handicapped people.

The program is conducted without fanfare or even a formal structure. It appears to be merely an extension of the company's thinking of its network of independent representatives as a "family," an outgrowth of its "sharing and caring" philosophy. But observation of the treatment of the handicapped persons among the 1,500 new sales leaders at the San Francisco convention indicates an investment of more than a little thought, time and money on their behalf.

Individuals like Marlene Egerer find that their hotel rooms are pre-checked to make certain bathroom doors and other areas are wide enough to admit their wheelchairs. Freight elevators are standing by to carry them to and from various functions. When the conventioneers go on a bus tour, the handicapped ride in vans equipped to transport wheelchairs.

Each session of the convention has a small section and seating reserved for deaf people, and an interpreter stands in front of them throughout the meetings wig-wagging the proceedings to them in sign language. In this group is Pat Zinkovich of Benicia, Calif., a grandmother whose animated enthusiasm belies the fact that she is deaf and mute.

Like Marlene Egerer, Pat Zinkovich knows the frustration of having the ability to do a job well but being prevented from working at it by regulations. She lived in Fairbanks, Alaska, for a time when her husband, Fred, was a welder on the pipeline, and Pat was hired as a post-office truck-driver.

It was dangerous work due to the intense cold and isolation on icy roads, but she loved it. After moving to California, she applied for a driving job with the postal service and was told it was impossible because of her deafness.

"I thought that was ridiculous!" she signs furiously. "I passed the test. I am an excellent driver, and the road conditions here are perfect. But the rules would not permit me to drive. I settled for a job as a mail sorter. It was boring. I hated it. They treated me like a fencepost. They'd make announcements over the intercom, forgetting I couldn't hear them. Later I would be criticized for not following the procedure announced."

One afternoon of the convention is devoted to a tour of the Shaklee headquarters in Emeryville, across the bay from San Francisco. Pat Zinkovich seizes this opportunity to corner Jean Dortmund, an aide of Vice President Robert Brouse, to make a plea on behalf of all the company's deaf representatives. It is simply that a coupler be installed on the headquarters' phone system so the deaf can communicate with the home office in writing through their own typewriter-like Porta-Tel machines.

A few days after that conversation, the company began preparing to install the coupler. It also announced that it was putting its complete sales manual on tape for use by the blind.

Pat Zinkovich may not be able to talk, but she sure knows how to communicate.

One of the real success stories at the convention is 63-year-old Trudie Jordan of Toledo, Ohio, who spent her 60th birthday having her left leg amputated just below the knee. She had undergone vascular surgery a few months earlier to replace a clogged artery. Her body rejected a plastic part and gangrene set in. She also had a chronic stomach problem, and, at one point, a physician told her she couldn't expect to live much longer. Today, equipped with a realistic artificial leg, Trudie looks, walks and talks like a woman who has shed 10 or 15 years.

The change, she says, is mostly internal. She credits Shaklee's diet supplements with giving her a feeling of well-being and her Shaklee business with helping her feel fulfilled. "I'm finding in it what I have been looking for all my life," she says. "I don't want to begin a new career. I just want to help others. I am seeing a change in the lives of people I deal with, and that's all the pay anybody needs. Success is helping others." ●

RICHARD F. KENYON

● Mr. PELL. Mr. President, I would like to mark the passing of Richard F. Kenyon, a man who has served his town, his State and his country faithfully and well.

Mr. Kenyon passed away yesterday, at the age of 66, but left a lifetime legacy of public service.

A native of Narragansett, R.I., Mr. Kenyon was an Army veteran of World War II, serving as staff sergeant in the 86th "Black Hawk" Infantry Division. He returned to Rhode Island after the war to continue a life of public service that included work on the local, State, and Federal levels.

He was the State executive director of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture for 43 years. Throughout those years he enthusiastically sought to preserve, protect and improve the quality of Rhode Island's agricultural resources and rural life.

Mr. Kenyon's interest in Rhode Island is reflected in the numerous groups he joined, and often led, to accomplish his goals. I was saddened to learn of his passing, but I enjoyed working with him and know that Rhode Island is richer for his legacy of public service.

I ask that an article from this morning's Providence Journal, October 9, 1979, about Mr. Kenyon be printed in the RECORD.

The article follows:

RICHARD F. KENYON

NARRAGANSETT.—Richard F. Kenyon, 66, of Indian Rock Farm, Point Judith Road, an official of the U.S. Department of Agriculture, died yesterday at home. He was the husband of Beatrice A. (Rivard) Kenyon.

Born in Narragansett, May 18, 1913, he was a son of the late Charles F. and Anna (Tucker) Kenyon.

Mr. Kenyon was the state executive director of the Agriculture Stabilization and Conservation Service of the USDA for 43 years. He graduated from the School of Business Administration of the former Rhode Island State College, class of 1935, now the University of Rhode Island.

Mr. Kenyon served in the Army in World War II in the European and Pacific Theaters of Operations. He was a staff sergeant in the 86th "Black Hawk" Infantry Division.

He was a member of the R.I. Rural Development Committee and the state Civil Preparedness Agency. He was president of the Federal Executive Council in the State of Rhode Island, the state Emergency Board, the Small Farms Committee and the Planning Committee of A.C.P. Special Water Quality Project.

He served on the bushing committee of the Narragansett Public Health Nurses Association.

Besides his wife, he leaves a son, Charles R. Kenyon of Narragansett, a daughter, Mrs. Nancy K. Manfredi of Westerly, and five grandchildren.

A funeral service will be held Thursday at 11 a.m. at the Forbes Funeral Home, 28 Columbia St., Wakefield. Cremation will be in Swan Point Cemetery, Providence.●

HEARING RECORD ON S. 691 KEPT OPEN

● Mr. DANFORTH. Mr. President, in order to provide the administration with additional time to comment on S. 691, a bill to prohibit the use of appropriated funds to lobby members of State legislatures and legislative bodies of political subdivisions, the hearing record will be kept open until October 15. Any interested person who wishes to submit comments for the record should send such comments to my office, at 460 Russell Senate Office Building, Washington, D.C. 20510, to the attention of Christopher Brewster, minority counsel, subcommittee on Federal Spending Practices and Open Government.●

A WELL-DESERVED AWARD

● Mr. RANDOLPH. Mr. President, each of us, I think, derives a special pleasure from seeing a good friend and valued colleague given appropriate recognition for a job well done.

I had such an opportunity a few days ago and the experience is one which I think you would want me to share with you here today.

It came about when I was invited by the pollution engineering magazine to have a part in presentation of its annual environmental leadership award to Senator GARY HART.

His qualifications for that honor are so evident that no full accounting is needed at this point, though mention of a few of the most obvious might be appropriate.

They would include his responsibility for involvement in the Three Mile Island nuclear accident investigation as chairman of the Nuclear Regulation Subcommittee, his service as chairman of the National Commission on Air Quality, and a period as cochairman of the congressional environmental study conference.

He is, as you know, also deeply involved in the fashioning of a bill to address the hazardous waste and toxic substances problem—surely the most pressing environmental issue of these times.

I think you will be interested in what he had to say and I ask that a summary of his comments be printed in the RECORD.

The summary follows:

ACCEPTANCE COMMENTS

I am proud to be honored for environmental leadership by Pollution Engineering Magazine. For 10 years, this publication has served an important function in the pollution control field by focusing needed public attention on the innovations being made to help clean up our environment. Your efforts to bring together and recognize the companies and individuals who made possible the great strides we have seen in pollution control are commendable.

Congress is too often told the "technology just isn't there" but the leadership many of you have brought to your field should put that obstacle behind us. I hope you will work closely with members of Congress and keep us informed of your work so we can destroy the myth that cleaning up the environment can't be achieved in a cost-effective way.

Despite these efforts, the environmental movement is poised at a new crossroads, facing new challenges, as we approach the 1980's. Since its inception, environmentalism has undergone a great number of changes. The environmental issues of the 1960's became the public health issues of the 1970's. They are now in danger of becoming the victims of the 1980's.

Despite a still strong degree of public support for protecting and cleaning up our environment—close to 60 percent according to some polls—many people feel it is time to cut back environmental programs to make way for energy development and economic progress.

These goals need not be in conflict. And the challenge of the 1980's will be to achieve these goals without sacrificing our environmental goals—and public health and safety—in the process.

We need to change the way we reach our goals—rather than change the goals. We need to reform the regulatory process which has gotten out of hand—rather than provide blanket exemptions from it. We need to try new alternatives to cumbersome regulations—rather than try to undo the gains of the last decade.

In our head-long rush to balance the budget and become more self-sufficient for our energy needs, we cannot afford to sacrifice our responsibility to future generations.

Our existing environmental law protect important values, and we should not abandon or change them without looking very hard at the likely effects.

And we have an unfinished agenda. Although over 90 percent of our factories are now polluting less and cars are substantially cleaner, only one of the nation's 105 largest cities has healthy air. And a new study shows visibility has declined 10 to 40 percent across the nation. After three decades of nuclear power generation, we still do not have a plan for permanent nuclear waste disposal. We are inequipped to deal with the horrors of chemical wastes leaking into our food and water supplies. And we are only beginning to understand the potential long-term effects on our atmosphere of increased fossil fuel development.

There are several things we must work toward if we are to preserve the past gains and achieve new ones in all of these areas.

First, we must increase congressional oversight over the implementation of the laws which are passed.

Second, we must ask if regulations are the most effective to implement the laws and reach our goals. In some cases, we will find that economic incentives and other creative alternatives will work better.

Third, we must speed up and coordinate the governmental process. It shouldn't take 65 separate permits from three different levels of government to produce oil from shale in Colorado. And there is no reason why different levels of government can't combine and share information.

Finally, we must avoid the arbitrary and false alternatives—jobs versus livable environment, energy production versus clean air, industrial progress versus preservation of our natural heritage.

History will judge us on this and related issues less by our ability to accommodate these competing interests than by the kind of country we will to future generations. That is the future challenge for environmental leadership in this country.●

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, Mr. TOWER be recognized for not to exceed 15 minutes and Mr. CRANSTON be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the orders that have already been entered for the recognition of Senators and prior to routine morning business, Mr. STEWART be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators on tomorrow, under the orders entered, there be a period for the transaction of routine morning business, for not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF CONTINUING RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the transaction of routine morning business on tomorrow, the distinguished chairman of the Committee on Appropriations then be authorized to call up either or both of the continuing resolutions, as ordered previously today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene tomorrow at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 11 a.m. tomorrow.

After the orders for the recognition of Senators have been disposed of, there will be a brief period for the transaction of routine morning business, after which the chairman of the Committee on Appropriations will be authorized to call up either or both of the continuing resolutions. There will be no rollcall votes on those resolutions or in relation to those resolutions before 4 p.m. tomorrow. I expect rollcall votes thereafter, however. That should wrap it up for tomorrow.

There may be conference reports on matters that have been cleared for action by then.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate, in accordance with the order previously entered, stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and at 6:45 p.m. the Senate recessed until tomorrow, Wednesday, October 10, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 9, 1979:

DEPARTMENT OF ENERGY

Ruth M. Davis, of Maryland, to be an Assistant Secretary of Energy (Resource Applications), vice George S. McIsaac, resigned.

William Walker Lewis, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation), vice Alvin L. Alm, resigned.

DEPARTMENT OF LABOR

John N. Gentry, of Virginia, to be Under Secretary of Labor, vice Robert J. Brown, resigned.

HOUSE OF REPRESENTATIVES—*Tuesday, October 9, 1979*

The House met at 12 o'clock noon.

Rev. George R. Demass, minister, Perry Hall Presbyterian Church, Baltimore, Md., offered the following prayer:

Eternal God, our Creator and Saviour, Thou hast done great things for us and we are thankful. Forgive our inequities and grant that we might be good stewards of Thy favors toward us and our children. Make us a people of great faith in Thee.

Look down with special grace upon these United States. We pray especially for those who congregate in this Chamber. Counsel and teach them wisdom that they might discharge their duties as those who are responsible to Thee, safeguarding those freedoms Thou hast given us and which we enjoy.

Enable us to continue to be a people who cherish mercy, justice, and love toward our neighbors here on these shores and throughout the world.

Grant us these requests for the sake of the Lord Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, would the Chair entertain a motion for a call of the House prior to the suspensions?

The SPEAKER. The Chair would be willing to do that.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. BAUMAN. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the approval of the Journal?

There was no objection.

The SPEAKER. Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the concurrent resolution (S. Con. Res. 36) entitled "Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Muskie, Mr. Hollings, Mr. Chiles, Mr. Biden, Mr. Johnston, Mr. Bellmon, Mr. Domenici, Mr. Packwood, and Mr. Armstrong to be conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1308. An act to provide for an expedited and coordinated process for decisions on proposed non-nuclear energy facilities, and for other purposes.

REV. GEORGE R. DEMASS

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Maryland. Mr. Speaker, we are grateful to the Reverend George Demass, pastor of the Perry Hall United Presbyterian Church of Baltimore County, for his appropriate and inspirational offering.

Forty-one members of Reverend Demass' congregation, who have accompanied the reverend to the House of Representatives, are justly proud of their pastor, because of his vigorous commitment to the well-being of the community and church.

Reverend Demass has served at Perry Hall for 4 years and received his B.A. from the State University of New York and his master of divinity degree from the Temple Theological Seminary in Chattanooga, Tenn.

Reverend Demass, members of the congregation of the United Presbyterian Church of Perry Hall and Members of the U.S. Congress, including me, who happen to be an ancestral Presbyterian, thank you for being with us today.

A TAX CUT WOULD ONLY MAKE THINGS WORSE

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, having just returned from my district and having participated in many meetings and events at which I could talk with constituents, I am more convinced than ever that the Democratic Party is the party of the people.

Our Republican colleagues are talking of tax cuts to "stimulate" the economy, but people in my district want us to balance the budget as our first priority. Tax cuts at this time would be inappropriate and would postpone bringing the Federal budget into balance.

Inflation is perceived as the real economic enemy by my constituents, because it destroys work incentive and robs people of their savings. A tax cut to stimulate the economy now would only fuel inflation all the more, making things worse, not better.

Mr. Speaker, I think we Democrats have the right idea—responsibly reducing the budget and resisting the popular temptation to cut taxes. By persevering in this policy, we can balance the budget without devastating side effects to the economy.

POPE JOHN PAUL IN CHICAGO

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, last week Pope John Paul came to the big cities and the small towns of America. He came to my city, and I will never forget it. Throughout our country banners and voices were raised in joy and celebration. But for Chicago the Pope's visit was something very special. For me it was the special experience of my life. In my 25 years of public office, I have never witnessed the incredible outpouring of love that the people of Chicago gave to John Paul. In 2 short days the city was transformed. It turned itself inside out in jubilation. The Pope made a hit with everyone. He made us feel glad to be alive. He lifted spirits that had been dulled by everyday living. He called us back to the values we had lost sight of.

The parades are over. The streamers have all been swept away. The altars have been dismantled. But the message this man brought to us will not be put away so easily. I think it is important that we think about what he said. Clearly, he was understood.

When the crowds called "we love you." He called back. "I love you."

KUDOS FOR DEMOCRATIC LEADERSHIP

(Mr. ALBOSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALBOSTA. Mr. Speaker, I want to take this opportunity to commend the Democratic leadership in the House for their actions in moving important and needed legislation through this Chamber.

During my first session in the Congress, I have found the entire Democratic leadership from Speaker O'Neill to Chief Deputy Whip Dan Rostenkowski helpful and cooperative. They are accessible when you need them and are of assistance whenever possible. As a freshman Member of the House, I have been impressed by the variety of people who serve in the Congress and the different concerns they represent. It takes strong but fair leadership to work with all of these Members.

The Speaker, Tip O'Neill, the majority leader, Jim Wright, the majority whip, John Brademas, and the caucus chairman Tom Foley—all exemplify the best in the Democratic Party; compassionate and strong leadership which will help solve this country's problems in a fair and equitable way for all of our people.

In closing, Mr. Speaker, I just want to say that I am proud to be a Member of this distinguished legislative body and to serve under such a fine leadership. I earnestly hope we can continue to deal effectively and promptly with the major issues facing the Congress and the country.

LET OIL DRILLING KEEP PACE

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, let oil drilling within the United States keep pace with inflationary costs. In the past 6 years the Washington energy planners have placed our country in dependency on foreign oil imports. Oil imports have grown from $3 billion a year just 6 years ago until they are $60 billion this year. This not only accentuates inflation, but it will lead to economic disaster for this country if we continue this heavy reliance on Arab OPEC oil.

Sound economics demand that the American oil industry must be deregulated so it can move forward. Bob Gilmore sent me the position paper of the American Association of Petroleum Geologists in regards to decontrol of oil prices. Their statement was:

> We urge that you disregard politics and afford the American petroleum industry the opportunity to expand its efforts to discover more oil for our Nation.

They back this up with two basic facts:

FACT

From 1973 through 1977, 27 of the larger companies (Chase group) spent $50 billion in excess of net income for capital expenditures. This long-term debt was incurred by industry voluntarily.

FACT

The average well-head price of domestic crude oil in 1974 was $6.74 per barrel and in mid-1979 the average price is approximately $11 per barrel, an increase of 63 percent. The average cost of drilling and completing wells in 1974 was $139,000 per well and in 1979 the average cost is approximately $283,000 per well, an increase of 14 percent. As a result of this cost/price squeeze and uncertainties regarding future price and tax policies, the active drilling rigs in July 1979 were 11 percent below the number in July 1978.

Let us stop all of this political double talk. Put American oilmen in the real world. Our country now depends for 75 percent of its energy to be derived from

oil and gas. By 1990 we should have al-
States must produce the secondary and
ternate energy sources, but the United
tertiary domestic oil production for the
1980's.

CONGRESS NEEDS TO HELP FEDERAL RESERVE BOARD CONTROL INFLATION

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, over the weekend the Federal Reserve Board raised the discount rate to 12 percent in an effort to restrict the money supply and dampen the extension of credit all in an effort to fight inflation in this country. I think it is certainly a welcome event that someone in this Government is trying to do something about inflation.

But the fact is the Federal Reserve cannot do it alone. The fact is that the root cause of inflation in this country is the failure to balance the budget and the declining productivity which is attributable to the heavy hand of taxation and heavy regulation by this Federal Government.

Congress needs to get busy and help the Federal Reserve Board.

This problem is particularly acute in my home State of Arkansas. We have a constitutional usury ceiling of 10 percent; therefore lenders in our State cannot afford to make the loans that keep our free enterprise system operating.

Furthermore, the high cost of money exacerbates the disparity that exists between State and national banks in Arkansas.

For several decades national banks have been permitted to charge 1 percent above the discount rate while State banks are limited by State usury ceilings.

Under present circumstances a national bank can go to 13 percent while a State bank in Arkansas is limited to 10 percent.

Arkansas needs relief from this anomaly in the law which is more historical than logical.

Congress can help by expediting H.R. 2515 and by fighting inflation as I have indicated.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT PAST 10 A.M., WEDNESDAY, OCTOBER 10, 1979

Mr. BLANCHARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs be permitted to sit past 10 a.m. on Wednesday, October 10, 1979, in order to conduct an oversight hearing on the Council on Wage and Price Stability. I have checked with the minority and they have no objection.

The Speaker. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 5, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received at 10:52 a.m. on October 5, 1979, and said to contain a message from the President wherein he transmits the eighth semi-annual report of the Sinai Support Mission.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

EIGHTH REPORT OF THE UNITED STATES SINAI SUPPORT MISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

To the Congress of the United States:

I am pleased to transmit herewith the Eighth Report of the United States Sinai Support Mission. It covers the Mission's activities during the six-month period ending October 1, 1979. This Report is provided to the Congress in conformity with Section 4 of the Public Law 94-110 of October 13, 1975.

The Peace Treaty which Egypt and Israel signed in Washington on March 26, 1979 calls for the United States to continue monitoring responsibilities in the Sinai until January 25, 1980, when Israeli armed forces withdraw from areas east of the Giddi and Mitla Passes. This mission will be completed on schedule.

Trilateral talks in Washington on September 18 and 19 resulted in tentative agreement for the United States, using the Sinai Field Mission, to verify force levels specified in Annex I of the Treaty, in the area of the Sinai west of the interim Buffer Zone. Administration officials have been in touch with appropriate Congressional committees on various aspects of the U.S. undertaking and will provide Congress with all agreements and understanding to which the United States is a party.

This year's funding of the Sinai Support Mission is authorized under Chapter 6, Part II of the Foreign Assistance Act, "Peacekeeping Operations." A request has been made to Congress to restore $6.1 million of the Sinai Support Mission funds for FY 1980, to cover anticipated outlays associated with the new U.S. undertaking in the Sinai.

The American peacekeeping initiative in the Sinai has been highly successful. I know the Congress will continue its support of the Mission, as part of the United States efforts to meet our goal of permanent peace in the Middle East.

JIMMY CARTER.

THE WHITE HOUSE, *October 5, 1979.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 5, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received at 10:52 a.m. on October 5, 1979, and said to contain a message from the President wherein he transmits the U.S. Uranium Enrichment Capacity Annual Report.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

U.S. URANIUM ENRICHMENT CAPACITY ANNUAL REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

To the Congress of the United States:

In accordance with Sections 103 and 104(c) of the Nuclear Non-Proliferation Act of 1978, I hereby transmit to Congress the U.S. Uranium Enrichment Capacity Annual Report.

This Report has been prepared by the Department of Energy in conjunction with the Department of State, the Arms Control and Disarmament Agency and the Office of Management and Budget and submitted to me as required by law. The Report discusses the need for additional U.S. uranium enrichment capacity and addresses the desirability of and options for foreign participation in new U.S. uranium enrichment facilities.

JIMMY CARTER.

THE WHITE HOUSE, *October 5, 1979.*

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 531]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Atkinson
AuCoin

BEST DOCUMENT AVAILABLE

Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cheney
Cleveland
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thompson
Traxler
Udall
Ullman
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

☐ 1230

The SPEAKER. On this rollcall 337 Members have recorded their presence by electronic device, a quorum.

By unanimous consent further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

FRINGE BENEFIT REGULATIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5224) to continue through December 31, 1980, the existing prohibition on the issuance of fringe benefit regulations, as amended.

The Clerk read as follows:

H.R. 5224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF ISSUANCE OF BENEFIT REGULATIONS.

Section 1 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95–427), is amended by striking out "December 31, 1979" each place it appears and inserting in lieu thereof "May 31, 1981".

SEC. 2. COMMUTING EXPENSES.

Section 2 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95–427), is amended by striking out "December 31, 1979" and inserting in lieu thereof "May 31, 1981".

SEC. 3. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.

(a) GENERAL RULE.—Subsection (a) of section 604 of the Tax Reform Act of 1976 (relating to State legislators' travel expenses away from home) is amended—

(1) by striking out "who elects the application" and inserting in lieu thereof "who, for the taxable year, elects the application", and

(2) by striking out "January 1, 1978" and inserting in lieu thereof "January 1, 1981".

(b) TECHNICAL AMENDMENT.—Effective for taxable years beginning after December 31, 1977, subsection (d) of section 604 of the Tax Reform Act of 1976 is amended by striking out the last sentence.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) is recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, H.R. 5224 prohibits the Treasury Department from issuing final regulations dealing with the taxation of employee fringe benefits before June 1, 1981. It also prohibits the Treasury from issuing any ruling or regulation prior to June 1, 1981, which would change the treatment of certain employee commuting expenses to temporary work sites. Finally, the bill extends, for 3 additional years, the effective date of a provision relating to the tax treatment of certain travel expenses incurred by State legislators while away from their homes in the district they represent. As extended, this provision will apply to taxable years beginning before January 1, 1981.

In 1978, the Congress enacted prohibitions against administrative changes in the treatment of fringe benefits and temporary work site commuting expenses to permit the congressional tax-writing committees to review these areas and to formulate any needed legislation. Due to the press of other legislative business, that review has not been completed. Accordingly, the committee concluded that an additional period of time is necessary to thoroughly review these areas which affect a substantial number of workers.

With respect to the provision relating to State legislators, temporary guidance is especially necessary. Generally, under present law, an individual's "tax home" is determined by a number of factors. This situation sometimes has led to uncertainty and awkward results in the case of State legislators.

The bill allows a State legislator to treat his place of residence within his legislative district as his "tax home" for purposes of computing income tax deductions while away from home. The bill allows State legislators to deduct ordinary and necessary business travel expenses similar to those allowed to individuals in other trades or businesses. The provision which the bill extends initially was enacted in 1976, and subsequently has been extended two times. Without a further extension, State legislators will have to file their income tax returns for 1978 under the general rules for determining the location of an individual's "tax home." A longer extension until 1981 will permit an additional period of time for the orderly consideration of permanent rules.

Mr. Speaker, I urge the adoption of this bill.

□ 1240

Mr. CONABLE. Mr. Speaker, I agree with my distinguished colleague from Illinois about the worthiness of this legislation and I urge my colleagues to support it. It is a modest and noncontroversial piece of legislation but one which I think should be enacted without delay, primarily because it postpones until May of 1981 the prohibition of regulations changing the taxation of fringe benefits. As my colleagues will recall it was a controversial issue when it first came up and the Committee on Ways and Means, the Senate Committee on Finance and the Congress as a whole are not prepared at this point to deal with it in detail.

This proposal also changes the commuting expense prohibitions, extending them for an additional 18 months and provides an additional 3-year period for special tax selection allowed State legislators.

Mr. Speaker, many of our own State legislators back in our respective States are very concerned about this, because in the taxation of their salaries the locus of their permanent residence has been an issue affecting them in different ways in different States and causing considerable embarrassment for some legislators who find that their home residences have been declared to be their places of temporary residence although their State capitals should be the temporary place of work.

Prior to the Tax Reform Act of 1976, the Internal Revenue Code did not contain special provisions that allowed State legislators to determine the amount of their business-related travel expenses while away from home with any degree of certainty. This resulted in the legislators being required to use the generally applicable rules, which caused a great many problems because the legislators, in most cases, do maintain two homes.

To eliminate these problems, the 1976 act allowed State legislators an election, under which they could treat their residence in the legislative district they represent as their tax home for purposes of computing the amount of their business-related travel expenses while away from home.

The election has been extended twice and expired on December 31, 1977. In H.R. 3091, the election was extended until December 31, 1978. However, the Senate added several amendments to this bill which are unacceptable to the House, and these differences have not been resolved in conference. This has resulted in State legislators not being sure how to file their 1978 tax return.

The bill would remove this uncertainty for 1978 and provide specific rules for 1979 and 1980 taxable years by extending the election through December 31, 1980. It will also allow the Committee on Ways and Means additional time to review the treatment of State legislators' travel expenses, and I hope our own situation in this respect will be reviewed at that time.

Because of certain administrative actions by the Department of Treasury, the Congress in Public Law 95-427 first prohibited the Treasury from issuing final regulations concerning the treatment of commuting expenses and second, required the taxation of these expenses to be determined under rules in effect prior to November 22, 1976. The prohibition is due to expire on December 31, 1979.

Since the Committee on Ways and Means requires additional time to study the commuting expense issue, H.R. 5224 extends the administrative prohibition until May 31, 1981.

Finally, H.R. 5224 also extends the prohibition in Public Law 95-427 concerning the treatment of fringe benefits until May 31, 1981.

May I say, Mr. Speaker, this is the critical part of this modest legislation.

As Members may recall, several situations were called to the Committee on Ways and Means' attention in which it was felt that the Treasury may be taxing fringe benefits in a way that was not consistent with congressional intent.

To allow the committee time to study the fringe benefit question—and, may I say, this includes several serious philosophical issues of tax concern. We prohibited the issuance of final fringe benefit regulations until December 31, 1979.

Since enactment of Public Law 95-427 the committee appointed a task force to study the fringe benefit issue. The task force submitted a discussion draft to the committee but Treasury recommendations have not been received.

The committee still needs additional time to establish rules, Treasury should have its input and this bill will provide the time by extending the fringe benefit prohibition until May 31, 1981, thus, in effect, putting over the issue until after the sensitive period of the elections of 1980.

In addition, it should be noted that the prohibition also applies to other administrative actions of the Treasury Department. Thus, as the report notes on page 4:

> Although the provisions of this bill relate only to the issuance of regulations, it is still the intent of the committee that the Treasury Department will not alter, or deviate from, in any significant way, the historical treatment of fringe benefits through the issuance of revenue rulings or revenue procedures, et cetera.

A situation has been called to my attention, in which a district office of the Internal Revenue Service, during the period covered by Public Law 95-427, is attempting to tax a fringe benefit it had previously viewed as nontaxable. It is the clear intent of the previously quoted report language, which I shall put in the record, to prohibit these new ventures. I hope the Treasury promptly adjusts its audit activities accordingly so that we will not have the subversion of congressional intent by administrative fiat. I wish to call this particularly to my colleagues' attention because it is an area in which we should be vigilant.

Mr. Speaker, I do urge immediate adoption of H.R. 5224.

● Mr. ANDERSON of California. Mr. Speaker, our country is suffering through terrible inflation. Our budget is way out of balance and the national debt is staggering. Many in this Chamber have supported huge cutbacks in Federal outlays as one way of balancing the budget and slowing inflation. Indeed, there is fat in most Government programs that needs to be cut, and I have voted for many reductions. I do not vote for these cuts easily, though, because I know that when we try to cut fat out of needed programs, we too often cut the muscle instead. And when that happens, the people that are hurt are those in society who can least afford it.

I hope that in the future, we can perfect our surgical skill and reduce from Government programs, only those moneys that are currently being wasted.

In the meantime, there is another way of reducing the deficit. In this day and age when the rich seem to be getting richer while inflation tears away at the lower and middle classes, we must study the Nation's tax structure to see that it is equitable and that everyone pays their fair share. At the conclusion of this statement, I am going to include a copy of an article that appeared in the Washington Post on October 3. It is an excellent commentary discussing how, too often, special interests are the beneficiaries of special privileges in our tax codes.

Today, a bill is coming up under Suspension of the Rules. I suppose it will pass overwhelmingly. But it will not pass with my support. I will oppose H.R. 5224. This bill prevents the Treasury Department and the Internal Revenue Service from issuing final regulations relating to the income tax treatment of fringe benefits until June 1, 1981.

Mr. Speaker, I would doubt that too many people trying to get by on $4 an hour, benefit from extraordinary fringe benefit packages. Such packages have traditionally helped those in upper income brackets evade paying their full share of taxes. Of course, today, labor unions and middle class interests are also striving to improve their fringe benefits picture.

I want to make sure that everyone is taxed equitably. I do not believe that H.R. 5224 will further this goal.

[From the Washington Post, Oct. 3, 1979]

BINDINGS OF TAX "REFORM" UNRAVEL—WITHOUT FANFARE, CONGRESS YIELDS TO AFFLUENT INFLUENCE

(By Ward Sinclair)

History is unlikely to care much that a creature called the Ad Hoc Committee on Section 274(h) once rose from the Potomac swamps to take a bite out of a tax law.

But it did, and therein rests another of those enthralling tales about America's tax code (don't go to sleep!)—how it is written, unwritten and lunched upon by great winged creatures.

More precisely, it is a story about the partial undoing of the Tax Reform Act of 1976, of which Section 274(h) is really just a tiny chapter. Bite by bite, Congress has been eating away at its reforms of three years ago

The 1976 law was signed by President Gerald R. Ford. He praised it as "sound, positive and long-overdue" legislation, eliminating preferential provisions and spreading the nation's tax burdens more fairly.

But times change. Appetite reached its peak last week as the Senate Finance Committee voted to repeal a central portion of the 1976 act that taxes profits from the sale of inherited assets.

Clever gambit, too. Since President Carter opposes repeal of the "carryover basis," as it is known in taxman's jargon, the committee tacked the repealer onto the oil windfall profits tax bill that he very much wants.

With more than 230 House members cosponsoring repeal of carryover, a provision that affects only a tiny minority of wealthy Americans, chances of its passage appear good.

Result: the repealer pushed by Sens. Bob Dole (R-Kan.), Harry F. Byrd, Jr. (Ind-Va.), Gaylord Nelson (D-Wis.) and Rep. Barber B. Conable, Jr. (R-N.Y.) is "veto-proofed" and the Treasury stands to lose about $800 million a year in revenue.

While last week's Senate committee action is the biggest of the bites into the 1976 overhaul, there have been other important reversals. Among them:

Minimum tax. As Congress cranked out its Revenue Act of 1978, it weakened the 1976 provisions that put a minimum tax on the affluent who otherwise might pay little or nothing due to writeoffs, credits, shelters, deductions and other generosities of the tax code. The drive for change was started by Rep. William Steiger (R-Wis.) before his death and then picked up by Rep. James R. Jones (D-Okla.).

Capital gains. As a part of that, reacting to cries of anguish from monied folk, Congress also watered down the tax on capital gains—profits from selling stocks and bonds, real estate and other capital assets. The 1976 law had put a 15 percent minimum tax on some previously untaxed capital gains. Jones orchestrated last year's reversal. Revenue lost to the Treasury; about $3 billion.

Americans abroad. The 1976 law tightened income tax requirements for overseas Americans, who pay less than stay-at-homes. But it was reversed last year under the baton of now retired Rep. Joe Waggonner (D-La.), with an assist from multinational companies that ferried planeloads of housewives from their foreign outposts to lobby Congress. Revenue lost: about $250 million.

Those were big elements in the 1976 law, but congressional action since that time has cut away some other lesser reforms as well.

One of the first to go, in 1977, was a minimum tax on the income that oilmen get from a little shelter called an "intangible drilling deduction." That was reversed and then made permanent, and sweetened with an extra bonus, last year.

The Capitol Hill explanation is that the Carter White House agreed to it reluctantly in return for legislative support of the administration's natural gas bill. That one costs the Treasury about $50 million a year.

There were other breaks provided last year for professors who go abroad, for farmers who have problems with accounting techniques and for executives who deduct country club dues and the expense of traveling to hunting lodges as a cost of business.

How, you may ask, do these things happen? How could they occur in a period when the tax reformers, such as they are, seemed to have things going their unaccustomed way? When a new Democratic White House was preaching reform and an end to the gravy train?

Ask 10 different people on Capitol Hill and 10 different answers come back. But each, in its own way, touches on intangibles of "mood" and the only slightly more palpable "politics." And each touches on the reaction of those who must pay more.

William Pietz has been watching these matters for some years. He is an attorney with Public Citizen's Tax Reform Research Group, one of the few "public interest" organizations that works full-time trying to put more fairness and balance into the U.S. tax code.

"Taxes have had their own rhythm," Pietz said. "We get some momentum with the 1969 reforms, and in 1975 we were able to end the oil depletion allowance. In 1976 many of the tax shelters were closed."

Part of it, other tax-watchers around Congress agree, was that the tax-law tightenings in 1975 and 1976 caught monied interests by surprise. Moreover, they were not very adept at dealing with the rambunctious reform-minded post-Watergate class of legislators.

"But there's a backlash now," Pietz continued. "We saw it last year when President Carter proposed an extension of the gains we had made in 1976. Timber, real estate, small business, bankers, lawyers, stockbrokers geared up—all the capital gains people. They ran right over us. . . . They have the momentum now and we are having a hard time just keeping even."

The momentum, others agree, comes in part from a more conservative bent in Congress and concern over a faltering economy—elements that give appeals for economy-stimulating tax relief an extra credibility.

"That 1976 act was very sweeping," said Jack Nutter, a Senate tax aide. "There has been a shift in mood away from that period, when the move was to clamp down on the tax breaks for middle- and upper-income people. Congress has realized it can go too far."

Another element, in the view of others around Congress, is that delays by the new Carter administration, taking months to get its own overhaul proposals to Capitol Hill, gave the special-appealers more time to organize.

"One of the problems," said Robert S. McIntyre of the Tax Reform Research Group, "is that it's hard to keep people's attention on this stuff. It is arcane in many cases. Nobody notices what's happening in the committees."

And, McIntyre added, one of the other key factors is that "the victims never give up. . . . They keep coming back."

A case in point is the Ad Hoc Committee on Section 274(h), an official-sounding body that in reality is six major U.S. hotel chains and the American Society of Association Executives, represented by lawyer Thomas H. Boggs, Jr.

The Section 274(h) that concerns them is the portion of the tax code, established in the 1976 law, that puts complex and stringent rules on the deduction of expenses incurred in attending foreign conventions.

The idea behind that reform was to end out-and-out junketing and vacationing overseas by executives and convention-goers, who then write off their expenses as a cost of doing business.

One of the reasons the rules are so complex is that they were drawn up that way by the late representative Steiger and the same folks who are now complaining. The ploy was to make them so complex they would be rejected by Congress.

But that backfired at the last minute in wrangling between House and Senate tax-writing conferees, and the complicated language became law.

Hence, the Ad Hoc Committee on Section 274(h). A Senate Finance subcommittee has held hearings on a bill by Sen. Barry M. Goldwater (R-Ariz.) to repeal the section and others by Sens. Charles McC. Mathias (R-Md.) and Lloyd M. Bentsen (D-Tex.) to modify it. Boggs, of course, testified for his clients.

As they say at the Finance Committee, the measures are "pending." The creature is still hungry.●

● Mr. PICKLE. Mr. Speaker, the Congress should have considered specific corrections in the fringe benefit area. Our Ways and Means Committee had appointed a task force to consider changes, and our task force made a preliminary recommendation and proposed a bill. By this vote today, we are postponing for some 15 months any changes. It will be more difficult a year from now to make any changes.

The Treasury and our committee have not done the responsible thing in postponing consideration. Fringe benefits are getting more important than payroll. Both employees and employers are taking advantage of the situation. Employers and employees should take the lead in finding a better answer instead of ducking or running away from a decision. Approval of this bill can be understandably expected today but the problem will not go away. It will get worse.●

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. CONABLE. I yield back the balance of my time, Mr. Speaker.

The SPEAKER pro tempore. (Mr. MOAKLEY). The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5224, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

THE CONGRESSIONAL FRANK

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3777) to amend the provisions of title 39, United States Code, relating to the use of the frank, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3210(a)(3)(F) of title 39, United States Code, is amended to read as follows:

"(F) mail matter expressing congratulations to a person who has achieved some public distinction;".

SEC. 2. (a) Section 3210(a)(5) of title 39, United States Code, is amended—

(1) by inserting the word "or" after the semicolon at the end of subparagraph (B)(iii);

(2) by striking out the semicolon and the word "or" at the end of subparagraph (C) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (D).

(b) Section 3210(a) of title 39, United States Code, is amended by adding the following new paragraph:

"(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

"(i) if the mass mailing is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or

"(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

"(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or

"(II) is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member or Member-elect is a candidate for any other public office.

"(B) Any mass mailing which is mailed by the chairman of any organization referred to in the last sentence of section 3215 of this title which relates to the normal and regular business of the organization may be mailed without regard to the provisions of this paragraph.

"(C) The House Commission on Congressional Mailing Standards and the Select Committee on Ethics of the Senate shall prescribe for their respective Houses rules and regulations, and shall take other action as the Commission or the Committee considers necessary and proper for Members and Members-elect to comply with the provisions of this paragraph and applicable rules and regulations. The rules and regulations shall include provisions prescribing the time within which mailings shall be mailed at or delivered to any postal facility and the time when the mailing shall be deemed to have been mailed or delivered to comply with the provisions of this paragraph.

"(D) For purposes of this section, the term 'mass mailing' means newsletters and similar mailings of more than 500 pieces in which the content of the matter mailed is substantially identical but shall not apply to mailings—

"(i) which are in direct response to communications from persons to whom the matter is mailed;

"(ii) to colleagues in the Congress or to government officials (whether Federal, State, or local); or

"(iii) of news releases to the communications media.".

Sec. 3. Section 3210(d) of title 39, United States Code, is amended—

(1) by redesignating paragraph (4) and paragraph (5) as paragraph (7) and paragraph (8), respectively; and

(2) by inserting after paragraph (3) the following new paragraphs:

"(4) Any franked mail which is mailed under this subsection shall be mailed at the equivalent rate of postage which assures that the mail will be sent by the most economical means practicable.

"(5)(A) The total number of pieces of mail which may be mailed as franked mail under this subsection during any calendar year by any individual entitled to mail franked mail under this subsection may not exceed an amount equal to the numeral 6 multipled by the maximum number of addresses to which the mail may be delivered in accordance with this subsection in the area from which the individual was elected.

"(B) The number of pieces in any mailing which relates solely to a notice of appearance or a scheduled itinerary of a Member in the area from which the Member was elected shall not be included in determining whether the limitation specified in subparagraph (A) of this paragraph has been reached.

"(6) Any Member of, or Member-elect to, the House of Representatives entitled to make any mailings as franked mail under this subsection shall, before making any mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with the provisions of this subsection.".

Sec. 4. (a) Section 3210(e) of title 39, United States Code, is amended by striking out the last sentence.

(b) Section 3210 of title 39, United States Code, is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) Any mass mailing which otherwise would be permitted to be mailed as franked mail under this section shall not be so mailed unless the cost of preparing and printing the mail matter is paid exclusively from funds appropriated by Congress, except that an otherwise frankable mass mailing may contain, as an enclosure or supplement, any public service material which is purely instructional or informational in nature, and which in content is frankable under this section.".

Sec. 5. (a) Section 3211 of title 39, United States Code, is amended by striking out "until the first day of April" and inserting in lieu thereof "during the 90-day period immediately".

(b) Section 3213(2) of title 39, United States Code, is amended by striking out "until the thirtieth day of June" and inserting in lieu thereof "during the 90-day period immediately".

Sec. 6. (a) Section 3218 of title 39, United States Code, is amended by inserting after "such Member" the following: "(or, if there is no surviving spouse, a member of the immediate family of the Member designated by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, in accordance with rules and procedures established by the Secretary or the Clerk)".

(b)(1) The heading for section 3218 of title 39, United States Code, is amended by striking out "surviving spouses" and inserting in lieu thereof "survivors".

(2) The table of sections for chapter 32 of title 39, United States Code, is amended by striking out the item relating to section 3218 and inserting in lieu thereof the following new item:

"3218. Franked mail for survivors of Members of Congress.".

Sec. 7. (a)(1) Section 5(d) of the Act entitled "An Act to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes", approved December 18, 1973 (Public Law 93–191; 87 Stat. 742), is amended by striking out "and" the second place it appears therein, and by inserting after "United States Code," the following: "and in connection with any other Federal law (other than any law which imposes any criminal penalty) or any rule of the House of Representatives relating to franked mail,".

(2) The first sentence of section 5(e) of such Act is amended by inserting after "of this section" the following: "(or any other Federal law which does not include any criminal penalty or any rule of the House of Representatives relating to franked mail)".

(b) Section 5(d) of such Act is amended—

(1) by inserting "any former Member of the House or former Member-elect, Resident Commissioner or Resident Commissioner-elect, Delegate or Delegate-elect, any" after "Delegate-elect,";

(2) by inserting "(or any individual designated by the Clerk of the House under section 3218 of title 39, United States Code)" after "any of the foregoing";

(3) by inserting "any" before "other House official"; and

(4) by inserting "or former House official" after "House official".

(c) Section 5(e) of such Act is amended by inserting after the eighth sentence thereof the following new sentence: "In the case of a former Member of the House or a former Member-elect, a former Resident Commissioner or Delegate or Resident Commissioner-elect or Delegate-elect, any surviving spouse of any of the foregoing (or any individual designated by the Clerk of the House under section 3218 of title 39, United States Code), or any other former House official, if the Commission finds in its written decision that any serious and willful violation has occurred or is about to occur, then the Commission may refer the matter to any appropriate law enforcement agency or official for appropriate remedial action.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

Mr. STRATTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. A second is not required.

The gentleman from Arizona (Mr. Udall) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. Derwinski) will be recognized for 20 minutes.)

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. STRATTON. Mr. Speaker, this bill is coming up under suspension of the rules. I am not aware of any rule that allows a second to be waived.

The SPEAKER pro tempore. In response to the gentleman from New York, printed copies were available so a second is not required.

The Chair now recognizes the gentleman from Arizona (Mr. Udall).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3777.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, the primary purpose of H.R. 3777, the congressional frank, is to codify the limitations on the use of the franking privilege currently contained in House Rule XLVI.

In addition, the bill extends the authority and jurisdiction of the House Commission on Congressional Mailing Standards. It eliminates the authority to frank mail consisting solely of condolences or of congratulations for a "personal" distinction. Further, it allows chairmen to frank mass mailings relating to routine committee business during the 60-day preelection "cutoff" period, and contains technical and conforming amendments.

The major provisions of the bill are as follows:

MASS MAILINGS BY MEMBERS WHO ARE CANDIDATES FOR PUBLIC OFFICE

First. A Member may not send a mass mailing under the frank less than 60 days prior to a primary, general, or special election in which he is a candidate for any public office; and

Second. A Member who is a candidate for any public office, other than for reelection, may not send a mass mailing under the frank to any area represented by that office which is outside the Member's congressional district.

COST OF PREPARING AND PRINTING MASS MAILINGS

No mass mailing shall be frankable unless the cost of preparing and printing the mailing is defrayed exclusively from appropriated funds, except for certain public service materials which are purely instructional in nature. (Examples: Voter registration information, college or vocational brochures.)

MAILINGS WITH SIMPLIFIED FORM OF ADDRESS (POSTAL PATRON)

First. Postal patron mailings must be sent by the most economical means practicable;

Second. A sample or description of the mailing must be submitted to the Commission on Congressional Mailing Standards for an advisory opinion prior to mailing; and

Third. The total number of postal patron mailings during any calendar year may not exceed the equivalent of six districtwide mailings (except notices of appearances or scheduled itinerary of a Member).

CONDOLENCES AND CONGRATULATIONS

Retains the authority to send letters of congratulations to persons who have achieved a "public" distinction.

Eliminates specific statutory authority for mail matter expressing condolences or congratulations for a "personal" distinction, thus subjecting such mailings to the same test of frankability as all other matter sent as official business.

AUTHORITY OF HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

First. Authorizes the Franking Commission to issue regulations, investigate, or hear complaints on violations of the franking privilege in connection with any House rule or other law (except criminal laws) relating to franked mail.

Second. Extends the Commission's jurisdiction over franking violations to complaints against former Members and officers of the House.

EXCEPTION FOR COMMITTEE CHAIRPERSONS

Permits the chairperson of a committee to send out mass mailings on routine committee business during the "cut-off" periods provided for under section 3210(a)(6)(A) of title 39.

SURVIVING RELATIVE OF DECEASED MEMBER

Extends the franking privilege to one surviving relative, when there is no surviving spouse, to send nonpolitical matter relating to the death of a Member.

EXPIRATION OF FRANKING PRIVILEGE

Makes uniform the expiration of the franking privilege (90 days after leaving office) for all matter sent under the franking privilege.

☐ 1250

Mr. Speaker, I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I am opposed to the bill in its present form. I am surprised that the rule apparently permits the opposition to the bill to have no control of any time in the debate.

This legislation is primarily designed to put into law some further recommendations of the famous Obey commission. I think that we saw here a few weeks ago that some of the recommendations of that commission have already lost their charm and one wonders whether this is the time to start putting into law not only some recommendations previously made, but new recommendations as well.

I think the bloom is off the rose on some of these so-called reforms that are not quite as reformable as the originators first thought.

The thing that disturbs me most, Mr. Speaker, is that according to the notice put out with respect to this resolution, and according to the committee report on page 5, what we are doing is eliminating the present custom of sending out letters of congratulation to residents in our districts. These are to be no longer legal under the frank. But there is nothing, as far as I can see, in H.R. 3777 itself that spells this out. Presumably it is implied in the provisions of section 4 on page 7, and also anticipates what the Commission on Franking will determine once the bill is enacted.

I tried to determine, Mr. Speaker, and I would think that this might apply to other Members of the House as well, I tried to determine, reading from the report, the exact meaning of the statement that the committee desires to eliminate all letters of congratulations for a personal distinction, but will be willing, once the legislation is passed and once the Franking Committee has issued their ukase, letters of congratulation for distinction of a "public" nature will be permitted under the frank.

Well, there is nothing in the bill or the report that describes the precise difference between a "private" distinction and a "public" distinction. In an effort to try to understand the legislation, I called the staff of the committee this morning and tried to find out what was a public distinction and what was a private distinction; and nobody could tell me what it was. They said, "Well, Mr. UDALL will determine that later on."

I said, "Suppose we want to congratulate the president of a State university college, a public college."

I said, "Is that a public distinction?" They said, "Yes."

I said, "Well, suppose somebody becomes president of a private college, a little college like Harvard, for example; is that a public distinction or is that a private distinction?"

They could not answer that.

I said, "Support somebody is elected vice president of the General Electric Co. Is that a private accomplishment or is that a public accomplishment? Is it going to be illegal to congratulate the new president of the General Electric Co., but legal to congratulate somebody who has just been elected dog catcher?"

This, I think, demonstrates the incompleteness of this kind of legislation. I do not think we ought to be delegating to the gentleman from Arizona, and I have a deep respect for the gentleman, this kind of authority. If we are going to pass legislation limiting this kind of correspondence, then it seems to me we ought to have it spelled out very clearly what we have in mind. I would think the Members of this House would want to understand what is happening to us.

For example, Mr. Speaker, another matter of considerable moment, particularly to the Members on this side of the aisle, our beloved President has a practice, and I think it is a very wise one, of sending congratulations to people who achieve the respectable age of 100 or 101 or 102. He also sends our congratulations, upon request, to those who have reached their 80th birthdays or have achieved 50 years of wedded bliss. The word has, of course, gotten around, so one's constitutents will often write their Congressman and say, "Aunt Susy is going to be 100 next week. Would you please have the President send her a congratulatory letter?"

Now, the White House letter goes out with a stamp on it, I assume.

Mr. UDALL. Mr. Speaker, I will yield some additional time to the gentleman in a moment, but I think the gentleman is unconsciously furnishing some information that is not correct.

Mr. STRATTON. Mr. Speaker, let me make this point, because I would like to have the gentleman answer it. If we are going to write to the White House and ask them to send out a congratulatory letter to Aunty Susy, is that a "public" distinction or is that a "private" distinction?

I think we have got ourselves so hamstrung here that we do not know what we are doing. I would like to have the gentleman from Arizona explain to us the difference between a private distinction and a public distinction and also demonstrate where this distinction is spelled out in H.R. 3777. Or must we trust the gentleman and his commission to do what the gentleman feels is best?

Mr. UDALL. Mr. Speaker, let me remind my friend that the provisions the gentleman now objects to are part of the House rules.

Let me give the gentleman a little bit of history. When we had the Obey commission and when we were concerned 3 years ago, I believe it was, about the whole business of ethics, we linked together the ethics question, and if the gentleman will forgive me for mentioning it, the pay raise.

The Speaker said that we were going to vote for the pay raise, but we were going to clean up our act and we were going to get the job done with regard to a lot of ethical questions. One of these was in the area of franking. The last time I checked it out, I think it was $80 million of the taxpayers' money we spend every year, that Congress spends every year just sending our frankable material. Most of this is official business. Most of it we would have no argument about; but practices have developed where many Members were just running a congratulations shop, clipping the newspapers and sending anybody in their district that had done anything that one might possibly deem needed recognition and send them congratulations.

So what we did, and I thought the gentleman would be pleased, as a part of that ethics package we put all these provisions in the House rules, where they are today. The only purpose of this in this bill is to codify them and make sure that we have the same kind of regulations on both sides of the Capitol so Members know what they are doing.

Mr. STRATTON. Mr. Speaker, will the gentleman yield to me?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield to me?

Mr. UDALL. I will yield to the gentleman from New York in just a moment.

I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I intend to vote against the resolution. If we are concerned at all about a very important concept in our system of government called separation of powers, I think it is highly desirable that we leave in the House rules, not put into statutory form, this proposal. If we place these rules in statutory form, we would need the approval of the executive, in the absence of a two-thirds vote, to make any changes. If there are abuses, let our rules be corrected.

I think I can speak perhaps as comfortably as anyone on this issue because in my 15 years plus in the House I have sent less than one newsletter per year to my constituents. I suspect I use my frank less than almost anyone in this House; but I am beswitched if I want to see limitations on my use of the frank being imbedded in a statute rather than a House rule.

Mr. UDALL. Mr. Speaker, let me say something to both my friends, and then I will yield to the gentleman from New York.

There is a lawsuit going on right now in which an organization called Common Cause says that the rules as now administered are unconstitutional, that this is an expenditure of public funds for private recognition and to try to answer the gentleman's question, our commission on mailing standards over the last 4 or 5 years has spelled out in a pretty good way what is and what is not on the public and private side of this line. There is a whole book full of rulings that we made. We give advance rulings, or informational rulings to Members who asked them.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield further, would the gentleman just tell me whether a letter sent out to the President of the United States asking him to send a letter of congratulation to Aunt Susy on her 100th birthday is a private or public distinction?

Mr. UDALL. Let me separate out two things.

Mr. STRATTON. I think the gentleman is not answering the key question. And here we are supposedly making legislation. Apparently every time Common Cause screams, we are supposed to change the law.

☐ 1300

Where in the House rules is that found, I will ask the gentleman?

Mr. UDALL. Mr. Speaker, if the gentleman will allow me to respond, if the privilege is to prevail and if there is going to be any franking privilege at all, we must do something. The lawsuit that is pending is very likely to go against us, and we are attempting to tidy it up and defend the position of the Members of the House and the Members of the other body in order to keep it alive.

I think it is very fine when mayors send congratulations on golden wedding anniversaries, and I think it is very fine to send congratulations on reaching the age of a 100, but I do not think it is at all proper to do that in every single instance.

Mr. STRATTON. Mr. Speaker, I am trying to get the gentleman to answer a very specific question.

Mr. UDALL. Mr. Speaker, if the gentleman will permit me to put this in some focus, I will give him a direct response.

I do not think it is official business when a Member sends congratulations on a 50th wedding anniversary, and I am not sure it is official business to send out congratulations to someone on reaching the age of 100. I would also hope the President would not consider that official business.

Mr. STRATTON. Is it official business to write the White House and ask them to do it upon request from a constituent?

Mr. UDALL. Mr. Speaker, I think if the gentleman really wants to congratulate these folks, he ought to be willing to put a stamp on the letter, and if the President wants to congratulate them, he ought to be willing to use a stamp. I do not think it is part of my official duties to be congratulating people on being married for 50 years.

Mr. STRATTON. Mr. Speaker, I know the gentleman is high-minded, and I am sure he would not descend to that kind of thing. But I would like to ask the gentleman where this particular provision is found in the House rules. What specific rule is the gentleman referring to?

Mr. UDALL. I do not have it in front of me.

Mr. STRATTON. Mr. Speaker, the fact of the matter is that there is no such rule. As the gentleman's report itself says:

> The bill as amended by the committee eliminates existing authority to frank mail matter which consists solely of condolences for a personal loss or congratulations for a personal distinction.

So this is not in the House rules. Is the gentleman now trying to establish a new rule?

Mr. UDALL. Mr. Speaker, if the gentleman will read the rest of that paragraph, he will discover that he can send somebody a baby book and say, "Congratulations on having a baby."

Mr. STRATTON. But the gentleman said this was presently banned. The gentleman said it was banned by an existing rule.

The fact of the matter is the gentleman tried to get a bill on this matter through about a year or so ago. I do not think it went anywhere here. It did not go anywhere in the other body.

Mr. UDALL. Mr. Speaker, if the gentleman will permit me to use just 1 minute of my own time, let me tell him that the committee report is trying in a nice way to preserve most of what the gentleman does and most of what his colleagues do. It is not an attempt to tighten the rules or change the rules. The same paragraph the gentleman read from says this:

> The committee believes that limiting these messages to incidental passage in otherwise frankable communications would be more consistent with the spirit of the franking privilege than the current practice of allowing these personal messages, by themselves, to be franked.

Many, many Members send to each high school graduate a publication which may come out of their local universities some place telling them of available scholarships and giving them information about higher education, and in the letter they express their personal congratulations on graduating from high school. So we are trying to give the gentleman and his colleagues a little bit of latitude and allow them to continue what they are doing, but we do not think it should be a wide open situation where they can try to take care of every local incident and try to send congratulations to everybody.

Mr. STRATTON. Mr. Speaker, I am trying to get an answer to my question.

Is it all right to send congratulations to anybody who is elected to city council or dog catcher, but improper to send congratulations to someone who has been elected to the position of vice president of the General Electric Corp.?

Mr. UDALL. No, I think it is a public distinction when one has been elected.

Mr. STRATTON. Is it also proper if the distinction has been printed in the paper so it becomes public knowledge? For instance, let us say one has become chairman of the United Way Campaign; that is a public distinction?

Mr. UDALL. That is what my opinion has always been, and it will continue to be.

Mr. STRATTON. Mr. Speaker, I think we ought to have something to this effect spelled out in the report, rather than either having to fly blind or to bring our mail over to the gentleman's office everyday and have him check over what ought to go out and what should not go out.

The SPEAKER pro tempore. The Chair will state that the gentleman from Arizona (Mr. UDALL) has consumed 15 minutes.

The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is always a privilege to join forces with my distinguished colleague from Arizona (Mr. UDALL) in behalf of productive legislation, so I wish to add my voice in support of the bill, H.R. 3777.

In a nutshell, this legislation incorporates into law the provisions of House rule XLVI, regarding franked postal patron mailings for the purpose of uniform administration of the franking laws, and makes some other appropriate modifications.

As the ranking Republican on the House Commission on Congressional Mailing Standards and a member of that Commission since its creation in the 93d Congress, I would like to offer a little franking law history for the benefit of some of our newer Members.

Prior to 1973, there were no specific guidelines or laws on the type of mail that was frankable by Members of Congress. The law, at that time, authorized the use of the frank for "official business" and left it up to the Post Office Department to determine the proper use of the franking privilege. In 1968, the Post Office Department decided it no longer wanted that responsibility and discontinued the practice of giving advisory opinions. It was an invitation to confusion which subsequently was compounded when the Federal judiciary began interpreting the franking law. With different judges offering a variety of opinions, it was impossible to apply the franking law uniformly. It was that situation which ultimately led to the passage of the 1973 Franking Act.

The 1973 law brought order out of chaos, and in the process benefited Congress and the Nation. Where law suits had been the order of the day, we now have compliance with the franking law to a degree that in the 1978 election year only nine formal complaints were filed with our Franking Commission and all were dismissed on the ground they lacked substance. The interesting point, however, is that only two of these complaints were filed during the election period which is usually the open season for political charges of franking abuse. Neither of these complaints had any merit.

Mr. Speaker, rather than reiterate the language of the bill which incorporates the House rule, I wish to call attention to a substantive change in the use of the frank, which I sponsored and in which I am particularly interested.

An amendment to existing law proposed by this bill would eliminate explicit authority to frank mail which consists solely of condolences or congratulations for a personal—as opposed to a public—distinction. Congratulations on a public distinction will remain frankable. I believe this amendment is long overdue. It removes from the law questionable franking permission which has been the subject of some criticism.

The bill, H.R. 3777, which our committee brings to the House, is sound and practical legislation and I urge its overwhelming approval.

Mr. Speaker, I would like to pick up the point that my good friend, the gentleman from Arizona (Mr. UDALL), made and remind the Members that the Commission has been involved in what I consider to be a very practical effort to maintain the dignity of the frank and to help the Members. I would like to give the Members just one statistic that should bear this out.

In the 6 years the Commission has functioned, we have reached the point where complaints about the abuse of the frank are at a minimum. Actually the Postal Service used to be swamped with complaints of abuses of the frank. In 1978 we only had two during the campaign period. Both complaints were dismissed. They were complaints growing out of the frank being used by incumbents.

The Members of the House have been extremely cooperative. Incidents of abuse of the frank are really now nonexistent.

The practicality of this bill, as the gentleman from Arizona (Mr. UDALL) has emphasized, has been to take the Commission's regulations and the House rules and put them into the law. Let me give the Members an illustration of the practicality of what we have tried to do.

Some time ago it came to the attention of the Commission that a number of Members who became candidates for other offices, specifically candidates for Statewide offices, would then saturate their particular States with franked mail. There is now a provision in this bill before us that prevents that. This is clearly in the public interest. It is a practical solution.

For instance, we had one of our former colleagues who, after involuntarily leaving office, mass-mailed a newsletter to his district during the following session. So in order to prevent that type of abuse, we tightened it up to limit a Member the use of the frank for a 90-day period after his term of office expired, only to clean up the business of his office.

So the abuses that have been discovered are covered under this legislation before us. In 1979 we only had two abuses concerning the frank. One was dismissed, and the other is pending. So I think the Commission has performed effectively.

By accepting this legislation and by adding to this the force of the law, with the effectiveness the Commission has attempted to achieve, we will actually prevent any further abuse of the frank and we will strengthen legitimately use of the frank.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I will yield to the gentleman, or I will yield 5 minutes to him, if he wishes.

Mr. STRATTON. I would be happy if the gentleman would yield just so I may ask him a question.

Mr. DERWINSKI. Fine. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, the gentleman, in the remarks he made, referred to mass mailings, and I have no complaint about that particular section.

My concern is that we are embarking, as the report of the committee says, on an entirely new thing, that will eliminate something that is presently being tolerated, namely, the sending out of letters of condolences and of personal congratulations to various constituents.

I am trying to find out precisely what kind of new law we are making here. Specifically I am trying to find out what is a "personal" distinction and what is a "public" distinction. I wonder if the gentleman could throw some light on that important question.

On the basis of what the gentleman from Arizona has said, if someone is elected to a public office like dog catcher, a letter to him presumably is OK, so the staff said, although they did not know for sure and there is nothing whatsoever in the report and nothing I have gotten from the gentleman from Arizona (Mr. UDALL) that throws any further light on it.

However, if one receives a private distinction such as becoming vice president of a great private corporation, a letter franked to that person would be improper, and we are going to go to jail if we send out such a letter.

Surely, we ought to know in advance just how we are cutting the cake and where we are drawing the line, rather than leave it up to the Franking Commission to meet in some hideaway, perhaps in the West Front, to make a decision that affects all 435 Members.

Mr. DERWINSKI. Mr. Speaker, first, the gentleman from New York (Mr. STRATTON) is making some dramatic points, and I would like to point out one thing.

Mr. STRATTON. I am just trying to get the information, that is all.

Mr. DERWINSKI. Mr. Speaker, let me point out that whenever we meet, in conformance with the House rules, we publish in advance the fact that we are meeting, and we meet in our committee rooms or in H.R. 236 or H.R. 227, in the room adjacent to the Chamber.

May I also point out that all of us have an unlimited stamp allowance, and the practical rule to follow—and I would suggest this to every Member—is, when in doubt, use a stamp. If you do, you are helping to protect yourselves and you are protecting all the other Members of the House.

So at any time in the future, if the gentleman has any concern over whether a letter is frankable, when in doubt, he should use a stamp. Our stamp allowances are more than ample to cover it.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield further to me, I think the gentleman is making a very wise suggestion.

But what we are being told here is that in the case of a public distinction it is OK for one to receive congratulations, but in the case of one who receives a private distinction is not OK. I am trying to make some legislative history so that we can know what the distinction is.

I certainly do not think that this is at all clear at the present time, and I think we are making bad law when we try to draw a distinction between whether a corporate vice president's appointment has been printed in the paper or has not been in the paper.

□ 1310

Mr. DERWINSKI. Mr. Speaker, if the gentleman would permit me to respond, I would suggest that the gentleman is putting the cart before the horse. The procedure we would undoubtedly follow, if this provision becomes law, is to develop regulations, circulate them to all of the Members of the House for their comments, and before the regulations are effectively imposed we would have the input from the gentleman and any other Member who is concerned about how the frank could be used.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield, this is the same problem we have today with the EPA and the FTC. We give them broad authority, then they make regulations, and after they have made those regulations it is too late for us to do anything. I think we ought to have the new regulations on franchising spelled out in this law or, certainly, in the legislative history; and then we know better whether to vote for it or against it.

Mr. DERWINSKI. There is a difference. Here we are dealing with 435 noble Members of the House, as opposed to a diabolical bureaucrat who might misdirect EPA regulations.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I have answered the gentleman from New York a couple of times. If the gentleman wants some history, let us nail it down again. If you take the business page of your local paper, and someone has been elected president or chairman of the board, or some important office, and it is a matter of public note and the newspaper prints it, if you do not want to put a stamp on it, frank it. There is nothing in here that would prevent that from being done.

This identical bill passed the House last year. There was not any big to-do about it. It passed the House last year. The Senate simply did not get time to act.

The gentleman from North Carolina (Mr. PREYER) had a Select Committee on Ethics.

Mr. STRATTON. I was on that committee. We did not get into this, as I recall.

Mr. UDALL. This provision, as I recall, was discussed and approved in the committee.

Mr. STRATTON. It had nothing to do with our committee as I recall.

If the gentleman is willing to establish legislative history here, if someone is selected as apple queen in upstate New York, is that a public distinction?

Mr. UDALL. I would say so.

Mr. STRATTON. Or is it a private distinction?

Mr. UDALL. I would say to the gentleman that in the paragraph he read from previously, we have attempted to preserve as much as possible what the Members have been doing. We established practices here. We put it in the report. It says,

> The bill would retain existing law's specific authority to frank messages of congratulations for distinctions of a public nature, thereby permitting Members to continue franking messages to persons who achieve public office, citizenship, scholastic honors (including graduation), or other accomplishments of public note.

We are spelling out what the gentleman wants.

Mr. STRATTON. That is my whole point. What is public note? How far do you go? Are you saying that we are just going through an exercise here and that if the bill is approved it will still be OK for everybody to continue doing exactly what they have been doing?

Mr. UDALL. No, we are not doing that.

Mr. STRATTON. Then what, precisely, are we eliminating?

Mr. UDALL. We had a bipartisan commission on which the gentleman from Illinois and I have sat for the past 4 or 5 years. I think our rulings have been pretty well accepted, that they have spelled out the gray area.

Mr. STRATTON. But I ask again, just what is the gentleman's bill going to eliminate? Give me some examples of what we are eliminating. If it is OK to congratulate the apple queen, is it not okay to congratulate the orange queen?

Mr. UDALL. I suppose that if you took a city directory and you went through each page and you congratulated all of the wives of husbands for doing a good job this year, they did not get any public recognition of it, but you congratulate all of them for serving their husbands well, having dinner on time and doing all of these things that housewives do, that would be something of a private nature and not of a public nature. I think you ought to put a stamp on it if you are going to do it.

Mr. STRATTON. If someone breaks a collegiate record for running the 100-yard dash, is that a public distinction?

Mr. UDALL. Very public. No argument about it.

Mr. DERWINSKI. Mr. Speaker, I would just like to sum up, as the gentleman from Arizona has pointed out, that without any real controversy we passed this measure a year ago. I would like to point out that all this bill does is reemphasize the effective control which the commission has helped the Members utilize over the frank. It has been in the interest of all the Members to end the charges and countercharges across the country about abuse of the frank. It has worked. It has been effective. By the passage of this legislation we strengthen the record of the House in the fact that we are legally using our franking privilege.

Mr. Speaker, I commend this bill to the Members, and I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, if I could have the attention of the gentleman from New York, the bill that was reported out by the Special Committee on Ethics headed by the gentleman from North Carolina (Mr. PREYER) did away not only with private recognition but public. In this bill we put it back in so we attempt to cover some of the situations the gentleman is concerned about. I suppose we will already get a lot of editorials over this little debate we are having here today, but if you defeat the bill it is going to be even more restrictive on what the gentleman wants to do than if the bill is passed.

Mr. Speaker, I yield to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Speaker, I am more concerned with whether there are forces outside of this body that are going to impact on the future of the franking privilege of the Congress, and I would like a clear enunciation of the status of the Common Cause lawsuit.

To what extent is the franking privilege threatened, to what extent is this bill designed to reduce the vulnerability to that threat? I think that is far more significant than some of the details that we are indulging in at the moment.

I would appreciate that information from the gentleman.

Mr. UDALL. If the gentleman will yield, Mr. Speaker, nobody can predict with any certainty what courts are going to do. But this is a serious, well-financed, well-organized, well-lawyered attempt to abolish the frank. I think it is serious enough that it represents a real threat. Ninety-eight percent of all of the things that go out of this building under the frank are legitimate, practical, and useful to the public and ought to be continued. But there have been abuses in the past, and we have tried over the past several years to eliminate as many of them as we can. This bill is a step in that direction. I cannot guarantee the lawsuit will fail, I cannot guarantee that the Common Cause people will win. But there is a real danger from our lawyer friends; they are litigating the old, original franking laws. The passage of a new, modern, sensible and reasonable limited franking law might have the effect of making that lawsuit moot and making somebody who wanted to destroy the frank start all over again. I am not sure the gentleman from New York is aware of that, but that is one of the main reasons I have wanted to get this bill passed. It first passed the House 2 years ago, incidentally, back in 1977.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 3777, as amended.

The question was taken.

Mr. STRATTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

PERSONAL EXPLANATION

Mr. KOGOVSEK. Mr. Speaker, on Friday, September 28, I inadvertently voted "present" on rollcall No. 530, adoption of the rule providing for the consideration on H.R. 2172 the International Sugar Stabilization Act. I intended to vote "aye." I ask unanimous consent that this statement appear in the permanent RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

CANAL ZONE BIOLOGICAL AREA AUTHORIZATION

Mr. HUBBARD. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 817) to amend the act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area.

The Clerk read as follows:

S. 817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of July 2, 1940 (20 U.S.C. 79e), is amended by striking out "$350,000" and inserting in lieu thereof "$750,000".

SEC. 2. The provision in section 1 of this Act shall take effect on October 1, 1979.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. HUBBARD) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge favorable consideration of S. 817, a bill to increase the annual authorization for the Panama Canal Zone Biological Area from $350,000 to $750,000.

S. 817 received unanimous support from both the Panama Canal Subcommittee, which I chair, and the Merchant Marine and Fisheries Committee, chaired by our distinguished colleague, the Honorable JOHN MURPHY of New York.

Let me further add that this reserve and research area, Barro Colorado Island, located in Gatun Lake, attracts scientific interest and endorsement from many of the world's great educational institutions and societies. They express strong approval of this legislation.

To those who are not familiar with the value of the Canal Zone Biological Area as a repository of tropical flora and fauna, let me point out that during the last 56 years, thousands of studies have been done at Barro Colorado Island with resulting worldwide benefit. At the present time some of the most sophisticated observations on ecosystems are being made by leading naturalists there whose lifelong interests have focused upon this issue.

The genesis of Barro Colorado Island, which is essentially the Canal Zone Biological Area, derived from the impoundment of the Chagres River during the development of the Panama Canal. The dam was built to create a high-level lake for the transit of vessels through the canal locks. Huge Gatun Lake, surrounding the island, resulted from this.

The rising waters of the lake forced a large number and variety of animals from the tropical habitat to seek refuge on this hilltop island.

The island land mass is 3 miles in diameter with an area of approximately 6,000 acres. Gathered under the isle's tropical forest canopy are 1,300 species of vascular plants and 465 species of land vertebrates. Researchers also have access to a large number of important biotic species that are present in the canal area.

Growing recognition of Barro Colorado Island's importance is displayed in statistics. During this decade the number of visitors has increased almost fivefold and the total of visitor days has expanded three times.

Evidence indicates that the island today is one of the prime tropical research and reserve stations in the world.

There is clearly a need to increase the authorization for this biological area from $350,000 to $750,000. In terms of operating costs alone, the impact of inflation and legislation will cause the present authorization limit to be exceeded shortly.

Also, some of the physical facilities on Barro Colorado Island are in urgent need of renovation or replacement. These capital needs cannot be met without a higher authorization. Sound facilities are essential for long-term and short-term research and advanced study.

Finally, costs which have not formerly been charged under the limit imposed by title 20, section 79 of the United States Code will be met through this increased authorization.

In recent years indirect costs of administration of the Canal Zone Biological Area have been borne by the Smithsonian Tropical Research Institute, known as STRI.

If the increased authorization is enacted for the Barro Colorado Biological Area, the Barro Colorado Biological Area budget proffered to Congress by the Smithsonian will accurately reflect the real cost of this very important island reserve and research center.

In my recent exchange of letters with S. Dillon Ripley, Smithsonian Institution Secretary, he expressed delight in providing for Congress an annual review of the budget needs for the biological area's operations. This is a valued agreement.

Concern over the future status of Barro Colorado Island, and the Canal Zone Biological Area, should be alleviated by the fact that there are agreements to which Panama is signatory which protect the status of the island.

In early 1977, the Smithsonian Tropical Research Institute and the Government of Panama signed an agreement which bestowed official recognition of the Smithsonian Tropical Research Institute in all of Panama and granted certain tax exemptions to the Institute. In return, the Institute agreed to continue to share the results of its research with the Government and to allow Panama to use the facilities on a mutually agreeable basis.

This agreement has 5-year renewable options up to the year 2000. Either party to the agreement may cancel it within 1 year's notice. According to an exchange of notes that accompanied the 1977 treaties, the contract between the Institute and the Government of Panama will remain in force until the year 2000 unless both parties agree that it should be changed. After 2000, if either the Smithsonian or Panama wishes to change the agreement, there will be consultation between Panama and the United States regarding a new contract.

A second agreement of importance is the Western Hemisphere Convention respecting nature protection and wildlife preservation, which was written in 1940 and signed by Panama in 1972. The signatories of this agreement have pledged to maintain wildlife reserves and protect and preserve flora and fauna within their national boundaries.

On the same date as they signed the Panama Canal Treaty, the United States and Panama signed an agreement pursuant to article VI of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, designating Barro Colorado Island as a nature monument (art. I) and agreeing to collaborate in its use for the purpose of scientific research and investigation (art. III).

The agreement is to enter into force for 10 years and then for as long as both governments are parties to the convention on nature protection (art. VII).

A further indication of Panama's willingness to preserve the ecological integrity of the canal area has been demonstrated by President Royo's intention to declare the environmentally rich Gamboa pipeline road as a national park of Panama and the Panamanian Government effort to stop the degradation of the canal watershed. By no means is Panama's past environmental record a good one, but their present directions are promising.

The agreements referenced here are an indication that Panama's intentions with respect to any scientific cooperative ventures involving the Smithsonian Institution are not dissimilar to those of nearly 20 other countries under whose governmental jurisdiction the Smithsonian has worked. Cooperative research has been and is being carried out in Egypt, India, Sri Lanska, and Yugoslavia, among other countries.

Your committee confidently believes the treaty protections for the operation and facilities of Barro Colorado Island are more than sufficient for granting an increase in authorization limitation. Panama's continuing self-interest and the international community's interest in the island warrant this confidence. Panama has been able to benefit from the research conducted on the island.

Such research has significant benefits from an understanding of the ecology of the entire Isthmus of Panama, and may assist Panama in making decisions on public works and other type projects in the future. From the international point of view, the biological area is universally known as a world center for tropical research contributing knowledge of value to many countries. This fact would make changing the status of the island, or levying of fees for its use, or precipitiously increasing such fees, unlikely.

Again, I urge passage of S. 817 because of the continuing positive impact of what is being done for humanity on Barro Colorado Island.

Many of the world's growing concerns about health, food, timber, ecology, and safety are surveyed and progressively satisfied by highly qualified scientists working at Barro Colorado Island. Passage of this increased authorization qualitatively preserves America's role in advancing the natural sciences and displays to the world our determination to be a positive force in the operation of the Panama Canal.

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The SPEAKER pro tempore. The gentleman from Kentucky (Mr. HUBBARD) has consumed 9 minutes.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of the legislation.

I commend the gentleman from Kentucky (Mr. HUBBARD) and the gentleman from Maryland (Mr. BAUMAN) for their leadership in this area and their expertise and support for the programs of the Smithsonian Institution.

Mr. Speaker, I urge the House to approve this bill to authorize funds for Barro Colorado Island, designated as the Canal Zone Biological Area, because of its importance as a tropical research center.

This beautiful island is under the management of the Smithsonian Institution, which has asked for increased funds to meet operating expenses of the island's Tropical Research Institute, the cost of renovating research facilities, and indirect costs not previously included in the authorized limit.

The Government of Panama has officially recognized the Tropical Research Institute as custodian of Barro Colorado Island, and the Panama Canal treaties will, therefore, not affect its status. Panama is also a signatory to an international treaty pledging protection of scientific reserves.

When I visited Panama earlier this year, I had the opportunity to go to Barro Colorado Island and see the work being done there. I hope the House will join the Senate in authorizing these funds today.

Mr. **BAUMAN**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman from Illinois that he takes a great risk in commending the gentleman from Maryland on anything to do with Panama before he hears what I have to say, but nevertheless the gentleman from Kentucky has adequately described this legislation that deals with increased authorization for the Barro Colorado Island, a unique area; and in one sense it is rather historic, because it is the first time since the effective date of the treaties that the Congress of the United States has exercised the power that we reserved to ourselves in the implementing legislation, and that is the right to legislate for the area which remains under American jurisdiction, together with that of the Government of Panama.

I know of no objection to the legislation. It was reported unanimously.

Mr. Speaker, I rise in support of S. 817, a bill which will authorize an increase of $400,000 in the amount that may be appropriated for the Canal Zone Biological Area located in the Republic of Panama on land which was, until October 1, in the U.S. Panama Canal Zone.

Barro Colorado Island, where the biological area is located, was not, however, one of the U.S. installations turned over to Panama in the Panama Canal Treaty. On the same day that the treaty was signed, the United States and Panama also signed an agreement designating Barro Colorado Island as a Nature Monument as defined in the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

Both governments have agreed to take no action interfering with the protected status of the island, to collaborate in its use, and to designate the Smithsonian Tropical Research Institute as the sole custodian for the area. This agreement is to remain in force for 10 years and thereafter as long as both governments are parties to the convention.

Barro Colorado Island, a 6,000-acre site containing over 1,300 species of plants and 465 species of land animals, was formed when Gatun Lake was created to provide the water supply to operate the Panama Canal. Its unique collection of tropical animals and plants was forced onto the islands as surrounding land areas were flooded by the waters forming the lake.

The biological area has existed since 1923, became an arm of the Smithsonian Institute in 1946, and has been funded at its present $350,000 annual level since 1965. Research activities carried out in the area are also supported through private sources.

The increase in authorizations is primarily to cover increased costs for salaries, food and utilities, but a modest construction program is also planned to replace a dormitory for visiting scientists and to erect a long-term residence. Indirect costs of the area, previously borne by the Smithsonian itself, will now also be charged directly to the biological area, thus increasing the amounts subject to the limitation by 15 to 22 percent.

The bill was reported unanimously from the Merchant Marine and Fisheries Committee, and I urge all Members to support its enactment.

Mr. **HUBBARD**. I wish to express my appreciation, Mr. Speaker, to the gentleman from Maryland and to the gentleman from Illinois for their remarks, and I now yield such time as he may consume to the gentleman from New York (Mr. MURPHY), the chairman of our Committee on Merchant Marine and Fisheries.

Mr. **MURPHY** of New York. Mr. Speaker, I rise to indicate my vigorous support for S. 817, a bill to increase the authorized limitation on funds for the Canal Zone Biological Area. This legislation is significant because it is needed for the continuation of the scientific benefits that result from the research undertaken on Barro Colorado Island. Since 1923 the island, which is located in Gatun Lake in the Panama Canal, has been set aside as a reserve and a research station. Because of its advantageous location and abundant number of plant and animal species as well as the community of scientists associated with it, the island has become a major center of tropical research in the Western Hemisphere.

The purpose of S. 817 is to increase the limitation on funds the are authorized to be appropriated for the Canal Zone Biological Area. The present limitation, which was legislated some 14 years ago, demands revision because of the inflation that has affected all Government expenditures and because of the aging condition of some of the living and working structures in the area.

This legislation is long overdue. It will be nothing but beneficial to the isthmian region and the United States and its scientific community. The Panama Canal Subcommittee and the Committee on Merchant Marine and Fisheries approved S. 817 unanimously. There is no objection to this bill from the administration: It fits in with their program. The bill is also strongly supported by the Members of Congress who are familiar with the operations of the Smithsonian Institution. Finally, passage of this legislation by this body will signal the clear intention of the United States to fully exercise its rights under the new treaty regime and related diplomatic agreements.

The research that has been carried out in the canal zone biological area is of direct benefit to this country and it also demonstrates to Latin America our leadership in the tropical scientific field and our desire to work with Latin Americans in scientific research.

The studies that have been undertaken on Barro Colorado Island include examination of the spread of yellow fever through certain animal populations; research on the treatment of tropical wood against termites; assessment of the ecological effects of a sea-level canal; and investigation of the behavior of social insects that spread disease. These and even some of the other biological area studies with more esoteric-sounding titles all have significant potential impact on our well-being in our hemisphere.

S. 817 is a straightforward proposal. It is simply an authorization limitation, not an appropriation, so that all the requests for funds will be subject to the decisions of the Appropriations Committee. The bill will cost a maximum of $1.5 million over the next 5 years, a small amount compared to the magnitude of the potential of the research being undertaken. The bill will allow for renovation of facilities built in the 1920's and subject to the extremities of the tropical environment, and will permit some basic living improvements. Most importantly, this bill is personnel legislation which will allow the current number of scientists on Barro Colorado Island to continue their work and to receive pay adjustments based on the cost of living.

I again urge my colleagues to approve this overdue legislation.

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The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. HUBBARD) that the House suspend the rules and pass the Senate bill, S. 817.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **HUBBARD**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

INTERNATIONAL ENERGY EXPOSITION IN KNOXVILLE, TENN.

Mr. **ZABLOCKI**. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with Public Law 91-269 (22 U.S.C. 2801 et seq.), the President is authorized to provide for United States participation in an international exposition to be known as Energy-Expo 82 (hereinafter in this Act referred to as the "exposition"), to be held in Knoxville, Tennessee, in 1982. The purposes of the exposition are to—

(1) offer the citizens of the world a greater understanding of the effective uses of energy and energy resources, of the necessity to conserve existing energy resources, and of the need for creativity in the development of new and alternative energy sources; and

(2) encourage tourist travel in and to the United States, stimulate foreign trade, and promote cultural exchanges.

SEC. 2. (a) The President, through the Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") and such other officials as may be designated herein, is authorized to carry out in the most effective manner the proposal for United States participation in the exposition transmitted by the President to the Congress, pursuant to section 3 of Public Law 91-269 (22 U.S.C. 2803); and to carry out the responsibilities of the Federal Government for the organization, development, and administration of the exposition as required by the Paris Convention of November 22, 1928, on International Expositions, as amended (hereinafter in this Act referred to as the "Convention") and the General Rules for Energy-Expo 82, as approved by the Bureau of International Expositions.

(b) The President is authorized to appoint, by and with the advice and consent of the Senate, a Commissioner General of the United States Government for Energy-Expo 82, who shall be recognized as the senior Federal official for the exposition and who shall have such duties and exercise such responsibilities for the organization, development, and administration of the exposition as may be necessary and appropriate to fulfill the requirements of the Convention and the General Rules for Energy-Expo 82. The Commissioner General shall be in the Department of Commerce.

(c) The Secretary shall designate a Commissioner General of Section for United States participation in the exposition (as provided for in the proposal referred to in subsection (a)), who shall be in the Department of Commerce and who shall perform such duties in the execution of this Act as may be delegated or assigned by the Secretary, including serving as director of the United States pavilion.

SEC. 3. (a) The Secretary is authorized to obtain the services of consultants and experts as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate in effect for grade GS-18 under the General Schedule, to the extent the Secretary deems it necessary to carry out the provisions of this Act. Subject to the availability of appropriations therefor, persons so appointed shall be reimbursed for travel and other necessary expenses incurred, including a per diem allowance, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(b) The Secretary is authorized to erect such buildings and other structures as may be appropriate for United States participation in the exposition on land (approximately 4.6 acres, including land necessary for ingress and egress) conveyed to the United States, in consideration of participation by the United States in the exposition, and without other consideration. The Secretary of Commerce is authorized to accept title in fee simple to such land and any interest therein if the Secretary determines that it is free of liens, or of any other encumbrances, restrictions, or conditions that would interfere with the use of the property for purposes of the United States or prevent the disposal of the property as hereinafter set out. In the acceptance of such property and in the design and construction of buildings and other structures and facilities thereon, the Secretary shall consult with the Administrator of General Services and the heads of other interested agencies to asure that such activities to assure that such activities will be undertaken in a manner that (1) minimizes to the greatest extent practicable any adverse effects on the recreational and other environmental values of the area, and (2) preserves and enhances to the greatest extent practicable the utility of the property for public purposes, needs, or other benefits following the close of the exposition.

(c) Subject to the availability of appropriations therefor, the Secretary is authorized to incur such other expenses as may be necessary to carry out the purposes of this Act, including but not limited to expenditures involved in the selection, purchase, rental, construction, and other acquisition, of exhibits and materials and equipment therefor and the actual display thereof, and including but not limited to related expenditures for costs of transportation, insurance, installation, safekeeping, printing, maintenance, and operation, rental of space, representing and dismantling; and the purchase of reference books, newspapers, and periodicals.

SEC. 4. The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary, with respect to carrying out any of the provisions of this Act; and

(2) to make available to the Secretary from time to time, on a reimbursable basis, such personnel as may be necessary to assist the Secretary in carrying out any of the provisions of this Act.

SEC. [illegible] The Secretary shall report to the Congress within one year after the date of the official close of the exposition on the activities of the Federal Government pursuant to this Act, including a detailed statement of expenditures. Upon transmission of such report to the Congress, all appointments made under this Act shall terminate, except those which may be extended by the President for such additional period of time as he deems necessary to carry out the purposes of this Act.

SEC. 6. After the close of the exposition, all Federal property shall be disposed of in accordance with provisions of the Federal Property and Administrative Services Act of 1949 and other applicable Federal laws relating to the disposition of excess and surplus property.

SEC. 7. The functions authorized by this Act may be performed without regard to the prohibitions and limitations of the following laws:

(1) That part of section 3109(b) of title (5), United States Code, which reads "(not in excess of one year)".

(2) Section 16(a) of the Administrative Expenses Act of 1946 (31 U.S.C. 638a) to the extent that it pertains to hiring automobiles.

(3) Section 3648 of the Revised Statues (31 U.S.C. 529) (advance of public moneys).

(4) Sections 201 and 302 through 305 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481; 41 U.S.C. 252-255) (procurement; competitive bids; negotiated contracts; advances).

(5) Section 322 of the Act of June 20, 1932 (40 U.S.C. 278a) (lease of buildings to Government; maximum rental).

(6) Section 3709 of the Revised Statutes (41 U.S.C. 5) (advertisement of proposals for competitive bids).

(7) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(8) Section 2 of the Act of March 3, 1933 (41 U.S.C. 10a) (Buy American Act).

(9) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(10) Section 501 of title 44, United States Code (printing by Government Printing Office).

(11) Section 3702 of title 44, United States Code (advertisements without authority).

(12) Section 3703 of title 44, United States Code (rates of payment for advertisement).

SEC. 8. Effective October 1, 1979, there are authorized to be appropriated $20,800,000, which are authorized to remain available until expended, to carry out United States participation in the exposition.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **DERWINSKI**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. **ZABLOCKI**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the substitute to the bill H.R. 5079, to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes.

The substitute amendment to H.R. 5079, which is before the House, was reported by the Committee on Foreign Affairs on September 18. It would authorize U.S. Government participation in the International Energy Exposition to be held in 1982 in Knoxville, Tenn. Energy Expo '82 is a privately sponsored exposition that has received official recognition from the Government.

The substitute that the committee is recommending to the House makes various technical changes in the original bill, primarily to avoid Congressional Budget Act violations contained in the original bill, and reduces the authorization figure to the administration's request of $20.8 million.

The purpose of the fair is to offer to the world a greater understanding of the effective uses of energy, of the necessity to conserve energy resources, and of the need for creativity in the development of new and alternative energy sources. It also seeks to encourage tourist travel in and to the United States, to stimulate foreign trade, and to promote cultural exchanges.

Exhibitions will be sponsored by foreign governments, private corporations, several States, and other private organizations. The bill, as amended by the sub-

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stitute, authorizes $20.8 million for the financing and costs of the U.S. exhibit, which will cover the array of energy resources and technologies available today, with emphasis on the constraints of supplies of traditional energy sources and the potential of alternative energy resources and technologies.

Mr. Speaker, development and conservation of energy is obviously one of the critical issues facing this country. I urge the Members to support this modest effort to engage in an international exposition and dialog on the future of energy in this country and in the world.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this timely measure authorizing funding for the construction and operation of a Federal pavilion at the International Energy Exposition to be held in Knoxville, Tenn., in 1982. Over the last 20 years we have seen three very successful expositions take place in Seattle, San Antonio, and Spokane. In each instance, these fairs provided residual and lasting benefits to the communities in which they were held. In this connection, I take special note of the remarks of my two Washington State colleagues, Messrs. PRITCHARD and BONKER, who indicated during our committee deliberations their support of this bill. Both attest to the success of the Seattle and Spokane Expos and are confident that this expo will be equally successful.

This exposition will provide the world with a greater understanding of the effective uses of energy and energy resources. Moreover, it will underscore the need to conserve existing energy resources, and the necessity for creativity in the development of new and alternative energy resources. It will also encourage tourist travel in and to the United States, stimulate foreign trade, and promote cultural exchanges.

Mr. Speaker, Knoxville is an excellent locale for such an expo as it has all the prerequisite support facilities. Not only is it a regional center for transportation, tourism and industry, but also within the immediate vicinity of the expo site are the headquarters of the TVA, Oak Ridge National Laboratories, and the teaching and research resources of the University of Tennessee.

I urge immediate passage of this legislation.

Mr. Speaker, at this point I yield 5 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, I rise in support of H.R. 5079, a bill to provide for Federal participation in Energy Expo '82, to be held in my hometown of Knoxville, Tenn.

On September 18, when the Foreign Affairs Committee unanimously reported this bill, many of the members remarked that they would like to have an expo in their district. The exposition, similar to that held in Spokane, Wash., in 1974, will be conducted from May through October 1982.

The fair will be situated in a valley between downtown Knoxville and the campus of the University of Tennessee. The result of the expo will be to turn what used to be an unsightly, near deserted railroad yard into a park-like area that will be enjoyed by people for many years to come. Of the structures that will remain, there will be office and other buildings that will serve the community and the University of Tennessee after expo is completed. The city of Knoxville is in the early stages of urban revival, and it is expected that Expo '82 will serve to accelerate progress that has already begun.

The city itself is in an ideal location. Tourists from the northeast, the midwest, and Canada frequently pass through the area on their way to and from resorts in Florida and the Carolinas. Also, Knoxville is the gateway to our most heavily visited national park, the Great Smokey Mountains.

Aside from its benefits to the region, Expo '82 with its energy theme, is most appropriate for the times in which we live. The exhibits operated by industry, and the various governments, foreign and domestic, will serve to focus attention on our energy problems and alternative means of solving those problems. Knoxville is an ideal location because of its tradition of energy research and development. It is the home of the Tennessee Valley Authority and the research facilities of the University of Tennessee. Also, the famous laboratories at Oak Ridge are only a few miles away.

H.R. 5079, and the $20.8 million authorization contained therein, will permit construction of a Federal pavilion. The pavilion will be the centerpiece for the entire exposition, and the success of the venture depends upon its construction.

Millions of dollars have already been spent in preparation for Expo. Funds have been committed by the local business firms and individuals, by the city of Knoxville, the State of Tennessee, and by the Federal Government, through grants from HUD, the Economic Development Administration, and the Appalachian Regional Commission. Several foreign governments, including the Soviet Union, have selected sites for their own pavilions, or indicated strong interest. As hosts for Expo '82, our own Government should provide the leadership necessary for a successful exposition.

In closing, I would like to note that the administration has been active in its support for this fine effort. I respectfully urge my colleagues to support this bill. Thank you.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Speaker, I too would like to join with the chairman of this committee and the minority leader of this committee and my colleague from Tennessee (Mr. DUNCAN) in full support of this bill before the House today. I am from the extreme west part of the State, but I join with my colleague from the eastern part of the State and commend the committee chairman and the members of this committee for bringing this legislation to the floor.

I would like to ask the chairman of the committee one question, if he would not mind. The $25.7 million that has been reduced down to $20.8 million for the fiscal year 1980, what was the purpose of that?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. FORD of Tennessee. Yes, I yield to the chairman.

Mr. ZABLOCKI. Mr. Speaker, the reason the committee lowered the amount is because it was the amount the administration requested and the committee believes a sufficient amount that they can equitably use.

Mr. FORD of Tennessee. I thank the chairman very much.

Again, I will support the $20.8 million and hopefully my colleagues here today will adopt this bill before the House.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to our esteemed chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I have grave concerns about certain provisions of this bill which declare that its functions may be performed without regard to the prohibitions and limitations of a number of Federal statutes.

Included in the list of statutes, parts of which may be disregarded are the Administrative Expenses Act of 1946, the Federal Property and Administrative Services Act of 1949, and the Buy American Act. The statutes I have mentioned are just some of those waived by the bill.

I believe that waiving statutes which were passed to promote economies in Government and to prevent waste and fraud is a poor idea in most instances, especially when there is not some overwhelming governmental necessity shown. No such necessity has been shown here. It is my understanding that, according to the Commerce Department which authored this bill, the U.S. Government will not use these waivers except when absolutely necessary. With that understanding, and because of the time involved, I will not oppose the bill today, but I hope in the future all committees will take a closer look at this type of provision.

□ 1340

Mr. ZABLOCKI. Mr. Speaker, I yield myself 1 additional minute only to reassure the chairman, our colleague from Texas (Mr. BROOKS), that indeed the Commerce Department has stated that in most cases it will not be required to invoke the exceptions. Further, this legislation is not setting a precedent.

● Mr. GOLDWATER. Mr Speaker, I rise in enthusiastic support for this bill, H.R. 5079. It will be a great thing for this country to host the 1982 International Energy Exposition—a great thing for the nations of the world to gain greater insight into the global concerns of using our energy resources effectively. It will be a great thing for the United States to take a leadership role in managing the world's energy resources, encouraging our neighbors abroad to join in a partnership to explore alternative methods of developing our energy potential. No other venture is so desperately needed to enhance the productivity of the world economy.

Last December the President, by official proclamation, declared that Knoxville, Tenn., would be the site of this 6-month exposition. It is fitting that an estimated 12 million people will visit the exposition. Knoxville and the eastern region of Tennessee play an important part in America's commitment to a dynamic and innovative energy policy. The largest public utility system in the United States, the Tennessee Valley Authority, is headquartered there. Oak Ridge, Tennessee, just a few miles west of Knoxville, is home to a vast complex of research institutions in the energy field. And the University of Tennessee at Knoxville is the center for a grand project to study the prospect for more imaginative energy plans.

None of us in Congress can deny that we have been shortsighted in dealing with the energy situation our Nation is faced with. Just yesterday I read another report of possible gas lines at our service stations in a few weeks. There is so much to be done by those of us in Government and industry, and staging an exposition of this type is vital to making the world community aware of our need to boldly conquer new challenges in our quest for energy.

I take this opportunity to commend Congressman JOHN DUNCAN of Tennessee for his introducing this bill and bringing it to the floor of the House today. The Committee on Foreign Affairs has reported the legislation by a unanimous voice vote, and I urge my colleagues to lend their support to this measure, as well as their interest in the success of this exciting exposition.●

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the bill, H.R. 5079, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PUBLIC NOTICE OF TIRE DEFECTS

Mr. SCHEUER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3949) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary of Transportation to require tire manufacturers, in certain circumstances, to provide public notice of tire defects, as amended.

The Clerk read as follows:

H.R. 3949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 153(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413 (c)) is amended—

(1) in paragraph (2) thereof, by striking out "or tire,", and by striking out "or tire";

(2) by redesignating paragraph (4) and paragraph (5) thereof as paragraph (5) and paragraph (6), respectively, and by inserting after paragraph (3) thereof the following new paragraph:

"(4) in the case of a tire (A) by first-class mail to the most recent purchaser known to the manufacturer; and (B) by public notice in such manner as the Secretary may order after consultation with the manufacturer, if the Secretary determines that such public notice is necessary in the interest of motor vehicle safety, after considering (i) the magnitude of the risk to motor vehicle safety caused by the defect or failure to comply; and (ii) the cost of such public notice as compared to the additional number of owners who could be notified as a result of such public notice;"; and

(3) in the last sentence thereof—

(A) by striking out "(or of a motor vehicle on which such tire was installed as original equipment)";

(B) by inserting "by first-class mail" after "notification"; and

(C) by striking out "(1) or (2)" and inserting in lieu thereof "(4)(A)".

SEC. 2. The foregoing provisions of this Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. SCHEUER) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. RINALDO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I am pleased to urge passage of H.R. 3949, which has the unanimous support of both the Subcommittee on Consumer Protection and Finance and the full Committee on Interstate and Foreign Commerce. At this time, I wish to pay great tribute to my colleague from New Jersey (Mr. RINALDO) for his very workmanlike, thoughtful and constructive support of this bill. I also wish to pay tribute to my colleague from New York, LESTER WOLFF, for much work that he has done over a long period of months in supporting the concept of this bill. In a few moments I will be happy to yield to Mr. WOLFF.

Mr. Speaker, suffice it to say that H.R. 3949 amends section 153(c) of the National Traffic and Motor Vehicle Safety Act of 1966 to give to the Secretary of Transportation the authority to require public notice in certain circumstances of a tire recall. A tire recall occurs under one of two circumstances: Either when a tire does not comply with applicable Federal safety standards, motor vehicle safety standards, or when it is found to have a defect.

Currently notification in the event of a tire recall is accomplished only by mail, and by mail to the most recent known purchaser, the most recent purchaser known to the manufacturer. The assumption here is that since tires are required to be registered on initial purchase, that a requirement of mailing a notice of recall to the original purchaser will suffice to get the word out in the event that a tire defect is discovered. Now, we have a different situation in the case of replacement equipment. Here, where recall of a particular piece of equipment on a car is required, the owners are notified by mail, and in addition to that there is public notice if the Secretary of Transportation deems that public notice is in the interests of motor vehicle safety. So, the Secretary of Transportation in the case of a defective piece of equipment on a production series has two arrows in his sling. He can mail to the owner of the vehicle or he can require public notice.

Now, this is not true of tires for some reason, because it was originally assumed that since tires were registered at the time of initial purchase, that mail would be adequate to reach all actual owners of those tires. The Secretary was not given that second arrow in his sling. He was only given the right to mail.

We have found out, however, from cold-hearted experience, that that is not sufficient. In the Firestone 500 recall, we found that only 45 percent of tires were registered at the time of purchase. They were registered if the tires were on a car that was purchased in the showroom, and they were generally registered if a person went into one of the large auto service institutions such as Sears or Montgomery Ward or one of the big chains; but, most tires are sold through small independent dealers in the neighborhood and a large proportion of them simply do not go through the mechanics of registering that tire. So, at the time of the Firestone 500 recall, we found that only 45 percent of the owners of those tires could be reached by mail, and 55 percent of them were unreachable by direct mail by the Secretary of Transportation or the tire manufacturer.

So, in order to remedy that situation H.R. 3949 would give the Secretary of Transportation the authority to require public notice of tire recall in addition to notification by mail if such notice is in the interests of auto safety and if it is perfectly clear that it is necessary in order to reach the bulk of tire owners of a particular defective tire.

Now, in reaching the determination of where the public interest lies, the Secretary must consult with the tire manufacturer and evaluate the cost effectiveness of public notice. If my memory serves me correctly, that was an amendment to the original draft of the bill contributed by Congressman RINALDO of New Jersey. Mr. RINALDO submitted an amendment to the bill, if my memory serves, that in determining whether public notice is required in the public interest, the Secretary must consult with the tire manufacturer and evaluate the costs and benefits of putting out that notice. If it is going to cost $1 million to put out a notice and they are only going to reach 25 tire owners, there would not be a clear case made that the benefits were clearly in excess of the cost.

As I recall, Congressman RINALDO did amend the bill to require that, and I think it is a thoroughly sound and acceptable and constructive amendment.

In our Subcommittee on Consumer Protection and Finance, we are determined that as the regulatory process cranks its way through to a result, we intend to concentrate the minds of the regulators to make sure that the benefits of the Federal regulation exceed the costs.

We want to get away from some of the horror stories of the past, where that has not been true.

Congressman RINALDO was vivid and very thoughtful in suggesting that amendment.

In calculating the costs and benefits of public notice, the Secretary must consider the magnitude of the risk to automobile vehicle safety as compared to the cost of public notice to the additional number of tire owners who would be notified effectively as a result of the public notice.

□ 1350

The provisions of the bill would take effect on the date of enactment, thus ensuring that tires manufactured before the enactment date but determined to be defective after that date would, of course, be covered by the law. In effect, as a substantive matter the bill would close a loophole in the statute which for purposes of notification would then, after closing this loophole, treat tires just as we currently treat items of replacement equipment, and it would enable us to reach the approximately 55 percent of tire owners whose tires are not registered and, therefore, would be unreachable through notice by mail.

H.R. 3949 would require no Federal expenditures as tire manufacturers would be responsible for the cost of providing public notice.

Again I wish to commend my colleagues, the gentleman from New Jersey (Mr. RINALDO), the ranking minority member of the subcommittee, and the gentleman from New York (Mr. WOLFF) for their concern for the safety of the American car operator and passengers. This bill never would have seen the light of day in its present form had it not been for their tireless efforts. The gentleman from New Jersey (Mr. RINALDO) particularly has spent countless hours shepherding this bill through the Subcommittee on Consumer Protection and Finance and the full Committee on Interstate and Foreign Commerce, and his interest on this important and serious consumer safety issue should be an example for all of us. Again I commend my colleague, the gentleman from New York (Mr. WOLFF), for having supported this concept of tire recall very early on when he discovered the problem in December of 1978, almost a year ago, and introduced a bill very similar to the one we have before us today which was introduced by the gentleman from New Jersey (Mr. RINALDO) in January. Both of our distinguished colleagues have demonstrated superb leadership and should receive our commendation.

Mr. Speaker, at this time before my colleague, the gentleman from New Jersey (Mr. RINALDO) get his 20 minutes, I would wish to yield such time as he may consume to my colleague, the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I rise today in support of legislation which addresses an issue of great importance to the consuming public. That issue is tire safety and the ability of the Federal Government to require tire manufacturers to effectively recall tires with safety defects or which fail to comply with Government safety standards. Specifically, this legislation, H.R. 3949, would close a loophole in the law and would authorize the Secretary of Transportation to require that tire manufacturers give public notice of recalls of defective tires.

As a member of this body, I have not been afraid to stick my neck out on the issue of automobile safety—as you can see it is an area that is increasingly important to me. I know that it is a subject of great concern to my colleagues and to the citizens of this Nation.

Late in 1978, I became aware of the inadequacy of the law governing recalls of defective tires and at the beginning of the 96th Congress, on January 31, I introduced H.R. 1744, to amend the National Traffic and Motor Vehicle Safety Act to authorize the Secretary of Transportation to require tire manufacturers, under certain circumstances, to give public notice in cases where tires have been found defective and are recalled. This legislation was cosponsored by 31 of our colleagues. When a similar measure, H.R. 3949, was introduced in May by the distinguished gentleman from New Jersey, I hastened to cosponsor his bill for there is no monopoly on good ideas for needed legislation. This bill has now been reported by the Committee on Interstate and Foreign Commerce and I would compliment the gentleman from New Jersey, as well as my colleague from New York, for their diligent efforts to bring it to the floor today. I strongly believe that this legislation is essential if we are to inform the public of situations in which dangerous tires threaten their safety.

For more than a decade, tire safety has been a subject of legislative initiative and oversight by the Congress in its comprehensive efforts to provide improved safety standards for motor vehicles and equipment. Congress set the landmark in this area through passage of the National Traffic and Motor Vehicle Safety Act of 1966. This act, for the first time established safety standards for motor vehicles and equipment. Moreover, this act required that manufacturers notify purchasers of safety defects in motor vehicles and equipment. Tire safety was prominently mentioned in that first act and the subsequent amendments in 1970 and 1974 have strengthened the safety standards and requirements relating to tires.

However, if one looks at the record in this regard, it is clear that action needs to be taken to not only strengthen safety standards, but to increase public awareness of defective tires which can threaten the safety of motorists and of innocent bystanders as well. Since 1969 there have been 217 recalls of tires that have been found to be defective. These recalls have involved more than 17.5 million tires. The most publicized incident of this, of course, was the case of the Firestone "500" steel belted-radial.

A report prepared last year by the Subcommittee on Oversight and Investigations documented the extreme hazard posed to safety by these tires. In its report, the subcommittee noted that:

> Accidents attributed to the "500" number in the thousands, injuries in the hundreds, and known fatalities as of August 1978, 34.

In that case it was found that these tires were prone to sudden failure even under normal driving conditions and especially when driven at high speeds. And these casualties occurred in relation to what has become the most highly publicized of all tire recalls. We do not know how many casualties have resulted from defects in other brands or types of tires. Most of all, the public may have no knowledge that other tires subject to recall may pose a similar hazard to their safety.

It is this issue of publicity of defects or failures which is addressed by H.R. 4939. In 1974, when the National Traffic and Motor Vehicle Safety Act was amended, provision was made to enable the Secretary of Transportation to require that manufacturers of replacement equipment issue public notice of their recall of defective products in addition to required notification by mail. This was done to insure that all consumers or purchasers will be made aware that a safety-related defect exists and that they can have this remedied at no charge. However, at that time, a major loophole was left when tires were specifically exempted from the provisions authorizing the requirement of public notice.

The exemption for tires was based on what was considered to be a sound judgment. It was maintained that the system of owner registration, which was required at purchase by the original act, was so efficient that consumers could be easily identified and subsequently notified by mail of a recall of defective tires. We were led to believe that public notice was unnecessary because the affected consumers could be reached by mail—a more economical and direct method of communication.

Although this procedure appeared to be simple and efficient at the time, experience has proven it to be inadequate. The report of the committee notes figures from the National Highway Traffic and Safety Administration which show that while over 90 percent of the tires sold in factory stores are registered, only 20 percent of the tires sold by independent dealers are registered. The result is that the current system of mail notification could reach only 45 percent of the purchasers of tires that get recalled. Moreover, because mail notification is a cumbersome process, it takes a long time to reach those customers whose purchases were properly registered. Clearly, the consequence of such a situation is that motorists may be driving on defective tires without realizing that their lives and safety are in danger. And, as it now stands, the Federal Government does not have the power to insure that the consumer is made aware of this hazard.

The Federal Government must have the authority to compel public notice upon a determination that a line of tires is defective and hazardous to the public safety. This is precisely what H.R. 3949 intends to do. The bill would amend section 153 of the act to remove the exemptions for tires from the provisions spelling out how consumers may be notified in the case of a defect in an item of replacement equipment. The Secretary may require public notice after consultation with the manufacturers, and after considerations of the cost effectiveness of such an action, if it is determined to be necessary in the interest of motor vehicle safety. This is fair to both the consumer and the manufacturer. By authorizing the requirement of public notice we do not impose an additional burden to the process of determining whether a defect or failure to comply exists, we merely increase the options available to the Secretary to deal with such a situation.

The Congress must take this initiative and enact measures which would promote a clear recognition by the consumer that a safety hazard has been detected. We can help prevent tragedy by passing H.R. 3949 to close a dangerous, unjustified, loophole in the law. I strongly urge my colleagues to support this important legislation.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, I wish to thank the chairman of the subcommittee, the gentleman from New York (Mr. SCHEUER), for his very kind comments and also compliment him for expediting the passage of this much needed legislation. I also want to compliment the gentleman from New York (Mr. WOLFF) for highlighting the problems which this legislation seeks to correct and for pushing the legislation so that we could get it before the House today.

Mr. Speaker, as the author of the legislation which is before the House today, I believe that it significantly furthers the cause of motor vehicle safety and I urge my colleagues to support it.

H.R. 3949 makes a much needed change to the National Motor Vehicle Safety Act of 1966. In general terms, the legislation deals with recalls of automobile tires which are either defective or which do not comply with applicable safety standards issued by the Secretary of Transportation. Under present law, owners of recalled motor vehicle tires are notified of the recall by first class mail. On the other hand, owners of other types of defective items of replacement equipment are to be notified of the recall by not only first class mail but also, in the discretion of the Secretary of Transportation, by public notice. The distinction in the form of notice is justified by the existing mandatory registration system for tires which, in theory, makes notification by first class mail possible.

We have found, however, that this mandatory registration system has not really been an adequate way of identifying owners of defective tires so that recall notifications through the mail can be made. Indeed, we have found that, although factory stores do a fairly good job of registering the tires they sell, many independent outlets seem to virtually ignore the registration system mandated in the Traffic Safety Act. In fact, our subcommittee hearings indicated that now only slightly more than half of all the tires sold were actually registered. Clearly, it is impossible to notify owners of defective tires of a recall through first class mail if there exists no record of who those owners are.

Consequently, the legislation before the House today would give the Secretary the option of requiring public notice of a tire recall in addition to notice by first class mail if the Secretary determines that such public notice would be in the interest of motor vehicle safety. The legislation, however, directs the Secretary when making this determination to consider the magnitude of the risk created by the tire defect and the cost of public notice compared to the number of additional tire owners the notice can be expected to reach. In other words, the legislation directs the Secretary to do a cost benefit analysis before determining that public notice will be required. In this way, the bill interjects rational standards into the Secretary's decisionmaking process while still giving the Secretary enough latitude to order the kind of notice that is truly appropriate to each individual situation.

Mr. Speaker, most tire recalls involve only a small number of tires and, in those instances, I would expect that first class mail notice would be sufficient. However, as recent events have shown, situations do arise from time to time which involve a great number of tires and, indeed, significantly affect traffic safety. Those are the kinds of situations where the Secretary must have freedom to order that general public notice of the recall be given. Passage of this legislation will do much to further traffic safety in a cost-effective manner.

Mr. SCHEUER. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

Mr. RINALDO. I have no further requests for time, Mr. Speaker, and yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SCHEUER) that the House suspend the rules and pass the bill H.R. 3949, as amended.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDING MANASSAS NATIONAL BATTLEFIELD PARK, VA., ACT

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5048) to amend the act entitled "An act to preserve within Manassas National Battlefield Park, Va., the most important historic properties relating to the Battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b), as amended.

The Clerk read as follows:

H.R. 5048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Manassas National Battlefield Park Amendments of 1979".

SEC. 2. The Act Act entitled "An Act to preserve within the Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b), is amended to read as follows: "That there is established as a unit of the national park system in the Commonwealth of Virginia the Manassas National Battlefield Park, which shall contain within its boundaries the important historical lands relating to the two battles of Manassas. The total area of the park shall not be greater than four thousand seven hundred and fifteen acres. The boundaries of the park shall be the boundaries depicted on the map entitled 'Boundary Map, Manassas National Battlefield Park', dated August 1979, and numbered 379/80,001, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall publish in the Federal Register, as soon as practicable after the date of the enactment of this Act, but no later than one year from the effective date of this section, a detailed description and map of the boundaries. Notwithstanding section 7(c) of the Land and Water Conservation Fund Act of 1965 (91 Stat. 211), as amended (16 U.S.C. 4601), the Secretary may not make any changes in the boundaries of the park. The Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system.

"SEC. 2. (a) In order to effectuate the purposes of this Act, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds or exchange, any property or interests therein which are located within the boundaries of the park, except that property owned by the Commonwealth of Virginia or by any political subdivision thereof may be acquired only by donation.

"(b) With respect to areas within the 1954 boundaries of the park, as identified on the map referred to in the first section of this Act, the Secretary may not acquire fee simple title to such areas without the consent of the owner so long as the lands continue to be devoted to their present use. Further, if the Secretary proposes to acquire fee simple title to such property because of a change in use, the owner of such property may seek a review of the proposed acquisition of his or her property and is entitled to a hearing on the record in accordance with section 554 of title 5 of the United States Code.

"(c) If the Virginia Department of Highways and Transportation determines that the proposed Route 234 bypass should be properly located between the Virginia Electric Power Company powerline easement and Route 705, the Secretary shall make available the land necessary for such bypass, subject to such revisions, terms, and conditions as the Secretary deems are necessary and appropriate to assure that such bypass is located, constructed, operated, and maintained in a manner consistent with the administration of the park.

"(d) The Secretary may not close any State roads within the park unless action permitting the closing of such roads has been taken by appropriate officials of the Commonwealth of Virginia.

"Sec. 3. (a) Subsequent to the date of enactment of this section, the owner of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or for a term ending at the death of the owner or the death of the spouse of the owner, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner an amount equal to the fair market value of the property on the date of its acquisition less the value of such date of the right retained by the owner. If such property is donated (in whole or in part) to the United States, the Secretary may pay to the owner such lesser amount as the owner may agree to. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

"(b) No property owner who elects to retain a right of use and occupancy under this section shall be considered a displaced person as defined in section 101(6) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894). Such owners shall be considered to have waived any benefits which would otherwise accrue to them under sections 203 through 206 of such Act.

"Sec. 4. For purposes of this Act—

"(1) The term 'improved property' means a detached, one-family dwelling, construction of which was begun before January 1, 1979, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

"(2) The term 'park' means the Manassas National Battlefield Park established under this Act.

"(3) The term 'Secretary' means the Secretary of the Interior.

"(4) The term 'owner' means the owner of record as of August 1, 1979.

"Sec. 5. (a) In addition to sums heretofore expended for the acquisition of property and interests therein for the park, from funds available for expenditure from the Land and Water Conservation Fund, as established under the Land and Water Conservation Fund Act of 1965, not more than a total of $20.018.000 may be expended for the acquisition of property and interests therein under this Act.

"(b) It is the express intent of Congress that, except for property referred to in subsection 2(b), the Secretary shall acquire property and interests therein under this Act within two complete fiscal years after the date of the enactment of the Manassas National Battlefield Park Amendments of 1979.

"Sec. 6. (a) Authorizations of moneys to be appropriated under this Act from the Land and Water Conservation Fund for acquisition of properties and interests shall be effective on October 1, 1980.

"(b) Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts as are provided in advance in appropriation Acts.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. (PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Before the gentleman speaks, I would like to add my own commendation to our distinguished colleague for his leadership and courage with reference to his effort to preserve this very unique historic battlefield site, a site that is perhaps at least as important as any military battle site on the turf of the Lower 48 States.

I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, as the sponsor of H.R. 5048, a bill to preserve important historic properties adjacent to the Manassas National Battlefield Park in Prince William County, Va., I am pleased that the House is today taking action on this important bill.

As you know, my bill has passed the House of Representatives three times after being reported by the House Committee on Interior and Insular Affairs by unanimous, bipartisan votes. In the House, the bill is cosponsored by 5 members of the Virginia delegation, as well as the chairman of the Subcommittee on National Parks and Insular Affairs, Congressman PHILLIP BURTON and 15 additional House Members.

SUPPORT WIDESPREAD

My efforts to preserve these properties are supported by such organizations as the Prince William Federation of Civic Associations, the Prince William League for the Protection of the Natural Resources, the Fairfax County Board of Supervisors, the Virginia Division of the United Daughters of the Confederacy, and nationally, the American Legion and the Civil War Round Table Associates. Protecting the park has been editorially endorsed by the Washington Post and the Washington Star as well as the Potomac News in Prince William County.

It is important to understand that this legislation is the result of over 4 years of work in Congress by dedicated citizens of Prince William County and by supporters around the Nation. I have held countless meetings with citizens who live near the park, the Prince William County Board of Supervisors, the inholders and many other members of the community affected by the bill. I believe this bill represents the community's wishes to preserve these historical properties and carries out the wishes of citizens of Prince William County who live in and around the park.

PRESERVING HISTORY

The historical importance of these bordering properties cannot be overemphasized. The bill includes these major historical properties:

Brawner Farm and Gibbons Woods: This is where the Second Battle of Manassas began in 1862. It was here that Gen. Stonewall Jackson made his decision to fight, and it was the scene of the heaviest engagement of the Civil War up to August 28, 1862. Trees in the area are still embedded with shrapnel.

Stone Bridge Area: This is where Union troops made diversionary attacks that began the first land battle of the Civil War.

Wheeler Farm: This area is currently being held by the National Park Foundation until it can be acquired. It was the site of Gen. Joseph Johnston's Confederate headquarters, Portici, during the First Battle of Manassas. It was part of the major route of Confederate reinforcements to strengthen their line at Henry Hill. This was also the site of Lewis and Balls Ford, the Confederate defensive line guarding Bull Run crossings, and the scene of the Confederate cavalry's pursuit of retreating Union forces at the conclusion of the First Battle.

Area south of Northern Virginia Community College, east of route 234 and north of I–66: This is where the Confederate troops staged their counterattack on the Union flank during the First and Second Battles of Manassas. It is the main entrance to the park and provides the initial view of the park for most visitors.

These parcels represent the colorful and dramatic history of this area. The park is one of the few spots in the Nation where visitors can view the natural terrain on which these engagements occurred. It is a major historical preserve within a half hour drive of the Nation's Capital and is expected to attract 1.4 million visitors this year. I believe my bill is an important vehicle to hold on to this moment of our past in a tangible way.

PROVISIONS OF THE BILL

H.R. 5048 would add approximately 1,715 acres to the 3,000-acre park, preserving the areas which have great historical significance relating to the two Civil War battles of Manassas. The land would be added to the Battlefield Park by direct Federal purchase, donation, exchange or easement from willing owners who could continue using their property for 25 years or until their death.

Some areas are designated for acquisition in fee; others for scenic easement. The areas to be acquired would protect these key historic sites from modern-day intrusions, enabling preservation of the present rural atmosphere or restoration to the Civil War scene where the battles took place. The scenic easements would control the development and use of the properties and its attendant noise, pollution, and disruption which would significantly intrude upon the park and its interpretative program.

BENEFITS FOR THE COMMUNITY

The expansion of the Battlefield Park is important for another reason—to provide necessary recreational opportunities and open space to this fast-growing suburban area. The county is facing growing pains common to many of our suburban areas. With the rapid infusion of people in recent years, it has been difficult to provide adequate services. And, as we all know, when services must keep pace with growth, sewers and schools often come first. Parks and recreation facilities are usually relegated to a lower priority. The addition of these 1,700 acres to the park will not only provide added historic lands for the park but will provide new and much-needed recreational and open-space areas for local citizens. Finally, expanding the park to include additional historical sites will bring more visitors—and additional revenues to the county.

ENACTMENT NEEDED NOW

Prince William County is one of the fastest growing counties in the Nation. Just 30 miles from Washington, D.C., it will become heavily suburban in a few years. From 1960 to 1970, its population doubled, jumping from 50,000 to 111,000. Today, Prince William County has more than 170,000 people with every indication that rapid growth will continue. Residential and commercial development has seen a steady increase in the last 15 years and the cost of land is constantly escalating. High housing costs in and around Washington, D.C., are leading many families to seek homes in this county.

Contributing to this growth is the completion of two major interstate highways which cross the county. Interstate 66 is the major access route to the park and surrounding areas from the north. Obviously, an interstate highway in close proximity to the current border of the park means more and more developmental pressure in the future.

Currently, commercial development is encroaching on the park and several parcels bordering Interstate 66 are zoned commercial. A motel, gas station, and commercial cemetery are next to the park.

Congress must act now to expand the boundaries of the park and take the lead in protecting our precious historical lands and monuments before it is too late. I know my colleagues will join me in preserving these priceless, historical lands that cannot be left to "fall as they may." The Manassas National Battlefield Park is truly a unique haven in a rapidly growing, bustling, suburban area in the Nation's Capital area.

I commend my distinguished colleague from California, Congressman PHILLIP BURTON, for recognizing the importance of this bill and working so diligently for its enactment and I commend my colleagues and the community for their continued help and support.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, some of my colleagues may recall that the House has passed a Manassas expansion bill many times before, several of those times being last Congress. The Senate never acted on the bill due to opposition of the Senate delegation. It now appears that that opposition has subsided, and there is a real hope that the Senate will now act on an expansion bill, which is so desperately needed to better protect the nationally important historic resources of this area.

Mr. Speaker, there is a real urgent need for this bill to be enacted. As good as this House bill is, there still remains some quite historic grounds left outside the expanded park boundaries, and the new boundaries set by this bill represent the absolute minimum to do the job.

I certainly want to commend my colleague, HERB HARRIS, who represents this area, for the long, hard effort he has devoted to this issue. He has done an outstanding job of trying to eke out the best of possible boundaries and protective provisions for this important historic resource, and he deserves a great deal of credit for his commitment and tenacity. Not to be overlooked by any means is the great leadership of our subcommittee chairman, PHILLIP BURTON, in keeping this matter continually moving along.

Mr. Speaker, there are a few assorted comments I wish to make on the substance of this bill. It is my strong feeling that if anything ever comes of the provision permitting a rerouting of State Route 234 through the park (section 2(c)), that the Secretary shall be in the driver's seat making sure that no damage or adverse impact occurs to the historical integrity and general protection of park features. I would also expect the Secretary to make a positive and continuing effort to work with the State in trying to close or reduce through traffic on some of the existing State roads which cut the park into many small pieces. This traffic situation brings unfortunate adverse impact on the historic scene and visitor use and enjoyment of the park.

The committee felt strongly that the acquisition of Manassas lands should be expeditiously completed, hence the inclusion of the rarely used target date for acquisition completion found in section 5(b). Moreover, it is my feeling that all lands, including those lands within the current boundaries which are yet unacquired, should also be promptly acquired to the extent authorized.

Mr. Speaker, as one final observation, I am concerned that we are continually reacting to cries for boundary adjustments at many of the historically related areas of the National Park System, particularly in the East where land development is evermore encroaching. I believe it is time that the National Park Service make a thorough professional assessment of the need for boundary adjustments for such areas, nationwide, so that we might consider acting on some of these areas more expeditiously in advance of the land use conflicts and price escalation which ultimately arise when we wait until the last minute to act.

Mr. Speaker, this is a very meritorious bill, and I urge my colleagues to vote for its adoption.

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEBELIUS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 5048, as amended.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order, all by the yeas and nays: H.R. 5224; H.R. 3777; H.R. 3949; and H.R. 5048.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

FRINGE BENEFIT REGULATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5224, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5224, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 347, nays 14, answered "present" 27, not voting 45, as follows:

[Roll No. 532]

YEAS—347

Abdnor
Addabbo
Akaka
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cheney
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early

Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lehman
Leland
Lent
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roybal
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—14

Anderson, Calif.
Beilenson
Bingham
Eckhardt
Florio
Gibbons
Gore
Levitas
Maguire
Ottinger
Simon
Stark
Vanik
Yates

ANSWERED "PRESENT"—27

Albosta
Bereuter
Boner
Dannemeyer
Davis, Mich.
Dixon
Dougherty
Fazio
Gaydos
Hall, Ohio
Hance
Hopkins
Kogovsek
Kramer
Leach, La.
Lee
Murphy, Pa.
Petri
Pursell
Roth
Sabo
Sensenbrenner
Shelby
Snowe
Solomon
Tauke
Wyatt

NOT VOTING—45

Anderson, Ill.
Bolling
Bonior
Bonker
Brademas
Brown, Ohio
Campbell
Chappell
Chisholm
Clausen
Collins, Ill.
Coughlin
Crane, Philip
Derrick
Flood
Goldwater
Goodling
Hagedorn
Ireland
Johnson, Colo.
Jones, N.C.
Kindness
Lederer
Lewis
Lungren
McHugh
Martin
Mavroules
Mineta
Myers, Pa.
Neal
Nolan
Pritchard
Rosenthal
Rousselot
Royer
Schulze
Stockman
Thomas
Treen
Vander Jagt
Waxman
Weiss
Winn
Young, Alaska

□ 1420

The Clerk announced the following pairs:

Mr. Brademas with Mr. Anderson of Illinois.

Mr. Lederer with Mr. Martin.

Mr. Bonior of Michigan with Mr. Lungren.

Mr. Mineta with Mr. Schulze.

Mr. Myers of Pennsylvania with Mr. Lewis.

Mr. Rosenthal with Mr. Royer.

Mr. Waxman with Mr. Young of Alaska.

Mrs. Chisholm with Mr. Winn.

Mr. Weiss with Mr. Vander Jagt.

Mr. Chappell with Mr. Thomas.

Mr. Derrick with Mr. Pritchard.

Mrs. Collins of Illinois with Mr. Rousselot.

Mr. Ireland with Mr. Campbell.

Mr. McHugh with Mr. Clausen.

Mr. Mavroules with Mr. Brown of Ohio.

Mr. Jones of North Carolina with Mr. Hagedorn.

Mr. Neal with Mr. Goldwater.

Mr. Nolan with Mr. Coughlin.

Mr. Kindness with Mr. Philip M. Crane.

Messrs. **OTTINGER**, **ECKHARDT**, and **STARK** changed their votes from "yea" to "nay."

Messrs. **SHELBY**, **DAVIS** of Michigan, **TAUKE**, **LEACH** of Louisiana, **DANNEMEYER**, **HOPKINS**, **KRAMER**, **DOUGHERTY**, **MURPHY** of Pennsylvania, **PURSELL**, and **HALL** of Ohio changed their votes from "yea" to "present."

Mr. **WYDLER** changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

THE CONGRESSIONAL FRANK

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3777, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 3777, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 319, nays 68, not voting 46, as follows:

[Roll No. 533]

YEAS—319

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
A[illegible]ews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lee
Lehman
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rostenkowski
Roth
Runnels
Russo
Sabo
Sawyer
Schroeder
Sebelius
Sensenbrenner
Shannon

Sharp
Shelby
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Stump
Swift
Symms
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walker
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—68

Andrews, N.C.
Ashbrook
Badham
Biaggi
Brooks
Burton, Phillip
Butler
Conable
Coughlin
Daniel, Dan
Daniel, R. W.
Danielson
Davis, S.C.
Dellums
Devine
Dickinson
Duncan, Oreg.
Erlenborn
Forsythe
Gaydos
Gingrich
Gonzalez
Hammerschmidt
Hightower
Holland
Ichord
Jeffries
Jenrette
Kelly
Kildee
Leath, Tex.
McDonald
McEwen
McKay
McKinney
Mattox
Miller, Calif.
Montgomery
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Patten
Perkins
Quillen
Rahall
Roberts
Robinson
Roybal
Rudd
Santini
Satterfield
Scheuer
Shuster
Skelton
Slack
Snyder
Stratton
Taylor
Vento
Walgren
Wampler
Whitten
Williams, Mont.
Wilson, C. H.
Wright
Wyatt
Young, Fla.

NOT VOTING—46

Anderson, Ill.
Bolling
Bonior
Bonker
Brademas
Brown, Ohio
Chappell
Chisholm
Clausen
Collins, Ill.
Crane, Philip
Derrick
Dixon
Flood
Goldwater
Goodling
Hagedorn
Ireland
Johnson, Colo.
Jones, N.C.
Kindness
Lederer
Leland
Lewis
Lungren
McHugh
Martin
Mavroules
Mineta
Myers, Pa.
Neal
Nolan
Pritchard
Rosenthal
Rousselot
Royer
Schulze
Seiberling
Stockman
Thomas
Treen
Vander Jagt
Waxman
Weiss
Winn
Young, Alaska

□ 1430

The Clerk announced the following pairs:

Mr. Bonior of Michigan with Mr. Young of Alaska.

Mr. Mineta with Mr. Goodling.

Mr. Waxman with Mr. Philip M. Crane.

Mrs. Collins of Illinois with Mr. Winn.

Mr. Neal with Mr. Goldwater.

Mr. Myers of Pennsylvania with Mr. Lungren.

Mr. Lederer with Mr. Martin.

Mr. Jones of North Carolina with Mr. Thomas.

Mr. Ireland with Mr. Vander Jagt.

Mr. Weiss with Mr. Rousselot.

Mr. Leland with Mr. Pritchard.

Mr. Derrick with Mr. Schulze.

Mrs. Chisholm with Mr. Lewis.

Mr. Dixon with Mr. Royer.

Mr. Chappell with Mr. Kindness.

Mr. Brademas with Mr. Clausen.

Mr. Bonker with Mr. Brown of Ohio.

Mr. McHugh with Mr. Anderson of Illinois.

Mr. Nolan with Mr. Rosenthal.

Mr. Mavroules with Mr. Seiberling.

Mr. **FOUNTAIN** changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PUBLIC NOTICE OF TIRE DEFECTS

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3949, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SCHEUER) that the House suspend the rules and pass the bill, H.R. 3949, as amended.

The vote was taken by electronic device, and there were—yeas 380, nays 9, not voting 44, as follows:

[Roll No. 534]

YEAS—380

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—9

Collins, Tex.
Crane, Daniel
Hansen
Jeffries
Kelly
McDonald
Paul
Stump
Symms

NOT VOTING—44

Anderson, Ill.
Bolling
Bonior
Brademas
Brown, Ohio
Burton, John
Chappell
Chisholm
Clausen
Collins, Ill.
Coughlin
Crane, Philip
Fenwick
Flood
Goldwater
Goodling
Hagedorn
Ireland
Johnson, Colo.
Jones, N.C.
Kindness
Lederer
Lewis
Lungren
McHugh
Martin
Mavroules
Mineta
Myers, Pa.
Neal
Nolan
Pritchard
Rosenthal
Rousselot
Royer
Schulze
Stockman
Thomas
Treen
Vander Jagt
Waxman
Weiss
Winn
Young, Alaska

The Clerk announced the following pairs:

Mr. Bonior of Michigan with Mr. Anderson of Illinois.

Mr. Mineta with Mr. Winn.

Mr. Brademas with Mr. Vander Jagt.

Mr. Myers of Pennsylvania with Mr. Young of Alaska.

Mr. Waxman with Mr. Schulze.

Mr. Nolan with Mr. Royer.

Mr. Weiss with Mr. Pritchard.

Mr. Rosenthal with Mr. Rousselot.

Mr. Lederer with Mr. Thomas.

Mr. McHugh with Mr. Lungren.

Mrs. Collins of Illinois with Mr. Lewis.

Mrs. Chisholm with Mr. Martin.

Mr. Ireland with Mr. Kindness.

Mr. John L. Burton with Mr. Goodling.

Mr. Jones of North Carolina with Mr. Goldwater.

Mr. Chappell with Mrs. Fenwick.

Mr. Mavroules with Mr. Philip M. Crane.

Mr. Neal with Mr. Coughlin.

Mr. Clausen with Mr. Brown of Ohio.

☐ 1440

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING MANASSAS NATIONAL BATTLEFIELD PARK, VA., ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5048, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 5048, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 349, nays 39, not voting 45, as follows:

[Roll No. 535]

YEAS—349

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—39

Anthony
Ashbrook
Badham
Bauman
Beard, R.I.
Carney
Cleveland
Collins, Tex.
Conable
Crane, Daniel
Deckard
Evans, Ind.
Hammerschmidt
Hance
Hansen
Heftel
Hopkins
Ichord
Jacobs
Jeffries
Loeffler
Lungren
McDonald
Marlenee
Michel
O'Brien
Pashayan
Paul
Shelby
Shumway
Shuster
Solomon
Stangeland
Stenholm
Stump
Symms
Vento
Volkmer
Young, Fla.

NOT VOTING—45

Anderson, Ill.
Bailey
Bethune
Bolling
Bonior
Brademas
Brown, Ohio
Cavanaugh
Chappell
Chisholm
Collins, Ill.
Crane, Philip
Derrick
Fish
Flood
Goldwater
Goodling
Hefner
Ireland
Johnson, Colo.
Jones, N.C.
Lederer
Lewis
Long, Md.
McHugh
McKay
Martin
Mavroules
Mineta
Myers, Pa.
Neal
Nolan
Pritchard
Rosenthal
Rousselot
Santini
Scheuer
Stockman
Thomas
Treen
Vander Jagt
Waxman
Weiss
Winn
Young, Alaska

The Clerk announced the following pairs:

Mr. Brademas with Mr. Bethune.

Mr. Waxman with Mr. Anderson of Illinois.

Mr. Bonior of Michigan with Mr. Pritchard.

Mr. Weiss with Mr. Vander Jagt.

Mr. Scheuer with Mr. Young of Alaska.

Mr. Rosenthal with Mr. Thomas.

Mr. Santini with Mr. Winn.

Mr. Nolan with Mr. Rousselot.

Mr. Hefner with Mr. Goldwater.

Mr. Neal with Mr. Goodling.

Mr. Ireland with Mr. Lewis.

Mr. Jones of North Carolina with Mr. Brown of Ohio.

Mr. Lederer with Mr. Martin.

Mr. Mavroules with Mr. Philip M. Crane.

Mr. Mineta with Mr. Fish.

Mr. Myers of Pennsylvania with Mr. Cavanaugh.

Mrs. Collins of Illinois with Mrs. Chisholm.

Mr. Bailey with Mr. Chappell.

Mr. Derrick with Mr. Long of Maryland.

Mr. McHugh with Mr. McKay.

Mr. SOLOMON changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1450

AUTHORIZING SECRETARY OF INTERIOR TO PROVIDE FOR COMMEMORATION OF EFFORTS OF GOODLOE BYRON

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5419) to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes, with Senate amendments thereto, concur in the Senate amendments numbered 1 through 3, and concur in the Senate amendment numbered 4 with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 1, after line 2, insert:

TITLE I

Page 1, line 3, strike out "That" and insert "SEC. 101.".

Page 2, line 9, strike out "SEC. 2." and insert "SEC. 102.".

Page 2, after line 16, insert:

TITLE II

SEC. 201. (a) In order to preserve and interpret for the benefit, inspiration, and education of present and future generations the home and office of Frederick Law Olmstead, the great American landscape architect and designer, there is hereby established the Frederick Law Olmstead National Historic Site (hereinafter referred to as the "Site").

(b) The Secretary of the Interior (hereinafter referred to in this Act as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the property comprising the former home and office of Frederick Law Olmstead at 99–101 Warren Street, Brookline, Massachusetts, together with such adjacent lands and interests therein as the Secretary deems necessary, for establishment of the Site. The Secretary may also acquire for the purposes of the site all or any portion of the documents, equipment, drawings, and other materials comprising the Olmstead archival collection.

(c) It is the express intent of the Congress that the Secretary should substantially complete the acquisition program authorized by this Act within two years after the date of its enactment.

SEC. 202. (a) The Secretary shall administer the property, Site, including personal property comprising the archival collection, acquired for the purposes of this Act in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

(b) The Secretary is authorized to enter into a cooperative agreement with an appropriate entity for the management of the archival collection acquired for the purposes of this Act.

(c) Within three years of the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the Site pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended. Within six months of the date of enactment of this Act, the Secretary shall submit a written report to the same committees relating the state of progress of his acquisition and provisions for management and permanent protection of the archival collection. He shall submit a similar report within one year of the date of enactment of this Act to the same committees indicating the final management and protection arrangements he has concluded for such collection.

SEC. 203. (a) Effective October 1, 1979, there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary for the acquisition of lands and interests therein.

(b) There is hereby authorized to be appropriated, effective October 1, 1979, an amount not to exceed $514,000 for the acquisition of the archival collection; an amount not to exceed $200,000 for development; and an amount not to exceed $1,230,000 for the preservation of the achival collection.

TITLE III

SEC. 301. Notwithstanding any other provision of law, the Secretary shall permit the late Chief Turkey Tayac to be buried in the ossuary at Piscataway Park in Oxon Hill, Maryland. After consultation with the members of the family, the Secretary shall select the site in such ossuary at which Chief Tayac may be buried. No Federal funds may be used for the burial of Chief Tayac except such funds as may be necessary for the maintenance of the burial site by the Department of the Interior.

TITLE IV

SEC. 401. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

(a) Section 101(8), re: DeSoto National Memorial, is amended by changing the phrase "changing '$3,108,000' to '$5,108,000'." to read "by changing '$175,000' to '$292,000'."

(b) Section 101(20), re: Pecos National Monument, is amended by changing "$2,375,000" to "$2,575,000".

(c) Section 301, re: revision of boundaries, is amended by changing the words "but not exceed" in the first sentence to "but not to exceed".

(d) Section 301(8), re: Great Sand Dunes National Monument, is amended by (a) changing "one thousand one hundred and nine acres" to "one thousand nine hundred acres" and by changing "$166,000" to "$265,000"; and (b) by adding the following at the end thereof: "The Secretary shall designate the lands described by this paragraph for management in accordance with the adjacent lands within the monument by publication of a notice in the Federal Register.".

(e) Section 302 is amended at the end thereof by changing "section 301" to "title III of this Act".

(f) Section 309(b), re: Fort Union Trading Post National Historic Site, is amended by changing "this Act" in the proviso to "the National Parks and Recreation Act of 1978".

(g) Section 315(a), re: Cuyahoga Valley National Recreation Area, is amended by changing "90,001-A" to "655-90,001-A".

(h) Section 501(a), re: Guam National Seashore, is amended in clause (1) by changing "Anac" to "Anae".

(i) Section 505(f)(1), re: Kaloko-Honokohau National Historic Park, is amended by striking "Kaloko-Honokohau" the first time it appears in the subsection.

(j) Section 507(f), re: Santa Monica Mountains National Recreation Area, is amended by changing "January 1, 1976" to "January 1, 1978".

(k) Section 508(d), re: Ebey's Landing National Historical Reserve, is amended by changing "with donated funds" in the first sentence to "with donated or appropriated funds".

(l) Section 511(b), re: Maggie L. Walker National Historic Site, is amended by changing "at 113 East Leigh Street" to "at 110 A East Street".

(m) Section 551, re: the National Trails System Act, is amended by—

(1) in paragraph (13), change "(20)" to "(23)";

(2) in paragraph (18), insert quotation marks at the beginning and end of the second sentence; and

(3) in paragraph (21), insert quotation marks at the beginning and end of the second sentence.

(n) Section 601(a), re: Yellowstone National Park, is amended by changing "State of Wyoming" to "States of Wyoming and Montana".

(o) Section 612, re: Albert Einstein Memorial, is amended by changing "access" in the second sentence to "purposes of such memorial".

(p) Section 704, re: Upper Delaware River, is amended (a) in subsection (a) by changing "705(c)" to "704(c)"; and (b) in subsection (f)(1) by inserting the following sentence at the end thereof: "The Advisory Council shall terminate ten years after the date on which it is established.".

(q) Title IX, re: Jean Lafitte National Historical Park, is amended—

(1) in section 902(a) by changing "eight thousand acres" in the first sentence to "eight thousand six hundred acres";

(2) in section 904 by changing "section 7" in the first sentence to "section 907";

(3) in section 907(a) by striking the word "and" at the end of the clause numbered (6), changing the period at the end of the clause numbered (7) to "; and", and adding at the end thereof the following:

"(8) two members appointed by the Secretary from recommendations submitted by the Police Jury of Saint Bernard Parish."; and

(4) in section 907(e) by inserting the following sentence at the end thereof: "The Commission shall terminate ten years from the date of approval of this Act.".

SEC. 402. Notwithstanding any other provision of law, the Secretary shall not charge any entrance or admission fee in excess of the amounts which were in effect as of January 1, 1979, or charge said fees at any unit of the National Park System where such fees were not in effect as of such date, nor shall the Secretary charge after the date of enactment of this section, user fees for transportation services and facilities in Mount McKinley National Park, Alaska.

SEC. 403. Section 3 of the Act of December 2, 1969 (83 Stat. 279), is amended by changing "180,000" to "680,000".

SEC. 404. The Wild and Scenic Rivers Act of 1968 (82 Stat. 906), as amended (16 U.S.C. 1271), is further amended as follows:

(a) In section 5(b), in paragraph numbered (3), change "(72)" to "(75)";

(b) In section 5(b), in paragraph numbered (4), change "(74)" to "(75)".

The Clerk read the House amendment to the Senate amendment numbered 4, as follows:

In Senate amendment number 4, section 301, delete the words "After consultation with the members of the family, the" and insert "The".

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to Senate amendment numbered 4 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. HOLT. Mr. Speaker, reserving the right to object——

The SPEAKER pro tempore. The gentlewoman from Maryland reserves the right to object.

Mrs. HOLT. Mr. Speaker, reserving the right to object, we are all deeply concerned in Maryland about the passage of H.R. 5419, which is in commemoration of the efforts of the gentleman from Maryland, Mr. Byron. I am disturbed that title III has been added in the other body. I would like some assurance from the gentleman about the nature of the amendment he has offered.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentlewoman yield?

Mrs. HOLT. I am glad to yield to the gentleman.

Mr. PHILLIP BURTON. Mr. Speaker, the amendment deletes language that I think is unnecessary and perhaps misleading. It deletes in the second sentence of title III the following words: "After consultation with the members of the family."

I would like to further note that the passage of this legislation should not and cannot in any way lead to the conclusion that we have determined that the Piscataways have granted or ceded these properties to the National Park Service. As a matter of fact, it is my clear view that it is the Alice Ferguson Foundation that granted the properties under discussion to the National Park Service. This legislation cannot be construed and should not be construed in any way to diminish the current special use permit privileges exercised by the Alice Ferguson Foundation.

Mrs. HOLT. I appreciate the gentleman's assurance. Is it the gentleman's understanding that while we are all trying to preserve the cultural heritage of the Indians that we are specifically talking about limited access to this park, that this in no way changes the use permission by the Ferguson Foundation?

Mr. PHILLIP BURTON. If the gentlewoman will yield further, in response to the question, this in no way limits the current special permit use of the Alice Ferguson Foundation. As I noted earlier, that is the foundation that gave to the National Park Service the acreage that we have been discussing.

Mrs. HOLT. We will still have controlled accessibility to the gravesite, that is the gentleman's understanding?

Mr. PHILLIP BURTON. My understanding is that this does not in any way reduce any authority at all of the Alice Ferguson Foundation to control to whatever extent they can currently control the use of the area involved.

Mrs. HOLT. Further reserving the right to object, will the gentleman repeat the language of his amendment?

Mr. PHILLIP BURTON. The language of the amendment deletes the words "After consultation with the members of the family," so that the Secretary shall select the site and there is no admonition or requirement that members of the family be consulted. We do this to avoid any overreaching conclusions to be drawn as a result of this very limited proposal.

Mrs. HOLT. I thank the gentleman for his explanation and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

Mr. SEBELIUS. Mr. Speaker, further reserving the right to object, I understand what we have here are bills and items that we have passed in the House that the other body has tacked onto another bill. Will the gentleman be kind enough to tell the membership just briefly what this does?

Mr. PHILLIP BURTON. This bill incorporates a modified House version of the Frederick Law Olmsted proposal passed by both the House and the other body. It also adopts the identical language passed by both the House and the other body with reference to entrance or admission fees. It adopts some 14 or so technical amendments, changes of address, modification of acreage amounts, and it adds $500,000 to the L. B. J. historic site in Texas.

Mr. SEBELIUS. These are all amendments that were corrections to the omnibus bill that we passed a year ago and passed this House already this year?

Mr. PHILLIP BURTON. In the 15 or so technical amendments, that is correct.

Mr. SEBELIUS. I thank the gentleman and withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California to dispense with the reading of the Senate amendments and the House amendment to the Senate amendment numbered 4?

There was no objection.

The **SPEAKER** pro tempore. Is there objection to the original request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. SIMON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out hereunder, to authorize urban volunteer programs, and for other purposes.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON).

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2859, with Mr. DAN DANIEL in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** When the Committee of the Whole arose on Friday, September 28, the gentleman from Illinois (Mr. SIMON) had consumed 20 minutes of general debate and the gentleman from Illinois (Mr. ERLENBORN) had consumed 20 minutes of general debate.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, my hope is that we can get by without consuming the additional full hour of debate plus the additional time that was allotted last Friday rather suddenly.

Let me point out just a couple of things. One is that a Gallup poll shows that of those who are fleeing inner-city areas the large majority would like to stay. Second, a large majority would be willing to volunteer to help build and improve their communities.

For those of my colleagues who were not here last Friday, this is the domestic volunteer program. What the subcommittee and full committee have done, with the help of our colleagues on the minority side, is tighten up the procedures under which the ACTION agency operates. We have, for example, said that when a program is renewed it also needs approval of the Governor, not just when it is initially authorized. We have taken the national grant portion and reduced it from 20 to 18 percent. In general there has been a tightening up.

I think the bill as it has emerged from committee is a good, solid bill.

☐ 1500

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I rise to speak in support of H.R. 2859 and the full appropriation of funds for ACTION, which includes VISTA and the urban volunteer programs.

I am speaking in my capacity as chairman of the task force on prevention for the Select Committee on Narcotics. Our task force has received testimony over the past 2½ years which clearly indicates that the traditional law enforcement/treatment approach to the problems of drug and alcohol dependency is an inadequate approach to the problem. Each year this Nation spends more than $1 billion and utilizes nearly 500,000 persons in the fight against the abuse of substances, while the American appetite for mood altering substances continues to increase. Our prevention task force recently held hearings to attempt to determine some of the preconditions for drug dependency. ACTION was one of our key witnesses. The 17 Federal agencies responsible for the drug problem appear unable to understand the need to prevent problems before they occur. The National Institute on Drug Abuse commits a mere 1 percent of their annual $245 million appropriation to prevention, and even that effort contributes more to the problem than its resolution through programs that are largely drug advertisments.

Our task force and the members of the select committee are convinced that the traditional approach to the problem of drug dependency, which relies on enforcement, must be substantially replaced and complemented with an effective program of prevention. Why do young people and the elderly become drug dependent? Certainly in part because the alternatives to drug dependency appear worse: A sense of having been rejected by families and comunities, a sense that there is no meaningful future, compounded by deteriorating housing and a lack of constructive alternatives.

ACTION is a small agency with a unique capacity to strengthen self-reliance and to lessen dependency among both the young and the elderly. A total of 273,000 Americans are working through ACTION with a nominal weekly paycheck to learn and to teach the fundamental values of our society: Caring for one's neighbors, strengthening communities and families, and developing skills in coping with living. This is the type of program, carried out by VISTA, the Older American program, the Foster Grandparents programs, and the national youth service programs, which can effectively prevent problems before they occur. These volunteers enlist other volunteers and generate hundreds of dollars worth of service for every dollar spent by ACTION to break the cycle of poverty, a cycle which if left unbroken will result in expensive programs to treat and rehabilitate those who feel like the victims in our competitive society. To quote from the testimony before the task force on prevention:

> If we indict young people today for being too dependent on drugs, for not caring enough about others, and in general not being good citizens, it may well be that it is our unwillingness to view them as a resource and not a problem that is the real heart of the problem.

The same is true for the elderly.

I urge you to support H.R. 2859 and the full appropriation requested for ACTION as one of the most effective means for this Congress to show its commitment to the preveniton of problems and its commitment to care about our neighbors.

● **Mr. WOLFF.** Mr. Chairman, I rise in strong support of H.R. 2859, the Domestic Volunteer Service Act Amendments of 1979 and I compliment the distinguished gentleman from Illinois for his outstanding work on the bill as the chairman of the Subcommittee on Select Education.

Mr. Chairman, this legislation provides that authorization for a number of worthwhile programs designed to help people help themselves. These programs under ACTION are the cornerstone of our volunteer service effort. Volunteer services incorporate a spirit which has always been an important ingredient in making our country strong—the spirit of "man helping fellow man."

Many of my colleagues have highlighted the valuable contributions of the domestic volunteer programs have made in our society. I would like to call my colleagues attention to another area in which these programs have had a significant impact on all of our lives.

As chairman of the Select Committee on Narcotics Abuse and Control I have been deeply concerned about the fundamental causes of drug abuse in America. The profit motivation of the illegal traffickers is clear but I have been puzzled as to why people become involved with drugs in the first place. Until we get a handle on our tremendous thirst for drugs all of our law enforcement efforts will be futile. Officials of Mexico, Colombia, and other foreign officials constantly tell me that the problem with stopping the drug traffic is our appetite which creates the supply. How are we to confront our appetite for dependency?

Our select committee recently held oversight hearings on the Federal agencies' responsibility for the prevention of drug abuse in America. ACTION was one of the agencies who testified. It is one of the few agencies directly involved with local communities to do the work of prevention—the work of enlisting volunteers in local efforts to establish alternatives to those environments which engender drug dependency.

We all know it is far less expensive to prevent problems than to treat or arrest them. Drug problems occur when people feel like they are nobody going nowhere: Young people who feel there is no place for them in society; elderly people who feel there is no purpose to living; minority groups who have no sense of their worth in society. This sense of a lack of care and an absence of a meaningful future contributes significantly to a dependency on drugs and alcohol. Other factors surely include the current deterioration of the American family and the inexcusable conditions of poor housing and high youth unemployment.

ACTION is a small agency with the modest budget of $119 million, earmarked for domestic volunteer programs. They have a big job, working at the local level to reverse the failure or trust in those communities most deprived of opportunity. People most likely to destroy their lives through drug abuse inhabit shadows of neglect: The elderly living alone, the young with no opportunities for the future, the poor to whom life is too painful to endure without drugs. These same communities produce criminal violence and the extraordinary expenses of incarceration and medical care. I for one believe this human tragedy can be prevented.

ACTION's programs are attempting to support community initiative, to strengthen the resolve of individuals to cope with their own problems, to promote and strengthen volunteer activity. We in the Federal Government cannot hope to deal with the drug problem through law enforcement alone. It is only with the vigorous involvement of local communities, local schools, volunteer groups, and families that we can prevent drug and alcohol dependency. The cost-effective programs of ACTION, both VISTA and Peace Corps, can help to prevent problems at the local level before they become problems. VISTA already has 24 projects devoted to drug and alcohol abuse, and other ACTION programs such as Foster Grandparents, Older Americans, Senior Companions, and Retired Senior Volunteers are doing excellent grassroots work in the prevention of drug and alcohol problems. ACTION is the type of program we vitally need if we are ever to resolve this dreaded menace to our soceity. I strongly urge my colleagues on both sides of the aisle to vote yea on H.R. 2859 and approve ACTION's full authorization.●

Mr. KRAMER. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, the hallmark of the American people has traditionally been generosity, and we are and have been a country of volunteers. I think that is a tradition that ought to continue. We have been willing to give of our hearts, our minds, and our hands. The spirit of volunteerism has helped the people of our Nation throughout its history. It should be fostered and should be encouraged. But, it is important that the spirit of volunteerism not be tarnished or jaded by excessive Government intervention or perceptions of Government-sponsored divisiveness.

The bill before us recognizes the important fact of providing a basic authorization for continuation of Federal support of domestic volunteer programs, but also we should recognize, I think, a concern about the manner in which that support has been administered and managed. We recognize that the authorization process is important now because the agency has not been authorized in the past year; but also I would point out that the basic reason for the lack of authorization was the emerging controversy about the direction in which the agency was moving, and the failure of the administration to adequately justify the necessity for an expanded program and new budget authority.

As the bill is presently structured, it contains a substantial amount of increase in authorization, about 44 percent over the present level of authorization, and about 63 percent over the present level of funding. However, it is my understanding in the several conferences I have had with the distinguished chairman of the subcommittee, the gentleman from Illinois (Mr. SIMON), that in a spirit of compromise, which I appreciate and extend my heartfelt thanks to the chairman for his cooperation in this effort, we have concluded that there is no justification, or perhaps now is not an opportune time, for expansion of the present authorization by $12 million.

So, during the 5-minute rule I will be offering an amendment which will knock out the new urban volunteer program, which consists of an Urban Volunteer Corps and a good neighbor fund. It is my understanding at that time that the gentleman from Illinois will offer a substitute amendment to that amendment—one which I have seen and one which I endorse—which is largely along the lines, with some slight variations, of the amendment which I will offer. It is my hope that that amendment will be unanimously agreed to, and that at least we know that in starting the amendment process on this bill we are not, at a time of great fiscal concern, at a time of rising deficits, going to add to that deficit with a new program added to an agency which has been challenged in the last couple of years in terms of its management and its operation and its scope.

So, Mr. Chairman, what I would like to do is turn the remainder of my attention to what I consider to be the other real problem area that I perceive with the ACTION agency. I would also add that most of the amendments I will offer to the bill during the 5-minute rule will have as their thrust the correction of what I consider to be the rising incidences of political activism in the agency, with which I share some basic philosophical, and I think good faith, differences with some of the members of the majority on the subcommittee and on the committee. There is nothing inherently wrong with political activism. If we did not believe in it, none of us would be here.

I think the true issue, and one we ought to focus on in this debate, is whether or not Federal funds ought to be utilized to foster and support political involvement by certain groups of citizens in an effort to affect political decisions affecting the general public. Sam Brown, head of this agency, has said that the only way to effectively move people out of poverty is to "empower" them; to mobilize them to impact on the political and economic processes which affect their lives.

That may be true, but is that the intended purpose of the VISTA programs? Is that the direction Congress intended for the use of our tax dollars? Many Members may not be familiar with how far the agency has already gone in redirecting VISTA programs along advocacy and activist lines, and may wonder what all the fuss is about when they look at the traditional VISTA and older American volunteer programs in their districts.

Let us take examples of remarks made by both Mr. Brown and Miss Tabankin, VISTA Director, that I think reflect adequately and accurately their goals:

Mr. Brown:

> My predecessor said he turned VISTA into motherhood and apple pie. Well, that's not my intent. Right now we have VISTA lawyers pushing paper for the community. My view is that they ought to be filing cases against the community.

Brown continues:

> VISTA is not simply a service organization . . . it ought not to be just a bunch of low-paid social workers. It ought to be people helping to get themselves together to build new institutions.

Miss Tabankin:

> VISTA should be organizing people to act upon their rights as citizens and work toward a more equitable distribution of income and opportunities.
>
> If it means organizing against a bank that's red-lining, yes; if it means getting the city to pick up garbage, yes; if it means taking on city hall, yes.

Brown:

> Politics is the struggle to redistribute power and wealth. That's what I'm all about.

As recently as last month Brown was quoted in the Washington Post addressing a convention in these terms:

> We need to build a new coalition of vision . . . for a more equitable distribution of wealth.

□ 1510

There is nothing wrong with these statements coming from the private citizen. It is the right of every citizen in a free society to advocate and advocate in an activist form. But the real question here and the basic underlying question is, is it right to do it with taxpayers' funds? I submit that it is not.

Shortly after taking office, Brown and Tabankin approved a new program direction which was known as the National Grants. It was designed to channel VISTA support to organizations which were not traditional recipients of Federal support for the purpose of addressing problems of poverty which transcended State lines. While we will undoubtedly hear more about this program later, I will just say for now that this was a mechanism to channel large sums of money by VISTA standards to organizations which had a background of political activism for the purpose of training and placing volunteers in communities where they would be used to organize citizens for political purposes.

Let us take several examples of these National Grantees and take a look at the statements that these National Grantees have made in the context of their overall operations and even in training manuals and organizational guides which were to be used to train volunteers and that were submitted as part of the process by which their grant was approved. The first that comes to mind is the community organization research action project known as CORAP, an offshoot of ACORN, and also the Midwest Academy. Quoting from their own literature:

> It has to be understood that ACORN deals with power, and not simply with winning issues, be they consumer issues, or environmental issues or economic issues, or whatever . . . all these issues are mere manifestations of a much more fundamental issue: the distribution of power in this country.

From Midwest:

> The Midwest Academy . . . begins the job of redistributing social wealth and power.

From ACORN:

> . . . unless your organization addresses the question of who has the power to control what happens in a neighborhood, a city, a county, or a state—and who should have the power to control . . . then all your organization will achieve is a proliferation of stoplights. . . .

From ACORN:

> All three of the above concepts lead inexorably to the fourth.

And I would appreciate special attention to this because it tells us what it is all about: "An involvement in electoral politics," with the emphasis underlined "in electoral politics" in this manual which was submitted as a part of the grant process application ACORN says:

> It makes no sense to spend an afternoon confronting an elected official, who is not doing the job he is supposed to be doing and then ignore the same official come November. On a more fundamental level, ACORN members understand that it is possible to begin exercising control over economic institutions, over utility companies, for example, or over banks—by grabbing hold of the reins of political power.
>
> ACORN, as will become clearer later in this article, has gotten involved in politics both by endorsing non-ACORN member candidates for various local and statewide offices and by running ACORN members for political office.

And these are ACORN's own words:

> An organization that is so heavily involved in politics is not about to receive government or foundation money.

Yet that is exactly what they would be. Here is an organization whose admitted purpose is political activism—and they have a perfect right to be involved in that political activism, but how in the world can we separate that political activism from Government funding of that political activism? I submit we cannot. The thrust of our amendments will be to correct and rectify this situation.

Let me quote again from the ACORN Community Organizing Model, their handbook:

> If you don't move your membership into the political arena, the long term goals of the organization will never be realized.
>
> In organizing, politics is everything that makes things move. Direct your organizing plan to as near as we can get to the core of it. . . .
>
> Politics: Learn the names of the public officials and the rumors and facts behind who really runs the area. The question always is, who is behind what makes the city really move: individuals, interests, and issues. What are the party officials like, what are the local officials like? What real power does the mayor or country judge have, and how do they execute it?

Turning again to the training materials that have been used and funded at taxpayer expense, here are examples of some of the more outrageous statements and philosophies that are contained and are perpetrated by $500,000 and more of public funding under the National Grant program.

> Who should be organized? Get a feeling of percentages, and where whites and blacks live . . . the first drives are going to be all white or predominantly white . . . Only go black first if you never want a white membership in the area, or if the area is all black. . . .
>
> Always make sure that one of your contacts is a lawyer. In state organizing it's like insurance . . . a good contact lawyer might also do local issue research for you or, if necessary, file suit.
>
> Know what transportation is like in case part of a tactical organizing plan ever involves a mass action flowing out of your neighborhoods.
>
> Our goal is building power . . . we are not interested in just making people like each other. People coalesce around power, anything else is social work acclimating people to what exists.
>
> Always be wary and careful with people who are seen as community leaders in the neighborhoods . . . some are good and some are bad, but they are always potential problems in terms of their agenda versus your potential organizations. . . .
>
> When recruiting people, stress power . . . what organizations have done and what they can force people to do. . . .
>
> Numbers are important because this is a mass organization directed at political power where might makes right.
>
> Opening the meeting with prayer produces order in the meeting, sets up uncertain expectations and gives legitimacy to your purpose.

I could go on and on and on with statements like this and training materials, and with statements by ACTION State directors themselves who make comments during the application process which are rejected out of hand, such as:

> Strong political confrontations is the history of ACORN—How will VISTA survive?

From the Tennessee Regional State Director:

> There is no way the Governor of Tennessee will approve a project that has as its thrust the organizing of poor people to confront local, Federal and State officials.

The list goes on and on, from Tennessee to Louisiana to Florida. Just for a brief couple of minutes—we were examining some of the quotes from the ACORN training manual—let us go to the Midwest Academy, the other group I mentioned:

> The Third Principle of Direct Action organizing is that it attempts to alter the relations of power between people's organizations and their real enemies. The enemies are often unresponsive politicians, tax assessors, utilities, landlords, government agencies, large corporations or banks.

Here is a nice one:

> Give people a "taste of blood." Push your opponents so hard you can see them squirm.
>
> You may want to assign some people to be "inciters" and move about to heat up the action getting people angrier and encouraging them to show their anger.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding. In case there are those here who may not be here at the point when I respond to this, is the gentleman reading from any official ACTION brochure, or is this something that is taken out of context from an agency that was dropped by ACTION?

Mr. KRAMER. I think that is a fair question. No, this agency is the Midwest Academy. These particular phrases come right out of the training materials of Midwest Academy that were used to train the VISTA volunteers.

Mr. SIMON. But this is not any kind of an official document.

Mr. KRAMER. That is correct. It is not a document that is published by ACTION but it is a document published by an agency to which ACTION gave this grant and used in connection with the training of VISTA volunteers.

In conclusion, then, these are, I think, selected but nevertheless fair samples of the thrust, the approach, the direction, and the movement in which ACTION has gone over recent years. I feel the agency is capable of doing a real service, and has in many areas done a real service, but it is also, I think, in acknowledging and in funding organizations such as this type to spread political activism with taxpayers' dollars, doing a disservice to their basic purpose and reason for existence. In considering the amendments that will follow, the thrust of which will be to keep the good but eliminate this blatant political activism at the expense of one group over another, I hope the Members will keep the purpose of these amendments in mind when deciding whether to vote them up or down.

Mr. Chairman, I yield 10 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I want first to compliment and congratulate KEN KRAMER on the statement he has just made and upon his handling of this legislation. As we all know, it is not easy for a Member in his first term to take on the responsibilities of ranking member of

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a subcommittee. And it is made more difficult when the first major piece of legislation handled by the subcommittee is as controversial as the Domestic Volunteer Service Act has come to be. KEN has handled these responsibilities like a veteran.

For over a year the programs of the ACTION agency have been funded under continuing resolutions, when in the normal course of events they would have been extended routinely over the dissenting votes of those who feel there are better uses for tax dollars. Instead, the controversy over the legislation is intense and can be laid squarely on the doorstep of the Carter administration.

First, the administration has requested a $50 million spending increase for the domestic volunteer programs at a time when it is requesting cuts of a half billion in child nutrition programs, to mention but one area within our committee's jurisdiction. In the face of a budgetary crisis and intensifying economic problems affecting every American family, this reflects an odd sense of priorities.

Second, a major reason for increasing the spending for the volunteer programs is to launch a brand new urban volunteer program for which nobody has made much of a case. Apparently it was dreamed up at one point last year as a part of some sort of administration initiative to help the cities. Judging by the kinds of programs which have been funded under VISTA, this may not be the kind of "help" cities have in mind.

Finally, the leadership of the ACTION agency has politicized the volunteer programs, and particularly VISTA, completely distorting their purposes from providing services for the poor to acting as instruments of political advocacy. This has created a drumfire of justified criticism from both sides of the aisle in Congress and around the country. The criticisms of the ACTION agency made by the nonpartisan investigative staff of the Committee on Appropriations of the House, among others, raise serious questions which we must now address.

The Appropriations Committee investigation found VISTA volunteers assigned to political activists organizations and used to promote political aims, union organizing, lobbying, and other activities prohibited by law. Volunteers under the guise of "training" were being indoctrinated with the techniques of community agitation and social disturbance. Service to the poor had been abandond in favor of organization for political and social activism."

The misuse of VISTA volunteers found by the Appropriations Committee investigation was not accidental or the result of isolated incidents. It was by design. That design is spelled out in the "VISTA Program Criteria and Implementation Guidelines" published in the Federal Register for March 10, 1978. It spells out a complete change in the VISTA program from one of community service to the poor to one of political organization of the poor through activist groups. It is full of references to the "establishment of a grassroots advocacy system" and "supporting grassroots advocacy organizations." The parts of those guidelines which not published in the Federal Register were even more explicit about the "VISTA Philosophy of Project Selection" and similar topics, stating that "people must be organized into effective groups so they may increase the strength of their voice as they advocate for their interests."

The "effective groups" utilized thus far are ones few of my colleagues and very few of their constituents ever heard of or know anything about. They have mostly been the activist groups of the so-called "New Left." They are groups like "Association of Community Organizations for Reform Now"—ACORN—which has been agitating communities in a half dozen States, centered in Arkansas and Louisiana. Or "Midwest Academy" in Chicago, a training school for political radicals used to indoctrinate VISTA volunteers with over $400,000 of the taxpayers' money. This is where volunteers were taught such things as:

> Give people a "taste of blood." Push your opponents so hard you can see them squirm.
>
> Be ever on the lookout to play targets off against each other, Republican vs. Democrat, Up-State vs. Down-State, In-Group vs. Out-Group. Your enemy's enemy may be your ally.

And there was much more of the same. No talk here about how to provide services for the poor.

What all this reflected was the "new directions" for the domestic volunteers chartered by ACTION Director Sam Brown and implemented by his appointee as head of VISTA, Ms. Marjorie Tabankin, a veteran of the anti-Vietnam war and New Left political and social movements. That was in the Spring of 1977 and gave rise very quickly to a program called the National VISTA Grants. That was a major focus of the Appropriations Committee investigation, and of our own inquiries.

Before discussing that however, maybe it would be helpful to my colleagues to give a recent example of how VISTA is being used to organize so-called advocacy groups.

On March 16 of this year, the Minnesota State program director for ACTION submitted to Gov. Albert Quie a proposal for the assignment of VISTA volunteers to the Lesbian Resource Center for Minneapolis. The project was actually to be run by a group called the Lesbian Feminist Organizing Committee, which does not have the tax-exempt status required of a VISTA sponsor. It was stated to Governor Quie that:

> The problem that this group will address is that low-income lesbians in the Twin Cities are an unorganized minority [whose] isolation from other lesbians and from society at large reduces their ability to have an organized voice in decisions which effect their lives.

One of the main tasks of the VISTA volunteers was stated as being:

> To target 2 to 4 legal cases involving economic disempowerment because of lesbianism and facilitate a task force in strategizing advocacy efforts in those cases.

Mr. Chairman, I am not seeking to indulge in sensationalism or to ridicule people with unfortunate psychological or social problems. But this sort of thing does sharply focus attention on how far afield this program has strayed under the "new directions" and guidelines charted for it. Our former colleague, Al Quie, and my predecessor as ranking minority member of this committee, was a leading advocate of the VISTA program and one of the architects of the legislation. He rejected this particular proposal and another one submitted by the National Association of Farmworkers Organizations and voiced his concern about the guidelines. In a letter of April 25, 1979, rejecting these proposals, he wrote:

> I feel these projects are a form of political organizing and should not be funded as VISTA programs. The guidelines developed in 1978 by the Office of the Director of VISTA could be encouragment to political organizers to obtain Federal funding for their activities.

And of course those guidelines are precisely that, but the political action effort had begun—as I have said—2 years earlier in 1977 with the development of the National VISTA Grants program.

Mr. Chairman, there has been a lot of discussion in our committee and in the Appropriations Committee report of the first 12 national grants, all of them made without the customary notice in the Federal Register of the existence of a new program and the availability of the grants. These were made between September 26, 1977, and September 30, 1978. The 12 organizations received nearly $4 million. A number of these 12 grantees, in turn, assigned VISTA volunteers to other organizations as "sponsors." Thus a rather far-flung network of organizations were helped. A great many were social-activist types engaged in a variety of "New Left" political causes.

In the Spring of 1977 Ms. Tabankin assembled a group of 41 or 42 persons from around the country who for the most part were associated with activist organizations having no previous connection with VISTA. At the invitation of ACTION Director Sam Brown, they met in three different sessions in Washington. The purpose was to discuss the "new directions" for VISTA. Shortly thereafter the National VISTA Grants program took shape.

It is interesting to note the multiple tie-ins between participants in these meetings and organizations benefited by the 12 unadvertised national VISTA grants. It is also interesting to examine the relationships of many of the beneficiaries to Ms. Tabankin, and to a lesser extent, Mr. Brown.

Of the 41 or 42 participants in the roundtable meetings, 23 represented organizations which subsequently were awarded grants or became VISTA sponsors under the grants.

Ms. Tabankin in sworn testimony said that of the participants, 4 were personal friends and 20 were former associates in some capacity. All of the 4 friends and 11 of the 20 associates represented organizations which benefited from the grants.

Mr. Brown listed only one participant as a friend and six as "casual acquaintances"; all seven were connected with organizations which benefited from the National VISTA Grants program.

Ms. Tabankin listed 22 organizations represented at the meetings with which she had had some prior association. Thirteen ended up as beneficiaries of the 12 national grants. The very first was ACORN, which Ms. Tabankin had assisted financially with a grant from the youth project, of which she was executive director before joining ACTION. That group, famous for its political activities, received $470,475, one of the larger grants. The second grant of $432,235 went to Midwest Academy, where Ms. Tabankin had lectured and until very recently was listed on their literature as a fundraising consultant. Later, in May of 1978, her own former group—the youth project—would get a grant of nearly $500,000. The fourth of the 12 grants—$491,106 went to the National Center for Urban Ethnic Affairs. Gerson Green, a top official of NCUEA was a participant in the roundtable meetings, a friend of Sam Brown, and an "expert consultant" to ACTION at the time the grant was made.

There are all sort of other kinds of analysis that can be made of these grants, much of which was covered by the Appropriations Committee investigations, but to say the very least they raise issues of propriety under Executive Order 11222, which sets forth a code of ethics for Federal employees. It prohibits, among other things, actions which "might result in or create the appearance of" giving preferential treatment to any organization or person.

The broader issues, which I believe involve the perversion for political purposes of a program designed to provide assistance to the poor, will be dealt with in amendments offered to this legislation. One will be to strike the authority for a National VISTA Grants program, a suggestion made by the Appropriations investigative staff in its report.

I urge my colleagues on both sides of the aisle to give careful attention to the debate on the amendments, because I am convinced that very few of them would approve of the management of the domestic volunteer programs. For the information of Members, the following is a summary of the 12 National VISTA Grants in question and the association of 23 of the 41 roundtable participants with organizations assisted by the grants.

Name of organization	Address	Date awarded	Amount
Community Organization Research Action Project (ACORN/CORAP).	1501 South Arch Street, Little Rock, Ark.	Sept. 26, 1977	$470,475
Midwest Academy (MA)	600 West Fullerton, Chicago, Ill.	Sept. 30, 1977	432,235
Federation of Southern Cooperatives (FSC).	P.O. Box 95, Epes, Ala	do	530,825
National Center for Urban Ethnic Affairs (NCUEA).	1521 16th Street NW., No. 1127, Washington, D.C.	Nov. 25, 1977	491,106
National Public Interest Research Group Clearinghouse (PIRG).	1329 E Street NW., Washington, D.C.	Dec. 19, 1977	342,149
National Training Information Center (NTIC).	1123 West Washington Blvd., Chicago, Ill.	Mar. 1, 1978	182,799
National Association of Neighborhoods (NAN).	1612 20th Street NW., Washington, D.C.	Mar. 19, 1978	$240,371
National Council of La Raza (NCLR).	1725 I Street NW., Suite 210, Washington, D.C.	Apr. 3, 1978	265,266
National Association of Farmworkers Organizations (NAFO).	1329 E Street NW., Suite 1145, Washington, D.C.	May 1, 1978	49,775
Youth Project	1555 Connecticut Avenue NW., Washington, D.C.	May 8, 1978	491,733
Housing Assistance Council	1828 L Street NW., 6th Floor, Washington, D.C.	Sept. 30, 1978	158,567
National Citizens Coalition for Nursing Home Reform.	1424 16th Street NW., Washington, D.C.	do	241,138

Roundtable Discussion Invitees and Their Subsequent Relationships With National Grantee Organizations

1. Michael Ansara, staff director, Massachusetts Fair Share, 364 Boylston St., Boston, Mass. Had individual working out of his Boston office who was on the payroll of the Midwest Academy, a national grantee, and who supervised several sponsors in the greater Boston area: (a) "9 to 5;" (b) Worcester Working Women; (c) Concord Women's Center.

In May of 1978, Massachusetts Fair Share was designated as a test demonstration program for the proposed Urban Volunteer Program.

2. Dan Bonberry, P.O. Box 1044, Gurneyville, Calif.: Affiliated with the California Tribal Sovereignty Project, a sponsor under the Youth Project (YP).

3. Heather Booth, Midwest Academy, 600 West Fullerton St., Chicago, Ill.: Member, Board of Directors, and currently Executive Director of the Midwest Academy (MA), a national grantee.

4. Bob Creamer, Illinois Public Action Council, 59 East Van Buren, Suite 2600, Chicago, Ill.: Treasurer, Midwest Academy (MA), a national grantee; married to Day Creamer, President of Midwest Academy; affiliated with Illinois Public Action Council, sponsor under the Midwest Academy; the Illinois Public Action Council, in turn, is an umbrella organization, comprised of some 50 groups—at least 2 of which are sponsors under two other national grantees, Youth Project (YP) and National Public Interest Research Group (PIRG).

5. Day Creamer, Women Employed, 37 South Wabash, Chicago, Ill. President, Midwest Academy (MA), a national grantee; affiliated with Women Employed, a grantee under the Midwest Academy (MA), a national grantee.

6. Bill Pastreich, Cape Cod Health Care Coalition, 148A Cedar St., Hyannis, Mass.: Sponsor under the Youth Project (YP), a national grantee.

7. Steve Holt, Acorn West, 523 North 15th St., Little Rock, Ark.: Sponsor under Community Organization Research Action Project (CORAP), a national grantee.

8. Ms. Gail Cincotta, National People's Action, 121 West Superior St., Chicago, Ill. President, Board of Directors, National Training and Information Center (NTIC), a national grantee; affiliated with National People's Action, a sponsor under NTIC, a national grantee.

9. Sheldon Trapp, National Training and Information Center (NTIC), 121 West Superior St., Chicago, Ill. Member, Board of Directors, National Training and Information Center (NTIC), a national grantee.

10. Charlotte Brody, 817 Carolina Ave., Roanoke Rapids, N.C. Affiliated with Carolina Brown Lung, a sponsor under Midwest Academy (MA), a national grantee.

11. Carolyn Carr, ACORN, 523 West 15th St., Little Rock, Ark.: Assistant Secretary, ACORN; Assistant Secretary, CORAP Association of Community Organizations for Reforms Now (ACORN) is a grantee under Community Organization Research Action Project (CORAP), a national grantee.

12. Ellen David, Vermont Alliance, 5 State St., Mt. Pelier, Vt.: Sponsor under Midwest Academy (MA), a national grantee.

13. Baldemar Velasquez, Farm Labor Organizing Committee, 408 Legun Ave., Toledo, Ohio; Sponsor under Youth Project (YP), a national grantee.

14. Wendell Paris, Minority Peoples Council, P.O. Box 5, Gainesville, Ala.: Sponsor under Federation of Southern Cooperatives (FSC), a national grantee.

15. Paul Brown, Coalition for United Elizabeth, 219 3d St., Elizabeth, N.J.: Sponsor under National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

16. Gerson Green, Director, National Center for Urban Ethnic Affairs, 1521 16th St. NW., Washington, D.C.: Director National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

17. Rino Aldrighetti, director, Neighborhoods Together, 8720 Flower Ave., Silver Spring, Md.: Sponsor under National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

18. Diann Yambor, Buckeye Woodlawn, 3046 East 130th St., Cleveland, Ohio: Sponsor under National Training and Information Center (NTIC), a national grantee.

19. Nino Nanneroni, director, Wilmington United Neighborhoods, 1300 North Broom St., Wilmington, Del.: Sponsor under National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

20. Ruth Nazario, Adopt A Building, 177 East Third St., New York, N.Y.: Sponsor under National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

21. William Ariano, Southeast Community Organization, 114 South Washington St., Baltimore, Md.: Sponsor under National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

22. Elizabeth San Filippo, director, Neighbors of Greenpoint and Williamsburg, 690 Metropolitan Ave., Brooklyn, N.Y.: Sponsor under National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

23. Katina Leodas, director, Somerville United Neighborhoods, 20 Union Square, Somerville, Mass.: Sponsor under National Center for Urban Ethnic Affairs (NCUEA), a national grantee.

Mr. KRAMER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I am here today to offer testimony about one VISTA-assisted project in my congressional district. I think sometimes if you look at a particular project you may get more of the flavor of an agency than from a lot of dry reports.

This project is occurring in a part of my district which is wracked by very serious housing abandonment. That is not a unique situation. I know that everyone thinks of housing abandonment as something unique to the south Bronx because of the enormous publicity that has gotten, but I have an area in my district which has it, and a recent General Accounting Office report indicated there are 113 cities in the United States which have some significant degree of housing abandonment.

In the abandonment neighborhood in my district there is a neighborhood group known as "Adopt-a-Building," which ACTION is helping through provision of a site supervisor and eight VISTA's. "Adopt-a-Building" basically is designed and is working with the city administration to take over buildings when landlords have abandoned them but when they still have tenants in them, and to keep those buildings as viable parts of the housing stock of our city instead of letting them fall into ruin. It also rehabs empty buildings.

At the current time in our city, Mr. Chairman, it costs from $50,000 to $60,000 a unit to create new public housing or section 8 housing for low-income families. "Adopt-a-Building," with this ACTION help, is preserving housing units and preserving the neighborhood for low-income families for but a fraction of that price. I simply want to testify that I think the "Adopt-a-Building" program and the kind of help it is getting from ACTION are really a tremendously cost effective way of approaching our urban problems. I am encouraged that ACTION seems to be addressing itself more to these urban problems. I encourage the agency to continue to look in that direction. I just want everyone to know of this one project in one district and what it symbolizes as to the way ACTION can help a neighborhood.

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Mr. KRAMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I am sorry to do this, but I cannot vote for this organization or any money for it. As we have heard my colleague in the well say, it may have done some good things, but there is a question of judgment that is, it seems to me, deeply flawed. We only have to listen to the words of Mrs. Paxton, that fine and able and devoted woman who left the organization for good reasons.

We need volunteers. There is no question about it, but what do we say of the judgment of someone in charge of the money, the tax money, that we hand out, that turns the manuals over to an organization that writes the kind of manual that we have heard described on the floor?

There are dozens of good programs, devoted to keeping young people away from drugs, run by people who show good judgment. We do not need to turn to something as flawed as this. We heard testimony in a committee of this House that ACTION had left Washington to have a meeting with some members of the Peace Corps in Africa. It sounded fine until we got to the bottom of it. Thirty people left Washington, one of them not even employed by ACTION. They stopped at expensive hotels in Paris and in Rome, too, as I remember, and met with five VISTA people somewhere in Africa at a very large cost to the taxpayers. It would have been easier to have brought the five people here. This is a matter of judgment.

I am not saying anything about the allegations that were referred to so fairly and so openly by my colleague who spoke earlier in a most persuasive way, because it is only by facing such charges and bringing them out in the open that they can be laid to rest.

Mr. SIMON. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I would hope that the gentlewoman would keep in mind what the previous speaker, the gentleman from New York (Mr. GREEN), had said. Sometimes if we look at these projects at the local level, the individual projects, we get a better flavor of what is going on than the rhetoric of this Hall or the rhetoric of national journals discussing this agency.

What you will find when you look at the local level, whether it is Chicago, Mississippi, or other parts of the South, or Denver, San Francisco, or Berkeley, you will find projects that are helping the handicapped, that are helping the poor to organize—a terrible word, imagine helping the poor to organize, asking for decent utility rates, asking for decent supermarkets in their areas, learning how to buy food, to stretch their budgets, helping senior citizens, helping people. I think one of the outrageous projects mentioned was a tool-lending library or something like that, where you could go in and borrow tools, where the people in that area did not have enough tools to accomplish a building to save the inner cities, to help rural farmers, give them the technology they need. So why not knock off the cocktail-party talk about this agency.

Why do we not look at the record of the hours we had, where as the gentleman from Florida (Mr. STACK) pointed out, we had five allegations that people had not done something properly. I think in three of those ACTION took action against these individuals before any Federal investigation. We did not find any money misappropriated or misused. We had allegation after allegation that was never substantiated. So I think before we condemn this, that if other people feel as the gentlewoman from New Jersey does, they really ought to look at the facts, at the local programs where ACTION and VISTA and the Urban Grant programs, the Neighborhood Grant programs, are helping hundreds of thousands of people have a better life in this country and are giving thousands of volunteers meaningful work to do to help their fellow man in this country and are bringing back the spirit we need.

Do not forget, what we are dealing with here also is an agency that was almost totally destroyed in a systematic fashion by the previous administration, so now we have started to invite people to come back to this agency, to give their hearts, to give their technology, to give their ability to the country and to reinvest it with people who so dearly need it and all of these naive infantile training manuals, all of which were terminated, all of which were made by people I think who have a very unrealistic view of the world and what can be done; but the fact of the matter is that those volunteers who were trained are doing things for this country on such little money that nobody in this room could live to do what they are doing.

Mr. KRAMER. Mr. Chairman, I yield myself 2 minutes.

In brief response to the eloquent remarks of the gentleman from California, with which I basically agree, I think the agency does serve and can serve a very useful purpose. I believe it can help people out of a cycle of poverty and help them to lead better lives. I support that concept and that philosophy with the agency; but where I draw the line, and the amendments that we will be offering over here are directed solely in that direction, what is at issue here and is the utilization of taxpayers moneys, moneys collected from all the citizens of the United States, to advocate the cause of one group of citizens, to change laws, to change regulations, to change elected officials.

I feel that as long as the agency is not involved in that type of activity, it is doing what we basically wanted it to do and hoped it would do when we set it out in statute and defined its role in American life; so we simply want to allow the good to continue with these amendments, but preclude the opportunity for abuse. There have been some abuses. The agency's own audits show it. There have been instances of involvement in political activity, in election campaigns, in union organizing. That is wrong. It is an improper role for the agency, and the amendments which we will offer will be aimed at simply stopping that without stopping anything else.

Mr. Chairman, I yield back the remainder of my time and the remaining time of the minority.

Mr. SIMON. Mr. Chairman, I yield myself such time as I may consume. I shall be very brief.

I wish my colleague, the gentlewoman from New Jersey were here right now. If there are those who for one reason or another believe that the head of this agency has not used good judgment, as the gentlewoman suggests, then it seems to me the right thing to do is to go to the administration and tell those in charge that this is the wrong person to head that administration, but do not take it out on the poor people, the poor people who are really being helped by this agency.

When we get my colleague, the gentleman from Colorado, and my colleague, the gentleman from California, agreeing that this agency is doing some excellent, outstanding work, and I do not think anyone who visits it at the grassroots level can come to any other conclusion, then it seems to me we are imprudent, unwise, and not doing the responsible thing by saying we are just going to vote against the entire agency.

I would point out in partial response to the gentleman from Colorado who mentioned these training manuals, for example, the Midwest Academy, and they testified before our subcommittee, I think those of us who heard them were impressed by the job they are doing; but this particular training manual was written by someone who obviously did not know what that person really was saying or doing.

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It was caught by the ACTION agency. That is how we found out about it. It was not that somebody brought it to our attention; it was discovered by the ACTION agency, and they halted the use of that particular training manual.

Statements taken out of context and then associated with ACTION are easily misleading. We could do the same thing by saying, "You're a Member of Congress. This is what a Member of Congress has said. Therefore, we associate you with that particular remark." I think all of us would find some discomfort if we were associated with every remark made by every Member of Congress.

Finally, Mr. Chairman, I would point out that there is no project that goes into any State that does not have the approval of the Governor of that State. The Governors of these States are practical men and women who understand what is going on in their States, and I think they will take a good, practical look at any project that needs approval.

If I may, Mr. Chairman, I want to commend my colleague, the gentleman from Colorado (Mr. KRAMER), with whom I have worked on amendments in subcommittee and committee, and I commend also my colleague, the gentleman from Ohio (Mr. ASHBROOK), with whom I have worked on some amendments.

I think, as far as the major obstacle that was of concern to some people is concerned, we have that particular obstacle worked out. There will still be some amendments in controversy, but the major problem is, I think, now behind us.

● Mr. BIAGGI. Mr. Chairman, it was almost 20 years ago when President John F. Kennedy struck a responsive chord in the hearts of Americans when he said:

> Ask not what your country can do for you but what you can do for your country.

These words and a series of subsequent legislative efforts through several administrations formulated a new American commitment to volunteer service.

As we end the 1970's we embark on another effort—to extend authorizations for the ACTION agency which since 1973 has been the single Federal administrative body for domestic volunteer service. The legislation we have before us today is absolutely vital for the future of this agency. The continuing resolution under which ACTION has been struggling expired last Sunday. If we fail to act—then ACTION funding levels will be established at fiscal year 1978 levels which would spell simple disaster for the programs, personnel, and services provided by ACTION.

Let us examine one practical program example. The Volunteers in Service to America program (VISTA) has not had a new authorization since 1977. If another continuing resolution is adopted—the following will occur in 1980. One in four VISTA projects would receive no or drastically reduced funds. Further, the number of volunteers would drop by 18 percent.

I believe the VISTA program serves an important purpose. In my home State of New York, we have some 50 VISTA projects including some in my district. There are some 700 VISTA volunteers either serving in New York or from New York. They do invaluable work from helping senior citizens victimized by crime to providing tutoring for illiterate children and adults. They serve all races, classes, and income class. The volunteers themselves are varied but totally dedicated to service.

The programs in New York and the rest of the Nation under VISTA should be continued and expanded. They should not be consumed by inflation for the loss would far transcend merely economics.

Let me address another portion of this bill—a creation of a new Urban Volunteer Corps. This has generated a considerable amount of controversy for reasons that escape me. The bill establishes the Corps in two capacities. The first is the providing of volunteers to offer technical and management assistance to neighborhood groups, volunteer projects and the elderly. The second part of the UVC would be the good neighbor fund which would provide startup grants to neighborhood groups for community betterment projects.

The fact is there are some 22,000 neighborhood groups around the Nation formed by people seeking to improve their immediate area of habitation. These in most instances are selfless individuals who band together for the good of the neighborhood. The prevelance of neighborhood groups in our cities is especially strong and was a main motivating factor in our calling for the Urban Volunteer Corps.

One final thought of the Corps. President Carter more than 18 months ago made a historic speech laying down the foundation for a new and desperately needed national urban policy. Circumstances and regrettable congressional actions or inactions have gutted practically the whole proposal. The Urban Volunteer Corps is a segment of the national urban policy. It can be a valuable starting point from which to build and deserves passage.

At this point in the RECORD I wish to insert an example of how funds from the good neighbor fund could be used.

ELDERLY ANTIVICTIMIZATION THROUGH THE GOOD NEIGHBOR FUND

> The elderly are especially vulnerable to criminal abuse. Their ability to physically escape or resist attack is limited and often there are not even friends or family to contact in case of emergency. Constrained by limited income and fear of criminal attack, their lives are too often ones of hopelessness and isolation.
>
> Seeing these problems and desiring to do something to alleviate them, a few people began to organize a campaign to bring the elderly out of their isolation and involve them in changing their environment. Publicity efforts, educational seminars on such topics as victimization prevention and financial planning, and a 24-hour telephone hotline were planned. The problem, of course, was funding.
>
> A Good Neighbor Fund grant could aid such community efforts by providing money for projectors, phones, and materials for posters, and a newsletter. Anti-victimization aids, such as whistles, flashlights and a phone reassurance system could be purchased with a GNF grant that would enable elderly persons to overcome their isolation and participate more fully in community activities.

Mr. Chairman, this is good legislation and you are to be commended for the exhaustive amount of work you did in terms of hearings to emerge with this final product. It should be noted that I too have had my differences with the current leadership of ACTION. A case in point was a battle which took place during last year's consideration of legislation extending ACTION's control over the Older Americans Act volunteer programs. I was disturbed over the agency's failure to appeal an OMB cut in the RSVP program. I made my voice heard and have been impressed by the quick learning of Sam Brown in this and other areas in need of reform.

However one fact we should keep in mind during our consideration—it is the people who make up the ACTION volunteers—the men, women and children, of all races and denominations—who we should respond to today. We should not let ideological differences between personalities supercede our rightful activities to provide new and increased authorizations for this program. On the average—for every $1 spent on an ACTION volunteer—$6 in services are provided in return. How many other Federal programs measure up to that standard Think about that as we consider this bill today and let that be your reason for supporting H.R. 2859.●

● Mrs. SCHROEDER. Mr. Chairman, today I would like to address the responsibility we have in securing the ongoing good work of the ACTION agency. Because of our failure to enact authorizing legislation for fiscal year 1979, all domestic volunteer programs have been continued at the fiscal year 1978 appropriated budget level. The seriousness of this situation is exemplified by cutbacks in the Volunteers in Service to America (VISTA) program. I do not think these cuts can be justified, especially in light of VISTA's record of extraordinarily fine work.

For myself, I would like to speak on behalf of the VISTA programs in the State of Colorado. There are 15 VISTA projects in Colorado and 115 VISTA volunteers serving in the State. One program I would like to highlight is the Colorado Congress of Senior Organizations (CCSO).

The Colorado Congress of Senior Organizations has helped organize county and area agency councils, has assessed needs and developed resource directories. In November of 1974, under the sponsorship of CCSO, program for local service (PLS) was funded by ACTION. This program stresses the concept of senior serving seniors—applications for the program were only accepted from individuals 55 years and older. A reason cited for the success of the program was the maturity level and sense of responsibility exemplified by the volunteers.

Underpaid and often overworked, the PLS volunteers have contributed to an end result that is immeasurable. One concrete example is a volunteer who, by a network of senior aides, recruited more than 1,000 community volunteers over a 4-year period. Some volunteers have contributed over 1,000 hours of time and effort. In terms of money, I am sure the $1,400,000 granted by ACTION over the 5-year period has been returned many times over. But how can you calculate benefits to the spirit and to the body? How much is a life worth? And how much is a set of teeth worth--beyond the initial $250?

Fifteen percent of VISTA volunteers are elderly. We are talking about programs that are for seniors and by seniors. We are talking about programs for seniors by dedicated volunteers. And we are talking about programs where the seniors themselves are using their talents, expertise, and experience to assist children in hospitals or children who need tutoring. In Denver, we even have a senior in a nursing home grading papers for a local school system.

There are so many other projects that could be mentioned here, but I think I have made my point. Tightening ACTION's purse strings will short-change the elderly, children, and others in need. To turn our backs on these people in the name of "fiscal responsibility" would be the height of human irresponsibility.●

Mr. SIMON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from Illinois (Mr. SIMON) yields back the balance of his time.

All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2859

SHORT TITLE

SECTION 1. This Act may be cited as the "Domestic Volunteer Service Act Amendments of 1979".

ASSIGNMENT OF VOLUNTEERS

SEC. 2. The second sentence of section 103(b) of the Domestic Volunteer Service Act of 1973 (hereinafter in this Act referred to as the "Act") is amended by striking out "Prior to" and inserting in lieu thereof "Not later than 30 days after".

SUPPORT SERVICE

SEC. 3. The first sentence of section 105(a)(2) of the Act is amended to read as follows: "Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.".

LIMITATION ON USE OF FUNDS FOR CERTAIN GRANTS

SEC. 4. Section 108 of the Act is amended by striking out "20 per centum" and inserting in lieu thereof "18 percent".

SERVICE IN UNIVERSITY YEAR FOR ACTION PROGRAMS

SEC. 5. Section 113(a) of the Act is amended by striking out "and" and inserting in lieu thereof the following: "except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year. Volunteers serving under this part".

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 6. (a) Section 114(a) of the Act is amended to read as follows:

"SEC. 114. (a)(1) In addition to the authority of the Director to provide for the operation of the University Year for ACTION program under this part, the Director is authorized to provide technical assistance and financial support to service-learning programs which—

"(A) assigns volunteers to activities which meet the requirements of subsections (a) and (c) of section 103;

"(B) carry out the purposes of this part; and

"(C) provide opportunities for the enhancement of the personal, academic, and career growth of the volunteers involved.

"(2) The Director is authorized to provide such assistance and support through the establishment of a national office for service learning or in any other manner which the Director considers appropriate.".

(b) Section 114(c) of the Act is amended to read as follows:

"(c) The Director may provide volunteers serving under this section such support and allowances as the Director determines to be necessary to permit such volunteers to carry out their assignments.".

SPECIAL VOLUNTEER PROGRAMS

SEC. 7. Section 122(c) of the Act is amended to read as follows:

"(c)(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of 20 hours or more per week for 26 or more consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of section 104(c) and section 105(b) to the service of volunteers enrolled for full-time service under this part.

"(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of one year or more under this part—

"(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

"(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of sections 103(b) relating to low-income community volunteers, 104(d), and 105(a), to the extent such provisions are applied to the service of volunteers enrolled under such part A.".

URBAN VOLUNTEER PROGRAMS

SEC. 8. (a) Title I of the Act is amended by adding at the end thereof the following new part:

"PART D—URBAN VOLUNTEER PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 131. It shall be the purpose of this part—

"(1) to strengthen and encourage the involvement of individuals, neighborhood groups, voluntary associations, labor organizations, local business enterprises, local governments, and other local entities in neighborhood revitalization and person-to-person service activities in distressed neighborhoods by providing for urban volunteer programs which build on the capacity of neighborhood groups through the use of part-time volunteers to assist in efforts to reverse deterioration of, and improve the quality of life, in their neighborhoods (including efforts to provide necessary assistance to older persons and handicapped persons residing in such neighborhoods), particularly in situations where the application of human talent and dedication may assist in the solution of poverty-related problems and the problems of older persons and handicapped persons; and

"(2) to provide appropriate authorities and responsibilities designed to assist in the development and coordination of such programs.

"AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

"SEC. 132. (a) The Director is authorized—

"(1) to make grants to lead agencies designated by the Director in accordance with section 133 to establish and operate Urban Volunteer Corps programs consisting of projects and activities specified in subsection (b)(1)(A);

"(2) to make grants to public agencies and private nonprofit organizations (including lead agencies) to establish and operate Urban Volunteer Corps programs consisting of projects and activities specified in subsection (b)(1)(B); and

"(3) to make grants to public agencies and private nonprofit organizations (either directly or through lead agencies under subsection (e)(2)) for the operation of Good Neighbor Fund projects under subsection (b)(2).

"(b)(1)(A) A lead agency may establish and operate Urban Volunteer Corps programs under this part which may consist of—

"(i) projects in urban areas which attempt to match specific needs of local governments and neighborhood groups (including needs relating to the provision of services to older persons and handicapped persons) with volunteers who possess needed skills, on a request-for-service basis; and

"(ii) subject to the provisions of subsection (g), development of a resource bank of locally recruited volunteers available to provide assistance within an urban area.

"(B) Any public agency or private nonprofit organization (including a lead agency) may establish Urban Volunteer Corps programs under this part which may consist of—

"(i) projects designed to provide personal and group financial counseling to low-income and fixed-income individuals, particularly older persons with low incomes or fixed incomes, utilizing volunteers with specialized or technical expertise; and

"(ii) projects utilizing volunteers to reduce the necessity of institutionalization and ameliorate the residential isolation of older persons, handicapped persons, and other similarly isolated persons.

"(2) Any Good Neighbor Fund grant made by the Director shall not exceed $15,000. The number of Good Neighbor Fund grants which exceed $5,000 may not comprise more than 20 percent of the total number of such grants made by the Director for any fiscal year. Any such grant shall be used by the agency or organization receiving such grant to assist neighborhoods located in the urban area involved to—

"(A) reimburse the out-of-pocket expenses of volunteers working on neighborhood betterment projects (including projects to provide necessary assistance to older persons and handicapped persons); and

"(B) provide volunteers and neighborhood groups with the materials, tools, supplies, and administrative support necessary to carry out neighborhood betterment projects (including projects to provide necessary assistance to older persons and handicapped persons).

"(c)(1) Projects and activities of the Urban Volunteer Corps under subsection (b)(1)(A) shall be administered in an urban area by a lead agency, which shall be designated by the Director in accordance with section 133 after the submission of an application by such agency which is approved by the Director under subsection (e).

"(2)(A) Any public agency or private nonprofit corporation which desires to be designated as a lead agency by the Director shall certify to the Director that such designation has been approved by the executive authority of each jurisdiction in the urban area involved which would be substantially affected by the activities of such agency or corporation if it were designated to be a lead agency.

"(B) The Director, before designating any such agency or corporation as a lead agency, shall take such action as may be necessary to assure that the executive authority of each jurisdiction specified in subparagraph (A) has been given an opportunity to determine whether to approve such designation.

"(d)(1) In any case in which any agency or organization intends to—

"(A) carry out any Urban Volunteer Corps project or activity under subsection (b)(1)(B); or

"(B) operate a Good Neighbor Fund project under subsection (b)(2);

such agency or organization shall provide notice of such intention to the executive authority of each jurisdiction in the urban area involved which would be substantially affected by such project or activity. Such agency or organization shall not have any authority to carry out such project or activity if such project or activity is not approved by such executive authority, through the submission of a written notice of approval which shall be included in the application submitted by such agency or organization under subsection (e)(1).

"(2) The written notice of approval submitted by an executive authority under paragraph (1) shall include a specific statement that such executive authority has reviewed the information required to be included in the application involved by subparagraph (A) through subparagraph (D) of subsection (e)(1).

"(e)(1) Any lead agency, and any other public agency or private nonprofit organization which desires to receive a grant from the Director under this section, shall submit an application to the Director in such form, and at such time, as the Director may require. Such application shall—

"(A) describe the nature of the project to be carried out under such grant, together with an estimate of the cost of such project;

"(B) specify the area in which such project will be carried out;

"(C) include an estimate of the duration of such project; and

"(D) include such other information as the Director may require.

"(2) If any public agency or private nonprofit organization desires to receive a grant from the Director for the operation of a Good Neighbor Fund project under subsection (b)(2), such agency or organization may (to the extent authorized by the Director) request the lead agency for the urban area involved to submit an application under paragraph (1) on behalf of such agency or organization. If the Director approves such application, then the Director shall make funds under the grant involved directly available to such agency or organization.

"(f)(1) The Director is authorized to make grants to public agencies or private nonprofit organizations to carry out programs under subsection (b) in areas other than urban areas in accordance with the provisions of this subsection.

"(2) Any agency or organization specified in paragraph (1) which desires to receive a grant from the Director under this subsection may submit an application to the Director under subsection (e)(1). The Director may approve such application if the Director determines that—

"(A) the problems and needs of the residents of the area involved are similar to the problems and needs of residents of urban areas which are addressed by the Urban Volunteer Corps programs and Good Neighbor Fund programs established in this section; and

"(B) the programs which the applicant proposes to carry out under subsection (b) are an effective means of addressing such problems and needs.

"(3) Any agency or organization receiving funds under this subsection shall be subject to the same rules and requirements as agencies or organizations receiving funds under subsection (a).

"(g) Any information compiled in connection with the development and operation of a volunteer resource bank under subsection (b)(1)(A)(ii) may be used only for the purpose of providing volunteer services and assistance in accordance with this section or for the purpose of providing similar volunteer services and assistance designed to carry out the purpose of this part. No person shall have any authority to disseminate or otherwise use such information for any other purpose.

"(h)(1) The Director shall establish by rule specific criteria relating to the types of materials, tools, and supplies which may be obtained through a Good Neighbor Fund grant under subsection (b)(2)(B), and the purposes for which such materials, tools, and supplies may be used. Such criteria shall include a requirement that—

"(A) any agency or organization applying for a Good Neighbor Fund grant shall include in its application submitted under subsection (e)(1) a certification that reasonable efforts have been made to secure such materials, tools, and supplies through voluntary contributions, and a description of the nature of such efforts; and

"(B) subject to the provisions of paragraph (2), any materials, tools, and supplies which are obtained through the use of Federal funds made available under this part shall be disposed of in accordance with rules, requirements, and guidelines established by the Director of the Office of Management and Budget.

"(2)(A) The Director of the ACTION Agency shall require that the title to any nonexpendable personal property which is obtained through a Good Neighbor Fund grant and which has a unit acquisition cost of $1,000 or more, shall be transferred to the Federal Government. Standards established by the Director of the Office of Management and Budget shall apply to any such transfer.

"(B) For purposes of this paragraph, the term 'nonexpendable personal property' shall have the meaning given it by the Director of the Office of Management and Budget.

"(i) The Director shall not have any authority to establish any minimum population requirements with respect to urban areas which may be served by programs and projects established and operated under this part.

"DESIGNATION OF LEAD AGENCIES

"SEC. 133. (a) The Director shall, after consultation with the Director of the Community Services Administration and the Secretary of Housing and Urban Development, establish by rule requirements applicable to the designation of lead agencies by the Director under section 132. Such requirements shall—

"(1) provide that special consideration be given to organizations which have demonstrated their effectiveness in serving persons in distressed urban areas, in mobilizing volunteers, in coordinating volunteer assistance projects, and in working with other public and private agencies and voluntary organizations;

"(2) provide that an organization may not be designated as a lead agency if—

"(A) a substantial part of its activity is attempting to influence legislation; or

"(B) such organization participates or intervenes, directly or indirectly, in any political campaign on behalf of, or in opposition to, any candidate for public office; and

"(3) include an application process which—

"(A) includes public announcement and individual notice to community action agencies designated by the Director of the Community Services Administration under section 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) of the criteria and process for the selection of lead agencies;

"(B) assures coordination of the activities of lead agencies with existing programs, particularly programs administered by community action agencies, to prevent duplication of effort; and

"(C) requires that any organization seeking to be designated as a lead agency shall have been in existence for at least one year before such designation.

"(b) For purposes of this section, the term 'legislation' includes action by the Congress, by a State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

"ANNUAL REPORTS

"SEC. 134. The Director shall submit a report regarding the administration of this part to the President and to each House of the Congress as soon as practicable after the end of each fiscal year. Each such report shall—

"(1) include a detailed statement of activities carried out under each grant or contract made by the Director during the fiscal year involved; and

"(2) list the name and address of each grantee and contractor under this part during such fiscal year.

"REGULATIONS

"SEC. 135. The Director, after consultation with the Director of the Community Services Administration, shall prescribe such regulations as may be necessary to carry out the provisions of this part.

"DEFINITIONS

"SEC. 136. For purposes of this part—

"(1) the term 'executive authority' means the mayor of a local government or, in the case of any jurisdiction which does not elect a mayor, the council or other elected official or governing body of such jurisdiction;

"(2) the term 'lead agency' means any public agency or private nonprofit corporation which is designated by the Director to establish and operate Urban Volunteer Corps programs in a particular urban area;

"(3) the term 'local government' means any unit of general purpose local government in any State;

"(4) the term 'neighborhood' means any contiguous area which is comprised of residents who have common interests and problems, whether or not such contiguous area is located within the jurisdiction of more than one local government; and

"(5) the term 'neighborhood group' means any private nonprofit organization which utilizes volunteers in distressed neighborhoods for the purpose of reversing the deterioration of, and improving the quality of life in, such neighborhoods.".

(b) The table of contents for the Act is amended by inserting after the item relating to section 123 the following new items:

"PART D—URBAN VOLUNTEER PROGRAMS

"Sec. 131. Statement of purpose.
"Sec. 132. Authority to establish and operate programs.
"Sec. 133. Designation of lead agencies.
"Sec. 134. Annual reports.
"Sec. 135. Regulations.
"Sec. 136. Definitions.".

PROHIBITION OF USE OF FUNDS FOR CERTAIN LOBBYING ACTIVITIES

"Sec. 9. Section 403(b) of the Act is amended—

(1) by striking out "a manner supporting or resulting in the identification of such programs with" and inserting in lieu thereof "any manner for the purpose of providing assistance for";

(2) by inserting after "party office," the following: "(2) any partisan activity carried out in connection with consideration of any Acts, bills, resolutions, or similar legislation by the Congress, any State legislature, any local council, or similar governing body, or in connection with any referendum, initiative, constitutional amendment, or similar procedure,"; and

(3) by striking out "(2)" and inserting in lieu thereof "(3)", and by striking out "(3)" and inserting in lieu thereof "(4)".

RECEIPT OF ASSISTANCE OR SERVICES

Sec. 10. (a) Section 404(g) of the Act is amended by inserting "(1)" after "(g)", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.".

(b) The amendments made in subsection (a) shall take effect on October 1, 1979.

COORDINATION WITH OTHER PROGRAMS

Sec. 11. Section 410 of the Act is amended by adding at the end thereof the following new sentence: "The Director, in consultation with the heads of appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provision for the listing and description of volunteer work on employment application forms.".

APPLICATION OF FEDERAL LAW

Sec. 12. (a) Section 415(b) of the Act is amended—

(1) by striking out "in programs under title I of this Act for periods of service of at least one year" and inserting in lieu thereof "as volunteers for periods of full-time service for eight or more consecutive weeks, or, to the extent the Director shall prescribe by regulation, for periods of part-time service of not less than 20 hours per week for 26 or more consecutive weeks, under title I of this Act";

(2) by striking out "and" at the end of paragraph (3) thereof;

(3) in paragraph (4)(A) thereof, by striking out "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-7 employee," and inserting in lieu thereof "the annual rate of pay of a volunteer enrolled for a period of full-time service shall be deemed to be that received under the entrance salary for a grade GS-7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service shall be deemed to be the entrance salary of a grade GS-2 employee,"; and

(4) by inserting before the period at the end thereof the following: ", and (5) be deemed employees of the United States for purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes)".

(b) Section 415 of the Act is amended by adding at the end thereof the following new subsection:

"(f)(1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code; or

"(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28;

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, paramedical personnel (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel in furnishing medical care or treatment while in the exercise of the duties of any such person as a full-time volunteer enrolled under title I of this Act shall, beginning on the effective date of this subsection, be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or the estate of such person) whose action or omission gave rise to such claim.

"(2)(A) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or the estate of such person) for any such damage or injury.

"(B) Any such person against whom such civil action or proceeding is brought shall deliver, within such time after the date of service or knowledge of service, as determined by the Attorney General, all process served upon such person or an attested true copy of such process to the immediate supervisor of such person or to any other individual designated by the Director to receive such process or copy. The supervisor or other individual shall promptly furnish copies of the pleading and process to the United States attorney for the district in which the proceeding is brought and to the Attorney General.

"(3)(A) Upon a certification by the Attorney General that the defendant was acting in the scope of the volunteer assignment of the defendant at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division in which it is pending. The proceeding shall be deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all reference thereto.

"(B) After such removal under subparagraph (A), the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States.

"(C) If a United States district court determines on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of the volunteer assignment of such volunteer, then the case shall be remanded to the State court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.".

NONDISCRIMINATION PROVISIONS

Sec. 13. (a) Section 417(a) of the Act is amended—

(1) by inserting "handicap," after "age,"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), any project or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.".

(b) Section 417 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1974 (42 U.S.C. 2000e–16), in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers and to volunteers enrolled by the ACTION agency for service under title I of this Act. Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

"(2) Not later than 90 days after the effective date of this subsection, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1974 (42 U.S.C. 2000e–16) and with the Secretary of Health, Education, and Welfare and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)), with regard to the application of policies set forth in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and not later than 90 days after the Secretary of Health, Education, and Welfare publishes final general regulations to carry out the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote the enrollment and service of persons as volunteers without regard to the discriminatory factors prohibited in such laws.".

REDUCTION OF PAPERWORK

Sec. 14. (a) Title IV of the Act is amended by adding at the end thereof the following new section:

"REDUCTION OF PAPERWORK

"Sec. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. In accordance with chapter 35 of title 44, United States Code, the Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act."

(b) The table of contents for the Act is amended by inserting after the item relating to section 422 the following new item:

"Sec. 423. Reduction of paperwork.".

TERMINATION OF PROJECTS

Sec. 15. (a) Title IV of the Act, as amended in section 14, is further amended by adding at the end thereof the following new section:

"TERMINATION OF PROJECTS

"Sec. 424. (a) The Director shall not renew any contract or grant to carry out any project under this Act upon the expiration of such contract or grant if the chief executive officer of the State in which such project is being carried out furnishes written notice to the Director (before the expiration of such contract or grant specifying that such chief executive officer does not concur in the renewal of such contract or grant.

"(b)(1) If the executive authority of any local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall review such statement and take it into account in determining whether to review such contract or grant.

"(2) For purposes of this subsection, the terms 'executive authority' and 'local government' have the meanings given them in section 136.".

(b) The table of contents for the Act, as amended in section 14, is further amended by inserting after the item relating to section 423 the following new item:

"Sec. 424. Termination of projects.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 16. (a)(1) Section 501(a) of the Act is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2)(A) In each fiscal year specified in paragraph (1), of the sums appropriated under this subsection, not less than $873,000 shall be available for the operation of service-learning programs under section 114.

"(B) Of the sums appropriated under this subsection for the fiscal year ending September 30, 1980, not less than $3,200,000 shall be available for the operation of the University Year for ACTION program under part B of title I. Of the sums appropriated under this subsection for the fiscal year ending September 30, 1981, not less than $2,200,000 shall be available for the operation of such program.".

(2) The first sentence of section 501(a)(1) of the Act, as so redesignated in paragraph (1), is amended—

(A) by striking out "and" after "June 30, 1974," and by inserting after "September 30, 1978," the following: "$42,415,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981,"; and

(B) by inserting "(other than part D of such title)" before the period at the end thereof.

(3) Section 501 of the Act is amended by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) There are authorized to be appropriated $12,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981, for the purpose of carrying out programs under part D of title I of this Act.".

(4) Section 501(c) of the Act, as so redesignated in paragraph (3), is amended by inserting after "this Act" the following: "(other than sums authorized to be appropriated for part D of title I of this Act)".

(b) Section 504 of the Act is amended by striking out "and" after "September 30, 1977,", and by inserting "September 30, 1980, and September 30, 1981," after "September 30, 1978,".

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 17. (a)(1) The table of contents for the Act is amended by striking out the items relating to title III, section 301, section 302, and section 503.

(2) The amendments made in paragraph (1) shall take effect on October 1, 1979.

(b)(1)(A) The heading for title II of the Act is amended to read as follows:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS".

(B) The table of contents for the Act is amended by striking out the item relating to title II and inserting in lieu thereof the following new item:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS".

(2) Section 221 of the Act is amended by striking out "Office of Economic Opportunity" and inserting in lieu thereof "Community Services Administration".

(c) Section 403(b) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(d) Section 415(c)(2) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(e) Section 418 of the Act is amended by striking out "titles II and III of this Act" and inserting in lieu thereof "part D of title I of this Act, or pursuant to titles II and III of this Act,".

REPORT RELATING TO RURAL PROGRAMS

Sec. 18. (a) The Director of the ACTION Agency shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives specifying the special needs and circumstances which the Director intends to address in designing programs under the Act for implementation in rural areas. Such report shall include a detailed statement of the manner in which the Director intends to address such needs and circumstances, together with a timetable for designing and implementing such programs.

(b) The report required in subsection (a) shall be submitted not later than February 1, 1980.

AMENDMENT TO OTHER LAW

Sec. 19. Section 5(b) of the Act entitled "An Act to amend further the Peace Corps Act, and for other purposes", approved November 14, 1975 (Public Law 94–130; 89 Stat. 684), is amended by striking out the last sentence thereof.

LIMITATION ON PAYMENT AUTHORITY

Sec. 20. Notwithstanding any other provision of the Act, any authority to enter into contracts or to make payments under the Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts in advance.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENTS OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. KRAMER: Page 20, strike out section 8, beginning on line 1 and ending on page 32, immediately before line 4.

And redesignate the following sections accordingly.

Page 40, beginning on line 9, strike out "section 14" and insert in lieu thereof "section 13".

Page 41, line 8, strike out "section 14" and insert in lieu thereof "section 13".

Page 42, beginning on line 2, strike out the dash and all that follows through line 21, and insert in lieu thereof the following: By striking out "and" after "June 30, 1974," and by inserting after "September 30, 1978," the following: "$42,415,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981,".

Mr. KRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. KRAMER. Mr. Chairman, I will be brief. These are the amendments we alluded to during our opening remarks.

The amendments strike the new urban volunteer program which is authorized at a $12 million funding level as it came out of committee in the bill. We feel that in a time of fiscal restraint and in a time of widening deficits, and in light of overall conditions and the allegations that have been made about the management of the agency, now is not a good time for a new spending initiative which is indeed substantial in nature.

If the spending initiative were approved as written in the bill, it would provide a 44-percent increase over existing authorization levels and a 63-percent increase over the existing funding levels that are contained in this year's authorization and appropriations bills.

But, even more important, all the authority that is contained in this program, whether it be the technical management assistance, whether it be the fixed income consumer concept, or whether it be the "good neighbor" concept, is already present, and these are things that are being done by the agency. When officials from the agency, including Mr. Brown, were asked during the subcommittee hearings to give us a list of those things that the agency would now be authorized to do with this new initiative that they were precluded from doing under existing law, no such list was ever forthcoming. The General Counsel's Office of the agency has itself stated, when put to the test, that literally the agency can indeed do all these things now and is in fact doing all these things.

So we have submitted that, although couched in terms of new initiatives, what this really is all about is that it is a new vehicle, a new mechanism, a new tool for additional funding and authorization.

What this amendment does is to simply strike not the ability of the agency to perform these tasks but simply the new money for that agency in so performing those tasks. In light of the track record that we have talked about in our opening remarks and in light of our increasing deficits, we feel this is a reasonable and proper amendment, and I hope that it will be approved.

Mr. Chairman, it is our understanding that the distinguished subcommittee chairman, the gentleman from Illinois (Mr. SIMON), will offer a substitute which does indeed do very many of the things this amendment does or attempts to do. That is perfectly acceptable to us, and I commend the gentleman from Illinois again for his spirit of cooperation in working on this problem with us.

AMENDMENTS OFFERED BY MR. SIMON AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. KRAMER

Mr. SIMON. Mr. Chairman, I offer amendments as a substitute for the amendments.

The Clerk read as follows:

Amendments offered by Mr. SIMON as a substitute for the amendments offered by Mr. KRAMER: Page 18, after line 19, insert the following:

SEC. 7. (a) Section 122(a) of the Act is amended—

(1) by striking out "and" the first place it appears therein; and

(2) by inserting after "abusers" the following: "; programs to provide technical and management assistance and to provide volunteers and neighborhood organizations with the materials, tools, supplies, and administrative support necessary to carry out community betterment projects in urban areas, and other areas affected by problems of stress and deterioration similar to those found in urban areas; financial and consumer counseling for low-income and fixed-income persons; and a program to reduce the necessity of institutionalization and ameliorate the residential isolation of older persons, handicapped persons, and other similarly isolated persons".

Page 18, line 20, strike out "SEC. 7." and insert in lieu thereof "(b)".

Page 20, strike out line 1 and all that follows through page 32, immediately before line 4, and redesignate the following sections (and any references thereto) accordingly.

Page 42, line 2, strike out the dash and all that follows through line 21, and insert in lieu thereof the following: By striking out "and" after "June 30, 1974,", and by inserting after "September 30, 1978," the following: "$42,415,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981,".

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SIMON. Mr. Chairman, these are the substitute amendments that my colleague, the gentleman from Colorado (Mr. KRAMER), has talked about earlier.

While I do not agree with all the gentleman's comments that he has just made here in connection with his amendments, I believe that these substitute amendments are acceptable.

The amendments clearly delineate that the ACTION agency has the authority to do these things but do so without creating this particular new arm. I think that is acceptable to all the Members, and I offer these amendments as a substitute.

Mr. Chairman, I would also like to insert in the RECORD the summary of the response of ACTION to the charges of the Appropriations Subcommittee staff.

I. INTRODUCTION AND SUMMARY RESPONSE TO THE INVESTIGATION REPORT

A. INTRODUCTION

This document was prepared in response to a draft report entitled "A Report to the Committee on Appropriations, U.S. House of Representatives on the Policies, Procedures, and Practices of ACTION."

ACTION, the federal volunteer agency, supports the work of more than 280,000 Volunteers who help their communities and the poor in all 50 states and in 63 countries overseas through the Peace Corps. ACTION has a current annual budget of 214 million dollars.

250,000 of ACTION's domestic volunteers are elderly and work through ACTION's Retired Senior Citizen Volunteer Program. Another 19,000 elderly low-income Americans participate in the Senior Companion Program and Foster Grandparent Program. There are more than 4300 VISTA Volunteers working through 730 sponsoring organizations and 12 National Grantees who reach approximately one out of every twenty poor people in the United States. Over 5700 of ACTION's volunteers are members of the Peace Corps.

B. SUMMARY RESPONSE TO THE INVESTIGATION REPORT

Background

In March of 1978, Congressman Robert H. Michel asked Congressman Daniel J. Flood, Chairman of the Labor-HEW Appropriations Subcommittee, to request Congressman George H. Mahon, Chairman of the House Appropriations Committee to order a review by the Committee investigative staff of the policies, practices, and procedures of ACTION Agency. The investigative staff focused its review of the Agency procedures in the following areas:

(1) Personnel practices;
(2) Reorganization;
(3) VISTA National Grants;
(4) Procurement;
(5) Financial Management;
(6) Role of Inspector General.

The Committee report contained no findings of ethical violations, no fraudulent use of funds, or other illegal activity by Agency staff. This section presents the summary response to the investigation report. Sections II through VII follow the format of the investigation report and present the Agency response immediately following the quoted investigation report finding. The page number at the end of each such finding corresponds to the page number of the finding in the investigation report.

1. Personnel policies

The report recommends adoption of a firm written policy to control foreign service appointments below the Foreign Service Reserve (FSR) 2 level in support offices. The Agency has such a firm written policy. All such positions have been competed since 1975 in accordance with ACTION's Union Contract and its merit promotion plan. The Civil Service Commission has acknowledged ACTION's statutory right to use Foreign Service hiring authorities. All such appointments support Peace Corps. The circumstances in which these authorities can be used is set forth in the Foreign Service Act. ACTION does not believe additional clarification is needed.

The investigators found that the Agency is in full compliance with Civil Service Commission (now Office of Personnel Management) policies in determining qualifications of job applicants based on knowledge, skills, and abilities rather than solely on past earnings. This policy has the effect of eliminating past discrimination with respect to pay scales for women and minorities and has the effect of opening Government service to highly qualified individuals whose previous experience had been in state and local governments and nonprofit organizations. The investigators question this established Civil Service Commission practice.

The Agency is in agreement with the finding that compliance with reporting procedures on experts and consultants have not been adequate and that in some instances experts may have been performing staff functions. Measures have been taken to correct both of these problems.

The investigators found that the Agency has increased the number of non-career policy positions by 30 when compared with the final days of the last administration. However, a more appropriate comparison to the first years of the last administration indicates that the Agency presently has 69 fewer non-career positions. Additionally, all non-career, general schedule policy positions have been approved by the Civil Service Commission (now Office of Personnel Management) as necessary and appropriate.

ACTION's use of experts has been prudent. The present administration has reduced by 60% the amount of money expended in 1977 and 1978 for consultants when compared to the amount expended during the first two years of the previous administration.

The staff of the Director's office is comparable with previous administration's. The size of the Director's staff in June 1978 was identical (36) to the size of the Director's staff in June 1974. As of September 30, 1978, 25 individuals were on the Director's staff.

The draft report ignores the fact that the present administration has eliminated abuse of the Foreign Service appointing authority. The Civil Service Commission found consistent and pervasive abuse of the entire personnel system under the previous administration. These abuses have been corrected and systems instituted to ensure that they cannot recur.

2. Reorganization

In the last two years ACTION has reorganized its domestic operation field structure in order to: shift program authority to the state offices and give program offices increased policy and budget authority. In addition the Office of Voluntary Citizen Participation was created. Much of the reorganization effort was undertaken by an agencywide Task Force. The planning process incorporated techniques which are approved by most modern management experts. Use of these planning techniques permitted the Agency to carry out decentralization with minimum disruption of Agency activities and personnel. While the investigative staff questioned the cost of the reorganization, they offered no evidence that it could have been carried out as effectively at lower cost.

Since the reorganization was not completed when the investigative staff finished its review, additional time is necessary before a determination can be made about whether the reorganization will achieve all of its objectives.

3. VISTA National Grants

VISTA, a volunteer anti-poverty program created in 1964, experienced hard times during recent administrations and, in fact, was scheduled for zero funding by the Ford Administration in FY '79. In 1973, Congress rejected attempts by the previous Director of ACTION to move VISTA away from its poverty orientation by reaffirming, in the Domestic Volunteer Service Act, that the mission of VISTA is to concentrate on poverty and poverty-related activities. When the new administration took office in March of 1977, it found a demoralized Agency with a rapidly deteriorating sense of purpose.

To establish VISTA's new priorities, which had been shifted in recent years to having volunteers perform staff and one-to-one service functions, the new administration implemented the National Grants program. The purpose of the grants was to demonstrate not only to the Agency, but to the entire poverty community, that a renewed and expanded approach to fighting poverty could be expected from ACTION in keeping with its Congressional mandate. VISTA, under the present administration, emphasizes the support of communty based efforts which build the capacity of community residents to identify their needs, develop realistic plans to meet those needs and secure the resources to implement their plans. The end goals are to have volunteers leave the community with an established mechanism for continuing the project in the hands of the community residents and to have volunteers participate in breaking the cycle of poverty instead of perpetuating it.

National Grants enable VISTA to:

(1) Program for national impact on issues of concern among poor;

(2) Reach populations of special need;

(3) Develop projects with grassroots groups which ordinarily would not be sophisticated enough to compete for federal funds;

(4) Provide a single, simplified application process for multiple, grassroots projects which have a common program emphasis.

The investigative staff questioned the development of VISTA's National Grant program, which represents 14% of VISTA's overall budget. More than 70% of each grant is used to pay the living expenses and other direct support costs of VISTA volunteers. No part of any National Grant is used to pay overhead expenses of the grantee. These grants, twelve in number, have been awarded to nationally recognized groups which have a proven record of addressing the social and economic conditions at both the regional and national level which impoverish 26 million Americans. Among the activities carried on under these grants are low income food cooperatives; nutrition, education and health projects, and housing and home improvement projects.

In the report, the investigative staff questions whether: (1) National Grants should be awarded on a competitive basis; (2) VISTA meets its Congressional mandate of helping the poor; (3) VISTA volunteers have engaged in prohibited activities; (4) National Grant volunteers are more expensive than traditional VISTA volunteers; and (5) VISTAs are provided adequate training.

Competitive Grants.—There is no legal requirement that grants be competed. In the entire history of ACTION, prior to 1978, no grant had ever been awarded competitively. In January of 1978, two months prior to the signing of an Executive Order by the President encouraging federal agencies to award program grants on a competitive basis, and three months prior to the beginning of the Appropriations staff review, ACTION established a new policy to require competition of all future national grants. At that time, seven National Grants had been awarded and five were in advanced stages of review. No National Grants were awarded except those in process at the time the decision was made to require competition for national grants.

VISTA's Poverty Mandate.—VISTA serves poor people. To the extent that the efforts of VISTA volunteers help other non-poor Americans, the benefit is incidental to this main purpose. A co-op founded and controlled by poor people may have non-poor members. Street lights installed in a slum shine on everyone, rich or poor.

VISTA's anti-poverty mandate is based on the premise that no group of Americans should be stigmatized and cut off from the rest of American society. The cardinal lesson learned in the last 15 years is that the poor can best ameliorate their condition through social and economic cooperation with other segments of the society which are directly affected by the problems which cause and perpetuate poverty. VISTA's success in the last two years, in reaching one out of every twenty people who are impoverished, is directly related to this policy of building coalitions of people rather than segregating the poor.

Volunteer Involvement in Prohibited Activity.—All VISTA volunteers are prohibited by law from participating in partisan or nonpartisan political activity. ACTION strongly enforces these restrictions through training programs to prevent violations and through a thorough monitoring system. All 730 sponsoring organizations and all 12 National Grantees were informed of these prohibitions on political activity and accepted them as a condition of VISTA sponsorship. All VISTA Volunteers are thoroughly instructed regarding these prohibitions during their orientation. In the last two years, ACTION's monitoring system has discovered three instances in which VISTA volunteers were participating in such prohibited activity. All were stopped.

In visiting VISTA sites, the investigators discovered two other incidents in which VISTA volunteers were participating in prohibited activity. These were also stopped. In response to the concerns raised by the Committee staff, ACTION has again given notice to all sponsors and National Grantees regarding the prohibitions on political or labor organizing activity.

Cost of Volunteer Training.—The cost of VISTA volunteers placed with national grantees was approximately $700 more than standard VISTA volunteers—the difference is almost entirely attributable to lengthened and improved training provided to these volunteers.

Adequacy of Volunteer Training.—Standard VISTA volunteers also need better training. In comparison to the training provided Peace Corps Volunteers, VISTA training in the recent past has been cursory. In 1976, standard VISTA volunteers received 2 to 2½ days of orientation. Beginning in 1977, ACTION systematically began to rebuild and strengthen its training programs for VISTA volunteers. The increased training provided National Grant VISTAs was the first step in the development of this new training program.

ACTION's budget for Fiscal Year 1980 includes funds to complete the development of an integrated training program which will add 6 days to the training schedule of standard, as well as National Grant volunteers.

4. Procurement

The report recommends more adequate advance procurement planning in order to provide more lead time to the procurement office. Improvements in planning would, the investigative staff believes, result in improved competition, with resulting benefits to the Government, both in the quality and cost of contractual services. ACTION agrees with the investigators' analysis. The Agency identified this longstanding problem in May 1978. In October 1978, at the beginning of fiscal year 1979, it issued, for the first time, a procurement plan call to all program offices. All program offices are now required to submit schedules of their procurement requirements to the Contracts and Grants Management Division for the ensuing 12 months at the beginning of each fiscal year.

The report also recommends that program staff members be trained in the statutory and regulatory requirements governing federal procurement. ACTION accepts this recommendation. Federal procurement is a complex field. Program officials, as well as contacting personnel, need to be familiar with it to make the procurement process more efficient and to avoid inadvertent improper actions.

5. Financial management

The Accounting System.—Only 62 percent of all federal agencies have had their accounting systems approved by the General Accounting Office (GAO). In August 1978, ACTION became one of them. For the first time in the Agency's history, its accounting system has been approved by GAO.

Obligation of Funds.—On three occasions during the last fiscal year, ACTION was left with no legal authority to obligate funds. ACTION has followed operating procedures that are common to all federal agencies in its restriction of expenditures during these periods. The investigators concluded, however, that contracts and grants were signed, purchase orders executed and new employees hired during a period when the Agency had no legal authority to do so. A substantial portion of the report findings pertain to the obligational of $417,000 by grant or contract during this period. The investigators' conclusion is mistaken with regard to approximately $350,000 cited in the report as improperly obligated. The Agency agrees with the finding of the investigators that several small contracts and leases were executed without authority by Peace Corps Country Directors overseas who were not completely familiar with the appropriations process. All these obligations were subsequently ratified by Act of Congress.

The investigators correctly point out that new employees were hired during these periods. In most cases, a prior commitment had been made to the individuals which had to be honored.

ACTION also agrees with the findings of the investigators that ten ACTION/Peace Corps staff members stayed at Peace Corps staff houses overseas and failed to have their per diem reduced as required when staying in Government leased quarters. The Office of General Counsel has issued a clarifying memorandum and asked GAO for an opinion on how to handle cases in which per diem may have been inappropriately claimed in the past.

6. Role of the Inspector General

The investigators suggest the "possibility" of a conflict of interest in having the Inspector General functions and Equal Employment Opportunity functions in the same office—the Office of Compliance. The suggestion is based on a provision in the new Inspector and Auditor General Act requiring that Inspector General offices be free of program responsibilities.

ACTION is not covered by the Act. Furthermore, the Equal Employment Opportunity Office has no program responsibilities. The potential for a conflict of interest in this arrangement is remote. Any potential or apparent conflict of interest in an investigation of the EEO division would be resolved by assigning a third party within the Agency, reporting to the Director, to conduct the investigation.

The combining of Inspector General and Equal Employment Opportunity functions was made to conserve Agency resources and to avoid duplication of effort by including within one division the various monitoring and compliance functions of the Agency. The Inspector General is afforded adequate independence under the present structure. The Director of the Office of Compliance is part of the Executive Staff of the Agency and reports directly to the Director of ACTION.

C. CONCLUSION

The ACTION Agency appreciates the Committee staff's diligent efforts to indicate areas of Agency operation which can be improved. Several of the recommendations are helpful and will be or already are being acted upon by the Agency. (See Attachment "A".)

We believe the information contained in the Agency's response to the Committee report provides additional information which will be of assistance to the Committee in evaluating the findings of the report.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. SIMON) as a substitute for the amendments offered by the gentleman from Colorado (Mr. KRAMER).

The amendments offered as a substitute for the amendments were agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado (Mr. KRAMER), as amended.

The amendments, as amended, were agreed to.

Mr. SIMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am about to make a motion that the Committee do now rise, but first, just so that I understand where we are, I might ask the majority leader, will we be coming back to the ACTION bill yet this afternoon? Perhaps my colleague, the gentleman from Louisiana, or some Member of the leadership can answer.

Mr. WRIGHT. Mr. Chairman, if the gentleman will yield, it would be the plan of the leadership to try to take up two continuing resolutions, both of which are vital to the completion of our business, as the gentleman may note. If time remains following those resolutions, it would be our purpose this afternoon to return to this bill that is presently before us.

Mr. SIMON. But realistically, Mr. Chairman, it being now 3:45 p.m., I will ask the majority leader, it is not probable that we are going to get back to this bill?

Mr. WRIGHT. Mr. Chairman, that seems unlikely to me, let me say in response to the gentleman's question, unless the House would act with greater dispatch than it does with its normal wanton ways.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I wonder if I might ask the majority leader whether the leadership has envisioned a time when we might quit tonight, so we will have some idea? The gentleman mentioned we would return to this bill if there is time remaining, and I am wondering what kind of timeframe we are looking at.

Mr. WRIGHT. Mr. Chairman, if the gentleman from Illinois will yield, we initially had hoped we might conclude business by 5:30, but as a hard and fast promise, it seems altogether possible that we might go as late as 6 and even conceivably later. But if we got into a situation which took us that long to dispose of the two continuing resolutions, then it would be unlikely that it would be productive for us to return this evening to the bill that is presently before us.

□ 1550

Mr. EDWARDS of Oklahoma. Mr. Chairman, if the gentleman will yield further, may I ask whether it is the leadership's intention, if it does go that way and we do not come back to this bill this afternoon, that this would be the first order of business tomorrow? Or what is the leadership's intention in that regard?

Mr. WRIGHT. I think, to paraphrase a great President, we would like to keep our options open.

Mr. EDWARDS of Oklahoma. I thank the gentleman.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman for yielding.

Mr. Chairman, is it the gentleman's intention to get a vote on the substitute amendment? I think we have only gotten one vote out of the two parts that would be required to officially adopt it before we rise.

Mr. SIMON. Mr. Chairman, I will say to the gentleman that we have adopted both the substitute and his amendment as amended. So we have disposed of that particular major item of business.

Mr. KRAMER. I thank the gentleman for that clarification.

Mr. SIMON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. DAN DANIEL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes, had come to no resolution thereon.

CONTINUING APPROPRIATIONS, 1980

Mr. LONG of Louisiana, from the Committee on Rules, reported the following privileged resolution (H. Res. 441, Rept. No. 96–502), which was referred to the House Calendar and ordered to be printed.

H. RES. 441

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(l)(6) of Rule XI to the contrary notwithstanding, to consider the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980 and for other purposes, in the House as in the Committee of the Whole. No amendment to the joint resolution shall be in order except (1) pro forma amendments for the purpose of debate; (2) the amendment recommended by the Committee on Appropriations, which shall not be subject to amendment except pro forma amendments for the purpose of debate; and (3) germane amendments only affecting the level of pay of executive employees and Members of Congress as addressed in section 101(c) of the joint resolution.

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 441 and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. WRIGHT). The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 441?

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 441.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes for the purpose of debate to the gentleman from Ohio (Mr. LATTA). Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 441 is a rule providing for the consideration of House Joint Resolution 412, making continuing appropriations for fiscal year 1980 for those programs and activities of the Federal Government which have not previously been enacted into law except for those programs contained in the Departments of Labor-HEW appropriations bill which are provided for in a separate continuing resolution, House Joint Resolution 413. This rule provides for consideration of the joint resolution in the House as in the Committee of the Whole.

Mr. Speaker, as we all are aware, the Senate rejected the conference report which accompanied House Joint Resolution 404, making continuing appropriations. The Senate proceeded to consider House Joint Resolution 402, making continuing appropriations for the Federal Trade Commission and attached the agreements reached on House Joint Resolution 404. I will not go into the details of the continuing resolution as I am sure my colleagues from the Committee on Appropriations can explain the legislation quite fully.

Because there is no continuing resolution in place for the new fiscal year which began last Monday, October 1, it is essential that this important temporary funding be provided expeditiously. This legislation provides funding for the period between September 30 and the time when the applicable appropriation acts for fiscal year 1980 are signed by the President.

Mr. Speaker, this rule allows only the following amendments which shall not be subject to amendment: First, germane amendments affecting the level of pay of executive employees and Members of Congress as addressed in section 101(c) of the joint resolution; second, the amendment recommended by the Committee on Appropriations, which shall not be subject to amendment except pro forma amendments for the purpose of debate; and, third, pro forma amendments for purposes of debate.

Mr. Speaker, this modified rule provides one waiver. The waiver is of clause 2(L)(6) of rule 11, which is the 3-day layover rule. The Rules Committee determined that the urgency of the need for this important legislation requires that its consideration should be expedited as much as possible.

Mr. Speaker, I strongly support this rule and urge my colleagues' support so that this body may proceed to the consideration of this important legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement just made by the gentleman from Louisiana (Mr. LONG) concerning this rule, and the need for urgency cannot be stressed too strongly. This fiscal year began on October 1, and many people will be suffering a payless payday unless some action is taken soon on this matter. As has been pointed out, the procedure which is being followed separates the matter before the House before the recess into the two resolutions, namely, the continuing appropriations resolution. In the resolution, which will follow this one, we will have only the Labor-HEW appropriations and the

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abortion issue before us; whereas, in this resolution we will have before the House the funding for all programs and activities of the Federal Government which have not previously been enacted into law except the Labor-HEW appropriations plus the pay issue.

The rule makes the pay for the executive employees and for Members of Congress completely open. The House can either take the 5.5 percent the Committee on Appropriations has allowed, which is a reduction from the 12.9 percent authorized under present law, some other percentage increase or no increase at all.

Since the House and the Senate did not act prior to October 1 on this matter, some authorities are already saying that our Federal judges will be entitled to the full 12.9 percent as the Constitution provides that their salaries cannot be diminished during term. This matter, however, is made completely open under this rule and is subject to amendment.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, having no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. LONG of Louisiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LONG of Louisiana. Mr. Speaker, would it be the intention of the Chair to take the additional rule at this time, or would it be the intention of the Chair to take the bill at this time and delay action on the second rule?

The SPEAKER pro tempore. The Chair understood that that was the desire of the gentleman from Louisiana. If the gentleman from Louisiana desires to defer and take the other rule subsequent to the adoption of the legislation, the Chair would indulge that.

Mr. LONG of Louisiana. Mr. Speaker, I will defer action on the second rule and go ahead with the bill at this time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

□ 1600

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 441 just agreed to, I call up the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 412

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1979 and for which appropriations, funds or other authority would be available in the following appropriation Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1980;

District of Columbia Appropriation Act, 1980;

Foreign Assistance and Related Programs Appropriations Act, 1980, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended;

Department of the Interior and Related Agencies Appropriation Act, 1980; and

Military Construction Appropriation Act, 1980.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1979, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1979, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

(4) Whenever an Act listed in this subsection has been passed by only one House as of October 1, 1979, or where an item is included in only one version of an Act as passed by both Houses as of October 1, 1979, the pertinent project or activity shall be continued under the appropriation, funds, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever, is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1979: *Provided,* That no provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1979, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1979 for which provision was made in the Department of Defense Appropriation Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority.

(c) Notwithstanding the provisions of sections 102 and 106 of this joint resolution, such amounts as may be necessary for continuing projects and activities to the extent and in the manner as provided in H.R. 4390, entitled the Legislative Branch Appropriation Act, 1980, as reported June 7, 1979 (except as to executive salaries which are covered subsequently) and such amounts as may be necessary for continuing projects or activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol, to the extent and in the manner which would be provided for in the budget estimates, as amended, for fiscal year 1980.

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year.

Provided further, That for the purpose of carrying out this provision and notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Adjustment Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, which limit the pay for certain Federal offices and positions, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980, except that in applying such limitation the term "at a rate which exceeds by by more than 5.5 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting pay increases to 5.5 percent.

For purposes of this subsection, H.R. 4390, as reported June 7, 1979, shall be treated as appropriating $11,000,000 under the headings "OFFICE OF TECHNOLOGY ASSESSMENT", "SALARIES AND EXPENSES"; $200,300,000 under the headings "GENERAL ACCOUNTING OFFICE", "SALARIES AND EXPENSES"; and $50,707,000 under headings "JOINT ITEMS", "OFFICIAL MAIL COSTS".

No funds contained in this section shall be used to remodel the gallery in Statuary Hall in the Capitol into carrels or into any other structure constituting additional office or work space for Members of Congress.

(d) Such amounts as may be necessary for fiscal year 1980 for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose, at the current rate of operations notwithstanding the provisions of sections 102 and 106 of this joint resolution.

(e) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in fiscal year 1979, but a a rate for operations not in excess of the current rate:

activities under the Domestic Volunteer Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of nursing fellowships and for support of training programs and program support related to alcoholism under sections 301, 303, and 472 of the Public Health Service Act;

activities under section 789 and titles VIII, XII, XV, and XVII of the Public Health Service Act, except that activities under title XV of the Public Health Service Act shall be conducted at not to exceed an annual rate for obligations of $169,717,000;

activities under sections 204 and 213 of the Community Mental Health Centers Act;

activities under title IV of the Drug Abuse Office and Treatment Act;

activities under title III and V of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act;

activities under section 2 of the Indochina Migration and Refugee Assistance Act;

activities of the National Board for the Promotion of Rifle Practice;

activities of the Federal Trade Commission: *Provided,* That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities;

activities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, except that such activities shall be continued at a rate of operations not in excess of appropriations contained in the Department of Justice Appropriation Act, 1980, for the Office of Justice Assistance, Research, and Statistics;

activities of the Economic Development Administration; and

activities of the Regional Action Planning Commissions.

(f) Notwithstanding the funding rate provided for in section 101(a), activities of the Department of State for Migration and Refugee Assistance shall be funded at not to exceed an annual rate for obligations of $456,241,000, notwithstanding section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, and section 10 of Public Law 91-672.

(g) Such amounts as may be necessary for projects or activities which were conducted in fiscal year 1979 and for which provision was made in the Department of Transportation and Related Agencies Appropriation Act, 1979, or chapter X of the Supplemental Appropriations Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority: *Provided*, That the Panama Canal Commission is authorized to incur obligations at the rate of operations, and to the extent and in the manner provided for in H.R. 4440 as reported on June 13, 1979, to meet operational and capital requirements of the Panama Canal in conformance with applicable legislation and the Panama Canal Treaty of 1977, notwithstanding the provision of section 106 of this joint resolution.

(h) Such amounts as may be necessary for the programs or activities of the Federal Inspector for the Alaska Gas Pipeline, at a rate of operations not in excess of 35 per centum of the fiscal year 1980 budget estimate.

(i) Such amounts as may be necessary for projects or activities provided for in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980 (H.R. 4394), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on September 27, 1979, and the Senate on September 28, 1979, notwithstanding the provisions of section 106 of this joint resolution: *Provided*, That those programs in disagreement shall be funded at the lesser of the amounts originally approved by the House or Senate.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1979, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) November 20, 1979, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1979.

SEC. 107. Any appropriation for the fiscal year 1980 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

SEC. 108. None of the funds available to the Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil in fiscal year 1980 shall be available, except on a voluntary basis, for the acquisition of land or easements at or around the four lake projects in the Yazoo Basin, Mississippi, pending the submission to Congress of a plan for changing the curve by which the flow is regulated in line with the instructions contained on page 60 of the Conference report accompanying H.R. 4388 and of alternative solutions for the protection of Coffeeville, Mississippi, and other properties affected by the flood control operation at the project.

SEC. 109. No provision in any appropriation Act for the fiscal year 1980 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 110. Appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable Appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

SEC. 111. Notwithstanding section 106 or any other provision of this joint resolution—

(a) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Minnesota is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants;

(b) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Texas is increased to that allowed Senators from States having a population of thirteen million but less than fifteen million, the population of said State having exceeded thirteen million inhabitants;

(c) effective with the fiscal year ending September 30, 1980, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f-1a), is amended by striking out "$25,000" and inserting in lieu thereof "$92,000"; and

(d) effective October 1, 1979, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of two photostat operators at not to exceed $12,663 per annum each; six assistant mail operators at not to exceed $12,096 per annum each; a requisition and receiving clerk at not to exceed $13,608 per annum; a maintenance and rental clerk at not to exceed $13,608 per annum; a State office repair clerk at not to exceed $13,608 per annum; and two auditors at not to exceed $14,931 per annum each.

SEC. 112. During the fiscal year ending on September 30, 1980, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the government shall not exceed an amount which is $500,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921. The Director of the Office of Management and Budget shall allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and shall report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That in allocating the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than 15 per centum of the amount proposed for each such department, agency or instrumentality in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

SEC. 113. Funds available under the Department of Justice Appropriation Act, fiscal year 1979 (Public Law 95-431) for support of United States prisoners shall be available as follows:

(a) The Attorney General is authorized to use the appropriation "Support of United States Prisoners" to enter into contracts or cooperative agreements to assist the goverment of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, services, or materials required to raise the level of conditions of confinement and facility services of any substandard facility which confines Federal detainees.

(b) This section shall apply only insofar as it is not inconsistent with section 4006 of title 18, United States Code.

(c) Authority provided by this section shall be available from September 26, 1979, and all obligations incurred in anticipation of the authority provided in this section are hereby ratified and confirmed if otherwise in conformance with the provisions of this section.

SEC. 114. Notwithstanding the provisions of the paragraph entitled "Capital Outlay" in title II of the District of Columbia Appropriation Act, 1978, providing for the expiration of certain authorizations and the lapse of certain funds for capital outlay projects, the authorization for the capital outlay project involving the construction of phase I of the downtown permanent campus of the University of the District of Columbia located north of Mount Vernon Square and the funds appropriated in connection therewith by the District of Columbia Appropriations Act, 1978, shall, subject to the last proviso of such paragraph, expire on September 30, 1980, unless funds have been obligated in whole or in part prior to such date.

SEC. 115. (a) Section 3(e) of Public Law 91-663 is amended by adding at the end thereof the following: "With respect to a railroad which filed a petition for reorganization during fiscal year 1978, during the period October 1, 1979, through November 30, 1979, certificates shall be issued without regard to the limitations of subsection (a) and with such priority in payment as the Secretary deems appropriate to secure repayment, for the purpose of continuing service on the railroad system at the level in effect on October 1, 1979.".

(b) Section 5(h) (2) (A) of Public Law 89-670, as amended, is further amended by striking "but has not yet" and inserting in lieu thereof "or has".

SEC. 116. None of the funds contained in this Act shall be used for the reorganization of the Alaska Railroad Office of the Chief Counsel, Office of Real Estate or Office of Financial Planning, or for the consolidation of those Offices into the Office of the Alaska Railroad General Manager.

SEC. 117. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Mr. WHITTEN. Mr. Speaker, this is the first of two continuing resolutions the Appropriations Committee will bring before the House today. Despite our previous efforts, most of the Government is without continuing authority for the new fiscal year which began on October 1.

The real problem in obtaining a continuing resolution has centered around the abortion issue. We present two resolutions in order to separate the abortion question from most of the rest of the Government. We do this after consulting colleagues on both sides. We recognize the problems confronting us and we are doing our best under the circumstances to meet them.

This resolution provides continuing appropriations until November 20, 1979, for several major appropriation bills, including Agriculture, Defense, District of Columbia, foreign assistance, HUD-independent agencies, Interior, legislative, military construction, and Transportation. Programs and activities under the Labor-HEW bill are provided for in a separate joint resolution.

The committee is again recommending that for the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9-percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5-percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year. This action, sharply decreasing such automatic increases, is taken in an effort to contribute toward the objective of immediately slowing and over a period eventually stopping further inflation. The limitation of 5.5 percent represents a significantly sharp decrease and amounts to only about one-fourth to one-third of the actual rate of inflation during this period. It is hoped that this example will be followed by other parts of the Federal Government, private industry, and State and local government. Unless we slow down, we face disastrous inflation which has wrecked the economy of other nations.

Approximately 58 percent of the budget is for programs which have built-in automatic increases to offset inflation, which itself is additional inflation. Our problem is that our rate of inflation is so great that we must take immediate steps to moderate increases and help move toward stability. I have requested an estimate of the cost of certain escalator provisions that have been enacted into law and preliminary estimates indicates these costs will approximate $46 billion this year.

There has been a good deal of conversation concerning the applicability of the pay raise to Federal judges. Section 1 of article III of the Constitution states the following:

> The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish; The Judges both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

There is presently pending a court case addressing the issue of limiting Federal judges salary. The U.S. District Court of Illinois initially ruled that it was unconstitutional to limit salary increases of Federal judges and the Department of Justice is presently determining whether to appeal this ruling. This resolution continues to apply the 5.5-percent cap to the Federal judges and the courts will have to make a final determination regarding this issue. There are arguments on both sides.

I would say, Mr. Speaker, that this resolution largely embraces the provisions of the conference agreement on House Joint Resolution 404 which was defeated in the Senate the night of September 28.

Section 101(e) of the resolution provides for continuation of the activities of the Federal Trade Commission conducted in fiscal year 1979 at a rate of operations not in excess of the 1979 rate, but prohibits final promulgation of any trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, or initiation of any new activities.

The authorization for appropriations for the FTC expired at the end of fiscal year 1977 and no authorization has been enacted since that time. Therefore, it is essential that this long-delayed authorization be passed by the House and Senate and enacted into law by the end of the 50-day period covered by the resolution.

The committee has included language in section 112 which has the effect of reducing travel and transportation in the executive branch by $500 million below the budget estimates for fiscal year 1980. This provision was adopted by the House on September 28 in connection with the conference agreement on House Joint Resolution 404. It provides that no reduction shall be made in funds for debt collection or supervision of loans. This was language we added to the original Senate amendment.

As I have indicated earlier, a separate resolution is recommended to continue funding for those programs and activities in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389) at a rate of operations, and to the extent and in the manner, provided for in the conference report to H.R. 4389 which was adopted in the House on August 2, 1979.

That resolution would be effective through September 30, 1980, or until the regular Labor-Health, Education, and Welfare Appropriation Act is enacted, whichever occurs first.

In regard to abortion, this resolution would provide for the restrictions that were also adopted by the House on August 2, 1979.

Mr. Speaker, this is an item that the Congress itself has been unable to agree on except with extreme difficulty. There are those that feel that the abortion issue should not be in a continuing resolution, but the circumstances are such that there is no way to avoid it being in the resolution.

In the House, the abortion language is known as the Hyde amendment, and the House voted by a large majority in favor of the Hyde amendment so this resolution would continue the Hyde language regarding abortion.

Recognizing myself that this item or this controversy that surrounds this abortion prohibition should not tie up the funding of the entire Government, your committee suggests and recommends that the Department of Health, Education, and Welfare be addressed in a separate resolution.

It would leave the abortion controversy, should it continue to exist, to be resolved by those who know most about it and would affect only the appropriation bill in which it is a major problem.

In conclusion, Mr. Speaker, the committee met at 1 o'clock this afternoon and agreed on this approach. We appeared almost immediately before the Rules Committee which acted promptly. We need this resolution and I urge its adoption.

The **SPEAKER** pro tempore. The Clerk will report the committee amendment.

The Clerk read the committee amendment, as follows:

> Committee amendment: On Page 9, line 4, strike out the period and insert the following: " : *Provided further,* That the Interstate Commerce Commission is authorized to incur obligations for payments for directed rail service at the rate of operations and to the extent and manner provided for in H.R. 4440 as passed by the House of Representatives on September 18, 1979.".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Speaker, I rise in support of House Joint Resolution 412, which continues appropriations for fiscal 1980 for many Federal programs and activities which have not yet received their regular appropriations for 1980.

This resolution incorporates the agreements reached by House and Senate conferees on the previous continuing resolution, where the conference report was defeated in the Senate over the abortion issue.

The abortion question will be settled on a second continuing resolution, House Joint Resolution 413, which will be considered in the House immediately after we complete consideration of this joint resolution.

With that issue to be considered separately we can and should proceed to a favorable vote on this continuing resolution.

Continued delay will cause great hardship for many Federal employees, and for many of our constituents who receive Federal assistance.

I have received from the Office of Management and Budget an extensive compilation of individual Federal programs and activities where funds have already run out, or will do so shortly.

I would like to run through this list for the benefit of my colleagues in the House.

The Agency for International Development was able to obligate money at the end of last week which will enable the continuation of disaster relief in the Caribbean at a reduced level until approximately the 14th or 15th. However, the Agency is able to provide only immediate disaster relief and cannot begin planned reconstruction projects. The Agency also warns that the United States will be unable to respond with aid for the first time ever if there is a natural disaster in the next 2 weeks.

Black lung payments are scheduled to go out to 2,000 new recipients on October 5. Certification can be as late as the 5th.

About 44,000 regular black lung benefit recipients are due to receive checks on October 15. Certification is needed by the 14th.

Workmen's compensation checks: 38,000 checks are scheduled to go out on October 10 for which certification is needed on the 9th. However, the Department of Labor is currently negotiating with the Postal Service to advance its contribution to the compensation fund scheduled to be made on the 15th. The post office's contribution would be large enough to cover the 38,000 checks.

The Department of State has notified voluntary agencies involved in refugee resettlement activity in the United States and care and maintenance of refugees in Europe that as of October 1 the Federal Government is no longer legally bound to reimburse them for their activities, and that their operations are no longer on behalf of the Federal Government. Certification of the payroll for the Office of Refugee Programs is due on October 9.

WIC programs in Delaware and Virginia have already shut down statewide. Some local programs in Maine have already closed. Rhode Island has shifted some State money to cover its WIC programs. Nevada and Arizona say they only have a week's more funds left and will have to close after that. It is anticipated by USDA that by October 15 the program will shut down nationwide, affecting approximately 1.6 million women, infants, and children. This program differs from others in that payments to program participants are made by State government agencies, based on letters of credit from the Federal Government promising reimbursement.

Veterans' compensation and pension checks (totaling $8 million) are scheduled to be certified on October 9 and 10. However, the checks are not scheduled to be delivered until November 1 so it is not known if Treasury will actually be delayed in mailing the checks. Approximately 4.7 million checks are involved.

On October 15, 1.6 million military employees will not be paid unless an appropriation is made approximately 3 to 4 days before. A total of 600,000 civilian defense employees will receive only half their paycheck October 12 unless an appropriation bill is passed by the 9th. Smaller numbers of employees are to be paid on October 10 and 11. DOD does not certify its payroll to Treasury in the normal manner. The Department does its own printing and disbursing directly, and needs a 3- or 5-day lead to meet its payroll deadlines.

Four thousands VISTA volunteers were scheduled to receive biweekly allowances October 1; 1,400 were paid under the National Grants program; 2,300 were paid their full allowance with funds that had been put aside in bank accounts to pay volunteers a readjustment allowance at the end of their service; 300 new volunteers received only partial payments because they had not accrued enough money in their bank accounts to cover the biweekly allowance. The money will be restored to the accounts when an appropriation bill is enacted.

Supplemental security income benefits normally paid during the month of October for all new applications approved during October cannot be processed until an appropriation is enacted.

Refugee assistance program payments to State and local programs and direct payments to refugees ceased October 1.

Health care trust funds will lose interest if Federal matching payments are not made on schedule.

The State of California is holding up $100 million of prepaid medicaid health care payments until a 1980 medicaid appropriation is approved. This action is expected to create uncertainty among participating hospitals and doctors, and may require that some patients be denied treatment.

Housing subsidy payments for 3 million tenants are beginning to be delayed. Because of the variety of programs involved with differing schedules for payment and the availability of some carryover balances precise dates and amounts cannot be provided.

Mr. Speaker, I think this compilation, together with the fact that the abortion issue will be considered in a separate resolution, should convince my colleagues that prompt and favorable action on this joint resolution is absolutely essential.

The **SPEAKER** pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

GENERAL LEAVE

Mr. **WHITTEN**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 412.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

● Mr. **JACOBS**. Mr. Speaker, the committee has included Federal judges in the rollback of the automatic 12.9-percent salary increase.

Unconstitutional? I think not.

The constitutional language in question is found in article III, section 1:

> . . . The Judges . . . shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Apart from the fact that no judge has received the accidental 12.9-percent raise, the legislative history of the provision makes self-evident the fact that it was not meant to mean that an unintended pay hike brought about by accident of events is uncorrectable.

I realize conventional wisdom holds that the judges have simply hit the jackpot and too bad but "loosers weepers, finders keepers." By such logic a social security check sent to the wrong person would be his to cash and keep.

The clear purpose and therefore meaning of the provision is that the Congress shall not retaliate against the Federal judiciary for legal decisions by reducing salaries previously intentionally set by the Congress for the judges' services. To interpret otherwise would be not less than extravagant..

Should the Supreme Court rule otherwise in this situation, it seems to me that the Court could be fairly criticized as playing the role, not of learned, wise, and unselfish jurists, but of slick lawyers seizing on sheer technicalities for unjust enrichment. I think the Congress should give the Court the opportunity to choose.●

Mr. **WHITTEN**. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this measure having been discussed in connection with the rule, may I say briefly that it brings forward the House action as voted on before.

I have no further requests for time.

Mr. Speaker, I move the previous question on the joint resolution, as amended.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONTINUING APPROPRIATIONS, 1980—HEW

Mr. **LONG** of Louisiana, from the Committee on Rules, reported the following privileged resolution (H. Res. 442, Rept. No. 96–503), which was referred to the House Calendar and ordered to be printed:

H. RES. 442

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(1) (6) of Rule XI to the contrary notwithstanding, to consider the joint resolution (H.J. Res. 413) making continuing appropriations for the fiscal year 1980, and for other purposes, in the House as in the Committee of the Whole. No amendment to said joint resolution shall be in order except pro forma amendments for the purpose of debate and one amendment in the following form applying the provisions of section 210 of Public Law 95–480 to activities by the Department of Health, Education and Welfare: "None of the funds provided for in this bill, for such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy." and said amendment shall not be subject to amendment but may be debated by the offering of pro forma amendments.

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 442 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 442?

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 442.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes for the purpose of debate to the gentleman from Maryland (Mr. BAUMAN). Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 442 is a rule providing for the consideration of House Joint Resolution 413, making continuing appropriations for fiscal year 1980 for the Departments of Labor, and Health, Education, and Welfare and related agencies. This is a modified closed rule which provides for consideration of the joint resolution in the House as in the Committee of the Whole.

The rule waives clause 2(L)(6), rule XI, which requires legislation to be available for 3 days prior to its consideration.

Mr. Speaker, this joint resolution provides continuing appropriations for projects and activities of the Departments af Labor, Health, Education, and Welfare, and related agencies until September 30, 1980, or until the regular Labor-HEW Appropriations Act is signed into law, whichever occurs first. House Joint Resolution 413 provides funding at a rate of operations and to the extent and in the manner, provided for in the conference report to H.R. 4389, the Labor-HEW Appropriations Act, which was adopted by this body on August 2, 1979.

This modified closed rule allows only the following amendments: First, one amendment containing current provisions of law on the abortion issue and second, pro forma amendments for purposes of debate. The abortion issue was fully debated during the consideration of H.R. 4389.

Mr. Speaker, we all have our differences and views on how this issue should be dealt with, but I hope that we would come to an agreement and resolve this issue so that we may pass this important appropriation and get on with the business of the House.

Mr. Speaker, I strongly support this rule and urge the support of all my colleagues on the rule.

Mr. BAUMAN. Mr. Speaker, the gentleman from Louisiana (Mr. LONG) has adequately described the content of this rule.

While it gives me some pause to see the speed with which we are moving on this issue, I also realize the deadline that exists for paying benefits to those recipients under the Department of Health, Education, and Welfare programs.

Therefore, this rule will allow us to at least step a little closer to that settlement today and tomorrow.

The rule itself, of course, does make in order as an amendment the current law, which many of us feel is far too liberal in its application to Federal funding of abortions. But House Joint Resolution 413, contains the more restrictive Hyde anti-abortion language which was reported out of the Committee on Appropriations earlier this year and I hope that will be upheld.

I understand that an amendment will be offered possibly by the gentleman from Washington (Mr. DICKS), that will allow the House to address squarely the issue of whether they wish the more restrictive language which they overwhelmingly backed by a wide margin some months ago, or whether they will backtrack, to the more liberal current law.

Therefore, I have no objection to the consideration of this rule at this time or its passage.

Mr. Speaker, I have no further requests for time.

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Mr. LONG of Louisiana. Mr. Speaker, having no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 442 just adopted, I call up the joint resolution (H.J. Res. 413) and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. Res. 413

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, namely:

SEC. 101. Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on August 2, 1979.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1979, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1980, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(a)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, in this resolution, with the cooperation of my colleagues on both sides of the aisle, we have separated the Departments of Labor and Health, Education, and Welfare appropriations bill from the other parts of the government covered in House Joint Resolution 412 passed earlier. We did that because the controversy primarily lies in connection with the abortion issue. The real problem is here and not with regard to the other resolution that expires on November 20.

In connection with this resolution, we have provided that the bill in the form of the conference agreement adopted by the House on August 2 be approved again. With respect to the abortion language we are asking the House of Representatives to approve that which they had already approved when the bill for the Department of Health, Education, and Welfare was passed in June. That was also in the version passed after the conference on August 2. In that action by the House as in the continuing resolution we have provided for the Hyde amendment, as it is commonly known, which prohibits the Federal payment toward the cost of an abortion in a very restricted sense: The language of the Hyde amendment is as follows and I quote:

> None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

That is the Hyde amendment.

Now the Senate has insisted that on the abortion issue the House vote again on the provision of existing law. The rule just adopted permits this and I am advised such an amendment will be offered.

Bringing forward these two continuing resolutions in this manner, may I say again, is an effort to meet the urgent needs of Government because our colleagues in the other body defeated the original continuing resolution which would have enabled the Government to proceed. With respect to this continuing resolution, we are providing exactly what the House provided before, including the prohibition against the use of funds except for abortions in very limited cases in what is commonly known as the Hyde amendment which I have quoted.

Mr. CONTE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I support House Joint Resolution 413 which continues the appropriation for Health, Education, and Welfare. The appropriation would be continued through the end of the fiscal year 1980 at the rate and under the terms and conditions in the conference report of the Labor-HEW appropriation bill for fiscal year 1980 as passed by the House.

This, as the chairman said, includes the Hyde abortion language.

The rule provides for one amendment to provide the Members of the House with an opportunity to vote on the abortion provision in current law. The abortion issue is the only issue left unresolved and it is holding up the appropriations for many Federal programs and agencies.

I think it is appropriate to consider this issue separately and provide the Members of the House with one vote on the Hyde amendment versus the current law. I know Members will vote their conscience on the abortion issue.

After that, I strongly urge a yes vote for the resolution.

Whatever we do on the abortion question, we should not further delay funding to the many Health, Education, and Welfare programs for the needy citizens of this country.

I understand that Congressman DICKS of Washington will offer an amendment on the abortion issue which would bring it to the present law, which is what the other body wants. This has been debated at great length here in the House. I hope that we can have a short debate on this issue, have a rollcall so that we can go over to the other body and finish this continuing resolution once and for all.

I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DICKS. Mr. Speaker, is it appropriate to offer my amendment at this point in time, or should I wait until the Clerk reads the bill?

The SPEAKER. One amendment is made in order under the rule, as I am sure the gentleman from Washington realizes. That amendment would be in order if the gentleman desired to offer it.

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DICKS: Notwithstanding any other provision of this resolution, "None of the funds provided for in this bill, for such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy."

Mr. DICKS. Mr. Speaker, the amendment which I have offered is the existing law on abortion as it relates to the Labor, and Health, Education, and Welfare appropriation bill and the Department of Defense appropriation bill.

This language—the Wright-Mahon-Michel compromise—has applied to Labor-HEW for 2 years and Defense for 1 year.

My amendment only relates to Labor-HEW as Defense is covered in another bill.

Mr. Speaker, as I have studied this matter I have become astonished at the facts that exist.

And I hope every Member will listen carefully to this. The existing language—the current law—has eliminated well over 95 percent of previously federally funded abortions—well over 95 percent.

Let me give you some facts:

Since the compromise language went into effect for HEW—February 14, 1978—there have been some 4,860 abortions which have been partially paid for by medicaid. For the year's period this figure was 3,208. This corresponds roughly to some 300,000 abortions which were previously being funded each year by HEW.

Mr. Speaker, this is simply incredible. The existing law has eliminated 99 percent of the previously funded abortions.

By any standard, this is a great victory for those who support the right-to-life position.

There are probably some in this Chamber who will designate these figures and claim that HEW is not doing an adequate job in keeping the statistics. However, Mr. Speaker, the Labor-HEW subcommittee has examined this issue and I believe any fair minded person must be impressed with the vigilance exercised by HEW in this matter. For example, fairly recently HEW discovered that Illinois had promptly requested $1 million for abortions and it promptly took steps to correct this matter.

Let me also remind Members that we are not dealing with the issue of whether or not abortions are legal. We are dealing with the question of whether or not abortions under very limited and restricted conditions shall be partially paid for with Federal funds.

In an appropriation bill there is nothing we can do about the fact that some 17 States choose to pay for abortions. These States are as follows: Alaska, California, Colorado, District of Columbia, Idaho, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Virginia, Washington, and West Virginia.

Mr. Speaker, the legislative process involves compromise. No one person or group can be 100 percent successful all the time, but being successful 99 percent of the time is probably as good as can be done.

The operation of the Government is now being held up because of this issue. The right-to-life forces have won a tremendous victory during the past 2 years. I am convinced that if each Member will examine the facts of the matter that they cannot conclude otherwise.

Mr. Speaker, I urge that we get on with the proper business of the Government. A vote for the existing law will accomplish that.

Mr. NATCHER. Mr. Speaker, I rise in opposition to the amendment offered by my distinguished friend from the State of Washington.

Mr. Speaker, as you recall, on June 27, when the appropriation bill for the Departments of Labor and Health, Education, and Welfare for 1980 was presented to the Committee of the Whole and then to the House, the language with respect to payments for abortion contained in the bill was sustained by the Members of the House. The identical language offered by the gentleman from Washington was presented at that time, and on a rollcall vote the vote was 180 for the language and 241 against. That was a majority of 61 against the language included in the Senate bill and the language that was contained in the bill for 1978 and 1979 which the gentleman from Washington is now proposing to insert in the continuing resolution.

During the hearings on this bill, Mr. Speaker, we carefully considered this matter as to whether or not the language agreed upon in the fiscal year 1978 and 1979 Labor-HEW appropriation bills should be incorporated in our bill for 1980.

Our subcommittee, and also the full committee, agreed, Mr. Speaker, that the language—and I quote the language contained in the bill—should read as follows:

> None of the funds provided for in this act shall be used to perform abortions except where the life of a mother would be endangered if the fetus were carried to term.

Mr. Speaker, that is the language that should be included in the continuing resolution that is before this body at this time. As you will further recall, Mr. Speaker, when the House considered House Joint Resolution 404 several days ago, the rule provided for the language that was offered just now by the gentleman from the State of Washington. No one offered that language. There was no mention made as to the language carried in the bill on the other side.

Mr. Speaker, I know that this has been before this body now for a number of years.

I think the position of the House has been firm all down through the years. I think it should be continued at this time. The Senate language is simply unacceptable. Mr. Speaker, I request and respectfully urge that the amendment offered by my distinguished friend from Washington be defeated.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I wish to firmly commend the gentleman from Kentucky for his leadership that he has shown in the past since I have been here on this issue. He is correct, that the language contained in the amendment would basically open up the floodgates.

What concerns me is that we would have several hundred thousand children who will no longer be alive; they just would not be alive if the language in the amendment passes, while if we adopt the House language and continue with the House language, then we would have those children and they would be living. It is just a question of respect for human rights and whether children should live or not live.

Mr. Speaker, I wish to thank the gentleman from the bottom of my heart, and I know that millions of Americans thank the gentleman for the position that he has taken on this issue.

Mr. NATCHER. I want to thank my friend from Missouri.

Mr. Speaker, I urge that the amendment be defeated.

Mr. DUNCAN of Oregon. Mr. Speaker, I move to strike the last word, and I rise in support of the amendment offered by the gentleman from Washington (Mr. Dicks).

Mr. Speaker, I do so for a number of reasons, primarily for the fact that I do not believe an appropriation bill is the appropriate place to determine an issue of this sort. I do not think it is right for such a highly controversial issue to be put in a position to frustrate the operation of the entire government, or even of one significant department of that government.

Further, I think the argument is almost unassailable that it should not be put on a continuing resolution which is intended to provide funds for only a brief period of time, until such time as the regular appropriation bill can in fact become law. Now, I see in this continuing resolution a provision that it is to be effective until such tme as an appropriation act passes, or until September 30, 1980, whichever is sooner. That implies to me that we have given up hope on getting an appropriation bill for HEW for fiscal year 1980.

Now, we thrashed out this issue of abortion, as inappropriate as I think it is to an appropriation bill, through virtually a score of votes last year, and finally arrived at a compromise.

In this instance, where we are trying to appropriate funds on a continuing resolution for a temporary period of time at the level at which we appropriated in 1979, it does not seem to me to be illogical or inappropriate that we would permit the same provisions of law to which we agreed during that period of time to prevail during the period of this continuing resolution.

I ask no one really to alter their views with respect to what is obviously a very deep moral question, one on which men and women of good will can logically take positions on both sides. I do ask the Members if it is appropriate to inject this issue into a continuing or temporary resolution of this nature to provide funding for one of the great agencies of this Nation. As we continue the deadlock on this issue, and as various checks such as veterans and otherwise do not go out, then I suspect that we will be back here until late some night trying to resolve this difficult problem.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman might very well be making a good point for some other resolution, but this resolution is not a continuing resolution for a temporary period. It is a continuing resolution until the end of the fiscal year, September 30, 1980, and it may be the only law that governs during that period of time.

Mr. DUNCAN of Oregon. If the gentleman will give me back my time, I am ordinarily indebted to him for his very judicious and perspicacious observation of details, but if the gentleman had heard me I pointed out that that is true, it is to continue until passage of the regular bill or until September 30, which leads me to believe that this House, or some of the leadership at least, has given up any hope of an HEW bill this fiscal year. But, I am grateful to the gentleman for calling to my attention this issue.

Mr. HYDE. Mr. Speaker, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Speaker, I often hear that an appropriation bill is inappropriate, an inappropriate vehicle to put limitations on. I suppose it all depends on whose ox is gored. During the Vietnam war controversial limitations were regularly put on appropriations bills.

The difficulty with abortion legislation is, you cannot get it out of subcommittee. We never do get that sort of thing here to vote on, so the only vehicle to stop the killing is an appropriations bill.

If the argument of the gentleman from Washington is remotely true, that 99 percent of the abortions have stopped, then why are we arguing over 1 percent? Why does that august body across the Rotunda want to halt the wheels of Government and stop paychecks for 1 percent? Why, one of the Members over there who is a millionaire could pay for that out of cigar money. So, I do not understand why they want to stop Government for 1 percent. The truth is, I do not accept those figures. When we talk compromise on this issue, what we are asked to compromise is human life—human life—and it is not even our human life to compromise. That is not much of a compromise.

□ 1630

I went back through the Congressional Record, and I found some interesting reading. On August 2 we had the Tellico Dam legislation up here, and one of the Members, a gentleman from Pennsylvania who never votes with us, said something most interesting. He said:

> If you look at the human race in comparison to the universe, we are small, and we are insignificant. I think most of us would agree that we have a right to exist on this particular planet. There is a very delicate interface in the world in which we live in terms of environmental species.
>
> I think that, while you may not like the looks, the shape, or the size of the snail darter, it has a right to exist.

Gosh, I wish that compassion, that poetry, that lyricism could be transferred to human beings instead of a snail darter.

Then we debated a whale killing moratorium on June 25, 1979, and the Record is replete with some of the finest prose you will ever read on behalf of whales. There is a gentleman from New York who said: "it is this body's responsibility to advance conservation of all plant and wildlife. In an age of scarcity and limits, we must develop an ethic that encourages preservation and renewal."

Gosh, I wish those sentiments could be transferred to human beings. There is a similar statement from another gentleman from this side of the aisle (speaking of whales) that there is "such a shortage of 'socially mature' males in the present populations that the birth rate has plummeted." A lot of gentlemen who are extremely sensitive, who agonize over the diminishing school of whales, do not seem to be concerned about human life. There is no compromise on this issue as far as this Member is concerned.

Mr. PEYSER. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I had not planned to take the floor on this issue, but it seems to me that we cannot let this issue rest the way the gentleman from Illinois just presented the case here on the floor because it would look as though Members who voted in effect to retain the language that allowed abortion for rape and incest were really doing a disastrous thing to the human race. I do not think that is the issue at all.

My understanding of the issue is what we are merely saying here is that a certain class of women in the United States, American citizens in the United States, are not going to be given the same privilege as other women in the United States. What I am really saying is that poor women are being put in a position where they cannot take advantage of the law of the land, because the law of the land does not prohibit abortion. We are saying if you are poor, you then cannot have an abortion because no Federal moneys will be made available.

That is what this issue really is about. If we want to have the abortion issue on the floor, then we should have the abortion issue here to discuss the pros and cons of abortion. But I really think we are talking about the most class-distinction piece of legislation ever to come before the Congress.

Mr. **HYDE**. Mr. Speaker, will the gentleman yield?

Mr. **PEYSER**. I will be glad to yield to the gentleman from Illinois.

Mr. **HYDE**. I thank the gentleman for yielding. I would suggest it is the unborn of the rich who are defenseless. The unborn of the rich have no protection; at least we might save some unborn of the poor. But the law of the land permits the gentleman or me to own pornography in our own homes. Should the taxpayers pay for that?

Mr. **PEYSER**. I would find the gentleman's analogy to be a very strange one to be talking about human life and children and pornography.

Mr. **HYDE**. That is right, abortion is far worse

Mr. **PEYSER**. I do not accept that as anything that is analogous. I think what we are dealing with here, and what really disturbs me on this issue, is that we pretend as though we are voting on abortion, and we are not voting on abortion; we are voting on whether poor women are going to have the same rights as people who have middle incomes or the wealthy. I do not understand why we should suddenly say we are going to forget those poor women. They are not going to be able to benefit under this law if they so choose.

Mr. **TAUKE**. Mr. Speaker, will the gentleman yield?

Mr. **PEYSER**. I will be glad to yield to the gentleman from Iowa.

Mr. **TAUKE**. I thank the gentleman for yielding. I look at it a lot differently from the way the gentleman in the well apparently looks at this issue. It appears to me that in this instance we are being asked the question of not whether or not women have the right to receive an abortion but the question really of whether or not this Congress is willing to endorse abortions by paying for them.

Many individuals throughout the Nation have a whole variety of rights, but yet they have to come up with their own dollars to exercise those rights. We do not pay for them to be able to exercise those rights. When we pay for something, we are endorsing it, not just permitting it, and that is why I look upon this particular vote as a vote on whether or not we endorse abortions under these circumstances.

So, therefore, it is a vote on the abortion question and not just a vote on the question of some kind of class struggle.

Mr. **PEYSER**. I hear what the gentleman is saying, but I must say I would find it very difficult to logically apply thinking on any other basis of legislation we pass to what he has just said, because I think if we are dealing with what we are voting on, we are voting on one class of women who cannot receive the same benefit under the law as other classes of women. That is what we are really voting on. We can disguise it any way we want to, but it is a vote against the poor. I just think that to tie this into the abortion issue is not realistic, and I think we ought to stay with the language that we adopt.

Mr. **TAUKE**. Will the gentleman yield?

Mr. **PEYSER**. I will be glad to yield to the gentleman.

Mr. **TAUKE**. Is the gentleman suggesting, then, that everybody in this country has the same rights under the law, regardless of their economic status in all other areas?

Mr. **PEYSER**. I would like to think that everybody in this country has the same rights under the law whether they are rich or poor, and if they do not, then we ought to darn well had better change it.

Mr. Speaker, I yield back the remainder of my time.

Mr. **TAUKE**. I suggest the gentleman has rose-colored glasses.

Mrs. **SCHROEDER**. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Speaker, let me just be brief because I think we have all heard lots about this. It has been an interesting year where people have said we have been shut off in debate, but as I recall the District of Columbia debate, we talked about abortion. We talked about it in the DOD appropriation. We have talked about it in every other kind of bill that we have had in front of us, and it seems as though this debate has gone on and on and on. I just want to point out several things that I think need to be reiterated over and over and over again. This is a continuing resolution. It continues the law as it is in effect now, and if we go along with the Senate, it does not change the law as it is now. It seems to me unconscionable that we would change the rules and say for this continuing resolution we want a little different rules.

I also hear a lot of people talk about human life, and I think it would be very easy for everybody to think about just one human life that is involved. But I supposed I come here saying, For goodness sake, in these instances of rape and incest and two doctors saying the life of the mother could be severely impaired if the pregnancy went to term, we are talking about also the life of someone else—the mother.

It seems to me that is something we should also be interested in, and her quality of life. I think that reasonable people might differ on whether or not women should be entitled to an abortion in the instances of rape or incest or when two doctors say that that woman's life could be severely impaired, and especially when she has no other recourse, which is the group of women we are talking about. These are women who are relying on medicare and medicaid to get these abortions.

So let us not forget that issue. People are saying here if we vote for this, then we are endorsing abortion. My goodness, let us look at a lot of the votes we have here. Probably one of the scariest votes we ever have is when we vote to approve the Congressional Record. Does that mean we are endorsing everything that is in the Congressional Record? No. But this is a Government wherein we do not try to make everybody's decisions. We were not elected to be the archibishop here.

We are supposed to allow reasonable differences to occur. It seems to me that the law the way it stands now allows those reasonable differences to occur, and I really ask this body to please extend the law the way it is now. I think we would look silly doing otherwise, especially after we had our recess and went through all the other antics of the last few weeks.

Mr. **WHITTEN**. Mr. Speaker, I move the previous question on the amendment.

The **SPEAKER** pro tempore (Mr. Kazen). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. Dicks).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. **DICKS**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 162, nays 234, not voting 37, as follows:

[Roll No. 536]

YEAS—162

Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Anthony
Ashley
AuCoin
Barnes
Beilenson
Bingham
Blanchard
Bonker
Brademas
Brodhead
Brooks
Broyhill
Buchanan
Burton, John
Burton, Phillip
Butler
Carr
Clay
Cleveland
Coelho
Conable
Conyers
Corman
Coughlin
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
English
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Garcia
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gray
Green
Grisham
Guarini
Gudger
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McKinney
Maguire
Matsui
Mattox
Mikulski
Miller, Calif.
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Neal
Nedzi
Ottinger
Panetta
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Pursell
Railsback
Rangel
Ratchford
Reuss
Richmond
Ritter
Rose
Roybal
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Slack
Snowe
Solarz
Spellman
Stack
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Walgren
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates

NAYS—234

Abdnor
Addabbo
Albosta
Ambro
Andrews, N. Dak.
Annunzio
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Burgener
Burlison
Byron
Campbell
Carney
Carter
Cavanaugh
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fish
Fithian
Florio
Fountain
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Gore
Gradison
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La
Leath, Tex.
Lederer
Lee
Lent
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Markey
Marks
Marlenee
Marriott
Mathis
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Mottl
Montgomery
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Pashayan
Patten
Paul
Perkins
Petri
Price
Quayle
Quillen
Rahall
Regula
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Traxler
Trible
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitten
Williams, Ohio
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—37

Anderson, Ill.
Ashbrook
Bolling
Bonior
Broomfield
Brown, Calif.
Brown, Ohio
Chappell
Chisholm
Collins, Ill.
Crane, Philip
de la Garza
Diggs
Flood
Goldwater
Goodling
Hall, Ohio
Ireland
Jones, N.C.
Lewis
Martin
Mineta
Murphy, Ill.
Myers, Pa.
Nolan
Pritchard
Rhodes
Roberts
Rosenthal
Stockman
Thomas
Treen
Vander Jagt
Waxman
Wilson, Bob
Wilson, C. H.
Winn

☐ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Mineta for, with Mr. Bonior of Michigan against.

Mrs. Collins of Illinois for, with Mr. Chappell against.

Mrs. Chisholm for, with Mr. Murphy of Illinois against.

Mr. STOKES changed his vote from "nay" to "yea."

Mr. MARLENEE changed his vote from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

☐ 1700

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to state that the House will continue with the program scheduled for today. The House will bring the ACTION bill up for further consideration. The House will continue until a reasonable hour until it can be determined what the Senate has done or is going to do with regard to the joint resolutions just passed. If the other body sends that back for a conference, there would be a possibility of our voting on that request before the evening is over.

With that, the Chair will recognize the gentleman from Illinois (Mr. SIMON).

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. SIMON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2859, with Mr. DAN DANIEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. In the Committee of the Whole earlier today, the committee amendment in the nature of a substitute was considered as having been read and open to amendment at any point.

Are there further amendments?

TECHNICAL AMENDMENTS OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer technical amendments.

The Clerk read as follows:

Technical amendments offered by Mr. SIMON: Page 32, line 6, strike out the quotation marks.

Page 32, line 17, strike out "similare" and insert in lieu thereof "similar".

Page 37, line 2, strike out "reference" and insert in lieu thereof "references".

Page 23, line 9, strike out "1974" and insert in lieu thereof "1964".

Page 38, line 25, strike out "1974" and insert in lieu thereof "1964".

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SIMON. Mr. Chairman, these are three technical amendments which simply correct spelling and typographical errors. They are strictly technical amendments, and I urge their adoption.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. SIMON).

The amendments were agreed to.

Mr. KRAMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and three Members are present, a quorum.

The Chair recognizes the gentleman from Oklahoma (Mr. EDWARDS).

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Oklahoma: Page 17, strike out line 8 and all that follows through line 11, and insert in lieu thereof the following new section:

ABOLITION OF NATIONAL GRANT PROGRAMS

SEC. 4. (a)(1) Part A of title I of the Act is amended by striking out section 108.

(2) The table of contents for the Act is amended by striking out the item relating to section 108.

(b) Section 402 of the Act is amended by striking out paragraph (12), and redesignating paragraph (13) through paragraph (15) as paragraph (12) through paragraph (14), respectively.

☐ 1710

Mr. EDWARDS of Oklahoma (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. EDWARDS of Oklahoma. Mr. Chairman, the so-called National Grants program has never been approved by this Congress. In fact, there has been no need for such a program. Under the existing statute, the Director of the VISTA program has been authorized to spend up to 20 percent of VISTA funds on grants, to be allocated within the various regional offices set up to administer the agency's work.

Faced with an excess of funds in the amount of $4 million, the Director of VISTA came up with a new way to spend the money that was left over: A new category of grants was created—National Grants—to be administered at the Director's discretion, regardless of regional boundaries.

Mr. Chairman, obviously, while the Congress authorized the expenditure of these funds, it was never intended that VISTA should set out to see to it that every penny of the money available was spent regardless of the demand. Too few Federal agencies return dollars to the Federal Treasury at the end of a fiscal year. In the case of VISTA, since not all the regions were spending the money available to them, the taxpayers had a rare opportunity to see a Federal goal met for less than had been anticipated.

As we all know, a number of these National Grants made the news when it was alleged that the funds had been used to support activist political organizations. As a result, the Committee on Appropriations of this House directed its nonpartisan, investigative staff to conduct an investigation of the National Grants program. On April 5, 1979, the Committee on Appropriations' report called for the Congress to "prohibit further use of VISTA funds for National Grants * * *"

That conclusion was based on 7 months of investigation. By contrast, the Committee on Education and Labor held only 6 days of hearings on the entire ACTION program before the full Committee on Education and Labor ordered it reported to the floor.

Mr. Chairman, this National Grants program brought a number of changes into the program, changing the emphasis from providing one-on-one services, which had been the real purpose of VISTA, to instead using volunteers as organizers to bring about social change.

Those social changes may be good, and they may not be good. But that was not the original purpose of the VISTA program.

The investigative staff of the Committee on Appropriations found, and it reported, that the National Grant program ignores VISTA criteria for selecting sponsors and that in fact many of the constituencies that were being served were not poor or low income, as was envisioned by the act.

National Grants go to organizations not incorporated as nonprofit; sponsors are approved without onsite visits; cost ceilings have been waived.

At training sessions for one grantee program, volunteers received materials that advised things like this, and I quote:

> Make what the opposition is doing or not doing sound scandalous.

Mr. Chairman, I will say, as the gentleman from Illinois (Mr. SIMON) pointed out earlier, that while the administrators of this program may indeed have caught and stopped some of these pamphlets, others were stopped only when the Committee on Appropriations staff discovered them and protested.

Here I would add that the Committee on Appropriations staff concluded, and I quote:

> Unless violations of their own guidelines or laws are brought to the attention of the officials, there will be no attempt made to determine the propriety of the grants.

The investigative staff of the Committee on Appropriations met with the State directors and the program officers in 12 States. According to the committee report, all of those officials had reservations about the program.

During the first year of the National Grants program, ACTION awarded 12 VISTA grants to national sponsors.

The investigative staff of the Committee on Appropriations met with the State directors and program officers in 12 States—I want to repeat that point, because, according to the committee report, every one of those officials had reservations about this program. And then during the first year of the National Grants program, ACTION awarded 12 VISTA grants to national sponsors on a noncompetitive basis.

According to the report of the Committee on Appropriations—and I would add, Mr. Chairman, that it was reported unanimously by the Committee on Appropriations—a number of these awards were made to friends and former associates of the VISTA Director.

I repeat, Mr. Chairman, that the Committee on Appropriations spent 7 months investigating the VISTA program. That report found, and I quote:

> The findings concerning the National Grants program not only demonstrate the inefficiencies in administering the program, but also the improper use and ineffectiveness of grants in meeting intended goals.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. EDWARDS) has expired.

(By unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of Oklahoma. But also the improper use and ineffectiveness of grants in meeting intended goals to reach low-income communities. "This raises the question," the committee said, "whether Congress should redirect or discontinue such grants." And the Committee on Appropriations concluded—I repeat—that the Congress should consider legislation to "prohibit further use of VISTA funds for National Grants." That is the unanimous report of the Committee on Appropriations.

Mr. Chairman, I will address this to those Members in this Chamber who have expressed the need for the VISTA program and their concern for continuing the kinds of programs that have been carried out under this program: My amendment does not take one penny out of the VISTA program—not one penny. It does not in any way affect the ability of VISTA to provide the services that Congress envisioned when it created this program.

Every one of these projects can be carried out under the regional grant program. Every project that meets the VISTA criteria can be supported. There will not be one penny less to do that.

Mr. Chairman, this is our first chance as the House to respond to the findings reported unanimously by the Committee on Appropriations after its lengthy investigation, and I urge my colleagues to join me in supporting this amendment to eliminate the National Grants program and leave this money available for the regional grants that were authorized by the Congress.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Oklahoma, for whom I have great respect, is in error. First of all, the National Grants were not designed to spend money. The National Grants were devised as a means of seeing if you can more effectively get some programs into process.

Let me just use three examples, one which the gentleman from Oklahoma certainly will understand.

One of the National Grants right now is a grant to a national organization that works with scattered Indian tribes. If you say in each State they have to have their own organization go through all this paperwork—and that is basically what this is, an increase-in-paperwork amendment, and make no mistake about it—then I suppose you can go through State by State by State and go through all of the paperwork and end up with the same result. But it just makes infinitely more sense that you have a national approach on a program like that.

One of the National Grants is for nursing homes, where you have people who have developed expertise, who can work with the people they know around the country. In this case it would probably be easier than in the case of the scattered Indian tribes. But again, instead of making all kinds of paperwork, why make all kinds of paperwork if this is going to be in a number of States.

The Members heard our colleague, the gentleman from New York (Mr. GREEN) speak about the adopt-a-building program that is in his district. That is an exciting thing. That is a national program.

I recognize that, generally, it is better to work directly with State applications. This is why in our legislation that is before us, we have reduced that 20-percent figure down to 18 percent.

☐ 1720

The gentleman from Oklahoma also talks about the report of the Appropriations Committee staff.

I see my distinguished colleague from Illinois here. I would ask him to correct me if I am wrong in any of this.

My belief is that 5 instances out of some 4,500 instances in all, 5 instances involving 9 volunteers were discovered. In three of those cases, ACTION had stopped the abuses before anyone from the Appropriations Committee came along. In two instances they were not aware of it, but it was stopped immediately by ACTION.

I would add one other thing, because there has been the implication in the remarks of the gentleman from Oklahoma and my colleague from Colorado, that something unethical has been foisted upon this agency by the people who are in charge.

We had extensive hearings. I am sure my colleague from Colorado, who is on the subcommittee, would agree with it. We had 7 days of hearings and 62 witnesses. We spent 40 hours in hearings. We had 18 witnesses requested by the minority.

Almost all that time was spent on the national list of programs, and fundamentally we came up with the conclusion that these programs were really pretty sound and pretty sensible.

I recall particularly one of the auditors who was there at the request of the minority. I asked him this question, "Have you ever been asked to do anything that you would consider unethical?"

And there was silence in the subcommittee room for a moment, and then he said, "Yes."

And I said, "When was that?"

And it turns out it was under the administration of former President Richard Nixon.

I think in fact these national programs have been run pretty well.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. SIMON. Mr. Chairman, I think they have been run pretty well once they got their shop in order after being in charge with the change of administration. I do not think there is any question there were some misjudgments that were made initially when they first got in charge, but I think the overwhelming impression of the members of the subcommittee is that they are running a pretty good shop over there now.

I think the amendment of the gentleman from Oklahoma is going to make a lot of paperwork if it should be adopted. It is going to deny some people some help perhaps who deserve it. I do not see it doing anything constructive.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I would like to respond to a couple of the points my colleague has made.

First of all, I would point out to him I have not claimed as I offered my amendment that there was anything unethical that had been done. I was not a part of that effort. I have not claimed there was anything to that effort, but I do think there are reasons to do away with the National Grants program.

The gentleman suggests that my amendment will create more paperwork. I would suggest that my amendment in fact does just the opposite, because we are going to have more paperwork if we leave the National Grant program in, because we are awarding grants that were not going to be awarded otherwise, as we had during the last session.

Let me also say to the gentleman, it may be true that the National Grant program was not designed to spend additional money, but that in fact was the effect, because at the time that all of the regional applicants had been exhausted and the grant given to those who qualified, there was still $4 million left over, which then at that point the director managed to somehow find a way to spend.

If I may make this one additional point, I would agree with the gentleman, totally agree, that the National Grant program does make the administering of this program more efficient, as the gentleman suggests it does.

It makes it more efficient by waiving criteria. It makes it more efficient by giving money to groups that are not incorporated as nonprofit.

It makes it more efficient by not requiring competitive grants.

It makes it more efficient by not requiring that the money be given to groups that are targeted to low-income constituents.

It does make it more efficient. I do not think that is our goal.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. SIMON. I did not say that the gentleman from Oklahoma said that they were unethical. I think the implication, however, by both the gentleman from Oklahoma and the gentleman from Colorado, is that something unethical has taken place.

I think, in fact, if I can use the Indian illustration again, if we force each of these scattered Indian tribes to go through this lengthy process of application to the States rather than having one group making the national application, it, in fact, does cause problems.

Now, the gentleman brings up the possibility that organizations that are not nonprofit have received any funding. This is news to me.

If it is the case, I think we ought to know about it; but to my knowledge, that is not the case, other than very small amounts of money that may be given to a business or someone to assist in a particular project.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(At the request of Mr. EDWARDS of Oklahoma and by unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Let me point out that I think that the gentleman's argument tries to perhaps change the focus of where the debate ought to be.

In the example that the gentleman is giving about the Indians tribes, for example, the law as it was enacted, as it was passed by this Congress, does provide for regional grants. They are not State grants. They are not city grants. They are regional grants.

If we have an Indian tribe or any other group that is applying for these grants that may take 5 States, 10 States, we do provide for regional grants.

My amendment does not in any way remove one penny that is available to be given out under those regional grants. Every example the gentleman has given could still be taken care of through grants administered under the regional grant program.

I thank the gentleman for yielding.

Mr. SIMON. If I may just ask the gentleman from Oklahoma (Mr. EDWARDS), does he know of any for-profit organization that has received a grant from VISTA?

Mr. EDWARDS of Oklahoma. I will respond to the gentleman by saying I cannot name one, but the Appropriations Committee report, in a report that was unanimously reported out by the Appropriations Committee, does make that statement.

Mr. SIMON. That is not correct, and my colleague from, I think, Illinois, would agree on that.

I yield back the balance of my time.

Mr. KRAMER. Mr. Chairman, I move to strike the requisite number of words.

The area of greatest potential abuse, I believe, lies with the National Grants program. Now, admittedly, the agency, I think, after having some of these revelations become public, either through their own action or through newspaper accounts in some cases, which then caused them to move forward in response to those accounts, has, I think, focused in on a need to really change the law that we are dealing with with respect to the National Grants area.

I think the amendment of the gentleman from Oklahoma does focus in on the problem, because the problems that have arisen with respect to the participation of the ACTION agency or its volunteers in electioneering or in lobbying activity or in union organizing activity have come out of the National Grants program.

The National Grants program really in many ways is contrary to what the leadership of the agency espouses; in other words, a grassroots movement coming up from the local neighborhoods.

□ 1730

Yet what the national grants program has really done, as it is avowed, is allowed Washington, D.C., leadership of the ACTION agency to impose the directions of the agency from the top to the local level. I think it is a fair statement to say this direction is reflected in the kind of social activism that I alluded to in my opening remarks and which I think is sorely in need of correction.

There are some instances that have come to light where there have been statutory violations. Admittedly, I do not think these have been as voluminous as perhaps we might have believed from the first reports of the Appropriations Committee. There are distinct statutory violations, but that is not really the issue.

The issue is whether or not we close up the potential for abuse where we have seen abuse already occur. Regardless of how limited or widespread it is, there are potential areas here for political activism to be exploited from the top. I would suggest it is this body's opportunity now to take advantage in this authorizing bill to clean up these loopholes, to plug them up so that the criticism, wherever justified, that has been made against the agency will no longer be able to be made after these amendments are passed because the opportunity for that kind of activity to go on will be precluded.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. Certainly I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I would like to respond to the comment made by the gentleman from Illinois (Mr. SIMON) a moment ago by reading to him from the report of the Appropriations Committee which said:

> ACTION operating policies were changed to make it easier for grants to be approved under the national program. As a result, VISTA's have been assigned to organizations not incorporated as nonprofit organizations, sponsors have been approved without onsite visits, and costs have increased.

I would say to the gentleman that while the dollars themselves, actual dollar bills did not go to profit organizations that, in fact, the volunteers themselves were assigned to profit organizations and that was not the intention. I am just reading from the Appropriations Committee report and I thank the gentleman for yielding.

Mr. KRAMER. Mr. Chairman, if I may reclaim my time, let me just summarize very briefly the House Appropriation Committee investigation of the ACTION agency with respect to National Grants programs.

First. National Grants were not awarded on a competitive basis nor was advertising used to solicit sponsors. "Rather, applications were informally solicited."

Second. ACTION operating policies were changed to make it easier for grants to be approved under the national program.

Third. Waivers were also approved to relax requirements for proof of incorporation as a nonprofit organization.

Fourth. Investigators found that State directors, who have primary responsibility for approving and monitoring local projects, were "often overruled by either the Project Review Board or the VISTA Director." That goes back to our opening statement.

Fifth. Investigators found serious inadequacies in the training of VISTA volunteers under National Grants. Some volunteers received no training at all.

Sixth. Training manuals contained highly inappropriate language and direction. We spent some time in our opening remarks in highlighting some of those materials that we feel ought not to be used in a federally funded program.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Seventh. A combination of poorly trained supervisors and inadequate monitoring by ACTION has resulted in VISTA's becoming involved in restricted activities. Volunteers were found to be engaged in illegal activities, such as union organizing, political campaigning, and lobbying. There was also cases of volunteers doing staff work in violation of ACTION regulations. Largely because of weak supervision, VISTA's have been underutilized, used improperly, and have become involved in activities prohibited by statute.

Eighth. In most of the National Grant programs investigated, VISTA volunteers were found to be working in areas and with people not in a condition of poverty, contrary to congressional intent and ACTION regulations.

Ninth. Contrary to ACTION regulations, some local sponsors were not permitted to set their own goals and determine the needs of their community.

I think this is fairly indicative of some of the problems that have arisen with the National Grants. Admittedly, perhaps some good has come out of the National Grants program. So I think we have the opportunity now to correct some of the problems in VISTA, but at the same time maintain some of the good things that VISTA is all about.

Mr. MOFFETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. EDWARDS, to abolish the national grants program.

The gentleman from Colorado made a statement referring to social activism in what I took to be a very negative manner. As I recall, he suggested that we have to put a stop to social activism in VISTA. Obviously, much of what VISTA is about is social activism. I think the gentleman from Oklahoma (Mr. EDWARDS) and the gentleman from Colorado (Mr. KRAMER) were sincere in trying to diminish what they regard as unwise expenditures of money. I do not think there is any argument about the worthiness of that particular goal.

But I want to relate a personal experience to the gentleman from Colorado and the gentleman from Oklahoma. In the late 1960's, I had the opportunity to work in what still remained of the war on poverty. One of the things we were doing, many of us, was diverting money out of the middle class antipoverty bureaucracy, aiming instead to funnel it more directly to people in the cities, into neighborhood groups. It is more than interesting to note that heavy political pressure resulted in many of those programs being wiped out. Yet today, as the gentleman from Illinois, the distinguished subcommittee chairman knows, there are studies such as the Irving Spargel Report out of the University of Chicago, and other studies that indicate that those kinds of programs were the only ones that helped lift up young people, and in some cases helped them escape poverty and lead successful lives. Those programs were chopped off because of political pressure.

The lesson, I think, is not that every expenditure of taxpayers' money is a wise one. I am not suggesting that. I think the lesson is this: Almost by definition these kinds of approaches are going to be highly controversial and they are going to be what might be termed "high risk" programs. We are talking here about community groups and neighborhood groups. If we want to make sure they are staffed by what we might call "your kind of people," or "our kind of people"—people who are always well-behaved, always polite, and well-dressed—we are never going to find a community group that is effective.

As we have seen, one can cite a list of some of the people who have received grants under this program, and one can cite some of these absurd statements about organizers' manuals and other endeavors; I think we really have to take some of these things with a grain of salt.

You know, there is something really interesting happening today. We all know that John Kennedy and others in the early 1960's helped to give young people a sense of opportunity to serve in our society. Those leaders launched VISTA and other programs, as we know.

But what has happened? Those programs have been cut back. And we know there are thousands of young people today, thousands upon thousands, who want to serve and who want to take part and who want Government help such as the national grants program. But what has happened is that political pressure has resulted in more and more opportunities being diminished and the VISTA program being cut back more and more.

A recent issue of the New York Review of Books contains an article on the Reverend Moon and his Unification Church. I urge my colleagues to read it. When they read the article, what will they find out about the Reverend Moon and his relationship to the young people of America? They will find that thousands of them are signing up to serve in the Unification Church.

The article focuses on one young woman's book. The woman, a former "moonie," has now been "deprogramed." But she wrote that Mr. Moon gave her a sense of accomplishment. She was the captain of a six-truck flower brigade, bringing in $60,000 a year by herself. The Reverend Moon, this Korean "businessman," gave her a sense of accomplishment that she could find nowhere else.

I would suggest that we do not want the Reverend Moons giving our young people their sole source of a sense of accomplishment. At least I do not want the Reverend Moon to be the leader of the young people of America. Cannot our Government bend a little and stop chopping away at what limited opportunities do exist for our young people? I am not suggesting that the choice for the 1980's is between Sam Brown and the Reverend Moon.

□ 1740

But I am suggesting that we have such a mere token VISTA at work now; and to chop back even more is unwarranted and shortsighted. Look at the record.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent Mr. MOFFETT was allowed to proceed for 1 additional minute.)

Mr. MOFFETT. Let us not chop away at something that has been effective, as the chairman notes, in linking VISTA volunteers to banks and mortgage institutions, to try to attack neighborhood deterioration and to work on energy savings. We have examples of these programs. Let us not be guilty of overkill; let us not send a message to the young people of this country that the one meager, token program we are offering them to do some good is going to be chopped back.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I will be happy to yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I just would like to make several brief comments in response to the gentleman. I think some of the points he makes are certainly worthy of consideration, but I would point two things out in particular.

No. 1, it was clear from the Appropriations Committee report that one of the big problems in national grants was that it was getting away from the grassroots poverty levels. It was really becoming a middle-class movement.

The CHAIRMAN. The time of the gentleman from Connecticut has again expired.

(At the request of Mr. EDWARDS of Oklahoma and by unanimous consent, Mr. MOFFETT was allowed to proceed for 5 additional minutes.)

Mr. KRAMER. If we look at the allegations that are made in that committee report, they highlight things like union organizer or stuffing envelopes on behalf of one candidate. I do not think there is any one of us in this body—and I would be the last person—that would not be willing to stand up and give somebody a right to free speech or a right to organize, to be socially active, if you will. The question is, do we socially activate for the benefit of one group to the detriment of another at taxpayer expense? I submit that is not an appropriate utilization of taxpayers' funds. I think that is where the crux of the issue lies.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, first let me say to the gentleman that so far as I am aware, prior to the institution of a national grants program there was not a great deal of controversy over the administration of the program. It is true that there are going to be controversial programs, but this program had been administered in a pretty much controversy-free basis until we got to the national grants program.

But, the point I want to make is this same point that I made to the gentleman from Illinois before, because I think we are getting off the subject of what this amendment is all about. I would say to the gentleman that the examples he has given and the good benefits that do flow from the inspiration and advancement for young people to get involved, all of those things can be accomplished under the State grants, under the regional grants. My amendment does not change anything.

The gentleman knows that the kinds of programs he is talking about can still go on without change; they are still as well funded even if my amendment passes. So, while the gentleman makes some good points, I do not think they are relevant to the amendment before this body.

I would say to the gentleman, without even quarreling the point about whether the Director ought to have discretionary power, he has that now, so I only repeat that many of the programs are there. The way to carry them out is under State grants and regional grants.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to speak to the points raised by the gentleman who has just spoken. There is absolutely no reason for VISTA to be controversial. I have worked in the central ward of Newark—with Aspira, and Focus, in behalf of the Puerto Rican community, two fine groups—and with the Leaguers, of which I have been a trustee for 22 years—all black except for me. One of our graduates went from the central ward of Newark, to become the law clerk of a Justice of the Supreme Court.

There is no need for anything to be controversial. If Sun Moon is succeeding in attracting young people it is because some churches have turned to social action instead of talking about the spirit and about God. That is why Sun Moon is reaping a harvest, because he gives these children something completely different and altruistic to think about.

But, we have no need for controversy in VISTA. We can have regional grants, which are carefully done, we should give that money to plans which have some local control.

The gentleman says that money should be at the discretion of the Director, and if we had Mrs. Paxton or somebody with discretion and good judgment, I do not think there would be these questions. I am not suggesting anything illegal or wrong; I am talking about ordinary commonsense and some kind of discretion, as the gentleman himself mentioned.

We do not need to have all this kind of controversy. We can have indigenous groups, volunteer black and Puerto Rican community organizations, which have never been questioned by any mayor or by anybody else because of doing helpful work. They are tutoring children who want to go to law school. They are tutoring girls who want to get into nursing and medicine. They are tutoring, doing things that are constructive. There is no necessity for controversy in order to be effective. In fact, it can be the opposite.

We have never had the faintest trouble with any of these volunteer organizations in the central ward. They used to be entirely volunteer. Now, they are in the United Fund, and there is nothing wrong with that. I saw VISTA working also. It did have some trouble, I will admit. It did get into trouble, but the volunteer organizations did not. There is no reason that a good program should be controversial if it is honestly and sincerely concerned with the welfare of the people it is supposed to help.

☐ 1750

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. I want to commend the gentlewoman from New Jersey (Mrs. FENWICK) for the comments she has just made, and also my colleagues, the gentleman from Colorado and the gentleman from Oklahoma, for the work they have done in the committee. While this Member does not serve on the legislative committee having to do with the legislation, we did get drawn into it initially because it was our Subcommittee on Appropriations that funded the activities of ACTION. We were the instigators of the committee investigators making the kind of investigation they did and coming up with the kind of report that they issued.

My good friend, the gentleman from Illinois, suggested that there were a comparatively few number of instances that have been cited out of the total, but I think we have all got to keep in mind that there was a limited amount of investigative power we put on that project, what with all the other activities of Government that required looking into. The investigation was only a sampling, but there was enough in that sampling to cause this Member to have very serious reservations about the direction in which ACTION was going.

The National Grants program as such was conceived because it represented a change of philosophy in the new leadership from that of the past leadership in ACTION, and represented a means, through the awarding of National Grants on a noncompetitive basis of more quickly implementing that philosophy. In looking over these National Grants, there is a very poor track record, with the possible exception of the Indian reservation project alluded to by my friend, the gentleman from Illinois. I think probably that one I could say some good things about. The others I cannot. So despite that reservation, with all the temptation there is for having this program go askew with National Grants, I have come down finally on the side of supporting the gentleman's amendment and leaving it up to State contracts or local contracts. Let us face it.

The RSVP, which is, frankly, one of the great parts of the program, an admirable one, was really discounted by the current leadership, and there have been these differences of opinion between what we had originally and initially conceived the program to be and what the new head and his cohorts have conceived it to be. We have had our differences. It is not a question here today of political philosophy or conservative versus liberal or Republican versus Democrat. I think we are all wedded to the proposition that the more help we can give to local volunteer agencies, the better. As a matter of fact, there was an initiation in the Nixon administration to help volunteerism in the country. That is what it was all about. So I cannot be opposed to that concept, but I can be opposed to the program if the national direction is such that it takes it down a different route. As the gentlewoman from New Jersey (Mrs. FENWICK) said, it need not be controversial. Then you get, admittedly, into the area of doing things beyond which, frankly, I think this Congress, if put to a vote on a project-to-project basis, would say no, you have got no business doing that. That is not what we had intended. We simply wanted to give Federal seed money to this volunteer effort to do what good could be done by people who saw that need in the local community. So, admittedly, there have been corrections, and Mr. Brown and I have had a number of personal conversations, unofficial together with official, and I know we have had our differences in the past, and there have been some corrections made. But I think we want to keep the pressure applied because there are still some of those folks in the agency who want to include those things which I do not think, frankly, this agency ought to be doing.

Mr. **MILLER** of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a great deal has been said here today about the controversy surrounding the National Grants program. As one who sits on the select subcommittee under the gentleman from Illinois (Mr. SIMON) and who spent dozens and dozens of hours looking at this program, the controversy really existed because of an Appropriations Committee staff report that raised issues about some problems that the ACTION audits and investigative staff had found themselves and had taken steps to correct. A lot has been said here about somebody going out and organizing a union on behalf of ACTION. A volunteer, one volunteer, was working on a project from a voluntary workers organizing committee in Rhode Island. ACTION terminated that activity because it was an inappropriate activity under existing law. Five VISTA organizers in New Orleans were apparently helped to organize a group of household workers, a monumental union in this country, but apparently they knocked on some doors and distributed some literature. When ACTION found out about it, they terminated that activity, and I think later they even terminated the master contract.

The point is this, that there was this great to-do with allegations of criminal charges, allegations of misfeasance and malfeasance, and where allegations of cronyism and conspiracy were made many months ago and not a single one of them after hours and hours of hearings was proven. So now we come down to you have got to do something, right? You made so much noise, you have got to do something. So we bring to you this amendment that says you do not cut out any money, but we are going to teach Sam Brown a lesson. We are going to take away his discretion as most other agencies have to engage in demonstration programs on a national scale. That is what we are going to do to punish him. Whether there is another director next year or 2 months from now, we are going to punish the people in this agency.

Let me tell you, volunteerism in the name of ACTION is controversial. If you think everybody out there ought to be wrapping bandages, then it is not terribly controversial, but when you start organizing consumers and try to get supermarkets to go for unit pricing, when you try to get utilities to go for declining blocks in terms of utility rates, that becomes controversial. We heard time and again from upstanding members of the community, people who serve on the Republican Central Committee, people whose husbands and wives are judges, lawyers, and doctors involved in this, and we asked them time and again, does it not get a little hot? Does it not get a little political when you start telling the supermarket that they have got to listen to the concerns of senior citizens? And the answer was "Yes." That is what happens when you really talk about helping the urban poor, when you talk about helping senior citizens, and when you talk about helping rural farmers. You start helping these people to get control of their lives and it becomes controversial. It has happened time and again. Everybody likes a little volunteer who does not do a whole lot but when you start talking about major economic reordering in terms of utilities, in terms of fuel costs, in terms of energy savings, you bet, it is controversial because time and again those people who benefited from that in the community have called people and asked to remove these volunteers, to remove this effort because they are making life unpleasant.

So what we really have here is an amendment that is something nothing other than to embarrass the agency and the current director, because you are taking away the discretion. But he can still do it anyway, as the gentleman said. I think we ought to stop this kind of foolishness, and I think we ought to recognize that all of this activity, this claim that there was great criminal conspiracy and all of those problems, none of it was ever proved—none of it. All of the people charged were brought before the committee. They were cross-examined hour after hour after hour, and none of it was proven. So what we really have here is some window dressing to save face. I do not think we ought to do it at the urban poor's expense. I just do not think that ought to happen.

Mrs. **FENWICK**. Mr. Chairman, will the gentleman yield?

Mr. **MILLER** of California. I yield to the gentlewoman from New Jersey.

Mrs. **FENWICK**. I thank the gentleman for yielding. I know how sincere my colleague's words are in regard to helping the urban poor, but I think he must concede that for those of us who spent 25 or 30 years doing just that, there are different ways of doing it and people need different kinds of help, and you can always choose what kind of help you want to give.

Mr. **MILLER** of California. I do not concede that.

Mrs. **FENWICK**. The gentleman does not concede it?

Mr. **MILLER** of California. I do not concede that because the suggestion in the gentlewoman's remarks is to continue without being controversial. I do not believe you can in fact truly help in these tough economic times without being controversial.

The **CHAIRMAN**. The time of the gentleman has expired.

(At the request of Mr. HEFTEL, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. **HEFTEL**. Mr. Chairman, will the gentleman yield?

Mr. **MILLER** of California. I yield to the gentleman from Hawaii.

Mr. **HEFTEL**. I thank the gentleman for yielding. Will the gentleman explain his reference to the fact that the Director will be able to do it anyway?

Mr. **MILLER** of California. The proponents of the amendment keep saying it will not take out any of the money, that he can do all of this anyway on a regional basis, so I do not understand why the amendment is offered. The only reason is to embarrass the current Director and the administration. The current administration and Director have tried to bring an agency back to life that was almost completely snuffed out under the previous administration. So I assume that is the reason they have to offer the amendment.

Mr. **SIMON**. Mr. Chairman, will the gentleman yield?

Mr. **MILLER** of California. I yield to the gentleman from Illinois.

Mr. **SIMON**. I thank the gentleman for yielding. In further answering the question, any State grant has to be approved by the national agency, so that the State programs are still under the thumb of the National Director, so in fact what you are doing is you are not changing anything other than you are making a lot of paperwork, and if our aim is to make a lot of paperwork, then this amendment makes a great deal of sense. If our aim is not to create a big bureaucracy and make a lot of paperwork, we ought to pass the amendment.

□ 1800

Mr. **HEFTEL**. Would you say then that the status quo is or is not acceptable?

Mr. **SIMON**. Mr. Chairman, would the gentleman yield?

Mr. **HEFTEL**. I yield to the gentleman from Illinois.

Mr. **SIMON**. We think some additional pressure ought to be put on the agency. Frankly, this is why we hemmed in some things. We said to get a program renewed you have to have a Governor's approval. We cut down from 20 to 18 percent the amount that can be a national VISTA program. We think we have done some housekeeping chores that make some sense. I do not think this particular amendment makes any sense.

Mr. **EDWARDS** of Oklahoma. Mr. Chairman, will the gentleman from California yield?

Mr. **MILLER** of California. I yield to the gentleman from Oklahoma.

Mr. **EDWARDS** of Oklahoma. The gentleman mentioned, as the gentleman from Illinois (Mr. SIMON) before him mentioned, the number of things that were done, pamphlets printed or whatever, that got caught. After they got caught and the director became aware of them, they were changed or the grant was terminated.

Mr. Chairman, I would only point out we did not have those problems before the director started exercising his discretion.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Oklahoma (Mr. EDWARDS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. **EDWARDS** of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 177, noes 209, not voting 47, as follows:

[Roll No. 537]

AYES—177

Abdnor
Albosta
Andrews,
  N. Dak.
Anthony
Applegate
Archer
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bereuter
Bethune

Bevill
Bowen
Brinkley
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Fenwick
Fish
Forsythe
Frenzel
Gaydos
Gilman
Gingrich
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jeffries
Johnson, Colo.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McEwen
McKay
Madigan
Marks
Marlenee
Marriott
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Quayle
Quillen
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Trible
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NOES—209

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Cavanaugh
Clay
Coelho
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Holland
Hollenbeck
Holtzman
Howard
Hughes
Hutto
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
Luken
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Walgren
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—47

Anderson, Ill.
Ashbrook
Bolling
Bonior
Broomfield
Brown, Ohio
Carr
Carter
Chappell
Chisholm
Collins, Ill.
Crane, Philip
Davis, S.C.
de la Garza
Findley
Flood
Gephardt
Goldwater
Goodling
Hall, Ohio
Ireland
Jeffords
Jones, N.C.
Lewis
McDade
McDonald
Martin
Mikulski
Mineta
Murphy, N.Y.
Nichols
Nolan
Pritchard
Railsback
Rhodes
Roberts
Rosenthal
Stack
Stockman
Thomas
Treen
Ullman
Vander Jagt
Waxman
Whitten
Wilson, C. H.
Winn

☐ 1810

Mr. LATTA changed his vote from "no" to "aye."

Mr. HARRIS and Mr. BREAUX changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1820

Mr. SIMON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Dan Daniel, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes, had come to no resolution thereon.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING THE 5-MINUTE RULE

Mr. GUDGER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit on tomorrow, October 10, 1979, while the House is reading for amendment under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. McCLORY. Mr. Speaker, reserving the right to object, I have done so in order that I might propose a question to the gentleman from North Carolina (Mr. Gudger). The question is this:

It would not be the purpose, would it, to have the Committee on the Judiciary sit for the purpose of marking up the lobbying bill at a time when the LEAA bill is being debated on the floor of the House under the 5-minute rule?

Mr. GUDGER. Mr. Speaker, if the gentleman will yield, I assure the gentleman that that is not the purpose of the request.

To the contrary, I believe I have indicated to the gentleman and to others that the Committee on the Judiciary will be obliged to discontinue its deliberations so that this bill may get the attention of the distinguished minority leader of that committee.

Mr. McCLORY. So it would be our understanding that the members of the Committee on the Judiciary who would have the obligation of being here on the LEAA bill would not also be permitted to participate in the markup of the lobbying bill while we are debating the LEAA bill under the 5-minute rule?

Mr. GUDGER. That is correct. I fully agree with the gentleman from Illinois (Mr. McClory), and I will make a motion to the Committee on the Judiciary that it adjourn immediately when the LEAA bill comes up.

Mr. McCLORY. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard. The Chair will state that it requires 10 Members to object. The objectors will remain standing.

(Messrs. Grassley, Bauman, Hyde, Edwards of Oklahoma, Miller of Ohio, Guyer, Solomon, Carney, Lungren, Erdahl, and Lott also objected.)

The SPEAKER. A sufficient number has objected.

Objection is heard.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 2626, HOSPITAL COST CONTAINMENT ACT OF 1979

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on H.R. 2626, Hospital Cost Containment Act of 1979.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

ADMIRAL RICKOVER CONTINUES TO SERVE

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. PRICE. Mr. Speaker, a very favorable development occurred during the past recess of great importance to the security and welfare of our Nation. On October 2 I was notified that Adm. H. G. Rickover is to continue to serve on active duty. I was greatly relieved to learn that Admiral Rickover has agreed to continue to serve and that the Defense Department has extended his active duty period to serve an additional 2 years beyond the expiration of his present term of active duty, January 31, 1980.

He is to continue as head of the naval reactor propulsion program which has been and is now even more critical to the security of our great Nation. Without him I am convinced we would not have attained our position of preeminence in the nuclear warship field. Without our fleet of nuclear propelled missile and attack submarines and first line surface warships we could not and cannot continue to maintain our security. For this reason, every person in this Nation owes Admiral Rickover a debt of gratitude. His selfless dedication and efforts through the years have set a new standard for the performance of a public servant.

I have worked with Admiral Rickover for nearly three and one-half decades and therefore have firsthand knowledge of what he has done and has had to do many times under very adverse circumstances. Without this tenacity and, I might add, the support of certain Members of Congress who appreciated his vision, we would never have had *Nautilus*, our first nuclear submarine, and the fleet which has followed.

I must admit I was concerned over the lateness of this most recent decision to extend the length of Admiral Rickover's period of active duty. I was concerned over the delay in the latest of nine 2-year extensions of his active duty period. Since I assumed that Admiral Rickover was willing to continue to serve, the only other condition which had to be satisfied was the formal extension of his active duty period by the Executive. I, accordingly, communicated with the President suggesting that consideration be given to the extension of Admiral Rickover's period of service. I was most pleased to learn of the action which was taken.

As is well known, the naval reactors program has consistently set standards for excellence in performance and accomplishments that are virtually unmatched. The program's contributions in technical training, disciplined engineering treatment, quality control, and other areas have also extended to the civilian nuclear sector. Because of the record in the field of health and safety Admiral Rickover has established and the standards of technical excellence he has developed, he is now being consulted by leaders in Government and industry to utilize the techniques he has developed. But most importantly, the naval reactors program has been and remains a principal bastion of our defense strength.

On behalf of myself and the many citizens of this Nation who know of Admiral Rickover's efforts and contributions to our welfare and security, I wish to express my heartfelt thanks to him for agreeing to continue his service in the cause of our Nation. May he be able to continue to serve our Nation and add to the great wealth of his contributions for many years to come.●

PATRICK COUNTY SETS AN OUTSTANDING EXAMPLE OF COMMUNITY COOPERATION

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, late on the evening of Friday, September 21, a severe flash flood struck Patrick County, Va., which lies in my congressional district. The force of the flood hit around 10:30 p.m., which fortunately diminished the potential loss of life when the raging waters came upon the small town of Stuart and outlying areas.

Nevertheless, there was a serious threat and it is nothing short of a miracle that lives were not lost. Miracles, however, have a way of being influenced by human elements—and I have never seen a more dedicated group of people working together to relieve human need.

When the flood struck, there had not been much advanced warning. The people had never experienced flooding before—and panic could have set in. But it did not.

The police, fire and rescue squads, the Red Cross, and the local radio station, WHEO, all contributed to a successful warning system that told people what to expect and what to do. The people responded and what could have been a bigger disaster turned instead into an example of community coperation of which they can well be proud.

Patrick County is not a well-to-do area, but its county government, under the direction of Mr. Edward M. Turner, Jr., the county administrator, is efficient, well organized and responsible. The five-man Board of Supervisors has provided leadership for a well-defined emergency assistance plan, which has been in effect for 9 years. It looked good on paper, but this afforded a test of how it would work. The result was not disappointing.

The emergency service radio communications system, tied into the police radio and the fire and rescue systems, was manned throughout the night to answer calls for help and give instructions on what to do. The radio station gave continuing help that many feel was a contribution far beyond the normal community service policy. Countless individuals, whose own homes were safe, joined in helping others. The local industries and businesses assisted their employees and local officials stayed on the job continuously.

When the waters abated, a quick assessment indicated losses would exceed $20,000,000 some of which was covered by insurance. But hundreds of persons would need help—and a call went out to State and Federal authorities for services which their agencies make available in such disasters. The Virginia State Office of Emergency and Energy Services was on the job within hours and assessments were made to Federal authorities. My office was contacted and together we sought the kind of aid which the circumstances required.

On Saturday, September 29, the President declared a major disaster and this designation moved into play the various Federal programs that are available. Earlier, the Farmers Home Administration and the Small Business Administration had taken steps to declare an emergency under their programs and the Agricultural Stabilization and Conservation Service had made its programs available.

The President's designation was signed late in the afternoon and upon learning of this, we talked with Mr. Alfred Hahn, of the Federal Emergency Management Agency, at his home in Philadelphia. Mr. Hahn's courteous and understanding concern was immediate, and he arrived on the scene the next day. Within hours, his associates, in cooperation with the State emergency people, had a viable system in operation.

Their task was made easier by the detailed preparations that had been made by the local governing body, under the disaster plan. The stage was set, with all facilities in place, on instructions from the Virginia Office of Emergency Services and Energy. This was a fine example of Federal-State-local cooperation.

I went to Patrick County on October 1 and met with the officials who were charged with handling the disaster problems and I was tremendously impressed. As I told the assembled group, if it is possible to be sad and happy at the same time, that best represented my feelings—sad because of the damage and destruction I saw, but happy over the response to those problems. Everywhere I went, there was a genuineness of concern for each other, a community spirit and a thankfulness for aid that was then being made available.

People told me over and over how grateful they were for the messages they received from the police, the sheriff's office, the Red Cross and the radio station. The two newspapers, the Enterprise and the Bull Mountain Bugle, were praised for their involvement and county officials were given much of the credit for things running well.

We explained to the assembled group that the programs of assistance were entitlements to which they themselves must respond and in the 3 days that the Disaster Assistance Center was open in the Patrick County High School, the people did respond. There were 336 total registrations in the 3 days, 166 sought individual and family assistance grants, 192 came for assistance from the Internal Revenue Service, 53 for Farmers Home Administration loans, 177 for loans from the Small Business Administration, 159 sought aid from the agricultural programs, 336 inquired about flood insurance and others sought various other assistance.

Mr. Speaker, my purpose in calling this to the attention of the House is because many of us—including myself—have never been exposed to something like this. We have not seen our homes or the homes of our friends and neighbors flooded 6 or 8 feet. Businesses which we visited were covered with mud, to the point where bulldozers required days to scoop out the residue. Mud covered the town in the area where waters had once risen to a level of more than 9 feet. Debris clogged the river and creek. Fifty-six cars of workers at one of the plants were washed into the river and others were stacked on top of each other as the waters raged.

All of this will be re-lived by these people for years to come—and they will count their blessings that things were not worse. But, there is a lesson in this too—because we, as taxpayers, often do not see personal benefit from the taxes we pay. The correlation between taxpaying and benefit-receiving is frequently relegated to the intangible or to the levels of welfare. However, here was a demonstration of the narrowing of that gap, to the benefit of all concerned.

LAKE CITY, FLA., IS PROUD OF ACCOMPLISHMENTS OF PAT SUMMERALL

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FUQUA. Mr. Speaker, it is my considered opinion that Pat Summerall of Lake City, Fla., is the best sportscaster in the Nation.

Others must agree for among the high honors he has received is the "Sportscaster of the Year" award given by the National Sportscasters and Sportswriters Association.

Tonight I will be joined by many of Pat's friends from his hometown of Lake City to honor him for his achievements in athletics and broadcasting. Not incidental to the tribute we hope to pay Pat is the fact that he is a genuinely fine gentleman who has been an inspiration to others in every aspect of his life.

And while we honor him this evening, we are also honoring the great community of Lake City in Columbia County, Fla., and its people, for this is where he has his roots.

Pat was a popular young man growing up, a great athlete, but few envisioned the success he was to attain. The people in Lake City and Columbia County are used to having fine athletes, but they will tell you that there was none better than Pat Summerall. He was to earn a total of 16 letters in high school as he played for the Columbia High Tigers.

He was twice all-conference in football, twice all-conference and all-State in basketball—the most valuable player in the State one of those times—and also took time to letter in track and baseball.

Pat attended the University of Arkansas because of Hobe Hooser, a great coach and gentleman, who had coached in Lake City. Hooser later was to serve on the coaching staffs at the University of Tennessee and the University of Florida before retiring not many years ago to his home in Gainesville, Fla.

Pat said:

> Hobe was solely responsible for me going to the University of Arkansas. He and my father were close friends, and he had a great influence on me and my entire family. He wanted me to go to Arkansas, where he was coaching, and my family had faith in him.

Pat played 3 years at end for the Razorbacks, serving as team cocaptain his senior year, playing in the College All-Star game and being named all-Southwest Conference twice.

Drafted by the NFL Chicago Cardinals, the team that was later to move to St. Louis, Pat was outstanding as a defensive end and placekicker from 1952 through 1957.

It was his kicking for which he is most remembered as a New York Giant from 1958 through 1961. It was largely due to Pat's tremendous natural talent for kicking that the Giants won championships in all but one of the years he played with them.

In all fairness it should be mentioned that the New York Giants of that period had a roster that would read like a Who's Who in football—names like Kyle Rote and Frank Gifford for example.

As a placekicker for the Giants, Pat scored a total of 567 points, with 101 field goals and 258 extra points. He finished his career in 1961 with 129 consecutive conversions.

Today Summerall covers a variety of sports, including NFL football, golf, and tennis, and he has been the host of "CBS Sports Spectacular."

As Bill Kastelz of the Florida Times-Union once said in a column:

> In the communications business, he has paid his dues in both radio and television . . . As a rule, ex-jocks . . . with a couple of notable exceptions . . . make terrible sportscasters. Pat Summerall is one of the notable exceptions.

Summerall was sports director of WCBS, CBS-owned radio station in New York, from January 1964 to May 1971, when he signed a network contract. From October 1966 until August 1967, when the station assumed an all-news format, he also was host of WCBS's morning program, a 4-hour, 6-day-a-week broadcast. His assignments on the CBS Radio Network have also included "Sports Time" and post-season football broadcasts. He also did the sports, Monday through Friday, on the early news broadcast on SCBS-TV, CBS-owned television station in New York.

In an interview with Jack Hairston of the Gainesville Sun of Gainesville, Fla., it was noted that Pat also listed Chris Schenkel, Bob Daly and Frank Chhirkinia from the TV world as greatly influencing. Summerall said:

> Chris was the first announcer I ever worked with, and he really helped me. I was also helped by playing for the New York Giants (he was a star place kicker) when they were good and by being in New York, which is the media center of the country. Tom Landry (now head coach of the Dallas Cowboys) and the late Vince Lombardi were the assistant coaches for the Giants. Landry conducted the defensive meetings, Lombardi the offensive meetings, and I got to sit in on both, and that was an education in itself to a guy like me. They were great teachers. Landry also coached the kickers, so I was closer to him than to Lombardi.

Pat and his wife, Katharine, have now moved back to Lake City where he spends as much time as possible between his busy assignments for CBS sports.

His daughter, Susan, is a valued member of the staff of Congressman JACK KEMP of New York, who some remember as a pretty fair quarterback for the Buffalo Bills.

His oldest son, Jay, is a student at the University of Florida in Gainesville, and his youngest, Kyle, attends a prep school in Jacksonville, Fla.

I am pleased to have the privilege of honoring a very unique and distinguished American, and even more pleased to be able to pay tribute to the wonderful people of Lake City and Columbia County, Fla.

NEW METHOD FOR FINANCING WATER PROJECTS

(Mr. PASHAYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PASHAYAN. Mr. Speaker, the Federal investment in water projects is getting more and more extensive and there is some considerable pressure not to have the Federal dollar spent on that.

On the other hand, the development of water projects, especially in the West, is very, very important for the continued development of the agricultural industry in this country.

On October 5, I appeared before the California State Water Commission hearings, suggesting a new method to finance water projects, the essence of it being that they will be largely funded by the issuing of bonds by local agencies, but that these bonds will be guaranteed by the United States. This would reduce the amount of Federal dollars needed for most projects.

Mr. Speaker, I think this is an idea whose time has come for complete and full consideration by this Congress. I should like to leave for the RECORD a full text of my remarks made before the California Commission:

> Members of the Commission, it is indeed a pleasure for me to appear before you today. As the Water Commission, you are involved in concerning yourself with an adequate supply of water, the lifeblood of the economy and society of all California.
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> The problems of water in California are perhaps more serious than ever, as the 1970's draw to a close. In the early 1980's, Los Angeles will lose its water supply from the Colorado River, and its supply from the Owen Valley is now under attack. In the Delta and surrounding areas, salinity and water supply remain serious problems. Here in San Joaquin Valley, the imposition of acreage limitations and possibly residency requirements become more serious possibilities under the policies actively espoused and pursued by the Carter Administration and the Department of the Interior. But more than these particulars, there seems to be a loss of the great spirit of cooperation and enterprise that characterized the approach to water problems taken in the 1940's, 1950's and 1960's. At the very least, the challenge of resolving our water problems will require a rekindling of that spirit.
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> At the Federal level, S. 14, recently passed by the Senate, has not entirely provided relief at all. While it does clarify the earlier law by removing the residency requirement, it also imposes an insidious new limitation on private property rights. For the first time, it installs by force of law a limitation on the total size of farm operations, 1280 acres, ownership plus leasing. And this requirement itself is subject to irregular exemptions; the exemption for the Kings River is different from Imperial Valley, despite their similarity in condition. In short, S. 14 fails to acknowledge that most farmers, small or large, find an acreage limitation imposed by force of law, repugnant to the American philosophy and belief in freedom of private property.
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> But of course, the problems of water in California extend beyond the reaches of S. 14. It is the supply of water that is the chief problem. We in California do not lack water, we lack enough conduits and storage. But the problem is more serious even than that.

It is easier to transport water over a range of mountains than through a barrier of politics. For too long, our approach to the water problem has been provincial and self-serving. Consequently, all that we have done is to ration shortages; we have not kept pace with need.

It is time for us all to recognize that we can not and should not attempt to create problems in one area in order to solve problems in another. I do not believe that the Delta should be made to suffer shortages or environmental damage to meet the needs of the San Joaquin Valley, and the San Joaquin Valley should not be deprived of water already committed to it in order to solve the problems of the Delta; by the same token, neither the Delta nor the San Joaquin Valley should suffer at the hands of Los Angeles. In the final analysis, the only thing that will meet water needs is water itself. We can provide this only by constructing more storage, transportation, and distribution systems where and when needed.

In addition to these problems of provincialism and politics, is the lack of adequate funding necessary to build adequate public works by the Federal and State governments. We are all familiar with projects in recent years that have more than doubled in costs in result of blazing inflation or postponed appropriations. At one time, delay in construction were significant in terms of delaying the benefits of using the completed projects; now, delay escalates costs so tremendously that they perhaps more than consume the advantage of subsidy. Moreover, the agricultural community is a minority in America, and pursuant to attempts in Washington to reduce government spending, appropriations for the water works are often cut first.

This shortage of funding will likely continue, because there are many more demands on tax dollars, demands coupled with the clear voice of the people, calling for a fiscal conservation at all levels of government.

Bearing this in mind, it has occurred to me that we must explore different methods for funding and financing water projects, which might facilitate more construction and effect earlier completion.

It has therefore occurred to me that an excellent idea worthy of the fullest exploration and discussion, is to displace the Federal and State governments as the chief financial source, by local agencies. Already, as you know, local agencies have banded together for purposes of repayment contracts to the United States; why can they not band together in terms of the actual funding and construction of projects, even large projects, in the first instance? I should therefore like to propose the following suggestion for your consideration:

1. The Federal government fund the allocation for non-reimbursable items, such as flood control, recreation and fish and wildlife;

2. The local agencies, either individually or by joint power agreements, pay the balance of the construction, cost plus interest, by issuing long-term general obligation bonds supported by a pledge of revenues;

3. These bonds will be guaranteed by the United States of America; and

4. The same standards of economic and engineering feasibility must obtain.

The advantages of this kind of financing could well be manyfold, beyond the desirable feature of increased local participation and control. The burden of the Federal treasury would be reduced considerably, since their obligation is only for the non-reimbursable items.

More important, though, is the advantage that the time for the construction of projects, from inception to completion, would in most instances be greatly accelerated. This advantage, in turn, yields two more, first, that a shorter time for construction means less increase in cost due to inflation, and, second, that the project may be used at an earlier date, thus providing its economic productivity sooner.

Look, for example, at the delay in the Mid-Valley Canal; the Bureau may put off the completion of its feasibility study, thus delaying the time for construction by perhaps years. In short, it is possible for the foregoing of the Federal subsidy to be offset by more than the advantages. Let us take a hypothetical example; suppose a local entity finances the following hypothetical project:

1. Cost of Construction, $200,000,000 less non-reimbursable items, $40,000,000 equals reimbursable items, $160,000,000.

2. Four years of construction.

3. Inflation rate, 10% per year, constant.

4. Interest rate, 10%.

5. Expression in today's dollars.

Here, the total cost of construction to the local entity would be $221,844,000, the $61,644,000 difference being due to interest plus inflation; of course, the balance, $40,000,000, would be paid by the Federal government, instead of $200,000,000 plus cost of inflation.

Using these same figures, except assuming a ten year time of construction financed by the United States, the total cost for non-reimbursable items would be $232,000,000, all out of the Federal treasury in the first instance, but owed by the local entity, albeit without interest. In short, the total cost to the local entity in its own four year project is $10,156,000 less than obligation to the United States for the ten year Federal project.

Obviously, these results would vary with the particular figures. Let's even assume that the total obligation would be greater by local financing. But the users would enjoy the productive capacities of the project completed earlier than one built by the Federal government, and this factor itself is an enormous economic advantage not calculated in our example. So the difference would have to be very great indeed for the Federally built project to be more attractive financially.

This is, as I say, an idea whose time has arrived, in my opinion, for the fullest exploration and consideration. I shall request the Library of Congress and other interested Federal agencies for any existing studies and for new studies, as well as some of the financial institutions. This idea, any idea, needs the toughest testing. If it is sound, then we must use it; if it is weak, then we must discard it and go on to another. For every useful idea, there must be a hundred or a thousand attempts that preceded it.

I applaud the efforts of people here to finance the Mid-Valley Canal. Perhaps this method of financing should be considered in application to the Mid-Valley, to assist these efforts already begun. More generally, political and water leaders in all regions must begin earnest dialogue on water projects on a statewide scele. Partisanship and political retribution must of necessity be put aside.

Thus, we must all bear very hard and very honestly on this whole matter of water for California. California may well be a nation within a nation, and our system of water works may well rival that of ancient Rome. But there is a clock ticking away, so let us now resolve that by the stroke of midnight, we shall not have failed our duty, but shall have envisioned and built the great reservoirs and aqueducts necessary to a glorious new day for all California.

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A QUESTION OF ACCOUNTABILITY

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute, and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, the gates of Bedlam have once again been thrown open to let out one more outrage. In yesterday's Washington Post it was reported that a modification is about to take place in the House voting system. If all goes well with the testing we will soon be able to change our votes without the voters back home knowing that we did until the next day. Of course the next day is usually too late to interest local papers and other news outlets. I have watched a number of close votes where a few Members dutifully change their votes under pressure. I assure this will make it easier.

What is going on here? Why is it all of a sudden a terrible thing to have our own constituents know that we might have changed our minds on some issue? It is incredible to think that the leadership of this Chamber would authorize the use of maintenance funds for the creation of this vote switching system. I should also mention that the new terminal will be located in front of the Speaker's Rostrum. It is there. I checked it before we took it today although it is not in operation I understand. The question here is one of accountability. Are we elected to serve our constituents or the leadership of the House?

This year has seen a number of major proposals pass by just a handful of votes. The Department of Education passed this House in July on a change of just two votes. Other measures have been decided by similar razor thin margins. Unless these last-minute changes are documented and those who participate in them held accountable there is no way that responsible decisions can be made. This would not be democracy, but a sham masquerading as such.

This Congress and this administration has found itself increasingly out of step with the Nation. The voters demand less government, this Congress has given them more. The taxpayers have mandated tax cuts, this Congress has given them tax increases. The Nation wants to be strong and is against the spread of Communist tyranny, this Congress has stood aside and let the administration abandon our friends and appease our enemies. Everyone in this Chamber knows that the day of reckoning is near. Next year the voters will have a chance to look at the sorry record of this Congress and hold those accountable who were partners to this systematic disregard of the American public. This is as it should be if we really believe that the voters have a right to be heard and a right to choose their Representatives. However, this act of cloaking one more area of the public record in procedural flimflams is a grave assault on our system of government. Without accountability there is no real representation. I urge the Speaker and the House leadership to reconsider this extremely unwise act.

I include the following article:

[From the Washington Post, Oct. 8, 1979]

HOUSE INSTALLING SYSTEM TO EASE VOTE SWITCHING

House members soon may be able to change their votes on bills at the last minute without their constituents knowing about it until the next day, House aides confirmed yesterday.

Now, a member of Congress changes his or her vote by filling out a paper card. A clerk calls out the name and then announces the vote change. Those in the galleries know immediately that the vote was changed.

Under the new system, the House member would insert his or her voting card, which is similar to an electronic banking card in a special slot near the speaker's rostrum. The change would take place silently.

Under the new system, the fact that a member of Congress had changed his or her vote still would be recorded in the Congressional Record on the day after the floor action. Also, a computer printout made available to reporters immediately afterward would reflect the final vote total.

But there would be no way for reporters to know until the next day—after their news stories already were written—who had changed a vote. House staff members say that on close votes most such switches are made because of the use of persuasion by party leaders.

"It's usually due to arm twisting by the leadership," one aide said.

INTERNATIONAL DAY OF BREAD

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, among the most satisfying tasks I undertake each year is the celebration of the International Day of Bread. Today marks the 11th year I have distributed bread to my colleagues in the House of Representatives in an effort to commemorate a time when people throughout the world come together to give thanks for the harvests in their native lands.

The bread each of you should receive this afternoon comes with the compliments of the wheat growers, flour millers, wholesale and retail bakers, and all the allied trades of the wheat flour industry who comprise the National Day of Bread Committee. These groups have set aside personal and competitive interests to donate time, money, and hard work for a nonprofit public service program. That they have done so voluntarily and without commercial recognition for 11 consecutive years is a remarkable achievement.

The committee is dedicated to improving the public's awareness of nutrition by publishing educational materials and by bringing leaders together for an exchange of ideas on food and related problems.

Bread, which comes from wheat, is the staff of life. It symbolizes all food and man's dependence upon the soil, the sun, the rain and the practice of agriculture. On this day, bread also symbolizes the hard work and dedication of the farmers, millers, bakers and others whose efficiencies have done so much to alleviate the fear of hunger in this country. Today, no American needs fear a shortage of bread, our most basic food.

The key to this abundance is the farmer who produces wheat and other grains. Since 1940, American farm output has more than doubled. We could grow much more. For the past 2 years, we were forced to implement a set-aside program for both wheat and feed grains because our abundant supplies were not marketed effectively. As a result, grain prices were depressed. This year, things are looking better. Still, we must continue to find ways to get the food to the people who need it, and at the same time, make increased production attractive to the producers in our relatively free enterprise society.

Mr. Speaker, I would like to point out that our grain exports make it possible for this country to continue to play a significant role in the fight to alleviate hunger and malnutrition throughout the world. These same exports contribute to significant reductions in our trade deficit.

In spite of the gains we have made, the goal of the National Day of Bread Committee will never be completely fulfilled until the day when no child goes to bed hungry; when no family has to fear for its daily bread. This is a Herculean task.

As the Representative for the First District of Kansas, a district which produces more wheat than any State outside of Kansas, I am committed to work for programs that will enhance the economic returns to producers of food and fiber and to our agricultural economy.

Mr. Speaker, I hope this Day of Bread will provide food for thought as well as nourishment. The Lord has provided us with another bountiful crop. As we eat, let us remember to pay tribute to all of the fine men and women of the milling and baking industries, and to the American farmer—the backbone of our Nation. Thank you.

ADDRESS OF PRESIDENT LOPEZ PORTILLO TO THE UNITED NATIONS

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LA GARZA. Mr. Speaker, we were recently honored by the visit of the President of Mexico, Jose Lopez Portillo.

Prior to his visit to Washington, President Lopez Portillo addressed the United Nations where he made an outstanding address in relation to the energy problems of the world.

His evaluation and recommended proposals are worthy, I feel, of the perusal of my colleagues in the House for our own edification and hopefully further action.

Mr. Speaker, I respectfully ask you and my colleagues to join with me in extending our best wishes and congratulations to His Excellency Jose Lopez Portillo, President of Mexico. I respectfully submit his remarks:

President Lopez Portillo (interpretation from Spanish): Mr. President, it is significant and encouraging that we have an outstanding African personality presiding over our debates, in well-deserved recognition of the honourable and consistent role that has been played on the international scene by his country, Tanzania.

Mr. Secretary-General, we recognize, too the dedication you have shown, and the great effort you have made in carrying out the functions of your position against the backdrop of the controversial happenings of our times.

I have said on another occasion that in this world of inequalities and contrasts, North-South and East-West tensions and pressures are crucifying a substantial portion of mankind.

In 1973, the disorder of the world economy culminated dramatically in the conflicts marking the availability and real price of hydrocarbons, which in turn had a direct or indirect effect on that long-standing disorder by giving rise to generalized energy problems and thereby affecting the well-being, the development prospects, the standard of living and even the very survival of nations.

For seven thousand years peoples have inhabited this earth, and throughout our existence our history has been marked by the search for a common denominator that would identify, bind and unite us all.

Our present circumstances seem to indicate that that unifying element, in connexion with which all of us have a responsibility, may well be the lack of energy sources.

The energy crisis exists; it is an actual fact. We are witnesses to an obligatory transition period in the world energy situation. We can be authors of that change, and channel it, or we can be simple spectators, and become its victims.

Unless we make a timely effort to define our reality as the problem it is, the transition could become a conflagration, perhaps the most violent in all history.

Beginning during the final third of this twentieth century, it is a transformation whose duration, scope and consequences have yet to make themselves known. As a result, the cost of adjusting our economy, science, techniques and political determination will be high.

Let us be fully conscious of this in order to understand what is happening within a few decades, the age of petroleum as a major basic fuel will come to an end. We have reached a watershed between two different eras in the life of mankind.

We are the protagonists in that mutation process, which involves both danger and opportunity. That is why we speak of crisis, and not yet of catastrophe.

It may be the beginning of a new era. It may be the end of them all.

If we are to set our course, find our stroke and move ahead, the truly important thing is to seek not culprits, but responsible men; not to accuse, but to explain; not to vanquish, but to convince.

Let us develop a consciousness that is based on rational thought, the gift that is ours alone among all earth's species. Of them all, we are the only beings capable of programming and premeditating our actions. Let us use those abilities to overcome instincts, fear and mistrust, and turn them into determination and reason.

Paradoxically, advances in knowledge and ways of doing things are sometimes dehumanizing and do not always contribute to civilization. Zones or groups appear in which simple realities become vital ones, and even the powerful countries run the risk of relapsing into under-development.

Energy has now enabled us to travel at supersonic speeds and to receive communications at the speed of light.

Thus, we have shortened distances and accelerated times; but also, where many people today are concerned, we have halted the course of historical time and broadened social gaps. There is a dramatic dualism between our conquering space and reaching other planets and the continued existence, on our own, of stone-age hunger and insecurity; on the one hand, we see what we can be and, on the other, what we really are. Overcoming that dualism is a basic imperative of justice, and will be feasible if we prove ourselves capable of making reasonable use of the opportunity offered us by the existence of a non-renewable resource while it still lasts.

Let us base our relations on what we have in common, and use the differences among us to enrich our analysis. Let us make those relations lasting by basing them on mutual benefit and reciprocal respect. Let us shape our behaviour to the circumstances involved. We cannot extend equal treatment to those who are in unequal positions. Let us treat others as we would be treated ourselves.

No country on earth is entirely self-sufficient. We all have need of the others.

The surplus earnings of wealthy, industrialized or petroleum-producing countries become the deficits of the weaker economies, and sooner and later have a backlash and damaging effect on their own cause.

We may distinguish five basic types of conditions as a means of grouping the different countries: those which are large-scale producers and at the same time exporters of petroleum, almost all of them developing nations; those which are producers and importers and have attained a high or medium level of economic development that provides them with the resources they must have to cover their remaining needs, in spite of price rises; those with a relatively low level of development which produce but must also import, and to do so confront the difficulties involved in acquiring foreign petroleum without cancelling economic and social projects of national benefit; those which are importers only, have attained high or medium levels of development and have been able to adjust their growth to their energy needs; and those which are not only exclusively importers but are also under-developed, and must therefore make enormous sacrifices, even where essential national projects are involved, to obtain the petroleum and petroleum derivatives they need.

From another point of view, it should also be remembered that the industrialized, market-economy countries absorb 60 per cent of all the energy produced in the world. With less than one fifth of the world's population they consume two out of every three barrels of petroleum produced.

In that context, we might ask ourselves the following questions:

How much longer will we be able to keep the world moving at its present rate with our available sources of energy? At what cost? To what end? And for whose benefit?

How and when can we and must we find substitutes for our present sources of energy?

I prefer not to mention the ideological or political aspects which would add to the complexity of approaches to the problem. I want to speak only of the facts, to say things that have been said before—things that, in one way or another, everyone thinks or knows. I trust I shall be saying nothing new. It would be grave indeed if at this point in the crisis there were still something new to be said.

We must race against time to find new solutions before our present sources run out. Let us place a proper value on what we have, before we lose it.

An extravagant and wasteful use of petroleum was made in the decades when its price was low; it was only when prices were raised in order to revalue this resource that efforts to develop alternate sources began. For the most part, it has been used as a fuel. That period will be branded with the stigma of folly, for having burned petroleum that could have been turned into food-stuffs and petrochemical products of prodigious benefit to the whole of mankind.

We have turned the petroleum industry into a gigantic mechanism for producing profits and tax revenue to meet urgent short-term needs.

We had forgotten the importance of the future, which in recent years has become a drastic present. What is in short supply becomes expensive. What, then, is the price of a commodity whose supply is running out? What is the price of that which no longer exists?

The countries that produce petroleum—a non-renewable resource and one that for many countries represents the sole resource provided them by nature—want to invest in ways that will permanently ensure their future. Now organized, they are for the first time successfully defending and revaluing a raw material. They attribute the escalation of prices to monetary and trade disorders and to the ensuing devaluation of foreign exchange, and refuse to discuss oil prices alone, outside the context of a complete new international order.

The industrialized countries feel they are being victimized by the petroleum-producing countries, which they accuse of being responsible for inflation and recession. Not yet fully organized themselves, and as consumers par excellence, they collectively follow a system of circumstantial and therefore fleeting rationalization; they draft unilateral policies designed to reduce their dependence and consumerism, and they insist on discussing the price of crude oil exclusively without considering other questions of vital importance to all.

The poor countries—those without oil, dependent, coerced and sometimes distressed; those without the ability of the wealthy countries to transfer the impact of oil prices to their exports, since these consist solely of under-priced raw materials—are forced to import everything from energy to inflation and recession. They see with despair that, despite the noble and singular, albeit insufficient efforts of the organized petroleum-producing countries, petrodollars continue to be recycled in the powerful economies.

The developing world's joint strategy for enhancing the value of all its raw materials runs the risk of being divided since, to date, although oil has itself been revalued this has not served to trigger a proper revaluation of other raw materials. We must take care to preserve the unity that was achieved with such difficulty.

Hydrocarbon prices cannot be considered a matter for bargaining and for a testing of strength between producers and consumers, particularly when their respective positions are made more extreme by the intervention of other, generally transnational structures, many of which no longer recognize any home country and consequently acknowledge neither social obligations nor political solidarity. Let us reconcile conscience and national values with the interests of fertile and harmonious internationalism.

Conflicts of interests among countries must be resolved not through the annihilation but rather through the dialectical integration of such opposing interests.

What is not foreseen becomes a problem. Problems that are not solved accumulate, and accumulated problems discourage evolution and foreclose possibilities of development.

In order to avoid being overtaken by events, and as a means of facing the challenges that clearly loom before us, we must not wait until crisis compels us to take hasty, piecemeal decisions and then find ourselves bound to those that outweigh the rest by reason of the force, and not the right, they represent.

Men are dying today. Let us not offer remedies for tomorrow. In the face of harsh reality, let us not propose idealized stoicism; in the face of true but difficult roads, artificial, dead-end labyrinths; in the face of concrete obstacles, would-be shortcuts; in the face of hard-to-overcome lethargy, ephemeral and selfish solutions; in the face of sound arguments, threats and lies; in the face of the power of intelligence, the brute force of arms; nor, in the face of problems shared by all, partial, bilateral or bloc solutions. We would make little progress if we allowed ourselves to be caught up in the illusory reflections of such a mirror game.

It would be inexcusable if, in full knowledge of the trends and their implications, we were to fail to take decisions leading to appropriate solutions that will keep the threat of a bitter and conflict-ridden future from becoming an irreparable present.

We cannot openly sustain high expectations while concealing evil intentions, for to do so would be to offend justice with irrational acts that would abolish hope and dignity for many millions of human beings.

On the basis of those premises, we fully identify with the countries that are struggling to revalue their raw materials. We share the interests of the petroleum-producing countries, but we also realize that it is essential to dismantle a bogged-down system that works to the detriment of all. We are irrevocably pledged to the principles of self-determination, non-intervention, the peaceful solution of controversies, the economic rights and duties of nations, and solidarity, which are the guidelines of our international conduct. That is why we want to cut this Gordian knot.

We know that among individuals, as among nations, respect for the rights of others is peace, just as we also know that on occasion we must take on new responsibilities so that law, respect and active peace will again come to the fore. The time has come to make renewed progress in establishing the norms and regulations of international law, which must no longer be merely public law but must acquire an authentically social nature.

My country, which long ago affirmed the nation's primary ownership of its land and subsoil, a principle that is embodied in our Constitution, was in 1938 the first country to nationalize its oil industry as part of its decolonization process. Today, an important potential producer of hydrocarbons, it desires solidarity with all the nations of the world, and particularly with those which are struggling for their freedom and are most needy and most deserving.

We are prepared to back these words with deeds by assuming both normative and operative obligations in efforts to bring about the advent of a new, more equitable and better-balanced world order.

With all due modesty as regards our situation and understanding, we would like to offer the following considerations. The first problem, in the presence of so many protagonists with opposing interests, undefined policies, unresolved claims, accumulated resentment and articulated reproaches, is how to pose the problem without giving rise to suspicions of partiality, manipulation or complicity.

Defining the problem constitutes a substantial part of the solution. Nevertheless, what I am about to say is so simple that I confess it may appear, in view of the controversial situation in which we find ourselves, to be mere romantic ingenuousness.

Energy sources are the shared responsibility of all mankind. Energy sources must not be the privilege of the powerful. All abundance is relative. Such sources have a limit, and will come to an end. Moreover, they must not be used as a disturbing element to offset the insecurity of those who have no other means of ensuring their legitimate survival and self-determination.

We want to bridge the gap between extremes by making present-day petroleum supply, demand and price structures compatible with the alternatives we seek for the future.

The order that must come about—and soon—can come either as the result of the participation of sovereign nations, of their convictions and their free will, or be violently imposed by the most powerful of those nations. And it is not impossible that it may come as the result of a senseless holocaust, which, in pointless emulation of the punishment of Sisyphus, who was doomed never to finish his task, would nullify what it seeks to gain, and, to our eternal shame, would again loose the Horsemen of the Apocalypse—this time, however, riding the unleashed energy of millions of horsepower.

That is the dilemma before us and the reason for the proposal I am making here today.

The United Nations is the only rational and institutional means we have for combating political and economic hegemonies.

Only here is it possible for sovereign nations to deal with one another on an equal legal and moral footing only in this manner will we together be able to settle controversies and to banish abuses and excessive power, so as to develop within a framework of justice rules that, once approved by the majority, will be binding on all for the achievement of well-reasoned and effective solutions.

But this forum is criticized as if it had sprung up by spontaneous generation. It is said that it is too bureaucratic, that it is a frustrating quagmire, or that it is excessively politicized, that it has become an instrument for the exercise of the veto of the big Powers, or for misuse by the majority made up by the weaker nations.

Be that as it may, it is our own creation—the best we have been able to devise. If we do not agree on its usefulness, let us change it, but let us not invalidate it.

We propose a formula of teamwork, aimed not at imposition or intervention, but at harmonious participation that will integrate and amplify isolated efforts.

The subject of energy has attracted and occupied the attention of this Organization for several years past. Hydrocarbons—as a catalysing element of the economic crisis—have been a recurring theme of the debates, which have revealed varying interests and opinions, good ideas and mistaken ones, and agreement and disagreement cutting across each other in all directions whenever the subject of energy comes up.

To mention all the reports and resolutions that have been produced at different levels would take far too long. There are those who persist in thinking of energy matters in terms of the energy source involved; to split up the question in this way into separate parts is illogical and incompatible with the interdependent nature and magnitude of the problems we face today.

On what objective criterion could the treatment of nuclear energy for peaceful purposes be based, if we failed to take the production of hydrocarbons into account? Would a conference whose purpose was the study of new and renewable energy sources make sense to us if it excluded consideration of older conventional sources? Would it not be more consistent to co-ordinate all energy matters within one over-all policy, while respecting the special characteristics of each energy source? Neither does it seem justified to allow the shortcomings and problems left over from the past, or the antagonisms of the present, to lead us to classify in separate, watertight compartments matters that are inseparably linked together.

We want to make use of what is usable, capitalizing on experience and on what we learn from daily life, in order to draw up a common programme for the development and equitable distribution of energy resources, both existing and potential. Therefore, research should be directed towards optimizing energy production and productivity, so as not to base solutions on reserves, but rather on the available potential for generating resources that are indeed renewable and for the common good.

We face what appear to be fundamental problems that are really questions of form and method, of a method for reconciling divergent interests and clarifying the political will of the international community, each one of whose members must claim its rights and agree on and carry out its mission.

We are hampered in this endeavour, on the one hand, by the inability to put together in a coherent way the different approaches to the energy problem, the most vital of all for ensuring the continuity of progress; and, on the other hand, by the difficulty of linking them to a much vaster and more complex whole: a new world economic order.

Resolving this contradiction means deciding not only what to do, but how to do it; it means dealing simultaneously with both aspects—the new international strategy for development and the means of implementing it.

Were we to do otherwise, we would be dissociating what we want from what we do; we would be opposing principles to norms, norms to procedures, and procedures to creative action. We would be running the perilous risk of getting bogged down, of perpetuating the unjust contrasts between scarcity and extravagance, between humiliating backwardness and dazzling progress, between a sterile existence and a decent life.

We already have economic norms and provisions that are generally accepted by States. By basing our efforts on these norms, and thereby giving them substance, it will be possible to design an all-encompassing and balanced joint development strategy that would be expressed in legal form and based on international law. As at Bretton Woods we were able to establish an orderly structure for handling monetary and reconstruction matters, so today we could, in this now fully instituted forum, establish a new and more orderly structure for handling energy and revitalization.

Because of all this, I am in a position to assure you that a general debate on this subject is not only essential, but possible.

I therefore propose the adoption of a world energy plan that covers all nations, both the haves and the have-nots, one that is binding on all and that has as its fundamental objective the assurance of an orderly, progressive, integrated and just transition from one age of man's history to the next.

The plan must contain programs designed to accomplish the following:

It must guarantee the full and permanent sovereignty of each nation over its own natural resources.

It must rationalize the exploration, production, distribution, consumption and conservation of present-day sources of energy, particularly hydrocarbons, by providing financial and technical assistance.

It must ensure and increase the systematic exploitation of potential reserves of all types, both traditional and non-conventional, that have not yet been exploited owing to lack of financing or applied research. These include the sun that heats our tropics and burns so many deserts; the water that runs uselessly down so many mountainsides, eroding the soil along its path; the ignored heat within our earth; the unused energy of the wind, and that of the sea, of the atom and of life itself.

It must make it possible for all nations to draft energy plans that are compatible with world policy, so as to ensure the consistency and effectiveness of objectives, content and instruments.

It must devise measures for the promotion in developing countries of the formation and integration of auxiliary industries in the energy field, and especially of capital goods.

It must establish a short-term system, to be put into effect immediately, for resolving the problems of developing countries that import petroleum, a system which would guarantee supply and the honouring of contracts, stop speculation, provide for compensation for price increases, and even ensure considerate treatment on the part of the exporting countries.

It must set up financing and development funds, which could be made up of proportional and equitable contributions from the developed consumer countries and from producer and exporter countries, in order to meet both the long-term objectives and the urgent needs of the underdeveloped oil-importing countries.

It must institute a sytem for disseminating and transferring technologies, together with their respective training programmes, that would include a world-wide registry of advances and follow-up in energy research and experimentation.

It must support the establishment of an international energy institute. This proposal, which coincides completely with the ideas expressed here, has already been made by the Secretary-General of this Organization, whom I wish to thank for his guidance in this regard.

To carry forward this world energy plan, I propose the establishment of a working group, composed of representatives of the petroleum-producing countries, of industrialized countries. both capitalist and socialist, and of developing petroleum-importing countries, which would prepare the documents and pertinent specific proposals.

In only 21 years we shall have reached the horizon of the year 2000; by then the babies who are born today will be grown men and women Then, the only substitute for petroleum will still be the petroleum that remains to be discovered; it will not be until the dawn of the twenty-first century that other energy sources will begin to be of real service to us. Hence the imperative need to rationalize the use of hydrocarbons and the purposes they serve.

For all this to come about we shall have to apply our greatest efforts to the task, giving of our best in good faith and with intellectual honesty, imagination, constancy and determination.

May the union of our diversity give rise to the conditions for universal peace. May it be a productive peace, bringing to all the opportunity to live and earn the right to lasting happiness for ourselves and for all our children.

The challenge is for all of us, because we are all part of the problem, and therefore we are all part of the solution as well.

That is Mexico's proposal.

CASH AND CARRY: A REMEDY FOR INFLATION

The **SPEAKER**. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. **ANNUNZIO**. Mr. Speaker, latest Government figures show American inflation galloping away at over 13 percent for the first 8 months of this year. Optimistic estimates state that we may be able to bridle this beast to 5.5 percent by the year 1985.

To an overwhelming number of citizens, inflation is the No. 1 concern. Because of inflation, they doubt their own futures, and doubt their ability to get ahead. But inflation is not the problem, Mr. Speaker. It is the result of much larger problems. Government spending, consumer debt, and our large balance-of-payment deficit are all symptoms of the disease inflation.

As chairman of the House Consumer Affairs Subcommittee, one of these factors bothers me greatly. I deal with it often, and it is troublesome. That factor is consumer debt, notably installment credit or magic plastic.

As of July of this year, consumer installment credit was over $295 billion. In fact, if you took all consumer debt, including mortgages, you would have found the people of this country owing a record $1.6 trillion at the end of last year. It is much more now.

To break the back of inflation, we must break the American consumer of the buy-now-before-the-price-goes-up way of picking purchases. This buying rationale falls right into the classic definition of inflation—too many dollars chasing too few goods. Of course inflation is more complex than that, but if everyone continues to buy now, with dollars they have only through credit, continued high inflation is inevitable.

One part of the solution, Mr. Speaker, is to get this country back to a cash and carry basis. We can no longer afford credit addicts who flame the fires of inflation. This applies not only to consumers, but also to businesses and governments.

Right across the board, we must show restraint and a willingness to objectively assess what we can afford to buy and what must be left behind.

We must break the bank surcharge, that added cost of using credit. With some 600 million credit cards in circulation, consumers pay millions of extra dollars each year for goods and services.

We must encourage the use of cash, and encourage merchants to give discounts to those who do.

We must be sensible to achieve stability.

I am a realist, Mr. Speaker. I know that credit is a way of life for Americans. But I am also saying, let us keep it under control. We should buy only what we can comfortably afford, rather than go deeply into debt for fear of higher prices tomorrow.

Inflation is a constant battle. Let us not aid the enemy. Let us start paying cash on the barrel, instead of using credit which will eventually have us over that barrel.●

EXCERPTS FROM NUN'S GREETING TO POPE JOHN PAUL II

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, of the many moving episodes which occurred during Pope John Paul II's visit to the United States, there is one that I believe speaks loudly to the issue of human rights. Under the circumstances and considering the people involved, Sister M. Theresa Kane's greetings to Pope John Paul II in Washington were both courageous and poignant. I insert them in the RECORD at this point and commend them to my colleagues for their consideration:

EXCERPTS FROM NUN'S GREETING

(WASHINGTON, October 7.—Following are excerpts from Sister M. Theresa Kane's greeting to Pope John Paul II today at the sanctuary of the Immaculate Conception, and from the Pontiff's remarks to female religious at the shrine:)

GREETING BY NUN

It is appropriate that a woman's voice be heard in this shrine, and I call upon Mary to direct what is in my heart and on my lips during these moments of greetings. I welcome you sincerely, I extend greetings of profound respect, esteem and affection from women religious throughout this country.

With the sentiments experienced by Elizabeth when visited by Mary, our hearts, too, weep as we welcome you. As I welcome you today, I am mindful of the countless number of women religious who have dedicated their lives to the church in this country in the past. The lives of many valiant women, who were the catalyst of growth for the United States church, continue to serve as heroines of inspiration to us as we too struggle to be women of courage and hope during these times.

As I share this privilege moment with you, Your Holiness, I urge you to be mindful of the intense suffering and pain which is part of the life of many women in these United States.

I call upon you to listen with compassion and to hear the call of women who comprise half of humankind.

As women, we have heard the powerful messages of our church addressing the dignity and reverence for all persons.

As women, we have pondered upon these words. Our contemplation leads us to state that the church in its struggle to be faithful to its call for reverence and dignity for all persons must respond by providing the possibility of women as persons being included in all ministries of our church.

I urge you, Your Holiness, to be open to and to respond to the voices coming from the women of this country who are desirous of serving in and through the church as fully participating members.

Finally, I assure you, Pope John Paul, of the prayers, the support and the fidelity of the women religious in this country as you continue to challenge us to be of holiness for the sake of the kingdom.●

A STAMP TO COMMEMORATE THE 100TH ANNIVERSARY OF ORT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

Mr. ADDABBO. Mr. Speaker, this coming April will mark the 100th anniversary of a most distinguished group, the Organization for Rehabilitation Through Training (ORT). In its lifetime ORT has had a profound impact in the use of vocational training as a means of improving the lives of over 2 million people on five continents. I think it would be most appropriate that the U.S. Postal Service should issue a stamp commemorating this truly remarkable organization, and I shall urge that this be done.

Founded April 10, 1880, in St. Petersburg, Russia, ORT is the largest nongovernmental vocational agency in the world. Created to provide skills and trades to Jewish people the world over, ORT yearly trains more than 100,000 persons in 24 countries. It is an organization that has provided the much needed assistance in the migration and resettlement of tens of thousands of Soviet Jews. As part of the largest ORT program, located in Israel, ORT schools have recycled several hundred Soviet engineers, technicians, and teachers for employment on ORT faculties, and have, with firm resolve, made a point of creating a hospitable environ for Soviet children, thousands of whom are in the ORT schools today. In Rome, Soviet Jews are provided with English language instruction, orientation for entire families, as well as a multifunctional school in Ostia for parents and children-adult programs parallel with programs for youth and kindergarten.

The central thread of opening up educational and vocational opportunities remains constant throughout. In France, where there are presently hundreds of thousands of Jews of North African origin, ORT provides the services that are essential to communities. In 1977 ORT students taking the end-of-year examinations given by the Ministry of Education achieved scores significantly higher above the national average. When one considers that most ORT students began their studies with far lower academic standing, these results are all the more meaningful. The ORT schools in the last few years have been filled to capacity. The Montreuil Center, originally designed for 600, enlarged to accommodate 1,200, now serves more than 1,900 students. The historic ORT Ecole De Travail, located in Paris and possibly the oldest Jewish vocational institution in the world, is a much lauded, many-sided apprenticeship center reaching out to slum youngsters.

In Iran, Morocco, India, Latin America, and many "Third World" nations, ORT is there with technical training and family assistance programs. The post-colonial chapter of human history received a particular boost with the U.N.'s declaration of the "Decade of Development" in the early 1960's. ORT became a charter member of the development club at its very inception, and today is one of the oldest and most respected members. Entering into programs of "Third World" modernization through such agencies as the U.S. Agency for International Development of the U.S.

State Department, ORT is recognized in the international community for the quality of its performance and the foundations it has laid in more than a score of countries in Subsahran Africa, Asia, and South America.

On the homefront Woman's American ORT has swept into its ranks tens of thousands of energetic, highly educated and competent young women, providing not just a cause, but a way of life as well. Woman's American ORT has played a key role in the creation of the new Bramson ORT training center in New York, of an ORT computer center in Buenos Aires, helped to construct the ORT School of Engineering in Jerusalem, a new school in Lyon, France, and among others, a new school in Rio de Janiero. Currently there are 130,000 members in the United States, with over 3,000 in my home county of Queens, N.Y., alone. Dedication is the key word in describing ORT in the United States. A fine example of devoted work to this organization is Terry Hoffer of Queens, N.Y. This wonderful woman who is presently chairman of public relations and publicity for Queens region ORT, recently celebrated her 25th year of loyal service to Woman's American ORT.

The century of ORT is a century of serving human hope, a century of ideas and programs intertwined with Jewish life in these decades of upheaval, healing, and new beginnings. In a time when the need is greater than ever to raise the pall of poverty and economic backwardness in the world, this exemplary organization led by tens of thousands of volunteers, has succeeded in improving the lives of millions everywhere.

On this joyous occasion, I urge you and my colleagues to join in saluting ORT and its students everywhere.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I was in my district on official business on Friday, September 28, and was unable to vote on rollcalls No. 526, 527, 528, 529, and 530. If I had been present, I would have voted "yes" on passage of H.R. 3642, to extend the emergency medical services program; "no" on the first vote on House Resolution 367, the rule for consideration of H.R. 2859, the Domestic Volunteer Services Act; "yes" on the second vote on House Resolution 367; "yes" on resolving the House into the Committee of the Whole for consideration of H.R. 2859, the Domestic Volunteer Act; "yes" on House Resolution 393, the rule for consideration of H.R. 2172, to implement the International Sugar Agreement.●

BRIEF OF ARGUMENT FOR CONTINUED CONTROL OF CRUDE OIL PRICES

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 30 minutes.

● Mr. ECKHARDT. Mr. Speaker, I am submitting for the benefit of the Members a brief of the argument for continued control of crude oil prices, as follows:

BRIEF OF ARGUMENT FOR CONTINUED CONTROL OF CRUDE OIL PRICES UNDER THE ENERGY POLICY AND CONSERVATION ACT'S ORIGINAL TERMS

I. NATURE OF ENERGY INFLATION

A. The energy inflation crisis

1. The inflation crisis is of more immediacy than the energy crisis itself.

The energy inflation crisis is of more immediacy than the energy crisis itself. If we proceed with broad, theoretical policies involving energy inflation to solve the latter long-term crisis, the former immediate crisis will overtake and cripple the economy.

Nothing could illustrate this more clearly than the action of the Federal Reserve Board's tighter monetary policy decision announced last weekend. As John M. Berry wrote in this morning's Washington Post, it ". . . will intensify the recession and push unemployment to 8 percent or more during election year 1980." Otto Eckstein, head of the prestigious economic forecasting firm "Data Resources", said:

"The Board's actions guarantee a recession [and risk] unemployment possibly in the 8 percent to 9 percent range."

Michael Evens, a Washington-based forecaster, said the higher rates will put off the beginning of the recovery from recession until the third quarter of next year. "Consequently the unemployment rate will rise to a peak of over 8 percent by mid-1980." (The present jobless rate is 5.8 percent of the labor force.)

For the second time in a decade, the drain of purchasing power due to spiraling energy prices threatens to bring our economy to its knees. Whether the recession this time will be shallow and short or deep and long-lasting, it has the potential for being as bad or worse than the recession of 1974–75—which was the worst since the Depression of the 1930's.

2. Its effect on real spendable earnings.

Working people know there is a recession now. They know it in their pocketbooks. The real spendable earnings of private nonfarm production workers have still not recovered from the last energy inflation and recession cycle. The real spendable earnings of a married worker with 3 dependents reached an all-time high in 1972—the year before the OPEC embargo—and then plummeted 7% in the next three years, or 2.4% a year, from the combined pressures of inflation and unemployment. Some recovery was under way until 1978's drastic inflation in food and other basic necessities. Then, early this year the new energy-inflation crisis began. From January to July of 1979, real spendable earnings have declined by 3.6%. That's an annual rate of over 6% calculated before the recent onset of unemployment.

3. Effect on price of gasoline, diesel and home heating oil.

The reality of these statistics is evident to us all. Most people drive cars to work; and the price of gasoline at the pump rose by 36% between January and July, and another 5–10% over the July level in August and September. Many in this country depend on home heating oil, and the entire economy moves to diesel. From January to August the wholesale price of these two fuels—which will most severely impact peoples' pocketbooks in the winter months—rose by approximately 50%.

4. How it has triggered all inflation.

In my Spring and Summer Quarterly Reports I have shown how it has been energy costs that have fueled the tremendous surge in inflation since January. If consumer energy prices were rising only as fast as the price of all other goods, we would not be suffering double-digit inflation today.

Think of this direct impact in terms of the 7% that has been recommended as a wage guideline.

B. Energy costs and the family budget

1. Energy costs eat up wage increases.

Wage restraint may be desirable as an isolated proposition, but it is not if there is no price restraint, and there is none. If a wage increase were limited to the guidelines set by the Administration, that is, at 7 percent, the June rate of inflation in household energy prices would eat up all of it if inflation continues to rise in the second half of this year as it has in the first.

2. Energy inflation runs ahead of other price inflation.

And the inflation in consumer prices will get worse before it gets better. Producers' energy costs—such as diesel fuel—that enter indirectly into the price of all goods have risen even more drastically than consumer energy prices. Increases in the wholesale prices paid by producers for fuels and power since April have accounted for about one-half of the total increase in the wholesale index for industrial commodities. (See Figure 1.) Many of these increases will only begin to show up in consumer prices in the months ahead.

a. Relation to monetary policy.

The way to contain the double-digit inflation in our economy is to slow down the rise in energy prices that is fueling it. We cannot stop the overall price rise by pushing up interest rates, as the Federal Reserve is now doing, without deepening the recession. Such merely adds housing inflation and credit inflation to the energy inflation.

b. Effect on dwelling costs.

In August, consumer prices went up by 1.1 percent, mainly because of rapid increases in the areas of energy and housing. Housing went up 1.4 percent in August, the seventh consecutive big rise. All the principal elements of housing costs went up: 0.9 percent for rent, 1.5 percent for housing prices, and 3 percent for home financing.

c. The vicious cycle.

What we see here is the proliferating effect of energy costs as a spur to inflation generally. Energy costs soar; all consumer prices go up; the Federal Reserve Bank increases discount rates to restrain inflation; the cost of financing goes up. The result is that the two most pervasive influences on all costs of goods and services, energy costs and interest, are powerfully fueling inflation.

3. Energy costs squeeze other budget items.

a. Energy gets the glutton's share of the pie.

This emphasizes a point not always understood. Energy costs don't just affect the consumer through the cost of gasoline and heating oil. They affect all costs. They also affect how a family distributes its expenditures in the various areas of the household budget, like food, clothing, housing and transportation.

Let's consider the consumer's spending budget as a pie to be sliced up and distributed in the various areas of consumer expenditure. It is now being cut with a bigger slice going to transportation and housing and a smaller slice to food and clothing. That means oil companies and banks are cutting for themselves a larger slice of the pie, leaving a smaller one for farmers, grocers, garment makers, haberdashers and the like.

Note in the figure below that in 1960–61 the slice for transportation was about a seventh of the pie. Now it is about a fifth. The slice for food has decreased approximately from a fourth to a fifth. The slice for clothing has gone down from about a tenth to a sixteenth. (See Figure 2)

b. How this squeezes the family budget.

(1) Effect on day-to-day budget demands.

When workers' real take-home pay is declining at 7% per year these statistics represent painful reality. With less of the budget available for food, they reflect want. With less of the budget available for clothing and the amenities, they reflect privation. As the slice of the consumer dollar that must go for shelter goes from 28% of the consumer budget to 38%, and the cost of the average home has more than doubled in 10 years to about $60,000, they mean the shattering of dreams.

(2) Effect on health care demands.

Even as health care cost has tripled over the period from 1960 to 1979, its share of the consumer dollar has gone down from 6.7% to 5.5%. That means that doctors and hospitals are taking at least as much money out of the economy but affording less services because people cannot afford the health care they need. These cold statistics may be translated into illness and suffering and death.

These are the results of that swollen inflationary percentage, above the one digit figure, occasioned by energy alone. This is what double digit inflation means in human terms.

C. Is energy inflation good for us?

1. The argument that it is.

a. Gist of the argument.

Economists who have influenced three administrations to their detriment (certainly in '74 and '75 and now) tell us that we had best absorb this energy inflation, that in the long run it will be "good for us." We are told that once domestic energy prices have risen to the level exacted by the OPEC cartel, all our problems will be over. When the price is high enough, the people will be more frugal in their use of energy, and producers, lured by higher prices, will drill for and find more oil and gas. When the price is yet higher, all of the new energy sources—substitutes for our depleting conventional sources—will become economically practical.

b. Leads to disastrous consequences.

Yes. If energy prices go high enough, all of these things might well occur; and if purchasing power falls far enough, inflation will give way to depression. I do not find this a satisfactory answer to our energy problem.

2. An alternative answer.

What then is the answer? We need to conserve energy. We need to increase production of conventional oil and gas and of coal and other plentiful sources which can be substituted for it. We need coal slurry pipelines to transport the coal, in competition with railroads which blatantly argue that they should be able to claim as profit the difference between the price of coal and imported oil. And we need to encourage by every reasonable means the development of solar energy, synthetic fuels, unconventional gas, and every other viable substitute source of energy. But we don't need to do any of these things by subjecting our economy to an unrestrained inflation that cools only when our people have been drained of enough purchasing power to bring on unemployment and recession.

II. WHAT'S WRONG WITH OUR PRESENT PROGRAM?

A. Surge in cost is result of domestic policy

1. The components of the problem.

How, then, *can* we do these things? First of all, how can we restrain the energy inflation? Isn't OPEC calling the tune? Well, to a certain extent, yes. OPEC brought on the energy inflation by establishing outrageously high cartel prices. Domestic producers, refiners and distributors have boosted their own prices and thereby reaped large windfall profits.

It should be recognized that imported oil is only a *part* of the oil we consume, and the price of crude oil is only a *part* of the price we pay for petroleum products. Domestic policy decisions account for more—almost twice as much—of the increase in gasoline prices since January of this year than increases in the price of imported crude oil.

2. How domestic oil price policy developed.

We must first review a little history: In 1975, we passed the Energy Policy and Conservation Act. We in the Congress were responding then to a need which was similar to the present one—to restrain the domestic impact of the quadrupling of OPEC prices following the embargo. Hence, we established a composite price ceiling for domestic oil, excluding certain decontrolled categories, and allowed for increases to cover inflation and incentives. We then left it to what is now the DOE to regulate specific prices within the composite to prevent windfall profits on the "old" oil (that which began production before 1973) and to provide incentives for new production.

We provided that these controls would end automatically on October 1, 1981, when most of the "old" oil would be gone and the shock of decontrol would be lessened. We gave the President authority, however, to end the controls suddenly or gradually on June 1, 1979, if he deemed this appropriate in light of circumstances. President Carter, as you know, chose to exercise his authority to begin a process of "phased decontrol" in June and announced his decision in April of this year.

3. Price surge from January 1979 to present.

Now let's see what the components of the gasoline price increases from January to July are:

Of the total increase of 24.6¢ in the weighted average price of all grades of gasoline, imported crude oil accounted for 8.5¢—a little more than one-third. Price increases for domestic crude accounted for 4.5¢ of the total increase—just over 18%, and a rising proportion. Increases in refiner-reseller margins contributed 3.6¢, or about 15%; and increased retailer margins accounted for 7.4¢, or 30%—almost as large a share as imported crude oil. Motor fuel tax increases added another 0.6¢. (See Figure 3.)

This means that the decision as to whether our economy can afford two-thirds of the energy inflation that is occurring is a decision within *our* control and not OPEC's.

Each of the component increases—higher domestic crude oil prices, higher refiner margins, and higher retail margins—corresponds to an Administration decision which has been made under existing law and regulation.

B. President's control phaseout is very costly

1. Cost estimated.

The Energy and Power Subcommittee in the House estimated in May that between June 1, 1979, and the end of 1981 (shortly after the EPCA controls would have expired automatically) the President's program would transfer some $16.8 billion from consumers to domestic producers of oil. But this estimate assumed that OPEC prices—to which all domestic prices will rise under decontrol—would only increase with inflation, at an assumed 7% per year. When OPEC recently raised its ceiling prices from $14.50 to $23.50, the costs of domestic decontrol went up drastically. Depending upon what is assumed about the current average OPEC price and about further OPEC increases, this cost to the end of 1981 is now estimated by the Congressional Budget Office at something between $28 billion and $41 billion.

2. Most of cost is for old oil.

Most of the cost of phased decontrol in the crucial two years ahead will result from windfall gains to producers of "old" oil—chiefly the majors. This oil will rise in price over the 28-month decontrol period from $6 per barrel to whatever figure above $23.50 per barrel the cartel will choose to impose in late 1981. All of this oil has been discovered and produced at costs substantially below the $6 price it was receiving in May.

3. No substantial increase in incentives.

Decontrol will not add incentive that will result in much more production very much beyond that which already exists in EPCA or can be afforded without removing the composit price constraint of EPCA. Sufficient incentives for new production through 1981 already exist under the EPCA composite price mechanism, which had accumulated some $4.5 billion in "banked funds" for such incentives as of the beginning of decontrol in June.

C. To give away, then tax back, will not work

1. Only a third of cost retrieved by tax.

The President's decontrol, then windfall retrieval by taxation program, gives a gigantic pay-off to the oil companies and a sop to the people. The net result is an additional inflationary burden on the people, measured by the amount of increased energy cost and the resultant inflationary impact on all products and services not recouped by the windfall profits tax between now and October 1, 1981. The windfall profits tax, as passed by the House, would retrieve only about a third of the $28–41 price tax for decontrol between now and October 1, 1981.

2. President's proposal would go mostly to synfuels.

But even if we could afford this additional burden on the economy provided the one third were recouped and distributed to the people, such proviso is not now even in the cards. Under the President's plan, most of the tax resources from windfall profits would not go back to the people who pay for the windfall, by buying gasoline and home heating oil and other resultant inflated costs, but to the synthetic fuel program. Stated in simple terms, this is a program to peg the price of high cost "synfuel" by some $88 billion collected through the windfall profits tax.

3. Senate Finance Committee's Proposal.

Under what appears to be the emerging Senate scenario, the resources from the windfall profits tax would be totally exhausted by various plowbacks to the oil industry for producing expensive oil and gas and by incentive payments to encourage people to buy fossil fuel saving devices all the way from insulation to wood stoves.

III. WHAT CAN BE DONE TO CONTROL INFLATION?

A. Move away from giant synfuel program

1. Will not produce enough energy soon enough.

But I think both the Administration and Congress are slowly moving toward a more reasonable position. As Congress and the Administration reflect upon the various proposals for large scale synthetic fuel production programs, they are rapidly coming to the conclusion that a research and development effort involving a few demonstration plants would be far more economical and would allow needed resources to be used for a variety of alternative production incentives. Another problem which has emerged concerning synthetic fuel production is that any realistic estimate of production from even the most ambitious proposal would not bring on stream enough oil equivalent to have very much of an impact until well into the 1990's.

2. It is environmentally unsound.

In addition, a concomitant to a crash program to produce synfuels is some means of speeding the process of approval of permits to build plants which threaten environmental degradation. This has spawned the "fast track" legislation which has been bitterly opposed by environmentalists, especially with respect to its waiver provisions for substantive environmental law. Synfuels are much more polluting than fossil fuels because they pollute the air twice—once in the making (as in insitu burning of coal to make gas) and again in the burning of the synfuel as the ultimate energy source.

3. There is a better option.

Thus Congress is tending toward trimming the synfuel program to one of research and development and support for building several pilot plants using various technologies as tests. If they work, it would be industry's burden to produce commercial plants at private and not at the government's risk. Chairman Dingell of the Energy and Power Subcommittee of the House Interstate and Foreign Commerce Committee, and Chairman Ottinger of the Energy Development and Applications Subcommittee of the House Science and Technology Committee have long urged this course.

B. Best answer is more efficient energy use

1. To use energy more effectively and save costs.

We can and should reduce energy demand by promoting greater efficiency in energy use in the residential, commercial and industrial sectors. Through the use of federally guaranteed loans and direct grants as incentives toward most cost-effective energy use, we could save the equivalent of more than 4 million barrels of oil per day by 1990, while easing the soaring increase in energy prices. Thus, we would reduce the need for imported oil. At the same time, we could create more than 700,000 new jobs. Senator Kennedy has estimated that such a proposal would cost $58 billion over ten years, but the result is a net savings to the U.S. economy of $230 billion.

2. Proposed legislation.

Representative Richard Ottinger has a well thought out proposal for encouraging more efficiency in energy use in residences. Senator Kennedy, in the Senate, and I, in the House (with my colleagues Henry Reuss (D-Wisconsin), Edward Markey (D-Mass.), Silvio O. Conte (R-Mass.), Hamilton Fish (R-New York) and Paul McCloskey (R-Calif.) have introduced a bill which deals with the subject and includes provisions to encourage energy-saving measures in commercial enterprises and to give incentives to industry to engage in energy productivity projects.

3. Gaining time to develop renewable sources.

We believe that a national consensus is emerging in favor of reducing our dependence on oil and gas first and foremost by eliminating their wasteful use. The technology to accomplish this goal is already available for the most part, and the effectiveness of conservation measures is already known. All that is lacking is an economic incentive to conserve, and we propose to direct such incentives to where they can be most effective. Through the energy savings that we can make now through greater energy productivity, we can gain enough time in the 1980's in order that a variety of renewable energy sources can be developed, tested and ready for large-scale use in the 1990's.

C. Alternative to energy inflation policy

1. Summary.

I wish here to suggest an alternative to the policy of energy inflation. It is in three parts:

a. Reasonable control, to the extent that we can exercise it, on crude oil and petroleum product prices;

b. Encouragement of production of energy from new sources; and

c. The more efficient use of the energy that is now available.

2. Proposals.

a. Reasonable Controls on Prices.

The Consumer Price Index for the first six months of this year—from January through June—has been running above 14 percent on an annual basis, compared with an annual rate of 11.5 percent from the middle of 1973 to the middle of 1974 (the period which took in the last great energy inflation). During both periods, energy costs constituted the primary fuel for inflation. In the past three months direct household energy prices, gasoline and home heating fuels alone have risen so fast that they have brought the entire cost of living up at an annual rate of 4–6 percentage points, moving the inflation rate into the double digit category. This means that something must be done about the inflation in crude oil prices and in petroleum product prices. I urge that the following things be done:

(1) On crude oil.

The President's decontrol decision, which began a phase-out of price limitations on crude oil on June 1, should be reversed. This policy was supported by a two to one vote in the House Democratic Caucus. When the 1979 DOE authorization bill comes before the House next week—if indeed it is not again delayed—I will offer a crude oil recontrol amendment to this effect.

(2) On middle distillates.

Controls should be reimposed on middle distillates. In a recently released DOE study of refiners' costs and revenues for middle distillates, including both home heating oil and diesel, it was shown that in the first six months of this year, nine large refiners realized net revenue increases (over what they could have gotten under previous controls) of $797 million, or 6¢ per gallon on the product sold. The House Democratic Caucus voted week before last in favor of reimposing controls and I supported that policy as a part of an anti-inflation program.

(3) On gasoline.

(a) At the refining level.

On March 1 of this year DOE put into effect the "tilt rule" (discussed in my Spring Quarterly Report) which allows refiners to pass through to gasoline an increased percentage of their crude oil and refining costs. Refiners will benefit from this increase to the extent of some $11 to $12 billion during this year and next.

The idea of a price tilt against gasoline was conceived several years ago as a means of shifting costs from such products as home heating oil to gasoline. But that was when middle distillates were controlled. When the tilt rule went into effect this year, most petroleum products other than gasoline had been decontrolled, so the "seesaw" went up on the gasoline price side and not down on the side of other products. Home heating oil and diesel continue to rise and, in addition, the price limitations on gasoline are bent upward.

The authority for refiners to inordinately increase petroleum product prices should be removed. We should either eliminate the tilt or provide a reduction in middle distillate prices comparable to the increase in gasoline prices. Either could reduce energy costs to the public by more than $5 billion a year.

(b) At the retail level.

Finally, there must be meaningful controls on the price of gasoline at the pump. Incredibly, the drastic increases in retailer margins from January to July of this year—accounting for 30% of the gasoline price rise—occurred under a system that supposedly controlled prices by controlling those margins. Unfortunately, there was a flaw in the system. When gasoline was plentiful and competition held the price down, retailers were allowed to accumulate "banked costs," which then allowed them legally to raise the price almost without limit when the gasoline shortage set in. They could do so, that is, if they could figure out this complex system and keep books so as to take advantage of it. Many others simply did it illegally, since enforcement was lax.

On August 1 DOE instituted a simplified system which allows a straight 15.4¢ mark-up on all grades of gasoline and for all types of service. This increased the mark-up from about 10¢ to 15.4¢ per gallon, which just about doubles the service facilities' profit margin on gasoline. We in Congress must demand that DOE enforce rules which control the inordinate increase in the retailer margin which increase has resulted in 7.4¢ of the 24.6¢ total increase in gasoline prices from January through June of this year. DOE has never really enforced regulation of the price at the pump and Congress should make it do so by legislation and by oversight.

b. Encouragement of production of energy from new sources.

Most of the take from the proposed windfall profits tax would be realized after the termination of EPCA in 1981. The windfall profits tax, as passed in the House, should be enacted so as to levy a tax on oil after such termination and a part of this tax resource should be used for research and development of such things as synfuels, gasoline from geopressurized brine, and other advanced technologies for energy production. Since research is no longer limited to the test tube but requires engineering experimentation, resources should also be used for pilot plants to bring on new sources of energy.

c. More efficient use of energy that is now available.

(1) We should introduce legislation which would reduce energy demand by promoting greater efficiency in energy use in residential, commercial and industrial sectors. This should be promoted by use of federally guaranteed loans, direct grants as incentive to more cost effective energy use, and like means.

(2) We should continue, expand and implement the programs adopted in the energy policy acts of 1978 for employing advanced fuels in their best and highest uses, for instance, removing gas from the boilers of electric generating plants and supplanting it with coal. In this connection, we should facilitate the transportation of coal by coal slurry pipelines.

(3) We should revise our transportation policy providing more mass transit, more commuter services by bus and rail, and more rail corridors and triangles for more efficient intercity travel.

3. Conclusion.

Thus, there is no single program by which the inflation and energy crises can be coped with. But I am convinced that a pragmatic approach to the specific problems involved can afford a workable alternative to what seems to be the mindless present policy of energy inflation as a kind of rough surgery to meet our energy needs.●

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE REQUESTS OPEN RULE ON H.R. 2313

The SPEAKER. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

● **Mr. STAGGERS.** Mr. Speaker, the House Committee on Interstate and Foreign Commerce has requested a modified open rule on the bill, H.R. 2313, the Federal Trade Commission Improvements Act of 1979, providing for two amendments:

First. To prohibit the expenditure of any authorized funds to promulgate or enforce the funeral industry trade regulation rule, and

Second. To prohibit the use of authorized funds for the study, investigation, or prosecution of any agricultural cooperative meeting the requirements of the Capper-Volstead Act or for the study or investigation of agriculture marketing orders.

This notice is made pursuant to rule IX of the Manual of the Democratic Caucus.●

A SMALL, BUT MEANINGFUL STEP TOWARD ENERGY CONSERVATION

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, a number of recent studies have indicated that the conservation of energy can play a much larger role in the national energy crisis in the future. These studies have demonstrated that a combination of small, medium and large conservation measures could save substantial amounts of energy and help release this country from its dangerous dependence on foreign oil.

Long before lines began forming at service stations, there were another form of lines of automobiles waiting for service. Have you ever driven by a financial institution with a drive-in facility on a Friday night or Saturday morning? For years, customers have patiently or impatiently been sitting in long lines, waiting to complete some form of transaction, while their automobile engines idled. Although this may seem to be relatively insignificant, there is no way to estimate how many millions of gallons of gasoline have been wasted by this practice.

Drive-in facilities at financial institutions were established during the 1950's and 1960's, when gasoline was both inexpensive and plentiful. They were a symptom of the post World War II world with seemingly endless supplies of energy, new suburban communities, and vast shopping malls. As we enter the 1980's, oil is increasingly scarce and expensive; people are now flocking back to the inner cities; and downtown redevelopment projects are forging ahead.

Since drive-in banking facilities were the creation of a world which is no longer with us, it would be appropriate at this time to prohibit the construction of any future drive-in facilities at any financial institution. Today, I have introduced a bill which would accomplish that laudable goal.

I have no doubts that this may cause some minor inconvenience for some customers who may have to plan more carefully their future visits to their local bank and that the financial institutions also may have to bear some inconveniences. However, I also believe that the energy crisis will produce significant inconvenience and actual hardships for many unfortunate Americans, unless meaningful conservation steps are taken now. Without those steps, there will be more and more pressure on dwindling gasoline supplies and a possible repetition of last summer's gasoline lines at service stations.

Although there may be some minor inconveniences, financial institutions should be able to give their customers adequate service in the future without the construction of new drive-in facilities. Because of recent major advances in the computer industry, financial institutions have been able to turn to electronic banking at an ever increasing rate. Devices such as the automated teller facility allow banks to give their customers increased service, without resorting to methods which waste, rather than conserve energy. I am confident that financial institutions can rise to this challenge and find methods to increase services and save energy.

Mr. Speaker, this is no panacea; it is merely one small step toward conserving energy. But if we combine a large number of similar small steps with the development of new, alternative energy sources, this country will be able to free itself from the tyranny of the OPEC oil cartel.●

THE FEDERAL RESERVE'S ACTIONS

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, the Federal Reserve in its latest actions has responded to a difficult international situation. The European money masters, whose untold billions overhang the foreign exchange markets, are full of the old mythology that what the world needs now is a bout of super-tight money. If we yield to these pressures in their entirety, the result could be a recession at least as servere as that of 1974–75, or even worse.

So far, the Federal Reserve has responded with a moderate solution. It has taken three steps, designed to improve its control over the growth of the money supply. Two of these were long overdue:

First. Getting rid of the Federal funds fetish, and operating directly on the monetary aggregates, is something the Banking Committee has long urged.[*]

Second. Imposing reserve requirements on Eurodollar borrowings and other managed liabilities is also good, something I have long advocated.

The Federal Reserve's third action, raising the discount rate to 12 percent, is not the important issue here. The discount rate usually follows the movements in short-term interest rates. It is a reflection, not a determinant, of open market policy.

For these reasons, I applaud the Fed and the Treasury for their actions on Saturday.

However, the Federal Reserve can use its new techniques and powers for good or for evil. It need not, and should not, accept the European predilection for super-tight monetary policy, which would not only intensify our recession, but destroy investment, undermine productivity, and thus worsen inflation.

Moreover, worldwide monetary contraction could mean the end for the developing countries, as World Bank President McNamara warned in Belgrade last week. It would cut into LDC export markets. It would force developed nations into protectionist trade policies. It would mean a sharp curtailment of development assistance.

If the major debtors of the developing countries have to go through a massive tight-money wringer, the structure of the world financial system could be threatened.

The objective, for the sake of one and all, should be to get the world back on a steady path of economic growth, and to get the United States back on a track of high investment that will reverse our disastrous productivity performance of the past few years.

We need policies to wind down inflation gradually. The Federal Reserve, having met some of the demands of the European monetary authorities to improve its way of doing business, should reduce the rate of growth of the money supply gradually, not precipitously. Precipitate policy, particularly in response to external pressure, is a recipe for disaster.

The Europeans are pushing for tight money around the world instead of doing what they should be doing at home.

Germany, for example, has avoided politically difficult budgetary measures that it ought to take to fight domestic inflation. The Federal Republic has overemphasized monetary policy instead, which attracts short-term capital and forces the United States into defensive interest rate hikes of its own.

Great Britain and others are balking at putting restrictions on Eurodollar borrowings on their banks, for prestige reasons. The Federal Reserve action, therefore, inadvertently discriminates against U.S. banks.

We must once again exert the economic leadership in the world of which we are capable. It is not enough for our Treasury Secretary and Federal Reserve Chairman to plead with the Europeans to be reasonable. The President ought to blow the whistle, loudly, publicly, and now.●

CONTINUING APPROPRIATIONS

The SPEAKER. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the Congress has failed to meet one of its chief obligations—the enactment of appropriating legislation. It is imperative that our Government continue to pay its bills—to meet its obligations to those who extended credit; to meet the payroll; to fund entitlement programs such as social security.

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[*] "Your committee repeats its view, expressed in its report to the Congress last March, that monetary policy should consistently promote economic stability, and not alternate between stimulus and restraint. Your committee fears that a policy of simply pegging the Federal funds rate may not be compatible with this recommendation." (Second Report on Monetary Policy for 1979, July 27, 1979.)

Instead of concentrating on resolving the problem, however it seems to me that most efforts have been devoted to finding someone to blame for getting us into this mess.

However, there is sufficient blame to be shared by all of us. The House began consideration of appropriations bills in early June, passing four which have yet to pass the Senate. Two additional appropriations bills passed the House in July, which have yet to pass the Senate. In September, two more such bills passed the House, and these, too, are without Senate approval. The Senate share of the blame is obvious.

However, the House has not faced up to its responsibilities either. First, we did not complete consideration of appropriations bills until mid-September. In addition, the chief controversies have arisen over this body's propensity to insert substantive language into appropriating legislation. If this body wants to curtail abortions, then it should enact legislation restricting abortions. To hold appropriations bills hostage to the reconciliation of this extremely difficult and divisive question strikes me as irresponsible. Finally, the adjournment prior to enacting a continuing resolution on September 28 only serves to undermine confidence in Congress. We are charged to be the "Watchdogs of the Treasury"—yet we were apparently perfectly willing to foresake this responsibility without so much as a growl.

I urge my colleagues to stop casting about for someone to blame, and to concentrate on the hard work before us. Unless a continuing appropriation is adopted by both Houses this week, we will begin to see our Government unable to meet its obligations. This is something we all want to avoid. I urge the enactment of a continuing resolution, so that this potentially disastrous situation will not become a reality.●

THE VISIT OF POPE JOHN PAUL II

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, along with millions of other Americans, I was deeply moved by the presence of Pope John Paul II during his visit to the United States.

The extent of his travels in America, the scope of the attention given to him in the Nation, and his meeting with the President and other leaders at the White House were all historic and unprecedented.

The visit of His Holiness was truly unforgettable. Who was not moved by the warmth and caring of his meeting with the young or by the loving way in which he embraced some of those who were fortunate enough to be in his presence?

We have seen in him not only the Pontiff, the leader of the Catholic Church, but a caring, loving, and yet commanding human being.

The impact of John Paul's travels in the United States was not limited to his actions and statements. The response of Americans to him was equally moving and significant—for he touched them with his unique qualities as a charismatic being. If we learned nothing else, perhaps we learned that we are not as cynical, unbelieving, and despairing as many had assumed.

The news media did an excellent and dignified job in its coverage of the Pope's visit. But I notice, particularly in Washington, an instinct by some conscientious journalists to analyze the impact of the Pope's visit in conventional diplomatic, political, or even economic terms.

That, I believe cannot be done. The Pope is not a conventional governmental or political leader. John Paul II is not a conventional Pope. And his visit to the United States was emphatically not conventional.

It is not possible to analyze the effects of a loving man hugging a child.

It is not possible to measure the smiles of a happy man and those who see him.

It is not possible to measure the tears of joy on the faces of those who were moved by him.

Most Americans simply and naturally enjoyed the scenes of the hugs, the smiles, the tears, and the other fine elements of the visit of John Paul II which combined to create its wonderful impact.

I insert a "viewpoint" column titled "Papal Mission" from the Newark Star-Ledger in the RECORD, along with an "Opinion" piece from the Washington Post by Father Timothy S. Healy, president of Georgetown University, titled "What Is He Really Saying?":

[From the Newark Star-Ledger, Oct. 2, 1979]

PAPAL MISSION

Even in its first stage—the huge outpouring of the faithful in Ireland and in Boston, the initial stop on the U.S. itinerary—there were stirring signs that Pope John Paul II was the focal point of a religious spectacular.

The emotional scenes that marked the pontiff's appearance in Ireland could have been evocations of a Cecil B. DeMille religious epic . . . but on a much grander scale.

The reaction of the throngs that turned out for John Paul represented a formal homage to the magisterial ecclesiastical office of the spiritual leader of Roman Catholics.

But it also could be attributed in significant degrees to the warm, open presence of the Pope. His physical presence alone—even beyond the messages he brought—appeared to be a major cause for rejoicing.

There will be no (nor should any be expected) miracles of a temporal nature resulting from the papal mission. This was eminently clear in the pastoral tour of the island of faith, an Ireland afflicted with historic, violent religious differences.

John Paul's appeal to Catholics and Protestants "to turn away from the paths of violence" drew a guarded, respectful response from the Irish Republican Army, and a curt dismissal from an Ulster Protestant leader.

But a senior member of the Provisional IRA in Belfast said his group might react to the Pope's appeal by declaring a unilateral cease-fire in the violence-wracked north. There was a more realistic appraisal from an IRA spokesman who said a truce was possible "if the Holy Father can offer the possibility of justice for Ireland."

It is doubtful that the Pope had expected any positive assurances in a tragedy-ridden region, where a decade of terrorism has claimed a fearful toll of almost 2,800 lives. But there was little doubt, on his leave-taking, that the pontiff had been a significant moral force, albeit a temporary one, given the deep, dark passions that have virtually institutionalized violence in Northern Ireland.

The American phase of the papal mission—a tour of six cities—should be far less somber in tone. And it should also contrast strongly with the political overtones of John Paul's return to his native Poland, where his presence alone was a more powerful message to a Communist regime than his words.

In the United States there is no question of the church's survival; there is no threat to its stature as a positive moral force in a free society, the problems here are more directly related with reforms of the Church of Rome . . . birth control, the laicization of priests and ordination of women.

In his relatively brief tenure, Pope John Paul appears to have given these matters a secondary status, submerging them to what he considers the more demanding status of church revival, a stronger standing in the community.

On church and social issues, John Paul seems to have taken a more traditional, conservative stance, probably reflecting his religious stewardship in the politically hostile climate of his homeland.

However, the pontiff seems to have acknowledged a need for papal flexibility after the experience of his visit to Mexico, where he did not, in the beginning of his trip, appear to fully comprehend the social and economic problems of Latin America. Fortunately, these were momentary lapses, for which he later made amends by more precise definitions of the church's responsibility in dealing with social injustices.

But there are changes in the American church, marked changes that have taken place in the wake of the major reforms instituted by Pope John and after the two conclaves that elected John Paul I and his successor. These changes of attitude among the U.S. hierarchy assuredly have been made known to the pontiff.

It is highly improbable that these ecclesiastical matters will in any way diminish the visible aspects of John Paul's visit to America. That may not be the precise reason for his coming.

His physical presence, the gala spectacles that will give millions of the American faithful their first view of the Pope, should be the most telling message he can deliver, perhaps even more eloquent than his words.

There may, of course, be skeptics who question the wisdom of the pomp and cost of the papal mission. They may feel that John Paul's time and energy should be more productively devoted toward trying to resolve the church's nagging, persistent problems.

But there are other considerations that must influence the actions of the spiritual head of a global congregation . . . his own need to understand problems of a universal dimension, and the need to personally dramatize for his parishioners the problems of their church.

In that over-riding religious perspective, the papal mission—the arduous physical commitment—fully justifies the visit to Ireland and America by John Paul.

[From the Washington Post, Oct. 6, 1979]

WHAT IS HE REALLY SAYING?

(By Timothy S. Healy, Jr.)

The Roman Catholic Church, for all its extent and density, is extraordinarily sensitive to papal leadership. We talk easily of dominance by papal staffs (more menacing in Latin as the *Curia*), but the styles of Pius XII, John XXXIII and Paul VI have all shaped the church. Even John Paul I, the

"September Pope" as the Romans called him, rid us blessedly of coronations and enthronements. There is little reason to expect that the vigorous and pastoral John Paul II, in what promises to be a long sit on Peter's chair, will have any less impact on the church he loves and heads.

Any effort to spell out Pope John Paul II's agenda, either for the long run of his papacy or his immediate visit to the United States, must take into account his background. Polish Catholicism marks almost everything he says and does. Its proud nationalism, its discipline in the face of a deadly and powerful adversary, its long and intense suffering and its devotion to the Blessed Virgin—all are clear in the deeds and words of the new pope. He has survived the two tyrannical systems of the 20th century, communism and Nazism, so unlike each other in ideology and so very like in practice.

He is also a scholar and a poet. His philosophical studies took him deep into Husserk's world of phenomenology. If this gave him a reverence for facts, and a distrust of any effort to fit them into straitjackets of preconceptions, it will have direct import for his conduct of the papacy. Finally, as bishop and cardinal he is both architect and sharer in the post-conciliar church.

His personal gifts have had their fair share of coverage. Vigor is part of his charm, and an enormous reassurance to the church. Here is no effete figure, but a strong man whose body is very much a part of both his thinking and his loving. He has an extraordinary feel for people in crowds. It is too early to tell the constraints his struggles against tyranny have locked into his soul. He has, however, in his talks in Mexico, clearly indicated one freedom tyranny gave him—a distrust of systems, and a refusal to allow the church to be tied into any political or economic orthodoxy. He seems to have a touch for the young, is not afraid of them, cares for them and can talk to them. Of all his gifts, this may in time prove the richest.

John Paul will read the Universal Church strong in the experience of Eastern and not Western Europe. Our easy assumptions of freedom he has seldom been able to share. The want lists of highly developed societies are not familiar to him. His eastward look will show him a church in captivity. His demographic judgment will be as sound as his theology, and he will read right the numbers that pluck the hearts from lesser men. He has already heard the voice of 300 million Latin American Catholics who will, by the turn of the century, be 600 million.

His agenda will thus hardly be that advanced by Time magazine with such perspicacity and zeal for the reform of the Roman Catholic Church. No one can deny serious church concern for the five media topics (abortion, divorce, birth control, the ordination of women and the marriage of priests). This pope must ask whether or not the church is free to exist, or whether its people are murdered in the streets for believing in it, or whether its bishops are in or out of jail, or whether millions of its faithful are starving. He is likely to find that expanding the agenda of the developed nations to the Universal Church would trivialize the pain and the anguish that must be his daily fare as he looks out on the world the church labors to save.

In the documents he has written one can sense the shape of his philosophical training. His focus is on man, on human worth, on human dignity, on man's rights to work, to education, to culture and to freedom. The word "dignity" must occur 30 times in the speeches and homilies he gave in Mexico. But John Paul II will never settle for the humanist agenda. He will work across to the second step—that is, man reborn in Christ. The church must bring wholeness even to the most beautiful reaches of the humanist vision of human society. The pope is a pastor, not a philosopher.

Mexico gave us the first serious soundings in his speech to the Third General Assembly of Latin American Bishops in Puebla. Most of it was written at home, and it is balanced, central and kind. It marches easily in the footsteps of Paul VI at Medellin 10 years before, far more than it was given credit for doing in the world's press. Again and again human dignity as "a gospel value that cannot be despised without greatly offending the Creator" is proclaimed. He talks of his own and Christ's identity with the "disinherited, the sick, the imprisoned, the hungry, the lonely," and speaks with horror of "the growing wealth of the few running parallel to the growing poverty of the masses." He then goes on to say that "we shall reach man, we shall reach justice, through evangelization."

The next day at Oaxaca, and two days later at Monterrey, he gave brief talks to workers in which a different spirit, almost a different man, emerges. In the seven days of his travels, the fact of life of the church in Latin America had had a chance to hit him head on. His focus is still on man, and as always on man reborn in Christ: "The dignity of the human person must prevail above all other things, which in turn must be subservient to man." The church is "not afraid to vigorously denounce all attacks against human dignity." "If humankind wants to get hold of a revolution which is getting out of hand . . . if it wants to insure true development of individuals and peoples, then it must revise in a radical form the concept of progress which under various names has left spiritual values behind it."

But the tone is different. We can feel him reach toward his hearers: "The worker, who by the sweat of his brow waters his affliction, must hope that his dignity . . . be recognized fully. He has the right not to be deprived, through manipulations that at times amount to real thefts, of the little that he has; he has the right for his hopes to govern his growth and not be thwarted: the right to that fulfillment which his human dignity and his sonship of God claim."

And finally almost with menace: "For those of you who are responsible for the welfare of nations, powerful classes which at time keep the land unproductive and hide the bread which so many families lack, human conscience, the conscience of the nations, the cry of the deprived and above all the voice of God, the voice of the church repeats with me, 'It is not just, it is not human, it is not Christian.' "

The words in their sincerity fall like hammer blows, and the love behind them is clear. We do not know yet how much this pope will learn and how quickly he will learn it. He has already told us one thing that he, as the Vicar of Christ, wants—that the church address everything in its own house which "is not just, is not human, is not Christian."

One last word: anyone who thinks he comprehends the breadth and depth and length and height of this man's love—had best think again.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CHISHOLM (at the request of Mr. WRIGHT), for today, on account of medical reasons.

Mrs. COLLINS of Illinois (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

Mr. VANDER JAGT (at the request of Mr. RHODES), for today, on account of a death in the family.

Mr. CHAPPELL, for today, on account of official constituent business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUNGREN) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 10 minutes, today.

(The following Members (at the request of Mr. FAZIO) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. LEVITAS, for 5 minutes, today.

Mr. ADDABBO, for 15 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. ECKHARDT, for 30 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 15 minutes, today.

Mr. LAFALCE, for 15 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. FAUNTROY, for 60 minutes, on October 11, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WOLFF, to insert his remarks on H.R. 2859 immediately following the remarks of Mr. STARK.

(The following Members (at the request of Mr. LUNGREN) and to include extraneous material:)

Mr. MCKINNEY.

Mr. CONTE.

Mr. DERWINSKI in two instances.

Mr. COLLINS of Texas in three instances.

Mr. LAGOMARSINO.

Mr. BEREUTER.

Mr. PAUL in four instances.

Mr. SOLOMON.

Mr. BUCHANAN.

Mr. COURTER.

Mr. MCCLORY.

Mr. BOB WILSON in two instances.

Mr. FISH.

Mr. LEE.

Mr. WYDLER.

Mr. EVANS of Delaware.

Mr. CORCORAN.

Mr. DORNAN in two instances.

Mr. DANNEMEYER.

Mr. FINDLEY.

(The following Members (at the request of Mr. FAZIO) and to include extraneous matter:)

Mr. ALEXANDER.

Mr. SOLARZ in four instances.

Mr. HAMILTON in five instances.

Mr. BAILEY in two instances.

Mr. RODINO in two instances.

Mr. MAZZOLI in two instances.

Mr. NATCHER.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Guarini.

Mr. Garcia in two instances.

Mr. Fisher in four instances.

Mr. Ginn.

Mr. Stark in two instances.

Mr. Gaydos in two instances.

Mr. Jacobs.

Mr. Corrada.

Mr. Weiss.

Mr. Cavanaugh in two instances.

Mr. Mottl.

Mr. Edgar in two instances.

Mr. Rosenthal.

Mr. LaFalce.

Mr. Wright.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 3, 1979, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 303. Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week."

ADJOURNMENT

Mr. ADDABBO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 27 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 10, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2580. A letter from the Secretary of Defense, transmitting a report on the financial condition and operating results of working capital funds of the Department of Defense for fiscal year 1978, pursuant to 10 U.S.C. 2208(i); to the Committee on Armed Services.

2581. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act 3-104, to establish the real property tax classifications for tax year 1980 and tax years thereafter, and for other purposes; to the Committee on District of Columbia.

2582. A letter from the Director, Federal Mediation and Conciliation Service, transmitting the 31st annual report of the Service, covering the fiscal year ended September 30, 1978, pursuant to section 202(c) of the Labor-Management Relations Act, 1947; to the Committee on Education and Labor.

2583. A letter from the Comptroller General of the United States, transmitting a report on the effect of the reduction in California of local government property tax revenues on local government programs (GGD-79-88, September 28, 1979); to the Committee on Government Operations.

2584. A letter from the Secretary of the Interior, transmitting the annual report listing (1) areas of national significance with potential for inclusion in the National Park System, and (2) areas included on the Registry of Natural Landmarks and areas of national significance included on the National Register of Historic Places which exhibit known or anticipated damage or threats to the integrity of their resources, pursuant to section 8 of Public Law 91-383, as amended (90 Stat. 1940) (H. Doc. No. 96-202); to the Committee on Interior and Insular Affairs and ordered to be printed.

2585. A letter from the Under Secretary of Energy, transmitting a modification to the Department's contract with the Ohio Valley Electric Corp., pursuant to section 164 of the Atomic Energy Act of 1954, as amended; to the Committee on Interior and Insular Affairs.

2586. A letter from the Secretary, Federal Trade Commission, transmitting the seventh report of the Commission on the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act of 1975; to the Committee on Interstate and Foreign Commerce.

2587. A letter from the Assistant Attorney General for Legislative Affairs, transmitting drafts of proposed legislation to amend the jurisdiction and venue requirements and damage provisions in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

2588. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final supplement to the environmental impact statement on the Sun River, Great Falls, Mont., project, pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

2589. A letter from the Chairman, International Trade Commission, transmitting the Commission's 19th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

2590. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to establish a nutritionally adequate, consumer-acceptable ration for the Armed Forces, to authorize the issuance and sale of rations, to prescribe special rations, and for other purposes; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

2591. A letter from the Secretary of Commerce, transmitting drafts of proposed legislation entitled the Fair Financial Information Practices Act, jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

2592. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation entitled the Privacy of Electronic Fund Transfers Act of 1979; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

2593. A letter from the Comptroller General of the United States, transmitting a report containing the audit and review of two contracts the Navy awarded to General Dynamics Corp. for SSN-688 class nuclear attack submarines (PSAD-79-107, October 7, 1979), pursuant to section 821(c) of Public Law 95-485; jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 2626. A bill to establish voluntary limits on the annual increases in total hospital expenses, and to provide for mandatory limits on the annual increases in hospital inpatient revenues to the extent that the voluntary limits are not effective; with amendment (Rept. No. 96-404, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 412. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; with amendment (Rept. No. 96-500). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 413. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes (Rept. No. 96-501). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 441. Resolution providing for the consideration of House Joint Resolution 412. Resolution making continuing appropriations for the fiscal year 1980, and for other purposes (Rept. No. 96-502). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 442. Resolution providing for the consideration of House Joint Resolution 413. Resolution making continuing appropriations for the fiscal year 1980, and for other purposes (Rept. No. 96-503). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced over severally referred as follows:

By Mr. DINGELL:

H.R. 5506. A bill to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the International Energy Program; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. Rousselot, Mr. Rangel, Mr. Stark, Mr. Bafalis, and Mr. Philip M. Crane):

H.R. 5507. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. GRASSLEY:

H.R. 5508. A bill to improve the administrative process by making Federal agencies more responsive to the will of the people as expressed by their elected representatives in Congress; to the Committee on the Judiciary.

By Mr. GRAY (for himself and Mr. Bonker):

H.R. 5509. A bill to establish the African Development Foundation; to the Committee on Foreign Affairs.

By Mr. GUARINI:

H.R. 5510. A bill to amend title VII of the Civil Rights Act of 1964 to prohibit discrimination against individuals because they are handicapped, and for other purposes; to the Committee on Education and Labor.

By Mr. JACOBS:

H.R. 5511. A bill to limit the amount of official funds available to a Member of Congress for the purchase of postage stamps to $100 for each calendar year; to the Committee on House Administration.

By Mr. PICKLE (for himself and Mr. Archer):

H.R. 5512. A bill to amend section 4941(d)(2) of the Internal Revenue Code of 1954 with respect to private foundations; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 5513. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 5514. A bill to provide grants for the rehabilitation of the part of the Ten Mile River located in Providence, Pawtucket, and Warwick, R.I.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BENNETT:

H.R. 5515. A bill to amend the Regional Rail Reorganization Act of 1973 to provide a payment for certain protected employees to insure that such employees were not disadvantaged between April 1 and September 30, 1976, with respect to preretirement life and medical insurance benefits; to the Committee on Interstate and Foreign Commerce.

By Mr. CORCORAN:

H.R. 5516. A bill to require the Secretary of the Interior to determine the feasibility and desirability of designating the Illinois Trail as a national scenic trail and of designating any lands encompassing the Illinois Trail as a national historical park; to the Committee on Interior and Insular Affairs.

By Mr. LaFALCE:

H.R. 5517. A bill to prohibit the construction of additional drive-in banking facilities; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. WEISS:

H.R. 5518. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to establish a program of Federal assistance to individual artists for employment in community-oriented and locally supported projects; to the Committee on Education and Labor.

By Mr. ZABLOCKI (for himself, Mr. Wolff, Mr. Fascell, Mr. Diggs, Mr. Rosenthal, Mr. Bingham, Mr. Solarz, Mr. Ireland, Mr. Barnes, Mr. Gray, Mr. Broomfield, Mr. Derwinski, and Mr. Pritchard):

H.R. 5519. A bill to authorize the President to furnish assistance to alleviate the human suffering in Cambodia caused by famine; to the Committee on Foreign Affairs.

By Mr. GUYER (for himself, Mr. Boland, Mr. Bowen, Mr. Broomfield, Mr. Brown of Ohio, Mr. Brown of California, Mr. Buchanan, Mr. Coelho, Mr. Fazio, Mr. Flood, Mr. Florio, Mr. Forsythe, Mr. Frost, Mr. Green, Mrs. Holt, Mr. Howard, Mr. Hyde, Mr. Kemp, Mr. Kindness, Mr. Lagomarsino, Mr. Lederer, Mr. Long of Maryland, Mr. McCloskey, Mr. Mineta, Mr. Montgomery, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Nolan, Mr. Pepper, Mr. Sabo, Mr. Scheuer, Mr. Waxman, Mr. Weaver, and Mr. Yatron):

H.J. Res. 414. Joint resolution authorizing the President to proclaim May 1, 1980, "National Bicycling Day"; to the Committee on Post Office and Civil Service.

By Mr. EVANS of Indiana (for himself, Mr. Bevill, Mr. Brinkley, Mr. Jeffords, Mr. LaFalce, Mr. Lagomarsino, Mr. Mathis, and Mr. Pepper):

H. Res. 443. Resolution proclaiming the week of October 14–20, 1979 "National Mobile Home/Manufactured Housing Week"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXI, memorials were presented and referred as follows:

310. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the peripheral canal; to the Committee on Interior and Insular Affairs.

311. Also, memorial of the Senate of the State of California, relative to domestic crude oil production; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ROBINSON (by request):

H.R. 5520. A bill for the relief of Beulah C. Shifflett; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 5521. A bill for the relief of Katya Ladizhensky; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. Moorhead of California, Mr. Daniel B. Crane, Mr. Kelly, Mr. Marriott, Mr. Broomfield, Mr. Kemp, Mr. Young of Alaska, Mr. Treen, and Mr. Bauman.

H.R. 654: Mr. Edwards of Oklahoma and Mr. Pepper.

H.R. 1600: Mr. Carney, Mr. Hopkins, Mr. Livingston, Mr. O'Brien, Mr. Devine, Mr. Pritchard, Mr. Derwinski, Mr. Whittaker, Mr. Broomfield, Mr. Yatron, Mr. Glickman, Mr. Coelho, Mr. Jeffries, Mr. Mottl, Mr. Courter, Mr. Sawyer, Mr. Roe, Mr. Charles Wilson of Texas, Mr. Quayle, and Mr. Coughlin.

H.R. 2644: Mr. Grassley.

H.R. 2744: Mr. Young of Florida, Mr. English, and Mr. Kazen.

H.R. 3104: Mr. Jacobs.

H.R. 3246: Mr. Dickinson, Mr. Erdahl, Mr. Evans of Indiana, Mr. Hagedorn, and Mr. Loeffler.

H.R. 3677: Mr. Hutto and Mrs. Spellman.

H.R. 3905: Mr. Gore and Mr. Traxler.

H.R. 4238: Mr. Mitchell of New York.

H.R. 4239: Mr. Mitchell of New York.

H.R. 4310: Mr. Pursell, Mr. Anderson of California, Mr. AuCoin, Mr. Snyder, Mr. D'Amours, Mr. Carney, Mr Emery, Mr. Wyatt, Mr. Dingell, Mr. Jones of North Carolina, Mr. Hubbard, Mr. Donnelly, Mr. Studds, Mr. Lowry, Mr. Forsythe, Mr. Trible, Mr. de la Garza, and Mr. English.

H.R. 4357: Mr. Evans of Delaware.

H.R. 4805: Mr. Moakley, Mr. Murphy of New York, Mr. Donnelly, Mr. Hughes, Mr. Weaver, Mr. Guyer, Mr. Stark, Mr. Murphy of Pennsylvania, Mr. Kemp, Mr. Solarz, Mr. Zeferetti, Mr. Jacobs, Mr. Addabbo, Mr. Ottinger, Mr. Maguire, Mr. Biaggi, Mr. Bingham, Mr. Whitehurst, Mr. Horton, Mr. Mineta, Mrs. Snowe, Mr. Dornan, Mr. Rinaldo, Ms. Ferraro, Mr. Florio, and Mr. St Germain.

H.R. 5092: Mr. Moakley, Mr. Pritchard, Mr. Vento, Mr. Benjamin, Mr. Leach of Louisiana, Mr. Williams of Montana, Mr. Panetta, Mr. Bailey, Mr. Solomon, Mr. Stangeland, Mr. Price, Mr. Kindness, Mr. Lloyd, Mr. Roe, Mr. Brown of California, Mr. Clinger, Mr. Wolpe, Mr. Wolff, Mr. Stokes, Mr. Evans of Georgia, Mr. Erdahl, Mr. Nolan, and Mrs. Bouquard.

H.R. 5166: Mr. Gilman, Mr. Gudger, and Ms. Mikulski.

H.R. 5296: Mr. Kogovsek, Mr. Whitehurst, Mr. Broyhill, Mr. Abdnor, Mr. Hughes, Mr. Erdahl, Mr. Jenrette, Mr. Lott, Mr. Lagomarsino, Mr. Panetta, Mr. Mazzoli, Mrs. Fenwick, Mr. Bevill, Mr. Baldus, Mr. Cleveland, Mr. Roe, Mr. Wolpe, Mrs. Spellman, Mr. Evans of Georgia, Mr. Nolan, and Mr. Kildee.

H.R. 5394: Mr. Gaydos, Mr. Dan Daniel, Mr. Davis of Michigan, Mr. Murphy of Pennsylvania, Mr. Bailey, Mr. Benjamin, Mr. Yatron, Mr. Walgren, Mr. Leach of Louisiana, Mr. Albosta, Mr. Applegate, and Mr. Ertel.

H.R. 5408: Mr. Symms, Mr. Panetta, Mr. Anthony, Mr. Tauke, and Mr. Leach of Louisiana.

H.J. Res. 145: Mr. Skelton.

H.J. Res. 346: Mr. Mitchell of New York.

H.J. Res. 386: Mr. Buchanan.

H. Con. Res. 122: Mr. Ambro, Mr. Albosta, and Mr. Lowry.

H. Con. Res. 190: Mr. Archer and Mr. Zablocki.

H. Res. 247: Mr. Evans of Delaware.

H. Res. 371: Mr. Dornan, Mr. Murphy of New York, Mr. Marriott, Mr. McClory, Mr. Dan Daniel, and Mr. Gilman.

H. Res. 382: Mr. Coughlin.

H. Res. 383: Mr. Sebelius.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2859

By Mr. KRAMER:

—On page 33, strike out line 1 and all that follows through line 14 and redesignate the following sections (and any references to such sections) accordingly.

—Page 42, line 6, strike out "such sums as may be necessary" and insert in lieu thereof "$45,384,000".

H.R. 3000

By Mr. DONNELLY:

(Amendment in the nature of a susbtitute; page and line numbers refer to H.R. 4839.)

—Page 40, after line 23, insert the following new subsection:

(c)(1) The Secretary of Energy, acting through the Economic Regulatory Administration, shall conduct an investigation with funds appropriated pursuant to subsection (a)(2)(E) to determine the extent to which the credit practices in effect between and among refiners and others engaged in the marketing and distribution of middle distillates within the United States—

(A) adversely affect the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers of middle distillates;

(B) are justified by current market conditions; and

(C) are consistent with the public interest.

(2) As soon as practicable (but in no event later than 60 days after the date of the enactment of this Act), the Secretary shall complete the investigation under paragraph (1) and shall prepare and submit to the Congress a report on the results of that investigation. Such report shall include—

(A) the Secretary's findings,

(B) a description of any administrative actions to be taken on the basis of that investigation and such findings, and

(C) any recommendations for legislation which the Secretary considers appropriate.

(3) For purposes of this subsection—

(A) the term "middle distillate" means No. 1 and No. 2 heating oils and No. 1–D and No. 2–D diesel fuels, as such terms are defined in section 212.31 of title 10, Code of Federal Regulations (as in effect on the date of the enactment of this Act); and

(B) terms used in this subsection which are defined in the Emergency Petroleum Allocation Act of 1973 shall have the meanings given them by that Act.

—Page 40, after line 23, insert the following new subsection:

(c)(1) The Secretary of Energy, acting through the Economic Regulatory Administration, shall conduct an investigation with funds appropriated pursuant to subsection (a)(2)(E) to determine the extent to which the credit practices in effect between and among refiners and others engaged in the marketing and distribution of middle distillates within the United States—

(A) adversely affect the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers of middle distillates;

(B) are justified by current market conditions; and

(C) are consistent with the public interest.

(2) As soon as practicable (but in no event later than 60 days after the date of the enactment of this Act), the Secretary shall complete the investigation under paragraph (1) and shall prepare and submit to the Congress a report on the results of that investigation. Such report shall include—

(A) the Secretary's findings,

(B) a description of any administrative actions to be taken on the basis of that investigation and such findings, and

(C) any recommendations for legislation which the Secretary considers appropriate.

(3) For purposes of this subsection—

(A) the term "middle distillate" means No. 1 and No. 2 heating oils and No. 1-D and No. 2-D diesel fuels, as such terms are defined in section 212.31 of title 10, Code of Federal Regulations (as in effect on the date of the enactment of this Act); and

(B) terms used in this subsection which are defined in the Emergency Petroleum Allocation Act of 1973 shall have the meanings given them by that Act.

By Mr KOSTMAYER:

(Amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 79, insert after line 25, the following:

SMALL BUSINESS

SEC. 814. (a) In order to carry out a policy that the Department maximize procurements of research and development from small businesses, not less than 25 percent, determined on the basis of value, of research and development projects and services procured by the Department with funds authorized to be appropriated under this Act shall be procured from small businesses, except as provided in subsection (b).

(b) If the Secretary determines that compliance with the 25 percent requirement set forth in subsection (a) is impracticable, the Secretary shall transmit to the Committees on Science and Technology, Interstate and Foreign Commerce, Small Business, Interior and Insular Affairs, and Government Operations of the House of Representatives, and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate, a report which—

(1) apprises such Committees of the impracticability of compliance with such requirement, and

(2) lists the reasons for such determination of impracticability.

(c) For purposes of this section, the term "small business" shall have the meaning given such term under section 3 of the Small Business Act.

By Mr. WYDLER:

—On page 56, lines 21 and 22, substitute the following new title: "TRANSITIONAL STORAGE OF SPENT FUEL".

On page 57, after line 7, insert the following new subsection:

(b)(1) The Secretary of Energy shall take all necessary actions to provide a Transitional Storage Facility (TSF) for storage of spent nuclear fuel from U.S. reactors to ensure each has the ability to maintain Full-Core-Reserve in its spent fuel storage. The Secretary shall select a Department of Energy facility and surrounding land to be modified such that their secondary use is to serve as the TSF and shall carry out this storage activity to the greatest extent possible under the existing environmental impact statement (EIS) for such facility.

(2) The Secretary shall provide for full cost recovery from utilities for modification of such facilities and land and for maintenance and operation costs related to their secondary use.

(3) Upon the initiation of operation of the Away-From-Reactor (AFR) storage facility referred to in section 502 of this act the Secretary shall, as soon as is practicable, in accordance with the provisions of this title, authorize removal of the spent fuel to said AFR and terminate storage activities at the TSF.

On page 57 line 8, redesignate the subsection (b) as subsection (c).

H.R. 3829

By Mr. WOLFF:

—Page 4, immediately after line 21, insert the following new section:

SEC. 202. The Asian Development Bank Act as amended by section 201 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 25. (a)(1) Upon the establishment of a special refugee fund administered by the Asian Development Bank, the United States Governor of the Bank is authorized to contribute to that fund on behalf of the United States 25 percent of the total amount contributed by all countries to that fund, subject to the limitation contained in subsection (b) of this section. This special refugee fund shall assist regional developing member countries of the Bank impacted by service as sites for temporary asylum for refugees from Southeast Asia prior to their resettlement in third countries.

"(2) The special refugee fund should be available to help any regional developing member country which may wish to formulate development plans for regions of that country which that country judges to be suitable for permanent resettlement of refugees from Southeast Asia.

"(b) In order to pay for the United States contribution provided for in this section, there is authorized to be appropriated without fiscal year limitation not to exceed $100,000,000 for payment by the Secretary of the Treasury.

"(c)(1) The President shall encourage other countries to support the establishment of, and to contribute to, the special fund described in subsection (a) of this section.

"(2) In addition, the President shall encourage the World Bank and other appropriate multilateral development banks to establish funds similar to that described in subsection (a) of this section to aid in the permanent resettlement in third countries of refugees from Southeast Asia.".

H.R. 3916

By Mr. COLLINS of Texas:

—Page 3, line 18, strike out "section" and insert in lieu thereof "sections"; strike out the close quotation marks and the period following in line 22 on that page; and add after line 22 the following:

"SEC. 605. No funds provided under this Act may be used to pay the compensation of any individual who illegally uses any controlled substance (as defined in section 102 (6) of the Controlled Substances Act).".

By Mr. RANGEL:

—Page 4, line 8, insert after "programs" the following: ", $5,000,000 for grants under paragraph (7) of subsection (a),".

Page 5, insert after line 7 the following:

(e)(1) Section 410(a) of such Act is amended (A) by striking out "and" at the end of paragraph (5), (B) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and (C) by adding after paragraph (6) the following:

"(7) make grants, in accordance with subsection (c)(5), to units of general purpose local government—

"(A) for the preparation of local plans for the provision and coordination of drug abuse prevention, treatment, and rehabilitation services; and

"(B) to implement such plans and to evaluate the services provided pursuant to such plans.".

(2) Section 410(c) of such Act is amended by adding at the end the following:

"(5)(A) The Secretary may approve the application of a unit of general purpose local government for a grant under subsection (a)(7) only if the Secretary finds that such unit of government—

"(i) has a population of at least 175,000, as determined on the basis of the most satisfactory, current data available to the Secretary,

"(ii) has a high concentration of drug abuse and other drug-related problems among its population, and

"(iii) has the capacity to improve planning for and coordination of drug abuse, prevention, treatment, and rehabilitation services for its population.

"(B) Any unit of general purpose local government desiring to receive a grant under subsection (a)(7) shall submit to the Secretary a local plan for planning, coordinating, and evaluating projects for the development of more effective drug abuse prevention, treatment, and rehabilitation services. Each such local plan shall—

"(i) designate or establish a single municipal agency as the sole agency for the preparation and administration of the plan or for supervising the preparation and administration of the plan;

"(ii) contain satisfactory evidence that the municipal agency designated or established pursuant to clause (i) will have authority to prepare and administer, or supervise the preparation and administration of, such plan in accordance with this subparagraph;

"(iii) set forth, in accordance with criteria established by the Secretary, a detailed survey of the local needs for prevention and treatment of drug abuse and drug dependence and a plan for coordination of services to meet these needs; and

"(iv) provide that the municipal agency will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(C) No grant provided under subsection (a)(7) may exceed $300,000.".

Page 5, line 8, strike out "(e)" and insert in lieu thereof "(f)".

Page 6, line 3, strike out "(f)" and insert in lieu thereof "(g)".

H.R. 4839

By Mr. HEFTEL:

(Amendment in the nature of a substitute to the amendment offered by Mr. LAGOMARSINO.)

—Page 78, after line 9, insert the following section and renumber subsequent sections accordingly:

LIMITATIONS ON STORAGE OF SPENT NUCLEAR FUEL IN THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES OF AMERICA

SEC. 810. No funds authorized to be appropriated pursuant to this Act may be used for the transportation to or the interim, long-term, or permanent storage of spent nuclear fuel or high-level radioactive waste on any territory or possession of the United States or the Trust Territory of the Pacific Islands unless the President transmits to the Congress a detailed report on the proposed transportation or storage plan; and the transportation or storage plan has been specifically authorized by Act of Congress. The provisions of this Section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

EXTENSIONS OF REMARKS

HIS DEEDS SPEAK FOR HIM

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. GAYDOS. Mr. Speaker, I once read an inscription which said: "My deeds must be my life. When I am dead my actions must speak for me."

I was impressed by that credo for I believe most who tread this Earth leave little behind to speak for them when they leave. Outside of immediate families their passing is like ripples on a pond—fast fading.

There are some for whom statues, memorials, libraries, and so forth, are erected. But, for the most part, they are people who have achieved international renown in a specific area. Yet, there are always a few unique individuals who, despite age, education, or occupation, do achieve a kind of immortality because of what they have done with their life. Their deeds speak for them long after death.

Such an individual was the young police officer from my 20th Congressional District of Pennsylvania, who last month gave his life in a futile attempt to rescue two teenage boys from an abandoned mine shift. The youths were 14 and 16 years old; the police officer, 23.

He was Albert J. Breisinger, Jr., a son of Albert and Lois Scott Breisinger of Jefferson Borough, Pa. A friend of Officer Breisinger said of him: "It is like he lived his whole life waiting to be a hero."

Officer Breisinger is a hero. In the eyes of his family, friends, fellow officers, and residents of his community he will always be a hero. Even death could not deny him his destiny.

His appointment with fate came September 9, 1979, when, as a member of the Pleasant Hills Borough Police Department, he was among those responding to a call that two boys were trapped at the bottom of a 20-foot-deep sinkhole. For years that hole lured adventurous youngsters to its brink. It had resisted all efforts to fill it. It resists even today.

On September 9, atmospheric conditions combined with the gaping hole in the Earth to produce a deadly accumulation of carbon dioxide. A group of youths had visited the site and one of them, unaware of the lurking danger, entered the hole and suddenly collapsed. Topside, one of his friends saw him crumple and, without regard for his own safety, rushed to his side. He, too, quickly was overcome by the gas. The other youths, alarmed at what happened to their companions, ran for help.

Officer Breisinger was one of the first on the scene. He descended into the shaft and began administering mouth-to-mouth resuscitation to one of the fallen boys. Abruptly, he also gasped for air, then fell unconscious to the ground. More men and material arrived on the scene, including life-support equipment and, eventually, the officer and the two youngsters were pulled from the hole. It was too late to save the boys and Officer Breisinger, who had sustained severe brain damage and internal injuries, died several days later.

Death itself, however, could not prevent this courageous young man from one final act of generosity. He had willed his eyes and kidneys to those suffering from blindness and dialysis dependence. Within 48 hours the transplants were successfully performed and the lives of four unidentified people were enriched because of Officer Breisinger.

Mr. Speaker, on behalf of the Congress of the United States I extend heartfelt sympathy to the Breisinger family on their loss. I sincerely wish I could say more to comfort them but I cannot. The deeds of their son, Officer Albert J. Breisinger Jr., in life and in death, speak with far greater eloquence than mere words. They have earned him a citation for valor, a nomination for the Carnegie Hero Award, and a place in the hearts of people forever.●

A TRIBUTE TO THE SPIRIT OF OLDER CITIZENS

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. COURTER. Mr. Speaker, I would like to call to the attention of my colleagues the unusual story of Edith M. Wolfe, a 92-year-old great, great-grandmother from Lambertville, N.J. Mrs. Wolfe is being honored by the town of Lambertville because she is a symbol of the determination and perseverance of America's senior citizens. For years, Edith Wolfe has entered contest after contest certain that she would one day get her reward. Last week, she finally got her reward, she won $16,000 by submitting a Dentine gum wrapper.

Phillip Pittore, the mayor of Lambertville, has proclaimed Thursday, October 11, 1979, as "Edith M. Wolfe Day." Her many friends and her family will participate in the speeches, reception, and luncheon planned in her honor. City, county, and State officials are expected to take that opportunity to honor Mrs. Wolfe and all of those who use long life to reap the fullest measure of happiness. The youth of Lambertville will salute Mrs. Wolfe's spirit with a performance by the high school band.

Edith M. Wolfe is an inspiration to all of us and a living example that age is no deterrent to one's spirit. The citizens of Lambertville are to be commended for their enthusiastic recognition of the accomplishments of their town's senior citizens. I ask my colleagues to join me in sending congratulations to Edith Wolfe on this very special day of hers.●

4-H EXPANDING HORIZONS

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. NATCHER. Mr. Speaker, it is again a privilege and an honor for me to salute the 4-H Clubs of America, as they observe their national week beginning October 7 through October 13.

Over 5 million youths throughout the United States, District of Columbia, Puerto Rico, Virgin Islands, and Guam will be observing National 4-H Week. The theme of this year's national week is "4-H Expanding Horizons," and I know this is an especially appropriate theme as I watch with admiration, the 4-H programs continuing to expand horizons for millions of youth from all racial-ethnic and economic backgrounds—both rural and urban, and to involve handicapped, senior citizens, and others in 4-H.

In my opinion there is no limit to the effectiveness of the numerous projects and activities sponsored by the 4-H Clubs. Energy conservation and education, youth employment and careers, nutrition, health, consumer education, food production, ecology and environment, parenting and strengthening of families continue to be among the important concerns on which 4-H is focusing its programs today.

I am very proud that 4-H enrollments in Kentucky continue to climb, with over 180,000 youth enrolled in 4-H Clubs and 4-H special interest groups, involving 32 percent of all 4-H-age youth.

In the early 1900's the 4-H program served primarily as a means of teaching farming and homemaking skills, with the majority of its members coming largely from rural areas. Today, 23 percent of 4-H members now live in suburbs of cities, or in central cities, of more than 50,000 population. This year more young people will be drawn to 4-H, bringing with them new ideas and interests and the 4-H program, as it has done in the past, will be ever expanding to meet their needs.

We know the importance and impact of the program and readily acknowledge that we are the better—as a community and as a people—for our 4-H Clubs, those whose members are our neighbors, stand as a splendid example of teamwork which includes the 4-H'ers, the parents and

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

leaders, and local sponsors, the extension agents, and their staffs.

Mr. Speaker, an estimated 39 million 4-H alumni continue to live the 4-H motto: "To Make the Best Better," and to these and the 5.2 million members currently enrolled in the 4-H program, I want to offer not only my congratulations, but my respect and my best wishes for continued success.●

FEDERAL ARTISTS PROGRAM

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. WEISS. Mr. Speaker, I am today introducing legislation to initiate within the National Endowment for the Arts a new program which will increase employment opportunities for professional artists and meet the growing public demand for improved community access to cultural experiences. My bill would also spur local and national economic development, generating revenues well in excess of a relatively modest Federal investment in a more creative and cultured society.

I believe it is especially appropriate and timely to design and implement a program such as this as we move in 1980 to reauthorize the National Foundation on the Arts and Humanities Act. The legislation I am offering builds upon the strong foundation established by the 1965 act and it responds to the challenges that have arisen during the past 14 years. The proposed program reflects the remarkable accomplishments of the government-arts partnership. It is designed to consolidate and expand these achievements through a fusion of aesthetic enjoyment with economic and employment advantages.

In 1963, John F. Kennedy said:

> I see little of more importance to the future of this country and our civilization than full recognition of the place of the artist. . . . I look forward to an America which will steadily raise the standards of artistic accomplishment and which will steadily enlarge cultural opportunities for all of our citizens.

The creation of the National Endowment for the Arts in 1965 signified important progress toward fulfilling President Kennedy's vision. NEA has assisted thousands of artists, nurtured hundreds of cultural organizations and encouraged excellence in all esthetic endeavors. State and local arts agencies have likewise contributed greatly to the explosion of interest and participation in the arts.

Audiences for cultural events have never been larger or more enthusiastic than they are today. Some 8 million people attended the King Tut exhibit, and many of them traveled considerable distances to reach one of the six cities where it was on display. The national audience for dance, which in 1965 totaled about 1 million people and was located almost exclusively in New York City, is now estimated to number more than 17 million people, 80 percent of whom live outside New York. Similar rates of growth and diversification could be cited for every other field.

The arts have clearly assumed a position of importance for millions of Americans. The most recent Harris poll on the topic found that 93 percent of those surveyed want cultural resources available to them, 85 percent believe the arts contribute to local economic development and 58 percent are willing to pay higher taxes in return for additional cultural facilities. An American Council on the Arts study in New York revealed that the largest segment of the public favoring enlarged cultural opportunities was the high school educated, predominantly nonwhite worker earning between $5,000 and $15,000 annually.

It has also become quite apparent that the arts need not be confined to a theater or an institution for the public to respond and for the aesthetic experience to be enjoyed. Murals on neighborhood walls, sculptures in parks and plazas, free street performances for downtown office workers, painting classes in senior centers, concerts on village squares, poetry readings in hospitals, mime troupes in day care centers—the arts have come to the people and the people have welcomed their integration into daily life.

We have also learned that, quite frankly, the arts are good business. A 1977 study by the Chicago Council on Fine Arts found that every public dollar spent for the arts generated between $3 and $4 for the city directly and indirectly. A 1976 survey in Indianapolis produced similar results: A $5.9 million expenditure for 1,000 people employed in the arts there had a total economic impact of about $24 million for the city. In Philadelphia is was observed that for every $7 spent on art or cultural events, $5.60 was spent for ancillary services. As a labor-intensive activity with several spin-offs and related incentives, the arts are a very good investment.

Despite the large and ever-expanding demand for artistic enrichment and despite the demonstrable economic benefits of cultural spending, we find today that the most important resource in this area—the individual artist—is not being fully utilized.

Professional artists suffer an unemployment rate well above the national average, while the duration of joblessness is longer than any other group. More than 50 percent of artists surveyed reported some unemployment during 1976, according to a study commissioned by the U.S. Department of Labor. Many artists are meanwhile employed outside their chosen profession, since there is insufficient number of job opportunities in their own field.

NEA programs and, more recently, the Comprehensive Employment and Training Act (CETA) have alleviated these problems to some degree. But requests to NEA for assistance far exceed its inherent funding limitations, while CETA is primarily designed to serve other groups of unemployed people. With only a small percentage of NEA grant awards going to individual artists and with an already diminished CETA involvement in the arts further limited by particularized eligiblity criteria, neither program can address the current situation adequately or capitalize on this opportunity fully.

The legislation I am sponsoring would reduce endemic employment in the arts community while simultaneously promoting broader economic growth and increasing the number and quality of cultural experiences available to the American people.

It would do so through an initial 3-year expenditure of some $60 million which would employ about 6,000 professional artists in community-oriented creative projects. The legislation would also authorize expenditures of additional funds and creation of more employment slots for 2 subsequent years pending review of program performance by Congress.

The Federal artists program will integrate arts and artists in every aspect of community life in every part of the country. Painters, for example, could be hired under the program to design murals for subway stations and bus terminals. A potter would conduct workshops at county fairs. A musician could perform in shopping centers. A sculptor could create his or her works for village squares.

In practice, the program would channel funds from NEA to local sponsoring organizations selected by regional, State, city, or community arts agencies. Through this decentralized and participatory approach, the arts agencies would, in effect, act as brokers among NEA, the local organizations and the individual artist. Grants would be awarded by the NEA Chairman, in consultation with a panel of experts, to the arts agencies following completion of a project plan designed and developed by neighborhood groups, local officials and residents, and the artists themselves. The agencies would then hire the individual artists and place them with local sponsoring groups utilizing their particular talents.

The sponsors would be required under the legislation to supply one-quarter of the artist's salary for the first year of a project along with necessary materials. The contribution would increase during the second and third years of a longer-term project. A strong commitment to a project by the sponsor is encouraged through this provision which also shifts the burden of financing from the Federal Government to the local organization, gradually leading to full community support once the grant has expired.

Placement of artists in profitmaking enterprises is likewise encouraged by the legislation. A corporation probably does not require great Federal assistance in order to hire artists, but a partial and time-limited grant will often provide the necessary incentive to take the first step. It is likely that once an artist begins to demonstrate his or her contribution to the business, a company will not need any outside guidance or inducement to see the advantages in continuing artists' employment. The legislation specifically directs the NEA chairman to work with private industry councils established under CETA to solidify this mutually beneficial alliance between business and the arts.

It must be emphasized that the Federal artists program is in no way intended to replace any existing public arts program or to reduce funding for present endeavors. The legislation will instead enhance and augment standing commitments to artistic undertakings.

The bill should be seen, too, as much more than a way of providing jobs and promoting local economic growth, although these are surely among its most valuable objectives. This proposed program recognizes that the arts are an integral facet of American civilization. It enables individual artists to share their creativity with every segment of our population, providing intangible but very real spiritual enrichment for all our citizens.

As the American painter Stuart Davis wrote in 1936, culture will flourish in our Nation "only with the support of a government administration that will regard the arts, along with proper housing, playgrounds, health services, social security legislation and educational facilities for all, as part of the basic obligation of a democratic government of all the people toward the welfare of its citizens."

The Federal Artists Program Act is entirely consistent with this noble and attainable goal. I urge my colleagues to join me in recommending its enactment.

The text of the legislation follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Federal Artists Program Act of 1979".

ESTABLISHMENT OF PROGRAM

SEC. 2. The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951 et seq.) is amended by redesignating section 11 as section 12, and by inserting after section 10 the following new section:

"FEDERAL ARTISTS PROGRAM

"SEC. 11. (a) The Congress finds that—

"(1) the arts contribute to, and enhance, the quality of life in the Nation by providing creative expression, spiritual enlightenment, and aesthetic enrichment;

"(2) the arts, and artistic experiences, should be made available to all people in the Nation, without regard to such factors as income, education, or areas of residence;

"(3) the arts, as a component of basic services provided to residents of a community, can make the provision of such services more humane, effective, and efficient;

"(4) artists are a vital resource for economic, community, and educational development; and

"(5) artists suffer an unemployment rate which is substantially higher than the national rate of unemployment.

"(b) It is the purpose of this section—

"(1) to support individual artists by providing employment in their profession in community-oriented programs;

"(2) to encourage local participation in the support of individual artists and the arts; and

"(3) to provide opportunities for involvement with the arts and artists for all members of the community.

"(c) For purposes of this section:

"(1) The term 'artists' means an individual of demonstrated artistic ability who—

"(A)(i) has completed a bachelor's degree or an equivalent to a bachelor's degree in a recognized professional training program, and has at least 2 years of professional work experience as an artists; or

"(ii) has at least 4 years of professional work experience as an artist; and

"(B) has received more than 20 percent of the income of such individual from employment as an artist during any 2 calendar years occurring during the most recent 4 calendar years.

"(2) The term 'Chairman' means the Chairman of the National Endowment for the Arts.

"(3) The term 'designated arts agency' means any public agency or private nonprofit organization which participates in the program established in this section after being designated for such participation in accordance with subsection (e).

"(4) The term 'local government' means any general purpose political subdivision of a State.

"(5) The term 'sponsoring organization' means any public agency, private nonprofit organization, private for-profit organization, or other organization or person which employs any artist through the receipt of assistance from a designated arts agency under this section.

"(d) The Chairman is authorized to make grants to, or enter into contracts with, any designated arts agency for the purpose of enabling the designated arts agency to establish programs to place artists with local sponsoring organizations to undertake—

"(1) artistic endeavors as a component of services provided by such sponsoring organization (such as health care, child care, education, prisoner rehabilitation, transportation, housing and neighborhood improvement, rural development, or other services); and

"(2) artistic endeavors which serve the public by providing public access to art experiences, and enriching the environment and the quality of life (including public works of art, free performances, documentation, design, and teaching).

"(e) A public agency or private nonprofit organization shall be eligible to participate as a designated arts agency in the program established in this section if such agency or organization—

"(1) has been designated by any State or local government, or by any combination of States or any combination of local governments, to represent such State or local government (or such combination of States or local governments) as the official arts agency of such State or local government (or such combination of States or local governments); and

"(2) has experience in directly supporting the arts and artists through a program of grants or through advocacy on behalf of the arts or artists.

"(f) Each application submitted to the Chairman by a designated arts agency for assistance under this section shall be accompanied by a comprehensive plan for the program proposed by the designated arts agency. Such plan shall include—

"(1) a description of the organization, operation, and goals of the proposed program, including the methods and procedures for coordination between the designated arts agency and—

"(A) community-based organizations;

"(B) local, State, and Federal governmental agencies providing basic public services; and

"(C) arts organizations which are willing to provide public service programs;

"(2) a description of the proposed projects in which the artists will be working, the number of artists to be employed, and the conditions of employment;

"(3) the manner in which the program will develop new opportunities for the employment of artists in permanent, unsubsidized employment;

"(4) the manner in which members of the community, including artists, community groups, local officials, residents, and arts organizations, have been involved in developing the plan, and the manner in which such persons will be involved in the implementation of the program;

"(5) a description of the selection criteria for hiring artists, which shall include qualitative criteria;

"(6) an annual budget for the program for each year for which assistance is being requested; and

"(7) a description of the manner in which the designated arts agency will participate throughout the grant period in providing services to participants, including counseling, placement, and other support activities.

"(g)(1) The Chairman shall establish criteria and procedures for evaluating and selecting applications submitted by designated arts agencies which shall receive assistance under this section. Such criteria shall include—

"(A) the ability of the designated arts agency to create new employment opportunities to integrate the arts with the community at large, including minorities, senior citizens, and handicapped individuals;

"(B) the extent to which the program meets the creative needs of artists who will participate in the program;

"(C) the extent of assistance and cooperation from Federal, State, and local public agencies, and private organizations, in the program;

"(D) the degree of involvement of artists, community groups, local officials, residents, and persons with expertise in the arts in the development and operation of the program;

"(E) the feasibility of program implementation, including the experience and performance of the designated arts agency in providing opportunities for public projects for artists or otherwise responding to the needs of artists, and the experience and performance of the designated arts agency in establishing methods and procedures for coordination with public service agencies, arts organizations, and the private sector;

"(F) the desirability of achieving a fair geographical distribution throughout the United States of programs receiving assistance under this section; and

"(G) such other requirements as the Chairman considers necessary or appropriate to carry out the purposes of this section.

"(2) The Chairman shall seek the recommendations of a panel of experts before approving the application of any designated arts agency for the establishment and operation of a program under this section. The members of such panel shall represent a diversity of geographic areas and cultural backgrounds.

"(3) The Chairman shall coordinate the administration of this section with programs and activities carried out by the heads of other Federal agencies, including the Secretary of Labor. The Chairman shall promote and assist programs and activities carried out by other Federal agencies which seek to utilize the services of artists in the furtherance of purposes similar to the purposes of this section. The Chairman shall ensure that programs assisted under this section are coordinated with programs and activities carried out by State and local public agencies and private organizations, including private industry councils established under section 704 of the Comprehensive Employment and Training Act (29 U.S.C. 984).

"(h)(1)(A) The total amount of any grant or contract which a designated arts agency may make to, or enter into with, a sponsoring organization under this section may not exceed—

"(i) in the first year of such grant or contract, 75 percent of the salary paid to any artist employed by such sponsoring organization under such grant or contract during such year;

"(ii) in the second year of such grant or contract, 50 percent of the salary paid to any artist employed by such sponsoring organization under such grant or contract during such year; and

"(iii) in the third year of such grant or contract, 25 percent of the salary paid to any artist employed by such sponsoring organization under such grant or contract during such year.

"(B) The sponsoring organization shall pay that portion of the salary of any artist employed by such sponsoring organization which is not paid from funds made available under any grant or contract in accordance with subparagraph (A).

"(2) No sponsoring organization may be provided assistance under this section for more than a total of 3 years.

"(3) Any sponsoring organization receiving assistance from a designated arts agency under this section shall—

"(A) employ an artist primarily within the artistic discipline of such artist;

"(B) provide all materials and supplies necessary for the project involved; and

"(C) agree to such other conditions as the designated arts agency considers necessary to protect the rights of the artist and to provide suitable working conditions for the artist.

"(4) No sponsoring organization shall use funds received under this section to fill a position in which an artist was employed by such sponsoring organization at any time during the 6-month period immediately before such sponsoring organization proposes to fill such position.

"(i) Not more than 10 percent of any funds received by a designated arts agency under this section may be used for administrative expenses under this section.

"(j) Any grant or contract made to, or entered into with, a designated arts agency by the Chairman under this section shall have a duration of not more than 3 years. Upon the expiration of such grant or contract, the designated arts agency may submit another application to the Chairman under this section.

"(k) (1) Any artist employed in any project under this section—

"(A) shall not be paid an annual salary in excess of $10,000, except that such amount shall be increased—

"(i) in particular areas served by designated arts agencies as determined by the Secretary of Labor on the basis of the area wage adjustment index issued in accordance with section 122(i) (3) of the Comprehensive Employment and Training Act (29 U.S.C. 824(i) (3)); or

"(ii) as determined by the Chairman to provide compliance with section 5(i) (1); and

"(B) shall be provided all fringe benefits provided to other employees of the sponsoring organization involved.

"(2) No artist shall be employed under this section for more than a total of 3 years.

"(l) Each designated arts agency receiving assistance under this section for any fiscal year shall submit a report to the Chairman relating to the program administered by the designated arts agency for such fiscal year. Such report shall include—

"(1) a description of the hiring practices of the designated arts agency, and the number of artists employed through the designated arts agency;

"(2) a description of the sponsoring organizations which have accepted the services of such artists and the kinds of projects in which such artists have been employed;

"(3) a description of progress in creating unsubsidized employment for artists; and

"(4) such other information as the Chairman may require to ensure full accountability of designated arts agencies receiving assistance under this section.

The Chairman shall, at least annually, review programs receiving assistance under this section to determine the progress made in carrying out program activities substantially in accordance with the plans submitted and approved under subsection (f).

"(m) The copyright of any work produced by an artist employed under a program receiving assistance under this section shall be retained exclusively by the artist. The artist shall own all original art work produced by the artist during the term of the employment of the artist, except that the sponsoring organization and the designated arts agency involved shall have a royalty-free, nonexclusive right to use or display such art work for a period not to exceed 5 years from the completion of the project.

"(n) The provisions of section 5 shall apply to this section.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 12(a) of the National Foundation on the Arts and the Humanities Act of 1965, as so redesignated in section 2, is amended by adding at the end thereof the following new paragraph:

"(5) For the purpose of carrying out section 11, there are authorized to be appropriated $10,000,000 for fiscal year 1981, $20,000,000 for fiscal year 1982, $30,000,000 for fiscal year 1983, and such sums as may be necessary for fiscal year 1984 and fiscal year 1985.".

CONFORMING AMENDMENTS

SEC. 4. (a) Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(m)) is amended by striking out "section 11(a) (4)" each place it appears therein and inserting in lieu thereof "section 12(a) (4)".

(b) Section 6(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 655(f)) is amended by striking out "section 11(a)" and inserting in lieu thereof "section 12(a)".

(c) Section 7(h) (2) (B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(h) (2) (B)) is amended by striking out "section 11(a) (3)" and inserting in lieu thereof "section 12(a) (3)".

(d) Section 8(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 957(f)) is amended by striking out "section 11(a)" and inserting in lieu thereof "section 12(a)".●

PERSONAL EXPLANATION

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. BEREUTER. Mr. Speaker, on Friday, September 28, 1979, I was granted a leave of absence for official business from the House of Representatives, beginning at 3 p.m. Because I was attending an early Saturday morning hearing of the House Small Business Committee's Subcommittee on Energy in my congressional district, it was necessary for me to catch an afternoon flight to Nebraska. During my absence, I missed seven recorded rollcall votes. I wish to state for the record how I would have voted on each of these recorded votes:

"Yea" on the conference report to accompany S. 237, the Magistrates Act of 1979.

"Yea" on final passage of H.R. 2795, the U.S. Travel Act amendments.

"Yea" on final passage of H.R. 3642, the emergency medical services extension.

"Nay" on the motion to order the previous question on the rule to consider H.R. 2859, the Domestic Volunteer Service amendments.

"Yea" on adoption of the rule to consider H.R. 2859.

"Yea" on the motion to resolve into committee on H.R. 2859.

"Yea" on adoption of the rule to consider H.R. 2172, the international sugar agreement.●

CHARTERING OF WESTMORELAND COUNTY CHAPTER, AMERICAN DIABETES ASSOCIATION

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. BAILEY. Mr. Speaker, it gives me great pleasure to announce to the Members of the House of Representatives the recent formation of the Westmoreland County Chapter of the American Diabetes Association. I would like to take this opportunity to recognize the Westmoreland County Chapter as a beneficial and much needed service to the good citizens of Pennsylvania's 21st Congressional District.

Nearly 10 million Americans are directly affected by diabetes, and 50 million more are indirectly affected by the disease. The American Diabetes Association, through its years of medical research and public awareness efforts, has made it possible for diabetics to successfully manage their own treatment and care of the disease.

On October 16, the newly chartered organization will conduct its first general membership meeting. This meeting will mark the beginning of a series of conferences held across Westmoreland County to educate the public and the members of the association itself about the nature, causes, and cures of diabetes. Furthermore, the formation of the association is especially well-timed in light of the fact that November is National Diabetes Month, a time when citizens around the country will gain knowledge regarding the seriousness of this national health problem.

Mr. William Goe, a diabetic himself, has been named as president of the association, and I am sure that his strong leadership and organizational abilities will be well suited to the goals and policies to which the American Diabetes Association is directed.

Therefore, on behalf of the truly fine citizens of Westmoreland County and all of Pennsylvania's 21st Congressional District, it is an honor to pay tribute to the American Diabetes Association, Westmoreland County Chapter, which will serve our community well in the coming years.●

HEALTH CARE, WHERE ARE WE HEADED?

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. FISHER. Mr. Speaker, health care, its cost and its direction, has been the subject of much discussion in recent years. On October 2, I presented my thoughts on several impending health care issues in an address before the Virginia Health Care Association. The text of my remarks follows:

COMMENTS ON SOME CURRENT HEALTH ISSUES

(Address by Congressman JOSEPH L. FISHER)

In anticipation of this meeting with you today I have been reviewing in my own mind what has happened on the national health care front in the nearly five years since I was elected to the Congress. Without undertaking the role of legislative historian, and without attempting a detailed account, let me share with you a few general observations and comments stemming from my review.

Observation No. 1: Despite a lot of movement and verbalization on the legislative front, nothing very big or definitive has happened thus far. Take national health insurance, for example—the biggest and most talked-about health issue of the last decade or two. I will remember that during my first Congressional election campaign I spent a lot of time trying to decide just what kind of health insurance bill I might to able to support if I got elected. "Everybody knew," of course, that the 94th Congress was going to enact somebody's health insurance bill. This was the idea whose time had come. Well, it didn't happen in the 94th Congress. It didn't happen again in the 95th Congress. And I'll be a mighty surprised forecaster if it happens in the present Congress—the 96th.

There have been committee hearings, of course—lots of them, both in the House and in the Senate. There have been many pages of newsprint and many hours of broadcast time devoted to what the Administration was expected to propose, to how Senator Kennedy or George Meany would respond to such a proposal, and to what impact the proposal would have on the national budget deficit. But when it came down to the bottom line, nobody enacted anybody's bill.

There's really no very great mystery about the reason for all of this nonhappening. The funny thing that happened on the way to the forum was a new, eyes-wide-open confrontation with the cost implications—the hard, nitty-gritty questions of who is going to pay how many tax dollars for how much health care for whom, and how can we make sure that cost overruns won't torpedo the national budget? These concerns led first—both in the Congress and at the White House—to a posture of deferred support for comprehensive care: "Oh, sure, we're still committed to the legislation, but first we've got to get a better handle on costs, so we're going to set the health insurance bill aside for awhile so we can first enact some cost containment legislation, especially for hospitals." So cost containment bills were introduced, hearings were held, and legislative strategists spent hours trying to engineer a consensus that would provide the minimum number of supporting votes. I have tended to support what I regard as reasonable cost containment efforts with first emphasis on vigorous voluntary efforts. But so far, at least, this legislation also belongs in the non-happening file.

Paralleling this cost containment effort has been a new emphasis on the so-called "incremental approach," under which the ultimate objective of comprehensive care would be achieved on a step-at-a-time basis. Each step would have to be a good one all by itself and the situation would be evaluated before the next step is taken. This approach has a growing number of Congressional supporters, including me. There is a lot of disagreement, however, as to just what steps should be taken first and how fast the succeeding steps should be scheduled. I would insist that our capacity to administer and pay for successive steps be assured, and this will not be easy. It's too early, therefore, to forecast whether any step-at-a-time bill, whatever it may cover, can be enacted before the present Congress adjourns in 1980, or even whether a first step can be taken such as improving the Medicare and Medicaid programs or established insurance coverage for so-called catastrophic illness.

Observation No. 2: This evidence of a legislative or public policy deadlock is somewhat misleading, however. What has been happening, in part at least, is a redefinition of the options and their consequences—a process that is an essential forerunner to any significant enactment in this field. Lacking such a redefinition we were in a poor position to launch any major new undertaking. I won't go so far as to say it's a good thing we didn't enact one of the major health insurance bills a few years ago, for we don't really know what would have happened. As a member of the House Ways and Means Committee, however, I'm relieved that I don't have to find the revenues to support such an enactment. Nor will I pretend that this legislative history portends a slow but sure advance that will eventually provide just what we need at a price we can afford to pay. The legislative process is neither that predictable nor that capable of producing a loaves-and-fishes miracle.

I do believe, however, that the Congress, the executive branch, and the health care industry itself have all advanced in recent years to a more realistic appreciation of the viable options and their consequences. In my opinion, that is a big step forward. In addition, there are encouraging signs that some provider and consumer groups, having studied the handwriting on the wall, are initiating efforts of their own to develop cost containment or to divert expenditures away from purposes which yield doubtful returns from the standpoint of health status. There are even some signs of a growing awareness of the need for modification of the public's preoccupation with curative services, the breathless search for wondrous new pills or potions that will eradicate the consequences of years of health neglect and immoderate life styles.

I don't want to exaggerate these shifts in public attitude or to encourage expectations of rapid change, but I do believe that changes are underway. Just recall with me, if you will, the context of the public debates on health insurance of ten or fifteen years ago, and I believe you will see what I mean. In those days the arguments were focussed largely on ideological issues or on the structure of benefit and payment systems. It was "socialized medicine" versus "the citizens' right to good health," "bureaucratic centralization" versus "freedom of choice," and "first dollar coverage" versus various patterns of deductibles and co-insurance payments. Almost nobody—neither the pros nor the cons—challenged the assumption that the pooling of risks through the insurance mechanism was all that was really needed to get rid of cost barriers to good health for all. Almost nobody raised questions about "unnecessary" surgery or "over-prescription" of medications, or excessive hospital beds or diagnostic equipment. Almost everybody equated more health services with improved health status. Now match your recollection of those earlier debates with your professional awareness of today's health care realities, and I believe you'll agree that we now have a better understanding of what's really involved than we did in the mislabeled "good old days."

Observation No. 3: The enactment of new health care legislation will not in itself solve the related problems of cost containment and better utilization of scarce resources; nor will the defeat of such legislation obviate the need for containment and conservation measures. These issues may account for our present legislative impasse, but they are not just congressionally-invented hobgoblins that will disappear once the Congress votes health insurance up or down. On the contrary, these problems are real, and they are going to get bigger and tougher to solve regardless of what we decide to do about the financing of medical care services. The truth of the matter is that the public's appetite for more and better health care services is well-nigh insatiable, and that the medical research community is producing an increasing flow of better and usually more expensive technology. And nobody—whether he be a provider or a consumer of services—is satisfied with anything short of the newest technology provided in the most up-to-date facility. Eventually, perhaps, medical research will develop a series of truly definitive cures or preventive measures for our major diseases and impairments. When it does, the cost problem may become a secondary one, for half-way technologies are often more expensive than definitive measures. But until that happy day arrives, we had better get used to living with the headaches of containment.

One thing will be helpful regardless of a person's views on cost containment, national health insurance, or whatever. That is a much greater effort on preventive measures ranging from giving up smoking to improving air quality to proper regulation of various chemicals used in food processing. Further, strong efforts to convince people to eat balanced, nutritious meals, exercise regularly, and sleep long enough will help to improve health.

The more individuals will take responsibility for their own health, the better. This extends beyond good living habits to sharing in the costs of treatment through reasonable arrangements for deductibles and co-insurance.

I wish I could bring you a cheerier or at least more definite message, but I can't. Besides, the members of this Association are too familiar with the realities of the health care world to believe that the United States Congress—or anybody else for that matter—is about to legislate a miracle. You have already learned that there's no free lunch in this field, and I expect you have also learned that the reiteration of that cliche is not the beginning and end of health care wisdom. There's no free lunch, to be sure, but some lunches are better than others, and the most nutritious lunches aren't always the biggest or the most expensive ones. The name of the game is matching comparative values against comparative costs and making the most prudent choices—for your patients as well as for your health care institutions. This won't be easy, either for you or for me and my congressional colleagues, but I don't see how any one of us is going to escape making tough and unpopular choices during the years immediately ahead.

Since this is a problem for all of us to work on, I hope we can join forces from time to time. I don't have to ask you to let me know when you think our congressional steps are headed in the wrong direction. That's one feature of our political system that really works these days—sending messages to Washington! But I do hope you will also let me know when you believe there is a better legislative idea than the ones we are already working on. Our business is translating good ideas into good laws, but the good ideas are as much your responsibility as mine.●

IN DEFENSE OF FREEDOM

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. PAUL. Mr. Speaker, Frederic Bastiat was one of the greatest champions of liberty. My good friend Bob Bearce of Houston recently wrote an excellent article about Bastiat for the Freeman, and I would like to call it to my colleagues' attention. There is no one more relevant to the crisis in America, and how we can solve it, than this 19th-century French legislator.

The article follows:

IN DEFENSE OF FREEDOM—FREDERIC BASTIAT

(By Robert G. Bearce)

June 1848 found Paris in turmoil as revolutionary mobs marched through the streets chanting an ominous: "We won't be sent away! . . . We won't be sent away! . . ." The French National Assembly had just abolished the National Workshops—the socialistic plan to "guarantee work for every citizen." The workshops had proven to be a social, political, and economic failure—just one of many idealistic schemes advocated by socialist demagogues. Now, armed members of the disbanded National Workshops were building barricades and preparing to fight for their lost "rights."

The June Revolution of 1848 was thwarted, but a year later France still faced the threat of socialism. The National Assembly echoed with impassioned speeches for the salvation of the French people. One of the Deputies to the Assembly who consistently and intelligently opposed the demagoguery of the social theoreticians was Frederic Bastiat—a modest, quiet-spoken Frenchman who was courageous in his defense of individual liberty.

Leaving the quiet life of a country gentleman for the feverish life of a legislator, Bastiat took with him an indomitable belief that individuals would work harmoniously together for the benefit of all so long as government intervention did not destroy free choice and voluntary exchange. With great clarity of thought, he defined the rightful purpose of government authority (the law):

"What, then, is law? It is the collective organization of the individual right to lawful defense.

"Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties?

"If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute.

"Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason— cannot lawfully be used to destroy the person, liberty, or property of individuals or groups."

Bastiat continually emphasized the proper relationship between individual rights and government authority:

"Individuals cannot possess any right collectively that does not preexist in every person as an individual. If, then, the use of force by an individual is justified only in self-defense, the fact that government action is always based on the use of force should lead us to conclude that the proper functions of government are necessarily limited to the preservation of order, security, and justice. All actions of government beyond this limit are by usurpation."

GOVERNMENT USURPATION

Bastiat comprehended why governments were allowed to usurp their powers. He was well-read in politics, history, philosophy, and religion—subjects which gave him profound insight into human nature. Human nature was the root of government usurpation. He saw how individuals have a tendency to reject personal responsibility and to look elsewhere for the necessities of life:

"Man recoils from effort, from suffering. Yet, he is condemned by nature to the suffering of privation if he does not make the effort to work. He has only a choice then, between these two: privation, and work. How can he manage to avoid both? He always has and always will find, only one means: *to enjoy the labor of others:* to arrange it so that the effort and the satisfaction do not fall upon each in their natural proportion, but that some would bear all the effort while all the satisfaction would go to others . . ."

As Bastiat continues, he speaks to current attitudes in America:

"Today, as in the past, nearly everyone would like to profit by the labor of others. No one dares admit such a feeling; he even hides it from himself. So what does he do? He imagines an intermediary; he appeals to The State, and every class in its turn comes and says to it: 'You who can do so justifiably and honestly, take from the public; and we will partake of the proceeds.' "

In other words: "The state is the great fictitious entity by which everyone seeks to live at the expense of everyone else."

When individuals refuse to accept accountability and responsibility for their own welfare, they allow the State (the government) to corrupt the real purpose of the law:

"Under the pretense of organization, regulation, protection, or encouragement, the law takes property from one person and gives it to another; the law takes the wealth of all and gives it to a few—whether farmers, manufacturers, shipowners, artists, or comedians. Under these circumstances, then certainly every class will aspire to grasp the law, and logically so."

HUMAN NATURE

While we suffer the consequences of government regulation and interference in our daily lives, Bastiat would ask us again to grasp the reality of human nature:

"Thus do all of us, by various claims and under one pretext or another, appeal to The State: 'I am dissatisfied with the ratio between my labor and my pleasures. In order to establish the desired balance, I should like to take part of the possessions of others. But that is a dangerous thing. Couldn't you facilitate it for me? Couldn't you give me a good post? Or restrain my competitors' business? Or perhaps lend me some interest-free capital, which you will have taken from its rightful owners? Or bring up my children at the taxpayers' expense? Or grant me a subsidy? Or assure me a pension when I reach my fiftieth year? By this means I shall achieve my goal with an easy conscience, for the law will have acted for me. Thus I shall have all the advantages of plunder, without the risk or the disgrace!'

"All of us are petitioning The State in this manner, yet it has been proven that The State has no means of granting privileges to some without adding to the labor of others."

The process of "plunder" by the State is easily seen in current events. Bastiat asks us a question and provides us with a clear, precise answer:

"But how is this legal plunder to be identified? Quite simply. See if the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime."

And, we are advised that "legal plunder can be committed in an infinite number of ways. Thus we have an infinite number of plans for organizing it: tariffs, protection, benefits, subsidies, encouragements, progressive taxation, public schools, guaranteed jobs, guaranteed profits, minimum wages, a right to relief, a right to the tools of labor, free credit, and so on, and so on. All these plans as a whole—with their common aim of legal plunder—constitute socialism."

While Bastiat was a Deputy in the National Assembly he spoke forcefully against socialism and communism. Weakened by tuberculosis, he had to use his pen rather than his voice to carry on the fight for freedom. Using a style that was direct, vivid, and entertaining, he advocated sound monetary policies, limited government, a balanced budget, individual freedom, and free trade.

Throughout his comprehensive writings, he returned to the theme of law and liberty. "It is not true," he said, "that the function of law is to regulate our consciences, our ideas, our wills, our education, our opinions, our work, our trade, our talents, or our pleasures. The function of law is to protect the free exercise of these rights, and to prevent any person from interfering with the free exercise of these same rights by any other person."

INDIVIDUAL CHOICE

As to the matter of individual liberty, Bastiat believed that individuals had both the ability and responsibility to plan their own lives as they best saw fit . . . without government interference. He believed individuals were capable of making sound judgments and acting upon those judgments. At a time when the economy and consumerism occupy so much of our news commentary, Bastiat's view on individual choice, the free market, personal judgment, and the "public interest" should be well received.

"It is necessary to treat economics from the viewpoint of the consumer. All economic phenomena, whether their effects be good or bad, must be judged by the advantages and disadvantages they bring to consumers."

Bastiat always had individuals (consumers) in mind when he wrote about monetary policy, banking, transportation, exports and imports, profits, labor, and wages. Whenever he approached these matters, he upheld individual liberty and opposed oppressive governmental interference. Above all, he kept one basic truth before him:

"In the economic sphere an act, a habit, an institution, a law produces not only one effect, but a series of effects. Of these effects, the first alone is immediate; it appears simultaneously with its cause; it is seen. The other effects emerge only subsequently; they are not seen; we are fortunate if we foresee them.

"There is only one difference between a bad economist and a good one: the bad economist confines himself to the visible effect; the good economist takes into account both the effect that can be seen and those effects that must be foreseen.

"Yet this difference is tremendous; for it almost always happens that when the immediate consequence is favorable, the later consequences are disastrous, and vice versa. Whence it follows that the bad economist pursues a small present good that will be followed by a great evil to come, while the good economist pursues a great good to come, at the risk of a small present evil."

Bastiat's insight into what is seen and not seen contrasts sharply with much of the stodgy, ponderous writing on economics of his day. He had the ability to present serious economic principles in a way that was easily read and understood by the average citizen. Although he possessed a keen intellect and sense of concentration, he expressed himself in simple, frank language. Often, he combines his vigorous logic with humor, satire, irony, and wit.

Although he was an optimistic defender of liberty, he was fullly aware of where his native France was heading—just as he knew where any nation was headed when politicians were allowed to create a centralized, all-powerful government to achieve social objectives. Witnessing the political demagoguery in the National Assembly, he was prompted to write:

"This must be said: There are too many 'great' men in the world—legislators, organizers, do-gooders, leaders of the people, fathers of nations, and so on, and so on. Too many persons place themselves above mankind; they make a career of organizing it, patronizing it, and ruling it."

IDEOLOGICAL WARFARE

Today, we have the same breed of legislators and leaders—individuals who are the cause of the political struggle that confronts all free people. Bastiat focuses our attention upon this ideological warfare, urging us to place liberty in perspective:

"Actually, what is the political struggle that we witness? It is the instinctive struggle of all people toward liberty. And what is this liberty, whose very name makes the heart beat faster and shakes the world? Is it not the union of all liberties—liberty of conscience, of education, of association, of the press, of travel, of labor, of trade? In short, is not liberty the freedom of every person to make full use of his faculties, so long as he does not harm other persons while doing so? Is not liberty the destruction of all despotism—including, of course, legal despotism? Finally, is not liberty the restricting of the law only to its rational sphere of organizing the right of the individual to lawful self-defense; of punishing injustice?"

Yes, that is the true meaning of liberty, but now we are experiencing the perversion of the law—law which is supposed to defend individual freedom, not destroy it. Government—the law—has assumed an illusionary omnipotence, omnipresence, and omniscience in socio-economic matters.

"How," asks Bastiat, "did politicians ever come to believe this weird idea that the law could be made to produce what it does not contain—the wealth, science, and religion that, in a positive sense, constitute prosperity? Is it due to the influence of our modern writers on public affairs?

"Present-day writers—especially those of the socialist school of thought—base their various theories upon one common hypothesis: They divide mankind into two parts. People in general—with the exception of the writer himself—form the first group. The writer, all alone, forms the second and most important group. Surely this is the weirdest and most conceited notion that ever entered a human brain!

"In fact, these writers on public affairs begin by supposing that people have within themselves no means of discernment; no motivation to action. The writers assume that people are inert matter, passive particles, motionless atoms, at best a kind of vegetation indifferent to its own manner of existence. They assume that people are susceptible to being shaped—by the will and hand of another person—into an infinite variety of forms, more or less symetrical, artistic, and perfected.

"Moreover, not one of these writers on governmental affairs, hesitates to imagine that he himself—under the title of organizer, discoverer, legislator, or founder—is this will and hand, the universal motivating force, this creative power whose sublime mission is to mold these scattered materials—persons—into a society."

THE LAW PERVERTED

Bastiat understood the motivation and mentality of social architects who corrupt the law. Although he did not question the good intentions held by many legislators, he stressed what happens to individuals when the law is perverted:

"It substitutes the will of the legislator for their own wills; the initiative of the legislator for their own initiatives. When this happens, the people no longer need to discuss, to compare, to plan ahead; the law does all this for them. Intelligence becomes a useless prop for the people; they cease to be men; they lose their personality, their liberty, their property."

Human degradation and misery will be the tragic result when self-appointed caretakers of society begin to regulate . . . inspect . . . tax . . . coerce . . . bridle . . . control . . . organize . . .

"The claims of these organizers of humanity," said Bastiat, "raise another question which I have often asked them and which, so far as I know, they have never answered: If the natural tendencies of mankind are so bad that it is not safe to permit people to be free, how is it that the tendencies of these organizers are always good? Do not the legislators and their appointed agents also belong to the human race? Or do they believe that they themselves are made of a finer clay than the rest of mankind?"

We should be asking these same questions of our own politicians, government officials, members of the media, and educators—whoever would use government to further their particular beliefs for organizing our health, education, and daily welfare. To the extent that we depend upon government to direct our lives, we will see the deterioration of freedom.

"Away, then," says Bastiat, "with quacks and organizers! Away with their rings, chains, hooks, and pincers! Away with their artificial systems! Away with the whims of governmental administrators, their socialized projects, their centralization, their tariffs, their government schools, their state religions, their free credit, their bank monopolies, their regulations, their restrictions, their qualization by taxation, and their pious moralizations!"

A CONTINUING PROBLEM

Bastiat's exhortation comes at a time when freedom is on the defense. Government continues to expand and become more oppressive. Legislative and Administrative commissions, boards, committees, departments, and agencies abuse their power—drawing us further into socialism.

In 1848, Bastiat had no illusions about the socialist road France was taking. Although many of the politicians of his day honestly denied they were socialists, their beliefs and actions were, nevertheless, undermining freedom. Ideological and political labels aside, many of our own public officials and "opinion molders" are working against freedom, not realizing that their actions are basically socialistic. We need to stand firm for freedom as Bastiat did—exposing socialism and making certain that our individual lives are guided by personal responsibility, accountability, voluntary cooperation, and individual initiative.

As we accept the responsibilities of freedom, we can share Bastiat's hope for the present and future:

"And now that the legislators and do-gooders have so futilely inflicted so many systems upon society, may they finally end where they should have begun: May they reject all systems, and try liberty; for liberty is an acknowledgement of faith in God and His works." ●

UNITED STATES-ASIAN IMMIGRATION ACT

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. McKINNEY. Mr. Speaker, on April 4, I introduced the United States-Asian Immigration Act which would provide preferential treatment in the admission of Amerasian individuals. During the August recess the Subcommittee on Immigration, Refugees and International Law received the executive comments on the bill from the Department of Health, Education, and Welfare, the Department of State, and the Department of Justice. Thirty-two of my colleagues and I feel that the departmental reports are inadequate and have missed the intent of the legislation. We would like to submit the following comments for the record:

As sponsors of H.R. 3439, which would provide preferential treatment in the admission of Amerasian individuals, we are troubled with the legislative assessments contained in the reports from the Department of Justice and the Department of State. While we appreciate the Department's endorsement of the bill's intent, we feel they have misinterpreted the legislation's direction and purpose.

As you are aware, H.R. 3439 attempts to redress the suffering of those individuals, often referred to as "Amerasian," who were born after 1950 and have been abandoned by their fathers in Korea, Vietnam, Thailand, and Laos. The bill would benefit the Amerasians by implementing the following: As children of U.S. citizens, regardless of the circumstances and perhaps especially due to those circumstances, an Amerasian would be able to emigrate to the United States under the first preference (unmarried son and daughter) and the fourth preference (married sons and daughters) of the Immigration and Naturalization Act. The legislation also directs the Department of Justice and the Department of State to design a board composed of appropriate authorities to substantiate U.S. paternity. Although there can be considerable difficulty in proving U.S. parentage, the board would be instructed to use every form of documentation available. We believe that in most cases, photographs, letters, proof of past financial support from the U.S. father and any other pertinent information will provide sufficient evidence to confirm paternity. Once parentage has been determined, the alien must be sponsored by a U.S. citizen who will agree to be legally responsible for his/her financial security equal to 125 percent of the U.S. Census Bureau's poverty threshold. The change in preference classification, the paternal substantiation board and sponsor support are the three main provisions of H.R. 3439. The Departments of Justice and State have addressed these sections in a typical bureaucratic manner without taking proper humanitarian and compassionate views into account.

The Department of Justice states that the bill "is somewhat inconsistent with the concept of family unification" and is therefore, "a departure from the normal scheme for granting preferenced classification under the Immigration and Naturalization Act." We feel this is a very limited interpretation of the immigration preference classifications. Throughout its history, the United States has maintained a significant concern for the plight of those less fortunate than ourselves. Our shores have remained open to immigrants who are homeless, to refugees who are tempest-tossed, to those who seek educational opportunities and primarily to those who desire a better standard of living, and greater civil liberties. While the plight of the less fortunate has not always been caused by the United States, the situation of the Amerasian is in large part a problem caused by citizens of our Nation.

Both the Department of Justice and the Department of State suggest that the bill require a petition by the United States citizen father. Here lies the greatest misunderstanding of the legislation's purpose. The bill addresses the needs of those Amerasians who have been abandoned by their fathers. It is hardly likely the U.S. citizen father will recognize that he has fathered the Amerasian and many instances he does not even realize that a child exists. Therefore, the "more general legislation" asked for by the Departments will do little to aid the specific problems of the Amerasian situation.

Finally, the Department of Justice and the Department of State question the bill's geographical restriction to those individuals who are from Korea, Vietnam, Thailand, and Laos. The discrimination and distress suffered by the Amerasian individuals is clearly not limited to those four countries. Similar difficulties are experienced throughout the East Asian area. However, expansion of this provision to include other individuals is something for the subcommittee to decide.

We appreciate the difficulty of the task facing the Immigration and Naturalization Service and realize the enactment of H.R. 3439 would result in an increased workload. We are also aware that in some instances establishing U.S. paternity will be troublesome. However, the responsibility we share in the hardship of these lives far outweighs our duty to lessen the man-hours expended at the Immigration and Naturalization Service. Once again, we respectfully urge that hearings be held as soon as possible.●

IN DEFENSE OF THE SMALL FAMILY FARM

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. ALEXANDER. Mr. Speaker, an annual family event in my congressional district is the Keller-McDaniel reunion picnic. The main address at this year's gathering, the 56th, was given by Clyde H. Duncan, professor emeritus, University of Missouri, Columbia. Duncan's remarks in defense of the family farm struck close to home and I wanted to share them with my colleagues. I would hope that our city cousins in the Congress would see the validity of the argument of those of us who represent the countryside as to the importance to the Nation of preserving this way of life.

SOMETHING HAS GONE OUT OF AMERICA!

(Address By Clyde H. Duncan)

"Who Saves His Country Saves All Things. And All Things Will Bless Him. Who Lets His Country Die, Lets All Things Die And All Thing Dying Curse Him."

These words are graven on the statute of Benjamin H. Hill, the great Southerner, in the city of Atlanta, and in their spirit I shall speak to you today.

Here today to honor these two fine families: The Kellers and the McDaniels, just as I did in 1927 with Stanley Andrews my editor of the Arknasas Farmer, I have chosen as a subject for this happy, friendly meeting of mostly farm folks: "Something has gone out of America," or maybe better still, "What has gone wrong with America?"

The saga of the Keller-McDaniel families is also the saga of the small family farm. Families tell the story in detail as I did many years ago in a national farm magazine, Farm and Fireside, and you tell one of America's great inspirational stories, that of an old 120-acre farm, more than 100 years old, having buried on it a soldier of Washington's army, producing in Dan, Fred, Gordon, Roy, Clifton, Paul and Ralph enough success stories to satisfy the ego of a generation.

My thesis today is that despite the fact that the small family farm, like the old Keller farm, with its leadership productivity of seven fine farm boys, all of whom distinguished themselves mostly in the area of agriculture, soon will be no more, gobbled up by the big giants in the name of a more ancient agriculture, pushed aside by the cold hand of ambition and greed.

We are fast closing the door on these great bastions of strength in America—our small family farms, and when we do you'll see the end to such grand old families as the Kellers and the McDaniels who have served this nation so well. The devil never sleeps in his workshop!

I recall a sad day some years ago when my Dean of Agriculture broke the news to me: "From here on we must stress Big farming." That day something died in me. That day something went out of America. We have replaced friendship and brotherly love and the Sermon on the Mount with the economics of a Keynes, and the confusion of a Carter.

That edict came to me more than twenty years ago, and now I understand that our agricultural leaders would like to soft-pedal the drive to destroy the family farm. But the damage has already been done. It is getting late and as Patrick Henry would say: "The British troops are already in the field." And like the American patriot, I too would say that rather than surrender the American family farm, like that 120 acres that produced seven Keller boys, "Give me Liberty or Give Me Death."

We are here today to honor these two fine families, and along with them to honor the tradition of America's family farm. What a triumvirate: Two outstanding farm families known far beyond the confines of Arkansas, and aligned with them is the family farm that for 200 years has produced the raw materials and the leadership which has brought this country to its present greatness.

Isn't it strange that for some reason when we started destroying the little family farm, our national and our international problems just seemed to grow in abundance. A coincidence, perhaps, but God knows when a sparrow falls. He knows when a nation slips.

Our national agricultural destiny seems to have about as much warmth as a cold combine, or an iron cotton picker. Ours is now a faceless agriculture, directed by economists with an eye always on the bottom line and with no compassion for the man who just might be a little less efficient than his counterpart, the Big Operator, but a man nevertheless, and the sort of man you'd rather have as a neighbor, go fishing with you, or serve on a jury trying you for some crime.

The wholesale loss of our small family farms means also a wholesale loss of leadership. The small family farm has always been the "bee hive" of national leadership. The names are legion of those who have made great national successes in industry, education and government that go back to the family farm.

I know that the Big Operators as compared to the small family farmer makes more money, but is "money everything?" Bruce Barton once said:

"It is good to have the things that money will buy, but it is also good now and then to check up and see if we haven't lost some of the things that money cannot buy."

The economists make a great case for the destruction, or doing-in of the family farm stressing always that big dollar sign at the bottom line. The passing of the small family farm is just a part of the national scene that adds up to my question: "What has gone wrong with America?" Kids graduate from high school and are unable to write their names. National surveys by McGraw-Hill show that 87 percent of the people feel that if tried in their home towns they would not get a fair trial. A far cry from the days when Judge Driver at Lake City appointed three of the best lawyers in Craighead county to defend a poor widow woman on a trumped-up charge of stealing three bales of cotton from her very jealous, rich suitor. When she spurned his love, in his wrath, he sought revenge and claimed she had stolen his cotton.

Judge Driver when told by the woman that she could not afford counsel, appointed Mr. Gautney of Jonesboro, Simpson of Paragould and Duncan of Osceola to defend her. Three of the finest of the Arkansas bar. He was determined to see that justice held sway in his court.

In every court in recent years which I have been in, the judge would certainly not appoint the best lawyers to defend a poor woman, but rather some simpleton who could hardly get into the courthouse, and with questionable credentials as to whether he ever passed the bar examination.

Have I made myself clear? Something has gone out of America in recent years and whether there is a connection between a destruction of our national stature as we once possessed, and the passing of the family farm, I know not, but it certainly looks like it.

In this connection, have you recently tried to get a doctor to come to your house like old Dr. Tillotson used to do in Lake City? Gone are the old doctors who would treat you and "wait for pay when the ginning season was over."

In paying tribute here today to the Kellers and the McDaniels we have tied them to the small family farm that produced a small army of outstanding leaders. We have mentioned to what low estate our national leaders have sunk, but we didn't go as far as a fine clergyman said the other day. in words such as these:

"Can you wonder at the nation's failure when our leaders in the very top positions of government lie to us continuously, and they don't lie to us about the little things, but the truly big things which compounds the felony."

We are not the first to realize that it is in the little family farms of America, such as the old 120-acre Keller place near here in Craighead county, is born America's future leadership. Henry W. Grady, editor of the Atlanta Constitution, in a speech at Elberton, Georgia, in June 1889, put this thought into far better words than I ever can when he said:

"A few days ago I stood on a hill in Washington, D.C. My heart thrilled as I looked on the towering marble of my country's Capitol, and a mist gathered in my eyes as standing there, I thought of its tremendous significance and the powers there assembled, and the responsibilities there centered—its Presidents, its Congress, its Court, its gathered treasure, its Army, its Navy and its millions of citizens.

"It seemed to me the best and mightiest sight that the sun could find in its wheeling course—this majestic home of a Republic that has taught the world its best Lessons of Liberty—and I felt that if wisdom and justice and honor abide therein, the world would stand indebted to this Temple on which my eyes rested, and in which the Ark of my Covenant was lodged for its final uplifting and regeneration.

"A few days later I visited a country home, a modest, quiet house sheltered by great trees and set in a circle of field and meadow, gracious with the promise of harvest—barns and cribs well filled and the old smoke house odorous with treasure—the fragrance of pink and holly hock mingling with the aroma of garden and orchard and resonant with the hum of bees and poultry busy clucking—inside the house, thrift, comfort and that cleanliness is next to godliness—the restful beds, the open fireplace, the books, the papers, and the old clock that had held its steadfast pace amid the frolic of weddings that had welcomed in steady measure babes of the family and kept company with the watchers of the sick bed, and had ticked the solemn requiem of the dead.

"And the well-worn Bible, that thumbed by fingers long since stilled, and blurred with tears of eyes long since closed, held the simple annals of the family, and the heart and conscience of the home. 'Here,' I said on this small farm, all over America, and not in the marble palaces of Washington, D.C. is locked the Ark and Covenant of my country. And as I thought the memory of the great Capitol faded from my mind. Forgotten its treasures and its splendor. And I said: 'Surely here—here in the homes of the people on the little farms of Georgia and elsewhere is lodged the Ark and Covenant of my country. Here is its majesty and its strength. Here in this little farm home is the beginning of my nation's strength, and the end of its responsibility.' "

Those words spoken by one of the most gifted editors the South ever produced, are some of the greatest I have ever read in defense of what we are actually doing here today—paying tribute to the small family farm and the leadership it produces. If Henry Grady lived today he would be a heartsick man to see what has happened to the small family farms, and he would be saddened still more at our national leadership with its drunk, sin-riddled leaders.

Little did I dream as a tow-headed Club boy over at Lake City that I would ever see the time when Presidents would insist on having mistresses, such as has been portrayed in the public prints about Franklin D. Roosevelt and John F. Kennedy, and I am sure others were as guilty of such misconduct as they. "What is wrong with America?" you ask. William Allen White once wrote a Pulitzer winning editorial on the subject: "What Is Wrong With Kansas." Well, what is wrong with America would make "What is Wrong With Kansas" pale into insignificance. William Allen White would find little to smile about.

Now in closing let me say that it is not the land, or the crops or the livestock, or the meager cash that come from these little family farms, like the little 120-acre Keller farm, but the men that those acres produce. In tribute to all of those men, Kellers and McDaniels, and others on these small tracts of land over America, let me say finally in tribute, words that best describe my thoughts, and they come from another great editor, John Temple Graves of the Birmingham Age-Herald:

"I have seen the light that leaped at midnight athwart the storm-swept sky, shivering over chaotic clouds, mid howling winds, 'till cloud and darkness and the shadow haunted earth flashed into mid-day splendor, and I knew it was grand. But the grandest thing, next to the radiance that flows from the Almighty throne is the light of a noble and beautiful life, wrapping itself in benediction 'round the destinies of men, and finding its home in the blessed bosom of the everlasting God.

In closing let me say what I said at the beginning that I would speak in the spirit of the words which run in this wise:

"He who saves his country saves all things and all things saved shall bless him. but he who lets his country die lets all things die and all things dying curse him."

Had I used a text for this great occasion it would be Isaiah's words in the 8th Chapter and 1st Verse: "Take a great roll, and write in it with a man's pen." As a journalist I have tried to write to you today in the spirit of Isaiah with a man's pen.

God bless you and may you have many, many more great get-togethers of the Kellers-McDaniels and their friends. It has been a pleasure to be a part of this great celebration honoring two great families. ●

SALE OF REFINED OIL PRODUCTS TO IRAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues correspondence I have had with the Department of State concerning the reported sale last month of some 2 million barrels of heating oil and kerosene to Iran.

The State Department says in its reply that licenses for the export of these products were granted for both humanitarian and political reasons. This one-time sale to Iran was made because there was the threat of shortages of such products in Iran this winter as a result of various refinery production problems earlier in the year.

The State Department adds that since the United States currently imports about 750,000 barrels of crude oil a day (compared to some 900,000 barrels a day prior to the revolution), approval of this transaction can help assure a continuing supply of oil from Iran and can help improve relations with that country.

With regard to a statement made by chairman of the National Iranian Oil Co. (NIOC) asserting that Iran would not be able to use all these exports and would reexport them, the NIOC has issued a disclaimer stating that it intends to use all the oil and kerosene domestically and will not reexport it.

The correspondence with the State Department follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 4, 1979.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: I would like you to clarify circumstances surrounding the decision to sell 2 million barrels of United States refined diesel oil and kerosene to Iran.

Specifically, I would like to know: what the basis and rationale for making the decision to export the products to Iran were; if there is a need for the oil products in Iran, and, if so, why the manager of the National Iranian Oil Company (NIOC) stated in a radio broadcast on August 23 that Iran would not need the products and would sell them at a higher price on the international market; if there were any provisions in the export license issued to the U.S. exporting refinery, Amerada Hess, requiring that the kerosene and diesel oil were to be for domestic consumption in Iran only, and, if so, what sanctions might be imposed should Iran not respect this agreement; if there was any explicit or tacit understanding between the NOIC and Amerada Hess that providing these products would help guarantee a continuing supply of Iranian oil to that refinery; and what will be the impact of this sale on availability of kerosene and heating oil to U.S. consumers.

I would appreciate your providing me with a prompt answer to these questions which are of concern to a great many Americans.

With best regards.

Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEPARTMENT OF STATE,
Washington, D.C., September 19, 1979.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of September 4, seeking clarification of the circumstances surrounding the sale of two million barrels of heating oil and kerosene to Iran.

The Department of Commerce on August 3 approved two licenses for the export of one million barrels each of No. 2 fuel oil and kerosene to Iran. This action was concurred in by the Departments of State, Defense, and Energy as an exception to the normal restriction on the export of petroleum products from the United States.

The issuance of these licenses was based on our own self-interest and on humanitarian considerations stemming from an emergency need for heating and cooking fuel because of a temporary reduction of refining capacity in

Iran. At the time of the revolution in January and February, stocks of refined products dropped to nearly zero and the Iranians did not want to have a repetition of that experience this winter. During the past spring and summer months Iranian refineries have experienced a variety of production problems relating to start-up and maintenance difficulties. In addition, in July there were acts of sabotage which temporarily reduced the flow of oil to refineries. Thus, there was a threat of serious shortages again this winter.

The exporter in this transaction is the Amerada-Hess Corporation. This company obtains a substantial portion of its available crude from Iran. Nearly all of this oil is used to help meet the demands of Eastern seaboard states. Hence, it was in the company's own interest to maintain its supply relationship in Iran by providing this temporary refining service for the Iranians.

The U.S. currently imports directly and indirectly about three quarters of a million barrels of crude oil and oil products per day from Iran, only slightly less than we received last year despite the reduction by about one-third in Iranian output. Approval of this transaction was intended to help assure a continuing supply of crude oil from Iran. The amount of heating oil involved in this export transaction is less than one-tenth of one percent of annual heating oil consumption in this country. This transaction should not jeopardize the Administration's target for primary heating oil stocks. Amerada Hess has stated there will be no reduction in supply to its consumers.

The National Iranian Oil Company has explained publicly that the Chairman's remarks were misunderstood. NIOC has stated that Iran intends to use "every drop" of fuel domestically and will not re-export it. The Chairman's remarks about resale were intended to reassure the Iranian public concerned about overly great dependence on the U.S. that Iran could resell the oil if it were surplus to domestic needs. We agree with NIOC that the fuel oil will be needed in Iran. The export license did specify that the refined products would be used for cooking and heating in Iran.

While there was no explicit arrangement between NIOC and Amerada Hess on future supply, it is clear that there is an implicit understanding that will benefit the American firm. We note that Amerada Hess provided similar service for NIOC prior to the revolution and was the first American company to obtain a crude oil contract with NIOC after the revolution.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.●

THE UNITED STATES AND THE THIRD WORLD

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. HAMILTON. Mr. Speaker, American politicians often encounter constituents whose hostility toward the developing nations is strong. Other Americans are not outwardly hostile, but they tend to see the countries of the "Third World" as economic competitors, greedy suppliers of raw materials, and strident rabble rousers anxious to bring about a new international order. In light of new realities, however, some of these attitudes are changing. Secretary of State Cyrus Vance recently stated that our interest in close relations with the Third World is large and growing. Slowly but surely we are discovering how important these nations are to our economy and to the political objectives we seek in the world. The United States is finally beginning to pay more attention to the developing countries.

There are several reasons why we should strive for closer relations with the Third World. To begin, a solid link exists between a healthy American economy and the economic vitality of the developing countries. Imports from these countries cost us $76 billion in 1978, about 42 percent of our total import bill. The Third World furnishes us with more than 25 percent of the raw materials we use, including 100 percent of the natural rubber, 99 percent of the bauxite, 98 percent of the manganese, 97 percent of the cobalt, 86 percent of the tin, and 42 percent of the oil. Of the 13 basic industrial raw materials, we import more than half of 9.

Most people have heard about our exports to the Third World, but they are usually amazed to learn how much we rely on it for markets. In 1978 the developing nations bought $53 billion in American exports, about 46 percent of all our overseas sales. In agriculture, for example, they purchase 50 percent of our wheat exports, 60 percent of our cotton exports, and 70 percent of our rice exports. Our sales in the Third World, which provide employment for some 2 million American workers, exceed our sales in all the Common Market, Eastern Europe, the Soviet Union, and China. Moreover, the dozen fastest growing markets for our goods and services are located in the developing nations. All facets of our economy, including prices at the neighborhood supermarket, jobs at the local factory, and a wide range of choices at the nearby department store are dependent on trade with the Third World.

Of course, American ties to the Third World extend beyond economics. Bound up with them is our quests for world peace, to name just one example. In the last three decades most major armed conflicts have centered on the problems of the Third World. Well known "hot spots" in the Middle East, Southern Africa, Southeast Asia, and the Eastern Mediterranean have frequently threatened to flare up into confrontations between the superpowers. All nations, not just the superpowers themselves, must work together if the conflicts are to be resolved.

The achievement of our important political goals also requires us to take account of the Third World. We will not halt nuclear proliferation until we convince the developing nations that they can meet their legitimate security needs without nuclear weapons. We will not restrain the worldwide arms race in conventional weaponry unless the developing countries are persuaded that arms control is in their best interest. Likewise, we will never come to grips with the disregard of human rights, the population explosion, the fouling of the oceans and atmosphere, and the widening gulf between rich and poor without the practical decisions and cooperative efforts of governments throughout the Third World. These and other related international problems are not traditionally viewed as problems of national security, but solutions to them are essential to our survival, our self-respect, and our prosperity. In the absence of visible progress toward solutions, a stable, harmonious world is not likely to be ours to know.

The problems call for a new "Third World strategy," and the search for such a strategy will be a major challenge for our foreign policy. Our objectives are several, but the principal ones can be briefly described: We seek fuller participation of the developing nations in the world economic system; we want to focus our resources on the difficult tasks of providing impoverished Third World people with food, health care, and education; we hope to help the developing countries achieve sustained economic growth, the only kind of growth which will allow them to meet the fundamental human needs of their citizens; we wish to encourage all movement toward open and democratic government in the Third World; we must be prepared to respond to requests for military assistance from friends who have clear defense needs; we are ready to work actively for the resolution of regional conflicts. A new Third World strategy cannot await the outcome of other foreign policy initiatives. It is important enough to be taken up now.

In my view, it is not reasonable to think that the United States—or the industrialized West, for that matter—can maintain or expand either its economy or its security in a closed and polarized world. Our well-being is directly related to the strength and quality of our relations with the Third World. It is plainly beneficial for us to deal with more and more countries not only as suppliers of raw materials, but also as partners in diplomacy, commerce, and cultural exchange. My suspicion is that our relations with the Third World will emerge in the years ahead to overshadow most other international interests of ours.●

LOOSE TALK ON TIGHT MONEY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. PAUL. Mr. Speaker, I was pleased to read the column by Louis Rukeyser that appeared last week in the Frederick Post. Mr. Rukeyser is one of the few economists in this country who have cut through the verbiage about tight money to the fact of an ever-increasing money supply. The raging controversy about tight money and loose money is a controversy that has no basis in fact, for the Federal Reserve is not pursuing a tight money policy, and it cannot pursue such a policy as long as paper currency is legal tender and there is nothing of value behind the paper. What we need a debate about is not tight money and loose

money, but real money and synthetic money. The last real money made in this country was in 1964, when the mint made silver coins. Those coins are now trading for over 10 times their face value in today's synthetic money. Just as a real diamond is more valuable than a synthetic diamond, so real money is more valuable than the counterfeit money that circulates legally today. Our economic and monetary troubles will not end until we once again coin and use only real money.

TOO MUCH LOOSE TALK AROUND ON "TIGHT MONEY"

(By Louis Rukeyser)

NEW YORK.—Some awfully silly reporting is coming out of Washington these days about the tremendous debate that is supposed to be raging there over how long to continue what is described as the government's perilous "tight money" policy.

Both the reporting and the alleged "debate" are remarkably confused, even by what passes for intellectual standards in the nation's capital. For the neglected truth is that all these instant economic experts are pursuing a total phantom. In reality, as it happens, U.S. monetary policy today is about as "tight" as a size-16 dress on a size-8 model. It is, indeed, so loose that it has already absolutely guaranteed (whatever the Washington geniuses may think) another year of virulent inflation in 1980.

Part of the reason for the confusion can be found in the facile talk about what is termed "the high-interest-rate, tight-money policy." Sorry, fellows, but that makes about as much sense as talking about "the white-poodle policy." Poodles are frequently white, to be sure—but not necessarily: one can be an equally authentic poodle of an entirely different color. And a high-interest-rate policy is not, repeat not, automatically a tight-money policy.

What makes money "tight" is its relative unavailability. In 1974, for example, we had a true "money crunch," when the Federal Reserve Board hit the brakes with the same excessive vigor it had earlier applied to the accelerator. Nothing of the kind has happened in recent months. Quite the contrary: the three commonest gauges of money supply (M1, M2 and the monetary base) have all recently continued to explode upward at rates ranging from more than 10 to more than 15 percent. If that's "tight money," then Australia is located in the North Atlantic.

Moreover, the evidence is that very few people outside of Washington have been taken in by this lately-fashionable chitchat about monetary tautness. If you want the rest of the world's opinion, take a look at the international markets for gold and the dollar. The former has been soaring and the latter has been collapsing—both objective votes of "no confidence" in the U.S. government's determination to restrain the monetary growth that validates inflation.

In darkest Washington, to be sure, the illusion of an oppressively tight monetary policy continues to be conjured. It appears even at the Federal Reserve Board itself, where three members resisted chairman Paul Volcker's latest effort to bring the federal discount rate into closer alignment with market realities.

The irony is that Volcker, who inherited a monetary mess, is now likely to be vilified for doing the one thing he has, in fact, conspicuously failed to do, making money truly tight.

Money is expensive, all right, but it's simply not "tight." Indeed, a close examination of the interest-rate situation reveals that even it has been produced not by monetary stinginess but by constantly escalating private demand for funds. Fact: in the last quarter, business loans grew by a whopping $9.2 billion—as compared with barely more than half a billion a year earlier, and an actual decline in the similar period of 1977. That's why the prime rate surged past 13 percent—not because the drunken sailors at the Federal Reserve Board suddenly turned into Ebenezer Scrooge.

Nor is it difficult to figure out why the demand for credit continues to burgeon, even at interest rates that not long ago would have been associated with teetering banana republics. Why not borrow at 13½ percent, when the latest inflation rate is 13.2 percent? It's free money, by historical standards, with virtually no premium over current inflation demanded by the lender. No wonder corporate treasurers continue to line up at the bank window—even while Washington theorists bemoan the crushing impact of dreadfully "tight" money.

The misunderstood reality is that, with a brief exception last winter, monetary policy has been overly loose and overly inflationary. That's what truly keeps interest rates high—and the only authentic way to bring down interest rates is to bring down inflation. Washington ought to loosen up on the cliches and tighten up on its thinking.●

THE AFRICAN DEVELOPMENT FOUNDATION ACT OF 1979

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. GRAY. Mr. Speaker, I am introducing today, with Mr. BONKER, of Washington, a bill to create an African Development Foundation. This legislation has been introduced previously as H.R. 8130 and H.R. 12743 in 1977 and 1978, respectively. That I am reintroducing the bill at this time reflects my belief that the need for such a foundation is greater today than it has been at any time in the past.

Like many of my colleagues in the Congress, I have been encouraged by the formulation of an African policy by our executive branch that is more respectful than that of any previous administration of the goals and aspirations of Africans themselves. This respect is expressed most clearly when we support the quest of Africans for self-determination, for the right to control their own affairs, and for their freedom from a set of dependent relationships which are engendered by and perpetuate a condition of "underdevelopment." Only by helping to support processes of African development shaped by Africans themselves can we hope to establish a new, lasting set of mutually trusting relationships with the people of that continent.

Such a posture, while important in our relations with all Third World countries, is nowhere more critical than in Africa, where unparalleled diversity makes it impossible to successfully implement any general development plan or strategy. Rather, we must be attuned to this diversity and assist peoples in all parts of Africa in their efforts to build upon indigenous values, initiative, resources, and skills, as they take hold of the course and direction of their own development. Many of these efforts are small in scope, but not in significance, as they collectively form the basis for widespread, concrete, social and economic progress.

In order to be of assistance to such efforts, we must have an institutional mechanism with a flexibility that allows us to respond swiftly and with relatively small amounts of money. While our present AID mechanism can serve other purposes well, it is not suited to reach and foster development efforts of that scale in a direct and rapid fashion. It is for this reason that I consider it imperative that we establish an institution—in the form of an African Development Foundation—that confirms in substance and deed our commitment to self-development in communities throughout Africa.

Implicit in the legislation that I am introducing is an understanding that the transfer and application of large amounts of capital and Western technology are often not the answer to the problems of Third World development. Many African governments, as well, have recognized for some time the importance of support for localized self-improvement, and it is they who have been among the most supportive of the creation of an African Development Foundation.

With this in mind, I wish to set forth a number of elements that would be embodied in the new Foundation and which, I feel, should be reflected in all U.S. development assistance programs in Africa. First, these programs must become more decentralized. Smaller packages of assistance allow indigenous communities to absorb such aid in a manner beneficial to the social and economic structure already present. Second, efforts should be made to reach the intended beneficiaries of our assistance as directly as possible. It is very questionable whether the present, conventional channeling of funds by large, international agencies is appropriate to the needs of local groups which are seeking to sustain an initiative or develop a viable institutional capacity.

Third, the planning of development programs must incorporate an expression of community needs, so that specific projects will respond to particular problems and conditions found in diverse local settings. Fourth, the direct participation of the local poulation should be assured in the identification, planning, and implementation of community development projects themselves. There is substantial evidence that local participation and commitment are crucial and primary factors in sustained project success.

These are goals that I feel we must pursue if our foreign aid is to be beneficial to Africans at all levels of life. These goals will not be achieved, however, until this Congress creates and empowers an institutional vehicle for directly assisting Africans in their self-development efforts at the community level. The African Development Foundation, requiring a very modest $25 million over the next 3 years, can do what only a decentralized organization is capable of achieving: It can search out indigenous development initiatives in their formative stage and respond quickly with financial assistance that will cause local projects to grow and flourish.

The central purpose of this Foundation is to discover the specific settings where our partnership with African development can make its most vigorous and long-lasting contribution. The Foundation will therefore make every effort to fund projects that community groups have conceived and undertaken for local development. It will also assist directly in the formation and growth of African development institutions. In the last several years. Africa has seen the emergence of local development institutions with great potential for productive relations with national and international donors. The African Development Foundation will strengthen the capacity of these indigenous institutions in their attempt to provide financial and technical assistance to local development initiatives.

It will also be a function of the foundation to disseminate to the American public and the international development community important findings that emerge from its analysis of successful. locally initiated projects. This should make it easier for us to continually learn from our experience and to adapt our assistance programs to the needs of poor Africans. In addition. the Foundation will support practical. field-oriented research by Africans. while facilitating the interchange within Africa of development experience. resources. and technical knowledge.

Though innovative. this institutional vehicle for community self-development has its precedent. The Inter-American Development Foundation. established in 1969 by the Congress. has established an unusually effective record of assistance to local initiatives in Latin America and the Caribbean. Created as an autonomous. nonprofit U.S. Government corporation. with a Board of Directors chosen from the public and private sectors by the President. the IAF has identified and directly assisted close to 800 development projects. Utilizing a regional team approach to decisionmaking. the Inter-American Foundation has employed a decentralized organizational structure in carrying out Congress mandate to respond to grassroots initiatives for social development of communities in Latin America and the Caribbean.

The past 10 years of exceptional achievement by the Inter-American Foundation have helped to validate the approach to community self-development that is embodied in this legislation. As is the case with the IAF. the African Development Foundation will be created as a nonprofit U.S. Government corporation. and will have a similar organizational structure. It will require a staff. particularly those who will serve as field representatives. which has considerable community-level development experience in Africa and which shares a demonstrated commitment to innovative and participatory development. in general.

Recent visits by development consultants to national and community leaders within Africa give evidence of large numbers of local and institutional initiatives that could greatly benefit from the type of assistance that the Foundation would be providing. Such visits have also demonstrated that among these leaders there is great receptivity to the establishment of an African Development Foundation.

Recognizing the challenge before us of strengthening our relations with the nations and peoples of Africa. it is imperative that the United States extend a form of foreign assistance which recognizes. respects. and supports the efforts of African communities to chart their own development course. The creation and work of an African Development Foundation will constitute a firm and concrete commitment on our part to this most important goal.

Mr. Speaker. I ask unanimous consent to have the bill printed in the RECORD.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "African Development Foundation Act".

SEC. 2. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new part:

"PART VII

"Chapter 1—THE AFRICAN DEVELOPMENT FOUNDATION ACT

SEC. 921. FINDINGS.—The Congress finds that—

"(1) social and economic development ultimately depends on the active participation of individuals within a society and on the enhancement of opportunities for those individuals;

"(2) the development of individuals and institutions in African nations can benefit by the provision of support for community-based self-help activities;

"(3) by enacting title IX of the Foreign Assistance Act of 1961. the Foreign Assistance Act of 1973. and the International Development and Food Assistance Act of 1975. the Congress sought to enable the poor to participate in the process of development;

"(4) the Inter-American Foundation. established by Congress in the Foreign Assistance Act of 1969 to support the efforts of the people of Latin America and the Caribbean to solve their development problems. has demonstrated a successful approach to development; and

"(5) an African Development Foundation. similar in structure to the Inter-American Foundation. can complement current United States development programs in Africa.

"SEC. 922. ESTABLISHMENT.—There is established as a body corporate the African Development Foundation (hereinafter in this chapter referred to as the 'Foundation'). The Foundation shall have its offices in the United States.

"SEC. 923. PURPOSE.—(a) In order to enable the people of African nations to develop their potential. fulfill their aspirations. and enjoy better. more productive lives. it shall be the purpose of the Foundation—

"(1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;

"(2) to support self-help initiatives designed to enlarge the opportunities for individual and community development;

"(3) to stimulate and assist effective and expanding participation of Africans in their development process;

"(4) to encourage the establishment and growth of indigenous development institutions which can respond to the requirements of the poor in Africa; and

"(5) to improve the quality of life of all Africans.

"(b) The Foundation shall carry out the purposes specified in subsection (a) in cooperation with. and in response to. indigenous organizations representative of the needs and aspirations of the poor in Africa and. in carrying out such purposes. the Foundation shall complement the activities of private. regional. and international organizations.

"SEC. 924. FUNCTIONS.—(a)(1) In order to carry out the purposes set forth in section 923. the Foundation may make grants. loans. and loan guarantees to any African private or public group. association. or other entity for—

"(A) the fostering of local indigenous development institutions and the support of self-initiated community development efforts;

"(B) the support of participant self-evaluation efforts for the purposes of generating participant learning experience and transferring insights so gained to similar development endeavors;

"(C) development research by Africans and the transfer of development resources. expertise. and knowledge within Africa;

"(D) the procurement from other sources of such technical or other assistance in cases and manners deemed appropriate by African recipient entities to carry out the purposes of this chapter; and

"(E) such other projects as the Foundation considers appropriate.

"(2) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this chapter.

"(b) In making grants. loans. and loan guarantees under subsection (a). the Foundation shall give priority to such projects and programs which community groups undertake to foster their own development. in which there is the maximum feasible participation of the poor in the initiation. design. implementation. and evaluation of such projects or programs. Where appropriate and in keeping with the purposes of this legislation. the Foundation may make such grants. loans. and loan guarantees to African intermediary organizations which are representative and knowledgeable of. and sensitive to. the needs and aspirations of the poor.

"SEC. 925. POWERS.—(a) The Foundation. as a corporation—

"(1) shall have perpetual succession unless dissolved by an Act of Congress;

"(2) may sue and be sued. complain. and defend. in its corporate name in any court of competent jurisdiction;

"(3) may adopt. alter. and use a seal. which shall be judicially noticed;

"(4) prescribe. amend. and repeal by its Board of Directors such rules and regulations as may be necessary for the conduct of the business of the Foundation;

"(5) may make and perform contracts and other agreements with any individual. corporation. or other entity however designated and wherever situated. or with any government or governmental agency. foreign or domestic;

"(6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. including expenses for representation not to exceed $10.000 in any fiscal year;

"(7) may, as necesary for the transaction of the business of the Foundation, employ, and fix the compensation of not to exceed seventy-five persons at any one time;

"(8) may lease, purchase, or otherwise require, own, hold, improve, use or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(9) may accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in furtherance of the purposes of this Act; and

"(10) shall have such other powers as may be necessary and incidental to carrying out it powers and duties under this Act.

"(b) The Foundation shall be a nonprofit, corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue earnings, or other income or property shall only be used for carrying out the purposes set forth in this Act.

"(c) Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

"SEC. 926. MANAGEMENT.—(a)(1) The management of the Foundation shall be vested in a Board of Directors (hereinafter in this chapter referred to as the 'Board') composed of seven members appointed by the President, by and with the advice and consent of the Senate, one of whom he shall designate to serve as Chairperson of the Board and one of whom he shall designate to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers or employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of sensitivity to community level development processes.

"(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years, and two shall be appointed for terms of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, but upon the expiration of his term of office such member shall continue to serve until his successor is appointed and shall have qualified.

"(b) Members of the Board shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses not in excess of $50 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

"(c) A majority of the Board shall constitute a quorum.

"(d)(1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(2) Experts and consultants, or organizations thereof, may be employed by the Board as authorized by section 3109 of title 5, United States Code.

"(e)(1) There shall be established a Council to be composed of such number of individuals as may be selected by the Board from among individuals, including representatives from African grant recipients and other foreign nationals, who are knowledgeable about development activities in Africa.

"(2) The Board shall consult the Council concerning the objectives and activities of the Foundation at least once each year.

"(3) Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this subsection.

"SEC. 927. GOVERNMENT CORPORATION CONTROL ACT.—The Foundation shall be subject to title I of the Government Corporation Control Act.

"SEC. 928. AUTHORIZATION OF FUNDS.—(a) There is authorized to be appropriated $25,000,000 to be made available to carry out this chapter for the period beginning on October 1, 1980, and ending on September 30, 1983.

"(b) Funds made available under subsection (a) shall remain available until expended.".●

SECOND BUDGET RESOLUTION

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. FISHER. Mr. Speaker, I would like to take this opportunity to express my views on the second concurrent budget resolution for fiscal year 1980 which we reconsidered in the House on September 27.

I voted against the substitute resolution offered by the chairman of the House Budget Committee at that time as I voted against the committee's initial version of the second budget resolution which was considered on September 19. Although the deficit in the substitute resolution was $400 million lower than the House Budget Committee's initial proposal, I believe that the reduction in the deficit from $29.3 billion to $28.9 billion still does not represent sufficient progress toward our goal of achieving a balanced budget in the early 1980's.

At a time when a concerted, yet responsible, attack is called for, we are doing little more than marching in place. We should use the budget resolution as a clear statement to emphasize our intention to roll back the deficit.

If the parlimentary situation had permitted it, I would have offered a substitute of my own which would have called for a one-half of 1 percent across-the-board cut in both budget authority and outlays.

As such, it was consistent with an amendment which I offered to the first budget resolution and which was passed by the House in May of this year. My substitute this time would have trimmed the deficit by $2.7 billion from the Budget Committee's substitute. This would have set the fiscal year 1980 deficit at $26.1 billion. Certainly, this figure would have to be improved upon in future years, but for this year it would have represented a more substantial reduction from the deficit for fiscal year 1979. I believe that my proposal would have demonstrated a more steadfast commitment to balancing the budget in the early 1980's than did the Budget Committee's substitute.

The passage of my substitute would have sent the clear message to the various agencies and departments that it is time to tighten their belts one notch further. The additional reduction could easily have been achieved by cutting waste, inefficiency, fraud, and sloppy administration. In addition, passage of my substitute would have let the public know that we had heard its urgent protest against inflation and that we are serious about taking those steps within our power to reduce the current inflationary pressures. The additional fiscal restraint embodied in this spending cut would not solve the problem entirely, but it would have helped.

A budget resolution is not only an economic document. It also can be a tone poem. The American people resonate to the tones sounded by the budget, as we in Congress resonate to the sounds we hear from them. I would urge both the House and Senate conferees to consider this as they work to reconcile the House and Senate passed versions of the second budget resolution.●

Rx FOR THE ECONOMY—A LITTLE DOSE OF RECESSION?

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

○ Mr. ANDERSON of California. Mr. Speaker, the strategy being employed to combat the economic woes facing this Nation should now be apparent to all. The administration and the Federal Reserve Board are, and there is no point in mincing words, trying to stimulate a controlled recession to beat back the inflation that is ravaging the country.

Indeed, this constitutes the traditional approach to our problem, and the support this thinking has in the economic and academic communities is fairly widespread. I have one problem with this approach though, and that is, I am not sure it will work. And in the meantime, countless Americans will suffer from it.

Certainly, something needs to be done. But as the months have progressed, with no progress made, the response by those in authority has been to push a little harder, raise the interest rates a bit more. But still; no progress

Maybe it's time to reevaluate this strategy. At the very least, we must examine all its ramifications.

I would like to include for the RECORD an article from the September 30 Washington Post. In it, John M. Berry takes a hard look at a "modest recession," and raises the kinds of questions that need to be answered before this Nation walks further down that path.

The article follows:

RECESSION AS A "CURE" FOR INFLATION

(By John M. Berry)

Like so many issues in economics, it is a matter of degree. A severe enough recession lasting for years would do the job, but at a terrible cost to the nation in terms of millions of unemployed workers and billions of dollars worth of lost output.

A modest recession—all that most forecasters think is in the cards for 1979 and 1980—will help to slow inflation but hardly come close to curing it. So long as wages keep going up by 7 percent or 8 percent a year, prices will also. The question is, to what extent will a recession reduce the increase in wages?

A recession involves a decline in economic activity that continues for an extended period of time and broadly affects the economy. People who otherwise would be at work become unemployed. Machines become unemployed, too, as assembly lines run only a few hours a day or get shut down entirely.

It is the presence in the economy of those unemployed resources, both labor and capital, that works to slow down inflation.

Unemployed workers, anxious to get paychecks again, may decide to accept jobs that pays less than they would have accepted had they not been without work for a while. Fearing that they, too, might become unemployed, workers still on the job may moderate their wage demands.

There are a number of theories about how wage rates are determined, but for industries lacking strong unions, at least, an increase in the level of unemployment usually has meant that wage rates will rise more slowly. Theoretically there is no reason they could not fall, but that is rare in today's economy.

Because payrolls are the largest single cost for most businesses, when they rise more slowly over time, selling prices usually go up more slowly as well.

But the recession may not have that much impact in situations in which there is an inadequate level of competition. If employes in an industry are represented by a very strong union—perhaps one that bargains on a national basis simultaneously with all the major companies—an employer knows that whatever wage increases it grants, each of its competitors within the industry will have to grant them, too. Since everyone's costs will be going up simultaneously, the companies can be reasonably confident that they can increase their selling prices to cover the higher costs without fear of losing sales to someone else. The union members, meanwhile, have no fear that unemployed job seekers will be hired to replace them.

A business benefiting from a slower rate of increase in wages nevertheless may find itself with shrinking profit margins because of a substantial drop in sales.

Typically, both profit margins and total profits fall during recessions. When a company is forced to cut production to keep it in line with sales, that usually means some part of its invested capital is idle at least part of the time. And that means that the firm's cost for each unit of output goes up.

In an attempt to bolster sales, even though it may cut margins further first, a company may decide to cut prices. But as soon as possible, the company will try to boost its margins back to normal levels, which means part of the recession-induced reduction in inflation will be temporary.

Thus the recession cuts inflation partly at the expense of workers who have become unemployed, are working part time, or whose wages are rising less rapidly. Meanwhile, business profit margins and total profits are down, too.

But how large will the reduction be? That will depend in large part on how large the pool of unemployed labor and capital becomes, and how long it stays large. The social costs are high, and understandably so are the political costs.

At the same time, the whole range of government income support programs intended to limit those social costs has changed the behavior of individuals in ways that make the economy more inflation-prone. For instance, more generous unemployment compensation programs may make people receiving the aid less anxious to find new jobs, and thus put less downward pressure on wages.

Many other forces help to keep inflation high. The most important is past inflation itself.

After a decade of sharply rising prices people expect inflation to continue and behave accordingly. More and more unions have cost-of-living escalators in their contracts, which means any increase in prices—even if it is the result of a drought in the Soviet Union or higher world oil prices—quickly gets built into the wage structure in many unionized industries.

Social Security benefits, government pensions, even rents in some commercial office buildings, now are linked to changes in consumer prices. When the Consumer Price Index goes up, so do they.

Businesses that used to change prices once a year when they put out a new catalogue now make sales noting that prices may change without notice.

In short, the transmission belt of inflation has speeded up as people try to protect themselves from expected future inflation. That means that even in the midst of a recession many people will be getting higher incomes solely on the basis of past inflation.

Because of the impact of inflation on financial assets—corporate stocks, bonds, savings accounts and so forth—people are trying to protect themselves in another way, too, by turning to tangible assets as a store of value. In the process, the increased demand for those assets—such as homes—has produced its own inflationary spiral. Except to the extent that during a recession would-be buyers become unable or unwilling to trade up to a larger home, this self-generating spiral may well continue.

Meanwhile, government has forced consumers of many products to bear, for the first time, many of the "social" costs of production of those products such as dirty air that formerly were borne by society at large.

Higher Social Security taxes and higher federal minimum wage rates also have added to business costs and to inflation.●

CONGRATULATIONS TO THE TEAMS REPRESENTING LOCAL 345 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOUISVILLE, KY.

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. MAZZOLI. Mr. Speaker, each year teams of professional firefighters from across the country join to participate in the Muscular Dystrophy Softball Tournament. These individuals are to be commended for donating their time to such a worthy cause.

This year's tournament was held last month in Bowie, Md., and I am pleased to announce that the teams representing Local No. 345 of the International Association of Firefighters, Louisville, Ky., finished 12th, with the "A" team finishing third out of 56 represented fire departments.

With your permission, Mr. Speaker, I would like to insert the team roster in the RECORD:

TEAM ROSTER—LOUISVILLE FIREFIGHTER'S ATHLETIC CLUB

Scott Craig, Larry Belt, Dennis Nethery, Ted Olson, John Hall, Mike Kurtsinger, Jim Bryan, Julius Jones, Harold Phillips, George Dawson.

Garland Gibson, Ed Chandler, Joe Kissinger, Mike Braun, Marty Braun, Dwight Gibson, Mike Kirchner, Dennis Jewell, Dave Heuglin, Danny Wahl.

Darrell Culver, Terry Hoover, Tommy Hoover, Bruce Roberts, Larry Kirby, Guthrie Husband, LeRoy Hoover, Charlie Mertz, Glen Jewell.●

SPEECH GIVEN BY THE HONORABLE WILLIAM S. MOORHEAD

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. BAILEY. Mr. Speaker, on September 14 my distinguished colleague from the Commonwealth of Pennsylvania, WILLIAM S. MOORHEAD, delivered an incisive address to the members of the Economic Club of Pittsburgh.

As a senior member of the House Committee on Banking, Finance and Urban Affairs, Mr. MOORHEAD's expertise in the practical and political aspects of U.S. economic policy is well known throughout this body. His presentation was illuminating and is one which I would like to share with you and our colleagues.

The speech follows:

SPEECH GIVEN BY CONGRESSMAN WILLIAM S. MOORHEAD BEFORE THE ECONOMIC CLUB OF PITTSBURGH

My fellow members of the Economic Club of Pittsburgh, you have honored me by asking me to talk today about the outlook for congressional action in the broad field of economic policy. I am a politician, not an economist, but I can't even predict the political future. For example, I can't tell you who will be next year's Republican Presidential candidate and, in light of recent events, I can't even predict who the Democratic candidate will be. I'm not an economist so I can't even purport to predict the economic future. I do know that politics and economics are closely intertwined. For example, the more confident economists are in the accuracy of a prediction of a severe economic recession, the more confidently and accurately they can predict a dramatic tax cut.

I'm a Member of Congress and I think I can discuss with you how Congress is likely to act or react to a given set of circumstances. However, let me begin by saying that of all the changes in Congress over the past decade that have been so much discussed and analyzed, one change is indisputable: Congress has become much less predictable. You in business trying to make your plans may not like this, but it is a fact. For better or worse, the position of the leadership is no longer controlling, and committee chairmen are no longer princes whose rule is unquestioned. Party discipline, certainly among the Democrats, is weak. There is a paradox which says that the unpredictability of Congress, even its inefficacy, rises in direct proportion to the ability and energy of its members. Whether you accept that or not, we do, I think, have a generally more able, and certainly more independent-minded, membership which makes the forecaster's job a difficult one.

Before getting to the issues before us, allow me if I may to place myself in the Congressional picture. Having acquired 20 years of seniority, I now find myself rather in the thick of things—particularly things concerning the economy. I cannot run the show my way—nobody can—but I am glad to say that my voice increasingly counts for something.

Thus at the moment I am much involved in the energy issue, particularly the synthetic fuels aspect. On inflation, my subcommittee plays a central role. We will be in the eye of the storm on any possible aid to the Chrysler Corporation. For good measure, I am now in the middle of House-Senate conferences on a big housing bill and the bill to create a new Department of Education, with the energy conference still to come. And there is more. For example, as a senior member of the Banking Committee, I was able to play a role in working out the final compromise on the difficult issue of legislation to deal with declining bank membership in the Federal Reserve System—a bill that has passed the House and is pending in the Senate. I can assure you that your Congressman is leading a busy life, and I trust an influential one. I won't deny that with influence sometimes comes frustration as well, but it is better than sitting in the bleachers.

My role stems mainly, but not entirely, from my chairmanship of a subcommittee of the House Banking Committee called the Subcommittee on Economic Stabilization. (In light of the dreary inflation figures of the past few years, it has been suggested that the name be changed to the Subcommittee on Not-Too-Much Economic Stabilization, but I am resisting that change!) Let me run through our jurisdiction, and in the course of doing so, touch upon some of the things that concern you, including particularly energy and the inflation problem.

First, we have the Council on Wage and Price Stability and therefore the present semi-voluntary wage and price guidelines program. If, God forbid, the President were ever to call for a return to mandatory controls, the legislation would be our responsibility. In that connection, incidentally, I have consistently maintained that Congress is most unlikely to seek to enact wage and price controls over the opposition of the President—who, after all, would have to administer them. I believe that President Carter is sincere in his opposition to controls; I don't see any sign that he will change his position; and I certainly don't see a majority in either House of Congress trying to force controls down his throat. Thus my first prediction is that, despite what you sometimes hear in the business community, mandatory wage and price controls are not likly.

As you know, the new set of guidelines, or standards, for the second year of the present program are due to be announced very soon, possibly today. I don't want to comment on them except to say that I have felt that COWPS was faced with an almost impossible problem in devising the new wage standard. You are familiar with the dilemma, I am sure. Equity seems to call for wages to rise somewhat faster in light of the actual course of prices and inflation over the past 12 months, but any higher wage standard than the present 7 percent will simply build in yet another upward move of the ratchet—that is, will increase the so-called "underlying rate" of inflation by another notch.

In any case, we will face next year the task of renewing the statutory life of COWPS, which expires a year from this coming September 30. Under the rules of the House as altered by the 1974 budget reforms, our Subcommittee and the full Banking Committee will have to report a bill by May 15. Obviously, that legislation will be a kind of referendum on the wage-price program. If Congress should fail to pass the bill, it would be a pretty clear signal of the death of the program.

While I realize that judgments differ widely, my own view is that the wage-price program has done some good. Wage increases across the economy as a whole have been remarkably moderate, considering the inflation picture, with total cost of compensation this year rising at a rate of between 9 and 9.5 percent, and this includes legally mandated increases in employer payroll taxes. By most measures, private wages and salaries are actually rising slightly less rapidly this year than last. Prices in the broad industrial sector that is covered by the program are rising about 7.5 percent, much less than the overall inflation rate which reflects food and energy prices. I don't know whether the program will break down because of its inherent strains, but my present intention is certainly to give a sympathetic hearing to the President's request next year to extend the life of the Council on Wage and Price Stability.

Because of this subcommittee jurisdiction, I am one of the six House members named by the Speaker to serve on an informal Congressional "Inflation Task Force" a few months ago. The Speaker also appointed me a member of a similar Congressional Task Force on Energy. The inflation task force has met several times with Fred Kahn, who wanted to explore with us possible ways of either reinforcing the guidelines without going to controls, or other ways of helping out on the inflation front.

As you will have noticed, these meetings have not produced anything dramatic, at least so far. It seemed to me, and I think to most of the others on both the House and Senate sides, that any new legislative initiative this calendar year would not be wise, including tax changes such as a revival of the proposal for "Real Wage Insurance."

I do want to say, however, that I am strongly attracted by the idea of having the next tax reduction bill incorporate a direct anti-inflation payoff. The most obvious candidate is social security payroll tax reduction, because of its effect in cutting employer costs. For the very difficult mechanics of this, I lean toward the idea of removing medicare—where benefits are not wage-related—from the social security trust fund and financing it from general revenues. In effect, we would forgo all or part of an income tax reduction and devote those rising revenues to financing medicare, with a corresponding reduction of payroll taxes. There also seems to be much momentum behind a significant liberalization of depreciation allowances in the next tax bill, as a stimulus for investment and eventually improved productivity. Of course our subcommittee has no jurisdiction over taxes, but I would like to toss out an idea for your consideration—an idea that is beginning to circulate in Washington. This is to reinforce the wage-price program by making the new depreciation rules apply only for companies that certify to being in compliance with the wage and price standards. It would be similar to the present procurement sanction, but with a much wider effect. I am not endorsing the idea, but I would be interested in your reactions.

Next, a word about Chrysler. Our subcommittee will handle loan guarantee legislation if the Administration proposes it, just as last year we handled the loan guarantee program for the City of New York. On this issue I don't want to make a prediction but rather a confession. I am simply not clear in my own mind what is the right course of action

I believe in the free enterprise system and an article of faith in that system is that it includes the freedom to fail. I noted with interest two contrasting headlines in an issue of this weeks' New York Times. The first headline described how the nationalized and heavily subsidized British Automobile Company was terminating its MG automobile production, and the second headline described the purchase by a British corporation of the entire Howard Johnson Restaurant and Motel chain. There may be a lesson to be drawn from those two headlines.

On the other hand, I do not believe that the people elected me to make hardhearted decisions based on some economic theology which is not contained in the Constitution. If, for example, the amount of federal involvement were small and the risk to the taxpayer slight and the chance of success very great, I think it would be very impractical for the Congress to ignore the inevitable human suffering which would result from the collapse of the Chrysler Corporation.

If there could be a quick financial fix for Chrysler and the problem would go away, no one would be happier than I.

If, however, as I fear, the Chrysler problem is not only more serious but may also be the precursor for future similar situations, then we face an entirely different problem. There are other corporations and industries which face the problem of obsolete plants, a lack of technological creativity, a declining market and difficulty in raising capital. It is possible that the Chrysler situation will cause us to examine the problem and adopt new economic policies for the future. Policies which would enhance the opportunity for capital formation would be one part of such a new economic strategy, but I would look at it as only one part of a larger program.

What I am suggesting is a change of attitude. In place of the hostility which appears to exist between business and government, I would suggest an arms-length partnership. We have seen how a very close partnership has worked in Japan. I do not believe that Japanese concept can be transplanted, but I think we have some lessons to learn from them. The people as consumers are protected from high prices by foreign competition but the people as jobholders are not protected if our government adopts policies which inhibit our corporations' productivity and hence their ability to meet foreign competition. I will give an example of what I would call a government business arms-length partnership, when I discuss one possible solution to the creation of a synthetic fuels industry. I have a genuinely open mind on this, and I would welcome any comments the people in this audience would like to make on the Chrysler question later on today.

Another matter before the subcommittee—before I get to the major issue of energy—has received somewhat less attention. This is the President's proposal, which once had the name of a National Development Bank, for a major expansion of credit assistance, chiefly loan guarantees, to businesses that need long-term capital to expand in the Nation's poorer or declining areas. The proposal now takes the form of a big increase in the business credit assistance authorities of the Economic Development Administration in the Commerce Department.

Here we have something of a conflict of jurisdiction with another committee, and the procedural complexities are truly Byzantine. But it is a serious and important piece of legislation. I have become persuaded that there is something of a gap in the credit markets that creates difficulties for smaller, successful companies that need long-term debt capital, not to mention equity capital, particularly in areas that are in decline or that have always been very poor. While some of you may not share that conclusion, I am sure that most of you will agree with the other major premise behind this legislation—namely, that the true road to prosperity for our distressed counties, towns or cities is the creation of lasting private-sector jobs. I believe this legislation, which has been approved by our subcommittee, is going to pass, and it will make a significant departure in our means of tackling the perennial distressed area problem.

Now let me turn to energy, starting with my subcommittee's role but not limited to that.

Let me start by saying, unequivocally, that I am a firm believer in the usefulness and importance of synthetic fuels as a crucial element in the solution of the energy problem, particularly our dependence upon uncertain and unreliable foreign sources of supply of oil. I am well aware that even a large synfuels program cannot make a major dent in the supply and import situation for some years—which is one reason why I am so deeply disappointed that we did not get started at least five years ago. But even if the impact will not be early, it can be quite significant over the course of the next decade, gradually building to a capacity that will make a real difference in the oil import problem.

Congress has had a difficult time dealing with this matter, largely because of multiple committee jurisdiction, and Presidential indecisiveness has not helped. Early this year I decided to try what might be called a gamble, to untie this Gordian knot. Our subcommittee has jurisdiction over the 29-year-old Defense Production Act, encated in the Korean War and periodically renewed ever since, which gives certain standby industrial mobilization powers to the President in case of national emergency. The law was up for one of its regular—and usually quiet and noncontroversial—renewals this year.

With strong support from a nearly unanimous subcommittee, and later the full Banking Committee, I was able to add new language to this law designed to set in motion a synthetic fuels program of significant size. It establishes a capacity goal, which the President is mandated to seek to attain, of synthetic fuels and chemical feedstocks equivalent to 500,000 barrels of oil a day by 1985, presumably mainly from coal and oil shale though the technologies are not specified in the bill. A floor amendment by Majority Leader Jim Wright later added a supplemental goal of 2 million barrels a day by 1990. Aided, perhaps, by the existence of long lines at the gasoline stations when the legislation reached the floor of the House, the bill was passed in June by the huge majority of 368 to 25. There was some grumbling from chairmen of other committees who felt their jurisdiction had been usurped, but they were unable to stop the bill or change it significantly.

The key tool in this legislation for attaining the new production capacity is price or purchase guarantees. After looking over proposals, hopefully on a competitive basis, the Government will sign contracts guaranteeing the producer that his output will sell at a known price regardless of what the OPEC-established world price may be. Either the Government will purchase the product itself, particularly for defense uses (which are now 500,000 barrels a day), or if the product is sold in the market at a price lower than the one in the contract, the producer will receive the difference. The essential point is that private industry and the capital market, not the taxpayer, will finance construction of the plants. There is also provision for loan guarantees in cases where the potential producers do not have the capital base to raise funds for these large and expansive plants on their own. As a last resort, the Government could build the plants, but I don't believe that will be necessary.

I am glad to say that the Committee for Economic Development, a highly respected body of businessmen and university presidents with which you are familiar, has fully endorsed the approach taken by my bill. Only this week, representatives of 18 major banks and insurance companies gave their backing to the CED report, which is a strong indication to me that the financing for the plants will be available. The CED report backs a program of about the size called for in my bill.

I fully expect that, if this procedure finally becomes law, the early price proposals will be somewhat above the present landed price of imports of a little more than $20 a barrel. But I believe that such a subsidy program is clearly in the national interest. While I am aware that simplistic proposals for import substitution as a general policy—to "keep the dollars at home"—have many disadvantages and smack of eighteenth century mercantilism, oil is a special case, with overriding national security elements. I have seen estimates as high as $90 a barrel as the "true" cost of a barrel of imported oil to our economy. And besides, by the time the synfuels are actually produced, the world price is likely to be well above its present level—perhaps as high as, or higher than, the prices specified in the synfuel contracts.

This program, as I have noted, will probably not result in any large outlay of taxpayer dollars. The capital markets, which will raise some $400 billion this year, can handle the private financing of the plants, even though they may cost $2 billion for a plant producing 50,000 barrels a day. There will be some environmental problems, differing according to the process used, but the potential producers are persuaded that realistic environmental requirements can be met. In short, there is every reason to move ahead, at last, with a serious synfuels effort.

How this bill is going to fare in the Senate I do not yet know. It has been referred to two committees over there, and then after our bill passed the House the President came along—rather belatedly, I would say—with his own complex synfuels proposal, involving a new "Energy Security Corporation" and funding from the proposed new windfall profits tax on oil. Obviously, this confused matters further in both the Senate and the House. However, I am hopeful that the Senate will see things our way and will conclude that the simplest way to get moving in this area is through the vehicle of the Defense Production Act. Regardless of the vehicle, an important issue to be resolved is whether we aim now for the target of 500,000 barrels a day by 1985—which means at least 10 or 12 large plants—or whether we start more slowly, with perhaps a half dozen plants and no specific goal. I strongly favor an ambitious and mandatory target, recognizing that some mistakes will be made along the way.

Apart from synfuels, there are two other main items on the energy agenda for the rest of this year—some form of "fast track" system to prevent endless procedural and other delays of new energy projects, and the aforementioned windfall profits tax. I believe there will probably be action on both before Congress quits for the year—which may well be after Thanksgiving—but I have no clear crystal ball on what the precise, and crucial, details may be. The big issue in the fast track legislation, as you know, is whether substantive law—perhaps particularly environmental laws like the Clean Air Act—can be waived in particular cases, or whether there will be only a procedural speedup to assure early decisions.

On the windfall tax, the issue will be its scope and exemptions and, therefore, the amount of revenue it will raise. A second issue connected with the tax is whether these revenues, which will be sizeable, will be earmarked in a trust fund, and then how that trust fund will be used.

You should be aware that some potentially significant fiscal policy issues are involved in this last point. If the windfall profits tax revenues go into a trust fund as proposed by the President, the intention would be to spend them, though to the extent they are earmarked for synfuels the spendout, if it occurred at all, would be very slow—much slower than the accumulation of revenue. If these revenues, on the other hand, just count like any other income in the general fund, there would be a greater opportunity for either moving toward a balanced budget or general tax reduction. As passed by the House, and on the assumption that oil prices rise only one percent faster than the general price level, the revenue estimate from this tax is almost $4 billion in calendar year 1980, almost $8 billion in calendar 1981 and $10 billion a year thereafter for the rest of the decade. It is enough to make a real difference in the budget situation, and if oil prices rise faster, these figures would be much larger.

The matter of the windfall profits tax, of course, is not in my Subcommittee's jurisdiction. I wish I could give you a good forecast on how this matter will come out, but I would only mislead you if I tried to make a guess. I don't think even wily Russell Long knows at this point, though I do believe that some kind of tax will finally be passed this year.

I will conclude with a couple of general observations on Congress and the economic issues before us.

You will have noticed, I am sure, that both the House and Senate Budget Committees have firmly resisted a big tax cut as part of the second budget resolution for this year, even though the signs of recession are becoming more convincing, including the first noticeable increase in the unemployment rate for August. Given the continuation of virulent inflation and a sizeable budget deficit, I believe this is the responsible posture. The Republicans, if I may say so, are having something of a free political ride on the tax cut issue. They know perfectly well that it has been very heavy going trying to slow the upward momentum of Federal spending—particularly now that virtually all of our transfer payment programs are indexed to inflation—and yet they keep advocating huge tax cuts without regard for the inflationary consequences.

I simply don't buy the notion, incidently, that tax reduction would bring forth so much new individual effort and work and investment that the revenue loss will quickly be made up.

It is quite possible, of course, and even likely, that there will be tax reduction next year, for both economic and election-year reasons. But I do not regard it as a foregone conclusion. We are simply not doing well enough in curbing spending, for one thing. I am sorry to say that the latest estimate of spending for fiscal year 1980 in the House version of the second budget resolution is up $17 billion from the first resolution adopted last May, to almost $550 billion. It is by no means yet clear to me that, with a natural recovery from the recession quite possible and with the deficit still very large, a tax cut next year will be the right policy. If there is a tax cut, as I have mentioned, more rapid depreciation allowances are a strong candidate for inclusion, which is good evidence that the need for more business investment and improved productivity is now in the forefront of the thinking of most Members of Congress, and in both parties. Another change from the past, I think, is that most Members now realize that high interest rates are essentially a result of the inflation and not some evil product of the Federal Reserve Board; you will have noted the remarkable lack of outcry against the Fed, not even in the now required twice-a-year monetary policy reports of the House and Senate Banking Committees.

I started today by talking about how politics and economics are intertwined. The purpose of politics is to give people in a democracy good government. One of the purposes of good government is to foster a climate in which the economy can prosper. Sometimes politics in a democracy works contrary to that purpose.

We have perhaps 2 or 3 months before our quadrennial Presidential political fever completely befuddles our ability to reach sound economic decisions.

Let us try to reach sound decisions in the time remaining.●

AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS MARKS 2-YEAR ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. BIAGGI. Mr. Speaker, today I wish to bring to the attention of my colleagues that last Thursday marked a special day: The second anniversary of the Ad Hoc Congressional Committee for Irish Affairs of which I am chairman. Last year at this time, our membership was at an all-time high of 114. Today I am pleased to note that our membership has increased even more so and we now have a dedicated membership which is 130 strong.

We also have an executive committee which is comprised of 18 members and has had an intimate role in helping to shape the policy decisions of this committee. The members of the executive committee are to be commended for the strong and unwavering support of our activities and I wish to praise them for their dedication. The members of the executive committee are: Representatives JOSEPH P. ADDABBO, EDWARD P. BEARD, JOHN L. BURTON, BRIAN J. DONNELLY, HAMILTON FISH, JR., BENJAMIN A. GILMAN, JAMES M. HANLEY, NORMAN F. LENT, NICHOLAS MAVROULES, AUSTIN J. MURPHY, MICHAEL O. MYERS, MARY ROSE OAKAR, CHARLES B. RANGEL, ROBERT ROE, DOUG WALGREN, LESTER L. WOLFF, JOHN D. WYDLER, and LEO C. ZEFERETTI.

We begin our third year with a sense of confidence about the ad hoc committee and our ability to make a significant contribution to a peaceful solution to the problems of Ireland. We began with the strong support of the Irish-American community when Jack Keane, the past National President of the Ancient Order of Hibernians, along with the Irish National Caucus, a human rights-based group in the United States, when they approached me and asked me to form this committee. It was in response to this direct request from the Irish-American community that this committee was born.

THE HISTORICAL PERSPECTIVE

During the past 2 years this committee has been instrumental in raising the Irish question from a topic of relative obscurity to the political, social and international importance it has become. The foreign policy of the Carter administration is based on the very simple premise that human rights can and must remain an intimate element of our relations with other nations, not merely a parcel of goods to be bought and sold in the international market when the price is right.

This second anniversary marks an important milestone in the history of this committee. During the past 2 years, we have encountered a sizable amount of controversy and continue to do so. Yet amidst this controversy, we have neither strayed from our original objectives nor have we compromised on our commitment to the cause of peace and justice in Ireland.

The objectives of this committee are threefold: First, to work for the convening of full congressional hearings on the entire Northern Ireland question; second, to change certain State Department visa policies which have excluded certain shades of legitimate political thought from this country and; third, to give the President a somewhat broader perspective on the entire Irish question to better shape our foreign policy in this area.

HUMAN RIGHTS QUESTIONS HIGHLIGHTED

In retrospect, one of the most significant reports on human rights abuses in Northern Ireland was the Amnesty International study which documented 73 cases of prisoner abuse in Northern Ireland jails at the hands of British authorities. This Nobel-Prize winning group and their findings confirmed what the ad hoc committee has maintained all along on the subject of human and civil rights in Ireland. The cases in this report were placed in the CONGRESSIONAL RECORD by myself and my colleagues on the committee during a special order which has held on the House floor especially for this purpose.

This action prompted a large outcry from all segments of the population, both here and abroad. The issue of human rights as an American concern has been expressed in many areas of this country, including legislative bodies as well as at social events where petitions have been signed. I have been the recipient of resolutions passed by groups in New York, Ohio, Michigan, California, and Connecticut, to name but a few. I believe this is a firm indication that the work of this committee has reached to all parts of this country and has enabled the issue of Ulster to receive unprecedented attention.

PEACE FORUM

Last November, in my capacity as chairman, I travelled to Ireland in order to assess firsthand the attitudes and problems of the people living there. More importantly, it was taken to assess the sentiments in Ireland for a peace forum which the ad hoc committee would sponsor. The idea had been proposed and warmly received by the Irish-American community in the States. The proposed forum would be an opportunity for all parties to the dispute to come together in a setting, where the ad hoc committee would be the neutral mediator. Each group would present their problems and perceptions. Based upon the opinions of the 25 different church, peace, labor and political groups we spoke with, the response was positive.

In discussing the peace initiatives of the committee, I also had meetings with former United Nations Ambassador Andrew Young and Assistant Secretary of State for Human Rights and Humanitarian Affairs to advise them of the committee's concerns and intentions in this area. As a result of this extensive consultation with many key public and private individuals, the executive committee of the ad hoc committee unanimously voted in February of this year to sponsor the peace forum. This forum was strongly endorsed by the Honorable Sean MacBride, winner of both the Nobel and Lenin Peace Prizes and a world-reknown advocate of human rights, who addressed the committee as an honored guest in March.

LEGISLATIVE ACTIVITIES

The ad hoc committee has maintained from its beginning that the final solution in Ireland must come from the Irish people themselves. In keeping with this belief, in May I introduced House Concurrent Resolution 122 which calls upon the British Government to embark upon a new initiative for Ireland, one that promotes self-determination. This measure currently enjoys the cosponsorship of 70 Members of Congress and we hope to increase these numbers, with the help of the Irish-American community.

One of our major initiatives came last spring when it was discovered that the State Department had licensed the sale of over 3,000 weapons to police authorities in Northern Ireland and the ad hoc committee was contacted to address this problem.

Thirty members of the committee joined me in writing to the State Department to express our deep concern and the reply which we received was somewhat less than acceptable.

I then offered an amendment to the 1980 Department of State appropriations bill to prohibit the Department from using its funds to authorize such sales in the future to Northern Ireland. After a lengthy floor debate in the House, I withdrew my amendment when the chairman of the Foreign Affairs Committee, CLEMENT ZABLOCKI, promised to hold congressional hearings on this action.

The result of these unprecedented hearings was that all further arms sales have been suspended pending a review of our policy in this area. We consider this a major accomplishment of the ad hoc committee, first, given the consideration that such congressional hearings are rare and secondly, that the State Department was forced to reexamine a policy which was found to be repugnant to a large segment of the American population. We continue to monitor this situation and remain firm in our commitment to end this blatant oversight of the human rights concerns in this particular aspect of our foreign polcy.

MOST RECENT ACTIVITIES

In keeping with our concern to press the administration on the Irish question, I met privately with President Carter to advise him of my deep concern that the United States can and should play a vital role in helping to seek a solution to the Irish question. We have spoken out for human rights in all parts of the world, from Africa to South America to Asia but in our fervor to spread our interests, we have overlooked Northern Ireland. President Carter was the first American President to speak to the human rights problem in Northern Ireland. He was also the first American President who made human rights "the cornerstone of this nation's foreign policy." He was successful in helping to resolve the Middle East question, and there is no reason why this same kind of intervention could not be applied to Ireland.

The recent violence which has occurred both in Ireland and in the surrounding areas, including the senseless murder of Lord Mountbatten, is indicative that a military climate has once again descended upon Ireland. The presence of the British, compounded by the heightened campaign by paramilitary groups to force their departure, has made the atmosphere unacceptable for the peace forum to be held. Also based on reports by major Irish-American groups on their trips there this past summer, it was decided earlier this month to postpone the forum. All parties which work closely with the ad hoc committee pledged to assist the committee to work for a climate where it will once again be possible to enter into discussions of peace initiatives.

The resurgence of violence also prompted a meeting between the leaders of the British and Irish Governments. Prime Ministers Thatcher and Lynch met privately this month after the funeral of Lord Mountbatten to discuss the current state of events in those two countries with regard to Ireland. Although we are heartened that this initiative has begun, we would strongly encourage that these two leaders expand their discussions to include all parties who will be directly affected by any policy decisions regarding the future of Northern Ireland.

In the midst of our attention to this event marking our second year of existence, it is imperative that the ad hoc committee express its unwavering dedication to the cause of the promotion of a peaceful solution to the question of Northern Ireland. The United States has an important role which it has yet to fulfill in remaining true to our commitment to human rights in our foreign policy. This role, which the ad hoc committee is strongly and consistently working to enhance, is work for the establishment of human and civil rights for all people. There has been too much bloodshed. There have been too many tears shed. Most importantly, too many innocent people have perished as a result of our history of involvement in this area.

The ad hoc committee, today as strongly as it did 2 years ago, dedicates its efforts to help bring about a solution to the Ulster question. We remain dedicated to seeking a solution which includes all parties and all shades of political thought. Without this kind of involvement, a permanent and lasting peace will continue to elude the Irish people.●

TRIBUTE TO LAWRENCE J. ARATA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. CONTE. Mr. Speaker, I would like to take this opportunity to call to the attention of my distinguished colleagues a gifted man, worthy of great tribute, my friend, Lawrence J. Arata of McLean, Va. It was with a feeling of deep personal loss that I learned of his passing on September 12.

It is a particular pleasure for me to take these few moments to publicly recognize a man who has made so many contributions to the lives of all that he had touched, to honor one of the area's finest gentlemen, and to admire a great artist. He was a man who possessed the qualities that we should all nurture: courage, integrity, concern for mankind, sincerity, selflessness, warmth, and patriotism. His love for God and country was only matched by his love for his wife and family. Wherever he lived and worked, Larry left a deep impression.

Lawrence Arata was born in Boston, Mass. on February 20, 1907, and began his career as an apprentice upholsterer at the age of 16. He worked as a craftsman for several furniture companies in the Boston area, and in 1937 moved to Hyannis to set up his own business. During World War II, he served with the Army in England, France, and Germany. He came to Washington at the request of President and Mrs. Kennedy to help design and decorate the White House. He lived in the Executive Mansion for 2 years, and met his future wife, Norma Zandrino, during his stay.

As the first resident White House upholsterer, Larry had the opportunity to design and create the famous "Kennedy Rocker," a rocking chair used by the President in the Oval Office. It is to be displayed at the opening of the Kennedy Library on October 20 in Dorchester Bay at Columbia Point.

Lawrence Arata also designed furniture for Presidents Johnson, Nixon, Ford, and Carter, and has trained his wife and sister-in-law to carry on his 34 year business. He had worked hard with the women of St. Ann's Parish in Northwest Washington to create a specially-designed rocking chair for Pope John Paul II. This chair, intricately carved and upholstered with Persian tapestry and needlepoint design, the product of some 1,400 painstaking hours of labor, was viewed by Larry as his greatest accomplishment. It certainly confirmed his reputation for skilled, and traditional yet imaginative design.

Larry was a true friend whom I will sorely miss. Mrs. Conte and I join his countless friends in mourning his passing and celebrating his achievements. We extend our deepest sympathy to Norma, his sisters Celeste Manfredi and Barbara Ciambelli, and his brother Louis Arata. I ask my colleagues to join me in honoring Lawrence Arata, a man who spent his life showering gifts upon others, and deserves our words of tribute.●

NEW-TEACHER TEST SCORES PLUMMETING

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. PAUL. Mr. Speaker, a shocking article on education appeared in last Thursday's Washington Post, and I think it deserves the attention of all Members of Congress, especially those who voted to establish a Federal Department of Education. If anyone wonders why millions of parents are taking their children out of the Government schools and placing them in Christian or private schools, he can find more than enough reasons in this article. Since some of my colleagues may have missed the article during last week's "district work period," I ask that it be printed in the RECORD in full for their convenience.

The article follows:

NEW-TEACHER TEST SCORES PLUMMETING

(By Lawrence Feinberg)

The academic quality of the nation's young teachers is taking a nosedive as a shortage of jobs causes capable students to shun courses in education and look elsewhere, according to a study published by a national education magazine.

To try to keep programs intact, college education departments have lowered their standards, the study suggests, providing a refuge for poor quality students who can't do well in more rigorous fields.

The study, by W. Timothy Weaver, an associate professor of education at Boston University, is based primarily on scores for nationwide tests, such as the College Board and Graduate Record examinations. Though these scores generally declined during the 1970s, the falloff was much steeper for education majors, Weaver reported.

Researchers for the National Education Association, the country's largest teacher group, questioned the significance of the test score decline.

"Einstein would probably have been at the top of a those tests," said Frank W. Kovacs, the NEA's research director, "but I'm not sure he'd be the best person to teach in the classroom. . . . Some of the best teachers I've seen out there were not necessarily the brightest and the most competent in their subject, but they knew how to get it across to their kids and how to organize their classes so the bright kids could get it themselves."

Among signs of the "education brain-drain," Weaver listed these:

Average scores on the verbal part of the Scholastic Aptitude Test have dropped from 418 to 392 since 1973 among high school seniors intending to major in education. The average verbal SAT score for all college-bound seniors was 427 last spring, down 18 points from six years earlier.

The drop in mathematics SAT scores among students intending to major in education has been even greater—down 29 points from 1973 to 1979, compared to a 14-point drop among all students. Last spring the average math SAT score for seniors intending to major in education was 420, which was 47 points below the average score for all students taking the test. Education ranked 27th among 29 fields for which scores were reported. The only ones with lower averages were ethnic studies and vocational training.

On Graduate Record Examinations, taken mostly by college seniors wishing to enter graduate schools, the scores of education majors "were substantially lower than scores of majors in eight other professional fields compared in 1975-76," Weaver reported. On the verbal part of the test, teacher majors were 25 points below average in 1976, compared to 7 points below average in 1970.

On the quantitative (mathematics) part of the test, teacher majors fell from 39 points below average to 51 points below average during the same span.

In the American College Testing program, whose exams are given mostly to college-bound students in the Midwest, elementary education majors dropped from the top one-third in English in 1970 to the bottom third in 1975. In math they fell from the top third to the bottom 5 percent.

On the other hand, Weaver reported that scores went up for students majoring in chemistry, engineering and agriculture—all fields where jobs for college graduates have increased.

"When fields of study decline," Weaver said, "the first people to leave them are those with the highest test scores because they have the most options. Those who can't move out are left behind."

Weaver's study appeared in the September issue of the magazine published by Phi Delta Kappa, a 74-year-old national honor society of educators.

As school enrollments have slipped because of a nationwide decline in births, the number of new college graduates hired as teachers has dropped from 184,000 in 1970 to just 75,000 last year, according to NEA estimates.

The number of students graduating with bachelor's degrees in education also has fallen, though much less steeply—from a peak of 195,600 in 1973 to 138,000 in 1978.

Weaver said a study financed by the U.S. Office of Education indicated that education graduates who took nonteaching jobs generally had higher test scores than those who went into teaching.

The decline in education majors would have been greater, Weaver said, if college departments hadn't lowered standards in order to survive.

This view is rejected by Edward C. Pomeroy, executive director of the American Association of Colleges of Teacher Education.

"If they are just filling up their seats with anyone who could walk," Pomeroy remarked, "then they aren't succeeding too well."

But Ralph Cyr, the association's research director, said he agreed with Weaver's data and conclusions.

"There's no doubt that schools of education in some cases had no choice but to lower their standards to maintain their enrollments," Cyr said. "It's hard to think about improving, you know, when you're up to your rear end in alligators."

Although there are no specific data to prove it, both Cyr and Weaver suggested that the decline in academic quality among women and blacks going into teaching may have been sharper than that for white men because the easing of discrimination has drawn bright women and blacks away from teaching and into higher-paying and more prestigious fields.

Women comprise about 70 percent of American teachers; blacks about 10 percent.

Despite the recent decline, teaching remains the second-largest occupation in the United States, with about 3 million persons, according to the U.S. Bureau of Labor Statistics. (Secretaries, who number about 3.4 million, are the largest occupation among the bureau's 150 categories.)

By contrast, the United States has just over 400,000 physicians and about 460,000 lawyers.

Being a mass occupation, teaching could never be as intellectually selective as medicine or law, Weaver said. In several studies in the 1950s and '60s, teachers placed about average in intellectual ability among all occupational groups and near the bottom for college graduates.

They are falling even lower now, Weaver said, which may account for widespread interest in competency tests for new teachers.

But Weaver said he thinks the tests themselves will lead to little improvement because the pool of teacher college graduates is generally of such low quality.

The only way to raise it over the long run, Weaver said, is to increase the opportunities for teachers, particularly in "nonschool" areas such as training adults for government and industry.●

RESEARCH ON MARIHUANA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the New York Times, Oct. 9, 1979]

RESEARCH ON MARIJUANA FINDS MANY RISKS, SOME BENEFITS

(By Harold M. Schmeck, Jr.)

More potent types of marijuana and alarmingly greater use among young teen-agers require a new attitude of concern toward the substance, some experts believe.

"The rules of the game have been changed," said Dr. Sidney Cohen of the University of California at Los Angeles, former head of Federal drug abuse research.

Imported marijuana used today is often 10 times as potent as the domestic "pot" smoked a few years ago, he said. Many Americans use it more heavily and the age at which use begins is dropping toward 12 to 14 years. At this formative age, dependence on any powerful substance—alcohol, tobacco, even coffee—is viewed with concern by health experts.

More than 43 million Americans have tried marijuana, according to the latest surveys, and almost half that number may be regular users.

Research over the past several years has suggested that marijuana has deleterious effects on vital bodily functions. And new findings continue to hint of marijuana's effects on the body. But the evidence remains inconclusive and, in any case, most researchers agree that moderate, occasional smoking is probably no significant hazard to physically and mentally healthy adults who are not pregnant.

There is also accumulating evidence that marijuana has potential medical uses. Foremost among these are reduction of excessive eye pressure in glaucoma and lessening of the nausea caused by powerful anti-cancer drugs. There are also suggestions that one or another ingredient in marijuana might be useful as a muscle relaxant.

"A recurrent problem this year as well as last is the limited number of new findings available to shed light on questions badly needing illumination, but for which definitive answers are elusive," said the latest marijuana report by the National Institute on Drug Abuse.

This uncertainly, specialists say, adds to the problem of frank disbelief by many young people that "pot" has any dangers. Lurid accounts of alleged hazards a decade ago left a legacy of skepticism.

Clearly, however, there are powerful and complex immediate effects. The most obvious is the physiological "high" for which marijuana has been famous for 4,000 years. It also raises heart rate, distorts perceptions and hampers the psychomotor skills needed for driving and operating machinery. These skills involve physical coordination, quick reaction time and visual perception.

As to the multitude of possible health effects, Federal experts and advisers list nine current areas of concern. In addition to known effects on psychomotor skills these are possible harm to lungs, heart, hormone production, immunity, genetics, and three related categories of effects on mind and brain.

The list itself shows the complexity of marijuana and its potential effects as well as the often contradictory results of research.

"The cannabinoids are biologically incredibly active substances," said Dr. Reese T. Jones of the University of California, San Francisco. This makes them both fascinating and an important subject of study, he said, but also makes the research difficult.

In this family of chemicals called cannabinoids, the one principally involved in the "high" is delta-9-tetrahydrocannabinol. It is known as THC. Scientists who have studied marijuana say the chemicals are a potent but elusive class apart from other substances known to affect brain and other body systems. They defy prediction from experience with other drugs.

Recently several key scientists and others of widely disparate views have reached a consensus that some groups should definitely avoid the drug in the light of the research findings. Among those groups are persons in the middle teens and younger, heart patients, pregnant women, persons with lung disease and anyone who appears prone to emotional disturbances. It was also agreed that driving an auto after smoking marijuana can be hazardous. The National Institute on Drug Abuses is circulating a letter to broaden adherence to that consensus to include a wide range of public figures and then plans to publicize the consensus statement widely.

The statement stems from recent testimony by Dr. Cohen of U.C.L.A. before a Congressional committee. It gains importance from the fact that its first adherents include such sharply opposed commentators on marijuana as the National Organization for the Reform of Marijuana Laws (NORML) and Dr. Gabriel G. Nahas of Columbia University, a specialist in marijuana research who has been one of the most outspoken scientists in warning of dangers in its use.

Many statements on the subject are as much political as scientific, some participants in the discussions say, asserting that the statements reflect social attitudes toward drugs in general as much as any specific knowledge of marijuana's effects.

"The whole country is shifting toward a more conservative, authoritarian mood," says Dr. David Zinberg, a psychiatrist of Harvard University. "As always, drugs make a nice scapegoat." The trend that he considers a legitimate cause for worry, however, is the downward shift in age of first use.

This age trend is also the main basis for present sharp concern about marijuana in the Carter Administration, according to Lee I. Dogoloff, associate director for drug policy of the White House domestic policy staff. His group is assembling a major public education program on teen-age drug abuse to counter the trend.

The very fact that a long list of possible effects of marijuana on the body can be drawn may distort public perception of the facts by implying that there is in fact damage to all these vital systems. But in many cases the supporting data are controversial. Throughout the drug institute's report on human effects the words "contradictory," "uncertain," "unevaluated," and "unconfirmed" run like a minor theme. "A continuing problem throughout the past decade has been the tendency to overinterpret preliminary research findings," said the report.

Yet, in light of marijuana's wide use, the possibilities cannot safely be ignored.

"We are very concerned about the health hazards of marijuana use," said Dr. William Pollin, director of the National Institute on Drug Abuse, in testimony before the House Select Committee on Narcotics Abuse and Control.

He listed the major areas of concern, giving the Government's current appraisal of the state of knowledge on each.

For instance, he pointed out, virtually all studies of performance while "high" support the view that marijuana interferes with immediate memory and such intellectual necessities as reading comprehension, arithmetic problem-solving and thinking in general, he said.

Similarly there is agreement concerning the ill effects on driving ability.

The evidence is also considered strong that heart rate increases under the influence of marijuana. In healthy young adults this effect would probably be harmless, but it might well harm persons who have poor circulation of blood to the heart muscle. This danger has made possible the emerging consensus that marijuana is unsafe for heart patients.

Most American users of marijuana take it by smoking. The grim conclusions concerning tobacco smoking over the past several decades have raised similar fears of lung damage and perhaps cancer from marijuana. As with tobacco there are potentially cancer-causing chemicals in the "tar." As with cigarette smoking, it may take decades for a cancer risk to become obvious. The research to date leaves this a "serious concern," according to the Federal assessment.

Paradoxically some research has suggested marijuana may be useful in short-term treatment of an important breathing problem—asthma, because the drug acts as a dilator of small airway passages. Some believe, however that the smoke's long-term irritating effects would probably cancel out that possible benefit.

EFFECTS ON IMMUNE SYSTEM

There has been evidence, from research in humans and animals, that marijuana may have harmful effects on the immunological defense system, but the practical implications of this remain in doubt.

Noting that there have been reports of damage to chromosomes, the Federal monograph said there is "no convincing evidence" that these are significant for human health "although the possibility cannot be completely dismissed." Much the same lack of proof was cited concerning previous reports of brain damage from heavy exposure to marijuana.

Effects on hormone production, including the male sex hormone testosterone, have also been reported.

"For those who want to worry, there is a lot more to worry about there," said Dr. Jones. "The animal data are just overwhelming that there are various endocrine abnormalities." His group's work at the University of California shows decreases in human testosterone, but these decreases still left the levels within the normal range.

Dr. Nahas of Columbia says marijuana's active ingredients affect the hypothalamus of the brain and, through this action, can have effects on the pituitary gland and many of the hormones that affect development and reproductive functions. He believes the evidence grows continually stronger.●

CARMICHAEL HEADS OEF SOUTH

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. GINN. Mr. Speaker, the Oceanic Educational Foundation is a distinguished organization which seeks to advance our knowledge of seas through enhancing that field of study in our public education system. I am very proud of the fact that the southern headquarters of the foundation will be located within the First Congressional District of Georgia on St. Simons Island. The office will be headed by the Honorable John H. Carmichael, who is vice president of the foundation.

Mr. Speaker, I ask that the text of the press announcement on the southern headquarters be included in the RECORD at this point, and that this matter be commended to the attention of the Congress.

CARMICHAEL HEADS OEF SOUTH

A prominent St. Simons Island, Georgia educator, John H. Carmichael, was named vice president, and head of the newly created southern headquarters of the Oceanic Educational Foundation, it was announced in Washington, D.C., today by President Gilven M. Slonim.

The ten year old Virginia Based Foundation aims at establishing public education, the many aspects of total sea-study, at all levels in the American School System. It proposes bringing the seas into educational balance with the land to sustain the future prosperity, safety and security of citizens through advancing knowledge of the world ocean.

"The foundation is particularly pleased to have a recognized oceanic educator with over a quarter of a century of actual global oceanic experience to head the OEF South Headquarters", Slonim said in announcing the appointment.

EDUCATION PERTAINING TO THE SEAS

"The activation of this headquarters within the Golden Isles of Georgia, marks a significant step in the development nationally of the new multidiscipline, oceanic education. This will advance the liberalization of education pertaining to the seas.

"This comes at a time when the American economy, its security and prosperity and well being can be bolstered appreciably through the enlightened negotiation of mankind's oceanic frontier of the future.

"For the United States to derive the full benefit of the new frontier requires that its citizens and their representatives first gain a comprehensive understanding of the world ocean as a prelude to the formulation of national oceanic policy.

"The objective of O.E.F., south is to encourage the introduction of oceanic studies in school systems throughout the southern region. Jack Carmichael is eminently qualified in every respect to carry out this important mission of public education". Slonim added.

Dr. Edgar F. Shannon, Jr., president of the University of Virginia at the time that the new oceanic education multidiscipline was first introduced in American education serves as the senior vice president of the foundation. Craig Hosmer former California congressman and president of the American Nuclear Energy Council is also a vice president.

The Board of Directors also includes R. Buckminster Fuller, world scholar and scientist, Senators Claiborne Pell of Rhode Island, Ernest F. Hollings of South Carolina, Ambassador William S. Maillard, Representatives G. William Whitehurst of Virginia Beach, Virginia and Mendel Davis of Charleston, South Carolina, the Honorable Helen Bentley, Mr. Roy R. Charles of Norfolk, Virginia, Paul Hall, President of Maritime Trades Department, AFL-CIO, Dr. Glenn A. Olds, president of Alaska Pacific University, Mr. John T. Gilbride, chairman of Todd Shipbuilding Corporation and Mrs. John S. McCain, Jr.

The O.E.F.-South Headquarters are located at 744 Oglethorpe Avenue, St. Simons Island, Georgia, 31522.

The Oceanic Educational Foundation is a non-profit tax exempt organization registered in the District of Columbia, and Georgia.●

WILLIAM H. DEMING: MR. DRYDEN

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. LEE. Mr. Speaker, colleagues, it is often the American experience of our youth that we remember the educator far better than we recall the education. Today, I wish to draw your attention to a school administrator of my 33d New York Congressional District who has achieved a marvelous balance of those elements, Mr. William H. Deming.

Bill Deming has been with the Dryden Central School District since 1962. He has built such a reputation for quality through a very personal magic that he is well-known throughout my home State for his successes. He is also highly respected and well-remembered by each student who has passed through the system since Bill arrived; so much so that he has been dubbed "Mr. Dryden Central School."

The school district has physically grown to its current compliment of three elementary and one, new, high school during Mr. Deming's stay there. But it has grown enormously larger than that in its approach to the hardest task in education today: Interesting the student in the lesson. Bill Deming has used a commonsense approach to both the disciplines and the experiences of education. He emphasizes each and every student's strengths in that approach, instilling a desire to learn rather than the driven routine which characterizes many systems today.

Bill has been known to bend the rules around the situation as a roadway winds to the peak of a mountain. Just like the roadway, the peak is reached every time. Part of his success revolves around an avid interest in, and support of, the fully rounded student who is a participant of sports and extra-curricular activities. That student is the community leader of tomorrow.

On January 1, 1980, Bill Deming will retire from his service to the Dryden schools. I assure you that we, who are his friends and admirers, will miss him. More than that, though, the American learning system will miss him. I take this opportunity, then, to wish him well and to thank him for his contributions to America's tomorrow.●

HELP FOR THE STARVING CAMBODIANS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. SOLARZ. Mr. Speaker, the ordeal of the Cambodian people continues as one of the most disastrous human situations of the last decade. The population of 4 million people now faces starvation unless a large scale international relief effort is quickly mounted.

Last Wednesday UNICEF and the International Committee of the Red Cross announced that an agreement had been reached between the two parties in Cambodia that would allow an internationally monitored program of food and medical relief to begin. The Australian and Japanese Governments have already made preliminary pledges to participate in this effort and other donor countries are expected to join as soon as the international appeal is launched by UNICEF and ICRC.

On Wednesday, October 10, the House Subcommittee on Asian and Pacific Affairs will be holding hearings on legislation which I have introduced with Congressman John Anderson, which would authorize $30 million for a special program of humanitarian assistance to the Cambodian people under the auspices of international agencies. I believe that it is imperative that the Congress support this legislation that will prevent the death of almost 2 million people.

Mr. Speaker, I would like to include for the benefit of my colleagues, a statement from the Citizens Commission on Indochinese Refugees, which urges help for Cambodia, particularly for those people who have gathered on the Thai border—suffering from hunger and disease.

The Citizens Commission is a group of prominent Americans from business, labor, and voluntary agencies and religious groups who have devoted their energies over the past 2 years to protecting the human rights of the suffering people of Southeast Asia.

The statement follows:

Help Urged for Cambodians Massing on Thai Border

The Citizens Commission on Indochinese Refugees has in the past expressed its revulsion at the atrocities committed by the Pol Pot regime against its own people—crimes against humanity on a scale not seen since the holocaust. Cambodia has truly become the Auschwitz of Asia, and the Khmer people a nation of refugees.

The Vietnamese invasion of Cambodia which installed the Heng Samrin government in Phnom Penh has only increased their misery. Continued fighting between Vietnamese Heng Samrin forces and remnants of the deposed Pol Pot regime has uprooted the entire Cambodian people and plunged them into the abyss of hunger and disease. In this Year of the Child, more than two million Cambodian children are among the starving, the dying and the dead.

After the sufferings of the past four-and-a-half years during which an estimated two million Cambodians died, the specter of famine and disease threatens to decimate the remaining population. That grim prospect, compounded by the Vietnamese dry-season offensive which began in mid-September, will inexorabily thrust toward and across the Thai border several hundred thousand refugees. The very survival of Khmer civilization is in question. The world must respond to this tragedy.

The Citizens Commission applauds the work of UNICEF and ICRC (the International Committee of the Red Cross) in mounting a continuous and monitored international relief program in Cambodia (although this effort will not reach the border area where hundreds of thousands of Cambodian refugees are gathering). We profoundly hope that no further obstacles will be put in the way of this humanitarian work by the Vietnamese or Pol Pot forces.

We believe the Royal Thai Government and the Thai Red Cross deserve high praise for their humanitarian concern for Cambodians on both sides of the border. We recognize the burden this imposes in Thailand. The Commission expresses the hope Thailand will continue its present policy and provide temporary asylum for those who flee.

The Citizens Commission is greatly encouraged that plans are being developed by the United States government, under the direction of Ambassador Dick Clark's office, to assist those victims of the present conflict who can be reached—both Cambodians and displaced Thais. We are confident that Congress will respond positively and speedily to a request for the necessary funds. It is also heartening that our government recognizes the vital role of the voluntary agencies, especially Catholic Relief Services, which has been feeding thousands of afflicted Cambodians on both sides of the border, and the International Rescue Committee, which has been providing urgently needed medical aid in the border area.

However, a massive mobilization of human and matrial resources will be needed within days. Both the private and governmental sectors of the United States and many other nations must join to help Thailand meet the imminent crisis. It is reliably estimated that more than 200,000 displaced Cambodians will soon gather at or near the Thai border. We must act now. The fate of an entire people is at stake.●

GREY GABLES COMMENDED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the Silver Anniversary of Grey Gables in Ojai, Calif., the only haven for retired schoolteachers from across the Nation. Started in September 1955 by Dr. Ethel Percy Andrus, Ph. D., Grey Gables is the result of a dream that she described as a better life for retired schoolteachers, an opportunity to pursue the careers they had so long tried to develop in the minds and abilities of their students.

This dream was a life in a living community, free from pressures, but also offering the opportunity for civic, social, and religious pursuits in an atmosphere of friendly, gracious leisure.

These ideas were the seeds of the dream of Ethel Percy Andrus that became reality through her efforts and through the efforts of Mrs. Betty Christ, business manager, and Mrs. Joy Mason, now administrator.

Grey Gables is more of a family than an organization. With 80 permanent residents from the age of 65–100, Grey Gables offers scenic beauty, friendliness, and opportunities for civic involvement in the nearby culturally active town of Ojai, Calif.

I ask my colleagues to join me in commending Grey Gables for its outstanding contributions to its members and to society as a whole.●

EXPLANATION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. JACOBS. Mr. Speaker, since on Tuesday, September 25, during debate on the question of the congressional pay raise, our colleague, Mr. Dornan, made assertions about me and since "truth crushed to earth" is supposed "to rise again," I insert the following facts.

Fact: The Congressional Record for September 25, 1979, at page H8456 quotes Mr. Dornan thus:

> Remember the story of the distinguished gentleman from Indiana (Mr. Jacobs), who turned back a pay raise and was rewarded by the voters of his district with an enforced 2-year hiatus. The voters do not expect us to serve at varying pay schedules.

Fact: The pay raise to which Mr. Dornan referred was that of 1969. I was returned to Congress in the 1970 elections by substantially the greatest margin I had till then been granted by the people of my congressional district.

Fact: In 1971 I was successful in persuading my colleagues to vote down an unnecessary Federal judgeship for the Southern District of Indiana.

Fact: The city hall machine in Indianapolis was outraged by the defeat of this unnecessary Federal spending because they wanted the spending for a specific patronage plum.

Fact: The same city hall machine spent $65,000 on a computer run to gerrymander the 11th District of Indiana roughly (very roughly if they look at the lines) into the form of a gas chamber for my candidacy in 1972. Since in Indianapolis there are not only straight party levers, but voters are mandated to pull one or another straight party lever in order to vote at all, my party's difficulty in the Presidential contest of 1972 managed narrowly to defeat me in that election.

Fact: Despite the mandatory straight party levers, there was approximately a 70,000 vote spread between the unfortunate showing of my party's Presidential nominee and the votes that were cast for me.

I am grateful for this opportunity to set the record straight.●

WILLIAM G. RUHL, AMERICAN LEGION POST 572 "MAN OF THE YEAR"

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. MOTTL. Mr. Speaker, on November 1, 1979, the American Legion will honor Second Vice Commander William G. Ruhl as its 1979, American Legion Post 572 "Man of the Year."

Vice Commander Ruhl, a relative newcomer to the ranks of the highly esteemed American Legion, joined the legion in 1974, a short 5 years past. Within this short period, Vice Commander Ruhl has distinguished himself in many areas and quickly was recognized by his fellow Legionnaires as an individual who possessed leadership qualities and one who unselfishly gave of himself, his talents, his expertise, along with a determined desire to serve his fellow man.

Prior to being elected to the office of second vice commander, Mr. Ruhl has actively served on numerous working committees; committees whose members inherit the thankless task of expending their energies for the betterment of Post 572.

Not to be outdone in other areas, Vice Commander Ruhl through his efforts has proven himself to be a spirited prime-moving force of enthusiasm as well as a front runner in raising funds so vital to the successful operation of the American Legion.

A member of the American Legion color guard unit and one of the unit's strongest supporters, Mr. Ruhl more often than not can be seen proudly carrying the colors of our country at formal legion functions, community parades, and at numerous amateur and professional athletic events.

Mr. Ruhl served our country honorably as a member of the U.S. Army, attaining the rank of corporal. He spent a portion of his military service time with the occupational forces in Japan immediately following the end of World War II.

Mr. Ruhl, age 51, has resided for the past 20 years in the city of Parma, Ohio, and is the father of William, Linda, and Laurie. A carpenter by trade, he has been steadily employed for the past 24 years by the E. F. Dinley & Sons Co.

Congratulations to William G. Ruhl, American Legion Post 572 "Man of the Year."●

RECOVERING OUR NATIONAL HONOR: CONGRESSMAN DERWINSKI'S CALIFORNIA ADDRESS ON GEN. DRAZA MIHAILOVICH

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. DORNAN. Mr. Speaker, I have long believed that honor is never totally lost, that the wells of moral regeneration are infinitely deep, and that no stain on our national history is indelible. I was recently strengthened in these convictions by the beautiful and moving speech of my good friend and colleague, Congressman EDWARD DERWINSKI of Illinois, the distinguished ranking minority member of the House Committee on Foreign Affairs. Congressman DERWINSKI delivered an address in Los Angeles on September 8, 1979, to the California Citizens Committee To Commemorate Gen. Draza Mihailovich. The organization supports the efforts of World War II veterans, American airmen, to establish a monument in memory of this Yugoslavian nationalist leader who was instrumental in securing the allied victory.

Congressman DERWINSKI is fighting, in effect, to recover our national honor. The distinguished ranking member of the House Foreign Affairs Committee has sponsored H.R. 262, a bill authorizing the construction and maintenance of a General Mihailovich Monument in Washington, D.C., in recognition of the role the general played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II. The necessity of this measure rests in the fact that the official policy of the U.S. Government, through certain military and diplomatic actions, amounted to a betrayal of this valorous ally of the United States. I am pleased to note that Congressman DERWINSKI's bill has gained 42 cosponsors in this House.

General Mihailovich was at one a heroic and a tragic figure. One of the outstanding combat commanders of World War II, he fought desperately in defense of his homeland against Hitler's invading legions. Raising the battle flag of the Balkan resistance, he also rescued approximately 500 American airmen downed in combat with the German air and ground forces. His guerrilla war against the Nazi invader was spectacular, and contributed greatly to the success of the Allied effort in the Southern European theater. But no sooner was he engaged in a valiant struggle against Hitler's brutal occupation, when he found himself in an equally bitter combat against a domestic totalitarian enemy, the Yugoslavian Communists under Tito. Though fighting on two fronts, he was well aware that he was fighting against the same kind of enemy totalitarianism.

In a sense, the tragedy of Mihailovich was a microcosm of the tragedy of our own foreign policy during World War II. While fighting a desperate struggle against the forces of fascism, we too easily accommodated ourselves to the relentless political demands of the Communists. While General Mihailovich was rescuing American pilots shot down over Yugoslavia, American planes were actually dropping supplies to the Communist forces warring against him. Whatever the official interpretation of these actions, the brutal and undeniable fact remains that the United States and Great Britain betrayed General Mihailovich and the true cause of Yugoslavian nationalism. The Communists, under Tito, were finally victorious, and Mihailovich was captured, tried and executed by the new Yugoslavian Communist Government.

Even after his death, the betrayal continued. In 1948, according to Congressman DERWINSKI's account, President Truman recognized the valor and the brave contribution of General Mihailovich and awarded him the Legion of Merit. Unfortunately, the posthumous granting of this award was classified. Why? Because the revelation that we had honored this brave man would have offended the Communist government of Yugoslavia. When Congressman DERWINSKI pressed for the erection of the proposed monument here in Washington, D.C., commemorating the General's actions, the State Department officials testified against it. Why? Once again, because the erection of such a monument would offend the Communist regime. It was incredible that the United States, the premiere republic of the Western World, would shrink from publicly honoring a brave friend and ally on the grounds that to do so would offend the dictatorship of a totalitarian regime.

No such policy, I am sure, would ever be approved by the people of this Nation. Honor is not lost among our people. But honor, it seems, is a virtue rarely esteemed among the practitioners of a pragmatic statecraft, an element that seems to be disproportionately represented in the upper echelons of the State Department.

Well, Mr. Speaker, I have been offended. Congressman DERWINSKI has been offended. The 500 airmen rescued by General Mihailovich have been offended deeply. It would do well for the officialdom of the State Department to ponder the consequences of offending the American people by accommodating the peculiar sensitivities of Communist regimes. Mr. Speaker, the distinguished gentleman from Illinois, Congressman DERWINSKI, is to be commended for his efforts to revive the memory of the late General Mihailovich, a true friend and ally of the United States. I sincerely hope that this House will act favorably on H.R. 262, and embody our sincere grati-

tude to General Mihailovich in finely cut stone.

I would ask the Members of the House to take time from their hectic schedules and read Mr. DERWINSKI's superb call to justice and honor.

ADDRESSED BY CONGRESSMAN
EDWARD J. DERWINSKI

Congressman Dornan, Bishop Iriney, my friends the American airmen rescued by General Mihailovich, distinguished guests:

The letter of invitation of this dinner described the event as one which "involves the honor of our country". "Honor demands," it said, "that we never forget those who fought bravely on our side and who risked and gave up their own lives to save the lives of American servicemen".

I wholeheartedly subscribe to this statement. And I am very happy to join you in this tribute to the rescued American airmen who have worked with such dedication to pay what they regard as a scared debt of honor.

I always had the feeling that our abandonment of General Mihailovich was one of the saddest and most dishonorable episodes of World War II, but the whole situation was shrouded in diplomatic mystery.

Despite the mystery, I knew that General Draza Mihailovich was the first insurgent in Europe, and that it was he who first raised the flag of resistance to the Nazi occupier—and by his action he inspired resistance movements in all the subjugated countries.

He resisted the Nazis when the Soviet Union and the Communists were still collaborating with them—and his early resistance, by slowing down the Nazi timetable, was probably responsible for preventing the fall of Moscow.

Since then I have learned a lot more about the rescue of the American airmen and the tragedy of General Mihailovich, on the one hand, from the American airmen themselves, on the other hand, from my good friend David Martin.

David Martin's book confirms, with hundreds of quotations from the dispatches of 30 British and American officers attached to Mihailovich, that his forces struck very heavy blows against the Axis even when they were being accused of doing nothing by those in British and American intelligence who were trying to put over Tito.

It confirms the great hatred and fear that the Nazis had of the Mihailovich movement and the merciless mass reprisals they took against his followers.

It is something to ponder that the many hundreds of American airmen who were rescued by the Mihailovich forces over the course of 1944, were rescued when he had already been abandoned by Britain and America and at a time when we were sending massive quantities of arms to the communist forces which were then attacking Mihailovich.

General Mihailovich at the time received no expression of gratitude for the heavy sacrifices his people made in rescuing and protecting and ultimately returning to active duty over 500 American airmen. Indeed, instead of gratitude, the same American planes that flew into Yugoslavia to evacuate the American airmen, on their way in dropped arms and ammunition to the communist units that were then attacking the Mihailovich forces.

In early 1967, I heard from a very respected source that President Truman, in March of 1948, had posthumously awarded the Legion of Merit to General Mihailovich, but that the State Department had immediately classified the award for fear of offending the Yugoslav Communist government. I began writing letters to the Army and to the Department of State.

My first letter asked for a list of all foreign nationals who had received the Legion of Merit. I received the list—but General Mihailovich's name was not on it. I wrote again, letting them know that I had had information of the award to General Mihailovich. Finally, on July 13, 1967 I received a letter from the Department of State. This is what the letter said in part:

An award of the Legion of Merit, in the degree of Chief Commander, was made posthumously to General Mihailovich on March 29, 1948 under an order of the Secretary of the Army dated January 23, 1948. General Mihailovich was executed in Yugoslavia in June 1946. The citation accompanying the award, signed by President Truman, reads as follows:

"General Dragoljub Mihailovich distinguished himself in an outstanding manner as Commander-in-Chief of the Yugoslavian Army Forces and later as Minister of War by organizing and leading important resistance forces against the enemy which occupied Yugoslavia, from December 1941 to December 1944. Through the undaunted efforts of his troops, many United States airmen were rescued and returned safely to friendly control. General Mihailovich and his forces, although lacking adequate supplies, and fighting under extreme hardships, contributed materially to the Allied cause, and were instrumental in obtaining a final Allied Victory."

The letter added that the proposal for the award appears to have arisen from the interest in General Mihailovich expressed by a group of American aviators whom he had rescued during the war and who, despite his death in 1946, desired this recognition of his services to the Allied cause.

The award has never been presented because of the practical unavailability of any heir of General Mihailovich to whom, in view of the official attitude of the Yugoslav Government toward General Mihailovich and the sensitive international diplomatic considerations involved, presentation could appropriately be made. The medal and citation therefore are being retained in the Department of State until such time as proper arrangements can be made for their disposal.

In my reply to the State Department I asked further questions about the reasons for classifying the award. I suggested that the Legion of Merit be presented to King Peter of Yugoslavia, then living in exile, as the sovereign under whom Mihailovich had served as Minister of War. I do not think you will be surprised to hear that this proposal was ignored.

Five years ago the rescued American airmen reconstituted their organization and established contact with me. They addressed a petition to Congress asking for legislative permission to erect a memorial to General Mihailovich, in recognition of the fact that he had saved the lives of over 500 American airmen. In support of their petition, the airmen organized a memorial service on the steps of the United States Capitol on July 17, 1975, the anniversary of Mihailovich's execution. There were over 2,000 people present.

Responding to the airmen's petition, I introduced legislation in the House, and Senator Thurmond introduced legislation in the Senate. In the Senate the legislation has been twice approved, on the House side, unfortunately, the pressure of the State Department has so far kept the legislation from being reported by committee so that the House could work its will—this, despite the fact that we have had the sponsorship of over 60 congressmen in the 94th and 95th Congress as well as in the present Congress.

We have had a hearing before the National Capital Parks Committee. The committee strongly endorsed the proposed legislation after taking the testimony of General Smith, Charlie Davis, Dick Felman, John Scroggs and a number of other airmen who could not be with us tonight. When the hearing was over, the chairman of the committee told the airmen that their testimony was the most moving and persuasive their committee had ever heard in support of legislation to authorize the erection of a monument. The airmen also testified last year before the Subcommittee on Libraries and Memorials of the House Administration Committee. I know that the congressmen who participated in this hearing were deeply moved—it was impossible not to be moved because the airmen spoke with such deep feeling. But the State Department testified against the legislation on the ground that the Government of Marshal Tito would be offended if the legislation were enacted.

I consider the attitude of the State Department absolutely shameless. Since when does the Government of the United States permit a foreign dictatorship to determine what monuments can or cannot be built in Washington? Since when does the view of a Communist dictator weigh more heavily with the United States Government than the petition of 500 American airmen who served their country in World War II—a petition which has been endorsed by the American Legion, the AFL–CIO, and other national organizations?

Congress has not only been lobbied by the State Department in an effort to prevent the enactment of this legislation, but it has also been lobbied by the Yugoslav Embassy. In fact, the Yugoslav ambassador personally visited my office to try to persuade me that the legislation should be withdrawn. In a very diplomatic manner, I told him I wasn't going to withdraw it.

These are some of the obstacles we are up against. But I remain hopeful that we can persuade Congress to take affirmative action on the legislation. The thing that makes me most hopeful is the evidence of a widespread grass-roots movement in this country to redeem our own honor, even at this late date, by recognizing the great debt of gratitude which our country owes to General Draza Mihailovich.

As you know, the American Legion, the AFL–CIO and other organizations have endorsed the Mihailovich monument legislation. Two years ago, the Arizona State Senate voted to endorse the legislation, while two months ago Governor King of Massachusetts issued a proclamation calling for the observance of the week beginning last July 17th as "General Draza Mihailovich Week".

Your dinner here tonight is another manifestation of this grass-roots movement.

When Mihailovich was executed on July 18, 1946, the New York Times wrote:

"The fingers of history, rustling through the pages of the Second World War, may provide an ironic postscript to the scene that took place at dawn yesterday somewhere in the vicinity of Belgrade when General Drazha Mihailovich crumpled before the bullets of a Yugoslav firing squad. . .

"History may decide that it is not Tito—who was in safety while Mihailovich was fighting in the hills in those early days—but the executed Chetnik leader whose statue should stand in Red Square in Moscow. But Mihailovich fell yesterday in Belgrade"

Moscow, of course, will never build a monument to General Draza Mihailovich, even though I agree with the New York Times that they owe him one. We in the United States certainly owe a great debt to General Mihailovich. By permitting the airmen to erect the memorial for which they have petitioned—at no cost to the United States Government—we will not only be helping to redeem the honor of Mihailovich—we will be redeeming our own honor.

I thank you all for coming tonight to express your moral support for the airmen's memorial to General Draza Mihailovich, and for the legislation which I have had the honor to sponsor.●

THE SHAMEFUL ROOTS OF MINORITY UNEMPLOYMENT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. PAUL. Mr. Speaker, the October 1979 issue of Reader's Digest carried an excellent article on minority unemployment by Temple University economist Walter Williams. Professor Williams points out the baneful effects of minimum wage laws and the Davis-Bacon Act on young people who are seeking jobs. I urge all my colleagues to attend to the analysis offered by this perceptive economist.

The article follows:

THE SHAMEFUL ROOTS OF MINORITY UNEMPLOYMENT

(By Walter E. Williams)

A black teen-ager applied for a job at a carwash where his buddy had worked last year. The black owner shook his head. "I'd like to help," he said, "but I can't afford you kids anymore."

A young Indian watched roofers working on a new house. He wanted to become a carpenter. What better place to get his training than this Indian Housing Authority project on his own reservation? But he had already been turned down. Most of the construction workers were from a city miles away.

A Puerto Rican youth had waited outside the contractor's trailer for hours, hoping to get hired as a laborer on the new construction site. "Sorry, kid, you gotta be in the union," the foreman told him. "I'll join," said the youth. "You don't understand," said the foreman. "You gotta be in the union *already*."

What keeps these minority teenagers out of the productive mainstream of the economy? What makes it impossible for them to get that first job—the important first step on the ladder to self-sufficiency?

Sociologists posit theories about "poor role models," "disenchantment" and racial prejudice. But I am convinced that the source of most problems facing minorities in the American marketplace today is the federal government, acting in behalf of powerful interest groups, particularly organized labor. The brutal fact is that government, through supposedly "progressive" laws, has written the rules of the game against minorities. Day in, day out, these laws keep many minorities from making progress in employment and, worst of all, prevent them from even getting into the job market.

Minimum Wage—Minimum Employment. One great handicap to the young worker, especially the young minority worker, is the federal minimum-wage law. Originally enacted by Congress in 1938, it has been extolled as a "moral" effort to assure every worker a "decent wage." In reality, it prices many low-skilled workers out of the labor market.

All the egalitarian rhetoric will not change the simple fact that some workers are less experienced, less productive—and therefore worth less (in wages) than others. This is especially true of the new worker. Forced by law to pay a wage that may be more than the new worker is worth, the druggist hires one stockboy instead of two; the garage owner hires two workers, not four—and hires the highest-skilled ones he can find.

Following the minimum-wage increase to $2.90 per hour in January 1978, the National Restaurant Association surveyed 2,000 member businesses and found that, as a result of the new wage, 78 percent reduced worker hours, 63 percent laid off workers and more than 50 percent resorted to the use of mechanical devices as a substitute for labor. What these statistics do not show are the numbers of minority young people who hoped to get jobs at those restaurants—as busboy, waitress, dishwasher—that would have started them on their way.

Still, politicians, including minority politicians, push for higher minimum wages while decrying minority unemployment. They may try to explain the high rate of minority-youth unemployment (40 percent) relative to that of white-youth (16 percent) by claiming racial bias. But until 1954, employment of minority youths exceeded that of white youths. Have employers become more racist since the early 1950s? No. The culprit is the minimum wage. Minority youth bear a greater burden of the minimum-wage law. Because of poor schooling and other factors, they are disproportionately represented among the low skilled. Instead of being employed at $2 an hour, many get to be unemployed at $2.90 an hour.

Finis Welch, economics professor at U.C.L.A. and leading authority on minimum wage and its effects, says, "The law that employment reductions accompany mandated wage incrases is as basic as the law of gravity." Then why the persistent upgrading of the law over the years? Who supports minimum wage so indefatigably? The answer is the labor unions. Because the higher the minimum wage, the higher the "floor" from which unions can bargain for their members' wages.

And there is another aspect: job security. Suppose a fence can be built either by a high-skilled worker or by two low-skilled workers. If the wage of the high-skilled worker is $29 per day and that of the low-skilled worker is $15, an employer would hire the high-skilled worker because the cost would be less ($29 versus $30). The high-skilled worker soon realizes that one way to protect his job and increase his income is to advocate a minimum wage of, say, $20 per day. His arguments to gain political support deal with "raising the standard of living," preventing "worker exploitation," etc. His real motives are probably less altruistic: if the $20 minimum is enacted, he can then demand $39 and still retain his job.

Davis-Bacon Barrier. After years of lobbying by organized labor, the Davis-Bacon Act became law in 1931. Its purpose was supposedly to prevent itinerant labor from undercutting local wage rates on federally funded construction projects. The act simply says that, on any federal construction project, contractors and subcontractors must pay a "prevailing wage" calculated by the Department of Labor. Almost invariably this wage level turns out to be the union scale, even in areas where most construction work is non-union.

In Vermont, for instance, where a public-housing development was planned, roofers were making about $4 an hour and electricians $6. But the Labor Department set Davis-Bacon "requirements" for the project at $9.25 an hour for roofers and $8.25 an hour for electricians. The basis for these inflated "prevailing" rates? Wage scales in highly unionized Albany, N.Y., 125 miles away. Similar procedures for determining rates are used on federal projects all over the country. The General Accounting Office estimates that they add about $700 million to federal construction costs annually.

Equally important, Davis-Bacon means that the lion's share of federal construction goes to unionized construction firms, where minority workers are often excluded. Non-union contractors who hire many minority workers are reluctant to bid on jobs where they will be forced to pay wage rates far above the norm.

Those who do bid tend to handle the contract by hiring only the highest-skilled people they can find. This is because, under Davis-Bacon, the training of new workers is discouraged since they must be paid at the full union apprentice rate. A roofing contractor on a government job near Leavenworth, Kan., says, "We can't be competitive and pay a green kid full roofer's wages. This tends to limit our growth ability, since we are discouraged from hiring new young men willing to learn the trade."

A further quirk of the Davis-Bacon Act mandates that when union rates are paid on a job, union work rules must also prevail. When a group of young Puerto Ricans sought to rehabilitate a tenement in Manhattan with the help of federal money, they were stunned by the work rules springing from the powerful New York construction unions. If one of them worked as an apprentice plumber, they were told they had to hire 12 union plumbers; for each additional apprentice plumber, they were required to hire 14 union plumbers!

It has been estimated that Davis-Bacon restrictions have led to the abandonment of more than 5000 self-help projects all over the United States. These generally involved minority-group job training. The unseen result: thousands of people with potentially marketable skills are never able to develop them.

Private Club. Organized labor's unhealthy sway in the economic affairs of minority groups results from the National Labor Relations Act of 1935, and from a maze of federally sanctioned work rules—hiring-hall arrangements, union "referrals," union training programs, etc. These all give labor power to choose who will gain entry into the high-wage union "club." Thus, the minority member seeking a job in a specific industry may find that the union has the first opportunity to fill any vacancies. In addition, he may find that union membership is granted only to workers employed in that industry before a certain date. Or he may find that job preference is given to graduates of union-controlled training programs.

For years now, the government has been wasting money and time trying to "solve" minority unemployment with one hand while causing it with the other. What minorities need are not additional handouts but bold legislative changes that will improve their economic opportunity. The improvement will come not through more laws but through fewer.

"All good intent aside," says Sen. Jake Garn (R., Utah), "the patent failure of much so-called 'progressive legislation' makes it imperative that we seek useful changes to these laws." We might begin with excepting youth from the full requirements of the minimum-wage law. Congress in 1977 fell one vote short of doing just this. Then get rid of Davis-Bacon, and strike down the provisions of the National Labor Relations Act which give organized labor the power to determine who can and who cannot work in many fields.

Clear away such barriers to opportunity and we will see that the "minority problem" is, in fact, largely an economic problem. And the solution will come when we peel away the thick layers of anti-competitive law in which government and the special interests—particularly organized labor—have so securely and smugly wrapped themselves.●

MISSOURI HIGHER EDUCATION OFFICIALS OPPOSE TESTING LEGISLATION

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. COLEMAN. Mr. Speaker, many of us have been following the controversy surrounding proposed legislation which would bring the burden of Federal regulation to standardized testing. This legislation, H.R. 3564 and H.R. 4949, is quite inappropriately, as "truth-in-testing" legislation. It is presently the subject of extensive hearings before the Subcommittee on Elementary, Secondary, and Vocational Education.

The idea of "truth-in-testing" is one which everyone will agree is attractive as an abstract concept. Simply put, the sponsors of this legislation suggest that it will allow test-takers to "know how they are being rated and judged." Unfortunately no clear proof has been given that this vague goal would be achieved by enactment of either bill. In addition, it has been suggested that the legislation could drive up the costs of administering the tests greatly and ultimately lead to Federal regulation of the college and postgraduate admissions process.

Because this legislation strikes directly at the heart of the higher education admissions process, the opinions of persons involved in this process are of great interest in evaluating these bills. Not surprisingly, higher education administrators and admissions officers are almost unanimous in their vehement opposition to this unnecessary legislation.

I would like to share a copy of a letter I received from the director of counseling and testing at Missouri Western State College in St. Joseph, Mo., which outlines some of the reasons H.R. 3564 and H.R. 4949 should not be enacted.

Mr. McDonald's letter follows:

ST. JOSEPH, MO.,
September 20, 1979.

HON. E. THOMAS COLEMAN,
Sixth District Congressman, Longworth Building, Washington, D.C.

DEAR MR. COLEMAN: On behalf of Missouri Western State College, a consumer of various tests, I would like to make the following comments relative to HR 3564 introduced by Representative Gibbons, Truth-in-Testing Act, and Representative Weiss, Educational Testing Act, HR 4949.

At Missouri Western, we administer several different standardized tests throughout the course of an academic year which serves various purposes. The entrance test is used strictly as a placement device, in conjunction with high school background, to initiate the best placement possible for freshmen students. At exit, we give several different kinds of tests to graduating students to assist in the monitoring of the educational growth and quality of our graduates. Other testing instruments utilized in our testing program include certification tests of various kinds, Career Placement instruments, etc.

I believe most educators recognize that standardized tests are not a perfect answer to assessment of progress, certification, placement, etc. Currently however, there seems to be no close second method to accomplish these important tasks in a society highly oriented towards credentialism and accountability. Of course test instruments serving such important purposes should be revised frequently; accompanied by thorough technical manuals providing data attesting to validity, reliability, and correlation levels; and should furnish test candidates with sample test questions, etc. In my twenty years as an educator, with ten of those years spent in the area of Counseling and Testing, I have found that standardized test instruments that enjoy a good reputation are accompanied by such qualities. It is important, I think, to leave the responsibility of standardized testing in the hands of those who have expertise and experience in test construction.

Additionally, I see nothing in the legislation introduced in the Weiss and Givens Testing Acts that could in any manner strengthen standardized testing. Conversely, I can see only negative effects from such legislation, particularly in the areas of cost to students, availability of testing to students, decline in revision and renorming because of the financial burden inherent in the legislation, and others.

At a time when America seems to be drowning in governmental regulations and bureaucracy from all directions, it is imperative that legislators carefully consider any legislation that will add to that burden. Many areas for which the federal government is taking responsibility, could and should be better administered locally by those with training and a more complete understanding of the related responsibilities and ramifications. As my only concern in this matter can be quality education and service to that cause, I encourage you to do all in your power to defeat the testing legislation introduced by Representatives Givens and Weiss.

In closing, I want to extend a sincere thanks for your diligent service to the people of Northwest Missouri, and particularly DeKalb County.

Sincerely,

MARVIN MCDONALD,
Director of Counseling and Testing.●

VISIT OF POPE JOHN PAUL II TO THE UNITED STATES

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. EVANS of Delaware. Mr. Speaker, the visit of Pope John Paul II last week was an event which will be remembered for a long time by the American people, Catholic and non-Catholic alike.

At a time when our Nation is daily bombarded with bad news about inflation, crime, energy, and a host of other problems, John Paul II brought hope to millions. His mere presence, not to mention his words, gave us strength to cope with life's daily problems.

I was particularly glad that the Pope, in his final Mass on the Mall in Washington, emphasized the importance of the family. I believe that if we allow the family to break down, then our entire society is not far behind. Every parent has a deep responsibility to teach his or her children basic moral values. If a child does not learn right and wrong in a family setting, then little that we do in the Congress or little that is taught in the classroom will make much difference. The Pope should be commended for focusing attention on this basic unit of society.

Mr. Speaker, I want to thank the Pope for coming to America, and I hope he returns soon. His words and actions have given all of us a standard by which we should measure our lives. His visit was a rare privilege which will have far-reaching impact on our country and its people.●

JUDGE J. CLARENCE HERLIHY TO BE HONORED

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. SOLOMON. Mr. Speaker, on October 11, 1979, J. Clarence Herlihy, one of New York State's most respected judges, will be honored by his friends for his distinguished career on the Supreme Court of the State of New York. Judge Herlihy, who was first elected to the supreme court almost a quarter century ago, is currently presiding justice of the appellate division of the supreme court in the third judicial department.

I wish to congratulate and commend Judge Herlihy for his many contributions to his fellow man during his pursuit of justice.

Justice Herlihy, born on October 1, 1905, in Glens Falls, N.Y., was first elected to the supreme court on November 4, 1955, and was reelected on November 4, 1969, and has served on the appellate division since March 15, 1958. His inherent fairness and objectivity as a Justice transgressed all partisan political considerations having served on the appellate division by designation of both Democratic and Republic Governors. His first appointment as an associate justice on that court was by Gov. Averill Harriman in 1958, and he was subsequently redesignated for two successive terms by Gov. Nelson Rockefeller in 1963 and 1968. Governor Rockefeller appointed him as presiding justice of the appellate division on September 25, 1969, to succeed Justice James Gibson and he was redesignated presiding justice by the Governor on January 1, 1970. As presiding justice, Judge Herlihy is the chief executive officer of the court system in the 28-county third judicial district and he is also a member of the judicial conference of New York State and one of five members of the administrative board, the agency, under the New York constitution, responsible for the administration of the statewide court system.

Not only has Justice Herlihy been respected for his long career on the bench, he has also been admired as a family man and productive citizen of his community. He is a lifelong resident of Glens Falls and received his early education at St. Mary's School in that city. He then graduated from Georgetown University in 1928, received his law degree from Albany Law School in 1930, and was admitted to the New York State Bar the same year. After extensive trial experience he served as city attorney of Glens Falls from 1938 to 1940 and was elected to district attorney of Warren County in 1943, a post he held for 13 years until his election to the supreme court.

Justice Herlihy is a member of the Knights of Columbus, the Elks, the Warren County and New York State Bar Associations. He and his wife, the former Regina Doyle, have two married daughters.

Mr. Speaker, it is entirely fitting that Justice Herlihy be recognized for his dedication to the legal profession and the evenhanded administration of justice which has been the hallmark of his service to the judicial system of the Empire State and the Nation. I join with Judge Herlihy's many friends and colleagues in the wish that his future years will be graced with good health, the richness of many friendships, the inner warmth and deep satisfaction that comes from the knowledge of having performed honestly and well in the most honored of all professions.●

HOW CHEMICAL DUMPING CAN NO LONGER BE IGNORED

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. EDGAR. Mr. Speaker, the issue of toxic waste has been brought vividly home to me because of the discovery of a chemical waste disposal site in the city of Chester, Pa. This site is just one more indication of the seriousness of a national health and environmental problem.

I applaud the investigative work done by the Philadelphia Inquirer on this subject which appeared in a series of articles beginning on September 23, 1979. I would like to submit the first article of this series for the benefit of my colleagues. Those who are familiar with the hazardous waste problem will appreciate the study done by the Inquirer and those who are not as familiar with the problem will learn more about it.

[From the Philadelphia Inquirer, Sept. 23, 1979]

POISON AT OUR DOORSTEPS

(By Rod Nordland and Josh Friedman)

In Vineland, N.J., arsenic has seeped into the groundwater. The Vineland Chemical Co. says it has no place to dispose of most of the toxic arsenic wastes that it produces in manufacturing other chemicals.

In Rahns, a village in Montgomery County, the residents must drink bottled water. Every well in town has been closed because of the presence of trichloroethylene (TCE), a chemical that causes cancer.

In Chester, frightened firefighters three weeks ago surrounded a pile of smoldering drums of chemicals abandoned in a field under the Commodore Barry Bridge. Seventeen months earlier, the same dump had spontaneously ignited, throwing out balls of flame and incapacitating 45 firemen who inhaled the chemical fumes.

In the Richmond section of Philadelphia, oil contaminated by PCBs (polychlorinated biphenyls) leaked from an abandoned warehouse this summer and dribbled down a busy commercial street. A child was exposed to it and hospitalized. PCBs are among the most lethal chemicals on earth. One ounce can poison 8 million gallons of water.

In three southern New Jersey counties—Camden, Gloucester and Burlington—the drinking water supplies are threatened by toxic substances. The Delaware River Basin Commission recently warned that the poisons are leaking "from present and closed landfills and waste disposal sites."

The danger is all around us. And it is growing.

It has been ignored for three decades. But it can be ignored no longer, because now it is killing some of us and sickening others—while enriching yet others. Chemical wastes, some of which can kill on contact, are being generated by the millions of tons per year by American industry. And no one knows what to do with them or where to put them.

They are poisoning our water, leaking into our land and sometimes even making their way into our streets and gardens and basements.

And nowhere is it worse than here. This—Pennsylvania and New Jersey—is the epicenter. The chemical time bomb ticks loudest here.

Pennsylvania industry each year generates 10 times the amount of hazardous waste the state can safely dispose of. What's worse, because New Jersey—which is already saturated with lethal chemical dumps—has passed tough new laws, Pennsylvania now gets most of that state's wastes, too—a toxic cargo illicitly trucked in day and night at a rate of 15,000 truckloads per year. This in a state that has not a single legal site for the disposal of the most toxic of chemical wastes.

Pennsylvania is at the heart of the problem, but the body extends across America. A six-month Inquirer investigation entailing hundreds of interviews and the review of thousands of pages of documents has found that:

There are not enough safe, secure disposal sites in America to contain even a small fraction of the poisonous wastes that are a byproduct of the synthetic chemical industry that has blossomed since World War II. In the entire United States there are only 12 secure landfills—that is, sites that can hold highly toxic wastes without leakage. And not one is in Pennsylvania, the country's third-largest producer of toxic wastes, or in New Jersey, the country's most industrialized state.

Because of this, industries commonly allow these wastes to pile up for years on or near their plant sites—often in drums or tanks that corrode and leak into nearby neighborhoods and water systems.

Corporations, including some of the largest and most prestigious in the country, commonly hire outside truckers to dispose of their toxic wastes. They look for the lowest price, and most of the time they ask no questions of the haulers they hire. They do this rather than pay more to have the wastes safely detoxified or shipped to secure landfills far away.

Most states, like Pennsylvania, require no permit for hazardous waste haulers to operate. Anyone who owns or rents a dilapidated truck can go into the business. Many do.

Consequently, the chemical wastes go wherever these free-lance haulers put them. And where they put them is into streams, fields, woods, vacant lots, unsafe landfills, abandoned mine shafts, city warehouses, suburban lagoons and storm drains. From there, the chemicals commonly seep into groundwater, reservoirs, wells, basements, lawns, parks and playgrounds.

The chemicals so disposed include substances that can explode spontaneously, that can emit toxic fumes and that, even in small concentrations, can cause cancer, paralysis, convulsions, heart attacks, brain damage, miscarriages and birth defects.

Despite the growing threat to health and life posed by massive, indiscriminate dumping of these poisons, government at every level has failed to act. Even though chemical wastes are produced and disposed of in this country in far greater quantities than nuclear wastes, they are, unlike nuclear wastes, hardly regulated at all.

Most often, government looks the other way. A New Jersey official charged with tracking down and prosecuting illegal dumpers runs the only operation of his kind in the country. There is no one he can compare notes with, from California to New York. And a Pennsylvania official charged with enforcing environmental law said chaos would ensue if every producer tried to dispose of his hazardous waste safely and legally, because there would not be enough safe and legal places to handle the volume.

The federal government is even less vigorous. Those few federal employes who have tried to act have most often been squelched by their superiors. One key federal official was sacked after he tried to draft tough regulations controlling hazardous waste disposal.

And the Carter Administration repeatedly has blocked efforts to tackle the problem. It has delayed implementing new laws to control chemical dumping, has tried to downplay the seriousness of the problem and has even discouraged its regulatory officials from seeking out hazardous dump sites or warning the public of them.

Where governments have acted, their efforts have often had unintended effects. Witness New Jersey, one of a handful of states making an effort to attack the problem. New Jersey now requires plants producing toxic wastes to file reports identifying who hauls those wastes away. It then requires haulers and disposal facilities to file separate reports on where the wastes are taken (the only other states with such a system are Maryland, Texas, California, Kansas, Oklahoma, Minnesota and Illinois).

The Inquier examined hundreds of these reports. They showed that two-thirds—nearly a billion pounds a year—of the chemical wastes transported from New Jersey's industrial plants now go to Pennsylvania, where regulation enforcement are particularly lax. That is alarming enough.

What is more alarming is what happens to those wastes once they get to Pennsylvania. Tracing the destinations listed in the New Jersey reports, The Inquirer found numerous cases in which hazardous wastes never arrived at the sites they were supposedly bound for.

One example: New Jersey state records show that last year 128,000 pounds of hazardous waste left the state bound for a small disposal facility in Lansdale, Pa., called Reclamation Resources Inc. The operator of the Lansdale facility says most of the waste never got to him.

There are other listings in the state records that are even more creative: They show New Jersey wastes bound for Pennsylvania sites that don't even exist. And there are listings of wastes taken to Pennsylvania sites that are not licensed or permitted by the state to receive such materials. These cases, in fact, are so frequent as to be routine practice.

These illicit imports from New Jersey only add to the problem in a state already awash in its own hazardous chemical residue.

Pennsylvania industry produces an estimated 8.75 million wet tons a year of hazardous chemical wastes. The state has the capacity to safely dispose of about one-tenth of that amount, according to a recent study by Congress' General Accounting Office.

There is also reason to believe that hazardous waste from Ohio, New York and other nearby states is being dumped in Pennsylvania, much of it in the abandoned coal mines that thread the state's anthracite region.

Pennsylvania has no system for keeping track of all that waste. Nor has anyone at a policy level of government shown any serious interest in keeping track. In fact, while waste dumping has been increasing in recent years, the budget of the Department of Environmental Resources (DER)—the state agency that regulates dumping—has dropped from 2 percent of the total state budget to 1.4 percent.

"I don't think anyone in the Commonwealth can tell you where the waste is going,' said Jim Snyder, head of enforcement and operations for the DER's Bureau of Solid Waste.

But all that hazardous waste that disappears so mysteriously from view has a way of reappearing later—often in dramatic fashion. Some examples:

Three weeks ago, a stash of highly active chemicals that had been dumped in a field beneath Chester's Commodore Barry Bridge started to smolder, giving off heat and toxic fumes and threatening to explode. Firefighters cordoned off the area and prepared to evacuate nearby homes if necessary.

That same site has been well known in the neighborhood since February 1978, when it spontaneously ignited, sending roaring balls of flame high into the air and temporarily incapacitating 45 firefighters who inhaled the chemical fumes.

Authorities do not know how to clean up the site, partly because of the difficulty in even identifying all the chemicals involved. They do know that the site is owned by a man named Melvin Wade and that for two years Wade permitted a firm called ABM Disposal Co. to dump drums of chemical wastes there.

ABM and its president, Franklin Tyson, have a history of state convictions for illegal dumping that stretches back 15 years. Despite that, the list of campanies that hired ABM in recent years to get rid of its hazardous chemicals reads like an honor roll of American industry. General Electric, Texaco, Scott Paper, Sun Co., Exxon, DuPont, Boeing-Vertol, SmithKline and a great many others.

A federal civil suit has been filed against Wade and ABM, but no one has called to account the industrial giants who produced those wastes that, to this day, still smolder and bubble under the Commodore Barry Bridge.

The giant Kin-Buc Landfill near Edison, N.J., has been shut down since 1976, but it is still leaking PCBs and other extremely dangerous poisons into the Raritan River. It is a great deal larger than the Wade site, and investigators have found evidence that its wastes came from Allied Chemical, American Cyanamid, Ashland Chemical, DuPont, Exxon, Gulf, Monsanta, Union Carbide, Uniroyal, NL Industries and others.

Like the Wade site, Kin-Buc will be extremely costly to clean up, partly because no one knows the nature of all the chemicals present. Also like the Wade site, it periodically gives birth to explosions and bursts of flames.

And, again like the Wade site, no one has tried to hold the industrial producers of the wastes responsible in any way.

On July 29 authorities discovered chemical wastes leaking into the Susquehanna River from an old coal mine tunnel near Pittston, Pa., at a rate of 1,000 gallons a day. At Danville, 60 miles downriver, special booms were strung around a water intake to protect the town's drinking water, and fishermen were warned not to eat anything they caught.

Clean-up crews wore protective clothing and respirators and worked in 15-minute shifts as they tried to sop up the material below the mouth of the tunnel. Even now, the flow of chemicals from the mine has not been stopped, and the state may have to build a costly waste treatment facility at the mouth of the tunnel to detoxify the illegally dumped waste.

According to DER, the chemicals included cyanide compounds, acids and various cancer-causing substances. The agency said hundreds of thousands of gallons of such stuff may have been dumped into the mine from a borehole at a Pittston garage.

Court documents filed late last month included allegations that at least some of the wastes came from the Hudson Oil Refining Co., which has plants in New York and New Jersey.

Employes of Lackawanna Refuse Removal Inc. have testified that more than 100,000 drums of hazardous wastes, each containing 55 gallons, were buried at an abandoned strip mine at Old Forge, near Scranton, from last September until March of this year, when the site was closed for operating without dumping permits.

Most of the dumping was done surreptitiously at night, according to testimony before the State Environmental Hearing Board, and the chemicals involved include phenols, toluene, chromium, cadium, cyanide, arsenic, tetrachloroethylene and mercury. All are toxic; many are cancer- and disease-inducing; some are "bio-accumulative," meaning that small amounts can accumulate in a person's body over time, building up gradually until they reach toxic doses.

A hearing examiner said it "would be suicidal to allow Lackawanna to continue operating this landfill."

In another coal region town, MacAdoo, Pa., authorities recently found an abandoned mine where they estimated that thousands of drums were illegally dumped. According to records kept by the state of New Jersey for tracking the movement of hazardous wastes, 9,900 pounds of the dangerous herbicide 2,4,5-T—better known as Agent Orange—were dumped there last year.

On a waterfront in Elizabeth, N.J., authorities have cordoned off a warehouse complex that one official called a "chemical time bomb." Another described it as "the Three Mile Island of hazardous waste sites."

There are 70,000 drums there, many of them corroded and leaking explosives, combustibles and chemicals of all descriptions. Officials fear that the entire mess may explode, and they cannot decide how to clean it up until they figure out what is in each of those drums.

Worse cases even than these have come to light. In Toone, Tenn., congressional investigators discovered last year, 300,000 drums of pesticides were buried, polluting underground drinking water and resulting in a wave of sickness and birth defects in the area.

And near Louisville, Ky., in a case that has become known as the "Valley of the Drums," 100,000 drums of toxic chemicals were dumped into and alongside a river, where they rusted, corroded and split open, poisoning the river and the underground drinking water.

Environmental Protection Agency (EPA) studies estimate that 46 million wet metric tons of hazardous waste are produced in the United States annually, but that only 10 to 20 percent of that waste is disposed of legally.

EPA estimates range from 20,000 to 50,000 for the number of toxic waste disposal sites in the country—most of them illegal—that pose potential health or environmental problems. And estimates of the total cost of cleaning up all those sites run from $22.1 billion (according to the EPA) to $44 billion (according to the Fred C. Hart Associates consulting firm).

EPA has identified and documented more than 150 sites around the country that pose an "imminent hazard" to public health and the environment, but congressional critics have argued that there are far more than that. The agency itself estimates that there are 1,200 to 2,000 other imminently dangerous sites that it has yet to locate.

And EPA has begun legal action in only four of the 150 imminent hazard cases it has found.

No one doubts that there are far more sites, some abandoned and long-forgotten, others filled to overflowing, waiting to be discovered.

At Love Canal, near Niagara Falls, N.Y., wastes buried by the Hooker Chemical Co., some as long as 20 years ago, began in recent years to leak into basements of homes built on reclaimed land. The homeowners hadn't known that the land had contained some of the most toxic chemicals created by man.

In the middle and late 1960s families living near the site began experiencing miscarriages, birth defects, cancer and nervous system disorders such as epilepsy and acute depression.

President Carter declared Love Canal a federal disaster area in August 1978, after the discovery of the leaking chemical wastes forced the evacuation of 255 homes.

U.S. Rep. James J. Florio (D., N.J.), who sits on a House subcommittee that has been investigating hazardous waste dumping, calls the problem "the sleeping giant of the environmental field." The actions of companies like Hooker Chemical that have indiscriminately dumped—or allowed others to dump—their hazardous wastes were characterized by Florio as "the ultimate obscenity in terms of disregard of the environment and disregard of public safety."

Each year, according to EPA estimates, the quantity of hazardous waste generated by industry increases 3 percent, while the safe disposal space available continues to shrink. In the Philadelphia area, many major corporations have reported confidentially that they are running out of storage space; others say there are simply no existing legal, practical means for them to dispose of wastes that are highly toxic and almost impossible to treat.

The nation now has only 12 secure landfills—that is, landfills that can safely hold highly toxic wastes without leakage—and only one of them is in the heavily industrialized Northeast. And there is only a handful of companies nationwide that currently are equipped to treat or destroy such wastes.

Three landfills in the Philadelphia area are authorized by the state to take some forms of hazardous wastes. All say they turn away the vast majority of their potential customers because the material is too toxic.

"It's going somewhere, but where the hell is it going?" said Bob Allen, of EPA's regional office.

For the industry that produces toxic wastes, the choice is this: Pay large sums to transport millions of gallons of toxics halfway across the country for safe disposal, pay for costly treatment to detoxify the wastes or take the cheap way out and pay a local midnight dumper.

There is no shortage of midnight dumpers. New Jersey alone estimates that it has 4,200 licensed hazardous waste haulers—many of whom officials suspect are engaged in illegal dumping—and that there are at least 500 unlicensed haulers in the state.

Most illegal dumpers go about their business without much interference from authorities. In the past three years, only 12 persons have been criminally prosecuted in New Jersey, with half of them, including some top company officials, convicted so far. Even at that, New Jersey is far ahead of any other state; in Pennsylvania only four persons have been prosecuted and convicted, all of them employes or small operators who received relatively light sentences.

On a nationwide scale, EPA estimates that the so-called midnight dumpers are disposing of more than 10 million of the 46 million wet metric tons of hazardous wastes generated per year.

"There just are no incentives for the legal disposal industry, because it's so easy to dump it illegally," said Edwin H. Stier, New Jersey's deputy attorney general and director of the State Division of Criminal Justice, who presides over a high-level task force that is investigating and bringing grand jury indictments against illegal dumpers. Stier's operation is the only one of its kind that exists on a state level.

"There just aren't that many legitimates," said a top law enforcement official familiar with hazardous waste. "Close down all the illegitimates, you'll close down the whole industry."

And, although New Jersey has achieved some success in apprehending illegal dumpers and the state's Department of Environmental Protection (DEP) has moved vigorously to close down many sites where waste dumping was polluting surrounding water and land, there has been a sort of "Catch-22" to that success. "As you crack down more and more, the prices (of legal disposal) go up and the temptation (to dump chemical wastes illegally) gets enormous," Stier said.

There is, too, a frequent temptation for regulatory officials to throw up their hands in frustration.

"We're finding new (illegal dump) sites almost every week," said George Buchanski, a spokesman for EPA's regional office in Philadelphia.

"If somebody's bringing it in at night and burying it," said Bob Allen, the office's solid and hazardous waste director, "there's almost nothing we can do."

"If everybody started looking for legal places to be dumping, it would be overwhelming," said Wayne Lynn, Pennsylvania DER's regional hazardous waste coordinator for southeastern Pennsylvania.

"We're talking about thousands and thousands of disposal sites, some of which the state has never regulated," said Donald Lazarchik, Lynn's boss as head of Pennsylvania's solid waste bureau. "We have never had the staff or resources to regulate them. We have got a gargantuan task to do. It's mind boggling."

In Burlington County, N.J., local officials have discovered five secret toxic waste dumps in the Pine Barrens. And one health official said he thinks nearly every sanitary landfill in the county has been accepting hazardous waste illegally. But officials are powerless to stop the practice.

In Montgomery County, the cancer-causing chemical tricholoroethylene (TCE) has polluted a reservoir in Upper Merion Township, probably as a result of illegal dumping. But no one has been able to determine where it came from or what can be done to stop its seepage into the drinking water.

Every well in Rahns, a town of 500 in Montgomery County, has been closed because of TCE contamination, and residents must use trucked-in spring water for drinking, bathing, and even in some cases for washing clothes, while they await the installation of a municipal water system. Authorities have taken no action against the nearby Techalloy Corp. plant, which they said was the source of the toxic degreasing agent.

As recently as last Wednesday, DER announced that TCE had contaminated three wells operated by the Audubon Water Co. and the Valley Forge Corporate Center in Montgomery County.

In Chester, authorities say it may take $2 million to $3 million to clean up Melvin Wade's field of chemical drums under the Commodore Barry Bridge. No one knows where the money will come from.

In Vineland, N.J., state officials have obtained a court order forcing Vineland Chemical Corp. to clean up huge piles of arsenic salts that have been seeping through the sandy soil into drinking water supplies. But the piles continue to grow.

Illegal hazardous waste dumping has ruined—possibly for all time—fishing in parts of the James River in Virginia and Bayou Meto in Arkansas, farmland in North Carolina, groundwater near the Tobyhanna Army Depot in northeast Pennsylvania, and drinking water in a large portion of Ocean County, N.J., on Long Island, in Lathrop, Calif., and in parts of Connecticut.

People have been sickened, apparently as a result of toxic wastes dumped near their homes, in Toone, Tenn., in Beaufort, Texas, and at Niagara Falls, N.Y.

A recent study by the Delaware River Basin Commission found that toxic substances "from present and closed landfills and waste disposal sites, and from recharge waters from the Delaware Estuary" pose a threat of "particular urgency" to the drinking-water supply in the Potomac-Raritan-Magothy aquifer.

That underground body of water is the main source of drinking water for Camden, Gloucester and Burlington counties in South Jersey.

Barbara Blum, EPA's deputy administrator in charge of enforcement, calls hazardous waste dumping "one of the most serious problems the nation has ever faced."

"People are frightened. Some are outraged. Others may be entirely unsuspecting. Many are asking if their homes sit astride a dump, long ago covered up and abandoned. They want to know if their drinking water is contaminated, if the lives of their children are in danger."●

ILLINOIS-MICHIGAN CANAL LEGISLATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. CORCORAN. Mr. Speaker, today I would like to introduce a bill which I am hopeful will lead to the development of one of the finest historic sites in the State of Illinois.

I am sure that you and my fellow Members of Congress are aware of the beautiful and historic C. & O. Canal located in the Washington, D.C. area; in fact, some of you may have had the delightful opportunity to visit this wonderful park. The recreational and historic educational benefits of this canal are boundless; school children can learn about the function of a canal; bicyclists and joggers can enjoy the scenic beauty; all can enjoy a refuge from the city.

Although such a canal with unique historical and recreational possibilities exists within Illinois today, it has not received the Federal attention which it so richly deserves. A recent Federal grant to develop one of its 15 locks was greeted with much enthusiasm by the local people who have long recognized the canal's potential. My bill would mandate a study by the Secretary of Interior to determine the feasibility of developing the Illinois-Michigan Canal into either a National Historical Park or Trail—of which Illinois has neither. I am hopeful that the Illinois-Michigan Canal can be developed to its fullest potential so that it can be enjoyed by not only my constituents but also by those in the surrounding areas (including Chicago).●

TAX CUTS AND ECONOMIC GROWTH

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. DANNEMEYER. Mr. Speaker, at both the Federal and State levels, the burning question today is how do you cut inflation without also curbing economic growth? Conventional wisdom says that the best way to cut inflation is to cut Federal spending, but those who follow the theories of John Maynard Keynes argue that cutting spending will result in greater unemployment.

Inasmuch as inflation is caused by the growth of the money supply exceeding the growth in productivity and since deficit spending by the Federal Government forces expansion of the money supply, there can be no doubt that cutting Federal spending is essential if inflation is to be brought into check. However, there is no reason why we cannot simultaneously promote economic growth, thereby increasing employment, at the same time we cut spending. How? By cutting taxes, which will leave individuals and businesses with more money to invest in new plants, new machinery or renovation of an existing facility—all of which will increase productivity, jobs and, ultimately, tax revenues.

Proof that the latter is, indeed, what will happen if taxes are cut is perhaps best demonstrated by California's experience with proposition 13. Instead of all the dire predictions coming true, California has had an economic boom. Personal income has increased about 14 percent over a year ago (compared to an 8-percent State inflation rate), and 552,000 new jobs have been added to the economy of the State.

Further evidence of the relationship between tax cuts and economic growth has even more recently been provided by two Chicago economists, Robert J. Genetski and Young D. Chin. As columnist Donald C. Bauder has pointed out in an article written for the Copley News Service, Genetski and Chin have estimated, based on their research, that for every 1-percent increase in a State's relative tax burden, relative income growth declines one-half percent and vice versa. Thus, Congress would be well advised to take heed: a substantial tax cut at the Federal level, along with substantial reductions in Federal spending so as to balance the budget, might well head off the recession into which so many people believe the Nation is headed.

For the benefit of my colleagues, I insert a relevant column by Donald Bauder in the RECORD at this time:

LOWER TAXED STATES SHOW GAINS

(By Donald C. Bauder)

A new economic study has a dramatic message for states: If you want to grow economically, keep taxes down: if you want to stagnate, boost taxes sharply.

The new study by two Chicago economists concludes that there is a clear-cut relationship between changes in state and local tax burdens and economic growth: In recent years, the data show poignantly. "Above average increases in a state's tax burden can lead to below average economic growth, while below average increases in tax burdens lead to above average growth," the study concludes.

The ink is barely dry on the document, but word has leaked out: Already, the authors have received requests for copies from people in half the nation's state legislatures.

The results of the study "have widespread implications for the tax revolt of 1978, which could prove to be the most important economic development of the last decade," said Robert J. Genetski, economist for Chicago's Harris Bank, in an interview. Genetski and Young D. Chin authored the study.

They found there is an average lag of three years between a move to a lower relative tax burden and subsequent increased economic growth, and vice versa. For the study, they found that a state's relative tax burden growth between 1967 and 1974 correlated well with its economic growth between 1970 and 1977.

However, there is nothing sacred about the three-year lag. The effects of a tax change can become dramatically and immediately apparent said Genetski, citing a recent California experience.

Following last summer's passage of Proposition 13, which sharply slashed property taxes, the state's economy boomed in short order. Now California is growing significantly faster than other states, statistics reveal.

Prof. Arthur Laffer, economist at the University of Southern California whose research also had concluded that tax cuts lead to sharp economic growth, said that the Genetski-Chin findings are important additions to the data supporting the relationship.

Importantly, the Genetski-Chin study concludes that tax changes are the most important factor behind a state's economic growth vis-a-vis other states—more important than other oft-cited factors such as climate, unionization levels or relative wage rates, Genetski said.

In fact, "the change in the relative tax burden of particular states serves to explain approximately 60 percent of the variation in relative growth among the various states. The relationship suggests that for every 1 percent increase in a state's relative tax burden growth over the period analyzed, relative income growth declined by approximately one-half percent and vice versa."

(For comparison purposes, the study uses states' growth in personal income as a measurement; also, the study excludes Alaska, which had extraordinary growth and taxes during the period because of the pipeline construction.)

One factor in a state's economic growth—population increase or decrease—appears to be a lagged response to changes in taxation levels, Genetski said.

"An increase in the tax burden for a particular state relative to others creates disincentives for business and workers," the study shows.

"As time passes, resources in the form of both investment capital and workers tend to move toward those states where relative tax burdens are falling. Afer a period of approximately three years, enough time has elapsed so that the movement of resources away from states with increasing relative tax burdens and toward those with decreasing relative tax burdens can become apparent," the study concluded.

The findings buttress economists' time-honored conclusion that people "vote with their feet"—if taxes get too high and services poor, they move on to another location.

New York, Connecticut, Rhode Island, Vermont, New Jersey and Massachusetts were cited as states which had relatively sharp tax increases and slower than average economic growth during the period.

On the other hand, New Hampshire and several Sun Belt states enjoyed strong growth by keeping taxes relatively low.

For some states, the relationship was starkly apparent. For example, Illinois had the second highest relative tax growth among the 50 states and the sixth worst rise in personal income. By contrast, Idaho was second best in keeping taxes down and eighth best in growth.●

ANSWERING THE SKEPTICS ON SYNTHETIC FUELS

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. WRIGHT. Mr. Speaker, in the 3 months since the House passed H.R. 3930, the synthetic fuels bill, there have been many voices raised in belated opposition, suggesting all sorts of dire consequences if such legislation is enacted.

No matter that the House passed that bill by a vote of 368 to 25. No matter that it represented several years of effort to develop a workable and practical approach to stimulating a synthetic fuel industry. No matter that the Nation's security and its economic well being are directly involved.

Today the Honorable WILLIAM S. MOORHEAD, chairman of the Economic Stabilization Subcommittee of the House Banking Committee, put these fears to rest in an address before the National Economists Club here in Washington. It is worth a careful reading by all those who have expressed concern about the wisdom of the synthetic fuel legislation now moving toward completion in the Congress.

The text of Chairman MOORHEAD's remarks follows:

REMARKS BY REPRESENTATIVE WILLIAM S. MOORHEAD

Since 1976 the Congress has been trying to decide whether or not our nation needs a program to produce synthetic fuels in commercial quantities or to do nothing more than fund laboratory experiments and pilot plants.

In June of this year, the House of Representatives decided by a vote of 368 to 25 to proceed with a program, relying primarily on private enterprise, to produce synthetic fuel in amounts equivalent to 500,000 barrels of oil per day by 1985, with a further goal of 2,000,000 barrels per day by 1990.

This legislation, plus a subsequent Carter Administration proposal, is now before the Senate and it appears likely that Congress will finally decide on some commercial synfuels program.

However, the recent increase in negative comments about the legislation (sometimes confusing it with the Carter proposal) has caused me to wonder whether we will revert to the timidity that caused the defeat of previous synthetic fuel legislation.

A good part of the problem arises from some entirely understandable confusion. The skeptics and opponents use terms like "massive" and "crash" to describe the synfuels program and cite estimates of "cost" running into the tens or scores of billions. But the facts are more modest.

What we are talking about in the bill passed by the House, as noted, is a program to produce 500,000 barrels a day, oil equivalent, of synthetic fuels from coal, shale and other sources by 1985 (and no serious proposal is more ambitious for that time period, including the President's). This would have a significant impact on our energy problem, including reduced oil imports, but it means at most only 10 or 12 large synfuel plants of commercial scale—in a vast nation whose factories and mines number in the thousands. Even if they cost $2 billion each, the resulting total of $20–25 billion from the capital market, spread over several years, should be compared with a total private market that will raise more than $400 billion this year, including more than $200 billion in long-term debt capital.

The cost is still sizeable, of course, but it is entirely misleading to leave the impression that it will be a cost to the taxpayers, to the Federal budget. The synfuel proposals under serious consideration, including my bill that passed the House, envisage that the cost of building most or all of the plants will be borne by private industry.

Two main tools are contemplated to help them raise the necessary capital, and in neither case is the Federal outlay likely to be large.

The first tool is loan guarantees. This is a familiar device, used for many years by the Federal Government to help direct private capital to desired purposes. It has had far more successes than failures. Loan guarantees can be abused, and it is important to keep a close watch on their growth and their claims on the credit markets, but this tool is well adapted to a situation like synfuels where the technology is largely untried on a big scale and there are some unavoidable risks. Loan guarantees would not cost the taxpayers one penny if the plants produce as they are intended to produce, enabling the companies concerned to pay off their debts on schedule. A total loss is highly unlikely.

The second tool is price or purchase guarantees, which is less familiar. After examining various bids or proposals, hopefully on a competitive bid basis, the Government would sign contracts stipulating an assured minimum price on the output of the synfuels facility. The Government might purchase the product itself (the Defense Department alone uses about 500,000 barrels of oil a day) or, if the product were sold in the market when the market price was below what is set in the contract, the Government would pay cash to the producer to make up the difference. Note that, again, this is a means of enabling private companies to raise the capital to build the plants. They are protected, among other things, against the unlikely but possible event of a *drop* in the world price at the whim of OPEC.

Obviously no one can say in advance how much the cost to the taxpayers of this device might be. It may well be nothing. James Schlesinger, the former Secretary of Energy, has estimated that the world oil price (which will affect the domestic market price for many years to come) will reach at least $40 a barrel "in constant dollars" by the end of the next decade, simply because of a rising world demand pushing against an essentially static supply.

This probably means $80 or more in the actual cash price at that time. If so, a synfuels contract with an assured price of even $35 or $40 a barrel, though well above the present oil price of $22, would be a bargain and would cost the taxpayers little or nothing during the productive life of the plant and could actually mean a saving for the taxpayer. This would be so even allowing for some kind of escalation clause in the contract for the synfuels, because once these plants are built and in place, the capital cost is behind us and the rise in operating costs would be comparatively small in relation to total costs.

Even if, at the time production begins, the market price were as much as $5 a barrel below the contract price, the cost to the budget of our targeted quantity of 500,000 barrels a day by 1985 would be slightly less than $1 billion a year (by which time, incidentally, the Federal budget will be well over $700 billion).

Let's briefly examine the Administration's elaborate and belated proposal which the President identified as an $88 billion program. That plan, too, would rely mainly on loan guarantees and assured prices, with private financing of the plants, though this has largely escaped notice. The famous $88 billion price tag attached to the Administration proposal—which has caused so much of the confusion—was not entirely pulled out of the air, but it is still more fiction than fact. It is based, first of all, on about 1.75 million barrels a day of synfuels production and, even more important, on a very conservative estimate of the future rise in world oil prices. This $88 billion is the hypothetical amount that would be spent—in the words of the Office of Management and Budget—"late in the next decade and beyond" under price guarantee contracts on the assumption that regular oil prices would not catch up to synfuels prices for years to come. I have reason to suspect that the $88 billion figure was derived backward—starting with an estimate of revenues from the proposed windfall profits tax on oil, substracting the amounts planned for mass transit and subsidies for the fuel bills of poor families, and then devoting the remainder, which is $88 million, to synfuels.

To be fair to the Administration, there is something of a problem—though I regard it as largely technical—in providing budget authority in advance so that these price guarantee contracts covering the output of a plant that may last 20 or 30 years can be written. A very large initial figure may seem to be required, even if the money may not be spent. I am sure we will find a way to solve that problem. The point I want to leave with you is that $88 billion is an entirely artificial estimate of the probable subsidy involved. The subsidy may be close to zero, depending on the course of world oil prices.

Beyond 1985, of course, much guesswork is involved. But there is no need to hold off now because we do not know such variables as the world oil price in 1988 or 1990, or the cost per barrel then of synfuels. The House bill contains a goal of 2,000,000 barrels a day by 1990, but the more meaningful figure is 500,000 barrels a day by 1985. What we can do now is move forward toward that ambitious but reasonable 1985 target with the assurance that the cost to the taxpayers—and to the capital markets—will be quite modest. Future decisions can be based on what we learn as we go along and the facts at the time.

There remains in some minds the question of whether there should be any subsidy at all, any Government assistance, for synfuels. In this "purist" view (promulgated, for example, by Senator Jepsen of Iowa and the Wall Street Journal editorial page), synfuels will be forthcoming when actual and foreseeable market conditions make them profitable, and there is no merit in hastening the process.

In my view, this argument fails on national security grounds alone. A synfuel plant, given the extraordinary reliance of the United States on imports of a vital commodity from an insecure and unpredictable source of supply, is every bit as much a part of our national defense as a Polaris submarine or a main battle tank. I am not claiming, of course, that even the most ambitious synfuels program can soon eliminate our dependence on oil imports, but the degree of our dependence is of great importance, including our relative freedom from blackmail in our foreign policy.

The national security problem should be evident to anyone, and it has been amply documented in a Treasury Department study which concluded, "Unlike temporary crises in the nation's ability to satisfy its oil import needs, the national security threat arising from growing reliance on imported oil has its gravest implication in the long term." I should add, too, the possibility of a gradual decline in world output of oil. These things argue for moving ahead now on a significant scale, for keeping our sights high and not waiting forever for every last unresolved question to be answered. Anything less than a synfuels target of 500,000 barrels a day by 1985 will just put off still further into the future our ability to make a serious dent in this grave problem, which has no exact precedent in our history.

Even apart from national security, there is a sound economic case as well for Government assistance to accelerate the development of a synfuels industry. The issue is a subtle one and comes under the heading of "import substitution."

I am aware that import substitution is by no means always, or even usually, a wise decision that furthers a nation's well-being. Such a policy was a fundamental error of the 18th century mercantilists, and in our times some less developed countries have lost more than they gained by creation of inefficient, high-cost domestic industries for the sole purpose of reducing import requirements and helping the balance of payments. But the case of imported oil in the United States is the exception that proves the rule—a case where the national well-being can be advanced by import substitution.

As in the case of any import substitute, a reduction of oil imports keeps dollars and jobs at home. The equation shows up every quarter in the gross national product accounts, where the nation's output is raised or lowered by changes in the item called "net exports." But this alone would not be enough to make the case. One important difference, favoring substitutes for imported oil, is that these imports perform no anti-inflation, pro-competition function as do many others. Another difference is that the dollars in this case do not all "come back" to buy our exports. Oil imports are a straightforward drain in our balance of payments. To the extent that dollars spent for oil imports increase (from either higher prices or higher volume), there is likely to be downward pressure on the dollar in the foreign exchange markets, with a resulting inflationary effect at home stemming from the higher cost of all imports. Only oil can have such sudden and severe adverse impact on our international accounts. And finally, increases in the price of imported oil, which are like the imposition of a tax on American consumers, have an undisputed unfavorable impact on domestic demand, production, and employment as well as on the rate of inflation—all in a magnitude that is peculiar to oil.

The "true" cost to our economy of a barrel of imported oil cannot be calculated precisely, but I am persuaded that it is well above the current nominal price of $22 a barrel. John O'Leary, the former Deputy Secretary of Energy, has put the figure as high as $90. The staff of the Joint Economic Committee, in a study done at my request, has concluded that "the 3.1 billion barrels of oil we import carry an actual cost in terms of lost income of at least $112 billion, or about $35 a barrel." As economists, you are familiar with the concept of "externalities." The Institute of Gas Technology has tried to calculate the hidden externalities in imported oil in the form of inflation, unemployment and national security risks, and has concluded that its true cost now is somewhere between $40 and $55 per barrel. In short, while none of these figures is the equivalent of a mathematical truth, I am persuaded that it is worthwhile paying more for a barrel of domestically produced synfuel than for a barrel of imports.

I do not claim that building a synfuels industry will soon alter the world oil supply-demand balance sufficiently to impair the OPEC cartel's ability to control and raise the price, though the demonstration that we can produce synfuels in quantity might help in that regard. We must recognize the demonstrated ability of some of the leading producers to reduce supply at any time. But the earlier we start on an effort to achieve alternatives to imported oil, including synfuels, the sooner we will be free of this problem. In the meanwhile, the case is strong for reducing oil imports on economic grounds even if we cannot prevent rising prices for some years to come.

If we adopt the view of the purists and wait for synfuels to come to the market on their own, we could wait for a very long time because of the unusual uncertainties involved. Mr. O'Leary, who lived with this matter for years, testified before my Subcommittee on Economic Stabilization that "in the field of synthetics, it is quite obvious to me—totally obvious to me—that unless there is Government intervention, it will not occur within an acceptable time frame."

So much for the economic case for synfuels. We can develop a domestic industry at tolerable cost, indeed with benefits greater than the cost even if the costs of synfuels run somewhat higher than the present estimates in the $25–$40 per barrel range because of the near certainty of future increases in world oil prices. And as noted, the national security case is powerful even if the economics were adverse.

A word is in order about the environmental problem. We must, first of all, be on guard against exaggerated claims of environmental damage. There are some perfectly sincere environmentalists whose true belief is that there should not ever be another acre torn up for strip mining of coal, not another pollutant put into the air or water—indeed that the building of any factory or refinery or mine is suspect. I cannot change their beliefs, but I can and do argue strongly that this viewpoint cannot be permitted to block something that a big majority of us feel is in the national interest and will improve our well-being, as reflected among other things in the 368 to 25 vote by which my bill passed the House.

For the next five years, as noted, we are talking about only 10 or 12 large-scale plants. The environmental problems (and such additional problems as water supply) will obviously be examined in each case, and each will be different. The processes are not all the same, and shale creates problems that are different from those of coal liquefaction. Neither I nor anyone else can make generalization at this point. What can be said is that the developers of the various synfuel processes are wholly conscious of our environmental laws and regulations and that they believe reasonable standards can be met. The big SASOL synfuel plant in South Africa is remarkably free of adverse environmental effects, and most synfuels are "cleaner" than natural fuels.

The important point is that synfuels will not make a very large incremental change in the environmental/health problem. This is true of the latest source of worry, the "greenhouse effect" from increasing carbon dioxide in the atmosphere that is said to threaten eventually a change in the world's climate. This problem comes from several causes, of which general burning of fossil fuels is the most important. It is global, not a United States problem. Avoidance of a synfuels industry by the United States is not going to prevent the still-hypothetical disasters in the next century, and addition of a large synfuels industry will add, by the estimate of one of the scientists who recently reported on the problem to the Council on Environmental Quality, only something like 2 percent to the carbon dioxide that is already pouring into the atmosphere. I do not know whether the danger is real, nor does anyone else. But it is not a reason to forego an urgently needed step that bears on our economic welfare and our independence as a nation for the next generation at least.

How, then, do we proceed? The sensible course is to pass legislation putting in place the key financial tools and then invite proposals from industry. I cannot say at this point precisely what companies will respond, with which synfuels technologies. But I am confident there will be a response.

For big-scale plants, there are obviously a limited number of companies able to provide the equity and debt financing, even with Government "insurance" on prices. But the Congressional Budget Office estimates that 10 to 12 companies might bid, including "possible consortia of electric utility, pipeline and oil companies."

Most impressive to me is the report of the Committee for Economic Development, a highly regarded research and education organization made up of business executives and university presidents. Its Energy Financing Subcommittee included chairmen of several large banks, top executives of major oil companies, two former chairmen of the Federal Power Commission, and John Sawhill, nominated to be Deputy Secretary of the Department of Energy and former president of New York University. This group concluded that a program of about 10 large synthetic fuel plants was feasible now and that "the financing of these plants can in very large part be carried out by the private sector."

There are at least five potential processes for making liquids out of coal, all in various stages of research and pilot plant production. Several have been developed by major oil companies, such as Gulf, Exxon and Mobil, but lesser oil companies, such as Conoco, Cities Service and Ashland, are also heavily involved. The Fluor Corporation, not itself a producer, has been heavily involved in South Africa's SASOL plant and has engineering know-how.

The list is illustrative and not intended to be inclusive. The knowledge, the technology, is out there, though gearing up to full-scale commercial production will face the usual problems. The obvious course, it seems to me, is to ask industry to put its money where its mouth is and submit bids, with a package of Government tools to reduce unusual risks but which keeps in place incentives for efficient production in order to maximize profit. The price guarantee—as opposed to a "cost-plus" type of contract—is particularly useful in that regard.

My bill, like that of President Carter's, does provide for Government construction of synfuel facilities—but as a kind of last resort, and subject to congressional veto. I hope it will not be necessary, though this was the method used in the successful synthetic rubber effort in World War II. Certainly the first step is to see what kinds of proposals come in from private industry and what kinds of packages can be worked out to assure private financing.

The main thing is to begin, and to begin on a serious scale. We may have some losses, but the problem of our oil dependence is so serious that risks of that kind are fully worth taking. While there appears to be fairly widespread support for a synfuels program in principle, my fear is that timidity will prevail over boldness and that we will let our doubts lead us into a mini-program that delays a serious response to our problem for another sustained period, as has been the case in the six years since the first OPEC price explosion. As I listen to all the negative comments, I sometimes wonder if we are becoming a nation of "inverted Micawbers"—looking for something to turn down. Timidity—and looking for something to turn down—is not what made this nation.●

THE EUROPEAN COMMUNITY ON THE MIDDLE EAST

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. FINDLEY. Mr. Speaker, on September 25, 1979, the Irish Foreign Minister, Michael O'Kennedy, explained the European Community's views on foreign policy to the United Nations in New York. Mr. O'Kennedy chairs the European Council for this 6-month period.

In his presentation, he devoted considerable attention to the Middle East situation which is of great concern and interest to the European community.

I have excerpted this portion of Mr. O'Kennedy's statement for the RECORD in the hope that it will be useful to my colleagues:

> The Nine continue to hope that it will be possible to achieve in the Middle East the just, lasting and comprehensive settlement to which this Assembly is overwhelmingly committed. They believe that such a settlement must be based on Security Council resolutions 242 (1967) and 338 (1973), applied in all their parts and on all fronts. It must also be based on the principles set out by the Nine in their statement on 29 June 1977 and and on several occasions subsequently.
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> These principles are as follows: first, the inadmissibility of the acquisition of territory by force; second, the need for Israel to end the territorial occupation which it has maintained since the conflict of 1967; third, respect for the sovereignty, territorial integrity and independence of all States in the area and their right to live in peace within secure and recognized boundaries; and fourth, recognition that, in the establishment of a just and lasting peace, account must be taken of the legitimate rights of the Palestinians.
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> The Nine emphasize that it is essential that all parties to the negotiations accept the right of all States in the area to live within secure and recognized boundaries with adequate guarantees. Equally, of course, it is essential that there be respect for the legitimate rights of the Palestinian people. These include the right to a homeland and the right, through its representatives, to play its full part in the negotiation of a comprehensive settlement.
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> Security Council resolutions 242 (1967) and 338 (1973), together with the principles I have mentioned, taken as a whole, set the essential framework for a peace settlement. In the view of the Nine it is necessary that they be accepted by all those involved—including the Palestine Liberation Organization—as the basis for negotiation of a comprehensive settlement in which all the parties will play their full part.
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> Such a settlement would win the endorsement and support of the international community and would meet the legitimate rights and interests of all parties. This includes Israel, which is entitled to exist at peace within secure boundaries that are accepted and adequately guaranteed; and the Palestinian people, who are entitled, within the framework set by a peace settlement, to exercise their right to determine their own future as a people.
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> The Nine recognize of course that such a settlement is not easy to achieve. But they believe it must be the continuing aim of the international community to promote it. They are convinced that such a comprehensive settlement would bring peace at last to the region; and they recall that they have already expressed their readiness to consider participating in guarantees in the framework of the United Nations.
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> The past year has seen some major developments to which the Nine, in view of their close connexions with the region, are particularly sensitive. One of these was the signature last March of agreements between Egypt and Israel. In their declarations of 26 March last, the Nine stated their position on these agreements.
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> Since the signature of these agreements, which the Nine see as a correct application of the principles of resolution 242 (1967) as far as Egyptian-Israeli relations are concerned, there has been progress towards improved relations between Egypt and Israel and there have been withdrawals of Israeli forces in Sinai. The Nine note these recent developments and recall that one of the basic requirements of a comprehensive settlement is an end to the territorial occupation which Israel has maintained since the conflict of 1967. The Nine will continue to follow the situation closely and will seek in every way they can to advance the aim of a comprehensive and lasting peace settlement involving all parties and dealing with all of the fundamental issues I have mentioned.
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> It follows that the Nine must view with the greatest regret any action or statement which aggravates the present situation or places an obstacle in the way of a peace settlement. Accordingly, they strongly deplore continued acts of violence by any of those involved. The Nine are opposed to the Israeli Government's policy of establishing settlements in occupied territories in contravention of international law; and they cannot accept claims by Israel to sovereignty over occupied territories, since this would be incompatible with resolution 242 (1967). The security of Israel, which the Nine consider essential, can be guaranteed, and the legitimate rights of the Palestinians given effect, within the framework of a comprehensive settlement.
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> The Nine are fully aware, too, of the importance of the question of Jerusalem to all parties. They know that an acceptable solution to this problem will be vital to an overall settlement on the basis I have indicated. They consider, in particular, that any agreement on the future status of Jerusalem should guarantee free access by all to the Holy Places; and they do not accept any unilateral moves which claim to change the status of the city.
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> The problem of Lebanon is clearly related to the larger problem of the Middle East as a whole. The Nine have frequently reaffirmed their support for its independence, sovereignty and territorial integrity. They did so most recently in a statement issued by the nine Foreign Ministers at their meeting in Dublin on 11 September. This statement also recognized the courageous efforts made by the

Lebanese Government to promote the security of its people and the restoration of its authority over the whole of its territory.

Violence has none the less continued in several parts of Lebanon as is clear from current news reports. The Nine recognize that there has been some improvement in the situation particularly in the south of the country since the recent meeting of the Security Council requested by the Government of Lebanon. They are concerned however about the constant harassment of the United Nations Interim Force in Lebanon (UNIFIL), of which certain members of the Nine form part, and about the difficulties which have been placed in its way as it attempts to fulfill its mandate. They are particularly disturbed about the military and financial aid from outside Lebanon to those who have made it difficult for the United Nations Force to carry out its mandate. They call on all parties to give full support to UNIFIL and to respect the decisions of the Security Council.

The Nine remain convinced that the United Nations peace-keeping operations can play a particularly useful role in helping to prevent violence between parties to a conflict, thus facilitating a peaceful settlement. They are ready to contribute to such operations in the future, as they have done in the past. ●

AMEND AND EXTEND THE HIGHER EDUCATION ACT OF 1965

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. BUCHANAN. Mr. Speaker, the House of Representatives will soon consider H.R. 5192, the Education Amendments of 1980, a bill to amend and extend the Higher Education Act (HEA) of 1965. Programs authorized by this act provide assistance to both students and postsecondary institutions to insure a firm Federal financial base for postsecondary education.

The reauthorization bill, H.R. 5192, will improve and expand HEA programs. The bill has been widely praised by student associations and the higher education community, indicating the extensive discussions between sometimes competing interest groups that have resulted in a consensus document.

In spite of the broad support for H.R. 5192, there may be some Members of this body who would question the need for Federal support of postsecondary education. This opinion may result from their remembrances of the campus turmoil and avant garde curriculums of the 1960's and early 1970's.

I want to assure my colleagues that Federal money provided for HEA programs is well spent. Campuses are now peaceful. An expanded core curriculum is being required at more and more colleges. Students are active within the system. The best example of this is the very positive impact that students had on the drafting of H.R. 5192. More representatives of student associations testified before the Subcommittee on Postsecondary Education on the HEA reauthorization than representatives of any other higher education group.

To better appreciate the healthy environment now existing on college campuses, I commend to my colleagues an October 8, 1979, article in U.S. News & World Report which follows:

GOOD NEWS ON CAMPUS

(By Marvin Stone)

The nation's colleges have started this year in a much improved posture for serving students and society.

A lot has happened since we last wrote about this nearly two years ago. At that time several big universities and a number of colleges were embattled because they were trying to revive a few courses that every undergraduate must complete in order to get a diploma.

The idea was that educated men and women should speak and write the standard language well enough to communicate with one another, and these people should have learned enough about our civilization so that each will recognize what the others are discussing. A further proposition held that such a person must know something about the past as a gauge for actions affecting the present and future.

Intensity of the opposition was puzzling. Some student groups at both Stanford and Harvard, for example, equated these minimum requirements with dictatorship. One may suspect that, out of the formless and illusory freedom left over from the '60s, these elements hoped to construct some new social order that, they feared, would not stand exposure to facts.

Now that colleges across the country are adopting a core of basic courses in language and history, the objections seem pale and remote. Students remain in charge of choosing a major part of their curriculum. And even aside from that, if they are any good at all, they will do their own thinking about what professors tell them. By the same token, if professors are any good, this is their exact aim.

Nor does any careful thinker expect that rebellion will die, or believe that it should. College students have always been rebels, generation by generation. If that were not so, where would progress begin? But seizing offices and burning down buildings belie the purposes of education. Ironically, such actions have represented coercion rather than the freedom that the perpetrators so fondly imagined.

Quietly and perhaps subconsciously, young people have turned to more peaceful goals. This year's University of Michigan survey of U.S. freshmen's ambitions discloses that, by an overwhelming majority, the one most often named as "extremely important" is "a good marriage and family life." Also rated high is "being successful in my work."

Is activism dead, then? Not by a long shot. For instance, a leader of student activity at Georgetown University, in the District of Columbia, proudly counts a half-dozen endeavors under that heading. But the new activism consists in feeding breakfasts to hungry people, assisting other students, doing bureaucratic paper work for the elderly around town and teaching classes for children who don't speak English. That's the new activism.

In college administrations, the swing to core has become so well established that the Association of American Colleges was able to say, some months ago, "Almost every campus, it seems, has a committee studying the general-education requirements for its students."

Ernest Boyer, a vigorous promoter of this movement when he was commissioner of education, found widespread results as he toured centers of learning. When we spoke with him on his last day in office, before he took over as president of the Carnegie Foundation for the Advancement of Teaching, Boyer gave this prescription:

"General-education themes include the study of our heritage. . . . If schools and colleges don't include it, we are going to be spiritually bankrupt. . . . There must be more emphasis on common experiences of the present . . . and how we communicate with each other.

"We also need to build in alternatives for the future. Events are crashing in on us—economic, environmental and energy related. We have to begin with a solid basis in history—understanding the events that brought us to where we are."

Now, and for this period in the shifting progress of education, the country is wisely taking the Boyer prescription. ●

THE END OF RENTAL HOUSING

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. ROSENTHAL. Mr. Speaker, "condomania," the virtually uncontrolled conversion of rental apartments to condominiums and cooperatives, is creating a serious shortage of rental housing across the entire country and is displacing hundreds of thousands of tenants.

A national moratorium on conversions is vital in light of the serious nature of the growing housing problem. "Condomania" comprises close to 50 percent of the for-sale housing markets in southern California, Chicago, and Washington, D.C., and over half in southern Florida and San Francisco. Between 1970 and 1975, over 100,000 rental units were converted to condominiums nationwide; 50,000 conversions took place in 1977; over 100,000 in 1978; and projections for 1979 range from 130,000 to 250,000. This spiraling rush toward conversion could well mean the virtual disappearance of private rental housing in the United States.

Newsday, in an editorial printed Sunday September 16, 1979, found the decrease in available rental housing serious. This highly instructive editorial follows:

WHAT EVER HAPPENED TO "FOR RENT" SIGNS?

In Great Neck Plaza, a Nassau County village with about 3,000 apartments, approximately 5500 units have been converted to condominium and cooperative ownership, and more are headed that way. The trend, which is evident throughout the state, so concerns one local congressman that he's asking for a moratorium on these conversions.

Rep. Benjamin Rosenthal (D.L-Elmhurst) has filed a bill calling for a three-year ban on converting rental apartments. This rather drastic prohibition probably won't find broad support in Congress, since the trend toward conversion is strongest in heavily urbanized areas around New York, Chicago, Los Angeles and Washington, D.C.

Nonetheless, Rosenthal is performing a real service by raising the issue. He believes the long-term consequence of the trend will be the disappearance of private rental housing. His bill calls for a presidential commission to study the trend for a year. After that, Congress would have two years to respond to its findings.

Many customers for condominiums and cooperatives are seeking tax advantages, so the commission must examine the tax laws. And its study must be broad enough to consider the impact of rent control, which often reflects political considerations more than economic realities.

According to George Sternlieb, director of the Center for Urban Policy Research of Rutgers University, the replacement of rental housing by cooperatives and condominiums "is a disaster for the old and those with low incomes."

Long Island already has a serious shortage of housing for precisely these groups. The movement toward occupant-owned housing can only worsen the problem. Rosenthal's search for a response is appropriate. His colleagues from Queens, Nassau and Suffolk should join him in bringing the issue before the executive and legislative branches.●

RESCUE CAMBODIANS FROM CAMBODIA

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. FISH. Mr. Speaker, for the second time in as many months, the New York Times has editorialized that the civilized world must respond to the starvation in Cambodia. The shameful cynicism of the major protagonists; China, Soviet Union, and Vietnam, and the roadblocks to the provision of effective food relief by the United States and the United Nations, should not be a barrier. As the Times says, "there is no honorable alternative."

I am inserting this editorial in the RECORD in the hope that it may be of interest to our colleagues.

The editorial follows:

RESCUE CAMBODIANS FROM CAMBODIANS

The tragedy of Cambodia is almost complete. Many thousands of its people continue to starve to death. Yet the Vietnamese-sponsored government of Heng Samrin says it may refuse massive aid from UNICEF if aid is also sent to starving civilians under the control of the rival forces of Pol Pot. To sustain this cynical posture, the regime even denies that there is famine—this in a country whose weakened and displaced population has cultivated barely 5 percent of the arable land.

There can be only one response by a world that has finally understood the scope of the suffering: Don't take no for an answer.

If the Heng Samrin regime attaches inhuman conditions, accept them even with the intention of evading them later. Shame the regime—and its patrons in Hanoi and Moscow—into an elementary decency. Shame the murderous Pol Pot and his patrons in Peking, too. Push food into the country even without the supervision that prudence normally demands. The contending forces will surely use some of the food as political and military weapons. But so long as soldiers do not seize everything—they have families and they did not grab all from the first few planeloads—then at least some starving people will be rescued. This seems now to be the attitude of officials at UNICEF. It should be the attitude of the United States as well.

The accounts of the misery in Cambodia are chilling. More than half a million children are evidently dying of malnutrition. There is almost no medicine to contain widespread disease. Women are said to have been starved and shocked into infertility. Visitors to Cambodia and refugee camps in Thailand report an entire people stunned into a dazed preoccupation with pain and survival. As our colleague Henry Kamm reports, the Cambodian children brought across the border seem to be staring at death.

The Soviet Union, Vietnam and China give no sign of putting the fate of these people ahead of their sordid power plays. The United Nations in its support for Pol Pot, and the United States in its conspicuous siding with China, have not thereby prevented vast death and suffering in recent months. This geopolitical game, important as it may seem, is not so grave as the decimation of the Cambodian people. If there is to be any significant relief, only the United Nations and the United States can provide the leadership. It may not help much but there is no honorable alternative.

Congress should authorize funds without delay for food and medicine, fishnets, clothing and trucks. Even a pending bill for $30 million is not enough. UNICEF and other relief agencies have decided to assume that sending something is better than nothing—and that by using the right nonpolitical words they can get into Phnom Penh. No civilized nation should be quarreling with that approach. What is wasted or misused will be lost. Vastly more has been spent in meaner causes.●

BAYARD RUSTIN DISCUSSES PLO CONTACTS—AND CIVIL RIGHTS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. McCLORY. Mr. Speaker, the recent flurry of contacts by private individuals with representatives of the PLO—including meetings in the Mideast between such highly respected individuals as the Rev. Jesse Jackson and others with the PLO and various Arab leaders—is the subject of a most thoughtful and analytical article by Bayard Rustin, president of the A. Philip Randolph Institute. This article, which appeared in the Sunday edition of the Washington Post, deserves the thoughtful attention of all Americans.

Mr. Speaker, I am attaching the article for the edification of my colleagues and all other Americans:

BLACKS AND PLO: EVERYBODY LOSES

(By Bayard Rustin)

It is time for more blacks—as well as many others—to speak out about what has become known, misleadingly, as the "black-Jewish rift."

I do not mean they should complain about the circumstances surrounding Andrew Young's resignation as U.S. ambassador to the United Nations, which triggered the whole affair. A great deal has been said about that already, and it turns out that blacks have little to complain about on that score.

It is time, instead, for more blacks to question efforts by some black leaders to forge new links with the Palestine Liberation Organization. It is time to make it clear that these efforts probably won't help bring about peace in the Middle East—but rather hurt those prospects. It is time to let it be known that those efforts aren't likely to help the U.S. civil rights movement or American blacks in particular—but possibly damage them both.

Perhaps most of all, it is time to impress upon the country that the Young episode and the ensuing events are not really a "black-Jewish" issue after all but one generating far broader emotions and consequences at home and abroad.

This entire episode has been misunderstood partly because of misguided reporting by the media, because of concentration on the rhetoric of some black leaders who do not speak for all blacks. Black America is no longer monolithic, and it is a serious mistake—a racist mistake—to assume that any one or two black leaders speak for all.

In part, it also has been misunderstood because many have been eager to avoid giving even the slightest hint of offense, real or imagined, to any black leader. But such false "fairness" can only be regarded as racially patronizing and itself offensive. If Jesse Jackson or Joseph Lowery of the Southern Christian Leadership Conference or anybody else cannot be criticized in a civil and intelligent manner by Jews, Catholics, journalists, other blacks, union leaders or whomever, then America has misunderstood the meaning of racial equality, indeed of democratic politics.

At the heart of most mistakes about the dispute is this false "racial" quality it has taken on, beginning with Young's resignation. Contrary to the widespread belief in the black community, racism had little or nothing to do with Young's departure. Young quit because he was caught breaching the generally accepted code of behavior for diplomats. As more facts have become known in the past few weeks, it has become evident that anyone who shouts "racism!" or blames Young's departure on Jewish pressure must be regarded at best as ill-informed.

It is, of course, easy to understand the depth of black anger over the Young affair. As the Carter administration's most visible "reward" for black support, the Young appointment carried immense symbolic importance. For many blacks, his resignation under pressure seemed to signal the end of black influence in Washington. But while such a perception may be understandable, it has no basis in reality.

Nor is there any reality to suggestions that the issue is whether blacks should be involved in foreign policy. Some black leaders reacted to criticism of their new PLO contacts by claiming themselves that Jews and other critics sought to silence the black voice in foreign affairs. But so far as I am aware, no one in the Jewish community, the State Department or anywhere else ever suggested that. The appropriateness of black leaders and organizations adopting foreign positions—and not just on Africa—has been so well established since Dr. Martin Luther King spoke out against the Vietnam war in the 1960's that nobody could take such a suggestion seriously if it were ever made.

This unjustified attention to racial and ethnic considerations thus has ripped the debate out of context and, among other things, needlessly polarized many in the black and Jewish communities. If one relied solely on press reports, in fact, it might be possible to conclude that, within American society, Jews are the only supporters of Israel and all of them back the more hardline factions there, while blacks all embrace Yassar Arafat and are the only proponents of moving more in the Arab direction.

HINDERING PEACE EFFORTS

What has become obscured are the more far-reaching and potentially dangerous consequences of black relations with the PLO.

The principal danger is simple: The private diplomacy of some black leaders, including contacts with the Palestinian terrorists, jeapordizes the fragile peace process begun in 1977 with Egyptian President Sadat's historic meeting with Israeli Prime Minister Begin.

This process offers the best hope yet of resolving the Mideast conflict. It is a torturously slow and delicate process, but important progress has been made. Now, however, the so-called "rejectionist" elements of the Arab world, those, led by the PLO, who would destroy the peace process, have found an unwitting ally in sections of the U.S. civil rights movement.

To listen to Jesse Jackson and some other black figures, one might think that the Camp David accords were never agreed to, that no movement toward peace has occurred anywhere in the Mideast for years. While touring the West Bank several weeks ago, for example, Jackson declared: "Someone must have the strength to break the cycle of terror and pain. America must become a partner in peace." He apparently is under the illusion that neither Sadat nor Begin, both of whom risked a great deal at Camp David, has displayed any "strength to break the cycle of terror and pain."

Jackson and SCLC president Lowery also seem to believe that the long-festering Mideast problem is rooted chiefly in some communications breakdown, or perhaps in stubbornness born of human pride. Therefore, they say, they have attempted to act as mediators and peacemakers between the PLO and Israel. Addressing worshippers at a Lutheran church in Jerusalem, Jackson said: "I shall appeal to the PLO to stop their tactics of terrorism, to recognize Israel's right and need to exist, to articulate its own goal for self-determination and a homeland and to fight for peaceful coexistence."

While Jackson's appeal to the PLO to shun violence has a genuine quality about it, it is largely meaningless. Yassar Arafat and other PLO leaders are not people who have taken to the gun with great remorse. They are not peaceful, gentle souls who might someday consider assaulting Israeli society with picket lines, choruses of "We Shall Overcome" or voter registration drives. The PLO is a terrorist movement whose tactics are little different from those of America's Ku Klux Klan, Germany's Baader-Meinhoff Gang and Italy's Red Brigades.

The PLO, moreover, is clearly a Soviet client, not an independent entity. If Arafat, as the result of moral argument, should miraculously experience a conversion and disavow terrorism, it is doubtful that the Soviet Union would allow PLO control to remain for long in the hands of a born-again pacifist. To approach the Mideast problem as a problem of "hard-heartedness," then, is at the least unproductive, no matter how well meaning.

I have little doubt that the PLO leaders are chuckling as they recall lectures on nonviolent protest and hands joined to sing "We Shall Overcome." While they can hardly take Jackson's mediation efforts seriously, they do understand the enormous political benefit to be reaped from their demonstration of PLO solidarity with some American black leaders.

Sadly, the visits of some black leaders to PLO strongholds are bound to strengthen the resolve of the PLO as well as the hard-line "rejectionist" states as they resist—and, as they have stated, hope to destroy—the peace process started by Sadat and Begin. The sight of U.S. civil rights leaders chanting "We will be free, we can win, we ought to win" can only lead some Arab and PLO leaders to believe in the fantasy that a mass-based pro-PLO constituency will emerge someday in the United States. That hope alone might well help keep moderate Arab states away from the peace process.

Similarly, on the Israeli side, any indication of a growing PLO constituency in the United States, a constituency that might further tilt U.S. policy toward the PLO position, strengthens the hard-line bloc in Begin's own Likud Party. On both sides, in other words, the inflexible factions stand to gain the most from the black leaders' efforts. That is a good way to damage the peace process, not to advance it.

Some blacks, of course, have cited as their concern the suffering that might result from any new Arab oil embargo. While it is certainly true that blacks would be hurt disproportionately if Arab countries again attempted to blackmail the United States and other Western nations by cutting off their oil supplies, it is also true that the Arabs have granted few if any economic concessions to nations that support the Arab cause.

Democratic Rep. Cardiss Collins of Illinois, who chairs the Congressional Black Causus, made exactly this point last July in a speech to the Zionist Organization of Chicago.

"Investment in Africa has not been forthcoming [from Arab states]," she stated. "The oil states have failed to provide promised price breaks of preferential treatment. Indeed, many of Africa's poorest countries have been pushed towards economic disarray by the unremitting, uncompromising and unconscionable price increases imposed on rich and poor alike by oil-producing states."

In light of the Arab treatment of African nations—almost all of which severed their diplomatic ties which Israel—there is little reason to hope that they would have great compassion for America's blacks.

HURTING THE MOVEMENT

In addition to the profound consequences in the Middle East, the actions of Jackson, Lowery and some other black leaders will, in all probability, harm the entire U.S. civil rights movement.

Already, the spectacle of leaders committed to non-violence embracing avowed terrorists has led some people—mistakenly, I believe—to question the sincerity and motives of all civil rights activists. Although those like Jackson and Lowery carefully explain that they are seeking to establish a dialogue between the PLO and Israel, their buoyant enthusiasm and warm embraces of Arafat leave many people mainly with those memories and with only vague recollections of appeals for non-violence. While these popular perceptions admittedly results from the peculiar practices of the media, those black leaders who traveled to the Mideast should have been more concerned about the inevitable damage that would be done.

Similarly, those blacks who met with PLO representatives should be prepared to respond to accusations that their trips were in fact deliberately intended as "media events." Philip Blazer, a Jewish leader who organized anti-Nazi marches in Skokie with Jesse Jackson, has already openly accused Jackson of using his Mideast voyage as a publicity stunt. "Jackson's one constituency," Blazer said, "is the media."

While I do not necessarily agree with that charge, I must admit that to many Americans—blacks as well as others—the Jackson and SCLC delegation trips do indeed appear to be calculated to produce immense visibility. Correct or not, this widespread impression is there and it does tend to place the entire civil rights movement in a bad light. Worse, it makes the civil rights movement—or, more correctly, what is taken to be the civil rights movement by most Americans—appear to be frantically grasping for a new issue, a new rallying point, and to distract attention from other urgent issues, from full employment and energy to tax policy and cuts in social welfare funds.

Finally, the links of some blacks with the PLO threatens to undermine the liberal coalition, the political alliance of minority groups, trade unions and liberals that is responsible for almost all the advances made in civil rights and social reform. Indeed, it is already clear that some important non-Jewish coalition elements, most notably the trade unions, have been profoundly angered by black gestures to the PLO.

John Lyons, president of the Ironworkers Union and a prominent member of the AFL–CIO Executive Council, made this clear late last month in an address to the Jewish Labor Committee. "I can imagine a no more disgusting sight than the beaming face of Yassar Arafat surrounded by SCLC leaders singing 'We Shall Overcome,' " Lyons said.

While stressing the democratic values that for so long have bound together the liberal coalition, Lyons also issued an unambiguous warning: "If any elements in our coalition of interests, however sincere and well-motivated, should be short sighted enough, in the pursuit of short-term goals, to give aid and comfort to the enemies of democracy then we have an obligation to point out to them that they are hurting all of us."

Lyons' points were later echoed in a statement by Thomas R. Donahue, executive assistant to retiring AFL–CIO president George Meany. Donahue called overtures by some blacks toward the PLO an "obscenity."

The Rev. George G. Higgins of the United States Catholic Conference, who has been in the forefront of civil rights struggles, expressed other pertinent concerns when he wrote: "To cut the black community away from its longest and strongest ally in the struggle for equality at a time of crisis is, in the long-range view, self-defeating. Before going down the road of legitimizing the use of terrorism as a political tactic, the heirs of Martin Luther King's doctrine of non-violence might well want to reflect on who, ultimately, will be the beneficiaries of a split in the black-Jewish coalition."

Self-interest, always an important and justifiable consideration, should not be the sole or even principal argument against black links with Arafat. Instead, blacks, having won their rights through nonviolence and organized pressure, should speak out against the PLO because that terrorist group continually flaunts the political power of violence and openly mocks the values and goals that American blacks have fought for and cherished.

If blacks remain silent on the PLO, they will have gone a long way toward forfeiting the enormous moral prestige won by their firm and courageous allegiance to nonviolence and democratic principles. Without this moral prestige, further economic and social progress for black people will be difficult, if not impossible, in an increasingly hostile and conservative society.●

COMMISSION ON INTERNMENT OF JAPANESE AMERICANS DURING WORLD WAR II

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. RODINO. Mr. Speaker, I have joined in introducing legislation (H.R. 5499) which would establish a Commission on Wartime Relocation and Internment of Civilians.

President Roosevelt, on February 19, 1942, issued Executive Order 9066, which authorized military commanders to exclude any and all persons from areas that he considered militarily sensitive, as well as granting authority to house those evacuated.

In the spring of 1942, the Commander of the Western Defense Command, General DeWitt, determined that the west coast was a militarily sensitive area and ordered over 120,000 men, women, children, and infants of Japanese heritage to leave their homes and businesses in the west coast States. They were interned in camps that were overcrowded and heavily guarded.

No charges were ever filed against these people. No hearings or trials were ever held to determine which of these persons may have been innocent or guilty of subversion.

Besides the loss of property—real and personal—there were other devastating damages: Loss of individual freedom, destruction of personal human dignity, disintegration of family life, violations to religion and culture, loss of physical and mental health, defamation of character, and loss of income.

More than 37 years have passed since these unhappy events occurred. Yet, a Federal review of the internment has never been undertaken.

Mr. Speaker, I cannot help but think that a Federal review of this matter is long overdue. I urge my colleagues to join in this effort and enact the Wartime Relocation and Internment of Civilians Act promptly.●

INFANT BORN DURING OMAHA ABORTION

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. CAVANAUGH. Mr. Speaker, as many religious organizations and others concerned with the protection of life in all its stages are celebrating the week of October 7 through October 13 as "Respect Life Week," I have the disturbing duty to call to the attention of the Congress a tragic occurrence which took place within the district which I represent, at a publicly funded institution, which resulted in the loss of a young human life. During the course of a saline solution abortion, a live infant was born. Although some attempts were made to sustain its life, the attending physician made the determination that further "heroic lifesaving measures" would be useless, and, after 2½ hours of life, the child died. This incident brings into sharp focus the need to provide protection for human life in all its stages, and I wish to enter into the RECORD the entire story of the legacy that is abortion in America today:

[From the Omaha (Nebr.) World Herald, Oct. 8, 1979]

INFANT BORN DURING OMAHA ABORTION: CHILD DIED 2½ HOURS LATER

(By Robert Dorr and Mary McGrath)

A 2-pound, 9-ounce infant unexpectedly born alive during an abortion in Omaha died 2½ hours later, after the patient's physician decided that applying "heroic lifesaving measures" would be useless.

The incident occurred during the early morning hours of Sept. 6 at the University of Nebraska Medical Center.

Although there have been some live births in abortion cases in other parts of the United States, this apparently was the first such case at the medical center, University Hospital Administrator Robert Baker said.

"I feel very badly," said Dr. C. J. La Benz, the physician in charge of the abortion patient. "That is the last thing I would ever want to happen to any patient or the medical personnel involved."

As one result, a petition was signed by some University Hospital nurses saying they will no longer take part in abortion cases. The hospital has agreed those nurses will not have to do that.

La Benz, 31, is one of two doctors who offer obstetric and gynecologic services, including abortions, under the office name of Womens Services. He agreed to discuss the abortion with a World-Herald reporter in the presence of his attorney, Lawrence Batt.

La Benz declined to disclose his patient's name and some other information that, he said, would violate the confidentiality of the doctor-patient relationship.

On Sept. 4, he said, a woman came to his office at Womens Services, 201 S. 46th St. Referred by another doctor, she requested an abortion, he said.

From her medical history and the results of a physical exam he performed, he estimated she had been pregnant 19 to 20 weeks, he said. A normal full-term pregnancy is 40 weeks from the first day of the last menstrual period.

SALINE SOLUTION

La Benz said he decided a procedure using a saline solution (sterile salt water) should be used, since the estimated length of pregnancy was well into the second 13 weeks. The solution is infused into the uterus and normally induces labor within 24 to 48 hours.

Because of the potential complications from this procedure, the woman was admitted as a University Hospital patient.

A saline solution abortion never is done in the Women's Services outpatient area, said Dr. La Benz, a member of the university's volunteer faculty.

The woman was admitted to the hospital that day. Sometime the next afternoon, her labor began.

Between 12:45 a.m. and 1 a.m. that night the woman expelled what was expected to be a dead fetus.

No one was with her at the time, La Benz said. He said that isn't unusual in such cases. "It's not standard procedure to have the doctor present," he said.

FOUND ON BED

A nurse found the infant on the bed and noticed it had signs of life, he said. As much as 15 minutes may have passed before the infant was found, although he doesn't know how long that period was, he said.

Nurses clamped and cut the umbilical cord and took the infant to the labor and delivery area, where it was bathed, baptized, wrapped in a blanket and put into a warmer (a receptacle with heat lamps), he said.

Some religions, including the Roman Catholic church, immediately baptize an infant in danger of death.

Meanwhile, a nurse called La Benz at his home, where he was asleep, to ask instructions, he said.

He was told the infant had a faint heartbeat of about 60 per minute, compared with a normal rate of at least 120 per minute, and was making some attempts at breathing, he said.

He said he talked both with the nurse and a physician on the scene who had seen the infant. La Benz gave instructions to continue to monitor the infant's life signs.

PLACED IN ISOLETTE

Several minutes later, he said, he called back to ask that the infant be weighed. When told its weight, he directed that it be placed in an isolette and the "close monitoring" be continued. An isolette is an incubator for premature babies, keeping them warm.

He also talked with a second doctor the at the scene, he said.

He said he decided the infant's chances of survival "were so poor that heroic measures were not warranted."

Thus, he didn't attempt such extraordinary measures as putting the infant in a respirator or administering drugs, he said.

He added: "You can never be 100 percent sure in medicine . . . But we felt the chances of this infant surviving for any length of time were non-existent."

He said the other two physicians with whom he consulted agreed with that judgment, as well as a third doctor who saw the infant some time later. He declined to identify them or to say whether they are in residency training or in practice.

"WITHOUT OXYGEN"

One consideration, La Benz said, was his conclusion that the infant probably had been without oxygen for several minutes or longer during the final stages of abortion due to a variety of reasons. Without oxygen, progressive and irreversible damage occurs to vital organs, including the brain, he said.

Another consideration was that the saline solution used in the abortion normally damages vital organs, he said.

La Benz dressed and went to the hospital, arriving there between 1 and 1½ hours after the infant was discovered. He found the baby's condition had deteriorated, although it still had a heart beat, he said.

He pronounced it dead at 3:30 a.m., he said. He declined to identify the sex of the infant.

He said he informed his patient later that day about the live birth and its death.

GUESS WAS WRONG

The live birth and the infant's size indicated the woman was in the latter stages of the second trimester of pregnancy, rather than 19 to 20 weeks, he said.

That would indicate she was 22 to 27 weeks pregnant.

"In retrospect, I was wrong (about the length of pregnancy)," he said.

He said he doesn't know why his judgment was off and he declined to speculate on which of several possible reasons might have been responsible.

One method used in determining pregnancy length is an ultrasound test, which uses sound waves to produce a fetus outline on a computer screen. From that, the size of certain parts of the body can be measured, and the length of pregnancy estimated within an accuracy of 10 to 14 days either way, he said.

La Benz said he didn't perform that test because he had no reason to believe that his 19 to 20 week estimate was wrong. He said he will not perform an abortion if the woman is 21 or more weeks pregnant.

He performs the ultrasound test if he suspects the pregnancy has reached that point, he said.

BASED ON PERIOD

The medical center's policy permits abortions if the woman is less than 22 weeks pregnant, based on the last menstrual period.

Dr. Joseph Scott, chairman of the medical center's Department of Obstetrics and Gynecology, said he thinks La Benz made an "error of assessment" on the length of pregnancy. As a result, Scott said, he sent him "a letter of caution."

That letter referred to another letter which went to La Benz and other doctors on the obstetrics and gynecology staff and stated:

"Should there be breaches in the stipulated staff policy (on abortions), this matter will be taken before the hospital staff and the individuals will necessarily be disciplined by restricting their privileges to the areas in which there is proven and sound clinical judgment exhibited."

Ultrasound tests aren't required under the medical staff's policy adopted in 1977, said Scott, who said he himself doesn't do abortions.

He added: "As you can imagine, I think more ultrasound tests will be used in the future, and I think they probably should be."

COVERED BY LAW

Nebraska law also deals with abortions. A statute passed by this year's Legislature states: "All reasonable steps, in accord with the sound medical judgment of the attending physician, shall be employed in the treatment of any child aborted alive with any chance of survival."

Another section of the same law: "No abortion shall be performed after the time at which, in the sound medical judgment of the attending physician, the unborn child clearly appears to have reached viability, except when necessary to preserve the woman from an imminent peril that substantially endangers her life or health."

The statute specifies that violations are a felony crime.

Douglas County Attorney Donald Knowles said he is aware of the incident and is "looking into it." He declined to elaborate.

Attorney Batt said he is sure La Benz hasn't violated any part of the abortion statute.

He said he went to Knowles when he learned The World-Herald was working on a story. "I knew that after the story appeared, there would be substantial pressure from anti-abortion groups for immediate prosecution, so I decided to take the facts surrounding the incident to him," Batt said.

NEW PROCEDURES

Meanwhile, new abortion patient care procedures are being worked out at University Hospital, Baker said. He said "a majority" of the approximately 35 nurses who have been involved in abortions as part of their work signed the protest petition.

As a result, abortions involving women more than 13 weeks pregnant haven't been performed at the medical center during the last month.

Because he knows of no other Nebraska hospital which will routinely admit second trimester abortion patients, La Benz said, he has been referring such patients to out-of-state doctors.

Baker said the hospital plans to have the new procedures in effect within the next several weeks. The new procedures will involve a smaller group of nurses who are willing to give care in abortion cases, he said.

The university's general policy on abortions, which he described as "quite conservative," hasn't changed, he said.

He said the university has a legal obligation as a result of a 1974 U.S. district court decision to provide "facilities and personnel" for abortions scheduled by the medical staff.

CHANGES CONSIDERED

Baker added: "It is my hope that the general public will recognize the legal obligations of the state university's hospital and will rest assured that the quality of service provided patients electing this service meets high standards."

As a result of the incident, the hospital's medical staff is considering changes which would provide "greater assurance" that the length of pregnancy doesn't exceed 22 weeks, he said.

La Benz is a graduate of the University of Nebraska College of Medicine. He received specialty training as a resident in obstetrics and gynecology at the medical center.●

CHICAGO DOCTOR VISITS SOVIET HOSPITALS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. DERWINSKI. Mr. Speaker, recently, I directed the attention of the Members to an article by Dr. Angelo P. Creticos, medical director of Chicago's Henrotin Hospital, which appeared in the Greek Star newspaper. In continuation of a series of articles, I am pleased to insert into the RECORD the second part of Dr. Creticos' commentary on his visit to hospitals in the Soviet Union. This article was published in the October 4 Greek Star, which very proficiently serves Chicago's Hellenic community:

CHICAGO DOCTOR VISITS SOVIET HOSPITALS; FINDS CONDITIONS IN DEPLORABLE SHAPE

(By Angelo P. Creticos, M.D.)

It is further a phenomenon hard to believe to see a country where no private enterprise exists. Even the corner kiosks are owned by the state as are the restaurants, food stores, etc. It is hard to conceive but there it is—a whole country owned entirely by the government! This lack of ownership must contribute to the poor construction and especially to the poor maintenance. It would appear no one cares and all wait for an order to do something. In Moscow this rigidity is especially noted.

The entertainment in Russia was excellent. We heard a most memorable concert by the Moscow State Chorus given in one of those abandoned basilicas. They sang 16th and 17th Century music without accompaniment. It is an evening I will never forget. Likewise, the circus in Moscow is a phenomenon that defies description. Also, the superb folk dance troupe in Tbilisi and the night club act in Tbilisi are events not soon forgotten. The entertainers are superbly dedicated and content doing their all for visitors. The government gives these performers extra credits and support.

Encompassing all the activities and outshining all the glamour is the ever present police and military force—and intense propaganda. Lenin's face in profile was never more than a stone's throw away no matter where we went. All five cities we visited had huge Lenin squares and building after building had his image pasted or painted on it with his sayings also spread about. There is no question but that the atheistic government wants its people to idolize Lenin. He is their diety! It appeared to us that the propaganda was most intense in Armenia and in the Moslem areas and apparently this is because of the ethnic overtones which are obvious to all. One sees unrest in these areas.

Moscow, Yerevan, Tbilisi and Baku all had similar construction and maintenance problems. New buildings crumbling because of poor workmanship and poor quality in materials, and almost no maintenance. Kiev, however, was a most pleasant surprise. In fact, our group to a person immediately commented that Kiev appeared different; it appeared to be a European city.

Kiev is a most beautiful city and the Ukrainians are obviously more relaxed than the Russians. One noted a heavy ethnic influence in the Ukraine and by the same token one notes heavy communistic overtones. The party here is strong in its propaganda campaign, and this is obviously necessary since the Ukrainians number 46,000,000 and represent a sizeable force and a highly technical society. It was most interesting to visit the five different provinces and to note the formidable task the Russians have to keep all these groups cemented together into one unit. It may be wishful thinking, but I got the distinct feeling that the people are waiting for a real spark to ignite a revolution.

A member of our group was in that section of Poland that was taken over by the Russians and madle part of the Eastern Ukraine. He was about 16 years old then and was sent to Siberia where he escaped after two years to the United States. He was trying to visit his relatives who lived 240 miles west of Kiev. However, he could not get a pass to go to them. Instead he had to arrange for them to visit him in Kiev.

His relatives were interrogated and actually had to get a permit to travel 240 miles within their own country. In fact, their permit had a time limit—6 p.m. Friday to 12 noon on Sunday. At 12 noon they had to be on the train back to their village. When I asked our illustrious guide how he could relate how "free" the Russians are to do what they will with this permit problem, he at first denied that such a restriction existed. When I pursued the matter with proof, he became flustered and offered the explanation that the government could not permit some one to come to the big city at will because it would cause unemployment and this does not exist in Russia. Consequently, if he is to visit a large city a Russian must state his business and be restricted in his visit. I then commented that once a farmer always a farmer—one could not seek improvement in his way of life At this point my wife kicked my shin and I realized I had better drop the matter.

I have permitted myself one observation that stands out like a sore thumb—namely, the Russians seem to have their priorities all mixed up. They spend an enormous amount of money on the show items and the control items. Thus the military, propaganda, sports, the arts such as circus and ballet, and outer space get the top money. The lines for shoes, food, clothing continue. The public gets along with bare essentials—own nothing but the clothes on their backs. Of course, one must relate this to what they had 30 years ago and probably things are much better for the average Russian when looked at in this way.

The one sickening thought I had thruout the entire trip was that these are the people and this is the government that wants to take us over. We have our guard down in peacetime and they don't. The nationalism that they preach and practice is something to be seen and respected. It is a force that we can have trouble coping with until we also find a way to practice or develop some nationalism in time of peace. There is no question that the Russian is resourceful, intelligent and capable. Given his dedicated nationalism there is no telling how far their influence will extend unless we find a peaceful way to counter it. I must confess I was uncomfortable when I saw their fanaticism and we were the target.

In closing, I thought I would let you reflect on the fact that Russia claims it is a "classless society"—or so they say day in and day out. Only 16,000,000 of the 260,000,000 people belong to the communist party. You must qualify for membership and once a member you work diligently for the Party and are rewarded. A whole new section of Moscow is reserved for Communist Party members. Yet everybody in Russia is "equal" we are told by our In-Tourist guides. It is a country that I am glad I visited but a country that reminds me evermore it is wonderful to be an American. We blessed our country repeatedly. We all know we can keep our country the free society it is—but the burning question is—will we?

THE PHILIPPINES: A GROWING FEELING OF UNEASE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. STARK. Mr. Speaker, 7 years ago President Ferdinand Marcos declared martial law in the Philippine Islands.

When Marcos overrode his country's constitution on September 21, 1972, the Nixon administration looked on benignly. Some Filipino oppositionists assert that the Nixon administration had a hand in the martial law scenario.

Today, we continue our support for the corrupt Marcos regime. Time magazine recently called the Philippines the "Powder Keg of the Pacific," and Marcos deserves a good share of the blame for Philippine instability.

Mr. Marcos took away freedom in order, he said, to give everyone bread. Many in the population still suffer from malnutrition. Today, Filipinos have neither bread nor freedom.

As a new generation of rich Presidential cronies accumulate great fortunes, real wages have plummeted.

The human rights record of the Marcos regime is a catalog of crime: illegal arrests, torture and unexplained disappearances of foes and of ordinary citizens. The crime rate now exceeds that existing before martial law was declared.

All this has led the international banking community to question whether loans to the Philippines are wise.

It is time for this Congress to focus on these storm warnings—the sort of warnings that were ignored by many when they were visible in Iran and Nicaragua. By increasing or even continuing our support to Marcos we risk losing the friendship and respect of the Philippine people—and their friendship and respect are important to U.S. national security in the area.

I would like to call to your attention, Mr. Speaker, an article by Paul Wilson in the September 14, 1979 issue of the Far Eastern Economic Review. Titled "A Growing Feeling of Unease," the article points up feelings in conservative banking quarters concerning the Philippines. If these feelings that "the Philippines is the most volatile country in Southeast Asia," have surfaced in the banking community, ought we not seriously look at our commitment to the Marcos regime and consider ending military aid?

The article follows:

A GROWING FEELING OF UNEASE

(By Paul Wilson)

HONG KONG.—President Ferdinand Marcos' assertion to the Philippine interim National Assembly that "we have a pretty good credit rating" because "our capability to fund and finance all amortisations of our borrowings has been so high" has been greeted with scepticism by foreign bankers here.

Bankers are becoming increasingly reluctant to increase their lending to the Philippines in view of what they consider to be a rapidly deteriorating debt position and a stagnating economy. This trend, which began a year ago, has recently gathered momentum as bankers have begun to lose confidence in the country's claims of "prudent financial management." If it continues, the consequences for the Filipino economy could be disastrous, as the Board of Investments has estimated that the country needs US$22 billion, the equivalent of the 1977 gross national product, to finance 57 major industrial projects over the next nine years.

Even the few bankers still taking a positive approach to the Philippines hedge their comments with caveats regarding the political and social climate. As one said: "There are always very big improvements contemplated, the trouble is they need to be implemented." Understandably, few bankers were prepared to have their true views of the Philippine economy attributed to them. As an American banker put it: "In view of our exposure in the country, it doesn't make sense for us to comment publicly." Off the record, however, the vast majority were pessimistic. "In terms of the political and social situation, the Philippines is the most volatile country in Southeast Asia," said one.

Bankers interviewed by the Review felt that the statistics released by the government understated the seriousness of the country's plight. The most suspect indicator, according to many bankers, is the debt-service ratio, always a contentious area. According to figures from the Philippine Central Bank, the country's external debt stood at US$8.74 billion, or more than one third of current GNP, at the end of June. But the government maintains that its debt-service ratio is still beneath the 20% "danger level" set by the World Bank.

According to the World Bank's definition, the ratio represents amortisation plus interest payments on external public debt as a percentage of the exports of goods and all services. This broad definition can be interpreted in a wide variety of ways, and the Philippine Government maintains that its method of calculation results in a higher ratio than the basis used by some other countries.

Other methods have also been used to keep the official figure low, say bankers. The World Bank definition includes only debt service actually paid, not the amount due. Thus, if a country does not make repayments as they fall due, its debt-service ratio improves. According to an American banker, "this has become a factor in the Philippines equation, as some borrowers have attempted to negotiate moratoria on both capital and interest repayments on existing loans." In addition, Filipino borrowers have apparently tried to get extended grace periods (delays in capital repayment), and several American banks were recently approached over the possibility of interest payments also being delayed. It was the rejection of these approaches which precipitated the Philippines' new policy on increased borrowings, some bankers believe.

All external borrowings by companies in the Philippines are guaranteed by the government, which adversely affects the country's debt-service ratio compared with countries allowing unguaranteed private external debt, government officials say. But commercial bankers are not interested in comparing the relative merits of different countries according to an artificial formula. They take all factors into account before making advances.

In particular, they claim that heavy foreign debts are being incurred outside the World Bank definitions, which encompass only debt repayable to external creditors in foreign currency "with an original or extended maturity period of more than one year." Apparently, many 360-day loans have been taken out and renewed at the end of the initial period on terms which make them appear to be new 360-day loans, and are thus excluded from debt-service calculations. "This is done at the insistence of borrowers in the Philippines," says a British banker. "If the total foreign debt were included, we estimate the ratio would be nearer 40 percent than 20 percent," another banker said.

However, many banks report that there has been some attempt to cut down short-term borrowing following a Central Bank directive, and the government has suggested that this is an important cause of the increase in the balance-of-payments deficit. But as an American banker explained: "The government seems to regard its foreign-exchange flows as a result of private sector activity. This is not so. The government controls all foreign-exchange activities in both the public and private sectors. It is therefore in a position to control both the volume and the direction of fund flows."

Filipino companies are also leasing substantially more plant and equipment than they did a few years ago. Leasing has the advantage that it avoids both the capital outlay of purchase and the debt service burden of borrowing. But the total repayments required, which are based on discounted cash flow principles, are likely to be substantially higher than outright purchase, even when borrowed money is used. A German banker expressed the fear: "This may make the figures look better now, but it represents a drain on resources which will continue for years."

Although many bankers expect the terms on which loans are made to the Philippines to become harsher, most expect certain types of lending to continue. The high level of liquidity, particularly in short-term capital markets, and the fierce competition for Asian business between European, Japanese and American banks will ensure a continuing supply of money. "Banks are crazy," said a British banker. "There's always somebody willing to lend." However, the direction of lending is likely to become increasingly selective. "We would prefer export-related projects with foreign guarantees," commented another British banker, while a third was less equivocal: "We wouldn't touch anything even remotely connected with Marcos at the moment, because the political risk involved is unacceptable."

One indicator to which many bankers refer is the wide interest rate spreads on loans to companies and government agencies in the Philippines. This is contrary to the experience of most other Southeast Asian countries, where spreads are narrowing. Atlas Consolidated, for example, last month received a U.S. $27 million loan from a syndicate of banks with Chemical Bank as manager. The interest rate was 1 percent over London inter-bank offered rate (Libor). At the same time Thailand's Siam Cement borrowed U.S. $10 million each from Hanover Trust and Sanwa Bank at rates varying between 0.625 percent and 0.875 percent above Libor. It also managed to reduce the spread on an earlier U.S. $50 million loan from 1.125 percent to 0.875 percent above Libor.

Earlier last month, an international consortium of banks lent U.S. $307 million out of Hongkong to the Philippine Long Distance Telephone Company at 1 percent above Libor for the first five years and 1.125 percent thereafter.

"The wide spreads are an indication of the uneasiness which many bankers feel about lending to Philippines," said an American banker. Unless there is some tangible evidence that the economic situation is improving, the Philippine Government may find that it is short of takers for its new policy of borrowing to tide the country over the world recession.●

THE TRUE MESSAGE OF POPE JOHN PAUL AND ITS RELEVANCE TO AMERICAN INVOLVEMENT IN THE INTERNATIONAL DEVELOPMENT BANKS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 9, 1979

● Mr. LAFALCE. Mr. Speaker, the historic visit of Pope John Paul II to the United States has been chronologized and analyzed by hundreds of this country's finest reporters and commentators. The Pope's numerous speeches have provided analysts with a wealth of information with which to explain what the Pope really said to America.

Unfortunately, the major theme of the Pope's message to America has been overshadowed by attention to his comments on the issues of abortion, celibacy and the nature of the priesthood.

However, the major issue which Pope John Paul II continually stressed as his chief concern—his major message to America—was recognized with great insight by a reporter from the Buffalo Evening News, David Shribman. In an eloquent, extremely well-written story, Mr. Shribman accurately reports and analyzes the issue which John Paul II made the cornerstone of his visit to the United States: economic justice among the nations of the world.

The Pope's message is not a gentle call for prayers for the poor; rather, his speeches were filled with strong, reasoned demands for a sharing of America's "substance, not just your abundance, in order to help" the world's impoverished peoples.

If we are to heed this call for "openness from the rich, the affluent, the economically advanced, to the poor, the underdeveloped and the disadvantaged" we will have no better immediate opportunity than that presented by the upcoming debate on H.R. 3829, a bill to increase U.S. participation in international development banks.

If America, and its elected Members of Congress, wish to apply the message given us by the Pope to practical matters, I see a moral imperative to improve our support for the international development banks. These banks funnel millions of dollars—all in loans, not grants—from the world's wealthiest countries to the world's most impoverished, creating jobs, food and stable economies where chaos often reigns.

I do not believe, Mr. Speaker, that our support of one bill to increase aid through one system will fulfill the moral obligation that Americans have to their starving brothers in other lands. But, I do believe that if we are to begin living up to the charge that Pope John Paul II has set forth, we must do so in deeds as well as words.

A copy of Mr. Shribman's excellent article follows:

POPE CALLS ON AMERICA TO SHARE

(By David Shribman)

WASHINGTON.—Viva Il Papa! They yelled it from the mud of Boston Common. They screamed it from the ghettos of New York. They chanted it along Philadelphia's Market Street.

Viva Il Papa! They bellowed it across an Iowa cornfield. They shouted it outside Five Holy Martyrs Church in Chicago. They hollered it through the White House Gates.

Viva Il Papa! Everywhere, in the temples of the rich and powerful and in the churches of the poor and hungry, the cry rings even now.

America has never seen a week quite like this. And it has never seen a man quite like Pope John Paul II.

For six days the pope has traveled the streets of the United States, greeting millions, laughing with them, blessing them, praying with them and, in a quiet and gentle way, pleading with them.

To every corner of the land, to the heart of Catholic and non-Catholic alike, this stranger from Krakow has carried a remarkable message in a remarkable way.

He has told Americans God loves them. He has told them they are heirs to a rich and ennobling political tradition. And he has told them they must change—for the sake of God, for the sake of their neighbors, for the sake of themselves.

Along with the spectacle—the whole wide panorama of colorful airport arrivals, crowded city streets, triumphant motorcades, overflowing cathedrals, outdoor masses—The pope brought America a message it would not ordinarily welcome with arms outstretched.

He couched it in gentle language, to be sure, but the message still was harsh: the United States, along with the rest of the western world that has embraced the consumer society, not only has responsibility toward the poor and hungry, it is responsible for their plight.

The man whose very face reflects profound piety had little occasion to share pious platitudes during his week in the United States. The situation is too critical, he seemed to say, the need too great, to spend a week making the customary simplistic bows to the problems of our time.

Instead, the pope expanded the biblical maxim that each man is his brother's keeper and said, in words too stirring to ignore, that the poor are part of the human family.

"You must never be content to leave them just the crumbs from the feast," he said. "You must take of your substance, and not just of your abundance, in order to help them."

With great charm and in a soft awkward English that Americans found comforting, the pope did in one week what no domestic leader ever has done. He commanded great attention, and great applause, for a doctrine that strikes at the heart of the American economic system.

He did it subtly and skillfully. He appealed to the compassion that always has been one of the nation's boundless resources. He drew support from the revered words of the founding fathers and then he played his trump card, the teachings of Jesus Christ.

"Christ," he said at Yankee Stadium Tuesday evening, "demands openness to our brothers and sisters in need—openness from the rich, the affluent, the economically advanced, openness to the poor, the underdeveloped and the disadvantaged."

The implications of the pope's appeal are massive. When he said, as he did at Yankee Stadium, that "we cannot stand idly by when thousands of human beings are dying of hunger," he meant that those who have full dinner plates must surrender some sustenance to the poor.

Two days later at the Living History Farms outside Des Moines, Iowa, the pope amplified the point by alluding to Christ's command to his disciples: "Give them something to eat yourselves."

That means each individual in the developed world must settle, willingly, for less. No longer will it suffice merely to pray for the poor. Now each person must reach into his own dinner plate and hand a piece of bread to his neighbor.

It is not only food, though food is needed. It is not only capital for development, though that is needed as well. It is a call for a jarring adjustment in how we conduct our lives.

"The progress of humanity," the pope said at the United Nations Tuesday, "must be measured not only by the progress of science and technology, which shows man's uniqueness with regard to nature, but also and chiefly by the primacy given to spiritual values and by the progress of moral life."

Never has such a message been given such wide exposure in this country, but never, the pope was saying, has the need been so great.●

SENATE—*Wednesday, October 10, 1979*

(Legislative day of Thursday, October 4, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the Apostle Paul in his letter to the Corinthians, the third chapter and the ninth verse:

For we are laborers together with God.—I Corinthians 3: 9.

Our Father-God, we pause at this shrine of the patriots' devotion to offer our work to Thee, for "We are laborers together" in Thy kingdom. Our work is Thy work.

Give Thy grace and wisdom, O Lord, to those who work in the gaze of the public. Bless also those who work in obscure places, who keep buildings clean, who tend the gardens, who operate communications, who serve the libraries, who provide security, who man our hospitals, who keep our homes, and guard our frontiers. Bless those whose work wins acclaim for others, while asking nothing for themselves.

Bind our hearts to Thy heart, our minds to Thy mind that we may be instruments of Thy purpose for all mankind. Hear us in this our prayer, and in all those deeper prayers that never take form in words.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 10, 1979.
To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OIL IMPORTS AND OUR BALANCE OF TRADE

Mr. ROBERT C. BYRD. Mr. President, recently reported balance-of-trade figures reveal, in striking terms, the dangers inherent in continued American dependence on imported oil. Soaring imported oil costs led to a U.S. trade deficit of $2.36 billion in the month of August. This imbalance was largely caused by a 7.9-percent increase in the cost of imported oil—a record $5.2 billion for 1 month alone. At this rate, America's foreign oil bill will cost almost $65 billion for the coming year.

These are startling and disturbing statistics. They are even more troublesome in light of the otherwise improved performance of American international trade. Despite some encouraging signs in our export picture, our balance of trade will continue to suffer and the stability of the dollar will be jeopardized as long as the United States is dependent on foreign sources for almost 50 percent of its petroleum needs. Even if we manage to keep oil imports at the current level, the costs will surely rise. The August trade figures reflect higher prices recently imposed by OPEC, as well as an increase in the quantity of imported crude oil and refined products. Warnings have already been issued by some oil exporting countries that Western inflation and the decline in the value of the dollar will cause a new round of OPEC price increases later this year.

No matter what advances are achieved by American technology and ingenuity, or what sacrifices are made by the American people, economic security and stability will not be within our grasp until we act directly to curb our foreign oil appetite.

On July 15, 1979, President Carter announced that he would take action to limit imports of crude oil to 8.2 million barrels per day for 1979 and 8.5 million barrels per day for 1980 and beyond. This action followed the Tokyo Economic Summit Conference held in June 1979, at which the United States and other participating nations agreed that each country would take action to limit oil imports to agreed-upon levels. At the time of that announcement, oil imports were less than the quota levels. Projections indicated that imports could be controlled without significant dislocation in the marketplace. Now, however, we find ourselves in the situation of already importing almost as much oil as the proposed quotas would permit. As a result, every mechanism for implementing a quota system has met with considerable criticism. Plans to proceed with this most important element of an energy independence program have been stymied.

Several days ago, President Carter unveiled three alternative quota systems, together with a notice of hearings and request for public comment on means of enforcement of the oil import quota. At this time, the administration has not selected a specific program, but is instead seeking input from the public before a final decision is made. Public hearings will be held around the country over the next several weeks and it is hoped that other creative approaches will be suggested.

Each of the three proposals is complex. One would impose an auction system, under which a fixed quantity of oil import rights would be sold to the highest bidder. Another would create an import license fee system. The third would involve an allocation system, whereby the Government would apportion the right to import crude oil and refined petroleum products according to past use.

There is no question that any quota system will engender some criticism. Any mandated reduction in oil imports will result in a decreased supply of oil and may result in increased prices. Anticompetitive practices and market manipulation are predictable. And any allocation system brings the ire of those who charge that too much Government regulation was at the heart of shortages of gasoline and diesel fuel which we recently experienced.

I would hope that the process chosen by the President to devise an import quota system will be constructive and that potential problems can be identified and solved before any quotas are put in place. However, there is an urgency to this proceeding which cannot be ignored.

I do not believe that this Nation can afford to wait any longer to put its energy house in order. Although each alternative may involve substantial costs and risks, the one course of action which is unacceptable is for us to do nothing, to use a well-quoted phrase in another context.

Mr. BAKER. A well-worn phrase.

Mr. ROBERT C. BYRD. A well-worn phrase. The minority leader said that.

We have made specific commitments to our economic allies to cut oil imports. Our own economic strength and stability hinge on the immediate and concrete actions we take to reduce our foreign oil dependence. Legislative proposals to stimulate investment to alternate fuels or to remove regulatory and economic barriers to energy production are important steps. However, nothing can so immediately affect our energy position as cutbacks in the importation of foreign oil. In the short term and the long term, no other action will so clearly demonstrate American resolve to secure our energy and economic future.

Mr. President, if I have any time remaining I reserve it.

RECOGNITION OF THE MINORITY LEADER

Mr. BAKER. Mr. President, I thank the Chair.

I believe I know the answer to this question. The time allocated to the two leaders is prior to the time allocated to other Senators on special orders, according to the arrangement for this morning, is it not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. If I yield back my time under the standing order, of course, I will have no time remaining. Is it possible to arrange for me to reserve my time under the standing order until after the special order speeches today absent unanimous consent?

The ACTING PRESIDENT pro tempore. By unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I make that unanimous-consent request on behalf of both the majority and minority leaders.

Mr. BAKER. I thank the majority leader.

Mr. President, I have no need for my time today. In case there are issues and matters that might be discussed in special order speeches that stimulate our curiosity or require further elaboration, that would be a useful time to have.

Based on that request by the majority leader, I reserve my time under the standing order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR TOWER

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Texas (Mr. TOWER) is recognized for not to exceed 15 minutes.

U.S. ABILITY TO DEPLOY MILITARY FORCES OVERSEAS

Mr. TOWER. Mr. President, the fundamental geopolitical fact of the contemporary world is that vital interests and allies of the United States are located far from our own shores and often very close to the periphery of the Soviet Union. That these interests and allies are distant does not make them any less important. That they are frequently situated near the vast land mass of Russia does not make them any less legitimate. Thus, military planners must take into account more than the security of the Western Hemisphere. They must be prepared to deploy rapidly and in great numbers overseas to Western Europe and beyond to distant regions such as the Persian Gulf.

The Soviet Union has no comparable requirement. It is not historically linked with the Western Hemisphere or even with Africa and the Pacific. Moscow prides itself in being self-sufficient and is not dependent upon any foreign nation for its economic well-being with the possible exception of obtaining advanced technologies from the West. Thus, the rapid spread of Soviet influence around the world is not based on historic decision or economic interests. It is strictly geostrategic. Cuba provides the Soviet Union nothing it needs except soldiers. Soviet/Cuban cooperation has one ultimate goal—undermining the interests of the United States around the world.

Thus, it is worrisome that the Soviet Union is developing airlift, sealift, and sea control capabilities comparable to those of the United States. We are a maritime nation and must defend our interests. They are not a maritime nation, but they are developing naval forces and rapid deployment capabilities which are clearly aimed at the interests of the United States.

The United States needs no apologies for the fact that so many of its allies and interests are along the periphery of the Soviet Union. The American military presence overseas was not originally designed to threaten the Soviet Union, but rather was in response to a Soviet threat to our friends abroad and then indirectly to ourselves. Soviet violations of agreements at Yalta and Teheran, the creation of the Iron Curtain, the blockade of Berlin, and the war in Korea all acted to persuade the United States that it must be prepared to help defend our vital interests overseas.

In recent years, many Members of the Senate have expressed their concern that the Armed Forces of the United States are inadequately prepared to reinforce NATO quickly in a short war or to maintain adequate supply lines to Europe in a long war. Steps are being taken, but these problems are not yet resolved. The United States is presently undertaking the pre-positioning of additional military equipment in Europe, ultimately more than five divisions' worth, in order to reduce the airlift and sealift required to bring additional American combat units to NATO. Agreements have been reached with our NATO Allies which will permit the United States to support its NATO forces, in time of emergency, using European trucks, shipping, and other components of a modern industrial economy.

While less than perfect, war plans for the reinforcement of Europe are in existence. Exercises, such as "reforger" and "crested cap," designed to test our ability to deploy to NATO take place regularly. Through exercises such as the recent "nifty nugget" evaluation, we have come to have a fairly good understanding of what we can and cannot do with respect to troop deployments to Europe. We know we need to do more, and we have programs under way or under consideration which address many problems that we have discovered.

Reinforcement of NATO may be our biggest problem—and best understood, rapid deployment problem—but it is probably neither the most difficult nor the most likely overseas deployment problem facing American military planners. Reacting to Soviet intervention in the Persian Gulf region, for example, would tax American airlift and sealift to the extreme because of the lack of an existing infrastructure to support such a presence. It would take 1,000 Boeing 747 equivalents to introduce a 34,000-man Marine force into the Middle East and about 50 ships to keep it there. The climatic and terrain difficulties which would be created for newly arrived U.S. troops and their equipment would be tremendous. The lack of proven contingency plans and tested military organizations and procedures would only exacerbate the nearly impossible physical effort of deploying to the region and becoming operationally effective.

The possibility of large-scale deployment of U.S. Forces to the Persian Gulf region is only one of many possible rapid deployment scenarios for which the United States is totally unprepared. Military operations in support of allies, peacekeeping operations around the globe, and emergency rescue or counterterrorist operations are all realistic scenarios—realistic because of recent historical precedents in Lebanon, the Dominican Republic, Vietnam, Zaire, Somalia, Cambodia, and Korea.

Rapid deployment of U.S. Forces overseas required more than a variety of paper plans designed to cover a variety of contingencies. First, the air and sea transportation capability must exist to deploy the needed forces in a timely and effective manner and then support them once they have arrived. Military power which cannot be delivered when and where needed is military power largely wasted. Today, unfortunately, the United States has only about half the outsized, oversized, and bulk aircraft which would be required to support a NATO mobilization. Aircraft needed to meet even that standard would have to be withdrawn from all other worldwide missions. For an extended operation in the Persian Gulf, with a force of one or two divisions, U.S. shipping would have to be diverted from high-priority military and civilian routes in large numbers. Even then, the mixture of aircraft and vessel types available is likely to be inappropriate for the missions anticipated.

Second, those military forces which can be delivered and supported must be diverse and flexible enough to handle a wide variety of missions. Today, the United States maintains numerous types of military organizations designed for rapid deployment scenarios. Unfortunately, not all are in a high state of readiness. For NATO, we maintain armored divisions which have equipment pre-positioned in Europe. For the flanks of NATO and for many Third World scenarios, the U.S. Marine Corps provides an amphibious capability and an air-sea-ground team capable of dealing with less intense threats. For immediate response against fairly light threats, units such as the 82d Airborne Division remain on call for deployment. Other military organizations, such as the Special Forces and the Ranger battalions, exist for unconventional or light threats. Special counterterrorist units are also reported to be under development.

However, President Carter's much-vaunted 100,000-man rapid-deployment force is best described as a myth. No headquarters exists for such a force, and no such organization has been created as an operational force. Most of the concept is still a paper study. And even if such a force were properly organized, trained, and equipped, it could do little. The United States does not have the air and sea lift necessary to adequately support such a force.

In time, it is my hope that we will have the capability of rapid deployment of large, militarily significant forces overseas to protect our interests and allies. Until then, all we can say is that recent defense budgets have neglected the strategic air and sea lift of the United States.

In the current budget debate, Mr. President, I think it is proper that we note that as one of the deficiencies in our overall military capability picture that must be remedied and can only be remedied if we spend the money for the programing necessary to do so.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF SENATOR CRANSTON

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California (Mr. CRANSTON) is recognized for not to exceed 15 minutes.

Mr. CRANSTON. Mr. President, I am not going to use my time. I yield it back. The Senator from Alabama is here and he, I believe, does intend to use his full 15 minutes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. STEWART) is recognized for not to exceed 15 minutes.

THE CHRYSLER CORP. AND EMPLOYEE STOCK OWNERSHIP

Mr. STEWART. Mr. President, within the next few months the Senate will be asked to decide whether or not the Federal Government should provide financial assistance to Chrysler Corp.

This is a question on which many Senators will undoubtedly disagree. Some may feel that the Federal Government has absolutely no business assisting a private business whose decisions and operations have placed it in severe financial straits. Others will feel that the national economic consequences of allowing Chrysler to become bankrupt or to go through a reorganization, that is the hundreds of millions (or perhaps billions) of dollars of transfer payments and lost tax revenues, are so severe that financial assistance is an absolute necessity. I must admit that at this time I have not decided in my own mind how we should proceed.

However, there is a related issue on which I find myself in complete agreement with the distinguished majority leader and the distinguished chairman of the Finance Committee. That is, we are determined that if financial assistance is provided to Chrysler by the Federal Government, whether in the form of tax relief or Federal loan guarantees, employee stock ownership must be an essential part of any such relief. I assume that the final relief, if any, will take the form of loan guarantees. This will have to be considered by the Senate Banking Committee, of which I am a member. I plan to offer an ESOP amendment to any Chrysler legislation considered by that committee.

The employee stock ownership program which I envision for Chrysler would be as follows:

First. Chrysler would be required to borrow at least a portion of the federally-guaranteed loans through an employee stock ownership plan (ESOP) which satisfies the requirements of the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 ("ERISA"). While I feel that the program suggested by the distinguished majority leader is an excellent idea, I believe that the use of a leveraged ESOP, which Senator Long and I feel is a more appropriate vehicle, is more advantageous because we do not have to "reinvent the wheel." There already is an existing body of law covering the leveraged ESOP. The Internal Revenue Service, the Treasury Department and the Department of Labor already understand the concept and have issued regulations governing these plans.

Second. In order to be sure that each participating employee receives the maximum stock ownership benefit from the ESOP, we will require that everyone will receive the same amount of Chrysler stock; this would be equally true for the president of the company and the lowest paid employee.

Third. By requiring the use of a leveraged ESOP, thereby making the ESOP subject to existing Internal Revenue Service regulations we are assuring that each participating employee will have the right to direct the voting to all Chrysler stock allocated to his ESOP account, I believe that it is essential for each employee to be able to vote this stock and participate in the management decisions of this company. If we are to achieve the revitalization of Chrysler, each employee must be sure that he has some voice in the future of his company.

Fourth. To maximize each participating employee's ESOP benefit, we would require that each employee immediately be 100 percent vested in all amounts allocated to his account; this would be far preferable to a vesting schedule which is spread out over a period of time in that each employee will have a certainty about his ESOP benefit. Since the leveraging of an ESOP results in a stock allocation schedule which is tied to the loan amortization, we will also assure that new employees who are hired by Chrysler during the period of the loan will also receive stock allocations.

Fifth. In order to insure the employees against an early Chrysler bankruptcy or reorganization, we will require that the stock sold to the ESOP as part of the leveraged transaction be preferred stock which is convertible to common. This is because the employees did not make any of the management decisions which put Chrysler where it is today, and giving them common stock would simply leave them with nothing if bankruptcy occurs. By requiring that they receive preferred stock, we are assuring them some residual benefit even in bankruptcy. Later, when their efforts and voting input have some effect in the resurgence of Chrysler, the stock would be converted to common. After all, at that time they should take the same risk as other shareholders since their voting decisions will have helped decide where Chrysler will be at that time.

Sixth. Finally, to assure that the interests of the Federal Government and the employees are protected we will require that representatives appointed by the Secretary of Labor and the Secretary of the Treasury, plus representatives of the employees and a representative of the bank which serves as ESOP trustee, serve along with representatives of of Chrysler as members of the ESOP administrative committee. It is this committee which makes most of the day-to-day ESOP decisions. I would think that the Secretary of Labor and the Secretary of the Treasury could exercise their appointive powers by merely approving the members of the administrative committee who are appointed in their behalf by Chrysler, rather than having to deal with the problem of actually doing the selection.

Mr. President, I ask unanimous consent to have printed in the Record the amendment which I intend to offer to any Chrysler legislation which is considered by the Senate Banking Committee.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Plan Requirements for Employee Stock Ownership Plan

In order to be eligible for the Federal loan guarantee provided by this Act:

(1) The Corporation (hereinafter in this subsection referred to as the "employer") must establish an employee stock ownership plan (as described in section 4975(e)(7) of the Internal Revenue Code of 1954)

(2) The plan must provide that each participant will receive an equal allocation of qualifying employer securities to his account for each year in which such an allocation is made.

(3) The plan must provide that each participant has a nonforfeitable right to all qualifying employer securities allocated to his account and that no amounts allocated to a participant's account may be distributed from the account before the date on which the qualifying employer securities consisting of preferred stock are converted to common stock, except as provided in the Internal Revenue Code of 1954.

(4) A minimum of—

(A) $250 million, or

(B) 25 percent of the amount of the loan guarantee must be leveraged through the plan in a transaction utilizing the loan exemption provided in section 4975(d)(3) of the Internal Revenue Code of 1954.

(5) Initially, the plan shall only acquire qualifying employer securities consisting of preferred stock, with the conversion of the stock to common stock being at the option of the Committee.

(6) The Committee which administers the plan will consist of two representatives of the employer, two representatives of its employees, are representative of the bank which serves as trustee of the plan, and two representatives selected by the Secretary of the Treasury and the Secretary of Labor.

Mr. STEWART. I invite every Senator to join as a cosponsor of that amendment. I will be sending a "Dear Colleague" letter to each Senator who serves with me on that committee, seeking to secure their support and cosponsorship of the Chrysler ESOP amendment. Also, Mr. President, so that each Senator will have the opportunity to understand how a leveraged ESOP works, I ask unanimous consent that excerpts from a Senate Finance Committee publication explaining ESOP's, given to me by Senator Long, also be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

ESOPs—An Explanation for Employees

INTRODUCTION

An Employee Stock Ownership Plan, or "ESOP" as it is usually called, is designed to give employees the chance to acquire a stock ownership in their company. More importantly, the ESOP usually does this without requiring the employee to spend any of his own money; his investment is the time and effort he puts into his job to make his employer profitable. Although some ESOPs permit or require employees to put money into the ESOP, most provide that the employer will make all necessary ESOP payments.

WHAT IS AN ESOP?

An ESOP is an employee benefit plan which is "qualified" under the Internal Revenue Code. That is, it has been written in such a way that it satisfies the requirements of the Internal Revenue Code. As a qualified plan, the ESOP is required to be operated for the "exclusive benefit" of participating employees (and their beneficiaries).

HOW DOES AN ESOP WORK?

The ESOP is designed to acquire stock of an employer for the benefit of employees. To do so, the ESOP may borrow money from a bank or other lender (including the employer). The stock is bought directly from the employer or from shareholders. When the ESOP borrows money, the employer guarantees to the lender that the ESOP will repay the loan. Employees are never required to assume any obligation for the repayment of the money borrowed by the ESOP. The employer is required to make annual payments to the ESOP in an amount at least equal to the amount the ESOP must pay on the money it borrowed. These amounts are then paid by the ESOP to the lender each year.

The employer is also permitted to make additional payments of cash or stock to the ESOP each year. The amount of these additional payments is usually decided by the board of directors of the employer. Because the ESOP is "qualified," the employer gets a tax deduction for all payments to the ESOP, up to a maximum limitation established by the Internal Revenue Code. This tax deduction is available for the required employer payments and any additional payments, and its effect is to reduce the annual cost of the ESOP to the employer. Cash put into the ESOP by the employer will be used primarily to purchase employer stock. In addition, this cash may be invested temporarily in savings accounts or certain other permitted investments.

WHAT DO EMPLOYEES GET AS PART OF THE ESOP?

Each year, all amounts of cash and employer stock paid by the employer to the ESOP, and employer stock bought with cash held in the ESOP, are allocated among the accounts of employees who are participating in the ESOP. This allocation is usually done on a formula related to each employee's salary or wages as compared to the salaries or wages of all other participating employees. Take as an example an employee who earns $10,000 per year from a company where the total salaries of all participating employers equal $500,000. That employee's salary or wages is 2 percent of the total, and so his share of allocations of cash and employer stock under the ESOP for that year would be 2 percent. If the employer contributed $100,000 to the ESOP during the year, the employee's share would be $2,000.

A trust will be established (under the ESOP) to hold the cash and employer stock paid to the ESOP for the benefit of employees (and their beneficiaries). It is created by a separate written trust agreement and will be administered by a trustee. This is done to assure that each employee's interest in ESOP assets will be protected.

WHAT DO I OWN IN THE ESOP?

An ESOP, like most employee benefit plans, is designed to benefit employees who remain with the employer the longest and contribute most to the employer's success. Therefore, an employee's ownership interest in cash and employer stock held in the ESOP is usually based on his number of years of employment with the employer. The employee's ownership interest in the ESOP is called his "vested interest," and the language in the ESOP which determines his vested interest is called a "vesting schedule." Although there are many vesting schedules which may be used by an ESOP, most vesting schedules are set up so that the longer an employee stays with the employer, the greater his vested interest becomes.

If an employee terminates employment with the employer for any reason other than his retirement, or, in some cases his death his vested interest will be determined by looking at the vesting schedule and measuring how many years he nas worked for the employer. All cash and employer stock in which he does not have a vested interest because he has not worked for the employer for enough years will be treated as a "forfeiture," to which the former employee will not be entitled. Forfeitures are usually allocated among the ESOP accounts of the remaining employees on the same basis as employer payments to the ESOP are allocated.

The vesting schedule applies only where an employee does not end his employment because of retirement or, in some cases death If an employee retires, or, in some cases if he dies, he will immediately have a 100-percent vested interest in all ESOP assets held for him.

WHEN DO I RECEIVE WHAT I OWE FROM THE ESOP?

Even though employer stock and cash are usually put into the ESOP for an employee each year, and put into a special account under his name, he will normally not be able to actually get any employer stock and cash from the ESOP until after his employment with the employer terminates and he ceases to be a participant in the ESOP.

After an employee's participation in the ESOP ends, he (or his beneficiary) will be eligible to receive a payment of his vested interest. There are many permissible times and methods for making the paying to him from the ESOP. For example, an ESOP may provide that payment will be made as soon as possible after an employee's termination of employment. On the other hand, the ESOP may require that any payment be deferred until some later time, such as the normal retirement date set forth in the ESOP or the employee's death However, payment of a former employee's vested benefit under the ESOP must start soon after his death or attainment of age 65. Payment may be made to a former employee (or his beneficiary) in a lump sum, or it may be made in installments.

Payment of an employee's vested interest from an ESOP must normally be made in as many whole shares of employer stock as possible, with the value of any fractional share being paid in cash. Occasionally, depending upon how the ESOP is set up, the ESOP may pay a portion of an employee's vested interest in cash. However, this is not the usual case.

WHAT CAN I DO WITH MY SHARES OF EMPLOYER STOCK FROM THE ESOP?

Once a former employee (or his beneficiary) gets his shares of employer stock from the ESOP, they are his property and he can do what he wants with them. He can vote the shares of employer stock at shareholders' meetings, receive any dividends paid on the stock by the employer, and he may keep the stock as long as he wishes.

However, if he wishes to sell or otherwise transfer ownership of the stock to a third party, he may be required by the terms of the ESOP to first offer to sell the stock to the employer and the ESOP. This requirement is called a "right of first refusal" for the employer and the ESOP; they can exercise this right and purchase the employer stock at its fair market value. Generally, the price offered by the prospective buyer would establish the fair market value for the stock. However, if an independent party hired by the employer decides that the fair market value is higher than the offering price, then that would be the fair market value of the stock when it is sold to the employer or the ESOP. The purchase of this right of first refusal is to protect the employees of a closely held employer by preventing the stock from being acquired by outside parties who have no interest in the employer or the ESOP and to prevent the employer from violating any Federal law as a result of having its stock sold when it does not satisfy certain Government rules.

In addition, at the time the former employee (or his beneficiary) receives his employer stock from the ESOP, he may be given a "put option," the right to demand that the employer buy his shares of employer stock at their fair market value. In such a case, the ESOP may provide that the ESOP may buy the employer stock, although the ESOP may not be required to buy the stock under the put option. The purpose for including a put option in the ESOP is to assure that each former employee (or his beneficiary) will have someone available to buy his shares of employer stock if he wishes to sell.

HOW DOES THE ESOP HELP MY EMPLOYER?

The employer benefits primarily from the favorable tax treatment it receives for all payments made to the ESOP. This is very important when the employer uses the ESOP as a means of borrowing money. In order to understand how the use of the ESOP to raise money benefits the employer, a comparison must be made with the usual method of borrowing money.

If an employer which does not have an ESOP wishes to borrow money to build a new building, expand production, or for any other reason, the employer would go to a bank to borrow money. When the employer repays the loan, it will also pay interest on the loan, just like an individual person would do with a charge account. Although the interest payments would be tax deductible, the principal payments on the loan would not. This means that the employer would first figure its taxable income, then pay its income taxes, and then make its payment on the loan.

The use of an ESOP for this purpose greatly helps the employer because of the effect it has on the employer's taxes.

In this situation, the ESOP borrows the money from a bank, and signs a promissory note for the money. . . .

As part of the ESOP loan, the employer gives a written guarantee to the bank, promising that the ESOP will repay the loan and that each year the employer will pay to the ESOP enough money to permit the ESOP to make its annual repayment of the loan. . . .

The ESOP then uses the money from the loan to buy stock from the employer. . . .

Each year, the employer makes a tax-deductible payment to the ESOP, sufficient to let the ESOP make its annual debt repayment to the bank. . . .

The effect of this transaction is to allow the employer to borrow money from a lender and repay the loan with tax-deductible dollars. Since the principal and interest repayments are deducted before the employer's taxable income is determined, the taxable income is lower than through regular borrowing and the employer's taxes are reduced.

Since the major portion of the ESOP assets are used to buy employer stock, the value of each employee's ESOP benefit is directly tied to the financial success of the employer. Also, the employer, as a result of the use of an ESOP, benefits because employees understand that their work performance directly affects the financial success of the employer and the value of ESOP assets. After all, they now own part of the company.

Another benefit to the employer is that the ESOP provides its shareholders with a buyer for their stock if they wish to sell. For stockholders of a small employer, this is a tremendous advantage, and it could also assist the employer in attracting additional investors.

SUMMARY

The adoption of an ESOP provides benefits for the employer, its shareholders and its employees. Our tax laws encourage the establishment and use of ESOPs. Congress has passed five laws in the past 5 years to encourage employers to consider ESOP. Will it continue? Senator Russell B. Long, chairman of the Senate Finance Committee, has repeatedly stated: "Just as in 1862, when Congress passed a law to allow Americans who had very little money to own and develop up to 160 acres of land, we should now give Americans the opportunity to become owners of our growing frontier of new capital (stock). The way to do this is through laws which encourage the development of programs like ESOP."

Mr. STEWART. I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, if the Senator will withhold his time, or yield time to me, I will appreciate it.

Mr. STEWART. I yield the remainder of my time to the Senator from California.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from California.

DEFENSE EXPENDITURES

Mr. CRANSTON. Mr. President, I would just like to make one remark in response to the remarks of the Senator from Texas. He spoke, at the end of his remarks, about the need for additional investment in the national defense structure of our country, in view of the nature of the Soviet actions and world conditions generally. I would just like to say that I seem to sense that an agreement in this body, a consensus in the Senate, might develop and be reflected in a consensus in the country, based upon an accord for increased defense expenditures. We know that these matters have long been debatable. In action on the Senate floor as to increases or decreases in defense spending, usually those who wish to spend more prevail. On rare occasions, those who wish to spend less on some particular system prevail.

There is a lack of certainty in our country—and a recognition elsewhere of our uncertainty—as to what we should really be doing about our national defense. I think it may be possible, in the context of SALT, to reach an agreement on any much needed increase in defense spending, combined with an effort in some way firmly to instruct our negotiators to SALT III to persevere and, if possible, succeed, in achieving deep cuts in the respective arsenals of the Soviet Union and the United States.

If we could reach such an agreement here, it would, I believe, meet the perceived needs of those who advocate more for national defense and the perceived needs of those who wonder if it is really advisable to be spending so much on national defense. But there will be a limit on defense spending only if an arms reduction agreement can be worked out with the Soviet Union. Such an agreement might make it possible to avoid all the military spending that might otherwise occur. I wonder if the Senator from Texas has any reaction to the general approach of trying to reach a consensus on our national defense and our arms control needs.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. TOWER. In response to my distinguished colleague from California, I would first point out that in the past decade our defense spending has been going down steadily as a percentage of our national spending budget, and nondefense spending has been going up steadily. So defense no longer takes the big bite, percentagewise, out of the national budget that it once did.

I think we would, all of us, like to be able to reduce expenditures on defense. I think most of us understand that we cannot do that as long as we are confronted by a powerful adversary who appears to be bent on achievement of military superiority, who has already achieved superiority in conventional and thermonuclear terms, and who threatens our essential equivalence with them now in strategic terms. Essential equivalence, the experts say, will be gone by the year 1982.

I desire to see a reduction in arms. I am a Methodist clergyman's son. I was brought up on the notion that men should beat their swords into plowshares and their spears into pruning hooks. I would like to see us reduce tensions, reduce arms, remove the threat of aggressive war being waged in this world. But I would point out that in fact the Soviets do not regard disarmament or arms limitation negotiations as seminars in political stability, but as trading centers dealing with evidence of real systems.

You have to have something to trade.

If we reduce spending in anticipation of an agreement with the Soviets on arms reduction, we are neither going to get satisfactory arms reduction nor any kind of an agreement that does not place the United States of America at a disadvantage.

One of the reasons that many of us oppose SALT II in its present form and in the present context is because we feel that it establishes premises which place us in a weak negotiating position for SALT III or for any further arms limitation or disarmament negotiations. I would agree with my colleague from California—and I do not know that there is one whit of disagreement between us—on our desire for an expressed belief in the need for arms limitation not only but reduction as well. Only when we reduce the capacity of nations to wage offensive war against each other are we going to remove the threat of war from this earth.

But we must take note of the fact that the weight of offensive capability now rests with the Soviet Union. They have projected their power globally. They maintain a military force that is much greater than is required for the defense of their homeland.

Why do they need naval superiority? What do they import from outside the Euro-Asian heartland that they need? Some bananas, a little chocolate, maybe some bauxite. What else? They are indeed self-sufficient. They are building a navy now at a greater rate than the United States is for geostrategic reasons, the reason being to spread Soviet influence over the world, to give them an opportunity to pursue their own self-aggrandizement and their global objectives, uninhibited by a serious challenge on the part of the United States.

I would hope that my friend from California would join me in suggesting to the Soviet Union that their national interest might be better served if they would turn some of their enormous resources now dedicated toward arms away from military uses and toward the enhancement of the quality of life of their own people.

Mr. CRANSTON. The Senator from California joins the Senator from Texas in that suggestion to the Soviet Union. We would have a far more stable and better world were the Soviet Union to take that advice.

I also welcome the statement of the Senator from Texas in regard to his commitment and desire to see significant limitation and reduction of the weaponry presently on the loose in this world.

There is no reason to do anything this morning except to agree, I believe, with the Senator from Texas. I am not going to take the opportunity to disagree, as I might, on some of the statements he has made. I think we have an opportunity to work together for the common objective of reductions in arms on a mutually agreed basis with the Soviet Union, along with whatever increases in defense spending are deemed appropriate.

If we can achieve that sort of consensus in the Senate and have it reflected in a similar consensus throughout the country, we could be in a far better position in our national defense establishment, in our foreign policy, and in terms of our national security.

I would also agree with the Senator from Texas that the Soviets do not appear to enter arms control discussions with the objective of achieving a more stable world, as we do. It may be true that they enter arms control discussions or the SALT process with us simply in the hope of achieving a situation where the inevitable confrontations and collisions between our two nations will be less likely to escalate into nuclear conflict. But if the avoidance of nuclear war can be the outcome of successful arms control discussions with the Soviets—and eventually with other nations—that certainly would be a most positive benefit of the process.

I hope the Senator from Texas and the junior Senator from California, along with others in this body who hold widely divergent views on what is or is not a good SALT treaty, and what is or is not necessary defense spending, can find some common ground and some common purpose in this body's present consideration of SALT and national defense.

Mr. TOWER. If I may briefly respond to my friend from California, may I say that, whether we accept or reject SALT, there are certain things that we must do to make sure that we have an adequate defense. We delude ourselves if we think that the presence of a SALT treaty would not prevent the Soviets from gaining military superiority over us if we permit this to happen. It occurs to me that, when we talk about linkage a great deal here, we could talk about the necessity to improve our defense capability across the board outside the context of SALT, not linked to SALT. Whether we accept it or reject it, there are certain things that we must do if we are to preserve our vital interests in this world.

Mr. CRANSTON. I believe it is likely that we will see increases in a defense budget with SALT. I believe it is likely that we will see increases in the defense budget without SALT.

Without SALT our defense increases presumably will be matched by new efforts on the part of the Soviet Union. Each of us will spend more; each of us will be less secure.

With a successful SALT process, I envisage the possibility of both our nations ultimately achieving significant reductions in our allocation of resources to the arms race. The consequence would be a more secure world.

I recognize that SALT II is by no means a perfect treaty. I would far prefer a SALT II treaty that brought lower military ceilings and less defense expenditure by both sides. It is my hope that if we take the step that SALT II provides, we can then move swiftly to a SALT III that will produce deep cuts and be a treaty that the Senator from Texas and the junior Senator from California can agree upon.

Mr. TOWER. I simply suggest to my friend from California that it is unlikely that we can reduce defense expenditures. Indeed, I do not believe that it is possible until we achieve a SALT III or, if SALT II is rejected, another arms agreement that will result in actual reduction of arms. I think it has to go beyond the mere reduction of strategic arms because, right now, some of our biggest deficiencies militarily are not in the area of strategic armaments but in conventional and theater nuclear capability. It is in those areas that we are either going to have to meet those deficiencies or secure a negotiation downward of the Soviet capabilities, or we are going to continue to have to spend more on defense.

Mr. CRANSTON. I agree, I think, totally, certainly in general terms, with the statement of the Senator from Texas.

Mr. TOWER. Mr. President, I am prepared to yield back any of my special order time that may be remaining.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes. The Chair recognizes the Senator from California.

Mr. CRANSTON. Mr. President, is there any morning business to be conducted at this point?

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 12:30 P.M.

Mr. INOUYE. Mr. President, I move that the Senate stand in recess until 12:30 p.m.

The motion was agreed to and, at 11:49 a.m., the Senate recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

RECESS UNTIL 1 P.M.

Mr. BAYH. Mr. President, I move that the Senate stand in recess until 1 o'clock.

The motion was agreed to; and at 12:30 p.m. the Senate recessed until 1 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. STEWART).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3 P.M.

Mr. ROBERT C. BYRD. Mr. President, if no Senator seeks recognition, I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

There being no objection, the Senate, at 1:03 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BURDICK).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed 5 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALT TREATY ARMS MANAGEMENT DEVICE NOT ARMS CONTROL

Mr. PROXMIRE. Mr. President, it is time that this Senate turn its attention from the calls for more defense spending, for military buildup, for accumulation of strategic power in the name of reducing strategic power, and give serious consideration to the proposal of the Senators from Oregon (Mr. HATFIELD) and North Dakota (Mr. MCGOVERN).

It is with considerable irony I note that the debate on the SALT II treaty has degenerated into a discussion of how to increase military spending and proposals for dramatic jumps in strategic power.

What has happened to the issue of arms control? Who now speaks for arms control? Surely it is not the administration which is busy preparing future year military budgets by readjusting figures in order to secure the votes of undecided Senators. Surely it is not the Senate which has concentrated on the Cuban situation and budget resolutions to the detriment of serious arms control proposals. And clearly it is not the public which seems to accept the treaty without much insight into where it will lead our country.

Into this intellectual arms control void comes the simple yet intriguingly appealing proposal from the Senators from North Dakota and Oregon. They put forth the proposition that there is utility in a freeze in nuclear capability on both sides. This would head off the growing concern over Soviet land-based ICBM first strike capabilities and would make the SALT II treaty more attractive by denying the need for new ICBM developments in both countries. Inasmuch as the United States intends to proceed with the MX and the U.S.S.R. intends to build new generations of replacement ICBM's, not to mention a MX of their own, this freeze could have very positive arms control and fiscal results.

Of all the concepts that have appeared recently, this freeze deserves our prompt attention.

I want to commend Senators MCGOVERN and HATFIELD and point out that they have taken the first step toward returning the SALT II debate to a rational analysis of the dangers facing us if we fall prey to the siren calls for a new arms race.

Mr. President, I ask unanimous consent that a recent advertisement in various newspapers be printed at this point in the RECORD which explains the alternative that is presented by Senators MCGOVERN and HATFIELD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT'S HAPPENING TO OUR COUNTRY?

THE WAY WE WANT TO END THE ARMS RACE

The SALT II agreement, even if is ratified, will mark not the beginning of a process but the end of an experiment. The 100-page treaty, which reads like the prospectus for a bond issue, is neither disarmament nor arms control but an exercise in joint arms management. The treaty has secured the acquiescence of the military in both countries because it ratifies the huge weapons acquisition programs both are pushing.

The support of the hawks has been purchased by an "arms dividend," a commitment to increase military spending 3 percent a year above inflation. According to the Senate Budget Committee, the dividend alone will cost the taxpayer an extra $129 billion over five years, bringing the total military expenditures for that period to almost $1 trillion. The Soviets also welcome SALT as a ratification of their weapons program and will not hesitate to match or to try to surpass the new U.S. buildups. None of this will transgress anything in the 100 pages, but it will not, obviously, move the world to arms reduction nor reduce the mounting dangers of war by miscalculation.

The SALT debate has skewed the issues because it has focused on narrow alternatives and has failed to clarify the purposes of arms agreements or to raise the basic political and moral issues at stake. In the current debate, the reasons why the United States or the Soviet Union should want to limit the nuclear arms buildup have been lost. The argument has really been about which side struck the better deal.

The treaty should be ratified, not because the world will be substantially safer with it but because it will be even more dangerous if negotiations on arms with the Soviet Union are broken off. But merely to continue the SALT "process" would be almost as hopeless a response to the mounting danger we face That danger is increasing because both sides are emphasizing hair-trigger "counterforce" technology—more accurate warheads, more "war-fighting options"—and the pressure is mounting on both sides to develop strategies to insure that weapons, as they become more vulnerable, are not caught on the ground. Thus the incentive to produce more weapons and to program them for firing sooner rather than later is increasing in both military establishments. In a world of "first strike" technology and "launch on warning" strategies, the minutes available for making decisions about war and peace are dangerously compressed and the chances of fatal human error multiply.

Arms agreements are desperately needed to break this spiral. But the only agreements that will have that effect are simple agreements that would force the two sides to choose between continuing the arms race or stopping. The world cannot afford to wait another seven years of accelerated arms buildup to produce another intricate prospectus for managing the arms race. The next agreement must cut through the ambiguities of the arms race or it too will prove to be a stimulant rather than a brake.

To create a positive political climate for reversing the arms race, agreements should meet three criteria. First, they should demonstrably increase perceptions of security on both sides. Second, a stable new arms relationship should have clear economic payoffs for both sides. Third, the primary purpose of the agreement should be to remove ambiguities about intentions.

The greatest perceived threats are not the weapons already built, although they are more than adequate to destroy both societies, but the weapons about to be built. New weapons systems convey threatening intentions. Ultimate intentions are always mysterious, but the question can be rendered irrelevant by an agreement which is sufficiently clear and comprehensive.

Within a controlled but continuing nuclear arms race there is always room for arguing that the agreement favors one side or the other. However, a freeze on all new weapons systems would make it clear that both sides intend to stop the arms race. A mutually agreed upon moratorium on the procurement, testing and deployment of all bombers, missiles and warheads for three years is in the interests of both the United States and the Soviet Union. During the moratorium the two sides could negotiate deep cuts in strategic nuclear weapons and delivery systems. It hardly makes sense to destroy old weapons systems while replacing them with more dangerous new systems.

Stopping the arms race would require significant internal changes in the national security establishments of both societies, including a serious program for conversion of military industry. Real internal changes in the direction of peace are far more reassuring than professions of peace or agreements like SALT II that are compatible with either an intention to move to arms limitation or to a new stage in the arms race.

Sen. Mark Hatfield has proposed a moratorium along these lines as an amendment to the SALT II treaty. The Soviet Union has made several proposals in the past few years for a ban on "all new weapons systems." The proposals have been general and have elicited no reaction from the United States. The standard view in Washington is that they are merely propaganda. But the Soviets have never been put to the test. In the 35-year history of arms negotiations, U.S. analysts have consistently misinterpreted Soviet intentions and the cost has been enormous. It is time to stop guessing about Soviet intentions and put forward agreements which require them to choose between peace or further preparation for war.

The only road to national security is to reverse the arms race, but that cannot be done without first calling it to a halt. We have the technological capability to match any conceivable Soviet buildup. But we cannot continue to spend hundreds of billions of dollars on the military without risking mortal danger to our economy, which is the foundation of our national strength. In a time of austerity, increasing the military budget while the domestic programs are being slashed, raises the issue, not of guns versus butter, but of missiles versus the local police and firefighters.

The distortion of priorities has become so acute that as the administration counsels a 3 percent "real" increase in military spending each year, essential services in every major American city are being cut. To suggest that the threat of "Finlandization," to which the arms buildup is presumably addressed, is a greater threat to the people of Chicago, Cleveland, Los Angeles or Detroit than the loss of social services, the breakdown of the education system, the rise in crime, the alarming increase in infant mortality, the impending municipal bankruptcies, or the continuing failure to invest adequately in alternative energy systems is to distort national security strategy and to misconstrue the meaning of "strength." The same is also true of the Soviet Union. For both of us, the return on investment in the military is declining. The heavy burden preempts not just scarce capital, but political energy and managerial skill needed to address the real threats facing both societies.

TO LEARN FROM THE HOLOCAUST

Mr. PROXMIRE. Mr. President, it has been over a quarter of a century since the holocaust. The genocide of 6 million Jews sent the world into shock for decades. Never before had modern society so realized man's susceptibility to blind hatred and twisted logic.

Thirty years later, the world has recovered sufficiently to begin piecing it all together. Writers and producers are spreading the facts throughout society. Now the question "Why did it happen?" is trying to be answered.

The American Jewish Committee recently published a pamphlet entitled "About the Holocaust, What We Know and How We Know It." Author Dorothy Rabinowitz explains and documents, in a concise manner, the Nazi effort to carry out Hitler's "final solution"—the planned and systematic destruction of the Jewish race.

Ms. Rabinowitz's account is accurate and well written. But even she admits that the holocaust is still too recent an event to fully absorb. The enormity of the holocaust requires years of public debate and education to fully understand.

Nevertheless, Ms. Rabinowitz explains, the holocaust—

> . . . remains a tragedy of universal implications, and one whose warnings we ignore at our peril.

What are these messages? What warnings may be derived from the holocaust at this stage of our understanding?

There is one very simple warning—unless preventative measures are taken, it can happen again, anywhere, to any group. Is this a warning we can afford to ignore?

Ratification of the Genocide Convention would help prevent this heinous crime from ever occuring again. While it is still too soon to understand why it happened, it is not too soon to realize that it can happen again.

I urge my colleagues to demonstrate that we have learned something from the past. Let us swiftly ratify the Genocide Convention.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TSONGAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The Chair will announce that morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes and that Members may speak therein up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILLINOIS OFFICER BECOMES NATIONAL PRESIDENT OF AUTO THEFT INVESTIGATORS

Mr. PERCY. Mr. President, in August of this year, Sgt. Ronald C. Van Raalte of the Arlington Heights, Illinois Police Department assumed the office of president of the International Association of Auto Theft Investigators (IAATI). As a principal cosponsor of the Motor Vehicle Theft Prevention Act of 1979 (S. 1214), along with Senators BIDEN and CHAFEE, I have become familiar with the outstanding efforts of Sgt. Van Raalte and the IAATI in the area of motor vehicle theft prevention.

The IAATI, comprised of members from 12 countries, is a professional law enforcement association dedicated to the improvement of service to the public and the reduction of motor vehicle theft and kindred crimes. The IAATI has been instrumental in training thousands of police officers in the 12 member countries.

Sgt. Van Raalte is a 12-year veteran of the Arlington Heights Police Department, an IAATI member for 11 years, and an IAATI officer for 5 years. He also serves as chairman of the board of directors, Chicago Chapter, American Academy for Professional Law Enforcement; is a past president of Lodge 80, Fraternal Order of Police; and is a member of the International Association of Chiefs of Police and other law enforcement organizations.

During the upcoming year, Sgt. Van Raalte intends to encourage States to strengthen their administrative procedures in order to thwart motor vehicle theft. Sgt. Van Raalte and the IAATI are directly combatting our Nation's alarming growth in motor vehicle theft. Sgt. Van Raalte recently wrote an article on auto theft for the Police Chief entitled "Vehicle Theft Is No Longer Non-Violent." I ask unanimous consent that this insightful article written by a law enforcement professional be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, auto theft is no longer just a teenage joyride. High profits, combined with only a small risk of getting caught, have resulted in the existence of sophisticated, professional car theft rings, and "chop shop" operations—in which stolen cars are cut up for parts and sold to salvage yards and body shops—in all of our major cities. The Permanent Subcommittee on Investigations, of which I am the ranking minority member, has been conducting an extensive investigation into these activities and expects to hold hearings sometime later this fall.

EXHIBIT 1

VEHICLE THEFT IS NO LONGER NON-VIOLENT

(By Ronald C. Van Raalte)

Auto theft has long been called a non-violent crime, presenting no danger to either investigators or the public. Repeat offenders have received extremely light sentences, and first offenders have often received virtually no sentence at all. Does auto theft present any danger to investigators? Ask Lieutenant Vladimir Ivkovich of the Illinois Secretary of State's Police. In July of 1978, he walked out his back door to walk his dog and found a 9-inch pipe bomb about to go off. He was able to disable the bomb, and its removal was effected by the Chicago police bomb and arson squad. What brought on this "non-violent" action? Lieutenant Ivkovich and other investigators of his agency had been conducting intense investigations into the crime syndicate operation of vehicle (chop shop) dismantling operations.

Also, in July, a state owned squad car assigned to Investigator Marion Vrtik was set afire at 2 AM on the street outside his suburban Chicago home, shortly after he returned home from work. Several days prior to that, three shotgun blasts were fired through a bedroom window of Investigator Michael Cabb in southern Illinois. The multi-million dollar stolen car and chop shop rackets have resulted in at least eleven gangland-style murders in the last two years in the Chicago area, according to Illinois Secretary of State Alan J. Dixon.

SCOPE OF THE PROBLEM

The U.S. Department of Justice reports that vehicle theft represented over 1 million offenses in 1975; and although it decreased to 957,000 in 1976, this figure represented a 45 percent increase since 1967. However, the solution rate of motor vehicle theft offenses has declined 41.8 percent from 1967 to 1976. Vehicle thefts and thefts from vehicles and of vehicle accessories represented 49.9 percent of all thefts in 1976. Dollar value of vehicle theft increased from 671 million to 1,667 million in the same time, with dollar loss per theft rising from $1,017 to $1,741. These figures indicate that auto theft is not the prank of a joy-riding juvenile. It is of significant financial value to organized crime, and represents a severe problem to vehicle owners and the insurance industry.

Reporters George Bliss and Ray Moseley of the Chicago Tribune, in August of 1977 authored several articles on attempts by organized crime to take over the auto tneft racket. The reporters revealed that the Chicago mob has been "torn apart by the worst gang war since the 1920s as rival mob factions fight for control of the (auto theft) loot."

They also discovered that although federal officials have identified more than 200 organized rings of auto thieves across the country, some employing as many as 100 persons, few auto thieves go to jail. Records of the Cook County Circuit Court show that between June 1976 and June 1977 there were 406 prosecutions for auto theft: 55 percent of the charges were dropped completely; 22 percent received probation; 7 percent, county jail; 3 percent, penitentiary; and 4 percent were assessed fines.

RESPONSES AND RECOMMENDATIONS

Apparently, due to the inability of local officials to deal effectively with combatting auto theft, numerous agencies on higher levels have become involved. The Blackwell Institute was commissioned by the Law Enforcement Assistance Administration to conduct a survey of Dyer Act referrals on state and local prosecution of interstate auto theft cases. The report, issued in August of 1978, has some interesting conclusions: (1) nearly half of all subjects presented to United States attorneys for Dyer Act violations are neither prosecuted federally nor referred to state and local authorities for prosecution; (2) federal-state-local cooperation and communication are clearly poor; and (3) interstate auto theft is predominantly an adult crime (76 percent), thus law enforcement resources are best concentrated on the adult side of criminal investigations and prosecutions.

The report issued several recommendations based on the premise "so long as the Justice Department adheres to a policy of referring individual Dyer Act violations for prosecution by state or local authorities."

1. All U.S. attorneys should be required to contact the state or local authorities about prosecution of subjects because of prosecution and referral guidelines and to make it clear that the U.S. attorneys and the FBI have an affirmative duty to contact (the) state and local authorities.

2. Substantially increased utilization of 18 USC 5001 should be encouraged. This would increase appropriations for the U.S. Marshal Service to enlarge its capacity to move prisoners and disseminate information about this service to state and local district attorneys.

3. Consideration should be given to new legislation expanding the scope of 18 USC 5001 to include persons over 21 or to provide federal funds for existing non-federal agencies engaged in interstate movement of prisoners.

A method of providing for federal authority and funding for inter-state prisoner transportation and investigation has been previously proposed by the author. It is interesting to note that the study did not include any information relative to prosecution in instances where the title has changed from the owner to the insurance company, the company only wanting to regain possession of the vehicle.

U.S. Senator Charles H. Percy (R-Ill.) has recently written to U.S. Attorney General Bell asking him to (1) authorize the FBI to accord auto theft ring and conspiracy cases high priority, (2) direct U.S. attorneys to step up prosecution of "steal to order" auto rackets, and (3) create a nationwide attorney general's auto theft strike force to crack chop shop rings that might steal a car in Chicago, for example, and sell its sheet metal parts in Texas. Senator Percy has also ordered investigations on the Senate Permanent Subcommittee on Investigations to begin an immediate investigation into organized crime involvement in this activity.

The New York State Senate Committee on Transportation held a National Auto Theft Prevention Workshop in New York City during October 1978. The workshop was attended by over 275 enforcement officials, legislators, insurance representatives, and vehicle manufacturer personnel. In probably the first instance of interaction between legislators and police officials, there were small individual workshops and general session recapitulations. A number of pertinent and extremely valid resolutions were issued. They referred to federal prosecutions, control of salvage vehicles, retitling of vehicles, and VIN placements.

Alan J. Dixon, secretary of state for Illinois, recently issued a rule that would have required auto wreckers and used parts dealers to keep records. However, Judge Raymond K. Berg, of the Cook County Circuit Court, ruled the regulation unconstitutional, unenforceable, vague, and overbroad. Secretary Dixon, in announcing an appeal to the Illinois Supreme Court, revealed the suspension of a wrecker's license for not having any documents indicating right of possession for 1,867 cars he bought in two months in 1977.

Fortunately, on January 26, 1979, the Illinois Supreme court reversed the decision of the circuit court and upheld the power of the secretary of state to promulgate his rule.

Secretary Dixon has conducted Illinois Auto Theft Prevention Conferences in Chicago and Springfield, attended by over 300 persons from Illinois and surrounding states. In his keynote address for the conference banquet, Dixon outlined a number of steps his office has taken to crack down on auto theft and the stolen parts (chop shop) rackets. These include a title verification unit, which checks 3½ million surrendered titles annually for suspicion of alteration; issuing laminated certificates of title on bank note paper with latent images and border of intaglio steel printing; licensing of 700 scrap processors and requiring them to keep detailed records; and administrative hearings in lieu of court action which may result in cease and desist orders or license revocation.

The International Association of Auto Theft Investigators is becoming increasingly involved with other agencies in the fight against auto theft. They have recently been awarded membership status on the Vehicle Theft Committee of IACP. They have also offered advice to the ISA and SAE VIN committees, in addition to conducting various training seminars throughout the continent. The seminars have been described by Don Wolfslayer, of the Chrysler Corporation, as "the best training for street officers I have seen in my travels throughout the world."

Local law enforcement's failure to recognize and respond adequately to the auto theft problem has led to increased profits for private industry, as well as the thieves. Now on the market are numerous vehicle theft deterrent devices, sold at a profit, whose effectiveness is not authenticated. One firm has gone so far as to utilize a convicted felon in its publicity and promotions. This firm is attempting to introduce a window marking system which is in addition to the VINs, although the numbers are not now enterable as owner applied numbers into NCIC.

The author recently conducted a random survey of 93 departments in seven midwestern states to determine the general allocation of manpower in departments of sufficient size to have specialized auto theft investigators. Responses were received from 42 (45 percent) of the departments. A disappointing factor was that responses were not received from some of the larger cities. A higher response from larger cities contacted may have allowed better comparison between cities.

SURVEY RESULTS

Question No. 1: List the number of actual stolen vehicles in your jurisdiction. Highs ranged from 107 in Belleville (IL), 1317 in Gary (IN), 2718 in Indianapolis (IN), 13,654 in Detroit (MI), and 2767 in Columbus (OH);

while lows of 22 in Carbondale (IL) 31 in Morton Grove (IL), and 33 in Jefferson City (MO) were reported.

Question No. 2: List the number of your stolen vehicles recovered by your agency. For example, of the 107 vehicles stolen in Belleville, 14 were recovered by the agency itself; in Gary, 887 of 1317; and in Detroit, 11,831 of 13,654.

Question No. 3: List the number of your stolen vehicles recovered by other agencies. Here, for example of the 1107 autos stolen in Belleville, 13 were recovered by other agencies; in Columbus, 226 of the 2767 total were recovered by others.

Question No. 4: List the number of outside steals recovered by your department. Gary, Indianapolis, and Detroit had impressive figures of 630, 405, and 2250, respectively.

Question No. 5: List the number of sworn personnel in your agency. Of those departments answering, Indianapolis (1084), Detroit (5500), and Columbus (1050) posted the highest number of personnel.

Question No. 6: List the number of sworn personnel assigned as investigators. Survey results indicated that departments with investigators recovered 70.47 percent of stolen autos, while those without recovered 68.15 percent.

Question No. 7: List the number of sworn personnel assigned to vehicle theft. Of the 42 departments responding, 25 (52 percent) had specifically trained personnel.

Question No. 8: Does your agency conduct anti-auto theft campaigns? Of the 42 responding departments, 18 had programs. Those with a program had a recovery rate of 63.25 percent; those without had an average of 69 percent. Of those agencies without a program, Calumet City, East St. Louis, Schaumburg (IL), Indianapolis (IN), Des Moines (IA), Pontiac (MI), and Kenosha (WI), appear to have a significantly higher theft rate. Detroit and Dearborn (MI) were the only departments with a program and a high theft rate. However, they both have a recovery rate approximately 10 percent above the average.

NEW PROGRAMS

Should the local aspect of auto theft be assigned to state, county, or federal investigators, or do the police chiefs of the country have an obligation to respond to this crisis? I feel that there is a great potential for improvement in local agencies. Various state agencies are improving their investigative efforts toward auto theft. The New York State Police Auto Theft Unit is aggressively engaged in combatting auto theft in a cooperative effort with other state agencies. The Florida Auto Theft Intelligence Unit meets every three months for the purpose of exchanging information and educating each other on the most current facets of auto theft in that state. The California Highway Patrol, under Commander Glen Craig, smashed four large-scale international and interstate vehicle theft rings in 1978, with more than 40 arrests and recovery of over $500,000 in vehicles.

Tyrone Fahner, while director of the Illinois Department of Law Enforcement, ordered a special unit created in an attempt to curb the organized crime racket in chop shops in the five counties surrounding Chicago. The unit is cooperating with county and federal agencies, as well as the secretary of state's police. It is also working closely with police in Indiana. An injunction restricting investigation into the auto parts racket charging police harassment was lifted late in November 1978.

Of the agencies surveyed, unrecovered cars account for a dollar value of $5,733,938 (based on 1976 valuation figures). I would submit that this loss creates a severe burden on the vehicle owners of the nation as well as the insurance companies, which in turn pass their losses on to the public through higher rates. This incredible loss should mandate a reassessment of department priorities.

Attention should first be given to the time spent by investigators on unsolvable crimes, and their attention and efforts should be diverted to preventable and solvable vehicle theft. Chiefs of police should not bend to political and or citizen pressure in assigning numerous patrol officers to such incidents as vandalism, nuisances, etc. Given the proper training, patrol officers may do as much if not more than investigators in preventing theft through public education and aggressive patrol. In fact, several years ago, the Chicago Police Department eliminated segmentation of its auto theft investigators and put them all into one citywide unit. This was because patrol officers recovered more vehicles on the street than the investigators.

Given that auto theft, on many occasions, involves other crimes, and now includes murder and other forms of violence, it behooves a police chief to assess his priorities and make efforts to thwart vehicle theft and reduce the billion-dollar theft and chop shop rackets. Cooperation, coordination, and education of officers and the public will go a long way. Should any department desire assistance in developing a comprehensive program, officials of the IACP Vehicle Theft Committee, the National Auto Theft Bureau, and the International Association of Auto Theft Investigators are readily available for assistance.

PROPOSED CUTS IN THE BBC

Mr. PERCY. Mr. President, we have read in the press that the external services of the British Broadcasting Corp. are slated to absorb a very significant cut in funds. For those of us who have served or traveled abroad, and have heard so many times in various parts of the world of the high esteem in which the BBC broadcasts are held, it is hard to believe that these services would be curtailed. The BBC broadcasts, noted for the objectivity and reliability of their news reports, reflect great credit on Britain and the West in general.

While obviously the matter of the British budget is a question for Britain alone, I would feel remiss if I did not express my deeply held opinion that the BBC external services, as presently constituted, provide to the world a sense of the humanity and decency of Western civilization, and therefore are very important to all of us.

SOVIET TROOPS IN CUBA

Mr. PERCY. Mr. President, in order to complete the record on the question of the Soviet troops in Cuba, I think it would be useful to publish in the RECORD the transcripts of Cuban President Castro's comments on the CBS program "60 Minutes" of September 30 and National Security Adviser Zbigniew Brzezinski's remarks on the National Public Radio program "Communique" of September 28.

Therefore I ask unanimous consent that these transcripts be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN INTERVIEW WITH PRESIDENT FIDEL CASTRO

MIKE WALLACE. Tomorrow night President Carter talks to the nation about the issue of Soviet combat troops in Cuba. Last Friday Fidel Castro said Jimmy Carter lied when he charged that there is a Soviet combat brigade there now.

Well, this afternoon in the Palace of the Revolution in Havana, Dan Rather talked at length with the Cuban President.

The tapes of their conversation arrived in Miami by plane only a short time ago. Here is an uninterrupted and unedited 20 minute portion of that interview.

To begin, Dan asked Castro to explain further his charges that Jimmy Carter lied.

DAN RATHER. Mr. President, President Carter last Tuesday called you and Cuba a puppet of the Soviet Union. Then last Friday you said that President Carter was dishonest. Less than two years ago, however, you said that President Carter was an ethical man. Now, what's happened in these recent weeks to change your mind?

President FIDEL CASTRO [Translated]. I did give my impression that Carter had a religious ethic, a Christian ethic.

I believe that on this issue, on this concrete problem that we are discussing, Carter has not been honest. Carter has not been moral. He has not been sincere. That is what I'm saying. I am not going to pass final judgment on his person. I am referring specifically to this concrete fact.

True. Carter made some recent statements. He calls us puppets and things of that type. It's strange because he had not used that language concerning Cuba before. Because of an elemental feeling of dignity I am not going to respond to this ridiculous charge.

But I will ask a question. Why, if we are a satellite country is so much attention paid to Cuba? And it is obvious that the US government in the political field is practically paying more attention to Cuba than to the Soviet Union. So then unquestionably we are facing a strange case of a satellite.

RATHER. Mr. President, regardless of who is right and who is wrong on the facts, when you describe a President of the United States as dishonest and the headline reads "Castro says Carter is a liar."

President CASTRO. I did not want to use the word "liar." I said dishonest.

RATHER. You said dishonest but the headline reads—you know the headline reads "Castro calls Carter liar."

President CASTRO. I did not want to use that word.

RATHER. Dishonest.

But regardless of who's right or wrong on the facts, when you describe a President of the United States as dishonest, are you not contributing to world tension by taunting Mr. Carter that way?

President CASTRO. Actually, that is not my intention or my wish but how I am going to define the policy that he has followed concerning Cuba on this issue. I have a conception of things. And at least I follow a line; a line of principle in politics.

So, then, we are faced with a situation in which a crisis has been artificially created and dishonest procedures have been used. And this is what I say.

RATHER. Excuse me. You say that this has been artificially created. President Carter's official spokesman said again within the past 24 hours this is not an artificial crisis. They say it's a real problem, that there's something new in Cuba, a Soviet combat brigade.

President CASTRO. It's precisely that. That is where falsehood precisely lies.

I a not going to question—and I have already said this on Friday—that I will not go down low to give explanations to the United States concerning the nature of our military facilities. So I will not even explain whether it is the question of advisers or if these advisers can combat or not.

That is not the question. That is not the essential problem.

We are a sovereign country. The United States has no right whatsoever on Cuba; no privilege whatsoever; no jurisdiction over Cuba. Cuba is not the property of the United States. Latin America is not a property of the United States. And we consider ourselves a free country; and we have the right to think as a free country.

If I will go down low and give an explanation on the nature of these military facilities, I will be questioning Cuba's right to take the defensive measures it deems pertinent. And besides, we are not less than Japan, nor England. Nor are we less than the German Federal Republic. Nor are we less than Spain. Nor are we less than many of the countries who have considered themselves with a right to have even troops of another country for their defense.

So, therefore, I do not accept that Cuba's [word unintelligible] not be questioned. And so, therefore, I am not willing to give any explanation on that.

Now, then, the problem is a different one. Actually, it is a different one. Why has this crisis been created?

So, then, what I say is the following: that Soviet military personnel, which the US government calls brigade, and which we call Training Center, if a military facility which has been in Cuba for the past 17 years—17 years with a similar number and with a similar nature that specifically was established after the October crisis, in conformity with the spirit of the October crisis. And according to the status quo created at the October crisis. So it is nothing new.

RATHER. This is October, 1962?

President CASTRO. October, 1962. Seventeen years ago.

RATHER. Has there been any change in the nature of the Soviet presence in this country since that time?

President CASTRO. There has been no change, neither in the nature nor the function of the Soviet personnel in Cuba in the past 17 years. That is the essence of things.

The existence of this facility was perfectly well known by Kennedy. It was known by Johnson; by Nixon. It was known by Ford. It had to be known by Carter.

It is impossible that they ignored this, a facility that has been in existence for 17 years. In a country where they have had hundreds of flights. Where they've had hundreds of agents of espionage. In a country where the United States has used all its electronic means to know what's happening. Who are they going to make believe that after 17 years that they ignored the existence of this facility? Whom are they going to make believe that?

And that is why—that is why I challenge Carter to explain to the US people and the world public opinion the truth, and to say when was this brigade in Cuba? Since when? Whether it was set up during Carter's administration. Whether it was set up during Ford's administration in 1976. Whether it was set up during Nixon's administration in 1970. Whether it was established during Johnson's administration in 1965 or if it existed or not in Cuba in October, 1962.

I believe that this is the key issue. And this is the deceit that I'm referring to, to try to make believe, to try to make the world public opinion and the US public opinion believe that the Soviet Union and Cuba have taken new steps of a military nature to create a problem.

RATHER. That is the key. I agree that that's the key. And I can assure you that I believe that President Carter on tomorrow night is going to say to the American people that this is—that the nature of the Soviet presence in Cuba has changed, that for the first time to his knowledge there is a Soviet combat brigade in Cuba, not a training combat brigade.

President CASTRO. Well, if President Carter tomorrow says that there has been a change in the number or in the nature or in the functions of the Soviet military personnel in Cuba since 1962, then he will be telling a great lie to the US public opinion and the world public opinion. Because I maintain that neither in number nor in nature nor in function has there been any change in the past 17 years.

RATHER. Mr. President, we have only a limited amount of time, and I want to quickly move on.

There are reports circulating in Washington tonight about possible American military maneuvers strengthening US forces in Key West, Puerto Rico; even sending a contingent of US Marines, a new contingent to Guantanamo. And the possibility of sending a US aircraft carrier towards the Caribbean; that this may be what President Carter announces tomorrow night. Now, do you have any intelligence information indicating that that's true?

President CASTRO. I have the news that has appeared in the papers, the cables, that military moves. We have not detected any [words unintelligible] in the past few times.

RATHER. What is your reaction to that kind of attitude—that kind of talk?

President CASTRO. I believe, first of all, that what the United States should do, and what Carter should do, is not to create a crisis without any legal basis—without any legal basis, I repeat, and without any moral basis.

I believe that the only thing that the US government must do is not that—is not to do that, because that will mean to move into conflict, to move into crisis.

I believe that it would be much more constructive for Carter to announce the contrary. That is, the willingness of the United States government to respect Cuba's sovereign rights. To stop the economic blockade, which includes medicine, which has been maintained for the past 20 years, and the will to dismantle the Guantanamo Naval Base, and withdraw their ships and troops from our waters and from our national territory.

RATHER. Mr. President . . .

President CASTRO. Well, we are not frightened by any type of reaction. We are not intimidated by it. We have been suffering from this hostility on the part of the United States for the past 20 years. And to send soldiers to Puerto Rico, well, I believe that Puerto Ricans will not like it. They're going to send soldiers to Key West? The tourists will not like that. That they're going to send soldiers to Guantanamo, that will mean more money for U.S. taxpayers. And it will not affect us at all, since we will not let ourselves be intimidated, nor are we going to become nervous because of that.

RATHER. Mr. President, if President Carter should suggest a meeting with you, are you willing to meet?

President CASTRO. I will not propose it. But if he would propose it, I have no objections whatsoever to have a contact with President Carter, or whomever he appoints, if it deems pertinent. We would not have an attitude of rejection.

RATHER. And the same thing would apply if Secretary of State Vance were willing to meet with your Foreign Minister?

President CASTRO. We have no objection either.

RATHER. Mr. President, do you have . . .

President CASTRO. They have already met at another opportunity.

RATHER. But not on this subject?

President CASTRO. Vance . . .

RATHER. Not on this subject.

President CASTRO. No. Not on this subject.

RATHER. Mr. President, do you plan to go to the United Nations before the end of this year?

President CASTRO. It is a possibility, but no decision—no final decision has been made on this regard.

RATHER. Mr. President, I want to make very clear, are you flatly denying that there is not a Soviet combat brigade in Cuba?

President CASTRO. I'm not denying that there is Soviet military personnel in our country. I'm saying that it is exactly the same military personnel organized in the same way as 17 years ago. That is what I am saying. Categorically saying so. And that you call the Soviet personnel—part of the Soviet personnel—you call it a brigade, and we call it Instruction and Training Center.

RATHER. Mr. President, how is the situation right now different from the October crisis of 1962, if it is different?

President CASTRO. It is different in all ways. First, in the 1962 crisis, there was a real objective danger of nuclear conflict and today nothing similar exists. The October crisis was a real crisis. This is an invented crisis. The October crisis could have been a tragedy. This is a comedy.

Now, then, during the October crisis, there were dozens of nuclear missiles in Cuba. There were over 40,000 soldiers—Soviet soldiers in Cuba. There were 28 bombing squads. At the present none of that exists here. And this is why when a conclusion was reached in the October crisis—when an agreement was reached between the United States and the Soviet Union—an agreement in which we did not participate, and with which, therefore, we do not feel committed; when that agreement was reached that the Soviets decided to withdraw these weapons at the exchange of a guarantee of non-invasion of Cuba, the situation was different then than now.

Now, none of these problems exist. When Kennedy reached those agreements with Khrushchev he felt satisfied for the withdrawal of these weapons. It is not that he was right. It is not that he had the right. And these are two different things. We did not agree. They were different problems from a real danger for peace at that time.

And Kennedy was satisfied. Kennedy was not worried of whether two or three thousand Soviet military would remain there. You noted that? He simply did not pay any importance to that. So now I ask myself, why does Carter—is going to revive this whole problem and create a crisis? Why has Carter set up this comedy for the fact that there are two or three thousand Soviet military in Cuba?

So, I want him to explain this. Why? And if Kennedy did not do it, if Johnson did not do it, if Nixon did not do it, if Ford did not do it, why has Carter done this? How can he explain that? What is the reason behind this? What is his justification? He will not be able to make the people of the United States believe that no President of the United States knew about this. This is as if he were to admit that the CIA does not exist. It would be as if he would be admitting that the US government is totally misinformed on all questions.

And then there are two reasons. The attempt to sabotage the summit. Second, the attempt to raise Carter's image. The attempt to overcome the difficulties that Carter is facing for his reelection. That is, in my opinion, the only explanation for Carter to have created this artificial problem.

"COMMUNIQUE": AN INTERVIEW WITH DR. ZBIGNIEW BRZEZINSKI ON NATIONAL PUBLIC RADIO

ANNOUNCER. This is "Communique," National Public Radio's weekly report on world affairs.

Dr. ZBIGNIEW BRZEZINSKI. I would say it's not a parallel to the 1962 missile crisis. A much better analogy, if one is looking for an analogy, is the crisis or problem that Kennedy confronted not in 1962 in Cuba, but 1961 in Berlin.

Announcer. This week's edition of "Communique" is devoted entirely to an exclusive interview with one of the nation's top foreign policy officials, Dr. Zbigniew Brzezinski, Assistant to the President for National Security Affairs.

Our guest host is Karen Elliott House of The Wall Street Journal.

Karen Elliott House. I spoke with Dr. Brzezinski in his White House Office just prior to the final meeting between Secretary of State Vance and Soviet Foreign Minister Andrei Gromyko. The major concern that day was one that has precoccupied the administration for a month: what to do about Soviet combat troops in Cuba. I began by asking Dr. Brzezinski for his interpretation of the problem posed by the Soviet brigade.

Dr. Brzezinski. We are concerned because we feel that the presence of Soviet forces in the Western Hemisphere, in a country which has been quite active internationally through the use of military forces in a manner which is not conducive to international stability presents a problem to us. The problem is related to the more general question of how to structure a stable relationship in a world of very rapid change. We hope that this issue can be resolved through accommodation based on a recognition of the principle of reciprocity and mutual restraint. And Secretary Vance has been engaged in conversations with Minister Gromyko to that end.

House. Well, is this a parallel to the '62 missile crisis, and, if not, what's the difference?

Dr. Brzezinski. No. I would say it's not a parallel to the 1962 missile crisis. That crisis had a direct, overt military dimension to it. And indeed, it was ultimately resolved by the direct use of military pressure by the United States; namely, the blockade.

As you know, historical analogies are never exactly pertinent. But sometimes they can be revealing and helpful. I would therefore suggest that a much better analogy, if one is looking for an analogy, is the crisis or problem that Kennedy confronted not in 1962 in Cuba, but in 1961 in Berlin. You will remember that at that time the Soviets put up the Berlin Wall. This was an unacceptable situation. Indeed, the unacceptable character of that wall continues to this day. Because it was unacceptable, President Kennedy had to take certain measures to reassure the West Berlin population, to reassure our allies; indeed, to indicate to the other side that we took a very grave view of that.

I hope the issue of the Soviet brigade in Cuba can be resolved through accommodation. But I think we have to think of it more as a political problem, which, in many respects, fits more closely the 1931 analogy, essentially a political challenge, than the '62 analogy, essentially a direct military challenge.

House. But in 1961 the wall didn't come down. Do you mean to carry that analogy that far and say that in this instance the troops probably won't come out?

Dr. Brzezinski. I don't think I should predict what the outcome might be. And as I said earlier, analogies are never exact and they don't fit exactly. What I was stressing was the essentially political character of the problem and the need to respond in a manner that keeps that dimension up front.

Our hope is, of course, that this situation will be altered or revised to our mutual satisfaction through accommodation with the Soviets, because, fundamentally, this is a problem in the U.S.-Soviet relationship. Since it concerns us, it is a problem in our relationship.

If the Soviets were concerned over some issue, and deeply concerned, it would also be an issue in our relationship. And therefore, we feel that the Soviets should give due consideration to the depths of our concern.

How it will work out I honestly cannot predict, nor should I.

House. If they do not take the troops out, what effect does that have on U.S.-Soviet relations more broadly? I mean is this a real watershed event in our relations, in other words?

Dr. Brzezinski. First of all, I certainly would not characterize it as a watershed. But the Secretary of State has said that this is a matter of great concern to us. I believe he used some words suggesting that it would have implications for our relations. And one area where consequences may be felt very soon, and to some extent have already been felt, pertains to the ratification effort in regards to the SALT, or the strategic arms limitation treaty. We are not linking it to the treaty. But the fact of the matter is that a great many other people are doing so. And in some cases they're doing it because of the issue raised by the Soviet brigade in Cuba.

In my judgment, failure to ratify the treaty would be damaging to the United States. In my judgment, it is not a proper response to this problem. In my judgment, we will suffer internationally if the treaty is not ratified. But a great many senators feel differently, and they are arguing that the Soviet activity in Cuba, not just in regards to this brigade, but the more generalized Soviet sponsorship of Cuban militancy and promotion of that militancy, should be penalized, so to speak, through the rejection of the SALT treaty.

House. You seem to be trying to have it both ways, to say that the SALT treaty shouldn't be held hostage, and yet to use the fact that the Senate is holding it hostage as leverage on the Soviets.

Dr. Brzezinski. I think that's a perfectly sensible, logical and rational position for me to maintain. I happen to think that it is not the best way to respond. I happen to feel, however, that if the senators who feel differently than I have their way, it will affect the U.S.-Soviet relationship adversely. It is a fact of life. We are concerned about it. We are not interested in adversely affecting the U.S.-Soviet relationship, per se. But we are concerned that this regard for our interests will have that effect.

I said on some other occasions that this country ought to be mature enough to conduct responsibly a complex foreign policy, which indicates that the Soviet Union includes several elements at the same time. More defense—and we're doing it for the first time in fifteen years. Compete more effectively. And I think we shouldn't be shy about the need to compete. Ratify SALT in order to promote arms control, because it happens to be in our national interest and good for our national security. And cooperate where there are genuine opportunities for cooperation. We should be able to do all four things and to discriminate between them.

The response to the Soviet problem in Cuba is not to undermine SALT. This hurts us at least as much as it hurts the Soviets. If anyone feels that the SALT agreement is a gift to the Soviets which should now be denied because of Cuba, then clearly the treaty shouldn't be ratified at all.

But it is troublesome to me, in fact it is intellectually perplexing, to see a senator who feels that the SALT agreement is a good agreement and favors it, but then he turns around and says we should reject it because I don't like what the Soviets are doing in Cuba.

House. How do you go about reviving SALT, though, given the fact that there are a number of senators who feel that way? I mean is SALT dead, or is it just in the resuscitation stage?

Dr. Brzezinski. No. I don't think SALT is dead. I don't think it is even getting artificial respiration. I think SALT is all right in the sense that the compelling case that has been made by this administration for its ratification still stands, notwithstanding the flap of this week, or even such criticisms as that by former President Ford. None of that has undermined the actual substantive case for SALT.

What has happened is that an unfortunate negative development in the U.S.-Soviet relationship is now being used by some senators as an argument against SALT. My answer to that is let's examine SALT on its merits. If it is not good for U.S. security, if it doesn't promote greater stability in the 80's, if it doesn't in fact help us maintain an adequate defense effort, then it should not be ratified. But if it does these things—and I'm convinced that it does—then it should be ratified whatever the Soviets are doing in Cuba. We should find ways of responding to that problem, but not penalize ourselves by rejecting SALT simply because we feel frustrated over Cuba.

House. But don't you have a circle here in that if the Russians decide that SALT is basically dead—and it seems to me that President Ford's speech moves one to think that that could be the case; it's another blow to the treaty, at any rate—do they then feel less inclined to bargain with you, to accommodate you in Cuba?

Dr. Brzezinski. I would think that, in general, it would be wise for all statesmen to be very careful what they say about such matters as SALT at a time when we're trying to negotiate a very sensitive issue with the Soviets, which is not directly germaine to SALT, but which clearly affects the wider U.S.-Soviet relationship. I would have hoped that former President Ford had waited a few days with this speech. He certainly, given his preeminence and status, is entitled to lay out his case, and it deserves very respectful listening. And I read his speech with much interest, though there are many parts in it with which I disagree, particularly his overlooking the fact that we have reversed the downward slope in defense efforts which was part of the problem of the Nixon-Ford years. But I would have preferred that speech to be made when the U.S.-Soviet discussions on this issue were over. I think it would have been better for all of us.

House. Well, that raises two questions. Did you ask—did the President ask former President Ford to wait about making that speech?

Dr. Brzezinski. No, there were not consultations either way.

House. Why not? If it is a negative element, as you're suggesting, why not phone a former President and suggest that the right thing to do is to delay it a week?

Dr. Brzezinski. Well as I have said, I think it is generally wiser for everyone to restrain themselves at this stage, because it is so sensitive. But obviously, a former President has the right to lay out his case, and he has no obligation to consult on this issue. And to my knowledge, neither he nor President Carter consulted with each other. I gather his speech had been scheduled for some time.

I'm talking about the general need for everyone to exercise restraint and great caution at this rather sensitive stage.

House. You knew that he was making the speech and you knew the substance of it, just as the administration knew that Frank Church intended to make public a month ago the presence of these troops in Cuba. One of the things that fascinates me and that I think fascinates a number of listeners is why did the administration not frame this issue, not make public the presence of the troops itself and remain in control of the issue rather than letting Frank Church announce it and then immediately call for the removal of the troops?

Dr. Brzezinski. I really don't want to get involved in a re-hash of the events of the last part of August. As best as I recall, the sequence was that when we reached the conclusions that we did on the basis of the intelligence material that was available, particularly once the intelligence community had reached the judgment, it was the feeling of the senior officials in the Department of State, who had previously been in touch with the concerned senators, that this information would become public knowledge very quickly, and that therefore the appropriate action for them to take was to inform the senators and to count on their discretion on this matter.

House. But was there an administration decision, a discussion about whether to make it public, or did the State Department simply decide to let Frank Church do it?

Dr. Brzezinski. Well, we don't have a policy of withholding information from concerned senators. We . . . .

House. Well, you don't have to withhold information. I mean according to the senator, he informed Secretary Vance that he intended to make it public. Why did the administration, with that knowledge, then not make it public itself?

Dr. Brzezinski. We informed the Senator, and the senator then decided to make it public. The sequence of timing for all of it was very brief. We do have the policy of collaborating very closely with concerned senators and of sharing with them pertinent information, because we believe that the spirit of cooperation and collegiality is the best basis for shaping national policy. It's a practice that we have maintained now for two and a half years. We're very proud of it. I consult frequently, every day, with senators, and I share information with them. And I must say that I've never been disappointed. I have dealt very extensively with Senator Byrd, with Senator Baker, and with their colleagues, and I've never had an instance in which anything pertaining to national security matters was in any way jeopardized.

House. While we're in the middle of this crisis then, or this problem, at any rate, and we don't know the outcome, but there are a number of people, as you suggested, on the Hill who think that SALT is in bad shape. What is the consequence of not having a SALT treaty? What's the consequences of the Senate saying no or the President deciding to take the treaty back?

Dr. Brzezinski. Well, first of all, let me say immediately that my diagnosis of the patient is somewhat different than yours. I don't think SALT is in bad shape. I think the case for SALT has been a compelling one. And what is now involved is essentially a side issue.

Now as to non-ratification, if that were to happen, I would put stress on two consequences, which I think are undesirable. The first pertains to our own national security. We need to do more in defense. For about fiften years or so, ten years to be more precise—somewhere between ten and fifteen years—there was a steady decline in American strategic and conventional capabilities. It was particularly marked in the Nixon-Ford years. We have reversed that. This President is the first president in a long time, including some Democratic presidents, I hasten to add, to have had a real increase in the defense budget for three running years, three consecutive years. This is the first time.

What we need to do in defense, and what we are doing in defense, will give us more national security, if it's done in the context of SALT than in the context of the absence of SALT. With SALT, we know more precisely what kind of an adversary we'll be confronting in 1985. With SALT, we know more precisely what we need to do in the strategic. With SALT, we can apportion more reasonably our strategic and non-strategic spending. Without SALT, we don't have any of that. Hence, without SALT, we'll need to do much more in defense, and we'll be less secure in our knowledge of whether it's enough. So that's one negative consequence.

The second negative consequence is the generally negative impact this will have on our international position. There's no doubt that our European allies would be dismayed if SALT is rejected. I suspect that TNF modernization, theater nuclear force modernization in Europe, which we are pushing forward as a very important element in our defense modernization, will be jeopardized. This, as many of your listeners know, is a collective, inter-allied effort that President Carter has launched to offset the growing Soviet intermediate-range nuclear capability, particularly the Soviet SS-20 missiles.

I am inclined to the view that it's very probable that if SALT were rejected, TNF would be jeopardized. And that would be extremely bad for our security and for our alliance relationships. I think our prestige will go down. The sense of international confidence in us as a mature power, capable of competing, of doing what is needed for our defense, and yet for also promoting arms control, will be severely and negatively affected.

House. Why wouldn't theater nuclear force modernization be even more important to our allies in the absence of a U.S.-Soviet relationship with some predictability?

Dr. Brzezinski. Well, you have a very logical mind, and that's a logical conclusion. But politics don't work that way. And the point is that particularly in Germany the reaction will be that we're moving into a new phase of the Cold War, a spiral in the arms race, and that they better not be part of it. And they have made this pretty plain. This would be even true of some other European countries, probably Benelux. But I don't want to be too specific.

House. How are they reacting to our current state of relations with the Soviet Union?

Dr. Brzezinski. Well first of all, as allies, they share some of our concerns, and many of our allies have been concerned about Soviet activity in the Third World. They are also concerned that the relationship not deteriorate. It's a concern that we also share.

I would say that, in general, our allies would like to see continued stability in the U. S.-Soviet relationship and further development of détente, which is a point of view that we share. As—I'm sure your listeners know that I am one of the great promoters of détente, a détente that's reciprocal and comprehensive. And we are making certain in our efforts that détente is not exploited against us unilaterally, but it becomes genuinely comprehensive and reciprocal. And sound-thinking allies share that point of view.

House. What leverage do we have over the Russians? I mean we continue to talk about how they must respect our sensitivities, and, if they don't respect our sensitivities, we will have to respond to them. What can the United States do?

Dr. Brzezinski. Well, the President, I believe, on at least one occasion, perhaps more, said that the United States is not without resources and is capable of promoting its interests and protecting them. And that is a fundamental fact. The Soviet Union, like the United States, has many engagements, many interests, and I'm sure that the Soviet leaders know what their concerns and sensitivities are.

I don't think that at this delicate stage my even speculating about what we might do would be helpful. We are not trying to threaten the Soviet Union. We're trying to deal with it in regards to a problem which we believe is a joint problem. We don't believe that this is an American problem. We believe it's a joint problem. Why is it a joint problem? Because the matter is of concern to us. That's enough. In a marriage, if a problem is of concern to one partner, it becomes a joint problem. The same is true of any relationship that is bilateral.

House. Well, one of the things that the administration seems to have ruled out is using American grain as any sort of lever on the Soviets. That strikes a number of people as curious since the Russians have had one of the worst crops ever, and they are coming to town next week to ask for additional permission to buy corn in particular, but grain, in general, next year. Why is there no effort to use that leverage?

Dr. Brzezinski. First of all, I don't want to either isolate or indicate or exclude any options, because if I start doing that, then, by definition, I'll end up with some options that are more realistic and probable than others. And therefore, I would engage in activity which would be self-defeating the purposes which I've just outlined; namely, that one should exercise self-restraint in public comment on this issue.

Secondly, as a general proposition, I would say that if one wishes to exercise leverage on some one, it is better to do so in a manner which doesn't hurt one as much as the other side, or perhaps even more. In the case of grain, which is a very complicated issue the question arises what one would do with the grain that one wouldn't sell. How would it affect American interests? Are there other sellers on the world market that can provide the same staple if we decide to withhold it? These are the kind of things that one has to ask oneself in regards to this issue or for that matter, any other option.

As a general principle—I said this on some other occasion—shooting oneself in the foot is not the most effective way of impressing someone else that one is determined.

House. Okay. When we talk about the U.S.-Soviet relationship more generally, would you say that we are in a period of converging interests or diverging interests?

Dr. Brzezinski. I would say that both tendencies are present in the U.S.-Soviet relationship at the same time, have always been the case, and probably for a long time to come will be the case. That is to say, in many respects, because of deep-rooted historical, philosophical, geopolitical reasons, the two societies are pitted in a competitive relationship. It isn't, after all, even just a matter of ideology. De Tocqueville wrote about it, and extremely well. At the same time, we have certain common interests which derive from the fact that we live in the same world; we have to survive in the same world; and we have a common stake in stability. Both are present.

At one or another time, certain animus may surface and be predominant. Obviously right now, the contentious issues have surfaced. But that tends to be a passing phenomenon. Both elements are present, and this is another reason why we have to be able to conduct a genuinely sophisticated, mature foreign policy, one that doesn't mindlessly slide into universal antagonism, but also one which doesn't assume that the antagonistic elements are totally absent simply because in some area we are able to cooperate.

CHICAGO AREA COMMUNITY COMBATS FLOODING PROBLEMS

Mr. PERCY. Mr. President, last June, I related to my colleagues the findings of the U.S. General Accounting Office (GAO) concerning metropolitan Chicago's combined sewer problem. Among other things, this report, which was released May 15, 1979, detailed actions which Chicago area communities have taken on their own to minimize the local effects of basement flooding. At the time, I commended 12 villages and towns in the Chicago area for their activities to minimize their particular flooding problems.

Subsequent to my statement, I have learned of the efforts of Elk Grove Village and several of its neighboring communities to control their flooding situation. Elk Grove Village, just north-

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west of Chicago, was not included in the GAO report; it is a separate sewer community, having separate pipes for conveying rainwater to area waterways and sewage to local treatment plants. The GAO's study dealt exclusively with combined sewer communities, or cities and towns whose systems carry both rainwater and sewage in the same pipes. In spite of this distinction, the actions taken by Elk Grove Village and its neighboring communities are exemplary for combined and separate sewer communities alike.

Among Elk Grove Village's flood reduction steps are: Design of open public space to discourage building in flood-prone areas and to store flood waters; requirement of basic homeowner actions such as downspout disconnection and overhead plumbing; and encouragement of the use of lift stations, holding basins, and ditches to alleviate isolated flooding. In addition, the village has taken the lead in fostering cooperation among localities to jointly combat flooding in northwestern Cook County and eastern DuPage County.

The success of Elk Grove Village's actions in minimizing local flooding conditions indicates that communities acting on their own can successfully adopt small-scale techniques to relieve their flooding problems. This information should be of value to countless cities and towns across the country who are afflicted with localized sewer backup and basement flooding.

THE PRIORITY ENERGY PROJECT ACT OF 1979

Mr. PERCY. Mr. President, last Thursday, I joined with 67 of my colleagues in voting for S. 1308, the "Priority Energy Project Act of 1979." It is my hope that this legislation will now win quick approval in the House of Representatives and be signed soon after by President Carter. S. 1308 is designed to create an Energy Mobilization Board to expedite the licensing process for vital energy projects. Such a Board will help our country begin the tremendous challenge of drastically reducing its oil imports.

After being substantially amended on the Senate floor last week, S. 1308 is now a bill I can live with. I do not endorse it now, however, without some reservations.

As an original cosponsor of another and, I feel, superior Mobilization Board bill, S. 1806, I had serious misgivings last week about some of the far-reaching powers given the Board in S. 1308. In several speeches on the floor, I said that the original S. 1308 dangerously infringed the rights and responsibilities of Federal, State, and local agencies to review and license energy proposals. I expressed apprehension that the bill gave the Mobilization Board such broad powers that the cooperation of State and local governments was in fact jeopardized. Without this cooperation, I felt success of the fast-tracking process itself would be in grave doubt. It might result in coercion rather than essential cooperation.

After S. 1806 was tabled last Wednesday morning, many of my colleagues and I moved to amend S. 1308. We hoped, of course, that this bill in its final form would be passed with at least some of the important elements of the legislation we had introduced.

I am pleased to say our efforts were successful. While still far from perfect, S. 1308 as passed by the Senate is a better bill than the S. 1308 reported out by the Energy Committee.

I would like to cite three positive changes: First, the Senate unanimously accepted my amendment to subject Mobilization Board members to all existing conflict-of-interest laws. This is an important provision which must be an integral part of any responsible fast-track legislation. Board members cannot be allowed to approve or review any energy project in which they have a direct stake. Self-interest can play no part in fast-tracking: The Board must choose only those projects that serve the national interest.

Second, the Senate reduced the likelihood of the Board's exempting fast-track projects from essential, future health and environmental laws. Originally, S. 1308 gave the Board broad, open-ended criteria to determine where future substantive laws should be waived, and left it to Congress to oversee and, if necessary, block the Board's decision. As amended, both the Administrator of the Environmental Protection Agency and the Secretary of Interior will have the opportunity to block any substantive waiver if the public health or environment is endangered.

Third, seeing the immediate role America's coal resources can play in reducing our oil imports, the Senate approved an amendment granting automatic fast-track status, upon request, to utilities interested in converting from oil or gas boilers to coal. Such a move has the immediate potential to reduce our oil imports by as much as 724,000 barrels per day. Of course, like any other fast-track project, these utilities will have to meet all pertinent environmental standards and statutes to obtain a conversion permit. This amendment reflects a recognition by the Senate that coal conversion projects, taken together, offer a large, immediate and essential first step toward achieving dramatic reductions in oil imports.

Mr. President, I would like to indicate my concern about several provisions in S. 1308 that survived the amendment process intact. I am hopeful that these drawbacks will be modified by the House and conference.

I am disturbed by S. 1308's vague criteria for fast-track designation—the Board need only choose projects likely to reduce "directly or indirectly" our dependence on foreign energy—and by the absence of a ceiling on the number of projects that can be fast-tracked at any one time.

I regret that the Senate chose not to mandate a role for the Department of Energy in selecting projects, an addition that would have gone far toward insuring that fast-track designation was consistent with America's broader national energy policy.

Finally, I am concerned about the Board's power under S. 1308 to make licensing decisions in lieu of agencies that fail to meet scheduled decision deadlines.

All these factors give the Energy Mobilization Board powers it does not need to fast-track energy projects—powers that could make fast-tracking a more difficult, not easier, process to achieve. It must be Congress' mandate, if this Energy Board comes into being, to review carefully how these responsibilities are applied.

DR. BURNS' PLAN TO SLOW INFLATION

Mr. PERCY. Mr. President, on September 30, the Washington Star carried an article excerpting the remarks Dr. Arthur Burns gave the same day at the Per Jacobsson Lecture in Belgrade, Yugoslavia.

Dr. Burns prescribes a four-part program to turn down the fires of inflation, but expresses doubt that we will be able to pull together to implement his recommendations. In short, the former Chairman of the Federal Reserve Board suggests that we:

Revise the budget process to make deficits less likely;

Implement a comprehensive plan that would eliminate anticompetitive and overly costly regulations;

Endorse restrictive monetary policies; and

Reduce business taxes to increase productivity performance.

These are, he points out in his statement, specific proposals for the type of inflation we have been experiencing in the United States. They will not necessarily work in other developed countries, but he feels they fit our economy and could be adopted by our Government.

The question is—will they?

I believe we are already on the way to realizing some of these policies to a certain degree. But we can now do more. The budget reconciliation process was tested in the Senate this fall and found to be strong: Committees were directed to roll back nearly $4 billion in spending. The Governmental Affairs Committee has concluded its hearings on regulatory reform legislation and will proceed this fall to markup of the systematic approach to regulatory control that Dr. Burns advocates. The Federal Reserve Board last weekend implemented a new and stringent monetary policy that economists say will, if successful, be the most significant realinement of domestic monetary policy since the close of the Second World War.

On the matter of an investment-oriented tax cut, however, I believe Dr. Burns has singled out one area where the need may not be met. Just about one-third of the Senate voted for a $15 billion tax cut during debate on the budget resolution in September. A similar proposal was defeated in the House. Both proposals would have offset the tax cut with corresponding decreases in Federal spending, so the deficit would not have increased. We very much need a tax cut designed along lines that will encourage modernization of plants and equipment and I expect that tax cuts will be passed by Congress next year. But as the recent

votes in the House and Senate showed, there is at this time a misunderstanding of the importance of a business-oriented tax cut in fighting inflation.

Mr. President, as a first step toward highlighting this important aspect of an anti-inflation policy, I ask unanimous consent that the article excerpting Dr. Burns' excellent speech be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

STIFF REMEDY PRESCRIBED FOR INFLATION MISERIES

(By Arthur F. Burns)

Historically, Americans have had deep faith in the concept of progress—in the idea that it was realistic to expect to better one's own lot and that of one's family in the course of a lifetime. During the greater part of America's history, government intervention in economic life was only peripheral. Personal progress was generally viewed as a reward for personal effort—assisted, perhaps, by good fortune.

This tradition of individualism was shattered by the cataclysmic events of the 1930's and 1940's. The breakdown of economic order during the Great Depression was unprecedented in its scale and scope, and it strained the precept of self-reliance beyond the breaking point. With one-quarter of the labor force unemployed, personal courage and moral stamina could guarantee neither a job nor a livelihood. Succor finally came through a political idea that was novel to a majority of American people but compelling nonetheless—namely, that the Federal government had a far larger responsibility in the economic sphere than it had hitherto assumed.

The interplay of governmental action and private demands had an internal dynamic that led to their concurrent escalation.

Many results of this interaction of government and citizen activism proved wholesome. Their cumulative effect, however, was to impart a strong inflationary bias to the American economy. The proliferation of government programs led to progressively higher tax burdens on both individuals and corporations. Even so, the willingness of government to levy taxes fell distinctly short of its propensity to spend. Since 1950 the Federal budget has been in balance in only five years. Since 1970 a deficit has occurred in every year.

The persistent inflation that plagues the industrial democracies will not be vanquished—or even substantially curbed—until new currents of thought create a political environment in which the difficult adjustments required to end inflation can be undertaken.

There are some signs, as yet tenuous and inconclusive, that such a change in the intellectual and political climate of the democracies is getting under way. One of the characteristic features of a democracy is that it encourages learning from experience. Recent disturbing trends in economic and social life, particularly the persistence and acceleration of inflation, have led to much soul-searching by leaders of thought and opinion. Among economists, the Keynesian school has lost much of its erstwhile vigor, self-confidence and influence. Economists are no longer focusing so exclusively on unemployment and governmental management of aggregate demand. They are paying more attention to the management of aggregate supply—to the need to strengthen incentives to work and innovate, to ways of stimulating saving and investment, to the importance of eliminating barriers to competition, to ways of reducing the regulatory burdens imposed on industry and to other means of bolstering business confidence.

The intellectual ferment in the world's democracies is having its influence not only on businessmen and investors but also on politicians, trade union leaders and even housewives; for all of them have been learning from experience and from one another. In the United States, for example, people have come to feel in increasing numbers that much of the government spending sanctioned by their compassion and altruism was falling short of its objectives; that urban blight was continuing, that the quality of public schools was deteriorating, that crime and violence were increasing, that welfare cheating was still widespread, that collecting unemployment insurance was becoming a way of life for far too many—in short, that the relentless increases of government spending were not producing the social benefits expected from them and yet were adding to the taxes of hard-working people and to the already high prices they had to pay at the grocery store and everywhere else.

In the United States a great majority of the public now regard inflation as the Number One problem facing the country, and this judgment is accepted by both the Congress and the executive establishment.

The present widespread concern about inflation in the United States is an encouraging development, but no one can yet be sure how far it will go or how lasting it will prove. The changes that have thus far occurred in fiscal, monetary and structural policies have been marginal adjustments. American policy-makers tend to see merit in a gradualist approach because it promises a return to general price stability—perhaps with a delay of five or more years but without requiring significant sacrifices on the part of workers or their employers.

But the very caution that leads politically to a policy of gradualism may well lead also to its premature suspension or abandonment in actual practice. Economic life is subject to all sorts of surprises and disturbances—business recessions, labor unrest, foreign troubles, monopolistic shocks, elections and governmental upsets. One or another such development, especially a business recession, could readily overwhelm and topple a gradualist timetable for curbing inflation.

If the United States and other industrial countries are to make real headway in the fight against inflation it will first be necessary to rout inflationary psychology—that is, to make people feel that inflation can be, and probably will be, brought under control. Such a change in national psychology is not likely to be accomplished by marginal adjustments of public policy. In view of the strong and widespread expectations of inflation that prevail at present, I have therefore reluctantly come to believe that fairly drastic therapy will be needed to turn inflationary psychology around.

The precise therapy that can serve a nation best is not easy to identify, and what will work well in one country may work poorly in another. In the case of the American inflation, which has become a major threat to the well-being of much of the world as well as of the American people, it would seem wise to me at this juncture of history for the government to adopt a basic program consisting of four parts. The first of these would be a legislative revision of the federal budgetary process that would make it more difficult to run budget deficits and that would serve as the initial step toward a constitutional amendment directed to the same end. The second part would be a commitment to a comprehensive plan for dismantling regulations that have been impeding the competitive process and for modifying others that have been running up costs and prices unnecessarily. The third part would be a binding endorsement of restrictive monetary policies until the rate of inflation has become substantially lower. And the fourth part would consist of legislation scheduling reductions of business taxes in each of the next five years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation would release powerful forces to improve the nation's productivity and thereby exert downward pressure on prices; and it would also help in the more immediate future to ease the difficult adjustments forced on so many businesses and their employees by the adoption of the first three parts of the suggested program.

I wish I could close this long address by expressing confidence that a program along the lines I have just sketched, or any other constructive and forceful program for dealing with inflation, will be undertaken in the near future in the United States or elsewhere. That I cannot do today. I am not even sure that many of the central bankers of the world, having by now become immured to gradualism, would be willing to risk the painful economic adjustments that I fear are ultimately unavoidable. I would therefore not be surprised if the return to reasonable price stability in the industrial democracies and thereby to an orderly international monetary system is postponed by more false starts. But if political patience in individual countries is severely tested as that happens, the learning process will also be speeded. The conservative trend that now appears to be under way in many of the industrial democracies will then gather strength; and unless political leadership falls into irresponsible hands, the inflationary basis that has been sapping the economic and moral vitality of the democracies can finally be routed.

THE STATE OF THE ECONOMY

Mr. PERCY. Mr. President, I want to comment for just a moment on the state of the economy. Certainly, the market crash yesterday of 26 points, exacerbated by another drop of 16 points in the market as of 10:30 this morning, but somewhat moderated in the meantime, the panic buying of gold, the drop in the value of the dollar through the recent weeks but now a steadying of it, and the firm action taken by the Federal Reserve System to counter this market trend should be taken note of carefully by the Congress of the United States. We have before us the necessity to move in a dramatic and creative way now to stimulate the economy, to overcome the tendency we have to work toward a deepening of the recession in this country, moving toward, as the indicators seem to say, 8 percent unemployment, which is totally unacceptable. With interest costs today at 14.5 percent, prime rate, we are just squeezing out farmers, small businessmen, and so forth.

We need to take a careful look not only at creating a dynamic energy policy, but also finding a way to create incentives for savings so that this country will, once again, get back on the track of not spending excessively, as we are, and find a way to set aside money for the future and create a supply of money. It will then make money available to farmers, small business people and major businesses for productivity increases, and plant expansion. At the present rate, our housing market is going to go down; the capital investment market will dry up so far as plant expansion improvement and modernization, which will affect productivity. We have many, many problems to grapple with. I hope the Congress of the United

States and particularly the Senate of the United States will give very, very high priority to this present critical condition we now face in our economic outlook.

EPA REGULATIONS

Mr. JEPSEN. Mr. President, nearly every day, I receive a news article or other information from a constituent detailing the problem which the cities and States are having in meeting the latest Environmental Protection Agency regulation. Often the news article is accompanied only by a plaintive one-line sentence—"When is this nonsense going to end?"

Mr. President, in the past our city and State administrators have at times all but given up on trying to comply with these EPA regulations. "When is this nonsense going to end?" is sometimes all they can say. The cities and States are not attempting to do battle with the Environmental Protection Agency; they want to protect the public's health as much as anyone. All they are seeking is some reasonableness in the regulations.

The EPA does not seem to believe this and also does not seem to realize that there is a limit to what small towns have the capability to do. Simply put, small towns cannot keep up with retroactive regulations and frequent substitutive changes in regulations. They cannot keep up with unending project delays.

Retroactive regulations and administrative delays cost them thousands of dollars. By the time they change their plan in order to comply with the latest regulation, there is oftentimes yet another requirement by EPA. Or, as sometimes is the case, EPA just does not get around to granting final approval.

This nonsense has got to end—limits must be set on retroactive regulations; there must be a time limit on EPA administrative consideration; and Federal funding must be received in a timely manner once approval has been guaranteed. Small towns and cities in particular have the most problems, finding it hard to stay abreast of the complicated and everchanging regulations.

Mr. President, recently, an engineering firm in my home State of Iowa provided me with some examples of cities which have experienced unbelievable project delays and problems in trying to comply with EPA regulations for wastewater treatment facilities. I ask unanimous consent that these examples be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Tama, Iowa

Tama, Iowa constructed new secondary treatment facilities in 1973 and 1974 prior to initiation of the Public Law 92–500 requirements for infiltration/inflow consideration. One of the Federal Grant conditions for construction of their new plant, however, was that they initiate a study to determine the extent of infiltration and inflow in their sanitary sewer system. In 1975 in response to that Grant condition, the City filed a Grant application and a Plan of Study with the Environmental Protection Agency to do that work. A new regulation went into effect July 1, 1975 that said the Plan of Study must be approved by EPA before any work done would be grant eligible. The Grant application and Plan of Study were into EPA in plenty of time for review and approval prior to July 1, and, in fact, comments were received from EPA in mid-June asking for some final information prior to approval. The City Attorney filed that information and it was assumed that the Plan of Study would therefore be approved. The City authorized our company to proceed with the Infiltration/Inflow Analysis, spending approximately $6,000 in the determination that there was excessive infiltration/inflow which required further identification in a Sewer System Evaluation Survey. When that report was filed with the Environmental Protection Agency, the City was notified that their Plan of Study had not officially been approved by July 1, although there were no changes required—it was just a lack of someone getting around to approve it. The work that had been done was said to be not grant eligible. The City filed a formal complaint based on the extenuating circumstances of the conditions and received a favorable ruling from EPA's Washington headquarters that their work would be reimbursable as soon as a grant offer was made for the Step I project.

To this date, the City of Tama does not have a Step I Grant and has not been reimbursed for the money expended on the Infiltration/Inflow Analysis in 1976, all because of regulation modification and the failure by the review agency to approve a document which was in proper form in their office in time for approval.

The City tried to perform the work required in their initial Grant condition and have yet to be reimbursed for the authorized work. In addition, the three-year delay has rendered most of the initial work done on the system worthless and, of course, has increased the total overall cost of the engineering work and any construction work significantly due to inflation.

Nevada, Iowa

The City of Nevada, Iowa entered into the Grant program with the Environmental Protection Agency for upgrading their waste treatment facilities in 1975. The City Engineer did the Infiltration/Inflow Analysis work, and then our company was retained to do the remainder of the Sewer System Evaluation Survey and Facility Planning work for the City. Several regulation changes have caused significant time delays and increased costs on this project. Our original Step I contract was executed on November 15, 1976. As an example, an amendment was made to the Engineering Contract on April 3, 1978 to include revised Appendix C–1 regulations governing negotiations for engineering services, and also this amendment included revisions in the scope of work to include detailed study of land application alternatives, which are required nationwide, although their application in this particular part of the country is exceptionally questionable. This amendment increased the contract cost approximately $7,000 and increased the contract time by several months. Another amendment was added to the contract on the 5th of March, 1979, to again add revised Appendix C–1 regulations. No additional engineering charges were added for this contract amendment, although it is obvious that there was significant time expended and delays associated with preparing the amendment, getting it executed by the City and forwarding to the government agency for their review and approval. Another amendment to the Professional Engineering Contract was executed on July 2, 1979 to cover regulation revisions regarding sewer user charge system development and the utilization of Minority Business Enterprise in the engineering portion of the project. These regulation revisions added $3,500 to the contract and, again, delayed the project by several months. The regulation revisions, interpretation of rules and the delays have thus far added over $10,000 to this project cost, and it is not yet out of the planning stage. The real cost impact can only be determined when the inflationary increase caused by the significant time delays are fully taken into account.

Marshalltown, Iowa

An engineering contract to perform Step I planning work for the City of Marshalltown was originally signed on August 29, 1974 as a result of Public Law 92–500. Provisions of Public Law 92–500 made it possible for communities to bypass the Infiltration/Inflow Analysis portion of Step I work if they could prove beyond reasonable doubt that they had an excessive infiltration/inflow problem. Marshalltown had significant data over a period of several years which dynamically indicated the extent of their infiltration and inflow problem and presented this data both to the Environmental Protection Agency and the Iowa Department of Environmental Quality so they might proceed directly to the Sewer System Evaluation Survey. Neither Agency would accept the data and required the City of Marshalltown to expend nearly $17,000 on an Infiltration/Inflow Analysis which proved exactly what should have been obvious by inspection of the original data. The original rule was an excellent one but was never used in the manner in which it was intended, and much money was wasted.

Since that time additional engineering contracts and amendments have been necessary in order to provide for regulation modifications. All of these have caused time delays and additional costs to the owner and to the government. The Contract was amended in March of 1976 to include revised Appendix C–1 regulations regarding negotiation of engineering contracts as required by EPA. The Contract was again amended on the 24th of April, 1978 to include further revisions of Appendix C–1 regulations regarding negotiation of engineering contracts. Further detailed considerations of land application alternatives were included in the scope of the project at this time. The total costs for the regulation revisions and time delays associated with the project to this point added $10,000 to the Step I work and delayed the completion by several months.

The Step I work has recently been completed and is now being held for review by the Iowa Department of Environmental Quality and the Environmental Protection Agency due to an EPA Program Requirement Memorandum stating that justification of any treatment higher than conventional secondary treatment in which the incremental cost is more than $1 million must be reviewed and approved by the Washington EPA office. This project qualifies in this category and is now being held by the State and Regional office trying to determine what approach they should use in justifying the extra expense of this project for advanced secondary treatment when it does not appear it is necessary to meet reasonable stream standards. At this time we have no idea when this project that has been in the planning stage since August of 1974, will get beyond that stage into the construction of some needed pollution control facilities.

Iowa Falls, Iowa

The original engineering agreement with the City of Iowa Falls was executed on April 9, 1976 to cover all phases of the planning, design and construction work for wastewater treatment improvements. Again, several regulation modifications have caused delays and cost increases in this project. On December 19, 1977, a contract amenoment was executed which added the revised Appendix C–1 regulations regarding negotiations for engineering services. This contract amendment also included provisions for the direct retention of sewer cleaning and televising contractors by the engineer as required by regulation.

An additional amendment was executed on February 19, 1979, which again revised the Appendix C–1 regulations. This amendment further provided for the modification of the scope of the Facility Plan to include land application, detailed evaluation and other Program Requirement Memoranda details. The cost increase for this extra service from revised regulations was approximately $6,000, and again several months of time were lost in the process.

SOVIET MILITARY PRESENCE IN CUBA

Mr. HUMPHREY. Mr. President, we passed a crucial juncture in American history last week when President Carter announced his decision concerning the presence of a Soviet combat brigade in Cuba.

For the first time in this Nation's history an American President accepted the permanent deployment of foreign combat troops in the Western Hemisphere. For all practical purposes, President Carter's decision not to demand the removal of Soviet troops from Cuba rendered the Monroe Doctrine null and void.

One of the most disturbing aspects of President Carter's remarks to the Nation last Monday was that the Senate, not the Soviets, was named the culprit. As George Will said so ably in his October 4 editorial in the Washington Post:

> According to Carter, the principal threat Americans should worry about is not Soviet adventurism, of which the militarization of Cuba is just one facet. No, the threat is . . . the United States Senate which does not show proper enthusiasm for the SALT II deal he struck with the Soviets.

President Carter's decision to go back on his word to the American people and accept the status quo has sent an unambiguous message to Moscow. It is now unmistakably clear to the Kremlin that it is free to build up and augment what the distinguished Senator from Washington has so correctly dubbed "Fortress Cuba," with additional nuclear capable aircraft, submarines, ground forces, tanks, whatever—

The Soviets most likely believe that if they do indeed follow such a course, the Senate again will be accused of overreacting and courting war. Nothing the Soviets do—no matter how blatant—seems to sway President Carter from his fixation with proceeding with the SALT II treaty—a treaty which President Carter now calls "the key to the survival of the human race."

I agree completely with the view of my distinguished colleague, Senator JACKSON, who warned this body early on in this crisis that the Cubans and Soviets appear to believe that there is little or no risk of an adverse U.S. response to Cuban involvement in the internal affairs of Central American and Caribbean countries. President Carter's cosmetic responses to Soviet intransigence of the troop issue can only reinforce this perception.

In this respect, I am particularly concerned by charges that the President—in an effort to save SALT—may not be telling the American public the full story about the makeup and capabilities of Soviet troops in Cuba. I draw my distinguished colleagues' attention to Paul Scott's column in the October 3, 1979 issue of the Manchester Union Leader where he states, and I quote, that "in their private briefing of congressional leaders and others, Carter administration officials have withheld some startling details about the makeup of the Russian combat brigade and the total number of Russian and Soviet bloc military personnel in Cuba."

Mr. Scott raises the haunting prospect that "intelligence reports" indicate that, because of their makeup and deployment history, the Soviet brigade in Cuba may foreshadow the clandestine introduction of nuclear weapons, mobile MRBM's or even cruise missiles into Cuba. Mr. Scott also charges that there are between 150 to 300 Soviet pilots in Cuba. Mr. Scott also believes that, contrary to common belief, the Cubans do have a troop-lift capability which could be used to lift Soviet combat troops to trouble points in Latin America.

Today, I have written to President Carter asking him to comment in detail on the serious charges levied by Mr. Scott. It is important, Mr. President, that the American public and the Senate are given the full details about the nature of the Soviet Union's military presence in Cuba. Upon receipt of President Carter's reply, I intend to share his response with my colleagues.

It troubles me to have to ask the President whether or not we have been given the whole story. However, the administration was less than frank with a number of my distinguished colleagues in their initial and laudable attempts to secure information on the Soviet troop issue.

In essence, President Carter has acceded to the demand made by Soviet Foreign Minister Gromyko before the United Nations General Assembly that the United States admit the whole matter over Cuba was "artificial and proclaim it to be closed." Save for some cosmetic sabre rattling aimed at the Cubans—not the Soviets—President Carter has done just this. He has accepted Soviet assurances that their troops in Cuba belong to a training unit and that the Soviets have no intention of turning that unit into anything else. Yet, in his next breath, the President states in his speech, "We have persuasive evidence that the unit is a combat brigade."

The bottom line here is Mr. Carter has acquiesced—has conceded—that the Soviet combat troops in Cuba are there to stay. This is disturbing in its own right. But the long-term implications of the President's decision are ominous.

Kremlinologists have been arguing for some time that once the Soviets achieved strategic superiority over the United States, the Soviets—by flaunting their military power—could prevent or condition Western leaders from taking steps that might run counter to the Soviet Union's overall strategic, political, and economic interests. The Soviets have ingeniously used their military power, for example, to cajole and frighten Finland from taking action not condoned by the Kremlin.

Fears have been expressed that the Soviets might use the political power that flows from military strength to "Finlandize" the West. I fear, Mr. President, that by not taking a stronger stand on the troop issue we have set a dangerous precedent for buckling and caving in to future Soviet pressure.

Such a response to Soviet boldness has a twofold impact. First, it inevitably encourages the Soviet Union to be even bolder in the pursuit of its global aims and demands. For example, on the heels of President Carter's Thursday night's speech on Cuba, the Soviet Union is now warning us not to place advanced Pershing II medium range missiles in West Germany.

The United States and its NATO allies are contemplating this move to offset the growing theatre nuclear threat Soviet SS–20 missiles and other nuclear systems pose to Western Europe. I fear that, despite administration protests to the contrary, we will now back down from this plan as we did from our initial stand that we would not accept the status quo in Cuba. More dangerous, perhaps, our European allies—seeing our own unwillingness to stand up for our own interests in the Western Hemisphere—will believe that we are even less willing to defend Europe's interests over loud Soviet protests. If this is indeed the case, we may find our own NATO allies increasingly giving second thoughts to doing anything that the Kremlin may find offensive.

Mr. President, the Carter administration would have us now forget about those Soviet combat troops in Cuba and proceed with the swift ratification of SALT II. However, now that the Soviet troops are going to stay in Cuba, it is more important than ever that the Senate keep a vigilant eye on Soviet involvement in this hemisphere.

We should not do as the President would prefer and refrain from drawing linkages between the Soviet Union's lofty promises on the one hand, and its actual adventuristic and provocative foreign policy on the other.

Mr. President, I ask unanimous consent that a commentary by George Will, a commentary by Paul Scott, and a letter I have written to the President be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANOTHER BLUFF

(By George F. Will)

In his first response, weeks ago, to what he now dismissively calls "the highly publicized" Soviet combat brigade in Cuba, Jimmy Carter went on national television in the afternoon. He warned the Soviets that the status quo was "unacceptable."

But many people have been schooled in skepticism by his record of unreciprocated concessions in defense policy and unmet challenges in geopolitics. Such people tried to imagine what microscopic change by the Soviets would satisfy Carter's criterion of an acceptable change in the status quo.

No skeptic was skeptical enough. No one anticipated that Carter would take prime television time to announce that "the highest levels of the Soviet government" have given him "assurances" that they intend to maintain the status quo. All he could say was this:

Although "persuasive evidence" shows that the Soviets are lying when they assert that the brigade has a non-combat nature, Soviet statements about the future non-combat nature are "significant." The Soviets say they will not change the brigade's "function or status," and we "understand this to mean" they will not enlarge or alter the brigade.

That is, because the Soviets insist they will not change the status quo that Carter has called "unacceptable," he infers that they will not do anything to make it more unacceptable, and so it is acceptable.

Recognize this? Carter's response is similar to, but even weaker than, his response to the Soviet Backfire bomber.

Backfire is, unquestionably, a strategic weapon, capable of a nuclear attack over intercontinental distances. But the Soviets blandly deny this (just as they deny the brigade's combat capability). So Carter has acquiesced in the Soviets' demand that Backfire not count against their SALT totals. In exchange, the Soviets have promised that they will produce Backfires at about the rate they have been producing them and that they will not give Backfire the strategic capability we know it has.

Having stressed that the brigade, by itself, constitutes no military threat, Carter is deploying forces in a way that would only make sense as a response to a military threat. Having decided on a purely symbolic response, rather than one that would inconvenience the Soviets, he has symbolized the floundering of the United States, just as he did when he sent an aircraft carrier steaming in circles in the South China Sea and sent fighter planes to Saudi Arabia, unarmed. To the Soviets, the significant fact about Carter's response is that he declines to mention the possibility of considering even mild new restrictions on the eastward flow of grain, technology and credit.

According to Carter, the principal threat Americans should worry about is not Soviet adventurism, of which the militarization of Cuba is just one facet. No, the threat is . . . the U.S. Senate, which does not show proper enthusiasm for the SALT II deal he struck with the Soviets. To the men in the Kremlin, it now is obvious that if they add to their nuclear-capable aircraft in Cuba, to their submarines and to their ground combat forces, Carter's response probably will be a televised warning to Americans about the dangerous buildup of bad vibrations in the Senate chamber.

If anyone had any doubt, this episode should have erased it: nothing the Soviets could do would cause Carter to question the wisdom of proceeding with SALT II. Indeed SALT II had better be brought to a vote before Carter, who now says it is the key to "the survival of the human race," exhausts the English language's store of hyperbole.

By all means: let's vote.

Since July, the administration has skillfully—too skillfully for its own good—manufactured a sense of inevitability. It has conveyed the impression that the debate is over and won and that ratification will be perfunctory. But the problem with skillful propaganda is that the propagandizers begin to believe it. Administration vote-counts have been studies in wishful thinking.

Sen. Frank Church, who somersaults around the political landscape with the airy lightness of a jolly jester not weighed down by worries about appearances, originally said SALT II should be shelved until the combat brigade is eliminated. Now that Carter says the brigade will neither leave nor change, Church wants to proceed with the ratification process.

So do many opponents of SALT II. Although the administration says it has the votes, many opponents know, as the Soviets know, how safe it is to call this administration's bluff.

A Look at the Coverup on Soviets in Cuba

(By Paul Scott)

President Carter and his foreign policy advisers are not telling the full story about the Soviet military buildup in Cuba that U.S. intelligence agencies have uncovered.

In their private briefings of Congressional leaders and others, these Carter Administration officials have withheld some startling details about the makeup of the Russian "combat brigade" and the total number of Russian and Soviet bloc military personnel in Cuba.

Through intercepts of messages and "other intelligence sources," U.S. intelligence experts have learned that approximately 800 members of the Soviet "combat brigade" came to Cuba from East Germany where their unit guarded "nuclear warheads and ground-to-ground mobile missiles."

Their confirmed presence, at bases known to be near airfields, raises the disturbing question of whether they have the same mission in Cuba which they had in East Germany—the protection of nuclear warheads and missiles.

In seeking to downplay the threat of the Soviet military buildup in Cuba, the President and his advisers also have suppressed a secret U.S. intelligence estimate that the Russians now have anywhere from 13,000 to 18,000 Soviet and Eastern European military personnel on the strategic island.

A military intelligence estimate, which neither the Central Intelligence Agency nor the White House will accept, is that the Russian and Soviet bloc military personnel in Cuba may be as high as 30,000—if all the military personnel in civilian roles are counted.

In addition to this Soviet buildup on the ground, the Russians have anywhere from "150 to 300 pilots" in Cuba with most of them integrated into the Cuban air force.

The Russians keep a squadron of long-range reconnaissance-bombers, which weekly fly the length of the U.S. Eastern coast on surveillance missions, in Cuba on a rotation basis.

The Russians also have supplied Cuba with more than 20 troop-carrying aircraft which could easily be used to drop guerrillas or regular Cuban troops into non-communist countries in strife-torn Central America or near U.S. military installations in Panama.

The troop-carrying aircraft could just as well be used to airlift Soviet combat troops to countries like Nicaragua or carry military equipment to that country for reshipment to guerrilla forces fighting in other Central American countries. In other words, the Russians now have an advance military operational base within U.S. defense for the Western Hemisphere.

Administration insiders, who have watched the suppression of this information, say the reason for the coverup is because of the concern of the President and his aides that if the full extent of the Soviet military buildup became known that Congress and the public would demand that counter action be taken to neutralize the threat.

Since the Carter Administration has no policy to directly confront the Soviets, the word has gone from the President to "play down the Soviet-Cuban military threat until some type of an accommodation can be worked out with Moscow and Havana."

Under the White House guidelines, the coverup now has been extended to discouraging the U.S. intelligence community from preparing a new assessment as to the total number of Russians and Soviet bloc military personnel in Cuba.

What the White House is concerned with is that such an assessment would show that the Soviet contingent in Cuba is the largest outside the Warsaw or Eastern European Communist Pact.

A new assessment would also show that Cuba now has the most modern and largest military force in all of Latin America. With a regular military force of more than 125,000 the total Cuban military strength is now estimated at as high as 325,000 when the reserve and the home guard forces are included.

U.S. intelligence experts say the review would also show that the Russians have BUILT a submarine base in Cuba and that Soviet officers are integrated in the crews that are operating two submarines that were turned over to Castro and are operating from the base.

In his meetings with Congressional leaders, President Carter has privately complained that the "Russians have lied to me about their military buildup in Cuba."

The real issue isn't whether the Russians have lied but whether the President plans to tell Congress and the American people the full story about the Soviet military buildup and whether he is going to permit it to continue.

U.S. SENATE,
Washington, D.C., October 10, 1979.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: On September 13, 1979 I wrote to you expressing my deep concern over the presence of Soviet combat troops in Cuba. I am particularly troubled by arguments appearing in the press that Soviet combat troops may foreshadow the clandestine introduction of nuclear weapons, mobile MRBMs or even cruise missiles. I draw your attention particularly to an article (enclosed) by Paul Scott that appeared in the October 3, 1979 issue of the Manchester Union Leader. In his article, Mr. Scott makes some very serious accusations and reveals details about the nature of the Soviet military presence in Cuba that are very disturbing to me.

I plan to take this issue to the Floor given the urgency of the matter. I believe it is the responsibility of the Administration to respond to these allegations. Therefore, I request that you advise me as to the accuracy of the Scott article by October 18, 1979.

I respectfully request that you provide me with answers to the following questions:

1. Do the Soviet troops in Cuba bear any resemblance to those Soviet troops assigned to guard Soviet nuclear weapons in Eastern Europe? Have any of the Soviet combat troops now in Cuba previously been assigned the task of supervising and handling of Soviet nuclear weapons and missile systems in Warsaw Pact Countries?

2. Would you please delineate the precise location of Soviet troops in Cuba?

3. Are they situated in one particular area or scattered throughout Cuba?

4. How many Soviet troops and civilian and military advisers are in Cuba?

5. What is the deployment history of the Soviet Brigade which is presently in Cuba?

6. By service, please give me a detailed breakdown of the Soviet Union's military presence in Cuba (i.e., number of pilots, officers, enlisted men, equipment, etc.)

7. Would it be possible for the Soviets to clandestinely store nuclear weapons and even mobile missile systems in Cuba?

I would greatly appreciate a prompt handling of my request.

Sincerely,

GORDON J. HUMPHREY,
U.S. Senate.

HEALTH WARNING LABELS

Mr. HUMPHREY. Mr. President, the Alcohol and Drug Abuse Subcommittee of the Labor and Human Resources Committee, of which I am a member, recently held a hearing on the issue of the need for health warning labels for alcoholic beverages. Shortly before the hearing, the subcommittee staff released their "Report on Consumer Health Warnings for Alcoholic Beverages and Related Issues," which included background information on this issue along with copies of numerous solicited letters that my distinguished colleague, Senator RIEGLE, received in response to the questions he posed on the issue of health warning labels.

The staff report included in the executive summary the recommendation that "health warning labels should be required for alcoholic beverages to inform consumers of their risks to health." This recommendation, which I want my colleagues to know is made by staff and not by the Senators on the subcommittee, is most perplexing in light of the fact that no evidence was presented in the report to substantiate the claim that a warning label would in any way reduce consumption by abusers of alcohol, the goal that should be the aim of any warning label.

Testimony presented before the subcommittee hearing further revealed that not one scientific study has demonstrated that a warning label would have any effect on reducing consumption on the part of alcoholics, nor would the label in any way reduce the serious alcoholism problem in this country. One of the proponents of the warning label who appeared as a witness before the recent hearing, William J. McCord, director of the South Carolina Commission on Alcohol and Drug Abuse, testified that the label would have a "symbolic" effect—however, he admitted that we could expect no concrete results from the warning label. The staff report and the hearing record were thus devoid of evidence to suggest that a warning label would reduce problem drinking.

Mr. President, I would like to comment on another section of the staff report which includes the solicited responses that the Senator from Michigan received on this important issue. Senator RIEGLE is to be commended for his efforts in bringing this issue to the public's attention. The more than 250 letters received by Senator RIEGLE were 2 to 1 in favor of warning labels. However, I must point out that the Bureau of Alcohol, Tobacco and Firearms (BATF), the agency with clear and direct jurisdiction over labeling of alcoholic beverages, last year requested public comment on their proposed rulemaking concerning the warning label. BATF received more than 3,000 comments from consumers, medical experts and special interest groups; 95 percent of the consumers opposed the warning label. Of special note is the fact that of the 94 comments received from medical experts, 89 percent were opposed to the warning label.

It would be premature for the Congress to act on such an important proposal before we have substantial evidence that a warning label would be effective in altering alcoholics' drinking patterns. At this time, the preponderance of evidence suggests that the warning label would have no effect. One of the witnesses at the hearing, Dr. David Pittman, chairman of the Department of Sociology at Washington University in St. Louis, Mo., stated then that:

> There is not a single scientific study which would indicate that health warning labels would raise the public's awareness of alcohol problems or be effective in altering an individual's drinking pattern which is causing him or her problems.

Many witnesses who testified in favor of the warning label claimed that warning labels would raise public awareness of the hazards of alcoholic abuse. This suggestion is ludicrous in light of a recent HEW-contracted study which demonstrates that 98 percent of young adults and 96 percent of 17-year-olds know that continuous and heavy use of alcohol causes damage to the liver and brain. Need we impose further regulatory burdens on industry and further warnings on a public weary of such Government-mandated warnings when such an extraordinary percentage of the public is aware of the risks of alcohol? I think not.

Americans today are besieged by a barrage of Government warnings to do this, not to do that, and so on. The Federal Government, always with good intentions, manages to delve into every aspect of Americans' lives. The result? Suspicion and distrust. The health warning label is just another example of good intentions gone astray.

Mr. President, I ask unanimous consent to have printed in the RECORD the hearing testimony of David J. Pittman, chairman of the Department of Sociology at Washington University in St. Louis, Mo. His expert testimony clearly points out, as I stated earlier, the fallacy of believing that a warning label would in any way reduce our Nation's alcoholism problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF DAVID J. PITTMAN, PH. D.

SUMMARY

From my perspective as an academician, researcher, and current and former office holder in many local, state, national and international private and public alcoholism organizations, I am opposed to governmental mandated health warning labels on containers of beverage alcohol for many reasons. They are briefly:

1. Health warning labels are simplistic and cosmetic, though probably well intentioned devices to ameliorate the alcoholism problem in the United States.

2. There is not a single scientific study which would indicate that health warning labels would raise the public's awareness of alcohol problems or be effective in altering an individual's drinking pattern which is causing him or her problems.

3. There is a real danger that health warning labels would be misleading and reinforce the archaic belief that alcohol causes alcoholism, without any attention being paid to the crucial role of biological, psychological, and environmental factors in alcohol problems.

4. Health warning labels are unnecessary for the majority of Americans who do not have alcohol problems and drink in appropriate ways.

5. Health warning labels on containers ignores the fact that approximately 30 percent of beverage alcohol is consumed in commercial, familial and party contexts.

6. American society currently is characterized in Etzioni's terms by "regulatory overload," and the population is being bombarded by so many health warning alerts on so many products that they are being viewed by indifference by the population.

7. Almost any product or behavior can be hazardous to one's health from automobiles to salt for patients with hypertension. The federal government cannot be the parent or guardian for all citizens in all matters. New regulations for the protection of the population, however well intentioned, creates a vast bureaucratic empire for their enforcements and the costs of regulation are passed on to the consumer in high prices for the products and increased taxes.

A more positive approach than one-shot warning labels to sensitizing the population to alcohol problems is a sustained information and education campaign, both to the general population and to specific target groups over a period of years to the hazards of inappropriate drinking behaviors and their consequences utilizing both the resources of the public and private sector especially the active involvement of the beverage alcohol industry.

STATEMENT

Senator Riegle and Members of the Senate Subcommittee on Alcoholism and Drug Abuse: I am David Pittman, Chairman and Professor of Sociology at Washington University in St. Louis, where I have been a member of the faculty since 1958. I am pleased to present my views on consumer health warning for alcoholic beverages and related issues, especially health warning labels on containers of alcoholic beverages to this distinguished subcommittee.

I have been active at the local, state, national and international levels of alcoholism prevention, education treatment and rehabilitation for the last 25 years beginning with my doctoral dissertation research on the chronic drunkenness offender, which was published in an expanded book form (Pittman & Gordon, "Revolving Door," New Haven: Yale Center of Alcohol Studies 1958) with the aid of a collaborator (C. Wayne

Gordon, Ph.D.), which made the bold recommendation (at that time, 1958) of decriminalizing public drunkenness and creating detoxification centers and rehabilitation centers for these individuals at the local and state level. I am extremely proud that the first community in the United States to decriminalize public drunkenness and establish a detoxification center with rehabilitation services was in St. Louis, Missouri, in 1966 and is still operational in 1979. My colleagues in the St. Louis and Missouri governments as well as those from Washington University, including myself, were instrumental in designing this facility and engendering support and funding for this endeavor.

Currently my interests are mainly in the areas of the prevention of alcoholism and alcohol-related problems. I should indicate, however, that my comments concerning health warning labels are my personal beliefs and do not necessarily represent the position of my university, any organizations of which I am a member or an officer, or any public or private agency from which I receive funding for research or educational activities, whether it be the National Council on Alcoholism, the United States Brewers Association, Incorporated, the National Institute on Alcohol Abuse and Alcoholism, etc.

I have read the Legislative Hearing Report of the 95th Congress, "Alcohol Labeling and Fetal Alcohol Syndrome, 1978," the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Department of the Treasury document, "The Fetal Alcohol Syndrome: Public Awareness Campaign," February 1979, and the Congressional Debate on warning labels in the CONGRESSIONAL RECORD of May 7, 1979.

The conclusion I have reached not only from reading these documents as well as my own experience as an academician, researcher, and as a leader in innovations in treatment and legislative activities to aid alcoholics and their families, is that health warning labels are simplistic and cosmetic, though probably well-intentioned, devices to ameliorate the alcoholism problems in the United States.

First, there is not a single scientific study which would indicate that health warning labels on containers of alcoholic beverages would either raise the public's awareness of alcoholism and alcohol problems as significant public health problems or, above all, that they would be effective in altering drinking patterns of the already alcohol-addicted group of drinkers and those in high risk groups for developing alcoholism and alcohol problems. This point is made in the BATF publication, "The Fetal Alcohol Syndrome: Public Awareness Campaign," February 1979, which states, "The effectiveness of labeling of alcoholic beverages is not certain." (p. 27) Sweden, which has a low per capita consumption rate of alcoholic beverages but extensive alcohol problems, has introduced a number of measures to reduce drinking of alcoholic beverages with higher prices for distilled beverages, health warning labels on containers of alcoholic beverages, and restriction on life style advertising which would glamorize drinking. However, there is no evidence yet that these measures have reduced the alcohol problems in that country.

Second, health warning labels on containers on alcoholic beverages would be misleading and reinforce prevailing sentiments that the real cause of alcoholism and alcohol-related problems is to be found in the agent, ethyl alcohol, and not in the more relevant variables of the individual (or the host in epidemiological terms) and in the environmental or sociocultural conditions in American society. More explicitly, the warning labels will be ineffective for those minority and stigmatized groups whose alcohol problems are intimately related to their position in American society; e.g., American Indians, Eskimos, Aleuts, low-income Blacks and Chicanos. The solution to their high rates of alcohol pathology will be alleviated only by an improvement in their socioeconomic position in America. Furthermore we already know that alcoholics do not respond to lectures, exhortations, warning labels or moralizing of any type. If lectures or exhortations were going to solve the alcoholism problem, it would have disappeared during the previous generations, marked by Prohibition, Carrie Nation types, and pledges to remain sober.

Third, the overwhelming majority of Americans who do drink do not have problems with alcohol. Health warning labels are not needed for this group of people who drink in non-injurious ways to their health. We should remember that drinking patterns are learned in the individual's family unit and a strong positive family environment is one of the best protections against a child's later becoming an alcoholic abuser. Furthermore, drinking patterns are modified by the individual's peer group and friends. By the time the individual is legally of age to purchase and consume alcoholic beverages he or she already has a set of attitudes and beliefs about alcoholic beverages.

In summary, we need to determine why some people drink to excess or have alcohol problems, and in most cases why humans have been drinking since the beginning of human history without significant problems; these are the primary research questions to which our attention should be addressed.

Fourth, a warning label that excessive consumption of alcoholic beverages may damage one's health comes at the end point of personal drinking decision making—namely after the purchase of the alcoholic beverage. Do we scientifically know whether or not a label will be read by the purchaser? Also, how does a warning label affect the consumption of alcoholic beverages ordered in restaurants, taverns and cocktail lounges where a proposed label would not be in view? It should be pointed out that approximately 30 percent of the beverage alcohol is consumed in cocktail lounges, taverns, private parties, etc. How would warning labels apply to these situations?

Fifth, as Professor Etzioni noted in his evaluation of the responses to the advanced notice of proposed rule making on warning labels on containers of alcoholic beverages, "an excessively liberal use of government power has already led to regulatory overload [in American society]" (The Fetal Alcohol Syndrome: Public Awareness Campaign, ibid., p. 228). The Federal government is not responsible for being the parent or guardian for all citizens. Almost any product or behavior can be injurious to one's health. Automobiles, aircraft, long gasoline lines, sugar products such as cookies if used by diabetics, high caloric foods if used by obese individuals, products with high cholesterol contents for patients with heart disease, salt for those who have hypertension, etc., can all be hazardous to one's health, but they do not carry warning labels. The federal government cannot and should not regulate every area of human endeavor or behavior; in my view the federal government has put out so many health warning alerts on so many products that they have reached the point of being not only absurd but are viewed with indifference by the population.

I, as well as many other Americans in this inflationary period of high taxation, shudder to think of the vast bureaucratic empire that will be created in the Federal Drug Administration or the Federal Trade Commission to enforce this new regulation to protect ourselves against ourselves. To be enforced equitably, does the administrative agency propose—since alcohol beverages are sold as mixed drinks as well as purchased in containers—to require that all cocktail glasses be engraved with the warning, "Caution: Consumption of alcoholic beverages may be hazardous to your health"? These are practical details but we are all too aware of the rule-making capacity of such bureaucratic agencies as OSHA, EPA, the Department of Energy, etc. Americans, in all recent opinion polls I have read, are tired of the over-regulation of their lives by vast impersonal agencies on the banks of the Potomac. Health warning labels on alcoholic beverages is just another aspect of this governmental over-regulation and will be cost-ineffective in reducing alcoholism. Furthermore, what will be the cost of implementing these health warning labels?

From the American experience with federal governmental regulations over the last decade we must be cognizant of the fact that the placing of regulatory power, such as health warning labels in the hands of the Department of Health, Education, and Welfare, means that a vast bureaucratic army of new public employees must be maintained to exercise surveillance over the makers of the beverage alcohol. We must keep in mind the cogent comment of the sociologist Nathan Glazer who states:

> "Place someone in the position of a regulator and he is likely to see his task as more important, his role as less intrusive, and the extension of his role as more justified, than do the people he regulates. [*The Public Interest*, No. 56, summer 1979, p. 62.]

Finally, I believe that the final danger in mandating health warning labels on containers of alcoholic beverage is that the United States Congress will give the population the impression that they have taken effecitve action against the problem of alcoholism abuse, at a low cost to the federal treasury, since the cost of government regulation is always passed on to the consumer with higher prices for the product or in higher taxes. But, again, there is no evidence that at this time warning labels will have any significant impact on ameliorating America's alcoholism problem among high risk groups for developing alcohol problems (Eskimos, American Indians, male homosexuals, children of alcoholics).

A more realistic approach to increase public awareness of the potential health hazards of beverage alcohol usage

We should be aware of the fact that humans have been producing and consuming alcoholic beverages for over 20,000 years and that its use in some societies and groups has been integrated into religious, ceremonial and celebratory activities, and furthermore used for medicinal purposes. Particularly relevant is the fact that in Western societies, alcohol beverages have played an important role in these cultures and became an integral part in the dietary habits of Western societies in Europe before the United States was discovered and settled.

A cursory examination of ancient, medieval and contemporary history reveals that the civilizations of Ancient Greece and Rome were aware of the negative consequences of excessive drinking with warnings about "drinking too much wine was evil," that "moderate drinking should be the standard," and even at one point in Roman history women were forbidden to drink.

These historical observations are not intended to trace the history and use of alcohol. Instead these brief observations show how man's attitudes towards alcohol have been confused and ambivalent. The Greeks both praised and condemned alcohol. Also, a society can change its attitude towards alcohol. Early Rome was moderate in its drinking patterns, but later characterized by its excessive use of alcohol. Man has used and misused alcohol since the beginning of history and, most likely, will continue to use and misuse it until the end of history. In other words, there is nothing new about alcohol problems or the attempts to deal with them. It is unlikely that man will ever be able to do away with all the problems associated with alcohol. He must accept its disadvantages along with its benefits. However, we can now alleviate many of the problems associated with alcohol. And, our ability to cope with these problems will increase as our knowledge of alcohol and its uses increases.

Our attempts to cope with problems of alcohol misuse are not a recent phenomenon of the 1970's for previous generations have been aware of this problem and have adopted various measures to deal with the problem ranging from complete Prohibition in the United States, except beverage alcohol for medicinal purposes from 1920–1933, to various age restrictions on the purchase and consumption of alcoholic beverage, restrictions on the hours, days, and places of sale for alcoholic beverages, etc.

But any program to sensitize the American population to the health hazards of excessive and inappropriate use of alcoholic beverage must be based on the foundation that the majority of adult Americans consume alcoholic beverages and that any program that does not meet the reality test of the experience of the American consumer is fraught with failure.

Specifically, the best device for alleviating America's alcohol problem is one that is based on a sound scientific foundation with strong educational programs that continue over a period of decades. The current problems with alcohol misuse did not develop overnight and are not going to be eradicated by simplistic and cosmetic devices such as printed warning labels on containers of alcoholic beverages. Concretely the following programs need either to be implemented or strengthened:

(1) The disease of alcoholism which afflicts millions of Americans still too frequently has a stigma attached to it. Public attitudes toward the alcoholic while more understanding than two decades ago still too frequently cast the alcoholic as one who caused his or her own disease. Private and public agencies need through concrete action to implement the orientation that alcoholism is a treatable disease and individuals can and do recover from alcoholism. Specifically decriminalization of the public drunkness offense with concomitant funding for treatment programs has begun to lag in this country in the late 1970's. Our largest state, California, still has not decriminalized public drunkenness, and individuals are still being arrested and jailed for having a disease which is treatable. Many states still do not mandate that group health insurance policies must include coverage for alcoholism as a primary diagnosis. Many private and public sector businesses and agencies do not have employee assistance programs for problem drinkers as part of their ongoing services, although the cost-feasibility of such programs was shown as early as 1943 by the DuPont Corporation. Treatment services for risk groups for alcoholism are still woefully inadequate for such populations as minority groups, many lower-income individuals, etc. In short, the priority attached to providing services for the alcoholic individual is generally low at all levels of governmental and private organizational structure.

(2) Research funding by both the private and public sector for studies geared to the prevention of alcohol abuse as well as to the causes of alcohol abuse and alcoholism are negligible compared to funds invested in such areas as cancer, heart disease, diabetics, etc. Although it is generally assumed that alcohol abuse and alcoholism are related to the complex interaction of biological, sociocultural and psychological factors in the environment, our body of scientific knowledge in these areas is fragmentary and inconclusive. This is true regardless of the area under consideration whether it be the effect of alcohol advertising on drinking behavior and norms or the fetal alcohol syndrome (FAS). As Dr. Jack Mendelson has stated in reference to the FAS, "A surprising shortcoming in virtually every study of the fetal alcohol syndrome is a failure to consider or to adequately identify factors other than alcohol intake which may have contributed to behavioral and morphological derangements in the newborn." (*Advances in Alcoholism*, Raleigh Hills Foundation, June/July, 1979, Vol. I, No. 11, p. 3).

A stronger commitment to research, both basic and applied, is desperately needed in this field not only by the public sector but also the private sector, including the alcohol beverage industry.

(3) A sustained education and information campaign, both to the general population and specific target groups, is needed over a period of years to sensitize the public and professional groups to the hazards of inappropriate drinking behaviors.

Concretely, alcohol-specific education needs to be included in the elementary and high school curriculum so individuals can make informed decisions about their own personal drinking patterns. Alcohol-specific education needs to be included and strengthened in the college and professional school curricula—especially many professional schools (such as medicine, social work, nursing, health education, psychology, sociology, pharmacology, etc.) still do not provide adequate training to the personnel to diagnose and treat individuals with alcohol abuse problems.

Mass media campaigns on the appropriate use of alcoholic beverages should be encouraged as well as those which assign positive attributes to those who choose to abstain from drinking. Too frequently in the past abstainers have been negatively characterized in both printed and visual media as a reaction to the Prohibition Era (1920–1933) of suppression of alcoholic beverages.

Educational or public awareness campaigns are not the sole responsibility of the federal government; in fact private organizations such as the National Council on Alcoholism, the Education Commission of the States, the North Conway Institute, the American Council on Alcoholism, professional groups such as the American Medical Society, the American Nursing Association, labor unions, private industry and the alcohol beverage industry all should be intimately involved in informing the public of the potential health hazards of inappropriate use of alcoholic beverages for women in child-bearing ages, for high risk groups for developing alcoholism, for operators of motor vehicles (that alcohol use and driving do not mix).

Such educational and public awareness campaigns should not be limited to specific time periods but should be constant ongoing activities.

(4) My conclusions on the feasibility of warning labels for containers of alcoholic beverages are similar to those reached by the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms on "The Fetal Alcohol Syndrome Public Awareness Campaign—Progress Report" (Notice No. 318; Re: Notice No. 316) which states in summary:

"The Department has concluded that there is a need for a public awareness campaign which educates the public about the possible dangers that consumption of liquor, beer, and wine by a pregnant woman can present to an unborn child. Because of the nature of the evidence now available as to the possible dangers, it is not yet clear that warning labels on alcoholic beverage containers would be the best tool to educate the public; and because the Department wants in all instances to avoid unnecessary government regulation, it is encouraging the alcoholic beverage industry to work with the Government and private interest groups to educate the public about the possible dangers."

Such a public awareness campaign, which involves the active cooperation of federal government, private organizations, and the alcohol beverage industry, should maximize the involvement of all parties concerned in alerting the American population to the risks associated with the inappropriate use of alcohol. However, such campaigns should not only be directed to women in child bearing ages but also to other areas where there are problems, such as driving and drinking, drinking by under-age individuals, and groups which have a high incidence of alcohol problems. Such programs have the advantage of being potentially more effective in reaching individuals than a simplistic solution such as a printed warning label on a container of beverage alcohol that "consumption of alcoholic beverages may be hazardous to your health," which reaches the consumer after the decision to purchase alcohol has been made.

In conclusion, I wish to thank this distinguished Senate Subcommittee for the opportunity to share my thoughts on the utility of health warning labels for reducing alcoholism and alcohol-related problems. As one of the "other victims of alcoholism" in that my father died from the consequences of alcoholism, my opinions are based not only on academic knowledge and personal experience but from deeply held personal beliefs about the role of the federal government in a democratic society.

Mr. HUMPHREY. Mr. President, for the benefit of my colleagues I would like to review the testimony and responses to questions at the hearing of the efficacy of warning labels. The record established in this hearing is useful since it exposes the weakness of the case for warning labels. Every prolabel witness, under questioning, conceded that he or she had no evidence that a warning label would do any good in curbing the alcohol abuse problem.

The HEW witness, Mr. John DeLuca, the Director of the National Institute on Alcoholism and Alcohol Abuse, endorsed the warning label. However, under questioning, DeLuca admitted that there is no clear evidence to indicate that labeling would be effective. He stated in response to one of my questions that:

> We do not have, and I would not want to suggest, that we do have studies which conclusively say that a health warning label changes individual behavior.

Of the witnesses supporting warning labels, Dr. Jokichi Takamine, representing the American Medical Association, was the most impressive. However, when I asked him "In your professional experience with individual alcoholics, do you feel any of these men, women, or teenagers would have been deterred by such a warning label?" Dr. Takamine answered:

> No, I don't, Senator. There are a lot of stories about alcoholics, that they don't get deterred by anything. Once they are hooked into the disease concept, and have the dependency, they just go on.

The hearing record clearly points out that even those who support warning labels do not believe that the label would prevent a person who abuses alcohol from taking that one drink too many. In the absence of such evidence, we must not let a proposal such as this to become law.

JOHN NICHOLAS BROWN—"THE FIRST MAN" OF RHODE ISLAND

Mr. **CHAFEE**. Mr. President, today we mourn the passing of John Nicholas Brown, a man familiar to all Rhode Islanders, and to many other Americans as well.

We knew him in so many ways: Philanthropist, businessman, civic leader, public servant. As the standard bearer of an illustrious family whose roots extended back farther than even the creation of our own Brown University, John Nicholas Brown always joyfully participated in activities in his community and his country.

He served with distinction as Assistant Secretary of the Navy between 1946 and 1949, and also on the Federal Advisory Board of the Public Works Administration during the first Roosevelt term. Later, he was a member of our State's first Civil Service Commission, and became the first chairman of the Rhode Island State Planning Board.

I truly rank John Nicholas Brown as one of the most unforgettable persons I have ever met. He was a man for all seasons, a genuine Renaissance man.

When you were with John Nicholas Brown, you knew you were with an incredible person. Conversation could turn to any subject—classical civilizations, art, the contents of the Rare Book Library at Yale, ocean racing, and the effects of the gulf stream—each he could discuss with intimate knowledge and zest.

A sailor of superb skill, he loved the sea and the challenges it presented.

We all learned something from him and keenly enjoyed his company.

More than anything else, he was a Rhode Islander all the way. From his commitment to the State's economic health, to his generosity to its charitable institutions, he was "The First Man" of Rhode Island.

Above everything, John Nicholas Brown was an incredibly kind and compassionate person, one who was genuinely interested in what others were doing, what they were feeling, and what they needed.

His was a character and presence of rare quality. We will miss his companionship and wit. The warmth and wisdom of his personality will live with us for years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

FISHERY AGREEMENT BETWEEN THE UNITED STATES AND DENMARK AND THE FAROE ISLANDS—MESSAGE FROM THE PRESIDENT—PM 120

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, jointly, by unanimous consent:

To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801), I transmit herewith a governing international fishery agreement between the United States and Denmark and the Faroe Islands, signed at Washington on September 5, 1979.

This agreement is one of a series to be negotiated in accordance with that legislation. I urge that the Congress give favorable consideration to this agreement at an early date. Since 60 calendar days of continuous session, as required by the legislation, may not be available, I recommend that the Congress consider issuance of a joint resolution to bring this agreement into force.

JIMMY CARTER

THE WHITE HOUSE, *October 10, 1979.*

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that a message from the President of the United States, received earlier today, relative to the governing international fishery agreement between the United States and Denmark and the Faroe Islands, be jointly referred to the Committees on Commerce, Science, and Transportation and Foreign Relations.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

At 3:09 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 817. An act to amend the Act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area.

The enrolled bill was subsequently signed by the President pro tempore.

The message also announced that the House agrees to the amendments of the Senate numbered 1, 2, and 3 to H.R. 5419, an act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes; and that the House agrees to the amendment of the Senate numbered 4 to the bill with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3777. An act to amend the provisions of title 39, United States Code, relating to the use of the frank, and for other purposes;

H.R. 3949. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary of Transportation to require tire manufacturers, in certain circumstances, to provide public notice of tire defects;

H.R. 5048. An act to amend the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429th);

H.R. 5079. An act to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes; and

H.R. 5224. An act to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3777. An act to amend the provisions of title 39, United States Code, relating to the use of the frank, and for other purposes; to the Committee on Governmental Affairs.

H.R. 3949. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary of Transportation to require tire manufacturers, in certain circumstances, to provide public notice of tire defects; to the Committee on Commerce, Science, and Transportation.

H.R. 5048. An act to amend the act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes," approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429th); to the Committee on Energy and Natural Resources.

H.R. 5079. An act to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes; to the Committee on Foreign Relations.

H.R. 5224. An act to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes; to the Committee on Finance.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 10, 1979, he presented to the President of the United States the following enrolled bill:

S. 817. An act to amend the Act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2294. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Analysis of the Allocation Formula for Federal Mass Transit Subsidies," October 9, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2295. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Demonstrations of Solar Heating and Cooling on Private Residences—Only Limited Success," October 9, 1979; to the Committee on Energy and Natural Resources.

EC-2296. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Alternatives for Achieving Greater Equities in Federal Land Payment Programs," September 25, 1979; to the Committee on Energy and Natural Resources.

EC-2297. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Issued and Needed Improvements in State Regulation of the Insurance Business (Executive Summary)," October 9, 1979; to the Committee on the Judiciary.

EC-2298. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Issues and Needed Improvements in State Regulation of the Insurance Business," October 9, 1979; to the Committee on the Judiciary.

EC-2299. A communication from the Secretary of Commerce, transmitting, pursuant to law, a draft of proposed legislation entitled the "Privacy of Electronic Fund Transfers Act of 1979," together with a section-by-section analysis; to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Commerce, relative to privacy of electronic fund transfers, be referred jointly to the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.J. Res. 412. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment, but with a preamble:

H. Con. Res. 167. Concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the United States delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union.

By Mr. DECONCINI, from the Committee on the Judiciary, without amendment:

S. 1873. A bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes (together with additional views) (Rept. No. 96-362).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

James F. Leonard, of New York, to be Ambassador during the tenure of his service as Chief of the U.S. Mission to the Middle East peace negotiations.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: James F. Leonard.

Post: Deputy to U.S. Middle East negotiations.

Contributions, amount, date, and donee:

1. Self, (see attached statement).
2. Spouse, (see attached statement).
3. Children and Spouses names, (see attached statement).
4. Parents Names: James F. Leonard, Sr., and Margaret Trimble Leonard (both deceased).
5. Grandparents Names; Deceased.
6. Brothers and Spouses Names, None.
7. Sisters and Spouses Names, Mariette Leonard Constantini and Ugo Constantini.

NOTE ON CONTRIBUTIONS REPORT

The names of my children and their spouses are listed below. To the best of my knowledge, none of them, nor my sister or her husband, have made any political contributions in recent years. If they have done so, I am confident that the total amount contributed by any one of them was less than $100. I am writing to verify these statements and if they tell me of any significant contributions I will immediately report them. I do not have access, here in Tel Aviv, to all the records necessary to ascertain my own contributions, if any, in 1979. I am confident, however, that they have been well under $100. In fact, I believe them to have been zero. Again, I will report the full facts when available.

Children of James F. and Eleanor H. Leonard:

A. Lee Thompson (stepson). His spouse is Diane Sowder Thompson.

Cynthia J. Leonard (unmarried).

Valerie L. Leonard (unmarried).

Diana C. Leonard. Her spouse is Michael B. Brown.

Carolyn A. Leonard (unmarried).

Pamela Leonard (unmarried).

Contributions to candidates for public office and to "political" non-tax-exempt organizations

Date, organization, and amount:

1978, Fraser for Senate committee	$25.00
1978, Barnes for Congress committee	10.00
1977, Barnes for Congress committee	10.00
1976, Planning Commission for new directions	100.00
1976, rental of Avis cars to drive voters to the polls	80.96
1976, Citizens Union (New York)	15.00
1976, Americans for Democratic Action	20.00
1976, Public Citizen, Inc. (Ralph Nader)	15.00
1976, New York Public Interest Research Group	15.00
1975, Maine for Muskie committee	15.00
1975, Harris for President committee	25.00
1975, Democratic Forum	25.00
1974 Democratic Forum	15.00
1974, King Golden for Congress	15.00
1974, Washington Suburban Democratic Club	3.00
1974, Judy Toth (local election candidate)	5.00
1974, Hart for Senate	5.00
1974, Americans for Democratic Action	15.00
1974, National Committee for an effective Congress	15.00
1974, Public Citizen, Inc. (Nader)	15.00
1974, Citizens Union (New York)	15.00
1974, Common Cause	20.00

By Mr. CHURCH, from the Committee on Foreign Relations:

Robert S. Strauss, of Texas, for the rank of Ambassador during the tenure of his service as Personal Representative of the President of the United States of America.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Robert S. Strauss.

Contributions, amount, date, and donee:

1. Self, See Attachment A.

ATTACHMENT A

POLITICAL CONTRIBUTIONS

Amount, date, and donee;

$100.00, September 3, 1975, Citizens for the Texas Constitution.

$100.00, October 15, 1975, Mauzy Birthday Party 75.

$50.00, December 3, 1975, Governor Raul Castro (Arizona).

$100.00, December 3, 1975, Congressman John Burton (California).

$100.00, January 22, 1976, NWPC Campaign Support Committee (National Womens Political Caucus).

BEST DOCUMENT AVAILABLE

$35.52, March 4, 1976, Democratic Women of Dallas County.

$5.00, March 15, 1976, Democratic Women of Dallas County.

$100.00, March 19, 1976, Jim Tyson Dinner.

$50.00, September 8, 1976, Campaign Victory '76.

$100.00, September 17, 1976, Ron Clower Appreciation Party.

$100.00, August 19, 1976, Sheriff Jones Campaign.

$25.00, March 29, 1977, League of Women Voters.

$10.00, August 11, 1977, Democratic Women of Dallas County.

$50.00, March 16, 1978, Bill Weber Benefit Fund.

$50.00, June 6, 1978, Committee to Elect Jan. Whittington to Congress.

$10.00, June 8, 1978, Democratic National Committee.

By Mr. CHURCH, from the Committee on Foreign Relations:

George B. Roberts, Jr., of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Cooperative Republic of Guyana.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: George B. Roberts, Jr.

Post: Georgetown.

Nominated (Not Yet Nominated).

Contributions, amount, date, and donee:

1. Self, none, N.A., N.A.

2. Spouse, none, N.A., N.A.

3. Children and spouses names, Michael H. Roberts, $10.00, 1977, Dollars for Democrats; George B. Roberts, III, none, N.A., N.A.; Jocelyn Roberts, None, N.A., N.A.

4. Parents names, Mary H.H. Roberts, $25.00, 1976, George R. Packard.

5. Grandparents names (N.A.—all deceased).

6. Brothers and spouses names, none.

7. Sisters and spouses names, Alice R. Connolly, none, N.A., N.A.

By Mr. CHURCH, from the Committee on Foreign Relations:

Horace G. Dawson, Jr., of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Botswana.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Horace Greeley Dawson, Jr.

Post: Botswana.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Mr. CHURCH. Mr. President, as in executive session, I also favorably report sundry nominations in the Foreign Service which have previously appeared in the RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD of October 4, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself and Mr. JACKSON):

S. 1871. A bill to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program; to the Committee on Energy and Natural Resources.

By Mr. HEINZ (for himself, Mr. PRESSLER, Mr. MOYNIHAN, and Mr. JAVITS):

S. 1872. A bill to amend title 38, United States Code, to provide for a program of career development, advancement, and training and for outreach and supportive services for Vietnam era veterans, to provide increased funding and improved programs for health and psychological care for such veterans to improve education assistance under the GI Bill for such veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DECONCINI (for himself, Mr. KENNEDY, Mr. BAYH, Mr. NUNN, Mr. THURMOND, Mr. HATCH, Mr. LEAHY, Mr. COCHRAN, and Mr. BAUCUS):

S. 1873. A bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself, Mr. PRESSLER, Mr. MOYNIHAN, and Mr. JAVITS):

S. 1872. A bill to amend title 38, United States Code, to provide for a program of career development, advancement, and training and for outreach and supportive services for Vietnam era veterans, to provide increased funding and improved programs for health and psychological care for such veterans, to improve education assistance under the GI bill for such veterans, and for other purposes; to the Committee on Veterans' Affairs.

VIETNAM VETERANS ACT

● Mr. HEINZ. Mr. President, I am pleased to introduce today along with Senator JAVITS, MOYNIHAN, and PRESSLER comprehensive legislation addressing the continuing problems of Vietnam veterans—problems which have been ignored for far too long.

It has now been some 6 years since the last combat troops left Vietnam. That violent struggle in Asia and the intense emotions that it sparked here in the United States are part of our history. College campuses across the Nation, the focus of the division that the war produced, are now quietly populated by a generation of students for whom the war and the controversy surrounding it are but a little understood phenomenon of another time, another mood, and another generation. Although the impact of the war continues to influence our national psyche and our perception of the role we want to play in the world community, the war for the country and for most of its citizens is a thing of the past. We have moved away from the confusion, the emotion, the stress of that time. The country has adjusted to most placed upon our national fiber.

This is true for most of us. True for most of those who never waivered in their support. True for most of those who never waivered in their opposition. But it is not true for many of those upon whom the burden of the war fell most heavily—the men and women who served in our Armed Forces during this difficult period. Many veterans of this era continue to suffer from severe readjustment problems—problems which have prevented them from realizing their potential and contributing fully to our society. It is not difficult to understand the reasons behind these readjustment problems and their stubborn persistence.

War inevitably imposes psychological and emotional strains on those involved. The controversial nature of the war in Indochina unquestionably added a new dimension to the problems experienced by our veterans.

When those last troops pulled out of Vietnam, they did not come home to cheering crowds or victory parades. They did not return, as veterans of previous wars had done, as honored heroes, admired for the sacrifices they had made. Rather, many of them were greeted with hostility for the role they had played in an unpopular war. Or they were simply neglected.

These veterans had their lives, their progress, their momentum interrupted by the war. When the time came to resume their lives—their families, their jobs, their educations—many veterans found that the recurring doubts and controversies surrounding the Vietnam conflict impeded their adjustment back to civilian life. The Nation has moved beyond the difficulties of the war, the controversy has subsided, but the veteran has all too frequently not moved beyond the problems of the war. For many veterans, readjustment problems persist.

Recently, pursuant to congressional mandate, the first Government-sponsored study of Vietnam veterans was undertaken by the Center for Policy Research in New York. Based on initial interviews, this study concluded that not only did a substantial percentage of Vietnam veterans return home with war-related problems, but that in many cases these problems persist to this day. Specifically, the report found that over 60 percent of Vietnam veterans interviewed had either psychological, emotional, drug, alcohol, or physical problems upon their separation from the service. More importantly, 40 percent of the veterans still experience one or more of these difficulties.

These findings confirm data developed by private analyses over the years, such as Dr. John Wilson's forgotten warrior research project, in which he concluded that Vietnam veterans experienced significant readjustment problems, in part due to the turmoil and conflict concerning the war in our country. The significance of this data is that existing programs must be reanalyzed and modified and new programs established in order to insure that the unmet needs of Vietnam veterans are finally addressed.

Regardless of one's views on our involvement in Southeast Asia, everyone can agree that this country has an obligation to these veterans. We have to help these veterans return to the mainstream of American life. In order to fulfill our obligation to those who fulfilled theirs, the following steps must be taken.

First, we must establish programs which eliminate the unemployment and underemployment problems which have prevented these veterans from realizing their potential. Persisting readjustment difficulties have contributed significantly to these problems.

Second, existing programs which provide readjustment counseling to veterans must be expanded to insure that all veterans in need of such counseling receive it.

Third, the educational and vocational assistance available to veterans must be restructured in order that those for whom such assistance is intended can actually take advantage of it.

Finally, certain needs of the Vietnam veterans, which are not causally connected to the readjustment problems which they have experienced, must also be addressed. Perhaps the most pressing of these problems is the debilitating effects among certain veterans and their children of agent orange, the defoliant used in Southeast Asia. Existing compensatory programs do not provide for assistance for these veterans or their children. This inequity must be eliminated by establishing a presumption that if individuals were possibly exposed to agent orange in Southeast Asia and they or their children manifest certain symptoms, their problems are service-connected and, thus, they may receive compensation.

If action is taken in these four areas, many more Vietnam veterans will be able to put the war behind them. For most of us, the war has been over for more than 6 years. It is time that we heal the wounds of those who served.

The legislation I am introducing today along with Senators PRESSLER, MOYNIHAN, and JAVITS will accomplish that objective. Although I will include in the record a section-by-section analysis of the Vietnam Veterans Act, I would like very briefly to set out at this point the major points of the legislation.

Title I of the Vietnam Veterans Act will help the unemployed and underemployed Vietnam veteran by allowing them to use their GI bill education benefits for private sector career advancement and training programs. The career advancement and training programs established by this legislation provide the veteran with an alternative to formal education. Under them, the veteran may use his or her GI bill education benefits for training and advancement in the private sector. The Veterans' Administration would reimburse private employers for the expenses of such programs up to, for an individual veteran, the level of benefits to which he is entitled.

Title II of the act provides for compensation for Vietnam veterans and their children for agent orange-related problems. Veterans should not and must not be subjected to the frustration and humiliation of convincing the Veterans' Administration to compensate them for these problems. A program free of bureaucratice harassment must be established to help these veterans and their children.

In addition, title II gives Vietnam theater veterans the freedom of choice to obtain readjustment counseling at community mental health centers and also authorizes the Veterans' Administration to enter into contracts with private entities in order to insure that the readjustment counseling needs of veterans are met. The most effective way to reach all Vietnam veterans in need of readjustment counseling is to expand the number of sources where they can seek such counseling, and specifically to give them the freedom of choice to obtain such assistance from non-VA sources.

Title III extends the time during which Vietnam veterans may take advantage of their GI bill education benefits—10 years for theater veterans and 3 years for era veterans. Many Vietnam veterans have not been able to take advantage of the education benefits to which they are entitled. They have had readjustment problems. Their struggle for economic survival has forced them to seek full-time jobs. An extension of the education program will give them a chance to improve themselves.

Furthermore, title III allows veterans to pay off VA education loans with unused GI bill education benefits. The education loan program was established to assist veterans in States where tuition is extremely high to realize their educational goals. Allowing veterans to use their GI education benefits to pay off these loans is another way to insure that veterans from high tuition States are not disadvantaged.

Title IV encourages State home loan programs by allowing the VA to pay the startup costs for States to establish programs to provide home loans to Vietnam veterans at interest rates below the current market rate. The veteran has particularly felt the crunch of rising housing costs. Not only must we maintain a strong Federal veterans housing assistance program, but we must encourage the States to establish their own programs.

Title V establishes a Commission to undertake a comprehensive evaluation of the effectiveness of existing veterans' assistance programs. A comprehensive analysis of the effectiveness of existing veterans' assistance programs is the only way to insure that the unique needs of the Vietnam veterans will be met. The veterans' programs are a bureaucratic nightmare with the left hand often not knowing what the right is doing.

Mr. President, the Vietnam Veterans Act will relieve the burdens that many veterans continue to bear as a result of the sacrifices which they made in fulfilling their obligation to our country. It is time that we act to fulfill our obligation to them.

I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

The Vietnam Veterans Act amends Title 38 of the U.S.C. in order to correct long-standing inadequacies in Vietnam veterans' benefits. The bill reaches employment, health, education, and housing problems. It is divided into Titles, with one Title for each area. The final Title, V, commissions a study of all veterans' programs.

TITLE I—EMPLOYMENT

A. Career Development and Training Program:

1. Vietnam veterans have historically experienced higher unemployment rates than non-veterans. In August, 1979, eleven years after the Tet offensive, the unemployment rate for Vietnam-era veterans, according to the Bureau of Labor Statistics, was still slightly higher than that of non-veterans.

Equally significant is the problem of underemployment. The recently released, congressionally mandated study by the Center for Policy Research on the readjustment of Vietnam veterans found 40 percent of non-veterans held technical or professional positions in contrast to only 19 percent of the Vietnam veterans and 24 percent of the Vietnam era veterans.

Additional support for the underemployment of Vietnam veterans may be found in the study, which corroborating findings by numerous other researchers over the years, noted that Vietnam veterans (40 percent) continue to experience emotional, psychological, drug, alcohol and physical problems. Such problems have necessarily prevented many veterans from realizing their employment potential. The "Vietnam Veterans Act" proposes a limited career development and training program using the educational benefits to which the veteran is entitled and focused on those veterans in need of the greatest assistance (those earning under $13,000 annually).

2. Existing Law:

(a) Targeted jobs tax credit is available to employers who hire economically disadvantaged Vietnam era veterans. The credit is limited to 50 percent of wages up to $6,000 in the first year of employment and 25 percent in the second year. Eligibility, however, is basically confined to the unemployed and the program expires December, 1980.

3. Vietnam Veterans Act.—The Act provides for:

(a) two programs under which the Veterans Administration reimburses employers for wage and training expenses incurred for veterans participating in the programs up to the monthly educational entitlement available to the veterans;

i. career development and training programs: reimbursement may not exceed the lesser of the expenses of training or fifty percent of the cost of wages and benefits paid to the veteran. Additionally, it may not exceed by more than twice the increase in wages of the veteran received as a result of the training program;

ii. career development and advancement program: VA will reimburse up to one-third of the wages of vets, but the reimbursement, in addition, cannot exceed the increase in wages of veterans participating in the program;

(b) approval of programs and participation therein by individual veterans by the Veterans Administration;

(c) limits on the number of months a veteran may participate in a program as follows:

i. 18 months for certain veterans facing serious readjustment problems;

ii. 12 months for disabled veterans;

iii. 9 months for veterans who served in Southeast Asia;

iv. 6 months for all Vietnam era veterans;

(d) a cap on the salary which participating veterans may receive ($13,000 annually);

(e) a limit on the duration of the programs (sunsetted three years after enactment).

B. The position of Deputy Assistant Secretary of Labor for Veterans Employment is raised to the level of Assistant Secretary.

TITLE II—HEALTH CARE

A. Agent Orange:

1. Millions of gallons of the defoliant Agent Orange, contaminated with a highly toxic chemical (dioxin), were sprayed on Vietnam. According to VA testimony, potentially two million veterans were exposed. Many veterans are now reporting major disabilities which may be attributed to this defoliant.

2. Existing Law:

(a) The major chronic Agent Orange-related physical difficulties are not compensable.

3. Vietnam Veterans Act.—The Act:

(a) establishes a presumption that the veteran who has certain symptoms, and who was possibly exposed to Agent Orange, both as defined by the VA, was disabled due to service connected causes and, thus, may receive compensation;

(b) provides for compensation for children (or their families) of those possibly exposed to Agent Orange if the children manifested certain symptoms (again, as defined by the VA).

B. Readjustment Counseling:

(1) Vietnam veterans have faced significant readjustment problems that have resulted in disproportionate suicide and divorce rates, among other problems. A large number of veterans have been affected: the multi-year Cleveland study suggests 25-33 percent of noncombat and 40-50 percent of combat veterans face serious readjustment problems. The recently released Center for Policy Research study, mandated under PL 95-202, found that 60 percent of Vietnam veterans returned with serious readjustment problems and 41 percent have continuing problems.

(2) Existing Law:

(a) In response to these limitations, the Veterans Health Care Amendments of 1979, enacted in this session of Congress, established a Veterans Administration program for readjustment counseling and other mental health services.

(3) Vietnam Veterans Act.—The Act:

(a) amends the readjustment counseling program to allow theatre veterans to go outside the VA for mental health services, either to Community Mental Health Centers or, if Centers are unavailable, to other private providers.

TITLE III—EDUCATION

A. Extension of Delimitation Date:

1. Many veterans have been unable to begin and complete their education within the present statutory time frame (10 years). Early GI Bill payments were inadequate, less than $200 a month until 1972, making it difficult for many veterans to go to school and forcing many others to study on a part-time basis. A 1976 VA study found, however, that over 50 percent of the part-time students were not able to remain in school and complete their degree.

The recently released VA study on the readjustment of Vietnam veterans emphasized the particular burdens faced by combat veterans—over 50 percent never returned to school—of those who did, 40 percent completed one year or less. The readjustment problems of many of these veterans have prevented them from taking advantage of the educational benefits to which they are entitled. Furthermore, the study noted that 74 percent of those who did return to school held a full-time job while pursuing their education. Thus, an extension of the delimitation date is justified.

2. Existing Law:

(a) Veterans must use their GI educational benefits within 10 years after the date they are discharged.

3. Vietnam Veterans Act.—The Act extends the delimitation date:

(a) 10 years for theatre veterans;

(b) 3 years for era veterans;

B. Repeal of State Matching Requirement:

1. The Vietnam GI bill provided veterans a lump sum to meet both tuition and living expenses. For many veterans facing high tuition costs, the sum has simply not been adequate.

2. Existing Law:

(a) To meet this need, the Senate passed legislation allowing certain veterans to use their entitlement to pay off VA loans taken out to meet high tuition costs. However, the ability to use the program was made contingent upon states providing a matching grant. In addition, states were required to set up a new fund specifically designed to meet their matching obligation. No state has yet passed matching legislation, according to VA testimony. Many states simply cannot afford to. The result is that no one has been able to use the program.

3. Vietnam Veterans Act:

(a) The Act repeals the state matching requirement.

TITLE IV—STATE HOME LOAN PROGRAM

1. Existing Law:

(a) The VA home loan program has been plagued by a number of problems. The first is that the VA ceiling on allowable interest rates, which is sometimes below the market rate, results in veterans being forced to compensate the seller for assessed points in one way or another. This often means a higher selling price for veterans. In addition, the level of home loan guarantees is not adequate to ensure a loan for an average priced home in today's market. The result is that veterans who cannot personally supplement the VA loan are being forced to buy mobile homes and generally cannot compete in the first-home market.

2. Vietnam Veterans Act.—The Act:

(a) authorizes the VA to pay the administrative start-up costs for states to establish programs that provide direct loans at interest rates below the prevailing market rate. For example, in California, a special bond issue was floated to establish a veteran mortgage program.

TITLE V—COMMISSION

1. The unique nature of the war in Vietnam resulted in particularly severe readjustment problems for many veterans. To this day these veterans continue to have unmet needs. Thus, it is necessary to analyze the programs which are available to these men and women to determine how existing programs can be improved and what new programs should be established to meet their needs.

2. Existing Law:

(a) Public Law 95-202 mandated a study of the problems facing Vietnam veterans. However, that study, which is not yet completed, will not include evaluation of the capacity of existing programs to meet these needs.

3. Vietnam Veterans Act.—The Act:

(a) establishes a Commission which will undertake a comprehensive study and appraisal of the structure, scope and administration of the programs providing benefits to veterans and their families.●

Mr. PRESSLER. Mr. President, I am pleased to introduce, with Senators HEINZ and MOYNIHAN, the Vietnam Veterans Act. As Senator HEINZ pointed out, the Vietnam Veterans Act deals with employment, health, education, and housing problems of our veterans who served during the Vietnam war.

Since coming to Congress in 1975, I have been concerned about the problems that the veterans of our Nation face in their day-to-day life. Because of society's attitude toward the Vietnam war, the veterans of that war have not received fair treatment from our Government. The Vietnam Veterans Act will remove inequities that have always existed for Vietnam veterans.

I would like to deal especially with title II of the bill, which amends the readjustment counseling program to allow theater veterans to go outside the Veterans' Administration for mental health services. It permits them to go either to community mental health centers or to private providers.

John Wilson, a psychologist who has done extensive research on the readjustment problem of Vietnam veterans, estimates that there could be as many as 500,000 veterans with psychological readjustment problems severe enough to require treatment. Many of these veterans have difficulty remaining in school or keeping a job because of these psychological problems.

In the past, Congress has reacted to these facts by sending a veteran in need of psychological counseling to the Veterans' Administration. Many friends with whom I served in Vietnam have told me that the Veterans' Administration does not have the capability to deal with the unique psychological problems of these veterans. John Wilson recently testified before a Senate hearing, stating that—

> There's a total lack of understanding by the VA about the delayed stress reactions experienced by a large number of Vietnam veterans.

Others also have attested to this fact. Psychologist Arthur Egendorf, an associate at the Center for Policy Research in New York and a Vietnam veteran, testified before a House subcommittee that—

> The VA doesn't have the experience to deal with Vietnam veterans.

It is time that we admit that there are still veterans that have been unable to adjust. As a Member of the Senate who served in Vietnam as a member of the Army during the Vietnam war, I can tell you that I witnessed firsthand the suffering of soldiers over there. I continue to see some of those men suffering years later.

It is also time that we admit that the present system is not allowing our veterans the flexibility that is necessary in their readjustment. The Vietnam Veterans Act that we are introducing today will allow them this flexibility.

Mr. President, I ask that my colleagues give their favorable consideration to this landmark legislation.

● Mr. MOYNIHAN. Mr. President, 7 years ago the last American land combat forces were pulled out of South Vietnam, signaling the end of direct American participation in the conduct of the ground war there. For those troops, as for the nearly 3 million who had preceded them, the war was over; or so they hoped.

In fact, it was not. The uncertainty and bitterness engendered and elicited by the war provided a sorry backdrop indeed for welcoming these veterans home. And the conditions under which the war was fought were apparently of a kind so different from those we had known in the past that where we did respond to the veterans' needs, our responses were often inadequate, late, or off the mark.

We are here today to introduce the Vietnam Veterans Act, which addresses the problems of these veterans in a comprehensive manner. My friend from Pennsylvania has described the bill in its several parts; I should like to add a few comments about veterans education.

The World War II GI bill educated a generation of American males. It was a revolutionary development in our social policies, both with respect to Federal support of higher education and as an historic manifestation of our willingness to attempt to repay an immeasurable debt to veterans.

It sent me to college. It sent many of my colleagues to college. It sent millions of other Americans to college.

Not only did the GI bill mark a revolution in social policy. It was revolutionary in its simplicity and accessibility. It established a straightforward entitlement to educational assistance funds for persons whose only necessary qualification was prior military service. It was comprehensive. It was comprehensible.

Today, the situation is reversed. Whereas in the late 1940's and early 1950's veterans were enrolled in college in far greater proportions than other Americans, today they are egregiously underrepresented there. The preliminary findings of the Vietnam-era research project indicate that nearly half the nonveterans in the study population graduated from college, whereas only one veteran in five did so. The same survey found one-third of nonveterans entering graduate or professional training, compared to just one-tenth of Vietnam veterans.

Equally disturbing distinctions are found within the veteran population, specifically between those "theater veterans" who actually served in Southeast Asia and those "nontheater veterans" who were in the Armed Forces during the Vietnam era but did not serve in Indochina. They had virtually identical educational backgrounds upon entry into military service, yet 40 percent of the theater veterans completed just 1 year of college with GI bill assistance, and 53 percent of them did not return to school at all after their military service was completed, compared to just 20 percent and 31 percent respectively among nontheater veterans.

These trends indicate a devastating reversal of our social policies and domestic arrangements to the point where there is now almost a class distinction between veterans and nonveterans in the United States, and a further distinction between those veterans who served in Vietnam and those who did not.

The World War II GI bill created a profoundly important difference between the Nation's educational experience before and after that legislation. It was a difference shared by veterans and nonveterans alike. It was a difference that the entire Nation shared—and benefited from. Now we find a palpable and deeply disturbing distinction between the educational experiences of veterans and nonveterans within the society. It is almost as if—one hesitates to say it, but the data are otherwise inexplicable—the society's message for the Vietnam veterans is that he made a mistake by going into the service of the Nation.

Our colleges and universities must shoulder a significant share of this responsibility and it might be well if they were to acknowledge it; generally speaking, the returning Vietnam veteran did not feel that his country was proud of him, but nowhere was this hostility more blatant, more pointed and more personal than on the campuses of the United States. The veteran was not welcomed; in small ways and large, he was rejected, humiliated, and rebuked for having participated in an experience that the dominant political culture of the academy despised.

The Vietnam Veterans Act that we are introducing in the Senate today addresses the situation of the Vietnam veteran in a comprehensive, respectful, and compassionate manner. It deals with employment, with health care, with housing and with other aspects of the veteran's experience. It includes creation of a Presidential Commission to review the entire structure of veterans benefits. But it also deals with education, which is of particular interest to me. It would extend the delimiting period for utilization of veterans educational benefits by adding 10 years for theater veterans—for a total of 20 years—and by adding 3 for nontheater veterans. This underscores and eases the fact of "too little, too late" in our previous provision of educational assistance to Vietnam veterans.

The bill would also delete the onerous "State match requirement" that keeps the benefits acceleration provision of the 1977 GI Bill Improvement Act from working as it was intended: To make college attendance a genuine financial possibility for veterans attending relatively high cost State and private institutions. This is singularly important for veterans living in States such as New York, where the high cost of college attendance precludes many who depend on the GI bill for their tuition money from enrolling at all. The comparison between New York and, for example, California is striking: although Vietnam veterans live in those States in a ratio of 2 to 3, their GI bill participation rates have had a ratio of 1 to 3. It is absolutely essential to equalize access to education for veterans no matter where they live, and this bill would take an important step in that direction.

Unfortunately, this bill will not restore the simplicity that characterized the World War II GI bill, but that has been so conspicuously missing from recent veterans programs, particularly those affecting the Vietnam veteran. That is a task, if it is even possible at this point, for future legislation. More positively, the bill will help restore the comprehensiveness of the educational benefits program.

The introduction of the Vietnam Veterans Act will, I sincerely hope, mark yet another turning point of the several we have been through regarding Vietnam—this time, a turn to a comprehensive view of the Vietnam veteran's experience, and of the nature and extent of the Nation's debt to these men.

It is no mere sentimental refrain, but a requirement of nationhood, that we properly honor our wartime veterans. So to do would be a mark of our having at last, in fact, risen above the agony of Vietnam. In any case, we must not allow whatever turmoil remains to impair in the slightest our commitment to these veterans' just treatment.●

ADDITIONAL COSPONSORS

S. 855

At the request of Mr. BAYH, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 855, the First Amendment Privacy Protection Act of 1979.

S. 1179

At the request of Mr. BAYH, the Senator from New Hampshire (Mr. DURKIN) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 1179, a bill to incorporate the Gold Star Wives.

S. 1577

At the request of Mr. JEPSEN, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1577, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

SENATE RESOLUTION 205

At the request of Mr. PRESSLER, the Senator from Idaho (Mr. MCCLURE) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Resolution 205, to express the sense of the Senate against EEC wheat export subsidies.

NOTICE OF HEARING

SUBCOMMITTEE ON RURAL DEVELOPMENT

● Mr. LEAHY. Mr. President, I wish to announce that as a continuing effort to make Federal programs work the best they possibly can in rural America, the Rural Development Subcommittee which I chair, of the committee on Agriculture, Nutrition, and Forestry, will hold an oversight hearing on rural people moving transportation.

It is my opinion that the oversight responsibilities of Congress have not been given the high priority they must have and that these responsibilities are often overlooked for the more glamorous congressional duties. However, I believe there is no reason to create a program if Congress is not going to live up to its responsibilities to see to it that it is running smoothly. This is why my Rural Development Subcommittee will continue to hold oversight hearings on programs affecting the quality of life in rural America.

The hearing will review the implementation of the section 18 bus program for rural and smaller urban areas, the effects of air deregulation on rural airports, and the Department of Agriculture's rural transportation task force.

The hearing will convene at 8 a.m. on October 24 and will conclude at noon. Testimony will be taken from public and administration witnesses. Anyone desiring further information on the hearing should contact Ken Pierce of my staff at 224-4242.●

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the committee on Armed Services be authorized to meet during the session of the Senate today to hold a hearing on the military implications of the SALT II treaty and protocol.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE FIVE FACES OF MAINE

● Mr. MUSKIE. Mr. President, the special character of my home State of Maine is appreciated throughout the country, even by many people who have never had the opportunity to enjoy it in person. In the September 23, 1979, issue of the Boston Globe magazine, reporter Peter Anderson offers a kind of guidebook to our State. It is a sensitive article which explores some of the problems and possibilities of Maine, as well as reflecting its varied beauty.

My colleague, Senator BILL COHEN, joins me in recommending the article to Senators and to anyone else interested in some of the reasons why Maine is a special place. Together, we request that the following article, "The Five Faces of Maine," be printed in the RECORD.

THE FIVE FACES OF MAINE

(By Peter Anderson)

Timber cruisers went into the forest looking for white pine. They knocked down a spruce, set it against the trunk of a tall pine, clambered up the spruce to the lower branches of the pine and then to the top of the pine itself. From there they could scout the sea of trees, the islands of water. They cut white pine to float down the Penobscot to the sawmills of Bangor, a frontier town that for a time was timber capital of the hemisphere. The Maine woods was wilderness then, but logging roads go through the woods now, and geographers and foresters and game wardens do not use the term wilderness. They call it the wilds or the wild lands or nothing at all, referring to a specific place as "twelve-five," meaning Township 12, Range 5, Unorganized Territories of Maine. They do not think of this great woods as real wilderness, and yet they know of the young man who was cruising for timber in northwest Aroostook County. The young man got out of his vehicle for some reason and went off the trail on foot. Searchers found his vehicle and could follow his foot tracks. These tracks indicated the young man had become disoriented. People lost in the woods often begin to walk faster, then faster still; if they do not control their panic, they begin to run and thus spend their strength. Tracks of the young man led to a stream and ended there. His body was never found. He had died in what the city would call the wilderness.

Maine has 19.8 million acres. Of this, 17.7 million acres are forest. Maine is as big as Massachusetts, Connecticut, Vermont, New Hampshire, and Rhode Island put together (a small exaggeration; Maine is 33,215 square miles; the total of the other five states is 33,393 square miles). Maine is not big by America's standards, ranking thirty-ninth among the states. It does not lie quite right—not straight up and down on the map but tilted so that the upper right-hand corner of the state sticks out to the east. The term Downeast doesn't come from the map so much as from the wind. Sailors going from Boston to Eastport had the prevailing southwest wind at their backs and were sailing downwind toward the Northeast—thus, Downeast. Even now a clamdigger in Machiasport will refer to Portland as being on the west coast. A banker in southern Maine talks of going "up Maine," meaning the northern interior.

There are more than 2200 lakes and ponds. Off the coast there are 400 islands larger than 1100 acres, and some of these islands have not yet been touched by the Saltonstalls, the Du Ponts, or the Rockefellers. Mount Desert, the largest of these islands, is the location of Bar Harbor, a place that by 1900 rivaled Newport. Thomas Cole, an artist of the Hudson River School of painting, went to Mount Desert in search of new subject matter, and because he was so lavish in his praise of the place when he returned to New York, the society of that city, including the Rockefellers, followed him there. This upper coast is the land of the pointed fir, a place of beauty that has sharp edges.

There is uncertainty about how Maine got its name. Some suppose it was named in honor of Queen Henrietta Maria, an English queen who also ruled the French provinces of Meyne. The coastal islands were settled first, or at least visited first, by European fishermen. Later, settlers on the mainland took shelter on the islands from raiding Indians during the French and Indian Wars. It is logical to think the early island dwellers referred to the mainland as "the main," and thus the name of the state. Early spellings were Main, Mayn, or Mayne. While part of Massachusetts, it was called the Province of Maine. In 1820, when Maine joined the union, it became the State of Maine, and natives of the place were State of Mainers, a rhythmic phrase now being replaced by one word, Mainer, an unlyric term.

Some place names have logic, Presque Isle (almost an island), for instance. Most place names have no historical basis but are copies of European place names. Bangor got its name by accident, if this story can be believed. Bangor was called Kenduskeag Plantation, and the Reverend Seth Nobel was sent to Boston to have the name changed to Sunbury. When in front of the filing clerk in Boston, Reverend Nobel was humming a hymn. When the clerk asked him the name for the town, Reverend Nobel said "Bangor," thinking the clerk wanted to know the name of the hymn. This was considered a happy error and the name allowed to stand. There is no good explanation why so many places are named Naples, Sorrento, Palermo or Steuben, Dresden, Frankfurt. Swedes settled Stockholm and New Sweden in Aroostook County, but Athens, Maine, was not settled by Greeks.

The best Maine stories require inflection and should be told orally. The best Maine stories are made up and then repeated as truth, but this story is true and happened exactly this way. A reporter from a big-city newspaper was talking to a blueberry farmer on the sand plain between Wells and Kennebunk, and the reporter, just making conversion, said that the state's blueberry specialist had an unusual name, Amr Ismail. "Not for an Egyptian, it ain't," the blueberry farmer said.

THE POTATO LANDSCAPE

Fort Kent is a frontier town, and there is an unusual quality to the English spoken there. It is American English, but many people speak it in a foreign rhythm, a French cadence. The bilingualism is remarkable. A man listens to a friend speaking for a minute or two, then answers him in English, then changes to French. A levee protects Fort Kent from the St. John River, the boundary of Maine and New Brunswick, but there is no protection against the winter. It was in Van Buren, not far from Fort Kent, that the state's lowest temperature was recorded, 48 degrees below zero. The growing season is as short as 110 days. This is hard country, and so is the rest of the potato landscape of Aroostook County.

The upper St. John Valley near Fort Kent needs two more weeks in spring, two more weeks in fall, to grow potatoes, but lacking those four weeks, farmers grow potatoes anyway. The texture of the soil is good for potatoes in the upper valley of the St. John, and so it is, too, further south down the potato landscape to Caribou, Presque Isle, and Houlton. In places the soil lies on slopes of up to 10 or 15 degrees, and "We get away with it," says Dwight Stiles, a state potato specialist. Some farmers replace what erosion takes away. The soil washes down the slope into ditches, caking into mud there, and when conditions are right, the mud dried, farmers haul the soil back, some only a couple hundred yards, others a half-mile up the slope to where the Stetson or Plaisted or Thorndyke soil is replaced.

Aroostook potato soils are gravelly, do not pack down much, and dry quickly in spring. Planting begins about May 15, sometimes while drifts of snow edge the fields. It is good soil for potatoes despite the rocks. The rocks used to be picked by hand, and some still are, but mechanical rock pickers are also used. It is because of mechanical harvesters that rocks have to be picked at all. Removing the rocks is not good for the soil, increasing erosion, but rocks plug up the mechanical harvesters, and mechanical harvesters pick about 70 percent of Aroostook's potatoes. Rocks are piled in the corner of the fields, potato-sized stones bleaching in the sun. As these piles of rocks get bigger, the soil gets thinner.

Rocks are pushed up from the ground by the frost each winter and spring, or so it used to be thought. Now that idea is another item on the list of old wives' tales. Duane Smith, a state potato economist in Presque Isle, explains it this way: About 25 percent of the potato soil is rocks. If a farmer plows 12 inches deep and then removes all the rocks, he has reduced his soil level to 8 inches. The next year when he plows 12 inches of soil he will be plowing 4 inches of ground not plowed before. Twenty-five percent of this new 4 inches of soil is rocks and must be removed. If this explanation is correct, then the famous Caribou and Mapleton loams are thinner each year, a matter of arithmetic.

Rock removal increases natural erosion. An average of 7½ tons of soil are lost per acre each year. This is more than double the loss considered tolerable by the U.S. Soil Conservation Service. But averages are dangerous. Many farms do not lose this much soil each year. Also, the Caribou Loam is a double blessing for the farmers who have it. Caribou Loam has two topsoils, A and B. Smith, the potato economist, says: "It is very forgiving soil, very productive, and it's deep . . . so despite erosion we have pretty good depth. Some places you can completely lose the A level and produce higher yields on the B soil." Mapleton Loam is the same as Caribou Loam but has no second level, and in this soil islands of bushes and tall grass grow in the fields about the ledge poking up through the ground.

S. Van Day is the soil conservation specialist for the U.S. Department of Agriculture in Presque Isle. He says: "A fellow, say, has 100 acres of good potato land. He thinks he has to raise 100 acres of potatoes, and that's ridiculous. He should rotate, plant only 50 acres in potatoes, but the farmer says, 'I can't do that—I would go bankrupt.' . . . Every year in Presque Isle it's potatoes, potatoes, potatoes, when they should have two years of potatoes, one year of grain, one year of grass, then two years of potatoes." There is a side benefit to those places in the country where oats and buckwheat are planted to save the soil, he says. Oats and buckwheat bring in geese, and the geese bring in hunters, a tourist of sorts in a land that few tourists ever see. Most tourists prefer Boothbay Harbor, a closer place, and in the public perception, a prettier place, too.

Aroostook is big country, the Texas of New England. Bret Wallach, a geographer at the University of Maine at Fort Kent, describes Aroostook in his article "The Potato Landscape": "No region of the United States, except Alaska, has towns as raw as Aroostook County. The Historic America Buildings Survey lists nothing—not a single structure in an area two-thirds the size of Massachusetts. Aroostook County's towns are full of monotonous, two-story balloon-frame buildings, painted in severe grays or whites and landscaped without flowers or shrubs. Old timber walls, pegged and dovetailed, have been covered with aluminum siding. Mobile homes abound. Main streets are dusty, shadeless, and lined with Klondike-type false fronts. . . ." Wallach's eye is accurate, but his perception is severe. Farmhouses are often naked beside the road, with no trees for shade or windbreak, no shrubs to hide the foundation. But there are many mining towns and farm towns in other states as raw as any in Aroostook. Wallach would be more correct if he compared Aroostook to Stockbridge, Massachusetts, Norman Rockwell's town. Then Aroostook is as raw as he writes of it. Aroostook's potato landscape is not always pretty; it is big. The potato landscape is not supposed to be beautiful; it is supposed to grow potatoes.

Aroostook grows approximately 92 percent of Maine's potatoes; Maine produces only 8 percent of the nation's total. Maine ranks fourth among potato-producing states and last year grew 26,180,000 hundredweight on 119,000 acres. Idaho grew 96,980,000 hundredweight on 330,000 acres. Maine grows Abnaki potatoes, Bake King, Caribou, Cascade, Chippewa, Cobbler, Desiree, Green Mountain, Iopride, Katahdin, Kennebec, Norland, Oromonte, Pungo, Russet Burbank, Sebago, Seminole, Shurchip, Sioux, Superior, Wauseon, and York, among others. Frozen french fry processors like the Russet Burbank because of its shape and consistent cooking characteristics. Kennebecs are preferred by potato chip manufacturers.

Climate turned Aroostook to potatoes: cool nights, days that do not get too hot. The normal mean temperature in Caribou in August is 52.6 degrees. Most years there is enough rain. Caribou gets 3½ inches of rain in a normal August. Potato production was sourred when the railroad reached Aroostook in 1894. This single-crop economy boomed during World War II, harvested partly by German POWs and reached a peak in 1946, when 219,000 acres were planted, about double the acreage planted now. Some smaller farmers are going out of business; taking jobs in the paper mill in Madawaska or leaving the county, leaving Maine for factory jobs. There are government regulations, employee restrictions, and a potato farmer needs a lawyer, an accountant. A fellow in Presque Isle says: "It's not farming any more. It's a business."

Land values are not rising much and some are declining in value in the upper St. John Valley around Fort Kent. The poorest lands sells for $250 an acre. In Presque Isle, the best land is about $800 an acre. But even at $800, it costs more to cultivate, rock-pick, seed, fertilize, herbicide, harvest, and store an acre of potatoes than the acre is worth. Economist Smith is not certain this is a significant fact. He agrees with others that starting a potato farm is expensive and gives an estimate for a 100-acre farm: one $40,000 tractor; one $35,000 harvester; one $18,000 planter; one $10,000 sprayer; probably five good-sized trucks at about $12,000 each; plus plows and harrows, and a machine shed with welding equipment and cutting torches to repair equipment. He says: "We're seeing a turn to multifamily farms, sons and fathers in business together so actually there are three farms operated as one. They can build storage buildings together and share equipment [but] there is very little corporate farming in the county." Many farmers prefer preseason contracts for their potatoes and deal in potato futures to hedge against the price. The smaller farmer is not so well prepared. He is apt to gamble on a good yield, a good price. Some farmers say they like the gamble.

The potato landscape has had two bad seasons in a row. Last year it was too little water; the year before the price was low. Potato farmers are like fishermen. They talk more about bad years than good, but they have good years or they could not continue to farm. A fellow in Fort Kent says: "After a couple or three good years, the corners of their mouths turn up. They fix up their house, trade in their car, maybe take the wife on a vacation, go to Florida." If it is another bad year, the farmer can winter in his woodlot, pulping for the paper companies or piling up firewood for himself. A typical Aroostook farm has 105 acres in potatoes plus a woodlot, about 300 acres in all. Where the potato field ends, the woodlot begins, and where the farm woodlots end, the big woods begin.

THE BIG WOODS

The timber cruisers found tall white pine in Aroostook and cut trees 150 feet tall and 6 feet through at the butt. A pine cut at Telos Lake in 1842 was said to measure 7 feet through 4 feet from the ground. Once cut, these Aroostook white pine did not regenerate themselves because the spruce and fir, the under story of the forest, took the sun, leaving none for the pine. White pine is not extinct in Aroostook but is not a major product. As remote as the northwest woods of Aroostook are, there is little land that has not been cut over. Not counting an isolated bog, there may be no virgin timber standing. Says Robert Locke, the state's regional forester at Presque Isle: "When I first came up here in 1954 you might find some small [virgin] areas which I was told had not been logged because they were too far from the water, couldn't get the trees to the water with horses or oxen." Now there are mechanical harvesting techniques, and wood is no longer run down the river and the lake, and bulldozers make paths for lumber tractors called skidders, and these skidders drag out wood from most anyplace. Locke says he could not show a visitor virgin trees now because he knows of none. Logging roads cross the big woods, roads so well built that heavily loaded lumber trucks roll through the woods like an 18-wheel tractor-trailer down the Mass. Pike. These woods highways of Aroostook and Piscataquis, Penobscot, Somerset, and Washington counties reduce the wilderness to wild lands because wild lands are where people do not live and have left no sign.

All 16 counties of Maine produce lumber and pulpwood; Aroostook produces the most, about one-fourth. The Aroostook product is spruce and fir, mostly. Spruce is used for papermaking and is very strong, used for dimension stock, 2 by 4s, 2 by 6s. It doesn't work as easily as white pine; that is why colonial lumbermen and the lumber barons of the nineteenth century preferred pine. Fir doesn't have the strength of spruce and is used more for boards than for dimension stock. It is also used for pulp. Maine produced 5.3 million cords of wood last year, and 1.3 million cords of this total were cut in Aroostook. The potato landscape occupies only a corner of Aroostook, not because the wild lands are not arable, but because lumber companies, paper companies, bought the land before settlers could. Forester Locke: "The other day I was up west of Allagash and the land was just as level as this airbase [Locke's office is at the Presque Isle airport]. And the soil was good. . . ."

The settlement at Allagash has 456 people. It is an irregular string of buildings along one paved road near the junction of the Allagash River and the St. John. In early summer, evening grosbeaks, yellow as parrots, flutter waist high across this road, and the bodies of many of them, hit by cars, lie squashed on the asphalt or on the dirt shoulders of the road, a wilderness bird inept at living this close to civilization. Wallach, the geographer at the state university's Fort Kent campus, says of the Allagash River: "It connotes wilderness. People in the city want to believe there is a wilderness out there. It gives them a natural baseline against which to measure urban life, that nature is strong enough to withstand all assaults and that rivers will always rush to the sea." These sentences came out of his mouth quickly, as if he had formed and memorized them in the days he has spent traveling the lumber roads of the Allagash woods. He says: "The soul of this region is the wood that comes out of it."

A spring fire is a running fire, says Albert Gibson, the assistant unit ranger at the Allagash station. "Where you've got heavy slash (cut-over land) and two or three hot days to dry it out, you can get fire and it runs like a sonofagun. But the fire won't go deep (into the ground as it does in summer). A spring fire is more a running fire. May 28 two or three years ago, up on twelve-fourteen somewhere, around 1400 or 1500 acres burned."

Townships such as twelve-fourteen are generally squares on the map, 6 miles to a side, 24,000 acres each. The settlement at Allagash is called Allagash Plantation because it is inhabited, has selectmen, and thus is more than a numbered square. The crew at Gibson's fire ranger station uses 300-foot hoses carried in a man's backpack. Usually the hoses are hooked to one another, a 600-foot line from a brook or pond to the fire. "We take a crew according to the size of the fire. Say a 40-acre fire, we put in 15 men, a couple bulldozers to put a (firebreak) line around it." There are three rangers at the Allagash station. The others of a 15-man crew would be deputized from lumber camps or from the settlement itself. Without the revenue of the woods, Allagash Plantation would disappear. It will disappear if the Dickey-Lincoln Dam is built on the St. John River, a short distance away. But, Gibson says, if the dam is built and floods Allagash, Allagash would move to dry grounds; its inhabitants would continue to work in the woods.

It is 29 miles from Fort Kent to Allagash, a long way to go to buy a pair of socks. Allagash has a lunch counter, a pool hall, two grocery stores. People there are aware of how far from town they live, how much the woods envelop them, but they do not consider themselves isolated, not even in winter. Says Gibson: "There's never a time you can't get out (to Fort Kent) unless it might be a night where it snowed so hard people wouldn't get out other places." He thinks of the big woods around Allagash as the "wild land" because the paper companies own the land and nobody lives there "except for a few forestry people . . . like at Clayton Lake. IP (International Paper) has some people at Clayton Lake because they're cutting there now."

Ashland is a much bigger place than Allagash. Ashland is a real town and sits on the edge of the big woods; it is not surrounded by the woods as Allagash is. Potato fields stretch west from Presque Isle to Ashland. After Ashland is the woods, and in these woods is the panther, maybe.

Kevin Stevens is a wildlife biologist at the state's fish and game station in Ashland and questions that the panther has returned. "It's quite a controversy up here," he says. "We believe that two hundred or three hundred years ago it was a resident but disappeared. A few people think some panthers remain. There are quite a few sightings reported, but how do you prove it? Tracks? Tracks could be bobcats or lynx, though lynx are rare. What you really need is a piece of hair for proof. Probably, historically, there never were that many panthers because their range is so large."

Timber wolves disappeared about 1860, Stevens says, and the caribou were exterminated by 1890. Moose were almost exterminated but have regenerated themselves under state protection to such numbers that there will be a limited hunting season on moose this year. Coyotes were first reported moving into Maine in the late 1930s and are well established now. There are black bear. The woods of Aroostook is a habitat for beaver, fisher, otter, red fox and mink, and an animal uncommon south of Aroostook, the marten, also called the sable. None of these animals has the mystery of the mountain lion. This panther is the snow leopard, the Yeti, the Big Foot of the big woods.

"Last winter a fellow saw a panther crossing the road and reported it to Ashland [to Stevens' station], and a biologist went back there and found the tracks were made by a fisher. You can't mistake a fisher track for a panther. Maybe you could mistake a bobcat track. . . . Clayton Lake is a hotbed [of panther reports]. Maybe I shouldn't tell you this, but there was a guy who worked for IP [International Paper] and the superintendent of the Allagash Waterway stopped on the road talking to each other a year ago. They swear right up and down that this mountain lion crossed right in front of them in daylight." In Stockholm a reputable person said he saw a panther in the snow, lying down the way a cat does, but he reported this sighting two weeks later, after the tracks had disappeared. Game warden Allan Rider makes a skeptical face when asked if he believes in panthers. He has never seen one.

Warden Rider found five or six lost hunters last year. "Most were carrying compasses, but they didn't know how to use it, and they usually think up an excuse for being lost. They follow a deer track a long way, they look at their compass (and have no reference point and no skill at using a compass). This guy from Pennsylvania went hunting at seven o'clock and they (his friends) told him to go so many degrees west and so many degrees north (to find a good hunting area). So by 2 p.m. he was lost, and he sat down, lit a fire. We searched for him all night. I was close to him at one time. I started at 7:30 that night, left the siren going in the pickup. (Sometimes Rider uses a chain saw to make noise to signal a lost hunter.) And he came down the brook in the morning." Rider says the hunter had been in the vee of two logging roads with a brook nearby, good landmarks for a lost person, but this didn't help the hunter because he didn't have a map.

Rider and two fellow wardens found about twenty lost hunters each season. Rider told of one person who was not found in time. "I think it was in fourteen-five." A teenage boy had gone hunting behind his house. It was cold; there was snow on the ground. The boy was missing three days before he was reported lost because it was thought he had left home. "He (the warden) followed his tracks for two days. The tracks circled, he crossed his own track. Finally the warden followed (the last) track and found him in a blowdown (fallen trees). He had only a light jacket on and had tucked himself in there. He was hopelessly lost, scared, and he shot himself (dead). He was frozen when they found him."

BETWEEN THE COAST AND THE BIG WOODS

In the beginning, the French and English settled on the coast and from there moved up the river valleys of the Androscoggin, the Kennebec, and the Penobscot, first to hunt and trap, then to lumber, then to farm, then to work in the mills that were turned by the Androscoggin, the Kennebec, and the Penobscot. Geographers call this the transition zone between the coast and the wilds; government economists call it the Maine corridor, a swatch of land on each side of the Maine Turnpike from Kittery to Old Town. About 60 percent of Maine's one million people live in this transition zone. They work in different industries, but there is a paramount industry, the paper mill, such as the Boise Cascade mill in Rumford, where the Androscoggin makes a bend and falls 165 feet in one mile, a rush of water power.

One hundred fifty trucks a day are driven to the Boise mill; they transport about half a million cords of wood a year, wood that is broken down into fiber and made into paper for TV Guide, McCall's, Ranger Rick, the National Geographic, and other publications. The trucks carry 4-foot hardwood logs of maple, birch, beech, elm, ash, oak and cherry and tamarack; they also carry poplar, basswood, and balm of Gilead; they carry some pine but not more than 15 percent because the pitch in pine is difficult to break down for papermaking. They carry no cedar because cedar doesn't chip well and cooks up into a weak fiber. Papermakers used to think poplar was equally useless, but now it is ground up and mixed with other wood fibers. A hybrid poplar can grow 30 feet in seven years under good conditions, three times faster than spruce or fir or the hardwoods. A poplar can be cut several times, and each time a new tree grows from the old trunk, like a picked dandelion.

Paper and lumber companies own about half of Maine's 17 million acres of woodland. The product value of the forest industry is about 35 percent of everything produced in Maine. The value of the paper companies' product is \$1.6 billion a year; the lumber industry product is worth \$470 million a year. There is no power in the State of Maine to match the power of the paper companies; critics say they have inordinate power. A group of independent loggers, the Maine Woodsmen's Association, has claimed that the paper companies build up mountains of logs cut by alien labor from Canada and thus deprive Maine loggers of a livelihood. However, the paper companies pay the highest average wage of any Maine industry, \$16,439. The Boise mill in Rumford runs 24 hours a day, 7 days a week, employs 1,700 people, and pays them \$25 million. The smell of the paper mill is considerable, a stench to outsiders, but one old-timer says people in Rumford like that smell because it means the mill is running and there is work.

At a distance, the mountainous pile in the Boise yard looks like sawdust, but it is wood chips cut from the 4-foot logs delivered by truck. The chips, the size of a half-dollar, are cooked in an alkaline liquid under pressure to dissolve the resins that bind wood fibers together. These fibers are mixed with starch and latex and clay and put through large rollers and dryers, producing a beautiful product: smooth, white, coated magazine paper. The exact procedure for the product made for the National Geographic is secret, and plant officials won't say how much they make.

Ernest E. Von Tobel is a forest supervisor for Boise Cascade, responsible for 56,000 of the 365,000 acres of timber owned by Boise. Boise cuts selectively, does not clear-cut, and Von Tobel and the other company foresters mark each tree to be cut with paint on the trunk and on the exposed part of the root. The marking on the root tells a forester if the logger has followed his instructions. Von Tobel's quota is 17,000 cords of pulpwood for the mill and 1¾ million board feet of saw logs this year. Some of this wood will come from the 3,000 acres on a steep hillside in Roxbury, a hillside Von Tobel calls the Noisy Brook Drainage, after the brook that runs down the hill.

The lumber road up the hill has a 17-degree grade in places, and a road like this costs about $12,000 a mile. It leads up to where the northern hardwoods grow, the beech, maple, and birch. Softwoods, the spruce and fir and pine, tend to grow at the bottom of a hill and again at the top. In between is the hardwood. Cutters or choppers—the terms are synonymous—prefer to cut hardwood because there is less limbing to do once the tree is down than there is with spruce and fir and pine. John Percival, the logger on this hill, is a private contractor who owns heavy equipment, hires the cutters, and sells the 4-foot logs to the Boise mill, about 18 miles away in Rumford.

Percival's cutters are young men. One was trained to be a schoolteacher, another is qualified as a hospital technician, but they both prefer working in the woods. They use European chain saws, Stihls and Husqvarnas. They get paid by the cord; in good weather they average about $250 a week. An ambitious man working a 40-hour week could earn close to $400. The work is strenuous; men age quickly in the woods, and few stay once the strength of their youth is spent. Percival says: "I think the oldest fellow I had working for me was in his late forties. He made every move count—everybody watched him to find out how he cut so much wood." They work in two-man teams. One man cuts, the other drives a skidder, dragging logs behind it to a yard, a clearing in the woods where the trees are stacked. In the yard, both cutter and skidder operator buck the logs into 4-foot lengths. Woods work is high-risk work. Men wear hard hats and steel-toed safety shoes, but this protective clothing does not prevent all accidents. Says Percival: "A young fellow about three months ago was killed near here. A tree fell on him. No one knows [exactly] what happened."

Cutters use plastic wedges to try to fell a tree in a certain place. Some old-timers make their own wedges, cut them out of wood. The idea is to make the tree fall where it is easy for the partner on the skidder to get a chain on the tree and drag it out to the yard. "Out West they fell a tree where they want because softwood has even limbs, but hardwood up here [on the side of Noisy Brook Drainage] is not that even," Percival said. The big hardwoods have more branches on the side that faces the sun. A good cutter can look at a tree, see how it is leaning, and be nearly certain how it will fall. If the wind is blowing the wrong way, he may wait until the wind is blowing the right way. Even with wedges, a man cannot make a tree fall exactly where he wishes. Says Percival: "A big tree will just come down the way they will."

A skidder on this hill normally drags trees only about half a mile to the yard. At Noisy Brook there was timber a mile back, and a winter road was the economical way to get at it. Trees were cut, stumps and rocks removed, the dirt smoothed, in preparation for cold weather to freeze down a road. Forester Von Tobel says: "Normally a good freeze freezes to a certain depth. By putting the weight of a bulldozer on it, you drive the frost down." This winter road was packed over the frost, and when it snowed the road was plowed, the snow itself smoothing the road surface, but last winter there was too much snow. The hill is 2,700 feet high, and at 2,200 feet there were 5½ feet of snow. There was so much wind that the road had to be plowed continually, but the snow drifted back onto the winter road when the plow had passed. Last February, Percival had to pull out of Noisy Brook. He says: "A man can crawl in snow, but it stops the equipment."

Ken Jodrey, an independent trucker, takes the 4-foot logs down the steep, dirt logging road of Noisy Brook. He owns a wheeler. Any single truck (body and cab attached) on a logging job is called a wheeler, and Jodrey's wheeler is a 1969 C-60 Chevrolet. The cab looks new on the outside where the paint has been refinished. All 14 wheels have been newly painted with aluminum-colored paint. (The 10-wheeler has 4 extra wheels on the third axle, used only for exceptional loads.) This morning, Jodrey is carrying about eight cords, about 60,000 pounds. He keeps his foot on the brake nearly every moment down the trail. The truck is in low gear, moving about four miles an hour. He only watches the RPM gauge, not the speedometer. "If it goes over four thousand RPM, the engine will blow," he says.

Jodrey indicated where his truck slid 60 feet last winter. A slide scares him only "the first time each winter." After that he gets used to it. If he were to lose his brakes going down, he would steer for the bank of the road and jump out before the truck hit. He had brake trouble on the paved road last winter in Andover. His brakes got hot, but Jodrey stayed with his truck, was able to stop it on a flat stretch. He works for himself and has pride in his ability. He and the cutters kid each other about which job is tougher. "But the cutters bring only their saw and lunch pail. I bring my lunch pail and my truck." His old truck, the 10-wheeler Chevrolet, has over 300,000 miles on it, but he has a new one, also, and the new truck cost $35,000. Jodrey says: "Anybody can drive a truck, but the trick is to get it down the mountain without wrecking it."

In 1929 in Farmington a farmer could earn $1000 a year if he had 10 dairy cows, 3 acres of sweet corn, sold $200 worth of wood, and got $150 from working an outside job. The figures are outdated, but the relationship of farming to woodcutting to outside job is similar to what it is today in Farmington, a town in the transition zone between the coast and the big woods. Despite its name, Farmington was not a major farming area, not since 1815, when Ohio fever struck and farmers went where the land was flatter, more fertile, and where there was a lot of it. Nevertheless, the river bottom land here was famous for growing sweet corn, and the canned product was called Sandy River corn.

The last sweet corn canning plant to close was in Starks, a town near Farmington. It closed this decade because of competition from Florida and the farms of the Southwest. After World War II, other corn canning plants moved to the Middle West, where the growing season is longer. The flood plain of the Sandy River has good soil, the rocks covered by dirt. There is a lot of part-time farming here still. Myron Starbird, a retired professor who lives in Farmington, says: "A lot of people talk about farming, but they really cut more wood than they farm." Others do some farming and work for the state or the town. Ray Orr, for example, raises some cattle and is Farmington's chief of police.

In a recent Franklin County census, only 19 of 200 farms produced over $60,000 in gross sales. Even some of those 19 are marginal farms. The families of these bigger, but still marginal, farms depend on a father who works in the paper mill or a mother who teaches school. There are exceptions. L. Herbert and Brenda York of Farmington run a big, full-time farm, 1500 acres. He works it 14 hours a day.

The Yorks' cat was intruding on the conversation in the parlor of the big farmhouse, turning the conversation to animals. York said animals can communicate with each other. "You take a vet drawing blood and the cow makes a sound, and all the cows in the barn know, tense up. I don't get philosophical about it [animal communication], but I can shout at a cow when milking her, and they tense up because she knows she'll get a slap if she doesn't straighten up."

York has 300 acres of bottomland along the Sandy River across the road from his farmhouse. "We call it 'the intervale' and we will grow beans, squash, corn, turnips, and a rotation of hay crops, alfalfa, and the grasses. This is a completely diversified farm. I try to utilize the ground to the best advantage . . . when the sweet corn factories went out, it left a void for row crops, cash crops." One crop York tried was sugar beets, and was successful at it. However, the processing plant went bankrupt. He grows turnips now in order to use the sugar beet equipment.

His intervale land was never built on and never will be because periodic flooding of the Sandy River protects it from development. He has 57 acres in squash this year and 77 acres in corn and 250 acres in hay. He has grown beans for two years; this year it was time for squash and corn. Crop rotation reduces insect and disease problems, he said. His 300 acres of intervale were built up one inch every 500 years. He is careful with it.

"We try to start planting the tenth of May and try to get done by the end of May. . . . Usually about the fifth of June we start haying right through to about the middle of July. At that time she (his wife Brenda) takes off for the shows." Mrs. York is a judge of show cattle.

He has only one outlet for the 700 tons of squash he will grow, the pie mix factory in Winslow Mills. There are two or three outlets for beans in Maine. "I do my own thrashing (of beans). I take 'em out (of the field), take 'em into a cleaner that blows air through 'em, cleans 'em. We bag 'em there in 80- or 90-pound bags and store 'em on pallets. The buyer comes out and says you got so much pick-out (beans split or discolored). It varies from 3 percent to 23 percent. So I sell 'em so much a pound. It's been 40 or 50 cents a pound."

The corn is ground up, cob and all, and used to feed dairy cows. He uses about one third of the corn for his own herd of 100 cows, selling the other two thirds. He grows about 20,000 bales of hay and sells about half of it. There are two markets for his milk, the Maine market and the Boston market. "Usually the Maine market is better because of the transportation, maybe up to 50 cents a hundredweight. That's not a great margin but a help." His cows will each produce about 14,000 pounds of milk a year. In June he was milking 37 of his 100 animals.

If York were farming in Ohio he would probably concentrate on corn or soybeans, but, he says, "a Maine farmer has to be independent. You have to scratch to find a market (at a price). Out there in Ohio prices are dictated." York has assembled seven small farms to form his 1500-acre farm. About 1000 acres of the 1500 are woods. His prime land is the 300 acres on the river. There is pressure on prime land in Maine. "Not so much around here as farther south and near the coast, for shopping centers, house lots. Usually, farmland is best for putting in houses (but) our intervale land down there will never be developed because it is flood plain, self-protected."

Beans and squash are harvested in September. The harvest usually ends with corn the first week in November. Then York cleans up his machines, "buttons up" the farm. About December 1, he and his two hired hands work in his woods, selling both saw logs and pulpwood. He is seldom idle because he must make his land produce. "We have the ability to produce more per cow per acre, but after a point even the best methods won't solve the increases in overhead. . . . To be a farmer you've got to be an optimist. It's a 100 percent requirement. . . . If everything bothers you, you'd be a nervous wreck. Like the river down there. I've got $20,000 or $30,000 invested there, and the river might rise and flood it."

York's wealth is in the land, and the land is valuable only if it produces. He says: "If I can't make a living on this land, who can?" If he should fail to make his land produce, "my entire equity is in jeopardy. We have no retirement, nothing to go back on."

He and his wife have no sons. He wonders what will happen to the farm if one of his daughters does not marry a farmer. Meanwhile, he and his wife look very healthy, and in the pictures set on the parlor table, so do his three daughters.

SAND OVER CLAY, THE SOUTHWEST COAST

The weight of the glaciers depressed the Southwest Coast. When the melting water from the glacier poured into the ocean, the ocean level rose, flooding the coast, and when the flood receded, a layer of sand was left over the clay. Some places inland from Wells and Kennebunk, on the sand plain where the jackpine grows and the land looks like Georgia, the sand is 70 feet deep. This landscape is gentler than other landscapes in Maine, and is where the state's only long, sandy beaches are, including the longest of them, Old Orchard. Portland is about halfway up this Southwest Coast of sand over clay. Portland is the largest city in the state, 65,116 people, and is unlike any other city in Maine. Even in hunting season the pickup trucks on Congress street do not have rifles on the rack behind the driver.

Portland has a good opinion of itself. It has a civic symphony, a theater company, a new and handsome convention center for hockey and rock concerts. Warehouses down the hill toward the waterfront have been turned into artsy and craftsy shops and brick and beam restaurants. For the doctors, the lawyers, the insurance men, and the bankers who practice in Portland there are suburban towns such as Falmouth, Yarmouth, Cape Elizabeth, places as toney as Weston or Cohasset. Portland also has urban crime and prostitutes who solicit, if not in broad daylight, at least in twilight on the corner of Congress street.

In tone and in trend, the Southwest Coast is part of southern New England, the only part of Maine that is. Dr. Victor Konrad, of the Anthropology Department at the University of Maine at Orono, says Portland is an outlying city of Boston "in the way Providence or Worcester is, almost a satellite." Some towns of the region are prospering with new industry like the towns across the New Hampshire border. Sanford is one of these towns and is "the town that refused to die."

Sanford, 17,214 people, is 34 miles from Portland. The Mousam River runs right through town, and a woolen mill prospered on the river, the Goodall mill. It produced Palm Beach-label clothes, among other products. In 1954 it was sold, the mill moved out of town, and 3500 of the town's 3800 jobs were lost. Today it has new industries, a low unemployment rate. It is an inland town and so has no fishing industry; there is no paper mill and almost no woods industry. Sanford has industries of the new age, such as Sprague Electric Company, a manufacturer of capacitors for television sets and computers, and Cy/Ro, a producer of acrylic sheets, a glass substitute.

There are six banks with nine offices. "The town is well banked," says G. Wallace Ackroyd, president of the Northeast Bank's branch in Sanford. The reason, he says, is anticipation of fast growth, more growth than in any other part of the state. When the mill left town, business leaders formed a group—"a traveling road show," Ackroyd calls it—and sought industries that would produce jobs to replace those lost at the woolen mill. "It was a rough time. It just about cleaned out the town (of jobs, not people). Most people stayed, though some went to places like Connecticut." The solicitation effort brought results, new industry and national publicity on television and in national journals.

Sanford is not pretty—no mill town is—but it looks more prosperous than towns of similar size farther upcountry. Town leaders like the feel of growth and the money it brings. They supported the unsuccessful efforts of an outside group to build an oil refinery here. The town pays 70 percent of the chamber of commerce budget, $49,000 of the $67,000 total. James Wallace, director of the chamber of commerce, says: "I'm not sure people in town realize it, but southern Maine is about to experience the expansion of the megalopolis. We are about to see something similar to what happened in southern New Hampshire."

When banker Ackroyd was showing visitors from Europe through the old woolen mill, they said: "Our old mills were bombed, and that was a good thing." The Europeans could do better with new buildings. Sanford seems to be doing better with its new industries than with its single old industry, the mill. A spirit of boosterism produced jobs for people who did not have them and saved the town. This spirit seeks more industry. Gerard P. Savage, chairman of the selectmen, and several business leaders were asked why the town continues to solicit industry now that its employment situation is stable. All said that new industry would be better for the tax base. Apparently, Sanford's growth requires new growth; success must be fed with more success.

DOWNEAST

Downeast begins wherever one says it does. The state planning office divides the coast about at Camden, where the southwest coastal area of sand over clay ends. A lobsterman in Stonington says Boothbay Harbor is a dividing line because about there lobstermen are apt to take vengeance upon one another for unfair fishing practices. Sardine men say Downeast is above Mount Desert, for no special reason. Thick tourism ends at Mount Desert. From there on up the towns are poorer, coastal Washington County towns that suffered when the sardine industry declined.

The sardine is not a fish. Herring is the fish, sardine the product. The sardine industry is not dead, and a good stop seiner with fair luck can make a big strike still. Stop seining is night work, mostly, because small herring, the size appropriate for sardines, are apt to come to shore on dark nights. For that reason stop seiners look for the "darks" of the moon, especially the August darks, especially when the darks occur with a south wind and a flood tide. However, stop seiner Clarence Lunt of Bass Harbor got into a good bunch of fish early in July during a week of bright moons. Lunt came to the Stinson Canning Company in Southwest Harbor on a Thursday, said he was looking at two good bunches of fish, one in Blue Hill Bay, the other in Toothacre Cove at Swans Island. Friday he got word to the cannery that he had shut off Toothacre Cove with his nets. He had trapped about three hundred hogshead of herring, a really good shutoff.

A hogshead weighs 1225 pounds and is worth $75 this year. Lunt's shutoff held the herring all day Saturday, and during this time the sardines purged their digestive tracts and were ready to be canned. Lunt got the Stinson cannery's carrier vessel on Sunday morning, and this vessel, the *Joyce Marie*, took off 77 hogshead of fish in 1½ hours, fish worth $5775. Fish were pumped from Lunt's net through a 6-inch tube into the hold of the *Joyce Marie*, and as the fish were falling into the hold, crew members shoveled salt, about one 80-pound bag of salt per hogshead. Says Ron Hunter, a manager at the Southwest Harbor cannery: "That's how you get the nice salty taste. They take in the salt through their gills while they're still alive. You could tell a vast difference in unsalted sardines, the big herring that are fileted without salt. Salt also helps preserve them."

Hunter wanted the 77 hogshead of fish Sunday in preparation for Monday's pack that begins with the arrival of approximately 65 women packers at 7 a.m. Monday. Hunter sent the carrier vessel *Edward M.* back to Lunt's shutoff at Toothacre Cove and took 62 hogshead more of fish. Tuesday the plant took another 30 hogshead, stopping at that figure because the plant could not pack more that day. Stop seiners can hold captured fish inside the nets in the water. Lunt would have to wait to unload the rest of his valuable catch.

There are 70 or 80 stop seiners on the Maine coast working out of Jonesport, Prospect Harbor, Vinalhaven, Harpswell, Tenants Harbor, Southwest Harbor, Stonington, and, as James Warren says, "most anyplace you might name." Warren is director of the industry's sardine council. There were 50 sardine canning plants in 1950. Now there are 15 plants: in Eastport (2), Lubec, Machiasport, Milbridge (2), Prospect Harbor, Southwest Harbor, Stonington, Belfast, Rockland (3), Bath, and Yarmouth.

A fully grown herring is 15 to 17 inches long. Only fish 4½ to 8 inches long are canned as sardines. Four is the minimum number of fish in a sardine can; if less than four fish fill a can, the sardine is a herring. The heads of small sardines are cut off; the heads and tails are cut off larger sardines. The industry started in Eastport in 1873, an imitation of the French practice of preparing the fish. The Mediterranean sardine of the Spanish, Portuguese, and the French is a different fish from that caught off Maine. Norwegian sardines are the same herring caught in Maine, but the Norwegian brisling is a different fish. Maine's industry declined in the 1960s when foreign fleets began fishing the North Atlantic for herring, taking the adult fish that spawned the sardine-sized fish caught by coastal seiners. In 1950, 200 million pounds of herring were landed in Maine, almost all of it sardine-sized fish. Last year, 67 million pounds were landed, 30 percent of them adult herring and not good fish for sardine making.

Sardines were caught by Indians using weirs, stakes in the mud of coves, one stake joined to another with brush to form a barrier to trap the fish. This method is still used, especially along Perry road between Eastport and Calais, where there are approximately 15 weirs along 7 or 8 miles of shore. There may be 28 or 29 weirs along the whole coast; at one time there were 300. Weirs are effective but cannot be moved.

A stop seiner uses the principle of the weir, closing off a cove, but he can move his nets to where the fish are. A highliner, meaning the best stop seiners, use aircraft to spot schools of herring moving into a cove. The stop seiner and his crew draw a net across the cove, trapping the sardines. A second net is put inside the first net in the deepest water, and the herring, constrained by instinct to move to deeper water at daylight, are caught in this second net, a pouch. From this pouch the carrier vessel pumps the sardines aboard and then goes to the cannery. At the cannery dock a state inspector is responsible for testing fish before they are canned. Warren says: "They see there's no feed (inside the sardine). Usually they take 100 fish, pull the heads off, and usually the poke [stomach] comes off with the head, and the inspector can just squeeze the poke to see if anything is in it. . . . Sometimes there is feed (in the poke) and they'll have to go for fish meal. That's why the fisherman and the skipper of the carrying vessel are careful."

A good catch is about 60 hogshead, Warren says. At the current price of $75 a hogshead, the fisherman would earn $4500, often in one night. "But sardine fishing is just like going lake fishing," Warren says. "You might be out one night or go two weeks and not catch anything." Stop seiners are independent fishermen. Many of them also lobster, or gill net for cod and haddock, but with a couple really good bunches of fish, they might not lobster in winter. Most have an arrangement with the cannery. The cannery loans an individual money to fix his gears, perhaps even money to buy his boat, and in return he agrees to sell his sardines to the cannery. Warren says: "Usually he fishes one year, gets the debt paid off, but is back the next year for a loan to buy new gear. Most are verbal contracts." He may take out 20 percent of the price of a catch to retire the cannery loan for his boat or nets; 30 or 40 might be applied against the boat for fuel, food, gear; the rest is divided equally among the fisherman and his three crewmen. If he is a highliner and uses a spotter plane, the pilot customarily gets 10 percent.

The scales are scraped off with hardware cloth as the fish are being pumped into the carrier vessel. They are sold to manufacturers of artificial pearls, lacquers such as nail polish, and plastic. Heads and tails are sold for lobster bait. The sardine itself is put into a can by hand. Stinson's Southwest Harbor plant packs about 115,000 cases a year, one hundred 4-ounce cans to the case.

All the packers are women at Southwest Harbor. Two buses transport the women to the cannery each day. One bus leaves at 5:40 a.m. from the Maine Coast Mall in Ellsworth, where it picks up about 5 women, then goes to Southwest Harbor, stopping along the way at Trenton, Somesville, and Town Hill, delivering about 20 women to the plant. A second bus leaves Bass Harbor on a route to Manset, Seawall, West Tremont, and Seal Cove and has about 25 passengers at the plant in time to begin packing sardines at 7 a.m. Some are girls, some are young women, some are elderly—at least one women is over 80.

Most work is from June through October, but there is some work most months. They worked 15 days in January, 9 days in February, 10 days last November, 2 days last December. In slack times they receive phone calls, as early as 5 a.m., as late as midnight, about work the following day. There are about 65 women packers in the Stinson plant, and Hilda Merchant is fastest of them all.

Hilda Merchant lives in Hall Quarry, a town on Mount Desert not far from Southwest Harbor. She started packing sardines in 1943 at the plant she now works in, and except when her children were small, she has worked there ever since. Her husband works at the golf course in Northeast Harbor. Most days she gets a ride to work with him rather than on the cannery bus. She can cut the heads off sardines and place them into a can so fast that the eye cannot follow the procedure. Her hands are like those of a card cheat, faster than the eye. She can pack 20,000 sardines into a can each day, cutting the heads off with scissors in her right hand, placing the sardine in the can with her left.

The women are paid $1.53 to pack a case of "fives and sixes," large sardines that pack five or six fish to a can. They receive $1.85 for "eights," smaller fish that pack eight to a can. Mrs. Merchant says: "On fives and sixes I can do 40 or 50 cases a day [100 cans to a case]. Yesterday on eights I got 28 cases. . . . You pick 'em up with your scissors hand, put 'em in the other hand to cut, and while I'm crackin' that one that I've got, I'm picking up another one." She appears to have three fish in control at a time, like a juggler with three rubber balls. She grades the fish by size as she goes. "I don't stop to think which [are big fish or small fish], but I put the eights to one side until I get enough to fill a can."

She puts a filled can into a case with her left hand, at the same time taking fish off the conveyor belt onto her table with her right hand. She says her hands work automatically without any command and that she is able to think about the housework facing her when she gets home "or whatever else comes into my mind." Some new women get the trick of canning quickly, she says. "But they ask a lot of questions and are always watching me. That makes me nervous."

Mrs. Merchant is a thin woman. She was wearing slacks and sneakers and was smoking a cigarette after her lunch as she tried to explain her remarkable speed. She wears bandages on the thumb and first and second fingers of her left hand ("Everyone does it different"). She tapes all five fingers on her right hand in front of the middle knuckle to prevent blisters from the squeezing of the scissors. She and the other women talk to one another over the noise of the conveyor belt carrying the fish. The packers stand at their work. She aches at the end of the day, especially her back. "My back hurts more on small fish. Only thing I can figure is you get to move more on big fish." She does not know how she is aware when a can is full without looking at it. She is not conscious of feeling the fish in the full can because her hands are moving too fast. "I don't know. I do a lot of things I don't know what I'm doing . . . just the feel of it, I guess." Empty cans cut her left hand at times, but there is nothing to be done about it. She says she can't be careful enough to avoid those cuts, can't take the time.

Edward Blackmore lives in Stonington, a town at the ocean end of Deer Isle. He has fished for lobsters for 30 years and says: "Just about the time when you think you know what the lobster is doing, they do something else. They don't do the same thing two years in a row. You never outsmart the lobster. . . ."

There are about 9,000 lobster fishing licenses in Maine, but Blackmore says: "Those that fish at lobster [meaning serious fishermen] are probably just under 4000." A man starting out has a big investment to make. "It's getting so if you've got enough money to go lobster fishing you've got enough money not to work. . . . A boat, 35 to 38 feet, properly equipped, good depth recorder, VHF radio, a small-boat radar, a pot hauler, costs about $35,000. The boat is probably Maine-built, either fiberglass or wooden hull, the Jonesport hull [a traditional hull made of cedar planking, oak frame].

"A wood boat lasts about 30 years with care. I don't know about fiberglass, they're still going and they're 15 years old, could very well last longer (than wood). The difference between a glass boat and a wood boat is the motion. Wood is slow, an easy motion, but glass is quicker. For me, glass is harder on the knees, legs, and back. Glass is easier to maintain. The first 8 years you own a wood boat it gets heavier and sinks a little lower in the water. A glass boat doesn't get heavier one year to the next. You have to raise the water line twice in the first 10 years on a wood boat, 2 inches each time.

"When I started lobster fishing 30 years ago I had 130 or 140 traps. That was average for a man starting out. We used to start in August with hurricanes, get about five hurricanes. It was hard to get many traps (collected)—you'd lose so many. The second or third year I was fishing, and we'd been through a few hurricanes, I was down to 120 traps, and I think it was Thanksgiving Day, the most beautiful day you ever saw. You could see your face on the water like a mirror. Then we had a sou'easter lasting three days and three nights. When I (finally) got out, I sailed all day long and found 7 traps. That was the end of fishing that year. "I remember my grandfather dipping his heads (the twine netting that keeps a lobster trapped) in hot tar and putting them on rocks to dry. Then he'd grease his arms up to his shoulders before putting the heads inside the traps. . . . We used to have a winch to haul traps, but you had to pull some with it. By the end of the day there was miles of rope you took in hand over hand."

Blackmore's grandfather was using line of manila or sisal. Nylon is used now; it is cheaper and requires less repair. A man can keep a bigger gang of traps in the water because of nylon. Hydraulic pot haulers require almost no effort. A man can fish 500 to 600 traps if he is willing to start out at 5 a.m., not return to harbor until 3 or 4 p.m.

Maine lobster is heavily fished. Some biologists believe that close to 90 percent of all legal-sized lobsters are caught each year, leaving little margin for regeneration. Yet 19 million pounds of lobsters were caught in Maine last year, the highest total since 1969. There has been a fluctuation in the catch of only a half-million pounds from year to year for the last three years. Blackmore is president of the Maine Lobstermen's Association, a group representing about 700 men. He thinks the state's conservation measures are working.

"Maine is the only state that has a 5-inch maximum measure. Canada doesn't even have that." The minimum size for legal lobster in Maine is 3–3/16 inches measured from the eye socket to the end of the body shell. Maine lobstermen are required by law to put a vee on the tail of egg-bearing lobsters. "This lobster can never be sold (in Maine), but some crawl to New Hampshire and Massachusetts and are caught there and sold." Maine lobstermen don't like that, but, Blackmore says, if lobsters crawl out of the state there is nothing to be done about it.

It was believed that offshore lobsters had no bearing on the inshore stock, but Blackmore and some of his association members now agree with biologists that there is a link. Blackmore says: "In the Gulf of Maine, the motion of the current is counterclockwise. The eggs laid offshore are suspended in the water for a while, then those eggs, a certain amount of them, are deposited along the coast by the current." Supply affects price. If the supply is up, the price is down. That is the hell of being a fisherman. "But we're a little better off than fin fishermen. Whadda you going to do with dead fish? You got to sell 'em. We can put lobsters in cars (storage pens in the water) but there is some shrinkage in the cars. And you have to feed 'em. You take crabs, smash 'em up. Lobster loves to feed on crabs. And you can use fish racks (skeletons of fileted fish) but if they shed they get just like jelly. Lobsters (in captivity will eat the others as fast as they shed. . . . It takes a month to grow a new shell if they shed on you. But you can store them in November (not a shedding time) and keep 'em all winter."

No Sunday fishing is allowed from June 1 to September 1, and during these months no fishing is allowed on Saturday after 4 p.m. There is no restriction on the number of traps a man may fish. There is some poaching (selling undersized lobsters), Blackmore says, and there is some stealing from the traps. "But fishermen have a way to take care of them. . . . You can tell if someone is acting suspicious. They're in the area before you, move out when they see you coming. Your traps don't seem to be located where you put 'em." A suspected thief gets his gear cut.

"In Portland, they tell me, anyone can fish, but you couldn't do that here in Stonington. You wouldn't have half your gear left. You have to be known, have to have some connection with the industry . . .

have been a sternman with someone else. You have to have acceptance from the fishermen (or) they'll pick you to death, one to ten traps a day. Even a native might have to serve an initiation. Someone might lean on him a bit, a token, not to drive him out but to show he cannot drive anyone else out, that he has to fit his gear in (with the gear of others). There are certain areas right here (in Stonington) that I can't fish now, would cut my gear, and I've been fishing here for 30 years, and I'm a native-native

"They start to feel this way about Boothbay, and they feel strong about it the farther east you go. I understand it. It's our livelihood. If someone hurts the industry, there's no place to go, no mill, no industry. You got to sell your home and go." ●

ADDRESS BY SENATOR GARN AT HILLSDALE COLLEGE

● Mr. LUGAR. Mr. President, I would like to draw my colleagues' attention to the remarks made by Senator JAKE GARN before a group of faculty and students at Hillsdale College in September of this year. I believe that he offers some valuable thoughts on the SALT II treaty that bear careful attention.

I ask that the text of Senator GARN's remarks be printed in the RECORD.

The remarks follow:

THE SUPPRESSION BY THE U.S. GOVERNMENT OF INFORMATION CONCERNING SOVIET SALT VIOLATIONS

(By Senator JAKE GARN)

It is a pleasure for me to be with you today and to be able to talk about SALT. I don't really think that we can talk about SALT or violations of SALT I, which I'm also going to talk about today, without putting it into an overall strategic context. The Administration continues to tell us that SALT II and the SALT process is so important that we must exclude anything else from the discussions. It doesn't matter what the Soviets are doing in Africa. It doesn't matter how they are using their Cuban surrogates. It doesn't matter what military adventurism they are perpetrating in Southeast Asia. All of these things are unimportant—we must consider SALT all by itself. I don't think that's possible. And when we do get to the floor of the Senate and debate on SALT II, I guarantee you that I fully intend to raise the issues of our overall defense posture, the Soviet threat, and the strategic balance between the United States and the Soviet Union. It does not make any sense to consider SALT II in a vacuum and exclude all of these other factors. They are relevant. They are extremely important in terms of whether SALT II should or should not be approved.

Let's talk first about the defense budget. You hear a lot of news accounts both in the printed and in the electronic media about the large military defense budget. And it is large in terms of dollars. It is over 130 billion dollars for fiscal year 1980, and that is a lot of money. But I think we must consider the defense budget in terms of what it will buy, and in terms of comparisons to other criteria.

As a percentage of the Gross National Product, it's the lowest of any year since 1950—the year before the Korean War started. In fact, even more startling, defense spending for the last three years, fiscal '78, '79, and '80, has been lower than in any year since the Korean War started or the year before in 1950; less than 5 percent—4.8, 4.9 percent of the total poductive output of this country. It's also at the lowest level in terms of percentage of government spending—slightly less than 25 percent. Now the reason I stress this comparison with the pre-Korean War period is that most of you are very well aware that, for all practical purposes, we had just about totally disarmed after World War II. We were a nation which had more than 12 million men under arms. We had atomic weapons when no one else had them. We were militarily superior not only to any other country, but to all the countries put together at the end of WW II.

We had not been attacked, and if we had wanted to be the first country to rule the world we certainly could have done so without much of a fight. It would not have been difficult. But we chose to disarm. We had sent nearly everyone home; our military expenditures were very low. We did not anticipate getting involved in another war so quickly and yet, today in 1979, by all those criteria we are spending less on defense and we have fewer men under arms than in 1950. And the levels actually are lower in some cases than they were in 1939 and 1940 when our troops were practicing with wooden rifles.

I have heard some of the pro-SALT sellers talk about how the American people always respond; we always rise to the occasion. We did after Pearl Harbor. Well, we are talking about an utterly and completely different world that we live in. We are not talking about having months to respond, to gear up our industrial capacity, to put people back into the armed services, to build weapon systems to combat that kind of attack. We are talking about an entirely different world, a world in which we have 18 to 22 minutes from the time we know an attack has been launched until we have been hit. And we are not talking about an attack on a relatively remote island, which would not injure the capacity of the United States to wage war for any long period of time. We are talking about a first strike that could be devastating—devastating to this country in terms of ability to retaliate and in terms of our survival. So I think you need to look at the military budget in that perspective, and not just in terms of absolute dollars.

In addition, I think we need to start looking at it in terms of Soviet expenditures. They are outspending us by an estimated 35 to 40 percent a year. The reason I say estimated is that we don't really know what they are doing. We try very hard through our intelligence gathering activities to determine that, but they are a very, very closed society. They can read the New York Times and Aviation Week and Space Technology, sit in on Armed Services Committee hearings to learn about our defense preparedness. I know who the KGB agents are, I recognize the ones who cover the hill. We, in Congress, talk in terms of exact line items, how many dollars for this weapon system, and it is incredible the non-classified information that is available to Soviet KGB agents. We are a tremendously open society, and I'm glad we are, but the problem is much more difficult for us in obtaining information.

But let's forget whether or not the Soviets are outspending us and make the hypothetical assumption that we are spending exactly the same number of dollars. Even if that were the case they would still be outspending us two to one in research and development and procurement of new weapon systems. One reason is that we made a conscious national policy decision a few years ago to have an all-volunteer military, and it's expensive to do that.

Fifty-five or fifty-six cents out of every dollar that we spend for defense of that $130 plus billion is for people. It isn't for airplanes, tanks, guns, weapon systems, nuclear weapons—it is for people, for their salaries, for their fringe benefits, for their housing, for their enlistment bonuses and their reenlistment bonuses and their travel to move them from one place to another. The Soviets spend about 25 cents out of every dollar for people. They have a draft, they have conscription—they don't have to have nice recruiting posters saying, "Uncle Sam needs you." They don't have to spend all their money on recruiting services to try to make military service attractive for people to join. So they outspend us more than two to one on procurement of new weapon systems and on research and development.

Another thing you need to look at is shortsighted budgets. The fiscal year 1980 military budget removed a billion dollars from Air Force research and development. Now that doesn't show up next year or the year after or the year after that. You are looking at long-term results when you talk about research and development—five, six, seven years down the road. We took five billion dollars out of the Navy ship building programs at a time when our Navy has been reduced from over 900 ships in 1970 to fewer than 450 today. Five billion dollars out of the Navy ship building program—does that show up next year, or the year after? No. From the time you authorize a ship, it's five to eight years before it's in the water. This necessitates long lead time financing. So this budget is extremely shortsighted in many areas—in research and development and in procurement. In the mid 1980s, the United States is going to pay for the shortsightedness of not only this year's budget but also for that of the past three or four years.

There is an argument to be made that the United States has a technological advantage over the Soviet Union. There is a good deal of truth to this argument, but we must recognize that our failure to appropriate adequate funds for research and development is going to haunt us in the years ahead. Just a few examples. Let us examine the position of our strategic Triad. The Triad is a system of strategic deterrence that consists of land based inter-continental bombers, land based inter-continental ballistic missiles, and sea based or sea launched ballistic missiles. Over the years, Republican and Democratic Administrations have supported the concept of the Triad as essential to our nation's defense. It was believed that the Soviets could not threaten all three legs of the Triad. Whatever their choice was, we could deter war by keeping one or two legs of our Triad invulnerable to a Soviet attack. I think that theory is valid. I think it has worked. I think the Soviets have been concerned and, therefore, have not been willing to even think seriously about an attack against the United States.

But what have we done to our strategic Triad over the last few years? We unilaterally cancelled the B-1 Bomber. The reason I say unilaterally is because we asked nothing of the Soviets in return—absolutely nothing. We did not even say to the Soviets, we will stop production of the B-1 if you will stop production of the Backfire. They built a Backfire bomber that has the capability of hitting 80 percent of the United States in unrefueled flights and landing in countries like Cuba, and that has a refueling probe. The Soviets do practice air-to-air refueling, and it does not reassure me that the Soviets have said verbally that they would not use it as a strategic weapon against the United States. A B-1 or B-52 cannot fly to the Soviet Union and back unrefueled. I know something about air-to-air refueling. I've spent the last 20 years as an Air Force Reserve pilot. My duty assignment until I retire is a KC-135 squadron refueling aircraft. So believe me, the Backfire is a strategic bomber. It does have the capability to strike this country. That the Soviets tell us it does not, does not make it so.

The Soviets are building the Backfire at the rate of 2½ to 3 per month; they have more than 100 of them already in operation and we anticipate that they will have more than 400 of them by the mid 1980s. What do we rely on? The B-52. The B-52 is being flown by some crews who were not born when it became operational. It is an old airplane that has many other operational problems. I would not want to volunteer to fly a Cruise Missile Penetration mission in a B–52. One might get in, but you are not going to get out. The B–52 is not a substitute for the B–1, no matter how much money you spend on it; you cannot turn it into a B–1. The FB–111 is not an alternative to the B–1. You have probably heard a lot about the replacement of the B–1 with wide bodied cruise missile carriers. Well, that's an interesting thought. The 747 is a very large aircraft. It has a huge radar cross section when you look at it on a radar scope. It is not supersonic. It does not have low level capabilities. It has no penetration capabilities whatsoever. Moreover, by the time you put the pylons on it, by the time you modify it, put in the avionics, electronic counter measures, gears and all the things that go with it, I submit to you that it will cost as much as a B–1 would and you don't have anything that even approaches the capabilities of a B–1. As a matter of fact a modified B–52 would cost as much as a B–1 and you still don't have a B–1. The point is that we have cut off that leg of the Triad. We have no effective replacement for our aging B–52 fleet.

Let's look at the Inter-Continental Ballistic Missiles and another unilateral decision that we made in 1967. We decided at that time that we would not deploy more than 1,054 Inter-Continental Ballistic Missiles—fifty-four Titans and 1,000 Minuteman IIs and Minuteman IIIs. We did this in the hope that if we showed restraint the arms race would abate, that the Soviets would reciprocate and emulate our restraint. At that time, the Soviets had roughly 500 ICBMs. Now 12 years later, we still have 1,054, still 54 old Titans sitting around and 1,000 Minuteman IIs and IIIs, some of them with aging motors. We have no program to rehabilitate the Minuteman IIs. In contrast, the Soviets have over 1,600 missiles. Yet, I continue to hear people echo the arms race "aping theory" of Paul Warnke that the United States is responsible for the nuclear arms race. I could go through dozens of examples where we have stopped without the benefit of any sort of treaty, and there has been absolutely no reciprocation on the part of the Soviets. As a matter of fact, during this twelve-year period of time, the Soviets have undertaken the biggest arms buildup by any country in the history of this world. We have closed down the only ICBM production line in the free world, not just in the United States; there are no production lines of ICBMs in the free world. The Soviets continue to operate four. Only after persistent pressure from the Congress has the President decided to proceed with full-scale development of the MX missile. We continue to delay a decision on a basing mode for the MX missiles. Furthermore, the MX will not be fully operational until 1989 at the earliest. The Soviets had four new missiles during that twelve-year period of time and they have five new generations under research and development. We have one. We are way behind them in that particular area. So there goes that leg of the Triad.

The only possible bright spot is in submarine launched ballistic missiles. We do have a Trident submarine being built with Trident missiles. However, production has continually been delayed. We are looking at 1986 or 1987 before it becomes fully operational. In the meantime the Poseidon and Polaris submarines are reaching their service lives, and even with service life extension programs called SLEPS, by the mid-1980s we are going to have a reduction in the number of sea launched ballistic missiles deployed until the Tridents come on line.

The pattern that is developing is, at best, troubling. By the mid-1980s, we will be experiencing the adverse impact of budget cuts for research and development and for procurement of new ships and other weapon systems. The Soviets will have an estimated 300–400 Backfire bombers by 1985. The United States, on the other hand, is relying on the B–52 and has cancelled the B–1. We have closed down our ICBM production line while the Soviets push on unabated.

Even if we made a decision today to go with the MX in a survivable basing mode, it will not be deployed initially until 1986 at the earliest. The point I'm trying to make and will continue to make is that we are potentially giving the Soviet Union a war warheads. Each of these warheads has the have just about cut off two legs of the Triad, and a third one is being weakened because of delays in the production of Trident submarines.

This is the context in which we must consider SALT. It is ludicrous to me to be told, "Senator, you must look at SALT totally on the basis of the provisions within it and ignore all of these other things that have been going on." That is irresponsible. That is dangerous. So I repeat there will be a full scale debate on the floor of the Senate—not just on SALT II but on the entire policy direction of the United States and the adverse shift in the U.S.-Soviet strategic balance.

Now let's look at SALT II. Many people have said, "How can you be against it, Senator, it is not completed yet?" Well, that's true. But when I first went to Geneva a year ago to sit in on some of the negotiations, I was told it was 95 percent complete—I've been told that day after day. It was supposed to be signed in June, then in October, then in December, and the latest rumor is that it will be initialed next Monday, and that there will be a meeting between Brezhnev and Carter on the 20th of May in Geneva to sign it. Whether those exact dates are correct or not I do not know, but sooner or later SALT II will be signed. In any event, I think it has been essentially completed for many months. The details they are working on are relatively minor in comparison to some of the decisions that have already been made. And in the 95 percent, there are plenty of provisions that are sufficiently flawed in my opinion to defeat this treaty.

Now I say this as one who believes in the strategic arms limitation process. It would be a benefit to both countries. Both of us have too many nuclear arms. Both of us spend too much money on defense. It would be an advantage to the people of both countries to have very deep cuts in strategic weapon systems—if they were fair and equitable to both sides. But I believe this treaty is not fair and equitable to both sides. I believe that it gives the distinct advantage to the Soviet Union. SALT I allowed them to come from a position of inferiority to a position of parity or rough equivalence. SALT II will give them nuclear superiority.

Dr. Ray Cline of Georgetown University's Center for Strategic and International Studies is going to talk to you in detail about the dangerous implications of Soviet nuclear superiority. Let me just say first that I don't expect the Soviets to launch a first strike attack against the United States out of the blue. They wouldn't want to risk losing 20 or 30 million of their own people or to have their own country devastated. Rather, the Soviets will exploit their nuclear superiority to embark on a military and politically adventurist foreign policy designed to isolate the West. We are already seeing the results of the shift in the military balance in Soviet provocative activities in Africa, Iran, Afghanistan and Southeast Asia. There isn't anybody in this country better able to tell you to what uses the Soviets will be able to put their superiority than Dr. Cline, and I hope you are all here when he talks about this.

We could spend days talking about provisions of SALT II. Let me give you just a few examples of why I think this treaty should be defeated. In March 1977, President Carter put forward to the Soviets what I considered on the whole a good negotiating proposal for SALT II. He talked about some cutbacks and some terms that I was pleased with. One of those was in the area of the SS–18 Missile. The Soviet SS–18 is a huge missile. It dwarfs our Minuteman III by six or seven to one in terms of throw weight. Throw weight simply means the amount of explosive power a missile can deliver. The Soviets deliberately went to a huge missile to offset the advantage of accuracy that we have. However, I don't think that there's any doubt in anybody's mind that by the mid 1980's they will be able to couple accuracy with that size. And then they will have a devastating weapon. President Carter said, "I want your SS–18 limited to not more than 150." The Soviet Union said, no, we want 308 SS–18s. Do you know where we compromise? At 308. Now in Utah we might have gotten them to 301, 302, or split the difference. We said we want 150 and they said we want 308. We gave them 308.

Now that has been our bargaining posture all along through two or three Administrations. We make an offer which is a good offer, they say no, and eventually we give in to them. We gave into them on ground and sea launched Cruise Missile Range Limitations. Over and over again we have simply gotten no compromise from them at all.

Let me throw out the question as to whether you really think this is an arms control agreement. First, let's do away with the Soviet armies. Let's do away with their thousands and thousands of tanks and conventional weapons. Let's do away with all of their various ICBMs and their Backfires and their Navy. And let them keep the SS–18 at the limits we talked about—308 of these SS–18s, which can carry ten MIRVs. A MIRV is a multiple, independently targeted reentry vehicle. That simply means that one missile comes over and it can split into a number of different warheads—like the difference between a shotgun and a rifle. Rather than having one shot you've got numerous pellets coming out from one launch vehicle. Ten separate warheads. Ten times 308 is 3,080 warheads. Each of these warheads has the capability of over one million tons of equivalent TNT explosive power. The bombs dropped on Hiroshima and Nagasaki were 17,000 tons.

So if we eliminated everything they had and left them with their SS–18, that would amount to 3,080 warheads of over one million tons of T&T that could hit this country—18 to 22 minutes after their launch. Just think of that. Just think of what it could do to this country. The vulnerability of our Minuteman III and Minuteman II missiles undermines our ability to maintain an effective retaliatory capability. And the Soviets have SS–9s, 11s, 13s, 16s, 17s, 19s, and 20s that we haven't even talked about. That is what SALT II would allow them to have. In addition, SALT II does not allow us to have any heavy missiles. So we are freezing into place a clear Soviet superiority. SALT II also has a provision on MIRVs that allows both to maintain their present arsenals. Well, our missiles have three MIRVs while the Soviets have ten. These are the kinds of inequities that are being negotiated by your government.

Now, these aren't simply Jake Garn's opinions—these are facts. You wait and see, it says only 308 SS–18s, ten MIRVs each. We don't have any that even compare. The only argument that you will receive on that is that our Minuteman IIIs are much more accurate. That's true—they are today. No doubt about it. However, by the mid 1980s they will not be, and we will have allowed the Soviets to keep the SS–18.

Let me highlight another inequity in SALT II involving ground and sea launched Cruise Missile Range Limitations. SALT II includes a 600-kilometer range limitation on ground launched and sea launched cruise missiles. Secretary Vance told me in a hearing that this is justified because we are placing the same range limitations in both countries.

Get out a map of the world. Look at the United States and the Soviet Union, and see if you think that a 600-kilometer range limitation on a sea launch cruise missile is equitable to both sides. You'll discover rather easily that the United States has three coasts—Atlantic, Pacific and the Gulf Coast, and if you draw a line 350 nautical miles inland you'll find that you can hit 50 percent of the population of the United States, all of our ports, and most of our major industrial cities. Look at a map of the Soviet Union and see how much water there is around it and start drawing 350 nautical miles inland. Only two to five percent of the Soviet Union would be vulnerable.

It becomes almost militarily worthless to even build cruise missiles launched from submarines with such a short range. Look at a ground launched cruise missile. The same range limitation. Well, you can hit France and Germany from England, but you are certainly not going to hit the Soviet Union from Western Europe with a range limitation of that kind. We have drastically cut down the effectiveness of these weapon systems of ours in SALT II.

There is an issue that is even more critical than those of the SS–18 and Cruise Missile Range Limitation and the Backfire bomber. That is the issue of verification. If I could write a SALT II treaty that I felt guaranteed the security of the United States, what good would it be unless you can prove that the Soviets will live up to it? There are some in this Administration and in the Congress who want us to trust the Soviets—how can you? Just look at the history of our relationship with the Soviet Union since the end of World War II. Over and over again they have broken international commitments when it was to their advantage to do so. Again, we could spend a lot of time giving examples of Soviet violations of treaties and in many cases total abrogation of those treaties when they found it was no longer to their advantage to live by the terms of them. Their word has never been worth anything. I sat in the Kremlin across the table from Brezhnev three months ago, and he looked at me and four other Senators and said, "It is you who have superiority in NATO. It is you who have more men, equipment, guns and airplanes. We have not put a single additional man, no new tanks, no new additional airplanes in the Warsaw Pact countries for ten years." He did it with a straight face. They have 45,000 tanks and we have 11,000. It's incredible. Four days of being lied to, and they did it absolutely with straight face. So if anybody thinks that we can trust the Soviets, I suggest he look at the last 30 years and see what has happened.

Verification, therefore, becomes an absolutely key issue. I think we ought to have onsite inspection. I think we ought to be able to kick the tires, so to speak, and look at what they have. But we are not going to get that. We are going to rely primarily on national technical means. And we have some very good means of spying on the Soviets through satellites and other ways, but interestingly enough there have been some revelations which greatly cut down our ability to monitor the Soviets. One of those you may have read about involved a Mr. Kampiles. After six months with the CIA, Mr. Kampiles just happened to sell the Soviet Union a technical manual on one of our spy satellites—one that had incredible capabilities. This was a highly top-secret document that not even all of the Senate and the House knew about. Yet here a six-month trainee sells them a technical manual for $3,000. I'd never seen the technical manual—it shows the flight patterns of one of our most sophisticated satellites, and gives the Soviets diagrams good enough that they can build one. That isn't startling enough. What is bothersome to me is that more than 13 of those manuals had been gone for more than a year and a half. And their loss had been covered up. One of our best means of verifying Soviet compliance with SALT II has been compromised.

The best means of seeing whether the Soviets in their test programs were complying with the terms of SALT I happened to be in Iran. Here were two ground sites for monitoring the test flights of Soviet ICEMs from Southwestern Russia. As you are probably aware, this monitoring equipment is no longer functioning. We have heard during the last few days numerous Administration officials telling us that we have substitutes for those two sites. Now I'm going to say something that is very blunt and probably too candid—that is a lie. We do not. We are being lied to about the importance of those Iranian sites. I've had to debate this issue two or three times in the last couple of weeks, and the Administration knows it has us in a spot. The Administration knows that I, as a member of the Senate Intelligence Committee, have access to top-secret code word briefings on all these supposed alternatives, and they know that I can't prove what I'm saying without violating security. But just believe me, the earliest we could hope to have the capabilities to replace those two Iranian sites because of geography and location and technical problems with other sites and other means is 1984—one year before SALT II is due to expire.

One issue I can talk about is the use of U–2 flights as a substitute for the Iranian sites. This issue involves something else that is going on that disturbs me—the release of classified information by Administration sources to help the SALT sellers. They know that verification is a big issue.

They are fully aware that SALT II could fail or pass on the basis of verification. Two weeks ago tomorrow I was in a briefing that was so classified that my staff was not allowed to be there—just Senators and a few key staff members from the committee. The next morning I picked up the New York Times and read the entire business about the U–2 in nearly as much detail as I had been briefed as a Senator in a top-secret briefing. And it said in the article that it came from Administration sources. The next day the Administration admitted that, yes, this is what they were considering.

Well the U–2 cannot replace the Iranian sites. It is not physically possible. You can't mount an antenna on a U–2 big enough to replace what was lost in Iran. You cannot physically place the equipment in a U–2 to do it. Even forgetting all the problems of overflight rights, of whether or not you know when the Soviets are going to testfire, of whether you have U–2s in the air 24 hours a day, and all sorts of other problems, the U–2 physically can't carry the equipment or the people to do the job. Now that is the type of credibility gap we have when the SALT sellers just come out and make bold statements.

It is not possible to verify SALT II at this time. And I qualify that because I'll be the one to help the Administration, the Department of Defense, everyone I can to make certain we do replace that capability. What I m telling you is that at this time we do not have the capability to verify Soviet compliance with SALT II, and it will take years to replace adequately that capability.

So verification is a big issue. Let's go back and talk about it in terms of SALT I. I hear a lot of talk that, well no, the Soviets haven't violated SALT I. They may have stretched the terms a little bit here and there, but they really haven't violated it. I've written a major article on the subject of Soviet violations of SALT I, and it will be published in a foreign policy journal in the next month or two. Let me just highlight a few examples. Violations of SALT I which we know about have consisted of deployment of prohibitive offensive forces, particularly conversion of light to heavy ICBMs. The SS–11 Mod 1 that had 1500 pounds of throw weight has been converted to SS–17s, and SS–19s with 7 to 8 thousand pounds of throw weight. In 1976, the Soviets failed to dismantle 41 ICBM sites on time when their force went above the limit allowed by SALT I. They have constructed 150 additional silos, which they claim are for launch control purposes for testing. In addition, the Soviets have increased the size of their missile silos beyond the 15 percent limit agreed to under SALT I.

The SS–20 could be a violation of restraint on mobile ICBMs if it had slightly greater range than 5,000 kilometer estimates or if an additional stage is added. I'm getting technical just to give you a flavor for the difficulties of this thing. You can't tell the difference by any photographic or telemetering verification means between SS–16 and SS–20. You can just change the configuration a little bit and hide one. It's another real problem. Obviously, there's a great potential for cheating.

The Soviets have developed anti-ballistic missile capabilities prohibited by the term of SALT I. They have constructed additional ABM Management Radars beyond the one allowed at Moscow. They have built an ABM–X–3 Radar in the Kamchatka Impact Area where one was not allowed. The radar is mobile and this is also not allowed. They have tested the SA–5, a SAM Missile, in an anti-ballistic missile mode. They have developed and deployed tactical anti-ballistic missiles; these could be used in a strategic anti-ballistic mode. I don't expect you to understand all of this, but I am just trying to let you know what they are doing.

Now there's one point I want to make when I talk about the problem of verification. First, I don't know about successful Soviet activities in this area. We have no idea how successful they have been in concealment and deception activities, because we won't find the good ones. But they have concealed activities at Soviet SSBN (those are their submarines) construction and refit facilities. I personally have seen pictures of concealment of submarines. There has been use of canvass covers over missile silo doors, which is prohibited, testing of decoy submarines, which is prohibited, and concealment activities related to the deployment of SS–16 and SS–20 missiles. There is probable deception in the range of the Backfire bomber. I happen to think it has a much greater range than some of our own intelligence agencies think it has.

The suppression of information is widespread covering the selling of SALT II. I've already mentioned the suppression of the details on the sale of the KH–11, the withholding of information concerning the adverse impact of the loss of the monitoring sites in Iran, and we certainly have seen a withholding of information on the Soviet missile accuracy. There's no doubt about this. This concealment or suppression of information on Soviet violations of SALT I and the efforts to sell SALT II has gone on not just in this Administration but through several Administrations. I believe it is deliberate. I believe the American people have the right to know. I think this denial of necessary information to the American people strikes at the heart of our democratic process. It must be stopped.

In closing, and then I'll respond to questions if you have them, I would like to emphasize what Lenin said a long time ago: treaties are like pie crust, they are made to be broken. I believe that SALT II should be defeated and that we should go back to the bargaining table and continue to work for a fair and equitable treaty. When I was in Moscow, Brezhnev continued to tell us every day that if we defeated SALT II we would return to days that were more dangerous than the Cold War of the 1950s. I finally had to say that "if you are really sincere in wanting peace and the United States Senate does defeat this treaty, then you will be willing to go back to the bargaining table and continue to talk about arriving at a meaningful arms control treaty that will hopefully guarantee for both countries peace and freedom in the future."

NOTE: Since this speech was given, the Treaty has been initialed and signed.●

NAVY DAY

● Mr. PELL. Mr. President, this Saturday, October 13 will mark the 204th birthday for the U.S. Navy, and has appropriately been proclaimed "Navy Day" by the Acting Secretary.

At naval installations around the world, members of the service will pause in their duties to remember the proud contributions they and their predecessors have made to our military history. In Rhode Island, the ceremonies will be highlighted by the firing of a traditional 13 gun salute by the sloop *Providence*, a replica of the Navy's first ship.

I want to take this opportunity to commend the fine efforts of the men and women who serve our Nation so effectively in the modern Navy. They are part of a proud tradition of service, no small part of which has centered around Rhode Island.

The beleaguered Continental Congress created the Navy on October 13, 1775, just 4 months after the first naval engagement of the Revolution occurred in Rhode Island waters. In June of 1775, a colonial sloop commanded by Capt. Abraham Whipple confronted the British frigate *Rose* and captured one of the *Rose*'s supply boats on the island of Jamestown. Less than a month after the Navy was created, George Washington appointed Esek Hopkins as the first Commander in Chief of the Continental Fleet.

In subsequent wars, Rhode Island has also contributed to naval greatness. The most brilliant victory at sea during the War of 1812 was won by Rhode Islander Oliver Hazard Perry at Lake Erie.

Today, Newport is the home of the prestigious Naval War College, which is the oldest college of its kind in the world. Other shore commands combine to make Newport the Navy's paramount educational installation, among them the Naval Education and Training Center, the Surface Warfare Officers School, and the Naval Justice School.

Major contributions in the vital area of military research and development are made by the prestigious Naval Underwater Systems Center, which is the Navy's principal research laboratory for new weapons systems. Most design components for the Trident submarines were developed at NUSC.

Today, the Navy's relationship with Rhode Island is strong and vital. In addition to the more than 3,500 civilians employed by the Newport naval commands—making the Navy the State's second largest employer—approximately 2,500 Navy personnel and 2,000 students are assigned to Newport. We are proud of our strong ties to the Navy, and look forward to maintaining this mutually beneficial relationship for many generations to come.

The important educational and research work being done by the Navy in Rhode Island makes us realize the need for maintaining a strong Navy, so that we will be able to continue to meet the challenges of an increasingly uncertain world. Installations like NUSC, the war college, and the training center are the link to the Navy of the future, as well as exemplifying the commitment to excellence which has been the hallmark of the Navy's 204-year-old history.

On behalf of the people of Rhode Island, I express our deep appreciation for fine service to all members of the Navy, their families, our naval reservists, and retired Navy personnel.●

BIG GOVERNMENT THRIVES ON TAXFLATION

● Mr. DOLE. Mr. President, as the financial world adjusts to the Federal Reserve's moves on Saturday to tighten its control over the money supply, we ought to consider how we have come to the point where such drastic measures are necessary.

The answer is simple, although the solution is not. We have not made the necessary choices between this Government spending priority and that. Rather, we have allowed Government to expand in virtually all sectors of our society, although we have not raised sufficient taxes to finance that expansion. As a result, inflation eats away at the value of the dollar, and our foreign trading partners fear the prospect of being caught holding too many devalued dollars. In an attempt to restore confidence, we rely on the makers of monetary policy to take the lead in clamping down on inflation and bolstering the dollar. We can only hope that the actions of the Federal Reserve will be backed up by fiscal discipline at all levels of Government, so that we may have a chance of easing ourselves out of the inflationary spiral.

Why have we allowed spending to get out of hand? There are a number of reasons, the fundamental one being the ever-growing reliance on Government by groups in our society seeking solutions to problems that concern them. We have not had the political will to resist the cumulative pressures exerted by various interest groups.

There is another, more subtle political reason why spending gets out of hand. Deficit spending tends to build up momentum in a roller-coaster effect, because whenever inflation afflicts the country the Government receives a windfall in tax revenues that encourages it to spend even more. This is a tremendous incentive to allow deficit spending to perpetuate itself.

This revenue windfall comes from the impact of inflation on the progressive income tax. The income tax brackets are designed to increase the rate of tax as income rises, but they define income levels in fixed dollar amounts. The system does not take into account the effect inflation can have on incomes, reducing the purchasing power of a given income level. As a result, when peoples' incomes rise to match inflation, the tax system treats that increase as a rise in real income, although it clearly is not. People move into higher tax brackets and pay a higher rate of tax. The Treasury is more than happy to accept the revenues thus generated.

Because of this increase in Federal revenues, inflation gives Congress the ability to create new programs or expand old ones. Those who want more and larger Government programs see inflation as desirable because it reduces the need for new taxes or tax increases. But those of us who want to restrain the role of Government would like to end this inflation-induced fiscal dividend in order to tighten fiscal discipline and promote a more careful review of real increases in Government spending.

We can do that right now. The Tax Equalization Act, S. 12, would end tax increases caused by inflation. The Senator from Kansas introduced this bill to correct the income tax brackets, zero bracket amount, and personal exemption for inflation. The guide would be the Consumer Price Index for the previous fiscal year. Tax equalization would index the income tax for inflation, and thereby require Congress to act if it wants to raise taxes to increase spending. The immediate effect would be welcome relief for the taxpayer. The long-term effect would be to encourage fiscal responsibility and take some of the burden off monetary policy for controlling inflation. There could be no better time for passing the Tax Equalization Act.●

DR. MARY MULVEY

● Mr. PELL. Mr. President, I would like to take this opportunity to pay tribute to Dr. Mary Mulvey of Rhode Island who has just retired as supervisor of adult education for the city of Providence, R.I. It also gives me great pleasure to formally recognize her appointment to the National Council on Aging, which is a select group of individuals that advises the President on elderly affairs.

Dr. Mulvey is a unique individual who has brought joy and inspiration to her professional colleagues and personal friends. She began working in the field of gerontology in the early 1960's, long before we recognized the unique problems that senior citizens face in our society that emphasizes youth and physical appearance.

She became the founding director of the Rhode Island Division on Aging which assists senior citizens in obtaining housing, transportation, recreational, and health care services.

One might say that Dr. Mulvey is a facilitator, because she has encouraged seniors to complete their education and, in many cases, embark upon graduate study; she has established a senior citizens employment program to keep our greatest resource active and contributing members of our society; she has worked tirelessly for the passage of comprehensive national health insurance and has served as the first vice president of the National Council on Senior Citizens, a grassroots advocacy organization that she helped form.

Dr. Mulvey has devoted her life to making education, health care and meaningful work a right available to all of our citizens, and, especially, for those who are over 65. Prior to her involvement in this area, senior citizens in Rhode Island were left to fend for themselves among the often baffling requirements and redtape of our Government. In short, throughout her professional career, Dr. Mulvey has been an advocate in the purest sense.

All of us have a vested interest in her work and have, in many cases, benefited from it. Growing old is no longer regarded as a stigma and because of the work that Dr. Mulvey and others have done, it is becoming the dignified and honored experience, that it once was.

Mr. President, I am proud to count Mary Mulvey as a friend and colleague. I know that retirement is but a stage in her lifetime of compassion and commitment. I know she will continue to serve all the citizens of our State with undiminished excellence and determination for years to come.●

JOHN NICHOLAS BROWN

● Mr. PELL. Mr. President, John Nicholas Brown, one of Rhode Island's most distinguished and prominent citizens, died last night after he was stricken while visiting in Annapolis, Md. His death is a cause of great sadness for me and for his many friends and admirers not only in Rhode Island but throughout the Nation.

I have known, admired and had the greatest affection for John Brown ever since I was a child. He was a wonderful gentleman, who epitomized all the qualities so many of us lack and seek—true gentleness, a devout churchman, a great benefactor to his school and his State, a public servant in the best sense of the word, and one who enjoyed the respect and love of not only his friends, but of all his fellow citizens.

His extraordinary career in the worlds of art, education, finance, business and government won for him the respect, admiration and affection of all with whom he was associated.

He will be greatly missed, and I extend my deepest sympathy to Mrs. Brown, and to his children, Nicholas, Carter, and Angela.

Mr. President, I ask that an article from the Providence Evening Bulletin of today recounting John Brown's achievements and activities be printed in the RECORD.

The article follows:

JOHN NICHOLAS BROWN, CIVIC LEADER, DIES AT 79

PROVIDENCE.—John Nicholas Brown, descendant of a leading Rhode Island family who played respected roles in the worlds of art, education, government and business, suffered a fatal heart attack last night aboard his yatch in Annapolis, Md. He was 79.

Mr. Brown was taken from the 50-foot yawl, Malaguena, to an Annapolis hospital where he was pronounced dead.

He and his wife had stopped in Washington on Monday to celebrate the birthday of their son J. Carter Brown, director of the National Gallery of Art.

They also visited their older son, Navy Capt. Nicholas Brown, who lives in Chevy Chase, Md. and is stationed in Washington. The Browns who maintained residences at 357 Benefit St. in Providence and at Harbour Court in Newport, had planned to spend a few weeks sailing in Chesapeake Bay.

Mr. Brown extended his interests into dozens of business, cultural and charitable pursuits during his lifetime. But, almost paradoxically, he cherished a private personal life and labored to avoid public view.

Modest and shy, truthful and sincere were words often used to describe the man who became an American legend before he was old enough to understand the role he was fated to play.

When he was about three months old, his father and a childless uncle died, leaving him sole heir to the fortune and staggering reputation of one of early America's foremost families.

He led a sheltered youth in Providence and Newport—the two communities he always called home—and emerged as a leader in several different fields at once.

Mr. Brown's lean, six-foot-six frame and chiseled face projected an aura of aristocracy. He could be equally at home on the deck of a racing yacht, in the board room of high finance, or in the art capitals of Europe. But he could appear ill at ease in crowds, and he almost never consented to interviews with newsmen.

For more than five decades, Mr. Brown shepherded what may have been Rhode Island's largest home-grown family fortune.

But neither he nor a host of admirers ever considered his most important accomplishments to be in the field of business.

In a rare interview granted shortly before his 70th birthday, Mr. Brown said: "My first interest has been my family. Then, second, has been the community. And third—the visual."

A benefactor and student of the arts, Mr. Brown often said if he could have lived his life over again he would have been a professional architect.

He was a leading proponent of restoring the architectural treasures of the state, and personally financed restoration of the Newport City Hall while he was still in his 20s.

He was a founder of the Providence Preservation Society and served as chairman of its board for 22 years. Last year he received the society's President's Award for Distinguished Service.

His wide artistic interests ranged from the Tanglewood Music Festival of which he was a sponsor, to the Byzantine Institute in Istanbul, Turkey, which he served as president.

He was a collector of painting and sculpture, a cellist who organized amateur string quartets, a serious student of medieval culture, and a keen critic of historical and modern architecture.

He also contributed generous amounts of his talent and his money to educational institutions.

He was a familiar figure on the campus of Brown University, named after family members instrumental in bringing the school to Providence. He served as a Brown trustee from 1930 to 1935, and then became a fellow. In recent years he had become the senior fellow at the institution.

He attended the fall corporation meeting at Brown last weekend and gave a report Mr. Brown was to be one of three honorary chairmen of a $188 million capital development fund-raising campaign announced at the meeting.

Mr. Brown maintained a deep interest in the John Carter Brown Library for rare books, which was begun by and named for his grandfather, and which went to the university under terms of his father's will. He was on the managing committee of the famed library and made many important contributions of volumes to the institution.

Mr. Brown was chairman of the university's planning and building committee and maintained a particular interest in the architectural development of the campus.

Mr. Brown also prized his relationship with Harvard University, his alma mater. He was once a Harvard overseer, was a former chairman of the committee on visual arts and contributed to many causes at the university.

He was a founder of St. Dunstan's College of Sacred Music in Providence and endowed it heavily. He founded the Medieval Academy of America and was president of the Byzantine Institute, which has uncovered mosaics at Santa Sofia in Istanbul. He also was a trustee of the American School for Classical Studies in Athens.

In politics, he was a lifelong Democrat. His only elective office was as a Newport councilman, although rumors circulated often that he would run for some high office.

He served President Truman as assistant secretary of the Navy for air from 1946 to 1949 and later called it his most notable experience. The late Sen. Peter Goelet Gerry, Democrat from Rhode Island, was an uncle.

He loved the sea and sailing—a romance which dated from a childhood of ocean crossings on luxury liners. He owned and raced a succession of yachts and cruisers, each named for a dance—Hopak, Saraband, Conga, Shag, Tango, and, greatest of all, the Bolero.

The Bolero, a 72-foot auxiliary yawl built at a reported cost of $150,000, was disposed of in 1958 in favor of a smaller sailboat, the Volta. After selling the Volta, Mr. Brown bought the Mazurka and, finally, the Malaguena.

One of Mr. Brown's lesser known interests involved conservation projects. Recently he served on the board of directors of Save the Bay, Inc., an ecology group.

One of the family real estate interests, the Brown Land Co. which dates from the early 1900s, owned lands in Nebraska and Iowa. In the last days of the Depression, Mr. Brown began applying newly developed conservation practices to these lands.

He had the land stocked with animals and brought in experts to teach the tenants modern methods of land use, including crop rotation. He recognized the tenant structure, and the entire program of conservation, education and land improvement continues today.

Mr. Brown was very active in affairs of the Episcopal Church in Rhode Island. He was on the standing committee of the Diocese of Rhode Island and was chairman of the building committee which erected the diocesan headquarters next to the Cathedral of St. John in Providence.

In business, Mr. Brown controlled the resources of a family whose interests had comprised much of the financial and industrial fabric of the state since the colonial period.

Every working day that Mr. Brown was in Providence he visited the hub of his varied enterprises the Counting House Corp. at 50 South Main St. home of the Providence National Bank, the second oldest bank in the country.

The building was erected as a residence of an 18th century member of the Brown family. Mr. Brown had arranged for preservation of the property with a gift of the building stock to Brown University in 1948.

He was chairman of the board of Sealot Inc., noted manufacturer of hydraulic seals for jet aircraft, missiles and submarines. He was a trustee of Old Stone Bank for 46 years.

In the past, he had been a vice president of the Rhode Island Expenditures Council, a trustee of the Rhole Island Hospital Trust

Co., and had been on the boards of the Providence Gas Co., the former Loasdale Co. textile complex and the Gorham Manufacturing Co.

Real estate holdings included farm lands in the Midwest, and he had substantial interests in other financial and industrial enterprises.

But in the 1970 interview he said, "I don't claim my significant contribution to life was in business.

"I felt that what I was doing in art and education and so on was important. The sort of thing that other people . . . were often unable to do."

John Nicholas Brown was a descendant of one of the most famous families in early American history—adventurous Yankees who accumulated vast wealth from shipbuilding, the China trade, textiles, and at least a flirtation with the slave trade.

Chad Brown, patriarch of the family, came to Rhode Island in 1638 as a surveyor.

Four brothers—Nicholas Brown, from whom John Nicholas Brown was descended, Joseph Brown, John Brown and Moses Brown—began seriously amassing the family fortune as Nicholas Brown & Co., formed in 1762.

The four brothers were instrumental in locating the first Rhode Island College in Providence. The school became Brown University in 1804.

Within a few months of John Nicholas Brown's birth—Feb. 21, 1900—both his father and an uncle who left no heirs died.

The infant inherited wealth estimated at the time at anywhere from 10 million dollars to a figure many times higher. Stories, of course, dubbed him "the richest baby in the world" and the "wealthiest boy on earth."

"I grew up an American legend. Very little of it is true," declared Mr. Brown in his 70th year.

He often mentioned with obvious misgiving that, although his history and the history of Rhode Island were inseparably entwined, he was not born in Little Rhody, but in the state of New York.

He always hastened to add, however, that at least he was "born under the Rhode Island flag," which he said his Newporter mother hung over her bed alongside the American flag.

Mr. Brown was graduated from St. George's in 1918, and from Harvard, magna cum laude in 1922. He earned an M.A. degree from Harvard in 1928.

St. George's always commanded his loyalty. He was a trustee of the school for many years and donated a chapel to the school which was described as his first real architectural project.

One of the adult Brown's few regrets was that he never knew his father, also John Nicholas Brown.

His mother, the former Natalie Bayard Dresser, exerted a strong influence on the young Brown. She was well known in the circles of Newport society.

Mr. Brown said she was an artist and credited her with nursing his love of beauty.

In 1930, John Nicholas Brown married Anne Seddon Kinsolving of Baltimore, daughter of a minister and niece of two bishops.

After World War II, Mr. Brown was on General Eisenhower's staff as chief of monuments in the Fine Arts and Archives section of the U.S. occupation forces in Germany.

His job was to find and return to original owners works of art stolen by the Nazis—a duty suited to Mr. Brown's temperament and zeal for art.

Mr. Brown was a member of the board of regents of the Smithsonian Institution.●

ANNIVERSARY OF FREE CHINA

● Mr. GOLDWATER. Mr. President, today marks "Double Ten," the birthday of free China. As a life-long admirer of the Chinese people and their only true government, the Republic of China, I extend to the people of free China on Taiwan, to the overwhelming majority of Chinese on the mainland who desire freedom, and to the millions of overseas Chinese who align themselves with free China, my best wishes for their happiness and welfare on the occasion of the anniversary of the founding of the Republic of China.

I know that the unilateral actions of the American President, taken last December without prior consultation with the elected representatives of the people in Congress, shocked and confused free Chinese everywhere. I, too, was amazed at the timing and manner of these abrupt acts.

However, the true voice of the American people spoke after the President's actions. The American public, through Congress, responded with a vigorous display of support for free China. In March we passed the legislation known as "The Taiwan Relations Act," which restores, at least partially, traditional United States commitments to free China.

Although the administration had failed to define the future security commitments and relationship between the United States and Taiwan, the Congress filled in these omissions with specific security commitments. In this law, Congress expresses concerns and intentions regarding free China's security, provides diplomatic immunity and privileges for Taiwanese delegates to the United States, and officially recognizes, in the law of the land, that Taiwan is a separate international state for all purposes in U.S. courts and under our laws and regulations.

Moreover, public opinion polls continue to show heavy support by a majority of Americans for preserving close and friendly ties with free China. Americans throughout all regions of the country are demanding that their government sell Taiwan the kind of advanced defense equipment needed to keep a suprior edge in quality over the Red Chinese and allow free Chinese officials to meet with the highest-ranking officials of our Government.

Mr. President, I know that Americans generally are confident for the future of free China and the vast majority of us will continue to keep our friendship strong, which is in the best interests of both peoples.●

STRONG FEDERAL HANDGUN LAWS NEEDED

● Mr. JAVITS. Mr. President, I would like to call to my colleagues' attention an editorial and a letter which recently appeared in the New York Post. Both call for strong Federal handgun legislation. Police Commissioner Robert McGuire made his plea after attending the funeral of the ninth New York City policeman gunned down during the commissioner's 2-year term.

One of the funerals Commissioner McGuire referred to in his letter was that of officer Thomas Schimenti. Schimenti, a 12-year veteran of the New York City Police Force, was shot and killed in broad daylight when he gave chase to two bank robbers. Five thousand officers from neighboring States attended services to pay tribute to a brother officer. Officer Schimenti is survived by his wife Diane, and his two children, Gina, 10, and Sandra, 9.

Two hundred and sixty handguns are sold in this country every hour, with little in the way of assuring their responsibility or accountability. New York has one of the toughest gun control laws in the Nation. But over 90 percent of handguns used in crime in New York City come from out of State. How many more funerals must be witnessed before we heed Commissioner McGuire's words:

> There are an estimated 2 million illegal handguns in circulation in our city, and no way, without strong federal registration and wholesaling controls, to curtail and reduce this pernicious traffic.

I submit both the letter and the editorial to be printed in the Record:

The Deadly Gun Traffic: A Time To Fight Back

Police Commissioner Robert L. McGuire, in a letter published on this page today, spiritedly reiterates his advocacy of federal legislation to curb the illicit, deadly traffic in handguns. We warmly support his stand.

There is no shortage of public rhetoric on the city's crime crisis (duplicated in many other metropolises). But the central, devastating fact is that, in McGuire's words, "there are an estimated two million illegal handguns in circulation in our city, and no way, without strong federal registration and wholesaling controls, to curtail and reduce this pernicious traffic."

Neither McGuire nor any other thoughtful sponsor of federal action contends there is a miracle legislative remedy for the plague of violence. But passive acceptance of the presence of this vast arsenal of weapons intolerably compounds the danger of wanton crime.

Over many years a long succession of national polls has shown overwhelming support for decisive federal intervention. It has been blocked by the well-subsidized, massive lobbying operation of the National Rifle Association and other units of the gun lobby.

Commissioner McGuire has stated the case clearly and well.

His position is backed by large numbers of law-enforcement officials throughout the country. Public sentiment is plainly on their side.

Why We Need Strong Federal Handgun Laws

The assertion of C. S. Solomon (Sept. 18) that may call for national gun control was exploitive of the tragic death of Police Officer Edward Fogel is a facile evasion of the brutal fact that there are an estimated two million illegal handguns in circulation in our city, and no way, without strong federal registration and wholesaling controls, to curtail and reduce this pernicious traffic. I understand his concern about bureaucratic harassment of law abiding citizens, but our first obligation is to interdict the staggering volume of handguns, and then impose mandatory prison terms on those who possess them illegally. In less than two years as Police Commissioner, I have attended the funerals of nine heroic police officers who were gunned down and have witnessed the deaths of hundreds more of our citizens at the hands of violent gunmen. If even one life is saved by tighter gun control laws, it will more than justify any regulatory inconvenience inherent in such legisaltion.

ROBERT MCGUIRE,
Police Commissioner, city of New York.●

S. 1856—FEDERAL WATER POLICY ACT

● Mr. HATFIELD. Mr. President, when I introduced my Federal Water Policy Act of 1979, last Thursday, October 4, I failed to request that the bill be printed in the RECORD. I now request that the text of the bill, S. 1856, be printed in today's RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this act be cited as the "Federal Water Policy Act of 1979".

DEFINITIONS

SEC. 2. As used in this Act—

(a) "State means the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands.

(b) "Initial reporting officer" means the Regional Director for the Bureau of Reclamation, or the State Director of the Soil Conservation Service, or the District Engineer of the Corps of Engineers.

(c) "Intrastate project" means a water resource project which satisfies the following criteria: (1) The project's facilities are all located within one state. (2) The flood plain controlled by the project (if it has a flood control purpose) is all within the state of the facilities. (3) The energy produced by the project (if it has an energy production purpose) is all marketed within the state of the facilities. (4) The municipal industrial, irrigation or other water supplies provided by the project (if it has a water supply purpose) are all used in the state of the facilities. (5) The water quality improvement due to the project (if it has a water quality purpose) substantially accrues within the state of the facilities. (6) The fish and wildlife enhancement caused by the project (except mitigation of losses caused by the project, and if it has a fish and wildlife enhancement purpose) substantially accrues to animals which do not migrate into or out of the state of the facility. (7) The value of the navigation benefits of the project (if it has a navigation purpose) are less than 50% of the total value of all benefits of the project.

(d) "Interstate project" means a water resource project which does not satisfy the definition of "intrastate project" in Subsection (c) of this Section.

(e) "Construction" means all aspects of implementation of the project plan except operation and maintenance of the established project.

SEC. 3. (a) (1) The Secretary of the Interior, through the Bureau of Reclamation, the Secretary of Agriculture, through the Soil Conservation Service, and the Secretary of the Army, through the Corps of Engineers (hereinafter referred to as the "Secretaries") are authorized to conduct investigations for water resource development projects within their respective jurisdictions, upon the request of the Governor of any state, and upon agreement by such state to repay 25 percent of the cost of the requested investigation within two years of the date of its completion by the initial reporting officers. Investigations may be undertaken for water resource development projects for the purposes of providing benefits in the areas of energy production, flood control, municipal and industrial water supply, water conservation, recreation, irrigation, navigation, water quality improvement, fish and wildlife enhancement, and local economic development.

(2) The Secretaries are further authorized to provide technical assistance to the states in water resource investigations undertaken by the states, upon the request of the Governor of a state undertaking an investigation, and upon agreement by such state to repay 25 percent of the cost of the requested technical assistance within two years of completion of the assistance.

(3) The Secretaries may, for each investigation undertaken within their respective jurisdictions, conduct first a general appraisal study of the nature of the water resource problems in the study area and the kinds of solutions that would be possible, prior to proceeding with a detailed feasibility investigation as described in Subsection (b), in order to determine whether proceeding with such detailed feasibility investigation is advisable.

(b) (1) The Secretaries shall, for each detailed feasibility investigation of an intrastate project undertaken within their respective jurisdictions, prepare a feasibility report to be submitted to the requesting Governor describing and analyzing the water resource problems of the area with respect to the objectives stated by the Governor in his request.

(2) Feasibility reports prepared pursuant to this subsection shall include a proposal, recommended by the appropriate Secretary, which provides a solution to the water resource problems of the study area that fully considers the objectives stated by the Governor in his request. In addition, the feasibility report shall include such alternatives as may warrant the attention of the Governor in his consideration of proceeding with construction of a project.

(c) (1) The Secretaries shall, for each detailed feasibility investigation of an interstate project undertaken within their respective jurisdictions, prepare a feasibility report to be submitted to the Congress describing and analyzing the water resource problems of the area with respect to the following five planning objectives: national economic development, regional development, water resource conservation, environmental quality, and social well-being.

(2) Feasibility reports prepared pursuant to this subsection shall include a proposal, recommended by the appropriate Secretary, which either provides a solution to the water resource problems of the study area which fully considers the five project planning objectives specified in paragraph (1) or recommends no project. In addition, the feasibility report shall include three alternative proposals. One alternative shall describe a project which will provide a solution to the water resource problems of the study area which places maximum emphasis on furthering the objective of national economic development. The second alternative proposal shall provide a solution to the water resource problems of the study area which maximizes the objective of regional development. The third alternative proposal shall provide a solution to the water resource problems of the study area which maximizes the objective of environmental quality.

(3) For each of the four proposals required pursuant to paragraph (2), the feasibility report shall—

(A) Specify, in dollars, the value of project benefits and costs attributable to providing for each of the water resource development project purposes of energy production, flood control, municipal and industrial water supply, water conservation, recreation, irrigation, navigation, water quality improvement, fish and wildlife enhancement, and local economic development;

(B) include, in dollar amounts, the full value of the benefits to the area of the project due to economic transfers from another area to the area of the project;

(C) describe the economic viability of the project based upon the internal rate of return of the project, which shall be defined as the interest rate at which the benefits over the first 50 years of the life of the project equal the cost; and

(D) adjust the dollar value of all benefits and costs based upon studies or investigations conducted prior to the date of submission of the feasibility report to the Congress to equivalent dollar values on an economic reporting date which is within six months of the date of submission of such report, through the use of price indices most closely reflecting the increases in similar benefits and costs from the dates of preparation of such studies or investigations to the economic reporting date.

(4) The feasibility report required pursuant to this subsection shall include, in the case of a project for the development of hydroelectric power, a determination of the cost of producing power from an alternative equivalent generating source. The determination of the cost of such an alternative power source shall be based upon an analysis of—

(A) the cost, in dollars, of constructing the alternative power source during the same time period in which the proposed hydroelectric power source is to be constructed;

(B) the amount, in dollars, that it would necessary to expend in order that such alternative power source would meet all environmental, safety and operational standards in effect in the region in which the project is located on the projected date for initial operation of the project; and

(C) the annual operating cost of such alternative power source, including an estimate of the fuel costs for operating such alternative power source during the life of the project.

(d) The scope of review of the Board of Engineers for Rivers and Harbors for water resource development projects planned by the Secretary of the Army pursuant to the provisions of this section shall be limited to an examination of the technical engineering aspects of such projects.

SEC. 4. (a) For intrastate water resource development projects planned in accordance with the provisions of Section 3, the Secretaries may undertake their construction upon (1) request of the Governor of the state in which the project will be located, (2) agreement by the state to repay the entire cost of the Federal investment during the first 50 years of the life of the project, and (3) authorization by the Congress.

(b) Repayment of the cost of the Federal investment in intrastate projects shall be made without interest in equal annual installments by the states.

(c) Intrastate projects constructed by the Secretaries shall be operated and maintained by the states, or by the Secretaries at the expense of the states. All expenses incurred by the Secretaries in operating and maintaining intrastate projects must be repaid by the states on an annual basis.

SEC. 5. (a) For interstate water resource development projects planned in accordance with the provisions of Section 3, the United States shall be reimbursed by a non-Federal entity—

(1) for 100 percent of the costs attributable to the purpose of providing benefits in the area of energy production, plus interest on such costs calculated over the first 50 years of the life of the energy-producing facility;

(2) for 100 percent of the costs attributable to the purpose of providing benefits in the area of municipal and industrial water supply, plus interest on such costs calculated over the first 50 years of the life of the project;

(3) for 50 percent of the separable costs allocated to construction, plus interest on

such costs calculated over the first 50 years of the life of the project, and 100 percent of the operation and maintenance, of recreation facilities beyond those minimum facilities necessary for public access to and use of the project;

(4) for 25 percent of the separable costs allocated to construction, and 100 percent of the operation and maintenance, of fish and wildlife enhancement facilities beyond those minimum facilities necessary to achieve the basic enhancement purpose;

(5) for costs allocated to providing water for irrigation, in accordance with existing policies governing repayment of such costs.

(b) The interest rate to be charged on the reimbursable costs of a water resource development project under paragraphs (1), (2), and (3) of Subsection (a) shall be equal to the average yield for long-term marketable securities for the United States Treasury during the full fiscal year prior to the date of completion of the feasibility report required pursuant to Section 3(c).

(c) In preparing the feasibility reports on interstate projects required under Section 3(c), the Secretaries shall specify the dollar amounts, if any, that the United States is to be reimbursed for costs attributable to one or more purposes of a project.

SEC. 6. (a) The provisions of Sections 3 and 4 shall apply to all interstate water resource development projects for which detailed feasibility investigations have not been initiated at the date of enactment of this Act.

(b) Nothing in this Act shall be construed to require additional authorizations for water resource development projects authorized prior to the date of enactment of this Act.

SEC. 7. The Congress finds, in that authorizations for water resource development projects shall be based upon the feasibility reports prepared pursuant to Section 3, that—

(1) appropriations for the advance engineering and design and construction phases of such projects should be authorized in a single Act; and

(2) such projects should be reviewed by the Congress at the completion of the advance engineering and design phase for the purpose of modifying the authorization of appropriations for such projects only if the advance engineering and design studies reveal significant differences from the project described in the feasibility report or the authorizing statute.●

GENERAL ROWNY ON SALT II

● **Mr. TOWER.** Mr. President, yesterday, Gen. Edward Rowny, the former representative of the Joint Chiefs of Staff in the negotiation of the SALT II treaty, made a comprehensive and detailed statement on the SALT II treaty before the Senate Armed Services Committee. This excellent statement merits the deliberation of every Member of the Senate. General Rowny lists the major inequities in the SALT II treaty and some of the numerous concessions made by the United States. He cites reasons why this treaty is, in fact, detrimental to U.S. national security interests. He strongly recommends that the Senate amend the treaty and illustrates why, in his view, the Soviets can be expected to accept a more equitable treaty. Finally, General Rowny refutes the arguments commonly offered by proponents of the treaty.

Mr. President, I request that this statement by General Rowny be printed in the RECORD in its entirety and I exhort my colleagues to examine this in detail in their consideration of the merits of the SALT II treaty.

The statement follows:

STATEMENT BY LT. GEN. E. L. ROWNY

Mr. Chairman, I would like to thank you and the members of the Committee for inviting me to testify before you today. I hope that this round of Senate hearings on SALT II will do what the first round to a large extent failed to do, consider the Treaty on its own merits.

Before beginning my statement I would like to reiterate my belief in the utility of negotiating limitations on strategic offensive arms. More than twenty years ago I began to express my views on the desirability of establishing equal levels of strategic capabilities between the superpowers at the lowest possible levels. It was largely because of my belief in arms control that I was selected to be the JCS representative on the U.S. SALT negotiating team. After six and a half years at the negotiating table I have not changed my fundamental belief in arms control, providing—and only providing—that agreements reached do not undermine our national security. Unfortunately, the Treaty now before the Senate is detrimental to our national security. If ratified in its present form the Treaty will undercut our ability to deter the Soviet Union from further adventurous and aggressive acts. Rather than help restore stability in times of crisis the net result of the military imbalance established by the Treaty will cause it to detract from that goal. The Treaty will undermine solidarity and Allied cohesion.

Because we failed to negotiate an equitable and verifiable Treaty I feel it must be amended. In our zeal to reach an agreement the U.S. made too many concessions. We permitted large inequalities favoring the USSR to be written into the agreement. To codify and legislate into law an unequal agreement will only exacerbate our strategic inferiority. It will make it a more costly and more lengthy process for us to regain strategic parity. Agreeing to an unequal SALT II Treaty will make it impossible for there to be an equal SALT III agreement.

Amending this Treaty will not, as some claim, spell the end to arms negotiations. Rather, the USSR can be expected to agree to a Treaty which is more equitable and more verifiable. The Soviets want and need an agreement on strategic arms for the fundamental reason that they believe an agreement on SALT is in their long-term interests. President Brezhnev has committed his prestige to getting an agreement. He, and his advisors (among them undoubtedly his successor) know that the Soviet Union, with one-half the gross national product of the United States, cannot continue to spend 12 to 14 percent of the USSR's GNP for arms indefinitely. They realize that the United States, because of its superior economy and because it possesses by far the greater technological base—if once aroused—can easily outdistance the USSR in any competition in strategic armament. Soviet leaders realize that an agreement best permits them to continue their ability to pursue a policy of detente which allows them to aid the spread of "good socialism" at the expense of "evil capitalism". Brezhnev and his advisors know that an agreement on SALT will establish a climate of normalization which helps them to gain most favored nation status and assists them to get credits on easy terms. It will ease their ability to obtain the technology transfers they so badly need.

Mr. Chairman, I have gone into some length on the reasons why the Soviets want and need a Treaty because I feel we fail to understand Soviet objectives and their approach to arms control. Recognizing that we have made SALT the centerpiece of our foreign policy the Soviets have concealed their own desire for an agreement. Realizing that we have linked our defense planning to expectations from an arms control agreement while they have kept the two separate, the Soviets have had every reason to allow us to woo them—to be the "demandeur". Up until now they have had only to wait us out, confident in the belief that the United States will not only insist that there be an agreement but will enter into an agreement that is favorable to the USSR.

I believe that a careful study of this Treaty on its own merits, as well as an examination of the U.S. and Soviet approaches to arms control, will lead us to look at the SALT process in the proper perspective. Rather than as a means to an end the U.S. has permitted SALT to become an end in itself. Unlike us, the Soviets first establish their long term objectives, then plan and program their forces to accomplish those objectives, and only then consider arms control agreements. They do not permit arms control to interfere with their force planning. Thus, they view SALT to be a useful tool, especially if they can inhibit or unilaterally restrain the U.S. The United States, by placing an arms control agreement at the apex of its objectives has played into the hands of the Soviet Union.

BACKGROUND TO SALT II

I believe it would be appropriate, therefore, for me to comment briefly on the U.S. approach to arms control in SALT I and how the continuation of this approach contributed to the unsatisfactory outcome of SALT II. The Soviet objective in SALT I, was to put a brake on the substantial U.S. lead in ABM technology. The objective of the United States was to place substantial limitations on strategic offensive forces. We sought to do this by establishing a firm link between offensive and defensive forces. Accordingly, we granted the Soviets the concession of agreeing to an ABM treaty in the expectation that it would open the way to a balanced and verifiable agreement on strategic offensive arms. Our hope was that such an offensive agreement would redress the imbalance between our strategic missiles and theirs, since by mid-1972 the Soviet Union had built up their ICBMs and SLBMs to numerical levels half again as great as ours.

At the time we signed the ABM Treaty the U.S. made it a matter of record that if there were no satisfactory agreement on strategic offensive arms within five years, supreme U.S. national interests could be jeopardized. This would constitute grounds for abrogating the ABM Treaty. However, in 1977, after five years had elapsed, we compounded the original concession of agreeing to the ABM Treaty. We granted the Soviets a second concession by abandoning the notion of making a serious review of the ABM Treaty in light of not having achieved an agreement on strategic offensive arms. These two sizeable concessions were made despite testimony by General David Jones, Chairman of the Joint Chiefs of Staff and Dr. Brown, Secretary of Defense, that Soviet offensive and defensive forces had increased substantially in their overall capabilities while SALT II was being negotiated.

One of the most serious consequences of the inability to achieve an equitable Treaty on strategic offensive arms has been its contribution to the growing vulnerability of our strategic forces, that is our non-alert bombers and submarines, and especially our ICBMs. Some have argued that this situation came about as a result of our own decisions and not as a consequence of the SALT process. I disagree. Originally, when the U.S. decided not to proceed with a heavy missile system it did so in the belief, as expressed by Secretary McNamara, that the Soviets had neither the intention nor the capability of catching up to the U.S. strategically. Subsequent Soviet deployment of large numbers of huge missiles with accuracies approaching ours proved these earlier predictions to be wrong.

In 1972, at the time the interim agreement on strategic offensive forces was being considered, the Joint Chiefs of Staff expressed serious reservations concerning its approval. However, the JCS were given assurances by their civilian superiors that the U.S. would pursue a vigorous program of modernization of its strategic nuclear systems and would expand and accelerate its research and development programs. Unfortunately these assurances, which included implementing such programs as the Trident, the B-1 bomber, NCA and site defenses, and sea-launched cruise missiles were not fulfilled.

Our negotiating approach to the development and deployment of mobile ICBMs contributed to the vulnerability of land-based ICBM forces. The negotiating record of SALT I shows that the U.S. considered the development and deployment of mobile ICBMs to be inconsistent with the spirit of SALT. We made a unilateral statement to that effect at the time we agreed to the interim agreement on strategic offensive arms. The long period of time it has taken us to design and program a successor to our fixed ICBMs reflects our long-held reluctance to develop a mobile system. Between the exploration of alternative basing modes for the MX missile and the expected date of its deployment, some 15 years will have elapsed.

Another important U.S. concession made in SALT I which was carried over into SALT II concerned the size of follow-on missile systems. In SALT I the U.S. stated that it would consider any missile with a throwweight greater than that of the SS-11 to be a "heavy" missile. After SALT I the Soviets tested and deployed their SS-17s and SS-19s, both of which have a throwweight and hence a destructive potential three times greater than that of the Soviet SS-11 and the U.S. Minuteman missiles. The U.S. subsequently agreed to define a heavy missile as one with greater throwweight than the SS-19, thus conceding to the Soviets that their SS-17s and SS-19s could be classified as "light" ICBMs.

Our treatment of the Soviet III-X silos is an example of another category of U.S. concessions. The 151-III-X silos which the Soviets state are command and control launchers are practically identical to launchers for ICBM's and could be clandestinely converted to that use while new, hidden command and control facilities are being constructed. We also agreed not to count test and training launchers in the total aggregates, even though these launchers could be used to launch missiles against the United States. The Soviets have more than 150 launchers of this type, ten times the number of similar launchers possessed by the U.S. Taken together, these more than 300 Soviet launchers which are not counted under the SALT aggregate ceilings represent a potentially significant Soviet increase, on the order of ten percent, to their total capability.

Perhaps the most significant U.S. concession in SALT II was its failure to carry out the provisions of Public Law 92-448, the Jackson Amendment. This amendment called not only for equal numbers, but for equal levels of strategic force capabilities. Both the sponsors and opponents of that legislation agreed that "equal levels" would take into account both numbers of weapons and missile throwweight. The "numbers fallacy" which considers grossly disparate weapons systems of various yields, accuracies and basing modes as if they were identical is immediately obvious if one goes beyond simply counting numbers of systems. Our concessions on this score inevitably led to serious structural flaws which occur in this Treaty. Furthermore, our failure to insist upon true equality as the fundamental basis for SALT will continue to work against us in the future.

Mr. Chairman, we need to take another hard look at some of the major inequities contained in the SALT agreement.

ICBM's

First, the provisions of SALT II will grant the Soviets a unilateral right to over 300 heavy ICBM launchers while the U.S. is permitted none. This means that the Treaty allows the USSR to deploy over 3,000 reentry vehicles, each capable of 1 MT yield. The largest yield of a MIRVed U.S. ICBM warhead will, after the MK 12A warhead is deployed, be approximately one-third as great. The 3,000 warheads on Soviet SS-18 heavy missiles will carry more destructive potential than all U.S. ICBM's and SLBM's combined. These heavy missiles account for approximately one-half of the 6 000-odd reentry vehicles on ICBM's the USSR will be permitted under the Treaty, a figure three times as large as the number of re-entry vehicles on U.S. ICBM's.

Second, SALT effectively prohibits us from pursuing a number of remedies to the Minuteman vulnerability problem, including a multiple vertical shelter basing scheme. The vertical shelter concept, the most timely and cost-effective way to help alleviate this problem, apparently has been discarded by the Administration because the Soviets have stated that it would be inconsistent with the provisions of SALT. Therefore, not only has SALT played a part in bringing about the vulnerability of our Minuteman force, but it is also responsible for limiting our options for dealing with this problem in the most cost-effective manner.

Third, the 820 MIRVed ICBM figure is a U.S. concession to the Soviets who would not agree to sub-limits for MIRVed ICBMs equal to ours. The United States has no plans to deploy more than 550 MIRVed ICBMs. Even if the Soviets were to deploy 920 MIRVed ICBMs, as some estimates hold, the sublimit of 820 MIRVed ICBMs will only reduce their total number of ICBM warheads by 5 percent.

Fourth, under the Treaty provisions relating to the modernization of ICBMs, the Soviets will actually be able to deploy more than one "new type" ICBM. The ambiguity in these provisions results from Soviet refusal to agree to limit those missile characteristics which would effectively restrict them to a single new type ICBM. We should not be surprised when the Soviets proceed with the deployment of several new fifth generation ICBM systems if this Treaty is ratified, as we were surprised when they deployed their SS-17s and SS-19s after the signing of SALT I.

Because of our failure to get Soviet agreement to meaningful reductions in Soviet strategic capabilities, it will be much more difficult to get the Soviets to reduce to lower numerical levels—or to agree to qualitative limitations—in follow-on negotiations. After spending billions of rubles to develop and deploy their systems the Soviets will be quite reluctant to scrap them. Thus, the United States will have to generate and spend considerable negotiating capital to persuade the Soviets to reduce in SALT III or SALT IV. We will be far better off if we insist in equality now, in SALT II, rather than hope that the "next time around" will be easier. We should keep in mind that SALT II was to have been the "next time" as a follow-on to SALT I.

Bombers

The United States granted the Soviet Union a major concession by agreeing at Vladivostok to include heavy bombers in the aggregate totals. The U.S. has agreed to count 573 heavy bombers (569 B-52s and 4 B-1s) even though over 200 B-52s are in mothballs and various stages of inoperability. The Soviets, since they will not be required to count the Backfire and because a number of their "bomber variants" will not be counted, will only count 156 heavy bombers in their totals.

The United States, therefore, agreed to include a major portion of its strategic forces in the agreement at a relatively small price in terms of Soviet strategic forces. Further, the United States by agreeing not to count Backfire in the Soviet aggregate made a concession in principle because of a failure to include all intercontinental systems in a Treaty on strategic offensive arms. In terms of reality, the so-called "assurance" Brezhnev gave us that the Soviets will "not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the U.S." is a non sequitur. Since 1942 the standard method of employing heavy bombers is not to program their return to home bases but to have them land in third countries. If the U.S. were to use the Soviet definition, no modern heavy bomber would be counted in the aggregate. Neither the U.S. B-52s nor the B-1s, can strike the Soviet Union on unrefueled radius missions.

The "assurance" that the Soviet Union will not increase the production rate of the Backfire beyond 30 a year is also meaningless. The Soviets could not build more than 30 Backfires a year without considerable effort—nor do they need to do so. The 375 Backfires that the Soviets will possess by 1985 is greater than the number of B-52s the United States will possess in its active inventory at that time. Importantly, by not counting the Backfires in their inventory, the Soviets will not have to reduce their ICBM and SLBM forces by some 375 launchers.

In addition to the principle of equality, the Backfire possesses a significant potential capability to cause damage to the United States. The 375 Backfires can carry approximately 4 million pounds of payload, and thus increase by nearly one-third the current potential of 11 million pounds of missile throwweight possessed by Soviet strategic forces. The United States will need to spend some $8 to $10 billion between now and 1985 to improve its skeleton air defenses to reduce the threat caused by the Soviet Backfire force.

It is worth repeating that the Joint Chiefs of Staff have consistently maintained that the Backfire is a heavy bomber and should be counted in the Soviet aggregate. Further, that the so-called assurances provided by the Soviets on Backfire are militarily worthless.

The United States also granted the USSR a large concession by agreeing not to count in their aggregates Soviet bomber variants—that is, Soviet heavy bombers which the USSR says they would use for other than heavy-bomber missions. The Soviets have promised to convert their dual-capable Bisons to tankers, a promise whose compliance will be difficult to verify. Furthermore, we have agreed to exclude the Soviet Bears which the Soviets say are used for ASW activities even though our own B-52s which are used for ASW are counted.

Agreement to count aircraft equipped for cruise missiles in the 1,320 MIRVed missile aggregate was a major concession on the part of the United States. In January 1976 Secretary Kissinger offered to count such aircraft in the MIRVed totals if the Soviets counted Backfires in their aggregate. The Soviets pocketed our offer whereas we subsequently concealed that Backfire need not count in the Soviet aggregate. As mentioned earlier, the "assurances" on the Backfire are militarily meaningless. The Soviets do not need to penetrate our air defenses—the U.S. air defense system has been virtually dismantled. Therefore the USSR does not need air-launched cruise missiles whereas our B-52 force cannot be made viable unless these bombers are equipped with cruise missiles. By agreeing to count aircraft equipped for cruise missiles in the 1,320 total, the U.S. is limiting itself to 120 systems—the difference between the 1,200 MIRVed missile sublimit and the 1,320 aggregate. To deploy even 120 cruise missile carriers, the U.S. will need to forego the deployment of some 85 MIRVed

ICBM or SLBM launchers, since the planned totals of such MIRVed systems by 1985 is approximately 1,285. As further reductions to the 1,200 missile sublimit occur, the U.S. will be forced to reduce its MIRVed ICBM and SLBM launchers further—on a one-for-one basis—in order to accommodate the number of aircraft programmed for carrying cruise missiles.

Cruise missiles

One of the most glaring examples of our lack of negotiating ability can be seen in our concessions regarding cruise missiles. The largest concession was in agreeing to Soviet demands to include cruise missiles in the agreement at all, especially since cruise missiles were not mentioned at Vladivostok in 1974. The Protocol forbids deployment of GLCMs and SLCMs with ranges in excess of 600 kilometers. These are theater weapons designed for tactical missions. Agreeing to constrain these systems without getting constraints on the SS-20, or other Soviet systems with strategic capabilities, is a serious compromise of the principle of equality. It undermines NATO cohesion and Allied solidarity.

In addition, the United States agreed to count ALCMs with non-nuclear warheads as nuclear-armed ALCMs in the Treaty. This is a serious concession because it limits their use as battlefield weapons and also because the precedent is established for a Soviet claim to treat GLCMs and SLCMs in a similar manner once the Protocol expires.

Agreeing to an average deployment of 28 ALCMs per aircraft, a major U.S. concession, represents another example of how a confused U.S. negotiating stance led to an unnecessary U.S. concession. The U.S. originally offered to limit aircraft other than heavy bombers to 35 ALCMs each and heavy bombers to 20 ALCMs per bomber. The Soviets countered with an offer to limit aircraft other than heavy bombers to 25 ALCMs. We then proposed to split the difference at 30. However, the Soviets then argued that the difference should be split halfway between 20 and 35, since we had offered to limit bombers to 20 ALCMs. Our agreement to the figure of 28 is one more example of our poor negotiating record in SALT II.

Verification

One of the most complex issues relating to the SALT II Treaty has been the issue of verification. I have stated previously that this Treaty is not "adequately verifiable" and will comment on just a few of the many verification problems.

As presently constituted, the SALT II Treaty contains a major loophole which permits Soviet encryption of telemetry we need to monitor Soviet compliance. The specific provision of the Treaty dealing with telemetry states that the encryption of data which interferes with national technical means of verification of the provisions of the Treaty is prohibited. However, the Soviets will be the final arbiter as to what information would be provided and what information would be encrypted. Furthermore, we succumbed to the inclusion of a statement in the Treaty that only encryption which deliberately denies information needed to verify the provisions of the agreement is prohibited.

The United States should have insisted on a total ban on encryption, since the only purpose of encryption of telemetry is to conceal and deny information. In this connection, the United States does not encrypt data. What would happen if we find the Soviets encrypting data which we believe is necessary to verify their compliance with the provisions of the Treaty? Calling the Soviets' hand on this could compromise our intelligence capabilities which are already quite limited. If we do confront them, and they are encrypting telemetry we consider necessary for verifying SALT, what would we do? Abrogate the Treaty?

The Soviets could simply say that they are not deliberately denying information—and since we would not know what was being hidden we would have no basis for challenge. This loophole will no doubt be exploited by the Soviets in the future. As Senator Sarbanes pointed out during the first round of hearings before this Committee, there is no agreed definition of National Technical Means of Verification. We can expect this situation to be exploited by the Soviets also.

A second verification issue involves the Soviet agreement to count the 120 ICBM launchers at Derazhnya and Pervomaysk (D&P) in the 1,320 MIRV aggregate. This is considered by some to be a Soviet concession. Clearly it is not a concession, since the USSR is placing MIRVed ICBMs in these 120 launchers. Further, by insisting that it is an exception to—rather than compliance with—the launcher-type rule, the Soviets are not prevented from exploiting future situations like D&P. So long as the Soviets maintain D&P as an "exception to" and not a "compliance with" the launcher-type rule, they undermine the putative value of this counting rule.

These are but some of the examples which show the United States made concessions in its attempt to achieve some degree of verifiability of the provisions of the agreement. This simply should not be the case, since the Soviets, having a unilateral advantage by virtue of the openness of our society, should be willing to cooperate on assuring compliance. But as the history of SALT shows, the first thing to be traded away on almost any provision is our ability to verify Soviet compliance. Proponents of this SALT Treaty agree that in the absence of a Treaty the Soviets would not be constrained from deliberately concealing their strategic offensive systems. This argument fails to recognize that there is an agreement not to deliberately conceal in the interim agreement and that this agreement has been carried over and undoubtedly would continue to be carried forward in the absence of a SALT II agreement.

CONCESSIONS

Most of the concessions the Soviets allegedly made in SALT II are actually not concessions at all: for example, Soviet reductions in order to come down to the 2,400 aggregate. This should not be labeled as a concession since equality should be the foundation of any arms control agreement. To treat such a reduction as a concession is tantamount to rewarding the Soviets for having raced ahead of the United States while SALT was in progress. Another example is the agreement not to count U.S. so-called forward-based systems (FBS) in the totals. However, as I have stated in previous testimony, this agreement was certainly more in the Soviet's interest since they have three times as many theater-capable nuclear systems possessing ten times the throw-weight of all NATO theater systems—French, British, and U.S. systems in Europe combined.

The USSR has not provided us with an agreed data base in sufficient detail to permit us to assess future modernization of their systems. They have consistently refused to give us, for example, information on throw-weight, launchweight and RV weight. Such data are necessary if we expect to be able to enforce complete Soviet compliance with the limitations proposed by the Treaty.

In our zeal to reach an agreement on strategic offensive arms, we made offer after offer and piled concession upon concession at almost every point of the way. This has been especially true during the last eighteen months. While the concessions are too numerous to cite here, I will give a few examples:

We agreed to give the Soviets varying periods of time after the Treaty goes into effect to make the required reductions. There is no reason why they could not begin dismantling their excess systems as soon as the Treaty is ratified instead of granting them a six month period after the Treaty goes into effect. Further, we have given them as much as a year to reduce to the lower number of systems permitted after 1 January 1981.

Our agreement to a 600 kilometer cut-off range between limited and unlimited cruise missiles favors the Soviet Union. Sea-launched cruise missiles of 600 kilometer range can strike over 75 percent of the population and industry of the U.S. from the 100 fathom depth line, whereas SLCMs of 600 kilometers can only strike 2 percent of like targets in the USSR.

The Soviets tested air-launched cruise missiles from Bear aircraft to ranges exceeding 600 kilometers. Yet the 69 Bears capable of carrying cruise missiles are not counted in the MIRVed aggregate based on the Soviet promise that they will not deploy such cruise missiles in the future.

The United States has agreed to give prior notification on all its ICBM launches. The Soviets need only to notify the U.S. of those ICBM launches planned to extend beyond their national territory unless multiple launches are involved.

The United States attempted to reach agreement limiting depressed-trajectory SLBMs. However, because the USSR objected, the U.S. did not pursue the issue.

The Joint Statement of Principles (JSP) the U.S. originally wanted was more specific and more binding, especially with respect to further reductions. However, because of Soviet objections, the U.S. agreed to language which is both vague and general. In this connection, several points are worth noting. First, the JSP states that resolution of issues included in the Protocol will be pursued in follow-on negotiations, thus bringing into doubt the statement often made that the Protocol will not establish precedents for the future, especially insofar as GLCMs and SLCMs are concerned. Second, the wording concerning the use of cooperative measures contributing to the effectiveness of verification by national technical means is ambiguous. Third, measures to reduce and avert the risk of surprise attack mean to the Soviets that submarine deployment zones will be established—a limitation which is prejudicial to the interests of the United States.

The list of concessions made by the United States is lengthy and far outweighs in number and importance the concessions made by the USSR.

The Soviets employed negotiating tactics which proved effective against the less determined and less patient U.S. negotiators. A prime example occurred in March, 1977 when the U.S. tabled its comprehensive proposal in Moscow. Simply because the Soviets quickly and vehemently said "Nyet" to our proposal—one which would bring about a real measure of arms control—the U.S. quickly abandoned it. We did not push Secretary Brown's subsequent arguments that this package would have resulted in reductions on both sides even though it still gave the net advantage to the USSR. From that time until the SALT II agreement was signed in Vienna in June 1979, the U.S. continuously made new proposals and offered additional concessions.

SOVIET NEGOTIATING TECHNIQUES

One of the most successful techniques employed by the Soviets in SALT has been to capitalize on "agreements in principle." In October, 1977, following Mr. Gromyko's visit to the White House, President Carter indicated that a SALT agreement would be reached within two to three weeks time. What subsequently happened was that the Soviets pocketed those items favorable to them and entangled and ensnared us in negotiations on those items upon which we thought the Soviets had agreed. The final agreement was not reached until a year and a half later.

In late December 1978, the U.S., believing that agreement on a Treaty was this time imminent, made several more concessions to the Soviets. However, the Soviets, by raising new issues and reopening old ones, were able to dead-lock the negotiations until even more favorable terms were made available to them.

The mistake made in October, 1977 was again repeated by the U.S. in April of 1979. Once again, in April 1979 the U.S. repeated its earlier mistake by indicating that agreement had been reached "in principle." We said that only minor issues remained to be negotiated by the "technicians" in Geneva. This was not the case—more than a score of the more important issues remained to be settled. By employing the tactic of postponing decisions, in fact until the eleventh hour, the Soviets were able to extract additional concessions from the United States.

THE "BOTTOM LINE"

The five arguments most often cited by proponents of this agreement as being the "bottom line" deserve attention. First, it is argued that this Treaty does not prohibit the U.S. from doing anything it chooses to do to improve its strategic posture. I disagree. Because of the unilateral right granted the USSR in heavy missile launchers, the United States cannot achieve equality in missile throwweight, MIRVed ICBM throwweight, or in the number of re-entry vehicles on ICBMs; in addition, the deployment of U.S. ICBMs in a protected and relatively inexpensive mode is prohibited; and deployment of GLCMs and SLCMs with ranges greater than 600 kilometers during the period of the Protocol is prohibited.

Second, it is argued that this Treaty might restrain the Soviets from a further build up. This argument is wrong because it addresses only numbers and not capabilities of strategic offensive arms. Limits on numbers are set so high and the reductions are so minimal, that the Soviets will have more than enough weapons to destroy U.S. targets. Since meaningful qualitative limitations were not achieved, the Soviets can be expected to allocate their undiminished level of resources into unconstrained qualitative fields such as accuracy of missiles, ASW, and further build-ups in theater and conventional weapons. We must not allow the "numbers fallacy" to deflect us from a realization that this Treaty permits the Soviets greater levels of over-all capabilities.

Third, proponents of this Treaty argue that with a Treaty we can predict what the Soviets will do and that without it we will be in the dark. The contrary argument is nearer the truth. Numbers of systems are easier to monitor than are qualitative improvements such as accuracy, command and control and communications, etc. Thus the "numbers fallacy" of the preceding argument would be compounded by a "monitoring fallacy" which will make Soviet behavior in the strategic field less, not more predictable.

Fourth, it is argued that in the absence of a Treaty the Soviets could interfere with our intelligence gathering and would be free to deliberately conceal their systems. Both of these arguments are faulty. The ABM Treaty and other agreements we have entered into prohibit interference with national technical means of verification. The continuation in force of the interim agreement prohibits deliberate concealment. In the absence of an agreement on SALT II, it will be to the Soviets advantage to continue the interim agreement in force if for no other reason than it protects their current ICBM asymmetries. Even with agreements in force prohibiting deliberate concealment, the record of Soviet compliance has given us little reason to be confident that the Soviets will abide by the provisions of the agreement not to engage in concealment practices.

Fifth, it is argued that the absence of an agreement on SALT now will mark a return to the cold war and kill the prospects for an agreement later. My analysis leads me to the opposite conclusions. A codification of Soviet startegic superiority will make Soviet leaders more adventuresome and more aggressive in supporting their surrogates in wars which are quite hot where they occur. Labelling our displeasure with Soviet actions as a return to the cold war plays into the hands of the Soviet Union. Finally, as I have pointed out in my introduction, the Soviets need and want a deal on limiting strategic offensive arms and therefore the Soviets will be willing, if not anxious, once the have exploited to the full their propagandistic allegations that the U.S. torpedoed the Treaty, to resume arms control negotiations.

SUMMARY

Because of the reasons I have given to this Committee and the Foreign Relations Committee previously and because of what I have outlined above, I believe the Senate should view the SALT process in a broad perspective and relegate it to a subordinate role where it can serve a useful purpose. Based on careful analysis and more than six years of negotiating with the Soviets, I am strongly convinced that the Treaty before the Senate is neither equitable nor adequately verifiable. Therefore, it should not be ratified in its present form. The Senate should, in my view, offer amendments which will assure that the Treaty will be an equitable and verifiable Treaty, and recommit the agreement to negotiate with these requirements in mind. I remain firmly convinced that the Soviets want and need a SALT agreement. If we stand firm and repair our strategic posture, the Soviets will agree to a balanced Treaty. Ratification of this flawed Treaty will only prolong the period of U.S strategic inferiority, make it more costly to regain strategic parity, and make it difficult if not impossible to negotiate any equitable future SALT agreement.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications were received on October 5, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 5, 1979.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter date 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 5, 1979.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 5, 1979.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONTINUING APPROPRIATIONS, 1980

Mr. MAGNUSON. Mr. President, I call up House Joint Resolution 412 and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with amendments as follows:

On page 4, beginning with line 17, strike through and including page 5, line 15, and insert in lieu thereof the following:

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, whose salaries under existing law were increased on October 1, 1979, to a rate approximately 12.9 per centum above the rate of salary payable on September 30, 1978, shall not be used to pay the salary of any such employee at a rate in excess of 5.5 per centum more than the rate on September 30, 1978, or to pay the salary of a Member of Congress at a rate in excess of the rate on that day: Provided further, That for the purpose of carrying out this provision and notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Adjustment Act, or any other related provision of law, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, which limit the pay for certain Federal offices and positions, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980, except that in applying such limitation the term "at a rate which exceeds by more than 5.5 per centum the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting pay increases to 5.5 per centum: Provided further, That notwithstanding any other provision of law, none of the funds appropriated by this joint resolution or any Act for the fiscal year 1980 may be used to pay the salary of any individual in any office or position the salary for which is subject to adjustment under section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) at a rate which exceeds the rate of salary payable for such office or position on September 30, 1978.

Any additional payment under existing law is not to be construed as an increase in salary or emoluments within the meaning of Article I, Section 6, Clause 2 of the Constitution, except that:

(1) Any Member of Congress, whether he voted to confirm or not to confirm the appointment of any judge appointed during the 96th Congress to the United States Court of Appeals for the District of Columbia, or whether he abstained from, or was not present for such vote, may bring a civil action in the United States District Court for the District of Columbia or in any United States District Court in the State he represents to contest the constitutionality of the appointment and continuance in office of said circuit judge on the ground that such appointment and continuance in office is in violation of Article I, Section 6, Clause 2 of the Constitution;

(2) The designated United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office;

(3) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court; and

(4) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

On page 11, beginning with line 25, insert the following:

(j) Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on August 2, 1979, except as provided in section 118 of this joint resolution and notwithstanding the provisions of section 106 of this joint resolution.

On page 16, line 1, strike "$500,000,000" and insert "$750,000,000";

On page 19, beginning with line 3, insert the following:

SEC. 118. Notwithstanding any other provision of this joint resolution, none of the Federal funds provided by this joint resolution or provided for fiscal year 1980 by any other Act for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the resolution, as thus amended, be regarded, for purposes of amendment, as an original text; provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, after a nearly 2-week wait, the House passed another continuing resolution late yesterday. The Appropriations Committee considered this resolution just this morning. We waited a long time for it and they did not take up House Joint Resolution 402 that we sent them last week. I am hopeful the recommendations of the Appropriations Committee will be adopted.

The House sent us two resolutions. They are almost the exact opposite of what we sent to them 2 weeks ago.

House Joint Resolution 412 is the large continuing resolution. They separated Labor and HEW, making it House Joint Resolution 413. House Joint Resolution 412 is the large continuing resolution for all departments which do not have a public law. The House version of House Joint Resolution 412 does the following:

It has a 5.5-percent pay raise for executive pay level employees and for Members of Congress; a $500 million cut in travel funds.

The abortion language is last year's compromise for defense.

It deletes the Labor-HEW section.

It includes railroad language which allows the ICC to operate at the House-passed level of the transportation bill.

It funds agencies at the lower of the House or the Senate level. There are some exceptions.

It expires on November 20.

What the House tried to do is just what they tried to do last year, but were unsuccessful. They would treat Defense differently than HEW. They are agreeing that more abortions here and overseas are all right for Defense people, but here at home, for poor people they are not.

Basically, the committee recommends the same thing that was adopted by a vote of 77 to 9 nearly 2 weeks ago in House Joint Resolution 402. It deletes any pay raise for Members; makes a $750 million travel cut; adopts last year's compromise abortion language; and ends November 20, which, incidentally, the House agreed to.

In other words, the same as Joint Resolution 402.

Mr. President, I have an important issue I want to make clear in this continuing resolution. We are providing for the current level of operations for the Indochinese refugee assistance program as of September 30, 1979. This will include sufficient funds for the refugees currently in the country as well as the 14,000 who are arriving each month.

Mr. President, I hope the Senate adopts this resolution. At the appropriate time, I will request we have a conference with the House and appoint conferees, and to have it just as soon as possible.

It is perhaps too late today to have a conference, but we expect to have the House agree to a conference at 10 o'clock in the morning, because time is running out on us and tomorrow is Thursday. By Friday or Saturday, a great many people will be without pay.

But in order to achieve any resolution on this matter at all, this impasse between the House and the Senate, we have to have a conference. At the proper time, as I said, I will ask for an immediate conference with the House.

I yield to the Senator from North Dakota.

Mr. YOUNG. I thank my colleague.

Mr. President, the continuing resolution before us combines the two continuing resolutions that the House passed yesterday. This is essentially the same action that the Senate Appropriations Committee took the last part of September.

The committee has recommended the same provisions concerning abortion, pay increase for Members, and reduction in travel. In other words, the committee is recommending the abortion language which the Senate has voted on in the Labor-HEW bill and the prior continuing resolution. It has also recommended that Members of Congress be excluded from the pay raise. These two issues have held up the continuing resolution and it is our hope that the Senate will approve the committee's recommendations on this continuing resolution and we can go to congference as soon as possible and hopefully work out an acceptable solution to both House

I urge approval of the resolution as reported.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders numbered 337, 350, 355 through 360, 362, 363, 364, 366 through 372.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I reserve for the purpose of advising the majority leader that the calendar items he has identified are cleared on our calendar and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSPORTATION OF LOTTERY MATERIAL

The PRESIDING OFFICER. The first bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 947) to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Judiciary Committee be discharged from further consideration of H.R. 1301.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1301) to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 947, Calendar Order No. 337, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAIL SERVICE ASSISTANCE

The bill (S. 1781) to amend section 5 of the Department of Transportation Act relating to rail service assistance, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

SEC. 2. The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection,".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUANGPAKA AND PUANGTIP VERTREES

The bill (S. 74) for the relief of Puangpaka Vertrees and Puangtip Vertrees, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act Puangpaka Vertrees and Puangtip Vertrees shall be classified as children within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Ronnie Dale Vertrees, citizen and lawful permanent resident, respectively, of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLARITA VALDEZ ARAGONES

The bill (S. 122) for the relief of Clarita Valdez Aragones, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(19) of the Immigration and Nationality Act, for purposes of such Act, Clarita Valdez Aragones shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of such Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIRK VIERKANT

The bill (S. 132) for the relief of Dirk Vierkant was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Dirk Vierkant shall be held and considered to have been lawfully admitted to the United States for permanent resident as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DUK CHAN BYUN YUNG JA BYUN, AND CHILDREN

The bill (S. 173) for the relief of Duk Chan Byun, his wife Yung Ja Byun, and his children Hye Ja Byun, Hye Sun Byun, Hye Ryung Byun, and Yung Eun Byun, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Duk Chan Byun, his wife Yung Ja Byun, and his children Hye Ja Byun, Hye Sun Byun, Hye Ryung Byun, and Yung Eun Byun shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DR. HALLA BROWN

The bill (S. 1578) for the relief of Dr. Halla Brown, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall pay to Doctor Halla Brown, of the District of Columbia, out of any money in the Treasury not otherwise appropriated, the sum of $700,000, less any amount certified to the Secretary of the Treasury by the Secretary of State pursuant to subsection (b). Such sum represents the uncompensated portion of the loss incurred by Doctor Halla Brown for injuries suffered in an automobile accident on April 20, 1974, in Washington, District of Columbia, involving Alberto Watson-Fabrega, a diplomat accredited to the Republic of Panama, which loss is uncompensated by the Republic of Panama, or by personal insurance.

(b) The Secretary of State shall certify to the Secretary of the Treasury the amount, if any, paid in connection with the loss described in subsection (a) to Doctor Halla Brown by the Republic of Panama during the period of April 20, 1974, to the date of enactment of this Act.

(c) The payment made pursuant to subsection (a) to Doctor Halla Brown shall be in full satisfaction of all claims of Doctor Halla Brown against the Republic of Panama arising from such automobile accident.

(d) After the date of enactment of this Act, any amount paid by other parties in settlement of any claim of Doctor Halla Brown against the Republic of Panama arising from such automobile accident shall be subrogated to the United States.

SEC. 2. No amount in excess of 10 per centum of the sum paid to Doctor Halla Brown in accordance with the first section of this Act shall be paid to or received by any agent or attorney for services rendered in connection with this claim. Violation of this section is a misdeameanor, and any person convicted thereof shall be fined not more than $1,000.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RODNEY L. HEROLD AND OTHERS

The bill (H.R. 898) for the relief of Rodney L. Herold and others was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARIA ESTELA SIMS

The bill (H.R. 946) for the relief of Maria Estela Sims was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NYOMAN RAHMAWATI

The bill (H.R. 1153) for the relief of Nyoman Rahmawati was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GLADYS VENICIA CRUZ-SANCHEZ

The bill (H.R. 1163) for the relief of Gladys Venicia Cruz-Sanchez was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUSAN KATHERINE ADAMSKI

The bill (H.R. 1628) for the relief of Susan Katherine Adamski was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SERGIO AND JAVIER ARREDONDO

The bill (H.R. 1753) for the relief of Sergio and Javier Arredondo was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTONIO RIVERA ARISTIZABAL

The bill (H.R. 2098) for the relief of Antonio Riveria Aristizabal was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MICHAEL CARL BROWN

The bill (H.R. 3142) for the relief of Michael Carl Brown was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PATRICK A. AND WAYNE L. THOMAS

The bill (H.R. 3146) for the relief of Patrick A. and Wayne L. Thomas was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REBECCA SEVILLE DEJESUS

The bill (H.R. 3218) for the relief of Rebecca Seville DeJesus was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SANG SUN RUSSO

The Senate proceeded to consider the bill (S. 274) for the relief of Sang Sun Russo which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, notwithstanding the provisions of sections 212(a)(12) and 212(a)(23) of the

Immigration and Nationality Act, Sang Sun Russo may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of the Act: *Provided*, That these exemptions shall apply only to grounds for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, for not to exceed 2 minutes, to consider the nominations on the Executive Calendar, beginning with "New Reports" on page 1 and going through all nominations on page 7.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—these items have been cleared on this side, and we have no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The assistant legislative clerk proceeded to read the nominations.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations referred to be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

Lt. Gen. Thomas P. Stafford to be lieutenant general.

IN THE ARMY

Sundry nominations in the U.S. Army.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, AND MARINE CORPS

Sundry nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Marine Corps.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President of the United States be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

(All nominations confirmed today are printed at the conclusion of Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING FOR ROCK ISLAND DIRECTED SERVICE

Mr. DOLE. Mr. President I commend the Appropriations Committee for adding $36 million in funding for temporary directed rail service to enable the continuation of Rock Island Railroad operations over the next few months. This would insure that grain stored throughout the Midwest will be moved to market during this fall harvest. It will also give Congress and the administration time to search for long-range solutions to the problems facing the Rock Island Railroad.

ROCK SHUTDOWN HAS HALTED GRAIN TRAFFIC

The Rock Island Railroad and its customers have been experiencing a number of severe problems over the past few months. In late August, the Brotherhood of Railway and Airline Clerks went on strike, closing down service to Rock Island customers on over 7,000 miles of track in 13 Midwestern States. This shutdown has had serious effects in my State of Kansas, which is served by over 1,000 miles of Rock Island track, because many elevators are overflowing with wheat from recent record crops. Iowa, with its 1,700 miles of Rock Island track, has felt the greatest impact. This stoppage has come at the worst possible time, as an expected record fall harvest begins.

CARTER FINALLY DIRECTS INTERIM SERVICE

For weeks, the administration delayed. Now, finally, the President has acted. On September 26, the Interstate Commerce Commission directed the Kansas City Terminal Railway Co. to take over the operation of the bankrupt and strike-bound Rock Island for the next 60 days. This action was long overdue, but at least we will begin seeing service over the idle tracks as grain begins moving to markets.

ADDITIONAL FUNDS ARE NEEDED

However, this temporary service costs money. The Government must pay the Kansas City terminal for any losses, and insure a 6-percent profit. The Office of Management and Budget, with the concurrence of the ICC, estimates this service will cost $100 million. This is expensive, without a doubt, but it is desperately needed.

Unfortunately, the ICC has only $14 million available in existing funds. The Senate resolution we are now considering will increase funding for directed service by $36 million to $50 million. We need full funding of directed service, and we need it soon. Debts are already piling up and must be paid before the Senate considers the transportation appropriations bill. That is why I support this funding.

THIS ONLY "TEMPORARY" UNDER EXISTING PROGRAMS

I want to make it clear that I am not talking here about another Conrail. I do not want another federally subsidized railroad any more than another Senator. This is strictly temporary assistance as provided for under the law. It has been supported by dozens of Midwestern representatives. It will guarantee that trains are moving grain and other products to market during this critical harvest time. It will give Congress and the administration some breathing room to come up with real, permanent solutions. Clearly, those solutions must come through our private economy. But in the meantime, this will insure the continuation of directed service that is already underway.

The Department of Transportation appropriations bill, H.R. 4440, will be coming before the Senate for consideration in the next few weeks. At that time, we can take a closer look at the needs of the Rock Island and the ICC under directed service. Should the need be apparent, I will offer an amendment to increase funding to the $100 million level suggested by the OMB. I will also insure that this service is continued on a nonpreferential basis to all States served by the railroad, so that all of us in need of service receive equal benefits from the money we are paying.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMIGRATION OF SYRIAN JEWS

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. BAKER has cleared this item and Mr. JAVITS is here to verify that. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 376, House Concurrent Resolution 91.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 91) urging the government of Syria, on humanitarian grounds, to permit Syrian Jews to emigrate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JAVITS. Mr. President, I confirm that I have talked with Senator BAKER who is agreeable to having this matter called up.

The resolution is reported unanimously out of the Foreign Relations Committee. Its purpose is to urge the government of Syria, on humanitarian grounds, to permit members of the Syrian Jewish community desirous of emigrating to do so and the whereas recite the various barriers and restrictions that are put in the way of that being done.

The resolution has passed the other body and there is no objection from the Department of State.

I hope the Senate will pass it accordingly.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 91) was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOVIET INTERRUPTION OF MAIL

Mr. ROBERT C. BYRD. Mr. President, I understand, and Mr. JAVITS is here to confirm this, that the following request has been cleared with the minority.

I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 167, which is at the desk. This has been cleared with the chairman of the Foreign Relations Committee, Mr. CHURCH.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 167) expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning the Government's nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the United States delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the Acts of the Universal Postal Union.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JAVITS. Mr. President, I confirm that I have just spoken to Senator BAKER who thought this matter had already been passed. Upon checking we found that it had not.

This, too, is a resolution that came to us from the other body, this time from the Committee on Post Office and Civil Service. It was here referred to the Committee on Foreign Relations.

It seeks to do more than protest in this case the fact that the Soviet Government makes it a practice not to deliver or to deliver only in part postal items sent from abroad by individuals or groups into the United States to individuals or groups in the Soviet Union.

Many of these are returned "addressee unknown" even when the U.S. mailer has evidence that the addressee was at the address to which the mail was sent.

Mr. President, the operative aspect of this resolution protests such practice and expresses the disapproval of it as violative of the acts of the Universal Postal Union to which the Soviet Union is a party, and violative of the acts of the so-called Helsinki Conference to which the Soviet Union is a party.

It also is important for action now because it is now possible to try to bring the Soviet Union to account at the Congress of the Universal Postal Union in Brazil now going on at which the delegation of the United States is requested by this resolution to ask other member countries to support the adoption of technical amendments to the Universal Postal Convention and to take such other measures as they consider appropriate that would encourage improved postal performance by the Soviet Union.

Mr. President, I also add that according to the report made on this bill from the House of Representatives, which I ask unanimous consent be included as part of the RECORD, the Postal Service and the Department of State support this resolution.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT

The Committee on Post Office and Civil Service, to whom was referred the concurrent resolution (H. Con. Res. 167), expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the United States delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the Acts of the Universal Postal Union, having considered the same, report favorably thereon without amendment and recommend that the concurrent resolution do pass.

PURPOSE

The purpose of House Concurrent Resolution 167 is to express the sense of the Congress of the United States that the President should express to the Government of the Soviet Union the disapproval of the American people that Government's failure to deliver international mail addressed to certain persons residing in the Soviet Union, that the Department of State should pursue this matter at the diplomatic level, and that the United States delegation to the Congress of the Universal Postal Union to be held in Brazil in October 1979 seek the compliance of the Soviet Union with the Acts of the Universal Postal Union.

COMMITTEE ACTION

House Concurrent Resolution 167 was introduced on July 27, 1979, by Representative Benjamin A. Gilman for himself, Mr. Hanley, and Mr. Derwinski. Hearings on this subject matter have been held in New York City and Washington, D.C. in 1978; and in San Francisco, Calif., in 1979. The bill was ordered reported by unanimous voice vote on September 12, 1979, by the Committee on Post Office and Civil Service.

STATEMENT

Each year thousands of pieces of registered mail, including private communications, packages, vyzovs (invitations to join family members abroad), and scientific and cultural materials are sent to citizens of the Soviet Union from individuals and groups in the United States.

In recent times, a significant number of these postal items have either disappeared, or were opened, inspected and/or confiscated by Soviet postal officials in contravention of Soviet laws and international postal agreements and other international agreements to which the Soviet Union is a signatory. Many more items were returned "addressee unknown", even when the U.S. mailer had evidence that the addressee was at the address to which the mail was sent.

It has become clear that the Soviet Union is undertaking a systematic interruption of mail to not only the Soviet Jewish community, but to members of other religious and ethnic groups, and to scientists and cultural figures within the Soviet Union. Statistics recently supplied by the U.S. Postal Service reveal that the total number of inquiries about registered mail sent to the Soviet Union for which U.S. mailers did not receive returned receipts or about which other questions existed as to whether the mail was properly delivered was 2,302 in 1978, 2,859 in 1977, and 2,936 in 1976. Despite the protests of the U.S. Postal Service and its discussions with the Soviets aimed at resolving this problem, the number of inquiries continues at an unacceptably high level.

ADMINISTRATION VIEWS

The Postal Service and the Department of State support House Concurrent Resolution 167.

Mr. JAVITS. Mr. President, I ask that it be dealt with by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (H. Con. Res. 167) was agreed to.

The preamble was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, may I express my great appreciation as well as, I know, the Members of the other body who sponsored this matter there to the majority and minority leaders for facilitating the prompt passage of these resolutions.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from New York is, as always, most gracious. May I say any time I can be of service in accommodating him I want to do so.

Mr. JAVITS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING APPROPRIATIONS, 1980

The Senate continued with the consideration of House Joint Resolution 412.

Mr. HART. Mr. President, I ask for the yeas and nays on passage of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment of the amendments and third, reading of the bill.

The bill was ordered to be read a third time and was read the third time.

● Mr. MATHIAS. Mr. President, I would like to ask our distinguished subcommittee chairman (Mr. PROXMIRE) to clarify the intent of section 101(i) which provides continuing appropriations for HUD and independent agencies. It is my understanding that the proposed language will provide funding for all items agreed to in conference at the agreed to levels.

Mr. PROXMIRE. The Senator is correct.

Mr. MATHIAS. It is also my understanding that for those items in disagreement—NASA R. & D. and livable cities—the lower figures, that is the House level, will prevail.

Mr. PROXMIRE. Yes; that is my understanding.

Mr. MATHIAS. One final point of clarification. The current language does not in any way legislatively incorporate the House language on Galileo.

Mr. PROXMIRE. The current language does not include any provision that would require NASA to comply with the Galileo language passed by the House on September 27.●

● Mr. BIDEN. Mr. President, I support this continuing resolution (H.J. Res. 412) because I believe it is essential that Government services continue to be carried out without delay. In addition, I am opposed to a congressional pay increase since I do not believe this is the type of leadership Congress should exhibit during these times of economic difficulty.

However, this vote should not in any way be construed to diminish my opposition to Federal funding of abortions.●

RECESS UNTIL 4 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 4 p.m. today.

There being no objection, the Senate, at 3:55 p.m., recessed until 4 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. TSONGAS).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the joint resolution (H.J. Res. 412) pass? The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

The PRESIDING OFFICER (Mr. BOREN). Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—81

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Magnuson
Mathias
McClure
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young

NAYS—15

Armstrong
Boschwitz
Church
Cochran
Durenberger
Hatch
Helms
Jepsen
Lugar
Matsunaga
Pressler
Proxmire
Stone
Thurmond
Zorinsky

NOT VOTING—4

Eagleton
Inouye
McGovern
Morgan

So the joint resolution (H.J. Res. 412) was passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. BAYH, Mr. EAGLETON, Mr. CHILES, Mr. YOUNG, Mr. HATFIELD, Mr. STEVENS, Mr. MATHIAS, and Mr. SCHWEIKER conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 1 hour and that Senators may speak up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEADERSHIP TIME TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the approval of the Journal and the prayer, with the approval of the distinguished minority leader, the time for the two leaders tomorrow be reserved until the orders for the recognition of Senators have been disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the prayer, Mr. CHURCH be recognized for not to exceed 15 minutes, and that he be followed by Messrs. BOREN, BURDICK, CHILES, STONE, DECONCINI, FORD, STEWART, and HEFLIN, each for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there then be 15 minutes for Mr. BAKER and 15 minutes for ROBERT C. BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the order for the recognition of Senators, there be a brief period for the transaction of routine morning business of not to exceed 30 minutes and that Senators may speak up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, the reason the Senate is coming in a 9 o'clock tomorrow morning—I like to think there is always a good reason for the way we have to schedule things and we have to accommodate Senators, obviously—the reason the Senate will be coming in at 9 o'clock tomorrow morning, and that there is probably going to be a recess tomorrow following the orders for the recognition of Senators and morning business until 1:30, is simply that Mr. CHURCH, who has to be in committees around 10 or a little thereafter, wants to speak tomorrow morning at 9 o'clock.

BEST DOCUMENT AVAILABLE

He wants to speak for something on the order of an hour or an hour and 15 minutes. So I have various orders in the names of other Senators who can be here on the floor and yield their time, if they wish, or by unanimous consent their time can be yielded to Mr. CHURCH. This will accommodate him in the making of his speech and in his attendance at committees.

Of course, I would do the same for other Senators if circumstances required it. I thought the reason ought to be given, and that is the explanation.

Mr. President, I yield the floor.

Mr. BAKER. Mr. President, in view of the announcement just made by the majority leader, and in view of the fact that the ranking Republican on the Foreign Relations Committee (Mr. JAVITS) is detained at another place at this moment, I feel that it would be in order to provide a special order for him, as well, tomorrow.

I wonder if the majority leader would consider making that request at this time?

Mr. ROBERT C. BYRD. Yes. I thank the distinguished minority leader for calling this matter to my attention and for his suggestion. I think it is a good one and very appropriate.

Mr. President, I make that request and I also ask that Mr. JAVITS may be recognized at any point following Mr. CHURCH's remarks, if he so desires.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business?

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, at 1:30 p.m. tomorrow, the Senate will proceed to the consideration of Senate Resolution 249, the resolution that came out of the Ethics Committee. That resolution is a privileged matter and does not require any waiver of any 3-day rule. That will come up at 1:30.

Upon the disposition of that resolution, the Senate then will return to the consideration of the bill making appropriations for foreign assistance, H.R. 4473. So those two measures will be before the Senate on tomorrow.

Mr. ROBERT C. BYRD subsequently said: Mr. President, following the recognition of Senators on tomorrow, there will be a period for the transaction of routine morning business. There may be other matters cleared for action. If not, then, the Senate will stand in recess until circa 1:30 p.m. tomorrow, at which time, the Senate will go to the Talmadge resolution. It was impossible to bring that up today because, as I discussed it with Mr. TALMADGE, he could be present and could be prepared on yesterday or he could be prepared on Thursday. It could not be disposed of today. In order to accommodate his convenience, and it was agreeable to the members of the Ethics Committee that the matter be taken up tomorrow, that matter will be disposed of tomorrow and hopefully, the foreign assistance appropriations bill will also be disposed of tomorrow. If not, it will go over until Friday.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and at 4:45 p.m. the Senate recessed until tomorrow, Thursday, October 11, 1979, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 10, 1979:

DEPARTMENT OF STATE

Anne Forrester Holloway, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Robert B. Oakley, of Louisiana, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 10, 1979:

IN THE AIR FORCE

Lt. Gen. Thomas P. Stafford, U.S. Air Force (age 48), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Royster Thurman, III, 238-26-1135 (age 55), Army of the United States (major general, U.S. Army).

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a), in grade as follows:

To be lieutenant general

Maj. Gen. William Rowland Richardson, 238-38-4817, U.S. Army.

The following-named officers for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general

Col. Robert W. Riscassi, 042-28-4021, Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert J. Sunell, 542-30-1249, U.S. Army.

Col. James T. Bramlett, 256-52-8493, U.S. Army.

Col. Frederick F. Woerner, Jr., 191-26-8730, U.S. Army.

Col. Charles F. Briggs, 386-30-1851, Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard S. Kem, 310-34-8520, Army of the United States (lieutenant colonel, U.S Army).

Col. Donald R. Morelli, 181-26-7434, Army of the United States (lieutenant colonel, U.S. Army).

Col. James L. Dozier, 261-42-4071, Army of the United States (lieutenant colonel, U.S. Army.

Col. Peter G. Burbules, 352-24-3958, U.S. Army.

Col. Kenneth E. Lewi, 462-36-8977, U.S. Army.

Col. Norman E. Archibald, 549-36-1583, U.S. Army.

Col. Richard G. Graves, 305-36-5367, Army of the United States (lieutenant colonel, U.S. Army).

Col. Roger J. Price, 429-56-0953, Army of the United States (lieutenant colonel, U.S. Army).

Col. Hugh J. Quinn, 114-24-2340, U.S. Army.

Col. Jimmy D. Ross, 431-60-9422, Army of the United States (lieutenant colonel, U.S. Army).

Col. James F. McCall, 189-28-0974, Army of the United States (lieutenant colonel, U.S. Army).

Col. Carl W. Stiner, 412-54-9881, Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles G. Prather IV, 521-42-2096, Army of the United States (lieutenant colonel, U.S. Army).

Col. Mark J. Sisinyak, 376-40-7001, Army of the United States (lieutenant colonel, U.S. Army).

Col. William E. Odom, 410-64-2620, U.S. Army.

Col. Donald P. Whalen, 224-52-4500, Army of the United States (lieutenant colonel U.S. Army).

Col. Thomas C. Nelson, 576-38-1394, U.S. Army.

Col. John W. Nicholson. 480-28-2904, Army of the United States (lieutenant colonel, U.S. Army).

Col. Donald M. O'Shei, 092-24-3490, Army of the United States (lieutenant colonel, U.S. Army).

Col. John M. Kirk, 579-42-7112, Army of United States (lieutenant colonel, U.S. Army).

Col. Robert M. Adams, 132-26-0712, U.S. Army.

Col. Richard W. Wilmont, 317-32-6910, Army of the United States (lieutenant colonel, U.S. Army).

Col. Douglas S. Smith, 395-22-5117, U.S. Army.

Col. Henry J. Schumacher, 557-42-7514, Army of the United States (lieutenant colonel, U.S. Army).

Col. August R. Pede, 160-28-2599, U.S. Army.

Col. Charles E. Getz, 021-28-9732, Army of the United States (major, U.S. Army).

Col. Stanislaus J. Hoey, 428-58-5757, U.S. Army.

Col. Walter C. Cousland, 579-52-7649, U.S. Army.

Col. Benjamin J. Pellegrini, 395-30-3550, Army of the United States (lieutenant colonel, U.S. Army).

Col. Phillip H. Mason, 224-52-4274, U.S. Army.

Col. Charles W. Brown, 506-52-7062, U.S. Army.

Col. George K. Withers, Jr., 578-46-1168, Army of the United States (lieutenant colonel, U.S. Army).

Col. Jack B. Farris, Jr., 245-46-4438, Army of the United States (lieutenant colonel, U.S. Army).

Col. Harold M. Davis, Jr., 036-22-5423, Army of the United States (lieutenant colonel, U.S. Army).

Col. William C. Roll, 258-66-7580, Army of the United States (lieutenant colonel, U.S. Army).

Col. Lloyd K. Rector, 239-38-3417, U.S. Army.

Col. Sidney Davis, 161-22-4887, Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles H. Edmiston, Jr., 263-42-9084, Army of the United States (lieutenant colonel, U.S. Army).

Col. Bobby J. Maddox, 443-34-7942, Army of the United States (lieutenant colonel, U.S. Army).

Col. John T. Myers, 269-30-0354, Army of the United States (lieutenant colonel, U.S. Army).

Col. Church M. Matthews, Jr., 577-44-3067, Army of the United States (lieutenant colonel, U.S. Army).

Col. James R. Hall, Jr., 422-42-5563, Army of the United States (major, U.S. Army).

Col. Donald J. Gudinas, 390-28-9992, Army of the United States (major, U.S. Army).

Col. Charles E. Teeter, 483-48-3884, Army of the United States (lieutenant colonel, U.S. Army).

Col. Claude T. Ivey, 225-36-4664, Army of the United States (major, U.S. Army).

Col. Hardin L. Olson, Jr., 157-24-9700, Army of the United States (lieutenant colonel, U.S. Army).

Col. Christian Patte, 247-50-8736, Army of the United States (lieutenant colonel, U.S. Army).

Col. Howard C. Whittaker, 226-38-8392, U.S. Army.

Col. John W. Foss, 472-32-7251, Army of the United States (lieutenant colonel, U.S. Army).

Col. Henry G. Watson, 287-24-8905, U.S. Army.

Col. Lincoln Jones III, 138-26-8608, Army of the United States (lieutenant colonel, U.S. Army).

Col. Llyle J. Barker, Jr., 282-30-5149, U.S. Army.

Col. Eugene Fox, 125-26-0142, Army of the United States (lieutenant colonel, U.S. Army).

Col. Julius Parker, Jr., 459-50-6028, Army of the United States (lieutenant colonel, U.S. Army).

Col. John C. Bahnsen, Jr., 254-48-4550, Army of the United States (lieutenant colonel, U.S. Army).

Col. Bernard M. Herring, Jr., 260-42-2345, Army of the United States (lieutenant Colonel, U.S. Army).

Col. Gary L. Turner, 234-46-5965, U.S. Army.

Col. Richard G. Cardillo, 136-32-3723, U.S. Army.

Col. Thomas P. McHugh, 383-12-1243, Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles F. Drenz, 177-22-3507, U.S. Army.

Col. Todd P. Graham, 365-32-5614, U.S. Army.

Col. James M. Hesson, 476-26-8437, U.S. Army.

Col. Allen K. Ono, 576-30-7573, Army of the United States (lieutenant colonel, U.S. Army).

In the Air Force

Air Force nominations beginning Victor E. Abraham, Jr., to be lieutenant colonel, and ending Alfred E. Turman, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 1979.

Air Force nominations beginning Wiley R. Ashley, Jr., to be lieutenant colonel, and ending Gorden A. Egelseer, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 26, 1979.

In the Army

Army nominations beginning John E. Ailor, to be colonel, and ending Robert D. Carter, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 26, 1979.

Army nominations beginning Lloyd D. Borchert, to be major, and ending Jerilynn D. Howery, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 26, 1979.

In the Navy

Navy nominations beginning Daniel W. Adcock, to be chief warrant officer, W-3, and ending Leroy Young, to be chief warrant officer, W-3, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 1979.

Navy nominations beginning Charles Stevenson Abbot, to be lieutenant commander, and ending Dennis Leeth Zveare, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on September 26, 1979.

Navy nominations beginning Thomas W. Coale, to be commander, and ending Jodi E. Tryon, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 26, 1979.

In the Marine Corps

Marine Corps nominations beginning Paul J. Albano, to be lieutenant colonel, and ending Rosalind R. Pulaski, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 1979.

Timothy W. Foley, for appointment to the grade of first lieutenant in the Marine Corps, which nomination was received by the Senate and appeared in the Congressional Record on September 21, 1979

HOUSE OF REPRESENTATIVES—*Wednesday, October 10, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray.

Gracious Lord, we ask Your blessing on us at this hour as we recognize our limitations and our own needs. Lift us from any frustration or fear to follow Your spirit and to know the healing power of Your presence. Lead us in the way eternal, O Lord, as we seek to be stewards of the common good. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate disagreed to the conference report on the joint resolution (H.J. Res. 404) entitled "joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes."

END REPUBLICAN OBSTRUCTIONISM IN THE HOUSE

(Mr. BARNES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNES. Mr. Speaker, the image of Congress in the public mind is today about on par with a childrens playground—but with less amusement at the games that are being played.

In my judgment this image is unfair when it applies to the whole Congress, for it is not the whole Congress which comes here to play games.

On many issues, we have been able to approach important national questions with thoughtful debate, reasonable give-and-take, and a responsible resolution. But these times have been increasingly rare. On too many issues—particularly those which may offer easy rhetoric with the folks back home—our Republican colleagues have unfortunately responded to the siren call of partisan obstructionism.

It is outrageous and it is no game when not a single Republican Member of this House had the courage to vote for the fiscal 1980 budget resolution. It is no mere game when only five Republicans had the guts to vote to establish a new limit on the public debt, which this body had to pass to insure that senior citizens could get their social security checks and to prevent the United States from defaulting on its debts for the first time in our Nation's history. It is outrageous and it is no game when, time and again, we have seen a virtually unanimous vote by the minority party in this body to bring vital programs and basic services of our country to a stop. It is no game to play with the public's confidence in the competence of the Government of the United States.

Mr. Speaker, the Democratic Party in the House of Representatives encourages a reasonable diversity of views in the national interest, but it has become obvious that the minority seems to expect unquestioned compliance with a nonprogram of know-nothing/do-nothing obstructionism.

Finally, Mr. Speaker, it is to your credit, and to the credit of Mr. Wright, Mr. Brademas, Mr. Foley, and other leaders of the Democratic Party, that we have

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

nevertheless been able to present a program of progress and responsibility, and through an open democratic process, we have offered leadership that makes it possible—most of the time—for reason to prevail.

I regret that our Republican colleagues have not chosen to join in that process. In cooperation, there is mutual respect and shared opportunity; in obstruction, the very strength of our Nation hangs in peril.

WHAT DOES PRESIDENT CARTER MEAN?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, in the President's news conference yesterday, he made clear that he does not accept on face value Soviet President Brezhnev's proposal for military reductions in Europe.

The President's position is that the best policy for the West would be for modernization of military strength first, followed by negotiations with the Soviets for reduced arms.

In short, the President was saying, in effect: Let us build our strength on the basis of how we perceive our needs and not on any offer the Soviets might make. After we are satisfied that our needs are met, then and only then should we begin to negotiate.

I applaud the idea implicit in the President's words. But I am puzzled. If this idea is good when it comes to NATO, why is it not good when it comes to SALT? Why should we not build our nuclear strategic forces first and then negotiate instead of being stuck with a treaty that leaves us inferior? I wish the President would be consistent.

LET US GET OUR PRIORITIES RIGHT

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I do not know what happened during the recess, but in our first 2 days back we are having some remarks by the brandnew freshmen Members of the majority party talking about things that I have never heard of before. Yesterday one of the Members was talking about the fact that he talked to the people back home, and he recognized that the Democrat Party is the party of the people and, therefore, for a balanced budget. There has not been a balanced budget since there has been a Democrat Congress, and that has been over a quarter of a century.

Another Member was giving kudos to the Democrat leadership, saying that he wanted to compliment the Speaker, the majority leader, and the majority whip for moving needed legislation through the Congress. Name some. The media reports this Congress as a "Do Nothing Congress."

And here another freshman Democrat colleague just a few minutes ago was again talking about strange things, blaming all of the ills of the Nation on the little minority party. Anyone with a 2-to-1 majority that successfully shifts the blame to our minority party should be a card dealer in Las Vegas.

DIVERSITY OF VIEWS IS NOT OBSTRUCTIONISM

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, the world series usually indicates the end of the baseball season and the end of some summer games. But listening to the statements being made on the floor, it appears we are only beginning.

We now have, evidently, a Democratic "designated hitter" on a daily basis telling us how great that side of the aisle is doing.

It seems to me that when you play a game and you have two-thirds of the players on the field, you ought to be able to move the ball once in a while, or, to continue the baseball analogy, at least to be able to advance the runner to homeplate occasionally. It seems to me rather ridiculous to say that the majority is interested in a diversity of views when time and time again the rules of this House have been skewed in such a way to insure that diversity will not be allowed. And when the minority Members do present a diversity of views, we are objected to for being obstructionists.

Just who does represent the views of the American people?

It seems to me that the American people are speaking loud and clear that they want a balanced budget. They also want a tax cut. I would remind the Members that it was a Republican Member of this House, the gentleman from California (Mr. ROUSSELOT), who presented the opportunity to accomplish these goals to this House and had the vast majority of Republican Members voting for it; but unfortunately we could not even get enough Members of that two-thirds majority to give the American people what they want and what they want now.

NATION'S ECONOMY IS IN GOOD HANDS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I was impressed with the remarks of our colleagues on the other side of the aisle this morning on the state of the economy and the reasons for the ills which our Nation faces. Their remarks reminded me of a conversation that I had the other day on Wall Street with a group of business tycoons who had a similar view. Our colleagues' view is very simplistic. If it should be followed we could resolve all of the economic problems of our Nation. All we would need to do in this Congress is to reduce taxes on the one hand and balance the budget on the other. When queried as to how we would make up for the loss of revenues needed to provide for the common defense government services the response was, "Well, if you reduce taxes, you will create an incentive for people to produce more, therefore more income will be created."

The question, of course, is begging. If we eliminate all taxes, then would we not, every American taxpayer, be rolling in the dough? That seems to be the philosophy that our worthy colleagues on the other side are prescribing for the Nation's ills. They conveniently ignore the fact that it is this democratically controlled Congress that has reduced the deficit by over 50 percent in the last 2 years and that, in spite of all of the gloomy forecasts we have heard originate from the Republican National Committee, we have not had increased unemployment. As a matter of fact, unemployment has decreased consistently in spite of all the "doomsburys."

I would say that the Nation's economy is in good hands and the leadership provided by our President and by this Democratic Congress is what this Nation needs this year, as well as in 1980, if we intend to reduce Government spending and reduce unemployment.

□ 1010

CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 538]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Henley
Hansen
Harkin
Harris

Hawkins
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli

Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo

Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Wampler
Watkins
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1020

The SPEAKER pro tempore. (Mr. GORE). On this rollcall, 362 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

☐ 1030

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. SIMON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2859, with Mr. DAN DANIEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, October 9, the committee amendment in the nature of a substitute had been considered as having been read and open to amendment at any point.

Are there further amendments?

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 16, after line 19, insert the following new subsection:

(b) (1) The first sentence of section 103(d) of the Act is amended—

(A) by inserting "and to the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "of the State concerned,"; and

(B) by striking out "him" and inserting in lieu thereof "them".

(2) The last sentence of section 103(d) of the Act is amended by inserting ", or by the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "the State concerned" each place it appears therein.

Page 16, line 15, insert "(a)" after "SEC. 2.".

Mr. KRAMER. Mr. Chairman, this amendment simply provides that there will be local elected official review of all VISTA projects which will be located in a local jurisdiction, along with the Governor's review which is the present law. Thus, the projects, if this amendment were adopted, could not begin unless both the Governor, which is the present law, and the chief elected official did not disapprove of the project within 45 days of its submission. It also provides for the termination of VISTA projects on the request of the chief elected local official of the jurisdiction concerned, or at the request of the Governor, which is the present law, of the State concerned, not later than 30 days after the request, or a mutually agreed date.

So, in everyday layman's terms, what this provides is simply that the local governmental entities are going to have approval and termination authority over VISTA projects the same way as the Governor of the State presently does under existing law.

What is the rationale for doing this? We have seen, I think, a number of instances in which there has been confrontation between local governments and VISTA projects. Even in the urban volunteer program, which would have been the new section of the bill had it not been deleted yesterday, provision was made for local governmental approval on the front end, so the administration and the committee have seen some soundness in the concept. The question is whether or not we are going to extend that concept to the whole VISTA program rather than a particular small part of it.

This is not going to add any time to the review process. It will not delay placement. In fact, I think it will enhance the overall operation of the VISTA program because, truly, these programs cannot do what they are intended to do unless they do have local community support. I think that this will give the input to the local communities that they do not have now, and they feel that some of these programs are being pushed down their throats without them having the right to have any input into the decisionmaking process.

One recent Washington Post article, I think, highlights some of the problems that have been cropping up. This one involved one of ACTION's national grantees, which was the subject of much discussion yesterday; that is, that program was. This particular grantee was not mentioned, but it is the Federation of Southern Cooperatives. It has become increasingly, according to this article, political, and much of the community resents what it perceives to be the Federal Government's role through its Volunteers in Service to America and Comprehensive Employment and Training Act programs, in supporting Federation of Southern Cooperatives' political efforts. One local official, quoted in this Washington Post article of September 19, 1979—this is referring to the national grantee, Federation of Southern Cooperatives—says:

> They are involving themselves in local election matters. They are running for offices . . . their activities amount to nothing more than government-supported activism.

When a local community in which one of these programs is operating, I think, becomes disenchanted with the activities of VISTA, which rather than providing a true basis on which the disadvantaged people of our country can begin to work with other segments of the community to solve their problems, is creating a divisiveness which I think is counterproductive, then that local community should have an opportunity to terminate the program.

Let me demonstrate how bureaucratic arrogance plays into this situation: Listen to what one ACTION State director has reported with respect to a VISTA project in Cusick, Wash., which has generated local opposition. The ACTION employee reports:

> The Town Council has twice voted to request termination of the project, the latest being a 3–2 vote at a special Cusick Town Council meeting. . . . Opponents object most to the project's ties to the Institute of Cultural Affairs, based in Chicago. As a result of the Town Council vote, with lukewarm support by the Mayor, I expect to receive a letter from the Town Council requesting that I immediately terminate the VISTA project. Because the Town of Cusick is not the VISTA project sponsor, coupled with the fact that substantial accomplishments have resulted and have benefitted many residents of Cusick, I have concluded that sufficient grounds for terminating the project do not exist. It is apparent to me that a majority of the 265 Cusick residents support continuation of the VISTA project, feel it has benefitted Cusick, and are most unhappy with the Town Council's vote. Many Cusick resi-

> dents feel the Town Council does not accurately reflect their opinions on this matter, and are upset with the 3 Council members who oppose the VISTA project. There is now even some discussion of a recall petition aimed at these 3 Council members.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Mr. Chairman, I think that this report really succinctly states the problem in a better way than I am capable of doing. Here, we have a State director of the ACTION program substituting his judgment and wisdom for that of the local elected officials who want termination of a VISTA project. But, he says the town itself is really with it, that the members of the town council are not. Here, we have basically one nonelected official accountable to no one except the Director of the ACTION Agency substituting his judgment for that of duly elected officials of this community.

I believe that when we have enough of this occurring, that it does not create the atmosphere of cooperativeness and community spirit that I think is necessary if we are really going to do something substantial about the rights of the poor.

□ 1040

I think if we are really interested in coming together under one roof we ought to try to solicit the cooperation and gain the approval of the local communities involved.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words and will speak in opposition to the amendment.

Mr. Chairman, in the subcommittee we accepted five amendments of the gentleman from Colorado. We accepted another in the full committee. The gentleman has improved the bill through his amendments. The gentleman has offered some good amendments. Unfortunately, this amendment does not fall in that category. This amendment deserves a speedy and quick burial which I hope it will receive.

Mr. Chairman, the amendment says you must have the approval of the chief elected local official when you have a program in an area. We already have the approval of the Governor in the bill.

Let me give a practical example. I visited in the Cincinnati area where there are a number of programs that are generally acknowledged to be good programs. We have perhaps 100 municipalities in that general area. Maybe it is 50, perhaps it is 75. Under this amendment you would have to go through the process of getting approval of 50, 75, 100 mayors to get the OK on moving ahead on something like this. It is a very impractical amendment. It was rejected in the committee; it was rejected in subcommittee. I think the amendment should be and I hope will be promptly rejected once again.

Mr. SEBELIUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in offering his amendment, the gentleman from Colorado referred to an instance in which local townspeople tried unsuccessfully to curtail ACTION funding of a group operating in their community. My staff has investigated this organization, the Institute of Cultural Affairs, because of letters I have received. What we have found is that this organization is supported by VISTA in at least 10 communities in the United States. But even though they have been strongly opposed in most of these towns, ACTION continues its funding.

Last year, members of the institute held what they call a town meeting in my hometown of Almena, Kans., a small community in my district. The residents of Almena were told that the town meeting would provide a means of identifying the town's problems, while at the same time designing appropriate solutions.

Judging from the letters I have received, however, these town meetings seem to create more divisions than improvements in small towns. The so-called problems on which the institute focuses include things like "individualism," "ideological differences," and "set patterns of family lifestyles." And the solutions include various collectivist schemes reflecting the philosophy of the institute's religious affiliate, the order: Ecumenical. Incidentally, this religious order is the recipient of nearly all of the VISTA stipends paid to institute members.

During the past year, two towns passed resolutions calling for a halt to Federal funding of the Institute of Cultural Affairs; two more called for investigations of the organization; one passed a referendum withdrawing its support of the institute's project. In no case, however, have residents been successful in eliminating ACTION funding of these projects.

The sense of hopelessness felt by local residents is demonstrated in letters written by the mayors of these small towns.

Mayor Mary Anderson, of Kinney, Minn.:

> We need money badly for an elderly housing unit and are unable to get the funds . . . yet it seems that a religious group gets grant money . . . the government insults the intelligence of the elected officials by giving money to these people to do a project in the town that one lived in for years and knows what the town needs. . . .

Mayor Richard Smith, of Cusick, Wash.:

> I am not pleased that the ICA has come to Cusick . . . in fact I feel that the ICA and its backers in some government offices represent a threat to this community as far as a secure and lasting economic growth.

Selectman Richard Clogston, of Starks, Maine:

> This group claims that they can get all the monies they want from Federal agencies, and are not afraid of any investigation or audit from any of these. The Selectpersons would like to know why a so-called religious group can receive Federal funds to interfere with the social and business affairs of a small town.

It is deeply tragic that Federal bureaucrats are able to impose a set of values on a small town over the objections of its residents. This amendment is necessary to restore the sovereignty of local government.

Mr. HAWKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this amendment may be good in motivation but I think it most impractical and I think it is not well thought out.

During the recent recess I had an opportunity to speak to the members of six cities within my congressional district. In five of those cities this program was highly supported and I think for very sound reasons. In one of the cities it was not and I think in this instance the individuals merely had philosophical differences with Federal programs in general so they were not supportive, really, of any Federal assistance.

Mr. Chairman, under this amendment, then, one city out of that congressional district would have the right, in effect, to veto the entire program for the congressional district which I have the honor of representing.

Mr. Chairman, I think the practical aspect of this amendment has not really been thought through. I think it is inspired by merely philosophical objections to the program itself, and I think it is therefore most impractical and I think it certainly should be rejected.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I will be glad to yield.

Mr. KRAMER. I thank the gentleman for yielding.

Certainly it is my intention with this amendment that this would not scuttle the project for a whole multijurisdictional community or multijurisdictional governmental area where VISTA projects were serving more than one community. The rejection of that local official would pertain to the rejection of that project simply in that jurisdiction only, and would not impact on the program in the other jurisdiction.

Mr. HAWKINS. What would the gentleman do in the instance where, let us say, the program is already operating within that jurisdiction? Does it mean then that the objections of one city council would, in effect, veto the program for the entire area, or only within the jurisdiction of the city that did not want the program?

Mr. KRAMER. Only within the jurisdiction of the city that did not want the project.

Mr. HAWKINS. How do you deal with the problem where individuals on, let us say, opposite sides of a boundary are involved in a program? I assume you would have to disengage all of the activities within that boundary from the rest of the program.

Mr. KRAMER. That is correct.

Mr. HAWKINS. Do you think that is a sound and practical procedure?

Mr. KRAMER. This is only my opinion, Mr. Chairman, but I personally believe these programs truly will never succeed unless they have the cooperation of the local governmental entities involved and until that day comes, I think these programs are doomed to failure.

For example, let us take another example in community corrections which is perhaps a similar issue in many regards. Community corrections programs that are not accepted by the local governmental entities involved and do not have community acceptance, where the programs are ostracized and put out of the mainstream of the community, in my judgment, from what I have seen, have very little chance of success. I think the same is very much true with these kinds of programs we are dealing with here.

Mr. Chairman, I think until we get the acceptance of the local officials who feel they are all joining in some kind of cooperative effort to alleviate problems rather than setting up a potential confrontation when these entities present a threat to them and, in fact, challenge their very right to hold office and exist, I think until that day comes, you are going to get the kind of divisiveness and confrontation tactics that some of these ACTION programs, unfortunately, have been associated with. What we are trying to do is provide local input which I think is essential.

Mr. HAWKINS. Mr. Chairman, what would the gentleman do in a case where a county has rejected a program but a city within the county wants a program?

Mr. KRAMER. I would say in that case the program would be limited to the unincorporated areas of that county.

Mr. HAWKINS. That is exactly the situation which might arise in the district which I cited in which the county may reject the program and yet cities within it are very desirous of having the program. You would then preclude the people in those cities from having the program because the country government itself might have rejected the program. Is that not possible?

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me address myself to the author of this amendment.

I would like to point out in a very practical sense one of the great difficulties of the gentleman's amendment. For example, in my own congressional district we have a Center for Independent Living that deals with the plight of handicapped human beings. There is a mechanism, a telephone designed exclusively and specifically for deaf people.

□ 1050

VISTA volunteers man that effort. The people in the city of Berkeley support that notion, but they receive telephone calls from all over the bay area. The practical effect of the gentleman's amendment would be that if someone in another city decided they did not want to have anything to do with it, then those referrals could not happen. That is why I rise to support the notion that my colleague made that this amendment is not well thought out. This amendment is ill conceived. This amendment in a very practical sense would wreak havoc on a number of programs that go beyond the boundaries of a specific jurisdiction. I am sure that my colleague would not wish to further handicap those persons in our various communities who are, indeed, handicapped where one particular city is providing that service for a full range of cities.

Now, having said that, I would like to make one additional comment. The gentleman suggested that this amendment would depoliticize programs designed to serve the poor, the destitute, and the needy in our society. I would suggest that the gentleman's amendment would even further politicize it.

Several years ago in the height of our more idealistic moments in this body and in this country, the Congress of the United States enacted the Economic Opportunity Act. In that act they made a statement about maximum feasible participation of the poor. That meant that the Congress and the American people embraced the notion of poor people being involved significantly in charting and affecting their own destinies, understanding clearly that the plight of poor people was not simply only having no money. It was also not having any power to effect change, and at the very point in time where those programs began to manifest political involvement on the part of poor people, who are historically powerless, many politicians then ran out to kill those programs.

I would suggest that any amendment designed to engage in a patronizing approach to poor people, as if in some way all they are in need of is service and a few dollars, when I believe they also have a legitimate right and a need to fully participate in the body politic and that they should not be the patsies for politically elected officials. We have to oppose those policies as strongly as we can.

I oppose the gentleman's amendments for two reasons. One, it is ill conceived, ill considered, and not carefully thought out and would wreak havoc on a number of programs around the country. Finally, I would suggest that the gentleman is not going to depoliticize the issue. We will further politicize it by bringing politicians into a situation to engage in harassment tactics of poor people at the point in time when they stand up to assert their legitimate right and franchise to be nonpowerless human beings and to have some effect on the body politic in our society, which ought to be the legitimate right of every single human being, irrespective of how much money they have.

I would like to yield to my colleague to ask him to respond to the two points that I have made.

Mr. KRAMER. Well, Mr. Chairman, the only comment I would make to my colleague, the gentleman from California, and I certainly can appreciate where the gentleman is coming from in this regard, but I think it gets down to the basic position of whether or not we truly believe in representative government; and whether we really believe that local governments ought to handle those things that they are capable of; and that the Federal Government ought to only involve itself in those cases in which the local government apparatus is not sufficient to meet the challenges of a problem.

I think we have the classic case here of a clash between a philosophy of those in Washington, telling local communities and the local representatives of that community, who are duly elected in free elections, that we know better how they ought to conduct their affairs than they know themselves. Until I think that day is realized when we do not continue to force down the throats of local communities those things that they are resistant to, I do not see how we are ever going to come to grips with these problems, because the problems, I think, of people being deprived in communities—no one in Washington is going to wave a magic wand and make those problems go away. Until we have community understanding with community participation and community willingness to solve those problems, I do not think we are going to succeed in doing it.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLMUS. Mr. Chairman, I would reclaim my time. I thank my colleague for responding. I would simply suggest to the gentleman that if that was the thrust of the gentleman's amendment, then why did the gentleman cite a number of cases where people felt the need to be involved in the political atmosphere of their community, not simply talking about partisan politics or electoral politics, but being involved in the business of the community. That is the business of politics in its broad and generic sense.

I would suggest that the gentleman's amendment does not deal with that and it has the potential for a great deal of mischief, because I would suggest that a number of locally elected officials may very well not like these programs simply because they are raising questions and creating pressures that poor people ought to have a right to raise. The system often is not responsive to the needs of the poor, as I said before, because one major characteristic of poverty is also powerlessness. That is why I suggest that there is a great deal of mischief here, because once poor people begin to start asserting their citizenship and begin to talk about power, then a number of politicians begin to feel threatened.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Projects then begin to be threatened. Projects then begin to be challenged. I am simply saying that not only in a very practical sense this amendment creates problems in terms of the approval process, but it also has the potential for mischief and political harassment of poor people that I am sure the gentleman and I do not wish to see further harassed.

When the gentleman raised the question of the southern cooperatives, and a number of other things, I listened as carefully as anyone else here on the floor. I had to ask myself, Why does this gentleman raise these particular examples if all the gentleman is suggesting is local involvement in a decision? It would seem to me that the motive goes beyond that. The motive goes to challenge those programs that in some way may appear to be controversial.

I would suggest to my colleague that whenever we offer amendments calculated to destroy controversy in our society, we are striking a blow at the very concept of democratic principles and democratic rights. I just do not believe we ought to be doing that. If we want to have an approval level, an approval mechanism at the local level, then I think it ought to be much more carefully thought out and it should not be argued on the basis of how you can challenge programs that become controversial.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. **KRAMER**. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Twenty-nine Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1110

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 539]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1130

The CHAIRMAN. Three hundred and sixty members have answered to their names; a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Colorado (Mr. KRAMER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 178, not voting 26, as follows:

[Roll No. 540]

AYES—229

Abdnor
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Boland
Bowen
Breaux
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Giaimo
Gilman
Gingrich
Ginn
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Mathis
Mavroules
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Pashayan
Paul
Petri
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shuster
Slack
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NOES—178

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonker
Bouquard
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dixon
Dodd
Donnelly
Downey
Drinan

BEST DOCUMENT AVAILABLE

Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fowler
Garcia
Gephardt
Gibbons
Gonzalez
Gore
Gray
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Holland
Holtzman
Hughes
Jacobs
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, La.
Lowry

Luken
Lundine
McCloskey
McCormack
McHugh
Maguire
Markey
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino

Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Waxman
Weaver
Weiss
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Yates
Zablocki

NOT VOTING—26

Ambro
Anderson, Ill.
Beard, R.I.
Bolling
Bonior
Brown, Ohio
Collins, Ill.
Flood
Ford, Mich.

Frost
Glickman
Goldwater
Goodling
Heftel
Howard
Martin
Pepper
Shumway

Smith, Nebr.
Stockman
Treen
Walgren
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn

☐ 1140

The Clerk announced the following pairs:

On this vote:

Mr. Bob Wilson for, with Mr. Bonior of Michigan against.

Mr. Winn for, with Mr. Flood against.

Mrs. Smith of Nebraska for, with Mr. Howard against.

Mr. Martin for, with Mr. Pepper against.

Mr. Goldwater for, with Mrs. Collins of Illinois against.

Mr. Brown of Ohio for, with Mr. Ford of Michigan against.

Mr. Goodling for, with Mr. Beard of Rhode Island against.

Mr. McCLORY changed his vote from "no" to "aye."

Mr. BIAGGI changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 39, after line 15 insert the following new section (and redesignate the following sections accordingly):

REGULATIONS: REQUIREMENTS AND ENFORCEMENT

Sec. 14. (a) Section 420 of the Act is amended to read as follows:

"Sec. 240. (a)(1) For the purpose of this section, the term "regulation" means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Director. Any such rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this Act shall not have the standing of a Federal statute.

(2) Regulations issued by the ACTION agency or by any official of such Agency, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

(b)(1) No proposed regulation prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

(2)(A) During the thirty-day period prior to the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

(B) If the Director determines that the thirty-day requirement in paragraph (1) cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. If neither committee disagrees with the determination of the Director within 10 days after such notice, the Director may waive such requirement with respect to such regulation.

(c) All such regulations shall be uniformly applied and enforced throughout the fifty States.

(d)(1) Concurrently with the publication in the Federal Register of and final regulation of general applicability as required in subsection (b) of this section, such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the Act from which it derives its authority, and disapprove such final regulation. Failure of the Congress to adopt such a concurrent resolution with respect to any such final regulation prescribed under any such Act, shall not represent, with respect to such final regulation, an approval or finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

(2) The forty-five-day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calender days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Human Resources of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the Director a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

(e) Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the agency may thereafter issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved, and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

(f) Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Director shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Director has planned to promulgate final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be promulgated in accordance with such schedule. If the Director finds that, due to circumstances unforeseen at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such findings and submit a new schedule. If both such committees notify the Director of their approval of such new schedule, such final regulations shall be promulgated in accordance with such new schedule."

Mr. ASHBROOK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

☐ 1150

Mr. ASHBROOK. Mr. Chairman, this amendment sets down specific requirements and enforcement for regulations promulgated by the ACTION agency. The amendment tracks exactly section 431 of the General Education Provisions Act which applies to all education programs administered by the Commissioner of Education and the Assistant Secretary of Education in the Department of Health, Education, and Welfare with one exception I will note later. Section 431 has been law since 1970 and has served very well as a control on the intent and effect of rules, regulations, guidelines, and so forth, to implement the law. Basically the amendment provides:

First. Regulations may not take effect until 30 days after publication in the Federal Register. During that 30-day period any interested party will be offered an opportunity to make comment on the regulation or guideline;

Second. If the Director determines that the 30-day requirement will cause undue delay in implementation of regulation he may ask for a waiver of the Education and Labor Committee and the Committee on Labor and Human Resources of the Senate.

Third. Concurrently with the publication in the Federal Register any final regulation shall be transmitted to the Speaker of the House and the President of the Senate. Such regulation shall become effective 45 days after transmission unless Congress passes a concurrent resolution finding the regulation inconsistent with the act; and

Fourth. The Director must submit to the Committee on Education and Labor and the Committee on Labor and Human Resources of the Senate not later than 60 days after enactment of any part of the act a schedule setting forth his plans to promulgate final regulations implementing such act or part thereof.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

We have had a chance to examine the amendment, and it is acceptable on this side.

Mr. ASHBROOK. I thank my colleague for that.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Ashbrook).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Edwards of Oklahoma: Page 17, lines 10 and 11, strike out "18 percent" and insert in lieu thereof "15 percent".

Mr. EDWARDS of Oklahoma. Mr. Chairman, yesterday in presenting my amendment to eliminate the National Grants program, I pointed out that a major part of my concern was based on the waiver of the criteria that are routinely used in selecting recipients of State and regional grants.

The gentleman from Illinois (Mr. Simon) presented cogent and, as it turns out, successful arguments against eliminating the National Grant program altogether, but we were in agreement that some tightening up was necessary.

Under the current law, 20 percent of the funds available under this program may be used by the Director for discretionary grants. The bill on the floor reduces that percentage to 18 percent. My amendment, which I am told will have the support of the subcommittee chairman Mr. Simon, reduces that percentage to 15 percent, not in any way reducing the amount of money available under the program but reducing by 3 percent the amount of discretionary money available to the Director and thus increasing by 3 percent the amount available for State and regional grants.

I think this is a reasonable amendment and urge my colleagues to support it.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I will be glad to yield to my colleague, the gentleman from Illinois.

Mr. SIMON. I thank my colleague for yielding. We have worked out this together. It is an acceptable amendment on this side.

Mr. EDWARDS of Oklahoma. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. Edwards).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 32, line 12, strike out "partisan".

Mr. KRAMER. Mr. Chairman, this amendment prohibits the use of funds or volunteers to assist lobbying activities before State and local legislative bodies, or with respect to initiatives or constitutional amendments, or the like. In its present form the bill as it has emerged from committee restricts these activities only to those done in a partisan way, but the definition of "partisan" simply means that connected with a political party.

So in effect we have a provision in the committee bill that really does very little, if anything at all. In order to effectively prohibit the use of Federal funds or Federal VISTA volunteers from participating in these lobbying activities either as witnesses or those behind the scenes trying to bus people to the legislature, or those behind the scenes writing testimony, the adoption of this approach would be necessary.

We know that it is almost impossible from our experience, I think, that we gathered from the witnesses in committee, for a VISTA volunteer to really separate himself from these kinds of activities unless this kind of provision is put into the law. I believe that every citizen has the right to speak his piece, and I believe that every citizen has the right to try to influence the legislative process, whether it be on the Federal level or the State level or whether it be before city councils or boards of county commissioners or the like. But the question is whether or not we want to use Federal funds to support one group's position over and above that of another, and I submit that that is an improper use of Federal funds.

In order to again get us away from the confrontation nature of that which has arisen around the whole VISTA program, to get us away from the politics of confrontation, to get us away from the politics of empowering through Federal advocacy one group against another in the community, I believe that the adoption of this approach is called for. It can be justified and is absolutely necessary.

The need for this amendment becomes obvious, I think, when we examine the direction in which the present director of the ACTION agency and the present director of VISTA have moved the agency. They have politicized the agency. They have utilized it in a way that is designed to bring about legislative change in State legislatures, in city councils, and in boards of county commissioners in an attempt to institute the social philosophy that they believe in through the work products of those various bodies. We feel that this is an inappropriate use of taxpayers' money and, as a consequence, we feel that the adoption of this kind of an amendment is highly necessary.

For example, Mr. Brown is quoted as saying in his Penthouse interview of December 9, 1977:

Penthouse. The rich, the corporations, Republicans in general may still regard a highly publicized VISTA program and your volunteers as a threat, no?

Brown. I assume they will and they ought to: if they don't then I'm not doing my job. . . . VISTA is not simply a service organization . . . it ought not to be just a bunch of low paid social workers. It ought to be people helping to get themselves together to build new institutions.

Tabankin on VISTA:

If it means organizing against a bank that's redlining, yes; if it means getting the city to pick up garbage, yes; if it means taking on City Hall, yes.

Brown. We need to build a new coalition of vision . . . for a more equitable distribution of wealth . . .

I suggest that that kind of philosophy implemented in legislation at the State level and the city council level provides an atmosphere of confrontation and divisiveness which runs contrary, I think, to the basic desires of most in Congress who want to see this agency perpetuated but in a way in which it works with local communities rather than polarizing one group in the community against another. With that explanation, Mr. Chairman, I hope that the committee will adopt this amendment.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is my understanding that my distinguished colleague, the gentleman from New York (Mr. Biaggi) will have a substitute to this amendment and, indeed, one is needed. But I could not help but respond at this point to the gentleman from Colorado (Mr. Kramer) in the assertion which goes not only to this amendment but to another one to follow, the effect of which would be to deny VISTA volunteers the right to appear before regulatory bodies. The gentleman's hortatory language expresses his interest in the right of everyone to speak his piece, but not, of course, if one is paid with a Federal dollar. I assume that this would eliminate prosecutors and would eliminate any Federal employee. The Federal dollar would shut up the school teacher or anyone else who received any sort of Federal aid from any source. What we are witnessing here is a calculated, and in many ways unsophisticated attempt, to decimate a program which has worked magnificently since 1964.

I am intimately acquainted with VISTA, having been its original author. The earlier version, which admittedly was not as good, followed the establishment of the Peace Corps, and was to have been called the Domestic Peace Corps. Implicit in the establishment of such a corps is the danger of political participation to which some people rather rightly object. However when the whole poverty package was put together, the concept of volunteers in service to America was included in the package and passed. Oddly enough, its legislative history will show that on initial passage of that legislation, not one word in the debate was directed against VISTA, and there has been very little since. There has simply been a calculated attempt further to deprive the poor, notwithstanding the support which the VISTA program, and the concept which it embodies, has had during the years since it has been in ACTION. The VISTA volunteers are paid so little, that how in the world they could afford to get before a regulatory body, except at their own personal expense, is beyond my understanding. This program is supported by the major newspapers of the United States, by volunteer groups, and there are a great number of such groups, by the U.S. Conference of Mayors, and by many others. This is not a program anything in concept like that which is described in the article from the magazine which the gentleman from Colorado read. I do not choose to read that magazine. I think it is pretty much junk, but each to his taste, and if that is a reflection of the gentleman's tastes, then we ought to look carefully at all of his amendments.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks. I think he says it very correctly that finally when we send a $5,000-, a $6,000-, or a $7,000-a-year volunteer to help out poor people, to help them organize their community, these are not organizations that come into being as a result of the Federal Government, but we send a volunteer or 10 volunteers to help these people.

□ 1200

Now, when they finally decide to take the step that they want to take to change the legislation at the national level, the local level, the city council, where they want to appear before the regulatory bodies, maybe change utility rates to try to help out senior citizens, when they finally get the opportunity and courage to do that—and the VISTA volunteers may have the highest educational attainment in the entire organization if you look at some of these organizations—they cannot have any help from this volunteer. It is a little bit like sending a laborer to a job and telling him he cannot touch any tools. These are the tools of change in this country. The gentleman is right. If we start here saying, "If you are the recipient of a Federal dollar your voice must be hushed."

Then we have to extend it to the schoolteachers and to city managers and to the mayors of this country because their voice must be hushed, also, if they want to make a plea for their constituency, because they received a Federal dollar. I think this is a very dangerous step to take and it is directed at decimating the program.

I appreciate the gentleman's remarks.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Thompson was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. I will say to my friend from California that the stipend is $317 per month. Their only means to live and to continue to do the good volunteer work they are doing, to survive and get to a place to complain about the conditions in a home for the aged, about the health conditions in various institutions, is that meager stipend. Do we expect people who are highly motivated and well educated, as the gentleman has pointed out, to move into a society or into an area where there is poverty and suffering, to recognize what the solutions are to help these people, who do not fully understand how to solve their own problem, and deny them the right as citizens to rectify the evils which they see in society? No way.

Mr. Chairman, these are nothing but carping, miserable, and parsimonious amendments designed specifically to decimate this great program.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. BIAGGI AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KRAMER

Mr. BIAGGI. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi as a substitute for the amendment offered by Mr. Kramer: Page 32, line 12, insert after "partisan" the following, "or non-partisan", and strike the words "activity carried out in connection with", and substitute the words "attempt to influence legislative actions"; and

Page 32, line 17, insert after "procedure," the following: "or any other such activity which is prohibited by law, or by a published rule of any such legislative body," and strike "activity carried out in connection with consideration of any Acts, bills, resolutions, or similar legislation," and substitute "the legislative actions".

Mr. BIAGGI. I understand the intent of the gentleman from Colorado (Mr. Kramer). There are many Members of the House who share his concern. However, I also recognize the value of the program in ACTION.

Mr. Chairman, I am fearful, in attempting to cure the ailment we may be throwing the baby out with the bath water. This substitute would be a more moderate attempt to deal with the problem.

Mr. Chairman, the amendment the gentleman from Colorado has offered would mean that no Federal funds could be used for any activity. The implication is that any contact with any legislator would be improper. I think this would impede the process in which we engage as Members of the Congress, as will members of other legislative bodies engage in. It is important that we have input from the community. It is important that we know what the problems are.

As a member of the Select Committee on Aging, we find the contribution of many witnesses in the field, local input, invaluable.

Currently, 50 States of the Nation provide matching funds for many Federal programs. Absent an ability to testify and present their views, the people in the field would be prevented from offering valuable testimony. In the end the objective of the legislative bodies would be ill served.

Mr. Chairman, my substitute, I feel, is constructive, more moderate, deals in part with the concerns of so many of us but by the same token does not cripple the ACTION agency.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I will be delighted to yield.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Simon, and by unanimous consent, Mr. Biaggi was allowed to proceed for 3 additional minutes.)

Mr. BIAGGI. I yield to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. I would resist the amendment as originally offered by the gentleman from Colorado (Mr. Kramer) and accept the amendment of the gentleman from New York if we can have a clear understanding and get it on the record, because there is a little vagueness in the law with the gentleman's amendment.

Mr. Chairman, I think this is the intent of the gentleman from Colorado (Mr. Kramer) and the gentleman from New York (Mr. Biaggi): The intent is not to say if a senior citizen group or a Presbyterian Church or any other has a project and has some VISTA volunteers, you are not saying that that Presbyterian Church or that senior citizen group cannot go to the State legislature or to the Congress or to the city council. What you mean to say here is simply that the VISTA volunteers paid by Federal funds cannot be lobbying. Is that a correct analysis or interpretation of the intent? I would appreciate a response from both gentlemen.

Mr. KRAMER. Will the gentleman yield?

Mr. BIAGGI. I will be delighted to yield.

Mr. KRAMER. I thank the gentleman for his comments.

Mr. Chairman, I think the gentleman has crystallized the problem. The amendment of the gentleman from New York (Mr. Biaggi) I think perhaps clarifies some basic vagueness in the original amendment that I offered. I think the problem we are referring to is, do we prevent the organization, itself, from participating in any lobbying activities, or do we simply preclude through this amendment utilization of Federal funds or the VISTA volunteers themselves, to be engaged in any way in that lobbying effort.

Mr. Chairman, I think what the gentleman's substitute amendment does, it clarifies it is the latter and not the former that the thrust of this substitute amendment would go to.

Mr. Chairman, with this caveat and understanding, I feel what we are getting at here is not only actual lobbying by the VISTA volunteers themselves—in other words, not only the testimony of the volunteers, but their participation in that testimony process. Whether it be by the preparing of testimony or whether it be by gathering large groups to pass the legislative assemblies with. That is what we are trying to get at: Simply the utilization of Federal funds or Federal volunteers in any way to advocate the passage or nonpassage of legislation or ordinances or resolutions.

We are, however, not trying to in any way prevent the organization, itself, to which the VISTA volunteer is assigned, from doing that lobbying or doing that contact with local or State legislative bodies. We believe that that organization has the right to do so, provided it does not utilize in any way the VISTA volunteer or Federal funds in that process.

Mr. BIAGGI. I would be delighted to respond. It is the furthest thought from my mind; as a matter of fact, it would be a very deep concern that the possibility of that development could occur. There should be no prohibition on the part of any organization or institution from lobbying and also testifying.

Similarly, we do not want this amendment to bar, for example, an older American volunteer whose project may require matching funds from making an appeal to a State or local legislative body. Also, if an ACTION volunteer or staff is formally requested by a legislative body or member to testify, my amendment's intent is not to prevent this with these exceptions.

The gentleman from Colorado clearly expresses my position in this matter. I know we share a mutual concern.

☐ 1210

Mr. SIMON. Mr. Chairman, I appreciate the statement. I think that clarifies the record. It clarifies the intent. It is, in fact, what is now in the regulations of the ACTION organization and what this does is to put it into statute.

Mr. Chairman, I would be pleased to support the amendment offered as a substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI) as a substitute for the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 32, line 17, insert after the second comma appearing therein the following:

"(3) Any partisan or non-partisan attempt to influence the issuance, amendment or revocation of any order, rule, regulation or promulgation by any Federal, State, or local rulemaking or regulatory agency, or any other such activity which is prohibited by law, or by a published rule of any such rulemaking or regulatory agency."

Page 32, line 19, strike out "(3)" the first place it appears therein and insert in lieu thereof "(4)".

Page 32, line 20, strike out "(4)" and insert in lieu thereof "(5)".

Mr. KRAMER. Mr. Chairman, I hope that we will adopt this amendment. What this amendment does is simply apply to State regulatory bodies or local regulatory bodies, whether they be commissions or boards or agencies, the same principle that we have now incorporated with respect to legislative bodies. It is simply that there will be no utilization of Federal funds or no utilization of VISTA volunteers in participating in front of these regulatory agencies to advocate a change in policy or a change in rule or regulation for the benefit of one group to the detriment of another.

Now, again I think the same rationale and logic applies. Everyone, I think, in a free society has the right to participate in this regulatory rulemaking process, whether it be at the State level, the county level, or at the city level. I think all of us believe in free speech and no one challenges that right.

The question is whether or not Federal funds or Federal VISTA volunteers ought to be utilized to participate in that process. I sugges that is an improper use of Federal money and Federal volunteers, that it is largely what has caused again, along with the State legislative activity, this whole confrontation-crisis, the divisive kind of atmosphere that has been surrounding ACTION in recent years.

Now, whether or not that is justified, and there are some differences of opinion as to whether or not those allegations are justified, and I think reasonable people can differ, I do not think there is any question, and there is virtually no disagreement, I think, on the issue that this kind of activity if it did go on does create that kind of confrontation and divisiveness, which does not allow ACTION to have the support of the local communities, whether they be at the State level or whether they be at the city or the county level, in which they then find themselves in a situation where one group supported possibly by Federal volunteers or Federal assistance is advocating change in a rule or regulation to the detriment of another.

Now, take the classic case of ratemaking or utility-making. I think that is probably one of the major instances in which this occurs. The issue simply put is, should VISTA volunteers or Federal funds be used in changing a State's way of charging for utility bills?

I suggest and I hope that the members of the committee will agree that that is an improper use of Federal funds and Federal volunteers, that the Federal taxpayer's dollar to which all of us have contributed ought not to be used against the individual who is contributing that taxpayer dollar, and that is obviously the case.

When you adjust utility rates, for example, you are, in fact, giving an advantage to one group. That advantage given to one group has to be made up from another group; so the rates for one group will adversely reflect the change made in favor of the one group. Obviously, all groups have participated in funding that VISTA volunteer, have contributed the tax dollars which go to funding the Federal ACTION program.

Now, when we go back and read statements again, which I have reiterated both in the opening comments and in the comments on the debate on the last amendment, it is clear that the philosophy of those who are presently in control of the ACTION agency, Mr. Brown or Miss Tabankin, regardless whether you agree with that philosophy or not, it is clear, I think, that that philosophy is aimed at bringing about those kind of changes.

I personally believe, and I hope the members of the committee will feel that that is not an appropriate philosophy—so that we statutorily incorporate the principle that the ACTION Director and the VISTA Director cannot proceed in that fashion in running the agency, simply that they cannot use the agency as a mechanism for Federal funds and VISTA volunteers to be channeled into administrative proceedings to change and influence basic State and local policies of a regulatory nature.

Now, if there is a justification for doing this at the State legislative level, certainly there is the same justification that exists for doing it at the administrative level. I submit that there is really no difference between the two types of entities that we are talking about for purposes of this kind of an amendment—whether it be legislative or administrative makes no difference.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(By unanimous consent, Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Mr. Chairman, if we are going to be consistent in the policy that we are adopting, then we ought to treat the legislative assemblies the same way as we treat the administrative assemblies. There is precedent for statutory restrictions on regulatory lobbying, in the Legal Services Corporation authorization, that kind of precedent was set. I hope that we will follow this precedent for ACTION, so that we can then put this agency on a track which will not require the days and days and hours and hours of testimony that we had this year and the confrontations and divisive nature, I think, of some of those proceedings. If we can just make some of these fundamental changes in the basic law of the agency, I think we can get on with the agency's business of serving our deprived populations of this country.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is no question that you can probably find cases where VISTA volunteers should not be appearing before rulemaking and regulatory bodies; but this language is far too sweeping. Let me just give a few practical examples. Among the volunteers through the ACTION agency are some student architects who are working on the Adopt-a-Building program that our colleague, the gentleman from New York (Mr. Green) was talking about yesterday. Suppose in the process of working on that, they discovered that the building code ought to be modified in some way and the regulatory body that sets up the building code should be contacted and they suggest changes. Why should we prohibit that?

Many of the volunteers work in nursing homes. In Illinois, the Department of Public Health administers and sets up rules for nursing homes. Should they be prohibited from contacting the Department of Public Health and saying, "We think this rule ought to be changed in such a way and this would be a real help to people who live in nursing homes."

□ 1220

We have many volunteers working with Indians scattered around the Nation. I can very well see that they may want to appear before or contact the Bureau of Indian Affairs for some purpose.

Or let us suppose something happens in certain inner city areas where the garbage is not picked up. Is there anything wrong with their contacting the appropriate body to talk about getting garbage service for people they are trying to help?

Mr. Chairman, this particular amendment is far too sweeping. I urge that it be defeated.

Mr. RATCHFORD. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I am pleased to be joined in the debate by my colleague, the gentleman from Connecticut (Mr. Ratchford), and I yield to him.

Mr. RATCHFORD. Mr. Chairman, let me pick up where the gentleman from Illinois (Mr. Simon) has left off.

I think when we are talking of the whole ACTION program or when we are talking of VISTA, we overlook the fact that these programs have an immense impact on the aging people of this country. There are 23 million Americans over the age of 60. The language of this proposed amendment is so broad that it would prohibit an outreach volunteer under the volunteer program from commenting on proposed regulations impacting on the aging in the outreach programs in the area of transportation.

It would say to the volunteer working in a senior transportation program, "You cannot comment on proposed regulations as they relate to the DIAL-A or transportation programs for our aging in the program network."

It would say to those who serve as volunteers for senior citizens funded under the Older Americans Act and regulated by the Department of HEW at the national level and by agencies on aging at the State level that "if you are a volunteer running a senior center and proposed regulations are developed, you cannot comment on these regulations."

Most significantly, Mr. Chairman, in the area of nursing homes and in the whole area of health care, without the volunteer for the aging, many of the critical programs we have today simply could not go forward. For example, in my State volunteers serve as patient advocates in nursing homes, pursuing complaints as they relate to the quality of care. Volunteer patient or nursing advocates or ombudsmen work with the people in nursing homes on the problems of patient abuse. Volunteers in the community work on the elderly abuse program, and there are programs as they relate to abuse of older people in the community.

All these programs fall under the regulatory process at the Federal level and at State and regional levels, and yet we have said, if we adopt this amendment, that the volunteer who is directly involved in the program, the volunteer who is concerned with improving the quality of care, the volunteer who is willing to see to it that the older American lives a better life in this country, cannot comment on regulations which impact on the whole field.

Finally, Mr. Chairman, this sets up a terrible double standard. If I may say this, in the nursing home area in my State, 70 percent of the patients in our nursing homes are medicaid patients, which means that when it comes to a question of quality health care or of rates in the State of Connecticut, we have professionals running the homes, we have administrators of homes, and we have accountants and lawyers for those who are running the homes, and they are using medicaid or medicare funds to come in and testify against regulations. Yet, if we adopt this amendment, we will not give to the volunteer the same standards.

Mr. Chairman, this amendment is far too sweeping. It sets up a double standard, and it really would inhibit quality care programs for the aging in America. For these reasons, I strongly oppose the amendment.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Simon) has expired.

(On request of Mr. Kramer, and by unanimous consent, Mr. Simon was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I am happy to yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, let me ask this question: Is it not true, though, in the case of the nursing administrator who comes in and testifies, he is not using medicaid funds? Those medicaid funds are used as payment for the care that the patient is receiving.

The medicaid funds are not meant to reimburse the nursing home administrator or any other nursing home employee for his loss of time when he comes in to testify; is that not so?

Mr. RATCHFORD. Mr. Chairman, if I may respond to the gentleman and if the gentleman from Illinois will yield, I would respond by saying that in a truly bookkeeping sense, I am sure that the accounting fees or legal fees for the home do not show up as being disbursed from medicare or medicaid funds. But I would say to the gentleman that any program that receives as heavy an infusion of Federal funding as this is certainly impacted in the process, and we are saying to that administrator or to his accountant or his lawyer, "You can come in and testify on these regulations all you want. We are not going to stop you, but we are going to stop the volunteer who is trying to improve this program."

Mr. Chairman, in no way could I support such a double standard.

Mr. KRAMER. Mr. Chairman, will the gentleman yield further?

Mr. SIMON. I am pleased to yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this, I think, places the basic issue before us. Should the taxpayers or the country as a whole fund the ability of one group to challenge another?

I do not feel that is an appropriate use of VISTA volunteers. They are not put there nor are they designed to go into a situation and stir up turmoil and controversy. To argue that that is their duty is not proper.

No one resists the idea or argues with the right of any outside public service interest group, whether it be ACORN, whether it be the Midwest Academy, or whether it be the Federation of Southern Cooperatives or any other group, to come in and argue with all their heart and all their ability in order to convince or persuade people to a certain point of view that what is happening in certain regulatory practices is not appropriate. But I would suggest it is an inappropriate use of Federal taxpayers' funds to use this money for that purpose.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Simon) has again expired.

(By unanimous consent, Mr. Simon was allowed to proceed for 1 additional minute.)

Mr. SIMON. Mr. Chairman, I do not want to prolong this debate, but it seems to me clear that what my colleague, the gentleman from Connecticut (Mr. Ratchford), said really hits the nail on the head.

While this amendment is well-intentioned and would apply correctly in a few extreme situations, in most cases it would result in far too sweeping a statutory change, and it would impact very unfairly on a great many people.

Mr. Chairman, I hope the amendment is defeated.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not going to take very much time, but I have been sitting here watching the sands of time slip away. We are not talking about a cotton-picking thing; we are not talking about anything here.

I have just checked to refresh my recollection. The most or the maximum that one of these volunteers can get is $317 a month. Can you imagine that? You work for a month serving your fellowman, and the most you can get is $317.

Now, then, are we going to say that this man or woman, or this boy or girl, who is working in effect pro bono publico, out of the goodness of his heart, to help his fellowman for 317 bucks a month, or $10 a day, cannot take a day off and go and tell the Government: "Hey, Government, you're making a mistake over here in this nursing home," or "You ought to do something about the garbage that wasn't picked up on this street over there"?

Sure, he is spending a part of that $10 he earned that day. But if we want to call that having the Federal Government finance lobbyists to come in and persuade our regulatory agencies, should we not be a little bit ashamed of ourselves? Do we not think we ought to pay our lobbyists a little bit more than $317 a month, if that is what in fact we are doing?

Let us not pick nits any longer. That is all we are doing here. I am a little embarrassed when a charity worker is treated this way, and they are charity workers, believe me.

Out of that $317, they have to eat. If any of you have bought any food lately, you know what food costs. How much food are you going to buy when you get paid $317 a month?

They need a toothbrush once in awhile. At Safeway last night they were 59 cents. I know because I bought one.

They are going to have to buy some beans once in awhile and that is about all they are going to get on $317 a month, and then they had better wait until they are on sale.

They might have to buy some shoes once in awhile. When was the last time you bought a pair of shoes? At $317 a month, you are not going to buy very many. No sir, you are not.

Mr. Chairman, I say let us quit picking nits. This amendment should be defeated. These are decent people who are contributing to humanity, and they are willing to spend a little bit of their time.

Let us get on with some of the work of the day. We have a $30 billion deficit. Let us work on that for a change. Our schools are falling down. Let us start to work on that for a change.

☐ 1230

And then there is public health, heavens, we are the richest Nation on Earth, and we have hundreds of thousands of people without adequate medical care.

Let us work on that for a change. Let us not pick on these decent people who work as volunteers for $317 a month to help their fellowman. Let us vote down this amendment, let us vote down all amendments like it. Let us pass this bill and get on with the important work of this Congress.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just respond to my colleague, the gentleman from California, that the reason we have a $30 billion deficit is because Congress continues to create $43 million programs such as the one that the gentleman just very beautifully described and continually spends the taxpayers' money for purposes for which it should not be spent.

The gentleman is not concerned that this agency has repeatedly used the hard-earned tax dollars of the gentleman's constituents in California and my constituents in Maryland, not just to further the health of the aged, not just to further garbage collections, not just to further the architectural correctness of building codes, but to lobby, to intervene politically, to advance the strange ideas of Sam Brown & Co., and all of their little minions who are out of step with this country. I think that is really the issue here.

You may think we are nitpicking, but this is a classic example of the left wing, liberal philosophy that has driven our economy into the ground over the years, year after year, and the gentleman sits there and smiles about it. I think that the people back home are concerned. It is just such amendments as this that make a difference when, in the final analysis, we total up that deficit that the gentleman pretends to be concerned about.

So far as the pay rates of the volunteers, I yield to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. I thank the gentleman for yielding.

I would like to comment on the pay rates and maybe a little more, if I have any time left.

The gentleman is, I think, generalizing an incorrect statement about how much VISTA volunteers earn. The highest paid earn $547 a month. They can also receive at the end of their year's service a stipend of about $750 plus, and under existing law, they can also be AFDC recipients on top of all that, and if a provision in this bill goes into effect, they will now also be exempt, if they are AFDC recipients, from even registering for WIN. So the financial remuneration is a little more than the gentleman's statement suggests. But I do not think that is the real issue. The question is, Do we use Federal funds for these purposes? No one is arguing with the right of a VISTA volunteer to call up the local city and say, "Look, the garbage is not getting collected." The question is a difference of implementing existing policy or being in the forefront of changing and pioneering new policy.

I would suggest to the gentleman that it is not just a couple of isolated examples. The kinds of organizations that ACTION is presently funding, and legally so under existing law, are directed, are rooted, have as their sole and fundamental purpose these kinds of fundamental social changes, whether it be utility rate restructuring, whether it be nursing home reforms. These are the reasons for the existence of these organizations. I can quote an example. This is a very typical example from a Minnesota public research group. In their project narrative—the description of what they are asking money for under the National Grants program—they list in the volunteer assignment description: "Organize the CUC, citizens utility coalition, to achieve citizen impact on State and local public service commissions, especially relating to rate increases; provide low-income people with information on energy conservation and utility issue." It goes on and on, that the basic, fundamental purpose of many of these organizations being funded is for political change. Ratemaking. Nursing home reform. The list goes on and on.

I do not feel that that is an appropriate utilization of taxpayers' expenditures. That is the reason I think, as the gentleman from Maryland so aptly pointed out, that we have accumulated an $830 billion debt in this country, the interest on which is now the third largest item in the budget. The interest alone consumes 11 percent of our whole national budget, and amounts to $280 a year for every man, woman, and child in the country.

It is with programs such as this, the improper utilization of taxpayers' funds, where we ought to start cutting back, and I cannot think of a more appropriate place in the use of taxpayers' funds than the advocacy of one policy adopted by one body or segment of this population to be utilized against another segment of the population.

Mr. BAUMAN. Mr. Chairman, I would just add that my reading of this amendment does not bear any relationship with the opponents' argument and their description of it. It simply, as I read it, says that the taxpayers' funds will not be used to finance lobbying by employees of these agencies. The people who have these leftist views have the right to express them, but not at the expense of the taxpayers. That is why the amendment should be supported.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will remind those in the gallery that they are guests in the House, and no outward manifestation of interest is permitted.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would not try to reiterate the number of arguments that have been raised in opposition to the amendment. The subcommittee chairperson and my distinguished colleague, the gentleman from Connecticut, have more than adequately and articulately laid out a number of specific reasons why this amendment should be opposed.

I would simply like to take the remaining moments of my time to respond to the statement made by my distinguished colleague, the gentleman from Maryland (Mr. BAUMAN). He indicated that in some way these "leftwing liberals" have busted the budget. I am not sure that I have ever heard of a rightwing liberal. but I am not quite sure why he makes those statements. However, I would like to place in proper context what this bill is all about.

The total authorization for this bill is the incredible amount of $42,415,000 in a budget that exceeds $500 billion.

My colleague advanced the notion that this $42.4 million, a pittance in a megabillion dollar budget, in some way is busting the budget.

I concur with my distinguished colleague, the gentleman from California, when he said that we are nickel and diming the poor people to death in this Congress, and I join him in his shame, in his disdain for the lack of dignity in beating poor people to death, spending hours fighting over $42 million when my same colleagues were not prepared to spend all day challenging $670 million downpayment on a $40 billion MX missile system that will feed not one human being in this country, that will provide no great support to the security of the American people and, in fact, which will destabilize peace. The same colleagues who fight against this $42 million budget, a pittance in our budget, voted for a $2.1 billion nuclear aircraft carrier that is a sitting duck, it is an absolute turkey, it is an example of yesterday's warlike mentality. Billions and billions and billions of dollars to perpetuate the insanity of war, death, and destruction. We have a $139 billion budget, yet we find ourselves arguing over $42 million to deal with the problems of the poor.

I would suggest that we go back to those pages now stained yellow with age that are the underpinnings of this society. It says that part of our responsibility is to promote the general welfare of human beings. I find it cruel and unusual punishment when we find ourselves challenging a few dollars going to serve needy, desperate, poverty-stricken human beings of all ages in our society. Where is our idealism? Where are our principles? Where is our integrity? What is this Government supposed to be about if it is not to serve the will of the people? The amount of $139 billion to develop a military budget, and we can stand here for days arguing whether it will save American people. And when you exclude the fixed expenditures of the Federal Government, I would suggest to the Members that when you compute how much money we spend on defense, it is approximately 55 percent of the money we in this Congress allocate on an annual basis. Forty-two million dollars is not going to wreck this multibillion-dollar budget. I would simply like to place that in proper context.

If one wants to talk about where the budget strains really are they have nothing to do with those programs serving poor people. There are billions and billions of dollars that go to the wealthy, that go to the Pentagon, that go to corporations, where those dollars do not have a multiplier effect in the general economy thereby helping human beings.

Again, Mr. Chairman, I would conclude by saying that I concur with my colleague. We spend hours here. We probably spend more time, when you add up the votes, the rollcalls, the quorum calls, the hours we spend in debate, the number of hours these lights are turned on, the microphones are on, cameras are on, we probably spend $42 million debating spending $42 million. It would seem to me that if we care about human beings we will reject out of hand this absurd notion that we cannot spend a few dollars for human beings. Let us stop nickel and diming human beings to death. When we talk about taxpayers' money, let us talk about the billions of dollars of taxpayers' money that is going down a rathole that will never solve their problems and will never deal with the issues. This small pittance will multiply many times over in terms of the hope, aspirations, and the idealism that is supposed to be what this democratic society is all about.

□ 1240

Mr. KINDNESS. Mr. Chairman, I move to strike the last word.

I would like to strike more than the last word and several words that I have heard here this afternoon. I did not intend to participate in this debate, like the gentleman from California (Mr. DANIELSON), but I sat here and had my intelligence insulted to such an extent that I will help prolong the debate, too.

The insanity of the policies that are followed by this Congress involving the repeating time after time, hundreds of times over the years, of the same kind of argument we have just heard and say, "Oh, $42 million is nothing." is disturbing. Nothing is more severe for the poor people of this Nation than the inflation that surrounds them. It surrounds them much more closely than the wealthy.

We keep spending ourselves into a deficit that devalues the dollar, that hurts poor people the most in terms of that devaluation.

We do it through nickel and diming, if you call $42 million a nickel or a dime. We do it through defense spending, too. We do it through all of the Federal spending.

I think it is about time that we quit saying to one another on the floor of this House, "Your concept of spending money is no good, and my concept of spending money is."

It is time that we had better look at the overall spending of this Nation's budget in such a way as to bring it all within control.

It requires each one of us to exercise some diligence in dealing with legislation, such as we have before us today. Where there is a serious proposition put forward, let us look at the other fellow's point of view as to what may be a waste. Let us look at what may be improper spending of the taxpayers' hard-earned dollars; those taxpayers out there are pretty mad about what is happening in our economy.

I think it is insulting to the intelligence of the Members of this House to be told that $42 million is "nickel and diming." I think we ought to be a little more serious about each bill that we act on that comes across the floor of this House.

The gentleman from Colorado has put forward a series of propositions intended to bring good commonsense into the management of this program, which has been under fire from all directions.

Why do not we exercise the commonsense he suggests and adopt the amendment?

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman who just spoke indicated that what we really ought to do is look at all expenditures, whether they are $2 billion expenditures or whether they are $42 million expenditures. I quite agree with him.

Here in this amendment we are saying that if poor people or elderly people have the help of a VISTA volunteer who earns $300 a month or $400 a month, and that volunteer is helping them to organize and appear before regulatory agencies—maybe it is a nursing home commission or a public utility commission—that they cannot do that, they cannot have the benefit of that help, because that is a use of taxpayers' dollars.

Nevertheless, you know, in the old days before we had an energy crisis, you had utility rates where it said the more you use the less you pay. So you had homeowners, elderly people, people who were small users subsidizing the large users of electricity. Now we are trying to conserve. We are trying to change around. We are saying, "If you use more, you will pay more," because then one will conserve, but the businesses that liked that subsidy and the utility companies that liked that because they sell more electricity and gas, they can employ an attorney. They can employ consultants. They can employ all of this high-powered help to keep down some neighborhood organization, some group of senior citizens, and all of that is deductible.

You know, we talk about indirect expenditures. It all goes out because it reduces how much taxes they pay to the Federal Government. They can hire a major law firm, and they can say, "Bill us at $100 an hour and $300 when you make a personal appearance. We will keep you on retainer." We sure will help keep these poor folk down. That is how it is done. That is through an expenditure of Federal taxpayers' dollars, because for every dollar in deduction they get, they do not pay the Federal Treasury. So we have expended dollars. But we do not look at those indirect expenditures. So the guardians of the Federal Treasury are going to lead us to believe that somehow this is a Federal expenditure of money that is inappropriate, but anybody who can engage the powers of an attorney of a law firm, of consultants, to make their case for not picking up the garbage or not raising the rates, they deduct it and it costs the Federal Government money. I fail to see the difference between these two expenditures of Federal moneys.

You tell those people who are looking for nursing home reform, trying to get fire standards, and all the safety measures that politicians beat their breasts about, that they cannot have, if they are so fortunate to have a VISTA volunteer, they cannot have the help of that volunteer as they go before one of these powerful agencies and try to bring about change.

The nursing homeowner, my God, he gets the attorney at taxpayers' expense. They cannot have a VISTA volunteer. It is a wonderful system of justice.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The amendment was agreed to.

● Mr. PEPPER. Mr. Chairman, H.R. 2859, the Domestic Volunteer Service Act Amendments of 1979 being considered on the floor of the House today.

With the passage of this legislation, we in the Congress and in the executive branch, in essence, are making life better for our elderly and helping the whole Nation. We have been urging our fellow citizens to help their fellow man, to help themselves, and the programs contained in this legislation, VISTA, the National Students Volunteer program, and the newly proposed Urban Volunteer Corps will provide the support for these volunteer efforts.

I am particularly pleased with the addition of the Urban Volunteer Corps to the volunteer programs under ACTION. The Corps is intended to provide technical and management assistance to community groups, and would be recruited from business, academic, and nonprofit organizations, and public agencies within those communities. They would provide their considerable expertise to these organizations.

What I am particularly pleased about, is that this Corps would also provide counseling to the elderly and low-income individuals, and would assist in funding projects to provide personal assistance to the elderly, handicapped, and developmentally disabled in order to reduce the need for institutionalization.

All of you have heard me talk time and time again about the need to prevent institutionalization of our older Americans. The Select Committee on Aging has held hearing after hearing in which witness after witness has reiterated that institutionalization should be a very last resort. Unfortunately it is not, and our nursing homes and hospitals have become warehouses. The other side of this coin is the release of older mental patients into the community who desperately need counseling and assistance. This provision to provide for volunteers to assist these often forgotten segments of our population is most welcome and most timely.

I am sure that anyone who participates in the Urban Volunteer Corps or in any of the volunteer programs we are discussing here today deserves the support of this House. These programs are needed, and while they are not large or expensive they are vital to the well-being of thousands of our citizens who have come to rely upon the services provided by the volunteers participating in them.●

The CHAIRMAN. Are there other amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DAN DANIEL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes, pursuant to House Resolution 367, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ASHBROOK moves to recommit the bill, H.R. 2859, to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 307, nays 106, not voting 20, as follows:

[Roll No. 541]

YEAS—307

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gilman
Gingrich
Ginn
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hance
Hanley
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Wampler
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—106

Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bethune
Bevill
Bouquard
Broyhill
Butler
Carney
Chappell
Cheney
Cleveland
Collins, Tex.
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Edwards, Ala.
Edwards, Okla.
English
Evans, Ind.
Fenwick
Flippo
Forsythe
Frenzel
Gephardt
Goldwater
Gramm
Grassley
Grisham
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Hinson
Holt
Hopkins
Hubbard
Hyde
Ichord
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Lagomarsino
Latta
Leath, Tex.
Loeffler
Lott
Lujan
McDonald
Madigan
Martin
Michel
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
O'Brien
Patten
Paul
Quayle
Quillen
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Snyder
Stenholm

Stump
Symms
Taylor
Vander Jagt
Walker
Watkins
Whitten
Wydler
Young, Fla.

NOT VOTING—20

Beard, R.I.
Bolling
Bonior
Brown, Ohio
Clausen
Collins, Ill.
Diggs
Flood
Frost
Giaimo
Gibbons
Glickman
Harkin
Stockman
Treen
Vento
Walgren
Waxman
Wilson, C. H.
Winn

□ 1300

The Clerk announced the following pairs:

Mr. Giaimo with Mr. Brown of Ohio.

Mr. Charles H. Wilson of California with Mr. Frost.

Mr. Vento with Mr. Winn.

Mr. Waxman with Mr. Walgren.

Mr. Harkin with Mr. Clausen.

Mr. Diggs with Mr. Gibbons.

Mr. Beard of Rhode Island with Mr. Glickman.

Mrs. Collins of Illinois with Mr. Bonior of Michigan.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Domestic Volunteer Service Act of 1973 to authorize appropriations for programs under such act, to facilitate the improvement of programs carried out under such act, to authorize the establishment and operation of urban volunteer programs, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. SIMON. Mr. Speaker, pursuant to House Resolution 367, I call up from the Speaker's table the Senate bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. SIMON

Mr. SIMON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIMON moves to strike out all after the enacting clause of the Senate bill, S. 239, and to insert in lieu thereof the provisions of the bill, H.R. 2859, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Domestic Volunteer Service Act Amendments of 1979".

ASSIGNMENT OF VOLUNTEERS

SEC. 2. (a) The second sentence of section 103(b) of the Domestic Volunteer Service Act of 1973 (hereinafter in this Act referred to as the "Act") is amended by striking out "Prior to" and inserting in lieu thereof "Not later than 30 days after".

(b) (1) The first sentence of section 103(d) of the Act is amended—

(A) by inserting "and to the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "of the State concerned,"; and

(B) by striking out "him" and inserting in lieu thereof "them".

(2) The last sentence of section 103(d) of the Act is amended by inserting ", or by the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "the State concerned" each place it appears therein.

SUPPORT SERVICE

SEC. 3. The first sentence of section 105(a) (2) of the Act is amended to read as follows: "Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.".

LIMITATION ON USE OF FUNDS FOR CERTAIN GRANTS

SEC. 4. Section 108 of the Act is amended by striking out "20 per centum" and inserting in lieu thereof "15 percent".

SERVICE IN UNIVERSITY YEAR FOR ACTION PROGRAMS

SEC. 5. Section 113(a) of the Act is amended by striking out "and" and inserting in lieu thereof the following: "except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year. Volunteers serving under this part".

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 6. (a) Section 114(a) of the Act is amended to read as follows:

"SEC. 114. (a) (1) In adddition to the authority of the Director to provide for the operation of the University Year for ACTION program under this part, the Director is authorized to provide technical assistance and financial support to service-learning programs which—

"(A) assign volunteers to activities which meet the requirements of subsections (a) and (c) of section 103;

"(B) carry out the purposes of this part; and

"(C) provide opportunities for the enhancement of the personal, academic, and career growth of the volunteers involved.

"(2) The Director is authorized to provide such assistance and support through the establishment of a national office for service learning or in any other manner which the Director considers appropriate.".

(b) Section 114(c) of the Act is amended to read as follows:

"(c) The Director may provide volunteers serving under this section such support and allowances as the Director determines to be necessary to permit such volunteers to carry out their assignments.".

SPECIAL VOLUNTEERS PROGRAMS

SEC. 7. (a) Section 122(a) of the Act is amended—

(1) by striking out "and" the first place it appears therein; and

(2) by inserting after "abusers" the following "; programs to provide technical and management assistance and to provide volunteers and neighborhood organizations with the materials, tools, supplies, and administrative support necessary to carry out community betterment projects in urban areas, and other areas affected by problems of stress and deterioration similar to those found in urban areas; financial and consumer counseling for low-income and fixed-income persons; and a program to reduce the necessity of institutionalization and ameliorate the residential isolation of older persons, handicapped persons, and other similarly isolated persons".

(b) Section 122(c) of the Act is amended to read as follows:

"(c) (1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of 20 hours or more per week for 26 or more consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of section 104(c) and section 105(b) to the service of volunteers enrolled for full-time service under this part.

"(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of one year or more under this part—

"(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

"(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of sections 103(b) relating to low-income community volunteers, 104(d), and 105(a), to the extent such provisions are applied to the service of volunteers enrolled under such part A.".

PROHIBITION OF USE OF FUNDS FOR CERTAIN LOBBYING ACTIVITIES

SEC. 8. Section 403(b) of the Act is amended—

(1) by striking out "a manner supporting or resulting in the identification of such programs with" and inserting in lieu thereof "any manner for the purpose of providing assistance for";

(2) by inserting after "party office," the following: "(2) any partisan or nonpartisan attempt to influence any legislative action of the Congress, any State legislature, any local council, or similar governing body, or in connection with any referendum, initiative, constitutional amendment, or similar procedure, or any other such activity which is prohibited by law, or by a published rule of any such legislative body, (3) any partisan or nonpartisan attempt to influence the issuance, amendment or revocation of any order, rule, regulation or promulgation by any Federal, State or local rulemaking or regulatory agency, or any other such activity which is prohibited by law, or by a published rule of any such rulemaking or regulatory agency,"; and

(3) by striking out "(2)" and inserting in lieu thereof "(4)", and by striking out "(3)" and inserting in lieu thereof "(5)".

RECEIPT OF ASSISTANCE OR SERVICES

SEC. 9. (a) Section 404(g) of the Act is amended by inserting "(1)" after "(g)", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.".

(b) The amendments made in subsection (a) shall take effect on October 1, 1979.

COORDINATION WITH OTHER PROGRAMS

SEC. 10. Section 410 of the Act is amended by adding at the end thereof the following new sentence: "The Director, in consultation with the heads of appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provision for the listing and description of volunteer work on employment application forms.".

APPLICATION OF FEDERAL LAW

SEC. 11. (a) Section 415(b) of the Act is amended—

(1) by striking out "in programs under title I of this Act for periods of service of at least one year" and inserting in lieu thereof "as volunteers for periods of full-time service for eight or more consecutive weeks, or to the extent the Director shall prescribe by regulation, for periods of part-time service of not less than 20 hours per week for 26 or more consecutive weeks, under title I of this Act";

(2) by striking out "and" at the end of paragraph (3) thereof;

(3) in paragraph (4)(A) thereof, by striking out "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-7 employee," and inserting in lieu thereof "the annual rate of pay of a volunteer enrolled for a period of full-time service shall be deemed to be that received under the entrance salary for a grade GS-7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service shall be deemed to be the entrance salary of a grade GS-2 employee,"; and

(4) by inserting before the period at the end thereof the following: ", and (5) be deemed employees of the United States for purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes)".

(b) Section 415 of the Act is amended by adding at the end thereof the following new subsection:

"(f)(1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code; or

"(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1364(b) or 2672 of such title 28;

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, paramedical personnel (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel in furnishing medical care or treatment while in the exercise of the duties of any such person as a full-time volunteer enrolled under title I of this Act shall, beginning on the effective date of this subsection, be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or the estate of such person) whose action or omission gave rise to such claim.

"(2)(A) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or the estate of such person) for any such damage or injury.

"(B) Any such person against whom such civil action or proceeding is brought shall deliver, within such time after the date of service or knowledge of service, as determined by the Attorney General, all process served upon such person or an attested true copy of such process to the immediate supervisor of such person or to any other individual designated by the Director to receive such process or copy. The supervisor or other individual shall promptly furnish copies of the pleading and process to the United States attorney for the district in which the proceeding is brought and to the Attorney General.

"(3)(A) Upon a certification by the Attorney General that the defendant was acting in the scope of the volunteer assignment of the defendant at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division in which it is pending. The proceeding shall be deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto.

"(B) After such removal under subparagraph (A), the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States.

"(C) If a United States district court determines on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of the volunteer assignment of such volunteer, then the case shall be remanded to the State court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.".

NONDISCRIMINATION PROVISIONS

SEC. 12. (a) Section 417(a) of the Act is amended—

(1) by inserting "handicap," after "age,"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), any project or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.".

(b) Section 417 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers and to volunteers enrolled by the ACTION Agency for service under title I of this Act. Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

"(2) Not later than 90 days after the effective date of this subsection, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and with the Secretary of Health, Education, and Welfare and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791 (a)), with regard to the application of policies set forth in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and not later than 90 days after the Secretary of Health, Education, and Welfare publishes final general regulations to carry out the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote the enrollment and service of persons as volunteers without regard to the discriminatory factors prohibited in such laws.".

REGULATIONS: REQUIREMENTS AND ENFORCEMENT

SEC. 13. (a) Section 420 of the Act is amended to read as follows:

"SEC. 420. (a)(1) For the purpose of this section, the term "regulation" means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Director. Any such rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this Act shall not have the standing of a Federal statute.

"(2) Regulations issued by the ACTION Agency or by any official of such Agency, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"(b)(1) No proposed regulation prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

"(2)(A) During the thirty-day period prior to the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

"(B) If the Director determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. If neither committee disagrees with the determination of the Director within 10 days after such notice, the Director may waive such requirement with respect to such regulation.

"(c) All such regulations shall be uniformly applied and enforced throughout the fifty States.

"(d)(1) Concurrently with the publication in the Federal Register of any final regulation of general applicability as required in subsection (b) of this section, such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the Act from which it derives its authority, and disapprove such final regulation. Failure of the Congress to adopt such a concurrent resolution with respect to any such final regulation prescribed under any such Act, shall not represent, with respect to such final regulation, an approval or finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

"(2) The forty-five-day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Human Resources of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the Director a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

"(e) Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the agency may thereafter issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

"(f) Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Director shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Director has planned to promulgate final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be promulgated in accordance with such schedule. If the Director finds that, due to circumstances unforeseen at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such findings and submit a new schedule. If both such committees notify the Director of their approval of such new schedule, such final regulations shall be promulgated in accordance with such new schedule."

REDUCTION OF PAPERWORK

SEC. 14. (a) Title IV of the Act is amended by adding at the end thereof the following new section:

"REDUCTION CF PAPERWORK

"SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. In accordance with chapter 35 of title 44, United States Code, the Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.".

(b) The table of contents for the Act is amended by inserting after the item relating to section 422 the following new item:

"Sec. 423. Reduction of paperwork.".

TERMINATION OF PROJECTS

SEC. 15. (a) Title IV of the Act, as amended in section 14, is further amended by adding at the end thereof the following new section:

"TERMINATION CF PROJECTS

"SEC. 424. (a) The Director shall not renew any contract or grant to carry out any project under this Act upon the expiration of such contract or grant if the chief executive officer of the State in which such project is being carried out furnishes written notice to the Director (before the expiration of such contract or grant) specifying that such chief executive officer does not concur in the renewal of such contract or grant.

"(b)(1) If the executive authority of any local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall review such statement and take it into account in determining whether to renew such contract or grant.

"(2) For purposes of this subsection, the terms 'executive authority' and 'local government' have the meanings given them in section 136.".

(b) The table of contents for the Act, as amended in section 14, is further amended by inserting after the item relating to section 423 the following new item:

"Sec. 424. Termination of projects.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a)(1) Section 501(a) of the Act is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2)(A) In each fiscal year specified in paragraph (1), of the sums appropriated under this subsection, not less than $873,000 shall be available for the operation of service-learning programs under section 114.

"(B) Of the sums appropriated under this subsection for the fiscal year ending September 30, 1980, not less than $3,200,000 shall be available for the operation of the University Year for ACTION program under part B of title I. Of the sums appropriated under this subsection for the fiscal year ending September 30, 1981, not less than $3,200,000 shall be available for the operation of such program.".

(2) The first sentence of section 501(a)(1) of the Act, as so redesignated in paragraph (1), is amended by striking out "and" after "June 30, 1974,", and by inserting after "September 30, 1978," the following: "$42,415,000 for the fiscal year ending September 30 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981,".

(b) Section 504 of the Act is amended by striking out "and" after "September 30, 1977,", and by inserting "September 30, 1980, and September 30, 1981," after "September 30, 1978,".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 17. (a)(1) The table of contents for the Act is amended by striking out the items relating to title III, section 301, section 302, and section 503.

(2) The amendments made in paragraph (1) shall take effect on October 1, 1979.

(b)(1)(A) The heading for title II of the Act is amended to read as follows:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS".

(B) The table of contents for the Act is amended by striking out the item relating to title II and inserting in lieu thereof the following new items:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS".

(2) Section 221 of the Act is amended by striking out "Office of Economic Opportunity" and inserting in lieu thereof "Community Services Administration".

(c) Section 403(b) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(d) Section 415(c)(2) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(e) Section 41 of the Act is amended by striking out "titles II and III of this Act" and inserting in lieu thereof "part D of title I of this Act, or pursuant to titles II and III of this Act,".

REPORT RELATING TO RURAL PROGRAMS

SEC. 18. (a) The Director of the ACTION Agency shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives specifying the special needs and circumstances which the Director intends to address in designing programs under the Act for implementation in rural areas. Such report shall include a detailed statement of the manner in which the Director intends to address such needs and circumstances, together with a timetable for designing and implementing such programs.

(b) The report required in subsection (a) shall be submitted not later than February 1, 1980.

AMENDMENT TO OTHER LAW

SEC. 19. Section 5(b) of the Act entitled "An Act to amend further the Peace Corps Act, and for other purposes", approved November 14, 1975 (Public Law 94-130; 89 Stat. 681), is amended by striking out the last sentence thereof.

LIMITATION ON PAYMENT AUTHORITY

SEC. 20. Notwithstanding any other provision of the Act, any authority to enter into contracts or to make payments under the Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts in advance.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Domestic Volunteer Service Act of 1973 to authorize appropriations for programs under such act, to facilitate the improvement of programs carried out under such act, to authorize the establishment and operation of urban volunteer programs, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2859) was laid on the table.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 239

Mr. SIMON. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendments to the Senate bill, S. 239, the Clerk be authorized to make such technical corrections as may be necessary to reflect the actions of the House in amending the bill, H.R. 2859.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 239

Mr. SIMON. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill, S. 239, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. Perkins, Simon, Brademas, Beard of Rhode Island, Miller of California, Hawkins, Biaggi, Stack, Ashbrook, Kramer, Coleman, and Erdahl.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

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PROVIDING FOR CONSIDERATION OF H.R. 2061, JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 351 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 351

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and (401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2061) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of sections 401(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2061, the House shall proceed, sections 401(a), 401(b)(1), and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill S. 241, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2061 as passed by the House.

The SPEAKER. The gentleman from New York (Mr. Zeferetti) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta) for purposes of debate. Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 351 provides for the consideration of H.R. 2061, the Justice System Improvement Act of 1979. The rule allows for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The Judiciary Committee reported an amendment in the nature of a substitute that along with the introduced bill would be subject to points of order under sections 401(a) and 401(b)(1) of the Congressional Budget Act of 1974. Section 401(a) prohibits the consideration of any bill which provides new contract authority unless that bill also provides that such new spending authority is effective for any fiscal year to such extent or in such amounts as are provided in appropriation acts. Section 401(b)(1) provides that it shall not be in order to consider any bill containing an entitlement provision effective before the first day of the fiscal year which begins in the calendar year the bill is reported. In other words no entitlement contained in a bill reported in 1979 should become effective before the first day of fiscal year 1980. The Rules Committee, however, has been informed that the Judiciary Committee will offer amendments on the floor to correct these violations and, therefore, has granted waivers of both sections.

In addition House Resolution 351 waives clause 5, rule XXI of the rules of the House which prohibits the inclusion of appropriations in a legislative bill. After passage of H.R. 2061 it will be in order to strike all after the enacting clause of the bill S. 241 and to insert in lieu thereof the provisions contained in H.R. 2061 as passed by the House, sections 401(a), 401(b)(1), and 402(a) of the Congressional Budget Act of 1974 notwithstanding.

Mr. Speaker, H.R. 2061 authorizes $800 million for the Federal Law Enforcement Assistance Administration which will be used to assist and improve the quality of justice systems in State and local governments. The measure amends the Omnibus Crime Control and Safe Streets Act of 1968 and restructures LEAA to answer criticism that has been leveled at the administration since its inception. These reforms include: First, elimination of the requirement that States submit an annual comprehensive plan for the use of the Federal funds, and in its place substituting a 3-year application; second, introduction of a new simplified application process by which local units of Government and State agencies receive Federal funds from the State administering agency; third, modifying the formula by which each State's share of formula grants is computed by including, in addition to the population distribution factors used under present law, provision for an alternative formula taking into consideration crime rates, tax efforts, and criminal justice expenditures; fourth, expands the provision for guaranteed proportional shares of funds going to larger jurisdictions; fifth, establishment of a national priorities grant program for funding programs shown to be successful; sixth, establishing in addition to LEAA, separate organizational units within the Department of Justice to administer programs for research and criminal justice statistics; and seventh, establishment of an Office of Justice Assistance, Research, and Statistics.

Mr. Speaker, I believe with my background in law enforcement that I have been as much aware of the problems of LEAA as any of my colleagues. Changes in LEAA have been needed from the outset and I am hopeful some of the comprehensive reforms outlined in this measure will help make LEAA more efficient and effective. I am, however, deeply disturbed that very little money has been authorized for prison rehabilitation and that under new provisions contained in this measure block grant money for construction is prohibited. Reports conducted by LEAA show conclusively that our Nation's jail population is on the increase yet funds for the rehabilitation and construction of prison facilities is decreasing. The byproduct of this is the release of hundreds of undeserving prisoners simply because of the unavailability of space. I realize this is not a glamorous issue nor one that is politically attractive but I do believe the problem is real and one that cannot be constantly shoved aside. The $800 million authorization contained within this measure is hardly enough to relieve the problems of overcrowding. I am not suggesting that we should address this issue at this particular time, but I do feel some action needs to be taken in this area and trust that LEAA will give this problem a very close look and hopefully come up with some satisfactory answers.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say I agree wholeheartedly with the statement just made by the gentleman from New York (Mr. Zeferetti) concerning the many waivers in this rule. As he pointed out, there are eight waivers.

For the record, I will include a brief listing of the points of order.

First, there is a waiver of section 401(a) of the Budget Act as it applies to the introduced bill. Section 401(a) prohibits contract authority which is not subject to the appropriations process. Various provisions in the bill could be construed to violate this requirement, and therefore the bill would be subject to a point of order. According to a letter from the chairman of the Budget Committee, the Judiciary Committee has agreed to correct this violation, and the Rules Committee agreed to the waiver.

Second, the rule waives points of order for failure to comply with section 401(b)(1) of the Budget Act. This section prohibits consideration of entitlements effective before the first day of the fiscal year which begins in the calendar year in which the bill is reported. There are provisions in the bill which would have been subject to points of order under this provision, if the bill had been enacted before October 1, 1979.

These first two waivers are included to allow consideration of the introduced bill. The rule then makes it in order to consider the Judiciary Committee substitute as an original bill for the purpose of amendment, and the next three waivers are included to permit consideration of the committee substitute.

The first two waivers that apply to the committee substitute are for failure to comply with sections 401(a) and 401(b)(1) of the Budget Act. These are the same waivers that were included to allow consideration of the introduced bill. And, as before, these violations are to be corrected by amendment.

The third waiver which applies to the committee substitute is for failure to comply with clause 5, rule XXI, which prohibits appropriations on a legislative bill. In this case, the waiver is necessary because the committee substitute includes a new allocation of previously appropriated funds, which technically constitutes appropriations on a legislative bill.

The rule provides that after passage of the House bill, it will be in order to insert the House-passed language in the Senate bill, in order to expedite going to conference. The final three waivers are included to allow for consideration of the Senate bill.

The first two waivers are for failure to comply with sections 401(a) and 401(b)(1) of the Budget Act. These are the same two waivers which applied to the introduced bill and the committee substitute, which have already been described.

The third waiver which was included to allow consideration of the Senate bill is a waiver of section 402(a) of the Budget Act. This waiver is no longer necessary because the bill was not enacted in fiscal year 1979.

There is little controversy involving the rule: it is an open rule. But there is some controversy concerning this legislation, and I think that it is well that we touch on it just a bit.

The bill restructures the current law enforcement assistance program by establishing two new organizations within the Department of Justice, the National Institute of Justice to engage in and encourage research and development activities relating to the administration of justice, and the Bureau of Justice Statistics to provide for and encourage the collection and analysis of statistical information relating to crime and justice systems. The bill also establishes an Office of Justice Assistance, Research, and Statistics to coordinate the activities of these two organizations and the Law Enforcement Assistance Administration. The cost for fiscal year 1980 is $800 million; 1981, $800 million; 1982, $800 million; and 1983, $800 million. There is a considerable amount of money involved in this legislation.

I might also say that there are several separate views filed on both sides of the aisle in the committee concerning this legislation. I might point out that the gentleman from Michigan (Mr. CONYERS) stated in separate views that the committee had an excellent opportunity to reform the $7 billion program of waste and inefficiency known as the Law Enforcement Assistance Administration, and they lost it.

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The gentleman from Ohio (Mr. ASHBROOK) has, in dissenting views filed along with the gentleman from Wisconsin (Mr. SENSENBRENNER), stated that this bill represents a futile effort to satisfy the critics of law enforcement assistance administration.

Additional views were filed by the gentleman from Illinois (Mr. MCCLORY) supporting the bill but noting two specific problems. For example, he objects to mandating excessive funding for a good program, the community anticrime program.

Supplemental views were filed by the gentleman from Missouri (Mr. VOLKMER) stating that while the bill is not perfect it effectuates a fresh start for the Federal role in criminal justice. He then goes on to suggest several improvements in the legislation.

Additional views were filed by the gentleman from Ohio (Mr. ASHBROOK) and the gentleman from Wisconsin (Mr. SENSENBRENNER), stating that they will offer an amendment to strike the language creating the Office of Justice Assistance, Research, and Statistics, as they feel it is an unnecessary extra level of bureaucracy.

Mr. Speaker, additional views were filed by the gentleman from Michigan (Mr. SAWYER) supporting the bill but expressing concern that under H.R. 2061, the formula grant program and the discretionary grant program, create a 100-percent Federal revenue-sharing plan that ignores the needed input of local applicants.

Mr. Speaker, notwithstanding the fact there is very little objection to the rule, there certainly is a lot of objection to the legislation in its present form and hopefully under the 5-minute rule some of these matters can be taken care of.

Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3303, JUSTICE DEPARTMENT AUTHORIZATION, 1980

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 319 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 319

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of Union for the consideration of the bill (H.R. 3303) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one and one-half hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344), clause 7, rule XVI, and clause 5, rule XXI are hereby waived. It shall be in order to consider as an amendment to said substitute the text of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill H.R. 3987, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 3303, the House shall proceed, section 402(a) of the Congerssional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 1157, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3303 as passed by the House.

The SPEAKER. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 319 provides for the consideration of H.R. 3303, Department of Justice Authorization Act for fiscal year 1980. H.R. 3303 was referred to the Judiciary Committee and ordered reported on April 23, 1979. The measure was then sequentially referred to the Interstate and Foreign Commerce Committee and the Permanent Select Committee on Intelligence.

The resolution grants an open rule with 1½ hours of general debate. One hour to be equally divided and controlled by the chairman and ranking minority member on the Committee on the Judiciary and one-half hour to be equally divided and controlled by the chairman and ranking minority leader on the Committee on Interstate and Foreign Commerce. The Permanent Select Committee on Intelligence has come to an agreement on a time request with the Judiciary Committee and, therefore, did not request specific consideration. The Judiciary Committee substitute will be considered as an original bill for purpose of amendment.

Additionally, the Interstate and Foreign Commerce Committee reported H.R. 3987, a bill consistent with section 21(11) of H.R. 3303. This being the case the rules makes in order H.R. 3987 as an amendment to the Committee on the Judiciary substitute. The rule waives clause 7, rule XVI, germaneness, and clause 5, rule XXI, appropriations in a legislative bill, against the Committee on Judiciary substitute as well as H.R. 3987. Since the enactment of the Controlled Substances Act in 1970 the Interstate and Foreign Commerce Committee has authorized appropriations for the administration of the Controlled Substances Act, including the related activities of the Drug Enforcement Agency, an agency within the Justice Department. However in 1978 the Committee on the Judiciary pursuant to Public Law 94-503 began to authorize annual appropriations for all programs within the Department of Justice. That authority was included in the Department of Justice appropriations authorization for fiscal year 1979; Public Law 95-624. In authorizing appropriations for the Drug Enforcement Agency the law stated "sums authorized by section 709(a) of the Controlled Substances Act."

In other words both committees had a mutual concern. In order to enable both committees to proceed in fulfilling their obligations under the Controlled Substances Act the two committee chairmen requested time-limited sequential referral over those parts of any bill of the other committee which authorized appropriations or amended the authority of the Drug Enforcement Agency under the Controlled Substances Act. Accordingly, the Committee on Interstate and Foreign Commerce will continue to review all matters regarding the Controlled Substance Act and the Committee on the Judiciary will review the authorizations of appropriations for the Drug Enforcement Agency and the authority of the DEA to carry out activities to enforce the Controlled Substances Act.

Furthermore, the resolution waives section 402(a) and 401(b)(1) of the Congressional Budget Act of 1974. Section 402(a) provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported by May 15, preceding the beginning of such fiscal year. I understand the committee amendment adopted by the Judiciary Committee provides that the authorization will not become effective until fiscal year 1980 thereby alleviating the budget violation.

Section 401(b)(1) provides that it shall not be in order to consider any bill containing an entitlement provision effective before the first day of the fiscal year which begins in the calendar year in which the bill is reported. Therefore, no entitlement contained in a bill reported in calendar year 1979 should become effective before the first day of fiscal year 1980. The Rules Committee has been advised that the Judiciary Committee will offer amendments providing that those sections in violation will not become effective before the beginning of fiscal year 1980 thereby curing the violations.

Finally, the rule provides that after the passage of H.R. 3303, it shall be in order to strike all after the enacting clause of S. 1157 and insert in lieu thereof the provisions of H.R. 3303 as passed by the House. Additionally, section 402(a) of the Congressional Budget Act of 1974 is waived against the consideration of S. 1157.

Mr. Speaker, H.R. 3303 as reported will authorize $1.91 billion for all programs of the Department of Justice with the exception of LEAA. In addition to moneys for general legal activities, funds are included for the U.S. Parole Commission, the FBI, the Immigration and Naturalization Service, the Drug Enforcement Administration and the Federal Prison Service. In regard to the Federal Prison Service specific funds are made available to improve the quality of medical services within the prison system. I believe this is money well spent and applaud the Judiciary Committee on its recommendation.

I would also like to point out the amendment made by the Permanent Select Committee on Intelligence which increases funds to the FBI in its effort to counter terrorism in the United States. This is a serious problem and I commend the committee decision.

Mr. Speaker, this authorization is only a modest increase of 7.4 percent from the 1979 appropriations, and when you take in account the programs included in this measure I believe it is well justified. I have personally worked with a number of programs authorized by this measure and I can tell you first hand the great work that is being accomplished within the Department of Justice.

I urge my colleagues to adopt House Resolution 319 so we may proceed to the consideration of H.R. 3303.

□ 1330

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule providing for the consideration of H.R. 3303, Department of Justice Authorization Act, fiscal year 1980. The rule is somewhat complicated; however, it contains nothing which should present any real problem.

House Resolution 319 provides for 1½ hours of debate, 1 hour to be divided between the chairman and ranking minority member of the Committee on the Judiciary and ½ hour to be divided between the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce.

The resolution waives a point of order that may be brought against H.R. 3303 as introduced for failure to comply with section 402(a) of the Congressional Budget Act, which provides the May 15 deadline for reporting authorizing legislation. Although this Budget Act violation has been cured in the committee's substitute, a technical waiver is necessary to permit consideration of the bill and the committee's amendment curing the violation.

Next, the rule makes it in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for purposes of amendment.

Numerous points of order have been waived at various stages of consideration.

The substitute violates clause 7 of rule XVI—the germaneness rule—and clause 5 of rule XXII—appropriations in a legislative measure. The rule waives all points of order against the substitute for failure to comply with these provisions.

Next, House Resolution 319 makes the text of H.R. 3987, Extension of Controlled Substances Act, in order as an amendment to the Judiciary Committee substitute and would waive any point of order which might be made pursuant to clause 7 of rule XVI or clause 5 of rule XXI to the offering of such text as an amendment.

A motion to recommit with or without instructions is in order.

After the passage of H.R. 3303, the rule waives section 402(a) of the Congressional Budget Act and makes it in order to take from the Speaker's table, S. 1157, strike out all after the enacting clause, and insert in lieu thereof the text of H.R. 3303 as passed by the House. As passed by the Senate, S. 1157 would be subject to points of order under this section of the Budget Act since various provisions of the Senate bill would authorize the enactment of new budget authority to become effective upon enactment. However, since H.R. 3303, as amended, will completely cure these violations in the Senate bill, the chairman of the Budget Committee states that he has no objections to a technical waiver of section 402(a) to allow consideration of S. 1157 and the committee amendment.

Perhaps it would now be appropriate to provide a short history of prior action on this legislation and the manner in which it reached the House floor. The bill was initially referred to the Committee on Judiciary which reported it on April 23, 1979, by a vote of 26 to 1. As reported, H.R. 3303 authorizes $1.986 billion for the purpose of carrying out most of the activities of the Department of Justice, including increases in salary and other benefits authorized by law.

It was then referred to the Committee on Interstate and Foreign Commerce and to the Permanent Select Committee on Intelligence. The permanent select committee adopted amendments to increase by $1.8 million the authorization for FBI activities to counter terrorism in the United States and to provide that internal Department of Justice evaluations be made available to all pertinent congressional committees. The select committee reported the bill amended on May 8 by a vote of 9 to 0.

The Interstate and Foreign Commerce Committee reported H.R. 3303 without amendment on May 15. The committee also reported H.R. 3987 with amendments on May 15. That bill would, among other things, amend the Controlled Substances Act to authorize $194 million for fiscal year 1980 for the administration of that act by the Drug Enforcement Administration. H.R. 3987 as amended is consistent with section 2(11) of H.R. 3303 which authorizes $193,836,000 for the Drug Enforcement Administration for fiscal year 1980. It might also be wise at this point to call attention to the fact that the Senate on June 4 passed S. 1157 authorizing appropriations for fiscal year 1980 for agencies in the Department of Justice. S. 1157 includes for the Drug Enforcement Administration, one section similar to H.R. 3303 and three sections similar to H.R. 3987. In order to expedite consideration of these bills, the Rules Committee did make in order the consideration of H.R. 3987 as an amendment to H.R. 3303.

Mr. Speaker, it is my understanding that the authorization of funds for the Department of Justice generated no great controversy within any of the committees which considered it and I therefore urge that we proceed to the consideration of H.R. 3303.

Mr. Speaker, I have no requests for time.

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. GUDGER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2061) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. GUDGER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2061, with Mr. MCCORMACK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. GUDGER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, first of all, I want to commend the distinguished gentleman from North Carolina who is floor manager of this legislation, together with the members of the minority, the ranking member of the Committee on the Judiciary, the gentleman from Illinois (Mr. MCCLORY); the gentleman from Ohio (Mr. ASHBROOK) and others who have participated in the formulation of this legislation.

They are to be commended for their devotion to the task of bringing out this legislation. The Committee on the Judiciary has given considerable thought and effort to every section of this bill.

Mr. Chairman, as one of the original sponsors of the Omnibus Crime Control and Safe Streets Act of 1968, the legislation that created the Law Enforcement Assistance Administration, I am proud to be a cosponsor, along with the distinguished ranking minority member of the Committee on the Judiciary (Mr. MCCLORY) and the distinguished gentleman from Kentucky (Mr. MAZZOLI), of the bill before us, H.R. 2061.

For the first time in the 10-year history of this valuable program of assistance to State and local crime fighting efforts, the Congress is reviewing every program, every aspect of the administrative structures set up at the Federal, State, and local levels to carry out this law, and every line of the lengthy and complicated legislation under which the programs are operated. As a result, in the bill before the House today, and in a quite similar one which has already passed the Senate, the legislation has, for the first time, been completely rewritten.

This is not to say that the basic structure of the program has been abandoned—it has not. The program remains, and properly so, a program under which the Federal Government makes a small contribution to State and local criminal justice budgets—less than 5 percent of their total expenditures—for innovations and improvements that these governments would be unable to undertake otherwise. Under this bill, 70 percent of the Federal funds will continue to flow to State and local government on a formula or "Block Grant" basis. Presently, these funds are allocated to States on a population basis. Under the new legislation, additional factors such as crime rates, tax efforts, and criminal justice expenditures will be added to make the program more responsive to the needs and commitment of the various units of Government in their crime fighting efforts. It is noteworthy, I think, that this addition of a slightly more complicated distribution formula is an exception to the overall direction of the bill, which is to greatly simplify the law and clarify the program.

Probably the greatest improvement in the program is the reduction of redtape and Federal bureaucratic review and delay. This redtape has built up over the 10-year history of the program, as both Congress and LEAA program administrators encumbered the program with an ever mounting array of restrictions, requirements, mandatory inclusions and exclusions, and set-asides. The vehicle designated for the transporting to Washington of proof of compliance with all these Federal requirements is the "annual comprehensive State plan."

At present each State is required once a year to deliver to LEAA a single document—the comprehensive plan—reflecting all the projects to be carried out with the Federal funds by all units of government in the State. The plan must also establish compliance with all the Federal requirements, and the paperwork required to do it is so voluminous that there is reason to believe that much of it does not even get read. H.R. 2061 gets rid of most of the Federal restrictions, and places both decisionmaking authority and responsibility in the hands of the unit of government—State or local—which actually spends the money.

Changes made in the law to streamline the program are:

Dropping the requirement of an annual comprehensive plan, and replacing it with a much simplified 3-year application to LEAA stating the purposes for which the money will be used. The 3-year application process will allow State and local government greater latitude in controlling and scheduling multiyear projects.

Dropping provisions of Federal law that mandate certain types of programs and require expenditures of certain percentages of the Federal funds for priorities set by Federal law. For example, the requirement that expenditures for correctional programs be 20 percent of the overall criminal justice programs is eliminated. While substantial expenditure for corrections is expected to continue, the determination of the percentage of Federal funds so spent is properly left to State and local determination.

Changing provisions for funding of planning efforts to eliminate wasteful, nonproductive planning. Present law makes large amounts of planning money available, with only a token matching fund requirement. This money may be spent only for planning purposes. H.R. 2061 limits the amount of match free money any State may receive for planning to $200,000 per year, with a 50-percent match required for all additional expenditures for planning, and a "cap" on the amount that may be spent for planning of 7½ percent of the governmental unit's share of the formula funds.

If the recipient unit of government so elects, the match free money may be spent for action projects rather than planning.

Eliminating the 10-percent match requirement for the discretionary and formula grant programs. Since LEAA funds represent only 3 or 4 percent of total State and local criminal justice expenditures, these units of government are already, in effect, providing a match of more than 95 percent. The present 10-percent match adds little contribution to project costs, is an administrative accounting nightmare for LEAA, and has the effect of excluding the most financially strapped units of government and private organizations from participating.

Broadening the "mini-block" grant provisions, which require the States to pass through a fair share of the State's formula grant to each of the larger units of government in the State, and to allow those local units to determine how the money will be spent. These units of government will, for the first time in the history of the LEAA program, know 3 years in advance exactly how much they will be receiving in Federal aid. Under present law, "mini-block" eligibility is limited to jurisdictions with populations over 250,000; H.R. 2061 lowers this eligibility threshold to 100,000.

In recognition of the need to improve the quality of criminal justice research and criminal justice statistics, these two functions are given independent status from the LEAA program, which has housed them in the past. A National Institute of Justice and a Bureau of Justice Statistics are established, with the activities of these new offices and those of LEAA to be coordinated by a new Office of Justice Assistance, Research, and Statistics.

Review of applications by State and local government under all of these programs would be, by statute, expedited. Applications not acted on in a timely fashion would be automatically approved, and appellate procedures are set up for use by units of government which feel their applications have been unduly rejected or modified.

In noting that our committee and our counterparts in the Senate comprehensively reviewed and rewrote the LEAA program, I should point out that we also comprehensively reviewed and considered all options.

This included the option of terminating the program. This "zero-base" analysis was aided by the fact that both President Carter and Attorney General Bell took office with a very healthy skepticism regarding LEAA's continued existence. In his first few months in office, Attorney General Bell ordered that a thorough analysis of LEAA and recommendations for its future be prepared. He discovered, in the course of his analysis, as our committee did in our own, that the program has been a tremendous benefit to criminal justice in our country, and that the program's supporters outnumber its detractors by about 100 to 1.

Among the excellent programs that LEAA has funded are the career criminal programs, under which serious multiple offenders are identified and screened out for prompt criminal justice processing by special prosecutorial terms; the "Sting" programs, which have recovered millions of dollars of stolen property, and, more importantly, have produced ironclad evidence to convict the criminals involved in such illegal traffic; the treat alternatives to street crime (TASC) under which drug-addicted offenders are diverted to treatment programs to address their drug problems, which are often the motivating factors behind their criminal conduct.

Recently, under the able leadership of Administrator Henry Dogin, LEAA has launched major new initiatives in the areas of victim and witness assistance, prosecution of arson, and economic crime.

Certainly the LEAA program has had its problems. But just as crime itself is a difficult and often intractable problem, programs to fight crime are difficult and require commitment, hard work, experimentation and redesign. We have reason to believe that substantial redirection and revitalization has already taken place in LEAA through new leadership and decisive administrative action. This legislative restructuring of the LEAA and related programs will, I am convinced, provide the necessary program and structural streamlining necessary for this effort to make an even greater contribution to the fight against crime in our country.

COMPARISON OF LEAA AUTHORIZATION CONTAINED IN H.R. 2061 AND LEAA APPROPRIATIONS CONTAINED IN H.R. 4392 (THE CONFERENCE REPORT WHICH HAS BEEN ADOPTED BY BOTH HOUSE AND SENATE AND THE ACT HAS GONE TO THE PRESIDENT FOR SIGNATURE)

OVERALL FUNDING LEVEL

H.R. 2061: $800,000,000 per year for four years.

H.R. 4392: $486,463,000 for FY 1980; however, $100,000,000 of this is for the Programs of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which is not part of the $800,000,000 authorization in H.R. 2061. The appropriation which is covered by the $800 million is only $386,463,000, less than half the proposed authorization. (Note: FY 1979 Appropriation was $546,347,000, including $100,000,000 for OJJDP.)

BREAKDOWN OF FUNDING IN THE TWO BILLS

$50 million per year for the National Institute of Justice and the Bureau of Justice Statistics combined:

$750 million per year for all other LEAA programs (excluding OJJDP). This supports several non-specified expenditures which must be administratively assigned a funding level (or assigned by the Appropriation), after which formula allocations would provide for the remainder. The items which come off the top are:

1. Cost of administering the program (personnel, etc.)—about $21 million in H.R. 4392;

2. Public Safety Officers Benefits—about $10 million in H.R. 4392; and

3. Training and manpower about $2.5 million in H.R. 4392.

After these amounts are deducted, the remainder would, under H.R. 2061, be allocated as follows:

1. Formula grants—70 percent.
2. Discretionary grants—10 percent.
3. National Priority Grants—10 percent.
4. Community Anti-crime grants—10 percent.

Assuming the funding levels for the "off the top" items were the same as in the FY 80 appropriation, the four programs would divide $716.5 million ($750 million minus 33.5 "off the top") as follows:

1. Formula Grants (70 percent) or $501,550,000.

2. Discretionary (10 percent) or $71,650,000.

3. National Priority (10 percent) or $71,650,000.

4. Community Anticrime (10 percent) or $71,650,000.

H R. 4392 (The FY 80 Appropriation).

Total Appropriation is $486,463,000, broken down as follows:

LEAA PROGRAMS

Budget activity	Amounts requested	Committee recommendation
Juvenile justice formula grants	$30,375,000	$63,750,000
Criminal justice formula grants (pt. D)	300,000,000	239,234,000
National priority grants program (pt. E)	37,500,000	29,904,000
General criminal justice grants (pt. F)	37,500,000	29,950,000
Training and manpower:		
Education development	500,000	500,000
Prosecutor training	250,000	250,000
General criminal justice training	1,778,000	1,778,000
Law enforcement education program		
Internships		
Subtotal, training	2,528,000	2,528,000
Technical assistance	9,000,000	
Crime prevention programs	20,000,000	10,000,000
Juvenile justice programs:		
Special emphasis	10,125,000	21,250,000
Juvenile justice institute	5,500,000	11,000,000
Technical assistance	3,000,000	3,000,000
Concentration of Federal efforts	1,000,000	1,000,000
Subtotal, juvenile justice	19,625,000	36,250,000
Public safety officers' benefits program	10,000,000	10,000,000
Executive direction	10,685,000	10,285,000
Administrative services	10,839,000	10,839,000
Total	488,052,000	442,695,000

NATIONAL INSTITUTE OF JUSTICE AND BUREAU OF JUSTICE STATISTICS

Budget activity	Amounts requested	Committee recommendation
Research, evaluation and demonstration programs	$25,000,000	$25,000,000
Criminal justice statistics	19,613,000	15,000,000
Executive direction	3,768,000	3,768,000
Total	43,411,000	43,768,000

All such figures are Senate figures, since there was no appropriation for LEAA in the House-passed appropriations bill.

These figures demonstrate that the appropriation levels for the major programs (formula, discretionary, national priorities, and community anti-crime) are less than half the authorization levels contained in H.R. 2061. Example: formula grants are authorized at about $500,000,000, funded at $239,234,000.

Mr. GUDGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I congratulate the chairman of the committee on his outstanding remarks, and I associate myself with them.

As our distinguished committee chairman has noted, the Law Enforcement Assistance Administration (LEAA) program has not been without shortcomings. Particularly in its early years, the planning and coordination functions that are key mandatory elements of the Federal program were largely nonexistent. The complaint was made, not without basis, that the program was in many States and communities a program for the purchase of hardware, mostly police hardware, which was usually expensive, often unneeded, and sometimes downright silly.

However, anyone who has followed the program over the years, or who takes a serious look at it today, will know that the LEAA program has come a long way in a positive direction. Courts and corrections are now equal partners with police agencies in program participation and are receiving a proportionate share of the Federal assistance.

Largely because of the Federal assistance and its requirements of planning and coordination, these functions are taking place in and among State, regional, and local criminal justice agencies, and across agency lines. Police chiefs, sheriffs, prosecutors, judges, and correctional officials, who until recently saw their functions as separate from one another, are now sitting down together to coordinate their activities and plan for a unified approach to crime fighting.

Some of them came to the table reluctantly and only because it was a condition of the Federal dollars, but most of them now report that they can not understand why they did not start working better together earlier.

Furthermore, not only criminal justice agencies have been strengthened by the LEAA program, but citizen efforts as well. Perhaps no State is a better example of this than my own State of North Carolina.

Under the leadership of Gov. James Hunt and with the assistance of the LEAA program, citizen efforts to assist law enforcement agencies in crime reduction efforts have been mobilized in communities throughout the State. Other valuable LEAA assisted programs that are being implemented statewide in North Carolina range from extensive training programs for police, to streamlining the court case processing capabilities, to critical post-release programs to assist ex-offenders reentry into society without recidivism.

The bill before us, H.R. 2061, amends the Omnibus Crime Control and Safe Streets Act of 1968, to restructure and to reauthorize LEAA for 4 years. The bill would restructure LEAA by:

First, eliminating the requirement that States submit an annual comprehensive plan for the use of the Federal funds, substituting a requirement that a 3-year application be submitted;

Second, providing for a similar simplified application process by which local units of government and State agencies receive Federal funds from the State administering agency;

Third, modifying the formula by which each State's share of formula grants (formerly called "block grants") is computed by including, in addition to the population distribution factor used under present law, provision for an alternative formula taking into consideration each State's crime rates. tax rates, and criminal justice expenditures;

Fourth, expansion of the provision for a guaranteed proportionate share of the funding going to larger jurisdictions;

Fifth, establishing a "National Priorities" grant program for funding programs shown by research and experimentation to be successful;

Sixth, establishing, in addition to LEAA, separate organizational units within the Department of Justice to administer programs for research and criminal justice statistics, respectively; and

Seventh, establishing an Office of Justice Assistance, Research and Statistics to supervise and coordinate the functions of LEAA, National Institute of Justice, and Bureau of Justice Statistics.

LEAA was created in 1968 in response to rising crime rates and following recommendation of the President's Commission on Law Enforcement and Administration for Federal assistance to State and local government criminal justice efforts. Although the act has been the subject of extensive amendments in 1971, 1973, and 1976, the basic design of the program has remained that of the 1968 act and would remain so under H.R. 2061.

This design provides a combination of grant programs for criminal justice planning, for projects to strengthen and improve law enforcement, and for training, education, research, and special projects. It calls for a portion of the costs of projects undertaken by State and local government to be paid by those units of government—the so-called matching funds.

The largest grant program is the part C program of grants for law enforcement, with 85 percent of these funds distributed to the States on the basis of population. Each State must set up a criminal justice planning agency to administer the program, and must "pass through" a portion of the State's share for use of local units of government.

This portion was set at 75 percent in the 1968 act, and was changed by a 1971 amendment to require that the amount passed through be in proportion to the local government's share of total criminal justice expenditures in the State.

Other amendments in 1971, 1973, and 1976 have altered the structure for administrative control of LEAA, made changes in the matching fund requirements for the various programs, modified requirements relating to the content, review, and approval of State criminal justice plans, and made provisions for better participation of courts in the planning and programs processes.

Authorization for appropriations for LEAA rose to a high of $1,750,000,000 for fiscal year 1973, and was set at $800,000,000 for fiscal year 1979.

Actual appropriations for the program reached a high of $895,000,000 in fiscal year 1975, and has declined in each subsequent fiscal year. Fiscal year 1979 appropriation was $646,488,000, and fiscal year 1980 is $442,695,000.

The LEAA program was designed to be primarily a block grant program to provide financial assistance to State and local criminal justice to enable them to bring about improvements that they determine to be needed. Through the imposition of administrative requirements and the addition over the years of numerous statutory requirements regarding the use of the funds, State and local discretion over the use of the Federal funds has been greatly diminished, and the program has become strangled in red tape. We need to free the program from this strangulation. H.R. 2061 addresses this need in a number of significant ways:

By providing for a 3-year application process for both States and local units of government, instead of an annual application which has to be supported by a comprehensive plan;

By expanding "mini-block" grant entitlement to all cities, counties or combinations over 100,000 population, and by clarifying this entitlement to insure that eligible jurisdictions are not denied this direct funding;

By combining Parts C (law enforcement grants) and E (corrections grants) into a single grant program, and eliminating most of the categorical restrictions and appendages presently in the law regarding use of these funds;

By eliminating the requirement that State and local government provide matching funds for the new formula, and discretionary grant programs, thereby eliminating accounting requirements for these matching funds; and

By streamlining and eliminating waste in the criminal justice planning activities. Planning is a valuable and essential activity under the program, but the availability of Federal funds for planning has been generous to the point of encouraging waste. H.R. 2061 would make the following improvements in the planning provisions of the law:

First. Expenditures in each State exceeding an initial $250,000 for the Criminal Justice Council and $50,000 for the judicial coordinating committee must be matched on a dollar-for-dollar basis. Miniblock eligible jurisdictions must provide a dollar-for-dollar match for all planning expenditures beyond the first $25,000 per year.

Second. A ceiling is placed on the amount of Federal funds which may be used for planning.

Third. The comprehensive planning requirement is dropped, and the degree of planning that takes place is left to State and local discretion.

The bill authorizes an appropriation of not to exceed the following amounts for each of the fiscal years 1980, 1981, 1982, and 1983:

For the Bureau of Justice Statistics and the National Institute of Justice, a combined amount of $50,000,000.

For all other programs and activities under title I, $750,000,000. After money for program administration, training programs, and miscellaneous programs such as law enforcement education and public safety officers' benefits are deducted, the remaining funds for the major grant programs will be allocated as follows:

Formula grants, 70 percent.

Discretionary grants, 10 percent.

National priority grants, 10 percent.

Community anticrime grants, 10 percent.

Mr. Chairman, the major features of this bill to provide a new structure for the LEAA and related programs are simplication and clarification. These changes are essential to reverse the 10-year trend of increasing categorization and suffocation of the program with Federal restrictions. If we really expect State and local criminal justice agencies to use the Federal funds to think and plan ahead for long-range improvements, then we must free them to do so. Requirements of massive and often meaningless paperwork submission, with annual periods of suspense over whether Federal authorities will approve the plans on time, if at all, do not encourage such advance planning. Similarly, larger units of local government should be given a greater degree of certainly of receipt of their proportionate share of the Federal resources available to the State, and greater authority to decide how that money can best be spent.

Criminal justice priorities should be established by appropriate State, regional, and local bodies, not by Federal legislation or Federal administrative regulation. By freeing those units of government and criminal justice agencies ultimately spending the money from undue external control, we will also be placing responsibility on them for the successful application and use of the Federal assistance funds. Effective evaluation which has proven so illusive in the LEAA program, should be made more attainable. Even more important than program evaluation by LEAA, however, will be the potential for holding recipient criminal justice agencies and State and local officials responsible for the wise use of the funds through the application of the processes by which citizens review and evaluate the work of their government officials.

The title of H.R. 2061—the Federal Justice System Improvement Act of 1979—is appropriate. H.R. 2061 represents more than a restructuring of the Federal Law Enforcement Assistance Administration and far more than the mere reauthorization of funding of the program now providing assistance to the States and localities in improving their criminal justice systems. It has been said that it represents "major surgery" and not "band aid" reform. As I have already indicated, it contains substantial and comprehensive reforms in the present structure of the LEAA program; and it undertakes to deal effectively with the problems that have heretofore plagued LEAA and limited its impact and value.

It is the Judiciary Committee's belief that each of the seven reforms, as well as the five major revisions in Federal funding distribution and management heretofore discussed are necessary and adequate to give this system—which admittedly has not worked perfectly in the past—new direction, new impetus, and hopefully "new results."

We believe that this bill accomplishes the demise of the bad features of an imperfect system and the birth of a new system which will be more nearly perfect and will restructure Federal assistance to State and local criminal justice systems so as to assure fulfillment of the initial intent of Congress when it passed the Omnibus Crime Control and Safe Streets Act of 1968—that is, to encourage and assist State and local governments in their efforts to coordinate, intensify and make more effective their criminal justice systems. H.R. 2061 represents the work product of the majority and minority leadership in the Judiciary Committee: we urge you to support it and hope that it will pass without major amendment.

☐ 1350

Mr. McCLORY. Mr. Chairman, I yield myself 10 minutes.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman. I rise in reluctant support of this legislation. LEAA has, in recent years, come under a deluge of criticism, some warranted and some not. But, in the final analysis, I still believe LEAA is a necessary element in the criminal justice machinery of this country and that this bill, H.R. 2061, goes a long way toward reducing the potential for abuse.

Last year, I became personally involved in what I believe to be a perfect example of ineffective management here in Washington combined with overzealous State agencies desirous of having the best that someone else's money can buy.

In September 1971, an extremely sophisticated $1.3 million—1972 dollars, mind you—fingerprint computer apparatus was purchased by LEAA and shipped to the Illinois Bureau of Identification in Joliet. At the time this grant was made and the computer purchased, the State committed over $451,000 of its own funds for the purpose of training 31 people to convert 1.1 million fingerprints, then on file, into information which could later be retrieved automatically. The idea was to make Illinois one of three law enforcement agencies in the entire world to have this level of sophistication in fingerprint identification. Upon reaching full operation, it would have saved the people of Illinois more than $500,000 per year in technician's salaries. So far, LEAA had done nothing wrong. Neither had the State.

In 1973, a new administration took over the reins of government in Illinois. The new Governor decided not to honor the commitment of his predecessor and refused to spend the $451,000 to train the people necessary to convert fingerprints to computer tape. For 4 years thereafter, the $1.3 million computer remained in its crate in Joliet. When the current Governor, James Thompson, took over in 1978, he was immediately faced with a problem: What to do with a machine which, in inflated terms, was worth well over $2 million? When he tried to find out, he learned, as I did later, that after all these years the computer had become obsolete and no one would take it.

How did this enormous waste of taxpayer's money come to light? Through LEAA attempts to force the former Governor to use it or lose it during the 4 years it was dormant? No. I learned about the problem from a February 1978 article in the Suburban Trib, a newspaper in my district. I am happy to report that this computer has finally found a home at the Midwestern Research Center in Kansas City, Mo.—only 7 years after it was shipped to Illinois.

The bill we are considering contains an amendment which I offered during full committee consideration of section 816. My amendment adds a new paragraph 11 and mandates that the director of the newly formed Office of Justice Assistance, Research, and Statistics contain in his annual report to the Judiciary Committees of both Houses of Congress a description of any equipment which has an aggregate cost of $100,000 or more together with the current status of that equipment. In addition, my amendment also created a new section 826 which gives LEAA the power to require any grantee, whether it is a State council or any other recipient of LEAA assistance, to reimburse it if that equipment is not put to use within 1 year of its acquisition.

I trust that this amendment, like other similar provisions incorporated into H.R. 2061, will help make LEAA and the State agencies which utilize Government funding ultimately more responsible to Congress and the taxpayers.

Mr. McCLORY. Mr. Chairman, I am pleased to know about the support of the gentleman from Illinois, and I hope he will give it his full support in the course of debate and in supporting amendments that will be offered.

I likewise want to commend the chairman of the committee and the other members of the committee and the subcommittee in helping to bring this legislation to the floor. This involved a great deal of work on the part of many, both in this body and in the other body, and in my view we have provided the kinds of improvements in the management and in the administration of this program which are so vital to our Nation.

☐ 1400

Mr. Chairman, this program, which was initiated in 1968, recognized at that time that crime was a national problem. Nevertheless, it is a problem which needs to be solved at the local and community levels. Therefore, what the Federal Government is undertaking to do through the Law Enforcement Assistance Administration is to give guidance and direction and some small modicum of support.

I might say that the amount of Federal funding with regard to all anticrime programs is less than 3 percent, so that we can see that the major undertaking financially and from the standpoint of manpower is at the local and State and community and regional levels. That is where it should be, and that is where we want it to be. I think at the same time we should recognize that we have an opportunity to coordinate a great deal of the anticrime program, a lot of the crime fighting efforts that are set forth.

We have an opportunity to evaluate the successful programs that are initiated by local communities, and essentially what the LEAA program does is to provide funds for initiating new programs to provide new advances toward fighting crime and to give encouragement to the communities that have this extremely burdensome responsibility.

There are a great many crimes of course and a great many criminal activities which cross community lines, and therefore when we consider a subject of drug abuse, when we consider the trafficking in other kinds of criminal paraphernalia, when we consider that there is a high incidence of bank robberies at the present time, reponsibility for most of which, for enforcement of the bank robbery laws, is vested in the community. We have reposed responsibility there, so that we are giving a very, very small measure of support at the Federal level through the LEAA program.

This legislation is supported by the National League of Cities, by the mayors and the community leaders of almost all of our communities, of Government, by the American Bar Association, by the International Association of Chiefs of Police and by almost every agency which concerns itself with the subject of law enforcement in our Nation.

Now, there are several amendments that I will be offering, which I hope will be acted upon favorably. One in the committee by a very narrow vote we eliminated the funds to provide for the transportation of local police officers to the FBI Training School at Quantico.

Now, this is a program initiated back in 1935. It answers the aspirations of local policemen throughout the country, from literally hundreds and thousands of our small communities as well as from our large cities, and the transportation costs have aways been paid by the Federal Government through an appropriation; and at this time to deprive these small communities and these large cities that have a greater need than ever for this kind of support, to deprive them of the transportation costs seems to be counterproductive and seems to be a quite narrow range.

I would suggest that these local officers are paid their salary by the local community of government during the time that they are at the training school, and the only cost which is provided by the Federal Government is the school itself and the keep while they are there and the amount of transportation costs involved.

I hope that those funds will be restored.

Likewise, with regard to the subject of community anticrime funds, we provided in the original bill for $25 billion, which is a substantial increase over the amount that has been devoted to that purpose in the past.

Certainly crime must be fought and must be won. The fight against crime must be won at the community level. We want to emphasize that. But to provide eightfold funds over what we have provided before is just out of the question. I think we should revert to the $25 million figure and see if we cannot accomplish what we are aiming to accomplish there.

Mr. Chairman, this legislation, it seems to me, is not only an improvement, but it is a substantial answer to the whole problem of crime in America. It should provide an opportunity to improve law enforcement at the community and the county and regional level. I am hopeful that the measure will be acted upon favorably by the committee and by the House.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HALL).

Mr. HALL of Texas. Mr. Chairman, I would like to rise and not say anything novel that maybe has not already been said, but I would like to make the comment that in my area of Texas, I have seen much good come from this LEAA program in dealing with the training of law enforcement officials. It is a program geared not solely for the large cities, but it is a program that goes into towns of populations of 20,000 to 25,000. It has done a tremendous job in orienting law enforcement to the needs of local people. I believe one of the problems we have today in many instances, is that so many programs that pass through this body are geared for the large areas throughout the United States and really does not trickle down to the areas where we need to have this type of consideration.

I would like to forcefully urge upon my colleagues to vote for this bill. I think it is a good bill, and I think that certainly it is one of those that has a heritage that is good; and I think it is going to continue to do the type of job that we need in law enforcement today.

Mr. Chairman, I yield back the balance of my time.

Mr. GUDGER. Mr. Chairman, I thank the gentleman from Texas (Mr. HALL) for his remarks, and at this point, I yield such time as he may consume to another member of the Judiciary Committee, who has already had a great part to play in the development of this critical legislation, the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman and members of the committee, I listened attentively to the gentleman from Illinois and the gentleman from Texas as to how much this in the past has helped small communities. I would not dispute that except I can name some small communities who have received no help whatsoever in the past, and under the new bill, because of the way the bill is written, will receive less as long as smaller amounts of money are totally appropriated like it is going to be done for the fiscal year 1980.

I would just like to inform the Members that I have several amendments that I plan to offer to the bill, to alert the membership to that. One is to provide for equipment. We have a prohibition in here for no equipment.

I find at a meeting with my sheriffs and police chiefs just this past week from among my small towns that they need hardware yet, and it is small hardware. We are not talking about much, because my amendment says for no more than $1,000. The 7½-percent cap on planning, what does that do for a community that only gets a $3,000 grant? That means you get around $220 to plan and administer, and that is all.

I have an amendment to increase that to a 20-percent cap. I attempted in committee and failed by a narrow vote to strike the four-part formula, which is geared to the larger metropolitan States; and if we provide additional funding in the future, it would give additional funds to them, yet leave the other States out in the cold.

My amendment would put funding among the States back to the present law providing for distribution of funds by population only.

I also have an amendment to provide a 12-percent gap for any one State. In other words, a maximum that any one State can receive from LEAA funds in any one fiscal year would be 12 percent of the total, so that no one State receives 15 or 25 percent, leaving the other States without funds sufficient to participate in the programs.

I have an amendment also that is being worked on presently to change the formula for distribution within the State. Let me mention one thing real fast. I found the 1980 funds in the State of Missouri being distributed basically on the new formula on the basis of amount of funds spent for local law enforcement as compared to the amount spent in the State. What does that mean?

I will tell the Members as soon as we get to the 5-minute rule what it means.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. VOLKMER) has expired.

□ 1410

Mr. GUDGER. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I rise to oppose the extension of the authorization for the Law Enforcement Assistance Administration. As many of my colleagues will remember when we discussed this matter during the budget discussion earlier this year, I rose at that time to recommend that we change the budget figures so that this program would be phased out over a 3- or 4-year period. I continue to feel that the time for bringing LEAA to a close has come.

I commend the individuals on the Judiciary Committee in the House who have worked so hard to improve and change this program and I think many positive and good changes have been made with the program.

I also would submit that the program, in my mind, has done many positive things in the 9 or 10 years it has been in existence. But I also believe we have got to find places to cut the Federal budget, and that means we cannot just talk about aggregates, but we have to talk very specifically about programs that can be excised and cut. In my mind, this program is one that should be cut, not because it has not done anything well, but because it was an experimental program designed to initiate experimental law enforcement programs at the local and State level. The period of experimentation should end.

We have spent between $7 and $8 billion over this 10- or 11-year period. I think a lot of innovation and experimentation has occurred. But I think it is time to draw that Federal commitment to a close. Especially in the light of the things that have been going on in the past few days, the actions of the Federal Reserve would indicate it is incumbent upon Congress to cut back on Federal spending.

Mr. McCLORY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think the opposition to the LEAA program is very much misdirected. For us to consider cutting funds on such a high priority item as the fight against crime would seem to be a very poor choice of economy moves. As a matter of fact, I cannot think of anything that costs the consumer more than the crimes that are committed against the consumers or the crimes against the elderly, or other crimes against the person or against property. I think if we are considering cutting the Federal budget, we could not choose a poorer place for cutting funds than cutting funds in the fight against crime.

As I indicated, the small amount contributed from the Federal budget for the fight against crime is indeed minimal. It seems to me this is a very small contribution for us to make in connection with trying to promote guidance and direction for fighting crime at the local level.

Mr. McCLORY. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, I thank the gentleman for yielding.

The record of LEAA, while it may have involved some errors and misadministration here or there, or misplacement of emphasis, has really been a remarkably good record. Some 84 percent of the programs that ended Federal funding in 1978 were picked up and continued at their own total expense by the local areas of government.

We must bear in mind that LEAA was never intended, as the Congressional Budget Office confirms, to fund or carry on permanently local police enforcement. It was merely to provide seed money, if you will, for innovative new programs for local governments, so overwhelmed with the financial obligation of providing the bread and butter law enforcement, they really cannot afford to risk money on promising but untried programs.

In my county, Kent County, Mich., we just yesterday announced the conclusion of a 4- to 5-month "sting" program which was manned totally by the sheriff and local police departments at the local expense, except for the purchasing money. For those of you who are not acquainted "sting" is a program whereby a warehouse is set up, undercover agents operate it, buy stolen goods and stolen properties, filming the sellers with rather sophisticated equipment so that the cases are just about airtight when they are concluded. The county prosecutor just announced the conclusion of the "sting" program yesterday with the issuance of 201 felony warrants against burglars and robbers and car stealers in our area and has recovered many times the value of the expended Federal funding in stolen property.

In the future the county is going to be willing, now that they see how this has worked, to fund this kind of a program. But believe me, as an ex-prosecutor in that county, you never could have gotten the county to initiate that kind of an unproven program with the other demands for bread and butter funds.

The fact, again, that in 1978, 84 percent of those programs where 3-year Federal funding ran out were picked up and carried on at the local expense totally shows what this has done. And when we look at the magnitude of the problem, the gentleman from Missouri (Mr. GEPHARDT) said we ought to cut out this program, well, I think we have to order our priorities, and when we see—and I am as much in favor of balancing the budget as the gentleman from Missouri and, in fact, maybe more outspoken on it—but when we recognize that street crime, in addition to the blood, the agony and suffering it causes costs the American public $10 billion a year, and white collar crime four times that amount, or $40 billion a year, this amount of some $440 million of Federal seed money for new programs to stop that kind of thing is not where we want to start cutting when we cut. It has already been cut from $656 million last year down to $432 million.

Before I sit down I do have one objection to this act, and that is that we have gone from the historical 90 percent Federal funding to 100 percent. I think that is a drastic error in the bill. With 10 percent local money we guarantee enough local interest in the program—and bear in mind we are relying on carrying it on after the 3 years of Federal funding is finished—we also guarantee they are going to watch it and audit it carefully for waste and whatnot, because they have a 10 percent interest of their own money involved. We have historically required 10 percent of local money or not more than 90 percent Federal funding. To suddenly now go to 100 percent is a mistake and it is going to see that 84 percent continuation figure drop drastically.

Furthermore, we only have half, $442 million of seed money to use as opposed to $656 million last year. This makes it go 10 percent further.

☐ 1420

At the appropriate time I am going to offer an amendment to go back to our 90 percent, and require 10 percent participation that has worked so well in the past, and I think will guarantee effective work in the future. I have one more amendment I will offer, which I do not think is opposed. It will be to include further research into this problem of parental kidnaping which is plaguing divorced parents all over the United States to the tune of 100,000 cases a year. It is mostly interstate, and it is not a Federal crime. So, they cannot get Federal participation in getting the children back. However, it is a drain on the poor mother, as the usual case, in hiring private attorneys without Federal help in other States. To even locate the parent who has illegally seized or retained custody of the child.

Mr. McCLORY. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to H.R. 2061, which extends the life of the Law Enforcement Assistance Administration for another 4 years. This bill represents a victory of hope over experience at a cost of $3.2 billion to the American taxpayers during the period of its authorization.

Many people have discussed the concept of sunsetting Federal agencies, thus forcing the Congress to review the performance of those agencies on a periodic basis. While a general sunset law has not been enacted by the Congress, the reauthorization process, such as we are doing here today, provides the Congress an opportunity to review the agencies to see how well they are meeting their goals, to make whatever revisions are necessary, or to discontinue the life of agencies that have utterly failed

Everyone recognizes that the LEAA requires major surgery, that its experience over the past 11 years has been too bureaucratic, and that "Buck Rogers" type crime programs have been financed at the expense of commonsense programs. Let us look at what the press has had to say about LEAA.

The Wall Street Journal of July 7, 1976, says:

> So far, the agency's biggest accomplishment seems to have been to prove that Washington can't do much about street crime across the nation.

The article quotes Deputy Attorney General Harold Tyler as saying that the importance of LEAA is that it can try experiments that may turn out to be flops. This is something States and cities cannot afford to do, he says.

I would suggest that financing a $3.2 billion flop is something we cannot afford to do.

Ralph Nader, in the Washington Star of January 3, 1976, in an article entitled, "The LEAA: Law, Order and Chaos," says:

> Well, try the $265,000 Addictive Disease Treatment Project conducted by the Philadelphia (Pa.) prison system in 1974. There is a two-page final report with one paragraph discussing the impact of the project.

Bob Wiedrich, in the Chicago Tribune of September 15, 1978, in an article entitled, "A Costly Report Bilks the Taxpayers," says:

> . . . a brace of so-called New York City think-tank experts who have concluded that crime syndicate gambling is a myth.

Jack Anderson, in the Washington Post of November 15, 1975, in an article entitled, "LEAA: $20 Million for Reports" says:

> . . . Loyola University in Los Angeles was awarded a $293,700 grant "to assess the need" for a looseleaf encyclopedia on law enforcement.

Finally, the senior Senator from my State, Senator PROXMIRE, handed out his "Golden Fleece" award for February 1977, to the LEAA for spending $27,000 to determine why inmates want to escape from prisons.

This is the record that LEAA brings into this reauthorization process. How does the committee bill address the legitimate criticisms that we have heard across the land?

First, instead of cutting the bureaucracy and making things simpler for law enforcement, a new level of bureaucracy called OJARS, Office of Justice Assistance, Research, and Statistics, is created thus hiring more people at the Federal level and clogging the direct line of responsibility between LEAA and the Attorney General's office.

Second, the miniblock grant program which was authorized in 1976 is increased and expanded, giving jurisdictions over 100,000 population the authority to double dip into the Federal Treasury; first going to their State criminal justice planning agencies for LEAA funding and then, after, if rejected for their programs being of too low priority, being able to come to Washington to get assistance directly from OJARS in a way that reduces the formula block grants to the States on a dollar-for-dollar basis.

Third, a new program of priority grants is established at a cost of $50 million per year. Who sets these priorities? Not Congress, not the State legislatures, but the bureaucrats in OJARS. We need another costly new Federal program at this time like a hole in the head.

Fourth, the community anticrime programs authorization is increased from $15 million per year to $50 million per year at a time when the actual expenditures of these funds are $7 million for this past year.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. McCLORY. Mr. Chairman, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Finally, Mr. Chairman, as the distinguished gentleman from Michigan (Mr. SAWYER) has pointed out, the bill provides 100 percent Federal funding so that the applicants for this Federal largesse will not even have to put 10 percent of their money where their mouths are, thus encouraging applications for projects which would not be continued or financed locally.

It is my hope that through the amendment process the major surgery which LEAA so desperately needs will take place. If the amendments are rejected. I would suggest that the time for the Sun to set on LEAA is today.

Mr. McCLORY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong support of H.R. 2061, the Justice System Improvement Act. This legislation will continue the only Federal program of aid to State and local law enforcement and criminal justice.

The Law Enforcement Assistance Administration program, and the successor agency which H.R. 2061 would establish, is a viable and necessary tool in the national effort to combat crime. Although LEAA has been criticized in the past, this bill provides numerous management and programing improvements. The legislation we are considering today is built on reforms initiated in 1976. It has been carefully drawn to reduce bureaucratic problems. It will make it possible for the Department of Justice to better assist State and local government in implementing successful anticrime programs, and will promote the effectiveness of projects which are funded.

When we initiated the LEAA program in 1968 we recognized that crime was indeed a national problem. While law enforcement remains a State and local function, there is a continuing responsibility in the Federal Government to provide some degree of support, guidance, and direction for State crime prevention efforts.

We have initiated a very modest program. It is true that it has been revised from time to time, but what we have done is to give law enforcement some new directions. We have given new ideas, support, and guidance to local law enforcement officials, and we have required them to come up with plans for law enforcement which they must apply in their areas.

Crime is a major problem in this country and should be high on our list of priorities. The polls consistently show that crime and law enforcement are among the most important subjects on the minds of American citizens. The funds which we have provided the States through LEAA have been very modest indeed when compared with overall criminal justice expenditures. Only 3 percent of all local law enforcement comes from Federal contributions. In the application of these funds, we have directed recipients to develop innovative programs. But what we have also sought to do is to require local and State law enforcement officials to give attention to the subjects of drug abuse, crime against the aged, and juvenile delinquency.

Just recently, a group of mayors met with the President. They talked with him about the crime problem which they all face, and pointed out the importance to their cities of continued LEAA assistance. The mayors, however, are not the only ones who support LEAA. The Committee on the Judiciary received testimony or other evidence of support for H R. 2061 from the following organizations:

National League of Cities.

U.S. Conference of Mayors.

National Governors Association.

National Association of Counties.

National Association of Criminal Justice Planners.

National Conference of State Criminal Justice Planning Administrators.

Advisory Commission on Intergovernmental Relations.

National Association of Regional Councils.

National Conference of State Legislators.

National Conference of State Chief Justices.

International City Management Association.

Council of State Governments.

International Association of Chiefs of Police.

National Center for State Courts.

American Correctional Association.

National Sheriffs' Association.

National District Attorneys' Association.

National Association of Attorneys General.

American Federation of State, County and Municipal Employees.

American Bar Association.

The House of Representatives has already spoken definitely regarding the future of LEAA. Its sentiments can be gauged by a May 8 vote on a proposed amendment to the first concurrent resolution on the fiscal year 1980 budget. A motion to phase out the LEAA program was overwhelmingly rejected by a bipartisan vote of 316 to 104. Similarly, the Senate approved S. 241, the companion to H.R. 2061, by a 67-to-8 margin on May 21. The support for this legislation in the Committee on the Judiciary was also strong. Twenty-four Members of both parties joined to report H.R. 2061 with a favorable recommendation.

The purposes of H R. 2061 include reducing paperwork and redtape; modifying the block grant program and fund delivery system to assure that money is allocated fairly; focusing resources on programs likely to have an impact on these problems; assuring appropriate organizational structure and independence for research and statistical efforts; and defining more clearly the limited Federal role and expectations for this criminal justice assistance program.

As reported, the bill would establish a new Office of Justice Assistance, Research, and Statistics within the Justice Department to coordinate the activities of three semiautonomous bureaus—the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), and the Law Enforcement Assistance Administration (LEAA). The Presidentially appointed Directors of NIJ, BJS, and LEAA would have final approval authority for grants within their respective jurisdictions. The Attorney General, through the Director of OJARS, would set general policy. To avoid excessive Federal involvement in matters of essentially local concern, however, and to avoid Federal concerns taking too great precedence over local and State issues, the Attorney General's supervisory role is intended to be strictly limited.

The Bureau of Justice Statistics will be a single organization with responsibility for State and local criminal justice statistics on a national basis. We have found there is a need for more credible statistics, a need for uniformity and comparability of data, a need to avoid duplication of information gathering, and an absence of some essential criminal justice data, coupled with inadequate analysis of other data. The BJS will bring together statistical programs now scattered throughout the Justice Department and elsewhere. The data collected will be used only for statistical or research purposes to provide protection for individuals.

The National Institute of Justice builds upon recommendations of the American Bar Association for an independent justice research organization. By giving NIJ a degree of independence, we hope to improve the quality and usefulness of research into criminal justice issues. Because there needs to be some nexus between research and action programs, suggestions that research be entirely separated from LEAA, and even the Department of Justice, were rejected. Protections have been added to the program to insulate NIJ from influences which might erode research integrity and credibility.

LEAA will continue to provide the bulk of the Federal assistance to local and State governments. Each State will continue to receive its share of funds on the basis of relative population unless appropriations rise significantly, in which case some of the additional money will go to high crime areas. In place of State planning agencies responsible for developing annual comprehensive plans, each State will have a criminal justice council. The council will develop 3-year applications for submission to LEAA and will set some general statewide priorities. It is important to note that local governments can, however, set their own priorities where there is good cause.

Current law makes larger jurisdictions eligible for mini-block grants from the States, but only a relative few areas have taken advantage of this provision. H.R. 2061 would make cities, counties, and combinations of jurisdictions with a population over 100,000 eligible for direct funding, with a formula included in the bill which will assure the amount of each year's appropriation these areas can get. Localities opting to receive an entitlement of funds will have to assume some of the administrative tasks performed previously by the States, but each will be able to immediately decide which projects will receive funding. Previously, localities had to apply to the State for each grant. While H.R. 2061 still retains State control, the localities are given considerable more say than in the past.

Under the present LEAA program, participants must provide at least 10 percent of the cash cost of each project. In many instances, the required contribution is greater. H.R. 2061 provides 100 percent funding for action programs. For planning and administrative costs, however, the match is 50 percent above a specified minimum. Thus, we are no longer using Federal dollars to subsidize the process of applying for more Federal funds.

LEAA will control two discretionary funds under H.R. 2061 for direct grants to governmental organizations and private nonprofit groups. One fund will provide full funding for innovative demonstration programs of national interest. The other fund will be used to pay one-half the cost of replication of projects which have been evaluated and found to have a proven impact on crime reduction or criminal justice system improvement. The match can come from local sources or LEAA block grants.

H.R. 2061 contains restrictions on the use of funds for certain equipment, construction, personnel costs, and land acquisition. These are areas susceptible to the greatest abuse. Additionally, given the limited amount of funding available, it is imperative that we put the money where it will have the maximum impact.

This bill eliminates many of the earmarks which I have long opposed and which complicated the earlier LEAA program. In this sense, H.R. 2061 is far superior to H.R. 2108, which was also considered by the Committee on the Judiciary. H.R. 2108 would have allowed funding for only four types of activities. It would have been wrong to categorize the program in this way and completely tie the hands of local officials. The committee found the approach taken by H.R. 2108 was "too narrow in coverage, unduly restrictive of State and local discretion, and not consistent with the overall objective expressed in both H.R. 2108 and H.R. 2061."

Nonetheless, some focusing of resources is continued in H.R. 2061. Because young people commit so many crimes, and because the workings of the juvenile justice system can have a permanent effect on the lives of our youth, we have maintained juvenile programing as an LEAA priority. The committee rejected downgrading the Office of Juvenile Justice and Delinquency Prevention to a subunit of LEAA. Unfortunately, however, LEAA is still directed to apply 19.15 percent of its resources to juvenile programing.

Community anticrime is an area which I feel the reported version of H.R. 2061 emphasizes far too heavily. The genius of community anticrime programs has been the voluntary participation of an involved citizenry. Concerned citizens such as those in my community here in Washington, D.C. have come together to discuss how crime might be reduced in their community. For their guidance LEAA has provided technical assistance. In this manner, the program has worked well.

This is not a program that requires a great deal of money since it depends essentially on citizen commitment. The budget request for community anticrime, approved by the Congress, is $10 million. H.R. 2061 as reported, however, would earmark 10 percent of LEAA funds for the Office of Community Anti-Crime programs. This is extremely regrettable because it would prohibit the Appropriations Committees from exercising their discretion and force funding when it might be necessary or deserved. This system of earmarking would, as I have suggested, repeat the mistake of LEAA's early days when it was believed in some quarters that throwing money at a problem would solve it. Fortunately, the bill passed by the Senate does not include this earmarking. I intend to introduce an amendment which would erase this earmark; I sincerely hope that this House will support it.

Another committee amendment of concern is one adopted by a 14-to-13 vote margin which will make it virtually impossible for financially strapped jurisdictions to send police officers to the FBI Academy at Quantico in order to receive valuable training from the Bureau. In a budget-cutting move, the FBI is no longer permitted to provide transportation for prospective trainees. Unfortunately, those jurisdictions that cannot afford to buy transportation are quite often those most in need of police training. That does not make sense to me, and I will offer an amendment to correct it.

The LEAA program is based on advance planning by State and local officials. The legislation we are now considering would promote greater efficiency and effectiveness. The sooner local officials can reasonably predict the nature of the program next year, the better the quality of the planning that can be performed. This is especially important at a time when resources are limited. LEAA has suffered from 2 years of White House indecision, lack of leadership, low funding, and inadequate attention from some in the Department of Justice. Speedy implementation of pending reforms is an important consideration for those of us who wish to reduce waste in government.

Many innovative projects across the country could not have been started without seed money from LEAA. Among them are such effort as drug treatment programs, community anticrime initiatives, court and corrections reform projects, career criminal prosecution programs, "Sting" antifencing operations, juvenile delinquency prevention activities, and many more.

The Congress has been responsive to criticisms of the LEAA program and has acted to correct perceived deficiencies. LEAA, therefore, is a much changed and improved program. It also has the bipartisan support of the chairman and ranking minority member of the Judiciary Committees of both Houses. I urge its speedy passage.

Mr. Chairman, I have a couple of questions I would like to direct to the gentleman from North Carolina who is managing this bill.

Mr. Chairman, in this bill I see there is a definition of whitecollar crime which speaks of illegal acts. I wonder if the gentlemen could explain what type of activities he envisions under this definition? My concern is that LEAA which was established to fight crime may be drifting from this purpose and into the regulations.

I yield to the gentleman for a response to that question.

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Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding.

In answer, let me state that it is our understanding and the understanding of the committee that for an activity to be a white-collar crime, it has to be enforced by criminal sanctions. Where prohibited activity is enforced or proscribed only by civil sanctions, then such activity is not a crime and cannot fall within the definition of white-collar crime.

The fact of the matter is that there are a large number of antiwhite-collar crime statutes which are regulatory in nature, such as the criminal provisions of the antitrust laws, the Federal, Food, Drug, and Cosmetic Act, the Federal Hazardous Substances Act, the Consumer Product Safety Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, and the Occupational Safety and Health Act. Similar statutes exist on the State level. The intent of the white-collar crime provision in this bill is clearly to encourage greater law enforcement in all areas where white-collar crime behavior is proscribed by State and/or Federal criminal statute, and the legislative history of the definition of "white-collar crime" should not be confused on this point.

The definition of white-collar crime in the bill is that kind of crime committed by nonphysical means and by concealment or guile to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCLORY. Mr. Chairman, I yield myself 2 additional minutes.

I thank the gentleman from North Carolina.

Mr. Chairman, I take this time for posing another question to the gentleman managing the bill on the other side. This question has been raised by my local bicounty law enforcement planning group. They raised the question as to whether or not a county or municipality which qualifies as an entitlement jurisdiction in its own right has an obligation to enter into agreements with its subdivisions of local government or the adjacent areas so that it may qualify to receive funds.

Mr. GUDGER. If the gentleman would yield further, under the bill no unit which has 100,000 people in the unit of government in the county or in the contiguous area will have to combine. It is unnecessary that there be any combination merely for accommodation or agreement.

Mr. McCLORY. So there is no necessity under the bill for a county with 100,000 people to also enter into agreements or receive consent or permission or approval of all of the various local units of government within the area?

Mr. GUDGER. Not as I understand the provisions of the act.

Mr. McCLORY. I thank the gentleman from North Carolina.

Mr. Chairman, I yield back the remainder of my time.

Mr. GUDGER. Mr. Chairman, at this time I would like to yield 3 minutes to the gentleman from North Carolina (Mr. ANDREWS) who has a correlative responsibility in a particularly important area involving law enforcement.

Mr. ANDREWS of North Carolina. Mr. Chairman, may I call attention to an aspect of this bill that I believe is not generally known. This bill was passed by the Congress, and I think wisely so, in 1968 to provide Federal assistance for law enforcement generally throughout the country. In 1974 the Congress, again I think wisely, passed what is designated as the Juvenile Justice and Delinquency Prevention Act, obviously as the title implies, to deal with juvenile crime and juveniles who are involved in the judicial justice system. These are separate programs with different focuses and distinct purposes that are completely different and yet very related. I think wisely the Committee on the Judiciary has since the inception of this act had exclusive jurisdiction over it. However, the Juvenile Justice Act is administered and supervised by the Committee on Education and Labor, and I happen to be chairman of the subcommittee that has jurisdiction over those programs. Our programs are only related to juvenile crime, and juvenile involvement with the criminal justice system and adult crime cannot be totally separated, but they are by reason of these bills separated here in the Congress. As chairman of the committee that has jurisdiction of the juvenile justice program, let me say that it could hardly exist without passage of this act as a complement to it.

It is rather ironic that my fellow North Carolinian and longtime friend and State legislative cohort, Mr. GUDGER, should now be chairman of the committee that has part of this program and I, the chairman of another committee, that has the juvenile portion. Because of our friendship and our appreciation for both programs, we have worked, and our committees have worked, quite well together in having what we believe is a good package set of bills here, and our portion cannot continue without passage of this one. It is for that reason among numerous others that I urge support by all Members of this, what I consider to be a most necessary and useful program.

Incidentally, I compliment my colleague, the gentleman from North Carolina, Mr. GUDGER, for being able to proceed with a considerably smaller budget than has been the case in past years. I congratulate him for having an excellent bill, and I urge the support of all Members.

Mr. GUDGER. Mr. Chairman, I thank my colleague from North Carolina (Mr. ANDREWS) for his comments. I am also gratified that there is no reduction in the commitment of LEAA to continue its support for the Juvenile Justice and Delinquency Prevention program, which will remain, as I understand it, at 19.15 percent commitment of earlier enactments.

I would like to say this in closing. This has been a stimulating debate. There has been some suggestion by one who spoke with some concern about this legislation that it needs to be cut back. Appropriations have already been cut back substantially. There have been other concerns by one of the members of the Committee on the Judiciary who seems to feel that his concerns can be addressed by amendments. The only opposition that has been expressed to this bill seems to come from those two gentlemen, and we certainly hope that the amendatory process will satisfy all 435 Members. This is an important program. It is a program which has served the Nation well in time of crisis after Miranda and after other decisions have forced criminal justice expenditures upon States, local governments, and the Federal Government. Only 5 percent of the funding of law enforcement in this Nation comes from this program or from Federal sources. The rest is locally committed, and so what we are talking about here is only a small amount, but it should, and we hopefully believe that it will, direct the future development of criminal justice programs to make them far more effective than they have been in the past and far more responsive to the needs of the public in the future.

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I understand there is a request for time for colloquy.

Mr. McCLORY. Mr. Chairman, I yield 2 minutes to the gentleman from Puerto Rico (Mr. CORRADA) for purposes of colloquy with the chairman, the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. I thank the gentleman from Illinois.

Mr. CORRADA. I thank the gentleman for yielding.

Mr. Chairman, I would like to refer to a potential problem that might arise in a future interpretation of H.R. 2061 that could very well affect Puerto Rico if the legislative intent is not clarified. I am referring to the formula grants programs under part D. That is, the programs contemplated under sections 401, and the following of H.R. 2061.

It is my understanding that the legislative intention with regard to the miniblock provisions of H.R. 2061 is that the municipalities having bona fide criminal justice functions should be eligible or entitled to proportionate funding under part D, without having to receive the approval of the State planning agency. Under this bill, local units of government which have no law enforcement or criminal justice functions or authority would not be, such as the municipalities of Puerto Rico, entitled to participate and to receive funds under the miniblock grant provisions.

Furthermore it is my understanding that in no event will Puerto Rico receive less money under any of the programs contemplated under H.R. 2061 by the simple reason of not having its larger cities, municipalities, units of local government or any combination of them qualified or entitled to participate. Any amount of money to which these cities, local units of governments, any combination of them, or the municipalities would have been entitled to if found to be qualified would be a portion of the total annual allocation for Puerto Rico and would instead go directly to the Puerto Rico Crime Commission or to the future State Criminal Justice Coordinating Council.

I ask the chairman if my understanding of the purposes of H.R. 2061 regarding part D program is correct and if the legislative intention for future interpretation should be as I have stated.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding.

The gentleman's description of the effect of miniblock grant entitlement in Puerto Rico is correct. Even though municipalities over 100,000 population would be, technically speaking, miniblock eligibles, the amount of LEAA funds they receive is based on their actual expenditures for criminal justice purposes, in relation to other qualifying jurisdictions. A jurisdiction which has no criminal justice expenditures receives no direct Federal aid, regardless of the fact that it is, theoretically, eligible for direct aid. If the Commonwealth sustains all the criminal justice expenditures in Puerto Rico, all the formula grant funds would go to the Commonwealth.

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Mr. CORRADA. I thank the gentleman for yielding. I commend the committee for this bill. I urge my colleagues to support the bill.

Mr. McCLORY. Mr. Chairman, as we close this very important debate I can only think that this legislation is the result of a tremendous grassroots input. We really started out from scratch when we came to revisions of the LEAA program. We have heard from virtually every sector of our society. The final product is one which has received very thoughtful and careful consideration by task forces, by the Department of Justice, by those in the White House, by leaders on both sides of the Capitol, from the judiciary committees and from those involved in law enforcement. This has resulted in what I think is an excellent piece of legislation. There are very few modifications necessary to enable us to build substantially upon the prior Federal effort to fight crime in America. Crime must be fought primarily at local and community levels.

Mr. McCLORY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Justice System Improvement Act of 1979".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended to read as follows:

"TITLE I—JUSTICE SYSTEM IMPROVEMENT

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated, intensified, and made more effective and equitable at all levels of government.

"Congress further finds that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency by developing and implementing effective programs to improve the quality of juvenile justice in the United States.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local governments, the financial and technical resources of the Federal Government should be made available to support such State and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require: (1) systematic and sustained action by Federal, State, and local governments; (2) greater continuity in the scope and level of Federal assistance; and (3) continuing efforts at all levels of government to streamline programs and upgrade the functioning of agencies responsible for planning, implementing and evaluating efforts to improve justice systems.

"It is therefore the declared policy of the Congress to aid State and local governments in strengthening and improving their systems of criminal justice by providing financial and technical assistance with maximum certainty and minimum delay. It is the purpose of this title to (1) authorize funds for the benefit of States and units of general local government to be used to strengthen their criminal justice and juvenile justice systems; (2) develop and fund new methods and programs to enhance the effectiveness of criminal justice agencies; (3) support the development of city, county, and statewide priorities and programs to meet the problems confronting the justice system; (4) reduce court congestion and trial delay; (5) support community anticrime efforts; (6) improve and modernize the correctional system; (7) encourage the undertaking of innovative projects of recognized importance and effectiveness; (8) encourage the development of basic and applied research directed toward the improvement of civil, criminal, and juvenile justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, civil disputes, and the operation of justice systems; and (10) support manpower development and training efforts. It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for criminal justice activities below the level of such support prior to the availability of such assistance.

"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"SEC. 101. There is hereby established within the Department of Justice under the direct authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as the 'Administration'). The Administration shall be under the direction of an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and such other Deputy Administrators as may be designated by the Attorney General. The Administrator shall have final authority over all grants, cooperative agreements, and contracts awarded by the Administration. The Administrator shall report to the Director of the Office of Justice Assistance, Research, and Statistics established under section 801 of this title.

"SEC. 102. The Administrator shall—

"(a) provide funds to eligible States and units of local government pursuant to part D of this title in order to finance programs approved in accordance with the provisions of this title;

"(b) recognize national criminal justice priorities established by the Office of Justice Assistance, Research, and Statistics in accordance with parts E and F of this title, inform States and units of local government concerning such priorities and award and allocate funds among the eligible States, units of local government, and public and private nonprofit organizations according to the criteria and on the terms and conditions determined by the Administration to be consistent with parts E and F of this title;

"(c) publish and disseminate information on the condition and progress of the criminal justice system and establish and carry on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Administration affecting State and local criminal justice priorities;

"(d) cooperate with and render technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities;

"(e) exercise the powers and functions set out in part H;

"(f) exercise such other powers and functions as may be vested in the Administrator pursuant to this title;

"(g) provide funds to eligible jurisdictions under this title for the development of operational information and telecommunications systems.

"SEC. 103. (a) There is established in the Law Enforcement Assistance Administration the Office of Community Anti-Crime Programs (hereinafter in this section referred to as the 'Office'). The Office shall be under the direction of the Administrator and shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to—

"(A) apply for grants which encourage community and citizen participation in crime prevention and criminal justice activities;

"(B) participate in the formula grant application process pursuant to section 402(f) of this title;

"(C) provide program development and encouragement of neighborhood and community participation in crime prevention and public safety efforts; and

"(D) implement programs and projects assisted with grants under subsection (b) of this section.

"(2) coordinate its activities with other Federal agencies and programs, including the Community Relations Service of the Department of Justice, which are designed to encourage and assist citizen participation in criminal justice activities;

"(3) provide information on successful programs of citizen and community participation to citizen and community groups;

"(4) review, at its discretion, formula grant applications submitted under section 403 of this title in order to assure that the requirements for citizen, neighborhood, and community participation in the application process have been met; and

"(5) make recommendations, after consultation with citizen, neighborhood, and community organizations, to the Director of the Office of Justice Assistance, Research, and Statistics for the designation of effective community anticrime programs for funding as national priority grants under part E and discretionary grants under part F.

"(b) The Office of Community Anti-Crime Programs is authorized to make grants to community and citizens groups, which grants shall be used—

"(1) to enable the community to engage in a process leading to the identification of problems facing that community with respect to crime or conflicts, disputes, and other problems that might lead to crime;

"(2) to provide for the consideration by the community of plans to alleviate such problems with special attention to projects that—

"(A) have been succesful in other communities in dealing with the same or similar problems;

"(B) provide alternatives to the crilmnal justice system in resolving conflicts and disputes and in repairing the injuries suffered;

"(C) promote increased citizen participation and confidence in the processes used to resolve conflicts and disputes; and

"(D) address the social and economic causes of crime.

"(3) to enable community and citizen groups to participate in assistance programs under this title, but no grant under this section may be used principally to seek technical assistance or a grant under this title;

"(4) to conduct training of community groups in the management of grants and such other skills as the Office determines are necessary to enhance the involvement of neighborhoods and citizens in community crime prevention and dispute resolution projects; and

"(5) to carry out projects determined to be likely to alleviate the community's crime problems as identified through the process set forth in this subsection.

"(c) In carrying out the functions under this part the Administrator shall make appropriate provisions for coordination among neighborhoods and for consultation with locally elected officials.

"(d) Of the total amount appropriated for Parts A, D, E, and F of this title in any fiscal year, 10 per centum shall be set aside for grants and technical assistance under this section.

"PART B—NATIONAL INSTITUTE OF JUSTICE

"SEC. 201. It is the purpose of this part to establish a National Institute of Justice, which shall provide for and encourage research and demonstration efforts for the purpose of—

"(a) improving Federal, State, and local criminal, and juvenile justice systems;

"(b) preventing and reducing crimes;

"(c) insuring citizen access to appropriate dispute-resolution forums; and

"(d) improving efforts to detect, investigate, prosecute and otherwise combat and prevent white-collar crime and public corruption."

The Institute shall have authority to engage in and encourage research and development to improve and strengthen criminal and juvenile justice systems and to disseminate the results of such efforts to Federal, State, and local governments, to develop alternatives to judicial resolution of disputes, to evaluate the effectiveness of programs funded under this title, to develop new or improved approaches and techniques, to improve and strengthen the administration of justice, and to identify programs or projects carried out under this title which have demonstrated success in improving the quality of justice systems and which offer the likelihood of success if continued or repeated.

"SEC. 202. (a) There is established within the Department of Justice, under the direct authority of the Attorney General, a National Institute of Justice (hereinafter referred in this part as the 'Institute').

"(b) The Institute shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall have had experience in justice research. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Institute makes any contract or other arrangement under this Act. The Director shall report to the Director of the Office of Justice Assistance, Research, and Statistics established under section 801 of this title.

"(c) The Institute is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with, public agencies, institutions of higher education, private organizations, or individuals to conduct research, demonstrations, or special projects pertaining to the purposes described in this part, and provide technical assistance and training in support of tests, demonstrations, and special projects;

"(2) conduct or authorize multiyear and short-term research and development concerning all parts of the criminal, and juvenile justice systems in an effort (i) to identify alternative programs for achieving system goals, (ii) to provide more accurate information on the causes and correlates of crime, (iii) to improve the functioning of the criminal justice system, (iv) to develop new methods for the prevention and reduction of crime, the detection and apprehension of criminals, the expeditious, efficient, and fair disposition of criminal cases, and the development of adequate corrections facilities and effective programs of correction, and (v) to develop programs and projects to improve and expand the capacity of States and units of local government and combinations of such units, to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption, to improve and expand cooperation among the Federal Government, States, and units of local government in order to enhance the overall criminal justice system response to white-collar crime and public corruption, and to foster the creation and implementation of a comprehensive national strategy to prevent and combat white-collar crime and public corruption. In carrying out the provisions of this subsection the Institute may request the assistance of both public and private research agencies;

"(3) evaluate the effectiveness of projects or programs carried out under this part;

"(4) evaluate, where appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title, and disseminate such information to State agencies and, upon request to units of general local government;

"(5) make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen criminal and juvenile justice systems;

"(6) provide research fellowships and clinical internships and carry out programs of training and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects including those authorized by this part;

"(7) collect and disseminate information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations relating to the purposes of this part;

"(8) serve as a national and international clearinghouse of the exchange of information with respect to the purposes of this part;

"(9) submit an annual report to the President and Congress on the state of justice research. This report shall describe significant achievements and identify areas needing further study. Other Federal agencies involved in justice research shall assist, upon request, in preparation of this report;

"(10) after consultation with appropriate agencies and officials of States and units of local government, make recommendations to the Director of the Office of Justice Assistance, Research, and Statistics for the designation of programs or projects which will be effective in improving the functioning of the criminal justice system, for funding as national priority grants under part E and discretionary grants under part F; and

"(11) encourage, assist, and serve in a consulting capacity to Federal, State, and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services.

"(d) To insure that all criminal and juvenile justice research is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(2) confer with and avail itself of the cooperation, services, records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section, and the agencies shall provide such information to the Institute as required to carry out the purposes of this part;

"(4) seek the cooperation of the judicial branches of Federal and State Government in coordinating juvenile and criminal justice research and development; and

"(5) exercise the powers and functions set out in part H.

"SEC. 203. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"SEC. 204. (a) There is hereby established a National Institute of Justice Policy Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members shall represent the public interest and should be experienced in the criminal or juvenile systems, including, but not limited to, representatives of States and units of local government, representatives of police, courts, corrections, and other components of the justice system at all levels of government, members of the academic and research community, members of the business community, prosecution and defense attorneys, officials of neighborhood and community organizations, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Institute with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Director of the Bureau of Justice Statistics shall serve as ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(b) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (a) shall be three years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (a) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) recommend the policies and priorities of the Institute;

"(2) create, where necessary, formal peer review procedures over selected categories of grants, cooperative agreements, and contracts;

"(3) recommend to the President at least three candidates for the position of Director of the Institute in the event of a vacancy; and

"(4) undertake such additional related tasks as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"PART C—BUREAU OF JUSTICE STATISTICS

"SEC. 301. It is the purpose of this part to provide for and encourage the collection and analysis of statistical information concerning crime (including white-collar crime and public corruption), juvenile delinquency, civil disputes and the operation of juvenile, and criminal justice systems; and to support the development of information and statistical systems at the Federal, State, and local levels to improve the efforts of these levels of government to measure and understand the levels of crime (including white-collar crime and public corruption), juvenile delinquency and civil disputes and the operation of the juvenile, and criminal justice systems.

"SEC. 302. (a) There is established within the Department of Justice, under the direct authority of the Attorney General, a Bureau of Justice Statistics (hereinafter referred to in this part as 'Bureau').

"(b) The Bureau shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall have had experience in statistical programs. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this Act. The Director shall report to the Director of the Office of Justice Assistance, Research, and Statistics established under section 801.

"(c) The Bureau is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with public agencies, institutions of higher education, private organizations, or private individuals for purposes related to this part; grants shall be made subject to continuing compliance with standards for gathering justice statistics set forth in rules and regulations promulgated by the Director;

"(2) collect and analyze information concerning criminal victimization;

"(3) collect and analyze data that will serve as a continuous and comparable national social indication of the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, and other statistical factors related to crime, and juvenile delinquency, in support of national, State, and local justice policy and decisionmaking;

"(4) collect and analyze statistical information, concerning the operations of the criminal and juvenile justice systems at the Federal, State, and local levels;

"(5) collect and analyze statistical information concerning the prevalence, incidence, rates, extent, distribution, and attributes of crime, and juvenile delinquency, at the Federal, State, and local levels;

"(6) analyze the correlates of crime, and juvenile delinquency, by the use of statistical information, about criminal, and juvenile, justice systems at the Federal, State, and local levels, and about the extent, distribution and attributes of crime, and juvenile delinquency, in the Nation and at the Federal, State, and local levels;

"(7) compile, collate, analyze, publish, and disseminate uniform national statistics concerning all aspects of justice, crime, juvenile delinquency, criminal offenders, and juvenile delinquents in the various States;

"(8) formulate national standards for justice statistics and for insuring the reliability and validity of justice statistics supplied pursuant to this title;

"(9) maintain liaison with the judicial branches of the Federal and State Governments in matters relating to justice statistics, and cooperate with the judicial branch in assuring as much uniformity as feasible in statistical systems of the executive and judicial branches;

"(10) provide information to the President, the Congress, the judiciary, State and local governments, and the general public on justice statistics;

"(11) establish or assist in the establishment of a system to provide State and local governments with access to Federal informational resources useful in the planning, implementation, and evaluation of programs under this Act;

"(12) conduct or support research relating to methods of gathering or analyzing justice statistics;

"(13) provide financial and technical assistance to the States and units of local government relating to collection, analysis, or dissemination of justice statistics;

"(14) maintain liaison with State and local governments and governments of other nations concerning justice statistics;

"(15) cooperate in and participate with national and international organizations in the development of uniform justice statistics;

"(16) insure conformance with security and privacy regulations issued pursuant to section 820; and

"(17) exercise the powers and functions set out in part H.

"(d) To insure that all justice statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(2) confer with and avail itself of the cooperation, services, records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this title, and the agencies shall provide such information to the Bureau as required to carry out the purposes of this section; and

"(4) seek the cooperation of the judicial branch of the Federal Government in gathering data from civil, juvenile, and criminal justice records.

"(e) In formulating standards for gathering justice statistics under this section, the Director shall consult with representatives of State and local government, including, where appropriate, representatives of the judiciary.

"SEC. 303. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Bureau shall require, whenever feasible as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"SEC. 304. (a) There is hereby established a Bureau of Justice Statistics Advisory Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members shall represent the public interest and should include representatives of States and units of local government, representatives of police, courts, corrections, and other components of the justice system at all levels of government, members of the academic, research, and statistics community, prosecution and defense attorneys, members of the business community, officials of neighborhood and community organizations, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Bureau with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall serve as ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(b) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (c) shall be three years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (a) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) review and make recommendations to the Bureau on activities undertaken by the Bureau and formulate and recommend to the Director policies and priorities for the Bureau;

"(2) recommend to the President at least three candidates for the position of Director of the Bureau in the event of a vacancy; and

"(3) carry out such additional related functions as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"SEC. 305. Notwithstanding any other provision of this title, the Bureau shall not collect or maintain, or otherwise involve itself with, any data or other statistical information relating to the civil justice system, civil disputes, or any other civil matter.

"SEC. 306. Data collected by the Bureau shall be used only for statistical or research purposes, and shall be gathered in a manner that precludes their use for law enforcement or any purpose relating to a particular individual other than statistical or research purposes.

"PART D—FORMULA GRANTS

"DESCRIPTION OF PROGRAM

"SEC. 401. It is the purpose of this part to assist States and units of local government in carrying out programs to improve and strengthen the functioning of the criminal justice system. The Administration is authorized to make grants under this part to States and units of local government for the purpose of—

"(a) Combating crime by—

"(1) establishing or expanding community- and neighborhood-based programs that enable citizens to undertake initiatives designed to reduce the rate of local neighborhood crime; and

"(2) developing programs or projects to improve and strengthen law enforcement agencies.

"(b) Developing and implementing programs and projects designed to improve court administration, prosecution and defense, including but not limited to programs and projects to—

"(1) reduce the time between arraignment and disposition;

"(2) reform existing procedures and rules;

"(3) develop innovative institutions, procedures, and programs, including juvenile programs; and

"(4) promote statewide standards and improvement of State court systems.

"(c) Developing and implementing programs and projects designed to improve correctional services and practices, including but not limited to programs and projects to encourage advanced practices, the operation and renovation of correctional institutions and facilities, programs to deal with the special needs of drug dependent offenders, including community-based halfway houses and other community-based rehabilitation centers for initial preconviction or postconviction referral of juvenile and other offenders.

"(d) Studying the development and implementation of programs providing compensation and other assistance to victims of violent crimes and other programs encouraging and promoting victim and witness participation in the criminal justice process and programs designed to reduce the incidence of crimes involving victims.

"(e) Devising effective alternatives to the criminal justice system, including but not limited to pretrial diversion programs and such other projects as will reduce congestion in the courts without violating civil and constitutional rights of individuals, and the rate at which defendants, including juvenile defendants, reappear in court.

"(f) Developing programs to combat organized crime, arson, public corruption, white-collar crime, and fraud against the Government.

"(g) That portion of any Federal grant made under this section may be up to 100 per centum of the cost of the program or project specified in the application for such grant.

"ELIGIBILITY

"SEC. 402. (a) The Administration is authorized to make financial assistance under this part available to an eligible jurisdiction to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this title. An eligible jurisdiction shall be—

"(1) a State, as defined in section 901(a)(2) of this title but shall not include the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands;

"(2) a municipality which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(3) a county which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(4) any combination of contiguous units of local government, whether or not situated in more than one State, which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(5) a municipality which has a population of less than one hundred thousand which contains the largest population in a standard metropolitan statistical area as designated by the United States Department of Commerce; or

"(6) a unit of local government, or any combination of such contiguous units without regard to population, which are otherwise ineligible under the other paragraphs of this subsection.

"(b)(1) Each State shall establish or designate and maintain a criminal justice council (hereinafter referred to in this title as the 'council') for the purpose of—

"(A) analyzing the criminal justice problems within the State based on input from all eligible jurisdictions, State agencies, and the judicial coordinating committee and establishing priorities for expenditure of funds based on the analysis;

"(B) preparing, developing, and reviewing a comprehensive State application reflecting the priorities;

"(C) receiving, reviewing, and approving (or disapproving) applications or amendments submitted by State agencies, the judicial coordinating committee, and units of local government, or combinations thereof, as defined in section 402(a)(6) of this title, pursuant to section 405(a)(5) of this title, and providing financial assistance to these agencies and units according to the criteria of this title and on the terms and conditions established by such council at its discretion;

"(D) receiving, coordinating, reviewing, and monitoring all applications or amendments submitted by State agencies, the judicial coordinating committee, units of local government, and combinations of such units pursuant to section 403 of this title, recommending ways to improve the effectiveness of the programs or projects referred to in said applications, assuring compliance of said applications with Federal requirements and State law and integrating said applications into the comprehensive State application;

"(E) preparing an annual report for the Governor and the State legislature containing an assessment of the criminal justice problems and priorities within the State; the adequacy of existing State and local agencies, programs, and resources to meet these problems and priorities; the distribution and use of funds allocated pursuant to this part and the relationship of these funds to State and local resources allocated to crime and justice system problems; and the major policy and legislative initiatives that are recommended to be undertaken on a statewide basis;

"(F) assisting the Governor, the State legislature, and units of local government upon request in developing new or improved approaches, policies, or legislation designed to improve criminal justice in the State;

"(G) developing and publishing information concerning criminal justice in the State;

"(H) providing technical assistance upon request to State agencies, the judicial coordinating committee, and units of local government in matters relating to improving criminal justice in the State;

"(I) assuring fund accounting, auditing, and evaluation of programs and projects funded under this part to assure compliance with Federal requirements and State law.

"(2) The council shall be created or designated by State law and shall be subject to the jurisdiction of the chief executive of the State who shall appoint the members of the council, designate the chairman, and provide professional, technical, and clerical staff to serve the council. The council shall be broadly representative and include among its membership—

"(A) representatives of eligible jurisdictions as defined in section 402(a) (2), (3), and (4), who shall comprise at least one-third of the membership of the council where there are such eligible jurisdictions in the State and where they submit applications pursuant to this part;

"(B) representatives of the smaller units of local government defined in section 402 (a)(6);

"(C) representatives of the various components of the criminal justice system, including representatives of agencies directly related to the prevention and control of juvenile delinquency, and prosecution and defense attorneys;

"(D) representatives of the general public including representatives of neighborhood and community-based and business organizations of the communities to be served under this part; and

"(E) representatives of the judiciary including, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer; if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members and the local trial court judicial officer shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership; additional judicial members of the council as may be required by the Administration shall be appointed by the chief executive of the State from the membership of the judicial coordinating committee.

Individual representatives may fulfill the requirements of more than one functional area or geographical area where appropriate to the background and expertise of the individual.

"(3)(A) Applications from eligible jurisdictions as defined in section 402(a) (2), (3), and (4) may, at the discretion of such jurisdiction, be in the form of a single application to the State for inclusion in the comprehensive State application. Applications or amendments should conform to the overall priorities, unless the eligible jurisdiction for good cause determines that such priorities are inconsistent with their needs. Such application or amendments shall be deemed approved unless the council, within ninety days of the receipt of such application or amendment, finds that the application or amendment—

"(i) is in noncompliance with Federal requirements or with State law or regulations;

"(ii) is inconsistent with priorities and fails to establish, under guidelines issued by the Administration, good cause for such inconsistency; or

"(iii) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State, or local supported programs or applications.

Where the council finds such noncompliance, inconsistency, conflict, or duplication, it shall notify the applicant in writing and set forth its reasons for the finding.

"(B) The applicant shall, within thirty days of receipt of written findings of the council pursuant to (A) submit to the council a revised application or state in writing the applicant's reasons for disagreeing with the council's findings.

"(C) A revised application submitted under (B) shall be treated as an original application except that the council shall act on such application within thirty days.

"(D) If an applicant states in writing a disagreement with the council's written findings as specified in (b)(3)(A) (i), (ii), and (iii), the disagreement shall be submitted to binding arbitration under procedures established by the Administration. Such procedures shall include a panel composed of one member selected by the council, one member selected by the eligible jurisdiction, and one member selected by the mutual agreement of the council and eligible jurisdictions. The panel shall examine the factual and legal basis for the action of the council and the eligible jurisdiction and shall approve the action of the council or the action of the eligible jurisdiction. The decision of the panel will not be final on matters of Federal law or policy. In cases where the council's action is not supported by clear and convincing evidence or where the council acted arbitrarily and capriciously, the panel hearing the matter may direct the council to approve the application or amendment.

"(E) Approval of the application of such eligible local jurisdiction shall result in the award of funds to such eligible jurisdiction without requirement for further application or review by the council.

"(4) Applications from State agencies and eligible jurisdictions as defined in section 402(a)(6) must be in the manner and form proscribed by the council. Where the council determines under section (b)(1)(C) and (D) that an application or amendment from a State agency or an eligible jurisdiction as defined in section 402(a)(6):

"(A) is in noncompliance with Federal requirements or with State law or regulation;

"(B) is inconsistent with priorities, policy, organizational, or procedural arrangements, or the crime analysis; or

"(C) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State, or local supported programs or applications.

The council shall notify the applicant in writing of the finding and the reasons for the finding and may deny funding or recommend appropriate changes. Appeal of the council's action shall be in accord with procedures established by the council for such matters.

"(c) The chief executive(s) of an eligible jurisdiction as defined in section 402(a)(2), (3), and (4) shall create or designate an office for the purpose of preparing and developing the jurisdiction's application to be submitted to the council pursuant to section 403 of this title. Each eligible jurisdiction shall establish or designate a local criminal justice advisory board (hereinafter referred to in this title as the 'Board') for the purpose of—

"(1) advising the council on priorities;

"(2) advising the chief executive of the eligible jurisdiction pursuant to this title;

"(3) acting on applications or amendments by the eligible jurisdiction; and

"(4) assuring an adequate allocation of funds for court programs as defined in section 401(b) based upon that proportion of the eligible subgrant jurisdiction's expenditures for court programs which contributes to the subgrant jurisdiction's eligibility for funds and which take into account the court priorities recommended by the judicial coordinating committee. Such board shall be established or designated by the chief executive of the eligible jurisdiction and shall be subject to the jurisdiction of the chief executive who shall appoint the members and designate the chairman.

Such board shall be broadly representative of the various components of the criminal and juvenile justice system and shall include among its membership representatives of neighborhood and community-based organizations. In the case of an eligible jurisdiction as defined in section 402(a)(4) of this title, the membership of the board shall be jointly appointed in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Decisions made by the board pursuant to this subsection may be reviewed and either be accepted or rejected by the chief executive of the eligible subgrant jurisdiction, or in the case of an eligible jurisdiction as defined in section 402(a)(4) of this title in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Where an eligible jurisdiction as defined in section 402(a) (2) or (3) chooses not to combine pursuant to section 402(a)(4) and chooses not to exercise the powers of this subsection, it shall be treated as an eligible jurisdiction under section 402(a)(6).

"(d) The court of last resort of each State may establish or designate a judicial coordinating committee (hereinafter referred to in this title as the 'Committee') for the preparation, development, and revision of a three-year application or amendments thereto reflecting the needs and priorities of the courts of the State. For those States where there is a judicial agency which is authorized by State law on the date of enactment of this subsection to perform this function and which has a statutory membership of a majority of court officials (including judges and court administrators), the judicial agency may establish or designate the judicial coordinating committee. The committee shall—

"(1) establish priorities for the improvement of the various courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State;

"(3) develop, in accordance with part D of this title, an application for the funding of programs and projects designed to improve the functioning of the courts and judicial agencies of the State.

The committee shall submit its three-year application or amendments to the council. The committee shall review for consistency with the court priorities, applications, or amendments from any jurisdiction which has incurred expenditures for court services from its own sources. The council shall approve and incorporate into its application in whole or in part the application or amendments of the committee unless the council determines that such committee application or amendments are not in accordance with this title, are not in conformance with, or consistent with, their own application made pursuant to section 403 of this title or do not conform with the fiscal accountability standards of this title.

"(e)(1) The council will provide for procedures that will insure that all applications or amendments by units of local government or combinations thereof or judicial coordinating committees shall be acted upon no later than ninety days after being first received by the council. Final action by the council which results in the return of any application or amendments to an applicant must contain specific reasons for such action within ninety days of such receipt. Any part of such application or amendments which is not acted upon shall be deemed approved for the purpose of this title. Action by the council on any application or part thereof shall not preclude the resubmission of such application or part thereof to the council at a later date.

"(2) The council, the judicial coordinating committee, and local offices, established pursuant to section 402(c), shall meet at such times and in such places as they deem necessary and shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted if final action is to be taken at the meeting on the State application or any application for funds or any amendment thereto. The council, the judicial coordinating committee, and local officers, pursuant to section 402(c), shall provide for public access to all records relating to their functions under this title, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.

"(3) The council shall, at a time designated in regulations promulgated by the Administration, submit its application made pursuant to this part to the Administration for approval. Its application shall include funding allocations or applications which were submitted by State agencies, the judicial coordinating committee, and units of local government, or combinations thereof, and which were first reviewed and approved by the council pursuant to section 402(b)(3) or section 402(b)(4) as appropriate.

"(f) To be eligible for funds under this part all eligible jurisdictions shall assure the participation of citizens and neighborhood and community organizations, in the application process. No grant may be made pursuant to this part unless the eligible jurisdiction has provided satisfactory assurances to the Administration that that applicant has—

"(1) provided citizens and neighborhood and community organizations with adequate information concerning the amounts of funds available for proposed programs or projects under this Act, the range of activities that may be undertaken, and other important program requirements;

"(2) provided citizens and neighborhood and community organizations an opportunity to consider and comment on priorities set forth in the application or amendments;

"(3) provided for full and adequate participation of units of local government in the performance of the analysis and the establishment of priorities required by section 402(b)(1)(A); and

"(4) provided an opportunity for all affected criminal and juvenile justice agencies to consider and comment on the proposed programs to be set forth in the application or amendments.

The Administrator, in cooperation with the Office of Community Anti-Crime Programs, may establish such rules, regulations, and procedures as are necessary to assure that citizens and neighborhood and community organizations will be assured an opportunity to participate in the application process.

"APPLICATIONS

"SEC. 403. No grant may be made pursuant to part D of this title unless the application sets forth criminal justice programs and projects covering a three-year period which meet the objectives of section 401 of this title. This application must be amended annually if new programs or projects are to be added to the application or if the programs or projects contained in the original application are not implemented. The application must include—

"(1) an analysis of the crime problems and criminal justice needs within the relevant jurisdiction and a description of the services to be provided and performance goals and priorities, including a specific statement of how the programs or projects are expected to advance the objectives of section 401 of this title and meet the problems and needs of the jurisdiction;

"(2) an indication of how the programs or projects relate to other similar State or local programs or projects directed at the same or similar problems;

"(3) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Administration, where the applicant is a State, and to the council where the applicant is a State agency, the judicial coordinating committee, or a unit or combination of units of local government—

"(i) a performance report concerning the activities carried out pursuant to this title; and

"(ii) an assessment by the applicant of the impact of those activities on the objectives of this title and the needs and objectives identified in the applicant's statement;

"(4) a certification that Federal funds made available under this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for criminal justice activities;

"(5) an assurance that there is an adequate share of funds for courts, prosecution, and defense programs;

"(6) a provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Administration shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds received under this title;

"(7) a provision for the maintenance of such data and information and for the submission of such reports in such form, at such times, and containing such data and information as the Administration may reasonably require to administer other provisions of this title;

"(8) a certification that its programs or projects meet all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration and shall be executed by the chief executive officer or other officer of the applicant qualified under regulations promulgated by the Administration; and

"(9) satisfactory assurances that equipment, whose purchase was previously made in connection with a program or project in such State assisted under this title and whose cost in the aggregate was $100,000 or more, has been put into use not later than one year after the date set at the time of purchase for the commencement of such use and has continued in use during its useful life.

"REVIEW OF APPLICATIONS

"SEC. 404. (a) The Administration shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereof is consistent with the requirements of this title;

"(2) the application or amendment thereof was made public prior to submission to the Administration and an opportunity to comment thereon was provided to citizens and neighborhood and community groups; and

"(3) prior to the approval of the application or amendment thereof the Administration has made an affirmative finding in writing that the program or project is likely to contribute effectively to the achievement of the objectives of section 401 of this title.

Each application or amendment made and submitted for approval to the Administration pursuant to section 403 of this title shall be deemed approved, in whole or in part, by the Administration within ninety days after first received unless the Administration informs the applicant of specific reasons for disapproval. Subsequent to approval of the application or amendment, the amount of the grant may be adjusted by the Administration in accordance with the provisions of this title.

"(b) The Administration shall suspend funding for an approved application in whole or in part if such application contains a program or project which has failed to conform to the requirements or statutory objectives of this Act as evidenced by—

"(1) the annual performance reports submitted to the Administration by the applicant pursuant to section 802(b) of this title;

"(2) the failure of the applicant to submit annual performance reports pursuant to section 802(b) of this title;

"(3) evaluations conducted pursuant to section 802(b);

"(4) evaluations and other information provided by the National Institute of Justice.

The Administration may make appropriate adjustments in the amounts of grants in accordance with its findings pursuant to this subsection.

"(c) Grant funds awarded under part D shall not be used except as provided in section 102(g) for—

"(1) the purchase of equipment or hardware, or the payment of personnel costs unless the cost of such purchases or payments is incurred as an incidental and necessary part of an improvement program or project. In determining whether to apply this limitation, consideration must be given to the extent of prior funding from any sources in that jurisdiction for substantially similar activities;

"(2) the payment of general salary increases for employees or classes of employees within an eligible jurisdiction;

"(3) construction projects; or

"(4) programs or projects which, based upon evaluations by the National Institute of Justice, Law Enforcement Assistance Administration, Bureau of Justice Statistics, State or local agencies, and other public or private organizations, have been demonstrated to be ineffective. Such programs must be formally identified by a notice in the Federal Register after opportunity for comment.

"(d) The Administration shall not finally disapprove any application submitted to the Administrator under this part, or any amendments thereof, without first affording the applicant reasonable notice and opportunity for a hearing and appeal pursuant to section 803 of this title.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 405. (a) Of the total amount appropriated for parts A, D, E, and F of this title in any fiscal year, 70 per centum shall be set aside for part D and allocated to States, units of local government, and combinations of such units as follows:

"(1) Funds shall first be allocated among each of the participating States as defined in section 402(a)(1) according to one of the following two formulas, whichever formula results in the larger amount:

"(A) Of the total amount to be allocated pursuant to this part:

"(i) 25 per centum shall be allocated in proportion to the relative population within the State as compared to the population in all States;

"(ii) 25 per centum shall be allocated in proportion to the relative number of index crimes (as documented by the Department of Justice) reported within the State as compared to such numbers in all States;

"(iii) 25 per centum shall be allocated in proportion to the relative amount of total State and local criminal justice expenditures from their own sources within the State as compared to such amounts in all States; and

"(iv) 25 per centum shall be allocated in proportion to the relative population within the State, weighted by the share of State personal income paid in State and local taxes, as compared to such weighted populations in all States; or

"(B) The total amount to be allocated pursuant to this part shall be allocated in proportion to the relative population within the State as compared to the population, in all States;

except that no State which receives financial assistance pursuant to section 405(a)(1)(A) shall receive an amount in excess of 110 per centum of that amount available to a State pursuant to section 405(a)(1)(B).

"(2) If the fund allocation to each of the States pursuant to section 405(a)(1) results in a total amount in excess of the amount appropriated for the purposes of this part, additional funds shall be allocated by the Administration from part E or F to the States for purposes consistent with those parts so that the total amount equals the total amount allocated under section 405(a)(1). No State shall receive an allocation pursuant to section 405(a)(1) which is less than the block grant allocation received by such State for fiscal year 1979 pursuant to parts C and E of the Omnibus Crime Control and Safe Streets Act as amended (42 U.S.C. 3701, et seq.), except that if the total amount appropriated for part D for any fiscal year subsequent to fiscal year 1979 is less than the total block grant appropriation for parts C and E during fiscal year 1979, the States shall receive an allocation according to their respective populations.

"(3) From the amount made available to each State pursuant to subsection (1) and (2), the Administration shall determine basic allocations to be made available to the State, to eligible jurisdictions as defined in section 402(a) (2), (3), or (4) and to eligible jurisdictions as defined in section 402(a)(6). Such allocations shall be determined.

"(A) by distributing 70 per centum of available funds allocated under subsection (1) and (2) to the State and those eligible units of local government within the State as defined in section 402(a) in a proportion equal to their own respective share of total State and local criminal justice expenditure from all sources; and

"(B) by equally dividing the remaining 30 per centum of available funds allocated under subsections (1) and (2) among the four purposes specified in section 401 of this title and distributing to the State and to those eligible units of local government within the State as defined in section 402(a), in four shares in amounts determined as follows:

"(i) for combating crime as specified in section 401(a), a proportion of the available funds equal to their own respective share of total State and local expenditures for police services from all sources;

"(ii) for improving court administration as specified in section 401(b), a proportion of the available funds equal to their own respective share of total State and local expenditures for judicial, legal, and prosecutive, and public defense services from all sources;

"(iii) for improving correctional services as specified in section 401(c), a proportion of the available funds equal to their own respective share of total State and local expenditures for correctional services from all sources; and

"(iv) for devising effective alternatives to the criminal justice system as specified in section 401(d) a proportion of the available funds equal to their own respective share of total State and local expenditures from all sources.

"(4) All allocations under subsection (3) shall be based upon the most accurate and complete data available for such fiscal year or for the most recent fiscal year for which accurate data are available. Eligible jurisdictions as defined in section 402(a)(4) may not receive an allocation based upon the population of eligible cities and counties as defined in section 402(a)(2) and (3) unless such cities and counties participate in activities under this title as part of a combination of units of local government as defined in section 402(a)(4). In determining allocations for the eligible units as defined in section 402(a), an aggregate allocation may be utilized where eligible jurisdictions as defined in section 402(a) combine to meet the population requirements of section 402(a)(4).

"(5) The amount made available pursuant to subsection (3) to eligible units of local government within each State, as defined in section 402(a)(6), and to eligible jurisdictions, as defined in section 402(a)(2) or (3), which choose not to combine pursuant to section 402(a)(4) and choose not to exercise the powers of section 402(c), shall be reserved and set aside in a special discretionary fund for use by the council pursuant to section 402 of this title, in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to such units of local government or combinations thereof. The council shall allocate such funds among such local units of government or combinations thereof which make application pursuant to section 403 of this title, according to the criteria of this title and on the terms and conditions established by such council at its discretion. If in a particular State, there are no eligible units of local government, as defined in section 402(a)(2), 402(a)(3), or 402(a)(4) of this part, the amount otherwise reserved and set aside in the special discretionary fund shall consist of the entire amount made available to local units of government, pursuant to this section.

"(b) At the request of the State legislature while in session or a body designated to act while the legislature is not in session, general goals, priorities, and policies of the council shall be submitted to the legislative for an advisory review prior to its implementation by the council. In this review the general criminal justice goals, priorities, and policies that have been developed pursuant to this part shall be considered. If the legislature or the interim body has not reviewed such matters forty-five days after receipt, such matters shall then be deemed reviewed.

"(c) No award of funds that are allocated to the States, units of local government, or combinations thereof under this part shall be made with respect to a program or project other than a program or project contained in an approved application.

"(d) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State, unit of local government, or combination thereof for that fiscal year will not be required, or that the State, unit of local government, or combination thereof will be unable to qualify or receive funds under the requirements of this part or section 1003 of this title, such funds shall be available for reallocation to the States, or other units of local government and combinations thereof within such State, as the Administration may determine in its discretion.

"(e) A State may award funds from the State allocation to private nonprofit organizations. Eligible jurisdictions as defined in section 402(a)(2) through (6) may utilize the services of private nonprofit organizations for purposes consistent with this title.

"(f) Prior to the initial allocation under section 405(a), no more than $1,000,000 shall be allotted among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands for purposes of this title in accordance with their respective programmatic and administrative needs and based upon such terms and criteria as the Administration may adopt.

"(g) In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, a State shall submit a plan for carrying out the purposes of that Act in accordance with the provisions of this title and section 223 of that Act. Such plan may at the direction of the Administrator be incorporated into the State application to be submitted under this part.

"(h) Eligible jurisdictions which choose to utilize regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

"PART E—NATIONAL PRIORITY GRANTS

"Sec. 501. It is the purpose of this part, through the provision of additional Federal financial aid and assistance, to encourage States and units of local government to carry out programs which, on the basis of research, demonstration, or evaluations by the National Institute of Justice, by State or local governments, or by other public or private organizations, have been shown to be effective in improving and strengthening the administration of justice.

"Sec. 502. Of the total amount appropriated for parts A, D, E, and F of this title in any fiscal year, 10 per centum shall be reserved and set aside pursuant to this part as funding incentives for use by the Administration in making national priority grants (in addition to any other grants which may be made under this title to the same entities or for the same purpose) to States and units of local government.

"Sec. 503. (a) The Office of Justice Assistance, Research, and Statistics shall periodically designate national priority programs and projects which through research, demonstration, or evaluation have been shown to be effective or innovative and to have a likely beneficial impact on criminal justice. Such national priorities may include programs and projects designated to improve the comprehensive planning and coordination of State and local criminal justice activities. Priorities established by the Office of Justice Assistance, Research, and Statistics shall be considered priorities for a period of time determined by the Office of Justice Assistance, Research, and Statistics but not to exceed three years from the time of such determination. Such priorities shall be designated by the Office of Justice Assistance, Research, and Statistics according to criteria, and on such terms and conditions, as the Office of Justice Assistance, Research, and Statistics may determine.

"(b) The Office of Justice Assistance, Research, and Statistics shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest national priority programs and projects. The Office of Justice Assistance, Research, and Statistics shall then, pursuant to regulations it promulgates annually, publish proposed national priority programs and projects pursuant to this part and invite and encourage public comment concerning such priorities. Such priority programs and projects shall not be established or modified until the Office of Justice Assistance, Research, and Statistics has provided at least sixty days advance notice for public comment and shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time, the Office of Justice Assistance, Research, and Statistics shall establish priority programs and projects for that year (and determine whether existing priority programs and projects should be modified). The Office of Justice Assistance, Research, and Statistics shall publish in the Federal Register the priority programs and projects established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"Sec. 504. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) identifies the priority program to be funded and describes how funds allocated pursuant to this part and pursuant to part D will be expended to carry out the priority program;

"(2) describes specifically what percentages of funds allocated for the upcoming year pursuant to part D of this title will be spent on priority programs and projects pursuant to this part;

"(3) describes specifically the priority programs and projects for which funds are to be allocated pursuant to part D of this title for the upcoming fiscal year;

"(4) describes what percentage of part D funds were expended on national priority projects during the preceding fiscal year; and

"(5) describes specifically the priority programs and projects for which funds were allocated pursuant to part D of this title during the preceding fiscal year and the amount of such allocation.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"Sec. 505. (a) The Administration shall after appropriate consultation with representatives of State and local governments and representatives of the various components of the justice system at all levels of government, establish reasonable requirements consistent with this part for the award of national priority grants. Procedures for awards of national priority grants shall be published in the Federal Register and no national priority grant shall be made in a manner inconsistent with these procedures. The Administration in determining whether to award a priority grant to an eligible jurisdiction shall give consideration to the criminal justice needs and efforts of eligible jurisdictions, to the need for continuing programs which would not otherwise be continued because of the lack of adequate part D funds, and to the degree to which an eligible jurisdiction has expended or proposes to expend funds from part D or other sources of funds, including other Federal grants, for priority programs and projects. No jurisdiction shall be denied a priority grant solely on the basis of its population.

"(b) Grants under this part may be made in an amount equal to 50 per centum of the cost of the priority program or project for which such grant is made. The remaining costs may be provided from part D funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction.

"(c) Amounts reserved and set aside pursuant to this part in any fiscal year, but not used in such year, may be used by the Administration to provide additional financial assistance to priority programs or projects of demonstrated effectiveness in improving the functioning of the criminal justice system, notwithstanding the provisions of section 505(b) of this title.

"(d) The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Administration for an additional period of up to two years if an evaluation of the program or project indicates that it has been effective in achieving the stated goals. The Administration shall assure that the problems and needs of all of the States are taken into account in distributing funds under this part among the States.

"PART F—DISCRETIONARY GRANTS

"SEC. 601. It is the purpose of this part, through the provision of additional Federal financial assistance, to encourage States, units of local government, combinations of such units, or private nonprofit organizations to—

"(a) undertake programs and projects to improve and strengthen the criminal justice system;

"(b) improve the comprehensive planning and coordination of State and local criminal justice activities;

"(c) provide for the equitable distribution of funds under this title among all segments and components of the criminal justice system; and

"(d) develop and implement programs and projects to redirect resources so as to improve and expand the capacity of States and units of local government and combinations of such units, to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption, to improve and expand cooperation among the Federal Government, States, and units of local government in order to enhance the overall criminal justice system response to white-collar crime and public corruption, and to foster the creation and implementation of a comprehensive national strategy to prevent and combat white-collar crime and public corruption.

"SEC. 602. Of the total amount appropriated for parts A, D, E, and F of this title in any fiscal year 10 per centum shall be reserved and set aside pursuant to this part in a special discretionary fund for use by the Administration in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to States, units of local government, combinations of such units, or private nonprofit organizations, for the purposes set forth in section 601 of this title. The Administrator shall assure that funds allocated under this subsection to private nonprofit organizations shall be used for the purpose of developing and conducting programs and projects which would not otherwise be undertaken pursuant to this title including programs and projects—

"(1) to stimulate and encourage the improvement of justice and the modernization of State court operations by means of financial assistance to national nonprofit organizations operating in conjunction with and serving the judicial branches of State governments;

"(2) to provide national education and training programs for State and local prosecutors, defense personnel, judges and judicial personnel, and to disseminate and demonstrate new legal developments and methods by means of teaching, special projects, practice, and the publication of manuals and materials to improve the administration of criminal justice. Organizations supported under this subsection will assist State and local agencies in the education and training of personnel on a State and regional basis; and

"(3) to support community and neighborhood anticrime programs.

"SEC. 603. (a) The Office of Justice Assistance, Research, and Statistics shall periodically establish discretionary programs and projects for financial assistance under this part. Such programs and projects shall be considered priorities for a period of time not to exceed three years from the time of such determination.

"(b) The Office of Justice Assistance, Research, and Statistics shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest discretionary programs and projects. The Office of Justice Assistance, Research, and Statistics shall then, pursuant to regulations, annually publish the proposed priorities pursuant to this part and invite and encourage public comment concerning such priorities. Priorities shall not be established or modified until the Office of Justice Assistance, Research, and Statistics has provided at least sixty-days advance notice for such public comment and it shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time and after consultation with the Attorney General and appropriate agencies and officials of State and units of local government, the Office of Justice Assistance, Research, and Statistics shall determine whether existing established priorities should be modified. The Office of Justice Assistance, Research, and Statistics shall publish in the Federal Register the priorities established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"SEC. 604. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to this part;

"(2) describes the services to be provided, performance goals and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals and agrees to conduct such evaluation according to the procedures and terms established by the Office of Justice Assistance, Research, and Statistics; and

"(4) indicates, if it is a private nonprofit organization, that it has consulted with appropriate agencies and officials of State and units of local government to be affected by the program and project.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"SEC. 605. The Administration shall, in its discretion and according to the criteria and on the terms and conditions it determines consistent with this part, provide financial assistance to those programs or projects which most clearly satisfy the priorities established by the Office of Justice Assistance, Research, and Statistics. In providing such assistance pursuant to this part, the Administration shall consider whether certain segments and components of the criminal justice system have received a disproportionate allocation of financial aid and assistance pursuant to other parts of this title, and, if such a finding is made, shall assure the funding of such other segments and components of the criminal justice system as to correct inequities resulting from such disproportionate allocations. Federal funding under this part may be up to 100 per centum of the cost of the program.

"SEC. 606. The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Administration for an additional period of up to two years if—

"(a) an evaluation of the program or project indicates that it has been effective in achieving the stated goals; and

"(b) the State, unit of local government, or combination thereof and private nonprofit organizations within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from part D funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction.

"PART G—TRAINING AND MANPOWER DEVELOPMENT

"SEC. 701. It is the purpose of this part to provide for and encourage training, manpower development, and new personnel practices for the purpose of improving the criminal justice system.

"SEC. 702. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local agencies engaged in the prosecution of white collar and organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against white collar and organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

"SEC. 703. (a) The Administration is authorized—

"(1) to assist in conducting local, regional, or national training programs for the training of State and local criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution, defense, or adjudication of those charged with crime, corrections, rehabilitation, probation, and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation. While participating in the training program or traveling in connection with participation in the training program, State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service;

"(2) to carry out a program of planning, development, demonstration, and evaluation of training programs for State and local criminal justice personnel;

"(3) to assist in conducting programs relating to recruitment, selection, placement, and career development practices of State and local law enforcement and criminal justice personnel, and to assist State and local governments in planning manpower programs for criminal justice; and

"(4) to carry out a program of planning, development, demonstration, and evaluation of recruitment, selection, and placement practices.

"(b) The amount of a grant or contract under this section may be up to 100 per centum of the total cost of a program, but the total financial support may not exceed 80 per centum of the total operating budget of any funded institutions or programs.

"(1) Institutions funded under this section shall assure that to the maximum extent feasible efforts shall be made to increase the non-Federal share of the total operating budgets of such institutions or programs with the objective of becoming self-sustaining.

"(2) To the greatest extent possible funds appropriated for the purposes of this section shall not be utilized to provide per diem or subsistence for State and local officials receiving such training.

"Sec. 704. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel, however no funds shall be used to provide or reimburse trainees under this section for transportation to or from the Quantico, Virginia, Federal Bureau of Investigation National Academy or for providing room and board expenses for such trainees at the Federal Bureau of Investigation National Academy;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen criminal justice; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs, and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"Sec. 705. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen criminal justice.

"(b) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to criminal justice or suitable for persons employed in criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a criminal justice agency at the rate of 25 percentum of the total amount of such loan plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

"(c) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for tuition, books, and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded criminal justice agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to criminal justice or an area suitable for persons employed in criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to criminal justice or suitable for persons employed in criminal justice, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of criminal justice education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

"(2) education and training of faculty members;

"(3) strengthening the criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums. The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

"(f) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

"(g) The functions, powers, and duties specified in this section to be carried out by the Administrator shall be transferred to the Secretary of the Department of Education upon its establishment by an Act of Congress.

"PART H—ADMINISTRATIVE PROVISIONS

"Sec. 801. (a) There is established within the Department of Justice, under the authority of the Attorney General, an Office of Justice Assistance, Research, and Statistics. The chief officer of the Office of Justice Assistance, Research, and Statistics shall be a Director appointed by the President by and with the advice and consent of the Senate.

"(b) The Office of Justice Assistance, Research, and Statistics shall directly provide staff support to, set broad policy guidelines for, and coordinate the activities of the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration.

"(c) There is hereby established a Justice Assistance, Research, and Statistics Advisory Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members shall represent the public interest and should be experienced in the civil, criminal, or juvenile justice systems, including but not limited to representatives of States and units of local government, representatives of police, courts, corrections, and other components of the justice system at all levels of government, members of the academic and research community, prosecution and defense attorneys, members of the business community, officials of neighborhood and community organizations, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but may not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Bureau of Justice Statistics, and the Director of the National Institute of Justice shall serve as ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(1) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(2) The term of office of each member of the Board appointed under subsection (c) shall be three years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which its predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (c) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (c) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No member shall serve for more than two consecutive terms.

"Sec. 802. (a) The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, and the National Institute of Justice are authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary to the exercise of their functions, and are consistent with the stated purpose of this title.

"(b) The Law Enforcement Assistance Administration shall, after consultation with the National Institute of Justice, the Bureau of Justice Statistics, State and local governments, and the appropriate public and private agencies, establish such rules and regulations as are necessary to assure the continuing evaluation of the programs or projects conducted pursuant to parts D, E, and F of this title, in order to determine—

"(1) whether such programs or projects have achieved the performance goals stated in the original application;

"(2) whether such programs or projects have contributed or are likely to contribute to the improvement of the criminal justice system and the reduction and prevention of crime;

"(3) their cost in relation to their effectiveness in achieving stated goals;

"(4) their impact on communities and participants; and

"(5) their implication for related programs.

In conducting the evaluations called for by this subsection, the Law Enforcement Assistance Administration shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants, and shall compare the effectiveness of programs or projects conducted by States and units of local government pursuant to part D of this title with similar programs carried out pursuant to parts E and F of this title. The Law Enforcement Assistance Administration shall require applicants under part D of this title to submit an annual performance report concerning activities carried out pursuant to part D of this title together with an assessment by the applicant of the effectiveness of those activities in achieving the objectives of section 401 of this title and the relationships of those activities to the needs and objectives specified by the applicant in the application submitted pursuant to section 403 of this title. The administration shall suspend funding for an approved application under part D of this title if an applicant fails to submit such an annual performance report.

"(c) The procedures established to implement the provisions of this title shall minimize paperwork and prevent needless duplication and unnecessary delays in award and expenditure of funds at all levels of government.

"Sec. 803. (a) Whenever, after reasonable notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, either the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration finds that a recipient of their respective assistance under this title has failed to comply substantially with—

"(1) any provision of this title;

"(2) any regulations or guidelines promulgated under this title; and

"(3) any application submitted in accordance with the provisions of this title, or the provisions of any other applicable Federal Act, they, until satisfied that there is no longer any such failure to comply, shall—

"(i) terminate payments to the recipient under this title;

"(ii) reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title; or

"(iii) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

"(b) If a State grant application filed under part D or if any grant application filed under any other part of this title has been rejected or a State applicant under part D or an applicant under any other part has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount that such applicant believes appropriate under the provisions of this title, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration, as appropriate, shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever such an applicant or grantee requests a hearing, the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations, including hearings on the record in accordance with section 554 of title 5, United States Code, at such times and places as necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made with respect thereto shall be final and conclusive, except as otherwise provided herein.

"(c) If such recipient is dissatisfied with the findings and determinations of the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, following notice and hearing provided for in subsection (a) of this section, a request may be made for rehearing, under such regulations and procedures as the Office of Justice Assistance, Research, and Statistics may establish, and such recipient shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved.

"Sec. 804. In carrying out the functions vested by this title in the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, their determinations, findings, and conclusions shall, after reasonable notice and opportunity for a hearing, be final and conclusive upon all applications, except as otherwise provided herein.

"Sec. 805. (a) If any applicant or recipient is dissatisfied with a final action with respect to section 803 or section 804 of this part, such applicant or recipient may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or recipient is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action. A copy of the petition shall forthwith be transmitted by the petitioner to the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice and the Attorney General of the United States, who shall represent the Federal Government in the litigation. The Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, as appropriate, shall thereupon file in the court the record of the proceeding on which the action was based, as provided in section 2112 of title 28, United States Code. No objection to the action shall be considered by the court unless such objection has been urged before the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice as appropriate.

"(b) The court shall have jurisdiction to affirm or modify a final action or to set it aside in whole or in part. The findings of fact by the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Justice Assistance, Research, and Statistics, if supported by substantial evidence on the record considered as a whole, shall be conclusive, but the court, for good cause shown, may remand the case to the Law Enforcement Assistance Administration, the National Institute of Justice, the Bureau of Justice Statistics, or the Office of Justice Assistance, Research, and Statistics to take additional evidence to be made part of the record. The Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Justice Assistance, Research, and Statistics may thereupon make new or modified findings of fact by reason of the new evidence so taken and filed with the court and shall file such modified or new findings along with any recommendations it may have for the modification or setting aside of its original action. All new or modified findings shall be conclusive with respect to questions of fact if supported by substantial evidence when the record as a whole is considered.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Justice Assistance, Research, and Statistics or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certifications as provided in section 1254 of title 28, United States Code.

"Sec. 806. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration may delegate to any of their respective officers or employees such functions as they deem appropriate.

"Sec. 807. In carrying out their functions, the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration, or upon authorization, any member thereof or any hearing examiner or administrative law judge assigned to or employed thereby shall have the power to hold hearings and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States they may designate.

"Sec. 808. Section 5314 of title 5, United States Code, is amended as follows:

"(a) by adding at the end thereof—

" '( ) Director, Office of Justice Assistance, Research, and Statistics.'

"(b) by deleting—

" '(55) Administrator of Law Enforcement Assistance.'

"Sec. 809. Title 5, United States Code, is amended as follows:

"(a) Section 5315(90) is amended by deleting 'Deputy Administrator for Policy-Development of Law Enforcement Assistance Administration' and by adding at the end thereof—

" '( ) Administrator of Law Enforcement Assistance.'

" '( ) Director of the National Institute of Justice.'

" '( ) Director of the Bureau of Justice Statistics.'

"(b) Section 5315 of title 5, United States Code, is amended by striking out the following:

" '(113) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.'

"Sec. 810. Subject to the Civil Service and classification laws, the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out their powers and duties under this title and are authorized to select, appoint, employ, and fix compensation of such hearing examiner or administrative law judge or to request the use of such administrative law judges selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out their powers and duties under this title.

"SEC. 811. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent deemed appropriate after giving due consideration to the effectiveness of such existing services, equipment, personnel, and facilities.

"SEC. 812. In carrying out the provisions of this title, including the issuance of regulations, the Office of Justice Assistance, Research, and Statistics shall consult with other Federal departments and agencies and State and local officials.

"SEC. 813. (a) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

"(b) The National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, and the Office of Justice Assistance, Research, and Statistics in carrying out their respective functions may use grants, contracts, or cooperative agreements in accordance with the standards established in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501).

"SEC. 814. (a) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

"(b) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise them with respect to the administration of this title as they deem necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising them or attending meetings of the committees, shall be compensated at rates to be fixed by the Offices but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"SEC. 815. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any State or any political subdivision thereof.

"(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration—

"(1) to require, or condition the availability or amount of a grant upon the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency; or

"(2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

"(c)(1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this title.

"(2)(A) Whenever there has been—

"(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Office of Justice Assistance, Research, and Statistics under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c)(1); or

"(ii) a determination after an investigation by the Office of Justice Assistance, Research, and Statistics (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of general local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c)(1);

the Office of Justice Assistance, Research, and Statistics shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c)(1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Office of Justice Assistance, Research, and Statistics. On or prior to the effective date of the agreement, the Office of Justice Assistance, Research, and Statistics shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Office of Justice Assistance, Research, and Statistics detailing the steps taken to comply with the agreement. These reports shall cease to be filed upon the determination of the Office of Justice Assistance, Research, and Statistics that compliance has been secured, or upon the determination by a Federal or State court that such State government or local governmental unit is in compliance with this section. Within fifteen days of receipt of such reports, the Office of Justice Assistance, Research, and Statistics shall send a copy thereof to each such complainant.

"(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

"(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

"(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Office of Justice Assistance, Research, and Statistics shall notify the Attorney General that compliance has not been secured and caused to have suspended further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Office of Justice Assistance, Research, and Statistics in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the Office of Justice Assistance, Research, and Statistics after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c)(1).

"(D) Payment of the suspended funds shall resume only if—

"(i) such State government or unit of general local government enters into a compliance agreement approved by the Office of Justice Assistance, Research, and Statistics and the Attorney General in accordance with subparagraph (B);

"(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Office of Justice Assistance, Research, and Statistics in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) by such court; or

"(iii) after a hearing the Office of Justice Assistance, Research, and Statistics pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

"(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Office of Justice Assistance, Research, and Statistics shall cause to have suspended further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

"(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing on the record in accordance with section 554 of title 5, United States Code, in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G).

"(G)(i) At any time after notification under subparagraph (A), but before the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing on the record in accordance with section 554 of title 5, United States Code, which the Office of Justice Assistance, Research, and Statistics shall initiate within sixty days of such request.

"(ii) Within thirty days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), the Office of Justice Assistance, Research, and Statistics shall make a finding of compliance or noncompliance. If the Office of Justice Assistance, Research, and Statistics makes a finding of noncompliance, the Office of Justice Assistance, Research, and Statistics shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c)(3), cause to have terminated the payment of funds under this title, and, if appropriate, seek repayment of such funds.

"(iii) If the Office of Justice Assistance, Research, and Statistics makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

"(H) Any State government or unit of general local government aggrieved by a final determination of the Office of Justice Assistance, Research, and Statistics under subparagraph (G) may appeal such determination as provided in section 805 of this title.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged in or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this title as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

"(4)(A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date the administrative complaint was filed with the Office of Justice Assistance, Research, and Statistics or any other administrative enforcement agency, unless within such period there has been a determination by the Office of Justice Assistance, Research, and Statistics or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

"(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(C) In any action instituted under this section to enforce compliance with section 816(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"Sec. 816. On or before March 31 of each year, the Director of the Office of Justice Assistance, Research, and Statistics shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

"(1) a description of the progress made in accomplishing the objectives of this title;

"(2) a description of the national priority programs and projects established by the Office pursuant to part E of this title;

"(3) the amounts obligated under parts D, E, and F of this title for each of the components of the criminal justice system;

"(4) the nature and number of jurisdictions which expended funds under part D of this title on national priority programs or projects established pursuant to part E of this title, and the percentage of part D funds expended by such jurisdictions on such programs or projects;

"(5) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(6) a description of the procedures used to audit, monitor, and evaluate programs or projects to insure that all recipients have complied with the Act and that the information contained in the applications was correct;

"(7) the number of part D applications or amendments approved by the Administration without recommending substantial changes;

"(8) the number of part D applications or amendments in which the Administration recommended substantial changes, and the disposition of such programs or projects;

"(9) the number of programs or projects under part D applications or amendments with respect to which a discontinuation, suspension, or termination of payments occurred together with the reasons for such discontinuation, suspension, or termination;

"(10) the number of programs or projects under part D applications or amendments which were subsequently discontinued by the jurisdiction following the termination of funding under this title; and

"(11) a description of equipment whose cost in the aggregate was $100,000 or more that was purchased in connection with each program or project assisted under part D, and the current use status of such equipment.

"Sec. 817. (a) Each recipient of funds under this Act shall keep such records as the Office of Justice Assistance, Research, and Statistics shall prescribe, including records which fully disclose the amount and disposition by such recipient of the funds, the total cost of the project or undertaking for which such funds are used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Office of Justice Assistance, Research, and Statistics or any of its duly authorized representatives, shall have access for purpose of audit and examination of any books, documents, papers, and records of the recipients of funds under this title which in the opinion of the Office of Justice Assistance, Research, and Statistics may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(c) The Comptroller General of the United States or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers, and records of recipients of Federal funds under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants or other arrangements referred to under this title.

"(d) Within one hundred and twenty days after the enactment of this subsection, the Office of Justice Assistance, Research, and Statistics shall review existing civil rights regulations and conform them to this title. Such regulations shall include—

"(1) reasonable and specific time limits for the Office of Justice Assistance, Research, and Statistics to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of section 816(c) of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Office of Justice Assistance, Research, and Statistics to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of section 816(c) of this title.

"(e) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant, cooperative agreement, or contract under this Act or by subgrant or subcontract from primary grantees or contractors under this Act.

"Sec. 818. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information, and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest date is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Office of Justice Assistance, Research, and Statistics shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

"(c) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000 in addition to any other penalty imposed by law.

"SEC. 819. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). Such individuals shall not be considered Federal employees except for purposes of chapter 81 of title 5 with respect to job-incurred disability and title 28 with respect to tort claims.

"SEC. 820. (a) All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974.

"(b) The Director of the National Institute of Justice and the Director of the Bureau of Justice Statistics shall work closely with the Administrator of the Office of Juvenile Justice and Delinquency Prevention in developing and implementing programs in the juvenile justice and delinquency prevention field.

"SEC. 821. No funds under this title shall be used for land acquisition.

"SEC. 822. Notwithstanding any other provision of this title, no use will be made of services, facilities, or personnel of the Central Intelligence Agency.

"SEC. 823. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.

"SEC. 824. (a) No part of the money appropriated for the purposes of this title shall be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner an official or legislator of any State to favor or oppose, by vote or otherwise, any legislation or appropriation, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

"(b) Any recipient who violates this section shall reimburse the Federal Government for all the sums that have been made available under this title for the project in connection with which such violation occurred.

"SEC. 825. Notwithstanding any other provision of this title, no agency or other entity that is established by this title shall concern or involve itself with the civil justice system, civil disputes, or any other civil matter.

"SEC. 826. The Law Enforcement Assistance Administration may require a State council, a grantee, or other recipient of assistance under this title to reimburse the Administration for the federally assisted part of the cost of any equipment whose purchase was in connection with a program or project assisted by such Administration under this title and which cost in the aggregate $100,000, or more, if such equipment has not been placed in use one year after the date set at the time of purchase for the commencement of such use, or has not continued in use during its useful life. In lieu of requiring reimbursement under this section, such Administration may require that the State council, a grantee, or other recipient of assistance under this title take appropriate measures to put such equipment into use.

"PART I—DEFINITIONS

"SEC. 901. (a) As used in this title—

"(1) 'Criminal justice' means activities pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency.

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(3) 'Unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title.

"(4) 'Construction' means the erection, acquisition, or expansion (but not including renovation, repairs, or remodeling) of new or existing building or other physical facilities, and the acquisition or installation of initial equipment therefor.

"(5) 'Combination' as applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement program or project.

"(6) 'Public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

"(7) 'Correctional institution or facility' means any place for the confinement or rehabilitation of offenders or individuals charged with or convicted of criminal offenses.

"(8) 'Comprehensive' means that the application must be based on a total and integrated analysis of the criminal justice problems, and that goals, priorities, and standards for methods, organization, and operation performance must be established in the application.

"(9) 'Criminal history information' includes records and related data, contained in an automated or manual criminal justice informational system, compiled by law enforcement agencies for the purpose of identifying criminal offenders and alleged offenders and maintaining as to such persons records of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation, and release.

"(10) 'Evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.

"(11) 'Neighborhood or community-based organizations' means organizations which are representative of communities or significant segments of the communities.

"(12) 'Chief Executive' means the highest official of a State or local jurisdiction.

"(13) 'Municipality' means—

"(i) any unit of local government which is classified as a municipality by the United States Bureau of the Census; or

"(ii) any other unit of local government which is a town or township and which, in the determination of the Administration—

"(a) possesses powers and performs functions comparable to those associated with municipalities;

"(b) is closely settled; and

"(c) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

"(14) 'Population' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

"(15) 'Attorney General' means the Attorney General of the United States or his designee.

"(16) The term 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean the highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort' the term 'court' means a tribunal recognized as a part of the judicial branch of a State or of its local government units.

"(17) 'Institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

"(18) 'White-collar crime' means an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage.

"(b) Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Administration may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

"(c) One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a program or project in whole or in part.

"PART J—FUNDING

"SEC. 1001. There are authorized to be appropriated for the purposes of carrying out the functions of the Bureau of Justice Statistics and the National Institute of Justice $50,000,000 for the fiscal year ending September 30, 1980; $50,000,000 for the fiscal year ending September 30, 1981; $50,000,000 for the fiscal year ending September 30, 1982; and $50,000,000 for the fiscal year ending September 30, 1983. There is authorized to be appropriated for parts D, E, F, G, H, J, and L, and for the purposes of carrying out the remaining functions of the Law Enforcement Assistance Administration and the Office of Justice Assistance, Research, and Statistics $750,000,000 for the fiscal year ending September 30, 1980; $750,000,000 for the fiscal year ending September 30, 1981; $750,000,000 for the fiscal year ending September 30, 1982; and $750,000,000 for the fiscal year ending September 30, 1983. Funds appropriated for any fiscal year may remain available for obligation until expended.

"SEC. 1002. In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there should be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs, with primary emphasis on programs for juveniles convicted of criminal offenses or adjudicated delinquent on the basis of an act which would be a criminal offense if committed by an adult.

"SEC. 1003. (a) The Law Enforcement Assistance Administration shall allocate $250,000 to each of the States as defined in section 402(a)(1) for the purpose of establishing or designating and operating a Criminal Justice Council pursuant to this title and an additional amount of at least $50,000 shall be made available by the Law Enforcement Assistance Administration for allocation by the State to the judicial coordinating committee. Of these sums, $200,000, including at least $50,000 for judicial coordinating committees, shall be available without a requirement for match. The remaining $100,000 shall be matched by the State in an amount equal to any such amount expended or obligated.

"(b) The Law Enforcement Assistance Administration shall allocate additional funds to a State for use by the State and its units of local government in an amount that is not more than 7½ per centum of the total part D allotment of such State. Any of the additional funds which are expended or obligated by the State shall be matched in an amount equal to any such expended or obligated amount. An amount equal to at least 7½ per centum of the part D allocation of an eligible jurisdiction as defined in section 402(a) (2), (3), or (4) must be made available by the State to each such jurisdiction from these additional funds. The eligible jurisdiction shall match the amounts passed through in an amount equal to any such amount expended or obligated by the eligible jurisdiction for all Federal funds in excess of $25,000. The match requirements of this section shall apply to each State in the aggregate.

"(c) Any funds allocated to States or units of local government and unexpended by such States or units of local government for the purposes set forth above shall be available to such States or units of local government for expenditure in accord with part D. The funds allocated to the States and other eligible jurisdictions under this section shall be in addition to the funds allocated to the States and other eligible jurisdictions under parts D, E, and F of this title.

"(d) When an eligible jurisdiction is part of a combination of units of local government, as defined in section 402(a)(4), funds required to be made available to the eligible jurisdictions under this section shall be made available to the combination.

"(e) The State may allocate at its discretion to units of local government or combinations of such units which are not eligible jurisdictions as defined in section 402(a) (2), (3), and (4) funds provided under this section.

"PART K—CRIMINAL PENALTIES

"SEC. 1101. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal, or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, the Bureau of Justice Statistics, or the Office of Justice Assistance, Research, and Statistics, or whoever receives, conceals, or retains such funds, assets or property with intent to convert such funds, assets or property to his use or gain, knowing such funds, assets, or property has been embezzled, willfully misapplied, stolen or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"SEC. 1102. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"SEC. 1103. Any law enforcement or criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics shall be subject to the provisions of section 371 of title 18, United States Code.

"PART L—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 1201. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer had died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code; or

"(2) payments authorized by section 12 (k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 1202. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

"SEC. 1203. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(i) eighteen years of age or under;

"(ii) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(iii) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

"ADMINISTRATIVE PROVISIONS

"SEC. 1204. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 1201, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determination shall rest with the Administration.

"PART M—TRANSITION—EFFECTIVE DATE—REPEALER

"SEC. 1301. (a) All orders, determinations, rules, regulations, and instructions of the Law Enforcement Assistance Administration which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Director of the Office of Justice Assistance, Research, and Statistics, or the Director of the Bureau of Justice Statistics, the National Institute of Justice and the Administrator of the Law Enforcement Assistance Administration with respect to their functions under this Act or by operation of law.

"(b) The Director of the National Institute of Justice may award new grants, enter into new contracts or cooperative agreements or otherwise obligate previously appropriated unused or reversionary funds for the continuation of research and development projects in accordance with the provisions of title I of the Omnibus Crime Control and Safe Streets Act, as in effect prior to the date of enactment of this Act, based upon applications received under that Act prior to the effective date of this Act or for purposes consistent with provisions of this Act.

"(c) The Director of the Bureau of Justice Statistics may award new grants, enter into new contracts or cooperative agreements or otherwise obligate previously appropriated unused or reversionary funds for the continuation of statistical projects in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act, as amended, prior to the date of enactment of this Act based upon applications received under these Acts prior to the effective date of this Act or for purposes consistent with provisions of this Act.

"(d) The Administrator of the Law Enforcement Assistance Administration may award new grants, enter into new contracts or cooperative agreements, approve comprehensive plans for the fiscal year beginning October 1, 1979, and otherwise obligate previously appropriated unused or reversionary funds or funds appropriated for the fiscal year beginning October 1, 1979, for the continuation of projects in accordance with the provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as written in law prior to the date of enactment of this Act or for purposes consistent with provisions of this Act.

"(e) The provisions of this statute shall not affect any suit, action, or other proceeding commenced by or against the Government prior to the effective date of the Act.

"(f) Nothing in this Act would prevent the utilization of funds appropriated under this Act for all activities necessary or appropriate for the review, audit, investigation, and judicial or administrative resolution of audit matters for those grants or contracts that were awarded under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. The final disposition and dissemination of program and project accomplishments with respect to programs and projects approved in accordance with the Omnibus Crime Control and Safe Streets Act as written in law prior to the date of enactment of this Act and sections 4351 to 4353 of title 18, United States Code, and which continue in operation beyond the effective date of this Act may be carried out with funds appropriated under this Act.

"(g) Except as otherwise provided in this Act, the personnel employed on the date of enactment of this Act by the Law Enforcement Assistance Administration are transferred to the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics as appropriate considering the function to be performed by these organizational units and the functions previously performed by the employee. The transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation as a result of such transfer.

"(h) Any funds made available under parts B, C, and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, prior to the effective date of this Act which are not obligated by a State or unit of local government, may be used to provide up to 100 per centum of the cost of any program or project.

"(i) Notwithstanding any provision of this title all provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, which were in effect prior to the effective date of this Act and which are necessary to carry out the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, remain in effect for the sole purpose of carrying out the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and the State criminal justice council established under this Act shall serve as the State planning agency for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

"(j) The functions, powers, and duties specified in this title to be carried out by State criminal justice councils or by local offices may be carried out by agencies previously established or designated as State, regional, or local planning agencies, pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, as amended: *Provided*, That they meet the representation requirement of section 402 of this Act within two years of the effective date of this Act.".

Mr. GUDGER (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ASHBROOK. Mr. Chairman, I object. I think we should have the bill read by section.

The CHAIRMAN. The gentleman objects?

Mr. ASHBROOK. Yes, Mr. Chairman, I would object.

The CHAIRMAN. Objection is heard. Section 2 is the entire bill, now. The entire bill would have to be read under those conditions.

The Clerk will read.

The Clerk continued the reading of the bill.

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, the gentleman from Ohio has pointed out that this is a lengthy bill and if that permission is granted, those who have amendments might be shut off by a motion, and my experience has been that that is usually what happens.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I want to assure the gentleman we will not attempt to shut off debate. I feel this is a bill that is important and it should be debated. I assure the gentleman from Ohio who made the original objection that we will not shut off debate. The gentleman has my assurance to that effect.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. ASHBROOK. Mr. Chairman, with that assurance and the assurance that my colleague from New Jersey has always kept his word, I certainly would not object, and I withdraw my objection.

Mr. BAUMAN. Mr. Chairman, with that assurance, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENTS OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. McClory.

Page 150, line 5, strike out "and (4)," and insert in lieu thereof "(4), and (5),".

Page 151, line 18, strike out "and (4)" and insert in lieu thereof "(4), and (5)".

Page 154, line 16, strike out "and (4)" and insert in lieu thereof "(4), and (5)".

Page 156, line 4, strike out "or (3)" and insert in lieu thereof ", (3), or (5)".

Page 168, line 9, strike out "or (4)" and insert in lieu thereof "(4), or (5)".

Page 170, line 8, strike out "and (3)" and insert in lieu thereof ", (3), and (5)".

Page 170, beginning in line 19, strike out "or (3)," and insert in lieu thereof ", (3), or (5),".

Page 171, line 10, strike out "or 402(a)(4)" and insert in lieu thereof "402(a)(4), or 402(a)(5)".

Page 230, line 8, strike out "or (4)" and insert in lieu thereof "(4), or (5)".

Page 231, line 6, strike out "and (4)" and insert in lieu thereof "(4), and (5)".

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the Record, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, in the consideration of the Committee on the Judiciary of the law enforcement assistance authorization, my colleague, the gentleman from New York (Mr. Fish), offered an amendment which was accepted by the committee by voice vote to provide direct funding to cities of under 100,000 population that are central cities of a standard metropolitan statistical area.

Unfortunately, when the amendment was considered by the full committee, the language necessary to make the other provisions conform with the rest of the bill was inadvertently omitted. So, in a sense, this is just a technical amendment. I ask that the amendment be adopted.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, we have read this amendment, we are fully acquainted with it and its intended purpose. We are aware it is merely conforming to accommodate what was undertaken and, in effect, largely accomplished by an amendment offered in the Committee on the Judiciary by the gentleman from New York (Mr. Fish).

Mr. Chairman, we have no objection to this amendment and do not know of any objections.

Mr. McCLORY. I thank the gentleman.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Missouri.

Mr. VOLKMER. This is just in the statistical area so that it could be between States, actually. You could have an authority working, or parts of more than one county, is that correct?

Mr. McCLORY. I do not think it would affect that subject. It merely affects the subject of a city which is within a standard metropolitan statistical area. These are just conforming amendments to fit in with an amendment that was agreed to.

Mr. Chairman, I move the adoption of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. McClory).

The amendments were agreed to.

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AMENDMENTS OFFERED BY MR. GUDGER

Mr. GUDGER. Mr. Chairman, I offer technical amendments, and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Gudger:

Page 142, line 9, delete "(c)" and insert in lieu thereof "(a)".

Page 218, lines 8 and 18, strike "816(c)" and insert in lieu thereof "815(c)".

Page 229, line 5, strike "should" and insert in lieu thereof "shall".

Page 196, line 21, insert "Office of Justice Assistance, Research and Statistics, the" after "the" and before "Na-".

Page 198, line 1, before the words "the Na-" and after the comma insert "the Office of Justice Assistance, Research and Statistics,".

Page 198, line 6, before the word "the" and after the comma insert "the Office of Justice Assistance, Research and Statistics,".

Page 198, line 17, after the word "of" and before the word "the" insert the words "the Office of Justice Assistance, Research and Statistics,".

Page 199, line 2, after the word "the" and before the word "Law" insert "Office of Justice Assistance, Research and Statistics, the".

Page 199, line 16, after the word "the" and before the word "Law" insert the words "Office of Justice Assistance, Research and Statistics, the".

Page 199, line 20, after the word "The" and before the word "Law" insert the words "Office of Justice Assistance, Research and Statistics, the".

Mr. GUDGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. GUDGER. Mr. Chairman, these are technical amendments in nature. I know of no objection to them. I think they are necessary to accommodate strictly technical purposes.

The CHAIRMAN. The question is on the amendments offered by the gentleman from North Carolina (Mr. Gudger).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser: Page 123, line 16, after "systems" add "and for bullet proof vests for police."

Mr. PEYSER. Mr. Chairman, this is a very simple amendment that both committees have seen. I would like to say very briefly on this that what we are really talking about here is developing and making available to the Director of LEAA as he sees fit to provide lifesaving equipment for police officers by the purchase of bulletproof vests in areas that are high-crime areas, but cannot afford the purchase price of these vests. It seems a shame to me, Mr. Chairman, that we have police officers around this country who today are selling chances in the street to raise money so that their own chances for life are improved and they are able to carry on while they are serving us; Mr. Chairman, that is what this amendment does. I believe it does not commit the LEAA Director, except as he sees fit under this program.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding and commend him for this most timely and appropriate amendment.

As most of the Members know, I spent 23 years on the police department of the city of New York and we witnessed what I believe is a shameful requirement on the part of organizations and citizens who are required to go out and virtually beg—beg for that additional item of security, a lifesaving bulletproof vest. Who is to tell how many police officers and other law enforcement officials would be alive today but for the absence of this equipment.

I think if LEAA is to purchase any equipment whatsoever, the most meaningful, not only to the Members, but to their families and in the long run even to the financial status of the various pension systems, would be the purchase of this particular item.

I believe it is the responsibility of the various levels of governments who are in charge of these various agencies to provide these vests. I am sure the community would agree. The various communities have responded in generous fashion, but it is piecemeal and is equivalent to panhandling and shameful that this route must be pursued.

I am delighted to be associated with the gentleman on this amendment. I commend the gentleman for this amendment and I urge its passage.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to my friend, the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, the authority for permitting the purchase of bulletproof vests, of course, should not be denied.

On the other hand, the gentleman has placed this provision in a part of the bill which makes it mandatory on the administrator of the program to provide bulletproof vests.

Now, there is no provision for purchasing any such other equipment in that section except for telecommunications systems. What I would ask the gentleman to do is to withdraw his amendment or withhold it and see if we cannot place that provision in a more appropriate part of the bill. I think the gentleman's amendment at this point would be a mistake.

Mr. PEYSER. Mr. Chairman, may I speak to that for a moment? In our questioning and searching where to place this amendment, it was pointed out to us by members of my staff who talked to members of the staff of the LEAA that the commitment here is only if the director approves. For instance, if the director, where it says, "shall purchase telecommunication equipment," it is only when a department makes application that is approved by the director that he shall do this. It is not that anybody who puts in a request automatically gets it, because if that were the case simply every police department in the country could put in a request and they would all have to be paid for it, which is not what happens.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield further——

Mr. PEYSER. I would be glad to yield.

Mr. McCLORY. Mr. Chairman, I suggest that the gentleman add those words to the amendment, because they are not in the amendment and they are not in the bill. Really, what the gentleman's amendment does is to mandate on the part of the administrator to provide funds to buy bulletproof vests and he is not mandated to provide funds for armaments or for other such equipment.

Mr. PEYSER. I guess the difference from my point of view, I am sure the gentleman realizes we have no objection to where that amendment would be placed; but the problem is that as we researched this thing, they indicated that in the same area where the director is authorized and it says, "Shall purchase telecommunications," in other words, radio equipment and signal equipment, which is in section 102(g) of the bill, he is not committed to simply give the money to anybody who applies. The same thing would hold in the purchase of bulletproof vests in those communities, urban areas, wherever it may be in the country who are making this application, the director would have to decide that this was the place where it should be done.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield.

Mr. RODINO. Mr. Chairman, why does the gentleman not withdraw his amendment at this point? Considering the fact that it may be inappropriate to include the language that the gentleman is offering for the purchase of bulletproof vests, since as I understood in the gentleman's colloquy with me and the subcommittee chairman, that this was to be a matter of discretion on the part of the administrator.

Mr. PEYSER. That is correct.

Mr. RODINO. I would hope that after some colloquy with the ranking minority member as well that we might put it in its appropriate place.

BEST DOCUMENT AVAILABLE

I would ask the gentleman if he would not withdraw the amendment at this time.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(At the request of Mr. VOLKMER, and by unanimous consent, Mr. PEYSER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, prior to the gentleman withdrawing the amendment, I would ask that the gentleman yield to me.

Mr. PEYSER. I would be delighted to yield.

Mr. VOLKMER. Mr. Chairman, in regard to that, if the gentleman has a copy of the bill, I would like to relate the gentleman to page 164.

Mr. PEYSER. I am on page 164 right now.

Mr. VOLKMER. At the bottom of the page, where it says "the purchase of equipment or hardware," and it is prohibited.

Mr. PEYSER. That is correct.

Mr. VOLKMER. And over here on page 123 we have the other, so I do think we need to correct that, too.

I would like to ask the gentleman, about how much does a bulletproof vest run?

Mr. PEYSER. A bulletproof vest runs about $67.

Mr. VOLKMER. Sixty-seven dollars?

Mr. PEYSER. That is, purchased in lots of 1,000.

Mr. VOLKMER. I have an amendment myself that would pretty well take care of the gentleman's situation. It just says that where this language reads, "the purchase of equipment or hardware," and then it says if it would not cost in excess of $1,000, which would mean, in other words, the gentleman's bulletproof vest would come under it, and for my small communities fingerprint equipment could be purchased and all these things could be done; so I would just like to bring the gentleman's attention to that.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has again expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 2 additional minutes.)

Mr. PEYSER. Mr. Chairman, I would like to come back to my friend, the gentleman from Illinois, for a moment, because one concern I have in looking through the bill as we have previously done, we looked on page 164 which deals with section (c). It says, "Grant funds awarded under part D shall not be used except as provided in section 102(g)," which is the section that we amended.

The problem that we face here is that including this measure, if we include it in that section which we see is the only other section to put it in, it still refers back to section 102(g), and yet I guess the real question that we are facing here is the question of whether the administrator is truly mandated to spend this money, unless he approves the project.

Mr. McCLORY. Mr. Chairman, will the gentleman yield further?

Mr. PEYSER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, as I see this section, it relates to informational exchange or communications. That is why the committee authorized the administrator to provide for communications. I think we added the words "telecommunications systems," but that is up to the local jurisdiction.

You see, the transfer of information is unrelated to the subject of bulletproof vests. That is why I think it does not belong in that section. Where it does belong I do not know. I have no objection to permission being granted to purchase bulletproof vests, but I think we should put it in the proper part of the bill.

Mr. PEYSER. Mr. Chairman, I will then take the step and meet with members of the staff at this time.

Mr. Chairman, I ask unanimous consent to withdraw my amendment. I will then take it up at a later time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. PEYSER) to withdraw his amendment?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in opposition to H.R. 2061 as it is presented. This legislation came about as a result of a full committee markup. Surrounded by that was controversy and dissension. Perhaps the most glaring examples of my committee's treatment of this legislation were the decisions to:

First, completely scrap assistance to local police departments for travel to the FBI Academy;

Second, multiply by eightfold the dedication of moneys for so-called community anticrime." This move is a dangerous one which will block the influence of local and State control over expenditure of the crime-fighting funds. This expenditure makes little sense, especially in light of the fact that no criminal justice professionals are required to be engaged in the community anticrime efforts. Literally, these "community groups" will be able to operate without State control of their activities;

Third, prohibit construction of prison facilities; and

Fourth, centralize decisionmaking of the LEAA.

All of these decisions are antilaw enforcement and all are hostile to the bottom-line announced goals of LEAA to "combat crime"? They represent the politicization of the LEAA to social action group requests rather than sound improvements which will help law enforcement officials and agencies.

At the same time that the committee acted to virtually abandon the drive against crime, the committee acted to:

First. Create a new bureaucracy, the Office of Justice Assistance, Research, and Statistics ("OJARS").

Second. Create two new agencies on equal rank with LEAA, the Bureau of Justice Statistics ("BJS") and the National Institute of Justice ("NIJ").

Third. Abolish the present research institute, the National Institute of Law Enforcement and Criminal Justice ("NILECJ") leaving uncertain the destiny of its work results.

Fourth. Give the agency a 4-year lease with which to raid the Federal Treasury for highly questionable programs.

Fifth. Line up the local governments against the State governments for funding. Thus, a serious blow is dealt to the State coordination concept originally embodied in LEAA.

Sixth. Create a "national priority grant program" which sets in motion a bureaucratic policymaking structure that further erodes the influence of the States on the expenditure of their own crime-fighting dollars.

Seventh. Grant a new "Office of Justice Assistance, Research, and Statistics" ("OJARS") the authority to establish "national priority programs and projects." Here the committee has acted to vest in a Federal bureaucracy the State and local government's present-day decisionmaking responsibilities.

The concept before us today is ill-conceived. It is hostile to law enforcement. It is a hodgepodge of "pork barreling." If this body does not make substantial improvements in the legislation before us, I will offer a motion to recommit. Hopefully that will not be necessary. Hopefully my colleagues will see the wisdom in supporting the various minority amendments which are designed to correct the errors made in this legislation which are presented in the name of "reform."

At a minimum, to relieve the situation, I urge my colleagues' support of the following minority amendments:

First. My amendment to eliminate the Office of Justice Assistance, Research, and Statistics (OJARS).

Second. An amendment to return funding to the Office of Community Anticrime programs to $25 million, by Mr. McCLORY.

Third. An amendment to add funding for travel for local police officers to attend the FBI Academy for police training, by Mr. McCLORY.

Fourth. An amendment to eliminate the "miniblock" grants, by Mr. SENSENBRENNER.

Fifth. An amendment to eliminate national priority grants, by Mr. SENSENBRENNER.

Sixth. An amendment to require a 10-percent match of funds for formula grants and discretionary grants, by Mr. SAWYER.

At this point I include with these remarks the dissenting minority views which my colleague, Mr. SENSENBRENNER, and I included in the report on this bill:

DISSENTING VIEWS OF MESSRS. ASHBROOK AND SENSENBRENNER

The LEAA bill as reported by the Judiciary Committee, H.R. 2061, as amended, represents a futile effort to satisfy the critics of the Law Enforcement Assistance Administration (LEAA). The effort falls short by increasing more of the problems which are the subject of criticism. By reducing state control over the expenditure of funds, increasing "revenue sharing" to non-governmental community groups, enlarging direct funding to municipalities, and enlarging a bloated bureaucracy, the bill fails miserably.

The undersigned Members of the Committee dissent against the ill-conceived changes rather than against the agency itself. The agency can if structured properly, be an effective means of fighting crime without harsh political entanglements. Perhaps the best example of high-level bureaucratic growth is the creation of a completely new agency in this legislation. The "Office of Justice Assistance, Research and Statistics," whose popular acronym is "OJARS", is a new concept of the authors of H.R. 2061. Running in the face of public desires to cut bureaucracy and governmental cost, "OJARS" complicates an already ineffective bureaucracy.

The birth of this new "super agency", "OJARS", designed to "coordinate" LEAA, the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS) only creates confusion. The authority of the Administrator of each agency in this legislation is now questionable. Where this legislation leaves us is anybody's guess. Who minds the shop? The Attorney General? The Director of "OJARS"? The Administrators? From the standpoint of government efficiency, cost savings, and competency and attracting high-quality personnel, the concept of the Office of Justice Assistance, Research and Statistics is seriously flawed.

In addition, the mini-block program destroys the original concept of LEAA, which is to permit state governments to operate comprehensive criminal justice programs. The infusion of mini-block grants into the 1975 reauthorization was a mistake. It has been proven to be a mistake, because, presently, only 12 percent of the jurisdictions have applied for mini-block grants. Too much paperwork is required. Little coordination between state planning agencies and mini-block recipients occurs. The present legislation is ill-conceived because it makes a bad problem worse. One of the greatest fallacies is that by directly funding municipalities, more crime will be fought. Unfortunately, local governments, feeling budget crunches from above, will be increasingly inclined to use federal dollars to augment their soaring personnel costs. The mini-block program provides little monitoring or comprehensive planning. Thus, the State has no involvement in the decisions as to how monies will be spent or how effectively they are being spent. For every mini-block grant approved, there is a dollar-for-dollar reduction of money that is given to the State.

In short, we cannot all spend funds in such a way as to complicate control between the Federal, state and local levels without losing an important flavor of LEAA. By pitting the local governments against the state governments for funding, a serious blow is dealt to the comprehensive planning concept originally embodied in LEAA. The State planning agency could determine that a program does not have a high priority in the comprehensive plan process, and reject the application. The municipality then could run to Washington for mini-block approval for a program that had been previously rejected. This creates a "unilateral revenue sharing" on the part of the local municipality that is sort of "double dipping." This gives certain municipalities two chances to get their programs approved. We should eliminate mini-block grants so as to prevent such a pitting of interest between local and state governments. This legislation places mini-block municipalities against state governments in competing for LEAA dollars. Such a direct entitlement program ignores the needs of rural and suburban communities, which have experienced, in many instances, greater increases in crime than have urban areas. Federal legislation must attempt to seek balance between rural and urban problems, not create the problems.

We oppose the creation of the national priority grant program because it sets in motion a bureaucratic policy making structure. This further erodes the influence of the states on the expenditure of their own crime fighting dollars. By granting to the Office of Justice Assistance, Research and Statistics ("OJARS") the authority to establish "national priority programs and projects," the Congress is passing on to a federal bureaucracy its own decisionmaking responsibilities. This move is a dangerous one which will likely reduce the influence of local and state control over expenditure of the crime-fighting funds. By placing these decisions in the hands of the director of "OJARS", this legislation further centralizes the influence of LEAA.

A costly change in the legislation which occurred in the Judiciary Committee markup was the twofold increase in the authorization for community anticrime activities. This increase makes little sense. The Judiciary Committee reported a bill that increases community anticrime efforts from $25 million per year to $50 million. In fact, there have been so few groups that have qualified for Community Anticrime Funds that only $7 million of the possible $25 million have been spent by the agency. This expenditure makes little sense, especially in light of the fact that no criminal justice professionals are required to be engaged in the community anticrime efforts. Literally, these "community groups" will be able to operate without state control of their activities. Police organizations have complained about such ad-hoc community groups receiving hundreds of thousands of federal dollars without coordination with criminal justice professionals.

The Congress has walked this path before, with the "Community Education and Training Act" (CETA) and we have seen the destructive effects. Can we expect to repair the LEAA by the use of similar solutions as were employed in the CETA Act? The creation of larger bureaucracies and the expansion of funding to ad-hoc community groups seeks to solve the LEAA problem with the palliative that "bigger is better." Such methods have severally been marked with failure in the past.

John M. Ashbrook,
F. James Sensenbrenner, Jr.

□ 1500

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sensenbrenner: On page 131 delete "civil,".

On page 135 line 24 delete "civil disputes".

On page 136 line 5 delete "and civil disputes".

On page 140 delete "civil,".

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, during the consideration by the Committee on the Judiciary of this bill an amendment which I offered striking out LEAA's and OJARS' involvement in the civil justice system was adopted. That amendment did not completely excise the references to "civil disputes" that were contained in this bill.

The amendment that is before us at the present time is technical in nature and completes the job which should have been done in the Committee on the Judiciary, and I urge its support by the committee.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, we have no objection to this amendment on this side.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have no objection to the amendment either. I think this legislation is intended to cover the subject of criminal justice and not civil justice.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Sensenbrenner).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Volkmer: On page 164, line 21, following the word "hardware" insert the following: "of a cost in excess of $1,000".

Mr. VOLKMER. Mr. Chairman, I believe this amendment is very simple in explanation. It follows pretty well along the same lines as what the gentleman from New York (Mr. Biaggi) who offered his amendment and withdrew it is attempting to do, even though I am not trying to put language in this total bill that would be as specific as that of the gentleman from New York, who specifically said his amendment would be for bulletproof vests.

Mr. Chairman, just last week I met with the sheriffs and the police in my district. We talked about LEAA and what LEAA has done in the past and what it may do in the future. Also my State counsel from LEAA met last Monday, and on Tuesday night we met. I had several sheriffs and police in my district that were in that meeting. They gave me several statements about what we were doing in this legislation as far as small communities are concerned.

I am talking about communities that have only 2,000, 3,000, 5,000, or 10,000 people in them. The fact is that under the provisions of the formula and with the amount we are appropriating in this coming year, not the amount authorized but the amount appropriated, there is going to be very little for the small communities in this Nation, and yet the small communities actually want very little. They need very little, and yet in this bill we are prohibiting them from getting the actual things they need such as photographic equipment in order to take photographs by the sheriff or the police at the scene of a crime right after the crime has been committed.

As a former prosecutor, I can assure the Members that those photographs are very desirable and very useful. Yet they cannot buy a camera, they cannot buy any type of photographic equipment.

Another item that many of them need is good, up-to-date fingerprint equipment. They cannot get it through LEAA, and yet it is something that is needed. They cannot get it at all.

There is nothing in here for those small communities. Yet we provide in here for other communities, as the gentleman from North Carolina (Mr. Gudger) pointed out, and I agreed with him on his legislation. In certain States they have new, updated communications equipment and network equipment coming on. We provide for that. And the computers, we are providing for those. They can use hundreds of thousands of dollars on computers for large cities.

I do not argue with that. I say, yes, maybe large cities need that, and maybe larger areas need a better communications system. But as far as small cities and small towns are concerned, they do not need those computers; they only need a little bit. Yet we prohibit them in this bill from getting the things they need to combat crime even though they cost very little.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I agree with the gentleman from Missouri (Mr. Volkmer), and let me say this deeply disturbs me.

It concerns me that in this bill there is nothing that allows the small cities and rural communities, which have just as much need, any assistance in trying to meet their needs in fighting crime.

Small cities and rural areas also have less of a tax base and less of an economic base to try to meet these needs, and still we see the thrust of this money going into larger urban centers of this Nation that have a stronger tax base in their suburbs and throughout their particular areas.

Mr. Chairman, this disturbs me that the small communities are left out of this bill, and as the chairman of the Congressional Rural Caucus and the caucus members have pointed out, we hate to see legislation adopted here that will not allow us to participate actually in the formula. Actually we are just out, and I hope this amendment will be adopted.

Mr. VOLKMER. Mr. Chairman, I agree with the gentleman that we are left out. Basically the bill is geared to massive programs. The programs are good; I will not deny that. We have witness assistance programs, rape programs, arson programs, and things like that.

Those are programs for the large communities. Those are the metropolitan programs. Yes, we need those in the metropolitan areas. I will not deny that. They are in this bill.

But they say, "You in the small communities can't buy that $50 item or that $70 bulletproof vest or that pistol." The police may need a new pistol, but they cannot buy that new pistol under this bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, just as a point of clarification, let me ask, is it the intention of the gentleman in offering this amendment that the ceiling of $1,000 be $1,000 per unit?

Mr. VOLKMER. Per unit, yes.

Mr. SENSENBRENNER. Or is it $1,000 in the aggregate, on a lot basis?

Mr. VOLKMER. No, it is per unit.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. Volkmer) has expired.

(On request of Mr. Sensenbrenner, and by unanimous consent, Mr. Volkmer was allowed to proceed for 1 additional minute.)

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield further?

Mr. VOLKMER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. So, Mr. Chairman, if I may pursue this further, would this take care of the issue that was raised earlier today by the gentleman from New York (Mr. Biaggi)?

Mr. VOLKMER. About the bulletproof vest?

Mr. SENSENBRENNER. I refer to the proposition where a $67 bulletproof vest was proposed to be purchased through LEAA funds.

Mr. VOLKMER. Yes, and it not only takes care of his problem in New York City but it takes care of my problem in little Marion County, Mo., up on the Mississippi, where my sheriff has a need. I just met with him and talked with him. He said he would like to get a fairly good camera to take pictures at the scenes of crimes in order to help the prosecutor in the prosecution of his cases.

All we are talking about is $50, $100, or even $300, in comparison to the hundreds of thousands of dollars that go to St. Louis, Kansas City, Chicago, or New York.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me suggest what I believe the practical outcome of the amendment the gentleman offers will be with relation to bulletproof vests.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. Volkmer) has again expired.

(On request of Mr. Biaggi, and by unanimous consent, Mr. Volkmer was allowed to proceed for 2 additional minutes.)

Mr. BIAGGI. Mr. Chairman, if the gentleman will yield further and if I may proceed, given the size of the police departments of the various cities, it is highly unlikely that the Director of LEAA, in exercising his discretion, will channel moneys in those directions, because there obviously will be a limited amount. Then how do we pick and choose among the millions of these large police departments?

It is more probable that the small departments will benefit.

Mr. Chairman, let me suggest even further, if the chief has to make a choice between half a dozen bulletproof vests for his men and a camera for his department, I sincerely hope he would opt for the bulletproof vests.

Mr. VOLKMER. Mr. Chairman, let me say that is up to the chief, but in my area we do not need that bulletproof vest. So I would suggest the gentleman leave the option with us.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield further?

Mr. VOLKMER. I yield to the gentleman from New York.

Mr. BIAGGI. I said the chief would have the option, and I would hope he would choose the bulletproof vests.

Mr. VOLKMER. Yes, but under the amendment offered by the gentleman from New York (Mr. Biaggi), all we could get would be bulletproof vests. Whatever bulletproof vests may cost, maybe I can get five for the city of Hannibal, for the police. I can get five bulletproof vests under the gentleman's amendment for $375, but I cannot buy one camera.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield for a further comment?

Mr. VOLKMER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, the gentleman stated the chief may not want bulletproof vests. I would suggest that the gentleman ask the members of the police whether or not they find a bulletproof vest desirable, or even ask the community.

All they have to do is lose one member, and then we have the ceremonial funeral with the crocodile tears and the survivors.

☐ 1510

Mr. BIAGGI. But for the legislation we enacted, the survivors would ofttimes go on public assistance rolls.

I feel strongly that the first course of conduct, the first item of equipment that should be purchased should be one that would secure at least the possibility of a police officer, or any other law enforcement official, to survive.

Mr. VOLKMER. Mr. Chairman, I would just like to say that I have attempted in my time to recognize the problems of the gentleman from New York, and I agree. I do not disagree with what the gentleman is attempting to do. But all I am asking the gentleman to do, like the gentleman from Oklahoma said earlier, we are asking the gentleman to recognize our problems and to make room in this bill so that we who have different crime problems than the gentleman can also combat our type of crime in our jurisdictions in the most efficient way. That is all we are asking.

Mr. GUDGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am not quite clear as to the purpose of the amendment, whether the $100 is a limitation upon a jurisdiction, one entitled a local government or governmental community, or whether it is per unit purchase. But regardless of the uncertainty of the terms, let me say this: One thing it seemed to me was ascertained and made quite clear to the Committee on the Judiciary and particularly the Subcommittee on Crime was that the greatest criticism against the LEAA recent history was the use by so many law enforcement agencies of Federal dollars and matching dollars to buy hardware and that the real thrust for the future needed to be in another direction—an emphasis on education, an emphasis on court improvement, an emphasis on community crime control, an emphasis on juvenile crime correction and juvenile justice, not upon hardware.

One of the major purposes of this bill is to eliminate the use of these funds for hardware purchases.

The gentleman from Missouri opened his remarks suggesting that he was going to give a great advantage to small, rural communities. Therefore, I conclude that his first impression was that this $1,000 limitation applied to the local governmental unit and not to a unit of purchase, that is, an item acquired.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I think the gentleman is making an excellent point for the defeat of this amendment, because all through the history of LEAA we have proclaimed against the use of funds for the purchase of hardware.

What the gentleman is intending to do is to allow every unit of purchase up to $999 worth of hardware. One could spend any amount of money then that is given jointly by the Federal Government and the community organization up to the maximum amount of $999 per unit. As such it would be spending all of the money on hardware.

I think the gentleman, who has served on the committee and who has heard the argument and the testimony, is well aware, and I am sure he does not intend this, but that is what his amendment would do.

Mr. GUDGER. Mr. Chairman, let me make one further observation, and that is that if the $1,000 limitation refers to the item purchased, then all jurisdictions would be treated alike, and the argument of the gentleman from New Jersey would be compelling. But if it means that the unit of government can only buy an aggregate of $1,000 in its plant, then it gives the advantage to the small community which is not given to the larger community. In either event, the amendment is vicious and wrong. If it applies to the amount of the purchase for a single item, then it is wrong because there is no cap. If it is a cap upon the aggregate purchase, then it is wrong because it pits city against rural areas, and we do not want to do that in this piece of legislation.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, the criticism that has come to LEAA—and I think it was legitimate when it was leveled at LEAA—was that excessive amounts of funds have been spent for hardware. Likewise, there has been criticism because of the payment of salaries of personnel which otherwise would be paid with local funds. So we have really provided a prohibition against the application of funds for those purposes in the paragraph which the gentleman from Missouri undertakes to amend.

I would say this: The limitation on the expenditure of funds for hardware or personnel is limited only unless the cost of such purchase or payments are incurred as incidental and a necessary part of an improvement program of the project. In other words, there is no limitation with respect to amounts spent on hardware or personnel if it is part of a project, if it is incidental to a project. So I think, in a sense, the amendment is not necessary. I think it would be undesirable. I think it would be misleading to people to insert it here. So I hope the amendment will not be agreed to.

Mr. GUDGER. I thank the gentleman for his remarks.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. GUDGER) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. GUDGER was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am slightly confused by the remarks of the gentleman from North Carolina.

Originally, the very first amendment that was ever offered was offered by the gentleman from New York, which was withdrawn, authorizing purchase of bulletproof vests. I understand that the gentleman from North Carolina and the gentleman from Illinois, who have both spoken against my amendment, had already agreed to that purchase of equipment. There is no question about that.

The language in the bill that provides for operational information and telecommunications systems, on page 123, lines 14 to 16, is language of the gentleman from North Carolina which was offered and accepted and voted upon in the full Committee on the Judiciary, which is equipment. It is just high-priced equipment. It is much over $1,000. There is no question about that. No small community is ever going to get that equipment which the gentleman from North Carolina has in this bill and which is provided for. My communities do not need the bulletproof vests that the gentleman from New York requested and which the gentlemen have agreed to. All I am asking is that I be able to get something for my communities out of this bill that they can use to fight crime.

As far as the limit of $1,000 being used—correct me if I am wrong on this—for everything in the program, that is not correct. Each State has a State council, and you have a national council. If somebody puts in an application for 500 police cars for the State council to use all of their funds, that is not going to be approved. The gentleman knows that; I know that. We have the safeguards where it has to be approved by the State and it has to be approved by the national LEAA before it can be funded. The idea of saying you are going to put it up to $1,000, you are going to have nothing but equipment, I cannot go along with that argument. The gentleman knows that is not right.

Mr. GUDGER. Mr. Chairman, I would like to respond that in western North Carolina we see many small communities and counties which have telephonic communications. We see very few that have bulletproof vests. But we need these vests. We all agreed, I believe, in the Committee on the Judiciary, that hardware is hardware; that is, trooper vehicles, guns, and antiriot equipment should come out of this act. I commend the gentleman from Illinois for his succinct statement that that was one of the major concepts of this bill, and I thank the chairman of the committee for ratifying that position. I agree with them both. It would be against everything that this bill stands for to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 9, noes 12.

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1530

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 542]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan

Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1550

The CHAIRMAN. Three hundred and ninety-two Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Missouri (Mr. VOLKMER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise Members that under its previous order, 5 minutes will be allowed to record the vote.

The vote was taken by electronic device, and there were—ayes 181, noes 224, not voting 28, as follows:

[Roll No. 543]

AYES—181

Abdnor
Albosta
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Benjamin
Bereuter
Bevill
Boner
Bouquard
Breaux
Brinkley
Buchanan
Burlison
Burton, John
Byron
Campbell
Carney
Carter
Chappell
Cheney
Cleveland
Coleman
Coughlin
Courter
D'Amours
Daniel, Dan
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fithian
Flippo
Fowler
Fuqua
Gaydos
Gephardt
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Heckler
Hefner
Hightower
Hinson
Holland
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Levitas
Lewis
Loeffler
Lott
Lujan
Luken
Lungren
McDade
McDonald
McEwen
McKay
McKinney
Marlenee
Martin
Mathis
Mica
Miller, Ohio
Moore
Murphy, Pa.
Natcher
Nelson
Nichols
Oberstar
Pashayan
Pepper
Perkins
Petri
Pursell
Quayle
Quillen
Rahall
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Royer
Sabo
Santini
Satterfield
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Spellman
Spence
Stangeland
Steed
Stenholm
Stump
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Williams, Mont
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

NOES—224

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badham
Baldus
Barnes
Bedell
Beilenson
Bennett
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonker
Bowen
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burton, Phillip
Butler
Carr
Cavanaugh
Clausen
Clay
Clinger
Coelho
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Danielson
Dannemeyer
Dellums
Derwinski
Devine
Dicks
Dingell
Dixon
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Fary
Fazio
Ferraro
Findley
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Garcia
Giaimo
Gibbons
Gilman
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hanley
Harris
Hawkins
Heftel
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hyde
Jacobs
Jeffords
Johnson, Calif.
Kastenmeier
Kemp
Kildee
Kostmayer
Kramer
LaFalce
Latta
Lederer
Lehman
Leland
Lent
Livingston
Lloyd
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nowak
O'Brien
Oakar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Peyser
Pickle
Preyer
Price
Pritchard
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Rudd
Runnels
Russo
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Shuster
Simon
Skelton
Slack
Solarz
St Germain
Stack
Staggers
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Trible
Udall
Vander Jagt
Vanik
Vento
Waxman
Weaver
Weiss
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Yates
Zablocki
Zeferetti

NOT VOTING—28

Anderson, Ill.
Beard, R.I.
Bolling
Bonior
Brademas
Brown, Ohio
Chisholm
Collins, Ill.
Diggs
Dodd
Eckhardt
Ertel
Fascell
Fish
Flood
Frost
Glickman
Long, La.
Nolan
Rousselot
Solomon
Stockman
Treen
Ullman
Van Deerlin
Walgren
Wilson, C. H.
Winn

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Messrs. SANTINI, FITHIAN, and THOMAS changed their votes from "no" to "aye."

Mr. PHILIP M. CRANE changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Page 220, after line 3, insert the following:

"(c) All criminal intelligence systems operating through support under this title shall collect, maintain, and disseminate criminal intelligence information in conformance with policy standards which are prescribed by the Office of Justice Assistance, Research and Statistics and which are written to assure that the funding and operation of these systems furthers the purpose of this title and to assure that such systems are not utilized in violation of the privacy and constitutional rights of individuals.

Page 220, line 4, strike out "(c)" and insert "(d)" in lieu thereof.

Mr. EDWARDS of California. Mr. Chairman, the proposed amendment would allow representatives of professional legal organizations to be included on the various LEAA advisory boards and councils and would also allow LEAA to consider awarding discretionary grants to organizations, such as the ABA, the American Corrections Association, the National Sheriffs Association, and the Commission on Uniform Laws, to be used for the study and improvement of criminal justice standards and guidelines.

Representatives of professional organizations should be included on the various advisory boards created by this act because of the unique skills, experiences, and insights which they have acquired through their involvement in the criminal justice field.

Discretionary grants for the development and revision of criminal justice standards and guidelines are important because the improvement of such standards greatly benefit our law enforcement, judicial, and penal systems. In the past, model laws in areas such as criminal procedure and substantive criminal law have been adopted by over half of the States and have been cited in numerous appellate court decisions. Passage of this amendment will help to further improve the administration of justice.

I urge adoption of this amendment.

Mr. ASHBROOK. Mr. Chairman, would the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman.

Mr. ASHBROOK. I will ask my colleague, Mr. Chairman, have these policy standards been promulgated by the Office of Justice Assistance?

Mr. EDWARDS of California. Yes.

Mr. Chairman, in response to the gentleman from Ohio I have a copy of the existing guidelines and they state generally that there must be criminal activity involved and no record shall be maintained or collected about political, religious, or social views, association, or activities of any individual, group, association, corporation, business, partnership, et cetera.

Mr. Chairman, does the gentleman say there must be criminal activity involved or potential suspected criminal activity? There is a big difference.

The guidelines that are in existence at the moment are instructions from LEAA to say that criminal intelligence information shall be maintained only if it is reasonably suspected that the individual is involved in criminal activity.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague. I know this is a very sensitive area. My colleague and I have a few differences and I know the gentleman wants to make sure this is done properly, as I do.

Mr. Chairman, I thank the gentleman for his response to my inquiry.

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Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I would like to commend the gentleman upon this amendment and state that on our side I know of no opposition to it.

If the gentleman will permit, I would yield to the gentleman from Illinois to see what is his position on his side of the aisle.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. We have no opposition to the amendment and would not oppose the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. EDWARDS).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. EDWARDS of California: Page 133, line 12, after "government," insert "representatives of professional organizations,".

Page 141, line 6, after "government," insert "representatives of professional organizations,".

Page 150, line 19, after "business" insert "and professional".

Page 155, line 17, after "community-based" insert "and professional".

Page 181, line 7, strike out "and".

Page 181, line 9, strike out the period and insert "; and" in lieu thereof.

Page 181, after line 9, insert the following:

"(4) to improve the administration of justice by encouraging and supporting the development, dissemination, implementation, evaluation, and revision of criminal justice standards and guidelines."

Page 193, line 2, after "business" insert "and professional".

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, this is my second amendment and I believe there is no objection to it.

Mr. Chairman, this amendment would allow representatives of professional legal organizations to be included on the various LEAA advisory boards and councils and part 2 would also allow LEAA to consider awarding discretionary grants to organizations such as the American Bar Association, the American Corrections Association, the National Sheriffs Association, et cetera, to be used for the study and improvement of criminal justice standards and guidelines.

Last year, LEAA adopted operating principles and funding guideliness for discretionary funded intelligence systems (43 Fed. Reg. 2572 (1978)). The purpose of the guidelines was to establish an LEAA policy that grants for intelligence activities not be used in violation of the privacy and political rights of citizens. At the time, LEAA recognized that it could not extend the guidelines to grants awarded under the bloc grant program without statutory authority. However, LEAA strongly encouraged State and local governments to adopt the LEAA guidelines on their own in those programs as well.

LEAA is satisfied with the operation of the guidelines as they apply to discretionary funds. This amendment requires that similar policy standards be designed for all criminal intelligence systems operating with LEAA support. It gives LEAA the necessary statutory authority to adopt such guidelines for bloc grants. It is intended that the policy standards should be modeled on the guidelines governing discretionary grants. It is also intended that LEAA, through its Office of Justice Assistance, Research and Statistics, assure that there be appropriate consultation on the standards through public or draft standards in the Federal Register and through discussions with the appropriate oversight committees in Congress.

The proposed amendment has the support of LEAA and the Department of Justice. I urge its adoption.

Mr. GUDGER. Mr. Chairman, I wonder if the gentleman from California would yield?

Mr. EDWARDS of California. I yield to the gentleman.

Mr. GUDGER. Mr. Chairman, I know of no opposition on our side to this particular amendment. It is an amendment which I think certainly has merit in suggesting that professional associations have representation on these various boards.

I would like to alert the gentleman to the fact that we intend to support it.

I wonder if the gentleman would yield to the gentleman from Illinois to see what his position on that side of the aisle is.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Do I understand that this amendment is to facilitate grants to the American Bar Association?

Mr. EDWARDS of California. Well, first of all, it would allow people who represent these various associations to be included on these various advisory boards and councils and, yes, it would allow LEAA to consider awarding discretionary grants to some of these organizations when, for example, they are writing model laws in areas such as criminal procedures.

Mr. HYDE. Well, if the gentleman would yield further, does the gentleman not see a conflict of interest in having these professional association type lawyers sitting on the boards and making the grants to these professional type researchers that make a career out of this?

I am concerned, the American Bar Association ought to be one of the wealthiest groups in the country and to have taxpayers giving money to these lawyers, who really pro bono publico ought to be doing this research themselves in the interest of the profession.

The American Medical Association, the American Bar Association, do we give money to the American Bankers Association for any research projects?

My point simply is that I am not thrilled with giving taxpayers' money to the ABA when I think they have the money to fund these things themselves and having them on the boards that facilitate these grants does not seem the best arrangement either.

Mr. EDWARDS of California. Mr. Chairman, in response to the gentleman from Illinois, this is not just for the benefit of organizations such as the American Bar Association. There are a number of other organizations that do valuable work in the interest of criminal justice. The American Corrections Association, the National Sheriffs Association, the Commission on Uniform Laws, and from time to time they do need money for the study and improvement of these systems. I think that since these are discretionary funds, they are not going to be given automatically, that it is a good amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think my colleague will recall during the debate on the National Science Foundation, there was an $86,000 grant to the American Bar Association just for studying the American Bar Association.

I know the Members at that time expressed great dismay. As I recall, if my memory is correct, there was even an amendment striking that from the NSF.

I think what my colleague, the gentleman from Illinois says, is very pertinent, because it looks like it would be even worse for members of the bar in effect to be sitting in some capacity on the LEAA, to then be in a position to somehow with an insider deal or otherwise to get taxpayers money for even the meritorious purposes that my colleague is suggesting.

I know the Committee on the Judiciary has spent a lot of time on ethics, talking about the ethics of others, and it would just seem to me that this ought to be a red flag to many of us to take a second look at. I know my colleague, the gentleman from California, offers it in the very best of motives; but I think it ought to at least be recognized on this floor that there is some intrinsic danger. There is already a little bit of suspicion about the Bar Association as such. I speak as a lawyer and I know what the general public thinks of the bar. It just seems to me this is not the kind of thing that helps us in getting discretionary funds of this type.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

(At the request of Mr. TRAXLER, and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman for yielding and I commend him for this amendment.

Would the American Judicature Society, for instance, be one of the eligible bodies that could apply for this type of a grant?

Mr. EDWARDS of California. That is right, yes.

Mr. TRAXLER. The gentleman mentioned the uniform State law commissioners; is that correct? Uniform State law commissioners might also be one of the parties that could apply, just make out a grant application and I assume they would be eligible.

Mr. EDWARDS of California. The amendment would allow grants for the development and revision of criminal justice standards and guidelines, that is all.

Mr. TRAXLER. Yes; and for instance, Uniform State Law Commissioners presently do these kinds of things. They are funded totally, as I recall, through State efforts, through State contributions. They do a significant and important role in this area. They are totally appropriate to receive these kinds of funds.

The American Judicature Society for years has done intensive studies of our courts, including the Federal judiciary, all to the benefit of the criminal justice system. It seems to me to single them out because they happen to be lawyers and say that they are not eligible for this kind of application, I do not know whether or not the application would be worthy, but to deny them even the opportunity to cross the threshold would be it seems to me in my estimation to be bias of the worst order.

I congratulate the gentleman and I support his amendment.

Mr. EDWARDS of California. I thank the gentleman and I thank the gentleman for his contribution.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has again expired.

(At the request of Mr. MCCLORY, and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, as I understand the purpose of the gentleman's amendment, it is to take advantage of the expertise of associations that have special talents with respect to subjects related to criminal justice and law enforcement and to permit the law enforcement assistance agency to take advantage of these professional associations and societies and to get the advantage of what they are capable of doing without having to go out and find and construct a whole new unit for the purpose of getting the information or getting the advice and support from which LEAA and the whole law enforcement community can benefit; so I cannot see any mischief in the gentleman's amendment. It seems to me it is permissive and that it could be entirely useful.

Do I misunderstand or misinterpret the gentleman's amendment in any way?

Mr. EDWARDS of California. No; there is nothing automatic about these grants. They will only be given on appropriate occasions and we will be exercising oversight. I think the amendment is perfectly reasonable and I thank the gentleman for his contribution.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 28, noes 22.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were agreed to.

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AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MCCLORY: Page 187, beginning in line 24, strike out ", however" and all that follows down through "Academy" in line 5 on page 188.

Mr. McCLORY. Mr. Chairman, this is the amendment about which I spoke in general debate. It would merely strike from the language in the bill the language which deleted the funds for the FBI to pay for transportation costs of local police officers who go and take the FBI training course in Quantico.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the chairman of the committee.

Mr. RODINO. Mr. Chairman, I am happy to state that I support the gentleman's amendment. I think it is an amendment that is appropriate, and it certainly would give great assistance to our law enforcement agencies, particularly in this area.

I might say, as one who had originally refrained from supporting this amendment, that I have seen the reasonable justification for the amendment, and I now support the gentleman's amendment.

Mr. McCLORY. Mr. Chairman, I thank the gentleman from New Jersey (Mr. RODINO) very much for his support.

This language has been in the law since 1935. It is something that encourages the local police to go and get that FBI training. This is of benefit to all our small communities and our large communities as well.

Mr. Chairman, I hope the committee will support this amendment overwhelmingly.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thought maybe it would be appropriate that the sponsor of the amendment in the Committee on the Judiciary could at least say a few words about the amendment before it just flies on through and takes out everything I worked so hard for in the committee. Maybe the gentleman ought to say, "Boo" or something, but I do not know if the chairman would permit that.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, may I say that the total cost of the FBI training program at Quantico is about $30 million a year, and of that amount about $1 million is provided for transportation. While the men are at Quantico getting their FBI training, the local police departments pay their salaries, so the only costs that are paid by the FBI are their housing costs while they are there and their transportation.

This is a great incentive for local law enforcement personnel to go and get better training. It is a way of avoiding a national police force and at the same time giving the local police the benefit of the expertise of the FBI.

This benefits particularly the smaller communities which cannot afford the transportation costs, and it benefits as well the large metropolitan areas where there are so many demands because of the high crime rate. It benefits both of them. The few suburban communities in between that might be able to afford this expense, of course, get a very small share of the overall funds.

Mr. VOLKMER. Mr. Chairman, I would like to reclaim my time.

Mr. Chairman, I understand the gentleman's philosophy and I would just like to present my philosophy as it appeared to the full committee at the time the full committee adopted the amendment to prohibit the use of these funds and make the local governments provide the funds for the transportation and the room and board of those law enforcement officials.

As we know, this is not a great deal of money. Six dollars a day is not a great deal of money to the local communities. It was my thought that the local communities, when they send people to Quantico for FBI training, are sending them there not to just send somebody to the FBI Academy, but to make sure that person is going to study and stay in law enforcement. I have seen from experience in my past instances where people have attended the Academy, and lo and behold, 6 months later or a year later they are no longer on the police force; they are off doing other things. It is free, so the idea is: Why not send a man up there?

So I thought maybe we should let them pay a small amount. It is not going to cost any one community a great deal per member.

However, in view of the fact that I agree it would probably hurt the smaller communities more than it would the large communities, I am willing to take the gentleman's amendment at this time. I am willing to let the amendment I offered go, but only for the sake of recognizing that this may be providing a little bit in here for the small communities. There is not much in the whole bill for the small communities in this bill.

So maybe we should do away with my amendment, get rid of it, and accept this amendment, and maybe the local communities of 10,000 or so that want to send a man to Quantico for law enforcement training by the FBI will be able to do that. I say that, because that is about all the small communities are going to get out of this bill.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, I want to thank the gentleman from Missouri (Mr. VOLKMER) for his revised view of this amendment, and I appreciate his withdrawal of opposition.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. VOLKMER) has expired.

(On request of Mr. ASHBROOK, and by unanimous consent, Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, as my colleague said, we see eye to eye on most of these matters, and I am glad the gentleman is offering a reasonable compromise in this matter.

But there is one thing I did want to point out. When the gentleman talks about $6 a day or so, actually that is not exactly the case, as I understand it. Let us say there is a person on the police department in Elko, Nev.; he could not get his transportation paid for.

Mr. VOLKMER. Right. But now he would get his transportation and room and board.

Mr. ASHBROOK. But the transportation would be the biggest part of it for people who live far away.

Mr. VOLKMER. Yes, that is right.

Mr. ASHBROOK. Mr. Chairman, I think for that reason this will help the small communities much more than the large communities.

Mr. VOLKMER. Right.

Mr. ASHBROOK. Mr. Chairman, in 1968, the Safe Streets Act was passed by the Congress ostensibly to provide a means to help the States fight crime. An amendment to H.R. 2061 was adopted by a margin of a single vote in the Judiciary Committee to prohibit the use of LEAA funds to permit police officer travel for participation in FBI training at the FBI Quantico training facility. This program of LEAA has permitted many small police departments to send their officers to the police training facility in Virginia, whereas previously, they lacked the funds to do so. The most damaged communities will be those located in far away areas of the country, whose budgets will not permit transcontinental travel. These minor funds will be, hopefully reinstated by the gentleman from Illinois' amendment to permit the payment of travel expenses for police officers for the FBI Academy sessions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: On page 126, strike out lines 22 through 25.

On page 165, line 23, strike out "A," after "parts".

On page 165, line 23, strike out "70" and insert in lieu thereof "80".

On page 174, line 2, strike "A,".

On page 180, line 4, strike out "A,".

On page 231, after line 6, insert the following new section:

"SEC. 1004. There are authorized to be appropriated for the purposes of carrying out the functions of the Office of Community Anti-Crime Programs $25,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $25,000,000 for the fiscal year ending September 30, 1982; and $25,000,000 for the fiscal year ending September 30, 1983.".

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this amendment has the effect of establishing the community anticrime program at $25 million per year.

In the consideration of this legislation in the committee, there were two amendments: One amendment which established the program at this level, and then another amendment which was adopted and which provided that 10 percent of the mandatory funding should be granted from LEAA for funding of the community anticrime program.

Mr. Chairman, the effect of this is to provide a sevenfold increase in funds for the community anticrime program. I am in support of the anticrime program at the community level. I think it is at the community level that crime has to be controlled. But in this current year only $7 million was expended for that purpose.

If we increase the allocation and the authorization of funds to $25 million, I think we are doing very well. We do not want to go overboard as far as funds for community anticrime programs are concerned, and I would hope that the committee will accept this amendment and establish this general allowance amount at $25 million.

We can consider further increases at a later time, but to do more than treble the amount at this time seems to me to be most unwise.

Mr. Chairman, I hope the committee will agree to this amendment to establish the community anticrime program

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at $25 million for this year, next year, and the year after.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would like to commend the gentleman from Illinois (Mr. McCLORY) for offering this amendment.

The statistics that the gentleman from Illinois has given are extremely dramatic, and I think they ought to be reemphasized. During the preceding fiscal year the total authorization for community anticrime programs was $25 million, but less than a third of that $25 million was actually expended in the community anticrime program.

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Now it is proposed that we double the $25 million to $50 million in the bill. So this would result in over a sevenfold increase if the total authorized amount was expended. Where else would a Government program in these times of austerity get a 700-percent-plus increase but here in this particular piece of legislation?

So I would hope that the gentleman's amendment would be adopted to keep the authorization at its present level, and I would urge very strong support for it.

Mr. McCLORY. I thank the gentleman for his remarks.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I find myself in sharp disagreement with this critical portion of the bill. The community anticrime program enlargement bloats this agency unnecessarily with unnecessary programs. The committee adopted an excessive 10-percent earmark for community anticrime activities. If the full authorization of the bill of $800 million is applied, 10 percent would require the expenditures of $80 million per year for the community anticrime program. During the past year, that program expanded to only $7 million. It was, during that time, authorized for a total of $25 million. Even if the full amount of the budget of $546 million were applied today, 10 percent would result in more than double the amount presently authorized for community anticrime efforts with LEAA. Thus, the amount of funds provided by the amendment is clearly excessive, when tested against experience.

Because the very nature of community-based programs requires volunteer activity, increased staffing by paid workers in these programs will effectively remove this spirit of volunteerism. By smothering a potentially worthy program with too much money, we risk destruction of the citizen involvement which should be encouraged in such community anticrime legislation. When evidence demonstrates that a program that has been in place for 3 years requires one-third of the funding available, there seems to be little justification for such an increase in authorization. Moneys could be better spent if they were directed to State action programs. I urge support of my colleagues for Mr. McCLORY's amendment to retain the present funding level for community anticrime.

Mr. McCLORY. I thank the gentleman for his remarks. The gentleman makes a very good point.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is not making any changes in the actual formulation of the community programs, but actually only as to the funding of them and striking out the 10 percent part, so it is a flat dollar amount; is that correct?

Mr. McCLORY. Yes. I am putting the community anticrime program back in the form it was when it came to the committee. It was very carefully worked out. The $25 million amount was considered as being very generous in connection with an important program. But, as I say, it is more than 3 times what was spent last year and, it seems to me, that is a very generous support for the community.

Mr. VOLKMER. If the gentleman will yield further, as the gentleman from Illinois knows—and I agree with his amendment—in the subcommittee there were those who agreed they thought there was not enough emphasis on this type of program and that there should be more, especially in the metropolitan areas. The neighborhood programs were much needed and desirable.

Mr. McCLORY. This provides more.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I must respectfully disagree with the gentleman from Illinois. Projecting the figures that he does, the amount of money that might be anticipated would be somewhere near $80 million.

Presently, under the bill, in the fiscal year 1980 appropriations, the community programs would receive about $30 million per year and not the $80 million that the gentleman from Illinois argues. This would be about 10 percent of the $300 million to perform the discretionary national priority and community anticrime programs. Community anticrime programs are probably the most important programs because I believe, and I think that anyone who is interested in succeeding in this effort against crime will have to recognize, that the initiative for our war or battle against crime has to come from the community and community participation.

We have all kinds of programs in communities, neighborhood watch programs and programs designed to help the elderly, the tenant security programs, and many other programs. All of these programs have been very successful. If we cut down and talk about $25 million—I supported this figure originally in the bill that the gentleman from Illinois and I introduced together—we would then be, in the event there is a cutback in the total of funds, see a lessening in the amount of moneys that would be provided for these kinds of anticrime community programs.

I would, therefore, hope that we would see the wisdom of providing the full 10 percent. This would give us the opportunity to allocate a sufficient amount of money to this LEAA assistance program which is designed to give support to the people in the community who come up with worthwhile programs, such as those that I have outlined. Those would be given national priority, and this permits them to at least be able to successfully engage in this effort to fight crime.

I would urge that, while the gentleman from Illinois talks about $80 million because we have a figure of 800 million and he talks about 10 percent of that figure. We recognize reality and know that the actual figure is actually $29,905,000 that would be allowable under this program if we were to adopt the 10 percent.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what I am trying to point out is that in this fiscal year we have expended only $7 million for the community anticrime program. If we take 10 percent of the total authorization, you are going to have close to $50 million. It is about a sevenfold increase over what the current expenditure is. I think that that is excessive. It just seems to me that we are giving generous support to the program by raising the figure to $25 million, which is what the gentleman from New Jersey and I did in the bill which we introduced.

Mr. RODINO. That is correct. And I ask the gentleman, though, who is a supporter of anticrime community programs, if there are these programs that are designed to do the job and would come within the purview of what we hope is going to be a successful effort in writing anticrime community programs, would he then want to restrict it to that amount when he would feel that if we allow the 10 percent it would allow for better opportunity to enlist neighborhood and community participation?

Mr. McCLORY. If the gentleman will yield further, let me point out that under the bill as written, it requires that 10 percent be spent. It compels it. It mandates it. It says the 10 percent shall be devoted for this purpose. I think that it is excessive. It is mandatory. It is not the way that the gentleman from New Jersey and I intended to have this overall LEAA program administered, it seems to me, and I would hope that the gentleman would acquiesce in a generous $25 million authorization instead of a mandatory 10 percent. Actually, we have gotten into some difficulty because of earmarking. We did that with regard to juvenile justice and we got into a spiraling figure that was far in excess of the proportion that should have gone to that area of criminal justice activity.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise to oppose Mr. McClory's amendment to eliminate the mandatory earmarking of 10 percent of the authorization for the community anticrime program. I do so not only because I was the author and principal sponsor of the Citizens Anticrime Patrol Assistance Act, which became law under the leadership of Chairman Peter Rodino, but more important, because this is one program which works, and works well. I also support the mandatory earmarking of funds for this program because I remember the long and difficult struggle to get this program funded initially.

Let me explain why I feel so strongly. My congressional district is in the Bronx, in New York City, an area which has long been plagued by serious crime. In recent years groups of citizens have decided, on their own, to organize and fight back. With the assistance of LEAA's community anticrime grants, these groups have been able to begin a serious program of crime prevention. Let me cite one example. The northwest Bronx community and clergy coalition was awarded a grant of $249,000 last year which the coalition is using for its anticrime program which includes increasing volunteer anticrime efforts; involving senior citizens in neighborhood patrols during the day; crime education programs; lobby and building patrols; antiarson activities and many other programs. These type of efforts are essential if we are to save our cities from being destroyed by crime and vandalism.

Last year, more than 150 projects were financed by the community anticrime program. From escort services for the elderly to antirape patrols, these programs have helped make our cities just a little more livable. We are not talking here about some ivory tower program run out of Washington. What we have here is a grassroots effort which succeeds because it comes from the community itself.

Mr. Chairman, I urge that the McClory amendment be rejected. We must insure that community anticrime gets its fair share of LEAA funds.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McClory).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 20, noes 16.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sawyer: Page 129, line 11, after "crime," insert the following: "the prevention and reduction of parental kidnaping, including the development of programs to facilitate cooperation among the States and units of local government,".

Mr. SAWYER. Mr. Chairman, this amendment merely authorizes the National Institute of Justice to develop programs for the combating and dealing with this question of parental kidnaping across State lines which has grown in proportion and, with the obvious projected increase in divorce rates, will continue to grow in proportion and concerning which there is now no Federal criminal law or other remedy available. It is getting to be a national problem.

I may say that the Senate, on an agreed amendment, included the same provision in the Senate bill.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from North Carolina.

□ 1640

Mr. GUDGER. Mr. Chairman, I would like to advise the gentleman that we know of no opposition to this amendment. We are quite aware of this area of concern.

The gentleman from Florida (Mr. Bennett) has introduced legislation affecting this particular area of concern, and it certainly is one which requires study and development by the National Institute of Justice, and I support the gentleman in his amendment. I hope it will be enacted.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. Yes, I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

We are happy to support the amendment on this side. I thank the gentleman for offering the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Sawyer).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Sawyer: Page 146, line 5, strike out "100" and insert "90" in lieu thereof.

Page 184, line 7, strike out "100" and insert "90" in lieu thereof.

Mr. SAWYER. Mr. Chairman, this amendment is perhaps more controversial in that I do not get acquiesence in it.

Up until now, historically, since 1968, we have funded federally not to exceed 90 percent of the cost of these experimental programs as seed money.

For some reason now when we have only two-thirds of the amount of funds appropriated than we had last year, we have proposed in this bill, as it now stands, to go a full 100 percent of funding.

Now, I have as a local prosecutor, supped at the table of the LEAA, and I am a little familiar with how these things work in the field.

There are all kinds of ideas floating around. If they do not cost you anything, in other words, the Federal Government will pick up the full shot, why not do it and compete for the money; and you do not get any resistance whether your local Board of Commissioners or whatever it might be, are interested or not interested.

At least the minimum of 10 percent that we had in the act all the time up until now at least insures some minimum amount of local participation. You have got to get the concurrence of either the local board of supervisors or whatever funding agency to get enough interested and be sure there is enough local interest to authorize the program, and also when the program is running, to exercise supervision, auditing and otherwise over it, because they have got 10 percent of their money in there.

Now, to say they have got nothing in there is almost guaranteeing in my opinion that the 84-percent continuation rate we enjoyed in 1978, in other words, those programs, those seed money programs where the Federal funding ended in 1978, 84 percent were continued at totally local expense.

We are going to see a drastic drop in this if we cut this to 100 percent. It just does not make any sense.

When we had $656 million in the program last year, we are now down to like $440 million; in other words, a full one-third chopped off it, to then cut it another 10 percent by removing the local participation. We can take what we have got and make it go 10 percent further by going along with my amendment, which goes back to the 90-percent maximum as opposed to this 100 percent presently in the bill.

I think we will get local interest assured to some extent, because they are going 10 percent. We will get local oversight and auditing assured, because some of their money is involved. We will make our program go 10 percent further than it is going to be able to go now.

I am strongly in favor of the bill. I have seen the good it does in the field, but I am absolutely against a mistake like this going full 100-percent Federal funding at a time when our funds have been crucially and drastically reduced.

Mr. McCLORY. Mr. President, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

The gentleman states that the current law does provide for the 10-percent contribution.

Mr. SAWYER. That is correct.

Mr. McCLORY. So that is in the law at the present time. The gentleman makes a very strong argument. I realize, as a sponsor of the bill, I did favor the 100-percent discretionary grant allowance, since it is sort of an application for a Federal grant, but I really do not feel disposed to oppose the gentleman's amendment.

Mr. SAWYER. I think in light of the fact that the gentleman was not aware of that point, that the funds available have already been cut one-third from last year, this at least adds 10 percent back, instead of taking 10 percent more away.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment by Mr. SAWYER, my colleague on the Judiciary Committee. His amendment retains the valuable spirit of mutual participation that some supporters of LEAA have for so long promoted. By placing the Federal Government solely in the business of direct aid to recipients of LEAA funds, we are setting in motion a perpetual cycle of dependence. We have seen all too many examples of Federal control rather than Federal assistance being used as the funding standard.

Lets not create another CETA by eliminating the community participation provision of LEAA. It is one very important provision that should be retained.

Mr. GUDGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is, of course, quite compelling to hear the argument that the local community should put up at least 10 percent of the dollars, and yet we must remember that already the local community is putting up 95 percent of the dollars, because law enforcement in the United States is a local and a State expenditure and not a Federal expenditure except to the degree that these Federal funds coming in through LEAA are going into programs designed to stimulate further thinking, further planning, further development, and have, we hope, served a useful purpose historically in this function, and will, we hope, serve a more useful function in the future.

Now, what does the 100 percent actually do?

Well, we suggest that it goes directly to the State planning agencies to be disbursed down through and to the local unit of government under systematic planning and programing, which must be approved under the LEAA system here in Washington and, of course, at the State level.

Why should we actually try to require specific dollars contributions from the local unit or the State unit to match any particular dollar that is going in there from the Federal source?

All we are accomplishing is requiring a great deal of accounting.

Let me point out that we already have a lot of accounting built into this act, because where the planning at the State level exceeds $200,000, there must automatically and immediately be a 50–50 contribution by the State.

Similar contributions are required at the local level, and in the priority grant program, there is a 50–50 participation.

The only thing that ultimately is achieved by this 90–10 apportionment that is proposed by this amendment is to impose upon every State and every local government unit a careful accounting of every dollar spent and showing of a $100-versus-$9 contribution.

There are a lot of small communities that just cannot come up with these funds and are looking to the Federal funds to initiate programs that otherwise they would do without and we want new programs. That is the thrust of the act.

Let me point out that in the opening remarks, speaking about the changes that this act would develop in the LEAA system, it was pointed out that we would eliminate unnecessary accounting where we were putting on the line a 3-year planning program, which would be carefully designed and would be very carefully scrutinized at the local, at the State, and at the national level, and that there is no substantial benefit from this.

We have already saved a 10-percent commitment to the community programs on the McClory amendment just adopted.

Is that not enough saving at the cost of the plan and the concept of the Judiciary Committee?

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. I thank the gentleman for yielding.

One way we can be assured of virtually no local accounting is by going 100-percent Federal funding. I do not doubt that. But while this is not intended to supplant bread-and-butter law enforcement money, that is not the purpose. The purpose, as stated by the Congressional Budget Office, is to provide seed funds on a short-term basis for topics or new and imaginative programs in law enforcement that have enough local support and enough local interest to: First, make them go; second, give localities a stake in this; and third, give them an interest in accounting and not seeing waste in it.

☐ 1650

Any time one is offered a program that only costs 10 percent, if it is anything where we have the kind of interest in it that is going to have to be behind it to make it go, it is going to take local interest and local enthusiasm. Unless they want that program, it is not going to work. The gentleman from North Carolina (Mr. GUDGER), who was a local district attorney himself, knows that there is no limit to the horizons of the imagination of prosecutors' offices, sheriffs' departments, to try something new as long as it is free and as long as they do not have to face the gamut of their local elected officials putting up some money.

I say that a 10-percent good faith deposit locally for following up, and accounting, and endorsing that there is some interest in the program is absolutely minimal. I think it ought to be 25 percent, but we have been with the 90 percent, 10 percent local historically. My goodness, now with a one-third cut in our budget, why cut it 10 percent further by eliminating that?

Mr. SENSENBRENNER. Mr. Chairman, I would like to reiterate what the distinguished gentleman from Michigan has said. The easiest thing in the world to do is to spend somebody else's money. By providing 100-percent Federal funding of all these programs, we would be encouraging the States and local units of government to spend Uncle Sam's dollars.

Much of the debate that has gone on on this amendment and prior discussion has been about local participation. I would like to strike the word "participation" and say that the 10-percent local funding will require local responsibility over the expenditure of these funds by providing that the local governments put up one dime on the dollar. This will mean there will be local auditing over how these dollars are spent, local oversight by our city councils and State legislatures as to exactly whether these projects are working out, and thus giving the local units of government a better idea of whether that project should be continued once the Federal dollars expire.

As Mr. SAWYER has said, 84 percent of the LEAA-funded projects have been continued following the expiration of Federal funding. One way we can cut that percentage figure remarkably is by defeating this amendment and going to 100-percent Federal funding. I hope the amendment is adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. SAWYER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EVANS OF THE VIRGIN ISLANDS

Mr. EVANS of the Virgin Islands. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EVANS of the Virgin Islands: Page 146, beginning in line 15, strike out, "the Virgin Islands," and in line 16, strike out, "Guam,".

Page 172, beginning in line 23, strike out, 1,000,000." and insert in lieu thereof, $300,000.".

Page 172, beginning in line 23, strike out, "Guam, the".

Page 172, beginning in line 24, strike out, "Virgin Islands,".

Mr. EVANS of the Virgin Islands (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

Mr. EVANS of the Virgin Islands. Mr. Chairman, today I am offering an amendment to H.R. 2061, the Justice System Improvement Act of 1979, in order to permit State-like treatment for the United States Virgin Islands and Guam, for formula grant eligibility purposes.

I earnestly urge the Members of the House of Representatives to cast their votes in favor of this amendment.

Since 1968, the Virgin Islands and Guam have been included under the definition of a "State" for purposes of both the Omnibus Crime Control and Safe Streets Act of 1968 (48 U.S.C. 3781(c)), and the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5603(7)).

Consequently, the Virgin Islands and Guam have had the full rights of participation in LEAA funding for the last 11 years.

In fiscal year 1979, the Virgin Islands, considered as a "State," is eligible to receive a total of approximately $640,000 in LEAA funds. Unfortunately, however, under H.R. 2061, section 402(a)(1), the Virgin Islands and Guam would not be considered as "States" for purposes of part D formula grant eligibility.

Accordingly, the Virgin Islands, Guam and the other U.S. territories would be authorized to receive, collectively, only $1,000,000 under section 405(F) of H.R. 2061. In other words, H.R. 2061 would effectively and drastically reduce current Virgin Islands and Guam LEAA funding during a period in which crime in each of the Territories is rapidly accelerating.

Within the 1979 allocation of LEAA funds already mentioned, the Virgin Islands are eligible to receive a base minimum administrative allocation of $250,000; however, under H.R. 2061, part J, section 1003(a), only "States" will stand to receive this figure, plus an additional amount of $50,000.

Also, within the 1979 allocation of LEAA funds, the Virgin Islands are eligible to receive $56,000 in Juvenile Justice funds. H.R. 2061, part D, section 405(G), however, makes mention only of "States" for receipt of formula grant.

Also, within the 1979 allocation of LEAA funds, the Virgin Islands are eligible to receive $149,000 in discretionary small State supplement grants to supplement Virgin Islands block grant allocations. This is necessary in order to provide a minimal level of funding to carry out effective law enforcement programs. Under H.R. 2061, part F, only "States" would be eligible to receive Discretionary grants. It is imperative, I feel, that under this provision, the Virgin Islands and Guam must be assured of minimum base funding levels in light of the fact that under the population formula, the Virgin Islands and Guam have much smaller populations than any State.

Also, within the 1979 allocation of LEAA funds, the Virgin Islands are eligible to receive $169,000 pursuant to parts C (adjudication) and E (corrections) of the Omnibus Crime Control and Safe Streets Act, as amended. Unfortunately, however, under H.R. 2061, section 405(a)(2), only "States" will be protected from receiving program allocations less than their 1979 block grant allocations.

By reason of the foregoing, I am respectfully requesting the complete support of the House to this amendment to include the Virgin Islands and Guam within the definition of a "State" under section 402(a)(1) for formula grant eligibility purposes. "State" treatment is crucial to future law enforcement in the Virgin Islands and Guam, as we cannot afford to have our LEAA allocations slip below our 1979 allocations.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. EVANS of the Virgin Islands. I am glad to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman from the Virgin Islands makes a very good point and one which I have considered myself. I am very happy on this side to support the gentleman's position as well as that of the gentleman from Guam who takes a position similar to that as explained by the gentleman from the Virgin Islands.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. EVANS of the Virgin Islands. Yes; I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I too would like to commend the gentleman from the Virgin Islands and his colleague, the Delegate from Guam, for the work that they have put into this amendment. It is typical of this amendment that it sustains the formula and the concept of the House act. At the same time it allows certain jurisdictions which are already receiving full State allotments to have the standing of States in the allotment process hereafter. It is a desirable amendment, it improves the act, and we support it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from the Virgin Islands (Mr. EVANS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDGER

Mr. GUDGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDGER: On page 178 after the word "jurisdiction" on line 6 add the following: "The Administration may provide technical assistance to any priority program or project funded under this part. Technical assistance so provided may be funded in an amount equal to 100 per centum of its cost from funds set aside pursuant to this part.".

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. Yes; I yield to my colleague and friend, Congressman LESTER WOLFF of New York.

Mr. WOLFF. Mr. Chairman, I rise in support of this legislation, the Justice System Improvement Act of 1979. This bill reauthorizes the Law Enforcement Assistance Administration (LEAA) for 3 years.

For many years LEAA has supported local law enforcement organizations. As chairman of the Select Committee on Narcotics Abuse and Control I have become aware of the relationship between street crimes and the abuse of drugs. To support their habits those addicted to such drugs as heroin and cocaine turn to the commission of property crimes. In many instances local law enforcement agencies find themselves without sufficient resources or assets to effectively combat this problem. Although the LEAA is not specifically charged with a drug abuse mandate its programs and activities have significant potential to impact upon this problem.

LEAA-supported criminal justice rehabilitation programs and projects, such as TASC, have instilled innovative approaches into the criminal justice system. These have proved beneficial to local law enforcement agencies in the past and this legislation will insure that assistance of this nature will continue for an additional 3 years.

Drug abuse is a complex problem to which we must devote every possible resource. By enhancing the operations of local law enforcement agencies the LEAA acts as a great deterrent and prevention mechanism in the battle against drug abuse.

Mr. GUDGER. Mr. Chairman, the amendment which was just read in its entirety is very limited in purpose. The priority grants program calls for a 50–50 contribution. However, there is provision whereby the administration may provide technical assistance to assist local communities in developing a priority program or project.

The amendment being advanced here would allow the cost of that to be borne by the National Government rather than on the 50–50 parity. It is merely to allow the priority grants administration to be at the cost of the system rather than on the 50–50 cost for the project itself when it is in place. I know of no opposition to this amendment. It is technical in nature.

□ 1700

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. GUDGER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK:

Page 122, beginning in line 4, strike out "The Administrator shall report" and all that follows through "this title." in line 6.

Page 128, beginning in line 14, strike out "The Director shall report" and all that follows through line 17.

Page 131, beginning in line 14, strike out "Director of the Office" and all that follows through "Statistics" in line 15 and insert "Attorney General" in lieu thereof.

Page 136, beginning in line 21, strike out "The Director shall report" and all that follows through line 24.

Page 174, beginning in line 8, strike out "Office of Justice" and all that follows through "Statistics" in line 9, and insert "Attorney General" in lieu thereof.

Page 174, beginning in line 16, strike out "Office of Justice" and all that follows through "Statistics" in line 17, and insert "Attorney General" in lieu thereof.

Page 174, beginning in line 18, strike out "Office of Justice" and all that follows through "Statistics" in line 19, and insert "Attorney General" in lieu thereof.

Page 174, beginning in line 21, strike out "Office of Justice" and all that follows through "according" in line 22, and insert "Attorney General according" in lieu thereof.

Page 174, beginning in line 23, strike out "Office" and all that follows through line 24 and insert "Attorney General may determine.".

Page 175, beginning in line 1, strike out "Office of Justice" and all that follows through "Statistics" in line 2, and insert "Attorney General" in lieu thereof.

Page 175, beginning in line 6, strike out "Office of Justice" and all that follows through "Statistics" in line 7, and insert "Attorney General" in lieu thereof.

Page 175, line 8, strike out "it" and insert "the Attorney General" in lieu thereof.

Page 175, beginning in line 12, strike out "Office of Justice" and all that follows through "Statistics" in line 13, and insert "Attorney General" in lieu thereof.

Page 175, beginning in line 18, strike out "Office of Justice" and all that follows through "Statistics" in line 19, and insert "Attorney General" in lieu thereof.

Page 175, beginning in line 22, strike out "Office of Justice" and all that follows through "Statistics" in line 23, and insert "Attorney General" in lieu thereof.

Page 181, beginning in line 10, strike out "Office of Justice" and all that follows through "Statistics" in line 11, and insert "Attorney General" in lieu thereof.

Page 181, beginning in line 16, strike out "Office of Justice" and all that follows through "Statistics" in line 17, and insert "Attorney General" in lieu thereof.

Page 181, beginning in line 21, strike out "Office of Justice" and all that follows through "Statistics" in line 22, and insert "Attorney General" in lieu thereof.

Page 182, beginning in line 1, strike out "Office of Justice" and all that follows through "Statistics" in line 2, and insert "Attorney General" in lieu thereof.

Page 182, line 3, strike out "it" and insert "the Attorney General" in lieu thereof.

Page 182, line 8, strike out "the Attorney General and".

Page 182, line 10, strike out "Office of Justice Assistance, Research, and Statistics" and insert "Attorney General" in lieu thereof.

Page 182, beginning in line 12, strike out "Office of Justice" and all that follows through "Statistics" in line 13, and insert "Attorney General" in lieu thereof.

Page 183, beginning in line 5, strike out "Office of Justice" and all that follows through "Statistics" in line 6, and insert "Attorney General" in lieu thereof.

Page 183, beginning in line 22, strike out "Office of Justice" and all that follows through "Statistics" in line 23, and insert "Attorney General" in lieu thereof.

Page 192, strike out line 6 and all that follows through line 19 on page 194.

Page 194, line 20, strike out "Sec. 802. (a)" and insert "Sec. 801." in lieu thereof.

Page 194, beginning in line 20, strike out "Office of Justice" and all that follows through "Statistics" in line 21, and insert "Attorney General" in lieu thereof.

Page 195, line 3, strike out "(b)" and insert "Sec. 802. (a)" in lieu thereof.

Page 196, line 17, strike out "(c)" and insert "(b)" in lieu thereof.

Page 198, beginning in line 22, strike out "Office of Justice" and all that follows through "may" in line 23, and insert "Attorney General may" in lieu thereof.

Page 200, beginning in line 9, strike out "Office of" and all that follows through "Statistics" in line 10, and insert "Attorney General" in lieu thereof.

Page 200, beginning in line 18, strike out "Office of" and all that follows through "Statistics" in line 19, and insert "Attorney General" in lieu thereof.

Page 200, strike out line 15 and insert "Attorney General to take" in lieu thereof.

Page 200, line 23, strike out "it" and insert "Such entity" in lieu thereof.

Page 200, line 23, strike out "its" and insert "such entity's" in lieu thereof.

Page 201, beginning in line 6, strike out "Office of" and all that follows through "Statistics" in line 7 and insert "Attorney General" in lieu thereof.

Page 201, beginning in line 12, strike out "Office of Justice" and all that follows through "Statistics" in line 13, and insert "Attorney General" in lieu thereof.

Page 201, beginning in line 17, strike out "Office of Justice" and all that follows through "Statistics" in line 18, and insert "Attorney General" in lieu thereof.

Page 202, beginning in line 2, strike out "as follows" and all that follows through "(55)" in line 7, and insert in lieu thereof the following:

By striking out '(55) and all that follows through line 5.

Page 203, beginning in line 2, strike out "Office of" and all that follows through "Statistics" in line 3, and insert "Attorney General" in lieu thereof.

Page 203, beginning in line 14, strike out "Office of" and all that follows through "Statistics, the" in line 15.

Page 203, beginning in line 24, strike out "Office of" and all that follows through "Statistics" in line 25 and insert "Attorney General" in lieu thereof.

Page 204, beginning in line 3, strike out "Office of" and all that follows through "Statistics" in line 4, and insert "Attorney General" in lieu thereof.

Page 204, beginning in line 11, strike out "Office of" and all that follows through "Statistics" in line 12, and insert "Attorney General" in lieu thereof.

Page 204, beginning in line 16, strike out "Office of" and all that follows through "Statistics" in line 17, and insert "Attorney General" in lieu thereof.

Page 204, beginning in line 24, strike out "Office of" and all that follows through "Statistics" in line 25, and insert "Attorney General" in lieu thereof.

Page 206, beginning in line 20, strike out "(other than" and all that follows through "(ii))" in line 21.

Page 206, beginning in line 25, strike out "Office of Justice" and all that follows through "Statistics" in line 26, and insert "appropriate Administrator or Director" in lieu thereof.

Page 207, line 9, strike out "Office of Justice Assistance, Research, and Statistics" and insert "appropriate Administrator or Director" in lieu thereof.

Page 208, beginning in line 4, strike out "Office of Justice" and all that follows through "Statistics" in line 5, and insert "appropriate Administrator or Director" in lieu thereof.

Page 208, beginning in line 6, strike out "Office of Justice" and all that follows through "Statistics" in line 7, and insert "appropriate Administrator or Director" in lieu thereof.

Page 208, line 12, strike out "Office of Justice Assistance, Research, and Statistics" and insert "appropriate Administrator or Director" in lieu thereof.

Page 208, beginning in line 19, strike out "Office of Justice" and all that follows through "Statistics" in line 20, and insert "appropriate Administrator or Director" in lieu thereof.

Page 209, beginning in line 7, strike out "Office of Justice" and all that follows through "Statistics" in line 8, and insert "appropriate Administrator or Director" in lieu thereof.

Page 209, beginning in line 13, strike out "Office of Justice" and all that follows through "Statistics" ending in line 14, and insert "appropriate Administrator or Director" in lieu thereof.

Page 209, beginning in line 19, strike out "Office of Justice" and all that follows through "Statistics" in line 20, and insert "appropriate Administrator or Director" in lieu thereof.

Page 210, beginning in line 3, strike out "Office of Justice" and all that follows through "Statistics" in line 4, and insert "appropriate Administrator or Director" in lieu thereof.

Page 210, beginning in line 10, strike out "Office of Justice" and all that follows through "Statistics" in line 11, and insert "appropriate Administrator or Director" in lieu thereof.

Page 210, beginning in line 14, strike out "Office of Justice" and all that follows through "Statistics" in line 15, and insert "appropriate Administrator or Director" in lieu thereof.

Page 211, beginning in line 3, strike out "Office of Justice" and all that follows through "Statistics" in line 4, and insert "appropriate Administrator or Director" in lieu thereof.

Page 212, beginning in line 3, strike out "Office of Justice" and all that follows through "Statistics" in line 4, and insert "appropriate Administrator or Director" in lieu thereof.

Page 212, beginning in line 9, strike out "Office of Justice" and all that follows through "Statistics" in line 10, and insert "appropriate Administrator or Director" in lieu thereof.

Page 212, beginning in line 11, strike out "Office of Justice" and all that follows through "Statistics" ending in line 12, and insert "appropriate Administrator or Director" in lieu thereof.

Page 212, beginning in line 12, strike out "Office of Justice" and all that follows through "Statistics" in line 13, and insert "appropriate Administrator or Director" in lieu thereof.

Page 212, beginning in line 18, strike out "Office of Justice" and all that follows through "Statistics" in line 19, and insert "appropriate Administrator or Director" in lieu thereof.

Page 212, beginning in line 22, strike out "Office of Justice" and all that follows through "Statistics" in line 23, and insert "appropriate Administrator or Director" in lieu thereof.

Page 213, beginning in line 23, strike out "Office of Justice" and all that follows through "Statistics" in line 24, and insert "appropriate Administrator or Director" in lieu thereof.

Page 214, beginning in line 1, strike out "Office of Justice" and all that follows through "Statistics" in line 2, and insert "appropriate Administrator or Director" in lieu thereof.

Page 214, beginning in line 19, strike out "Office of Justice" and all that follows through "Statistics" in line 20, and insert "Attorney General" in lieu thereof.

Page 216, beginning in line 22, strike out "Office of Justice" and all that follows through "Statistics" in line 23, and insert "Attorney General" in lieu thereof.

Page 217, beginning in line 5, strike out "Office of Justice" and all that follows through "Statistics" in line 6, and insert "Attorney General" in lieu thereof.

Page 217, line 6, strike out "its" and insert "the Attorney General's" in lieu thereof.

Page 217, beginning in line 9, strike out "Office of Justice" and all that follows through "Statistics" in line 10, and insert "Attorney General" in lieu thereof.

Page 217, beginning in line 24, strike out "Office of Justice" and all that follows through "Statistics" in line 25, and insert "appropriate Administrator or Director" in lieu thereof.

Page 218, line 4, strike out "Office of Justice Assistance Research, and Statistics" and insert "appropriate Administrator or Director" in lieu thereof.

Page 218, line 14, strike out "Office of Justice Assistance Research, and Statistics" and insert "appropriate Administrator or Director" in lieu thereof.

Page 219, line 18, strike out "Office of Justice Assistance, Research, and Statistics" and insert "appropriate Administrator or Director" in lieu thereof.

Page 220, beginning in line 8, strike out "Office of" and all that follows through "Statistics, the" in line 9.

Page 228, beginning in line 20, strike out "and the Office of Justice" and all that follows through "Statistics" in line 21.

Page 231, line 14, strike out "Administrator," and insert "Administrator or" in lieu thereof.

Page 231, beginning in line 15, strike out ", or the Office" and all that follows through "Statistics" in line 16.

Page 237, line 9, strike out the comma immediately after "President" and insert "or" in lieu thereof.

Page 237, beginning in line 9, strike out ", the Director" and all that follows through "Statistics" in line 10.

Page 239, line 16, strike out "the Office of Justice Assistance, Research, and Statistics,".

Mr. ASHBROOK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, this amendment enjoys bipartisan support. This amendment affords an opportunity to cast a vote for reducing a bureaucracy. In the name of "reform" of the LEAA, drafters of this bill have created a gargantuan monster which, I expect, will run awry of the original intent of the Federal-State crime fighting programs. If we want today to add more administrators, more rules, more paperwork and less responsiveness to the people and the Congress, then we should retain OJARS.

By creating an umbrella agency, the Office of Justice Assistance, Research and Statistics (OJARS), a new strata of policymaking is created. The only possible reason for creating OJARS is to establish a buffer from direct line authority by the Attorney General. This hardly responds to criticisms of LEAA. Critics have complained that it is too unresponsive to local needs, too bureaucratic and unwieldy for planners and local administrators to influence, and too prone toward easy solutions. OJARS simply gives the Agency another excuse for continuing failure.

If my colleagues have had an opportunity to read the Judiciary Committee report, dissenting views submitted by myself and my colleague on the subcommittee from Wisconsin (Mr. SENSENBRENNER) should leave no doubt as to who would be running the store under OJARS. The birth of the new super agency, OJARS will achieve an important goal in the mind of the bureaucrats—to create confusion. If we permit OJARS to stay in this authorizing legislation, it will be unknown as to exactly who calls the shots in LEAA. The Attorney General? The Director of OJARS? The Administrator of LEAA? From the standpoint of Government efficiency, cost savings, competency, and efficiency of operation, the concept of OJARS is seriously flawed.

Since the beginning of the present administration, LEAA has suffered from lack of leadership. Until March of this year, a permanent director has not been in place. It is a bad mistake to reduce the rank of that Director by interjecting a new agency above him.

As some of my colleagues may know, I have often voted and spoken against the growth of the LEAA. Today, I am in the unusual position of attempting to strengthen the LEAA. By deletion of the OJARS provision, more financial resources will be available to the LEAA, and hopefully crime fighting projects. The Agency, I believe, will only be further eroded, and given to greater mismanagement with the adoption of an OJARS policymaking and administrative bureaucracy.

I am grateful to the chairman of the Subcommittee on Crime for his advocacy of my amendment when it was considered by the Judiciary Committee.

Mr. GUDGER. Mr. Chairman, I rise to speak in opposition to the amendment.

Mr. Chairman, this new bill is a new departure, and it is addressing certain needs that were made quite clear to the Judiciary Committee. We need it to have institutional control for the study of new programs and new concepts. We need to have priority projects and discretionary grants. We also need it to develop a Bureau of Justice Statistics and, of course, we also need it to leave the administration itself in place.

But, over all three of these functions it was felt that there needed to be a firm management authority, and I would call the attention of the committee to page 192 of the bill, which states in very simple language the functions of the Office of Justice Assistance, Research, and Statistics, in lines 12 to 16.

> The Office of Justice Assistance, Research, and Statistics shall directly provide staff support to, set broad policy guidelines for, and coordinate the activities of the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration.

In other words, it is to serve as the staffing agent for all three. It is to serve as the policy guideline agent for all three, and it is to serve as the coordinating function for all three. I submit that if each of these three agencies is to have its own independent staff, if it is to set its own directions and its own objectives without any single coordinating body at the head, then we can have all three encountering additional expense, encountering duplication and conflict of position, resulting in lack of effective management and direction.

I submit that OJARS is thus effective, that many of the functions common to LEAA, BJS, and NIJ, such as legal personnel, civil rights enforcement, auditor, comptroller, public and congressional relations, will all be performed by the single organization, OJARS. That is the genius of this aspect of the bill.

I submit that it is important to this legislation, that there be a single administrative agency taking care of the staffing of all three of these subordinate agencies. It has been estimated that if each of the three subordinate agencies sets up its own staffing for these functions that I have mentioned, that a minimum of 50 to 100 additional positions will be required in each of these three divisions, and that OJARS can save this. It will also, we believe, serve the ultimate objectives of the act, that is, it can serve as the guiding force of a system which needs a guiding force. The 22-member Board, represented by directors from each of the subordinate agencies within its membership will have, we believe, the ability to carry out this new system and this new commitment to success. So, we believe, very firmly that OJARS is essential to the ultimate benign purpose of this new legislation, which is to make a system which has not been working perfectly, work more nearly perfectly hereafter.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment to eliminate what I believe is, and will prove to be, a completely unnecessary bureaucratic appendage to this agency. When we have been discussing LEAA in past years, before I was here and even up to the present time, the criticism has been that it is not following its initial purpose. It was established basically as a centerpiece of something called "new federalism," a means by which Federal funds that had previously been really hamstrung by the categorical grant approach, with more and more strings attached in Washington, D.C., were converted to an overall block grant approach where the best decisions with the greatest amount of diversity and greatest amount of flexibility at the local level would be allowed.

The problem, it seems to me, as we approach a reclarification of the program, is that we fall in the same old trap; that is, the only way we can deal with the problems of bureaucracy that have been created in the past and the problem of the direction and redirection and re-refinement by the people in Washington, D.C. is to create a new bureaucracy and give it a handy acronym and say, "Well, in the first year we will make sure that no one additional is employed." And that "somehow, over the years, this new bureaucracy will not grow and, in fact, it will take people away from other agencies that are already existing."

Let us not kid ourselves. Let me say that in the Senate report explaining OJARS' relationship with one other agency it says:

> . . . this section establishes a Bureau of Justice Statistics (BJS) within the Justice Department, headed by a Director, appointed by the President, by and with the advice and consent of the Senate. The Director of the BJS is given final authority over all grants, cooperative agreements and contracts awarded by the BJS. The Director of OJARS is under the general authority and policy control of the Attorney General and the authority extends to the Director of the BJS as well . . . The actual policies and priorities would be set by the Director of the BJS consistent with such policies as may be established by the Attorney General in exercising his general authority and policy control over OJARS and consistent with the responsibiliy and authority of the Director of OJARS . . .

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Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Will the gentleman please explain to the Membership of this body in clear, straightforward terms who is in charge over there.

Mr. LUNGREN. It is awfully hard to figure out, and this statement I just read is supposed to put the clarifying language in the Senate report telling us how all of these various lines of communication are going to be drawn. The fact of the matter is we do not need more bureaucracy over LEAA; we need less. We need to get the funds where they belong, where they can do the most good, and that is at the local level. Even though some may say this new bureaucracy is small when it begins, it is a bureaucratic monster child that we know will grow greater and greater and funnel off more funds from the programs that are absolutely necessary. LEAA has been criticized because it has not been effective. It is not going to be made more effective by the creation of a bureaucracy to come up with more so-called "great" ideas, when we know what needs to be done is to allow local participation, to encourage local participation, and to provide the incentive to get things rolling on the local level and not attempt to control, not attempt to direct and administer them over and over and over again with paper shuffling back here in Washington, D.C.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, one of the major problems that the LEAA has had throughout its tortured and troubled history is the fact that there has been no concentration of responsibility for what goes on in LEAA and how the public's money is expended, not only in Washington but in the States and communities around the country as well. The creation of OJARS as proposed by this bill further clouds those lines of responsibility. In my opinion, the responsibility for the expenditure of LEAA funds must ultimately rest with the Attorney General of the United States. Under the present system the LEAA Director is directly responsible to the Attorney General and directly under the Attorney General.

What this bill that is before us proposes to do is to establish a new level of bureaucracy called OJARS, so rather than the Attorney General getting the ultimate responsibility for the successes or lack of successes in LEAA, it goes down first through OJARS and then to the LEAA function which is renamed. That is a step in the wrong direction. The only way we are going to insure that the accountability, which is so necessary for the expenditure of these hundreds of millions of dollars of funds, is there is by making the LEAA Director right underneath the Attorney General so that the Attorney General has got to answer for what goes wrong in this agency.

The amendment offered by my friend, the gentleman from Ohio, proposes to do that. It should be supported not only as an antibureaucratic vote but one to increase the lines of political responsibility for the expenditure of these huge amounts of dollars.

Mr. Chairman, I yield back the remainder of my time.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

I can appreciate the general intent of the sponsor of this amendment. However, I am somewhat uncertain myself as to what the effect of the amendment will be or what the effect of the establishment of this new office will be. I can assure the Members that in creating this Office of Justice Assistance, Research, and Statistics (OJARS), our purpose was to try to tie together all of the various activities that go into this overall LEAA program and to put it under one common aegis. It is not our aim to establish a new bureaucratic layer, but we must try to establish some repository for the responsible administration of the law. I suppose that the various activities authorized by this bill will function appropriately and adequately if we do not establish this new agency, but I think we will be missing some of the coordinating and cooperative benefits that can come from the creation of this office of so-called OJARS. I am going to oppose the amendment.

On the other hand, in the final version of this legislation when we work out different detailed provisions with the other body, I would certainly like to yield to whatever suggestions are offered to try to make this the smoothest, most streamlined, and the least bureaucratic administration possible.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I will be happy to yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I believe the gentleman stated he is in a little bit of a quandary—I am, too—over this amendment. But as I read the Senate bill, it basically already has OJARS in it right down the line the way it is structured in the House bill, so I do not think it is going to be changed in conference. But the way I look at it is—will the gentleman agree with me on this statement—the way the amendment offered by the gentleman from Ohio is drawn, if the amendment is adopted and that would become the law in the end, we could still have an Assistant Attorney General.

Now they have so many assistants. One of those could coordinate these activities, because they are all under the Department of Justice. The Attorney General by order could make sure that all report to that assistant. What we are doing here—there is no question in my mind, and I am not saying it is bad—is we are creating a new Deputy Attorney General Office of Justice. The OJARS man will be a Deputy Attorney General. We are creating him. We are adding one; there is no question about that.

Mr. McCLORY. We are creating an office, we are establishing an agency which in my view is a kind of coordinating umbrella agency which is going to have authority over the National Institute of Justice, the LEAA grant program, the Bureau of Judicial Statistics, and these other activities that go to make up this overall program.

Mr. VOLKMER. That is right, but that could be done by order of the Attorney General without legislation.

Mr. McCLORY. It could be done administratively.

Mr. VOLKMER. Yes.

Mr. McCLORY. It is kind of a loose arrangement now, and by creating OJARS, we are trying to make this a more coordinated program.

Mr. VOLKMER. I agree with the attempt to coordinate all activities. I agree that is the intent.

Mr. McCLORY. As I say as one of the sponsors of the legislation I am going to oppose the amendment, and as to the ultimate administration of this law, I am not sure what might be the most effective way. But I cannot see any mischief in OJARS as it is in the bill, and it could provide for a smoother administration of the program.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding.

I want to commend the gentleman for his participation regarding the importance of this particular agency within the concept of the new commitment. We have here, and I think he has defined it exceptionally well, a particular board with a particular director that is charged with coordinating all of the functions of these new agencies. Two of these agencies are essentially new. One of them is certainly totally new, the Bureau of Justice Statistics, and there needs to be some facility whereby their plans are coordinated and whereby their efficiency is increased. But the gentleman has not commented substantially upon the potential cost savings that can be involved in having a single agency that does the staffing for all of these agencies and maintains assurance that there be proper training programs and proper staffing in place. I will ask the gentleman this one other question.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GUDGER, and by unanimous consent, Mr. McCLORY was allowed to proceed for 3 additional minutes.)

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding. I would ask the gentleman from Illinois this: Is it not in a sense parallel to the function of the House Committee on Administration in that we have to have some committee, some structure within this body, to coordinate our activities, to meet our staff needs, and to see to it that we have a structure that makes it possible for us to function in our various capacities? And is it not in a real sense parallel to the House Committee on Administration's function in this legislative body, roughly, I realize, quite crudely?

Mr. McCLORY. The comparison may be valid, but let me point out in the committee report we have recited that the purpose of OJARS is to coordinate the activities of the National Institute of Justice, the Bureau of Justice Statistics, and the LEAA. It is purely and simply that, and it seems to me to be a useful agency for that purpose. I cannot see it as a huge, topheavy bureaucracy. If I did, I would not support it, but I think that it is a necessary agency in order to carry this out. I do not think it is just the appointment of one new Assistant Attorney General; I think it is the agency that is being established.

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I do not like new agencies but I do like the Federal Government in the performance of its task to coordinate the activities as smoothly, efficiently and economically as possible.

Mr. GUDGER. Mr. Chairman, will the gentleman yield for one further question?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. Does the gentleman see that this OJARS agency has the function of freeing up the Bureau of Justice Statistics to do that job? To free up the National Institute to do its job and to free up the LEAA to do its job and thereby coordinate and make possible the fulfillment of the function of each?

Mr. McCLORY. As I say, Mr. Chairman, it is purely a coordinating agency. This is not a new bureaucratic lair.

I yield back the balance of my time.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if the gentleman from North Carolina would respond to some questions concerning OJARS. I support OJARS and I supported it originally. I was one of the original sponsors of the bill. I have seen the need for a coordinated effort to more effectively carry out the operation of the Law Enforcement Assistance Administration. However, I wonder if the gentleman will assure us that, in providing for OJARS as such, that we will also be doing that which I think we originally intended to do, and that is to strengthen these two separate arms, the National Institute of Justice and the Bureau of Justice Statistics, which I think are all important if we are to efficiently run this organization without having a bureaucracy.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman.

Mr. GUDGER. Mr. Chairman, I firmly and sincerely believe that is exactly what OJARS can and must do, that it must free up these agencies to render their function without being caught up in the clutter of staffing and other responsibilities.

Mr. Chairman, I would like to point out that the National Institute of Corrections is a small unit comparable to the National Institute of Justice, Bureau of Justice Statistics. It has a staff of 32 authorized to administer a budget of $9.9 million. That is a ratio of three people per $1 million. Whereas, LEAA has a staff of 646 to administer a budget of $646 million.

Mr. Chairman, we believe sincerely we can keep tightened efficiency by having a single agency doing the staffing of all three of these proposed agencies and avoid the cost inefficiency of having each agency operating independently.

Mr. RODINO. Mr. Chairman, I thank the gentleman. With that assurance I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ASHBROOK), there were—ayes 17, noes 19.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Forty-two Members are present, an insufficient number. A quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 544]

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

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The CHAIRMAN. Three hundred and eighty-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Members are reminded that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 169, not voting 27, as follows:

[Roll No. 545]

AYES—237

Abdnor
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bethune
Bevill
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Coughlin
Courter

Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fenwick
Findley
Fish
Fithian
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Luken
Lungren
McCloskey
McDade
McDonald
McEwen
McHugh
McKay
Marlenee
Marriott
Mathis
Mikulski
Miller, Ohio
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
O'Brien
Pashayan
Paul
Petri
Pickle
Pritchard
Pursell
Quillen
Rahall
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Stenholm
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wyatt
Wydler
Wylie
Young, Fla.
Zablocki
Zeferetti

NOES—169

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barnes
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Clinger
Corcoran
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Dixon
Dodd
Downey
Drinan
Eckhardt
Edwards, Calif.
Evans, Ind.
Fary
Fazio
Ferraro
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gephardt
Giaimo
Gibbons
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Howard
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Lowry
Lundine
McClory
McCormack
McKinney
Madigan
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Slack
Solarz
Spellman
St Germain
Stack
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Vanik
Waxman
Weiss
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.

NOT VOTING—27

Anderson, Ill.
Beard, R.I.
Bolling
Bonior
Brown, Ohio
Chisholm
Clay
Collins, Ill.
Davis, S.C.
Diggs
Dingell
Fascell
Flood
Frost
Glickman
Ireland
Leach, La.
Martin
Nolan
Quayle
Stockman
Treen
Van Deerlin
Walgren
Wilson, C. H.
Winn
Young, Alaska

☐ 1750

Messrs. LOEFFLER, KAZEN, and DE LA GARZA changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GUDGER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McCormack, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2061) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 412. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 412) entitled "a joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes,"; requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Robert C. Byrd, Mr. Proxmire, Mr. Inouye, Mr. Hollings, Mr. Bayh, Mr. Eagleton, Mr. Chiles, Mr. Young, Mr. Hatfield, Mr. Stevens, Mr. Mathias, and Mr. Schweiker to be the conferees on the part of the Senate.

CONGRATULATIONS TO MARTIN AND VALERIE FROST

(Mr. LELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LELAND. Mr. Speaker, I take this time to acknowledge that the majority side has been increased in its support by one person. I would like to acknowledge the fact that Valerie Frost, the wife of our colleague from Texas, Martin Frost, has just delivered a little baby girl weighing 7 pounds 8 ounces.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may sit tomorrow during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, we have crucial legislation tomorrow. Why does the gentleman want to meet?

Mr. FOLEY. If the gentleman will yield, the committee has two matters before it, one that deals with requesting an amendment change on the rule which has already been granted, which is necessary in order to program the legislation. The second is even more urgent. There is a bill that has been referred to the committee by sequential referral, and that committee will be discharged as of the close of business tomorrow if it does not act on the bill.

Mr. ROUSSELOT. Is this on the welfare funds?

Mr. FOLEY. Yes.

Mr. ROUSSELOT. Is it relating to food stamps?

Mr. FOLEY. Yes, it is.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 412, CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Mississippi can tell the House what we might expect if this request is granted and we do go to conference?

As I understand it, the other body is so concerned about this issue of people being paid and pensions being doled out that they will not even consider this until 10 o'clock tomorrow.

What might we expect? The House has been, shall I say, treated rather shabbily in the public sphere in the last few days on this issue, and it seems to me that if they do not care to meet again this evening they are not really that upset about it.

Mr. WHITTEN. If the gentleman will yield, we offered to meet at any time after 1 o'clock. The Senate was not able to reach an agreement until a short time ago. We offered to meet tonight. We were advised that we would meet promptly at 10 o'clock tomorrow morning and that is the earliest they would be able to meet with us. So we expect to meet at 10 o'clock tomorrow.

Mr. BAUMAN. In other words, the House conferees made it clear that they were available to meet this evening to solve this problem that the other body has made plain touches millions, and that offer was refused

Mr. WHITTEN. They were unable to meet our offer, so I am advised.

Mr. BAUMAN. Is there some reason for this? I understand the World Series is going on in Baltimore.

Mr. WHITTEN. I do not know all the reasons but I know they are working in the Appropriations Committee. They were working. They were in session in the Appropriations Committee on the Interior bill as I understand, I can say that.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONTE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the joint resolution (H.J. Res. 412) be instructed to insist on its disagreement to the Senate amendment numbered 4.

The SPEAKER. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE) for 1 hour in support of his motion.

Mr. CONTE. Mr. Speaker, in the first continuing resolution for fiscal 1980, the Senate had put a cap on the amount of travel at $750 million. The House had no such provision. We went to conference with this issue before the October district work period, and we worked out a compromise at that time of $500 million. There is no doubt there has been a tremendous amount of abuse in the amount of travel by Federal employees in this country. We feel the $500 million cap reported by the House committee in this resolution is a sound and responsible position. However the Senate has gone back to a $750 million travel cap.

I hope we can hold the current House position of a $500 million cut, but in the interest of compromise, my motion instructs the House conferees not to agree to any reduction in excess of $625 million.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, may I say to my friend, the gentleman from Massachusetts (Mr. CONTE), that he has spoken as to the action of the committee. We are in full accord with his position. It is in accord with the agreement that we had with the other body on House Joint Resolution 404.

Mr. Speaker, we support the motion.

The SPEAKER. Without objection, the previous question is ordered on the motion to instruct.

Mr. BETHUNE. Mr. Speaker, I object.

The SPEAKER. The question is on ordering the previous question on the motion to instruct.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BETHUNE. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the previous question was ordered.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. CONTE).

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SLACK, DUNCAN of Oregon, CHARLES WILSON of Texas, BENJAMIN, CONTE, MICHEL, and MCDADE.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN UNITED STATES AND DENMARK AND THE FAROE ISLANDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-205)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801), I transmit herewith a governing international fishery agreement between the United States and Denmark and the Faroe Islands, signed at Washington on September 5, 1979.

This agreement is one of a series to be negotiated in accordance with that legislation. I urge that the Congress give favorable consideration to this agreement at an early date. Since 60 calendar days of continuous session, as required by the legislation, may not be available, I recommend that the Congress consider issuance of a joint resolution to bring this agreement into force.

JIMMY CARTER.

THE WHITE HOUSE, *October 10, 1979.*

□ 1800

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, I was unfortunately not able to be present on the House floor on October 9, 1979, during the first part of the House's deliberations. A delay in my transportation from New York to Washington caused me to miss several votes—thus the following explains how I would have voted had I been present.

Rollcall No. 532: A vote under suspension of the rules on the final passage of continuation of fringe benefit tax regulations (H.R. 5224) which extends the prohibition on issuance of Internal Revenue Service regulations on taxing of employee fringe benefits, commuting expenses of an individual and travel expenses away from home for State legislators. This measure passed by a vote of 349 to 14 with 27 votes "present". If I had been present I would have voted in favor of this measure.

Rollcall No. 533: A vote under suspension of the rules on the final passage of provisions on congressional use of frank mail (H.R. 3777). This measure sets limitations on the use of the frank for mailings by Members of Congress. H.R. 3777 passed by a vote of 319 to 68. If I had been present I would have voted in favor of this measure.

Rollcall No. 534: A vote under suspension of the rules on the final passage of the amendment to the National Traffic and Motor Vehicle Safety Act of 1966 to require public notice of tire defects (H.R. 3949). This bill requires for the first time that public notice be given in the event that a defect is discovered in a tire. H.R. 3949 passed by a vote of 380 to 90. If I had been present I would have voted in favor of this measure.

Rollcall No. 535: A vote under suspension of the rules on the final passage of Manassas Battlefield Park expansion (H.R. 5048). This bill expands the Manassas Battlefield Park in the State of Virginia and authorizes $20 million for the land acquisition needed for such expansion. H.R. 5048 passed by a vote of 349 to 39. Had I been present I would have voted in favor of the final passage of this bill.

SUGAR BILL WILL FUEL INFLATIONARY FIRE

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEDERER. Mr. Speaker, within the next few days, the House will be considering the highly inflationary sugar bill, H.R. 2172. More than 25 organizations—consumers, unions, and industry—oppose this anticonsumer legislation which will nothing but fuel the inflationary fire that is burning up our Nation. Recently, the Washington Post printed an editorial in opposition to this special interest legislation which would benefit only a small handful of domestic cane and beet sugar producers and cost the consumers untold millions of dollars in higher prices for processed foods.

The Washington Post editorial follows:

A MERE $180 MILLION FOR SUGAR

For those consumers who think that grocery prices ought to be a little higher, and inflation ought to rise a little faster, there is hope. Your Congress is on the verge of raising the price of sugar. Import fees currently keep the wholesale price of foreign sugar up to 15 cents a pound for American buyers, regardless of its cost abroad. There's a bill to raise that price to 15.8 cents, with further increases over the next two years. The bill is likely to come to a vote in the House any day now.

It would cost consumers about $180 million a year—half of it going to the government and the other half going to the American sugar producers whose prices would indirectly be raised. A mere $180 million isn't much for such a good cause, is it? That's only $2.50 per household. Please leave your share at the grocery checkout counter as you pass through. It will be forwarded automatically to the proper recipients.

Amidst so many tangled and difficult issues, the case for the sugar bill has an appealing simplicity—the American sugar producers want more money. They say that they also need more money, although that is less clear. They are being squeezed by inflation, and their solution is to squeeze somebody else—to wit, yourself. Beyond that, they see it as a matter of justice. They have hired numerous lobbyists and paid them well They have contributed substantially to many congressional campaign funds. Shouldn't all that hard work, worry and expense entitle them to eight-tenths of a cent?

It's a congressional tradition to take care of the sugar producers. From the 1930s until five years ago, the United States set quotas for the amounts of sugar that could be imported, regardless of price. That system collapsed, fortunately, after bad weather led to the great run-up in world sugar prices in 1974. Congress then replaced it with the present system of import fees—a system that is preferable to quotas, but only comparatively less costly to people who buy sugar.

If the House passes this bill, there is very little chance that it will be defeated in the Senate. Urban interests are far more heavily represented in the House. More specifically, in the Senate a sugar bill will enjoy the enthusiastic support of the chairman of the Finance Committee, Russell B. Long of Louisiana, and the chairman of the Foreign Relations Committee, Frank Church of Idaho. Both come from states that produce sugar. Sen. Church, engaged in a difficult reelection campaign, is reported to take the sugar bill particularly seriously. That is why people in the House also ought to take it seriously—particularly if they do not agree with Sens. Church and Long on the desirability of this substantial new redistribution of income sugarwards.

NUCLEAR ENERGY AND NATIONAL DEFENSE

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● **Mr. PRICE.** Mr. Speaker, last week at an energy conference here in Washington a very important energy message was delivered by an outstanding engineer in the energy field. This message entitled "Nuclear Energy and National Defense" was delivered by Mr. John W. Simpson who, before his retirement from Westinghouse, headed up all energy generation operations of the organization. My associations with him go back over 30 years when he led the work at the Atomic Energy Commission's Bettis Laboratory near Pittsburgh on the development of the first nuclear submarine propulsion plant. Based on this long association I know what a competent, responsible and dedicated man he is. He has devoted himself to the welfare and security of our Nation and has directly contributed to this end by his outstanding contributions to the nuclear submarine and surface warship program and other work in the development of our national energy resources.

Mr. Simpson in his talk last week has some unpleasant things to say about our energy dilemma and its consequences to our national security. What he says in this respect is factual and should be faced by all of us as we try to develop solutions to the problem. Since he has presented the facts in a very orderly and comprehensive way and since, based on his high degree of professional competence in the field, he provides meaningful and practical routes to solutions of the dilemma, I highly commend his statement to all of my colleagues. I, accordingly, include his statement at the close of these remarks.

The statement follows:

Nuclear Energy and National Defense

October 3, 1979.

(By John W. Simpson)

When we face a situation as individuals with which we can not cope, our minds tend to deny that it even exists, but that doesn't make the problem go away.

Unfortunately, the U.S. faces the most serious situation in its history today—and yet our national leaders appear to deny—even to themselves—that the situation exists. They sometimes say the words that define the problem—yet pass blandly on as though it wasn't real—as though it were fiction.

Let me assure you the problem is real—there is one root cause—lack of an adequate energy supply—and it will manifest itself in several ways:

First. For the first time in history the U.S. is at the mercy of a foreign power anytime it wants to move. If the Soviets deployed a few hundred trained saboteurs into the Mid East oil fields we could be denied oil indefinitely. Even if we got the oil to sea enemy nuclear submarines could prevent the oil from reaching the U.S. The result in either case would be complete economic chaos. There is no way we could prevent this even though the U.S. has threatened the use of military force in the Mid East. Certainly the use of nuclear weapons is not the answer. Most of the leaders of the U.S. know this to be true—and yet they do nothing—I wrote to Nixon about this in 1974, I discussed it at a high level in the Ford Whitehouse, I have discussed it with many other administration and congressional leaders. What answer do I get—yes, you are right, but what can we do—and they go on to lesser problems.

Second. The long term economic future of the U.S. has never been bleaker. Even if we are not faced with a war, our present lack of an energy policy virtually guarantees that before many decades we will not have enough energy to support even a static economy much less a growing one.

Third. We are condemning untold billions of those in the Third World to exist forever with a future of undernourishment, starvation and disease and with no hope of a decent standard of living—unless—UNLESS—they choose to take matters into their own hands. At best we will have a politically unstable world—stability cannot exist with the great disparities in the necessities of life that will take place. Even worse—the genie is out of the bottle and there is nothing we or anyone else can do to put it back in. Almost any nation is capable of producing several nuclear weapons. God forbid that they should ever feel so pushed to the wall that they would see no alternative to using nuclear weapons.

In the mind and conscience of America we should be seeing the handwriting on the wall—"Mene Mene Tekel Upharsin" which translated says "God hath numbered thy kingdom and finished it for you have been weighed in the balances and found wanting".

We in the U.S. had the capability of solving the worlds energy problem or at least ameliorating it—and yet all we have done is make it worse—we have refused to look at reality—we have been lured into inaction by the siren song of those who push for their own ideologies.

"The Moving Finger writes and having writ moves on; nor all our piety nor wit can lure it back to cancel half a line." We by our actions have all but guaranteed armed conflict over the fossil energy resources of the world. It is already too late to prevent this nation from walking for years through the valley of the shadow of a war that could destroy us. That, however, is no excuse for doing nothing now, even though it will take years to build the nuclear energy supply to where it should be.

By 2000 the world population will be 6.4 billion and the energy requirement will be almost 700 quads. That estimate is based upon the Third World and the Sino-Soviet nations continuing at their current growth rate. This, however, gives the Third World only about 10 percent the per capita use of energy as the U.S. It is also based on the growth in energy use in the U.S., Japan and Western Europe being reduced to about a third of what it has been. Seven hundred quads of energy is the equivalent of 33 billion tons of coal a year or 125 billion barrels of oil.

I don't intend to get mired down in statistics to prove that there is no reasonable alternative to a nuclear energy future for the world. Frankly that is true even though nuclear energy were nowhere near as safe as we believe it to be.

There are about two thousand billion barrels of oil in the world and two thirds of that is yet to be discovered. Even if there should be twice that much oil and it could be discovered even faster than oil ever has been, the end result for the future is the same though perhaps delayed a decade or so, but the near term absolute need to import billions of barrels of oil a year and the complete inability to guarantee that we can, will not change. Even if no external forces reduce or cut off our importation of oil, it appears that it is in the economic self interest of the OPEC nations to soon reduce the amount of oil they will export.

Studies of the path of Saudi Arabia to become an industrial nation by 2025 (just 45 years from now) show that she should export oil as long as she needs the hard dollars to industrialize, but that by 2000 she should start reducing exports and that by 2025 she would need domestically all the oil that could be produced and should export none.

Saudi Arabia has the fewest people, only about 8 million and most oil of any OPEC nation. Iran for example has four times as many people and not nearly as much oil, making it likely that exports would be reduced even sooner. Mexico has a lot of oil, though probably not as much as they claim, but by 2000 Mexico will have a population of 132 million, about half of that of the U.S. Even if they only use a fourth as much per capita as the U.S. they will need billions of barrels a year for themselves, probably about all they could produce.

Yes, we have a lot of natural gas today, but that too will only last a few decades at best. We have prodigeous quantities of coal, and from a resource point of view alone, our coal can provide the energy we need except for transportation at least for the rest of this century—but--dare we mine and burn the quantities required. Even with a major nuclear capacity and no reduction in oil imports we would need over two billion tons of coal a year by 2000 and soon thereafter, the need would climb to three billion tons a year. The consequences of burning those quantities are staggering in terms of loss of life and environmental degradation even if the CO_2 in the atmosphere doesn't cause catastrophic changes in our climate. Of course coal must be a major part of our energy future but it can't be the only energy source for electric power generation.

At the current rate of fatalities per unit of coal consumed there will be between 11,000 for mining and transportation alone between now and 2000 if our use of coal climbs to two billion tons a year by then and many more if we include black lung disease. The number of fatalities can and will be reduced, but even so there will be many deaths—but we can not do without coal as an energy source.

Things are bad enough for the U.S. but now a brief look at what the Third World faces. Outside of OPEC nations the Third World has only a few per cent of the worlds oil, but most of the worlds population. The U.S. and the other industrial nations, principally Japan and Western Europe are buying and in fact must continue to buy most of the oil exported by OPEC and are driving the price up to the point where it is unlikely the Third World countries can get even a fraction of the oil they need. Ninety-five per cent of all the coal in the world is in North America, Western Europe and the Sino-Soviet countries.

Until and unless the major industrial nations can develop solar energy to the point that it is economic, and this at best is decades away, solar will provide little energy for Third World nations. They will be left to struggle along with traditional energy sources biomass, animal waste, etc. By 2025 over two thirds of the worlds people will live in the Third World.

There is no way that the world can get enough energy on the time scale required to provide an adequate standard of living for the population predicted for 2025—nine billion people. The only hope for even coming close is nuclear energy.

The U.S. must move toward a more electric economy with the electricity supplied by coal and increasingly by nuclear energy. I said in 1973 that any desired number of nuclear plants could be in operation by 2000. As time has passed that has had to be reduced, but even last Spring a study for AIF headed by Ken Davis of Bechtel showed that 550 G.W. of nuclear could be in operation by 2000. For this to happen not only must there be a green light for nuclear, but the electric utilities must see the load growth and must have the rates to enable them to finance the expansion.

The principle areas that should turn increasingly to electricity are transportation, space heating, and industrial processes. Oil should be reserved for those things for which we have no alternatives, principally transportation. Even for restricted use our domestic oil is far from adequate so we must develop coal gasification and coal liquifaction. There is little doubt that this will eventually be needed and that it will not be economic at first, but this technology must be developed and plants must be built—now.

Nuclear energy must be a major part of the U.S. energy future. The light water reactors have demonstrated in theory and in fact that they are economic, adequately safe and environmentally acceptable. This fact is accepted by the leaders of every major industrial nation in the world, by almost all of the world industrial leaders and by an overwhelming majority of the engineers and scientists including every technical society that has taken a public position. I know of no one who has a position of major responsibility for supplying energy who does not accept nuclear energy.

Sooner or later the U.S. will make a move to maximize the nuclear option. However, to accomplish this requires more than just light water reactors. Even with the optomistic assumptions of the administration concerning the magnitude of our uranium resources and the rate at which they will be discovered—the uranium resources will not be sufficient even with uranium and plutonium recycle. To make matters even worse it has been assumed that reactors would have only a thirty year life. There is, however, an overwhelming case for lifetimes of 50 or 60 years, thus requiring as much as twice the amount of uranium.

Had we pushed the breeder as vigorously as we should have, it would have come to commercial reality in time for a smooth transition. But that did not happen.

It is very likely that the U.S. and the world will realize that there is no alternative to light water reactors and will commit more capacity than can be fueled by the world's uranium resources without a method of converting fertile material to fissionable material. The breeder on todays time table almost certainly will not be in time. Never the less it is the best alternative for the long range future for economic energy.

To fill the gap we will need a fusion-fission hybrid which can produce fissionable material at a sufficiently high rate, but it probably will not produce electricity nearly as economically as the fast breeder.

In summary we need a realistic coal program so that it can be mined, transported and burned, a coal gasification and liquifaction program, a shift toward an electric economy, a vigorous light water reactor program backed up by fast breeder and fusion development—can this be accomplished in today's environment—if so how?

Many critics have spoken about the morality of nuclear power; I would like to recast some of their questions. Where is the morality in leaving future generations an insufficient amount of energy, limiting their abilities to solve the economic and employment problems that we would also be bequeathing them? Where is the morality in squandering our finite supply of fossil fuels to make electricity while ignoring an alternative resource that is useful for little besides making electricity? Where is the morality in forcing the nation into further dependence on unpredictable foreign nations for its energy supply? And where is the morality in allowing an arbitrary limit on growth to be set by well-to-do groups of political activists?

The call for the abandonment of nuclear power, from groups with no responsibility for our energy supply, must be recognized as a disservice to the economy and welfare of the state. Our urgent need is for constructive solutions, not for scare tactics, or misuse of our regulatory and legislative procedures to block one of the few energy sources fully developed and available.

The continued debate over nuclear power must be put in the perspective of the performance of the power plants and the record of thirty years experience on the part of goverment and industry. And the basic goals of many of the organized critics—slowing of economic growth, reorganization of energy industries, and local "citizen group" control over all major policy decisions—must be seen as irrelevant to nuclear power as a technology and judged on their own merits.

I see no way that this can be accomplished by either the government or industry alone. It also will take cooperation between the administration and congress and there must be a plan that matches supply and demand for the future and it must be specific. Vague goals such as 20% of our energy from the sun by 2000 with no concrete plan not only is not helpful it is counterproductive. Important as price regulation, windfall profits taxes and the like are—none of these produce any energy.

The congress is ready to act, the President says nuclear energy is essential, now is the time for him to act, to propose a way to maximize the use of electricity generated by coal and nuclear energy. He has a golden opportunity to show that he is a leader. We also have the responsibility of speaking out in such a strong manner that no one can misunderstand. Let us consider the "handwriting on the wall" is a warning.●

EXPORT CONTROLS: TO BE OR NOT TO BE

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

● Mr. CLEVELAND. Mr. Speaker, recently, the Congress considered the issue of the export of critical technologies and materials to potential adversaries, such as the Soviet Union.

During this debate, the courageous involvement of one Larry Brady, then acting director of the Office of Export Administration at the Department of Commerce, was highlighted. For example Mr. Brady, at great personal risk, called the Congress attention to questionable export approval practices which were giving the Soviet Union valuable and previously unavailable technology which the Soviets were using to construct military vehicles of various kinds at their Kama River Truck Plant.

Unfortunately, Mr. Brady was promptly demoted following his testimony to the Armed Services Committee. Nevertheless, the House, based on Mr. Brady's testimony and other disturbing data, saw fit to amend the Export Administration Act to require that the Department of Defense develop a critical technologies list to prevent the export of materials and technologies which would impair the national security.

An editorial in the Coos County, N.H., Democrat astutely reviewed this entire situation and I would like to share those comments with my colleagues and with the public in general. Unfortunately, to my great dismay, the critical technologies list so carefully crafted by the House was extensively "watered down" in the conference report. In fact, this safeguard to national security was essentially eliminated.

Despite this unsettling outcome, and also because of it, I believe that the editorial from the Coos County Democrat deserves a wider circulation and I take the liberty of placing it here in the RECORD:

WHAT'S THAT OLD SAYING ABOUT HALF A LOAF?

It is the era of the cynic, and there is common belief that government has grown so big and unresponsive that the little guy might as well not try any more. However, once in a while something comes along to put the lie to this, at least to some of it, and it happened last week in the case of Lower Echelon Bureaucrat Larry Brady, of Jefferson, vs. The System.

Mr. Brady had pluck enough to testify, before the House Armed Services Committee, that efforts to control the export of U.S. technology for military use by potential antagonists were a "shambles". Specifically, Mr. Brady said that pressures for a better balance-of-trade picture by the federal Department of Commerce were taking a front seat to minor military considerations, such as whether the technology we were so blithely sending off to Russia or China might come back at us in the form of expertly fashioned missiles or the like.

Even more specifically, Mr. Brady pointed to the Kama River Truck Plant, built in the Soviet Union with massive U.S. help (i.e., a very sophisticated computer and assembly line, and an engine design far out of reach of the Soviets), ostensibly to make farm and freight trucks. The plant is now turning out army trucks and tanks.

And the reason Mr. Brady had to have pluck to say all this is that he was, at the time, Acting Director of the very Commerce Department office he criticized for paying scant heed to military far-sightedness—the Office of Export Administration.

As if troops in Cuba and the hustling away of ballerinas weren't enough, the Russians and the whole direction of the Strategic Arms Limitation Treaty talks took a beating over this, and there was a predictable "how could you be so stupid" reaction from the public and the media.

Government's response was swift. The Export Administration Act was amended by the House, and now the Department of Defense will be empowered to prepare a "critical technologies list" which will be the last word on what sort of American materials and technology go where, and to whom.

And according to Congressman James Cleveland, who firmly supported the amendment, the fate of Mr. Brady for his testimony was equally swift. He was promptly demoted.●

FARRELL ON FOUNDATION

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 15 minutes.

● Mr. COLLINS of Texas. Mr. Speaker, our recent visit from the Pope has done so much to reawaken morality as a value in the hearts of Americans. The preachers within our country have risen to express the Protestant view of a unified front.

One of America's greatest pastors is Dr. Leighton Farrell of Highland Park Methodist Church in Dallas. Here are some of the key sections of a recent sermon that emphasized the foundation stones of our Nation:

> As a nation we are struggling for direction about as much as we have ever struggled in our entire history. Our heritage of freedom, a freedom that we have enjoyed throughout our history, is rapidly becoming lost. In the midst of this confusion and this lack of direction, we must ask, What are the foundation stones upon which we can build as a nation.
>
> The first foundation upon which we build as a nation is "freedom" rightly understood. Freedom rightly understood, according to our religious heritage, did not come to us by accident nor did it come by an act of legislation; it has come to us as a gift of God. True freedom, as it always has been in our heritage, is rooted and grounded in faith in God.
>
> This kind of freedom and the exercise of this freedom is possible only when we have the faith that produces it and when we have the character as a people that ultimately lifts it out and expresses it. The price of freedom is the assumption of personal responsibility for one's own well-being and that of others in society. It means participation in the privilege of a democratic Christian society.
>
> The freedom which God has granted to us as a people is not worth much if we are not the kind of people who have a God to worship. The freedom to have many religious faiths, many political parties, and great economic resources, cannot be long continued if we do not have the spirit of the Lord in our lives, because as Paul said, "Where the spirit of the Lord is, there is freedom."
>
> We need to remember that our freedom ends where it infringes upon the common good or the rights of another whose freedom also have been bestowed by God. The only freedom that we will ever know is freedom under God, freedom by submission to His higher and divine authority. The freedom we talk about so much is not ours by our achievement, but it is ours by God's gift to us.
>
> The second foundation stone upon which we must build would be the foundation stone of moral values, rightly lived out. We seem to be living today in an era of government scandals, fraudulent business practices, and personal and individual corruption. These are the symbols of a society bent on serving itself at all costs. It is a trend toward the lack of moral responsibility on the part of both individuals and society. These practices are the symbols of a society in which the easy way, the get something for nothing attitude, become widely acceptable as long as it is possible to get away with them.
>
> Our first defense against this creeping immorality turns on the character of our people. It was a people of strong personal and moral character who built our nation. Only a strong people can be trusted with great power and great privileges and great responsibilities. Our forefathers lived under the dominion of a God who was the sovereign ruler of a moral universe. We need that quality today which makes character great, a blend of human strength and divine grace, a blend of self-discipline on the part of the individual and a humility that allows us to reach up and place our hands in the hands of God and ask for His help.
>
> The third thing I think we need in order to find the foundation stones upon which to build would be God, rightly worshipped. Regardless of where we find ourselves as a nation today and as people in our nation, the truth is that our country was established by men and women who believed in God.
>
> The founders and developers of our great nation were Bible-reading, freedom-loving, church-going, God-honoring, men and women. The very foundation upon which this great, free, constitutional society that we enjoy today was founded was the underlying faith in the overruling providence of God. Religion permeated nearly every facet of the lives of the people during the early years of this nation's formation. Religion was a part of home life and business life. The Bible was the most important book and in some cases the only book found in nearly every home. Bible reading and prayer were taught in our schools. The early colleges were church colleges, and many of the college presidents were members of the clergy. America's past is a halo of glory. America's present still is the wonder and the awe and the envy of the rest of the world.
>
> In 1930, Pilgrims said in the New England Federation Compact agreement:
>
> "We have all come into these parts of America with one and the same end; namely, to advance the kindom of the Lord Jesus Christ."
>
> Our Pilgrim forefathers gave us a heritage of a nation founded upon faith in God, a nation where God was rightly worshipped. America was established as an experimental station to show what would happen to any people who cared and dared to live as God would have them live.
>
> The Pilgrims landed at Plymouth in the name of Christ. The Huguenots took New England in the name of God. William Penn settled Pennsylvania in the name of the Nazarene, and the padres landed on the shores of California with a crucifix in their hand. Tell me, if these people were not founding our nation under God, what were they doing?
>
> Freedom under God is the priceless gift that has come to us as a part of our heritage and is destined to live through us into the future if we are willing to recognize and understand it again. This heritage has made the United States the land of opportunity for the aspiration of every individual.
>
> Benjamin Franklin, at the framing of the Constitutional Convention, after much bitterness and rancor and division, arose at the age of 81 and said to his fellow members of the Constitutional Convention:
>
> "I have lived, sirs, a long time, and the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of His people. And if a sparrow cannot fall to the ground without His notice, is it possible that an empire can rise without His aid? We have been assured, sirs, in the sacred writings that "Except the Lord build the house, they labor in vain that build it." I firmly believe this, and I also believe that without God's concurring aid, we shall succeed in this political building no better than did the builders of the Tower of Babel."
>
> Let us pray. Remind us again, O Lord, that except the Lord build the house, they labor in vain that build it.●

A NEW ENERGY SHORTAGE?

The SPEAKER. Under a previous order of the House the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, these days, seemingly, everyone is talking about the "national malaise" the Nation's apparent inability to get itself organized, to move forward out of our current problems. At times like this, it is important for us to think for a moment about how this Nation has become the most powerful and the richest land on earth. Perhaps, after that thinking, we will see more clearly where our future lies.

This Nation has grown wealthy and powerful on the richness of our soil, the hard work of our people, but also on our ability to innovate, to invent, to stay one step ahead of the competition. Innovation and invention brought us the electric lamps which light our rooms, the computers which keep track of our records, the automobiles which have given us unprecedented mobility and freedom. But today, it seems, we may be losing our innovative edge. Increasingly, new inventions bear a stamp "Made in Japan," or "Federal Republic of Germany," not "Made in U.S.A."

Can this country keep its innovative, competitive edge? I believe the answer is "yes." I am confident of America's continued inventiveness and our continued ability to find innovative solutions to complicated problems. Scientists from around the world still look to American laboratories for ideas, guidance, and leadership. I am proud to say that at the forefront of those laboratories is the Fermi National Accelerator Laboratory at Batavia, Ill., now under the extremely competent leadership of Dr. Leon M. Lederman. I am proud to have it in my district.

Not long ago, I had the pleasure, as a member of the Subcommittee on Energy and Power, to hear Dr. Lederman explain how Fermilab solved a critical problem facing its operations by pioneering a new technology which holds great promise for America's future.

Pursuing their mission to explore the subatomic nuclear "zoo" of quarks, leptons, neutrinos, and muons—particles with lives measured in the millionths of a second and characteristics whimsically termed color and charm—the international team of scientists who work at Fermilab have built the largest atom smashing accelerator in the world. This machine, Dr. Lederman confidently predicts, "will give the United States at least a 10 year lead in exploring a completely new energy region." In building this accelerator, though, Fermilab faced a problem which is familiar to us all, and they solved it in a way which should give us all hope.

Atomic accelerators use tremendous amounts of power, and Fermilab scientists found the cost of electricity eating steadily into their operating budgets. To protect that budget, former director and Fermilab's pioneer, Robert Wilson, decided to build the new accelerator using magnets cooled to within a few degrees of absolute zero. By so doing, using the phenomenon known as superconduction, Fermilab will double the applied power of the accelerating magnets while cutting electric bills by $5 million through substantially reduced electric consumption.

Mr. Speaker, one of Dr. Lederman's colleagues told the subcommittee that the use of superconductors will mean to electrical engineering what the wheel meant to mechanical engineering. Literally anything which can be done using electricity can be done with far greater efficiency with the use of the sort of superconducting technology which the men and women of Fermilab have demonstrated. A generation from now our children and grandchildren, getting their power from supercooled transmission lines and supercooled generators, may look back and say that the Fermilab accelerator, opening at a time of despair over energy, in fact marked the beginning of a brighter, more secure energy future.

Perhaps. The future of superconduction is promising, though its prospects are darkened by a serious, although solvable, problem. To achieve the low temperatures necessary for superconduction to work, engineers will need stocks of liquid helium, the only element which remains a fluid at a temperature so close to the absolute bottom. However, we are squandering the supplies of helium which are found in natural gas.

Would it not be ironic if, on the eve of applying a new, innovative American technology, we discovered that such thoughtless waste had robbed us of the chance to start? We have readily available technology to extract helium from natural gas and store it. What we lack is the public policy and incentive to do so. I hope the House will act to curtail our Nation's misguided waste of a material which will be so crucial to our future. My friend, Congressman JOHN DINGELL, the chairman of the Energy and Power Subcommittee, has informed me that he will soon bring us together to mark up legislation to take that action. I hope and expect that we will be able to devise a bill on this crucial topic which will deserve the support of all Members of this body.●

SOVIET PROPOSAL TO WITHDRAW 20,000 TROOPS AND 1,000 TANKS FROM EASTERN EUROPE IS A SHAM

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, during the course of the 30th anniversary celebration of the establishment of the East German regime by the Soviet Union, the Soviet Union advanced a proposal to withdraw 20,000 troops and 1,000 tanks from their forces currently deployed in East Germany. This proposal was advanced as the prospect loomed larger that NATO would finally make a decision to modernize its long-range theater nuclear delivery systems based in Western Europe to meet the threat posed by the deployment of more than 200 SS–20 missiles—for a total of more than 600 warheads—on 100 launchers, the deployment of the Tu–22M Backfire—which, under SALT rules may only be used as a "theater" weapon, that is, against Western Europe—in large number, and the replacement of obsolescent Soviet ground attack aircraft with the Su–19 Fencer and the MIG-23/27 Flogger. All of these systems have a long-range capability far in excess of the aggregate capability of the 527 long-range delivery systems involved in the NATO long-range modernization proposal.

The Soviets are concerned about the military effect of the modernization of NATO's long-range delivery systems because these systems could be directed against the Soviet's operational reserves currently numbering 58 divisions now deployed just out of reach of most NATO theater nuclear systems in the three westernmost military districts of the U.S.S.R.; the Carpathian, Byelorussian, and the Baltic.

These operational reserves are essential to the Soviet method of mechanized warfare where these reserves are echeloned to replace Soviet divisions—31 deployed in Eastern Europe—deployed along the NATO-Warsaw Pact border. An ability of the NATO forces to attack these echeloned reserves could severely inhibit the ability of the Soviet Union to wage war in Europe. The Soviet echeloned reserves would be forced to adopt a dispersed posture if threatened by NATO's long-range theater nuclear forces. The fact that the forces would be dispersed substantially reduces the efficiency of these forces because their military effect requires great concentration of power.

Hence, the Soviet proposal to withdraw its troops from Eastern Europe in modest numbers should be seen for what it is; namely an instrument to raise the possibility of protracted, and perhaps endless negotiation over troop reductions in Europe in exchange for NATO abstention from modernization of its theater nuclear forces. The threat to Western Europe exists because of the Soviet buildup of its long-range theater nuclear forces, and the prospects for troop reduction in Europe will never be enhanced until NATO's military posture makes it clear to the Soviets that they cannot retain a military advantage from their own military modernization program.

The sham proposal offered by the Soviet Union is even clearer when one examines the details of the mutual and balanced force reduction negotiations. In these discussions, the Soviets refuse to acknowledge 150,000 troops identified as being deployed in Western Europe by NATO intelligence. Thus, a reduction of 20,000 troops from an aggregate deployment that is not the subject of common agreement is meaningless.

Further, the content of Brezhnev's statement concerning the withdrawal of 1,000 tanks from Eastern Europe is meaningless, since he failed to indicate that he would not replace the 1,000 obsolescent T–54/62 series tanks with the more modern T–72 tank which are now being built at a rate of 200 to 300 per month. Soviet practice involves the positioning of large numbers of tanks in reserve, in addition to the tanks deployed with Soviet tank and motorized rifle divisions. Thus, the withdrawal of 1,000 tanks from Soviet reserve inventories would not have any impact on the Soviet military potential in Europe; tanks deployed with operational units would not be affected.

The Soviet proposal should be rejected out of hand, and the NATO theater nuclear force modernization program should proceed without delay.●

ENERGY MUMBO-JUMBO ON A BIRTHDAY CELEBRATION

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, this month the U.S. Department of Energy celebrates its second birthday, but any ceremony to commemorate the occasion, I am afraid, I will just pass up. And from the way things have gone with the 2-year old Cabinet department, it would be wise if the agency played down its having reached the 2-year mark.

My favorite political cartoonist, Jeff MacNelly of the Richmond News Leader, drafted one of his classics not long ago showing two Energy Department bureaucrats seated in an office inundated with stacks of disheveled paper and overflowing file cabinets. One of the workers turns to his cohort and asks:

> Okay . . . but are trash-burning power plants practical? . . . I mean, where would you ever find that much trash? . . ."

The cartoon was a good laugh, but unfortunately, the scene is probably not far from actuality at DOE.

Over the past few days I have read reports that gasoline lines on the order of what we experienced this past spring are forecast for a few weeks from now. We discovered that the inane allocation procedures and plethora of regulations emanating from the Energy Department brought about this whole mess. Now we have predictions that shortages of home heating oil for the winter are ahead, and the short supplies are adding to the spiraling inflation which hurts the consumer severely.

DOE has an even broader agenda of affairs to be straightened out. The petroleum reserve for national emergencies is far from reaching its quota—less than a hundred thousand of the required quarter-million barrels have been stockpiled. The Office of Management and Budget has criticized the agency for issuing rulings sometimes found to be in conflict with existing statutes, not to mention cumbersome to enforce.

It is unfortunate that our newly appointed Department Chief, Charles Duncan, has to inherit such a disaster. He has a tremendous challenge ahead with 20,000 employees to manage and an $11 billion budget to administer.

I have some very direct questions for the new Secretary about his budget. I note that in observance of President Carter's declaration that this be International Energy Conservation Month, an 11-piece public relations packet was mailed out including brochures, posters, and a 1980 calendar filled with energy-saving tips. The Wall Street Journal in an editorial last week, concluded that a lot of energy could have been saved by sparing us such expensive advice as "vacation closer to home" on a glossy multicolored datebook.

My colleagues in the House would find most interesting an article which appeared on October 2 in the Oil Daily. The page 8 story written by Jim Hendon described the panic buying of gasoline in my home State of California earlier in the year as more a result of Federal price regulations than any shortage of fuel.

Tomorrow the House is scheduled to consider the authorization bill for the Department of Energy. There is a great deal in the bill that I would like to see become part of our national energy policy. There are a number of amendments which I feel will limit the Federal role in the area of energy, and these I will support because they are in the best interest of an effective marketplace for our energy resources. But I do not plan to take part in any birthday party for DOE this year—and will not next, unless all this mumbo-jumbo is eliminated and the Department lives up to the standards we have set for it.●

WE MUST STOP THE CAMBODIAN HOLOCAUST

The **SPEAKER**. Under the previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 10 minutes.

● Mr. GREEN. Mr. Speaker, "Never again." We have all heard these words, said them, remembering the tragedy and horror of the concentration camps, the persecution of Jews by the Nazis.

It was in the hope, more than in the certainty, that such genocide will not be repeated that the President's Commission on the Holocaust was formed. As a member of that Commission, I agree the greatest value of the proposed national memorial to the holocaust victims is not in the past, but in the future, that it may help coming generations live up to the call: "Never again."

Yet it is happening now, another genocide, a tragedy of great dimensions in the nation of Cambodia where almost a third of the population has died from starvation, war, and political executions. Today I had the opportunity to express my concern to the House Committee on Foreign Affairs' Subcommittee on Asian and Pacific Affairs. The matter of the Cambodian holocaust is of such importance I would like to bring certain details and thoughts to the attention of my colleagues who, I am sure, will help spur the delivery of aid to the Cambodian people.

Frightened refugees and a few reporters tell the story: Military units moved people en masse from their homes and towns for "relocation." Places of worship, hospitals, schools, and homes ravaged. Some buildings taken apart stone by stone. A civilization eradicated.

Intellectuals taken aside and murdered. Teachers murdered. Religious leaders murdered. Physicians murdered. Political activists murdered. Anyone who broke an insane law against talking at work murdered.

The remaining people subjugated. Forced labor camps. Families separated. Peasants underfed and worked until they fell. Until they died. Trenches filled with bodies, clothing collected into massive piles, evidence of the insanity, the inhumanity.

Some will argue that this was the work of the Pol Pot government, now replaced in most of the country by a new regime. But this Vietnamese-installed group has also shown an interest in politics over people. News reports tell us the work of UNICEF and the International Red Cross and other relief agencies are stalled and sometimes stopped by the new Heng Samrin regime and by remnants of the Pol Pot government in areas it still controls.

The people are caught in the politics of a war. A war over which they have no control. A war in which they are victims of all armies.

The fighting between the Pol Pot regime and the invading forces from Vietnam have devastated the crops. Reports from refugees show that most crops were not even planted during the summer and that people were eating the unused seeds. Photos taken by U.S. satellites show that only about 5 percent of the land is under cultivation while 95 percent is lying fallow.

The sickness from malaria and other disease is rampant due to a complete absence of medicine. A detailed description of the conditions would be too grotesque to mention. However to demonstrate my horror let me quote from an article which appeared in the New York Times on October 5 written by Henry Kamm:

> Increasing numbers, skeletal victims of Cambodia's famine are trooping into this (Ban Laem) border village. Their faces are gaunt, their eyes sunken and burning with fever of Malaria. Many, particularly children, limp on feet swollen from illness caused by malnutrition. About 380 arrived yesterday, but Cheam Sok, a 58-year-old woman, said they set out two days and three nights earlier 525 strong.

Thousands of Cambodians attempted to flee their country, but were forced back. It is one of the tragic inconsistencies of tyrannies—whether it be Nazi Germany or Russia or Cambodia—that the same people they torment they also hold prisoner. There is no escape, within or without.

What we have witnessed is the death of an estimated million men, women, and children, and the impending, indeed, the existing starvation and deprivation of millions more. Today, 1979.

Why? How? Why do some leaders order such atrocities? Insanity, perhaps. Perversions of power. But more importantly, how do leaders induce others to follow such orders? We asked those questions after Auschwitz. We should ask the same questions today.

Dr. Stanley Milgram, in his chilling book, "Obedience to Authority," tells of social-psychological tests he conducted in a northeastern city. Ordinary people, you and I, were asked to take part in an "educational test." They were told by "authorities"—men dressed in white laboratory coats—to administer severe electrical shocks to other people who had failed to properly remember certain lessons.

More than half the volunteers administered those shocks—even when they believed the shocks to be dangerous. Even when deadly. Even when they heard the victim scream for mercy. When asked how they could do such a terrible thing, the people said: "We were told to." They had merely transferred their guilt to an authority figure. They were "just following orders." Sound familiar?

Even if insane leaders are able to find robotic followers, long-term inhumanity can only exist if others, those free of direct control, turn their backs and permit the atrocities to continue without challenge. The world has done that before. Will we do it again, and again, or never again?

When Pope John Paul II visited New York City, he said: "Every kind of concentration camp, anywhere, should be done away with." He also reminded us that, "We cannot stand idly by, enjoying our own riches and freedom if, in any place, the Lazarus of the 20th century stands at our doors."

What can we do about Cambodia and any similar situation in the future? First, we must acknowledge the tragedy—for throughout history evil has been at its height when people refuse to acknowledge its existence. Second, we must put pressure on the administration to reverse its position in passive support of the Pol

Pot government's seat in the United Nations. The U.N., with our country's acquiescence, claimed that regime had the right to be recognized because its replacement was installed by the armed intervention of outsiders—the Vietnamese.

Based on that criterion, we would have to unseat half the governments in the United Nations. The fact is Pol Pot has been replaced in most of Cambodia. Let us deal with reality.

Third, we can insist on all available pressures being brought upon the Russians, chief supporters of the Vietnamese in Cambodia, to permit relief agencies to do their work. Then we can insist our own Government contribute more to the relief programs.

If the two Cambodian regimes still refuse to distribute the food and supplies, we can do as much as we did in Berlin in 1946 and fly over the blockades. If we could use planes to scatter small bomblets in Cambodia in 1970, such canisters can now carry food, dropping life instead of death. If any governments howl at this humanitarian act, so be it. Our Nation is founded on the rights of the individual.

Finally, we can make sure that we, as individuals, do not ignore the plight of others whether they be in Europe, Asia, Africa, or elsewhere. We can refuse to sit idly by while mass murder takes place. We can give help before more Cambodians die of starvation or are driven to suicidal escape as have been the boat people.

We can put actions behind our words of "never again." ●

ENERGY MOBILIZATION BOARD—CITIES OPPOSE WAIVER POWERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. Wirth) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the unrestricted powers granted to the proposed Energy Mobilization Board under legislation approved by the Commerce Committee 3 weeks ago have become a matter of serious concern to a growing number of my colleagues and to a wide variety of groups outside the Congress. Among those most distressed by the committee's decision to empower the Board to grant blanket waivers of Federal, State, and local law for designated energy projects are officials of local governments across the country.

The Board's broad waiver powers represent an unprecedented expansion of Federal power. Under the Commerce Committee bill, the Board could nullify, on its own determination subject only to Presidential approval and a one-House congressional veto, virtually any existing local law, from public health and safety statutes to zoning ordinances. Such powers undermine the legitimate roles and responsibilities of local government in our federalist system.

Equally serious are the powers the bill would grant to the Board to grant unlimited blanket waivers of future laws. To municipal officials, this raises the specter of an agency which could tie their hands in dealing with the public health dangers and the socioeconomic impacts of massive energy projects—particularly synthetic fuels facilities—located in or near their communities.

Recognizing these dangers, the National League of Cities has taken a strong stand in opposition to Energy Mobilization Board substantive waivers powers, while at the same time supporting decisionmaking "fast track" for priority energy projects. On September 28, the League's Natural Resources Steering Committee adopted a resolution affirming that position. Since my colleagues in the House are likely to be faced with key decisions on this issue in the coming weeks, I would like to include that resolution in the Record at this point.

Resolution on the Energy Mobilization Board

Whereas, the Board of Directors of the National League of Cities has specifically rejected federal legislation creating an Energy Mobilization Board with the power to waive substantive requirements of local laws; and

Whereas, state and local laws and agencies have only infrequently been the cause of delay of energy producing projects; and

Whereas, there are significant constitutional impediments and infringement of state and local rights involved in federal waiver of state and local laws; and

Whereas, waiver of state and local laws by the federal government would preempt health, welfare and other areas constitutionally and historically the responsibility of state and local governments; and

Whereas, there is no significant evidence that waiver of substantive requirements of laws will hasten the construction of priority energy projects; and

Whereas, the U.S. Department of Energy and the Environmental Protection Agency have concluded that waiver of substantive laws is not necessary to establish a synthetic fuels industry; and

Whereas, every national organization representing local and state elected officials has opposed substantive waiver for the proposed Energy Mobilization Board.

Now, therefore, be it resolved that the National League of Cities' Natural Resources Steering Committee strongly opposes federal legislation giving the Energy Mobilization Board authority to waive substantive requirements of existing and future local, state and federal laws.

Be it further resolved that the Natural Resources Steering Committee endorses reasonable and enforceable action schedules for local, state and federal decision makers, established by the Energy Mobilization Board after consultation with those decision makers.

September 28, 1979. ●

ASSESSMENT OF PROPOSED NET WEIGHT LABELING REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Nolan) is recognized for 5 minutes.

● Mr. NOLAN. Mr. Speaker, last August, the Economics, Statistics, and Cooperatives Service of the Department of Agriculture issued a critique of proposed regulations of the Food Safety and Quality Service of the Department that would revise the system for labeling net weight on meat and poultry packages. I insert the Executive summary, together with table 7 from the report, in the Record. In connection with the report, I have the following remarks.

Last year at about this time, 34 members of the Agriculture Committee wrote Secretary Bergland to express our concern that FSQS was being hasty in adopting new procedures on net weight. In addition, our chairman wrote the General Accounting Office asking them to review the economic data used to justify the decision to propose new regulations. Chairman Poage also asked whether other alternatives had been studied. Last December, GAO reported that not only had FSQS failed to gather data that would support its proposed regulations, but it had not studied the costs and benefits of regulatory alternatives. I subsequently received a letter which told me that the Economics, Statistics, and Cooperatives Service at USDA would undertake the data gathering and analysis called for by the GAO. When I returned from the August recess, I obtained an advanced copy of the findings of the ESCS.

I am bringing these matters to the attention of the House because the Department has failed to produce a study which complies with the mandate of the GAO and second, the ESCS study reports that there is no widespread problem of cheating or shortweight, that the proposed regulations may create greater expense and complexity in State and local enforcement without improvement in compliance levels, that the proposed regulations will provide less accurate information to consumers about the amount of meat and poultry contained in packages, and that the proposed regulations will disrupt established agricultural markets and may well lead to failures of small meat and poultry processors. Despite this, I am afraid that FSQS now intends to move ahead.

I am well aware that the details of calculating net weight are complicated matters that do not command great public attention, but the process by which FSQS has prompted this change is unacceptable regulatory practice. Here we have a Federal Department changing its regulations, making them more complex, making them more costly, and in the process achieving nothing constructive.

FSQS disregarded a major recommendation of the General Accounting Office. The GAO was very clear. They suggested that the Service search for information, including "a comparison of available viable alternatives"; to monitor net weight. Furthermore, the Service was to "make a comprehensive economic impact statement for each system considered". What we have from the ESCS is an exposition about the proposed system of regulation, with no mention whatsoever, about alternatives. GAO's recommendation was not obscure. They devoted several pages to a discussion of alternative systems of regulation, including the present system, a mandatory in-plant quality control system, the CODEX system, the Swedish system, and a system recommended by the Grocery Manufacturers of America. We sought a factually informed discussion of the problem and potential solutions; we received an analysis and an apology for the solution that FSQS has apparently already decided upon.

But this is only the beginning of my problem with FSQS. ESCS reports high levels of compliance with net weight labeling requirements under the present regulations. These figures range up to 99 percent and none of them fall below 95 percent. Yet the report seems to suggest that new regulations are needed to prevent cheating. The proposed regulations, it is said, would deter cheating. However, FSQS has data to show that there is no widespread economic adulteration.

ESCS explored another "problem" conjured up by FSQS to justify its application of drained weight standards to bulk shipments. ESCS questioned selected retailers. While ESCS's choice of retailers had dubious validity, since it overrepresented small retailers who account for only a small proportion of the total volume of meat and poultry sales, their findings favor current regulations. Many retailers reported consistent short weight in bulk shipments. But ESCS also revealed that most bulk purchasers do not check weight upon receipt and that no State routinely checks bulk shipments. Furthermore, ESCS reports that no enforcement action is taken. Adjustments, if any, are concluded between the parties to the purchase. FSQS would like to have a regulation for a problem which does not need Government regulation. In fact, this regulation may run afoul of the Robinson-Patman Act by requiring packers to treat their customers differently and discriminatorily.

ESCS reports that State officials do not want the drained weight standard that is contained in the proposed rules. It is easy to see why this is so. The drained weight approach is much more complicated and much more time consuming. It introduces complexities that are every bit as difficult as the alleged uncertainties with moisture loss under the present regulations.

Notwithstanding overwhelming opposition, ESCS seeks to demonstrate on behalf of FSQS, that the proposed regulations will not cost so much money or require so much time because they won't have to be used except when cheating is suspected. Only then does ESCS report that State officials do not expect additional sums to be appropriated to cover increased costs associated with the new procedure. So States will be forced to do less checking, not more, under FSQS's scheme.

But the proposed regulations are not just meaningless for attempting to correct regulatory problems that are not serious. They also, first, are inconsistent with the statutory requirements of the Wholesome Meat Act and the Wholesome Poultry Products Act and second, are disruptive of agricultural product markets and relative market positions in the food sector of the economy.

ESCS asked FSQS the purpose of the proposed regulations. FSQS responded that the first purpose was to "insure that the weight of the usable meat and poultry purchased by consumers is at least equal to the weight stated on the package." But this is not the standard of the law. The law requires that packages be marked with an accurate statement of the net quantity of the contents—not a statement of the minimum quantity. FSQS would, by regulation alone, have meat and poultry processors put a statement on the label that is not accurate but which represents, on average, a minimum weight. In other words, FSQS would have processors misstate the weight. I do not believe that any court would uphold a minimum weight system of regulation that purported to implement a law that requires accurate statements of weight.

ESCS goes on to outline how the proposed regulations would be less accurate than existing regulations. A tabulation of the results of a comparison of the label price under existing and proposed regulations with what ESCS refers to as the "real" price shows that existing regulations are always more accurate (or equally accurate) than the proposed regulations. It seems to me that any regulation that we know, in advance, will be less accurate ought not to be adopted. FSQS claims that consumers will be able to make better value comparisons under the proposed regulations. The data do not support this claim.

The notion of mandating a fixed quantity of "usable" product creates additional difficulties. ESCS alludes to the inexact nature of such a concept in the regulatory context, but the problem is more serious than they acknowledge. FSQS has chosen to define "usable" product as a quantity of meat or poultry, including moisture that has not yet drained out. But meat and poultry consist of 60 to 75 percent water. Taken to its logical conclusion, the definition of usable product would exclude all water. This is not a sensible result, but neither is the first step of the logical chain which says that water which has drained out reduces the usable product in the package.

For that matter, "usable" product could exclude the bone and the skin; the fat or just the saturated fat. "Usable" product could include only that which is consumed or only that which is typically used. When FSQS adopts a "usable" product standard, the utility of marking net quantity on the label is completely lost.

The ESCS analysis reveals quite clearly that the problem really troubling FSQS is not short weight, but processing methods which result in "excessive drain" from certain poultry and meat products. ESCS acknowledged that the problem of drained weight has two causes: The type of process and the elapsed time since packing. Either cause requires a packer to compensate for the maximum possible drain in order to be sure that, if the lot is tested at retail, its average package weight will meet or exceed the labeled weight. Since this is a large amount of product, with large cost implications, ESCS devotes a great deal of discussion and analysis to show how the maximum can be reduced. The "solutions" range from adopting different methods of processing to speeding up the distribution of prepackaged commodities. The discussion is riddled with logical inconsistencies, however, such as disapproving of processing procedures which slow the rate of drainage while recommending faster distribution so that the time available for drainage is reduced.

If FSQS believes that drainage should be minimized by limiting moisture pickup during processing, they can accomplish this by proposing changes in their existing processing rules. USDA already exercises tight control of meat and poultry processing methods. The Department and the public can then discuss and debate the merits of processing requirements. The parties to the debate will know the issue. USDA will be open with its goals as befits an open administration. They will not have to back into a result by changing regulations that are not intended for that purpose, whereas a change in net weight regulations would have consequences reaching far beyond the immediate problem of dealing with moisture loss from fresh meat and poultry.

ESCS also acknowledges that the proposed regulations will have serious market effects. I do not understand why they minimize these effects. ESCS talks about some "voluntary exiting" of meat and poultry processing firms. What they mean is that there will be business failures and bankruptcies. That is fewer suppliers and rising prices.

ESCS says that the proposed regulations will encourage processors to use procedures that result in less drain. Right now their own report says that only one firm in the country uses air chilling to process poultry. This regulation will promote the products of that one processor, through apparent price changes while throwing additional costs onto all the other processors. This is not a slight adjustment, this is a massive change. But ESCS has not discussed the vast economic consequences of greater energy use, expanded space for processing and higher poultry prices.

FSQS would go further. They are attempting to redress what they think are weak market positions by adopting rules on net weight. This is especially clear in the context of bulk purchases, but it also underlies the effort to direct the consequences of naturally occurring moisture loss onto the processor, even after the product has left his effective control. I do not think the FSQS should be making these basic economic decisions.

Let me conclude by saying that the ESCS report should not provide any comfort for those at FSQS who want to adopt new regulations. The facts clearly show that the proposal adds costs for producers and consumers and has no obvious benefits. Such a proposal has no utility for anyone. I plan to ask the Secretary to desist from further action.

ASSESSMENT OF PROPOSED NET WEIGHT LABELING REGULATIONS

(Staff report prepared by the Economics, Statistics, and Cooperatives Service for the Food Safety and Quality Service, U.S. Department of Agriculture, August 1979)

(This is a draft copy of the final report. It is being issued in this form to fill an immediate need for the information. The published report will be available for distribution in October 1979.)

ASSESSMENT OF PROPOSED NET WEIGHT LABELING REGULATIONS

Executive summary

The Food Safety and Quality Service (FSQS), United States Department of Agriculture, proposed new net weight regulations for meat and poultry products on December 2, 1977. The proposal was in response to a petition from the State of California (cosigned by 47 other States) and to complaints by many consumers.

The regulations proposed in response to the petition have two objectives: (1) to insure that the weight of usable meat and poultry purchased by consumers is at least equal to the weight stated on the package, and (2) to enable States to enforce strict net weight standards at retail.

The principal features of the proposal are:

Free liquids as well as juices, fats and solids absorbed by the packaging material would be excluded from a product's net weight. Net weight would, therefore, equal drained weight.

The allowance for moisture loss due to evaporation would be eliminated. The average weight for products from the same lot would be required to equal or exceed the labeled net weight. Single packages, however, would be permitted actual weights below the labeled weight by a specified amount.

Federal net weight standards would be established for bulk shipments or wholesale sized packages.

An FSQS approved net weight quality control program would be required at most Federally-inspected meat and poultry plants.

After the proposal appeared in the Federal Register, public comments were received. There was widespread disagreement concerning both the need for the proposal and its economic impact.

FSQS awarded a contract to the Consumer Federation of America to provide an analysis of the proposal. Following submission of that study report, USDA's Economic, Statistics, and Corporatives Service was asked to review the available evidence and provide its own assessment of the need for the proposal and the potential economic impact. This summary highlights the results of that effort.

Study Results

The study concludes that the proposal would succeed in achieving the two objectives defined by FSQS—consumers could be assured that the weight of usable meat and poultry purchased is equal to the labeled weight and States would be able to enforce a more strict net weight standard at retail. However, the study also concludes that the second objective (enforceable regulations for the States) could probably be accomplished as effectively under a system that allows free liquid as part of the products' net weight.

With respect to the definition of tare and current industry practices, the study concludes:

There is a high degree of compliance with the present net weight regulations, and survey results indicate no evidence of consistent economic adulteration by any firm.

Local rules and enforcement procedures do influence the amount of drained weight now in product packages. Products tested in those localities using dry tare consistently have a lower average tare as a percent of gross weight.

The type and time of packaging does influence the amount of drained weight in product packages. Air-chilled pre-pack chicken and in-store packages have significantly less average drain as a percent of labeled net weight.

The study also concludes that the effects of the proposed rule change have been grossly misunderstood by both consumers and producers. Consumers have argued that, without a drained weight rule, they must pay "chicken prices for water." Producers, on the other hand, have argued that the proposal will add to their costs because more product will have to be packed in each consumer package. Neither assessment is accurate since the amount of drained weight meat available for sale is constant regardless of the net weight rule in effect.

Consumers cannot expect the reported price per pound of product to remain unchanged if free liquids are excluded from labeled product weights as a result of a drained weight rule. The price per pound on the label can be expected to increase—and increase most for those products with relatively more free liquid. However, the cost to consumers for usable product would remain unchanged. In the case of random weight products (such as whole chickens), the labeled price per pound would increase, but the labeled weight would decrease by an offsetting amount. However, what consumers pay for usable product would remain unchanged. In the case of fixed weight products (such as bacon), some packers may have to add product to make certain the weight, at time of purchase, equals the fixed weight (1 lb., 2 lbs., etc.) on the label. The per package cost to consumers would be higher. However, because consumers would be receiving more usable product, the real price per pound would remain unchanged.

Contrary to contentions of many producers, actual producer costs are not increased because of the change in tare. For random weight packages, the weight and price per pound will simply be adjusted to remove the weight of the free liquid; there is no "overfill" and processing costs per drained weight pound are unaffected. In the case of fixed weight packages some processors will admittedly need to add more product to each package. But, because the amount of drained weight meat is not affected by a labeling rule, there will be fewer fixed weight packages processed. Again, processing costs per drained weight pound are unaffected.

The main benefit of a drained weight system would be to increase the accuracy of the information available in the marketplace for all meat and poultry products. Consumers would be better able to make per pound price comparisons. And producers would not be competitively disadvantaged by those who use techniques that result in a higher proportion of free liquid to usable product (immersion chilled vs. air-chilled). Producers of products having relatively less free liquid would no longer be placed at a competitive disadvantage by net weight rules which now allow counting drained liquids as part of the product weight. Finally, the buyers of bulk packed products will have a clearer standard for checking weights of the shipments they receive. Such a standard will be helpful mainly to small volume buyers who may now be reluctant to adjust invoices to correct for short-weight shipments (a common practice among large volume buyers).

Predicting the net effect of the proposed changes on total consumer expenditures for meat and poultry products is complicated since consumer responses to the change in product information being provided are uncertain. If consumers have been appropriately discounting the free liquid, there should be no net effect. However, if the reported price per pound under current net weight rules has been accepted as an accurate reflection of relative product value, some consumers may shift to products that appear to become relatively less expensive as a result of the proposed change. If this second result is argued as the "most likely" the argument for a rule change becomes more compelling.

The quality control requirements of the proposed rule would increase industry costs $59 to $116 million, mostly because additional personnel would be hired. The upper end of the estimate is based on the assumption that each of the 5,680 plants affected by the proposal would hire one additional full-time employee at $20,000 per year. The low end also assumes that many smaller plants would do some new hiring but also would be able to utilize existing personnel. It also assumes a less frequent rate of sampling at all plants. Assuming all the quality-control costs (potentially $116 million) are passed on the consumers, the increase in price per pound would be less than one-half of one cent. ($116 million divided by 34 billion pounds equals 0.3 cents).

The major additional cost to State and local governments would be about $421,000 in new equipment to enforce the drained weight inspection procedure. There also may be some additional costs resulting from the need to purchase more pre-packed packages for weighing (under the drained weight system, packages are opened and the product drained before weighing). In addition, State and local governments might need to increase the number of inspectors in order to obtain the same coverage. The proposed net weight checking procedures are considerably more time consuming than under a dry tare standard. Most State and local officials surveyed said they believed that these additional costs would have to be absorbed by current budgets. About 10 percent felt their States might appropriate new funds for net weight inspection.

There may also be additional costs to some retailers resulting from the drained weight sampling procedures. Retailers may, in some areas, incur the expense of rewrapping products that have been opened and weighed, or they may have to absorb the cost of products that cannot be repackaged and are not purchased by the government inspectors.

TABLE 1.—INTER-PRODUCT COMPARISONS OF MOISTURE LOSS AND VALUE COMPARISON INFORMATION

Product	Mean drainage as percent of labeled weight (1)	Standard deviation (2)	99-percent compliance moisture allowance (3)	Current labeled price per pound (4)	Average drained weight price per pound (5)	Labeled price per pound under drained weight system (6)
1. Beef roast	0.45	0.40	1.41	1.60	1.60	1.62
2. Pork chops	.38	.48	1.50	1.85	1.86	1.88
3. Bologna	.31	.35	1.17	1.09	1.10	1.11
4. Ground chuck	.32	.41	1.30	1.54	1.54	1.56
5. Stew beef	.84	.79	2.73	1.69	1.71	1.74
6. Beef liver	7.23	4.10	17.08	.97	1.11	1.23
7. Fresh pork shoulder	.53	.37	1.43	1.03	1.06	1.07
8. Sliced bacon	0	0	0	1.39	1.40	1.39
9. Whole chicken	1.82	.81	3.81	.75	.75	.77
10. Breast halves	3.88	1.69	8.04	1.39	1.39	1.45
11. Drum sticks	.65	.38	1.57	1.19	1.18	1.19
12. Family pack chicken breasts	3.95	1.10	6.67	1.29	1.31	1.35
13. Beef salami	.09	.29	.90	.79	.79	.79
14. Sliced ham	.62	.53	2.20	1.56	1.58	1.61

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BICENTENNIAL TRIBUTE TO GENERAL CASIMIR PULASKI

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, October 11 is the bicentennial anniversary of the noble sacrifice of that courageous Polish patriot who gave his life for our country during our Revolutionary War, Count Casimir Pulaski. His name is known to Americans, and to all who value freedom, as a person whose selfless contributions and sacrifices personified the ideals which gave birth to our Nation.

President Carter has proclaimed October 11 as General Pulaski's Memorial Day, and a copy of that proclamation follows:

GENERAL PULASKI'S MEMORIAL DAY, 1979

(A proclamation by the President of the United States of America)

On the eleventh day of October, the people of the United States will honor the 200th anniversary of the death of the Polish patriot, Casimir Pulaski. On the bicentennial of his death, caused by wounds suffered during the Battle of Savannah, we are reminded of his heroism and his selflessness as he led his famous cavalry unit, The Pulaski Legion, in the struggle for American independence.

As we pay tribute to General Pulaski and his sacrifices for freedom, both here and in his native land, we also honor the contributions made by generations of Americans of Polish descent to the greatness of our Nation.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Thursday, October 11, 1979, as General Pulaski's Memorial Day, and I direct the appropriate government officials to display the flag of the United States on all government buildings on that day.

I also invite the people of the United States to honor the memory of General Pulaski by holding appropriate exercises and ceremonies in suitable places throughout our land.

In witness whereof, I have hereunto set my hand this sixteenth day of August, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

A postal card in honor of Gen. Casimir Pulaski will also be issued on October 11 by the U.S. Postal Service in Savannah, Ga., the site where he gave his life in the cause of liberty. On August 26, the capable and outstanding president of the Polish National Alliance, Aloysius A. Mazewski, was joined by Postmaster General William F. Bolger in unveiling the design of the Pulaski postal card at the alliance's quadrennial convention, which took place in Washington, D.C., for the first time.

True to the example set by Pulaski in his defense of freedom, Americans of Polish descent down through the history of our Nation have made great contributions to our precious heritage of liberty, both in war and in peace, and for that reason I introduced a bill last year "to provide for the issuance of a commemorative postage stamp in honor of Gen. Casimir Pulaski and Americans of Polish descent." It is most appropriate that the new postal card will be issued on the bicentennial of Pulaski's noble sacrifice, because this is an anniversary of profound significance to those who yearn for freedom all over the world.

Born in 1748 in Poland to an aristocratic and distinguished family, Count Pulaski turned his back on an existence of leisure and ease and spent the 31 years of his life fighting to free his native land from the yoke of serfdom and slavery, and then traveled thousands of miles to a strange new land to assist a small band of young Americans engaged in a similar battle.

Pulaski first heard of the American rebellion against the British in Paris in 1776, and true to the words he had once spoken, "wherever on the globe men are fighting for liberty, it is as if it were my own affair," this heroic Polish nobleman offered his services to our country.

In the summer of 1777, Pulaski volunteered his services to Washington's army and distinguished himself at the Battle of Brandywine. The Continental Congress then granted him a commission as a brigadier general and placed him in charge of the newlyformed American Cavalry. Following additional military action, Pulaski organized an independent corps of cavalry and light infantry—the Pulaski Legion—and contributed to the successes of the American military cause throughout 1778.

Pulaski's courage and determination helped save Charleston, S.C., from a superior force, and during the fierce siege of Savannah, he displayed undaunted courage in the face of fierce enemy resistance as he bravely led his cavalry into the thick of battle.

General Pulaski's final act of courage came at the Battle of Savannah. As the British fired from the fortified city, Pulaski volunteered to charge through their line of defense, enter the city of Savannah, and confuse the enemy. His untimely death at the head of this famous cavalry charge underscored his dedication to the ideals for which the colonists fought. His example of sacrifice and devotion to our Nation's cause is a model of patriotism for all times.

I am proud to join Americans of Polish descent in the 11th district, which I am honored to represent, in Chicago, and all over this Nation in commemorating the 200th anniversary of General Pulaski's supreme and inspiring sacrifice during our American War of Independence.●

NEED FOR AN ALTERNATIVE TO PRESIDENT'S OIL IMPORT QUOTA PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, the subcommittee on Trade of the Committee on Ways and Means hearing on October 10 is receiving testimony from the administration on the oil import quota program announced by the President in his address to the Nation of July 15. This is a continuation of the subcommittee's July 16 and 17 oil import policy hearings. In his energy speech of July 15, the President said:

> Beginning this moment, this Nation will never use more foreign oil than we did in 1977—never. From now on every new addition to our demand for energy will be met from our own production and our own conservation . . . I am tonight setting the further goal of cutting our dependence on foreign oil by one-half by the end of the next decade—a saving of over 4½ million barrels of imported oil per day.

Further, in a subsequent speech the following day in Kansas City, the President said:

> Each year I will set targets for the amount of foreign oil we import. I'm today announcing a quota for this year, 1979, which will hold U.S. imports to 8.2 million barrels per day—300,000 below the ceilings we set at the Tokyo summit and 400,000 barrels per day below what we used in 1977.

The Department of Energy has just issued a Federal Register notice requesting public comment on various options on how the President's commitment can best be implemented and administered.

The President's pledge is consistent with the 1985 goal agreed to by the United States at the June Tokyo Summit. In fact, the President has gone far beyond that international commitment by pledging to hold imports this year and next to 8.2 million barrels per day and committing the United States not to exceed the 1985 target of 8.5 million barrels per day in the intervening years, 1981 through 1985.

There has been amazingly little debate in Congress about this part of the President's energy address, and the potential social and economic consequences of its implementation. It is essential that the Congress begin to focus on this part of the energy program, assess its wisdom, and if warranted, propose alternatives.

Personally, I support the President's goals in making these pledges. I think we need to do much, much more to wean ourselves from our dangerous dependence on OPEC and to mitigate some of the effects on our economy of the dollar drain caused by high-priced oil imports.

Clearly, some drastic action is in order. But in my opinion, as one who has had a chance to study the President's 8.5 million barrels per day quota commitment, the imposition of an immediate, mandatory quota would constitute more of a problem than a solution, regardless of the mechanism of implementation—be it quota auction, import fees, or allocations.

Despite the laudable goal, I believe the pledge to hold the line at 8.5 mbd before 1985 probably will not be supported by the public and will not survive politically in the Congress unless equity in burden sharing is demonstrated.

Presently, the President's authority to set a quota is based on a sort of "dictatorial" national security clause in section 232 of the Trade Expansion Act of 1962. The authority is clearly present to set import quotas and the President is not required to seek additional legislation to implement his quota program. However, last year, prior to the Bonn summit, Congress demonstrated that it barely supported the use of this import control power, when the Senate voted to prohibit appropriations for the use of this import limiting authority, and the House rejected the Senate's position by a vote of 201 to 194.

I firmly believe that once more Members have a chance to study the potential consequences of the President's oil import quota, there will be a legislative rush to repeal his legal powers to set oil quotas and fees.

There are a number of reasons for believing this.

First, the quotas will have an enormous economic impact. The Library of Congress has prepared an econometric study for me which shows that the quotas will actually begin to "bite" or have a limiting effect in 1982. According to the Library's study, the quota will result in a shortfall between demand and what the quota will permit in imports of 400,000 to 1 million barrels per day—a gap equal to 2 to 5 percent of projected total U.S. oil demand. As a result, prices will rise between 7 percent and 17 percent, or $3 to $8 per barrel above the world price. Shortages and price rises of this magnitude would further slow economic growth, boost inflation, and increase unemployment, above and beyond any further disruptions created by OPEC price rises. Clearly, such a program would cause dangerous distortions in our economy, that might be as destructive as the supply disruptions we seek to prevent by reducing our imports.

Second, once the quotas begin to "bite," one of the first things the public will ask is whether other nations have similarly limited themselves and are making comparable sacrifices. The answer is no. The numbers set by the Japanese do not appear quite as tight as the U.S. self-imposed limit. We have already engaged in disputes with our European friends over whether imports of North Sea oil should or should not be counted as part of the European Community's self-imposed quota. Again, personally, the commitment of the President to be more severe with ourselves, than others agreed to be as part of the Tokyo communique, makes considerable sense. Our dollars-of-GNP to Btu's-used ratio is much worse than it is in Japan or Europe We are clearly the energy wastrels of the world; there are more opportunities to cut out waste in the United States than there are in other countries. But I doubt that this unpleasant truth will be enough to support the President's program.

Third, once the quotas begin to "bite," there will be a number of very difficult questions that will have to be faced. Who will we buy limited supplies of oil from? How will OPEC respond? How will we allocate limited supplies equitably within the United States? Should we use price to determine who receives the imported oil, or should we attempt to target limited supplies to priority users, despite the endless bureaucratic tangles that would entail? How will regions of the country, such as New England, that are particularly dependent on oil imports, be protected from bearing the heaviest burdens of the program? In all the market mechanism systems of allocation under consideration by the Department of Energy—quota auction, allocation, and import fees—large increases in the price of imported oil can be expected. Unless we return to price controls and all the problems accompanying that, we must find a way to deal with both the enormous additional windfall profits that will accrue to oil and gas producers and the burden we will have placed on consumers.

Finally, if this quota program is to be administered through executive orders, will the President be able to remain firm under the inevitable pressure of various interest groups, without making exceptions that marred the operation of the mandatory oil import program during the 1960's?

The fallouts from the President's commitment are endless. For example, the United States will have gone from having the world's cheapest oil, to having the world's most expensive, all in about four years. There will be an enormous shift in the international competitiveness of industry after industry, particularly the domestic petrochemical sector. As a result of the oil quota, we can expect greatly increased imports and reduced exports of a wide-range of manufactured products.

Finally, I think there is some lack of clear thinking about what is to be achieved by the quota program.

What, exactly, is the purpose or goal of the import quota? Is it for national security, an attempt to break OPEC prices, or what?

If the answer is that it will lower prices that is highly questionable. I believe OPEC can and will just keep increasing prices to make up for their sale of fewer barrels.

If the answer is to stop the outflow of dollars, it probably will not be effective because as just stated, the price per barrel will keep rising.

If the answer is national security, there is no national security in still needing to import 8.5 million barrels per day—and the quota will simply chew up billions of dollars in domestic inflation, windfalls and economic disruption, without substantially contributing to national security.

Our only real control over inflation and national security lies in a completely "new energy society"—a restructuring which will take years. I do not believe that the quota is the best way to move that new society. It will be disruptive and enormously expensive, and provide very little in the way of gains. It will divert our time and attention from tackling our real problems; it will be a form of self-flagellation for our energy sins, rather than a guide to future energy freedom. The quota is an indiscriminate tax on all of our energy use—it would be far better to target certain important areas for change. For example, a 10 cent per gallon gasoline tax in 1981, raising 20 cents a year would be a clear signal for conservation, for the retiring of gas guzzlers, for the rebuilding of mass transit. It would be part of a targeted solution to our energy problem, and avoid the self-inflicted buckshot wounds of the quota.

The oil crisis is I believe a cancer eating away at the health of our economy and the world's economy. In such a case it might make sense to cut off one's foot or leg to save the body. But the President's commitment to hold imports at 8.5 million barrels per day, before we have alternative energy sources in place and before the effects of conservation can take hold, is, in effect, cutting off everything below the navel.

For all these reasons, I believe that neither the public nor the Congress will accept this program.

Yet I remain convinced that steps must be taken to reduce imports. Thus, as chairman of the Subcommittee on Trade, I would like to propose alternatives.

I believe Congress should consider legislation to share the political obligation with the President and provide by statute for a limit on imports in 1985 of 8.5 million barrels per day, thus fulfilling our summit commitment. In addition, it is important to define in legislation what is included in that limit—what products and grades and the sources of those supplies—so that, as the quota deadline approaches, efforts are not made to define various types of oil out of the limit.

In the intervening years, I believe we should adopt a year-by-year mandatory quota program, similar (but with some differences) to the program approved by the Committee on Ways and Means and the House of Representatives in 1975, but which failed of final enactment in the Senate (H.R. 6860). Under this proposal, each autumn, the President, on the basis of public hearings, would determine the estimated total demand for petroleum during the following year and subtract from that figure the estimated total domestic production. The remaining figure would be the amount that the United States would permit to be imported. Steps would be taken to prevent hoarding or speculation designed to artificially trigger the yearly quota.

Obviously, this proposal is not nearly as binding as the pledge made in the President's speech, but it does serve a number of useful purposes and avoids the economic nightmare created by the President's proposal.

First, the year-by-year quota will annually focus debate on the progress the Nation is making in increasing production and obtaining conservation. It will set a yearly goal to be achieved and serve as a rein to insure that consumption is held in as tightly as possible. Failure to achieve the conservation and production goals will result in economic penalties and dislocations at the close of the quota year. But these economic penalties will be relatively minor and will serve as reminders of the need to do better; they will not have the devastating consequences which would result from the President's proposed quota plan. A maximum effort should be made to publicize the goal and, during the course of the year, the progress being made to meet the goal and thus avoid the need for year-end quotas. The meeting of the production and conservation goals can become similar to a "community chest" or "war bond" drive.

Second, the yearly quota will insure producers of new and alternative energy sources that their investments will be protected against any attempts by oil producers to drop the world price so as to destroy the market for new but higher cost domestic alternatives. The quota program will be the Government's guarantee that new production facilities will not be undercut, and these new sources—even if above the world price—will be supported as part of our effort to reduce reliance on imports and stop the outflow of dollars.

In addition to the above proposal, I would like to propose that the administration and the Congress give early consideration to determining which American industries are likely to be most affected by the rise in domestic petroleum prices to the world level and by quota limitations. It may be that a number of important sectors of the economy will find that their competitiveness vis-a-vis foreign producers will be deteriorating. We need to plan, now, to provide adjustment assistance to these industries and their workers so as to avoid the potential for massive disruptions.

I believe a program such as this can be enacted and would preserve much of the value of the President's program, while avoiding the worst problems of the July 15 commitment.

ADDITIONAL CONSERVATION AND EMERGENCY STEPS

In addition to the need to develop a publicly supportable oil import policy, it is important to take additional steps to reduce demand and prepare for emergencies.

U.S. gasoline prices and gasoline taxes are among the lowest in the world. We should begin a program of increasing those taxes so as to reduce demand. The enormous revenues which can be generated from such taxes can be used to offset and reduce other taxes, such as social security payroll taxes, thus preventing further inflationary increases.

Further, we must establish a strong rationing authority capable of implementing a swift preplanned response to supply disruptions. Finally, in the next several years, the most effective means of reducing our vulnerability to oil supply disruptions lies in the strategic petroleum reserve program. Despite the cost of this program, new efforts must be made to build the reserve. In the next year, we are likely to see some softness in the world's petroleum prices, and this may be our last, good opportunity to build an adequate reserve.

CONCLUSION

The administration has just published in the Federal Register requests for comments on the various options for implementing the President's quota commitment. It is expected that the Department of Energy will hold a series of public hearings on this issue. I hope that the suggestions I have made in this speech will help contribute to a reasonable alternative designed to avoid the problems inherent in the administration's proposals.●

AMBASSADOR ANDREW YOUNG SPEAKS TO BLACK AMERICA

The SPEAKER. Under a previous order of the House the gentleman from Michigan (Mr. Diggs) is recognized for 5 minutes.

● Mr. DIGGS. Mr. Speaker, on September 21 and 22, 1979, the Congressional Black Caucus held its ninth annual legislative weekend in Washington, D.C.

The culmination of that weekend, the Congressional Black Caucus Dinner, attracted more than 5.000 persons to the Washington Hilton Hotel to celebrate black participation in the national political process and rededicate our efforts to achieve justice in this country and around the world.

As part of the caucus' awareness of the interdependence of the nations of the world, we invited Andrew Young, U.S. Ambassador to the United Nations, to address the gathering as its main speaker.

In addition, I nominated Ambassador Young to receive an award for his contribution to international peace and justice, which was presented to him at that dinner.

Ambassador Young's remarks to the CBC dinner matched the high caliber of his public remarks throughout his career, and, as usual, "told it like it is."

I would like to share those remarks with my colleagues:

Address of Hon. Andrew Young

Thank you.

It's a pleasure to be here with you this evening. I guess I feel a little bit awed by the fact that the Caucus saw fit to give me this award. I almost think it's simply a matter of acting in the historic tradition of Black political leadership.

There is nothing unusual about Black politicians being controversial. For there is no change, no education, no progress without controversy.

Essentially, what we are about is sharing with the world a reality which we understand, which perhaps has come from our suffering and our difficulties, and which makes us perhaps even more responsible.

A few years ago, I met with a group of Native Americans. One of the things that impressed me, that has continually influenced me, is their saying that they don't make decisions for themselves and their children alone; it is their responsibility and their tradition to make decisions for seven generations yet unborn.

When one looks at the realities of our time, not only in terms of this day, and the times of our children, but when one consciously admits that we are responsible, and that the sins of the fathers are visited on the third and fourth generations of them that hate him, and hate the truth—then we, in our positions of responsibility, in responsibility to ourselves, to our heritage, to our families and to our children, have no choice but to accept the controversies that confront us and turn them to our advantage.

I think that's true of children in our time. I led children in the sit-ins, I led children in Birmingham and Selma. And none of us would be here save for the sacrifice and suffering of children.

The progress in our time was not just by adults. The children were not the leaders of tomorrow. Our children were the leaders of yesterday. They gave us a Civil Rights Bill. Our children are leading us today. And so, it's quite appropriate that those of us who are leaders take very seriously our responsibilities to our children.

The best thing we can do for our children is to leave for them a legacy of honesty, of courage, of facing the truth as if nothing else mattered but the truth. That's the tradition—not of Andrew Young, nor even of Martin Luther King. It is the tradition of Black political leadership.

We play Black political leadership cheap when we say that they have not produced, when we say that all politicians are the same, when we go through the demeaning exercises of playing those whom we elect cheap.

For I know a different story about Black politics. I know of a Charles Diggs, taking on the question of Africa, long before most Black people, even, understood the importance of the question of Africa. I know a Ron Dellums, standing up, not defending just Black people, but understanding that the problems of our nation are directly related to military spending, and that the MX missiles are important to the employment, to the social security, to the health and welfare of our nation. Even though we don't see eye-to-eye on everything, I remember that John Conyers was the first to talk out about the war in Vietnam, when it was very, very unpopular. I understand that Ralph Metcalfe took on the machine in Chicago, and defeated it.

I understand that we have a new generation of leadership coming into the Black Caucus . . . men like Bill Gray, who took on the Rizzo machine in Philadelphia and defeated it. I know that as bad as my press is nationwide—it's not all that bad, come to think of it, they do spell my name right! But the press that Parren Mitchell gets in his home-town papers in Baltimore is far worse than the press that I get nationwide. And yet consistently, his constituents vote him into office.

I know that the courage that it took for Coleman Young in Detroit to forge a coalition of business and labor and politics to revitalize that city and make it the city with the lowest crime rate in the nation, is something that required courage.

A Dick Hatcher running the mafia out of Gary!

Dutch Morial in New Orleans cancelling the Mardi Gras! Lord have mercy!

There is no Black politician at any time that is not constantly confronted by controversy on a day-to-day basis. Essentially, we are true to our people and true to ourselves as we continually take on those controversies. And we have educated our people to understand. They are perhaps most proud of us and most loyal to us when they see us out on the cutting edge.

And so, regardless of what you think of it, Walter Fauntroy, Joe Lowery, Jesse Jackson, daring to promote the debate in the Middle East, are out on the cutting edge. It's going to be controversial.

But, essentially, our people understand and all people of good will should understand.

I would say, particularly, to our Jewish brothers and sisters, on these high holy days of Rosh Hashanah and Yom Kippur, that we have always supported the underdog. We essentially supported Israel because it was the underdog. We have not forgotten the terrorist acts seven years ago in Munich. We have not forgotten the Holocaust. We have not forgotten the continual acts of terror under which the citizens of Israel live. But neither have we forgotten, nor can we ignore, the bombing of Palestinians in Lebanon.

The essential message we take to Jew and Palestinian alike, is that in this religious period of the Middle East, there ought to be a return to the Prophets, there ought to be a laying down of burdens, in the words of our forefathers, down by the riverside, and that they should study war no more.

If Black leaders sing "We Shall Overcome" with Yasser Arafat, it is because they have already made a powerful witness to Yasser Arafat that it is necessary to end terrorism against Israel; that it is necessary to recognize Israel's right to exist and survive in secure and safe borders. It is unfortunate that they were denied the opportunity to make that same plea to the State of Israel.

I would hope that, as Jesse Jackson goes to Israel next week, the State of Israel would not make that mistake.

For, after all, they did meet with John Vorster!

The basis of the State of Israel has never been its military might. The basis of the State of Israel has always been its moral power. If they abandon that moral power and depend on their military might, they will not be able to maintain the kind of support from people of good will around the world.

And yet, by maintaining their moral power, by living up to the tradition of the Prophets, they will understand that somehow and some way, there has got to be room enough in that region of the world for safety and security and for human rights for Jew and Palestinian alike.

We don't have the option to be silent on that.

For if there is not justice for Jew and Palestinian alike, there will be trouble for Jew and Palestinian alike. There will be trouble in the Arab world. For there is nothing more dangerous than the frustration of a people who are desperate and who have despaired of any world-wide support for the legitimacy of their cause.

One must see that terrorism is an outgrowth of despair and desperation. If one would put an end to terrorism, let's give the terrorists the alternative of communication. Let's give the terrorists the alternative of participation. Let's see if we can't do to terrorism in the Middle East in 1979 and 1980 what we did to terrorism in 1948, when terrorism ceased when people began to get political opportunities and international respect for the legitimacy of their cause.

But what happens if we ignore? What happens if we became "good niggers" and tuck our tails between our legs, and say "That's white folks' business"?

That's the message that has come to the press about me speaking out on the Middle East; about Walter Fauntroy visiting the Middle East; about Jesse Jackson visiting the Middle East; about Black leaders getting together to talk about the Middle East.

We are not even supposed to be knowledgable and interested in Africa.

We're supposed to be confined to civil rights.

But the problem is that it is nowadays impossible to deal with the problems of inflation and unemployment in a strictly domestic context. For if there is continued trouble in the Middle East, there will be shortages in the supply of oil. There will be increases in the price of oil. And there will be political discord which will, first of all, raise inflation. It will contribute to unemployment. And the unemployed that will be in search of jobs are essentially the poorest of the poor. They are those who have been the last hired. They will, as usual, be the first fired. And those are the people that you and I represent.

And so, we find ourselves as Black leaders, realizing that we can no longer, if we ever could, lead Black people.

The Civil Rights Movement did not lead Black people.

There was no need to lead Black people to end segregation. Black people always knew that there needed to be an end to segregation. The important thing was to lead John Kennedy to end segregation. The important thing was to provide leadership to the labor unions, to the churches, to the university students, to a coalition of good will, without which Lyndon Johnson could not have passed the Civil Rights Bill.

The important thing for Black leadership has always been to lead those forces of good will that form the majority of American political perspectives.

That's the challenge for the Congressional Black Caucus in 1979 and 1980.

For there are no "Black" solutions to unemployment. Unemployment is directly related to our policies in the Middle East. It is directly related to our relationships to Africa.

We recently completed a trade mission to Africa. It wasn't because I was trying to promote American business particularly. Nor was it because I thought there would be some salvation to Africa as a result of American business being there.

It was essentially because, for every billion dollars of goods and services exported by this nation, we generate some 30,000 to 40,000 jobs at home. And so long as we are running a $12 billion trade deficit with Africa, so long as we are running a $27 billion deficit with the world at large, so long as we are continuing to import more than we export, the dollar will be in trouble. There will be inflation; there will be unemployment.

You can't deal with the problems of our poor, with the problems of our cities, unless you deal with foreign policy.

The same is true of the total agenda that faces this nation. If there is a 5 percent increase in defense spending, you know who is going to pay for that increase out of our budget.

And so we, as a people, and as people of good will generally, have a vested interest in the passage of a Strategic Arms Limitation Treaty. In the first place, the people who are opposed to a Strategic Arms Limitation Treaty are basically fighting the last war and the next election, and don't have the interests of this nation at heart, much less the interests of Black people.

For, you see, America is not now being nearly so much threatened militarily by the Russians, as we are being threatened economically by anybody and everybody.

If the Russians made a move against us, our defenses are strong enough to ignore, and wipe out and obliterate some 3,000 Russians in Cuba. What the hell can they do to the United States of America?

That is a totally irrelevant political issue, that has nothing to do with the national security of this nation. But what we saw in Africa was basically an assault on the trade capabilities of this nation. We saw our allies giving 40-year, interest-free loans to African nations in order to lock up those countries in order to purchase their products and not American products. We saw in Egypt a pending $2 billion contract. But however that $2 billion contract goes, $25 billion follow-on of goods and services will determine that relationship. American business is having to compete with our allies that are totally subsidizing their exports, and giving interest-free or 3 percent loans over 40 years, when the credit we can offer as a government is somewhere in the neighborhood of 8 percent.

I remember them closing a Westinghouse plant—or was it Western Electric?—it's all the same—on the south side of Chicago. When they closed that plant, there were thousands of Black people from the south side that used to make their way up Cicero to work. And now they were unemployed. And I also remember in Chicago them closing a Motorola plant that essentially employed Black people in Chicago. And we know the troubles every day Chrysler is experiencing in Detroit.

The answer to those problems is the answer we were approaching in this recent trade mission.

We essentially, in two weeks time, simply by opening doors in Africa, and helping white people along with Black businesses together, approached the African market to produce food, to utilize American technology, in order that Americans can work and that Africans can develop their nations.

As the result of a simple effort we did somewhere in the neighborhood of one billion, five hundred million dollars' worth of business in two weeks. And the contacts that were made, and the proposals that will be offered the remainder of the year, could mean that the results of a single trip to talk to Africa resulted in about $2.5 billion worth of business.

Never before in the history of the United States has this nation so dramatically promoted its exports. But, in promoting its exports, we are really promoting American jobs—jobs that your friends, and my friends, and our constituents desperately need.

Basically, that is what American foreign policy is all about—protecting our national interest . . . and our national interest is basically the interest of our people. It's not some amorphous strategic concept decided by some folk that ain't never fought no wars, don't know nothin' about suffering, never been poor, and essentially isolate themselves in some ivory tower writing papers and theorizing to each other.

Those are the folks that have created the mess that the world is now in. And if we are going to get out of that mess, some new folk will have to contribute to the thinking . . . and those new folk are right here in this room, and the people we represent.

The same thing is true of health insurance.

There can't be any health insurance for our folk unless it comes through Charlie Rangel's subcommittee in Ways & Means.

There can't really be a dealing with the energy problem unless Parren Mitchell and the Joint Energy Committee do a sophisticated analysis of the energy situation.

All of those things are things that we did not anticipate in the 1976 election. The thing that we did anticipate in the 1976 election was that we wanted to participate in the decision-making. And, right now, we do participate in the decision-making to the tune of some $150 billion.

That is why I am not walking away from anybody or anything.

Right now, Black people in this administration are responsible for the administration of about $150 billion of a $500 billion budget.

You can walk away from that if you want to, but it is going to be there for another year and a half. And, if you want your share of it, I would advise you to, as Congresswoman Cardiss Collins said, "renegotiate the contract."

When you do have power, you can renegotiate the contract.

However you choose to renegotiate the contract, I guarantee you we can deliver on any contract we negotiate. I contend that we delivered on the contract that we signed in 1976.

When you have more judges appointed now in 2½ years who are Black than of all of the 200 year history of all of the Presidents of this country combined, that's not something to be ignored. It's especially not something to be walked away from, when you still have another half dozen states that haven't appointed their judges yet.

We still have cities to run for a year and a half, and the creative administration of those cities will depend on the kind of rapport—not just the kind of money that goes automatically as a result of legislative distribution—but creative legislation and creative implementation of that legislation depends on some rapport between the mayors of this nation and the people who are ministering those funds.

That's one of the reasons why you have seen our Black mayors moving very responsively in relation to the 1980 election, because they have to run those cities in 1979 and 1980. And in running those cities, in meeting the needs of those cities, they are not making any sacrifice of principle. They are making a commitment to the people whom they serve.

They are understanding that the federal money in the budget is tax money put there by our people, and they want to be around when decisions are made that divide up that money.

But whatever the problems we face—health care, energy, welfare reform—this Congressional Black Caucus is strategically located to participate in those decisions. And when there is a federal set-aside of some $3 billion for minority contracts, increased in 1980 to $4.2 billion, that is also an answer and an opportunity for the businessmen and women in this room to create new jobs for citizens in their neighborhoods.

The opportunities before us are enormous.

We haven't solved all the problems—we never thought we would.

I have never believed that any President of the United States was a savior.

I have always believed that the people who will save us are ourselves.

In setting forth our agenda for the coming year, we have generated a tremendous experience of unity and diversity.

It doesn't bother me that there are differences within the Black community. There ought to be differences—different strokes for different folks.

In fact, when we were doing our negotiation in the civil rights movement, we would sit down and plan our roles.

I can't help it if they would always make me the "Tom", to come in at the end. That was my role.

But we needed some other folks to kick over the table and raise some fuss. Then, when the fuss was raised and the issue was joined, then some other people had to sit down and say, "Now, look, let's sit down and think this over together."

It seems to me that this is the way we ought to be moving.

I don't know about you, but it seems to me that we are moving well.

It seems to me that there is no discouragement, no disillusionment, no loss of direction in this Caucus.

It seems to me that there is an impetus for political participation in 1980 that will make it necessary for anyone who is elected in 1980 to respond to the agenda that emerges from this coalition.

But this coalition is not enough. This coalition is only one part of the Democratic coalition. When we have been successful, it is because we as the Black part of the coalition, and perhaps the most liberal part, have defined issues in such a way that white students, white churches, and labor unions that are no longer as white as they might think they are, but where there is an emerging coalition of Black trade unionists that is having more and more power in each and every trade union, that when that coalition comes together, there is what Martin Luther King, Jr. called a "Coalition of Goodwill."

When that coalition comes together, that proves to be the majority of the United States of America. And that coalition is the coalition that has led us in all the progress we have made in our lifetimes.

That coalition is not dead. It is very much alive. It is very much responding to the leadership of this room.

And we will not let this harvest pass.

God bless you.●

POSITION ON SEVERAL ROLLCALL VOTES MISSED

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. BRADEMAS. Mr. Speaker, I take this time to state my position on several rollcall votes that I missed on Tuesday, October 9.

The votes are as follows:

Rollcall No. 532, a vote on a motion to suspend the rules and pass H.R. 5224, fringe benefit tax regulations. The motion was agreed to by a vote of 347 to 14. I was paired for this motion and had I been present, would have voted in favor of it.

Rollcall No. 533, a vote on a motion to suspend the rules and pass H.R. 3777, the congressional frank. The motion was agreed to by a vote of 319 to 68. I was paired for this motion and had I been present, would have voted in favor of it.

Rollcall No. 534, a vote on a motion to suspend the rules and pass H.R. 3949, public notice of tire defects. The motion was agreed to by a vote of 380 to 9. I was paired for this motion and had I been present, would have voted in favor of it.

Rollcall No. 535, a vote on a motion to suspend the rules and pass H.R. 5048, to amend the Manassas National Battlefield Park Act. The motion was agreed to by a vote of 349 to 39. I was paired for this motion and had I been present, would have voted in favor of it.●

PROPOSITION XIII

(Mr. EDGAR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. EDGAR. Mr. Speaker, I was pleased to come across an article on national water projects in the October edition of Field and Stream magazine. The first paragraph of the article succinctly describes my feelings about many of the water projects undertaken by the Army Corps of Engineers. The article does a good job analyzing 13 projects throughout the country. I hope that my colleagues will take a look at this analysis. I was particularly interested in the analysis of the Stonewall Jackson Dam project in Tennessee. As the author of an amendment to delete funding for that project, I appreciated the supportive work done by Field and Stream.

The article follows:

PROPOSITION XIII

(By George Reiger, conservation editor)*

What if the next time you entered an election booth you discovered that simply by voting No on thirteen projects scheduled to be built by the Army Corps of Engineers you could cut as much as $20.6 billion from the federal budget, losing nothing of value, and at the same tiem saving untold millions worth of fish and wildlife habitat, white-water recreation, historic sites, working farmland, permanent jobs, and, in several areas of the country, functional gas and petroleum fields and coal mines?

Although there is no such Proposition on the ballot at this time, all these savings are possible. Or they would be if the Corps and its boosters in and out of Congress, playing their old dam-the-rivers, pass-the-pork-barrel game, hadn't convinced so many that their projects will provide valuable flood control, recreation, hydroelectric power, navigation, boosts for local economies, and jobs—and that those who oppose them are anti-progress, environmental extremists, and elitists who want to push history back to the time of Lewis and Clark.

The Army Corps of Engineers was created to fight the untamed forces of nature. This war, particularly against free-flowing waters, has been largely won. Yet, instead of disbanding its legions of draftsmen and contractors and concentrating on the maintenance of secure areas, the Corps—like a triumphant general unwilling to retire and compose his memoirs—continues to plan new campaigns against an already beaten adversary.

This endless struggle, which some observers call the War Against Running Water, serves to keep the Corps alive and provide politicians with a way of bringing federal funds into their localities. But the cost of the Corps' projects is staggering, and in all too many cases, the benefits to the American people as a whole are either negligible or actually negative.

Corps' spokesmen will admit that the nation's double-digit inflation is largely a result of governmental spending unsupported by non-governmental wealth. However, they would also have you believe that it is wildlife conservation projects, foreign aid, or loans to New York City which have jolted to life the inflationary monster gobbling up our country's wealth.

The Corps slyly points to an Environmental Protection Agency (EPA) budget of $5.4 billion or an Interior Department's budget of $5.2 billion and then points to its own budget of only $3 billion. Yet $4.2 billion of the EPA's total is for construction and installation of sewage treatment and pollution abatement facilities. Most Americans accept such costs as essential to holding the line on continuing environmental degradation, some of which is inspired by the Corps, such as the massive fish kills on Missouri's Osage River resulting from faulty design of the Harry S. Truman Dam.

And Interior's budget, ironically enough, includes not just land and water acquisition funds for the Fish and Wildlife and National Park Services, but hundreds of millions of dollars in boondoggle construction costs by the Corps' busy little brother, the Bureau of Reclamation.

Horrible examples of the Corps' costly and ruinous projects abound. Three of the best known and most controversial are the Tennessee-Tombigbee Waterway in Alabama and Mississippi, the Cache River Project in Arkansas, and the Atchafalaya drainage and channelization plan for Louisiana. But there are others, every bit as poorly conceived and, in many cases, grotesquely expensive. We have selected thirteen—a magic number these days—that well illustrate how the Corps, with the assistance of Congress, keeps busy with your tax dollars. So here is our Proposition Thirteen: That by de-authorizing these thirteen projects alone, Congress could save the American people as much as $20.6 billion in actual funds, and who knows how much in other values. If you study the following case histories, you will see just how much we really have to save—and to lose!

1. ALASKA: SUSITNA RIVER—COST: $2.95 BILLION TO $7.6 BILLION

Starting with the far north and west, we find that the Administration recently acted counter to its own water policy guidelines by giving approval to phase one studies for the massive Susitna River project between Anchorage and Fairbanks. This was done, so rumor has it, to persuade Senator Mike Gravel of Alaska, Chairman of the Water Resources Subcommittee of the Senate Committee on Environment and Public Works, to throw his weight behind strengthening water policy guidelines elsewhere.

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*The author, a long-time Corps watcher, dedicates this article to the many local groups who have refused to give up without a fight.

Thus, even in his attempts to curtail Corps' power, its waste of our tax dollars, and to protect the nation's natural wealth, President Carter submits to playing the pork-barrel monopoly game: "I'll help you with your short-term gain, if you help me with mine, and Devil take the hindmost"—which in the case of Susitna includes some of the world's most beautiful moose and caribou range, significant waterfowl breeding grounds, and absolutely no certainty that Gravel can or will deliver on his promises.

Senator Gravel wants all these billions of dollars for his state in order to revive the boom times of those good old days when the North Slope oil pipeline was being built. Ever since the construction crews left town, Fairbanks' need for energy has dropped. Today that city uses less power than it did three years ago.

And that's the irony of the Susitna River project. Although it should provide cost overruns enough to satisfy even the most greedy contractors—some critics charge that the ultimate price of this complex project could soar to $18 billion by 1995—its principal benefit will be hydroelectrical energy. Of course, Alaska is already so energy rich that there is no way possible for Alaskans to use fully one-third of the power to be generated by this masterpiece through the first quarter of the 21st century—even if Alaska fills up with people at greater rates than those currently projected by demographers—but this doesn't bother the project's promoters.

Lest you imagine that the surplus power could be used to help less fortunate areas, there are no known ways to move immense quantities of electrical energy cheaply and without losing a significant proportion of the energy along the way. Even if there were, it is doubtful that energy-rich western Canada would be any more able or willing to take the Susitna surplus than Alaskans will. As it is, the series of dams that will submerge 82 miles of the river will require a 334-mile transmission corridor to move Susitna hydropower to the cities.

Oh, yes, two sizable seismic faults run right through the area, and if the dams ever break, the havoc an earthquake will cause should enable the Red Cross and TV-news crews to find lots of use for power in the downstream town of Talkeetna.

2. NORTHERN CALIFORNIA: STANISLAUS RIVER—COST: $340 MILLION TO $460 MILLION

This project is the West's equivalent of Tennessee's Tellico Dam, for it involves similar elements: a completed structure, an endangered species, and layers of alternately timid and stubborn bureaucrats.

When the United States was carved into ditch-and-dam empires decades ago, the federal agency with the biggest claim to the West was the Bureau of Reclamation (a power frequently referred to as the Bureau of Wreck-the-Nation by those who have suffered scenic, recreational, and financial losses at its hands). Thus, while the Corps is busy damming the East, BuRec is busy manipulating water in the western part of the nation. The trouble is, there is no master planner for all this Godly work, and as a result, perfectly good farmlands are frequently dredged or drowned in the East, while perfectly awful desert lands receive irrigation waters in the West.

Sometimes in their war on nature and commonsense, the two bureaucracies work together, like Axis powers, with the Corps playing the role of dominant Germany to BuRec's Italy. In the case of the Stanislaus River, its diverted waters will be controlled by BuRec to create still more croplands in California's Central Valley so that still more farmers can be paid for not growing crops. (The lack of genuine need for this project is evident in the fact that although the New Mellones Dam has been finished for many months and all systems appear to be go for water distribution, BuRec is still not sure how the water should be distributed, who should get it, and how much they should pay.)

The dam itself was built by the Corps of Engineers, and the waters in the impoundment immediately behind New Mellones are its responsibility. To date the Corps seems to have enjoyed tormenting river runners with the notion that it will allow the reservoir to rise to capacity so that camping and rafting on the most intensely used river west of the Mississippi will be flooded out of existence.

I say "notion" because I cannot believe the courts and politicians will be so short-sighted as to allow a river that is used annually by 39,000 whitewater enthusiasts (over 3½ times the number of people found each summer on the mighty Colorado in the Grand Canyon National Park)— a river highly accessible to hikers and campers (over 50,000 last year), with a unique wildlife and historical heritage—a river within a half day's drive of six metropolitan areas with 6 million people—drown behind another Corps-built concrete curtain.

The alternative is to limit impoundment to one-sixth the reservoir's potential capacity, which would mean achieving most of the project's benefits but sacrificing some hydroelectrical power to protect many times its value in recreation in the river's upper canyon. Yet asking the Corps to limit impoundment of even a bathtub is asking too much of some of the more compulsive dammers within its ranks!

The Tellico parallel is found in the fact that a "daddy-long-legs," harvestman archnid (*Banksuda Mel lones*), is unique to the area to be drowned by the rising reservoir. The creature was not listed as an endangered species because the U.S. Fish and Wildlife Service wanted to avoid another controversy with yet another coldblooded (hence, unpopular) creature such as the Service had on its hands at the time with the snail darter (a species of perch), which lives in that portion of the Little Tennessee River scheduled to be dammed by Tellico.

Although the snail darter controversy confused the real issue, which was that the Tennessee Valley Authority (TVA) had constructed a dam that would have drowned farmland worth far more than all the alleged benefits the Tellico could ever produce, it did provide a reason for delaying the Tellico's closing until the General Accounting Office (GAO) could review and condemn the high-handed manner in which the Tellico had been built, along with its deceitful benefit claims.

(Today, despite the obviously obscene nature of the project, Senator Howard H. Baker, Jr., Senator James Sasser, and Representative John J. Duncan of Tennessee keep fighting for approval to close the dam and exterminate the snail darter, along with all that irreplaceable farmland. The Tellico is *their* pork, and they want it, come Hell *and* high water!)

Had the Fish and Wildlife Service declared the Mellones daddy-long-legs an endangered species, the scenario on the Stanislaus River might have paralleled that of the Little Tennessee. After all, the GAO hasn't had a crack at New Mellones Dam yet, and there are more than a few Californians who would like that worthy office to scrutinize the books.

3. WASHINGTON STATE: COLUMBIA RIVER—COST $1 BILLION

Whenever the Corps runs into effective opposition on a water project, one of its favorite tricks is to rename the project for a Great American. In Missouri, when obvious flaws in the planning of the Kaysinger Bluffs Dam began to emerge, and even local Chamber of Commerce boosters grew worried, the Corps settled the issue by renaming the project for President Harry S. Truman, Missouri's most illustrious political figure.

In Washington State, the temptation to play this game proved irresistible when Corps planners learned that the two counties on either side of the last free-flowing stretch of the Columbia were named Benton and Franklin. With "Ben Franklin" for an ally, who would dare oppose this final link in the Corps' master plan to convert the mighty Columbia into a series of sumps and a barge canal?

But the Corps reckoned without the Fish and Wildlife Service. It so happens that the proposed dam will destroy 90 percent of the wild fall chinook spawning beds in the upper Columbia; drown the islands and gravel bars on which thousands of geese, shorebirds, gulls, herons, and Forster's terns nest every spring; and eliminate critical wintering habitat for bald eagles and more than 50,000 waterfowl. Not only will the last 52 miles of free-flowing river—the so-called Hanford Reach—in the 450 miles between Grand Coulee and Bonneville Dams be stilled, but McNary Wildlife Refuge, mitigation for previous wildlife habitat losses due to Columbia River dams, will be submerged by the project.

The Fish and Wildlife Service has stated that further study of the project is a waste of taxpayers' money, and the Service will man the barricades to keep Ben Franklin from being built. Such brave words to the contrary, Washington's Senator Warren G. Magnuson managed to get $400,000 appropriated this year to keep the Ben Franklin ball rolling.

Although President Carter asked that the Hanford Reach be studied for possible inclusion in the National Wild and Scenic Rivers System, a spokesman for the Pacific Northwest Waterways Association—a group determined to extend barge traffic up-river to Wenatchee—boasted that the Corps' dam study is being paid for with scenic river study funds.

Seattle District Engineer Colonel John A. Poteat told Wenatchee port officials that he would be astonished if the benefit-cost ratio being designed by his team of economists didn't make the project very attractive to officials on Capitol Hill.

He then told his Wenatchee audience that salmon spawning might be improved by obliterating the river's bars and riffles. When conservationists later expressed amazement at his ignorance, Colonel Poteat smiled and said that he had just told the port people what they expected to hear. Of course, no dam would be built if major spawning beds would be adversely affected. Well, that's a relief—or is he only telling *us* what *we* expect to hear?

4. MAINE: ST. JOHN RIVER—COST: $1 BILLION TO $2 BILLION

The hard-fought case of the Dickey-Lincoln School Lakes project, scheduled to stop up the St. John River in northern Maine, reveals the Corps' inability to look at any free-flowing water without wanting to harness it for some purpose, even if the claimed benefits could be better met by other means.

Justification for these dams is hydroelectric energy, but never once during the planning of the Dickey-Lincoln project did the Corps consider more congenial energy alternatives, even though the dams will flood perfectly good timberlands, destroy fish and wildlife, and aggravate our already strained relations with Canada, which does not see the value of two dams on our side of the border on what becomes the most important river in the province of New Brunswick.

But the fact that the Corps didn't consider alternatives doesn't mean there aren't any. For example, over forty-three times as much energy and many more permanent jobs would be created by spending the $1–2 billion on attic insulation for homes throughout New England. Proponents of Dickey-Lincoln (another Great American name) argue that the water project will save 2.3 million barrels of oil by the year 2000. Sounds good, till you learn that studies made by the Coalition for Water Projects Review—a consortium of conservation groups—have demonstrated that construction of a $200 million facility to convert logging scraps into electricity would generate far more energy, saving 91 millon barrels of oil by the year 2000—not to mention more than a billion dollars of your money.

Similar cost-effective options are found for energy produced by wind or sun. Even trash burning in the proposed $200 million plant would generate more electricity than Dickey-Lincoln and save 8 million barrels of oil by 2000 as well as countless tax dollars.

Part of the Corps' justification for Dickey-Lincoln is that Maine will get to trade in a brook trout stream for more flat-water recreation. But Maine already has over 3,000 natural lakes, hundreds of which are uncrowded and provide infinitely better flatwater fishing than the fluctuating sinks the Corps designs and calls "recreational impoundments."

5. TEXAS: TRINITY RIVER—COST: $2.8 BILLION TO $4 BILLION

Meanwhile, down in the Lone Star State, the Corps is attempting to turn the Dallas/Fort Worth area into a major seaport by moving a canal to Mohamet rather than letting Mohamet move industrial goods by train or truck. (In Georgia, the Corps has similar plans to put Mobile, Alabama, on relief by turning Atlanta into a seaport.)

Although voters in Texas twice turned down down the project, the Corps refused to take "no" for an answer. Its public relations people went into overdrive, and the next we heard of the Trinity, it was being described as "a chain of recreational reservoirs and channels" which also would be good for flood control.

Unfortunately, not all the Corps planners were on the same wave length, and some lent their expertise to a study indicating that if the Trinity River was left alone to act as a flood plain "green belt," the benefit-cost ratio would be 39 to 1, or $39 in benefits for every federal dollar spent to create recreational access and other amenities.

Never had the Corps seen such a fantastic benefit ratio! And never did its policy makers want to see such a ratio again! The Corps has blocked the Green Belt plan and is stubbornly pushing its navigational, *cum* flood control, *cum* recreational ditch.

There is a lot at stake here. If the canal is not finished, 440 square miles of forest, farmlands, and river bottoms will be left to grow trees, crops, deer, fish, waterfowl, and turkey instead of being flooded into a chain of muddy sumps. Furthermore, 550 miles of the Trinity River will be left free-flowing instead of being shortened and straightened into a 335-mile ditch. Finally, tankers and oil barges will continue to stop at Galveston instead of parallelling Interstate 45 all the way to Dallas where they can run aground while turning around, thus bringing all the temporary employment benefits associated with cleaning up a major oil spill to a city more than 200 miles from the sea.

The overwhelming majority of people in Dallas and Fort Worth want a Green Belt. The Corps, Congressman James C. Wright, Jr., and a handful of developers want a 2.8–4 billion ditch. Which one do you think Texas is going to get?

6. KENTUCKY: BLAINE CREEK—COST: $60 MILLION TO $75 MILLION

The proposed Yatesville Dam on Blaine Creek in eastern Kentucky is justified primarily from the standpoint of "recreation." Yet the dam will inundate 20.6 miles of the existing stream and 2,300 acres of prime upland game habitat—none of which was given any recreational value by the Corps when it was baking this particular Pie in the Sky.

After recreation, flood control is listed as the second biggest "benefit." The Corps boasts that the proposed dam will reduce the 100-year flood at Catlettsburg, the nearest downstream town, which is 40 miles away, by between 1.9 and 2.4 inches.

However, due to a low spot in the valley rim, the dam cannot protect Catlettsburg from any flood whose severity and frequency is rated at more than 25 years. Indeed, the Yatesville project is unique in that federal dams are usually designed with a minimum protection of 100 years. In reality, the Yatesville Dam and Reservoir pose more of a threat than a security to Catlettsburg.

In exchange for this dubious "benefit" to a town of a little over 3,000 population, the Yatesville dam will drown a 100-million-ton coal reserve, five gas fields, and two oil fields. Some of the gas and oil fields have been in production since 1912, and a Kentucky Geological Survey specialist has testified that the known oil fields hold recoverable values above and beyond standard proven reserves. What's more, it is likely that additional pools of oil exist underneath those already in production.

Unbelievably, the Corps has condemned 4,846 acres (with some 15,000 acres to go) of this fossil fuel bonanza so the area can be converted into a lake for water-skiers, who will have to import oil from Saudi Arabia to keep their outboards running. The Corps paid the former landowners $189.27 per acre—not only a mockery of the land's true value, but an insult to human dignity, since the transaction has made it impossible for these dispossessed families (213 of them so far) to relocate to new homes.

Most former residents have left the county, and some live with relatives in other states. Most are looking for work. Once again, the Corps has destroyed an entire community in the name of progress, spelled P-O-R-K.

Representative Carl D. Perkins believes that what he is doing to his district in eastern Kentucky is for its own good. Except for military service in Europe, Perkins has lived all his life in this corner of Appalachia. And after more than thirty years of helping pass the pork in Congress, Perkins sees no alternative way to pump money into a local economy. Developing rich mineral deposits with private capital in order to benefit all the nation is a less familiar process to oldtime Congressmen than funneling taxpayer money from all over the country into such generally one-way projects as "recreational reservoirs."

If Perkins loses the votes of 213 beaten and bitter families who used to live at Yatesville, he can always rebuild his constituency with votes from the next valley, or the one beyond that, where rural tradition insulates people with the naive faith that "It can't happen to me." And if the country loses $75 million, plus quantities of coal, oil, and natural gas, there are always more taxpayers—and foreign oil.

7. ALABAMA: COOSA RIVER—COST: $520 MILLION TO $1.5 BILLION

Although the South is a more diversified region than many Northerners are aware, one thing Southern politicians seem to share is a wistful fantasy about the good life before the Civil War when men were gentlemen, whiskey was bourbon, and everything else a gentleman needed came upriver by boat.

This helps explain the obsession so many Southern Congressmen seem to have with turning their districts into seaports, no matter how far they are situated from the sea. Literally dozens of schemes exist for opening up one or another county seat to ocean navigation. The Coosa River Channel from Montgomery to Gadsden, Alabama, is a prime example of such pork-barrel dreams. Not only do Montgomery and Gadsden lie about the same distances from the Gulf of Mexico that Phoenix and Flagstaff, Arizona, lie from the Gulf of California, but the chairman of the House Appropriations Subcommittee on Public Works is Tom Bevill, whose largest district town happens to be Gadsden, Alabama.

The Coosa River plan initially created some nervous moments for Bevill and the Corps. Even after manipulating benefit claims every which way, the Corps was left with a benefit-cost ratio of .3 to 1, which means that for every tax dollar Bevill spends on his canal, the nation's taxpayers get only 30 cents back in so-called benefits during the half-century lifespan of the project.

Since federal law insists that one dollar of value be returned for every federal dollar spent—though we've already seen how rarely this equation works out in reality—Bevill would face a rough go, even from the members of his own subcommittee. But the Congressman who helped bring us the Tennessee-Tombigbee Waterway was not going to be stymied by a little thing like federal law. Bevill simply altered the law to include what he calls "regional income transfers."

In other words, Bevill's amendment makes it possible to count as "national benefits" the relocating of factories from Ohio or New Jersey to the Coosa River, even though Alabama's gain is clearly another region's loss.

Despite this sleight-of-brain action, which magically transformed an uneconomic channel into a wonderful investment for the taxpayer, we wonder if every man, woman, child, and newborn infant in the United States would willingly contribute the $5 that will in effect be taken out of their pockets to build this navigable ditch.

8. LOUISIANA: RED RIVER—COST: $1 BILLION TO $2 BILLION

Another navigable nightmare-in-the-making can be found in Louisiana. In the last century, Henry Miller Shreve rammed a steamboat through 200 miles of Red River driftwood to bring navigation to a town now named for him. In the long decades since Shreveport was founded, silt and the fact that American shippers no longer use shallowcraft steamboats for river navigation has caused that city's commerce to move from the river to railroads and Interstate 20, which runs through the center of town. Now the Corps would like to turn the clock back with up to $2 billion in taxpayer's money.

Since there is no way to justify this expense solely on navigational grounds—especially since the Corps never consulted the Department of Transportation to ask whether the Red River project was needed or even remotely suitable as part of the nation's transportation network—the Corps says the canalizing will help control flooding.

But for whom?

When waters are drained rapidly from the land, the people near the source may be happy, but there is nothing but grief for the folks living downstream. We needn't point out that thanks to other Corps' projects, New Orleans is already 8 feet below the level of the Mississippi and sinking. Every time a toilet is flushed in Minneapolis, the Corps has to throw more sandbags on the dike at Baton Rouge!

The Red River Waterway will canalize 5,500 acres of natural river channel and damage or destroy 33,000 acres of wetlands and woodlands. There will be an enormous loss of bass and catfish, deer and turkey, mallard and wood duck habitat. There will be a documentable loss of at least 22,000 angler days of recreational fishing and a minimum of 1 million pounds of fish per year.

However, since the Corps cannot justify this ditch even after linking "navigational improvement" to "flood control," it insists that adding a few boat ramps will "enhance recreational opportunities" as well. This means that boaters will be able to experience the thrill of being swamped by passing tugs, barges, and freighters, whereas today all they experience is solitude.

9. FLORIDA: HENDRY COUNTY—COST: $20 MILLION

Although the monstrous Cross-Florida Barge Canal continues to rear its ugly head, our best example of the Corps' manipulation of the taxpayers' money and recreation in the Sunshine State is the Hendry County drainage project, which will turn 26 square miles of wetlands into sugarcane fields for the benefit of just twenty-one landowners. At an estimated cost for the project of $20 million—an estimate that will probably double before the work is done—this amounts to a federal subsidy of between nearly $1 million and $2 million per landowner.

In addition to the blatant conflict of interest represented by some landowners who also happen to be public officials, this drainage project will disturb a sensitive sawgrass ecosystem, displacing or eliminating many fish and wildlife resources, placing further strain on an already water-short Everglades National Park, and putting soil into cultivation that will probably oxidize and vanish long before the expected fifty-year life of the project runs its course.

Naturally the Corps of Engineers never bothered discussing its plan with either the National Park Service or the Fish and Wildlife Service to determine what mitigations were necessary. To justify the wasteful project, the Corps arrived at a benefit-cost ratio that ignores the value of wildlife and insists that the millions of people who visit southern Florida annually to fish and birdwatch are insignificant alongside the economic well-being of the twenty-one landowners involved.

Additionally, the Corps plans to borrow tax dollars at a 2½ percent interest rate in order to get the draglines dragging. Wouldn't you like to borrow money for 2½ percent? I'd be willing to settle for 9½!

Even after all its fiscal manipulations, the Corps can't promise a benefit from this project of more than $1.28 over the next half-century for every federal dollar spent now. The Corps would be better off if they decided to invest our money in hot-air balloons!

10. GEORGIA: SAVANNAH RIVER—COST: $500 MILLION TO $800 MILLION

While the Corps out West is busy completing its self-appointed task of converting the Columbia River into a series of sinks, the Corps in the East is finishing off the Savannah River in the same compulsive way.

The new dam on the Savannah was originally called Trotter Shoals, but when the Corps ran into opposition, it rolled out a Great American name—this time Richard B. Russell. The name seems appropriate, for although Russell's real middle name was Brevard, people who lost jobs, land, and dignity thanks to the Georgia Senator's cooperation with pork-barrel politics, liked to think that the B really stood for "Boondoggle."

The Russell Dam is being constructed on a geological fault between two other Corps' reservoirs on the Savannah: Hartwell upstream and Clark Hill downstream. In fact, this stretch of the Savannah had once before been considered as a dam site, but was rejected as "unsafe" and "cost-inefficient." Somehow, now that the Corps is running out of running water to stop, this section has suddenly become A-okay.

The Richard B.—difficult to read that initial now without smiling, right?—Russell Dam will flood 26,650 acres of the prettiest deer habitat found in the South. It will eliminate 29 miles of river and 50 miles of tributaries along the last undeveloped reach of the Savannah in the Piedmont plateau. The net recreational loss, typical of many Corps' "recreational projects," will be keenly felt in this region, which already has two huge impoundments and is in desperate need of more free-flowing water.

But recreation isn't the Corps' only excuse for building this dam. Due to the continuing decline in the world's fossil fuel reserves, the Corps has begun shifting the focus of its justifications for certain boondoggles. For example, as time passes you'll hear more about hydroelectrical production and less about navigation and flood control at Ben Franklin Dam on the Columbia—even though the electricity generated will go mainly to produce more aluminum to make more beverage cans to be thrown along the nation's highways.

At Georgia's Russell Dam, the Corps doesn't even pretend to serve flood control, navigational, or water conservation needs. This project is being touted for its hydroelectrical benefit. The kicker is that the dam will supplement power to the surrounding area during peak demand periods only. And if a few more people would turn out their lights when leaving home, that power wouldn't be needed at all.

11. MINNESOTA: ROSEAU RIVER—COST: $19.5 MILLION TO $30 MILLION

There are numerous examples of Corps' handiwork in the upper Midwest, and every one seems to represent dire consequences for waterfowl. For example, in the region of the Roseau River in northwestern Minnesota where the Corps is busy trying to finish a useless project first conceived in 1914, the number of ducks and geese that frequent the area has dropped from an estimated 1 million in 1947 to 25,000 birds today.

There is still a greater sandhill crane colony, plus prime reproductive habitat for snipe, woodcock, and prairie chickens, and the Fish and Wildlife Service's Roseau River Wildlife Area is valiantly trying to protect the remaining wetlands. However, the Corps is not averse to dredging or drowning National Wildlife Refuges, especially since such areas are already federally owned and there are no land acquisition costs involved. Besides, the Congress can usually be counted on to condemn marshes and muskeg and other such habitat as "wastelands."

The "reason" for the Roseau project is the fact that Canadians have been busy draining the upper end of the Roseau River system, and as a result, each spring flood waters cross the border into Minnesota and jeopardize the town of Roseau and the flax-growing efforts of eighty American farmers. The Corps solution to this problem is to ditch 43.9 miles of the Roseau—incidentally one of the best walleye and Northern pike streams in the state—and lower the water table in the Great Swamp, which in addition to its value as a natural sponge and flood control area is prime waterfowl breeding habitat. All this channelized water would then be sped back into Canada, where it will teach the foreigners a lesson.

Fortunately for international peace, but unfortunately for the American taxpayer, the U.S.-Canadian Joint Commission stepped into the picture when it saw Canada about to be flooded in a big way in return for the relatively minor flooding it was giving Uncle Sam upstream. A mitigation plan was developed that incorporates the Corps' ditch but with insurance premiums costing $4 million a year to be paid to Canadian farmers when they are washed out of their homes by flood waters made in USA.

The Corps boasts that its program will cost only $520,000 a year and provide $836,000 in annual flood control benefits. However, Roseau town officials have expressed concern that the Corps' plan will jeopardize the foundations of structures within their city limits. Furthermore, they point out that 1967 was the last year Roseau suffered a flood of any consequence, and that flood cost the town only $168,000 in rehabilitation expenses.

Why should federal taxpayers fork over half a million dollars a year to prevent something that happens only once every quarter century, and then doesn't cost half a million dollars to repair when it does happen?

12. OKLAHOMA: ARKANSAS/RED RIVER BASINS—COST: $595 MILLION TO $1.3 BILLION

Although Oklahomans already have an Excedrin-sized headache over Corps' plans for the Glover River, they are experiencing an even greater pain, but not necessarily in the head, over the Corps' chloride control program for the Arkansas and Red River Basins, which will also involve portions of Kansas and Texas.

Chloride is short for "sodium chloride," which is a five-syllable compound meaning *salt*. The Corps wants to build a series of levees and settling basins separated or connected by dams or gates, pipelines, and pumping stations. Nine huge impoundments would be created, including six brine lakes, in order to reduce the chloride content of the Arkansas and Red Rivers so that the desalted waters can be used by downstream utility companies, although the Corps would have you believe the project is to improve overall water quality to benefit farmers, birders, hunters, and other citizens.

The only trouble is that farmers, birders, hunters, and other citizens don't want the project. The farmers see 60,000 acres, much of it prime wheat producing croplands, being "modified"—which is a Corps' euphemism for "contaminated," "dredged," or otherwise taken out of production. The birders see supremely well-suited habitat—especially for the American avocet, bald eagle, peregrine falcon, snowy plover, least tern, and whooping crane—made supremely uninhabitable for anything. And hunters see some of the best Canada goose shooting in the Southwest coming to an end. To top things off, not even the Corps is sure the scheme will work.

Ironically, the sodium chloride content of the Red and Arkansas Rivers is already within state and federal guidelines for water quality. Industry and government often argue against enhancement of local air and water supplies with the point that the last 5 percent is the most expensive to clean up. Here is a case in which the shoe is on the other foot, but the Corps doesn't want to admit it.

Mitigation of wildlife losses is impossible. The $6 million "wading pool" the Corps offers the whooping crane and other birds in exchange for the Great Salt Plains National Wildlife Refuge won't fit the bill even if the birds were willing to put up with all other disruptions. Even more grotesque, at present sedimentation rates the greatest part of the project will be filled in and made useless within fifteen years.

At present, the Corps appears to be pulling away from the Arkansas portion of this project; they have, in fact admitted it may not be economically justifiable at this time. But no one opposed to the plan should breathe easy, since the Corps is famous for strategic withdrawals and strategic returns.

The Corps can afford to be patient. Sooner or later a Congressman or a President more congenial to its way of doing business will be elected, and the Corps will get the green light "to tidy up Oklahoma." In the meanwhile, the Corps marks time with "feasibility studies" paid for by you and me.

13. WEST VIRGINIA: WEST FORK RIVER OF THE MONONGAHELA—COST: $250 MILLION

Although the last water project of Field & Stream's Proposition 13 is not the most expensive, it is possibly our best example of bureaucratic arrogance, political deceit, and fiscal extravagance. It has not gone unopposed. On June 14, Representative Robert Edgar of Pennsylvania told the U.S. Congress: "The more I learn about the Stonewall Jackson project, the angrier I become. Angry at the Corps for abusing the system of benefit-cost analysis * * *. Angry at various bureaucracies for allowing this project to muddle along without serious review. And finally, angry at the Congress for its failure to stand up to the politics of pork." Sadly, the Congress went on to prove his point by voting down Edgars' amendment to kill the dam.

Lewis County, West Virginia, where Stonewall Jackson Dam and Reservoir will be located, should have been easy pickings for the Corps. It is composed of mostly small to medium-sized land holdings, and although some local farms are as large as several hundred acres, middle-income landowners are usually no match for the land-assessment and eminent-domain vultures * * *.

Yet local landowners have been fighting this project for close to forty years—and fighting with the desperation born of having watched their friends and relatives in other West Virginia valleys forced from their ancestral homes and plugged into welfare so that the Corps could build so-called flood control or recreational structures that have never worked quite the way the Corps said they would.

There is a good deal at stake here. Although in 1970 the Corps assessed the coal reserves to be affected by the proposed reservoir at $616,400, an independent survey made last year and funded by the state of West Virginia assessed these same coal reserves at $39,873,831. (This estimate was endorsed by Dr. James J. Van Gundy, Chairman of the Department of Earth and Environmental Sciences at Davis and Elkins College, West Virginia.) The ongoing energy crisis has already made last year's assessment too conservative, but still the Corps refuses to budge from its original figure.

The Corps says that it will kick about 1,000 people off the 19,925 acres they own. However, an independent survey indicates the Corps will dispossess 1,800 people of some 21,000 acres. By federal law, the Corps must pay fair market value for condemned land, but the Corps has traditionally scoffed at this law. It is paying the people of Lewis County an average of $258.38 per acre for cleared farmland. The official appraised value for farmland in West Virginia is $478 per acre. A survey of the project area's newspaper ads shows farmland actually selling for $1,000 per acre.

Corps' propaganda for Stonewall Jackson Dam and Reservoir boasts that "small rural communities and scattered farms will give way to a large transient population looking for recreation and relaxation." Just what this nation needs: Fewer small rural communities and scattered farms and more large transient populations!

Dr. Brent Blackwelder and Peter Carlson of the Environmental Policy Center in Washington, D.C., have written an exhaustive analysis of the Stonewall Jackson project. They found the Corps has violated the Water Pollution Control Act Amendments of 1972. the Water Resources Development Act of 1974, and the Historic Preservation Act. Further, they state that the Corps' "use of water quality control benefits to justify the project without expressed approval of the Environmental Protection Agency is illegal."

But what of the promised recreational benefits from this dam? The West Virginia Department of Health has already announced it will not allow swimming in Stonewall Jackson Reservoir because the water will be too unhealthy, and fish from the lake may be too contaminated to be eaten! You might think that this would end the matter right there, but no—the Corps has announced plans for a filtered and chlorinated "swimming lagoon" to be built off the main body of the lake at an additional cost of $834,000, of which the state will have to pay 50 percent. This way, the Corps can get its reservoir and all those hundreds of thousands of waterskiers the Corps says are on their way can at least get wet.

Boosting "recreation" to 22 percent of the project's total value was what enabled Corps' officers to raise their claimed benefit-cost ratio for the dam to $1.30 to be returned over the next half-century for every dollar spent now. But the irony of Stonewall Jackson is that Lewis County's superb natural habitat presently offers more genuine recreational benefits than the future lake's contaminated fisheries ever will.

Nearly 82 percent of the county is open without charge to some of the best deer hunting in West Virginia. "A large transient population looking for recreation and relaxation" will change that percentage in a hurry!

Still, the fight goes on. Field & Stream reader and Lewis County resident, Francine Snyder, writes: "Good land and good people are too scarce a commodity to lose without a fight. Our inborn stubbornness is standing us in good stead. One woman asked the Corps project manager if he was going to shoot her or drown her. Neither was the reply. 'Well,' she said, 'you'll have to do one or the other, 'cause I won't move!' "

Maybe you don't believe you're part of this. Maybe fishing, boating, swimming, or picnicking at your local Corps reservoir has been so good, you shrug at what others have paid for your recreation. Maybe the reservoir is new enough that you haven't yet experienced the inevitable depression in catch-per-unit-effort that overtakes any manmade lake once the filling and initial enrichment period are past. Maybe you haven't experienced the drawdowns that can turn a lake into mud flats, useless for fish and wildlife and recreation. Maybe you're unfamiliar with the floods that occur despite "flood control." Maybe it all seems too remote from your life to matter. Maybe you're just not the kind of person who likes to be involved.

Well, you don't have to be a political activist to understand that projects like the ones outlined here are creating severe strains on an already exhausted dollar, diverting federal funds from areas of genuine need and, frequently, causing both severe environmental and human suffering.

Although you hear a lot of talk about benefits from the Corps, the bitter reality is that the gains are often limited to a small number of contractors or landowners. Hundreds of real jobs are lost for every job the Corps claims it is creating. Good land is flooded. Wild rivers, which provide enormous recreational benefits, are lost. Fish and wildlife are disturbed or destroyed. People are uprooted. And all too often nothing of comparable or even meager value is gained.

We are in the midst of a profound crisis. Energy shortages are a major threat to our economy and way of life. If any of the projects discussed here could truly help conserve or provide more energy, or help alleviate the nation's problems, we would have to consider them seriously. even though they might be environmentally or recreationally unsound. But by any accounting, except the most fanciful and self-serving, these thirteen projects—plus many, many more—are either unnecessary or actually destructive of our economy.

The money saved if these projects were not built would be as much as $20 6 billion! That could go a long way toward helping develop alternative energy systems—such as alcohol fuel, or wind, or solar power. It could help improve our rail systems so we could move more food and other products in a less energy-intensive way. It could help improve our urban areas, where more people could live using fewer natural resources, if the cities were given help instead of being allowed, or even encouraged, to decay. It could even help create permanent jobs in all parts of the country instead of the temporary jolts of work the pork-barrel system applies.

Much is at stake. If these thirteen projects are completed, we will lose wild rivers, good fishing, thousands of acres of wildlife habitat, untold recreational benefits, valuable farmland, homes, links to our cultural past, and important natural environmental systems. We will gain a few lakes, some barge canals, dubious flood control structures, and power that could be better supplied by other means. Is this worth $20.6 billion?

Yet if many Congressmen will condemn even their colleagues on Capitol Hill for taking issue with the pork-barrel redistribution of this nation's wealth, what can an ordinary citizen do—especially one who doesn't even vote in a district affected by one of the thirteen projects?

First, you can write your own Congressman and Senator and register your disgust at any expenditure of federal funds that you consider wasteful.

Then you can lend your financial support to the local citizens who are fighting the good fight. It is a bitter fact that the Corps uses our own tax dollars to try to beat us down when we oppose one or more of its water schemes, while we have to pay for lawyers, expert witnesses, and publications out of funds that might have been spent on a new fishing rod or a family vacation. Yet until the Congress creates the equivalent of a Public Defender for Conservation to save us from the Senate Committee on Environment and Public Works or the House Committee on Appropriations, we have no choice but to support—and support generously—the equivalent of our guerrilla forces in the field.

These are the names and addresses of groups fighting the projects listed here.

Suitna River: John Adams, Fairbanks Environmental Center. 218 Driveway, Fairbanks, AL 99701; or Paul Lowe, Alaska Center for the Environment, 913 West 6th Ave., Anchorage, Alaska 99501.

Stanislaus River: Alexander Gaguine. Friends of the River, 401 San Miguel Way, Sacramento, Calif. 95819.

Columbia River: John Brimhall, Columbia River Conservation League, 2502 Riverside Drive, West Richland, Wash. 98352.

St. John River: Bob Gardiner, Jr., Natural Resources Council of Maine, 51 Chapel St. Augusta, Maine 04330.

Trinity River: Edward C. Fritz, Texas Committee on Natural Resources, 4144 Cochran Chapel Rd., Dallas, Texas 75209.

Blaine Creek: Chuck Hoffman or Tim Murphy, Kentucky Rivers Coalition, P.O. Box 1306, Lexington, Ky. 40501.

Coosa River: Carolyn Care, Chattahoochee Chapter of the Sierra Club, 342 Payne St., Auburn, Ala. 36830.

Red River: Ross Vincent, Ecology Center of Louisiana, Box 19344, New Orleans, La. 70179.

Hendry County: Johnny Jones, Florida Wildlife Federation, 4080 N. Haverhill Rd., West Palm Beach, Fla. 33407.

Savannah River: Jasper C. Boles, South Carolina Wildlife Federation, Arcadian Plaza, Suite B–1, 4949 Two Notch Rd., Colombia, South Carolina 29204.

Roseau River: Ford Robbins, Minnesota Conservation Federation, Room 218C, 790 S. Cleveland Ave., St. Paul, Minn. 55116.

Arkansas/Red River Basins: William W. Howard, Jr., Oklahoma Wildlife Federation, Box 1262, Norman, Okla. 73070.

West Fork River: Peg Ormsby, Upper West Fork River Watershed Assn., RR 3, Box 2613, Weston, W.V. 26452.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Frost (at the request of Mr. Wright) for today, on account of paternal reasons.

Mr. Thompson, for October 11 and October 12, 1979, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Loeffler) to revise and extend their remarks and include extraneous material:)

Mr. Cleveland, for 10 minutes, today.

Mr. Collins of Texas, for 15 minutes, today.

Mr. Corcoran, for 5 minutes, today.

Mr. Kemp, for 10 minutes, today.

Mr. Goldwater, for 5 minutes, today.

Mr. Green, for 10 minutes, today.

(The following Members (at the request of Mr. Daschle) to revise and extend their remarks and include extraneous matter:)

Mr. Wirth, for 5 minutes, today.

Mr. Nolan, for 5 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Zablocki, for 60 minutes, on October 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Ashbrook, and to include extraneous material, including dissenting views, during consideration of H.R. 2061 in the Committee of the Whole.

Mr. Bingham, to revise and extend on McClory amendment to eliminate mandatory earmarking for community anticrime program in Committee of the Whole today.

Mr. Edgar, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,544.

(The following Members (at the request of Mr. Loeffler) and to include extraneous matter:)

Mr. Collins of Texas in three instances.

Mr. Williams of Ohio.

Mr. Coughlin.

Mr. Kemp in two instances.

Mr. Wydler.

Mr. Michel in three instances.

Mr. Dornan in two instances.

Mr. Young of Alaska.

Mr. Lagomarsino.

Mr. Grassley in two instances.

Mr. Dannemeyer.

Mr. Goodling.

Mr. McClory.

Mr. Paul.

(The following Members (at the request of Mr. Daschle) and to include extraneous material:)

Mr. Guarini in three instances.

Mr. Bailey.

Mr. Benjamin.

Mr. Mazzoli.

Mr. Stark in three instances.

Mr. Hamilton.

Mr. Maguire.

Mrs. Schroeder.

Ms. Oakar.

Mr. Swift.

Mr. Roberts.

Mr. Shelby.

Mr. Barnes.

Mr. Pepper.

Mr. Jacobs.

Mr. Vanik.

Mr. Fauntroy.

Mr. Russo.

Mr. Leach of Louisiana.

Mr. McDonald in three instances.

Mr. Studds.

Mr. Ambro.

Mr. Wolff.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 817. An act to amend the act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area.

ADJOURNMENT

Mr. DASCHLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Thursday, October 11, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2594. A letter from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend title 37, United States Code, to rectify an inequity in leave and travel entitlements; to the Committee on Armed Services.

2595. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting proposed regulations to implement certain provisions of the Electronic Fund Transfer Act, pursuant to section 904 (a)(4) of the act, as amended; to the Committee on Banking, Finance and Urban Affairs.

2596. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Malaysia (Transmittal No. MC-24-79), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2597. A letter from the Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting the initial fiscal year 1980 commodity and country allocations of food assistance under title I of the Agricultural Trade Development and Assistance Act, pursuant to section 408(b) of the act; to the Committee on Foreign Affairs.

2598. A letter from the Assistant Secretary of Transportation for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2599. A letter from the Director, Office of Personnel Management, transmitting notice of two proposed new records systems for the agency, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2600. A letter from the Assistant Secretary of the Interior, transmitting notice of the receipt of a project proposal under the Small Reclamation Projects Act of 1956 from the Redwood Valley County Water District, California, pursuant to section 10 of the act; to the Committee on Interior and Insular Affairs.

2601. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of a delay in the submission of the report on adolescent pregnancy required by section 801 of Public Law 95-626; to the Committee on Interstate and Foreign Commerce.

2602. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting related to the international energy program to be held on October 15 in Paris, France; to the Committee on Interstate and Foreign Commerce.

2603. A letter from the Deputy Assistant Administrator for Noise Control Programs, U.S. Environmental Protection Agency, transmitting proposed regulations to govern product noise labeling; to the Committee on Interstate and Foreign Commerce.

2604. A letter from the Assistant Secretary of Agriculture for Natural Resources and Environment and the Assistant Secretary of the Army (Civil Works), transmitting a joint Corps of Engineers and Department of Agriculture report on the Upper Cape Fear River Basin, N.C. (H. Doc. No. 96-203); to the Committee on Public Works and Transportation and ordered to be printed.

2605. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Platte River and tributaries, Nebraska, in response to 15 congressional resolutions adopted between 1945 and 1968 (H. Doc. No. 96-204); to the Committee on Public Works and Transportation and ordered to be printed.

2606. A letter from the Comptroller General of the United States, transmitting an assessment of the various land payment programs which compensate States and counties for lost tax revenue on Federal land (PAD-79-64, September 25, 1979); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

2607. A letter from the Comptroller General of the United States, transmitting a report on State regulation of the insurance industry (PAD-79-72, October 9, 1979); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and the Judiciary.

2608. A letter from the Comptroller General of the United States, transmitting a report on the allocation formula for Federal mass transit subsidies (PAD-79-47, October 9, 1979); jointly, to the Committees on Government Operations and Public Works and Transportation.

2609. A letter from the Comptroller General of the United States, transmitting a report on the Federal residential solar heating and cooling demonstration program (EMD-79-55, October 9, 1979); jointly, to the Committees on Government Operations and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. H.R. 2222. A bill to amend the National Labor Relations Act to clarify the scope of its coverage; with amendment (Rept. No. 96-504). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 600. A bill to incorporate United Service Organizations, Inc.; with amendments (Rept. No. 96-505). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 3909. A bill to amend section 12 of the Contract Disputes Act of 1978; with amendment (Rept. No. 96-506). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 4943. A bill granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects; with amendments (Rept. No. 96-507). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4788. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; with amendment (Rept. No. 96-508). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 5522. A bill to prohibit the leasing of space for new departments, agencies, and instrumentalities of the United States within the greater Washington, D.C., metropolitan area; to the Committee on Public Works and Transportation.

By Mr. BOWEN (for himself, Mr. Rhodes, Mr. Udall, Mr. Coelho, Mr. Stenholm, Mr. White, Mr. Stump, Mr. Thomas, and Mr. Rudd):

H.R. 5523. A bill to establish an improved program for extra long staple cotton; to the Committee on Agriculture.

By Mrs. BYRON:

H.R. 5524. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. CARNEY:

H.R. 5525. A bill to amend the Federal Property and Administrative Services Act to provide policies, methods, and procedures for determining the most economical and efficient method of procurement and supply of personal property and nonpersonal services by the Administrator of General Services as a mandatory source of supply and services by all Federal agencies; to the Committee on Government Operations.

By Mr. LEWIS:

H.R. 5526. A bill to improve the quality of table grapes for marketing in the United States; to the Committee on Agriculture.

By Mr. QUAYLE:

H.R. 5527. A bill to amend the Internal Revenue Code of 1954 to extend the application of section 167(k); to the Committee on Ways and Means.

By Mr. SMITH of Iowa:

H.R. 5528. A bill to amend the United States Grain Standards Act for the purpose of expanding foreign trade by improving and maintaining the quality of grain for export; to the Committee on Agriculture.

By Mrs. SPELLMAN:

H.R. 5529. A bill to amend title 39, United States Code, to provide that absentee ballots cast in any public election or referendum may be mailed free of postage and that certain voting materials may be mailed at reduced rates; to the Committee on Post Office and Civil Service.

By Mr. ULLMAN (for himself, Mr. Rostenkowski, Mr. Conable, and Mr. Duncan of Tennessee);

H.R. 5530. A bill to extend certain temporary tax provisions; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 5531. A bill to amend the Trademark Act of 1946 to clarify and specify the intent of such act regarding certain protections afforded registered marks; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H.J. Res. 415. Joint resolution authorizing and requesting the President to issue a proclamation designating the week of January 21 through January 27, 1979, as "Junior Achievement Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LONG of Maryland presented a bill (H.R. 5532) for the relief of Frank McCormack, which was referred to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

312. The SPEAKER presented a memorial of the Legislature of the Territory of Guam, relative to the Presidential Task Force report on Guam's political status, which was referred to the Committee on Interior and Insular Affairs.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4656: Mr. McKay.
H.R. 4970: Mr. Hillis.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. Skelton.

H.R. 135: Mr. Moakley.

H.R. 1290: Mr. McKinney, Mr. Cleveland, Mr. Dougherty, Mr. Mitchell of New York, Mr. Fithian, Mr. English, Mr. McCloskey, and Mr. Johnson of California.

H.R. 2191: Mr. Murphy of New York.

H.R. 3227: Mrs. Schroeder.

H.R. 3558: Mr. Hamilton.

H.R. 4215: Mr. Volkmer.

H.R. 4686: Mr. Erdahl, Mr. Vento, Mr. Andrews of North Dakota, and Mr. Lowry.

H.R. 4783: Mr. Stump, Mr. Lagomarsino, Mr. Chappell, Mr. Burgener, Mr. Sabo, Mr. Coughlin, Mr. Lloyd, and Mr. Dornan.

H.R. 4787: Mr. Derwinski.

H.R. 5126: Mr. Marriott.

H.R. 5304: Mr. Boland, Ms. Mikulski, Mr. Drinan, Mr. Miller of California, Mr. Moakley, Mr. Johnson of Colorado, Mr. Pepper, Mr. Bingham, Mr. Charles H. Wilson of California, Mr. Royer, Mr. Vento, Mr. Studds, Mr. Dellums, Mr. Mottl, Mr. Glickman, Mr. Beilenson, Mr. Pease, Mr. St Germain, Mr. LaFalce, Mr. Fascell, Mr. Mitchell of Maryland, Mrs. Spellman, Mr. Blanchard, Mr. D'Amours, and Mr. Diggs.

H.R. 5330: Mr. Royer, Mr. Jenrette, Mr. Coughlin, and Mr. Nelson.

H.R. 5437: Mr. Jenrette and Mr. Gudger.

H.R. 5519: Mrs. Fenwick.

H.J. Res. 393: Mr. Robert W. Daniel, Jr., Mr. Jenrette, Mr. Corcoran, Mr. Dicks, Mr. Evans of Delaware, Mr. Madigan, Mr. Frenzel, Mr. Rousselot, Mr. Ertel, and Mr. Evans of Georgia.

H. Con. Res. 129: Mr. Carney, Mr. Evans of Georgia, and Mr. Traxler.

H. Res. 383: Mr. Cavanaugh, Mr. Stangeland, Mr. Andrews of North Dakota, and Mr. Bereuter.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

205. By the SPEAKER: Petition of the Kansas Independent Oil & Gas Association, Wichita, Kans., relative to natural gas price controls, underground injection for oil and gas production, and the Interstate Oil Compact Commission; to the Committee on Interstate and Foreign Commerce.

206. Also, petition of the Kansas Independent Oil & Gas Association, Wichita, Kans., relative to crude oil excise taxes; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2061

By Mr. NEAL:

—Page 236, beginning in line 6, strike out "or as a fireman." and insert in lieu thereof the following: ", a fireman, or a rescue squad member; and".

Page 236, line 3, strike out "and".

Page 236, after line 7, insert the following:

"(8) 'rescue squad member' means a person—

"(A) certified by a public agency to carry out; or

"(B) acting for a nonprofit corporation and carrying out;

functions as part of a legally organized rescue squad or similar prehospital emergency medical unit.

H.R. 3000

By Mr. DASCHLE:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 58, after line 19, insert the following new section:

COLLECTION, EVALUATION, AND DISSEMINATION OF INFORMATIOON REGARDING BIOMASS

Sec. 705. (a)(1) The Secretary of Energy shall collect, evaluate, and disseminate to the general public information regarding—

(A) the collection of biomass and the conversion of biomass to energy and to fuels for the production of energy, including the technology of such collection and such conversion,

(B) any financial assistance and any financial incentive available from any source in connection with the conversion of biomass to energy or to fuels for the production of energy (including the construction of plants for such conversion) or in connection with the production of energy from fuels produced from biomass,

(C) the utilization of fuels and byproducts produced from biomass, and

(D) any law of the United States applicable to the collection, acquisition, transportation, transfer, conversion, or disposal of biomass, or fuels or byproducts produced from biomass.

(2) The Secretary shall inform the general public of the availability of information collected and evaluated under paragraph (1).

(b) Not later than 60 days after the close of each fiscal year occurring after the date of the enactment of this Act, the Secretary shall submit to each House of the Congress a report describing the activities undertaken by the Secretary to carry out subsection (a), the results of such activities, and any recommendations of the Secretary regarding the implementation of such subsection in such fiscal year.

By Mr. DONNELLY:

(To the amendment in the nature of a substitute to H.R. 3000; page and line numbers refer to H.R. 4839.)

—Page 40, after line 23, insert the following new subsection:

(c)(1) The Secretary of Energy, acting through the Economic Regulatory Administration, shall conduct an investigation with funds appropriated pursuant to subsection (a)(2)(E) to determine the extent to which the credit practices and terms and conditions of sale in effect between refiners and the wholesalers and retailers to whom they sell and who are engaged in the marketing and distribution of middle distillates within the United States—

(A) adversely affect the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers of middle distillates;

(B) are justified by current market conditions; and

(C) are consistent with the public interest.

(2) As soon as practicable (but in no event later than 60 days after the date of the enactment of this Act), the Secretary shall complete the investigation under paragraph (1) and shall prepare and submit to the Congress a report on the results of that investigation. Such report shall include—

(A) the Secretary's findings,

(B) a description of any differences between the credit practices and terms and conditions of sale in effect for sales by refiners to their affiliates, and those in effect for sales by refiners to others;

(C) the feasibility of requiring credit provided by refiners for at least 20 days following delivery in cases of sales of middle distillates;

(D) a description of any administrative actions to be taken on the basis of that investigation and such findings, and

(E) any recommendations for legislation which the Secretary considers appropriate.

(3) For purposes of this subsection—

(A) the term "middle distillate" means No. 1 and No. 2 heating oils and No. 1–D and No. 2–D diesel fuels, as such terms are defined in section 212.31 of title 10, Code of Federal Regulations (as in effect on the date of the enactment of this Act); and

(B) terms used in this subsection which are defined in the Emergency Petroleum Allocation Act of 1973 shall have the meanings given them by that Act.

By Mr. LAGOMARSINO:

—Page 78, after line 9, insert the following new section and renumber subsequent sections accordingly:

LIMITATIONS ON STORAGE OF SPENT NUCLEAR FUEL IN THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES OF AMERICA

SEC. 810. No funds authorized to be appropriated pursuant to this Act may be used for the transportation to or the interim, long-term, or permanent storage of spent nuclear fuel or high-level radioactive waste on any territory or possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which both Houses of the Congress are in session or either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies as soon as possible the Speaker of the House of Representatives and the President of the Senate of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

By Mr. SHARP:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 41, line 20, after "Act" insert ", and under section 302 of this Act to the extent provided therein".

Page 41, after line 24, insert the following new section:

INFORMATION ASSISTANCE FOR LOCAL CONSERVATION ACTIVITIES

SEC. 302. (a) Of the amount authorized to be appropriated under section 301(2)(C) there is authorized to be appropriated to the Department for the fiscal year ending September 30, 1980, not to exceed $1,100,000 for purposes of carrying out the local energy reference center under subsection (b) and $1,200,000 for purposes of carrying out the documentation and data-sharing grant program under subsection (c).

(b)(1) Not later than 120 days after the date of the enactment of this Act, the Secretary shall establish a local energy reference center, to serve during the fiscal year ending September 30, 1980, as a data bank and information center for States and units of local government. The local energy reference center shall be established through a contractual arrangement with a nonprofit organization experienced in the dissemination of information to localities, such as a national organization representing elected local government officials, or a consortium of such organizations. The local energy reference shall—

(A) maintain a program for the collection and processing of information—

(i) which relates to the promotion of energy conservation or the development of renewable energy resources;

(ii) which is of general usefulness to units of local government; and

(iii) which has been voluntarily submitted to the center; and

(B) make such information available (and provide copies thereof), without charge, to any State or unit of local government requesting such information.

(2) The center may reimburse any unit of local government which provides information to the center for costs of duplication incurred in providing that information.

(c)(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall establish a program under which grants will be made, upon proper application, to units of local government that have demonstrated success in energy projects. Such grants shall be for—

(A) collecting, processing, and duplicating information which relates to the energy projects conducted by that unit of local government and which is of general usefulness to other units of local government; and

(B) providing such information to the reference center created under subsection (b) or directly providing that information, on request, to other units of local government.

(2) No grant recipient under this subsection may receive more than 3 percent of the total funds appropriated for purposes of this subsection.

(d) For purposes of this section—

(1) the term "unit of local government" means any city, county, town, municipality, or any other political subdivision created by or pursuant to State law;

(2) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

(3) the term "energy program" means any program or activity carried out by a unit of local government intended to reduce energy consumption, increase efficiency of energy use, or increase the use of renewable resources.

By Mr. SYMMS:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 40, after line 23, insert the following new subsection:

(c) No funds authorized to be appropriated under this Act may be used to promulgate, administer, or enforce any regulation, or to issue or enforce any order, which would have the effect of continuing any mandatory allocation of, or price controls on, crude oil, petroleum products, or natural gas. This section shall not prohibit funds authorized to be appropriated under this Act to be used—

(1) for any pending administrative, civil, or criminal action or proceeding which has not been finally determined on the date of the enactment of this Act; and

(2) for any administrative, civil, or criminal action or proceeding which is based on any act committed, omission occurring, or liability incurred, before the date of the enactment of this Act.

By Mr. TAUKE:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 40, after line 23, add the following new section:

STANDBY NATIONAL SET-ASIDE PROGRAM

SEC. 202. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, such sums as may be necessary to carry out the program established under subsection (b) of this section.

(b) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy, after consultation with the Secretary of Agriculture, shall establish a national set-aside program to provide middle distillates for agricultural production.

(c) The program established under subsection (b) shall—

(1) be made effective only if the Secretary of Energy, in consultation with the Secretary of Agriculture, finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that such shortage—

(A) has impaired, or is likely to impair, agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program to provide middle distillates for agricultural production within any region involved;

(2) provide that in any region in which the program established under subsection (b) is in effect, prime suppliers of middle distillates be required to set aside each month 1 percent of the middle distillates to be supplied during that month in such region;

(3) provide that amounts of middle distillates set aside under such program be directed to be supplied by such prime suppliers to applicants who the Secretary of Energy determines would not otherwise have adequate supplies of middle distillates to meet requirements for agricultural production;

(4) provide that such prime suppliers may supply middle distillates in any region in

which the program established under subsection (b) is in effect, either directly or through wholesale purchasers who resell fuel, only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the regulation promulgated by the President under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

(d) For purposes of this section—

(1) the term "agricultural production" shall have the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act, except that such term shall include the transportation of agricultural products;

(2) the term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of a middle distillate to any purchaser in a region for consumption in such region;

(3) the term "middle distillate" shall have the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act; and

(4) the term "region" shall have the meaning given the term "PAD district" in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

By Mr. WYDLER:

—On page 56, line 21 and 22, substitute the following new title: "TRANSITIONAL STORAGE OF SPENT FUEL".

On page 57, after line 7, insert the following new subsection:

(b) In providing for transitional storage of spent nuclear fuel the Secretary of Energy shall give primary consideration to such fuel from United States reactors to insure that each has the ability to maintain Full-Core-Reserve (FCR) in its spent fuel storage capacity. In carrying out the activities of this Section to provide transitional spent fuel storage, the Secretary shall give first priority to existing Government and private facilities and, particularly, investigate the suitability of the Barnwell Nuclear Fuels Plant in South Carolina for such storage. In designating such facilities for transitional storage, the Secretary shall take into account transportation and safeguard requirements and other factors which may be appropriate.

(c) Upon the initiation of operation of the Away-From-Reactor (AFR) Storage Facility referred to in section 502 of this Act, the Secretary shall, as soon as is practicable, in accordance with the provisions of this title, authorize removal of all the spent fuel referred to in this title to said AFR.

On page 57, redesignate the subsection (b) as subsection (d).

EXTENSIONS OF REMARKS

TRIBUTE TO EARNIE SHAVERS

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, I take great pleasure in saluting a friend, a great athlete, a devoted husband and father, a man who at least twice in his lifetime was within seconds of holding the heavyweight boxing championship in his hand. I have known Earnie Shavers for a number of years and he has never disappointed me as a person.

A son of an impoverished farmworker, Earnie was born in Garland, Ala., the fifth of 10 children. When his father moved to the Warren, Ohio, area in 1949, Earnie established himself as a star athlete at Newton Falls High School, earning honorable mention all-Ohio as a halfback, and distinguishing himself in track. Even today at 6 feet and 210 pounds he can run the 100-yard dash in 10.5 seconds.

At age 20 Earnie married his high school sweetheart, Laverne, whom he first met at choir practice at the local Baptist church. To support her he worked as a fireman in a foundry and on an automobile assembly line. Throughout his career, his first thought has been to provide for Laverne, and for his five daughters—Tammy, Cynthia, Catherine, Carla, and Amy.

In 1967, at age 23, Earnie got into boxing accidentally when he accompanied a friend to a gym in Youngstown, Ohio. Learning to box, he progressed quickly to become the AAU champion in 1969, following which he turned professional.

From August 29, 1970, to August 26, 1972, he put together a string of 27 straight knockouts. Jerry Quarry temporarily sidetracked Earnie in 1973 with a first-round knockout, but true to his mettle, Earnie fought his way back, and in September 1977, he met Muhammad Ali in Madison Square Garden for the world's championship. He lost the 15-round decision by a whisker, and many thought he had won.

Undaunted, Earnie worked. Several months later, in Las Vegas, he met a young prospect, Larry Holmes. The winner was to get a shot at the newly crowned World Boxing champion, Ken Norton. Earnie lost. And again he worked. Larry Holmes defeated Ken Norton for the title. Earnie fought his way back. When he met Norton, the No. 1 contender, Norton fell in one round. Earnie was back at the top.

When Earnie met Holmes in Las Vegas on Friday, September 28 of this year, those of us who saw the right hand explode in Holmes' face and watched the champion's knees buckle as he swayed to the canvas, thought that Earnie had put it all together. It was not to be. Exhausted, he forced himself to the attack as long as he could lift his arms.

"Why don't you quit?" Holmes asked him as they clinched.

"I don't quit," Earnie replied.

When the referee stopped the fight, Earnie was on his feet.

It is indeed a pleasure for me to salute my gallant friend. It is a greater pleasure to know him.●

ANDERSON SALUTES CITY OF CARSON FOR ITS RECOGNITION OF THE BICYCLE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. ANDERSON of California. Mr. Speaker, for many years I have been espousing the utility of the bicycle in our society. Now that we are paying, a dollar or more for a gallon of gasoline, the beauty of the simple bicycle should be apparent to all.

Unfortunately, last month when I offered an amendment on the floor of the House to increase funding of the Department of Transportation bicycle program from $4 million to $10 million, I was roundly defeated. It is evident that too many of our colleagues think of the bicycle as little more than a child's toy. It can be so much more.

I am truly pleased that the city of Carson, which is a part of the district that I represent, recognizes the valuable role bicycles can play in our country. Throughout the city, October 2 was celebrated as "Two Wheel Transportation Day."

I would like to include for the RECORD, information on this event that was released by the city of Carson, Calif. I hope other cities will follow Carson's example.

The material follows:

NEWS RELEASE

CARSON, CALIF. September 13, 1979.—The City of Carson City Council has proclaimed Tuesday, Oct. 2 as Two Wheel Transportation Day in the city.

In so doing, the Council supports action instituted by the Los Angeles Council of Presidents, the Moped Association of America, the Bicycle Manufacturers Association, the Motorcycle Industry Council, the Parking Association of California and other groups "involved in the promotion of two wheel transportation."

A proclamation drawn up by these groups states "that whereas energy supplies are dwindling and the cost of gasoline is rising, Los Angeles area citizens are urged to consider two wheel transportation whenever possible as an alternative to the automobile."

And "whereas, four out of five automobile trips are single passenger and within a radius of 10 miles from the point of origin, the use of two wheel transportation is a viable alternative to the use of the automobile. There are over one million two wheel vehicle owners in the Los Angeles area; in order to allow them the opportunity to drive their two wheel vehicles, all businesses, corporations and other organizations are urged to expand their efforts to provide security parking for these two wheeled vehicles."

It is the unanimous belief of the City Council "that this idea deserves the full support of all citizens of Carson."●

SENSIBLE SUGGESTIONS FOR A STABLE NUCLEAR FUTURE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. WYDLER. Mr. Speaker, last month in New Orleans, Mr. Donald G. Avery, deputy managing director, British Nuclear Fuels, Ltd., made a particularly thoughtful speech to the American Nuclear Society International Session. Mr. Avery articulated and synthesized what many of us in the Congress have been saying and feeling since this administration embarked on its unsound and impulsive nuclear policy in the spring of 1977.

Mr. Avery's statement was given from a personal perspective but there is no doubt in my mind that he speaks for the British Government's stated, rational policy toward the nuclear option.

I suggest that all my colleagues who are interested in the future of nuclear energy in this country and desire international stability should consider the following excerpts:

ON THE BANKRUPTCY OF "A POLICY OF DENIAL"

Healthy international nuclear trade, provided it is conducted against a set of stable and agreed international rules, far from being a potential source of weapons proliferation is one of our biggest defences against it. There is no way by which the current nuclear nations can prevent others from using this energy source by a policy of denial of access to technology or materials. We have no monopoly of human skills and we certainly have no monopoly of political will. Neither can such a policy expect to succeed in influencing the direction which nuclear development in other countries will take, since this will depend on individual nations' perception of their need for nuclear power and of the resources they have available to meet that need.

We need the right climate for nuclear commerce therefore so that these developments can take place under an international umbrella, where we can be satisfied for example that adequate international standards exist covering waste disposal techniques, or the safety of reactor and plant operation, in addition to safeguards and non-proliferation conditions. The alternative will be not that nuclear power will not spread, but that it will spread in an unco-ordinated way with no assurance that broadly comparable safety and environmental standards are being observed and with much less control over the all-important proliferation issues.

However, such an international framework can only be effective if it is reasonably stable. In an industry with lead times as long as ours, it is scarcely possible to expect any major growth in international commerce if suppliers and customers are not reasonably confident that the rules will not be changed unilaterally during the period required for the execution of contracts. The basic difficulty is of course that the half lives of Governments in democratic countries, or their speed of response to domestic pressures whilst in office, is a lot shorter than the lead times commonly involved in the industry. These decay or response items are also frequently shorter than the stated period of validity of the international treaties which form the essence of the necessary framework for commerce.

But an absolute pre-requisite for international nuclear commerce must be that Governments accept at least that changes to such treaties can only be by mutual agreement and to provide a length of time for any renegotiation which they may wish to institute, which would be meaningful in terms of the contracts affected by it.

The need for an international consensus in the safety and environmental fields arises of course because nuclear practices or a nuclear incident in one country can have both a direct physical effect on its neighbours, in terms of the movement of radioactivity discharged to the environment, and an important indirect effect on the public acceptability of nuclear power world-wide. Today, in this industry, an accident anywhere is an accident everywhere—whether it originates at Three Mile Island or at Windscale.

What then should we be looking for from this international framework or umbrella, and what should we in the industry regard as necessary for our common good to meet the general problem of public acceptability? For if we don't do this latter there will not only be no international nuclear commerce, there won't be much domestic trade either. I shall try to illustrate my thoughts by concentrating on one or two aspects in the fields of safety and waste management and the question of assurance of fuel supplies and services.

ON INTERNATIONAL CONTROLS

It is important to try to distinguish between what are reasonable and proper provisions in international agreements, what conditions are reasonable for supplying countries to attach to contracts, and what can and should be left to customer or recipient country choice or to supplier/customer agreement without Government intervention. I believe that the international umbrella, and any controls imposed by the supplier country, should be restricted to cover only those issues which can be agreed as genuinely necessary to cater for matters clearly of international concern, rather than attempt either to dictate the domestic policies of customers or to reflect the domestic attitudes of suppliers. It has been possible on occasion to gain the impression, put to me by a senior UK official who shall remain nameless, that some arguments put forward are less designed to provide general solutions than to protect the virginity of the originator.

Essentially therefore, the international framework should concentrate on securing acceptance of commonly agreed principles and standards as they may relate for example to discharges to the environment, to waste management practices, or to safety criteria related to plant design and operations. These principles and standards should be aimed at ensuring first that no one country's practice in these fields should be such as to create an environmental hazard to its neighbours, and secondly that practices everywhere will be such as to lessen the risk of nuclear power being made generally unacceptable by one specific incident somewhere in the world.

We have such a framework already in the safeguards field through the IAEA, and similarly we have the Agency's recommended standards for physical protection. We have the basis for such an international set of standards in the environmental field through the mechanism of the ICRP, which sets out to provide basic guidance on environmental hazards and introduces the all important concepts of optimisation and cost effectiveness through the "as low as reasonably achievable" principle. From this it should be possible, given the will, to establish commonly agreed criteria against which individual countries can undertake to set their design and operating objectives. I am of course aware that there are significant differences between reputable bodies over the precise validity of some of the ICRP's views, and I am not seeking here to defend any stance in that debate. But just as the existence of the IAEA standards and procedures in the safeguards field, despite the recognised need for improvement, have done a great deal both to make international trade possible and to strengthen significantly our collective defences against proliferation so it can be argued that general acceptance of a framework of environmental standards and principles for their application would materially ease the way to further international trade.

ON THE REALITIES OF NUCLEAR WASTE MANAGEMENT

One such issue arises in the area of high level waste disposal. The technology of conditioning these wastes has reached the point, with the work in France leading the way, where vitrification in boro-silicate glass can be accepted as a practical industrial process. Within a decade it seems most probable that this technique will be becoming widespread and very possibly other forms of vitrification will be at an advanced stage. Once vitrified the hazard represented by high level waste in engineered storage on the earth's surface is not large and can be very adequately controlled with a minimum of surveillance. Moreover, the longer waste is held in such stores the cooler and less active it becomes and the criteria required for a final disposal site become much easier to fulfill.

Of course if one assumes a breakdown of public order and withdrawal of surveillance, one can postulate some harm to individuals over a small area but in these circumstances the hazard represented may be among the least of society's worries. It is questionable therefore whether it is necessary or even desirable in the light of rational analysis of the hazards involved to proceed in haste to final disposal. Certainly I have seen no demonstration that it is cost-effective in terms of hazard reduction.

The very nature of the problem means that all the technologist can offer is a statistical statement about the very low probability of escape from the final disposal site. With today's attitudes what is in fact sought in some quarters is an absolute guarantee. There is thus scope for endless and almost theological arguments over what constitutes a satisfactory demonstration. Whilst it is important for R&D on the several possibilities for ultimate disposal to be pushed ahead, I believe any rational analysis suggests that there need be no haste towards a final decision and certainly no case for holding up further expansion of nuclear power until ultimate disposal can be "proved". I suggest therefore that it is in the industry's collective interest to promote the concept of long term surface retrievable storage as an acceptable solution

ON THE PROMISE OF THE FAST BREEDER REACTOR

Finally a brief word about the advent of alternative fuel cycles and their effect upon international commerce. In the discussion on this topic at the Hamburg Conference in May, a common view was apparent that none of the alternative thermal fuel cycles, however technically interesting, offered sufficient advantage over the present uranium/plutonium cycles to justify diversion of effort from the remaining problems we have to solve with that system. In essence therefore in considering alternative fuel cycles one must concentrate on the fast breeder system. In the contexts of safety or waste management, there seems no difference in principle which would lead to conclusions on the type of international framework and type of industrial attitudes different from those which I have been trying to outline. Indeed the overall environmental and radiological impact of the fast breeder system may well be less than that from the current fuel cycles because of the much reduced need for uranium mining and milling.

The central question over the fast breeder is of course whether or not its introduction would represent a step change in proliferation risk. At the Windscale Inquiry I argued that separating plutonium for use in FBRs would not increase proliferation risks to an extent that would justify us turning our backs on the energy resources it will unlock. I put that view two years ago against the background of postulating improved safeguards and some measure of increased international control, in particular through the concept of the introduction of internationally-controlled plutonium storage to protect the necessary stockpiles of plutonium. I have heard and read many arguments around this topic in the succeeding two years, but have found no reason to change my view that the developments in international control which I believe to be anyway necessary can equally accommodate the fast breeder system.●

REGROUPING FOR THE DISTRICT OF COLUMBIA AMENDMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. MAZZOLI. Mr. Speaker, it would be folly for residents of the District of Columbia to let enthusiasms to ratify the District of Columbia voting rights amendment flag—so, I believe the following editorial from today Washington Post is very much on target:

REGROUPING FOR THE DISTRICT OF COLUMBIA AMENDMENT

While WALTER FAUNTROY has been off tending to other business abroad, an important campaign he still claims to lead here at home—for ratification of the D.C. amendment—is in sorry shape. Nothing has diminished the case for granting District residents the same rights of citizenship other Americans have, nor is there much disagreement on this fundamental point among those who live here. But the story of the District of Columbia still needs to be told carefully and fully to the rest of the country. That is where the fate of the amendment will be determined.

Instead, an alarming amount of time, effort and money has been squandered while local groups fight over who will call which shots in this drive. Either this stops—or all the effort that went into House and Senate approval of the amendment will have been for nothing. There is plenty of work for all to do, but it should be in a coordinated, temperate, state-by-state educational campaign. State legislators and voters around the country are generally unfamiliar with the congressional representation issue; they know little about the people who live in Washington and who work in all sorts of jobs, pay federal and local income taxes and serve in the armed forces, yet who are not allowed a part in the levying of taxes or the making of other laws.

National groups such as the League of Women Voters have been, and continue to be, effective in getting the D.C. message out to people around the country. In an attempt to rekindle the drive and attract new national understanding, the D.C. League is sponsoring a rally Thursday afternoon in Lafayette Park; emphasis will be on ways in which word can be spread in the states. Other national organizations with affiliates and lobbying experience in the state capitals need fresh encouragement, too. Republicans, Democrats, business and labor leaders, blacks and whites may have to restrain personal and political ambitions so the amendment can be presented accurately as a matter of basic justice, not as a racial or partisan issue.

In the past, the important period of time for ratification of amendments has been the first two years after congressional passage. One year is already gone. Any more upstaging, internecine warfare or ill-planned invasions of state capitals will do severe damage as the search for votes necessarily moves from the friendliest legislatures to those more susceptible to misleading or wrong information. In all, there are 6 years—and 32 states—to go.●

FEDERAL REGULATORY POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 10, 1979, into the CONGRESSIONAL RECORD:

FEDERAL REGULATORY POLICY

Almost everyone I know would agree that the federal government must lead the way in the fight against inflation. One of the best ways for the government to show this leadership is through the reform of its regulatory policy.

What does regulatory reform mean? It means that we examine and, where necessary, change or eliminate regulations which promote special interests, restrain competition, impose excessive costs on business, or otherwise interfere with the efficient functioning of the free market. In short, it means that we take a very hard look at the entire intricate network of regulations which runs through the economy. In my opinion, reform of regulations should have a high place on the national agenda.

Some progress is being made. Last year we had the most complete deregulation of a large industry in recent history as the airlines were forced, not too willingly, into the free market. This year Congress is considering doing the same thing to the trucking industry, and as legislators deliberate the Interstate Commerce Commission is moving to make entry into the industry easier. Another bill in Congress would deregulate the railroads. Big changes are ahead in other areas as well. The Federal Communications Commission has moved to eliminate restrictions on radio stations and television cable operators, and the President has urged Congress to rewrite the basic communications law, substituting competition for regulation wherever possible. Deregulation of domestic crude oil prices over the next two years represents a major recommitment to the free market, as does a new food inspection plan which will make meat and poultry processors themselves responsible for seeing that their products meet federal standards. The principle in each case is simple: if competition works, the government should withdraw.

There is other evidence of progress. The Occupational Safety and Health Administration (OSHA) has dropped nearly a thousand "nuisance" regulations and has exempted 40,000 businesses from the filing of annual reports. The Environmental Protection Agency (EPA) has proposed limits on the total amount of air pollution emitted by plants, not on specific sources of air pollution within plants. The Consumer Product Safety Commission is turning its attention to big problems, giving less priority to hazards that do not threaten life or limb. In the Department of Health, Education, and Welfare more than 2,500 pages of rules have been reworked, consolidated, or eliminated. Overall trends are promising, too. With longer comment periods and more hearings being held outside Washington, public participation in the regulatory process is on the rise. Also, regulators are beginning to cooperate more closely with one another. EPA, for example, has suspended work on coke oven emissions while OSHA develops its plan to regulate coke ovens. Duplication and overlap are avoided from the start.

These facts suggest that we have begun to see a substantial change in federal regulatory practices that have gone relatively unchanged for a period of 30 years. A new approach to regulation is emerging. It features the use of cost-benefit analyses, the elimination of conflict among regulations, the participation of the public in regulatory decisions, the requirement that alternatives to regulation be studied, and the rewriting of regulations into plain English. The new approach has several common emphases: the use of economic incentives to encourage conduct in the public interest; performance standards, that is, allowing industry the choice of means to achieve goals rather than spelling out how industry must achieve goals; more information so that consumers can make intelligent choices; and self-regulation, that is, getting industry to police itself.

One of the best things about the new approach is its potential effect on the attitudes of regulators. Before they promulgate regulations, the regulators will have to ask themselves a number of questions: Is this the most economical way to accomplish our task? Have we made sure that our rules are compatible with those of other agencies? Were the people most affected by our rules given a chance to have their say? Is this the least intrusive way for us to administer the law? Could a layman understand our rules? Regulators who fail to ask these questions will see their work challenged in court, in Congress, and in public opinion.

It is extraordinarily difficult to rechannel federal regulatory policy in a non-interventionary and anti-inflationary direction. The basic problem is that the entire regulatory process has operated outside normal economic and political controls. Regulatory agencies issue rules, but they do not pay the costs of compliance. These agencies have enormous power, but they have not been checked by the President and Congress.

We are a long way from claiming victory in our effort to improve federal regulatory policy. The performance of the regulatory agencies in meeting their goals, though heartening in some instances, is uneven. Moreover, some agencies have been stronger than others in their commitment to regulatory reform. I submit, however, that there is reason for optimism. We must work hard to ensure that the new approach to regulation becomes ever more firmly rooted in the federal regulatory establishment.●

SEWICKLEY TOWNSHIP SUPERVISOR HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. BAILEY. Mr. Speaker, on October 13, 1979, the Fireman's Club of Lowber, Pa., will hold a testimonial banquet for a distinguished citizen of Pennsylvania's 21st Congressional District, Mr. Ted Steadman. I am very pleased to join them in praising this fine man who has admirably served as Sewickley Township supervisor for the past 26 years.

Ted has long been recognized as an active participant and leader in Sewickley community affairs. Furthermore, he is a dedicated sportsman who especially enjoys hunting.

It is fitting and proper that Ted Steadman be acknowledged for his loyalty and devotion to Sewickley Township. He has earned the esteem and respect of all of us. I join with the Lowber Fireman's Club in saluting a well-regarded community leader and outstanding American—Ted Steadman.●

HOUSE CONCURRENT RESOLUTION 147: FREEDOM FOR THE BALTIC STATES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. DORNAN. Mr. Speaker, it was a great pleasure for me to be an original sponsor of House Concurrent Resolution 147, expressing the sense of the Congress with respect to the Baltic States. As you may know, Mr. Speaker, I have entertained a special interest in the status of the Baltic States and the welfare of the Baltic peoples ever since I was elected to Congress in 1976. In the 95th Congress, I sponsored House Concurrent Resolution 312, calling for self-determination for the Baltic States; and among others, I introduced another version of that resolution earlier this year. I am happy that we are joining our efforts this year, and with good fortune and the support of our colleagues, we may yet be able to pass this important expression of support for the long suffering peoples of Latvia, Lithuania, and Estonia.

My interest in the welfare of these people is hardly academic. I have been personally touched by the personal tragedies of these people; in particular, those of Balys Gajauskas, a Lithuanian freedom fighter, who spent 2 years in a Nazi concentration camp, and 25 years in Soviet prisons. A member of the Helsinki monitoring group, he was arrested again and sent to a special regimen prison. I have circulated a letter cosigned by 150 of my colleagues, addressed to Mr. Brezhnev, asking that Gajauskas be allowed to go free and be reunited with his family, living here in the United States in my own California district.

The Soviet annexation of the Baltic States in 1940 was an international outrage. As stated in our concurrent resolution, the United States has always condemned such actions and has stood "four square" for national self-determination ever since we entered into our own national life in 1776. The Latvians, the Lithuanians, and the Estonians are distinct national peoples, with cultural, linguistic, and religious traditions markedly distinct from the Great Russians who dominate Soviet cultural life and national politics. If the original seizure of Baltic territories in 1940 was an outrage, the Soviet policy toward the Baltic peoples in 1979 remains an outrage.

At the present time, the Soviet policies against the Balts are especially pronounced in Lithuania. Lithuania is a national state more than 700 years old. The Soviet seizure, occupation, and annexation of Lithuania by the Soviet Union in 1940, in direct violation of the Soviet-Lithuanian Non-Aggression Pact of 1926, was the culmination of decades of harsh Russian oppression.

The Lithuanian people had previously suffered under czarist rule for 126 years. But the Soviet occupation of Lithuania was no mere change in political administration. The Soviets attempted to communize a Roman Catholic people, and "russify"—if I may use that horrid word—an ancient national entity. Soviet occupation of Lithuania has been characterized by brutal measures to eradicate the Lithuanians as a district people, to destroy their language, their religion, their customs and their culture. In recent years, the Soviets have intensified their repression in Lithuania. Lithuanian dissidents, most notably Victoras Petkus and Balys Gajauskas, among many others, have been jailed, tortured, and sentenced to Soviet labor camps and psychiatric wards. As with the Soviet Jewish dissidents, who are bravely withstanding the hammerlike assaults of a massive totalitarian state, the only hope for these brave people rests with the determination of the United States, in its formal expression by the Congress of the United States, to call to the attention of the world the continuing, relentless, foreign oppression in Lithuania.

Mr. Speaker, I imagine that you, and other distinguished members of this committee, sometimes think that your senses are going to be dulled by the constant recitation, before this subcommittee, in the press, and in the general media, of human rights violations, mass murder in various parts of the globe, and numerous other atrocities. In the same way, I am afraid that we are becoming inured to arrogant and sometimes bellicose Soviet declarations and lies. I am sure that many Members of the Congress were appalled at the statements of Leonid Brezhnev and Mr. Andrei Gromyko instructing the Senate of the United States, constitutionally charged by the Founding Fathers of this Republic, with giving advice and consent on international agreements, to refrain from changing so much as a syllable in the SALT II accord. I was also astonished to hear Mr. Gromyko, yesterday, declare that the Soviet Union has never violated its international agreements. Such a baldfaced lie, which must have been delivered by the Soviet Minister in a spirit of utter contempt for his audience, is directly addressed by House Concurrent Resolution 147. There is no better time than the present for reminding the American people, who are about to be inundated with complex data essential to the national debate on SALT II, that the Soviet Union also signed the Final Act of the Conference on Security and Cooperation in Europe (the Helsinki agreement), which provides for equal rights and self-determination of peoples. The language of the declaration is explicit:

> All peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

Now, Mr. Speaker, we are confronted with the most arrogant gesture of all. Soviet claims on our own citizenry. I am referring of course, to the Soviet promulgation that, as of July 1, 1979, any person who was born in the Soviet Union, who was naturalized as a Soviet citizen, or who is the child of parents who were Soviet citizens at the time of his birth, irrespective of whether or not he or she was born in the Soviet Union, is a Soviet citizen.

Our concurrent resolution properly calls attention to the fact that this Soviet law applies to millions of Americans. Think of it. It is bad enough the Kremlin has the arrogance to dictate to the other body and lie to our faces on the elementary facts of their own diplomatic history. Now, they are making claims on the lives and liberties of our own people. If for no other reason than this recent display of unmitigated Kremlin arrogance, the House must pass this concurrent resolution.

The implications of this Soviet law are shocking. A citizen is a constituent element of a sovereign state. An assault against the sovereign state's citizenship logically entails an assault against the state itself. This is not a dry abstraction of political science; it is a life and death issue.

The United States—and every civilized national state to my knowledge—has always recognized the right and duty to protect her own citizens. I would remind the subcommittee that the major reason for the declaration of war against Great Britain in 1812 was an unspeakably arrogant British practice of boarding our ships, on the high seas, and impressing our sailors into the British Navy. It has been generally recognized that the Constitution permits the President of the United States, as Commander in Chief, to determine whether a situation requires the use of force to protect American life and property overseas. In 1900, for example, President McKinley, without consulting the Congress, sent military forces to China to protect both American citizens and foreign legations threatened by Chinese insurgents, the "Boxers." We have always taken this matter very seriously. We should now send clear and unmistakable signals to the Soviet Union that we will look upon any attempt to intimidate, arrest, or detain any American citizen of Baltic origin or heritage, traveling in the Soviet Union, as an unfriendly act and a direct assault on the honor and integrity of the United States as a sovereign state.

Mr. Speaker, I sincerely hope that we can pass this concurrent resolution, affirm our support for the self-determination of the Baltic peoples, and declare our intention to protect our own citizens and thus the honor and integrity of the United States.●

ALASKAN ENERGY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, as you know, the Senate Committee on Energy and Natural Resources will shortly begin consideration on a number of bills dealing with the disposition of Federal land in Alaska. This issue, commonly known as "D-2," was dealt with by the House in May of this year. At that time, over the objections of the Alaska congressional delegation, the State of Alaska, many conservationists, and the people of my State, the House passed H.R. 39, better known as the Udall-Anderson bill.

Among the topics discussed during the House debate was the impact of H.R. 39 on domestic energy supplies. I, along with other opponents of H.R. 39, have pointed out that Alaska may be the last great onshore source of oil in the United States. Unfortunately, this tremendous energy potential will be blocked if H.R. 39 is enacted.

I think that we should remember that energy availability is a problem affecting all Americans, rich or poor, of every race, color, or creed. Without energy, our Nation will grind to a halt. In addition, from a more parochial viewpoint, legislation precluding economic development in Alaska will seriously harm the residents of my State.

I would like to share with you an article written by Mr. E. Louis Overstreet, president of the Alaska Black Caucus, that appeared on the front page of the August 1979, "Energy Scene," published by the American Association of Blacks in Energy. Mr. Overstreet has some excellent comments on the various Alaska lands bills and their effects on Alaska and the Nation as a whole. I commend it to each of you.

Mr. Speaker, I submit Mr. Overstreet's article to be published in the RECORD at this point:

REPRESSIVE CONGRESSIONAL AND DEPARTMENT OF INTERIOR LANDS ACTION WILL STYMIE ALASKA ECONOMIC DEVELOPMENT

(By E. Louis Overstreet)

Our State of Alaska is engaged in a struggle with the current national administration concerning the conveyance of State lands, which were guaranteed under our Statehood Act. This failure has significantly impacted our ability to plan and proceed with rational and ecological sound resource development, which we feel would help, in the future, alleviate our energy crisis and in the process help stabilize Alaska's current boom and bust economy.

The bill that was recently passed by the House side of Congress and that is currently in committee in the Senate side, we feel, if enacted into law, will destroy our ability to develop a people responsive economy. The portions of the bill that are most destructive is the designation of vast amounts of land into varying classifications of parkland. Proposed parkland acreage is in excess of 120 million acres; this acreage is larger than the great State of California. The most restrictive classification is wilderness. This classification does not allow for any orderly exploration to determine whether these areas exhibit any potential for resource development. The only activity that will be allowed is backpacking, and we all know this will benefit only a handful of rich people who want to "do their thing."

Given the structure of the bill, it is not surprising that it is receiving "zealot" support from the environmental community. The bill is almost completely void of appreciation for our national energy problem and the potential that exists in Alaska to be instrumental in the development of a national energy self-sufficiency "game plan."

Federal intervention and domination of state's rights will produce an overly restrictive lands bill. Given this is being perpetuated on Alaska during a time of a national energy crisis almost defies description.

As I referenced earlier, the environmental community has done a "job" on Alaska. They have used Secretary of Interior Andrus, and Congressman Mo Udall in a very effective manner. These two men have portrayed Alaskans as deranged people standing with bulldozers ready to embark upon a "rape and ruin" the land plan.

This type of portrayal fosters emotional fears in our Congress so that they are now, as spoken to, rushing to perpetuate a great injustice against the best interests of all Americans as well as citizens of Alaska.

Such a restrictive bill will retard, or worse, prevent the development of the energy resources of Alaska—primarily oil and gas.

Nationwide, the U.S. produces some 11.5 million barrels of oil daily, and imports 8.4 million to meet demands. Alaska's Prudhoe Bay and Cook Inlet fields produce nearly 1.4 million barrels a day—or about 12 percent of the nation's domestic supply. If another field of Prudhoe's size were found in Alaska, such as within the Arctic National Wildlife Range, Alaska could potentially contribute 22 percent of the nation's current domestic production—avoiding the shortages we have recently seen with Iran's curtailment of 500,000 barrels daily of U.S. supply.

Provisions governing petroleum resources in the Breaux-Dingell bill, which we supported, but which lost out to the Udall-Anderson bill, was sensitive to both wildlife and the environment and the energy needs of the country. For example, a carefully phased exploration program, beginning with two years of biological data gathering, would have been conducted on the coastal plain of the Arctic Wildlife Range. Even after eight years of careful assessment, development of this area could not have proceeded without the approval of Congress. Such a provision would have allowed Congress to fully consider the interests of the nation when all of the resource values and potential impacts have been brought to light the Breaux-Dingell bill would have mandated a leasing program to private industry on the National Petroleum Reserve, while at the same time providing for environmental protection of the area through surface designation as a National Wildlife Refuge. The bill would also have authorized new oil and gas leasing in other National Wildlife Refuges, but only if the Secretary of Interior finds such activity is compatible with the purposes of the unit.

It is clear from these provisions that the Breaux-Dingell bill was not a "development" bill at the expense of either wildlife or the land. Rather, it is a carefully structured balance of America's national interest in both energy and the environment. One other fact is also clear, the extent of Alaska's petroleum resources will not be known unless Congress provides for resource exploration and possible development if producible oil fields are discovered.

Concluding, a recent national survey conducted by Cambridge Reports documented that Americans 4 to 1 wanted to find out what we were giving up in terms of energy resources before making vast amounts of land in Alaska parklands. However, to date, our Congress remains insensitive to both the wishes of most Alaskans and our fellow Americans in the "lower 48".●

OUTSTANDING VA EMPLOYEE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. ROBERTS. Mr. Speaker, the Veterans' Administration has an outstanding record of accomplishment in meeting the needs of those disabled in service to our country. In addition, the VA is an example to all Government agencies in hiring disabled veterans and in recognizing the value of handicapped Americans from every sector.

On October 4, ceremonies were held in Washington honoring the 10 Outstanding Federal Handicapped Employees of 1979. Among those nominated was VA employee Hilliard A. Carter. Mr. Carter, a Vietnam combat veteran who lost his sight and both arms while serving in Southeast Asia, is a social work associate in rehabilitative services at the Hines Veterans' Administration Medical Center, Hines, Ill. I believe the following brief summary of his career and accomplishments definitely shows what can be achieved through human determination. It should also reaffirm the importance of our continued obligation to all those who have paid a price of their own in service to our Nation. I would like to take this opportunity to congratulate Mr. Carter, not only for his proven ability to overcome his own disabilities, but for his dedication and commitment in helping others do the same.

A blinded, armless Vietnam era veteran with a phenomenal memory for the needs and goals of the patients he helps at the Hines Veterans Administration Medical Center has been named one of the 10 Outstanding Federal Handicapped Employees of 1979.

He is Hilliard A. Carter, a 38-year-old social work associate who was wounded at Tuy Hoa, Vietnam, as a member of the 101st Airborne Division and who was once a patient at the Blind Rehabilitation Center at the hospital where he now works.

Carter is a key figure on the high-turnover alcohol treatment ward to which he is assigned. In addition to the professional services he provides, he is an inspiration to patients who are themselves physically handicapped. Recently he was called to a Chicago area community hospital to help motivate a patient with disabilities similar to his own.

Carter and the other nine agency-sponsored finalists in the annual award program, will be honored in ceremonies in the Nation's Capital on October 4.

In nominating him, Carter's superiors at Hines cited his dependability and his "positive, supportive attitude" toward the patients with whom he deals—an attitude "which conveys his respect for them."

The citation reads:

Mr. Carter consistently approaches assignments with enthusiasm and confidence, which is encouraging to the staff he works with and patients he interviews," the citation reads.

He is able to deal solemnly with people when the situation demands it, but he is also able to rely on his quick wit and humor in other appropriate situations with staff and patients despite the massive physical losses with which he must constantly contend.

A native of Jacksonville, Fla., Carter entered the Army in 1963 and volunteered for airborne training at Ft. Benning, Ga. He served in Vietnam from December 1965 until he was wounded in Steptember 1966.

He received a bachelor of general studies degree in 1974 from Roosevelt University in Chicago, and a master's degree in rehabilitation counseling and psychology in 1976 from the Illinois Institute of Technology.●

THE AMERICAN ILLUSION OF ARMS CONTROL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. MICHEL. Mr. Speaker, I recently read an article containing what I consider to be the best short description of the Carter administrations approach to the Soviet military build-up. The author, Richard Perle, writes of the "impression of arms control without the reality, the atmosphere of détente without substance, the rhetoric of peace and stability as our defenses decline." Surely no one has better and more succinctly captured the follies and the failures of the Carter administration.

At this point I wish to insert in the RECORD, "An Arms Control Treaty Built on American Illusions" by Richard Perle, in the Washington Post, Sunday, October 7, 1979:

AN ARMS CONTROL TREATY BUILT ON AMERICAN ILLUSIONS

(By Richard Perle)

Having come to office with virtually no experience in foreign affairs, President-elect Carter drew around him a small circle of senior officials whose faith in the efficacy of arms control is exceeded only by their abhorrence of military power and their dread of confrontation with the Soviet Union.

So the acquiescence last week in a Cuban status quo declared only days ago to be unacceptable is wholly in keeping with the animating spirit of an administration which describes the U.S.-Soviet relationship as one of "cooperation and competition" but cannot tell the difference between them.

The fact is that since 1972, but especially since the Carter administration took office, the United States has been faced with unceasing Soviet global adventure accompanied, despite the "limitations" of the SALT I agreement, by a massive buildup of Russian theater and strategic air, ground and naval forces.

In Angola, Afghanistan, Cambodia, Ethiopia, Iran, Vietnam and Yemen, among the Russian-trained terrorists of the PLO or the expeditionary forces mounted from Cuba, the Soviet Union, our partner in détente, has been fomenting turmoil, inciting bloodshed and fueling wars.

In response, the Carter administration (which was helped to power by the impression that it would understand Soviet foreign policy better than President Ford was thought to understand the Polish political system) has chosen to take arms control against this sea of troubles:

The Soviets and their Cuban proxies have intervened militarily and politically throughout the troubled Third World, exploiting ethnic and racial tensions and the fragility of new nations and weak governments. The administration responded by initiating negotiations with Moscow, proposing that we limit the sale of arms to our respective friends and allies—an unverifiable and unenforceable proposal which would threaten the supply of essential arms to our friends at precisely the moment that our friends are being threatened.

The Soviets are engaged in a broad effort to encircle the oil fields of the Persian Gulf, fomenting trouble in Iran, intervening in Ethiopia, inciting war in Yemen.

The Carter administration response: proposals to freeze and then reduce the U.S. and Soviet military presence in the Indian Ocean. If accepted, the U.S. proposal would leave the Soviets, whose air forces are within easy range of the Indian Ocean and the Gulf, in a commanding position.

In recent years, the Soviets have deployed no fewer than four new theater nuclear missiles, two new calibers of nuclear artillery and several new nuclear-capable aircraft. Partially to redress the resulting theater imbalance in Europe, the United States developed a family of "neutron" weapons whose destructive effects can be better confined to the battlefield, thus sparing nearby civilians. When the Soviets mounted a menacing political and propaganda campaign against our deploying these less indiscriminate weapons, the Carter administration response was to defer their production while asking that the Soviets show reciprocal restraint. Now, after two more years of Soviet military expansion, and without any sign of restraint, the neutron weapon deployment remains deferred, probably permanently.

While the Soviets continue to conduct a massive nuclear testing program, several times more extensive than ours and some of it almost certainly in violation of the current threshhold testing treaty, the Carter administration has pushed hard for a comprehensive, unverifiable ban on even very low yield nuclear tests; and it has done this while sharply reducing the U.S. testing program.

So cardinal is it to the administration's outlook that one could multiply many times these examples of its faith, unsupported by reason or experience, that the Soviet threat to our security (and that of our allies) is best moderated by negotiating arms control agreements. It is a faith that flows easily from the premise, intoned as a conclusion by Paul Warnke, that the United States and the Soviet Union are merely "apes on a treadmill," with America providing the model of senseless weapons building that the hapless, blinkered Soviets have mechanically imitated. It is a view, ignorant of history and resistant to fact, that rules out even the suggestion that the Soviets might plan their military forces independent of our plans or that they might pursue what they know to be a politically useful military superiority with which to coerce those states not already responsive to Soviet desires.

Committed to the notion that our relations with the Soviets are a mixture of "cooperation" as well as "competition," the Carter administration sees SALT II as the principal cooperative enterprise between us. The presumption seems to be that the mere act of concluding a treaty on strategic weapons, whatever its terms, is by itself an act of "cooperation" to be contrasted with such episodes of "competition" as the insertion of Mig 23s or a combat brigade in Cuba.

What is missing is any concept of what "cooperation" entails. Is any transaction between a buyer and seller an example of cooperation—or does it depend on the circumstances and the terms? Is a security treaty between the Soviet Union and Finland a sign that those two countries are cooperating—or is it simply an expression of Soviet strength and Finnish proximity?

In fact, SALT is really something quite different from the ordinary sense of cooperation. It is a bizarre symbiosis between our tendency to harbor illusions and the Russian practice of nurturing them.

In the case of the SALT II treaty, the illusion is that the Soviets will acquire fewer weapons with the treaty than without it. It is an illusion curiously immune to experience. That it persists despite the lesson of SALT I, following which the Soviet strategic buildup continued with undiminished fury, must amuse Henry Kissinger the historian even as it undoes Kissinger the diplomat. For after more than a month of Senate hearings on SALT II, it has become abundantly clear that our negotiators failed to obtain those constraints—on the Soviet capacity to attack our deterrent forces—that would have given substance to the misty dream of "cooperation."

In some cases the Soviets simply told us to get lost—as when we suggested that 150 heavy missiles for them and 0 for us seemed fairer than the 308 to 0 the treaty ultimately provides. In other cases the Soviets held out for—and got—treaty language replete with loopholes and ambiguities calculated to permit their strategic weapons programs to go forward unperturbed. A prime example of this has to do with the deployment of "new" types of ICBMs. By the time the dust had settled over the negotiating table at Vienna, the term "new" had been defined so as to permit the Soviets to complete the very fifth generation of ICBMs that it had been our original purpose to halt. Finally, in still other cases, the Soviets were willing to trade cosmetic "assurances" for U.S. acquiescence—as when we gratefully received a Soviet statement of the range/payload of the Backfire bomber that our own intelligence estimates showed to be false.

All these points have been established in the Senate hearings. To Lloyd Cutler's self-serving assertion that the Senate critics of the treaty "failed to lay a glove on it," I commend the record of hearings before the Armed Services Committee wherein it becomes clear that the treaty has failed to lay a glove on the continuing Soviet strategic buildup.

As this has become increasingly evident, some senators have said that the treaty ought not to be ratified unless it is accompanied by an increase in defense spending large and sustained enough to begin to reverse the dangerously adverse trend that began a decade ago—as the first SALT negotiations got underway in Helsinki.

But beyond a fleeting tactical accommodation there is little hope that they will get their increase. For as the last 10 years have shown, SALT has served principally to ease the apprehensions of the West while the military forces of the Soviet Union widen their already considerable advantage. The impression of arms control without the reality, the atmosphere of détente without substance, the rhetoric of peace and stability as our defenses decline—all are fundamentally inconsistent with an adequate defense effort. The clash between that simple fact and the administration's faith in arms control cannot be reconciled. The Senate will have to choose; and the sooner the better.●

U.S.—BULLDOGS OR JELLYFISH?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. MICHEL. Mr. Speaker, there comes a time when plain speaking is in everybody's best interests. Marvin Stone, editor of U.S. News and World Report recently spoke out in clear and unmistakeable language about the failure of the Carter administration to fully recognize the gravity of the presence of Soviet combat troops in Cuba. Stone writes:

> We fail as a nation to understand the determination of the men who rule Russia. They are not rational by our standards.

I prefer this kind of hard-hitting analysis to the mental gyrations of the administration trying now to explain away the fact that what was once considered "unacceptable" has now been accepted.

At this point I wish to insert in the RECORD, "U.S.—Bulldog or Jellyfish," by Marvin Stone, U.S. News and World Report, October 15, 1979:

U.S.—BULLDOG OR JELLYFISH?

(By Marvin Stone)

> Oct. 1, 1979, was a sad day for the United States. It was the day that an American President, lied to by Moscow and confronted by the presence of Soviet combat troops in Cuba, refused to face up to the challenge.
>
> The result, in the words of Henry Kissinger, is that "for the first time ever, we have accepted a Soviet combat presence in the Western Hemisphere." There is more than profound symbolism to that. There are profound consequences yet to be endured.
>
> The backing away from Russia, once again, is the culmination of an American foreign policy that has its roots in the debacle of Vietnam: A dread fear of drawing the line anywhere.
>
> The President said it himself. He does not want to return to the cold war. Yet the Russians have never ceased waging it with us—and through their proxies, waging hot wars in Ethiopia, Afghanistan, Angola, Zaire, wherever it suits their purpose. Was it not Mr. Carter who declared on June 7, 1978, at Annapolis that the Russians could "choose either confrontation or cooperation"? That was after the guerrilla machine underwritten by Russia and trained by Cuba was massacring whites in Zaire. Moscow did choose: More confrontation and more scorn for the President.
>
> Far more than a brigade of combat troops is involved in Cuba. Of course we all agree with the President that 2,600 Russians with a handful of tanks pose no "immediate, concrete threat" to our shores. But why has the administration apparently refused to recognize the broader significance of the foothold that Russia has in Cuba?
>
> What of the thousands of other Russian military advisers and technicians?
>
> What of the MiG-23 fighter-bombers?
>
> What of the submarine base at Cienfuegos?
>
> What of the electronic-spying bases?
>
> What of the extensive Russian naval maneuvers and the Soviet pilots flying air patrols over Cuba.
>
> Finally, what of the billions in Soviet military and economic aid that has enabled Castro in recent years to feed and arm guerrilla forces in other Caribbean countries?
>
> Intelligence sources tell us of the Cuban role in Nicaragua. Emboldened by the Sandinista victory there, the Cubans are moving deeply into El Salvador and Guatemala.
>
> The President, in response, assures us that, while we keep close tabs on the Russians in Cuba (hoping that they behave?), we will send support to our Latin neighbors who deem themselves threatened by Communist forces.
>
> After the backdown in Cuba, is our word to be taken seriously? Do our neighbors believe we really are prepared to send our troops to their rescue? If not, will the Cubans and their Russian "advisers" be ruling the roost in El Salvador in three years? In Guatemala in five years? At the Panama Canal in 10 years?
>
> What could Carter have done? Kissinger said: "There is no solution short of a stronger confrontation with the Soviets, but there are many kinds of confrontations. There are economic measures we can take; there are many ways the U.S. has to show its displeasure."
>
> Did the President consider putting an absolute ban on wheat sales, or on the sale of our precious technology, until Moscow stopped lying about its "training force" and pulled out?
>
> Did he consider holding SALT II hostage until the Soviets came around?
>
> We fail, as a nation, to understand the determination of the men who rule Russia. They are not rational by our standards. They know only that they must move relentlessly in search of conquest wherever weakness appears.
>
> On September 7, Carter decided to take on the Russians by announcing he would not accept the "status quo" in Cuba. On October 1, the intolerable suddenly became tolerable.
>
> It does not sit well with those who agree with Robert Conquest, the British analyst, who says: "People prefer a bulldog to a jellyfish."●

A CURIOUS ENERGY POLICY IN MISSISSIPPI

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. COLLINS of Texas. Mr. Speaker, the American people ask penetrating questions about the present unwise energy policy that Congress has legislated up here in Washington.

I just read an interesting statement from Donald D. Lutken, who is president of the Mississippi Power & Light Co. He strenuously objected to the Fuel Act of 1978. It will require this electric utility to abandon two-thirds of their present capacity.

It is hard for someone in Mississippi to understand why the oil and gas produced in Mississippi should be piped up north and that coal out west should be railroaded completely across the Nation for Mississippi.

In Mississippi it will mean that the cost of electricity per kilowatt-hour to the residential customers will rise from 4.2 to 17 cents per kilowatt-hour.

The gentleman from Mississippi asked why they were singled out for the use of coal. He wonders why railroads are not required to switch back to coal as well as the maritime fleet. It is an unfair situation. I agree with the fine people of Mississippi.

Here is the summary of the situation on electricity for Mississippi as stated by Mr. Lutken:

> The replacement of this capacity, plus the addition of new capacity to meet anticipated load growth between now and 1990, would require the expenditure of $2.5 billion, or an increase in annual fixed costs of $561,000,000. Translated to simple terms, our present average cost per kwh to our residential customers is 4.2 cents.
>
> The President's program would add 12.8 cents per kwh for a grand total of 17 cents per kwh. Expressed another way, our average residential monthly bill for the 12 months ending in August was $37.35. The President's program would bring this average monthly bill for residential customers—assuming the same kwh consumption—to $155.25 (913.25 × 17 cents).●

DECONTROL 3: WHAT CONGRESS SHOULD DO

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. MAGUIRE. Mr. Speaker, since 1973 there has been a lot of debate and disagreement about how to deal with OPEC. The bushel for a barrel strategy, restrictions or at least negotiations with respect to the sale of military, high technology, and luxury items have all been examined and discussed but little has been done. President Carter, against the objections of many of us, tried to win the cooperation of the Saudis by selling them aircraft. We even supported the Shah as a moderating factor in OPEC. This strategy crumbled when Khomeini overthrew the Shah. This year we have suffered an oil cutoff from Iran and we have sold them $47 million worth of heating oil. Our efforts to fight OPEC have been as unique as they are ineffectual.

This disappointing history should not deter us from the necessary path of energy independence. Rapid deployment of solar projects, increased usage of resource recovery and the kind of conservation techniques advocated by Daniel Yergin in his book Energy Futures, will surely be helpful. These are positive steps that will lessen our dependence on OPEC. That is the goal.

Decontrol of domestic energy prices is inconsistent with our need to reduce our dependence on OPEC. By permitting President Carter to continue his phased decontrol strategy, it is Sheik Yamani, and not the marketplace, who will be determining the price of oil. There is no relationship between classic market forces and OPEC pricing and no amount of rhetoric will change that. President Carter's decision is not an accommodation to the market; it is in effect a revalidation of OPEC and I do not think the American people appreciate that.

Many of our colleagues were assuaged by the President's promise to fight for a windfall profits tax, but if you have watched wide-eyed as the Senate Finance Committee gave away more in credits than the tax will rake in, your confidence was probably shaken. If you counted on more production from decontrol, you were probably disappointed by the Gulf president for refining and marketing, Robert Baldwin, who said that you probably could not reverse the declining production curves even if the price of oil went to $100 per barrel. If you advocated price conservation, you probably thought again when Seymour Zucker, economics editor of Business Week, said before the Commerce Committee on Oversight, that the only way you could count on a 20-percent reduction in gasoline consumption was if you upped the price per gallon to about $4.50. The arguments for decontrol are running thin.

Conversely, there are several persuasive arguments for retaining controls. The Joint Committee on Taxation estimates, for example, that decontrol will add $118 billion in oil company revenues by 1984, and this figure will be rendered obsolete whenever OPEC raises the price per barrel between now and then. This undermines our ability to break the inflationary spiral and overcome slower than desirable economic growth. And finally our constituents are going to need every dollar they can find to pay for groceries, health care and shelter.

Our poorer citizens are counting on a fuel assistance program that former Energy Assistant Secretary O'Leary admitted is underfunded and which RUSSELL LONG does not want to fund out of the windfall profits tax. The proponents of still higher oil prices tout decontrol as a means for reducing DOE redtape. Shall we ask our low- and middle-income people to heat their homes with scraps of red tape? I do not believe Congress is that callous. Or that ignorant of the facts.

We can stop accelerated decontrol by heeding the call of the Democratic caucus which voted on May 24 to urge the President to retain phased controls on domestically-produced petroleum through 1981. We will have an opportunity to do this during consideration of the fiscal year 1980 Department of Energy authorization bill. The Democratic caucus voted by a 2 to 1 margin to extend price controls before OPEC oil increased in price from $15 to the $20 to $23 per barrel price that currently exists. It is now more obvious than ever that it is folly to put OPEC even more in the driver's seat by giving them power to price American oil the same way. If OPEC imposes yet another price increase, as many industry and administration analysts expect it will, the impact of decontrol of prices will be even greater."

This according to J. P. Smith of the Washington Post who has contributed an excellent piece on the President's decontrol strategy. I urge my colleagues to review his comments:

AN INCREASE IN OIL PRICES IS UNDER WAY, BUT THIS TIME IT'S BY U.S. DESIGN

(By J. P. Smith)

The nation has entered the early stages of a major oil price increase that will be the largest since the Organization of Petroleum Exporting Countries quadrupled prices during the 1973–74 oil embargo.

However, this massive increase is not coming from OPEC. It stems from U.S. policy; the decontrol of domestic oil prices, which President Carter ordered and Congress allowed.

Decontrol began quietly in July and will continue over the next two years. By then, domestic crude oil prices will have risen to the world level set by OPEC, an increase that will amount to more than 50 percent even if the cartel does not raise prices further.

Oil industry economists such as Ted Eck of Standard Oil Co. of Indiana say that decontrol will add 10 cents to the price of a gallon of gasoline and other petroleum products by October 1981.

By comparison, OPEC's price increase last June—the largest since the 1973 embargo began—raised oil prices by six cents a gallon.

Domestic oil sells for about $13 a barrel; the world price is about $21 a barrel. In effect, decontrol allows the price of domestic oil to rise to the cartel-set price.

Last April, when President Carter unveiled his decontrol package, he called for allowing domestic oil prices to rise gradually so Americans would "use less oil and pay more for it." The program assumes that as domestic oil prices rise, oil companies will have a greater incentive to search for and produce more oil, thus reducing the nation's reliance on imported petroleum.

Decontrol is expected to add billions of dollars to oil industry profits, and much more to total industry revenue.

According to current estimates used by the Joint Committee on Taxation, decontrol will add $118.6 billion to oil company revenues by the end of 1984, including $9.3 billion more in 1980 and $21.4 billion in 1981.

To sop up some of these revenues, Carter proposed a "windfall profits tax." The House has weakened the tax proposal and the Senate is in the process of weakening it further, so that more money will stay in the companies' hands.

When Carter announced his decontrol plan, the head of the White House Council of Economic Advisers, Charles Schultze, told reporters that decontrol would raise gasoline and other fuel prices by four to five cents a gallon. Soon afterward, Stuart E. Eizenstat, the president's domestic policy adviser, said that decontrol would increase oil industry revenues by $15.4 billion from the time controls began being lifted last July until they finally expired in 1981.

These projections quickly were forgotten when OPEC announced its June price boost. Because the world price is now much higher, the price for domestic oil must rise much higher to equal it.

Neither the White House nor the Energy Department has issued an official updated account of the impact of decontrol on consumer costs and industry revenues. But a member of the Council of Economic Advisers, George Eads, concedes that because of OPEC's June price increase, decontrol will add eight cents a gallon to gasoline and other fuel prices.

However, industry estimates of the effects of decontrol are higher. Standard Oil of Indiana's Eck says the price increase for gasoline "will probably be 10 cents a gallon"—assuming OPEC doesn't raise oil prices further—"but who knows what OPEC will do?"

The process leading to oil decontrol is complex, partly because there are now about 21 pricing categories under which domestic oil is sold. Most of the nation's output of 8.6 million barrels a day falls under three categories: "old" oil, discovered before 1972, which sells for $6.30 a barrel: "new" oil, found after 1972, which sells for about $13 a barrel, and "stripper" oil, pumped from wells that produce less than 10 barrels a day, which sells at the world price.

If OPEC imposes yet another price increase, as many industry and administration analysts expect it will, the impact of decontrol on prices will be even greater.

Asked why the administration has not made public a new set of estimates of that impact, one senior official said, "The focus of thinking here has shifted from the effect of decontrol to the effect of higher oil prices from OPEC on the economy."

The largest increases under decontrol are expected to start rolling through the economy after the first of the year, when President Carter begins to run for reelection in earnest.

A harbinger of the impact of the coming increases was the Labor Department's announcement last week that the producer price index took its largest jump in nearly five years during September. The department labeled energy as the major cause.

Labor Department economist Andrew Clem said the rise was "partly due to the administration's phased deregulation of domestic petroleum prices." ●

CAN WE AFFORD MORE DEFENSE SPENDING?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. STARK. Mr. Speaker, I am greatly concerned with the economic effects of a significantly increased defense budget. Those who are holding the ratification of SALT II hostage with demands for greater defense expenditures are doing so, along, obviously, with other considerations, out of the belief that military spending will not harm the economy. Yet, not only can the economy not stand such an increase, but, it is safe to say that a substantial increase in defense spending will come at the expense of the welfare of the people of this country.

We need no reminders of the existent rate of inflation. It therefore bewilders me how some can call for increased military spending when larger military outlays would require either higher taxes or an increased Federal deficit. A greater deficit would, in all likelihood, lead to still greater inflation. Higher income taxes would mean lowering the real income of individuals already constrained by the exhorbitant cost of gas, housing, food, and other necessities. As James J. Treires wrote, in the Los Angeles Times, Monday, October 1:

> Any significant increase in the military budget will require painful cutbacks in the standard of living of most Americans, which for the first time in our history has shown no real improvement for an entire decade.

Unlike expenditures for the manufacturing of other commodities, military spending does not increase the amount of goods circulating in the consumer market. Rather, such spending simply places more and more dollars into the economy, aggravating the phenomenon of "too many dollars chasing too few goods." The people of this Nation cannot bear such an additional burden.

Treires goes on to write that—

> Military costs will account for more than half of all money Congress is free to spend in 1980.

Through this we not only realize how many dollars will flow into the economy

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unaccompanied by consumer goods, but, we begin to see the extent to which funds available for education, health, welfare, and other social programs are reduced. To increase military spending is to further neglect social programs. Such neglect places the welfare of our country in jeopardy.

What kind of society will we have if we do not increase opportunities for education and provide welfare and medical care to those unable to afford it? It is time we begin to increase our awareness of the need to invest in our most valuable resource, the people of this country.

This body must develop a true understanding of the destructiveness of the weapons we so casually fund. It is time to come to grips with weapons 20 times stronger than those dropped at Hiroshima and Nagasaki and to bridge the gap of detachment between the numbers on the paper and the weapons in the silos. If our goal is to create greater inflation, neglect human development, and to create greater global instability, increased defense spending is the answer. If our goal is to lessen inflation, help to develop a more educated and healthy people, protect the national security and to work toward world stability, increased defense spending is not the way to go.

I ask that Mr. Treires' article, "Round and Round to an Impossible Burden," be reprinted at this point in the RECORD:

ROUND AND ROUND TO AN IMPOSSIBLE BURDEN—U.S. ECONOMY, ALREADY THREATENED BY ARMS SPENDING, CAN'T STAND BIG INCREASE

Critics of the second strategic arms limitation treaty now before the Senate seem to be pushing a strange bargain on the Carter Administration. They will support ratification of the treaty only if it is accompanied by a firm commitment to a military budget even higher than the massive Carter budget that has already alienated many liberal Democrats.

Sen. Sam Nunn (D-Ga) introduced the new pitch at the Senate Armed Services Committee hearings when he suggested that the Carter Administration could have his vote in exchange for a substantially increased defense budget.

A few days later, Henry A. Kissinger also urged approval of the treaty only if expenditures for new weapons are significantly increased.

Senate Majority Leader Robert C. Byrd (D-W.Va.) said Nunn's conditions were "a plus on behalf of the treaty" because they helped focus the nation's attention on the need for more military spending. "The country's going to have to spend more money for defense whether we have SALT II or not," he said.

Underlying the position of these critics is the assumption that it is easily within the capacity of the U.S. economy to support defense budgets $10 billion to $20 billion greater than the huge sums already programmed for the Pentagon. This assumption is not warranted.

The fact is that U.S. military spending already threatens the health of the U.S. economy. Any significant increase in the military budget will require painful cutbacks in the standard of living of most Americans, which for the first time in our history has shown no real improvement for an entire decade.

The real constraint on American military power is not SALT II or the unwillingness of President Carter and Congress to spend more for defense. What limits the military budget is the inability of a faltering civilian economy to support massive arms expenditures at the levels that we have become accustomed to. Any increase in Pentagon spending would require cuts in personal incomes, through either higher income taxes or bigger federal deficits and the ruinous inflation that they generate.

While critics of SALT II seek to ensure that the United States remains No. 1 in military power, observers of general economic trends report a steady erosion in our status as the No. 1 economic power. As evidence, they point to the fact that U.S. productivity fell more rapidly in the second quarter of this year than at any other time since the government began keeping records in 1947.

Other evidences of a serious decline in relative economic strength abound:

The United States now ranks eighth among nations in gross national product per inhabitant.

Last June was the 37th consecutive month in which the U.S. trade balance has been in the red.

Last May, one out of four cars sold in the United States was foreign-made.

The dollar has declined so rapidly that the OPEC nations are considering a new pricing system based on a "basket of currencies."

Massive federal deficits, unprecedented in peacetime, have doubled the federal debt over the past eight years.

Double-digit inflation continues, and the Carter Administration is forecasting unemployment of more than 8 percent by the end of 1980.

We are no longer a superrich nation that can afford to waste labor and resources. Every dollar spent on the military is at the expense of the civilian economy. The myth that spending for armaments is a healthy economic stimulant has been exploded by the postwar successes of West Germany and Japan, capitalist nations that use a much smaller proportion of their wealth for military purposes.

A close look at the 1980 federal budget shows signs of grave financial strain. While the President's budget shows total expenditures of $532 billion (of which $29 billion is borrowed money), $184 billion of this is automatic trust-fund payments for Social Security, Medicare, unemployment insurance, federal workers' pensions and highway and airport construction. After paying out $57 billion interest on the federal debt, Congress will have only about $290 billion to allocate through appropriations.

With national-defense outlays of $126 billion and veterans' benefits of $20 billion, it is clear that military costs will account for more than half of all the money that Congress is free to spend in 1980. If federal income taxes are becoming an unbearable strain on the American public, a major share of the blame must be placed on military spending, the largest by far of all programs financed out of general taxes.

In this context, the vigorous efforts of Nunn, Kissinger and the military establishment to force large increases in the Pentagon's budget over the next few years are misguided. In the absence of an indisputably aggressive Soviet military action soon, the American people are not likely to endure further declines in their quality of life to support an ever-growing military establishment.

American families earning up to $25,000 a year are having a rough time trying to make ends meet. With intermittent gasoline shortages, huge increases in fuel-oil prices, skyrocketing housing costs and all the other hardships of inflation, it will take a lot more than the alarmist rhetoric of the arms enthusiasts to get more taxes out of a sorely pressed citizenry.●

CARTER: REVERSE LINKAGE ON CUBA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. LAGOMARSINO. Mr. Speaker, following are two articles by Joseph Kraft and George F. Will, respectively, regarding President Carter's means of addressing the matter of Soviet combat troops in Cuba.

The President's speech makes it appear the United States backed down whether we did or not. After saying the status quo in Cuba was unacceptable, he has turned around and done exactly that, basing his decision on assurances from the Soviet Union. Will the verifiability of the SALT II treaty be based on Soviet assurances, also?

As George Will's article points out, the supposed adequacy of SALT II, and the determination by the President that the Soviet combat brigade in Cuba constitutes no military threat, are contradicted by the fact that increased defense spending and an increased military presence in the Caribbean have been assured in order to make these adulterated efforts at improving relations with the Soviet Union palatable to the Senate and the American people.

The articles follow:

CHAINING AMERICA WITH REVERSE LINKAGE

(By Joseph Kraft)

President Carter used the device of implicit choice to move from a discussion of Russian troops in Cuba to an appeal for Senate ratification of the arms-control treaty with Russia. This was the key paragraph in his speech to the nation Monday night:

"My fellow Americans, the greatest danger to American security tonight is certainly not the two or three thousand Soviet troops in Cuba. The greatest danger to all the nations of the world, including the United States and the Soviet Union, is the breakdown of a common effort to preserve the peace and the ultimate threat of nuclear war."

Implicit in those words is an either/or decision. Either the United States forces a showdown with Russia over the troops in Cuba, or it moves forward toward peace and security with the strategic arms limitation treaty.

If that were indeed the choice, almost all of us—and certainly I—would be for instant ratification of SALT. But it is a phony choice, with respect both to the troops and to SALT.

As to the troops, Carter was almost insouciant in minimizing their importance. He wasn't sure whether the number was two or three thousand. Nor how long they had been there. Nor whether they were there for combat purposes, as U.S. intelligence showed, or for training purposes, as Russia maintained.

In fact, the Russian troop presence in Cuba is an element of a global strategy that the United States has found it difficult to handle. The strategy uses Cubans as proxies for Russians in the Third World. To that end, the Cubans have backed up regimes favorable to the Soviet Union, and hostile to the United States, in Angola, Ethiopia and South Yemen.

In all honesty, the President's speech should have mentioned the Soviet-Cuban cooperation around the world.

With respect to SALT, Carter overstated its benefits enormously. The treaty would not put a cap on the arms race. On the contrary, the immediate consequence of ratification would be an upsurge in defense spending.

Neither would the treaty express "a common effort to preserve the peace." On the contrary, the Russians and their Cuban allies have, in the very midst of the SALT negotiations, taken steps that jeopardize the peace, especially in the Middle East.

Together, trivialization of the troop issue and inflation of SALT benefits combine to create a reverse linkage. Willy-nilly, whether he wants it or not, the President has in effect told the world that SALT is too precious to justify an assertion of other U.S. interests.

The Russians must now be under the impression that Carter needs SALT so badly that it doesn't matter how recklessly they behave in areas of confrontation. Worse still, the same estimate is probably being made by countries that base their actions on assessments of the balance between Washington and Moscow. The list starts with China and includes Saudi Arabia and the other oil-producing countries of the Persian Gulf.

Perhaps it was too much to imagine that the Carter Administration could have used the uproar over the troops to forward this country's interest with Russia. An administration inept enough to stumble into the troop issue was unlikely to exercise itself with advantages. Indeed, realists ought probably to express relief that Carter did not make matters worse. Some of his counselors, after all, advised that he admit in public that he had made a mistake by allowing the troop issue to become so big. Others counseled that he play the China card.

But, if the Administration might have done worse, the Senate can still do better. Now that the President has established reverse linkage, now that he has fed the impression that the United States is loath to assert its interest for fear of jeopardizing the treaty, discriminating senators will want to right that balance. They can and should insist that, before ratification, they have from the President certification of more reasonable behavior by Russians and Cubans in areas that constitute—far more than the threat of nuclear holocaust that the President tosses about so loosely—a true danger to international security.

CARTER ON CUBA: NO SKEPTIC WAS SKEPTICAL ENOUGH

(By George F. Will)

In his first response, weeks ago, to what he now dismissively calls "the highly publicized" Soviet combat brigade in Cuba, Jimmy Carter went on national TV in the afternoon. He warned the Soviets that the status quo was "unacceptable." But many people have been schooled in skepticism by his record of unreciprocated concessions in defense policy, and unmet challenges in geopolitics. Such people tried to imagine what microscopic change by the Soviets would satisfy Carter's criterion of an acceptable change in the status quo.

No skeptic was skeptical enough. No one anticipated that Carter would take prime television time to announce that "the highest levels of the Soviet government" have given him "assurances" that they intend to maintain the status quo. All he could say was this:

Although "persuasive evidence" shows that the Soviets are lying when they assert that the brigade has a noncombat nature, Soviet statements about the future noncombat nature are "significant." The Soviets say they will not change the brigade's "function or status," and we "understand this to mean" that they will not enlarge or alter the brigade.

That is, because the Soviets insist that they will not change the status quo that Carter has called "unacceptable," he infers that they will not do anything to make it more unacceptable, and so it is acceptable.

Recognize this? Carter's response is similar to, but even weaker than, his response to the Soviet Backfire bomber. Backfire is, unquestionably, a strategic weapon, capable of a nuclear attack over intercontinental distances. But the Soviets blandly deny this (just as they deny the brigade's combat capability). So Carter has acquiesced in the Soviets' demand that Backfire not count against their SALT totals. In exchange, the Soviets have promised that they will produce Backfires at about the rate at which they have been producing them, and that they will not give Backfire the strategic capability that we know it has.

Having stressed that the brigade, by itself, constitutes no military threat, Carter is deploying forces in a way that would only make sense as a response to a military threat. Having decided on a purely symbolic response, rather than one that would inconvenience the Soviets, he has symbolized the floundering of America, just as he did when he sent an aircraft carrier steaming circles in the South China Sea, and sent fighter planes to Saudi Arabia, unarmed. To the Soviets, the significant fact about Carter's response is that he declines to mention even the possibility of considering even mild new restrictions on the eastward flow of grain, technology and credit.

According to Carter, the principal threat that Americans should worry about is not Soviet adventurism, of which the militarization of Cuba is just one facet. No, the threat is the U.S. Senate, which does not show proper enthusiasm for the SALT II deal he struck with the Soviets. To the men in the Kremlin, it now is obvious that if they add to their nuclear-capable aircraft in Cuba, their submarines and their ground-combat forces, Carter's response probably will be a televised warning to Americans about the dangerous buildup of bad vibrations in the Senate chamber.

If anyone had any doubt, this episode should have erased it: Nothing that the Soviets could do would cause Carter to question the wisdom of proceeding with SALT II. Indeed, SALT II had better be brought to a vote before Carter, who now says it is the key to "the survival of the human race," exhausts the English language's store of hyperbole.

By all means: Let's vote. Since July, the Administration has skillfully—too skillfully for its own good—manufactured a sense of inevitability. It has conveyed the impression that the debate is over and won, and that ratification will be perfunctory. But the problem with skillful propaganda is that the propagandizers begin to believe it. Administration vote counts have been studies in wishful thinking.

Sen. Frank Church (D-Ida.), who somersaults around the political landscape with the airy lightness of a jolly jester not weighed down by worries about appearances, originally said SALT II should be shelved until the combat brigade is eliminated. Now that Carter says the brigade will neither leave nor change, Church wants to proceed with the ratification process. (Church said Wednesday that he would introduce a resolution making ratification contingent on a determination that the Soviet troops were no longer in Cuba.)

Many opponents of SALT II also look forward to the Senate vote. Although the Administration says it has the votes, many opponents know, as the Soviets know, how safe it is to call this Administration's bluff.●

HELIUM

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. SWIFT. Mr. Speaker, during the past several weeks, my colleagues on the Energy and Power Subcommittee and I have been inserting into the RECORD material which we think should help the Members of the House appreciate the importance of our helium problem.

The brief summary of the helium situation which I would like to place into the RECORD at this time will, I hope, give to my colleagues a clear understanding of the need for us to act and act quickly.

We simply cannot afford to continue a shortsighted policy which allows this Nation to squander a resource which will be vital to our future energy supply and possibly to our national defense as well. In the annals of historic penny-wise pound-foolish actions, our waste of helium, if allowed to continue, will surely rank high.

I include the following:

NOTES ON HELIUM

I. HELIUM TODAY

America uses roughly 900 million cubic feet (MMcf) of helium each year and exports an additional 170 MMcf. More than 1 billion cubic feet (bcf) of additional helium is dissipated into the atmosphere each year by helium extraction plants which vent the helium they cannot sell and by consumers who vent the helium contained in natural gas they burn for fuel. The rate of helium dissipation is expected to increase during the remaining two decades of this century as previously untapped, helium-rich gas fields come on line for fuel use.

Helium is found mixed with natural gas because the geologic formations which trap the one trap the other. Helium is produced everywhere on earth in small quantities as a product of decay of radioactive elements. In areas in which the geological formations do not trap helium, it drifts upward into the atmosphere. Because the gas is so light, the earth's gravity can only hold it in the atmosphere at a concentration of roughly 5 parts per million (ppm) parts of air. As helium drifts from the surface into the atmosphere at the bottom, therefore, an equal amount drifts out of the atmosphere and into space at the top. At a concentration of 5 ppm, atmospheric helium represents a tremendous reserve, but one which would be extremely expensive to exploit. The energy cost of atmospheric extraction renders it impractical unless new energy technologies are developed. Unfortunately, most of those technologies require large initial stocks of helium. For that reason, although helium is the second most common element in the universe, it must be regarded, for now, as something rare, for it is rare to find helium in recoverable concentrations.

The most reliable estimates of American helium supplies indicate that some 350 bcf lie in proven or indicated reserves. Speculative estimates suggest the likelihood that another 350 bcf may be found in currently untested or undiscovered gas fields. But because not all of the helium in a gas stream can be extracted, Subcommittee staff estimates that only roughly 290 bcf of helium will be available to the United States from its gas reserves. If current policies regarding helium production, storage, and waste continue, that amount will be inadequate to supply America's needs during the first quarter of the next century.

Current helium uses include a variety of cryogenic techniques valuable for medicine and research, formation of unreactive atmospheres for high-temperature welding, synthetic breathing mixtures for divers and space exploration, leak detection, and levitation for lighter-than-air ships.

II. HELIUM: CHEMICAL AND PHYSICAL PROPERTIES

Among atoms helium is uniquely stable. Its atomic structure of two protons, two neutrons, and two electrons is the smallest which uses all three of the basic atomic particles in a stable configuration. Because of these physical properties helium is colorless, odorless, lighter than all atoms except hydrogen, incapable of participating in any chemical reactions (and, therefore, non-explosive and non-corrosive), and the only element which does not solidify at temperatures approaching that of absolute zero (−273°C.). Because these attributes result from the atom's fundamental structure, which is both well known and well understood, we can say with assurance that no substitute for helium can be developed nor will some new element be found which would behave in the same manner, although substitutes may be possible for helium in some of its proposed applications.

III. HELIUM IN THE FUTURE

1. Direct uses

Because of its lightness and its inability to react chemically, helium makes the perfect substance for levitating lighter-than-air ships, which many experts see as an important mode of transport in the future. For the same reason helium is also vitally important as the majority constituent of breathing mixtures for divers. Because of its lack of reactivity helium is the ideal gas for purging tanks and detecting leaks, it cannot cause an explosion regardless of what it mixes with.

2. Helium as a coolant

a. Superconductivity: When metals are chilled to points only slightly above absolute zero, their electrons begin to lose association with the atomic nuclei. As a result, the metal loses nearly all of its resistance to the passage of electric currents. The result is akin to what would happen to a cart or truck if the wheels could be made to move entirely free of friction. Anything which can currently be done with an electric current or an electromagnet can be done much more efficiently using superconductors. Several techniques which are practical on a small scale with existing electrical equipment are only practical on a large scale if superconductors are used. Included in the potential applications are: more efficient generation and transmission of power; magnetic upgrading of low-grade ores; magnetic purification of large volumes of water (the only method by which the effluent from storm sewers can be purified and the only method by which virus particles can be filtered from water supplies); and magnetically levitated transports, prototypes of which have been built in Japan, but which would be prohibitively expensive at commercial size without the use of superconductors.

b. Helium and fusion: There are two major competing schools of thought about the best way to build a fusion reactor. Both ways, however, would require large amounts of helium. The inertial confinement method requires large lasers to generate extremely powerful pulses of energy which are used to crush fuel pellets and initiate fusion. To cool those lasers helium will be needed. Such large lasers also have potential defense applications.

The Tokamak fusion systems are a "magnetic bottle" to confine the plasma within which fusion takes place. To generate such a bottle on a scale large enough to be used for a comercial scale fusion reactor, helium-cooled superconducting magnets will be necessary.

In addition, as in a fission reactor, some fluid must be used to transfer the heat of the reaction away from the core and to the generator. Liquid helium is the medium of choice for both fusion and fission reactors both because it is "transparent" to radiation, that is, it does not itself become radioactive when bombarded, and because it transfers nearly all of the heat added to it.

With some assurance, one can predict that without helium there will be no controlled fusion. Finally, one must note that the fusion process, itself, produces helium, but in comparison to the needs of fusion devices, the amounts produced are vanishingly small.

Passage of legislation now to reinstate a Federal helium purchase and stockpiling program should, by making the needs of future generations a factor in today's markets, guarantee enough helium to put the technologies described above into place. Once that is done, future generations will have a sufficiently secure energy supply to build the plants which they will need for extracting helium from the atmosphere, plants whose energy requirements are far beyond our current means.●

JIMMY CARTER'S NEW DOE DEPARTMENTS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. MICHEL. Mr. Speaker, let me propose a riddle:

What costs $11 billion, has 20,000 employees, enforces unneeded regulations, distorts market allocation of gasoline, and is one of President Carter's favorite creations?

Give up? It is the Department of Energy—DOE. Termed "a bureaucratic Frankenstein's monster" by U.S. News & World Report, DOE is such a disaster area that even in a city like Washington which is used to bureaucratic monstrosities, DOE is looked upon as uniquely worthless.

Jimmy Carter promised us that this DOE would cure all our energy ills. He has also promised that his other DOE—Department of Education—will cure all our educational ills. I would not at all be surprised to see the Energy Department try to teach reading and the Education Department allocate gasoline, given the blundering and the fumbling that has become the hallmark of Carter administration policies.

At this point I wish to insert in the RECORD, "DOE: Infancy to Senility in Two Short Years" from U.S. News & World Report, October 15, 1979:

DOE: "INFACY TO SENILITY IN TWO SHORT YEARS"

It's no happy birthday for the Department of Energy—blamed on all sides for worsening the fuel crisis it was established to solve.

Two years after being created to deal with the nation's fuel problems, the U.S. Department of Energy is still lurching along out of control like a bureaucratic Frankenstein's monster.

Almost everything the huge federal agency has touched since it went into business on Oct. 1, 1977, has been left in shambles.

By its own admission, Energy Department bungling was chiefly responsible for last spring's gasoline crisis that spawned lines of angry motorists at service stations across the country. Studies found that the agency allocated too much fuel to priority users and rural areas and too little to fast-growing urban areas.

MARKET SQUEEZE

Now the agency is being blamed for mishandling efforts to stave off a heating-oil shortage this winter. By forcing oil companies to stockpile too much oil, critics say, the department has reduced supplies on the open market and driven up prices.

A longer-range project, the strategic-petroleum-reserve program to store 1 billion barrels of oil for emergencies, is far behind the original schedule of stockpiling 250 million barrels by December, 1978. So far, only 91 million barrels of oil have been poured into underground storage caverns, and officials recently halted the program entirely for fear that additional purchases would only tighten world oil supplies and push prices still higher.

Even the department's routine work has come under fire from the Office of Management and Budget, which has accused the DOE of issuing poorly analyzed regulations that have grown into a tangled and error-filled mess.

A clear signal of the contempt in which the Energy Department is held by many came on October 3, when the 17-state Southern Governors' Association approved a resolution that called for the agency's abolition unless it starts to function more effectively.

Said Louisiana Governor Edwin Edwards: "DOE was created to do something about the problem and has done nothing but make it worse."

Environmentalists object to the Energy Department's efforts to promote nuclear energy and develop synthetic fuels. Consumer groups insist that big oil companies have too much influence on Energy Department policies.

In short, almost everyone who has dealt with the department seems to agree with the assessment by Samuel Schwartz, senior vice president of Continental Oil Company, who says: "DOE has gone from infancy to senility in two short years."

President Carter has given the job of cleaning up this mess to new Energy Secretary Charles W. Duncan, Jr., a former president of Coca-Cola Company and former assistant secretary of defense, who is rated a tough administrator. He replaces James R. Schlesinger, who paid more attention to strategic energy issues than day-to-day management, according to critics.

Duncan is wasting no time in trying to whip the 11-billion-dollar agency and its 20,000 employes into shape, occasionally with brutal efficiency. One high-level official who submitted his resignation effective October 31 was told he had less than 24 hours to clear out his desk. In all, six of Schlesinger's top aides have resigned or been reassigned in the last month.

Duncan has filled most of the major jobs with associates who worked with him at the Pentagon, leading some bureaucrats to refer to the Energy Department as "the military-industrial complex."

A NEW ORDER

Besides making major personnel changes, Duncan has reorganized the department along fuel lines rather than by stages of technological development. For example, all solar-energy programs are being consolidated into a single unit instead of being scattered throughout the department as they were under Schlesinger.

So far, the White House professes satisfaction with Duncan's progress. "He's off to an exceptionally fast start," says one high-level presidential aide, "The transition has been smooth, and he's beginning to get a hold on the management problems."

Nevertheless, many observers of the Energy Department's past struggles doubt that even Duncan can bring it under control. Career employees report that morale is at rock bottom. Some 500 workers in the department took advantage of a new government program to encourage early retirements. "Bodies are shuffling in and out of here so fast it's hard to know who's doing what," complains a DOE official.

Communications within the sprawling department remain a major problem. Subagencies are scattered around Washington in 21 different buildings. A two-year effort to transfer military personnel out of the Forrestal Building, the Energy Department's headquarters, has settled down into a war of attrition. A despairing Schlesinger once remarked that if the Army had fought as hard in Vietnam, the U.S. would have won the war.

Created in crisis. Most Energy Department problems can be traced to 1973, when the Federal Energy Office—now absorbed into the DOE—was created to deal with the Arab oil embargo. Price controls and fuel-allocation rules, hastily drawn up for that emergency and never intended to be permanent, still remain in effect. Every time a new energy problem arises, the regulations are rewritten or reinterpreted until today they are considered virtually unenforceable, even by the bureaucrats who issue them.

In a 1978 ruling against the government and in favor of oil companies in a pricing dispute, U.S. District Court Judge John M. Manos of Cleveland called DOE regulations "remarkably inept and self-contradictory."

Another major worry confronting Secretary Duncan: After years of uproar over the energy crisis the U.S. still does not have a consistent and workable energy policy. President Carter has proposed two major energy programs and numerous smaller ones since taking office in 1977. Congress cut the first package to ribbons and is threatening to do the same with the second, which Carter unveiled last June.

"Until the White House and Congress get their acts together, the Energy Department can only muddle along doing the best it can," observes a former Schlesinger aide who has resigned.

Despite all the criticism, some Washington observers argue that the Energy Department has not done a bad job considering the constant crises it has had to deal with and the political and regional animosities that any energy debate generates.

Even if Duncan succeeds in bringing better management methods into the Energy Department, controversy is likely to continue swirling around its activities as long as fuel remains in short supply and prices are high.

Observes a private energy expert: "The new Department of Education will be created, and few will care except the educational establishment. But energy affects every facet of life in this country. What the Energy Department does has an impact on 200 million Americans—and each of them has an opinion on what should be done." ●

SUPPORT FOR SMALL INDEPENDENT MARKETERS OF PETROLEUM PRODUCTS

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. GRASSLEY. Mr. Speaker, I rise to discuss an issue of great concern to me—the survival of small independent gasoline, diesel fuel, and home heating oil jobbers and dealers. Mr. Speaker, these small businessmen are the frontline in any petroleum shortage. While my colleagues and I hear constituent complaints on high energy prices via letters, telephone calls and to a large degree personal contact, jobbers, and dealers experience the public frustration with big oil and big government every day in every transaction that they make. Ironically, these small marketers are the most competitive and least deserving of public criticism and Government scrutiny of any segment of the petroleum industry.

I commend my colleague and good friend, the chairman of the Small Business Subcommittee on Antitrust and Restraint of Trade, BERKLEY BEDELL, for his interest in the problems faced by gasoline and fuel oil marketers. The Antitrust Subcommittee held a series of field hearings during the August recess at which jobbers and dealers had the opportunity to present their views. These hearings were continued in Washington during September as government and industry witnesses were called upon to respond to complaints heard during the field hearings.

Although I am not a member of the Antitrust Subcommittee, I followed these hearings with particular interest. Many of the problems highlighted by marketers are the same problems I and many of my colleagues hear about every day from jobbers and dealers within our respective districts. These small businessmen are trapped between the proverbial rock and a hard place. On one side is the Government which through formal and informal price and allocation controls has eliminated all of a marketer's flexibility to respond to changing market conditions. On the other side are the refiner-suppliers who wish to eliminate small and independent businessmen from the marketplace and thus reap an increased marketshare. I wish to discuss both the role of the Government and of refiner-suppliers in threatening the viability of independent marketers in greater detail.

GOVERNMENT

The Federal Government began controlling both the price and allocation of various petroleum products in the early 1970's. Middle distillate was decontrolled in the summer of 1976. The only major product still subject to official price and allocation controls is gasoline. The impact of these controls can best be summarized by a recent statement in the press attributed to Deputy Energy Secretary John O'Leary that—

> Ninety percent of the time the controls are not needed and the other 10 percent of the time they don't work.

When there is adequate supply of gasoline the controls act to insulate refiners from competition. A marketer displeased with his current supplier is unable to find a new supplier who is willing to provide a contractual commitment. I am advised that marketers can purchase surplus product from another supplier, but that the supplier will not offer contractual commitments because of existing customers bound to him by the allocation regulations.

When the supply is inadequate, as we have just experienced, the regulations fail to provide the proper flexibility for small businesses to survive for an extended period of time. For example, gasoline jobbers and dealers have lived with the same cents per gallon margin since 1974. DOE proposed to increase dealer margins earlier this year and last July did in fact modify dealer pricing rules somewhat. The changes clearly were not relief because they forced some dealers to reduce margins to a level below what they were 5 years ago.

Moreover, DOE made the situation worse 2 weeks later when they issued rules which adjusted refiner and jobber direct operated station margins. This new rule virtually required that refiners and jobbers undersell independent dealers. DOE has also procrastinated in granting wholesale margin relief to jobbers. The Department argues that they lack data on the need to grant wholesale margin relief. Mr. Speaker, I ask what more data is needed? The inflation rate since 1974 is well known. Gasoline wholesalers have been subject to the same inflationary pressures as other sectors of the economy. The wholesale price of gasoline has doubled, thus greatly increasing inventory costs and magnifying the problem of accounts receivable. The cost of borrowing money to finance these higher inventory costs and accounts receivable has almost doubled. But, the DOE says they need more data. I am pleased to note that the Small Business Administration's Office of Advocacy has funded a 90-day study to develop the type of data DOE says it must have.

DOE's performance with the allocation regulations has been just as abominable. They changed the historic base period on 1 day's notice last February. They changed it again a month and a half later and made still further changes less than two weeks after that. They have issued change upon change without an opportunity for notice and comments as required by the Administrative Procedures Act. They have sought a blanket waiver of the President's Executive Order on Regulatory Reform for all regulations. Thankfully, the Office of Management and Budget rejected this request.

The latest proposed change in the regulation would require gasoline jobbers to downward certify or return volumes to their suppliers from stations which go out of business. Now volumes from closed stations are generally kept in the local community, however, if such a regulation were put into effect the marketer would not only lose the service station but the community would also lose the amount of gasoline sold through that outlet. The regulation ignores the fact that many service stations are closed for reasons of efficiency or to consolidate operations and not solely because of a decrease in a community's demand for gasoline. DOE issued this regulation without prior public notice and comment and would have implemented the rule on September 1. Under the threat of numerous lawsuits and thanks to fierce congressional pressure the effective date was first postponed and then the rule was temporarily withdrawn. If this rule is ever allowed to go into effect it will be the major refiner-suppliers who will benefit—not the marketer or the community he serves.

Although middle distillate controls were removed in 1976, DOE still plays a role in the heating oil and diesel product markets. During the recent shortage DOE was asked to insure that the supply of heating oil would be sufficient to meet the demands of consumers this winter. In response to this legitimate concern over the supply adequacy DOE asked the refiners to build up primary storage of middle distillate to 240 million barrels by the end of October. Refiners responded to this request and primary supplies are building satisfactorily, but, and I emphasize this, at the expense of not building secondary and tertiary storage at the marketer and consumer levels. Given a sudden surge in demand many marketers may not be able to keep their customers adequately supplied. Keeping the product at the primary level does not heat homes but does allow the refiner to charge higher prices for product. DOE acted correctly to encourage the buildup of distillate supply stocks, however, the policy should have encouraged the simultaneous movement of the product into the distribution system.

REFINER-SUPPLIERS

Marketers not only compete among themselves but also with their suppliers in the marketplace. In the past they have thrived in that environment and will continue to survive as long as they are given a fair chance to compete. Refiner-suppliers have been moving aggressively against independent marketers to capture a bigger share of the market. As a result many independent marketers and dealers have lost their businesses. The way refiners increase their share of a market is most interesting. Refiners, because they are so large, can afford to subsidize their direct operated service stations and undersell the competition, including independent marketers of their own products. This subsidization is supported by company profits from production and refining activities. What the refiner can do is transfer product to a direct operated station at a price a few cents below the price of a marketer will pay. On the street that cents per gallon difference can give the refiner quite a competitive edge and marketers helplessly watch as their customers are taken away. Once the refiner eliminates the competition in an area the price of the company's product can be raised at will.

Marketers also face changes in summer fill programs and increasingly stringent credit terms. For example, traditional refiner summer fill programs permitted heating oil dealers to take delivery of their oil early, at a price that was assured throughout the summer, and pay after it was delivered to the dealers' customers in the fall. Many suppliers have abandoned this practice and now require payment within 10 to 30 days. This means added expense to the dealer, who wishes to receive some of his supply prior to the heating season, and ultimately to the consumer.

In addition to changes in the summer fill programs dealers have begun to see limitations on credit lines. While some companies have raised their lines of credit they have not kept pace with the increases in the price of oil. This often requires retailers to borrow more money to obtain the same amount of oil they bought in previous years.

In closing, I wish to again express my support for the small independent marketers of petroleum products. Too often they are condemned for the energy supply and price problems—problems which are created and fostered by not only the major refiners but also by Government regulations.●

THE JUDICIAL REGULATION ACT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. DORNAN. Mr. Speaker, in 1937, the great Supreme Court Justice Felix Frankfurter declared:

> People have been taught to believe that when the Supreme Court speaks it is not they who speak but the Constitution, whereas, of course, in so many vital cases it is they who speak and not the Constitution. And I verily believe that is what the country most needs to understand.

I have introduced legislation, H.R. 4111, aimed at curbing the unprecedented expansion of powers of the Federal courts, particularly the Supreme Court. For a massive documentation of such unprecedented judicial activism, I would urge you to read Harvard University Prof. Raoul Berger's revealing book, "Government By Judiciary." I would also ask you to ponder the views of Prof. Nathan Glazer of Harvard University, who writes in the Public Interest (Fall, 1975):

> The courts truly have changed their role in American life. American courts, the most powerful in the world . . . are now far more powerful than ever before . . . And courts, through interpretation of the Constitution and the laws, now reach into the lives of the people, against the will of the people, deeper than they ever have in American history.

As a countervailing measure to the pervasive impact of Federal court decisions on the lives of all citizens, decisions often rendered by no more than one judge on significant and often major questions of public policy, H.R. 4111, the Judicial Regulation Act of 1979, seeks to reestablish the fundamental doctrine of checks and balances among the branches of Government envisioned by the Founding Fathers. This balance has been seriously upset, most notably in the past few decades, by a virtual usurpation of legislative powers on the part of the Supreme Court and lesser Federal courts, and has resulted in nothing less, in my opinion, than a reign of judicial imperialism. The courts, in sum, are engaged in the making of fundamental social policy, a legislative prerogative, to achieve the social goals they think are in the best interests of the country. The members of the Supreme Court, in particular, have accomplished this by reading their subjective philosophical predilections and value judgments into the "due process" and "equal protection" clauses of the 14th amendment, so that, now the Constitution means whatever five members of the Court decide it should mean.

Incidentally, the Court, according to the Congressional Research Service, has overruled its own prior decisions over 150 times throughout its history. In effect, the Supreme Court operates under the juristic doctrine of judicial supremacy, setting itself up as the final arbiter of all constitutional questions whose decisions are allegedly binding on the other two branches. Thus, by means of a legal fiction, advocated by certain influential representatives of the legal profession, the bench and the bar, we are told that the judicial interpretation of the Constitution is final and binding on the other branches, and that judges, as expounders of the Constitution, somehow more accurately express the will of the people than elected representatives.

The Supreme Court has thus become the supreme branch of the Government. The only recourse for those who disagree with the Court, under this juristic doctrine of judicial supremacy, is the formal amendment procedures of the written Constitution. Thus, a Supreme Court decision has become equivalent to a provision of the fixed Constitution. In all respects, that is, save one. Like a fixed provision, it is allegedly binding on all authorities. Like a fixed provision, it can allegedly be changed only by invoking the arduous amendment machinery of article V. The only respect in which a Court decision differs from other provisions of the fixed Constitution, is that it has acquired that status, not by securing the endorsement of a hard national consensus, the consent of the governed, but by securing the certification of a five-man majority.

It is of utmost importance to understand that the doctrine of judicial supremacy was utterly foreign to the thinking of most of the Founding Fathers. James Madison, the "Father of the Constitution," remarked on the proposed Virginia constitution of 1788:

> In the state constitutions and, indeed, in the federal one also, no provision is made for the case of a disagreement in expounding them (the laws); and as the courts are generally the last in making the decision, it results to them, by refusing or not refusing to execute a law, to stamp it with its final character. This makes the Judiciary Department paramount in fact to the legislature, which was never intended and can never be proper.

And in 1789, during the congressional debate on the establishment of the Department of State, Madison noted, in referring to judicial power:

> But I beg to know, upon what principle it can be contended, that any one department draws from the Constitution greater powers than another, in making out the limits of the powers of the several departments . . . Nothing has yet been offered to invalidate the doctrine that the meaning of the Constitution may as well be ascertained by the legislative as by the judicial authority.

The Constitution provides for only the barest minimum of the American judicial system, with all else left for Congress to determine (see article III). The Founding Fathers, following Locke and in accord with the principles of representative and republican government, espoused a doctrine of legislative primacy. The primacy of the legislature in the intent of the Constitution is self-evident in that article I is devoted to the Congress. James Madison noted in Federalist 51 that, "in republican government, the legislative authority necessarily predominates." It was, in Madison's view, the first branch of government.

In establishing legislative primacy, the Fathers were merely adhering to the political philosophical tradition of English liberal thought as expressed by John Locke and the great English jurist, Sir William Blackstone. This, of course, is not to say that the Fathers were not concerned with the dangers of legislative despotism, which they sought to prevent by means of the doctrine of separation of powers and a system of checks and balances. It is to say, however, that if representative government was to have any meaning, the final arbiter of the Constitution could not be the judiciary—the least representative and least accountable branch of government. Rather, the legislature, or the people called in convention, is invested with national sovereignty. At issue is the fundamental question of whether a free people shall be governed by an elite, or whether they shall be allowed to assume responsibility for their own destiny.

It is, of course, argued by certain members of the bench and bar that Chief Justice John Marshall's opinion in Marbury against Madison (1803) settled the question of judicial supremacy once and for all.

But, surely, that is bad constitutional and political theory. For either Marbury against Madison was based on the Constitution or it was not. And as we have seen above, the Founding Fathers could not possibly have provided for legislative primacy and judicial supremacy at the same time, and still hold to the principles of republican government. In any case, the decision of the Marshall Court in Marbury against Madison legitimized only a restricted version of judicial review. The Court did not legitimize an absolute judiciary nor the current powers being exercised by the Federal courts in our own day.

It is revealing that Chief Justice Marshall himself advocated a reversal of Supreme Court decisions by the Congress. In a letter to Justice Samuel Chase 2 years after Marbury against Madison, Marshall wrote:

> I think the modern doctrine of impeachment should yield to an appellate jurisdiction in the legislature. A reversal of those legal opinions deemed unsound by the legislature would certainly better comport with the mildness of our character than a removal of the Judge who has rendered them unknowing of his fault. (See Beveridge's "Life of John Marshall," v.3 p. 177).

Once again, it must be emphasized that the doctrine of judicial supremacy, whose groundwork was laid by Alexander Hamilton and given operational form by John Marshall, was the peculiar and perverse interpretation given to judicial review by the members of the bench and bar, and the legal profession. A number of prominent Presidents completely repudiated judicial supremacy: Thomas Jefferson, James Madison, Martin Van Buren, Andrew Jackson, Abraham Lincoln, and Theodore Roosevelt. Please note, for example, the prophetic words of the drafter of the Declaration of Independence and our third President Thomas Jefferson, in a letter to a fellow citizen:

> You seem to consider the judges as the utimate arbiters of all constitutional questions; a very dangerous doctrine, indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps. Their maxim is 'it is the office of a good judge to enlarge his jurisdiction,' and their power is the more dangerous, as they are in office for life and not responsible, as the other functionaries, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruption of time and party, its members would become despots . . . I know no safe despository of the ultimate powers of society but in the people themselves.

Following the Supreme Court decision in the Dred Scott case in which Negroes were held to be property and denied U.S. citizenship, Abraham Lincoln cited the above quoted passage from Jefferson in his debate with Stephen Douglas. He went on to say in his first inaugural address:

> At the same time, the candid citizen must confess that if policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal.

Prof. Edward S. Corwin, perhaps the foremost constitutional theorist of this century, wrote the following of judicial supremacy in 1936:

> The American Liberty League, to be sure, would like to make people believe that there is never but one possible version of the Constitution on any question that may arise under it—the one to be presently announced by the Court. In other words, owing to some clairvoyant faculty which enters into a man when he becomes a justice of the Supreme Court, or on account of some mystical connection between the Court and the Deity, the Court is able at all times to speak the authentic Constitution, with the result, of course, that all who are bound by the Constitution . . . are bound by the Court's version of it . . . The thing which, I am convinced, more than anything else today menaces the due influence of public opinion upon the Court is the doctrine of the finality of its readings of the Constitution—their finality, that is to say, as regards every organ of government except the Court itself.
>
> But, as we have seen, this doctrine is logically inconsistent with the very course of reasoning by which, in Marbury v. Madison, judicial review of acts of Congress was derived from the Constitution . . . We arrive at clear recognition that the national legislative organ, Congress and the President, are vested not only with the power but with the duty to read the Constitution themselves. To be sure, they are entitled to consult the opinions of the Court for such light as these may shed on particular questions of constitutional power . . . For all that, they are not entitled to abdicate their own official function of independent judgment on the plea that such opinions are the authentic Constitution."—The Annals of the American Academy of Political and Social Science, May, 1936.

In light of all of the above, I have introduced H.R. 4111, the Judicial Regulation Act of 1979, which provides that any Federal or State law which is declared invalid under the Constitution of the United States in a decision of the Supreme Court under the appellate jurisdiction of the Court, shall not be invalid under the Constitution if, within 1 year after the date of the decision of the Court, both Houses of Congress, by a two-thirds vote in each House, disapprove the decision of the Court with respect to the constitutionality of the Federal or State law. In addition, with respect to any Federal or State law which is declared invalid under the Constitution by a lower Federal court, which decision is not appealed to a higher court or which is appealed and such appeal is denied, such Federal or State law shall not be invalid if both Houses of Congress by a majority vote disapprove the decision of such Federal court.

What is at stake here to repeat, is the fundamental question of whether a free people shall be governed by an elite who claims to know what is best for them, or whether they shall be allowed to assume responsibility for their own destiny in accord with republican principles of government. My bill purports to do nothing more than what Chief Justice John Marshall himself advocated. It is also of historical interest to note that the provision of my bill relating to the Supreme Court was offered in 1924 by Senator Robert M. LaFollette, of Wisconsin, one of the foremost leaders of the Progressives.

Mr. Speaker, the doctrine of judicial supremacy is a false doctrine. It is the responsibility of the Congress to exercize its legitimate constitutional prerogatives toward the Court, as defined by its authority to regulate the Federal judiciary under the appellate jurisdiction. I sincerely hope my colleagues will examine this timely issue and join me in my efforts to redress the balance of constitutional power within our federal system, the balance that was envisioned by the Founders of this Republic.●

VOTE FUND REFORM IN PERIL?

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. RUSSO. Mr. Speaker, I would like to take this opportunity to bring a recent Chicago Sun-Times editorial to the attention of my colleagues. The Sun-Times rightly points up the importance of the House acting in a positive fashion on

H.R. 4970, the Political Action Committee (PAC) Contribution Reform Act of 1979. As a member of the Task Force on PAC Reform, I have become increasingly convinced of the importance of reducing the role of special interest money in the financing of our country's election campaigns. I hope my colleagues will agree that on an issue of this significance, every Member of the House should have an opportunity to make their views on this issue known on the floor.

VOTE-FUND REFORM IN PERIL?

Before it departed on its undeserved 10-day vacation, the U.S. House was scheduled to consider a bill to limit the amount of money businesses and unions can pour into congressional campaigns.

Then, according to reliable reports, a group of Southern congressmen told Speaker Thomas P. (Tip) O'Neill (D-Mass.), "Hold off on the campaign bill until after the recess, and we'll give you the votes to pass the federal budget resolution." O'Neill agreed.

The strategy was to give the moneymen a final chance to lobby congressmen into killing a good bill. The vacation is almost over now, and we hope members of Congress have withstood the pressure.

The bill, sponsored by Representatives Tom Railsback (R-Ill.) and David Obey (D-Wis.), would limit contributions by political action committees, conduits for money from corporations, unions, trade associations and other special interests.

It originally would have placed a $50,000 limit on the amount of PAC money a candidate could receive every two years. The sponsors intend to raise that to $70,000 in an effort to win votes for the bill.

It also would have reduced the maximum single PAC contribution to a candidate from $10,000 every two years to $5,000. That will be amended to $6,000.

By reducing, even slightly, the political influence of Big Money, the bill might result in the election of more members of Congress who would consider the broad public interest when voting on such important issues as energy and inflation.

Individual members will benefit from this bill, even though it may force some of them to work a little harder to raise money. Voters, whose disdain for Congress is recorded in the public opinion polls, will appreciate those who prove they are not slaves of the rich and powerful.

Voters will find out which lawmakers dance to the tune of Big Money and which don't. Common Cause, which is pushing the bill, will tell them. So will we.●

PASSAGE OF CONTINUING RESOLUTION IS CRITICAL

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. BARNES. Mr. Speaker, the failure to enact a continuing appropriations bill for fiscal 1980 has begun to cause critical problems throughout the Federal Government. We have now reached the point where many Federal civilian and military personnel will not receive their paychecks on time. Vital projects and planning activities in dozens of Federal agencies have come to a stop because funds are not available. Federal employees are beginning to wonder whether the Government values their services and whether they should stay on the job.

I place in the RECORD for the information of Members a letter received today from Kenneth T. Blaylock, president of the American Federation of Government Employees. I would urge my colleagues to read it carefully. The issues facing us in the continuing appropriations bill are indeed controversial, but they are not beyond the abilities of rational men and women to compromise and resolve successfully. It is time to do so. The country cannot wait any longer.

The letter follows:

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
Washington, D.C., October 8, 1979.

Hon. MICHAEL D. BARNES,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BARNES: The fiscal year began on October 1, 1979, and once again the Congress has failed to pass essential authorizing and appropriations bills. As a result, the paychecks of Federal workers may be delayed. In addition, Federal employees are traveling on official business at their own expense; others using their personal lines of credit during this crisis period.

Federal workers are deeply concerned about the issues which have caused this breakdown in the legislative process, as are most citizens. We are in sympathy with the problems you face concerning these matters, and fully appreciate the need for an open and complete debate on all aspects of such questions. But the paychecks of Federal workers must not be used as bargaining chips in the effort to resolve this legislative logjam.

It is wrong that Federal workers are threatened with the spector of a payless payday because Congress has been unable to resolve several complex issues. Our members, aware of the American tradition of no-pay/no-work are anxious about what course of action they will follow, should Congress not be able to resolve the current impasse.

I have advised all our members that for the time being the best course of action is to stay on the job. I am taking this position because I am confident that you and your colleagues will provide the necessary legislation to avert any delay in the receipt of pay by our members.

I am sure that you share my deep concern that Federal employees not be held hostage by issues over which they have no control. It is my sincere hope that you will actively support legislation that would enable the programs of government to operate without interruption.

Sincerely,

KENNETH T. BLAYLOCK,
National President.●

GEORGES BANK LEASE SALE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. STUDDS. Mr. Speaker, I, along with other members of the Massachusetts delegation, have worked to see that the most stringent environmental safeguards possible are in place before oil and gas lease sale 42 takes place on Georges Bank. With the sale now scheduled for November 6, we do not feel that the safeguards which have been provided are adequate and, consequently, are unable to support the sale at this time.

It makes little sense to us to unnecessarily endanger one of the world's richest fisheries—a renewable resource—and some of the Nation's most spectacular coastline for what the Department of the Interior recognizes may be only 7 days oil supply at current levels of consumption.

For those who assert, in somewhat cavalier fashion, that we can easily have both oil and fish, I would point to the shellfish beds in Falmouth, Mass., which were subjected to an oil spill nearly 10 years ago and remain closed today.

I submit for the interest of my colleagues, three editorials on this subject which have recently appeared in the Washington Post and Los Angeles Times:

[From the Washington Post, Sept. 23, 1979]

NO TO GEORGES BANK

Visualize a shoal in the middle of the ocean. The shallow water there is a few degrees warmer than the depths surrounding it. Place it at a spot where two currents collide—one flowing northeast and the other southwest—so that the water rotates slowly over the shoal. As though a giant pot were being stirred by an invisible cook, this rotation mixes the contents of the water and aerates it as well. The unique brew creates and sustains the world's richest fishery.

In fact, there is such a place. It's in the Atlantic and it's called Georges Bank. There are more fish there per square meter than anyplace else in the world. It has been fished continuously for 350 years and today brings in well over $1 billion in revenue a year—every year—from commercial fishing alone. It is also the spawning ground for large numbers of species that populate the North Atlantic—cod, haddock, sole, flounder, lobster, scallops and more.

Beneath this churning natural factory lies some oil and gas, and now—what else?—the Department of Interior has announced that it intends to sell leases to drill there. No one knows exactly how much oil is in the area to be sold, though Interior is predicting that the "most probable find" will be about 150 million barrels. That is a very small field. To judge how small, assume for the sake of argument that the actual find is double what the government predicts. That would be an amount of energy equal to eight days of current U.S. consumption. Or, spread over 20 years (the estimated life of the field), the most promising area of the Georges Bank might contribute as much as 9.5 hours of U.S. energy needs every year.

The economics of a decision to drill don't look so good, either. Suppose that the field yields the government prediction, 150 million barrels, which sell at an average price (in current dollars) of $30 per barrel. Even during the short life of the oilfield, the fishery is worth about five times as much—without counting the substantial revenues from recreational fishing. But its true value cannot be calculated since the fishery will, if properly managed, keep on producing fish forever. Thus the decision to develop Georges Bank puts at risk a resource whose value is infinite for the sake of a finite resource worth about $4.5 billion. Energy is on everyone's mind these days, but it would be stupid to forget that, from the point of view of human survival, energy is a secondary resource—food is primary. And fish, in particular, is a crucial source of the world's protein.

Those who want to drill argue that, if special precautions are taken, the risk of damaging the fishery is small. But how small? And is the small amount of oil that would be yielded worth taking any risk for? Spawning grounds are extremely vulnerable to oil pollution. One blowout like the one that has been gushing in the Bay of Campeche for four months could spell disaster. The fact is that underwater drilling is still a dangerous and unpredictable technology. Only a few months ago the oil industry argued that exploratory drilling poses no danger since there had never been a blowout during exploration: Campeche, which has spewed out more than 2 million barrels so far, is an exploratory well.

The arguments against drilling on Georges Bank are so overwhelming that one must ask why Interior is so determined to push ahead, especially when it has dozens of offshore leases of much greater potential to sell. The reason is apparently that Georges Bank has become a symbol. Angered by a court decision that halted an earlier lease sale in the area, Interior seems to be trying to prove that, despite its reputation for environmental concern, it can be as gungho as any other department in pushing energy development. It is intolerable that such a risk be taken to salvage bureaucratic pride.

If the energy crisis has taught us anything, it is surely that we have often used natural resources carelessly, even blindly, and are now suffering the conseqeunces. It would be the ultimate irony if, in pursuit of a few more drops of energy, we jeopardized or destroyed a resource of even greater consequence. The Georges Bank lease sale is a bad decision that begs to be reversed.

[From the Washington Post, Oct. 9, 1979]

Mr. Andrus on Georges Bank

On the opposite page today, Interior Secretary Cecil D. Andrus takes issue with our editorial on Georges Bank, the unique natural fishery in the Atlantic. In it, we argued that it was a bad idea to lease part of Georges Bank for oil production. Nothing in Secretary Andrus' reply persuades us that this is not so.

There is, first, the seemingly straightforward question of the value of the Georges Bank fishery. Is it less than $200 million, as Mr. Andrus claims—as distinct from the $1 billion figure we used? International commissions, private industry and different agencies within the government all cite very different numbers. The Post chose a middle value. One *could* go, for example, to Interior's own Environmental Impact Statement and find, on page 113, that the annual catch on Georges Bank amounts to 500,000 metric tons, or 1.1 billion pounds. Using a conservative value of 40 cents per pound of fish, and multiplying by the economic multiplier of 4.24 (again, this is Interior's recommended number) would give a total annual value to the United States of $1.8 billion.

More important than arguments over uncertain statistics, however, is the crucial difference—which Mr. Andrus seems to have missed—between a finite and a renewable resource. He says that to note, as we did, that the estimated oil reserve would provide only the equivalent of eight days of current consumption is no more to the point than it would be to note that all the fish in the Georges Bank would give only four meals' worth of protein for every American. But energy can be pumped out, used once and is gone. A fishery renews itself each year.

Then there is Mr. Andrus' assertion that "studies to date indicate no long-term ecological damage" resulting from offshore drilling. If anything, the evidence points the other way. The longest study of the aftereffects of an oil spill is being carried out at Falmouth, Mass., where a spill occurred in 1969. In Falmouth, the shellfish beds are *still* closed and there is continuing evidence of oil damage. Most independent, responsible scientists argue that the best that can be said is that it is simply not known yet what the long-term effects of marine oil pollution will be. Prudence dictates that the experiments not be carried out in what all agree is the world's most productive fishery.

At the very least, a deep concern for the fishery would argue for two key changes in the lease sale conditions. As is often done, the leases should allow only exploration, rather than exploration and production. Then, when the size of the oil resource is no longer only an estimate, the nation can accurately judge the relative importance of these two resources. The lease sale should also require that the "best available" technology be used—this requirement is now strangely absent. We suspect that is because there would be little industry interest in exploring Georges Bank if it were imposed: the field is simply too small to justify the expense.

The wisest course, however, would be to postpone development of Georges Bank indefinitely, or at least until—and we doubt it would ever happen—this relatively small oil field became vital to the nation's energy balance. The oil won't disappear; the fish *might*.

[From the Los Angeles Times, Sept. 27, 1979]

Georges Bank: A Holdup in Its Future?

The Georges Bank off Cape Cod is one of the world's richest fisheries. A unique convergence of currents roils and aerates its shallow waters and creates conditions ideal for the spawning of lobster, haddock, sole, cod, flounder, scallops and other marine life. Boats from New England ports have fished the bank continuously for 350 years, and the catch is now worth more than $1 billion a year.

How, then, is one to fathom Carter Administration logic in announcing that it will sell oil- and gas-drilling leases on 660,000 acres of the Georges Bank?

One of its rationales is that there is little possibility of a blowout that could destroy the spawning grounds. But Richard A. Frank, administrator of the National Oceanic and Atmospheric Administration, concedes that "risks of oil drilling on Georges Bank should not be underestimated; they are serious." The most that Frank could promise is that "we intend to take all the action we can to protect this rich ecosystem."

But in light of the blowout of a test well in the Bay of Campeche, which is still not under control after spewing 2 million barrels of oil, Frank's estimate of the danger is not reassuring.

Another Carter Administration argument in support of drilling is that the oil under the vast shoal is important to the nation's energy future. Yet the U.S. Department of Interior defines it as a small field, with "a most probable find" of no more than 150 million barrels. That amounts to only eight days of normal consumption in this country.

If one were to assign a value of $30 a barrel to the oil, the yield would be $4.5 billion over the 20-year life of the field. The fish catch would be worth more than four times as much and, unlike oil, is a perpetually renewable resource.

The fact is that undersea drilling, as shown by the incidents in the Gulf of Mexico and off our own Santa Barbara coast, can still be a hazardous and unpredictable undertaking.

In the present controversy, the safer and wiser policy for the government would be to continue to sell leases in other offshore Atlantic tracts that have even greater oil potential and where fishing is not a major enterprise.

The lease sale for the Georges Bank is set for Oct. 30. It is not too late for the Administration to reconsider a decision that could endanger the livelihood of many thousands and an essential food source for many millions.●

A TRIBUTE TO REV. DAVID CHESTER MASON, SR.

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. SHELBY. Mr. Speaker, on Sunday, October 14, 1979, the Choctaw Baptist Association of Choctaw County, Ala., will honor one of its outstanding leaders, Rev. David Chester Mason, Sr.

He was born in 1890, began preaching at age 14, was ordained at age 25, and has served in 18 pastorates in 6 associations in 2 States without ever having moved from his home in Isney, Ala. For most of his religious career, he pastored five churches simultaneously and today at age 90, he is still continuing in his 65th year in one pastorate and in his 60th year in another pastorate.

He was the initiating force in the formation of the Choctaw Baptist Association in 1918 and served as its moderator for well over 25 years.

As a pastor, he served both the largest and the smallest congregations in southwest Alabama and southeast Mississippi. He met their needs without regard to their ability to pay him. Many times he served congregations when his offerings were only 40 cents. He always led his congregations to achieve many improvements—such as new sanctuaries, the adding of educational space, starting mission work, starting youth work, starting music work, and many others.

Not only did he serve in religious capacities, but he was also an outstanding leader in other aspects of life as well—especially politically and economically. He was a strong force in this area of the country getting electricity, telephones, industries, highways, and bridges. Throughout the years he has worked closely with elected officials both on the local, State, and Federal levels. An example of this is that during World War I he traveled throughout two countries giving 2-minute speeches on the progress of the war. For this, at the end of the war he was awarded a Certificate of Recognition from the President of the United States at that time.

In recognition of his past efforts in all aspects of life for the people of this area, the Choctaw Baptist Association is sponsoring an appreciation day to specially recognize what he has done for the people of this area. A book has been written especially for this day summarizing his work entitled "Reverend David Chester Mason, Sr.: Abraham of Choctaw County" by Dr. Eugenia Cleary.

Mr. Speaker, it is entirely fitting that Rev. David Chester Mason, Sr., be recognized for all of his efforts in behalf of the people of Choctaw County. I join with Rev. Mason's many friends in the wish that his future years will be graced with good health, the richness of many friendships, and the inner warmth and deep satisfaction that comes from a life of showering gifts upon others.●

A GOLDEN ANNIVERSARY SALUTE TO ST. CHARLES BORROMEO PARISH SCHOOL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. McCLORY. Mr. Speaker, I rise today to bring to the attention of my colleagues the Golden Anniversary of the parish school of the St. Charles Borromeo parish in Hampshire, Ill. I also want to commend to my colleagues' attention the fact that the 50th anniversary of the school represents also 50 years of service to the school and the parish by the Springfield Dominicans.

The principal and school superior is Sister Mary Anton, O.P. Ably assisting her on the staff is Sister Anna Marie, O.P., who is the director of religious education.

Three of the early members of the staff deserve special recognition. They are Sister Rita Rose, Sister Helen Elizabeth, and Sister Mary. In addition, special note should be taken of another early staff member, Sister Louis, who has now passed away.

Mr. Speaker, their efforts, as well as the efforts of many other Sisters of the Dominican order, and many loyal members of the St. Charles Borromeo parish, have made their school a great success. But that success was not easily achieved. The school was founded in 1929, at the very beginning of the Great Depression. However, the launching of this enterprise at such an inauspicious time only caused all those involved to work doubly hard to achieve the goal of an academically excellent school where young people could be educated in the traditional moral precepts of their families and church.

Mr. Speaker, that goal has unquestionably been achieved today, and achieved with great distinction. The St. Charles Borromeo Parish School, which has 132 students in grades one through eight, is known well beyond the boundaries of the parish for the excellent quality of its academic instruction and the strong moral values which have permeated the school since its very inception. The academic and moral foundations laid by the first director of the school, Father Francis Heckinger, continue to this day and, in fact, have grown stronger with each succeeding year.

Mr. Speaker, we who work here in the Halls of Congress may sometimes be prone to think that the Government is responsible for all the virtuous educational, civic, and charitable endeavors of our Nation. This is a great mistake, as the achievements of the men and women of the St. Charles Borromeo parish remind us. Since the parish's founding over 100 years ago, in 1876, it has been an integral and highly respected part of the Hampshire-Burlington area. The founding of the school in 1929 represented a new challenge for the St. Charles Borromeo parish, which had to call upon the unstinting devotion of its parishioners to get the school built and keep it functioning during the dark days of the depression.

Mr. Speaker, now the school is an unqualified success and the parish can look back with pride on the past. It can also look forward with optimism to its future. With the guidance of Father William Clausen and Deacon Raymond Trost, I am sure that the parish will continue to maintain the school at the same high level of excellence it has achieved during its first 50 years.

Mr. Speaker, I plan to be present along with the parishioners of St. Charles Borromeo to help celebrate this momentous occasion and to communicate to them the greetings and good wishes which today I am expressing here on the floor of the U.S. House of Representatives.●

MEDICARE FINANCE PROPOSAL: WHO ARE WE TRYING TO FOOL?

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. GRASSLEY. Mr. Speaker, in 1977, it became clear that the social security fund had to be increased to avoid default in our commitment to the country's elderly after 1980. In order to maintain benefits under the various programs covered by social security legislation, two principal approaches were explored. One was to fund the deficit from general revenues. The other was to increase the level of direct taxes that have supported social security programs since their inception.

After careful study and debate, the Congress decided on the latter course and passed legislation that will begin increasing the direct social security tax which is levied on workers and employers who participate in the program. The first increase is scheduled to go into effect in 1981.

This decision was based on sound reasoning. Social security and its component features, which include medicare, were conceived to be insurance programs. It was, and currently is intended that they be funded by worker and employer contributions to self-renewing trust funds. It was never meant to be a Federal welfare program funded out of general revenues. It took courage for Congress to uphold that principle, but it did so.

In the years when many contributed to the program and few had gained eligibility to draw on it, the trust fund grew as expected. As time progressed, however, and more retiring workers became entitled to social security benefits, the trustees had no option but to diminish the principle of the trusts in order to maintain payments. Congress had long foreknowledge that trust fund growth essential to the needs of the system required a long-term adjustment of the tax structure but it waited until the 12th hour to do anything about it. Thus the 1977 amendments to the Social Security Act included substantial tax increases which must be compressed into the 1981-1987 timeframe in order to insure the continued solvency of the system.

Now that the time remaining before any other course can be adopted has grown short, the outcry against the forthcoming increase in social security tax is taking on a volume that rings loudly in the politically sensitive ear. President Carter's Social Security Advisory Council, which meets every fourth year to recommend changes in the system, has recommended that social security taxes be cut rather than increased, and proposes that medicare be financed out of general revenues. Other recommendations of similar vein would provide for the automatic use of general revenue funds to meet social security shortfalls and authorize "borrowing" from the Treasury to meet short-run finance difficulties.

The one healthy account administered under the act is the disability fund. The counsel proposes to remedy this situation by merging the old age and disability funds so that both can draw on the same account.

Who do they think they are fooling? The full support of medicare by general tax revenues is socialized medicine. The partial funding of old-age insurance out of general revenues is but the first step toward converting social security to a social welfare program.

If Congress buys this package, what will be the outcome?

First. The cost of old-age insurance will not go down. It will simply be redistributed so that those not covered will be taxed for it.

Second. All persons who pay taxes into the general revenue fund will have a rightful claim to social security coverage. This will convert the program into a general social welfare system replete with ballooning costs, an expanded welfare bureaucracy, accelerated inflation, unprecedented deficit spending and spiraling taxes.

Third. Medicare will become socialized medicine provided from general tax receipts. That is the camel's nose. From that step to universal socialized medical care is but a matter of time.

Fourth. Already over 75 percent of our Federal budget is legally committed to uncontrollable expenditures, most of which are income transfer programs. Adoption of these social security recommendations would greatly narrow the margin between mandated and optional expenditures. The only escape from such legislative fetters would be massive deficit spending or a major increase in that part of revenue income that is uncommitted to mandatory programs.

Put in broader terms, the question is quite simple. Do we or do not we want the United States to evolve into a welfare state? If not, we must draw the line at some point in our process of income transfer lawmaking. A good way to start is to stand firmly by our 1977 amendments to the Social Security Act.●

GOODLOE BYRON

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. LONG of Maryland. Mr. Speaker, a year ago, on October 12, I had the very unhappy duty of formally announcing to the Members of the House the sudden death of my friend, Representative Goodloe Byron, from the Sixth Congressional District of Maryland. Goodloe, a husband and father of three, suffered a fatal heart attack at the age of 49. Our personal loss is great, because as a friend Goodloe is irreplaceable. Goodloe's constituents are fortunate, however, in that Goodloe was succeeded in Congress by the able and hardworking BEVERLY BYRON.

Goodloe's authorship of a bill giving the Federal Government stewardship of the Appalachian Trail was one of his proudest achievements in the Congress. The trail, visited by 4,000,000 people every year, stretches 2,000 miles from Maine to Georgia and affords spectacular views of the Eastern part of our country.

The members of the Maryland delegation, including myself, and a number of other distinguished friends of Goodloe introduced a bill, H.R. 5419, to authorize a Goodloe Byron memorial at some spot along the Maryland section of the Appalachian Trail. The memorial will recognize Goodloe's efforts to promote the public use of the Appalachian Trail and of our national and scenic resources. It will commemorate his determination to protect the great outdoors for us, for our children, and for our children's children.

I was heartened that the House and Senate took prompt action on H.R. 5419.●

ADAM F. TUCHOLSKI

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. WOLFF. Mr. Speaker, I would like to address your attention, and the attention of my colleagues in the House of Representatives, to a birthday celebration which is taking place in my district this evening. It is not an ordinary birthday, nor is it an ordinary celebration. It is the 80th birthday party of Adam F. Tucholski, one of the most respected men in the Nassau County community.

For the past several decades, Mr. Tucholski has steadfastly served the people of Long Island. For 38 years, he has been a volunteer fireman for the Roslyn Highland Hook and Ladder Engine and Hose Company. In addition, he has volunteered his services to numerous other organizations, including the American Heart Association, where he served as the vice president of the Roslyn, N.Y. unit; the Sunshine Committee, which aids senior citizens in Roslyn; and the Meals on Wheels program. Mr. Tucholski is a member of St. Mary's Church in Roslyn, and he has attained the high recognition of reaching the esteemed fourth degree of the Knights of Columbus.

I am proud to commend Mr. Tucholski on behalf of the residents of the Sixth Congressional District of New York. We can all learn from his commitment, his idealism, and his great accomplishments.●

CONGRATULATIONS TO PROF. HOWARD A. MACKEY, FAIA

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. FAUNTROY. Mr. Speaker, I would like to pause to pay tribute to an outstanding American citizen who has served the people of the Nation's Capital and the people of the United States for more than half a century as an educator and builder of character—Prof. Howard A. Mackey, FAIA, dean emeritus of the Howard University School of Architecture and Planning. In a special celebration this week, Howard University will honor Professor Mackey for his dedication and tenacious commitment to the development of the Howard University School of Architecture and Planning from its infancy to its maturity.

I want to share with you and our country some of the contributions and accomplishments of Professor Mackey. Let me begin with a quotation by one of his former students:

> Whoever I am, whatever I have become, I know that you made the most significant contribution to my life at a time when it was most meaningful and . . . that your contribution to architecture and to the education of minority groups in the profession is unequaled in history.

Howard Hamilton Mackey, FAIA, has inspired such deserved praise throughout his professional life. Trained in the Ivy league tradition at the University of Pennsylvania in Philadelphia, the city of his birth, Professor Mackey entered the profession of architecture upon his graduation in 1924, at the age of 23. At a time when less than one-half dozen blacks in the United States held degrees in architecture, Professor Mackey joined the architecture faculty at Howard University, where he served as a role model for a small but enthusiastic group of students aspiring to join the elite rank of architects.

In 1930, he became the acting head of Howard's Department of Architecture and in 1931, he organized the first national exhibition of works of Negro architects. The exhibition was staged at Howard University and displayed drawings, photographs and models of work by black architects from across the United States. The attendant publicity not only revealed the scope and skill of professional architectural practice by blacks, but also served as a source of encouragement and stimulation for young blacks to exploit the potentials and opportunities of the profession. In 1937, Howard Hamilton Mackey was appointed head of the Howard University Department of Architecture.

Teaching and building a quality architectural education program occupied Professor Mackey's interests and energies through 1950, when he was successful in obtaining accreditation for the architecture department from the National Architectural Accrediting Board. Thus, Howard University's Department of Architecture became the first predominantly black architectural program to be accredited and remained the only such program until 1970. In 1957, Professor Mackey took a leave of absence from the university to add other dimensions to his experience and accomplishments.

Appointed to the staff of civil engineering of the University of Maryland during the 3-year leave of absence, Professor Mackey served as the only black member of a team of technical experts in South America. In this capacity, he worked as architectural and planning consultant to the Governments of Guyana and Surinam, critiquing their housing and town planning development programs and as adviser to the Ministry of Labor, Health and Housing in British Guiana he also advised on social services and on general public works throughout South America.

This international experience, particularly in tropical, developing countries led to some of Professor Mackey's pioneering work as an educator. Upon his return to Howard University he introduced for the first time in a North American institution, a program designed specifically for foreign students and for U.S. students planning to work in tropical environments. Such courses as tropical architecture, climatology, and environmental technology in developing countries were designed to transmit the skills and sensitivities required in solving architectural problems in the troops.

Professor Mackey also used the ensuing years following his return to Howard University to expand and build depth into the department's programs. He guided the initiation of a program in city planning and secured Ford Foundation funding to establish the department of city and regional planning. He developed undergraduate and graduate programs in architecture, and in 1970, under his leadership, the school of architecture and planning was established at Howard University. The new school had an enrollment of over 300 students, as compared with the 3 students who had greeted Professor Mackey upon his arrival at Howard University in 1924.

Memberships, awards, and affiliations are testimony to Professor Mackey's rich and productive legacy. Throughout his career he has participated in professional exhibitions, including the Chicago War Memorial Architectural Competition; the Chicago Art Institute Exhibition; Corcoran Gallery of Art's Exhibit for 2 years; and the Traveling Exhibit of the Harmon Foundation. His work also has been shown in Architects Building Philadelphia; in the New York Public Library Art Center; in the American Gallery of Art in Washington, D.C.; and in the National Exhibit by Negro Architects, which he organized.

His public service contributions have included membership on the Board of Examiners and Registrars of Architects for the District of Columbia; and memberships on the Board of Zoning Adjustment, District of Columbia Zoning Commission, Joint Committee of the Fine Arts Commission, National Capital Planning Commission, Committee on the Landmarks of the Nation's Capitol, and as the first black member of the Design Advisory Panel, Department of Housing and Community Development, Baltimore, Md.

As a trustee of the Council for the Advancement of the Negro in Architecture, Professor Mackey worked consistently with black institutions both in the North and the South to improve their professional training. It was inevitable, therefore, that the National Technical Association would honor him with the Distinguished Service Award in 1961, and that in 1962, he would become the second black architect to be named "Fellow of the American Institute of Architects."

Professor Mackey is a member of Tau Beta Pi Engineering Honor Society and of Tau Sigma Delta Honorary Architectural Fraternity. He is listed in Who's Who in American Education and in the Directory of American Scholars. Having earned these and other distinguished recognitions, Prof. Howard H. Mackey, Sr., FAIA, is truly a renaissance man. His personal accomplishments, and the accomplishments toward which he guided and inspired others testify to his place in the history of his profession, in the history of educational advancement, in the history of the accomplishments of black people and indeed, in the history of America. He has taught, designed, published, and practiced. He has enriched the experiences of those whose lives he has touched.●

POSITIVE COMMENTS FROM A CONSTITUENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. JACOBS. Mr. Speaker, occasionally a letter from a constituent deserves wider readership and accordingly I place the following in the RECORD:

INDIANAPOLIS, IND.,
September 14, 1979.

DEAR MR. JACOBS: This letter may do absolutely no good, but I will feel better for having written it.

My father was on renal dialysis for 1 year. Had it not been for the government and his supplemental insurance, he could not have had his last year with us.

My father entered the hospital June 26, 1979. The day or so before his hospitalization, his regular 7 week supply of materials for home dialysis was delivered. He passed away August 7, 1979, and it has been up to my brothers and me to attempt to return these items. None of these supplies had been used. To our dismay, we could not return these supplies, no hospital (we tried 3) could use them, no dialysis patients we were acquainted with could use them (they get their own 7 week supply) and consequently, we had to take these absolutely good items to the city dump and have them buried.

Why? Government regulations! These items had been paid for in big part by the government solely for my father's use and that was that. The hospitals could not accept them for re-sale or to even use them on some deserving individual without funds.

I've been so proud of the Medicare program and have made the statement many times that I would never complain about paying my taxes, but I can no longer make that statement.

I have to trim corners to make ends meet in our household and I'm furious about government waste due to asinine government regulations. This is just one example of my personal knowledge. I've heard about such things, but always felt it was an example of some person's vivid imagination. Now I know better. I would believe anything now.

Thanks for listening to one taxpayer's frustration and disillusionment.

Sincerely,

LONA BEARD HAMMOND.●

THE CLAMOR FOR LEADERSHIP

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. PAUL. Mr. Speaker, there is a yearning in our country today for strong leadership. Americans believe we need leadership in both the Presidency and the Congress, and they seek guidance, because they realize that we live in perilous times.

Government, the schools, the churches, and even our families have failed to provide leadership for these difficult days. Frustrated and fearful, Americans sense that our country is a ship at sea without a rudder.

This search for leadership: Is this healthy or dangerous? It can be either, depending on the sort of leadership sought.

Everyone—in his work, his community, his family, and his Government—needs reassurance, direction, and help. This kind of leadership promotes progress and the acceptance of beneficial new ideas.

Because of our unchanging natures, we will always need to look up to others in the community. But the character of the leaders, and the principles they uphold, are paramount over their other leadership qualities.

The economist Wilhelm Roepke, writing in "A Humane Economy," talks of a "natural nobility," which a free society must have to survive and prosper, "an elite whose sole title is derived from supreme performance and peerless moral example," and whose authority is accepted freely and readily. Entrance to this nobility of leadership, says Roepke, is through "an exemplary and slowly maturing life of dedicated endeavor on behalf of all, unimpeachable integrity, constant restraint of our common greed, proved soundness of judgment, a spotless private life, indomitable courage in standing up for truth and law, and generally the highest example."

These leaders, says Roepke, need to be from many different areas of life, but that it is of "crucial importance that * * * they include, above all people who * * * have close ties with the market economy and who feel responsible for it in the moral sphere."

Since we lack enough leaders of this caliber, the demand for strong leadership is certainly understandable.

The President was chosen, at least in part, because people believed he would be a moral leader as well as an efficient manager of the Government. People in Government have conspicuously failed to provide the right kind of leadership in recent years, and so the people selected a self-described outsider in hopes that he could supply what has been missing.

That he failed is obvious to everyone. And Congress—rightly—ranks even lower in the people's esteem.

The problem of our national leadership crisis is worth a book, but it is possible to outline it briefly.

First, the climax of the interventionist, welfare system is at hand. As Ludwig von Mises demonstrated, the mixed economy is unstable, and ours is proving him right. Bad leadership of the past has undermined our economic and political system, and the cracks are beginning to show.

Second, the work ethic has been undermined, and Americans have been taught that Government is our ultimate salvation and that money grows on trees—or out of a printing press. Special interests successfully demand favors from Government, and the link between production and income has been blurred.

We should beware of the strong leader who is effective, charismatic, and delights in wielding power, no matter how tempting a contrast he may seem to our current President.

The closer we get to economic and social chaos—and we are getting closer—the more difficult it will be for people to choose the right leader, and the more likely that we will get one who will equate leadership with power.

In the tumult of the 1930's, instead of picking a man who advocated correct economic policies and individual liberty, the German people chose the charismatic, strong, and "effective" Hitler.

Today, we have men promising to use power: the power to make people "toe the line" in personal behavior; the power to redistribute wealth and control the economy; the power to meddle in the affairs of other nations.

The strong leadership we need are the people who can convince, persuade, and effectively advocate freedom. This means maximum personal liberty, the market economy—with its moral and constitutional underpinnings—and a strong national defense, coupled with open borders, free trade, and a determination to avoid entangling our people in the quarrels of foreign countries.

Our Nation's greatest leader, all things considered, was probably George Washington. In his Farewell Address, he outlined the proper foreign policy for America:

> The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connection as possible . . . . (And) it is our true policy to steer clear of permanent alliance with any portion of the foreign world.

Third, Government policies have undermined the foundations of the free market, with special contracts, bailouts, special regulations, Export-Import Bank subsidies, low-interest loans, and protectionism.

Fourth, although interventionism seemed to work for a time, thanks to our wealth, the money has now run out. Given today's circumstances—a bankrupt nation with a declining general standard of living—the "leader" of yesterday no longer suffices. As the economic pie gets smaller, with special interests demanding bigger slices, the administrators of the giveaways are not admired by anyone.

Leaders and would-be leaders of the future have two choices. Either they can attempt to lead the people toward a controlled society with its nonmarket economy and end to personal freedom, or they can offer firm leadership in the direction of individual freedom, limited Government, and a market economy.

Unfortunately, the momentum is in the wrong direction. Most people do seem to equate leadership with control and are generally willing to sacrifice their freedom in a crisis.

But it need not be this way. Good leadership can show the way to greater freedom instead of less.

To restore a free market and a sound currency, and to keep our individual freedoms, we need leadership that will dissipate Government power, not increase it. Leadership and power are not synonymous. A man can wield power without exerting leadership; a man can exert leadership without abusing power.

The great danger is that we will choose someone exactly opposite to Washington. Once leaders of the good sort are found, they have a far more lasting effect than the Hitlers, who are forever afterward condemned as monsters. The statesmen who lead us in the direction of liberty are a force for good for decades or even centuries.

The leadership we seek can be philosophical (Aristotle), both philosophic and political (Jefferson), or purely political (Washington or Jackson). But it must be the kind that persuades rather than coerces. This means that religion and morality cannot be neglected. As George Washington told the Nation:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens.
>
> The mere politician, equally with the pious man, ought to respect and cherish them. A volume could not trace all their connections with private and public felicity.
>
> Let it simply be asked, where is the security for property, for reputation, for life, if the sense of public obligation desert the oaths which are the instruments of investigation in courts of justice?
>
> And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that a national morality can prevail in exclusion of religious principle.

Spiritually, and in economic and political terms, truth and right have far greater profundity than power and its corruptions.

Our greatest problem is the small number of those in leadership positions speaking for more freedom and less Government. But since our message is so much stronger, and has greater staying power, we need only work a little harder to gain positions of influence.

If America is to survive and prosper as a free society, we need to choose our leaders carefully. While rejecting those who glory in power and authority, we must seek as leaders members of Roepke's natural nobility, the potential George Washingtons of tomorrow.●

NATIONAL CAUCUS OF LABOR COMMITTEES/U.S. LABOR PARTY: SUPPORTERS OF REVOLUTIONARY TERRORISM, PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. McDONALD. Mr. Speaker, in the absence of a U.S. internal security program, revolutionary extremist groups have been escalating their support for foreign terrorist movements. Over the past 3 years, coinciding with the conquest of South Vietnam by the Communists, the chief strategic area of Soviet aggression has been the Middle East where the U.S.S.R.'s principal instrument is the terrorist Palestine Liberation Organization (PLO). In the United States, the PLO and the Soviet client states that support PLO terrorism, principally Libya and Iraq, have developed alliances with a wide range of revolutionary extremist groups for the purpose of providing propaganda and other support for the PLO.

The largest number of U.S. supporters of PLO terrorism are drawn from revolutionary Marxist groups. These range from tht Communist Party, U.S.A. and the World Peace Council's U.S. section, controlled directly by the Soviet Union, through the "New Left" "anti-imperialist" groups alined with Hanoi, Havana, or the Soviet client states in Africa to allegedly "independent" Communist groupings like the Trotskyite Socialist Workers Party. The second area of support being developed by Libya and, to a lesser extent, by Iraq, has been the small National Socialist Hitlerian cults that serve principally as instigators of public disorder in that there are many American citizens of European origin—French, Dutch, Norwegian, Ukrainian, Czech, Polish, et cetera—who remember the destruction and brutality and destruction of Nazi invasion, the rule by terror and atrocity as at Lidice, and the horror of the slave labor and extermination camps.

Since 1975 when the Soviets were able to turn their full attention to the Middle East, a number of Marxist-Leninist and Nazi groups have been able to expand their publications from irregularly produced newsletters and small drab monthly tabloids to expensive multipaged tabloids. And while styled to fit the peculiarities of each group, there has been a common theme: obsequious praise for Libya's maniacal dictator Col. Muammar Qaddafi and praise for the so-called "just cause" of the PLO terrorists with vituperation against the State of Israel and her supporters.

Perhaps the most interesting of the violence-oriented organizations backing the Palestine Liberation Organization is the National Caucus of Labor Committees/U.S. Labor Party (NCLC/USLP).

Founded and led by Lyndon Hermyle LaRouche, Jr., who under his "party name" or alias Lyn Marcus was a member of the Trotskyite Communist Socialist Workers Party and one of its splinter groups from 1948 through the mid-1960's, when the NCLC was formed as a faction within Students for a Democratic Society, the NCLC/USLP is the link between the Soviet-alined Marxist totalitarians and the Nazi totalitarians in uniting on the issue of supporting the PLO and attacking Israel.

On a number of occasions I have provided documentation and analysis of the NCLC/USLP's activities dangerous to U.S. national security—CONGRESSIONAL RECORDS of January 26, 1977, 2428–2430; June 28, 1977, 21334–21335; March 27, 1979, 6502–6504. Curiously considering the large amount of documentation is available on the group's alinement with the Soviet Union, two reports recently published by the New York Times on the NCLC/USLP are surprisingly thin, and show a lack of understanding of the group and political theory by the two journalists responsible for the articles.

For example, the Times says the NCLC/USLP has "turned away from Marxism to the extreme right and * * * to anti-Semitism." Communism and National Socialism both involve rule by a one-party centralized party with programs of severe political, economic, and social regimentation. If one wishes to term these twin movements "leftist," then the opposite extreme of "the right" properly is anarchism, not the centrist system of limited representative government. The problem of reporters Montgomery and Blum is that apparently they cannot tell the difference between totalitarians, anarchists, and conservatives who support limited constitutional government.

The Times implies that the fact that the NCLC/USLP has had its cadre hanging around law enforcement agencies and providing information on rival political movements is evidence of a move away from Marxism. Actually, Marxist groups have always spied on each other and provided information to the police and FBI on their rivals. The Communist Party, U.S.A., provided information to the FBI about the Trotskyite leaders of the Socialist Workers Party (SWP) when they were being prosecuted under the Smith Act in the 1940's. In Cleveland in the early 1950's where the SWP was active in the trade union movement, at least one Communist Party member was assigned to join the SWP and then provide information on the Trotskyites to the FBI. When Soviet or Cuban leaders visit this country, the Communist and Castroite intelligence apparatuses use the occasions to provide smear information against anti-Communist and anti-Castro groups to the authorities. And for their part, the Maoist Communists spy on the CPUSA and the Castroites and the Trotskyites of the SWP do the same. Lest anyone mistakenly think that the Communist factions spy only on each other and provide information to law enforcement and intelligence agencies, let me remind them of the internal documents of the Socialist Workers Party I have published showing their spies at work in the antinuclear movement which they hope to co-opt.

Since 1975, the NCLC/USLP's political line has been pro-Soviet, particularly supporting the view of the Soviet leaders as peaceful men being provoked by U.S. political, economic, and military leaders who want a nuclear war. It is significant that LaRouche's top aides include a number of Greeks with backgrounds with the Greek and U.S. Communist parties. Constantine George, the head of NCLC/USLP's "security and intelligence" operations and its Executive Intelligence Review publication, formerly resided in East Germany and was involved with the East German intelligence service. The NCLC's European section has been industriously gathering economic and political information of little value to the group, but certainly of interest to East Germany.

The New York Times lists as part of the NCLC/USLP "war on liberalism" LaRouche's political campaigns for "lower taxes, higher incomes, and a drug-free society." I would point out that Senator Edward Kennedy has stated his support for those same goals and ask whether the Times is seriously suggesting that the Massachusetts Senator is waging "war on liberalism."

There is a regrettable tendency among journalists to dismiss the political content of the NCLC's activities and dismiss it as another zany religious cult, in order to concentrate on reporting the shocking abuse of human dignity that goes on in the "encounter" sessions with NCLC/USLP members. However, the "Caucusoid" sessions differ little from the classic "criticism-self-criticism" sessions of equally intense, violence-oriented revolutionary groups such as the Weather Underground Organization or the West German Baader-Meinhof gang. The purpose of these sessions is to force group members to reveal their weaknesses and the psychological keys that can be used to manipulate them, and to instill fear of the power of the group and its leaders.

Finally, the Times reporters have misunderstood the cause for the appearance of blatantly anti-Semitic material in NCLC/USLP publications. The organization is a link between Soviet-alined regimes backing the PLO a "national liberation movement," namely Libya and Iraq, and U.S. anti-Semitic groups. The NCLC/USLP contacts with those countries came first; then they tailored their publications to the requirements of their new totalitarian allies. Can the Times seriously believe that the militant fanatics of the NCLC/USLP would be converted to anti-Semitism because of a book review in Spotlight? Like the other Marxist groups who back the Palestine Liberation Organization, the NCLC/USLP insists it is not really anti-Semitic, just anti-Zionist. But when the Castroite, Soviet-backed Sandinista revolutionaries in Nicaragua who had had members trained by the PLO and take part in terrorist actions with the Marxist-Leninist Popular Front for the Liberation of Palestine (PFLP) denounced Israel for selling ammunition to the Nicaraguan Government, the NCLC/USLP joined the leftist bandwagon and hailed the Sandinista capture of that country.

Most recently, the NCLC/USLP has used its publication, New Solidarity, to attack the moderate Arab States that are friendly toward and good trading partners with the Free World, particularly Morocco and Saudi Arabia. The Soviet-alined Arab States and the PLO have made perfectly plain their desire to overthrow these moderate governments and advance the "Arab revolution." Algeria, one of the Soviet-alined States, harbors a terrorist movement called Polisario that is attempting to overthrow King Hassan II. Libya provides training camps for the Polisario and recently it was reported that Libya was training Berber terrorists to start another action against Morocco.

The subservience of the NCLC/USLP to Colonel Qaddafi and the PLO, its formation of a paramilitary "security force," its building of an intensely fanatic cadre at the command of an unstable egomaniac indicates the group is a significant threat to U.S. internal security.

Veteran intelligence analysts familiar with the history of the National Caucus of Labor Committees/U.S. Labor Party believe that this group has a high potential for moving into active terrorism. The "Caucusoid" cadre are kept busy jumping from one world crisis to another—with thermonuclear war and the destruction of the world the penalty if they fail in their mission. Bizarre conspiracies beset them—CIA, British intelligence, Zionist intelligence, the Rockefellers and international financial manipulators—and the Knights of Malta. Week after week, at the very last minute, LaRouche announces that because of the work of the party, the holocaust has been put off for a short time. The leaders of his "conspiracies" have been named in party publications and extensive files have been compiled on their activities, places of residence and work, their families, and so forth.

The possibility that LaRouche—or one of his aides acting "on his behalf"—may order an assassination or kidnapping should be under active investigation by the Federal Bureau of Investigation and local police in the areas of party activity. But as a result of the 1976 Attorney General's guidelines for internal security investigations, the case on the U.S. Labor Party has been closed. The files were turned over to the NCLC/USLP which used them to hunt out suspected informants. The NCLC/USLP is now suing the FBI and has obtained a court order sealing the FBI's files—files the group had obtained under the Freedom of Information Act on grounds that they should be made public. Now the NCLC is free to release only selected passages from the files taken out of context in order to smear the FBI.

The NCLC/USLP case demonstrates the need for restoration of the House Committee on Internal Security which would have jurisdiction to examine in detail the nature of groups like the National Caucus of Labor Committees and their relations with foreign terrorist groups, and draft appropriate legislation to meet the problem where necessary.

I urge you to join in cosponsoring House Resolution 48 to restore the Internal Security Committee, and in working to bring that resolution to the floor for a vote.

While I have outlined my criticisms of aspects of the New York Times articles above, they also contain factual information about the NCLC/USLP financial structure and apparatus of front groups which I commend to the attention of my colleagues.

The article follows:

[From the New York Times, Oct. 7, 1979]

U.S. Labor Party: Cult Surrounded by Controversy

[The following article is based on reporting by Howard Blum and Paul L. Montgomery and was written by Mr. Montgomery.]

Last month in New Hampshire a mild-looking economic theorist named Lyndon H. LaRouche Jr. began his 1980 campaign for President of the United States, escorted by expressionless security men from the U.S. Labor Party, the cult-like organization he has created over the last decade.

Mr. LaRouche first gained attention during the 1968 Columbia University strike, when he attracted students a generation younger than he and formed the National Caucus of Labor Committees. In the decade that followed, he has turned that organization and its political arm, the U.S. Labor Party, away from Marxism to the extreme right and—despite the presence of many Jewish members—to anti-Semitism. The organization no longer advocates a workers' state, and its members now dominate a multimillion-dollar-a-year business. According to charges by former party members in a pending lawsuit, the business channels money to Mr. LaRouche's U.S. Labor Party.

Along the way—according to former party members and, in some cases, to party publications, internal party records and law-enforcement officials—members of the party have initiated gang assaults at rivals' meetings, taken courses in the use of knives and rifles at an "anti-terrorist" school and produced private intelligence reports on anti-apartheid groups in the United States for the Bureau of State Security of South Africa.

The party has also brought members from its branches in West Germany and Mexico to a farm in upstate New York for training in guerrilla warfare, according to former party members who say they participated in the training.

For some, the U.S. Labor Party is one of many sects at the far fringe of American politics, unworthy of serious attention. But for opponents of the party who believe themselves the targets of systematic harassment, the party is a menace that received 27 percent of the vote in a local election in Seattle and that should be closed off from its latest goal—getting matching funds from the Federal treasury for Mr. LaRouche's Presidential campaign.

The 57-year-old Mr. LaRouche runs his operation from a closely guarded headquarters occupying the entire floor of an office building off Columbus Circle—at 304 West 58th Street. This year, through airport sales of its publications, fund-raising drives among members and income from successful computer and printing companies, the U.S. Labor Party is expected to raise more than $4 million for Mr. LaRouche's varied projects.

What follows is based on public records, on party documents and literature and on interviews with former members of the U.S. Labor Party, none of whom wanted to be named. Some said they feared for their lives, some said they feared harassment for themselves or their spouses still inside the party and some seemed embarrassed at what they now regard as another life.

A New York Times inquiry into the activities of the 1,000-member core of the party, who are scattered among 37 listed offices in North America and 26 in Europe and Latin America, has found the following:

Party members have a dominant role in three Manhattan companies that, according to informed estimates, together have revenues of perhaps $5 million a year. The companies are the Computron Technologies Corporation, at 810 Seventh Avenue, a programming concern that includes Mobil Oil, Citibank, Bristol-Myers and A.T.&T. among its clients; World Composition Services, at 432 Park Avenue South, which has one of the most advanced computer typesetting complexes in the city and does work for the Ford Foundation and major publishers, and PMR Associates, at 205 West 27th Street, a job printing shop that produces the party's publications as well as outside work for high school newspapers. According to an affidavit filed in a pending lawsuit by two former party members against three individuals associated with the U.S. Labor Party, money from Computron goes, unreported, to the party. The unreported channeling of money from business to a political party is a potential violation of Federal campaign law.

Corporate officers from all three companies denied any links to the Labor Party and refused repeated request for interviews.

Beginning in 1976, the party voluntarily transmitted "intelligence" reports on left-wing movements to the Federal Bureau of Investigation and local police departments. In 1977, the group attempted to commercialize its intelligence network. According to former members, reports on anti-apartheid groups were prepared for South Africa, student dissidents were investigated for the Shah of Iran's Savak, and the anti-nuclear movement was examined for power companies.

Mr. LaRouche announces to the members several times a year that he is "targeted" for assassination by various conspirators. The latest, according to the candidate, include the Queen of England, "big-time Zionist mobsters," the Council on Foreign Relations, the Justice Department and Mossad, the Israel security agency. Recently, at least eight members of the party have undergone intensive training in "anti-terrorist" techniquest at a camp in Powder Springs, Ga., that is operated by Mitchell L. WerBell 3d, an international arms dealer who has served as adviser to Latin American dictators, including Fulgencio Batista and Anastasio Somoza.

During World War II, Mr. WerBell was a guerrilla fighter for the Office of Strategic Services and he says he still has close ties to the Central Intelligence Agency. Accordingly to Mr. WerBell, the training at his camp—costing $200 a day per person for six days—involves rifle, knife and pistol use for defense against assassination.

Officers of the party exchange information nearly daily with Roy Frankhouser of Reading, Pa., who calls himself the Grand Dragon of the Ku Klux Klan in Pennsylvania and who has also been active in the American Nazi Party. Mr. Frankhouser worked briefly as an informant for the Alcohol, Tobacco and Firearms Bureau and also says he has served with the C.I.A. and the F.B.I. (The policy of both Federal organizations is not to comment on undercover agents.)

In 1975, Mr. Frankhouser was convicted in Federal court of conspiring to sell a half a ton of stolen dynamite and received five years probation. He has also marched on Fifth Avenue in a black Gestapo uniform. On a number of occasions, Mr. LaRouche has cited Mr. Frankhouser as a "high intelligence source."

The party has founded "anti-drug coalitions" in a dozen states that are used as vehicles for spreading Mr. LaRouche's theories that British intelligence services and "Zionist drug runners" control the world's narcotics traffic. In many cases, people listed as members of the coalitions have said their names were used without permission, and others have resigned—because they learned of the party's role in the groups or because of the coalitions' anti-Semitic nature—only to find their names still being used.

Another group set up by the U.S. Labor Party—the Fusion Energy Foundation, which advocates nuclear power—has been approved as a nonprofit organization by the Internal Revenue Service. All money gathered by party members in the field through the sale of the foundation's publications and through donations from utilities are included in the daily transfers of money to party headquarters. The foundation said in its 1978 tax return that no part of its income of $103,837 was used for political purposes.

The party encourages its members to take jobs outside the party to assist the group's private intelligence gathering. For example, unknown to the Council on Foreign Relations, a secretary was an active member of the U.S. Labor Party. Among the secretary's duties last year was to attend the sessions of the Bilderberg Society, an exclusive organization of the world's industrial and foreign-policy elite that meets annually for confidential discussions of economic policy and world trends.

"I'm absolutely floored by this," said William P. Bundy, who employed the woman for part of her time at the Council, when told of her party connection. "It's like the C.I.A. getting an agent into the Politburo."

Party leaders, were offered an opportunity to respond to the findings, but they refused to meet with the reporters working on this article.

The party persistently harasses journalists and publications it regards as unfriendly. One Detroit freelance reporter who wrote of an investigation of the group found the next week that people living on his block had been sent a leaflet inviting them to a "Gay Coming Out Party" at his house.

The U.S. Labor Party also published a list of "terrorists" or potential assassins that it believes are a threat to it. In 1977, when Mr. LaRouche was in West Germany and believed himself to be a target of the Bader-Meinhof gang, the party's twice-weekly newspaper New Solidarity described more than 40 people, most of them journalists, as "witting participants in the Brzezinski bloodbath deployment." (Party members believe the President's national security adviser, Zbigniew Brzezinski, is the successor to Henry A. Kissinger as the chief conspirator against Mr. LaRouche in the United States.)

MEMBERS ARRESTED

In an accompanying article on what he called "Operation Counterterror," Mr. LaRouche said: "I am playing the game according to the following rule: My moves will be such that if a hit against me occurs the evidence will be irrepressible and will lead my friends to rapidly bring down the Carter Administration and very highly placed forces in several countries presently complicit in international terrorism."

Over the years, members of the U.S. Labor Party and its predecessors have been arrested on a variety of criminal charges—kidnapping, possession of guns, assault—but there have been few convictions. The group began with professions of nonviolence and Mr. LaRouche still frequently espouses that cause, saying members act only in self-defense. Its involvement with weapons training and military-style maneuvers was known only to the inner circle of the leadership and those selected to participate.

According to former members and incidents described in party publications, a frequently used tactic—particularly when members are selling the group's literature or disrupting meetings of other organizations—is to try to incite violence through insults.

"Those guys are really maniacs," said one former member. "I've seen them. If you don't buy a paper you're a pig or smell bad or they call you a Nazi. They get two inches from a person's face and cut them to pieces. They can get anybody to hit them in a second. They love it, getting bloody. They talk about it all the time."

FILE ASSAULT CHARGES

When members do elicit a reaction, they file assault charges and include the incident in accounts of "assassination attempts." Recently, when a young man charged the party's literature table at Newark Airport shouting "Sieg Heil," New Solidarity, the group's newspaper, said the incident was connected with international terrorism.

The party has been the subject of surveillance and investigation by a number of law-enforcement bodies. The Federal Bureau of Investigation had an open file on the group for seven years, including use of at least two informants within the organization.

The case was closed by the F.B.I. in 1977 under new Federal guidelines prohibiting domestic political surveillance in the absence of evidence of specific illegal acts. Mr. LaRouche and the party have a lawsuit pending against the F.B.I. and have won a court order prohibiting the bureau from discussing the party with news reporters and also resealing 5,000 pages of F.B.I. documents about the group previously released under the Freedom of Information Act.

The party also has a suit pending against the Federal Election Commission. The commission denied Mr. LaRouche $110,000 in Federal matching campaign funds in 1976, charging irregularities in the reporting of contributions. The group is again seeking Federal funds for 1980 and says it already has the necessary contributions from six of the required 20 states.

Members who have recently left the party say its full-time membership has been shrinking since its turn to the right and anti-Semitism about three years ago. These sources say the membership core of the party reached a high of 2,500 in 1975, compared with about 1,000 now. Despite the turn toward anti-Semitism, there are still many Jewish members of the group, including high-ranking members of its intelligence and security sections.

LINK ZIONISTS AND NAZIS

Among statements that appear in party publications or in articles written by Mr. LaRouche are such as, "Zionist circles funded the founding and continuation of the American Nazi Party" and "Israel is ruled from London as a zombie-nation." The party's newspaper has printed that "only" a million Jews died in the Holocaust.

For those inside the sunless structure of the party, enclosed by rigid psychological and social strictures, life moves from crisis to crisis as Mr. LaRouche announces new plots of assassination or looming thermonuclear war. "Every few weeks there's a new reality, different from the one before but just as absolute," said a former member. "It seems like the system was designed so that people have no time to think."

Mr. LaRouche brooks no questioning of his revelations. "All previous reality is canceled," he once said in arguing one of his points. "People who don't believe this have resigned from the human race," is another of his frequently stated sentiments.

Members of the U.S. Labor Party are expected to be neatly dressed and groomed. Men are clean-shaven, conservatively barbered and wear ties. In many cases, wives or the women who party members' live with work full-time at outside jobs so their partners can devote full time to the party. Some officials get stipends for living expenses but most members are expected to support themselves.

MEMBERS TAKE OUT LOANS

The former members say that all members savings and possessions are at the service of the party. At least five members are known to have each given more than $100,000 of their own money to the party during their membership. Members routinely are asked to take out substantial loans and give the money to the party. The party makes the loan payments, but if the member quits, he remains responsible for the balance—an incentive for some to stay in.

Psychological pressures are great. Often party officials pick the person a member is to live with. If a member wants to leave the group, his partner is ordered to live apart from him. Mr. LaRouche has published his own psychological theories, which feature discussions of impotence, fear of homosexuality and denigration of women.

Mr. LaRouche's style is considerably less Spartan than that of his followers. He travels surrounded by aides and recently returned from Europe on the Concorde. His apartment in the Riverdale section of the Bronx reportedly cost $900 a month and, according to several former members who saw it, a guard with a shotgun is stationed just inside his front door.

The party's founder has conducted grueling encounter sessions to keep members in line. According to the accounts of former members, those who doubt Mr. LaRouche are summoned before a small group and grilled about their fears and guilt until they break down. Husbands or wives are asked about their partners' sexual practices.

In one case, former members said, a man was ordered by Mr. LaRouche to stop having sexual relations with his wife because he was becoming "politically impotent."

CALLED "DIABOLICAL"

One woman who resigned from the group after several such sessions described them in a document circulated to members as "diabolical," leading to "deep-seated feelings of self-hatred and worthlessness." She wrote that, under Mr. LaRouche's conduct of the sessions, high-ranking members were transformed into sniveling informers vying for the leader's approval."●

AUSLANDER FAMILY RECOGNIZED FOR COMBINED TOTAL OF 104 YEARS OF PUBLIC SERVICE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. VANIK. Mr. Speaker, it gives me great pleasure to acknowledge the accomplishments of the Auslander family for their combined total of 104 years of dedicated public service. On October 17, 1979, the Cuyahoga County Bar Association will have a testimonial luncheon honoring Hon. Harry Auslander, former judge of the Cleveland municipal court and past president of the Cuyahoga County Bar Association; Miss Helen Auslander, former deputy clerk of the common pleas court of Cuyahoga County; and Miss Rebecca Auslander (posthumously), who served in the auditing department of the bureau of employment services for the State of Ohio.

Harry Auslander received his law degree from Western Reserve University Law School in 1930, practiced law for 12 years and then devoted himself to public service. He served as a prosecutor for the city of Cleveland, as an assistant attorney general for the State of Ohio, as judge of the Cleveland municipal court, as deputy superintendent of insurance of the State of Ohio, as assistant director of law of Cleveland, and in numerous other positions. His service was of 34 years' duration.

The Cleveland Plain Dealer in an editorial stated, "Judge Auslander has continued to add to his long reputation for utter honesty and complete dedication."

Miss Helen Auslander served as deputy clerk of the common pleas court of Cuyahoga County from March 17, 1941, to April 1, 1978—making a total of 37 years of public service. In acknowledgment of that service, she has received numerous honors, including the Public Servants Merit Award of the Cuyahoga County Bar Association and tributes from both bodies of the Ohio Legislature and the Cleveland City Council.

Miss Rebecca Auslander served with the bureau of employment services from April 18, 1939, until July 1, 1972, making a total of 33 years of public service. Upon her retirement, she was honored with the Governor's Award for loyal, faithful, and meritorious service.

The citizens of Cuyahoga County and the State of Ohio will be forever grateful to this wonderful family for their devotion to public service.●

DOE: A DEAR WE CAN DO WITHOUT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. DANNEMEYER. Mr. Speaker, with the prospect of energy shortages and higher energy prices making the headlines to frequently lately, the idea of abolishing the Federal Department of Energy (DOE) strikes some people as being a bit illogical. However, when one examines closely the record DOE has compiled, in trying to manage our energy situation, the arguments in favor of such a course of action become compelling. And then, when one reads about a situation such as the one described in the September 4 edition of the North Orange County (Calif.) Daily News Tribune, the case becomes overwhelming.

That DOE could effectively regulate out of business a firm that it was trying to encourage is bad enough, but the sad fact of the matter is people in DOE know what they are doing will not work, yet the Department continues to do it. As the editorial points out, even former Energy Secretary James Schlesinger admitted that attempting to allocate last spring's energy shortages simply made them worse.

As a cosponsor of H.R. 4329, a bill sponsored by the distinguished gentleman from Virginia (Mr. WHITEHURST) having as its objective the termination of DOE. I ask unanimous consent that the aforementioned editorial in the North Orange County Daily News Tribune be inserted in the RECORD at this time. It is well worth reading.

The article follows:

KILLING SMALL COMPANIES

An executive of a Kansas company that operates 225 independent gasoline stations went to Washington last week to argue convincingly that Department of Energy regulations are destroying his firm.

The story told by R. J. Gaffney, vice president of Highway Oil Inc. of Topeka, is bad enough. But there is something worse. The Energy Department agrees with him.

"He's right," said a top official in the department who requested anonymity. "He has given an accurate description of what DOE regulations are doing to some people in this industry."

Gaffney said his company, encouraged to do so by DOD, invested $300,000 in gasohol production equipment. Now the company needs gasoline to make the facilities work, and DOE won't let Highway get it.

"That's true too," said the DOE official. "The only answer is to get rid of these regulations. There is no way they can work. They don't protect consumers, and they never have."

Because of complex DOE rules, Highway must sell its product for 8 to 10 cents a gallon more than the major oil companies do, and they must sell their product at levels that soon will drive Highway out of business.

In Washington, Gaffney found that DOE couldn't give him relief. It has a backlog of more than 5,000 other cases, and by the time it gets to his, the Kansas company should be belly up.

Is this an isolated example of damage to the economy by DOE? Not according to the official who commented on Highway's tale of horror. And not according to James Schlesinger who, as he left the department, admitted that it was incapable of properly allocating gasoline and had made last spring's shortages worse.

Here is a chilling example of bureaucracy's mad momentum. DOE knows it is ruining some companies and distorting the economy, but it must continue spreading damage: Its regulations say so.

President Carter prides himself on being a manager. Then he ought to pause in his haring around the country, demagoging the oil companies and crying for higher taxes. With a few firm orders he could stop his creation, the Energy Department, from blindly killing small companies.

We hope he can spare the time from campaigning.●

NATIONAL CAUCUS OF LABOR COMMITTEES/U.S. LABOR PARTY: SUPPORTERS OF REVOLUTIONARY TERRORISM, PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. McDONALD. Mr. Speaker, this is the second of the articles published by the New York Times on the National Caucus of Labor Committees (NCLC) and its political front, the U.S. Labor Party (USLP), a Marxist revolutionary grouping alined with Libya and the Palestine Liberation Organization.

The article follows:

[From the New York Times, Oct. 8, 1979]

ONE MAN LEADS U.S. LABOR PARTY ON ITS ERRATIC PATH

[The following article is based on reporting by Howard Blum and Paul L. Montgomery and was written by Mr. Montgomery.]

While the philosophy of the U.S. Labor Party has shifted dramatically over the last decade—from its roots in the left-wing student movement of the late 1960's to the cult-like right-wing political organization that it is today—one man has always been central to the party and its policy: its founder, Lyndon H. LaRouche Jr.

The 57-year-old Mr. LaRouche, the party's 1980 candidate for President of the United States, controls the activities of the organization, which has 1,000 core members scattered among 37 listed offices in North America and 26 in Europe and Latin America.

According to former party members—and, in some cases, party literature, internal party documents and law enforcement officials—the party members, under Mr. LaRouche's leadership, have initiated gang assaults at rivals' meetings, taken courses in the use of knives and rifles at an "anti-terrorist" school and produced private intelligence reports on antiapartheid groups in the United States for South Africa. Members have also been trained in guerrilla warfare at a farm in upstate New York.

FEDERAL ELECTION FUNDS SOUGHT

At present the party is preparing to spend on Mr. LaRouche's 1980 candidacy for the Presidency a large part of the $4 million it is estimated to raise each year, and it is seeking Federal matching funds for the campaign.

Since the beginning of his campaign, Mr. LaRouche has altered his biography to eliminate references to such matters as his conscientious-objector status until near the end of World War II and his 30 years of leftist political work. He has also stopped using the pseudonym Lyn Marcus or L. Marcus, by which he was known in his organizations before 1975.

Mr. LaRouche was born in Rochester, N.H., in 1922 and grew up in Lynn, Mass., where his father was a management consultant in the shoe industry. His mother, who died last year, ran a fundamentalist Quaker meeting in the Back Bay section of Boston.

From 1948 to 1963, Mr. LaRouche, then known as Marcus, was active in the Socialist Workers Party, a Trotskyite group. In the 1960's he appeared in various movements in New York as a management consultant. In 1969, a year after he formed the left-wing National Caucus of Labor Committees at Columbia University, the group and its 30 members were expelled from Students for a Democratic Society and set out on their own.

Until 1972, the group, known familiarly as the Labor Committee, was unnoticed, and its members were almost exclusively young people of upper middle-class background who believed that Mr. LaRouche's Marxist theories and attempts to organize workers during strikes and the like provided the best opportunity for socialism.

The Labor Committee began to undergo dramatic changes in the middle of 1972, when Mr. LaRouche's second wife left him for a young English member of the party living in London. Mr. LaRouche spent several months in West Germany and returned with what one former member described as a "messianic vision." Whereas internal debate and discussion had previously characterized the Labor Committee, the leader began making dictatorial pronouncements. Those who disagreed were said to be either Central Intelligence Agency agents or afraid of their mothers.

Mr. LaRouche began forming ideas of a vast conspiracy against him, led by the Rockefeller family and anything having to do with England. He spent much of his time in his bathrobe in his New York apartment, surrounded by a security force. Cartons of canned food, acquired for a "siege" lined the halls.

Upon his return to New York, Mr. LaRouche announced to the membership, without consultation with the party's executive committee, Operation Mop-Up. It was a two-month period of violence in March and April 1973, in which Labor Committee gangs attacked Communist Party members disrupted meetings of many left-wing groups and attempted to intervene in strikes to assert Mr. LaRouche's "leadership" of the Left. According to former members, some participants carried guns and attempts were made to acquire a cache of weapons.

GUERRILLA AND TERRORIST TRAINING

This was also a period of guerilla and terrorist training, which began at a hunting lodge in Pennsylvania and was continued at a farm the group acquired near Salem, N.Y., according to former members who led and participated in this training. A report on the guerrilla training sessions was filed, according to a law-enforcement official, by a party member who was an informant for the Federal Bureau of Investigation.

Classes were given by Vietnam veterans and European members who had had military or Communist underground experience. According to several who participated, the techniques taught included garroting, knifing and booby trapping, small-unit maneuvers and the usual toils of boot camp.

According to former members, about 50 current members of the U.S. Labor Party have undergone aspects of the training.

Mr. LaRouche repudiated violence again in 1974 and has persistently denied that the training sessions took place, though the group has acknowledged giving courses in "unarmed self-defense."

WEAK SHOWING AT THE POLLS

Around 1975 the party swung much of its effort to electoral politics. In Mr. LaRouche's 1976 Presidential campaign, for which the party claimed $180,000 in expenses, he was on the ballot in 24 states and the District of Columbia and got 40,043 votes out of 80 million cast. Virginia provided the most votes with 7,508, followed by New York with 5,413, Massachusetts with 4,922 and Ohio with 4,335.

As it always does after electoral defeat, the party claimed voting frauds. A Committee for Fair Elections was established, and the party instituted lawsuits in New York, Ohio, Wisconsin and Pennsylvania.

Though the Republican National Committee declined to give blanket endorsement to the legal effort, individual Republicans associated with conservative causes took part or contributed funds. In Wisconsin, where the Republicans also were charging voting irregularities, the G.O.P. briefly joined the U.S. Labor Party action because it was the only state election fraud suit filed before the legal deadline.

The U.S. Labor Party has already raised more than $100,000 for 1980 and has conducted fund raising appeals on television and in newspaper advertisements. According to statements filed with the Federal Election Commission, most of Mr. LaRouche's expenses are payments to various businesses that are dominated by party members. These include payments by the LaRouche for President Committee for research, services, rent at the headquarters at 304 West 58th Street and security.

"AS AMERICAN AS APPLE PIE"

In campaign appearances, Mr. LaRouche declares himself "the candidate who's as American as apple pie" and says he has declared war on liberalism. He promises lower taxes, higher incomes and a drug-free society, and he advocates nuclear power, a gold standard and accumulation of development capital through social credit. The attacks on alleged British and Zionist conspiracies that fill his party's publications are not mentioned.

The party has been repudiated by many elements of the Right, including The National Review and the John Birch Society. A frequently cited suspicion is that the group harbors pro-Soviet beliefs. The New Right Report, a conservative newsletter, made this observation in January: "Many of the operations which bring in money to LaRouche cleverly conceal their origins in order to appeal to average American businessmen. We find this group every bit as weird as Marxist Rev. Jim Jones' Peoples Temple."

The party, however, continues in its attempts to get attention at conservative gatherings through leafleting, telephoning members, asking questions at forums and sending representatives of its publications to newsconferences. One recent internal Labor Party document, headed "Put LaRouche in the National Limelight," advised organizing efforts at conventions of the Catholic Youth Organization, the Knights of Columbus and the Sons of Italy and made this analysis of the Catholic Daughters of America: "This group overlaps Daughters of the American Revolution membership but better, non-Anglophile. This is key to perhaps getting before the D.A.R. national convention in April 1980."

A MEETING WITH GENERAL

Maj. Gen. John K. Singlaub, who acquired a cachet with conservatives when he was forced into retirement after disagreeing publicly with the Carter Administration's military policies, had a brief contact with the party. He says the party approached him to request an opportunity to "brief" him on its program.

He met with two party officials at the home of Mitchell WerBell, an old friend, in Georgia. Mr. WerBell is an arms dealer and former member of the Office of Strategic Services who says he still has close ties to the CIA. He trains members of the Labor Party at his Georgia farm in what he described as "sophisticated antiterrorist techniques." These techniques, according to Mr. WerBell, include karate, riflery and knife fighting.

General Singlaub says he has since rejected the organization. "It was so clear to me after the first three or four contacts that they wanted something from me," the general said. "They hounded me for months, they flooded me with documents, they showed up at places where I spoke."

"I think they're a bunch of kooks of the worst form," General Singlaub went on. "I've been telling WerBell that if they're not Marxists in disguise, they're the worst group of anti-Semitic Jews I've encountered. I'm really worried about these guys; they seem to get some people."

The general was asked if any mention was made in his talks of the possibility of a military coup in the United States—an idea that has recently received currency in the party as a way to put Mr. LaRouche in power.

MILITARY THRUST SUGGESTED

"Well, it didn't come up in that form, but it was suggested that the military ought to in some way lead the country out of its problems," General Singlaub replied. "I guess I stepped on them pretty hard on that, and it never came up again. It was one of the first things that made me realize they're a bunch of kooks."

The party's extensive activities and expensive communications—two 24-hour Telex and data lines to the party's headquarters in Weisbaden, West Germany, for example—led critics to suppose that there was some secret source of funds. The Left, knowing of the Operation Mop-Up period, thought—and in some cases still thinks—that money must come from the F.B.I. or the C.I.A., though there was no proof.

Foreign governments, such as the Soviet bloc or Iraq, have also been mentioned. Mr. LaRouche said in newspaper interviews in 1975 that he had expected to get money from Iraq for his activities but never did.

With the success of the party's covertly held businesses and Mr. LaRouche's public campaign drives, appeals to members for funds have declined. Fund raising now appears to be directed mainly to businessmen. One party activity, for example, is publication of a weekly economics magazine called Executive Intelligence Review, whose subscription price is $400 a year. The review, in its brochure, says that rates will also be quoted for "special research reports and specialized confidential consultation."

REVENUE FROM PUBLICATIONS

Much of the revenue for daily activities comes from sale of the publications by members—the party calls them "organizers"—at airports and shopping centers. Included in the offerings are Mr. LaRouche's analysis of Judaism as "a cult founded by the Babylonians" and a thick paperback book charging that Jews dominate the narcotics trade and Jewish bankers provide the capital.

Despite this literature, the party has many Jewish members who were originally recruited from the student movements of the later 1960's.

The party's anti-Semitic turn appears to date from one of its first right-wing contacts—a mass circulation newspaper called Spotlight, published by the Liberty Lobby. The Liberty Lobby has been engaged, as is the Labor Party, in lawsuits agaist the Anti-Defamation League of B'nai B'rith.

In its Oct. 11, 1976 issue, Spotlight printed a review of a Labor Party publication called "Carter and the Party of International Terrorism," which included computer "grids" prepared by Computron of opponents of the party. Computron is a multimillion-dollar computer systems business that was originally formed by Labor Party members, and many of the executive officers of the business still maintain close ties to the party.

The review of the Labor Party book was favorable: "Although few readers of Spotlight will agree with all of the judgments that this book contains, and many will also wonder why some of the major Zionist groups, such as the notorious Anti-Defamation League, are not included, it represents a massive job of research."

SWING TO ANTI-SEMITISM

Following that review, the Labor Party began to include Zionist groups and Jews in its analyses of conspiracies, and it also initiated an acrimonious campaign against the Anti-Defamation League. Among the party's efforts was the founding of an organization called "The Provisional Committee to Clean Up B'nai B'rith." The committee sought funds from the public.

Mr. LaRouche and the party insist that they are anti-Zionist, not anti-Semitic.

A number of former members of the party were asked what kept their friends still tied to it. Some said it was political commitment, some the psychological influence of Mr. LaRouche, some cited the terror and disorientation that afflicts members who begin to doubt. Many members, having given up their families, their education and the society of their contemporaries, can find no other roots.

A young woman told about her lover whom she supported in his work for the party before both left. They had two friends with similar doubts, and the two women worked out a routine. They would give the men enough money to cover the cost of the Labor Party papers they were supposed to sell every day, so that the men would be free without risking the enmity of the group.

"They'd throw away the papers and go play pool or something," the young woman recalled. "Or sometimes they'd just go out to the airport and watch the planes take off, wishing they were on them." ●

ENERGY SAVING DEVICE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. GOODLING. Mr. Speaker, it was announced last week that the Borg-Warner Corp. has developed a new and exciting energy saving device which could result in the conservation of massive amounts of energy. It is anticipated that Borg-Warner's York Division, located in my district, will be mass producing air conditioner units using the controlled motor frequency drive unit by the early part of next year. While this development is very probably going to be a boon to the business of the York Division, its real importance lies in the tremendous potential for energy savings offered by this new innovation. I think my colleagues will be interested in the following article which describes this important development:

ENERGY SAVING DEVICE

CHICAGO.—Borg-Warner Corporation will soon introduce a line of microcomputer-controlled variable speed motor drives that will make a "significant contribution to our nation's drive toward energy conservation," it was announced today by James F. Beré, the company's chairman and chief executive officer.

Speaking at a news conference here, Beré, said tests conducted by the company's York division, a major air conditioning and heating equipment manufacturer, show that the new alternating current inverter, when applied to the centrifugal chiller of a commercial air conditioning unit, can save up to 30 percent of the energy consumed by the chiller. In addition to being offered as part of York's new commercial systems, the inverter control package will be provided as an add-on for York or competitive equipment in existing buildings.

Beré noted that while York has only applied the inverter to the centrifugal chiller, which consumes around 30 percent of the energy used by the entire system, the division is working on control of the motors for blowers and recirculating pumps, which account for the remaining energy consumed.

Beré said that an inverter-controlled commercial system maintaining a building's temperature at 72 degrees could save more energy than a conventional commercial system operating at the 78 degree level mandated by the federal government as a summer standard for all office buildings.

With this in mind, Beré feels the new technology could spell relief "for those of us who spent our office time in shirt-sleeves this summer," if government action is taken to grant users of energy-saving technologies an exemption from the 78 degree standard.

An inverter control package incorporated into a new line of York division's residential heat pumps can save up to 17 percent of energy used to cool and heat homes annually, Beré said.

Products for both commercial and residential applications will be available in early 1980.

In addition, Beré announced that a new line of microcomputer-controlled AC inverters designed for use with industrial motors will be marketed early next year by the company's Morse Chain division, a manufacturer of power transmission equipment. The use of power transistors has enabled Morse to cut the cost of the inverter by 50 percent, making it competitive in cost with direct current controls, the type most commonly used by industry.

"Alternating current represents 'state of the arts' in motor technology, which reinforces our belief that our new inverter line will have an impact which will be felt throughout American industry," Beré said. Morse will introduce microcomputer-controlled inverters for motors from 1 through 20 horsepower in the first quarter of 1980, and will expand the line to accommodate motors through 50 horsepower during the fourth quarter of that year. "For some applications, the amount of energy saved could be as high as one-third," according to Beré. Fans, pumps and blowers in industrial plants were cited as examples of where significant energy savings could be realized.

Basically, an AC inverter adjusts the power coming from a given electrical line so it matches the power needed by the motor it is feeding. Most motors in the United States run at fixed speed, and must be mechanically throttled if their speed is to be reduced. The throttling process results in energy losses.

While AC inverters have been in existence for over twenty years, their high cost has limited their use. The use of proven electronics in its new products, Borg-Warner says, has driven down the cost and increased reliability.

Noting reports of other work being done in inverter technology, Beré stressed that the company has set concrete dates for product availability. "We're talking about energy savings that can be realized almost immediately, not at some uncertain future date," he added.

Beré stressed that the technology was generated internally, and said that the company would not need any outside assistance to market or manufacture the products. The inverter and electronic controls for both York and Morse products will be manufactured by Borg-Warner Electronics, a joint venture of the two divisions, formed in 1977.

Borg-Warner's major product and service areas are air conditioning, chemicals and plastics, industrial products, transportation equipment and financial and protective security services. ●

THE IMPOSITION OF LANDING FEES FOR ALL AIRCRAFT AT REPUBLIC AIRPORT

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. AMBRO. Mr. Speaker, on October 4, 1979, the Metropolitan Transportation Authority of New York held a public hearing at Republic Airport in Farmingdale, N.Y. The purpose of this hearing was the proposed imposition of landing fees for all aircraft landing at the airport. This issue is of concern to all of my colleagues who are interested in the growth of general aviation. The following is a copy of a statement that I submitted to the MTA board at the hearing.

STATEMENT OF CONGRESSMAN JEROME A. AMBRO

I am pleased today to be at this hearing to give my views concerning the proposed imposition of landing fees for all aircraft at Republic Airport.

For many years I have had a longstanding interest in general aviation and Republic

Airport in particular. I have tried to help general aviation grow at the airport, in ways which respected the views and interests of the surrounding community.

On September 18 the House of Representatives approved legislation containing $800,000 for construction of a badly needed new traffic control tower at Republic. As everyone familiar with the tower knows it has fallen into such a state of disrepair that it presents numerous safety hazards for pilots entering and leaving the airfield and for Long Islanders living near the airport.

At the present time Republic Airport is the 14th busiest general aviation airport in the country. The MTA has operated the airport since 1970. Each year it has incurred a deficit in the Republic Airport's operation. To help alleviate or decrease this deficit the MTA has proposed the imposition of landing fees for all users of the airport. The Metropolitan Transportation Authority is an independent agency and has no formal ties to the federal government. The decision to charge fees was taken independently by them. I do not feel that this action would help alleviate the financial problems at Republic. The impact of charging fees could have potentially devastating effects on all operations at the airport. The many flying schools at Republic will be hurt because these new landing fees will put the cost of obtaining a pilots license out of the reach of most prospective students. Flying lessons are expensive enough without charging for each practice landing made by student pilots.

Owners of planes that are based at Republic are going to be doubly taxed in that, besides paying a rental fee to keep their planes at the airport, they will also have to pay a landing fee. This fee added on to the ever increasing cost of fuel is going to discourage general aviation pilots from flying out of Republic.

The MTA should be commended for trying to reduce its operating losses and to run the facility more profitably. But the charging of landing fees is not the answer. The MTA should be in the business of promoting and fostering the growth of general aviation at Republic. If they are not able or unwilling to run the airport in this manner, they should explore the possibility of transferring the operation of the airport to the county or state.

The imposition of fees at Republic will force pilots to use other airports in the area that do not charge fees. Therefore the fees may have the opposite effect and the airport may lose even more money. The flying schools may have to close up their operations and the MTA will even lose the money they receive from their leases. Much time and effort has gone into working for improvements at Republic. It would be a shame if the MTA's actions concerning fees would have a deleterious effect on general aviation at Republic, and I urgently request that the MTA reassess this proposal.

This concludes my statement and I would like to thank the MTA Board for giving me this opportunity to testify on this matter.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1979

● Mr. McDONALD. Mr. Speaker, I unavoidably missed a vote late yesterday afternoon on the amendment that sought to abolish the national grants program to H.R. 2859, the Domestic Volunteer Service Act Amendments of 1979. I was paired on this amendment, but unfortunately I did not receive a live pair. If I had been present I would have voted "yes." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 11, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 12

8:00 a.m.
Energy and Natural Resources
Business meeting, to continue markup S. 9, 222, and H.R. 39, bills designating 127 million acres of Federal land in Alaska for protection of their resource values under permanent Federal ownership and management.
3110 Dirksen Building

9:00 a.m.
Judiciary
To hold hearings on S. 680, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on S. 6 and 80, bills to extend through September 30, 1981, the current price support levels for dairy products.
324 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings to examine the current Chrysler financial situation, focusing on the long-term effects of proposed federal aid programs on our free enterprise system.
5302 Dirksen Building

Conferees
On S. Con. Res. 36, revising the Congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982.
S-207, Capitol

Energy and Natural Resources
Business meeting, to resume consideration of synthetic fuels provisions of S. 1377, establishing a synthetic fuels and alternate fuels production authority, and S. 932, the Defense Production Act; and other pending calendar business.
3110 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on S. 1637, to modify the existing oil and gas leasing system on public lands.
457 Russell Building

Finance
To continue markup of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Foreign Relations
Business meeting, to mark up H.R. 5218, to authorize special Caribbean hurricane relief assistance; H.R. 5279, to make available to the Administrator of General Services the film "Reflections: George Meany" for distribution in the United States; and to hear and consider the following nominations: Anthony C. E. Quainton, of Washington, Director of the Department of State's Office for Combating Terrorism, for the rank of Ambassador; Thomas O. Enders, of Connecticut, to be Representative to the European Communities, with the rank of Ambassador; Barbara W. Newell, of Massachusetts, for the rank of Ambassador as Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France; and William G. Sykes, of Maryland, to be Deputy Director of the Peace Corps.
4221 Dirksen Building

Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on the use of consultant services by the Federal Government.
1114 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation and Federal Services Subcommittee
To hold hearings on S. 742, proposed Nuclear Waste Management Reorganization Act.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.
154 Russell Building

11:00 a.m.
Conferees
On S. 640, authorizing funds for fiscal year 1980 for the Maritime Administration, Department of Commerce.
H-128, Capitol

2:00 p.m.
Conferees
On S. Con. Res. 36, revising the Congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982.
S-207 Capitol

OCTOBER 15

9:30 a.m.
*Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
6226 Dirksen Building

10:00 a.m.
Conferees
On S. Con. Res. 36, revising the Congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982.
Room S-207, Capitol

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold hearings on proposed legislation to provide for the development of certain lands under the Bureau of Land Management and the Forest Service.
3110 Dirksen Building

Environment and Public Works
To hold hearings to determine the best means for securing architectural service and designs for buildings constructed, maintained or renovated by the General Services Administration.
4200 Dirksen Building

2:00 p.m.

Conferees
On S. Con. Res. 36, revising the Congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982.
Room S–207, Capitol

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1830, to provide for the establishment of an expanded and intensified research, development, and demonstration program on ocean thermal energy conversion (OTEC) within the Department of Energy.
3110 Dirksen Building

OCTOBER 16

9:30 a.m.

Armed Services
To resume hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
1318 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

2:00 p.m.

Armed Services
To continue hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
1318 Dirksen Building

3:00 p.m.

Conferees
On H.R. 3875, to amend and extend through fiscal year 1980 certain Federal laws relating to housing, community, and neighborhood development and preservation programs.
S–146, Capitol

OCTOBER 17

9:30 a.m.

Armed Services
To continue hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S–407, Capitol

10:00 a.m.

Commerce, Science, and Transportation
To resume oversight hearings on the Federal Trade Commission's study of the life insurance industry's cost disclosure policy.
235 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).
4221 Dirksen Building

Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the implementation of older American volunteer programs by the ACTION Agency.
4232 Dirksen Building

2:00 p.m.

Armed Services
To continue hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S–407, Capitol

OCTOBER 18

9:30 a.m.

Armed Services
To continue hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S–407, Capitol

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold oversight hearings on alleged fraud and mismanagement practices in the Community Services Administration.
3302 Dirksen Building

10:00 a.m.

Energy and Natural Resources
To hold hearings on S. 1699, and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620) to reflect recent legislative initiatives to foster greater domestic energy production.
3110 Dirksen Building

Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Labor and Human Resources
Aging Subcommittee
To hold joint oversight hearings with the Special Committee on Aging on the implementation of the comprehensive Older American Act Amendments of 1978.
1114 Dirksen Building

*Labor and Human Resources
Health and Scientific Research Subcommittee
Business meeting, to consider S. 1177, to establish a partnership between the Federal Government and the States in the planning and provisions of mental health services.
4232 Dirksen Building

Special on Aging
To hold joint oversight hearings with the Subcommittee on Aging of the Committee on Labor and Human Resources on the implementation of the comprehensive Older American Act Amendments of 1978.
1114 Dirksen Building

Joint Economic
To resume hearings to examine the minority job prospects in the next five to ten years, focusing on population shifts, labor force changes and employment trends for minorities.
340 Cannon Building

2:00 p.m.

Armed Services
To continue hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S–407, Capitol

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

OCTOBER 19

9:30 a.m.

Energy and Natural Resources
To continue hearings on S. 1699 and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620) to reflect recent legislative initiatives to foster greater domestic energy production.
3110 Dirksen Building

10:00 a.m.

Labor and Human Resources
Business meeting, to mark up S. 1724, to provide grants to States to assist low and moderate income individuals to meet the rising home energy costs.
4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

OCTOBER 22

9:30 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To receive a report from officials of the Energy Information Administration of the Department of Energy on the current price and supply outlook for petroleum fuels.
3110 Dirksen Office Building

OCTOBER 23

9:30 a.m.

Armed Services
To resume hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
212 Russell Building

Select on Small Business
To hold hearings to examine the economic outlook for the small business.
424 Russell Building

Joint Economic
Economic Growth and Stabilization Subcommittee
To resume hearings to promote equitable economic deregulation of the railroad industry.
5110 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Labor and Human Resources
To hold oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training and educational programs.
4232 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
457 Russell Building

2:00 p.m.
Armed Services
To continue hearings on military implications of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
212 Russell Building

OCTOBER 24

8:00 a.m.
Agriculture, Nutrition, and Forestry
Rural Development Subcommittee
To hold oversight hearings to review the implementation of rural transportation programs and how they affect the quality of life in rural and small urban areas in America.
324 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordination program in weather modification within the Department of Commerce.
235 Russell Building

Select on Small Business
To hold hearings to examine the Small Business Administration and the Farmers Home Administration loans and loan guarantees to industrialized cattle, hog, poultry, and dairy operations.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

Labor and Human Resources
To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.
4232 Dirksen Building

OCTOBER 25

9:30 a.m.
Veterans' Affairs
To hold joint oversight hearings with the House Committee on Veterans' Affairs on admission policies to Veterans' Administration's medical care facilities.
345 Cannon Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on S. 1383, 1439, and 1689, bills to establish on an emergency basis uniform weight and length limits for trucks using the national system of interstate and defense highways to help conserve currently limited supplies of diesel fuel.
4200 Dirksen Building

Judiciary
To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

OCTOBER 26

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings in S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.
235 Russell Building

10:00 a.m.
Joint Economic
To resume hearings on the Consumer Price Index figures and inflationary trends.
5110 Dirksen Building

OCTOBER 29

9:30 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on S. 1335 and 1336, bills to establish a program of financial assistance to improve the energy efficiency of residential heating systems.
3110 Dirksen Office Building

*Veterans' Affairs
To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.
5110 Dirksen Building

OCTOBER 30

10:00 a.m.
*Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry, on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
6226 Dirksen Building

OCTOBER 31

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings to review proposed techniques in the field of industrial development.
235 Russell Building

Select on Small Business
To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessibility of information released by such services.
424 Russell Building

10:00 a.m.
Rules and Administration
To hold hearings on S. 392 and 597, bills to assure access for the elderly and handicapped to polling and registration locations for Federal elections; and other legislative and administrative business.
301 Russell Building

NOVEMBER 1

9:30 a.m.
Select on Small Business
To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessibility of information released by such services.
424 Russell Building

NOVEMBER 2

9:30 a.m.
Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

NOVEMBER 6

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
3302 Dirksen Building

NOVEMBER 7

9:30 a.m.
Commerce, Science, and Transportation
To resume oversight hearings to review proposed techniques in the field of industrial development.
235 Russell Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1318 Dirksen Building

NOVEMBER 14

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings in S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
235 Russell Building

NOVEMBER 15

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
3302 Dirksen Building

CANCELLATIONS

OCTOBER 12

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on S. 1839, 1840, and 1841, bills authorizing funds through fiscal year 1984 for programs under the Higher Education Act.
4232 Dirksen Building

OCTOBER 15

2:00 p.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

SENATE—*Thursday, October 11, 1979*

(Legislative day of Thursday, October 4, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, our help in ages past, our hope for years to come, draw near to us as we draw near to Thee. Strengthen us that we may be faithful to our precious heritage. Shed Thy light upon our pathway that we falter not in the ways of Thy commandments. Bless those who are strong and competent and who bear the heavy burdens of government. Be with our leaders at every level of public service to uphold, strengthen and guide them. Come near to the lonely, the neglected, the helpless, the overworked, the underpaid to give them help and hope. Lift the vision of the young that they may grasp the banner of sacrificial service, high idealism, and patriotic devotion and with power carry the Nation forward in the way of Thy kingdom.

Unite us in Thy love that we may ever remain "one nation under God." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., October 11, 1979.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. **BURDICK** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the recognition of Mr. BURDICK be transferred to the control of Mr. SASSER.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **ROBERT C. BYRD**. Mr. President, I yield 3 minutes to Mr. PROXMIRE from my time.

Mr. **PROXMIRE**. Mr. President, I thank the majority leader.

THE GENOCIDE TREATY: PROTECTING THE GIFT OF LIFE

Mr. **PROXMIRE**. Mr. President, the Pope's visit to America last week was a monumental occasion. It touched most of our lives in one way or another. Some people were more affected than others. But no matter what our belief, His Holiness carried with him a message.

It was extremely fitting that John Paul II spent the last days of his American trip here in Washington. Having taken his message to the people of our Nation, he made his last stop with the leaders of the country.

The message itself was clear and simple: Human life is to be treasured.

Mr. President, the Genocide Convention has been before this body for many years. Since 1949 we have had the opportunity to declare internationally that our country deplores the ruthless extermination of innocent people. But, for some reason, we have balked at the chance to do so.

How can we hesitate on such an important matter?

The Pope's visit to the United States did not go unnoticed. We are all aware of that. But neither should his message of the value of life go unnoticed.

Our ratification of this treaty at this time is essential. It would prove that we too see human life as precious, that we will not tolerate crimes against this one great gift, the gift of life.

Mr. President, in the wake of the Pope's visit, I urge this Senate to move forward and ratify the Genocide Convention.

I thank my good friend, the majority leader.

Mr. **ROBERT C. BYRD**. Mr. President, I reserve the remainder of my time.

RECOGNITION OF SENATOR CHURCH

The **PRESIDING OFFICER** (Mr. BOREN). Under the previous order, the Senator from Idaho is recognized.

THE RUSSIAN BRIGADE: CHALLENGE AND RESPONSE

AMENDMENT NO. 509 TO SALT II TREATY

Mr. **CHURCH**. Mr. President, 10 days ago, President Carter discussed the presence of a Soviet combat brigade in Cuba in a broadcast to the American people. He described the deployment of these combat troops as a matter of "serious concern to us," as a "challenge * * * that contributes to the tension in the Caribbean and the Central American region."

I agree.

The President might well have added that our discovery of Russian combat forces so close to our shores, on an island of particular sensitivity to the United States, is an affront to our country. Whenever it was that the Soviet Union deployed the brigade in Cuba, its presence there was deliberately concealed from us. The provocation relates not only to the combat character of the brigade, but also to the method of its deployment, one of stealth and secrecy.

The combat configuration of the brigade has been confirmed by what the President describes as "persuasive evidence" obtained by our own intelligence sources. In his words:

> This unit appears to be a brigade of two or three thousand men . . . It has been organized as a combat unit. Its training exercises have been those of a combat unit.

Senators who have wished either to diminish or dismiss this matter have asked, Why should we be concerned? Obviously, the Russians do not intend to invade the United States with one brigade. As the President, himself, pointed out,

> This is not a large force, nor an assault force. It presents no direct threat to us. It has no airborne or seaborne capability.

THE NATURE OF THE CHALLENGE

The answer given is correct. It is, however, the right answer to the wrong question. As soon as I learned that a

Soviet combat brigade had been discovered in Cuba, the first question I asked myself was, What are Russian combat troops doing in Cuba, anyway? Why are they there? I presume this question was put to the Russian Government during the recent negotiations. If so, we are still waiting for the answer.

The presence of Soviet troops in Cuba engaged in a combat role runs crossgrain to American policy followed since 1962; namely, that the United States would not permit Cuba to become a Soviet military base on our doorstep. In that year, the covert installation by the Soviet Union of nuclear-armed missiles in Cuba brought the world to the brink of nuclear war. The crisis stemmed from a gross miscalculation of American resolve to protect our vital interests as a nation. President Kennedy refused to tolerate the Russian use of Cuba as a missile-launching pad, not only because its proximity to the United States dangerously altered the strategic balance between the two super-powers, but also because these missiles posed a clear and present danger to every American city east of the Mississippi.

The Russians, it will be remembered, acceded to Kennedy's demands. The missiles were withdrawn, and an understanding was reached between the two governments that the Soviet Union would not again insert nuclear weapons into Cuba.

If our experience respecting agreements with the Soviet Union demonstrates nothing else, it tells us that the Russians will reach for advantage wherever they can. They will stretch an agreement to the limit to gain some slight edge, or to establish a precedent to be invoked at some future time.

We have encountered such difficulties in connection with the Russian pledge relating to Cuba. Twice since 1962, the understanding has been tested and Soviet compliance questioned: Once in 1970 when the Russians appeared to be installing a permanent naval base in Cuba capable of servicing submarines armed with nuclear missiles, and again in 1978 when they equipped the Cubans with Mig-23's, an advanced aircraft suspected of having nuclear capability. In each of these cases, we pressed hard, and the Soviet Government took action to satisfy our concerns.

To be sure, ever since 1962 we have known that the Soviet Union has maintained a military presence in Cuba which did not conflict with the modus vivendi we had established with them. The Russians retained in Cuba military advisers and instructors, including electronic specialists, pilots, various kinds of technicians, and security personnel. But it never occurred to the American Government that the Russians would deploy combat forces in Cuba. Accordingly, the United States-Soviet understandings worked out in 1962 and 1970 do not expressly forbid their presence. Still, Russian training cadres are one thing; organized combat units are something else. The Soviet Union understands the difference, along with the military and political implications associated with forces which possess combat capability.

Nevertheless, I have heard it argued that we should take no offense, since the United States has stationed combat forces around the globe, including a few at our Guantanamo base in Cuba, itself. But the analogy does not hold. We make no secret of our military presence abroad. Our deployments openly implement mutual security pacts with foreign governments, known to the whole world. Even at Guantanamo, our legal rights are based upon a leasehold granted to the United States by a Cuban Government which preceded Castro.

The Soviet brigade, on the other hand, was inserted, or assembled surreptitiously. Its presence in Cuba was kept hidden. A more relevant analogy, if any is needed, would be an American decision to secretly dispatch the Marines to sensitive points near the Soviet border, say, Finland or even Yugoslavia. Were we to do that, I have no doubt about the indignation of the Russians, once our presence had been detected. Does anyone really think they would react to such an affront as a trivial matter, or dismiss it as an incident of little or no consequence?

Moreover, we have even greater reason to be disturbed, since the Caribbean is a highly volatile and unstable region, where the island governments cling to office in the face of precarious odds. Endemic poverty, tropical disease, and illiteracy make the entire area a seedbed for revolution. In these circumstances, the presence of a Soviet combat force in the midst of the Caribbean does not bode well for the United States. Fidel Castro has been furnished a Russian shield. If we fail to respond adequately to the challenge, I have no doubt that he will be encouraged to exploit, more aggressively than ever, future revolutionary opportunities in both the Caribbean and Central America.

THE AMERICAN RESPONSE

These were the considerations which led me, upon learning of the Soviet combat brigade in Cuba, to urge President Carter to call for the withdrawal of these troops. I also saw little likelihood that the Senate would ratify the SALT II treaty, while Russian combat forces remained deployed on the island.

And I said so.

The negotiations which ensued never came to grips with the issue of withdrawal, since the Soviet Government would never admit—or deny—the existence of the brigade. It insisted, instead, that all Russian military personnel stationed in Cuba were engaged in training and other noncombat activities. Secretary Vance held several sessions with the Soviet Ambassador, Mr. Dobrynin, and met twice with the Russian Foreign Minister, Mr. Gromyko, but to no avail.

It was not until the 11th hour, about a day before President Carter was scheduled to address the country, that the Soviet Government, "from the highest level," delivered a message which spoke to our concerns.

In the President's words, the message contained the following Soviet assurances:

> That the unit in question is a training center, that it does nothing more than training, and can do nothing more;
>
> That they will not change its function or status as a training center. We understand this to mean that they do not intend to enlarge the unit or to give it additional capabilities;
>
> They have said that the Soviet personnel in Cuba are not and will not be a threat to the United States or to any other nation;
>
> That they reaffirm the 1962 understanding and the mutually agreed upon confirmation in 1970 and will abide by it in the future. We, for our part, reconfirm this understanding.

President Carter then went on to say that "we shall not rest on these Soviet statements alone," and announced that he would take the following measures. Again, I use his words:

> First, we will monitor the status of the Soviet forces by increased surveillance of Cuba. Second, we will assure that no Soviet unit in Cuba can be used as a combat force to threaten the security of the United States or any other nation in this hemisphere.

The President added that he was establishing a joint task force headquarters at Key West, Fla.; that he would expand our military maneuvers in the region; and that for other governments in the Caribbean, we would "increase our economic assistance to alleviate the * * * unmet human needs." This, he said, would "ensure the ability to troubled peoples to resist social turmoil and possible communist domination."

HAS THE STATUS QUO CHANGED?

As for the Russian brigade in Cuba, the position of the Carter administration, before negotiations with the Soviet Union began, was that "the status quo was unacceptable" to the United States. Now that the negotiations are concluded, we must ask, in what way has the status quo changed?

The Soviet brigade is still in Cuba. It has not been stood down; its combat configuration remains intact. Clearly, this status quo in the Caribbean has not been changed by any Russian action.

But it is contended by our Secretary of State, and others, that the status quo has in fact been altered by these Soviet assurances and President Carter's countermeasures. It is incumbent upon us, therefore, to examine them in this context.

Increased surveillance of Cuba, though appropriate, hardly changes the status quo, while expanded American military maneuvers in the region and the establishment of a joint task force headquarters at Key West, Fla., do not affect the status of the Russian brigade. The statement that "we will assure that no Soviet unit in Cuba can be used as a combat force to threaten * * * any nation in this hemisphere" is both relevant and significant. Once again, however, it neither alters nor adds to obligations assumed by the United States years ago.

President Carter admitted as much in his broadcast to the Nation, when he said:

> This policy is consistent with our responsibilities as a member of the Organization of American States and a party to the Rio Treaty.

In fact, he did not establish a new, or different, doctrine; he simply reiterated a long-established one.

THE REMEDY IS UP TO THE SENATE

The Senate, then, must rectify and strengthen the American position. If Soviet intrusions into this hemisphere are not counteracted in an adequate manner, the repercussions will be felt for many years to come. We can anticipate only further probing—more testing of U.S. resolve, and renewed attempts to stretch the limits of the 1962 and 1970 understandings until they have no meaning or validity whatever. Like it or not, the Soviet combat brigade in Cuba constitutes a test of U.S. determination to protect its neighborhood.

I regret that this development has had such a chilling effect on the prospects for ratifying the SALT II treaty. It had been my view that the treaty should be judged on its own merits, not used as a referendum on the character of the Soviet Union or as a plebiscite on Russian behavior in the Third World.

There are those who would link the SALT II treaty with every Soviet move that displeases us. They set an impossible test for ratification: that the Russians must first conform to our prescription for their behavior everywhere. To say the very least, this kind of universal linkage is extremely unrealistic.

But Soviet adventures in such distant places as Angola, Ethiopia, and Afghanistan are one thing; the appearance of a Russian combat brigade at our very doorstep is another. From the moment I heard this news—and disclosed it to the American people—I have known it was inevitable that the treaty would be linked to the brigade by the Senate.

The Foreign Relations Committee is about to complete its hearings on the SALT II treaty. This complex agreement between the Soviet Union and ourselves, the product of some 7 years of intense negotiations, has been studied thoroughly by the committee. We have held 20 days of hearings, questioned more than 80 witnesses, and compiled a hearing record of almost 2,000 pages. The objective of these extensive hearings has been to focus attention to one central issue: Does the treaty serve our own national security?

The expert witnesses we have heard, pro and con, have managed to place the treaty in perspective. From them we have learned that it is no panacea, nor even a treaty that will do much to dampen down the feverish nuclear arms race.

We have also learned that, if the United States is not to fall perilously behind the Soviet Union in nuclear power during the next decade, it will be necessary for us to build new weapons systems such as cruise missiles, instead of bombers, that can penetrate Russian defenses after 1982; Trident submarines that need not cruise close by Russian coastal waters in order to keep the Soviet Union in range; and a mobile MX missile system, with which to preserve the invulnerability of our land-based nuclear deterrent against the threat of some future preemptive strike.

The SALT II treaty will not interfere with the construction of these expensive new weapons. However, much higher military budgets will be required, and a guarantee that they will be forthcoming is the price that some Senators intend to extract for their vote in favor of the treaty. This particular form of "linkage" has, on the whole, been treated as both fashionable and praiseworthy.

THE CASE FOR SALT II

Why, then, should a treaty which has become the stimulant for such enlarged military spending, be urged upon the Senate in the name of arms control?

The answer to this riddle can be found in the testimony of our Joint Chiefs of Staff. Looking ahead to the larger expenditures the United States will have to make in the 1980's in order to preserve nuclear parity with the Soviet Union, the Chiefs concluded we would be better off with the treaty than without it.

For the treaty does impose some useful restraints on the continuing nuclear arms race. It establishes equal aggregate ceilings on the number of delivery systems permitted both sides, thus eliminating the numerical advantage heretofore conferred on the Soviet Union, under the terms of SALT I. The treaty also achieves, for the first time, a maximum on the number of warheads either side may attach to their missiles. True enough, the ceilings are much too high, but by keeping the SALT process alive, we can make the substantial reduction of these ceilings our goal for SALT III.

Finally, the treaty sets a unique and valuable precedent for the future. Under its terms, the Soviet Union must dismantle and destroy about 250 ICBM launchers, a force of sufficient size to obliterate every major American city.

Moreover, insuring Russian compliance will not be a matter of trust. The evidence has persuaded me that we possess highly sophisticated national technical means, carefully focused on the Soviet Union, making the treaty verifiable. In fact, the Senate Intelligence Committee has concluded that "the SALT II treaty enhances the ability of the United States to monitor those components of Soviet strategic weapons forces which are subject to the limitations of the treaty." Its chairman and ranking Republican member, Senators BIRCH BAYH and BARRY GOLDWATER, so testified before the Foreign Relations Committee yesterday.

To sum up, I believe that the SALT II treaty, on balance, serves the national interests of the United States. More evident still is that the rejection of the treaty by the Senate would be a grave disservice to the country. For rejection would furnish the Soviet Union with a propaganda trump card to play against us all over the world, and it would have the most unsettling effect on our alliances, especially NATO.

A PROPOSED SOLUTION

Therefore, it falls to the Senate to find a way to deal satisfactorily with the challenge posed by the Russian combat brigade in Cuba, and, at the same time, to clear the way for ratification of the SALT II treaty.

I believe this can be done by attaching to the resolution by which the Senate gives its consent to the treaty a condition which must be satisfied before the treaty may take effect. The condition would be binding on our own Government, making the treaty subject to the following understanding:

> That, prior to the exchange of the instruments of ratification, the President shall affirm that the United States will assure that Soviet military forces in Cuba (1) are not engaged in a combat role, and (2) will not become a threat to any country in the Caribbean or elsewhere in the Western Hemisphere.

It will be said that the adoption of this condition will make the treaty hostage to a satisfactory Russian response respecting the brigade.

I say that, without this condition, the treaty cannot garner the two-thirds vote necessary for its ratification.

Let the Senate adopt this condition, and it will be put squarely to the Soviet Union to decide which matters most, the SALT II treaty or a brigade of combat troops in Cuba. If it is the latter, then we had best know it before committing ourselves to the treaty.

In a confrontation of this kind, where the facts are in dispute, the solution must allow both sides to save face. Nothing in the understanding I propose requires that the Soviet Government submit to humiliation, or even to acknowledge the existence of Russian combat forces in Cuba. Just as the brigade has been covertly configured and equipped to perform a combat role, so can it discreetly cease playing such a role.

It is to our own President, in any case, that the Senate must look for a certification of the facts, as we obtain them through ongoing surveillance of Russian activity in Cuba.

As President Carter observed in his recent address to the Nation, although we have "persuasive evidence that the unit in question is a combat unit, the Soviet statements about the future noncombat status of the unit are significant."

So let it be.

So let the U.S. Senate insist upon it. Then it cannot be said of us that we faltered when we should have stood firm, or that we engaged in reckless retaliation by rejecting, without recourse, a treaty which appears to serve the mutual interests of both the United States and the Soviet Union.

Mr. CRANSTON. Will the Senator yield?

Mr. CHURCH. I am happy to yield to the distinguished Senator from California.

Mr. CRANSTON. As the distinguished chairman of the Foreign Relations Committee has noted with approval, the United States has increased surveillance significantly and will monitor closely the Soviet presence in Cuba. If the President affirms that the Soviet military forces known, seen, observed, or detected in Cuba are not actually engaged in a combat role, and that the Soviet military forces in Cuba will not become a threat to any country in the Western Hemisphere, will the Senator from Idaho be satisfied that the requirements on his condition to the resolution of ratification are met?

Mr. CHURCH. I believe the Senator's statement conforms to the wording of the understanding. We have experts who know the signature of a combat unit. It depends on many things—its organization, its command structure, the way it is equipped, and the role to which it is committed. The combination of these factors, and others as well, furnished the President with evidence on which he concluded that an organized combat brigade existed in Cuba.

Now, if in the future the President obtains objective evidence that those factors are no longer present, then I would say to the Senator that he could attest to the fact that Soviet forces in Cuba are no longer engaged in a combat role, which would satisfy the wording of this understanding.

I want to stress that it is the combat character of this force that constitutes the provocation to the United States. It not only runs cross grain, as I have said, to long-established American policy, but the existence of the brigade has been concealed from the United States, while stationed on an island of great sensitivity to this country, by virtue of our past history, from the time of the Cuban missile crisis in 1962 down to the present day.

We have always known that the Soviet Union maintains military personnel in Cuba, mainly engaged in training activities and also in certain communication work. It is the combat character of this brigade that gives offense, and it is to that I speak in this understanding.

Mr. CRANSTON. As I understand it, the Senator, to shorten his response, is saying that the key insofar as his reservation is concerned, is that the Soviet troops are not engaged in a combat role in Cuba?

Mr. CHURCH. That is correct.

Mr. CRANSTON. I thank the Senator very much. I would like to make some remarks on my own time, if I may, in response to what the Senator has stated.

Mr. CHURCH. I would be happy for the Senator to do that.

Mr. President, how much time remains for me?

The PRESIDING OFFICER. The Senator from Idaho has 17 minutes remaining.

Mr. CHURCH. I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, the distinguished chairman of the Committee on Foreign Relations has presented us with his view of the perceived challenge raised by the Soviet brigade in Cuba and a proposed solution to that perceived challenge.

The senior Senator from Idaho has given us a perceptive and detailed analysis of the nature of the challenge as he perceives it. The Senator has reviewed what he understands to be the response of President Carter. The eminent Senator agrees with the administration that the status quo is unacceptable, but he concludes that the response of President Carter leaves that status quo unchanged.

The renowned and able Senator then calls upon this Senate to rectify the situation. And the Senator pleads that this Senate not engage "* * * in reckless retaliation by rejecting, without recourse, a treaty which appears to serve the mutual interests of both the United States and the Soviet Union."—the SALT II treaty.

As is characteristic of the experienced and responsible Senator from Idaho, he then proposes a solution to the challenge he sees raised by the Russian brigade—a solution that hopefully will not only permit but enhance the prospect for the ratification of SALT II.

I share the distinguished Senator's view—and that of the administration—that the Russian troops in Cuba are not a large force nor an assault force and have no airborne or seaborne capability. The Russian troops, I agree, are not any threat to our national security.

However, the distinguished Senator from Idaho deems the conclusion that the Soviet brigade is no direct threat to be "* * * the right answer to the wrong question." Instead, the Senator finds that the right question is whether the troops are a challenge by the Russians and he asserts that the right answer is that the presence of the Russian brigade does constitute a direct challenge to the United States.

In large part, the senior Senator from Idaho perceives this challenge because he believes the Soviet brigade "* * * was inserted, or assembled, surreptitiously," as compared to our open deployment of forces in implementing our mutual security pacts. One may question whether the United States consistently has engaged in such open deployment. Moreover, there appears to be no evidence that the Soviets installed the present brigade in a surreptitious manner as with the missiles in 1962 or in a manner other than reflective of historical Soviet secretiveness and paranoia. Certainly, I am sure the Senator from Idaho does not suggest that if the Soviets had acted a little more openly, he would have no objection to the presence of the Russian brigade in Cuba.

Therefore, I do not share the Senator's view that the Russian brigade is a challenge to the United States or that the Russians have taken action in Cuba that should be considered a challenge. I share the view of our distinguished majority leader and our distinguished minority leader—the revised intelligence evaluation of the Russian military forces in Cuba and their reclassification as "combat troops" probably never should have become the basis of a perceived challenge from the Soviets in our view.

And even if these newly classified, but long existent, "combat troops" are perceived as a challenge, I believe the restrained and reasoned response of the President was more than an adequate response to any challenge that either possibly exists or could be perceived to exist. As I have stated several times on this Senate floor since the President's address on the Russian troop issue, I support the President's action as both responsible and responsive.

But one does not serve long in this body with Senators of the caliber of Senator CHURCH without realizing that reasonable men can differ and reasonable men can resolve their differences. Therefore, I welcome the proposed solution of the distinguished chairman of the Foreign Relations Committee, although I disagree with his view that it is needed. But if the distinguished Senator and others believe it necessary, it becomes necessary.

It should be clear to all, moreover, that the eminent Senator from Idaho is joined by distinguished Members of this body from both sides of the aisle in viewing the Russian brigade as a challenge to the United States. I hope that each of these Senators so concerned will become cosponsors of the Church proposed solution.

As I have stated, I believe that the response of President Carter was more than adequate to meet any challenge—actual or perceived—to the United States from the presence of the Russian brigade.

But for those Senators who, with our distinguished Foreign Relations Committee chairman, perceive a greater challenge or deem the President's response to be inadequate to the perceived challenge, the proposed solution of Senator CHURCH offers a means as he says, "to deal satisfactorily with the challenge * * * and, at the same time, to clear the way for ratification of the SALT II treaty."

Indeed, whether a Senator be for or against SALT II, I hope every Senator will realize that the distinguished Senator from Idaho has offered us the vehicle to proceed to the ratification debate.

Whatever view a Senator may have of the Russian troops as a challenge, I also hope every Senator agrees that the real challenge to our national security and the paramount challenge to our world's survival is to insure that no conflict, challenge, or confrontation—whether real or perceived—between Russia and the United States escalates into resolution by nuclear holocaust.

This is the most important task I have faced since I became a U.S. Senator from California. I believe it is the most important task to face the Senate since any present Member has become a U.S. Senator.

As Senator CHURCH observed in his address to us today:

> The SALT II Treaty, on balance, serves the national interests of the United States (and) rejection . . . would be a grave disservice to the country. For rejection would furnish the Soviet Union with a propaganda trump card to play against us all over the world, and it would have the most unsettling effect on our alliances, especially NATO.

President Carter observed in his address to the Nation:

> SALT II is a solid treaty. Ensuring compliance with its terms will not be a matter of trust . . . this Treaty is the most important step ever taken in controlling strategic nuclear arms . . . The rejection of SALT

> would seriously compromise our nation's peace and security."

And President Carter's words to this body while addressing the Nation are particularly apt now:

> I know that for Members of Congress, this is a troubling and difficult issue in a troubling and difficult time. But the Senate has a tradition of being the greatest deliberative body in the world, and the whole world is watching the Senate today. I am confident that all Senators will perform their high responsibilities as the national interest requires.

Mr. President, the world is watching—and the world is waiting. Let us proceed.

Mr. JAVITS. Mr. President, I believe I have time allocated. I should like to claim it now.

The PRESIDING OFFICER. The Senator from New York is recognized for 15 minutes.

Mr. JAVITS. Mr. President, I considered it my duty, as the ranking member of the Committee on Foreign Relations, carefully to consider the speech of the chairman and the chairman's position. I might say that I have had as long as the chairman has had to think about this matter, having been advised of the same state of facts within a half hour after the chairman was advised. We were both out of Washington at the time. So I address myself to this in a spirit of service to the Senate and to the country and in a spirit of the utmost understanding of my colleague's position and of the utmost cooperation.

We have both been in these jobs only for part of this year—this is his first year and mine in these positions we occupy now on the Committee on Foreign Relations. I do not think there has been finer cooperation between a chairman and ranking member in any committee—no better, certainly—than in ours. It is in that spirit that I speak.

I believe it is my job to put the matter in focus rather than to nit-pick about the terms. That is my purpose this morning.

First, the nature of the challenge. There are really only two things in Senator Church's presentation that I would like to deal with. One is, exactly what is the situation respecting Soviet troops in Cuba? Is it some conspiratorial test of the resolve of the United States, a test of our determination to protect, as Senator Church calls it, our neighborhood? Is that what we are facing? Is that what the Soviets are up to?

Second, does it represent such a challenge to our security that we cannot but respond to it as such a challenge may deserve?

First, as to the nature of the challenge, and that is one of the headings in my colleague's speech. For myself, the nature of the challenge that I see differs from the nature of the challenge Senator Church sees. He sees it as a challenge to our dignity, as a challenge to our paramountcy, if you will, by virtue of who we are, where we are, and how powerful we are, especially in the Western Hemisphere.

For myself, I am willing to adopt President Carter's words. He says it is a challenge to our wisdom, and that is what I think it is, a challenge to our wisdom.

In short, what are we going to make of this? I do not know why the Russians did it and I am perfectly willing to accept the fact that there are minds in the Kremlin, as there are minds here, shortsighted enough to wish to challenge our resolve, whatever that may mean.

But, Mr. President, that is not what statecraft is made of. I learned a long time ago not to subscribe to the proposition that we had to match the Russians tank for tank and man for man and weapon for weapon. They have their reasons and their bases, and we have ours. When we begin to play their game, we are sure to lose it, because they can play it better than we can.

So, Mr. President, I do not know why they did what they did. They claim that it just happened. They had a unit there; it was a training unit; they do not even admit they organized it as a combat brigade, but profess it is still only a training unit.

OK, the next time our surveillance flies over, or in a month or two, we may find that again it is a training unit. It may have been a combat unit; I accept our intelligence that it exercised in that configuration. But they can change it by snapping their fingers. So, Mr. President, I do not prefer and I do not think it is wise for us to run on the policy of, "here is a chip on my shoulder; if you knock it off, you know what is going to happen." I do not think we can run United States-Soviet policy that way.

So, I prefer, on the ground of wisdom, I do not think we have to prove anything right now except that we have to see to the security of the United States and, because we are so heavily involved, to the security of the whole free world.

Now, what is the way to handle that wisely?

I should like now to turn to the matter of the challenge; that is, the challenge which we face. What is that challenge and how shall we deal with it? As I said, I want to take the path of wisdom.

We cannot make the Soviet Union pull its combat brigade out of Cuba short of war. Let us not kid ourselves; we cannot make them do it. We can make it extremely unpleasant, and extremely unwise; but we cannot make them do it. So, any declaration that they are given to pull them out or else, we had better be prepared to back up. No great nation can bluff and I would say that goes, too, for the statement that we will not accept the status quo.

Maybe we will. Maybe we will not. But if we want to make them, we have to be prepared to take the measures which will make them do it. That is the fallacy which has been prevalent around here. The idea that this brigade—whatever it is ultimately, combat or training—is worth such a confrontation. Very clearly it is not, in my judgment.

I deeply believe that is the feeling of the American people. I believe that is the general feeling which is gradually taking hold, even around here.

There are many Members who do not agree, but I think that is facing the reality, is this worth a direct confrontation?

For me, I think decidedly not.

That does not mean we should not make it very uncomfortable for the Russians to keep this—the word Senator Church used was "affront." It is an affront. They know very well this is our preserve. Let us assume they blundered into the combat unit business. That is, they put a combat unit together without really thinking as to how it would affect us.

But they certainly know now, and they, too, as we do, have these tremendous interests at stake in terms of peace and nuclear war in the world.

Mr. President, you certainly do not persist in such an affront. So, they are very unwise, indeed stupid, if they persist in the affront. There are plenty of ways, in addition to those the President has already enumerated, to make it highly unprofitable and highly uncomfortable if they choose to persist.

They want MFN treatment—most favored nation treatment. They want our cooperation and our technology. They want an interchange of educators, and so forth, even cultural interchanges. There are a whole host of things which could be done.

Let us not forget, Mr. President, that when the Soviets took their missiles out of Cuba in 1962, President Kennedy made a reciprocal not to invade Cuba again.

Mr. President, if the Soviet Union is going to persist in pressing the 1962 agreement to the limit, which they are doing, that is, the combat brigade is not expressly forbidden, but they are certainly pressing the agreement to its outermost limits as the agreement between us and them does prohibit offensive weaponry, if they insist on that, they better be mighty careful about whether that Cuban agreement holds in all its aspects.

So, Mr. President, we are far from the end of our rope. There is no need for an immediate confrontation.

We agree, Senator Church and I, and others who have spoken, that we ought to go ahead with SALT, that this is no reason for holding up on SALT, and if it suits us in terms of our national purpose and national security, ratifying SALT. That is the fundamental policy decision which has to be made.

I agree with that. But I point out that we have not yielded. We have not surrendered. We have adopted a different course for redressing an affront, a different course from confrontation, a different course from ultimatum, and that is the way to go.

The question comes as to the understanding which Senator Church has drafted on Cuba. We face, Mr. President, here in the Senate, a very practical problem. We have to get not a majority—I believe there is a majority in the Chamber now for SALT II and I believe there will be when the vote comes—but we have to get two-thirds. That means that we have to defer in some ways where it will not jeopardize the main point, to concerns, criticisms and demands of other Senators.

While I question the wisdom of this one, I must face it as a reality. So, though we come at it from different directions, we get to the same point.

I say to the Senate that I will most carefully examine Senator CHURCH's suggestion. It is intelligent. It is interestingly drafted.

I am not prepared to concur with it today. But I will examine it carefully. I am supposed to be a pretty good workman with words myself.

I will do my utmost, I assure the Senator, to fashion some kind of a declaration or understanding which will convince Members of the Senate who have this question very deeply in their minds that we will not let up on the Russians respecting the brigade in Cuba, while we do not use it as an instrument of confrontation or as a basis for an ultimatum, and while we do not allow it to divert us from the fundamental national purpose, which is to make the progress that we are capable of making toward relieving the world of the dreadful anxiety of a possibility of nuclear war.

It is within those parameters, Mr. President, that I wish to assure the Senate of my action in this matter from this point on.

Mr. CHURCH. Mr. President, first of all, I express my appreciation to the able Senator from New York.

I fully respect his position in connection with the issue of the Soviet combat brigade in Cuba. He also has taken into practical account the problem that faces us if we are to secure the necessary two-thirds vote to ratify the treaty.

Various Senators in this Chamber approach the treaty from different directions. There are those who say that before they are prepared to vote for the treaty they must have assurances that the American military budget will be substantially increased. There are others who take a very different view and criticize the treaty for doing too little in arms control. They appear to be contending that they want greater assurance that, if the SALT II treaty is ratified, the United States will immediately take steps to establish goals for the negotiations on SALT III that will substantially reduce the number of lethal nuclear weapons in the arsenals of both the United States and the Soviet Union in the future.

Then there are those Senators who have raised the question of verification and who may wish to be better satisfied on that score.

Finally, there are those of us who have taken the view that the provocation to the United States resulting from the presence of a Soviet combat brigade at our doorstep requires that the Senate deal with it in a more satisfactory manner than the administration.

All of these groups, in one way or another, need to be satisfied if we are to secure the necessary two-thirds vote to ratify this treaty.

I say to my good friend the Senator from New York how much I appreciate the support, the friendship, and the closeness with which he has worked with me since January. I believe it has been very productive. It enabled the Committee on Foreign Relations to avoid what nearly everyone predicted would be a divisive, acrimonious debate over Taiwan enabling legislation, and thus led, in the end, to a nearly unanimous vote in the Senate on that matter.

The cooperation of the Senator from New York also permitted the committee to complete its work on all the foreign aid legislation well ahead of the normal schedule, so that we were able to devote the months of July and September and part of October to very intensive hearings on the SALT II treaty.

For all this, I extend to the Senator from New York my deep appreciation.

Mr. President, I believe I have offered an understanding that will deal adequately with the Soviet challenge, in a manner consistent with the position I have taken on this issue, and at the same time will advance the cause of the treaty in the Senate by helping to remove one of the most serious obstacles to its ratification.

I have made public this proposal only this morning, and have not had an opportunity to discuss it, nor to circulate it, to other Members of the Senate. That process is now underway.

I do not want to announce, however, that I have already been informed that three Senators wish to join me in cosponsorship of the understanding. They are the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Tennessee (Mr. SASSER).

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator's understanding will be offered today for printing and that it will lie at the desk for the remainder of the day—I am not asking that any Senators who may wish to join as cosponsors may do so before the amendment is printed.

Will the Senator do that?

Mr. CHURCH. Yes. I had intended to do that, and I thank the distinguished majority leader for the suggestion.

Mr. President, as in executive session, I ask unanimous consent that the understanding I now send to the desk be printed and that it lie at the desk for the remainder of the day, so that other Senators who wish to cosponsor may do so. I also ask unanimous consent that the understanding be printed in the RECORD.

The PRESIDING OFFICER. Without objection, the understanding will be received and printed, and will lie on the table; and without objection, the understanding will be printed in the RECORD.

The understanding is as follows:

AMENDMENT NO. 509

(Purpose: To assure that Soviet military forces in Cuba are not engaged in a combat role and do not pose a threat to any country in the Western Hemisphere)

Before the period at the end of the resolution of ratification, insert a comma and the following: subject to the understanding, which is to be made a part of the instrument of ratification,

"That, prior to the exchange of the instruments of ratification, the President shall affirm that the United States will assure that Soviet military forces in Cuba (1) are not engaged in a combat role, and (2) will not become a threat to any country in the Caribbean or elsewhere in the Western Hemisphere."

Mr. CRANSTON. Mr. President, it was my privilege to attend the hearings held yesterday by the Foreign Relations Committee, chaired by the distinguished Senator from Idaho. At that time, Secretary Vance, Secretary Brown, the chairman of the Joint Chiefs, and Ambassador Ralph Earle, as well as others, testified.

I was very, very pleased by the statement of the Secretary of State that he believes we are beginning to build a national consensus, based on two pillars: first, reasonable strengthening of our defense effort; second, sensible nuclear arms control.

I concur wholeheartedly in the view that we are in process of developing—and I believe we can achieve—a consensus built upon those two pillars, which should make it possible to ratify SALT, to strengthen our defenses in ways deemed appropriate, and to reach a point where we are in agreement on many matters that have divided our Nation for a good many years.

I believe that censensus will give to the world a sense of greater American stability and certainty as to the directions we seek to take, a certainty as to the sort of world we hope to build with the help of others who share this world with us.

The Senator from Idaho stated in the course of the hearing yesterday—and I hoped to comment at that time but was unable to do so—that he felt that the SALT treaty was 8 or 10 votes down. I disagree with that statement. I believe the supporters of the treaty are 35 votes down now—and I stress the "now"—from the 67 votes that are needed for ratification. I believe that the opponents are 19 votes down now from the 34 they need to reject the treaty.

The fact is that a majority of the Members of the U.S. Senate are presently uncommitted on the issue of SALT. After all, the Foreign Relations Committee has not worked on the markup aspect of the process. It has not reported the treaty to the Senate. It has not stated its reasons, whatever they may prove to be, for whatever action it takes as the first step. It has not explained yet what those reasons are.

The Intelligence Committee made its report to the Foreign Relations Committee only yesterday, in closed session. Other Members of this body have not yet had an opportunity to read that classified document, to digest it, to make decisions based upon what it contains. The Armed Services Committee is considering the matter in its own way. We are not advised as to the attitude of many of the members of that committee in regard to SALT.

There are many, many other matters that cause many Senators to withhold judgment at this point with respect to SALT.

I agree with the Senator from Idaho that the concerns of three main groups, and perhaps one smaller group, must be met before the Senate can reach a wise decision on the SALT treaty.

First, the concerns of those who object to the presence of Soviet combat troops in Cuba must be met. The Senator from Idaho, I think, has taken a very constructive step today to deal with that problem.

Second, the concerns of those who feel that we should significantly strengthen our national defense posture must be considered and dealt with.

Third, the concerns of those who are worried that the SALT process seems to produce more and more weaponry of a strategic nature in the hands of the Soviet Union and of the United States, at great cost to the people of both lands, must be dealt with.

I believe we are on our way to dealing with the concerns of group No. 2 and group No. 3. There may also be a smaller group. I know there are Senators who are not yet satisfied on the issue of verification. That must be dealt with. The Intelligence Committee report which will be made available in part publicly, in more important details privately and in a classified way, should deal with those concerns.

So I believe that, after a while, the situation will change; more and more Senators will be committed one way or another.

The Senator from New York, the distinguished ranking minority member of the Foreign Relations Committee, stated yesterday in the session that he felt chances were 50 to 50 as to what would happen finally; and he added to Secretary Vance, "I think you will win." So maybe the Senator thinks it is 50.1 to 49.9. I concur.

I think that, finally, SALT will prevail, commonsense will prevail, and that the deep national and world interest involved in ratifying SALT II, so that we can move on to SALT III, will convince 67 or more Members of this body that the treaty should be ratified, and I think it will be ratified.

Mr. CHURCH. Mr. President, I rise to thank the distinguished assistant majority leader for his remarks this morning and for the way that he has dealt with this issue in the pragmatic manner necessary if we are to succeed in removing barriers that now exist in the Senate to the ratification of the SALT II treaty.

He has restated his own position, which differs from mine, on the matter of the combat brigade in Cuba. But I look forward to cooperating with him, as well as with the able Senator from New York, in our common endeavor to secure ratification of the SALT II treaty. I think that the Senate can find a way to do it, and all of us will be working hard at it in the weeks to come.

Mr. CRANSTON. I thank the Senator for his good words. I thank him more for his effective work today in dealing with one of the major problems that we have had concerning the SALT treaty and I look forward to working with him in the whole matter as we proceed toward the decision in this body, a very fateful decision on the SALT treaty.

Mr. CHURCH. Mr. President, I yield back the remainder of the time.

(The following colloquy occurred during the remarks of Mr. CHURCH.)

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of Mr. DECONCINI, Mr. STEWART, and Mr. FORD be transferred to the control of Mr. CHURCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And I ask unanimous consent that the time of Mr. BOREN be transferred to the control of Mr. CANNON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I ask unanimous consent that the exchage which has just taken place between the distinguished majority leader and the Chair be relegated to the end of this address.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho is recognized for 30 additional minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time which was allotted to Mr. SASSER and to Mr. CHILES be allotted to Mr. CHURCH and that the time that was allotted to Mr. STONE be allotted to Mr. CRANSTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Alabama (Mr. HEFLIN) will be recognized for a period not to exceed 10 minutes.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may yield back the time of the Senator from Alabama and I yield back any remaining time I have.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is now recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I thank the Chair.

I believe the purpose of the majority leader's request on yesterday that the leader's time be transferred to the end of the special order time was to provide us with a forum if there is a need for it. I have no need for my time.

I have been here in the Chamber during remarks of the distinguished Senator from Idaho, and I have no need for additional time. I am prepared to yield it back if the acting majority leader is prepared to yield back the time on his side.

Mr. President, in the meantime, while we check that, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time under the order and my time under the standing order.

Mr. BAKER. Mr. President, I yield back any time I have remaining.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes each.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, Mr. TALMADGE could not be prepared for the debate on the measure, which is scheduled for this afternoon, until 1:35 p.m., and so, therefore, I think that the Senate, as I indicated yesterday, having nothing other to do at this moment, should go into recess.

Mr. President, I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today.

There being no objection, the Senate, at 10:16 a.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

SENATOR HERMAN E. TALMADGE

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 249, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 249) concerning the Select Committee on Ethics' investigation of Senator Herman E. Talmadge.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE, I ask unanimous consent that Mr. James Hamilton, attorney for Senator TALMADGE, be permitted privileges of the floor during the consideration of Senate Resolution 249.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, on September 14, 1979, the Select Committee on Ethics agreed to report Senate Resolution 249 for consideration by the Senate. The resolution reads as follows:

> Whereas from January 1, 1973, through June 30, 1978, fifteen vouchers were submitted to the Senate in the name of Senator Herman Talmadge which claimed and recovered Senate reimbursements in the aggregate amount of $43,435.83 for official expenses which were not incurred ($37,125.90 having been repaid by Senator Talmadge on August 18, 1978, for overreimbursements between 1972 and 1978 inclusive); and
>
> Whereas Senator Talmadge failed to sign, as required by law, and properly supervise the preparation of all the aforesaid vouchers; and
>
> Whereas the financial disclosure reports required to be filed by Senator Talmadge under Senate rules for each of the years 1972 through 1977 were inaccurate; and
>
> Whereas Senator Talmadge failed to file in a timely fashion the candidate's receipts and expenditures reports for 1973, as required by Federal law, and inaccurate reports were filed for the period January 1, 1974, through December 31, 1974, and
>
> Whereas campaign funds of Senator Talmadge in excess of $10,000 were not reported, as required by law, and were deposited by his campaign chairman between July 3, 1973, and November 29, 1974, in an account maintained at the Riggs National Bank of Washington, District of Columbia, in the name of Herman E. Talmadge/Talmadge Campaign Committee and were disbursed by said campaign chairman for noncampaign purposes: Now, therefore be it
>
> *Resolved*, That it is the judgment of the Senate that Senator Talmadge either knew, or should have known, of these improper acts and omissions, and, therefore, by the gross neglect of his duty to faithfully and carefully administer the affairs of his office, he is responsible for these acts and omissions.
>
> SEC. 2. It is the judgment of the Senate that the conduct of Senator Talmadge, as aforesaid, is reprehensible and tends to bring the Senate into dishonor and disrepute and is hereby denounced.
>
> SEC. 3. That Senator Herman E. Talmadge be required to reimburse to the United States Senate the sum of $12,894.57 plus interest on overreimbursements in the aggregate amount of $43,435.83 at such rates and for such periods as are determined by the Secretary of the Treasury, in accordance with established procedures for collecting overreimbursements.

The committee's report was filed with the Senate on Thursday, October 4. It has been available to the Members and the public since then.

In reporting the resolution, the committee was fulfilling responsibilities assigned it in Senate Resolution 338, enacted in the 88th Congress and amended in 1977 by Senate Resolution 110.

It is the duty of the Committee to:

> Investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers and employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto." (S. Res. 338, 88th Cong., 2d Sess., Section 2(a)(1) (1964), as amended by S. Res. 110, 95th Cong., 1st Sess., Section 201 (1977))

The committee is also mandated to recommend to the Senate, first, appropriate disciplinary action with respect to any such violations and, second, rules or regulations to insure proper standards of conduct by Members, officers, and employees of the Senate. (S. Res. 338, 88th Cong., 2d sess., section 2(a)(2) (1964), as amended).

This resolution is the product of more than a year's inquiry into allegations of impropriety on the part of Senator HERMAN E. TALMADGE. The committee's inquiry was thorough; the Senator and his staff were cooperative.

In accordance with Senate Resolution 338, the committee first conducted an "initial review" to determine whether there was reason to believe that possible improper conduct or a violation of a rule or law within the jurisdiction of the committee might have occurred. The initial review covered six allegations of possible misconduct on the part of Senator TALMADGE and was authorized by unanimous vote of the committee on June 8, 1978. Senator TALMADGE was informed by letter of the committee's decision on June 9, 1978.

Following the confidential report of its special counsel at the conclusion of the initial review, the committee determined that there was substantial credible evidence that violations within the jurisdiction of the committee had occurred. On December 18, 1978, the committee voted to conduct an investigation into five of the alleged violations in accordance with the procedures set forth in Senate Resolution 338 and the committee's rules of procedures.

At that time, the committee concluded there was no improper conduct on the part of Senator TALMADGE in connection with certain real estate transactions. Accordingly, that allegation was dismissed by the committee. Another allegation, concerning Senator TALMADGE's failure to report certain gifts of securities made by him to his former wife and pay about $1,000 in gift taxes due thereon, was dismissed by the committee at the conclusion of the investigation.

Senate Resolution 249 sets forth the committee's findings with respect to the four remaining allegations. These findings, and the committee's conclusions and recommendations, were made after reviewing the evidence before the committee, including the facts stipulated by Senator TALMADGE, the sworn testimony of 36 witnesses during 27 days of public hearings, and several hundred exhibits received in evidence by the committee. The facts recited in the resolution to support the committee's findings and recommendations are not in dispute. Most are the subject of the stipulation entered into by Senator TALMADGE and the committee.

The first allegation concerns reimbursements from the U.S. Senate for official expenses.

From January 1, 1973, through June 30, 1978, 15 vouchers were submitted to the Senate in the name of Senator HERMAN E. TALMADGE which claimed and recovered Senate reimbursements in the aggregate amount of $43,435.83 for official expenses which had not been incurred by the Senator.

Based on an audit requested by Senator TALMADGE of Senate reimbursements made to him from January 1, 1972, to June 30, 1978, Senator TALMADGE repaid to the Secretary of the Senate $37,125.90. This amount did not include $12,894.67 in over-reimbursements resulting from two vouchers, one dated June 19, 1973, and a second dated March 26, 1974. Although required by law to sign all vouchers submitted on his behalf for reimbursement by the Senate, Senator TALMADGE personally signed only 6 of the 15 vouchers submitted to the Senate during the period January 1, 1973, through June 30, 1978.

The second allegation involved violations of the reporting requirements imposed under Senate rules.

Rule XLIV of the Standing Rules of the Senate, which was in effect from July 1968 through December 31, 1977, required Members of the Senate to file confidential statements of financial interests. For each of the years 1972 through 1977, the reports filed by Senator TALMADGE failed to include gifts and assets required to be filed under this rule. A summary of these gifts and assets is set forth on pages 10 through 12 of the report accompanying this resolution.

The third allegation involved violations of campaign finance reporting requirements.

As a candidate for reelection to the U.S. Senate in 1974, Senator TALMADGE was required by law to submit reports showing campaign receipts and expenditures. No report was filed for the year 1973 until 1978, although Senator TALMADGE had made campaign expenditures in 1973 of more than $14,000. He was reimbursed for these expenditures by the Talmadge Campaign Committee on January 4, 1975. Inaccurate reports were filed for the period January 1, 1974 through December 31, 1974. These reports failed to show campaign expenditures made by Senator TALMADGE in excess of $12,000, for which he had been reimbursed in 1975.

The fourth allegation involved possible violations of Federal law and of Senate Rules in connection with certain campaign contributions.

Campaign contributions in excess of $10,000 were deposited by Senator TALMADGE's campaign chairman in an account maintained at the Riggs National Bank in Washington, D.C. These funds were not reported as required by law and were disbursed by Senator TALMADGE's campaign chairman in violation of the provisions then in effect of rule XLII of the Standing Rules of the Senate.

The committee concluded that Senator TALMADGE either knew, or should have known, of these acts and omissions and that by the gross neglect of his duty to faithfully and carefully administer the affairs of his office, he is responsible for these acts and omissions. Accordingly, the committee recommends that the Senate, by adoption of the resolution, characterize his conduct as reprehensible, denounce that conduct and require the Senator to reimburse the Senate for the balance of the amounts received in excess of allowable expenditures for the period 1973–78 with interest.

During the course of the committee's investigation, inadequacies in the accounting procedures of the Senate became apparent.

One inadequacy was addressed in a resolution introduced on May 23 by Senator HATFIELD on behalf of himself and the other members of the committee. As agreed to by the Senate on August 2, that resolution Senate Resolution 170, requires all vouchers submitted to the Senate to be accompanied by supporting documentation.

Other inadequacies remain, and the report of the committee accompanying this resolution contains recommendations which, if adopted, would correct them. The committee recommends:

(1) that bookkeeping procedures be developed by the Committee on Rules and Administration which would require the maintenance of separate books and accounts for Senators' personal, official, and campaign funds;

(2) that rules governing the proper submission of vouchers be adopted;

(3) that rules concerning the use of the autopen be adopted; and

(4) that a mechanism be developed whereby audits of a Senator's financial accounts, including the reconciliation of a Senator's office records with those of the Senate Disbursing Office, would be routinely conducted in circumstances suggesting possible irregularities.

The committee has also recommended that rules be adopted which clearly define "official" and "reimbursable" expenses. The committee makes these recommendations with the expectation that they will, if adopted, assist Members and their staffs in discharging their responsibilities to the Senate and to the public.

Mr. President, the Select Committee on Ethics unanimously recommends that the Senate approve this resolution. The committee does so with the hope that all who serve in the Senate hereafter will be the wiser and the public reassured by the Senate's discharge of a disagreeable duty.

Mr. SCHMITT. Mr. President, the Senator from New Mexico would like to at this point express his appreciation, which I know is shared by all of his colleagues, for the chairman's fairness and deep concern in the matter that is before the Senate today. The tradition of bipartisan oversight over which he and I have presided for 3 years with respect to the code of conduct and other aspects of the ethics of the Senate has been well established. I am greatly appreciative of the opportunity to work with him for these 3 years and in the creation of this tradition, as unpleasant as it may have been at times.

The chairman has fairly and accurately presented today the case for the adoption of the resolution before us. I associate myself with his remarks.

As the Senate knows, prior to the committee's final vote on the proposed resolution, the Senator from New Mexico offered a resolution that the Senator from Georgia be censured. This proposal was defeated and the present language adopted. I am not today going to debate the wisdom of the resolution for it bears my stamp of approval as adequate, although not the most appropriate, punishment for conduct proven.

However, in the event other cases of serious misconduct arise, it might be helpful to state on the record why, in my judgment, the correct disciplinary word for serious misconduct of the type before us is "censure." "Censure" is the correct word based on the language of the Senate resolution, the rules of this committee, and historical precedents and constitutional principles.

First, permit me to address the legal framework for taking disciplinary action against erring Senators. In 1977, the present committee was organized and the resolution governing the Select Committee on Ethics was amended to specifically list certain enumerated punishments, and those do not include the words used by the committee in this resolution.

The resolution establishing or organizing the committee reads as follows:

SEC. 2. (a) It shall be the duty of the Select Committee to—

(2) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal) to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

Second, in interpreting section 2(a)(2), this committee adopted rules of procedures which provide for only three substantive choices concerning discipline if any violation is found:

(a) no discipline need be recommended for de minimis or technical violations;

(b) a violation may be considered nontechnical yet not serious enough to warrant the severe disciplinary sanctions set forth in Section 2(a)(2); or

(c) the violation may be so serious as to require the Committee to recommend one of the expressly stated punishments.

This division is set forth in committee rule 4(a) (3) and (4) where it is stated that the committee may move from the initial review to an investigation if there is substantial credible evidence (that is, "probable cause") to believe:

(A) That the violation, if proved, would be sufficiently serious to warrant imposition of one of the above-listed severe disciplinary actions; or

(B) That the violation, if proven, is less serious, but was not resolved pursuant to the procedure in subsection (3) above.

It is anomalous for the committee to proceed to an investigation and then, despite the plain language of paragraph (A) above, vote that serious misconduct may be punished by action other than "one of the above-listed severe disciplinary actions." It is not my contention that the committee could not do otherwise, but just that it is anomalous.

With respect to historical precedents, earlier Senate cases clearly set the guidelines for censure. In this case, the fact that some of the alleged violations would be crimes if proven in a court of law should be remembered as we act on this resolution. An examination of the precedents showed that expulsion proceedings were begun against six members (Simmons, 1862; Patterson, 1873; Smoot, 1903; Ditrich, 1904; Burton, 1906; and Wheeler, 1924), for something other than disloyalty. No Senator has ever been actually expelled except for disloyalty. Thus absent conviction of a felony or disloyalty, it can be concluded that expulsion is a drastic punishment since it deprives the people of their elected legislator, and it can be argued that the Senate should not override the wishes of the people absent disloyalty or conviction for criminal misconduct.

The precedents of the Senate further reveal that seven Senators have been disciplined:

Pickering of Massachusetts, 1810 and Tappan of Ohio, 1844, breach of Senate rules regarding confidential communications.

McLaurin and Tillman of South Carolina, 1902, assault on the floor of the Senate.

Bingham of Connecticut, 1929, placing lobbyist on payroll.

McCarthy of Wisconsin, 1954, abuse of Senate subcommittee investigating his actions.

Dodd of Connecticut, 1967, converting campaign funds to personal use.

Except for the McCarthy and Bingham cases, the word "censure" has been uniformly used. In the McCarthy and Bingham cases the Senators were "condemned" but this seems to have been treated by historians as tantamount to censure. (See Senate Election, Expulsion and Censure Cases, 92d Congress, Doc. No. 92–7.) There has never been any past resolution which uses the language appearing in the proposed resolution. Hopefully a new and strong precedent will be established, as I said earlier, but only history will determine that.

Finally, in this as in all cases of misconduct, the matter of principle is involved. On April 19, 1972 Senator Sam Ervin and Senator William Saxbe, representing the Democratic caucus and the Republican Policy Committee, appeared before the U.S. Supreme Court and argued in the Gravel case on behalf of the broadest possible view for congressional immunity under the Speech and Debate Clause of the U.S. Constitution. Both Senators argued that each House of Congress must have sole responsibility for disciplining Members for wrongdoing and that the executive and the judicial branches should be prohibited from inquiring into a Member's conduct. Their argument was not adopted in toto by the Court; still we, as Members of the Senate, do have a great deal of responsibility to police our membership. Most of us agree with these general propositions. It is the application of this principle that proves troublesome, for it is here that we must sit in judgment on our colleague.

As difficult as this task is, we must perform it with the same degree of care and attention that we give to our legislative duties and without showing favoritism or undue leniency. Only in this way can we demonstrate to our constituents that the Senate still has a high regard for its integrity and considers any breach of that integrity as a serious matter requiring appropriate discipline. We have a constitutional duty to discipline any Member who has engaged in misconduct that reflects upon the Senate. We should discharge this responsibility as diligently as we would any other.

Further, it has long been recognized that the public associates censure with responsible disciplinary action. A colloquy between Senator Pearson, TOWER, and LONG during the Dodd debates demonstrated this point very well, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCHMITT. During this debate it was clearly demonstrated that the Senators believed the word censure to be recognized by the public as the correct word to use when severe disciplinary action is being taken by the Senate.

Applying these rules and principles to the misconduct of Senator TALMADGE, the committee is in full agreement that the misconduct was serious, as the following facts establish. It is important to note that many of the findings of fact made by the committee are based on either stipulations or uncontradicted evidence. Being solidly based on the record, these findings of fact should not be lightly disregarded. The seriousness of the charges is apparent when you consider the fact that the committee found:

First, Senator TALMADGE was, at least, grossly negligent in the filing of his 1974 Candidate's Reports of Receipts and Expenditures wherein he claimed no campaign expenses, when in fact he incurred over $12,000 in campaign expenses that year;

Second, that Senator TALMADGE knew, or should have known, of his receipt of $37,125.90 in Senate overpayments. This factual finding rested on, among other points, the fact that the Senator personally signed the checks which generated the reimbursement claims to the Senate. It was also uncontradicted that he reviewed canceled checks and deposit tickets of the checking account which gave rise to the inflated claims made to the Senate Disbursing Office, and that his financial aide reconciled bank statements and presented the statements to him;

Third, that Senator TALMADGE's gross neglect of duty caused the further loss of $12,894.67 (these being the two checks deposited by his former administrative assistant into an unregistered campaign account); thus between two parties, the Senate Disbursing Office and Senator TALMADGE, it is unquestionably clear that (but for the respondent's misconduct) the loss would not have occurred and the sum must therefore be reimbursed;

Fourth, that the respondent either knew, or should have known, that campaign funds were being diverted; this finding rested not upon just the word of his former administrative assistant, as some have said. In my opinion, it rested largely upon two internal documents, commonly referred to as "Q-1" and "Q-2", of the Talmadge office reflecting the diversion of funds. These documents were given the most critical scrutiny by the committee, and the committee finding came only after the committee received expert testimony from a Treasury Department questioned-document examiner, and after the committee had corroborated many of the other details set forth in the documents. It also rested on the fact that the Senator was personally aware of some contributions, that he reviewed lists of contributions; and yet, he failed to notice that many large contributions were not being publicly reported.

Fifth, the committee was concerned about the respondent's possible lack of candor about his source of cash during years under review, and it has referred this and other matters to the Department of Justice. The respondent claimed that his cash came from constituents and friends he could not name. The committee noted that the only support for his story came from the testimony of two Georgia politicians who have not held office in many years. On the other hand, the respondent's former wife described a way of life where cash was plentiful and whose testimony was corroborated, in many ways, including her production of $7,700 in $100 bills. Furthermore, she did not appear vindictive by coming forward to volunteer derogatory information about the respondent. Instead she claimed the husband-wife privilege in an effort to avoid testifying. Many other undisputed facts reflecting gross misconduct by Senator TALMADGE are set forth in the committee report and in my additional views.

In summary, the language of our own rules, the historical precedents, and the seriousness of the charges proven against Senator TALMADGE prove that the appropriate disciplinary measure was censure.

No one should feel that the committee's unanimous decision to use words other than "censure" as punishment for misconduct in any way condones the neglect of duty admitted to by Senator TALMADGE or that there is not "clear and convincing"[1] evidence that he had legal knowledge of certain illegal actions of his subordinates. The words "gross neglect," "reprehensible," "dishonor," "disrepute," and "denounced" used in the resolution, as reflecting the committee's judgment of Senator TALMADGE's conduct, should be interpreted in their literal as well as their historical meaning.

The words "dishonor" and "disrepute" do have strong and obvious historical precedents and implications not only of misconduct but of the violation of the accepted standards of the Senate as an institution of the people. It should be noted that the record of the discussions of the committee shows no disagreement or even discussions of whether or not the phrase "tends to bring the Senate into dishonor and disrepute" should be included or modified in the final resolution.

The primary purpose of the additional views I submitted with the committee's report is to make it clear that the committee's investigation of the conduct of Senator TALMADGE established that the principal charges filed against him were true on their face, as reflected in the "Whereas" clauses of the final resolution. It should be noted that the record of our deliberations shows that the committee was in complete agreement with changes proposed to the original draft resolution, changes which clearly have strengthened and reinforced the seriousness of the statements of findings by the committee incorporated in the "Whereas" clauses.

Furthermore, the additional views summarize those facts indicating that Senator TALMADGE knew, or should have known, of the illegal activities of his subordinates and that special counsel presented "clear and convincing" evidence that these facts are true.

I now ask, Mr. President, that the additional views be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SCHMITT. An examination of the committee report and my additional views demonstrate why the respondent should be "denounced" in accordance with the resolution presented and that the strongest possible meaning be put on such punishment.

EXHIBIT 1

PUBLIC PERCEPTION OF CENSURE

(Excerpts from CONGRESSIONAL RECORD, pp. 16980–16981, June 22, 1967, relative to the Dodd censure debate)

Mr. PEARSON. I say to my distinguished friend, the Senator from Texas, that, as has been said so many times on the floor, there are really three points of interest involved in this entire matter. One is the public career of a colleague, and nobody is insensitive to that. The second is the honor of the Senate as an Institution, and the third is the confidence of the American people in the United States Senate, not only to disavow past acts but also to provide for a good future.

If we only were considering the public career of one man, I might find myself in complete agreement with the Senator from Texas. But the question I put to him is, does he think the term "reprimand" is sufficient in regard to the honor of the Senate and the confidence of the American people in the Senate?

Mr. TOWER. I believe that the Senate of the United States is the great institution it is because it has always done things pursuant to what it considered to be the letter and the spirit of the Constitution of the United States, pursuant to what it considers to be established Anglo-Saxon theories of law and right, pursuant to what it understands the Judeo-Christian ethic to be, and because we, as Members, have always been interested in the rights of individuals and the protection of individuals.

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[1] The criterion for "clear and convincing" evidence was established by the Committee at the start of its investigation.

It has been said that we have a pretty clubby atmosphere around here. I remember a story they used to tell about former Senator Prescott Bush, the distinguished Senator from Connecticut.

A young lady rushed up to him one time and said, "Senator Bush, is it true that the Senate is a very exclusive club; that the Members are very courteous and deferential to each other, regardless of difference of political belief; that they always treat each other with great courtesy and deference and respect?"

He replied, "Yes, young lady, it is true that the Senate is indeed an exclusive club, and that we do treat each other with great courtesy and deference and respect. But when one of us breaks a leg, we eat him."

Now I do not know that we have an obligation to consider one individual above the Institution. Indeed, we do not. The good of the Institution, the reputation of the Institution, the public trust, must be paramount. But the feeling over the country is by no means unanimous. Many people know only what they read in the newspapers—and I am not saying that the press has done a bad job of reporting. I think the press does a pretty reasonable job, but very often they draw conclusions that are not based upon hard facts; and I do not believe that we should necessarily be guided in what we do here by a wave of popular emotion. There is no tyranny like the precipitate and emotional tyranny of the majority.

I believe we are a great institution because we are concerned with doing things in an orderly way, a way that respects the rights of every individual, and because as a body we are people who place great value on the individual.

I think we should express our disapproval when a brother errs. I think we perhaps should have a little bit more firm, specified guidelines, because I believe many people here are uncertain as to what they should spend political funds for and what they should not, and I imagine that one could find a hundred different opinions in this body.

Now I know that we have a perfect right to censure a man for a code of conduct or a pattern of conduct that we disapprove of, whether or not there is any law or any rule that prohibits that conduct. I question the wisdom of whether or not we should.

Mr. PEARSON. Mr. President, will the Senator yield at that point?

Mr. TOWER. I yield.

Mr. PEARSON. I find the Senator's proposed amendment in contradiction to his present argument, for he would, on page 2, strike the words "accepted morals"—and this did give the committee a great deal of trouble—and substitute "accepted standards."

So there are accepted standards. The Senator says so. He puts those words in his amendment, I think I would just observe that his argument is in contradiction to his own amendment.

I will not prolong this discussion, except to say that the Senator may not be a lawyer, but he surely talks like one, because I do not believe I really got an answer to the question I put to him, which I would only recognize if I had not done it so many times myself.

I thank the Senator.

Mr. TOWER. What sort of answer did the Senator want?

Mr. PEARSON. I wanted an answer, actually and very seriously, to the question I put to the Senator, as to whether or not the Senator thought that the term "reprimand" as he understands it and as it is understood by the Members of this body and by the public generally, would be sufficient to uphold the honor of the Senate as an institution and sufficient to uphold the confidence of the public in the Senate as an institution of government.

Mr. TOWER. We could get into an endless bog and morass of semantics here.

Webster's Dictionary defines "reprimand" as "a severe or formal reproof; to reprove severely; to censure formally, especially with authority". Actually it can be considered a definition for the word. In common parlance it is not understood to have the severity.

Therefore, I think we should mitigate our language somewhat here, because I have no doubt about what is going to happen here today. I know what the result will be.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. LONG of Louisiana. For a number of reasons, I somewhat regret that the Senator saw fit to offer his amendments en bloc, and that he did not offer his amendment exclusively to point (a). One reason is that the resolution came to the Senate in a form stating that the Senator had engaged in conduct (a) and (b), and for that conduct he was censured.

Mr. TOWER. Will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. TOWER. I believe that (a) is the pending business, and that the amendment is offered to (a).

Mr. LONG of Louisiana. The Parliamentarian advised the Senator that the amendment applies to both (a) and (b), as I understand it. The Senator could perhaps gain unanimous consent that his amendment apply only to (a). I think that is important.

In my eyes, if one finds a man guilty of only half of what is charged here, presumably he would not be punished as severely as he would if he were found guilty on both charges.

Mr. TOWER. I believe the Senator is absolutely correct. Of course, I have addressed my remarks essentially to charge (a), understanding that that is the pending business and that is what the amendment is addressed to.

Mr. LONG of Louisiana. Will the Senator yield?

Mr. TOWER. I yield.

Mr. LONG of Louisiana. Here we have what are alleged to have been two separate sets of offenses. If these were crimes and if the Senator were sitting as a judge he would say, "For this act of crimes over here, where you misled the people by raising so-called campaign money and using it for your personal advantage, I find you guilty and sentence you to this", and then he would say, "With respect to this charge where you defrauded by double billing, I find you guilty and sentence you to this". The sentences could be made to run concurrently or consecutively.

I wish to say to the Senator that I hope his word "reprimand" is agreed to, for a very simple reason. While Webster's dictionary defines these two words almost identically, using reprimand to define censure and censure to define reprimand, as the Senator has said, there is a great difference in construing the words in the mind of the public.

I shall read the definition of the word "reprimand" which appears in Webster's unabridged Dictionary: to reprove severely; to reprehend; to chide for a fault—and then listen to this—to censure formally, especially with authority.

That is the definition of "reprimand".

I would hope that the Senator from Massachusetts (Mr. BROOKE) could hear this, as well.

Mr. BROOKE. Yes. I am sorry.

Mr. LONG of Louisiana. I am not asking a question. I hope that the Senator will hear this because he has taken a great deal of interest in this matter.

The point I have in mind is that the word "reprimand" in the minds of the public means "we have found you to be guilty of misconduct; we censure you formally and with authority." But it carries a further connotation that, "If in the future you conduct yourself as we would have you do, you would gain forgiveness." "Reprimand" implies that. One reprimands his children; he does not censure his children.

I voted to censure Joe McCarthy. I said at the time that he dared us to vote for that resolution. He said that if we voted for it we would be suspected of being handmaidens of the Communists and he would not back up even though some of his friends urged him to do so. However, in that case Joe McCarthy was not contrite. He was defiant to the end. We had no choice but to vote censure in that matter.

I think the word "reprimand" is more appropriate for a contrite person who says, "I am sorry about this; I had not wanted to break any laws. If I did, tell me what is wrong and tell me what I can do to get forgiveness."

I hope that the Senator from Texas limits his proposal to the first section. If the Senator from Connecticut is found guilty of a violation of section (b), let it go down that he would be censured.

HISTORICAL USE OF THE EXPRESSION OF "DISHONOR AND DISREPUTE"

A phrase using the wording of the present Resolution wherein the words "tends to bring the Senate into dishonor and disrepute" has been used in the last three cases where Senators have been disciplined as the following Resolutions show:

Senator Bingham—1929

Resolved, That the action of the Senator from Connecticut, Mr. Bingham, in placing Mr. Charles L. Eyanson upon the official rolls of the Senate and his use by Senator Bingham at the time and in the manner set forth in the report of the subcommittee of the Committee on the Judiciary (Rept. No. 43, 71st Cong., 1st Sess.), while not the result of corrupt motives on the part of the Senator from Connecticut, is contrary to good morals and senatorial ethics and tends to bring the Senate into dishonor and disrepute, and such conduct is hereby condemned.

Senator McCarthy—1954

Resolved, That the conduct of the Senator from Wisconsin, Mr. McCarthy, is unbecoming a Member of the United States Senate, is contrary to senatorial traditions, and tends to bring the Senate into disrepute, and such conduct is hereby condemned.

Senator Dodd—1967

Resolved, That it is the judgment of the Senate that the Senator from Connecticut, Thomas J. Dodd, for having engaged in a course of conduct over a period of five years from 1961 to 1965 of exercising the influence and power of his office as a United States Senator, as shown by the conclusion in the investigation by the Select Committee on Standards and Conduct, to obtain, and use for his personal benefit, funds from the public through political testimonials and a political campaign deserves the censure of the Senate; and he is so censured for his conduct, which is contrary to accepted morals, derogates from the public trust expected of a Senator; and tends to bring the Senate into dishonor and disrepute.

EXHIBIT 2

ADDITIONAL VIEWS OF HARRISON H. SCHMITT

It is my considered opinion that Senator Herman E. Talmadge should be censured for the conduct described in the Resolution reported by this Committee. I supported the Resolution relating to this conduct of Senator Talmadge in order to put the strongest possible interpretation on the words used in that Resolution. My motion in Committee for "censure" rather than the words used in the final Resolution should reinforce such an interpretation.

No one should feel that the Committee's unanimous decision to use words other than "censure" as punishment for misconduct in anyway condones the neglect of duty admitted to by Senator Talmadge or that there is not "clear and convincing" [1] evidence that he had legal knowledge of the illegal actions of his subordinates. The words "gross neglect", "reprehensible", "dishonor", "disrepute" and "denounced" used in the Resolution, as reflecting the Committee's judgment of Senator Talmadge's conduct, should be interpreted in their literal as well as their historical meaning.

Although the phrase "gross neglect of duty" has not been used in previous Senate discipline, it is a well-settled legal principle that such a finding is tantamount to a finding of gross negligence. Every Senator is provided with certain public funds for the operation of his office. Each Senator then has a duty to administer those funds properly and to file claims for only "official" expenses. If due to simple negligence on the part of the certifying Senator, claims for nonofficial expenses are filed and paid, repayment can be required by the Senate Disbursing Office.

"Gross neglect of duty" has the legal effect of requiring some further rectifying action on the part of Respondent [1a] such as is present here where Senator Talmadge must make reimbursement, with interest, to the Senate of funds which he allowed or caused to be improperly claimed.

Such words as "reprehensible" and "denounced" have no legal or historical precedents for their use as do "censured" and "condemned". However, they should be viewed now by history as equivalent in meaning to "censured" but applied to special cases where the financial duties of a senatorial office have been subject to gross neglect and where years of illegal activities by subordinates have been overlooked, if not encouraged.

The relevant meanings applied by Webster's and American Heritage Dictionaries to these words are as follows (italic added):

Reprehensible.—worthy of or deserving reprehension (voice disapproval of especially after judgment; and fault with usually with sternness and as a rebuke): blamable, *censurable*, culpable (Webster's Dictionary).

Deserving of rebuke or *censure; blameworthy* (American Heritage Dictionary)

Denounce.—pronounce to be blameworthy, evil; announce publicly against; inform against (Webster's Dictionary) to condemn openly; *censure*, especially as evil; to accuse formally (American Heritage Dictionary).

Thus, even though the Committee avoided the use of the word censure and even though the general historical precedents are strongly [2] it none the less applied words defined in terms of "censure" to the misconduct of Senator Talmadge. It is hoped that this fact will not be lost in interpretations of the severity with which the Committee viewed this misconduct.

The words "dishonor" and "disrepute" do have strong and obvious historical precedents [3] and implications not only of misconduct but of the violation of the accepted standards of the Senate as an institution of the people. It should be noted that the record of the discussions of the Committee shows no disagreement or even discussions of whether or not the phrase "tends to bring the Senate into dishonor and disrepute" should be included or modified in the final Resolution.

The primary purpose of these additional views is to make it clear that the Committee's investigation of the conduct of Senator Talmadge established that the principal charges filed against him were true on their face, as reflected in the "Whereas" clauses of the final Resolution. It should be noted that the record of our deliberations shows that the Committee was in complete agreement with changes proposed to the original draft Resolution, changes which clearly strengthened and reinforced the seriousness of the statements of findings by the Committee incorporated in the "Whereas" clauses.

Furthermore, these additional views will summarize those facts indicating that Senator Talmadge knew of the illegal activities of his subordinates and that Special Counsel established "clear and convincing evidence" that these facts are true. As this evidence indicates the violation of criminal statutes, it is now the duty of the Department of Justice to study this and other evidence in order to apply a "reasonable doubt" standard which is utilized in criminal proceedings.

STIPULATED FACTS

At the beginning of the hearings held by this Committee, the Respondent and his counsel entered into a stipulation with Special Counsel for the Committee. That stipulation is fully set forth and described in the Committee Report. It should be noted that it is stipulated that:

Due to the false claims filed or caused to be filed by the Respondent, he was overpaid by the Senate Disbursing Office $37,125.90 over a six year period from 1972 to 1978;

The Respondent failed to file Candidates Reports of Receipts and Expenditures for 1973, and those filed for 1974 were false in that they claimed no expenditures when in fact the Senator had expenses of $14,669.11 for 1973 and $12,243.33 for 1974; and

The Respondent failed to disclose numerous gifts and beneficial interests in property held by him as required by Old Senate Rule 44 for the years 1972 through 1977.

The Resolution proposed by the Committee states that due to the gross neglect of duty represented by these stipulated facts, the conduct of the Respondent is reprehensible and he deserves to be "denounced".

Based merely on these stipulated facts viewed in the light of history, it would have been appropriate to adopt a Resolution of censure rather than that reported by this Committee. Each historical case is different and occupies its own unique position in time; thus, some may not agree that the stipulated facts alone warrant adoption of a Resolution of censure. However, after reviewing Senator Talmadge's misconduct (as stipulated to), considering the post-Watergate standards of today, and comparing the seriousness of his misconduct to that for which the Senate "censured" Senators McLaurin and Tillman, Senator Dodd, Senator Bingham and others, the conclusion that censure is appropriate seems inescapable.

There is, in addition, a great deal more evidence than that which was stipulated to which reinforces this conclusion.

UNCONTRADICTED FACTS

Although not agreed to in any formal stipulation, much of the evidence received by this Committee was uncontradicted by fact or testimony. This uncontradicted evidence pertained primarily to the over-reimbursements, although there was some evidence on the other allegations as well that was not contradicted in any fashion.

A. Over-reimbursements

As stated earlier, it was stipulated that Senator Talmadge was overpaid by the Senate Disbursing Office due to inflated claims filed by Senator Talmadge or members of his staff who affixed the Senator's name to the requisite vouchers.

The Senator paid the expenses for which he was entitled to Senate reimbursement on the four-part voucher [4] from an account entitled the "Herman E. Talmadge Special Account". The Special Account received deposits of honoraria, Senate reimbursements for diverse expenses such as travel and the expenses claimed on the four-part voucher. Finally, the Special Account sometimes receives reimbursements from the Talmadge Campaign Committee as well as the checks given Senator Talmadge from the proceeds of birthday parties held annually for him by his supporters.

It is uncontradicted that, contrary to the practice of many Senators who have a bookkeeper who signs checks and maintains the accounts, Senator Talmadge personally signed virtually every check drawn on the Special Account. It was also uncontradicted that he reviewed the monthly bank statements, cancelled checks and deposit tickets, although the length of time he spent on this may have varied from month-to-month. The Special Account reflects the actual expenditures which were allowable as well as the actual deposits of amounts reimbursed by the United States Senate.

The primary over-charges came in the area labelled "home office expense" even though it was uncontradicted that the Senator was aware of the fact that his expenses were minimal since the salaries and rent were paid directly and the only major expense was the telephone bill. Furthermore, the Senator testified he provided no other monies to his home office. A comparison of the excessive claims for home office expense is set forth below:

HOME OFFICE EXPENSES

Year	Expenses claimed and reimbursed	Allowable expenses	Overpayment
1973	$7,804.68	$6.68	$7,798.00
1974	5,975.84	0	5,975.84
1975	13,500.00	0	13,500.00
1976	9,681.55	81.66	9,599.94
1977	5,782.25	2,083.94	3,698.31
Total	42,744.32	2,172.23	40,572.09

It was uncontradicted that Senator Talmadge personally signed voucher No. 12369. An analysis of the excessive claims he filed is compared with the activity in the Special Account for that period:

VOUCHER NO. 12369, JAN. 1-JUN 30, 1976

	Expenses reimbursed	Allowable expenses	Number of checks drawn on special account	Total of all special account checks
Postage	0	$280.00		
Home office expense	$8,052.56	60.00		
Non-District of Columbia telephone	1,032.30	919.54		
Subscriptions	309.45	281.45		
Total	9,394.31	1,540.99	72	$6,191

During 1975 only 134 checks were drawn on the Special Account, totaling only $9,031.86; yet, Senator Talmadge claimed over $17,000 on his four-part vouchers alone. In fact, the majority of all the over-reimbursements were received *after* Daniel Minchew left the Senator's employ in October, 1974.

The Respondent was characterized by his own accountant and others to him, it is difficult to see how Senator Talmadge could fail to realize that he regularly claimed more money than he had spent, especially when it is uncontradicted that his biggest annual expense in the Special Account was that of official travel for which he was reimbursed separately.

It was uncontradicted that the Senator's office allowance was depleted to zero annual-

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Footnotes at end of article.

ly and to do so required the bookkeeper to know the claims submitted exceeded expenses. Mrs. Hubler, who was the financial secretary in 1975, testified that this was the practice as she understood it. Congressman Ginn, who preceded Mr. Minchew as Administrative Assistant, stated that the Respondent told him not to over-draw his office accounts since he was required to pay any excess charges. It is unlikely that the Senator's interest in his office changed during the years in question.

Due to transfers from the Special Account to his personal checking account (used for personal expenses and investments), it was uncontradicted that Senator Talmadge was directly benefitting from these over-charges as the following figures demonstrate (compiled by the General Accounting Office Auditor who assisted the Committee):

Year	Honoraria	Transfers to personal account
1972	$675	0
1973	19,650	0
1974	30,665	$10,000
1975	16,480	[1] 125,000
1976	25,000	30,000
1977	24,700	36,500
1978 (through midyear)	22,150	21,500
Total	139,320	223,000

[1] Includes $80,000 transfer of commercial paper (balance of commercial paper on Jan. 1, 1972 was $35,000).

Note: Excess of transfers over honoraira, $83,680.

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Excess of transfers over honoraria	$83,680
Commercial paper—January 2, 1972, balance	35,000
Total	48,680
Interest	13,674
Talmadge birthday party—September 11, 1973	1,600
Repayment of 1969 loan from campaign committee	6,123
Talmadge birthday party—August 23, 1974	2,000
Total	23,397
Overreimbursement transferred to regular personal account	25,283

In addition, it was uncontradicted that a schedule on the Respondent's tax returns also reflected the fact that the Senator was being vastly overpaid by the Senate as is shown by the schedule filed for the year 1975:

Herman E. Talmadge Special Account—December 31, 1975

Receipts:	
Honorariums	[1] $14,980
Interest income	[1] 3,349
Total taxable income	18,329
Other expense reimbursements	48,270
Total receipts	66,599
Disbursements (expenses):	
Advertising, postage and office expense	840
Telephone	727
Mats, recording and printing	573
Travel and entertainment	4,934
Dues and other	343
Contributions	511
Personal	[1] 821
Transfer to regular account	125,000
Total disbursements	133,749
Excess disbursements over receipts	(67,150)
Fund balance beginning January 1, 1975	$80,457
1975 activity	(67,150)
Fund balance ending December 31, 1975	13,307

[1] Reported as income on form 1040, 1975, H. E. Talmadge.

NOTE.—This special account does not include Herman E. Talmadge's campaign fund.

Included in the $48,270 as "Expense Reimbursements" above are the $17,000 worth of inflated claims for "home office expenses"; yet *all* expenses under "Disbursements", *including travel*, total less than $8,000. Thus, assuming the Senator paid his normal close attention to his tax return,[5] a superficial glance would show him he had received significant overpayments. As he also reviewed his monthly bank statements and deposit tickets, he could be expected to know the true source of these excess funds.

Finally, during the taking of a deposition in August of 1977, Senator Talmadge was asked specifically about his past over reimbursements from the Senate. He took no action to correct matters until a newspaper reporter again asked about the overpayments in June of 1978.[6]

Despite the Senator's denial of knowing about the over-reimbursements, it is uncontradicted that his most loyal aides knew about them in 1976. Mr. T. Rogers Wade, the Senator's Administrative Assistant, testified that Mrs. Allyne Tisdale (the financial secretary) discovered in 1976 that the Senator had been paid "a hell of a lot more" than that to which he was entitled. Following this discovery the system was changed to drastically reduce the excessive claims, although in 1977 these over-reimbursements still totaled over $5,000. It is not likely that two of the Senator's most trusted subordinates would take such drastic action without discussing it with the Respondent or that he would not notice the loss of income if they did.

Another motive for the over-reimbursements is suggested by the state of the Senator's finances in 1974–1975. Although Senator Talmadge is an extremely wealthy man, certain unprofitable real estate investments (Solanta, ELTAB, Safari Inn) were causing him to have a negative cash flow in those years. To make these heavy payments (over $69,000 to ELTAB) in 1975, the year of the largest over-reimbursements, he needed to either draw down his accumulated cash and commercial paper or find an additional source of funds. Tax free "reimbursements" certainly assisted his bank balances. This line of reasoning is supported by the fact that ELTAB sold once of its most unprofitable properties in October, 1976 and the next reimbursement vouchers (filed on December 30, 1976) were for only $1,758.84 and $658.02.

B. Conversion of Campaign Funds

It was stipulated that the following amounts were placed in an unregistered campaign account opened at the Riggs National Bank by the Senator's former Administrative Assistant, Daniel Minchew. It was uncontradicted that Senator Talmadge's name was placed on the documents which opened the account and on some endorsements by Mr. Minchew's use of the office autopen; thus, exposing the Senator to inquiries by the bank about the account. Although no such inquiries are known to have been made, Mr. Minchew could not have been guaranteed by this arrangement that the account would remain hidden from the Senator. The Senator was notified by the bank when the records of the account were subpoenaed by this Committee and the Federal Grand Jury.

The following items were identified as having been deposited into that account and not reported as political contributions:

Donor	Date of deposit	Amount
William Manning	July 3, 1973	$1,000
ADEPT	Oct. 17, 1973	5,000
J. C. Shaw	Feb. 11, 1974	5,000
Thomas Arnold	May 30, 1974	100
Claude P. Cook	July 22, 1974	500
Howard Keck	Aug. 21, 1974	2,000
H. P. Williams	do	500
Parke Brinkley	Aug. 26, 1974	500
John Ray	Oct. 11, 1974	100
William Fickling	do	250
Ralph Kittle	Nov. 29, 1974	100

It was uncontradicted that Mr. Minchew advised Senator Talmadge of the Shaw contribution; that the Manning contribution was in an envelope which was given by Mr. Manning to the Senator and Mr. Minchew jointly; and that Mr. Brinkley told the Senator of his intention of making a $500 campaign contribution. It was also uncontradicted that Senator Talmadge knew these people well and reviewed lists of contributors. It seems unlikely that the absence of these names on those lists would go unnoticed by the Respondent or that he would not have questioned Mr. Minchew about their absence.

It was stipulated that Mr. Minchew opened the unregistered campaign account, in part, with the proceeds of a $10,604.68 Senate reimbursement check. It was also stipulated that in March of 1974 Minchew deposited an additional $2,289.99 Senate check. It is uncontradicted that the Senate Disbursing Office provided Senator Talmadge's office with a copy of all vouchers for which he was reimbursed in 1973 and 1974. These copies were delivered in January of 1974 and 1975 respectively. In the case of the $2,289 voucher, proof of the diversion was delivered to the Senator's office on January 24, 1975; a time when Mr. Minchew was no longer employed by the Senate. It is unlikely that neither the Senator nor his bookkeeper noticed the $2,289 diversion evidenced by this voucher.

CONTESTED FACTS

A. Campaign reports

As stated earlier, it is stipulated that Senator Talmadge failed to file Campaign Expenditure Reports for the year 1973. Those reports he did file for 1974 were false in that he claimed he had no campaign expenses when in fact he incurred over $12,000 in unreported expenses that year.

On can conclude that Senator Talmadge knew his campaign reports were false based primarily on two pieces of evidence. First, the Senator signed a report on January 30, 1975, covering the period October 25, 1974 through December 31, 1974, on which he claimed he had incurred no campaign expenses during that time. *On that same day*, Senator Talmadge was reimbursed $12,243.33 by his campaign committee for campaign expenses paid by checks he personally signed in 1974; including $977.38 which was paid during the filing period. Secondly, the Senator's financial secretary typed on a document, referred to as Q–2,[7] the following message to Daniel Minchew referring to $550 in unreported campaign contributions:

> (As Senator said, this helps offset some of the campaign expenses which we are reluctant to pay from the Campaign A/C.)

B. Over-reimbursements

As set down above, the evidence concerning the allegation of over-reimbursements for Senate expenses was basically either stipulated to or uncontradicted. The only matter which was contested was the ultimate conclusion one draws from the evidence as to the Senator's knowledge of the over-reim-

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Footnotes at end of article.

bursements. In this instance it is stipulated or uncontradicted that:

The overpayments were received from 1972 through 1978 in the amount of at least $37,125.90;

He was aware of the minimal nature of his home office expense;

He signed the checks and reviewed the reconciled bank statements, cancelled checks and deposit tickets of the account which reflected the excessive claims;

He or his closest aides signed all of the vouchers submitted;

A superficial analysis of a schedule in his tax return shows he was being overpaid:

Mr. Wade, not Mr. Minchew, was the Administrative Assistant during the time the largest excessive claims were made;

The Senator paid attention to the details of the operation of his office and had an excellent memory for figures;

He was personally benefitting from the overpayments because of transfers to his personal account; and

His personal and confidential assistants knew of the overpayments being made for a period of many years.

Senator Talmadge testified that the over-reimbursements resulted from the "low priority" that he placed on his financial affairs. The uncontradicted evidence discussed previously does not sustain a finding that such affairs had a "low priority". The attention which Senator Talmadge paid to his office budget is demonstrated by testimony and by many office documents.[7a] Telling insight is provided, for example, in the following memorandum dated June 28, 1974 written by Mrs. Tisdale (financial secretary) to Mr. Minchew (then Administrative Assistant):

* * * Using Phyllis in 109 would relieve the budget; recently, when I told Senator you suggested paying for airline tickets out of Campaign when he did not bill USS—to keep the budget in good shape by end of year . . . He snapped his head around and looked as if he did not plan for the budget to get in bad shape.

This evidence led the Committee to conclude that the Senator "knew or should have known" of these overpayments. However, the evidence more clearly supports an interpretation of actual knowledge or of a deliberate avoidance of knowledge.[8]

C. Diversion of campaign funds

The Committee Report makes the finding that Senator Talmadge "knew or should have known" that some campaign funds were being diverted. This is based in part on those uncontradicted facts discussed earlier concerning the identity of the donors and the Senator's review of the contribution lists which were filed with the Federal Election Commission.

The evidence also shows that Senator Talmadge knew that some campaign funds were being diverted. This is based on the evidence produced which shows Senator Talmadge personally received at least $2,550 in unreported campaign contributions.

The evidence concerning the Senator's receipt of these funds does not rest on the word of Daniel Minchew, the former Administrative Assistant to Senator Talmadge; a person whom anyone must consider to be a "tainted" witness. Rather, this conclusion rests primarily on two 1974 documents that Mr. Minchew produced and which all hard evidence indicates are authentic. Copies of these two crucial documents appear on the following pages.

The person who appears to be the author of Q–1 and Q–2, Mrs. Allyne Tisdale, financial secretary to Senator Talmadge, stated to Special Counsel the following with respect to Q–1:

I would say that I typed it and it is my style (Tr. dated September 28, 1978, p. 7).

And with respect to Q–2:

It looks like something I would have typed. (Vol. IV, pp. 391–393).

Q–1

ALLYNE. I have to go to the Treasury Department at 11:00 a.m. I will take care of the travelers check matter, and if we need postage money from the campaign account, I would have time to take care of it too while downtown.

DANIEL.

AUGUST 20, 1974.

DANIEL. Please give Senator $500 and then lock in the cabinet under TV? Just let me know where you will keep key?

And—we desperately need postage. We used about 225 yesterday; plus I gave Bobbi about 35 recently. Etc.

Suggest purchasing: 805 ten cent stamps, 80.50; 150 air mail stamps, 19.50; total, 100.00.

Thanks.

AUGUST 21, 1974.

COMMITTEE ON
AGRICULTURE AND FORESTRY,
Washington, D.C.

Ted Lamis, Macon, GA 31201; June 3, 1974, $50.00.

HERMAN E. TALMADGE,
U.S. Senator.

COMMITTEE ON
AGRICULTURE AND FORESTRY,
Washington, D.C.

$500, Various Coca-Cola. (Earl Leonard.)

HERMAN E. TALMADGE,
U.S. Senator.

Q–2

DANIEL: For info: These sums were given today to Senator. None is reported in any form, of course. And he asked this question.

Thanks.

AUGUST 6, 1974.

(As Senator said, this helps offset some of the campaign expenses which we are reluctant to pay from the Campaign A/C.)

She later denied she typed these memos and claimed Mr. Minchew fabricated these two documents; although no evidence to support this claim was produced during the investigation.

The facts relating to Q–1 were all established during the hearings. Mr. Robert Schramm, a former legislative aide to the Respondent, now employed by Mr. Howard Keck of Superior Oil Company, delivered (via mail or in person) $2,000 in travelers checks to the Talmadge Campaign Committee. These checks were deposited in the secret Riggs account and on that same date a like amount was withdrawn. The unique yellow paper on which Q–1 was typed was available in the Talmadge office in August of 1974 according to Senate Stationery Shop records.[9]

The document referred to as Q–2 refers to two contributions one by a Mr. Lamis and the other by a Mr. Leonard.

The evidence is uncontradicted that Mr. Lamis personally gave the Respondent $50 in cash, that Mr. Lamis did not know Mr. Minchew and that Mr. Minchew did not know Mr. Lamis. Thus, the testimony of Mrs. Tisdale that this document was fabricated by Mr. Minchew is directly contradicted by the evidence before the Committee.

Mr. Leonard is a Coca-Cola executive and a long-time political supporter of the Respondent. He testified that although he gave cash to state and local officials, he did not give any cash to the Respondent. He said that he verified this by checking with the Talmadge Campaign Committees to find out if his name appeared as a contributor and that the negative responses given by the Committees confirmed his recollection. His denial appears credible in light of the fact that Leonard's name is in parentheses in Q–2 in contrast to the more definite reference to Mr. Lamis, a verified contributor. Mrs. Tisdale frequently used personal "codes", and she may have been denoting that Leonard was the contact at Coca-Cola; if not the actual donor. This detail lends further credibility to Q–2.[10]

If any doubt existed with reference to the authenticity of Q–1 and Q–2, it was resolved by the testimony of Mr. Thomas Hundley, the expert Document Examiner from the Treasury Department. He testified that the portions of the documents attributed to Mrs. Tisdale were typed on her typewriter and that the portion attributed to Mr. Minchew was typed on his typewriter. He further testified that Mrs. Tisdale had certain idiosyncracies in her style (e.g , the use of dots and the use of question marks when no questions were asked and the unusual use of capitals) and concluded that she was, indeed, the author of the portions of Q–1 and Q–2 bearing her initials.

Furthermore, if Mr. Minchew had fabricated the documents, the fabrication had to take place in 1974. The Tisdale typewriter was returned to GSA in early 1975, rebuilt by IBM and then sold to a private party, meaning that any fabrication would, of necessity, have had to take place prior to early 1975.

It is not reasonable to conclude that Mr. Minchew "fabricated" two detailed documents [11] such as these in the hope that such items would save him from prosecution if the scheme were discovered years later.

There is some further evidence that is pertinent concerning the issue of the Senator's knowledge of campaign conversions. Mr. Minchew admitted to personally benefitting from a great deal of the money (about $18,000) which was placed in and withdrawn from the secret Riggs campaign account; but after an extensive analysis of his finances, approximately $16,000 withdrawn from the account was unaccounted for; thus, supporting Minchew's claim that Senator Talmadge received cash taken by Minchew from the account.

Following an important staff meeting the Senator had with his close advisors and lawyers on June 13, 1978 concerning the overpayment allegation, Mr. Minchew delivered a memorandum to Senator Talmadge in the early morning hours of June 14, 1978. A copy of that memorandum appears on the following page.

The Committee Report fails to comment on Senator Talmadge's unusual reaction when Minchew delivered this memorandum to the Senator which was incriminatory of both men. According to Senator Talmadge he considered this memorandum to be an attempt at "blackmail" or "extortion"; and he, thus, maintains he said nothing and had a brief conversation with Mr. Minchew. It is uncontradicted, however, that Minchew was allowed to attend a second staff meeting later that same morning.

JUNE 13, 1978.

To: Senator.
From: Daniel Minchew.

In sitting in your office this morning, I began to resent very much what I thought was your not being totally candid with us—the staff and the lawyers—about your instructions to me regarding the special account.

Sometime about mid-1973, I got a typed note from you through Mrs. Talmadge instructing me to arrange for her to get some money. While the signature was a little shakey, I was sure that it was yours. I discussed the matter with you, in general terms, at the first early morning opportunity . . . saying that Mrs. Talmadge had visited me and that if you really wanted me to try to take some of the pressure off, I was sure that something could be worked out. In view of your comments that followed (you said

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Footnotes at end of article.

that anything I could do to take the pressure off would be appreciated) and in view of the note, I clearly understood that you wanted me to arrange for some "extra" funds for her when she sent the signal.

On three occasions, as I recall, funds from reimbursement checks were cashed and distributed, to her by envelope placed on your brief case for delivery on one occasion and to Bobby Talmadge on other occasions.

As I was stewing in the meeting today about your being less than candid, the thought began to dawn on me that you were really—as you usually do—calling it as you see it and that an awful misunderstanding developed in mid-1973 about what you wanted me to do regarding funds for Mrs. Talmadge. It also became apparent that the 1973 note from you and my record of the distribution became most important. Both exist and are now being located.

Some, a small amount, of these funds came back to you in cash, as "contributions" the type of which I sometimes handled for you and as supplements to other checks I was converting to cash for you.

I sincerely believe that the reimbursement funds/special account matter is an honest, but extremely embarrassing, misunderstanding. I also think that you have had sufficient legitimate expenses to cover most of the amounts. It is also possible that a quick audit may not uncover the misunderstanding, but I know where some errors are in 1973–74 and by all means they should be corrected when the reimbursement is made to the Senate.

My recommendation is that we fully reimburse all expenditures, immediately, including those I have discussed above. I will take my signal from your wishes. If you want me to go to Mrs. Talmadge with this I will do so, although I do not think a public confrontation is useful to anyone. Going public also runs the risk of a prolonged involvement and closer examination of areas of cash funds.

I am also coming to you in this fashion so that you can decide just who, and how many people, you want involved in this. At best it is sticky and embarrassing, and at worst it could go into a prolonged examination of matters all of us wish we did not know about.

Following the staff meeting, Mr. Minchew wrote a note to Mrs. Tisdale, a copy of which appears on the following page. Mr. Minchew pointed out in this note where major discrepancies (and affirming his part in the illegal diversions) would be located during the audit soon to be conducted.

In summary relative to the unusual happenings, it is difficult to believe that Mr. Minchew would present the Respondent with a memorandum which reminds the Senator of certain facts if those factual allegations were untrue and known by the Senator to be untrue. If the Respondent truly regarded Mr. Minchew as a "blackmailer" or "extortionist", it is unlikely that he would have allowed Mr. Minchew to attend a confidential meeting held later that morning. Finally, it is also unlikely that Mr. Minchew would point out evidence leading to discovery of his own guilt unless he regarded Senator Talmadge and himself as being in league with one another.

For all of the foregoing reasons, one can conclude that Senator Talmadge knew of funds being diverted and that he was in receipt of such funds. Whether he knew specifically of the Riggs account cannot be established by evidence before the Committee.

D. Cash

Senator Talmadge, on May 24, 1978, wrote to the Select Committee on Ethics and asked this Committee to examine his practice of accepting small gifts of cash from constituents. It was uncontradicted that Senator Talmadge wrote only two checks to cash for a total of $550 over a six-year period. These checks were both written in 1977 after Senator Talmadge maintained he received the cash, which he used for pocket money, from gifts of $5, $10 and $20 made by various constituents.[12] The only support he provided to corroborate his allegation was the testimony of two former Georgia politicians who last held office in the early 1960's and who stated this was a practice in some areas of Georgia. No specific contributors of these types of funds were forthcoming or identified. The Senator also was unable to identify a single donor.

Contrary evidence was presented by the Senator's former wife who claimed that money, in large denominations, was always available at home. Furthermore, her testimony about cash was corroborated in many ways including her production of $7,700 [13] in $100 bills, most of which were in sequential order and placed in circulation by the Houston Federal Reserve Bank; the final source remains unknown.[14]

Even though the Respondent's lawyers had access to all of Mrs. Talmadge's financial records, the Respondent did not in any way challenge her statement that she had not generated this cash from any account that she controlled. Mrs. Talmadge denied she cashed items in the Houston area. Furthermore, the House Federal Reserve Bank certified it had never delivered bills minted for it to the Atlanta Federal Reserve District since 1968. The bills in question went into circulation in 1972. Finally, Mrs. Talmadge did not appear to be a vindictive former spouse as she is sometimes characterized. She appeared reluctantly before the Committee and attempted to avoid testifying by claiming the husband-wife privilege.

Thus, one must conclude that the Respondent's claimed sources of cash are not consistent with the known facts. Further investigation by the Department of Justice on this issue and the conflicts between the testimony of several witnesses appears unwarranted.

CONCLUSION

On the basis of the stipulated facts, historical precedents and the Committee's own findings set out in the reported Resolution concerning the conduct of Senator Talmadge, it is my belief that "censure" would be the proper punishment for such offenses against the Senate. This belief is reinforced by clear and convincing evidence of the truth of the contested facts which indicate knowledge of these offenses.

However, as this belief did not prevail in the Committee and to lend the greatest possible weight to the punishment agreed to by the Committee, I supported the reported Resolution.

As stated earlier, the proposed Committee Resolution is the least action which should be taken to conclude this unfortunate affair. I have supported the reforms undertaken in this area, such as the Resolution agreed to on August 2, 1979 (S. Res. 170, 96th Cong.) which requires that four-part vouchers be accompanied by documentation of expenses. I further support the recommendation made by the Committee that a standard office bookkeeping system be implemented in the Senate, and I too hope that the Rules and Administration Committee speedily adopts a regulation defining, with particularity, "official expenses".

FOOTNOTES

[1] The criterion of evidence established by the Committee at the start of its investigation.

[1a] A respondent is any Member, officer or employee of the Senate against whom a sworn complaint has been filed or who is being investigated by the Committee whether by "preliminary inquiry", "initial review" or "investigation". See footnote, page infra and Committee Rules 2(c)(3); 3(c)(ii)(1); 4(c); 5(c). Appendix A to the Committee Report sets out the Committee Rules of Procedure.

[2] See Appendix A.

[3] See Appendix B.

[4] Senators are reimbursed on four-part vouchers for the following expenses: (1) air mail and special delivery postage, (2) office expenses incurred in the home state, (3) telephone service charges incurred outside Washington, D.C., and (4) subscriptions to newspapers, magazines, periodicals, or clippings or similar services. The law (2 U.S.C. 58a) requires the Member to personally certify that the expenses claimed were officially incurred.

[5] The Senator's accountant testified that he and the Senator went over his tax return item-by-item.

[6] The Senator was deposed by counsel for Mrs. Talmadge in August of 1977 and asked the following:

Q. * * * a superficial analysis of your special account shows expense reimbursements from 1973 to 1976 of $83,263 and this is disclosed on your tax return. We show disbursements for expenses in that same period of $58,015. We show, as you indicated, some transfers to your regular account. The difference, sir, between reimbursements and expenses is $25,248. It does not appear in our analysis, which is somewhat superficial, that any income taxes were paid on the difference between reimbursed expenses and actual expenditures.

A. I would seriously doubt if Peat, Marwick, Mitchell made any mistake filing my tax returns.

[7] For reasons set forth under the Conversion Section, there is clear and convincing evidence that Q–2 is authentic.

[7a] The testimony of Congressman Bo Ginn, former Administrative Assistant, Mrs. Tisdale, Mr. Earls and others indicates close attention to office details by Senator Talmadge. Many office memoranda addressed to Senator Talmadge, including the following, evidence his interest in the affairs of his office: (a) memorandum dated May 29, 1974, concerning campaign contributions by milk industry; (b) memorandum dated August 3, 1973, regarding the operation of the Telegraph fund; (c) memorandum dated January 20, 1974, containing three pages of details concerning office operations and many others.

[8] Even in criminal cases where proof beyond a reasonable doubt is the standard, defendants cannot escape conviction by pleading lack of knowledge when the facts were before them. In *United States* v. *Hanlon*, 548 F.2d 1096 (2nd Cir., 1977), (bank fraud case), the court said at page 1101: "It is settled law that a finding of guilty knowledge may not be avoided by showing that the defendant closed his eyes to what was going on about him." In *United States* v. *Jewell*, 532 F. 2d 697 (9th Cir., 1976), *cert. denied* 469 U.S. 951, the court cited with approval an article by Edward, *The Criminal Degrees of Knowledge*, 17 Mod. L. Rev. 294 (1954). This author reviewed the English cases and said: "for well nigh a hundred years, it has been clear from the authorities that a person who deliberately shuts his eyes to an obvious means of knowledge has sufficient *mens rea* for an offense based on such words as * * * knowingly."

In *United States* v. *Joly*, 493 F.2d 672 (2nd Cir., 1974), the defendant was found guilty of importation of cocaine. In affirming the conviction, the court said at page 675: ". . . Studied ignorance of the fact may under the decision of the Supreme Court and of this Court constitute an awareness of so high a probability of the existence of the fact as to justify the inference of knowledge of it." Also *see Natelli* v. *United States*, 527 F.2d 311, *cert. denied* 425 U.S. 934; *United States* v. *Smith et al.*, 548 F. 2d 561 (6th Cir., 1977, *cert. denied* 434 U.S. 958).

[9] Senate Service Department records show the style envelopes used to record the Lamis and Leonard contributions were available in 1974 in Senator Talmadge's office.

[10] Much was made, by Counsel for Senator Talmadge, of Mr. Leonard's testimony that on August 6, 1974 he was in New Hampshire and thus Q–2 (which is dated August 6, 1974) could not be authentic. Q–2 is admittedly ambiguous, as the Lamis money plainly was not given to the Senator "today" (if the date June 3, 1974 has any significance) and the Coca Cola contribution probably consisted of several smaller amounts. It seems more likely that Mrs. Tisdale learned of the several contributions on or about August 6 and put the two memos together for Mr. Minchew's information. Furthermore, the "various" contributions referenced to Leonard might have been mailed in and received on August 6, the date Mr. Leonard was in New Hampshire.

[11] Mr. Minchew has passed two private polygraph examinations on his allegation that Mrs. Tisdale prepared Q–1 and Q–2. Even an F.B.I. polygraph examiner concluded he could find no physical indications of deception when Mr. Minchew answered questions he posed on this issue.

[12] In his divorce trial deposition and before this Committee, Senator Talmadge acknowledged he had the following cash expenses: gasoline and oil for his car; wages for the maid; groceries (excluding the $50 a week to Mrs. Talmadge); liquor; cigars; his lunch at the Senate and other incidentals. Assuming that all of these other expenses could be met by an additional $50 in cash (a conservative estimate), the Senator had an annual cash requirement of at least $2,000 or $15,000 over the six years covered by this investigation. At an average of $10 per constituent gift, the Senator would need to receive cash gifts on at least 260 occasions annually or 1,500 occasions in the last six years. It is uncontradicted that none of the Senator's close aides and traveling companions ever saw a single such transaction.

[13] Mrs. Talmadge produced the $7,700 in an envelope bearing the name "Harry P. Anestos". It is uncontradicted that Mr. T. Rogers Wade, Administrative Assistant to Senator Talmadge, placed Mr. Anestos' name on the envelope and that it was last seen in the possession of the Senator.

[14] In his divorce trial deposition on pages 29–30, Senator Talmadge admitted having several hundred dollars on his person, but he claimed he "did not know" where the money came from.

APPENDIX A

This historical precedents of Senate discipline show that the following Senators were censured by the Senate:

Pickering-Massachusetts—1810; Tappan-Ohio—1844; Breach of Senate rules regarding confidential communications.

McLaurin and Tillman South Carolina—1902; Assault on the floor of the Senate.

Bingham-Connecticut—1929; Placing lobbyist on payroll.

McCarthy-Wisconsin—1954; Abuse of Senate subcommittee investigating his actions.

Dodd-Connecticut—1967; Converting campaign funds to personal use.

Senator Talmadge's misconduct, as evidenced by the stipulated facts, warrants as much discipline as was meted out in these past cases. A summary of these cases appear on the following pages. (Extracts from *Senate Election, Expulsion and Censure Cases* (Doc. No. 92–7, 92nd Cong., 1st Sess.) 1972)

[Eleventh Congress, Third Session]

TIMOTHY PICKERING OF MASSACHUSETTS

[Citations: S. Jour., 11th Cong., 3d sess., pp. 535, 536; Annals of Congress, 11th Cong., 1810–1811, pp. 66–83]

Statement of the Case: On December 31, 1810, Senator Clay of Kentucky introduced the following resolution: "*Resolved,* That the public perusal in the Senate of certain papers with open galleries by the gentleman from Massachusetts (Mr. Pickering) in his seat without a special order of the Senate removing the injunctions of secrecy, which papers had been confidentially communicated to the Senate by the President of the United States, was a palpable violation of the rules of this body."

The above resolution was introduced after Senator Pickering had made a speech on the floor of the Senate in which he had read a letter from Charles Maurice Talleyrand, the French Minister for Foreign Affairs, dated 21 December, 1804, to General Armstrong, our Minister at Paris. The purport of Talleyrand's letter appeared to be a denial that the United States had acquired, by the treaty of 1803, any title to Louisiana east of the Mississippi, or some statement to that effect. It was contended by the proponents of this resolution that Senator Pickering had violated the rules of the Senate in that he had read a confidential communication on the floor of the Senate.

On January 2, 1811 the resolution was amended by Senator Clay to read: "*Resolved,* That Timothy Pickering, a Senator from the State of Massachusetts, having, on this day, whilst the Senate was in session with open doors, read from his place certain documents confidentially communicated by the President of the United States to the Senate, the injunction of secrecy not having been removed, has in so doing committed a palpable violation of the rules of this body."

Although there was no written rule in regard to confidential communications, Senator Clay, in the course of debate on the resolution, stated the rule to be that "All confidential communications made by the President of the United States to the Senate, shall, by the members thereof, be kept inviolably secret; and all the treaties which may hereafter be laid before the Senate shall also be kept secret until the Senate shall by their resolution take off the injunction of secrecy."

In arguing for the adoption of the resolution, Senator Clay commented that "With respect to the act having been a violation of the rule, there can be but one opinion. * * * If the Senate did not express their disapprobation, it would be inferred from their silence that they had given their approbation. * * *" In answering Senator Clay, Senator Lloyd said he had hoped that the resolution would have been withdrawn, and that the Senate would not have passed a censure of this sort on so slight an offense as this, if it be an offense at all.

Decision of the Senate: Two amendments were offered to the resolution. One would strike out the word "palpable" before the word "violation". This motion was agreed to. The second amendment would have inserted the word "unintentional" before the word "violation". This amendment was not accepted.

On January 2, 1811, the vote was taken on the resolution leaving out the word "palpable". The amended resolution of censure was passed by a vote of 20 yeas to 7 nays.

[Twenty-eighth Congress, First Session]

BENJAMIN TAPPAN OF OHIO

[Citations: S. Jour., 28th Cong., 1st sess. App. pp. 426, 438–43; Journal of Executive Proceedings, vol. VI, p. 268; Gilfry, *Decisions on Points of Order in the United States Senate,* p. 424]

Statement of the Case: The Senate met in executive session on April 22, 1844, to receive from President John Tyler a message and copy of the treaty of annexation concluded between the United States and the Republic of Texas, at Washington, on April 12, 1844. On motion of Mr. William S. Archer of Virginia, chairman of the Senate Committee on Foreign Relations, the treaty message, and accompanying documents were ordered referred to the Committee on Foreign Relations and printed in confidence for the use of the Senate (Journal of the Senate, 28th Cong., 1st sess., App. p. 426).

On April 27, 1844, the New York Evening Post published the President's message of April 22 to the Senate. On motion of Mr. Archer, the Senate in executive session on April 29th, adopted the following resolution calling for an inquiry by a select committee:

Resolved, That a committee of five members be appointed by the President pro tempore of the Senate, to inquire whether any document or papers directed by the Senate to be printed confidentially for its use have been made public in violation of such order; and, if such prove to be the fact, in what manner and by whose agency or participation such publication has been made, and what proceedings it may be proper to adopt in vindication of its privilege and authority; and that such committee have power to send for persons and papers.

The Senate in executive session immediately proceeded by unanimous consent to consider the resolution and agreed thereto. The following members were appointed to the committee: Messrs. Archer, Benton, Crittenden, McDuffie, and Sevier.

The committee directed a process to be served on Mr. William G. Boggs, publisher of the Evening Post (New York City). However, prior to the return of the process, Mr. Benjamin Tappan, a Senator from Ohio, in a letter addressed to the chairman of the select committee, dated April 30, 1944, informed the committee that he had reason to believe that the publication in question had been made from the copy of the document furnished him under rules of the Senate and which he had given to a person about to leave Washington for New York "with no injunction of concealment." The committee examined Mr. Jonathan D. Stevenson in the presence of Mr. Tappan and concluded that the document had been delivered by Senator Tappan without the protection of an envelope "with an express permission to pursue the contents, and with a request to the said Stevenson to become the instrument of its conveyance to one of the editors of the newspaper in which the publication subsequently appeared." The committee took testimony of Mr. Stevenson and Mr. Boggs under oath and reported there had been a violation of the Senate's order of April 22, 1844, concerning the secrecy and confidential nature of the papers. The committee felt restrained "by parliamentary rule in that respect from recommending the measure of censure for which the offense may appear to call" and reported that they are "only permitted to refer to the facts to the Senate, for the immediate exercise of cognizance."

The report of the committee was submitted to the Senate in executive session on May 8, 1844, together with the following resolutions by Mr. Archer:

Resolved, That Benjamin Tappan, a Senator from the State of Ohio, in furnishing for publication in a newspaper documents directed by an order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and contempt of its authority.

Resolved, That the following be added to the standing rules of the Senate:

"Any officer or member of the Senate convicted of disclosing for publication any written or printed matter directed by the Senate to be held in confidence, shall be liable, if an officer, to dismissal from the service of the Senate, and in case of a member to suffer expulsion from the body."

On May 19, 1844, the Senate, still in executive session, debated Mr. Archer's resolution, and by unanimous consent he withdraw his first resolution and submitted a resolution of expulsion:

Resolved, That Benjamin Tappan, a Senator from the State of Ohio, having been found by the Senate to have been guilty of a flagrant violation of its rules and contempt of its authority, constituting a case of high breach of trust, be, for such offense, and hereby is, expelled.

After further debate a substitute resolution was offered by Mr. Bayard as an amendment to the Archer resolution. The Bayard amendment asked for censure rather than expulsion and was further amended and finally agreed to by a vote of 38 to 7, the resolution as agreed to reading as follows:

Resolved, That Benjamin Tappan, a Senator from the State of Ohio, in furnishing for publication in a newspaper documents directed by an order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and disregard of its authority.

On motion of Mr. Archer the Senate then by a vote of 39 to 3 agreed to the following resolution:

Resolved, That in consideration of the acknowledgement and apology tended by the said Benjamin Tappan for his said offense, no further censure be inflicted on him.

The Senate, following adoption of the two resolutions concerning Mr. Tappan, then proceeded to adopt the second resolution offered by Mr. Archer on May 8, 1844, concerning an addition to the standing rules of the Senate. (See Rule XXXVI, sec. 4).

Decision of the Senate. All of the proceedings of the Senate in the Tappan case having been in secret executive session, Mr. Archer, immediately after the resolution of censure and the resolution to amend the rules had been agreed to, submitted a resolution to remove the injunction of secrecy from the proceedings of the Senate in the Tappan case and from the resolution prescribing an additional rule. On May 16, 1884, Mr. Archer's proposal was agreed to and the proceedings were made public. The resolution agreed to by the Senate in making the proceedings public was of itself an additional censure of Mr. Tappan in that it referred to "Proceedings of the Senate relative to the publication made, contrary to the rules of the Senate."

[Fifty-seventh Congress, First Session]

JOHN L. M'LAURIN AND BENJAMIN R. TILLMAN OF SOUTH CAROLINA

[Citations: S. Jour., 57th Cong., 1st sess. pp. 179, 180, 181, 184, 185, 193, 194; Cong. Rec., vol. 35, pp. 1063, 2015–2043 2087–2090 2203–2207, 3329, 3819; S. Rept. No. 574 on S. Res. 135 and S. Doc. 228, both 57th Cong., 1st sess.: Hinds' Precedents, vol. II, § 1665, pp. 1138–1142; George F. Hoar, *Autobiography of Seventy Years*, 1903 ed., vol. 2, p. 99; George H. Haynes, *The Senate of the United States*, 1938 ed., vol. 1, pp. 187, 188]

Statement of the Case: During the course of debate in the Senate on a bill (H.R. 5833) to provide revenue for the Philippine Islands, Senator Tillman of South Carolina had been chided by northern Senators with respect to lynching and deprivation of the rights of colored people in his State of South Carolina. Northern Senators frequently diverted the question from the bill before the Senate to reconstruction in South Carolina and other matters generally reflecting on Senator Tillman's home State. Since the other Senator from South Carolina, John L. McLaurin, held a different view from that of Tillman on the Philippine tariff bill then under consideration, Tillman was incensed and in an attempt to discredit his colleague on Saturday afternoon, February 22, 1902, in the absence of McLaurin, declared in a speech in the Senate that improper influences had been used in changing the vote of his South Carolina colleague upon the treaty which ended the Spanish-American War. His exact words were:

I have reason to believe from the circumstantial evidence and from things that have been told to me in confidence by men on the other side, that improper influences were used.

Upon being informed of Tillman's statement Senator McLaurin, returning to the Senate Chambers, rose to a question of personal privilege and declared that on the floor of the Senate he had replied to those insinuations and that they were not true and added: "I now say that the statement is a willful, malicious, and deliberate lie."

Tillman thereupon jumped forward and struck McLaurin in the face and they fought until separated by an assistant doorkeeper and several Senators. Immediately an order was given for an executive session; the doors were closed and the galleries cleared. Before action was taken, it was stated that each of the Senators had expressed the wish to address the Senate in apology. A resolution was passed during a 2-hour executive session that, on account of the altercation and personal encounter:

Ordered, that the two Senators from the State of South Carolina be declared in contempt of the Senate and the matter be referred to the Committee on Privileges and Elections with instructions to report to the Senate what action shall be taken in relation thereto.

There was a division of opinion that the charges against McLaurin were not as serious as those against Tillman. Others felt that both were equally guilty. The first vote was taken on the declaration that the two Senators were in contempt and it prevailed by a unanimous vote of 61 to 0 on a rollcall. The question on referring the matter to the Committee on Privileges and Elections was adopted without a rollcall. Both the South Carolina Senators remained in their seats during the entire executive session. They conferred with colleagues but made no attempt to be recognized by the Chair.

Following the executive session, the Chair ruled that neither of the Senators could be recognized unless on motion of some other Member and that motion agreed to by a majority of the Senate. On motion of Senator Blackburn, the two Senators addressed the Senate in apology. On February 24, the names of Tillman and McLaurin were not called on a call of the roll, but on the next day their names were restored to the roll.

The Committee on Privileges and Elections met on February 25, 26, and 27, but did not summon either of the principals as witnesses. They reported a resolution of censure on the 28th, which was adopted by a vote of 54 to 12.

The resolution was reported favorably by a committee vote of 10 to 3. Messrs. Pettus, Blackburn, Dubois, Bailey, and Foster joined in a minority report in which they approved of the resolution reported, but took exception to the statements in the report to the effect that the Senate could suspend a Member and that the offenses of the two Senators were not equal.

Messrs. Pritchard, McComas, and Beveridge in the majority report in which they discussed the power of the Senate to suspend a Member or to inflict other punishment, and cited many authorities to sustain their contention. They also recommended that a resolution be adopted suspending Senator McLaurin 5 days and Senator Tillman 20 days on the ground that their offenses were not equal. This report was approved by Senator Pritchard except as to the suspension of Senator McLaurin, whom he declared had not committed an offense sufficiently grave to warrant such action in view of the extreme provocation he had suffered.

Decision of the Senate. The resolution proposed by a majority of the committee was agreed to February 23, 1902 (yeas 54, nays 12 with 22 not voting). The names of both Tillman and McLaurin, were called, on the roll but neither voted, Mr. McLaurin stating that for obvious reasons he was refraining from voting. The resolution of censure was as follows:

Resolved, That it is the judgment of the Senate that the Senators from South Carolina, Benjamin R. Tillman and John L. McLaurin, for disorderly behavior and flagrant violation of the rules of the Senate during the open session of the Senate on the 22d day of February, instant, deserve the censure of the Senate, and they are hereby so censured for the breach of the privileges and dignity of this body, and from and after the adoption of this resolution the order adjudging them in contempt of the Senate shall be no longer in force and effect.

The penalty, thus, was censure and suspension for 6 days (Cong. Rec., vol. 35, pp. 2087, 2203–2207) which had already elapsed since the assault. Immediately following the resolution of censure, Senator Hoar, chairman of the Committee on Privileges and Elections and also a member of the Committee on Rules, offered a resolution to change the rules of the Senate. He said the change was necessary in view of the debate on the bill and the matter of censure invoked by that debate. His proposal read:

Resolved, That the following be adopted as an additional rule:

No Senator in debate shall directly or indirectly by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator,

No Senator in debate shall refer offensively to any State of the Union.

The resolution was referred to the Committee on Rules which reported, recommending its adoption, on March 27, 1902 (Rule XIX, secs. 2 and 3).

The Committee on Rules reported that the purpose of the change "is to make more clear the rule of the Senate requiring decorum in debate and the power and duty of the Chair to enforce the same." The resolution was agreed to August 8, 1902.

[Seventy-first Congress, First Session]

HIRAM BINGHAM OF CONNECTICUT

[Citations: S. Jour., 71st Cong., 1st sess., pp. 180, 185, 187; Cong. Rec., vol. 71, pp. 257, 4046, 4145, 4922–4927; S. Res. 20 and S. Res. 146; S. Rept. Nos. 39 and 43, 71st Cong., 1st sess.; Senate Hearing, vol. 350, Senate Library; Cannon's Precedents, vol. VI, § 239, pp. 409, 410. For comment see *Literary Digest*, vol. 103, p. 11, November 13, 1929]

Statement of the Case: On April 22, 1929, Senator Caraway of Arkansas proposed a resolution (S. Res. 20, 71st Cong.) calling for an investigation of lobbyists located in and around Washington. The resolution provided for the appointment of a special committee of three Members to conduct the investigation. The resolution was ordered to lie over under the rule and was not taken up until September 30, 1929. On that date the Chair stated that since the resolution provided for expenditures which had to come from the contingent fund, it should go to the Committee to Audit and Control the Contingent Expenses of the Senate, and it was so referred. That committee on October 1, 1929, reported back favorably, authorizing the expenditures (S. Rept. 39, 71st Cong.) but recommending that the Judiciary Committee or a subcommittee thereof, appointed by the chairman of the Judiciary Committee, make the investigation. The resolution on that day was amended in conformance with the committee recommendation, immediately considered, and agreed to.

Neither at the time Senate Resolution 20 was offered, nor at the time it was agreed upon, was any reference made to Senator Bingham. Senator Norris, a Republican, was chairman of the Judiciary Committee and Senator Caraway, a Democrat, sponsor of the resolution, was also a member of that committee.

On October 7, 1929, Chairman Norris named Senator Caraway as chairman of the special subcommittee to conduct the lobby investigation. The four other members were: Senators Walsh of Montana (Democrat), Borah (Republican), Robinson of Indiana (Republican), and Blaine (Republican). Upon naming members of the committee, Senator Norris recommended that it employ counsel and stated he would obtain authority for this from the Senate. The committee was organized on October 10, 1929, supoenaed witnesses, and began public hearings on October 15, 1929. Senator Bingham, on October 17, 1929, appeared before the committee at his own request and defended his employment of Charles L. Eyanson as an adviser on the tariff bill. Senator Bingham admitted that the facts Eyanson provided influenced him, but insisted that if the information had suggested downward revision of rates, instead of upward revision, he would have depended upon them just as much. The Senator also insisted that he did not consider Eyanson as a lobbyist in the "commonly accepted sense"; that he only used his professional abilities. Eyanson's testimony followed that of Senator Bingham. Hearings on that phase of the investigation involving Senator Bingham and Eyanson continued through October 23, 1929.

On October 20, 1929, Senator Caraway stated that the Department of Justice had been asked to assist the committee in the investigation.

The special subcommittee conducting the lobbying investigation drafted a separate report (S. Rept. No. 43, 71st Cong.), dated October 25, 1929, on (1) that phase of the investigation concerning Senator Bingham and Charles L. Eyanson, a clerk of the Senate Committee on Territories and Insular Possessions and (2) the employment by the Department of Commerce of J. E. Winchet as a dollar-a-year man while Winchet held the paid position of foreign trade secretary of the Manufacturers Association of Connecticut in possible violation of a Federal statute prohibiting a Federal employee from receiving other than Government salary for services (act of March 3, 1917, 39 Stat. 1106).

* * * Bingham on Friday afternoon prior to its presentation the next day, October 26, 1929, to the Senate by Chairman Caraway. When Senator Caraway presented the report to the Senate there were no objections to its being received and none to its being read by the legislative clerk. The report was simply a narrative of the relations had by Charles L. Eyanson with Senator Bingham and the Senate Finance Committee. No legal argument was presented and no conclusions were reached by the committee to show that either the Senator or Eyanson had violated any law or rule of the Senate. The Committee made no recommendation. The report did show that Senator Bingham, during consideration by the Finance Committee of the pending tariff bill (H.R. 2667), had placed Eyanson on the Senate payroll, first as his own deputy, and later as a clerk of the Committee on Territories and Insular Affairs, while Eyanson was a paid officer or employee of the Manufacturers Association of Connecticut; that Eyanson attended hearings and secret sessions of the Finance Committee while it was considering the tariff bill; that after several committee members objected to Eyanson's presence in the committee, he no longer attended any meetings.

Following the reading of the report, Senator Caraway delivered a lengthy speech on the subject condemning the relationship between Bingham and the Connecticut Manufacturers Association and also condemning the employment of dollar-a-year men by the Commerce Department and stating: "Against that sort of situation I think the Senate ought to take action." He offered no resolution of censure, nor did he suggest what action the Senate might take against Senator Bingham, but he did offer a resolution (S. Res. 142) directing the Commerce Department to send to the Senate a list of its officers or employees "receiving a salary of $1 per annum or other sum as are at the present time regularly employed by individuals or associations in their private business or engaged in such." The resolution was agreed to as was the preamble which stated that from the testimony before the investigating committee, "J. E. Winchet, after taking the oath of office as an officer or employee of the Government at a salary of $1, at the same time received a salary of $3,000 from the Connecticut Manufacturers Association."

Senator Bingham remained silent during the proceedings of the Senate while the report was presented and discussed on October 26, 1929. Senator Dill questioned Senator George "as to what action should be taken in this matter?" Later Senator Dill publicly stated that removal of the Senator from the Finance Committee would be a better way of dealing with the matter than censure. [*See* The Evening Star (Washington, D.C.), October 26, 1929, p. 2, col. 4, and New York Times, October 27, 1929, p. 2, col. 2.]

On Monday, October 28, 1929, Senator Bingham on the floor of the Senate delivered an apologia defending both himself and Mr. Charles L. Eyanson and charging that the lobby investigation subcommittee was "packed" against him. On Friday, November 1, 1929, Senator Norris, chairman of the full Judiciary Committee, whose subcommittee had conducted the investigation, offered a resolution of censure (S. Res. 146) condemning Senator Bingham for his conduct. The Chair ruled that the resolution was privileged but, at request of Senator Fess, it was allowed to go over one day.

Decision of the Senate: The resolution (S. Res. 146) was debated for 4 hours on November 4, 1929, Senator Bingham being present and speaking against it. The resolution was immediately considered, without referral to a committee, and adopted by a vote of 54 to 22, with 18 not voting. Twenty-two of the votes against the censure resolution were by Republicans, but voting was not along party lines since 22 Republicans joined with 32 Democrats to pass the resolution of censure. The resolution had been amended to include the words "while not the result of corrupt motives on the part of the Senator from Connecticut." The resolution agreed to was as follows:

Resolved, That the action of the Senator from Connecticut, Mr. Bingham, in placing Mr. Charles L. Evanson upon the official rolls of the Senate and his use by Senator Bingham at the time and in the manner set forth in the report of the subcommittee of the Committee on the Judiciary (Rept. No. 43, 71st Cong., 1st sess.), while not the result of corrupt motives on the part of the Senator from Connecticut, is contrary to good morals and senatorial ethics and tends to bring the Senate into dishonor and disrepute, and such conduct is hereby condemned.

Senate Resolution 146 was agreed to November 4, 1929.

Senator Bingham served in the Senate until March 3, 1933, being an unsuccessful candidate for re-election in 1932.

[Eighty-third Congress, Second Session]

JOSEPH R. M'CARTHY OF WISCONSIN

[Citations: S. Jour., 83d Cong., 2d Sess., pp. 582 588, 589, 593, 603, 792–804, 807, 808, 810, 811; Cong. Rec. vol. 100 pt. 4. pp. 5298–5301; pt. 6. pp. 8032 8116, 8240, 8444, 8519, 8521; pt. 10, pp. 12729, 12893, 12902, 12919, 12938–13001, 13394; pt. 12. pp. 15716, 15851, 15911, 15921, 15932, 15935, 15940, 15959, 15966, 15986, 15990 16006, 16011, 16018, 16030, 16038, 16052, 16056, 16076, 16083, 16090, 16112, 16149, 16156, 16169 16186, 16195, 16268, 16279, 16344, 16353, S. Hearings, Vol. 1107 tab 2 in Senate Library, S. Rept. No. 2508, 83d Cong., 2d sess; American Bar Association Journal, April 1956, vol. 42, p. 329 ff.; Congressional Quarterly Almanac, 1954, vol. X, p. 456 ff.]

Statement of the Case: On July 30, 1954, Senator Flanders of Vermont introduced a resolution (S. Res. 301, 83d Cong., 2d Sess.) which read:

Resolved, That the conduct of the Senator from Wisconsin, Mr. McCarthy, is unbecoming a Member of the United States Senate, is contrary to senatorial traditions, and tends to bring the Senate into disrepute, and such conduct is hereby condemned.

Amendments to the resolution were proposed by Senators Bush, Daniel, Flanders, Fulbright, Johnson, of Colorado, Morse, and Smith of New Jersey in order to supply certain deficiencies. These amendments contained 46 separate counts or specifications of alleged misconduct.

The constitutional power of the Senate to determine the qualifications of its Members and to punish or expel them, is clearly established (see the Tillman-McLaurin Case No. 111, and Benton-Foote Case No. 23). This power was described by the Supreme Court in *Kilbourn* v. *Thompson* (103 U.S. 168, 189) as a "judicial" power, and the select committee to which the resolution and amendments were referred decided that its hearings could not be conducted in a fair and judicial manner unless the general rule of courtroom practice was followed.

The Select Committee To Study Censure Charges was composed of three Republicans and three Democrats, namely, Senators Arthur V. Watkins (chairman), Edwin C. Johnson (vice chairman), John C. Stennis, Frank Carlson, Francis Case, and Sam J. Ervin, Jr., appointed by the Vice President.

(1) To hold hearings;

(2) To sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate;

(3) To require by subpoena or otherwise the attendance of such witnesses, and the production of such correspondence, books, papers, and documents, and to take such testimony as is deemed advisable.

The Select Committee held hearings August 31 through September 13, and on September 27 (Senate Hearing, vol. 1107, tab. 2, Senate Library). On November 8, 1954, the committee reported (S. Rept. No. 2508, 83d Cong., 2d sess.) with the unanimous recommendation that McCarthy be censured.

Herewith is a summary of the five categories of charges on which the Select Committee took testimony, and the conclusions which were reached:

Category I.—Incidents of contempt of the Senate or a senatorial committee.

Conclusions.—McCarthy's conduct was "contemptuous, contumacious, and denunciatory, without reason or justification, and was obstructive to legislative process." Censure was recommended.

Category II.—Incidents of encouragement of United States employees to violate the law and their oaths of office or Executive Orders.

Conclusions.—Such conduct cannot be condoned and is deemed "improper." However, there was not "ground for censure."

Category III.—Incidents involving receipt for use of confidential or classified documents or other confidential information from Executive files.

Conclusion.—Senator McCarthy "committed grave error" and "manifested a high degree of irresponsibility," but because of "mitigating circumstances," censure was not recommended.

Category IV.—Incidents involving abuses of colleagues in the Senate.

Conclusion.—"The remarks of Senator McCarthy concerning Senator Flanders were highly improper" but "do not constitute a basis for censure."

Category V.—Incident relating to Brig. Gen. Ralph W. Zwicker.

Conclusion.—"The conduct of Senator McCarthy toward General Zwicker was reprehensible" and "he should be censured by the Senate."

During the debate on the floor, the Senate eliminated the Zwicker count and substituted an amendment proposed by Senator Bennett which provided for the censure of Senator McCarthy for matters arising after the report of the Select Committee had been filed.

Decision of the Senate: At the conclusion of the Senate debate, December 2, the Senate adopted by a vote of 67 to 22 a resolution as modified and amended, to provide for condemnation of Senator McCarthy, on two counts, as follows:

(1) For his non-cooperation with and abuse of the [Gillette] Subcommittee on Privileges and Elections of the Committee on Rules and Administration in 1952 during an investigation of his conduct as a Senator; and

(2) For abuse of the Select Committee to Study Censure [Watkins Committee].

[Ninetieth Congress, First Session]

THOMAS J. DODD OF CONNECTICUT

[Citations: Congressional Record, Vol. 113, Part 12, pp. 15421, 15422, 15663–15706, 15735–15750, 15773, 15998–16030, 16104–16134, 16269–16301, 16348–16375; Vol. 113, Part 13, pp. 16560–16586, 16976–17000, 17005–17073; S. Report 193, 90th Congress, 1st Session; Congressional Quarterly Weekly Report, June 30, 1967, p. 1106 ff.]

Part 1

Statement of the Case: Under authority of Senate Resolution 338 (88th Cong., 2d sess.), the Select Committee on Standards and Conduct began hearings June 22, 1966 on the relationship between Senator Thomas Dodd and Julius Klein, a public relations representative of certain German interests. The hearings were prompted by a series of newspaper articles which alleged that Senator Dodd engaged in certain activities of an ostensibly unethical character. The articles began on January 24, 1966, and on February 2, 1966 the Select Committee on Standards and Conduct took notice of the charges. No formal investigation was initiated at that time, but the Committee staff began acquiring background information on the source and extent of the allegations.

On February 18, the Committee staff made a preliminary report to the Chairman, Senator John Stennis of Mississippi. Five days later, Senator Dodd formally requested that the Committee investigate the charges and allegations that had been made in regard to his relationship with Klein.

During the months of March, April, and May, the Committee staff conducted interviews and examined many documents furnished to the Committee by Senator Dodd and others relating to Senator Dodd's business relationship with Julius Klein, and public hearings were held on June 22, 23, 24, 27, and July 19, 1966.

Conclusion: The conclusions of the Committee contained in Part 1 of its report were: (1) Senator Dodd traveled to Germany in April 1964 on Senate business under circumstances that suggest that he was also influenced to go by Julius Klein who sought to improve his image because he was losing his German clients. (2) Because a sovereign foreign government was involved, the Committee was unable to obtain evidence as to whether Senator Dodd made any representations in Germany on behalf of Julius Klein, except in a brief conversation with the late Chancellor Adenauer. In view of these circumstances, the Committee could not pursue this phase of the case further.

The Committee found that although Senator Dodd's relationship was indiscreet and beyond the responsibilities of a Senator to any citizen, there was not sufficient evidence of wrongdoing to warrant recommendation of disciplinary action by the Senate.

Part 2

While the Committee was conducting its preliminary investigation in regard to Senator Dodd's relationship with Julius Klein, additional newspaper articles were published relating to financial improprieties and other matters. The Committee requested Senator Dodd to file a statement in regard to these financial matters; when he refused, the Committee unanimously decided that it would conduct hearings and so advised Senator Dodd of this fact on June 15, 1966. On October 26, 1966, the Committee reaffirmed its intention of holding hearings, and notified Senator Dodd that these hearings would also look into the acceptance of Senate travel payments and the loan of automobiles. Public hearings were held from March 13 to 17, 1967.

Conclusion: From testimony received at the hearings, the Committee concluded that from the period of 1961 through 1965 seven fundraising events were held for Senator Dodd, and the receipts from these events totaled not less than $203,983. The Committee also found that during Senator Dodd's senatorial campaign for re-election in 1964 political committees supporting his re-election collected $246,290. From the receipts of the fund-raising events and campaign contributions, the Committee found that Senator Dodd had authorized the payment of $116,083 for his personal use. The Committee also pointed out that after the 1964 campaign, Senator Dodd accepted $8,000 in cash from funds of the International Latex Corporation. They found that from the period 1961 through 1965 Senator Dodd requested and accepted reimbursements from both the Senate and private organizations for the same travel. The Senator was also found to have accepted the loan of three automobiles in succession from a constituent and these automobiles were used for personal transportation for a period of twenty-one months between 1964 and 1965.

Based upon these findings the Committee recommended the censure of Senator Dodd on grounds that for a period of five years he exercised the influence and power of his office as a United States Senator (a) to obtain, and use for his personal benefit, funds from the public through political testimonials and a political campaign, and (b) to request and accept reimbursements for expenses from both the Senate and private organizations for the same travel.

Decision of the Senate: On June 12, 1967, floor debate began on S. Res. 112, which had been reported from the Committee on April 27th, to censure Senator Dodd "for his conduct, which is contrary to accepted morals, derogates from public trust expected of a Senator, and tends to bring the Senate into dishonor and disrepute." A substitute for S. Res. 112 was offered by Senator Russell B. Long that would have admonished Senator Dodd not to engage in any conduct that might be construed as unethical and urging the Committee to draw up a code of conduct for Senators. This amendment was rejected by a roll call vote of 2–94. Senator Tower then offered an amendment to substitute the words "reprimand" for "censure", "accepted standards of conduct" for "accepted morals", and to delete the reference to bringing the Senate into dishonor. This amendment was defeated 9–87. Senator Towar also introduced an amendment that would have substituted only "accepted standards of conduct" for "accepted morals", and this was defeated by a roll call vote of 18–78.

The most significant amendment, and the only one that was accepted, was offered by Senator Allen Ellender of Louisiana. Senator Ellender's amendment deleted from the resolution the charge that censured Senator Dodd for using his office "to request and accept reimbursements for expenses from both the Senate and private organizations for the same travel." This amendment was passed by a roll call vote of 51–45.

One June 23, 1967, the Senate by a roll call vote of 92 yeas to 5 nays censured Senator Dodd "for having engaged in a course of conduct over a period of five years from 1961 to 1965 of exercising the influence and power of his office as a United States Senator, as shown by the conclusions in the investigation by the Select Committee on Standards and Conduct, to obtain, and use for his personal benefit, funds from the public through political testimonials and a political campaign." The resolution further stated that his conduct was " . . . contrary to accepted morals, derogates from the public trust expected of a Senator, and tends to bring the Senate into dishonor and disrepute."

APPENDIX B

A phrase using the wording of the present Resolution wherein the words "tends to bring the Senate into dishonor and disrepute" has been used in the last three cases where Senators have been disciplined as the following Resolutions show:

SENATOR BINGHAM—1929

Resolved, That the action of the Senator from Connecticut, Mr. Bingham, in placing Mr. Charles L. Evanson upon the official rolls of the Senate and his use by Senator Bingham at the time and in the manner set forth in the report of the subcommittee of the Committee on the Judiciary (Rept. No. 43, 71st Cong., 1st Sess.), while not the result of corrupt motives on the part of the Senator from Connecticut, is contrary to good morals and senatorial ethics and *tends to bring the Senate into dishonor and disrepute,* and such conduct is hereby condemned.

SENATOR M'CARTHY—1954

Resolved, That the conduct of the Senator from Wisconsin, Mr. McCarthy, is unbecoming a Member of the United States Senate, is contrary to senatorial traditions, and *tends to bring the Senate into disrepute*, and such conduct is hereby condemned.

SENATOR DODD—1967

Resolved, That it is the judgment of the Senate that the Senator from Connecticut, Thomas J. Dodd, for having engaged in a course of conduct over a period of five years from 1961 to 1965 of exercising the influence and power of his office as a United States Senator, as shown by the conclusion in the investigation by the Select Committee on Standards and Conduct, to obtain, and use for his personal benefit, funds from the public through political testimonials and a political campaign deserves the censure of the Senate; and he is so censured for his conduct, which is contrary to accepted morals, derogates from the public trust expected of a Senator; and *tends to bring the Senate into dishonor and disrepute.*

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, may I ask the Senator from Illinois if he will permit me to ask brief questions? I yield to him for that purpose so he can yield to me.

Mr. STEVENSON. I yield to the Senator for a question.

Mr. STENNIS. Mr. President, these questions relate to the facts and interpretation of facts. They relate to money, and, I believe, clarification.

As a Member of this body, though, I want to extend to all members of this committee my deepest thanks for their earnest and hard work in this matter, their patience and understanding, and their service to the Senate and to the country.

Mr. President, these questions of the Senator from Illinois relate to the resolution on page 2 as printed which begins with the words, "Resolved, That it is the judgment of the Senate that Senator TALMADGE either knew, or should have known, of these improper acts and omissions," and so forth.

My question is this: Did the committee specifically find that Senator TALMADGE authorized or knew about the secret Riggs Bank account into which Mr. Minchew diverted the Senate campaign funds?

Mr. STEVENSON. No, the committee made no such finding.

Mr. STENNIS. They made no such finding?

Mr. STEVENSON. No.

Mr. STENNIS. The second question is: Did the committee specifically find that Senator TALMADGE knowingly diverted campaign funds to his own use?

Mr. STEVENSON. No.

Mr. STENNIS. Third, did the committee make a specific finding that Senator TALMADGE knowingly authorized withdrawal of more money from the Senate than was allowable for reimbursements of official expenses?

Mr. STEVENSON. No, the committee did not.

Mr. STENNIS. Mr. President, I thank the Senator from Illinois. I think that sheds light upon our interpretation.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, where it refers with respect to the committee's choice of the word "censure," the committee's reasons for using that word are set forth on page 18 of the report.

The passage reads as follows:

> The facts in this investigation are distinguishable from those of earlier matters in which the Senate "censured" or "condemned" a Member. The Committee therefore expresses its judgment and its recommendation with respect to the conduct of Senator Talmadge and the effect of that conduct on the Senate with words that do not depend on analogy to dissimilar historical circumstances for interpretation.

With respect to knowledge, the finding, as I mentioned before, was that he knew, or should have known.

Mr. INOUYE. Will the Senator from Illinois yield for questions?

Mr. STEVENSON. I yield to the Senator from Hawaii.

Mr. INOUYE. The committee concluded that Senator TALMADGE should repay to the Senate $12,894.67 which Mr. Minchew illegally diverted to the Riggs account. Is it correct that the committee reached this conclusion not because of the finding that Senator TALMADGE knew about these illegal diversions but, rather, because it believes that Senators rather than taxpayers should be accountable for the actions of their employees?

Mr. STEVENSON. The Senator is correct. That was the basis for the committee's conclusion and recommendation.

Mr. INOUYE. Did the committee find Mr. Minchew a credible witness and rely on his testimony?

Mr. STEVENSON. Mr. President, it is difficult for me to respond to that question by speaking for Members other than myself. Perhaps others can add to what I can say. I did not find the witness credible. My belief is that the other Members did not. I can say in response to the Senator's question that the committee in reaching its conclusions did not rely on his testimony.

Mr. SCHMITT. Will the Senator yield at this point? I would just add in endorsement of the chairman's remarks my own point of view. The former administrative assistant, Mr. Minchew, I believe in 8 days of testimony did not impress the committee with his credibility as a witness, not only at that time but also with respect to other information we had. However, he did provide the committee with specific, factual information such as documents which did, I believe, on evaluation through other sources of evidence and other testimony, bear upon the committee's conclusion. But as the Senator might see in the additional views that I submitted that dealt with a number of the more controversial issues, the resolution of those issues did not depend on the testimony of the former administrative assistant of Senator TALMADGE.

Mr. STEVENSON. I believe the answer to that question is no.

Mr. INOUYE. Is it true that it was Senator TALMADGE who first gave the Department of Justice and the Ethics Committee Mr. Minchew's June 13, 1978, memorandum and copies of the two Senate checks diverted into the secret Riggs account which eventually led to the discovery of that account?

Mr. STEVENSON. Yes.

Mr. INOUYE. My final question, sir. Is it true that Mr. Minchew has pleaded guilty to a felony concerning one of the false vouchers he submitted to the Senate?

Mr. STEVENSON. Yes, it is true. Mr. President, the witness, Mr. Minchew, has been convicted of that offense and sentenced to 4 years and placed on probation—4 months. I beg the Senator's pardon.

One of the terms, one of the conditions of the probation is a requirement for restitution of the amount represented by that voucher.

As I mentioned earlier, the resolution adopted by the committee requires restitution for the full amount of both vouchers to the Senate.

That resolution was adopted before the conviction of Mr. Minchew. It was adopted before the committee had any knowledge of the conditions of probation, including the requirement for restitution. I do not believe it was our intention—it was not mine—in adopting this resolution to require double restitution—a double repayment, that is to say—to the Senate for the amount of the voucher mentioned by the Senator from Hawaii. So the record, if I am correct, should indicate that to whatever extent there is restitution by others—namely, Mr. Minchew—it is not required also to be made by the Senator.

I am informed that the reason for the conviction with respect to the one voucher and not the other is that the statute of limitations had run with respect to the second voucher, which covered the larger amount. So there has not only been no conviction with respect to that voucher, but also, no restitution. Therefore, the resolution, if approved, would continue to require restitution with respect to that voucher.

Mr. INOUYE. I thank my dear friend from Illinois.

Mr. SCHMITT. Mr. President, I must put some reservation on my association with the chairman's most recent remarks. I think it is an issue that would have to be dealt with at some future time, assuming that the conditions for the probation of Mr. Minchew are, in fact adhered to. I think that it is something that the committee would discuss at that future time, and maybe make some other recommendation to this body.

I am personally unsure of whether the imposition of a penalty on a former member of Senator TALMADGE's staff by a department of the executive branch—the Department of Justice—or court is material to the committee's recommendation. I should have to consider that very carefully before agreeing to associate myself with the legislative history that the chairman just made.

Mr. EAGLETON. Mr. President, I join with some of my colleagues in commending Senators STEVENSON and SCHMITT and the other members of the Senate Ethics Committee for their dedicated work in this matter. They have faced the most unpleasant task the Senate can assign—sitting in judgment of a fellow Senator. They have discharged that duty ably, displaying sensitivity to both the rights of the Senator from Georgia and the public's expectation that the inquiry would be searching and impartial.

The Ethics Committee handled this matter pursuant to the procedures of Senate Resolution 110, adopted by the Senate in 1977. Prior to Senate Resolution 110, the Ethics Committee—and its predecessor, the Select Committee on Standards and Conduct—exercised virtually unfettered discretion to investigate or not investigate allegations as it deemed appropriate. In contrast, Senate Resolution 110 sets forth a careful procedure for the Ethics Committee to follow upon receiving a serious complaint. The committee is required to "promptly conduct an initial review of the duration and scope necessary to determine whether there is substantial credible evidence of a violation within the jurisdiction of the committee." If the committee finds by recorded vote that such substantial credible evidence is lacking, it reports that determination to the party charged and the complainant, together with an explanation of the basis of its determination. If the committee finds that substantial credible evidence of a serious violation does exist, it must proceed with a formal investigation, usually featuring a trial-type hearing, and report its conclusions and recommendations to the full Senate.

By this procedure, Senate Resolution 110 permits frivolous complaints to be weeded out rapidly, but guarantees that serious allegations will be carefully considered. The lack of formal procedures prior to Senate Resolution 110 did not promote public confidence in the Senate's ability to enforce its rules. The Ethics Committee's treatment of this case under the new procedures was far more conducive to public trust.

Nonetheless, I have some serious concerns about the process by which the Senate investigates and judges allegations of wrongdoing by Senators. Senate Resolution 110 represents a significant improvement over the lack of process which preceded it; it may be an appropriate time to consider whether further improvements are possible.

The Constitution assigns to each House of Congress responsibility for disciplining its Members. Since 1964, the Senate has delegated this responsibility to its Committee on Ethics or, previously, Standards. We have created a system in which six Members of the Senate bear an enormous burden when confronted with a serious allegation against a Senator. In effect, to use an analogy to the judicial process, they function as grand jury, judge and jury, and will usually also select the outside counsel to investigate and present the case.

This produces several undesirable consequences: First, it creates a situation where in reality the Senator under investigation is being judged by 6 of his colleagues, rather than the full 99. I know that if six of my colleagues have participated in every facet of an investigation, and drawn conclusions based on their intimate knowledge of the details of the case, I would second-guess their recommendation only in extraordinary circumstances. I am certain that many of my colleagues feel the same way. The burden of decision should be shared more generally.

Second, the current situation is unfair to those Senators who happen to be members of the Ethics Committee when a serious allegation surfaces. A matter like this one demands an extraordinary amount of their time and effort. The committee held 29 days of public hearings, taking 2,793 pages of testimony. They received memoranda of law and ruled on evidentiary matters. They grappled with procedural problems such as whether to televise the proceedings. They reviewed and revised the committee's report. All this work followed the committee's decision that the matter warranted a formal investigation.

But prior to making that crucial judgment, the committee members had already put in hundreds of hours, sifting through transcripts of depositions and being briefed by staff on the course of the initial review being conducted by special counsel. Ethics Committee business apparently came to occupy at least half of the working hours of the chairman and ranking minority member for weeks on end.

Mr. President, it is unfair to place this kind of additional burden on a Senator. It is also unfair to the people of the State which the Senator represents, because attention is inevitably diverted from the mainstream of Senate business. None of us could take on an additional 20 or 30 hours of work each week without cutting into our ability to handle the rest of our responsibilities.

Third, the same Members who decide that there is substantial credible evidence to warrant a full investigation serve as judge and jury at the trial-type formal hearing. I know that the decision to proceed to the investigation stage will not be made casually. But once it is made, is it realistic to expect that the same Senators can approach the evidence presented at the formal hearing with open minds? And it is this hearing at which the Senator under investigation receives the full protection of due process, including the right of cross-examination and to comfort accusing witnesses. Fundamental fairness would seem to demand at this junction a factfinder who had not previously been forced to draw conclusions about the weight of the evidence.

I have not yet attempted to draft a resolution dealing with these concerns, Mr. President. However, it is my belief that the process could be substantially improved by retaining for the Ethics Committee the determination that a case warrants a formal investigation, while turning over to an independent outside person, such as a retired Federal judge, the responsibility for conducting the formal hearing. After completing the hearing, the judge would make findings of fact and appropriate recommendations. These findings and recommendations could be handled in either of two ways: They could go to the Ethics Committee, which could add its comments before transmitting them to the full Senate, or they could be transmitted directly to the Senate for approval, rejection or modification.

Mr. President, obviously, any analogy between the Senate disciplinary process and a judicial proceeding will be an imperfect one. If we were trying to fully recreate a court of law, our first concern would be the unfairness of having a Senator judged by colleagues who may have worked with him on a daily basis for a decade or two. But the Constitution imposes on Senators the obligation to pass judgment on their colleagues. Once that basic constitutional responsibility is recognized, we should strive to make the process as fair as possible—to the Senator under investigation whose career may be at stake; to his colleagues on the Ethics Committee, striving to conduct a thorough inquiry while carrying on with their other responsibilities; and to the public awaiting the decision. I believe that dividing the burden between the Senate Ethics Committee, an independent outside factfinder, and the full Senate would contribute to a fair and effective process, and I look forward to exchanging ideas with other colleagues on this important matter.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I want the distinguished Senator from Missouri to know that I, personally, deeply appreciate his comments and his suggestions. I propose to make an almost identical suggestion, perhaps in a bit more detail. But I want him to know that this Senator appreciates the consideration that he has given to finding a remedy for a very obvious problem.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HELMS. Mr. President, I have not yielded the floor.

The PRESIDING OFFICER. I am sorry. I thought the Senator from North Carolina had given up the floor.

Mr. MORGAN. Mr. President, before the Senator proceeds, will he yield so I might comment briefly?

Mr. HELMS. Yes; of course.

Mr. MORGAN. Mr. President, I had not intended to comment on this phase of the matter at this time, but it may be that I will not find as many of my colleagues here willing to listen at any other time.

I want to commend the distinguished Senator from Missouri for a very clear and incisive analysis of our present situation.

I do not believe that any chairman could ever have presided over a committee and done a better job than the distinguished Senator from Illinois, or the members of the committee who worked with him.

But as the Senator so ably pointed out, it is absolutely impossible, from my point of view, for the Senate Ethics Committee, from the very beginning, the initial investigation, to act as a grand jury that returns a true bill of indictment, so to speak, and, as the Senator points out, appoint or select a special counsel that will present the case, and then suddenly take off the hat of a prosecutor and grand juror and put on the hat of juror.

I think this is something that needs careful analysis. I have had a great many thoughts about it. I have given thought to the idea of using a very senior Federal judge. But another thought occurred to me and I just throw it out for the time being.

Once the Senate Ethics Committee has concluded that an investigation is warranted, would it not then be feasible for the President of the Senate to select a panel of our distinguished alumni who would then come back, who were Members of this body, who loved the institution, who respected the institution, who then would sit as jurors, so to speak.

As the Senator talked, I jotted down the names of my predecessor, Senator Sam Ervin, who I am sure would be delighted; Senator John Pastore; Senator Paul Fannin; Senator Jim Pearson.

I think of dozens of other very distinguished Senators who would then be able to come back and make these recommendations.

Mr. President, I did not mean to impose these thoughts on the Senate at this time, but I thought it very appropriate.

I thank my colleague.

Mr. HELMS. Mr. President, I think it is clear now that all Senators are aware that the leadership of this body had an exceedingly difficult time filling the vacancies on the Ethics Committee just prior to the commencement of the Talmadge hearings.

Mr. President, I am not a lawyer, and it was with great reluctance that I agreed to serve on the Senate Select Committee on Ethics. I accepted the job, at the last possible moment, out of a sense of duty. I knew full well at the time it was going to be the most difficult assignment of my career in the Senate, however long that may be.

I think any Senator would have the same reluctance to assume the awesome task of passing judgment on a colleague charged with serious allegations of ethical and criminal misconduct.

Mr. President, if this had been in a court of law, no Member of the Senate would have been permitted to serve as a juror. Yet, the Ethics Committee panel was expected to serve as both judge and jury in a serious investigation of a colleague with whom most of us have had a long association.

Mr. President, consider the position of the Senator from North Carolina. I have known the Senator from Georgia 25 years. He is chairman of the Agriculture Committee. I am the ranking minority member of it. I serve daily, I am in contact daily, with the Senator from Georgia. He is my friend, and I am his.

There have been so many times through the years that the Senator from Georgia could have colored the truth in his dealings with the Senator from North Carolina, but not once has he done it. Even when we have disagreed on an issue, he has made sure I understood what he was doing and what he intended to do. At all times he has been fair, honorable, and truthful.

The Chair may ask, what does that have to do with this? It has to do with my serving on the Ethics Committee, whether any Senator having a close personal relationship with another Senator is really qualified to pass judgment. The answer to that is obvious. No court would have permitted me, or any other Senator, to serve as a juror. Yet it was precisely that responsibility that became the duty of every member of the Ethics Committee.

Mr. President, that is why I was delighted to hear the comments of my friend from Missouri and the subsequent comments of my colleague from North Carolina (Mr. MORGAN).

That is why I have planned today to recommend that a complete study be given to the appointment of a hearing examiner in future cases of this type—if there be any, and I pray there will not be—to assist the Ethics Committee in the proper performance of its duties. It is not only fair play for the Senate. It is not only fair play for the people of this country. It is fair play for the accused Senator.

I must say, Mr. President, that I am not at all certain that the Senator from Georgia has been treated fairly in this matter. The committee's procedural rules state:

> The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints. (Part I, subpart A, section 2f.)

As has been said earlier, the Talmadge proceedings consumed 29 days of public hearings. The committee heard testimony from 36 witnesses and received several hundred exhibits into evidence.

As I think back over those days, I become all the more persuaded that it would have been far wiser and far fairer to all concerned, including Senator TALMADGE, to have acquired the services of a special hearing examiner, as provided by the rule. Obviously it would have to be someone knowledgeable in the law; perhaps, as has been suggested, a retired judge, Federal or State, who was appointed to hear all the evidence and to make an appropriate recommendation to the committee for it to act upon.

Obviously, being a member of the Ethics Committee, I have received some mail in this matter. But there has not been much. One letter I recall in particular came from a distinguished judge who said that he, of course, did not sit in on the hearings and had not studied the evidence; but based on what he had been able to ascertain, much of the evidence, on which so many newspaper stories and editorials were based, never would have been allowed in a courtroom. Yet, this was evidence that was presented publicly against the Senator from Georgia and was highly publicized throughout the land as fact. In fact, a number of editors demanded that Senator TALMADGE be censured before—before Mr. President—the hearings even began.

But let me return, Mr. President, to the suggestion that a competent person be appointed to hear the evidence in such matters as this.

Such a person—a retired judge or a panel of former Senators, or whatever—should and would be subject to the rules of the select committee and to such additional specifications and limitations that the committee or the Senate, or both, might impose. The final report should include a complete transcript of the proceedings and the evidence. The committee also could receive further evidence before making its official recommendation and report to the full Senate.

Mr. President, shortly before the hearings began on this matter before the Ethics Committee, I asked the Library of Congress to study the constitutionality of using hearing examiners in cases involving allegations of misconduct against Senators. In a report prepared by the American Law Division, it was concluded that the Constitution does not forbid the appointment of a hearing examiner. I ask unanimous consent that the memorandum, prepared by Mr. Robert L. Tienken, of the American Law Division, be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

APRIL 26, 1979.

To Honorable Jesse Helms, Attn: Mr. Sam Currin.

From American Law Division.

Subject Constitutionality of use of hearing examiners in cases involving investigation of Senators.

Reference is made to the first question of your request of April 24 respecting the constitutionality of using hearing examiners in investigations concerning Members of Congress and of receiving from them recommendations as to possible punishment. Attached are copies of four memoranda on various aspects of the subject. These indicate that the constitutional power of each House to punish Members is granted by the Constitution to each House solely (Art. I, sec. 5, cl. 2) and, the power to investigate for such purpose is an inherent authority of each body (see, *In re Chapman*, 166 U.S. 661 (1897), *McGrain* v. *Daugherty*, 273 U.S. 372 (1927). But, the Constitution does not restrict this means of gathering information only to congressional committees, (see *U.S.* v. *Rappeport*, (D.C.N.Y. 1941) 36 F. Supp. 915).

While the authority to punish cannot be granted or delegated to any entity or person, the authority to hold hearings (or issue depositions) can (*Gojack*, U.S., 384 U.S. 702 (1966). The grant is accomplished through the use of the rulemaking power possessed by each House pursuant to Art. 1, sec. 5, cl. 2).

In a matter of punishing Members as in judging elections of members, the crucial point is not who does the investigating or recommending, but who does the punishing, i.e., who determines and inflicts the punishment. This power is preserved solely to each House by the Constitution. As long as the Senate administers the punishment the constitutional requirements are fulfilled. Consequently, the Senate, through its rulemaking power, may provide for hearing examiners with authority to hold hearings or take depositions and to make recommendations to the Senate as to the possible disposition of a case. Each Senator would presumably have a copy of the hearings or depositions as well as the recommendations of the hearing examiners, and if the Senate decided to permit the Senator who had been the subject of the investigation to appear on the floor, be available for answering questions, and possessed of the privilege of speaking, the standard of basic fairness as mentioned by the Supreme Court in *Barry* v. *Cunningham*, 279 U.S. 597 (1929) will have been met, (see, for example, the proceedings in the Senate debate concerning allegations of wrongdoing by Senator Dodd, of Connecticut, in 1967).

As to the elements that are essential to creating a system of hearings carried on by examiners or depositions taken by examiners, the first might be authority to issue subpoenas. While this is inherent in each House (*McGrain* v. *Daugherty*, supra) and can be granted by a House to a committee and its subcommittees, there is some question whether it can be granted to non-Members (see, "Creation of a House Commission to Investigate Korean Funds Matter", attached). It would be more feasible for the Select Committee on Ethics to issue the necessary subpoenas to witnesses who would appear before hearing examiners, (see Hinds; Presidents of the House of Representatives, Vol. I, § 598). Authority to take depositions could be granted to hearing examiners if such power is delegated to the Committees by the Senate (in effect, it would be comparable to the issuance of a subpoena by the Committee see supra, and, the Committee could always order a person who had been the subject of a deposition to appear before it if it desired).

Authority for hearing examiners to administer oaths must be granted by statute (see, "Creation of a House Commission, etc.," supra). Title 2, U.S.C., sec. 191 which authorizes members to administer oaths would have to be amended to allow hearing examiners to administer oaths, and sec. 192 would have to be amended so as to provide that failure to appear or to bring documents or to answer a pertinent question where hearing examiners are involved would constitute grounds for possible contempt.

The granting to hearing examiners of the authority to administer oaths should also enable the provisions of 18 U.S.C. sec. 1621, the federal perjury statute, to be made applicable to situations where hearing examiners are involved. It provides:

"Whoever, (1) having taken an oath before a competent tribunal, officer or person, in any case in which a law of the United States authorizes an oath to be administered . . ." In granting the authority to hearing examiners to administer oaths, there would be created a situation in which a witness will have taken a oath before a person in a case in which a law of the United States authorizes an oath to be administered. The requirements for possible perjury indictment would seemingly have been met (see, attached memorandum, "Comparison of Federal and District of Columbia Perjury Statutes as Applied to Testimony Before Congressional Committee Staffers"). Where hearing examiners possess authority to administer oaths they could also take valid depositions if it were so provided.

The constitutional problem is validated as long as the Senate determines the punishment of one of its Members. Most of the other factors as respects hearing examiners taking testimony are statutory and can be remedied by proper congressional action.

The Senate Select Committee on Ethics has never used the 1977 provision in its rules been discussed in depth by the Committee. providing for the appointment of hearing examiners, nor, from inquiries, has the subject The House resolution (H. Res. 252, 95th Cong.) authorizing the Korean Funds investigations provided authority to members to take depositions.

Mr. HELMS. Mr. President, as is the case with other members of the Ethics Committee, I have received some mail from constituents who expressed either misunderstanding or objection to the final decision of the Ethics Committee in this matter. I felt that those who had an interest to write were entitled to an answer from me, an answer in some degree of detail, and that they should have the benefit of my perspective on the proceedings. I ask unanimous consent to have printed in the RECORD at this point the text of my response to one of the first letters that came to me regarding this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 21, 1979.

At the outset, let me thank you most sincerely—and I mean it—for your letter concerning the Talmadge matter. While we have received relatively few letters on the subject, I can imagine that many citizens are puzzled by the news reports suggesting that the Senate Ethics Committee was "easy" on Senator Talmadge.

Before proceeding to read the remainder of this letter, I'd like for you to stop and examine the enclosed copy of the resolution adopted unanimously by the Ethics Committee. Then you can make up your own mind as to whether the Committee was, in fact, "easy" on Senator Talmadge.

This is one of those instances in which the press ignored the validity and believability of allegations—and, instead, proceeded to report the allegations as fact.

So, I can honestly understand why you may have concluded that the Senate Ethics Committee failed in its duty by not recommending a censure or even harsher discipline of Senator Talmadge. For well over a year, many commentators and editorialists have dramatized the allegations against the Senator. Some editors demanded that the Senator be censured even before any evidence was heard by the Committee.

After reviewing the evidence, including facts stipulated by Senator Talmadge, testimony of 36 witnesses during 27 days of public hearings and several hundred exhibits, the Committee—by unanimous vote—determined that censure was neither an appropriate nor just punishment. Instead, the Committee found that the Senator's conduct was "reprehensible" and tended "to bring the Senate into dishonor and disrepute." The Committee strongly denounced Senator Talmadge's behavior. That is scarcely what could be called a slap on the wrist.

For years to come, political experts will surely engage in speculation as to the wording of the Committee's recommendation. They are already speculating the impact it will have on Senator Talmadge's future. For my part, I believe the resolution speaks for itself. More importantly, I believe it fairly and objectively reflects the testimony and evidence that was before the Committee.

A fact that has been often obscured in some newspapers is that Senator Talmadge's principal accuser, Daniel Minchew, is an admitted liar and embezzler. He failed to pass several polygraph examinations relating to this investigation. Mr. Minchew has already pleaded guilty in court to misapplication of Senator Talmadge's office account funds. No other witness testified that the Senator knowingly converted official funds to his personal use. There was no evidence that the Senator did know. Mr. Minchew's accusations created a sensation in the press and elsewhere, but the Committee found him generally unbelievable.

The Committee did conclude that Senator Talmadge, and/or those who managed his political campaign, negligently failed to file certain timely campaign reports, and that he should have known of improper acts and omissions of his staff. The Committee found the Senator to have been grossly negligent in administering the affairs of his office. He is being held responsible for every dime that cannot be accounted for even though there was no credible evidence that the Senator converted Senate funds to his own use.

I am not a lawyer and it was with great reluctance that I agreed to serve on this Committee. I accepted the job out of a sense of duty knowing full well that it would be the most difficult assignment of my Senate career. My conscience is clear as to what was done. I do not believe that Senator Talmadge has been let off "lightly" as some have concluded. He has become one of remarkably few Senators to be singled out by his peers for strong public reproach and shame.

Finally, the Committee has made its files on this case available to the Justice Department for such action as the Attorney General may take to determine if violations of law have occurred. Many people are not aware that the Senate has no power to invoke criminal proceedings against a Senator, or Senate employee, who has violated an ethical standard or rule.

I do not suggest that my judgment is perfect. You have every right to disagree, and I respect you for it. This response is intended to give you my perspective on the case so that you might better understand the result that was reached.

Sincerely,

JESSE HELMS.

Mr. HATCH. Mr. President, I would like to make just a few remarks today about our consideration of the Ethics Committee's recommendations in the matter of our colleague, the Senator from Georgia (Mr. TALMADGE).

To clarify matters as much as I can, I would like to say, first, that I do not condone the commission by any Senator of the acts charged to the distinguished Senator from Georgia. Nor, secondly, is it my intention now to pass on the merits of the findings of the Ethics Committee. To do that, I will have to weigh what I hear on the floor today in addition to what I have read in the committee report.

I also associate myself with the observations of the distinguished Senators from Missouri and from North Carolina. I think they have been perceptive in pointing out flaws in this entire process.

My chief purpose in speaking now is simply to suggest that, whatever the final determination of this body, it would be nice if the career of Senator TALMADGE were placed in a more accurate and full perspective than it has been for the past 15 months.

I greatly respect the Members of this body who presently serve on the Ethics Committee. They are all decent, honorable, and fine people. I place great credence in what the committee does and what the committee recomends. At the same time, it should be recognized that their focus was an extremely narrow one. It is not necessarily the same focus that should be used by the full Senate. There is far more of an obligation, in my opinion, for the whole body to consider the fullness of the Georgia Senator's career before we pass judgment upon that career that could bring it to an end.

Senator TALMADGE has been in the forefront of those who have worked to protect and perpetuate the small family farm. He has been in the forefront of those who have ensured that this Nation's agricultural economy is the strongest and most productive in the world. He has been in the forefront of those who have called for Congress to act responsibly in the regulatory process and in the budget process.

I have not always agreed on substantive issues with my friend from Georgia, but I, I believe most of my colleagues, have learned always to respect his resourcefulness, his sincerity, and his knowledge in matters of public policy. I think the people of the great State of Georgia have done well by Senator TALMADGE, as have the people of this country.

I would implore my colleagues to reject what might be an attractive political instinct to crucify Senator TALMADGE. I, of course, do not believe that there are Members of this body who would do this.

This is not to suggest that Senator TALMADGE might not have been guilty of some serious lapses in good judgment and good administration.

An extensive record is available for all to see, and so that all can make up their own mind on this question.

I feel very strongly, however, that Senator TALMADGE has been subjected to newspaper and media coverage far more prejudicial than would have been tolerated by the courts in the average criminal trial.

I also agree with the distinguished Senator from North Carolina that it has been an inordinate duty on the part of the Ethics Committee to determine legally just what the parameters of evidence should be before the committee, and I have severe questions concerning the extent to which evidence has been used in this matter.

It is this imbalance that we must bear in mind in my opinion.

This body has a duty to pass upon the recommendations of the Ethics Committee—I intend to do that as impartially as I can; at the same time, it has the duty to insure that the reputation of one of its colleagues—one of its most distinguished legislators—is placed in the fair and proper context. It is an obligation that we have to Senator TALMADGE, to the citizens of Georgia, to the integrity of our own body, and to the country.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. HATCH. Let me finish, please, and then I will yield.

Mr. SCHMITT. I am sorry. I thought the Senator completed.

Mr. HATCH. I am extremely concerned about this matter, in particular about the wisdom of "denouncing" an individual in the present manner solely on the basis of a finding of negligence. It is an extremely dubious standard for justifying the recommendations of the committee.

Mr. President, I yield the floor.

Mr. SCHMITT. Mr. President, I rise hesitantly at this point but in defense of the committee. In the interest of fairness, the committee did consider a very broad range of evidence on both sides of the issue and some evidence which bore on neither side of the issue. That is one of the advantages, I think, that we have in dealing with this matter in the Senate, and as much as I admire and generally agree with the analysis by the Senator from Missouri of the problems that the committee faced I have not yet, in my own mind, figured out a way in which we can do this without the Senate at some point getting as deeply involved in this kind of issue as we did get. But that is a debate for another time.

In reply to my distinguished colleague and good friend from Utah, he should recognize that the resolution reported by the committee is based on stipulated fact.

Mr. HATCH. I do.

Mr. SCHMITT. Therefore, the resolution does not go beyond what was agreed to be true fact.

We may argue about the degree of the punishment. But the resolution is couched in findings of stipulated fact. The Senator from New Mexico felt there was more there than just that but that issue has passed. No additional views state that in as accurate and precise a way as I can. I think it would be a mistake for the record to indicate that there is any doubt about the facts that were considered by the committee as relevant to this resolution. We can continue to debate and will, I am sure, the resolution itself and its conclusion. The facts are stipulated.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on adoption of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, today the Senate had a very serious, but not a very pleasant, responsibility of dealing with alleged improprieties by one of its Members, the senior Senator from Georgia, HERMAN TALMADGE.

Senator TALMADGE is now and long has been one of my closest personal friends in the Senate. He was elected to the Senate 2 years after I began representing South Carolina in this body. By his service over a period spanning more than two decades, he has shown that he is a man of capacity, great dedication, and vision. Few who now serve in the Senate, or who have ever served in this body, can rival Senator TALMADGE in the diligence and the vigor in which he has pursued his senatorial responsibilities. His reputation as a hard worker and as a Senator who expresses personal concern for the individual problems of his constituents is well deserved.

Senator TALMADGE is a sound, conservative thinker, who has stood for fiscal responsibility and in opposition to the growth of Federal bureaucratic regulation that tends to stifle free enterprise. As chairman of the Senate Agriculture, Nutrition, and Forestry Committee, he has been attentive to the concerns of both farmers and consumers. His broad knowledge and understanding of agriculture and forestry are valued by American farmers, who rightfully consider him their friend. He is an acknowledged expert on international trade matters, especially agricultural and trade issues.

Mr. President, I have carefully followed the investigation of the Senate Select Committee on Ethics into the various financial transactions involving Senator TALMADGE which have been called into question. I congratulate the chairman and members of the Ethics Committee for the thoroughness on which they have carried out their responsibilities under the Senate Ethics Code, which I helped write.

There have been many charges and countercharges regarding various abuses and misuses of taxpayer funds by Senator TALMADGE. The Senator has admitted that he probably was negligent in attending to his expense vouchers and campaign accounts. On the other hand, Senator TALMADGE has steadfastly denied any willful or intentional wrongdoing on his part, and the Ethics Committee has found none. The committee has, however, found that the Senator was guilty of "gross neglect of his duty to faithfully and carefully administer the affairs of his office," and has recommended that he be "denounced."

Mr. President, in light of the committee's recommendations, I think it only fair to Senator TALMADGE to point out to the Senate that his chief accuser pleaded guilty to a Federal offense of filing false expense vouchers and admitted before the Ethics Committee that he lied about a number of matters. As I see the issue before the Senate, the question is whether we should believe Senator TALMADGE or his chief accuser, a convicted felon and an admitted liar. Since there was no finding of willfulness on the part of Senator TALMADGE, and since complete restitution has been or will be made, I personally believe that the committee's recommendation of punitive action is more severe than the evidence warrants.

Mr. President, with the disposition of this resolution, it is my hope that this matter will be put to rest. Senator TALMADGE has been through a very trying personal ordeal that has severely strained his mental and physical well-being. I feel it is his desire to learn from his mistakes, put this matter behind him, and get on with the job of ably representing the people of Georgia whom he was elected to serve.

Mr. President, I was impressed with the questions propounded by the able Senator from Mississippi (Mr. STENNIS) in which he questioned the chairman of the Ethics Committee regarding the language on page 2 of the resolution, I believe, where it is alleged "Whereas Senator TALMADGE failed to sign, as required by law, and properly supervise the preparation of all the aforesaid vouchers." I believe the chairman's answer was that there was no evidence to show that Senator TALMADGE willfully failed to sign the vouchers in question.

And in regard to the next paragraph, "Whereas the financial disclosure reports required to be filed by Senator TALMADGE under Senate rules for each of the years 1972 through 1977 were inaccurate," I believe the chairman said there was no evidence to show that he willfully filed false disclosure statements.

And in reference to the next paragraph, "Whereas Senator TALMADGE failed to file in a timely fashion the candidate's receipts * * *," and made inaccurate reports that were filed pursuant to the dates mentioned in the resolution, my recollection was that the chairman answered that there was no evidence to show willfulness there.

I ask the chairman if that is correct?

Mr. STEVENSON. Mr. President, in response to the questions from the Senator from Mississippi, I acknowledged that the committee had made no specific finding of the Senator's knowledge with respect to the allegations mentioned. I did not say that there was no evidence with respect to such knowledge.

Mr. THURMOND. I ask the chairman, was there evidence to show willful, intentional acts in this matter or did the committee, as I understand, hold that the Senator was negligent in handling those matters?

Mr. STEVENSON. The Senator in his question now refers to many allegations, many different factual situations, and in those situations the evidence was received which could lead to a variety of differing conclusions.

The committee did not conclude, as I mentioned before, that there was knowledge. It concluded that the Senator knew or should have known, and I cannot go beyond what I have said, which is to say that the committee did not find that there was no evidence with respect to any of these allegations as to knowledge.

That is a matter for other agencies, and I believe all of the Members felt that that did not require a specific finding by this committee.

Mr. THURMOND. Mr. President, I

think that corroborates the statement I made that the committee found the Senator was merely negligent in these matters——

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. THURMOND [continuing]. That the committee did not find, at least the report does not show, that there was willfulness here.

Now I am just wondering, and most of you in this body are lawyers, do you think if you went into court with a case of this kind that the judge would charge the jury that a man be held responsible for acts such as those alleged here unless there was willfulness? Willfulness means that the conduct was intentional. Anyone can make mistakes. The Senator from Georgia said he made a mistake. He admits he made a mistake. He admits he filed inaccurate reports, or that they were filed for him, as the case may be.

On the other hand, if the actions were not intentional, if they were not willful, if he was simply negligent (which he should not have been), but if he was simply negligent, then there is a great deal of difference in regard to the punitive action that the Senate should take, because there is an intent in one case and no intent in the other case. There is a motive in one case and there is not in the other case.

As I understand the situation, Senator TALMADGE, having had it called to his attention that erroneous amounts were received, has returned or is willing to return those amounts to the Treasury.

I will be glad to yield to the distinguished Senator from New Mexico.

Mr. SCHMITT. I would just for purposes of clarification say to the Senator from South Carolina that the committee early in its investigation considered what standard of evidence to adopt in determining whether the evidence represented true facts. We determined, after some debate, to use a clear and convincing standard instead of a reasonable doubt standard. Now, being a nonlawyer, I did not really know the distinction we had made at that time. I think I understand the distinction now.

We did consider a great deal of evidence, and although the committee as a whole did not determine that there was clear and convincing evidence of knowledge or willfulness, nevertheless, in my additional views I tried to outline in a factual way the evidence that we did consider that at least could be interpreted, and was by this Senator, as being clear and convincing on that matter. But it was not of the same level, and I would not pretend it would be on the same level, of assurance of fact that would be required before a court for a criminal misconduct in which willfulness or knowledge would be implied. A reasonable doubt standard would have to be applied to that evidence.

The committee, however, did agree unanimously to refer the evidence and certain other matters to the Department of Justice where it will be presumed that they will determine whether there is evidence that could be supported on a reasonable doubt basis for further proceedings.

That basically now is in the hands of the Department of Justice since the committee itself does not have jurisdiction in criminal matters, and the committee could not make a final determination of the nature of the evidence that was before us.

But I think it is important that the committee was persuaded enough by the evidence to include in the resolution the phrase "knew, or should have known." If there was no credible evidence whatsoever on the question of the Senator's knowledge I think that phrase would not have been included in the resolution. The committee did find that there was sufficient credible evidence, and that that phrase should be included.

I thank the Senator for yielding.

Mr. THURMOND. Mr. President, taking the view of the distinguished Senator from New Mexico, this is certainly a close question. Now, the question is whether you are going to denounce a man here who has been here for 24 years, a man who has served his constituents well, a man in whom his constituents have full confidence, a man who runs next year—and if his constituents feel he has done wrong, they will have a chance to correct it.

I can hear some say, "Well, that is not the point here." But the committee has only found him negligent. They have not found that he intentionally or willfully did these things.

Anyone can make a mistake. I dare say there is not a Senator in this Chamber today who has not made a mistake on his income tax. I am sure I must have made some. I have done the best I could to be as accurate as I could, but I doubt if there is a Senator here who has not made a mistake sometime, somewhere, if he looks back. Not that he did it intentionally, but it just happened. In other words, he made an accidental error.

That is what the Senator from Georgia has done. I do not try to defend him for that. He made a mistake, but he admits he made a mistake. Are we now going to condemn him? Are we going to denounce him? Are we going to send him home denounced, or are we going to accept the fact that, as the committee said, he was negligent? The resolution does not say the conduct was willful, intentional. Are we going to acknowledge Senator TALMADGE's good work in this body at all? In any kind of a tribunal I think you always acknowledge a man's past record, which is certainly relevant to any kind of punitive action that may be taken against him.

It seems to me here that the evidence is not strong enough, the evidence is not convincing enough, to denounce this man. The evidence is not so convincing that we are going to say to him, "We do not need people here like you. We are going to denounce you," because, in effect, when you denounce a Senator, it carries a very strong negative, punitive implication, to my way of thinking.

So, it seems to me, that accepting the committee's own statements, accepting what they say of there being negligence, but there not being sufficient evidence of willfulness or intentional behavior to defraud or to cheat the Government, and in light of the fact that the mistake has been or will be corrected, and any funds received erroneously have been or will be repaid, it seems to me that assuring complete restitution would be sufficient in this particular case.

Mr. HOLLINGS. Mr. President, I want to try to bring some perspective to our friend HERMAN TALMADGE's contributions as a public servant. Through his more than 22 years of service in this body, HERMAN TALMADGE has compiled a record of true accomplishment and distinction, and now that we have all the headlines of the recent controversy behind us, he will continue to work as one of the most influential and productive Members of the Senate.

Across the gamut of public policy, our respected colleague from Georgia has made a record both tangible and far seeing. Most of the country knows him best for his contributions to the well-being of our Nation's system of agriculture, and surely he has no peer when it comes to knowing the needs and understanding the problems of America's farmers and their families.

But if farm policy is his major fame, his Senate colleagues appreciate that his influence has extended to all aspects of national endeavor. Just now, he is working for passage of important energy legislation emphasizing the development of renewable resources. He has always been vitally interested in health policy, and as our good friend, the senior Senator from Louisiana, will tell you, his work as chairman of the Health Subcommittee has been of tremendous importance.

On that Finance Committee, Senator TALMADGE continues to stress the need for more disciplined Government finance. There are a lot of born-again budget balancers in the Congress these days, but HERMAN TALMADGE has been dedicated to the precepts of balanced budgets and sound financing since his first days in public service in the mid-1940's.

He and I have worked closely and often on problems confronting our American textile and apparel workers, the largest manufacturing work force in the country today.

Mr. President, I could go on at great length discussing all the policy fields and enumerating the contributions this man had made, is making, and will continue to make. But let me instead direct a few brief comments to the way HERMAN TALMADGE goes about his work.

I have had the opportunity for some 13 years now to observe him day in, day out, close up. I do not know of anyone who does his homework more thoroughly, who when he speaks has so mastered the details and intricacies of what he is discussing, and who brings better judgment to his job. His approach is calm, it is thorough, and when he has something to say, his colleagues stop to listen. There are those with great native ability; there are others with great zeal. The Senator from Georgia has both those qualities—a penetrating intelligence, and the commitment and dedication to make the job he does the very best job possible.

Mr. President, these have not been easy months for our friend from Georgia—they have not been easy for the U.S. Senate. But today, with its action, the Senate is closing its books on this controversy, and turning to the many vital problems confronting this land of ours. To overcome the challenges we face will require the hard work and measured good judgment of each Member of this body. And for that difficult work which lies ahead, I do not know of anyone better able and better suited to stand in a position of leadership than the distinguished Senator from Georgia. I am proud of the work he has done for his State and for our country. And I am proud to have him as a friend and colleague.

Mr. President, at this time I would like to associate myself with the misgivings described by my senior colleague, Senator THURMOND. I do so very advisedly.

Obviously, this is a problem for us all. I listened to the distinguished Senator from Missouri who pointed out, as we all would point out, our gratitude to the members of the Ethics Committee for a thankless task. There is no question about that.

The distinguished majority leader, if I remember correctly, approached me to serve on the committee, and I told him I was prejudiced. I would find for HERMAN. They would have to have all kinds of testimony before I would ever believe as ragged a group of witnesses as they had, that I would not believe any of them, so I told him that he had better not put me on that committee.

But that, of course, does not reflect on those six distinguished Senators who did serve and did work around the clock and search their consciences to do the right thing.

The Senator from Missouri admitted that, but then it disturbed him about the actual system, not just the time taken, but the way that the job, under the procedure, Mr. Majority Leader, was to be done.

Listening this afternoon it is very, very much like the SALT II hearings. SALT II has been submitted for disarmament. But, one common message we have all received, having listened to all the witnesses—whether it is the chairman of the Joint Chiefs of Staff asking for a 5-percent increase in defense spending, whether it is the Secretary of State, whether it is the Brookings Institution, or the Rand Whiz Kids, whether it is the Russian historians—all to a man have said one thing: Whether or not you approve SALT II we had better rearm.

This afternoon, listening to the committee members—the distinguished Senator from North Carolina, the distinguished Senator from Illinois, the distinguished Senator from New Mexico, and others on the committee—there is one message that comes through loud and clear to this particular Senator: That this is an imperfect way to do it.

It bothers them. It certainly bothers me. If they were the judge and the jury and the investigator and all these other things, and if we are the Supreme Court, then this is one justice who would have to say "Not sustained," just on the basis of the testimony or statements of the very individuals involved.

That is not to say that they did not vote, and vote unanimously, for the reprimand, or denunciation. I know the gentleman discussed what word to use at length, and they did save my good friend from censure and instead recommended that he be denounced.

There is shown, even in that particular exercise, a misgiving, as the senior Senator from South Carolina has just stated.

Let me put it this way: When I got elected speaker pro tem back in 1951 in South Carolina, I went with then Gov. James F. Byrnes, who had served in the U.S. Senate, to Atlanta, Ga., to see HERMAN TALMADGE sworn in, and talked to the House of Representatives over in Atlanta.

We struck up a friendship with HERMAN and Betty, and even Miss Mitt, his mother, who still lives today, and I have entertained them many times over in South Carolina. Betty was selling her hams, HERMAN was making talks for us, and we all became good friends. And as public servants, HERMAN and I worked together on many, many things.

Of course, it is a terrible thing to see a loving couple break apart. It is even worse to make that the subject of an ethics hearing, because what does it do? It brings in former staff members and former partners in wedlock testifying against each other, and asking us, the Senators, to rule on it. It leaves out the fact, I am convinced, that the neglect that the Senator has admitted to came about in a time when our good friend was under tremendous personal pressure and when, he has told us, he sought treatment for an alcohol problem. You just cannot stay on top of things with all that personal pressure. The people of Georgia know this. The people of Georgia know HERMAN TALMADGE is no crook. They know he is ethical. I want to tell everybody that, because all the people of Georgia—young and old, supporters and opponents—know it to be true.

I am convinced that the Ethics Committee did the best it could under the circumstances. But, Mr. Leader, this procedure bothers me, and particularly the procedure of leaking bothers me. Jefferson was right in saying if he had to choose between a free government and a free press, he would choose the latter, to keep us all honest and ethical. But this selective leaking and looking for a headline distorts what Jefferson had in mind. And as regards all that testimony that came out, different Senators used different standards in weighing the evidence. So there is much that has bothered me.

I just happen to know the man, and I have watched him not only over the 18 months of hearings, but over the years. I know his record. I know his financial conditions. And I never would believe any accusation that he squirreled away thousands of dollars in an overcoat, or anything of the kind. I do not care how many witnesses said that; you could bring out half of the Senate on this side or half of the Senate on the other, and I would still refuse to believe it. Maybe I have to admit to that degree of prejudice, and my colleagues ought to understand it—I cannot conscientiously believe it, with all respect to everybody.

Mr. MORGAN. Mr. President, I rise for the purpose of stating my views concerning the charges, the evidence and the findings against the senior Senator from the State of Georgia. Although the report was unanimously approved by the members of the committee, one of the members holds an interpretation of the evidence which differs from the conclusion of the other five members. He has, of course, every right to append his own opinion to the report, and he has done so. Because of this divergent view, I feel obligated to reaffirm the basis for the committee's decision.

The committee has adopted an integrated view of the evidence after listening to 36 witnesses during 29 days of public hearings. It is remarkable that any group of men could reach the same conclusions from such a mass of testimony and exhibits, much of it conflicting. But we did. And the consensus we reached is a testimonial to the legal and diplomatic skills of our very able chairman, ADLAI STEVENSON. In the most trying circumstances, he demonstrated, time after time, the wisdom of this body and of our leadership in appointing him to the chair. It was his depth of knowledge of the law and of the procedures and customs of the Senate, and the breadth of his understanding of human relationships, which kept us—the members, counsel and witnesses—on track. We are all indebted to Chairman STEVENSON for his managership of this difficult problem and he deserves to be highly commended.

The committee, by unanimous vote, has found that Senator TALMADGE was responsible for the financial mismanagement which occurred within his office as a result of "gross neglect of his duty to faithfully and carefully administer the affairs of his office." The use of the term "neglect" is a clear declaration by the committee that Senator TALMADGE's acts and omissions were not intentional—they were not willful.

There was no clear and convincing evidence that Senator TALMADGE had actual knowledge that employees of his office were filing Senate vouchers for reimbursements in amounts greater than actual expenses incurred, nor that he knew Daniel Minchew was using campaign contributions for personal purposes.

But because there was conflicting evidence on the issue of actual knowledge—there was extensive testimony from Minchew—and in order to accommodate a divergent view within its membership, the committee included in its resolution a phrase well known in law which puts the conclusion in the alternative. That is, because of the uncertainty of the evidence, the committee could not say that Senator TALMADGE "knew" of these things. The committee could only say that he "either"—and I emphasize the word "either"—"knew, or should have known" of these things.

After months of hearing and studying the evidence, the committee could not say unequivocally that he "knew." But had he exercised a higher degree of care, he could have learned of these improprieties, and his failure to exercise that care translates to negligence. It is for this reason that the committee recommends he be denounced. It is, in my judgment, the lack of intention, the lack of willfulness and the lack of actual knowledge which resulted in the committee's rejection of the words "censure" or "condemn."

In several instances during the course of this proceeding, I have been accused by the press of a biased view in favor of Senator TALMADGE. That is not true. If it is meant that I am not capable of impartial judgment because of our relationship as colleagues in the Senate, it is unfair and I categorically reject any such notion. I know that by expressing my views today, I am again subjecting myself to a charge that I am a defender of Senator TALMADGE.

But in the interest of justice, I am willing to take that risk. I cannot remain quiet if the record is to become clouded with misinterpretations.

For anyone who is interested in the facts it should be obvious that Senator TALMADGE and I have not been close friends. We have had only occasional contact within the Senate and I have previously explained in full the isolated and brief instance in which he spoke in my behalf during my 1974 campaign. The Senate is constitutionally required to be the judge of its own Members' qualifications, and because our numbers are so limited there cannot be an ethics panel which has no background of relationship with other Senators. But when sitting in judgment of our peers, we are obligated to reach conclusions on the evidence by means of objective standards, setting aside any feelings of friendship, or possibly even animosity, we may have for the one who stands accused.

My conscience is clear that I have fulfilled this obligation, and my sole concern is to insure that the carefully drawn, objective conclusions of the committee are correctly understood by the Senate, by the press which will report these proceedings, and ultimately by the American people.

The Senator from New Mexico (Mr. SCHMITT) has devoted considerable effort to an attempt to show Senator TALMADGE had contemporaneous knowledge of the improprieties. I am convinced the evidence does not support such a conclusion. While I do not intend to take the time for an exhaustive review, I do want to explain some of the most telling points of evidence which persuaded me to conclude Senator TALMADGE has not been guilty of intentional misconduct. Bear in mind that the standard of proof agreed upon by the committee was that the evidence would have to be "clear and convincing" in order to find the respondent culpable: It is then by this standard that all fair-minded people must judge the committee's decisions and thus the respondent.

We must begin by completely rejecting the testimony of Daniel Minchew, who served as Senator TALMADGE's administrative assistant from 1971 to 1974. Because Minchew's truthfulness has been so extensively impugned, we must separate in our minds all we have heard from him or all we might have read about his accusations.

It is unfortunate that the words of a man so thoroughly discredited have been given such widespread publicity by the press.

It has been proven that Minchew lied to the FBI; he lied to the polygraph examiners; he lied to Ethics Committee investigators; he lied to his bankers; he lied to the Federal Elections Commission; he cheated on his income tax returns; he deceived his real estate partner; and he appropriated for his own use thousands of dollars contributed to Senator TALMADGE's reelection campaign. There is no sense in attaching the slightest credence to anything he has said, and the committee has wisely followed this course.

Let us consider, with reference to the charge of over-reimbursements, the substantial evidence of conduct on the part of Senator TALMADGE and his staff which is not consistent with intentional misconduct.

First. Senator TALMADGE made no attempt to restrict or limit the attendance at his office conferences on June 13 and 14, 1978, where the problems of alleged over-reimbursements and accompanying publicity were discussed. There was a wideranging discussion among numerous staff and attorneys. Even Minchew was present.

Second. Senator TALMADGE immediately ordered a stringent audit of his accounts, directing that all doubts be resolved against him.

Third. Senator TALMADGE promptly reported the suspicious circumstances to the Department of Justice.

Fourth. Senator TALMADGE's administrative aide who succeeded Minchew, Rogers Wade, discovered in 1976, or possibly as late as 1978, that there had been overreimbursements. Wade testified he did not discuss this with Senator TALMADGE, but Wade did revise the office system to "drastically reduce the excessive claims," as acknowledged in the additional views of Senator SCHMITT.

Although Wade's discovery is used by Senator SCHMITT as evidence that Senator TALMADGE must have had early knowledge of the overreimbursements, it seems more reasonable to conclude that Wade's conduct and that of the financial secretary, Allyne Tisdale in correcting the system internally was not that of one who had been involved in an office conspiracy to overcharge the Senate. If Wade or Tisdale had been conspirators, why would they revise the system? If Senator TALMADGE had been a party to Minchew's scheme of overcharging the Senate, would he not have endeavored to school or encourage Wade in the same techniques?

Fifth. It is crucial to Senator SCHMITT's conclusions that Allyne Tisdale, Senator TALMADGE's financial secretary, was in league with Minchew. If she was, then for various reasons, including questioned documents Q1 and Q2, it is easier to impute guilty knowledge to Senator TALMADGE. Senator SCHMITT has adopted committee counsel's theory that Tisdale knew of the overreimbursements, including the two Senate checks deposited by Minchew in the Riggs account, and thus, according to committee special counsel, Senator TALMADGE must have known.

But consider that on June 14, 1978, following Senator TALMADGE's meeting with his advisers, Minchew found it necessary to point out to Tisdale that bank deposit records, presumably of the legitimate checking account, would differ from Senate records; that is, Disbursing Office reimbursements to Senator TALMADGE.

The text of Minchew's message to Tisdale makes it crystal clear that Tisdale did not have prior knowledge:

> Check 73-74 Senate Records. They should be different from deposits. Let's not talk details over the phone—but maybe the figures would be OK.

Clearly Minchew knew facts not known to Tisdale. He was giving her some information in an effort to help her resolve the discrepancy then becoming apparent. It was becoming evident to Minchew that the audit ordered by Senator TALMADGE would uncover his defalcations, and he was making one last effort to avoid an audit by enabling Tisdale to make an internal reconciliation. Had Tisdale known of Minchew's conversion of the Senate checks, this note from Minchew would have been unnecessary.

From this it can only be concluded that Tisdale did not have prior knowledge of overreimbursements or of the secret Riggs account, and thus no such knowledge can be imputed to Senator TALMADGE.

Sixth. The Senate disbursements to Senator TALMADGE for office expenses was a matter of official record. Placing the funds in a secret account could not make the disbursements secret. The use made of the funds is immaterial. The concept of the disbursement is that it is for expenses already incurred, and the recipient can do as he wishes with the reimbursement—even spend it on groceries if he chooses.

Thus, there is no reason for Senator TALMADGE to be a party to the concealment of funds which, in the first instance, belonged to him.

In addition, the uncertainty of Senate standards and procedures for claiming home office reimbursement must be taken into account in judging Senator TALMADGE's conduct. There seems to be wide agreement that the guidelines were inadequate. The committee concluded that—

> A great deal of confusion exists on the part of Senators and members of their staffs as to what constitutes an official expense for which reimbursement may be received.

Even Senator SCHMITT expressed the hope for a speedy definition of "official expenses." How can one of our colleagues be held to a strict standard of performance when our own organic procedures have contributed to the confusion?

The second charge of serious proportion is that Senator TALMADGE was responsible for noncampaign use of campaign contributions. These are the funds which Minchew deposited and withdrew from the secret Riggs account. While the committee, again, could not find knowledge and willfulness on the part of Senator TALMADGE, Senator SCHMITT has insisted that the evidence shows "Senator TALMADGE knew that some campaign funds were being diverted." I feel obliged therefore to mention some significant facts which led me to the opposite result.

First. There was no secret bank account before Minchew opened the one at Riggs in July 1973. There was no activity in this account after 1974 when Minchew left Senator TALMADGE's employ.

Second. Not a single transaction in the secret account was accomplished by the personal, genuine, signature of Senator TALMADGE. The numerous documents—deposits, withdrawals, endorsements—were all written by Minchew.

Third. Documentation which would have corroborated Minchew, and which Minchew said had existed, could not be produced. He said he had received a note from Senator TALMADGE stating a need for money for Mrs. Talmadge. Although Minchew had boxes full of documents he had removed from the Talmadge office, he could not furnish this note. Nor could he produce a note he said he had received from Bobby Talmadge asking for money.

Fourth. Aside from Senator TALMADGE's sworn denials of Minchew's claim that he gave campaign money to Senator TALMADGE, Mrs. Herman Talmadge and Mrs. Bobby Talmadge have contradicted Minchew's testimony that he gave large sums to each of them.

Fifth. There was a striking lack of specificity in Minchew's recollections of his conversations with Senator TALMADGE concerning the opening and use of the secret account. He told the committee about such conversations in vague and general terms.

Sixth. No evidence was presented concerning the financial condition or status of assets of Bobby Talmadge for the period during which he allegedly received funds from Minchew. If Bobby Talmadge had received $13,000 to $15,000 from Minchew, his financial picture should have given some indication of such. The lack of evidence in this regard must be interpreted in favor of the respondent.

Seventh. It is inconceivable that a man reputed to live as frugally as does Senator TALMADGE would give an employee carte blanche use of the proceeds of two vouchers totaling $12,000. Minchew had deposited these funds in the secret account, and he told the committee that he used funds from the secret account to reimburse himself for expenditures on Senator TALMADGE's behalf. In the words of Minchew, Senator TALMADGE told him to "take care of yourself." It is obvious from Minchew's proven and documented thefts from this account—to the extent of at least $18,000—that Senator TALMADGE never reviewed any documentation of activity on this account. It is beyond belief that he would permit such thievery, or that he would give Minchew such unbridled authority over such large sums.

Eighth. Although Senator SCHMITT concludes that "Senator TALMADGE knew of campaign funds being diverted," he acknowledges that the evidence does not establish that Senator TALMADGE knew of the secret Riggs account. If Senator TALMADGE was a coconspirator with Minchew in converting campaign funds to personal use, why would Senator TALMADGE also not have known of the bank account?

Why would knowledge of this mechanism in the scheme have been withheld from Senator TALMADGE by Minchew? It defies reason to contend that he conspired with Minchew in illegal use of campaign funds, but did not know how Minchew did it. I raise this line of reasoning because Senator TALMADGE did not know of the secret account, and, therefore, he could not have been a conspirator with Minchew in any degree. If Senator TALMADGE had known of the secret account, his knowledge would have stemmed from Minchew. And the unchallenged conclusion of an FBI polygraph examination of Minchew is that Minchew lied repeatedly in saying that Senator TALMADGE, in several ways, knew of the secret account.

During a polygraph examination by the FBI on January 11, 1979, the FBI examiners concluded Minchew was being deceptive when he answered "no" to the following questions:

1. Did you lie when you said you showed Talmadge monthly statements from the secret account?
2. Did you lie when you said you discussed the opening of the secret account with Talmadge?
3. Did you lie when you said Talmadge knew that campaign contributions were deposited in the secret account?
4. Did you lie when you said Talmadge knew the $5,000 ADEPT contribution was deposited in the secret account?

Thus, Minchew is said to be lying on the specific questions of respondent's knowledge of the Riggs account.

Moreover, when Minchew was questioned again during a second polygraph examination by the FBI on January 22, he was asked one question, among others, which had been composed with the assistance of an independent polygrapher, Mr. Malinowski, which was:

> Have you been untruthful when you said Talmadge knew about that secret account at the Riggs bank?

The FBI concluded Minchew was deceptive when he answered "no" to this question. Although Malinowski had asked Minchew a nearly identical question when he had polygraphed Minchew on December 21, 1978, and had then expressed the opinion that Minchew was truthful when he answered "no," nevertheless, on January 22, Malinowski agreed with the FBI conclusion that Minchew was being deceptive in his answer to this question.

Polygraph interpretations are, of course, somewhat subjective evaluations of body functions and are not absolutely and unequivocally trustworthy. Though not conclusive, in and of themselves, they have some probative value and are worthy of consideration along with all other evidence.

Minchew was examined again under polygraph by another independent expert, Mr. Weir, on April 4, 1979. For some unknown reason, Minchew was not asked any questions concerning Senator TALMADGE's knowledge.

Weir was selected by Minchew's counsel and the polygraph questions were supplied to Weir by Minchew's counsel. Minchew was found to be truthful in saying he had given cash to respondent from the Riggs account on two occasions—at the Embassy Row Hotel and in respondent's office. He was also found to be truthful in saying that he and Tisdale worked together in converting campaign funds to cash for respondent's personal use.

None of these questions or answers includes, or implies, knowledge by respondent of the source of the funds. When read together with the FBI questions, they would seem to say that even if respondent received cash from Minchew, he did not know it was illicitly derived.

Even if there was sufficient credible evidence, clear and convincing, that respondent received cash from Minchew, it would fall far short of clear and convincing proof that he knew that it came from some illicit source.

Much has been said in committee hearings and discussions, as well as in reports and briefs of counsel, concerning circumstantial versus direct evidence which is available. We are all quite conscious of the relative value of the two very different kinds of evidence. It is well known that acts may be proven by circumstantial evidence. There is, however, a natural tendency, supported in law, to view circumstantial evidence with a more jaundiced eye than that with which direct evidence is viewed. Customarily, in the absence of direct evidence, we feel there must be a considerable quantum of circumstantial evidence to make up for the lack of direct. While there are no precise measurements for these balancing feats which we perform in the private recesses of our minds, we must acknowledge they occur.

Most of us are familiar with the traditional example of the difference between direct and circumstantial evidence. If a witness sees a person break a jewelry store window and remove a necklace from the showcase, the testimony of this witness upon the trial of that person for burglary is direct evidence and sufficient for conviction. If the window was broken while the witness was still around the corner and out of sight of the jewelry store, but upon rounding the corner the witness saw a person running from the store, the testimony of the witness upon the trial of that person for burglary is circumstantial.

Because of the possibility that the defendant might have been an innocent passer-by, who became frightened when the real burglar broke the window, the testimony of this witness standing alone should be insufficient for conviction—the criminal standard of proof being beyond a reasonable doubt. But now if, in addition, the witness saw a necklace in the hand of the person running from the store, there is further circumstantial evidence of guilt and probably enough for conviction in the absence of some plausible explanation by the defendant.

A whole series of circumstantial elements could be conceived for the purpose of illustration. There could be testimony that the defendant tried to sell the necklace at a greatly reduced price. That is circumstantial evidence.

Conceivably, the defendant could prove that the necklace was purchased by him. There could be testimony that the defendant's fingerprints were found in the showcase. That is circumstantial evidence.

Conceivably, the defendant could prove that he was in the store on some recent occasion and had touched the showcase. There is a point in the accumulation of even circumstantial evidence where reason tells us the likelihood of innocence is too slender and the probability of guilt is strong—where we finally feel there can no longer be any reasonable doubt of guilt.

Consider for a moment whether in the case concerning respondent there is any evidence, or possibility of evidence, which even though circumstantial, would be so unequivocal by its existence—or by its absence—that reasonable men would have to agree that the likelihood of guilt—or innocence—is overwhelming; evidence so persuasive that reasonable men would have to agree that it is clear and convincing of guilt, or that it does not meet the standard.

The evidence, or possibility of evidence, which I have in mind is fingerprint evidence. If it could be shown that respondents' fingerprints were found on monthly statements of the secret Riggs bank account, the likelihood of some innocent explanation would be so remote that we would feel no reluctance to find the respondent had actual knowledge of the account.

If it could be shown that respondent's fingerprints were found on the travelers checks which Minchew said were given personally to respondent by the donor—Schramm—then respondent's testimony that he had not seen the checks would be impeached and his involvement in the scenario appearing on the controversial document known as Q–1 would be tightly woven.

If it could be shown that respondent's fingerprints were found on Q–1 and Q–2, said by Minchew to have been handed by him to respondent in their dawn meeting on June 14, then we would have solid evidence respondent has lied, and reason to believe he is concealing a significant element of his meeting with Minchew.

If it could be shown that respondent's fingerprints were found on one or more of the $100 bills which Mrs. Talmadge said she found in respondent's overcoat, then, although it would still not establish proof of his knowledge of the Riggs account, it would prove he handled the bills, corroborate Mrs. Talmadge, and discredit respondent's sworn testimony.

If all, or several, of these postulates materialized, they would constitute clear and convincing evidence of respondent's guilty knowledge.

On the contrary, what if respondent's fingerprints could not be found on any of these documents? If the documents were actually examined, and found to be devoid of his fingerprints, would that circumstance mean he could not be guilty? Not absolutely, but the possibility of guilt would be slim, and it would seriously detract from the weight of any other circumstantial evidence. I recognize, of course, the possibility that under exceptional environmental conditions, a finger touching a piece of paper might not leave a distinguishable mark, or might be indistinguishable due to overlay of other prints. But the probability of identifying a print from a document touched by a human finger is scientifically established.

Certainly, it is arguable that respondent could have known of the Riggs account without ever having handled the bank statements. But Minchew said he did handle them. The absence of his fingerprints then would constitute not only further proof of lying by Minchew, but positive corroboration of respondent's testimony.

It is also arguable that respondent could have known Schramm delivered the travelers checks and that Minchew cashed them—for respondent's personal use—without respondent ever having handled the checks. But Minchew said he did. The absence of his fingerprints then would constitute not only further proof of lying by Minchew, but positive corroboration of respondent's testimony that he didn't know Schramm had delivered the checks.

It is arguable that respondent could have had contemporaneous knowledge of the circumstances described in Q1, whether or not his fingerprints are on Q1; that if his fingerprints are not on Q1, it proves only that he did not see the document before it was shown to him by his attorney, as he claims. But in that event, Minchew is again proved lying, and respondent corroborated.

Could respondent have placed the 77 $100 bills in his overcoat without leaving any fingerprints on them? It is not likely. If his fingerprints cannot be found on any of the bills, he is corroborated in denying knowledge of the bills.

No fingerprint evidence, however, has been presented. We know, of course, that Minchew alleges the bank statements cannot be found. This seems highly unusual, considering his personal habits and the mass of other documents he kept. Since they were admittedly in Minchew's possession, a presumption should be made that he has failed to produce them because they would weigh against him—perhaps in the realm of fingerprints.

Similarly, Minchew says he is unable to locate another key document which, if it ever existed, would bear respondent's prints; the note concerning money for Mrs. Talmadge which Minchew says he was given by respondent.

But other documents are available, or could have been available for fingerprint examination: The travelers checks, Q1 and Q2, and the $100 bills.

In conclusion, Mr. President, in deciding whether Senator TALMADGE is to be believed when he swears under solemn oath that he had no actual, contemporaneous knowledge of the over-reimbursements from the Senate or of the conversion of campaign funds, his prior reputation, as that of any defendant, must be taken into account.

Senator TALMADGE has served with distinction in the U.S. Senate since 1957. Prior to coming to the Senate, he served the State of Georgia as Governor from 1948 until 1955. During his many years of public service to his State and Nation, there has not been any hint of a breach of the public trust.

Indeed, even his staunchest political foe has vouched for his honesty and integrity. All witnesses who testified before the committee, except Mr. Minchew, whose own testimony was thoroughly discredited, testified that the Senator's reputation for honesty and integrity was excellent.

For example, former Gov. Ellis Arnall of Georgia, long a political foe of the Talmadge family and of Senator TALMADGE in particular, told the committee of his "bitter and acrimonious" political battle with Senator TALMADGE over the Georgia governorship. In spite of years of political controversy between himself and Senator TALMADGE, Governor Arnall testified that:

> Senator HERMAN TALMADGE is a man of good personal reputation, good personal repute, good personal character and impeccable personal integrity.

Senator TALMADGE's long standing reputation for honesty and veracity must be weighed in the balance with all other evidence in assessing whether his misconduct in the present circumstances was intentional, and whether he has told the truth when testifying before the committee. The U.S. Supreme Court has consistently held that testimony of good character is relevant in resolving probabilities of guilt. Such testimony alone, the Court has said, may be enough to raise a reasonable doubt of guilt. *Michelson* v. *U.S.*, 335 U.S. 469.

The conclusion I have drawn in weighing all of the evidence before the committee is that the improprieties which occurred in Senator TALMADGE's office were the result of his negligence, not any willingness on his part. I believe this is the message which the committee resolution and report are intended to convey, and I urge their acceptance by my colleagues.

Mr. President, I ask unanimous consent that my statement be printed in the RECORD prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER (Mr. EXON). The question is on agreeing to the resolution. The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—81

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel

Hart
Hatfield
Heflin
Heinz
Helms
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—15

Hatch
Hayakawa
Hollings
Inouye
Laxalt
Long
McClure
Melcher
Ribicoff
Sasser
Stennis
Stevens
Thurmond
Williams
Young

ANSWERED "PRESENT"—4

Huddleston
McGovern
Nunn
Talmadge

So the resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas from January 1, 1973, through June 30, 1978, fifteen vouchers were submitted to the Senate in the name of Senator Herman Talmadge which claimed and recovered Senate reimbursements in the aggregate amount of $43,435.83 for official expenses which were not incurred ($37,125.90 having been repaid by Senator Talmadge on August 18, 1978, for overreimbursements between 1972 and 1978 inclusive); and

Whereas Senator Talmadge failed to sign, as required by law, and properly supervise the preparation of all the aforesaid vouchers; and

Whereas the financial disclosure reports required to be filed by Senator Talmadge under Senate rules for each of the years 1972 through 1977 were inaccurate; and

Whereas Senator Talmadge failed to file in a timely fashion the candidate's receipts and expenditures reports for 1973, as required by Federal law, and inaccurate reports were filed for the period January 1, 1974, through December 31, 1974, and

Whereas campaign funds of Senator Talmadge in excess of $10,000 were not reported, as required by law, and were deposited by his campaign chairman between July 3, 1973, and November 29, 1974, in an account maintained at the Riggs National Bank of Washington, District of Columbia, in the name of Herman E. Talmadge/Talmadge Campaign Committee and were disbursed by said campaign chairman for noncampaign purposes: Now, therefore be it

Resolved, That it is the judgment of the Senate that Senator Talmadge either knew, or should have known, of these improper acts and omissions, and, therefore, by the gross neglect of his duty to faithfully and carefully administer the affairs of his office, he is responsible for these acts and omissions.

SEC. 2. It is the judgment of the Senate that the conduct of Senator Talmadge, as aforesaid, is reprehensible and tends to bring the Senate into dishonor and disrepute and is hereby denounced.

SEC. 3. That Senator Herman E. Talmadge be required to reimburse to the United States Senate the sum of $12,894.57 plus interest on overreimbursements in the aggregate amount of $43,435.83 at such rates and for such periods as are determined by the Secretary of the Treasury, in accordance with established procedures for collecting overreimbursements.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE addressed the Chair.

The PRESIDING OFFICER. Under the previous order——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Georgia be recognized at this time and that the previous order, returning to consideration of the foreign assistance bill, be held in abeyance until he has completed his statement.

Mr. MORGAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Is there any objection?

Mr. TALMADGE. Mr. President, I do not know if any other Senator desires to make comments or not. If they do, I desire that they be granted that privilege.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senators who wish to speak on the matter that has just been disposed of may be permitted to do so up to not to exceed 1 hour; and that the order then that was entered on yesterday be carried out.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I yield to my distinguished friend from South Dakota.

Mr. McGOVERN. Mr. President, I just wanted to explain to my colleagues why I voted "present" on the recent rollcall.

I serve on the Committee on Agriculture and have for the past 17 years. I am the ranking majority member on that committee. In that sense, I am in line for the chairmanship, depending partly on what happens in Senator TALMADGE's future. Under those circumstances, it seemed to me inappropriate and, perhaps, unfair for me to vote on this particular question. It did seem to me to present a conflict of interest. Under those circumstances, I voted "Present."

I thank the Senator from Georgia for yielding.

Mr. CANNON. Mr. President, will the Senator yield to me?

Mr. TALMADGE. I yield to my distinguished friend from Nevada.

Mr. CANNON. Mr. President, I just want to say a few words to my colleagues. I voted "aye" on this vote and it was a most difficult vote for me to cast. But in recognition of having served formerly as a member of the Committee on Ethics and then, thereafter, as chairman of the Committee on Ethics, I felt that the committee itself—I know—had worked diligently. I felt I had to give considerable weight to their presentation and to support them in this instance. But I want to say that when I served on the Ethics Committee and as chairman, I served with HERMAN TALMADGE on that committee. I have found him to be completely honorable, to be reputable in every manner and form. Every time he said something, you knew you could depend on it.

In matters of complaints that came up for consideration against his fellow colleagues here, in the Senate, and others who worked for the Senate, he was eminently fair in every respect. I have the highest personal regard for his integrity.

I thank the Senator.

Mr. TALMADGE. I thank my distinguished friend.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Chair controls the time. The Chair recognizes the junior Senator from Georgia.

Mr. ROBERT C. BYRD. Mr. President, I say respectfully, the senior Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I should like to make some remarks, but I do not want to interrupt my senior Senator if he would like to precede me. I should like to make brief remarks.

Mr. TALMADGE. May I complete my own remarks; then I shall yield to my distinguished colleague at that time.

Mr. President, first, I want to thank my distinguished colleague, the Senator from Nevada, for the generosity of his remarks and those of other Senators on the floor, none of whom were solicited on my behalf.

Mr. President, I did not rise to contest the resolution offered by the Ethics Committee.

That resolution criticizes me for neglect of duty.

But from the beginning of these proceedings, I have admitted that I was negligent in overseeing office and campaign financial matters.

As I have said repeatedly, I deeply regret my negligence.

I regret the concern it has caused the State of Georgia.

I regret the burdens it has placed on my colleagues in the Senate, especially those of the Ethics Committee.

As I testified before the Ethics Committee, if I could relive the past, I would handle matters differently.

I would not delegate so many financial responsibilities to my aides. I do not do so now.

I suspect, however, that most Senators have not kept their own books or personally handled office and campaign finances. It is also clear that the Senate vouchering system left much to be desired.

I thus applaud the Senate and the Rules Committee for acting to reduce the possibility of error and abuse—which has existed for a long, long time—in the handling of Senate offices expenses.

Mr. President, it is most important that the Senate clearly recognize what the committee did not find.

It found me guilty of neglect, it did not determine that I have engaged in any intentional wrongdoing.

One member of the committee moved for a resolution of censure based on a finding of willful misconduct.

That motion was defeated 5 to 1.

That result was proper. I did not engage in or knowingly allow any misconduct.

The evidence does not show that I did.

Had the committee sought censure or made a finding of intentional wrongdoing, I would have fought such action with every ounce of strength I possess.

For I did not steal money from the Senate.

As a matter of fact, Mr. President, my

political career goes back for more than 31 years. This is the first time in that 31 years that anyone, friend or foe, has questioned my personal integrity, and that was from a now convicted felon.

I did not divert campaign contributions.

I did not authorize or knowingly allow anyone else to misuse Senate or campaign funds.

I did not conspire with my former administrative assistant to operate a secret bank account at the Riggs National Bank.

I have never knowingly violated the laws of this Nation or the rules of the Senate.

I agree to pay back the money my former administrative assistant took from the Senate, despite the fact that the judge orderd him to make restitution as a condition to his probation.

I do so—not because I knew about his theft—but because I accept the committee's conclusion that Senators, not the taxpayers, should be financially responsible for their employees' actions in handling the taxpayers' money.

I served in the U.S. Navy during World War II. It was a principle of naval justice that if the captain was in his bunk asleep and the gunnery officer or the navigator ran the ship ashore, it was the responsibility of the captain to take the blame.

I assume that was the principle the Ethics Committee reached when they determined that I should pay back money that was stolen and embezzled by a now convicted felon.

I welcome further investigation by the Department of Justice. I have nothing to fear.

Indeed, it was I who first gave the Department and the Ethics Committee information which led to the discovery that my former administrative assistant had illegally diverted Senate and campaign funds into the secret Riggs account.

The distinguished chairman of the Ethics Committee, the Senator from Illinois, verified that fact in his colloquy with the distinguished senior Senator from Mississippi and also the distinguished senior Senator from Hawaii.

Mr. President, at the risk of sounding sentimental, let me be very frank.

I love the people of Georgia. I am honored to serve them.

I love the U.S. Senate. I revere its traditions.

It is not too much to say that the Senate is my life.

I would never—I repeat never—knowingly abuse the trust placed in me by the people of my State.

I would never knowingly contravene and cheapen the Senate's Ethical Code.

I can think of nothing that would make me turn my back on my State, the Senate, and the principles they both hold sacred.

Mr. President, I have claimed that the committee's decision is a personal victory.

Some have questioned this assertion, but I reaffirm it.

The description of charges against me by the committee's special counsel accused me of willful complicity in a secret bank account into which my former administrative assistant illegally diverted Senate funds and campaign contributions.

Special counsel sought to prove this at the hearing.

He failed.

The committee did not give credence to the scurrilous charges made against me by my former administrative assistant, who has now pled guilty to a felony, and has been sentenced to prison.

Special counsel also sought to prove that I intentionally collected Senate funds to which I was not entitled.

He failed again.

And, special counsel sought my censure.

He failed once again. The motion for censure was soundly defeated.

I stand before you firmly criticized. But I am not found guilty of intentional wrongful, unlawful conduct. There is no recommendation of censure.

I fully believe, now that this unpleasant matter is concluded, that I can and will continue to serve my State and Nation with my honor preserved.

Some have told me that they feel the language in the committee's resolution is too harsh, resting as it does on a finding of neglect.

That may be, but I do not challenge it here.

I accept the committee's criticism, because I believe that Senators should be held to much higher standards than is commonplace.

In the past, I have leveled heavy criticism at others. I also know how to take it.

Mr. President, this is not a happy day in my life. Indeed, the last year and a half have been most difficult.

But I do not choose today to rail against those who have falsely accused me. I do not choose to succumb to bitterness.

Rather, I consider today a time of rededication.

I humbly rededicate myself to the people of Georgia.

I humbly rededicate myself to my colleagues in the Senate.

The mistakes that occurred in my office will not happen again. Strong measures have been taken to insure that.

I intend, while I am in the Senate, to render service that will make proud those whom I represent and those whom I serve.

And, Mr. President, I intend to serve as the senior Senator from the grand State of Georgia for a number of years to come.

Mr. LONG. Mr. President, I think it appropriate that the RECORD should show that the senior Senator from Georgia did not ask one of his colleagues to vote against the resolution denouncing him, nor did he suggest what we should do about the matter. I know that in my case, the vote against the proposal certainly was not the expedient or political thing to do.

Mr. President, this Senator has his conscience to live with. I know HERMAN TALMADGE as well as any other Member of this body. It has been my privilege to know him from the first day he came to the U.S. Senate. As a matter of fact, his father was a friend of my father when they both were Governors of Southern States.

Mr. President, since I have been in the U.S. Senate, I have never known a man who was more completely forthright, honorable, and sincere with his colleagues than the Senator from Georgia. In 23 years, I have never known him ever to tell me anything that was not true to the best of his knowledge.

Furthermore, I have never known the Senator to be deceitful. I have never known him to tell me or anyone else something which might be to his advantage but not to mine and which would mislead me into doing something that I would not have done but for the information he would have given me.

It has been my privilege to serve with other great Senators from Georgia. It was my privilege to serve on the Senate Finance Committee with the late Senator Walter George, a man who served here until he was in his eighties. There was never one hint of mischief or scandal or wrongdoing in all the years of his life.

It was my privilege to serve with the late Richard Russell, one of the great Senators of all time. We named the Old Senate Office Building after Richard Russell. It is appropriate that it be the Old Senate Office Building, because he was a Senator in the finest traditions of the Senate, one of those to uphold many of the fine things of the status quo and even some of those good things that were in the way of passing from the scene.

HERMAN TALMADGE comes in that tradition. He is worthy of those two great Senators and all other great statesmen sent here by the State of Georgia. I am extremely proud to serve with him.

I am also proud of him for the courageous way in which he accepted this tremendous misfortune that befell the Senator from Georgia. It is my judgment that sometimes you can judge a man better in adversity than you can in an hour of victory.

I say to the Senator from Georgia that he is a very great American, a great Senator, and those things that have transpired today, including the way the Senator has conducted himself, have served to confirm my admiration for the Senator.

I know for certain that HERMAN TALMADGE would never knowingly do a dishonest act. He is just not that kind of person.

Mr. NUNN. Mr. President, I know that this has been one of the most difficult days in the life of Senator TALMADGE, but I think the remarks he just made on the floor of the Senate will go down in history as one of the finest moments in his career, in terms of his attitude, in terms of his humbleness, in terms of his expression of understanding to those who served on the Ethics Committee and to his colleagues in Georgia, as well as in terms of his rededication to the people of Georgia whom he serves.

Mr. President, I have known Senator TALMADGE all my life. My father was a close friend and strong supporter of Senator TALMADGE and his father before I was born. We have worked closely together on behalf of the people of Georgia from 1972 to the present time. Our staffs have worked together and continue to work together on a day-to-day, hour-to-hour basis on many important problems for the people of Georgia we jointly represent.

I endorse Senator LONG's statement about Senator TALMADGE, his honor, and his integrity. In all my dealings with Senator TALMADGE, since I have been in the U.S. Senate, I have never been misled by a single word. I have never known him to say or do anything during our relationship in the service of the people of Georgia which was other than completely candid and honorable.

Because of this special friendship and relationship between the senior Senator from Georgia and myself, I chose to vote "present" on the Ethics Committee recommendation. My vote of "present" is not intended to convey disrespect to the Ethics Committee members or their findings. Rather, it expresses my deep friendship and respect for my colleague, Senator TALMADGE.

The members of the Ethics Committee did not relish the job they were asked to do; it is not easy to sit in judgment of one's peers. But they performed their appointed task, and the Senate today has recorded its vote. Now, it is over. All of us in the Senate join Senator TALMADGE in putting this problem behind us.

In the past few years, I have come to know Senator TALMADGE very well. You all know that you do not serve with a man from your own State without learning a great deal about him and his character. I know that the past few years have been particularly difficult and painful for the senior Senator from Georgia. It has been a time of great personal and family sadness for Senator TALMADGE. Those of us who covet the small amount of time we are privileged to spend with our families while continuing to perform our duties in the Senate understand completely just how painful this period of time has been for him.

I do not know how I would have reacted under similar circumstances, but I know how Senator TALMADGE has handled these trials and tribulations. Those of us who have worked closely with him on the committee and on the floor of the Senate know of the vigor, dedication, intensity, and intelligence that HERMAN TALMADGE has consistently brought to the major problems facing our State and Nation. We know these characteristics have not diminished one iota during this very difficult time. In spite of his personal difficulties, his family difficulties, and the investigation by his own colleagues, he has continued to perform his job for the people of Georgia and this Nation, and he has performed it well.

During the last year alone he has made a significant imprint on a diverse list of major legislation.

In the field of health care, he and RUSSELL LONG have worked together closely—LONG as chairman of the Finance Committee and TALMADGE as chairman of the Health Subcommittee—to provide catastrophic health insurance for families and individuals whose savings and incomes are placed in jeopardy by a lingering disease. This legislation is long overdue.

In the promotion of fiscal responsibility in Government spending, Senator TALMADGE has long been an advocate of a balanced Federal budget as the best way to control inflation and curb runaway Federal spending. Support continues to grow in the Congress for his constitutional amendment which would require a balanced Federal budget except in times of national emergency. I might add here that he has demonstrated many times that he is one of the most knowledgeable men in the United States today on economic matters, and one who takes seriously his commitment to fiscal responsibility.

In the field of regulatory reform, Senator TALMADGE has never relaxed his efforts to curb the regulators and has continually insisted that Congress come to grips with its responsibility in the regulatory process. The Talmadge rule, adopted by the Senate, requires the Senate committees to file regulatory impact statements with every new piece of legislation they report.

Of course, in the field of agriculture, the record of his leadership is well known to the Senate. By latest count, Senator TALMADGE has sponsored or cosponsored more than 40 major laws dealing with agriculture, forestry, feeding, and nutrition programs.

His leadership has been especially noteworthy in recent months. In September, the Senate passed an expanded Federal crop insurance program cosponsored by HERMAN TALMADGE to extend protection against loss by weather and other natural causes to producers of all major agricultural commodities in all counties of the Nation. This legislation was long overdue. Also last month, he introduced the Agriculture, Forestry and Rural Energy Act of 1979. This bill recognizes the tremendous potential to be found in the development of renewable resources and should be given top priority by the Senate in developing a sound energy policy and in seeking alternative sources of energy.

Earlier this year, legislation handled by his committee prevented an across-the-board reduction in food stamp benefits and increased those benefits to needy elderly and disabled persons who have been hit cruelly by inflationary increases in health care and housing costs.

The activities and accomplishments of the Committee on Agriculture, under Senator TALMADGE's leadership, were even more impressive during the last Congress. The list of landmark bills which bear his imprint that became law during the 95th Congress include: The Food and Energy Act of 1977; the Emergency Agriculture Act of 1978; the Agriculture Credit Act of 1978; and the Agriculture Trade Act of 1978.

Taken together, this body of new legislation brought about the most profound changes and improvements in the Nation's farm programs and policies that have occurred since the 1930's.

The list goes on and on. Suffice it to say that there is not a single sector of American agriculture that has not benefited from legislation that my colleague helped to enact. There is not a farmer or rancher in this country whose life and livelihood have not been touched in some way by this champion of American agriculture.

And I remind you that many of the accomplishments I have listed today have come during these past few years of great personal trial and sadness for Senator TALMADGE.

Members of the Senate and, indeed, every citizen of this Nation owe a great debt of gratitude to the distinguished chairman of the Agriculture Committee. HERMAN TALMADGE finds himself at center stage in an era in which our agricultural capacity to produce food, fiber—and yes, even energy—has become as important to America's future as our industrial capacity and our ability to defend our national security. Frankly, his is a great responsibility, and I am glad that we have a man of his demonstrated dedication and ability chairing this vital committee.

To my colleague, the senior Senator from Georgia, on behalf of your many friends in Georgia and throughout the country, I convey to you my appreciation and their appreciation for your leadership and service in the Senate. And I pledge to continue to work with you on behalf of the people of Georgia and our Nation.

Mr. DOLE. Mr. President, after many months of investigation and hearings, the Select Committee on Ethics has completed its review of the allegations and charges against Senator HERMAN E. TALMADGE. The committee has duly filed its report together with its recommendations which the Senate has just acted upon.

Mr. President, as one on the other side of the aisle who has had the privilege of working with Senator TALMADGE over the years let me echo what has just been said by the distinguished junior Senator from Georgia, Mr. NUNN.

It is the hope of this Senator as the senior Senator from Georgia indicated that this matter has now been resolved. But I think the record should show that no one on this side of the aisle takes any comfort or pleasure in this exercise.

Mr. President, the senior Senator's ability as a legislator is not in question. It has been my privilege to work closely with him in the Committees on Finance and Agriculture. Time and again the Senator has demonstrated his ability as a legislator and his deeply conscientious regard for his legislative responsibilities. Senator TALMADGE has worked hard to reform procedures for reimbursement in the medicare and medicaid programs. He has successfully promoted landmark legislation to correct fraud and abuse in medicare and medicaid. In addition, he has worked hard to insure the availability of health care in rural areas by providing reimbursement for rural clinics. The senior Senator from Georgia, as chairman of Agriculture, has distinguished himself by his efforts to set fair and productive agricultural policies that serve both the farmer and the American public. One of the reasons America is unparalleled in the world in agricultural production is the effort and policies of

HERMAN TALMADGE. No one among us has a better right than Senator TALMADGE to be proud of his legislative achievements.

The record should clearly reflect that Senator TALMADGE is fair, that he is consistent, and that he has done a great deal for the American farmer and the American consumer in this country. I suggest that if we listed the impact the senior Senator from Georgia has had on legislation affecting the American farmer, or the American businessman, or the American consumer, it would fill a normal day's CONGRESSIONAL RECORD. The point the Senator from Kansas wishes to stress is that regardless of all the questions raised there has never been any question about the senior Senator from Georgia's ability as a legislator.

The cynics will undoubtedly be looking under every rock, and some will suggest that not enough was done. But Senator TALMADGE said the day following the vote in the Ethics Committee that it was a personal victory for him and I believe that personal victory has been ratified by an overwhelming vote in the Senate today. I do however, say so advisedly. I feel the Ethics Committee had a very difficult job to do and they carried out their responsibilities conscientiously, equitably, and with full knowledge as to their impact on the Senator from Georgia, Mr. TALMADGE, and on the Senate as an institution. I commend them for a job well done.

Mr. President, I hope that when the history of this day is written, it will include a great deal about the Senator as a legislator. The history must also include his service, not only to his State of Georgia, but his service to the farmers in my State, and his service to consumers in New York, and the service to those who are looking for energy alternatives whether it be in Colorado, Wyoming, or in Louisiana. In the final analysis you will find the legislative footprints of HERMAN TALMADGE spread all across this Nation in trying to improve the lot of all Americans.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from California.

Mr. HAYAKAWA. I thank the Chair.

Mr. President, I have not had the pleasure of knowing the senior Senator from Georgia for many, many years as the Senator from Louisiana has and the junior Senator from Georgia has. My acquaintance with him goes back less than 3 years when I came here as a freshman Senator.

But I have had the pleasure and the honor of serving with Senator TALMADGE on the Agriculture Committee. I got on the Agriculture Committee with no background in agriculture. I am a city boy. However, I knew that our State had not been represented on the Agriculture Committee for something like 40 years and I felt it my duty to be there.

In all the time I have served on that Agriculture Committee I have been over and over again impressed with the fairness, the quickness, the justice of the way in which HERMAN TALMADGE's mind works as chairman, as a legislator, as a conductor of hearings and meetings where highly debatable subjects have been discussed.

So I rise to pay my respects to the senior Senator from Georgia without any disrespect for the members of the Ethics Committee and the conscientious work they have done in investigating this case.

But I do rise to welcome Senator TALMADGE and his courage and his rededication to service of the people of Georgia and the people of the United States. It will be my honor in the future, Senator TALMADGE, to join you in that service, I hope, for a long, long time to come.

I thank the Chair.

Mr. JOHNSTON. Mr. President, I voted "aye" on the resolution, and I want to make clear that the reason I did is that I think the action of the Ethics Committee in refusing to go along with a censure but going along with something less—and I am not a semanticist—but whatever the significance of the words used in the resolution, it is clear that the Ethics Committee did not feel that a censure was proper, and I concur in that judgment.

I concur in the judgment of the Senator from Georgia, the senior Senator from Georgia, that the action of the committee was, in fact, to some extent a vindication of the Senator because it did recognize that the action does not deal with the basic integrity of the Senator from Georgia but rather with mistakes of the Senator in the methods by which he keeps his records and in other mistakes, which are not trivial but, at the same time, they do not go to the basic integrity of the Senator from Georgia.

I want to stand here and say that I have total confidence in his integrity as well as, of course, in his ability and service to this body, his service to the people of Georgia, and his service to the country.

While the resolution was highly critical—and I think properly so—of mistakes he made, I just simply want to make clear that in my view the action of this body taken today does not relate to his basic integrity in which I have full confidence.

Mr. BENTSEN. Mr. President, I have known the Senator from Georgia for many years, and he has probably forgotten the first time I met him. But I remember when he first came here Lyndon Johnson called me over because he wanted me to meet the newly elected Senator from Georgia. He said, "He really is an amazing fellow." He said, "He studied all the rules before he got up here, and I don't know any other Senator who has done that." He said, "He knows the procedures of the Senate, that he will be a student of the Senate," and that he has been.

For 9 years he has been my friend, and his assistance, his friendship, and his advice have been things which I have appreciated.

I sit with him on the Committee on Finance and I have seen the diligence, I have seen his conscientiousness, I have seen the judgment he has expressed, the judgment of a man who knew his lessons, knew how to articulate his position, and he never wavered in his conviction on those things which he believed were for the benefit of Georgia and for the benefit of the United States of America.

As I listened to my friend, the senior Senator from Louisiana, talk about keeping his commitments, keeping his word, as the Senator from Kansas said, he is that kind of a man.

He said one thing here today that I have not heard anyone reflect on, and that is conduct of the office accounts. I think our management system in the Senate is one of the most archaic, one of the most ridiculous systems, I believe, in trying to control expenditures in the Senate, and when I look at the time constraints on a Senator and the things he is subjected to, and the limitations on his attention to accounts, as he is trying to handle legislation, and then do the bookkeeping job of his office, which is a very substantial one, I hope this Senate will take some action to do something about the voucher process that we have, that will take a look at, perhaps, having one person on the staff designated with such responsibility.

I do not believe the president of a bank is responsible for every loss, every embezzlement, every fraud, every misplacement of funds throughout his organization. I just do not believe that that really makes much sense. I believe what you have to have is some sort of a financial officer charged with responsibility, bonded and all the rest of it, double signatures and that type of thing so that a Senator can have some time to think about the issues and work on those issues and not end up doing the bookkeeping job in his office. Perhaps this will all give us some counsel and some advice from what the Senator has said and in some of the sentiments he has expressed.

I know this is a trying time for the Senator, but I am very pleased to consider you my friend.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, listening to the questions on the floor today of the members of the Ethics Committee, and reading the resolution that we voted on today, I want to say at the outset that I take my hat off to the members of the Ethics Committee for the time and effort which they had to put into this day after day.

I would see them trying to keep up with their regular work and the work they had to do, but listening to all that, and listening to the remarks of the distinguished Senator from Georgia (Mr. TALMADGE), it just made me reflect that here but for the grace of God I believe these charges could be leveled perhaps against any one of us in here because I do not know, I can just tell you that the senior Senator from Florida has not checked every voucher that has come out of his office, and has not signed every campaign report.

I hope I have got a very good reason to do that, and I hope he or she is going to honor my trust and do that in a proper way. But it is based on that sort of hope, and I have gone along in my office on that kind of basis.

I think one of the things that happens any time we have an Ethics Committee which has to meet, in effect they sort of chart the law, and it always is that we are sort of going to start playing hard ball now, but whoever is caught at the time in that chart it is almost like a retroactive effect because it is kind of saying, "I never knew that would happen if I just did that." You know, if you did not file, if you did not sign that report, you say, "I never knew this could happen and did we ever do it that way or did everyone ever do it that way."

Obviously, a lot of us now, perhaps, are going to put in some better safeguards. I will think about that, certainly. But I think that sometimes we fail to realize when we are having these decisions. I do not fault the Ethics Committee at all. I think their findings, as the senior Senator from Georgia said he could not dispute their findings, all that were unanimous in their report—but I think again what I find that was interesting today is what they did not find. They did not find any willful, wrongful, culpable acts, and what they did hold the Senator from Georgia responsible for was similar to being the captain of a ship, and I am sure that all of us are held to the responsibility now, but I do not think we realized it as much before, that we would be held responsible in that way.

I also want to say to the distinguished Senator from Georgia that, echoing what the chairman of the Committee on Finance said, when a man gets up to the fire you really get a chance to test him, and seeing the way you have handled this and the other personal tragedies that have occurred in your life, and really in the way you whipped a problem that was on your back for a while, I have the greatest admiration for that, especially all of that coming at a time of this particular pressure, and I hope the people of Georgia will look at that and see that they have a man of great metal and great strength who has been tested by the fire and, I think, come out of it stronger.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the Senate today has just concluded a very unpleasant task for, I think, every Member of this body. I was one of the four Senators who voted present, not taking a stance for or against on the report submitted by the Ethics Committee.

Just by way of brief explanation, let me say I do serve on the Committee on Agriculture with the distinguished Senator from Georgia. I am the third ranking Democratic member of that committee. Since my first day in the Senate I have worked on that committee, have worked closely with the distinguished senior Senator from Georgia.

Given the report that was submitted by the Ethics Committee, given the diligent way in which they went about their task in attempting to discern whether or not there was any kind of reflection upon the integrity of the Senator from Georgia, and given the opportunity that I have had to observe the actions of the Senator from Georgia, knowing his diligence, knowing his dedication, his commitment to this body and to the people of Georgia whom he serves and to all of the people of these United States, I simply could not bring myself to vote in favor of a condemnation of this man.

I think it is important to recognize that during this difficult time in the life of HERMAN TALMADGE, which he himself has referred to today, the dissolution of his marriage, the charges brought against him in a spurious way, the constant battering of some of the press against him, my observation indicates that he did not in any way neglect his duties or his responsibilities in this body. He carried forward the activities of the Agriculture Committee, of which he was chairman. It was a very productive and active time for that committee, as a matter of fact. And except for that brief period of time when he absented himself from this body in order to overcome the malady that afflicted him and which afflicts many, many of our citizens in this country from every walk of life, he was on the job, carried out his responsibilities, gave direction and leadership to the other members of the Agriculture Committee, and brought about many improvements in the agriculture segment of our economy in this country.

I think what has happened to the Senator from Georgia, as other Senators have alluded to today, should be a lesson for all of us. I think we will be more aware of our responsibilities. I think the great statement that he has made here should be taken to heart by all of us as a challenge to improve our own procedures of operation, to make sure there is no hint of impropriety, and that not only our own interests, but the interest of the public, are fully protected.

There is no doubt in my mind that there will never again be a hint of any kind of difficulties of that nature associated with the distinguished Senator from Georgia. So I just want to add my comment to those of other Members of this body who have known Senator TALMADGE far longer than I have, and have worked with him perhaps even more closely, to say that what has occurred is regrettable, but the great statement he has made here today and the manner in which he has acquitted himself during this difficult time indicate, again, that it is not necessary for others to speak in his behalf; but I think it is significant that there have been these statements of support, of concern, and of confidence made by other Members of this body today.

I would just conclude by saying that I will rededicate myself to the responsibility that we have here, rededicate myself to the great task that we have before us in the Agriculture Committee, of which the Senator is chairman and on which I serve, to providing the type of mechanism we need in this country to improve, extend, and expand our agriculture economy.

I think the Senator from Georgia is to be commended for the manner in which he has dealt with this difficulty, and I think it behooves all of us to recognize that, and, like the Senator from Georgia, to be more determined than ever to make sure that we perform in a manner that is exemplary to us as individuals and to the U.S. Senate.

Mr. HARRY F. BYRD, JR. Mr. President, the senior Senator from Georgia is one of the hardest working Members of the Senate, arriving at his office earlier than perhaps any other Senator. He carries a heavy Senate lead as chairman of the Committee on Agriculture. This responsibility consumes much of his time.

It is in the Finance Committee that I see the most of the Senator from Georgia. His ability, his sincerity, and his effectiveness are readily apparent both in the committee and in the Senate.

I have known HERMAN TALMADGE for many years. I value highly our friendship. I feel he is representing the people of Georgia with great ability and hard work, and is serving the citizens of our Nation with dedication toward resolving the tasks before us.

The speech to the Senate a few moments ago by the senior Senator from Georgia was additional evidence that HERMAN TALMADGE is a man of fairness who not once criticized the members of the Ethics Committee which presented Senate Resolution 249. His speech to the Senate a few moments ago is additional evidence that HERMAN TALMADGE is a man of strength and courage.

Mr. TALMADGE. Mr. President, this outpouring of confidence, esteem, and affection on the part of my colleagues this afternoon overwhelms me. I am grateful indeed for your friendship, for your confidence, and for all that it has meant to me.

As I stated earlier, the past year-and-a-half has been a very trying ordeal to me. To be tried in a hostile press, with a hostile prosecutor of a committee, with innuendos leaked day after day after day and week after week, has continually been a source of great embarrassment to me and to the people of my State.

So to have so many of my colleagues on both sides of the aisle stand up here today and state what you have said is something that I shall treasure until the last day I survive on the face of this Earth. Thank you, and God bless you.

Mr. ROBERT C. BYRD. Mr. President, I rise to commend the Senate Select Committee on Ethics. I have found it to be exceedingly difficult to find Senators able to serve on that committee. Recently, in order to fill a vacancy that existed on the committe, I had to contact many, many Senators; and finally the Senator from North Dakota (Mr. BURDICK)—who is a very able Senator and who already carries his share of the Senate workload—was willing to step up and do his duty. Senator STEVENSON, the chairman, is going to retire from the Senate after his term expires. In my mind, I do not have any doubt that the time and the work that he has given to this committee have been a major factor in his decision to retire from the Senate.

So I commend and thank the chairman and the committee. I do not envy them the task that was theirs in regard to the matter just disposed of, and I can only address my personal thanks to them for having served.

Having said that, I want to say also, with respect to the distinguished senior Senator from Georgia, that I have admired the attitude and the spirit of understanding which he has just demonstrated in his speech following the vote of the Senate. I noted with great interest that he did not speak before the vote, but he let the Senate first reach its decision, after which he then took the floor. I respect him for his humility and for his expression of regret. I respect him, too, for his expression of rededication to the service of his people and to the service of the Senate.

I know that he understands the institution and the reverence in which it is held by its Members. He expressed that same reverence for the institution in his personal statement.

I think, Mr. President, we should now put this matter behind us. The Senate has rendered its decision. Mr. TALMADGE has accepted that decision. I would suggest that we turn our thoughts to the work ahead of us and to the tomorrows and not look back on the yesterdays that are left behind.

Mr. BAKER. Mr. President, I want to express a special word of gratitude, if I may, to the Republican members of the Ethics Committee as they have discharged a most difficult responsibility in the case before the Senate today.

Having been charged with the responsibility of naming new Republican members to the committee this year, I know very well the extreme reluctance with which every member on this side of the aisle approached the prospect of investigating the conduct of a colleague and the prospect of recommending punishment if that conduct were found unacceptable.

Senator SCHMITT, as vice chairman of the committee, has acted with a commendable blend of firmness and fairness.

His Republican colleagues, Senator HATFIELD and Senator HELMS, have rendered excellent and conscientious service in the sensitive case before the Senate today, helping to discover the truth amid all the charges and countercharges and to fashion what they believe to be the most appropriate response to the facts at issue.

This has not been an easy or a pleasant hour in the history of the Senate. But the members of this committee have risen to their difficult duty and brought honor to the Senate in the process.

For that, we owe them a debt of gratitude and a sincere word of thanks.

● Mr. LEVIN. Mr. President, it is not easy or pleasant to judge or denounce a colleague. And the difficulties increase when one is confronted with a situation like this, because Senator TALMADGE is a distinguished Member of this body.

However, after carefully reading the report of the Select Committee on Ethics, I am forced to conclude that Senator TALMADGE has in fact been guilty of "gross neglect of his duty to faithfully and carefully administer the affairs of his office" and that his conduct in this regard is "reprehensible and tends to bring the Senate into disrepute and dishonor."

I find no alternative but to agree with the Select Committee on Ethics that Senator TALMADGE has in fact violated the rules of the Senate. The only issue left to consider then is what course of action the Senate should take in regard to Senator TALMADGE.

Some would suggest that he should be removed from the Senate. At this point in time I do not think that appropriate. The Select Committee has forwarded their files on this case to the Justice Department and only after the legal system has acted in this matter should the Senate even consider taking the extreme step of denying citizens the services of their elected representative. Such action at this time, prior to a judicial determination of fact, would be both premature and inappropriate.

Others suggest that the Select Committee on Ethics should have "censured" Senator TALMADGE rather than "denounce" his behavior. I am however persuaded by the position adopted by Senator SCHMITT in his "Additional Views" to the report of the Select Committee on Ethics. In those views, Senator SCHMITT suggests that:

> Such words as "reprehensible" and "denounced" have no legal or historical precedents for their use as do "censured" and "condemned". However, they should be viewed now by history as equivalent in meaning to "censured" but applied to special cases where the financial duties of a senatorial office have been subject to gross neglect and where years of illegal activities by subordinates have been overlooked, if not encouraged.
>
> The relevant meanings applied by Webster's and American Heritage Dictionaries to these words are as follows (italic added):
>
> reprehensible.—
>
> worthy of or deserving reprehension (voice disapproval of especially after judgment; find fault with usually with sternness and as a rebuke); blamable, *censurable*, culpable [Webster's Dictionary]
>
> —deserving of rebuke or *censure;* blameworthy [American Heritage Dictionary]
>
> denounce.—
>
> pronounce to be blameworthy, evil; announce publicly against; inform against [Webster's Dictionary] to condemn openly; *censure*, especially as evil; to accuse formally [American Heritage Dictionary]
>
> Thus, even though the Committee avoided the use of the word censure and even though the general historical precedents are strong it none the less applied words defined *in terms* of "censure" to the misconduct of Senator Talmadge. It is hoped that this fact will not be lost in interpretations of the severity with which the Committee viewed this misconduct.

I concur with these comments and conclude that the action taken by the committee constitutes the equivalent of a censure. The Senate, by this action, has done what it should do at this time to express its commitment that all Members abide by the ethical code we have adopted. Further action in this case becomes the duty of the courts and the people.●

ORDER FOR THE CONSIDERATION OF H.R. 4930 ON TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, and I have cleared this with the distinguished minority leader, that upon the disposition of the foreign assistance appropriation bill, H.R. 4473, the Senate then proceed to the consideration of the Interior appropriation bill, H.R. 4930, with the understanding that final action on the Interior bill will not occur on tomorrow. It will definitely go over until Monday so as to give Senators who cannot be present tomorrow the opportunity to offer amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, the Senate is now going to resume consideration of the foreign assistance bill. Mr. INOUYE, the able chairman, is here. I hope it will be possible to complete action on that bill today. Mr. INOUYE has expressed the desire that that be done. It would seem to me that with a couple of hours or so maybe we can do it. But if we are unable to finish that, and it is the desire of Mr. INOUYE to go over until tomorrow, we will finish the bill on tomorrow. In any event, the Interior bill would then follow the completion of the work on the foreign assistance bill.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4473, which the clerk will state the title.

The legislative clerk read as follows:

> A bill (H.R. 4473) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 508

The PRESIDING OFFICER. Are there any questions on amendment No. 508, proposed by the Senator from Florida (Mr. CHILES)?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, the managers of the bill have conferred and we will be very happy to accept the amendment submitted by the Senator from Florida.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

UP AMENDMENT NO. 618

(Purpose: To reduce the total funds appropriated by 5 percent)

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment numbered 618:
>
> At the end of the bill add the following new section: "SEC. . The total funds appropriated by this Act shall be reduced by 5 percent.".

Mr. HARRY F. BYRD, JR. Mr. President, I think the amendment speaks for itself. It would reduce the total appropriations by $420 million.

Mr. President, just a few days ago the Federal Reserve Board took very severe action which will have a significant impact on the people of the United States. Interest rates have been significantly raised; reserve requirements of the Nation's banks have been substantially increased. The Federal Reserve Board took that action not because it wanted to, not because it favors high interest rates and high reserves, but it feels something must be done to curb inflation. Congress has done nothing. Congress has shown no significant interest in curbing inflation.

I think the time has come for Congress to take some concrete steps to show the American people that it is willing to curb the reckless spending of the Federal Government.

I hope this amendment will be approved by the Senate. Even if this amendment is approved, there will still be an increase in appropriations for foreign aid over and above similar functions of the previous year.

At this point I ask unanimous consent that the Senator from North Carolina (Mr. HELMS) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, the amendment just submitted by my distinguished friend from Virginia is a very tempting one. It gives an opportunity to all of us to cut down the cost of Government. But I wish to tell my colleagues that the Senate Appropriations Subcommittee on Foreign Operations has spent many months on this measure, considering each item on its own merits. We, at the very outset, refused to accept the House proposal of an across-the-board 5-percent cut because we felt that this was not a responsible way of determining how this important issue on foreign policy should be resolved.

Mr. President, as Members of the Senate will recognize, in some cases we have cut out programs completely; in others, we have added; there are others where we have made slight changes. But in each case, Mr. President, the Foreign Operations Subcommittee has been able to justify its action. We do not think that one can rationally, after having taken these specific measures, justify an across-the-board 5-percent cut. So, I hope my colleagues will not support the amendment.

Mr. HARRY F. BYRD, JR. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—48

Armstrong
Bentsen
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cochran
Dole
Domenici
Eagleton
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Melcher
Nelson
Nunn
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Talmadge
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—50

Baker
Baucus
Bayh
Bellmon
Biden
Boschwitz
Bradley
Byrd, Robert C.
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Glenn
Gravel
Hart
Hayakawa
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Packwood
Pell
Percy
Ribicoff
Riegle
Sarbanes
Sasser
Stevens
Stevenson
Stewart
Stone
Tower
Tsongas
Williams

NOT VOTING—2

Cannon
Heinz

So Mr. HARRY F. BYRD, JR.'s amendment (UP No. 618) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 619

(Purpose: To prohibit the availability of certain funds with respect to the Institute for Scientific and Technological Cooperation)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 619:
>
> On page 26, line 13, before the period insert the following: "or shall be available for the Agency for International Development or any other department or agency of the United States to plan for the establishment of the Institute for Scientific and Technological Cooperation".

INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Mr. DECONCINI. Mr. President, as reported, H.R. 4473 contains no funds for the so-called Institute for Scientific and Technological Cooperation (ISTC). The Appropriations Committee took the decision to deny the ISTC request after serious and painstaking deliberation. At the same time, the committee also sought to prevent the creation of this new foreign aid bureaucracy with moneys siphoned off from other agencies and programs by adopting language which prohibits transfers to ISTC.

It appears, however, that this provision, which is section 521 of the bill, may not fully achieve the committee's purposes, for ISTC is not as yet in existence. There is, instead, a planning office for ISTC at the Agency for International Development (AID). In addition, it is my understanding that several people formally attached to the White House staff are actively engaged in the effort to get ISTC approved and funded. These activities could conceivably continue despite the elimination of direct appropriations for ISTC and the strictures against transfers contained in section 501.

My amendment, Mr. President, is intended to close this loophole. I believe it is necessary because it is clear that ISTC's proponents within the administration are bound and determined to foist this new, costly bureaucracy on the American taxpayer. My amendment will simply prevent the formation of an organizational nucleus from which ISTC could grow and direct the activities of those involved into more constructive channels.

This modification I am offering, of course, must be seen within the larger context of the issues centering on the ISTC proposal. The substance of these issues is by now familiar to most of us. In fact, the Senate is already on record against authorizing ISTC. On June 19, 1979, this body voted to strike the authorization for ISTC from S. 588, the International Development Assistance Act of 1979. The Appropriations Committee has now reaffirmed that position, and for solid, well-founded reasons.

ISTC simply cannot withstand critical scrutiny. There is no justification for spending millions of our scarce foreign assistance dollars to set up another agency to do what ISTC proposes to accomplish. The only purpose that would be served by doing so would be to provide some handsomely salaried positions to certain foreign assistance bureaucrats.

There is no dearth of research and training with respect to development problems.

First. AID has over $1 billion committed to research, training, and technical services at this moment.

Second. In fiscal year 1978, the last year for which complete figures are available, AID invested $263 million in research and training alone.

Third. Technology transfer is a core element of our assistance effort now; both bilateral and multilateral projects focus on transmitting knowledge, skills, and technologies appropriate to developmental requirements.

Fourth. Most of the multilateral organizations in which the United States participates have long-scale research, training, and technical assistance functions. Here are just a few illustrative examples:

First. The U.N. Educational, Scientific and Cultural Organization (U.S. fiscal year 1980 contribution—$33.5 million).

Second. The OAS Special Multilateral Fund for Education, Science and Technology (U.S. fiscal year 1980 contribution—$6.5 million).

Third. The Inter-American Institute for Agricultural Sciences (U.S. fiscal year 1980 contribution—$6.9 million).

Fourth. The U.N. Development Program (U.S. fiscal year 1980 request—$140 million).

Fifth. The International Financial Institutions (U.S. fiscal year 1980 request—$3.6 billion).

The real purpose of ISTC is suggested by its grade and salary structure. I have here an outline of ISTC's proposed staffing pattern, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

IFTC—SALARY EXPENSES AND GRADE STRUCTURE

	III	IV	V	18	17	16	15/2	14/3	13/4	12/4	11/3	9/3	7/2	5/2
Directors office (3)	1	1				1								
General counsel (2)			1				1							
Controller (6)						1	1	1	1		1	1		
Management (7)						1	1	1	1		2	1		
Planning and evaluation (9)			1				2	2	1		2	1		
Legislative liaison (1)					1									
Problem area coordination (7)				2	1	1	2	1						
Program support (10)							3	3	1		2	1		
Technical experts (16)					1	2	4	4	3		1	1		
Overseas staff (9)				1	1	4	1	1	1					
Secretarial, full time (30)											4	8	10	8
Subtotal (100)	1	1	2	3	4	10	15	13	8		12	13	10	8
Salary	52,500	50,000	47,500	47,500	47,500	44,756	39,432	34,604	30,198		20,547	16,982	13,448	10,857
Total cost	52,500	50,000	95,000	142,500	190,000	447,560	391,480	449,852	241,584		246,564	220,766	134,480	86,856
Grand total														2,949,142
IPA's (15)					5	4	4	2						
Fellows (20)					3	6	8	3						
Secretarial, part time (6)												2	2	2
Subtotal					8	10	12	5				2	2	2
Salary					47,500	44,756	39,432	34,604				16,982	13,448	10,857
Total cost					380,000	447,560	473,184	173,020				33,964	26,896	21,714
Grand total														1,556,338
Combined totals					570,000	895,120	1,064,664	622,872				254,730	161,376	108,570
Combined grand totals														4,505,480

Mr. DECONCINI. This is a very revealing document, Mr. President. It shows, for example, that 49 percent of ISTC's permanent positions would be at the level of GS-14 and above.

Persons occupying these positions would be entitled to compensation ranging from around $38,000 to well over $60,000. The ISTC planners also budget $1.5 million for 15 intergovernmental personnel and interns and 20 fellowships which works out to $42,857 per intern/fellow.

ISTC, of course, would also have the full complement of overhead administrative positions. There is: The director's office with three positions—two of which would be on the executive schedule; a general counsel's office with two positions—one of which would be E.S. V and the other a GS-15; a controller's office with six positions; a management office with seven positions; a planning and education office with nine positions; a problem areas coordination unit with seven positions; a program support unit with 10 positions; and a legislative liaison office with one position. It should also be noted that administrative and operating expenses would consume 25 percent of ISTC's $25 million request. AID operating expenses by comparison amount to only 7.1 percent of its total budget.

With this degree of administrative elaboration, one wonders what would be left for the new International Development Cooperation Administration to do.

Finally, Mr. President, certain developments since the full committee markup call some of the activities of ISTC's planning office and its White House allies into serious question. At a minimum, the implication are disturbing.

During the debate on ISTC at the full committee, several of my colleagues referred to the intense lobbying to which they had been subjected in what appeared to be a concerted campaign to secure funding for the proposed new bureaucracy. Upon reflection, I began to wonder who was behind this campaign and whether Federal officials might have been involved in a violation of section 601 of the Foreign Assistance and Related Programs Appropriations Act for fiscal year 1979 (Public Law 95-481) and/or 18 U.S.C. § 1913. Taken together, these provisions prohibit publicity, propaganda and other lobbying activities on the part of Federal officials designed to influence Members of Congress with respect to legislation and appropriations. Accordingly, I wrote Senator INOUYE suggesting that an inquiry might be in order. The chairman, in turn, requested Chairman MAGNUSON to authorize an investigation by the appropriations investigative staff.

Unfortunately, the responsible officials at the ISTC planning office in the Agency for International Development have chosen not to cooperate and have refused our committee's investigator access to the pertinent files and documents. What they have to hide I have no way of knowing, but their behavior speaks volumes about their unwillingness to accept congressional oversight. I have here a preliminary report from the committee's investigative staff which details this unresponsiveness on the part of ISTC's planning office, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Memorandum to The Honorable Warren G. Magnuson, Chairman, Committee on Appropriations.

From W. Donald Gray, Chief, Investigations Staff.

Re Failure of AID officials to provide records requested for investigation of possible illegal use of appropriated funds for lobbying.

Late in the afternoon of October 4, the Investigations Staff was authorized and directed to undertake an investigation to determine whether appropriated funds had been used to lobby for funding of the proposed Institute for Scientific and Technological Cooperation (ISTC) at AID in violation of Section 601 of P.L. 95-481, the FY 1979 Foreign Assistance and Related Programs Appropriation Act, and/or 18 U.S.C., Section 1913. The former statute prohibits the use of any of the funds appropriated therein for publicity or propaganda purposes within the U.S. not authorized by the Congress while the latter makes it unlawful, in the absence of express authorization by the Congress, to use appropriated funds to finance activity aimed at influencing Members of Congress with respect to legislation and appropriations.

The investigation was requested by Senator Inouye, Chairman of the Foreign Operations Subcommittee, with the concurrence of Senator Garn, the Ranking Minority Member, and was suggested by Senator DeConcini, who is also a Member of the Subcommittee. The request specified that our findings should be reported prior to Floor consideration of the fiscal year 1980 Foreign Assistance and Related Programs Appropriation Bill, which is anticipated on Tuesday, October 9.

Unfortunately, we probably will not be able to comply with this portion of the request because Mr. Princeton N. Lyman, who is in charge of the Planning Group for ISTC, has declined to make any of the records and files requested in connection with this matter available for timely review, and they will not be provided until October 9, if then.

Mr. Lyman was informed of the nature of our inquiry, the types of records we were requesting to review, and the urgency of the request at 9:00 a.m. today. Mr. Lyman stated that he would have to confer with the AID General Counsel's Office before making a decision and that he would call be back by 10:00 a.m. When he did not do so, I called him. I was told that he would be conferring with AID's Deputy General Counsel, Mr. Kelly Kammerer and he could not say when a decision would be reached.

At this point Mr. Kammerer was contacted and advised that any lengthy delay in making the records available would be considered tantamount to withholding the documents because of the short time available for their review before Floor consideration of the Bill, and he promised that a decision would be made by noon. Despite this admonition and promise, we were not advised until 4:15 this afternoon that the records would not be made available until the morning of October 9. The reason given for the delay was that because files contained documents originating with other agencies or referring to contacts with other agencies, including the President's Science Advisor and the National Security Council, Mr. Lyman had consulted those agencies and had been told that they wished to examine any such documents in order to determine whether there might be grounds for invoking Executive Privilege.

Consequently, Mr. Lyman decided to have his staff go over all of the files in order to identify and pull out any such documents for review. I asked if we could review the other documents in the file over the week-end and the Monday holiday, but I was told that we could not have access to them until Tuesday morning because it would take until then to put them in order.

We plan to begin our review of the files as soon as they are made available and to insist that the documents originating with or referring to contacts with other agencies also be made available unless Executive Privilige is invoked. It is our understanding that the President must approve any such claim.

Mr. DECONCINI. Mr. President, this report chronicles a sorry eposide of bureaucratic foot dragging and defensiveness. If it suggests, as I believe it does, what is in store if ISTC is ever organized, it becomes all the more imperative that the Senate's position prevail in conference. I want to assure my colleagues that I intend to do all in my power to insure that outcome. Seen in this light, the amendment I am offering takes on a significance that goes beyond its specific substance, and I hope my colleagues will cast their votes in that perspective. ISTC and its planning office should be put permanently out of business.

Mr. INOUYE. Mr. President, the managers of this bill have studied the amendment, and we are ready to accept it.

Mr. GARN. Mr. President, on behalf of the minority, I am willing to accept the amendment.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that this be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment offered by the Senator from Arizona. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

The PRESIDING OFFICER (Mr. TSONGAS). Are there any other Senators in this Chamber who wish to vote?

The result was announced—yeas 76, nays 22, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—76

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Magnuson
McClure
McGovern
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—22

Bayh
Bradley
Chiles
Church
Cranston
Culver
Eagleton
Glenn
Javits
Kennedy
Levin
Mathias
Matsunaga
Moynihan
Pell
Percy
Sarbanes
Schmitt
Stevenson
Stone
Tsongas
Williams

NOT VOTING—2

Cannon
Heinz

So Mr. DECONCINI's amendment (UP No. 619) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 506, AS MODIFIED

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself, the Senator from Kansas (Mr. DOLE), the Senator from New York (Mr. JAVITS), the Senator from California (Mr. CRANSTON), and the Senator from Nebraska (Mr. EXON) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and others proposes an amendment numbered 506, as modified.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, after line 12 insert the following new section:

SEC. . It is the sense of the Congress that the United States should generously support international relief efforts to alleviate famine among the people of Cambodia. We believe such sums as may be necessary, including sums appropriated or otherwise made available pursuant to the provisions of title II of the Agricultural Trade Development and Assistance Act of 1954, should be used to provide relief and rehabilitation assistance for the people of Cambodia, to be administered by and through the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), or other appropriate international organizations or private voluntary agencies.

Mr. KENNEDY. Mr. President, if one of the most massive human tragedies of modern times is to be avoided, we must act now to assure there is no question that U.S. foreign assistance funds are available to support the international relief program in Cambodia.

Famine and disease today threaten the lives of millions of men, women, and children in Cambodia. Indeed, the very existence of the Khmer people is at stake.

Having suffered the loss of nearly half its population from the ravages of war and the cruel programs of the Pol Pot regime, Cambodia now faces famine and the relentless spread of disease among its remaining population.

Worst still, this terrible danger has been known for months. We and others in the international community have seen the Cambodian crisis coming for many weeks. Whatever we do today to help, will already be too late for countless thousands.

The statistics are some of the worst the world has seen. Following hearings I held as chairman of the Judiciary Committee on July 26, receiving testimony from Secretary of State Vance, it became clear that unless immediate relief efforts were undertaken by the international community, some 2.5 million Cambodians would face severe starvation. More recent estimates place the figure as high as 3.5 million people.

A report I received last week from American officials in the field, along the Thai border, suggests that over 200 Khmer refugees are dying every single day in just 5 camps they were able to observe along the border. The report finds that perhaps as many as 200,000 hungry Khmer civilians are now pressed up against the Thai border in search of food and safety. Tens of thousands are not far behind.

The report notes "the physical condition of newly arrived refugees over the past few days was among the worst we have witnessed. Assuming that only the strongest are able to make the trek into Thai territory, it appears that those still inside Cambodia are reaching the point where it is no longer possible for them to survive."

Other observers who have visited Cambodia, including delegates of the International Committee of the Red Cross and voluntary agency representatives, paint a picture of an entire country on the move in search of food. They report the roads are filled with villagers wandering without direction, in the vain hope of finding some food.

They also report that food production this harvest will be only 20 percent of normal—a fact that has been confirmed by our intelligence satellites. This drastic shortfall in food production will be exacerbated by the complete breakdown of Cambodia's neglected medical system. There is an acute shortage of doctors, medicine, hospital supplies and medical facilities. As a result of the Pol Pot regime's policy of eliminating Cambodia's intellectual classes, including doctors and nurses, there is only a handful of competent medical personnel in the entire country. There have been reported outbreaks of bubonic plague, widespread malaria, hemorrhagic fever and dysentery that is especially fatal to young, undernourished children.

The physical and human destruction inflicted upon the Khmer nation over the past decade surpasses, in proportional terms, the worst devastation of World War II or famine conditions in either the Sahel or Biafra. Following years of war, the Pol Pot regime's mass evacuations and brutality reduced Cambodia's population from an estimated 8 million to some 4 to 5 million.

In the process, Cambodia's towns and cities, transportation and infrastructure were destroyed. Phnom Penh, the capital, remains a ghost town.

Not surprisingly, the surviving population today in Cambodia is weakened and debilitated. All are endangered by disease and starvation—especially the children. Recent travelers to Cambodia say it is a country with very few small children. There are 10 deaths to every birth. And that ratio stands to worsen rapidly in the days ahead, unless something is done to help.

That phrase—"unless something is done to help"—has haunted the international community for many weeks. I raised it last July 26 with Secretary Vance, when it was clear that famine would soon stalk Cambodia, and the refugee crisis would escalate in Thailand, unless a massive relief effort was launched.

Despite the best efforts of several international agences, it was not until just last week that general agreement was reached with Cambodian authorities and the International Red Cross and UNICEF to begin a significant international relief program.

I welcome this agreement, which provides for the timely distribution of relief "consistent with the principles of impartiality and nondiscrimination," as was the case in Biafra and Bangladesh, both international agences have pledged that they will assure that this relief "will in no way way contribute to the war effort of either of the belligerents."

These are important principles and they remind us forcefully that food, medicine, and shelter cannot be permitted to be used as instruments of war. Common decency dicates that the current relief effort must reach all the Khmer people, regardless of where and under whose control they live in their war-ravaged land.

Recent reports confirm that the first relief flights have begun to arrive in Phnom Penh and more will follow, if we and the international community move immediately to support this emergency effort.

The United States needs to act now. Having expressed our strong concern over the humanitarian needs of the Cambodian people for many months, we must not fail now to provide tangible and generous support to the International Red Cross and UNICEF.

It is for this reason that I am introducing this amendment to the pending foreign assistance appropriations bill—the first legislative vehicle—to assure that funds will be available to provide an American contribution to the famine relief effort in Cambodia.

The amendment simply stipulates that funds appropriated under the bill—as well as Public Law 480 food-for-peace commodities—should be available for famine relief in Cambodia. The International Red Cross and UNICEF are issuing their appeals, and it is anticipated that some $100 million will be required for just the first 6 months. Over the coming year that would mean the U.S. share would be approximately $20 million in cash and $30 million in food commodities.

There should be no question that it is the intent of Congress that funds should be available for this purpose. My amendment will resolve any questions that have arisen in the past as to the intention of Congress—whether only international disaster assistance funds could be used in countries where legislative prohibitions have been established. The amendment states the clear sense of the Congress that the administration ought to use every tool and every fund available under the pending foreign assistance bill to support the famine relief effort in Cambodia.

Again, Mr. President, the simple purpose of this amendment is to permit indirect aid and assistance, in the form of food and medicines to be available to the international agencies, the United Nations agency, and the private voluntary agencies, to respond to the human tragedy in Cambodia.

Mr. President, regarding the ability of voluntary agencies to contribute to the famine relief effort, I would like to note the important work already done by OXFAM—a private agency headquartered in England, but whose U.S. affiliate is located in Boston.

Recently, in testimony before a House subcommittee, Dr. Joseph Short of OXFAM/America testified on the relief supplies they have already sent, and their ability to deliver and supervise the distribution of more, if they were only given additional support. I ask that the text of this testimony be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY ON CAMBODIA FAMINE RELIEF

Mr. Chairman and Members of the Committee, I am Joseph Short, Executive Director of Oxfam-America, headquartered in Boston, Massachusetts, and affiliated with five other Oxfams in Canada, Europe and Australia. Oxfam began in England in 1942 as the Oxford Committee for Famine Relief and has evolved into an international organization which promotes economic and social development in Africa, Latin America and Asia. We provide financial, technical and moral support for grass-roots development by and for the poorest people in the developing countries. Our primary form of assistance is financial grants to community-based groups working for self-reliance in food production, economic cooperatives, water resource development, and effective community organization.

Oxfam-America, the U.S. affiliate, was established in 1970 and works collaboratively with the other Oxfams through a network of 20 field offices in the developing countries. Our development grants currently support efforts for justice and economic well-being in countries as diverse as Nicaragua, Upper Volta, Tanzania and Bangladesh.

Oxfam-America also engages in education and advocacy in this country concerning vital issues of development in the Third World countries. On November 15, our sixth annual Fast for a World Harvest will involve as many as a half a million people. In colleges, churches and communities, Americans will examine the problems of hunger and poverty and then act to support the efforts of people to help themselves in Cambodia, Nicaragua and throughout the world.

Our message to the American People in the New York Times on October 7, entitled "Can We Save the Cambodia People?", is an example of media education we undertake.

Often one or more of the six Oxfams is involved in emergency responses to natural and man-made disasters which all too frequently magnify the continuing tragedy of crushing poverty. When this occurs the Oxfams try to respond immediately and effectively, sometimes with direct relief aid as in Cambodia now, but always with an eye to supporting the resilience and resourcefulness of disaster-affected people as they prevail and move forward to self-reliance. This is why, for example, Oxfam field workers in Phnom Penh have responded so readily to Cambodian requests for fish nets, seeds, and for a major irrigation and agricultural development program. Similarly, during October, Oxfam funds are helping to plant fields in eastern Nicaragua to meet emergency and longer-term needs for food.

In Indo-China, Oxfam has been meeting the immediate needs of Boat people and Road people for these last several months. We have been providing medical supplies, food, sanitation and water resource systems in Pulau Bidong, Macao, Hong Kong, Thailand and other places.

Oxfam's direct action to assist starving people in Cambodia stepped up rapidly in late August and September of this year when the British Oxfam, with the cooperation of the French Committee for Medical and Scientific Aid, was able to fly a consignment of drugs from Luxembourg to Phnom Penh. Oxfam-America helped to finance that flight and is currently raising funds in the United States for two subsequent flights of food and drugs which arrived on September 21 and 28; in addition, Oxfam-America is providing funds for two or more shipments of food and other supplies by sea to the Cambodian port of Kompongsom, and for what will be a mounting relief operation as access widens. Oxfam medical and field workers, who have been in Phnom Penh over the last several weeks, report that current aid is being delivered directly to people in severe need and is subject to effective monitoring by humanitarian organizations.

Within the last week, Oxfam representatives have met with officials of International Committee of the Red Cross and UNICEF in Phnom Penh to coordinate operations within Cambodia. Brian Walker, Director General of Oxfam-U.K., met there last week with senior government officials to explore possibilities for expanding access for assistance on a massive scale from European, Australian and U.S. non-governmental organizations. So far, the Oxfam role has been to help start the rapid flow of assistance; in the long term it will also augment the efforts of larger organizations. We are also encouraging bilateral assistance by governments and other private organizations.

Although Oxfam-America itself does not seek or administer U.S. government funds, we obviously recognize the critical importance of U.S. government policies and assistance in saving the Cambodian people. If our recent operational experience in Cambodia can be of any use in encouraging a massive humanitarian response by our government, we will rejoice. At the same time we and others will help rally and channel directly U.S. private support to starving Cambodians.

It is indisputable that 3-4 million Cambodians face starvation. Their best hope is that we in America will come to rapid and operational agreement on what we can do to place the survival of a huge number of human beings above the geopolitical calculations of the moment.

What does this tragic situation require of the American people and their government?

First, we must recognize that if massive food and medical aid is not provided to the Cambodian people immediately, then millions will die in the next six months.

We do not believe that the American people will stand aside and allow three million Cambodians to starve to death. They will insist that their government and private agencies make a heroic attempt to save the Cambodian people.

On the other hand, we believe that in the long run, Americans will judge harshly those in positions of influence who put a preoccupation with power politics in Indo-China above responding to the needs of a dying people.

Already, our agency, as well as others, has received a significant outpouring of sympathy and contributions for Cambodia. Based on this response, we are certain that there will be extraordinary public support for government policies which insist that the survival of the Cambodian people is the highest priority.

Second, we should make a clear and unequivocal indication of what the United States government and the American people are prepared to do on a humanitarian basis.

An absolutely essential beginning is for the President and the Congress to make available immediately Food for Peace commodities on a large scale and to use Disaster Assistance Funds generously and compassionately.

While it is hard for anyone to put an exact dollar figure on the needs in this situation, it would seem at the very least that a 100 million dollar commitment from our government would be an appropriate humanitarian response.

In a situation that cries for moral leadership, we salute this sub-committee and Chairman Wolff for calling this most important meeting. And we congratulate Congressman Solarz, and Congressman Anderson for their legislation which has acted as a crucial catalyst. We look to the Congress for such continued exemplary leadership.

Finally, I should like to remind the committee that in the months that lapsed between the time that the situation of the Boat people became manifest to policymakers and the time that effective responses were made by the U.S. government, tens of thousands had perished in the South China Sea. Many could have been saved. How long will it take for us to act this time? How many innocent Cambodians will die?

Mr. KENNEDY. Finally, Mr. President, if there were any doubt as to the scope of the human tragedy that is overtaking the Cambodian people, a recent eyewitness report of a group of Americans puts those doubts to rest. Last week, Prof. James Matlack from Hampshire College in Amherst, Mass., sent me a copy of a report he prepared from his recent visit to Cambodia as part of a delegation sent by the American Friends Service Committee.

After reading his report, there can be no doubt over the urgent need for emergency food in Cambodia—and for medical and other relief supplies. I ask that the text of his report be printed at this point in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Journey Into Nightmare—Kampuchea, 1979

None of the photographs or stories that I had seen about current conditions in Kampuchea (formerly Cambodia) fully prepared me to face the reality, the human tragedy that I encountered there. It is a shattering experience to travel through a major city with no more population than a country town, to see countless drawn faces of hungry people and malnourished children so weak that they cannot cry, to hear the gentle voices of surviving Khmers convey repeated tales of horror and suffering, patiently explaining how the immediate members of their family died or disappeared.

I went to Kampuchea as a member of the first American delegation (though not the first Americans) allowed into the country since the change of government last January—indeed, since the fall of the Lon Nol government in 1975. I was part of a group representing the American Friends Service Committee, a Quaker organization for fact-finding and program development in continuation of relief projects and other programs that AFSC has carried on in the region since the early 1950's. With Quaker-sponsored assistance activities already under way in the refugee camps and in Vietnam, we were particularly anxious to assess needs and possibilities for humanitarian aid to Kampuchea. We were granted visas for entry at the Kampuchean embassy in Hanoi and flew from Ho Chi Minh City (Saigon) to Phnom Penh on September 17.

The flight takes only thirty minutes but the contrast is shocking. Vietnam is a poor, underdeveloped country working under stress to stabilize its economy and to improve living conditions. Kampuchea hardly exists as a functioning nation. Remnants of a devastated people are struggling to reestablish the rudiments of a government and coherent social order even as they face widespread starvation. From the air, the rich land of the Mekong delta in Vietnam showed signs of intense cultivation. The intricate grid of dikes and paddies, of houses ringed with fruit trees stretched to the horizon. By contrast, long stretches of Kampuchean countryside showed only dull brown. I am no argricultural expert but there was little evidence of rice cultivation. (Published accounts of close surveillance by U.S. satellites suggest that at most 10 percent of the arable land in Kampuchea has been planted.) Even at lower altitudes near Phnam Penh it was hard to see indications of ongoing human life. On the vast expanse of the Mekong in high water I saw only two small dugout boats.

On the plane with us from Ho Chi Minh City was a colorful delegation of Vietnamese Buddhist monks. They were going to Phnom Penh to take part in a re-ordination ceremony to re-establish the Buddhist church in Kampuchea. Religious leaders of all faiths had been particular targets for elimination under the Pol Pot government. Where Cambodia previously had thousands of monks and nuns, only seven survivors had so far been located to take part in the renewed ordination.

As we drove in from Pochentong Air Port, most buildings looked deserted, many were damaged, and the trickle of people on foot and bicycle seemed to live elsewhere. We passed half a dozen derelict gas stations that looked as if they had been consciously dismantled. Approaching Phnom Penh, a striking row of high-rise buildings that had been the University were deserted and partially ramsacked. Schools and hospitals were closed under Pol Pot. Only a few primary schools have been re-opened in the city.

Downtown Phnom Penh was eerie and depressing. We drove through empty canyons of high-rise buildings along broad boulevards with only as many people in view as might be found on a country road. Some families were camping in first-floor rooms but upper floors were untenanted. Whole side streets seemed desolate with trees down and rubbish mounds along the curbs. The wide plaza in front of the RR Station was vacant every time we passed through it over two days. The central market, which had been a crowded scene of buying and selling before 1975, had only ten or twelve sellers with meagre stocks and no visible customers.

Our car drew up to the old Hotel Royal past a dozen cows grazing on the median strip in front of the building. The hotel functions in skeletal fashion for a few international guests. Water and electricity usually worked but rarely at the same time. The staff is largely Vietnamese on temporary assignment since no Khmer could be found with prior experience. With no other facilities in town and food difficult to procure, the staff of the Russian Embassy often ate in the dining room. Our scant meals still featured some meat and/or fish. We ate better than anyone else in Phnom Penh including, we were told, government leaders.

Walking out from the hotel, I passed a series of large buildings that had been central to the French community and cultural life of Phnom Penh. An impressive marble library next door looked unused for years with half the books scattered on the floor. Someone had tried to grow vegetables in part of the otherwise weed-filled front yard. A four-story Lycee (High School) was empty. Several villas were deserted with heavily overgrown trees and plants choking sidewalks and blocking driveways. Some families were living on the second floor of the old Cercle Sporif—the sports club. One of the two largest Catholic churches in the city had been across the street from the Hotel Royal. Not a stone or foundation block remained on the flat, barren field.

The Kampuchean Foreign Ministry sent two young women to be our interpreter/guides. Their main qualification was prior study of English and French, a fact that they had successfully hidden through four years of work as peasants under Pol Pot. Knowledge of a foreign language usually brought a death sentence. Both told of experiences common to nearly everyone with whom we talked. They were driven out of the city immediately after the Khmer Rouge victory, forced into the fields to grow rice under the most primitive conditions—heavy labor, one meal and five hours sleep a day, no food for those too ill or too weak to work. Casual or calculated killings were frequent. Whole families would be taken away and bludgeoned to death (bullets were costly) and the blood-soaked clothes brought back for others to wear. "In our village we lived without hope and waited for death," Mrs. Ek Preney told us. Many of those who survived until last January were killed when they refused to flee with the Pol Pot cadres as the "liberation" forces of Heng Samrin and Vietnamese troops approached.

Our first visit of the afternoon was to Phnom Penh's sole orphanage. Three months after opening it had 539 children quartered in a former high school. Only 26 of them were five years old or less, compared with 332 in the 11 to 15 bracket—clear indication that the years under Pol Pot had been most lethal to the youngest Khmers. The orphanage provided basic medical care and food supplemented by vitamins and milk powder from UNICEF. The kids were often too weak to sit up when they arrived but most we saw were reasonably healthy and responsive although very thin.

We were briefed by Chau Sa, the staff member who spoke English best. His attractive face was marred by a sightless eye skewed off to the right side. He had been a teacher during the Lon Nol years. Sa celebrated his son's first birthday on April 18, 1975. The next day he carried his son and aided his wife as they were driven out of Phnom Penh into the countryside. They walked 90 kilometers in 20 days. After arriving in a rural village in Prey Veng Province he was imprisoned for five months. Most of his associates from the city died but he survived and rejoined his family. For the next three years he worked as a peasant, especially making fertilizer from excrement.

The hamlet was forced to move halfway across Kampuchea to the West in 1978. Many more died on this trek or were killed after relocating by the teenage cadre who ruled the lives of the people with absolute power. Whole village groups were executed. Sa told of seeing a killing ground where several thousand persons had been beaten to death. He and his wife survived until Liberation but their child did not. Sa was an exception among those we talked to in having his spouse alive. We were given an estimate that 70% of the women between 19 and 35 who had been married were now widows.

Walking through the orphanage was both heart-rending and encouraging. The affection and caring of the staff were abundantly shown. Many children smiled, reached out for our hands, were strong enough to cling to our legs and walk with us. They seemed so small and spindly, however. New arrivals were in more critical condition with fever and bloody dysentary. Still, they were fortunate in being in one of the few settings so far receiving direct aid from UNICEF and the Red Cross. At the end of the tour we spoke with the Vice-Director and learned (in French) that her husband, a former university professor, and 11 out of 14 of her immediate family had died in the Pol Pot years.

From a scene of moderate liveliness we went to one of appalling slaughter and stillness.

Toul Sléng had been one of the top French Lycees in Phnom Penh. After the Pol Pot takeover it became a prison for political suspects, a center for torture and execution. Twenty thousand persons died here. Four high-rise rectangular concrete buildings formed three sides of what had been a spacious lawn and compound. It was now ragged and overgrown but the full horrors lay inside the structures.

The first block had high-ranking political prisoners, one to a room. Each had been shackled naked to a bare cot frame. Various devices for beating and torture were on display, as were photographs of the fourteen bloated corpses found chained to beds in this wing after the guards had fled. Each room was preserved in the same scruffy, bloody disarray shown in the photographs with only the body removed.

The second and third blocks had barbed wire mesh over their whole facade. Each classroom here had been sub-divided into many small cells, usually 2 feet 6 inches by 7 feet long, into which ordinary prisoners had been jammed. For urination and defecation jugs or ammo boxes were provided. Absolute silence had been required. There was one meal a day. Mrs. Preney, our interpreter, began to cry, apologizing by saying that she had been a student in these rooms in the early 1970's.

The most harrowing displays were in a central section of Toul Sleng. The keepers of this charnel house worked methodically. They kept careful records of names, backgrounds, dates of execution. Thousands of documents were recovered. Some of the lists were enlarged and posted. On October 15, 1977, for example, 418 persons had been killed. The long tallies of professional people, technicians, diplomats, students, persons tainted by foreign exposure who had perished indicated the mad, xenophobic mood of the Pol Pot regime. Students who returned from abroad were consistently killed, not only those who had been in the West but ones coming back from Russia, Cuba, and Vietnam as well.

Along with the lists were photographs. Most of the victims in Toul Sleng had a mugshot. In preparing the prison as a museum, 4x6 blow-ups of these pictures literally covered whole walls in row upon row of solemn faces whose sad or defiant eyes stared out unblinking yet showing awareness of their impending fate. Many in the photographs were Pol Pot cadre rather than Lon Nol technicians or students with foreign contamination. The regime purged and purged in self-devouring quest for purity or at least lack of political opposition. I am haunted still by standing in front of those massed faces and trying to meet their cleareyed stares.

We saw workshop areas where the prisoners melted down metal artifacts in order to cast busts of Pol Pot. In one room was a pile of ragged prisoner clothing 15 feet high. They led us out in back of the compound to see excavated grave sites with jumbled piles of broken skeltons. The overall experience was for our time nearest to a tour of Auschwitz or Dachau a generation ago.

Among the guides at Toul Sleng was one of the four known survivors. Mr. Ing Pesch escaped in the turmoil of Liberation as the last prisoners were marched under guard out of Phnom Penh. The nails on the thumb and middle finger of his right hand had been pulled out. He apologized for not remembering all details because his skull had been beaten so often. The rest of his family were dead. Like so many Khmers, he told us of hellish suffering in a quiet, gentle voice.

Another guide had come back from Paris in 1977. He found Phnom Penh frighteningly quiet. The dozen students who returned with him to serve the new nation all perished. He commented that the people preferred socialism but not sadistic killers as leaders. The manager of the prison site, Mrs. Pen En, lost her husband and three children. We left Toul Sleng in stunned silence, unable to absorb fully its legacy of terror and murder.

On the evening of September 17 we talked for two hours with Jacques Beaumont of UNICEF and the International Red Cross representatives, Francois Bugnion and Dominique Ziegler, M.D. They had been in Phnom Penh for three weeks trying to negotiate arrangements for large-scale relief deliveries (frustrated by the absence of most government leaders at the Havana Conference of Non-Aligned Nations). Their estimate of conditions was bleak. The problems and crises facing the new Phnom Penh government were beyond even super human skills to handle. The economic and social organization of the city and country had to be rebuilt virtually from scratch after the most severe imaginable dislocations and traumatic shocks. Up to 90% of every category of trained and experienced workers and technicians were gone. The infrastructure of transportation, communication, public utilities, and distribution systems was primitive or non-existent.

There is no currency in Kampuchea. Rice is the medium of exchange. Barter and scavenging are common. For those who work a salary is only the weekly ration of rice, already scant, which must be further reduced to trade for other necessities and to share with family dependents who have no job. Many Khmers were too weak to do hard physical labor but most machines and vehicles were broken or unusable.

Dr. Ziegler told us to look for rust-colored spots in people's hair, especially children. This was a sure sign of severe malnutrition among the normally black-haired Cambodians. Spotty hair was often visible over the two days. We were also advised not to walk out of the hotel after dark and to reach the border before sunset the next day. This was not because of political antagonism or the possibility of attack by Pol Pot guerrillas but merely recognition that starving people may do desperate things.

Some reports in the American press suggested that relief shipments into Phnom Penh had been blocked by refusal to permit "end-use observation." Beaumont told us that the modest shipments so far had been meticulously monitored and accounted for. Of course massive food shipments would necessitate more foreign observers (and, probably, foreign workers and vehicles for adequate distribution). Both the Kampucheans and the Vietnamese were very sensitive to security considerations and seemed reluctant to allow large numbers of outsiders to enter the country.

The oversight role of the Vietnamese as sponsors of the Phnom Penh government complicates decision-making about large-scale relief efforts. Whatever delay this causes, the Vietnamese also have been the largest donors of supplies and personnel to help in the reconstruction process. They have sent doctors, technicians, roadbuilders, and other specialists into Kampuchea. From their own strained food stocks they sent large quantities of rice. Some refugees complain of shortages in Vietnam due to these shipments. Yet most of the rice went to meet past hunger. Now there is neither reserve nor a crop planted in most areas.

After a fitful night I was up before 6 AM on September 18. Even for privileged foreign guests breakfast consisted of two slices of bread, a cube of cheese, and tea. We went by car for a 7 AM appointment with the Vice-Minister of Health to conduct our formal consultations about relief needs and delivery methods.

Madame Chey Kanya greeted us and introduced three of her staff associates. As we sat around a table for discussion, these four physicians constituted 7 percent of Kampuchea's surviving doctors. From over 500 physicians in 1975, the ministry could now locate only 57 still alive. Nearly all the survivors had hidden their knowledge and identity, practiced no medicine, and lived like peasants for four years. Now they were trying to rebuild a system for providing health care with almost no medicine or equipment. All hospitals and clinics had been closed and sacked. There were not even dispensaries yet operating in some provinces. Even the three best equipped hospitals located in Phnom Penh often lacked the most rudimentary materials for simple procedures like blood transfusions.

Our conversations about getting aid shipments into Kampuchea left many uncertainties due to the internal logistical problems and the fact that other ministries would have to give approvals but Doctor Kanya welcomed any assistance that could be sent and indicated that "end-use observation" could be worked out. She urged immediate dispatch of vitamins and antibiotics, then basic medical equipment. Obviously large-scale food deliveries were also imperative. We presented a small amount of medicine that we had carried in as symbolic of the larger contributions that AFSC and other voluntary agencies hoped to make in the current crisis.

As our formal conversation broke up, Dr. Thuch Thecul, the grey-haired gentleman on my right, spoke to me in halting English. He had studied in the U.S. and interned in Texas and New York City. He spent the Pol Pot years as a peasant. In a soft voice and a manner that sought not to burden the American guest, Dr. Theoul explained that now he was in charge of the only medical school in Kampuchea "but I have no books, no lab equipment, nothing with which to teach." Could we possibly be of assistance if it were not too much trouble? (AFSC is actively working to get support for the reopened facility in Phnom Penh from American medical schools.)

From the Ministry of Health we drove out to Kampong Speu, a provincial town about 20 miles South West of Phnom Penh. Traffic was far less even than in the hill country of Vietnam. Few vehicles appeared other than bikes and carts. Occasional trucks seemed to serve as buses with a mass of people and freight piled on. Roadside buildings were mostly damaged and derelict. Only a few stands or bike repair stops were evident except for a more sizeable market area at a cross-roads. Some rice was planted. Few faces that we passed showed liveliness or vitality.

In Kampong Speu we picked up a local official and drove to what had been the center of town. Eight months earlier the retreating Pol Pot forces had blown up their ammunition stored in the main buildings and levelled the area for a radius of a hundred yards. Ragged craters 15 feet deep and muddy mounds covered with fragments of concrete were all that remained. The ground was strewn with howitzer shells and casings, mortar shells, machine gun and rifle bullets. An old gas station on the perimeter of the blast zone was half blown away by the shock waves. Most current structures in Kampong Speu were made of thatch.

We drove on to the provincial hospital. It served a population of perhaps 300,000. There were 485 patients but only 200 beds and no medical doctor. Thirteen staff members had some training as nurses. A tour of the hospital showed a total supply of medicines on hand that was less than the office stocks of the average American physician.

Hospital staff were trying to treat plague (over 1500 cases in 4 months), malaria, dysentary, typhoid fever, and the varied effects of near-starvation on young and old. Some patients had been hurt by mines or old shells and a few had recent gun-shot wounds as a result of sporadic raids in the area by guerrillas loyal to Pol Pot. We also saw four babies in the maternity section. The nurses explained that patients died for simple lack of food and vitamins. Many of the beds and buildings had been provided through the Vietnamese. The contagious disease ward still had no bed frames—only straw mats on on a concrete slab floor. Fortunately the hospital was beginning to receive shipments from UNICEF and the Red Cross.

As we walked the dusty grounds from building to building some curious kids and adults followed us, gazing at healthy, well-fed strangers. Most sat or lay in place, however, expending no energy even to pursue such novelties. Pain and deprivation hung in the air as a palpable presence.

The orphan ward at Kampong Speu was, I think, my most intense encounter with Kampuchea. Toul Sleng Prison had been a ghastly replay of a murderous nightmare but the killing was over there. At the hospital they had recently put up a thatch structure to house orphans—the only other known orphanage beside the one in Phnom Penh.

On 12 bed frames covered with straw matting were gathered 92 parentless children up to 13 years of age, though none looked larger than an American six-year old. Sad faces and hollow gazes turned toward me when I entered. An astringent odor suggestive of decay filled the room. The huddled mass of spindly kids was quiet, however. Only one child in the ward cried fitfully, with barely enough energy to make a whimpering noise. Spotty hair, open sores, and skeletal young bodies were within reach on all sides. These still living sufferers were a concentrated embodiment of the grief and loss and damage that the Khmer people have endured and of the nearness of death for those who yet survive. I doubt that all the children I saw are still alive.

As I left the orphans, a mother and child stood in the sunlight. The boy she held had stick-like arms and legs and a distended belly. His eyes would not focus steadily and his head rolled irregularly. The otherwise gaunt mother had so large a bulge that we asked if she were pregnant. We were told that her stomach was swollen because she had eaten only grass and banana leaves for five days en route to the hospital. When I stop thinking about these scenes and allow their emotional impact to be felt, I weep.

We sped back to Phnom Penh for a quick lunch in order to be on the road for the border promptly at 12:15 PM. Our van and driver from Ho Chi Minh City had come in the previous day in order to drive us back. We could not wait until the next flight out. We were the first Westerners to travel the road east from Phnom Penh to the border since 1975. The last Americans on the "Parrot's Beak" section of the route were G.I.'s pulling out from our "incursions" into Cambodia several years earlier.

One last trip through Phnom Penh was as unsettling as the first one had been. No quick adjustment is possible to the scarcity of people in the urban landscape, to the breakdown of all normal systems in a modern city. At the bridge headed East out of Phnom Penh a strict check-point was patrolled by soldiers. A stream of people walked and biked over the bridge, many carrying scavenged furniture or artifacts or, occasionally, some food from the country. At the far end of the bridge was the largest crowd of people we saw anywhere in Kampuchea. They were living in shacks and under tarps waiting to be cleared for entry into the city. The authorities permitted only those with a job or needed skills into Phnom Penh, keeping a growing mass of others at the perimeter. Jacques Beaumont told us that the population in the environs of Phnom Penh had risen sharply as people moved from famine-stricken rural areas toward roads and cities in quest of food.

Route One east of Phnom Penh was tolerable for twenty miles, then became rough, pitted, pot-holed, and virtually worn away in some sections. Especially toward the border it had been fought over so often and so little repaired that we slowed almost to a standstill to negotiate one hole after another. On some stretches tank traps had been dug in from both sides (since refilled with gravel), leaving only a slender track of paving for bike traffic. Along the second half of the route large and bare charred trunks were all that remained of the line of trees that formerly sheltered the road (but also blocked aerial inspection of traffic).

Some people were almost always in view as we drove for six hours to the Vietnamese border but there were few concentrations apart from Phnom Penh, Neak Luong, Kampong Trabak, Svay Rieng, and several villages that seemed well reestablished. Some farm animals and modest rice cultivation could be seen at many points along the road but far more land was unplanted even where the old dike lines indicated prior cultivation. Ed Snyder in our delegation had travelled this road ten years earlier. The contrast from lush, fertile, and busy to its current sparse and battered look was as extreme as the near-emptiness of Phnom Penh compared to its former crowds and bustle.

After two hours we came to the ferry crossing over the Mekong River at Neak Luong. This important transportation center had been bombed by our B-52's in the early 1970's. The heart of the town on the far shore still showed the devastation of the bomb patterns. We had to wait half an hour for the ferry. A crowd gathered around us.

I fell into slow conversation in rusty French with a man who turned out to be the manager of the ferry operation. Although he looked like a tired teenager, he was 40 years old and had lived most of his life in Neak Luong. He had been wounded by American bombing. The same terrible tale emerged of his experiences in the Pol Pot years. Driven to rural areas, he had worked in fields and forests, trying to sustain life on 300 grams of rice a day. Conditions had been "la plus difficile." Many died. The rest of his family was gone, some killed specifically because they held office under Lon Nol.

My companion estimated that 50 percent of the population of the Neak Luong region had died and another 30 percent had disappeared between 1975 and 1979. With soft pleading he explained that they needed food, medicine, seeds, vehicles, everything. "Il n'y a rien de medicaments pour les peuples." Without vitamins or medicine, the people were dying. The nearest medical staff or assistance was a dispensary 40 kilometers away. He said that large numbers of Vietnamese troops had come through in January and that they had been welcomed as genuine liberators by the people. "They are much more content since Liberation." He was now getting only 600 grams of rice a day and worried about wide starvation.

Driving on toward Svay Rieng, I thought of Air Force General Curtis LeMay's renowned remark that our enemies in Indochina should be bombed back to the Stone Age. Between American bombing and Pol Pot's murderous misrule that stage of primitive reversion had been inflicted on the people of Cambodia. No brick or concrete building between Neak Luong and the border was undamaged except for a section of Svay

Rieng. Most were shot up or blasted and abandoned. Where we had seen frequent piles of rice, corn, manioc, and noodles drying on the roads in Vietnam, in traveling the 100 miles from Phnom Penh to the border I saw one pile of perhaps a bushel of corn similarly drying. At times the flat muddy plain extended 3 or 4 miles out in all directions before reaching a tree line and no rice cultivation was visible. The beauty of the birds in and over the fields clashed with the absence of support processes for human life. Occasional groups of boys at play or young women on bikes or adults working in a paddy did not dispell the foreboding feeling. We drove over a deserted plain as the sun set behind us and reached the Vietnamese border at 6:15 PM.

Kampuchea stands in desperate need of immediate, large-scale relief shipments of food and medicine. All political considerations and controversies must give way to allow deliveries of humanitarian aid as soon as possible. Religious groups and voluntary agencies such as AFSC and Oxfam must do what they can to send needed materials but food is required on so large a scale that only governmental food stocks can meet the demand.

American citizens should urge whatever action is appropriate by Congress and the Executive Branch to assure release of food to Kampuchea either under Disaster Relief provisions or under Public Law 480—"Food for Peace." Agreement was recently announced between the Heng Samrin government and UNICEF plus the Red Cross which apparently opens the way for larger shipments into Phnom Penh through these international channels with adequate provision for monitoring and end-use observation. While Quakers and sympathizers will have to contribute funds for the expected AFSC shipments of vitamins, anti-biotics, and medicines ($100,000) and rice ($100,000 purchased in Singapore), public pressure must persuade our government to send food on a massive scale or else many more Khmers will die of starvation.

Beyond the overwhelming and urgent need for relief efforts, there are important policy questions centered on Kampuchea. Our government has postponed normalization of relations with Vietnam until Hanoi pulls its forces out of Kampuchea. AFSC strongly condemned the invasion last January, just as it protested the Chinese invasion of Vietnam that soon followed. Quakers cannot approve the resort to armed force.

Yet the case for refusing diplomatic recognition of Vietnam is weak and selective. China's comparable resort to force was no obstacle to increasingly cozy relations. Nor, to cite a closer parallel, was Tanzania's invasion to overthrow Idi Amin widely condemned in the United States. The new government of Uganda is purely the creation of Tanzanian armed intervention. Some 25,000 Tanzanian troops remain in Uganda, unable to leave because no coherent administration or indigenous leadership is possible without them. Armed bands still roam through Kampala in the wake of Amin's brutal misrule. The only difference (apart from Big Power politics) between Uganda and Kampuchea is that Amin is not in some remote province with a few followers still claiming to be an authentic government.

Vietnamese consistently gave us two reasons why they had to stay in Kampuchea for the immediate future. The first is suggested in the prior paragraph and throughout this report. The Kampuchean government and social systems (one cannot even say "economy") require outside aid to function at all. The second reason is traditional Vietnamese fear of Cambodia's weakness that may allow a stronger enemy to threaten their Western border. This is what happened through 1977-1979. Chinese arms and advisors backed large border raids by Kampuchea against Vietnam. One and a quarter million refugees had to be resettled in Vietnam as a result of these savage forays (U.N.H.C.R. estimate). Vietnam felt itself encircled with Chinese power attacking both in the West and on the Northern border. The Hanoi government will not allow a restoration of status quo ante or a vacuum of power in Kampuchea which would lead to renewed Chinese presence on their Western flank.

America should normalize relations with Vietnam, allow trade between the two countries, and extend reconstruction assistance. Only these steps will go to the root of the refugee problem and bring more stability to the power balance in the region. Otherwise the scenario is set for ever-escalating war. The Vietnamese will attack remaining Pol Pot forces. They will probably come into conflict with the Thai army during "hot pursuit" episodes along the border. China will invade Vietnam again if the Vietnamese seem about to extinguish Pol Pot's claim to any territory in Kampuchea. (The Vietnamese are convinced another attack will come, possibly through Laos.) Russia stands in the wings as Vietnam's sponsor who may, in turn, try to teach China a lesson. This is a prescription for global war.

The two broad steps that can help cut down the risk and the suffering in Indochina are direct and large-scale assistance to the nations and desperate people of the region and a more even-handed approach to their respective governments. On this latter point, the United States should recognize Vietnam and vigorously warn China against military moves in the area. The Khmers have lived through a nightmare, have been fought over and mauled by other powers and by their own demented leaders. They deserve a chance for basic nutrition, health, security, and economic development without becoming yet again bloody pawns in a Big Power chess-game.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. I wish to associate myself with the remarks of the Senator from Massachusetts.

Mr. President, the tragedy of millions of people facing imminent starvation in Cambodia is something the civilized world can no longer choose to ignore. The United States, in particular, holds a special responsibility for the fate of the Cambodian people who are caught in a net of political intricacies which threatens to entrap the whole population's lifeline. Despite continued public protests, the horror stories out of Cambodia keep mounting. The administration now estimates that up to three and and one-half million Cambodians face starvation and severe malnutrition in the next few months.

Diplomatic solutions to alleviate the suffering have been attempted, but it is clear that neither side is interested in diplomatic answers.

Humanitarian aid has been slowly entering the country, but political obstacles have stood in the way of the massive relief effort that the situation demands. Last week, it seemed as though the major political barriers had been moved aside and that the International Red Cross and UNICEF could proceed with their unhampered supply of food and medicines to the whole population. This week, that hopeful prospect seems less certain.

Time is, however, of the essence. The world community should voice its immediate protest against any effort to obstruct the lifesaving work of the international and voluntary organizations. The United States should also publicly voice its commitment to grant a fair share of the financial, food, and medical resources the relief effort will require.

This amendment I am cosponsoring with Senators KENNEDY and DOLE is an important affirmation of congressional support for U.S. and international relief endeavors for the people of Cambodia. The United States should respond quickly to insure that the aid is provided in time to help the millions who need it.

Mr. DOLE. Mr. President, on October 5, I introduced Senate Resolution 252, along with Senators DOMENICI, HEINZ, and DECONCINI, urging aid to famine stricken Cambodia. Today, I am pleased to cosponsor with my distinguished colleague from Massachusetts, Senator KENNEDY, amendment No. 506 to the foreign appropriations bill, H.R. 473.

The language of the resolution and that of the amendment is almost identical. Both bills reflect the same humanitarian concern, as we are faced with one of the greatest tragedies of our time, the possible death of an entire people. To the inevitable effects that wars—all wars—have on the people who are the unfortunate victims of political conflicts in which they are caught without necessarily comprehending them, this year's poor rice crop has added a famine of such magnitude that it threatens to extinguish the total population of Cambodia.

Political speculations abound as to where the blame should be placed for the inability of international aid to reach the Cambodians. There is wide agreement however that aid must be given, and that time is running out. The power of words is inadequate to fully convey the extent of the catastrophe as reported by the press. Photographs flashing across our television screens give us but a fleeting image of the effects of famine and starvation. Statistics are perhaps more easily understood by our Western minds. It has been reported that 8 million people were in Cambodia as late as the mid-1970's. It is believed that those who died from war, murder, disease, and starvation now number in the millions. How many are left is difficult to determine. It is known, however, that it is low enough, by recent estimates, so that all could be saved.

Two million people are expected to die of starvation and disease within the next few months unless massive outside help is forthcoming. I trust in our national conscience, I trust in the collective conscience of the congressional body to do all than can possibly be done to help alleviate the tragic famine affecting Cambodia.

The present amendment expresses our support for international relief efforts. It also directs sums appropriated under H.R. 4473 or made available through provisions of title II of the Agricultural Trade Development and Assistance Act of 1954, to be used to provide relief and assistance for the people of Cambodia.

The need for action is urgent if we want to stop the genocide, a word that

BEST DOCUMENT AVAILABLE

the realities of modern history are threatening to turn into a regrettable cliche.

Mr. President, I ask unanimous consent to have printed in the RECORD an article in the New York Times of September 27, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAMBODIA: TIME TO ACT

(By Anthony Lewis)

BOSTON, SEPT. 26—Two million Cambodians—perhaps half the surviving population of that ravaged land—are going to die of starvation and disease in the next few months unless massive help from outside can get to them. That is the estimate of doctors and relief workers who have visited there recently.

Even a world numbed to the statistics of war and natural disaster should be moved by the fate of the Cambodians. The pictures of children with the look of concentration camp victims are before us. What those people have suffered and are suffering justifies a word that should not be cheapened by overuse: holocaust.

According to the experts, it would take an airlift of 600 tons of rice a day, starting immediately, to avert famine. There would have to be large amounts of medicine and relief teams, and trucks to distribute the supplies in a country stripped of its human and physical infrastructure.

All that could be done. Oxfam and UNICEF and the Red Cross and other agencies are ready to move. The U.S. and other governments would provide food and money. But political obstacles are preventing action.

The Heng Samrin Government, installed in Phnom Penh by invading Vietnamese forces last winter, has refused visas to relief workers—and even revoked some visas. Last week the regime angrily denounced the distribution of food, at the border with Thailand, to Cambodian civilians who were not under its control.

The signs are growing that Vietnam is using starvation as a weapon in the effort to consolidate its hold on Cambodia and destroy the remnants of Pol Pot's Khmer Rouge forces. Vietnam wants any Western aid for Cambodia to come through its agents and be distributed to those within its control. The effect would be to abandon to starvation the large areas where its control is contested—as much as 80 percent of the country according to some reports.

The Vietnamese this week apparently launched the dry-season military offensive in Cambodia that American officials have been predicting. The renewed fighting, together with the obstruction of aid from abroad, threatens to bring final disaster on what was an extraordinarily fruitful land until war engulfed it ten years ago. Correspondents report that rice was not even planted this summer because of the political turmoil.

Starvation is not the limit of what the situation in Cambodia threatens. There could be extremely grave political consequences, for the region and the world. State Department officials concerned with the problem see these as some of the possibilities.

More Cambodians may try to escape into Thailand, which already has 100,000 Cambodians and 120,000 other refugees in camps. The fighting could also spill over into Thailand and increase the strains on its stability.

China, which resolutely supports the Pol Pot forces, could react to a new Vietnamese offensive by taking punitive military action itself: a move into Laos, for example, or another direct assault on Vietnam. There are reports that Chinese officials told Vice President Mondale, during his recent visit, of their intention to respond strongly to any Vietnamese drive in Cambodia.

The Soviet Union has countered by saying it might not keep hands off if China moves into Vietnam again. The Russians are deeply engaged in Cambodia, ferrying Vietnamese troops there in Soviet planes and helping with logistics.

"Cambodia is very serious for all of us," a high American official said the other day. "The weakest state in Asia, because of its weakness, is the point of greatest danger. The events there, if mishandled, have a chance of setting off a chain reaction."

What can the United States do to head off threatening disaster, human and political? The Carter Administration's reluctant answer is: not much: It stands ready to offer relief but thinks the time is not ripe for larger diplomatic action because the parties involved are committed to another round of fighting. President Carter himself has had little to say.

The gloomy U.S. estimate may be realistic. But we do not want to tell ourselves, if the worst happens, that we stood by and wrung our hands. And I think there is something more dramatic that the United States, Japan and the West Europeans can attempt now. That is to call for an immediate international conference on the human situation in Cambodia.

World action on the boat refugees from Vietnam showed that public feeling and political pressure could make a difference. After an international conference, Hanoi did back off. Here again is a situation when world outrage could matter. A conference would have to focus at first on the imminent threat of famine. But that problem is so connected with the political struggle over Cambodia that there might be ways to move on to the larger issue.

The President of the United States and men who hope to succeed him in office are spending much of their time these days worrying about the threat of a few thousand Soviet soldiers in Cuba. They might spare a thought, and some words out loud, for the fate of several million Cambodians.

Mr. DOLE. It is almost incomprehensible to speculate about the number who face starvation and death in Cambodia unless we do something, and do it very quickly. We have had estimates as high as 2 million people in the next few months, 2 million additional—there have been hundreds and hundreds and thousands who have already suffered and died of starvation, and I would just suggest that this is a matter of the utmost urgency. It is a matter of the highest priority, and I am pleased to join with the distinguished Senator from Massachusetts in his amendment.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. DOMENICI. I, too, want to join in commending the distinguished Senator from Massachusetts and the distinguished Senator from Kansas.

We all like to talk about helping people when there is a catastrophe or a disaster. This is one. This is a fantastic one, an incredible one, for people to permit this to happen. Maybe it will not work. Maybe we cannot get it through. I say to my good friend from Massachusetts. Maybe governments are still unable to understand that this kind of problem transcends political differences. Maybe they cannot understand that, but we ought to overwhelmingly send them a message that we are going to do whatever we can to avoid this holocaust, and it is really one.

I am pleased to be part of that message.

The **PRESIDING OFFICER.** The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of this amendment. I think it is important and urgent, and I hope the Senate will adopt it.

The **PRESIDING OFFICER.** The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I rise to join in sponsorship of and in support of the amendment which the senior Senator from Massachusetts has proposed.

It seems to me what is taking place in Cambodia is really one of the great tragedies of our lifetime. Apparently a whole nation, the population of a whole nation, is in danger of being eliminated, and whatever we can do and as fast as we can do it we should do it and, hopefully, this amendment by the Senator from Massachusetts and others will help in some way, hopefully a large way, to accomplish the rescue of this tragic people suffering from disease and sicknesses unlike anything we have ever known before, at least in recent times.

Mr. INOUYE. Mr. President, as manager of the bill I have studied the amendment and I am pleased to accept it and, in so doing, I wish to announce that yesterday President Carter pledged an initial $7 million to an international relief effort in Cambodia aimed at saving, perhaps, as many as 3 million people from starvation.

The **PRESIDING OFFICER.** The Senator from Utah.

Mr. GARN. Mr. President, I am willing to accept this amendment on behalf of the minority. I would like to thank the senior Senator from Massachusetts for agreeing to a modification.

When he showed me the amendment a couple of days ago on Tuesday, I had some concern that it was too broad, but he was willing to modify it so that it made certain it applied only to the Public Law 480 program and would be used through the international organizations.

I thank him for that modification and will accept the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

UP AMENDMENT NO. 620

The **PRESIDING OFFICER.** The Senator from Utah is scheduled next.

Mr. GARN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 620.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows.

On page 20, lines 10–14, in lieu of the material stricken, insert the following:

"SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Laos, or the Socialist Republic of Vietnam."

Mr. GARN. Mr. President, this amendment is for the purpose of prohibiting direct aid going to these countries: Angola, Cambodia, Laos, or the Socialist Republic of Vietnam. It seems to me the least we can do is to assure our taxpayers that none of the money will be going directly to these countries. So the amendment simply prohibits direct aid to these Communist countries.

Mr. INOUYE. Mr. President, this is consistent with the intention of a majority of members of the U.S. Senate, so I am ready to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 621

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) for himself, Mr. Helms, and Mr. Exon proposes an unprinted amendment numbered 621:

At the end of the bill insert the following:

"SEC. . The total funds appropriated in this Act shall be reduced by three percent.".

Mr. HARRY F. BYRD, JR. Mr. President, this is very similar to the previous amendment which would have reduced the total expenditures by 5 percent. This would reduce it by 3 percent. I might say that the other amendment to reduce by 5 percent received 48 votes and the negative, those against it, totaled 50.

Mr. President, in the bill before the Senate tonight, there is $8.4 billion for the foreign aid programs. If this amendment which the Senate is now considering is approved, it would reduce the total funds available to be spent by $252 million.

It seems to me this is a reasonable request, and would give some indication to the general public that the Senate is willing to give appropriate consideration to the American taxpayers.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, the yeas and nays have been ordered on this amendment. The Senator from Virginia has consulted with the Senator from Hawaii and the Senator from Utah. They can speak for themselves, but the Senator from Virginia is willing to withdraw the yeas and nays if the Senator from Hawaii and the Senator from Utah are willing to look favorably upon this amendment.

Mr. INOUYE. Mr. President, I have advised the Senator from Virginia that when he withdraws the request for a rollcall, I am prepared to accept the amendment.

Mr. GARN. Mr. President, I am also prepared to accept the amendment.

Mr. LEAHY. Mr. President, reserving the right to object, the Senator from Vermont understands the areas that would be cut, and would not object.

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. LEAHY. The Senator from Vermont is aware of the areas that would be involved in the 3-percent cut, and would not object, but would ask to be recorded in favor of the 3-percent cut.

Mr. HARRY F. BYRD, JR. I thank the Senator from Vermont. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, I would ask that the Chair put the question.

The PRESIDING OFFICER. If the Senator will suspend, is there objection to the request of the Senator from Virginia? Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. This would reduce the total amount to be spent, $8.4 billion, by $252 million. I call for the question.

The PRESIDING OFFICER. All those in favor say "aye."

Mr. CULVER. Mr. President, I object to the vote on the grounds that a quorum is not present and ask for a quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (UP No. 621) was agreed to.

Mr. HARRY F. BYRD, JR. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 622

(Purpose: To prohibit funding for the Institute for Namibia)

Mr. HELMS. Mr. President, I call up an unprinted amendment which I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 622:

On page 6, line 22, delete "$253,590,000" and insert in lieu thereof "$253,090,000".

On page 7, line 2, change the period to a colon and insert the following: "*Provided further*, That no funds authorized under this paragraph may be provided to the United Nations Institute for Namibia."

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that this vote be resolved tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, may I ask the distinguished manager of the bill if that means that so far as he knows there will be no further rollcall votes tonight?

Mr. INOUYE. The Senator is correct.

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 623

(Purpose: To Provide for Debt Relief to the Least Developed Countries)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will ask if there is a request to take the pending amendment and temporarily lay it aside.

Mr. INOUYE. I so request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from New York will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 623.

Mr. JAVITS. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 13, under Title V—General Provisions, add the following new section:

SEC. . The amount of interest waived and interest and principal paid into local currency accounts during the fiscal year ending September 30, 1980, under section 124(c) of the Foreign Assistance Act of 1961, as amended, shall not exceed the amounts specified for the following named countries: Bangladesh, $4,000,000; Benin, $434,000; Botswana, $436,000; Guinea, $295,000; Haiti, $636,000; Malawi, $849,000; Mali, $156,000; Nepal, $4,000; Niger, $100,000; Somalia, $2,523,000; Sudan, $235,000; Tanzania, $2,093,000; Uganda, $465,000; and Yemen, $26,000.

Mr. HELMS. Will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. HELMS. I have a parliamentary inquiry, Mr. President. I thought my amendment was pending.

The PRESIDING OFFICER. The Senator from Hawaii asked unanimous consent that the pending amendment of the Senator from North Carolina be temporarily laid aside.

Mr. JAVITS. If the Senator will yield, it was my understanding that that was the arrangement of the manager of the bill, as I recall.

Mr. HELMS. Then there is no problem. The only question was the time of voting on my amendment.

Mr. JAVITS. Go right ahead and arrange it. I yield.

Mr. HELMS. Mr. President, I would be happy to set aside my amendment and discuss it tomorrow and let the Senator from New York proceed.

Mr. INOUYE. I ask unanimous consent that the amendment proposed by the Senator from North Carolina be the first order of business tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I would like to explain this amendment; it would allow the President to forgive up to about $12 million for the specified list of countries who are among the poorest countries in the world and who owe the United States principal and interest and to use the money for specific development projects agreed to by the host country and AID.

The amounts are specified and limited. Is is strictly a 1-year proposition. If we see fit, in another year, we will have to propose future debt relief not only in an appropriations bill but also in an authorization bill.

This is the subject of an amendment which we adopted to the foreign aid authorization bill, which allowed us to seek this kind of amendment in the appropriation bill. That is section 109 of the authorization bill, Public Law 96-53.

When, as, and if the President forgives whatever is the maximum listed in the amendment for the different countries, these funds will be put in a local currency account which may be used only for such local projects as are consonant with the basic development objectives of the United States. So it has to be a joint decision.

As I explained to Senator GARN, I wish to emphasize the following: There is no automaticity about this whatever. If any Member, like myself, feels that such relief ought to be granted in another year, he would first have to go through the hurdle of the authorization bill, and then the hurdle of the appropriations bill. It is noteworthy that in connection with my agreement with the chairman of the subcommittee on this matter the amount of $18.8 million which is in this year's authorization bill is reduced to $12.2 million. In other words, we undertook an even greater selectivity and dollar limitation.

What is the reason for our doing what we are about to do? We wanted to encourage the very poorest countries in a time of very grave financial stringency for them, especially because of the material increase in oil prices.

The amounts are relatively small. I think the Senate would be interested in hearing the countries which are affected. The largest amounts are Bangladesh, $4 million; Somalia, $2.5 million; and Tanzania, $2 million. Other countries are Benin, Botswana, Guinea, Haiti, Malawi, Mali, Nepal, Niger, Sudan, Uganda, and Yemen. That is the whole situation, and I hope very much the managers might see fit to accept the amendment with that explanation.

Mr. INOUYE. Mr. President, I can well understand the desire of the distinguished senior Senator from New York and the members of the Foreign Relations Committee to provide additional assistance to these poorest of the poor countries. This would be in the form of forgiveness for fiscal year 1980 for principal and interest due from prior year loans. I am prepared to accept this amendment and take it to conference. However, for the record, I must say that if we embark on a course of debt forgiveness for these countries for fiscal year 1980 we must understand that it will be very hard to reverse the decision and begin collections in future years. The total over the repayment period is not the $12 million that has been referred to, but a total of $713,236,000.

Mr. President, I understand that the intention of those who propose this course is that the amounts involved would reflow into local development projects, but who is to say that this will be done or, if done, would be additive to levels which have been made available without the reflows.

In short, Mr. President, personally I would greatly prefer to raise the direct funding for development assistance to these countries and let them accept the discipline of repaying funds that they have borrowed. The repayments on these loans, we should recall, were on the softest of terms, a 10-year grace period with interest only at 2 percent and 3 percent thereafter for 40 years. The true concessionality of these loans is probably in excess of 90 percent. However, as I said in the beginning, I am prepared to accept and I will accept the amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the chairman of the subcommittee has given my speech and expressed my concerns. Therefore, I do not have to repeat them. I have discussed this with the distinguished Senator from New York. He has assured me privately and here publicly in the Senate that this would be for only 1 year.

Mr. JAVITS. That is right.

Mr. GARN. We will have to come back if this is done in a future year and again go through this process. With that assurance of my colleague, I am prepared to accept the amendment.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 624

(Purpose: To make $20,000,000 of development assistance funds appropriated under the bill to be available for Uganda)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 624.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, between lines 12 and 13, insert the following: Sec. 523. Of the amounts appropriated or otherwise made available under this act for expenses necessary to enable the President to carry out sections 103 through 106, and 531 through 534 of the Foreign Assistance Act of 1961, not to exceed $20,000,000 shall be available for assistance to Uganda.

Mr. HATFIELD. Mr. President, this is a very simple amendment which I have discussed with the chairman of our subcommittee, Senator INOUYE, and the ranking minority member, Senator GARN. As the Senate knows, last year I introduced a bill calling for an embargo upon all U.S. trade with Uganda. This initiative was intended to set the stage to assist in the overthrow of Idi Amin. The Senate adopted that embargo and, as we all know, Idi Amin is no longer in power. Therefore, the Senate took action, final action, on lifting that embargo, on September 11. The President signed the repeal of that embargo on September 21. No report from the administration on the recent trade mission to Uganda was received by the Foreign Operations Subcommittee until 10 days ago which followed the markup period of this bill.

Basically, what I propose in this amendment is a reprograming of funds up to $20 million. It does not in any way lift the ceiling or the limitations which are now in place, but, rather, reprograms existing funds to assist in the reconstruction and the rehabilitation of Uganda.

I think we are all very much aware that there was a very rich agricultural economy flourishing in Uganda prior to the recent administration of terror by Idi Amin.

During that time of upheaval and political terror, that agricultural economy was devastated. Uganda has also long been an ally of ours. We have acted already today to recognize the need to help on a human rights issue as relates to Cambodia. I think this is another type of human rights issue which we should take cognizance of; that is, unlike perhaps a more dramatic and perhaps a more dramatic and perhaps a more violent kind of holocaust attack against human rights in Cambodia, this is a very subtle and yet, very meaningful kind of issue of human rights, as their infrastructures have been virtually destroyed and the underpinnings of their society need rebuilding.

This is an amendment which, very simply, will be helpful to the people of Uganda. I ask that the Senate adopt it.

Mr. INOUYE. Mr. President, the amendment submitted by our distinguished friend from Oregon is a reasonable one, a very realistic one. We have studied it and I am prepared to accept it.

Mr. GARN. Mr. President, I am prepared to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 625

(Purpose: To amend Title III, Foreign Military Credit Sales so that not more than $900,000,000 shall be allocated to Israel)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 625.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 9, strike the figure "$661,200,000" and all that follows through line 12 and insert in lieu thereof the following: "$561,200,000: *Provided*, That of such amount not to exceed $400,000,000 shall be available to finance the sale of defense articles and defense services for which the repayment is forgiven by the United States Government under section 31(c) of the Arms Export Control Act: *Provided further*, That of the amount provided for the total aggregate credit sales ceiling during the current fiscal year, not more than $900,000,000 shall be allocated for Israel."

Mr. HATFIELD. Mr. President, this is a much more complex amendment than the one I have just offered. I know that offering this amendment immediately raises a great deal of controversy. Before I get into the real heart of the amendment, I should like to preface the consideration of the amendment with this observation:

I do not believe there is anyone in the U.S. Senate who believes more strongly than I in the right of the State of Israel to exist and be considered a part of the Middle East, to have secure borders, and to be able to live in peace with its neighbors. I also recognize that Israel has extraordinary security needs. I would be the last to dispute this fact. I hope that the United States continues, in its foreign policy, to be responsive to Israel's special circumstances.

I have a voting record that, I think, is fairly clear. In all bills that have appeared on this floor in my 12 years, I have very consistently supported every action that provided for economic assistance that met the social, the economic, and the political needs of the people.

I also would like to make a second observation. That I deplore violence, regardless of who the perpetrator is or for what reason. I, as anyone else, have felt a great sense of distress as I looked at pictures of attacks upon Israeli homes and Israeli schools by terrorists representing the PLO. I think anyone who has any sense of justice or any concern for humanity or any sense of compassion could not help but weep with the parents of those children and with the relatives, as well as those who were less directly concerned than members of the family. None of us can other than condemn, without equivocation, without any reservation, the murderous acts of the PLO terrorists as they indiscriminately, wildly, insanely, attempt to perpetrate this kind of violence upon the people of the State of Israel.

Mr. President, having made those observations, let me also make a further observation as to the content of this bill and its purpose. We have seen American F–15's under the command of the Israeli Government fly over South Lebanon and drop cluster bombs and phosphorus bombs, and other antipersonnel weapons, upon refugee camps that are the centers of PLO activity in preemptive strikes. That is the philosophy behind these strikes by the State of Israel.

According to reports that have been made by the New York Times and by the Washington Post, by a documentary of CBS, news media, and other independent sources, as well as the official reports of the State of Lebanon, a historical ally of the United States, over 200 civilians have been killed in these air attacks by the Israeli Air Force since April, at least 400 others have been severely injured, and 300,000 refugees have been created out of these attacks on southern Lebanon by the Israeli Air Force.

Mr. President, we have lived through a generation of an interesting phenomenon. Since World War II, we have been more willing to accept, or at least shield our eyes from, the terrible horror of death and destruction that has been rained upon people from thousands of feet in the air by the impersonalism of bombing, as contrasted to the 1 to 1 kind of relationship where someone is made a victim by the terror of another person looking at that person, eyeball to eyeball. I do not feel that it in any way lessens the horror of the circumstance or the violence that is being perpetrated, whether it is by a bomber who does not see the white of the eye of the victim or a terrorist who has seen the white of the eye of his victim. One is as reprehensible as the other.

It reminds me of one of the observations made by Joseph Stalin once, when he said that the death of one may be a tragedy, but the death of a million is but a statistic.

I feel that we have a responsibility in this particular action due to the Arms Export Control Act which relates to the export of military weapons and arms from our country. It states very clearly that such arms and equipment shall not be used except for defensive purposes. We had a finding of fact a few years ago and we held that Turkey violated this provision in the Arms Export Control Act; by law, a moratorium on the sale of arms or grant of arms was placed on Turkey.

Now, I recognize, Mr. President, that there is a procedure by which we make such determinations. There is an undisputed fact today that this bombing has taken place and with the kind of equipment and weapons that I have identified. Secretary of State Vance has written a letter to the chairman of the House Committee on Foreign Affairs in which he has said that there "may" have been a violation of the Arms Export Control Act.

In order for the act to be implemented either the President or a resolution by the joint Houses of Congress must make a finding that a violation definitely has occurred.

But because of the overwhelming evidence, and in the absence of a firm determination by Congress or the President, I think we ought to send a signal. I think we ought to send a signal to the Israeli Government through this amendment to eliminate $100 million out of the $1 billion of foreign military sales credits which are intended to go to Israel.

That is 10 percent. In no way does this threaten the greatness and size of the air force of the State of Israel. They have a solid fleet of 75 such planes and will continue to deploy them as they see fit.

In no way are we crippling the military strength of the country of Israel. This is but a symbolic gesture. This amendment poses no threat to the State of Israel or its power.

Mr. President, it seems to me that this is only an appeal to conscience. I have not brought, and I do not intend to bring to the floor, some of the gory photographs of the results of these bombings. We have all seen such, whether it is an Israeli, whether it is an Arab, whether it is a Lebanese, whether it is a PLO, or whoever it might be. We have seen too many lives already taken in this Middle East struggle. I feel very strongly that somehow we ought to raise a voice of conscience.

Mr. President, we are going to hear, as I have heard already, about the fact that this is defensive because the bombing targets are the source of PLO terrorists. They are in these camps. Therefore, Israel engages in preemptive strikes in order to prevent them from striking into the State of Israel. That is defensive in that sense.

Let us analyze that for just a moment.

In World War II the B–17 was our most important bomber, and for 75 straight days prior to February 1945, they bombed a little island 2 miles wide and 4 miles long. This little island was called Iwo Jima.

Airpower flying every day over that island, dropping the full extent of the bomb capacity of this fleet of B-17's, yet when the landing crafts, of which I happened to be a part, hit those beaches, we suffered the highest rate of casualties per square mile of land of any place in the Pacific in World War II. Airpower alone did not destroy the enemy.

We heard during Vietnam, if we only start bombing Hanoi and Haiphong, we can bring it to an end.

Mr. President, we bombed Hanoi. We bombed Haiphong. We dropped more bombs on North Vietnam during that period of time than all the bombs we dropped in World War II combined, and that did not destroy the enemy.

Mr. Nixon, as President of the United States, said, "Well, we're going to bring this to an end, because there are big Communist bunkers over there in Cambodia, so we will destroy those bunkers and destroy the incursions that are coming from that area into Vietnam and bring this war to an end."

Mr. President, this has been a bankrupt policy ever since it was started, and it is going to be as bankrupt by the bombing of South Lebanon as it was in bombing Iwo Jima, in bombing Cambodia, in bombing Hanoi, or in bombing Haiphong—or Hamburg, Germany, during World War II.

Airpower alone is not going to destroy the enemy. What they are destroying in such attacks are civilians, innocent bystanders, victims of this struggle.

It seems to me that in Vietnam our bombs created more Vietcong than anything else we did.

I suggest that the more bombs Israel drops in South Lebanon, the more Palestinian terrorists will be created out of that kind of action.

Neither policy is valid, nor the results something that we can ignore.

Mr. President, I have made my preliminary comments to the fact that I am committed unequivocally to the continuation of the right of Israel to exist.

I might just say in my comments, are there alternatives?

I would like to feel that the creative genius of the Israeli people and of Arabs of moderate viewpoints could continue to build on the experience of Camp David, that we have launched a nonviolent kind of resolution to this conflict in the diplomatic area, and that we could expand on that as it relates to Lebanon and the PLO.

I also say that I do not, myself, condone violence, whether by an airplane or elsewhere. But the Israeli people have created probably the most effective commando organization the world has ever known.

We are all aware of how the commandos moved into Entebbe airport and rescued the hostages that had been taken by the PLO to Africa.

We are aware of how the commandos have been used very effectively against military tragets in other parts of this Middle East area.

So I would say that there is a backup position that does not include the indiscriminate use of cluster bombs against refugees and innocent civilians.

The commando action against purely and only an identifiable military target is not fully acceptable to me, but, certainly, is by far preferable to the policy now being used in the bombing actions of the Israeli Air Force.

Mr. President, I merely offer this amendment as an effort to raise the conscience of the Senate to a tragedy, a tragedy in the Middle East, that is not going to be solved or relieved to any greater extent by this continued bombing than it has in other parts of the world. Delegate FAUNTROY sent me over an example of the American cluster bomb he picked up when he was there on a recent visit.

I think, again, these are irrefutable facts, whether or not we in good conscience can continue to provide such arms for those purposes without at least raising the issue.

I am not suggesting cutting off all the arms or doing anything in any way threatening to the stability, or strength, or power of the State of Israel, or its air force, or its military institutions. But merely to raise a signal here that there is conscience in the Senate of the United States about this devastation and this constant waste of human life in the name of a military policy that has never provided us with any evidence of success when it has been used elsewhere in the world.

(Mr. JOHNSTON assumed the chair).

Mr. PACKWOOD. Mr. President, I oppose the amendment of my distinguished senior colleague.

I have been in southern Lebanon. I was there a year ago, during that short period of time when the Israelis occupied Southern Lebanon. I have seen the territory, some of it mountainous, some of it open. I have seen that great fortress at Bofur, built 800 years ago by the Crusaders, now occupied by the PLO, from which they shelled Metulla, Merdjayoun, and Kleye, indiscriminately shelling Jews, shelling Lebanese Christians.

When I was there, I marveled at the restraint of the Israelis, that they did not simply take that fortress, which they could do easily, but instead, by substantially greater restraint than I think I could exercise if I were an Israeli, they stayed on the south side of the Litani River and allowed the PLO to continue their buildup north of it.

The Israelis withdrew upon what I think were very ephemeral promises of the United Nations that they will police the area and stop any of the terrorists from getting through. The year and a half that the United Nations forces have been there is living evidence that they are unable or unwilling to do that.

My distinguished senior colleague indicates that we should send a signal; and if we adopt this amendment, we will send a signal all right. That signal will be that it will be perfectly all right for the PLO to build up their fortifications 2, 3, 5, 10, 15 miles north of Israel; that it will be all right to build their harbors there. They will launch their little liferafts full of terrorists.

It is perfectly all right for them to prepare, arm, and wait, and choose when and where they will surprise some innocent Israeli with a bomb, in a marketplace or a theater, or a half dozen terrorists will creep into a school and kill the children. That is the signal we will send.

Israel should do nothing. They should wait until the terrorists sneak across the line or down the seashore, and then and only then, when the terrorists are on Israeli territory, may Israel defend itself.

That is not a policy we would advocate for the United States if we were faced with terrorist activities, and I do not think it is one we should advocate for Israel.

However, most important, it is not our business to advocate that policy for Israel. Israel apparently thinks that the bombing raids are working; or, if they do not, then we have to come to the conclusion that they do it just for the fun of it. Those who know the Israeli leaders—both the majority and minority parties—know that Israel is not in the business of bombing for fun and wasting what precious little money they have if they do not think it is effective.

Most important, the signal we will send to the PLO is this: Keep it up. Do not ever recognize Israeli's right to exist—and the PLO has not yet conceded that right. Plug away at it. Sooner or later, American patience will wear thin. Sooner or later, world public opinion will turn against Israel. Sooner or later, the United States will cower, as have the rest of the European countries, and not sell Israel any arms—and that is the ultimate weapon we have.

The rest of Europe already has been blackmailed by the Arab countries into not selling Israel any arms—not France, not England, not Germany—because they are afraid of the power of the oil boycott. Only the United States has been willing to continue to supply Israel. I hope we will not be willing to give in to the PLO or the threats of an Arab boycott on oil, because if we do, we will be trading integrity for energy, and we will soon find that we have neither.

Peace is going to come in the Middle East only when the parties in the Middle East agree, eyeball to eyeball, face to face, across a bargaining table, that they want peace. It cannot be forced from the outside.

If the United States or the Soviet Union thinks it has the wisdom to know what the settlement in the Middle East should be, if either country is so presumptive as to think it knows who should settle on the West Bank and who should not, or who should occupy the Golan Heights, or whether the city of Jerusalem should be divided—if we or the Soviet Union are that presumptive, we are wrong. No settlement will last in the Middle East unless the parties that have to live with it voluntarily agree to it.

What we are doing if we adopt this amendment is saying to one side, Israel, "We are going to tie one hand. We are going to take part of your bargaining chips away. Part of those bargaining chips are to say to the PLO, 'We are not going to allow you to fortify your bases 10 or 15 miles north of us. We are not going to allow you sanctuary while you wait until you think you can surprise us or injure us.' "

For us to say that Israel should lose that bargaining chip indicates to me a presumptiveness bordering on arrogance.

When you look at the history of the Middle East, all Israel has ever asked to do, from the time of the Balfour Declaration, is basically to be left alone. They have been doublecrossed and betrayed by most of the European countries. What was promised them by Britain in the Balfour Declaration was reduced by almost 80 percent when the State of Jordan was created. But those Jewish settlers and those leaders of the Zionist movement at the time accepted that.

When, in 1947, Great Britain finally said, "We are going to walk away from the Middle East; we can no longer manage it or control it," the United Nations decided on a partition for what is now the State of Israel. Israel did not like it, any more than they liked losing 80 percent of the land that had been promised by England earlier. But Israel said, "We will live with it. We don't think it is fair, we don't think it's the partition to which we're entitled, but we'll accept it." But not the Arab States.

On the day that the Union Jack came down, all six of Israel's neighbors attacked; and for the better part of 30 years, they intermittently continued those attacks, when all Israel ever wanted was to live and let live.

Will peace come in the Middle East? Yes, it is going to come. The people in that area have lived together for the better part of 4,000 or 5,000 years, most of the time in peace, sometimes at war. Certainly, 10 years ago no one would have predicted that Egypt and Israel would come to a peace settlement. They have.

In 5, 10, or 15 years, Jordan, Saudi Arabia, and I think Syria will eventually come to a settlement in the Middle East. But they will only come to it when they finally decide that it is in their interest to have peace. Part of that decision has to be that they cannot win, that they cannot drive Israel into the sea, that they cannot terrorize them into impotence, so they had better settle.

If we adopt this amendment today, we are sending a signal all right. It is a signal to those intransigent Arab governments and to the PLO to keep it up, that "time is on your side; sooner or later America will give in and bully and blackmail Israel, and they will have to give in."

If that happens, it will be another day of infamy in the history of this world.

Mr. INOUYE. Mr. President, each year the members of the Foreign Operations Subcommittee are called upon to make important decisions. The measure we are considering represents an important instrument in the implementation of our foreign policy. It is a very carefully balanced measure, a measure that answers one important question, and the question is: Is this in the best interests of the United States?

Some have suggested that these measures and these decisions are based upon the best interests of other countries. To put it a bit more candidly, some have suggested that this is in the best interests of Israel, or in the best interests of India, or in the best interests of Europe. Now, Mr. President, the question we address is, is this in our national interests?

We have concluded that it is. The Government of the United States is saddened and all of us are saddened by this tragic bloodshed involving the descendants of Abraham. We wish we could perform a miracle and bring about an end to this tragic war. But this amendment will not bring an end to this tragic war and to call it anything other than a war is misleading ourselves.

Contrary to what my friend from Oregon believes it will not send his message. It will send the wrong message. And the message will be the one that my dear friend Senator PACKWOOD has suggested. It will be a message that the United States has changed its foreign policy and is no longer supportive of Israel and that Israel is now fair game. It would undo the work that we have started many decades ago from the time of President Truman.

So much as I love and respect my friend, Senator HATFIELD, I will have to vote against him.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. INOUYE. I am very happy to yield.

Mr. JAVITS. Mr. President, may I ask the Senator whether in the considerations of the subcommittee, which very properly first consult the security and international interests of the United States, as this is a money question, the question of Israel's ability to maintain financial viability was raised? If it was not it should be. This is $100 million we are talking about. Israel has to have these arms, surrounded as she still is by Syria, Iraq, Jordan, Saudi Arabia, and a large array of hostile forces on her eastern flank and to her north who make no bones, including the PLO, about being pledged to her liquidation and elimination. So she has to have these arms.

We have gone over that with a fine-tooth comb with the Pentagon and with 100 percent inflation, Mr. President, 100 percent inflation, this would be an additional body blow which could very seriously jeopardize her, especially as the Senator says that her standing in the world is heavily premised upon her relation to the United States, and any vote of no confidence by the United States could be very devastating not only in the practical terms which we have discussed but in terms of her ability to even persist as a nation. So this is really, really critical. This hits her really in her solar plexus.

Second, the tragedy of this bombing is real. I know Senator HATFIELD well. No one thinks he has any animus against Israel. I think his remedy is completely wrong, but nonetheless I do not think it is motivated by other than his deep humanitarian instinct which he has manifested 1,000 times in my hearing for the Israelis, for the Arabs and for any other peoples.

But, Mr. President, that is an element of the tragedy which surrounds us because rather than to join in an effort to avoid this inhumanity of man to man, which the PLO wreak upon the Israelis and the Israelis in turn in the interest of self-preservation have to wreak upon the other side, when you put this matter into the forum of man—which is the United Nations—every answer that comes out is loaded.

You never see a word about the deprivations of the PLO. You never see a word about its stubborn determination to liquidate Israel, even though the President of the United States has said to them, "You have but to accept what even confrontation states like Iran has accepted, to wit, U.N. Resolution 242, and abandon your determination to liquidate Israel and drive the Israelis into the sea, and we will begin to talk to you." They cannot even do that.

So how can we in good conscience—and Senator HATFIELD appealed to conscience—compromise our conscience when we know that it means the beginning of the liquidation of this state much as our hearts are rent by its tragedy, when this tragedy falls on deaf ears to all these allegedly suffering and deprived peoples in the less-developed countries who are casting these votes day after day in the United Nations, and in addition, insulting the almost common intelligence of the world in linking Zionism, a movement of freedom and liberation, with racism, which they did on strictly political grounds and strictly to serve the interests of the Arab States.

I am a lawyer and I know the feelings of judges, Mr. President, I might say to my colleague from Hawaii. There was a very sainted senior judge in New York, named John Knox. He was our senior judge. He told me sentence day was the hardest day of his life, and he was the toughest sentencer on the bench, because it simply tore him apart to have to deprive any man of his liberty, and often in this Chamber we are in the same position.

Deep as is my sympathy, I know of no other way in which somehow or other this can ultimately be redressed except that Israel should survive and that she should do her best to survive when the path for the other side, to wit, the PLO, is so easy and so clear and so straight, and yet with a complete dedication to the liquidation of Israel and its people, it will not take it. It left us no choice, Mr. President. And we can only strive, as President Carter has striven with our help here—all of us who speak as I do have been right back of him, and will continue to be—to bring some kind of reason or order or peace into this area. But until that happens, I do not see what we can do but follow BOB PACKWOOD's advice: If you are going to send a signal, send a signal that we expect people whom we wish to stay alive to do what is necessary to keep them alive, and that is what will happen if we vote down this amendment.

Mr. STEVENSON addressed the Chair.

Mr. INOUYE. I have the floor.

Mr. STEVENSON. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. STEVENSON. Mr. President, I was

hoping the Senator from Oregon would yield to me or the Senator from Utah would yield so that I might support the amendment.

Mr. GARN. There is no time agreement. The Senator from Hawaii has the floor. So the Senator can seek recognition in his own right.

Mr. STEVENSON. The Senator has given up the floor.

Last March Israel invaded Southern Lebanon. It continues to support Christian militia in Southern Lebanon, impeding efforts of the U.N. Interim Force to restore peace in that country. And in recent months a succession of retaliatory and preemptive bombing attacks have been staged by Israel against Lebanese territory. These attacks have brought widespread death and destruction to the civil population of Lebanon.

Israel's military activities in Lebanon have been accomplished with American equipment in apparent violation of the terms upon which it was accepted. In addition, actions of the Begin Government on the West Bank conflict with the policy of the United States, the policy embodied in U.N. Security Council Resolution 242 and the opinion of virtually all nations. However uncertain and unlikely the methods involved in step-by-step diplomacy, the objective of the United States has been an overall settlement in the Middle East based upon the exchange of occupied territory for international guarantees of Israel's sovereignty and territorial integrity.

The policies of Mr. Begin, as distinguished from those of his predecessors and many of his countrymen, are in conflict with that universally accepted premise. They contemplate territorial aggrandizement, not the dreams of peace and justice upon which Israel was founded and for which it has been generously supported. These policies are driving Israel into bankruptcy. They threaten Israel over time with heavily armed, militant, Russian-supported forces from Libya to Iraq outside its borders and a growing, hostile Arab population inside its borders. Of larger significance than the fate of Israel is our own security and, indeed, the peace and economic stability of the world. Already, the nuclear threshold is reached in the Middle East. America's authority is on the decline. And the world courts, for lack of direction, economic and political upheaval.

It is curious how reticent we are to represent ourselves even in such extreme circumstances as these. The administration is reluctant to call the Israelis to account for their misuse of American-supplied military equipment. Members of Congress clamored to cut off aid to Turkey when it offended similar prohibitions against the misuse of U.S.-supplied arms in its invasion of Cyprus. Now they are silent.

Last year the United States provided $1 billion in regular military credits to Israel. That sum was supplemented by $2.2 billion in military credits as a reward for signing the peace treaty with Egypt. I opposed the supplemental aid for Israel and Egypt. The parties did not need to be rewarded for doing that which was ostensibly in their interest. The rewards should await some movement toward implementation of the Camp David accords. As it is, movement toward settlement of the difficult issues, including the status of the West Bank, has failed to materialize. And yet more aid is proposed, as if to signify that the way to our purse is through intransigence.

The fear and anxiety underlying Mr. Begin's firmly expressed views have historical origins which we should respect and understand. We should respect, if not approve, the Biblical origins of certain of his policies. But in the end the United States must represent its own interests—even if Mr. Begin disapproves. He can make his choice; it is not for him to make our choices.

U.S. and Israeli interests coincide. Certainly, the interests of both countries require a settlement in the Middle East. But a settlement in the Middle East still requires withdrawal from the occupied territories and international guarantees of Israel's territorial integrity. The Pope, speaking for all mankind, recognized as much during his visit to New York. Mr. Begin's views are at odds with that premise which is, I believe, shared by virtually all Americans.

The uncritical provision of military and economic aid to Israel, unlike Turkey, regardless of Mr. Begin's rejection of U.S. policies, leads to an impression in the world that U.S. policy is influenced not so much by U.S. interests, as by U.S. politics, and can be disregarded with impunity. Such a view is given some credence by our willingness to let Israel determine whom U.S. officials can talk to in the Middle East.

Senator HATFIELD's modest amendment would reduce the military sales credits for Israel by 10 percent, from $1 billion to $900 million. This amendment signifies our concern over evident misuses of U.S.-supplied military equipment in Lebanon and our dissatisfaction with Mr. Begin's policy of expanding settlements in the West Bank and lately of permitting private purchases by Israelis of land in occupied territories. It is a mild means with which to suggest that the United States should support its own interests in the Middle East, even if they do conflict with the policies of Mr. Begin. It is by no means an expression of disfavor for Israel, nor any lack of sympathy for the Israeli people. On the contrary, our commitment to that country is unequivocal. It is a moral commitment by a nation which more than any other gave birth to Israel as a means of righting ancient injustices.

But it was never a commitment to a Government of Israel, right or wrong, at the expense of our own interests. Israel was established to right ancient injustices, not to create new ones. Many years of history have made our commitment to Israel clear. But we are not obliged to subscribe to every vagary of an Israeli Government that is itself often divided and given to internecine quarreling, especially when, as now, its actions damage efforts to bring about a peaceful resolution of the Arab-Israeli differences and raise large doubts in the world about our capacity for leadership. It is time to make clear our commitment to our own interests.

Mr. President, I therefore commend Senator HATFIELD for offering a sensible amendment. He demonstrates some courage, and that is a quality which, I regret to say, is not abundant in our politics.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I want to speak against this amendment. I want to join, however, with the distinguished Senator from Oregon (Mr. HATFIELD) in calling what is happening in the Middle East a tragedy, and it is a tragedy for the Palestinians, it is a tragedy for Lebanon, the Christians and Moslems of Lebanon, that beautiful country that has been so much undermined by the PLO, and a tragedy for Israel.

I do want to object, Mr. President, to the remarks made by the distinguished Senator from Illinois that there is no legal precedent, that there is no legal justification, for the actions of the Israelis with respect to the American armament, some of which apparently is used in these attacks against the Palestine Liberation Organization in Lebanon.

Unfortunately, Mr. President, the PLO puts its bases, as is well known, in the midst of the civilian areas because they know two things: They know the Israelis are reluctant to attack there and they also know that the Israelis are subject to great censure in the event they do find it necessary to create preemptive attacks.

Certainly the Israeli Government, as the Senator from Illinois pointed out, is often divided. If we were to be judged in that way certainly we are sometimes divided, Mr. President.

But it is abundantly clear, and it is abundantly clear from a number of eminent international legal scholars, that Israel's retaliatory raids into Lebanon and Jordan are countenanced by international law or acts of legitimate self-defense.

I refer, Mr. President, to a speech made by one of my predecessors, Senator Humphrey from Minnesota, on October 2, 1974. I ask unanimous consent that a portion of his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS

Mr. President, it has been made abundantly clear by eminent international legal scholars that Israeli's retaliatory raids into Lebanon and Jordan are countenanced by international law, and constitute "legitimate self-defense" as cited in the Foreign Assistance Act of 1961.

In accordance with the principles of international law, and the declaration of principles concerning friendly relations and cooperation among states adopted by the U.N. General Assembly on October 24, 1970, all member nations are duty bound not to tolerate any subversive or armed activities against other sovereign states. This declaration states:

"No state shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed toward the violent overthrow of the regime of another state, or interfere in civil strife in another state."

Prominent jurists maintain that permitting subversive activities against another state constitutes a breach of international undertaking even if those activities are exercised by private individuals. To back this up, I would cite some relevant quotes. Oppenheim's International Law, edited by H. Lauterbach:

"International law imposes the duty upon every state as far as possible prevent its own subjects, and such foreign subjects as live within its territory, from committing injurious acts against other states."

From the Declaration on Friendly Relations, official records of the General Assembly 25th session supplement No. 18 (A/8018) we have—

"Every state has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another state."

Israeli actions on Lebanese territory are also based on the inherent right of Israel to self-defense in accordance with article 51 of the U.N. Charter.

And the U.N. General Assembly document A/AC.134/L.46 of April 12, 1974 of the Special Committee on the Question of Defining Aggression, article 3 states:

"Any of the following acts, regardless of the declaration of war, shall subject to and in accordance with the provisions of Article 2, qualify as an act of aggression.

"The sending by or on behalf of a state of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another state of such gravity as to amount to the acts listed above or its substantial involvement therein."

Surely Israel's exercise of self-defense against these acts of aggression would be actions taken in "legitimate self-defense."

Mr. BOSCHWITZ. Also, Mr. President, because the other Senator from Oregon, the junior Senator, has stated so eloquently the entire history and background of the turmoil in the Middle East, I want to join him in those remarks, as well as to join the Senator from New York (Mr. JAVITS) in his remarks.

I yield back the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I yield to my friend from Maryland.

Mr. MATHIAS. Mr. President, the amendment of the Senator from Oregon is objectionable on several grounds. One is the fact that it reduces assistance to Israel by a significant amount. As the Senator from New York (Mr. JAVITS) has said, when you deprive Israel of $100 million, it is more than a symbolic act. Such a severe cut in U.S. assistance would make a material difference to those who not only must plan the defense of Israel but also the stability of the entire Middle East.

This is a matter of concern from the point of view of the United States. It would be a serious deprivation for the United States to lose the benefit of hospitable shores in the Eastern Mediterranean, to lose a place in the Middle East where the values of the free world are firmly rooted. To take any action to jeopardize U.S. interests in the area without serious consideration would be a very grave step for the Senate.

But I think the principal reason the amendment should not pass tonight is more serious. The world would consider the adoption of the amendment as a moral judgment on Israel by the Senate. Indeed, I think that is the stated purpose of the amendment. I am not prepared to render a verdict of guilty that is implicit in the amendment.

As every Senator here has expressly said, we regret the loss of life in Lebanon as we regret the loss of life in Israel. The fact that people are being killed and maimed on both sides is, however, no evidence of the use of arms in violation of U.S. law.

Israel is a Jewish state, the world's only Jewish state. One thing that is strong in Jewish tradition and history is a reverence for justice. It was the ancient law of Israel, for example, that an aggrieved citizen could exact no more than an eye for an eye and no more than a tooth for a tooth. This doctrine of restraint marked an advance in the theory of justice for whole human race. The traditions of the Jewish nation are a beacon in the fog of confusion of the modern Middle East.

It is a source of strength for Israel that she has a great tradition of acting justly in her dealing with the world. And I expect Israel to act justly. As I have fought for justice for Israel I have confidence that Israel will do justice. The amendment should be defeated.

Mr. INOUYE. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I, too, wish to join my colleagues in urging that the Senate reject this amendment. I think it is an inappropriate amendment at an inappropriate time. I think that here on the floor of the Senate, many of those who have followed the whole development of the peace efforts have to recognize that one of the most essential aspects of U.S. policy has to be consistent and strong support for the security of Israel. That has been well understood over the years.

I have no doubt that those who offer the amendment are no less committed to Israel. But at this most delicate of times in the pursuit of a genuine peace—and for the United States, and its commitment to the State of Israel, and to that process—this amendment runs contrary both to the interests of Israel and the interest of peace. It certainly raises questions in the minds of those who are prepared to take some of the steps to move that whole region towards peace, and must give them a sense of pause.

There should be no sense of pause on the part of any of those in Israel who know of the strong and continuing commitment of the United States. It is there; it is very real. This is a time when the United States should be reassuring Israel and all those forces that are trying to move the process forward to a genuine and lasting peace in the Middle East.

In short, Mr. President, the peace process is now at a delicate stage. Actions taken by the United States could have potentially far-reaching effects. It is for this reason that I believe we should make every effort to build upon what we have already achieved in the Egyptian-Israeli accords signed last May. The Egyptian-Israeli peace treaty represents a cornerstone for peace in the Middle East. I have strongly supported this agreement and believe we must continue to strive for a lasting peace.

In our quest for peace, we must be willing to face many difficult challenges. The principal challenge now before us is to strengthen and to broaden the current Egyptian-Israeli peace treaty and, in so doing, to reduce tensions in the Middle East. I believe the best means to pursue this end is to continue to utilize the framework embodied in the Camp David accords. As my colleagues know, negotiations on the future of the West Bank and Gaza Strip, based on the Camp David framework, have already begun. Although there are a great number of difficult issues to resolve, I am hopeful that the Palestinians, Jordanians, and others will come to join the essential process for peace and share in the determination to overcome these obstacles.

For negotiations to proceed, however, Israel must have full confidence in the U.S. position as a force for peace in the Middle East and as a guarantor of Israeli security. I believe that decreasing U.S. military assistance to Israel would erode Israel's confidence about the willingness of the United States to fulfill these important roles. The United States has had a historic commitment to the State of Israel, a commitment I have always supported. I believe we must strengthen this commitment to Israel's security if we are to move forward to a lasting peace in the Middle East.

Moreover, this amendment not only would affect Israel, but could be to the detriment of all parties engaged in the peace process. If doubts were to arise about our position in the Middle East, not only Israel but Egypt and other countries in the region would begin to question U.S. commitments. Ultimately, these doubts could undermine much of our effectiveness in the Mideast peace process. U.S. foreign assistance is instrumental in insuring that we continue to play an effective role in the pursuit of peace.

Mr. President, I recognize the difficult issues that must be resolved in order to achieve a lasting peace. If the Senate today agrees to adopt this amendment, the negotiation of these issues will only be made more difficult. I do not believe the U.S. Senate should impede the process that has begun. Negotiations toward the achievement of a lasting Middle East peace must move forward. Furthermore, I believe it is the responsibility of the United States to do everything possible to assure that the current dialog develops further.

Finally, Mr. President, I want to emphasize my condemnation of the terrorist violence of the PLO against Israel which is at the root of the question we are discussing tonight.

I have repeatedly condemned senseless violence—whether it is the IRA in

Northern Ireland, terrorists in Latin America, or attacks on civilians in Indochina. We must condemn such violence. And, today, we must condemn such violence against the state and people of Israel by the PLO. Such acts of terrorism as we have seen in recent weeks and months have contributed to the vast escalation of the conflict in Lebanon. They not only threaten to undermine the peace process which is at such a crucial stage, but invite its failure and assure even greater violence in the days to come.

I urge my colleagues to oppose this amendment and to reaffirm the U.S. commitment to a genuine and enduring Middle East peace which guarantees the security of all parties.

Mr. INOUYE. Mr. President, I yield to the Senator from Florida.

Mr. STONE. I thank the Senator from Hawaii.

Mr. President, since the Senator from Oregon has raised this issue, and since we are going to vote on it, I think this becomes a valuable test. Can the State of Israel defend itself against attacks on its civilians, or does the Senate of the United States say that it should not? Can the State of Israel finance its survival with our assistance, or does the Senate say that it should not?

I welcome this vote, because it has been said more and more recently that there is an erosion of support in Congress for the survival of the State of Israel. This vote which we will take will put that rumor to rest.

Mr. INOUYE. Does the Senator from Idaho ask me to yield?

Mr. McCLURE. Mr. President, I seek recognition, if the Senator from Hawaii will surrender the floor.

Mr. INOUYE. Mr. President, we have been assuring Senators that we would be leaving this place soon, in fact 15 minutes ago. I intend to motion to table, but I do not wish to delay.

Mr. McCLURE. I thank the Senator, and I will not be long.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, this amendment and the turn of the debate, which perhaps is predictable, present the Senator from Idaho with a puzzling dilemma, because the amendment really is not addressed to the question of whether or not the Senate will support the continuation of the existence of Israel. The amendment of the Senator from Oregon is, I believe, intended exactly as he has stated it, to express our sense of concern about the bombing of civilian targets within Lebanon.

I do not think anyone would doubt that there has been bombing of civilian targets in Lebanon. Without regard to the extent of the news coverage in this country, it has certainly been sufficient to illustrate the fact that innocent men, women, and children in Lebanon have been maimed and killed by that bombing.

I share with the distinguished Senator from Oregon the concern that he has expressed about the results of that bombing. This is not the first time the junior Senator from Idaho has taken the floor of the Senate or testified before committees of this Congress with respect to Middle Eastern policy. I do not intend now to trace the history of the evolution of the tension and the warfare in the Middle East, or the U.S. stake in the outcome of that conflict, but I am distressed when I see or hear a selective rewriting of history.

If history books were burned, there would be great outcry from a great many people in the United States about the attempt to destroy the facts of history. I can forgive some of my friends who are so emotionally involved in the preservation of the existence of the nation of Israel, with their admiration and their emotional as well as family ties to the brave people of that country, for expressing themselves in florid terms concerning the threat which Israel suffers, but unfortunately that is only a part of the historic record; and to recite a part without the rest is a mockery of the truth.

There is another side to the evolution of that conflict in the Middle East—another side of broken promises, of threats, of aggression, of wrongful acts—and it is suggested here that the use of U.S. weapons is a violation of the Arms Export Control Act. I think it is, just as certainly and just as clearly as the use of U.S. arms by Turkey against Greek troops in Cyprus was a violation of the Arms Export Control Act. No selective reading of history can change that.

I understand why the Israelis want to strike back against the sanctuaries of those people who are causing death and destruction and threatening the existence of Israel within its present boundaries—and I say its present boundaries to distinguish from those that are recognized by the United Nations and by this Government.

But the cries of outrage are selective because the same cries of outrage that were leveled against the U.S. bombing in Vietnam, in Cambodia, or North Vietnam are now justifying this as a legitimate reaction. Yet when it was our aircraft defending our troops in another battle at another point in the world many of the same voices were raised in protest as though it were inhuman and unacceptable. But in this instance, inhumanity against human beings is justified.

Mr. President, I share the feeling that a great many people have expressed here for a need for the United States to be consistent in its support of the nation of Israel and its existence. But we should never allow ourselves in the fidelity to that goal to allow ourselves to become distorted to the point that any criticism of any action becomes automatically subject to castigation by the friends of Israel. I am a friend of Israel but I retain the right, and I think the responsibility, to say that sometimes the actions by our friends are wrong. We must not lose the right to say that because they are our friends we must accept everything that they do regardless of what that may be. And many Members of the Senate are doing that because they fear the automatic reaction of those who dare to criticize those actions. Indiscriminate bombing of civilian targets in Lebanon is wrong. It is wrong for U.S. weapons supplied for defensive purposes to be used in the maiming and killing of women and children who are not combatants in that fray.

The use of terrorism, whether it be directed against the civilian populations in Israel by the PLO or the organized terror inflicted upon civilian targets in Lebanon by the armed forces of Israel, is equally wrong.

I have in my State of Idaho a large Basque population. There are no finer citizens in my State than the people of Basque descent. I cherish that friendship. But I cannot condone the Basque separatist bombing of civilian targets in Northern Spain. I cannot support the Basque separatist terrorism against the State as an instrument of their expression of political point of view.

The use of force against civilians is wrong. It is wrong in any of those cases and it is wrong in this one.

Mr. President, I do not want to get into a debate at this point. The hour is late and I assured the Senator from Hawaii that I would not take long. I do not want to, in this debate, get into the entire question of what is the legitimate settlement in the Middle East. I have addressed myself to that question a number of times. But certainly any policy of the United States must first deal with the question of what is right for the United States; second, is it moral and just, and, third, is it just to the parties which are involved?

Any kind of a consideration of the bombing that is going on in Southern Lebanon today must tell us that the actions being taken are not in the best interests of the United States in the solution of that terribly difficult conflict. It is not moral by any test of morality, other than that of might makes right, and it cannot even serve the best interests of Israel, in my judgment, in the long run.

Mr. President, I hope there will not be any of the friends of Israel, either here or elsewhere, who malign the motives of the junior Senator from Idaho for having said what I have said. I believe that the best interests of Israel require a change in U.S. policy and a change in Israeli reaction. I believe that just as sincerely as those who demand unlimited arms, unlimited escalation, unlimited right of Israel to pursue aggression against her neighbors.

That is a point of view which I respect, even though I may not share, even though I may disagree.

But because I have been in this spot before, I know that there will be some, not necessarily within this body but outside, who immediately will level the finger of shame at the junior Senator from Idaho and say, "You are anti-Semetic because you did not know just what Israel wanted."

Mr. President, we have had enough of that kind of divisive talk in this country, and that talk, too, is against the best interests of Israel because to raise that issue raises the racial separatism that we in this country deplore and attempt to eradicate.

Mr. President, I think the Senator from Oregon is right in his amendment. I think it is in the best interests of Israel that we send them this message in this way. This is the right time and the right place to say, "Change your aim. Revise your methods. Share with us a different conquest for peace in the Middle East for the benefit of all of the human beings that are involved, and certainly for the benefit of the national interests of Israel and the United States."

Thank you, Mr. President.

Mr. INOUYE. I yield 1 minute to the Senator from Michigan.

Mr. LEVIN. I thank my friend.

Mr. President, the amendment before us is misguided on two counts: First, it demonstrates a lack of understanding or appreciation of the responsive nature of Israel's activities in Lebanon, and of the dimensions of the threat to which Israel is responding. And second, it represents an unsound intrusion by the Congress into the delicate process of seeking a balanced and negotiated peace in the Middle East.

The basis of Israel's policy in Lebanon is self-defense. There can be no question that southern Lebanon has served for years as a staging ground for Palestinian terrorist attacks on Israeli civilians. Any state has the right to take steps to protect its own citizens against threats and acts of violence. The grisly series of PLO terrorist attacks on Israeli civilians ought to make clear to us the reason for the steps which Israel has taken to neutralize terrorist bases in Lebanon, where the civil government has unfortunately proven inadequate to the task.

Beyond the question of the events in Lebanon, Mr. President, is the question of how the adoption of the amendment would be read by the parties involved in the Middle East conflict. We have recently embarked on a delicate series of negotiations with the intention of implementing the Camp David accords, and resolving the Palestinian problem. American involvement in the Middle East has been marked by its greatest successes when we have supported and kept our promises to those who have worked with us toward achieving a peaceful solution to the problems of the region. If we were to adopt this amendment it would be viewed by certain participants as a signal of diminution of American support for Israel at this critical juncture. Far from being conducive to flexibility or cooperation, this amendment would lead to inflexibility and intransigence by those who would see it as evidence of a change in U.S. policy toward the Middle East. I believe that it would be unwise and destructive for the Congress to intrude itself into the peace process by sending a signal of this sort. The administration, which has recommended the funding for Israel which is contained in the bill, has made great strides toward a peaceful resolution of the Middle East situation, and we would undercut their efforts by tinkering with the aid which they have proposed to provide to Israel.

Mr. President, I hope that the Senate will not adopt this amendment.

Mr. INOUYE. Mr. President, I yield 30 seconds to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, Israel actions against PLO bases in Lebanon are actions of self-defense in the truest meaning of the word. They are the only possible response to a relentless stream of terrorist violence against Israel's civilian population, violence which is explicitly aimed at the final destruction of the State of Israel. What clearer case of self-defense can there be?

Harm to innocent peoples in Lebanon as an unintended consequence of Israel's acts of self-defense is very much regrettable. There has been terrible tragedy on both sides. But the solution is not to deny Israel the right to protect its own people, but to deny to those who exploit Lebanon as a base for terrorism, and who are responsible for subjecting nearby women and children to the dangers of retaliation, the ability to operate freely in Lebanon against the Israeli State. Can anything be more obvious?

This is what the Syrian forces operating in Lebanon under UN auspices are supposed to do—to contain the violence by assuring that PLO terrorists are not able to carry out their attacks against Israeli citizens, nor for that matter, against Lebanonese citizens of Christian affiliation. It is because the Syrian forces have been unable, or unwilling, to do their job in containing the violence that Israel has been forced to take matters into its own hands.

This is self-defense in its truest meaning because there can be no doubt that Israel's attacks on PLO bases would cease as soon as PLO assaults on the Israeli nation had come to an end. Israel's actions are only a counteraction to threats to its existence and would cease immediately with the cessation of those threats. This is self-protection—it is not an act of aggression.

Israel has known scores of casualties as a result of terrorist forrays into its territory. Just this summer four Israeli civilians, including two small children, were sacrificed as a result of a seaborne terrorist attack launched from Lebanon. The list of similar tragedies could go on and on and even then it would not include those tragedies averted by the operations of the Israel army or because of keen Israeli intelligence capabilities.

The plain fact is that Lebanon is now an occupied country, occupied in part by PLO terrorists who risk the destruction of Lebanon's land and people for the right to practice their own useless form of vengeance, and occupied in part by Syrian forces who, under the auspices of keeping the peace, allow the PLO free rein to violate it. This is the problem that all people with a genuine concern for preserving human life must address.

Yet even were Israel's right of self-defense not so plain as it is, I would submit that now is a particularly poor moment to delete funds that are designed to implement and stabilize the peace framework arrived at at Camp David. Such a cut would be a symbolic statement that this country, which played a key role in establishing the peace framework, has lost confidence in it. There are already a sufficient number of parties who would subvert this peace process, and the United States should not lend its power and prestige to that infamous list.

Now is a particular delicate and critical moment in that peace process. The parties are beginning to tackle the question of the future status of the West Bank, particularly the question of how to provide for some degree of Palestinian autonomy in that area. In many ways, this issue is at the center of the entire Middle East problem.

Therefore, now is not the time to discourage participants in the peace process; now is the time to encourage them and to give encouragement to other relevant parties to join them. By censuring Israel at this time with a denial of funds promised for peace, the United States would be signalling important parties still outside the peace framework that this is not the time to join the negotiations. Certainly, this is the very opposite of what we hope to accomplish.

Finally, I think there are no words that better express the imperatives which force the State of Israel to take military action against threats to its existence which emanate from Lebanon, or any other base for terrorists, than those of the deceased, very much distinguished former Senator from Minnesota, Hubert H. Humphrey. As in so many things, on this matter, too, Senator Humphrey cut through to the heart of the matter and clarified the real nature of Israel's actions. Senator Humphrey, appropriately, was speaking on his understanding of the prohibition on foreign use of military equipment made available through U.S. assistance for aggressive purposes as it applied, or to be more accurate, did not apply, to Israeli acts of self-defense against terrorism. I ask unanimous consent that Senator Humphrey's remarks of October 4, 1974, be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

Mr. HUMPHREY. Mr. President, I know that we voted on a similar amendment yesterday, and I want to bring up once again what I consider may be a problem. It may not be a problem for the Senator from South Dakota, but I am sure it may be a matter of concern for some others.

I invite the attention of the acting minority leader to this language in the amendment:

At the appropriate place in the bill, insert the following new section:

"SEC. —. None of the funds made available in this Act or any other law shall be obligated or expended for military assistance, or for sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), or for the transportation of any military equipment or supplies to any country which uses such defense articles or services in violation of the Foreign Assistance Act of 1961 or the Foreign Military Sales Act, or any agreement entered into under such Acts."

That section, of course, applies to the use of materials in any type of overt action that could not be called self-defense. In other words, some people would put it directly as aggressive action. I am going to read that section of the law, so that we are clear here on what we are doing, even though we had considerable debate on it yesterday. I read section 502 of the Foreign Assistance Act, relating to utilization of defense articles and services:

> Sec. 502. Utilization of Defense Articles and Defense Services.—Defense articles and defense services to any country shall be furnished solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations.

I have always felt, for example, that the State of Israel, in using military equipment that was supplied by us in its efforts to do away with the terrorists and the guerrilla activities that have been harbored in other countries, was acting in self-defense. In other words, from time to time the Israeli Air Force has found it necessary to attack installations that were placed within villages beyond the border of its own country. It has done this because these installations have provided a launching pad, so to speak, for guerrilla activities within the State of Israel.

I want to be sure that the Senator's amendment does not in any way preclude the State of Israel from exercising its right of self-defense as it sees it. No one can more precisely describe what is self-defense than those who think they are defending themselves.

For example, if there were guerrilla activities based in the nation of Lebanon, the state of Lebanon, that were crossing over the border, that were blowing up villages in Israel, and if the Israeli Air Force, operates with American-made planes, some of them obtained under military sales or military credits, the State of Israel in no way is limited by this language in obtaining the supplies it needs for what it believes is its security.

Mr. President, it has been made abundantly clear by eminent international legal scholars that Israel's retaliatory raids into Lebanon and Jordan are countenanced by international law, and constitute "legitimate self-defense" as cited in the Foreign Assistance Act of 1961.

In accordance with the principles of international law, and the declaration on principles concerning friendly relations and cooperation among states adopted by the U.N. General Assembly on October 24, 1970, all member nations are duty bound not to tolerate any subversive or armed activities against other sovereign states. This declaration states:

> No state shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed toward the violent overthrow of the regime of another state, or interfere in civil strife in another state.

Prominent jurists maintain that permitting subversive activities against another state constitutes a breach of international undertaking even if those activities are exercised by private individuals. To back this up, I would cite some relevant quotes. Oppenheim's International Law, edited by H. Lauterbach:

> International law imposes the duty upon every state as far as possible prevent its own subjects, and such foreign subjects as live within its territory, from committing injurious acts against other states.

From the Declaration on Friendly Relations, official records of the General Assembly 25th session supplement No. 18 (A/8018) we have—

> Every state has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another state.

Israeli actions on Lebanese territory are also based on the inherent right of Israel to self-defense in accordance with article 51 of the U.N. Charter.

And the U.N. General Assembly document A/AC.134/L.46 of April 12, 1974 of the Special Committee on the Question of Defining Aggression, article 3 states:

> Any of the following acts, regardless of the declaration of war, shall subject to and in accordance with the provisions of Article 2, qualify as an act of aggression.
>
> The sending by or on behalf of a state of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another state of such gravity as to amount to the acts listed above or its substantial involvement therein.

Surely Israel's exercise of self-defense against these acts of aggression would be actions taken in "legitimate self-defense."

Mr. BRADLEY. Mr. President, I would stress again, because the senior Senator from Oregon has emphasized the importance of signals, that this is particularly inopportune time to send such a signal by this action. First, as I have said, it could be served to undermine, at a delicate stage, the ongoing peace process. However, in addition, in my view, in the Middle East, we face a very serious challenge from the growing Soviet presence. This presence poses a direct threat to our most vital source of foreign oil. It would be most foolish at this time to undermine a stable and reliable ally in that region by showing lessened confidence in that ally through this particular proposal.

Mr. President, I strongly oppose the amendment.

Mr. INOUYE. Mr. President, I yield to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, it seems to me this is the wrong amendment at the wrong time. It also seems to me that the Middle East now is having very, very sensitive negotiations and I think an amendment such as this approved by the U.S. Senate would be inappropriate and, indeed, would set back the cause of peace so earnestly being sought in that area. Therefore, I am opposed to the amendment.

Mr. INOUYE. I yield 2 minutes to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I do not want to be limited. We have no time agreement. I would like the floor, if the Senator from Hawaii will yield the floor.

Mr. INOUYE. I yield.

Mr. HATFIELD. Mr. President, I understand the Senator from Hawaii expects to make a motion to table my amendment, which does not catch me by surprise. I do not intend to take very much time in closing off the arguments on behalf of the amendment.

I will not repeat the preliminary remarks I made in introducing the amendment, although I only wish that all Senators who have now spoken to the amendment had been on the floor at the time the amendment was introduced to get the full scope, the full motivation, and the full background of the amendment.

For, as I might have anticipated, we have moved far from the crux of the amendment to the whole issue of Israel's right to survive.

Mr. President, let me say very clearly that if I thought the life of Israel depended on $100 million out of $1 billion of arms, I would make a motion to add $100 million, not to deduct $100 million.

Mr. STONE. Will the Senator yield?

Mr. HATFIELD. I think the people who have raised the argument that the future of Israel is going to depend on this amendment have far less confidence in the genius of the State of Israel and the genius of the Israeli people than I do.

Surely, Mr. President, it is never the proper time for peace. I have stood on this floor for 12 years and I have never heard it mentioned yet that we had an appropriate time to take a risk for peace. It is always a time for war; it is always a time for violence; it is always a time for more arms.

All through the Vietnam crisis, when one Senator or another would come up with a proposal to interdict that vicious cycle of war in Vietnam, it was never the right time. We were in a sensitive situation; we were either bombing Hanoi or we were bombing Cambodia or we were bombing Haiphong, or we were preparing something else that was going to give us a light at the end of the tunnel. It was never an appropriate moment to take a step for peace.

So, Mr. President, it seems to me that we have moved far from the purpose of this amendment. Let me say that in the interest of Israel, it is far better to have a $100 million cut, now, as a signal to stop doing the things that have already caused the Secretary of State of the United States to observe that they are in probable violation of the Arms Control Act. Because, once that fact, a finding of fact that they are in violation, has been established the entire military program will be removed, as it was in the case of Turkey. I think it is far better in the interest of Israel to let them know that this is not being acquiesced in or supported or approved.

I do not believe there is a Member of the U.S. Senate here tonight or at any time in my life in the U.S. Senate who would say that the future of any nation depends upon the indiscriminate bombing of civilians, women and children. If that is the only base upon which that nation can survive, again, it is a lack of trust and confidence in the genius of that nation.

I cannot accept that somehow, we have to show our loyalty to the survival of Israel by continuing to furnish the weaponry for this kind of bankrupt policy. It has been bankrupt from the beginning and will be bankrupt when it finally is abandoned, as it was bankrupt when we practiced it in World War II, in Korea, and in Vietnam.

This is not a vote on the test of our friendship or our loyalty to Israel. This is a cry for conscience, conscience that says we deplore violence whether it is by the PLO or by the Israeli Air Force, whether it is on a one-to-one basis or whether it is from an impersonal distance, as in dropping a bomb from the air. I wish we could have kept that kind of focus on this matter.

Let me close by saying again that I shall accept the will of the Senate and I have no illusion. But I do feel that perhaps we may have served a purpose, even though this may go down to a resounding defeat. At least we shall send a signal that there are those on the floor of the U.S. Senate who are willing to raise the issue of violence, of indiscriminate bombing of people who have no direct relation to the great issue that is being pursued in this policy.

I thank my colleagues who have participated. I feel that, in most instances, my colleagues have participated with very dedicated viewpoints, with a very logical and intelligent way of presenting them, with a very minimum of emotion. I think that, in itself, speaks well for the statute of the U.S. Senate.

Mr. JAVITS. Mr. President, will the Senator yield 30 seconds to me?

Mr. INOUYE. Yes, I yield.

Mr. JAVITS. Mr. President, I think it would be wrong to allow this record to be closed with these assertions respecting, emotionalism, which I reject, notwithstanding that I am Jewish and very proud of it. Or the argument that there is no justice on the other side and as to indiscriminate bombing of men, women, and children.

Out of respect for the Senate and because we wish to vote, I am not going to raise those issues tonight. But I should like both Senators to know that I would be pleased in the same spirit of understanding and consideration I have expressed respecting Senator Hatfield to debate the history, the reasoning, the statesmanship, and the national interest of the United States at any time and I believe the others who spoke like myself would be equally ready.

Mr. INOUYE. Mr. President, I move to lay the amendment offered by the Senator from Oregon (Mr. Hatfield) on the table.

Mr. RIBICOFF. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Stone). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from Oregon on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Oklahoma (Mr. Boren), the Senator from Arizona (Mr. DeConcini), the Senator from North Carolina (Mr. Morgan), the Senator from Georgia (Mr. Nunn), the Senator from Rhode Island (Mr. Pell), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh) and the Senator from Rhode Island (Mr. Pell) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Pennsylvania (Mr. Heinz), the Senator from North Carolina (Mr. Helms), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Heinz) would vote "yea."

The PRESIDING OFFICER (Mr. Matsunaga). Are there any Senators who have not voted desiring to vote?

The result was announced—yeas 78, nays 7, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—78

Armstrong
Baucus
Biden
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—7

Bellmon
Burdick
Gravel
Hatfield
McClure
Melcher
Stevenson

NOT VOTING—15

Baker
Bayh
Bentsen
Boren
Cannon
DeConcini
Goldwater
Heinz
Helms
Morgan
Nunn
Pell
Stennis
Talmadge
Young

So the motion to lay on the table was agreed to.

UP AMENDMENT NO. 626

Mr. STONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. Stone), for himself, Mr. Javits, and Mr. Percy, proposes an unprinted amendment numbered 626.

Mr. STONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, strike $15,000,000" and insert in lieu thereof "$21,000,000"

Mr. STONE. Mr. President, the Senate Foreign Relations Committee initially reduced the administration's request for the Sinai Field mission from $12.1 million to $6 million. This was done because under the original plan to implement the Egypt-Israel peace, the field mission would only be required for half of fiscal year 1980.

After the Foreign Relations Committee acted, a new situation developed with regard to implementation of the Egypt-Israel Peace Treaty. First, the Soviets threatened to veto continuation of the U.N. emergency force. Next, the Israelis disagreed with a U.S. suggestion that the U.N. Truce Supervisory Organization (UNTSO) verify Egyptian troop levels in the Sinai on the grounds that UNTSO could be withdrawn unilaterally by the Secretary General, were unarmed, and their scope of operation was too narrow. To solve the difficulty, the parties agreed to have the Sinai Field mission perform this function.

Therefore, the conference committee on the authorizing legislation agreed to fully fund the Sinai Field mission in fiscal year 1980. The $12.1 million is required for the 200-man mission to operate for all of fiscal year 1980.

If funds for the Sinai Field mission are not appropriated now, difficulties could lie ahead which could adversely affect the ability of the Egypt-Israel peace to be verified. If Egyptian troop levels are not verifiable, then the Israeli troops may be reluctant to withdraw from the Sinai according to schedule.

Appropriating these funds now, however, does not necessarily mean that Congress will not have adequate opportunity to review the slightly expanded roles of the Sinai field mission. The conference report on the International Security Assistance Act made clear that the administration should transmit to Congress the "full proposal and related documentation in order that Congress may determine whether further legislation is needed."

In addition, the details of the new role of the Sinai field mission are set forth in an exchange of correspondence between Secretary of State Vance and myself, Congressman Zablocki and Congressman Hamilton. I ask unanimous consent that this correspondence be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STONE. Mr. President, the legislative cycle dictates that the full funding for this critical mission be appropriated now. The Congress will, however, have every opportunity to review the final proposal and documentation in great detail.

Exhibit 1

Correspondence Exchange Between Secretary Vance and Chairman Zablocki, Representative Hamilton and Senator Stone on the Extension of U.S. Responsibilities With Respect to the Sinai Support Mission

House of Representatives,
Committee on Foreign Affairs,
Washington, D.C., September 21, 1979.

Hon. Cyrus Vance,
Secretary of State, Department of State,
Washington, D.C.

Dear Mr. Secretary: We write concerning the recent discussions among Israeli, Egyptian and American officials regarding peace-keeping ventures in the Sinai peninsula between now and the spring of 1982 and the expanded American role which was apparently agreed upon by all three parties during your meetings.

In order to make it possible to consider this matter during the Senate-House conference on the International Security Assistance Act of 1979, answers to the following questions are essential:

1. Will a final copy of what was agreed to, with all its annexes and understandings,

written and verbal, be submitted to the Congress?

2. What precedent will this new arrangement have for the permanent U.N. or multilateral peacekeeping force envisaged after the spring of 1982? Is there a relationship now contemplated between this agreed American presence over the next two years and the envisaged permanent U.N. or multilateral peacekeeping force?

3. What is the exact task of the U.S. peacekeeping monitoring force?

4. What is the nature of the United States undertaking and what new Congressional authority, if any, is needed?

5. What is the duration of the American undertaking and will it be terminated in the spring of 1982 when the Sinai withdrawals are completed?

6. How will the functions, mandate and operations of the American personnel operating in the Sinai over the next two years differ from their current operations?

7. How many Americans, of what type of profession and background, will be deployed and what will be their relationship to the United States Government and to whom will they be responsible?

8. What precise verification and reconnaissance roles will the United States play and how will the reconnaissance role differ from the present?

9. What will be the relationship of this force over the next two years to the United Nations Truce Supervisory Organization? Is the up to 300-man UNTSO force likely to remain in some capacity? On what will the continued U.N. presence depend?

10. What interrelationship will there be between the agreement for the continued American role in Zones A and B and the envisaged Israeli-Egyptian agreement for the Buffer Zone? What role, if any, will the United States play in setting up, financing, operating or equipping Buffer Zone patrols?

11. What financial commitments have the United States undertaken and what new equipment and/or facilities, if any, will be necessary? Will the $12 million authorization be sufficient for the next year and what are the estimated budgetary needs beyond fiscal year 1980? Does the U.S. financial commitment extend only to support American observers and facilities in Zone B?

12. What will be the role of the Sinai Field Mission base camp during the coming two years and on what will that depend?

We appreciate your consideration of this matter. A reply is needed prior to Tuesday, September 25, 1979, if it is to be considered by the conference committee on the International Security Assistance Act of 1979.

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

THE SECRETARY OF STATE,
Washington.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs
Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East

DEAR MESSRS. CHAIRMEN: I am pleased to provide the attached responses to the questions you submitted in your letter of September 21.

Sincerely,

CYRUS VANCE,
Secretary of State.

Attachment.

Question 1. Will a final copy of what was agreed to, with all its annexes and understandings, written and verbal, be submitted to the Congress?

Answer. Yes. All agreements and understandings to which the U.S. is a party will be provided to the Congress.

Question 2. What precedent will this new arrangement have for the permanent UN or multilateral peacekeeping force envisaged after the spring of 1982? Is there a relationship now contemplated between this agreed American presence over the next two years and the envisaged permanent UN or multinational peacekeeping force?

Answer: In his letters to President Sadat and Prime Minister Begin at the time the Egyptian-Israeli treaty was signed, President Carter stated that:

* * * The United States believes the Treaty provision for permanent stationing of United Nations personnel in the designated limited force zone can and should be implemented by the United Nations Security Council. If the Security Council fails to establish and maintain the arrangement called for in the Treaty, the President will be prepared to take those steps necessary to ensure the establishment and maintenance of an acceptable alternative multinational force.

It should be noted that this assurance comes into effect only with respect to permanent arrangements for final withdrawal, and it was made clear during the September 18–19 talks that any agreements reached there for arrangements during the interim period would be without prejudice to the assurance concerning these permanent arrangements. Secretary Vance agreed that the United States will meet with the parties one year before the beginning of final withdrawal to commence work on the establishment of this force. The Secretary made it clear that our first preference, with respect to permanent arrangements, would be a UN force.

Question 3. What is the exact task of the U.S. peacekeeping monitoring force?

Answer. The United States has undertaken to certify force levels specified in Annex I of the treaty in the area of Sinai west of the interim buffer zone (described as Zones A and B in the Peace Treaty) through:

Increasing the frequency of our present aerial surveillance flights conducted over all areas from which Israel has withdrawn to an average of once weekly;

On the ground (including by helicopter) inspection tours conducted at least twice monthly;

Additional verification inspections within 48 hours of a request from either party.

The United States will report the results of these verifications directly to the parties.

Question 4. What is the nature of the United States undertaking and what new Congressional authority, if any, is needed?

Answer. The U.S. undertaking is presently a proposal which would constitute a binding agreement if it is accepted by all three governments. It has been made clear that we would not proceed without the approval of Congress. The U.S. participation would constitute a peacekeeping operation under Part II, Chapter 6, of the Foreign Assistance Act of 1961, as amended. If funds for this activity are included in the authorization we would be prepared to proceed.

Question 5. What is the duration of the American undertaking and will it be terminated in the spring of 1982 when the Sinai withdrawals are completed?

Answer. The American undertaking is to terminate at the time of final Israeli withdrawal from the Sinai in April 1982, when peacekeeping duties are to be assumed by a UN or other multinational force, unless the parties request its termination at an earlier date.

Question 6. How will the functions, mandate and operations of the American personnel operating in the Sinai over the next two years differ from their current operations?

Question 7. How many Americans, of what type of profession and background, will be deployed and what will be their relationship to the United States Government and to whom will they be responsible?

Question 8. What precise verification and reconnaissance roles will the United States play and how will the reconnaissance role differ from the present?

Answer. SFM's original mission was to provide an early warning capability in the vicinity of the Giddi and Mitla passes. This was accomplished chiefly through the use of fixed manned watch stations and sensor fields located at the approaches to the passes. Our new responsibilities call for a more active type of verification: in addition to intensified aerial photography (one flight per week), there would be inspection tours in the western two-thirds of the Sinai and on-site inspections. This activity will of course require increased mobility, as well as decreased reliance on electronic devices. It may also require some changes in SFM personnel, to ensure that those assigned will have the necessary expertise. Precise operational procedures and requirements for the new role are under study. However, we expect the general composition of the Mission to remain the same: civilian contractor personnel supervised by a small cadre of non-military USG employees. Their number will not exceed the current limit of 200 and will include no military personnel.

Question 9. What will be the relationship of this force over the next two years to the United Nations Truce Supervisory Organizations? Is the up to 300-man UNTSO force likely to remain in some capacity? On what will the continued UN presence depend?

Answer. As stated earlier, the United States would assume responsibility for verification in the areas west of the interim buffer zone, and Egypt and Israel would assume this responsibility for the buffer zone itself. While it was agreed that UNTSO would thus not have direct responsibility for verification in any zone, both Egyptian and Israeli negotiators agreed to put before their governments the proposal that UN Secretary General Waldheim be asked to make UNTSO observers available to be present in these areas and to play a supplemental role. Secretary Vance made it clear the United States strongly favored such a role for UNTSO.

Question 10. What interrelationship will there be between the agreement for the continued American role in Zones A and B and the envisaged Israeli-Egyptian agreement for the buffer zone? What role, if any, will the United States play in setting up, financing, operating or equipping buffer zone patrols?

Answer. The American commitment to a verification role in the area west of the buffer zone is separate and distinct from the Egyptian-Israeli agreements on joint supervision in the buffer zone. The United States will have no responsibility for the buffer zone or for the arrangements made between Egypt and Israel for its verification, nor is there any U.S. commitment to money or equipment for operations in the buffer zone.

Question 11. What financial commitments has the United States undertaken and what new equipment and/or facilities, if any, will be necessary? Will the $12 million authorization be sufficient for the next year and what are the estimated budgetary needs beyond fiscal year 1980? Does the U.S. financial commitment extend only to support American observers and facilities in Zone B?

Answer. We believe, subject to completion of a careful review now underway, that the original $12 million authorization will probably be sufficient for SFM operations through FY 80 on the assumption that the SFM base camp can remain at its present location. A fresh submission concerning the SFM will of course be submitted as part of the FY 81 budgetary process. We intend, as in the past, to maintain tight rein on budget outlays consistent with the obligations for verification that we have assumed. The U.S. financial commitment extends only to the support of American civilian observers and their facilities in Zones A and B.

Some expenses will be incurred in support of the weekly aerial reconnaissance operations. Although the increased frequency of aerial surveillance will *not* require an increase in either personnel or equipment in the region, the additional photo-interpretive burden and increased frequency of courier movements are expected to cost an additional $500,000 per year. We anticipate meeting these expenses for FY 80 without additional funding requests.

Question 12. What will be the role of the Sinai Field Mission base camp during the coming two years and on what will that depend?

Answer. Assuming agreement by Egypt, the SFM base camp will remain in its present location and will continue to be occupied and used by SFM until completion of the new mission in 1982, or earlier if the parties so request.

United States Senate,
Committee on Foreign Relations,
Washington, D.C., September 21, 1979.
Hon. Cyrus Vance,
Secretary of State, Department of State,
Washington, D.C.

Dear Mr. Secretary: As Chairman of the Senate Foreign Relations Subcommittee on Near East and South Asia, I have been informed that on September 19, 1979, an agreement was reached between the U.S., Egypt and Israel regarding the composition of peace keeping forces in the Sinai peninsula between now and April 25, 1982. Officials from the State Department have briefed my subcommittee staff as to the measure and role that the Sinai Field Mission and American civilian personnel will have in accordance with this agreement.

Today you were sent a letter by my colleagues in the House of Representatives, Chairman Zablocki of the Committee on Foreign Affairs and Chairman Hamilton of the Subcommittee on Europe and Middle East, which included a list of 12 questions concerning this agreement. They requested a reply prior to Tuesday, September 25, 1979, in order for this matter to be considered by the conference committee on the International Security Assistance Act of 1979. I am attaching a copy of this letter and request that you provide a copy of your response to our subcommittee in conjunction with your response to the House of Representatives.

In addition, I would appreciate your response to the following questions:

Will the American forces be able to withdraw unilaterally should their lives be in danger? Considering Israeli experience with the unilateral withdrawal of U.N. forces in 1967 is the Israeli government satisfied with this arrangement?

If the U.S. personnel detect an Egyptian violation of the limited forces zone, how will the situation be managed?

Your consideration in this matter is appreciated.

Most cordially,

Richard Stone.

[Responses by the State Department follow:]

Question 13. Will the American forces be able to withdraw unilaterally should their lives be in danger? Considering Israeli experience with the unilateral withdrawal of UN forces in 1967 is the Israeli Government satisfied with this arrangement?

Answer. The 1975 Agreement which established the Sinai Field Mission specifically stated that the United States could withdraw its personnel if it concluded that their safety was jeopardized. The new U.S. proposal specifically incorporates this provision. (Note that there will be no "American forces" involved, only civilians of U.S. nationality.)

Question 14. If the U.S. personnel detect an Egyptian violation of the limited forces zone, how will the situation be managed?

Answer. The U.S. Mission will report the results of its inspections directly to the parties, normally via the mechanisms of the joint Egyptian-Israeli military commission established by the Treaty. Once the results of these inspections have been reported, it is the responsibility of the Joint Commission to determine whether a violation has in fact occurred, and if so, how to deal with it. In the event the Joint Commission is unable to resolve the issue itself, the Treaty stipulates that such disputes should be resolved by negotiations between the two Governments.

It should also be recalled that, in a memorandum of agreement between the United States and Israel signed at the same time as the Peace Treaty, it was stated that should we be satisfied that a violation has occurred, we will consult with the parties with regard to measures to halt or prevent the violation, and take whatever remedial measures we deem appropriate.

House of Representatives,
Committee on Foreign Affairs,
Washington, D.C., September 25, 1979.
Hon. Cyrus R. Vance,
Secretary of State,
Department of State, Washington, D.C.

Dear Mr. Secretary: This is to acknowledge and thank you for your responses to our September 21 letter concerning the recently agreed upon U.S. willingness to continue its presence in the Sinai for purposes of verification of the Egyptian-Israeli Peace Treaty. Because some of the answers to our questions lacked precision, it is necessary to ask the following additional questions:

1. When will all agreements, annexes and understandings, written and verbal, be made available to the Congress? Do you also plan to inform the Congress, formally and/or informally, of any agreements, annexes, and understandings, written or verbal to which the United States is not a party, but that will nonetheless affect the U.S. presence or peacekeeping efforts in the Sinai?

2. You have stated in your response to question 2 of our September 21 letter that the United States "made clear that any agreements reached (at the September 18–19 talks) for arrangements during the interim period would be without prejudice to the assurance concerning these permanent arrangements."

(a) What does this statement mean?

(b) Has a formal U.S. presence as part of the permanent arrangements for implementing the Treaty provisions been ruled out?

3. In response to question 4 of our September 21 letter, you state that "the U.S. undertaking is presently a proposal which would constitute a binding agreement if it is accepted by all three governments."

You further state that "the U.S. participation would constitute a peacekeeping operation under Part II, Chapter 6, of the Foreign Assistance Act of 1961, as amended."

(a) What is a "binding agreement" and how is it different from a treaty commitment in this instance?

(b) Should not the U.S. participation in this arrangement be guided by House Resolution 683 (Public Law 94–110) and not by Part II, Chapter 6 of the Foreign Assistance Act?

We appreciate your further cooperation in this matter. A reply to these additional questions will be necessary before the conference committee on the International Security Assistance Act of 1979 can be reconvened.

Sincerely yours,

Clement J. Zablocki,
Chairman.
Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East.

Department of State
Washington, D.C., September 26, 1979.
Hon. Clement J. Zablocki,
Chairman, Committee on Foreign Affairs.

Dear Mr. Chairman: I am pleased to provide the attached responses to the questions you submitted to the Secretary in your letter of September 25.

Sincerely,

J. Brian Atwood,
Assistant Secretary for Congressional Relations.

Enclosure.

Question 1. When will all agreements, annexes, and understandings, written or verbal, be made available to the Congress? Do you also plan to inform the Congress, formally and/or informally, of any agreements, annexes, and understandings, written or verbal, to which the U.S. is not a party, but that will nonetheless affect the U.S. presence in the Sinai?

Answer. When the proposal has been accepted by both governments and we confirm our own agreement to it, it will be put in final form and copies will promptly be made available to the Congress. If there should be any exchange of letters to supplement this agreement with respect to the areas for which we have undertaken responsibility, these will also be promptly made available to Congress. We do not anticipate reaching this stage before early October. In addition, the Department hopes to be able to brief the Congress as fully as possible on the Egyptian-Israeli understandings on the buffer zone which, while related to our proposal, do not bear on it directly. Since these would be direct Israel-Egypt understandings, it will be up to the two parties themselves to decide how they wish to proceed with respect to disclosure.

There are no other related understandings of which we are aware aside from the treaty or its associated documents.

Question 2. You have stated in your response to question 2 of our September 21 letter that the U.S. "made clear that any agreements reached (at the September 18–19 talks) for arrangements during the interim period would be without prejudice to the assurance concerning these permanent arrangements."

(a) What does this statement mean?

(b) Has a formal U.S. presence as part of the permanent arrangements for implementing the treaty provisions been ruled out?

Answer. The statement means that these are arrangements which apply to the interim period only and do not in themselves determine what permanent arrangements may be made for the period after final withdrawal. With respect to the arrangements for the final withdrawal, the guiding instruments are the treaty and its associated documents, including the President's letter to President Sadat and Prime Minister Begin on March 25, 1979.

The U.S. has agreed to sit down with the parties one year before the beginning of final Israeli withdrawal to discuss these permanent arrangements. We have not thus far gone into the substance of what those arrangements might be. The possibility of a U.S. role in these arrangements has not been ruled out; nor has it been suggested. You will recall, however, that we have gone on record on several occasions to rule out any role for U.S. military personnel in such arrangements.

Question 3. In response to question 4 of our September 21 letter, you state that "the U.S. undertaking is presently a proposal which will constitute a binding agreement if it is accepted by all three governments." You further state that "the U.S. participation would constitute a peacekeeping operation under Part II, Chapter 6, of the Foreign Assistance Act of 1961, as amended."

(a) What is a "binding agreement" and

how is it different from a treaty commitment in this instance?

(b) Should not U.S. participation in this arrangement be guided by House Joint Resolution 683 (Public Law 94-110) and not hy Part II, Chapter 6 of the Foreign Assistance Act?

Answer. By use of the term "binding agreement," in our September letter, we meant one constituting a legally binding international undertaking. It will be an executive agreement, and, on the international level there is no difference between the legally binding character of those of our international commitments which have been undertaken by treaty and those which we conclude as executive agreements.

Both are relevant. The U.S. proposal presently before the parties for the Sinai Field Mission role was guided by and designed to respect the views incorporated in H.J. Resolution 683 (Public Law 94–110) which authorized the 1975 Sinai II peacekeeping proposal. The present proposal, however, might be construed as distinct from the 1975 proposal, since it relates to the security arrangements created by the Peace Treaty which will, upon Israeli withdrawal, supersede the 1975 Sinai arrangements. For this reason, we cited Chapter 6, Part II of the Foreign Assistance Act of 1961, as amended, the later and more general statutory provision, in response to the question concerning statutory authority. In addition, we would have no objection to considering the present proposal as a continuation in modified form of an early warning system authorized in H.J. Resolution 683. In any event, we intend to continue to be guided chiefly by the provisions of that resolution, including the pattern of reporting to Congress.

Mr. PERCY. Mr. President, I am pleased to cosponsor the amendment of the distinguished Senator from Florida (Mr. STONE) to increase funds for the Sinai Field Mission. As ranking minority member of the Foreign Relations Committee's Subcommittee on the Near East, I share the concern of Senator STONE—the subcommittee chairman—that the field mission's operations not be jeopardized.

As Senator STONE has pointed out, originally the authorizing committee felt that only $6 million—instead of the $12.1 million requested by the administration—was necessary in light of the fact that Israel and Egypt had signed a peace treaty. Since that time, problems arose in connection with implementation of the treaty. The solution agreed to by the parties involved was to expand the field mission's role to include monitoring and verifying compliance with the treaty. In this newly expanded role, the 200-man field mission now needs the full $12.1 million to operate.

Mr. President, I know that there is a concern that the administration has not provided the full and formal documentation relating to the expanded role for the field mission. If Congress has questions about the mission, the Congress has a right to answers. Senator STONE, along with the appropriate chairmen in the House, has worked to obtain some valuable and significant information in this regard, and I commend him on his important contribution.

This does not mean, however, that we need to be satisfied with less than absolutely complete information. The Foreign Relations Committee has called on the administration to submit full and formal documentation so that Congress can review it and take any further action it deems suitable at that time with regard to the role of the mission.

But in the meantime, Mr. President, we are faced with the problem of the funding cycle. If full funding for the field mission is not appropriated now, the ability of the mission to do its job will be in serious doubt. By approving this amendment, we are not giving up our ability to legislate about the role of the mission in the future; we are simply assuring that the money will be available for the mission to do its job properly.

Mr. INOUYE. Mr. President, the manager of this bill has discussed the amendment with the Senator from Florida. We are satisfied that it is a reasonable amendment and I am prepared to accept it.

Mr. GARN. Mr. President, I am prepared to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STONE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 627

(Purpose: To amend the Act to earmark $1.7 million to the Sudan)

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 627:
>
> On page 14, line 25, insert the following: Change the period to a semicolon and add: *Provided further*, that not less than $1.7 million shall be allocated to Sudan.

Mr. JAVITS. Mr. President, I will be very brief.

This amendment proposes to include the Sudan in the money already appropriated, as well as for many other countries which are listed in the committee's report, at page 127, with respect to a very small military aid program.

The reason is that, as a special envoy of the President of the United States, I was there a few months ago; and one of their worst problems is spare parts and rolling stock for their army. They are in grave danger because of the Ethiopian situation and the presence of Cubans in Ethiopia as well as from Libya. They are in a very vulnerable situation.

They are the Arab country, in addition to the Sultanate of Oman, which has stood by the Middle East peace process. I think it is very much in our interests to do something for them on the military side.

Out of deference to the strong feeling of the managers that in no way do they want to increase the amount unless it is compensated for, I felt I would leave it to them in conference to work out something for this highly deserving country.

Mr. INOUYE. Mr. President, as the manager of the bill, I have studied the measure. The amendment is reasonable, and I am prepared to accept it.

Mr. GARN. I am prepared to accept this amendment.

Mr. TSONGAS. Mr. President, I support the amendment by the distinguished Senator from New York, and I ask the Senator this question:

The original amendment, as I understood it, in addition to the $1.7 million of military assistance, would also have included $10 million of economic support.

Mr. JAVITS. Mr. President, the question is addressed to me?

Mr. TSONGAS. Yes.

Mr. JAVITS. After consulting with the managers I found that in order to get that $10 million, which is highly desirable, that I could not get it unless it were taken off something else. The first likelihood was population control. I did not feel I wanted to do that. The $10 million is in the House bill. This $1.7 million is not. So, by taking this action, which I am taking with the consent of the managers, both issues will be in conference. I feel exactly as the Senator does about the Sudan, but I really think that is the best I could hope for, and that is why I did what I did.

Mr. TSONGAS. I understand. I think that to a certain extent.

Mr. President, I rise to speak in support of the amendment of the distinguished Senator from New York.

Senator JAVITS' amendment would restore $10 million of economic support funds and $1.7 million of military assistance program funds for the Republic of the Sudan. This measure will return appropriation funding to the authorization levels approved earlier this year for these two accounts.

I think my colleagues in the Senate deserve to know why a seldom-mentioned state in the Horn of Africa should receive the special attention this amendment signifies. The Sudan may be relatively obscure, but to those who know the Horn of Africa well, this nation is a vital component in the Horn and the Middle East. Strategically important, with great economic potential, the Sudan is poised to enter the computations of the super powers in a very big way. But this friend to America, this moderate Muslim state has entered a painful period of growth and economic distress. Sudan, our friend, needs assistance urgently. Equally important, this important African state deserves our resolute support.

I ask my distinguished colleagues to consider the predicament of President Nimeiry and his troubled nation. The Sudanese Government has courageously supported the United States and Egypt in the Middle East peace accords in spite of extraordinary pressure from Mr. Nimeiry's Arab friends and allies. Mr. Nimeiry is a Muslim, and he and his country have suffered for their unqualified support of the Egyptian entente with Israel.

Many regard the Sudan as pro-West because of its Middle East policy. I prefer the term "genuinely nonalined." At the recent nonalined conference in Havana, Mr. Nimeiry spoke out against Castro's plan to turn the nonalined movement into a pro-Soviet cheering section. Mr. Nimeiry knows the Soviets well. His country was once closely tied to the Soviets, but he objected to the interventionist, unproductive Soviet presence. He expelled all the Soviet advisors and technicians several years ago. He has charted an independent course ever since.

In recent years he has asked for and received assistance from the United States. Now, in his country's most acute time of need, the Appropriations Committee has decided to reduce the flow of desperately needed funds. This is a serious error and contrary to our national interest. Now is the moment to increase that flow, to demonstrate our support for a country which has been supportive at key junctures and genuinely nonalined. The reasons for strong U.S. support are clear.

The government of President Nimeiry is struggling to impose fiscal order in a sprawling nation the size of Western Europe, with only 600 miles of paved roads, and with a bitter heritage of north-south civil war. The problems facing Nimeiry are legion. The balance-of-payments problem is acute, high inflation has caused disturbances in the capital, Khartoum, and the accumulated foreign debt is too large for the Sudan's small economy to bear.

These difficulties are the result of several factors. Intensive developmental efforts aimed at integrating north and south have required large purchases of equipment and expertise. The government has launched large-scale agricultural projects to tap the enormous food producing potential of this vast country, but calamitous weather and rainfall have hampered the progress of these sophisticated projects. Militarily, the Sudan faces serious threats from radical nations such as Ethiopia and Libya. These external security threats have forced the Sudanese to maintain a larger military establishment than would otherwise be necessary.

The IMF recently approved a major loan to the Sudan, but the needs of the country are enormous. The United States must move decisively and immediately to reaffirm our support for this important African state.

Restoration of the $11.7 million in economic and military assistance will be a message to the Sudan that the United States stands by our friends. No increase in the appropriations bill will be necessary because Senator Javits' amendment would reduce the population planning studies function by a similar amount. The Appropriations Committee has questioned the need for continued generous funding of research on population planning.

The sum is small, the need acute. I urge my colleagues to support this amendment. The Third World will note with interest how the U.S. Senate responds to our friends in distress.

I only add that given what happened in Havana last month with the so-called nonaligned conference, we are indeed going to have nonaligned nations in this world. We have to encourage and reinforce that commitment. I think the Sudan is a clear case of a country that feels nonalignment is a value worth pursuing.

It seems to me if we do not recognize that the word goes out rather strongly that nonalignment is really nothing worth the investment of these countries and that the only true course is that advocated by Fidel Castro in that conference.

I hope that the managers of the bill in conference will look at the Sudan and give it the consideration I think it deserves because what this world needs is more Nimeirys and more Sudanese.

Mr. JAVITS. Does the Senator wish to put his name on this amendment?

Mr. TSONGAS. I am happy to.

Mr. JAVITS. I ask unanimous consent that Senator Tsongas may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

(Putting the question.)

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank the managers of the bill.

● Mr. WEICKER. Mr. President, I rise to indicate my position on this legislation to appropriate funds for foreign assistance.

During consideration of this bill, I have voted to reduce funding for several of the international financial institutions. My reason for doing so has not been a matter of the merits of the programs involved. I believe that the banks make an important contribution to world development and stability and give the United States a good return on her investment through increased exports.

The question is one of priority. I have witnessed with dismay on the Appropriations Committee our retreat from the social agenda of the United States in pursuit of a balanced budget. Level funding and cutbacks in health, urban development, education, housing and many other programs have been the casualties of that effort. I cannot, therefore, see the justification for an increase of $600 million in international bank funding.

It is true that we do not spend a great deal of money on matters affecting other nations. But the measure of our distorted priorities is the inordinant amount of time and attention we direct abroad, away from our own people. For most of Congress and the top levels of the administration, waving the flag in the exotic reaches of the globe is a whole lot more interesting and attractive than rehabilitating the south Bronx. That is easy enough to understand. But I cannot justify the talent and resources we devote to the flashy world of international politics when the cumbersome and stubborn, but far more vital, tasks of keeping America going and growing are shortchanged.

I am not an isolationist. We are a great power with global responsibilities. Our intervention in many situations is necessary to advance the cause of human rights and alleviate human suffering.

But if our efforts here in the Congress to balance the Federal budget are to have any integrity whatsoever, all Government activities must bear a fair share of the burden.

If health research must suffer, so should defense R. & D.

If urban development at home must be postponed, so should international development.

If we must sacrifice in the quality of our life at home, then international bureaucrats should pay a price in their lifestyles as well.

Mr. President, there can be no sacred items in the Federal budget; not the conservative's defense spending nor the liberal's foreign aid. We must recognize that funding for each piece of this budget affects all the others. We must recognize that we are all accountable for the priorities those final spending figures reveal.●

Mr. INOUYE. Mr. President, in behalf of the leadership I announce there will be no more rollcalls for the rest of the evening.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered the Interior appropriation bill is to be taken up by the Senate upon the disposition of the pending bill, the foreign assistance appropriations bill. The Senate will get to the Interior appropriation bill at some point tomorrow and that bill, the Interior appropriation bill, will not be finished tomorrow. I ask unanimous consent that no motion or amendment in relation to the committee amendment beginning on page 38, line 2, and going through line 13, be in order tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. STEVENS. I concur in this action and shall not object because it is a very complicated matter and I think it is going to take time for the Senate to study this matter and to understand what the committee recommends in this amendment. So it will mean that the vote will not come up tomorrow for certain in any way concerning this matter which is the matter relating to the moneys to be granted budget authority for the synthetic fuels program.

Mr. ROBERT C. BYRD. That is right, nor would any motion or amendment be in order to that committee amendment tomorrow. This would mean that any action thereon would be put over until next week.

Mr. JAVITS. Mr President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I just want to be sure this unanimous-consent request in no way affects or prejudices my rights in an amendment to that particular page and section under rule XVI or otherwise under the rule. I just want to be where I am now.

Mr. ROBERT C. BYRD. The Senator may rest assured that will be the case.

Mr. STEVENS. I join in that. I understand what the Senator's amendment is. All we are saying is we do not want a premature vote on the $20 billion until we are able to explain what the committee did.

Mr. JAVITS. May I know the pages again?

Mr. ROBERT C. BYRD. Yes; 38 beginning on line 2 and going through line 12. I misspoke a little earlier and said to line 13. It is line 12.

Mr. JAVITS. With that understanding I thank the Senator.

Mr. ROBERT C. BYRD. The word "for" on line 12.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Orders numbered 361, 365, and 375.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. There is no objection, Mr. President.

EUN KYUNG CHO AND HEI KYUNG CHO

The bill (H.R. 929) for the relief of Eun Kyung Cho and Hei Kyung Cho, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DANG PETERSEN

The bill (H.R. 1486) for the relief of Dang Petersen, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request to proceed to the consideration of Calendar Order No. 375.

Mr. STEVENS. I thank the majority leader for his courtesy.

GOODLOE BYRON

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5419.

The Presiding officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, and 3 to the bill (H.R. 5419) entitled "An act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 4 to the aforesaid bill with an amendment as follows:

House amendment to Senate amendments:

Page 4, line 5, strike out "After consultation with the members of the family, the", and insert: The

Mr. ROBERT C. BYRD. Mr. President, the Senate approved this measure on October 1 after adopting several amendments to the House-passed bill. The House considered H.R. 5419 on Tuesday, October 9 and made only a minor change in the language agreed to by the Senate with regard to the burial of Chief Turkey Tayac in Piscataway National Park, Md. The change is not substantive and does not in any way change the intent of the provision.

Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a summary of the major provisions of H.R. 5419 be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

H.R. 5419—SUMMARY OF MAJOR PROVISIONS

Title I.—Commemorates Goodloe Byron for his efforts to protect and preserve the Appalachian Trail;

Title II.—Designates the Frederick Law Olmsted National Historic Site;

Title III.—Directs the Secretary of the Interior to permit the burial of Chief Turkey Tayac in Piscataway National Park; and,

Title IV.—Makes a number of technical amendments to last year's Omnibus Parks bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar under "New Reports."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader has no objection, I ask unanimous consent that the various nominations under "New Reports," including those on page 2, be considered and confirmed en bloc.

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

DEPARTMENT OF STATE

Horace G. Dawson, Jr., of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

George B. Roberts, Jr., of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Cooperative Republic of Guyana.

Robert S. Strauss, of Texas, to be Ambassador during the tenure of his service as Personal Representative of the President of the United States of America.

James F. Leonard, of New York, to be Ambassador during the tenure of his service as Chief of the U.S. Mission to the Middle East Peace Negotiations.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

Foreign Service nominations beginning J. Bruce Amstutz, to be a Foreign Service officer of class one, and ending Carl Frederick Troy, to be a Foreign Service officer of class six, which nominations appeared in the CONGRESSIONAL RECORD on October 4, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominations, en bloc, were confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANDRE MEYER

Mr. JAVITS. Mr. President, I rise to mark the recent passing of Andre Meyer, an old friend and a giant in the world of international finance and in philanthropy.

As an international investment banker he had no peer. As the New York Times remarked recently, in a lengthy article on his life, his associates at Lazard Freres, one of the country's great investment banking houses, used to refer to him as Zeus—the most powerful of the gods.

He had equal success in a variety of fields outside the financial world. As a result of his philanthropic contributions he enriched the collections of two of the great museums of the world, the Museum of Modern Art and the Metropolitan Museum of Art; and was likewise a friend and substantial benefactor to New York University, Memorial Sloan-Kettering Cancer Center and the Mount Sinai Medical Center in New York.

Timeliness, style, and charm—as well as wisdom and astuteness—were a part of all that he did and powerful leaders of our country and other free world countries—were beneficiaries of these attributes as well as of his sage advice.

Andre Meyer was a very dear friend and adviser and the many hours I spent with him over the years were among the most fruitful in my life.

His passing is a singular and irreplaceable loss to those who like me were personally close to him and to his wife Bella—and also to American and international institutions of business, education. culture, and health and to the worlds of international finance and private philanthropy.

Principal figures from these worlds have submitted tributes to Mr. Meyer which I have had the pleasure to read and receive and for which I ask unanimous consent to print in the Record in their entirety. Included are testimonials from the following:

Douglas Dillon, chairman of the board of trustees, Metropolitan Museum of Art;

William F. Faley, Chairman, Museum of Modern Art;

Blanchette H. Rockefeller, president;

Richard E. Oldenburg, director;

John C. Sawhill, former president, New York University;

Alfred Stern, chairman of the board and undersecretary of the department of energy, the Mount Sinai Medical Center; and

Lewis Thomas, president, Memorial Sloan-Kettering Cancer Center.

I also ask unanimous consent that the New York Times obituary to which I referred be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Douglas Dillon

The Metropolitan Museum of Art lost a devoted friend and benefactor with the death of Andre Meyer. An elective trustee from 1968 to 1974, a member of both the Finance Committee and the Acquisition Committee—as well as chairman of the Visiting Committee to the Department of European Sculpture and Decorative Arts—he brought unparallelled talents to these posts. High among these was the impeccable taste of an acknowledged connoisseur, a connoisseurship born of years of collecting works of art as a private individual; equally important in quite another area was his renown talent in matters of finance.

Beyond these contributions of the intelligence, moreover, were his tangible generosities toward the support of the Metropolitan and the maintainance of its position as the nation's preeminent museum of art. The most notable example of this generosity is to be seen in the construction of a large number of new galleries for our European paintings collections. To be known as the Andre Meyer Galleries of European Painting, these galleries will open to the public early in 1980. Occupying the entire second floor of the new Michael C. Rockefeller Wing, these handsome galleries will stand as an enduring memorial to an extraordinary patron of the arts and an extraordinary man.

Tribute to André Meyer

The Trustees and Staff of the Museum of Modern Art deeply regret the loss of André Meyer, a very good friend of this Museum and a patron of the Collection.

Tribute to André Meyer

The recent death of André Meyer on September 10, 1979 was a singular loss to American and international business, to educational, cultural, and health institutions, and to the world of private philanthropy.

Widely recognized as a financial wizard, Mr. Meyer dominated the investment banking community for decades. His extraordinarily skillful management of executive personnel and his sensitive response to the constantly changing currents of the business world, allowed Mr. Meyer to build a uniquely successful company, one which was always in the vanguard of new challenges and enterprises.

His profoundly personal stamp on the great firm of Lazard Fréres is an eloquent testimony to the outstanding creative leadership he consistently provided. The men and women whose business careers he shaped have repeatedly avowed that he was "the creator and the teacher of us all."

A self-described "financial engineer," Mr. Meyer was a man who intimately appreciated the special improvisatory skills vital to success in his field. Moreover, he had a unique talent for choreographing complicated corporate mergers and acquisitions. And, he had the capacity for an unlimited amount of plain hard work.

David Sarnoff, former chairman of the RCA Corporation, often said that what lay at the heart of Mr. Meyer's success were his lightning quick, intuitive powers of analysis. These powers enabled him to assimilate the most subtle refinements of financial complexities with stunning facility.

This giant was not content to expend his considerable energies solely in the business world. He served as a dedicated trustee of some of our most prestigious institutions of education, medicine, and art. New York University, the Sloan-Kettering Institute for Cancer Research, Mount Sinai Medical Center, and the Metropolitan Museum of Art knew him as a devoted friend, adviser, and benefactor. His record of humanitarianism was long and distinguished, with philanthropies totaling many millions of dollars.

His donations included a major grant toward the construction of a universally acclaimed hall of physics at New York University and funding which made possible the creation of new galleries for European paintings in the Metropolitan Museum of Art. Because of his deep concern for medical advancement and the alleviation of human suffering, he also gave most generously to hospitals and scientific institutions.

Just a few months ago, as one of his last major philanthropic acts, he established a $1-million fund at New York University to aid bright and industrious students who do not possess the means to finance their educations. Clearly, this man had a concern for us all.

It must be considered a loss that André Meyer never held a full-time position in government, because he surely would have brought to it the same dedication and creativity he manifested in every other area of his life. However, we were fortunate that he volunteered his valuable counsel to several administrations and was always available to share his considerable expertise with those in high office.

André Meyer—A hard working, aggressive business man, an enlightened philanthropist, and a quietly effective patriot. He will be missed.

Testimony to André Meyer

On behalf of The Mount Sinai Medical Center, I wish to express our gratitude and pride in our association with Mr. André Meyer. Mr. Meyer was a member of The Mount Sinai Board of Trustees for over thirty years. During those years he enriched our deliberations and encouraged us to move forward boldly in the development of the Medical Center. He was instrumental in the establishment of the School of Medicine in 1968 and became one of its Founding Sponsors. Through his extreme generosity he contributed to the advancement of medicine and scientific knowledge. Mr. Meyer once commented that since he admired men of science and couldn't be one, he would content himself with staying informed about scientific progress and with supporting it extensively. In 1953 he personally underwrote the Department of Physics and Nuclear Medicine at Mount Sinai and insured that it would have the support necessary to maintain its excellence.

The Mount Sinai community is deeply saddened at the loss of such an esteemed associate and as a representative of that community I would like to affirm our deep affection for him and our grief at his loss.

Statement by Lewis Thomas

Everyone is familiar with Mr. André Meyer's enormous impact on the world of finance, his genius as a businessman, but few are aware of the behind-the-scenes work on his part to support the effort to better understand and treat cancer. As a former trustee of Memorial Sloan-Kettering Cancer Center, Mr. Meyer devoted more than a decade of service to the effort to defeat cancer and made this effort a significant part of his philanthropic activities. The André and Bella Meyer Physiology Laboratory stands today as a memorial to this effort.

We pay tribute to an extraordinary person.

André Meyer Is Dead; Financier Led Lazard

(By Eric Pace)

André Meyer, the New York-based investment banker whose virtuoso skill at dealmaking brought him vast wealth and power, died Sunday, a spokesman for Lazard Fréres & Company, the firm Mr. Meyer dominated for decades, said yesterday.

Mr. Meyer was 81 years old, had been in poor health, and recently caught pneumonia in Switzerland, where he had often vacationed over the years. He died in a hospital in Lausanne.

In the hushed Rockefeller Plaza headquarters of Lazard Frères, one of the nation's foremost investment banking houses, Mr. Meyer's associates sometimes used to refer to him as "Zeus"—the most powerful of the gods.

During his 33 years as the head of the firm, a partnership, Mr. Meyer amassed enormous influence in the world of finance and built a personal fortune that was widely estimated at $250 million or more; by some accounts, it may have reached $500 million.

His philanthropies amounted to more than $5 million, including putting up nearly $3 million for the construction of a series of new galleries for European paintings in the Metropolitan Museum of Art—a piece of philanthropy that has not been disclosed until now. The galleries, to be completed by February 1980, are to be named for him. He also aided New York University, Mount Sinai Hospital and other medical institutions.

Mr. Meyer's success stemmed largely from his great talent at devising and orchestrating mergers and other complex corporate deals. It was also due to his ferociously hard work, his network of friendships with other influential people and his ability to attract and command able associates. His best-known protégé at Lazard Frères was Felix G. Rohatyn, a partner who played a major role in the financial resuscitation of New York City as head of the Municipal Assistance Corporation.

"Financial engineering" is what the Paris-born Mr. Meyer, a naturalized American citizen, like to call his work. And once, over a glass of sweet sherry, he told a visitor to the firm that "improvisation" was at the heart of his business, because he and his partners were in a hotly competitive field.

But David Sarnoff, the longtime chairman of the RCA Corporation and an old friend, used to say that what lay at the heart of Mr. Meyer's success was his lightning-quick, almost intuitive analytical powers, which enabled him to grasp the subtleties and implications of even the most complicated transactions while others were still thinking things over.

CREATIVE FINANCIAL GENIUS

And David Rockefeller, chairman of the Chase Manhattan Bank, called Mr. Meyer "in many ways, the most creative financial genius of our time in the investment banking field."

As Lazard's active senior partner from 1944 to 1977, Mr. Meyer engineered such lucrative deals as Lazard's purchase of the Avis Rent A Car System for roughly $7 million and its resale to the International Telephone and Telegraph Corporation a few years later for $52 million in I.T.T. stock, thereby realizing a huge capital gain for Lazard's partners.

Mr. Meyer was also a partner in an affiliated Paris firm, called Lazard Freres et Cie., and had approximately a 10 percent interest in another affiliated firm, Lazard Brothers of London, according to associates.

During his long career, Mr. Meyer also sat on the boards of such major concerns as Fiat S.p.A., Europe's largest auto maker; the Chase International Investment Corporation; the Radio Corporation of America; and the Newmont Mining Corporation. At one time, he was believed to hold about $2 million in RCA stock and $4 million in Newmont stock personally. His fortune included a wide range of other investments, notably in real estate in New York and Washington.

Some of these far-flung, hard-driving business activities brought Mr. Meyer his share of criticism on various grounds. Some critics accused him of ruthlessness and of helping to foster the conglomerate movement in the United States as a method of generating fees for his company.

Mr. Meyer also used his energies and wealth in a variety of fields outside the business world, serving as a trustee of New York University, the Sloan-Kettering Institute for Cancer Research, Mount Sinai Medical Center and the Metropolitan Museum.

Mr. Meyer's philanthropic activity included a $2.5 million gift to N.Y.U. in 1965 and donations of paintings to the Louvre and the Museum of Modern Art.

In his spare time, Mr. Meyer assembled a costly art collection that included a landscape by the 19th-century French painter Camille Pissarro, which he bought for $62,000, then a world record price for a Pissarro, at an auction here in 1958.

Though Mr. Meyer never held a full-time government post, many notables in the world of politics were the beneficaries of his advice, charm or support.

$90,000 GIVEN NIXON CAMPAIGN

Data released in 1973 by the Committee to Re-elect the President indicated that Mr. Meyer had contributed $90,000 to President Nixon's re-election campaign in 1972, which made him one of the 95 largest contributors.

On the Democratic side, Mr. Meyer was on advisory committees that served the Kennedy and Johnson Administrations, and he was a good friend of President Johnson—although he said in private conversation that he did not like the Johnson Vietnam policy and could not understand why his friend clung to it so long.

Mr. Meyer also supported Vice President Humphrey for the Presidency, and his ties to the Kennedys included supervising the portfolio of investments that President Kennedy bequeathed to his widow, Jacqueline. Although rumors persisted that Mr. Meyer had helped draft a marriage contract between her and her second husband, Aristotle Onassis, Mr. Meyer, in private conversation, denied having played any such role.

But he was occasionally seen escorting the President's widow in the years before her remarriage—thereby giving credence to the Wall Street saying that Mr. Meyer loved three things in life: beautiful women, great art and complex deals.

Asked about that once, Mr. Meyer shrugged his expensively tailored shoulders and answered, "The first two are really one, and the third is not always the case."

That mixture of elegance, hauteur and understatement ran through Mr. Meyer's private life. He wore dark suits, heavy silk ties and luxurious shirts with the French cuffs always in evidence. His wife of half a century, the former Bella Lehman, was noted for her enduring good looks. They lived quietly in their apartment at the Carlyle Hotel, amid ornate candelabra, rare bronzes and arts works by Cézanne, Degas and Picasso.

Mr. Meyer's owlish face and mobile eyes sometimes had a mischievous air—and sometimes radiated lordly, if temporary, wrath. He could lose his temper in an instant, might then turn a withering stare on, say, a distinguished financier who had dared to question his logic, snapping: "I will not have this; you will become a baker in the morning."

MANY EUROPEAN TIES

Throughout his later life, Mr. Meyer maintained many ties to Europe, including a vacation chalet in Crans, a high-altitude (4,950 feet) health resort in southern Switzerland. He sometimes talked business, even with his New York partners, in his native, somewhat formal French. He did not mind when Americans pronounced his name in the American way, "MY-er," but he himself pronounced it "My-AIR."

André Benoit Mathieu Meyer was born on Sept. 3, 1898, according to the Lazard spokesman, although it was rumored that Mr. Meyer was actually born a year or two earlier. He was the son of Jules Meyer, a small-business man, and Lucie Cerf Meyer. He began his financial career as a messenger in Paris's financial district and soon became a stockbroker on the floor of the Paris Bourse. In 1922 he married Bella Lehman, no relation to the Lehmans of Lehman Brothers in New York.

Before long, the young Mr. Meyer's enterprise, speed and skill were noticed by David David-Weill, then the head of the Paris Lazard firm. In 1926, Mr. Meyer was taken on as a partner, and he soon became highly influential. He helped organize Sovac, the first French consumer-finance company, which later became known as Crédit Mobilier Industriel.

In 1940, Mr. Meyer and his family fled Paris ahead of the invading German Army. Years later, in private conversation, he said he had earlier contributed money to a plot to assassinate Hitler and therefore had special cause to fear the advancing Nazis.

Mr. Meyer made his way to New York, where he began working with the United States Lazard firm. He soon made a reputation for aggressive deal-seeking, and he took charge of the New York house after its former head, Frank Altschul, retired from the firm in 1943. Mr. Meyer became a United States citizen in 1948, the Lazard spokesman said.

Though Mr. Meyer deliberately kept the New York firm small, he made sure it was extremely profitable, Wall Street insiders reported a few years ago. In a rare discussion of Lazard's internal workings at that time, former Lazard associates reported that Mr. Meyer, as senior partner, received roughly 20 to 25 percent of the firm's profits, or at least $2 million a year, in addition to very substantial income from investments outside the firm.

BECAME A LIMITED PARTNER

When Mr. Meyer slowed down his business activities in the 70's, Michael David-Weill became the senior partner of Lazard in New York, and Mr. Meyer became a limited partner. Mr. David-Weill is a grandson of David David-Weill and a member of the wealthy clan, descended from the original Lazard family, that has long played a powerful role in the three Lazard houses. But as one of Mr. Meyer's associates put it later, "His voice continued to be heard."

Mr. Meyer is survived by his wife; a son, Philippe Meyer—a physicist—and a daughter, Francine Meyer, both of Paris; and by four grandchildren, of whom three are limited partners in Lazard Frères & Company who live in New York. They are Patrick A. Gerschel, Laurent Gerschel and Marianne Gerschel Merrick, all children of Francine Meyer's by a marriage that ended in divorce. Mr. Meyer is also survived by five great-grandchildren.

A private burial ceremony is to be held tomorrow in a Paris cemetery.

EULOGY BY MICHEL DAVID-WEILL

Mr. Andre Meyer's family, as well as mine, originated from Eastern France, and I recognized in him many of the traits which were both familiar and heart-warming; an extraordinary devotion to work, a very deep sense of family ties and an idealism closely tied to the respect and gratitude the Jews from Eastern France have felt towards the ideals of the French Revolution.

His devotion to the public good, his understanding and appreciation of American values, his unceasing commitment to a better understanding between the USA and its European allies are very much a testimony to this very idealism.

We are here to pay tribute to the memory of Mr. Andre Meyer.

I cannot start to speak about Mr. Andre Meyer without immediately associating him with our Firm, Lazard Freres—so close, so intimate was their association—in our minds and in fact.

For exactly fifty years he was a partner of this Firm. He devoted so much of his energy, so much of his talents that he could—and rightly so—start many of his sentences in somewhat of a royal way by saying: "We Lazard".

We all know he was a very exceptional man. What struck, I believe, most of his interlocutors first was his extraordinary presence. He had a kind of charisma only a very few great statesmen have had. It was based in fact on a mixture of authority and sensitivity reflecting—for all to be seen—his very great and deep qualities.

First of all, he was the hardest working man I have ever met. Up at 4:30 in the morning, never too tired to do what he felt needed to be done, never too busy not to receive a visitor, a partner of his, a business associate. Always present in person or on the telephone, every ready to make one more effort.

He was also not only very intelligent—many people are quite intelligent—but both singularly intuitive and completely without preconceived ideas. His look on events, on people, on situations was eternally a new one.

All of us who knew him know too how sensitive he was, easily hurt sometimes, easily grateful for a manifestation of friendship, of affection.

The quality of effort he brought about in his human relationships was rather extraordinary. Anybody who either had a personal problem or had one of his loved ones with a problem suddenly realized the degree of attention, the concern Mr. Andre Meyer could show to these personal events, which suddenly reveals to all of us our basic fragility.

Mr. Andre Meyer's extraordinary presence, his intensity, his resilience, in fact his extraordinary youthfulness throughout the years had made us think, I believe, that he had permanence and that his presence could not rightfully be interrupted. He is no longer with us—but so many of us, and certainly all of the ones who have worked with him—know, recognize and are grateful for the extraordinary contribution he made to their lives. As far as I am concerned, with his disappearance, it is a great page of the history of Finance and of our Firm which has come to an end.

For 21 years he was a partner of my grandfather, for 45 years he and my father were partners, and I was lucky enough to count among his partners for 18 years. So much of what I know I have learned either by watching him or through his guidance and direction. He was a good teacher—surprisingly patient with the efforts of the young and of those who had a lot to learn. His standards, however, were very high and sometimes one had the feeling of being out of breath following him.

I have so far been speaking of Mr. Andre Meyer in his work and in his Firm, and I do believe that they were a very essential part of his life, but he had found in himself other directions to pursue. Art—for one—which gave him great joy and his philanthropic interests in art, education and medicine.

He was a man who believed things could be changed by the actions of an individual, and in every one of these fields, he acted out his belief, and so he is leaving a real imprint for the benefit of all of us.

I think what people admired him very much for, and he was surrounded by admiration as well as affection, was his individual strength which made things happen, which made ideas blossom, which proved to the world that it still could be—in a small or big way—transformed by a man all by himself. With no great organization beyond himself, with no great power except the one of his own mind and of his own convictions.

He chose to apply this great gift mainly in the field of finance, and our Firm, Lazard Freres & Co. benefitted greatly by this.

I am and will remain grateful to him but I also know that this feeling of gratefulness is shared far outside of the Firm.

This, because his abilities and talents were called upon by the leaders of this country throughout a generation and his advice was sought world-wide by men in a position of responsibility who valued his unbiased opinions.

Very few men can be deemed to have achieved their goals. I believe he had—though he would have wished to see the world in a better shape and though he would have wished to be able to continue his efforts.

In the last few days of his illness, asked by his doctor which one of the small comforts still available to him he wanted, he replied, "I want to work again."

Eulogy by Simon H. Rifkind

September 3, 1898–September 9, 1979

It is compatible with the tradition of this sacred pulpit to begin with a text derived from Scripture. My own selection leaps readily to mind and it is taken from Genesis, Chapter 6, Verse 4:

"There were giants in the earth in those days. * * * and the same became mighty men which were of old, men of renown."

Apparently those days have not entirely vanished. Indeed, we have assembled in this beautiful house of worship to commemorate the life of such a giant and the extraordinary career which made him a man of renown to a worldwide generation.

What a superlative performance Andre Meyer delivered during his stay on life's stage.

If it be true, as we declared in this very temple a few days ago, that the Almighty reviews at this season every person's account and enters the appropriate judgment, then I have no doubt that the account of Andre Meyer was marked "Paid promptly and in full".

Our mass media like to attach labels to conspicuous personalities. To Mr. Andre Andre Meyer's name they generally attached the label "legendary". The dictionary tells us that legendary means "fabulous". What is there about Andre Meyer to make him and his career fabulous?

We have the story of his daring escape from the Nazis in 1940, after he had been marked for capture and extermination by reason of the anti-Hitler activities he promoted within Germany. However, he was not the only one to survive such an adventure.

There is, of course, the well known story of his rise to a preeminent position in the financial community of the world. But Horatio Alger stories are commonplace in these United States. By our standards, it takes more than success to make a career fabulous.

From my observation I would say that the factors which endowed Andre Meyer with legendary attributes were the repeated exhibitions of an uncanny capacity to perceive the future as it would emerge and unfold from the womb of the past. This capacity was so fully developed as to cause some to characterize it as clairvoyance. He would be the first to reject any such description. In truth, he possessed the extraordinary gift of being able to marshal the known facts and to subject them to a very high intelligence which could foresee and measure the inevitable, logical progression from the known present to the unknown future.

That he was a singularly private person, that he preferred anonymity, only added to the legendary dimensions of his name.

Since his reputation was that of a financial genius it is not surprising that he was frequently consulted about matters financial by the highest authorities of the land. In keeping with his custom, most of these consultations were private and off the record. Occasionally, however, he served publicly.

He served on the Advisory Committee of the International Monetary System, the so-called Dillon Committee, and out of his inventiveness and diplomacy came the SDR, the Special Drawing Rights, one of the great innovations in international finance.

He was a member of the Advisory Board of the International Finance Corporation, an affiliate of the World Bank. He served on President Kennedy's Task Force, the so-called Fowler Committee. He rendered many other public services too numerous to mention.

Early in his career he formed the habit of serving those who could benefit from his efforts. During the Nazi rise to power, he collaborated with Robert de Rothschild in establishing an organization to help smuggle escapees out of Germany and its subjugated dominions. He also founded and was Treasurer of the Fighting French Relief, Inc. He devoted much money and many of his talents to the Technion Institute, an educational institution in Israel which bears responsibility for keeping that nation abreast of technological developments vital to a modern industrial state.

His financial contributions to many good causes were, of course, notable, and in keeping with his means. But what is more revealing of his character is that this exceedingly busy and preoccupied man gave of his time and energy to a vast array of institutions serving human needs. Among them are the Sloan-Kettering Institute for Cancer Research, the John F. Kennedy Library Corporation, the Institute of Fine Arts of New York University, the New York University, the Mount Sinai Hospital, the Memorial Hospital for Cancer, the Alliance Israelite Universelle, the Federation of Jewish Philanthropies, the American Jewish Committee and this very Temple Emanuel. He was the first Treasurer of the American Committee for the Weizmann Institute.

I am very proud that for many years I have been privileged to call him my friend. In his relationship to his friends there was a simple formula which he applied: loyalty. There was no fickleness in his human relations.

Because I cherish his friendship, I was delighted that he did not pretend to saintliness. My own limitations have always made it difficult for me to interact comfortably with saints. While the Age of Chivalry generated the fantasy of a perfect knight, it never discovered a living exemplar of its imagined creation. Andre Meyer was human, made of the earth to which he has now returned.

Some of his contemporaries who marched to the beat of a less demanding drummer than Meyer heard, thought that he not only tried harder but that he sometimes tried too hard; that he sometimes reached out further and beyond the horizon which his eye could see; that occasionally his zeal exceeded the merit of his goal. These do not diminish his stature.

He stood so tall that he was seen from afar, and his small soft voice was heard at enormous distances, not because he was loud but because he was wise.

The land is filled with the evidences of his constructive mind.

As a client, he was in a class by himself. In over 50 years of practice, I have not encountered a client who was more perceptive of the true dimensions of the problem which he entrusted to his lawyer's care, who was more appreciative of the effort, the skill, the devotion that entered into its solution. To work with him on any case was an exhilarating experience.

I cannot close these remarks without a word of tribute to a great and beautiful lady. During the past few years, especially over the period of Mr. Meyer's illness, I have watched Bella Meyer transfuse her husband with her courage, inspire him with her strength and encompass him in a cocoon of loving devotion, unsurpassed in any similar situation that I have ever seen. If I be allowed once again to resort to Scripture, I would quote from the 31st Chapter of the Book of Proverbs:

"A woman of valor who can find? For her price is far above rubies. The heart of her husband does safely trust in her * * * Many daughters have done valiantly but thou excellest them all."

The prophetic eye of the great author of Proverbs must have observed Bella Meyer as his model while he was composing these words.

Taking a retrospective look at this great man's life it is easy to say that not only was Andre Meyer gifted with talents and imagination beyond that given to most men, but that he was also very fortunate. A kind providence smiled upon him. The best evidence of that is that in his closing hours he was surrounded by a loving wife, devoted children, adoring grandchildren and a host of grateful disciples. While they mourned the loss of a husband, a father, a grandfather and a teacher, the rest of the world paused in respectful tribute.

What more can anyone ask of one's life?

Eulogy by David Rockefeller

We are here today to honor the memory of a man whose life has touched all of us—a man we held in the highest esteem and affection.

Andre Meyer was a giant among men. He was fascinated by the most complex business and financial problems; the more difficult they were to solve the more he accepted them as a challenge. He handled them with the skill and finesse of a concert violinist playing before an audience of sophisticated music lovers.

His talents were as great in understanding human psychology as they were in analyzing financial statements. His solutions were creative and always on target.

Andre was an unerring judge of men and a shrewed interpreter of events. His reactions were swift and sure—he kept fully abreast of what was going on in the world and had a faculty of applying what he learned to specific business decisions to the great benefit of his clients.

Although he shunned notoriety his intuitive judgments and keen insights were well known and greatly respected by opinion makers and leaders in business, finance and government in many parts of the world. Throughout his life and even after his retirement from the active management of Lazard, Andre's advice was sought out in confidence by the thoughtful the discerning and wielders of power in many sectors of society.

Andre had a powerful personality, yet he was an unassuming man. He rarely appeared at public functions and never gave public addresses. He never sought public recognition for what he achieved.

He was a prodigious and unending worker who started his day on the telephone with Europe hours before offices here opened up.

High standards of performance and excellence were expected by Andre from his associates and, of course, he lived up to them himself. Equally, he insisted on uncompromising integrity for himself and for those who worked with him.

Andre did not have large numbers of close friends, but those he had were very precious to him. He was intensely loyal and generous of spirit. For myself, I can say there have been few people in my life to whom I could go, as I felt I could to Andre, with personal dilemmas and be sure of receiving thoughtful, objective and sympathetic advice.

Andre was not only generous to his friends; he was also extremely generous to charitable institutions he believed in. His gifts to New York University, the Metropolitan Museum, the Museum of Modern Art, Mt. Sinai Hospital and the Rockefeller University—to mention but a few—were very substantial but never publicized. He gave to an institution if he was persuaded of the merit of its objectives, not to glorify himself.

Throughout Andre's mature life, he was fortunate to have had his dear wife, Bella, at his side. No one ever had a more loving, beautiful or devoted wife. During his illness in recent years, she was a tower of strength and our hearts go out to her in love and sympathy at this time.

Andre Meyer's days on this earth have come and gone; but his impact as an economic statesman will be felt for many decades. The warmth of his friendship will remain in our hearts as long as we live. May his soul rest in peace.

EULOGY BY FELIX G. ROHATYN

Andre Meyer meant different things to me at different stages of my life. He was an Olympian figure in my youth, Zeus hurling thunderbolts rather terrifying and remote. Later on, he became a teacher and a mentor, demanding and a hard taskmaster, but always demanding of himself, infinitely more than he demanded of anyone else.

Later still, I began to understand his passion for excellence and his uncompromising standards, requiring that we not only achieve perfection, but that we do it in style. It was also then that I began to know the man and to appreciate what an extraordinary human being he was.

I worked for and with Andre Meyer for over 30 years, and every year that I knew him I cared for him more. He was a man whose sensibility was as great as his intellect, a man who, for all his gifts and power, was as intensely shy and self-deprecating as anyone I know. Behind a facade that could be stern, forbidding and sometimes theatrical, there lived a man yearning for affection, with an extraordinary sense of humor and whose sense of loyalty to his friends drove him to the most extraordinary acts of kindness.

I must have known him 15 years before I realized how deeply religious he was, for he carried his faith quietly and unobtrusively. He never permitted his pride in being a Jew, however, to let him forget the harsh realities of what being a Jew still implies.

As the years went by and we spent more and more time together, I learned to appreciate not only the brilliance of his intellect but the depth of his wisdom and his extraordinary faculty for judging people. I do not believe that I have ever met anyone whose instinct was as unerring in differentiating the real people from the myriad phonies, the talented from the glib dazzlers.

He yearned for Renaissance men in a world overrun with mediocrity, yet he only had to look in a mirror to find the ultimate Renaissance man.

He advised statesmen, but his passion for privacy kept him from playing the public role he was meant to play.

His appreciation of the arts, his generosity to medicine and education are matters of record of which others can speak better than I. What I shall miss more than anything, however, is his friendship, his advice, his caring. As one gets older, one usually gets more self-assurance and reliance on one's own judgment. As I got older, however, I tended more and more to look for his advice, to listen to his judgment. Whether it was a problem dealing with business or government, a family matter, or just everyday living, Andre Meyer was a bigger influence in my life at age 50 than at age 20. Today, especially on weekends, I still reach for the phone to call Andre about a problem. Even though I know that I can no longer pick it up, I still deliberately imagine what our conversation would be like. Most of the time, because we did it so often, I think I know what he would tell me. But I can no longer be sure, and that is a terrible void.

Speaking for those of us who had the privilege of working with him, to his devoted wife, to his family, I say "Thank you for sharing him with us". We took him away from you a great deal, but each of us, in our own way, loved him and now we share your grief, and we mourn him.●

DISPOSITION OF ALASKA'S LANDS

Mr. STEVENS. Mr. President, serious misconceptions and errors regarding the State of Alaska's land selections have been aired as facts. Proponents of excessive withdrawals in Alaska contend that Alaska's 104 million acre Statehood Act land entitlement has permitted it to choose the finest resource lands in Alaska. Therefore, it is asserted, Congress can afford to withdraw vast areas without adverse impacts on Alaska and its citizens. This is simply not the case. In reality, First, the State has never been able to freely select its land, second, since the midsixties administrative edicts and laws have effectively blocked land selections and third, the State has not been able to select its full entitlement nor receive title to the lands it has chosen. At this time, the State of Alaska has received title to less than one-quarter of its statehood land grant and been able to select only three-quarters of it.

Some of the bills which have been considered would include existing State lands within unit boundaries and would deny the State selections. Further, some of the bills being considered threaten the economy of my State. While it is true that these lands are Federal lands and, as such, belong to the people of the United States, it is also true that Alaskans are most directly affected by their final disposition. Alaskans simply ask that a workable system be developed whereby the Federal Government and Alaskans can live in harmony. A recent article in the Philadelphia Inquirer pointed out that many observers fail to notice that there is a States' rights issue involved here. This is a fact I hope will be considered as the Senate continues its debate on the final disposition of Alaska's lands.

I ask that the article from the Philadelphia Inquirer, "Alaska debate, Carving up the nation's last frontier is a matter of States' rights," be printed in the RECORD.

The article follows:

[From the Philadelphia Inquirer, Sept. 25, 1979]

ALASKA DEBATE: CARVING UP THE NATION'S LAST FRONTIER IS A MATTER OF STATES' RIGHTS

(By Jim Bashline)

The Senate will soon attempt to unravel what has become the most important conservation issue of the decade—the Alaska land issue. President Carter goes further than that. He calls it "the most important conservation vote of the century." It may well be.

Facing the Senate will be the problem of what to do with the Udall-Anderson bill, which passed the House this summer by a vote of 360 to 65. The complex provisions of the bill and the fine-print attached are not fully understood by the public or the legislators. The main purpose of the bill is to decide how Alaska's 360 million acres will be divided.

Carving up this much land is a job that requires more than political vision.

When Alaska became a state, 20 years ago, it was promised 104 million acres to do with as it pleased. As a territory, the land belonged almost totally to the federal government. Legal foot-dragging has prevented that transfer from being made. The discovery of oil at Prudhoe Bay on the North Coast slowed things down still more. The U.S. government, with some prodding by the oil companies, wanted to get that oil into pipelines. State ownership might have caused problems, so another plan was formulated. It was called the Alaska Native Claims Settlement Act of 1971.

President Nixon signed it. After much wrangling, it appeared that all would be serene in the north.

The pipeline could be built, the Indians and Eskimos would be paid off and given land on which they could pursue the caribou, and the state would get its promised acreage.

It hasn't quite worked out that way. Congress is still trying to decide which lands will be national parks, monuments, and refuges, and which will go to Alaska. Compounding the matter is that the nation's current land reserved by the federal government will be off limits for any kind of development.

Geologists claim that nearly 60 percent of our nation's undiscovered oil reserves are located in Alaska. The amount of other riches, including copper, molybdenum, lead, natural gas and coal, can only be guessed at. Depressed Alaskans point out that it will forever be only "a guess" because under the Udall-Anderson bill, most of the promising strike areas will lie in the untouchable zones.

In addition to the mineral treasure trove, Alaska is rich in flora and fauna. Moose, caribou, brown bears and Dall sheep still live in relative seclusion. Alaska's sport and commercial fishery is a $2 billion industry. Its waterfowl nesting areas are among the most productive in the world. Conservationists worry that these non-voting residents will be shortchanged if any quarter is given to the pro-development interests.

In spite of the many junkets made by fact-finding congressmen and senators to Alaska, the residents of the state feel detached from the rest of the nation. They know that most of those congressional trips have started and ended with a dinner of king crab at the top of the Captain Cook Hotel in Anchorage, leaving the lawmakers fed but seldom versed in the complexities of the problem they must resolve.

Practically no one in the lower 48 states knows or cares where the Wrangell Mountains are, or the Brooks Range or Yukon Flats.

Suddenly, spurred by energy woes, conservation organizations, governmental agencies, legislators and national action groups of all stripes have been publishing position papers and opinions on the Alaska situation. It appears to be a case of who can best posture himself as "biggest conservationist of them all."

National Geographic Magazine printed statements in its July issue from Alaska's Gov. Jay Hammond and Interior Secretary Cecil Andrus in an attempt to present both sides of the question. The editors depicted Hammond as a rampant developer and Andrus as a white knight of the nation's streams and forests. Matters, in fact, are not this clearly cut.

The more we know about this land mass that is larger than all of Pennsylvania, New York State, New Jersey and the whole of New England, the better for all of us. As a still relatively untouched natural wonder, Alaska is our last chance to demonstrate intelligent, long-range planning.

The senatorial debate will cover connundrums of the most serious nature. How important is the recovery of the oil and natural gas in Alaska to our nation's economy? How important is a herd of free-moving caribou? These and dozens of other multifaceted questions will face the senators when they return to session.

It is a bewildering time for Alaskans. Their part in the deliberations has been limited. There is little chance that they will be called on for input for the current debate. Their management of fish, game and other natural resources, they believe, is slipping away. There is even serious talk of secession. Almost all Alaskans resent the making in Washington of decisions that they feel should be made in the state.

It appears that three successive national administrations and now Congress are determined to treat Alaska as they would not dare treat any other state. Both Alaskan senators have vowed a filibuster to prevent what has been called, "state government by congressional fiat."

States' rights is the issue here, a fact that most observers fail to notice. It is expected that Alaskans will not let the Senate lose sight of that.

As deep as the resentment is among Alaskans over the parceling of their land by legislators in Washington, an equally serious breach of conservation walls in the lower 48 has resulted from a blizzard of news releases. The National Rifle Association called the Udall-Anderson Bill nothing less than "de-facto gun control." It pointed out that the substitute Breaux-Dingell version would have allowed hunting on 3 million more acres than would the Udall-Anderson. Out of a total of nearly 127 million acres being set aside, this didn't seem like much.

However, the professional hunting guides in Alaska, an important force in this game-rich state, think that the acreage in question is perhaps the best of the Dall sheep range. The Dall is a highly coveted trophy animal.

The nation's outdoor press has been generally against the Udall-Anderson bill, mainly because of pressure from their readers and their dislike of animal protectionist Cleveland Armory, a professed foe of all hunters and sport anglers. Many outdoorsmen accept the premise that if Armory favors the Udall-Anderson bill, something must be wrong with it.

The National Wildlife Federation, historically supportive of regulated hunting, is also for the Udall-Anderson bill. Many of the federation's state affiliates, including the powerful Pennsylvania and New York chapters, bucked their national headquarters and supported the Breaux-Dingell version.

Trying to decide who is for and who is against the Udall-Anderson bill is as complicated as the issues themselves. Some simplistic observers have tried to make it a "motherhood" issue if you are "for" conservation, then you must be for Udall-Anderson.

What's needed here is a definition of a word. Literally, "conservation" includes in its meaning "to protect." Modern usage tends to go along with the phrase, "wise use of" whatever is in question. In this case, acreage.

Here, in summary, is what the Udall-Anderson bill prescribes for the geography of Alaska:

New refuges: 79 million acres. No hard-rock mining. Hunting is permitted at the discretion of the secretary of the interior. Some lumbering and oil and gas exploration will be allowed.

New parks and monuments: 27 million acres. No development of any kind. No hunting.

New preserves: 17 million acres. Same rules as National Parks except that some sport hunting is allowed where it will not damage the resource.

New wild and scenic rivers: Two million acres. No development. Hunting is permitted.

New national forests: 2.5 million acres. Hunting is permitted with limited harvest of lumber.

Wilderness areas: 27.5 million acres. Carved out of existing parks, refuges and national forests. No development in wilderness areas except that hunting will be permitted by traditional methods.

Under previous acts, the Alaskan natives were given 44 million acres and $962 million in cash. But until the balance of the federal land in Alaska is portioned out by Congress, the natives are reluctant to select their holdings. Only 10 million acres have been chosen. They're waiting to see which land is left.

The same is true for the state. Under the Statehood Act of 1958, Alaska still has 75 million acres to lay claim to. It, too, is holding off to see what is going to be available. For economic reasons, the Alaska business community would like to own lands where some development will be possible.

The overall economy of Alaska is in a worse recession right now than the rest of the nation. When the construction of the Prudhoe to Valdez oil pipeline ended in 1977, the big spending boom was suddenly over. In some Alaskan communities, unemployment runs as high as 50 percent. Usual inflation is compounded by the fact that Alaska retail prices are always 10 percent higher than those in the lower 48. The "lock-out" of millions of acres to mining, lumbering and oil sands exploration strikes many Alaskans as unfair.

Indeed, some Alaskans find it strange that the big pipeline was literally forced on them, at an environmental cost yet to be determined, and now the same faceless voices in Washington are telling them that less, not more, development is good for them.

But the flag being carried by those who favor the Udall-Anderson bill is not a false banner. They have seen the destruction of the huge wildlife bonanza that once roamed Africa. They have seen what indiscriminate mining can do to a green countryside. They have seen our nation's rivers used as open sewers. In Alaska, the chance still exists to wisely manage the resources and intelligently plan for the needs of those who live and visit there. This is an undertaking of the highest moral order.

Others, Alaskans and outsiders alike, share a more pragmatic viewpoint. The realities of today, they declare, rule out a lopsided environmental approach to the carving of Alaska. They point out, with new courage supplied by the gasoline lines of 1979, that we cannot wait any longer to explore any and all possibilities of removing as much oil and natural gas as possible from U.S. soil.

Now, as the Senate is about to resume activities, the Udall-Anderson bill is a fact The senators can either consider it or—and betting is strong on this—they will mark up Senate Bill 9, the Alaska lands bill offered by Sen. Henry M. Jackson of Washington This bill is considerably looser in language on the matters of mining, oil exploration and hunting. It is similar to the Breaux-Dingell bill, which was defeated this year by the House. Betting is also strong that the Jackson bill will not get beyond a committee meeting in its present form.

There is the possibility that absolutely nothing will happen during this session of Congress. SALT, the energy problem and election year politics may put the Alaska question back where it has been since 1971—ground zero. That would be too bad.

The Alaskans are weary of it all.

The frustrations of Alaskans in trying to interest the rest of the nation in their plight was evident in a statement made by Peggy Hackett, an assistant in the Alaska governor's information office in Washington, D.C. When asked about requests for information on the Alaskan land controversay, she said, "My telephone really doesn't ring too often. A small newspaper or magazine will call once in a while but I almost never get a request for information from one of the big dailies or TV stations. Congressmen and senators don't call very often either."

Those who care about the natural treasures of Alaska and worry about the orderly development of our largest state and the protection of its wildlife, should hope the senators put their hearts as well as their minds into their deliberations. They should also consult more Alaskans.

It is their state, you know.

UNITED STATES NEARS MOMENT OF TRUTH

Mr. THURMOND. Mr. President, there is a great need for a new and aggressive foreign policy by the United States to meet the growing problems in Central and South America.

The location of a Soviet combat brigade in Cuba will greatly enhance Communist forces in their efforts to overthrow various governments in this area, especially in Central America.

The United States must develop a policy of support and encouragement of friendly nations in Latin America which undertake active programs to meet the needs of their people.

If we fail to take these steps many of these nations will be taken over by Communist forces and the people will then be enslaved in spirit as well as in fact.

Mr. President, an excellent editorial on this subject appeared in the September 26, 1979, issue of the Aiken Standard newspaper in Aiken, S.C. I ask unanimous consent that this editorial be printed in the Record at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

U.S. Nears Moment of Truth

The recent political violence in El Salvador, coming as it does in the immediate wake of the Sandinista revolution in Nicaragua, is but the latest warning that Central America is a region in crisis.

El Salvador and Guatemala appear poised on the brink of disastrous revolutions. Honduras is only slightly less threatened. Nicaragua is agonizing through a revolutionary transformation the outcome of which is much in doubt. Costa Rica, while democratic and seemingly stable, is hardly immunized against the ferment sweeping its neighbors. And Panama, whose canal renders it the most strategic of all Central American states, is like-wise certain to be affected by the prevailing revolutionary currents.

It is true enough that, with the exception of Costa Rica, the winds of change are long overdue in Central America. Brutally repressive governments and the stark contrast between the vast wealth of the few and the pervasive poverty of the many mark these states as textbook candidates for political upheaval.

In less-troubled times, the form and substance of political change in each of these tiny nations might be considered internal affairs not rightly subject to outside intervention, be it political, economic or military. But these are, of course, supremely troubled times.

The gathering storm in Central America, and in the Caribbean as well, carries with it a very real Marxist threat. The mounting of danger is abundantly clear in El Salvador, for example, where antigovernment terrorists openly proclaim their allegiance to the tenets of Marxist revolution.

The presence of Cuba as an expanding, fortified Soviet beachhead in the Western Hemisphere transforms the crisis in Central America to a matter of the most profound concern to the United States, Mexico and other hemispheric powers.

The security of the Panama Canal is an obvious worry. Mexico's size, oil reserves and proximity to the United States make it a natural target for long-range Cuban and Soviet strategy. Columbia and Venezuela are only slightly less inviting objectives for a Marxist tide moving north and south from Central America.

With such critical interests in the balance, the United States and its major hemispheric partners have no acceptable choice but to respond to events in Central America while there is yet time to avoid the more serious crisis that indecision invites.

A hemispheric strategy capable of containing the potential threat from Cuba and the Soviet Union is not difficult to envision. Individual revolutions in El Salvador and elsewhere in the region must first be quarantined against manipulation or exploitation by either Moscow or Havana. Soviets and their Cuban allies must be informed that intervention in any form on the mainland will not be tolerated.

Concurrent with efforts to forestall such a possibility, the Organization of American States (OAS), and Mexico in particular, could assist Washington in applying appropriate political pressure to induce reforms in those Central American states most threatened by Marxist revolution. Where revolution is seen to be unavoidable, every effort must be made to identify and encourage non-marxist elements among the opposition.

Candor compels us to acknowledge that Washington's benign neglect over a period of decades has fueled the tempest brewing to the south. What should be overwhelmingly apparent now is that another year or so of similar treatment by the United States will risk a calamity of momentous proportions.

NATO'S MOMENT OF TRUTH

Mr. THURMOND. Mr. President, America's commitment to NATO has long been predicated on our determination to keep the West safe from any aggressive or adventuristic acts by hostile countries. Recently, however, this commitment has come under close scrutiny by different groups throughout the alliance.

Whether or not America's commitment has indeed remained intact may be a moot point at this time if, as some fear, our ability to provide the West with a shield against attack has been seriously diminished.

A recent article in the Wall Street Journal succintly points out many of the problems now faced by NATO countries.

Mr. President, in order to share this article with my colleagues, I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

NATO's Moment of Truth

(By Irving Kristol)

When Henry Kissinger made his opening speech at the recent NATO conference in Brussels, organized by the Georgetown Center for Strategic and International Studies, he set loose an international firestorm of comment and controversy. Indeed, so intense was that firestorm that Mr. Kissinger soon felt constrained to "clarify" (i.e., weaken) his remarks and blunt their thrust. That was probably the right thing for someone in Mr. Kissinger's position—a quasi-official position, after all, whether in or out of office—to do. But it may have had the unfortunate effect of persuading our NATO allies that he really didn't mean what he said, or didn't say what he meant to say.

I listened attentively to Mr. Kissinger's speech and it is my strong impression that he meant precisely what he said and that he did say exactly what he meant. Moreover, what he said is the truth of the matter, unpalatable as it may be to our allies or to our own State Department, and shocking as it may be to conventional opinion regarding NATO. As a matter of fact, he stopped well short of uttering the whole truth—which would have been even more unpalatable and shocking.

What Mr. Kissinger said, quite simply, is that the American nuclear umbrella, as represented by our arsenal of strategic weaponry, no longer provides any kind of protection for Western Europe against Soviet aggression—and most certainly not against any such aggression carried out by Soviet conventional military forces. Now that the Soviet Union has achieved parity in these strategic weapons, and soon will even have a degree of superiority, the only function of our arsenal is to deter a Soviet first-strike against the United States itself—that and nothing else. No American President is going to respond to Soviet troop movements against Western Europe by launching these intercontinental missiles, in the certain knowledge that he is inviting a retaliation which will reduce the United States of America to rubble. Dearly as we love Western Europe, that love is neither blind nor heedless of consequence.

One would have thought that, by now, this is quite obvious to everyone. The umbrella was a credible shield only so long as the United States had a clear and unquestionable superiority in strategic nuclear weapons. Even then, however, doubts were possible. In any such nuclear exchange, after all, the United States was bound to suffer enormous damage, of a kind and extent that made the concept of "winning" awfully blurred.

FULL OF HOLES

Indeed, it was precisely because of this concern—and because it was recognized that American nuclear preponderance was in any case bound to diminish—that NATO began to add tactical nuclear weapons to its arsenal. In a sense, a tactical raincoat was purchased to go along with the strategic umbrella. But the question needs to be asked: Just how waterproof is that raincoat, now that the umbrella is full of holes?

Mr. Kissinger did not ask that question in Brussels. He has always been an exponent of tactical nuclear arms and, besides, it would have been wildly undiplomatic of him to carry his shock therapy too far. But the question is nevertheless a real one. Just how credible is the threat of NATO's using tactical nuclear weapons against a Soviet incursion into Western Europe?

My own view is that it has a very low level of credibility. One may take it for granted that, given their superiority in conventional troops and armaments, a Soviet offensive will surely break through NATO's defenses at one or another point (or points). The NATO high command could then direct tactical nuclear fire against Soviet troops, inflicting huge casualties. But the Soviets now have parity at least, and perhaps even superiority, in tactical nuclear weapons. They would return the fire, inflicting huge casualties on NATO forces--and, inevitably, on the civilian population as well.

What will happen then? Will the governments of Western Europe persist in such a tactical nuclear exchange, with only dim prospects of a successful military outcome?

Are they so fanatically dedicated to their national liberties that they would rather see their cities ruined, their economies destroyed and their populations decimated (or worse) than accept a measure of Soviet hegemony? That is most improbable, and I should rule it out entirely as a realistic possibility. What the nations of Western Europe will do is seek a cease-fire and a negotiated settlement. And if they sense such an outcome in advance, would they fire those tactical nuclear weapons in the first place?

As a matter of fact, it is in implicit recognition of the dubiety of both strategic and tactical deterrence in the NATO area that the United States is now pressing its European partners to create something called Theater Nuclear Forces. These would involve intermediate-range nuclear missiles that could reach military targets in Eastern Europe and the neighboring areas of the Soviet Union itself. This may look like a plausible strategy on paper, but how much sense would it make in practice? All it does is to escalate the level of nuclear exchange at the outset, while leaving Europe as vulnerable as ever vis-a-vis the Soviet Union. If the United States is in no position to use its strategic nuclear weapons against Soviet aggression in Europe, and if our NATO allies are in no position to use tactical nuclear weapons, then how do we improve the situation by employing strategic-tactical nuclear weapons? It is no wonder that, despite considerable arm-twisting by the Pentagon, there is a notable lack of enthusiasm by our European allies to contemplate the stationing of these new weapons on their own territories. Such missile sites (and their adjacent areas), obviously, would be prime Soviet targets.

The key to this basic and unfavorable disequilibrium is not, as many seem to believe, the edge the Soviets have achieved in strategic nuclear weapons. It is important that the United States once again achieve parity, or even (if possible) superiority, at this military level. But that would only give us protection against a Soviet first-strike that would disarm us—or against the diplomatic blackmail that such a first-strike capability would make possible. We should still be left with the dilemma of how to respond to non-nuclear Soviet military action.

No, the real key is the Soviet superiority in conventional military forces. So long as that superiority prevails, NATO finds itself in the position of having to initiate a nuclear exchange, strategic or tactical, that it has (and should have) no stomach for—an exchange that, at best, makes all the combatants equal losers. And if, in any contest, your strategy is not to win but merely to prevent the other side from winning, you have already adopted the psychology of a loser. That psychology is rampant throughout Western Europe today.

NATO does need tactical or semi-strategic nuclear weapons for the same reason the United States needs a strategic arsenal—to deter the Soviet Union from a nuclear first-strike that would bring it victory within hours. But it must be recognized that, once this has been achieved, NATO's position will remain no less perilous than it had been. Of what use is it to be well-armed against a Soviet nuclear first-strike when, in effect, one is simultaneously disarmed through an imbalance in conventional military forces? Disarmed because it is close to impossible to imagine circumstances in which any NATO government (including our own) will find it prudent or sensible to initiate a devastating nuclear exchange. It is paradoxical but true that the development and proliferation of nuclear weapons have made conventional military strength more important, not less.

NUCLEAR HOLOCAUST

The Soviet threat to Western Europe is incarnated in its superior conventional military forces. This does not mean that the Soviets are straining at the leash to invade Western Europe, or that they even have any such intention for the foreseeable future. It would make little sense for them to acquire new satellites, under Russian occupation, in Western Europe. They already have enough trouble with their existing satellites in Eastern Europe. Besides, once they initiated military action, they could not be sure that events would not escalate into a full-scale nuclear holocaust—that just might happen, regardless of anyone's fears or intentions.

What the Russians would like to achieve is something like the "Finlandization" of Western Europe—a condition in which the economies and foreign policies of the lands of Western Europe are made congruent with Soviet interests. And thus is a goal that the sheer fact of their military superiority can gradually achieve in the years ahead, as pressure is applied at point after point, on occasion after occasion, as the opportunities arise. The nations of Western Europe will, predictably, lack the will to resist such pressure—just as they now lack the resolution to achieve parity in conventional military forces. And this in spite of the fact that Western Europe is as populous as the Soviet Union and is far superior in economic resources.

Whatever the explanation of this lack of will—and presumably it has something to do with the priority given domestic policy over foreign, of social expenditures over military—it is the case that NATO today is beginning to resemble a hollow shell, with formidable military equipment on the surface but acutely vulnerable to every hostile pressure from without. And, it is now clear, that is what NATO will remain unless and until the nations of Western Europe mobilize the will to make the necessary and expensive moves toward matching the Soviet potential inconventional military strength.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE FORMER U.S. CIVIL SERVICE COMMISSION—MESSAGE FROM THE PRESIDENT—PM 121

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I am transmitting herewith a copy of the Annual Report of the former United States Civil Service Commission for the Fiscal Year ended September 30, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1979.*

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THE WHITE HOUSE, *October 11, 1979.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on October 10, 1979, he had approved and signed the following acts:

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes;

S. 237. An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes; and

S. 756. An act to amend the Office of Federal Procurement Policy Act, and for other purposes.

MESSAGES FROM THE HOUSE

At 10:10 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to House Joint Resolution 412, a joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. **WHITTEN**, Mr. **BOLAND**, Mr. **NATCHER**, Mr. **SLACK**, Mr. **DUNCAN** of Oregon, Mr. **CHARLES WILSON** of Texas, Mr. **BENJAMIN**, Mr. **CONTE**, Mr. **MICHEL**, and Mr. **McDADE** were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 7:15 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 898. An act for the relief of Rodney L. Herold and others.

H.R. 946. An act for the relief of Maria Estela Sims.

H.R. 1153. An act for the relief of Nyoman Rahmawati.

H.R. 1163. An act for the relief of Gladys Venicia Cruz-Sanchez.

H.R. 1301. An act to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes.

H.R. 1753. An act for the relief of Sergio and Javier Arredondo.

H.R. 2098. An act for the relief of Antonio Rivera Aristizabal.

H.R. 3142. An act for the relief of Michael Carl Brown.

H.R. 3218. An act for the relief of Rebecca Sevilla DeJesus.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 11, 1979, he presented to the President of the United States the following enrolled bill:

S. 210. An act to establish a Department of Education, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2300. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the international energy program; to the Committee on Energy and Natural Resources.

EC-2301. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a rule exempting industrial boiler fuel facilities from incremental pricing above the price of No. 6 fuel oil, issued pursuant to section 206(d) of the Natural Gas Policy Act of 1978; to the Committee on Energy and Natural Resources.

EC-2302. A communication from the Deputy Assistant Secretary of the Interior for Land and Water Resources, transmitting, pursuant to law, a management plan and supplemental document prepared by the Bureau of Land Management for that portion of the Missouri River in Montana between Fort Benton and the Fred Robinson Bridge on U.S. Highway 191, to the Committee on Energy and Natural Resources.

EC-2303. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Perspectives on Trade and International Payments Executive Summary"; to the Committee on Finance.

EC-2304. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Perspectives on Trade and International Payments"; to the Committee on Finance.

EC-2305. A communication from the Assistant Secretary of Transportation for Administration, transmitting, pursuant to law, a report on a new system of records for the Office of Inspector General, pursuant to the Privacy Act; to the Committee on Governmental Affairs.

EC-2306. A communication from the Associate Director, Legislative Liaison, Department of the Air Force, transmitting a draft of proposed legislation to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the Uniformed Services and civilian officers and employees for damage to, or loss of, personal property incident to their service; to the Committee on the Judiciary.

EC-2307. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders for the adjustment of the status of certain aliens under section 13(b) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2308. A communication from the Secretary of Health, Education, and Welfare, transmitting a report stating that it is not possible for a report relating the study of adolescent pregnancy to be completed during fiscal year 1979; to the Committee on Labor and Human Resources.

EC-2309. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations for career education incentive programs; to the Committee on Labor and Human Resources.

EC-2310. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations for parts 116 and 116a—Financial Assistance to Local Educational Agencies to Meet the Special Educational Needs of Educationally Deprived and Neglected and Delinquent Children—Evaluation Requirements; to the Committee on Labor and Human Resources.

EC-2311. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals for October 1979; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on the Judiciary, the Committee on Labor and Human Resources, and the Select Committee on Indian Affairs.

REPORT OF COMMITTEE SUBMITTED DURING RECESS

The following report was submitted on October 10, 1979, during the recess of the Senate:

By Mr. ROBERT C. BYRD, from the Committee on Appropriations, with amendments:

H.R. 4930. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-363).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

H.R. 2515. An act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes (Rept. No. 96-364).

Mr. PROXMIRE. Mr. President, I report from the Banking, Housing, and Urban Affairs Committee a bill preempting State lending limits on business and agricultural loans.

This bill is particularly necessary for the State of Arkansas. Senators Bumpers and Pryor deserve a great deal of credit for working extremely hard, talking to every member of the committee, and making it a case with great eloquence and persuasiveness so that the committee did agree unanimously to report this bill which will make a great difference in Arkansas because otherwise it is impossible for the financial institutions in Arkansas to make agricultural loans or business loans.

I report this to the Senate and I am very hopeful we can take prompt action.

I am sure that Senators Bumpers and Pryor will be very anxious also.

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment:

S. 1775. A bill to promote the development of energy from agricultural commodities, forest products, and their wastes and residues, and rural energy conservation practices (Rept. No. 96-365).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAYH:

S. 1874. A bill to amend the Act incorporating The American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

By Mr. HELMS:

S. 1875. A bill to eliminate the pay comparability system for Federal employees; to the Committee on Governmental Affairs.

By Mr. BAUCUS:

S. 1876. A bill to require the establishment of criteria for mandatory allocation of crude and refined oil products based upon shortfalls, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SASSER:

S. 1877. A bill to amend the Internal Revenue Code of 1954 to reduce the tax effect known as the marriage penalty by permitting the deduction, without regard to whether deductions are itemized, of 10 percent of the earned income of the spouse whose earned income is lower than that of the other spouse; to the Committee on Finance.

By Mr. GLENN:

S. 1878. A bill to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes; to the Committee on Governmental Affairs.

S. 1879. A bill to establish an independent personnel system for employees of the General Accounting Office; to the Committee on Governmental Affairs.

By Mr. HART (for himself, Mr. Ford, Mr. Randolph, Mr. Baucus, Mr. Burdick, Mr. Domenici, Mr. Gravel, and Mr. Melcher):

S. 1880. A bill to amend section 601 of the Powerplant and Industrial Fuel Act of 1978, to provide comprehensive assistance to States, local governments, and Indian tribes to mitigate the adverse social and economic impacts caused by major energy developments, and for other purposes; to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH:

S. 1874. A bill to amend the act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

● Mr. BAYH. Mr. President, the American Legion, by action of its 61st annual convention in August 1979, adopted resolution No. 38 which seeks to amend the organization's membership criteria by adjusting the dates of military service one must have performed to be eligible for membership. That resolution requested that Congress enact legislation amending the Legion's charter by changing the recognized onset of the Vietnam era from August 5, 1964, to December 22, 1961.

The American Legion has traditionally extended membership to all those who served on active duty during periods of declared war or armed conflict. However, the Vietnam era was not a clearly definable period of hostilities and it is clear that the United States was incurring casualties prior to the Gulf of Tonkin resolution on August 5, 1964. Such a recognition prompted the American Legion to request this change.

In 1962, the Military Advisory Command Vietnam was established with 4,000 U.S. military personnel stationed there and by the end of that year the number had increased to 10,000. Many servicemen under this command and even prior to its establishment were assigned precarious duties as advisers to South Vietnamese combat units with the first U.S. combat-related death occurring on December 22, 1961.

Mr. President, I believe this request by the American Legion is a meritorious one. Therefore, I am introducing today legislation which will make the changes in the Legion's charter to more fully recognize the sacrifices made in that conflict and provide an opportunity for those who served during this period with an opportunity to participate in the worthwhile activities of the Legion.

It is on this point that I take special pride because of the fact that the American Legion has its national headquarters in Indianapolis, Ind., and its new commander is Mr. Frank Hamilton, a native of Greensburg, Ind. Commander Hamilton recently presented the Legion's legislative program to the Senate Veterans' Affairs Committee. On that occasion, I was able to express my own support for the valuable contributions made to the civic and humanitarian activities of communities in Indiana and around the country.

From Hoosier Girls and Boys State to the Legion's efforts in our battle against cancer and programs to rehabilitate the disabled, the Legion and its auxiliary have stood tall. We in the Senate can only further honor the work which the men and women in the American Legion organization have accomplished in providing them with the opportunity to do more. Enactment of this legislation will do just that and I commend it to my colleagues for their cosponsorship and support.

Mr. President, I ask unanimous consent that a copy of American Legion resolution No. 387 be printed in the RECORD as well as the text of the bill I am introducing today.

There being no objection, the bill and the resolution were ordered to be printed in the RECORD, as follows:

S. 1874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919, (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at periods: April 6, 1917, to November 11, 1918: December 7, 1941 to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: Provided, however, That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates".

RESOLUTION No. 387

Whereas, The eligibility dates for membership in The American Legion are determined by the Congress of the United States of America by the establishment of specific dates during which the United States of America was involved in a war, declared or undeclared, or other hostilities, and

Whereas, Members of the Armed Services of the United States of America were called upon to defend the principles of democracy and justice in all parts of the world including Vietnam beginning December 22, 1961 to and including August 4, 1964, and

Whereas, Members of the Armed Services of the United States of America were called upon to defend the principles of democracy and justice in all parts of the world including Laos April 19, 1961 to October 7, 1962, and

Whereas, Members of the Armed Services of the United States of America serving during the aforementioned dates may have prevented a period of tension or armed stalemate from developing into an actual war, and

Whereas, No action was taken on the part of The American Legion to petition Congress to change the eligibility dates for those members of the Armed Services who were ready, willing and able and did in fact serve honorably during the aforementioned periods of time, now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 21, 22, 23, 1979, that the National Legislative Commission be requested to petition to Congress of the United States to further amend Section 5 of the act entitled "An Act to Incorporate The American Legion," Public Law No. 47, 66th Congress, approved September 16, 1919, (c. 59, Sec. 541 Stat. 285, October 29, 1942; c. 633, Sec. 2, 56 Stat. 1012, July 9, 1946; c. 546, 60 Stat. 524, December 28, 1950; c. 1177, 64 Stat. 1122, July 26, 1955; c. 386, Sec. 2, 69 Stat. 380, September 1, 1966, Public Law 89-550, Sec. 2, 80 Stat. 372, Title 36 USC, Sec. 45, December 27, 1974, Public Law 93-557, Sec. 5, 41 Stat, Title 36 USC, Sec. 45), to read when amended as follows:

"Section 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917 to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; December 22, 1961 to May 7, 1975; all dates inclusive, or, who, being a citizen of the United States at the time of entry therein, served in the military or naval services of the governments associated with the United States during said wars or hostilities; provided, however, that such person shall have an honorable discharge or separation from such service or continue to serve honorably after any of the aforesaid terminal dates," and be it further

Resolved, That when and if the Congress of the United States enacts the above amendment, and the President of the United States shall have approved the same and it becomes law, then the National Constitution of The American Legion shall be deemed amended in conformance therewith, but subject to all consistent limitations and restrictions in the Constitution contained, all as provided for under Article XVII thereof, so that Article IV, Section 1, and Article XIII, Section 2, of the aforesaid National Constitution of The American Legion, shall read as follows:

"ARTICLE IV—ELIGIBILITY

"Section 1. Any person shall be eligible for membership in The American Legion who was a member of the Army, Navy, Marine Corps, Coast Guard or Air Force of the United States and assigned to active duty at some time during any of the following periods: April 6, 1917 to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; December 22, 1961 to May 7, 1975; all dates inclusive, or who being a citizen of the United States at the time of his entry therein, served on active duty in the Armed Forces of any of the Governments associated with the United States during any of the aforesaid periods; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably after any of said pediods; provided, further, that no person shall be entitled to membership who, being in such service during any of said periods, refused on conscientious, political or other grounds to subject himself to military discipline or unqualified service."

"ARTICLE XIII—AUXILIARIES

"Section 2. Membership in the American Legion Auxiliary shall be limited to the mothers, wives, daughters, sisters and granddaughters of members of The American Legion and to the mothers, wives, daughters, sisters and granddaughters of all men and women who were in the Armed Forces of the United States during any of the following periods: April 6, 1917 to November 11, 1918; December 7, 1941 to December 31, 1946; June 25, 1950 to January 31, 1955; December 22, 1961 to May 7, 1975; all dates inclusive, or who being citizens of the United States at the time of their entry therein served on active duty in the Armed Forces of any of the Governments associated with the United States during any of said periods, and died in line of duty or after honorable discharge; and to those women who of their own right are eligible for membership in The American Legion."●

By Mr. HELMS:

S. 1875. A bill to eliminate the pay comparability system for Federal employees; to the Committee on Governmental Affairs.

REPEAL OF THE AUTOMATIC PAY INCREASE SCHEME CAPS

● Mr. HELMS: Mr. President, for the past several weeks the Senate and the

House have engaged in a grudge match over the issue of the congressional pay increase. The Senator from North Carolina has followed closely, as I presume most other Americans have, this increasingly silly confrontation between the two bodies. Consequently, I have concluded that the time has come to abolish the Federal pay comparability system altogether.

Federal pay raises are proposed every year by the President of the United States, and under the little soft-shoe routine that is followed around here, if Congress does not reject these pay raises; if Congress does not prohibit them; if Congress does not tinker with the amounts, then those raises automatically become law.

Mr. President, some Members of the House and some Members of the Senate say that this is a good system. I do not agree.

This little scheme has not fooled the American people and the recent maneuverings of the House and Senate have just brought even more notoriety to the entire process. Perhaps if the economic conditions of this country were better, and if the Senate and the House of Representatives had been more frugal in their spending of the taxpayers' money, and if the Government of the United States had been managed on a sound basis, with a balanced budget and a sound dollar, then I do not believe that Members of Congress would be so timid about voting a salary increase for themselves. But none of those conditions has prevailed. And so this Senator simply cannot justify voting to allow a salary increase at a time when the American people are suffering the devastating effects of inflation.

The American people perceive the automatic pay increase scheme as designed to reward the very people most responsible for the enormous Federal debt, which is, as anybody who knows anything at all about simple arithmetic clearly understands, almost the sole cause of the inflation which is plaguing the American people. As a result of the squabble over the automatic pay increase this year, Congress has sent an engraved invitation to the American people to look with disfavor upon us; and I do not blame the people.

My legislation would simply repeal this automatic pay increase scheme. It should never have been contrived in the first place.●

By Mr. BAUCUS:

S. 1876. A bill to require the establishment of criteria for mandatory allocation of crude and refined oil products based upon shortfalls, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY SUPPLY AND INFORMATION AMENDMENTS OF 1979

● Mr. BAUCUS. Mr. President, as a Senator from Montana I am very disturbed by a new Library of Congress report concerning our Nation's fuel oil supplies. This report, especially in the context of previous information given to me by the Department of Energy (DOE) leaves me with very little confidence that any State can rely on DOE's assurances on fuel oil.

In brief, the Library of Congress report suggests that neither the Department of Energy, nor the President, nor anyone else can know the present real state of fuel oil supplies.

The Library of Congress conducted this study at my request to assist ongoing work of the Judiciary Subcommittee on the Limitations of Contracted and Delegated Authority. I ask that a copy of the study be printed in the Record at the conclusion of my remarks.

FUEL OIL SUPPLY SYSTEM MAY BE DISTORTED

Fuel oil is a middle distillate, similar to diesel fuel. The administration earlier this year set a goal of 240 million barrels of middle distillate stocks to be held in primary storage by this fall. This was to insure adequate fuel oil for heating this winter.

But primary stocks are only one level of middle distillate storage. Primary stocks refer to storage in refineries, bulk terminals, and pipelines.

Beyond this is secondary storage—all the middle distillate held by oil dealers and jobbers for resale to end users—including the fuel oil that local businesses deliver to people's homes.

Finally, tertiary storage refers to middle distillate held by end users, such as the heating oil held in home tanks throughout the Nation.

The subcommittee asked the Library of Congress to explore the state of secondary and tertiary storage and report on whether DOE's emphasis on primary storage has distorted the storage system and if, in fact, DOE really knows the state of supplies. As the Library's report suggests—

> * * * should secondary inventories remain unseasonably low, attaining the Administration's primary stock goal would provide only an illusion of adequate supply which would be abruptly shattered when the onset of cold weather caused a sudden surge in demand for distillate inventories held in primary storage.

In other words, if refinery targets are being met at the expense of down-the-line storage points, reaching the 240 million barrel goal might be giving us only the illusion of a problem solved. Any determination that reaching the 240 million barrel target means sufficient fuel oil for homes this winter would be based on the incorrect assumption of a distortion-free primary-secondary-tertiary storage system—the assumption that a certain level of primary storage automatically indicates normal relative levels of secondary and tertiary storage.

DOE HAS FAILED TO GET BASIC DATA

The Library of Congress report concludes that the Department of Energy does not have, "sufficiently specialized information to relieve current uncertainties over distillate supply." The study cites seven different regional surveys conducted outside DOE at various times this summer, all of which indicated that secondary and tertiary stocks were significantly down (ranging from 22 percent to 76 percent down from last year's levels).

The report acknowledges, and I applaud, a recent DOE effort to begin gathering secondary and tertiary supply data.

Unfortunately, this information, to say the least, is too little and too late. DOE, by waiting this long to commence gathering data, has insured inadequate data for comparing this year's to last or earlier years' levels of supply. DOE has failed to get the needed information. Yet it is still insisting that its primary storage data is sufficient in itself to make broad, categorical promises that there will be enough heating oil to see us through the winter.

GEOGRAPHICALLY WIDESPREAD SHORTAGES UNLIKELY BUT SPOT SHORTAGES MAY OCCUR

The Library of Congress report concludes, based on all data available, that likely there will be enough heating oil this winter to avoid geographically widespread shortages—if the winter is not too severe and if there is no further supply disruption.

This is, indeed, good news.

But, states the report:

> If the reported reductions in secondary and tertiary stocks in some localities are left uncorrected, some spot shortages may occur

NO STATE-BY-STATE PLANS

This summer my State, Montana, faced the worst diesel shortfall of any State.

Yet, this summer, when I asked DOE what plans it had to deal with Montana's and other individual State's problems, I received the following response from then Under Secretary O'Leary:

> The DOE has not, and is not planning to undertake any regulatory action with respect to specific states.

I found then, as I find now, this response to be totally inadequate and unacceptable. Just what is Montana to do if spot shortages occur? Just what are other States to do if spot shortages affect them? If Montana had the worst diesel shortfall this summer, how can I as a Montana Senator assume that any spot shortages of fuel oil this winter will leave Montana untouched?

If DOE has no State-by-State allocation plans and no inclination to draw such plans, how can any Member of the Senate be assured that his constituency's needs will be met?

BROAD ASSURANCES DO NOT SOLVE SPECIFIC PROBLEMS

In another inquiry, I asked DOE about its plans for the Strategic Petroleum Reserve (SPR). The General Accounting Office had, in a report for the subcommittee, described major problems in management of the reserve. DOE, in responding to questions the report had raised, stated:

> . . . the purpose of the SPR will be to provide protection to all regions of the country.

But in its same response, when I asked for its specific plans to get oil to Montana as an example of specific emergency planning, DOE stated:

> Montana, by virtue of its location with respect to the existing transportation network, is not in a position to be directly served by the SPR.

DOE went on with vague assurances that its regulatory programs should be of some help to my State.

LEGISLATION NEEDED TO RESOLVE PROBLEMS

Mr. President, the facts of importance to the Senate can be summarized simply as follows:

First. DOE has promised adequate fuel oil supplies nationwide this winter. The Library of Congress report makes it clear that DOE is in no position to make such a promise.

Second. DOE has stated in response to an inquiry of a subcommittee of the Senate that it has no plans to undertake any regulatory actions with respect to specific States. When asked how bad a State's problems have to be to trigger such regulatory action, DOE had no criteria on which to base any judgment.

Third. DOE has made broad regional promises such as those quoted above concerning the Strategic Petroleum Reserve, but admitted, when asked to respond to a specific example, that its promises hold no water—or oil—for my State.

In short, no State should count on DOE-promised fuel oil. No State should count on advanced allocation planning in the event of shortage. No State should count on the Strategic Petroleum Reserve. No State should even count on the Department of Energy to consider using its allocation powers in the event of a severe shortage.

I am today introducing legislation to require DOE to do what it has so far refused to do—at least with regard to State-by-State planning and allocation. This legislation should not be necessary. I have asked repeatedly for DOE to do this on its own. So far, I have had no response.

Mr. President, I ask unanimous consent that the text of the bill and the Library of Congress report be printed in the Record.

There being no objection, the bill and report were ordered to be printed in the Record, as follows:

S. 1876

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Supply and Information Amendments of 1979".

OIL SUPPLY INFORMATION

Sec. 2. (a) Section 11(c)(2)(D)(ii) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking "three-month" and substituting "six-month".

(b) Section 11(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) The report required by paragraph (2) shall include a listing and discussion of all forseeable factors which may seriously alter the supply and demand balance of energy supplies.".

EMERGENCY ALLOCATION REPORT

Sec. 3. The Secretary of Energy shall, not later than six months after the date of enactment of this Act prepare and submit a report to the President and the Congress which shall contain plans for providing crude oil and refined petroleum products to states and regions based upon the probability of forseeable supply shortages. Such report shall include—

(1) specific plans for allocation of strategic petroleum reserve stocks, state by state as individual states are confronted with shortages, outlining the refineries to be used, and the types of oil to be supplied; and

(2) specific plans for allocation of sufficient foreign and domestic crude oil supplies to meet individual state's needs during times of potential shortages in foreign supplies resulting from the implementation of international allocation plans or from other foreign oil supply disruptions.

ALLOCATION

Sec. 4. (a) Not later than ninety days after the date of enactment of this Act the Secretary of Energy shall promulgate a regulation establishing criteria under which crude oil and refined petroleum products shall be allocated to individual states based upon projected shortages resulting from a foreseeable disruption in oil supplies.

(b) The regulation promulgated under subsection (a) shall be submitted to the Congress as an energy action under Part C of title V of the Energy Policy and Conservation Act and shall be effective contingent upon a serious disruption in oil supplies.

Report on Federal Oversight of Middle Distillate Inventories Winter 1979–1980 Prepared for Senator Max Baucus, Chairman, Judiciary Subcommittee on the Limitations of Contracted and Delegated Authority; Congressional Research Service, September 7, 1979.

Middle distillates are fuels refined from crude oil and include home heating oil, diesel fuel, and kerosene. According to the Bureau of the Census, 16.5 million homes nationwide, 55.7% in the Northeast, relied upon home heating oil for space heating in 1976. In March 1979, concern over the low level of middle distillate primary stocks compared to March of the previous year prompted the Department of Energy (DOE) to set a goal of 240 million barrels of middle distillate to be held in primary storage by the target date of October 1. Some critics of Administration policy have argued that focusing on primary stocks as a measurement of the adequacy of supply has diverted product to these primary inventories that would customarily have been distributed to jobbers, re-sellers, and end-users in anticipation of future needs. The debate over the adequacy of supply and whether any further Federal or Congressional policy response is appropriate or possibly essential has been hampered by the lack of complete and current information about inventories beyond the primary level and misgivings over the accuracy and reliability of the information that is available. This report will examine DOE data collection and verification procedures and future intentions for measuring middle distillate inventories, and assess middle distillate supply projections for this winter.

MIDDLE DISTILLATE PRODUCTION AND DISTRIBUTION CHAIN

Middle distillates are one of several products refined from crude oil. In 1978, the average annual percentage yield for middle distillates from a barrel of crude oil was 21.3 percent. Yields for other products averaged: Motor gasoline, 44.1 percent; residual fuel oil, 11.4 percent; jet fuel, 6.7 percent; kerosene, 1.0 percent; and other, 15.5 percent. Primary stocks of middle distillates are defined as the total volume of domestic middle distillate production and imports stored in refineries, bulk terminals, and pipelines. Some primary stock is sold directly to industrial users. Product sold to fuel oil dealers and jobbers for re-sale is considered secondary stock, while product held by end-users for eventual consumption, such as fuel in home storage tanks, is referred to as tertiary stock.

DOE DATA COLLECTION AND VERIFICATION PROCEDURES, PROGRAMS, AND PROBLEMS [1]

The Energy Information Administration (EIA) within DOE monitors U.S. petroleum supply and demand, production and inventory (stock) levels, relying primarily upon data supplied by the oil industry. EIA verifies selected samples using a variety of validation techniques.

The EIA has compiled extensive data on middle distillate consumption and inventories at the primary level through mandatory questionnaires (EIA Form Nos. 87, 88, 89, and 90) sent monthly to 204 refineries representing 93.7 percent of refining capacity, 82 bulk terminal firms comprising 94.8 percent of bulk terminals, and all 68 pipeline companies. Increasing concern over the adequacy of middle distillate supplies for this coming winter, however, prompted EIA to institute a weekly reporting system (EIA Form Nos. 161, 162, 163, 164, and 165) beginning April 6, 1979 in order to more closely measure the industry's progress toward reaching the Administration's primary stock goal of 240 million barrels. This weekly survey, which mirrors the system used by the American Petroleum Institute (API), collects data on primary stocks and imports on a sample basis.

The EIA has also initiated several surveys to measure middle distillate supply at the secondary and tertiary levels. The EIA has contracted for one year with the Bureau of the Census to survey monthly (Form Nos. M–430 and B–1156, 1157, 1158, 1159, 1160, and 1161) a selected sample encompassing all 451 types of industries, and retail and wholesale fuel dealers. Data will be gathered on stocks, industrial consumption, and dealer sales of No. 2 distillate fuel oil, all other distillates, and residual fuel oil as of June 1, 1979. The results of the initial survey are to be available in September. The feasibility of obtaining data from earlier years is under discussion.

In August EIA began a survey of 770 homes using heating oil that were previously selected in a nationwide survey of 4,000 homes conducted in 1978. Data will be collected on heating system fuel conversions, storage tank capacity and inventory levels, and energy conservation initiatives. EIA will also update price and delivery data from the oil and utility companies serving these households. It is planned that the results will be available in early fall. DOE plans to undertake a more comprehensive survey in 1980, expanding the sample size to 12,000 residences; the data will be updated on a regular, but as yet undetermined, basis. The relatively small size of the sample in comparison to the 16.5 million homes using heating oil nationwide, however, may limit the confidence with which one may extrapolate from the survey data to the nation as a whole.

The EIA is also planning to survey a representative sample of 6,000 commercial buildings nationwide. In October 1979, EIA expects to interview building managers regarding the quantity and type of fuel consumed, and storage tank capacity and inventory levels. In February 1980, EIA will assemble cost and consumption data from the oil and utility companies serving the buildings. The survey results are scheduled to be released next June.

In the industrial sector, EIA is currently conducting a study to determine the feasibility of, and best means for, obtaining reasonably current data on middle distillate storage.

Two other data collection programs currently in place and maintained by EIA gather information on middle distillates. The Federal Energy Data System (FEDS), currently being updated, includes information on the quantity and types of fuel sold by sector within each state. The system includes historic data from 1960 and is current to 1977. The Energy Consumption Data Base contains previously published data on fuel use by function for the years 1967, 1969, and 1974 only. Neither of these information bases, however, would appear to have sufficiently specialized information to relieve current uncertainties over distillate supply.

Footnotes at end of article.

Considerable concern was expressed during the gasoline shortages of late spring and early summer that DOE relied primarily on the oil industry for its data and had not developed an independent capacity to generate its own primary data. Differences between DOE and API data, however, are generally considered marginal. DOE usually relies on API weekly data, which is revised on the basis of information subsequently reported by the industry to DOE; API ultimately adopts the monthly petroleum statistics compiled by DOE.

The Office of Energy Information Validation (OEIV) within DOE evaluates the data generated by the oil industry using a two-part process consisting of what DOE terms a "validation requirement review" and a "systems validation." Validation requirement reviews are performed to assess the adequacy of the scope of the survey in obtaining the information mandated by law, the utility of the data requested, and the effectiveness of the survey design to elicit the information required. Approximately one year is necessary to complete the review. In a system validation procedure, the OEIV evaluates the methodology utilized by the firms to generate the information reported, seeks to insure that the reporting requirements are understood by all respondents, and conducts onsite inspections to generate its own indepenent estimates. The OEIV also reviews and evaluates the suitability of its own data processing techniques in conjunction with its oversight of the reporting procedures followed by the respondents. Systems validations take approximately one to two years to complete depending upon the nature of the data under review. There may, of course, be limitations to the scope of the data available in the short-term, and data collection may be insufficiently timely to be responsive to policy and decision-making needs.

While the reviews conducted by the Office of EIV are directed to assessing the appropriateness of requested data and the accuracy of reporting, the Economic Regulatory Administration (ERA), also within DOE, conducts audits of its own to determine whether firms are in compliance with DOE regulations or policy.[2]

SURVEYS OF SECONDARY STORAGE

The results of preliminary surveys of retail and wholesale fuel oil dealers seemed to indicate that stocks at the secondary and tertiary levels were below the levels recorded at the same time in 1978. A survey conducted in mid-June by the National Oil Jobbers Council (NOJC) indicated that as of June 1, 1979 secondary and tertiary middle distillate stock levels were 22 percent below June 1, 1978 levels, a 16 million barrel decline from the 70 million barrel level the previous year. Dealer storage tanks were filled to 29 percent of capacity, down from 40 percent in 1978; and customer heating oil tanks were filled to 51 percent of capacity, down from 60 percent one year earlier.[3]

A survey by the New England Fuel Institute found inventory levels in mid-June were 32 percent below 1978 levels.[4] According to the Governor's Energy Council in New Hampshire, middle distillate stocks in early August were down 49.7 percent at the dealer level and 24 percent at the customer level from the previous year. July figures showed shortfalls from 1978 level of 29.1 percent or 266.7 thousand barrels in primary storage, 50 percent or 95.2 thousand barrels in secondary storage, and 25 percent or 378.6 thousand barrels in tertiary storage.[5] The Maine Oil Dealers Association survey showed a 66.7 thousand barrel shortfall as of July 1979, with 52 percent of their dealers forced to shortfill.[6]

In early July, the Pennsylvania Petroleum Association found secondary stocks in the state were 42 percent below 1978 levels,[7] while the Empire State Petroleum Association found New York dealer stocks to be 45 percent below 1978 levels upstate and 30 percent downstate.[8] In Iowa, 76 percent of jobbers reported they were running behind in their summer fill programs.[9]

OUTLOOK FOR WINTER 1979

Whether the surveys are indicative of a prospective secondary supply shortage is unclear. On one hand, the emphasis placed by the Administration on primary stock levels as the measurement of adequacy of supply may have contributed to the shortages observed in these preliminary surveys by discouraging a normal flow of middle distillates into the distribution system. Concern has been expressed that should secondary inventories remain unseasonably low, attaining the Administration's primary stock goal would provide only an illusion of adequate supply which would be abruptly shattered when the onset of cold weather caused a sudden surge in demand for distillate inventories held in primary storage.

On the other hand, the NOJC and New England Fuel Institute surveys reflect inventory levels in mid-June when oil supplies remained tight and uncertainty over future crude availability was widespread. The July 1 Saudi Arabian production hike of 1 million barrels per day, however, reduced uncertainty surrounding world crude supply situation and provided the U.S. with an estimated additional 200,000 to 300,000 barrels per day.[10]

It may also be misleading to strictly compare inventories during 1979 with inventories at comparable times during 1978. If 1978 secondary and tertiary stock levels exceeded need, the total volume of middle distillates currently held in storage could be lower in comparison to 1978 levels, but sufficient nonetheless. This view is supported by Congressman Les Aspin in a study released August 27 which analyzed weather and historical middle distillate consumption patterns of the previous decade. The study concludes that consumers purchased 24 million barrels—1 billion gallons—of home heating oil in excess of actual need last year. According to Aspin, stockpiling during the final months of the heating season last winter may have contributed to the unusually sharp depletion of middle distillate primary stocks during the past year; and that uncertainty over the supply and price has probably continued to operate as incentive to build inventories at the secondary and tertiary levels even after the heating season ended last spring.

The primary stock goal and target date were also widely criticized as being unnecessarily high and early. Oil industry analysts pointed out that the U.S. weathered a relatively cold winter without shortages last year although the volume of middle distillates in primary storage at the end of October was 233 million barrels.[11] Some members of an Administration inter-agency task force on energy contended that DOE relied upon an out-of-date, overly optimistic economic forecast which predicted a 3% increase in distillate demand, and that DOE did not consider savings realized from conservation, the availability of more natural gas for space heating, and a decrease in demand due to recent price increases.[12] In a subsequent forecast issued August 16, DOE revised its winter fuel demand projections to specifically reflect the effects of the current economic downturn and increased costs due to OPEC price hikes and the phasing-in of decontrol. The Administration also postponed the target date to the end of October and now predicts that demand for middle distillates will not exceed supply, except in the event of an extraordinarily cold winter or an interruption in crude oil supplies.[13]

According to API, inventories of middle distillates as of August 24, 1979 totaled 189.7 million barrels—a 6.9 million barrel increase over the previous week. This narrowed the gap between 1978 and 1979 levels to 2.8 million barrels. If stockbuilding continues at this rate, distillate inventories will exceed 240 million barrels by the target date. If the reported reductions in secondary and tertiary stocks in some localities are left uncorrected, some spot shortages may occur. Random spot shortages due to distributional inefficiencies may always be a possibility; however, the beginning of the heating season is still several weeks away and there is at present little cause to believe that there will be insufficient product to satisfy primary and secondary storage requirements if crude and product imports continue at current levels. Barring any further interruption in the supply of foreign crude, or an extremely severe winter, it would seem likely that the supply of middle distillate fuel oil should be adequate to meet demand and to avoid geographically widespread shortages this winter.

FOOTNOTES

[1] The information on measurement procedures and programs in this section was obtained from telephone interviews during August 1979 with the officials of the Department of Energy, Energy Information Administration and the U.S. Bureau of the Census responsible for the management of these programs. This information has not been verified by CRS.

[2] The information on DOE validation procedures was obtained from telephone interviews during September 1979 with the officials of the Department of Energy, Energy Information Administration responsible for data validation. This information has not been validated by CRS.

[3] National Oil Jobbers Council. Dealer and Customer Tanks, June 1, 1979. Washington, D.C., August 10, 1979: 1–2.

[4] Evans, Ross. Why Energy Department Can't Keep Track of Heating Oil. Washington Star, July 29, 1979.

[5] Jolna, Stacy. N.H. Officials Anticipate Major Fuel Oil Shortage. Washington Post, Aug. 16, 1979: A15.

[6] Maine Oil Dealers Association survey. July 1979.

[7] Telephone interview with official of the Pennsylvania Petroleum Association.

[8] Evans, Ross. Why Energy Department Can't Keep Track of Heating Oil. Washington Star, July 29, 1979.

[9] U.S. Congress. House. Committee on Small Business. Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business. Memo. Rosenberg, Marc H., staff director. Middle Distillate Fuel Inventories.

[10] Estimate by Department of Energy, Energy Information Administration, Office of International Affairs.

[11] United Press International. Incentives on Heating Oil Imports Extended. Washington Post, Sept. 1, 1979: A16.

[12] Berry, John M., and Reid, T. R. DOE Vows Plenty of Oil for Heating. Washington Post, June 30, 1979: A5.

[13] Evans, Ross. Energy Department Lowers Its Forecast of Winter Oil Needs. Washington Star, Aug. 17, 1979: A2.●

By Mr. SASSER:

S. 1877. A bill to amend the Internal Revenue Code of 1954 to reduce the tax effect known as the marriage penalty by permitting the deduction, without regard to whether deductions are itemized, of 20 percent of the earned income of the spouse whose earned income is lower than that of the other spouse; to the Committee on Finance.

A REDUCTION IN THE MARRIAGE TAX PENALTY

● Mr. SASSER. Mr. President, since I first came to the Congress, I have heard many arguments made on behalf of many groups. I have found few of these arguments to be as compelling as the one made by married couples—especially working couples—who are required to pay the "marriage tax penalty."

If I may, Mr. President, I would like to review the history of the tax policy, with regard to married and unmarried persons, that led to the creation of this penalty.

As originally written the Internal Revenue Code recognized the individual as the sole taxable unit. Under some State community property laws, however, married couples were permitted to file income tax returns splitting their income. When one spouse earned most or all of the couple's income, a substantial tax savings was realized.

Residents of non-community-property States were at such a disadvantage that many States began adopting community property laws. To avoid the transitional problems likely to result from this growing State movement and for other reasons, Congress in 1948 changed the tax law to allow all married couples to take advantage of income splitting.

By the 1960's many of the growing population of single people felt that the advantage that income splitting gave to one-earner married couples was unfair to them. At some income levels the difference between single persons and married couples was as much as 42 percent.

Congress agreed and revised tax rates in the Tax Reform Act of 1969. Under these rates the tax liability of single persons could be no more than 20 percent in excess of that paid by a married couple on their joint return for the same amount of income. This change, of course, helped single persons but at the same time aggravated another problem.

Under present tax law a married couple making $10,000 each would pay $2,745 in taxes on their combined income of $20,000. If the same couple were not married, they would pay $2,354 in taxes. This difference of $391 in tax liability is the "marriage penalty." It is not uncommon for married couples to pay taxes in excess of the salary earned by one spouse. This is unjust and unfair.

Mr. President, today I am introducing a bill to deal with the marriage tax penalty. It is my intent to alleviate the adverse effects this penalty has on the productivity of the American family. I want to do this without increasing the tax burden of either one-earner families or single persons. I want a tax structure that is fair to all taxpayers.

My bill would allow a 20-percent deduction on the gross income of the spouse earning the lower salary. The maximum deduction allowed would be $4,000. This could result in a substantial savings because in many instances a couple would fall into a lower tax bracket.

A couple would not have to itemize their deductions to take advantage of this provision. The deduction also would not affect eligibility for other deductions or credits.

The United States is one of the few nations of the world that does not recognize a difference for tax purposes, between the one- and two-earner family. This legislation would change the present income tax law to acknowledge this difference.

I think this approach is fair to all taxpayers and would ease the discrimination against married couples. I urge my good friend, the gentleman from Louisiana, chairman of the Committee on Finance, to carefully consider this proposal in the preparation of future tax legislation.●

By Mr. GLENN:

S. 1878. A bill to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes; to the Committee on Governmental Affairs.

S. 1879 A bill to establish an independent personnel system for employees of the General Accounting Office; to the Committee on Governmental Affairs.

GAO LEGISLATION

● Mr. GLENN. Mr. President, I would like to take this opportunity to introduce the General Accounting Office Act of 1979. This act extends the authority of the General Accounting Office in several areas: It provides authority to audit certain nonsensitive unvouchered accounts, it provides judicial recourse in the event that Government agencies being audited do not provide information in a timely manner, it provides a new appointment procedure for the Comptroller General, a new appointment procedure and term of office for the Deputy Comptroller General, and finally, the act would require the Inspectors General of the Departments of Energy, and Health, Education, and Welfare to follow certain auditing procedures established by the Comptroller General.

The General Accounting Office does not have the authority to audit unvouchered accounts at this time. These accounts are expended purely on the certification of a suitable authority. Examples of unvouchered accounts include certain accounts used to pay White House salaries and expenses, and payment of certain funds used by the superintendent of the District of Columbia's public school system. In auditing these accounts the General Accounting Office would simply insure that the funds were properly spent as certified.

I want to emphasize that the General Accounting Act of 1979 would grant the President the authority to exempt classes of sensitive unvouchered accounts which affect foreign intelligence and counterintelligence activities. Also, the act would not affect activities authorized by the Central Intelligence Agency Act of 1949.

These exemptions are necessary since even the existence of the records which would be required to audit the accounts would add to the potential that the security of sensitive projects might be compromised with the concomitant risk to the lives of U.S. agents and their families.

A second feature of the General Accounting Office Act of 1979 is that it would provide the Comptroller General with judicial recourse in the event that agencies did not provide that office with necessary information. This authority is requested because there have been instances in which agencies being audited by the General Accounting Office declined to provide needed information.

A third feature of the General Accounting Office Act of 1979 is a provision which would change the appointment procedures for the Comptroller General and the appointment procedure and term of office for the Deputy Comptroller General. The act provides that the Comptroller General would be appointed by the President from a list of five candidates selected by a committee consisting of the Speaker of the House, President pro tempore of the Senate, majority and minority leaders of the House and Senate, the chairman and ranking minority member of the Committee on Government Operations of the House, and the chairman and ranking minority member of the Committee on Governmental Affairs of the Senate. This new selection procedure is designed to insure that the individual selected to be the Comptroller General would have the confidence of the Congress.

The Deputy Comptroller General would also be appointed by the President from a list of 5 candidates selected by a committee consisting of the same persons used to select the Comptroller General, plus the Comptroller General. The term of office for the Deputy Comptroller General would be from the date of his appointment until the date on which a new Comptroller General was appointed. Thus, the term of office is nominally 15 years. However, if a Comptroller General did not complete his term, for whatever reason, or if the Deputy Comptroller General were appointed to his position sometime after the Comptroller General was appointed, the Deputy's term of office would be less than 15 years.

The General Accounting Office Act of 1979 couples the term and appointment of the Deputy Comptroller General to the term and appointment of the Comptroller General to insure that the two individuals will work as a team.

Finally, the General Accounting Office Act of 1979 would require the audit procedures used by the Inspectors General of the Departments of Energy and Health, Education, and Welfare conform to the standards promulgated by the Comptroller General. This would appear to be a reasonable requirement since the Inspectors General of other Federal agencies are already required to conform to the Comptroller General's standards.

I would also like to submit another bill, titled the General Accounting Office Personnel Act of 1979. This bill seeks to eliminate a potential conflict of interest situation which exists between the General Accounting Office and the Office of Personnel Management and the Merit System Protection Board.

The Civil Service Reform Act of 1978 specifically requires the General Accounting Office to conduct audits of the Office of Personnel Management and the Merit System Protection Board to insure compliance with the law and to assess the effectiveness and soundness of the Federal personnel system. At the same time, the Office of Personnel Management and the Merit Systems Protection Board regulate the personnel system of the General Accounting Office. Thus, the General Accounting Office is not independent of the agencies it must review, and there is the possibility that pressures, or the threat of pressures, could be used to influence audits. The General Accounting Office would much prefer a situation in which the agencies being audited could not retaliate.

The General Accounting Office Personnel Act of 1979 resolves the conflict of interest issue by establishing an independent personnel system within the General Accounting Office that is modeled after the civil service system. In particular, the act states that there shall be equal employment opportunity, and that all personnel actions affecting employees, or applicants for employment, shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or physical handicap. The basis for all appointments, promotions, reassignments, and details shall be fitness and merit. Veterans will continue to have those preference rights they now have, and the GAO will be subject to the Equal Employment Opportunity Act of 1964. Grievance procedures will be similar to those used by the civil service, and employees will have the right of judicial appeal.

Mr. President, these two bills: The General Accounting Office Act of 1979, and the General Accounting Office Personnel Act of 1979, touch upon important issues which affect the efficiency and effectiveness of the General Accounting Office. In the weeks ahead the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation and Federal Services will hold hearings to consider each bill in detail.

Mr. President, I ask unanimous consent that a section-by-section analysis on each of the two bills be printed in the Record.

Section-by-Section Analysis

TITLE I—GAO PROVISIONS

Section 101.—Unvouchered expenditures.

Section 101 adds a new subsection (f) to section 117 of the Budget and Accounting Act of 1950 to provide the GAO with limited authority to audit expenditures accounted for solely on the approval or certificate of the President or an agency official.

Subsection 117(f)(1) affords the Comptroller General access to records and information concerning the expenditures permitted to be accounted for solely on approval, authorization, or certificate of the President or an official of an executive agency to the extent necessary for the Comptroller General to determine whether the expenditure was actually made and whether it was authorized by law. This access authority would apply notwithstanding any prior statutory provision permitting expenditure to be accounted for solely by certificate, and could be superseded by a subsequent law only in the case of specific repeal or modification.

Subsection 117(f)(2) prohibits any officer or employee of the GAO from disclosing the findings of an audit, or any records or information concerning the audited expenditure, except to the President or head of the agency concerned or, in the case of unresolved discrepancies, to a duly established committee or subcommittee of the Congress.

Subsection 117(a)(3)(a) provides that nothing in this subsection be construed as affecting the authority contained in section 8(b) of the Central Intelligence Agency Act of 1949.

Subsection 117(f)(3)(b) allows for the President to exempt from the provisions of paragraph (1) of subsection 117 financial transactions relative to sensitive foreign intelligence or counterintelligence activities.

Subsection 117(f)(3)(c) provides that information concerning financial transactions taken pursuant to section 8(b) of the Central Intelligence Agency Act of 1949, and information concerning financial transaction exempted from the provisions of paragraph (1) shall be reviewable by the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

Section 102—Enforcement of access to records.

Section 102 amends section 313 of the Budget and Accounting Act of 1921, to provide the Comptroller General necessary authority to enforce GAO rights of access to Federal (and non-Federal) records. The existing paragraph has been designated as subsection (a) and new subsections (b), (c) (1) and (2) have been added to accomplish the following:

Subsection 313(b) provides a procedural remedy to enforce already existing rights by law or agreement, of the Comptroller General to access of information, books, documents, papers or records, in Government departments or establishments. The subsection permits the Comptroller General to institute a suit, after 20 calendar days notice, to the Attorney General in the U.S. District Court for the District of Columbia to compel the production of the material, and authorizes him to be represented by attorneys of his own selection. In addition, it authorizes the Attorney General to represent the defendant official in such actions. Any failure to obey a court order under this subsection shall be treated by the court as a contempt thereof.

Subsection (c)(1) authorizes the Comptroller General to sign and issue subpoenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organization to which he has a right of access by law or agreement. This authority includes books, accounts, and other record of contractors or subcontractors having negotiated Government contracts and of various other non-Federal persons or organizations, most of which have received Federal grants or other financial assistance.

Subsection (c)(2) provides that in case of failure to obey a subpoena, the Comptroller General is authorized to invoke the aid of the appropriate United States district court, through attorneys of his own selection. The district court may issue an order requiring compliance with the subpoena, and any failure to obey such order shall be treated by the court as contempt thereof.

Section 103.—Appointment of the Comptroller General and the Deputy Comptroller General.

Section 103 amends sections 302 and 303 of the Budget and Accounting Act of 1921, to establish a commission to recommend individuals to the President for appointment to the Office of Comptroller General and Deputy Comptroller General. The President, at his discretion, may request additional names.

Subsection 302(b) provides for the Commission, referred to above, to submit to the President the names of not less than five persons for the Office of Comptroller General and for the Office of Deputy Comptroller General. The Commission will consist of: the Speaker of the House and President pro tempore of the Senate, the majority and minority leaders of each House, and the chairmen and ranking minority members of the House Government Operations Committee and the Senate Governmental Affairs Committee, and, in the case of a vacancy in the Office of Deputy Comptroller General, the Comptroller General of the United States.

The first paragraph of section 303 of the Budget and Accounting Act, which governs the terms of office and removal of the Comptroller General and Deputy Comptroller General, is amended by deleting the references to the Deputy Comptroller General.

Section 103(b)(2) of the bill gives prospective effect to the amendments to sections 302 and 303 of the Act. Such amendments do not apply to the Comptroller General and Deputy Comptroller General holding office on the date of enactment.

TITLE II—CONFORMING AMENDMENTS WITH RESPECT TO THE INSPECTORS GENERAL OF THE DEPARTMENT OF ENERGY AND THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Section 201 and 202 amend the statutes which created the Inspector General for the Department of Energy and the Inspector General of the Department of Health, Education, and Welfare.

The Inspector General Act of 1978 specified that audit activities of Inspectors General created under the Act should conform to GAO standards. The Office of Inspector General in the Departments of Energy and Health, Education, and Welfare were created prior to the 1978 Act. Therefore, this bill extends the requirements of the Inspector General Act of 1978, dealing with complying with GAO audit standards to the Inspectors General of the Departments of Energy and Health, Education, and Welfare.

Section 201 amends section 203(b) of Public Law 94–505 in the following manner: Section 203(b)(1) requires the Inspector General of the Department of Health, Education, and Welfare to comply with standards established by the Comptroller General for audits of Federal establishments, organizations, programs, activities, functions, 203 (b)(2) requires the Inspector General to establish guidelines for determining when to use non-Federal auditors, and 203(b)(3) requires the Inspector General to ensure that work performed by non-Federal auditors complies with standards described in paragraph (1).

Section 202 amends section 208 of Public Law 95–91 by inserting new subsections (h) (1), (h)(2), (h)(3) and (i) and (j). Subsection (h)(1), (h)(2), and (h)(3) require the Inspector General of the Department of Energy to comply with the provisions described above for the Inspector General of the Department of Health, Education, and Welfare. Subsection (i) encourages coordination and cooperation in the activities of the Inspector General and the Comptroller General. Subsection (j) requires the Inspector General to report to the Attorney General whenever reasonable grounds have been established to believe there has been a violation of Federal criminal law.

General Accounting Office Personnel Act of 1979

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Act may be cited as the "General Accounting Office Personnel Act of 1979".

Section 2.—General Personnel Authority.

Section 2 provides that the Comptroller General may appoint, pay, assign, and direct the personnel which the Comptroller General determines necessary to discharge the duties and functions of the General Accounting Office. This provision supersedes most existing authority (and limitations on authority) applicable to employment in the General Accounting Office and is the authority for the Comptroller General to establish a personnel management system for the General Accounting Office.

Section 3.—Establishment of Personnel Management System.

Regulations:

Section 3(a) requires the Comptroller General to promulgate regulations establishing a personnel system which shall apply to the General Accounting Office. The regulations must be in effect not later than the effective date of the Act set forth in section 9(a). That effective date is October 1, 1980, or if later, the one hundred and twentieth day after the date of the enactment of the Act. The regulations must meet the requirements of subsections (b) through (h) of section 3.

There are two reasons for requiring that the regulations be promulgated prior to the general effective date of the Act. First, when the act takes effect employees of the General Accounting Office will no longer be subject to most existing civil service laws. Accordingly, it is necessary that the new GAO personnel management system be in place prior to that time. Second, prior promulgation of the regulations will provide advance notice to employees of changes in conditions of employment that may occur as a result of implementation of the new system.

Section 3(a) also requires that before promulgating regulations establishing the GAO personnel management system (or any amendment thereto), the Comptroller General must provide notice and opportunity for public comment on the regulations. Further, section 3(a) prohibits reprisals (or threats of reprisals) against GAO employees for comments provided with respect to proposed regulations (or amendments thereto) establishing the personnel management system.

Merit system principles; prohibited personnel practices; veterans' preference; employment based on merit: Section 3(b) provides that the GAO personnel system must—

(1) embody the merit system principles of section 2301 of title 5, United States Code;

(2) prohibit the personnel practices described in section 2302 of title 5, United States Code;

(3) assure that all GAO employees are appointed, promoted, and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

(4) provide preference for eligible veterans in a manner and to an extent consistent with preference accorded to preference eligible veterans in the executive branch; and

Section 3(c) relates to pay under the personnel system and provides that pay for employees of the General Accounting Office shall be fixed by the Comptroller General consistent with the principles of section 5301(a) of title 5, United States Code. Section 5301 (a) sets forth the principles governing the pay comparability system.

Paragraph (1) of section 3(c) requires the Comptroller General to publish a schedule of pay rates which shall apply to GAO employees. Generally, the highest rate which may be established under this schedule may not exceed the highest rate of basic pay payable for GS–15 under the General Schedule under section 5332 of title 5, United States Code.

Paragraph (2) of section 3(c) provides that the pay of employees of the General Accounting Office shall be adjusted at the same time and to the same extent as rates of basic pay are adjusted for the General Schedule.

Paragraph (3) of section 3(c) provides that the GAO pay schedule may provide rates which do not exceed the maximum rate payable for grade GS–18 of the General Schedule for up to one hundred employees.

Section 3(c)(4) provides that GAO employees shall be entitled to grade and pay retention consistent with the principles of subchapter VI of chaper 53 of title 5, United States Code. Subchapter VI provides for grade and pay retention for certain executive branch employees who are downgraded through no fault of their own as the result of position reclassification actions or reductions in force.

Performance appraisal:

Section 3(d) requires that the GAO personnel system include a system for performance appraisals of GAO employees which meets the requirements of section 4302 of title 5, United States Code. Section 3(d) also provides that the Comptroller General shall have the same responsibility with respect to the GAO performance appraisal system as the Office of Personnel Management has with respect to systems under section 4302 of title 5. The Comptroller General must implement the system as soon as practicable, but not later than October 1, 1981.

Labor management relations:

Section 3(e) requires the GAO personnel system to provide procedures to ensure that each employee of GAO has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization, or to refrain from such activity. This is the same right accorded to executive branch employees under the statutory labor-management relations program consistent with chapter 71 of title 5, United States Code.

Unacceptable performance; disciplinary actions:

Section 3(f) requires the personnel system provide for the reduction in grade or removal of employees based on unacceptable performance consistent with section 4303 of title 5, United States Code, and for the taking of other personnel actions consistent with chapter 75 of title 5, United States Code. The bill requires the GAO system to be "consistent with" what is required in the executive branch for the same reasons stated in connection with section 3(c)(4) and 3(e). Again, the rights and procedures provided under the GAO system should be equivalent to those given employees in the executive branch under the cited provisions of law.

Prohibition on discrimination; minority recruitment; rights under existing law:

Paragraph (1) of section 3(g) provides that all personnel actions under the GAO personnel system affecting employees or applicants for employment in GAO shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition.

Paragraph (2) of section 3(g) requires the personnel system to include a minority recruitment program consistent with section 7201 of title 5, United States Code.

Paragraph (3) of section 3(g) provides that nothing in the Act shall be construed to abolish or diminish for employees or applicants for employment in GAO any right or remedy granted them by section 717 of the Civil Rights Act of 1964, by sections 12 and 15 of the Age Discrimination in Employment Act of 1967, by section 6(d) of the Fair Labor Standards Act of 1938, by section 501 of the Rehabilitation Act of 1973, or by any other law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition. To eliminate conflict problems, however, paragraph (3) also provides that with respect to employees and applicants for employment in the GAO, authorities granted under the previously cited provisions to the Equal Employment Opportunity Commission, the Merit Systems Protection Board, or any other agency in the executive branch (A) involving oversight and appeals, shall be exercised by the GAO Personnel Appeals Board, and (B) involving other responsibilities, shall be exercised by the Comptroller General.

Grievances:

Section 3(h) requires the personnel system to provide procedures for the processing of complaints and grievances which are not otherwise provided for under subsection (e) (relating to labor-management relations), (f) (relating to reductions in grade or pay), and (g) (relating to equal employment opportunity).

Section 4.—General Accounting Office Personnel Appeals Board.

Establishment:

Paragraph (1) of section 4(a) established the General Accounting Office Personnel Appeals Board and provides that it shall be composed of 5 members appointed by the Comptroller General.

Paragraph (2) of section 4(a) provides the manner in which appointments to the Appeals Board shall be made. The Comptroller General to make each appointment (A) from a written list of candidates submitted to the Comptroller General by certain organizations, and (B) after consultation with organizations which represent GAO employees and with the member or members of each standing committee of the Congress having legislative jurisdiction over the personnel management system of the General Accounting Office.

Paragraph (3) of section 4(a) provides eligibility requirements for appointment to the Board. An individual may be appointed only if the individual: (A) has a total of 3 years of full-time or part-time experience in the adjudication or arbitration of personnel matters; (B) is not, a current or former officer or employee of the General Accounting Office; (C) has demonstrated ability, background, training, and experience necessary to be especially qualified to serve as a member of the Board; and (D) demonstrates a capacity and willingness to devote sufficient time to service as a member in order to enable the Board to dispose of cases under this section in a timely manner.

Paragraph (4) of section 4(a) describes the types of organizations which will be eligible to submit lists of candidates to the Comptroller General for selection for appointment to the Board.

Terms of members:

Section 4(b) relates to the terms of Board members, and paragraph (1) of section 4(b) provides that the term shall be 3 years.

Paragraph (2) of section 4(b) provides special rules for members first appointed to the Board so that the terms will be staggered. Of the members first appointed, 2 shall be appointed for terms of 3 years, 2 shall be appointed for terms of 2 years, and 1 shall be appointed for a term of 1 year. The Comptroller General is required to designate at the time of appointment the length of the term of each member first appointed.

Paragraph (3) of section 4(b) provides that members of the Board are not eligible for reappointment.

Paragraph (4) of section 4(b) provides that any vacancy in the membership of the Board must be filled in the same manner as the original appointment. Further, any individual appointed to fill a vacancy serves only for the unexpired portion of the term with respect to which the vacancy has occurred. A special rule applies if the unexpired portion of the term is less than 1 year. In such a case, the Comptroller General has the option of appointing the individual for a term which is equal to 3 years plus the unexpired portion of the term.

Paragraph (5) of section (4)(b) provides that a member of the Board may continue to serve after the expiration of the term for which the member was appointed until a successor has taken office, except that the member may not continue to serve for more than 6 months after the date on which the term for which the member was appointed otherwise would expire.

Removal of members:

Section 4(c) provides for the removal of members of the Board under certain circumstances.

Paragraph (1) of section 4(c) provides that a member of the Board may be removed

(A) by majority vote of the members of the Board (other than the member who is proposed to be removed), and (B) only for inefficiency, neglect of duty, or malfeasance in office.

Paragraph (2) of section 4(c) provides that a member of the Board who is the subject of a proposed action of removal must be given notice and opportunity for a hearing before the Board prior to any vote of the members on the question of removal. Paragraph (2) further provides that the Board may dispense with the opportunity for the hearing only upon submission of a written waiver of the hearing to the chair by the member subject to the proposed action.

Pay; Chair:

Section 4(d) provides that members of the Board, not otherwise employed by the Federal Government, shall be paid for days worked and necessary travel time at the daily rate payable for GS-18 of the General Schedule. Section 4(e) provides that members of the Board shall select, from among the members of the Board, a chair who shall be the chief executive and administrative officer of the board.

General Counsel:

Section 4(f) and (g) provide for the appointment, pay, and responsibilities of the general counsel.

Paragraph (1) of section 4(f) provides that the chair shall select and the Comptroller General shall appoint an individual to serve as general counsel of the Board. The general counsel shall be eligible for reappointment and shall serve at the pleasure of the chair.

Paragraph (2) of section 4(f) provides that the chair shall fix the rate of pay of the general counsel. Paragraph (2) further provides that the rate shall not exceed the maximum rate payable for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

Section 4(g) sets forth the responsibilities of the general counsel and provides that the general counsel shall: (1) investigate any allegation concerning prohibited personnel practices referred to in section 3(b)(1)(B) of the Act, to the extent necessary to determine whether there are reasonable grounds to believe that any prohibited personnel practice has occurred, exists, or is to be taken by any employee of the General Accounting Office; (2) investigate matters under the jurisdiction of the Board if so requested by the Board or any member of the Board; and (3) otherwise assist the Board in carrying out its functions.

Jurisdiction of the Board:

Section 4 (h) sets forth the jurisdiction of the Board and describes seven areas of jurisdiction in which the board may consider, decide and order corrective action in cases. The areas are as follows:

(1) Employee appeals concerning any removal, suspension for more than 14 days, reduction in grade, reduction in pay, or furlough of 30 days or less. These are personnel actions commonly referred to as adverse actions in the executive branch. These actions are generally appealable in that branch to the Merit Systems Protection Board.

(2) Prohibited personnel practices referred to in section 3(b)(1)(B) of the Act.

(3) Determination of appropriate units of employees for collective bargaining. These cases (as well as cases described in paragraphs (4) and (5)) would arise in connection with the labor-management relations program required to be established by section 3(e) of the bill.

(4) Elections and certification of collective bargaining representatives.

(5) Unfair labor practices prohibited under the labor-management system established under section 3(e) and any other matter appealable to the Board under that system.

(6) Discrimination complaints or other actions involving discrimination prohibited under section 3(g) of the Act.

(7) Any other issue relating to the personnel of the General Accounting Office which the Comptroller General, by regulation, determines is most appropriately resolved by the Board.

Section 4(i) requires the Comptroller General to promptly implement any corrective action ordered by the Board in cases in which the Comptroller has the authority to do so.

Procedures of the Board:

Section 4(j) provides that the Board may designate a panel of its members, or an individual member, to take any action which the Board is authorized to take under section 4(h) discussed above. Section 4(j) further provides that any decision by a panel or individual member shall be considered to be final decision of the Board unless the decision is reopened and reconsidered by the Board as provided under the next subsection.

Section 4(k) provides that the Board may, on motion of any party or on its own motion, reopen and reconsider any decision under section 4(h) within 30 days after the decision is rendered.

Judicial review of Board decisions:

Paragraph (1) of section 4(1) provides that final decisions of the Board (or of any panel or individual member designated under subsection (j)) under subsection (h)(1) (relating to adverse actions), (h)(2) (relating to prohibited personnel practices), (h)(5) (relating to unfair labor practices), or (h)(6) (relating to discrimination) may be appealed to the United States court of appeals for the appropriate circuit. Any appeal under subsection (1) shall be in accordance with the procedures of chapter 158 of title 28, United States Code, relating to orders by Federal agencies. The last sentence of paragraph (1) requires any petition for review to be filed within 30 days after the date the petitioner receives notice of the final decision of the Board.

Paragraph (2) sets forth the standard of review and provides that the court shall review the record and set aside any agency action, findings, or conclusions found to be: (A) arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law; (B) obtained without procedures required by law, rule, or regulation having been followed; or (C) unsupported by substantial evidence.

Regulations of the Board:

Section 4(m) requires the Board to promulgate regulations providing for employees appeals consistent with the principles of sections 7701 and 7702 of title 5, United States Code, and also to establish regulations regarding the Boards operating procedures.

Section 5—GAO Senior Executive Service; Merit Pay System

GAO Senior Executive Service:

Section 5(a) authorizes the Comptroller General to promulgate regulations establishing a General Accounting Office Senior Executive Service. Section 5(a) provides that any Senior Executive Service established by the Comptroller General must meet certain requirements.

Subparagraphs (A) through (G) of section 5(a)(1) set forth the requirements as follows:

(A) The regulations must meet the requirements concerning administration of the Service set forth in section 3131 of title 5, United States Code.

(B) The regulations must provide that positions included in the Service meet requirements which are consistent with those applicable to positions under section 3132 (a)(2) of title 5.

(C) The regulations must provide for rates of pay which are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, and the rates must be adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted.

(D) The regulations must provide for a performance appraisal system that conforms to the provisions of subchapter II of chapter 43 of title 5.

(E) The regulations must permit the Comptroller General to award ranks to members of the GAO Senior Executive Service consistent with the provisions applicable to the Office of Personnel Management and the President under section 4507 of title 5.

(F) The regulations must provide for removal of senior executive consistent with section 3592 of title 5, and removal or suspension consistent with section 7543 of title 5.

(G) The regulations must permit the Comptroller General to pay performance awards to members of the GAO Senior Executive Service consistent with the provisions applicable to the heads of agencies under section 5384 of title 5.

Paragraph (2) of section 5(a) provides that except as otherwise provided in paragraph (1), discussed above, the Comptroller General may make applicable for the GAO Senior Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service in the Executive branch.

Paragraph (3) of section 5(a) provides that employees in the GAO Senior Executive Service shall not be subject to the provisions of the GAO personnel system established under sections 3(c) (relating to pay and retention of grade and pay), (d) (relating to performance appraisal), (e) (relating to labor-management relations), and (f) (relating to actions based an unacceptable performance).

Paragraph (4) of section 5(a) provides that certain positions specifically authorized by the statutes cited in paragraph (4) may be included in the GAO Senior Executive Service. The positions involved are the General Counsel of the General Accounting Office (to be distinguished from the General Counsel of the Board established under section 4), five positions at rates not to exceed level IV of the Executive Schedule, and ten experts at rates not to exceed level V of the Executive Schedule.

Merit pay system:

Section 5(b) authorizes the Comptroller General to promulgate regulations establishing a merit pay system for such employees of the General Accounting Office as the Comptroller General considers appropriate. The merit pay system, if established, shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code, relating to the merit pay system in the executive branch. It should be noted that the GAO merit pay system, unlike that in the executive branch, is not limited by the bill to mid-level supervisors and managers.

Section 6.—Noncompetitive Appointments; Technical Assistance.

Section 6(a) provides that notwithstanding any other provision of law, any employee of the General Accounting Office who has completed at least one year of continuous service under a nontemporary appointment under the GAO system, acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

Section 6(b) requires the Director of the Office of Personnel Management, on request from the Comptroller General, to provide technical and consulting services to the Comptroller General in the establishment of the personnel system for the General Accounting Office.

Section 7.—Coordination with Certain Other Provisions of Law.

Section 7(a) provides that except as provided under section 5(a)(4) (relating to the authority to place certain positions in the GAO Senior Executive Service), nothing contained in the Act shall be construed as repealing, amending, or otherwise affecting the provisions of the following laws:

(1) sections 302 and 303 of the Budget and Accounting Act, 1921, or sections 203 (a) and (b) of the Federal Legislative Salary Act of 1964 which establish the positions and terms of and set the rate of compensation for the Comptroller General and the Deputy Comptroller General;

(2) section 203(c) of the Federal Legislative Salary Act of 1964, which establishes the rate of compensation for the General Counsel of the General Accounting Office;

(3) section 203(i) of the Federal Legislative Salary Act of 1964, which provides that the Comptroller General may fix the compensation for five positions at rates not to exceed level IV of the Executive Schedule;

(4) section 204(d) of the Legislative Reorganization Act of 1970, which authorizes the Comptroller General to employ not to exceed ten experts at rates not to exceed level V of the Executive Schedule; and

(5) section 401 of the General Accounting Office Act of 1974, which provides general authority for the Comptroller General to employ experts and consultants in accordance with section 3109 of title 5, and permits such experts and consultants to be compensated at rates not in excess of the maximum daily rate prescribed for GS–18 of the General Schedule.

Section 7(b) provides that, except as specifically provided in this Act, nothing contained in the Act shall be construed to repeal, amend, or limit the application of any provision of law applicable to employees of the General Accounting Office.

Section 8.—Technical and conforming amendments.

Section 8(a) amends section 2108(3) of title 5, United States Code, to exclude employees of the General Accounting Office from the definition of "preference eligible" in that section.

Section 8(b) amends section 5102(a)(1) of title 5, United States Code, to exclude the General Accounting Office from the provisions of chapter 51 of title 5, relating to classification of positions.

Section 8(c) amends section 5108 of title 5, United States Code, to repeal the authority of the Comptroller General to place positions in grades GS–16, 17, and 18 of the General Schedule. In lieu of this authority, section 3(c)(3) of the bill authorizes the Comptroller General to pay not more than 100 employees at "supergrade" rates.

Section 8(d) amends section 5342(a)(1) of title 5, United States Code, to exclude the General Accounting Office from the provisions of subchapter IV of chapter 53, of title 5, relating to prevailing rate systems.

Section 8(e) amends section 311 of the Budget and Accounting Act, 1921, by striking out subsections (a), (b), and (d) and inserting in lieu thereof two new subsections which (a) authorize the Comptroller General to appoint, fix the pay of, and remove employees of the General Accounting Office under the General Accounting Office Personnel Act of 1979, and (b) provide that all officers and employees of the General Accounting Office shall perform such duties as may be assigned to them by the Comptroller General. Subsections (e) and (f) of section 311 are redesignated as subsections (c) and (d). The stricken provisions provide general authority for employment at GAO and make such employment generally subject to the civil service laws.

Section 8(f) repeals section 13 of the Act of May 24, 1946, relating to the applicability of general legislation governing employment, compensation, emoluments, and status of officers and employees of the United States, to employees of the General Accounting Office. Compensation for GAO employees will instead be governed by the provisions of the bill.

Section 8(g) amends section 7177(a) of the Civil Rights Act of 1964 by striking out "(other than the General Accounting Office." The effect of the amendment is to include GAO within the coverage of that section.

Section 9.—Effective Date.

Section 9(a) provides that the provisions of the Act (other than section 3, relating to the promulgation of regulations establishing the new personnel system) shall take effect on (1) October 1, 1980, or (2) if later the one hundred and twentieth day after the date of the enactment of the Act.

Section 9(b) provides that the provisions of section 3 shall take effect on the date of enactment of the act, except the personnel system established under that section shall take effect on the effective date prescribed under subsection (a). The intent of these provisions is to ensure that GAO will have a minimum of 120 days in which to promulgate regulations providing for the personnel system before the system actually goes into effect.●

ADDITIONAL COSPONSORS

S. 1108

At the request of Mr. Sasser, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 1108, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 1203

At the request of Mr. Bayh, the Senator from New Jersey (Mr. Bradley) was added as a cosponsor of S. 1203, to amend the Social Security Act relating to disability benefits for the terminally ill.

S. 1204

At the request of Mr. Ribicoff, the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of S. 1204, the Child Health Assurance Act of 1979.

S. 1435

At the request of Mr. Nelson, the Senator from Georgia (Mr. Talmadge) and the Senator from Arkansas (Mr. Pryor) were added as cosponsors of S. 1435, the Capital Cost Recovery Act.

S. 1465

At the request of Mr. Talmadge, the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 1465, the Farm Credit Act Amendments of 1979.

S. 1543

At the request of Mr. Nelson, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 1543, relating to tax treatment of qualified dividend reinvestment plans.

S. 1598

At the request of Mr. Nelson, the Senator from Tennessee (Mr. Sasser) was added as a cosponsor of S. 1598, the State Social Security Act of 1979.

S. 1656

At the request of Mr. Kennedy, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 1656, the National Fishery Development Act.

S. 1692

At the request of Mr. Melcher, the Senator from North Dakota (Mr. Young), the Senator from Mississippi (Mr. Cochran), the Senator from Wyoming (Mr. Simpson), the Senator from North Dakota (Mr. Burdick), the Senator from South Dakota (Mr. Pressler), and the Senator from Oregon (Mr. Hatfield) were added as cosponsors of S. 1692, to amend the Federal Mine Safety and Health Act of 1977.

S. 1693

At the request of Mr. Melcher, the Senators from Washington (Mr. Magnuson and Mr. Jackson) and the Senator from Colorado (Mr. Armstrong) were added as cosponsors of S. 1693, to amend the National Labor Relations Act with respect to conscientious objection by employees not wishing to support labor organizations.

S. 1762

At the request of Mr. Nelson, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 1762, the Small Scale Hydropower Tax Incentive Act of 1979.

S. 1763

At the request of Mr. Kennedy, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1763, the Immigration and Nationality Efficiency Act of 1979.

S. 1792

At the request of Mr. McGovern, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 1792, to authorize the President to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

S. 1795

At the request of Mr. Melcher, the Senator from Montana (Mr. Baucus) was added as a cosponsor of S. 1795, to authorize the Gros Ventre Tribe to file claims against the United States for damages for delay in payment for lands claimed to have been taken in violation of the Constitution.

S. 1796

At the request of Mr. Melcher, the Senator from Montana (Mr. Baucus) was added as cosponsor of S. 1796, to authorize the Assiniboine Tribe and the Blackfeet Tribe to file claims against the United States for damages for delay in payment for lands claimed to have been taken in violation of the Constitution.

S. 1825

At the request of Mr. Nelson, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 1825, the Estate Tax Adjustment Act of 1979.

S. 1827

At the request of Mr. Domenici, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1827, the Uranium Miners Compensation Act of 1979.

S. 1845

At the request of Mr. Exon, the Senator from Alabama (Mr. Stewart) was added as a cosponsor of S. 1845, to provide that no Members of Congress or the Judiciary shall be given salary increases until the Federal budget is in balance.

S. 1871

At the request of Mr. Metzenbaum, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 1871, extending the antitrust exemption for oil companies that participate in the agreement on an international energy program.

SENATE JOINT RESOLUTION 64

At the request of Mr. Chafee, the Senator from Michigan (Mr. Levin), the Senator from Indiana (Mr. Lugar), the Senator from North Carolina (Mr. Helms), the Senator from Utah (Mr. Garn), the Senator from Alaska (Mr. Stevens), and the Senator from Hawaii (Mr. Matsunaga) were added as cosponsors of Senate Joint Resolution 64, authorizing the construction of a memorial to the men and women who have served in the U.S. Navy.

SENATE JOINT RESOLUTION 107

At the request of Mr. Ribicoff, the Senator from Montana (Mr. Melcher) and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of Senate Joint Resolution 107, regarding the issuance of Presidential proclamations designating the weeks of January 21–27, 1979, and January 20–26, 1970, as "Junior Achievement Week".

AMENDMENT NO. 505

At the request of Mr. Church, the Senator from Washington (Mr. Jackson), the Senator from Hawaii (Mr. Matsunaga), the Senator from New Hampshire (Mr. Durkin), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of amendment No. 505, intended to be proposed to S. 932, to extend the Defense Production Act, as amended.

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96–1

AMENDMENT NO. 509

(Ordered to be printed and to lie on the table.)

Mr. CHURCH (for himself, Mr. Huddleston, Mr. Chiles, Mr. Sasser, Mr. Johnston, and Mr. Stewart) as in executive, submitted an understanding intended to be proposed by them, jointly, to the resolution of ratification of the Treaty Between the United States of America and the Soviet Union Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979, Ex. Y. 96–1.

(The remarks of Mr. Church when he submitted the understanding appear elsewhere in today's proceedings.)

FUEL ENERGY CONSERVATION ACT OF 1979—S. 1383

AMENDMENT NO. 510

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. MELCHER (for himself, Mr. McClure, Mr. DeConcini, Mr. Church, Mr. Riegle, Mr. Goldwater, Mr. Bellmon, Mr. Exon, Mr. Stone, Mr. Baucus, Mr. Young, Mr. Heflin, Mr. Morgan, Mr. Boren, Mr. Stewart, Mr. Stevens, Mr. Zorinsky, and Mr. Cohen) submitted an amendment intended to be proposed by them, jointly, to S. 1383, the Fuel Energy Conservation Act of 1979.

● Mr. MELCHER. Mr. President, I am today submitting on behalf of myself and Senators McClure, DeConcini, Church, Riegle, Goldwater, Bellmon, Exon, Stone, Young, Baucus, Heflin, Morgan, Boren, Stewart, Stevens, Zorinsky, and Cohen an amendment to S. 1383 which is very similar to the original bill which I introduced this past summer. Since the introduction of S. 1383, the administration has taken a position in support of this concept and is actively pushing the implementation of these national standards on a temporary basis during times of national emergencies.

Additionally, the National Governors' Association passed a resolution in support of legislation, the type of which we are introducing today.

Also, since the introduction of my original bill the General Accounting Office has come out with its report regarding truck weights. I hope that my fellow Senators can take the time to familiarize themselves with this report. I think they will find that contrary to first impressions the GAO report does not contradict this type of legislation, but addresses other issues regarding truck weights.

The trucking strike which gave impetus to this legislation has been placed on the back burner; however, that does not mean that the interest in this legislation is no longer evident. The attention of these same truckers and others associated with the industry is focused on Congress, waiting to see how this issue is handled. A fuel shortage which triggered the strike this past summer may reoccur.

The only change this amendment makes to S. 1383 is a change in the bridge formula. This change was recommended to me by the engineers of the Federal Highway Administration through members of the trucking industry who were recently meeting with the administration as part of the administration's Ad Hoc Committee on the Independent Owner Operator.

It is my understanding that Senator Bentsen's Subcommittee on Transportation will be conducting hearings on this legislation on October 25.

I hope that those Senators who have yet to join our efforts in this regard will join by cosponsoring this legislation.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 510

Strike all after the enacting clause, and insert in lieu thereof the following:

"Section 127 of title 23, United States Code, is amended to read as follows:

"§ 127. Vehicle weight, width, and length limitation—Interstate System

"No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of twenty thousand pounds carried on any one axle, including all enforcement tolerances; or with a tandem axle weight in excess of thirty-five thousand pounds, including all enforcement tolerances; or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 40\right)$$

where W = overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L = distance in feet between the extreme of any group of two or more consecutive axles, and N = number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-five thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, or with a width in excess of ninety-six inches, or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any among which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. Notwithstanding any limitation relating to vehicle widths contained in this section, a State may permit any bus having a width of one hundred and two inches or less to operate on any lane of twelve feet or more in width on the Interstate System. Notwithstanding any other provision of this section, no State may enact or enforce any law which provides a gross maximum overall weight limit of less than eighty thousand pounds on five axles, and thirty-five thousand pounds per tandem up to a total gross maximum overall weight limit of eighty thousand pounds, nor may any State enact or enforce any law which provides a gross overall length limit of less than sixty-five feet and receive its apportionment of funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956.".●

FOREIGN ASSISTANCE APPROPRIATIONS

AMENDMENT NO. 511

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to H.R. 4473, an act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

AMENDMENT NO. 512

(Ordered to be printed.)

Mr. HELMS proposed an amendment to H.R. 4473, an act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

SENATE CAMPAIGN CONTRIBUTION ACT OF 1979—S. 1339

AMENDMENT NO. 513

(Ordered to be printed and referred to the Committee on Rules and Administration.)

Mr. STONE submitted an amendment intended to be proposed by him to S. 1339, the Senate Campaign Contribution Reduction Act of 1979.

● Mr. STONE. Mr. President, earlier this year I introduced a bill (S. 1339) to encourage a reduction in the amount of contributions that are collected in Senate election races, in an attempt to curb the enormously expensive campaigns which are beginning to be a more frequent occurrence. Like most campaign financing bills of recent years, S. 1339 only applies to general elections. Primaries have been left out, to give a basic public financing proposal a better chance to be enacted. There is no doubt that primaries need to be included. The only question is whether they should be part of the original legislation, or added at a later date once candidates and the public have had an opportunity to evaluate it in general elections. I think my bill may be an easier vehicle on which to consider primaries because the costs of funding S. 1339 would be much lower than the traditional public financing proposals. Therefore, I am submitting an amendment to my own bill to expand it to cover primary elections.

For use as a starting point for discussion, the funding formula for primaries is the same as that used for general elections. Hearings on the various public financing proposals should explore whether a smaller or a larger contribution threshold would be appropriate for primaries.

I hope the Rules Committee will schedule hearings on public financing of congressional elections next session.●

INTERIOR APPROPRIATIONS BILL—H.R. 4930

AMENDMENT NO. 514

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. LEAHY, and Mr. STAFFORD) submitted an amendment intended to be proposed by them, jointly, to H.R. 4930, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I wish to announce that the Select Committee on Indian Affairs has scheduled a confirmation hearing on the nomination of William E. Hallett to be Commissioner of Indian Affairs. The hearing will be held on October 29, 1979 at 10 a.m. in room 1202 of the Dirksen Senate Office Building.

If you have any questions regarding the hearing, please contact Max Richtman of the Committee staff at 224-2251.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a hearing on Reorganization Plan No. 3 of 1979, to consolidate trade functions of the U.S. Government, pursuant to 5 U.S.C. 903, on October 18, 1979, at 10 a.m., in room 3302 of the Dirksen Senate Office Building.

Representatives of the administration will testify at that time.●

COMMITTEE ON FOREIGN RELATIONS

● Mr. CHURCH. Mr. President, the Senate Committee on Foreign Relations will be holding hearings on four international human rights treaties. The treaties are as follows:

The International Convention on the Elimination of All Forms of Racial Discrimination, (Executive C, 95-2);

The International Covenant on Economic, Social & Cultural Rights, Executive D, 95-2);

The International Covenant on Civil & Political Rights, (Executive E, 95-2); and

The American Convention on Human Rights, (Executive F, 95-2).

The original dates for these hearings have been changed. The new dates are November 14, 15, and 16, 1979, at 9:30 a.m., room 4221, Dirksen Senate Office Building. All those requesting further information should contact Steven Emerson of the committee staff (224-7523).●

SUBCOMMITTEE ON AGING

● Mr. EAGLETON. Mr. President, the Subcommittee on Aging of the Committee on Labor and Human Resources and the Special Committee on Aging have scheduled a joint oversight hearing on the regulations to implement the Comprehensive Older Americans Act Amendments of 1978, on Thursday, October 18, at 10 a.m. in room 1114 Dirksen Senate Office Building.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on S. 1564, the Lobbying Disclosure Act of 1979, on October 15, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.●

COMMITTEE ON THE JUDICIARY

● Mr. METZENBAUM. Mr. President, the Committee on the Judiciary will hold hearings on S. 680, the Citizens' Right to Standing in the Federal Courts Act, on October 12, 1979. The hearing will begin at 9:30 a.m. in room 2228 of the Dirksen Senate Office Building.●

ADDITIONAL STATEMENTS

STATEMENT OF DONALD H. RUMSFELD ON SALT II

● Mr. GOLDWATER. Mr. President, serving on two committees, both of which have had numerous hearings on the SALT II treaty, the subject has grown to be rather repetitious and, at times, boring in that repetition. One of the major faults in all of the hearings, with the exception of those before the Select Committee on Intelligence, has been the refusal of the administration's advocates on SALT II to level with the American people. We are repeatedly told that the United States is the No. 1 military power in the world when anyone who can read statistics would know that is not true. It is not only not true, but the situation is worsening. We are told that NATO will collapse without SALT, that peace will no longer be possible without SALT. Now, Mr. President, to me, that is a lot of hogwash, and I am hopeful that during the coming debate on the SALT II treaty, if it is called up, we will hear the kind of statements on this floor that were made this morning by the Honorable Donald H. Rumsfeld, former Secretary of Defense. His presentation before the Armed Services Committee was complete, factual and frightening, but it was reassuring to know that men who understand the subject can be depended on to tell the truth. I ask that the former Secretary's statement be printed in the RECORD.

The statement follows:

STATEMENT OF DONALD H. RUMSFELD

Mr. Chairman, Members of the Committee: I appreciate this opportunity to appear again before this Committee. In the Annual Defense Report to the Congress in January, 1977, I expressed the concern that:

"The Soviet Union . . . is without question engaged in a serious, steady, and sustained effort, which in the absence of a U.S. response, could make it the dominant military power in the world."

I return, as a private citizen, deeply concerned about the continuing Soviet buildup and, given the absence of an adequate U.S. response, aware that the situation is now even more serious.

The SALT II consideration takes place against the backdrop of a dynamic, deteriorated and still deteriorating strategic situation.

While I recognize the complexities, and that some details may be available only to those currently involved, sufficient information is available for the public to make informed judgments as to whether the SALT II Treaty and Protocol contribute to our national security.

It is my view that the pending SALT II Treaty, the Protocol and various "understandings," do not merit approval. I say this, despite the positive aspects of the agreements, because of the net effect of the provisions of the agreements, and the strategic outlook for the 1980's.

As one who favors achieving an acceptable SALT II Treaty, I would prefer to be here as a supporter of these proposals. Unfortunately, my conclusion is that the present bargain is a bad one for the United States and by more than a trivial margin.

As has been indicated by others, the Soviets are allowed every capability the U.S. is allowed, and allowed capabilities denied to the U.S. The agreement, defective as to equity, would serve, I believe, as an unappealing stepping off point for SALT III negotiations. While providing Americans with a sense of well being for a period, consent by the Senate would technically "codify" the U.S. in a situation less than parity.

My hope is that, given determination in the Executive and Legislative branches, we would set as our goal an outcome about which we can be as confident would enhance U.S. security, as the Soviets appear to be that the pending agreement will increase theirs.

I will touch upon three problem areas—the specifics of the Treaty and Protocol, the strategic outlook, and the apparent current strategic doctrine. I have elaborated on some of these matters in attachments to my statement.

VLADIVOSTOK TO SALT II

First, I recognize that all aspects of the treaty are not unfavorable. Also, I am pleased that out of the Senate deliberations has come a broader public understanding that a treaty on this subject should be viewed within the larger context of the U.S. strategic forecast, programs, and doctrine. However, I do not share the positions that the terms of the treaty become irrelevant if there is a step-up in U.S. defense programs.

The provisions of the treaty and Protocol are important. First, they will affect U.S. strategic programs through their duration. Second, they will set the foundation for arms negotiations in the future. Finally, they will affect the world's view of the United States and the Soviet Union and of that future.

In my view, the United States probably could have achieved a treaty roughly comparable to that now before you in 1976. It was my view at the time that such a treaty would not be in the U.S. interest. That remains my view today. Indeed, given the weight and momentum of the Soviet buildup and the American self-denial in future strategic capabilities over the recent past, such an agreement is even less acceptable today.

It is true that SALT has been a continuing process conducted by each administration since President Johnson. The provisions of the pending SALT II agreements, as currently drafted, represent some contributions, but also some departures worth noting. The record suggests that since Vladivostok there have been additional restrictions of U.S. systems, without corresponding limitations on Soviet systems. In Attachment I, I have set forth some of the changes from Vladivostok to SALT II. They include:

A separate ceiling on MIRVed ICBM launchers, which legitimizes a total of MIRVed ICBM's beyond that which, I believe, U.S. defense planning would likley require;

A ceiling on launchers for heavy missiles, which has significance in light of Soviet deployment of the SS-18s;

The mobile ICBM basing issue;

ICBM modernization provisions, which, while limited by the so-called 5% rule, still permit the Soviets to deploy their new generation missiles, and could leave the American people with the inaccurate impression that modernization has been significantly restricted;

The Backfire bomber, which Vladivostok left open for further negotiation in tandem with cruise missiles; while it was then just coming into operation and there was internal debate as to its capability, Backfire has intercontinental capability;

Air-launched cruise missiles, a new U.S. technology, now restricted in both deployment and payload characteristics;

Sea-launched cruise missiles, now restricted by the Protocol in both their nuclear and—here setting a unique precedent—in their conventional or nonnuclear role;

Ground-launched cruise missile: left open at Vladivostok, now restricted—again in both nuclear and conventional roles—to the potential disadvantage of the U.S. and our allies.

In short, I do not believe these SALT II proposals represent a net improvement over the Vladivostok Accord. On the contrary, the contentious issues of Backfire and cruise missiles, left out at Vladivostok, have been resolved in ways largely unfavorable to the U.S. The Backfire, with some 200 already deployed, is not counted under SALT II, seemingly conceding the Soviet contention that it is not a strategic system. It is. We know it is. They know it is. Why ratify that it is not? Cruise missiles are constrained even in their non-nuclear role.

THE SALT II AGREEMENTS

At the appropriate time, I recommend reopening the negotiations. With an awareness that history suggests that with the Soviets we cannot rely on trust and goodwill, areas where improvements should be sought include:

Limitations on cruise missiles—sea-launched, ground-launched and air-launched—should be revised, taking into account the deployment of the SS-20 and both U.S. requirements and the increasingly serious problems of our allies;

Problems for the U.S. and our allies resulting from the inclusion of "non-nuclear" armed cruise missiles—only a "nuclear armed" definition should be permitted;

Inclusion of the Backire bomber as a strategic system. This might be done by linking older B-52s (Ds and Gs) with Backfires and including both within the ceilings, in that the Soviet bomber is more capable than the older B-52s, and no agreement should suggest the opposite;

Resolution of the inequitable treatment of the Soviet heavy missiles;

Assured flexibility for the possible mobile MX-ICBM basing modes;

Verification questions with respect to range and payload limits on cruise missiles, the danger of upgrading the SS-20s to SS-16s by adding one stage, numbers of RVs (SS-18s), and encryption;

Resolution of the ambiguities and unilateral interpretations which could be masking fundamental disagreements between the parties and if so would lead to difficulties in the relationship later; and

Assured ability to share technology with our allies.

With respect to these problem areas, I commend the persuasive material provided by The Honorable Paul Nitze.

Finally, as I will indicate, such negotiations should be conducted in the context of a new five-year defense plan that will assure that the U.S. has the capabilities necessary to make any agreed treaty equitable.

U.S. STRATEGIC OUTLOOK

I have indicated some of the changes in the negotiations from Vladivostok to SALT II. It must be added that the more favorable military balance and outlook projected at the time of Vladivostok have changed in ways adverse to the U.S. as well.

At that time, the U.S. had under way:

Programs to procure 244 B-1 follow-on manned bombers, scheduled to begin operational deployment this year;

An accelerated MX with initial operational deployment scheduled for late 1983;

Cruise missile programs with land and sea deployments scheduled next year and deployment of air-launched cruise missiles on some 200 B-52s beginning in 1981;

Expectations of one and a half Tridents each year, with deployment beginning this year; and

An open Minuteman III production line available to address the even then real problem of the Soviets gaining a window of vulnerability on U.S. land-based ICBMs.

As others have indicated, the strategic outlook for the U.S. has deteriorated. U.S. national security leadership in 1976 never contemplated leaving the U.S. in its present position, where the Soviet Union is mass producing both land-based missiles and a manned bomber fleet while the U.S. has open production lines for neither. In addition to the Soviets' considerable effort, recent U.S. actions include cancellation of the B-1 with no quid pro quo, significant delay of MX and some delays in cruise missiles, apparently to accommodate SALT, technical delays in the Trident II missile, and reductions in shipbuilding. The adverse trends can readily be seen by comparing the charts on the strategic outlook for the 1980's in the two most recent DOD Posture Statements. They portray a significantly deteriorating situation.

Because of these trends, approval of this agreement could be seen as a vote of confidence in the path our country is unmistakenly on. In the 1980's, when U.S. capabilities will be even less adequate to serve as a counterweight to the adventuresomeness of the Soviets, such an endorsement would, I believe, be regretted.

On August 12, 1941, four months before Parl Harbor, the draft was extended by but one vote in the U.S. House of Representatives—203 to 202, with 27 not voting. Senate action on these SALT II proposals could well be of similar historic importance. It is clearly a difficult issue. It is admittedly debatable. So was the vote in 1941. But on December 8, 1941, I suspect that those Americans who felt peace could best be maintained by leaning toward an optimistic view of the intentions of others wished that, if they were to have erred, they had erred on the side of caution.

The record of what must be described as U.S. strategic self-denial over the recent past has made more serious the dangerous trend in relative military capabilities which I emphasized in 1976.

The Administration's recent comments suggest it now may be more willing to invest the funds needed for both strategic programs and asks for the nation's support. Unfortunately, the actions thus far have been such as to create an investment shortfall considerably beyond that which they seem willing to fund. Given the thrust of the Administration's programs thus far, we are driving down the road toward clearly inadequate capabilities in the decade ahead. Given the modest correction they seem to feel appropriate, it is my view we will not be successful in reversing the adverse trends. With the small number of MX missiles now under discussion, the unwillingness to modernize the Minuteman, the aging of the B-52's, the stretch-outs of Poseidon, the cancellation of the B-1, and the reduced number of Tridents, U.S. strategic forces, to say nothing of the equally important conventional and naval forces, could drop to a fraction of existing capabilities by the 1990's if current trends are permitted to continue.

Meanwhile, the Soviets will have persisted in their steady and cumulatively impressive build-up. Today as we debate these issues, the Soviets are devoting as much as two times more to strategic programs than the U.S.

Given the years of observation we have had, it should not come as a surprise to any that the Soviet Union was heading for strategic superiority and that the U.S. has been sliding toward inferiority.

Nor should it have come as a surprise that our landbased ICBM force—the most accurate leg of what, before the B-1 decision, was called the strategic nuclear Triad—would become vulnerable in the early 1980's. In a previous appearance before this Committee, I pointed out that:

"Before the mid-1980's, the Soviets could possibly have the capability, with a small fraction of their ICBM's, to destroy the bulk of the U.S. Minuteman/Titan force."

Actions taken in the mid-1970's on the MX, the Minuteman production line, and the B-1, were designed to minimize the period of such potential vulnerability. Subsequent changes in these programs and others have substantially increased U.S. vulnerability and considerably extended its duration.

For years we have heard cautions from some that there is a danger of action/reaction occurring. This was a legitimate issue and concern given the stakes. Events, however, have outstripped that argument. There is no question but that the Soviets have had every opportunity over the past 15 years to moderate their behavior. If anything, it is worse. To those who have said or hoped that unilateral steps by the U.S. to ease tensions would be reciprocated by the Soviets, the answer is they did not; unilateral actions have not been reciprocated by the Soviets. To people who talk of the arms race, one must ask whether there has really been an arms race. A more appropriate characterization might be that the Soviets have been trotting and the U.S. has been walking.

The growing U.S. strategic vulnerability compounds a host of other defense problems—theater, conventional, and naval—before us in the 1980's. I have elaborated on these adverse trends in Attachment II.

U.S. DEFENSE INVESTMENT

There are many reasons for the relative decline in U.S. defense capabilities and they stretch over two decades. But the principal reason, more important in weight than the others, has been the persistence, the breadth and depth of the Soviet military effort in military investment, research and development, production and deployment. No one can study their progress without being impressed by their steadiness of purpose and the reality that they have not been distracted by the fact of concurrent arms control negotiations.

As this became better understood in the mid-1970's, as the war in Viet Nam ended, and as Presidential leadership was provided to reverse the adverse trends in relative military capabilities, Congress was generally cooperative in helping to address the problem. During my tenure at the Pentagon, this Committee, when told the facts, measured up to its responsibilities. Regrettably, since that time, with Executive leadership in a generally different direction, the nation has again been set on the path to inferiority. The question is not "Where did we go wrong?" but rather, "How do we set the defense funding shortfall right?"

The last Ford Administration defense budget request to Congress, for fiscal 1978, would have resulted in a 6.3 percent real growth in defense investment; that on top of the 5.8 percent real increase actually appropriated for FY 1977. This was the order of magnitude thought necessary the last time I took a detailed look at U.S. defense programs. Since that time, two things have happened adverse to our situation which affect the level of effort required today.

First, there have been substantial reductions from what was needed as set forth in the January 1977 five-year defense plan, as a result of the reductions, and because of inflation growing at a higher than anticipated rate. Already, since January 1977, there is roughly a $38.6 billion shortfall in budget authority, on an inflation adjusted basis. If the Administration's five-year plan for FY 1978-82 proceeds, the shortfall will aggregate to $83.8 billion in budget authority.

In considering the shortfall problem, if one takes into account the fact that the tendency has been to fully fund the pay and retired benefits portion of the budget, it is clear that the situation is actually more serious than the numbers cited indicate. In fact, the shortfall has actually hit hardest in the procurement and R. & D. accounts. Through FY 1980, the procurement account alone is $26 billion short of that which was proposed in January 1977, or roughly a 22 percent shortfall in three years. If this pattern continues through FY 1982, the Procurement shortfall will be $53.8 billion on an inflation adjusted basis.

In addition, U.S. intelligence estimates, on which defense planning and thus budget decisions are based, have been found to have again underestimated Soviet efforts, progress, and capabilities. In the strategic realm, Soviet ICBM accuracy improvements and MIRVing rates, among other things, have been more rapid and impressive than were officially forecast. U.S. intelligence underestimates have also afflicted U.S. assessments on regional capabilities. Since we know more today, and it is for the most part adverse, it logically makes the task more difficult and calls for an increase in the U.S. level of effort. For the sake of argument, one could reasonably add $2 billion, to select a conservative figure, as necessary to offset Soviet progress in excess of what had been projected when the five-year Defense Plan was submitted in January, 1977.

The funding shortfalls from reductions and inflation of $38.6 billion, and the intelligence underestimates estimated at roughly $2 billion, aggregate to a total defense shortfall of some $40 billion in FY 1980 dollars from the amount that we projected was essential to our national security. I believe there was validity to that 5-year plan. Therefore, I conclude that the task today, if we are to provide for our national security and reverse the adverse trends, is to make up that shortfall. Accepting that refinements may be needed on these rough estimates, the question becomes not whether to make up the shortfall, but rather over what period of time can we risk waiting to get back on track.

If Congress decided to do so in one year, it would mean a $40 billion increase in FY 1980 over the pending $135.5 billion request and then the widely discussed minimum of 5 percent real growth per year on top of the Ford proposed levels for FY 1981 and thereafter. If it were decided to make it up over two years, roughly the amount of time it took to create the problem, it would be roughly $20 billion pear year over the Administration's pending request for FY 1980, another $20 billion over the Ford Administration's proposed level for FY 1981, and then the necessary real growth each year over the Ford Administration's proposed level for FY 1982 and thereafter.

As a result of the above, I am persuaded that simply a 5 percent real increase each year over the next several years will not meet the true needs of our country. Admittedly, it would be better than where we are, but we would be fooling ourselves if we believed we could safely forego the funding shortfall I have described. To do so would be to repeat the error and to impose crushing costs on our future and unnecessarily increase the risk of further instability.

One might reasonably ask how the additional funds might be spent. I do not provide a definitive program, but several areas in need of attenton are indicated in Attachment II.

However, one might choose to calculate the shortfall, the U.S. cannot afford to ignore it. Present military investment provides future military capabilities. Capabilities provide deterrents and the options for the President and the nation so necessary to contribute to peace in our increasingly dangerous and untidy world.

U.S. STRATEGIC DOCTRINE

The third and related concern involves U.S. strategic doctrine. Agreement on the basic principles of U.S. strategic policy and doctrine are necessary to guide both U.S. defense planning and investment and future arms control negotiations. Absent agreement, both could continue on a seemingly random basis.

U.S. strategic doctrine, as suggested by Administration statements and actions, seems to reflect either some ambiguities or a preference for "mutual assured destruction" or "minimum deterrents." Several Presidential comments on strategic weapons have evoked images of wholesale devastation of innocent citizens and the corollary that, if the Kremlin were faced with the threat of substantial damage of civilians and cities, it would logically be deterred from aggression and political use of nuclear superiority. Such a view, encompassing the discredited "overkill" argument, is unsound and dangerous.

In my view, the U.S. should adopt an approach of extended deterrents, which does not relinquish strategic superiority to the Soviets. It should be premised, as has been said by the Hudson Institute, on the fact that "American strategic forces are about the business of posing non-incredible negative sanctions in Soviet minds, and, if need be, and imposing such sanctions in action." It should reflect the reality that the Soviets have done nothing to earn trust. And, it should assure that the U.S. is properly postured to deal with a potential Soviet breakout.

The U.S. strategic nuclear posture should reinforce and be seen to reinforce deterrents at the regional level, including theater nuclear, conventional and naval forces. Strategic deterrents cannot be viewed in isolation of other forces or considered only in terms of how many Soviet casualties would result from a given response.

Not surprisingly, viewed from a perspective of "minimum deterrents," the SALT II Treaty and Protocol provisions make considerably more sense than when viewed from a perspective of "extended deterrents."

It may well be, given the evolution of the various gray area systems on both sides since the initiation of SALT, that the present context of the negotiations may have been overtaken by events. Certainly, it is increasingly difficult today to try to usefully separate strategic forces from their increasingly intimate interrelationship with "gray area" systems and regional forces. We must now view the problem of regional balance in the context of the evolving nuclear balance.

As the U.S. strategic outlook has deteriorated, it has eroded with it the regional deterrents, so important to our allies and our interest in regional stability.

The behavior of our allies and other nations is important to the U.S.

Specifically:

Their military contribution to the regional balance and deterrents is necessary for stability;

Their incremental accommodation to Soviet wishes would be damaging to our political, economic and security interests; and

An alternative to their cooperation with the U.S. could be nuclear proliferation.

Broader agreement on U.S. strategic doctrine is fundamental to determining the acceptability of a given SALT II Treaty. Equally important, such agreement is necessary to focus U.S. goals in arms negotiations as well as to the setting of priorities in U.S. defense investment.

LAUNCH ON WARNING

With broad agreement on U.S. strategic doctrine, notions such as "launch on warning" or "launch under attack," of increasing currency in Washington in the past two years, would be seen for what they are—dangerous and not credible.

One must ask of any reaching for this crutch—a crutch of no valid use other than in trying to justify U.S. weakness—the following questions: Launch against what Soviet targets? With what degree of evidence of an attack? Against an attack of what size? Against an attack against which U.S. targets? And, with what degree of confidence that the Soviets would not "launch on warning" coming back?

Reliance on such a policy—while in keeping with a doctrine of "minimum deterrents"—is inconsistent with a strategy of extended deterrents. Ignoring the risk to ourselves and others, such a "hair-trigger" posture would undermine U.S. flexibility, affect U.S. determination in a crisis, and remove options for a President to command more precise, moderate, and hence appropriate responses in a crisis situation.

The increasing talk of "launch under attack" is, I believe, an illustration of the degree of decline of U.S. strtaegic capabilities in relation to the Soviet Union, and of one of the dangers of the doctrine of minimum deterrents. Rather than resort to a policy of "launch on warning," the U.S. should make the investment necessary to make such a possibility clearly understood to be unnecessary, without, however, ruling it out. A President should have a range of options—including that, but not only that—to respond to aggression, not as has been said a "panic button."

THE SALT PROCESS

All of us have now had an opportunity to observe the SALT process from various vantage points over a period of some years. A recent Wall Street Journal article pointed out accurately that, objectively, it seems clear in retrospect, that the SALT era has been one of history's great arms buildups. Certainly it cannot be argued persuasively that the numerous agreements the U.S. has signed with the Soviets have succeeded in slowing their buildup. Conversely, it is clear that the SALT era has adversely affected U.S. programs. Given that record, it is worth considering the dynamics of such negotiations.

First, as suggested, U.S. strategic doctrine must be set in order, expressed with greater clarity, and broader agreement achieved as a prerequisite to formulating the criteria for acceptable SALT agreements. The cart can't go before the horse. Serious issues of strategy and weapons acquisitions should not be addressed as though they were basically negotiable arms control matters. This problem was most recently illustrated in the delays of the MX and the issues as to its basing mode, and some of the delays in cruise missile procurement.

While not necessarily inherent in the process, witness the fact that the Soviets have not been similarly inhibited, the U.S. has allowed, for whatever reasons, the existence of the arms control negotiations to unnecessarily inhibit us from making necessary program and investment decisions. This asymmetry between the U.S. and the Soviets, is important. While it may be giving them too much credit, the Soviets do seem to design their arms control posture to fit their doctrine and defense program goals. The U.S., amid conflicting domestic and allied pressures, seems more prone to adjust defense programs, doctrine, investment, and its negotiating posture to fit the evolving circumstance of the negotiations.

This problem, which can affect the outcome of such negotiations, seems to result from a variety of factors, including the following:

America's relationship with and reliance upon our allies is more important to us and more complex than the Soviets' relationship with their allies; our alliances can be more severely strained by such matters, whereas theirs seem less vulnerable, probably in that their allies tend to be occupied nations;

Ours is an open society, with a free press, more numerous pressure groups and divided responsibility under the constitution.

Second, the process probably has had the effect of lulling our free people, hopeful people, peaceful people, into believing that an agreement in itself—rather than real relative defense capabilities—can assure our national security. Our proper goal, of course, should not be an arms agreement, but peace and the preservation of freedom, and to the extent an agreement can contribute to that goal, but only to that extent, it is desirable. And, as the testimony suggests, a given agreement may or may not contribute to that end.

In the Defense Report to this Committee in 1977, I pointed out that:

"So far, arms control successes have been modest" and that Soviet response to U.S. proposals "has not been sufficient to permit the signature of an agreement that would be in the U.S. national security interests."

I believe this still to be the case. While it is certainly worth continuing to try to achieve a supportable arms agreement, benefits from arms control have been and will likely continue to be modest and difficult to achieve. Only if this is recognized will we have the persistence and the staying power to keep at the task and avoid accepting an unacceptable agreement.

In negotiations as complex as SALT, and involving as many U.S. government agencies and as much press attention, there is a danger that reaching agreement, considered a success in our society, could become the goal, rather than the goal being peace and stability. President Carter seemed to indicate in his Inaugural Address that his ultimate goal is the eradication of nuclear weapons from the face of the earth. That is an interesting pursuit, but its worth is, I submit, not absolute, and must be tested against our basic national goals—the preservation of freedom and enhancement of peace. And, other goals, including the President's, have validity insofar as they contribute to the achievement of our fundamental goals.

Third, I worry about another spin-off from SALT. The domestic political realities of the process seem to drive Executive Branch Officials toward a feeling they must try to explain away, justify, defend and rationalize Soviet misbehavior. In some instances, the Administration becomes an apologist for the Soviets, apparently feeling that such support is necessary to maintain domestic political support for the Soviets as our partner in the arms limitation effort. The result is that, rather than calling them to task for violations of acceptable behavior, our leaders' actions and words occasionally leave the inaccurate impression that we either approve of or acquiesce in such misbehavior.

Most recently I suspect this phenomenon led the Administration to rush to contend that the Soviet troops in Cuba posed no threat, and to argue that they were not violating the 1962 agreement negotiated by President Kennedy. Without arguing those questions, the effect of rushing to put in the best light that which is clearly not in our interest, is to risk confusing the American people and the world of what behavior pattern we feel is in the interest of world peace.

A bit earlier we heard from the President something to the effect that General Secretary Brezhnev wants the same things I do. It is not so. Only the most cloistered would deny that the Soviets are seeking superiority. Clearly, if this is to be an effect of "detente," it has a value less to the U.S. than to the Soviets, and less than has been the American people's impression.

Fourth, I am concerned that the signing of a document by a President—and we have seen many signed with the Soviets in recent years amid the clinking of champagne glasses—tends to build a momentum of its own. Today we hear fears that disapproval of this particular SALT II Agreement would be a grave world event. Some have even suggested the epitaph "war-monger" and alleged it could throw the world back into the depths of the Cold War. The illogical implication of such noise in the system is that once we sign one agreement, we must sign them all or all is lost. It is not so.

I suggest that if the situation is that fragile, then the SALT II Agreement would be of little value even if it were equitable. Admittedly without proof or certainty, I believe the ramifications of a decision by the U.S. to renegotiate SALT, properly handled by the Administration, would be manageable. With the Soviets allocating a minimum of 11–15% of their GNP to defense, roughly the amount the U.S. devoted at the height of the Korean War and which the Germans and Japanese devoted in the mid-1930's, the likelihood is that the Soviets would not significantly accelerate their effort.

Politically, their behavior around the world—with Communist governments gaining power, thanks to Soviet weapons and Soviet client state troops in Laos, Cambodia, Vietnam, Afghanistan, Ethiopia, Angola and Yemen—admittedly could worsen, but it is as likely to worsen with this SALT II agreement as without it.

Finally, I worry that unrealistic expectations are being raised for SALT II. It will be a very difficult negotiation. The U.S. negotiated SALT II during periods of American strategic superiority and then rough equivalence. The resulting agreement I consider not to be in our national interest. Can we reasonably expect a more favorable negotiating environment in a period of Soviet strategic superiority, even according to Secretary Brown's latest projections? SALT III could become misdirected if greater emphasis is placed on "massive reductions" rather than the urgent problem of regional stability. Given the problems posed by Backfire, the SS–20, theater nuclear modernization, and the growing Soviet conventional capabilities, this is a matter of vial importance to the strength of our alliances and, I believe, must be at the top of the agenda.

MARGIN FOR ERROR

The SALT treaty, indeed no arms negotiation, should serve to lull the American people into thinking that our circumstance is improving when it is, in fact, deteriorating.

The margin for error for the United States is gone. When the U.S. had a surplus of capability—military, political, and economic—short-term fluctuations or set-backs could and were readily absorbed. Examples exist in many areas during the post-World War II period. They include:

Delays on weapon systems for technical reasons;

Production delays on weapon system deployments for budget or political reasons;

Defense cuts, underfunding or stretch-outs, at the instance of the Executive or Legislative branches;

Intelligence underestimates of Soviet or Soviet client state capabilities;

Set-backs in relations with allies, such as denial of the use of facilities to assist in common defense; and

Concessions in arms control agreements that, in retrospect, were more important than they may have seemed at the time.

Examples such as these speckle the past fifteen to twenty years alone and in combination. Each was absorbed, during a time of an abundance of U.S. capability. Today, with that margin for error gone, President Carter and the members of this Congress have the unenviable task of serving our country at a time significantly different from that of your predecessors. A considerably higher degree of care and caution are required today than at any time in the post World War II period. Mistakes made in any of these realms cannot and will not be absorbed today by an excess of U.S. capability. It doesn't exist. This places a very special, indeed unique, burden upon this Administration and this Congress in determining our nation's interest with respect to this treaty, strategic doctrine and the capabilities—strategic and conventional—needed for defense and deterrents today and during the 1980's.

The reality is that Presidents manage the national security apparatus not with capabilities of their design or decision, but with the capabilities and therefore the options left them by their predecessors. Given the lead times involved, the years necessary for authorizations, research, development, testing, production, deployment, and then the up to 20 years life span of weapon systems, few of the decisions made by a President or a Congress, affect the resources they will have at their disposal.

Defense programs or delays or cancellations implemented during this period will affect the country most directly during the mid- to late 1980's. Without a measurable and early change, history could well record that during this period the resources which will be available to future Presidents were weakened, and, so too, their ability to contribute to peace and stability in the 1980's and 1990's.

The Soviet Union is a world power, a superpower, not because of its size, not because of geography or resources, not because of the persuasiveness of its political system, and not because of the productivity of its economy. The Soviet Union is a superpower purely and simply because of raw military power, the military and political options and influence that such power provides, and, its pattern of being willing to use power to assert influence in the world.

Understandably, Executive Branch officials seem reluctant to characterize the fifteen to twenty year slide of U.S. capabilities relative to the Soviets. Understandably, they seem to feel that description of the trends so adverse to the U.S. would weaken our nation's ability to manage U.S. foreign and defense policy. This is a valid point. However, it is not a good enough reason to avoid facing facts. In our free system, the correction for a problem of this type requires that leaders tell the American people the truth and earn their support for the necessary corrections.

Prating about our superior political system—which it is—or our superior economic power—which it is—as though either would help us much in a modern day Cuban missile crisis, or worse, is like suggesting that electric can openers and washing machines would contribute to the strategic nuclear deterrence or the NATO balance.

The argument as to whether the Soviets have superiority today or will have it in 18 months or 24 months is technically interesting, but not vital to the task at hand. The expectation is that they now have it or will have it. And, that expectation alone, in the minds of friends and foes alike, is already affecting our world. People act not only on the basis of what is but also what will be. We are already seeing the signs.

While we cannot be certain of it, I believe we can legitimately retain the hope that further negotiations could achieve a suitable agreement. Certainly, we can and should continue working toward that end.

I subscribe to the view that the leadership for effective national security and foreign policy decisionmaking can only be provided by the President. As a former Member of Congress, I recognize the frustration that members of the House and Senate can feel when they sense an absence of such leadership or disagree with executive leadership in these areas. In testimony before the joint committee on the organization of Congress in the mid-1960's, I testified to that effect, pointing out that the respective responsibilities were complex and not clear, given the many changes that had taken place in our world.

I recognize that just as individual members of the House and Senate cannot provide surrogate leadership in these areas, neither can the Congress as a whole. Attempting to micromanage the multifaceted relationships between the U.S. and 150-plus other nations from the Congress would be a disaster. Attempting to prescribe the detailed specifics of a 5-year defense budget approximating two-thirds of a trillion dollars, as you know, would not work. I recognize that, while the Congress has an unquestioned constitutional obligation, the correction for a difference of view with Executive leadership in these areas is obviously not to try to place the hands of each of the 535 members of the House and Senate on the nation's steering wheel and hope that we could successfully navigate through the difficulties ahead. For this reason, I am reluctant to recommend specific amendments to the SALT treaty, detailed adjustments to the apparent existing strategic doctrine, or specific defense spending proposals for the Congress to impose on the Executive. Rather, it has been my intention to express my concerns about existing doctrine, defense investment and aspects of the SALT II agreements, and offer some broad directions that might serve as a guide, recognizing that the Executive will need some leeway in moving in these directions.

WHEN DO WE KNOW SOMETHING

Free people can hear bits of evidence that suggest a process is occurring, but seem not to take full notice until a crisis occurs. When told a tornado is coming, some take action, but others defer precautions, wait, and then are surprised and regretful when it hits. New York City did not go bankrupt in a day. Most major events evolve over a period of time. Too often, only when the crisis is acute do people take action, even though considerable evidence was available well before.

In the 1930's the British and French—free people, decent people—could not help but see what was taking place in Germany, but the majority, their government leaders, and, therefore, the countries, behaved as though it would go away. It did not.

The world's reaction to Munich was, well done, a major turning point in history, a victory of the "peace forces" against the mad momentum toward war, a halt in the "race of arms" and "now, with thanks that good sense and reason have overcome emotion, there will be a growing partnership of all people in peace." History sees it differently, as a failure of leadership. The reality for us is that weakness in arms strength leads to weakness in diplomacy, a less stable world, and, in the extreme, a less peaceful world.

Today, we have a problem—not a Pearl Harbor or an invasion of Poland or France, but a serious problem coming fast upon us. The U.S. has slipped from strategic superiority to rough equivalence toward certain inferiority. Many knew it was coming. Many said so, yet this reality has still not fully registered on the American people. When it does fully register, they won't like it. We stand on the brink of inactions which could well inject a fundamental instability into the world equation and thereby place peace and freedom in unnecessary jeopardy. We are, by our behavior, by unilateral acts as free people, risking stability, risking peace, risking the fate of freedom. It is not classified. It is there for all to see. There is no excuse for not knowing it. The tornado is, unambiguously, coming.

As free people we are free to be wise and free to err. And we have done some of both over our history. The test of the survivability of a free people is whether it requires a cataclysmic event to make us realize a dangerously adverse trend, or whether we are wise enough to be willing to invest sufficiently to head off problems before they overtake us. The world—those who wish us well and those who do not—is watching anxiously to learn our decision.

Mr. Chairman, I am encouraged that America may now be waking up to the seriousness of the growing threat to peace. My hope is that we will get about setting our country back on the path toward strength and peace.

ATTACHMENT I—VLADIVOSTOK TO SALT II

The evolution from Vladivostok in 1974 to the pending SALT II proposals includes:

Ceiling on MIRVed launchers: The Vladivostok approach allowed the freedom-to-mix heavy bombers, MIRVed SLBMs, MIRVed ICBMs and long range air to surface ballistic missiles within the ceiling. The pending proposals keep the same ceiling of 1320 but establish one sub-ceiling of 1200 MIRVed ICBMs and SLBMs and a further sub-ceiling of 820 for MIRVed ICBMs. This could have the practical effect of constraining U.S. heavy bombers equipped with ALCMs to about 120. Further, it sets a total for MIRVed ICBMs beyond what U.S. planning would likely require. The changes could prove to be more advantageous to the Soviets than to the U.S.

Ceiling on launchers for heavy missiles: Under Vladivostok the Soviet Union was allowed 308 heavy missiles, which at that time were estimated to consist primarily of single warhead SS–9s. The estimates of U.S. intelligence then were that Minutemen should not become vulnerable to the Soviet ICBM first-strike force until close to the term of SALT II. Within the last two years U.S. intelligence has concluded that the Soviets will have this capability within the next two years or so. Logically, different intelligence estimates call for different treaty provisions.

The unilateral Soviet advantages of this heavy throw-weight force today has a new significance in view of the new intelligence assessment and the accessed Soviet progress achieved in the intervening period. In addition, the subsequent delay of the MX IOC, a decision not consistent with this new intelligence, exacerbates the problem.

Mobile basing for ICBMs: Under Vladivostok there was not a restriction on the testing or deployment of mobile ICBMs. I presume here that the old language in SALT I that could have interfered with mobile basing options would have been clarified in any final treaty. This has not been done in the current SALT II text and, the Protocol contains a ban on flight testing or development of launchers for mobile ICBMs which, I understand, could be worrisome with respect to some of the possible MX basing modes.

ICBM modernization: Vladivostok contained for the U.S. no significant restrictions on modernization of the ICBM force. The current treaty contains the so-called 5% rule which allows each side one new missile and modifications to existing missiles that do not exceed 5% in important parameters. In its effect, this provision is unhelpful to the U.S. in that it provides such modest limitations, and would permit the Soviets to deploy all of their new generation missiles. Further, there is the possibility that the American people could conclude that a cap on ICBM modernization has been achieved. It has not. As this Committee knows, apart from the reasonably wide band of uncertainty in verifying such percentage changes, a good deal can be achieved within them. For instance, Minuteman III was a significant improvement in reliability and capability over Minuteman II, while being close to the 5% parameter. Of course, Minuteman III was MIRVed and Minuteman II was not.

Backfire bomber: Vladivostok left open the question of limitations on the Backfire bomber, a weapon system that was then coming on stream. At that time there was debate between DOD and CIA about its range. Despite the fact that it is of intercontinental range, the current treaty provides no real restrictions on the Backfire. Instead, outside of the treaty, unsigned statements are apparently put forward that could have the effect of encouraging the American people to think that some significant limits on Backfire have been achieved. They have not.

Air launched cruise missiles (ALCMs): Vladivostok did not constrain air launched cruise missiles. The current proposals restrict their use to deployment only on heavy bombers and include for the first time "non nuclear" (conventionally) armed cruise missiles—a limitation having potential significance for the future, both to the U.S. and to our allies.

Sea launched cruise missiles (SLCMs): Vladivostok did not constrain sea launched cruise missiles. The protocol limits them to 600 kilometers in both nuclear and conventional roles. We can expect to be asked to pay a price in 1981 to drop this protocol.

Ground launched cruise missiles (GLCMs): Vladivostok contained no limits on ground launched cruise missiles. The protocol bans them over 600 kilometers in both their conventional and their nuclear roles.

Further, in considering these retrospective comments on Vladivostok, it should be emphasized that the provisions contained in that agreement were developed against the backdrop of a considerably different and more advantageous strategic outlook for the U.S.

Attachment II—Defense Trends

DEFENSE INVESTMENT

In the mid-1950's, defense outlays and non-defense outlays were approximately equal, at a level of $120 billion in 1980 dollars. Today, defense outlays proposed by the Administration are at roughly the same level, while non-defense outlays in the budget have climbed above $400 billion. Non-defense spending now exceeds defense spending by more than 3 to 1.

During the last ten years, Soviet expenditures have increased steadily, from a level in 1969 when they approximately equaled U.S. expenditures, to a point where the Soviets are outspending the U.S. by about $50 billion annually.

This Committee, in partnership with the Executive Branch, began to reverse those adverse trends in the FY 77 request made in January 1976. Although $3.8 billion of that request was cut by Congress, the final appropriation as passed did provide a real increase of 5.8% over the previous year. The FY 1978 request, the last Ford Administration budget, submitted in January of 1977, would have provided about 6.3% real growth over the growth budget of FY 77. Most of that real growth would have gone to starved investment accounts, primarily procurement and R&D.

Unfortunately, that goal was not achieved. The actual figure of FY 1978 was $7 billion below that request. The result was a no real growth budget, particularly as to the investment accounts. Again in 1978 with the submission of the FY 79 request, and despite the public perception that there was 3% real growth, the result was, in effect, a no real growth budget, particularly in the investment accounts.

In January 1979, the Administration again submitted what, in effect, is a no-growth budget. Again, the public impression has been that it would provide real growth. Upon reading the fine print, Congress has discovered that it was based on a 6.4% inflation rate, about half of the rate projected. The result has been, after a brief reversal of the prior adverse trend, in FY 77, the U.S. has now had, in reality, three years of no real budget authority growth and a real relative decline vis-a-vis Soviet investment for future capabilities.

MILITARY BALANCE

Given what has transpired, it should surprise no one that the slide in U.S. military capabilities relative to the Soviet Union is accelerating and moving the world to a less stable position. The disparities in the strategic balance are increasingly understood in the world. There have been differences in the euphemisms which various witnesses have used to describe this evolving inferiority, but informed opinion differs only between whether the U.S. will soon lose or has already lost strategic equality. The future is understood, unambiguously, to be one of U.S. inferiority.

Concurrently, there has been a marked shift in the balance of theater forces, again in favor of the Soviet Union. To cite but a few of the troubling statistics: The Warsaw Pact's tactical nuclear rocket forces now outnumber those of NATO by a margin of 6 to 1; in medium bombers by a margin of about 10 to 1; in dual-capable aircraft by a margin of almost 2 to 1; and in long-range tactical rockets by a margin of 4 to 1.

With regard to the theater nuclear forces, I would comment on a point of confusion on the so-called "forward based systems." Some have contended that the exclusion of theater nuclear systems from SALT was a significant "substantive" concession by the Soviets. It is true that we and our NATO allies did not want those forces considered in the bilateral negotiation. However, to suggest it was a "substantive" Soviet concession is, I believe, stretching the case.

The Soviets have roughly a 3 to 1 advantage in these longer range systems, even if one counts the French and British systems in Europe. In addition to the Backfire and SS–20 intermediate ballistic missile, they have substantial numbers of intermediate missiles, new Fencer bombers, and diesel ballistic missile submarines. All are excluded from SALT.

Outside of our SALT limited strategic weapons, the systems we have deployed in Europe that have operational capability to reach the Soviet borders are the F–111, based in England, and the attack aircraft deployed on two aircraft carriers, that, in some circumstances, could reach Soviet targets if the carriers risked moving close in. The rest of the dual-capable aircraft lack the range to fly the 700 miles from their forward bases to Soviet targets in an operational profile.

Excluding forward based systems from SALT, therefore, while favored by the U.S., and our allies, should not be viewed as a "substantive" concession by the Soviets. Rather, it was a recognition of the realities of the time that dealing with the clearly central systems would be a difficult enough task for all.

A disturbing shift now underway in the military balance is being brought about by the actions with respect to naval forces. The U.S. active fleet, while still larger in displacement, is today down well below 500 ships, compared to a larger number of roughly comparable Soviet ships.

I see nothing in our geostrategic circumstance to justify the recent program cuts in Naval shipbuilding from the approximately 150 ships, as submitted by the Ford Administration in its last five-year plan, to the fewer than 50 ships now being speculated to be in the plan to be submitted with the 1980 budget. I cannot see how the approach will permit the U.S. to safeguard U.S. and allied interests in the coming two decades.

DEFENSE SPENDING

The late Air Marshal Sir John Slessor has said:

"It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements of the social services. There is a tendency to forget that the most important social service that a government can provide for its people is to keep them alive and free."

It is, in my view, nonsense to contend that the United States, with a $2 trillion GNP, cannot spend more than its current 5% on defense, or the 4.2% of GNP if one excludes retirement costs. This is the lowest percentage of GNP for defense since 1938. Our country can afford whatever growth in defense investment is necessary to ensure peace.

To suggest, as some have, that the necessary increase cannot be prudently spent is equally invalid. With up to 20% of U.S. shipyard capacity looking for future work because of the recent naval ship cancellations, with the low production runs of current aircraft procurements, with the recent statements of the immediate needs by General Ellis of the Strategic Air Command, with the listing of conventional force needs in operations and maintenance, as recently outlined by the Chairman of the Joint Chiefs of Staff, with the detailed needs as presented in the Ford Administration's five-year plan, with the reductions in purchasing power due to inflation, with the more rapid Soviet advances unanticipated by the U.S. intelligence, and with the enumerated theater requirements in the still valuable Nunn-Bartlett report, the specific uses for the funds are reasonably clear.

I have listed two factors which resulted in a defense investment shortfall totaling roughly $40 billion from what was considered essential in January 1977:

Shortfalls—due to funding levels and inflation—between the Carter and Ford Administration budgets; and

More rapid advances in Soviet capabilities than had been estimated by U.S. intelligence.

The U.S. defense capabilities such a sum would have provided, are significant. For example, the Rand Corporation has estimated that $100 billion (the shortfall between Soviet and American strategic spending since 1973), if it had been provided for military investment, would have funded all of the following:

"The entire B–1 program; the baseline M–X program (missiles and shelters); all of the currently programmed Trident submarines and missiles; the roughly 7000 XM–1 tanks we now plan to acquire, together with a matching number of infantry fighting vehicles and the once-planned buy of AMST's to provide them with intra-theater mobility; and still left enough to buy all of the F–14's, F–15's, F–16's, F–18's, and A–10's now planned for Air Force and Navy tactical air modernization."

Such programs, while not specifically recommended by anyone, would have sufficed to modernize all three legs of the Triad at once, strengthen U.S. ground combat capability, and modernize Air Force and Navy tactical power.

The $40 billion shortfall in defense investment, had it been available, would have paid for roughly 40% of such a level of effort. The failure to fund the $40 billion shortfall must be seen as denying the U.S. capabilities of comparable value.

U.S. DEFENSE REQUIREMENTS

Given a determination to make up the approximately $40 billion shortfall that has occurred since January 1977, the following areas are logical for consideration, but certainly not inclusive:

Improved readiness, catch-up on base maintenance and operational costs;

RDT&E for accelerated development of strategic and general purpose force modernization, with focus on survivable command and control;

Strategic force procurement and military construction, including a B–1 equivalent;

Consideration of the deployment of MM III in mobile mode pending MX deployment;

Acceleration of programs to enhance strategic mobility;

General purpose forces, Army armor;

Tactical aircraft, including VSTOL;

Airlift and sealift capabilities;

Combatant and support ships;

War reserves to build greater general purpose forces sustainability; and,

Theater nuclear force modernization, including deployment of the enhanced radiation weapon.

These are but examples. The task is too serious to be treated in any manner other than rigorous analysis by those charged with the responsibility for providing for our national security.

As Somerset Maugham once wrote:

"If a nation values anything more than freedom, it will lose its freedom; and the irony of it is that if it is comfort or money that it values more, it will lose that too." ●

SALT II STATEMENT OF DONALD RUMSFELD

● Mr. TOWER. Mr. President, this morning the Armed Services Committee had the pleasure of hearing once again from former Secretary of Defense Donald Rumsfeld. His statement goes to the heart of the SALT II debate. We have neglected our Nation's defenses in hopes that arms control agreements would make planned defense investment unnecessary. Faced with a firm Soviet negotiating position made intractable by the relative decline of U.S. military strength, the United States has accepted a SALT II treaty which would have been totally unacceptable only a few years ago.

What Secretary Rumsfeld documents is a willingness to lower the standards by which we evaluate the military balance and arms control agreements such as SALT, instead of meeting the challenge of maintaining a true balance, wherein the U.S. forces remain the equal to Soviet Forces. Secretary Rumsfeld recognizes that the U.S. attempts to maintain balance through both arms control and defense programs. He recognizes that the SALT II treaty before us does little to enforce the strategic balance and he recognizes that we are not maintaining the defense program which was viewed as necessary a few years ago, even with an effective SALT treaty.

I would remind my colleagues who express concern over calls for a 5-percent increase in the defense budget for fiscal year 1981, that the Presidential request for fiscal year 1978 presented by then Defense Secretary Rumsfeld called for a real increase of 6.3 percent and the previous year's request had called for an increase of 5.8 percent. At that time, we dedicated 5.4 percent of our gross national product to defense. Today it is only 4.8 percent. That is a far cry from the pre-Vietnam level of 8.2 percent and even further from the Soviet level of 12 to 14 percent, or more.

Mr. President, I view the testimony of the Honorable Donald H. Rumsfeld to be among the most significant received by the Senate Armed Services Committee. I believe that his concerns about the impact of SALT on the NATO alliance should be carefully considered, after all he is a former Ambassador to NATO. I ask all of my colleagues to take the time to study Secretary Rumsfeld's testimony.●

CHESAPEAKE REFINERY

● Mr. HARRY F. BYRD, JR. Mr. President, the Washington Star of yesterday contained an interesting editorial on the action of the Department of the Army in approving the Hampton Roads refinery which will be located on the Elizabeth River in Portsmouth, Va.

There is growing recognition that the energy crisis facing the United States requires more expeditious processing of actions necessary in developing and constructing energy producing facilities.

I ask that the Washington Star editorial concerning his decision be printed in the RECORD.

The editorial follows:

REFINERY ON THE CHESAPEAKE

Secretary of the Army Clifford Alexander has issued a decision that, one of these days, may lead to construction of an oil refinery at the mouth of Chesapeake Bay.

We say one of these days because a challenge already has been filed in federal court against Virginia water-pollution permits for the Portsmouth project, and other environmental battalions are loading their blunderbusses for a legal assault should Mr. Alexander give—as we imagine he will and think he should—final approval. Bruce Terris, an attorney representing a citizens' group opposing the refinery, for instance, called Mr. Alexander's decision "dismal," but added, "It's an excellent one to litigate."

In the decade since the Portsmouth project was broached, it has become a paradigm of conflicting interests in emotional collision. Opponents have contended, rather more robustly than we think the evidence will bear, that a Hampton Roads refinery has the potential for a catastrophic insult to the Chesapeake Bay ecology. Proponents have argued that this claim is dramatically overstated and that the refinery's benefits significantly outweigh the risks.

Before Mr. Alexander issued his preliminary approval last week, we said that there was a sliver-thin margin in favor of the refinery. After reading the rigorous evaluation prepared for Mr. Alexander, and on which he based his decision, we think a convincing case for the refinery has been demonstrated.

"I believe that the refinery and the Chesapeake Bay can coexist free of disastrous implications," said the secretary, whose authority derives from the Corps of Engineers' jurisdiction over dredging in interstate waterways. Mr. Alexander had planned to announce his decision by Aug. 1, but said the 2½-month delay was "because the issues are so sensitive and the environmental concerns so great."

Final approval awaits a procedural "consultation" between Mr. Alexander and Interior Secretary Andrus, whose department has maintained its opposition to the Portsmouth project. That should be a relative formality after the interminable time and governmental process involved in the case. The Environmental Protection Agency also is on record against the refinery, with the Departments of Energy and Commerce, the Corps of Engineers and the state of Virginia supporting construction.

We don't intend to chronicle the entire war here, but it is worth noting that the Portsmouth refinery would be the first built on the East Coast since 1957, and it would be designed to produce low sulfur products, such as unleaded gasoline. The refinery would probably also reduce import of refined products from foreign sources, a critical aspect of national energy policy.

One of the reiterated arguments of the refinery opponents is the environmental suitability of the Elizabeth River location: The opponents' wave high a feasibility study last year by an interagency task force on alternate sites which put Portsmouth at the bottom of a list of 17 possibilities. Secretary

Alexander begs to differ (the Army's evaluation report says there were "gross inconsistencies" in the task force's methodology). The Portsmouth site, "when viewed in its entirety, is one of the best locations on the East Coast for a refinery or terminal complex," he said He also said the refinery should meet the highest state-of-the-art standards for safety, efficiency and environment safeguards; these include a permanent oil-spill containment system that will surround each tanker or barge loading or unloading.

That does not, of course, absolutely preclude ecological perturbations; small oil spills will be inevitable and a severe spill remotely possible. But even a major accident need not irreparably damage the environment.

Ten years is ridiculously long for decision on a project like the Hampton Roads refinery. Indeed, the episode has given impetus to pending congressional "fast track" legislation that could go too far in brushing aside state and federal laws to expedite energy-related projects.

There has been a calcification of perspective on the part of the refinery opponents, a "worst case" rigidity that is not infrequently embraced by environmentalists in episodes like this one. Secretary Alexander has done a commendable job of balancing the delicate components of the Portsmouth dispute. So complete by this time is the record that we trust the courts can dispose of the inevitable lawsuits with the dispatch they deserve.●

FUEL ASSISTANCE

● Mr. **JAVITS**. Mr. President, I submit for the Record an article from the New York Times of October 10 entitled "Heating for Poor Seen as Costlier Than Predicted" to illustrate again the urgency of the need for the Congress to enact a fuel assistance program for this winter.

The administration is persisting in its policy of holding $1.2 billion of the $1.6 billion the President has recommended be spent a virtual hostage to enactment of an excess profits tax bill. Mr. President, we need fuel assistance now. As the Times article points out—New Yorkers' fuel bills will more than double this winter compared to last winter. And, since these figures represent averages of downstate low-income apartment dwellers together with upstate rural homeowners, they drastically understate the costs incurred by families near the Canadian border who may have to spend an incredible $1,500, or 25 percent of annual income on heat alone.

The legislation I filed with Senator Henry Jackson, like the legislation filed by Senators Williams and Nelson, are all now being considered by the Senate Human Resources Committee. Each would establish a permanent fuel assistance program, but none can be implemented to help soften the blow of this winter's bills. We must, rather, use existing authorities to channel $1.6 billion to States and individuals for a combination of crisis assistance payments for fuel and extra checks to welfare recipients. The Department of Health, Education, and Welfare tells us that it will take 80 days after funds are appropriated to process checks. Even if both Houses of Congress acted today, Mr. President, and they will not, no relief would be delivered to the poor until New Years Day.

A crisis of life and death proportions is confronting the poor in areas like Buffalo and Watertown, N.Y. But the snow fell today in Washington, D.C.—setting a record unsurpassed since 1892—and it should serve as a grim reminder to us all that low-income families from Virginia to Maine and from Washington State to Washington, D.C., need help immediately and that we can delay no longer.

The article follows:

HEATING FOR POOR SEEN COSTLIER THAN PREDICTED

(By Diane Henry)

A new study conducted for the New England Congressional delegation suggests that the need of the poor for financial help to heat their homes this winter may be far greater than anticipated by Congress and officials in New York, New Jersey and Connecticut.

The study, by the Economic Research Office of the caucus, to be released today, estimates that in New York State alone the increased cost of heating oil for the poor will total $230 million.

By contrast, many experts expect Congress to pass an emergency fuel assistance program providing $250 million to $400 million for the entire nation this winter.

The study, which will be submitted to the delegation today, attempted to measure the effect of increases in home heating bills for low-income families state by state.

STUDY TO AID LOBBYING EFFORT

The study estimates that Connecticut can expect $8 million under a $250 million aid program. Governor Grasso has estimated that the state's poor will need $21 million.

Officials in New Jersey estimated that the state's share of a $400 million emergency aid package would amount to $12 million, while the cost of assisting the eligible poor could be 10 times that figure.

A spokesman for Governor Carey said New York State was expecting between $20 million and $40 million from Congress to help meet the fuel emergencies of the poor this winter.

Nationally, the study estimated that low-income families would pay $1 billion more this year for fuel oil.

Members of the New England Congressional delegation have been lobbying for more emergency fuel financing, and the study was commissioned to aid in that effort.

The study assumed that fuel would cost 90 cents this season. Last year, the Federal emergency aid program was financed with at $200 million, when heating oil was selling at about 48.9 cents a gallon.

$1.2 BILLION CARTER PROPOSAL

As the heating oil season begins, Congress has a variety of proposals before it to help people pay their heating bills, including President Carter's $1.2 billion proposal for low- and middle-income families. But most experts and state planners are only counting on approval of $250 million to $400 million in emergency fuel assistance for the nation.

Some are skeptical because President Carter's program is tied to the "windfall" profits tax on the oil industry, which has an uncertain future in Congress.

Specifics of the emergency fuel assistance program are still to be worked out, but it appears that those eligible for the Federal funds would be families at 125 percent of the poverty level or below. For a family of four, the cutoff point would be an income $9,000 a year.

The governors of New York and Connecticut have indicated that they may call special legislative sessions to work on heating oil problems, including the hardships for the poor. In New Jersey and New York, the governors have established task forces to study the problem and the role of the state.

Approximately 600,000 poor families in New York depend on oil for heat. The study for the New England caucus estimated an average increase of $380 in fuel for those families this year, bringing their oil bills to $930.

Last year, poor families using oil heat in New York spent an average of 13 percent of their budgets yearly on heat, and this year the figure is expected to rise to 20 percent, according to the study. If people are unable to spread their payments over a 12-month period, then poor families, according to the same data, will have to use 40 percent of their income for heat during the heating season.

Joel Eisenberg, director of the economic research office, said he had not broken down the data for cities, but 1977 census figures show that 1.9 million poor people in New York City, or just over a quarter of the city's population, might qualify for Federal fuel help.●

MINNESOTA TRADE POLICY CONFERENCE

● Mr. **DURENBERGER**. Mr. President, on August 15 Congressman Frenzel and I sponsored a trade policy conference in Bloomington, Minn., to hear former Deputy Special Trade Representative Alonso L. McDonald discuss the results of the multilateral trade negotiations (MTN) and present the current foreign trade policies of the administration. In addition, several distinguished businessmen in Minnesota presented to the conference an evaluation of incentives and disincentives of present U.S. trade policies and recommendations for change.

Congressman Frenzel and I organized this conference because we are convinced that the MTN must be followed by a positive and coordinated Government policy toward exports. There is a critical need to convince businessmen and the public that this country must increase exports to maintain its standard of living. Conversely, it is important that we have the recommendations of the business, labor, financial and agricultural communities on how our Government can develop a comprehensive and coordinated policy to stimulate U.S. exports.

In order to summarize these recommendations, each participant at the conference was requested to complete a questionnaire. These questionnaires have now been tabulated and I would like to share the results with my colleagues.

Mr. President, it is interesting to note that my constituents thought it was very important to strengthen the Department of Commerce to support exports, to revise our laws to permit trading companies to organize efforts of small firms, to provide tax incentives to export, to expand our programs of export financing, and to reduce certain export disincentives.

Mr. President, I am currently preparing legislation which will address many of these issues.

Mr. President, I ask that the Minnesota trade conference questionnaire, with tabulated response, be printed in the RECORD.

The material follows:

MINNESOTA TRADE CONFERENCE QUESTIONNAIRE

The Minnesota Trade Conference is designed to bring government and business together to improve the trade policies of our country. As your representatives, we want to carry your ideas back to Washington. Please take a few minutes to fill out this questionnaire and return it to us: Senator Dave Durenberger, 353 Russell Senate Building, Washington, D.C. 20510, or Congressman Bill Frenzel, 1026 Longworth House Office Building, Washington, D.C. 20515.

Thanks for your help.

[Percentage in parenthesis]

	Very important	Important	Not important
Executive branch organization to support exports:			
1. New Department of Trade incorporating most trade-related government activities	39 (50)	19 (24)	20 (26)
2. Administration's proposal to strengthen both Commerce and STR	44 (58)	28 (37)	4 (5)
3. Frenzel's proposal to strengthen Commerce	66 (81)	14 (18)	1 (1)
4. Other			
Organizing U.S. industry and agriculture to export:			
1. Revision of Webb-Pomerene Act to expand the scope of permissible activities by export trade associations	21 (31)	40 (59)	7 (10)
2. Revision of law to permit trading companies to organize exporting efforts of small firms	43 (53)	32 (40)	6 (7)
3. Other			
Redirecting and expanding U.S. export promotion programs:			
1. Increased funding to Department of Commerce to expand export promotion efforts toward new-to-export and new-markets firms	23 (31)	33 (44)	19 (25)
2. Increased overseas market information and direct assistance abroad	36 (43)	37 (45)	10 (12)
3. Provide loans to small firms and export associations to cover initial marketing costs in new markets and for new-to-export companies	26 (33)	31 (40)	21 (27)
4. Other			
Expanding efficient incentives for R. & D. innovation and exports:			
1. Retention of Domestic International Sales Corporation (DISC) until another more efficient tax incentive can be put into effect	58 (72)	21 (26)	2 (2)
2. Enactment of a value-added tax (VAT) with rebates for exports	17 (23)	27 (37)	29 (40)
3. Reinstating the 1976 provisions of sec. 911 of the Internal Revenue Code relating to the exclusion of income earned abroad	58 (73)	17 (22)	4 (5)
4. Investment tax credit for research and development expenditures	63 (78)	16 (20)	2 (2)
5. Accelerated depreciation for capital equipment embodying new technology	60 (74)	19 (23)	2 (3)
6. Other			
Expanding export financing:			
1. Increase in Export-Import Bank's direct loan authority	41 (55)	31 (41)	3 (4)
2. Increased flexibility in Export-Import Bank programs such as offering performance bond guarantees, financing for pre-feasibility studies, and increased local and foreign content financing	35 (48)	33 (45)	5 (7)
3. Make Export-Import Bank and Commodity Credit Corporation (CCC) support available, subject to periodic review to all countries with which it is U.S. policy to encourage trade	28 (39)	36 (51)	7 (10)
4. Provide low interest, long-term loans to poorer developing countries for capital goods imports	24 (34)	30 (43)	16 (23)
5. Other			
Reducing U.S. Government disincentives to exports:			
1. Revision of the Foreign Corrupt Practices of 1977 to provide American business with greater flexibility in dealing with foreign competition	53 (66)	18 (23)	9 (11)
2. Revision of the anti-boycott legislation and conformity of tax regulations with Commerce Department regulations	36 (49)	32 (43)	6 (8)
3. Abolition of the President's Executive order requiring environmental reviews of certain U.S. exports	44 (56)	30 (38)	4 (6)
4. Other			

TAXFLATION IS NOT THE WAY TO FISCAL DISCIPLINE

● Mr. **DOLE**. Mr. President, the Office of Management and Budget is adhering to the administration's goal of balancing the budget for fiscal year 1981. OMB Director McIntyre expects to be able to propose a balanced budget despite tightening by the Federal Reserve, which could slow down the economy. One reason that OMB believes the budget still can be balanced is that tax receipts to the Government are being bloated by inflation.

The administration deserves credit for sticking to its guns on balancing the budget, but we will have to wait and see whether it actually makes good on its promises. It is much easier to promise spending cuts than to propose specific items to be reduced or eliminated. But it is extremely disappointing to hear that the administration is, as always, counting on bloated Federal tax receipts to help reduce the deficit. These additional tax revenues are the result of inflation, of the Government's past failures to control spending. A balanced budget that relies on those revenues to eliminate the deficit is a deception on the American people.

Last year the Deputy Assistant Secretary of the Treasury for Tax Analysis, Dr. Emil Sunley, testified before the Subcommittee on Taxation and Debt Management. Dr. Sunley's topic was tax increases that are caused by inflation. According to Dr. Sunley, in inflationary periods, income tax receipts rise about 1½ times as fast as the rate of inflation. When inflation is running at double-digit rates, that amounts to a staggering increase in the tax burden on the American people. If inflation continues to run at a rate in excess of 13 percent this year, that would mean an additional $19½ billion in tax receipts for the Government, out of the pockets of the American taxpayer. Yet, unless the taxpayer keeps a close watch on what is going on, he or she may not realize what has happened, although it will be apparent that tax liability has increased.

This has been going on for years, and it is no way to balance the budget. If Congress and the administration are unwilling to make necessary spending reductions, they should have to take the political responsibility for increasing taxes. As it is, there is no political cost to allowing automatic, inflation-induced tax increases. Yet politicians can take credit for reducing the deficit without acknowledging that they are doing it by increasing the tax burden on the American people.

Mr. President, the Tax Equalization Act, S. 12, would clarify this situation for the American people and force the Government to face up to its fiscal obligations. The Tax Equalization Act would change the income tax brackets each year to compensate for the effects of inflation on income. Instead of increasing the tax rate on inflated nominal income, the progressive income tax would correspond to real income as measured by purchasing power. Government would have to decide the best way to balance the budget, and would be accountable to the people for its decisions.

The Senator from Kansas introduced S. 12, not merely to dramatize the problem of taxflation, but in the expectation that the Congress would take this opportunity to make a truly meaningful reform of our tax system. I urge my colleagues to support tax equalization because it is in everyone's interest to make this change.●

NATIONAL PORT WEEK

● Mr. **BOSCHWITZ**. Mr. President, seeing that this week, October 7–13, has officially been proclaimed National Port Week it is with admiration and pride that I salute the port of Duluth, Minn., its director Dan Hellbergs and his staff.

The port of Duluth is situated on Lake Superior at the head of the Great Lakes-St. Lawrence Seaway, and is an imperative link between the upper Midwest and the world. In an average 10-month season, over 2,000 ships in bulk trade will be accommodated and more than 40 million tons of international and domestic cargoes will be exported. With the extensive exporting that takes place annually at Duluth, the fact that it has been consistently ranked as one of the top 10 ports in our Nation, is very remarkable. For a port to operate efficiently and smoothly is no stroke of luck, but instead a stroke of genius. I sincerely want to extend my congratulations to the director of the port, Dan Hellbergs and his staff for the job they have done.

Because of its location, in the heartland of our Nation, the Duluth port is not only essential to Minnesota, but must serve the surrounding areas such as Wisconsin, North and South Dakota, Iowa, Nebraska, Wyoming, Montana, Colorado and even parts of Canada. With a trade region this vast, the port must be versatile. It is important that Duluth is able to equally accommodate, not only the highly industrialized cities, but also reaches out to the midwestern agriculture community. Again, to reiterate the notion, that it is mandatory to achieve a synthesis of transportation, storage capacity and maintenance of facilities. To be able to orchestrate such process requires my utmost admiration.

Duluth has long been a leader as a bulkport, specializing in grain, coal, and iron ore. Because of its close proximity to the famous Minnesota iron ore mines, the port has become the largest iron ore shipping port in the world. The Nation's steel producing companies rely heavily on the 30 to 50 million tons of iron ore that leave the docks of Duluth annually.

Coal has become yet another major bulk commodity of the port. With an increased market for low-sulfur coal, the mining industry of Montana and Wyoming have found Duluth both efficient and easily accessible. More than 64,000 tons were shipped in 1977, and this coming season should prove even more productive.

Grain still remains the Duluth port's principal export. Eight privately operated elevators handle all of the spring wheat, Duram wheat, corn, barley, oats, soybeans, flax, and rye that pass through the port. It has a total storage capacity of more than 70 million bushels and also has 14 loading berths. During an average shipping season more than 170 million bushels of grain are exported for use worldwide.

The importance of the Duluth port is not only international, but also regional. Some 7,000 people in Duluth alone depend upon the port as their livelihood. In dollars, this would be in the neighborhood of $87,750,000.

With average revenue annually at about $44 per ton, the total impact of general cargo is more than $4 million a year.

Bulk shipments added an additional $108 million, bringing the total for the 1976 season up to $112 million. The regionally related jobs and industries throughout Minnesota and the upper Midwest, make the port of Duluth an economic lifeline of our fine Nation.●

KARL MUNDT—THAT WONDERFUL MAN FROM SOUTH DAKOTA

● Mr. GOLDWATER. Mr. President, it does not seem possible that 5 years have gone by since we lost that wonderful man from South Dakota, Karl Mundt. It was my pleasure to have met him the first day I came to the Senate and my continuing good fortune to work under his guidance throughout the years of our friendship. He was one of the most intense, knowledgeable men I have ever known in this body. He was dogged, determined, and straight to the point. We have missed him, we have missed his kind of courage, and I appreciate this opportunity just to pay my respects to the memory of this wonderful man.●

EDUCATION-WORK

● Mr. JAVITS. Mr. President, this month's issue of "County Employment Reporter," a publication of National Association of Counties Research, Inc., contains a very informative article detailing the positive experiences of four local CETA programs in helping to build better bridges between schools and workplaces.

As I have stated on numerous occasions before, here in the Senate and elsewhere, one of our greatest hopes for relieving the onerous burden of youth unemployment in our country is to develop local partnerships between CETA prime sponsors and local education agencies. This was the idea behind the "Javits-Humphrey 22 percent education-work set-aside" in the 1977 Youth Employment and Demonstration Projects Act (Public Law 95–93), to wit: That in-school work experience or work-study programs operated on the basis of joint agreements could do much to provide needed exposure to the world of work. The experience in the cited localities: In Delaware, Kansas, Utah, and California, demonstrates that such efforts can be very productive and can provide an important new bridge from school to work for our young people.

I hope my colleagues will read this very instructive article and begin to consider how we might work to strengthen further this approach to youth employability development in the CETA title IV reauthorization early next year.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

CETA/LEA COLLABORATION

Collaboration between CETA prime sponsors and local education agencies (LEAs) has become an important and viable element in delivering services to inschool youth under CETA's Youth Employment and Training Program (YETP). Any new program has start-up problems, but, since the passage of the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), prime sponsors and LEAs have made signficant inroads in developing cooperative approaches to serving youth. CETA/LEA coordination has resulted in improved communication and linkages, improved program quality, and the provision of services to greater numbers of needy youth.

During the past year, Kirschner Associates, Inc., under contract with the Office of Career Education, U.S. Office of Education, Department of Health, Education and Welfare, has researched the nature, problems and successes of CETA/LEA collaboration. The investigation involved a series of fifteen mini-conferences held in Washington, D.C., a series of ten regional meetings and nine case studies on successful programs conducted through LEA agreements.

The mini-conferences, conducted during the spring of 1979, allowed CETA and LEA representatives to identify problems, suggest solutions and share successful program ideas. CETA and LEA staff from five jurisdictions which had been identified as operators of successful YETP in-school programs attended each conference.

At each regional meeting, ten of the issues most often identified at the mini-conferences were discussed in depth, in order to offer possible solutions and assistance to a wide range of CETA and LEA collaborators. Outlined below are several of the concerns which were identified and possible solutions.

Excerpts from four of the nine case studies are then presented. These studies exemplify the range of options available for YETP in-school programs in several types of jurisdictions.

Early in 1980, the Office of Career Education will produce a series of monographs based on the mini-conferences and regional meetings. For further information, contact Dr. Kenneth Hoyt, Director, Office of Career Education, U.S. Office of Education, DHEW, Room 3100/R.O.B. 3, 7th and D Streets, S.W., Washington, D.C., 202/245-2584.

CRITICAL ISSUES

Agendas for each mini-conference were determined by the participants. At the beginning of each conference, Dr. Hoyt announced: "We begin with a blank piece of paper. You determine the topics and substance of our discussion." Participants then identified problems and selected four or five issues for further discussion.

Although over 500 issues were identified, they may be categorized into four major areas. Following is a list of the four problem areas, with subcategories, and some of the possible solutions suggested by conference participants.

Authority and responsibility in LEA/prime sponsor agreements

How can we untangle the YETP "red tape" and improve the quality of YETP reporting and services so that the program can more effectively reach youth?

Reevaluate the total educational process so that goals can be stated in terms of development employability skills.

Develop measures of "employability," rather than "employment." DOL forms call for numbers of participants who become employed but do not recognize the development of employability skills.

How can we solve the essential startup problems that need to be solved in LEA/prime sponsor agreements?

State education officials should provide information on a continuing basis to LEAs to explain the LEA's role and responsibilities in the CETA system.

Prime sponsors should maintain close and continuous contact with LEAs to offset possible problems.

DOL should provide more lead time for planning to prime sponsors so they can avoid the "crisis situation."

Training should be offered to LEA representatives to apprise them of their responsibilities and the role of the prime sponsor.

Resolving fiscal year differences between LEA's and CETA

How can we overcome the difficulties posed by fiscal year schedule differences between LEAs and USDOL?

Move the request for proposal process back so that contracts can be awarded in June with program startup October 1. The contract award would be subject to the availability of federal funds.

In some cases, LEAs may contract on a "sole source" basis, thus eliminating the need for an RFP process.

Prime sponsors may write a one-month contract for September using funds in their current fiscal year for start-up costs in the LEA's next fiscal year.

LEAs may carry over funds for start-up purposes as long as they are properly accounted for and do not represent an unreasonable percentage of the total grant.

How can we establish adequate lead time for planning YETP efforts?

Lobby for a forward-funding cycle for CETA.

Institute a forward-planning cycle, using a conservative funding estimate of 90 percent of the previous year's funding.

Have youth councils establish priorities for the coming fiscal year early and notify LEAs of the intent to fund.

Fitting YETP into the education system

How do we effectively resolve terminology problems between prime sponsors and LEAs?

Emphasize results of education as a common denominator.

Extend the requirement for local agreements to the federal level, i.e., require agreements between DOL and HEW so that terminology problems can be resolved at the top.

Prime sponsors and LEA representatives should look at YETP regulations together to reach a common meaning at the local level.

How can CETA prime sponsors and educators communicate their basic philosophies to each other and then reconcile their philosophical differences?

YETP should be considered as an extension of the regular school program.

State education agencies should take an active role in CETA/LEA collaboration.

Competition between prime sponsors and LEAs should be avoided; directives from the federal level are needed to deal with this problem effectively.

Someone from the education community, such as a career education coordinator, should be used as a "shoe-horn" to aid the prime sponsor in dealing with schools.

CETA planners and LEA representatives should work together to plan and develop in-school programs.

How do we overcome educators' resistance to granting academic credit for YETP participation?

Schools can devise career-related courses, e.g., in English and math, which meet academic competency requirements.

Discover the reasons for resistance and attack those. The provision of academic credit for YETP participation may require anything from local school board approval, to the use of certified instructors, to a change in state legislation.

Look for alternatives. For example, in California, "elective" rather than "academic" credit may be awarded for YETP participation.

How can we integrate YETP into a master plan for career education?

Identify staff who are familiar with both CETA and LEA programs. Such staff could act as resource people who can suggest ways to link the CETA effort with existing LEA programs.

Conduct workshops to each LEA representatives about CETA and teach CETA staff about LEA programs, especially career education.

Explore alternative methods of providing staff for the YETP/career education effort, including PSE and funding through education legislation.

Evaluating YETP programs

How can we establish a valid data base for evaluating the YETP effort?

Develop at the federal level a general "cookbook" guide to the evaluation of YETP, with flexibility for local operators.

Develop measures for the employability skills called for in "transition services" and include them in a YETP curriculum.

Develop measures around expected results for participants, such as staying in school.

Provide for follow-up on YETP participants.

Make provision in the LEA agreement for the cost of program evaluation.

NEW CASTLE COUNTY, DELAWARE

Both Olivene Brown and Doug Bivens are high school seniors in the New Castle County public school system. Up until a year ago, both Olivene and Doug faced the prospect of graduating from high school without any assessment of their own skills and career interests, without any career exposure to the work world, and without the job preparedness skills so essential to finding a job in today's labor market. It was likely that Olivene and Doug's high school diplomas, symbolic of academic achievement, would not have prevented them from joining the 40 percent of minority youth who are unemployed.

Fortunately, as a result of the Youth Employment and Demonstration Project (YEDP), the future for both Doug and Olivene has brightened considerably. Olivene is now receiving subsidized allowances at her work assignments with the Coalition of Minority Contractors and plans a future career in accounting.

"My counselor helped me recognize my own skills and career interests in accounting. However, I also lacked work experience and self-confidence. This program has given me the exposure to bookkeeping and accounting that you cannot always get in school. More importantly, it has given me the confidence to go out and find a job on my own."

Doug is now starting a preparatory training program in welding at the Wilmington Skills Center. "The program has given me the chance to decide what I intend to do with my life. It is now my responsibility to take advantage of this opportunity."

There are 300 youth in New Castle County, most of them high school seniors, who are recieving similar positive experiences as those cited by Olivene and Doug. The Youth Employment and Demonstration Project (YEDP) funded through the Youth Employment and Training Program (YETP) provides intensive counseling, training, placement, and follow-up services to high school seniors and other youth facing barriers to employment. These services help young people find career-oriented employment and/or entrance into formal training programs leading to full-time unsubsidized employment.

Bill Kearney, coordinator of the project for the New Castle County Vocational-Technical School District, explains it another way, "The purpose of the Youth Employment and Demonstration Project is twofold: to assist high school seniors to assess their needs, skills, and career interests and to teach these youth how to market these skills appropriately to match their job aspirations."

Prime Sponsor/Local Education Agency relationship

In 1977, the defunding of Wilmington's Neighborhood Youth Corps In-School Program symbolized the growing schism between prime sponsors and local education agencies. However, the passage of YEDPA in the fall of 1977 and a growing awareness among state political, community, educational and business leaders of the need for comprehensive services for graduating seniors sparked a new spirit of cooperation between prime sponsors and local education agencies.

This spirit culminated in the birth of the Youth Employment and Demonstration Project. Now in its second year, the YEDP project, administered by the New Castle County Vocational-Technical School District, with $306,000 from the Wilmington and New Castle County prime sponsors, provides career assessment, counseling, exposure and placement services to 300 youth.

Program design

A carefully planned sequence of steps has been designed so that, in less than a year, a young person will become fully employable in a job that matches career interests:

Screening and orientation

Conducting an interest inventory using the American College Testing Program

Interpretation of test results to determine career interests

Career counseling

Two-week exploration experience

Ten-week participation in a subsidized vocational exploration program worksite or a preparatory skill training program

Unsubsidized job placement.

One year follow-up.

Recipe for success

The YEDP Program works not only because it embodies the spirit of YETP by providing comprehensive services for in-school youth through a prime sponsor-LEA agreement, but because it takes the concept of career education and puts it into practice. The following factors contribute to the success of the YEDP project:

Quality of the staff

The quality of the program is primarily a reflection of the quality of the staff. All of the staff left secure jobs to work for an untested program that was originally funded for only six months. Yet the staff created a team spirit that produces positive results and maintains high staff morale. Not a single staff member has left the program since it began one and one-half years ago.

Official status for the staff

The staff, which consists of the project coordinator, four and one-half counselors, three and one-half job developers, and a secretary, are all employees of the New Castle County Vocational-Technical School District. As employees of the school district, the program and staff are better accepted.

The three Cs

The YEDP Program was carefully put together with broad based support from political, business, community and educational leaders. Martha Bachman, a member of the YEDP Advisory Committee and board member of JDG, says, "In Delaware, we put the three Cs of Coordination, Cooperation, and Commitment into practice in order to build program support and ensure program success."

Institutional adaptability

Within the same political subdivision, two prime sponsors and two school systems were able to join forces to make the program work.

Putting career education into practice

As a result of YEDP there is cross-fertilization between the classroom and the workplace; the broader community is being used in the educational process; diversified educational opportunities are available for enrollees within their present school; students explore a variety of career areas so that they are better able to make sophisticated career choices; students receive academic credit for work experience.

It is no small miracle that both Olivene and Doug can now point to the future with greater confidence and certainty in their own potential as productive, responsible members of the working community.

JOHNSON, LEAVENWORTH CETA CONSORTIUM, KANSAS

In high schools in Johnson and Leavenworth counties, career education and career decision-making have received an enormous boost through YETP. Bill Studyvin, director of vocational education for the Shawnee Mission Unified School District and coordinator of the Career Development Center, says that the goal of both career education and YETP is providing students with tools to make their own career decisions.

Through YETP, the career development center concept has been expanded to other school districts in the two-county area and career development services are being provided for a wide range of students—CETA-eligible as well as college-bound youth.

Career education complements the primary aim of education by lowering the barrier that isolates much of education from one of the largest dimensions of life—work. As a career education teacher in Shawnee Mission says, "It is a strange and never-intended situation that tens of thousands of dollars in public funds will be invested in providing one young person with years of preparatory higher education, and so little will be done about another's moving directly from high school to work." Suffering from occupational illiteracy, many youth find it difficult to visualize either a career goal or a path to attaining it.

In ten schools in Johnson/Leavenworth counties, Kansas, ninth and tenth grade students are becoming career conscious. They are participating in a career development center concept, an experience that develops self-awareness, educational awareness, positive attitudes toward work and career awareness. Students are examining the career selection process intelligently, efficiently and successfully.

Prime Sponsor/Local Education Agency relationship

In 1977, the Shawnee Mission School District entered into an agreement with the Johnson/Leavenworth Prime Sponsor to provide high school youth with a ten-day career awareness course with the services of a career information and counseling center. Few high school students in the Shawnee Mission School District or the other districts in Johnson and Leavenworth drop out of school prior to graduation and over 50 percent of them go on for further education.

However, many of these students have entered the job market with little specific job training and/or preparation for choosing a career. The Career Development Center concept meets the needs of the broad range of students who have not made career decisions or have limited knowledge of how to accomplish a career goal.

The Youth Employment and Training Program in Johnson and Leavenworth counties epitomizes the adoption of career education models into the design of a YETP in-school program. YETP in high schools in Johnson and Leavenworth counties provides transition services to all in-school youth through the Career Development Centers (CDC).

Program design

The CDC concept originated in Shawnee Mission, Kansas in 1973 and the concept has evolved into a unique approach to career education. The Career Development Center provides a centralized place where students can obtain relevant, current career information and assessment tools, develop skills necessary for seeking employment and explore occupational alternatives.

Using the facilities of the center, it becomes possible to offer all students one of four alternatives upon graduation: entry into the job market with a reimbursable skill, enrollment in a trade school-technical apprenticeship program, enrollment in a community college, or enrollment in a four-year college or university.

Through YETP funds, the CDC concept and the ten-day career development mini-course have been implemented in ten high schools in the two-county area. Economically disadvantaged students enrolled with CETA receive career development services along with their classmates who are not disadvantaged. They are also placed in work experience consistent with the interests, abilities and skills they have identified through the CDC.

The LEA/CETA agreement and 22 percent of YETP funds have allowed the prime sponsor to expand the concepts and curriculum of Shawnee Mission School District to many more schools and to train teachers and counselors in these schools in the use of the CDC curriculum and materials.

Recipe for success

Career education has become an integral part of the curriculum in Johnson/Leavenworth counties through YETP. Guidance counselors, teachers and vocational educators are now using career education materials and concepts in individual and group activities with students.

There are a number of significant aspects of YETP and the Career Development Centers in Johnson/Leavenworth CETA Consortium:

Enrollee mix

Use of YETP funds for transition services for economically disadvantaged and nondisadvantaged students as provided for in the regulations. Very few YETP in-school programs have adopted this program option.

Information sharing

Sharing knowledge and methods of implementing career education between school districts within the prime sponsor area.

Curriculum development

Adoption of a fully-developed career education curriculum into YETP and integration of transition services initiated under YETP into the general school curriculum.

WEBER/MORGAN COUNTIES, UTAH

In-school and out-of-school youth in Weber and Morgan counties, Utah are receiving a comprehensive program of assessment prevocational education, skills training, counseling and placement through YETP. These services are provided to YETP enrollees in a vocational-technical school (Skills Center North) that is administered by a university (Weber State), is cooperatively operated by three school districts (Weber County, Morgan County and Ogden City) and is funded largely through CETA Title II and IV funds.

School dropouts and high school students with an interest in specific jobs are being trained and placed through the joint efforts of a number of education, employment and service agencies in the Weber/Morgan area.

The success of Skills Center North is an excellent example of pooling education and CETA funds (including YETP) for more effective delivery of training and employment services to youth and adults. The use of Skills Center training facilities and programs for youth in YETP (primarily high school dropouts) is another step in the history of cooperation not only between the CETA prime sponsor and education agencies, but also between different governing bodies, i.e., state, counties, city.

Prime Sponsor/Local Education Agency relationship

In the state of Utah, CETA funds are administered through a statewide consortium. The planning and operation of programs is the responsibility of multicounty planning districts, e.g., Weber/Morgan Consortium. CETA administration thus reflects existing governmental configurations within the state and local areas rather than conflicting with those arrangements.

Local governments are also organized into multigovernmental units, or associations of governments. These bodies help to promote cooperative activities at the local and regional levels. The cooperative spirit in government program planning and administration is carried over to other sectors.

Through its links with state government and its cooperative efforts with local service agencies, Weber State University (Department of Continuing Education) was instrumental in establishing the Skills Center. Weber State was made the administrator for pre-CETA manpower funds and then established a successful relationship with the prime sponsor and local CETA consortium.

The Weber Community Education Services Center was set up in an old high school to offer alternative education programs for adults and youth. It was the result of cooperation between the university, service agencies, and the school district (about thirty agencies in all). With the expansion of training programs and enrollees through CETA funds, the Skills Center was located in the Community Education Services Center.

Thus, the LEA/CETA agreement for YETP was really the product of a decade of building links between the various institutions, agencies and organizations in the community. As a result, almost all of the Weber/Morgan CETA Consortium's YETP funds go for support of enrollees in the Skills Center programs, with the cooperation and consent of the three school districts.

Program design

The Skills Center offers open entry/open exit, individualized occupational training, student services, on-the-job training and job placement. Enrollees can select a training program from more than twenty occupations in five areas: bench and services trades, building trades, clerical and sales trades, health services (geriatric nurse's aide only) and metal trades.

To help them choose an occupational training program, participants undergo a series of assessment and vocational exploration activities called prevocational education. As they near completion of their training programs, participants are provided with classroom preparation for seeking and holding a job, called reemployment training, and with placement assistance through their counselor, the employment specialist and Job Services.

The center is directly linked with the Weber Community Vocational High School (CVHS) and the Job Service. Students enrolled at the center can take basic skills courses (e.g., writing, reading and mathematics at the high school level) through CVHS and can earn high school credits for their vocational training classes and OJT. A student can also elect to pursue GED certification through CVHS.

The OJT component is handled by the youth employment specialist and by the center's job developers who are responsible for securing OJT slots and for determining the length of time a student can fill a training position in the private sector. This time period is based upon guidelines provided in the Department of Labor's Dictionary of Occupational Titles.

OJT positions are developed through an agreement between the employer and the center for the skills training the participant will receive and with the assurance that a full-time permanent position will be available at the conclusion of the training period.

Recipe for success

Notable features of the Weber/Morgan YETP operation and the LEA/CETA collaboration are:

Cooperative efforts

The program design, funding and service delivery are highly dependent upon the cooperative efforts of a number of governments, agencies and systems. This appears to be related to Utah's methods of handling federal programs, but it could be copied in areas that are able to bridge governmental boundaries and agencies.

Involvement of post-secondary institutions

The program is operated by a post-secondary institution and is tied in with post-secondary vocational programs. This approach means that, after receiving training at the Skills Center in entry level positions, and having acquired experience in unsubsidized positions, youth can pursue more advanced training in their chosen field at a post-secondary institution.

Individualization

The program is operated on an individualized open entry/open exit basis. This enables students to join the program at any time of year and enables the program to save costs by operating year-round. It also allows the Skills Center to quickly drop training for which there is no longer a demand and to add different courses.

Curriculum development

The curriculum is developed primarily by the center's Curriculum Development Team.

The materials are written at the level of comprehension of the students, are readily available to the staff and segments are small enough to be easily digestible. The length of the training units is also conducive to identifying problems.

Services

Practically all the services needed by students are available in a single facility, whether the student wishes to pursue a high school diploma, get help finding a job or obtain child care.

Integration

Counselors, instructors and job developers work in close cooperation. The Facilities Team structure lets each component of the program relate to the others and means that all staff members involved with a student meet on a regular basis to plan and tackle problems.

Labor market analysis

The curriculum is based on local labor market needs, analyzed annually and updated every month. The staff knows what jobs will be available and can plan the curriculum, student recruitment, enrollment and job placement on that basis.

Dropout participation

The great majority of YETP students (about 90 percent) are dropouts who were reenrolled in school through the Skills Center program.

SAN DIEGO CONSORTIUM, CALIFORNIA

Student participants in Grossmont Unified High School District's YETP in school program sum up the contribution the program is making to education and employability training with their comments:

"Before I only learned through my classes. Now I learn from my job, too." "I've learned how to cope with people who are different from me."

"I thought that job interviews were casual things, but they take them serious."

"You can get a job on your own, but not like these. We have more responsibility. We get training on the job. We're on the job to learn."

"The teachers are great. They go straight with you. They're realistic. And we get to know each other."

"Without this program my family'd be up the creek. Now I don't have to ask my mom for money. I can help pay for food and rent."

"The people at work really treat us well. They give us responsibility."

In the East County area of San Diego County, 159 students in seven high schools are receiving career assessment, job experience related to their career interests and employability training classes. The YETP in-school program is a part of a district-wide strategy for improving career development services, vocational education and the transition from school to work.

YETP in the Grossmont School District is administered by the director of grants and contracts, Dr. Thomas Jacobson. By combining YETP with administration of other federal and state funds at the district level, high schools are able to offer services under YETP as part of a comprehensive effort to meet the needs of economically disadvantaged students who can benefit through learning in alternative types of settings.

School district /CETA relationship

The Grossmont YETP is one of thirteen YETP contracts awarded by the San Diego Regional Employment and Training Consortium (RETC). Forty-five percent of YETP funds are divided among the LEAs within the consortium. Prior to the Youth Amendments in 1977, all youth programs were operated by the city of San Diego. Thus, YETP regulations had a significant impact on the role of schools in youth programs within the consortium.

The youth programs director, Tomas Martinez, comments on the relationship of RETC to Grossmont and other LEAs. "We had to overcome two major problems in working with LEAs. We had to learn one another's terminology and we had to learn to give and take—to negotiate. For example, work experience means one thing in CETA and another thing in the schools."

Martinez sees CETA as having an innovative role vis a vis the schools. "We seek to stimulate schools to provide alternatives for youth. The Youth Amendments have given that effort a boost. We try to stimulate competition among the school districts within the county in the belief that it will prompt higher quality performance."

In the fall of 1977, the original proposal for the Grossmont District's program was developed by a school staff member who had been involved with the school work experience program and with the county's Regional Occupational Placement (ROP) program. Emphasis was placed on using current school staff in the program and offering the program to each high school (nine within the district) for participation on a voluntary basis.

The prime sponsor youth director specified the proportion of funds to be spent on student wages or allowances. The number of students to be served with available funds was based on unemployment rates. In each subsequent contract with the district, the prime sponsor awarded additional available funds on the basis of performance standards and evaluation of the LEA's performance.

Program design

YETP is currently offered in seven high schools within the district. Because the district is decentralized and the number of eligible students varies widely, participants in each school range from five to thirty-five students. The principal must agree to cooperate with the program since school facilities and school staff cooperation are essential. The YETP coordinator has obtained the cooperation of the principals for the program.

The program staff consists of the coordinator, two full-time teacher/counselors, six program aides and a secretary. The aides are located in each of the high schools, generally within the career resource center. The aides handle paperwork and coordination of students on the jobs. They also assist in student recruitment and selection and some counseling activities.

The teacher/counselors provide the crucial link between the job, the student, and the school. Each of the teacher/counselors is a certified teacher and has worked within the district for a number of years. They are primarily responsible for testing and assessment, job development, placement of students with the appropriate job, monitoring of students and employers and counseling.

The teacher/counselors and aides hold monthly seminars on career development and job information for all participants. A learning objectives plan is worked out with each student and the employer. A real strength of the program is the close contact between the YETP teacher/counselor and the student, both in school and on the job.

Employers take a very real and personal interest in their charges. They are concerned about and become involved with students' personal problems. They assume responsibility for students' career and academic growth and try to bring them into the mainstream of the workplace as much as possible.

The YETP program works in cooperation with other educational and employment and training programs in the district. Grossmont operates, for the first time this year, a summer program for youth, which is open to students under sixteen. Since the in-school YETP program is limited to students sixteen or over, students who have gone through the summer program can enroll in the in-school program later.

The program also works with the Vocational Exploratory Program, which helps youths secure unsubsidized employment in the private sector. Students can enroll in vocational education programs or in classes offered through the Regional Occupational Program. In most of the schools YETP is integrated with the work experience program and is located in the Career Center.

Recipe for success

Some features of the Grossmont YETP program and the LEA/CETA collaboration are unique and likely to be of interest to others:

Performance standards

The program is operated and monitored in accordance with specific performance standards written into the contract. Contractors are considered to be out of compilance when they exceed or fall short of the planned enrollment and termination figures. These figures do not have meaning in and of themselves, but only as they indicate that services of less than desirable quality are being provided.

Program coordination

YETP is operated as part of the overall district plan for career development and employability training, and it is coordinated with other federal and state funds for special programs.

Decentralization

As part of the prime sponsor's decentralization of program operations from the City of San Diego to multiple contracts with local school districts, LEAs have gained a larger role and appear to have improved the quality of service provided. The schools are better able to identify and locate eligible students and maintain continuity of services by linking programs provided through CETA with those of the educational system.

Employer/employee relationships

Students are considered active learners at the work sites rather than youthful employees. Employers assume mentor roles, taking a personal interest in students' personal, academic and career growth.

Individualization

Counselors maintain close contact (at least weekly visits) with employers and students. They develop individual learning objectives and training plans for each student and involve the employer in helping students achieve them.

Job development

Despite limited resources, a wide range of jobs has been developed for the students. Of some twenty students interviewed, almost all expressed great satisfaction with the job and, particularly, the training received through the supervisor.●

ENERGY PRODUCTION

● Mr. ARMSTRONG. Mr. President, some of us listened with concern, the night of July 16, when the President issued his call for massive involvement of the Federal Government in the production of energy in the United States. The call for an $88 billion synfuels program at a time of severe budgetary deficits seemed a bit inappropriate, especially since other, more immediately productive measures were ignored.

Our concern increased when we saw the apparently receptive reaction of some parts of the business community, and of some Members of Congress who traditionally have opposed big Government. It seemed that the "crisis mentality" of the moment was going to sweep all opposition before it, and rush us into the energy business before we had time to think about what we were doing.

Fortunately, there has been some time for reflection, on all sides, and the initial enthusiasm which greeted the Energy Security Corporation has begun to cool. A longer look at reality has revealed a number of flaws in an analysis based on questionable assumptions. These second thoughts have come from both industry and environmental groups.

One thoughtful contribution from the second category came recently from Mr. William K. Reilly, the president of the Conservation Foundation. In a recent article in the Wall Street Journal, Mr. Reilly suggests an alliance of business and environmental groups to defeat the Energy Security Corporation. Mr. Reilly points out that the ESC is bad for the environment, but also that it is bad for business. I agree with him.

Mr. Reilly makes one additional point that I think is worth emphasizing. We have all read newspaper stories of opposition to decontrol gasoline and wellhead prices of oil and natural gas. As Mr. Reilly makes clear, this opposition does not come from responsible environmental groups. The Sierra Club, the League of Women Voters, the National Resources Defense Council, and, of course, the Conservation Foundation, have all consistently supported decontrolled prices for fossil fuels. These groups have long recognized the simple truth that it is only in a market situation that conservation, and "renewable" sources of energy, become practical.

Mr. President, Mr. Reilly makes excellent sense, and I commend his comments to all my colleagues. I ask that the entire article be printed in the RECORD.

The article follows:

"UNHOLY ALLIANCE" OUGHT TO FIGHT CARTER ON ENERGY

(By William K. Reilly)

The President's energy proposals should be opposed vigorously by both environmentalists and business leaders. This may seem an "unholy alliance"—unrealistic and unworkable. But I ask both the business and environmental communities to consider the following.

Suppose President Carter's energy program went exactly according to plan. There would be no significant impact on oil imports in the next five to seven years. (Imports might be reduced by a recession but not by this energy program.) Synthetic fuels might begin making a contribution by the late 1980s, if we are lucky. We would have the dubious distinction of buying heavily subsidized synthetic oil at a price higher than OPEC would likely charge for the natural product. We would certainly have lost ground on our environmental progress. The costs to our federal system of an Energy Mobilization Board riding roughshod over local and state governments would have been immense.

Suppose that instead of spending $88 billion on synfuels, we spent $10 billion on improving the energy efficiency of existing homes in a minimal way. Over the lifetime of those improvements, 3.5 billion barrels of oil would be saved, a saving that equals buying imported oil at less than $2 a barrel. The savings to homeowners who pay the $10 billion would be $102 billion at today's oil prices.

Suppose we were to attack automobile fuel efficiency directly. Although federal standards now are set at 19 miles per gallon, cars perform much worse in the real world. For model year 1978, the average EPA mileage estimates for all automobiles was 19.6; but studies at the Department of Energy indicate the actual average was 16.4. (If we take into account the growth of sales of vans and light trucks, the fuel efficiency of the nation's passenger fleet would be much worse.) Automobiles use about 30 percent of our petroleum. Since both foreign and American manufacturers know how to build cars that conserve gas and perform well on the road, a tightening of standards—or strong economic incentives for drivers to buy fuel-efficient cars—could cut gasoline consumption in half.

Industry already has shown the way toward energy efficiency. According to the recent Harvard Business School energy report, Dow Chemical has cut its energy consumption per pound of product by 40 percent.

When oil is available in attics and under hoods and in industrial plants for prices ranging from 50 cents to a few dollars per barrel, it makes little sense to embark on a program that may produce only a limited quantity of oil by 1990 at prices far above alternative sources.

Thus, the plan is bad for the nation. But what are its effects on the environment and on business? Accept for a moment my organization's viewpoint that a massive synfuels program is bad for the environment, and let us concentrate on how it is bad for business and industry. The President has suggested a program that removes a vital part of the American economy from the normal controls of competitive free-market tests. Centralized decisionmaking, investments controlled by bureaucrats, tax dollars raised and spent without the discipline of ordinary Congressional and judicial oversight: These are hardly the ingredients of a program to be supported by thoughtful business leaders.

How do we get from here to there on a path less marked by moon-shot dramatics and more characterized by careful attention to real opportunities for improved efficiency and meaningful increases in production? The first step is clearly decontrol of energy prices, including the price of gasoline; the timid steps taken by Congress and the White House need to be speeded up. Also, the problem of making public utility rates conform more to the replacement costs of electricity and natural gas needs to be faced.

It may come as a surprise to many in the business community to learn that environmentalists support this use of the market. In fact, the Sierra Club, League of Women Voters, Natural Resources Defense Council, and my own organization, to name a few, have been strong and consistent supporters of decontrol efforts. Such a call for pricing that reflects the full costs of energy consumed is fully consistent with environmentalists' view of the world: that we can have economic growth and improved productivity with fewer investments of natural resources.

In addition to the prodding force of the market—rewarding innovation, discouraging uneconomic practices and capital expenditures swiftly and impartially—we need a research and development program that is responsive to tests of economic viability, not to a single-minded policy decision made once-and-for-all by Congress and administered by a massive bureaucracy. In such an R&D program, synfuels might well play a part, but they would hardly be the centerpiece. Using the test of total cost to the nation, including environmental costs, we should plan to commercialize the inexpensive energy-saving and energy-producing technologies before we go on to the expensive ones; cost effectiveness is the test, not some predetermined "synfuels or bust" strategy.

It is clear that the program outlined above is one that can be supported by many in the environmental community and industry. But the President has gone in completely the opposite direction. He has proposed an enormous investment in unproven technology, directed and funded by government agencies outside even the usual minimal control exercised over such bureaucracies, and purposefully insulated from any marketplace tests at all. All this without a single short-term benefit to the country.

I believe it makes sense for important interests outside government to cooperate in confronting the energy peril. Of course, there is much that separates business and environmentalists. But cooperation is possible even without consensus on every detail of energy policy.●

THE MILWAUKEE RAILROAD

● Mr. BOSCHWITZ. Mr. President, I submit the following article dealing with the Milwaukee Road for the RECORD. Bob Rupp, the editor of the Farmer and Mary Nelson, who wrote the article, should be praised for their careful examination of the problems which face the Milwaukee Road.

The article follows:

[From the Farmer magazine, Aug. 18, 1979]

MILWAUKEE ROAD: CAN IT SURVIVE?

(By Mary Nelson)

On December 19, 1977, The Chicago, Milwaukee, St. Paul and Pacific Railroad—The Milwaukee Road—went bankrupt for the third time since the turn of the century.

To farmers and shippers in Minnesota and South Dakota, cost of the Milwaukee's potential demise is enormous. Last year, Minnesota farmers shipped 13,865 carloads (20.9 million cwt) of grain over Milwaukee tracks. South Dakota farmers shipped 13,125 carloads (17 million cwt). It costs 25¢/cwt more to ship by truck than rail, according to estimates of several elevator operators in both states. Moving that 37.9 million cwt by truck, if the Milwaukee trackage is lost, would thus cost Minnesota and South Dakota farmers an extra $9.5 million a year. That's on grain alone. It does not include added costs for shipping fertilizers, pesticides and farm implements to farmers.

There are other costs. It takes about $300,000 a day, in subsidies, to keep the Milwaukee in operation, according to John Riley, transportation aide for Senator Dave Durenberger (R-MN). Minnesota has committed $600,000 to repair Milwaukee's line from Alden to Jackson, plus $100,000 for repair on the main line. There is $1 million available to maintain service on the Rosemount to Austin line if the trustee's proposed embargo is eventually approved by the court, according to Sherri Alston, Minnesota Department of Transportation.

South Dakota is even more heavily committed. An agreement whereby South Dakota will provide the bulk of $2.3 million for emergency main line repair has been approved by the bankruptcy court in Chicago. An additional $22.7 million is to be available as a loan cosigned by the state and the trustee, with tax dollars pledged as support in the event of default, according to Jim Meyers, SD director of railroads.

Why has the Milwaukee gone bankrupt? Official causes are listed as competition from Burlington Northern (BN), increasing fuel and labor costs, loss of business to trucks, strangulation by federal regulations and bad weather.

But, several past and present employes contend the railroad's sorry state is not entirely due to those "natural" causes. At best, they say, the railroad was pushed over the brink by inept management. At worst, it was deliberate bankruptcy.

William H. Brodsky, a former Milwaukee assistant vice president for business planning, feels current problems stem from a 1959 attempt to negotiate a merger with Chicago and North Western (CNW).

"The Milwaukee has always been a marginal railroad," Brodsky says. "It made money some years and lost money others, which was the reason, I believe, for the merger proposal to CNW. At that time, there was not enough traffic to sustain two railroads. To improve its profit picture and provide a stronger bargaining position, Milwaukee officials deferred track maintenance during those merger negotiations. The company's own maintenance records show about 800,000 ties were being replaced annually before 1960. In 1960, about 400,000 were replaced. This declined to about 300,000 ties from 1961 through 1967. Cutting those expenses added about $10 million to the profit picture. At that time, I feel that decision was correct."

However, the merger with CNW fell through. Then, says Brodsky, the company was faced with spending money to upgrade tracks and get back into the railroad business or look for a new merger. In 1970, Milwaukee management decided to seek a new merger partner. It chose BN, which had just been formed from a merger of Great Northern, Northern Pacific, Burlington and Spokane, Portland and Seattle railroads.

"It was at this point I feel management made the critical error," Brodsky told The Farmer. "Had management elected to get back into the railroad business, there was enough traffic developing from changing shipping patterns to support the railroad. But management opted to try and merge with BN."

By the time that decision was reached, all extra income generated by deferring track maintenance was exhausted. Company officials sent out an order that no cars were to be repaired if the repair cost would be more than $500. Such cars were to be parked. This enabled the company to lay off a number of car crews. It also had a positive impact on the company's financial picture—for the short run.

"But, it was a blanket order and did not take car age into consideration," points out Brodsky. "When I took over management of the Bensenville, IL yard, we had hundreds of nearly-new cars parked in yards and on sidings all over the country. This was at a time when there was a severe car shortage. Later, that program was extended to locomotives."

Meanwhile, the BN/Milwaukee merger was rejected by the Interstate Commerce Commission (ICC). Milwaukee management decided to fight that ruling and eventually won. However, after it had won, the company's trustee last February told the ICC the Milwaukee was not interested in pursuing any concessions which would strengthen it in the West. "In essence, he said the Milwaukee was no longer interested in being in the railroad business," says Brodsky.

Another former Milwaukee official also feels management has not been the best. J. Fred Simpson, former attorney for the railroad, says the decision to defer track maintenance for 15 years had another serious effect on the railroad's financial condition—costly derailments.

"Derailments," Simpson told The Farmer, "were rare prior to 1960. But, by 1975, track conditions had deteriorated to where 31 derailments occurred in 28 days on the Avery, ID hill. When derailments increased, train speeds slowed, increasing costs. One direct expense was equipment and load damage. Shippers began to have second thoughts about exposing their loads to such danger. Also, equipment and personnel weren't utilized fully because of the slow turn-around.

"In the early '60's, Milwaukee's fast freights moved between Seattle and Chicago in 53 hours. Today, it takes more than 100 hours. Locomotives and railcars make fewer trips per year. This means less earnings on equipment. It forces the buying or leasing of additional equipment if the railroad wants to move the same annual tonnage. With locomotives costing about $700,000 and cars between $30,000 and $70,000 you can see how this adds to costs," says Simpson.

Kendall Gustafson, a former Milwaukee salesman, adds this: "A railroad has nothing to sell but service to shippers. The way you convince shippers to use your railroad is with salesmen. But the Milwaukee has systematically reduced both its sales offices and salesmen since 1970. That was part of the move to improve short-term profits. In 1968, we had 77 offices. Ten years later, we had 42. Some small offices, such as the one in Austin, NM, were dropped. But offices also were closed in such places as Los Angeles, Salt Lake City and Washington, DC. The railroad now is down to 39 offices, most of which have suffered major personnel cuts. But management has remained top heavy."

The Official Railway Guide in 1970 listed about 165 management or executive positions for the Milwaukee Road, excluding sales managers. In 1979, it still showed 126 management positions, a reduction of about 24%, compared to a nearly 50% reduction in sales offices. By comparison, BN, a much larger railroad (25,000 miles to Milwaukee's 9,826 miles) with more total operating income ($2.34 billion to $439 million) has 140 management positions, including officers of two subsidiaries but excluding sales managers.

Milwaukee officials deny all those accusations.

Wallace Abbey, director of corporate communications, says the charges are absolutely untrue. He contends bankruptcy stems from a number of factors, none of which are inept management.

"Our current difficulties result from poor reorganization in 1944, inability to abandon unprofitable sections of the system because of government regulations, government meddling in our attempts to merge and two very severe winters which virtually stopped the Milwaukee dead in its tracks. In 1977, when bankruptcy was declared, we had a number of obligations coming due, including payments to settle a lawsuit. Because of the preceding bad winter, we didn't have the necessary cash to meet obligations.

"The charge of deferred maintenance to improve our negotiating position for a merger also is not accurate," continues Abbey. "We put as much money back into the line for track and equipment repairs as possible. There just wasn't enough money to make all the repairs. As for the trustee telling the ICC we weren't interested in being in the railroad business, that's a lie."

Bill Brodsky demurs on that, noting that dividends were paid on common stock until 1967 and on preferred stock until nine years ago. He acknowledges some dividends were later judged to be returned capital to investors, but points out that some were actual dividends.

"Obviously, company officials weren't putting everything they could into maintaining the line if they paid dividends," says Brodsky. "And the trustee did tell the ICC that the Milwaukee was no longer interested in concessions to improve its position in the West. That is right in the hearing proceedings. To me, it says the Milwaukee is not interested in being in the railroad business."

If the Milwaukee was deliberately put into bankruptcy, the question is why? The answer, says Fred Simpson, is money. The Milwaukee has around $900 million in assets, while debts are only a little more than $430 million.

"Someone obviously stands to make a lot of money if those assets are liquidated," points out Simpson. "We feel the big winners will be the bondholders. They paid only about 45¢ on the $1 to acquire the bonds and, since they are secured creditors, they get the bonds redeemed at face value before anyone else gets anything. A second reason for liquidation is that those bonds pay only 2½% to 4% interest. If the railroad liquidates, bondholders get their money to invest in something with higher returns. But, if the railroad reorganizes, that money remains tied up."

Wallace Abbey contends matching assets against liabilities doesn't paint an accurate picture. He says no one will benefit from the bankruptcy and quite likely everyone connected with the railroad will take a loss. "This is especially true if the judge puts labor protection high on the list of claims against the Milwaukee's estate," Abbey says. "Labor protection could run as high as $1 billion."

Fred Simpson disputes Abbey's contention. He says the story of assets versus liabilities varies according to who makes up the audience. "When management talks to the public or someone questioning validity of a bankruptcy where assets so far exceed liabilities, they say employee claims will easily take the difference. However, when we make a proposal to purchase the railroad, we're told it will take millions, because assets are so much greater than liabilities."

Bill Brodsky notes the money motive is not limited to bondholders. The Chicago Milwaukee Corporation, the railroad's holding company, has a financial stake, too. According to a story in Barrons' National Business and Financial Weekly (Julv 23, 1979), The Chicago Milwaukee Corporation realized $135 million in sheltered tax loss carry-forward from the railroad last year.

"Very simply," Brodsky says, "the holding company uses railroad losses to shelter income from other holding company properties. This permits plowing profits from the properties back into operations without paying taxes or dividends. The railroad's losses shield earnings of the other companies. Until recently, the railroad has been more profitable to the holding company as a loser than if it made small profits."

What should be done about the Milwaukee's plight?

One option is to reorganize the railroad, leaving it nearly intact but changing ownership and management. Another is to reorganize it on a reduced basis, lopping off everything west of St. Paul but leaving current management and ownership intact. A third is complete liquidation.

Both management and the employee group reject liquidation. But the two power groups—bondholders and creditors—favor that option.

Management and the former trustee favored option two, lopping off everything west of St. Paul, leaving a Midwest "core" railroad to be operated by existing management. "The western lines always were a drain on the system," says Abbey. "Those lines probably were a mistake to build right from the beginning. They currently provide only competition for BN. Why should we keep operating unprofitable lines just to hold down freight rates for shippers? If shippers don't like BN's rates, they can find some other way to ship. Additionally, the system will be too costly to rehabilitate if western lines are included. We're looking at over $1 billion for rehabilitation if they are included."

Brodsky disputes Abbey's assessment: "I don't believe the railroad can exist without the transcontinental route. All transcontinental railroads make money except the Milwaukee, which is a serious indictment of Milwaukee management. The managers have simply not taken advantage of concessions given when the BN merger occurred. Instead, they have concentrated on the shorthaul, truck-competitive Midwest market. CNW, in the Council Bluffs gateway, handles 10 to 15 times more traffic than the Milwaukee does and it's still marginal.

"Profits are in long hauls," asserts Brodsky. "Hauls across northern tier states are at least double the industry average. Revenue per car is three to four times the average. If that's not reason enough to concentrate on this market, it's pretty ridiculous, in view of the country's energy situation, to think of lopping off a line which traverses half the nation's low-sulphur coal deposits.

"Additionally, the Seattle port has grown to the point where it is the second largest container port in the country. And there is increasing grain traffic to the West Coast, rather than to traditional eastern markets.

"When management speaks of $1 billion for rehabilitation, they're talking about upgrading the entire system, including all branch lines," continues Brodsky. "We think that's unrealistic. Interest rates for money prohibit such investments. Our idea is concentrating on the critical part of the railroad—the main line. We figure upgrading the main line to 60 mph will cost about $160 million. This money is available in long-term loans with deferred payments from the federal government.

"There is no question that some branch lines eventually will be dropped, but not right away. We intend to look at each one on a case-by-case basis with shippers—to determine if rehabilitation would be profitable. But, first, we need the cash flow those lines help support. A river can't run if you cut off all its tributaries, which is the same thing current management has attempted with its meat-ax approach to abandonment. Forty percent of the Milwaukee's revenue is generated by lines west of St. Paul. Excluding branch lines, 20 percent of its miles generate 40 percent of its revenue.

"Carrying that a step further, the lines west of St. Paul generate 40 percent of the revenue flowing over the core railroad," says Brodsky. "If lines west are lopped off, that eliminates 40 percent of revenue. If that happens—I predict the Milwaukee will cease to exist within 18 months. Farmers and other shippers across the northern tier will become captive customers for BN. BN will be in a position to move that grain when it chooses, not when farmers want it moved. Also, if deregulation occurs, shippers can be charged whatever the traffic will bear."

However, management's position has found powerful support in the U.S. Department of Transportation. In a letter sent to Senator Howard Cannon (D-NV), W. Graham Claytor, acting Secretary of Transportation, endorsed a bill introduced by Senator Dave Durenberger which allows lopping off about three-fourths of the railroad considered unprofitable. Claytor also released DOT studies supporting conclusions of a consultant retained by the railroad's trustee, saying it would not be feasible continuing operation on most Milwaukee lines west of St. Paul.

Simpson and Brodsky, however, are unimpressed with DOT findings. "We have always felt DOT was committed to abandoning the lines west," Simpson says. "This more or less confirms our feelings, since Claytor did not mention the study done by Russell Murphy for DOT, which said if three things did not happen, our proposal would not succeed. However, if they did occur and two already have, he went on to show how our proposal could succeed. He accepts the premise the traffic to sustain the lines already exists. And, his studies do not include coal revenue increases."

Brodsky says there apparently has been a deliberate attempt to drive down revenues from the lines west in order to make management's desire to abandon appear necessary.

"The latest incident occurred recently when Canadian shippers were told the Milwaukee no longer wanted their lumber traffic," states Brodsky. "If they insisted on shipping over Milwaukee lines, they would have to pay surcharges. Officially, this action was to increase cash flow. In reality, it was a ploy to discourage shippers from using the lines to move their lumber from British Columbia to Midwest markets. Canadian lumber represents a sizeable volume of freight on the lines west of St. Paul."

Others also are concerned that DOT studies on the Milwaukee may not be accurate. John Flink, press secretary for Senator Max Baucus (D-MT), says the senator was concerned the DOT's study results may have been ordained. "There really does not seem any economic analysis to support proposals to abandon the lines west," Flink concludes.

There are several bills in Congress designed to aid the Milwaukee. Additionally, both Minnesota and South Dakota have funds available to assist the troubled railroad.

However, Brodsky feels none of the options will succeed unless present Milwaukee management changes. "As much as I want the Milwaukee to survive, I have a difficult time recommending that tax money continue to be given it so long as people who are determined to destroy the Milwaukee are managing it," he states. "They've been so busy trying to save money by not running trains, they can't think of aggressively seeking business and providing service to handle that business.

"They act in their own best interests of preserving their jobs—and perhaps in the stockholders best interest, although I have some doubts about that. But they certainly do not act in the public's best interest. If I were passing out tax money, I would not give them a dime until the Milwaukee management was changed. The railroad's job is to show shippers how they can move goods, not tell them why goods can't be moved. Unless the feuding and infighting stops and a workable plan evolves, shippers along The Milwaukee Road will ultimately be the biggest losers," concludes Brodsky.●

MEDAL FOR SIMON WIESENTHAL

● Mr. DOLE. Mr. President, having had the privilege to meet Mr. Wiesenthal last April in Vienna, Austria, I am particularly pleased to join my distinguished colleague from South Dakota, Senator McGovern, in cosponsoring a bill authorizing the President to present a specially struck gold medal to Simon Wiesenthal. This token of admiration is but a modest tribute for a man of such extraordinary stature.

As the head of the Jewish Documentation Center in Vienna, Mr. Wiesenthal has become a legend in his lifetime and is responsible for bringing over 1,100 Nazi war criminals to justice. His own life was brutally interrupted in 1941 when he was arrested shortly after Hitler's invasion of Russia. From then on, his biography reads like a chronicle of persecution, horror, tragedy, punctuated by such infamous names as Auschwitz, Birkenau, Treblinka, and Dachau.

When in 1945 Simon Wiesenthal was freed by the American forces, he could have attempted to resume a life where normalcy might have slowly dimmed the memory of the tragic years that had marred a whole continent with unprecedented savagery, violence and systematic murder. As an architect, he might have participated in the rebuilding of a Europe devastated by war. Instead, he chose to rebuild the memories of those who had died without leaving a trace, and to restore links that had been destroyed.

The strength of character of a man who was able to preserve his sense of justice as the basis of civilization, in the face of a bestial world where rules ceased to exist and laws to be observed, commands our admiration and respect. In seeking venegeance for the most barbarian crimes of all times, Simon Wiesenthal placed his trust in the judicial process, acting merely as a broker between the assassins and their judges.

I was told of a Jewish legend by which the world will be saved if only for one just man in each generation. That man is known as the Baal Shem Tov. That Simon Wiesenthal's true identity might thus be revealed would come as no surprise.●

LIABILITY FOR OIL POLLUTION

● Mr. MUSKIE. Mr. President, Congress has considered oil pollution legislation for nearly 13 years. A variety of measures have been enacted to provide adequate funding for cleanup of oil spills. Other measures have been adopted which provide compensation for loss associated with those spills. International agreements have been negotiated to rationalize the oil pollution liability schemes applicable to oceangoing vessels. And President Carter has proposed a comprehensive cleanup and liability scheme for oil and hazardous substances.

A discussion of the oil pollution aspect of this problem was recently published by the Journal of Maritime Law and Commerce. In an article by Allan Mendelsohn and Eugene R. Fidell entitled "Liability for Oil Pollution—United States Law," the history of and need for this kind of comprehensive scheme is discussed. Mr. Mendelsohn has been a longtime, knowledgeable contributor to the oil pollution liability dialog. He has been a consultant to me and to the Subcommittee on Environmental Pollution. He has written extensively in the field and he prepared a definitive analysis of the preemption section of the 1972 Federal oil pollution liability amendment to which the Supreme Court referred in the case of AWO against Askew. I shall submit the Mendelsohn-Fideil article for the RECORD at the end of these remarks.

There is real value in continuing the public dialog on the question of comprehensive spill liability laws. I continue to have reservations about the degree to which comprehensive liability and cleanup funds may serve to reduce the standard of care of those who handle oil and hazardous substances. This basic concern must be answered before any legislation is enacted.

In addition, I am deeply concerned that a liability fund financed from revenues collected from manufacturers and handlers of oil and hazardous substances may simply become a substitute for collection from the parties responsible for spills. The resources of the Federal Government are already strained. I suspect that, faced with the alternative of "tapping the fund" or going tc court to collect from those responsible for discharges, the Government would be inclined to take the easy way out. This question too must be answered before legislation of this kind can be enacted.

Finally, Mr. President, in addition to the preemption issue which needs no discussion here, we need to be sure that we do not inadvertently create a subsidy for giant supertankers and other handling systems. These massive carriers and storers of oil and chemicals must be responsible for the full risks of spills. Anything short of that could result in either the public or the environment bearing an unreasonable cost. If this question, together with the others I have outlined above, can be answered to the satisfaction of the Congress during the current and subsequent session, comprehensive legislation could be enacted before the end of this Congress.

The article follows:

LIABILITY FOR OIL POLLUTION—UNITED STATES LAW

(By Allan I. Mendelsohn and Eugene R. Fidell)

INTRODUCTION

As the United States approached the last two decades of the Twentieth Century, few areas of its law proved to be as complex as that governing liability for oil pollution. The subject involves not only some of the most fundamental principles of tort law but also admiralty doctrines largely judge-made, legislative enactments, and international conventions.[1] If further complexity were needed, the interplay of federal and state legal systems amply provides it. Because of these varied sources of law, and because the matter of oil pollution has still not been the subject of comprehensive federal legislation, it is perhaps a larger task than ought to be the case to render a brief account of American liability law in this area. Nonetheless, the present chapter will provide at least a cursory overview of the major elements of federal legislation, subject to the *caveat* that critical elements of the story—particularly those having to do with state regulation—have been woven in with perhaps less emphasis than they merit.

The Limitation of Liability Act of 1851

The first statute we shall consider is not directly addressed to oil pollution as such, rather it deals with the general liability of shipowners, and in this way has an impact on liability for pollution.

The basic maritime liability law of the United States today is a federal statute enacted in 1851 and amended since that time only so as to bring about some improvement in recoveries available by or on behalf of passengers who suffer personal injury or death in a ship disaster.[2] So far as concerns vessel owner liability for oil pollution damage, therefore, the principal governing law in the United States today is, with some exceptions, one that was adopted almost 130 years ago.[3] It is necessary to begin with a consideration of this statute, which was inspired by English legislation,[4] even if its judicial construction was soon "liberated" from its English antecedents.[5]

Section 183(a) of the Shipowner's Limitation of Liability Act provides that, in the event of an accident "occasioned or incurred without the privity or knowledge" of the vessel owner and involving damage to property, the owner's liability shall not "exceed the amount or value of the interest of such owner in such vessel, and her freight then pending." In 1871, the Supreme Court held that "value" as used in Section 183(a) meant the vessel's value after, not before, the accident, thus severely restricting the potential recovery where, for example, the vessel for which limitation is sought lies unsalvageable on the ocean bottom.[6] A series of Supreme Court decisions in 1885 specifically held that even though an owner, after an accident, is fully compensated by insurance, the funds so received are not a part of the vessel's value and hence need not be made available to pay claims.[7] In the case of the *Torrey Canyon* disaster off the coast of Britain in March, 1967, a United States court, following the letter of Section 183(a), would have been able to award damages of no more than $50—the value of the single lifeboat that was salvaged from the disaster.[8]

Given the potentially harsh results from this statute as it has been construed, it is not surprising that ways have been tried—and found—to "break the limits". One of these ways is simply by showing that the damage was done or incurred with "the privity or knowledge of" the owner—in which event the owner's liability becomes unlimited. No one can really divine the meaning of the words "privity and knowledge" in Section 183 and, indeed, Professors Gilmore and Black, in their excellent treatise on *The Law of Admiralty*, have called the terms "devoid of meaning . . . empty containers into which the courts are free to pour whatever content they will". "Like an accordion", Gilmore and Black added, the Act "can be stretched out or narrowed at will" depending on the facts of the particular case and the philosophy of the judge hearing the case.[9] Another method of breaking the limits is for the court to ignore the traditional admiralty rule holding that the law of the forum governs limitation [10] and, instead, to invoke the law of the vessel's flag, assuming, of course, that this approach permits a higher recovery than would otherwise be available under Section 183.[11] But any court viewing its function as judicial rather than legislative ultimately faces a philosophical problem in continuing the search for ways to ignore the limitation. This is particularly true at present, because the Congress has had ample opportunity to amend, update, and/or repeal Section 183, but has failed to do so in any meaningful manner except indirectly and in the limited context of water pollution control legislation.[12] It is to the development of the law in this area to which we next turn.

Federal Water Pollution Control Act Amendments of 1972

Amending and expanding upon various provisions of earlier Congressional enactments,[13] the Congress in 1972 adopted comprehensive legislation pertaining to virtually all aspects of water pollution and federal government recovery for costs of cleanup.[14] The Federal Water Pollution Control Act Amendments of 1972, recently codified and updated in 33 U.S.C. Sections 1251–1376 (now known as the Clean Water Act), declares it to be a national goal that the discharge of pollutants into the navigable waters of the United States be eliminated by 1985.[15] Section 1321(b)(1) declares it to be the policy of the United States that there be "No discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)."

Oil is defined as "oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil." A discharge is defined as including but not being limited to "any spilling, leaking, pumping, pouring, emitting, emptying or dumping." [16]

A vessel owner, operator or any other person in charge of a vessel, including a demise charterer, is subject to a $5,000 civil penalty for any unlawful discharge, and the Environmental Protection Agency ("EPA") may, under amendments passed in 1978, commence a civil action for penalties up to $250,000. In the event of failure by such person immediately to notify designated agencies of the United States federal government of a discharge, the statute prescribes a maximum fine of $10,000 or imprisonment for not more than one year, or both.[17]

When a discharge occurs, the United States Government is authorized to undertake and complete the cleanup unless the President determines that the vessel owner or operator can and will properly perform the task.[18] In any instance where the federal government cleans up, the vessel owner or operator is strictly liable to the government for its "actual costs incurred" in the cleanup—but not to exceed, in the case of all vessels (other than inland oil barges), the greater of $150 per gross ton or $250,000. A tanker of 200,000 tons could thus be subject under this provision to a potential cleanup liability to the federal government of $30 million.[19] A somewhat lower limit of the greater of $125 per gross ton or $125,000 is provided for inland oil barges.[20] To meet this potential liability, the statute requires vessel and barge owners to show evidence of financial responsibility (by insurance, surety bonds, self-insurance or other means) in sums sufficient to cover the limits.[21] This latter program is administered by the Federal Maritime Commission.

Vessel or barge owners may avoid liability entirely by showing that the discharge was "caused solely by (A) an act of God, (B) an act of War, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses." [22] An "act of God" is defined as "an act occasioned by an unanticipated grave natural disaster.[23]

On the other hand, the right to limitation can be extinguished and full liability assessed against the vessel owner in any case

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Footnotes at end of article.

where the federal government can show that the discharge "was the result of willful negligence or willful misconduct within the privity and knowledge of the owner.[24] The United States is also expressly authorized to bring an action for the recovery of its costs "in any court of competent jurisdiction," which does not necessarily preclude bringing actions in foreign courts should it ever be necessary to do so, and should the forum state have no domestic doctrine barring access to its courts in these circumstances.[25] Finally, Section 1321(k) of the statute carries over the $35 million revolving fund which was originally created by Section 11(k) of the 1970 Water Quality Improvement Act. This is a fund financed by Congressional appropriation and available to assist the Government in carrying out its obligations under the Act, including the payment of expenses incurred on those occasions when the Government cleans up but, for one reason or another, cannot recover its costs, or when a private party cleans up and then, in accordance with Section 1321(i), sues the Government to recover its clean up costs.[26]

It should be noted that the foregoing provisions establish vessel owner liability only for claims by the federal government for its costs of clean up.[27] None of them cover claims of private citizens whose property is damaged as a result of an oil spill. These types of claims can always be asserted under state law, though to do so necessarily raises issues concerning, for example, the applicability of the limits of the 1851 Limitation of Liability Act, and the varying damages compensable under different state statutes. On the other hand, Section 1321(o)(2) of the 1972 Act, adopting almost the verbatim text of Section 11(o)(2) of the 1970 Water Quality Improvement Act, declares that "[n]othing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State."

In the landmark case of *Askew* v. *American Waterways Operators, Inc.*, 411 U.S. 325 (1973), a unanimous Supreme Court held that the federal legislation did not preempt or preclude the State of Florida from enacting its own Oil Spill Prevention and Pollution Control Act imposing strict liability on vessel owners and on operators of on-shore terminals for any damages incurred by the State or by private persons as a result of an oil spill in the State's territorial waters. The Court reasoned that, as the federal legislation governed only claims by the federal government for recovery of its cleanup costs, it would not be proper "to allow federal admiralty jurisdiction to swallow most of the police power of the States over oil spillage—an insidious form of pollution of vast concern to every coastal city or port and to all the estuaries on which the life of the ocean and the lives of the coastal people are greatly dependent."[28] The Court expressly declined to reach the question whether damages under the Florida Act would be subject to the 1851 Limitation of Liability Act.[29]

The Trans-Alaska Pipeline Authorization Act of 1973

Specifically allowing private parties to recover for oil pollution damage without regard to the 1851 Limitation of Liability Act, the Trans-Alaska Pipeline Authorization Act (the "TAPS" Act) was adopted by the U.S. Congress in November, 1973.[30] As for vessel owners, the Act extends only to "oil that has been transported through the trans-Alaska pipeline" and on vessels operating "between the terminal facilities of the pipeline and ports under the jurisdiction of the United States". However, the Act holds the vessel owner "strictly liable without regard to fault . . . for all damages, including clean up costs, sustained by any person or entity, public or private, including residents of Canada, as a result of discharges of oil" from vessels.[31]

In addition to vessel owner liability, the TAPS Act also improves liability on the holder of the pipeline right-of-way for any "damages in connection with or resulting from activities along or in the vicinity of [such] right-of-way." Like the vessel owner, the holder of the right-of-way is "strictly liable to all damaged parties, public or private, without regard to fault for such damages."[32] As for defenses to liability, the TAPS Act treats the vessel owner identically to the holder of the right-of-way, limiting both their defenses only to those cases where damages "were caused by an act of war or by negligence of the United States or other governmental agency."[33]

The TAPS Act therefore significantly expands the ambit of protection beyond the cleanup costs available only to the federal government under the Federal Water Pollution Control Act Amendments of 1972. In addition, it eliminates two of the defenses generally available to vessel owners under the 1972 Act (discharges caused either by "an act of God" or by "an act or omission of a third party without regard to whether any such act or omission was or was not negligent"). In this latter regard, moreover, the TAPS Act expressly recognizes those circumstances where damage is caused by the conduct or activity of a third party. Unlike the 1972 Amendments, however, the TAPS Act provides that such circumstances may not be used by the vessel owner or the holder of the right-of-way as a defense against all claims but only against claims by that third party and then only if negligence by that third party can also be proven.[34]

The liability of the right-of-way holder is limited to $50 million for any one incident.[35] If the damage is caused by a vessel, however, this Act for the first time incorporates the concept of a liability-type fund to assure both that all damaged parties can be compensated for damages they might suffer and to shift and apportion the economic responsibility for such damages to those who benefit from the carriage of oil by vessels, namely, the shipowner, the oil industry, and the oil consumer.[36] Financed by a 5-cent per-barrel fee levied by the pipeline operator upon the oil owner at the time the oil is loaded on a vessel, the Trans-Alaska Pipeline Liability Fund ultimately will total $100 million to be used for the purpose of providing compensation in circumstances where proven damages exceed $14 million. Up to $14 million, liability is borne by the vessel owner or operator "jointly or severally". Beyond that amount, the Fund takes over the responsibility of compensation up to its $100 million ceiling.[37] By August, 1978, the Fund contained $13 million.[38]

Like the 1972 Water Pollution Control Act Amendments, the TAPS Act expressly addresses the subject of preemption of state laws, and similarly declares that its liability provisions "shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements."[39] Finally, and again following the precedent—indeed, referring to the precise provision—of the 1972 Amendments, the TAPS Act requires vessel owners to show evidence of financial responsibility (by insurance, surety bonds, self-insurance or other means) sufficient to cover their potential liability of $14 million.[40]

The Intervention On The High Seas Act of 1974

In November 1969, the Brussels International Legal Conference on Marine Pollution adopted the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties. On May 20, 1970, President Nixon transmitted this Convention to the Senate for its advice and consent.[41] In 1971, the Senate gave its advice and consent, and in 1974, the Congress enacted the Intervention on the High Seas Act for the purpose of implementing and incorporating into United States statutory law the right, duties, and responsibilities of the United States under the convention.[42] Recently codified in 33 U.S.C. Sections 1471–87, the Act authorizes the Secretary of the Department of Transportation (in which the Coast Guard ordinarily operates) to take such measures on the high seas as may be necessary to prevent, mitigate, or eliminate "grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by oil."[43] Among the listed "interests" of the United States are "fish, shellfish, and other living marine resources, wildlife, coastal zone and estuarine activities, and public and private shorelines and beaches."[44]

When the Secretary determines that a "grave and imminent" danger exists, he is authorized to "remove, and, if necessary, destroy the ship and cargo which is the source of the danger."[45] However, actions taken by the Secretary must be reasonable given the circumstances, and the Act makes the United States liable, by way of a suit in the Court of Claims, for damages caused by actions beyond "those reasonably necessary" in any particular situation.[46] Finally, the Act makes available to the Secretary, for the purpose of financing "actions and activities" undertaken by the Government pursuant to the Act, the resources of the revolving fund of $35 million created by the 1970 Water Quality Improvement Act and carried over by the 1972 Federal Water Pollution Control Act Amendments.[47]

The Deepwater Port Act of 1974

Because the waters surrounding most of the United States (and especially adjacent to Gulf and East Coast ports) are not sufficient to accommodate supertankers requiring depths of up to 100 feet, Congress in late 1974 enacted the Deepwater Port Act, establishing a licensing and regulatory program governing off-shore deepwater port development beyond the territorial limits and off the coasts of the United States.[48] Codified in 33 U.S.C. Sections 1501–24, the Act prohibits oil discharges from any of the facilities of the port or from any vessel operating to or from the port or in a surrounding area technically denominated a "safety zone". Designated by the Secretary of Transportation "subject to recognized principles of international law", this "safety zone" is an area "of appropriate size around and including any deepwater port for the purpose of navigational safety".[49]

A discharge in violation of the Act either by a vessel owner or operator or by an individual or company licensed to operate the port is punishable by a civil penalty not to exceed $10,000 for each violation. Failure to notify the Government of a discnarge is punishable by a fine of not more than $10,000 or imprisonment for not more than one year or both.[50]

As for the nature of liability, the Deepwater Port Act adopts the same strict liability with the same limited defenses as were adopted the year before in the TAPS Act. Both the vessel owner and the licensee are strictly liable "without regard to fault" for damages, which are broadly defined as "clean up costs and . . . damages that result from a discharge of oil." The only defenses available are, as in the TAPS Act, "an act of war, or negligence on the part of the Federal Government in establishing and maintaining aids to navigation." In addition, if it can be shown that the damages resulted solely from the negligence of the party asserting a claim for the damage, neither the owner nor the licensee would be liable to that party.[51] The vessel owner's liability

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Footnotes at end of article.

arises from any "discharge of oil from such vessel within any safety zone, or from a vessel which has received oil from another vessel at a deepwater port."[52] The licensee's liability arises when the discharge is "from a vessel moored at such deepwater port" or from the deepwater port itself.[53]

As for limits of liability, the owner and the licensee are subject to unlimited liability if it can be shown that the discharge occurred because of "gross negligence or willful misconduct within [his] privity and knowledge." Absent such a showing, the limitation is $50 million for the licensee and the lesser of $150 per ton or $20 million for the vessel owner.[54]

For damages in excess of those compensated by the vessel owner or the licensee, the Act again follows the precedent of the TAPS Act by creating a $100 million fund, called the Deepwater Port Liability Fund, financed by a 2 cent per barrel fee collected by the licensee "from the owner of any oil loaded or unloaded at the deepwater port." The Fund, like the owner and licensee, is also liable "without regard to fault."[55] But unlike the owner and the licensee, the Fund's liability appears to be absolute in the sense that, though the Act allows the Fund a defense against claims by a party whose negligence caused the damage, it does not allow the Fund to invoke either of the other two defenses, namely, act of war and negligence of the federal government in establishing and maintaining aids to navigation. It thus appears that the Deepwater Port Act represents an expansion of the scope of liability from earlier federal legislation in the oil pollution area. Compare, for example, the provision governing the scope of the TAPS Fund liability in 43 U.S.C. Section 1653(c) (2), exonerating that Fund from liability where the damage was caused by an act of war or government negligence.

Another innovation adopted in the Deepwater Port Act which appears to have no precedent in earlier federal pollution legislation is a provision which: (1) allows the Attorney General of the United States to institute a class action "on behalf of any group of damaged citizens he determines would be more adequately represented as a class in recovery of claims," and (2) authorizes the Secretary of Transportation, acting "on behalf of the public as trustee of the natural resources of the marine environment," to sue and recover for damages to such resources and then to apply any sums recovered "to the restoration and rehabilitation of such natural resources."[56]

Expansive though these provisions are, the Deepwater Port Act, like the TAPS Act, has only very limited applicability. It was at least partially for this reason—though also to attempt to arrive at some element of uniformity in the face of the continuing profusion of varying federal and state funds as well as varying federal and state laws on the subject—that attempts began, soon after passage of the Deepwater Port Act, to enact as federal legislation what has since become colloquially known as the "superfund" bill.[57] The purpose of such a measure is to establish a "superfund" together with a comprehensive legal regime governing liability and compensation, public as well as private, for all damages and cleanup costs caused by oil pollution no matter the source and no matter the location.[58] But the enactment of such legislation is fraught with difficulties—not only because of its inherently controversial nature, but also because, as more laws on the subject continue to be enacted with increasingly stringent terms, the pressure on any new comprehensive law to equal or exceed the most protective of the terms and levels of all the other laws becomes virtually irresistible. And it is in this context that, before examining the options under consideration for the comprehensive law, we must first examine in some detail the most recent law which the Congress has enacted in the oil pollution context.

The Outer Continental Shelf Lands Act Amendments of 1978

Enacted in the closing days of the 95th Congress, the Outer Continental Lands Act Amendments of 1978 ("the 1978 OCS Act") amend the 1953 Outer Continental Shelf Lands Act[59] by establishing a new statutory regime for the management of oil and natural gas resources of the outer continental shelf and by adopting provisions to expedite the systematic development of the shelf but at the same time protect the marine and coastal environment.[60] It should be kept in mind that, while as a land mass, the OCS is almost one-third the size of the continental United States, only approximately 3 percent of the United States continental margin, or some 14.4 million acres, have so far been leased for oil and gas development.[61]

Nevertheless, in passing the 1978 Act, Congress seemingly anticipated a much more active program of exploration and exploitation and, to meet the risks of such a program, Congress devised and adopted an unprecedentedly broad system to govern pollution damages, cleanup and liability. Applicable to owners and operators of any offshore facility in the outer continental shelf or vessels operating over the shelf and carrying OCS oil, which "causes or poses an imminent threat of oil pollution," the Act sets up a system of strict liability under which, except for costs of removal, a vessel owner is potentially liable for damages up to a limit of $300 per ton (subject to no overall ceiling), and the offshore facility owner is potentially liable up to a limit of $35 million.[62]

As far as removal costs are concerned—and these are broadly defined to include "cleanup costs" and any other costs "incurred" under subsection (c), (d) or (1) of Section 311 of the Federal Water Pollution Control Act[63] and Section 5 of the Intervention on the High Seas Act[64]—Section 304(d) of the OCS Act expressly precludes the applicability of all "limitations, exceptions, or defenses". It thus renders the vessel or facility owner (as the case may be) absolutely liable, and without limitation, for "all costs of removal incurred by the Federal Government or any State or local official or agency in connection with a discharge of oil from any offshore facility or vessel."[65] This may well be the first instance of unlimited and absolute liability in a federal statute.

Somewhat like the TAPS and the Deepwater Port Acts, though more capable of being relied upon by damaged parties (not only because of its unique use of the word "primarily" but also because it includes the violation of federal standards and regulations as a trigger for extinguishing the right to limitation), Section 304(b) of the OCS Act provides that the owner or operator of the vessel or the facility may lose the right to limitation and thus also be liable without limit for damages other than removal costs when "The incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator, or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government." (Emphasis added).[66]

On the other hand, and except for removal costs, a vessel or facility owner may avoid liability entirely if it can be shown that the incident was ". . . caused solely by an act of war, hostilities, civil war, or insurrection, or by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character . . . [or if it was caused] solely by the negligent or intentional act of the damaged party or any third party (including any government entity)."[67]

Other than the defenses enumerated in the 1970 Water Quality Improvement Act, as they were carried over into the 1972 Water Pollution Control Act Amendments,[68] no subsequent federal statute dealing with oil pollution damage allows acts of God (*e.g.*, a natural disaster) and negligence of third parties to operate as complete defenses to liability—though the required proof that the incident be caused "solely" by one of these factors reduces the potential sweep of the defense.[69]

Damage recoveries, referred to as "claims for economic loss", are specifically permitted not only for removal or cleanup costs of the federal and local governments, but also for such elements of damage as—

(A) injury to, or destruction of, real or personal property;

(B) loss of use of real or personal property;

(C) injury to, or destruction of, natural resources;

(D) loss of use of natural resources;

(E) loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources [so long as the claimant "derives at least 25% of his earnings from activities which utilize the property or natural resources"]; and

(F) loss of tax revenue [" by the Federal Government and any State or political subdivision thereof"] for a period of one year due to injury to real or personal property.[70]

In addition, there is another unique provision in the Act rendering the vessel and facility owner liable "without regard to the limitation of liability [of $300 per ton or $35 million respectively] . . . for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim is presented to such person to the date upon which the claim is paid."[71]

Finally, where the damages might exceed the limits or where defenses might exonerate the vessel or facility owner from liability, the 1978 Act creates an Offshore Oil Pollution Compensation Fund not to exceed $200 million, to be financed by a fee of not more than 3 cents per barrel imposed on the owner of oil when such oil is produced on the OCS.[72] The $200 million is not an inflexible ceiling, as the Act authorizes the Government to borrow "[i]f at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund."[73] The Act also expressly provides that "the Fund shall be liable, without limitation, for all losses for which a claim may be asserted under [the Act] . . . to the extent that such losses are not otherwise compensated."[74]

The Act additionally requires the promulgation of regulations requiring vessel and facility owners to show financial responsibility "to satisfy (their) maximum amount of liability" subject to the limitations.[75] The Act also provides civil and criminal penalties for failure to give notice to the Government of a discharge or for failure to comply with the financial responsibility requirements.[76] Other sections of the Act include detailed provisions governing such matters as suits by the Attorney General, class actions by private citizens suffering damages, claims settlement procedures, rights of the Fund to sue and be sued, subrogation, jurisdiction and preemption. In all, this Act contains by far the most comprehensive and far reaching provisions that have appeared to date in any federal legislation dealing with oil pollution. And if only because it was the most recent federal enactment, it is probably the most significant backdrop for Congress' current consideration of the various legislative proposals for a comprehensive "superfund" act.

Footnotes at end of article.

Proposed new Federal legislation

In a sense, perhaps the most important provision of the Deepwater Port Act, discussed above, was section 18(a), which called for a detailed study to be performed by the Attorney General, in consultation with other agencies, regarding "methods and procedures for implementing a uniform law providing liability for clean up costs and damages from oil spills from Outer Continental Shelf operations, deepwater ports, vessels, and other ocean-related sources." This provision was eloquent evidence of Congressional dissatisfaction with the piecemeal character of its past efforts; and the Report that was eventually submitted by Attorney General Levi proved to be influential in shaping subsequent proposals for legislation.[77]

Following on the heels of the Justice Department's Report, a host of superfund bills were introduced by various Senators and Representatives during the 94th and 95th Congresses. Three emerged with some possibility of enactment at the close of the 95th Congress. These were H.R. 6803, which was passed by the House; the version of S. 2083 which was reported out by the Senate Committee on Commerce, Science and Transportation (hereafter Senate Commerce Committee); and the version of S. 2083 which was reported out by the Senate Committee on Environment and Public Works (hereafter Senate Environment Committee). But the press of business at the close of the 95th Congress was such that, apart from the Outer Continental Shelf Lands Act Amendments, no comprehensive oil pollution legislation was adopted. In addition, the thorny substantive differences that continued to emerge during the final days of the Congress among the supporters of the various bills made it unlikely that, absent a willingness for substantial compromise on all sides, any new oil pollution legislation could be enacted even during the relative calm of a new Congress.[78]

Because of the comprehensive nature of the bills plus the fact that none was ultimately enacted, little purpose would be served by a detailed analysis of their respective provisions. But so that the reader may gain some understanding of the overall directions in which United States pollution law is apparently moving and of the controversies surrounding that movement, we shall very briefly outline the various areas of general agreement and disagreement common to the bills.[79]

1. *Vessel Owner Liability:* There seems to be general agreement, at least in the Senate, that the limit of liability for oil tankers should be the same $300 per gross ton (with no ceiling) as was enacted in the 1978 OCS Act. A tanker of 200,000 dwt would thus be exposed to a potential liability of $60 million—exactly double the $30 million potential liability to which that tanker is exposed under the current Clean Water Act.[80] Regarding vessels other than tankers, the Senate Committee on Environment prefers the same $300 per gross ton, while the Senate Commerce Committee prefers $150 per gross ton—in either version without a ceiling. For its part, the House of Representatives is likely to accept the $300 per gross ton limit, for oil tankers but prefers to make it subject to a $30 million ceiling.

2. *Liability of Facilities:* Both Senate Committees as well as the House are reportedly prepared to adopt the limit of $50 million presently in the Clean Water Act for onshore and off-shore facilities and for deepwater ports.[81] There is also apparent general agreement that such a limit may be reduced in the event a determination is reached that a lower limit would be more appropriate for a particular class or category of facility. In this later respect, however, the Senate Environment Committee prefers a "floor" or minimum liability exposure of at least $8 million.

3. *The Fund and Its Funding:* Both Senate Committees and the House are in agreement that there should be an Oil Spill Fund to compensate for oil pollution damage and that such Fund, like the OCS Fund, should be in the amount of $200 million, financed by a fee of up to 3 cents per barrel to be imposed on each barrel of crude oil received at any refinery or terminal for import to or export from the United States. There is similar agreement that, once established, this Fund will supersede all the Funds established under other federal laws to provide oil pollution liability protection. These include the TAPS Act Fund, the Deepwater Port Fund, the OCS Fund, the revolving fund established under the 1970 Water Quality Improvement Act and carried over in the 1972 Water Pollution Control Act Amendments, and the availability of that latter fund under the Intervention on the High Seas Act.

As in the OCS Fund, the $200 million amount would not be limited, because there is agreement in principle that the Fund may borrow money if the damages exceed $200 million or any other amount that may be in the Fund at the time an incident occurs. The $200 million amount, which the entire Congress now seems inclined to accept, is so much higher than the $39 million fund provided for in the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (or even the increase to $78 million permitted by the Convention if three-quarters of the states parties thereto so agree) that it is now highly unlikely that the United States will ratify that Convention.[82]

4. *Hazardous Substances:* The Senate Environment Committee, drawing on the 1972 Water Pollution Control Act Amendments and its inclusion of "hazardous substances" within the protective ambit of the cleanup and liability provisions, prefers similarly to include "hazardous substances" in any new law that may now be adopted. The Environment Committee also wishes to set up a second fund, separate from the Oil Spill Fund, to cover cleanup costs and damage compensation resulting from spills or discharges of hazardous substances. The Environment Committee has not yet suggested a monetary level nor a fee system to finance this second fund, but the bill calls for an Administration study (to be completed in 18 months) which would make recommendations on these points. The Senate Commerce Committee, like the House, limits its bill and proposed Fund to pollution caused by oil.

5. *Terms, Scope and Nature of Liability:* The Environment Committee prefers to employ Section 311 (now codified in 33 U.S.C. Section 1321) of the 1972 Water Pollution Control Act Amendments, as amended by the 1977 Clean Water Act, as the basis for setting out the terms, scope and nature of any system of liability adopted in new pollution legislation. The Environment Committee suggests that, as Section 311 has been part of United States law since its adoption as Section 11 of the 1970 Water Quality Improvement Act, there is a persuasive reason not to fashion a new system. The Senate Commerce Committee and the House, for their part, prefer to adopt a new system. Space does not permit a detailed comparison of the proposed systems, but it appears that there is general agreement that, at least as pertains to oil pollution damage, strict liability should be continued. The differences seem to emerge principally in the phraseology of the rights that are entitled to protection as well as the defenses and exceptions that may be invoked to escape liability. As between the two Senate bills, neither is significantly more pro-industry or pro-environment than the other. As between those two bills and the House bill, however, Senator Muskie and the Committee on Environment are understood to believe the differences to be substantial and significant enough to warrant serious public attention and discussion.[83]

6. *Preemption:* The extent to which state law should be permitted to operate in the area of oil pollution liability has long been one of the most troublesome issues between the industry, the environmentalists, and the United States Government. It is even more contentious today than it was in 1970, when Congress, in adopting Section 11(o)(2) of the Water Quality Improvement Act, first declared that states would be permitted to play a role in this area. For by 1978, a Library of Congress Congressional Research Service study showed that eighteen coastal states had enacted their own oil spill laws. A copy of the Library's study in chart form is reproduced below, showing the states which have enacted such legislation and the substantive differences between the various enactments. Given the *Askew* decision (*supra*, pp. 480–481), the industry can look only to Congress and the courts for any real hope of superseding these state enactments and achieving some degree of uniformity on the basis of the doctrine of federal supremacy.

The Congressional debate over preemption is a lively one, reflecting the range of views of the various interested outside parties. The Committee on Environment prefers no preemption, finding that even though its reported bill was "the most stringent of the three 'superfund' bills in the Congress," were it to preempt state statutes it would impose "a lower standard of liability in one or more areas than virtually every State statute." Close examination of the argument for preemption, so the Environment Committee concluded:

> . . . reveals it as an argument rejected as flawed and dangerous in the adoption of the Federal system 200 years ago. Neither the circumstances nor dangers have changed so much since that time that the Committee is now willing to embrace an authoritarian Federal regime.

The Senate Commerce Committee, expand on comparable provisions in the 1978 OCS Amendments,[84] is probably inclined to authorize preemption in at least two contexts: (1) precluding required contributions to any state funds whose purpose is to pay compensation for losses that can be compensated under the federal act; and (2) precluding states from requiring any evidence of financial responsibility beyond that required under the federal act. But, adopting language similar to that in the OCS Act, the Commerce Committee is still not prepared to preempt "the field of liability or to preclude any State from imposing additional requirements or liability for damages and cleanup costs, within the jurisdiction of such State, resulting from a discharge of oil." It cannot be said that this "field" of non-preemption is a model of clarity.

For its part, the House prefers general preemption but goes about trying to achieve it not by outlawing or invalidating state laws on the subject, but by making the superfund and the federal courts the exclusive means for the collection of oil pollution damages.

Footnote at end of article.

COMPARABLE STATE OILSPILL LIABILITY PROVISIONS

	Alabama	Alaska	California	Connecticut	Florida	Georgia	Louisiana	Maine	Maryland	Massachusetts	Mississippi	New Jersey	New York	North Carolina	Oregon	Texas	Virginia	Washington
Funds		×	×		×[1]			×[1]	×[1]			×[1]	×[1]	×	×	×		×
Liability:																		
Strict (for hazardous type substances).		×				×						×		×	×			×
Unlimited	×	×	×			×		×	×	×	×			×	×		×	×
Limited (except for negligence.)				×	×							×				×		
Hazardous substances:																		
Includes hazardous substances.		×			×	×						×				×		
Wide range of "pollutants"	×		×	×							×				×			
Oil only								×	×	×			×	×			×	×
Damages:																		
Cleanup, containment damages.		×	×	×	×	×		×	×	×				×	×	×	×	×
Restoration/restock	×	×				×					×		×		×			
Economic												×						

[1] A contributing fund.

Source: S. Rep. No. 95-1152 (Committee on Environment and Public Works), 95th Congress, 2d session, 24 (1978).

Note: For a comprehensive and updated analysis of State programs, see M. Lee, Oil Pollution Liability Statutes: An Overview of State Programs (Congressional Research Service, 1979).

CONCLUSION

Building upon the basis of the Shipowner's Limitation of Liability Act of 1851, United States law regarding liability for oil pollution has proceeded at an irregular pace, providing what may fairly be characterized as a patchwork scheme of liability limits, legal defenses, and compensation fund programs. The pattern is further complicated by the uncertain limits placed by the Constitution upon the power of the States to legislate in an area that has, in important respects, been entered by the Congress. Although the existence of diverse liability regimes may be explained as a matter of history, and to some extent justified as a recognition of separable factual settings of different areas of industrial activity, the proliferation of federal legislative programs through a process of accretion has probably reached the point where the law begins to lose coherence, much as the addition of excessive levels of icing may topple an otherwise appealing four-layer cake. Congress now appears to be on the brink of redoing the uppermost layers of the legislative cake, although the precise ingredients will remain unclear until the task is done. The issue that will then have to be addressed is the need to reconcile domestic and international oil pollution compensation expectations and programs in a way that will give due recognition not only to the "common heritage of mankind" concept as applied to the global commons, but also to the proper interests of coastal states in preserving their environments, maintaining a regulatory and legal climate that will foster continued international trade in oil, and compensating those who have been injured as a result of that commerce. American law currently attempts this reconciliation, but the drive towards a comprehensive approach is such that the present legislative arrangements should probably be considered essentially transitory.[85]

FOOTNOTES

[1] *See* Lettow, *The Control of Marine Pollution* in Environmental Law Inst., Federal Environmental Law 598 (E. Dolgin & T. Guilbert eds. 1974).

[2] 9 Stat. 635 (1851), 46 U.S.C. §§ 181-89 (1976).

[3] The exceptions, all applying to oil pollution damage, are discussed in later sections of this chapter.

[4] *See* 26 Geo. 3 c. 86 (1786).

[5] *See generally* G. Gilmore & C. Black, The Law of Admiralty 818-19, 821 (2d ed. 1975).

[6] *Norwich Co. v. Wright*, 80 U.S. (13 Wall.) 104 (1871).

[7] *Place v. Norwich & N. Y. Transp. Co.*, 118 U.S. 468 (1885); *Dyer* v. *National Steam Navigation Co.*, 118 U.S. 507 (1885); *Thommessen v. Whitwell*, 118 U.S. 520 (1885).

[8] *In re Barracuda Tanker Corp.*, 281 F. Supp. 228, 230 (S.D.N.Y. 1968), *reversed on other grounds and remanded*, 409 F.2d 1013 (2d Cir. 1969). *See* Sisson, *Oil Pollution Law and the Limitation of Liability Act*, 9 J. Mar. L. & Comm. 285 (1978). The compensation paid for Torrey Canyon damage has been estimated to have ranged between $8 and $15 million. No definitive figure has ever been published to the authors' knowledge.

[9] G. Gilmore & C. Black, The Law of Admiralty 877 (2d ed. 1975).

[10] *The Titanic*, 233 U.S. 718, 732-33 (1914).

[11] *Petition of Chadade Steamship Co., owners of S.S. Yarmouth Castle*, 266 F.Supp. 517 (S.D. Fla. 1967).

[12] Following the *Yarmouth Castle* disaster in November 1965, the Johnson Administration sponsored comprehensive maritime reform legislation including a specific provision to repeal Section 183 insofar as it established limitations of liability for personal injury and death. S. 3251, 89th Cong., 2d Sess. (1966). The comprehensive legislation was passed except for the repealer. In the 90th Congress, a repealer was again introduced, but it too was not enacted. H.R. 17254, 90th Cong., 2d Sess. (1968), S. 3600, 90th Cong., 2d Sess. (1968). In the context of oil pollution liability, no effort has ever been made to repeal Section 183. For its part, the Senate Commerce Committee considers that the limitations of Section 183 are applicable to oil pollution damage. See that Committee's recent report on Oil Pollution Liability. S. Rep. No. 95-427 (*Senate Committee on Commerce, Science and Transportation*), 94th Cong., 1st Sess. (1977) (hereafter referred to as *Sen. Comm. Rep.*). *See also note* 29 *infra*.

[13] These included the 1899 Refuse Act, 33 U.S.C. §407 (1976); *see* Lettow, *supra note*, at 602 & nn. 31-32: the Oil Pollution Act of 1924, as amended (43 Stat. 604, 33 U.S.C. § 431 *et seq.* 1970)); the Federal Water Pollution Control Act of 1948, as amended (62 Stat. 1155, 33 U.S.C. § 466 *et seq.* (1970)); and the Water Quality Improvement Act ("WQIA")of 1970 (Pub. L. No. 91-224, 84 Stat. 91, 33 U.S.C. §1161 *et seg.* (1970)). For a concise history of United States oil pollution legislation prior to 1972, see Davis, *The Ports and Waterways Safety Act of 1972*, 6 J. Mar. L. & Comm. 249 (1975), and Milstein, *Enforcing International Law: U.S. Agencies and the Regulation of Oil Pollution in American Waters*, 6 J. Mar. L. & Comm. 273 (1975).

[14] Pub. L. No. 92-500, 86 Stat. 816. *See also* 1972 Code, Cong. & Adm. News 951, 3668.

[15] 33 U.S.C. § 1251(a)(1) (1976).

[16] 33 U.S.C. § § 1321(a)(1)-(2) (1976).

[17] 33 U.S.C. § § 1321(b)(5)-(6) 1976); Pub. L. No. 95-576, 87, 92 Stat. 2467 (1978).

[18] 33 U.S.C. §§ 1321(c)(1), (d) (1976).

[19] In 1970, when federal oil pollution limits of liability were first adopted in the WQIA, they were at that time set at *the lesser* of $100 per ton or $14 million. *See* WQIA § 11(f)(1), reprinted at 1970 U.S. Code, Cong. & Adm. News 101. No matter the tonnage of the tanker, therefore, its maximum exposure for oil pollution liability under the 1970 Act was $14 million. In the Clean Water Act of 1977 (Pub. L. No. 95-217, 91 Stat. 1566), these limits were increased to their present figures—which effectively amount to a limit of $150 per ton subject to no ceiling. As justification for removing the $14 million ceiling of the WQIA, the Senate Report on the 1977 Act stated that the ceiling "served no useful purpose, inadvertently subsidizing large tankers and thus enhancing their competitive position over smaller vessels. The $14 million limit in existing law is totally inadequate to deal with an oil spill of any magnitude from the size of tanker that is expected to be plying the waters of the United States." S. Rep. No. 95-370 (Senate Committee on Environment and Public Works), 95th Cong., 2d Sess. (1977). *See also* 1977 U.S. Code, Cong. & Adm. News 4326, 4389. For views as to how the "strict liability" standard made its appearance in United States 2nd international oil pollution law, *see* Bergman, *No Fault Liability for Oil Pollution Damage*, 5 J. Mar. L. Comm. 1 (1973), and Gold, *Pollution of the Sea and International Law*, 3 J. Mar. L. & Comm. 13 (1971).

[20] 33 U.S.C. § 1321(f)(1) (1976).

[21] 33 U.S.C. § 1321(p)(1) (1976).

[22] 33 U.S.C. § 1321(f)(1) (1976).

[23] 33 U.S.C. § 1321(a)(12) (1976).

[24] 33 U.S.C. § 1321(f)(1) (1976).

[25] *Id.* and 33 U.S.C. § 1321(n) (1976).

[26] Except for the limits of liability, the 1972 Federal Water Pollution Control Act Amendments create an almost identical scheme of fines and liability for owners or operators of both on-shore and off-shore facilities from which oil or any hazardous substance is discharged. Their respective limits of liability, however, are set at $50 million, having been raised to these amounts by the Clean Water Act of 1977. When originally adopted in the 1970 WQIA, the limits for on-shore and off-shore facilities were set at $8 million. *See* 33 U.S.C. §§ 1321(b)(5)-(6), (f)(2)-(3), (g).

[27] A provision adopted in the 1977 Clean Water Act and presently codified at 33 U.S.C. § 1321(f)(4) specifically includes as part of cleanup costs "any costs or expenses" of the federal "or any State government in the restoration or replacement of natural resources damaged or destroyed" as a result of an unlawful discharge. The terms of this provision could substantially expand potential damages under the Act though, of course, not beyond the prescribed limits of liability. *See* 1977 U.S. Code, Cong. & Adm. News 4326, 4389.

[28] U.S. at 328–29. *See generally* A. Mendelsohn, *Analysis of the Decision of the Florida District Court in the Case of American Waterways Operators, Inc. v. Askew*, Sen. Comm. on Public Works, 92nd Cong., 2d Sess. (Comm. Print 1972).

[29] *Id.* at 332. Professors Gilmore and Black have since characterized Justice Douglas' opinion in *Askew* as "a new highwater in judicial ambiguity", adding that all *Askew* tells us "is that there is a great deal of litigation in store on these complex issues." G. Gilmore & C. Black, *supra* note 5 at 833–34. Professors Healy and Sharpe concluded that liability established by state statutes such as the Florida act involved in *Askew* "will be subject to limitations in accordance with the [1851] Limited Liability Act." N. Healy & D. Sharpe, Admiralty Cases and Materials 752 (1974). *See also* Swan, *American Waterways: Florida Oil Pollution Legislation Makes It Over First Hurdle*, 5 J. Mar. L. & Comm. 77 (1975). More recently, the Supreme Court of the United States struck down that part of a Washington State law which attempted to govern the design, size and movement of oil tankers in Puget Sound and set certain higher standards than those prescribed under federal law. Without mentioning *Askew*, the Court held that the State law was preempted by federal law. *Ray v. Atlantic Richfield Co.*, 435, U.S. 151, 55 L. Ld. 2d 179 (1978). For recent litigation in the lower federal courts on the preemption question, *see* Case Notes, 10 J. Mar. L. & Comm. 287 (1979); 9 J. Mar. L. & Comm. 397 (1978). *See also Stewart Transportation Co. v. Allied Towing Corp.*,—Fed.—(4th Civ. Apr. 10, 1979). In its 1978 Report on Oil Pollution Liability (Sen. Comm. Rep. *supra* note 12 at pp. 6 and 10), the Senate Commerce Committee referred to the 1970 and 1972 Water Pollution Acts but pointed out that "[n]othing has been done to improve the position of the injured property owner whose recovery of damages is still curtailed by the [1851] Limitation Act." Reemphasizing this same point, the Committee later concluded that:

> In a time of increasing oil transportation by ships and in an era of a growing tanker technology, recovery of private oil spill damage is still governed by the Limitation of Liability Act—a statute which was enacted over 120 years ago and which still purports to deal with a problem which was not even in existence at the time of its passage.

The views of the Commerce Committee on this divisive issue thus seem clear.

[30] Pub. L. No. 93–153, 87 Stat. 584, 43 U.S.C. §§ 1651–55 (1976).

[31] 43 U.S.C. § § 1653(a)(1),(7) (1976).

[32] 43 U.S.C. § 1653(a)(1) (1976).

[33] 43 U.S.C. § § 1653(a)(1), (c)(2) (1976).

[34] *Id.*

[35] 43 U.S.C. § 1653(a)(2) (1976).

[36] The concept of such a fund was by this time familiar to the Congress because of its earlier examination of the fund proposed to be created by the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. In addition, at least ten United States coastal states had by this time adopted legislation establishing comparable oil pollution funds. *See* pp. 492–495, *infra*.

[37] 43 U.S.C. § § 1653(c)(3),(5) (1976).

[38] S. Rep. No. 95–1152, 95th Cong., 2d Sess. 15 (Committee on Environment and Public Works) (1978) (hereinafter referred to as *Sen. Envir. Rep.*).

[39] 43 U.S.C. § 1653(d)(9) (1976).

[40] 43 U.S.C. § 1653(c)(3) (1976).

[41] Exec. G, 91st Cong. 2d Sess. (1970).

[42] Pub. L. No. 93–248, 88 Stat. 8. *See also* 1974 U.S. Code, Cong. & Adm. News 1773; Bissell. *Intervention on the High Seas: An American Approach Employing Community Standards*, 7 J. Mar. L. & Comm. 718 (1976). It will remain an interesting but unanswered question in American law why all international maritime law conventions, whether of a private or public law type, are routinely implemented by a separate enactment into domestic law of the terms of the Convention, while international law conventions (*e.g.*, the Chicago Convention on International Civil Aviation, 61 Stat. 1180; and the Warsaw Convention on the liability of international air carriers, 49 Stat. 3000) are routinely deemed to be self executing and thus to require only the most minimal domestic implementing legislation and often none at all.

[43] 14 U.S.C. § 3 (1976); 49 U.S.C. § 1655 (b)(2) (1976).

[44] 33 U.S.C. §§ 1472–73 (1976).

[45] 33 U.S.C. § 1474(3) (1976). No similarly precise authorization appears in the language of the Convention, but Articles I, III and V are sufficiently broad as easily to encompass such acts as removing or, if necessary, destroying the vessel. The power to destroy vessels presenting hazards to navigation or risk of pollution was previously found in a variety of federal laws. *See, e.g.*, 14 U.S.C. § 88(a) (1976); 33 U.S.C. § 415 (1976).

[46] 33 U.S.C. §§ 1477 & 1479 (1976).

[47] 33 U.S.C. § 1486 (1976). *See* note 23 *supra*.

[48] Pub. L. No. 93–627, 88 Stat. 2126. *See* 1974 U.S. Code, Cong. & Adm. News 2468, 4529.

[49] 33 U.S.C. §§ 1502 (16), 1509 & 1517 (1976). See Convention on the Continental Shelf. Art. 5, Apr. 29, 1978, T.I.A.S., No. 5578, 15 U.S.T. 471, 49 U.N.T.S. 311.

[50] 33 U.S.C. §§ 1517(a)–(b) (1976).

[51] 33 U.S.C. §§ 1517(d) (e) & (g) (1976).

[52] 33 U.S.C. § 1517(d) (1976).

[53] 33 U.S.C. § 1517(e) (1976).

[54] 33 U.S.C. §§ 1517(d)–(e) (1976).

[55] 33 U.S.C. § 1517(f) (1976).

[56] 33 U.S.C. §§ 1517(i)(1), (3) (1976).

[57] For helpful reviews of the background of these events, see Wood, *An Integrated International and Domestic Approach to Civil Liability For Vessel-Source Oil Pollution*, 7 J. Mar. L. & Comm. 1 (1975), and Goldie, *Liability For Oil Pollution Disasters*, 6 J. Mar. L. & Comm. 323 (1975).

[58] *See*, pp. 490–495 *infra*.

[59] 67 Stat. 462, U.S.C. §§ 1333 *et seq.* (1976).

[60] Pub. L. No. 95–372, 92 Stat. 629. *See also* 1978 Code, Cong. & Adm. News 629, 2856.

[61] H.R. Rep. No. 95–590 (OCS Committee), 95th Cong., 2d Sess. 65 (1978). *See also* 1978 U.S. Code, Cong. & Admn. News 2878.

[62] §§ 301, 304(a), 304(b)(1)–(2); 43 U.S.C. §§ 1811 & 1814.

[63] 33 U.S.C. §§ 1321(c), (d) & (l).

[64] 33 U.S.C. § 474.

[65] §§301(22), 303(a)(1) & 304(d); 43 U.S.C. §1811–13.

[66] §304(b), 43 U.S.C. §1814 (emphasis added).

[67] §304(c)(1), 43 U.S.C. §1814.

[68] 33 U.S.C. §1321(f)(1).

[69] Compare notes 33, 34 and 51 *supra*, and accompanying text.

[70] §§303(a)(1) and (a)(2). For the bracketed qualifications, see §§303(b)(4) and (b)(5); 43 U.S.C. §1813. The powers conferred on the President with respect to the assertion of oil pollution claims under the 1978 Amendments have been delegated to the Secretaries of Commerce and the Interior. Exec. Order No. 12123, §1–1, 44 Fed. Reg. 11199 (Feb. 28, 1979). Other powers relating to the determination of financial responsibility and the assessment and compromise of penalties were delegated to the Federal Maritime Commission and the Secretary of Transportation. *Id.* §1–2.

[71] §304(g); 43 U.S.C. §1814 (1976).

[72] §§302(a), (d); 43 U.S.C §1812 (1976).

[73] §§302(a), (f), 43 U.S.C. §1812 (1976).

[74] §304(f)(1), 43 U.S.C. §1814 (1976). Section 304(f)(2) exonerates the fund from any liability to a claimant whose negligence or willful misconduct caused the damage for which the claim is asserted.

[75] §305, 43 U.S.C. § 1815. Such regulations were published by the Federal Maritime Commission and the Coast Guard in March 1979.

[76] § 312. 43 U.S.C. § 1822.

[77] U.S. Dept. of Justice, Methods and Procedures for Implementing a Uniform Law Providing Liability for Clean up Costs and Damages Caused by Oil Spills from Ocean Related Sources, 94th Cong., 1st Sess. (Comm. Print 1975).

[78] *See* materials cited at note 83 *infra*.

[79] For the sources of these comparisons, see *Sen. Com. Rep., supra* note 12; *Sen. Envir. Rep., supra* note 38; and H.R. Rep. No. 95–340 (House Committee on Merchant Marine and Fisheries), 95th Cong., 1st Sess. (1977).

[80] 33 U.S.C. § 1321(f)(1) (1976).

[81] 33 U.S.C. §§ 1321(f)(2)–(3) (1976).

[82] The $39 and $78 million amounts reflect the increase in gold value since adoption of the 1971 Convention. For the text of that Convention, see 3 J. Mar. L & Comm. 624 (1972). It is also virtually certain that the United States will not ratify the 1969 International Convention on Civil Liability for Oil Pollution Damage, considering its limit of $134 per gross ton (subject to a $14 million ceiling) compared with the limit of $300 per ton (with no ceiling) which has been adopted in the 1978 OCS Act and which both responsible Senate Committees seem prepared to accept today in any superfund legislation. Moreover, in its 1978 Report, the Senate Commerce Committee expressly concluded (at p. 4) that:

> Because of the inadequacies of [the 1969 and 1971] proposed treaties the Committee believes they should not be approved unless substantially altered. In the meantime, domestic legislation should fill the gap.

This view, or one very much like it, is probably shared by a majority of the present members of the Senate Committee on Environment. As a result, unless there is a radical change in the way the international community views the matter of compensation for oil pollution damage, it is hard to envision a successful leadership role for the United States in future treaty writing efforts to unify the international law governing oil pollution liability. The pending Third United Nations Conference on the Law of the Sea, if it leads to conclusion of a new convention, may spark renewed international activities with respect to pollution of the sea by oil. Because the outcome of the Conference is still a matter of speculation, however, the authors have thought it best simply to note the possibility that changes in domestic legislation in the United States could be among the results of such a new international accord.

[83] *See* 125 Con. Rec. S1013–16 (daily ed. Feb. 1, 1979).

[84] §310, 43 U.S.C. §1820 (1976).

[85] *Cf.* Lettow, *supra* note 1, at 629.●

THE PRESIDENT'S ENERGY PROPOSALS

● Mr. TOWER. Mr. President, since July 16, when President Carter last enunciated his energy policy, a great deal has happened. There have been massive revisions in his assumptions about revenues from proposed oil taxes, changes in consumption patterns, and several excellent studies of energy resources and the energy future.

Unfortunately, very little of this has penetrated the White House, or the wizards at the Department of Energy. The bureaucrats, through a desire to keep heating oil supplies where they can be neatly counted, have prevented the normal distribution system from working, and are about to produce the same kind of misallocation of supply that gave us last summer's gas lines.

The administration continues work on oil import quotas, and pushes for its latest edition of the Post Office, the Energy Security Corporation. These efforts betray almost total ignorance of what has happened since July 16, and the information that has become available.

As an example, Mr. President, let me call the attention of my colleagues to a little booklet published by the American Enterprise Institute. Called a "Seminar on Energy Policy: the Carter Proposals," this booklet is the result of a panel discussion of our energy situation and the administration's response to it, by several experts in energy and energy economics. I emphasize that the experts are not industry representatives, but academic specialists and professional consultants. For that reason, their unanimity is all the more striking.

I will not enter the entire booklet into the RECORD. It has been sent to all Senator's offices, and is available to them, and to their staffs. But I would like to highlight just a few of the comments of these energy experts. I think they have a great deal to offer to us as we consider energy legislation in the Senate in the near future.

All of these experts agree that decontrol of oil and natural gas is overdue, critical, and the most effective step that could be taken to improve the supply picture in the short and medium term. Milton Russell, senior fellow at Resources for the Future, outlines the situation this way:

> In narrow terms, a successful crash program [in synfuels] would only give us more short-run discretion in foreign and domestic policy in the face of oil exporter actions. But, of course, those same goals could be achieved by more conventional oil and gas production, or more conservation.

And Prof. Edward J. Mitchell of the University of Michigan added, in response to a question as to what should be done immediately:

> The first thing that should be done is to decontrol oil and gas prices, so that we do get some increase in domestic supply, not ten, or twenty, or thirty years from now, but in the nearer term.

Dr. Russell also made some cogent points on the impact of new synfuel development on imports, even if the President's goals of 2½ million barrels per day were to be reached by 1990.

> Synfuel plants are very large enterprises. A 50,000-barrel-a-day coal plant will probably cost, at a minimum, $2 billion. It uses several times as much coal as the largest electric generating plant in existence, and no one has ever built one at this scale or at a scale approaching it. And we are talking about building twenty or thirty of them in the next ten years.
>
> Another set of plants—using essentially the same heavy construction and engineering skills, the same industrial base, the same people—will be required for the oil-shale program. And we are talking about building about ten of those in the next ten years. At the same time, we will be building coal and nuclear electric plants not only for expansion but, according to the President's program, to replace 750,000-barrels-per-day oil use—another twenty-five, perhaps, similar-sized plants there.
>
> We do not have the unemployed managers, skilled laborers, and production equipment to utilize as we did in the era that is so often being referred to—that is, the era when war production expanded in 1941. The managers, engineers, and laborers will have to be trained or diverted from other activities. . . .
>
> Resource redirection and mobilization are the activities at which a free enterprise society excels, but they still take time. . . .
>
> Inevitably, the faster the program is pushed, the higher will be its cost. These costs are paid in three ways. . . .
>
> First is the direct waste involved: That waste occurs when the same mistakes are made in a lot of places at once, when cheaper ways and advanced technologies are not pursued because something else may be faster, when redundant paths are followed because there is no time to learn, and when bottlenecks that show up anywhere mean that time and effort is lost everywhere. These wastes show up in higher fuel costs from the plants themselves.
>
> The second cost is displayed in lower output in the rest of the economy as shortages and distortions show up because labor and equipment are diverted to synfuels tasks.
>
> The third cost—one which I think deserves some very special attention—is in energy production from conventional and other sources. As capital is pulled away from conversation activities, from searching for conventional oil and gas; as equipment and labor is diverted from building coal and nuclear power plants and their production schedules slow down; as engineering and geological skills and, even, drilling equipment is diverted from searching for conventional natural gas to working on more speculative efforts to produce nonconventional gas—then there will be less production of other domestic energy.
>
> This last cost should be carefully examined in evaluating even a successful program. The point is that, even if 2.5 million barrels per day were produced in a synthetic fuels program by 1990, that does not translate into an import reduction of 2.5 million barrels per day during the same time period because of the loss of energy supplies elsewhere in the economy.

Prof. William W. Hogan, professor of political economy at Harvard University makes some similarly interesting points about price increases and conservation. Energy prices have increased, of course, sharply since 1973. Nevertheless, the increases have been less than is popularly believed. The real price of imported oil increased 160 percent between 1972 and 1978, but the real price of all energy over the same period increased only 30 percent. That is a substantial increase, to be sure, but it is not without its benefits. Professor Hogan argues that that price increase has produced a decrease in energy consumption in the United States.

> Per dollar of GNP, the energy delivered to these final consumers decreased by 12 percent. This is a nontrivial reduction in the energy utilization per dollar of GNP, which has been matched by most, if not all, other countries around the world that experienced similar increases in energy prices.

Professor Hogan estimates that we have seen less than half the increased efficiency that will result from the 30-percent increase in real prices, and predicts, as you might expect, that further increases will bring forth corresponding increases in energy efficiency. Rationalization of energy prices in the United States, through total decontrol, would be a logical step in that process, Professor Hogan believes. By contrast, our current energy policy, and those proposed by the President, lead in exactly the opposite direction.

> What I am more concerned about is the main thrust of the President's latest package, which is a supply-oriented synthetic fuels proposal, and the kinds of subsidies that are developed there. Rather than carrying the message to the consumer that imported oil is expensive, at least more expensive than is indicated by the price of oil, in the view of the President, we are constructing an ever more elaborate array of subsidies, on the supply side, to compensate for the imported oil, without carrying higher prices to the consumer.
>
> The $5-per-barrel entitlement for distillate is the most recent example; others are the $3-per-barrel tax credit for shale oil, $16.80 per barrel for ethanol to use in gasohol, and roughly the $15- to $20-per-barrel equivalent for solar investments. In round numbers, for synthetic fuels we are talking about $15- to $20-per-barrel subsidies—subsidies above the price of imported oil—that are being constructed for these many alternative supply forms. This is going to move us farther and farther away from the kinds of signals we would like to send to consumers about how much the energy they are using is really costing the economy and them, indirectly.
>
> And the problem is compounded because it is very difficult—I believe, impossible—for the government to come close to identifying all the ways that people could conserve energy if they were confronted with these higher prices. Efficiency standards for appliances and automobiles might be the exceptions, but changes in the way the people live or the way that they drive are not easy to see. The price information, the price signals conveyed to the consumer, I believe, would be far more effective. We are going to miss many opportunities that could be there if we conveyed the proper marginal cost signals."

These brief quotations from the booklet give the flavor of informed opinion on the President's energy proposals. This AEI publication is not alone. The Committee for Economic Development has just released its study; the Senate Budget Committee produced an excellent work which, despite the neutrality of its language, clearly argues against a massive Federal involvement in synfuel development; Resources for the Future has produced two excellent works on current and future energy policy; and of course, most Senators are familiar with the study done by the Harvard Business School energy project.

All of these works, Mr. President, are critical of the sort of massive intervention in private industry which is essential to the Carter approach to energy policy. With few exceptions, it is exactly the wrong policy to follow. I urge my colleagues to take the time to read the AEI booklet I cited in these remarks, and to consider the message of some of these other sources. This is a road we do not wish to set out on.●

SELECT COMMISSION ON IMMIGRATION

● Mr. KENNEDY. Mr. President, the Select Commission on Immigration and

BEST DOCUMENT AVAILABLE

Refugee Policy—which was established last year by Congress—held its first substantive meeting this week, thus beginning its important task of bringing long overdue reform to our outdated immigration statute.

Twelve of the 16 Commissioners were in attendance, including Secretary of State Cyrus Vance, Attorney General Benjamin Civiletti, Secretary of Health, Education, and Welfare Patricia Harris, as well as all the public members and most of the congressional members.

Former Gov. Reubin Askew has served as Chairman of the Commission since it was formulated on May 22, and he has guided it during these important first months. Despite funding and other delays, he has carefully assembled an excellent staff and prepared a comprehensive work plan and agenda which the Commission ratified this Tuesday.

Regrettably, because of his recent appointment to become the President's Special Trade Negotiator, Governor Askew has felt he should resign his chairmanship of the Select Commission. Reluctantly, the Commissioners learned of this at Tuesday's meeting.

But, on the other hand, we were all pleased to learn that President Carter has asked Father Theodore Hesburgh, president of Notre Dame University, to take Governor Askew's place and assume the chairmanship of the Select Commission. Father Hesburgh's distinguished record of public service—his long involvement and concern over such issues as civil rights—will bring, I know, an important new dimension and perspective to the work of the Select Commission. All of the Commissioners welcomed his willingness to serve as Chairman.

Mr. President, one of the principal agenda items at this week's meeting of the Select Commission was the scheduling of a series of regional hearings to solicit the views and expertise of Americans around the country concerned over immigration reform.

As I noted last year, when I expedited consideration on the Senate floor of the bill that established the Select Commission, I strongly believed that for the Select Commission to do its job, "It must look as widely and as deeply as possible into the many different views that exist over immigration reform."

In my Senate statement last year, I also stressed that the review the Select Commission undertakes of our Nation's immigration laws and policies "must involve a broad spectrum of opinion and groups concerned with immigration reform."

It is precisely to fulfill this goal that the regional hearings were set by the Commission this week. So, for the benefit of my colleagues—and for the information of the public generally—I wish to review here the schedule and timing of the regional hearings, as well as a brief statement on the goals and plans of the Select Commission generally.

I ask that they be printed in the RECORD.

The material follows:

REGIONAL HEARINGS

Date, city, and chairperson:

October 29, 1979 (Monday), Baltimore, Senator Charles McC. Mathias and Representative Peter W. Rodino, Jr.

November 19, 1979, open.

December 4, 1979 (Tuesday), Miami, the Honorable F. Ray Marshall.

December 17, 1979 (Monday), San Antonio, Commissioner Joaquin F. Otero.

January 21, 1980 (Monday), New York, Representative Elizabeth Holtzman.

February 4, 1980, Phoenix, Senator Dennis DeConcini.

February 5, 1980 (Tuesday), Los Angeles, Commissioner Rose Matsui Ochi.

February 25, 1980 (Monday), Denver, Senator Alan K. Simpson.

March 24, 1980 (Monday), New Orleans, (to be named).

April 21, 1980 (Monday), Chicago, Representative Robert McClory.

May 5, 1980 (Monday), New York, Representative Hamilton Fish, Jr.

June 9, 1980 (Monday), San Francisco, Judge Cruz Reynoso.

WHY A SELECT COMMISSION?

In the century preceding 1930, over sixty-two million people uprooted themselves to seek new lives in new lands. Almost two-thirds of them came to the United States. No other country took in so many people from so many different nations.

Today, as global migrations continue on an unprecedented scale, the United States remains a near and distant magnet. For many, it is still a land of opportunity and a refuge from oppression. Fueled by such factors as the speed of modern communications and transportation, enormous population growth in many economically poor countries, political instability and repression, and the disparity of wealth and opportunity between nations, migration is likely to increase in the years to come.

At the same time, serious questions have been raised about the effectiveness of present U.S. immigration laws and policies. Many view the Immigration and Nationality Act, passed in 1952 and amended several times, as outdated, unenforceable, arbitrary, and inflexible. Among the objections to the current law are: its vulnerability to inefficient and inhumane administration; its difficulty in enforcement, resulting in large numbers of unauthorized migrants; and its failure to consider sufficiently differential migration pressures from various countries or to take into account the relationship of immigration to the needs of American society.

THE COMMISSION'S MANDATE

In response to growing American concern over national immigration policies and to provide a comprehensive review of U.S. immigration law, Congress established the Select Commission on Immigration and Refugee Policy. The Commission is charged by Public Law 95–412 to study and evaluate existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make administrative and legislative recommendations to the President and the Congress. As the first comprehensive assessment by a Congressional-Presidential commission of U.S. immigration policies since 1911, the Select Commission will recommend an immigration and refugee policy to serve the nation's interests in the decades ahead.

CRITICAL ISSUES

The issues the Commission must address are obviously complex. To name a few: What is the relationship of immigration and refugee policy to economic growth? To our defense capabilities? To foreign policy leadership? To traditional values such as patriotism, family unity, and hard work? To employment and unemployment? To the environment? To health and welfare? To existing social service programs? To law enforcement? To our scientific, civic, cultural, and political life?

All of these issues fall under one of four major questions which frame the Commission's work:

How many?
From where?
By what criteria?
Through what process?

How many?

Should the number of migrants admitted increase, decrease, or remain the same?

From where?

How should the total number of migrants admitted from each sending region and country be determined? Should special consideration be given to hemispheric or country-wide differences? To national or regional migration pressures? To historic affinity? To geographic contiguity? What should be the role of international organizations in coordinating the flow of migrants from various countries?

By what criteria?

Should preferences be allocated according to clearly defined labor or demographic goals, family ties, or foreign policy considerations? What preferences should be given to relatives of persons already in the United States? Migrants without family ties? Needed permanent workers? Needed temporary workers? Refugees? Persons with funds to invest?

Through what process?

How can the process by which we accept, exclude, apprehend, deport, or adjust the status of migrants be improved to make it more efficient and humane?

These are some of the difficult questions the Commission must attempt to answer in formulating its policy recommendations. In addressing each question, the Commission must assess the consequences of its recommendations on the demographic, economic, social, and political life of this country.

WORKPLAN

The Commission, and its staff directed by Lawrence H. Fuchs, will assess existing information, develop new data, and seek ideas and opinions through research, public hearings, and Commission meetings.

Research

The Commission will review and evaluate pertinent completed and ongoing research and will have new research conducted to fill important gaps in our knowledge. It will consider, for example, the likely sources and magnitudes of migration pressures on the United States for the next twenty years. Efforts will be made, as well, to determine the economic and social impact of migrants—both legal and illegal—on the United States. Areas needing long-term studies to assess the probable impacts of new policies will also be identified.

Hearings

The Commission will hold twelve public hearings throughout the country to enable individuals, interest groups, and experts to present their views and recommendations on important issues. Between October 1979 and June 1980, the Commission will hold hearings in Baltimore, Boston, Chicago, Denver, Los Angeles, Miami, New Orleans, New York, Phoenix, San Antonio, and San Francisco.

Commission meetings

At five public meetings in Washington, the Commissioners will discuss substantive policy questions as they prepare their major recommendations.

The next four meetings will be held on:

October 9, 1979, January 30, 1980, April 9, 1980, and June 18, 1980.

A fifth meeting will be held in the late summer to consider final policy recommendations.

The Commission's policy recommendations will be submitted to the President and Congress in December 1980. Detailed appendices and monographs will be available by March 1, 1981, the date Congress has set for submission of the Commission's final report.●

THE FIGHT AGAINST HUNGER

● Mr. McGOVERN. Mr. President, last week I had the privilege of addressing the Third Conference on Nutrition and the American Food System sponsored by the Community Nutrition Institute and the Food Marketing Institute. Upon arriving at the conference I was presented with a statement prepared by a group of anti-hunger advocates and representatives of community based organizations who were attending the conference.

It is an excellent statement substantively and an important statement symbolically. I have long felt that it is crucial in order to develop a national food and nutrition policy that representatives of the food industry and representatives of consumer organizations meet together to discuss their shared concerns as well as their individual perspectives.

I commend the statement to the attention of my colleagues and ask that it be printed in the Record.

The statement follows:

INDUSTRY'S RESPONSIBILITY TOWARD AN OPTIMUM AND EQUITABLE FOOD SYSTEM

As a group of anti-hunger advocates, low-income persons, consumers and representatives of community-based groups, we have come to the Third Conference on Nutrition and the American Food System to interact with the industry executives and government officials who have historically dominated this nation's food policymaking. We are here because we view this occasion as a unique opportunity not only to hear your views on the direction this country must take to achieve an optimum and equitable food system for all Americans, but also to share with your own perspective. Ours are concerns that affect each of us here today—you in the food industry and federal government as well as each of us at the cash registers.

Out of this shared concern, over 50 of us met last evening to develop not guidelines, but a set of actions involving industry leaders and all consumers, particularly the most disadvantaged. We strongly urge you to join us—but more importantly, to take the lead—in implementing each of these recommendations in the coming year.

A hard winter and skyrocketing energy costs will leave the poor and elderly as well as middle-income persons with a Hobson's choice between eating or heating. This will be exacerbated by inflated food costs and a continuing and deepening recession. Industry must join with consumers in demanding full funding for federal food and fuel assistance and in working actively with Congress and the Administration to win swift action.

Experience has shown that full funding alone will not put large numbers of the poor and other disadvantaged within reach of assistance. Industry can constructively use their resources and influence to publicize programs such as WIC, food stamps and child nutrition programs.

Industry should encourage retailers to more broadly participate in WIC and other food programs.

To reduce intimidation and inconveniencing of food stamp shoppers, training programs should be developed and implemented to sensitize food store employees to the problems and needs of these customers. In this regard industry must continue strong affirmative action hiring practices at all levels of the corporate structure.

Food bank and gleaning efforts offer an important supplement to the nutritional needs of low-income families. Industry can greatly boost these efforts by working for passage of broader federal legislation encouraging the donation and distribution of the billions of dollars in usable but unmarketable foods. Such donations already offer a substantial economic windfall for producers.

The flight of food retailers from inner city areas has left the poor with few shopping choices. This void is being filled by the creation of a growing number of community-based food cooperatives. But these groups need the expertise and assistance of food companies in long-range planning, financial and personnel management, and other areas. The corporate system can contribute its talent and resources.

Food retailers can join with city governments and community-based groups to bring supermarkets back to the inner city by linking up in mutual development ventures and encouraging special tax and other municipal incentives that have proven successful in several areas.

Low-income consumers have often found the most nutritious foods to be the highest-priced items. In order to promote optimum nutrition, industry should help make available a variety of inexpensive, quality foods which contribute to the sound nutrition principles being discussed at this meeting.

Food industry leaders can go on record as opposed to the regressive sales tax, on food, which erodes the food-buying budgets of all consumers in nearly half of all the states.

The market should provide opportunities for smaller families like the elderly, single and single-parent households to purchase food in smaller quantities at more reasonable prices.

Industry should encourage local retailers to adopt innovative approaches to marketing to improve access to food through mobile markets, transportation to existing outlets for those who need it, stocking locally-produced foods, and support of local groups providing shopping services for seniors and others.

Industry should work toward more responsible packaging and advertising practices to help limit the unnecessary costs to consumers.

Retailers should encourage and institute consumer monitoring and advisory panels in all communities that accurately and effectively reflect the needs and opinions of all sectors of the community served. This could include checks and balances on unwarranted pricing practices, among other things.

1979 is the International Year of the Child. The food industry has a responsibility to assess and appropriately modify their production and marketing of products aimed at children. Nutrition education must reach beyond consideration for increased sales to concern about the health and welfare of this very vulnerable segment of the population.

We ask you to respond here today to these recommendations and also to establish a mechanism for a continuing, responsive and effective effort in each of our communities. We believe our—and your—commitment to achieving these very crucial objectives will be measured next year, when we return to the Fourth Conference on Nutrition and the American Food System and recount our progress.●

THE RELEASE OF JACOBO TIMERMAN

● Mr. KENNEDY. Mr. President, I welcome last Wednesday's decision of the Argentine Government to release Jacobo Timerman from house arrest and to grant his longstanding request to be permitted to leave Argentina for Israel. Concerned persons around the world share in his joy at being united once again with his loved ones in freedom and safety.

The response to the decision has been mixed, with expressions of hope for the return of freedom to Argentina and questioning as to why he was ever detained.

One of the most apt discussions of Mr. Timerman's detainment and release was recently published in the September 27 edition of the Buenos Aires Herald. It is especially commendable as a commentary from an Argentine perspective. Furthermore, it is encouraging to see a degree of press freedom in Argentina—which has been the cause for which Mr. Timerman has struggled.

Mr. President, I request that "The Timerman Case—II," from the September 27 edition of the Buenos Aires Herald, be printed in the Record.

The article follows:

THE TIMERMAN CASE—II

(By James Neilson)

On Tuesday, after almost two and a half years in captivity, Jacobo Timerman became a free man. He can now go where he likes and say what he likes. He will be welcome in every country in the Western world with one notable exception, Argentina, the country in which he spent most of his life. Whatever he says will be heard with respect by all democrats, no matter what their position on the political spectrum. When his version of events here differs from that of the military government, he will be given the benefit of the doubt. Timerman is now an international figure. His two and a half years in a series of jails and then cooped up in a 15th floor Barrio Norte flat greatly enhanced his stature. By refusing to let him go long after it became perfectly obvious it had no speakable reason for holding him, the government merely tarnished its own reputation.

The harm done was further compounded by that last attempt to humiliate him by stripping him of his citizenship and giving him a passport marked "non-Argentine." This action was, no doubt, explicable in terms of military politics. But it made the government seem even more petty and vindictive than before. After all, its detestation of Timerman is not even understood, let alone shared, in the rest of the world. Had Israel not existed to give him refuge, a dozen other countries in the civilized West would have been proud to do the same. The parallels with Soviet treatment of Solzhenitsyn could hardly have been made more vivid.

The government, presumably, is well aware of all this. Why, then, did it behave in this way? Why did it feel obligated to give one last mean twist to the knife before letting Timerman go, unconvicted as he was of any crime, as it had to do unless it wanted a head-on collision with the Supreme Court? What dark demon is determining its actions?

One of the most disturbing aspects of the Timerman case has been the inability of the government to explain, let alone justify, its behaviour. There were, of course, plenty of allusions to Timerman's alleged ties to subversive organizations and to his alleged involvement in economic offenses, but none of these crystallized into a coherent accusation that a court, even a military one, could deal with. But despite the absence of specific charges, Timerman remained, for the military and many others, a hated man. Usually calm generals became apoplectic at the mention of his name. "If you knew what that man has done, the misery he has caused, the things he is guilty of, you would think the way we do," they would tell the persistent. But what had Timerman done? What misery had he caused? What was he guilty of? These questions were never answered.

This is not a very satisfactory state of affairs. A government supposedly engaged in returning the country to legality should do its best to convince the population that it holds the law in high esteem. This requires not merely paying heed to legal considerations when it is convenient to do so, but also when it is not. No matter how passionately held a prejudice may be, it should not be allowed to override obedience to the law. This is fundamental. Laws were in large measure evolved to separate those who were disliked from those who broke a specific code. If personal feelings are given priority, especially by the powerful, legality becomes a farce and arbitrariness reigns. Some official apologists argue that the country's laws were simply inadequate to deal with the subversive challenge, of which Timerman, for them, was very much a part. This is hard to accept. In any case, the normal legal code, itself the result of centuries of diverse experience, was bolstered by draconian "emergency" legislation drafted by the military immediately after the coup, and should therefore have been effective enough to trap anyone guilty of anything, especially a man alleged to have been involved in as many crimes as Timerman.

Many people feel Timerman represented "cultural subversion," a determined and conscious attempt to soften up public opinion in preparation for the Marxist takeover. The newspaper he founded and edited, La Opinión, was, they insist, a vital and highly-effective part of a terrorist propaganda machine that helped undermine the Lanusse government and encouraged the extremist uprisings that did so much to destroy the Peronists. This is a gross exaggeration. La Opinión did have some extremists on its staff, as did many other newspapers and magazines unsuspected of aiding subversion, and it did carry many articles critical of the old order and scornful of military attitudes, but so did a number of publications of all kinds. When Timerman was in charge La Opinión tended to express the viewpoints of the centre left—strident revolutionary manifestoes were few and far between—which, like it or not, is one of the principal currents of Western political thought today and was in full flood everywhere in the late 1960s and early 1970s. If La Opinión was "extremist," so too were Le Monde, The Guardian, The New York Times, and dozens of other newspapers throughout the Western world. Many of these continue to be esteemed by their political enemies, few of whom would even dream of taking them over or jailing their editors. An administration convinced that La Opinión was subversive must think the same of much of the Western press and a good many Western governments. This attitude is hard to square with the authorities' frequently proclaimed enthusiasm for the Western way of life.

Despite strenuous efforts, Timerman was not found guilty of breaking any known law. Nonetheless, he was deprived of his citizenship. He was the second man, and the second Jew, to suffer this penalty, the first being José Ber Gelbard. The impact of this action is certain to be divisive. Immigrants have always felt they were second-class citizens, not on a par with the native-born. The government has now confirmed this debilitating knowledge of inferiority: they may have renounced their old nationalities, but they can never become real Argentines—as far as the military is concerned, anyway—so why should they try? Why should they attempt to instil patriotic virtues into their children? The government will have also intensified the widely-held suspicion that it is antisemitic by nature, thus making one of the world's largest Jewish communities even edgier than it was already. What would the government have done had Timerman been born in Spain of Roman Catholic parents, Or if he had been born just after his parents reached Argentina, and not just before? Would it have expelled him anyway, stripping him of his citizenship in the process? Or would it have simply kept him locked up in his flat forever? Given the inscrutable way the government operates, and its unwillingness to reveal its motives or its guiding principles, it is impossible to say.●

THE LEGACY OF LEE METCALF

● Mr. **MUSKIE**. Mr. President, the June 1979, issue of the Living Wilderness, a publication of the Wilderness Society, contains a review of Lee Metcalf's effective work in the Congress in behalf of environmental legislation.

His particular concern was forest management and wilderness preservation. But Lee's interest in environmental matters ranged from the early clean air and water laws to strip mining legislation.

It was my privilege to work with him on these and many other bills, including the Congressional Budget and Impoundment Control Act. The loss I felt at his death was shared by all who appreciated his keen mind, sharp wit and absolute belief in the value of our air, water, and land.

Those who share the value he championed so effectively know how sorely his legislative talents and wise counsel are missed.

The Wilderness Society's magazine includes not only an article about Lee's legacy, but personal reflections from three people who knew him well. One is by our colleague, FRANK CHURCH, who noted that for Lee Metcalf, "stewardship was no idle word."

I ask that the articles be printed in the RECORD.

The articles follow:

[From the Living Wilderness, June 1979]

THE LEGACY OF LEE METCALF

(By Dale A. Burk)

Hope had given way to disillusionment that late April afternoon in 1971 when the half-dozen senators and their aides filed out of the Senate Interior Committee hearing room in Washington. Long-sought hearings on clearcutting practices in the national forests were about to conclude with less than half the citizen witnesses having had a chance to testify, although the timber industry had managed to get most of its people to the microphone. It appeared that the crusade to improve forest management practices would be stymied at the very hearings called to bring the problem to national focus.

Then, from behind the closed oak doors, a voice boomed loud enough to be heard in the hearing room: "No, dammit, we can't quit now. I can't go back in there and tell my people to go home. They haven't even had a chance to present their case."

There was more arguing and again that booming voice, later likened to the bellowing of an enraged bull elk, demanding that the people be given a chance to "make their case." Lee Metcalf, United States Senator from Montana and a member of the committee's Subcommittee on Public Lands, was on the prod. He won his point. The hearings continued through two more days until every witness had been heard.

It seems a minor victory when measured against Metcalf's other accomplishments during his 17 years in the Senate. But Cecil Garland, now a rancher in Utah but in 1971 president of the Montana Wilderness Association, considers it one of his most significant. "It was important because it was typical of Lee to fight to give the little guy a voice in government decisions," Garland said, "and we'd never have had our say at the clearcutting hearings if it hadn't been for him. He gave us reason to believe that we could take our case to Congress and win."

Contrary to his public image, Metcalf did not thrive on controversy. He was by nature a shy, gentle and sensitive man who struggled to avoid the public spotlight. But he considered the abuses on public lands so outrageous that he saw no alternative but to do constant battle. There could be no politics of consensus for him, no matter how appealing it might have been. Consequently, he stirred the emotions and paid the price. For more than a quarter of a century he remained at the center of the storm. When he died of a heart attack at the age of 66 on January 12, 1978, after 25 years in Congress, he left both a noteworthy conservation legacy and an outstanding record of high ideals and commitment.

Lee Metcalf quickly established himself as a conservationist in his first term as a Congressman in 1953–54, playing an important role in efforts to block the Echo Park Dam proposal that threatened Dinosaur National Monument and leading successful opposition to the Ellsworth timber exchange bill, which would have permitted the trading of national forest, national park and other federal lands for private lands involved in dam, flood control and other projects.

Beginning in 1956, Metcalf sponsored wilderness preservation legislation that eventually was enacted in the Wilderness Act of 1964. He also supported as wilderness each area subsequently added to the National Wilderness Preservation System. He sponsored legislation that was the forerunner of the Forest and Rangeland Renewable Resources Act of 1974. He was the key congressional figure in the holding of hearings in the early 1970s to scrutinize allegations of mismanagement of the national forests. As an outgrowth of this investigation, he became a principal architect of the National Forest Management Act of 1976, which redefined the legal concept "sustained yield" and required a more rational economic basis for selecting cutting sites. These ventures carried considerable political hazard. Yet he rode the maelstrom surrounding the clearcutting issue—at root he was tackling the entire question of mismanagement of national forest resources--right into and through the 1972 elections, unlike some political figures who ease off on such controversial issues during election years.

Debates surrounding any resources issue in Montana, where Lee ultimately had to face the voters regardless of the national or international significance of the issues that concerned him, become intense. He expounded on the wisdom of long-term, sustained-yield, multiple-use, balanced forestry in spite of massive industry propaganda campaigns aimed directly at him. For example, the timber industry used a letter-writing campaign to swamp Metcalf and others in Congress with rhetoric supportive of the industry's position on forestry and wilderness. Metcalf cut right through that rhetoric. "You state that you are 'not opposed to responsible wilderness legislation and never have been,' and then proceed to demonstrate that you do not understand what wilderness is," Metcalf wrote back. "Wilderness is not what you say it is. It is what the framers of the Wilderness Act of 1964 intended it to be. You make repeated reference to 'visual aesthetics.' The Act does not mention visual beauty once in listing the criteria for wilderness."

To constituents motivated solely by economic self-interest, Metcalf spoke equally to the point. To an industry forester who complained that Metcalf didn't know the intent of his Montana Wilderness Study Bill (S. 393), the Senator replied: "You are a professional forester, skilled in marking trees for harvest, and probably work for a timber operator. If you are like other foresters working in private industry, you regard trees as first and foremost a cash crop. You enjoy their preharvest beauty, recognize their watershed and wildlife habitat value, but still regard them as destined for removal and replacement. If I share this viewpoint, I would never have introduced S. 393. But I do not share it, and it is presumptuous of you to suggest that I have 'misconceptions about the intent' of my own bill. I know very well what I intend."

Metcalf's major aim was to wrest control of the national forest lands from the exploitive grasp of the big timber companies and of their allies in the public agencies. He wanted to keep the public forests for the people. As the clearcutting debate intensified in the late 1960s, Metcalf arranged for a special select committee from the University of Montana to study Forest Service policy in the Bitterroot National Forest in Montana. Considerable controversy had arisen over the Bitterroot after the Forest Service in 1964 adopted clearcutting as the favored harvesting method; indeed, it was soon found that the controversy was nationwide and the Bitterroot only a symptom of a larger problem.

The Select Committee on the Bitterroot National Forest issued a report in late 1970 that became the focal point of the national clearcutting debate. Two major indictments of Forest Service policy struck to the core of the issue. The report stated that "multiple-use management, in fact, does not exist as the governing principle on the Bitterroot National Forest." And it introduced the term "timber mining" to describe the practice of extracting trees from low-yield sites where other values and regrowth are adversely impacted. Informally tagged the "Bolle Report" because the study chairman was Arnold W. Bolle, then dean of the University of Montana's School of Forestry, the report is a landmark document in the continuing examination of national forest management. Its influence is evidenced by the fact that many of the abuses it outlined have since been corrected.

Metcalf was deeply involved in issues in Montana and neighboring states. These included the Lincoln-Scapegoat Wilderness, Mission Mountains Wilderness, Magruder Corridor (Idaho), wild river designation of three forks (219 miles) of the Flathead River and 150 miles of the Missouri River, Welcome Creek Wilderness, Elkhorn Wilderness Study Act, and the Absaroka-Beartooth (Montana and Wyoming) and Great Bear Wildernesses. His Montana Wilderness Study Act of 1977 requires study of potential wilderness values of 973,000 acres in nine pristine areas in Montana.

From 1961 to 1975, Metcalf served on the Migratory Bird Conservation Commission. He never missed a meeting of the commission, composed of the Secretaries of the Interior, Agriculture and Transportation and four members of Congress. During Metcalf's tenure, the commission purchased 525,000 acres of land and created 43 new refuges, in addition to expanding others. The former Ravalli National Wildlife Refuge just north of Metcalf's birthplace at Stevensville in Montana's Bitterroot Valley was renamed the Lee Metcalf National Wildlife Refuge after his death.

He sponsored and managed on the Senate floor the Surface Mining Control and Reclamation Act of 1977, which grew out of the initial congressional hearings on the issue that he had conducted years earlier, and helped shape and extend the National Defense Education Act of 1958, the first major federal aid-to-education legislation since the Morrill Act of 1862. Metcalf introduced the first deep seabed mining legislation and chaired hearings on the subject. In 1956 he instigated a comprehensive study of the effects of pesticides on fish and wildlife, which funded some of Rachel Carson's work that led to her book *Silent Spring*.

The Air Quality Improvement Act of 1970 incorporated provisions of three Metcalf bills, but earlier he had cosponsored the Clean Air Act of 1963 and the Air Quality Act of 1967. He also cosponsored the Water Quality Act of 1965, the Clean Water Resources Restoration Act of 1966, the Water Quality Improvement Act of 1970, the Solid Waste Disposal Act of 1975 and the Resource Recovery Act of 1970.

Metcalf areas of interest included consumer protection, public education, rural electrification, labor issues, economic development, corporate accountability and governmental reform. The last area included passage of the Federal Advisory Committee Act of 1972, of which Metcalf was the author. This bill had a profound effect on public resource management because it required open public meetings of advisory committees, as well as membership broader than the commodity interests that generally controlled them.

Another significant law, which a Metcalf subcommittee initiated, was the Congressional Budget and Impoundment Control Act of 1974. It provided mechanisms for Congress to monitor the federal budgetary process and to prevent executive branch impoundment of federal program funds approved by Congress. Metcalf saw this as a critical resource issue because of funding imbalances brought on by Nixon administration impoundment of some of the Forest Service's funds.

"It is my sincere conviction, born of an overview gained from many years in Congress, that the Forest Service has been transformed by the Nixon-Ford administrations into an arm of the timber industry," Metcalf said in 1975. "The downgrading of recreation and upgrading of timber removal, despite the express mandate of the Multiple Use-Sustained Yield Act of Congress, is the cornerstone of a far-reaching policy of maximum commercial exploitation of our forests." In this, as indeed he was a person and politician, Lee Metcalf was holistic in his approach. He believed in the interrelatedness of things and often spoke his conviction that the public well-being was rooted in the proper utilization of natural resources.

He subsequently used national forest and wilderness issues to force appraisal of forest management practices. His Montana Wilderness Study Act (S. 393) of 1977 is an example. The act requires that nine areas in Montana be studied for their wilderness potential. "S. 393 is designed not so much to stop anything as to force Montanans and the Forest Service to step back and take a sober look at where we are going," Metcalf said. Most often, he related these studies to the economic well-being of small communities dependent upon national forest timber, noting that present cutting levels were too high to be sustained.

"If Philipsburg and other small western Montana communities are to have a stable future, some restraint will simply have to be implemented. Timber operators are being forced to reach higher and higher into fragile watersheds to cut their product," Metcalf said in defending S. 393 in 1975. "Many communities in our state may wake up 15 or 20 years from now to find the timber gone, the mills closed, small trout streams barren and silt-laden, tourists repelled by visually disturbing clearcuts, and erosion and flooding heightened by damage to the watershed."

He insisted that some areas be protected against such possibilities and came to believe that agency promises of resource protection were inadequate because of their susceptibility to the political muscle of the economic/commodity interests. "The commercial onslaught of our national forests pursued by two successive administrations makes it obvious that only those areas designated as wilderness are truly protected," Metcalf said. He also emphasized, repeatedly and in the face of intensive industry propaganda to the contrary, his conviction that wilderness protection represents the practice of multiple-use management at its best.

"I do not subscribe to the oft-stated notion that somehow timber exploitation represents 'multiple-use' management, but wilderness does not," Metcalf said in response to a timber industry media blitz in 1977 opposing his Montana Wilderness Study Bill. "Montana's mountains provide a variety of benefits: watershed protection, wildlife habitat, grazing, mining, tourism attraction, recreation and timber harvesting. Of all the items just named, wilderness permits all but motorized aspects of recreation and tree-cutting. Yet if logging occurs, especially in the higher elevations where the life cycle of trees exceeds 100 years, many of the other benefits disappear altogether."

He could translate this futuristic vision to the people resource, too, defending a courageous new supervisor of the Flathead National Forest in Montana who dared to question and change the overcutting policy that prevailed there in the 1960s. When need be, he took time to defend those in the public agencies victimized by the bureaucracy. In 1971 when the Nixon administration impounded funds, officials of the harvest oriented Kootenai National Forest in Montana and other forests were ordered to make an across-the-board staff reduction. Here, however, upper-echelon officials decided to put the entire burden on lower-level employees. Among those receiving termination notices was a man who had worked for the service long enough to need only a few more months to reach retirement. His appeals for reconsideration has gone unheeded. The man gave up, convinced that his lifelong commitment to the service and its work had been a waste. He hadn't counted on his neighbors, however, one of whom wrote her senator, Lee Metcalf, about the situation.

I was working as environmental reporter for a Montana newspaper then, and Metcalf asked me if I'd check into the situation, if I got a chance to get up to the Kootenai Forest. I did, and found the case as inequitable as the man's neighbor claimed. I can't recall whether I phone or wrote Metcalf, but I promptly forgot the incident until several months later when the neighbor advised me that the employee had been reinstated and that the Forest Service people were pretty shaken by the fact that Lee Metcalf himself had called several times to check on the situation.

Much of Metcalf's motivation came from intimate knowledge. He had seen that after World War II too many mills were built in national forest communities. The result was mill capacity far exceeding the forest's sustained-yield potential, followed by ultimate economic collapse and community upheaval when the cut exceeded the forest's ability to regenerate itself. His "S.O.S." (Save Our

Streams) crusade was based on his outrage upon discovering roadbuilders destroying a trout stream in order to cut highway construction costs. His insistence upon higher grazing fees and larger appropriations for public land management was based upon his firsthand knowledge of the social and economic costs of land erosion. Because he never forgot the kinship he'd developed with the earth in his early years in Montana's Bitterroot Valley, Metcalf knew there was a connection between the way land was managed and the public well-being. He often used the Bitterroot as an example of how uncontrolled development wreaks havoc on both natural resources and people. His politics were rooted in populism, whatever the issue.

"Sometimes one must get away from Montana to appreciate the magnitude of the changes which have already occurred and have yet to occur," Metcalf said in 1977. "I used to view the Bitterroot Valley, where I was born and raised, with affection. But change came, inexorably, in small increments at first, then with a rush which disfigured it almost beyond recognition." Attempts to stem the rush, he said, were resisted by well-meaning people who merely wanted to do their thing without interference from any quarter. "Now they 'do their thing' in a decreasing land base, surrounded by subdivisions, posted lands and clearcuts," Metcalf said.

Yet the Bitterroot Valley, its qualities and, perhaps, its memories beckoned. "I want to go home, I really want to go home," Metcalf said shortly before his death. "For 30 years, except for the war; I have been running for public office in difficult, complex and involved political activities. And I think 30 years is long enough."

Three times in the last few years of his life I appeared before Metcalf at Senate hearings. Each time, after I gave my name and place of residence, he asked me to repeat. "Where'd you say you were from?" he'd grin. The last time this encounter took place was in Billings, Montana, at Senate hearings on the proposed Absaroka-Beartooth Wilderness a few months before Metcalf's death. "Where'd you say you were from?" Metcalf asked, once again.

"Stevensville, Montana, in your native Bitterroot Valley, Senator," I replied.

"Right," he said, as he had each time before. "Right, and I wish I'd had the good sense to stay there, too." And I knew that somehow my decision to stay in the Bitterroot, despite job temptations elsewhere that Lee also knew about, had kindled a relationship that transcended the matter of who or what each of us was. We knew what the Bitterroot meant to both of us. That was one reason I joined the effort to rename the national wildlife refuge in the Bitterroot in his memory. I live on a ranch in the Bitterroot that shares a mile of boundary with that refuge; Lee Metcalf thus is in my thoughts, and conscience, each day of my life.

It was no accident that following his death Metcalf's colleagues passed in his memory both of the Montana wilderness bills with which he had hoped to close out his career. These established the Absaroka-Beartooth Wilderness on the Montana-Wyoming border and the critical Great Bear Wilderness on the Continental Divide between Glacier National Park at the north and the Bob Marshall Wilderness to the south.

To put Lee Metcalf's wilderness contributions into perspective, consider that he figured strongly in the designating of every acre of wilderness now existing in Montana. The 12 areas total 3.2 million acres and, if the areas in his S. 393 are added along with certain key RARE II areas that he championed, the total will swell to a remarkable 4.3 million acres. Metcalf also played a major role in the designation of thousands of wilderness acres in other states. He had a special interest in Idaho, which adjoins Montana's Bitterroot Valley and reaches to within a few miles of Metcalf's boyhood home. Idaho Senator Frank Church was one of his closest friends in Congress.

Metcalf was the first Senator to sponsor the Alaska national interest lands legislation and had he lived would have been one of its key advocates. The other major conservation items on his calendar of unfinished business were the nine roadless areas in his Montana Wilderness Study Act. Let us hope that his work will be carried on by others. As the Montana Environmental Information Center stated in a tribute following his death: "Senator Lee Metcalf was a great and true friend, not only of the conservationists who worked in partnership with him on these issues, but of unborn generations who will reap the benefits. Those who survive him—who asked so much of him—have a duty to keep the faith with that partnership. So much remains to be done."

Lee Metcalf Stood for Stewardship

(By Frank Church)

The Senate comprises only two individuals from each state, yet its 100 members reflect great diversity. Among them for 17 years, Lee Metcalf stood out for his courage and his constancy of devotion to the public interest. His commitment to the prudent management of the public domain and to wise resource stewardship was the centerpiece of his political and personal philosophy. But it was only the centerpiece. Lee Metcalf had a clear view of the public interest, and he fought tirelessly for it in the Senate, across the wide range of issues we face.

Lee was my friend. We came from neighboring states in the Rocky Mountain West—states which share not only the common backbone of the mountains, but the same resource problems and opportunities as well. Through his years in the Senate, we served together on the Committee on Interior and Insular Affairs (now the Committee on Energy and Natural Resources).

Inside the Senate the influence of individual Senators is measured in ways often missed by outside observers. Senator Metcalf never became the chairman of a standing committee, and he was not the one to be quoted nightly on the evening news. Yet, he was our exclusive guide on numerous resource questions.

Nowhere was his personal influence more clear than in the series of wilderness bills which under his leadership we enacted for Montana. When he brought us the Lincoln-Scapegoat Wilderness bill, or the Absaroka/Beartooth proposal, or his Great Bear Wilderness bill, he spoke convincingly of his own personal knowledge of these wildlands and of the reasons why Montanans were leading the fight to preserve them.

I remember, for instance, when he came to a meeting of the conference committee on the Endangered Wilderness Act of 1977. We had not included the 30,000-acre Welcome Creek Wilderness in the Senate version of that bill because of a disagreement between Senator Metcalf and the other Senator from Montana. But Welcome Creek was in the House-passed bill. Senator Metcalf personally appeared before the conference committee to argue for preserving the area. In a quiet voice he told us of the many joy-filled days which he had spent in the area as a boy. His voice began to rise as he outlined the reasons why this small area ought to be formally classified as wilderness and not developed for the short-term gains to be had from the sale of a few boards of lumber. He made his case, and he made it well. The Welcome Creek Wilderness is a part of the Wilderness System today chiefly because Lee Metcalf said, "I've been there and it should be protected."

"Stewardship" was no idle word for Senator Metcalf—it was a high ideal of conservation against which he tested and judged new policies. Future generations were not remote to him, but real individual people whose lives he worked to enrich by preserving, in a condition worth inheriting, some of our patrimony of natural treasures.

When our Public Lands Subcommittee learned of the abuses of clearcutting on the national forests, Lee made forest management a national issue. Through his perseverance he brought all of us to see that limits on the use of clearcutting were necessary, and together he and I worked to write those limits into guidelines and eventually into law.

Lee Metcalf is gone now. The Senate goes on, of course, but it is a different place. Missing are that booming voice and the gentle but convincing man behind it. Lee Metcalf lent a flavor to our deliberations which may never be replaced: he brought to the Senate the rugged integrity and courage of the Bitterrot Mountains and a clarity of purpose akin to the pure whitewater of a raging Montana stream.

The Metcalf Role in Forest Reform

(By Arnold W. Bolle)

In November of 1970 a faculty committee of the University of Montana, of whose School of Forestry I was dean, issued a report on timber management practices in Montana's Bitterroot National Forest and, by implication, in the national forests across the nation. Our report grew out of mounting controversy over the impacts of widespread clearcutting.

Responses to the report ran the gamut, from utter delight to fierce hostility. Some of our colleagues at other universities were envious that we had done it first. We were pleased with the delight and the envy and actually expected even more criticism. Most interesting to us were the responses of the unhappy groups and their attempts at analysis. They offered two scenarios. Either Senator Lee Metcalf, whose request for an expert appraisal of the Bitterroot clearcutting issue had triggered our involvement, had somehow tricked us into writing the report, or we had somehow tricked Senator Metcalf into asking us to do so.

But Lee Metcalf was neither devious nor naive. There was no plot. Our critics just didn't know Lee very well. For he was one of the most trusted men in the Senate, and his Senate colleagues recognized him as a man of commitment whose stands on issues were never founded on political expediency. Fortunately there were also enough Montanans who knew and respected him to keep him in Washington for 25 years.

When he approached me late in 1969 about the Bitterroot, Lee was in no way demanding. In fact, he was almost diffident. He had received many letters from his constituents complaining about the actions of the Forest Service in the Bitterroot Valley. Relationships there were approaching the ignition point. The Forest Service had launched a greatly accelerated program of timber harvest, based heavily on clearcutting. Attempts by the public to question the activity were met with impatience. The official attitude seemed to be, "We know what's best for the Bitterroot and we'll show you who's running this forest." Forest officials considered it their job to get out the wood. Dealing with the public was left to the PR people in Missoula.

Guy Brandborg, former supervisor of the Bitterroot then retired and living in Hamilton, was critical of the forest's management and became the leader of citizen opposition. Dale Burk, reporter on the Missoula paper, the *Missoulian*, wrote a series of articles. As a result, the regional office of the Forest Service in Missoula had started an investigation of the Bitterroot forest.

Lee Metcalf generally had a high regard for the Forest Service. The complaints from his constituents put him in the position of arbitrator between them and the Forest Service. He didn't retreat from that position at all, but he wanted more information before stepping into the fray. "Frankly," he told me, "I don't feel that I can go back to Stevensville until I have some better answers for my people there."

Lee believed that he should be able to turn to the university for an objective and honest answer. But he realized, too, that he might be putting us on the spot. He asked me to select a committee of faculty members to consider his request. Our committee considered the matter carefully for several months. We took field trips and talked with many people representing all sides. It was a hot issue. We didn't just want to add fuel to the fire. We didn't want to become involved unless we were convinced that we could help clearly to identify the problem and contribute to the solution. We fully recognized that our report would put us in the crossfire. The internal report of the Forest Service regional office was an excellent one, but just because it was internal local people tended to reject it as a whitewash. We supported most of it and helped its acceptance. But it was and could be only internal. It could not, for instance, criticize Congress. We could. We decided to go ahead.

Lee had courage. He displayed it many times. We knew courage also was required of us. The usual conclusion that "further study is strongly recommended," considered bold in some academic circles, just would not do. Nor could we equivocate with the kind of "on the one hand . . . while on the other hand" conclusions which inspired Maine's Senator Edmund Muskie to ask for more one-handed scientists.

Lee gave us total freedom. He never tried to influence our study or its conclusions, nor did he add or delete anything after we gave the report to him. So that it could not in any way become involved in the election campaign that fall, we delivered it to him the day after the election. We did not get any funding from Lee, or from anyone else, and when we submitted our report to Lee it was with no strings. It was Lee's, for his information and whatever use he might want to make of it. As far as we were concerned it was a private answer, and if he wanted to keep it to himself, that was his business.

He didn't, of course. He put it in the *Congressional Record* and held a news conference. It seemed to us that every newspaper in the country and many abroad put it on their front pages with inflammatory headlines. That startled us. Lee also had it printed as a Senate document, and the 20,000 copies disappeared in a few weeks. Newspaper stories and headlines emphasized our criticism of the Forest Service, but we criticized Congress at least as much. It was congressional funding which was underwriting the heavy emphasis on timber and making sound multiple-use management virtually impossible Congress got the message and acted. We cannot and do not take full credit, but we were part of the activity which led to the Senate hearings on clearcutting, the Church guidelines, the Renewable Resources Planning Act and, with the help of the famed Monongahela decision, the Forest Management Act of 1976 which requires the regulations now in preparation. Lee was in the middle of all of it.

There is some belief that Lee was against industry, that he was against government in general and the Forest Service in particular. Perhaps a certain amount of evidence can be presented to support such beliefs. Certainly he didn't hold back criticism of all three. But it wasn't dislike or fondness for criticizing that lay behind his attacks. Lee was concerned about people, not just because they were voters but because he was committed to the idea that democracy is concerned with the rights of people. He was a populist in the old-fashioned and best sense. He felt that the role of industry and government in a democracy is to serve people. He deeply believed that the national forests should be managed for the "greatest good for the greatest number," and to him that meant direct benefit and not a trickle-down theory which would favor industry because it created wealth that eventually reached many people. He believed that the business of government is people, not business as Coolidge put it. Lee believed that we needed a sound and stable timber industry. But he believed that all other uses of the forests that people wanted should also be fully recognized.

Lee was happy with our report. He also was surprised that a group of college professors had the guts to write it. We were, too, and we were startled and a little scared by the results. But we also felt satisfaction at having met an important challenge. There were also unanticipated benefits. We suddenly had more status with our students than we had ever experienced before. They listened intently to what we said. The level of candidates for Forestry School faculty positions went up several notches. Teaching and recruiting both became more pleasurable.

Lee's courage was infectious.

An Intimate Side of a Senator

(By Teddy Roe)

Lee Metcalf was more complex than his public image. That is not to say that he was not true to his public image. Few elected officials have been so open in word and deed. He hated posturing, spoke bluntly and could not abide self-important people. He was not a "hundred-percenter" in elections, contenting himself with 50 percent plus one vote; he never lost an election, although the contests were always close. He did not even carry a press secretary on his Senate staff in his final years. He was true to the populist tradition, championing the "little man" in a wide range of legislative initiatives.

This public image of a battler against special interests was a correct one, but it masked a gentler side of the man which was less well known. He was generous with his staff. He had an open-door policy and encouraged his lieutenants to interrupt him at any time. He not only permitted but encouraged his advisers to say "no" to him if they felt he was in the wrong. He delegated authority well, leaving the details to the staff and reserving for himself the major decisions. There was no time-clock to be punched, and no excuses were demanded for absences; his former staff members, now scattered to the winds, will tell you that the decency of this treatment elevated what might have been a mere "job" to a labor of love.

Ill health plagued the last years of Lee Metcalf's life, adding to his considerable burdens. But few visitors to his office were aware that his robust greeting and warm smile masked great discomfort. Physical problems included sight, hearing and heart, but what plagued him most were bad knees. As soon as seniority permitted, he acquired an office opposite the elevator which carried him to the rooms of his two committees. Bowing to the inevitable, he finally took to using a cane. He often penned a postscript to constituents who wrote supporting wilderness that he regretted being unable to get out on the land which he was seeking to preserve. During prolonged hearings, particularly those dealing with the national strip-mining bill, the pain in his knees became so excruciating that his legs were in constant motion, seeking a position which would bring relief. Yet his face and posture betrayed none of the discomfort, and the parade of witnesses went on routinely, its participants unaware of anything but the urgency of their message.

Lee Metcalf sought relief from Senatorial labors in simple ways. He loved to go home to Montana to "charge his batteries." When he could not manage a trip of that magnitude, he escaped to the pleasures of the soil. His office, his Capitol Hill home and his small farm in nearby Maryland brimmed with living plants which he grew himself. He was especially fond of flowers, conversation and humor. His puns, often clever but often bad, still elicit groans from his ex-staffers and others who heard them. Lee was a master of the English language, a skill sharpened during his six years as a justice on the Montana Supreme Court. He was an excellent writer, and did much of his writing on the manual typewriter he kept by his desk. He also knew what he did and did not want in office writing style. He flatly prohibited the use of the verb "contact," meaning to communicate with another person. "Contact," according to Lee Metcalf, meant physically touching an object or had to do with starting an airplane. When a Housing and Urban Development Department official wrote with bad news and suggested that the Senator "contact" him later, Lee wrote back that he wouldn't "contact" the official with a 20-foot pole.

Above all, Lee Metcalf was a decent man. He did constant battle with certain of his colleagues yet retained their respect. He counted even conservative Republicans with whom he engaged in frequent philosophical debates as close personal friends. A mark of his skill as a legislator and leader was the vote by which the old Senate Interior Committee approved the original national strip-mining bill: despite months of often bitter debate, the measure was reported to the Senate floor by a 15–0 vote. This unique ability had earlier led to his election as first chairman of the House Democratic Study Group—a potent bloc of liberal members created to offset the influence of the then-dominant Southern representatives.

It also led to a sense of frustration for Lee Metcalf and the principal regret of his life. In the last interview which he was to grant to the presses, he made public his longstanding personal regret that he had ever left the House. Some felt that, in time, he might well have risen to Speaker. His frustration stemmed from the presence of Mike Mansfield in the Montana congressional delegation. Mansfield already was Majority Leader, and by custom only one Montana Senator could rise to a leadership position. Metcalf enjoyed an outstanding relationship with Mansfield, who nearly always accepted his advice on matters relating to natural resources. And Mansfield, both aware of and sympathetic to Lee's frustration, strove to alleviate the problem. "He was the best partner I ever had," Mansfield said in his eulogy to Lee, "such a good and intelligent man."●

FURNITURE MANUFACTURERS VOTE TO FREE TRUCKING FROM REGULATION

● **Mr. KENNEDY.** Mr. President, a recent survey conducted by the National Association of Furniture Manufacturers demonstrates strong support for deregulation of the trucking industry; 89 percent of the manufacturers favored deregulation, while only 6 percent favored continued regulation.

One of the most interesting results of the survey was the fact that nearly 60 percent of these shippers did not believe that small communities would lose trucking services with less regulation, and 63 percent felt that other trucking companies would quickly begin serving any community which a trucker currently serving that community abandoned.

Furniture manufacturers, like other shippers who depend on trucking services, are now in the process of formulating positions and strategies with respect to the legislative proposals affecting trucking regulations that are now before Congress. A number of trade organizations within the furniture industry will be meeting in Washington on October 31 and November 1 in an effort to evaluate the potential benefit of these proposals for their industry. Representatives of NAFM, as well as the Furniture Association of Grand Rapids, the International Home Furnishings Representatives Association, the National Association of Bedding Manufacturers, the National Home Furnishings Association, the National Wholesale Furniture Association, the Furniture Rental Association of America, the Summer and Casual Furniture Manufacturers Association, and other groups will be in attendance.

According to Frederick L. Williford, executive vice president of NAFM—

> Trucking reform could have a dramatic, competitive impact upon our entire industry, and NAFM is committed to working for an industry-wide response to the challenge.

I know that Members of Congress will be interested in the results of these deliberations, and will value the insights into the transportation problems of the furniture industry that these groups can offer.

Mr. President, I ask that the results of the NAFM survey be printed in the RECORD.

The material is as follows:

FURNITURE MANUFACTURERS VOTE TO FREE TRUCKING FROM REGULATION

"Furniture manufacturers have spoken! They want trucking to be deregulated and to let competition set the rates they pay for transportation," reported Gordon Babcock, President, National Association of Furniture Manufacturers. "NAFM's Legislative Opinion Poll shows furniture manufacturers strongly in favor of removing the regulatory shackles from the free enterprise system."

Eighty-nine percent of respondents to NAFM's trucking deregulation opinion poll favored deregulation of the trucking industry. Only 6 percent favored continued regulation.

Trucks move more furniture than any other mode of transportation. Eighty-six percent of the responding manufacturers ship from 75–100 percent of total shipments by trucks; 36 percent use trucks for 100 percent of shipments. Almost half the manufacturers, 46 percent, own their own trucks while 40 percent lease or rent trucks. Virtually all use common carriers or specialized carriers for at least some of their shipments.

Freight rates are considered a major competitive factor by 63 percent of the manufacturers; 25 percent do not consider rates a major competitive factor.

If trucking were deregulated and rates were set by competition, 61 percent said rates would decrease against 24 percent who expected increases; 13 percent expected rates to stay the same. As a further indication of manufacturer attitude toward deregulation, 63 percent said that they would be willing to accept higher rates in the short run in anticipation of lower rates in the long run as a result of increased competition; 24 percent were not willing to make the tradeoff. Only 24 percent expected rates to go up in the short run, however.

Would small out-of-the-way communities be effectively denied trucking services under deregulation? "No" said 59 percent; "Yes" said 33 percent. However, when asked, "Under competitive conditions would another trucking company quickly begin serving the abandoned community?" 63 percent said another company would enter the market quickly; 20 percent said "no." "Apparently, the probability of loss service to small communities is not thought to be a serious problem by a high proportion of manufacturers," notes Babcock.

Even though furniture is light in weight in relation to its bulk, 50 percent of manufacturers did not expect common carriers and specialized carriers to avoid furniture hauling; 22 percent expected the opposite; 28 percent said they didn't know.

Indicative of furniture manufacturers' faith in the responsiveness of the free enterprise system, of the 22 percent who expected existing truckers to avoid hauling furniture, 64 percent of them said that they would expect "new" truckers to quickly fill the void under conditions of free competition and free entry into the trucking industry.

Surprisingly, however, only 22 percent of the respondents indicated that they would expand their trading area if trucking were deregulated.

As one would expect, those manufacturers who own and operate their own trucks were very much in favor of relaxing restrictions on back-hauls, intercorporate transportation, trip-leasing, and for-hire authority.

"Without question, the vast majority of furniture manufacturers favor the deregulation of trucking and an orderly movement to an unregulated free market approach to freight rate setting," President Babcock said. He emphasized that NAFM will work diligently toward bringing free market concepts and increased competition to the trucking industry. "Furniture manufacturers have spoken on this critical issue through NAFM's Legislative Opinion Poll."

COMPILATION OF RESPONSES TO TRUCKING DEREGULATION SURVEY

1. What percent of total shipments are made by truck?

Percent of shipments:	*Percent of manufacturers in each category*
100	36
75–100	86
50–100	96
20–100	100

2. Does your company:

(a) Operate own trucks? 46 percent own trucks.

Of these:

Percent of shipments:	*Percent of truck owners in each category*
100	0
75–100	60
50–100	69
20–100	100
1–100	100

(b) Lease/rent your trucks? 40 percent lease or rent trucks.

Of these:

Percent of shipments:	*Percent of truck leasers/renters in each category*
100	0
75–100	15
50–100	50
20–100	80
1–100	100

(c) Use common carriers? 86 percent use common carriers.

Of these:

Percent of shipments:	*Percent of common carrier users in each category*
100	12
75–100	23
50–100	34
20–100	58
10–100	79
1–100	100

(d) Use specialized contract carriers? 54 percent use specialized carriers.

Of these:

Percent of shipments:	*Percent of specialized carrier users in each category*
100	3
75–100	11
50–100	33
20–100	55
10–100	70
1–100	100

3. Are truck freight rates a major competitive factor in your business? E.g., would a change in truck freight rates materially alter your competitive environment?

	Percent
Yes	63
No	25
Don't know	12

4. If trucking were deregulated and rates were set by competition, do you believe that

(a) Freight rates would:

	Percent
Increase	24
Decrease	61
Stay the same	13
Don't know	2

(b) Choice of carriers would:

	Percent
Increase	63
Decrease	15
Stay the same	17
Don't know	5

(c) Choice of service to needed destinations would:

	Percent
Increase	56
Decrease	19
Stay the same	19
Don't know	6

(d) Choice of rates would:

	Percent
Increase	58
Decrease	19
Stay the same	9
Don't know	14

(e) Settlement of claims would:

	Percent
Get quicker	35
Get slower	28
Stay the same	23
Don't know	13

(f) Carrier liability for loss of damage would:

	Percent
Improve	30
Get worse	24
Stay the same	33
Don't know	13

5. If trucking were deregulated, would common carriers and contract truckers avoid furniture hauling?

	Percent
Yes	22
No	50
Don't know	28

5a. If "yes," would new truckers soon fill the void under conditions of free competition and free entry into trucking operations?

	Percent
Yes	64
No	9
Don't know	27

6. Is your company excluded from certain markets solely because of freight rates established under ICC regulation?

	Percent
Yes	22
No	56
Don't know	22

7. If trucking were deregulated, would you expand your market area?

	Percent
Yes	22
No	61
Don't know	17

8. Do you like the idea of ICC setting minimum and maximum rates for trucks and permitting truckers to post any rates competition dictates within those limits?

	Percent
Yes	48
No	46
Don't know	6

9. If under deregulation, rates went up in the short run, would you be willing to accept higher rates initially in anticipation of lower rates in the long run as a result of increased competition?

	Percent
Yes	63
No	24
Don't know	13

10. Do you believe rates will increase in the short run?

	Percent
Yes	24
No	59
Don't know	17

11. Do you believe rates will increase in the long run?

	Percent
Yes	78
No	11
Don't know	11

12. (a) It has been charged that under deregulation, small out-of-the-way communities would be effectively denied trucking service. Do you believe that will happen?

	Percent
Yes	33
No	59
Don't know	8

(b) Under competitive conditions, do you believe that if one trucking company discontinued service to a community another company would quickly enter to serve it?

	Percent
Yes	63
No	20
Don't know	17

13. If restrictions on backhauls and intermediate stops were removed, would you seek for-hire authority?

	Percent
Yes	58
No	18
Don't know	24

14. If restrictions were lifted on inter-corporation backhauls, would your company engage in backhauls for another company in your corporation?

	Percent
Yes	65
No	22
Don't know	13

15. If inter-corporate backhauls and/or for-hire authority is permitted, would your company be inclined to buy or lease trucks if you do not operate your own trucks?

	Percent
Yes	41
No	38
Don't know	21

16. Under competitive conditions, do you believe there is a possibility that competition among common carriers would reduce rates to the point that private trucks will no longer be economically feasible?

	Percent
Yes	9
No	75
Don't know	16

17. Do you favor the deregulation of the trucking industry?

	Percent
Yes	89
No	6
Don't know	5

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LET'S KEEP AMERICAN OIL IN AMERICA

● **Mr. BAYH.** Mr. President, I wish to express my support for the provisions of the Export Administration Act of 1979 which severely limit the conditions under which Alaskan crude oil can be exported. As one who feels strongly that Alaskan oil should be used in this country, I think that the Congress has put together a workable set of requirements which will guarantee that the interests of the American people are considered first and foremost in any decision regarding oil exports.

As I stated during the Senate's debate on this issue last July, I would prefer that no exports of Alaskan oil be authorized except in truly extraordinary circumstances. We simply need these energy supplies too much here at home to see them shipped abroad.

Congress has accepted the responsibility to see to it that this oil stays here and is used in this country. The conference report approved by the Senate on September 27, and recently signed by the President, prohibits the exportation of Alaskan oil unless the President makes and certifies to Congress several express findings that exports are in the national interest. Thus, before authorizing exports, the President must find that such exports or exchanges:

Will not diminish the total quantity or quality of petroleum refined or stored within, or to be transported to and sold within, the United States;

Will, within 3 months, result in lower acquisition costs to refiners, with not less than 75 percent of such savings in costs to be reflected in wholesale and retail prices of products refined from imported crude oil;

Will be made pursuant to contracts which may be terminated if U.S. crude oil supplies are interrupted, threatened, or diminished; and

Are clearly necessary to protect the national interest.

Should the President decide that exports or swaps are in the national interest, he will have to report these findings directly to Congress, and will not be able to take action unless both Houses of Congress approve exports within 60 days. I think that it is key that the people's representatives will be intimately involved in making these vital decisions. I can say quite frankly at this point that it will take a substantial showing to convince this Senator, for one, that such exports are really in the national interest. One exception to this would be to meet standing commitments to nations, including Israel, with which the United States has entered a bilateral international oil supply agreement, or to other countries pursuant to the international emergency, oil sharing plan of the International Energy Agency.

Now that the Congress has again expressed its will that Alaskan crude oil be used in the United States and not swapped or exported to other countries, we must redouble our efforts to see to it that this oil is made available to those parts of the Nation where it is needed most. All of us are aware of the ironic fact that existing refineries on the west coast are incapable of handling the flow of Alaskan crude. Because we do not now have an efficient means of transporting this oil from the west coast to the Northern Tier and Midwest States, many areas of this country have not been able to share in the benefits of the bountiful discoveries in Alaska. It is this situation which has prompted some to suggest exports as a means of relieving the oil glut which has developed.

There is a better solution, Mr. President, a solution which will not contribute in any way to increasing our reliance on foreign countries for our energy supplies. Recently 34 of my colleagues joined with me in letters to the President and the Secretary of the Interior urging expedited regulatory decisions for the Northern Tier proposal for a west-east oil pipeline. By expediting Federal decisions on this project, and removing regulatory uncertainty, Northern Tier will be able to seek financing in the financial markets. If successful, construction of such a pipeline could provide us with an efficient means of distributing and using Alaskan oil.

In approving the Public Utility Regulatory Policies Act last year, we directed the Secretary of the Interior to study proposals for west-east pipelines and to recommend to the President which proposal, if any, should be subject to expedited Federal permitting procedures. We need to speed up the permitting process, Mr. President, to make sure that regulatory roadblocks will not come to further delay the delivery of critically needed energy supplies.

The time for the Secretary to make this determination is near. The Northern Tier route can serve 66 refineries in the Northern Tier, Midwest and mid-Atlantic States, can eliminate unnecessary transportation costs, and provide jobs for Americans. I again urge Secretary Andrus to act expeditiously to approve this proposal, so that we can get this oil flowing and once and for all solve our Alaskan oil delivery problems in the way most clearly designed to benefit the American people.

I ask that the letters to Secretary Andrus and President Carter be printed in the RECORD.

The letters follow:

U.S. SENATE,
Washington, D.C., September 28, 1979.

Hon. CECIL D. ANDRUS,
Secretary, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: We strongly urge you, in the exercise of your responsibilities under Title V of the Public Utility Regulatory Policy Act, to recommend to the President that he approve expedited permitting for the Northern Tier Pipeline project. This project is a vitally needed, all American crude oil transportation system which will provide increased security of energy supplies to the agricultural and industrial sector of the interior states, compensating for the loss of Canadian oil and replacing foreign oil with Alaskan crude.

The Northern Tier Pipeline proposal has received detailed study and review since 1977, when application was initially made for federal right-of-way permits. The project uses conventional technology and the siting of the port and routing of the pipeline presents no unusual problems. In light of the failure of the Sohio project, Northern Tier represents the best chance to fulfill the goals that led to enactment of Title V. Construction could start immediately following receipt of all required federal and state permits.

The Department of Energy recently summarized why the Northern Tier project should be approved expeditiously:

"The time has come for construction of a west-to-east crude oil transportation system. Further delay is unacceptable."

"Under these circumstances, the project with the least amount of regulatory risk—and therefore potential for delay—is the most desirable. For this reason, the Department of Energy supports moving ahead vigorously with the Northern Tier project. Among all the projects under review pursuant to Title V, it currently commands the highest level of confidence in its ultimate construction. First, it is located entirely within the United States and therefore not subject to the risks and potential delays associated with international negotiations. It is a high capacity line that provides crude oil directly to Northern Tier and midwest refiners. As such, it provides the highest net national economic benefit and is further along in the nonfederal permitting process than any other alternative."

The Department of Agriculture has agreed on the solution to the supply problem in the mid-continent.

"The Northern Tier proposal stands out as the preferred alternative for a number of reasons. It yields the highest net national economic benefits and is consistent with national security interests in that the entire land route is on United States territory. Since no Canadian approval is required, the possibility of adverse impacts on international relations is minimized. The higher initial costs of the Northern Tier route are offset by its greater capability if used at full capacity."

Since October, 1973, we have seen the nation struggle through the producing nations oil embargo and, most recently, the political turmoil in Iran. We have seen debates on the merits of various alternate energy sources. Meanwhile, consumer energy costs continue to spiral higher. What we have not seen is a strong commitment toward permitting the private sector to proceed with the construction of needed conventional energy facilities.

The Northern Tier Pipeline project is now ready to move to the construction stage. It can and will serve critical national needs. It is within U.S. control. Decisive action before October 15th by your department and by the President on this project can set the stage for moving the country forward toward greater energy independence at less cost to the consumer.

We believe your department has discharged its responsibilities under Title V in evaluating the alternatives. It is now up to you and the President to act. It is our view that the choice is clear: proceed in an orderly manner to authorize and bring into operation the Northern Tier Pipeline.

We appreciate your consideration of this request.

Sincerely yours,

Senators James McClure, Wendell H. Ford, Frank Church, Birch Bayh, George S. McGovern, Quentin N. Burdick, Gordon J. Humphrey, J. Bennett Johnston, John A. Durkin, Richard G. Lugar, Daniel Patrick Moynihan, Carl Levin, S. I. Hayakawa, Jim Sasser, Edward Zorinsky, Milton R. Young, William Proxmire, Abraham Ribicoff, Donald W. Riegle, Jr., Herman E. Talmadge, Jennings W. Randolph, Claiborne Pell, Jake Garn, Patrick J. Leahy, Larry Pressler, John Heinz, Thomas F. Eagleton, Robert Dole, Howard Metzenbaum, John Glenn, J. James Exon, Gaylord Nelson, Alan Simpson, John C. Culver, Robert Morgan.

U.S. SENATE,
Washington, D.C., September 28, 1979.

THE PRESIDENT
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We enclose for your information a copy of our letter to Secretary Andrus in which we endorse the recommendations of the secretaries of Agriculture and Energy on the urgent need to approve expedited permitting for the Northern Tier Pipeline.

We concur with their view that the interests of the nation and the constituency in the agricultural and industrial heartland of our country are best served by the prompt authorization of this project. As Secretary Bergland noted, you are in a position to expedite construction of this project because it falls entirely within U.S. jurisdiction.

The constituents in our states look to you for decisive leadership on this matter. We are confident that your action will convey to the American people, and to the producing nations of the world, our national commitment to increase domestic energy production and assure its most efficient transportation and equitable distribution to the regions of greatest need.

We appreciate your consideration of this matter.

Sincerely yours,

Senators James McClure, Wendell H. Ford, Frank Church, Birch Bayh, George S. McGovern, Quentin N. Burdick, Gordon J. Humphrey, J. Bennett Johnston, John Durkin, Richard G. Lugar, Daniel Patrick Moynihan, Carl Levin, S. I. Hayakawa, Jim Sasser, Edward Zorinsky, Milton R. Young, William Proxmire, Abraham Ribicoff, Donald W. Riegle, Jr., Herman E. Talmadge, Jennings W. Randolph, Claiborne Pell, Jake Garn, Patrick Leahy, Larry Pressler, John Heinz, Thomas F. Eagleton, Robert Dole, Howard Metzenbaum, John Glenn, J. James Exon, Gaylord Nelson, Alan Simpson, John C. Culver, Robert Morgan.●

DIETARY GOALS

● Mr. KENNEDY. Mr. President, during its existence from 1968–77, the Senate Select Committee on Nutrition and Human Needs succeeded in raising the consciousness of the entire Nation with respect to the importance of nutrition for maintaining and improving our health. As a member of that committee, as well as being chairman of the Subcommittee on Health and Scientific Research, I am particularly pleased with the disease prevention and health promotion emphasis espoused by the Select Committee toward the end of its existence. This health philosophy was incorporated in the Select Committee report, Dietary Goals for the United States, which since its publication in 1977 has literally become a best selling Government document with some 80,000 copies in circulation. On October 4, the Washington Post carried an article by Marian Burros which succinctly reviews the events surrounding the dietary goals report and the impact it has had in the less than 3 years since its release. I request that this article be printed in the RECORD.

The article follows:

[From the Washington Post, Oct. 4, 1979]

DIETARY GOALS—BECOMING A MATTER OF NATIONAL POLICY

(By Marian Burros)

No one could have guessed what the aftermath would be in January 1977 when Sen. George McGovern piled up 125 pounds of sugar, 100 pounds of lard and 300 cans of soda pop in a hearing room and announced the publication of Dietary Goals for the United States.

Ever since that day when McGovern's Select Committee on Nutrition and Human Needs told Americans that if they wanted to live longer and better they should cut back on fat, sugar, salt and cholesterol and eat more fruits, vegetables and whole grains, there has been an inexorable movement toward a national nutrition policy.

Even McGovern is surprised at how things have turned out. He told a nutrition conference yesterday that "we did not fully gauge how dramatic and quick an impact the Dietary Goals report would have on national policy."

Considering the controversy the report created when it was released, McGovern has a right to be surprised. Angry reaction from the industries most likely to be affected, if Americans began to eat as the goals advised, threatened to bury not only the goals but the Senators who had signed the report as well.

Even though these vocal critics haven't gone away, their voices are being drowned out, and now, 2½ years later, Dietary Goals have become the basis on which much of the scientific community has reached a consensus about the direction in which the American diet ought to be moving.

Within the last five months several significant events have set the course. On May 5, the American Society for Clinical Nutrition (ASCN), an extremely conservative group of scientists, released a report. The scientists were asked to rate the relationship between cholesterol and heart disease, between fats and heart disease, then cholesterol and fat in relationship to the disease, between carbohydrates, sucrose and heart disease, carbohydrates and diabetes, carbohydrates and dental cavities, alcohol and heart disease, alcohol and liver disease, salt and hypertension; excess calories in their relationship to obesity, hypertension, diabetes and heart disease.

If the evidence of the relationship were "rock solid," a total score of 100 was possible. And this is what happened:

Out of the possible 100 points the relationship between cholesterol and heart disease got a mean score of 62; fat alone got 58; cholesterol and fat together got 73.

The relationhship between carbohydrates, sucrose and dental cavities scored 87; between alcohol and liver disease 88; between salt and hypertension 74: between calories and obesity, hypertension, diabetes and heart disease 68.

The three other topics—carbohydrates and heart disease, alcohol and heart disease, and carbohydrates and diabetes—scored between 11 and 13 points, indicating the scientists couldn't find much connection.

While ASCN did not address the relationship between diet and cancer, Dr. Arthur Upton, director of the National Cancer Institute did earlier this week.

Upton told a Senate hearing last year, "Scientists generally agree diet and nutrition . . . appear to be related to a large number of human cancers, perhaps approaching 50 percent." On Tuesday, Upton made some recommendations: maintain ideal body weight, reduce total fat intake, increase total dietary fiber, consume alcohol in moderation.

The findings of the American Society for Clinical Nutrition and of the National Cancer Institute have provided the signal needed by Department of Agriculture and Department of Health, Education, and Welfare to stop dragging their heels in developing dietary guidelines.

As Ellen Haas, director of the consumer division of Community Nutrition Institute (CNI), sees it: "Everything in government must be justified. Until now they thought there wasn't enough scientific research data to back up guidelines. But what has become apparent in the last year is that there has been a good deal of research in the medical and health communities so it is entirely possible to come up with dietary recommendations."

Because the Surgeon General's report on health promotion and disease prevention had come to the same conclusion in July didn't hurt. This report says that if Americans make some momentous changes in their diet and habits they can reduce their premature death rate by 20 to 35 percent in the next 10 years. Like Dietary Goals the report advises people to cut their intake of alcohol, salt sugar, cholesterol and fat, especially saturated fats.

Then last week the National Institutes of Health held a two-day conference on nutrition education at which Dr. Mark Hegsted, who is administrator of USDA's Human Nutrition Center, discussed the ASCN report: "By anyone's evaluation the panel reports must be about the most conservative estimate of the situation that can be developed yet [but] the message does come through . . . They state that it is the responsibility of government officials to formulate policy from the evidence provided."

Hegsted, who played a major role in the development of Dietary Goals, said that ideally diets should be tailored to individual needs. Since that is impossible "general dietary instruction to reduce risk is necessary and appropriate in exactly the same way that general instructions are developed to reduce risk of nutritional deficiencies even though we know that there will be a marked difference in the benefits different individuals will gain from the consumption of any recommended level of a nutrient."

Hegsted must be smiling just a little. Two years ago he gave a speech at the first Community Nutrition Institute nutrition conference, a speech he often repeated, explaining why Dietary Goals were sensible. He argued that even though all the evidence isn't in, there is no harm in following the recommendations made in the report.

At the third annual CNI nutrition conference, which concluded yesterday, Assistant Agriculture Secretary Carol Foreman, announced tentative USDA-HEW nutrition guidelines. They vary little from the Dietary Goals.

Both Hegsted and Foreman said they wish they offered a lot more practical advice on implementing the guidelines, but they are a beginning. "It's not nearly as specific as a lot of us hoped it would be," Hegsted said in an interview. USDA blames HEW for the lack of more substantive progress.

Experts in the field of nutrition say that a national nutritional policy based on these guidelines would have a significant impact in a number of areas: food purchased for government feeding programs, foods permitted to be sold in school vending machines, requirements for nutritional labeling of food, regulation of food advertising and food production priorities such as encouraging production of leaner beef. Another obvious impact area would be nutrition education, not only what is being taught in schools, but what kind of financial commitment the federal government is willing to make toward it. "Until now," Haas said, "the federal government's commitment to nutrition education has been insignificant. All kids get is industry material. If the guidelines have the imprimateur of HEW, USDA and the White House, it would serve to balance the current sources of information consumers receive. Today it comes mostly from food industry sources through ads."

Difficult as it has been to achieve a consensus for a national nutrition policy, turning theory into practice may be even more trying. Hegsted says moderation is the key word, but "what do we mean by moderate?"

"Beyond the need to assure adequate intakes of essential nutrients," Hegsted said, "dietary advice must be acceptable to the public . . . Extreme recommendations—even if scientifically justified—are not likely to be practically useful . . . consideration of food habits, the food supply food preparation methods . . . must be used.

"Dietary advice is often so full of don'ts that the penalties appear to outweigh the benefits. We do not eat for nutritional benefits alone."

That is the challenge: translating general guidelines into menus and recipes people will put in their mouths; menus and recipes that taste good even though they have less salt, fat, cholesterol and sugar. It's easier said than done.●

PROBLEMS WITH AIRLINE DEREGULATION

● Mr. McGOVERN. Mr. President, over the last few years deregulation has been a rallying cry in both business and Government. No one can argue the need to cut redtape and to eliminate unnecessary Federal spending. This administration has taken the lead in examining proposals to deregulate the transportation sector of our economy.

Recent developments have failed to inspire confidence in deregulation, particularly for the commercial airline industry. In addition to the justified concerns about continued service to small- and medium-sized communities, another development has occurred which I believe serves to frustrate the inherent intent of the original deregulation proposal. Despite the fact that under the new legislation airline merger proceedings were to be eased, the Civil Aeronautics Board refused a merger this summer between Continental and Western.

Although the testimony presented by both airlines as well as several States served by the carriers proved beyond a shadow of a doubt that the merger would be in the best interest of continued small communities service to the affected States, the CAB denied the petition. In point of fact, testimony submitted to the Board gave a strong indication that the airlines in question might not be able to continue service to certain communities if the petition was rejected, as it would prevent both carriers from implementing an efficient "hub and spoke" system.

Testimony from Western Airline officials concluded:

> We only hope that the Board will give full weight to the clear and unequivocal Congressional intent to let us make necessary adjustments to improve our profits and better serve the public. We hope deregulation will not prove to be a one way street of letting the industry giants free to invade our system, but keep us boxed up because of our more limited resources and cause us to abandon important smaller communities where we have enjoyed excellent relations over many years. The Administrative Law Judge in a very thorough opinion, however, has recommended approval of our merger.

Yet, the CAB denied the petition.

Mr. President, I request that an article from the September 1979, issue of Airline Executive be printed in the RECORD.

The article is as follows:

THE HYPOCRISY OF U.S. DE-REGULATION

The new law passed by the U.S. Congress last year to free the airlines from government regulation is beginning to show its real meaning. Matched against the true meaning of de-regulation, it is a joke—a worthless piece of legislation. The airline industry is not de-regulated, only *partly* free of its regulatory chains.

That is the dangerous aspect of the new situation. The industry is now free to compete in an open market to its heart's content, but if good business judgment says two airlines need to strengthen themselves through merger to stay alive in this atmosphere, that's a different story.

In one fell swoop on Saturday, July 21, the U.S. Civil Aeronautics Board made a mockery of airline de-regulation. It refused approval of a merger between two small trunks—Continental and Western—for reasons which just aren't supposed to exist under de-regulation.

Only one member, Richard O'Melia, voted in favor of the merger. Only one member, Mr. O'Melia, recognizes that de-regulation is supposed to mean just that, not some on-again, off-again rulemaking to suit the fancy of a highly politically-oriented CAB. CAB wouldn't dare approve all mergers—it would look as if it weren't doing its job of protecting the poor consumer. Who cares about the merits of the case? CAB stopped considering those when the Carter Administration came into office.

Continental and Western are strong competitors with the Big Four airlines, but mostly with American, United and TWA. In the regulatory atmosphere of the past, they not only competed with them, but outperformed them profitwise. They were two of the better-run U.S. airlines.

Under the new ground rules, an airline needs a broad base to be able to compete with giants like United, American and TWA. Each of these big trunks is three to four times the size of Continental or Western. Even after the proposed merger, they would only approach the $2-billion level in revenues, a full 35% to 50% below the size of any of the other three.

When it came to running an airline under the CAB policies of the past, this kind of CAB misjudgment was the order of the day. Back then, the industry had a chance to adjust to the bad effects this misjudgment caused. Such a situation no longer exists, and there is nothing that CAB can do to make it possible for Continental and Western to compete successfully against the giants.

The free-market principles upon which the new U.S. airline system are supposed to operate suggested survival of the fittest, but weren't supposed to mean that CAB would step in and keep some of the contenders from remaining fit.

They suggested that some airlines which through less efficient management might not be able to meet the test would drop from the competition, but weren't supposed to mean that CAB would tie some airlines' hands behind their backs and leave others alone.

The CAB disapproval of the Continental/Western merger is a worse form of regulation than that which existed before the new Act was passed. It is the first tangible display of the hypocrisy of U.S. airline de-regulation.●

THE AIRLINE DEREGULATION ACT OF 1978: A FOLLOWUP

● **Mr. KENNEDY.** Mr. President, on October 24 of last year, the Civil Aeronautics Board received a new set of instructions in the form of the landmark Airline Deregulation Act. This act was a mandate to the CAB to greatly reduce the economic regulatory structure of the domestic aviation industry which had become stale and counterproductive over the years. It was a momentous first step by Congress to get the Government out of the business of running private industry and to let competitive market forces work.

The Board seized upon this new directive with the same enlightened spirit it had exhibited for the prior 3 years. As far back as 1975, when my subcommittee hearings revealed the massive failures of the old regulatory scheme, the Board attempted to relieve the regulatory stranglehold through self-reform. By 1978, this limited self-reform approach had already begun to bring unprecedented benefits to the industry. With the passage of the act, the Board had all the weapons it needed to break the rusted regulatory chains that caused artificially high fares, low profits, and wasteful use of aircraft.

As we approach the first anniversary of the act's implementation, it is appropriate to ask what the Nation's experiences under the phased program of deregulation have been. In a speech to the Aero Club of Washington on September 25, 1979, Chairman Marvin Cohen of the CAB enthusiastically summed up the effects of this first transitional year. Chairman Cohen's remarks confirmed my longstanding belief that confidence in reducing outmoded, excessive regulation was well placed, and would work to the advantage of the consumer and industry alike.

I think it is important that every Member of this Chamber be aware of the overall success of this measure which was overwhelmingly endorsed by both Houses of Congress. I ask that Chairman Cohen's speech be printed in the RECORD.

The address follows:

SOME PRE-ANNIVERSARY THOUGHTS

One year ago I was just beginning mv introduction to airline deregulation. Fred Kahn was about to leave the Board and the Airline Deregulation Act was only a month from becoming law. If the year leading up to October 24, 1978 was turbulent and full of controversy, the year since has been equally exciting.

Deregulation has become the subject of daily assessment. When an airline leaves a city, we hear immediate claims that deregulation does not work and that the CAB has failed to properly execute the transition. When a new unrestricted low fare is instituted between New York and Los Angeles—it is heralded as evidence of dereg's success. Then, in a few weeks, the city which lost the airline, gains two new ones—and the new low transcontinental fare is abandoned—and both critics and enthusiasts are confounded.

As we approach the first anniversary of the Airline Deregulation Act, I thought I might try to step back for the daily minutiae of the domestic air transport industry and review with you what has happened during the past year in a broader context—and suggest what the Board will be focusing on over the next year.

How have consumers fared, and how has the industry performed in this year of the United strike, the DC-10 grounding, the unprecedented rise in fuel prices, and constantly rising labor costs.

The industry has been able to handle a 14 percent increase in traffic on top of last year's 16 percent increase. Profits are down from last year's record high, but are still very good for a recessionary period. Despite rising costs for all inputs, the industry has increased productivity to keep fares down. Every airline continues to offer a variety of discount fares and for the year ending July 1979, trunk yields had actually declined 10.1 percent in constant dollars. Had the general economy achieved the same productivity gains as the airlines, the inflation rate over the last 18 months would have been nearly zero. Last year, the inflation rate was 7.7 percent while airline yields declined 1.8 percent in inflated dollars. This year, the inflation rate was 9.8 percent in the first quarter and 10.7 percent in the second. For the airlines, yields declined 4.8 percent in the first quarter and increased only 1.5 percent in the second. While these figures do not reflect the most recent fuel related increases, they clearly show the incredible gains in efficiency that have resulted from the injection of competition into the system.

There are transitional problems which I will discuss. But overall, the air transport system is serving more people more efficiently today than at any time in the past. Much of this can only be traced to the impact of competition.

When I became Chairman, I said that we intended to apply a regulatory philosophy which would allow the industry the maximum amount of competitive freedom. At the same time. I indicated that we would remain vigilant for transitional problems that might arise, particularly, in developing an essential air service program. We have adhered to this approach and I am convinced that it was and is the proper way to go. Today, I would like first to describe what we see occurring in the system generally, and then to focus on some aspects of the essential air service program.

The Board recognized very early on, that the backbone of deregulation and competition is freedom of entry. Under Chairman Kahn, the Board developed multiple permissive awards as a tool to expand operating authority and free up entry. How has multiple permissive entry affected levels of service? We never expected every carrier to exercise authority in every market. But we were confident, just as in the unregulated sector of the economy, those who saw a profit opportunity would enter regardless of the number of carriers authorized to provide service. Those opposing deregulation—in fact, even some of you—said multiple awards would mark the end of the domestic air transportation. To paraphrase Robert Frost, some of you believed the world would end in fire with massive new entry bringing destructive competition, excess capacity and falling load factors. Others of you said the world would end in ice with incumbents retrenching to prevent new entry making the system less competitive.

Perhaps to the surprise of much of the industry, it already appears that multiple awards are generating, instead, the results we predicted. Between December 1978 and July 1979, the Board made multiple awards in 422 markets. As of September 1, 1979, there have been 176 new entries in these markets. Of these, 32 were first nonstop service. This is more new nonstop service than was ever initiated in any 10 month period under strict regulation. Of course, not every market has received additional service But, both travelers and the industry have benefited from this substantial new entry.

In some markets, a number of airlines have started service. Much of this multiple entry has been instituted to vacation points. For example, in the Las Vegas-Dallas/Ft. Worth Nonstop Service Investigation order, the Board authorized service by six carriers. Three—Braniff, American and Texas International—entered in competition with the sole incumbent Delta. The results—even for a vacation market seem astounding. For June 1979, compared with June 1978, traffic rose from approximately 30,000 to 93,000 passengers and despite the presence of three new carriers, the average load factor was over 65 percent. Delta's load factor dropped only 3 percentage points while TXI, with its reliance on discount fares, averaged over an 85 percent load factor.

Another market that hit a little closer to home for me, is service between Tucson and Houston, a trip I unfortunately had to make a number of times when I was practicing law. In the old days, you couldn't get between those two cities without making several stops or changing planes, although two airlines had nonstop authority. On April 28, 1979, the Board affirmed the administrative law judge's decision to make multiple permissive awards to all nine applicants. Today, one of the incumbents and two new carriers are providing nonstop service for the first time. Hughes Airwest, one of the new entrants, concentrates on local traffic by serving Houston through Hobby Airport. It also offers a lower face and had a segment load factor of over 80 percent in June 1979.

There are many other examples all over the country at places such as Boise, Idaho, Des Moines, Iowa and Albany, New York. In most markets where new entry has occurred there has been a significant increase in traffic.

In addition to the new entry made possibly by multiple awards, carriers have entered many markets under the dormant authority and Automatic Market Entry provisions of the Airline Deregulation Act. But, just as the Board has encouraged the industry to move into new markets, we have, wherever possible, also decided not to block exit unless doing so is necessary to maintain essential air transportation. Overall, in the year ending June 30, 1979, new single plane service has been added in 1,528 markets and deleted in 1,416 for a net gain of 112. New competitive service has appeared in 466 markets and disappeared in 249. So over 200 more markets have competitive service today than had it one year ago.

A closer look at these figures shows that the system is going through the substantial restructuring that the industry needs during this time of rising costs and increasing competition. And, these changes appear to be occurring in the very ways that economic theory would support. The trunks and locals have eliminated service at about 70 points which are now being served by commuters under the essential air service program.

Carriers seem to be maintaining the *status quo* in competitive markets that are dominated by a single carrier. In these markets, increases in departures and seats have grown more slowly than traffic, and load factors have risen two or three percentage points.

In the very largest markets with four or more airlines, carriers seem to be dropping entry mileage operations. In these very dense markets, prices have been most competitive requiring carriers to operate with higher loads. Actually, the number of seats in these dense markets has remained virtually constant, causing load factors to rise almost four points from 61.5 percent to 65.3 percent.

Then where is the new service going? To the markets which appear, at the moment, to be the most competitive—those in which there are two or three competitors and no one firm dominates. Some examples of these are Albuquerque-Denver, Chicago-Grand Rapids and Fargo-Minneapolis.

Another phenomenon we are witnessing is that growth rates for the local service carriers over the last year have been significantly better than for the trunks. For example, for the year ending August 31, 1979, the locals experienced a 31.9 percent overall increase in RPM's while the trunks grew at a more moderate but still quite impressive 14.6 percent. The trunks, of course, are starting from a much larger traffic base so it would take substantially more traffic to generate the growth rates that the locals are achieving. Beyond this mathematical point, however, lies the critical fact that locals, as a group, are not only holding their own against the trunks but are expanding into profitable new markets. Many proponents of deregulation expected that the locals would do well. Their equipment is well suited for short to medium haul service in dense markets. But under regulation, the Board protected those markets for the incumbent trunks. The soothsayers of doom told Congress that the locals would all but disappear. They were wrong. Expanded access to dense markets, coupled with the new pricing flexibility, have opened many competitive avenues for the former local service carriers.

Despite the United strike and the DC-10 grounding during the peak summer season, the first half of 1979 was a moderately profitable period for the industry. By no means as good as the comparable period last year but far better than the average over its 40-year history.

While the industry has been sorting itself out, consumers have reaped substantial benefits not only in the form of more service, as I have described, but in the form of lower fares. Fares declined in constant dollars through June this year. Using 1973 fares as a base and equal to an index of 100, in December 1977 the index stood at 95 and by June 1979 it had declined to 82.

The proponents of deregulation contended that competition would lead to more service, lower fares and a more efficient system. They were correct—all of these have occurred but at what cost? The people of Bakersfield and Modesto assert that they are paying the price for the benefits received from deregulation by the rest of the country.

Let's look at the essential air service program, and review what is happening at small- and medium-sized communities. The Board is now engaged in the very delicate task of balancing the needs of certificated communities for an adequate link to the national system against the need to avoid unduly limiting the ability of airlines to move equipment into more lucrative—or in many instances—at least profitable markets. The Board is guided by the Congressional mandate to develop a self-sufficient system that relies on market forces. To accomplish these goals, the Board has announced guidelines to govern our determinations of essential service. The most controversial of those guidelines sets the maximum number of seats that the Board will guarantee is 160 seats in the market—which is 40 seats more than we originally proposed. This maximum is not some arbitrary number pulled out of a hat. Rather, it was the product of many hours of investigation and discussion on how best to preserve flexibility in the system and at the same time encourage efficient self-reliant service. A carrier which must rely for its survival on the communities it serves will generally provide better service than the carrier which depends on a Federal dole. All the studies we could find show that profitable scheduled air service can be provided by commuters if there are at least 20 passengers a day in the market. Indeed, a DOT study concluded that a market with five passengers a day could be self-sufficient. To be on the safe side, we decided that if profitable service can be provided with 20 passengers, we will consider paying a subsidy to support service for up to 40 passengers a day in each direction. We are convinced that any point that has this many passengers will attract a carrier who will operate without subsidy. So far, our conclusion has proven to be correct.

Originally, we believed that the number of seats made available should be based on a 65 percent load factor. So if there were 40 passengers, we would set the service base at 60 seats. However, Member Bailey brought to our attention the problem of access created by using the industry average load factor for service with small aircraft.

Because of the law of large numbers, a 65 percent load factor provides much greater probability of getting a reserved seat on a 100-seat aircraft than on a 7-seat aircraft. To assure a reasonable level of access for communities served by smaller commuter aircraft, we recently lowered our load factor standard to 50 percent. Although it could require additional subsidy payments, this new standard should improve the quality of service and assist in traffic development at marginal small communities.

We believe that in most case the balance established by our guidelines will assure communities of adequate air transportation for access into the national system, without jeopardizing the long-run improvements in that system that can only be derived from a liberal exit policy.

An example is the situation at Paris, Texas. The most traffic enplaned at Paris over the last seven years was eight passengers a day. Yet, the incumbent carrier, Metro, was providing the city with 32 seats a day in four flights per day in each direction. When Metro decided to pull out, we set the essential air service level at two round trips a day and with our revised load factor standard 16 seats in each direction. This baseline is more than adequate to meet the city's existing need and, in addition, leaves room for growth. At the same time, it frees 16 seats a day to be used in another market where there is more traffic. Metro won't be taking its released aircraft to serve Houston-Dallas, but to provide some other small community with additional access to a large hub. The majority of small communities will receive ample and reliable service under the Board's guidelines.

While we are looking to the commuters to provide much of the country's essential air service needs, we have not and will not rely on operators who have not demonstrated their commitment to providing the safest possible service. The FAA is now conducting a FAR Part 135 compliance review and I have asked the Administrator to focus his attention first on those carriers providing essential air service. I can assure you that the Board will not hesitate to replace a carrier that has demonstrated any lack of commitment to maintaining itself in compliance with FAA regulations. We are fully prepared to hold an incumbent in a market if we have any reasonable doubt about an applicant's ability to operate substitute service safely.

Turning again to our guidlines, it appears that there is a group of communities that, for the next couple of years, may be faced with less service than the market can support. These are communities that may have hundreds of daily enplanements but do not fit in the planned system of the incumbent. For most of these points, supply and demand will adjust as new carriers with a more suitable system move in. I recently told a group of government and business leaders in Chattanooga, that under deregulation, they can now go out and attract new airlines just as they now successfully attract other industries. If there is a potential market, service will be provided. Take Providence, Rhode Island, a city that was very upset when it lost American and National Airlines early this year. Providence got new and expanded service from all shapes and sizes of airlines like TWA, Air New England, and Pilgrim. In July, the Providence Airport set a record for passenger boardings; Eastern has begun new service from Providence to New York and Orlando, Florida, and the Providence Journal recently published an editorial in support of deregulation. Providence, of course, is only one of the many medium-sized communities that are benefitting from deregulation.

But, what about California—the folks in Bakersfield and Modesto. California once had a flourishing unregulated intrastate air transportation system. Starting in the early 1960's, however, the California PUC began to regulate prices, exit and entry very tightly. Competition was stifled. PSA and Air California were locked into particular markets and applications by new commuters were routinely rejected. In fact, I understand that prior to deregulation, there were only 42 commuter aircraft in the entire State. When deregulation came to California, all the airlines released their pent up desires to expand and compete. PSA and Air California have jumped into new interstate markets and have applications for many more new cities. Commuters like Air Pacific and Golden West have embarked on major development programs. Golden West, for example, can boast of a healthy 41 percent increase in boardings for the first six months of this year over the same period last year.

The lingering effect of prior regulation and the desire to take advantage of new opportunities have caused some communities like Bakersfield and Modesto to face the spector of significant cutbacks in service. In Bakersfield, Air Pacific would like to pick up the slack that would be created by United's departure, using the very modern 4-engine 50-seat de Havilland Dash 7. But, at the moment, it is short on equipment. Bakersfield tells us that they are entitled to a level of service comparable to United's current jet service to Los Angeles. In the long run, multiple frequency jet service can only be maintained if the market can sustain it. Right now, the Board is considering the level of service we will require United to provide in Bakersfield while Air Pacific or some other carrier can gear up. But, most assuredly, holding United in does have a cost beyond the Federal dollars we may have to pay for its service. It may be that United will have to postpone some other new services it has proposed like Santa Barbara-Denver and Monterey-Chicago; or maybe it will be forced to delay the sale of the aircraft it uses to serve Bakersfield to some other carrier which in turn will be forced to delay new service to some community. Holding United in Bakersfield has a definite social cost in the form of less service to another community and the lost benefits of moving to a more efficient allocation of resources.

Our new transitional essential air service policy for handling cases like Bakersfield reflects our judgment that in certain unique cases the need to maintain levels of service higher than those contained in our guidelines outweigh the costs I just described. But this imbalance can only last for a short time, because, just as I said in Chattanooga, it is primarily up to the community to establish its case for more service with the airlines. The Board is willing and prepared to take temporary action to avoid undue hardship.

We cannot, under the law, support high levels of jet service for an indefinite period to any community. Nor should we. Neither travelers nor the industry would benefit from a policy that stifled exit from large communities that otherwise could attract operators with suitable sized equipment who are willing to meet the demand without federal intervention.

In general, the transition from trunks and local service carriers to commuter service for small communities has been going fairly smoothly. In the small number of medium-sized cities which have had problems, time and the marketplace have provided solutions. In the special California situation and any other unusual situations involving drastic service cutbacks and a slow market response, we expect our transition policy to help.

Before discussing our plans for the future, I'd like to talk for a moment about the economy. It's important not to confuse the impact of deregulation with the effects of the current recession. Only a hypocrite or some aviation writers could suggest that deregulation has failed because it did not immunize the airlines from the vagaries of the business cycle. Over its 40 years' history, the industry has led the way into recessions, trailed the economy going out of a recession and on average established a record of only poor to average earnings. Already, under deregulation, this industry generated record profits in a moderately good year and is lagging behind rather than leading the way into the slump.

This year, the industry has had to confront and deal with escalating fuel costs of traumatic proportions. In July, fuel costs were up 15 percent over June and 56 percent higher than July 1978. Since January, fuel costs for the trunks have risen from about 16 percent of operating expenses to over 26 percent. Other costs including labor have climbed steadily although not quite so dramatically. To enable the industry to keep pace with costs, we have allowed the full coach fare to rise 20 percent since January. But deregulation has had a definite positive effect on carrier pricing strategies. The industry now recognizes that pleasure travel is highly price-elastic. So, unlike the reaction to past recessions, we are not seeing carriers abandoning low fares. Passengers can still travel at prices well below the normal coach fare to virtually any city in the country. And new low fare services are still being introduced. At the end of next month, for example, Midway Airlines will begin service to Chicago from Cleveland, Detroit and Kansas City at fares 25 to 35 percent below the standard coach fare.

I do not expect that you will abandon the lesson of the last 18 months. Just as low fares helped the industry to its most profitable year ever, these same low fares should cushion you during the current downturn. Indeed, most financial analysts are still forecasting profitable years 1979 and 1980. A recent Oppenheimer Industry Report notes that: "On a historic basis, considering that the industry lost money during the last two recessions, this is still a relatively strong performance."*

I can't stand here and say that the coming year will be an easy one for the industry. I will say that deregulation has bestowed on the industry the much needed flexibility to cope with the business cycle. And, that despite the recession, consumers, as well as the industry, will benefit from lower fares and better service than existed during similar periods under regulation.

As we near the end of our first year under the Act, we at the Board are confident that this first exciting experiment in deregulation is working well. We look forward in the coming year to the challenge of implementing and refining our essential air service program. As Senator Cannon's excellent international avaiation bill moves to firm up President Carter's pro-competitive international aviation policy, we will be focusing new attention on the opportunities to expand this country's competitive aviation polices on the international scene. With the recent institution of the air transportation marketing investigation, we will devote much attention in the coming year to the travel agency industry. Our consumer protection efforts will continue at about the same level as in the past year—we plan, during the remaining life of the CAB, to start working more with state and local government consumer agencies to enable them to deal with as many airline consumer problems as feasible and allow us to limit the federal role. We are also engaged in a zero-based review of our current reporting requirements and should complete that and publish the results for comment within the next year. We will, of course, continue our liberal entry policy.

Another area of increased CAB concern in the coming year will be airport access. We plan to work closely with the FAA in improving the slot allocation system and assuring nondiscriminatory access to crowded airports—while respecting the legitimate environmental concerns of airport proprietors.

In short, it's been as exciting and generally successful year from our perspective. A number of stimulating challenges remain. We will try to meet them in ways which preserve competitive options—and give plenty of space for your creative energies and ideas.●

VOLUNTEERISM

● Mr. **DURENBERGER**. Mr. President, not too long ago Landrum R. Bolling, chief executive and chairman of the Council on Foundations, wrote an article reminding us of the importance of volunteerism in the country.

According to Mr. Bolling—

> There is one outstanding theme for our national experience, past and present, that defines us as a people: The United States, more than any other country, is the land of private, voluntary initiatives for the public good.

Throughout my career I have had the opportunity to witness the truth of Mr. Bolling's statement. Volunteers have made significant contributions to the development of our country. Today, they continue to help society meet its goals and obligations. Without the volunteer service of millions of American men and women, our society would be without many of the advantages and programs we take for granted.

Perhaps no State typifies the spirit of volunteerism better than Minnesota. The citizens of Minnesota accept the contribution of their time and talents as a way of life. They believe it is their responsibility to not only take from their communities, but to give of their abilities to their neighbors.

Kitty Gamble is an outstanding example of this prevailing attitude. She has made a commitment to serving people and fulfills that commitment with sincerity and zest in measures equal to her ability.

I have had the very pleasant opportunity of working side-by-side with Kitty on numerous occasions. Each time, I have been the beneficiary of the experience. Her enthusiasm is boundless, her talents seem unlimited.

This country can well use more people like Kitty Gamble. Her accomplishments and those of millions of others are evidence that volunteerism should not be relegated to a second-class role. Instead, our national policy must be to encourage volunteerism as an essential element in our society.

Recently, I proposed and the Senate accepted, the creation of a National Commission on Volunteerism. Through this Commission we can begin a discussion of the important contributions individuals, organizations, corporations and other institutions can voluntarily make to achieve social goals.

As a reminder of the importance of volunteerism, I ask that Kitty Gamble's story be printed in the Record.

The material follows:

[From the Sun Newspapers, Oct. 3, 1979]

VOLUNTEERING IS HER PROFESSION

Katherine Gamble of Edina has made a profession of volunteering.

Her commitments to active participation in community affairs has led to volunteer work with the Junior League of Minneapolis, the Red Cross, Girl Scouts, the Republican Party, the United Way of Minneapolis Area and seats on numerous panels and task force groups.

As secretary of the board of directors for the United Way of Minneapolis Area, Gamble is presently immersed in work for their annual fund raising campaign, which began Sept. 6th. Other connections to the United Way organization include the chairmanship of the board of directors for The City, Inc. (an inner-city agency funded by the United Way, located at 1536 E. Lake St.) and service as a volunteer trainer for the Minneapolis Voluntary Action Center, a division of the United Way.

Her extensive involvement with the United Way began "indirectly", says Gamble, as a result of activities in the Junior League. She was recruited through the League in 1969 to serve as a volunteer teacher in an alternative school for teenage drop-outs, a project mounted by The City, Inc. At that same time, she was asked by the Junior League Board to represent them on the Voluntary Action Center Board.

The exposure to the services provided by the United Way prompted Gamble to make yet another volunteer commitment. "I decided that if I was seeing how well spent the United Way money was," she explains, "I should become actively involved in fund raising for the United Way." Gamble served as the Edina chairman for the Residential Division in the 1974 campaign. She went on to co-chair the Residential Division in 1976 and has continued to play an active role in the annual campaign effort, this year acting as training chairman for volunteers in the Individual Gifts Division (formerly the Residential Division).

Training volunteers could well be called Gamble's area of expertise. As a trainer for the Minneapolis Voluntary Action Center, Gamble conducts workshops to train volunteer directors how to recruit and manage their people.

The VAC training project is one Gamble herself spearheaded. "We saw a need for VAC to do training for new volunteer directors," she explains. "There are 800 agencies in the metro area alone who use volunteers. In order to use volunteers effectively, you must have someone responsible for them."

Gamble's experience in the field of volunteer training led to an invitation to participate in the "I Can" training project, a national collaborative effort conducted in Washington, D.C. last year. That program was designed to train participants to teach

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*Oppenheimer & Co., *Industry Report: The Airline Industry*, No. 79-816, Sept. 10, 1979.

volunteer advisors how to help their volunteers envision what they would like to achieve in their community service careers.

The roots of Gamble's volunteerism run deep. "I guess it was my participation in the Girl Scout program that started it all," she says. "I was a brownie and then a girl scout and I went to all of their camps." That led to counseling at camp and, later, leading a senior scout troop

From that point, the number of organizations and committees Gamble has participated in branch out in a score of different directions.

"It looks like a lot," says Gamble, "but you know, one committee ends and then another begins. I've had breathers in between."

Breathers, maybe. But small ones.●

CONGRESS MUST ACT

● Mr. MORGAN. Mr. President, I am greatly disturbed by the fact that no appropriations bill or continuing resolution has been enacted to provide funds for most Federal agencies.

Mr. President, millions of people will be adversely affected if the Congress does not take action immediately. According to an article in the Washington Post this morning, about 1¼ million civilian Federal employees will receive reduced paychecks and 1.6 million Federal members of the military will receive no paychecks next week if the current impasse does not get resolved.

Mr. President, the record will show that my colleagues in the Senate and I have acted responsibly on this matter. Every continuing resolution the House has sent over has been acted upon quickly and responsibly. We have been in session continuously since October 1, when the present fiscal year began. We have not been able to settle this matter, to insure that Federal employees and members of the military receive the pay they so desperately need, because the House has failed to act. In this regard, I think it is interesting to note that the House circumvented constitutional requirements during their 10-day recess by having pro forma sessions, instead of asking the Senate to pass the constitutionally required resolution permitting the House to leave town. Of course, it is quite clear that the Senate would not have passed such a resolution.

Mr. President, that this situation has developed is the best argument for keeping legislation off appropriations bills that I have ever seen. The question of Federal policy towards abortions is an important, difficult, and controversial issue, but we cannot bring down the whole Government because of an inability to reach a truce on an issue where a true settlement satisfactory to all parties can never be reached.

Similarly, it is unconscionable for Federal workers to have their pay delayed when the House and Senate cannot agree to give themselves a pay raise. I have strong views on this subject. I do not believe that Members of Congress, senior executive branch employees or Federal judges should receive a pay raise. I offered an amendment to have no raise for all people who receive a Federal paycheck who make over $47,500, but it was defeated. I dislike not prevailing when I offer an amendment, but I have not taken the irresponsible action, as some Members of the House apparently want to do, of trying to bring down the whole Government.

The Congress may still agree to freeze our pay at the present level. I hope so. But it is vital that we pass a continuing resolution. I believe that the chairman of the Appropriations Committee, Senator MAGNUSON, and the rest of the Senate leadership have done an excellent job throughout this trying time, and I will continue to support them as they work to enact a responsible continuing resolution.●

ORDER FOR RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF INTERIOR APPROPRIATION BILL (H.R. 4930)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 11:15 tomorrow morning the Senate proceed to the consideration of the Interior appropriation bill for a period of, say, 2 hours, something like that, until 1 o'clock or thereabouts, at which time Mr. INOUYE who, in the meantime, will have to attend a conference, will be able to return to the floor, and that he be authorized then to return to the foreign assistance appropriation bill, and that upon its disposition the Senate then return to the Interior appropriation bill.

Mr. JAVITS. Mr. President, will the Senator yield again at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I have a problem. I will not intrude, but I have to be at a funeral in New York at noon, and any help that the Senator can give me on votes would be appreciated. I can be back at 3. I just wish to leave it that way.

Mr. ROBERT C. BYRD. All right, sir. We will certainly bear that in mind. I do not know what can be done, but we will certainly have the Senator's request in mind.

Mr. JAVITS. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER REDUCING LEADERS' TIME TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the time of the two leaders or their designees be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 10:15 tomorrow morning or at the conclusion of the remarks of the two leaders or of their designees, whichever is the earlier, the Senator from Nebraska (Mr. EXON) be recognized for not to exceed 15 minutes, to be followed by the Senator from California (Mr. CRANSTON) for not to exceed 15 minutes, followed by the Senator from Alaska (Mr. STEVENS) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, this would mean that at 10:15 the three orders for Senators, which would consume 45 minutes, would begin running and would be completed by 11 o'clock, at which time the Senate would go on the Interior appropriations bill for about 2 hours, give or take a little, until such time as Mr. INOUYE is ready to resume action on the foreign assistance appropriation bill.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be rollcall votes tomorrow on the Interior appropriations bill and on the foreign assistance appropriations bill. The Senate will undoubtedly complete action on the foreign assistance appropriations bill tomorrow. The Senate will not complete action on the Interior appropriations bill tomorrow.

Mr. President, the Senate will not be in session on Saturday on the Interior appropriations bill, but I do not know what is going to happen on the continuing resolution, so for now I cannot predict as to whether or not the Senate will be in session on Saturday.

Mr. STEVENS. Mr. President, I reluctantly concur in the remarks of the majority leader, and understand his reluctance to make the motion to convene on Monday.

RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:15 a.m. tomorrow.

The motion was agreed to; and at 7:52 p.m. the Senate recessed until tomorrow, Friday October 12, 1979, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate October 11, 1979:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Nathan J. Stark, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare, vice Hale Champion, resigned.

THE JUDICIARY

Andrew L. Jefferson, Jr., of Texas, to be U.S. circuit judge for the fifth circuit, vice a new position created by Public Law 95-486, approved October 20, 1978.

Cecil F. Poole, of California, to be U.S. circuit judge for the ninth circuit, vice a new position created by Public Law 95-486, approved October 20, 1978.

William O. Bertelsman, of Kentucky, to be U.S. district judge for the eastern district of Kentucky, vice a new position created by

Public Law 95–486, approved October 20, 1978.

Peter Hill Beer, of Louisiana, to be U.S. district judge for the eastern district of Louisiana, vice a new position created by Public Law 95–486, approved October 20, 1978.

L. T. Senter, Jr., of Mississippi, to be U.S. district judge for the northern district of Mississippi, vice Orma R. Smith, retired.

James T. Giles, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania, vice Herbert A. Fogel, resigned.

Lucius Desha Bunton, III, of Texas, to be U.S. district judge for the western district of Texas, vice John H. Wood, Jr., deceased.

Harry Lee Hudspeth, of Texas, to be U.S. district judge for the western district of Texas, vice Adrian A. Spears, retired.

DEPARTMENT OF JUSTICE

Charles Frederick Carson Ruff, of the District of Columbia, to be U.S. attorney for the District of Columbia for the term of 4 years, vice Earl J. Silbert, resigned.

Terry Lee Pechota, of South Dakota, to be U.S. attorney for the district of South Dakota for the term of 4 years, vice David V. Vrooman, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 11, 1979:

DEPARTMENT OF STATE

Horace G. Dawson, Jr., of the District of Columbia, a Foreign Service information officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

George B. Roberts, Jr., of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Cooperative Republic of Guyana.

Robert S. Strauss, of Texas, for the rank of Ambassador during the tenure of his service as Personal Representative of the President of the United States of America.

James F. Leonard, of New York, for the rank of Ambassador during the tenure of his service as Chief of the United States Mission to the Middle East Peace Negotiations.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF STATE

Foreign Service nominations beginning J. Bruce Amstutz, to be a Foreign Service officer of class 1, and ending Carl Frederick Troy, to be a Foreign Service officer of class 6, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 4, 1979.

HOUSE OF REPRESENTATIVES—*Thursday, October 11, 1979*

The House met at 10 a.m.

The Most Reverend Eugene A. Marino, auxiliary bishop of the Archdiocese of Washington, D.C., offered the following prayer:

God, our heavenly Father, we give praise, and honor, and glory to Your holy name, as Jesus taught us to do. We pray that Your kingdom may be established on Earth. You call all men and women of good will to work together to build Your reign of justice and peace. In Your mysterious providence You have given a special responsibility to this assembly for establishing, securing, and maintaining the reign of justice and peace through appropriate law. Heavenly Father, we pray that You will give them wisdom and courage in this noble pursuit, and that You will reward their sincere efforts with the divine blessing of success. All this we ask in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 6, answered "present" 5, not voting 64, as follows:

[Roll No. 546]

YEAS—358

Abdnor
Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Bedell
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Ritter
Roberts
Robinson
Rodino
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Deckard
Dickinson
Goodling
Lloyd
Schroeder
Stenholm

ANSWERED "PRESENT"—5

Anthony
Kostmayer
Mineta
Neal
Roe

NOT VOTING—64

Ambro
Anderson, Calif.
Anderson, Ill.
Ashley
AuCoin
Barnard
Beard, R.I.
Beard, Tenn.
Beilenson
Bevill
Bolling
Bonior
Brown, Calif.
Brown, Ohio
Burlison
Byron
Chisholm
Collins, Ill.
Crane, Philip
Diggs
Dornan
Dougherty
Edwards, Okla
Fascell
Flood
Ford, Mich.
Garcia
Gephardt
Giaimo
Gingrich
Goldwater
Gore
Hall, Tex.
Heckler
Hopkins
Jacobs
Jones, N.C.
LaFalce
Leach, La.
Long, Md.
Lowry
McDonald
McKinney
Markey
Marriott
Martin
Mathis
Mitchell, Md.
Murphy, Ill.
Nedzi
Nolan
Quayle
Rinaldo
Rose
Santini
Spellman
Stark
Thompson
Treen
Van Deerlin
Williams, Ohio
Wilson, C. H.
Winn
Young, Alaska

☐ 1010

Mr. WHITLEY and Mr. KINDNESS changed their votes from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On September 29, 1979:

H.R. 3996. An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 2 additional years, and for other purposes;

H.R. 4393. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5369. An act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process;

H.R. 5380. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, fiscal year 1979, for a certain period; and

H.J. Res. 406. Joint resolution to extend by 120 days the expiration date of the Defense Production Act of 1950.

On October 6, 1979:

H.J. Res. 303. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 7, 1979, as "National Port Week."

On October 10, 1979:

H.R. 3920. An act to amend the Unemployed Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and concurrent resolutions of the House of the following titles:

H.R. 898. An act for the relief of Rodney L. Herold and others;

H.R. 946. An act for the relief of Maria Estela Sims;

H.R. 1153. An act for the relief of Nyoman Rahmawati;

H.R. 1163. An act for the relief of Gladys Venicia Cruz-Sanchez;

H.R. 1301. An act to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes;

H.R. 1628. An act for the relief of Susan Katherine Adamski;

H.R. 1753. An act for the relief of Sergio and Javier Arredondo;

H.R. 2098. An act for the relief of Antonio Rivera Aristizabal;

H.R. 3142. An act for the relief of Michael Carl Brown;

H.R. 3146. An act for the relief of Patrick A. and Wayne L. Thomas;

H.R. 3218. An act for the relief of Rebecca Sevilla DeJesus;

H. Con. Res. 91. Concurrent resolution urging the Government of Syria, on humanitarian grounds, to permit Syrian Jews to emigrate; and

H. Con. Res. 167. Concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the U.S. delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 74. An act for the relief of Puangpaka Vertrees and Puangtip Vertrees;

S. 122. An act for the relief of Clarita Valdez Aragones;

S. 132. An act for the relief of Dirk Vierkant;

S. 173. An act for the relief of Duk Chan Byun, his wife Yung Ja Byun, and his children Hye Ja Byun, Hye Sun Byun, Hye Ryung Byun, and Yung Eun Byun;

S. 274. An act for the relief of Sang Sun Russo;

S. 1578. An act for the relief of Dr. Halla Brown; and

S. 1781. An act to amend section 5 of the Department of Transportation Act relating to rail service assistance.

☐ 1220

BISHOP EUGENE A. MARINO, S.S.J., D.D.

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute.)

Mr. FAUNTROY. Mr. Speaker, it is my privilege to welcome to our Chamber today one who has blessed our proceedings for today in the spirit of Pope John Paul II, the auxiliary bishop for the District of Columbia, Bishop Eugene A. Marino. On July 16, 1974, Bishop Marino was appointed by His Holiness Pope Paul VI as an auxiliary bishop of Washington, D.C. At the time of his appointment he was the vicar general of the Josephite Society, a religious community of priests and brothers formed to work in the black community.

Bishop Marino was born in Biloxi, Miss., and received his primary and secondary education at the parish school, Our Mother of Sorrows. His seminary education was begun at the Epiphany Apostolic College in Newburg, N.Y., and he completed his seminary training at St. Joseph's Seminary here in Washington, D.C. He holds also a master's degree in religious education from Fordham University in the Bronx, N.Y. In 1968 he was appointed to the position of spiritual director for the Society of St. Joseph in Washington, D.C. Bishop Marino is the third black priest in modern times elevated to the Episcopal Office of Bishops in the Catholic Church of the United States. When he was named auxiliary bishop of Washington, Bishop Marino chose as his Episcopal motto, "Feed my lambs." This mandate was from the Lord to Peter, the first bishop. The proof of the shepherd's love, as the proof of those of us who lead our Nation, is to feed the lambs of God, and it is in that spirit that Bishop Marino has blessed us, and it is in that spirit that we thank and welcome him.

POPE JOHN PAUL II: THE EXISTENCE OF POLITICS IS JUSTIFIED BY SERVICE TO MAN

(Mr. GRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY. Mr. Speaker, I have been particularly mindful of a comment made by His Holiness Pope John Paul II, during his visit to the United States:

"The existence of politics," the Pope said, "is justified by service to man, and concerned and responsible attention to his problems."

This thought, Mr. Speaker, is relevant to our work in the Congress, because it points to the obligation each of us has to act in a nonpartisan, responsible manner.

This week, I have been privileged to serve on the conference committee on the budget. As we carry out the work of the committee, and as we take up related spending and tax measures on this floor, I would hope that our colleagues on both sides of the aisle would demonstrate the kind of responsibility urged by the pontiff by not rushing to embrace simplistic approaches such as the proposal that all of our ills will be cured by a massive tax cut.

These are times, Mr. Speaker, of inflation and recession. Perhaps we need to examine whether a tax cut would add to the disposable income of consumers, and would increase the demand for goods. Then the result would be an increased upward pressure on prices—more inflation.

It would be far wiser, Mr. Speaker, for the Congress to target Federal spending to specific programs which have demonstrated a noninflationary growth impact on our economy—programs such as those involving housing, and community and economic development.

These are the programs which create jobs and improve the quality of life for all Americans.

They might not have the surface attraction of a tax cut. But I believe that they are a far more responsible public policy in these times when the Congress is challenged to resolve the competition between the need for adequate defense outlays, the need to control inflation, and the need to fund programs which provide basic human needs.

I would hope, Mr. Speaker, that our colleagues on both sides of the aisle can set aside their partisan differences. This is no time for the kind of obstructionism we have seen in recent weeks, when people have not been bold enough to break party lines to vote for a balanced 1980 budget.

Instead, it is time for the concerned and responsible attention cited by Pope John Paul II.

It is time to work together on behalf of all Americans, and to multiply the many positive steps we have already taken in the 96th Congress.

THE ECONOMIC POLICIES OF THE CARTER ADMINISTRATION AND THE FEDERAL RESERVE ARE AN INVITATION TO CATASTROPHE

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, we all have to be terribly concerned about the state of the economy. Soaring prices—inflation—is rightly the No. 1 concern of Americans today. But the prescription of the Federal Reserve, in which the administration has acquiesced, is an invitation to disaster. The stockmarket's precipitous 25-percent plunge in the past 3 days reflects this.

The President is sadly following the traditional Republican solution to inflation that says we have to wreck the economy in order to save it. I feel strongly we must firmly reject this course of action.

There is something fundamentally wrong with a Democratic administration that decries increases in employment and desires more unemployment—that says we must destroy American business prosperity and throw millions of people out of work as a preferred solution to inflation.

We do not even have a classic demand-pull inflation that a recession might address. We have a cost-push inflation that will continue even during a recession, producing what we have come to know as stagflation—and even in such a demand-excess situation, it makes more economic and commonsense to stimulate supply than destroy demand.

But our current inflation simply does not conform to the classic pattern of general excess demand over supply. Our present inflation is being driven by soaring energy prices that ripple with a multiplier effect through our economy, and particular imbalances on other necessities of life—housing, health, and food. We should address these cost-push inflationary factors directly, not cause a widespread economic catastrophe that will spell great suffering and misery for millions of Americans—and spread to bring the rest of the free world to its knees as well.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT FRIDAY, OCTOBER 12, 1979, TO FILE CONFERENCE REPORT ON S. 1030, EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight on Friday, October 12, 1979, to file a conference report on the Senate bill, S. 1030, to authorize the President to create an emergency program to conserve energy, and for other purposes.

I will observe that I have cleared this with the minority leader and my colleagues on the committee.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORTS ON H.R. 4445 AND H.R. 5506

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file reports on H.R. 4445 and H.R. 5506.

These are bills which would extend the time during which American oil companies may participate in international energy agreements with an antitrust exemption of limited character.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISRUPTION BECAUSE CONGRESS HAS NOT PASSED CONTINUING APPROPRIATIONS RESOLUTION

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, thousands of American families are facing disruption this week because this Congress has not yet passed a continuing appropriations resolution. Such matters once were seen as virtually routine business. Apparently, however, the leadership of this Democratic-dominated Congress cannot persuade a majority of its Members to agree to this resolution. This failure is a failure of the Democratic leadership. It should be no surprise that the Congress is held in such low esteem by the public. I am surprised, however, that there are some who apparently have tried to blame this sorry state of affairs on Republicans. It boggles my mind that Republicans, who are a one-third minority—159 Members of 435—in the House, should be blamed for the failures of the majority. We Republicans have tried to act like a responsible majority. Mainly, we have succeeded. But, if the Democrats, after 40 years of control, cannot get their act together, then it is time for a new Republican majority to show what it can achieve. I can assure my colleagues that if we Republicans were running the Congress, thousands of American families would not be wondering how they are going to pay next week's grocery bills, as they are today.

URGENT NEED FOR CONTINUING RESOLUTION

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, as a newcomer, I have tried to analyze how the American people are viewing our proceedings on the continuing resolution. I think the American people would say that to block the entire Federal Government over a matter of great principle like abortion is one thing, but to block it out of greed for a congressional pay raise is quite another.

Mr. Speaker, public opinion of Congress is indeed at an all-time low and the continuing resolution fiasco which has been playing now since June and has become a spectacle is worsening the condition.

The pay raise and the abortion issue should not be linked as they are. At a time when we need to restore confidence in the Congress, the House and the Senate are trying to reach a compromise that will inevitably be tainted with suspicion that principle has somehow been influenced by greed.

There is only one dignified and proper way for the conference to handle this matter, and that is for the House to immediately give up its demand for a congressional pay raise at the outset of the conference. In that way, if government is to be stopped, it would at least be over a matter of principle, and the imbroglio could probably be limited to fewer departments.

I urge our conferees to immediately announce at the beginning of the conference that the House will abandon the pay raise issue. It must be made clear to the people that greed over an inconsequential matter has not affected the resolution of a matter of great principle.

I have steadfastly opposed the pay raise, but even those who want it must admit that the appearance of impropriety is not in the best interest of Congress.

I tried to offer a motion to instruct conferees along this line at the close of yesterday's session, but I was blocked by those who control Congress. Frankly, I believe I would have been successful if I could have been heard.

Today I have introduced a bill which will go a long way toward correcting this problem. It has three features: First, it freezes pay for Members of Congress at the present level; second, it delays new pay raises for Members of Congress until a succeeding session of Congress has intervened; and, third, it blocks any pay raises until Congress balances the budget.

HIGH INTEREST RATE DUE TO DEMOCRATIC PARTY MISMANAGEMENT OF THE ECONOMY

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker—

> Slowly the message has crept into the White House that the people want something done about runaway inflation. History will look on the past 5 months as an amazing period of inaction by the Chief Executive in the face of mounting economic troubles. (July 24, 1974.)
>
> Much of our current economic trouble stems from poor monetary policy and the highest interest rates in the history of the United States. These are unnecessary conditions which have placed heavy burdens on the plain people and have all but closed the housing market and deprived millions of good hardworking Americans of an opportunity for decent shelter.

Mr. Speaker, these are the words of the former chairman of the House Banking and Currency Committee, the late Wright Patman. When he spoke in 1973 and 1974 a Republican administration occupied the White House. The prime rate was 7½ percent. The interest rate for home mortgages 8 percent. He called the Republican Party the party of high interest rates.

Today, Mr. Speaker, a Democratic administration has so mismanaged the economy that the prime rate has risen to 14½ percent. The Chairman of the Federal Home Loan Bank Board says that interest rates for mortgages could reach 14 percent by year's end.

The figures speak for themselves. History will record that the Carter administration had the worst record of any Presidential administration in managing the Nation's economy.

Such mismanagement places a "heavy burden on the plain people" of this country, as Chairman Wright Patman recognized.

ADVISORY COUNCIL FOR THE SOCIAL SECURITY ADMINISTRATION TO MEET AT DULLES AIRPORT

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, it has come to my attention that this Saturday, October 13, the Advisory Council for the Social Security Administration will meet at Dulles Airport to consider several issues. One of those issues has caused great concern to those presently receiving social security benefits.

Apparently one of the Council's members, Mr. Robert Ball, has recommended that one-half of all social security benefits become subject to Federal income taxes. Personally I find this recommendation most offensive and deplorable.

We are all aware of how difficult it is for most social security beneficiaries to maintain a decent standard of living. We are talking about a group of Americans who have already spent a lifetime working and paying their fair share of taxes. They should not be asked to continue paying taxes after retirement on benefits which they have rightfully earned and are entitled to. At a time when inflation is eating away at social security benefits, how can any reasonable person seriously recommend placing the additional burden of taxation on the recipients?

Although other pension programs are subject to taxation, social security benefits were excepted from taxation by an IRS ruling in 1941. Since that time, benefits have been determined on the assumption that they would not be taxed and that they were sufficient to allow recipients to maintain a certain standard of living. If we were to suddenly decide to tax the benefits, obviously we would have to increase the benefits if recipients are to continue their present standard of living. However, it would be impossible to increase benefits unless we increased FICA taxes. The end result is we would have to increase one tax in order for social security recipients to pay another tax. This situation is absurd.

I strongly urge the Advisory Council to reject the recommendation.

STATE REPRESENTATIVE NICK SALAZAR HONORED BY NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. LUJAN. Mr. Speaker, a significant and well-deserved honor has been bestowed upon a man who has spent his career making northern New Mexico a much more attractive economic region. State Representative Nick Salazar, who serves as president of the North Central New Mexico Economic Development District, has been honored by the National Association of Development Organizations. That group has decided to have its annual outstanding district governing board member award named the "Nick Salazar Award".

Nick's participation in the New Mexico organization goes back to its formation 12 years ago. And his achievement in that time has been great. He has coordinated economic development projects totaling $118 million and has traveled extensively these past dozen years pushing economic development.

Nick's hard work has been rewarded by the New Mexico Economic Development District which has elected him as president year after year. His outstanding service has been recognized by the governor of New Mexico and today I would like to join in congratulating Representative Salazar on a job well done. It is efforts such as his that convince me our economic future can indeed be a bright one.

Not only is Nick well known in New Mexico for his efforts, but he is a past president of the National Association of Development Organizations making him one of our national economic leaders, a reputation backed up by dedicated work with excellent results.●

GET RID OF THE GASOLINE ALLOCATION SYSTEM

(Mr. SYMMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SYMMS. Mr. Speaker, I think it is appropriate that, today, in the Washington Post on page A-35, there is an ad that says "The Energy Crisis Would Disappear Tomorrow if We Decontrolled Oil, Gasoline and Natural Gas and Abolished the Department of Energy."

Mr. Speaker, today we will have an opportunity when the debate begins to vote to get rid of the allocation system and all prices and price controls on oil and natural gas. I think there is no question about it, there is nothing that succeeds like failure and the failure of the Department of Energy is obvious. The only thing they have given us is higher prices, long gas lines; and I hope, today, the Members will vote to change this when I offer an amendment to get rid of the idiotic price controls and the idiotic allocation system that have brought gas lines in America when none of our Western allies had any gas lines because they had no Government allocation system to mess up what had been, prior to the allocation system, a smooth-running market allocation system.

Mr. Speaker, I hope today we can once and for all rid the American people of the price controls and the allocation system.

Mr. Speaker, I will insert in the RECORD further material in connection with this matter.

ANNUAL REPORT OF FORMER U.S. CIVIL SERVICE COMMISSION FOR FISCAL YEAR ENDED SEPTEMBER 30, 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

I am transmitting herewith a copy of the Annual Report of the former United States Civil Service Commission for the Fiscal Year ended September 30, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1979.*

ANNUAL REPORT OF FORMER U.S. CIVIL SERVICE COMMISSION FOR FISCAL YEAR ENDED SEPTEMBER 30, 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

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THE WHITE HOUSE, *October 11, 1979.*

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATION

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 376, nays 4, not voting 53, as follows:

[Roll No. 547]

YEAS—376

Abdnor
Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Patten
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—4

Lloyd
Paul
Symms
Wilson, Bob

NOT VOTING—53

Ambro
Anderson, Calif.
Anderson, Ill.
Applegate
Beard, R.I.
Bevill
Bolling
Bonior
Buchanan
Byron
Chisholm
Clausen
Clay
Collins, Ill.
Coughlin
Crane, Philip
Diggs
Dornan
Edwards, Ala.
Fascell
Flood
Ford, Mich.
Giaimo
Goldwater
Gray
Heckler
Hutto
LaFalce
Leach, La.
Lott
McClory
McCloskey
McDonald
Marriott
Martin
Mitchell, Md.
Moffett
Nolan
Quayle
Rodino
Rousselot
Satterfield
Simon
Spellman
Tauke
Thompson
Treen
Van Deerlin
Walker
Williams, Ohio
Wilson, C. H.
Winn
Young, Alaska

☐ 1050

Mr. MURPHY of Pennsylvania changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3000, with Mr. STUDDS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, July 26, 1979, title I was open for amendment at any point.

Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: On page 19, after line 8, add the following new subsections:

(11) Project 80–FE–12, Coal liquefaction demonstration plant, site to be determined, $7,500,000.

(12) Project 80–FE–13, Low BTU gasification combined cycle plant, site to be determined, $7,500,000.

On page 19, line 9, renumber subsection (11) at (13).

On page 19, line 12, renumber subsection (12) as (14).

On page 19, line 16, renumber subsection (13) as (15).

On page 19, line 19, renumber subsection (14) as (16).

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida.

There was no objection.

Mr. FUQUA. Mr. Chairman, this amendment to title I and a later amendment, which I will offer to title VI, will authorize $7.5 million each for three new demonstration projects, which will convert coal to synthetic liquids and gases. Since the last time we considered this bill, the Science Committee has had extensive oversight hearings on the synthetic fuels production program, which is the subject of much legislation under consideration by Congress. During these hearings, it became clear that the ultimate success of the production program is hinged upon the availability of diverse new technologies in addition to the very small number of technologies that are now actually available. Thus, no matter what kind of management structure is set up for the production program, the demonstration program in DOE will continue to play the key role in using our resources in the years ahead. During the hearings, certain gaps in the present DOE program became apparent. One of the most attractive uses of gas and medium Btu coal gas is as a fuel for combined cycle electric power generation. It promises both an environmentally clean fuel and improved efficiency. This amendment provides for a demonstration of this technology.

The Department currently will demonstrate the SRC I and SRC II liquefaction technologies both of which are previous initiatives of the Science and Technology Committee. However, coals are so various with respect to reactivity and ability to be liquefied or gasified, that the Nation will be best served if additional liquefaction technologies are brought to commerical scale. The amendment thus provides for an additional coal liquefaction demonstration project.

In my later amendment to title VI, a coal-to-methanol demonstration project will be added. I think we have all become vividly aware of the contribution alcohol fuels can make to our future energy supply picture. We have recognized enthusiastically the resource that biomass presents for alcohol fuels, but coal can also be an important source for methanol and, what is more, the technology is straightforward and mature, though it requires demonstration of a large scale system.

No matter how Congress proceeds with the legislation mandating synthetic fuels production, we must fully implement the DOE's demonstration program for synthetic fuels technology. The projects proposed by this amendment and my later amendment will improve the DOE program. I urge you to give this amendment your support.

☐ 1100

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to congratulate the chairman of the Committee on Science and Technology on this initiative he has taken. I think it is most important and certainly is timely. Moving forward with these programs at this time rather than waiting for the next fiscal year can make a great deal of difference in a meaningful, organized program in getting on with our synthetic fuels production, and I congratulate the gentleman.

Mr. FUQUA. I appreciate the gentleman's comments.

Mr. McCORMACK. Later on I shall engage the chairman in a colloquy on this overall program, and add an amendment on my own, which will follow the gentleman's. However, I also want to indicate my strong support for his amendment and for an aggressive synthetic fuels program.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York (Mr. OTTINGER), the chairman of the subcommittee.

Mr. OTTINGER. Mr. Chairman, my good chairman and I have discussed this, of course, and we are in complete agreement on it. I would just like to emphasize that these projects for advanced technology will substantially decrease the cost in the future and give us an opportunity to minimize the environmental problems with synthetic fuels. Going forward with these projects at the present time ought to provide us with much better answers about synthetic fuels in the future. I support the gentleman's amendment.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman's support.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to my good friend, the gentleman from New York (Mr. WYDLER), the ranking minority member on the committee, who has been very interested in this area of synthetic fuels.

Mr. WYDLER. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment. I think the amendment is consistent with the early interest that we in the House have shown in the development of synthetic fuel programs, and I think this amendment will help to see that program is carried forward in a very vigorous manner. I congratulate the gentleman on the amendment.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman's comment, and I want to thank him for his cooperation and for his support of the amendment.

Mr. Chairman, I urge the adoption of the amendment.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I would like to take this opportunity to engage the chairman in a colloquy on this particular subject of moving forward with our energy production technology.

Mr. Chairman, I am pleased by the initiatives you have taken—and plan to take—relative to constituting an aggressive demonstration program for several synthetic fuels technologies. By providing initial funding for construction line items, this Congress can go on record that it places a high priority on early and substantive commitments to actually build facilities, thus taking important technology from laboratory R. & D. to practical engineering. I also feel that it is important to apply this same principle to other promising technologies which can contribute in a measurable fashion to our energy problems.

I know the Chairman is acquainted with the work being done in this country, and is aware of the work being done in other countries, on the development of laser isotope separation of uranium. I believe he will agree with me that the emerging laser isotope separation (LIS) technology has great potential for helping conserve our vital uranium resources. The technology appears to be particularly well suited to recovering the U^{235} that remains in the uranium tails after being processed in the existing DOE facilities, and significant potential for less expensive separation of natural uranium, and a great saving of electricity. In fact, it has the potential for effectively transforming the existing uranium tails stockpile into the single largest proven reserve of uranium in the United States, with potential fuel value equivalent to over 1 billion barrels of crude oil. In all, LIS has the unique potential for expanding the effective value of our domestic uranium resource base by 20 percent.

Both DOE and private industry have been carrying on substantive LIS development programs for a number of years, with highly encouraging results to date. In fiscal year 1979, a total of $54 million was authorized and a comparable level of funding has been provided in fiscal year 1980 for the three basic advanced isotope separation technologies under consideration by DOE, including both the molecular and atomic vapor approaches to laser enrichment. Meanwhile, it is clear that there have been significant developments in the private sector with the atomic vapor approach to LIS. This relatively new information was provided for the record during hearings before the Subcommittee on Energy Research and Production on September 22. I believe these promising developments argue for more concerted and cooperative arrangements to take advantage of the promising developments in both the industrial and Government programs, and to minimize the chances for needless duplication of effort.

Mr. Chairman, do you feel that it would be consistent with the policy of this committee, evidenced by your synthetic fuels proposals, to encourage a joint Government-industry development program for laser isotope separation?

Mr. FUQUA. Mr. Chairman, if the gentleman will yield, yes, I do. I think the United States needs to move aggressively to reestablish its position as a world supplier of enriched uranium. By moving aggressively in this advanced technology area, the administration's international nuclear policies can be complemented while offering the promise of improving the fuel cycle economics and resource base for conventional nuclear powerplants.

Mr. McCORMACK. I thank the gentleman.

Mr. Chairman, we will be moving forward with this program during the coming year.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. I thank the gentleman from New York for yielding.

Mr. Chairman, I would like to take this time to engage in a colloquy with the gentleman from New York (Mr. OTTINGER), who is the chairman of the Subcommittee on Energy Development and Applications of the Committee on Science and Technology.

I would like to ask a question about the relationship between the project 76-1-b, which receives additional authorization under this bill on page 19, lines 12 to 15, and project 77-1-b, the second high Btu demonstration coal gasification plant which receives no additional authorization in this bill. The Department of Energy has allowed phase I funding for two proposals for the project. These are the Continental Oil Co.'s proposal for Noble County, Ohio, to use the British Gas/Lurgi slagging gasifier and the Illinois Coal Gasification Group (ICGG) proposal for Perry County, Ill., to employ the COED/COGAS process.

It is my understanding a choice between these two processes will be made early in 1980 and the winner will become project 76-1-b. My concern is the other candidate technology. What happens to it? Currently, both projects show great promise and a great deal of time and effort is being expended for both designs.

Considering the seriousness of the energy situation, both projects are justifiable. It would be a shame to design in detail a viable coal gasification project at taxpayers expense and then to let that design catch dust on a DOE shelf while our energy needs increase and mining jobs and coal production demand priority attention. Our need for synthetic fuels is too great.

This Nation's emphasis on energy independence and coal production demands priority attention for both technologies. Given this, I would like to know if the committee, in its plans for project 77–1–b, would consider the other candidate technology for project 76–1–b if that technology looks promising at the time of the DOE decision.

Is it safe to assume that the gasification technology not selected under the 76–1–b process would remain in contention automatically for the authority of 77–1–b?

Mr. OTTINGER. Mr. Chairman, if the gentleman will yield, there are currently three high Btu coal gasification technologies which are rapidly approaching the important decision point of whether they should be demonstrated at large scale. In addition to the two technologies you mentioned, conceptual design has been done using the HYGAS technology. It is the intent of those who have worked on the coal research and development program to back those technologies which show the most promise in permitting coal to be used in an environmentally acceptable and cost effective manner. If the other candidate technology for project 76–1–b proves to be both promising and the best available technology that has not been demonstrated at large scale at the time of the technology decision for project 77–1–b, it is the committee's hope that that technology would be used for project 77–1–b. At any rate, it is certainly the committee's intention that this technology be seriously considered at the time we are proceeding with the second project.

☐ 1110

Mr. MILLER of Ohio. I thank the chairman for his clarification.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to bring to the attention of the body an excellent candidate for the low Btu combined cycle gasification plant. In Missouri we have a nonprofit organization known as the Consumer Energy Corporation which was formed 2 years ago. To the Department of Energy's knowledge, this is the first real grassroots movement by the people to come up with a response to our Nation's energy problem in which they have put on the drawing boards and are going forward with plans of developing a combined coal gasification plant in Missouri.

Over 40 different local power companies and 15 rural cooperatives and 17 municipal utilities are involved.

It has the complete support of the Missouri congressional delegation, and as indicated, shows the grassroots support for this unique coal gasification project. It has come a long way. We hope this would be considered the demonstration project under 80–FE–13, which would enable the Department of Energy to take advantage of the substantial support and efforts that have gone into this program.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. WYDLER) has expired.

(By unanimous consent, Mr. WYDLER was allowed to proceed for 2 additional minutes.)

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I therefore bring it to the attention of the chairman and the members of the committee this morning.

Mr. WYDLER. I am familiar with the project. I feel the suggestion of the gentleman is an excellent one. During the 96th Congress we have taken initiative in the synthetic fuels area and, of course, made some progress in getting the programs underway.

I think congressional encouragement of this project is another major step in the right direction.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

The chairman has just offered an amendment which adds $7.5 million for a combined cycle gasification demonstration project for which I believe the project the gentleman refers to would qualify and ought to be considered.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding.

I want to commend and support the chairman of the committee for offering this amendment.

Mr. Chairman, I rise in support of this timely amendment by Congressman FUQUA. We in this Nation are faced with a very serious immediate energy problem. Daily, we face an enormous drain of dollars to pay for foreign energy. Yet at the same time, we are producing coal at a rate far below the optimum. In other legislation the Congress is looking at long-range programs to increase coal use, but there have been considerable gaps between what we can do today and the technology required to build and operate massive coal conversion and advanced coal-to-electricity facilities. I am happy to see these two demonstration plants being offered to us as a partial bridge between the present and an energy sufficient future. I commend Mr. FUQUA for the effort the Science and Technology Committee put into this amendment and urge my colleagues to lend their support.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

AMENDMENT OFFERED BY M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: In section 120, subsection (F), page 26, following item (7), insert after line 10 the following:

(8) Project 80–MF–5, Fusion Engineering Test Facility, site to be determined, $5,000,000, for preliminary engineering and design but not including procurement and construction.

Mr. McCORMACK. Mr. Chairman, this is the first of two amendments dealing with nuclear fusion. The first one is submitted as part of a package with the two amendments that the gentleman from Florida, the chairman of the committee, has just submitted and that this House has accepted.

This one has to do with moving forward with our magnetic fushion program.

The purpose of the amendment is to provide funds for the conceptual engineering and design of a fusion engineering test facility. This facility will permit an accelerated understanding of the physics and engineering needed for a fusion powerplant, which we hope to have on the line by the year 2000.

It will use magnetic confinement fusion, which is believed to be furthest ahead of all existing technologies today.

Mr. Chairman, I want to report to the members of the committee that we have been extraordinarily successful in our research in magnetic fusion during the last 18 months. The successes that we have encountered have literally run away from the program, run away from our funding levels. It has left us almost breathless with excitement and satisfaction, but also recognizing that the program is moving on its own momentum, and we must keep up with it.

Our success at Princeton, MIT, Oak Ridge National Laboratory, Lawrence Livermore Laboratory, General Atomic Co., Argonne National Laboratory, and other research facilities in the country, is based on their having already achieved temperatures that are high enough for a confined nuclear fusion reaction plasma, on their achievement of high β stability, on more than adequate confinement times, and on all the other conditions that are necessary for a demonstration of a nuclear fusion reaction.

These achievements have been accomplished one or two at a time. What we need is to put them all together.

The Energy Research and Production Subcommittee's fusion advisory panel, which is a blue-ribbon panel of scientists, engineers, and senior industrial managers from across the country, after hearing reports from the Department of Energy last July, came to the conclusion that the magnetic fusion program should move forward much more aggressively. They proposed that DOE investigate the possibility to get a demonstration fusion powerplant on the line before the end of the century.

The problem is simple. Unless we initiate construction of engineering test facilities now, we cannot get the data which will allow us to discern if fusion is a viable option for the long term. The fusion engineering test facility is the next step on this road—the road to demonstrate the practical use of fusion energy.

My colleagues will recall that several months ago I wrote to the Under Secretary of the Department of Energy, asking that he prepare for the Congress a program plan, including costs and schedules, for producing electrical power from fusion by 1995 and another one by the year 2000.

We have received these plans. They clearly show that there would be a $2 billion savings in the total cost of the fusion program if we target for a demonstration facility in the 1995–2000 timeframe, but that means progressing now with an engineering test facility.

Fusion clearly is one of the most significant long-range sources of power for this Nation. When we succeed, and when we demonstrate that fusion works satisfactorily, and when we can put it on line, the human race will have taken the second most important step in history, second only to the controlled use of fire.

We will be able to provide, from that time forward, as these plants come on the line, an absolutely unlimited source of energy for all humanity for all time.

This is extraordinarily important, and the time has come to move forward.

This amendment provides an extra $5 million to start the engineering test facility, and is the next step.

I urge support of the amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

I am very gratified to hear of this, though somewhat disappointed, because of still the lack of the sense of urgency and priority that has been given fusion.

In 1970, in January, I directed a letter to President Nixon, upon reading an article revealing that the United States had slipped from first, which it had been about 3 or 4 years before in the sixties to third and had yielded first place to Russia and second place to Britain in the process of exploring the potential of fusion development.

My letter was to ask the President to consider a sense of urgency, such as we had with the development of the space program, and the man-on-the-moon program that Kennedy envisioned when he first took office.

Since then, of course, no attention was paid to the letter, and very little was done.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. McCormack) has expired.

(At the request of Mr. Gonzalez and by unanimous consent, Mr. McCormack was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

The only reason I am going into this question is because in this case I want the gentleman to know that I wholeheartedly and very enthusiastically support, though I think that we should ask ourselves whether it is true or not that the Russian potential in the meanwhile has been so enhanced that some reports, and some scientific circles indicate that they are on the verge of a breakthrough. Would the gentleman concede that if this is even partially true, as far as we are concerned, the race would be over with?

Mr. McCORMACK. I thank the gentleman for his question.

As the gentleman points out, we are working with an open protocol with the Russians and with all the rest of the countries in the world where we have scientists working internationally. We have scientists in Russia on their fusion projects. They have scientists on our fusion projects along with scientists from Japan and Western Europe. We are all working together and moving forward together.

□ 1120

In the 1960's the Russians did accomplish a breakthrough in the development of a magnetic confinement device called the Tokamak. They gave that openly to all of the world and all of the world has been using it since.

In the mid-1970's we picked up our program dramatically and increased it by a factor of 10 and are now running ahead of the world in fusion research. The successes that we have encountered in the last 18 months give us an extraordinary great degree of confidence that we can go ahead. I am convinced any developments that occur anywhere in the world will be immediately shared and we will all move forward together. This is the ultimate source of energy for the world, and fortunately there are no military connotations.

Mr. GONZALEZ. I wish to ask, to emphasize, in other words, the stories emanating again from certain scientific circles indicating that the Russians can almost guarantee a virtual breakthrough by 1981 is something that is not unknown to American scientists, or is it something unknown?

Mr. McCORMACK. All of the technology is open. We have American scientists working in Russia as there are Russian scientists working here. There is no indication that the Russians have developed any advances we are not aware of and I believe the U.S. program is still ahead of all others.

The CHAIRMAN pro tempore. The time of the gentleman from Washington has again expired.

(At the request of Mr. Fuqua and by unanimous consent, Mr. McCormack was allowed to proceed for 1 additional minute.)

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I am glad to yield to the gentleman.

Mr. FUQUA. Mr. Chairman, I want to commend the gentleman in the well, who is chairman of the Subcommittee on Energy Research and Production. As a consequence of the work of the fusion advisory panel, which has some of the top minds in this country, we have arrived at some very crucial decisions in the fusion program. The panel has strongly recommended this program as a way of advancing our engineering capability and our understanding of the physics involved in fusion work. Certainly I strongly support the amendment offered by the gentleman and commend him for bringing it to the House.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words.

The Committee feels that fusion has made promising advances in the past year and the program is well enough into the technology development phase to encourage continued industrial involvement. Some of our most skilled advanced systems groups will be retained in the program to carry out this critical design activity. This is an opportune time in light of the advances on the Tokamak machines for the Department of Energy to move ahead with an engineering test facility. If major advances are achieved rapidly in the mirror program this ETF design can accommodate that progress.

Our committee is assuming that the Tokamak fusion test reactor at Princeton will behave at least as well as has been predicted and probably be upgraded after initial operation. These ETF studies now will increase our confidence in pushing up the demonstration timetable for the fusion option and achieve its promise of virtually unlimited supplies of electricity.

Mr. Chairman, I am in strong support of this amendment. It is a good amendment. I think the fusion program is a program that does hold great promise for energy production sometime in the quite distant future in our country and in the world. We have to realize that this is not a program that is going to give us any immediate payoff in the way of energy. Far from it.

At this time there is not very much opposition to this program. But I just am going to use this time I have to point out to the House what is likely to happen to our fusion program as it is developed in our Nation. I do this because I think we should all think about it most seriously as to how this may relate to our current problems in our country.

Right now this is an experimental program. We do not hear much opposition to it. As a matter of fact, most of the communities look on it favorably, and some people even suggest it is the answer to our problems down the line.

But my own prediction is as we get to the point in history where we can take this program out of the laboratory and put it to work to really produce some energy for our country, that is maybe to boil some water and produce some electrical power, when we get to that point we are going to find that a whole group is going to rise up at the same instant and say "Let us not go ahead with this fusion program; it is dangerous to mankind." They are going to make essentially the same arguments against this program that we are now facing in our Nation on the fission program. They will be the same arguments of potential proliferation of armaments around the world, of danger to people and property from what will be labeled the dangerous substance tritium. Again, we will have found ourselves having spent hundreds of millions of dollars developing a new technology which we finally bring to the point where we can get some payoff, get something back, and once again we will be faced with the same arguments we are faced with today in the fission field. That is, there are problems associated with it, and there are. We will be faced with there are some dangers in using it, and there are. Therefore, we will be asked to turn our backs on it and try to ignore it.

I just point this out to the Members of the House because we face that same type of choice today in the fission field, after spending hundreds of millions of dollars and, ultimately, billions of dollars to develop this technology. When we have finally tried to put it into use to benefit the American people we have found that all of the objections were raised against it and much of its usefulness is being hamstrung by those who do not want to assume the responsibilities of using and managing a new technology. There are many that we have to face as legislators.

So in this euphoria that we have here on the floor today, where there is no opposition to this program, I just want to point this out because I think, when the day comes that this technology has been developed and we can use it for the benefit of our country, we will be facing the same kind of problems in its use that we are facing now in the use of fission power.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. Yes, I yield to the gentleman.

Mr. GONZALEZ. I thank the gentleman and I rise only because I think I am a good example. I am very enthusiastic about fusion, but I am bitterly opposed now to commercial fission activities for other reasons that are not germane at this point. But they are germane to the point the gentleman is making.

I think if there were not a vital and basic difference between the two, the gentleman would have the same opposition that he referred to in the case of commercial, private fission development, which is an entirely different thing, and which I think has been the cause for a very serious cleavage, that we will be making a mistake if we think we can shove it under the rug as far as the American people are concerned. I do not think the gentleman is talking about the same thing when he talks about fusion as distinguished from fission. As I understand it, the great desirability of the fusion program is one, it is cheap and it is an unlimited source of material; and second, above all, the fact that it does not produce the same noxious waste as in fission.

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. WYDLER was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, I wish I could agree with the gentleman, but I cannot. I remember very well, and I think the gentleman probably does too, in the early days of the development of fission power in our country we were told the very same things about its development which the gentleman is telling us now about fusion power. The fuel was to be very cheap and it was to be the safest and the cleanest type of energy in the world.

What we came to realize was yes, that some of these claims may be true, but there are still problems with using nuclear fission. That is what we are trying to face today. Too many people, and I have to say to the gentleman because there are problems and some are difficult problems, too many people are trying to turn away from this option. I am saying that the same thing may happen with fusion. It is a different kind of power, yes, but most of the potential arguments that are currently being raised against the use of fission power can and, in my opinion, most assuredly will be raised against the use of fusion power in the years to come. I am just telling the gentleman that the fusion has potential problems with its use as well as fission. Anybody that is trying to go ahead with the thought that this is the ultimate answer, there is no danger to its use and all of this type of thing, they are not facing the facts. There are going to be problems with its use, and we are going to have to face them as a legislative body when the day comes that we can really commercialize all of this technology that we are spending hundreds, and hundreds, and millions of dollars on now to develop for our country.

Mr. LUJAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend the gentleman from Washington for his interest in the fusion program. As the gentleman very well knows, I support his efforts. We have worked on many programs together.

There is, however, one concern that I have that will not, of course, lead me to vote against his amendment, but I would like some clarification. I assume that an engineering test facility leads to one of two things: Probably a bigger machine or a component testing facility. I am not quite sure what direction the gentleman is going in. The concern that I have is, as the gentleman knows, we have looked at smaller machines that are perhaps, at least theoretically, more capable of coming on line quicker than the big machines, and here we are moving in the direction, it seems to me, of a bigger and bigger machine rather than trying to come up with an alternative machine that might be less expensive and perhaps more productive.

Could the gentleman address that point?

□ 1130

Mr. McCORMACK. I will be glad to address that point, and I thank the gentleman for raising it.

The fact is that we must move ahead with several approaches to magnetic fusion research at this time. It is true, as the gentleman says, that we are looking at smaller machines. However, the overwhelming consensus in the scientific community is that the likelihood of success is much greater with the larger machines. Indeed, there is a large school of thought in the scientific community that the small machines will not work at all.

In any event, I should point out that the engineering test facility will provide us with a tremendous amount of information, such as the experience of operating a fusion facility, testing various first wall materials, and actually having the experience of working with a machine, parts of which will be impacted by high energy neutrons. Accordingly, the engineering test facility, which will be a larger machine than has been built so far, will be of benefit to the entire body of science involved. It will benefit small machines as well as larger ones.

Mr. LUJAN. So that what the gentleman is saying is that we are not leaning, by constructing this facility, in favor of saying, "Well, these little ones don't work anyway and we are going ahead and continuing with the big machine."

The gentleman is saying the information that we will gather from this does serve and will be usable, or does he not say that?

Mr. McCORMACK. The information gained will be applicable for many sizes of machines. My mind is still open as to what size machine we will ultimately develop.

Mr. LUJAN. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: On page 12, line 7, strike "$10,400,000" and substitute in lieu thereof "$15,900,000".

Mr. McCORMACK. Mr. Chairman, the purpose of this amendment is to provide funding for certain essential activities in the inertial confinement fusion program that have not yet been authorized by either of the committees concerned with this subject. The particular activities are called "advanced drivers" and "reactor systems development," and are key components of the effort to achieve useful energy from the inertial confinement fusion process. The amount of funding in question is $5.5 million.

I think it is important to point out that these are not new activities I am proposing. They are, in fact, part of the President's proposed budget for fiscal year 1980. However, they had not previously been included in the bill before us today because our committee thought they were to be covered under a different bill, that which provided authorization for national security activities under the Department of Energy. That bill is the responsibility of the Armed Services Committee.

As many of you know, the inertial confinement fusion program is of military as well as civilian power interest, and the bulk of its funding has traditionally been authorized by the Armed Services Committee. However, this year, after the Science and Technology Committee completed its markup, the Armed Services Committee marked up its bill for DOE activities under its jurisdiction, and decided to exclude those parts of the ICF program that had only civilian power applications. These are precisely the parts, of course, that the Science and Technology Committee is interested in, and as I noted previously, they had been included in the President's budget.

The action I am proposing, then, would restore the $5.5 million in question for these activities. This action is supported by the administration. I have received a letter from the Assistant Secretary for Defense Programs at DOE noting this fact, and requesting that the funding in question be reinstated. The letter notes that—

> Restoring of the funds deleted would be a significant step toward reestablishing the balance between civilian and military applications of ICF reflected in the President's budget.

I urge support of this amendment.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I want to commend the gentleman for his amendment. We are very happy to accept the amendment.

Mr. McCORMACK. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MINETA: At section 104, line 25, (D) Ocean systems: Strike the authorization "$23,600,000" and substitute in lieu the amount of "$28,600,000".

Mr. MINETA. Mr. Chairman, I rise to offer an amendment to the 1980 Department of Energy authorization which would restore some $5 million in operating expenses for the ocean thermal energy systems program in the Department of Energy. I am joined in the offering of this amendment by my good colleague, the gentleman from Florida, Mr. NELSON.

Unless this amendment is adopted, the ocean systems program stands to be reduced by $5.6 million in fiscal year 1980, from the 1979 level of $34.5 million. This amendment would break down into $2 million for the second deployment of the mini-OTEC, and $3 million for additional research and development for heat exchangers, the most critical components of the OTEC power system.

Mr. Chairman, OTEC is a concept for extracting useful energy from tropical and subtropical ocean regions using the temperature difference existing between the warm surface water and cold water found at depths below 1,000 feet. Ocean thermal energy conversion uses the surface layers of the oceans as a solar collector and converts the accumulated thermal energy to electricity with a floating closed-cycle engine. With OTEC, energy storage is not required for continuous operation.

The surface layers of the ocean act as a natural energy storage body permitting the OTEC plant to operate 24 hours per day. In addition, the surface waters serve as a natural transportation and concentration mechanism. Therefore, large areas of the tropical oceans can be used for solar collection and storage, while circulating currents carry and concentrate the resource close to the mainland and island markets. The resource is readily available to those nations located in the equatorial belt, or adjacent to equatorial climates.

The amendment I am offering would restore some $3 million for the further research and development of "heat exchangers." The heat exchangers are the most critical components of the power system from the perspective of cost and performance. Depending on the design of the OTEC plant, 30 to 50 percent of the plant cost is associated with the heat exchangers. In the OTEC operation, warm surface water is pumped through a heat exchanger and gives up heat to a working fluid, such as ammonia, thus changing its state from a liquid to a gaseous ammonia vapor. The vapor expands, driving a turbine which, in turn, drives a generator and produces electricity. Thus, it is important to maintain high performance in the heat exchangers. Methods to enhance heat transfer are possible approaches to achieving and maintaining acceptable performance.

Two million dollars in my amendment would go for a second deployment of the mini-OTEC to test and evaluate multiple heat exchangers materials and specific countermeasures for biofouling; that is, the intrusion of ocean slime into the OTEC system.

The mini-OTEC (40-kilowatt size) was jointly developed by the State of Hawaii, Lockheed Missile & Space Co. and Alfa-Laval—Swedish heat exchanger manufacturer—to get actual "real world" operating experience with an operating OTEC system. Present plans call for a 6-month deployment and then the mini-OTEC would be turned over to the State of Hawaii which is planning to use the mini-OTEC parts at the seacoast test facility which will not be operational until early fiscal year 1981.

OTEC can potentially contribute a very large amount of power to the U.S. electrical supply in the post-2000 year time period. The resource is regional and can be considered as a potential substitute for fossil and nuclear if the economics are proven and the design uncertainties resolved. In order to have a commercial technology ready by 2000, it will be necessary to resolve the technical issues during the next decade. If we are to ever prove the viability of the OTEC concept we must maintain the funding at least at the level of fiscal year 1979.

My amendment would restore funding in two of the most important areas of OTEC development, the heat exchanger unit, and the mini-OTEC test facility. I urge my colleagues to favorably consider this amendment as another step in the development of an important alternative energy source for our Nation.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I am more than pleased to yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman yielding. We have had a chance to review the gentleman's amendment, and we think that it has merit, and we support its adoption.

OTEC has a great potential, in my opinion, and it is one that we should not suspend further testing on until we have had better knowledge of it. I appreciate the gentleman offering the amendment, and I urge adoption of it.

Mr. MINETA. I thank the chairman.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would also like to congratulate the gentleman and support his amendment. His amendment restores $5 million for the critical areas of the OTEC program that had in fact been cut. In fiscal year 1978, OTEC funding was $35.3 million; in 1979, it was $34.5 million; in fiscal year 1980 it went down to $28.9 million, a reduction of $5.6 million from fiscal year 1979.

The $2 million from the mini-OTEC program will allow that facility to continue to be used for an additional 6 months for continued testing, contemplating its eventual use in the seacoast test facility which is not expected to be operational until fiscal year 1981. It will be used to test heat exchangers and biofouling.

It makes no sense not to have the use of that facility during that period of time. The $3 million for heat exchangers is for the most critical component of OTEC, and depending on the design it represents 30 to 50 percent of plant cost.

Overall, OTEC efficiency is just 3 or 4 percent, so heat exchanger performance is particularly critical. This restores money and should advance the technology in that vital area.

Mr. Chairman, I urge adoption of the amendment.

Mr. MINETA. I thank my colleague.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I support the gentleman's amendment. I was briefed on this program in Hawaii. I think it is a program which is admittedly long range but which offers great hope for the future for the possible use of ocean thermal energy in the sense of being able to give us a great deal of energy, which is what our country needs.

Mr. MINETA. I thank the gentleman.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I simply would like to ask—I think this is one of the good programs we have, but why was there a recommendation to cut the $5 million anyway? Could the gentleman or the chairman of the subcommittee tell us why that recommendation came in?

Mr. MINETA. I would be pleased to yield to my colleague from New York (Mr. OTTINGER) to reply to that.

Mr. OTTINGER. In its wisdom the Office of Management and Budget cut those funds to save money. This has been a big, long-term project, and we feel that the areas that the good gentleman from California has restored are the most critical areas.

Mr. LUJAN. So that the Department of Energy did request the $5 million, but OMB decided that they wanted to restrict the amount of funds?

Mr. OTTINGER. That is correct.

Mr. LUJAN. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MINETA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WYDLER

Mr. WYDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WYDLER: On page 4, line 23, strike out "$63,900,000 and insert in lieu thereof "$68,900,000."
>
> On page 5, after line 3, insert the following:
>
> "(c) LWR Safety Development R. & D., $5,000,000."

□ 1140

Mr. WYDLER. Mr. Chairman, the objective of this program is to enhance the Department of Energy's (DOE) existing efforts for the development of new systems and methods and the performance of additional analyses to improve the safety of light water reactors. This funding reflects the need for detailed program planning and a shift in DOE's emphasis and priorities as well as the identification of new tasks in view of the nuclear accident at Three Mile Island.

I do not believe that it is necessary to wait for the report of the Presidential Kemeny Commission or the issuance of more regulations from the Nuclear Regulatory Commission; we know now what is important in nuclear safety. Our Subcommittee on Energy Research and Production conducted 3 days of hearings on May 22, 23, and 24 on the technological implications of the Three Mile Island incident for nuclear safety research and development. We heard from representatives of the nuclear industry, critics outside the industry, the NRC and several other distinguished witnesses. Adm. H. Rickover, head of the naval nuclear propulsion program; and Dr. George Low, former Deputy Administrator of NASA, also testified.

The areas on which there was a general consensus on the need for additional efforts were clearly outlined in these hearings. I designed this amendment in order to build constructively on this accident and insure that the industry genuinely learns from it. As I mentioned during our hearings in May, I feel it is important that Three Mile Island become the Apollo 204 fire for the nuclear industry. I believe a properly phased, well-managed R. & D. program that focuses on probable nuclear plant incidents will achieve that end.

The enhanced program DOE has outlined and is ready to proceed with has already been addressed in part by an earlier committee amendment. We added $5 million in order to develop a nuclear operator training program as outlined in title VII of this bill.

This development activity authorized at a $5 million level will also complement the $3.5 million in safety technology contained in the DOE request. The request was based on safety research priorities chosen before the Three Mile Island accident. The committee expects the DOE to integrate these two activities into an overall developmental safety R. & D. program when they submit their program management plan during fiscal year 1980.

The $5 million which my amendment authorizes will provide for the following technical program elements in addition to funding a comprehensive and tailored plan in safety development from DOE.

First. Risk methods utilization including data on systems and component failure and detailed systems analysis studies including the factoring in of human errors;

Second. Improved safety systems including improved components for unique containment concepts, simplification of control room and plant layouts and improved component reliability; and

Third. Also, additional safety data should be obtained from examination and analysis of hardware from TMI. The DOE will also embark on studies of the generation of hydrogen explosions and related reactor system problems.

This area is clearly one in which the Congress has the information to move out in new directions. This $5 million is an investment in the enhancement of safety based on current priorities derived from comprehensive hearings and a continuing dialog with the Department of Energy and the Nuclear Regulatory Commission.

I urge that all my colleagues support this significant initiative to reduce even further the possibility of serious nuclear accidents.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

I want to commend the gentleman for his amendment. As we try to improve the safety of our light water reactors, his amendment addresses that very critical issue, and I urge the adoption of the amendment to the committee.

Mr. WYDLER. I thank the gentleman.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I want to congratulate the gentleman for his amendment and for his dedicated work as the ranking minority member on the subcommittee. We have underway a continuing study of the Three Mile Island accident. In hearings last spring and subsequent hearings last month, the work that we have done together has been, I think, extremely valuable in putting the facts of the Three Mile accident into focus. From these hearings I conclude that the cause of the accident was probably 70 percent human error, perhaps 20 percent design weakness, and 10 percent mechanical failure. It is the human error and the machine-man interface that attracts our attention. We are convinced that with studies and programs and corrective action called for in this amendment, we can dramatically improve these factors, and make nuclear plants even more safe than they already are. This amendment focuses directly on that prospect. I congratulate the gentleman and support his amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WYDLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. PICKLE: On page 12, line 4, strike "$56,600,000" and substitute in lieu thereof "$57,600,000".

Mr. PICKLE. Mr. Chairman, the purpose of this amendment is to restore $1 million to the applied plasma physics (APP) portion of the Department of Energy's magnetic fusion energy budget for fiscal year 1980.

These programs are developing nuclear fusion, one of the world's inexhaustible energy sources. The program with which I am most familiar is at the University of Texas in Austin. There, they are working with the Tokamak concept, a major experimental technique used for plasma studies. This type of work may hold the key to our future neergy needs. Other universities involved in fusion research that would be similarly affected by this amendment are: Cornell University, University of Iowa, Yale University, the University of California at Berkeley, the University of California at Irvine, the University of Wisconsin, Stevens Institute of Technology, the University of Arizona, the University of California in Los Angeles, and the University of Maryland.

The Science and Technology Committee had originally reduced this activity by $5.5 million below the President's request. Although this was done for reasons of fiscal responsibility, and with the understanding that the program could absorb this cut without excessive disruption of ongoing work, it now appears that the impact of this cutback, particularly on university research programs, will be much greater than could have been foreseen at the time of the original reduction. The universities in this country which participate in fusion research, and who provide the manpower for our larger laboratory and industry fusion programs, derive their sole funding from this APP portion of the fusion budget.

The work to be performed within this program and with this $1 million that I propose to be restored encompasses all phases of plasma physics and fusion engineering. For example, a number of advanced experimental techniques for studying plasma behavior have been developed at universities. Advanced computational and theoretical studies are also funded through this activity at universities. Their work on plasma turbulence provides the backbone for understanding plasma transport processes. These types of fundamental theoretical work and experimental research are extremely necessary if we are to understand fusion reactor operation and extrapolate to fusion power reactors. The Department of Energy should be encouraged to continue to pursue the study of plasma turbulence.

As I indicated previously, much of this work will be done for the Department of Energy at various universities. University contracts are usually small, generally ranging about $100,000. Universities have traditionally worked on less expensive ideas and concepts which have not been followed in the major "mainline" laboratories. A $50,000 cut from a $100,000 project can easily cause 10 graduate students to be dropped from their research work.

I believe that fusion is one of the most promising options we have for base station power in the 21st century. The development of a demonstration powerplant in the 1990–2000 timeframe is a necessity. This will require a real increase in the number of engineers and physicists who understand fusion. Our university programs must be supported. This amendment will insure just that.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Washington.

Mr. McCORMACK I thank the gentleman for yielding, and for submitting this amendment. He is expressing the feelings of several Members of Congress. The committee, in attempting to reduce unnecessary spending and also trying to influence the Department of Energy to terminate fusion programs that do not really have a purpose, cut in this area below the budget request. As the gentleman points out, we could not tell exactly what the impact would be at that time, but in the subsequent months we have had an opportunity to consider the subject in greater depth. In the full committee I agreed to reduce our cut from $8 million to $5.5 million. Now I accept the gentleman's amendment to add another $1 million, thus reducing the cut to $4.5 million. I believe that the Department of Energy will now distribute the funds provided so that deserving program will be continued. This will allow doctorate programs to continue in certain instances, and I think that we have not established the correct level of funding.

Mr. PICKLE. I thank the gentleman.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

I want to join with my colleague, the gentleman from Washington (Mr. McCormack) in supporting the gentleman's amendment. At the time the reductions were made, we felt that these additional funds could not be appropriately spent at that time. However, since that time conditions have changed, and we feel as though the amendment that the gentleman is offering has merit and we urge its adoption.

Mr. PICKLE. I thank the gentleman.

Mr. Chairman, I ask for a vote on my amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. Pickle).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of California: Page 37, strike out line 11 and all that follows down through the matter inserted after line 15 and insert in lieu thereof the following:

Sec. 125. Section 19(c) of Public Law 93–409 is amended by striking out "fiscal years ending June 30, 1976, 1977, 1978, and 1979, $50,000,000 in aggregate" and inserting in lieu thereof "fiscal year ending September 30, 1980, such sums as may hereafter be authorized in annual authorization Acts".

Sec. 126. (a) As soon as practicable and not later than February 1, 1980, the Secretary of Energy shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at—

(1) the Ernest Orlando Lawrence Berkeley Laboratory under contract numbered W–7405–ENG–48 between the United States and Regents of the University of California (a corporation of the State of California);

(2) the Argonne National Laboratory operated under contract by the University of Chicago and the Argonne University Association, Inc.; and

(3) the Brookhaven National Laboratory operated under contract by Associated Universities, Incorporated.

Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(b) The Secretary of Energy shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (a). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of basic scientific research;

(2) the transition from management of such laboratories by the current operators to management by any new contractors will be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(c)(1) The Ernest Orlando Lawrence Berkeley Laboratory at Berkeley, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Berkeley National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Berkeley Laboratory shall after such date be considered to be reference to the Ernest Orlando Lawrence Berkeley National Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Pacific Northwest Laboratory at Richland, Washington, shall after the date of the enactment of this Act be known and designated as the "Pacific Northwest National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Pacific Northwest Laboratory shall after such date be considered to be reference to the Pacific Northwest National Laboratory.

(4) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Sandia National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be reference to the Sandia National Laboratory.

(5) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this Act be known and designated as the "Los Alamos National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be reference to the Los Alamos National Laboratory.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. WYDLER. Reserving the right to object, Mr. Chairman, would the gentleman just quickly give me some idea of what his amendment concerns?

Mr. DINGELL. Mr. Chairman, I reserve both the right to object and a point of order.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. Dingell) reserves a point of order.

Mr. WYDLER. Could the gentleman just tell me what the amendment concerns? I do not have it listed, and I do not have a copy.

Mr. BROWN of California. If the gentleman will yield, the amendment is an expansion of an amendment which the House adopted by the distinguished chairman of the committee having to do with the requirement of contingency plans in the event of cancellation of contracts with the National Laboratories.

Mr. WYDLER. I understand the amendment, and I have no objection to its being considered.

Mr. Chairman, I withdraw my reservation of objection.

Mr. DINGELL. Mr. Chairman, I will not raise an objection and withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) reserve a point of order?

Mr. DINGELL. I still reserve a point of order, Mr. Chairman.

Mr. BROWN of California. Mr. Chairman, on the 26th of July when we were previously considering this title of the bill, the distinguished chairman of the full committee, the gentleman from Florida (Mr. FUQUA), offered an amendment which is shown in the RECORD—I am sorry I do not have the exact page before me—but what that amendment did was to require the Department of Energy to develop contingency plans for a new management contract with the Lawrence Berkeley Laboratory in California, which is a general-purpose research laboratory operated by the University of California. This went through with minimal objections—none that I know of—as a sound management procedeure. The Department of Energy would be required to study the steps they would take in the event it became necessary to secure a new contractor for the Lawrence Berkeley National Laboratory.

□ 1150

I personally see nothing wrong with this. What my amendment does is to apply this same requirement to the other university-operated Department of Energy laboratories. In other words, the amendment requires that there be a contingency plan prepared in the event that for any reason any of these laboratories should have to be operated by a different contractor. That is the essence of the amendment which we adopted with regard to the Lawrence Berkeley Laboratory.

Mr. LUJAN. Mr. Chairman, would the gentleman yield?

Mr. BROWN of California. I would be happy to yield.

Mr. LUJAN. Is it the intention of the gentleman to expand the need for a contingency plan to laboratories like Los Alamos, Livermore, and others? Is that the purpose of the amendment?

Mr. BROWN of California. That is not the purpose of the amendment. Those laboratories are weapons laboratories. My amendment applies only to nonweapons laboratories operated by universities. It would not apply to Los Alamos, for example.

Mr. LUJAN. Does the amendment have the wording of nonweapons laboratories? I have no objection to it. As a matter of fact, I think it is a good idea, with the University of California getting so antsy about being involved in weapons development, and, frankly, some of us are of the opinion that maybe we ought to change from the University of California. I do not want to get into that argument now but a contingency plan should be prepared in the event there is a vote against it.

Mr. Chairman, my question then is, the gentleman's amendment, together with the amendment of the gentleman from Florida, does not exclude those weapons laboratories from also having to have a contingency plan in the event that the universities do not wish to go on. Is that correct?

Mr. BROWN of California. That is correct. Actually, those are the most vulnerable laboratories and the most vital to the national security.

Mr. Chairman, my amendment does not cover those but I believe there may be a subsequent amendment offered when we get to the weapons section, which is under the jurisdiction of the Committee on Armed Services.

To the best of my knowledge the department is proceeding with such plans under any circumstances.

Now, if I may continue just briefly. In addition, my amendment includes a rather minor change for the purposes of making a uniform designation of these general research laboratories. Not the weapons labs but the general-purpose research laboratories of the department. As the gentleman from Florida (Mr. FUQUA), chairman of the Committee on Science and Technology, did with regard to the Lawrence Berkeley Laboratory, we have inserted the term "national" in the titles of several of these so they will all be uniformly designated as national laboratories.

Mr. Chairman, these are, in my opinion, purely technical amendments for the purpose of establishing a uniform policy with regard to our great general-purpose research facilities operated by the Department of Energy. I regret I had to take so long to explain it. I would hope that the chairman, recognizing the merit of this enlargement of his own amendment, would be willing to accept these so that I will not have to belabor the point any further than necessary.

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist upon his point of order?

The Chairman assumes the gentleman does not.

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. There is no member of our committee I respect any more than the gentleman from California (Mr. BROWN) who is not only a very valued Member of this House but also a valued member of the Committee on Science and Technology where he chaires the very important Subcommittee on Science, Research and Technology. The gentleman is one of the most cooperative Members that I know of in the Congress. It is, therefore, with great pain, Mr. Chairman, that I must rise in opposition to the expansion amendment which he has offered to an amendment that I offered back in July that was adopted by the committee, relating to the Lawrence Berkeley Laboratory.

Mr. Chairman, the reason for that amendment—and I would like to reiterate to the committee—was the fact there have been indications before the board of regents of the State of California that there should be some change in that contract relating to weapons work. I felt at that time the Department of Energy should have a contingency plan. The board of regents since that time has voted not to follow through with any change in that contract. I felt there should be a contingency plan so that the vital work of our national energy lab could continue.

Mr. Chairman, my friend from California in his amendment expands that to include the Argonne Laboratory, as well as the Brookhaven National Laboratory.

I certainly think that the Department of Energy should have some contingency plan. However, I am not aware of any indication from those who operate those contracts that they are dissatisfied or that they have any plans to sever that contract or change it in any way.

For the foregoing reason, Mr. Chairman, I think that the amendment goes to an issue that does not exist at this time. As for changing the names of the laboratories to national laboratories, I think that is a very positive step.

However, I think there are some technicalities as they relate to the Pacific Northwest Laboratory as to exactly what they are changing and I think that needs some clarification.

Mr. Chairman, I would hope that my friend would consider withdrawing his amendment and maybe in the next authorization we can have a more broad and comprehensive provision. I do not intend just to single out the State of California and the Berkeley Laboratory. I might further point out, that the weapons labs are under the jurisdiction of the Committee on Armed Services and I understand they have a similar amendment relating to the weapons work that is under contract with the board of regents of the State of California.

There have been overtures made within the board of regents that some change be made in that contract. I do think that the Department of Energy should have some contingency plans should one of the groups operating these labs suddenly decide they do not wish to continue operating those labs, even though they may have several years left on their contract.

I would hope my good friend would withdraw his amendment and maybe we could try to resolve this when we come back to the floor next year.

Mr. BROWN of California. Mr. Chairman, would the gentleman yield to me?

Mr. FUQUA. I would be delighted to yield to the gentleman.

Mr. BROWN of California. I am certainly glad for the assurances which I think I received, that the Lawrence Lab was not singled out for some specific treatment here. It is not a weapons lab. There was never any question of abrogating its contract by anyone at the University of California. As a matter of fact, I have a letter from the director of the lab saying, "we were astonished and concerned" about this amendment. They had never heard of its possibility.

Mr. Chairman, the first thought that occurred to me was that there might be something punitive in the nature of this amendment but, of course, I would not attribute that to the distinguished chairman of the committee. I felt the only logical thing was to adopt the very sound policy which his amendment contains and apply it to the other university-operated laboratories.

Mr. Chairman, I wish I could accommodate the gentleman by withdrawing the amendment but I would prefer to go down to glorious defeat on this matter of principle—and I might well do that—rather than withdraw it, because I think the merits of the amendment are such that it should be adopted.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for an additional 2 minutes.)

Mr. FUQUA. I yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. These principles should be applied to other university-operated laboratories, which are great institutions, and which likewise do not face any current debate as to whether they should or should not renew their contracts.

□ 1200

They want to continue their contracts, as does the University of California for the Lawrence lab. They are not engaged in weapons work. I think that consistency demands that we treat them all alike.

Mr. FUQUA. Well, let me say to the gentleman, it certainly was not intended in any punitive manner to the Lawrence Berkeley Lab. To my knowledge, the lab has worked very well for the Department of Energy and for the U.S. Government and every cent that has been spent in taxpayers' funds there has been well accounted for in the results; but because there had been concern as to expressions made that there may be some major change in the contract as it existed between the State of California and the three labs operated in that State and the overlocking work that goes on in many of the labs, that there be some contingency plan in the event there should be some change recommended by the State of California. There was no intention that the Department of Energy should initiate a change in that, only if a change were requested by the State of California that they have somebody that could operate those labs and not lose the great national asset that we have.

So I would urge defeat of the gentleman's amendment and hope that we can try to resolve this issue in the next authorization hearing.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

I really think it is a very unnecessary amendment, I have to tell the gentleman. We do not need, I would not think at this point in history, to put on the backs of the people over at DOE the drawing up of a great many, and there are quite a few in here, contingency plans which probably will never be used for some eventualities that will probably never take place.

I really think that DOE has so much work over there that they should do to get the Nation's energy program working that I just think this would be a hindrance to the smooth functioning of the programs; but I certainly would agree with the gentleman and the chairman of the committee that if this matter should be looked into, we should do it in the committee hearings.

I would be willing, naturally, to go along and support that effort and see if any of these plans are needed and, if so, have somebody do that work and spend the time, money, and make the effort that is going to be required to draw them up.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. Yes, I yield to the gentleman.

Mr. LUJAN. Mr. Chairman, this is a very sensitive issue, as the gentleman well may know, to many of my constituents, because of Sandia and Los Alamos both being located in my district.

I fully concur with the gentleman from California that we ought to have a contingency plan so that if the University of California decides not to go ahead with the sponsorship of it, that we have someone to take over. As a matter of fact, there is a study going on now of what the alternatives may be.

I am concerned about one thing and that is the submitting of the plan, I have not had a chance to read the amendment, the submitting of the plan to Congress.

Now, if, for example, we have several alternatives, one being to go to another group of universities or a university or going to a private firm to manage it, as we do in many of the other laboratories. If a consensus is reached at the present time for having a university or group of universities manage the program and the plan is submitted to Congress, does that cause us some problems if maybe 2 or 3 years down the road or maybe even next year or 6 months the decision is made that there was an error, that maybe we should not go to a university, maybe we should go to a private contractor to do it?

Does the gentleman think that the submitting of a plan to Congress would cause an additional problem in trying to come to a solution of the problem?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I am willing to admit to that possibility. Of course, I used the exact language that the chairman of the committee had used in the original requirement for the Lawrence Berkeley Laboratory, because I felt he had done such careful craftsmanship on his amendment that I did not want to deviate from it.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words.

I rise to reluctantly oppose the amendment.

I share the great respect and admiration of the chairman for the gentleman from California. I enjoy working with the gentleman from California (Mr. BROWN) whether we agree or not. It is a lot of fun and I have a great deal of respect for him.

Unfortunately, however, I must oppose this amendment. I can appreciate what the gentleman from California is trying to say. I realize the gentleman is trapped by the actions of the California Governor's publicity stunt in attempting to unilaterally cancel the contract between the University of California and the DOE. I am, of course, pleased that the regents were responsible enough to resist the Governor's attack. I appreciate problems that have arisen because of it. I can appreciate the gentleman's desire to protect the status of the Lawrence Laboratory, but I think the bill goes too far. We have not had the opportunity to study the legal implications of what is proposed in the amendment. There may be legal connotations associated with the definition of national laboratory. I do not know for certain.

I think this is an open question that would have to be explored in some depth and it could only be resolved in hearings and after substantial research.

I should like to point out to the gentleman from California that he has written legislation without completely understanding the facts associated with it in one particular part of the country.

On the third page of the typed amendment, the gentleman refers to the Pacific Northwest Laboratory at Richland. The Pacific Northwest Laboratory is a private facility owned by the Battelle Memorial Institute of Columbus, Ohio. The laboratory is associated with the Hanford DOE facility, and is mostly outside the fence. To call the entire Hanford complex the Pacific Northwest Laboratory would be to give the entire installation the name of one of the private contractors there.

Mr. BROWN of California. Will the gentleman yield?

Mr. McCORMACK. I would be glad to yield.

Mr. BROWN of California. Mr. Chairman, the gentleman may well be right. I am not able to argue with the gentleman's vastly superior knowledge of that situation.

What I did was to copy the name of the lab from the publication of the Department of Energy listing research and development field facilities and the Pacific Northwest Laboratory location at Richland, Wash., from page IV-103. This might have been an error for me to do that, but it is the best source I had.

Mr. McCORMACK. I can appreciate the gentleman's problem. I do not know what all is in the book; but the fact is that the Pacific Northwest Laboratory is a small part of a very large complex.

For these reasons, I would like to suggest that this matter be considered by a committee next year, or as soon as we have an opportunity.

The status of these various laboratories, whether they are managed by individual universities or a consortium of universities or private corporations;

whether they are handling weapons or not; whether they are handling nuclear energy projects or nonnuclear or both, is a matter that creates a great deal of confusion in the minds of many. I do not think we can resolve it quickly. I do not think it is a simple matter that can be resolved by an amendment on the floor.

I sincerely request the gentleman to withdraw his amendment; but failing that, I must object to the amendment and request the Members to vote against it.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield to me?

Mr. McCORMACK. I would be glad to yield.

Mr. BROWN of California. Mr. Chairman, I very much appreciate the gentleman's statement of willingness to look at this amendment in future years, as well as the gentleman's expression of respect and admiration for my many talents. If a similar careful review had been done for the original amendment, I would not be offering my amendment today, since it is clear that people have confused the Lawrence Berkeley Lab with the Lawrence Livermore Lab as well. In any case, I will be glad to trade that expression of respect for a few votes on the floor.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. Brown).

The amendment was rejected.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fish: Page 37, after line 15, insert the following:

Sec. 126. (a) Within 90 days after the date of enactment of this Act, the Secretary shall transmit to both Houses of Congress a detailed description of the comprehensive, multi-year program plan for energy conservation research, development and demonstration.

(b) The description of the comprehensive program plan submitted under subsection (a) shall include—

(1) the anticipated research, development and demonstration multi-year objectives to be achieved by the program;

(2) the program elements, management structure, and activities, including any regional aspects and field responsibilities thereof;

(3) the program strategies and commercialization plans, including detailed milestone goals to be achieved during the next fiscal year for all major programs and projects;

(4) the economic, environmental, and societal significance which the program may have;

(5) the total estimated cost of individual program items;

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program;

(7) the relationship of the program to any Federal national energy or fuel policies; and

(8) the relationship of any short-term undertakings and expenditures to long-range goals and comprehensive conservation strategy.

☐ 1210

Mr. FISH. Mr. Chairman, this amendment, it is hoped, will provide some needed direction to the Department of Energy's energy conservation programs. This amendment directs the Secretary of Energy to prepare and submit to Congress a comprehensive multiyear program plan for DOE's energy conservation research, development, and demonstration program activities.

No proposal for new energy production—no high-technology alternative—can match the near term potential offered by another new energy source-conservation, or as I prefer to describe it—the reduction of needless waste. It is economic, nonpolluting and environmentally safe. Viewed as a reduction in waste, as a goal of energy productivity, it is not a threat, but a challenge, not a hardship, but actions taken in our self interest. Because of its potential, conservation should be considered an alternative energy source providing for greater immediate relief.

Our Nation cannot afford to miss out on the great benefits of energy conservation. Everyone agrees, we must take firm steps now to reduce our reliance on foreign oil supplies. Vast opportunities for saving fuel exist in the residential/commercial, industrial and transportation sectors, and I believe that possible breakthroughs will allow us to achieve great energy savings in the future. At the very least, there is no doubt that energy conservation can eventually produce savings much greater than our entire volume of oil imports.

My amendment would provide for some overall direction to our energy research, development, and demonstration programs. Under this amendment, the Secretary must transmit a detailed description of DOE's comprehensive multiyear program plan for these programs. This requirement will help insure that our Federal funds for conservation will be spent in the most productive manner possible. It will also help us to more effectively tap the potential offered by conservation.

Mr. Chairman, we cannot afford to waste our taxpayers' limited moneys at a time when inflation continues to bite hard. This amendment will help us insure that our programs are rationally planned, and that our funds are wisely spent. For this reason, I urge my colleagues to support this amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to my subcommittee chairman, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank my colleague, the gentleman from New York, for yielding.

I would like to take this opportunity to express publicly my thanks and those of the rest of the committee for the gentleman's very great contributions to the work of our subcommittee. We have had an extraordinarily busy year, with a tremendous number of hearings and a tremendous amount of legislation to be considered.

The gentleman from New York (Mr. Fish) has always been constructive and has given many good ideas to us. It has been a pleasure indeed to serve with the gentleman, who is the ranking member of the subcommittee.

Mr. Chairman, this is an extraordinarily good amendment. For every other program that we deal with, the Department of Energy does have a detailed multiyear plan. The kinds of goals that the gentleman seeks to require in conservation, the milestones he seeks to have identified and an identification of what resources are going to be devoted to this program, are what we require of every other program and are obviously needed to move forward with an effective conservation program.

It is just absolutely incredible that in this area, conservation, which holds the greatest promise for short-term energy savings, the DOE should not yet have such a detailed program.

Mr. Chairman, I would certainly hope that the Department will respond quickly to the gentleman's amendment, and I hope it will receive the unanimous approval of the committee.

Mr. FISH. Mr. Chairman, I thank the gentleman from New York (Mr. Ottinger) for his kind words, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. Fish).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fish: On page 18, line 13, strike "$15,000,000" and insert in lieu thereof "$8,000,000."

Mr. FISH. Mr. Chairman, this amendment will allow us to authorize a fossil construction facility at the appropriate amount. This amendment would reduce the funding for one particular gasification test facility to $8 million from the recommended $15 million level. This amount is certainly sufficient to cover the facility for fiscal year 1980, especially in light of the fact that only $8 million has already been appropriated for the project.

The gasification test facility will be a central site where component of various coal gasification systems can be tested and evaluated on a commercial scale. This concept may prove to be extremely useful as we continue to look at viable coal gasification concepts. However, I question whether we need to authorize the amount contained in this bill at the present time. The Science Committee has previously expressed its concerns with respect to this facility, and the lack of DOE's success in managing large fossil energy projects. I hope that this gasification facility does not end up to be like several other fossil project failures. Before we commit ourselves to another large scale project, I think we should more carefully consider whether the project can be carried out, and what the project can accomplish.

I am in favor of supporting those projects which can help us solve our energy problems. In this case, though, I must agree with the Appropriations Committee recommendations, which concluded that we should provide only $8 million for this project for fiscal year 1980. I therefore urge my colleagues to support this amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentleman from New York, the chairman of the subcommittee.

Mr. OTTINGER. Mr. Chairman, I am pleased again to support the gentleman's amendment.

The indications from the Department of Energy are that they cannot in fact spend more than the $8 million in this fiscal year. While this is an important project, there is no sense in authorizing more than can actually be effectively utilized.

In addition, the Committee on Appropriations has already appropriated only $8 million, so the authorization of additional funds would be an exercise in futility.

Mr. Chairman, I support the gentleman's amendment.

Mr. FISH. Mr. Chairman, I thank the subcommittee chairman, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. FISH).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. BOGGS

Mrs. BOGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BOGGS: Page 12, line 15, section 109(B): Strike "$31,700,000" and insert in lieu thereof "$35,700,000".

Mrs. BOGGS. Mr. Chairman, the purpose of my amendment is to restore the funding level for the Energy Department's geopressured resources program to the President's budget request of $35.7 million. The bill now before the House includes a $4 million reduction in the program.

In July the President announced his new energy initiative. It recognizes the importance of a vigorous national effort to exploit the energy potential of unconventional natural gas.

Along the Louisiana and Texas gulf coast there is a region of deep aquifers which contain methane gas dissolved in water under great pressure. The production potential of this methane range from 300 quads to 5,000 quads of energy. Conservative experts agree that at least 150 to 220 trillion cubic feet of additional gas could be recovered from these geopressured aquifers at costs ranging between $15 to $30 per barrel of oil equivalent.

Mr. Chairman, at the time of the hearings the capability to effectively use the full budget amount was in question. However, the Energy Department has now expressed its concern about the 20-percent reduction proposed in the geopressured resources budget by the Science Committee. The Department indicates the $4 million can be most effectively used and that the reduction "would delay the objective of the geopressured program which is to establish the technical and economic feasibility of producing geopressured resources and thereby encourage development by the private sector. * * * This reduction coupled with current difficulties could substantially delay the overall goal of gulf coast resource definition from the early to mid-1980's."

The resource base for geopressured methane is so significant and yet production potential is so much in doubt, I believe that a strong effort to establish the economic viability of this resource is necessary. I believe the level proposed by the administration can be managed effectively, that our Federal dollars will be prudently spent and that this research will provide the answers we need to help make America's energy future brighter.

I urge the adoption of my amendment so that we can move forward vigorously with research on geopressured methane.

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I am happy to yield to the chairman of the subcommittee.

Mr. McCORMACK. Mr. Chairman, I want to thank the gentlewoman for offering her amendment. What the gentlewoman says is entirely correct, and I agree with her completely.

In the committee, in the early part of this year, it was the judgment of the members that we could not effectively spend all the money requested by the administration, and so we cut the funding level for geopressured resources programs from $36 to $32 million, a reduction of $4 million. This would mean drilling one less well during this fiscal year.

I should emphasize that this was in no way an indication of our lack of faith in the program. Indeed we initiated the program several years ago and have continually expressed enthusiastic support for it.

□ 1220

However, it was our judgment that all the money requested by the administration could not be effectively spent, partially because we felt the drilling rigs would not be available, the personnel would not be available and that monitoring equipment would not be available during this fiscal year.

The effect of our amendment and our cut was to stimulate the department to look more carefully and more thoroughly at this program and to review the situation and to come to us with clearly documented support for their original budget levels, based on an additional 9 months' experience. This is reflected in the amendment offered by the gentlewoman today. In view of these facts, and in view of the fact that I believe we should move forward as aggressively as we can with this program, I support the gentlewoman's amendment.

Mrs. BOGGS. I thank the gentleman for his comments.

Mr. DORNAN. Mr. Chairman, I am in favor of the gentlelady's amendment. I understand as Mr. McCORMACK has indicated that some of the circumstances with regard to funding of the geopressured program had changed since our committee had marked up the Department of Energy bill. We cannot afford to overlook any major payoff areas and certainly the vast, unrecovered deposits off the gulf are a potential source of natural methane gas supply which dwarf anything we know.

I am interested in enhancing the geothermal program from several aspects to rapidly commercialize the technology so that we can achieve some of the promise it holds for specific regions such as my own State of California.

Just as in oil drilling and similar other activities in enhanced gas recovery, the geopressured wells present unique technical problems. It is a high risk area but the stakes are clearly too great now for major private sector investment and we must demonstrate this technology convincingly to the industry.

I am hopeful that this is an avenue to providing us natural gas wells into the next century.

While it is correct that the Science and Technology Committee reduced the geopressured program funding by $4 million, we did this in the name of fiscal restraint and with the intent to retain overall funding for the geothermal program at the level requested by the administration. Further, at that time, we understood that the Department of Energy's geopressured program would be relatively unaffected by this reduction, and that the money would be spent more effectively on other geothermal energy activities. In no way had we meant to indicate a lack of confidence in geopressured gas, an energy resource that we enthusiastically support.

Relatively recent information from the Department of Energy indicates that the geopressured program would now benefit significantly from the restoration of this funding. The Department is aware of the difficult problems in bringing geopressured wells on line, and is prepared to address the need for assuring that data from one well is adequately collected and analyzed before moving on to the next. Thus, I am even more confident than before that the problems in developing this energy source will be properly handled.

The most recent estimates are that between 150 and 220 trillion cubic feet of methane gas can be economically recovered from the gulf coast drillings. In addition to gas, the geopressured resource hopefully will provide large quantities of hot water which may be used for the generation of electricity or other purposes. We must take all reasonable steps to expedite the development of this resource base.

Mr. Chairman, I fully support Mrs. BOGGS' amendment for the restoration of funding for the geopressured program, and I believe that these funds will be well spent. I urge support of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Louisiana (Mrs. BOGGS).

The amendment was agreed to.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I indicated some time ago that I had intended to offer an amendment to this bill which would shift 5 percent of the nuclear fission funding authorization to a discretionary fund to be used by the Secretary to address liquid motor fuel and other transportation needs. I have decided, based upon discussions with the chairman, the gentleman from Florida (Mr. FUQUA), that I will not offer that amendment. But I take the time to come to the floor to at least present a colloquy and ask that we at least consider the issue of priorities within this very, very large research and development budget.

Mr. Chairman, as I understand the situation, about $2¼ billion of the $4½ billion in title I is directed toward nuclear fission R. & D. That includes waste management, it includes some capital projects and it includes general research and development. That, of course, is above, I believe, what the administration had requested. At the same time, I am also told that over 50 percent of the petroleum that is used in this country is used for transportation, and yet only a very small portion of this budget is geared toward transportation needs, liquid fuel needs. In fact, the committee made cuts in the coal budget, made cuts in the oil and gas budget. I realize it puts the committee in kind of a difficult position in trying to pit one energy resource against the other, but the main purpose why I take the floor is to at least have some colloquy on the issue of priorities, and why we spend an extra-large percentage of this research and development budget for conventional nuclear fission expenditures.

Why are we putting over one-half of our money into an area that may have some longer term benefits to us but does not directly address the most critical issue of transportation needs which seems to be much more crisis-oriented in the short term?

I am not presenting this with an antinuclear bias, because I do not necessarily have that bias. But if confuses me. It looks like we seem to add funds in every technology without making those necessary priority judgments as to which areas are more critical. Why should we be spending so much on nuclear and not spending more money on liquid fuel needs? And if we only have limited resources, why not take from some of the areas that may not have some of the most pressing short-term needs?

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Florida

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the comment and concern the gentleman is expressing to the committee. I would like to correct one point.

The gentleman pointed out that approximately $2.25 billion was being spent in the nuclear fission area. I would like to correct that. There is really about $1.154 billion being spent in the nuclear fission area. There is $1.1 billion being spent in uranium enrichment activities. However, that service is sold, and it comes back. It actually makes the Federal Government money. So the net outlay is about $1.54 billion in the fission area.

But I want to point out that we do have a problem. Nuclear research is very expensive, trying to make it safe; but at the same time we should not slacken our efforts in other areas, particularly in the automotive area that the gentleman speaks of.

I just offered an amendment today that was accepted by the committee, and I have another amendment later to offer that deals with the further use of coal that we are planning and the great effort we are making in our synthetic fuels. But any one fuel is not going to solve all of our energy problems. We are going to have to have a combination of many types of sources of energy. Solar has an important role; gasohol has an important role. I know the gentleman is interested in that field. Biomass, and many, many others have very important roles.

Earlier we were discussing fusion. Fusion has an important role in the future.

So we have to take within the resources that we have and try to allocate on the need and how much money can appropriately be spent in those areas.

The gentleman makes a very good point, and I commend him for it, because it is one that concerns us all as we deal in the day-to-day activities of trying to come up with simple answers to a very complex problem. The gentleman well knows, serving on the Committee on Science and Technology, exceedingly difficult judgments must be made sometimes as against one source of energy versus another source of energy. So the gentleman makes a very valid point, and I appreciate his making this point before the committee.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 3 additional minutes.)

Mr. GLICKMAN. I know the chairman does an extremely excellent job in that delicate balance. I am just extremely concerned about certain other technologies that may be more pressing in terms of catastrophic shortages in the short term, particularly in the ability of the people to have enough fuel to run their automobiles, and trucks, and tractors and all sorts of vehicles. I just came to the floor to point out the situation where I felt that, in my judgment, there might be an excessive amount being put in one set of technologies which are not directly transportation-related, and insufficient in the areas that I have indicated.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, I would like to congratulate the gentleman for raising this issue before the committee. I appreciate that the gentleman did not offer the amendment, because I would have felt obliged to defend the actions of our committee. But I supported the gentleman in the committee in his effort at that time.

In my view, whether it is right or wrong—and I happen to think that it is right—the reality of the situation in the country is that nuclear fission as an expanding source of energy in our country is dead for a period of time—because of the unanticipated accidents of all kinds that have taken place; the failure to resolve the nuclear waste issue, where you have to look after these nuclear wastes for 100,000 years; the risks that we are subject to from the sabotage, the theft of nuclear materials that could be used by terrorist organizations that are proliferating in a frightening manner throughout the world, and all of these problems with nuclear fission.

These unresolved problems and the public reaction to them indicate to me that, as a reality, the country just is not going to accept any fast expansion in nuclear power. Therefore, I do think our research and development efforts should be concentrated on areas of greater promise to resolving our immediate energy problems. We have a tremendous, urgent, immediate problem with respect to our reliance on imported oil. As the gentleman points out, nuclear energy affects very little of that. Only about 9 percent of our oil goes to generation of electricity altogether. So I do think that we would be much wiser on the committee concentrating the limited dollars that we have in the transportation sector which uses 50 percent of our oil.

Mr. GLICKMAN. I thank the gentleman for his comments.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Kansas and with his plea for a redirection of our energy research priorities.

There is one specific figure that I found most persuasive as our committee was working through the research and development budget. It turns out that of the $4.5 billion energy research and development budget, over two-thirds of that total budget is devoted to the development of technologies to generate electricity. And yet, as has been pointed out, only 9 percent of our present petroleum usage goes toward the generation of electricity. So that all of the development, of new electricity-generating capacity, nuclear or otherwise, will not deal with the fundamental energy problem of this country, which is our dependence upon petroleum resources.

I think the gentleman has made a very important contribution to the debate over our national energy policy, and I commend him for taking this initiative.

Mr. GLICKMAN. I thank the gentleman for his remarks.

Mr. WYDLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not want to argue against an amendment which has not been offered; but, frankly, I think some of the things that have been said here have to be put in some perspective for the members of the committee and the Members of the House.

First of all, I know you can argue about the figures almost endlessly, but I do not get the kind of answers I would like to the question of how much of the particular budget we are considering here today is for nuclear energy. It is not in harmony with what the gentleman said.

I think what the gentleman has done is that he has taken everything in the nuclear R. & D. and basic research and sciences budget, the high-energy physics, and basic energy sciences and all the rest and lumped it under the title "nuclear" and said that two-thirds of it is for nuclear energy.

My figures are that fission R. & D. is more like $1 billion of the present budget. That compares, I tell the gentleman, to about $800 million that we are authorizing in one form or another including tax credits for solar energy. Really, these two program funding levels are very comparable now. The increase in solar has been tremendous over the last few years, and the nuclear fission part has been going in the other direction.

I just want to point out to the members of the committee what this kind of an amendment means.

□ 1230

For example, if we are going to cut 5 percent or 10 percent, from one series of authorized programs and shift them over willy-nilly to another set of authorized programs then we have really done away with the authorizing process. What are we doing here? We are here adopting amendments, selectively adding money in for this or that, and then we adopt some general amendment that shifts it all around in some other fashion. I really do not think that is a sensible legislative approach.

For example, if we adopt this, and we cut nuclear R. & D. 5 percent, we would cut my safety amendment, the nuclear safety amendment, 5 percent. We would cut the safety amendment we adopted for the training of new plant operator personnel by 5 percent. That is what we would be doing. That is the kind of thing I do not think we want to do in a legislative body. I think that is a very bad way to legislate.

We are not considering the amendment so maybe I should not be arguing about this, but I do want to make the point. I know we are trying to show what we feel and where the emphasis should be put.

I leave the Members with this one thought since they want to take the money out of nuclear R. & D. and you want to put it into transportation.

I understand the subway cars in the Washington area run on electricity. I understand the electricity that they run ou is in a large extent produced in nuclear plants. So it is part of the transportation scheme in our country.

We can take these kinds of amendments and do great damage if we are not very careful.

I appreciate the gentleman not offering it. I want to congratulate him for that.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding. I appreciate the gentleman's courtesy.

No. 1, I offered this in the committee. I realize these transfer amendments have some degree of intellectual loopholes to them, but the purpose in offering it was to focus on the fact I think the thrust of our R. & D. fund ought to be in those petroleum replacement areas. I think that about two-thirds of the funds go into areas that do not deal directly with petroleum replacements, at least as directly as I would like to see them.

Mr. WYDLER. The gentleman does not come from my part of the country. That is the Northeast. We are burning oil for our electricity. We are burning it every day and we are going to be burning it for years to come, a very expensive foreign oil. We do not have any other choice.

That is the trouble. There is a petroleum substitute when we talk about nuclear energy.

Mr. GLICKMAN. I appreciate the gentleman's remarks.

I think the focus of this is to bring to the floor the issues of priorities within the total R. & D. budget which sometimes lose their focus in a committee when each person gets their own particular area and adds money or subtracts it without that kind of overall viewpoint. That was what my reason was for bringing it to the floor.

Mr. WYDLER. I appreciate that. For that purpose, it is a good idea to talk about it.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I want to say that I respect the gentleman from Kansas, not only in his motivation and his desires, but also I think, his wise decision not to bring his amendment to the floor.

I would like to point out some important facts about energy research and development funding.

Inherently, nuclear research and development is substantially more expensive than most nonnuclear research and development. In terms of getting a project done or in terms of the number of projects you can accomplish, nuclear is much more expensive than most other nonnuclear technologies simply because we have established such incredibly strict controls for control of radioactive materials and radiation. In addition, most nuclear devices are large, simply because they are more economical than small facilities.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. WYDLER) has expired.

(At the request of Mr. McCORMACK and by unanimous consent, Mr. WYDLER was allowed to proceed for 3 additional minutes.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Washington.

Mr. McCORMACK. For instance, we do an entire program in solar energy for the cost of just building one nuclear demonstration plant. In the long run, the nuclear research pays for itself because of the tremendous productivity of our nuclear energy program. I think it is important to understand that.

The other thing to remember is that as far as short-range impact is concerned, there is a very large short-range impact in this budget as far as nuclear energy is concerned.

Two of the programs that the Department of Energy brought to us was: First, to increase the efficiency of our nuclear plants themselves so they would be on the line a higher percentage of time; and second, to increase the efficiency of the fuels themselves.

Now, the plants that we can have on the line by the 1985–87 period will produce the equivalent of about 4½ million barrels of oil a day; the equivalent of half of the maximum amount of oil we have ever imported per day.

If the programs we are authorizing in this bill can increase the efficiency of these plants by 10 percent, that will be equivalent of a half million barrels of oil a day. That is most significant. A half million barrels of oil a day additional in the mid-1980's, just from the programs in this bill.

It is important to remember that, in addition to short-range benefits from improving the efficiency of our existing plants, we have long-range benefits, because the plants that can be on the line by the year 2000 will produce the equivalent of about 15 million barrels of oil a day, which is almost twice our present import level.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

There are two points of clarification I think should be made.

First of all, the transfer amendment that has been suggested but is not being offered by the gentleman from Kansas, actually excluded research and development related to nuclear safety.

Just for the record, I think it is important to note that.

Second, I want to thank the gentleman from Washington for drawing attention to one of the very crucial factors in the whole energy dialog which I do not think has received sufficient attention; namely, the capital intensivity of certain technology in contrast to that of other technology.

Research and development of nuclear power is, indeed, a great deal more expensive than other forms of energy research, just as nuclear powerplants are more capital itensive than other forms of energy generation.

The issue we ought to be debating seriously is what technology will displace petroleum most quickly and at the lowest cost to the taxpayer and to the consumers of this country. I suggest that on the basis of that criterion, we should be shifting away from our heavy concentration on nuclear and synthetic fuel technologies and toward the development of new energy technologies that would yield more efficient energy use and that will be based on renewable energy resources.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Wydler) has expired.

(At the request of Mr. Wolpe and by unanimous consent, Mr. Wydler was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. I just want to respond.

Of course, the point the gentleman from Washington made is true. It is an expensive technology to develop and for that matter, so is fusion. Yet, this Congress has embarked on a very fulsome program, a very broad program of research and development in the fusion field. It is going to be an expensive technology to develop.

I only hope when we reach the point, as I said earlier, where we are going to use this research and development, after we spend all the money doing it, we actually make the commitmnt as a people and as a Nation to actually utilize the results and fruits of all the work we have done before.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding, and I appreciate the comments of the gentleman from Kansas and the gentleman from Michigan.

I think there is a real concern amongst the American people as to the distribution of this DOE budget and where it is coming from and where it is going. I would like to make a few comments on that R. & D. budget.

First of all, the gentleman from Michigan commented on the least expensive way to replace liquid fuels. Right now this country is engaging in demo plants, demonstration plants of synthetic fuels, which are slated to cost from about $1 billion to $2 billion each.

Now, that is a very, very expensive substitute any way you look at it.

Just an added word about R. & D. funding. R. & D. is not something that is generated overnight. Research and development is a product of history. It is trained people with the experience of working together. It is the development of a whole host of factors, including education, the evolution of the basic sciences and technologies, from the textbook to the lab manuals; from the idea stages, to the pioneer experiments, to the year-by-year development of salable products. It is not something that you somehow plug into the wall just because Congress appropriates funds.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Wydler) has again expired.

(At the request of Mr. Ritter and by unanimous consent, Mr. Wydler was allowed to proceed for 3 additional minutes.)

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. In other words, R. & D. is not something like earth, that if you want to increase the cubic feet of shoveled product, all you have to do is get a few big shovels out. R. & D. takes time to evolve and develop; it takes a consistent policy from the funding source, be it private or public sources.

I would like to point out that in 1977 the Department of Energy's budget on nuclear fission was $1.5 billion.

Today, the Department of Energy's research budget on nuclear fission is $1.15 billion. In today's dollars, in real dollars, the nuclear fission budget has been sloping downward steeply.

□ 1240

I would like to point out that a few years ago there was no such thing as a Department of Energy. The forerunner was the Atomic Energy Commission and then the Energy Research and Development Administration. Basically the large bulk of Government R. & D. was in the nuclear fission area. We also had agencies called the Bureau of Mines and the Office of Coal Research, and between the two of them they spent relatively small amounts on fossil fuel development. Today the fossil fuel program in the DOE spends on the order of $800 million.

Thus, we have to look to the growth curve or the decline curve to see where we are at present because R. & D. does not come out of thin air. To confuse the American people by throwing money at R. & D. and somehow satisfying the need for public relations that this Congress is doing something about the energy problem when the infrastructure for actual results does not exist is not only misleading, it is also a waste of taxpayers' money. Solar energy, including tax credits, has zoomed from precious little in the era of 1973 when we had our first oil embargo to $800-plus million today. That growth curve is steeply upward versus time. So is the fossil program growth curve steeply upward versus time. At the same time nuclear fission work is declining substantially.

This is the perspective that I would hope that this colloquy, which I thank the gentleman from Kansas for initiating, I think it outlines to the American people the balance between the R. & D. programs of the Department of Energy. I thank the gentleman.

Mr. WYDLER. I agree with the gentleman's analysis and I think it has been refreshing to have this colloquy on the floor.

AMENDMENT OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murtha: Page 2, line 8, strike out "$88,150,000" and insert in lieu thereof "$97,650,000".

Mr. MURTHA. Mr. Chairman, this amendment would add $9.5 million to the bi-gas pilot plant in Pennsylvania and permit operation of the facility that has been in operation there for about 4 or 5 years. We have had some problems there and this will complete the experimental program on high Btu gas production and gain additional operating experience with pressurized entrained bed gasifiers.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. Yes, I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I am very pleased to support the gentleman's amendment. The committee has added $4 million for pressurized entrained bed gasifiers with emphasis on utility applications. The committee directed this work be done at either the bi-gas facility or the gasification test facility.

Currently the gasification test facility does not have high level support within DOE. The bi-gas facility, when operating to produce high Btu gas, provides operating experience with pressurized entrained bed gasifiers that otherwise would be unavailable to the Government during fiscal year 1980. It offers the opportunity for component development, instrumentation and diagnostics required for the development of the gasification program generally.

It offers the best opportunity to accelerate technology development for entrained bed gasifiers which are judged by utilities to be the best new gasifier for short- to mid-term use.

The gentleman's amendment is very constructive and the committee is pleased to support it.

Mr. MURTHA. I thank the gentleman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am happy to support the amendment offered by the gentleman from Pennsylvania (Mr. Murtha). This amendment provides funding for the development of a promising coal gasification concept. I believe that we should provide additional funding now to allow us to see whether we can tap the potential which this concept has to offer.

Our Nation has vast reserves of coal, enough to provide us with the energy we need for hundreds of years. Much has been said about the promise of coal, as well as the potential problems associated with its use. These resources can help us reduce our reliance on foreign oil supplies and achieve our goal of energy independence. However, it is important for us to look at ways in which we can use our coal resources in an environmentally acceptable manner.

This amendment provides funding to continue the development of the bi-gas coal gasification concept. This concept utilizes a unique gasification process which shows great promise for using our coal in a clean manner. During our authorization activities, the Science Committee heard much about the promise of coal gasification, and in particular the entrained bed gasification process. Based on this information, I believe that we cannot afford to overlook those alternatives that look promising for gasifying coal. For this reason, I support the gentleman's amendment, and urge my colleagues to do the same.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURTHA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FITHIAN: Page 4, line 6, strike out "$61,500,000" and insert in lieu thereof "$84,400,000".

Page 4, line 7, strike out "$52,000,000" and insert in lieu thereof "$74,300,000".

Page 4, line 14, strike out "$54,500,000" and insert in lieu thereof "$84,900,000".

Mr. FITHIAN. Mr. Chairman, I would like to make three points quickly. I appreciate the committee's time to accommodate me here today.

First of all, I am arguing for an increase in the biomass field. It is the closest in form of energy that we know, according to the Harvard Business School, with the exception of conservation. So if we are talking about near-term/far-term, then clearly biomass and solar energy has that edge.

Second, there is a need, I would say almost a desperate need for our Government to coordinate the activities between two agencies, the Department of Energy and the U.S. Department of Agriculture. Right now there is a great potential that exists in the Department of Agriculture spread out as it is in every county of the United States and being in direct contact with biomass resources. So I would urge a consideration of this amendment which would permit some pass-through funding, would permit nine projects which have been considered by the Department of Energy and the USDA and were cut off generally at the OMB level.

I would argue also that the cost-benefit effectiveness of this series of projects far and away exceeds any other consideration of energy that we made this year and I support them all. I support the gentleman from Washington in his effort to get fusion. I support the activities of the synthetic fuels bill and all of the rest of it. I am in total agreement with Chairman FUQUA when he says that a combination of energy sources is the future of this country.

One of those energy sources which needs a great deal more attention because of its proximity to utilitarian results is biomass solar. I would urge the committee to consider the increase of the funding for the nine projects that I have offered.

I have previously discussed with others, including the ranking Members' staff and the ranking Member, and I understand a concern he has. I want to speak to that for one moment. That is the energy efficiency concern. I think it is very, very proper that be injected into any alcohol or liquid fuels production program, for obviously if we are spending more to get the gallon than the gallon is worth it is not a project we ought to get into. It is my belief, based on the data we have here, this series of projects would fulfill the gentleman's criteria.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. Yes, I am happy to yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I have reviewed the gentleman's amendment and I must say that I am generally impressed by what it tries to do.

As the gentleman has pointed out, biomass' potential to meet U.S. and world energy needs puts it in a class by itself. According to the President's recently released Domestic Policy Review on Solar Energy, various forms of biomass energy, including wood and alcohol fuels, now contribute the energy equivalent of 1.2 million barrels of oil per day. The domestic policy review suggests that biomass fuels could contribute as much energy as 3.5 million barrels of oil per day by the year 2000, more than any other renewable energy source. Moreover, the gentleman's amendment focuses on near-term applications of biomass fuels which have not received adequate attention by DOE.

I was particularly impressed by the basic biomass research and gasohol technology development—perhaps more properly called advanced fermentation research—elements of the gentleman's amendment.

Mr. FITHIAN. I thank the gentleman for his kind words.

Mr. OTTINGER. Although I share the gentleman's enthusiastic support for biomass fuels and the programs outlined in his amendment, I have reservations over adequate management and implementation of the proposed passthrough funding of joint DOE-USDA research and demonstration projects, particularly as we were unable to have hearings this year on the additions being proposed. As I understand the gentleman's amendment, passthrough funding is proposed for virtually all joint research and demonstration on biomass for the two departments.

Mr. FITHIAN. That is correct. USDA has extensive administrative and technical expertise in several of the key problem areas for biomass fuel development. The Forest Service of USDA has extensive expertise in forest product marketing and forestry management. The USDA's Science and Education Administration has extensive experience in dealing with the energy consumption patterns and production capabilities of rural areas. The Rural Development Administration's expertise in improving the quality of rural life—particularly in the area of energy—is well known. The technical and administrative expertise of these agencies within USDA can and must be tapped by the Department of Energy if we are to realize the great potential of biomass fuels. Unlike many energy technologies, biomass energy programs are intricately intertwined with food and fiber production. Close cooperation is essential, and passthrough funding such as that provided in four of the nine program elements in my amendment is one way we can guarantee that this cooperation will take place.

Mr. OTTINGER. I have no objection to cooperative DOE-USDA efforts or even to the concept of pass-through funding. My concern is that we write the clearest possible legislative history for proposals of this type. As the gentlemen knows, we did not consider the nine programs proposed in his amendment during our subcommittee hearings on the bill this spring. Without a hearing record or precise language in the bill clarifying congressional intent with respect to pass-through funding for these programs, we risk mismanagement of the funds and confusion in implementing the programs. Also, we have inadequate information in the willingness and ability of DOE to manage these programs—they have not done well in the past and I am hopeful the new Secretary will utilize this, but we as yet have no detailed information on the personnel and resources DOE will devote.

Mr. FITHIAN. The gentleman's point is well taken. There are limits to what we can do with a floor amendment. Establishing a hearing record would do a great deal to clarify our intent in this amendment with respect to DOE-USDA cooperation. But I do not believe that we can afford to put the programs I am proposing on the back burner for another year simply to write a neater legislative history. After all, all of the programs contained in my amendment originated within DOE or USDA. The original DOE and USDA documents I used to draft my amendment suggest that the Departments are not only aware of the need for cooperation, but that they are capable of proceeding with these programs during fiscal year 1980. To delay these programs—particularly those which would not involve passthrough funding another year until the fiscal year 1981 authorization bill seems like an unnecessary delay.

Mr. OTTINGER. I think that there is a way we can get around the time problem without risking mismanagement of the programs you are proposing. I understand that the gentleman has prepared legislation along the lines of his amendment.

Mr. FITHIAN. That is correct.

Mr. OTTINGER. As chairman of the Subcommittee on Energy Development and Applications, I will place a high priority on scheduling hearings on the gentleman's bill later this year. I have no objection to the biomass basic research, $4.1 million; and gasohol technology development, $7 million—sections of the gentleman's amendment—in fact, I enthusiastically support them. These sections do not require passthrough funding and will expand our fundamental understanding of bioconversion processes as well as broaden our technology base for the expanded use of alcohol fuels derived from biomass. I am prepared to offer a substitute to the gentleman's amendment at this time which would authorize those programs during fiscal year 1980.

Mr. FITHIAN. The gentleman's offer is most generous. In view of the gentleman's assurances regarding subcommittee hearings I accept his substitute and urge the members to support it.

□ 1250

Mr. Chairman, of all DOE's renewable energy programs, biomass development has been the most trouble-ridden by administrative and fiscal problems. Yet, biomass' potential to meet U.S. and world energy needs puts it in a class by itself. According to the Domestic Policy Review of Solar Energy, wood and other forms of biomass currently contribute between 1.8 and 2.4 quads—900,000 and 1.2 million barrels of oil per day equivalent—of the Nation's 78 quad energy budget. By the year 2000, biomass is projected to contribute more energy than any other renewable source.

Biomass' promise remains unfulfilled partly because biomass programs—particularly those centered on near-term applications—are underfunded and partly because program management has been inadequate. Some of the impediments to biomass development could, however, be eliminated and all could be alleviated. Making this resource live up to its awesome potential requires allocating additional funds and bringing together a DOE staff with the skills and determination needed to redress neglect of a major energy source.

ASSUMPTIONS ABOUT BIOMASS DEVELOPMENT

First. Biomass is a major ongoing supply option with short-term dividends, not a minor resource of little immediate use.

Second. A Federal investment in research and development of biomass is perhaps the best energy investment we can make. No other energy technology offers the promise of such a prompt and bountiful return on our research and development dollar.

Third. Most of biomass' near-term—up to 5 years—potential rests in the use of agricultural residues, forestry wastes, and wood for direct combustion.

Fourth. Liquid synthetic fuels—including alcohol—obtained using familiar processes can economically substitute for gasoline.

EXECUTIVE SUMMARY—FITHIAN AMENDMENT TO H.R. 3000

Program element	Fiscal year 1980 authorization	Program description
Power systems	$16.3	The objective of this program is to develop and demonstrate near-term bioconversion applications using agricultural and forest residues.
Gasohol technology development.	7.0	The $7,000,000 increase in fermentation development research would support further R. & D. for such near- to mid-term concepts as acid hydrolysis, enzymatic hydrolysis, as well as on-farm fermentation.
Commercialization	8.4	The $8,400,000 is earmarked for a comprehensive commercialization activity supporting a host of near-term bioenergy applications including fermentation, gasification, or forest and agriculture residues.
Integrated farm systems	3.5	The $3,500,000 is to fund design studies and development projects which integrate food, feed, and fuel production.
Anaerobic digestion	2.3	The $2,300,000 is designated to support development work on on-farm digestors which can provide up to 0.3 quads in the near-term and which can have significant regional economic and environmental impacts.
Advanced pyrolysis R. & D.	4.0	This program would support applied research into fast throughout pyrolysis systems having high reaction rates and potentially high efficiencies.
Basic biomass research	4.1	The $4,100,000 is earmarked to support projects investigating the gas phase kinetics and catalysis of biomass.
Forest resource utilization R. & D.	17.0	The object of this program is to establish energy markets for residues resulting from conventional forest harvest and stand treatment operations.
Agricultural resource utilization R. & D.	13.0	This program will develop and demonstrate a diverse range of feedstock cultivation and harvesting systems which can be used in the near-term.
Total	75.6	

DOE BIOMASS PROGRAMS

[In thousands of dollars; fiscal years]

	1979 estimated budget authority	1980 DOE budget request	H.R. 3000 as reported	Fithian amendment
Solar applications	140,559	126,360	138,360	183,560
Biomass	43,630	57,838	57,838	88,238
Total, DOE biomass programs	184,189	184,198	196,198	271,798

Summary: The Fithian amendment seeks to roughly double the size of Federal expenditures for biomass research, development, and demonstration. A total of $75,600,000 would be added to DOE biomass programs as illustrated in the above chart.

AMENDMENT OFFERED BY MR. OTTINGER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FITHIAN

Mr. OTTINGER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER, as a substitute for the amendment offered by Mr. FITHIAN: On page 4, line 15, delete "$54,500,000" and insert in lieu thereof "$65,600,000".

Mr. OTTINGER. Mr. Chairman, the substitute I am offering to the gentleman from Indiana's amendment would incorporate two key elements of his amendment. The first item is the addition of $7 million for gasohol technology development. This would support expanded research on advanced fermentation technologies for the production of alcohol as a fuel. The other item is the addition of $4.1 million for basic research on the fundamental mechanisms involved in bioconversion.

Since the Science Committee reported the DOE authorization new information has become available which impacts the subject of alcohol fuels production and use as an alternative fuel. In June the Department of Energy released its report on the alcohol fuels policy review. My subcommittee held two hearings on this report taking testimony from the administration and from outside experts. The report concluded that ethanol which is derived from biomass is the only alternative liquid fuel commercially available now, and the only one likely to be available in significant quantity before 1985.

Recently this body passed amendments to the Defense Production Act which establishes a major synthetic fuels program for the Defense Department and just last week the President announced the administration's synthetic fuels proposed initiatives. In both of these synthetic fuels initiatives, alcohol fuels are included as a synthetic fuel.

This amendment would significantly increase the level of research being done on the next generation of fermentation technologies. These advanced technologies offer considerable promise to reduce the cost of alcohol produced and also to reduce the amount of energy required for the processes themselves.

The other item which I have included in my substitute amendment is for $4.1 million to expand the level of effort underway to gain a better understanding of the basic mechanisms involved in the varous bioconversion processes. This increase in basic biomass research would be done in cooperation with DOE's Office of Energy Research which is managing the basic research effort for the biomass program.

Mr. Chairman, I strongly urge my colleague in the House to support this $11.1 million substitute amendment. Once again I would like to commend the gentleman from Indiana for bringing these issues to the attention of this body and I look forward to working with him when my subcommittee considers his biomass legislation.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to my colleague, the gentleman from New York.

Mr. FISH. Mr. Chairman, I support the substitute amendment offered by the gentleman from New York (Mr. OTTINGER) to the amendment offered by the gentleman from Indiana (Mr. FITHIAN). I believe that the gentleman's amendment provides necessary funding for gasohol development and basic biomass research activities in the Department of Energy. In the future, I hope that the Science Committee can look more closely at the course of the biomass program, and evaluate what the program can and will accomplish, and what else needs to be done in this area.

Almost one-half of our daily consumption of petroleum comes from foreign sources. In recent months, we have witnessed dramatic increases in the price of this oil, seriously draining our financial strength and threatening our national security. On the domestic front, we are becoming more and more conscious of the impacts of severe limitations in gasoline supplies, and the possibility that we may soon again face a shortfall in petroleum fuels.

Against this background, alcohol fuels have shown much promise for providing a portion of our Nation's transportation energy. The idea of using alcohol fuels for transportation is not a new one. During the 1930's alcohol fuels were used in many instances where petroleum was not available. As we face an uncertain energy future, our Nation and other countries should seriously consider using alcohol fuels again in our transportation sector.

This amendment would provide additional funding for two key elements to help us effectively develop these fuels. In particular, funds would be provided to develop more efficient fermentation processes that will increase our rates of yield from feedstocks. Further development of these processes will help us make better use of our biomass resources. For this reason, and others, I support the gentleman's substitute amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER) as a substitute for the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. RAHALL: Page 2, line 4, strike out "$48,000,000" and insert in lieu thereof "$68,000,000".

Mr. RAHALL. Mr. Chairman, the increase in the coal mining R. & D. authorization which I have proposed would allow the program to be maintained at the funding level which DOE originally requested from OMB which was available in fiscal year 1979. It is quite important at this time to keep the coal mining program on course, progressing at an even pace toward its objective. This country will become more dependent upon its coal resources as it reduces its dependence upon imported oil. A tripling of coal production by the year 2000 will become a national necessity as an industry producing synthetic fuels from coal begins to provide an important part of our liquid and gas fuel requirements. Fortunately for this country, coal is abundant and widely distributed in the United States. Carter quote of yesterday.

However, to meet this coal demand of 2 to 2.5 billion tons, production will be required from all our major coal producing areas and in tonnage which will exceed present levels. We will need new technologies for extracting, transporting and cleaning coal of widely varying composition and quality.

Since it is clearly evident that coal will become a critical component of our energy supplies by 2000, it is only logical that adequate research and development funds be provided now. This investment is required to insure that we can mine the coal in the quantities needed and at an acceptable cost—dollars for mine planning and development, production and transport of most materials and coal, and efforts in improving reclamation techniques, improved handling, cost effective coal mining.

The problem facing the coal industry today, such as the continuing decline in labor productivity rates, high number of injuries, and sometimes overzealous environmental controls are contributing to substantial increases in production costs. Although occupational health and safety conditions have rapidly improved in the last decade, substantial improvements will not continue to be realized unless new mining technology is developed. This new technology must not only provide a better working environment for the miner, it must also be highly productive. These are the goals of the Department of Energy's coal mining program, and these are the goals which this Nation clearly wants.

By this amendment, full funding of the coal mining program is authorized. The total funds authorized will permit both the underground and surface coal mining programs to be carried on as planned.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the committee has had a chance to look at the gentleman's amendment, and we think it is a good amendment and are prepared to support it.

These funds were requested by the Department of Energy and cut by OMB. The need to make more adequate use of our coal reserves is well described by the gentleman in discussing his amendment. Mining techniques and difficulties present a major part of the problem in being able to utilize this reserve, so that I think it is thoroughly justified, and I support the gentleman's amendment.

Mr. RAHALL. I thank the gentleman.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I also want to commend the gentleman from West Virginia for his amendment. As he has pointed out, it was originally requested by the Department of Energy and was reduced by OMB at that time. Since that time, a lot of things have happened and there has been more emphasis on the use of synthetic fuels, of which coal is going to be a major part; and the necessity of enhancing our coal mining research and development is very important right now.

The amendment conforms to the commitment that the government has made for the increased use of coal. I commend the gentleman for offering his amendment, and I support it.

Mr. RAHALL. I thank the gentleman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding, and am happy to accept his amendment.

Mr. RAHALL. Mr. Chairman, before I conclude I would like to make a brief comment on a couple of other amendments I have prepared, which would increase authorization for the solvent refined coal process, SRC–I and II. The distinguished chairman of the committee has, I believe, provided adequate funding levels in an amendment he offered earlier. I believe the committee in accepting these amendments has maintained legislative control over this process. Therefore, I shall not offer my other two amendments.

☐ 1300

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent to offer an amendment to the amendment offered by the gentleman from Massachusetts (Mr. MAVROULES) previously adopted by the committee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. OTTINGER: Page 2, line 17, strike out the period and insert "and $18,103,000 for atmospheric fluidized bed combustion.".

Mr. OTTINGER. Mr. Chairman, this is to correct an oversight on behalf of the committee; part of the funds that we did authorize in accepting the amendment of the gentleman from Massachusetts (Mr. MAVROULES) adding $27,400,000 for atmospheric fluidized bed combustion was already contained in construction funds for an atmospheric fluidized bed combustion system. My amendment therefore reduces the $27,400,000 then authorized to the correct figure of $18,103,000. It will not in any way affect the program. I urge adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are

there any further amendments to title I? If not, the Clerk will designate title II.

Mr. WYDLER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1310

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. Pease). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

The Clerk will designate title II.

Title II reads as follows:

TITLE II—REGULATORY AND RELATED FUNCTIONS

AUTHORIZATION

Sec. 201. (a) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) for the Federal Energy Regulatory Commission—

(A) $41,815,000 for gas regulation and oil functions, of which not to exceed $510,000 shall be available for purposes associated with the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976;

(B) $12,339,000 for hydroelectric regulation functions; and

(C) $14,438,000 for electric utility regulation, and compliance, enforcement, and policy and management functions;

(2) for the Economic Regulatory Administration—

(A) $16,333,000 for coal and alternate fuels utilization functions, of which not more than $10,970,000 shall be available for contracts to carry out such functions;

(B) $3,800,000 for energy emergency preparedness functions, plus an additional $16,800,000 for purposes of carrying out contingency plans which are prescribed under section 202 or 203 of the Energy Policy and Conservation Act and which are approved in accordance with applicable procedures under such Act or as otherwise provided by law;

(C) $60,428,000 for compliance functions;

(D) $7,694,000 for purposes of utility programs;

(E) $10,000,000 or purposes of regulation development, fuels regulation, program administration, and policy and management functions, of which not more that $500,000 shall be available for contracts for regulation development; and

(3) for the Energy Information Administration—

(A) $13,871,000 for purposes of data analysis;

(B) $44,056,000 for data collection, production, and dissemination functions;

(C) $14,500,000 for data validation functions, of which not more than $11,500,000 shall be available for contracts to carry out such functions; and

(D) $11,846,000 for purposes of data support services;

(4) $3,000,000 for the Office of Hearings and Appeals; and

(5) in the case of the Strategic Petroleum Reserve Plan functions—

(A) $8,391,000 for purposes of program administration; and

(B) $110,000,000 for purposes of fill and leach operations, standby operational storage, planning and facility or equipment site design, construction, and acquisition, which amount shall be from unexpended funds appropriated for purposes of petroleum acquisition and transportation for the fiscal year ending September 30, 1979.

(b)(1) No amount appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used for purposes of the Strategic Petroleum Reserve Plan unless such amount is expressly appropriated for such purposes, nor may any amount appropriated for such purposes for such fiscal year be used for any purpose other than for the purposes of such Plan.

(2) Amounts appropriated for the fiscal year ending September 30, 1979, and made available without fiscal year limitation under any other Act for petroleum acquisition and transportation under such Plan shall, notwithstanding any other provision of law, remain available for such purposes, except that there may be used for the fiscal year ending September 30, 1980, for purposes of facility or equipment site design, construction, or acquisition under such Plan—

(A) the amount provided for under subsection (a)(5)(B) for such purposes, or

(B) a higher amount to the extent allowed for such purposes under section 801.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ottinger: Page 40, after line 23, insert the following new section:

AUTHORIZATION FOR CERTAIN CONSERVATION FUNCTIONS

Sec. 202. (a) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $95,000,000 for purposes of carrying out the program described in subsection (b).

(b)(1) The Secretary of Energy shall establish and shall, not later than January 1, 1980, implement a program under which the Secretary will enter into one or more contracts to—

(A) conduct a continuing national public awareness campaign to inform the public of methods of conserving energy, including the savings to the public (and the Nation) from such conservation; and

(B) conduct a continuing national evaluation program to determine the effectiveness of the campaign conducted under subparagraph (A).

(2) Such program shall be designed to achieve over the duration of the program—

(1) a reduction in domestic energy consumption of at least five percent; and

(2) an aggregate savings to the public of at least $17,500,000,000.

(3) Not later than January 1, 1980, and not less frequently than every 3 months thereafter during the duration of the program, the Secretary shall submit to Congress a report on the program, and the activities thereunder, established under this section, including the results of the evaluation under paragraph (1)(B) and such other information and recommendations as the Secretary may deem appropriate.

(4) Funds authorized to be appropriated under this section shall remain available for obligation or expenditure until September 30, 1981.

Mr. OTTINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Mr. Chairman, I rise to offer an amendment to H.R. 4839 which is a substitute for H.R. 3000, to authorize a program which, I am convinced, will make a significant contribution to reducing our dependence on imported oil. This amendment will establish a national public awareness program to inform the American people how they can save very substantial amounts of money by conserving energy.

During the past month, the Energy And Power Subcommittee has had extensive discussions with men and women who are experts in selling ideas and products to the American people. We have had a hearing in which we learned in some detail how Canada has mobilized just such a program as we are proposing. The Canadian advertising program has achieved very substantial energy savings. Similar advertising campaigns have been mounted in Austria, Belgium, Denmark, France, Holland, Ireland, Italy, Japan, Norway, Sweden, Switzerland, and the United Kingdom. It is time we joined the rest of the industrialized world in getting serious about conservation.

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In testimony before the Subcommittee on Energy and Power, representatives of both the Department of Energy and the Canadian Energy Office agreed that based on the Canadian experience, a $95 million program could be expected to achieve a 5-percent reduction in U.S. energy consumption. Such a reduction in consumption would save consumers conservatively $17.5 billion in gasoline and heating-oil costs alone.

The experts who crafted such programs and made the companies of this Nation the most effective marketing industries in this world, have told us that with a program of this magnitude we can expect to reduce gasoline consumption by 2 percent and save consumers $15 billion, as well as reducing home heating-oil consumption enough to save American consumers $2.5 billion, for a total savings of $17.5 billion.

In addition, by requiring continuous monitoring and evaluation, as well as regular and frequent reports to Congress, we will assure that the program will be kept in balance and that it will be fine-tuned to achieve the goals we have set forth, and avoid any actions that could be inimical to the public interest.

The experts are not basing their estimates on these savings on any imagined benefits or on any Draconian restrictions which will cause inconvenience or hardship. Quite the contrary, they anticipate that the savings will result from Americans realizing that simple inexpensive steps can reduce the amount of energy they waste and that the steps can save them money. The accent will not be on sacrifice, but on efficiency.

In a person's home, 10, 5-by-¼-inch cracks, for example, equal a hole 7½ inches square and through that hole a lot of energy escapes. Less than 1 dollar's worth of putty could close those cracks, saving a lot of energy and saving a lot of money for the consumer as well.

There are opportunities for savings all around us. The average homeowner and car owner, however, is simply not adequately aware of the opportunities available to him. In most cases he does not even know the degree to which he is wasting money and wasting energy. This program will help tell the American people specifically what they can do to help themselves. It will mobilize the enormous talents of our marketing expertise to sell America on effective conservation.

Most importantly, its benefits will be felt now, not 10 to 15 years from now, as will the benefits from most of the programs we are authorizing in other parts of this legislation today.

The benefits of this program should, according to the experts, be felt within 1 year. They will be perceived by us as reductions in our energy consumption and by our constituents as substantial reductions in their energy bills. Ninety-five million dollars is very little, indeed, to spend if it will, in fact, save our constituents $17.5 billion in energy costs per year.

Mr. Chairman, I urge adoption of the amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will be glad to yield.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for yielding.

Do I understand the gentleman correctly now that what we are going to do, since we have removed the market from conservation of energy, that we are now going to ask the taxpayer to spend $95 million to pay for something that they would know about if we would remove controls immediately?

The CHAIRMAN pro tempore. (Mr. Pease). The time of the gentleman from New York (Mr. Ottinger) has expired.

(At the request of Mr. Symms, and by unanimous consent, Mr. Ottinger was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Well, no, I do not think they would know about it. If we removed controls immediately, energy would cost them a good deal more and it would have certain, I think, very drastic effects on the economy; but that is an entirely different issue. Whether we raise the price or not, it is important that the consumer be made aware of ways that he can save energy and save money. If we had immediate decontrol, I will acknowledge he would save more money.

Mr. SYMMS. Mr. Chairman, if the gentleman will yield further, would the gentleman not agree with me, though, that if we had immediate decontrol, it would probably be the biggest implementation of incentives for conservation of anything that could happen?

Mr. OTTINGER. I think that is unquestionably true. The fear is that you will wreck the economy to achieve that. If that is the way you conserve by putting everybody out of work and putting all our businesses out of business, I do not think it is worth the candle. There are ways to save energy without producing those dire results.

Mr. SYMMS. Well, I do not accept the gentleman's premise, but I thank the gentleman very much.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield.

Mr. BROWN of Ohio. Mr. Chairman, I am a little concerned about this being $100 or $95 million right off the top of the heap. I still have the feeling that back home there are a lot of people that do not deal in $95 million lump sums for new programs. The idea of having the Government advertise may have some merit. It is being done to try to encourage the Volunteer Army. Money is being spent by the Federal Government in that way. That may have some merit to encourage conservation; but you know, there are a lot of private agencies that are already doing this, a lot of private companies are now encouraging conservation.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Ottinger) has again expired.

(At the request of Mr. Brown of Ohio, and by unanimous consent, Mr. Ottinger was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. OTTINGER. Yes; I will yield

Mr. BROWN of Ohio. A lot of private companies are trying to encourage conservation, and some of those are producing companies who do that to sell their products. I do not know why we cannot get a little free ride on their efforts to help with conservation. They take a tax deduction on it. The Government contributes to some extent, I guess, on that basis. It seems to me that it is also appropriate for people in the media to donate space. In my district we have billboards that are put as donations by the billboard company. When the billboard is not sold, there is an ad on that billboard out on the highway about people limiting their driving speed to 55 miles an hour.

I think we are getting a lot of free advertising encouraging conservation anyway.

Now, I might suggest that I think the Government ought to pay its way when it has a program it wants to push; so I am not totally opposed to the idea of having a program; but starting it at $95 million or $100 million, as the gentleman proposes, is the thing that offends this Member and I must oppose it.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Ottinger) has again expired.

(By unanimous consent, Mr. Ottinger was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, I acknowledge some of the good things the gentleman says are, in fact, occurring in the private sector and I applaud that; but there is no comprehensive program to address the consumers in the various ways that they can save energy. There are only piecemeal efforts by the private sector where they have some particular product that they want to push. The experience in Canada, about which we had testimony, and in the United Kingdom, has been so successful. Indeed, our own marketing strategies in this country, our private enterprise has used advertising so successfully that we thought an effort in this area using television, which is the most expensive, but also the proven, most effective media, as most of us who are involved in political campaigns, at least those of us who were fortunate enough not to be in the New York media area, are aware, that we thought that medium really ought to be used and could be used very effectively. If we can save $17.5 billion for consumers, I cannot imagine that the people of the country are going to object to our spending $95 million to do that.

Mr. BROWN of Ohio. Will the gentleman yield further for a couple of factual questions, questions of fact?

Mr. OTTINGER. I yield to the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, could the gentleman tell me how much money was spent in Canada on an annual basis or how much was spent in the United Kingdom on an annual basis?

Mr. OTTINGER. I cannot off the top of my head, but my recollection of the hearings was that it was less on a per capita basis than we are talking about here.

Mr. BROWN of Ohio. The reason I ask that is because if you put it on a per capita basis, one would have to assume that the Canadians spent about $9 million, as opposed to the $95 million the gentleman proposes, because there are only about one-tenth as many Canadians as there are Americans.

Mr. OTTINGER. I am informed that that is accurate.

Mr. BROWN of Ohio. Well, with all due respect, the Canadians are having more deficit problems than we are and I am not sure how bright they are to be spending that kind of money with their difficulties and I am not sure how bright we would be to be spending that kind of money with our difficulties. I have in mind that maybe it would be desirable to craft a little amendment here that would cut this down considerably, although the idea may have some merit.

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The CHAIRMAN. The time of the gentleman from New York (Mr. Ottinger) has expired.

(On request of Mr. Loeffler, and by unanimous consent, Mr. Ottinger was allowed to proceed for 5 additional minutes.)

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I, too, have no severe quarrel with the concept of energy conservation advertising funded by the Federal Government. However, just as the gentleman from Ohio (Mr. Brown) has stated, I am concerned about the cost factor.

I wonder if the gentleman might be willing to reduce the figure from $95 million annually to, say, $30 million?

That would give us a year to observe the program in effect, determine its viability, and find out whether or not it does do in the United States what it has proven to accomplish in other countries.

Mr. OTTINGER. Mr. Chairman, I am told that that amount would probably be inadequate if we want to be able to advertise by television in the major marketing areas under a sensible program.

The $95 million is not a magic figure. If the gentleman wanted to reduce that somewhat, I would be sympathetic but from the information I have and from the testimony we received, $30 million would probably be inadequate.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will be glad to yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, if we had $30 million to be used in the so-called test markets throughout the United States, knowing full well the media costs for advertising, I think the $30 million would be an effective and fair amount so that we could see what would happen during the first year of implementation.

In other words, we would be pursuing the program on a test market basis, which is what was reported in the subcommittee hearings as well. Under that policy, I believe the $30 million would be adequate.

Mr. OTTINGER. Mr. Chairman it is our position it would be inadequate.

We have had tests in Canada, in England, in Ireland, in Japan, and in the other countries which I mentioned, and their experiences have all been very successful. The objective here is to have a national media program to actually get us to save the kind of money they have in fact saved through their experiences.

I am not wedded and the committee is not wedded to the figure of $95 million. That was the best figure we could come up with after consulting the experts.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the subcommittee chairman.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I strongly support this amendment. I think my colleagues ought to know that on the basis of the Canadian experience—and the Canadian population is approximately one-tenth of ours, and its level of expenditures is approximately one-tenth of ours—it has been shown that they have totally reversed the trends in energy growth use as between the two countries. It used to be that we were much better in terms of the rate of growth in energy use than the Canadians. They now have an energy growth rate that is about half of ours, and they attribute it almost in its entirety to the kind of advertising program that is so carefully drawn in the amendment offered by my good friend, the gentleman from New York (Mr. OTTINGER).

I would point out that the savings from this kind of advertising program in this country are enormous. The Canadian experience is that on the basis of about a $90 million expenditure during the course of the year, they could project that this country, given the fact that our demography is approximately the same, and that our climate is approximately the same, as well as other factors, could save one quad of energy. One quad of energy is 180 million barrels of oil. That is somewhere between $25 billion and $50 billion in imports that could be saved by this kind of advertising functioning over the life of the advertising program.

That is also equal to 1 tcf.—1 trillion cubic feet—of natural gas. Since we are going to be importing natural gas from Mexico at about $3.40 a cubic foot, my colleagues can do their own arithmetic and come up with the figure that this kind of proposal would save.

What I am trying to impress upon my colleagues is the fact that this is not a political undertaking. The subcommittee will not tolerate that kind of exercise. But we will insist that this be a very carefully drawn program to inform the people (a) what they can do as good citizens, (b) how much money they can save and (c) how much energy they can save by cooperating in the national program for the conservation of energy. The Canadians have a program that is nonpolitical, it is enormously effective, and I think this country ought to have the same thing.

Mr. Chairman, I commend the gentleman from New York (Mr. OTTINGER) for his very able drafting and offering of this amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I appreciate the comments that the chairman of the subcommittee, the gentleman from Michigan (Mr. DINGELL), just made, but when he said they verified that this was solely responsible for the reduction in energy use, I would ask, who is "they," the bureaucrats who run the advertising department of the Canadian Government? Or is it the Canadian gas and oil companies, or is it the consumers?

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has again expired.

(On request of Mr. DINGELL and by unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I think my good friend, the gentleman from Idaho (Mr. SYMMS) raises a very good point. I would point out that the "they" is a reflection of what has been done on the basis of analyses by our own Department of Energy and by the Canadian officials who have been here and with whom we have met and who have testified in open hearings before the Subcommittee on Energy and Power on how the Canadian program works. I would point out also the analysis is done on the basis of the statements about how the Canadians have found their own program to work and on the basis of a very careful sampling and marketing audit in which they have engaged to find out how their program is working.

Mr. SYMMS. Who is doing the analysis?

Mr. DINGELL. The Canadians have done the analysis, and our people have checked their figures.

Mr. OTTINGER. Mr. Chairman, let me reclaim my own time.

Mr. Chairman, I think what the gentleman is trying to point out is that there is no clear way to establish cause and effect in this instance, any more than there is when a company which advertises a product and has a sales increase then attributes the increase solely to the advertising campaign. However, they did know that the advertising campaign took place, and that the results did follow.

The price increases undoubtedly contributed as well, and it is very difficult to isolate that, as I think the gentleman has indicated to us.

Let me say that the subcommittee saw the Canadian advertisements, and they are superbly done. They are dramatic. They are the kind where they show that with a particular kind of effort you can make improvements in your home. You see the energy used, and you see the dollar bills sweeping out under the door. Then you see the improvements you can make right away by putting some weatherstripping under that door. Then they show what the savings would be to this country if we did that kind of weatherstripping in order to conserve energy.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, let me ask do they have price controls on energy supplies in Canada?

Mr. OTTINGER. I do not know.

Mr. SYMMS. They do not have for natural gas they are selling in the Northwest. I know that, at least not on the part they are exporting.

Mr. OTTINGER. I do not know that. But if we take off controls, which I do not happen to agree with, the savings would be greater in this program. The two are not in conflict at all.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman used an illustration that I found very interesting, because I happened to be in Cleveland, Ohio, last night and I watched an advertisement on television, somewhat as the gentleman described. It was not from Canada, but it was some advertising by a private company trying to sell weatherstripping and the kind of home insulation that that particular company does.

Again, it seems to me that that advertising is an example of the private enterprise system providing a public service for us. Since we are allowed to take a tax deduction in the process we are persuaded the idea to conserve may have some practical merit, all without a special Government-sponsored advertising campaign.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has again expired.

(On the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, if I may proceed and if the gentleman will yield further, again I think the idea of advertising for conservation purposes may have some practical merit, but I do not know that it all has to be done by the Federal Government.

I would like to suggest to the gentleman that we might do it the way we do with some other things, in terms of marketing and advertising, and that is to try the test approach first.

Now, clearly, everything that sells to the Canadians does not necessarily sell to the Americans, even though we are neighbors and have a very close proximity, and so forth, in some metropolitan areas. We even play in the same National Baseball League.

I do not know why it would not be meritorious to prove that this advertising works to the taxpayers, who are the ones who will put up the money for this bill. Although the taxpayers are going to save money on insulation, I would like to help them save on their tax bill, too. Maybe we ought to try the test market idea and reduce the amount this amendment costs. Let us try that for a year and reduce the amount to $30 million.

I think of the "Johnny Horizon" program, and I think of the "Smokey the Bear" stuff, and I wonder whatever happened to Johnny Horizon.

Mr. OTTINGER. Smokey the Bear is around and very healthy, but I do not know about Johnny Horizon.

Mr. Chairman, I do feel that the experiences these other countries have had have shown a dramatic enough improvement that, yes, we could well plan to supplement it with the private sector, unquestionably to some extent and in some markets, since we are going into a national program.

If the gentleman would want to reduce this amount to, say, $60 million, I think we could do that. That would result in a somewhat reduced program.

Mr. BROWN of Ohio. Mr. Chairman, maybe we ought to reduce it to $30 million and try the test market idea. Maybe at $30 million we would not have the energy ban and some of the other things we have gotten into.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, U.S. dependence on foreign oil has created enormous trade deficits which lead to rampant inflation. The current rate is 13.4 percent. This results in the greatest hardships for persons who must live on fixed incomes.

In addition to the reduced buying power of the dollar, energy costs have risen dramatically. Gasoline and heating oil have doubled in price since 1973. Electricity and natural gas have experienced similar increases.

There is general recognition by the President and the Congress that some method must be devised to relieve the economic hardship on people living on fixed incomes which is caused from increased energy costs. The question is not whether or not relief should be forthcoming. The question is who will bear the cost. How will the energy aid policy be financed? There is no easy answer.

Do we devise a policy that would reduce utility rates for people living on fixed incomes causing an increase for the remaining customers served? This energy aid policy would mean increasing the burden on middle-income Americans who are already up against the financial wall.

Does the Congress formulate an energy aid policy of direct Federal subsidies to persons living on fixed incomes? If this be the solution then we must decide how the energy aid payments would be financed. There are two possibilities. It is unlikely that Congress will enact a tax increase to finance this worthy program for a tax increase under present circumstances would increase the likelihood of a recession which we must try to prevent. However, if Congress enacts an energy aid program without providing revenues with which to finance that program the Federal deficit will be increased compounding the spiraling inflation which must be brought under control.

There is a third possibility that invites much discussion. Does Congress provide energy aid relief by imposing a windfall profit tax on oil companies? This is appealing for it provides revenues without inflationary impact. But how much of these revenues are desperately needed for energy research and development, the result of which will provide new alternative energy sources needed to free America from our dependence on foreign oil?

Mr. Chairman, I oppose the gentlemen's amendment because the questions which are raised by it deserve full hearings on specific alternatives which I have described.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has again expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

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Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, my colleagues on the minority side have shown a remarkable attitude of constructiveness today, and one which is fully consistent with their membership on the Subcommittee on Energy and Power. They talked about one-third. I wonder if we can split the difference between the figure that they have suggested, the $30 million, and the figure suggested by the gentleman from New York, the $60 million. We have a good proposal and we can agree on it and dispose of this business and move forward.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, it has been difficult to hear the distinguished chairman, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I suggested that the gentleman from New York suggested $95 million, our good friend, the gentleman from Texas, has suggested $30 million. I suggest we split the difference and come up with $60 million and we will have a program which will be very much in the public interest.

Mr. OTTINGER. Mr. Chairman, I certainly would support such a compromise if the gentleman from Texas would, and we can dispose of the matter.

AMENDMENT OFFERED BY MR. LOEFFLER TO THE AMENDMENT OFFERED BY MR. OTTINGER

Mr. LOEFFLER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. LOEFFLER to the amendment offered by Mr. OTTINGER: On page 1, line 5, strike "$95,000,000" and insert in lieu thereof "$30,000,000".

Mr. LOEFFLER. Mr. Chairman, I think, basically, the debate surrounding this amendment has been rather complete. But I would like to reiterate again that $95 million for the first year of a test program is too much money. I think the $30 million will do the job of allowing the test markets to be pursued, to see if, in fact, we can have the type of advertising in the United States that has been experienced in other countries.

I might further add that it is the responsibility of the free market system, the private sector, to put together the type of advertising to promote their own goods and services for the American public, and $95 million is far too much taxpayers' money to be involved with the promotional aspects of energy conservation.

I therefore encourage the Members of the Committee to support my amendment.

Mr. GRAMM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, whether we settle here today on $30 million or $60 million or $90 million, I think it is important that we not miss this opportunity to see clear evidence of what happens when you try to tamper with the working of the market system.

Here we are trying to spend money to run ads on television or to put up billboards along the highway saying, "Don't Be Fuelish." I am struck by a paradox. We have good data going back 5,000 years on what induces people to conserve. We have good data on what induces people to produce. By and large, throughout the history of mankind, the thing that induces people to conserve is for that conservation to be in their self-interest. We have effectively stimulated consumption and stifled conservation in this country by regulating the price of energy.

We are here today talking about $95

million to advertise and tell people not to waste. We are moving toward votes on $88 billion to subsidize the production of alternatives. I simply submit that this is occurring because we are not allowing the market system to work, we are not allowing fuels to be priced at their replacement costs and, as a result, we do not have the natural market incentives.

I do not know whether advertising on television, asking people to conserve, is going to work or not; but I submit that there is no more basic interest than self-interest, and when each individual has an incentive to stop energy from seeping out under a door that is not properly insulated, then private industry is going to have an incentive to run these ads to tell these people they can do that job cheaper than somebody else. I submit that private industry can alert the consumer to his own self-interest better than we can.

I also submit that private industry, if we would allow energy prices to seek their natural market level, could bring on alternative fuels and could do so a lot cheaper than we are going to do with our synthetic fuels program.

I am not speaking either against the synthetic fuel bill or this advertising to induce people to conserve. I am simply pointing out what a paradox it is that we are paying for deregulation by having to advertise to induce people to conserve. We are paying for deregulation by subsidizing people to produce fuel, but we are not getting any of the benefits by concentrating the kind of self-interest that deregulation could produce on production and could produce on conservation.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I appreciate the gentleman's yielding.

Mr. Chairman, I think the gentleman has hit the point right on the mark. We ought to ask ourselves the question: How much more advertising do the American people need to understand that they need to conserve? Every time they go to the gas pump they know that gas is $1 a gallon, 40 cents above what it was just a few months ago. Every time they get a delivery of heating oil this winter they are going to find that the price on that bill has approximately doubled from what it was last year.

I do not know how much stronger, how much more explicit a message you need. That is a giant advertising campaign going on right now, simply through the message that is being transmitted in the prices. Beyond that, if you look at the advertising that is being done by all kinds of people in the market, listen to the ads for new autos that are being played over the airways today, they all stress fuel economy. How much more advertising do you need? Look at what the insulation business is doing, the storm window business, the hardware stores. Look at their ads. They are all talking about ways and things that are available in the marketplace to help people to conserve. In light of that, I do not see why we should throw $90 million down the drain, or even $30 million. It is being adequately handled in the private sector today, and we do not have the money to throw away in that manner.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, yes, we have advertising. We have advertising for the increased use of gasoline and all forms of energy. We have people in positions of power in both parties using special planes for fundraising political meetings, costing thousands of gallons of gas a day. That is advertising for consumption.

I would be more interested in the Ottinger amendment if we used this money to help the people who want to get away from oil consumption. That is what we ought to be doing, subsidizing to any extent, perhaps, solar installations in the homes of low- and moderate-income families, not spending money on advertising.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. Gramm) has expired.

(On request of Mr. Ottinger and by unanimous consent, Mr. Gramm was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to point out that the English have actually had experience with this, and for a period of 1¼ years they had an advertising campaign. The figures they have here for installing attic insulation are 103,000, 104,000, 137,000 homes. The prices kept rising. They took off the advertising campaign, and the number of homes insulated dropped to 75,000—these are quarterly figures—and then to 56,000. By reinstituting the advertising program, it went back up to 137,000, and so forth.

So the advertising campaign really did make the difference in achieving conservation and price increases did not. As I pointed out before, if you had decontrol conservation savings would make even more of a difference to the consumer.

AMENDMENT OFFERED BY MR. JOHN L. BURTON AS A SUBSTITUE FOR THE AMENDMENT OFFERED BY MR. OTTINGER

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. John L. Burton as a substitute for the amendment offered by Mr. Ottinger: Page 40, after line 23, insert the following new section:

AUTHORIZATION FOR CERTAIN CONSERVATION FUNCTIONS

Sec. 202. (a) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $45,000,000 for purposes of carrying out the program described in subsection (b).

(b)(1) The Secretary of Energy shall establish and shall, not later than January 1, 1980, implement a program under which the Secretary will enter into one or more contracts to—

(A) conduct a continuing national public awareness campaign to inform the public of methods of conserving energy, including the savings to the public (and the Nation) from such conservation; and

(B) conduct a continuing national evaluation program to determine the effectiveness of the campaign conducted under subparagraph (A).

(2) Such program shall be designed to achieve over the duration of the program—

(1) a reduction in domestic energy consumption of at least five percent; and

(2) an aggregate savings to the public of at least $17,500,000,000.

(3) Not later than January 1, 1980, and not less frequently than every 3 months thereafter during the duration of the program, the Secretary shall submit to Congress a report on the program, and the activities thereunder, established under this section, including the results of the evaluation under paragraph (1)(B) and such other information and recommendations as the Secretary may deem appropriate.

(4) Funds authorized to be appropriated under this section shall remain available for obligation or expenditure until September 30, 1981.

Mr. JOHN L. BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk continued the reading of the amendment.

Mr. DINGELL (during the reading). Mr. Chairman, I think that the differences now between the amendment offered by the gentleman from New York and the substitute offered by the gentleman from California are apparent. The difference is $45 million. I would ask unanimous consent that the reading of the amendment be dispensed with.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk continued the reading of the amendment.

Mr. JOHN L. BURTON (during the reading). Mr. Chairman, I would again beg unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHN L. BURTON. Mr. Chairman, I stand in the place where the great compromiser Henry Clay once stood and offer what I consider to be a great compromise. The midpoint between $60 million and $30 million is $45 million. This amendment would provide, a reduction from the $95 million, of $50 million; a reduction from $60 million, of $15 million; for a compromise figure of $45 million, that would go down in history, along with the Compromise of 1850, the Missouri Compromise.

Mr. Chairman, I yield to my uncompromising friend, the gentleman from Idaho (Mr. SYMMS).

☐ 1350

Mr. SYMMS. I thank the gentleman for yielding.

I would say at this time, Mr. Chairman, that I think the gentleman from Texas (Mr. GRAMM) made a very eloquent point, and it was further backed up by the gentleman from Michigan (Mr. STOCKMAN).

Just what is it we are trying to do here that makes the people in this body think that somehow we know what is best for all those people throughout the country and that somehow we know what kind of advertising is best for them.

We are talking about taking tax dollars, whether you take $95 million or $45 million, from the taxpayers of this country to tell them something they already know; and the premise under which this comes is a faulty premise. The energy shortage is a fraud—what we have is a supply crisis brought on by Government controls.

If the Federal Government would get out of the way, this Congress would remove the controls on prices and the controls on allocations. There would not be an energy supply crisis. There would not be lines at the gas pumps.

We have induced this supply crisis on the country, and now we want to somehow justify the shortages that we have brought about by laws that have been passed by this Congress and then have some advertising program to tell those people, who already know what the problem is, what they need to know.

I think that it is just a waste of the taxpayers' money. What needs to be done is to remove allocations and price controls, and free the marketplace; and then we will see self-interests take over, and people will know that it is time to put up insulation.

I thank the gentleman for being so generous with his time.

Mr. JOHN L. BURTON. I thank the gentleman for his comments.

What I am trying to do is move this issue forward so we can get on with the issue that we are talking about in a little while, price control, and that whole problem. I thought it was the compromise that probably would expedite the matter. It looks like nothing would expedite it. I think it makes sense, and I yield back the balance of my time.

Mr. STOCKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not want to prolong this debate, but it seems to me there is a great deal of levity being made here about a fairly serious matter. One of the problems that I have with this amendment is apparently we do not remember anything in this House that we have done in past years.

We have a Department of Energy now that has been given dozens of functions in this same area. Yet here we have a $90 million amendment on the floor, or $45 million or $30 million, or whatever the case may be, and we have forgotten everything we have done in the past.

Now, in last year's energy bill, we authorized a complete program of audits for every home in this country through the utility audit program. If they ever can get the rules written and the program off the ground down at DOE, the very kind of thing that this amendment is seeking will be underway.

Over the last 4 or 5 years, we have been spending $30 to $40 million a year under this State energy office program.

What are all those bureaucrats in the State offices doing? They are traveling around the State trying to give people tips about conservation. They are trying to educate the public about steps that might be taken in order to use fuel more efficiently in this country.

I cannot stand here and recall from memory all of the different authorities, authorizations, and programs that are in that huge Department of Energy today that are designed for this purpose, to educate the public about ways that they can conserve energy, but I would dare guess there are literally dozens of them and that they are spending tens, if not hundreds of millions of dollars a year, already for this purpose. And this is on top of everything that is being done in the private sector today to induce people to buy things like storm windows and insulation, more fuel-efficient cars, and the whole range of items.

It seems to me that a time when we are in an international and national financial crisis, when we have had all this turmoil in the last 4 or 5 days, which is symbolic of the reckless fiscal attitude that we have had in this Congress over the last 3 years, we should not be sitting here tossing around an idea to spend $30 or $90 million when the justification has not been made that we really need to do this and when we have all of these operations underway already.

So, it seems to me, it would be irresponsible of the House to adopt the $90 million amendments.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I would be happy to yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

I would like to underscore his opposition and express my own opposition to this amendment. I have just been following some of this debate in the last few minutes during the break of the conference committee deliberations on the budget resolution.

We are struggling to try to find a few million here and a few million there to bring that budget deficit somewhere down to $30 billion.

To be thinking about spending $30 million or $45 million or $90 million more, when we are having a terrible time trying to get the deficit below $30 billion, makes absolutely no sense.

Also, there is something called public service support in the advertising industry. I do not want to harken back too much to 10 years ago, when I was at the White House in the Johnson administration, but the Advertising Council was very willing to take on projects such as this to produce the ads, to get them placed, to pay for these placements.

It seems to me, if there is really a need to have this advertising program, the President of the United States can express that need to the advertising industry, and he will get full cooperation. I think this amendment makes no sense whatsoever.

Mr. STOCKMAN. I appreciate the gentleman's remarks. I think he has spoken very eloquently on what is the underlying issue here. I would hope that the pending amendment would be defeated.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Texas.

Mr. GRAMM. I would like to say that if the efforts of our great compromise are successful and program costs should be lowered to $45 million, perhaps we should spend the other $45 million running ads in Houston and Tulsa urging producers to produce.

If these ads can be so productive in conservation, perhaps if we ran ads encouraging drillers to drill more wells or be more productive, that might work as well.

Mr. STOCKMAN. I appreciate the gentleman's remarks.

Mr. OTTINGER. Mr. Chairman, I rise in support of the compromise.

Three cheers for Henry Clay, and three cheers for the gentleman from California (Mr. JOHN L. BURTON).

I think we have discussed this enough. We have given the Department of Energy lots of tools, as the gentleman from Michigan (Mr. STOCKMAN) says. However, we have not given them the most effective tool, which is to go to the public as the companies do through the advertising media. I think it could make a difference. It certainly is worth the kind of test try that a $45 million program would represent. I urge adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. LOEFFLER) to the amendment offered by the gentleman from New York (Mr. OTTINGER).

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided; and there were—ayes 10; noes 12.

So the amendment to the amendment was rejected.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON) as a substitute for the amendment offered by the gentleman from New York (Mr. OTTINGER).

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided; and there were—ayes 15; noes 10.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER), as amended.

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 18, noes 19.

So the amendment, as amended, was rejected.

□ 1400

AMENDMENT OFFERED BY MR. MOFFETT

Mr. MOFFETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MOFFETT: Page 40, after line 23, insert the following new subsection:
>
> (c)(1) No funds appropriated pursuant to this Act may be expended to promulgate or administer any amendment to any regulation under the Emergency Petroleum Allocation Act of 1973 if that amendment allows for the actual weighted average first sale price of crude oil produced in the United States to exceed the maximum weighted average first sale price.
>
> (2) For purposes of paragraph (1), the term "maximum weighted average first sale price" means the maximum weighted average first sale price specified in subsection (a) of section 8 of such Act, as adjusted as provided under the provisions of that section (as those provisions were in effect May 30, 1979).

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. DINGELL) reserves a point of order.

Mr. MOFFETT. Mr. Chairman, we have been through this issue many times before and for this Member this is the fifth year at least in which I have debated the issue. I hope the debate today will take the same high grounds that it has taken in the past.

But I think it is important that we start off by examining some of the reasons given for the decision that was made by the President to lift the price controls or allow them to be phased out of commission and some of the justifications given by Members for supporting that decision.

Let me hasten to add that one thing I have learned in 5 years is that Members who do support decontrol are sincere, the vast majority, without exception, sincere in their belief that it will, in fact, do a number of things.

Let us examine the things they say will be accomplished by decontrol of energy prices.

First of all, they say that we will have a dramatic increase in production.

Second, they say we will have significant conservation that will result.

Third, they say most of the price increase that we have seen thus far and in recent months has come from OPEC oil and not from the cost of decontrol. They believe in a free market and they believe a free market exists and should be allowed to operate in the energy industry, in the energy arena, in the energy marketplace.

They say that the cost to consumers mentioned by so many of us, and not only to individual consumers but to businesses and to local and State and regional economies, is nearly negligible compared to what we have seen in return.

Finally, they point to a windfall profits tax as their answer to provide some protection, some recovery of what are admittedly windfall profits. Of course, they point, rightly so, to the problem that stems from importing so much of our oil.

Again, I have great respect for the people who make these arguments. I think they are sincere in making them. But let us go over a few of the points that are raised.

First of all, with regard to incentives, even without decontrol this industry has invested great sums in exploration and development. According to the Oil and Gas Journal, an industry publication, the industry budgeted $12.9 billion for domestic exploration, a 12.4-percent increase over last year. This is on top of a 19.3-percent increase in 1978 over 1977. The total capital spending is expected to be $33.5 billion in 1979.

In the recent book published out of Harvard Business School entitled "Energy Future" we learn the following, and I quote:

> By any measure, the rewards for finding new oil have increased substantially since 1973—even the regulated price of newly found oil has more than tripled compared with an approximately doubling of drilling costs.

Charles Maxwell, an investment analyst, said that the oil companies are "great cash flow machines" which will "float into the early 1980's on a sea of cash." This is before decontrol.

Further, with regard to production and production incentives, the Energy Information Agency has said that decontrol will not increase domestic production above the current 10.2 million barrels a day, and our own CIA, the Central Intelligence Agency, has just told us quite recently that domestic production will actually decrease by a million barrels a day by 1982.

Even looking at the most optimistic projections of increasing production by 600,000 barrels a day by 1985, that represents less than 3 percent of the projected demand for crude in 1985. The cost of those 600,000 barrels a day will be in the neighborhood of $209 billion, according to the Congressional Budget Office. I will compare that to a savings of 700,000 barrels a day that comes from the administration's own proposed solar and conservation measures which would only cost $5.5 billion through 1990.

I think that helps us to put it in perspective.

In his news conference not too many days ago the President of the United States pointed to inflation and he said:

> Had it not been for energy price increases, for instance, the inflation rate during this summer would have been the same as it was in 1978 and 1977.

The CHAIRMAN pro tempore. The time of the gentleman from Connecticut has expired.

(By unanimous consent Mr. MOFFETT was allowed to proceed for 5 additional minutes.)

Mr. MOFFETT. Further quoting the President, he said:

> We were all surprised by the rate of inflation brought about primarily, as I said, by an annual rate of increase of energy prices the last few months of more than 100 percent per year.

These are the President's own words.

We are not arguing here about incentives for oil that would not otherwise be discovered, and let us make that clear. In fact, the composite price created by the 1975 legislation does not even relate to Alaskan oil or stripper oil, as my colleagues know, and the producers have banked costs of $4 billion that they can utilize currently with regard to newly-discovered oil. Those of us who are in favor of recontrols and some protection to stem the tide of inflation in some small way, are not against incentives for those river boat gamblers to go out and find new oil. What bothers us is to see old oil—discovered before 1972, investment recovered, producing away day in and day out—to see that old oil go from $6 to $15, to $18, to $23.

If the children of my colleagues ever say, "Dad," or "Mom, what is inflation," there is a beautiful example you can give them. You can say, "Son," or "Daughter, here it is, $6 to $23 with zero, virtually zero production in return in the name of the free enterprise system and in the name of the free market."

Many of my colleagues have been home, some of you have talked in your town meetings, and you have said we want to counter OPEC with more production. I ask my colleagues to look at the facts on what is going to be produced. Some of you have been home and you have said in your town meetings with the greatest sincerity of conviction that we want to get great conservation. Look at the facts on what conservation is actually being achieved. Look to people like Seymour Zucker, economics editor at Business Week, who says:

> The evidence shows the elasticity of demand for oil products is extremely low. Numerous estimates put the elasticity of demand for gasoline at about 0.1 over a 2-year period; it would thus take a huge 100 percent increase in gasoline prices to cut consumption by only 10 percent.

□ 1410

In other words, prices would have to hit $3.50 to $4 per gallon to reduce that 20 percent, so then we go home and we tell our town meetings and our constituents that decontrol is the only way, that decontrol is an answer. Let us stop and look at the facts.

I do not pretend that this amendment, and those who support it do not pretend or allege, that it is a saving grace. I personally would like to see all of us who have been debating for so many years move on to some new ground and try to reach a compromise where we do not have so much interference in the marketplace, so much bureaucracy, so many regulations—some of them unnecessary. I would like to move to that new ground too.

I ask my Democratic colleagues, what are we really all about? Are we about leaving the public in our wake with regard to social implications of our policies? The fuel assistance program does not begin to help the working class, the middle-class families who are affected. Let us not pretend that it does. So, what are we trying to do in the name of a free market?

I ask you, and I ask you to reexamine your arguments and rationales. Look at the facts and look at the figures on this particular issue. I think you will find that it is at least worth waiting a year for. Let us see what Senator LONG and others do with the windfall profits tax. We have all heard what they are doing with it. Many of us have been home and said that the windfall profits tax is a wonderful thing, but you know, it does not give consumers protection. It is an illusion of protection and is giving less and less of the windfall profits back into the Treasury after the Senate Finance Committee has gone its way.

So, let us at least wait a year. That is all this amendment says. Let us give it a chance and deal with what everyone says is the No. 1 problem affecting America today, inflation. Here is a chance to deal with it despite all the injustices, despite the regulations we would be required to put into the vehicle. I would have preferred Mr. ECKHARDT's approach. But, this is the only vehicle we have, given the authorization we are going to have to work with. We probably will not have the 1979 authorization.

So, this is our vote on decontrol. Despite all the imperfections and despite all the gray areas, this is it. I urge my colleagues, let us wait a year and see what happens. Let us not allow flowing oil to increase from $6 today to $23 tomorrow, when the producers are basically doing the same thing they would under controls. If they want to go deeper and use enhanced recovery procedures, we are not arguing that they should get necessary incentives. We are not arguing that. We are arguing about going from $6 to the world price in a relatively short amount of time, for oil on which investments have already been made.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I thank the gentleman for yielding. I would like to compliment him for offering this very important amendment.

The CHAIRMAN. The time of the gentleman from Connecticut has again expired.

(At the request of Mr. MOTTL and by unanimous consent, Mr. MOFFETT was allowed to proceed for 3 additional minutes.)

Mr. MOTTL. Mr. Chairman, we cannot let the American public be held hostage by giant oil companies and OPEC members for whatever price they wish to demand. But that is exactly what we will be doing if we allow oil prices to be decontrolled.

Oil products are as much a necessity of life for most Americans today as food on the table. We cannot gamble on the affordability of oil and gasoline to the average American simply to test out the already discredited theory that somehow, by simply paying more for oil, there will be more available to buy.

Let us look at a few facts.

Oil price decontrol would add a full percentage point to inflation over the next 2 years, boosting prices for gasoline, home heating oil, and every other petroleum-based product. Americans are already backed up against the wall by inflation—how much more can we ask them to take?

Oil decontrol will not mean greater production. Over the past 7 years, domestic oil prices rose threefold and drilling costs only twofold, yet U.S. oil output actually declined. Instead, we are seeing enormous oil industry profits pumped into unrelated businesses or used to move into other energy sources.

Decontrol will not reduce consumption. Like it or not, our society is based on the availability of energy in massive amounts. Americans have adjusted as best they can and will continue to do so. But we have reached the point where more rapid price increases simply mean economic hardship for millions.

Finally, oil decontrol only takes money out of consumers' pockets and transfers this wealth to the oil giants—seemingly legitimizing the shakedown OPEC has been giving us for years.

But rather than fight back against OPEC through a grain cartel or other means, we are being asked to surrender to our own oil industry as well.

This surrender to economic power held by OPEC and the oil giants is not what the American people want, and not what I want. I urge you to vote for the amendment.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding. While I come from a Sunbelt State, I learned the volatility of this issue on the Fourth of July when a constituent approached me at an Independence Day picnic at Marmaduke, Ark. He said that he had traveled around the State over the past year and talked to the big men in the State of Arkansas, and that they had decided that if I and President Carter did not vote to lower the price of oil they are going to get somebody to replace us.

My question is this: The United States uses about 18 million barrels of oil per day. About 10.5 million barrels come from domestic production, and 7.5 million barrels from foreign production. The gentleman's amendment applies only to domestic production. Would it in any way, in his judgment, affect the price of the oil that we import from the oil producing exporting countries (OPEC) which export about 7.5 million barrels per day to the United States?

Mr. MOFFETT. As the gentleman knows, I and others—and perhaps the gentleman is one—would like to see a different policy with regard to OPEC, a little more toughness. But, at this point we cannot effect that. As the President said the other day, his actions have not really affected that.

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. MOFFETT. I would like to say as a final statement, Mr. Chairman, that even Paul Davidson, a former assistant director of economics at Conoco, had this to say:

> The Carter deregulation order announced to the world that the U.S. Government recognizes, legitimizes, and gives respectability to the actions of a cartel which explicitly extorts huge sums of income from consumers throughout the world.

It is a choice between an energy policy that says production and production incentives as dictated by the companies themselves and one in which the Congress provides the signals. I do not regard the companies as any more evil than anybody else in society. They are doing what comes naturally. It is a policy of decontrol which follows the dictates of those companies. When they say enough is enough, that is when it will be enough, and they will never say enough.

On the other hand, I think there is another way. Regulation is admittedly cumbersome in some respects, but it gives at least some protection to consumers; regulation by people who believe in regulation, with conservation incentives, renewable resources, and yes, reliance on conventional resources such as oil, gas, coal, and other fuels.

That is the choice before us today, and I hope Members will find it within themselves to examine this position carefully and support this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Connecticut has again expired.

(At the request of Mr. LUKEN and by unanimous consent, Mr. MOFFETT was allowed to proceed for 1 additional minute.)

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Connecticut and congratulate him on the leadership that he has shown in this very vital matter. I hope that we can seriously resolve it, because I would like to add to what has been said, that this idea of cost rationing, of conservation by inflation, is the one that we have to oppose.

It has really crept into the fiber of the general discussion, that somehow because other countries which have different kinds of economies, different kinds of transportation systems, have higher costs of oil, that somehow that can be translated into the same situation here, and that we have a governmental policy which actually advocates inflation in energy, which has resulted in a 60-percent increase in energy costs, which is our real inflation factor in this country today. I think that is where we have to really nail it down and to oppose it, as the gentleman has.

☐ 1420

Mr. LUKEN. Mr. Chairman, decontrol will further increase inflation and will further erode confidence in the President's anti-inflation program. While the CPI for nonenergy prices has risen 64 percent over the past 7 years, the CPI for energy prices has surged ahead at an average rate of 108 percent, with some energy products outstripping even this high rate. And workers wages increased only 50 percent during this time. To deal with the problems of energy prices and inflation, not only should controls be kept on crude oil, but wellhead oil and natural gas prices should be brought under the anti-inflation guidelines.

Decontrol will have a devastating impact on the poor and elderly. An Advisory Committee to the Department of Energy reports that in 1978 poor families alone paid $8 billion more for energy since the embargo than they would have had energy prices just kept pace with inflation. This represents a loss of purchasing power of over $500 per family. And decontrol would push that figure even higher. The average poor family is currently spending $1,100 of its $3,300 income on energy, and that figure will rise to nearly $1,400 under the President's decontrol plan. The $100 payment which the President proposes to give the poor and elderly out of revenues from the proposed, already inadequate, windfall profits tax is hardly sufficient to meet the needs of the poor.

The inequities of decontrol will not be confined to the poor and elderly; the middle class will be hit hard, as well. It will not only see its own bills jump, but will foot the national bill for decontrol's damaging side effects—more welfare, greater medical costs, and more support for aging parents who can no longer make ends meet.

In addition to continuing and even improving controls, strict conservation measures should be adopted. The conservation measures that the President announced in his recent energy address—mandatory thermostat settings and reductions in unnecessary lighting, energy efficiency standards for buildings, wheeling of electricity from non-oil-fired generators, enforcing the 55 miles per hour speed limit—will reap far greater savings than those alleged from decontrol, yet will add absolutely no cost to family energy bills. Additional conservation measures could be taken, as well, to save even more energy.

Further, the U.S. Government should assert greater control over energy policy, rather than turning this control, as decontrol would do, over to the OPEC cartel and the major multinational oil companies which march in lockstep with it. And, of course, these corporations have no responsibility for the public good and no accountability to the public. The Government, on the other hand, does have such a responsibility and must put energy policy in its own hands.

Mr. MOFFETT. The gentleman makes an excellent statement, and I thank him for his leadership on the Committee on Interstate and Foreign Commerce.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. Mr. Chairman, I do not.

Mr. LOEFFLER. Mr. Chairman, I rise in opposition to the Moffett amendment which in essence reinstates the composite mechanism that was in effect May 30, 1979, pursuant to the terms of the Energy Policy and Conservation Act.

As a nation, if we are to regain energy self-sufficiency in the future, we must pursue every available domestic option toward allowing the free market to increase production of all available American energy resources—not only oil and gas, our conventional sources; but also nuclear, solar, geothermal, kinetic, winds, coal, synthetic fuels, gasohol, and so forth.

A short-term solution to our energy crisis is to bring on stream as rapidly as possible increases in domestic crude oil production. This can only be attained through the elimination of price controls—not the reimposition of such controls. President Carter's administrative decontrol program which began June 1, 1979, means increased production by 1985 of between 740,000 and 840,000 barrels per day. Each one of those additional domestic barrels will back out one barrel of costly and vulnerable imported crude.

Recontrol will reduce domestic production of crude oil. And it is faulty logic to believe that recontrol will reduce prices paid by the ultimate consumer. We will only regain control over prices paid here at home where adequate domestic energy mix to meet our daily needs. Until that time, OPEC will set the price.

Case in point is the fact that since enactment of the Emergency Petroleum Allocation Act in 1973, price controls have not had any effect on holding prices down for U.S. consumers. The cost of imported crude has climbed from $3 billion in 1972 to a staggering $60 billion this year, as we increased our reliance on foreign crude from 4.7 million barrels per day to more than 8 million barrels per day. During this period the average price of gasoline has risen from 36 cents per gallon to $1.00 per gallon—under price controls. And, lower 48 production has declined some 20 percent since 1973, from 9.2 million barrels per day to 7.4 million barrels per day.

Reimposition of price controls will cause all of us, the consumers of America, to pay more for less.

As long as we are dependent upon OPEC, we will have outflow of American dollars for OPEC jobs, which will produce OPEC energy. OPEC will decide the amount of crude to be produced, when such production will occur, to whom it will be sold, and what their selling price will be. Our economy, which has been energy-dependent since the industrial revolution, will remain in jeopardy. Only decontrol will effectively decrease the dependency of this nation on costly, strategically vulnerable and economically debilitating imports of crude oil and only decontrol will generate American dollars, for American jobs to produce American energy. We simply cannot afford to continue a policy of OPEC abroad; opaque at home.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding. I would like to commend the gentleman for his statement. I think it is a point that has to be well taken, particularly with respect to what the gentleman from Connecticut (Mr. MOFFETT) was just saying, that he would like to have a tougher policy with OPEC. I can think of nothing that is going to make it easier on OPEC than if the amendment offered by the gentleman from Connecticut is passed, because we provide a price umbrella for OPEC. We punish domestic producers in that we pay Texans and Californians $6.50 to produce a barrel of oil, but we pay the OPEC countries $20 a barrel. Talk about discrimination, that is the rawest form of discrimination I can think of, and that provides no incentive for those domestic producers to produce more. The incentive is for the foreign producers to produce more while they laugh all the way to the bank at the American lack of understanding of the economic system that made America a country so great that we can afford to consume all of this energy.

I think the gentleman makes a very good point.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. SYMMS, and by unanimous consent, Mr. LOEFFLER was allowed to proceed for 2 additional minutes.)

Mr. SYMMS. If the gentleman will yield further, I think it should be pointed out, in all of this semantic jungle that we live in here with the misuse of our language that inflation is caused by two factors. The first one, of course, is counterfeiters. Most of them end up in jail sooner or later. The second one is caused by the Congress of the United States printing money and running deficit budgets to expand the money supply; and OPEC, the labor unions, big business, small business—what have you—have nothing to do with inflation. It is true it can cause some rising prices, but that is to say that the wet sidewalks would cause it to rain, is the saying rising prices cause inflation. It is absolutely an erroneous statement and a myth that is believed by so many Americans that somehow oil prices set by foreign countries are what cause inflation in this country when it is really the deficit financial budget that creates the counterfeiting of our currency, if you will. It is no wonder they raise the price if we keep printing money, because it takes $2 to buy today what $1 bought only 10 years ago. So they continue to raise prices to offset the declining value of the American currency. I think those are the points that we should take under consideration. I would hope we would repeal the whole apparatus.

At the proper time, Mr. Chairman, I would like to offer a substitute amendment for the amendment offered by the gentleman from Connecticut (Mr. MOFFETT), which is now at the desk.

Mr. LOEFFLER. I thank the gentleman for his remarks and for his opposition to the Moffett amendment. I would like again to reiterate the fact that if we are to achieve the reduced prices for energy in the United States, we will only be able to do so when we are no longer dependent upon OPEC for our domestic energy supply.

I urge my colleagues to oppose the Moffett amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I urge my colleagues not to treat this question as a question between control and total decontrol, and I urge my colleagues to consider this question not as they would have 8 months ago but as they should treat it today. The question is not one of control or decontrol but the timing and the rate at which we permit costs of oil to increase in our economy.

I would like to point first to the chart that I have here to my right. It looks like a bunch of big buildings in a city. The first tall points there indicate the direct impact of energy prices on the annual rate of inflation, and the first portion of that chart is the period around the time of the OPEC embargo of oil to the United States.

Now in the period between 1974 and the beginning of this year, the Members will note that increasing oil prices were not fueling inflation to a great extent; they were running at about the same rate as inflation generally. But from the beginning of January 1979, to the present time we again have this peak point of oil prices, again exacerbating inflation at an enormous rate. Of course, after the original OPEC embargo, we had a recession around 1974 and 1975. Again we are confronted with a recession as we read in the newspapers today.

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The point is, should we at this time, when inflation is running at approximately a rate of 14 percent per year, add to the load of consumers and enrich oil companies at the rate of approximately $1 billion a month? That is the question. I say we should not.

Mr. Chairman, the attempt being made by the Moffett amendment and which would be made by mine in a more direct way if the 1979 authorization bill were brought up, the attempt that is made here is simply to continue the provisions of the Energy Policy and Conservation Act at a time when inflation is running higher than it has ever run within the recent past in the United States. We should simply let oil controls phase themselves out over the period between now and the end of September of 1981, instead of, as the President has done, accelerating the removal of those controls as of June 1 of this year. When the President did that he speeded up decontrol with a cost to the consumer of approximately $1 billion a month.

Mr. Chairman, where does the money go? Does it go to the discovery of new oil? Perhaps if it did the argument I have heard from the other side of the aisle would be correct. Perhaps if we completely decontrolled, there might be some encouragement of production of oil in this country. It is my feeling, however, that the increase in price from approximately $3.80 in the fall of 1973 to a new oil price which is around the $13 rate at the present time, is sufficient to encourage production now. However, if it were not, there remains about $4.5 billion in the bank, accumulated under the EPCA composite price controls provisions to further encourage oil production. The question is, do we need to add another $1 billion a month on the consumer as a further incentive to produce in this country?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for an additional 5 minutes.)

Mr. ECKHARDT. I think the answer is clearly no. If we were to extend EPCA controls we would not only save this $1 billion per month but we would also permit a gradual decontrol over that period. I want to remind my colleagues that EPCA provided for an increase in the composite price of approximately 10 percent a year. It also was altered in the conference committee in 1976 to permit about 15 percent of domestic oil, stripper oil, to go completely to the world price and, in addition to this, there are, as I have said, about $4.5 billion that can be used as an extra spur for things like enhanced secondary recovery.

Mr. Chairman, there has indeed been a spurt in discovery after the passage of the controls in 1975. There was a consistent rise in the rig count from that time until relatively last year and exploration activities have risen until the present.

Now, let us look for a moment at what has happened with respect to energy prices. Energy prices here constitute 6 percentage points of the 14 percentage points of inflation at the present time. What that means is that what the consumer has to spend on transportation has gone from one-seventh of the consumer's expendable income to one-fifth in the last 20 years.

In addition, housing, because it includes house heating and also because it includes interest rates raised for the stated purpose of controlling inflation, has gone from 28 percent of the consumer's dollar to 38 percent.

At the same time, the portion of the consumer's expendable income that goes for medical and health services has diminished from 7.6 percent to about 5.5 percent. That means to drive your automobile with $1 gasoline you have to forego some medical care.

Also, the clothing segment of the consumer dollar has shrunk from about one-ninth to about a one-fourteenth of the expendable income of families. We are foregoing necessary goods and services because of inflation in the area of oil.

Mr. Chairman, all in the world that the amendment of the gentleman from Connecticut (Mr. MOFFETT) and mine, if it were permissible, purports to do is not to keep permanent control on oil but simply to let it phase itself out. Old oil will be in such small quantity by September 30, 1981, that controls would no longer be meaningful. However, under the President's program most of that $15 billion which he estimates the program will cost between now and 1982—incidentally, it is a very small estimate—but most of that cost will not go to encouraging new oil. Two-thirds of it goes to increase the price of old oil which is nothing in the world but a bonanza to the major oil companies.

Mr. Chairman, if working people are called on to tighten their belts and take only a 7-percent increase in wages, if the country is to tighten its belt on housing and other necessities, why cannot the same kind of restraint be placed on the major oil companies?

Mr. Chairman, I know that it will be said, and it has been here, that a portion of this inflation is due to the cost of foreign oil. Let us see why the price of gasoline increased by 24.6 cents from January 1 to the present.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HARRIS, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for an additional 3 minutes.)

Mr. HARRIS. Mr. Chairman, would the gentleman yield to me?

Mr. ECKHARDT. I will yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I rise in support of amendments to the DOE fiscal year 1980 authorization bill which continue mandatory price controls on domestically produced crude oil. President Carter claims decontrol of domestic crude oil will decrease our dependence on foreign oil, increase our supply and decrease energy consumption, but a hard look at the facts clearly demonstrates that oil decontrol must be defeated because it will not achieve the intended results. Its real consequences will be devastating—intensified inflation and massive additional burdens on those already overburdened by inflation and rising energy prices. Before the American people are asked to fork over billions of dollars to big oil for decontrol, we need to ask some hard questions.

How much will decontrol reduce our oil imports and increase domestic production? For the enormous cost of over $16 billion a year, decontrol simply will not decrease our dependence on foreign oil. Higher prices for oil does not translate into increased production. Even the administration claims production would only increase by 3 percent of our current consumption and most of that would be from faster pumping of existing reserves—not from expanded exploration. Higher prices have led to producers maximizing their profits by draining existing fields as fast as possible.

Will decontrol encourage conservation? The Congressional Budget Office estimates that by 1985 decontrol would reduce current levels of energy consumption by only 1.7 percent—not much of a savings for $16 billion a year in higher fuel bills. Price increases have historically proven to be ineffective in dampening consumer purchases of gasoline. The painful truth is that energy is an essential commodity and price manipulaton is not a sensible way to achieve conservation.

What about the cost of petroleum products? When President Carter announced his decision to decontrol domestic crude oil, it was estimated that gasoline and other fuel prices would rise about 3 to 5 cents per gallon. Now, these estimates have been proven to be extremely low. The Nation has entered into the early stages of a major oil price increase that will be the largest since OPEC quadrupled prices during the 1973–74 oil embargo. Decontrol is now estimated to add between 8 to 10 cents per gallon to gasoline and other fuel products.

As anyone who drives a car knows, the price of gasoline has already skyrocketed. The average cost for leaded regular gasoline in Virginia has increased 42 percent in the first 7 months of 1979. The increase in unleaded and premium gasoline has been even greater. And gasoline is only one of the vital fuels affected by increases in crude oil costs. Natural gas, electricity, and home heating oil prices are all linked to crude oil prices and have begun to rise dramatically. This brutal escalation of energy prices is directly linked to President Carter's decision to decontrol crude oil.

Finally, what about inflation? In recent months, sharply escalating energy prices have constituted the principal causes of inflation. Up to January 1979, energy prices rose at about the same rate as all other consumer goods, and the energy contribution to inflation was relatively small. There has been a dramatic change, however, during the past few months. Since June, direct energy costs have added between 4 and 6 percentage points to the rate of inflation. In September alone, energy costs climbed 6.8 percent. That means the inflation rate is double-digit because of direct energy prices alone. To this we must add the indirect impact on consumer prices of raging inflation in wholesale energy costs to the industrial and transportation sectors. Skyrocketing oil prices are clearly rippling through the economy and fueling the inflationary spiral with little relief in sight. What is needed is an energy policy that will help contain our raging double-digit inflation rather than spurring it to even higher levels.

I believe the President is right when he says that we must reduce our consumption of foreign oil and our dependence on the OPEC cartel. These goals are ones that everyone can support. However, we cannot achieve these goals by enriching a few giant oil companies at the expense of the American consumer. Decontrol will not get the country any closer to energy independence. It will, however, insure that millions of people who can little afford it will become involuntary contributors to record profits of the oil industry for years to come.

I believe Congress must act now to reverse President Carter's decision to decontrol domestic crude oil prices and I will support amendments to the DOE fiscal year 1980 authorization bill to achieve this.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Mr. Chairman, I want to compliment my distinguished friend, the gentleman from Virginia, for putting his finger right on the point.

Let me expand on his comments a moment, and then I will yield.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, why did gasoline prices go up? I think this chart illustrates it. This is the dip in oil production from October through approximately April of this last year. The dip in oil production in that period, I believe, was greatly exacerbated by the prospect of removal of controls this June. This is what the dip would have been at the bottom of this chart had it run at the same rate that it ran on the average from 1974 to 1978. The shaded area is the shortfall of oil production because of that dip. That is about 28 million barrels of oil during that period of time.

As we all know, the lines began to develop because of the shortage of gasoline at this period of time. Prices went up sharply. The public was willing to accept price increases that went up 24.6 cents during the period from January 1 of this year to the present. That was not because of OPEC increases. That was because of domestic policy largely. Of this total of 24.6 cents, imported crude contributed about an 8.5 cents increase. That, of course, was a result of OPEC increases, at least partially.

Domestic crude contributed 4.5 cents.

The refiner-reseller margin that was, incidentally, largely because of the tilt which permitted an increase at the rate of about $5 billion a year to refiners, increased the price of gasoline 3.6 cents, and the retailer margin increased it by 7.4 cents.

In other words, items totally controlled by domestic policy resulted in two-thirds of the increase in gasoline prices during that period of time. A comparable figure is attributable to middle distillates, that is, home heating oil and diesel. Gasoline went up a total of 36 percent in the short period of time from January 1 of this year to the present time. Diesel fuel went up 50 percent during that period of time. If we continue this type of inflation, as every responsible economist has pointed out, we are going to be in a recession.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have been discussing and debating the issue of oil decontrol ever since I have been in the Congress; as the Congressman from Connecticut (Mr. MOFFETT) so clearly pointed out, this issue is of great concern to all thoughtful individuals.

Before starting a discussion of the Moffett amendment and my opposition to that, I wanted to commend the gentleman from Connecticut and the gentleman from Texas for their very careful and clear and I believe unemotional, thoughtful approach to the problem. There has been a tremendous amount of I think very loose rhetoric surrounding the oil issue. I think that while we disagree, I did want to commend the two previous speakers for their very careful presentations.

I would like to start, Mr. Chairman, by pointing out that the issue we are facing on oil decontrol is not an issue of price; rather price is simply symptomatic of two deeper issues: geology and economics.

Let me place this in a broader perspective. At this time in the United States, approximately 50 percent of our oil is imported and that is at a decontrolled or an OPEC price. Approximately 20 percent of our oil domestically produced is already at a decontrolled price; that is Alaskan oil, deep stripper, stripper, and marginal wells; so we are left with only 30 percent of our national oil consumption under controls.

Let us look at this remaining 30 percent. Half of that amount is middle distillate, and half is gasoline. Middle distillates are currently decontrolled, so the reality of the situation is that this debate on oil decontrol is focusing on only 15 percent of the amount of domestic oil consumption in the United States; only 15 percent. As we decontrol that 15 percent with what are admittedly going to be in my opinion modest inflationary impacts, our analysis has to include the return we as a country receive on the decontrol of that 15 percent, which is what we are talking about.

I believe that the case can be and is very convincingly made that the return to the country for the decontrol of that 15 percent very significantly outweighs any cost to the economy and to the society that accrues from that decontrol.

Let us look at the variables that must be included in this analysis. Those have been brought up in the discussion over the last 4½ years and most have been or will be touched on today: Conservation, increased production, alternative energy sources, regulation and the value of the dollar. The returns from these five variables thoroughly outweigh the costs of decontrol.

Let me briefly take these one at a time. First of all, the production increase coming from decontrol. I think the gentleman from Connecticut is correct when he points out that we are not going to get a very sharply increased level of production from decontrol. And most experts agree. What we will accomplish is the slowing down of the sharp decline in the rate of domestic production that we have seen in this country over the last few years. Most available estimates suggest that we can maintain our current level of domestic production with decontrol. That makes us less vulnerable to imports.

Second, on the issue of conservation, there is clearly a major economic effect and a resulting major conservation effect from the increase in prices.

For example, the industrial sector of this economy has like everyone else suffered from a sharp rise in energy prices since the 1973 Arab oil boycott. We have seen real conservation in that sector; but at the same time we have seen very modest, if any, growth of the use of energy in the industrial sector. Clearly, higher prices have had a major conservation effect. We have had real growth in that sector without increases in the use of energy, very different from our historic trend, and, it seems to me, illustrating a convincing case for the real conservation effect that results from higher prices.

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Third, let us look at the regulatory morass we are currently in. We have structured a system of distribution of oil throughout the society that is arcane at best.

The CHAIRMAN pro tempore. The time of the gentleman from Colorado (Mr. Wirth) has expired.

(By unanimous consent, Mr. Wirth was allowed to proceed for 5 additional minutes.)

Mr. WIRTH. Mr. Chairman, the regulatory pattern allows us to subsidize imports to the tune of $5 billion a year and develops disincentives for, for example, refinery capacity in California that is attempting to shift from refining sweet Indonesian crude to refining the heavy crudes we are now getting in California refineries from Alaska. This is one example of a number of dysfunctions and inefficiencies in the economy that result from the bizarre regulatory structure we have developed, and it is now time to flush that out.

Fourth, we ought to look very carefully at alternative energy sources. There is no question about the fact that we have got to set some certainty and some price direction for companies that want to move into solar energy, synthetic fuels, and so on. There is no way that we can do that and arrive at alternative energy sources, given the artificially controlled and low price of energy.

The fifth argument, one that I think is coming home to us every day as the price of gold goes up rapidly, is the value of the dollar. Secretary Miller has testified that he believes at least 1 percent of our inflation rate is directly related to the decline in the value of the dollar. If we can help to arrest that, we can certainly begin to obviate whatever slight impact the increase from decontrolling 15 percent of our oil supply will cost our society.

In addition, it seems to me we have the opportunity, through confirming the current policy on decontrol, to be sure that we send a signal, not only across the country, but throughout the world that we are finally becoming serious, through a confirming vote in this Congress, about an energy policy. That energy policy must be based, and its foundation must rest, on the notion of decontrol.

I do not see how it is possible for us to embark upon the kind of conservation program, the kind of alternative fuels program, the backing up of the dollar, and all of the other elements involved, unless that rests upon decontrol.

Decontrol must be the base of a future national energy policy for this country.

There is no question about the fact that there are tough political issues that each individual Member has got to face, but the issue is not Montgomery Wards, the issue is not Ringling Brothers, Barnum & Bailey, the issue is: Are we willing to admit to ourselves that the time of cheap energy is gone? The time of abundant energy is gone. We must face up to that reality.

As soon as we do that and confirm this reality, then we can put into place all the other pieces of an energy policy that are so crucial to this country.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding, and I thank the gentleman for his statement.

I was trying to get the floor before, and I was trying to get the attention of my good friend, a member of the Committee on Interior and Insular Affairs, the gentleman from Texas (Mr. Eckhardt). The position he is advocating, although I know he is sincere in it, as is the gentleman from Connecticut (Mr. Moffett), is one of not competing with OPEC.

But if we want to do anything at any time to ameliorate prices to consuming Americans who are using energy—and we realize that it is the foreign oil sources that are raising the price of oil the most in this equation—we must compete with them, and the best way to compete with them is to leave these incentives in or reinstill these incentives in this country to raise prices here and put the pressure on OPEC to lower its price.

Mr. WIRTH. Mr. Chairman, I think the gentleman is correct. That is the only way we can begin to compete with OPEC and break the cartel or put a brake—and I spell that b-r-a-k-e—on the cartel. The only way to do it is through decontrol.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, does the gentleman conceive, concerning the figure that has been estimated by the Congressional Office, that an increased domestic production of 200,000 barrels a day in 1981 is approximately correct?

Mr. WIRTH. That is above our current rate. I was suggesting that.

I for one do not believe we are going to get very dramatic increases in production. What we are going to be able to do is to slow down the decline and then, hopefully, level off the current rate of domestic production.

Mr. ECKHARDT. Mr. Chairman, does the gentleman also agree that the figure the President has estimated as to the cost of the program through 1981 is approximately $15 billion?

Certainly that would now, I suppose, be too low because of the increased cost of OPEC oil, but does the gentleman recognize that figure as approximately correct?

Mr. WIRTH. Mr. Chairman, I think that is the figure used. Now, if I remember past discussions, the gentleman will suggest that production is increased by some thousands of barrels, and then come up with a price per barrel. But that analysis does not follow.

Mr. ECKHARDT. I add a little because 1981 is just 1 year, and I assume another 100,000 would be produced before 1981, even though we run at an incremental cost of about $50,000.

Mr. WIRTH. But the gentleman misses the point of the argument altogether.

The CHAIRMAN pro tempore. The time of the gentleman from Colorado (Mr. Wirth) has again expired.

(By unanimous consent, Mr. Wirth was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Mr. Chairman, if I may continue, the gentleman should come to understand that the issue is: Where do we get that marginal barrel of oil in this country? If we do not produce that barrel of oil at home, we are going to import that barrel from overseas.

The weakness of our economy's ability to do that in fact increases that average OPEC per-barrel cost, and until we recognize the marginal cost of that extra barrel of oil, we are going to continue to play with the kind of specious economics that have characterized too much of the debate on oil decontrol.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from California.

Mr. LLOYD. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I agree with the points the gentleman from Colorado (Mr. Wirth) has made, and I associate myself with the gentleman's position.

I think one point that clearly has to be made—and I am sure it has been made over and over again, but it needs to be made again—is that the world is clearly running out of oil. The world is running out of oil, any way we want to put it. No matter what we do, we are not going to manufacture additional oil as long as we take it out of the ground.

Perhaps we can do it with our synthetic fuel process, and certainly we have the process of changing garbage into oil. Certainly we can do a lot of these things, but the era of cheap oil, as the gentleman has already said, is gone.

The era of cheap oil is gone, and no matter what we would like to do, we have got to kick the old habit. I do not care where the bulk of the oil comes from, whether it is overseas or whether it is here, the fact remains that cheap oil is no longer available.

I just returned from Europe, and I spent $3 a gallon for gasoline. They say that may not affect what goes on here in the United States, but I clearly believe it does affect what goes on here in the United States.

Mr. WIRTH. Mr. Chairman, I think the gentleman from California (Mr. Lloyd) is correct. That was the economic imperative, and it is also the political imperative we face here. We have to admit that the era of cheap and abundant oil is gone.

Mr. LLOYD. Mr. Chairman, I thank the gentleman for yielding.

Mr. WIRTH. Mr. Chairman, I thank the gentleman from California (Mr. Lloyd) for his comments.

Mr. Chairman, this debate on oil decontrol raises a number of important issues that all Members of the House eventually must address—issues which deeply affect our country and our future. As a supporter of phased decontrol of oil prices, I want to share with my colleagues the conclusions which I have reached during 4 years of membership in the Subcommittee on Energy and Power.

In the opening of the democratic caucus debate last summer, the question was raised: "Who controls oil prices?" The implication of the question is that if oil prices are decontrolled, we are only further playing into the hands of the OPEC cartel. The reality of the situation is that, like it or not, the cartel already effectively controls the price of oil. And, like it or not, existing price controls only reinforce the power of the oil cartels. And that price—or cartel—is not going to be broken until we face the energy issue squarely. No amount of rhetoric or political maneuvering in the Congress will dent the cartel.

The point was also raised that the proposed windfall profits tax is simply a "politicians protection device." Let me again suggest the reality: The real "politicians protection device" is the orchestrated assertion that increased oil prices are the problem. The clear implication of the arguments of those who support continued controls is that we have an energy policy that works, and that any change is a sellout to the oil companies. The policy suggested by the pending amendment—to continue controls on oil—is the real political protection device. Rent price controls have not created more apartments in New York, and oil price controls will not create more oil. Instead of facing the reality of a declining energy supply, the proponents of continued controls view price increases as the problem. I do not impugn their motives: I just think they are wrong.

The problem is not price increases; the problem is economic and geological. Price increases are a response to a diminished supply, a failure to conserve, and a continued dependence on one energy source of which OPEC controls the marginal supply. Artificially regulating these prices subsidizes additional consumption, inhibits exploration, creates distortions in our energy distribution system, and deflects the impact of economics on alternative energy sources.

How to analyze the conflicting arguments? Let us first try to escape the emotionalism of the past energy holy wars which have swept the Congress, and let us try to avoid the certainty which flows from holy positions. Above all, let us not be misled by those who argue that there are simple answers or obvious villains here. I have found it to be useful to balance the cost of decontrol against the benefits of decontrol—let me share my analysis with my colleagues:

The cost of decontrol: Decontrol will cause higher prices, but this should be put in context. First, higher prices would occur—as they have in past years—even with continuation of price controls. Second, the debate over decontrol concerns somewhat less than 40 percent of all the crude oil we use—the rest is already at or near world prices.

Forty-three percent of our oil is imported—world price.

Seven and one-half percent is from Alaska, or the Naval Petroleum reserve—including transportation, Alaskan oil is effectively at world price.

Seven and one-half percent is stripper oil—which has been, for some time, effectively at world price.

About 6 percent is deep stripper and marginal wells, which will now go to the world price, along with newly discovered oil under proposed DOE regulatory changes distinct from legal decontrol.

Thus, more than 60 percent of our total crude oil supply is already at or near world price. This leaves less than two-fifths of our crude oil supply under price controls. Further, it should be noted that all products from refineries except for gasoline are presently decontrolled. Despite some controls on crude, therefore, consumers are paying decontrolled product prices for middle distillates and residual fuel oil. These make up about 50 percent of the barrel. The other half is gasoline. With full decontrol we can expect these decontrolled prices to rise somewhat as the cost of crude to refineries increases, but it will not be a dollar-for-dollar increase. Combined with other slippage in the regulatory structure, by the time oil gets to the consumer, we are now left with 15 to 20 percent of our oil effectively under price regulation.

Thus, I believe that the present debate over decontrol is often couched in somewhat specious terms. This is not an all or nothing arrangement, or a debate of control or decontrol. The reality of the situation is that relatively little of our oil—15 to 20 percent—is under price controls. Thus the debate should focus on the costs of decontrolling this remaining oil, compared to the benefits that will result from this decontrol. I think the evidence clearly indicates that the benefits far outweigh the costs, and that we should confirm the administration's policy on decontrol.

The projected inflationary impact of decontrol is relatively small and is not a convincing argument for maintaining controls. Under the President's proposal, decontrol is phased in over nearly 3 years, so that the inflation impact is 0.03 percent in 1979; 0.2 percent in 1980; 0.2 percent to 0.3 percent in 1981 or a cumulative 0.5 percent to 0.7 percent over 3 years. Major future price increases by OPEC would increase this impact.

There is no question that in these troubled economic times, with sharp inflation, these are real costs and they cannot be ignored. A rational analysis has to measure what we get for this increased cost. Let me present what I believe to be the five areas of return to the economy and to the American people:

Supply: There is a temptation to misinterpret the projected supply response, just as there is temptation to overemphasize the new oil supplies that will result from decontrol. We have estimates ranging from 400,000 to 2 million barrels extra per day by 1985, because of the economic stimulus of decontrol. No matter what numbers you choose, there are several factors that must be kept in mind:

First, we have to find new reserves of oil and decrease the decline of production which has been dropping dangerously since it peaked in 1970 at 11.3 million barrels per day—including natural gas liquids. Production dropped to 9.8 million barrels per day in 1977 but increased to 10.3 million barrels per day in 1978 as a result of increasing Alaskan production. Alaskan production has now leveled off as limited by the trans-Alaskan pipeline and total U.S. production will again show a decline.

Are additional incentives necessary? I believe so. New exploration is expensive; tertiary recovery techniques are expensive. The easy finds in this country have been made, and new oil is going to cost more. There is also another valid answer to this question. Historically, oil and gas production companies' returns on equity have been slightly below the national industrial average. Certainly rates of return for this sector of the economy—which should be a national priority—should not be below the national average for industry as whole.

Second, we cannot ignore the value of the additional production projected from decontrol. The administration's projections of 300,000 barrels per day by 1982, and 700,000 barrels per day by 1985, is oil that we would otherwise import. And the amount relative to our needs is not insubstantial, particularly when we recognize that the over 500,000-barrel shortfall resulting from Iran shutdown caused severe shortages that are felt.

Third, the argument that an increased price produces relatively little new production is a narrow argument; it neglects the return from conservation, economic efficiencies in supply allocation, impact on alternative energy supplies, and the strength of the dollar in foreign markets, which are the other benefits of decontrol.

Finally, an answer should be given to the question most often asked by the opponents of decontrol: "Don't the oil companies already have enough incentive?" I believe that this is the wrong question. The question most fundamental is: "What is the marginal cost of each extra barrel of oil to the U.S. economy, and to whom will this be paid?" The marginal cost is the world price. Each additional barrel that we do not produce domestically is imported at the world price. With decontrol the user of the marginal barrel of oil will pay its true price, and that cost will be reflected in energy and investment decisions throughout the economy concerning conservation and alternative energy sources.

At present, no one in the United States pays the marginal cost of oil. Through the convoluted entitlements system, those who import that extra barrel of oil are subsidized by those who do not, and—theoretically—every refinery has an average cost of oil. This is bad economics, and bad public policy.

Conservation: We can divide oil use into three different economic sectors: industrial, 35 percent; commercial and residential, 15 percent; and transportation, 50 percent. Each of these sectors should be examined separately to understand the potential conservation effects of decontrol.

Industrial: A major energy conservation effort is successfully underway in American industry. Total industrial energy use—not just oil—has decreased by 6 percent since 1973, while the economy has grown 12 percent in real terms. Industrial energy use in the United States has decreased more than in any other major industrial economy since 1973; our energy use overall has increased by only 1 percent a year since 1973, compared to an average of 3½ percent per year over the previous 20 years. Our overall energy use is over 10 percent lower than it would have been had we followed the 1953–73 trend line. Clearly, the economy is responding to increased prices. Industrial capacity does not turn over quickly, but we can expect significant future savings as architects, engineers, and managers factor in the cost of energy, something they generally have not done until recently.

Commercial and residential: Here the record is not as good, but the incentives are not as clear, either. An industry can invest scarce capital in energy conservation, and realize a predictable rate of return on that investment. The homeowner too often does not have the available capital; or the cost of borrowed capital is far higher in the short term than the dollars saved from decreased energy use. There is significant long-term conservation potential here, however, as builders and architects adjust, spurred by various regulatory and tax incentives. How soon and how strong will we send the conservation signal to this community? If we delay the difficult decision on price, the response will also be delayed.

Transportation: The argument for higher prices as an incentive for conservation is also less clear in the transportation sector. Fifty percent of our oil goes to transportation use, compared to about 25 percent in Germany and 15 percent in Japan.

Unfortunately, gasoline consumption continues to increase despite the need for conservation and perceived higher prices. Part of the explanation is that, prior to the most recent OPEC price increase, the real price of gasoline had not increased since 1974; in constant 1972 dollars, a gallon of regular cost 44.8 cents in 1974, and 41 cents in April 1979. The only time the real price of gasoline rose—from 36 cents in 1973 to 44 cents in 1974—consumption declined. But the evidence is conflicting and claims about the conservation effect of higher gasoline prices are mixed.

More promising developments are the fact that new autos are now 50 percent more efficient than they were in the early 1970's. According to most estimates, this efficiency will result in a net 5-percent reduction in gasoline consumption below current levels by 1985, despite the increase in the numbers of automobiles on the road. Again, this is a long-term issue—smaller, more efficient cars, more mass transportation, changes in our love affair with the automobile.

The summary of the conservation issue is best found in these statistics: The American economy is 35 percent more energy intensive than Germany's and 67 percent more than Japan's. The biggest differences are in the transportation and commercial/residential sectors, and these will require significant changes over the long run.

Regulation: A significant positive result from decontrol will be the flushing out of the present regulatory structure. Current oil regulations are inefficient, shot through with exceptions and cause major distortions in the petroleum sector of our economy.

For example:

The present entitlements program subsidizes imports in the neighborhood of $5 billion per year;

The small refiner bias has created a good deal of inefficient refinery capacity. Since the present law was passed, many new, small refineries have been built, many of which cannot efficiently refine the supplies of increasingly heavy and high sulfur crude oils, nor make unleaded gasoline. Yet, these small, inefficient refineries are subsidized by the large ones;

Utilities, which should have the incentive to move to coal-fired electricity have no incentive to do so as long as the price of residual fuel oil is kept unrealistically low, at the average rather than the marginal price;

Under current entitlement program regulations, all domestic oil is assumed to be of the same quality although it is not. Until recently, California refineries, which depend on heavy California crude stock, were paying the same entitlements subsidy as other refineries using higher quality crude, a windfall for the latter group;

At a time when we need new processing units in refineries, to produce lead-free gasoline and to process heavy and high-sulfur crudes, government regulations allow the refiner to recapture only the cost of borrowed principal and interest, not a return on equity, and therefore leaves little incentive for needed new construction;

Because production qualifies for the higher price of the stripper category if it is less than 10 barrels per day from a well, there is a great incentive for the producer to reduce production from 14 or 15 barrels to 10. One proposed solution is to expand the definition of stripper to 20 barrels per day. What will then happen to those wells which are now producing 25 barrels? The production disincentive will be moved but maintained; and

A warning: When the crude decontrol issue is behind us, the next major energy issue facing the Congress and the administration will concern refineries. As outlined above, the present regulatory structure has badly skewed the investment in new refinery capacity and efficient use of our existing capacity. In the future, the unmet demand for unleaded gasoline, and for gasoline altogether, is going to create a new set of refinery-related problems that will demand our early attention.

The examples go on and on in this encrusted, outmoded, and inefficient regulatory structure. They exist for refineries, producers, pipelines, marketers, and ultimately for all consumers. We keep patching up the leaky system, granting a price increase for Long Beach's municipally owned lower tier oil, because the profits will accrue to a city, not a company; making small refiner millionaires, and developing bizarre stripper definitions. If we continue this archaic and inefficient regulatory policy, we will simply see more and more exceptions to try to make the regulations work, or in response to them. For example, Louisiana and Texas have considered State excise taxes on exported oil, which will move oil right back into the interstate versus intrastate complexities that plagued natural gas for years.

Regulation breeds economic inefficiency and inequality, and it is time to clean out the system. Decontrol will accomplish this end; the maintenance of controls will only serve to magnify the existing problems.

Alternative energy supplies: How long are we going to put off the day of energy and economic reality? Energy is a long-term problem—when are we going to start? Decontrol will provide more price certainty, against which alternative energy investment decisions can be made. Until the price of oil is high enough, investment and changes in our energy infrastructure will not be made. A good example of the validity of price incentives are found in natural gas. Until recently the price controls on conventional gas discouraged independent drilling for gas, as opposed to associated gas—produced along with oil.

As oil prices are decontrolled, we begin to approach the window where alternative energy sources become viable. Arabian crude is now selling for over $20 a barrel. The following are some ballpark estimates in current dollars of the thresholds for alternative energy sources capable of producing the energy equivalent of a barrel of oil:

Coal liquefaction (non-methanol)	$30–35
Shale oil	25–35
Very heavy crude	25
Solar collector	30–40
Methanol	25–35
Unconventional gas	20–30

We are nearing the economic threshold for the development of alternative energy sources. Decontrol will help to stimulate investments that should have been made long ago.

And, because it will take a decade or more before alternative energy sources can have a major impact on the Nation's energy supply, each day we delay in stimulating investments in these alternative energy resources means one day longer before these sources become available. We can postpone this thrust, or we can accept the reality that tomorrow's issue will be supply, not simply price.

Value of the dollar: The best economic testimony indicates that last year 1 percent of our total inflation rate was caused by the decreased value of the dollar. While the specific economic trail, from decontrol to increased production and conservation, to lessened imports and a slowed dollar flow overseas is complex, it is very real. We paid about $45 billion for oil imports in 1978. Without that huge transfer abroad we would have had a positive balance of trade. The United States this year will pay about $50 billion for oil imports, by 1985 the cost of imports will probably double to $100 billion. This enormous drain will keep continuing pressure on the dollar in overseas markets and could cause disastrous weakening of the currency. The country cannot afford to permit this situation to continue indefinitely. It is probably fair to estimate that the cost of decontrol in inflation from higher costs—discussed above—will in part or in whole be offset by a strengthened dollar.

In addition, we cannot quantify the value of signaling to the world the intent of the United States to become serious about energy. Our failure to raise domestic oil prices to world levels to date has meant that neither our European allies nor the OPEC nations take our oil conservation protestations seriously. And we know that OPEC will continue to take advantage of our increasing dependency.

SUMMARY

The question of decontrol is an economic and a political question. In the foregoing I have attempted to outline what I believe are the compelling economic arguments for decontrol. Hopefully they speak for themselves.

The political argument is harder to quantify. But it is easy to outline what the political argument is not—or should not be:

This is not an argument for or against big oil and small oil, for or against Marcor or J. C. Penney's. While there has unquestionably been some very poor management by the industry, we should not reply in kind;

This is not an argument for or against the Department of Energy or bureaucrats. It is an argument about public policy which, once resolved, must then be executed by the executive branch with aggressive and effective oversight by the Congress; and

Finally, this is not an argument about price increases, nor should we view price increases as the sole problem. It is an argument about supply, about economic and about geological problems.

The political issue is whether we have the foresight to focus on our future problem, on the need to pay more and use less. If we refuse to do so, if we refuse to take the difficult and unpopular position, then we will not be exercising our responsibilities, nor will we be leading the country. I would hope that responsibility and leadership would characterize the ultimate decision of the House of Representatives on the issue of energy.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this issue has been debated over and over again in the last 4 years, and I think in that context the burden of proof really rests on those who would now undo the careful compromise of 1975 which was passed by the Congress and signed into law by the President.

That legislation phased in gradual but generous price increases for domestically produced oil from 1975 through most of 1981. Let me remind the Members that the price of producing a barrel of oil in the United States still averages somewhere in the neighborhood of $4. If we decontrol on a more rapid schedule, what we are saying is that we want all of our production in this country to reach $23 a barrel as soon as possible, and probably higher prices than that, because we will doubtless have additional OPEC price increases.

The policy we adopted in 1975 has been more widely hailed retrospectively than it seemed at the time it would be, particularly with respect to the moderation of negative impacts on the economy. Most experts believe that we would have had a much more serious problem with inflation and recession even than we have had over the last 4 years had we not adopted the compromise we decided upon in 1975.

Mr. Chairman, my plea to the House is simply this: Let us continue that policy as it was set forth through 1981.

In support of this position I want to discuss production, conservation, inflation, imports, and why energy is different from other kinds of products in the marketplace.

I am glad that most of the proponents of decontrol are finally prepared to agree that we do not get much more with decontrol by way of increased production, if anything at all. The figures cited are generally in the range of 1 to 2 percent. And, of course, it is fairly certain that at least a significant percentage of any marginal increase in production would not be additional oil that is somehow found but rather the same oil produced a little bit sooner.

And, of course, the whole argument about "subsidizing" imports fails to the extent that we do not in fact increase domestic production. We hear again and again that we are "subsidizing" foreign imports. I would remind Members that if the point is granted that we do not get increased production of any significance, then we are not in fact subsidizing foreign imports.

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The oil companies have the most favorable capital position that they have ever had. Every study shows that. The Harvard Business School energy report, for example, says:

> By any measure, the rewards for finding new oil have increased substantially since 1973. Even the regulated price of newly found oil has nearly tripled compared with an approximate doubling of drilling costs.

The Department of Energy did a study on capital resources and requirements for the petroleum industry, which said:

> There would be a strong presumption toward the position that the industry not only receives an adequate incentive for new discoveries, but generates sufficient cash flows to domestic wellheads to fuel all of its domestic exploration, development and production expenditures.

One final point. If we eliminate the gap that we now have between high cost oil which presently gets the international price and oil which is less costly to produce where is the money for drilling going to go? The money is going to go closer to home where the costs are less and the returns proportionately greater. There will be an increase in other words in developmental drilling—that is, where we already know there is oil—rather than toward more expensive exploratory drilling. This is another point that the Department of Energy study makes.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, I think what the gentleman has said about our failing to encourage additional production by this is very apt.

The gentleman from Colorado was talking about ultimately increasing our production. But we must remember that EPCA runs out in September 1981, and all expectations, all planning for drilling, are about 3 years in advance of production.

So our giving money in the 2½-year interim is simply to throw down the drain about $50,000 per barrel for the 300,000 barrels increase in production which might be brought on by accelerating deregulation.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for that very important point.

Another point the gentleman often makes is that we are going to be on a declining curve of old oil, and in a few years old oil is going to be a much smaller percentage of the total than it is now. It is precisely over these next several years that it continues to be important from an economic and inflationary point of view to keep some restraints on those prices.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate what the gentleman is saying. I want to commend the gentleman for his leadership in this area.

Mr. Chairman, I just want to point out that repeatedly throughout this discussion we have heard the hue and cry of the free market system.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. MAGUIRE was allowed to proceed for 5 additional minutes.)

Mr. VENTO. Mr. Chairman, if the gentleman will yield further, this does not look like the model of free enterprise which left the pen of Adam Smith, to me. The free market system on the world price of oil is set by a group of the OPEC nations, incidentally, many of whom actually work in concert with the large multinational oil companies, and I would remind my colleague that the only flag that flies over those countries is the dollar bill, in most instances, because they set the price by virtue of the American dollar. So with ARAMCO and the other companies, this is not the free market system working.

I would point out to the gentleman in the well that if the American people do not have a voice through their elected Representatives in the Congress, who is going to speak for them? Are the multinational oil companies going to speak for them? Are the OPEC nations going to speak for them? I doubt it. I think that if we have a bureaucratic problem with regard to the means by which we regulate these companies, we had better address that particular problem and not visit upon the American people great harm and great hardship in terms of inflation and in terms of these prices and reshuffle the value of our natural resources. We had better not visit upon them our ineptness in terms of being able to deal with the regulatory process at the national level.

Mr. Chairman, I would add that even someone like former Treasury Secretary Bill Simon took the position in 1974 that the OPEC prices, to which the gentleman has referred, were not related to any economic realities of the sort that we usually think of when we talk about supply, demand, cost, and profit factors in the marketplace; that those are in fact politically set prices. It still costs 15 cents, or something of the sort, to pull a barrel of oil out of the ground in Saudi Arabia.

In addition, I do not think anybody believes that oil companies in this country would decide, if the price were raised to a certain level, or decontrol took effect and we tracked the world market price, that any major oil company in this country is going to be selling oil to the American people at one-half of that price or two-thirds of that price in order to get a bigger share of the market. We just do not find that kind of behavior in this industry, which is what makes it unique.

In addition, energy fuels the entire economy. We cannot treat it as if it were production of a specific commodity like wheelbarrows or toothbrushes, where you have resources that you can always put together to make that particular product and someone else can make it and sell it for less if you charge too much. That is not the situation. Moreover, since we have a declining supply of oil and gas, we have to be especially thoughtful about how oil differs from the traditional free market supply and demand situation.

Mr. VENTO. Mr. Chairman, if the gentleman will yield further, we have 150 million registered vehicles in this country. That $8,000 Chevrolet sitting in front of my house, I do not think I am going to convert it into an ashtray, do you?

Mr. MAGUIRE. I do not think so.

Mr. VENTO. I am going to drive it.

Mr. MAGUIRE. The gentleman's point leads me to observe that after the proponents of decontrol grant you that we are not going to get much increase in production from decontrol, then some people say, "Well, this is the only way, really, that we can conserve."

Seymour Zucker, economics editor of Business Week, testifying before our investigations subcommittee, said—and this is a widely held view among economists—that any elasticities of demand with respect to the use of energy are extremely low. The result of that is that even the best projections of what we are going to get with increased prices under decontrol suggest 1 percent or 2 percent, possibly, of additional conservation. And what do we do? We spend $135 billion to get 600,000 barrels per day of increased production, perhaps, whereas with an expenditure of $5.5 billion we get 700,000 barrels per day more, through conservation.

So there are many more cost effective ways to approach conservation. If there was nothing else to be done for conservation, perhaps we would have to accept this price approach, but the fact is that that is not so and there are many more cost effective ways of achieving serious conservation.

Everybody also agrees that inflation, which is running at an annual rate of 13 percent or 14 percent—perhaps 17 percent or 18 percent if we use the September figures—includes 4 to 6 percentage points from direct cost increases in energy and, of course, the indirect cost increases are very great beyond that.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. MAGUIRE) has again expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for 3 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, energy prices affect the cost of everything: Clothes, food, plastics, all consumer goods. So we have more inflationary impact even than the 4 to 6 points of direct inflationary energy costs.

Decontrol has been described as perhaps the most inflationary decision any President has made. It will be even more inflationary than he thought it was going to be when he made it because the OPEC prices were increased dramatically in the spring and will probably be increased again this December. The result of these new increases may well be that our self-inflicted increases in price through domestic decontrol will probably double from $135 billion to $250 billion or more the inflationary impact of decontrol.

My friend, the gentleman from Virginia (Mr. HARRIS), quoted Mr. Alfred Kahn, the President's inflation fighter, to the effect that we would probably be below double-digit inflation if we had not had these incredible increases in energy costs.

Some of us met recently with Mr. Volcker, the new Chairman of the Federal Reserve Board, and when asked about decontrol, I have to say that, while he took the administration view formally on the record, he was clearly disturbed about the fact that he has to deal with the impact of these additional decontrolled energy prices. He wishes that those increases were long since behind us or that they were way out ahead of us somewhere. He would much rather not be dealing with that situation right now given our problem with inflation. But we have the opportunity here in this House to do our part with respect to the energy component of inflation.

The gentleman from Colorado (Mr. WIRTH) talked about the dollar and about helping the dollar. We all want to help the dollar. What is more important in a strategy to help the dollar than to deal with inflation? Everybody who has analyzed inflation will tell you that if we can do something about our inflation we will do something about the dollar. And if we are going to act meaningfully on our inflation problem, we should adopt the Moffett amendment today.

Mr. VENTO. Mr. Chairman, will the gentleman yield further?

Mr. MAGUIRE. I yield to the gentleman from Minnesota.

Mr. VENTO. In this country we are a major oil power. We produce one-sixth of the world's oil. There are countries like Germany and Japan which depend 100 percent on imported oil, and look at the value of their particular currency.

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The problem with the dollar clearly is the balance of trade. That has to be addressed in a different format. We do not have to visit the deregulation increase upon our economy, which will substantially weaken it, in order to improve the value of the dollar. It is a serious mistake in emphasis.

Mr. MAGUIRE. I thank the gentleman.

Mr. RUSSO. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the debate over decontrol has been, and will no doubt continue to be, dominated by words and phrases like elasticity, cash flow, supply response, and return on equity. I would like to take this opportunity to broaden our energy vocabulary just a bit by injecting "hot oil," market demand prorationing, and oil import quotas into the discussion. In the process, I hope to contribute a measure of historical perspective to today's proceedings.

There are those, of course, who find study of history irrelevant. I find the words of Justice Holmes very instructive—

> When I want to understand what is happening today or try to decide what will happen tomorrow I look back. A page of history is worth a volume of logic.

Now we have been treated to one version of the history of the petroleum industry. This tale has been amply described in thousands of advertisements that have appeared on television, and in newspapers and magazines. The leading advocate of this perspective is the highly regarded Dr. Mobil, professor emeritus at the American Petroleum Institute.

Dr. Mobil's treatise, in brief, runs something like this: Prior to the imposition of price controls in the early 1970's, the petroleum industry was the most visible example of the innate superiority of laissez-faire. Thousands of talented producers, functioning according to the dictates of the market, distributed abundant supplies of fuel to satisfied consumers at reasonable prices. Unfortunately, this Garden of Eden was rained upon by power-seeking politicians and well-meaning but ignorant bureaucrats, who ushered in the age of fuel shortages by encouraging the Government to intervene in the marketplace.

Like many fairytales, this one has a grain of truth in it. Government intervention has certainly contributed to our present plight. But it is not the kind of intervention that is usually the subject of the most intense criticism. No, the kind of intervention that I am referring to is the kind that major segments of the petroleum industry have willingly embraced throughout their history.

The most recent example of this kind of industry-supported intervention is the mandatory oil import quota, which was established by President Eisenhower in early 1959, and existed throughout the 1960's until it was terminated in the wake of the Arab oil embargo in 1973.

Theoretically, these quotas were put in place to enhance national security. But the cynics among us have long contended that the real rationale for this program was the protection of domestic petroleum producers from the horrors of foreign competition.

You see, domestic producers had long benefited from a State-run production quota system known as market demand prorationing. (This system, like quotas, lapsed in 1973.)

Under market demand prorationing, according to Dr. Walter Mead, a professor of economics at the University of California at Santa Barbara, "the State regulatory agency determines and restricts production to a level calculated to equal the quantity demanded at the prevailing price. This determination is made on a monthly basis. Market demand prorationing normally restricts production below the maximum efficient rate of production."

Quite simply, what Dr. Mead said in 1969 is that State agencies fixed the price of oil by imposing production quotas on the industry.

Did our free-enterprise loving domestic producers resist the actions of these self-aggrandizing government bureaucrats? Not on your life. Disillusioning as this may sound, it appears that the producers actually encouraged the State agencies to limit production.

In late 1928, for example, after the discovery of the great Oklahoma City field, prices for crude dropped rapidly. This so alarmed Oklahoma producers, according to Dr. Gerald Nash, in his study "United States Oil Policy 1890–1964," "that they demanded a new conservation law that would empower the Corporation Commission to exercise strong powers to control production."

During this same period, Texas producers also seem to have been infected by the virus of statism. By late 1932, the Texas Legislature, with the support of the industry, passed a "Market Demand Act," which allowed the Texas Railroad Commission to hold production levels to available market demand. Product shipped or sold in violation of State quotas became known as "hot" oil. Under the terms of the Connally Hot Oil Act, it became illegal to ship excess supplies of oil across State lines.

In the words of Dr. Alfred Kahn, this system served "to permit the leading producers of crude oil to fix their own prices and make them stick." The effect of the policies, according to Dr. Mead, was "to substantially raise the domestic price of crude oil and oil products."

For these reasons, State regulation did not bother most domestic producers. Very few attacks were leveled by the producers against the State agencies responsible for controlling the production of oil. The Texas Railroad Commission, by the way, is staffed with public servants, and not bureaucrats.

The system of market demand prorationing served the producers well until the 1950's. As our economy grew and our appetite for energy expanded, our imports of foreign crude increased. Eventually it began to appear to domestic producers that growing levels of low-cost foreign crude would threaten the viability of market-demand prorationing. This led to the establishment of the mandatory oil import quota system in 1959.

Not surprisingly, this system transferred billions of dollars from consumers to producers throughout the 1960's. In an appearance before the Senate Antitrust and Monopoly Subcommittee in 1969, Dr. Joel Dirlam, professor of economics at the University of Rhode Island, estimated that New England consumers alone paid an additional $325 million each year for petroleum and petroleum products. At the same hearings, Prof. Morris Adelman placed aggregate consumer costs at some $4 billion annually.

Of course, oil import quotas have had other effects on our Nation. By limiting foreign imports arbitrarily through a relatively inflexible quota system, we prematurely depleted our own fossil fuel reserves, thus increasing our vulnerability to the actions of the OPEC cartel.

Moreover, through industry-supported Government intervention, we have artificially increased the economic value of our remaining fuel supplies, again as a result of premature resource depletion. Thus, by accepting the decontrol of oil, we are rewarding producers for having had the foresight to allow the heavy hand of the State to interfere with the importation of oil. This, by the way, is not to be confused with Adam Smith's invisible hand.

It seems to me that the facts I have just presented serve a variety of purposes. First, they should disabuse us of the notion that free market principles have been religiously adhered to by the petroleum industry, and that the Government policies of the last decade have been wholly inconsistent with our traditions. Government, at one level or another, has been intervening in the petroleum industry for many, many years. Sometimes intervention serves the public interest; on other occasions it does not.

It should not surprise us, of course, that the industry's view of the role of free enterprise should be inconsistent. Businesses are run by practical men, not ideologues, individuals who are understandably more concerned with living up to the expectations of their shareholders as opposed to fulfilling the legacy of the worldly philosophers. We should expect vigorous advocacy from the business community, but as public officials, we must also have the courage and wisdom to occasionally say no.

There is yet another reason why the history of the industry should play a role in guiding the decisions we make today. We cannot delude ourselves into thinking that the presence of decontrol will provide this country with an industry driven by market principles. Already, segments of the petroleum industry are calling for the reestablishment of some kind of quota system on petroleum products. As they did two decades ago, they are now arguing that insulation from foreign supplies is essential for the expansion of refinery capacity, and that refinery expansion will contribute to our national security.

A limit on oil imports is also being advanced by the administration as a necessary element in our national energy policy. I think it is fair to say that some who proclaim their attachment to free market principles today will be arguing in favor of import quotas at some point in the future. Once quotas are in place, it is not too farfetched to imagine the reimposition of market-demand prorationing. Sunset principles, as far as I know, have not yet been applied to the Texas Railroad Commission. By accepting decontrol today, we may well be setting the stage for the recreation of a set of energy policies that have served us poorly in the past. Mr. Chairman, I hope my colleagues will think long and hard before they help set that policy in motion. I urge their support for the Moffett amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I thank the gentleman from Illinois (Mr. RUSSO) for yielding. I know the gentleman is interested in tax policy and how it is affected by oil decontrol. I support the Moffett amendment.

The President made a dreadful mistake in decontrolling oil before we had the windfall profits tax in place.

The other body is providing clear signs that it is indifferent to the magnitude of the untaxed windfall. It is very likely that the other body is going to send over a bill, but it is going to be an empty box with a false label. I think we can pretty much expect what is going to come back.

The administration is likely to sign that piece of paper and claim a victory for the consumers of America and the taxpayers, but I think the windfall profits tax will prove to be the great delusion of 1979.

I certainly hope that this amendment is adopted, because it will insure that we can seriously consider a fair and equitable consideration of the windfall tax. This amendment is essential in order to give our Congress, in order to give the House, the leverage on which it can provide a system of tax justice through taxing these tremendous windfalls which are going to completely escape taxation in any meaningful form.

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Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. RUSSO. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding. He has made an extremely important statement to which I hope our colleagues pay very close attention.

I think the gentleman is absolutely correct in pointing out the fact that one of the reasons we are in this energy mess is because the oil companies themselves insisted on imposing quotas on oil imports in the late 1950's and 1960's. This meant that we depleted our own oil resources first.

The reason the oil companies were not interested in a free market then was because OPEC oil was cheaper than American oil and they wanted to keep out that cheap OPEC oil so consumers would be charged the higher domestic price. Now that domestic oil is cheaper than OPEC oil, they want to make sure that domestic prices go up to OPEC levels.

The point is that the oil companies' argument in favor of a "free market" is hypocritical. When Government regulation is in the form of import quotas which means higher profits for them they argue for Government regulation; when removal of Government regulations means higher profits they argue for removal.

But in any case OPEC prices are not free market prices. OPEC prices are set in a hotel room in Switzerland. American consumers have been victimized time and time again by these policies.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I go into my own arguments on this amendment, and obviously I oppose it, I just want to commend the gentleman from Illinois for his very excellent rendition of the history of petroleum policy in this country and I want to say I agree with every word of it.

But the problem is our purpose here today is not to make policy by judging the inconsistency or hypocrisy of the policies of the past or positions that were advocated by the oil companies during another decade or era, but it is to make policy for the present and for the future.

It was very interesting for me to hear the gentleman's remarks because he quoted Dr. Walter Mead, who is one of the great petroleum economists in this country, who was condemning the Texas prorationing system, the Texas Railroad Commission, the only real oil cartel that has ever existed. I just want to inform the gentleman I was in a conference in Denver 2 days ago and I spent 2 hours with Dr. Walter Mead, the same authority the gentleman quoted, and he is totally for decontrol of oil prices now because he supports the same principle that underlaid his analysis in that, and that is we have to allow the market system to control this process.

I would say to the House that the only plausible argument that I have heard here today is that if we were to decontrol crude oil prices we put ourselves at the mercy of OPEC, that in a sense we are acquiescing to their extortion, we are paying tribute and so forth. But unfortunately, as is the case so often in debates here in the House, we have an argument that stands the reality of the matter right on its head, because the fact is so long as we control domestic prices below the world market we have to have an entitlements program. I think every Member of this House knows by now what that entitlements program does. It subsidizes the importation of foreign oil.

Before the latest round of OPEC increases the entitlement value was $2 per barrel. That meant every additional barrel we bought on the foreign market from OPEC we were awarding a $2 subsidy to the users of that oil. Today that subsidy value is up to $5 per barrel.

The point is that the logic of this whole system simply says that if we are passive in our general energy policy and allow OPEC to continue to increase the price, not only is our policy passive, but then we turn around and thank them for raising the price by increasing the subsidy on the oil that we are importing. That does not make very much sense.

The second argument I have heard this morning is that somehow we are going to do a great favor for the consumer of this country if we roll back the decontrol program that the President has in place today, and that somehow we are going to save great amounts of money, we are going to improve his welfare. Well, I hope the House was listening very carefully to the remarks of the gentleman from Colorado, because he indicated very clearly how deceptive, how illusory that argument is.

The fact is this amendment does not touch 50 percent of the oil we use because it is imported. It does not touch another 20 percent because it is already decontrolled, stripper and Alaskan; and then of the remaining 30 percent of crude oil that goes into our economy every day it is re-refined and goes out to be used in the heating sector, the gasoline sector; half of that product is already decontrolled, so at most we are talking about controlling only 15 percent of the petroleum that we are using in this country each day.

If we slow down the decontrol process that the President has put in motion, what we are going to do is for 2 years provide a slightly lower price on that 15 percent. And I would tell my colleagues in terms of the general inflation rate in this economy, in terms of the cost of petroleum products to the consumer, the effect would be rather negligible and I think the House knows this.

There are two other arguments I think are important to make.

The third argument we have heard today is that decontrol is not justified, there is not a good rationale for decontrol in terms of its conservation effect, in terms of its effect on the demand side of the economy.

I do not know how long we have to sit and listen to an argument that is patently false, that is completely repudicated by the evidence that is available that anybody can turn to to look at if they were so inclined.

The fact is that the industrial sector of this economy, of our economy since 1973, is using 20 percent less energy per dollar of output, of steel, of aluminum, of cars, of anything else, and that is clearly a response to the higher prices since 1973.

The fact is that the jobbers group, for instance, did a study of the amount of heating oil being used in the residential sector and they found there is a 25 percent decline in heating oil per house, and that obviously reflects the fact we have more insulation; we have taken some of the conservation steps that we were talking about in the previous amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 5 additional minutes.)

Mr. STOCKMAN. Now the fact is that if we look at the record of the last 7 years where we have had this large increase in the price of energy, and particularly petroleum, what we will find is that this economy is using 3.5 million barrels a day less of energy than we would have otherwise been using at the old low price that prevailed before 1973. If that is not dramatic evidence of conservation, if that is not an indication that the price works through the marketplace to bring about more efficient use of energy, I do not know what is. But it certainly invalidates the argument made just a moment ago by the gentleman from New Jersey that there will be absolutely no conservation effect whatever.

I read Mr. Zucker's argument and I know what he said. He said in the short run, in 1 or 2 or 3 months there is going to be very little response to higher gasoline prices. But over the long run, as people start changing the way they build houses, the way they run industry, the kind of cars they buy, we get a very large response, and that is what the gentleman is ignoring.

□ 1530

Now, the fourth point we have heard this afternoon is that there will be no production impact. Somehow if you offer a higher price producers will continue to produce the exact amount they are producing today. Let us look very carefully at what this amendment does. It throws us back to the status quo ante June 1. It says that all the different categories of oil cannot be priced in a manner such that it would exceed the composite price put in the 1975 law.

As a practical matter, that means that we cannot decontrol heavy oil. I would like to see some Member of this House stand up and say that that heavy oil, that has to be extracted with a costly steam injection in southern California, is going to be produced if we keep the $6 on. Similarly, as long as we keep the composite price on, we cannot get any incentive price for enhanced oil recovery, either.

We know today that below the proven reserves that we have on the books of 30 billion barrels there is something like 70 or 80 billion barrels in place that normally would not be lifted. But with a higher price, you can use more technology, you can put more cost down the injection well to get higher production rates out of the production field. I think we are entirely confused in this House by the misbegotten notion that oil is like some soda bottle underground and that once you buy the straw, you empty the bottle for free. On the contrary, the recovery rate depends upon cost, price, and technology.

The gentleman from New Jersey says that it costs $4 a barrel; that is the production cost, and there is not any variance in that cost. That is not true. The amount of oil we recover from a new reservoir or old reservoir depends on how much we spend to get it out. In the past, we have gotten 30 percent out of the ground. At higher prices, we will get a little more. The reason is not due to the benevolence, not due to the good citizenship, not due to the patriotism of the industry. It is due to the simple fact that they want to make a profit, and it will be profitable to increase the rate of oil recovery at higher prices.

It seems to me that if we want to do the very thing that I have heard so many arguments against today, improve the position of OPEC, increase their ability to arbitrarily raise the price, the exact thing to do if we want to achieve that goal is to cause domestic demand to increase, and we will do that as long as we keep subsidizing foreign oil, cause domestic production to decline, and we will continue to do that if we continue to control the price.

It seems to me those two things will simply worsen the world oil supply and demand balance and thereby increase the leverage of OPEC in the world, cause prices to rise, cause us to pay even more for their resources and all the other related problems that go with it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's comments on this issue. I know he is a member of the committee and has followed the legislation carefully. I think he is giving a good explanation why this amendment will only affect 15 percent of the petroleum production—did I understand the gentleman to say 15 percent?

Mr. STOCKMAN. That is correct.

Mr. ROUSSELOT. Could the gentleman reemphasize that again, because I do not think that is understood.

Mr. STOCKMAN. The fact is, we do not have a handle to enforce control on most of the oil we use. Half of it is imported; 20 percent is decontrolled domestic oil; half the remainder is uncontrolled at the product level. Heating oil is at the world price. Therefore, even if we are controlling the domestic crude price from which it is refined, it is not going to change the price to the consumer.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman is, of course, correct, that the amount that the oil will be released is oil which is not up to the present price, but virtually all of that oil is old oil. That is the point I was trying to make. Two-thirds of the oil released will be old oil, and that does not in anywise induce more production. I think the gentleman will agree with me that any new oil, that any impetus to the new oil resource will have to go to a price that would be obtained after September 30, 1981.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. ECKHARDT and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. I do not know how the gentleman concludes that, because I would say that his amendment will invalidate the regulations now pending on heavy oil and EOR, because we cannot fund them under the composite price. Can the gentleman tell me otherwise?

Mr. ECKHARDT. Heavy oil will be done with the $4.5 billion banked funds.

Mr. STOCKMAN. This all expires in September 1981, anyway.

Mr. ECKHARDT. That is right.

Mr. STOCKMAN. The point is, if we do not have a gradual phase up to that world price, all this amendment will do will be to cause a great shock in the economy when we have to jump the domestic prices to the world price all at once. I do not know why we want to have a shock, if we are going to decontrol anyway.

Mr. ECKHARDT. There will not be such a shock, because in that period of time old oil phases itself out. Old oil is defined as oil from properties which were producing in 1973.

Mr. STOCKMAN. It phases up to the new oil price of $13 a barrel.

Mr. ECKHARDT. It phases out anyway because it disappears and new oil comes from different wells not subject to the control.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield to me, since he mentioned my name?

Mr. STOCKMAN. I yield to the gentleman from New Jersey.

(At the request of Mr. MAGUIRE and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, the gentleman talked again about subsidizing imports and referred to the entitlements program. The entitlements program simply is a device which says that these folks who get low-cost domestic oil will pay *x* dollars more for it, and these folks who get higher cost imported oil will pay the same *x* dollars less for it. In other words, it is—as the gentleman, I think, knows—a reallocation within the market.

The gentleman, in order to use the word "subsidy," has to show that we will produce oil which will substitute for imports. Otherwise, the word "subsidy" does not apply.

Mr. STOCKMAN. I think the gentleman has hit the point on the head. We go out and buy world priced foreign oil at $22 while we set $13 per barrel for oil on the average produced domestically. The refinery sells at a cost of $17. When the consumer buys that, it still moves into the economy at $22, but he is buying at $17. That is the subsidy. What we do is subsidize ever-increasing OPEC prices through this entitlement mechanism.

Mr. MAGUIRE. The gentleman's economics is more sophisticated than that, I am sure. I would like to make the point that imported oil is less than 10 percent of the energy we use in this country, and in a few years it will be less than that. Costs are something like 5 percent, 4 percent, or less. That means that not only is the price of an imported barrel of oil going to increase under the gentleman's perception, the price of a domestic barrel of oil will also, as the gentleman knows, for all we recover, and that means—I cannot imagine how we can come out with a better way of mortgaging ourselves to OPEC.

Mr. STOCKMAN. The gentleman knows better than to make that argument.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to the amendment. We have set an objective of energy self-sufficiency for this country and here is an opportunity to put us in that direction. To proceed as we are, bogged down with an incoherent energy policy, one which has us enslaved to the oil exporting nations, no longer makes sense. The issue here is how to bring our demand in line with supply.

For 10 years we have had some form of controls on the price of a barrel of oil. It has done nothing but distort our sense of rational economic values. The manipulation of price by the Federal Government has disrupted the natural action of the free market system. Can you blame the oil industry for being reluctant to tap the reserves we have? The policy of price controls on oil has inhibited the construction of new refineries to bring on line our discoveries in Alaska and elsewhere. It has undermined the dollar abroad, adding to our balance-of-payments deficit. It has discouraged capital investment—money needed to stimulate the search for additional deposits of oil.

I followed the graphic charts displayed by our eloquent colleague from Texas (Mr. ECKHARDT). Yes; there may be continued inflation; however it is not caused by an energy policy but rather by the economic policy of this Congress and administration. Decontrol will result in more conservation, an increase in the domestic supply of oil, and increased competition among firms for development of alternative energy sources.

The administration has prided itself on backing controls because, they claim, it "protects" the consumer from being ripped off by the oil companies. Well, look who is doing the ripping off. What kind of protection does the consumer have sitting in a gasline for hours on end with controls in force?

Mr. Chairman, we are no closer now to achieving energy independence than we were when we instituted controls a decade ago. The Moffett amendment will have adverse consequences on our economy and any hope for a meaningful energy program. I urge the committee to reject it, and support the amendment soon to be offered by Congressman SYMMS to let the market work its will in the distribution of petroleum in this country.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to my colleague from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of the Moffett amendment. The President's plan to decontrol the price of crude oil is premature at this time. I wish to associate myself with the remarks to be given by the gentleman from Massachusetts (Mr. MARKEY).

Mr. Chairman, the President's plan to decontrol the price of crude oil is a premature one at this time. It comes when inflation is running at nearly 14 percent, with the energy component rising at 6 percent and the home heating oil component at 8 percent. The Federal Reserve Bank, in an attempt to stem this inflation, has raised its interest rates to borrowers. All this indicates that the economy is not strong, that we may experience an economic slump in the near future.

The hard-working citizens of this country cannot afford price hikes that will occur with decontrol. The price of domestically produced oil is scheduled to escalate to the OPEC price by October 1981.

The present price of "old" domestic oil of $6 a barrel and that of "new" domestic oil of $13 a barrel will rise to nearly $30 a barrel by October 1981. With the price for fuel oil rising by nearly 300 percent since 1973 but workers' wages only rising by 50 percent since that date, the American consumer can ill afford decontrol at this time.

This amendment will prevent the use of funds in the fiscal year 1980 DOE authorization bill from being used for the purpose of accomplishing extensive decontrol of crude oil prices which would cost consumers about $1 billion a month between now and October 1981. Passage of this amendment will give a clear signal to the administration that this Congress does not agree with implementation of such a costly burden on consumers.

Let this also be a message to the major oil companies that no longer will the American public tolerate its insolence and insensitivity to the plight of the elderly, and poor, as well as the middle-income earner. The American consumer has been buffeted at every turn by the oil industry. A yea vote is the clearest indication of our contempt for their actions.

Mr. MARKEY. Mr. Chairman, has the decontrol of crude oil prices really helped the consumer of gasoline and home heating oil? The answer is no, it has not.

What is more, the real question is very simple. Who will control the price of gasoline and fuel oil in this country? The American people? Or OPEC and the multinational oil conglomerates? The issue is not decontrol; it is who controls.

There is no free or competitive market in oil. The price of oil outside our borders is already set by the international oil cartel, but why should we give up control over the price charged for oil discovered under American soil?

The OPEC price has jumped 50 percent since January of this year, and 1,000 percent since the start of the 1970's. Why must we march to their tune for American oil, as well?

□ 1540

Stripped of all the industry subterfuge, the arguments for decontrol are not about providing needed money for the oil industry. It is not that they need more cash. Their profits are already soaring. Mobil's profits, for example, were up 81 percent during the first quarter of this year, and then 38 percent in the second quarter and every other oil company reports the same kind of profits. And industry cash flow is already at an alltime high. Exxon's is now at $4 billion a year. Mobil's is at more than $1.5 billion; so much loose change that it is literally burning holes in their pockets. And the proof is that they are spending it on buying non-energy-related companies with it.

If all the facts were made public now, we could set a price paid for newly discovered or hard-to-get oil to guarantee a fair profit for the oil companies. No one wants to deny them a fair profit. But that does not require decontrol. As decontrol began, 70 percent of all American oil was kept below the price set by OPEC.

Decontrol will allow more than half of this oil—that discovered and drilled for before 1973—to jump in price from less than $6 a barrel now to well over $20 a barrel, and probably well over $30 a barrel by 1981. The essential flaw in the whole decontrol argument is that Americans will have to pay decontrolled prices for huge amounts of oil that would have been produced anyway.

Drilling activity is already increasing, but we see no perceptible increase in the amount of oil actually being pumped. Why? One reason could be that oil producers are not bringing it up until they can squeeze the highest possible price from the consumer. That is decontrol. They can wait for Kuwait, the Saudis, for the United Arab Emirates, for all of those countries to continue to escalate the oil price and hold that oil until they can squeeze that last dollar out of us.

Conservation is essential, but the higher prices from decontrol will have little effect on our need for fuel to heat our homes or transport us to our jobs. Fuel is not a luxury. The greatest spur to conservation is investment—in weatherization of our homes and businesses, in improved mass transit, and through better fuel efficiency in our cars and trucks. That would give us a far better return on our scarce energy dollars than handing them over to our oil companies.

Decontrol does not mean much more gasoline or home heating oil, but it does mean an unfair price for these fuels.

What difference does it make if we pay an unfair price to OPEC or to our own energy giants? This money—$250 billion, $350 billion, place both a question mark and an exclamation mark after that number because we have no idea what it will be after 1990—under decontrol will leave our pockets, and under decontrol it goes to big oil companies. It adds greatly to inflation, and by squeezing the ability to buy other goods and services, it deals a recessionary body blow to our entire economy.

This is not an energy policy for our country; it is an energy disaster. If we are going to launch a new multibillion-dollar energy program, and we must, then let us take our scarce energy dollars and invest them not into higher profits for big oil, but instead into solar and hydropower, coal liquefaction and gasification, and energy productivity, to name just a few. This is the energy policy which makes sense for America. So have the oil companies open up their books, and we will give them a fair return on their investment in providing gasoline and home heating oil to the consumer. But once again the question remains not whether to decontrol prices, but who will control prices—the American people, or OPEC and the multinational corporations.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

The increased new production is going to come from the Outer Continental Shelf, and it is going to come from Alaska, so we should have some voice in it. The question is how are we going to sell the Outer Continental Shelf to the oil companies? How are we going to sell Alaska to the oil companies?

The other point attempted to be made here is as we increase the price of oil, we also increase the price of other energy commodities. We increase the price of uranium, of coal, and so it is not a simple increase in crude oil prices that we are talking about.

I thank the gentleman.

Mr. MARKEY. I thank the gentleman for his comments. I might also add I think there was a lot of presumption by those who would support decontrol that there would be a good, solid windfall profits tax in place. As a matter of fact, we received a letter from the chairman of the Senate Committee on Finance:

> If you have any hesitation about voting for the Jones-Moore substitute for the Committee on Ways and Means' windfall profits tax, don't you worry about it, because I am not going to allow any kind of reduction substantially below that Jones-Moore position.

This is a paraphrase of Senator RUSSELL LONG's letter. What we have seen in the last 3 or 4 weeks in the Senate Committee on Finance is that chairman again working hand in glove with the big oil and gas companies in this country. We have seen almost a complete giveaway of that windfall profits tax money. I hope the Moffett amendment is adopted.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I addressed myself at the outset of the session today to what I consider the frighteningly precarious state of the economy and the just disastrous economic policies the Federal Reserve and the Carter administration are pursuing. We are seeing under these new policies an inflation rate that is unprecedented in this country and policies being consciously pursued to try to produce a recession with an administration that decries increases in employment and applauds increases in unemployment.

The fact of the matter is that the present inflation that we are experiencing is not a classic case of an excessive demand over supply. We have a cost-push inflation fueled primarily by energy price increases. Any further price increases from decontrol may well push us over the brink of economic disaster.

Mr. Kahn today made a speech to the construction workers in which he said if it were not for the increase in prices in energy primarily and also in housing and in food, we would have an inflation rate of just over 7 percent. So, in addressing this problem of inflation, it seems to me that energy is really central. If we allow decontrol to proceed and the prices of energy to go higher, it is clear that is going to translate itself directly into increases in prices of every product and service in our society.

One of the great mistakes made by the press when they talk about energy prices is they always translate them solely into the resulting increases in price of gasoline at the pump. That is just the surface of the consequences of energy price increases. Energy is completely central to our economy. We are the most energy intensive society in the world. All of our factories are run with oil. All of our goods are delivered to the warehouses in trucks. Our office buildings and factories are heated and cooled with oil. Their electricity often comes from oil. Then you go to the marketplace in trucks, and that again is heated and cooled with oil. The salesmen all go out in automobiles. The office buildings are all heated and cooled with oil. So at every stage of the manufacture and distribution of products and services in this country, increases in prices just ripple through the economy with a multiplier effect.

If we want to address the basic problems of our economy, the answer is not to wreck it, not to throw millions of people out of work, not to throw millions of businesses out of business, but it is to control the price of energy and take the sensible, drastic steps necessary to relieve our dependence on imported oil. It just simply is obviously clear that that is what we ought to be doing.

The other point I think that has been made here very effectively is that we should not be having the American economy at the mercy of the OPEC countries, and that is what we are talking about. It is not a question of decontrol; it is a question of who controls. To let every increase in OPEC prices translate itself into corresponding increases in American energy prices—which means increased inflation and destruction of our economy—is just nonsense, and why that cannot be perceived is just beyond me.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I thank the gentleman for yielding. I would like to ask the gentleman if he does not think the greatest impact on our economy is, indeed, what the OPEC countries do with prices. It seems to me one of the reasons they constantly demand a higher price is because of their perception that we are not serious about our energy policy. To my knowledge, we are the only country in the world that has gasoline prices that are as low as ours today, even with the increases we have experienced over the last few months. Would not the gentleman agree that perhaps a better way to deal with our inflation situation and our energy situation would be to convince the rest of the world that we are serious about our energy problem, we are serious about conservation, and we are willing to let our consumers face what is an obvious fact and that is that OPEC is in control of energy prices.

Mr. OTTINGER. There is no reason for OPEC to be in control of our energy prices, and we have not faced up to our energy problems in this country. It is quite clear from all the figures that have been produced that we are not going to resolve that energy problem by increasing prices. We are just going to destroy our economy. If we succeed in destroying our economy, if we succeed in having another depression like we had after 1929 and in the 1930's, then we are going to conserve lots of energy for a period of time.

□ 1550

You are going to have millions of people on breadlines like you had then. That is no way to control the economy or the energy situation. There are obviously steps that must be taken. A solution really requires drastic conservation measures within our society. It is incredible that we have not taken meaningful steps to reduce our oil exports and it is of highest urgency that we do so now. That is the way to resolve our energy and our economic problems.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

I guess what the gentleman is saying is that we should not surrender the tools that we have to work on this problem. That is in essence what is happening when we decontrol oil, is it not? We are surrendering the tools that we have to work on this particular problem so we will have no handle on the problem at all, no impact.

Mr. Chairman, we all understand that the controlled price of domestic oil is not the total answer to the problem but we should not surrender this tool. We have done enough in terms of both the past two administrations, not addressing what OPEC is doing. We cannot afford to sell our grain and sell our products for less than the cost of production, less than the cost of what the oil costs to run the tractors or the fertilizers to make the crops grow, or whatever other products.

You know, Mr. Chairman, we get a bum rap in this country on being extravagant with regard to energy. The truth of the matter is you cannot move the homes out of suburbs, you cannot change the nature of what Detroit has done with automobiles. There has to be time to make a transition. We are trying to utilize that time in a reasonable and orderly fashion.

Mr. Chairman, I thank the gentleman for yielding.

Mr. OTTINGER. I agree with the gentleman completely. We should address the real causes of our inflation which is the cost push effects of energy, price increases, cost push in housing, cost push in food and address those problems directly until we get our economy in balance. We should not destroy the economy in order to save it.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will be glad to yield to the gentleman from Massachusetts.

Mr. MARKEY. I would like to make a point in reference to the question raised by the gentleman from Missouri.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. MARKEY, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. I yield to the gentleman from Massachusetts.

Mr. MARKEY. My point is, OPEC only provides us with 7 million to 8 million barrels of oil out of the equivalent of 38 million barrels of oil equivalent that we consume in this country every single day. Clearly, we must reduce substantially the amount of oil that we unnecessarily consume in this country. This room we are in, the House Chamber, is a sieve right now. We are consuming one-third more oil in this room right now than we have to. If we could save it today, tomorrow and the day after that, as well as in our homes, factories, industries, and automobiles, if we could make a massive investment of this capital we are going to pour into the oil companies, into just insulating every home, business and factory in this country over the next 3 or 4 years we could bring OPEC to its knees, we could put ourselves back in the driver's seat. I cannot see why for all the remaining 31 million barrels of oil equivalent every day we use that we should have its cost determined by the price for the 7 million barrels of imports, which could be at $23, $30, $40 a barrel or whatever OPEC wants to set it at. That is the situation we are in right now. That tail wags the entire dog and the only near-term opportunities that we have of reclaiming that agenda is by a massive investment in conservation and energy efficiency in this country.

Mr. OTTINGER. There is no question about that.

Mr. Chairman, I spend about 75 percent of my time now in trying to achieve energy efficiency in this country, because it is clear that in the short term that is the only way we can get out from under OPEC control. If we were to increase the efficiency of our automobile fleet by just 10 miles to the gallon, for example, which is clearly technologically feasible, we would do away with our oil imports altogether. If we just decrease the miles per gallon of our auto fleet by 2 miles per gallon, we would achieve the equivalent oil savings of what the President wants to do with throwing $88 billion in a cash synthetic fuel program of doubtful feasibility and huge expense. If we insulated our houses, again we could cut 40 percent off of the use of our oil, and we could do so at an average cost of $3–$5 per barrel of oil.

Mr. Chairman, there are things we obviously could and should be doing, not wrecking our economy, not jacking up prices.

I have people in my district who genuinely this year are going to have to choose between food and fuel.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. I have people who will have to choose between food and fuel this winter. I have middle-income people who are going to be driven into poverty, middle-income people who are going to be ruined—all this to hand OPEC countries and the major oil companies an additional profit just seems so obviously nonsensical.

Mr. MARKEY. I think the bottom-line question is, How is conservation possibly advanced by saying to a man who makes $12,000 a year with three kids, who this winter instead of paying 50 cents a gallon for home-heating oil will have to pay $1 a gallon for home-heating oil, who already last winter reduced his thermostat to 68° F for the entire winter, who, indeed, out of disposal income after taxes this winter has to find another $500 to heat his home, how is he possibly going to be encouraged to conserve if all of his additional disposable income is taken out of his pocket?

Mr. Chairman, instead of saying to him, "We are going to give you a $500 or $750 grant or tax credit to insulate your home," we say, "We are going to take your last $500 out of your pocket."

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WIRTH, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Chairman, I think once again, to put the argument on conservation and pricing into perspective, let us remember that in the discussion of decontrol we are talking about only 15 percent of our total oil consumption back and forth. Prices are going up. Whether we like it or not at this point—we might disagree on this, the gentleman in the well and I—whether we like it or not, at this particular point OPEC is controlling the price of oil. You cannot wish that away. That is now happening. The only way in which we are going to be able to challenge OPEC is to develop alternatives, and the gentleman from Massachusetts is absolutely correct, there are alternatives in conservation that are needed, alternatives in solar energy, which the gentleman from New York has worked so hard on which are absolutely essential, but they simply are not going to come in until you get a realistic pricing mechanism that is going to encourage people to replace that imported oil. As long as we are keeping imported oil at such a low level, it does not make any sense.

Mr. OTTINGER. Mr. Chairman, the energy savings from putting a further economic penalty on our economy through decontrol are going to be marginal, unless, of course, we succeed in having another great depression. I do not want to have another great depression. I do not think that is a satisfactory way of resolving the conservation problem.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman.

Mr. MARKEY. I think the problem is which means of analysis we use. An economist would say the higher the price is to the producer, the more incentive there is, he will go out and produce more product. A geologist would look at the same situation and say, "Well, there is only so much domestic oil that is to be found, and no matter how high you put the price there is only so much oil that is going to be found."

Now you can argue how much you want to charge, what price you want to impose upon the consumer for that commodity but do not mislead us by saying the higher the price goes the more energy they are going to find. There is a point at which the consumer cannot resist any longer the pressure put on to open up their pockets, turn them upside down and pour out every penny to ride in their car or to keep their home heated during the winter.

Mr. Chairman, what we are saying is that there is a ceiling, there is a limit, there is a reasonable limit.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Ms. HOLTZMAN, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. You know, I think the stock market historically has been a very good barometer. We have seen the stock market fall off better than 48 points in 3 days, as of noon today it fell again almost 5 points. What it is saying to me is, we are headed toward a major economic catastrophe in this country. You jack those energy prices up again and you are almost going to assure that.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

Mr. Chairman, I am amazed that anybody would say on the floor of this House that the OPEC nations are doing us a favor and are helping us to deal with our energy problems by raising oil prices. OPEC is hardly doing us a favor by raising prices and they certainly do not have our interests at heart.

Indeed, it seems to me, that by abdicating the right to control prices here, all we are doing is saying, "You decide in some small hotel room in Switzerland what we will pay here in the name of 'free market.' " But no one can convince the American people that that decision in a hotel room in Switzerland is any freer than the one made by the U.S. Congress.

Mr. Chairman, there is no issue here of a free market. The question is whether oil prices are going to be set in the hotel rooms of Switzerland or whether we are going to decide it here in the U.S. Congress with the participation of the U.S. public.

Mr. Chairman, a second issue here is incentives. The profit of the oil companies has gone sky high recently. The oil depletion allowance has been in existence for half a century. It has given billions to the oil companies. Where has this incentive gone to and what good has it done? We read time and time again of illegal overcharging by oil companies.

Mr. Chairman, in Canada today there is a lawsuit against Exxon in which it was reported that Exxon overcharged by substantial amounts. Where have those profits gone? Why have not these incentives been adequate?

Mr. Chairman, the Central Intelligence Agency itself has said that decontrol is going to result in virtually no additional production in the United States. It is a phony argument that decontrol is going to lead to greatly increased production. If all the incentives of the past have left us this vulnerable, what incentives can possibly be enough?

☐ 1600

Decontrol has another flaw.

It removes from the oil companies any incentive to bargain against OPEC increases, because with every increase in OPEC prices, the value of the oil companies' reserves here in the United States are increased; so they have clear incentive to go along with, if not instigate price increase after price increase by OPEC nations.

I think this policy of decontrol under these circumstances is madness. It is going to undermine the standard of living not only of poor people, but of middle-class Americans and moderate income Americans. For what reason are we doing this? Some misplaced notion of free market? The OPEC prices are not free market prices and by pursuing a false hope we will seriously harm our Nation and our Nation's consumers.

I support the amendment of the gentleman to reestablish controls.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have been listening to a lot of economic nonsense in the debate on this amendment for the last couple of hours. I think we ought to try to review not only a little history, but a little practical economics.

The suggestion of this amendment is that the way we deal with high prices induced on us by someone who has a cartel of something we need is to hold down the prices to our consumers so that we reduce our domestic production.

Now, how nonsensical can you get? If you are going to reduce your own production, you place in the hands of your opponents, that is, the people who have the cartel, an ever stronger weapon. We have been doing that in this country now for 6 years. In 1973, the United States' lower 48 States produced over 9 million barrels a day of oil. I cannot tell you what is going to happen as we decontrol the price in the future, but I can tell you what happened when we controlled the price to domestic producers. What happened in the lower 48 States was that we reduced our production over this five year period ending in 1978, to 7.2 million barrels a day. That is a 20-percent reduction in domestic production.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will in a minute, but not now.

So all production is down and we have held the price down and what happens to our consumption? Is it any surprise that it goes up because the price is low? Everybody wants to use more of the product when the price is held down. I mean, can anybody really argue that when the price goes up, you use more of the product? I do not think so. So you held the price down and you increased the consumption.

Let me tell you what in fact, happened to our consumption of crude oil. You increased the consumption of crude oil. In 1973 it was 12.4 million barrels a day; in 1978 it was 14.7 million barrels a day. Now, if your production is held down domestically and your consumption is up domestically, what happens? You need more supplies. Where do you get them? You get them from the only other source, that is the people who run the cartel. Are they going to give them to you for low prices? No; they are going to charge high prices. But you have subsidized those prices with the entitlement program. Thus, you have held the domestic prices down to the point that you are better able to pay their high prices.

Now, that is what happened to us. The argument here today is, "Oh, well, then, let's continue to hold our prices down."

Well, now, somehow that all translates to me to say that what we want to do is repeal the law of supply and demand. I have suggested to this body before that we would be better off trying to repeal the law of gravity and then the oil would come bubbling out of the ground and we would take care of the whole thing that way.

The thing that worries me is that, a few years ago when I made that suggestion, some of my colleagues sat in the back of the room and looked at me and sort of went, "Oh, not a bad idea."

Well, it has not been proposed yet, but if we keep on with this nonsense, I assume it will be.

I will vote against it, because I do not think it will work. I also will vote against this amendment, because I do not think it will work. You cannot continue to subsidize the import of expensive foreign oil by holding the domestic producers' prices down and get anything but continued shortages and higher prices.

Now, the reason I say this is that this is exactly what has happened as a result of having price controls since 1973. What has happened, I ask you, to the price of gasoline and oil in this country? It has gone right through the roof. It is still price controlled, but it has gone right through the roof, because the domestically controlled amount of oil has been reduced, because you have discouraged production, and you have imported more of the high priced stuff. Thus, the blend of crude oil that you get to get a gallon of gasoline means that the price of gasoline goes up and up because you have more of the imported oil and less of our domestic production, which is price controlled.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will in a minute; but you know, I now have my only opportunity to speak, and this debate has gone on now for over 2 hours. I thought maybe I would just take a little time and discuss the issues before I get into further debate. I will yield in just a minute, if the gentleman will just be patient, as I know he is.

Our imports have gone from 3.2 million barrels a day in 1973 to 6.2 million barrels a day under price controls.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 5 additional minutes.)

Mr. BROWN of Ohio. That increase in imports has occurred under price controls. Now, how bright is that? Wonderful job, price controls; that really teaches them over in OPEC. We are importing twice as much as we did before. Does that make sense? None, absolutely none.

Let me suggest to you that we have had price and wage controls in this country before. I come from a district that has a strong agriculture. We do not have domestic production of oil, as everybody in this House knows, I have told them that before, of oil or energy of any kind. We just use it and we need it; but we also have some agricultural areas that use energy also.

We have had experience with price controls in agriculture. When we did, you could not find chickens in the marketplace; and beef could not be found. Although the price was not too high, there just was not any chickens or beef available. So, we can hold the price down for domestic products in this country, but the production will go down, I can tell you. It is as simple as that.

Now, what is the answer? Is there any more large finds of crude oil out there? I do not know. We have punched holes all over the lower 48 States except, of course, in those areas in the overthrust belt which the Government has locked up. Maybe there is more and maybe there is not; but if the price goes up, it will be practical to bring in synthetics. It will be practical to gasify coal. It will be practical to liquify coal, because the price will be up there to make that attractive and we will have our energy supplies domestically produced and therefore be less enthralled to our friends in OPEC. It makes sense, in part, it seems to me, to let the price go up.

Now, what do you do about the poor folks? I sympathize, since I have poor folks in my district, too, and I have people that are going to be hurt by high energy bills. I would suggest to you that we do what we have always done in this country. I have supported amendments offered by the gentleman from Connecticut, who has a big heart, and the other people who have offered such amendments, that we try to support those people who can least afford to pay. Let me tell you what happens to the rest of the people. They make adjustments. They put weatherstripping around their doors. They drive less. They do what my wife and I have done. You move closer into town so you can ride public transportation. You may even let your kids walk to school, rather than drive them the three blocks to school. You can do a lot of things that you would rather not do, but you do them because you have to. You make those economic adjustments when you are able to make them. When you are not able to make them, when you are living just on the margin, then you need some help from Uncle Sam or from your State and we will give that to those people to help, as we do in food stamps, as we do in subsidized housing, and we do in the other things that we do to try to take care of social problems. But for crying out loud, you do not subsidize my wife driving three blocks to the market by holding down the price of domestic fuel so that she does not have to pay the real price of that gallon of gasoline so that I can drive alone to work each day. Rather by decontrolling the price you sort of force me to go in public transportation and thereby be a more economical energy consumer.

So the result of all this stuff that this amendment would do today is that we are going to further discourage our energy evolution, the finding of domestic natural products, if we can; the finding of synthetic products, if we can; and we are going to further encourage our increased consumption of energy products that we really do not need that badly.

☐ 1610

Other people who are paying the high world market prices have shown us that. Let me just speak to that for 1 minute, and then I will sit down or answer questions, whatever the Members want me to do. Hopefully, I will sit down.

The history of this situation was that in 1973, being an institution of good heart, as I said, the Federal Government indicated that it did not want the American consumer to take the whole kick in the teeth all at once, so we were going to hold down domestic oil prices and then gradually let them seek the world market price. The idea was that we would go gradually to the world market price.

That was the thrust of that legislation voted on by a majority of my colleagues on this side of the aisle and by just a few of us on this side of the aisle, but I supported that because I thought it made sense to let the price gradually rise to the world market price and not take the kick in the teeth all at once.

Our European friends and our Japanese friends did not do it that way. What they did was to say, "We are going to let that world market price take effect immediately." The world market price went into effect immediately, and they said, "We are going to take the beating right now."

Well, we know what happened. Our European and Japanese friends built cars. They built not big cars but small cars, cars that were more energy-efficient in almost every way.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. Brown) has expired.

(By unanimous consent, Mr. Brown of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, as I said, our friends made their adjustments, and we did not. Some industries in this country made adjustments. I have a few industries that cut down their energy consumption to make products by something around 40 percent. The average for the United States was about 17 percent since 1973. But they did it, not out of patriotism—as I wish they had, perhaps—but really out of a desire to save a dollar and cut the cost of their product when it was competing with foreign made products in markets overseas and also in markets in this country.

The average consumer did not have to conserve because we were subsidizing him, as we remember, with price controls on domestic fuels, and we continued to drive our big cars. Now, all of a sudden it got out of hand when we had a shortage, and people have now begun to make the adjustment here.

How much better off we would be now—certainly our European friends and our Japanese friends are better off—if we had taken all of our beating at that time, but the Congress did not want to do that then. And now we are told by my colleague to whom I am going to yield in just a minute that what we really ought to do is not to take the President's scheme to get out of price controls on domestic oil between now and 1981, but that we ought to continue to take the EPCA route.

The EPCA route just raises those prices by 10 percent. What is the current inflation rate? 10 percent? Indeed not. We know what it is. It is 12, 13, 14, 15 percent, depending on how we count it.

So what would be the result? If we hold the price of oil down to 10 percent and the inflation rate is 15 percent, we will have more and more people in the crude oil producing business going out of business because they cannot even keep up with inflation under this amendment.

We know that oil is harder to find and, also more expensive to produce, and we know historically that the cost of finding oil has always gone up faster than the consumer price. So the 10-percent increase that is suggested under the present EPCA bill does not even keep up with the current inflation.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. Brown) has again expired.

(On request of Mr. Moffett, and by unanimous consent, Mr. Brown of Ohio was allowed to proceed for 3 additional minutes.)

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I am happy to yield to the gentleman from Connecticut for his views. I have probably said more than I ought to have said.

Mr. MOFFETT. No. Mr. Chairman, let me assure the gentleman we enjoy listening to him, and I think he knows that.

But let me say the gentleman from Ohio (Mr. Brown) and the gentleman from Michigan (Mr. Stockman), who are on the same side on this issue and who are both very articulate, have said two different things. The gentleman talked about how consumption has been more or less out of control because of these low prices and the gentleman from Michigan just told us this wonderful story about how conservation is becoming pervasive throughout our whole society.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman's figures run from 1973 to 1978. I think the gentleman from Michigan is right, based on the high prices that have come in now just in the last 2 years. In any case, conservation measures are now no where near as effective as they would have been if we had not instituted price controls in 1973.

Mr. MOFFETT. Mr. Chairman, the gentleman from Michigan was talking about conservation having come in over the last several years, if I am not mistaken.

The second point I would make is this: The gentleman mentioned the inflation rate and these poor oil producers. We hear so much about these poor producers. The inflation rate in our society again is 12, 13 percent, as the President has said, and Mr. Kahn and many others economists have said that if we take the energy factor out of that inflation rate, it goes down considerably.

Mr. BROWN of Ohio. Mr. Chairman, with all due respect to Mr. Kahn, I think that is nonsense. There is an impact of inflation obviously from the increased price of oil because of the OPEC increases, but the real cause of inflation is not that. That is not the reason that people are getting rid of their dollars all over the world and going to gold. The reason is that we have been printing dollars.

I almost said, when we had that proposal about spending $100 million or $95 million, at the beginning of this debate, "Why not spend it? It is only play money." It is just play money because we are continuing to debase it further by our Federal spending policies.

Mr. MOFFETT. Mr. Chairman, if my friend, the gentleman from Ohio, will yield for a further inquiry, let me say first that it is a rather expensive proposal the gentleman suggests.

I think the gentleman has come a long way, as opposed to a few years ago when he was saying that there is going to be tremendous production, because now the gentleman is saying—

> I don't know that there is going to be, and I don't know whether we are going to move ahead that fast in synfuels, but we are going to have to give it a try.

A lot of people are adversely affected, and I know the people are concerned about this issue. I know the gentleman is trying to throw a few crumbs for fuel assistance to a handful of citizens, and he is addressing the social side of this problem. But I cannot believe that the gentleman believes this is going to, in any effective way, treat the social side of the problem.

Mr. BROWN of Ohio. Mr. Chairman, let me tell the gentleman what is happening on the social side. The cost of those increased imports, with the doubling of imports that we have had, has really raised our foreign bill—that is, the money going from here to abroad—from $3 billion to $60 billion.

Now, let us take that $60 billion and divide it by 220 million Americans, and we will find out that every American is paying through the nose to producers outside this country. I do not think that is reasonable, and I think we could improve on that.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, many of the pearls of wisdom I would have left with the Members, had I had the opportunity to speak 2 hours ago, have already been presented, but there is one point that has been made in favor of the amendment that I think is a very forceful point and must be answered. It was presented very eloquently by my senior colleague, the gentleman from Texas (Mr. Eckhardt), and I would like to explain to the Members why that point is false. I would like to explain why, even if we believe that we would never find another drop of oil in this country, it is in our interest and in the interest of the people that we represent that we not vote to reimpose controls.

My senior colleague, the gentleman from Texas, and many Members of the Congress, including members of the Subcommittee on Energy and Power, have the conception of oil reserves being just so much oil in a bucket that can be measured and produced.

As my colleague, the gentleman from Massachusetts, pointed out, we talk to economists about production, and they say that price affects production, but we talk to geologists, and they say there is just so much oil. In a sense, that is what the geologists say, but not quite. It is that difference that is so important to this debate.

We can make a very good analogy between the amount of oil that can be recovered and an iceberg floating in water. We have vast reserves, but there is only so much we can get out of the ground, and the amount we can get out depends on price and on technology. As the price rises and as technology progresses, it is as if the water grows more dense and more of the iceberg floats up.

I am like the gentleman from Ohio (Mr. Brown): I do not know how much more oil is going to be found. Maybe because I come from a State where we find oil, I am more optimistic than other people are. But if there is not another drop found, it is imperative that we not reimpose controls.

The reason is this: The price does affect the amount that we recover out of what has already been found. In 1945 we recovered or got out of the ground only about 15 percent of all the oil that we discovered—only about 15 percent. The other 85 percent, because of the low price and because of the technology which was primitive by current standards, was not recoverable. We just left it there in the ground.

By 1978, because the price had risen and because technology had improved—because the price increase itself had focused investment into the development of technology—we were getting 32 percent of all the oil we discovered out of the ground.

Now we have in the United States today, not discoveries that are going to be made in the future but right now in reserves, between 100 billion and 600 billion barrels of oil. That is oil that we know about; we know where it is located, and in many cases we know how to get it out of the ground. Now, if we had the same technology and price today as we had in 1945, if we could only get 15 percent of the oil out, we would have recoverable reserves today of only 45 billion barrels.

☐ 1620

But we do not have recoverable reserves of 45 billion barrels. Our recoverable reserves are pretty close to 90 billion barrels because we can get out on average about 32 percent of that oil at current prices and current technology.

The point I want to make is this: By deregulating old oil, that does not increase the amount of old oil that is in the ground, but it does increase the amount that we can get out by water flooding, by secondary recovery methods, by tertiary recovery methods, steam dry, in situ combustion, and other methods of getting more and more oil out. In fact, we now have new technology that is allowing us on an economic basis to get out between 55 percent and 60 percent of the oil in place.

So the point I would like the Members to remember is that when we are talking about old oil in the ground, if we could simply increase the amount of old oil that could be recovered from 30 percent to 40 percent, we would raise our proven reserves—and that is the amount that we will actually produce—by 30 billion barrels.

So this figure we hear batted around about how much new oil will be discovered next year if the price goes up, neglects the fact that price affects our ability to recover oil that has already been found. If we reimpose price controls, if we roll back the price of old oil, there is not going to be any less of that oil.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. GRAMM) has expired.

(By unanimous consent, Mr. GRAMM was allowed to proceed for 5 additional minutes.)

Mr. GRAMM. If we roll prices back, the Lord is not going to take that oil back that we have already found. But if we roll back prices, we are not going to get as much of it out as we will be able to get out if we do not roll prices back. That is the important element that is left out of this debate about old oil.

An additional paradox of this whole debate is that while it is important to talk about synthetic fuels, and new oil discovery we will get more old oil out of the ground quicker by deregulating old oil than we will find new oil or produce synthetic fuels or other non-conventional resources.

So I think it is imperative that we not step backward. The price has gone up. We cannot change it. We would like to do something about OPEC, but given the fact that we are not going to send in the Marines, given the fact that we are not going to break into that motel room in Zurich and shoot these people, there is nothing we can do about it. The only thing that we can control is our own policy. Do we want to let the price go up today and recover more old oil and ultimately produce more, or do we want to wait until tomorrow to let prices go up more as we produce less? That is the question.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I applaud the gentleman's statement. While I think the motive behind the Moffett amendment is good, it is basically the old adage of cheap energy at any price.

I would like to read one sentence out of the book "Energy Future," which says:

> With decontrol, American oil consumers could then make investment decisions with the certain knowledge that oil prices would be steadily rising toward the world market level.

The only way we are going to get the alternative fuels that everybody is talking about today, or conservation or efficient use of vehicles or space heating, or whatever, is if the consumer makes those decisions based upon what the pricing mechanisms are.

While it is a difficult thing politically to acknowledge, I honestly believe that it is the only way that we are going to be able to save ourselves out of the situation.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman on his statement and his analysis of the economics presented to us earlier by the other gentleman from Texas on the $50,000 per barrel analysis presented.

The gentleman has pointed out the economics of old oil, combined with a lot of earlier discussion about conservation, about the value of the dollar, about the marginal cost of a barrel of oil, which are all different analyses of economics, which explode the very simplistic model presented that arrives at the cost of a barrel of oil, $50,000 a barrel. I thank the gentleman for his careful analysis.

Mr. GRAMM. I now, having waged a continual debate with my colleague, the gentleman from Texas (Mr. ECKHARDT), for a decade, yield to him so that he might admit that I am correct.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, the gentleman in the well is essentially right that there is more oil that can be recovered over a period of time at a higher price. But the thing is that the price of old oil has doubled since the Arab embargo. The price of new oil has more than quadrupled during that period of time. This gentleman from Texas is willing to see it go even higher after 1981, but not to give additional amounts now which will not produce a sufficient increment of additional production.

The gentleman in the well knows that there is in the present composite $4½ billion which the gentleman's colleague, the gentleman from Texas (Mr. WRIGHT) the distinguished majority leader, has called for putting into marginal production. That is right. Some money ought to go into marginal production. But the money is there under existing law, and even after the Moffet amendment if it were passed.

Mr. GRAMM. Mr. Chairman, if I could reclaim my time, I would simply like to make this final point.

I do not know what the magic incentive is. I do not have any idea what the optimum price that will bring forth this production will be, anything more being too much, anything less being too little; but I do know that we have a group of foreign nations that have us by the throat, and they have set a price. I do not like the price. It might not be the market price if they did not set it. But I am willing to give that price as an incentive to American producers who can pull their grasp from our throat. I do not know of any other way to do it.

Mr. HANCE. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Texas.

Mr. HANCE. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Texas (Mr. GRAMM). I would like to add to it a couple of things.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. GRAMM) has expired.

Mr. HANCE. Mr. Chairman, I ask unanimous consent that the gentleman from Texas (Mr. GRAMM) be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. TREEN. Reserving the right to object, Mr. Chairman, I will not object at this time, but many of us on this side have been waiting for hours and hours to make a statement. The next request for an extension of time I will object to.

I withdraw my reservation at this time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GRAMM. I continue to yield to the gentleman from Texas (Mr. HANCE).

Mr. HANCE. Mr. Chairman, I would

like to add one additional thing to this debate. If you look back through the history of the production of oil, the first oil well was hit by a fellow by the name of Colonel Drake, near Titusville, Pa. Within 4 months the price of oil was $40 a barrel. And the price was such that everyone thought that they could get rich, and every independent businessman went out and started drilling for oil. Within 4 years the price of oil was a dime a barrel. If you look at what the people say about there being no oil reserves left, you can look at the 1900 U.S. Geological Survey. They said there were no oil reserves left in the United States of major significance. Yet in less than 1 year a gentleman by the name of Captain Lucas, hit an oil well called the Spindletop Well in Beaumont, Tex., that flowed 100,000 barrels a day. In less than 6 months the price in Beaumont, Tex., for a barrel of oil was one penny for each barrel.

The answer to our energy crisis is supply and demand. You can blame big oil, you can blame the OPEC countries; but the real blame goes back to this body of Congress which in 1974 placed price controls on the price of crude oil. The sooner we face up to the fact that price controls created the problem and bite the bullet, and do away with price controls the better off we will be.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I was interested in all of the statements that reminds all of us of the time that Congress created this monstrosity piece of legislation. It goes back 5 years.

Today the argument seems to miss the whole principle, because we have the 5-year history that we can study. We have heard the many spokesmen on behalf of the OPEC position who would advocate that we send more and more money to the Arab OPEC countries. At the time Congress put in this oil price control, we were importing each year $3 billion in oil. But because of this price control legislation, America today is dependent upon the Arab OPEC countries to the extent of importing $60 billion during this 1 year. We are going to import $60 billion next year.

Many times on the floor we have had farmers rise up and say, "Why is it that foreigners are coming in and buying up our farms?" What they are doing, they are just taking payment for all of this oil that we are importing from them.

One-half of the oil in this country today is imported oil. One-half of our oil is imported. Congress does not seem to be concerned at all when we pay the Arab countries $22.40 a barrel to put OPEC oil down in Philadelphia. I think the price has risen now. I think it is $24 a barrel now that we pay the Arab OPEC countries. But what we are talking about here, is the friends of OPEC object to paying the American oil companies more than $5.50 or $5.80, a barrel. How are the oil companies going to get the capital in order to drill and explore to bring in more U.S. production?

☐ 1630

Now, they mentioned briefly facts about how much oil is available. I want to tell this body that the U.S. oil supply is dropping.

I mentioned the farmers. Farmers know that when you plant cotton this year, you bring in the crop, and you have got to plant cotton again next year. It is the same way with oil. As we consume oil, we need to drill and develop added secondary production.

Just take the State of Texas. Texas production is down 600,000 barrels a day just in 3 years, because independents are not drilling.

I am quoting Governor Clements of Texas.

We have to check our supply and demand records. I want to go into a study that I have gotten from the API. This is something that is important. The price of oil, including all of the new producing wells plus any of the various legislated price tiers with all averages included in the United States, shows price of oil income is up 63 percent; but the price of drilling during this past 5-year period is up 104 percent. Oil independents get 63 percent more but expenses are up 104 percent.

This is not even giving oilmen enough money to keep up with the rising price of drilling, and what they need to do is to earn a lot more, because the low-cost production has all been discovered. Now the United States has deeper drilling and expensive secondary.

I was interested in what the gentleman said a minute before about the tremendous oil reserves we have available in this country. This is very important.

We have discovered—and this is an API report—we have discovered a total of 450 billion barrels of oil in the United States, but we have only recovered 115 billion barrels. That means that we have 335 billion barrels of oil down there to recover.

Now, when you start recovering secondary and tertiary oil, it is expensive. Pennzoil had an experience out here. I talked to the gentleman about Pennsylvania. He knows about it. They were able to recover 70 percent of the oil out of that old field because they moved in on it, and they were able to pay $19 a barrel.

What we are talking about in this price decontrol is to let the American oil companies reinvest their money. Let them buy American machinery. Let them buy American pipe. Let them buy American transportation.

What we are trying to be doing, is we are going to be keeping the dollar here in America. We are not going to be sending $60 billion abroad to the OPEC countries.

Let me give the Members investment totals. This is the last year figures I have on these American oil companies. Their net income was $7.87 billion. This included the top U.S. companies. They reinvested $15.5 billion in capital investment and exploration. The major oil companies are more than reinvesting all they make. They are more than reinvesting.

Let me just quote some of other experiences. Here is what oil drilling is costing.

I saw the gentleman out here from west Texas. This is out in Freestone County. A well costs $750,000 in December of 1976. The same company drilled just 7 miles from it in the same geological formation, and it cost $1,645,000. Within 3 years, the cost had more than doubled.

We have much production where we could go in for secondary out there in west Texas. Sun Oil has production of 202,000 barrels a day. It has gradually dropped down to 104,000 barrels a day. It costs to put carbon dioxide into the wells. Pay the current market price and we can reestablish full production.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. COLLINS) has expired.

(At the request of Mr. WHITE and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 5 additional minutes.)

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. Mr. Chairman, I yield to my colleague from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, the gentleman was mentioning West Texas. I would like to establish three points if I may by the gentleman.

Is it not true that 75 percent of the domestic production in this country is by small independent companies and not the major companies?

Mr. COLLINS of Texas. They are the ones who go out and find out. They are the ones who go out and produce it.

Mr. WHITE. If the gentleman will continue to yield, now, in the terms of discovery, has the gentleman read figures whereby about 2 percent of the land has been explored for the potential reserves in this country for oil?

Mr. COLLINS of Texas. It is not just the land, of course, that has been explored, but it is the intensity of drilling where they can go back and explore areas they have been.

Mr. WHITE. Is it not true that there is an estimated or known reserve of approximately 102 trillion barrels of oil not precisely discovered, but they believe it is down there in this country that has not actually been produced?

Mr. COLLINS of Texas. That is right The gentleman is absolutely right. We have got to go out and get it.

Mr. WHITE. If the gentleman would continue to yield, is it not also true that in order to have these drillers go out and explore, they have to have incentives because one out of every 10 wells is producing, and nine are dry, and that they must drill something like 25,000 feet at a cost of up to $15 million, and no one is going to drill unless they know they are going to get a return. They would go bankrupt. With this decontrol, we are giving the incentive to go out and discover new oil, which is the way to obtain our independence from OPEC.

Mr. COLLINS of Texas. I thank the gentleman.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

I oppose this amendment. I think that the gentleman in the well, the gentleman from Ohio (Mr. Brown), and the gentleman from Texas (Mr. Gramm), have stated it very eloquently. What we have been on in this country for several years is a dangerous drug: the notion that we can have more by paying less. The danger to that is that we are going to become addicted to it.

If one can make a case today for price controls on energy, one can make a case for price controls on housing, food, medicine, and other things that are necessities of life.

I would have thought that we would have learned a lesson from the history of natural gas decades ago. We tried this foolish idea that we could control price. We had overconsumption. We had undersupply as a result of that.

The same thing is happening since we went on this drug about 8 years ago with respect to the price of oil.

We talk about inflation, and all of us are concerned about inflation. It is now running at 13 percent this year. One of the inflationary factors is the huge cost of the bureaucracy that has been erected to allocate energy in times of shortage.

In this bill alone, we have thousands of people who are dedicated and who are authorized just for the purpose of the regulatory aspects that are needed, because we will not let the free market system operate.

We have got to become energy independent in this country or at least substantially so. We can if we will let that free market system operate. It will provide the incentive for additional production. It will provide the aggregation of capital needed for the more expensive forms of exploration and development, but most important of all, the free market system will make these alternative energy supplies viable; and that is essential if we are going to have security energy independence in this country.

I thank the gentleman for yielding.

Mr. COLLINS of Texas. I thank the gentleman, and I want to emphasize what he is saying. We can be energy independent. The United States can produce our energy. All we have got to do is look at the alternatives. We imported $3 billion of oil when we passed this bill, and this year we are importing $60 billion.

Are we going to make our country dependent on the Arab OPEC countries? Are we going to send more American money for energy to the Arab OPEC countries? We have got to keep oil funds here. We are going to financially bankrupt America unless we let the U.S. people drill and develop our own oil by deregulation in this country.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Texas.

Mr. ECKHARDT. I want to establish one thing, and I think whatever Governor Clements says or what I say, it is clearly true that the number of rotary rigs in operation from shortly after the passage of the 1975 act consistently increased through November of 1978.

The seismic crews are presently at the highest level they have ever been, which indicates to me that we certainly did not depress oil discovery activity by virtue of the 1975 act.

Mr. COLLINS of Texas. I would say to the gentleman that I have not seen all of the figures, but I have seen the July 1979 figures, and in the current July figures, the drilling rigs were down 11 percent compared to the July figures of a year ago. That is definitely 11 percent fewer U.S. oil rigs now in action.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto terminate at 5 minutes to 5, with the last 5 minutes being reserved for the committee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. MOFFETT. Reserving the right to object, Mr. Chairman, just a point of clarification: Could the chairman enlighten me on what he means by the last five minutes being reserved for the committee?

Mr. DINGELL. As chairman of the subcommittee and the manager of the bill, it would be reserved to me.

Mr. MOFFETT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there further objection to the request of the gentleman from Michigan?

Mr. SYMMS. Mr. Chairman, reserving the right to object, why do we not make it quicker? Why do we not vote right away?

Mr. DINGELL. I have got an excellent speech I have been sitting on all afternoon. I have listened to all my colleagues.

Mr. SYMMS. Mr. Chairman, we have heard so many excellent speeches.

Mr. DINGELL. Mr. Chairman, the gentleman has not heard anything I would like to say yet.

Mr. SYMMS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

☐ 1640

The CHAIRMAN pro tempore. Members standing at the time the unanimous consent request was agreed to will be recognized for 25 seconds each.

The Chair recognizes the gentleman from Oklahoma (Mr. Edwards).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I would just like to reiterate a point that was made a slight while ago. It is the small independents who find the oil and produce the oil in this country. That is the reason why we need decontrol. It is misleading to keep talking about the big oil companies; they are irrelevant to this debate.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. Stenholm).

Mr. STENHOLM. Mr. Chairman, two quick points. One is I want to remind the consumers of America that we have gotten in the position in energy that we are in in America today with controls.

Second, what is really the difference between old oil and old coal? We have talked about old oil, old oil. What is the difference between old oil and old coal? We could save the consumers twice as much money as is being proposed in the Moffett amendment by placing the same kind of controls on coal, but we do not talk about coal.

I want to remind everyone here we got where we are today with control. If you like oil control you will love us for conserving and the lowering of product, and the increased cost. When we look at the rise in the price of coal over the past few years, it is impossible to justify Federal controls only on domestic crude oil. What really is the difference in old oil and old coal railroad rates? Why timber stumpage, homes, et cetera. Why single out oil? From 1973 through 1978, the price of coal rose 224 percent. Despite these statistics, the coal industry is presently suffering economically and people are out of work because of the control on oil and gas which continue to price oil and gas below the market. Nevertheless, few, if any Members took notice of these increased prices and none, to my knowledge, made any legislative effort to restrict these increases in the so-called interest of the public sector. While coal prices were increasing 224 percent there was no clamor for controls and windfall profit taxes. If you believe that the continuation of price controls on crude oil would be good for consumers, I urge you to support my amendment, which would result in an immediate annual savings to consumers of $11.77 billion. To support the continuation of mandatory price controls on domestic crude oil, while voting against an amendment such as the one I am proposing is, in my opinion, political hypocrisy that does little to promote the interests of the consumers or to solve our Nation's serious energy problems. Decontrol will increase oil production, and will help our balance-of-trade problem, and will help increase employment, and will serve the long-term interests of the consumer. Short-term answers only serve to promote short-term political interests and prolong the need to take actions which might prove unpopular at home but which are necessary to solve our energy problem.

The price control system is a bureaucratic nightmare. The fact of the matter is that those who advocate controls in the interests of the consumers are actually the ones doing the consumers the most harm. The failure to continue decontrol of oil will also cause substantial harm to competition and consumers. Even the Department of Energy has admitted this fact, at least in their internal memorandums.

I ask you to vote against the Moffett amendment to be of the best long-range interest of all American consumers. I urge defeat of the amendment.

(By unanimous consent, Messrs. Sensenbrenner, Treen, Loeffler, Lungren, Bethune, and Lewis yielded their time to Mr. Emery.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Maine (Mr. Emery).

Mr. EMERY. Mr. Chairman, the question of price controls on petroleum products, whether it is oil or gas, is especially important to those of us who live in the Northeast. High prices have probably affected us as severely and shortages have affected us as severely over the last few years as any other part of the country.

As a Member of Congress who was elected in 1974, and as one who has been here for over the last 4 or 5 years while oil prices have risen dramatically, I have come to the conclusion that the maintenance of price controls has been a disaster. I have come to the conclusion that the maintenance of price controls on oil and gas has resulted in no effective control of price to the consumer, and most importantly, has resulted in limiting domestic oil production in this country.

If there is anything our part of the country needs, it is the increased production of energy. We need oil; we need gas; and more than that, we need the ability to develop alternative energy resources so that those of us who live in New England and those of us who live in other parts of the country will have the energy we need independent of OPEC.

During this period of price controls, the price of energy has increased and every single consumer in the Nation knows that. Price controls have not held down the cost of energy in this country and anyone who drives a car or burns oil in his furnace knows that.

We also know that the dependence on imported petroleum has practically doubled, from something like 30 to 50 percent as it is now.

We know without the incentives to produce energy in this country, whether it is oil or natural gas, or whether it is some synthetic fuel made from nerewable resources or from coal, we know that without incentive and capital we are going to be more and more dependent on Arab oil sheiks, on OPEC, or on other sources of energy which are unreliable. Certainly we may question the wisdom of simply turning over our energy policy to big oil—I oppose that—but that is not what we are talking about. What we are talking about is creating an economic climate within which we can solve our energy problem through increased energy production and allow the country to be energy independent.

I oppose the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, today America is being choked economically. Today dependent on about 50-percent importation, at $24 per barrel the 3.17 billion barrels per year we must import costs our country over $55 billion.

As a result our balance of payments is projected $34 billion in deficit though until 1974 we enjoyed a healthy surplus in trade—1974 was the year after the embargo.

Our dollar is seriously declining in value. High cost foreign oil is burning up our economy with raging inflation. Unless we can rely less on high cost foreign oil, our economy will be seriously damaged.

The only ways we can become less dependent are first to develop alternative sources of fuel—still years away or second discover and produce more domestic oil. With decontrol and windfall—800,000 barrels per day; with decontrol no windfall—1.5 million barrels per day.

It is estimated that: Only 2 percent of our potential land has been explored for oil and gas.

Example, our known and estimated oil reserves totals 109 trillion barrels which amounts to a 15-year supply based on 20 million barrels per day use. (That is now at 18 million barrels per day). Why is decontrol the best, the most direct, probably the only way to explore for, discover, and produce the oil necessary for self-sufficiency?

Because producing oil is so costly and so risky only by proper incentives will this oil be produced.

Of 10 wells drilled, 9 will be dry and only 1 will produce.

Each well now must be drilled about 5 miles, over 25,000 feet.

Each well costs up to $15 million to drill.

What business will risk such capital on a 1 out of 10 shot, if the price is artificially held down?

But if price were governed by the market, by law of supply and demand under the free enterprise system, it makes the risk worthwhile.

Price would find its own level, and would stabilize with greater production.

While the price would be higher, it would not be so high as foreign imports, and the money would stay in our own economy.

If controls are kept on prices at unrealistic figures, the prices domestically would be kept down, but there would be no new domestic oil.

There would be $24 and higher foreign oil, forever going up till we could not afford oil products.

Our only salvation would be in a decade or more when alternative sources of energy become economically feasible.

Popular concept that oil equates to major oil companies.

Fact is 75 percent of domestic oil production is by smaller independent oil companies.

That means a lot of communities, a lot of little people depend on oil, directly and indirectly.

This is a part of America. Let us encourage home industry and break the stranglehold of exhorbitant oil prices from abroad.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, the answer for energy is going to be that during the next 10 years we need even more than new discovery oil wells. The important emphasis must be on greatly expanded secondary and tertiary. We have only recovered 30 percent of the oil that we have discovered in this country. Only 30 percent has been produced. If we would pay the same price for American oil as we do for all this $22.40 Arab oil we import, we could recover the secondary and tertiary reserves and be completely independent on oil in the United States.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, I would encourage the Members to vote down the Moffett amendment. After the Moffett amendment is voted down, we will have a chance to debate the virtues of the allocation and price controls and abolish them later in a later amendment which I will offer.

I would urge the Members to vote this amendment down now so that America has a chance to break, as the gentleman from Texas says, the stranglehold OPEC now has on us.

(By unanimous consent, Mr. WIRTH yielded his time to Mr. PREYER.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, I rise in opposition to the amendment.

I am from a consumer State, not an energy producing State. Recontrol of oil prices has a lot of political appeal in a consumer State—but it is a spurious appeal.

Recontrol is a quick fix, not a policy, not a solution. We must tell the voters very clearly the bad news: Higher energy costs cannot be avoided. The transition from lower to higher energy costs will be easier and less painful overall if prices rise to reflect the economic realities.

I am not one of those new libertarians who believe that if we just totally decontrol the price of oil all of our troubles will be over. Free markets cannot do everything. "Letting the markets work" will not answer all of our research and development needs, nor will it answer the income distribution problems or the inflationary effect problems that arise from decontrol. These problems can be, and are being, addressed in other more direct ways.

For example, the income distribution effects can be handled by direct assistance to specific groups and by windfall profits taxes. The inflation impact is addressed by the recognized need to compromise on total decontrol and to phase in decontrol; the research and development needs through the Energy Mobilization Board and other features of the President's program.

But it should be crystal clear by now that market forces are the best way to increase the supply, and reduce the demand of energy.

The North Carolina natural gas supply situation is an example. In 1971, we consumed 189 bcf (billion cubic feet) of natural gas. Under controlled prices here is what happened: 1972, 182 bcf; 1973, 174 bcf; 1975, 118 bcf; 1976, 102 bcf; 1977, 104 bcf; 1978, 95 bcf; 1979, 115 bcf; and 1980, projected 139 bcf.

A total moratorium was imposed by our Utilities Commission on new connections in January 1977. The moratorium was lifted in January 1979. While not conclusive, these figures certainly indicate that the prospect of decontrol and ultimately the passage of phased decontrol of natural gas prices through the Natural Gas Policy Act on November 9, 1978, has made a dramatic difference in the supply situation in North Carolina.

Decontrol, then, is valuable in increasing the supply of oil.

But equally or more importantly, to decontrol oil prices, as this amendment would do, prevents the use of market forces to price and allocate energy efficiently. It leads to one regulatory horror story after another. The regulators become everybody's favorite whipping boys. But it is not their ineptness that is causing the problem, it is the impossible situation in whch we place them when we control oil prices. As the recent Ford Foundation report on "Energy, The Next Twenty Years," puts it:

> When energy policy tries to prevent energy prices from rising in response to or in anticipation of higher energy costs, the things government must do directly to try to accomplish these microeconomic adjustments increase greatly in number and complexity: supplies and conservation must be stimulated by subsidies, regulations, exhortation, and gimmicks of various kinds; shortages must be allocated by complex bureaucratic systems; long-range investment and technology development must be stimulated by government; "profiteers," hoarders, and other citizens doing what comes naturally must be pursued and punished. Logic suggests and experience demonstrates that programs of this kind become increasingly inefficient, complicated, and unfair with time and are ultimately abandoned, but not before the distortions and delays they introduce raise costs—and, in the long run, prices—above what they would otherwise be.

DOE itself has acknowledged that its own regulations contributed significantly to the gaslines this summer by exacerbating the supply shortfall.

In the private sector, criticism of DOE's regulation is heard from all sides. Its recent gasoline price regulations are under attack, court attack, from consumer groups, State Governors, and industry.

No wonder. Our convoluted entitlements program under controlled prices subsidizes imports in the neighborhood of $5 billion a year: Those who import oil as subsidized by those who do not—an extraordinarily perverse policy. And the regulatory structure has badly skewed the investment in new refinery capacity by creating a bias in favor of small, inefficient refineries. Many small refineries have been built under the present regulations which cannot efficiently refine the supplies of increasingly heavy and high sulfur crude oil, nor make unleaded gasoline.

Instances abound of the need to clean out the Augean stables of the energy regulatory system.

Most advocates of energy price controls do not deny that markets both price and allocate energy more efficiently, but they argue that market prices, however efficient, will cause hardships and inequities. But we must remember that controlling prices does not reduce the real costs that must be paid by someone, somehow. What about factory workers laid off because price-controlled fuel to industry is curtailed (and we had many examples of this in North Carolina during the natural gas shortage before the passage of phased decontrol of natural gas prices)? Or drivers spending hours in gas lines might gladly pay higher gas prices in exchange for shorter lines. Changing the form in which society pays higher energy costs by controlling prices does not necessarily reduce the resulting hardships and inequities.

The Ford Foundation report points out that keeping energy prices artificially low is not an efficient or effective way to help the poor. The report states:

> The proportion of total expenditures, used to purchase energy directly and indirectly declines only little with income level, and hence keeping energy prices low to everybody saves more in absolute terms and only somewhat less proportionately for a richer than for a poorer consumer. And poorer people are not necessarily better able to adjust to the various non-price devices that must be used to equate supply and demand if prices do not. They cannot fly or rent a car when the gasoline pumps run dry, and they are more likely to lose their jobs when fuel is unavailable.

High energy costs are inevitable for the foreseeable future (say, for the next 20 years), barring some unforeseen technological break-through. These higher costs will hurt, but we can manage them, as long as we do not try to hide them through price controls, and try to put off the inevitable by pretending that costly energy is cheap.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Chairman, American consumers have watched the price of oil go through the roof since 1973. They have watched the supply of domestically produced oil fall by 25 percent. They have watched the doubling of oil imports from about 4 to 8 million barrels per day. All this, in the presence of controls. This evidence stands before the American people as we vote on the Moffett amendment. We can do much better than our previous 6-year performance.

(By unanimous consent, Mr. OTTINGER and Mr. RUSSO yielded their time to Mr. MOFFETT.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I think as we started this debate today we said it has all been said before and it really has, except I think a few new things have come up. One is the degree of sincerity of the inflation rate has been emphasized and we cannot turn our back on that.

The second thing is that some of our friends from the producing States on both sides of the aisle, and I think they have done a good job today, have conceded, I think, some things they have really not conceded so strongly before. They have conceded there is real doubt about the degree of increased production that we will get, but there is no doubt that there will be people out of work, restaurants out of business, shopping malls going down the drain, buildings abandoned in major cities and a major contributor to this is not only the OPEC price increase but deregulation.

□ 1650

We have not even seen the tip of the iceberg or even felt the small part of the impact of deregulation. Now is the time to draw the line on this issue and give some protection to the American public and to our local, State, and regional economies.

(By unanimous consent, Mr. MAGUIRE and Mr. ECKHARDT yielded their time to Mr. GORE.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, of course the issues involved in this debate have been covered very thoroughly over a long period of time. We are not really talking about decontrol. We are talking about a shift in control. There is no free market for the price of oil.

The statement was made earlier that controls created the problem we are having. Look at the figures again. The trend in oil discoveries began to go down in 1968, well before we had controls. The most serious problem we are not facing is inflation, at 13.5 percent, 14 percent.

The secondary causes of this inflation are being measured in the stock market daily. The only way to get this inflation under control is to exercise some discipline over energy prices. As the President said, it is the leading cause of inflation today. If the American people have to sacrifice, perhaps the energy industry can as well.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I yield to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, in the decontrol of oil and deregulation of gas we have an opportunity, through using tax policy and other measures, to funnel tremendous amounts of private sector money into energy production in such areas as synthetic fuels, biomass conversion, solar energy, as well as secondary and tertiary recovery of oil and the use of coal reserves and shale or tar sand resources available to us. The real problem is supply and domestic energy production, which decontrol can stimulate.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. DINGELL) for 5 minutes to close debate.

Mr. DINGELL. Mr. Chairman, this has been a very helpful debate. I want to commend my colleagues for their behavior and for the very enlightened discussion which has taken place today.

For as long as I have been chairman of the Subcommittee on Energy and Power, I have opposed all attempts to deal with the question of control or decontrol of oil or natural gas on the floor without consideration by the subcommittee and proper consideration in the Committee on Interstate and Foreign Commerce, which has long-established expertise in dealing with these issues.

Earlier this year the subcommittee held 4 days of hearings on this subject. I scheduled an executive session and markup for June 20, 1979, for the purpose of consideration of legislation dealing with the subjects of control and decontrol of crude oil in the regular and orderly fashion.

Proponents of the reimposition of price controls on crude oil came to me and said that they did not wish to have their bill considered at that time in the subcommittee because they believed that they did not have an adequate number of votes at that time to report their bill out of the subcommittee. Subsequent to that time, I have offered my colleagues in the House who favor reimposition of price controls on crude oil to have this matter heard in the subcommittee and considered in a regular executive session for purposes of reporting out such legislation as the subcommittee might report out to the full committee for it to consider.

To date, there has been no acceptance of my offer by my colleagues. I want it known that I am still ready and willing to schedule a subcommittee markup session on this matter whenever I am requested to do so by my colleagues.

I want it known that I oppose this amendment. I will also oppose the amendment to be offered by the gentleman from Idaho (Mr. SYMMS) to remove price and allocation controls on oil and natural gas.

Let me tell my colleagues the box in which we find ourselves by reason of the offering of this particular amendment at this particular time, and then they will understand why it is that I oppose this amendment.

First, the amendment will not prevent implementation of the President's program of gradual decontrol of domestic crude oil prices. The reason is that the President has about $5 billion in undistributed or "banked" credits available to distribute to oil producers. This is about five-sevenths of the amount that would be involved in the President's plan. So, for all intents and purposes, the President could implement almost all of his phased decontrol plan even if this amendment is adopted.

Second, the amendment will not accomplish its purpose because the President can redelegate his authority to control crude oil prices to another Federal agency. In other words, the amendment simply does not work. The amendment restricts expenditures of funds by DOE to continue to implement the President's program of phased oil decontrol. EPAA price control authority is given to the President, not to the Department of Energy. Since the price control authority resides in the President, he can simply delegate that responsibility away from DOE to another Cabinet officer or to any citizen walking down the street, and decontrol will go forward.

Third, reimposing price controls on domestic crude oil will increase our dependency on OPEC and subject our economy to a major shock in 1981. I want my colleagues to listen to what this will do. Under EPAA price controls remain in place until September 30, 1981. On September 30, 1981, U.S. oil will be priced somewhere around $14 a barrel if this amendment is passed. On October 1, 1979, the price for domestic oil production will shoot up to somewhere around $27 to $35, or perhaps to $40 or possibly $50 if that be the world price which OPEC will be charging.

The consequences of that in terms of jobs, the consequences of that in terms of the U.S. economy, and the consequences of that in terms of inflation, are disastrous. It is for that reason that I urge my colleagues to reject this amendment.

● Mr. DORNAN. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. We have had a wealth of experience with price controls on crude oil in the United States The chief impact of price controls in this country has been a gross misallocation of energy resources directly benefiting the OPEC cartel.

Price controls have been employed on a wide scale since the time of the Roman Emperor Diocletian, who used them unsuccessfully to combat the ravaging Roman inflation. There is one fundamental characteristic of such measures throughout history that stands out in sharp, indelible, and shocking relief: utter, unmitigated, disastrous failure. From an economic point of view, price controls, whether on oil or any other commodity, are tantamount to the crazed Roman Emperor Caligula's attempts to make the waves of the Mediterranean roll backward. You cannot break diplomatic relations with reality. You cannot pass laws against gravity. You cannot ignore the ineradicable conditions of supply and demand.

The economic equation, whatever the inner complexities of modern econometric modeling, is quite simple: it consists of an attempt to balance supply and demand. The reimposition of price controls would directly upset that balance in direct and immediate disservice to the very consumers that the gentleman's amendment is designed to protect.

The President, the widely lauded Harvard Business School experts on the national energy problem, and virtually every major student of the current energy crisis in the United States, emphasize, over and over again, the need to conserve energy. In economic terms, that means that we must, somehow, reduce demand. But what will the reimposition of price controls do? It will increase demand above the normal market level. An artificially low price, ostensibly designed to benefit consumers, will stimulate an equally artificial high rate of economic demand for oil and crude oil products. This official, politically imposed, cheap oil policy, has acted as a direct economic disincentive to the implementation of conservation measures to prevent waste in the consumer and the industrial sectors of our economy.

It has been estimated by private industry sources that by 1990 we should achieve a demand reduction of 16 million barrels per day, a 25-percent reduction. These conservation efforts would be optimized by the elimination of these self-destructive controls. Our excessively high rate of demand has accelerated the need for the United States to import more and more foreign crude oil, and has served to directly strengthen and consolidate the chief enemy of the American consumer—the worker, the aged, those on fixed incomes, the middle class currently ravished by inflation—the bold, arrogant OPEC cartel.

And let us not forget that what we do, or do not do, will directly impact on the welfare of our friends and allies abroad. Our increased demand for foreign oil, the black gold of the OPEC cartel, will serve to bolster ever higher prices for oil on the international market, to the detriment of other industrial nations, Western Europe and Japan, as well as the less developed countries of the world, now desperate to find a way to pay for increasingly expensive oil and simultaneously feed malnourished millions.

The reimposition of price controls will directly contradict our goals of energy conservation.

But what of the supply side of the equation?

Mr. Chairman, an artificially low price—and by that I mean a price restricted below the market level—only serves to retrict our own domestic supply. There are grave misconceptions about the nature and the structure of the oil market in the United States, misconceptions maintained by demagogic appeals of politicians pandering to the baser passions of the American electorate. The oil industry in this country is not monolithic. Reimposing price controls on oil will not punish the big oil multinationals to any significant degree; for they are largely in the business of purchasing and refining foreign crude oil. The truth is that approximately 90 percent of the exploratory drilling, wildcat drilling, is done by approximately 10,000 independent oil companies in this country—not Exxon, Mobil, or Texaco. It is the independent producers who drill the exploratory wells in our country. It is the independents, not big oil, who have found approximately 75 percent of the new oil fields. It is the independents who have found 53.8 percent of the oil and gas reserves in this country. The independents will take risks to find new oil that the majors will not take. But it is the independents whose production capabilities this misguided amendment would negate.

We need more investment in the oil industry, not financial hesitation, in getting the necessary job done. Price controls discourage capital investment in the energy market, and encourage potential investors to seek more lucrative fields of financial endeavor. Price controls will retard internal investment by firms already engaged in the energy market, firms required to increase their expenditures in high cost exploration and drilling and related technological innovations in the development of new energy supplies. They will contribute to the decline in the market demand for technicians, specialists and engineers in the domestic oil industry, contributing, in their own way, to the recessionary pressures now gathering momentum in the general economy.

I would remind the gentleman, Congressman MOFFETT, of one other simple, but often neglected point. Price controls do not uniformly affect all firms in the oil market. Less well-endowed firms, or marginal producers, will collapse under the weight of high capital costs and low price returns and be driven out of the market. This would only reduce the competitive character of the energy industry. Price controls would serve to effect a concentration in the oil industry by discouraging entry of marginal competition or by forcing marginal producers, the independents out of the market. Naturally, the cumulative effect of declining profit margins and low investment in the production of domestic oil, and the increased economic pressure on marginal producers, is a decreasing oil supply. High domestic demand confronts a relatively low supply; the inevitable progeny of such price controls: Shortages.

I sympathize with the gentleman's motives. He wants to protect the consumer. So do I. He claims that the deregulation of domestic oil will be a prohibitive or at least very burdensome on the American public. But continued or permanent shortages are even more burdensome. The question is one of economic options. We cannot escape the reality of our condition, the condition of supply and demand. Even if one grants that high priced oil is outrageous, one must concede that a radical decline in available oil, in the face of increasing demand, would be even more outrageous. I ask the opponents of decontrol to consider the simple facts of economic life.

We are in a race against time. Domestic oil production in this country peaked in the early part of this decade. Our demand, intimately connected with the nature of our economic growth, will continue to increase. The discovery of North Slope oil, scheduled to reach 1.6 million barrels a day by the mid-1980's, will slow the decline. But that is surely not enough. More than 25 percent of domestic oil production in this country must come from reserves yet undiscovered. The leadtime between the initial exploration activities and the production of the first barrel of oil from any well is reckoned to be from 8 to 11 years. Now is not the time to tarry. We must use every available means to extract energy from our domestic resources. We cannot afford to indulge the luxuries of outdated economics in an age of dangerous, possibly even disastrous, energy shortages.●

● Mr. BIAGGI. Mr. Chairman, I rise to make some observations on the pending amendment to continue mandatory price controls on domestic oil. This is not, as some might suggest, a straight black and white issue. It is, in fact, a complicated issue which is prone to simplistic interpretations.

The fact is the public is angry—they have a perception that decontrol means more money for already money hungry oil companies. The public's anger is coupled with cynicism about artificial shortages that mysteriously disappeared once prices reached record highs. They saw it with respect to gasoline lines earlier this year. They have seen it with respect to home heating. Earlier our concern was supply—then the price of home heating shot up some 35 percent in this year—then supplies became available.

President Carter, back on April 5, proposed to lift mandatory price controls on 6 billion out of some 8.6 billion gallons of domestic oil through October of 1981, when all price controls would be removed and domestic oil priced at world market levels. His rationale was sound from two standpoints. First, it is an inducement for conservation, which is absolutely essential if we are to deal effectively with our energy problems. Second, this action would potentially lead to increased domestic oil production, thus reducing this Nation's unhealthy and economically suicidal reliance on overpriced foreign oil sources.

Central to my views on this issue is perhaps the timeliness of the President's decontrol proposal. The fact is, he proposed this at a time when he was confident that a windfall profits tax would clear the Congress. The House did its part by passing its version during the early summer. However, this legislation is languishing in the Senate although there is some movement. I contend that to lift price control without an accompanying windfall profits tax will result in one inescapable consequence—all revenues and profits achieved through decontrol will go directly into the coffers of the oil companies. The anger of the American public will only rise to even higher levels if this scenario takes place.

This is not to say that I do not have problems with the continuation of price controls on oil. It is conceivable that a supply problem could in fact occur. Just today I received a letter from a group of independent oil dealers in my home State of New York which said continuation of price controls would do little to control prices and could cause serious supply imbalances and shortages especially during the critical early stages this winter.

Certainly not to be overlooked is the regional impact which decontrol has on this Nation. I come from New York State which is the largest consumer of home heating oil in the Nation. Estimates indicate that upwards of 70 percent of homes in New York are heated by oil. Similarly other States in the Northeast corridor rely heavily on oil. As chairman of the House Subcommittee on Human Services I have conducted five hearings in Maine, Iowa, upstate New York, Connecticut, and western Pennsylvania. Everywhere the subcommittee went we heard the same plea—do not make us choose between heating and eating. Yet that is the prospect of many low-income persons in these areas of the United States especially our elderly.

A careful analysis of this issue results in the following: There is a clear need for this amendment in the absence of the passage of the windfall profits tax. Winter will soon be upon us. Many areas of this Nation, including this area got a extraordinarily early sample of winter yesterday. Degree days in the State of Maine are running 30- to 40-percent higher this year than in the comparable period in 1978. The fact is relief is needed now. Already the price increases of oil have caused economic havoc in many American households. There must be some controls imposed. Further some immediate relief for the low income must be provided. I have introduced in the House, House Joint Resolution 398 which calls for a straight $250 million increase in the existing low-income energy assistance program administered by the Community Services Administration. My legislation is in the form of an emergency supplemental appropriations and I am pleased to note that 21 of my colleagues have joined as cosponsors.

If the windfall profits tax should pass, then my views on decontrol would be altered. At least then there would be a mechanism to limit oil company profits and a more substantial commitment of low-income energy assistance would be available. In short there is an inseparable relationship between decontrol and the windfall profits tax. They should not be separate especially with decontrol coming first. It is the worst formula for the consumer. I therefore urge support for this amendment with the assurance that price controls should be continued only as long as it takes to enact the windfall profits tax.●

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Connecticut (Mr. MOFFETT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MOFFETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 257, not voting 41, as follows:

[Roll No. 548]

AYES—135

Addabbo
Albosta
Ambro
Annunzio
Applegate
Atkinson
Bailey
Baldus
Barnes
Benjamin
Biaggi
Bingham
Blanchard
Boland
Boner
Bonker
Brademas
Brodhead
Burton, John
Burton, Phillip
Carter
Cavanaugh
Chisholm
Clay
Conte
Conyers
Corman
Cotter
D'Amours
Daschle
Dellums
Dicks
Diggs
Dixon
Dodd
Donnelly
Downey
Drinan
Early
Eckhardt
Edwards, Calif.
Evans, Ind.
Fary
Ferraro
Fithian
Florio
Ford, Mich.
Garcia
Gaydos
Gonzalez
Gore
Gray
Guarini
Hall, Ohio
Hanley
Harris
Harsha
Hawkins
Heckler
Hollenbeck
Holtzman
Howard
Hughes
Jeffords
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Leland
Lowry
Luken
McHugh
Maguire
Markey
Matsui
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Pa.
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Pease
Perkins
Peyser
Price
Rahall
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Simon
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Traxler
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Wolff
Wolpe
Yates
Yatron
Young, Mo.

NOES—257

Abdnor
Akaka
Alexander
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield

Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dingell
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fazio
Fenwick
Findley
Fish
Fisher
Flippo
Foley
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Mattox
Mazzoli
Mica
Miller, Ohio
Mineta
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
O'Brien
Panetta
Pashayan
Patterson
Paul
Pepper
Petri
Pickle
Preyer
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Taylor
Thomas
Treen
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wright
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—41

Anderson, Calif.
Anderson, Ill.
Badham
Beard, R.I.
Bevill
Boggs
Bolling
Bonior
Collins, Ill.
Crane, Philip
Fascell
Flood
Ford, Tenn.
Frost
Gilman
Guyer
Holland
Hopkins
Jones, N.C.
Kemp
Leach, La.
McDade
Marriott
Martin
Mathis
Michel
Moorhead, Pa.
Nolan
Quayle
Rangel
Roberts
Roe
Rosenthal
Shuster
Tauke
Thompson
Ullman
Van Deerlin
Wilson, C. H.
Winn
Zeferetti

☐ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Bonior of Michigan for, with Mrs. Boggs against.

Mr. Beard of Rhode Island for, with Mr. Frost against.

Mr. Thompson for, with Mr. Leach of Louisiana against.

Mr. Nolan for, with Mr. Shuster against.

Mr. Gilman for, with Mr. Michel against.

Mr. GARCIA changed his vote from "no" to "aye."

Mr. ERTEL changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. WRIGHT was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Chairman, I take this time in order that I may announce to the Members our intention to remain in session and to continue working on the bill presently before us until at least 6 o'clock, during which time we are giving the conferees on the continuing resolution an opportunity to see if they can iron out their differences and come to us with a bill. If by that time it appears that they can, we would intend to stay in session to accommodate that very necessary activity. If by that time it appears impossible, then we would consider rising.

Mr. Chairman, I thought the Members should know we really must wait until 6 o'clock or just a little after in order to give that conference, which has just now resumed sitting, an opportunity to explore whether or not there is an avenue of solution that we might mutually accept.

Mr. BAUMAN. Would the gentleman from Texas yield for a question, Mr. Chairman?

Mr. WRIGHT. Yes, of course, I would yield to the gentleman from Maryland.

Mr. BAUMAN. If, in fact, the conferees return with some agreement, that would require the preparation of the papers so that the House and perhaps the other body might have to act first. Does the majority leader then intend to keep the House in session until 7, 8, or 9 o'clock, or whatever time might be required?

Mr. WRIGHT. I think we would have to retain sufficient flexibility to make a judgment based on whether it seems plausible to believe that we might finally resolve this issue once and for all.

Obviously, if it appeared we could resolve the issue by remaining in session until 7 or 8 o'clock, it would be the wise thing to do but it would be foolhardy just to remain in session for the sake of being in session.

Mr. BAUMAN. The gentleman from Maryland is correct in his observation that if 6 o'clock indicates we can act tonight, we might well be here until 8 or 9 o'clock?

Mr. WRIGHT. The gentleman is correct. If it appears likely that would result in solving this problem which has much of the Government in a state of limbo, yes we would, and I think the Members would want to do so.

Mr. BARNES. Would the distinguished majority leader yield for a question?

Mr. WRIGHT. I yield to the gentleman from Maryland.

Mr. BARNES. Is it indicated the conferees intend to continue working tonight whatever we do with respect to adjourning for the evening?

Mr. WRIGHT. I am sorry I cannot answer that with any certainty. The conferees have just resumed sitting. I think it will take a little while to see what are their intentions.

Mr. BARNES. If I might respond to that, I would urge as strongly as possible that the conferees stay here all night if necessary and that we stay here all night if necessary to resolve this budgetary crisis that the U.S. Government faces.

☐ 1720

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 38, line 22, strike out "$60,428,000" and insert in lieu thereof "$70,428,000".

Page 39, line 17, strike out "$3,000,000" and insert in lieu thereof "$4,425,000".

Mr. DINGELL. Mr. Chairman, this is, if such there be, a noncontroversial amendment. It is one on which I have agreement with my colleagues on the Republican side.

Mr. Chairman, the amendments I am offering increase three parts of the DOE's regulatory budget. These amendments were requested by the administration on September 6, 1979 and reflect the impact of changed market conditions, particularly the impact of gasoline, diesel and heating oil shortages. They increase the ERA enforcement authorization to $70,428,000 and the hearings and appeals authorization to $4,425,000.

The first portion of this amendment increases the compliance budget to avoid the loss of many auditor positions presently employed by DOE in the oil pricing enforcement field. These auditors were scheduled to be eliminated in anticipation of gasoline decontrol. Our subcommittee objected to the planned reduction in auditors by DOE because it was predicated on gasoline decontrol. But no such decontrol proposal has been made by the administration. Indeed, gasoline market conditions have changed. Prices are skyrocketing. President Carter has promised to put more auditors out in the field to inforce the law and prevent illegal price gouging of the consumer whatever his or her level of income.

The increase will also add funds to complete audits of the major oil refiners. Our subcommittee has strongly supported a vigorous enforcement program. We have been successful in forcing the Department of Energy to improve its efforts in this area. We have supported the appointment of a special counsel and work is proceeding on schedule to complete audits of the major refiners. Several billion dollars in potential overcharges have been identified, and refunds of over a $100 million have been recovered in this year alone. More should be due soon, as the program progresses. This increase is needed to complete that successful program on schedule.

Congress has a responsibility to insure that our laws are enforced, and that the consumer is not cheated. This money is necessary toward that end. This amendment will not increase Federal employees, but will retain trained employees to enforce the law and protect consumers.

The amendment also increases funds for the Office of Hearings and Appeals by $1,425,000. This sum has been approved in the appropriations bill as recommended by Chairman YATES. This Office processes the thousands of petitions by energy suppliers and users for exceptions and relief under the regulatory process. In recent months, this Office has been inundated with petitions, such as those from retail gasoline stations requesting additional allocations.

Our energy laws provide individuals the right to seek relief from the regulations in certain situations. The regulations also provide these rights. In order for these rights to be meaningful, though, petitions must be processed more rapidly. This budget increase will help the many businesses and individuals get prompt attention for their needs. At the end of my remarks I include a DOE memorandum and letter to Chairman YATES supporting this request.

I urge the adoption of the amendment which is recommended by DOE and OMB.

Mr. Chairman, I yield to my good friend, the gentleman from Ohio (Mr. BROWN), for such comments as he may wish to make at this time.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman in the well for yielding. I must say to the gentleman that I am somewhat less than enthusiastic about the Government going after all the people who they might think of as violators of all the different price regulations that have been set by the Department of Energy, because it takes a massive amount of effort to control the prices at filling stations all over the country. It does not necessarily take all these people in the Economic Regulatory Administration to audit big oil companies; so we ought to understand that we are perhaps unleashing the weight of the Federal Government on some very small businessmen around the country.

However, the fact of the matter is that we have had in this recent price run-up some violations of the price restrictions, and if the Government is to do the job that this body has voted that they are to do, then we would be perhaps foolish to require ERA to do it and not provide the personnel and the funds to do it properly. That bothers me a little less than the effort to put additional funds in for the Office of Hearings and Appeals, because in the Office of Hearings and Appeals they are busy doling out relief to thousands of individual firms that are incurring real hardship from the DOE regulations. Instead, the DOE should revise its regulations to avoid such large scale financial hardship and gross inequity to the industry, and standardize its exceptions procedures.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. DINGELL. I continue to yield to my good friend, the gentleman from Ohio.

Mr. BROWN of Ohio. If those regulations are obscure or onerous, then you have a lot of appeals. So the worse job the ERA does, the more people Hearings and Appeals need. I have a little trouble with that, and will critically look at any attempts to repeat this extraordinary funding requirement by the Office of Hearings and Appeals.

I would much prefer to keep that figure as low as possible and force the DOE to write good regulations that are general in applicability; so that they would not have to have all those appeals, that are a financial burden and create unnecessary delays for the applicants.

The fact of the matter is that they do have a lot of appeals, and all of us who serve as Members of Congress and are concerned about our individual constituents appealing to the DOE will want those cases handled promptly; so I am willing to support the gentleman in this effort.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: Page 40, after line 23, insert the following new subsection:

(c) No funds authorized to be appropriated under this Act may be used to promulgate, administer, or enforce any regulation, or to issue or enforce any order, which would have the effect of continuing any mandatory allocation of, or price controls on, crude oil, petroleum products, or natural gas. This section shall not prohibit funds authorized to be appropriated under this Act to be used—

(1) for any pending administrative, civil, or criminal action or proceeding which has not been finally determined on the date of the enactment of this Act; and

(2) for any administrative, civil, or criminal action or proceeding which is based on any act committed, omission occurring, or liability incurred, before the date of the enactment of ths Act.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from New York reserves a point of order.

□ 1730

Mr. SYMMS. Mr. Chairman, what this amendment would do is take off all price controls on crude oil, petroleum products, and natural gas. It would stop the mandatory allocation system. However, just to make it clear for the Members here, it would not affect any administrative, civil, or criminal proceedings which are pending at the time of the enactment of the amendment.

What this amendment will actually do is do away with gas lines and do away with all the confusion in the retail distribution network and the wholesale distribution network of petroleum products in the country. It will insure supplies by using the market system and the pricing system to make those determinations rather than trying to have Government bureaucrats who have not had the experience, no matter how well-intentioned they are, make the decisions. They have not had the experience of people in the business to run this vast system that we have of allocating and distributing all the petroleum products.

There is a great need, in my opinion, Mr. Chairman, for this amendment, due to the fact that the morass of regulations and mandatory allocation systems has disrupted what was once an orderly distribution of gasoline and diesel fuel through the marketing mechanism.

This amendment would remove these burdensome controls so that we could begin to provide the people with the fuel they are going to need this winter and which they have been denied through restrictive controls on supplies. This would also put an end to gas lines.

Now, we have heard a great many myths. We have had a great deal of debate this afternoon, and I commend the committee for the last vote. I was very happy that the amendment offered by my friend, the gentleman from Connecticut (Mr. MOFFETT), was voted down. I think now we should go one step further and just decontrol everything right now so we will not have to put up with these controls, regulations, and interferences that we have had in the past.

There are some myths that we first ought to discuss, some myths that we have all heard. One is that we are out of oil. That is a myth that everybody has been talking about. We have been hearing this all our lives, that we are going to run out of oil next year, that we are going to run out of oil next week.

This subject was very well pointed out by some of the gentlemen from Texas who discussed the question earlier today. One gentleman, although he did not make this point, talked about what happened to the prices in Texas, in Beaumont, Tex., when oil was first discovered. I think it is interesting to note that the U.S. Government in 1890 stated that the State of Texas had no potential for oil or gas discoveries. We all know the record of that.

In my own State of Idaho, in western Utah, and in western Wyoming, in the Overthrust Belt, this was an area where it was claimed there was no oil or gas because it is a lava flow. They have now discovered some of the hottest oil and gas properties in the country in that area, in Idaho, in Utah, and in western Wyoming. The only problem is that the Government has now classified it as a proposed wilderness area, so they will not allow oil producers to go in and look for oil, but all the oil companies are waiting in line and trying to get in there.

The second myth is that the U.S. current imbalance of trade is caused by our dependence on high-priced foreign oil and the adverse balance of payments is causing the dollar to depreciate. I think it is interesting to note that Germany and Japan import 100 percent of their oil and gas, and yet they do not have a balance of payments problem. The United States imports 50 percent of our supply, and we do have a problem.

I think we need to look a little further into our productivity problems and see what it is that causes us to have a lack of production. One of the things that causes it is, of course, excessive Government regulations, which is brought about by excessive Government hiring, that is, hiring too many people to work for the Government.

Mr. Chairman, I think one of the things we should do is recognize that we have had some of the largest peacetime Federal deficits in many, many years, and those deficits, coming from excessive Government spending, have caused our inflation and our contribution to our imbalance of payments and our lack of productivity and interfering with production and taking the incentives out of our economy.

I think one other myth that has been fostered for a long time is that we would have had worse gas lines in 1974 if it had not been for the allocation system. I would like to read from a report. This is one thing that nobody likes to talk about, but I am going to read from the report of the U.S. Department of Energy, a report to the President on the activities of oil companies affecting gas supplies. This report was completed July 24, 1979.

The CHAIRMAN pro tempore. The time of the gentleman from Idaho (Mr. SYMMS) has expired.

(By unanimous consent, Mr. SYMMS was allowed to proceed for 5 additional minutes.)

Mr. SYMMS. Mr. Chairman, the Department of Energy's own report points this out:

> The Federal regulations for allocation of gasoline under the current price control system have contributed to the creation of spot shortages and long lines at service stations, because an historically based allocation process can never completely reflect current patterns of gasoline demand. The regulations freeze supplier-purchaser relationships and volume entitlements as of a particular moment in the past, in order to assure a continued flow of gasoline to all areas of the country, but this can result in excessive gasoline going to some distributors or dealers because of subsequent changes in demand patterns or in retail operations. Until the changes were made on July 16, the allocation system provided some priority users all of their "current requirements" for gasoline. There are indications that some priority users took advantage of their priority status to obtain more gasoline than needed, resulting in larger shortages for others.

Mr. Chairman, what we have seen is chaos at the gas pumps. In the State of California the Governor flew into town, and he needed an allocation, so the President gave him a priority. The next thing that happened was that the farmers in Iowa needed an allocation, and so they got a priority. Eventually everybody had a priority, and it got to the point that a priority meant nothing.

What we are really seeing is an unnatural evolution of the market system because of the allocation system under which growth is not allowed to happen in places where it would happen.

I agree with the arguments that have been here today that the Moffett amendment would have been a worse mistake, and I think the House deserves commendation for having voted it down.

What I am saying now is that we should get rid of the entire system and return the system back to the marketplace.

This report to which I have referred goes further, and on page 32 it says that—

> The Federal price control and allocation regulations appear to have contributed to the shortages in some areas of the country.

This is the Government's own report, telling us that the system and our own regulations are what are causing the problems.

Yale Brozen, a professor at the University of Chicago, who has done a considerable amount of work in this area and has written about it, has talked about the fact that even at the start of the embargo in 1974 our stocks of gasoline, crude oil, and other petroleum products in storage kept increasing. The reason they kept increasing was because people were "busting" the embargo, so to speak. Oil was even still coming in from places such as Canada, Indonesia, Venezuela, and Nigeria, and some of it came in from hard-line countries such as Libya and other Mideast countries by way of Curacao and the Bahamas. They were running around the embargo because the people who had the oil to sell were after the almighty American dollar.

So there are many myths taking place here, Mr. Chairman, and what is causing the problem is the interference by the allocation system. What we need to do is to get rid of the allocations.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I am happy to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I just want to say to the gentleman that while his amendment goes rather far toward removing the controls that have been on the entire system, I would like to emphasize and underscore the point the gentleman just made in talking about the myths when he read from the report.

As the American consumer sat in his car or sat in her car in gasoline lines for months, waiting in long lines for hours to get gasoline, people were complaining about the oil companies and complaining about the high prices of oil created by the oil companies, and now the Government and the DOE itself have investigated and found that this Department, the DOE, which was created to run the allocation system, created the gas lines. It was not the oil companies; it was the Department of Energy that created the gas lines.

Mr. SYMMS. The gentleman is correct.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I applaud the gentleman for presenting this amendment and for the very elucidating way in which he has explained the private enterprise system and how it operates, including the way it can and should operate with regard to the subject of oil.

I would like to point out, though, that it is my understanding that in addition to the long gaslines and the shortages that have occurred, the cost of administering the petroleum control program is estimated to add 10 cents per gallon to the gasoline that we get at the gasoline pump.

So perhaps by decontrolling we could begin to reduce the cost to the American consumer that results from this overregulation of an industry since it has been demonstrated that the control system does not work, is expensive and burdensome, and is a cause of the shortage and not a solution to the problem.

Mr. SYMMS. Mr. Chairman, I thank the very distinguished ranking Republican member of the Committee on the Judiciary for his comments. I think they were very well taken.

Mr. Chairman, let me say that ever since we created the monstrosity of the Department of Energy we have had difficulties in this country.

The CHAIRMAN pro tempore. The time of the gentleman from Idaho (Mr. SYMMS) has again expired.

(By unanimous consent, Mr. SYMMS was allowed to proceed for 3 additional minutes.)

Mr. SYMMS. Mr. Chairman, as I was saying, we have had difficulties in this country with respect to lines at the gas pumps, with prices continuing to go up, with a lack of competition, and with an unfair allocation system that has been very costly.

☐ 1740

I asked earlier, Mr. Chairman, for permission—and it was granted at the beginning of the business of the House today—to insert in the RECORD at this point page A-35 of the Washington Post of Thursday, October 11, 1979, a paid advertisement that says: "The Energy Crisis Would Disappear Tomorrow If We Decontrolled Oil, Gasoline And Natural Gas And Abolished The Department of Energy."

What we are advocating here is not abolishing the Department of Energy but abolishing that section of the Department of Energy that runs the costly price control and allocation system. This ad, I might mention, is signed by 79 very distinguished professors of economics across the country, including Milton Friedman, Prof. William Allen, at UCLA, and many, many others, Yale Brozen, of the School of Business at the University of Chicago, just to mention a few. So I will insert that in the RECORD at this time.

The article is as follows:

THE ENERGY CRISIS WOULD DISAPPEAR TOMORROW IF WE DECONTROLLED OIL, GASOLINE AND NATURAL GAS AND ABOLISHED THE DEPARTMENT OF ENERGY

President Carter has made high drama of his propsal to implement oil import controls and increase government spending on energy by yet another $142 billion.

Thinking citizens, however, will ask more than high drama of Mr. Carter. They will ask, as we do, that he face up to the true causes of our current energy debacle.

SHOULD WE BLAME OPEC?

OPEC is not, as claimed by Mr. Carter, "the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline."

A disruption in world oil production, such as that caused by the revolution in Iran would not lead to gas lines here, as it did not in other countries, if the market were permitted to allocate supplies. Not even the gas lines experienced during the era of embargo of 1974 can be blamed on conditions beyond our control. Over the previous year, our stocks of crude oil and petroleum products actually rose by 85 million barrels. The long lines at gasoline stations were produced by the government price controls and allocation system.

NOTHING SUCCEEDS LIKE FAILURE

Rather than moving away from private development and delivery of energy, we should be reducing subsidies, dismantling controls and lowering taxes. A competitive oil industry will better serve the consumer than any possible combination of government bureaus.

Of course, some claim that the market cannot work. That claim was made two years ago when we were told that the shortage of natural gas could not be alleviated by the lifting of price ceilings. Nevertheless, the Congress acted to loosen natural gas price controls with the result that the shortage was lessened. While only two years ago President Carter was proposing legislation to prevent industry from using natural gas, today the Department of Energy is urging industry to use more natural gas.

Where is the evidence that our energy future would be more safely entrusted in government than to private companies operating under the spur of profit and competition? A dollar spent by private enterprise on research and development yields many times more return than a dollar spent by government.

Nonetheless, Mr. Carter now wants to create two new energy agencies. He believes that the Energy Regulatory Commission, the Federal Power Commission and the Department of Energy have failed. This, to borrow Dr. Johnson's words, is "a triumph of hope over experience."

PAYING MORE FOR LESS

Mr. Carter proposes to spend $88 billion to develop synthetic fuels. To avoid paying $20 a barrel for oil, we are to spend $40 (or perhaps more) a barrel—not even counting the heavy environmental costs.

And to top it off, an import quota is to be instituted as a kind of protective tariff to prevent the synthetic oil from being undersold. A questionable bargain. Our goal should be to reduce the costs which our economy must bear to obtain energy, not increase them. Under Mr. Carter's plan the consumer has no opportunity to avoid paying more for energy by limiting his consumption. He will pay—through budget deficits and higher taxes whether he uses the energy or not.

A PRESCRIPTION FOR FURTHER ECONOMIC DECLINE

The only result to be expected from the Carter program is further disruption of energy markets, less incentive for genuine conservation, lowered productivity and permanently higher costs for the energy we use. We are dangerously dependent on a thin line of tankers stretched around the globe. But the cure proposed by Mr. Carter is worse than the disease. In strict logic, our adverse balance of payments is not caused by oil imports. If that were true, Japan and Germany would be in much deeper trouble than we are. Those countries import almost all of their crude oil while we import less than half. Yet they enjoy substantial trade surpluses. The yen and the mark appreciated, while the dollar declined. It is not oil imports that are the primary cause of the decline of the dollar. It is excessive government spending, budget deficits and undue monetary growth.

The President's program would aggravate the problem rather than solve it. It would swell budget deficits, take more resources away from the productive segment of our economy and worsen rather than alleviate inflation.

NOT ONLY ECONOMIC COSTS

The economic costs of the Carter program are not the only costs: our liberties will suffer as well. Energy spies will check our thermostats. The proposed Energy Mobilization Board would have the power to abrogate property rights and run roughshod over due process of law. In a recent briefing, a White House official put it this way: "as far as energy is concerned, this is going to be a government of men, not of laws."

Is this a policy on which to build our future? We think not. The right policy is to end at once the government controls on oil, gasoline, and natural gas; end government allocations of gasoline; and abolish as promptly as possible the Department of Energy.

Milton Friedman, Professor of Economics, University of Chicago.

James Dale Davidson, Chairman, National Taxpayers Union.

Clay LaForce, Dean, Graduate School of Management, UCLA.

Gerald L. Musgrave, Research Fellow, Hoover Institution, Stanford University.

Arthur B. Laffer, Charles B. Thornton Professor of Business Economics, University of Southern California.

Alan Greenspan,. President, Townsend-Greenspan and Co., Inc.

Mark B. Schupack, Professor of Economics, Brown University.

Martin L. Lindahl, Professor of Economics, Emeritus, Dartmouth College.

Joel M. Stern, President, Chase Financial Policy, Vice-President, Chase Manhattan Bank.

Homer Jones, Former Senior Vice-President, Federal Reserve Bank of St. Louis.

Anthony T. Bouscaren, Professor of Political Science, LeMoyne College.

Dr. Peter J. Stanlis, Rockford College.

Lloyd D. Orr, Professor of Economics, Indiana University.

Marshall R. Colberg, Professor of Economics, Florida State University.

Walter J. Mead, Professor of Economics, University of California, Santa Barbara.

Murray Rothbard, Professor of Economics, Polytechnic Institute of New York.

Robert H. Bork, Professor of Public Law, Yale University.

William H. Peterson, Director, Center for Economic Education, University of Tennessee, Chattanooga.

L. D. Colburn, President, Economic Forecasting Institute.

J. A. Boeckh, Editor, The Bank Credit Analyst.

Annelise Anderson, Associate Professor of Business Administration, California State University, Hayward.

Ezra Solomon, Dean Witter Professor of Finance, Stanford University.

Colin D. Campbell, Professor of Economics, Dartmouth College.

Steven N. S. Cheung, Professor of Economics, University of Washington.

Robert J. Gordon, Professor of Economics, Northwestern University.

C. Lowell Harriss, Professor of Economics, Columbia University.

Armen Alchian, Professor of Economics, UCLA.

Joseph J. Spengler, Professor of Economics, Emeritus, Duke University.

Dr. Anna J. Schwartz, National Bureau of Economic Research, Inc.

James M. Buchanan, University Distinguished Professor of Economics, Virginia Polytechnic Institute & State University.

Martin Bailey, Professor of Economics, University of Maryland.

Roger A. Freeman, Senior Fellow Emeritus, Hoover Institution, Stanford University.

William Meckling, Professor of Economics, University of Rochester.

Robert L. Cunningham, Professor of Philosophy, University of San Francisco.

Wilson E. Schmidt, Professor of Economics, Virginia Polytechnic Institute & State University.

D. T. Armentano, Professor of Economics, University of Hartford.

Richard K. Vedder, Professor of Economics, Ohio University.

Charles R. Britton, Professor of Economics, University of Arkansas.

Richard B. Mancke, Associate Professor of International Economic Relations, Fletcher School of Law & Diplomacy, Tufts University.

Michael R. Darby, Professor of Economics, UCLA.

H. E. Frech, III, Associate Professor of Economics, University of California, Santa Barbara.

Susan Woodward, Assistant Professor of Economics, University of California, Santa Barbara.

Spencer Reibman, Staff Economist, U.S. House of Representatives.

Fred R. Glahe, Professor of Economics, University of Colorado.

Samuel Peltzman, Professor of Economics, Graduate School of Business, University of Chicago.

Richard Wagner, Professor of Economics, Auburn University.

Murray L. Weidenbaum, Mallinckrodt Distinguished University Professor, Washington University

Allan H. Meltzer, Maurice Falk Professor of Economics and Social Science, Carnegie Mellon University.

Thomas Sowell, Professor of Economics, UCLA.

David Meiselman, Professor of Economics, Virginia Polytechnic Institute & State University.

Benjamin Klein, Professor of Economics, UCLA.

Jerome L. Stein, Eastman Professor of Political Economy, Brown University.

Alvin Rabushka, Senior Fellow, Hoover Institution, Stanford University.

Phillip E. Graves, Associate Professor of Economics, University of Colorado.

Mark D. Schmitz, Associate Professor of Economics, Washington State University.

Raburn Williams, Professor of Business Economics, University of Hawaii.

Hans Sennholz, Professor of Economics, Grove City College.

Martin Bronsenbrenner, Professor of Economics, Duke University.

John Heywood Smith, Professor Emeritus, University of Wisconsin, Milwaukee.

James W. McKie, Chairman, Department of Economics, The University of Texas, Austin.

William Poole, Professor of Economics, Brown University.

Ross W. Eckert, Associate Professor of Economics, Claremont Men's College.

Douglas K. Adie, Professor of Economics, Ohio University.

John A. Davenport, Former Associate Editor of Fortune Magazine.

Charles W. Baird, Professor of Economics, California State University, Hayward.

Dennis E. Logue, Associate Professor of Business Administration, Dartmouth College.

Ernest van den Haag, Professor of Law, New York Law School.

Richard H. Timberlake, Jr., Professor of Banking & Finance, University of Georgia.

Richard Roll, Professor of Finance, UCLA.

Robert E. Lucas, Jr., Vice President and Chairman of the Department of Economics, Professor of Economics, University of Chicago.

Yale Brazen, Professor of Business Economics, Graduate School of Business, University of Chicago.

Gordon Tullock, University Distinguished Professor of Economics, Virginia Polytechnic Institute & State University.

Simon Rottenberg, Professor of Economics, University of Massachusetts, Amherst.

Thomas D. Willett, Horton Professor of Economics, Claremont Men's College.

Dr. Warren L. Coats, Jr., Economist, Board of Governors of the Federal Reserve.

Wm. Craig Stubblebine, Director and Von Tobel, Professor of Political Economy, Claremont Men's College.

William R. Allen, Professor of Economics, UCLA, President, International Institute for Economic Research.

A. James Meigs, Professor of Economics, Claremont Men's College.

Douglas North, Professor of Economics, University of Washington, Seattle.

Mr. Chairman, furthermore, some other myths that have been talked about today are the profit returns on the investment of the oil companies. It is always interesting to me that the Washington Post, ABC News, NBC News, CBS News, the New York Times, Gannett News, just to mention a few, make a return on investment of somewhere between 9 percent and 13 percent. Yet the oil companies made a return on investment in 1977–78 of 4.6 percent return on investment. Yet it is so much more fun to pick on the oil companies than it is on the news media who make all of this profit.

I am not here defending the oil companies or whether they have been virtuous or not virtuous, but I think what I am here defending is the system that has made the United States of America the most wonderful place in the world for people to live, the only place in the world that I know of where you can drive up and get your car filled up with gas. In some of the nonmarket countries that I visited, I noticed that people buy their gasoline at a grocery store in a 5-gallon can and carry it home.

Yet in this country, where we have allowed the market system to work, even though it has been convoluted and interfered with and frustrated in many places—and that history has been pointed out here in the debate earlier today—it has not been a pure system, but somewhat of a market system, it has provided the most low-cost energy sources for the most people at an affordable price than any other place in the world. All I am saying is that we need to return to that.

One other concern I would just like to mention with respect to the allocation system, things that are happening in my own State of Idaho. Oil jobbers and service station owners and consumers have been severely hurt because of the downward certification of the gasoline allocation base. What it means is that if there is a surplus of gasoline in your own district at a station or dealership in a certain area, that station would be required to return that surplus to the Government for allocation elsewhere.

The CHAIRMAN pro tempore. Does the gentleman from New York (Mr. OTTINGER) insist on his point of order?

Mr. OTTINGER. I do not, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is a good example of why the House ought not to be considering proposals of this kind without careful consideration in its committee structure.

As I pointed out to my colleagues, I always oppose attempts to deal with pricing questions outside of the careful consideration that the committee can and does give to those matters, and I reiterate my offer to my colleagues to hold hearings on legislation and executive sessions to markup and consider the proposals at the time that it is appropriate within the committee schedule.

Mr. Chairman, the consequences of this amendment are—and I want my colleagues to know—with respect to oil:

First, immediate decontrol will increase energy prices and inflation at an unacceptably high rate. Refined product will increase 7 cents a gallon under this. That is gasoline and heating oil. Oil company annual revenues will increase under this amendment, from oil revenues alone, by $21 billion. The increase in the inflation rate from this amendment will be 1 additional percent. Immediate decontrol will have the practical effect of starkly exacerbating the present recession. Immediate decontrol will cost the average family $300 immediately for oil and $800 per family for oil and gas. Oil companies do not need the large additional windfall that would result from immediate decontrol.

The Congress has moved toward compromise proposals which will provide for phased decontrol of both oil and gas while preventing at the same time the awful effects of escalation which would occur from sudden decontrol.

Mr. Chairman, all types of production would get the same price. Old oil would get the same price as newly discovered production. Thus, the incentive to find and to produce newly discovered oil would be reduced.

It must be pointed out that this amendment even has the effect of preventing gasoline rationing and it prevents States from having gasoline available for State set-asides where it is necessary to meet peculiar conditions in times of shortage.

Increased production could not occur under this amendment for a few years, and the interim would see people afflicted with high prices for oil that would have been produced in any event at lower prices.

With regard to natural gas, decontrol of natural gas at this time would be contrary to the provisions of the Natural Gas Policy Act of 1978 enacted in October 1978, and hammered out after some 18 months of bitter discussion in which my good friend, the gentleman from Texas (Mr. ECKHARDT) and I participated actively to try to protect the consumers from the consequences of sudden and unwise decontrol of natural gas. The Natural Gas Policy Act is working well. Rotary rigs everywhere are functioning at full capacity and at the highest numbers in history, and gas is flowing in surplus supply. Immediate decontrol of natural gas would cost the consumers of this Nation $45 billion more each year.

The amendment would also eliminate the authority of the Department of Energy and FERC to implement curtailment plans, leaving consumers without service protection in the event of shortages of natural gas or in the event of an energy crisis.

I think this is a very bad amendment, unwisely thought out, with consequences far greater and far more broad than the author might recognize.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the distinguished subcommittee chairman for yielding, and I agree totally with what he said.

I would also like to say this: Although I voted for the preceding amendment, I agree with the gentleman that, at best, it is an awkward way to approach a difficult problem. But the fact that I considered the Moffett amendment to be the only method of taking a stand of extreme importance, I would certainly not approve of moving in that way. But the Moffett amendment only went to a continuation of the status quo as of June of this year and thereafter. This amendment would revamp the entire program and it contains language calling for the exception of some enforcement processes. It would be extremely difficult to weed out that which it permitted money to flow to and what it did not.

Mr. DINGELL. The gentleman is correct.

Mr DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by my distinguished colleague from Idaho (Mr. SYMMS). Over the years, he has done a consistently fine job in espousing commonsense policies for this Nation and this amendment is certainly consistent with that record. If this country is to reduce its dependence on foreign oil, it stands to reason we must encourage production of domestic energy resources. Reliance on governmental intervention in, and control over, the energy industry has not produced a single, new barrel of oil in the past; in fact, it has only made things worse. Such being the case, simple logic dictates we should turn in the other direction and effect the immediate decontrol of oil, natural gas, and petroleum products.

There are many advantages to be derived from immediate decontrol but, important among them is the fact that it will have a positive effect on our energy supplies sooner than any other alternative we might choose. With knowledgeable sources in the energy field; namely, the well-respected Lundberg Letter, predicting gasoline shortages later this fall and next spring, there is a compelling argument for not delaying full decontrol any further. Reinforcing that argument are the findings of a study recently published by the Heritage Foundation indicating that decontrol of crude oil and natural gas would add at least 1.5 million barrels of oil per day to energy supplies by the end of 1980.

There is another reason for not waiting any longer for decontrol and that relates to the prospect of further price increases on oil produced by the OPEC nations. Even if it turns out that the price of domestic oil rapidly increases to that of OPEC oil, the price of OPEC oil is cheaper now than it will be later. Moreover, the sooner domestic supplies are stimulated, and demand pressures reduced, the less vulnerable we will be to OPEC price increases. In fact, if immediate decontrol were to add the 10 million barrels a day to energy supplies by 1990, as the Heritage Foundation predicts, then OPEC might find it much more difficult to raise prices than if controls were still in effect.

One final point needs to be made—stressed. And that is the days of cheap energy are over, whether we like it or not. The alternative to decontrol is not all the energy we want at less cost, it is less energy than we need with all that portends for jobs, economic growth, prosperity, and mobility. For those who think that less is best, that may be fine, but for the millions of Americans, and especially those who are at the bottom of the economic ladder, who believe that more is better, the combination of conservation, controls, and synfuels is no answer. For them, the best that can be expected from such an approach is preservation of the status quo—if they are lucky. But America has never been satisfied with the status quo, nor is there any reason we should be in the future. America has been, and ought to be, the land of opportunity for all. For if we have proven anything in our history it is that progress and prosperity go hand in hand.

Mr. Chairman, I urge adoption of this amendment.

☐ 1750

Mr. SHARP. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I would just like to reiterate some of the words that were said against this amendment a while ago. Very obviously, there have been no hearings, no real consideration of what the full impact of a sudden deregulation of both oil and natural gas would mean for our economy and for our people.

I think it is particularly important for everyone to understand natural gas is included in this amendment.

For the Members who are not new to this Congress, they will know that we have struggled to find an adequate policy for this country; that we went through 2 years, actually all 4 years I have been in the Chamber, to try to break a 20-year deadlock on this issue and finally were able to come to a new policy, which is widely recognized as workable. It is going to produce more gas.

It clearly has made gas available in the interstate market. While it may not be perfect, it has clearly gotten us off of dead center on that issue.

To reraise the question now and to throw into question all of the provisions of that act, I think, would be a big mistake. If that does not seem to convince those who are not concerned about the uncertainty generated by this amendment, not only for big users of these supplies as well as the small users, but also for the investors who are trying to sort out where to place their bets this year and placing their bets this year based upon the certainty of this natural gas act, I would suggest to you that also this amendment knocks out critically important emergency measures that were of extreme importance to consumers in my area, whether they were industrial firms or homeowners during the natural gas crisis 2 years ago, when we had a situation where we needed to curtail the use of natural gas. It was an inescapable proposition.

Many people were thrown out of work. Schools were closed. Without some reasonable and rational basis by which to curtail, we would have had an even more disastrous situation. To wipe these curtailment plans off the book is, I think, an act of extreme folly. I would urge the Members of the Chamber to think twice before suddenly adopting an amendment of this broad ramification.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the Symms amendment.

Mr. Chairman, we heard these same arguments that my colleague (Mr. SHARP) just made for the airline industry when we talked about deregulation in that complicated field. We were told everything would be thrown into chaos, and there would be terrible problems; but in the field of energy the real problems have basically been created by the Federal Government and especially in this energy allocation program.

The gasoline shortage in California was created by the Department of Energy. They are the ones who created it. It was not the private sector or because the market system would not deliver. The Department of Energy ordered the shortage.

I say to my colleague from Indiana (Mr. SHARP), that he has painted an unduly harsh picture in his opposition to this amendment.

Even the Justice Department, upon initiation by the President, came up with the report that the shortages were not created by the producers but were created by the Department of Energy, who had miscalculated how to allocate fuel supply.

I think that my colleague from Idaho (Mr. SYMMS) is to be complimented for offering this amendment, because I think it does away with unnecessary controls and will give us the opportunity to move away from the very Government interference that created the problems in the first place.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I think the point that needs to be made to my friend from Indiana (Mr. SHARP), in the first place, you have got a 50- to 70-year record of no allocations, no Department of Energy, no price controls, particularly on retail distribution of petroleum products, where in those days when you were being "ripped off" by the oil companies, you had two things. You had lower prices and no lines at the gas pump.

Now, since the time of the advent of the new allocation system, we have had two and three times where we have had massive gas lines and inconveniences for our constituents.

I tell this body that if this allocation program continues on, we are going to have gas lines again and again, and if the voters correctly connect the connection, the people who vote to continue allocations and price controls are those same people who are voting for lines at the gas pumps.

If we just return this thing to the market system, we would not have either lines at the gas pump, nor will we have induced Government shortages, which we have had, which has brought on a supply crisis that we have had.

We are now suffering from a supply crisis induced by Government, and to say there is an energy shortage is nothing but pure fraud, because we have a 100-year supply of oil and gas, a 500-year supply of coal, and unlimited supplies of nuclear energy.

We passed so many laws around this place, and most of them right in this Chamber, so nobody could produce it. That is the problem. What I am trying to say is let us remove part of it so at least we can have a little bliss and a little peace in one section of our lives and not turn it over to the Government.

Mr. ROUSSELOT. I appreciate my colleague's statement.

I wanted to comment further that Mr. O'Leary, before he left his position as deputy administrator in DOE as you know, stated to several Members of Congress here that the Department of Energy did not have the competence to make the judgments that they are required to make under this law especially in such a large marketplace as the United States. I think that that is exactly why my colleague from Idaho (Mr. SYMMS) has offered this amendment to eliminate that noncompetence from having that kind of authority to make judgments that they cannot make, and that Mr. O'Leary made it very clear they did not have the capability of making.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Indiana.

Mr. SHARP. If the gentleman will recall, my remarks were addressed primarily at the national gas situation.

The gentleman may not have noticed my vote on the previous amendment. I was opposed to that amendment.

Mr. ROUSSELOT. Yes, I did notice. I realize we are close to election time, and it is time for the people to vote.

Mr. SHARP. If the gentleman will continue to yield, I do not think that is the case. In fact, it will probably cost me more votes for casting my vote that way.

☐ 1800

The point I would like to make to the gentleman is that I do think he is trying to wipe off things quickly that, in fact, a little patience and feel for the direction of policy both on oil and natural gas will get some of the fundamental things the gentleman is driving at. I think we will get those, however, with less damage than we will get in the approach the gentleman is advocating in this radical surgery. I think it is very difficult to justify the dramatic jump that we will see in all of the natural gas prices as a result of taking off the price controls on old gas.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my colleague from Michigan, a member of the committee.

Mr. STOCKMAN. The gentleman from Indiana a moment ago made an eloquent defense of the Natural Gas Act of 1978.

The SPEAKER pro tempore. Time of the gentleman from California has expired.

(At the request of Mr. JOHN L. BURTON and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. STOCKMAN. If my colleague will continue to yield, since that is a difficult piece of legislation to defend, I commend my colleague for that.

Despite all of the progress we have made with the 1978 act, if I am right I believe the price for new natural gas in this country is still $2.10 a thousand cubic feet. Just a few weeks ago we negotiated an agreement with Mexico to buy it for $3.60 a thousand cubic feet. What I am wondering is if the gentleman could tell me why it is better to pay $1.50 more per thousand cubic feet to the Mexicans than we are to our own producers when all of us are beginning to understand that there is a lot of natural gas, a lot of methane that could be produced in this country that would be far better than some of the dirty synthetics that are being talked about. Could the gentleman give me an answer?

Mr. ROUSSELOT. I think that is an excellent question and I would yield to my colleague from Indiana for an answer.

Mr. SHARP. Mr. Chairman, it is difficult to defend an inconsistency. I would have to remind the gentleman, however, that the legislative process is not going to end with this one vote. As a matter of fact, we are going to throw the whole question up for grabs again and to great uncertainty. The assumption that we are going to come out with some better act after at least another year of this negotiation back and forth between the House and the other body I think is a naive one. I think the best thing we can do it this point is to live for a few years with that act and see how things are working out. In fact, it is a definite improvement over the previous policy. I think the gentleman realizes that getting in a clean, pure, logical policy is extremely difficult. I think we are headed in the right direction on this.

Mr. ROUSSELOT. I disagree with my colleague. It is not the right act; it needs to be repealed now. I think it has already been proven that the Department of Energy, as Mr. O'Leary said, really does not have the competence to manage the pricing of energy in the entire Nation. The President has proven the United States had to take a higher price for the delivery of natural gas to come from Mexico. So I agree with my colleague from Michigan who I think has made a good point, that we should allow the price of natural gas to seek its natural level. The supply will then be more than adequate.

We will also be eliminating with this amendment the unwarranted intrusion by the Department of Energy in an area Mr. O'Leary admitted they do not have the competence to deal in. That is in the allocation program.

Mr. JOHN L. BURTON. Mr. Chairman, I thank my friend for yielding. I

Mr. ROUSSELOT. I yield to my colleague from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank my friend for yielding. I think it is a mistake to try and sell deregulation on the basis of what happened to the airlines. At the time of deregulation it cost us $434 roundtrip coach from here to California. It is now close to $600. Accidents and fatalities in the commuter industry as a result of dereg have doubled. If you try to get a night flight directly into Washington from the Coast without stopping over and changing planes it is impossible.

So if we have such an increase in air travel as a result of dereg, Lord knows what is going to happen as a result of this. I do not think that is a good benchmark for my colleague to use and I thank him for yielding.

Mr. ROUSSELOT. I think the passenger miles have gone up, the gentleman is right, and some of the routes have been discontinued. But the dislocation has not been that great. Service continues in a substantial majority of routes.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(At the request of Mr. SYMMS and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my friend.

Mr. SYMMS. Mr. Chairman, I would just like to comment to the gentleman from California that what is happening now is people that are less privileged than Members of Congress and other people in higher income brackets can now afford to fly. That is why the airplanes are full.

I would like to say further that the gentleman from Indiana mentioned why should we have that radical surgery now. I would say to the gentleman from Indiana all he has to do is look at the foreign money markets. People are fleeing from the American dollar because they realize now that America no longer has the willingness to make the commitment to the productive system that made America the great country it is, nor the willingness to make the commitment to the defense force necessary. So they are dumping dollars and buying gold.

What good can that do all of us? If we need radical surgery, we need it now. They do not have gas lines in Western Europe where they do not have these allocations and price controls. We have the gasoline lines here in this country.

Mr. ROUSSELOT. Mr. Chairman, I support the amendment of the gentleman from Idaho (Mr. SYMMS) because I think it does away with the unnecessary interference by the Department of Energy in the allocation program, management areas where the country has found out the DOE does not have the capability of dealing. I think it is an appropriate amendment and I urge my colleagues to support it.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word and speak against the amendment.

Mr. Chairman, I am constantly hearing my colleagues from across the aisle saying that merely giving additional money to oil companies would produce more oil domestically. The price of oil has gone up tremendously and has not produced more oil. It has brought into action more rigs and more exploration than ever existed before, and that rig count, that effort in an attempt to find and discover oil has gone up.

But there simply is not as much domestic oil to be found in any short-term in the Lower 48 as there has been in the past. However, if we consider our production both in the Lower 48 and also in Alaska, the domestic production has moved at a reasonably regular pace.

The problem that occurred was that there simply was not an attempt to produce as much oil between the latter part of October of 1978 and the spring of 1979 as had been the usual case in that season in other years. There was a greater amount of imported oil brought into this country in the first quarter of 1979 than in 1978. But the oil companies permitted a shortfall to occur and they permitted crude oil stocks at primary level to drop below an estimated minimum acceptable level at the end of January of 1979, and it stayed there until about May of 1979.

I know it is popular to shoot the watchdog and try to exonerate those who are really responsible for the crime. The oil companies simply did not make the effort to produce in the United States, nor to obtain elsewhere sufficient crude oil stocks to supply those who desired and needed gasoline and middle distillates. That is what happened during last fall and this spring. It is the oil companies that caused the shortage and it is the oil companies that made the profit from the resultant increase in gasoline prices.

When a shortage is created you get people willing to pay more money for gasoline. That is what happened. It was not the DOE that did it. The responsibility of producing oil is that of the companies that are engaged in that operation.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely. I yield to my distinguished friend from California.

Mr. ROUSSELOT. The gentleman disagrees with the General Accounting Office finding and the Justice Department finding that the major producers of petroleum products did not produce the shortage of gasoline?

Mr. ECKHARDT. Yes, I strongly disagree with them.

Mr. ROUSSELOT. If the gentleman would yield further, can he prove they were wrong?

Mr. ECKHARDT. Yes, I think I can. If the gentleman will read the matter I put in the Record yesterday, I think it proves it.

Mr. ROUSSELOT. I will be glad to read that. What was the basic finding?

Mr. ECKHARDT. And I would also refer the gentleman to my summer quarterly report on this subject that goes into detail about the shortfall that the refiners created. It is in my Quarterly Report No. 19, summer 1979, with the charts showing how the oil companies permitted primary stocks to diminish to the point where there was not enough to supply the public.

Mr. ROUSSELOT. Is the gentleman suggesting that they withheld supplies? Is that the gentleman's thesis?

Mr. ECKHARDT. I am suggesting they did not make a sufficient effort at production, probably anticipating a greater price after June of this year when the President permitted the price of oil to go up.

Mr. ROUSSELOT. I guess the gentleman knows the Department of Energy was able, by orders, to tell the refiners of this country what to produce and what not to produce?

Mr. ECKHARDT. I am quite familiar with that. I think the Department of Energy was not without fault in that case. But I still say to shoot the lazy watchdog——

Mr. ROUSSELOT. Nobody wants to shoot the watchdog.

Mr. ECKHARDT (continuing). Is a bad substitute for finding the burglar in the upstairs bedroom.

☐ 1810

Mr. ROUSSELOT. I think we just want to put to sleep the incompetent watchdog that does not do anything correctly. I think that is the basic problem.

Mr. ECKHARDT. We need a better watchdog, but there was no better watchdog under the FEA when President Ford was in authority. The watchdog was even lazier at that time.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the previous vote that we had in the House was a very good indication here of an emerging consensus in which we had as many Democrats and Republicans voting against the Moffett amendment, and we had a Democratic party with a majority voting against the Moffett amendment. I think that gives us a very clear indication, perhaps for the first time, and for the time I have been in the House, of the direction and the confirmation by this institution of the proposals for gradual decontrol of oil.

Clearly, there are going to be some remaining problems in the refinery sector and remaining problems in natural gas, as has been pointed out in the discussion between the gentleman from Michigan and the gentleman from Indiana, but I do not think this amendment does us any good at all, and is not at all helpful.

I would agree with the gentleman from Indiana that we are embarked on a gradual crossing, one the economy can handle. I do not think it is necessary with this amendment for Members of the House to be asked to prove some kind of purity one way or another as to where they stand on energy or on big oil companies, nor do I think it is helpful for the situation to be described, as it has been, as not a real energy crisis. That occurred earlier in this debate.

I think we are reminded that the crisis is a very real one indeed. The only way we are going to be able to move out of this is to develop the kind of concensus we have begun to arrive at with the discussion here earlier today. I would hope that all my colleagues would vote to turn down the Symms amendment and go ahead in the direction in which we are going.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Idaho (Mr. Symms).

The question was taken; and on a division (demanded by Mr. Symms) there were—ayes 17; noes 20.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. DANNEMEYER. Mr. Chairman, I object to the vote on the ground that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will inform the gentleman that that motion is not in order.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kostmayer: Page 40, after line 23, insert the following new subsection:

(c)(1) Within 15 days after the date of the enactment of this Act, the Secretary, using such of the sums authorized to be appropriated by subsection (a)(2)(E) as may be necessary, shall prescribe a rule or order, to the extent authorized under other law—

(A) which prescribes a method of determining price for sales of middle distillate by each refiner within the United States that results in a maximum lawful price for each type of middle distillate sold by that refiner that is based on the margin between selling price and product cost experienced during January 1979 by that refiner (or in the case of a refiner which was not in existence in January 1979, by a comparable refiner),

(B) which prescribes a method for the allocation of middle distillates,

(C) which takes effect not later than 15 days after it is prescribed, and

(D) which is not made inapplicable with respect to any type of middle distillate before the 180th day after the date on which it first takes effect.

(2) For purposes of this subsection, the term "middle distillates" No. 1 and No. 2 heating oils and No. 1-D and No. 2 diesel fuels, as such terms are defined in section 212.31 of title 10, Code of Federal Regulations (as in effect on the date of the enactment of this Act).

(3) This subsection shall not be construed to require any rule or order referred to in paragraph (1) to be in effect beyond the fiscal year ending September 30, 1980.

Mr. KOSTMAYER. Mr. Chairman, the cold weather and snow the Northeastern United States is experiencing this week at such an unusually early date should send an unmistakably clear signal to all of us here who are required to take actions for the public health and safety. Congress can no longer ignore one of the biggest problems facing our constituents in the months ahead. That is the problem of how Americans who heat their homes with oil will be able to cope with the skyrocketing prices of home heating oil.

It is hard to believe that in the United States in 1979 some people would have to decide whether to heat or eat, but many of our countrymen may face that cruel choice this winter. For the elderly the strain of additional costs for necessary medication and health care further complicates their dilemma.

These direct problems with heating oil users are only part of the middle distillate question, because farmers, shippers, and truckers who rely on diesel fuel are impacted upon just as severely because of the unbridled and questionable increases in prices since the beginning of this year, 1979.

President Ford lifted controls on middle distillates in 1976. It was done at that time with congressional approval because of the belief that to do so was justified by several factors, including stable prices, meaningful competition, and adequate supplies in the distillate market.

Mr. Chairman, those conditions do not prevail in the country today. Supplies are at a level, we think—we do not know, but we think—which will barely get us through the winter. That was achieved only because of extreme pressure from Congress and the DOE on refiners to improve their distillate production this summer. The shortage has virtually removed any competition. There is very little price variance at the retail level.

Instead of spawning new distributors, smaller and minority dealers are being forced out of business because of prices and revised credit policies of the refiners. This is further reducing competition.

Finally, lack of price stability; in fact, the astronomical increases in prices in the past 8 months alone justify the establishment of price controls. The concerns of distributors about receiving their contractual allocations indeed make a strong case for allocation controls.

Home heating oil, which represents about 30 percent of the Nation's daily distillate consumption, has risen from a controlled price of 39 cents per gallon in May 1976, to an estimated 81 cents per gallon this September. It is a little bit higher today. In the first 2 years, prices rose 22 percent, but they have gone up 65 percent this year alone. Retail diesel fuel prices have behaved in the same way.

What accounts for the increases in middle-level distillates? I asked the Environment and Natural Resources Policy Division of the Library of Congress to help me answer that question. In a report which I have commissioned, they have concluded the following for the period January through August 1979: First, retail prices jumped from 53 cents in January to 81 cents in August for a 27.3-cent increase or a 51-percent increase.

□ 1820

Crude oil prices rose approximately 14.8 cents or 47 percent in that period. But quite inexplicably the refiners' gross profit margin jumped from 10 cents a gallon in January to 22 cents a gallon in August. That, astonishingly, represents about a 120-percent increase in the refiners' gross margin in the past 9 months.

Clearly, the soaring refiner profit margins have more to do with the increases than anything else. In other words, neither crude price increases nor distributor cost increases have led to the doubling of the retail price of home heating oil—refiners' gross profit margins are the reason.

In subcommittee hearings when we asked representatives of the oil companies why the margins went up so dramatically, they responded by attributing it to the cost of doing business, an excuse they offer with little or no documentation. But the cost of doing business is not up 100 percent for other industries in America. Either the oil industry is run extremely inefficiently, or someone is being less than forthright.

The fact is that no electric company or gas company or even a phone company could go before any respectable public service commission in this Nation today and garner a sizable retail price increase at the cost of a 100-percent increase in their profit margins in a single year or less, let alone do it without offering any persuasive documentation.

But heating oil, which is no less a necessity than electricity or gas—heating oil prices are being arbitrarily established at the whim or fancy of the oil industry that has verified none of the few claims they have offered explaining those increases, an industry which in the words of Deputy Secretary of Energy O'Leary has exhibited quite a bit of inertia in recognizing the social consequences of their price hikes.

Finally, Mr. Chairman, we are elected to recognize the social consequences of these acts. We also have to keep our eye on the social costs because we are not here just to turn a profit for a single industry. We guard the public interest.

In their report the Library of Congress concluded that Americans would pay between $5.2 and $7.4 billion in higher distillate prices over the next 12 months. This is over and above any possible crude increase. We must not only be concerned with energy, we must realize what these increases do to our fight on inflation. We must realize how the inadequate financial assistance programs we will be forced to fund in years ahead to provide even a smattering of relief to the poor and the elderly will greatly curb our attempts to check Government spending and curtial the Federal Government's involvement in people's lives.

Finally, Mr. Chairman, there has been a lot of criticism of this Congress for allegedly failing to act in a meaningful way to grant consumers help with the energy crisis. The chance still remains for us to do so. This is a beginning. Step by step we can show the American consumers that we are sensitive to their burden and compassionate of their plight. I hope we can adopt this amendment this evening.

Mr. STOCKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take a lot of time. There are a lot of things that are wrong with this amendment, but I think one thing needs to be put in the record, at least before the House, and that is that there is one argument that is simple, compelling, and irrefutable, and that is that it will not save one consumer one single dime anywhere in the country even if this amendment is adopted. The reason for it is that the gentleman's amendment simply controls the refiner's profit margin but the refiner does not deliver heating oil to your home tank, nor does the refiner send you the bill. That is done by the jobber, the dealer, or the distributor, and he is not regulated under this amendment. He is not regulated under any existing Department of Energy programs. The dealer or distributor is not regulated by the State Public Utility Commissions, and most certainly he is not a cost-plus contractor working for the Government.

The point is this amendment is simply an entirely economic shell game. If you roll back the profit margin to the refinery level, it will simply be captured downstream by the distribution market. There will not be one dime of savings realized by any consumer of home heating oil anywhere in the country.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. I join the gentleman in the point he makes. I want to say I have great respect for the author of the amendment. He is a very able and valuable Member of this body. But the hard fact of the matter is that when you are dealing with integrated refiners, you compress the profit margin in one place, and the profit is going to squeeze out someplace else, so all you are going to do is move the profits around through the system. Much as the gentleman would desire the profits as the gentleman points out, the amendment is going going to accomplish this.

Mr. STOCKMAN. I appreciate the gentleman's remarks. They are right on target. I would suggest to the House if you need any evidence about what the chairman of the committee has just said or what I have laid out, just take a look at that gasoline price control system, because that is the other product we are controlling. We have 3,000 pages of regulations in that program because we have to define margin controls not just for the refiners but for the jobbers, for the wholesalers, for the resellers, and a whole variety of businessmen who are downstream from the refinery. It might seem very simple just to put controls on the 30 or 40 gasoline-selling refiners in this country, but we do not do it because the Department of Energy and the statute and everybody else who has looked at it understands that if you want to control the product price to the consumer, you have to control everybody in the market, not just at the refinery level. So I would suggest to the House that this is a gesture of concern that I think all of us can appreciate, but it will do no good whatever. It will mislead the American public. If we want to help those low-income or marginal households, we have got to do it through some kind of tax support.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I thank the gentleman for yielding.

I think we ought to recognize why the price of home heating oil has gone up about 60 percent in the last 9 months. It is not because the price of crude has gone up, because the price of crude has gone up only 38 percent in the last 12 months. It is not because the retailer's margin has gone up, because there has not been nearly as substantial an increase in that. It is because the refiner's gross margin has risen from 9 cents per gallon in January of this year to 22 cents per gallon in September of this year, an increase of 120 percent. When you look at the explanation for the rising cost of home heating oil in this country, you must look to the very source where we seek to put controls, and that is in the refinery's gross margin.

I would remind the gentleman from Michigan, as of course he knows being better acquainted with this area than I, that these increasing costs do not include the cost of the crude oil; that is an entirely separate cost.

Mr. STOCKMAN. If I may reclaim my time, every one of the facts that the gentleman has mentioned is correct. Every one of them is correct about the cost of crude and the margins. The only thing that is incorrect is his conclusion, because the gentleman would roll back the refinery margin 3 or 4 or 5 cents. I do not know what the rollback would be, but that would be immediately captured by downstream distributors and operators. It would not go to the consumer. So the point I am trying to make is that this is a shell game. It does not protect the consumer that I know the gentleman has in mind. It is a way of allocating profits in the industry.

Mr. KOSTMAYER. If the gentleman will yield further, in my area of suburban Philadelphia we have 65 retail distributors. You have real competition in Metropolitan Washington. You have 50 retail distributors. That does not apply to the refiners where there is much less competition. With all due respect to the gentleman, I simply say it is wrong to make that analogy. I do not think those costs are passed along. I think the retailers might even be able to reduce their prices.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment. Mr. Chairman, the gentleman from Pennsylvania (Mr. KOSTMAYER) makes the proper answer to the gentleman's argument, the argument of the gentleman from Michigan (Mr. STOCKMAN) about the necessity of controlling the retailer. During the Ford administration we were urged to remove price controls from middle distillates because we were told at that time that there being an excess of crude oil, those who sold middle distillates both as wholesalers and retailers would bring down the price if we removed controls on allocation and price. At that time, of course, we had required allocation and price controls in the case of middle distillates. Indeed, that was probably a good argument at the time because there was an excess of crude oil in the market, and one could expect those producing middle distillates to try and sell in competition with each other.

The gentleman from Pennsylvania (Mr. KOSTMAYER) has very properly assumed that that same competition would exist amongst retailers because, as he points out, there are many retailers competing for the market to the consumer. There are few refiners. The refiners may raise the price, and have raised it as the gentleman indicates. Why have they raised the price? Because they are not as concerned about selling as much middle distillates as much as they are about selling gasoline.

□ 1830

It is gasoline that brings big price. Besides that, in the crunch this spring the gasoline was in such demand that the producers, the refiners of both middle distillates and of gasoline were trying to meet their gasoline demands at the expense of middle distillates and we came awfully close to running into a shortage of middle distillates for this winter. We may still be short but I think we cannot be complacent about what will happen next winter.

Mr. Chairman, it seems to me absolutely essential that if you control one of the products, like gasoline, or crude oil, you must also control the other. About 50 percent of the barrel of oil goes to gasoline, about 25 percent to middle distillates. Middle distillates are all virtually the same. In other words, both home-heating oil and diesel fuel are fungible, they are about the same product. What people do not frequently recognize is the tremendous disaster we would run into with a shortage of diesel fuel. We must do something about this.

Mr. Chairman, the gentleman's amendment would control the price and allocation of middle distillates I think is absolutely essential.

Mr. Chairman, in answer to the point the gentleman from Michigan (Mr. STOCKMAN) raised a moment ago, DOE presently has authority to reinstate controls on both allocation and price of both the refiners, the wholesalers and the distributors of middle distillates. If the gentleman believes that should be done and if this amendment should pass and if we should then find that the profits are being drawn off by the distributors of middle distillates, the administration presently has authority to reinstate those controls.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely I will yield to the gentleman.

Mr. STOCKMAN. Is the gentleman suggesting this program would work without taking that further step? If that is the case why do we not just regulate margins on gasolines at the refinery level and forget about harassing all of these competitive dealers, jobbers, and wholesalers in the gasoline market? Why are we regulating all them, could the gentleman tell me?

Mr. ECKHARDT. I am suggesting it might work and that it probably would work for the very reason the gentleman from Pennsylvania points out. There are few refiners but there are many distributors.

Mr. STOCKMAN. Are there not many gasoline distributors? There are 200,000.

Mr. ECKHARDT. That may be true but it has not worked in gasoline, as the gentleman knows, because of the long lines and the shortages which I contend were created by the oil companies. That might occur also in the case of middle distillates. If it does, if the gentleman's amendment is passed DOE will be mandated to control the price of the refiners.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, if at that time the distributors do not compete and continue to draw off the profits, then DOE has perfect authority under existing law to reinstate those controls.

Mr. Chairman, one thing that is sometimes not understood is that when we drafted EPCA, we required that the removal of controls required submission to Congress for a one-House veto, but we did not prevent the reinstatement of those controls if the removal did not work. We did not prevent that from being done by DOE directly without even bringing the matter to the House.

If the amendment of the gentleman were passed, I think it would work, but if the doubts of the gentleman from Michigan (Mr. STOCKMAN) about it would result in too high a price to the dealers, all that would have to be done is for the DOE to institute such price controls and it could do it without any further action by Congress.

I believe, also, that DOE should look to the question of whether or not the splitting of the barrel toward middle distillates ought not be controlled because there may well be a shortage of middle distillates including home-heating oil and diesel fuel if DOE does not watch the question of the use of the barrel between gasoline and middle distillates.

I use this example: You know, the ancients in Mexico used to use the Maguey plant to produce both tequila and the fabric they wore in their clothing. You could have a situation in which that crop failed and you could continue to have plenty of tequila while people were going naked because the two products come from the same source.

Mr. Chairman, if we do not insist that the necessary fiber or rather the necessary fuel of commerce be maintained—that is, diesel fuel and then the necessary fuel for heating be maintained, we may be in bad shape next year.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all debate on the Kostmayer amendment and all amendments thereto close at 6:45.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous consent request was granted will be recognized for 30 seconds each.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, this amendment is flawed in a number of significant fashions related to incentives, as we have a refiner problem in terms of U.S. markets. The gentleman from Michigan (Mr. STOCKMAN) raises a very good point. If we want to do something about low-income individuals, we are going to do it through a tax program or a direct-funding program. We are well embarked upon a low-income assistance program which is absolutely necessary. This is a very incorrect way of handling a problem which the gentleman has correctly identified. This solution is absolutely wrong and I hope my colleagues will vote against the Kostmayer amendment.

(By unanimous consent, Messrs. WYDLER, SNYDER, THOMAS, and COURTER yielded their time to Mr. LOEFFLER.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. Mr. Chairman, I rise in opposition to the pending amendment.

A recent Department of Energy study made available in September of this year concluded that had heating oil price controls remained in effect from July 1976 until June of this year, those controls being removed in June of 1976, the price of home heating oil would have been 83 cents per gallon lower. That is less than 1 cent.

Mr. Chairman, while Congress can certainly enact a system such as the pending amendment which would place price controls on middle distillates, such controls would make it impossible to recover all of the costs associated with middle distillate production.

If these costs cannot be recovered, costs including labor, overhead, taxes, transportation, et cetera, and refiners begin to lose money on every gallon of heating oil they produce, refiners will be forced to minimize losses by reducing output. Increased shortages of middle distillates will develop.

Mr. Chairman, in addition, if refiners cannot expect a profit on their investment, further refinery construction so desperately needed today, will not move forward.

Mr. Chairman, the 240-million-barrel middle distillate supply buildup provides only 25 percent of the projected needed supplies of middle distillates for this winter. The remainder will have to be produced throughout the remaining winter months. Refinery disincentive, as promoted by the Kostmayer amendment, will have a negative effect on supplies available not only to the Northeast, but also to such places as west Texas where middle distillates are also consumed.

Yes, in west Texas we consume sufficient amounts of middle distillates for heating purposes as well as for production of food and fiber.

Price controls are inherently accompanied by allocations. How can some nameless, faceless, unknowledgeable bureaucrat in Washington set into motion an equitable program? Simply speaking, he cannot.

Mr. Chairman, this amendment means higher prices coupled with greater shortages. The American consumer will be forced to pay more for diminished domestic supplies and increased reliance on OPEC-refined products.

☐ 1840

The most effective way to assure adequate distribution and equitable prices is to assure sufficient supplies, not to control the prices and incur the wrath of further allocation.

I urge my colleagues to vote down this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in support of the amendment offered by our distinguished colleague from Pennsylvania.

The skyrocketing cost for fuel oil is of great concern to me. Unless this price escalation is halted, the fuel oil essential for home heating will become unaffordable for many. It has become readily apparent that this goal can only be achieved through congressional action. I have worked with Mr. KOSTMAYER on resolving this issue and believe that this amendment will accomplish that task.

The price and supply of heating oil have an impact on a large portion of American households. Census Bureau data contained in the 1976 Annual Housing Survey shows that over 20 percent of U.S. household units are heated by fuel oil. The Department of Housing and Urban Development also reports that over 19 percent of owner occupied single dwelling units in this country are heated with fuel oil.

There is no question to the fact that the price of heating oil has skyrocketed. The price of No. 2 heating oil has risen by 37.4 cents per gallon since 1970 and a shortfall in supplies will cause it to reach and surpass the estimated price of $1 a gallon. We are not talking about some luxury item, that can be foregone because it is too expensive. We are discussing an essential to life. The inability to purchase heating oil because of its high price will result in more of the horror stories that we have all heard of in past winters. The stories of people freezing to death because they could not afford heat will dramatically increase and that cannot occur.

The largest burden of an increased price for fuel oil will fall upon those least able to bear the burden—those on fixed, low and moderate incomes. The Census Bureau report shows that 54 percent of the owner occupied housing units heated with fuel oil are owned by households with incomes lower than $15,000. For renter occupied units heated with fuel oil, 78 percent are occupied by households with incomes below the $15,000 level. I am certain that many of my colleagues heard complaints this past year about how their constituents were unable to bear the cost of fuel oil. Last year that cost was 49.4 cents per gallon. What will people do as the price continues to the $1 per gallon level and beyond.

This amendment will insure that the price of heating oil be maintained at more affordable levels. We cannot sit idly by while the prices for this essential product escalates.

Of equal concern to me is the question of the allocation of fuel oil. While the administration has acted to increase fuel oil stocks, we are still dangerously close to shortages. The severity of these shortages will be determined by the severity of the winter and based on recent weather trends, it appears that winter is rapidly approaching and will be very cold.

Widespread shortages during a severe winter will cause more than lower temperatures in homes. It will result in the countless loss of human life and inestimable economic losses. We must be prepared to meet this threat. We must be ready to provide adequate supplies of heating oil, when and where they are needed. We cannot have a glut of heating oil in Florida or Missouri, while the people in Minnesota or New York freeze. The administration already has the authority to allocate fuel oil. I strongly urge them to establish the necessary mechanism to insure that fuel oil is available where it is needed.

Mr. Chairman, for many, the heating season has begun. It is imperative that Congress act to guarantee that the American people will have fuel oil at prices that they can afford. I urge my colleagues to support this amendment.

(By unanimous consent, Mr. OTTINGER and Mr. ECKHARDT yielded their time to Mr. KOSTMAYER).

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I wish to express my strong support for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER). It is vital this amendment be passed, in tandem with other measures such as home heating oil payments assistance, to protect the health and lives of millions of low income families this winter. Immediate steps must be taken to stop the rapidly spiraling cost of home heating oil, which provides about 22 percent of the Nation's home heating energy. Prices already have increased to the point where it is imperative that the Congress move also to enact some kind of assistance program for low income families. In spending their liimted income, these families are being increasingly forced to choose between essentials, for instance, whether to stay warm or to buy food.

Since 1967, the increase in the price of basic heating oil has far outstripped increases in overall consumer prices. The average price of a gallon of fuel oil now is about 87 cents, up from 53.9 cents just this past January. According to the Consumer Energy Council, the average family in the north will pay $540.00 more this year to buy the same amount of fuel oil as last year—$1,275.00 compared with $735.00 last winter. This increases the inflationary pressures on the middle income families and greatly reduces their purchasing power for all other goods and services.

The problem is even more severe for low income families, because they spend a greater percentage of their limited income on energy. In 1978, according to the Fuel Oil Marketing Advisory Committee, low income households spent 19 percent of their income on energy costs. That is four times the national average. With the latest price increases, the committee estimates that the poor will face fuel bills equal to at least one-fourth of their income, and in some cases up to one-third.

In addition to these large and unjustified price increases, some of the oil companies are tightening their credit policies. A constituent from Fenton, Mich., recently brought to my attention a new policy by one major oil company reducing its credit policy for its dealers from 30 days to only 10 days, and the dealer is passing the credit squeeze on to the customers. This credit squeeze certainly is not justified in light of record increases in profits being posted by oil companies. It increases the financial pressure on home and small business customers, and puts an even greater squeeze on those low- and middle-income families with cash flow problems that make it impossible to pay a large bill within a short time.

One heating oil distributor in my district already has warned its customers that, if a fuel oil shortage does occur, the company will limit fuel oil to those customers who have not paid their accounts promptly.

The Michigan Legislature and other States are moving now to help their neediest citizens this winter. In Michigan, a house-senate conference committee is trying to reach agreement on a program to provide up to $33 million in State income tax credits to help offset the additional heating costs to be incurred this year by elderly, low-income and handicapped families. The average tax credit, according to Senate analysts, would be $95. It is estimated that 350,000 households in Michigan would be eligible for the tax credits, including 238,000 senior citizen households.

Much more must be done by the Congress to meet this home heating crisis. That is why I joined a majority of my Democratic colleagues in the House on September 19 in asking President Carter to reimpose price controls on home heating oil in an attempt to stop further predicted increases this season. That is why I am supporting the amendment offered today by the gentleman from Pennsylvania (Mr. KOSTMAYER). That is why I am so anxious that congressional committees now considering proposals for a national program of home heating assistance move expeditiously so that help can be extended to needy families this winter.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Chairman, my colleague, the gentleman from Colorado (Mr. WIRTH), said that the low-income assistance would solve the problem. We are talking about, of course, a transfer out of the pockets of the taxpayers directly back to the industry. In addition, not only are low-income people affected, but so are middle-income people affected, the kind of people I represent generally in a suburban district.

Second, Mr. Chairman, margins are the reason. That is the problem here. Reading from this morning's Washington Post:

> Michael Gordon, an oil analyst with L. F. Rothschild & Co., said yesterday that "gross refining margins have widened dramatically" over the last year—from $1.60 a barrel to $4.75, after taking into account the rise in crude oil prices.

Mr. Chairman, I think it is a mistake to compare the situation with gasoline, where there is some flexibility, where consumption may be reduced to some extent as a result of higher prices. I do not think it is fair to compare that to heating oil. That elasticity simply does not exist. We are talking about a commodity where we face serious shortages. We are talking about a commodity which is twice as expensive as it was last year.

I think those factors combine to make the question of public interest the real issue here. What we are talking about is the public interest. People in my State, people in New England, people in the Northeast, truckers and farmers, homeowners, can expect to pay just about twice as much as they did last year just to stay warm. I think it is time for the Congress to act in response to that situation and to reimpose controls.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. DINGELL) to close debate.

Mr. DINGELL. Mr. Chairman, I oppose the amendment, with all respect to its author. It is poorly drawn.

First of all, the authority to enforce the law lies in the President. If the President refuses to delegate it to the Secretary, nothing can be done.

Second of all, there is no mechanism in here to assure the enforcement of the amendment, and as a result there is no way that this amendment has any teeth in it or that it can do anything. As a result, the amendment is at best an illusion and perhaps, I say this with all respect to the author, a sham and it should be rejected.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KOSTMAYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 124, noes 243, not voting 66, as follows:

[Roll No. 549]

AYES—124

Addabbo
Albosta
Ambro
Annunzio
Applegate
Atkinson
Bailey
Baldus
Barnes
Benjamin
Biaggi
Bingham
Boland
Boner
Brademas
Brodhead
Burton, John
Burton, Phillip
Cavanaugh
Chisholm
Clay
Conte
Corman
Cotter
D'Amours
Daschle
Dellums
Derrick
Dicks
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edwards, Calif.
Evans, Ind.
Fary
Ferraro
Fithian
Florio
Ford, Tenn.
Garcia
Gaydos
Goodling
Gore
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Heckler
Hollenbeck
Holtzman
Howard
Hughes
Ichord
Jenrette
Kastenmeier
Kildee
Kostmayer
LaFalce
Lederer
Lowry
Luken
McHugh
Maguire
Markey
Matsui
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Mottl
Murphy, Pa.
Myers, Pa.
Nowak
Oakar
Oberstar
Obey
Ottinger
Peyser
Price
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Roybal
Russo
Sabo
Seiberling
Shannon
Snowe
Solarz
Solomon
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Traxler
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
White
Wolpe
Yates
Yatron
Young, Mo.

NOES—243

Abdnor
Akaka
Alexander
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Barnard
Bauman
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Byron
Carney
Carr
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fazio
Fenwick
Findley
Fish
Fisher
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Giaimo
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Hefner
Heftel
Hightower
Holt
Horton
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McKay
McKinney
Madigan
Marlenee
Marriott
Mattox
Mazzoli
Mica
Miller, Ohio
Mineta
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
O'Brien
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Taylor
Thomas
Treen
Trible
Udall
Volkmer
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wright
Wyatt
Wydler
Wylie
Young, Fla.
Zablocki

NOT VOTING—66

Anderson, Calif.
Anderson, Ill.
Badham
Beard, R.I.
Beard, Tenn.
Blanchard
Boggs
Bolling
Bonior
Broomfield
Brown, Calif.
Butler
Campbell
Carter
Collins, Ill.
Conyers
Crane, Philip
Davis, Mich.
Erlenborn
Fascell
Flood
Frost
Gibbons
Gilman
Gray
Guyer
Harsha
Hillis
Hinson
Holland
Hopkins
Jones, N.C.
Leach, La.
McDade
McEwen
Marks
Martin
Mathis
Michel
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nichols
Nolan
Patten
Quayle
Richmond
Roberts
Rodino
Roe
Rosenthal
Shelby
Shuster
Slack
Spellman
Tauke
Thompson
Ullman
Van Deerlin
Vander Jagt
Walker
Wilson, C. H.
Winn
Wolff
Young, Alaska
Zeferetti

☐ 1850

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of Illinois for, with Mrs. Boggs against.

Mrs. Spellman for, with Mr. Leach of Louisiana against.

Mr. Thompson for, with Mr. Michel against.

Mr. Carter for, with Mr. Hinson against.

Mr. WALGREN changed his vote from "no" to "aye."

Messrs. MOORE, VOLKMER, and LEWIS changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. LUNDINE. Mr. Chairman, I strongly support the provisions contained in H.R. 3000 authorizing funds for civilian applications of inertial confinement fusion research and the effort by my colleagues from Washington (Mr. McCormack) to add $5.5 million to the inertial confinement fusion program in fiscal year 1980.

In New York, we are fortunate to have underway at the University of Rochester pioneer work in the area of ineritial confinement fusion. Work underway at the National Laser Users Facility located at the University of Rochester has significantly contributed to the development of a promising new long-term energy resource. This technological concept, called inertial confinement fusion, utilizes elements contained in seawater as a raw energy resource that when struck by laser beams will produce large amounts of energy.

I believe fusion technology holds great promise as a long-term energy resource. Work with inertial confinement fusion underway at the University of Rochester and elsewhere, as well as research and development of other aproaches to the generation of fusion energy, deserve congressional support. As we face continued problems in planning for our energy future, we must aggressively pursue development of fusion energy.

In the past, this technology has principally been utilized in our nuclear weapons program. It is only within the last few years that a promising civilian application for this technology has been identified. As such, both the House Armed Services Committee and the Science and Technology Committee have an interest in its future development. I feel it is extremely important that work on both military and civilian applications of this technology continue and am extremely pleased by the efforts of the House Science and Technology Committee this year to establish a specific authorization for energy research in this area. I commend the committee for its leadership on this issue and urge my colleagues to continue to support adequate levels of funding for civilian applications of the inertial confinement fusion technology in the future.●

● Mr. FORSYTHE. Mr. Chairman, I rise to express my support of H.R. 3000, the Department of Energy authorization for fiscal year 1980. Last year, during the floor proceedings on the DOE bill, I lamented the depressing energy predicament in which the Nation has found itself and the lackluster policy which the administration has formulated in a lame attempt to attack the problem. I regret to say that neither situation has improved in the last year, but as a member of the Committee on Science and Technology, I can say that I am most satisfied with the work that the committee has done in trying to improve both situations.

I would like to make remarks about three of the items in this bill: Solar, wind, and nuclear energy. First, I note the imminent expiration of the Solar Heating and Cooling Act of 1974, and the probable phasing out of the program in the energy field on the Federal level. Although the basic idea is sound, the technical problems and marketing unwieldiness of solar heating and cooling units prevented them from coming into wide usage. I am hopeful that the private sector will follow through on the initiative of the Federal Government in solar heating and cooling, capitalizing on the technological development already made, and be able to turn it into a marketable energy technology. As far as solar energy as a whole is concerned, I note that the DOE authorization for solar technology development and applications exceeds $600 million. I hope that the Department is able to spend most of these funds wisely and fruitfully, remembering the energy efficiency and environmental benefits that a developed solar technology could yield.

Second, one of the components of our long-range policy on solar energy is wind energy. The Science and Technology Committee has recommended over $75 million for wind energy conversion systems, the purpose of which is to accelerate the development of reliable and economically competitive wind energy systems to enable the earliest possible commercialization of windpower. While wind is not likely to be one of our primary energy sources by the year 2000, it can, at least plan a supplementary role, and I am very much in favor of further research in this area. However, I would prefer that the wind program be more focused on market needs and on the necessity to fully integrate wind systems with utility power.

Third, I am glad to say that our committee has again taken a decisive stand in favor of the Clinch River breeder reactor. The administration rationale for its opposition to this project makes no more sense now than it has for the last 2 years. Other nations are passing us in pioneering this important technology, and the influence of the United States in controlling its use is steadily waning. In addition, our precarious energy situation makes it inadvisable for us to ignore any promising energy technology.

I should emphasize, however, that in the construction of the breeder and, in fact, all nuclear generating plants, safety must be the primary consideration. We cannot forsake nuclear energy, but we can guarantee its security through a program of hard work and honest effort on the part of both Government regulatory agencies and private industry. The simple truth is that the nuclear generating industry has an incredibly good safety record during its 20-year history. It is also true, however, that this safety capability of the industry must be assured, and even enhanced, in the wake of the Three Mile Island crisis and the public uneasiness which it caused. We have addressed that issue directly with a committee amendment on nuclear safety R. & D. which calls for a reactor training program incorporating the latest research and requests a comprehensive program plan from the Department of Energy. I think this is a most constructive approach to learn from this accident so that we can upgrade the performance of personnel and develop improved safety systems.

Mr. Chairman, I am satisfied that the bill before us, H.R. 3000 addresses all of the concerns which I have about solar, wind, and nuclear energy, and I recommend its passage.●

● Mr. DORNAN. Mr. Chairman, as a member of the Science and Technology Committee, I rise to support the H.R. 3000, the DOE Authorization Act of 1979. In recent months, our gasoline problems have become increasingly serious and the need for a cohesive program of researching alternative energy sources has become increasingly urgent. Our committee has sensibly adressed these problems and authorized funds for researching and developing the most promising energy alternatives of the future. It has demonstrated an acute understanding of the Nation's need to found its energy program on technological progress, rather than on the policy of inertia and stagnation adopted by the Carter administration.

The commercialization of a number of promising technologies has been advanced by the work of the committee, and I would like to deal with several of them.

SOLAR AND PHOTOVOLTAICS

I want to first express my optimism about the prospects for solar energy in this Nation. Our committee shares this enthusiasm, having recommended $122 million for solar thermal technology and $155 million for solar photovoltaics. Under the solar thermal program is an application approach of great potential known as solar retrofitting/repowering in which an existing fossil-fueled industry plant or utility is provided with a solarfixed system. The plant can then operate on solar-supplied or fossil-supplied thermal energy or on a combination of both. Needless to say, the system affords the possibility of an enormous saving of our dwindling fossil fuels. Photovoltaic solar cells are used to convert sunlight directly into electricity, and although the technology now exists the cost must be reduced by a factor of 20 or 30 for large-scale marketability to become a reality. DOT feels that this can be established within 10 years. Our committee agreed and increased the DOE request by $25 million, an action with which I was in total agreement.

GEOTHERMAL ENERGY

The potential of geothermal energy has for the most part remained untapped in this country. Our committee has recommended an expenditure of over $141 million for fiscal year 1980 on the geothermal energy R.D. & D. program including a second demonstration plant. This program is intended to expedite the commercial utilization of geothermal resources by prodding private and public power authorities to develop these resources as efficient, safe and economical. The administration has continued to drag its feet on this program.

ALCOHOL FUELS

I am quite interested in the development of alcohol fuels, which are composed of 90 percent gasoline and 10 percent alcohol. DOE estimates that by 1985, biomass alcohol fuel production could replace 30,000 to 40,000 barrels per day of petroleum, with production possibly three to four times as great by the early 1990's. Alcohol fuels will not make an overwhelming contribution, but the quantity is large enough that we should continue to pursue this as a supplementary energy supply. This is the strategy which our committee has followed, recommending $57 million in fiscal 1980 for biomass, which consists of organic material such as terrestrial vegetation that can be used for energy.

LIQUEFACTION

The events of recent months have made Californians especially aware of the gasoline crisis, and Americans in other parts of the Nation have now experienced the kind of gasoline lines which were plaguing California in early May. We all now know how serious the shortages can be. Coal liquefaction is a developing technology which may very possibly wean Americans away from imported oil. It is a process by which domestic coal, which is plentiful, is converted into oil, which is scarce, and I am glad to say that our committee has recommended an increase of $51 million over the DOE request on this program. By the mid-1980's, this money as well as the money being spent in the oil shale program to extract millions of barrels of unused oil from beneath the surface of the Earth, may help decrease our reliance on uncertain foreign petroleum supplies and may help insure against shortages.

Mr. Chairman, I reiterate my support of this bill and of the initiatives which it contains in a number of energy fields.●

● Mr. ERTEL. Mr. Chairman, H.R. 3000, the authorization bill for the Department of Energy for fiscal year 1980 continues and initiates many worthwhile and essential energy programs. However, there are three provisions of the legislation which are not centers of heated debate, like the Clinch River breeder reactor, nor of technical and financial scales of synfuels, but which are nonetheless important. I would like to draw my colleagues' attention to these provisions, whch were amendments offered by me at the committee level and are not part of the bill.

The first does have some notoriety of its own, having its roots in the accident at Three Mile Island, but it is important not only as a response to that very serious event but also as an effort to improve the operation of nuclear power generally. It authorizes the Department of Energy to establish a training program for operators of commercial nuclear reactors. From my own experience, and from exploring the issue with persons familiar with the naval reactor training program operated by DOE, it occurred to me that the Department could competently establish a program of similar high quality for commercial reactor operators, for the purpose of assuring that nuclear powerplant personnel are properly prepared to carry out their duties and responsibilities, thereby assuring that the highest standards for safety and reliability of nuclear powerplant operation are maintained. The most important feature of the naval program, conspicuously absent from current commercial training, is the emphasis on retraining. Regular retraining is essential to insure the safe operation of nuclear reactors.

I had one primary intent in proposing that such a program be developed: that once a suitable program had been developed and accepted by Congress, DOE and NRC should further consult on how best to integrate this program with NRC's operator certification.

There has been considerable confusion on this point, and I want now to clarify for the record my and the committee's intent on this matter. As stated in the Science and Technology Committee's report on this bill—

> The Committee intention is that the certification of operators ought to be contingent upon completion of the new DOE training program.

I think we in the Congress ought to accomplish, and will with this provision, the development of an operator training program which, while making adjustments for different reactor designs, will guarantee that all operators are trained in a manner consistent with maintaining the highest standards of reactor safety and integrity. We have not, and realize that we could not in this bill, direct the NRC to alter its operator qualifications or certification criteria; however, the NRC should try to standardize them. The NRC ought to work with DOE to determine the best mechanism for implementing an approved DOE program. The Nuclear Regulatory Commission ought to be limited to determining whether the best option is to base certification on, first, completion of a centralized DOE program; second, completion of individual utility programs administered by DOE; or, third, completion of either of the DOE program—administered by DOE; or, third, completion either of the DOE program—the utilities—or of a utility program which has been developed and approved according to the criteria of the DOE program.

We are directing the department to develop a better training program than the ones now in use, and if this is not to be merely an exercise in paperwork for DOE, then we must assure that it is implemented to accomplish the task for which it is intended; that is, to improve operator training. Nuclear power has shown us some of its dangers, in the past year in particular. Undeniably, there are dangers associated with the use of nuclear power; and because of continued operation of nuclear energy plants, we have a responsibility to the public not to ignore these dangers. We must offer the American people some assurances that every safety precaution is being employed to protect the public. This provision offers one such assurance.

The second and third elements are, I think, as important to our energy supply strategy as is the development of synfuels. These promote the exploitation of domestic energy supplies and certainly do not require any protracted leadtime before their introduction into the market. They are already contributing to our energy supply; the issue at hand is how to make them more attractive, economical, and efficient.

One is particularly important in the impact it can have on improving the outlook for a potential enormous regional energy resource. I refer to the first-ever funding for anthracite mining R. & D. The recommendation of $1.5 million will support a program to research and develop new techniques for extracting anthracite coal; the lack of such new technologies has impeded the full utilization of this abundant, low-sulfur resource. High and increasing costs, which include expensive water pumping, have forced the closing of many deep mines. A shift to surface mining has not been smooth enough to increase anthracite production substantially. The Science and Technology Committee expressed interest in both of these issues.

Of course, the low production of anthracite is also related to the lack of a market But there is the old "chicken and egg" dilemma at work here; there is no appreciable market because of the uncertainty of supply. We can here address one part of this dilemma; in other ways, such as through the Coal Conversion Act or the promotion of anthracite gasification, we will be able to address the other. Pennsylvania alone has 18.8 billion tons in identified resources, representing 96 percent of the total domestic supply of anthracite. Obviously, this is hardly a resource we can afford to let go to waste.

One other resource whose potential has not yet been fully tapped is Eastern Devonian shale and western tight sand gas. Very little is known about the nature of this resource. I had originally planned to encourage greater funding for R. & D. into fracturing techniques but then discovered the need to develop first better information about the nature of the resource itself. Consequently, the additional funds under the enhanced gas recovery program will be devoted to resource characterization.

For instance, there is some question as to whether significant quantities of gas occur in the shale formation matrix or whether the gas in the natural fractures is the result of long-term migration of the gas through the underlying fault structures that consolidate in the shale. This distinction is crucial, for if the gas does migrate into the natural faults, considerably more production is possible at lower costs. Potentially recoverable reserves have been estimated to be in the broad range of 10 to 520 trillion cubic feet, so the need for resource characterization work is obvious.

These activities in anthracite and Devonian shale and western tight sands gas which we are assigning to the DOE are supportive of our goal to promote greater reliance on domestic energy resources, that are available now but which need greater Federal encouragement to stimulate investment and utilization by the private sector.●

● Mr. YOUNG of Missouri. Mr. Chairman, to alleviate our present energy shortage and to insure adequate energy supplies for the future, we must consider a variety of alternatives. Clearly, our primary objective must be to develop and utilize resources which offer a high potential for domestic production at the least cost to our economy, the consumer, and the environment.

In the short term, we must increase our reliance upon our abundant supply of coal. We must build the pipelines that will bring Alaskan oil from the west coast to Midwest refineries. By doing this we could increase Alaskan oil production by 500,000 barrels per day. Further development of nuclear energy, with full consideration of safety and environmental constraints, will also be necessary. I am pleased that a significant level of funding has been maintained in the current bill to insure continued research and development efforts in nuclear waste management.

To encourage commercial investment in nuclear plants as an energy source, we must guarantee future supplies of nuclear fuel. The most practical guarantee currently available is the breeder reactor, and continuation of plans to construct the Clinch River breeder reactor is a vital step toward assuring that adequate fuel will be available to meet further powerplant needs.

Looking toward the future, we are diversifying our potential energy sources. We have initiated an ambitious synthetic fuels program, which offers the potential for reducing our needs for imported oil and our dependence on uncertain foreign sources for the energy we require to maintain the American economy.

Since solar energy is inexhaustible, it represents an obvious area for intensive development. A wide variety of technologies are included under the solar category, including wind, biomass, and ocean systems, as well as the more familiar photovoltaics and solar thermal areas. These technologies are in varying stages of development, and wind power is among the closest to commercial viability at this time. With continued support for research, development, and testing, it is anticipated that wind power alone can produce 2 quads of energy for the Nation by the year 2000. Adequate funding for these important renewable energy resources must continue to be a priority of this Congress.

Fusion energy, like solar energy, offers the promise of nearly inexhaustible supplies of energy in the future, and I will request that the Congress direct particular attention to increased support for fusion programs when considering the fiscal year 1981 authorization bill.

The technologies I have mentioned all offer the potential for increasing our Nation's energy supplies, both now and in the future.

We are already 5 years behind in developing these technologies. It must be the direct purpose of this Congress to insure that all viable means for accomplishing the ambitious goal of energy independence are pursued.●

☐ 1900

Mr. DINGELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Studds, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, had come to no resolution thereon.

RESOLUTION ON CONTINUING APPROPRIATIONS

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, I have asked for recognition in order that I may make a statement with respect to the continuing appropriations resolution.

The conferees, unable to achieve total agreement this evening, have adjourned to meet again at 10 o'clock tomorrow morning.

I know there is no Member of this Chamber of either party who is insensitive to the very real need of American citizens who work faithfully for the Government of the United States, including military public servants, to receive their pay and not to be hamstrung by an inability of the House and the Senate to agree. Therefore, it is our purpose and intent to be in session tomorrow as long as it may be necessary to achieve agreement on the continuing resolution. It is conceivable that that may necessitate a very long session tomorrow. I earnestly hope that it will not But I do believe that every Member of this Chamber recognizes the responsibility to stay in session for the benefit not only of public employees who faithfully serve the Government, but for the benefit of all of those citizens who look to their Government with every reason to expect that their Government will continue to function and provide the services to which they are fully entitled as citizens of the United States.

Therefore, I think it is our duty to remain in session—and I think the Members will agree with me—tomorrow until we can conclude action and achieve agreement.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, could the majority leader give us any indication as to what would be the position of the House should the conferees not agree tomorrow? Would there be a possibility of a Saturday session?

Mr. WRIGHT. I do not contemplate the failure to agree.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 412, CONTINUING APPROPRIATIONS, 1980

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-509) on the resolution (H. Res. 444) waiving certain points of order against the conference report on the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE MEANING OF THE HOLOCAUST

(Mr. YATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● **Mr. YATES.** Mr. Speaker, for the past 8 months I have been serving as one of the congressional members of the President's Commission on the Holocaust. The final report of the Commission, which I was pleased to sign, was submitted to the President on September 27 at an impressive White House ceremony. The Commission's recommendations for an appropriate memorial to the holocaust now await the review of the President and ultimately of the Congress and to the Ameriacn people.

However these recommendations are finally implemented, their basic purpose surely is sound. The nature and the meaning of the holocaust must be understood by all people if we are to hope that its horror will never again be perpetrated by any nation against any people. And because of this conviction, I was pleased to learn of a very useful contribution to this greater public understanding just made by the American Jewish Committee. It has published a booklet entitled, "About the Holocaust— What We Know and How We Know It." It is written by Dorothy Rabinowitz, author and chronicler of the holocaust. It is a factual response to some of the outrageous claims being published by certain groups and individuals that the holocaust never really did occur. In concise and credible explanations, this publication summarizes the basic knowledge that exists about the holocaust.

The foreword to this very useful publication was written by one of the truly distinguished members of the President's Commission on the Holocaust, the Honorable Telford Taylor, who represented the United States at the Nuremberg war crimes trails between 1946 and 1949. I include at this point in the RECORD the text of this foreword, along with the final section of the publication, entitled "Why We Must Know."

FOREWORD

Most of the victims of what has become known as "the Holocaust" were Jews, but the story of the Holocaust is not a Jewish story. Nor is it a German story, though most of the killers were German. The import of the Holocaust transcends all lines of race or religion; its human significance is universal.

It is fitting, therefore, that this pamphlet should appear at a time when a Presidential commission has been charged with the task of conceiving the form and substance of a national memorial to the victims of the Holocaust. That is not a simple undertaking. A memorial is a symbol, and to devise a fitting symbol is impossible without a clear understanding of what is being symbolized. Is the theme nothing more than a threnody—a monument to the sadness of untimely death? If these millions had perished in a natural disaster—a flood or earthquake—would the same memorial serve equally well for them and for the victims of the Holocaust?

Plainly not; much more is at stake here than the expression of grief for the dead. They were killed by human hands, and the sole reason for their selection was that they were Jews. It is not so much the fact of their deaths as it is the means and motive for their killing that gives the Holocaust its terrible moral significance, which the word "genocide" is intended to encapsulate.

Although the history of mankind is marked and marred by many mass atrocities, the Holocaust is unique in its scale, the deliberation with which it was executed, and the terrible modernity of the gas chambers and crematoria which were its principal means. It is fitting, therefore, that it should be memorialized separately.

But the years of the Holocaust were not the first in which humans have been killed in large numbers because of race or religion, and in modern times the American Indians and Armenians come readily to mind. Awareness of these exterminations darkens the horror of the Holocaust, because they show that the Nazi terror was not an unprecedented and solitary aberration, but a human phenomenon which had appeared before and, therefore, might occur again.

That is why, as Ms. Rabinowitz rightly reminds us, study of the Holocaust is more than the pursuit of history for its own sake. We may never fully understand why the Holocaust took place, but we cannot afford not to seek its comprehension. A first and long step is to know what happened, and that is what this pamphlet tells us.

TELFORD TAYLOR.

JUNE 1979.

WHY WE MUST KNOW

If, as Hans Frank acknowledged, the guilt for inventing, organizing and carrying out the Holocaust lies with Germany, it must also be acknowledged that the world permitted the Holocaust to happen. For the Nazis succeeded in murdering the Jews of Europe not only because of their fanatic commitment to the "Final Solution," or because their advanced killing technology enabled them to do so; they succeeded because no nation in the civilized world intervened, heeded the threats that Jews were about to be slaughtered, or provided refuge from the slaughterers when the threats became reality. They succeeded, in short, because they were allowed to succeed. "The bystanders to cruelty," concluded Arthur D. Morse, the chronicler of American apathy, "became bystanders to genocide."

The Holocaust stands both as history and as a warning. As history, it shows us how easily attitudes and ideas are translated into moral action or lack of it, and how that translation determines whether human beings live or die. As the record shows, where the non-Jewish population opposed the Nazis' racist ideology and offered help to the Jews, Jewish losses were relatively low; where anti-Semitism met a widespread sympathetic response, the destruction of the Jews was virtually total.

For years, the majority of people preferred not to know the details of the Holocaust; and in recent years, as interest in the subject has grown, there have even been—precisely as General Eisenhower predicted—some clumsy efforts by old and new Nazis and self-styled historical theorists to deny that the crimes really happened.[71]

While mostly ignored, as they deserve to be, such efforts to rewrite history have, on some occasions, produced eloquent rejoinders—among them one, printed in The New York Times in December 1977, by the late Walter J. Fellenz, Colonel, U.S.A., who led the combat infantry troops that overran the Dachau concentration camp in Germany on April 29, 1945:

"I was the first American camp commander of this death mill. . . . Now, 32½ years later, I am still shocked by what I saw during my 16 hours at the liberation of this shameful place. To me, the Holocaust was one of the most shameful crimes since man walked this earth. More shameful, however, is the fact that the forces of evil are trying to deny that this Holocaust ever took place. . . . What are the real motives of these people? Are they possessed by evil? Sadly, I truly think so. . . . No, I am not a Jew; I am but an old soldier."

That this witness to the Nazi crimes expected some people not to believe him if they thought he was Jewish suggests how prevalent still is the idea that the Holocaust is solely a Jewish matter. It is well, in the face of such belief, to recall the warning of the anti-Nazi German philosopher, Karl Jaspers, that what happened must be remembered because it can happen again at any minute. Implicit in this reminder is another: What happened to one people can happen to any.

The Holocaust was and remains a tragedy of universal implication, and one whose warnings we ignore at our peril.●

☐ 1030

WAVE OF THE PAST? OR WAVE OF THE FUTURE?

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, these days, the bankruptcy of interventionist economic policies is apparent even to Congress. We have tried everything else; are we ready to give freedom a chance? The free market yields peace, prosperity, and a sound dollar. Its opposite, as we can see so clearly, yields strife, poverty, and inflation.

One of the truly wise men of our time is Friedrich A. Hayek—economist, historian, and social philosopher. Winner of the Nobel Prize in economics, Dr. Hayek is an eloquent champion of liberty. In a very encouraging development, the October 1 Forbes devoted its cover story to Hayek—the wave of the future. I say encouraging, because most big businessmen need economics lessons as badly as Congressmen do.

Fear is the primary emotion in Washington these days, fear that decades of inflation and interventionism may have so damaged the economy that nothing will help it.

But that is not true. What Leonard Read calls the miracle of the market can still work its power, if only Government will simply get out of the way.

As my colleagues ponder the course we should take, I would like to call this excellent article on Hayek to their attention.

WAVE OF THE PAST? OR WAVE OF THE FUTURE?

(By Lawrence Minard)

(We were the forerunners of a new dispensation, we were not afraid of anything.)

It was 1938 and John Maynard Keynes was reading aloud to a dozen fellow members of his Bloomsbury set—aesthetes, scholars, artists—some lines from his autobiographical memoir, My Early Beliefe, Keynes' The General Theory of Employment, Interest and Money was now three years in public hands and its impact was enormous. In the lines above, Keynes was talking about Bloomsbury, not about the book, but no matter, that's what he believed in: A new dispensation, led by an elite of intellectually beautiful people to rescue the world from its ingrained harmful habits.

Starting in Harvard's economics department and with the American New Deal as a laboratory and, soon, World War II, Keynes' economic doctrine soon conquered the world. Its message was comforting: By simply manipulating overall economic demand, a government could perform what became known in later years as fine-tuning the economy. No longer were politicians helpless before the inexorable twists of the business cycle, no longer were they limited by rigid natural laws in what they could deliver to the voters. Economists—not inexorable forces—were in charge. Keynes himself wouldn't recognize much of what is done today in his name, but there is no doubt that he showed economists and politicians what looked like the way to run the economy like a machine.

Even that avowed conservative Richard Nixon, during his presidency, capitulated to the interventionist doctrine. "We are all Keynesians now," he said.

Nixon's timing was terrible. When he said that, Keynes' star was already waning. The economist's followers had no answers for stagflation—in fact may have been to blame for it.

Only a theory replaces a theory, however. With the Keynesian theory crumbling around us, is there an alternative to Keynes' "new dispensation" for looking at the world?

Increasingly these days, we hear about the conservative (or neoconservative) alternative to Keynesian economics. But that has a warmed-over taste to it; somehow it doesn't satisfy. Perhaps that is because it is so, so second-hand. Thinking such thoughts, the editors of Forbes decided it was time to interview Friedrich August Hayek, who offered the world an alternative to Keynes before the world was ready for such an alternative. To Hayek the economics practiced in the name of Keynes is simply a face of socialism and socialism itself simply a face of totalitarianism.

Born in Vienna in 1899 (his father was a biologist), Hayek was in the direct line of the great Austrian School of Economics. In 1931 he went to Britain to teach at the London School of Economics. There, in the waning years of World War II, he wrote his most famous work, The Road to Serfdom. In it, he warned intellectuals that they were wrong to think of the hated Nazism as a last-ditch defense of privilege by a dying capitalist system. Nazism was, he said, quite simply a peculiar form of socialism—and socialism was the real enemy of free people.

The book was written too soon. Respected but neglected, Hayek moved to the U.S. where he occupied a chair—not in economics but in moral philosophy—at the University of Chicago. Now 80, retired and living in Freiburg, Germany, he still travels, writes and lectures throughout the world. Although he finally won a Nobel Prize in 1974, that recognition doesn't give him as much pleasure as does the fact that young intellectuals are beginning to take him seriously. For so long was he relegated to the background—a reactionary footnote to history. Or so the Keynesians and "liberals" thought. Many still do.

A young lady from Forbes recently dropped into Manhattan's E.S. Wilentz's Eighth Street

Bookshop, which serves Greenwich Village intellectuals. She asked for a copy of Hayek's The Road to Serfdom. The bearded, blue-jeaned clerk, the very model of the New York liberated young men, sneered. "Why do you want to read that old fascist?"

That kind of intolerance is, of course, typical of the semi-educated young who vaguely believe in socialism without having the slightest notion of what socialism is. What such people refuse to understand is that Hayekian economics is not an apology for big business but a philosophical theory that says societies are like organisms, not like machines.

In his study of what you might call sociological pathology, Hayek has found that the underlying threat facing our relatively free society is not Friedmanism or Keynesianism or any other narrow economic ism. Rather, the threat comes from a way of thinking practiced by everyone from bearded booksellers in Manhattan to chief executive officers of Forbes 500 companies. So-called conservatives are often as guilty as liberals and socialists are. Hayek calls this way of thinking constructivism." He traces its development back to Descartes. Voltaire and Rousseau. Given its roots you might call constructivism the French Disease.

A constructivist thinks that the government can "protect" the U.S. steel industry from the consequences of high U.S. wages, burdensome-environmental restrictions and aging plant. To this extent he's right: The government can keep down the inroads of foreign steel. But only by raising costs elsewhere in the economy. Similarly loud-mouthed California radicals can persuade the local government to institute rent controls, but at the cost of drying up the supply of new rental housing.

These government rules on foreign steel and rent control jam out the price signals and lead to excessive economic activity in some areas and some industries. Take the current energy situation. The public demands that it be protected from OPEC extortion. The politicians respond by holding down the price of domestic oil—thus muting the price signals which should have told people to conserve and to seek alternative fuels. People ask the government to do the undoable, and the politicians try to give the public what the public wants. Constructivism! It led to fatuous attempts to legislate a better world as in the Humphrey-Hawkins Bill of a few years back, which sought in effect to make joblessness illegal.

All this might well go under the heading of "the illusion of human omnipotence." At its best, this leads to human striving; it moves mountains. At its worst, however, it leads individuals to think they can remake mankind in whatever image happens to be fashionable at the moment: socialism, fascism, theocracy, matriarchy. Hitler had the illusion he could create a super-race. Stalin sacrificed millions of lives to create a "new man." So did Pol Pot in Cambodia. In our own society, this idea that man can play God leads to such idiocies as forced busing and body counts in Vietnam; manipulate the statistics and change the world. It revolts Hayek.

On this scale, Keynesian constructivism is pretty mild. Logically, though, Friedrich Hayek thinks it is the same fallacy. He believes that societies progress best when the men and women in them are left alone to pursue, within limits, their own self-interests. It was this particular point, says Hayek, that the English Enlightenment thinkers—the intellectual antibodies for the French Disease—understood perfectly well.

It was summed up in 1705 in psychiatrist Dr. Bernarb Mandeville's epic economic poem *The Fable of the Bees: or, Private Vices, Public Benefits:* "The worst of all the multitude/ Did something for the common good."

It was summed up a few years later when David Hume, in his frontal assault on the French Rationalists, lauded societies "that are the result of human action, not of human design."

It was summed up yet again in Adam Smith's great *The Wealth of Nations* phrase: "By directing that industry in such a manner as its produce may be of the greatest value, an individual intends only his own gain, and he is in this . . . led by an invisible hand to promote an end which has no part of his intention. . . . By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it."

Hayek does not particularly prefer one political party over another. He prefers no political party. In the first book-length treatment of Hayek, just off the press, English political scholar Norman P. Barry refers to Hayek's political theory as a theory of anti-politics. It is that, not in the sense that Hayek is an anarchist but rather in the sense that Hayek urges a system of government which exists only to pass and enforce general abstract rules, a government limited in its power to coerce its citizens.

Isn't that what we've got? Hardly, Hayek answers:

"Our modern governments are unlimited democracies, where the central government is not confined to enforcing uniform rules of conduct for all, but where every measure of specific interference approved by the majority party is legal. . . . Modern democracies are now in a position where they can grant special privileges to any group—not being limited to general laws, [the State] can benefit any particular group. It gets majority support by buying the support of particular interest groups—therefore the whole lobby system. It is bribery and corruption, of course, but fully legalized bribery and corruption."

Bribe the Florida tomato growers by keeping out cheaper and tastier Mexican tomatoes. Bribe the Long Beach, Calif. apartment renters. Bribe people who want to buy houses but don't want to wait until they have saved up the down payment. Bribe the coal miners by forcing the coal companies to agree to an expensive wage settlement. Bribe doctors by making their fees tax-deductible and thus less painful for the patients. Bribe the self-appointed poor people's lobbies with inflationary increases in the minimum wage. Bribe the feminists with artificial job quotas. Something for everybody. Nothing for everybody.

Right now in Iran and Afghanistan we see this constructivism at its most vicious. Khomeini, the theocratic dictator, wants his people to be more zealous in following the precepts of Islam. In neighboring Afghanistan the communist dictator thinks Islam is the opiate of his people. Both men are killing thousands to reconstruct society according to their diametrically opposed designs.

Hayek's answer to constructivism—whether of the Hitlerian or Keynesian mode: Hold government to a minimum. Don't try to do too much. Let society evolve on its own. Societies progress best if the men and women that comprise them are left alone to pursue, within limits, their own self-interests. If this sounds like a prescription for chaos, it is not. What Adam Smith called "the invisible hand" we now call "feedback loops" or "cybernetics." The design is there. It wasn't drawn by human will but rather by selective evolution. In their greed the robber barons gave us the great railroads and giant steel mills; had government checked their greed more effectively it would have curbed much of their creativity.

It is not easy these days to promote a theory that proclaims the virtues of laissez-faire, laissez-passer capitalism. The so-called liberals and the radicals are against the market economy both in theory and in practice. So-called conservatives are against it in practice if not in theory. People just don't like thinking of themselves and their children at the mercy of something beyond their control, that cold invisible market. The government should do something. As if we weren't all at the mercy of a cold invisible universe.

But what's the alternative? The fact is, Hayekian economics is at root a scheme to prevent collectivism, to keep human society from degenerating into a beehive society. ("I see very little difference between fascism and socialism," Hayek says. It was this belief that led him to write *The Road to Serfdom.*) Hayek sees in the market order the best way to avoid the return to tribalism represented by societies organized on the basis of humans commanding other humans. The beauty of the market order, says Hayek is precisely the fact that it is vast and impersonal.

Here's how Hayek puts it:

"The order of the market is really a process which arises from our adaptation to the world which we do not know. Everything which we do for the market is determined by circumstances of which we have no information—by the manner in which our raw materials are produced and in which our products are wanted. So we adapt ourselves to events of which we know nothing, and we serve needs of people we do not know. That order does not arise because somebody directs it or tells us what to do. It arises by our being guided by impersonal signals—the prices of the market. The whole thing is a communications system which has arisen without man understanding it but has enabled man to bring about an adaptation of every man to millions of events about which he knows nothing." Hayek has begun calling the market order a catallaxy, a neologism from the Greek meaning both "exchange" and "to turn from enemy into friend." Obviously not everyone will win equally at catallaxy. The market guarantees liberty and equal opportunity—not liberty and equality. There's a huge difference.

"My basic philosophy?" Hayek repeated our question. "That it is not deliberate (human) design but the survival of the successful groups which has produced culture and civilization. We have a perfect example of this right here in Europe: Germany. Why has Germany so prospered that it has become the most powerful nation in Europe? Because 30 years ago it adopted the most liberal (i.e., laissez-faire) constitution imaginable. The 1949 fundamental law and the 1948 abolition of price controls by Ludwig Erhard became the source of the greatest effervescence of any country in a short period we have ever seen in modern times. Here we have a society reascending to a dominant position, because it has chosen a better system than other countries. This seems to me to be a very good confirmation of all I say."

Likewise with Japan, South Korea, Taiwan, Singapore, Hong Kong, Brazil—all instances where the general material welfare (as well as political freedom) is increasing rapidly, precisely *because* their politicians limit human interference to enforcing general abstract market laws.

"And of course," Hayek adds darkly, "there are the real failures. The best case of complete failure, thanks to too much planning, is India, where every mistake that could be made was made. It gave preference to industrialization without producing a food surplus. There was the ambition to possess its own steel industry and so on for pure prestige reasons. I avoid going to India because I find it so uncongenial and depressing. It has no prospects whatsoever, largely because of their stupid government policies."

Hayek didn't think much better of Britain's economic policy, until this year's election of Conservative Margaret Thatcher, of whom Hayek says: "I admire her greatly." But he worries her tough economic policies will run into broad-based social opposition: "I cannot judge the extent to which British public opinion will remain behind her in the exceedingly painful measures she would have to get through in order to return to a functioning market economy. Her policies are the right ones, but whether she'll be able to get done what she knows must be done is another question."

Lest the conservatives among us derive too much comfort from Hayek, it is important to remember that his free-market philosophy opposes all forms of special-interest politics and meddling. Hayek is as much against protecting the U.S. steel industry from foreign competition as he is against proposals to control rents in California. Followed logically, Hayekian economics will upset the old-guard Republicans at their golf clubs as much as it does bearded young people at their coffee houses.

Americans who call themselves conservatives and Republicans like to inveigh against welfare spending and costly red tape. But that didn't stop right-wing Texas oilmen from getting laws passed to keep out cheap foreign oil in the 1960s—to protect their own immediate interests against those of society at large. Hayek calls himself a liberal, and he's against most interference with the marketplace, whether advocated by Senator Kennedy or by the chairman of Chrysler Corp. Hayek agrees with John Stuart Mill, who referred to Britain's conservatives of his day as "the stupid party."

It may surprise FORBES readers to know that the Friedrich Hayek is almost as opposed to the monetarism of "my good friend" Milton Friedman as he is to the economics of his late good friend Maynard Keynes. Hayek sees Keynes' economics as just another branch of the centuries-old Quantity Theory school, the school now associated with Milton Friedman but developed in the 1600s by econometrician Sir William Petty and his pupil Sir Isaac Newton.

"It was the Americans, Simon Newcomb the astronomer and his pupil Irving Fisher, who investigated what later became known as aggregates. Friedman goes back to Irving Fisher and the old American tradition of the quantity theory, and Keynes, in this sense, is another branch of the same tradition: He also is a quantity theorist, but modified in an even more aggregative or collectivist or macroeconomic tendency. . . . Friedman had nothing to learn from Keynes."

In fact, says Hayek, Friedman's monetarism suffers from the same kind of methodological (Hayek calls it "scientism" or, in his 1974 Nobel Prize address, a "pretense of knowledge") that Keynesian theory suffers from. Hayek stresses that economics is *essentially complex*. It cannot in any meaningful way be quantitatively measured in the aggregate. The Quantity Theory is basically correct, he says, but what it tells you is not particularly relevant. It is misleading, perhaps dangerously so, to think in terms of simple functional relations between such constructs as aggregate demand and employment, between the quantity of money and "the general level of prices." Says Hayek:

> The whole of macroeconomics [Keynes' and Friedmen's] is based on the idea that you can establish simple relationships between measured quantities of certain parts of the economic system. But you *cannot* deal with complex phenomena in this sense. This is why I say the greatest harm Keynes ever did was to lead to a temporary predominance of macro over microeconomics.

"Keynes preached that you could control unemployment by controlling aggregate demand. But employment does not depend on aggregate demand. Employment depends on resources being adjusted to the distribution of expenditures. So you cannot in the long run control employment by just spending more money. That leads in the short term only to a temporary misdirection of resources and remains effective only so long as you *accelerate* inflation—it is only when prices come in *higher* than expected that all the misdirected resources can still be employed where they are. But the allocation to profitable uses is postponed. As a consequence you have an ever-increasing backlog of misapplied resources—misapplied because the price system has not been allowed to operate as the guide to where these resources should be used."

Running faster and faster to keep people in the artificially created jobs, the economy heats up to a higher and higher inflation rate.

If all this is a bit difficult to follow, consider a very simple example. Imagine that Visa or American Express were to do such brilliant selling jobs that 10 million additional American families end up with credit cards. Delighted with their new credit, half of the three-member families decide to go out for dinner once a week, something they couldn't have afforded when they had to pay cash. That's 15 million extra restaurant meals every week. Restaurant owners would be able to raise their prices. The restaurant business would boom. Shoe repair stores and stationery stores would be evicted to make room for new restaurants. The wineglass business would take off like a rocket and factories would be built.

But the day of reckoning comes. The monthly statement arrives. The new cardholders must eat at home every day—and stop going to the movies as well—to pay the credit card account. The new restaurants would go broke, the wineglass factories would close down and bartenders and waiters would be laid off. Depression in the restaurant business. Unless, of course, the government decided to head off the recession by giving every credit cardholder a tax credit equal to his last monthly debit, thus postponing—but only postponing—the day of reckoning.

In Hayek's words, not ours:

"If the price system is not determined by genuine demand but rather by pushing additional money into the market, you direct productive efforts to uses which can continue only so long as this inflation continues, and not only so long as it continues, but only so long as it continues to accelerate. The moment you stop accelerating, the economic system will show substantial unemployment. . . . I'm afraid that after the long period of employment in the U.S. you cannot return to a stable position without passing through a period of substantial unemployment.

"Please don't misinterpret me," pleads Hayek. "I am not proposing that we ought to deliberately cause unemployment to stop inflation. It's the other way around: We've placed ourselves in a situation where we cannot return to stability without incidentally causing large-scale unemployment."

In Hayek's scheme it is relative prices that count, not the general level of "all" prices. In our example, the restaurant industry got higher prices and thus overexpanded because it received a false signal caused by the injection of credit. Relative prices got out of hand, leading to creation of too many restaurants and too many wineglass factories. So, relative prices are what it is all about. If housing prices go up relative to other prices, people invest in housing; if demand for coal rises relative to other prices, they invest in coal. You don't invest in "the economy." And that is where the trouble starts. When the government injects demand into the economy, through either direct spending or easy credit, it must inject it at some particular point; it can't spread it evenly. This disturbs the relationship of various prices and changes investment flows.

Suppose the government indirectly subsidizes the housing market in an effort to increase overall demand in the economy. This causes the prices of housing materials, construction labor and used houses to go up. It doesn't matter if there are still unemployed auto workers in Detroit and idle black youths in Manhattan—housing costs still rise. Once housing costs rise, everybody demands more money in order to pay for the more costly housing.

Things aren't any better if the government decides to control inflation by cutting back on spending and on credit. Inevitably, certain parts of the economy are going to bear the brunt and the politicians will hear cries of "foul" and let up. Rightfully so, because the arbitrary withdrawal of demand would only cause a further misdirection of resources.

Hayek says the government should stay out altogether and let the economy find its own equilibrium. (He blames the 1930s' Depression, not on a collapse of the system but on overstimulation of credit in the 1920s, which led to an unsustainable investment boom.) Let the market alone, he says, and let the movement of relative prices signal where resources should be transferred and where withdrawn. Listen to the music of the market. It knows things and senses relationships that even the most elaborate data-processing system couldn't handle.

Despite the current intellectual fad for neoconservatism, Hayek is not optimistic that the trend toward statism, constructivism, socialist-fascism is on the wane. He thinks it still has a way to go. While people are dissatisfied with statism they are still equally disillusioned with free enterprise and laissez-faire. "As to profits and losses," he says, "the ordinary man has no concept anymore. People no longer know the rules of the market." Indeed, how can they? When the oil companies pass on to the consumers the impact of OPEC's price increases, respectable intellectuals tell the public that the oil companies are "ripping them off." When the banks try to protect their depositors by granting only the soundest loans, they are accused of "redlining." Profit is theft. It is not respectable. The prevailing rhetoric is all wrong. We are captives of it. Only a major shock will free us. That shock has not yet occurred, Hayek says.

Will it come from hyperinflation? Double-digit giving way to high double-digit inflation—as in South America? Hayek says no.

"There will likely be more government controls, as the first means of stopping inflation, leading to increasing inefficiency of industry, resulting in increasing dissatisfaction with industry, which will be an accumulating process bringing in more government interference.

"Hyperinflation will not be allowed to come. Before that the government will take control over most prices. So the inflation will end not because the government has stopped inflating, but because the government will dictate prices. Our system is much more likely to be a system of rationing.

"So the first effect will be not that prices are high but that you won't get anything for your money. There will be shortages, and the government will react to that by rationing. And finally you'll have a situation where people no longer buy for money but get only as much as they can get with the little cards the government gives them. They'll return to a war economy.

"It will be an attempt to reduce the whole spontaneous order to an organization, which is the original aim of socialism, and to enforce all this by official action: giving people what government must give them to keep them alive. The productive forces of the market which have given us more and more will disappear. We'll probably be assured of having 60 degrees temperature in our little rooms, but we won't have any choice over how much fuel to use above that. And the same with clothing and food. If you look at the true rationing system, as in Germany at the end of the war, that is probably much more like our near future than an explosive inflation. We'll have the same situation the Germans had in 1944; more money in their pockets than they could use because they couldn't get anything for their money."

If all this sounds unlikely, remember that it was Richard Nixon who gave us peacetime controls and that the polls show most people lean in that direction.

A solution, Hayek has recently decided, would be to eliminate government's monopolies over money. Return, that is, to the days of Free Banking, when different forms of money were in open competition, and only those forms that people trusted survived—when good money, in other words, drove out the bad.

What good would this do? It would make it more difficult for the politicians to inflate by trying to give everything to everybody. A consequence of their running the printing press would be the discrediting of the currency that they are printing. This may be happening already. Just look at how anxious people are to exchange dollars for anything solid—Mickey Mouse ashtrays, gold bars, overpriced houses. But Hayek realizes that governments would never permit their currencies to be superseded and so suggests instead that we should return to the general rule of fixed exchange rates, as a way to force politicians into line.

A return to the gold standard? Not a good idea, says Hayek: "Gold's value would have to rise too high too fast."

Still erect and clearminded, Hayek does not, however, think that the human race is going to regress permanently to the new tribalism called socialism. He says:

"You know, when I was a young man only the very old believed in the market. In my middle age almost no one believed in it; we were completely dominated by the statist or socialist views. Now, today, I find that most of my support is coming from the very young. It's almost a complete intellectual shift in relation to the generations.

"Among the young now you find much greater sympathy and understanding of a free system than ever during my life. The only question is whether this intellectual revival is coming in time. Whether it will have any impact on policy during my lifetime—I'm 80—I'm not at all certain."

Neither are we, but there are encouraging signs. The University of Chicago Press, publishers here of Hayek's *The Road to Serfdom*, reports that the 1944 book now sells 3,000 copies a year, mostly in university towns and university bookstores. "This is a remarkable sale for any old book, especially a 35-year-old one," says a spokesman for the Press. Three thousand books doesn't sound like much and it isn't, but numbers aren't the same as influence. Remember what John Maynard Keynes himself once wrote: "Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back."

Perhaps the day is coming when sane men will be in authority and echoing that rationalist free-market scribbler, Friedrich August Hayek. Stranger twists of intellectual and political fortunes have taken place.

THE WAY TO FIGHT INFLATION

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, the Federal Reserve Board, in extraordinary session, Saturday night, October 6, 1979, announced a crackdown certain to cause hardship to the American working man and woman.

Inflation in this country is primarily caused by excessive Federal deficit spending and declining national productivity which in large part is due to overregulation and the heavy hand of taxation.

The average American is now called upon to pay the debts created by the big spenders in Washington who for so many years have based their political promises on shaking the Federal Government money tree and turning on the Federal Government's money printing presses.

Government, spending beyond its means, now gives us increased unemployment and loss of jobs for our people. Instead of Congress leading the charge against inflation, the American people have been offered up as cannon fodder.

Once again, the boom-and-bust cycle leads us to another credit crunch, astronomical interest rates and, inevitably, increased unemployment and hardship for American workers.

The real way to fight inflation is by not letting our money printing presses outrace our productivity and by putting more people to work.

In the words of Margaret Bush Wilson of the NAACP, "Inflation is not caused by too many people working." We have to draw the line now against expanding the Government's take of our national income, against stifling taxation, and against regulation that turns off our economy.

We have to create a national climate that rewards work, not welfare; that rewards savings, not spending; that rewards production, in order to bring prices down. This Nation must learn again to put money away to maintain today's jobs and to create the new jobs for the future.

Let us begin to fight inflation with balanced economic growth. Take the tax and bureaucratic chains off the American people and we will regain our national potential.

So, Mr. Speaker, it is evident that Congress must learn to live within its means. With this Federal Reserve emergency action, the burden of fighting rampant double-digit inflation is placed on the backs of the American people. But, the people are going to ask, what has the Congress done? What role has the Congress played in giving us our present economic situation and what is the Congress doing about our economic future? Is the Federal Reserve simply serving as the hatchet man doing the dirty work to bail out 20-plus years of profligate Congresses?

Back in our districts, home mortgages have gone sky high or are flatly unobtainable; car loan interest rates make car purchases difficult or impossible; consumer loans dry up; and borrowing cannot occur to provide the tools and equipment necessary to maintain present jobs and to develop real jobs in the workplaces of tomorrow.

Yes, jobs—that is what this Federal Reserve action and this inflation fight will affect. Lost jobs and increased unemployment are the dues being asked of the American people for the long years in which their elected officials disregarded plain commonsense.

GEN. CASIMIR PULASKI

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Zablocki) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

☐ 1910

Mr. ZABLOCKI. Mr. Speaker, today marks the 200th anniversary of the death of the Polish patriot, Gen. Casimir Pulaski, who valiantly gave his life fighting for the cause of independence and freedom in the American Revolution. Today in Savannah, Ga., the scene of his tragic death, his contributions to the cause of freedom will be remembered in ceremonies whose participants include Dr. Zbigniew Brzezinski, Postmaster General William Bolger, John Cardinal Krol, and Mr. Aloysius Mazewski, president of the Polish American Congress.

Mr. Speaker, last year I was pleased to join my colleague and friend, Ron Mottl, in sponsoring H.R. 11071, calling for the issuance of a Pulaski commemorative stamp. Indeed Postmaster General Bolger will officiate today at the First Day of Issue ceremony of a postcard honoring this Polish patriot. Other civic observances throughout our great Nation during the coming week will mark this historic anniversary. I will be privileged and honored to participate in the annual observance in my own district sponsored by the Pulaski Council of Milwaukee which will be highlighted by the laying of a wreath at the Casimir Pulaski monument in the park dedicated to his memory.

Mr. Speaker, as an American of Polish descent, I am proud to pay tribute today to this great hero in the presence of my colleagues.

General Pulaski was an admirable man and a noble leader. He lived during one of the most trying periods in the world's history: A period during which the supremacy of the state over the rights of individuals was coming into question in many parts of Europe and the New World as well. When Casimir Pulaski was barely 20 years old, he was rebelling against imperialistic moves against his native Poland by Russia, Austria, and Prussia. At that same time men were fighting for individual liberty, personal freedoms and equality in other parts of the world.

Mr. Speaker, General Pulaski learned of America's fight against oppression from the great statesman and philosopher, Benjamin Franklin. Inspired by Franklin's views on liberty and freedom, Pulaski came to America offering his services at the youthful age of 29. He was commissioned a brigadier general in the Continental Army and valiantly fought for our country's ideals in the battles of Trenton, Germantown, and Brandywine. Just 2 years later this young general was mortally wounded during the siege of Savannah.

Mr. Speaker, we are indebted to this outstanding man. In giving his life to this Nation's cause he made the ultimate sacrifice so that future generations could enjoy the blessings of independence. Had he lived, Pulaski would have been proud of the implementation of the American democratic ideals as set forth in our Constitution and Declaration of Independence.

We see around us today the continuation of the revolutionary spirit which inspired Pulaski. In my own Fourth Congressional District of Wisconsin, Polish Americans and other public-spirited citizens continue to work toward the preservation of democracy and freedom. The goals set forth by our Founding Fathers remain strong today. Through individual efforts and through our institutions we continue to pursue freedom and democracy for all.

Mr. Speaker, Casimir Pulaski was respected as a man and as a military hero. His courage, persistence in battle, and commitments to the blessings of liberty were fruits of the most basic tenet in human relations—the respect and love of fellow man. We cherish his memory today.

The recollection of this brave hero's dedicated efforts can serve to renew our appreciation of our political system. But more importantly, that recollection offers us the opportunity to rededicate ourselves to living and working so that the individual rights of our fellow man will be respected always—and preserved.

● Ms. MIKULSKI. Mr. Speaker, it is with pride that I join with my fellow Polish American colleagues in the House of Representatives, as well as my fellow Americans of Polish descent, in paying tribute to a great man who won a place in the history of both the United States and Poland, Gen. Casimir Pulaski.

Over 200 years ago, on July 23, 1777, General Pulaski arrived in America, destined to become a lengendary hero of the Revolutionary War. General Pulaski was a man of courage who fought with strength and determination to achieve independence for our Nation.

Before coming to America, General Pulaski made a name for himself in his native Poland. He fought in the rebellion against the growing foreign domination of Poland in 1769. The failure of this rebellion led to his fleeing Poland, soon to become an important figure in the Revolution in our own country.

Across the Nation every year, great numbers of Polish Americans are commemorating the anniversary of General Pulaski's arrival in America. These events serve as a symbol of the strong and friendly ties between the United States and Poland. General Pulaski himself stands as a symbol of noble self-sacrifice in supporting the ideals of freedom and independence, the two basic principles on which our country was founded.

General Pulaski's contribution to the cause of the American Revolution was not unlike that of our other great leaders, such as George Washington. And, like other heroes of the Revolution, General Pulaski gave his life in battle. General Pulaski is remembered as a great and brave man in history and there exist monuments in many American cities which pay tribute to his service to our country.

This year in Baltimore we will be marking the bicentennial anniversary of the death of General Pulaski at a special ceremony sponsored by the Polish Heritage Association of Maryland. I will be participating in this October 14 ceremony, at which a painting of General Pulaski, executed by Stanislav Rembski, will be unveiled. Also on October 14, there will be a ceremony honoring General Pulaski in Patterson Park at the Pulaski Monument, sponsored by the Polish American Citizens Committee.

The visit of our Holy father, Pope John Paul II, to our country this past week, was a special and memorable occasion which brought a glow of pride to every Polish American. And this week, in honoring General Pulaski, I believe that we are also recognizing all Polish Americans and their contributions to our society.

As we celebrate Pulaski Day this year, we pay tribute to the contributions and the leaders of the past. As we prepare to face the new challenges of our times, let us renew our commitment to our traditional values and institutions. Working together with pride in ourselves and in our background, I believe that we can handle any challenge.●

● Mr. BOLAND. Mr. Speaker, today we commemorate the 200th anniversary of the death of Brig. Gen. Casimir Pulaski, the great Polish patriot who gave his life for our freedom. Born in the country that gave us Copernicus, Chopin, and Pope John Paul II, Pulaski was gifted with bravery and a profound love of freedom.

Pulaski's distinguished service under Gen. George Washington during the American Revolution led to his command of the Continental Cavalry. He later organized and led the famed and feared Pulaski Legion. On October 11, 1779, General Pulaski died of wounds received in battle. The memory of his sacrifice remains as a symbol of the great contributions of Polish-Americans and their descendants to the establishment and continued flourishing of our Nation.●

● Mr. RHODES. Mr. Speaker, I am pleased to join my colleagues in the House as we observe the 200th anniversary of the death of a great American patriot of Polish origin, Casimir Pulaski.

Like many others, he came to our shores after being exiled from his homeland, and joined in the battle for freedom. He fought heroically at Brandywine, and formed a formidable cavalry unit, the Pulaski Legion. He was made a brigadier general by Congress, and died of wounds suffered in the Battle of Savannah.

As we observe the bicentennial of the death of this brave early American, we should recall how total was the commitment to freedom of General Pulaski, and others of our forefathers who came to carve out a new land and insisted that it be free.

Today, when so many Americans do not even bother to exercise their precious right to vote, to choose the government of our Nation, we should reflect on the price paid by those courageous men and women who founded our Republic. We are in danger today of losing many of our freedoms, not to foreign aggressors, but to the insidious foes of apathy, indifference, and dependency.

This observance I know is a source of pride to those of Polish ancestry, who have contributed much to the development of our Nation. It also is a reminder that for their homeland, the fight for freedom has yet to be won. In our own Nation it is a reminder that we must reaffirm our dedication to freedom of opportunity and individualism, the grand heritage handed down to us by those who like General Pulaski fought to the death so that we might live free.●

● Mr. NOWAK. Mr. Speaker, I join my colleagues today as we commemorate the 200th anniversary of the death of the great Revolutionary War hero, Gen. Casimir Pulaski, who died on this date in the Battle of Savannah in 1779.

In my home city of Buffalo, N.Y., each October, the Pulaski Day Parade marks the many contributions this gallant, courageous soldier and patriot—the father of the American Cavalry—made to our fledgling Nation.

Pulaski Day was marked by even greater significance for the city of Buffalo this year. Last Saturday, October 6, a bronze statue of General Pulaski was unveiled in a ceremony dedicating this gift of the Polish People's Republic to the city of Buffalo and the Nation. Poland was represented at the ceremonies by a seven member delegation, including Stanislaw Wronski, a member of the Polish cabinet.

The dedication of the statue, whose inscription reads "General Kazimierz Pulaski. Hero of Poland and the United States of America," coincides with President Carter's proclamation declaring today, October 11, 1979, as General Pulaski Memorial Day in the United States.

President Carter's proclamation and the new statue in Buffalo are, as Mayor James Griffin of Buffalo noted, truly a "fitting tribute to a true patriot."

Located in the downtown Buffalo area, this statue will be a daily reminder to the citizens of Buffalo of the exemplary contributions General Pulaski and many others of foreign birth made to the establishment of freedom in this country.●

● **Mr. REUSS.** Mr. Speaker, today we observe the 200th anniversary of the death of Gen. Casimir Pulaski. We pay tribute to a man whose heroism on behalf of our Revolution is still a source of inspiration to us today.

A Polish-born soldier, he was driven into exile from his homeland, arriving in America in 1777 to join Washington's army. He fought heroically at Brandywine and Charleston, becoming a brigadier-general and chief of cavalry, and forming his own unit, the famed Pulaski's Legion.

On October 11, 1779, General Pulaski died of wounds received in a gallant charge at the siege of Savannah. His efforts in battle are an important part of American history, as is the legacy of his dedication to freedom. Now, 200 years after his death, we continue to pay tribute to him and to the millions of Polish Americans who preserve those ideals which Gen. Casimir Pulaski so nobly embodied.●

● **Mr. FARY.** Mr. Speaker, distinguished colleagues. In 1979, we celebrate the 200th anniversary of the death of Kazimierz Pulaski. His death prevented Pulaski from fulfilling the dream of generations of Polish political exiles: To return to Poland in the event of an uprising and to fight for the independence of their native land. However, he helped this country in her struggle for freedom and independence.

In Poland, Pulaski was famous for being part of the Confederation of Bar that almost succeeded in forcing the withdrawal of Russian armies from Polish lands. As the leader of part of the partisan army, Pulaski occupied Czestochowa, a monastery that houses a miraculous painting of the Virgin Mary, the patroness and Queen of Poland. The capture of the monastery kept the morale of the Poles high and was strategically important.

When the Confederation failed, Pulaski fled to France. There, a small colony of Polish political emigrants waited, hoping to return to a free Poland. Like other political activists and adventurers of the time, Pulaski was not content to simply wait in exile. Benjamin Franklin and Silas Deane, whom he met in Paris, helped the young count come to America.

Upon arriving in Boston, he wrote to George Washington:

> I have come here, where Freedom is being defended, to serve her, to live or die for her. . . . I am hurrying to join the army and offer my services to Your Excellency.

Subsequently, General Washington recommended that he command the entire Continental Army and Congress made him a general. Pulaski was instrumental in saving Philadelphia from destruction by the British army.

Pulaski trained the Continental cavalry following the model of the Polish cavalry, considered the best in Europe at the time. This earned for him the title, Father of the American Cavalry. In 1778, he formed the Pulaski Legion, a mixed corps which he led using tactics of guerilla warfare that he had learned in Poland. He and his men, among whom were many similarly exiled and adventurous Poles, defended both Charleston and Savannah against a threatened siege.

Pulaski was wounded during the battle of Savannah and taken aboard the United States brig "Wasp" for treatment. The doctors were not able to extract the bullet that caused his death 2 days later, on October 11, 1779. Kazimierz Pulaski was one of the many men who came from countries where their freedom was denied, in order to fight for freedom here.

For several years, Polish-Americans have felt that General Pulaski should be featured on a postage stamp in recognition of his heroic role in the events that led to the independence of our country. Today, a commemorative postal card is being issued that pictures Kazimierz Pulaski at the head of his corps. The design for the card was unveiled on August 26, the opening day of the Polish National Alliance's Quadrennial Convention which was held in Washington for the first time. Mr. Aloysius Mazewski, president of the Alliance, which is the largest Polish-American fraternal organization in the United States, took part in the ceremony.

Mr. Speaker, this is a good example of the continuing commitment of Polish Americans to the values that we all cherish as Americans. The delegates of the Polish National Alliance were conscious of the fact that they were honoring a fellow Pole who fought for America. Through their organization, these descendants of Polish immigrants continue the work of building America. Throughout our Nation's history, Polish Americans have always contributed their very special talents and hard work toward the greater good. Like Kazimierz Pulaski, they should also be honored for their part in insuring freedom for all of us.●

● **Mr. HOLLENBECK.** Mr. Speaker, it was 200 years ago today that one of America's true heroes, the Polish patriot Gen. Casimir Pulaski, died from mortal wounds suffered on a Revolutionary War battlefield. The dedication and supreme sacrifice which General Pulaski offered our country, while serving under George Washington, are not atypical of the many contributions provided by Polish Americans throughout our history.

General Pulaski was not the type of individual content with mere rank and status. Instead, he will always be remembered as a proud and courageous soldier, as the man who gave his life for the cause of liberty, and as the founder of the American cavalry.

It is with great pride and respect that I take this opportunity to join our Polish-American friends in commemorating the anniversary of Casimir Pulaski's death. Of course, we can never repay the debt which all Americans owe to General Pulaski for his donation to democracy. However, by this small measure of recognition we hope to justly memorialize his life as well as the significant contributions of all Polish Americans to the victory that was the American Revolution.●

● **Mr. KEMP.** Mr. Speaker, today marks a very special anniversary, the commemoration of the death of Gen. Casimir Pulaski who lost his life in the defense of our liberties in the Battle of Savannah, Ga., in 1779, 200 years ago.

Count Pulaski came to America at the urging of Benjamin Franklin, whom he met in France, and served as a volunteer in the Revolutionary Army in 1777 in defense of the principles of freedom which he felt were in danger of being snuffed out. Because of his gallantry in the Battle of Brandywine he was appointed chief of dragoons with the rank of brigadier general. He was fatally wounded in defense of the fledgling colonies at the age of 31.

It is fitting that 200 years after the death of General Pulaski, the United States has been blessed by the visit of another Polish hero—Pope John Paul II. Like Count Pulaski, Pope John Paul II came to America to honor the Nation that lives as a shining example of individual freedom and human dignity to all the world.

Yet it is tragic to remember that the nation which nurtured such defenders of human liberty, Poland, is now one of those unfortunate nations which suffers under the yoke of the most repressive of governmental systems, communism. The United States owes much to the nation which helped her win her own freedom. We will not forget that debt, and we will continue to strive for the day when all Polish people can walk in the light of freedom, on their own native soil as Pulaski dreamed.●

● **Mr. VANIK.** Mr. Speaker, today, the people of the United States are honoring the 200th anniversary of the death of Casimir Pulaski, the Polish patriot who served so heroically in the struggle for American independence. In paying tribute to General Pulaski's sacrifices for freedom, we also pay tribute to the many contributions made by Americans of Polish descent. One such American is Casimir Bielen of my community who will be honored by the Polonia Foundation of Ohio, Inc., at their annual Pulaski Day Dinner on October 13.

Casimir Bielen is a native Clevelander who received his Bachelor of Science degree from Case Western Reserve University and his masters degree in education from Kent State University. After graduation he served as a personnel director in private industry, as a teacher, school principal, and director of public information for the Garfield Heights school system. He also has served as the public affairs coordinator and legislative support chairman for the Ohio Education Association. At the present time he is serving as a staff assistant to the auditor of the State of Ohio.

The recipient of several distinguished service and journalistic awards, he is warmly known to many in this community as "Mr. Ethnic" for his involvement and contributions to Cleveland's ethnic heritage. Having served as a trustee or member of ethnic heritage committees at Cleveland State University, Cuyahoga Community College, Kent State University, and on the State and National level, he has also served as the director of public affairs for the Ohio Division of the Polish American Congress, Inc. Credited as the outstanding Polonia activist promoting the positive image of Polonia locally and nationally, Casimir has also been given recognition for aggressively promoting Polonia as the "awakened giant" in the English-speaking community.

As the founder of the Nationalities Newspaper and Services in 1964, he still serves as its president. Over the years, he has served as an officer or active member in over 75 different community organizations including the Citizens League, the Resource Commission of the Cleveland Welfare Federation, the Greater Cleveland Cultural Gardens, and Ceska Sin Karlin. Currently, he is serving as the public information officer for the Cleveland Society of Poles.

However, his community involvement is not limited solely to Polish-American affairs. A leading authority on air pollution, his research thesis on this subject has been published in the CONGRESSIONAL RECORD and has been placed on the bibliography list of the U.S. Air Pollution Division of HEW.

Casimir is married to the former Valera Japel and lives in the heart of the Cleveland Polish community where he continues to enrich the heritage and community involvement of Greater Cleveland. The entire Cleveland community is extremely grateful for the years of devotion and commitment he has given to help us all enrich life in our community.●

● Mr. DERWINSKI. Mr. Speaker, I wish to take this opportunity to thank the distinguished gentleman from Wisconsin (Mr. ZABLOCKI) for taking time this afternoon to honor Gen. Casimir Pulaski, whose courage and dream of freedom was to benefit millions and millions of Americans.

Today Americans of Polish descent across this country will join in saluting this man who helped make the American dream come true. This day marks the 200th anniversary of Gen. Casimir Pulaski's untimely but heroic death. This outstanding Polish patriot gave his life for our country during our Revolutionary War.

Born in 1748 in Poland to an aristocratic family, Count Pulaski turned his interest to military affairs at the age of 20. He joined with his father and brother in leading a struggle for the independence of his native country. Pulaski led the Polish insurrection against the domination of Poland by Russia, Austria, and Prussia. His heroic feats against overwhelming odds won him recognition throughout Europe as an outstanding cavalry leader.

Forced by Russian oppression to leave Poland, Pulaski became an exile in France where he first learned of the American rebellion against the British. Fired by the spirit motivating the American cause, Pulaski offered his services to the Americans who accepted them with gratitude.

By the summer of 1777, Pulaski was in America ready for battle, and in September of that year took his place in the American line, as a volunteer at Brandywine. His outstanding skill earned him instant recognition; and as a result of his outstanding military leadership, the Continental Congress granted him a commission as brigadier general.

At Valley Forge, Pulaski organized an independent cavalry force that was to become known as Pulaski's Legion, earning him the title of "Father of the American Cavalry." Stationed at Baltimore for a time, Pulaski grew impatient for battle and asked for a transfer to the scene of war. The request was granted and the legion moved north, engaging the British in frequent battles, throughout New Jersey. When once again a lull developed, Pulaski, whose ardent desire was to make a full and lasting contribution to the Revolutionary War, asked for a more active role in the fight for independence. He was then dispatched to the South, where the British were operating effectively out of Savannah.

Pulaski's courage and determination helped save Charleston, S.C. But General Pulaski's final act of undaunted courage came at the Battle of Savannah. As the British fired from the fortified city, Pulaski volunteered to charge through their line of defense, enter the city of Savannah, and confuse the enemy. His untimely death at the head of his famous cavalry charge underscored his dedication to the ideals for which the colonists fought. It has been noted that the heroism of Pulaski altered the course of the southern campaign of 1779, and from that point forward the American forces could not be stopped.

As a member of the Post Office and Civil Service Committee, I was especially pleased to note the issuance of a commemorative postal card honoring General Pulaski. He will long be remembered for his service in the cause of American liberty and for his love of freedom.

His was a gallant death in the cause of his adopted country, and certainly worthy of commemoration by all Americans and by all those who value freedom. Gen. Casimir Pulaski was an individual whose selfless contributions and sacrifices personified the ideals which gave birth to our Nation.●

REPORT OF HON. WALTER E. FAUNTROY, CHAIRMAN, BOARD OF DIRECTORS, SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE, ON THE SCLC FACTFINDING MISSION TO LEBANON, SEPTEMBER 17-21, 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia (Mr. FAUNTROY) is recognized for 60 minutes.

Mr. FAUNTROY. Mr. Speaker, a little more than 2 weeks ago, it was my privilege to travel to Lebanon in the Middle East as part of a 10-member delegation on a factfinding mission headed by Dr. Joseph Lowery, president of the Southern Christian Leadership Conference, and myself. Each member of the delegation traveled at his own expense in the hope, however, the SCLC would reimburse him if the organization at some time in the future is able to do so. I went in my capacity as chairman of the board of directors of the Southern Christian Leadership Conference and I am pleased to have this opportunity to report to the House of Representatives and the American people our findings.

Before outlining our findings and noting some recommendations, let me refresh your memory about the Southern Christian Leadership Conference. The SCLC, you will recall, is the organization founded by Dr. Martin Luther King, Jr., 22 years ago now to carry out his crusade for nonviolent social change in our country. It is the organization which he led as president through successful campaigns of nonviolent direct action in Birmingham and Selma, Ala., which culminated in the passage of the Civil Rights Act of 1964.

That law struck down racial segregation in places of public accommodation. Further, the companion Voting Rights Act of 1965, which resulted from the Selma movement, opened to black Americans long-denied access to the ballot boxes of the South. It is the organization through which Martin Luther King, Jr., sought to apply the teachings of Christian nonviolence to our quest for peace in Southeast Asia, and the organization which he headed at the time of his tragic assassination in April of 1968.

It is the organization which our now former Ambassador to the United Nations, Mr. Andrew Young, served as executive director before becoming a colleague of ours in the 93d and 94th Congresses. It is also the organization through which—for 11 years prior to my coming to Congress—I, as a Christian minister, was made a witness for equality and justice as director of the SCLC Washington bureau.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

I realize the gentleman would like to continue to get his full statement into the RECORD, and I do not mean to interrupt the continuity of his thought, but at that point, I would like to at least ask the following question: He has made a very strong statement with regard to the right of Israel to exist as a sovereign nation and that he respects that right, as do I and I think the vast majority of the Members of the body and the American people, and indeed the world.

Is it not true that one of the reasons why Israel or why the United States diplomatically has not made contact as the gentleman alluded to earlier in his speech, is precisely because the PLO does not recognize U.N. Security Resolution 242, that is, the right of Israel to exist? Is that not the problem?

Mr. FAUNTROY. As the gentleman will see as I go through my report, that the PLO does recognize U.N. Resolution 242 when paired with Resolution 3236, which recognizes also the right of other human beings who happen to be Palestinians to a homeland and self-determination.

Mr. KEMP. Is the gentleman stating unequivocally the PLO has entered into an agreement, they will recognize the right of Israel to exist, and Resolution 242?

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Mr. FAUNTROY. I am not making that representation for the PLO at this time. I am making a representation on the basis of our experience in Lebanon and I am sure that the gentleman will be further enlightened as I move through the statement and will be pleased to answer the gentleman's question more specifically at that time.

Mr. KEMP. I appreciate the gentleman's comment. But he has suggested that there is a cycle of violence, and it seems he is equating Israel's response to the initiation of terror by the PLO as somehow a cycle. Is it not a means of defending oneself against attacks on unarmed men, women, and children for political purposes? Is that not really what the gentleman suggests in that cycle, is that not true?

Mr. FAUNTROY. I think the better part of the wisdom might be for the gentleman to allow me to finish, and I think my statement will explicitly deal with that, and I will be very happy to respond to the gentleman's inquiries if he will be kind enough to allow me to make my presentation.

Mr. KEMP. The gentleman has the time and I certainly respect his right to control that time, and so he can shut off the question at any point. It is 7:30 in the evening and I do not know that I will be able to stay. I just kind of wanted to ask a couple of questions.

Mr. FAUNTROY. It will be in the RECORD.

Mr. KEMP. I thought the gentleman might be taking the time so he might have a chance to engage in a colloquy with some other people who have been in Israel. I recently spoke at the International Convention on Terrorism in Jerusalem and myself, others, HENRY JACKSON, ROBERT MOSS, and others throughout the world, Brian Crozier, kind of identified the PLO in part at least as kind of the wholly owned subsidiary of the KGB.

I find it a little bit strange that the gentleman is equating the cycle of violence as kind of evenhanded. It seems to me it is not evenhanded, and I wonder if the gentleman is going to get to that soon or do we have to wait for the full hour.

Mr. FAUNTROY. The gentleman will certainly do that now, and now reclaim his time and resume his report, and with the intention to yield to any questions following the presentation of the report.

Mr. KEMP. Would that be the full hour with the gentleman?

Mr. FAUNTROY. Yes.

WHY S.C.L.C. WENT TO LEBANON

Mr. Speaker, as you know, this trip was sponsored by the Southern Christian Leadership Conference, at the invitation of the Palestine Liberation Organization, in response to a series of events surrounding the resignation of Mr. Young as U.S. Ambassador to the United Nations. The resignation came at a time when the S.C.L.C. was in its annual convention, and on the day that we were awaiting an address by Ambassador Young on the efficacy of nonviolent approaches in U.S. foreign policy. It caused us to resolve in convention to assert our right as citizens of this country to support the initiatives of Ambassador Young. But more fundamentally, we resolved to exert some moral leadership—with the strong support of a unified black leadership—in opposing what we consider to be an ill-conceived policy of our Government with respect to the Middle East. That policy presently prohibits any contact with one of the key parties to the conflict in the region. Thus, our fundamental purpose in going to Lebanon was to launch a ministry of reconciliation which proceeded from our initial contacts with U.N. PLO Observer Mr. Zhadi Labib Terzi and U.N. Representative of the Government of Israel, Mr. Yehuda Blum.

I went to Lebanon, therefore, not in my capacity as a Member of Congress nor as a professional diplomat, but as a minister of the gospel, as an ambassador of good will committed to a ministry of reconciliation. We went to express our heartfelt and overriding concern for the human suffering and misery of our brothers and sisters on all sides of the Middle East conflict who are caught up in the injustice which comes from a reliance upon violent strategies for change. As a minister of the Gospel, I cannot preach on Sunday that God is the Father of us all; that, therefore, every man is my brother, and then in everyday practice refuse to acknowledge the humanity of all men, whether they be Palestinians or Jews, or Vietnamese boat people or Haitian refugees, or Christians or Moslems or Hindus or atheists. I cannot pray with St. Francis of Assisi:

> Lord make me an instrument of thy peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is darkness, light; where there is doubt, faith; where there is despair, hope.

I cannot pray that on Sunday and then during the week walk away from an opportunity to be that instrument. That is why we went to Lebanon to carry a message of reconciliation and peace through nonviolence, to initiate a dialog which we hope will lead to a just and lasting peace in the Middle East.

WHAT WE TOOK WITH US

In addition to this moral commitment to the efficacy of peace through nonviolence, we went to Lebanon armed with the essential facts which told us of the cycle of violence and counterviolence between the PLO and Israel, and other combatants in the region. We knew of the long history of events which had pushed Palestinians out of that land and made them refugees all over the Middle East, and of the struggle of our Jewish brothers to create a homeland, particularly after the atrocities of Hitler in Nazi Germany and throughout Europe. We knew of the wars between Israel and Egypt in 1967 and 1973 which had resulted in the United Nations resolutions which provided the basis for the legitimacy of international recognition of the integrity of Israel as a state and of separate resolutions by that body which provided hope for the aspirations of the Palestinians.

We also knew of the series of violent actions launched by various wings of the Palestinian nationalist movement which have brought fear and terror to the people of Israel. We knew, too, of the massive counter military actions launched against the Palestinians and Lebanese in southern Lebanon, including Beirut itself. We understood the terrible disruptions caused by the northern movement of Palestinian refugees and Lebanese, many of whom were Moslem which upset the delicate balance between Christians and Moslems in Lebanon—a balance which they attempted to create by their National Pact of 1943. We knew of the civil war of 1978 that ensued.

We were also aware of the attempt of the Arab League to intervene on the side of stability by the interposition of Syrian troops and of the added difficulties caused by the presence of another armed element in that conflict. The new army brought pressures to bear upon the Christian forces, and, in turn resulted in an even stronger alliance between them and the Israelis. Further, we knew of the efforts of the United Nations Interim Force in Lebanon. It tried to bring about some measure of security to the beleaguered populations of southern Lebanon and did so by occupying positions vacated by the withdrawing Israeli Army under its mandate of U.N. Security Council Resolution 425 of March 19, 1978.

Moreover, we went with a reasonable understanding of the importance of peace and stability in the Middle East to the vital interests of our Nation and to all of Western Europe. We further understood the high cost and negative impact that violent strategies are having upon the economies of both the United States and Israel. I shall touch upon these later in this report.

Finally, we went to Lebanon with a healthy respect and appreciation for the peace process begun with the Camp David accords sponsored by the United States, but with a clear recognition that, until the legitimate representatives of the Palestinian people and other parties to the conflict are present at the conference table, there will be no just and lasting peace in the Middle East. Accordingly, we went with an appeal to all parties in the conflict—particularly to the PLO and the Israeli Government. We asked them to do two things as steps towards meaningful negotiations leading to peace with justice for all.

First, that each declare a moratorium on acts of violence.

And second, that the PLO become a part of the Camp David peace process with both Israel and the PLO prepared to recognize mutually the rights of Israel and the Palestinians to peace within the secure and recognized borders of a homeland.

WHAT WE FOUND

I. A VICIOUS CYCLE OF FEAR, VIOLENCE AND HATE

While in Lebanon, we met with the President, Premier, foreign minister, and deputy Speaker of the House of the Government of Lebanon, and parties on virtually all sides of the dispute, including the PLO, the Christian Phalangist Party, the Lebanese Islamic Council, the Lebanese National Movement, and the Middle

East Council of Churches. We came away with a picture of human beings, all of whom are our brothers under the skin, caught up in a vicious cycle of fear, violence, and hate which only a compassionate, understanding, and reasonably detached world community can assist them in breaking.

The Israelis fear annihilation by the overwhelming number of Arabs and Arab nations surrounding them. That fear spawns a preoccupation with massive preparation for violent conflict and periodic acts of violence that they call "preemptive strikes" that generate intense hatred of the Israelis by the victims of that violence.

The Palestinians fear that Israel's intention is to exterminate those Palestinians who steadfastly hold to the goal of self-determination and a Palestinian homeland. That fear gives rise to acts of violence in what Palestinians call "occupied Palestine" designed to remind Israelis that there will be no peace until there is justice and a homeland for the Palestinians. That violence generates a hatred among the Israelis that feeds their cycle of fear, violence and hatred even as their violence feeds the same cycle among the Palestinians.

The Phalangist Christians fear being engulfed by a sea of Moslems. That fear feeds the violence and counter violence that generates an intense hatred among and between the PLO and the Phalangists.

Lebanese Government officials fear that it is the Israeli intention to balkanize Lebanon and, indeed, the entire Middle East into warring camps among Christians and Moslems to assure Israeli military dominance of the region. The violence visited upon Lebanese villages, Lebanese citizens and Palestinians in Lebanon by the Israelis, a violence which the Lebanese Government has no capacity to return, gives rise to an intense hatred among Lebanese of what they call the "racists, Zionist expansionists" in Israel.

We found that this cycle of violence, this continuing state of war, has not been altered by limited air, land and sea operations in Lebanon and in Israel by both sides, nor by the unilateral actions of the combatants, nor by the Camp David accords, sponsored by the United States. We have reasoned, therefore, that the cycle of violence that has produced an attendant cycle of fear, hate and distrust might be amenable to the intervention of the weight of national and international public opinion, assisted by a moral force dedicated to achieve the cessation of the violence and killing, and the beginning of a dialog among the parties that would ultimately lead to a just and lasting peace.

II. LEBANON, A CASUALTY OF THE 30-YEAR STATE OF WAR

In our discussions with the official leaders of the country such as President Elias Sarkis, Premier Salim al-Hoss, and Foreign Minister Foad Boutros, as well as the Deputy Speaker of the House, Munir Abu Fadel, we learned of the tremendous impact that the cycle of violence and fear had visited upon Lebanon. They told us that they still held out the hand of hospitality to the Palestinians because they understood the depth of their joint suffering and condition, but at the same time, they expressed exasperation that the 600,000 Palestinian refugees and the nearly equal number of Lebanese refugees—in their own country—had brought great strains upon their government to deal with the problems of internal peace and security, as well as the maintenance of a viable atmosphere of growth and development.

We saw for ourselves the balkanization of the city of Beirut and areas of the country out of a distrust which establishes geographical checkpoints controlled by the Palestinians, the Christian Militia, the Syrians, the Lebanese National Army and the United Nations. We witnessed the violation of the sovereign air space of Lebanon by Israeli aircraft with the distrustful objective of carrying out surveillance over the whole of the country. Such flights, a few days after we left, resulted in an airfight between them and the Syrians, and the destruction of some Syrian planes within sight of Beirut. But we also visited the Palestinians' military outpost and refugee camps in southern Lebanon where their desperate masses had been forced to flee and protect themselves with the most miserable of resources.

To our outrage, we saw unmistakable evidence of the use of American weapons on nonmilitary targets. I have returned with shrapnel, parts of exploded shells and cluster bombs which I lifted from the ruins of bombed-out Palestinian and Lebanese villages in Lebanon. Let me show them to you.

At the same time that we were viewing the bombed-out ruins of South Lebanon villages, a bomb exploded in a shopping center in Israel killing 1 and wounding 18 Israeli men, women, and children. We roundly condemned that act of violence then and there to our PLO hosts. Had we been allowed to go to Israel, we would have brought back to this floor today evidence of that cruel act as well. For both are clear indications of the need for someone to have the moral courage to go face to face and faith to faith to both the PLO and the Israelis to ask for a moratorium on violence, and that they go to the peace table prepared to accept the right of one another to peace within the secure borders of a homeland. The time has come for this Nation to stand in the shoes of Pope John Paul II to proclaim to both the sacredness of all human life.

III. THE PALESTINE LIBERATION ORGANIZATION (PLO)

In visiting the hospitals, schools, social and economic institutions of the Palestinians, we understood that the cycle of fear had been embedded in the very fabric of the lives of the people as a part of their daily reminders of martyrs, their dead parents, their dispossession of the land, their struggle to document their birth and marriages and to beg for plots of land when their people die. This tortured political socialization may best be expressed in a toy machinegun made by a proud child in one Palestinian enterprise, and in the real gun strapped in the belt of a 7-year-old in a refugee camp, and in the generation of teenagers carrying real machineguns in the fortified Palestinian gun emplacements in southern Lebanon.

The counterviolence of Israel, we now know will result in no quick victory or easy solution to the violence, because our visit to these facilities also gave striking evidence that the PLO is not the one-dimensional "terrorist organization" we have been led to believe that it is, but contains all the infrastructure of a nation in exile. Besides the strong support of the Lebanese national movement and other organizations which complement its position in Lebanon, the PLO is quickly gaining the support and legitimacy of nations in the West to augment the fact that it is recognized by 20 Arab Governments and many other Third World nations as the legitimate representative of the Palestinian people.

IV. IMPLICATIONS FOR BLACKS AND U.S. FOREIGN POLICY

We saw our mission not only in the light of the opportunity to contribute to the peace process as representatives of the SCLC, but believed that we were also working to further the interest of the broader black community. It is, of course, a fact that the black casualties in the Vietnam war were disproportionate to our presence in the population, and that the current complexion of the military services are likewise overrepresented by blacks, an indication of the growing lack of opportunity in the private job market.

We are also critically aware of the pattern that finds blacks taking advantage of military service in times either of war or in times of severe economic circumstances in the country. These circumstances of economic deprivation are exacerbated by the impact of the spiraling energy costs upon the poor, and blacks are again disproportionately represented in the ranks of the poor. While 30 percent of the black population is officially under the poverty income level set by our Government, the average income of black families is only about one-half of that of whites. Further, the coming national recession—on top of the recession which already exists among our poor—will rob us additionally of the ability to meet rising costs from an income ravaged by inflation and unemployment. Thus, we are extremely sensitive to the linkage between international problems which, in the Middle East have cost the American taxpayer $26 billion since 1946, the foreign policy decisions of our Government in this region, and the consequent impact such decisions have upon our domestic life chances.

Also, we believe with others, that at the time of Ambassador Young's resignation, he was exercising his best judgment in carrying out the wishes of his Government in getting a postponement of an issue coming up before the U.N. Security Council that could have forced the United States into an embarrassing stance. It is to his inestimable credit that he chose to take the weight of responsibility for this action. Second, it did not escape our notice that upon the return of our delegation to the United States, our Government called for a cease-fire in Lebanon which goes beyond that monitored by the United Nations Forces. We believe that now is the time for the U.S. Government to use its influence with the Government of Israel to stop the military operations in southern Lebanon. For if the cycle of violence spreads to the Straits of Hormuth through which passes 19 million gallons of oil per day, the vital interests of both the United States and much of the Western World will surely be affected.

Our national stake in an urgent and genuine move toward peace by both Israel and the PLO, therefore, cannot abide the slow pace for the inclusion of the Palestinians in the peace talks envisioned now by Israel and Egypt. In this regard, I recently communicated with Senator **MARK HATFIELD**, who has proposed a 10-percent cut in the U.S. support of the foreign military sales program to Israel in the foreign assistance bill, and said in part:

> Our will has been called into question by the August 6 letter of Secretary of State Cyrus Vance to Clement Zablocki, Chairman of the Foreign Affairs Committee of the House, citing the fact that in accordance with the provisions of the Arms Export Control Act, Israel may have violated the July 23, 1952 Agreement with the U.S. in the furnishing of defense articles, by the unauthorized use of those articles in Lebanon. Also, I have been and I am yet a firm supporter of the security of the State of Israel. But at this moment in history, there must be a realization by all concerned that Israel is the strongest military power in the Middle East. I am sure you know that between fiscal year 1946 and fiscal year 1979, the U.S. has spent over $25 billion in economic and military assistance to 10 countries in the Middle East and that Israel alone has received 58 percent of this total outlay. At the same time, over 60 percent of our assistance to Israel has been military aid, and current appropriations for this purpose are running $1 billion annually, with the most liberal repayment terms accorded any country to date. In addition, as my Delegation was leaving for Lebanon, Israeli Defense Minister, Mr. Ezer Weizman was arriving in the U.S. with a request for a $600 million increase for fiscal year 1981 over the current level of appropriations.

OUR PROPOSALS

In the knowledge of the stakes in the Middle East from the perspective of our subnational, the national and the international interests, we went to Lebanon, as I said earlier, not as diplomatic negotiators, but as moral ambassadors seeking a dialog with all who would listen. In this regard, we demanded the right to talk with a wide range of leaders representing such organizations as the Lebanese National Movement, the Christian Phalangists, the Islamic Council, and the Middle East Council of Churches, in addition to the PLO. We were determined to be evenhanded in our approach both in our recognition of the culpability of both Israel and the PLO in the cycle of violence, and in the need for both to stop the violence and come to the peace table.

Thus, our proposals, the sense of which engendered wide support from all those with whom we met, were directed at both parties and contained the message that:

First, we respectfully urge the PLO to recognize the sovereignty of the State of Israel. Without addressing the issue of the boundaries or borders at this point, we suggest that Israel's existence as a nation has broad and deep support in the world community. Therefore, the failure to recognize or the rejection of its existence constitutes futile defiance of world opinion and presents a formidable barrier to universal recognition of the role of the PLO in putting forth the legitimate claims of the Palestinian peoples.

Second, we respectfully urge the PLO again, to agree to a moratorium on violence. Even with an understanding of the causes, we do not believe that the PLO can achieve its objectives through continued violence. Moreover, we believe that a moratorium on violence is a powerful initiative with the potential for dramatically shifting the moral advantage to its side in the eyes of the world, and makes possible some relief for those Palestinians now suffering from the violence of Israel.

We were successful in having a meeting with Mr. Yasser Arafat, chairman of the PLO, and in putting these proposals before him for consideration by the Palestinian National Council.

Mr. Arafat promised a response to our appeal for a moratorium on violence within a week. On Monday, October 1, 1979, Dr. Lowery received a wire from Mr. Arafat indicating that, pursuant to our request, he had declared a cease-fire in South Lebanon at 2300 hours Friday, September 21, shortly after our departure. We did not publish this response at that time because we had heard no public notice of such a cease-fire and did not understand the significance of the reference in the wire to the Israeli-Syrian airfight as it related to his announced cease-fire. We spent the rest of the week seeking clarification and a specific response to our appeal for a moratorium on violence. Dr. Lowery, president of the S.C.L.C., has authorized me to announce that we have now received a specific response. That response is simply this: The PLO has declared a cease-fire in South Lebanon which it intends to observe, but that its violent resistance in Israel and in the territories occupied by Israel in 1967 will cease when Israel withdraws from the West Bank, Gaza, and East Jerusalem.

While we are pleased with the PLO announced cease-fire in Lebanon, we are disappointed that they are not disposed at this time to declare a comprehensive moratorium on violence in Israel, as well as the occupied territories, as a first step toward meaningful negotiations at the peace table. We are disappointed, but not deterred from our goal. Accordingly, I have been asked by Dr. Lowery to announce that while we will go ahead with our plans to conduct dialogs in several cities in the Nation, we have deferred for the present any plans to invite Mr. Arafat to the United States to participate in those dialogs. We are looking for greater evidence of a willingness to respond positively to our appeal for a comprehensive moratorium.

Further, I will say that regardless of the response to our proposals from the PLO, our Government should continue to attempt to develop a legitimate, open, and substantive dialog with the PLO. It was our experience that far from being the "bloodthirsty killer" and "wild-eyed terrorist" the Western press has made of him, Mr. Arafat appears reasonable and open to dialog within the framework of the interest of his own people.

On the other hand, we have been seriously concerned about the Israeli Government's attitude toward all peace initiatives as reflected in its rejection of our request for a hearing on the peace proposals. We believe that the cycle of fear has so effected the leadership of the Israeli Government that they may be in the dangerous position of being unable to recognize a sincere momentum toward a comprehensive peace settlement in the region that is to their eventual benefit. We find such evidence not only in their attitude toward our proposals, but in recent actions taken with regard to the seizure of land on the West Bank for new settlements. We are afraid that part of past U.S. appropriations as well as the fiscal year 1980 appropriation of $785 million for economic assistance may be implicated in providing the resources for such a settlement policy. We have no hard evidence of this, however, since our fact-finding mission to Israel was aborted.

I would stress that our objectives in initiating a peace dialog would appear to be in the direct interest of the economic viability of the State of Israel. For, recent indications are that Israel's annual oil bill is at $1.5 billion and growing, that its economy is wracked by triple-digit inflation, that military expenditures take up one-third of its annual budget, that its balance of payments deficit is at a record $4.5 billion for 1979, and that the interest on its loans, now at $2.2 billion will climb to $2.6 billion by 1982 (Business Week, October 8, 1979, p. 46). There is serious question at stake of how long the Israeli Government can go without some normalization with its neighbors. A settlement of the Palestinian question and how long the United States may essentially be counted on to provide the buffer to this growing problem of Israel's economic health are key issues pursuant to a settlement.

Finally, we believe quite apart from the specific response by both sides to our proposals that our mission was successful in sowing the seeds of peace among parties which are at war, by bridging the chasm of violence with an earnest and sincere appeal to end the violence on behalf of the real victims of warfare. But we were also successful in dramatizing the evils of a backward foreign policy and the need to move beyond worn-out formulations and promises which are blocking a solution to the problem. And, last, but not least, we were successful in illustrating by our mission, that we take seriously the material costs to us as black Americans in any area of the world where the United States has a vital stake and that we will not be silenced or excluded from participation in those decisions which affect our lives and the well-being of this country.

CONCLUDING STATEMENT

The initiatives taken by Dr. Joseph E. Lowery, and me, to achieve peace through nonviolence in the Middle East, have become the source of great controversy here in the United States. This, of course, is not the first time that we, in the S.C.L.C., have run into controversy over the assertion of our right to speak out on questions of our Nation's foreign policy. On April 4, 1967, our president, Dr. Martin Luther King, Jr., took a stand on the Vietnam war. He said the time had come for us to abandon violent strategies for achieving peace in Southeast Asia. The bombs dropped in Vietnam would explode in our own economy, he warned. The time has come, he said, for us to recognize Red China with her 700 million people and negotiate with her as the key to fashioning a just and lasting peace in Southeast Asia.

For having the audacity to speak out on his religious, moral, political, and economic convictions, Dr. King was denounced with the same criticisms that have been directed at Dr. Lowery and myself today—

> You have no right to interfere with U.S. foreign policy. You are incompetent to address the subject. You are dividing our Nation. You must have ulterior motives that are related to money. You're trying to grab headlines.

We have heard them all before. Martin did not live to see the impeccable logic and the profound wisdom of his position vindicated. One year to the day later, on April 4, 1968, he was killed by an assassin's bullet in Memphis, Tenn. Four years later, President Richard M. Nixon affirmed the wisdom of recognizing and communicating with Red China, but only after we had lost the lives of 50,000 of our precious American youth and wasted hundreds of millions of our taxpayers' money that built no homes, provided no health care, educated none of our young and cared for none of our elderly on limited incomes; and only after we had set in motion a spiraling stagflation, the effects of which we are still feeling today.

When Dr. King was troubled by the storm of reaction to his peace initiative of 1967, I shared with him the words of a Methodist minister who said:

> On some issues cowardice asks the question: is it safe? And vanity asks the question: is it popular? Expediency asks the question: is it politic? But conscience asks the question: is it right?

Dr. Martin Luther King then and the Southern Christian Leadership Conference now takes its stand for peace through nonviolence, not because it is safe or popular or politic, but because conscience tells us that it is right. We call upon men and women of good will of every faith to take up the challenge of Pope John Paul II by making direct appeals, as we have, to the PLO and to Israel to end the violence and go to the peace table prepared to recognize the right of the other to peace within secure borders of a homeland. We call upon Catholics, Protestants, Moslems, Jews, and humanists alike to take such a moral initiative not because it is safe, or popular or politic, but because conscience tells you it is right.

APPENDIX

A. Letter and Telegram from the Palestine Liberation Organization.

B. United Nations General Assembly Resolutions 242, 338, 3236.

C. United Nations Security Council Resolution 425, March 19, 1978.

D. PLO Charter.

E. Southern Christian Leadership Conference Statement, September 21, 1979.

APPENDIX A

PALESTINE INFORMATION OFFICE,
Washington, D.C., October 11, 1979.

Hon. WALTER FAUNTROY,
U.S. Congress,
Washington, D.C.

DEAR CONGRESSMAN FAUNTROY: I have the honor to send you the text of the telegram sent by Chairman Yasser Arafat to you as Chairman of the Board of the Southern Christian Leadership Conference and to Dr. Joseph Lowery, President of the Southern Christian Leadership Conference.

As you know, due to your genuine efforts and in response to your appeal for peace and justice in the Middle East, Chairman Yasser Arafat, on behalf of the PLO Executive Committee, has made three major statements that reflect the PLO's commitment to achieving a just and lasting peace in the Middle East. These are: first, the PLO's reaffirmation of its respect for Judaism as a religion and its commitment to brotherhood and equality between Jews, Christians and Moslems, so that they may live together in peace, justice, and equality in our homeland Palestine, without racism, oppression and discrimination. Secondly, the PLO's commitment to a ceasefire in South Lebanon on the basis of the PLO's concern for the safety and security of Lebanon, at a time when the Israeli forces continue their aggression against Lebanese and Palestinian civilians. Thirdly, the PLO reaffirms its commitment to establishing a Palestinian independent state on any part of occupied Palestine evacuated or liberated from the Israeli military occupation forces. Palestinian resistance, which is legitimate, is a response to that brutal Israeli military occupation.

We sincerely hope that you will continue your efforts for bringing the true facts to the American people and would therefore, help achieve better understanding and good will among peoples, so that ultimately we can achieve peace and equality, where Jews, Christians and Moslems can co-exist in brotherhood.

With best wishes,

HATEM I. HUSSAINI,
Acting Director.

BEIRUT, LEBANON,
October 10, 1979.

Hon. WALTER FAUNTROY,
Chairman of the Board, Southern Christian Leadership Conference.

On behalf of the Palestinian people and the Palestine Liberation Organization, we thank you for taking the initiative to come to the Middle East and to see on the spot the latest developments of the Middle East conflict. Your visit to Lebanon uncovered the facts and was a great contribution toward a just and lasting peace in the Middle East. We thank you for all your efforts in support of the just cause of the Palestinian people.

Best wishes to all of your delegation.

YASSER ARAFAT,
Chairman, Executive Committee,
Palestine Liberation Organization.

WASHINGTON, D.C.,
October 5, 1979.

WALTER FAUNTROY,
Chairman, SCLC,
Washington, D.C.

In response to Dr. Joseph Lowery and Congressman Walter Fauntroy and the Southern Christian Leadership Conference peace initiative as well as Reverend Jesse Jackson's People United to Save Humanity (PUSH) appeal, PLO Chairman Yasser Arafat after meeting with members of the Executive Committee of the Palestine Liberation Organization issued the following 6 point program. (1) The PLO reaffirms its rejection of the Camp David process and the autonomy plan which only legitimizes the occupation and oppression of the Palestinian people. (2) The PLO reaffirms the resolution of the Palestine National Council including the Palestinian people's right of self determination, their right of return, and their right to an independent state. (3) The PLO commits itself to a cease fire in Lebanon in line with the safety and security of Lebanon, at a time when Israel continues its ceaseless attacks by air, land and sea which have resulted in 600,000 refugees. (4) The PLO reaffirms its right to an independent state on any land Israel evacuates or is liberated. (5) The PLO reaffirms its respect for Judaism and the right of Jews to live in peace and its commitment to full equality of Jews, Moslems, and Christians and its opposition to all forms of racism. (6) The PLO appeals to all people to support the legitimate rights of the Palestinian people.

Chairman Arafat sends his best wishes to the SCLC delegation members and to the PUSH delegation.

APPENDIX B

[Resolution No. 242 (1967) of 22 November 1967]

STATING THE PRINCIPLES OF A JUST AND LASTING PEACE IN THE MIDDLE EAST

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter.

1. Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. Affirms further the necessity;

(a) For guaranteeing freedom of navigation through international waterways in the area;

(b) For achieving a just settlement of the refugee problem;

(c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

3. Requests the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

Adopted unanimously at the 1382nd meeting.

[Resolution No. 338 (1973) of 22 October 1973]

CALLING FOR A CEASE-FIRE AND FOR THE IMPLEMENTATION OF RESOLUTION 242 IN ALL OF ITS PARTS

The Security Council,

1. Calls upon all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;

2. Calls upon the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all of its parts;

3. Decides that, immediately and concurrently with the cease-fire, negotiations start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

Adopted at the 1747th meeting:
In favour: 14
Against:

[Resolution No. 3236 (XXIX) of 22 November 1974]

RECOGNIZING THE RIGHTS OF THE PALESTINIAN PEOPLE

The General Assembly,

Having considered the question of Palestine,

Having heard the statement of the Palestine Liberation Organization, the representative of the Palestinian people,

Having also heard other statements made during the debate,

Deeply concerned that no just solution to the problem of Palestine has yet been achieved and recognizing that the problem of Palestine continues to endanger international peace and security,

Recognizing that the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations,

Expressing its grave concern that the Palestinian people has been prevented from enjoying its inalienable rights, in particular its right to self-determination,

Guided by the purposes and principles of the Charter,

Recalling its relevant resolutions which affirm the right of the Palestinian people to self-determination,

1. Reaffirms the inalienable rights of the Palestinian people in Palestine, including:

(a) The right to self-determination without external interference;

(b) The right to national independence and sovereignty;

2. Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return;

3. Emphasizes that full respect for and the realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine;

4. Recognizes that the Palestinian people is a principal party in the establishment of a just and durable peace in the Middle East;

5. Further recognizes the right of the Palestinian people to regain its rights by all means in accordance with the purposes and principles of the Charter of the United Nations;

6. Appeals to all States and international organizations to extend their support to the Palestinian people in its struggle to restore its rights, in accordance with the Charter;

7. Requests the Secretary-General to establish contacts with the Palestine Liberation Organization on all matters concerning the question of Palestine:

8. Requests the Secretary-General to report to the General Assembly at its thirtieth session on the implementation of the present resolution;

9. Decides to include the item entitled "Question of Palestine" in the provisional agenda of its thirtieth session.

Adopted at the 2296th plenary meeting:

In favor: 89; Afghanistan, Albania, Algeria, Argentina, Bahrain, Bangladesh, Bhutan, Botswana, Bulgaria, Burma, Burundi, Byelorussian S.S.R., Central African Rep., Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, German Dem. Rep., Ghana, Guinea, Guinea-Bissau, Guyana, Hungary, India, Indonesia, Iran, Iraq, Ivory Coast, Jamaica, Jordan, Kenya, Khmer Republic, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mongolia, Morocco, Niger, Nigeri, Oman, Pakistan Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian S.S.R., U.S.S.R., United Arab Emirates, Un. Rep. of Cameroon, Un. Rep. of Tanzania, Upper Volta, Yemen, Yugoslavia, Zaire, Zambia.

APPENDIX C

RESOLUTION 425 (1978) ADOPTED BY THE SECURITY COUNCIL AT ITS 2074TH MEETING ON 19 MARCH 1978

The Security Council,

Taking note of the letters of the Permanent Representative of Lebanon (S/12600 and S/12606) and the Permanent Representative of Israel (S/12607).

Having heard the statements of the Permanent Representatives of Lebanon and Israel,

Gravely concerned at the deterioration of the situation in the Middle East, and its consequences to the maintenance of international peace.

Convinced that the present situation impedes the achievement of a just peace in the Middle East.

1. Calls for strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries;

2. Calls upon Israel immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all Lebanese territory;

3. Decides, in the light of the request of the Government of Lebanon, to establish immediately under its authority a United Nations interim force for southern Lebanon for the purpose of confirming the withdrawal of Israeli forces, restoring international peace and security and assisting the Government of Lebanon in ensuring the return of its effective authority in the area, the force to be composed of personnel drawn from States Members of the United Nations;

4. Requests the Secretary-General to report to the Council within twenty-four hours on the implementation of this resolution.

APPENDIX D

THE PALESTINIAN NATIONAL CHARTER

(Palestine Liberation Organization) *

Article 1: Palestine is the homeland of the Arab Palestinian people; it is an indivisible part of the Arab homeland, and the Palestinian people are an integral part of the Arab nation.

Article 2: Palestine, with the boundaries it had during the British mandate, is an indivisible territorial unit.

Article 3: The Palestinian Arab people possess the legal right to their homeland and have the right to determine their destiny after achieving the liberation of their country in accordance with their wishes and entirely of their own accord and will.

Article 4: The Palestinian identity is a genuine, essential and inherent characteristic; it is transmitted from parents to children. The Zionist occupation and the dispersal of the Palestinian Arab people, through the disasters which befell them, do not make them lose their Palestinian identity and their membership of the Palestinian community, nor do they negate them.

Article 5: The Palestinians are those Arab nationals who, until 1947, normally resided in Palestine regardless of whether they were evicted from it or have stayed there. Anyone born, after that date, of a Palestinian father—whether inside Palestine or outside it—is also a Palestinian.

Article 6: The Jews who had normally resided in Palestine until the beginning of the Zionist invasion will be considered Palestinians.

Article 7: That there is a Palestinian community and that it has material, spiritual and historical connection with Palestine are indisputable facts. It is a national duty to bring up individual Palestinians in an Arab revolutionary manner. All means of information and education must be adopted in order to acquaint the Palestinian with his country in the most profound manner, both spiritual and material, that is possible. He must be prepared for the armed struggle and ready to sacrifice his wealth and his life in order to win back his homeland and bring about its liberation.

Article 8: The phase in their history, through which the Palestinian people are now living, is that of national struggle for the liberation of Palestine. Thus the conflicts among the Palestinian national forces are secondary, and should be ended for the sake of the basic conflict that exists between the forces of Zionism and of imperialism on the one hand, and the Palestinian Arab people on the other. On this basis the Palestinian masses, regardless of whether they are residing in the national homeland or in diaspora, constitute—both their organizations and the individuals—one national front working for the retrieval of Palestine and its liberation through armed struggle.

Article 9: Armed struggle is the only way to liberate Palestine. Thus it is the overall strategy, not merely a tactical phase. The Palestinian Arab people assert their absolute determination and firm resolution to continue their armed struggle and to work for an armed popular revolution for the liberation of their country and their return to it. They also assert their right to normal life in Palestine and to exercise their right to self-determination and sovereignty over it.

Article 10: Commando action constitutes the nucleus of the Palestinian popular liberation war. This requires its escalation, comprehensiveness and the mobilization of all the Palestinian popular and educational efforts and their organization and involvement in the armed Palestinian revolution. It also requires the achieving of unity for the national struggle among the different groupings of the Palestinian people, and between the Palestinian people and the Arab masses so as to secure the continuation of the revolution, its escalation and victory.

Article 11: The Palestinians will have three mottoes: national unity, national mobilization and liberation.

Article 12: The Palestinian people believe in Arab unity. In order to contribute their share towards the attainment of that objective, however, they must, at the present stage of their struggle, safeguard their Palestinian identity and develop their consciousness of that identiy, and oppose any plan that may dissolve or impair it.

Article 13: Arab unity and the liberation of Palestine are two complementary objectives, the attainment of either of which facilitates the attainment of the other. Thus, Arab

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* Decisions of the National Congress of the Palestine Liberation Organization held in Cairo from 1–17 July 1968.

unity leads to the liberation of Palestine; the liberation of Palestine leads to Arab unity; and work towards the realization of one objective proceeds side by side with work towards the realization of the other.

Article 14: The destiny of the Arab nation, and indeed Arab existence itself, depends upon the destiny of the Palestine cause. From this interdependence springs the Arab nation's pursuit of, and striving for, the liberation of Palestine. The people of Palestine play the role of the vanguard in the realization of this sacred national goal.

Article 15: The liberation of Palestine, from an Arab viewpoint, is a national duty and it attempts to repel the Zionist and imperialist aggression against the Arab homeland, and aims at the elimination of Zionism in Palestine. Absolute responsibility for this falls upon the Arab nation—peoples and governments—with the Arab people of Palestine in the vanguard. Accordingly the Arab nation must mobilize all its military, human, moral and spiritual capabilities to participate actively with the Palestinian people in the liberation of Palestine. It must, particularly in the phase of the armed Palestinian revolution, offer and furnish the Palestinian people with all possible help, and material and human support, and make available to them the means and opportunities that will enable them to continue to carry their leading role in the armed revolution until they liberate their homeland.

Article 16: The liberation of Palestine, from a spiritual point of view, will provide the Holy Land with an atmosphere of safety and tranquility, which in turn will safeguard the country's religious sanctuaries and guarantee freedom of worship and of visit to all, without discrimination of race, color, language, or religion. Accordingly, the people of Palestine look to all spiritual forces in the world for support.

Article 17: The liberation of Palestine, from a human point of view, will restore to the Palestinian individual his dignity, pride and freedom. Accordingly the Palestinian Arab people look forward to the support of all those who believe in the dignity of man and his freedom in the word.

Article 18: The liberation of Palestine, from an international point of view, is a defensive action necessitated by the demands of self-defense. Accordingly, the Palestinian people, desirous as they are of the friendship of all people, look to freedom-loving justice-loving and peace-loving states for support in order to restore their legitimate rights in Palestine, to re-establish peace and security in the country, and to enable its people to exercise national sovereignty and freedom.

Article 19: The partition of Palestine in 1947 and the establishment of the state of Israel are entirely illegal, regardless of the passage of time, because they were contrary to the will of the Palestinian people and to their natural right in their homeland, and inconsistent with the principles embodied in the Charter of the United Nations, particularly the right to self-determination.

Article 20: The Balfour Declaration, the mandate for Palestine and everything that has been based upon them, are deemed null and void. Claims of historical or religious ties of Jews with Palestine are incompatible with the facts of history and the true conception of what constitutes statehood. Judaism, being a religion, is not an independent nationality. Nor do Jews constitute a single nation with an identity of its own; they are citizens of the states to which they belong.

Article 21: The Arab Palestinian people expressing themselves by the armed Palestinian revolution, reject all solutions which are substitutes for the total liberation of Palestine and reject all proposals aiming at the liquidation of the Palestinian problem, or its internationalization.

Article 22: Zionism is a political movement organically associated with international imperialism and antagonistic to all action for liberation and to progressive movements in the world. It is racist and fanatic in its nature, aggressive, expansionist and colonial in its aims, and fascist in its methods. Israel is the instrument of the Zionist movement, and a geographical base for world imperialism placed strategically in the midst of the Arab homeland to combat the hopes of the Arab nation for liberation, unity and progress. Israel is a constant source of threat vis-a-vis peace in the Middle East and the whole world. Since the liberation of Palestine will destroy the Zionist and imperialist presence and will contribute to the establishment of peace in the Middle East, the Palestinian people look for the support of all the progressive and peaceful forces and urge them all, irrespective of their affiliations and beliefs, to offer the Palestinian people all aid and support in their just struggle for the liberation of their homeland.

Article 23: The demands of security and peace, as well as the demands of right and justice, require all states to consider Zionism an illegitimate movement, to outlaw its existence, and to ban its operations, in order that friendly relations among peoples may be preserved, and the loyalty of citizens to their respective homelands safeguarded.

Article 24: The Palestinian people believe in the principles of justice, freedom, sovereignty, self-determination, human dignity, and in the right of all peoples to exercise them.

Article 25: For the realization of the goals of this Charter and its principles, the Palestine Liberation Organization will perform its role in the liberation of Palestine in accordance with the Constitution of this Organization.

Article 26: The Palestine Liberation Organization, representative of the Palestinian revolutionary forces is responsible for the Palestinian Arab people's movement in its struggle—to retrieve its homeland, liberate and return to it and exercise the right to self-determination in it—in all military, political and financial fields and also for whatever may be required by the Palestine case on the inter-Arab and international levels.

Article 27: The Palestine Liberation Organization shall cooperate with all Arab states, each according to its potentialities; and will adopt a neutral policy among them in the light of the requirements of the war of liberation; and on this basis it shall not interfere in the internal affairs of any Arab state.

Article 28: The Palestinian Arab people assert the genuiness and independence of their national revolution and reject all forms of intervention, trusteeship and subordination.

Article 29: The Palestinian people possess the fundamental and genuine legal right to liberate and retrieve their homeland. The Palestinian people determine their attitude towards all states and forces on the basis of the stands they adopt vis-a-vis the Palestinian case and the extent of the support they offer to the Palestinian revolution to fulfill the aims of the Palestinian people.

Article 30: Fighters and carriers of arms in the war of liberation are the nucleus of the popular army which will be the protective force for the gains of the Palestinian Arab people.

Article 31: The Organization shall have a flag, an oath of allegiance and an anthem. All this shall be decided upon in accordance with a special regulation.

Article 32: Regulations, which shall be known as the Constitution of the Palestine Liberation Organization, shall be annexed to this Charter. It shall lay down the manner in which the Organization, and its organs and institutions, shall be constituted; the respective competence of each; and the requirements of its obligations under the Charter.

Article 33: This Charter shall not be amended save by (vote of) a majority of two-thirds of the total membership of the National Congress of the Palestine Liberation Organization (taken) at a special session convened for that purpose.

APPENDIX E

STATEMENT OF THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE FOLLOWING ITS MIDDLE EAST PEACE INITIATIVE, DR. JOSEPH E. LOWERY, PRESIDENT, HON. WALTER E. FAUNTROY, CHAIRMAN, BOARD OF DIRECTORS, SEPTEMBER 21, 1979

This mission to Lebanon began in the crisis of August 15, as a consequence of the resignation of U.N. Ambassador Andrew Young. The S.C.L.C., meeting at its Annual Convention in Norfolk, Virginia, resolved to support the courageous stand taken by Ambassador Young.

This resulted in a meeting on August 20th, with the U.N. Observer for the P.L.O., Mr. Zhedi Labib Terrzi, and an invitation by Yasser Arafat, Chairman of the P.L.O. to meet with him in Lebanon. We accepted his invitation in the S.C.L.C. tradition of non-violence and brotherhood. We accepted it out of an understanding of the plight of oppressed people everywhere, and we dedicated ourselves to contributing to the peace process in the Middle East by attempting a ministry of reconciliation.

To this end an S.C.L.C. delegation composed of the following persons went to Lebanon for the period of September 17 through September 21, 1979:

Dr. Joseph E. Lowery, President, Southern Christian Leadership Conference.

The Honorable Walter E. Fauntroy (D., D.C.) Chairman of the S.C.L.C. Board.

Mrs. Evelyn Lowery.

Mr. C. T. Vivian, Acting Executive Director.

Mr. Albert Sampson, S.C.L.C. Program Director.

Mr. Clifton B. Smith, Administrative Assistant, Rep. Fauntroy.

Mr. Harry T. Gibson, Board of Global Ministers, United Methodist Church.

Dr. Ronald Walters, Professor of Political Science, Howard University.

Mr. Samuel Yette, Professor of Communications, Howard University.

Ms. Elaine Tomlin, S.C.L.C. Staff Photographer.

MISSION ACCOMPLISHED

We believe that our mission has been successful because we went as Children of God, carrying a message of peace through non-violence which was heard by many of the parties to the conflict. This seed of peace through non-violence which we were able to plant through face to face and faith to faith dialogue is, we believe, the only means by which we can arrive at a just and lasting peace in Lebanon and the rest of the Middle East.

We had the opportunity to meet with leaders of the Lebanese Government including President Elias Sarkis, Premier Salim Al-Hoss, Foreign Minister Fuad Boutros, and Deputy Speaker of the House Munir Abu Fadel. In our discussions with each of them, three themes were evident: first, there was enthusiastic acceptance of our proposed process for the achievement of peace through non-violence; second, there was a revealing picture of the little recognized impact of the war on Lebanon itself and the misery it has brought to her suffering people; third, there was strong support for the human rights of the Palestinians to self-determination and a homeland, and recognition of the responsibility of other Arab states, the great powers and the international community.

FACT FINDING

In order to accomplish our mission, we engaged ourselves with the hospitality of our host the P.L.O. in an effort to discover the factual situation as it affects the status of the Palestinians in Lebanon, and the impact of the Palestinian problem upon the Lebanese people. We begin, of course, with the fact that Palestinians are stateless refugees in Lebanon, reaching an estimated 600,000 because of their forcible expulsion from their original homeland in what is now Israel.

THE STATUS OF PALESTINIANS IN LEBANON

We learned, first, that Palestinians have no homeland and, therefore, are citizens of no country, having no national identity and no rights in the host country wherein they reside. In Lebanon, because of this, they are not able to prove their parentage when they are born, for their births are not recorded. Their marriages are not documented nor can they be buried in their own plots when they die.

The violence, which continues this condition, was clearly visible on our visit to Damor where savage and destructive bombing had turned principal villages into a refugee camp, and where because of continued bombing, the camp became a ghost town. We also visited refugee camps in South Lebanon, such as at Nabatiyeh where Palestinians continue to live in fear and poverty. We witnessed the urban despair of refugees in and around Beirut itself, Palestinian and Lebanese as well; for there are on estimated 250,000 Lebanese citizens who have been made refugees by the bombings in the South.

And to our outrage, we saw unmistakable evidence of the use of American weapons on non-military targets.

MEETING WITH YASSER ARAFAT

Our special host was, of course, Yasser Arafat, Chairman of the P.L.O., with whom we met to discuss the S.C.L.C. peace proposal for a moratorium on violence. In this historic meeting, Mr. Arafat shared several things with us:

(1) The historic causes of the conflict had turned the Palestinian people into refugees throughout the Middle East, including Lebanon.

(2) His desire for a just peace; but the need to defend his people against the forcible occupation of Palestinian land and the bombing and other military operations in South Lebanon.

(3) His disappointment at the degree of military and economic support provided by the United States to Israel, and the use of U.S. weapons by Israel on the Palestinian people.

(4) His opposition to the Camp David formula, which excludes self-determination for the Palestinian people, and his support for U.N. resolution 3236 which recognizes the Palestinian right as well as that of the Israelis to a sovereign state. Mr. Arafat supports that resolution.

(5) His previous declaration of a cease fire in March, 1978 at the urging of U. N. Secretary General Waldheim and Israel's violation of it shortly thereafter.

We are proud to announce that despite his strong reservations to again declare a cease fire, Mr. Arafat has agreed to give our proposal serious consideration, take it up at the next meeting of the P.L.O. Council and get back to us with a response within a week. S.C.L.C. is highly gratified by this initial response of Mr. Arafat and looks forward with prayerful anticipation to receiving his response to our proposal.

FULL PERSPECTIVE

In attempting to apply its proposals for a moratorium on violence to all parties to the conflict, the S.C.L.C. met with other elements and individuals such as Phalangist Party President Pierre Gemayel, The Lebanese Islamic Council, the Lebanese National Movement, and Mr. Gabriel Hadeed of The Middle East Council of Churches. Our approach has always called for an even-handed emphasis on non-violence as a proven approach to peace, and in this regard, we learned from these meetings the complexity of the problem, but also the great hope for a comprehensive peace settlement if all sides will genuinely try our non-violent approach.

In light of this, we are sorely disappointed at the negative response to our request for dialogue with the Israeli Government. However, if the Israeli Government does not wish to hear our proposals for a moratorium on violence, and to discuss our moral initiative for peace, then the responsibility for the deficit is theirs. It shall in no way, however, deter us from the aggressive pursuit of peace with justice for all persons in the Middle East.

FUTURE ACTIVITIES

The S.C.L.C. recognizes a profound and continuing responsibility to attempt to contribute to a just peace in the Middle East, and in that respect, we shall initiate the following course of action:

(1) We shall be holding a series of educational forums in at least ten cities across the country on World Peace, Middle East problems and their relationship to the black community, and our continuing struggle for human rights. We have invited Mr. Yasser Arafat to speak at the first of these meetings and he has indicated a willingness to do so.

(2) We shall call upon the entire religious community to observe a Worldwide Day of Prayer in order that seeds of peace through non-violence that have now been planted may take root and grow in the hearts of all who are concerned about human suffering and the achievement of peace with justice.

(3) We have asked the chairman of our national board, the Reverend Congressman Walter E. Fauntroy to make a full report of our fact-finding mission of reconciliation to the Congress. Moreover, we will seek meetings with the President, the Secretary of State, the Congressional Black Caucus, relevant Members of the U.S. House and Senate and U.N. Secretary General Kurt Waldheim.

The S.C.L.C. strongly believes in the integrity of this mission, in the degree to which it has broadened and deepened our knowledge of Middle East problems, and in the extent to which it has confirmed the relevance and viability of the peace process we originally espoused. We shall, therefore, reaffirm our commitment and redouble our efforts to seek peace through non-violence in the Middle East.

Finally, we express again our deep and heartfelt appreciation to our brothers and sisters, the Palestinian and Lebanese people and their leaders for their understanding of our mission and for the human bonds we have forged in our common struggle for peace with justice.

☐ 1950

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I will be happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I think all of us have been touched by what the gentleman has said. How could we fail to be? I think all of us recognize sincerity when we see it and good will and I only wish that it could prevail more generally. I think the gentleman's decision to withdraw his invitation does him a great honor and it proves, if anything needed proof, that the gentleman really means what he says, that he really hoped for a moratorium of violence, not just in south Lebanon but in the whole area.

Mr. Speaker. I am heartened by what I read in the Baltimore Sun referring to the decision of which the gentleman spoke here this evening.

Mr. Speaker, the only thing I think we must also point up—because this will be on the record and I think it needs saying—is that Mr. Arafat, who is referred to as Brother Abu' Amnar in the official Arabic press, has continued to speak for two solutions.

One solution is the secular state to involve all Palestine, neither Jewish, Arab, nor Christian, a secular state which would mean the disappearance of Israel.

The other proposal, the second one, is the one we proposed in our national council's 13th session in Cairo in 1974; namely, that "We are ready to establish our independent Palestinian state on land from which the occupation is lifted."

What I think is not generally recognized is that with part of a whole convention in Cairo in 1974, article No. 8. Article No. 10, however, is quite clear as to what the intention of the establishment of that state might be. It will be, quite clearly, to complete the liberation of the entire Palestinian soil, and that is what the Palestinian national authority after its establishment will struggle for, the unity of the confrontation states for the sake of completing the liberation of all Palestinian soil.

Now, this is further confirmed by another dispatch of October 11, 1979. Mohammed Nashashibi, secretary of the PLO's 15-member council. This, too, appears in the Baltimore Sun, a dispatch by Douglas Watson from Damascus in which he quite clearly says that the real solution, though it is probably impossible to talk about it now, is to have one Palestine, not a Jewish one and an Arab one. They are not giving up.

Mr. Speaker, this is what causes the fear in Israel. Because, although as the gentleman quite rightly says, they are certainly beautifully organized and can fight, and very few people better, they are a tiny number in an Arab sea. There are millions of Arabs all around them. They, and some of them also very heavily armed and like Israel, with American arms. This is the problem. Until such time as the people are prepared to allow other people to live—in one of the dispatches; I am not sure I have it and it is not important because you understand it as well as I do; they do refer to a general assembly resolution.

☐ 2000

They refer to 236, which merely says that the Palestinians have a right to self-determination. They do not accept 242.

Mr. FAUNTROY. If I may respond, let me say, I am aware after my talks with Mr. Arafat that they are prepared to accept 242.

Mrs. FENWICK. They will not say so.

Mr. FAUNTROY. Wait a minute. When paired with 236; but the gentlewoman has been reading from dated documents. Let me read from a letter which I received today from the Palestinian Liberation Organization which addresses the gentlewoman's point; and I want to enter this entire document into the RECORD;

> The PLO affirms its commitment to establishing a Palestinian independent state on any part of occupied Palestine evacuated or

liberated from the Israeli military occupation forces.

It is my view that whatever the past statements have been, we will never know whether there will be a change.

Mrs. FENWICK. But there is no change, that is what they have said.

Mr. FAUNTROY. Just a moment. We will never know whether there will be a change until they are at the peace table and can declare in the context of meaningful negotiations. I believe there will be a change and in that regard I want to state——

Mrs. FENWICK. I want to say, if I may to the Delegate from the District of Columbia (Mr. FAUNTROY) that what the gentleman has stated is exactly what I have stated. They want a Palestinian state and they do not change.

Mr. FAUNTROY. No, no.

Mrs. FENWICK. Or a secular state.

Mr. FAUNTROY. My information on the basis of my face-to-face contact and faith-to-faith contact is that they are prepared to accept a homeland on the land occupied since 1967. That means the West Bank, Gaza, and East Jerusalem.

Mrs. FENWICK. That is what they said.

Mr. FAUNTROY. Just a moment, and I know and I think and the gentlewoman ought to know that there is a considerable body of intellectually respected Israelis and Jewish-Americans who believe that God gave us an opportunity in the 1967 war in the acquisition of that land to bring to a meaningful conclusion the Palestine question.

Mrs. FENWICK. Look, I say to the gentleman (Mr. FAUNTROY), I have waited an hour and the gentleman has the right to the hour. I have waited because I believe in the gentleman.

Mr. FAUNTROY. Well, I have a right to the hour. I asked for it and I got it.

Mrs. FENWICK. I do not want to interrupt, but I only can tell the gentleman, the gentleman may have read their hearts, but that is not what they say. I listen on television. I have seen Mr. Arafat, when faced with the question, "Will you or will you not?" he will not answer.

"Will you give up terrorism?" And the answer is, "We cannot resort to purely political methods, because that is not the method of struggle."

Look, I say to the gentleman (Mr. FAUNTROY) we have to if we are really looking for peace, accept facts, too, and they have got to be based on what the people themselves tell us about themselves.

Mr. FAUNTROY. One fact that I must ask the gentlewoman to acknowledge, is that people can change. Some people in this country have no faith in change. If I had had no faith in change, when they told me that white people in the South would never take down a "for whites only" sign, I would not have acted, because I believe that people can change.

I have been out here to the Lorton Reformatory. I have talked to murderers whom I have seen change.

Mrs. FENWICK. I have, too.

Mr. FAUNTROY. I believe that if we have enough faith in the humanity of both Mr. Begin and Mr. Arafat, that if we can assist them in getting to the peace table, that it will be resolved. I believe that and that is a fact that I do not want to ignore.

Mrs. FENWICK. I say to the gentleman (Mr. FAUNTROY), when the gentleman was a little boy I was a member of the Committee for Justice in Columbia, Tenn. The gentleman probably does not even remember what that meant.

Mr. FAUNTROY. No; but I know the gentlewoman's spirit.

Mrs. FENWICK. You know, and I only can say that we must believe. I have been president of a prisoners aid group and I still correspond with prisoners in prison.

Mr. FAUNTROY. The gentlewoman knows people can change.

Mrs. FENWICK. Oh, yes, I know, they have gotten out and what they have done is wonderful.

Mr. FAUNTROY. Sometimes a little love will bring it about.

Mrs. FENWICK. It does, and trust; but you see, we are dealing here with people responsible for a nation. I do not know Mr. Arafat, except what I see on TV and what he says in the papers and what is published by his press. How else can we determine anything?

Mr. FAUNTROY. By going face to face, talking with him and if the Nation would do that.

Mrs. FENWICK. If he would renounce terrorism, I cannot dignify a terrorist and I do not think Dr. Martin Luther King would have sat down with him for 1 minute.

Mr. FAUNTROY. Oh, I know that he would.

Mrs. FENWICK. I do not think so.

Mr. FAUNTROY. I know he would.

Mrs. FENWICK. Because he was a man of peace and abhorred violence. I think really, this is what—you know, I have been a live member of the NAACP since the fifties. I really know and have studied and believe in that man. I do not think that you can benefit the cause of peace——

Mr. FAUNTROY. By talking to those people.

Mrs. FENWICK (continuing.) By bolstering the prestige of terrorists. I think what one has to do is to turn to those who are not terrorists, who are Palestinians, and say, "We must sit down together."

That is where the gentleman and I differ; but I would like to say, I think the gentleman has given us a very moving and most informative hour. I honor the gentleman for his decision to withdraw the invitation. I think it confirms the gentleman's peaceful and sincere intent.

Mr. FAUNTROY. I do want to state, notice that I did not say withdraw. We deferred it for the reason that we believe that if men of conscience in the spirit that we all felt in this Nation last week when Pope John Paul II said, "Let us value the sacredness of all human life," I believe that if people of good will, will do as we have done, both in Israel and in Beirut, in making the appeal that we have made, the change will come and that we will have peace with justice.

Mrs. FENWICK. Perhaps the gentleman's deferral will cause him to say, "I accept 242" and at that time he comes and we will all see him.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I want to express on behalf of those who are not here the appreciation that I know they would want me to express had they been here.

Mr. FAUNTROY. There are many Members who promised to look in.

Mr. FINDLEY. I thank the gentlewoman from New Jersey (Mrs. FENWICK) for staying the hour to listen to what she has very properly described as a very moving presentation. I salute the gentleman in the well as one who has been endeavoring to be a sort of self-appointed bridge of information between the PLO and the U.S. administration, for taking the heat, for taking on the criticism that I am sure is being showered on the gentleman and his colleagues by going to Beirut for these discussions and this tour. In my view, the gentleman has very substantially advanced the interest of our Nation and the cause of human justice, even though what the gentleman has done has been but a step on a long road yet to be traveled, but it must be a great reassurance to the Palestinians of good will, of whom there are many, to know that the Delegate from the District of Columbia would be willing to undertake the difficulty involved in this mission, to take the heat that is still coming, I am sure.

Mr. FAUNTROY. Yes.

Mr. FINDLEY. I was in the House of Representatives in the sixties when these great civil rights bills were before us and I count it a matter of great pride that I voted yes on every one of them; but I am a bit ashamed of myself that I was not down in Selma and elsewhere taking part in the public demonstrations that helped to create the atmosphere that aroused the conscience of this Nation.

In pleading for an end to violence in the Middle East, not just on the part of one side, but on the part of both sides, the gentleman in the well is taking an enormous step and it will be felt, it will be heard in the White House, it will be heard in Beirut, in Jerusalem, and other parts of the world.

I am so reassured by the report the gentleman has given tonight that the gentleman is not going to be deterred, the gentleman is standing by his recommendation for direct communication with the PLO, simply because it exists. It is the established, recognized political authority of the Palestinian movement.

I hope the day will soon come when we will have sufficient evidence from Yassar Arafat, the head of the PLO, that he, too, is committed to nonviolence, that he will feel most comfortable about walking into these shores to take part in these deliberations.

I thank the gentleman from the bottom of my heart.

Mr. FAUNTROY. I thank the gentleman for his kind remarks.

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Mr. DOUGHERTY. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Speaker, I respectfully did not ask for time because I would like to speak on the subject from a different point of view, if I might, when the gentleman's time is up. So I would ask unanimous consent to address the House for 20 minutes.

The SPEAKER pro tempore (Mr. STACK). The Chair will state that the gentleman's unanimous consent request would not be in order at this time.

The gentleman from the District of Columbia (Mr. FAUNTROY) has 2 minutes left.

Mr. DOUGHERTY. At that time, Mr. Speaker, I would ask unanimous consent.

The SPEAKER pro tempore. Does the gentleman from the District of Columbia yield?

Mr. FAUNTROY. Mr. Speaker, I would simply like to say two things to my colleague, the gentleman from Illinois (Mr. FINDLEY).

I would first indicate that I am not a self-appointed negotiator on this question; I am an annointed ambassador. Someone asked me, "What in the world are you doing trying to say something relevant to these two forces?"

I responded simply by saying, "I am an ambassador. I represent a Kingdom that has foundations that were built in Mecca's Garden, and He will give me a ministry of reconciliation."

"Reconciliation" means bringing people who are at odds with one another together. I am an ambassador of God, and He is making an appeal through me, as He did through Pope Paul and as He does through everybody, whether one is a minister or not, who has a sense of conscience and who has a basic respect for human life.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield to me?

Mr. FAUNTROY. I will, Mr. Speaker, yield to the gentleman from Illinois in the minute that I have left.

Mr. FINDLEY. Mr. Speaker, I am sure that Great Man of Galilee appreciates and applauds what the gentleman is doing.

Mr. FAUNTROY. Mr. Speaker, I thank the gentleman from Illinois (Mr. FINDLEY).

The SPEAKER pro tempore. The time of the gentleman from the District of Columbia (Mr. FAUNTROY) has expired.

Mr. DOUGHERTY. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes before those Members who are apparently listed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NEGOTIATIONS WITH THE PLO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DOUGHERTY) is recognized for 15 minutes.

Mr. DOUGHERTY. Mr. Speaker, I had not intended to take the floor this evening, but in view of the hour that my good friend, the gentleman from the District of Columbia (Mr. FAUNTROY), has taken to address the subject of the PLO, I feel obligated to take the floor to present a different point of view.

While I recognize the sincerity of the gentleman from the District of Columbia, I must respectfully rise to take very strong exception to some of his comments.

During the August recess I had the opportunity to visit the Middle East, to visit Egypt, and to visit Israel. I visited the West Bank, I visited the Lebanese border. I spoke to people in both countries and at the border.

I do have to indicate that there is a certain sense of satisfaction I have that the gentleman from the District of Columbia (Mr. FAUNTROY) had the courage to bring this subject to the floor because it gives me an opportunity and, I am sure, other Members the opportunity to state publicly our feelings about the recent trip taken by the gentleman and some of his colleagues to the Middle East to deal with the PLO.

The gentleman does not recall it, but some 2 years ago he visited me in Harrisburg when I was a State senator. He lobbied with me on the Washington, D.C., bill. I have to admit that he changed my mind, and that I did vote for the D.C. bill. However, today I must express a very sincere degree of disappointment at the actions the gentleman took while in the Middle East. I think he has done serious damage to what I consider to be a very basic concept of decency in the world.

Mr. Speaker, I take exception to the idea that private citizens, no matter how well intended, are now negotiating the foreign policy of the United States. I honestly believe that this is the realm of the administration.

I have listened to the comments of the gentleman from the District of Columbia, I can respect his point of view, but again I must respectfully disagree. In my mind, it is a bad day for America when private citizens are negotiating the foreign policy of the United States. I think this shows again the bankruptcy of the current administration in the White House.

Indeed, if we are to have this happen again and other efforts are being made by people to negotiate peace in Northern Ireland, that would be as laudable apparently and as appropriate. I cannot accept that. I believe that the foreign policy of the United States is to be negotiated by the Government of the United States and not by private citizens.

I question also, Mr. Speaker, the appropriateness of a Member of this body negotiating with an organization that is committed to terrorism when this country has a policy of no contact. No matter what the gentleman says about his role there, he was recognized and clearly identified in the media as a Member of the Congress of the United States, and, therefore, I consider the action most unfortunate.

Indeed, I believe that the trip to the Middle East gave dignity to those who had no hesitation about killing innocent athletes at the Olympic Games in Munich, to those who had no hesitancy about taking the lives of innocent people riding a bus on the Haifa Road, or to those who had no guilt and no reservations about shooting in cold blood an American woman on the beaches of Israel.

The gentleman speaks of "reconciliation," Mr. Speaker, I wonder, did the gentleman ask Arafat to end terrorism and renounce violence as a sign of good faith? He did not.

Did Arafat applaud the courage and the foresight of Mr. Sadat in coming to peace with Israel? He did not.

Our colleague, Mr. Speaker, speaks of Lebanon. He talks about another armed element in Lebanon. The other armed element in Lebanon happens to be a real vestige of the Government prior to the occupation by Syria.

Did the gentleman in his discussions with the Syrians or the Lebanese come to the conclusion that armed Syrians were to withdraw from Lebanon? Was Syria to become a colony in the Middle East?

The gentleman speaks about the use of military weapons to bomb civilian targets. Does the gentleman also speak about the fact of the PLO putting military targets in the middle of civilian populations to bring about this result?

One of the key things that I think we have to ask, Mr. Speaker, when we talk about the Middle East and Lebanon is: Who ordained Yasser Arafat as the saviour of Lebanon? Who ordained Yasser Arafat to be the ruler of Lebanon? By what right does the Palestinian Liberation Organization occupy the country of Lebanon?

Lebanon is an independent nation or was an independent nation until the violence of the civil war tragically brought the government down. By what right do we assume that Yasser Arafat and the PLO speak for the people of Lebanon.

I notice the gentleman speaks about Arafat's promise concerning violence in South Lebanon. That is all right for Mr Arafat. The assumption is that Mr. Arafat is in control, but what happens in Lebanon?

We speak about control and recognized borders and the creation of a state. Where do we create the state, Mr. Speaker, this Palestinian state? Do we create it on the West Bank? Who will head that Palestinian state? Will it be Yasser Arafat?

I have been to the West Bank. I think the Israelis would be out of their mind to negotiate with the PLO or to give up the West Bank unless the PLO were to give up their claim to Lebanon and to Palestinian areas.

At what price do they create this Palestinian state? Is it to give Jerusalem, the hallmark of the Israelis, back to the PLO?

I think, Mr. Speaker, we are talking about something similar to asking the British Government to negotiate after the assassination of Lord Mountbatten with the IRA. That is ridiculous.

We have to recognize, Mr. Speaker, the problems of the refugees were created by the Arab States. That is the point we had better get on the record. Israel was created and recognized as an independent nation by the United Nations. The Arab States rejected the existence of Israel. The Arab States went to war and created the problem of the Palestinian refugees. But we hear no talk about the Arab States trying to resolve the problem. We hear no talk about visiting

Hussein in Jordan and asking him to get together with the Israelis to resolve the problem.

No, the problem of the refugees is a problem that was created by the Arab States, and Israel had to fight three wars to survive.

What is to be done? Israel is to give up again, Israel is to negotiate with the enemy? Israel is to solve the problem she did not create and let the Arab States wash their hands and walk away free?

We talk about the Palestinian Liberation Organization. I really got a chuckle when the gentleman talked about "liberation."

Liberation? Is it liberation to export terrorism to Ireland? When I speak to the representatives of the Government of the Irish Republic, I am told that weapons for the Irish Republic Army come from the PLO. I am told about arms shipments being interrupted by British customs—arms that were shipped by the PLO in Beirut through Brussels to the IRA so the IRA could carry on their acts of terrorism.

Liberation? Is it liberation to export terrorism? That is what the PLO stands for.

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In my mind, Mr. Speaker, the PLO is nothing more than the tools of the Soviet Union, and Arafat is nothing more than a bloodthirsty hoodlum who is not entitled to the decency of anybody's company. I reject the idea of linkage, that we are to link the problems in the Mideast with the social problems of this country. We have an obligation to stand up and to do what is right, and to do what is right is to condemn wholesale murder, be it by the PLO or the IRA, and pay what the price is.

The gentleman speaks about the potential spread of violence. I wonder if Arafat made that point, the potential spread of violence to the seaways by which oil is shipped to the West. Are we now to be intimidated by Yassar Arafat that if we do not deal with the PLO, then indeed our oil shipments may be sabotaged in the waters of the Mideast?

I could go on and on, Mr. Speaker. Perhaps I have spoken too much already. But the gentleman talks about doing what is right, and that is what I believe we should do. To do what is right, the Arab nations must assume the responsibility to bring peace to the Middle East by recognizing the existence of Israel. That is the first step to doing what is right.

The second thing they must do is to cease the funding of the Palestinian Liberation Organization.

The third thing they must do, they must resolve, as a full partner with Israel, the problem of the Palestinian refugees.

Mr. Speaker, this country, the United States, must never yield to oil blackmail and deal with those who have used innocent lives, the refugees, as tools of political conflict.

EPA DUST POLICY ILL CONCEIVED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

● Mr. GRASSLEY. Mr. Speaker, I speak today to draw to the attention of my colleagues one of the most ill-conceived bureaucratic schemes I have seen since OSHA came out with their regulations telling farmers that wet manure was slippery. I am speaking of the decision by the policymakers at the EPA to require that we clean up dirt on farms. You heard me—dirt on farms. They figured out at EPA that dirt, when it is dry, becomes dust. "Dust is dust," they say, and dust counts as a pollutant whatever the source.

Well, you say, they are protecting people's health. There's nothing wrong with that. But in this case there is no question of public health involved at all, even the EPA agrees with that. They say they are protecting Iowans' "public welfare." And who determines Iowans' public welfare? Not the State officials, say the planners in the EPA. Iowa's Air Quality Commission, Iowa's Governor, and Iowa's Development Commission all agree that in trying to control dust from farms the EPA has misjudged what's best for Iowa and has lost hold of an indispensable tool—commonsense. And it is not Iowa's mayors and county officials and taxpayers, according to EPA, who should determine what protects Iowans' public welfare. Indeed, these groups have joined together with an uncommonsense of unity to protest the EPA decision. No, the EPA officials feel that they are the best judges of how to protect the public welfare of Iowans.

Do you know what else the planners and regulation writers at the EPA plan to do? They plan to require that we remove the dust from farm to market roads in Iowa. Those of you who are familiar with our State know that these roads crisscross each other literally every mile. That, of course, accounts for the checkerboard pattern we see in flying over our State and other agricultural States. Well, while the State officials of Iowa and other agricultural States have been working together with us in Congress to restore funds in the transportation budget in order to keep our farm to market roads from further deteriorating, and to rebuild our many bridges, many of which no longer meet safety standards. What has EPA been doing? Well, while we have been fighting this battle to put our roads in the shape they need to be to get our farm products to market, the EPA planners have been designing esoteric schemes to dramatically increase the expense of the very roads we have been trying to rebuild. To protect Iowans' health? No; to protect what they perceive to be Iowans' welfare.

Mr. Speaker, I hear some of my colleagues laughing at this ludicrous policy, and I see them shaking their heads. Of course, it is laughable, because the policy is so far removed from commonsense. But it is not a joke to people in Iowa and other agricultural areas around the country who are going to pay for these programs with their taxes and in the cost of the products they buy. And it is not a joke to industries interested in possibly moving to Iowa and other agricultural States or interested in possibly expanding there. And it is not a joke to farmers who are already losing ground in their battle to maintain their farm-to-market roads and bridges in safe condition. And it is not a joke to the small businessmen who are counting on supplying larger manufacturers in Iowa and similar farm States. And it is not a joke to the mayors and county boards of supervisors when they see that their tax base will no longer be growing along with their populations.

Mr. Speaker, let me explain how this bizarre situation has come about. The Clean Air Act Amendments of 1977 contain provisions requiring States to submit revised State implementation plans to the EPA, demonstrating how they plan to meet current national air quality standards. The States have now submitted those plans. On June 14 of this year the Iowa Air Quality Commission gave its final approval to the Iowa State implementation plan and submitted it to the EPA regional office in Kansas City for their approval. The plan was the result of extensive hearings in Iowa and was unanimously agreed to by State officials. It protected Iowans' health and welfare while at the same time recognizing our State's unique rural characteristics.

Iowa's State officials recognized that States such as our own should not be penalized just because it is a rural State with a high proportion of windblown dust from farm fields and rural roads—dust which the EPA planners call rural fugitive dust. If this dust had to be included when environmental impacts are determined, less industrial growth would be allowed in farm States than in nonfarm States. Most participants in the Commission's hearings recognized this problem and asked that it be resolved in the plan.

Under the plan, these windblown particles are included when determining whether the national "primary" air standards, designed to protect public health, have been met. However, they are excluded in determining whether the more strict "secondary" standards, designed to protect things like property and visibility, have been met. Therefore, the strictest possible interpretation was given to insure the widest possible margin of safety in protecting Iowans' health, but recognition was also given to the State's rural character.

The EPA has rejected this part of the Iowa plan outright. They say this windblown dust from farm fields and rural roads must be counted in determining whether the secondary particulates standards have been met. As a result, a significant number of areas in Iowa will not attain secondary air standards for particulates, even though they have a very low industrial composition. This means that sizable new industrial facilities which emit particulates—from heating plants, foundry operations, et cetera—will be allowed by EPA to be built in such areas only if they are able to obtain reductions—called "offsets"—in currently existing particulate emissions.

In the case of most major Iowa cities affected by this problem, when the potential new industrial facilities are of any significant size such offsets will not be available. This is because the great majority of current particulates result, not from industrial sources, but from public sources (which Iowa has already indicated will be reduced by local governments by 50 percent by 1982), from worldwide natural background, and from the windblown dust from farm fields and rural roads. These sources are not susceptible to significant additional controls.

Mr. Speaker, the planners and regulation writers at EPA have been living in the Washington, Virginia and Maryland suburbs and in downtown Kansas City too long. As Bill Burger, the chairman of the Iowa Development Commission, has stated so well:

> Dust in Iowa is a fact of life. It is uncontrollable. A lid cannot be put on it. Filters cannot catch it and pavement cannot be poured over all of our roads. As resourceful as they are, farmers cannot grow corn on concrete.

If the EPA goes forward with this policy, it will put agricultural States of the Midwest and Southwest at a serious disadvantage when it comes to industrial growth. It is obvious that we have more blowing dust from farm fields than nonagricultural States do.

I plan to visit with my colleagues on the House Agricultural Committee about this problem. As you know, there are three Iowans on that committee, and I believe the Iowa delegation is united in its concern about this problem. I believe, after discussion with my colleagues, I will find that many, perhaps most, from agricultural States will share our concern. If colleagues from other States are experiencing similar problems with this policy, I urge them to contact me. It is time to put a stop to this nonsense, before our States find themselves lacking in the industrial and economic infrastructure they need to grow.●

STORM CLOUDS OVER SOCIAL SECURITY: SERIOUS PROBLEMS ON THE HORIZON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 10 minutes.

● Mr. MILLER of Ohio. Mr. Speaker, I want to share a timely article which appears in the October issue of the Reader's Digest. The author, Mr. Trevor Armbrister, discusses the not-so-long-term financial problems facing social security and recommends some reforms that Congress should take to strengthen the system.

There are few national programs that so profoundly affect the American people—35 million beneficiaries or one in seven Americans receive a social security check each month. However, public confidence in social security has sharply eroded as the trust funds have been threatened with financial collapse and panels of "experts" offer slashes in expected benefits as a solution to sagging reserves.

Although Congress has taken steps to avert an immediate crisis in the system, improvements to keep the social security trust funds in the black are urgently needed. While I do not endorse all of Mr. Armbrister's suggestions, I believe they serve as a useful focal point for congressional debate. As the author points out, it is critical that Congress develop a strategy for putting social security on a sound financial basis to insure a healthy program for future generations of Americans.

In the interest of giving social security issues the attention they deserve, I encourage my colleagues to read Mr. Armbrister's article carefully.

STORM CLOUDS OVER SOCIAL SECURITY—OUR SOCIAL SECURITY SYSTEM IS BARRELING TOWARD DISASTER; CONGRESS MUST ENACT OVERDUE REFORMS—NOW

(By Trevor Armbrister)

More than 80 percent of American workers have "less than full confidence" that they will receive all the benefits they've earned from Social Security, and 42 percent have "hardly any confidence at all." Those are the surprising conclusions of a nationwide Louis Harris poll, and the questions they raise are obvious. Is Social Security really in trouble today? If it is, what can be done to keep it from insolvency? How much will that cost, and who will pay the bill?

To Social Security Commissioner Stanford Ross, this public concern is unwarranted. "American workers will get the benefits to which they are entitled," he says. "The Social Security system is in good financial shape for the next 50 years." Others disagree. Dartmouth economist Colin D. Campbell warns that "the long-term problem is very serious." Even the system's own trustees concede that its financing may be precarious and that an economic downturn could impair its ability to pay benefits on time.

In an attempt to find the truth I talked with officials at the mammoth Social Security Administration (SSA) headquarters complex near Baltimore, with members of Congress, and with actuaries and economists. I studied thousands of pages of studies, annual reports and Congressional hearings. My conclusions are worrisome.

There is no major problem today: People who expect to retire over the next several years *will* receive their full share of benefits. But storm clouds hover over the system's future. Unless economic conditions improve and Congress moves to enact overdue reforms, the Social Security system as it now exists could be in dire jeopardy as early as 1983.

For many years, the nation's foremost retirement plan—covering 90 percent of all workers—was actuarially sound and reliable. Launched by President Franklin D. Roosevelt in 1935, Social Security was a "pay as you go" system in which employe and employer contributed a similar percentage of the worker's earnings to supplement his or her retirement income from savings or a private pension plan. Initially, the bite was small—only $30 each on the first $3,000 a year an employee earned—and inasmuch as there were scores of workers to support each beneficiary, the burden could be spread around.

For nearly 45 years, however, Congresses and Presidents have actively competed to see who could champion more benefits and extend more coverage. They broadened benefits for dependents and survivors. They made it possible for millions who would otherwise have been on welfare rolls to enter the Social Security system. They added disability insurance, then liberalized the eligibility requirements. They extended coverage to farm and domestic workers, lowered the minimum age for receiving initial benefits from 65 to 62, added the Medicare system of health insurance for the elderly. Gradually Social Security became a massive national pension plan with something for everyone.

Little practical thought was given to where the money was coming from. In 1972, for example, lawmakers approved a benefit hike of 20 percent without a corresponding tax increase. They further strained the trust funds' reserves by mandating that retirees receive automatic cost-of-living adjustments every time the annual inflation rate climbed above three percent. They "double-indexed" the computation of initial benefits to both wage and price inflation—every time an individual's wages went up or prices rose, his benefits increased. Not surprisingly, costs soared out of sight—from $35 million in 1940 to $32 billion in 1970. Today the annual price tag is $104 billion, and estimates are that it will rise to $184 billion by 1985.

Then during the mid-1970s, while costs were skyrocketing, two more developments began to threaten the system. First, recession and inflation combined to push the unemployment rate to a 35-year high. That cut into the revenues the SSA was expecting to receive through the payroll tax. Second, thanks to advances in medical science, Americans had begun living longer and were collecting more benefits from Social Security. In 1960 there were almost 17 million of us over 65; by 1975 that number had risen to nearly 23 million. The ratio of active workers to beneficiaries had plummeted from 50-to-1 in 1945 to a little more than 3-to-1 in 1977.

Actuaries' tables showed that, by the end of 1978, Social Security trust-fund assets would dwindle to $31.7 billion, enough to pay scarcely more than several months' obligations in the following year. Lawmakers realized that they had to do something to save the system from imminent collapse. In December 1977 they passed—and spread out over the next ten years—a $227-billion tax increase for Social Security.

The new law took effect on January 1, 1979, and provoked immediate cries of pain. The tax rates for employes and employers each rose from 6.05 to 6.13 percent of payroll, and the maximum-earnings base climbed from $17,700 in 1978 to $22,900 this year. In 1981 the tax rates rises to 6.65 percent, and it will apply to the first $29,700 a person earns. By 1990 the rate will be 7.65 percent for employes and employers alike, and the base is estimated to be $52,800. Each worker in this pay bracket and his employer together could then be paying an annual Social Security tax of $8078!

And still that won't be enough to put the system in the black and keep it there unless levies are hiked or benefits are slashed. Indeed, under the most likely scenario that the SSA's actuaries can project, the combined retirement and disability funds will rack up a staggering $800-billion deficit over the next 75 years. Again, according to their most likely forecast, the retirement fund will run dry by the year 2028 while Medicare's hospital trust fund will be broke by 1992.

In an attempt to gain control of spiraling Social Security costs, the Carter Administration has proposed phased-in benefit cuts that could save roughly $4 billion per year by 1984. Most of the suggestions make good sense. The lump-sum burial benefit of $255, for example, which costs $200 million per years, is doled out to all survivors of Social Security-insured workers and retirees, whether they need it or not. That, the Administration said, was overly generous. So, too, was the $1.8-billion program providing educational benefits for the children of retired, disabled or deceased workers. "These benefits have become unnecessary as federal student-aid programs have expanded over the past ten years," explained Commissioner Ross. Then there was the saving of about

$700 million per year which could be realized by putting a reasonable cap on skyrocketing disability payments.

The Carter proposals ran into heavy opposition on Capitol Hill and their ultimate fate was very much in doubt as this article went to press. Despite years of warning, Congress seems slow to recognize that Social Security needs major surgery soon if it is to stay alive. Here's what Congress *must* do:

Resist the temptation to roll back payroll taxes and legislate a "quick fix." Already pressure is building up on Capitol Hill to roll back the payroll tax increases that are scheduled to go into effect in January 1981. Such a move would alleviate the pain most of us will feel when we look at our first paychecks in 1981. Yet without the additional funds this tax hike will provide, Social Security will almost certainly slide into bankruptcy.

To supplement the payroll tax, some lawmakers propose a European-style Value Added Tax (VAT), which would be nothing more than a hidden national sales tax. It would be regressive—hitting the poor harder than anyone else—and highly inflationary. Others favor dipping into general revenues. This would fog over the link between the payroll tax and Social Security benefits and tempt Congress to turn Social Security into still another welfare program. Besides, as Senate Finance Committee Chairman Russell Long (D., La.) explains, "There aren't any extra general funds, just a general-fund deficit."

Require universal coverage. Members of Congress and their staffs are excluded from the Social Security tax now applied to 108 million Americans each year. So are nearly six million other federal, state and local employees, who have adopted more generous pension plans. Understandably, they reject all attempts to bring them into Social Security, and they've been successful thus far. Yet such a move, if enacted gradually and fairly, would make the system more just. If put into effect by 1982, it would also add $122 billion to Social Security revenues over the next five years.

Reduce the rate of growth of benefits. Until the 1977 law went into effect, benefits were determined by "double-indexing to both wages and prices," causing hikes to far outstrip corresponding increases either in wages or in the consumer price index. Determining benefit levels by wage indexing alone has helped keep increases down, but further curbs are necessary. If initial benefit levels were indexed to prices instead of wages, substantial savings could result.

Tighten eligibility standards. Since Social Security began, average life expectancy has risen significantly for both men and women. Yet 65 remains the age at which retirees can collect full benefits. It should be hiked—gradually to 68. This would increase the system's revenues while reducing the level of benefits it pays. New rules should be adopted to prevent federal workers from seeking early retirement, working just long enough in the private sector to qualify for Social Security and then collecting both their civil-service and Social Security checks. Today these "double-dippers" will pay about one-third of the taxes that private-sector workers pay and receive about two-thirds of the benefits.

Crack down on waste, fraud and mismanagement. Some of the SSA's financial problems stem from slack bookkeeping procedures. Others result from a tolerance of waste. Until 1964, for example, Social Security officials reviewed 100 percent of disability claims. In 1965 they trimmed that to 70 percent; in 1971 they cut it back to five percent. Even within that five-percent spot check, an SSA spokesman says, people are found who shouldn't be drawing disability.

Then there's the matter of overpayments. Between January and July 1978, SSA sent 967,000 individuals some $536 million more than they should have received in retirement, survivors and disability insurance benefits. (According to the General Accounting Office, the agency managed to recover only $207 million.) In an agency that processes 35 million checks per month, some waste is inevitable. What is not acceptable is the lack of concerted effort to root out the waste.

Resisting the easy fix, requiring universal coverage, reducing the rate of growth of benefits, tightening eligibility standards and cracking down on waste will be painful steps to take. But they are necessary if Social Security is to return to a healthy state.●

DO CREDIT UNIONS STILL WEAR THE WHITE HAT?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I have long been a supporter of credit unions because they were the one financial institution that helped the working man and woman and were more interested in a person's character than his or her collateral.

I can remember hearing the former chairman of the House Banking Committee, the Honorable Wright Patman, mentioning time after time that "Next to the church, credit unions do more good for people than any other institution." The credit unions always were the good guys in the white hats, but lately that image has been tarnished.

Yesterday I issued a press release concerning the latest black hat move by credit unions. Since 1937 Federal credit unions by law have been limited to charge no more than 12 percent a year for loans. Now, however, there is a move to raise that ceiling. Certainly, it costs credit unions more to attract funds now than it did in 1937, but by the same token many credit unions are investing millions of dollars in luxurious new offices and generally spending members' funds in unsound ways. I have pledged to fight the increase in the 12-percent ceiling.

At virtually the same time that my press release was being distributed the noted financial columnist, Sylvia Porter, published a column which also questioned the white hat reputation of credit unions.

Credit unions serve some 30 million Americans and because credit unions operate in every congressional district in the country, I am including in my remarks a copy of the Sylvia Porter article which appeared in yesterday's Washington Star as well as a copy of my press release.

Mr. Speaker, I am not ready to give up on credit unions, but I think it is time for credit unions to send their hats out for a cleaning job.

DO CREDIT UNIONS STILL MERIT REPUTATION AS "BEST FRIEND?"

(By Sylvia Porter)

Credit unions—non-profit savings and lending organizations owned and run by their member-customers—have for years thrived under a special reputation as the consumer's financial friend.

If you needed to borrow, credit unions frequently would extend a loan to you when no one else would and often at lower than average rates, too. Free from federal controls on interest rates, credit unions have been able to pay as much as 7 to 9 percent on savings accounts, while banks and savings institutions have been prevented from paying more than 5.25 or 5.50 percent.

These extra attractions along with the CUs' new powers to offer savings certificates, 30-year mortgage loans, interest-bearing checking accounts (known as share drafts) and credit cards, have made them the fastest growing financial institutions.

Of every six Americans, one belongs to a credit union.

But beneath the shiny surface, problems are emerging, for many informed sources both inside and outside the credit union movement fear CU managers have become so entangled in the technical aspects of running their organizations that they have neglected their consumer service and education responsibilities.

Faced with stiff competition, surging interest rates and new electronic technology, they contend credit unions are forgetting their traditional goals as "people-oriented" cooperatives.

Credit unions have been criticized for a wide range of practices in recent speeches both by Lawrence Connell, head of the National Credit Union Administration and consumer advocate Ralph Nader. Included among the condemned practices: Asking loan applicants to sign a form waiving consumer protection rights provided them by state or federal law, and speeding up loan repayments when a borrower loses his job.

Some credit unions ask borrowers to sign contracts which give the credit union the right to take their last paycheck if they become unemployed. One man recently complained to NCUA that his last paycheck of almost $1,000—including vacation pay, sick leave, Christmas bonus, etc.—went to the credit union after he lost his job because he still owed $50 on an installment loan.

Other critics, such as House banking chairman Henry Reuss, D-Wis., have suggested that credit union ads may exaggerate how much members actually can earn on money they keep in share draft accounts, credit unions' version of interest-bearing checking accounts.

A recent survey by the credit unions' chief trade association showed that while the declared rates on share draft accounts averaged 5.6 percent in the early part of this year, the average effective rate on what the typical share draft account yielded was about 3.4 percent. The difference is attributed to the fact that most credit unions calculate interest on a quarterly basis and, at that, only on the lowest monthly balance. These facts may not be spelled out clearly in ads.

Some credit unions also have informally joined banks in complaining that federal agencies should not require them to reimburse consumers who were charged more interest on their loans than was disclosed to them. Incorrect disclosure of interest rates is a violation of the Truth in Lending law, which requires, too, that financial institutions reimburse customers who have been overcharged.

The American Bankers Association has filed suit to stop regulators from ordering such restitution. Pending outcome of the suit, NCUA has joined other banking agencies in advising credit unions to hold back payments to borrowers.

Potentially, the most damaging action of all has been the endorsement of cancer insurance by credit union leagues.

These leagues are state trade associations and technically seem to fall outside the credit union regulatory structure. But NCUA head Connell told my associate, Brooke Shearer, that a study is under way to discover if the leagues are profiting from the sale of cancer insurance—a product sharply denounced by the Cancer Society, the Federal Trade Commission and Nader, among others.

It is "the most egregious affront to CU principles to endorse or to recommend a service to members that preyed upon their deepest fears," says Connell—though league spokesmen continue to defend the insurance and push its sale.

Of course, not all credit unions follow such practices. Many remain devoted to the initial goals. But the pressures of the marketplace are tarnishing the long cherished image of credit unions as "people banks."

In speaking of the conflicts facing credit unions, Connell remarks: "It's like having a new car. You have to decide whether to drive back to the old neighborhood or begin to search for a house in the suburbs."

ANNUNZIO VOWS FIGHT AGAINST HIGHER CREDIT UNION LOAN RATES

Promising a battle to end all battles, Chairman Frank Annunzio, of the House Consumer Affairs Subcommittee, vowed today to take any legislative action necessary to prevent an increase in the twelve percent maximum interest rate that federal credit unions can charge borrowers.

Annunzio's action followed a move by the National Credit Union Administration Board that could eventually lead to asking Congress to remove the twelve percent statutory ceiling. While the Board has not definitely decided when it will ask Congress to change the ceiling, it appears that such a decision will come in the near future. In fact, one credit union trade association has already informed its members that the Board has decided to seek the higher rates.

"I am a great supporter of credit unions," explained Annunzio, "but this action will hurt millions of credit union members who depend on their credit unions as their only source for loans. When credit unions raise their interest rates they are hurting the people who need the help the most.

"It is not the credit union members who want to raise interest rates, but rather credit union officials, and there is a big distinction between the two groups. I don't know of a single credit union member who wants to pay high interest rates.

"There is no reason why an increase is needed," Annunzio continued. "In most cases a credit union pays a maximum of seven percent to its regular savers and lends that money at a maximum of twelve percent which provides for a five percentage point spread. If credit unions worked the way Congress intended, they would not be asking for the increase. However, instead of seeking savings from their members, credit unions have adopted a shortcut. They borrow from other financial institutions and relend those funds to their own members. Credit union officials even admit that credit unions can simply not borrow for long at 14 to 15 percent and lend at 12 percent without significantly affecting the services they offer to millions of consumers.

"Congress did not authorize federal credit unions so that they could become middlemen. They were designed to pool members savings so that loans could be made to other members. In order to keep the cost to the borrower as low as possible, Congress even exempted credit unions from income tax."

Annunzio was especially critical of NCUA Chairman, Lawrence Connell, for not strongly opposing increasing interest rates. "Just before the board meeting in which this issue was raised, Chairman Connell spoke to a credit union meeting about the loss of the cooperative principle in the credit union movement. Connell told the group "instead of benefit to the member, we have an exploitation of the member, the worst sin possible in the cooperative movement. There is no room for exploitation of credit union membership as far as NCUA is concerned."

"If Chairman Connell is truly concerned about credit unions losing their sense of values then he should immediately speak out against increasing interest rates since such an increase can only hurt credit union members.

"This is not a question of putting your money where your mouth is, but rather this is a question of putting your mouth where your money is."●

INTERNATIONAL COCOA AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● **Mr. ROSTENKOWSKI.** Mr. Speaker, the proposed International Cocoa Agreement touches on inflation, U.S. commodity policy, and the jobs and future of the domestic chocolate manufacturing industry. I suggest we carefully examine the conditions and consequences for U.S. entry into the International Cocoa Agreement before committing ourselves to joining the accord. Any agreement the United States joins, especially commodity agreements establishing cartels, should be economically defensible and be in the national interest of the United States.

I do not believe the proposed International Cocoa Agreement satisfies this criteria. The United States did not join the 1972 or 1975 International Cocoa Agreements. The price ranges in those agreements were below the actual world prices for cocoa and relied on export quotas as well as a buffer stock mechanism. Our country has actively participated in the 1979 renewal discussions. It is increasingly possible that the United States will become a signatory nation to the agreement. The 1979 negotiations appear to have resolved all but one of the key issues necessary for acceptance: Price. Negotiations on that point will resume on November 19, 1979, in Geneva.

The proposed ICA would be based on a buffer stock mechanism, which would be designed to keep prices within a floor and ceiling. The proposal now being considered by the negotiation participants is for a $1.10 to $1.60 price range. The compromise between the $.76 floor initially suggested by the EEC (European Economic Community) and the $1.90 floor initially suggested by the Ivory Coast cannot be justified on economic grounds, and can only be explained on the grounds of political expediency.

Cocoa costs 40 to 65 cents per pound to produce. It is difficult to determine what accounts for the difference between the 46 cents per pound production costs in Ghana and the $1.35 price charged on the world market.

I do not believe the U.S. consumer should be in a position to guarantee three and four times the cost of production as a minimum price. I believe that the United States should not enter the cocoa cartel unless the floor price is below $1 per pound. While the price of cocoa is currently at $1.35, recognized and responsible experts expect it to shortly enter into the price zone of the $1.10 to $1.60 "compromise" proposal.

This result is anticipated for three reasons. First, the production of cocoa is expected to increase by 300 to 400 thousand tons by 1985. Most of this increase is expected from new plantings in new areas, amounting to a 25-percent increase in production, or annual increase of 4 percent.

In the meantime, consumption increases on a worldwide basis are expected to be only 2.5 percent per annum. In the United States, consumption of chocolate and chocolate containing products leveled off a few years ago, and is now in the process of decline. As a result, prices must fall from current levels to accommodate the size of these production increases, unless of course we become party to a cartel which will prevent the working of the laws of economics.

Second, on the demand side, the number of persons in the "under 25" age group will decline absolutely between 1975 and 1990 in both the United States and Western Europe. This is a crucial factor limiting the growth of consumption, as the young adult age groups are the largest consumers of chocolate containing products. Finally, the usage of cocoa and cocoa butter substitutes can be expected to increase in the next few years, another factor depressing the demand for cocoa beans. The establishment of artificially high prices will only hasten the development and use of these cocoa butter substitutes resulting in a disruption of the economies of the cocoa producing countries.

These points suggest that the U.S. delegation attending the next cocoa negotiating conference in November hold the line on a $1 per pound minimum intervention price. I strongly encourage such action and personally would have difficultv with continuing U.S. participation in the ICA if the minimum price is about that level. I appreciate the importance of the ICA to our cocoa producing country friends in Africa and elsewhere, but believe that we must carefully tailor any market-regulating scheme to economic realities and the national interest of the United States. We must remember that once we sanction the creation of artificially inflated prices, it is only a matter of a short time before the consumer rebels, sales decline, with resulting unemployment. I am opposed to our Government entering into an international agreement which threatens to put Americans out of work. I hope that this chamber will concur if any such agreement reaches it.●

DOMESTIC SHIPBUILDING VITAL TO NATIONAL ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

● **Mrs. BOGGS.** Mr. Speaker, recently I had the opportunity to sponsor a briefing for Members of Congress and their staff on an important new study conducted bv Data Resources, Inc. The purpose of this study was to develop the first realistic economic model of the American maritime industry. This model is designed to measure the economic impact on the U.S. economy of any change in national policy toward either the operating or building sectors of the maritime industry.

The DRI model of the maritime industry has been used to show the impact of increasing U.S.-flag share of U.S. international trade and to compare economic results of building vessels abroad versus construction in the United States.

The model is capable not only of measuring total net effects on the U.S. economy of policy changes, but also distributing these effects by industrial sectors and regions that would be affected.

The integrity of the model is of the highest order, having been developed by Data Resources, Inc., of Lexington, Mass. It is based on a system of models already widely used by the Treasury Department, the Office of Management and Budget, the Congressional Budget Office, and various congressional committees.

Because this information will serve as a valuable tool for evaluating the various maritime proposals currently pending before this House, I insert a copy of the study in the RECORD.

EXECUTIVE SUMMARY

(Data Resources Inc. Analysis of the Economic Impact of the U.S. Shipbuilding and Operating Industries)

This report presents the results of an extensive study by Data Resources, Inc., of the economic impact of the shipbuilding and ship operating industries on the U.S. economy. This analysis employs a system of models designed specifically to evaluate alternative maritime policies. The system is based on the DRI input-output model and macroeconomic model of the United States. These models are widely used throughout industry, the financial community and government for policy analysis. DRI believes that this system of models and the resulting analysis embody the most comprehensive and sophisticated approach to measuring the economic impact of maritime policy alternatives ever undertaken. The system is unique in its ability to assess not only the national impact on GNP, investment, balance of payments and inflation but also to pinpoint the effect on specific industries and geographic areas.

The system can be employed to evaluate alternative assumptions concerning: (1) U.S. fleet size; (2) whether the vessels are constructed in the U.S. or abroad; (3) whether the vessels are financed in the U.S. or abroad; (4) availability of various tax and subsidy packages. Hence the system has the potential to provide a vehicle for more comprehensive evaluation and more informed debate on the relative merits of alternative policy decisions.

The approach taken has involved modifying the DRI input-output model to provide additional detail on the inter-industry impacts of constructing four basic commercial ship types and nine basic naval ship types. Extensive data were collected from shipyards and the Maritime Administration to perform this modification and to establish the regional patterns of purchases from supplying industries.

The input-output model was linked to the DRI macroeconomic model of the United States. The macromodel consists of over 800 behavioral equations for variables such as business investment, consumer spending, government receipts and expenditures, wages, corporate profits, major price indices, imports and exports and interest rates. These equations relate each variable to important explanatory factors. All of the equations are linked together so that the changes imposed in one area will be carried throughout the economy. For given maritime policy alternatives, the macromodel is adjusted for first round changes in the balance of payments, domestic investment, federal subsidy levels and similar considerations. The macroeconometric model then calculates the net economic impact, which is disaggregated by the input-output model to obtain industry detail, which in turn is used to calculate regional impacts.

This report focusses on two alternatives to no change in the present maritime outlook. The first examines results of a significant expansion of the U.S. commercial and naval fleets over the next ten years compared with status quo projections. The first analysis assumes that both commercial and naval vessels are built in the U.S. The second analysis compares the impact of domestic versus foreign construction of the vessels required to permit the expansion of the U.S. flag commercial fleet.

EXPANDED NAVY AND COMMERCIAL PROGRAM

The forecasts of the expanded U.S. operating fleet employed in this study follow from projections developed by Temple, Barker and Sloane, Inc. for the Commercial Shipbuilding Committee of the Shipbuilder's Council in the report "Analysis of Future U.S. Merchant Fleet Shipbuilding Requirements 1980–1990" dated March 19, 1979. These projections are based upon the attainment of specific bilateral trade shares. The base case used in this analysis is intended to represent the ship construction activity which can be expected to occur under current conditions and in the absence of any changes to current maritime policy. The limited bilateral scenario compared to the base case translates into approximately 300 additional U.S. built, U.S. flag ships over the 1980–1990 period. The construction and operation of these ships results in first round changes in imports, subsidies and U.S. investment.

The base case naval scenario is the building plan which was contained in the April–May versions of the administration's FY 1980 budget request. The high level building plan is predicated on a program developed by the Shipbuilder's Council. Under this plan 29 additional naval ships would be constructed over the initial 5 year period.

The fleet assumptions provide the basis for the changes in military expenditure and private investment employed in the macroeconomic analysis. It is also assumed that current subsidy programs, specifically CDS and ODS, are extended to the expanded commercial fleet. The larger U.S. flag fleet also results in a first round reduction in the balance of payments outflows for foreign shipping services. The impact of this scenario on the economy was calculated for two alternative sets of government spending assumptions. In Cast I first round government expenditure increases due to military and subsidy outlays. In Cast II first round expenditures are held constant by reductions in other spending categories. Both scenarios have been compared to DRI's March 1979 long term forecast, which is the baseline economic forecast for the 1980–1990 period.*

MACROECONOMIC RESULTS

The aggregate economic impacts of the expanded shipbuilding and operating scenario with no government spending offset are summarized below. Results for GNP, investment, inflation, and balance of payments and the Federal deficit are included. These impacts are discussed in terms of deviations from the baseline forecast.

The expanded shipbuilding program increases the pace of economic activity over the baseline throughout the period. The cumulative increase in GNP expressed in 1978 dollars is $64.5 billion. The peak yearly impact of $10 billion occurs in 1985.

Investment in the shipping industry increases output levels and required investment in supplying industries. On the national level this translates into $15 billion additional investment in producers' durable equipment.

The alternative scenario has little impact on the rate of inflation. The implicit price deflator for GNP averages .1 percent higher with this program.

Non-merchandise imports are reduced directly by the substitution of domestic for foreign shipping services. By 1990 non-merchandise imports are 1.7 percent below the baseline and net exports in current dollars are almost $3 billion above the base.

In addition to the direct increase in military spending and maritime subsidies there is an induced increase in both tax receipts and expenditures, however expenditures rise more. The nominal deficit is $35 million higher in 1985. The gap increases to $1 billion in 1987 and $4 billion by 1990.

Case II with spending offset is a less expansionary scenario than Case I in which government spending increases in the first round. GNP, inflation, and investment change in the same direction but the magnitudes are smaller. The net export position improves more. The impact on the deficit differs significantly from Case I. Although Federal government expenditures are unchanged in the first round both tax receipts and expenditures rise subsequently. The higher tax receipts outweigh added expenditure resulting in a lower deficit. In 1990 the reduction is $3.7 billion.

INTERINDUSTRY RESULTS

The economic impact of the expanded shipbuilding program on specific industries is given by the input-output analysis. The following industries are among those most directly affected by the combined commercial and naval program: Fabricated Plate, Steel Mills, Turbines and Engines, Ordnance, Maintenance and Equipment and Valves.

In the case of the expanded program with no government spending offset output increases by the following amounts in billions of 1972 dollars.

Steel mills	$5.1
Fabricated plate	2.2
Turbines and engines	1.5
Ordnance	.9
Telecommunications equipment	.3
Maintenance and equipment	1.9
Valves	1.4

The corresponding increase in the number of man years of employment over the base is:

Steel mills	90,800
Fabricated plate	66,000
Turbines and engines	35,500
Ordnance	39,800
Telecommunications equipment	9,900
Maintenance and equipment	69,000
Valves	51,700

REGIONAL RESULTS

Total sectoral outputs and employment were distributed to the various states using information on the geographical location of suppliers of major inputs purchased by shipbuilders. An examination of the regional changes in output and employment indicates that the maritime industry impacts certain regions disproportionately.

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* This is a stable simulation which incorporates a return to a period of full employment and an absence of external shocks after adjustment to short term events. A recession begins in late 1979 brought on by high interest rates, inflation and other imbalances in the economy. Economic growth resumes in 1980 but inflation continues to be a problem. Renewed monetary restraint slows down the pace of economic activity from mid 1981 through 1982. From 1982 through 1990 there are no external shocks to the economy such as the oil and food price increases of the 1970's. Economic growth resumes, financial and inflationary pressure ease. The economy settles down on a smooth high employment growth path for the remainder of the forecast period.

California has the largest increase in output and employment under the current scenario. California's output rises $16 billion in 1972 dollars. An additional 528,600 man years of employment are created.

New York benefits from a $12.5 billion increment in output and 347,000 man years of employment.

A number of states supplying inputs to shipyards are included among the 10 most affected states. Illinois, Ohio, Michigan, and New Jersey are among these.

COMPARISON OF THE LIMITED BILATERAL SCENARIO WITH AND WITHOUT CDS PROGRAM

The methodology described above was employed to analyze the impact of a more specific proposal, the elimination of the CDS program. The results presented below compare two scenarios. In both cases the expanded naval and commercial shipbuilding program is postulated. In the first case the ships are constructed domestically. In the first round the increases in military spending and subsidies are completely offset by reductions in other areas so that the level of government expenditure is unaltered. The reductions were made equally to transfers and purchases of goods and services.

In the limited bilateral scenario with no CDS the level of commercial construction binefalls due to the elimination of CDS. It is assumed that all ships for the U.S. foreign trade included in the TBS scenario are built abroad. U.S. imports are increased accordingly. Subsidy payments are reduced by the full value of CDS payments. The savings are reallocated as in case one so there is no change in the Federal budget in the first round.

MACROECONOMIC RESULTS

The results presented show the impact of constructing the 300 commercial ships abroad instead of in the U.S.:

Lower domestic investment and the higher import bill combine to lower the overall level of economic activity. The cumulative reduction in GNP in 1978 dollars over the 1980-1990 period is $15.3 billion.

There is little difference in the inflation rates in the two scenarios. Elimination of the CDS program reduces the annual rate of inflation by an average of less than .1%.

The substitution of foreign built ships for domestic construction reduces output levels and required investment in related industries. On the national level this translates into a reduction in fixed investment of $19.8 billion (78 dollars) over the period.

Capital goods imports increase in the CDS elimination case. This causes a deterioration in the U.S. balance of payments and pressure on the exchange rate. Net exports (exports-imports) are reduced over the entire period.

The elimination of CDS reduces the maritime subsidy outlays of the Federal government. Taken in isolation this has the effect of reducing the Federal deficit. When the direct and indirect effects of this proposal on the economy are taken into account the deficit is slightly higher in the case of CDS elimination. Even though outlays fall tax receipts fall more.

INTERINDUSTRY RESULTS

The following industries are among those most affected: Steel Mills, Turbines and Engines, Valves, Fabricated Plate, Joiner and Pumps.

The figures presented below in column one represent reductions in outputs in billions of 1972 dollars. Corresponding reductions in employment are in column two.

Steel Mills	$3.9	68,800
Turbines and Engines	1.6	36,000
Valves	1.1	39,200
Fabricated Plate	.9	27,500
Joiner	.3	9,800
Pumps	.7	22,000●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, due to a longstanding commitment out of the city yesterday, I was unable to be in the House Chamber during debate and was not present for four recorded votes. I would like to at this time indicate my position on each of those votes:

Rollcall No. 540, an amendment to the Domestic Volunteer Service Act amendments giving local governments authority to approve or terminate VISTA projects within their jurisdictions: I would have voted "aye."

Rollcall No. 541, final passage of H.R. 2859, Domestic Volunteer Service Act amendments: I would have voted "aye."

Rollcall No. 543, an amendment to the LEAA authorization which sought to permit formula grant funds to purchase equipment and hardware not in excess of $1,000: I would have voted "aye."

Rollcall No. 545, an amendment to the LEAA authorization to strike language creating the Office of Justice Assistance, Research and Statistics: I would have voted "nay." ●

A SOUND STRATEGY FOR CONTROLLING INFLATION AND RECESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I was heartened by the Federal Reserve's decision to seek a more effective strategy for bringing inflation under control. The Federal Reserve now plans to put more emphasis on regulating bank reserves, and thus the money supply itself, and less emphasis on the Federal funds rate in determining its open-market policies.

If the Federal Reserve will stick to this new course, consistently and confidently, it can go far toward reducing inflation, guarding against recession, and restoring the health of our economy. In fact, we may one day see this change of direction as one of the major turning points in our country's economic history.

The evidence is overwhelming that money growth must be reduced carefully and gradually to about one-third the recent rate if we are to reduce the inflation rate to 3 percent, while averting recession, by 1983. I have introduced a bill, H.R. 5476, for which I invite cosponsors, that would require the Fed to bring down money growth by about 1 percent a year to achieve this goal. I am delighted, however, that the Fed is now moving in this direction on its own, and I hope that it will make a public commitment soon to a long-term monetary growth plan to demonstrate its determination to stay on a consistent course.

In addition to dampening inflation, consistent control of monetary growth will provide the economic stability needed to lower interest rates, to foster healthy growth, to promote full employment, and to restore the value of the dollar abroad.

Mr. Speaker, the Federal Reserve's new policy, announced October 6, has the support of our very capable colleague, the gentleman from Maryland (Mr. MITCHELL). As chairman of the Banking Committee's Subcommittee on Domestic Monetary Policy, Mr. MITCHELL has long advocated a more consistent and moderate monetary policy.

Mr. Speaker, I ask unanimous consent to insert in the RECORD a copy of a letter on this subject by Mr. MITCHELL that was published in today's Wall Street Journal. I urge my colleagues to read this excellent and informative statement by Chairman MITCHELL.

A FED CRITIC TURNS SUPPORTIVE

In your editorial on "Gold and Money" (September 26) you raised the specter of "the pressure of politicians" preventing action by the Federal Reserve from getting "actual control over monetary expansion" and thereby "the inflation that increasingly threatens our economy and our society."

For years it has been difficult to support the Federal Reserve because its modus operandi assured that its impact on the economy would be procyclical, reinforcing in turn both inflation and recession. Now I can be supportive, and I am confident that many of my House colleagues also will be. Specifically, I support and applaud the decision of the Federal Reserve's Open Market Committee to concentrate on hitting its monetary growth targets and, as a corollary, to forego trying to keep the Federal funds rate, i.e., the overnight interbank loan rate, in some narrow pre-set target range.

As Chairman of the House Subcommittee on Domestic Monetary Policy, I often have been critical of the Federal Reserve's now abandoned policy of providing reserves via open market purchases when banks seeking reserves bid the funds rate above the target range, and withdrawing reserves via open market sales when the funds rate was bid down below the target range by banks with excess reserves. In the last three years that policy caused monetary growth at a rate in excess of 8 percent for M1 between September 1975 and September 1978, which accounts for the major part of the latest wave of inflation, then courted recession by allowing M1 growth (adjusted for ATS accounts) to plummet down to 4 percent from October 1978 to May 1979, and recently, from June 1979 until now, provided for renewed inflationary growth in M1, this time at 11 percent.

The FOMC's decision to change its way of operating promises to end roller-coaster monetary growth. Under the new way, it will be possible to reduce gradually the growths of the monetary aggregates until they are again "commensurate with the economy's long run potential to increase production," as stipulated by the Hawkins-Humphrey Act. This is absolutely essential, although not sufficient by itself, for achieving the 1963 goals of 4 percent unemployment and 3 percent inflation. (Fiscal initiatives, including a job voucher program for the long term unemployed and minority youth, also are needed.) The choice in monetary policy is not between fighting inflation and fighting unemployment. It is between actions that whipsaw money growth back and forth between too fast and too slow and cause both persistent inflation and periodic recessions, and steady moderate monetary growth that will promote full employment together with price level stability and the strengthening of the dollar on foreign exchange markets.

Chairman Volcker and his Federal Reserve colleagues should be congratulated for recognizing that trying to keep the Federal funds rate on target whipsaws money growth. Controlling money growth directly may prove somewhat difficult at first. More important no one should think the Federal Reserve's new way is a short cut to economic stability. To avoid recession, monetary growth can be reduced only gradually, at most one percentage point a year. It will take four or five years to reduce it to a noninflationary rate, and because of the lag between changes in money growth and changes in the inflation rate it will be a year or two before the underlying inflation rate begins to subside and more than five years before inflation is tamed. During this time, we must be patient and supportive, and the Federal Reserve must be careful to stay on course.

Parren J. Mitchell,
Chairman, Subcommittee on Domestic Monetary Policy, U.S. House of Representatives. ●

CHRYSLER FINANCIAL ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Blanchard) is recognized for 5 minutes.

● Mr. BLANCHARD. Mr. Speaker, for several months now those of us who are deeply concerned about the plight of the Chrysler Corp. and its tens of thousands of workers have been eagerly awaiting an agreement between Chrysler and the Treasury Department over how best to proceed on this most important issue. Numerous communities are dependent on the revenues derived from Chrysler commerce and employment, and when the countless number of suppliers and other business entities that relate to Chrysler are included, the economic impact of the Chrysler Corp. is nationwide.

For that reason I am deeply concerned that time is running out on our ability here in Congress to help Chrysler this year. The session is drawing near to an end and an agreement between Chrysler and the administration has yet to be worked out. I believe our Banking Committee can intelligently handle the matter given the proper amount of time. Therefore, in the interest of time and sound legislation I have filed with the Subcommittee on Economic Stabilization of the full Banking Committee proposed legislation which would authorize the Federal Government to issue loan guarantees or loans to the Chrysler Corp. The legislation is broadly drafted like previous legislative precedents.

I also hope and expect that this legislation can be reconciled with whatever Chrysler and Treasury agree upon and even the dollar figure is left open for determination by hearings and negotiations.

The chairman and ranking member of the Economic Stabilization Subcommittee have graciously agreed to hold hearings on this legislation and on the issue generally. These hearings will commence tentatively on October 17. It is my hope that the committee can intelligently proceed on this matter in a timely fashion. I also believe that it will be clearly demonstrated that it is in the public interest to enact assistance to the Chrysler Corp. A summary of the proposed legislation that I intend to introduce with cosponsors next week follows:

H.R. —

Chrysler Corporation Emergency Credit Assistance Act

Purpose: To provide a program of limited credit assistance to Chrysler to facilitate its return to financial health, thereby helping to maintain a strong and competitive automotive industry in the United States.

Board: Program to be administered by a three-member Emergency Credit Assistance Board, composed of Secretary of Treasury as Chairman, and Secretaries of Labor and Transportation.

Authority: Board authorized to guarantee loans to corporation and to make direct loans.

LOAN GUARANTEES

Conditions: Board must find that corporation has actual need for loans, that failure to obtain would adversely affect economy or employment in U.S. or any region of U.S.; that credit is not otherwise available; that there is reasonable assurance of repayment; and that the lender would not make loan without U.S. guarantee.

Maturity and interest rate: For loans of no more than 5 years maturity, with authority to renew for 5 additional years. Interest rate to be determined by Board.

Guarantee fee: Must be paid to U.S., amount determined by the Board.

Other requirements:

(1) Loan guaranteed must be adequately collateralized;

(2) While guarantee in effect corporation may not pay dividends on common stock or repay other loans to guaranteed lenders, with authority for Board to waive these two prohibitions;

(3) Board required to order management and fiscal changes and plans if it finds corporation's failure to obtain private credit is a result of failure to exercise reasonable business prudence;

(4) Advance audited financial statements required, with complete access to corporation's books and records required before and during period of guarantees;

(5) Corporation must specify how and when loans will be used, and that use will be consistent with any management or fiscal plan.

Protection of U.S. interest: U.S. interest in collateral must take priority over interest of lender

LOANS

Board may make loans to corporation, with authority to set limitations or conditions, which may be same as those for loan guarantees.

Dollar amount: Maximum obligation of U.S. is $-----.

Expiration: Authority to make loans or guarantees expires December 31, 1982.

Reports: Board must make annual reports to Congress, initial report 6 months after enactment.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Bevill (at the request of Mr. Wright), for today, on account of official business.

Mr. Bonior of Michigan (at the request of Mr. Wright), for this week, on account of medical reasons.

Mr. Frost (at the request of Mr. Wright), after 2 p.m. today, on account of paternal reasons.

Mr. Zeferetti (on request of Mr. Wright), for October 11 and 12, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Loeffler) to revise and extend their remarks and include extraneous material:)

Mr. Grassley, for 15 minutes, today.

Mr. Rhodes, for 60 minutes, October 16, 1979.

Mr. Miller of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. Stack) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. Downey, for 5 minutes, today.

Mrs. Boggs, for 5 minutes, today.

Mr. Glickman, for 5 minutes, today.

Mr. Neal, for 5 minutes, today.

Mr. Blanchard, for 5 minutes, today.

Mr. Nolan, for 5 minutes, on October 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Dornan, to revise and extend his remarks prior to the vote on the amendment of Mrs. Boggs in the Committee of the Whole today.

Mr. Ertel, at the conclusion of the general debate on the bill, H.R. 3000.

Mr. Dornan, to revise and extend his remarks at the end of the debate on the Moffett amendment.

Mr. Biaggi, to revise and extend his remarks at the end of the debate on the Moffett amendment and before the vote.

(The following Members (at the request of Mr. Loeffler) and to include extraneous matter:)

Mr. Gilman in two instances.

Mr. Coughlin.

Mr. Paul in two instances.

Mr. Derwinski.

Mr. Petri.

Mr. Hollenbeck.

Mr. Bethune.

Mr. Wydler.

Mr. Shumway.

Mr. Goodling.

Mr. Bob Wilson.

Mr. Abdnor in two instances.

(The following Members (at the re-

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quest of Mr. STACK) and to include extraneous material:)

Mr. SOLARZ in three instances.
Mr. MURPHY of New York.
Mr. STARK in two instances.
Mr. GUARINI in five instances.
Ms. OAKAR.
Mr. GINN.
Mr. LLOYD.
Mr. FARY.
Mrs. SCHROEDER.
Mr. WOLFF in two instances.
Mr. WAXMAN.
Mr. RODINO in two instances.
Mr. HALL of Ohio.
Mr. SKELTON in two instances.
Mr. MAVROULES.
Mr. MAGUIRE.
Mr. McDONALD.
Mr. MOFFETT.
Mr. JOHN L. BURTON.
Mr. VENTO in two instances.
Mr. BENJAMIN.
Mr. MAZZOLI.
Mr. FAUNTROY.
Mr. LAFALCE.
Mr. DRINAN.
Mr. WEAVER.
Mr. CHAPPELL.
Mr. VANIK.
Mr. GRAY in two instances.
Mr. NEAL.
Mr. LUKEN.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 74. An act for the relief of Puangpaka Vertrees and Puangtip Vertrees; to the Committee on the Judiciary;

S 122. An act for the relief of Clarita Valdez Aragones; to the Committee on the Judiciary;

S. 132. An act for the relief of Dirk Vierkant; to the Committee on the Judiciary;

S. 173. An act for the relief of Duk Chan Byun, his wife Yung Ja Byun, and his children Hye Ja Byun, Hye Sun Byun, Hye Ryung Byun, and Yung Eun Byun; to the Committee on the Judiciary;

S. 274. An act for the relief of Sang Sun Russo; to the Committee on the Judiciary;

S. 1578. An act for the relief of Dr. Halla Brown; to the Committee on the Judiciary; and

S. 1781. An act to amend section 5 of the Department of Transportation Act relating to rail service assistance; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 898. An act for the relief of Rodney L. Herold and others;

H.R. 946. An act for the relief of Maria Estela Sims;

H.R. 1153. An act for the relief of Nyoman Rahmawati;

H.R 1163. An act for the relief of Gladys Venicia Cruz-Sanchez;

H.R. 1301. An act to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes;

H.R. 1753. An act for the relief Sergio and Javier Arredondo;

H.R. 2098. An act for the relief of Antonio Rivera Aristizabal;

H.R. 3142. An act for the relief of Michael Carl Brown; and

H.R. 3218. An act for the relief of Rebecca Sevilla DeJesus.

ADJOURNMENT

Mr. FAUNTROY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 24 minutes p.m.), the House adjourned until tomorrow, Friday, October 12, 1979, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2610. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of October 1, 1979, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 96–206); to the Committee on Appropriations and ordered to be printed.

2611. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations to govern career education incentive programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2612. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing the evaluation of programs authorized by title I of the Elementary and Secondary Education Act of 1965, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2613. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Thomas O. Enders, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2614. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Barbara W. Newell, and by members of her family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2615. A letter from the Secretary of the Interior, opposing Senate-passed amendments to the Surface Mining Control and Reclamation Act of 1977; to the Committee on Interior and Insular Affairs.

2616. A letter from the Secretary of Energy, opposing legislative proposals to reimpose price controls on crude oil and middle distillates; to the Committee on Interstate and Foreign Commerce.

2617. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting regulations exempting industrial boiler fuel facilities from incremental pricing above the price of No. 6 fuel oil, pursuant to section 206(d)(2) of the Natural Gas Policy Act of 1978 (Public Law 95–621); to the Committee on Interstate and Foreign Commerce.

2618. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

2619. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report estimating the cost of compliance with the regulations implementing the Clean Air Act and the Federal Water Pollution Control Act, pursuant to section 312(a) and 516(b) of the respective acts; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER: Committee on Rules. House Resolution 444. Resolution waiving certain points of order against the conference report on House Joint Resolution 412. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes (Rept. No. 96–509). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 4445. A bill to amend the Energy Policy and Conservation Act to authorize certain appropriations for energy conservation programs for schools and hospitals, and for other purposes; with amendments (Rept. No. 96–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 5506. A bill to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program (Rept. No. 96–511). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Tennessee (for himself and Mr. DUNCAN of Tennessee):

H.R. 5533. A bill to deny unemployment compensation benefits to certain servicemen who were released from duty for the good of the service; to the Committee on Ways and Means.

By Mr. BETHUNE (for himself and Mrs. FENWICK):

H.R. 5534. A bill to fix the rate of pay of Members of the Congress at the rate paid in 1978, to provide that the annual rates of pay for Members of the Congress shall be adjusted only at the beginning of the Congress following the Congress during which the adjustments were approved and only if the Congress provided for a balanced budget for the preceding fiscal year, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. COELHO:

H.R. 5535. A bill to amend title 10, United States Code, to provide for the payment by the Department of Defense of certain expenses incident to the death of retired members of the Armed Forces who were patients in a U.S. hospital at the time of their death; to the Committee on Armed Services.

By Mr. DELLUMS:

H.R. 5536. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia; to the Committee on the District of Columbia.

H.R. 5537. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of

Columbia; to the Committee on the District of Columbia.

By Mr. DELLUMS (by request):

H.R. 5538. A bill to authorize the set off of annuity payments or refunds payable from the civil service retirement fund to former employees of the government of the District of Columbia in order to liquidate debts owed to the government of the District of Columbia; to the Committee on Post Office and Civil Service.

By Mr. ERTEL:

H.R. 5539. A bill to amend the Internal Revenue Code of 1954 to provide that wood or coal burning stoves and furnaces will be eligible for the residential energy credit; to the Committee on Ways and Means.

By Mr. EVANS of Georgia:

H.R. 5540. A bill to amend the Federal Food, Drug, and Cosmetic Act to require patient package labeling for drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. LLOYD:

H.R. 5541. A bill to designate certain lands in the Angeles and San Bernardino National Forests as the "Sheep Mountain Wilderness"; to the Committee on Interior and Insular Affairs.

By Mr. MITCHELL of New York:

H.R. 5542. A bill to amend the Federal Civil Defense Act of 1950 to provide for an enhanced civil defense program for fiscal years 1980 through 1986, and for other purposes; to the Committee on Armed Services.

By Mr. SENSENBRENNER (for himself and Mr. Devine):

H.R. 5543. A bill to amend the Federal Trade Commission Act to restrict the authority of the Federal Trade Commission to gather and compile certain information under such act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WAXMAN:

H.R. 5544. A bill to amend title XIX of the Social Security Act to repeal section 1902 (f) and to provide for extended medicaid coverage of the severely medically impaired; to the Committee on Interstate and Foreign Commerce.

By Mr. ABDNOR:

H.R. 5545. A bill to establish a procedure for acquisition and installation of works of art in public buildings; to the Committee on Public Works and Transportation.

By Mr. ASHLEY:

H.R. 5546. A bill to amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes; to the Committee on Agriculture.

By Mrs. BYRON:

H.R. 5547. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

By Mr. DODD:

H.R. 5548. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ERDAHL:

H.R. 5549. A bill to amend the Internal Revenue Code of 1954 to allow the tax-free rollover into an individual retirement account or annuity of the proceeds from the redemption of bonds acquired under a qualified bond purchase plan; to the Committee on Ways and Means.

By Mr. JOHNSON of Colorado:

H.R. 5550. A bill to convey certain lands in Dinosaur National Monument, Colo., to the heirs of Charles T. Mantle, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. NEAL:

H.R. 5551. A bill to provide for the establishment of smoke detector placement demonstration projects, and for other purposes; to the Committee on Science and Technology.

By Mr. SIMON:

H.R. 5552. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ADDABBO:

H.J. Res. 416. Joint resolution to authorize and request the President to issue a proclamation designating March 11, 1980, as "National Postal Workers' Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. TRAXLER:

H.J. Res. 417. Joint resolution designating July 1980 as "National Porcelain Art Month"; to the Committee on Post Office and Civil Service.

By Mr. HAMILTON:

H. Con. Res. 194. Concurrent resolution honoring the Fourteenth Centennial of Islam; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MATTOX:

H.R. 5553. A bill for the relief of the Southern Methodist University School of Law Leasing Trust, and its successor trust, the Legal Educational Trust of Dallas; to the Committee on the Judiciary.

By Mr. MURPHY of Pennsylvania:

H.R. 5554. A bill for the relief of Florence B. Altman; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

313. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to designating the week of February 3-8, 1980, as "National Scleroderma Week," which was referred to the Committee on Post Office and Civil Service.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2690: Mr. Treen.

H.R. 3107: Mr. Treen.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1429: Mr. Hopkins.

H.R. 1815: Mr. Bereuter.

H.R. 3558: Mr. Nelson.

H.R. 4265: Mr. Early.

H.R. 4598: Mr. Brown of Ohio, Mr. Wolff, and Mr. Wirth.

H.R. 4638: Mr. Bob Wilson, Mr. Logomarsino, Mr. Corman, Mr. Van Deerlin, Mr. Fazio, and Mr. Badham.

H.R. 4646: Mr. Zablocki, Mr. Murphy of New York, Mr. Deckard, Mr. Natcher, Mr. Young of Missouri, Mr. Flood, and Mr. D'Amours.

H.R. 4660: Mr. Coleman, Mr. Evans of Delaware, Mr. Gramm, Mr. Kramer, Mr. Lewis, Mr. McClory, Mr. Roybal, Mr. Synar, Mr. Vander Jagt, Mr. White, and Mr. Zablocki.

H.R. 4733: Mr. Beard of Rhode Island, Mr. D'Amours, Mr. Nolan, and Mrs. Spellman.

H.R. 4782: Mr. Anthony, Mr. Cavanaugh, and Mr. Hinson.

H.R. 4796: Mrs. Bouquard, Mr. Cheney, Mr. Coughlin, and Mr. Frost.

H.R. 4897: Mr. Patterson.

H.R. 5033: Mr. Archer, Mr. Bowen, Mr. Brodhead, Mrs. Chisholm, Mr. Cotter, Mr. Dellums, Mr. Dixon, Mr. Dornan, Mr. Drinan, Mr. Edwards of California, Mr. Gilman, Mr. Guarini, Mr. Hance, Mr. Markey, Mr. Matsui, Mr. Minish, Mrs. Schroeder, Mr. Stark, and Mr. Wolpe.

H.R. 5071: Mr. Mottl, Mr. Carney, and Mr. Downey.

H.R. 5184: Mrs. Bouquard, Mr. Cheney, Mr. Coughlin, and Mr. Frost.

H.R. 5371: Mr. McCloskey and Mr. Daschle.

H.R. 5378: Mr. Derwinski and Mr. Whitehurst.

H.R. 5402: Mr. Leach of Louisiana, Mr. Sebelius, Mr. Lagomarsino, Mr. Charles Wilson of Texas, Mr. Andrews of North Dakota, Mr. Coelho, Mr. Dougherty, and Mr. Kemp.

H.R. 5496: Mr. Phillip Burton, Mr. McCloskey, Mr. Downey, Ms. Mikulski, Mr. Gray, Mr. Beilenson, and Mrs. Spellman.

H.R. 5499: Mr. Fithian, Mr. Charles Wilson of Texas, Mr. Gonzalez, Mr. Buchanan, Mr. AuCoin, Mr. Drinan, Mr. Johnson of Colorado, and Mr. Hyde.

H.R. 5519: Mr. Studds.

H.J. Res. 389: Mr. Addabbo, Mr. Rahall, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Boland, Mr. Brademas, Mr. Carney, Mr. Carr, Mr. Cheney, Mr. Clinger, Mr. D'Amours, Mr. Derrick, Mr. Dodd, Mr. Downey, Mr. Duncan of Oregon, Mr. Erdahl, Mr. Fascell, Mr. Florio, Mr. Frenzel, Mr. Green, Mr. Guarini, Mr. Guyer, Mrs. Heckler, Mr. Hughes, Mr. Jeffords, Mr. Kastenmeier, Mr. Kildee, Mr. Lagomarsino, Mr. Lungren, Mr. Marriott, Mr. Matsui, Mr. Mazzoli, Ms. Mikulski, Mr. Miller of California, Mr. Moakley, Mr. Murphy of New York, Mr. Murphy of Illinois, Ms. Oakar, Mr. Pashayan, Mr. Patten, Mr. Pepper, Mr. Pickle, Mr. Preyer, Mr. Quayle, Mr. Royer, Mr. Sabo, Mr. Scheuer, Mr. Solomon, Mr. Vento, Mr. Walgren, Mr. Winn, Mr. Wirth, Mr. Wolff, Mr. Wolpe, Mr. Won Pat, Mr. Dougherty, Mr. Fazio, Mr. Frost, Mr. Giaimo, Mr. Lloyd, Mr. McDade, Mr. Murphy of Pennsylvania, Mr. Rangel, Mr. Weiss, Mr. Whittaker, Mr. Whitehurst, and Mr. Yatron.

H. Con. Res. 50: Mr. Fish.

H. Con. Res. 59: Mr. Howard.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3000

By Mr. COURTER:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 40, add at the end of line 23 the following new subsection (c): No funds authorized to be appropriated pursuant to this Act may be used to promulgate, administer or enforce any regulation or to issue or enforce any order which would continue any mandatory allocation or price control of motor gasoline.

By Mr. PEASE:

(To the amendment in the nature of a substitute.)

—Page 57, lines 19 and 20, strike out "$25,000,000 for energy extension service functions" and insert in lieu thereof "$35,000,000 for energy extension service functions".

Page 58, after line 19, insert the following new section:

ENERGY EXTENSION SERVICE CHALLENGE GRANT PROGRAM

Sec. 602. Section 512(c) of the National Energy Extension Service Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) In addition to the funds allocated to States under the preceding provisions of this title from sums appropriated therefor, the Director shall make grants for fiscal year 1980, in a total amount not less than $10,000,000, for the implementation of energy extension service activities in States which have elected to meet the challenge of helping to finance energy extension service activities by including provision in their plans developed pursuant to sections 505 and 506 for the commitment of funds to meet such challenge (by units of State or local government or both) in a manner which will effectively contribute to the achievement of the purposes of this Act. Grants under this paragraph shall be available to States on a first-come first-served basis reflecting the degree of promptness with which such plans are submitted to the Director and are approved by him as meeting the requirements of this paragraph; and the amount of the grant to any State with a plan so approved shall be equal to the lesser of $1,000,000 or twice the amount committed to meet such challenge in accordance with the State's plan by units of the State government and of local governments within the State.".

EXTENSIONS OF REMARKS

ALEXANDRA TOLSTOY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. RODINO. Mr. Speaker, Alexandra Tolstoy, the last of the 13 children of the world renowned author and philosopher, Leo Tolstoy, died on September 26, 1979, at the age of 95 at the Tolstoy Foundation in Valley Cottage, N.Y., where she had aided in her later years more than 50,000 refugees.

As Joseph Stalin's regime seized the Tolstoy estate, Yasnaya Polyana, in 1929, Miss Tolstoy fled to the Far East and several years later to San Francisco and Chicago where she was befriended by Jane Addams of Hull House.

In 1939, Miss Tolstoy and her friend, Tatiana Schaufuss, together with other prominent Russian emigres and Americans active in the Russian Famine Relief during the revolution, founded the Tolstoy Foundation. Its purpose was to assist victims of oppression by rehabilitation within the free world; by immigration to countries offering asylum; and by integration and assimilation in communities, though always preserving the values inherent in their ethnic traditions.

The foundation, with headquarters in New York City, has offices in 14 countries in Europe, the Middle East, and Latin America.

In 1941, after receiving a gift of 74 acres of land in Rockland County, N.Y., the Tolstoy Foundation Center was founded. Since that time the center has grown to include a chapel, a Russian Orthodox Church, a home for the aged, and a nursing home with a capacity of 96 beds.

It was in this atmosphere of tranquility and humanitarianism that Sasha, as she was known to her intimates, lived her last years among the refugees in the simplicity of farm life reminiscent of her early days.

The Tolstoy Foundation—specifically founded to aid Russian immigrants—changed its charter after the 1956 Hungarian uprising to help resettle people from around the world. Since then, the foundation has assisted some 3,500 refugees annually, including Czechs, Tibetans, Himalayans, and Armenians.

I have come to know many dedicated people in the numerous voluntary agencies engaged in assisting the refugees of the world. Alexandra Tolstoy was indeed one of the most extraordinary who lived her life and gave her strength to the task of helping the displaced and dispossessed to find new hope and life.

We mourn her passing and sympathize with her many friends around the world. We can all take heart that her testimonial will be reflected in the lives of the many people who were aided by the Tolstoy Foundation.●

THE BUDGET OF HOPE AND THE U.S. ECONOMY

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. BETHUNE. Mr. Speaker, the Nation's productivity charts are being watched closely these days as we search for new ways to combat inflation, which remains our No. 1 problem. Productivity in the private sector has been on the rise since the Second World War and during this period the United States was a world leader economically as well as militarily. America had the will to work hard and to produce. There were jobs and business was booming.

But then, the rate of increase began a slow, but steady decline, so that by the late 1970's, productivity was growing barely 1 percent a year. This year, the productivity growth curve turned downward, which has only added to our inflationary problem.

What has caused this decline in the Nation's production of goods and services? The Federal Government, I am afraid is to blame. The heavy hand of Government has destroyed incentive and stifled the work ethic in this great country. Overregulation has added to the cost of doing business and the people in my State have complained that "the difference between working and not working, is not worth working for." Our economic policies have encouraged consumption rather than saving and investment. In effect, we need to get big Government off the backs of the American people.

Some Members of Congress have been deeply concerned about this decline in productivity. Those on my side of the aisle pushed hard for our "Budget of Hope," offered as an alternative to the budget which was adopted by this body last month. The "Budget of Hope" would have gone a long way in fighting inflation because it would have helped provide that much needed "incentive" to get the country going again. It would have encouraged people to save and to invest, to expand their businesses, to provide more jobs, and consequently, broaden the tax base.

The "Budget of Hope" would have slowed the growth rate of Government spending, provided a $20 billion tax cut, reduced the Federal deficit, and encouraged growth in productivity in the American private enterprise system.

This is in sharp contrast with the "Budget of Despair" promoted by the leadership. This "Budget of Despair" is simply more of the same—business as usual in Congress. This budget, which was sought so vigorously by the big spenders is marked by continuing repressive overregulation, rampant inflation, high taxation, and no Government spending restraints.

Specifically, the Democratic sponsored budget calls for a 1-year increase in budget authority of $77.6 billion—a 13.9 percent growth over 1979. Over the next 5 years, the majority-sponsored budget resolution calls for Federal spending to grow to more than $761 billion.

There is no tax relief here for our already overburdened citizens. In fact, the "Budget of Despair" envisions yet another round of increasing taxes. Democratic projections call for increasing the tax take from $519 billion in 1980, to $910 billion by 1984. This represents a 5-year increase of 75 percent.

Is this what the American people want? Our alternative would have provided for a tax cut in calendar year 1980 to help offset the rise in the tax burden caused by inflation and social security tax increases. A series of tax cuts over a 5-year period was designed to also provide $70 billion for increased savings, productivity, and investment.

A $20 billion tax cut would amount to a net increase in take-home pay of $500 a year for the median-income family of four. That same family would have to pay $379 a year more under the Democratic budget. I do not see how that is helping the American people deal with inflation. In fact, after 9 months, this Congress has done nothing to resolve this critical problem. It is no wonder that the public has such a low regard for Congress.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

NARRATIVE SUMMARY ON OPERATION REDOUBT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. PETRI. Mr. Speaker, last summer, at Volk Field Air National Guard Base, Wis., I was pleased to observe portions of the largest Air Force Reserve training exercise ever held. If the total force concept is to make sense, it is vitally important to all of us that our Reserve forces be adequately trained and ready to go in any emergency. This exercise, called Operation Redoubt, was designed to test and demonstrate such readiness. By all accounts it succeeded admirably. I wish to commend the Air Force Reserves on a job well done and urge continued training efforts of this kind in the future. I also wish to insert in the RECORD a summary of Operation Redoubt supplied to me by Maj. Gen. Richard Bodycombe, Chief of Air Force Reserve:

NARRATIVE SUMMARY ON OPERATION REDOUBT

The largest Air Force Reserve (AFRES) exercise ever conducted was completed on June 30, 1979 with the return of the 910th, 926th and 508th Tactical Fighter Groups to their home bases at Youngstown, Ohio; New Orleans Naval Air Station, Louisiana; and Hill AFB, Utah, respectively.

Known as Operation Redoubt Phase III, the exercise was directed from AFRES HQ at Robins AFB Georgia through the three Reserve Numbered Air Forces: 4th Air Force (R), McClellan AFB, California; 10th Air Force (R), Bergstrom AFB, Texas; and 14th Air Force (R), Dobbins AFB, Georgia.

Phase I of the exercise took place in 1977 and was a series of one day tests of notification and recall procedures of all Air Force Reserve units. In addition, mobilization procedures were tested at three locations.

Phase II of Operation Redoubt occurred last year and tested all aspects of the mobilization and deployment process. Units at 31 locations participated with 20,000 personnel being recalled. Five units practiced mobilizing and deploying.

Since Operation Redoubt was designed as an expanding series of exercises, each building on the lessons learned, Phase III conducted in June of 1979 was the most extensive to date.

Planning for Phase III started early and involved Headquarters Military Airlift Command and Tactical Air Command as well as Headquarters Air Force, Air Force Reserve and US Army Reserve. Air Force Reserve Numbered Air Force's 4th, 10th, and 14th, became the actual command links for operations. They provided the continuity of command from notification through redeployment. Also, 10th Air Force at Bergstrom, which is responsible for coordinating fighter and tanker operations, directed extensive employment activities at a forward operating location.

The initial notification, accomplished by telephone only, involved all 443 units of the Air Force Reserve. Of the 40,000 people available, approximately 36,000 or 90 percent, were contacted within 24 hours.

The next phase, mobilization, involved the units at Bergstrom and Hill. New procedures were developed in Phase I and Phase II that streamlined mobilization procedures.

The most complex portions of the exercise were the deployment, employment and redeployment phases. However, the emphasis on realism provided a high payoff in training. During the deployment phase, 57 aircraft from 13 units were involved as the forces moved to two primary employment locations, Volk Field Air National Guard Base, Wisconsin and Gulfport Air National Guard Training Field, Mississippi.

The employment phase, concentrated on the activities at Volk where the exercise scenario centered around a conventional war involving ground and air forces. The deployed F-105 and A-37 units flew close air support sorties in a surge exercise that provided a real challenge in the austere base environment of Volk Field. Additionally, at Volk Field, an airdrop of 174 Army Reserve Special Forces troops was conducted. The air drop was on time with an average circular error of under eight yards.

Concurrent to the Volk Field activities, the 926th TAC Fighter Group deployed from New Orleans to Gulfport. While deployed, the unit flew 236 sorties, concentrating on their air-to-surface mission. During the employment activities, the 926th was administered an Operational Readiness Inspection by the 9th Air Forces Inspector General and was rated Excellent.

During Redoubt III, Reserve airlift aircrews in 38 aircraft flew 112 sorties moving approximately 720,000 pounds of equipment and 1,700 personnel.

In summary, Operation Redoubt III tested the AFRES nation-wide alerting system, its ability to mobilize personnel and equipment at various locations and its capability to rapidly deploy a force of more than 1700 Reservists to forward operating locations.

Additionally, at Volk Field, Wisconsin, the scene of most Redoubt activities, the Air Force Reserve conducted sustained employment activities concluding with an extensive redeployment effort on 30 June 1979.

Operation Redoubt III was highly successful. It provided readiness enhancement through realistic training. It tested new procedures while meeting Congressional and DOD guidance to test and improve mobilization and deployment capabilities. Equally important, it enhanced unit confidence and morale as well as our force capabilities.●

THE COSPONSORS OF H.R. 1744

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. WOLFF. Mr. Speaker, on October 9 the House passed H.R. 3949, a bill to amend the National Traffic and Motor Vehicle Safety Act to authorize the Secretary of Transportation to require tire manufacturers, in certain circumstances, to provide public notice of tire defects. The bill which was passed by this House was virtually identical to H.R. 1744, which I introduced at the beginning of the 96th Congress on January 31. In my remarks in support of H.R. 3949, I had wanted to list the names of the 31 Members who had cosponsored H.R. 1744, but this was inadvertently omitted from the RECORD. At this time, I would like to list my colleagues who joined as cosponsors of H.R. 1744. I thank them for their interest in this important issue and the support which they gave to the legislation which was finally passed.

The cosponsors of H.R. 1744 were: Mr. ADDABBO, Mr. AMBRO, Mr. DIGGS, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Ms. FERRARO, Mr. FLOOD, Ms. HOLTZMAN, Mr. CORRADA, Mr. JENRETTE, and Mr. LONG of Maryland.

Mr. MAGUIRE, Mr. MOAKLEY, Mr. PRICE, Mr. RICHMOND, Mr. VENTO, Mr. WEISS, Mr. MADIGAN, and Mr. MIKVA.

Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. PEPPER, Mr. RANGEL, Mrs. SPELLMAN, Mr. WEAVER, Mr. YATRON, Mr. MINETA, Mr. NOLAN, Mr. GILMAN, and Mr. ZEFERETTI.●

FIRST CONGREGATIONAL CHURCH OF EAST CHICAGO, IND.

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. BENJAMIN. Mr. Speaker, it is my privilege today to congratulate the congregation of the First United Church of Christ in East Chicago, Ind., in recogniton of its recent 90th anniversary.

East Chicago was organized as a town in 1889. The spring of that year saw the beginning of a movement which soon developed into the First Congregational Church of East Chicago. A group of industrious individuals from surrounding Congregational churches gathered to enlist support and make plans to start a church in the new town. An empty saloon building was secured for the purpose of holding services, services were also held in this room as well as a nearby school building and later at the Tod Opera House.

On December 31, 1889, the Congregationalists met and adopted a resolution of endorsement and formally organized the congregation with appropriate services. Nine months later, Rev. J. H. Simons was called to the pastorate as the Congregationalist's first minister and a lot was secured at the corner of Magoun Avenue and 145th Street to build the church. Services were held in the new building for some time before its dedication which was held on May 14, 1893. At the dedication service subscriptions were secured sufficient to cover the indebtedness on the building—quite a feat for the size of the congregation.

Today, under the leadership of Rev. Viola Moore, the First United Church of Christ in East Chicago is supported by a lively group of Congregationalists who encourage people to exercise an interest in the various phases of community and national life. They are a refreshing group of people who have a lovely service each week filled with the word of the Lord, song and inspiring sermons delivered by Reverend Moore. The 186 members form many support organizations within the congregation and are an important asset in the town of East Chicago, Ind. Their love and fellowship will extend for many generations in the exemplary fashion it has always enjoyed.

It is at this time that I ask my fellow colleagues to join me in congratulating the First United Church of Christ on its 90th anniversary by extending a heartwarming congratulations to its pastor, Viola Moore, and the members who believe in their church and what it stands for.●

TERRORISM IN WEST GERMANY: PART IV—INTERNATIONAL CONTACTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. McDONALD. Mr. Speaker, while continuing our examination of the West German terrorist movement, it is important to keep in mind that these terrorists are part of an international revolutionary movement and clearly have the support of several states and other terrorist movements that may well be acting as surrogates for the Soviet Union. These countries include Cuba, Czechoslovakia, East Germany, Bulgaria, Yugoslavia, Iraq, and South Yemen. Furthermore, while the direct jurisdiction of the West German security agencies responsible for apprehending the terrorists stops at the borders, the terrorists are known to have set up refuges in the Netherlands, France, Switzerland, and other European countries.

The Rot Armee Fraktion/Revolutionaire Zelle (RAF/RZ) and the June 2 Movement (J2M) which merged into the apparently unified terrorist network have developed a broad and sophisticated liaison apparatus with terrorist groups in other countries.

The initial RAF cadre, in its first "underground" experience in 1969 was in contact with the Latin American Castroite exile and student support movements headquartered in Paris. It is no secret that certain members of the Cuban diplomatic and trade missions in London, Paris, and other Western countries are DGI officers assigned to these groups; it is still less of a secret that the Cuban DGI is a wholly owned subsidiary of the Soviet KGB and that it, like Warsaw Pact espionage agencies, carry out activities at the direction of the Soviets. The U.S.S.R. is particularly sensitive about getting caught in direct support of terrorism, and it is only recently that the terrorist training academy at Samprobal on the Black Sea began taking foreign terrorists in any numbers.

Following the jailbreak of Baader, Meinhof and company, the embryonic terrorist group crossed to East Berlin. East German authorities facilitated their travel to the Middle East via Bulgaria. Bulgaria is yet another Soviet surrogate in providing training, weapons and propaganda support for a number of Middle Eastern revolutionary terrorist movements. Traveling via Lebanon to PLO camps in Jordan, the RAF's contacts with Swiss and Palestinian terrorists at these camps in September 1970 formed the basis for development of the present terrorist apparatus.

A number of reports have appeared in the European press that some RAF/RZ members, along with Italian, Dutch, and other terrorists, have received training in Czechoslovakia. Training in clandestine communications, organization, and for those who will be involved in espionage most often takes place at an isolated airfield outside Prague; but for those who will specialize in terrorism, their instruction is at Karlovy Vary, a resort noted for its mineral springs.

There are those who insist that the documentable involvement of the spy agencies of the governments of East Germany, Czechoslovakia, Bulgaria, and other Warsaw Pact members does not mean the U.S.S.R. knows anything about what is going on or that the Kremlin approves of these terrorist activities. Their argument runs exactly counter to known facts and logic. The evidence of numbers of defectors from the Warsaw Pact spy agencies for years has been that senior KGB officers oversee all sensitive operations of Warsaw Pact member intelligence agencies and that no sensitive operations may be undertaken without approval from Moscow.

Furthermore, these countries are occupied by the Soviet Army and Soviet military officers oversee the operations of pact country military bases and facilities. It is inconceivable that the Czechs or the East Germans could involve themselves in training terrorists without the prior knowledge and consent of the KGB overseers, and even more likely, without the specific direction of Soviet officials.

Certainly Czech and Soviet weapons have been readily available to the RAF/RZ, from Kalashnikov AKM and AK-47 assault rifles used in the Middle East training camps of the PLO, to the Makarov and Skorpion automatic pistols so prized for assassinations and bank robberies.

Even before the embryonic RAF members—Baader, Ensslin, Thorwald Proll—became fugitives in Paris in 1969, they and the 2 dozen militants who became the initial RAF cadre were involved in one activity that undoubtedly brought them to the attention of Soviet bloc intelligence, their activities in aiding U.S. military deserters to escape to Sweden. Interestingly, at the same time the RAF founders were doing this in Germany, the Weatherman faction of Students for a Democratic Society were operating a ring to move U.S. deserters and draft dodgers to Canada. The meetings of SDS veterans with the Vietcong in Czechoslovakia, Canada, Paris, and eventually Hanoi were publicized by the militants here to give themselves stature as the Vietcong and Hanoi approved leaders of the campaign to get the United States out of South Vietnam. Unfortunately, there is a lack of literature in this country from the FRG's radical movements to investigate this aspect of the formation of the terrorist cadre.

Police raids on terrorist apartments have uncovered caches of forged and stolen passports. A large number of these have been Chilean, Bolivian, Peruvian and from other Latin American countries. There are strong indications of operational links, directly and through the Cuban DGI, between the RAF/RZ and the Castroite and Trotskyite Latin American "terrorist international" called the Council of Revolutionary Coordination (JCR) formed by the terrorist movements of Chile, Argentina, Bolivia and Uruguay. The JCR has "exile" centers in Paris, Rome, Lisbon, and Stockholm. In the latter context, it should be recalled that in March 1977, West Germans Norbert Krocher and Manfred Adomeit were arrested by Swedish police and deported to the Federal Republic of Germany. They and some 30 others, mostly Arabs and Latin Americans of various nationalities, were arrested for plotting to kidnap former Prime Minister Olaf Palme and his former Minister of Immigration in revenge for their deporting the terrorists who seized the Stockholm West German Embassy and murdered two diplomats.

The RAF/RZ terrorists have made very good use of their contacts with Swiss terrorists first started in Jordan in 1970. The Swiss and the RAF/RZ have carried out raids on Swiss Army depots to steal arms and ammunition. Weapons from these burglaries have turned up in Spain, and in Italy where the Red Brigades (Brigate Rosse) used some of them in the kidnapping of Aldo Moro last year and the murder of his bodyguards.

In a raid in Zurich in March 1975, some of these weapons were recovered. Two people, Petra Krause and Elisabeth Von Dyck, were deported to the FRG where they were released after a short period of detention. Both women resumed their terrorist careers; and by 1977, Krause was wanted on charges in West Germany, Switzerland and Italy. Krause's supporters among Italy's terrorists bombed the Suisseair office in Milan in July 1977, to protest her detention. And when she was released on bail, her defenders promptly rioted and fought police at a victory rally.

The rest of the career of Elisabeth vonDyck is particularly instructive. Born in 1950, she became a medical technician and was active in the Socialist Patients Collective (SPK) in Heidelberg. She moved on to membership in the SPK's successor, the International Center for a Red University (IRZU) and participated in raids on Swiss armories in 1974 and 1975. After her March 20, 1975 arrest in Switzerland, she was deported to West Germany. West German authorities released her in September 1975 for lack of evidence. Von Dyck then joined the Stuttgart law office of Klaus Croissant, the chief defense lawyer for the RAF leaders. Croissant and several lawyers and legal workers from his firm were members of the RAF terrorist network. Croissant was charged with having helped plan the murder of federal prosecutor Sigfried Buback in 1977; two other members of the law firm, Arndt Muller and Armin Newerla, were jailed after being convicted of running messages from the RAF leaders jailed in Stuttgart to their terrorist comrades at large. Of the Croissant legal workers, in addition to von Dyck, those who went underground as part of the RAF/RZ terrorist network include Hans-Joachim Klein, who participated in the attack on the OPEC oil ministers meeting in Vienna in December 1975.

Elisabeth von Dyck disappeared into the RAF/RZ underground in the summer of 1977 just as the terror spree that began with the murder of RAF prosecutor Buback and his bodyguards and ended with the kidnap/murder of industrialist Hans-Martin Schleyer and the hijacking of the Lufthansa jet to Mogadishu got underway. Police investigating a series of bank robberies—the terrorists call them "self-financing operations"—found von Dyck in an apartment in Nuremberg on May 4 of this year. In the gunbattle that erupted, the 29-year-old terrorist was shot to death.

According to West German authorities, the RAF and its successors international contacts also include terrorist cadres in Holland; the Irish Republican Army (IRA); the Spanish ETA; the Popular front for the Liberation of Oman (PFLO); and the Turkish People's Liberation Army (TPLA). They have received training in Jordan (1970), Lebanon, Iraq, Libya, and South Yemen. Although the RAF and its RZ successors work closely with the Baghdad-based PFLP, there is no available documentation of any direct contact with the Japanese Red Army (JRA).

The West German Ministry of Justice estimates that the hard core of terrorist sympathizers 1,000 members of defense committees such as the Committees Against Isolation-Torture, Schwarzen Hilfen [Black (anarchist) Help]; the "autonomous" "sponti-oriented" Roten Hilfen; and the radical prison movement group, Jail Help.

Above this, there are some 4,000 sympathizers who may from time to time perform some logistical support or who are prepared to do such support work if asked.

The 1978 statistics showed some 90 terrorists in prison. At that time there were believed to be about two dozen members of terrorist groups whose identities were known and who were fugitives and perhaps an equal number of unknown members. The recent outbreak of terrorist "self-funding" bank robberies in southern Germany and the disappearance of 14 members of Feiling's RZ cell indicates that the FRG Justice Ministry may have seriously underestimated the strength of the terrorist infrastructure.

RAF/RZ AND THE PFLP

Reports from Western intelligence sources indicate that despite the reported death of Wadi Haddad, the West German terrorists still appear at regular intervals for retraining at camps run by the PFLP in Iraq and South Yemen, and for rest and relaxation in "safe" countries, generally radical pro-Soviet Arab countries or Eastern European ones.

Interesting information was provided in a series of interviews in 1978 with the Springer publication, Der Speigel, August 7, 1978, and with the French weekly, Liberation, October 7, 1978, by fugitive OPEC raid terrorist Hans-Joachim Klein.

Klein said he and Wilfried Böse had been in Paris in mid-1975 with "Carlos" [Ilich Ramirez] who had demonstrated his brand new Czech Skorpion 7.65 caliber submachine gun. The RZ had just begun to receive their Skorpions and did not yet know how to use and care for them.

Klein also said that the RZ were heavily dependent for support on Haddad and the PFLP which channeled a minimum of $3,000 each month "often even more," to the RZ. He stated that Ramirez was the paymaster for Western European operations and that after the death of Böse at Entebbe, Ramirez had tried personally to take over the RZ apparatus. Klein asserted that there was no such thing as a "Carlos group"—only Wadi Haddad's "external operations" section of the PFLP, with whom the RAF had worked since late 1970. Klein declined to answer any questions about Libyan financing of the PFLP and RZ terrorists, and found nothing to say about any of their contacts with Latin American or other allies in Western—or Eastern—Europe.

The investigations following the discovery of four top RZ terrorists in Zagreb, Yugoslavia, in May 1978, have produced some additional information about the role of Kristina Berster. She was arrested on July 16, 1978, illegally entering the United States with a stolen Iranian passport taken during an ISA raid on the Geneva consulate in 1976. Another blank passport stolen then was being used by Marion Folkerts, sister-in-law of Knut Folkerts, an RZ terrorist jailed in Holland after a 1977 killing; and wife of Ewe Folkerts, jailed in West Germany. She was arrested on May 25, 1978, on her way to Zagreb to meet other RZ members, since the arrests had been kept secret.

French security officials photographed her that day meeting with Berster, who evaded arrest. The four PFLP terrorists who hijacked the Lufthansa jet in October 1977 to Mogadiscio in an effort to free the RAF leaders also carried forged passports from that same ISA raid.

From this and other confidential information, West German investigators believe that former SPK member Berster, who admits to having spent five months of her long fugitive career in the PDRY, most recently had been in charge of the organizational liaison between the PFLP and RZ.●

A TRIBUTE TO JUDGE PHIL H. COOK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. SKELTON. Mr. Speaker, on the evening of November 18, 1979, the Lafayette County Bar Association will be honoring Judge Phil H. Cook of Lexington, Mo., for his outstanding service to his community, his State, and to our judicial system.

In January 1934, Judge Cook began the practice of law in Higginsville, Mo., where he served as city attorney. He was elected prosecuting attorney of Lafayette County in 1940 and subsequently served three terms. In 1946 he was elected circuit judge, and then was reelected in 1952, 1958, 1964, 1970, and 1976.

There is an anonymous saying that I remember hearing in law school—"Legal justice is the art of the good and the fair." Judge Cook was a master at this art. His even temper and vast knowledge of the law marked him as an extraordinary jurist. During his 31 years as circuit judge for the 15th Judicial Circuit of Missouri, he won the respect of all who appeared before him. Attorneys as well as citizens, who were litigants in his court, regard him as one of the finest trial judges ever to have served the people of our State.

It is for this reason that I want to bring this occasion to the attention of this body. The dinner on November 18 is certainly a well-deserved tribute to a judge who has served so many for so long and so well, and I would like to ask my colleagues in Congress to join me in wishing Judge Cook and his lovely wife, Phyllis, all the best in the days ahead.●

NOBEL PEACE PRIZE NOMINEE: POPE JOHN PAUL II

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. GUARINI. Mr Speaker, it is with great pleasure that I inform the House of having submitted the name of Pope John Paul II to the Nobel Institute's Selection Committee as my nominee for that organization's 1980 Peace Prize.

The Nobel Peace Prize was first awarded in 1901 and is bestowed annually upon individuals or organizations who do the most for the cause of world peace. To date, the Nobel Prize has been awarded to a number of outstanding individuals, among them the distinguished Ralph Bunche; the American Secretary of State and General, George C. Marshall; and Dr. Linus Pauling. Also, the Rev. Martin Luther King and Henry Kissinger, and in 1978, the prize was bestowed jointly upon President Anwar Sadat and Prime Minister Menachem Begin. Thus far, however, a Pope has never been the recipient of this prestigious peace prize.

But John Paul II enjoys a remarkable and invigorating papacy, one already marked by a series of positive and innovative accomplishments. And, his recently completed human rights odyssey, entitled "Journey for Understanding," surely designates him as one of the leading candidates for the upcoming year's Nobel Prize. He has reached the hearts and minds of millions in many troubled parts of both North and South America, as well as Europe. His plea on behalf of the dignity of all individuals, assuring each man, woman, and child of the highest human social and economic development possible is extremely noteworthy and very commendable.

If the leaders of the various nations on Earth would but follow the pleadings of Pope John Paul II in the areas of human dignity, the level and intensity of conflict would resolve itself in many of the more aggravated situations we face today.

Pope John Paul II deserves to be honored for his effective and highly celebrated travels to the troubled areas of Ireland, Eastern Europe, Mexico, and the United States. His pleadings at the

United Nations and elsewhere, urging peace within each man and for each man, as well as his intervention on the side of peace in South America, the Middle East, and Northern Ireland clearly earns for him his rightful place in world history.

Bestowing the Nobel Peace Prize upon Pope John Paul II may very well result in all concerned taking a long and serious look at their National problems, and of those of other nations, as well.

Today, many in society have been deluded into thinking that scientific and technological progress has relieved them of having to solve problems. But, survival can only be assured if man seeks to solve problems by himself.

.Pope John Paul II spoke clearly regarding the people of the world when he said:

> It is not right that the standard of living of the rich countries should seek to maintain itself by draining off a great part of the reserves of energy and raw materials that are meant to serve the whole of humanity. . . . Riches and freedom create a special obligation.

The Pope added that he "wanted to make clear to all nations that the Church is with the peacemakers, to inspire and maintain their endeavor, for the sole purpose of rendering service to humanity."

John Paul II has stated that—

> The Church, in fact, wants peace that reflects man's true nature, the respect of his rights and fulfillment of his duties and securely founded on justice; the Church never rejects an opportunity to ponder the future of the coexistence of men and of the world, with always renewed mentality.

The Pope has said, "Let love between and among men build the bridges across our differences."

Mr. Speaker, it is because of his inspiring and compassionate message, the hallmark of Pope John Paul II, that I urge that this "Prince of Peace" be awarded the 1980 Nobel Peace Prize.●

MEDICAID DISABILITY AMENDMENTS OF 1979

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. WAXMAN. Mr. Speaker, I am pleased to introduce today the Medicaid Disability Amendments of 1979. This bill would make some needed adjustments in current medicaid policy to eliminate the harsh work disincentives that now face disabled individuals who, despite their severe medical impairments, want to lessen their dependence on the various assistance programs.

Earlier this year, the Ways and Means Committee addressed the problem of work disincentives in the supplemental security income (SSI) program that prevent disabled SSI recipients with severe medical impairments from returning to the work force and becoming self-sufficient. Under current law, a severely medically impaired SSI disability beneficiary who earns more than $280 per month loses his or her SSI cash assistance, medicaid coverage, and related social services benefits.

The Ways and Means Committee reported out a bill, the Supplemental Security Income Disability Amendments of 1979, H.R. 3464, which made several important changes in the SSI program that would significantly reduce the work disincentives in that cash assistance program. The House overwhelmingly approved these changes on June 6 by a vote of 374 to 3.

The bill I am introducing today would follow up on the intiative of the Ways and Means Committee by addressing the work disincentives resulting from the loss of medicaid coverage. For those disabled SSI recipients who are severely medically impaired, the prospect of losing medicaid coverage as a result of earning less money than is required to meet their necessary medical expenses creates a very strong disincentive to work.

A tragic example of the effects of this incentive structure occurred in February of last year in Los Angeles, when a severely disabled young woman, distressed that the earnings from her part-time job disqualified her for needed SSI and medicaid assistance, committed suicide.

The Medicaid Disability Amendments of 1979 would address the medicaid-related aspects of this unfortunate public policy. The bill would assure that the cash assistance policy judgment made by the Ways and Means Committee and endorsed by the House, regarding severely medically impaired SSI recipients who want to work is extended to medical assistance as well. It would require States to provide medicaid coverage to those individuals who would continue to be eligible, or be deemed eligible, for SSI benefits under H.R. 3464. It would further require the States to continue to provide medicaid benefits to those severely medically impaired individuals who the Secretary of HEW finds would not be able to obtain equivalent medical benefits with their earnings and would be seriously inhibited from continuing their employment if their medicaid coverage were terminated.

In addition, the bill would require all States that participate in medicaid to make such coverage available to all aged and blind as well as disabled persons receiving cash assistance under SSI. Current medicaid law gives States an option as to whether or not to provide medical assistance to these SSI eligibles; 15 States have elected that option to impose medicaid eligibility criteria on the aged, blind, and disabled that are more restrictive than the SSI standards. I believe that a change in this policy is long overdue.

On October 16, the Subcommittee on Health and the Environment will begin hearings on a variety of proposed amendments to the medicare and medicaid laws. The Medicaid Disability Amendments of 1979 will be one of the measures under consideration. I look forward to receiving the views of my colleagues, the administration, the States, and members of the public on this proposal.●

GETTING OUR TRADE HOUSE IN ORDER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. SKELTON. Mr. Speaker, this past Monday, I addressed the Greater Kansas City Chamber of Commerce regarding America's export problems. I wish to share my remarks, which are the results of extensive research, with the Members of this body. They are as follows:

> It will surprise many Americans, who feel a justifiable pride in American industrial power, that there has been a profound slip in our economic posture with respect to the rest of the world. But unlike the decline of American military dominance to a balance of rough equality with the Soviet Union, this economic erosion has taken us from a period of dominance and self-sufficiency in the early postwar era to one of interdependence and vulnerabality. Our attempts at adjustment to date have been neither very easy nor very successful.
>
> Once the major creditor to the world, the United States today has foreign liabilities larger than those of all other countries combined. We are dependent on foreign sources for important minerals, many of them essential to our national security and continued prosperity. In 1950, the United States produced 88 percent of the oil it consumed, and cheap energy was a key to our economic success. Today we import nearly 50 percent of our oil at the astronomical price of nearly $50 billion a year, which we pay to foreign producers.
>
> In 1971, we ran our first trade deficit since 1893. Between 1971 and 1976 we had an accumulated trade deficit of $13.3 billion. In 1977 we doubled that figure with a single year deficit of $26.5 billion. Last year, in 1973, our deficit rose to a walloping $32 billion—$12 billion with Japan alone—an alarming trend if not reversed. This deficit has serious implications for our economy in terms of higher unemployment, a falling dollar, and growing inflation.
>
> While most press accounts and academic analyses usually stress the admittedly large role of increasingly costly oil imports in this deficit, it is often overlooked that the decline in our manufactured goods trade balance last year was more significant than oil in accounting for the larger deficit. Indeed, our trade position in manufactured goods, which represents two-thirds of all U.S. exports, generally has been declining rapidly in absolute terms, as well as relative to our major trading competitors.
>
> In just 3 years, from 1975 to 1978, the U.S. trade account in manufactured goods dropped from a $20 billion surplus to nearly $6 billion deficit, while the global trade surplus of Germany and Japan has jumped to over $51 billion and $72 billion, respectively.
>
> The simple fact is that the United States has lost its once unchallenged position in world commerce.
>
> Why has this happened? The answers are not simple.
>
> For many years, the United States was a successful "better mousetrap" country; we counted on American ingenuity and inventiveness and high technology production, to attract the world to our trade door.
>
> That era has passed. The U.S. share of world exports has continued to drop from an 18 percent share in 1960 to only 11 percent in 1978. In 1970, Germany moved ahead of the U.S. as the world's leading exporter of manufactured goods and, by 1978, Germany widened its lead by almost one-third. Worse

still, recent data indicate that the United States may be about to lose its position as the second largest exporter of manufactures; if American exports continue to grow only half as fast as other industrial nations', tomorrow's press headings will likely read "U.S. Falls to Third Place."

For, in 1978, the value of Japanese manufacture exports was virtually the same as that of comparable U.S. exports. And bear in mind that every $1 billion of exports creates 40,000 jobs, and adds $2 billion to U.S. gross national product.

Many argue that our trade problems are due to other countries' lag in the business cycle; i.e., that because the U.S. has come out of the last worldwide recession and has grown more rapidly than Japan or Western Europe in the last few years, it is importing more and exporting less than other countries. In other words, slow growth economics do not provide good markets for exports of capital equipment. Others cite high rates of inflation and low productivity growth as being part of the problem. Some will argue that exchange rate changes—a further decline in the international value of the dollar—will rectify the U.S. trade problem by making our exports cheaper in world markets.

In the Congress and in the country, I believe there is a growing awareness that there is yet another answer. We simply have not been emphasizing exports enough. Our Foreign Trade Ambassador, Robert Strauss, is fond of saying that foreigners quote trade statistics the way we quote the batting averages of the Kansas City Royals, our major league players.

And it is generally true that most Americans are unaware of the importance of exports to them. News of exports, world trade, and multilateral trade negotiations receive considerable public attention abroad, but not in the United States. Americans are less concerned about exports than the people of any other major industrial nation.

Most people abroad view exports as important to their jobs and their standard of living. Americans tend to see exports as being of marginal importance—certainly not important enough to affect their jobs or their economic well-being. The United States traditionally has been preoccupied with its own huge continental economy. Separated by oceans from other major markets, having a history of self-reliance, and enjoying a resource-rich and broadly based economy, Americans simply are unaccustomed to thinking of themselves as needing to be part of the world economy.

The U.S. Government, for its part, has done more to discourage exports rather than promoting them. The absence of effective export stimulants, the continued growth of bureaucratic red tape, and the often counterproductive use of exports to pursue non-economic policy objectives have all served to shackle U.S. exports in a chain of self-imposed restraints. Additionally, the U.S. Government has not acted effectively against foreign countries engaged in unfair trade practices which have brought harm to important segments of U.S. industry.

A variety of U.S. Government programs and institutions do exist to help American producers compete more effectively in world markets. However, the programs are uncoordinated, the institutions underutilized, and the overall effort insufficiently directed toward the exporters in greatest need of assistance. For example, although the clear intent of the majority of U.S. export promotion programs and institutions is to provide assistance to small and inexperienced exporters, they have persistently failed to do so. Among the 25,000 to 30,000 existing exporters, the 95 percent who are small and medium-sized still account for only 15 percent of total exports. The Department of Commerce estimates that an additional 20,000–30,000 small companies could export successfully, but have not done so, hampered by inexperience or unawareness of available opportunities. This is such an important problem that I have introduced legislation to improve the export opportunities of small business concerns. My bill, H.R. 3895, would give small American manufacturers language interpretation service and export market information from the Small Business Administration. Thirty-four other Members of Congress have co-sponsored my export assistance bill. Significant export expansion requires involving a much broader segment of the American business community in exporting.

Perhaps the record of our agricultural community can serve as a model for our industrial community. American farmers can be proud of the special position they have earned at home and around the world with their labor, their initiative, and their capital. They have proven themselves to be the most efficient producers of the most essential raw material for human survival. American farmers feed all Americans and many of the peoples in food-deficit lands with a magnificent surplus. That surplus for export is vital to the U.S. economy and to the personal income of U.S. farmers.

The statistics speak for themselves. Since the beginning of this decade, U.S. farm exports have more than quadrupled from $6.7 billion in 1970 to over $30 billion last year. U.S. farm income from this trade represents about one-fourth of all farmers' cash receipts. Nearly one harvested acre in three goes for export.

The proportions of specific commodities that are exported is amazing. Last year, 56 percent of the soybeans, 61 percent of the wheat, and 68 percent of the rice produced in America were shipped abroad. Over 40 percent of U.S. cotton and almonds were exported, along with 35 percent of the tobacco and 30 percent of the corn. And among livestock commodities, over half of the cattlehides and 41 percent of the tallow were exported in the last fiscal year.

Some comparisons are instructive. American exports account for $1 of every $4 of farm sales, yet industry ships out only $1 in $10 that it produces. There is no reason why our export success in agriculture cannot be duplicated by American industry. There are, however, important measures which must be taken in addition to developing a national and coherent policy of export promotion, a top national priority. If we are to succeed in the area of international trade, we must have strong leadership which will negotiate trade agreements based on a realistic concept of our self-interest. We must insist that other nations play by the same rules of the game as we do. We must attempt to understand the root causes of our trade problems and take appropriate steps to restore this country to its traditional position of economic preeminence. We cannot, I submit, continue to function in the international trade field with a "business-as-usual" attitude, because business has been off for us, and will not improve until we become more concerned about exporting.

I have taken the preliminary steps of introducing legislation to help promote exports from our smaller business firms. But I need grass-roots support for taking the next step.

Legislation alone is not enough. We all need to rethink how important trade is to our nation, to our standard of living. We cannot go blissfully on our way, oblivious to the huge trade deficits that are being recorded each year.

Essentially those trade deficits must be paid off, either in goods from this nation or in foreign ownership of our national resources. I believe it is time to take the hard steps to assure that we continue to control our destiny through control over our own businesses. Bringing our trade situation into better balance is the first step. Giving it a new national priority is one of the steps that Congress must take. I need your support for that step.●

LOW-COST LUXURY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. PAUL. Mr. Speaker, a select group of artists and actors are living in what the New York Times calls "low-cost luxury." The secret to their way of life is simple: The taxpayers pick up the tab.

A politically connected builder had erected a giant high-rise apartment house on the west side of Manhattan, with a $90 million loan from the taxpayers. But he could not get enough tenants for the luxury complex. The solution: A Federal $11.5 million yearly subsidy so artists and actors could live there for as little as $64 a month.

These are not struggling young theater people, but rather successful ones like playwright Tennessee Williams.

Complete with an olympic-size indoor swimming pool, sybaritic lounges and lobby, and extensive security, the building has had 10,000 applications for its 1,700 apartments. Not surprisingly, the turnover is low.

This welfare for the rich is all too typical of Government programs these days.

The Department of Housing and Urban Development (HUD) has been helping the well-to-do through its "section 8" housing as well. Designed for the poor, the ones who really benefit from it are politicians and their friends and relatives.

In the small State of Rhode Island alone, the Washington Post has pointed out, the affluent are making millions out of this program. HUD loans millions to build housing projects, then pays the developers high rents, while allowing them lucrative tax benefits.

HUD will ladle out, for example, $535 a month for a two-bedroom apartment for a poor family, in one of these shoddily built projects. A luxury two-bedroom apartment in a private complex—with swimming pool, tennis courts, and sauna—goes for about $400 a month.

The difference, plus many hidden subsidies, goes into the pockets of the wealthy and well-connected.

In Austin, HUD will pay up to $738 a month for a similar Government-subsidized apartment; in Los Angeles, the figure is $933. When the Government has paid off the mortgage for the builder, after loaning him the money in the first place, he owns the building free and clear. In the meantime, he has been able to sell "tax shelters" in it as well.

As taxes and inflation zoom, is it not about time we ended welfare for the wealthy? Why should someone earning $7,000 or $8,000 a year be taxed to support drones making 10 or 20 times as much?

This is a moral outrage that must be ended.●

GROWING U.S. INVESTMENTS IN CHILE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. MOFFETT. Mr. Speaker, as a member of Members of Congress for Peace Through Law, I would like to insert in the RECORD an article from the New York Times of October 4, 1979, entitled, "Chile Attracts U.S. Business." It documents the growing amount of corporate U.S. investment in Chile at a time when the U.S. Government is strongly critical of the Chilean Supreme Court's recent decision not to extradite three army officers accused of planning a political assassination in Washington.

While Chile continues to harbor Gen. Manuel Contreras Sepulveda and two other officers implicated in the murder of Orlando Letelier and Ronni Karpen Moffitt, American corporations are rushing to invest in General Pinochet's "haven" for private investment. The attitude of American business is perhaps best described by the manager of Goodyear's tire plant in Santiago who recently stated:

> I don't think we spent five minutes talking about human rights when the board made its decision to invest in Chile.

I am appalled by the attitude and the actions of U.S. corporate investors in Chile. Whether or not they realize it, their investments are undermining the efforts of the U.S. Government to bring three international terrorists to justice. In reaction to these and other developments in the Letelier case, I am cosponsoring a resolution which would, among other things, immediately suspend U.S. private bank loans to Chile under the authority of the International Emergency Economic Powers Act of 1977.

I commend the following article to the attention of my colleagues:

CHILE ATTRACTS U.S. BUSINESS

(By Juan de Onis)

SANTIAGO, CHILE, Oct. 3.—While Chile's Supreme Court was refusing to extradite to the United States this week three army officers accused of planning a political assassination in Washington, Anaconda was signing a contract to invest up to $1.5 billion in a new copper mine here.

While the Carter Administration was calling the former head of the Chilean secret police, Gen. Manuel Contreras Sepulveda, a "terrorist" and was summoning Ambassador George W. Landau home for a critical review of relations with the military regime, Chase Manhattan Bank was preparing to move into the new offices of its first branch in Chile.

The contrast between the public policy of the United States and the private actions in Chile of large American corporations responding to market incentives has been sharpened by the tensions caused by the investigation into the assassination of Orlando Letelier, a Chilean exile leader.

CUBAN EXILES CONVICTED

Mr. Letelier, who served as Foreign Minister under the late President Salvador Allende Gossens, was killed when a bomb destroyed the car in which he was riding in downtown Washington in September 1976. His American assistant, Ronni Moffitt, was also killed.

After a long investigation, the United States Justice Department obtained the conviction in Federal court of two Cuban exiles accused of helping to plant the bomb as partners in a plot ordered by the Chilean secret police. But the Chilean Supreme Court ruled out any trial here of three Chilean Army officers implicated in the murders.

Human rights violations, to which American liberals attach so much significance, are not a factor in corporate decisions, businessmen here say.

"I don't think we spent five minutes talking about human rights when the board made the decision to invest in Chile," said Jack Carter, manager of Goodyear's $34 million tire, battery, and rubber products plant.

"We don't mix business and politics," said John Chamberlain, the manager of the Citibank branch here. The bank sold out under Government pressure in 1972. After President Allende's Marxist-oriented regime was overthrown by the military in 1973, Citicorp, the parent company, came back, first opening a finance company in 1974 and then reopening the bank branch.

ANACONDA COMES BACK

Anaconda, whose big Chuquicamata copper mine was nationalized by the Government of President Allende in 1971, is also returning.

Anaconda, which is now owned by Atlantic Richfield, bought a number of small mine holdings near Salamanca, high in the Andes above La Serena, for $20 million this year, and is drilling now to determine the extent of the ore body called Los Pelambres. Development could cost $1.5 billion.

Exxon, another oil giant, is also mining in Chile. It bought a mine called La Disputada for $110 million and has invested in a large exploration program. A final decision on whether to invest an estimated $500 million more will be made next year.

The St. Joe Minerals Corporation has begun developing a combination gold and copper mine called El Indio, which could add up to $500 million in final investment. Superior Oil and Falconbridge are trying to raise the financing for a $500 million project at Quebrada Blanca.

These and other mining investments have been attracted by the great mineral reserves of Chile, which has 25 percent of the world's proven copper, and by the race to develop advantageously situated nonferrous mines in expectations of rising demand and higher prices in the coming decade.

Investment would be taking place under any government that offered reasonable prospects of stability. But foreign investment in Chile today is stimulated also by the Government's policies.

"We have come back to Chile not only because of the mining prospects, but because this Government has created a climate of confidence for investment," said Ralph Cox, Anaconda's president, as he signed the investment option contract.

For Goodyear, which bought its tire plant here from the Government Development Corporation, the attraction was the likelihood of a good market opening up.

A UNIQUE OPPORTUNITY

"When you compare Chile with other developing countries, there is stability, a large and growing middle class and pent up demand after a long period of recession," said Goodyear's manager, Mr. Carter. "It looked like a unique opportunity."

Since 1977, Chile has sharply reduced import duties on automobiles and trucks and this promises a steadily growing tire market.

Dow Chemical is another important United States company that has returned to Chile. The company's polyethylene and polyvinyl chloride plant at Talcahuano, which was taken over by workers during the Allende regime, was returned to Dow management in January 1974.

Reflecting the general enthusiasm of American businessmen here for the Government of President Augusto Pinochet, Robert Smith, who runs Dow's operations in Chile, said that business conditions were "excellent."

"They have to get a lot of credit for perseverance in controlling inflation, consistency in policy, and reliability," Mr. Smith said. "Everyone with whom we do business in the bureaucracy is honest."

Although foreign investments are important for the present Chilean economic "model," still more important is the flow of credits from foreign banks.

United States banks have provided an estimated $2 billion in credits to Chilean borrowers, including the Central Bank, state agencies, private banks and many small private borrowers.

Chile's foreign debt of $6 billion has been refinanced recently on more comfortable terms, with longer amortization periods and relatively more favorable interest rates.●

H.R. 5176

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mrs. SCHROEDER. Mr. Speaker, in the near future the House will be considering under suspension of the rules the bill H.R. 5176, to establish an independent personnel system for the General Accounting Office. This bill was requested by the Comptroller General and received bipartisan support in the Committee on Post Office and Civil Service. The committee report on the bill (H. Rept. 96–494) was filed on October 2, and is available to all Members.

The bill would remove employees of the GAO from the competitive civil service and divest the Office of Personnel Management, the Merit Systems Protection Board, the Special Counsel, and the Equal Employment Opportunity Commission of regulatory and adjudicatory authority over GAO. A new self-contained personnel system would be established which would provide GAO employees with rights and responsibilities equal to those they now enjoy. The bill also establishes an independent Board within GAO to hear employee appeals in disciplinary, discrimination, and other labor matters.

The committee believes the legislation would eliminate a possible conflict of interest which now exists as the result of GAO's responsibility to oversee the same executive branch personnel agencies which currently regulate and oversee GAO. In sum, the committee believes it is inappropriate for a legislative branch watchdog agency to be subject, in personnel matters, to the control of any executive branch agency.

During its consideration, however, the committee failed to remove GAO employees from one area of executive branch regulation and adjudication. This is in the area of prohibited partisan political activity, the so-called Hatch

Act prohibitions. Under the reported bill, the Special Counsel of the Merit Systems Protection Board would still investigate complaints and bring charges against GAO employees, and the Merit Systems Protection Board would adjudicate these cases. This is inappropriate and continues in the area of partisan political activities the current conflict of interest situation.

To cure this problem, I will offer amendments when the bill is considered under suspension, and I take this opportunity to alert members to this fact. My amendments will continue the application of the Hatch Act prohibitions to GAO employees, but will provide for investigation, enforcement, and adjudication of such activities by the GAO Personnel Board and its general counsel. This will remove GAO from executive branch control in this area.

Copies of H.R. 5176, with these amendments, are available at the committee's offices. Should members have questions or desire copies, they should call the committee at 225–4054.●

CONNECTICUT STATE REPRESENTATIVE PAT HENDEL ON D.C. RIGHTS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. McKINNEY. Mr. Speaker, the D.C. Voting Rights Amendment, passed by Congress in August of 1978, has been the focus of much attention lately. In fact, later today, the League of Women Voters of the District of Columbia plans to hold a rally in Lafayette Park to demonstrate continuing support for this case. The emphasis of the rally will center on the efforts which we must make to assure acceptance of the amendment in an additional 32 State legislatures.

To date, six States have ratified the amendment, and I am pleased that my home State of Connecticut was the latest to sign on in support of D.C. voting rights. As in every other State where the amendment was brought before the legislature, ratification was not automatic. We owe the victory in Connecticut to the diligence of many State senators and State representatives who took the time to study this issue, understand its complexities, and lobby their colleagues to rectify the wrong which exists under the present system of "taxation without representation."

Recently, one of those individuals, State Representative Patricia T. Hendel, took the time, in a letter to the editor of the Hartford Courant, to refute a column by national columnist James J. Kilpatrick. Mr. Kilpatrick proposed that, after only 1 year, it was time to write the obituary for the D.C. Voting Rights Amendment. Ms. Hendel's rebuttal is clear, concise, and informative. Unfortunately, as is the case with many opponents of the amendment, Mr. Kilpatrick bases his objections on misleading information. Not only has Ms. Hendel set the record straight in her letter to the editor, but she also demonstrates that she has done her research.

I think she presents a good synopsis of the issues inherent in the quest for D.C. voting rights, and I want to commend Ms. Hendel for taking the time to stand up for the citizens of the District both in the legislature and in the press. I only wish that hundreds of State legislators around the Nation understood the issue as completely as she does.

The letter follows:

700,000 Without a Vote

On Aug. 25, The Courant carried a syndicated column by James K. Kilpatrick entitled "State of D.C. Should Founder." In it, Kilpatrick incorrectly and misleadingly refers to the District of Columbia as a state and attempts to make a case against the ratification by the states of the constitutional amendment that would allow the 700,000 residents of D.C. to be represented in Congress with probably one representative and two senators.

A few facts about this issue might shed light on some of Kilpatrick's misleading arguments:

The District is not a city, and is therefore not a political subdivision of any state that is represented in Congress. Kilpatrick equates D.C. with Indianapolis and Phoenix, overlooking the fact that the residents of these cities are represented in Congress by being a political subdivision of Indiana and Arizona, respectively.

The District is not a state and therefore does not have the representation in Congress that the states do. In the past, D.C. has been treated like a state for taxation purposes, for the right of D.C. residents to a jury trial, for regulation of the District's commerce, and for voting in presidential elections. Like residents of every other state, District residents have served in every war and pay taxes.

The District then is neither a city nor a state. It is quite unique in that it is constitutionally a federal district. This purposeful creation of a unique political entity was designed to ensure that no state would have responsibility for or control of the vital organs of the federal government. I believe that in so doing, the Founding Fathers did not (could not) realize that eventually they would deny 700,000 people voting rights.

This amendment retains this unique status of the District, by treating the District "like a state" for the purposes of representation in Congress. It in no other way changes the status of the District or gives it more control (Congress remains the District's City Council, controls the federal buildings, etc.).

Kilpatrick finally suggests that a possible solution to this problem would be to cede back the land to Maryland (which donated part of the land). As he points out, this is not a viable solution—Maryland, with its own distinct identity finds this unacceptable, as do the residents of D.C., who want to maintain their own identity.

Thus, Kilpatrick concludes that some problems have no solution, and this probably is one of them. I thoroughly disagree with this "cop-out" and maintain that we must find a solution to the problem of 700,000 taxpaying citizens of the United States without voting rights. We in Connecticut have found such a solution—the ratification of the D.C. Voting Rights amendment. We hope that the necessary two-thirds of the states will join us.

Patricia T. Hendel,
State Representative.●

TWO QUESTIONS ON SALT

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Ms. HOLTZMAN. Mr. Speaker, in an article that appeared in the New York Times on August 21, Arthur Krim raises two important and thought-provoking questions about SALT II which should receive careful consideration. Even though the House of Representatives is not responsible for the ratification of SALT or any other treaty, I believe that Mr. Krim's observations are nonetheless useful to every American in evaluating the terms of this treaty and our national objectives. The text of the article follows:

Two Questions on SALT

(By Arthur B. Krim)

To those millions of Americans to whom evaluation of the strategic arms treaty has become lost in technicalities and conflicting generalities, I suggest that you ask your Senators two basic questions. You will be amazed by the extent to which the answers will cut through to the bottom line, not only for yourself, but also for your Senators as they approach their own moment of truth in making one of the most crucial decisions in our country's life.

1: Which of your objections to the terms of SALT II would be satisfied or alleviated by a repudiation of the treaty?

The fact is that the principal arguments against the treaty would actually in most instances be exacerbated if the treaty were not to be ratified.

As an example, take the argument that the treaty allows the Soviet Union the unfair advantage of the 308 heavy missiles now in place. If there were no treaty, this limit would be lifted; even more, the Soviet Union could then arm each of these missiles with up to 30 warheads, instead of the limit of 10 provided by the treaty, an overall potential increase of 6,000 warheads or more, which would otherwise be prohibited under SALT II.

Or take the argument that the Soviet Backfire bomber is not counted within the treaty ceiling. If there were no treaty, the Soviet Union could increase the range of the Backfire and its production rate without limits. Instead, in assurances that are integral to the treaty, the Soviet Union has specifically agreed to restrict the capacity of the Backfire to less than intercontinental range and to limit its production to no more than 30 a year.

Or, take the argument that compliance with the terms of the treaty is not adequately verifiable. If there were no treaty, we would be required to rely entirely on our ability to penetrate what is happening in a closed society in order to know what missiles the Russians were testing or deploying. Instead, under the treaty the Soviet Union is required to take affirmative steps to aid us in monitoring these same developments.

Or, take the argument that our Minuteman missiles will be vulnerable in the early 1980's. No one can argue that this is in any way due to, or caused by, the terms of SALT II. However, any steps to counteract this vulnerability are made much simpler by knowledge under SALT II that the threat to be counteracted comes from a limited and known number of Soviet missiles.

You may be surprised to find that your Senator, if he is opposed to the treaty, may not be able to point to a single substantive objection that would be remedied to any extent by a defeat of ratification.

2: What do you propose be done to enhance our security that cannot be done under SALT II?

The fact is that whatever is being credibly proposed to improve our security or the security of our allies involves questions for broad national debate that are not inhibited by SALT II. Should we deploy the MX missile and, if so, how? Should we enlarge our nuclear forces in the European theater?

You may again be surprised to find that our choices on these and the other important issues of security remain the same, SALT II or not. The difference is that under SALT II we can make these choices with greater certainty of the extent of the strategic forces deployed against us.

The argument that SALT II should not be ratified unless and until these choices are made, even though they are unrelated to any SALT II restrictions, in effect says that one-third instead of a majority of our Senators should control our defense decisions.

These two questions recognize that your Senator's decision cannot turn on what an ideal treaty might be but on whether we are better off under the terms of this treaty or by opting for the foreseeable future to go our own way without restraints on either side. If you insist on satisfactory answers, the bottom line becomes clear.●

GUN CONTROL

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. STARK. Mr. Speaker, I would like to call the attention of my colleagues to the following article which appeared recently in the Boulder, Colo., Daily Camera.

The article tells the story of a Boulder woman, Sabine Schaffner, who lost her daughter through handgun murder in 1972. Ms. Schaffner typifies the growing number of parents, relatives, and friends of handgun victims who are banding together in their grief to actively oppose the proliferation of handguns in this country and work for responsible laws restricting their sale and use.

These people are living victims of handgun crime. They may not have the great financial resources of the National Rifle Association or the gun manufacturers but they possess personal knowledge of the lifelong pain caused by a handgun death.

The article follows:

MURDER VICTIM'S MOTHER JOINS GUN CONTROL FIGHT

(By Marty Dee)

Jessica Schaffner would be entering college this fall if she had not been murdered when she was 11.

Kidnapped at gunpoint while walking home from a friend's birthday party on Nov. 14, 1972, Jessica and a girlfriend were driven to a spot near Gold Hill. She was shot twice from behind with a .357-caliber revolver. Her friend, also 11, also shot twice, survived.

Peter R. Fisher, the son of a Unitarian minister, was apprehended shortly after Jessica's companion struggled to the snowy roadway and flagged down a passing motorist, who quickly called the Sheriff's Department.

The 35-year-old Aurora man claimed insanity as a defense to kidnapping and first-degree murder charges. But a 12-member Boulder District Court jury, after one and a half days of trial and 25 minutes of deliberation, declared him sane. He was later sentenced to the Colorado State Penitentiary, where he is today.

Fisher, an intellectual genius, had a history of arrests involving indecent exposures to minors and was suspected of raping a University of Colorado coed. Testimony showed that he originally planned to sexually assault the two girls, but changed his mind when he realized their age.

Fearing they would report him to authorities. Fisher decided to kill them, an action for which he apparently felt no remorse. During the sanity trial held in April 1973, one psychiatrist testified that Fisher was more upset when he once shot a deer.

Jessica's death, tragic and senseless as it was, is not unique.

Two months ago, 635 Americans, including 21 children, were slain by handguns. In Colorado, 23 persons were killed.

Nationwide, 3,816 died from bullets fired from handguns during the first six months of 1979.

A national group called Handgun Control Inc. seeks to educate the public about the numbers of people killed by handguns. Many of its members are crime victims or their families who lobby legislators for passage of a national law to control handguns.

One of the group's Boulder members is Sabine Schaffner, Jessica's mother.

Schaffner, a researcher at the Laboratory for Atmospheric and Space Physics on the CU campus, did not attend any of Fisher's court appearances, does not consider herself bitter and has never argued for the death penalty.

Handgun Control, she said, "is my way of dealing with this. I'd rather prevent future deaths. It's just too easy for a teenager—it's too easy for anybody—to buy a gun."

But it was not her daughter's murder that set Schaffner against guns.

Raised in England, she moved to Colorado in 1954 and was shocked at America's gun-oriented culture. Not used to seeing weapons except during World War II. Schaffner says she cannot understand why children are exposed to so much violence here.

"In all the other countries I have been, the police are not armed and guns are not readily available," she observed.

Schaffner said she had expected to see some sort of national regulation of guns following the assassinations of President John F. Kennedy, Martin Luther King and Robert Kennedy. It never happened.

However, Schaffner pointed out, when a large number of persons die from a disease, millions of dollars are spent on research.

Massive publicity and government intervention surrounded the recent DC-10 plane crash in Chicago which killed 274. "And yet," Schaffner noted, "more than that number were killed by guns that month. How widespread it is and how sad it is."

Linda Talbott, director of Handgun Control's victims' program, explained from her Washington, D.C., office that the group has drafted proposed national legislation. Sen. Edward Kennedy, D-Mass., is expected to sponsor it next month.

"We do feel strongly that a national law is needed," Talbott said, stressing that the proposal applies only to handguns, not rifles.

The law would ban the manufacture, import and trade of cheaply made handguns, the so-called "Saturday night specials." It also contains a stipulation requiring police agencies to verify information on gun registration forms.

Presently, Talbott said, a 1968 law provides that criminals, insane persons and drug abusers cannot purchase guns. However, she said, a buyer's information is not checked.

The law also would not affect guns already owned, according to Legislative Director Don Fraher.

In addition to the lobbying efforts of Handgun Control's 60,000 dues-paying members, Fraher said the group employs a professional lobbyist.

The group also wages an active information campaign, pointing out such grim statistics as the fact that the United States has a per capita gun-caused death rate much higher than those in other countries and that Americans run a 1-to-8 risk that they or a member of their families will be attacked or threatened by someone with a handgun.

Handgun Control carries the fight directly to such groups as the National Rifle Association. The group's literature, for example, states that even though every national survey for the last 50 years has shown Americans support gun control legislation, the NRA effectively prevents the majority will from prevailing with a $20 million yearly budget.

Sen. Bill Armstrong, R-Colo., they say, accepted a $5,300 campaign contribution from pro-gun forces last year.

Beyond that, Talbott explained, Handgun Control exists "to help victims go public with their grief. We believe that it's the only way the public will be more aware of the need for handgun legislation. And we're finding that victims find meaning in their tragedy through constructive action."

Schaffner characterizes Handgun Control as "a group that is saying there's a way to reduce this violence and pain."

Recovering from the death of a family member, Schaffner said, "is a very long and a very painful process. It's a long process coming to terms with the randomness of it. This could have happened to anyone."

The experience for her, she said, is one of anguish. "I wouldn't use the word 'bitter.' Just pain and anguish. And it doesn't end, it continues. The slaughter continues and increases.

"The gun lobby is organized. The gun manufacturers are organized. But the people whose families are killed are not organized.

"We do not have the money—we do not have a product to sell. What we have is a gaping hole in our hearts." ●

GENERAL PULASKI'S MEMORIAL DAY, 1979

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. NEDZI. Mr. Speaker, today marks the 200th anniversary of the death of Casimir Pulaski, caused by wounds suffered in the Battle of Savannah in the course of the American struggle for independence.

President Jimmy Carter has issued a proclamation on this occasion. And a few weeks ago the U.S. Post Office unveiled a Pulaski postcard in his honor.

Today in Savannah, Ga., a delegation of Polish-Americans from various parts of our Nation will join local officials and citizens in a special tribute to Pulaski.

It is generally difficult to become excited over a relatively remote figure in history, be he Pulaski or anybody else.

But we study the lives of great men in order to learn from them.

What, one may ask, can a life out of the late 1700's teach us in 1979?

I would answer that there are at least two lessons flowing from Pulaski's life that are of value to us.

The first lesson is that the ideal of freedom has no national boundaries.

The second is that the colonies which were to become the United States won their freedom with the help of men who came from many countries. Our Nation has since grown to 225 million and has proved to be the land of opportunity thanks to the contributions of men and women who came from every continent. Every race and every nationality has enriched us and broadened our horizons.

Pulaski himself fought for freedom in Poland, which was then under Russian occupation. Exiled from his own land, he was attracted to the struggle for freedom in America.

His skills as a soldier and his qualities as a man were quickly recognized by George Washington. He was given important responsibilities. It was as the leader of a cavalry unit that he died in Savannah at the age of only 31. He had given his young life for a young country.

A careful reading of history reveals that young men of Polish blood in the 18th, 19th, and 20th centuries not only fought Poland's battles but enlisted in worthy causes far from their native soil. Pulaski was not the exception.

We all know that it has become routine for public officials here to make perfunctory annual references to Pulaski and Kosciuszko, and let it go at that. Unfortunately, many do not go beyond that in assessing and understanding the Polish contribution to America.

Perhaps the glow of admiration and respect which enveloped Pope John Paul II during his recent visit to America will change things. I believe things indeed have begun to change.

For every Pulaski who has come to these shores, there have come hundreds of thousands of unknown, honorable men and women, devoted to family and home and country. They, too, have blessed this Nation with their energies and loyalties, and have been blessed in return.

And so, as we take serious note of Pulaski on this day, let us also acknowledge the millions of his countrymen who have come after him. Each, in his or her small way, is part of our history, too.●

UNCLE SUGAR

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. GINN. Mr. Speaker, because the International Sugar Stabilization Act is of extreme importance to the Congress, and is expected to be considered later this week, I respectfully request that the following article which appeared in the New York Times be printed in the Record at this point:

Uncle Sugar

Hey, buddy, can you spare a dollar? That's all the sugar farmers are asking this year from every consumer to provide added protection for the domestic sugar industry. But the farmers don't ask for voluntary contributions. They lobby Congress for higher price supports, as well as a direct cash subsidy from the Treasury. A vote on their current request is imminent in the House; we hope it has the stomach to say no.

It costs about 11 cents a pound to produce sugar in Latin America for sale in the United States—perhaps a nickel less than the average cost of growing sugar here at home. A combination of tariffs and special import fees raises the price of foreign sugar to about 15 cents. But domestic cane and beet farmers are not satisfied with that. Senators from sugar states are pressing for at least 17 cents. It appears, however, that to get the bill through the House they would settle for the Administration's offer of a support level of 15.8 cents (plus a half cent more from the Treasury).

The producers say they need the higher price support and subsidy to compete effectively with cheap Latin American and Filipino sugar. They may well be right in the sense that, unsupported, Southern producers would not find it profitable to grow sugar cane on marginal land; and many Northern producers of beet sugar would switch to other crops. They are right, too, that even though a lot of money is at stake, the cost of increased supports—spread out over the population—would not cut deeply into anyone's food budget. But there is still no good reason to bail out the industry.

Domestic sugar production is not vital to the national interest. Adequate foreign supplies will always be available to American consumers, and the ease with which cane can be grown virtually anywhere in the tropics is adequate protection against the formation of an OPEC-style cartel. Moreover, even with tariff protection, sugar remains a relatively minor domestic crop. America's 14,000 sugar farmers use fewer acres than the farmers who cultivate sunflowers. And they generate less than one percent of the revenues of the farm sector.

How, then, can sugar producers be making such a claim on consumers' wallets? The answer is that they are experienced harvesters in the fields of Washington. At the moment, the chairmen of both the Senate Foreign Relations and Finance Committees come from sugar states and their positions are well exploited. Almost no one in Washington really believes that sugar farmers are entitled to such Federal largesse. But almost no one with the power to beat the sugar lobby believes that it is worth the fight.

Sugar is worth the fight—if only because it has become a symbol of the Government's inability to deny inflationary subsidies to well-organized special interests. What's an extra dollar for sugar? No more than an extra dollar to keep out foreign tomatoes, or an extra dollar for high-priced union labor on Federal construction projects. The trouble is, those dollars add up.●

ONLY A CHANGE IN SOVIET POLICY WILL ENABLE GENNADY KHASSIN TO BE FREE

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. MAGUIRE. Mr. Speaker, to further the goals of the "Shatter the Silence Vigil 1979," I and many of our colleagues have put considerable efforts into obtaining freedom for the large number of Soviet dissidents. At times our efforts have met success—visas were issued, families reunited, and even some of the dissidents with the most notorious records of maltreatment were granted emigration. All of these cases required significant struggles and involved efforts at the highest official levels. Yet, at some point in time and after arduous negotiations, emigration is sometimes permitted.

This year the number of visas the Soviets issued has increased substantially. However, this important movement of people cannot be interpreted as an improvement in the plight of most Soviet dissidents. The vast majority of people who wish to emigrate have almost no hope. Worse, there is a broad range of sanctions linked to the mere expression of the desire to emigrate.

Applying for emigration is a costly, lengthy, complicated, and arbitrary process with uncertain results. It involves the risk of reprisals of which dismissal from employment if often only a first step. The Soviets justify their restrictive policies by citing economic concerns or the fear of losing highly skilled labor. But we all know that it is the political and ideological impact of giving people a choice, a kind of vote for or against the society which erodes the control of the regime, that compels that government to restrict emigration.

There are few cases which underline the emptiness of these Soviet excuses more than that of Gennady Khassin. Gennady Khassin is a highly skilled mathematician and author of numerous articles and textbooks in his field. Until he expressed his strong desire to emigrate with his wife and his two children to Israel he was teaching as Associate Professor at the most respectable universities of his country. This application for emigration, however, resulted in his dismissal from that position. For 2 years, he was constrained to teach at a Moscow high school. When he renewed his application for emigration, he was stripped of the right to work at all. Gennady Khassin cannot dare to apply for a third time. For no one knows what would then be his punishment.

Thus, whenever the issue of Soviet emigration policy comes up we cannot base our considerations on the percentage increase in granted visas. We have to look at the issue in all its complexity. We have to focus on the fact that a temporarily liberal emigration policy is in general closely interrelated to economic and political objectives the Soviet Union is pursuing, such as SALT II, most-favored-nation status, Export-Import-Bank credit et alia. Liberal emigration policies are the exceptions, denial of basic human rights and escalating deterrence from applying for emigration the rule.

For this reason we must continue to apply pressure on the Soviet Government to redefine the basic principles of its emigration policy. It is our responsibility to constantly make the international community aware of the violations of human rights by the Soviet Union. It is our duty to give Gennady

Khassin, and with him the large number of Soviet Jews and other minorities who have been waiting for the chance to emigrate, hope for a life of choice.

I was moved to receive from Israel a letter from Dr. Z. Waksman, a former colleague of Gennady Khassin, written on behalf of this courageous dissident. Accompanying the letter was a listing of Mr. Khassin's academic accomplishments. Surely we can use this talented man in the West. I would ask at this time that the letter from Dr. Waksman and Mr. Khassin's curriculum vitae be printed in their entirety in the Record.

The letter follows:

Hon. Andrew Maguire,
Representative in Congress,
Washington, D.C.

Dear Sir: I am writing to you in reply to your letter about Gennady Khassin on his mother's behalf. And also because of my old friendship with him.

My judgement about my friend's merits much higher than it is necessary to justify most close friendships, but it hardly can help. I hope that Gennady's curriculum vitae enclosed will be of some use though it is more suitable for searching an academic appointment. (This document I compiled when our correspondence was still possible). I am enclosing also Gennady's photograph (the only one at my disposal at the moment) which may also be helpful for your noble efforts on his behalf.

All Gennady's friends in Israel are most grateful to you, to the Rothschilds and to all the people not indifferent towards violation of the basic human rights in the USSR.

Yours sincerely,

Dr. Z. Waksman.

P.S.—I am offering my address: Department of Mathematics, Ben-Gurion University of the Negev, Beer-Sheva, Israel—as more convenient and reliable.

Curriculum Vitae

Khassin Gennady. Born 7.06. 1937, Moscow. Marital status: married, two children.

EDUCATION

1954–1959—Moscow State Pedagogical Institute (Moscow, USSR), Mathematical Faculty, graduated from this Faculty as a Mathematician. Diploma of M.Sc. raceived in 1959.

1960–1963—Moscow State University, Ph.D. in Mathematics. The title of Thesis: "Stratified congruences of the axes of successive Laplace transformations". The scientific supervisor Professor S.P. Finikov. Diploma of Ph.D. received in 1963 from Moscow State University.

EXPERIENCE

1959–1962—Teacher of Mathematics in a High School, Moscow.

1962–1964—Assistant in the Department of Mathematics of Moscow Hydromelioration Institute.

1964–1969—Associated Professor in the Department of Mathematics of Yaroslavl State Pedagogical Institute, Yraoslavl.

1969–1975—Associated Professor in the Department of Mathematics of Moscow Academy of Military Engineering, Moscow.

1975–1977—Teacher of Mathematics in a High School, Moscow.

FIELD OF RESEARCH

Differential Geometry: investigation of manifolds of straight lines and planes in multidimensional Euclidean and Projective spaces.

Teaching Experience: Fourteen years of University teaching. Taught almost all undergraduate courses and several courses on a graduate level in Differential Geometry and related topics.

Publications: The List of Publications contains 20 items, among them 4 textbooks and 16 published articles.

List of Publications

PAPERS

1. Successive Laplace transformations with stratified congruences of the axes, Dokl. Akad. Nauk SSSR, 145 (1962) 1235–1238.
2. R-nets with stratified congruences of the axes, Doki. Akad. Nauk SSSR, 150 (1963), 54–57.
3. Stratified congruences of the axes of focal congruences, Vestnik Moskovskogo Univ., Ser. I, Mat. Mah., 1964, 2, 23–29.
4. Nets of the first type, Vestnik Moskov. Univ., Ser. I., Mat. Mah, 1965, 4, 52–56.
5. Stratified congruences of the axes of successive Laplace transformations, Thesis, Moscow State University, 1964.
6. Laplace sequence consisting of nets of the first or the second type, Proc. Yaroslavl State Pedagogical Institute, 1966.
7. Bending of a manifold of linear elements in an n-dimensional Euclidean Space, Proc. Yaroslavl, State Pedagogical Institute, 1967.
8. Surfaces in P_3 whose axes of a conjugate net coincide with Wilczynsky's directrix, Proc. Yaroslavl, State Pedagogical Institute, 64, 1970.
9. Stratified surfaces of a hyperbolic pair of congruences, Proc. Yaroslavl State Pedagogical Institute, 1970, 64.
10. Laplace sequence of some stratified hyperbolic pairs of congruences, Proc. Yaroslavl State Pedagogical Institute, 64, 1970.
11. On a generalization of a notion of a pair of T-congruences, Proc. Yaroslavl Pedagogical Institute, 64, 1970.
12. Some types of stratified two parametric families of two-dimensional planes in P_4, Proc. of Yaroslavl Pedagogical Institute, 92, 1971.
13. A generalization of a notion of a special T-congruence, Proc. Yaroslavl Pedagogical Institute, 92, 1971.
14. Three-parametric families of two-planes in P, Izv. Pyess. Ucebn, Zaved, Matematika, 1975.
15. One-focal pseudocongruences of two-planes in P_4, Proc. Yaroslavl State Pedagogical Institute, 109, 1973.
16. On a method of proving inequities, Mathematics in High School, 6, 1966.

TEXTBOOKS

1. Book of mathematical problems for Mathematical Olympiads, Yaroslavl, 1967.
2. Polinomials and their roots, Moscow, Publ. House "Prosveschenie", 1969.
3. Polinomials and their roots, Probl'm book, Moscow, Publ. House "Prosveschenie", 1971.
4. Inequalities, Problem book, Moscow, Publ. House "Prosveschenie", 1971.●

REGINA R. FALKOWSKI

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. MAVROULES. Mr. Speaker, today I rise to speak of a remarkable woman, a dear friend and a long-time supporter and confidant: Regina R. Falkowski.

I do so, however, with a heavy heart. For Reggie, as she was known to her family and friends, lost her life suddenly in an automobile accident on September 22, 1979.

She leaves behind her husband, Henry, and two children. But all of us who have known her are diminished by her loss.

Reggie was one of a kind, gracious and full of life and style. She was also thoroughly professional, one of the most committed, involved individuals ever to grace the north shore of Massachusetts.

As I have said, Reggie was a professional, and work oriented. But with a nice twist. She had great compassion for people, and she demonstrated this every day of her life. Just ask the many people whose call she heeded as manager of one of my district offices. Or the kids in my hometown of Peabody who need special educational programs, and in whose behalf Reggie acted as vice chairman of the Peabody School Committee. Or ask the Polish-American community in my district, whose interest she always championed and whose heritage she shared. The list of her beneficiaries is endless.

Reggie was also a politician's politician, a calling I am sure she enjoyed almost as much as her Polish heritage. And when she took to the soapbox, one stopped what he was doing—and listened. Few people have been as outspoken and forceful as Reggie was. But, interestingly, few people have been as quick with an apology, or an admission of error, as Reggie. Her actions spoke for her, and if she made a false step, she would immediately rectify it. And that is the measure of this woman.

To be sure, Reggie's loss will be felt by all who knew her. For when she was in our company, her hard, gem-like presence eradiated all of us around her, and gave deeper meaning to our own lives.

There can be no doubt that Reggie was a remarkable individual, and that her life was a string of proud achievements. There is also no doubt that the trail she broke will be dark and hard to follow without her.

To Henry and the rest of the family, I offer my warmest, heartfelt condolences.●

GREAT DEPRESSION: COULD IT HAPPEN AGAIN?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. PAUL. Mr. Speaker, as we pass the 50th anniversary of the start of the Great Depression, Americans are nervously asking themselves if it can happen again.

We are in a recession now, brought on by deliberate Government policies, and eventually we could have a really serious economic downturn, with massive unemployment and suffering, if the Federal Government continues on its present path.

The Federal Government has been causing prices to rise through inflation for many years. But now the monetary chickens are coming home to roost.

Inflation destroys a market economy and a free society, because it makes rational economic planning impossible. This in turn leads to social unrest, as people find it harder and harder to make ends meet, and inflation-caused unemployment increases.

Governments cause inflation for two

reasons. They create money out of thin air to pay for budget deficits. And they create credit in the banking system, to stimulate the economy. Both cause prices to rise.

Besides rewarding favored special interests, inflation does at first stimulate the economy, because people think the new money and credit represent real wealth, instead of a dilution of real wealth. But the stimulation is artificial. It works no more genuine good than a hypodermic of heroin does for a drug addict.

Inflation leads to bad economic decisions by consumers and businessmen, and a lowering of productivity. High inflation leads inevitably to a drastic lowering of everyone's standard of living.

But it need not happen, if we establish honest money: A dollar unchanging in value, tied to something of intrinsic worth. We also need to stop Federal deficits, and cut spending and taxes.

Our economic future is not set in concrete. The American people can demand an end to all the old policies, and all the old politicians, who have brought us to this pass. By freeing the creative energy of our country, we can insure a prosperous tomorrow. But we must start today.●

THE MARCOS GOVERNMENT'S WAR AGAINST PHILIPPINE MOSLEMS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. HALL of Ohio. Mr. Speaker, for the past 5 years, the Ferdinand Marcos regime in the Philippines has been engaged in a military campaign against Moslems on Mindanao and Sulu. Severina Rivera-Drew, of the Congress Education Project of Friends of the Filippino People, has written a provocative article on the implications of this conflict for United States-Philippine relations.

I commend Ms. Rivera's observations to the attention of my colleagues:

PHILIPPINE MOSLEMS AND A U.S.-FUELED WAR

(By Severina Rivera-Drew)

In November 1974, in a little known Moslem town of Malisbong, Southern Philippines, 2,000 Moslem men, women and children were rounded up by Philippine military units and systematically massacred. One U.S. priest working in the area wrote former Representative Donald Fraser in late 1978, "this will make My Lai look like a Sunday school picnic."

The Philippine military operation was directed against a supposed rebel encampment in a coastal town on the Celebes Sea. From the reports of eyewitnesses, actual participants in the events and the widows themselves, it seems that men and boys over 16 years of age were the targets. Many were rounded up and shot in the Mosque and many were taken out in boats and shot and thrown into the sea. These people were fishermen living in the area for many years. Their only crime was that they were forced to supply the dissident Moro National Liberation Front with fish, rice and some money. The armed dissidents were long gone by the time the army arrived and began their wanton carnage.

A Philippine government report confirms this account. The top secret report, stamped "For the President's Eyes through (Information) Secretary Tarad" and prepared by Philippine lawyer Leloy Caniedo of the military's investigation team states:

"About 2,000 women, civilians and children buried by Army at Malisbong, province of Sultan Kudarat. About 7,000 civilians have evacuated to upper Kulong-kulong and Kran, Sultan Kudarat province. Every now and then, moneyed Muslims are being picked up as suspects for giving aid to the rebels."

The report details one of the most savage military operations against the insurgent Philippine Moslems in recent history.

That atrocities of this magnitude have managed to elude international outcry is one of the many problems confronting the Moslems. Of the November massacre, the priest wrote, "We had all heard rumors of this after it happened but it was hard to get reliable information since the army had the place well secured—no one was allowed near the area for months."

An American journalist who was discovered in the area was immediately sent back to Manila. The State Department's Human Rights Reports said of Mindanao, "Many civilians have been killed and on occasion, homes have been destroyed."

President Marcos has attempted to exploit the religious and cultural differences between Moslem and Christian Filipinos in a classic application of the divide and conquer tactics so aggressively pursued by the Spanish and American colonizers before him. Nur Misuari, the leader of the 30,000 strong MNLF is careful to stress however that "the enemy of the MNLF and the Bangsa Moro people is not the Filipinos."

"The enemy," he states "is the oppressive Philippine colonial regime . . . backed by its U.S. master. It is well-known that without massive U.S. military and economic assistance the Marcos fascist regime would not last a day longer."

The enmity borne by the Moslems against the U.S. is returned in kind. Zbigniew Brzezinski stated in the aftermath of the Iranian revolution that the Moslem movements in the Philippines, Afghanistan, Egypt and Pakistan were of grave concern to U.S. national security. Instead of trying to understand the Moslem's oppression and poverty President Carter increased this year's military and related aid to the Marcos regime by 200 percent.

U.S. Role. The seeds of antagonism and adversity were rooted deep in the early period of U.S. colonization of the Philippines.

On at least two occasions during U.S. rule, there is clear documentation of massacres perpetrated by U.S. troops against Moslems who continued to resist the Americans as they had resisted the Spanish.

In 1906, Gen. Leonard Wood led an assault at Mount Bud Dajo against 600 Moslems who had taken refuge with their families in the crater of an extinct volcano. For one and a half days, Wood with artillery and troops encircling the crater rim, poured fire into the Moslems massed below. Not a single Moslem was left alive. Mark Twain scathingly called it "incomparably the greatest victory that was ever achieved by the Christian soldiers of the U.S."

In June 1913, Gen. John Pershing engaged Moslems at Bud Bagsak in five days of fighting. Official U.S. communiques said that between "300 and 400 hopeless fanatics and cattle thieves" were killed. Another U.S. source claimed in a San Francisco paper that in fact 2000 Moslems had been killed, including 196 women and 340 children.

Today, a more subtle U.S. policy shaped by the Nixon doctrine has moderated direct U.S. engagements against the Moslems but the war by proxy flourishes on U.S.-supplied jets, bombs, howitzers and other hardware. The Moslems go further. They claim that the U.S. has resorted to "direct intervention" in the Marcos genocidal war by allowing American jets from Clark Air Base to participate in bombing missions over Mindanao. In 1974, Prof. Benedict Kerkvliet testified before a U.S. Senate Committee that U.S. pilots flew U.S. planes in bombing missions over Mindanao.

The Roots of Conflict. Multinational corporations, mostly U.S. owned, have special interests and incentives to expand their operations in the rich South. Oil explorations by firms like Texaco and Chevron are frustrated however because of the Moslem insurgency. Agribusiness like Dole and Del Monte have forcibly evicted Moslem peasants who farmed the land for generations. Some are hired on as temporary manual workers, denied the rights to bargain for job security, better wages and working conditions.

The Moslems recently warned the multinational companies "to move out or face the risk of getting caught in the crossfire between the Bangsa Moro Army and the Philippine military." The Moslems declared to reporter Tom Weber, "We want them to stay away from any part of our homeland until the political problem has been resolved."

The war is spreading and the balance sheet is grim.

On the government side, 60% of the Philippines' total infantry strength, half the marine combat troops and about ⅓ of the Philippine Constabulary are joined in Mindanao by 65,000 Civilian Home Defense Forces and 30,000 paramilitary units. The logistics of war are U.S. supplied. On the Moslem side, 30,000 Moslem combatants, a potential pool of 6 million Moslem civilians, 5,000 Communist Party soldiers and deceptively quiet Christian sympathizers are ranged for battle. The logistical support is provided by oil-rich Iran, Libya and the 44-nation Islamic Conference.

This is one war the United States should stay clear of. It should stop the massive flow of arms and aid to the Marcos government immediately.●

THE ELIMINATION OF SMALLPOX

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Ms. OAKAR. Mr. Speaker, on October 26 of this year, the world will celebrate the second anniversary of a milestone in the history of medicine—the elimination of the last-known case of smallpox. This day will be observed in Cleveland with special pride because the physician who headed the United Nations' 10-year fight to rid the world of smallpox is Dr. Donald A. Henderson, a native Clevelander. On November 8, Dr. Henderson will be officially honored for this historic achievement at a Rotary luncheon in Cleveland, Ohio. Thanks to Dr. Henderson's efforts in ridding the world of smallpox, thousands of people are alive today who may not have been otherwise.

In tribute to Dr. Henderson's work, the distinguished former judge, Earl A. Hoover, has written an article describing the circumstances surrounding Dr. Henderson's involvement in the world fight against smallpox. To mark the coming celebration of the elimination of small-

pox, I would like to submit this article by Judge Hoover which vividly demonstrates the significance of Dr. Henderson's achievement in driving from the Earth one of mankind's most dreaded diseases.

The article is as follows:

THE CLEVELANDER WHO RID THE WORLD OF SMALL POX

(By Earl R. Hoover)

Alexander The Great conquered the known world. Some 2300 years later, a native Clevelander, Dr. Donald A. Henderson, also conquered the world—the known world of Small Pox. Of the two conquests, Henderson's perhaps is the greatest victory for humanity.

It is hard to believe, but Small Pox is dead—its epitaph has been written—it has been eradicated from the earth—all because of an all-out 10-year, global war against it, waged by the World Health Organization (WHO) of the United Nations under the generalship of Henderson.

This Cleveland native—often referred to as "the man who rid the world of Small Pox" and "the father of Small Pox eradication"—was born in MacDonald House, University Hospital, Cleveland, on September 7, 1928—grew up on Daleview Drive, Lakewood, where his mother, Eleanor Henderson, still lives.

He is a product of Lakewood's Lincoln Elementary School, its Horace Mann Junior High School and Lakewood Senior High School. At the latter, he sang in the a cappella choir, edited the year book and was class valedictorian (1946). He is also a product of Oberlin College (1950).

Along with a great host of local, world achievers—such as Charles F. Brush, Thomas Edison and Charles Martin Hall—Dr. Henderson stands as a rebuke to those who belittle our community.

What power he adds to the might of the New Cleveland Program—co-chaired by Thomas Vail and Art Modell—which changes the image of Greater Cleveland by emphasizing the great achievements of our citizens and native sons!

Small Pox is the first and only disease to be eradicated from the earth—one of the world's brightest chapters in preventive medicine. Henderson is as indigenous to Greater Cleveland as the Public Square, and we can be proud that, through a native son, there's a bit of us in every country rid of Small Pox, and in the countless millions of lives that have been saved.

In May 1966, the WHO committed itself to global Small Pox eradication with a goal of stamping it out in 10 years. Soon, Dr. Henderson, then living in Atlanta, received a call from WHO's director-general asking him to head up the campaign.

Skeptical friends advised Henderson against accepting. "You don't stand a chance", they said.

Based on facts, to many, the chance of success was non-existent. At that time, in 44 countries there were 10 to 15 million cases of Small Pox, which willed 2,000,000 people every year. This highly contagious scourge—one of the most loathsome—and feared by health officers as no other disease—dates back to pre-historic times. There is no known cure. 20 percent to 30 percent of those afflicted with the severe Asiatic strain died. Survivors were permanently scarred, sometimes blinded.

For thousands of years, Small Pox had been an accepted way of life. In the 17th century, Lord Macaulay described it as the "always present*** most terrible of all the ministers of death*** filling the churchyards with corpses".

The very logistics of such a battle was insuperably discouraging. Small Pox was ubiquitously spread throughout millions of—hard-to-get-at, inaccessible—square miles of the earth. To be confronted were—many of the least developed countries—large remote areas that had never seen a health officer—jungles — deserts — scattered populations — some of the world's most hostile terrain—civil unrest and civil wars—language and custom barriers — bureaucracies — fear — superstitions—plain resistant hostility—and a disease that moves readily across open borders and recognizes no nation's boundaries.

Already, Small Pox had repeatedly altered the course of history. Brought by Cortés to the New World, it eventually killed an estimated 3½ million Indians and contributed to the collapse of the Inca and Aztec civilizations. Decimation of North American Indians paved the way for European settlement.

It was little wonder that Dr. Henderson believed such a program would be a waste of time. However, his supervisor, the Surgeon General of the U.S Public Health Service, ordered him to go at least for 9 months. Moving his family to Geneva, Switzerland, the WHO Headquarters, he was not to see his stored furniture again for 11 years.

Though he led the fight—as did General Eisenhower—Dr. Henderson was first to give credit to the army of people who fought the battle to success—"a campaign that enlisted close to 700 advisers from 55 countries and upwards of 200,000 national health officers and volunteers".

Previous attempts to eradicate Small Pox—relying mostly on mass vaccination—had failed. Now a new plan of attack was necessary and was devised—consisting essentially of three basic things:

1. Discovery. This consisted of hunting and finding all cases of Small Pox wherever they may exist in the world. To conquer the disease, it was necessary to know where it existed. Roving detection teams were sent into the field. Often team members would go from house to house and show villagers the hideous photograph of a Small Pox victim and ask "Have you seen anyone with a disease like this?". To excite cooperation rewards were offered to those who reported cases.

2. Isolation. Once discovered, each Small Pox victim was isolated and confined to his home, so he couldn't spread the disease to others. This was no small task. In many societies, particularly in Muslim ones, there was a custom of visiting the sick. People came from great distances to visit. Many came in the middle of the night, because it was common folklore that you couldn't catch Small Pox at night.

Visiting had to be stopped, and a system was devised to do it. The back door of a victim's house was nailed shut, and 4 watch guards took turns around the clock sleeping across the front door.

An outbreak in a brothel was real trouble—increasing the pursuit burden.

3. Vaccinating. Once a Small Pox victim was discovered, workers set out to find and vaccinate everyone who had any contact with him. Sometimes, this required vaccinating a whole village, or a whole section of a town.

The foregoing are just a few phases of the gigantic, complex, global problem and assault. In detail, they are drama that reads like fiction. The results are equally dramatic and unbelievable.

In 1967, Small Pox contaminated 44 countries. In 1972, they were reduced to 19; in 1975, to 5. In 1977, the reduction was to "no countries". Small Pox had been eradicated from the earth in just a decade—and at the bargain cost of just $96,000,000.

The last known case in the field was a Somali African cook—Ali Maow Maalin—who developed Small Pox on October 26, 1977. He was isolated under guard, and a painstaking search was promptly begun, resulting in finding and vaccinating 161 people who had been in contact with him. None developed Small Pox. Already Ali is famous. For the first time, children are being born in a Small Pox-free world.

However, at least two cases were reported but from carelessness at a university laboratory in Birmingham, England, one of 12 laboratories which still retained Small Pox virus essential to medical research. To lessen the risk of such laboratory infection, all laboratories except four—Atlanta, London, Moscow and Tokyo—have been asked by WHO to give up their virus stocks.

Final confirmation of eradication requires the lapse of at least two years after the last known case in the field. Certification is expected this year—October 1979—and a world wide celebration.

On Friday, October 26, 1979, there will be a world-wide simul-cast satellite T.V. hookup celebrating the second anniversary of the last naturally occurring case of Small Pox in the world. The World Health Organization, an arm of the United Nations, will be chairing this event. Dr. Henderson will be in Ethiopia with the last victim, now recovered, to mark this.

The world has bestowed many honors and awards on Dr. Henderson, who is now Dean of the School of Hygiene and Public Health, of Johns Hopkins University, the oldest such school in the United States, which also has the largest faculty and a tradition of international output. In 1960, he graduated from that School, after having obtained an M.D. degree from the University of Rochester School of Medicine in 1954.

Along the way, he found time to acquire a wife and 3 children and write 64 scientific publications.

Shortly after the certification, The Rotary Club of Cleveland is bringing Donald Henderson home on Thursday, November 8, 1979 for a Cleveland civic celebration and address.●

SHEEP MOUNTAIN WILDERNESS AREA

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. LLOYD. Mr. Speaker, I am today introducing legislation to designate 45,000 acres of wilderness in the Sheep Mountain Study Area in the Angeles and San Bernardino National Forests for protection under the Wilderness Act of 1964. This study area is one of 54 across our Nation for which the Omnibus Wilderness Act of 1976 authorized an extensive 2-year review for potential permanent protection as wilderness. The now-completed study has recommended that acreage in the Sheep Mountain Wilderness Area be included in the National Wilderness Preservation System.

After careful review of the study area and consultation with environmentalists, user groups, and the Forest Service, I am supporting a 45,000-acre wilderness area in order to protect the entire ecosystem of the Nelson bighorn sheep. This is larger than the Forest Service proposal of 30,400 acres, which leaves out important lambing areas and bighorn summer and winter ranges which are vital to the survival of the sheep—this area's most valuable resource.

I look forward to the enactment of this measure in order to preserve, protect, and responsibly manage this rugged wilderness which exists in such remarkable proximity to the Los Angeles metropolitan area.●

NATIONAL HANDICAPPED WEEK

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. GUARINI. Mr. Speaker, this week of October 8 has been proclaimed by the President as National Handicapped Week. While I commend President Carter for his concern and action, it is my belief that every week should be national employ the handicapped week.

Accordingly, I have introduced H.R. 5510, the Equal Employment Opportunity for the Handicapped Act. This legislation would amend title VII of the 1964 Civil Rights Act to prohibit discrimination against individuals because of a handicapping condition. A person's ability, and not his disability should be the main consideration when he or she is being considered for employment. Too many in our society interchange the two words "disability" and "handicap." Many people have disabilities in physical and mental conditions. But Webster defines "handicap" as "a disadvantage that makes achievement unusually difficult."

This has not been the case with all of those possessing difficulties. History has shown us greatness in the polio-afflicted Franklin D. Roosevelt, the blind musical artist Ray Charles, and the genius of that hearing impaired inventor, the great Thomas Alva Edison, not to mention the outstanding leadership provided by Helen Keller, who was both blind and deaf.

Yet, too many others with similar conditions have been denied an opportunity to fully explore the depth of their talents. All of our disabled should enjoy the protection of our State and Federal equal opportunity and affirmative action measures. Every possible step to alleviate discrimination against this group of Americans should be undertaken. That is why I have introduced this legislation.

Mr. Speaker, while disabilities are very difficult to change, handicaps must be changed and removed, so as to allow the full participation in our society of all individuals. Each and every one of us must be given the opportunity to develop to our fullest capacity, disabilities notwithstanding. I am confident that my legislation will go a long way to achieve that end.●

SHATTER THE SILENCE, VIGIL 1979

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. RODINO. Mr. Speaker, I am proud to address my colleagues on the Shatter the Silence, Vigil 1979 because I believe that it is essential that we, as a free nation, speak out on behalf of all those oppressed individuals throughout the world who are denied their basic human rights.

Mr. Speaker, 2 years ago I learned about a young man named Benjamin Bogomolny who has been trying to leave the Soviet Union since 1972 but who has been denied emigration rights without explanation. Although Benjamin's family and friends have been allowed to migrate to Israel, his request for a visa has been denied repeatedly. He has been subjected to frequent interrogation and harassment by the Soviet Government. His apartment has been ransacked and his life threatened, with no protection from the Soviet authorities.

As one of those courageous Jews in Russia known as refuseniks, the community of Jews who have been refused permission to migrate to Israel, Benjamin has shown strength and courage in his determination to join his family. He has endured much hardship, and I have learned that he lives with the hope that we in the United States will not forget his plight and that we will speak up for his rights and the rights of all refuseniks.

Mr. Speaker, we in the Congress have a commitment to insure that the United States carries out its obligations to the Helsinki Agreement of 1976 and to recognize those nations who do not honor it. The treatment of Benjamin Bogomolny clearly seems to be in violation of the agreement and for the United States to ignore such instances would compromise our own commitment to human rights and liberties for all people.

Mr. Speaker, I urge my colleagues to support the international efforts to help Benjamin Bogomolny and other persons who long to become free. ●

SENATE—*Friday, October 12, 1979*

(Legislative day of Thursday, October 4, 1979)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, in all that happens this day may we be aware of Thy presence. Help us in our personal relations and in our work together. May we be respectful of those who are older than we are, be courteous and considerate of our teammates and be worthy examples to the young. May we be just and fair and kind to those whom we supervise. Shed Thy light upon the hard problems. Strengthen our wills when to do right seems unpopular. May we be sympathetic to those in trouble and kind to those in need. And as we labor together may our efforts be a blessing to this Nation and to the world. Help us to test everything in the light of Thy presence and the Lordship of the Master, so that we may come to the day's end without mistakes or regrets, through Jesus Christ, our Lord. Amen.

Mr. BURDICK assumed the chair as Acting President pro tempore.

THE JOURNAL

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, may I inquire of the status of special orders for this morning, the time allocated to the majority and the minority leaders, and also arrangements and sequence of that time?

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is to be recognized for not to exceed 5 minutes, and under the previous order, the minority leader is to be recognized for not to exceed 5 minutes.

There are three special orders for 15 minutes each to follow.

Mr. BAKER. I thank the Chair.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. I thank the Chair.

AMERICAN POLICY IN THE MIDDLE EAST

Mr. BAKER. Mr. President, I noted with great interest the remarks by former Governor Connally at the Washington Press Club yesterday, about his concerns of the Middle East and his proposals for the settlement in that area. I have a high regard and respect for Governor Connally as a distinguished public servant and a worthy competitor for the Presidential nomination. What I am about to say in no way casts any aspersion or criticism on Governor Connally or his motivations. But I must say, Mr. President, that I have substantial and significant disagreements with him on how we should proceed to formulate an appro-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

priate, relevant, and forceful foreign policy in the Middle East.

I do not believe, Mr. President, that the State of Israel should ever be used as a pawn in the formulation of that foreign policy. I do not believe that the United States should try to impose a settlement on Israel, or any other country in that troubled part of the world, and most I do not believe that America should use her strength to try to coerce or intimidate any nation to a particular point of view or policy.

In respect to the PLO, Mr. President, I have always tried to make a distinction between the Palestinian Liberation Organization, the PLO, and Palestinians. I have a great respect and compassion for Palestinians, who have great problems and have suffered great dislocations. But unless and until the PLO will renounce its dedication to the destruction of the State of Israel and the use of force and terrorism to accomplish that end, I do not think it well serves the United States, our policy, or our national security to advocate negotiations with them or consider the creation of an independent and sovereign Palestinian state.

Mr. President, Israel is important to the United States. All of the Arab countries are important to the United States. The oil supply from the Middle East is important to the United States. I have said from this place that a President of the United States should declare that the preservation of the availability of that oil to our country is a vital national security interest to this Nation. But I do not believe that the availability of that oil supply to the United States should be a determinative factor in our efforts to promote a stable and useful peace arrangement in the Middle East.

Oil politics and Middle Eastern politics are analogous, but they are not interrelated. Our responsibilities are not only to Israel as a great and brave sovereign nation, but also to the foreign policy of this country because, in time of emergency and conflict, Israel might very well be the only nation in the Middle East where the United States could deploy forces, could land an airplane, could protect our vital national interest.

So, Mr. President, I believe that President Carter made a move in the right direction when he abandoned his early call for reconvening of the Geneva Peace Conference, which is cochaired by the Soviet Union, and resumed instead the careful and prudent, step-by-step negotiations between Egypt and Israel that led finally to the Camp David agreements.

I commended President Carter for that at the time. I continue to believe that the agreement between Egypt and Israel is the basis and the foundation for a stable and secure peace in the region.

I utter words of frieindship and accommodation to every country in the Middle East. It is my personal view that we owe a special obligation to strive for a comprehensive peace settlement. But such a comprehensive peace settlement, in my view, cannot be promoted by an intererelationship between the price or the availability of oil or the creation of an independent Palestinian state.

Mr. President, I shall have more to say on this subject as and when I have an opportunity to examine Governor Connally's remarks in greater detail. I reiterate that in stating my disagreement with major parts of his policy, I in no way diminish my admiration for him as an individual, as a public servant, and as a distinguished public figure in the United States. But I think that a matter of this importance to our country and to the political process requires an early response. My response is that I do not think that the proposal made by Governor Connally yesterday is a careful, prudent, and desirable foreign policy formulation for this country.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska (Mr. EXON) is recognized for 15 minutes.

A NATIONAL DEFENSE SURVEY

Mr. EXON. I thank the Chair.

Mr. President, I speak today as a strong supporter for a new and additional defense appropriation within the framework of a balanced budget by fiscal 1981 and thereafter, except when the contrary becomes necessary in times of real national emergency. I speak also as an American concerned about Soviet expansionism in many fields and as a Senator vitally interested in rational, informed, and intelligent discussion and debate on the legislative issue of the proper level of defense expenditures.

In this context, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks and incorporated as a part thereof the printed material that I hold in my hand, which was received by me through the mail from the National Republican Senatorial Committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, it is entirely proper that I take this action now, and thereby alert the Members of the Senate on both sides of the aisle herewith because the extensive and at times terribly redundant material clearly indicates the intent of the National Republican Campaign Committee to involve this supposedly deliberative body in a partisan politically motivated debate. They will do this by the promised publishing of the results of a phony "1979 national defense survey" in the official publication of this body, the CONGRESSIONAL RECORD.

Legitimate fundraising efforts, criticism of the President and his policies on defense, or other matters, even sharp debate between Senators is proper and useful. It was my hope, nevertheless, that, notwithstanding such activities, the Senate would play its traditional role of putting aside partisanship in the spirit of Arthur Vandenberg on international and defense matters. Such a hope will surely fade if many of our colleagues on the east side of the aisle, whose strong position in this regard is shared likewise on this side, choose to follow the highly partisan adventurism of the National Republican Campaign Committee. That organization and its spokesman are obviously using national defense as a fundraising gimmick.

I wish to report further on their recent effort which, in the opinion of this Senator, exceeds due bounds of propriety.

Mr. President, I find it nearly impossible to describe in words appropriate for the floor of the U.S. Senate the thrill it was for this poor soul to receive and read the material and cover letter from the National Republican Campaign Committee. I was impressed, naturally, when the first words of the cover letter said, "I am writing to you personally."

Mr. President, surely you, like myself, would be awe-struck to learn from my personal letter that not only was I honored to be included in a survey designed to save our Nation, but as an important additional bonus, prominently promised in the important fifth paragraph of this personal letter, containing a total of 52 fascinating reading paragraphs, was that the results of the survey would be published in the CONGRESSIONAL RECORD.

I hope you can appreciate, Mr. President, what self-restraint I exercised to keep from jumping at such a unique opportunity, not only to participate in a survey, but save my country simultaneously, especially when I was furnished a self-addressed, postage-paid "special reply" envelope.

I discovered that I was obviously further honored by being assigned "a special survey number" so that the vital information so necessary from me could be promptly returned and "tabulated quickly."

Mr. President, all of this "special" business prompted me to reflect on the envelope received from the National Republican Campaign Committee containing my highly valued personal letter, survey, and smattering of other literature.

On the face of the envelope containing my personal letter were prominently printed instructions to the postmaster that, if undeliverable, my personal letter and all the valuable material enclosed should be "handled in accordance with USPS regulations." Upon checking these regulations, Mr. President, I learned that the National Republican Senatorial Committee had, actually, authorized the destruction of my personal letter, including my "special survey number" and my "special reply envelope." I was heartbroken to realize that the National Republican Senatorial Committee was not so certain that I was special after all. But they would not, Mr. President, attempt to deceive me or the thousands of other Americans similarly honored, or would they? Surely such a group would not just be after a few bucks to serve their ends?

My personal letter continued, and I first noted a positive negative note when they launched a frontal attack on "the Democratic controlled Congress" and "what they are doing to our national defense," and so forth.

Mr. President, in defense matters the Democratic controlled Senate is led by the majority leader, ROBERT C. BYRD of West Virginia, and other such well known and patently unprincipled pacifists as the following: The chairman of the Armed Services Committee, JOHN STENNIS of Mississippi; the chairman of the Appropriations Committee, WARREN MAGNUSON of Washington; the chairman of the Budget Committee, Ed Muskie of Maine; the chairman of the Finance Committee, Russell Long of Louisiana; the chairman of the Foreign Relations Committee, Frank Church of Idaho. In addition, in this area the subcommittee chairman of the Armed Services Committee have special responsibilities herewith including Henry Jackson of Washington, Sam Nunn of Georgia, John Culver of Iowa, Gary Hart of Colorado, and Robert Morgan of North Carolina. In addition there have been many other leaders in and for sound defense without specific leadership responsibilities.

I have checked the record, Mr. President, and found that these defense leaders of the Democrat controlled Congress supposedly weak on defense expenditures, have led the way for appropriations of 109.3 billion defense dollars in fiscal year 1977, some $13.2 billion more than in 1976 (which was $96.1 billion) for an increase of 13.7 percent. Likewise, $115.9 billion for 1978, up $6.6 billion or 6 percent from 1977; $124.8 billion for 1979, up $8.9 billion or 7.7 percent from 1978; $141.2 billion for 1980, up $16.4 billion or 13.1 percent from 1979. In addition this Democrat controlled Congress and its leadership has endorsed at least an additional $18.6 billion increase for fiscal 1981 over 1980 which is up 13.1 percent and $20.6 billion further increase in 1982 for an additional 12.9 percent increase. More additional funds have been indicated for defense if proven necessary. Under leadership of the present majority, Mr. President, we will have dramatically increased defense commitments from $96.1 billion in 1976 to an estimated $180.4 billion by 1982. That represents an 87.7-percent increase in 6 years.

With this record of increased appropriations, Mr. President, it is not clear why anyone truly interested in this Nation's defense, would want to eliminate such prodefense leadership. Could some group or individual within possibly harbor a selfish political motivation to be critical?

Factually and very seriously speaking, Mr. President, there are some but only minor differences by the majority of Senate Democrats and Republicans alike, with regard to the additional level of spending necessary to meet our defense requirements.

To suggest that either political party stands for a dangerous cutback in our defenses is nonsense and a statement that this Congress is one of the most anti-defense Congresses in our history is sheer demagoguery. Equally as irresponsible, Mr. President, would be for any thinking person to base needed increases in defense expenditures on the results of the patently phony 1979 national defense survey. Playing politics with the serious business of national defense is not only bad politics but dangerous business.

I suggest, Mr. President, that this Nation through this great body can better meet its needs and commitments to defense with more intelligent, honest and factual debate than that suggested by the National Republican Senatorial Committee material regardless of which party controls the White House or the Senate. If we cannot, then God help us all.

Mr. President, I reserve the remainder of my time.

EXHIBIT 1

1979 NATIONAL DEFENSE SURVEY W-9155

Assigned to: James Exon.

Results for distribution to: Nebraska Senators Exon and Zorinsky.

From: Governor James Exon, State Office Building, Lincoln, Nebraska 68509

To: Senator Howard Baker, Minority Leader.

Yes, I want to help the National Republican Senatorial Committee launch its national campaign to distribute and publish the 1979 National Defense Survey and alert the American people to the dangerous and irresponsible defense cutbacks made by Mr. Carter and the Democrats.

I have enclosed my maximum contribution to help you defeat the anti-defense liberal Democrats and to help elect Republicans to the U.S. Senate who will vote and support a strong national defense—second to none.

$——, $500——, $250——, $100——, $50——, $25——, $15——.

Please make your check payable to: The National Republican Senatorial Committee

1979 SURVEY ON NATIONAL DEFENSE

Yes, I have completed my specially numbered poll. Please publish the results and distribute to President Carter and to my Nebraska Senators Exon and Zorinsky.

(Signature—do not print.) To validate your survey, please sign above and return in enclosed envelope.

Occupation------ ☐ Please check if self-employed.

Place where employed------------------ (please include city and state).

The Federal Election Commission requires that we request the above information.

Federal Law prohibits solicitation of Federal employees. If this applies to you, please disregard this appeal as inadvertent.

Corporate contributions are prohibited by law.

"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

U.S. SENATE,
Washington, D.C.

DEAR FRIEND: I am writing to you personally on a vital matter that directly affects you and your family: the national security of the United States.

That's why I didn't want to delay in rushing you this special 1979 Survey on National Defense that has been especially prepared by the National Republican Senatorial Committee.

Whether you are a Republican, Democrat or Independent, I urgently need to know if you agree or disagree with the decisions President Carter has made over the past two years to drastically cut back our national defense.

To save time, I've gone ahead and registered a special survey number in your name for the enclosed two survey cards so that the returns can be tabulated quickly.

Your individual answers will remain confidential. Only the total results will be released to the two U.S. Senators in your state, to President Carter and to the U.S. Senate leadership. The results will then be published in the Congressional Record.

So, I strongly urge you to answer the questions and rush your survey back to me as fast as you can in the special reply envelope I have enclosed for you.

But first let me tell you why I need your opinion. After what I've seen and heard in just the last few weeks on Capitol Hill, I'm convinced (along with many Senators from both parties) of one thing: unless Mr. Carter changes the whole direction of his defense policies, the Soviets will soon gain, for the first time in their history, military superiority over the United States.

I think you should know about the extensive nature of these defense cuts and what they mean to you and your family. And I firmly believe President Carter and the Democrat-controlled Congress should know just exactly how you feel about what they are doing to our national defense.

In fact, I believe the time has come, as never before, for a nationwide debate not only over Mr. Carter's specific defense cuts, but also on his entire defense and foreign policy decisions, including the SALT II Treaty, that he's made in the face of a worldwide Soviet advance in the Middle East, Africa and Asia.

Just look at what's already happened:

(1) In 1977 and 1978, Mr. Carter and the Senate Democrats cut a whopping $11 billion off the defense budgets recommended by the outgoing Ford Administration. This cut military muscle, not fat. And it has crippled development of some of our best, new, vital weapons systems.

(2) President Carter appointed Paul Warnke as Chief Negotiator for the Strategic Arms Limitation Talks (SALT II) with the Russians.

Mr. Warnke was George McGovern's national defense advisor in his 1972 Presidential campaign.

If that doesn't tell you enough, it was Warnke who "engineered" McGovern's radical plan to chop $32 billion from the defense budget!

(3) President Carter has appointed former McGovern aides and other well-known disarmament advocates to key national security posts. Voters flatly rejected McGovern and his defense policies in the 1972 election. Yet, President Carter has put some of these same people in positions of power running our defense system.

(4) In just two years, Mr. Carter and his defense advisors have established a clear pattern of unilateral defense cutbacks without demanding any similar concessions from the Soviets.

I'm talking about the B-1 Bomber cancellation, the slowdown in the Trident Missile submarine program, his staggering cutback in U.S. Navy shipbuilding by 50%, and the very serious delay in the production and deployment of our new land-based mobile MX missile.

As a result of just the decisions I've listed here, many Congressional leaders in both parties are alarmed that he and his defense advisors have set a course that will turn the U.S. into a second-rate military power, unable to protect vital American interests around the world.

I personally believe this is not the time to gamble, in any way with our national defenses. And I certainly don't think we should risk any arms "cutback" on the vain "hope" the Russians will someday follow suit.

But I want to know what you think. That's why I've sent you this specially numbered survey assigned for your personal use.

When the results of this national survey are released it can have a major impact on President Carter and the United States Congress.

Why? Because I'm convinced that if Americans, like you, are given a chance to express their views on basic questions invloving U.S. security, an overwhelming majority will demand a strong, safe and secure America.

Here's why I say that. For one, it's a cold, hard fact that the Russians are engaged in an unprecedented nuclear and conventional arms build-up right now.

What's more, even President Carter's CIA director, Admiral Stansfield Turner, says that "nothing has changed the Soviet Union's goal of world domination." And the events in Angola, Ethiopia, Rhodesia, Iran, Cambodia and Afghanistan dramatically prove it!

In the face of this growing Soviet challenge, however, Mr. Carter and Mr. Warnke have negotiated a SALT Treaty which, combined with the Administration's earlier defense cuts, will lock us into a position of potential military inferiority to the Soviets.

But what worries me more than anything is our ability to make sure the Russians stick to the terms of the treaty and don't cheat. The loss of our monitoring stations in Iran means we have no foolproof system of verifying Soviet compliance.

Despite Mr. Carter's optimism, no U.S. "spy-in-the-sky" surveillance cameras can tell how many separate warheads are carried on a single Russian missile.

And no camera can identify the missiles not covered by the treaty that the Russians could keep in warehouses and factories for quick deployment to give them a sudden and surprising edge in a confrontation with the U.S.

I think the time has come for Mr. Carter to answer some vitally important questions about his policies and his view of world politics.

1. Just exactly what does Mr. Carter think the Russians are up to? Why are they carrying on the most massive weapons buildup in their history?

2. Why are the Russians conducting a massive civil defense program and building underground shelters for their missiles, their leaders and many of their citizens?

3. Why has Mr. Carter cut back, for two long years, our U.S. weapons programs without demanding, in return, major military concessions from the Russians?

4. And why has his Administration failed to respond adequately to Soviet military and political advances around the world?

5. And, why, after signing SALT, did Mr. Carter sit back silently and let Soviet leaders Brezhnev and Gromyko dictate to our U.S. Senate and the American people their "unnegotiable" terms for treaty ratification?

These are questions that need straight answers.

And we're not going to get these answers unless we have a comprehensive national debate on exactly where we stand.

That's why we must distribute the Senate Committee's 1979 Survey on National Defense to thousands of Americans, regardless of party, to give them a chance to give their views on these critical questions.

But I can't do it alone. I need your help and financial support. And I'm asking for your financial support for one reason: the future safety and security of our families, our homes and our country.

Because even today you and I face one of the most anti-defense Congresses in our history. Already the liberal Democrats have introduced bills in the U.S. Senate to further weaken our national security by cutting more and more muscle from our defense budget.

I hope you can see now why I'm writing you this urgent letter. And this is why your support is so important to me and the Republican Senatorial Committee. If I can count on your help, we can stop this dangerous outback in our defenses. And insure that America has a defense second to none—before it's too late.

Here's what you can do to help:

First, take a minute to answer the survey questions. It's important that you participate in this national survey.

Second, please send the largest contribution you feel you can make today to the National Republican Senatorial Committee. The Committee urgently needs your contribution to: 1) distribute, nationally, the 1979 Survey on National Defense to thousands of Americans and 2) elect Republicans to the U.S Senate who'll vote to keep our defenses strong.

The Committee Chairman, Senator John Heinz, tells me the Committee must raise $300,000 to fund these top two priority projects.

As a U.S. Senator, and as a citizen, nothing concerns me more than this blind rush to undermine our national defenses. Once the American people find out what's going on, I'm convinced we can put a stop to it.

But it will take your contribution and support. Your contribution will be used to distribute the poll nationally, tabulate and publish the results and help elect and reelect Republican Senators in 1980 who'll vote to keep our military strength second to none.

But we must start today if we have any hope of defeating, next year, the liberal Democrats who vote time and time again to 1) cut defense spending; 2) stop development of major new weapons systems; and 3) support defense and foreign policies that fail to stand up to the Russians.

Keeping our national defense the strongest in the world, or being reduced to a second-rate military power is purely and simply a matter of votes.

With the powerful disarmament lobby operating on Capitol Hill with the enthusiastic support of the liberal Democrats, it's crucial that we elect more Republicans to the U.S. Senate in 1980 to stop the drastic decline of American power and influence.

Please send your most generous contribution today to the National Republican Senatorial Committee. Time is short.

I'm not very used to asking for money, but I'm sure there are some of you who can send the Committee $500, $250 or $100 and I certainly hope that you will.

But it is also going to take many contributions of $15, $25 and $50 if we are going to win this battle against the anti-defense lobbyists and disarmament advocates in the Carter Administration

These anti-defense lobbyists are working, right now, to do everything they can to cut back our military strength. But with your help, they won't get away with it.

But I need your help and support—more than you know. I hope to hear from you just as soon as possible.

Sincerely,

HOWARD BAKER,
U.S. Senator.

1979 NATIONAL DEFENSE SURVEY

(Prepared by the National Republican Senatorial Committee, Washington, D.C.)

1. Since becoming President, Mr. Carter has ordered billion dollar cuts in the U.S. military forces (B-1 Bomber, Trident Submarine and MX Mobile Missile). Do you agree with Mr. Carter's decision to do this without getting similar military concessions from the Soviet Union?

Yes.
No.
Undecided.

2. Do you believe that recent East-West trade and arms limitation agreements have caused the Soviet Union to abandon its long-stated goal of world domination?

Yes.
No.
Undecided.

3. Do you believe that the policy of detente pursued by the United States with the Soviet Union has benefited both sides equally?

Yes.
No.
Undecided.

4. Do you support any U.S. defense policy that would allow the Soviet Union to achieve military superiority over the U.S.?

Yes.
No.
Undecided.

5. Do you trust the Soviets to keep a new SALT II agreement if there is no provision for on-site inspection and verification by both parties?

Yes.
No.
Undecided.

6. The Soviets are fighting wars in Africa through the use of Cuban troops and arms shipments to Marxist Guerrillas. Should President Carter demand that the Soviet Union stop fighting in Africa as a condition to the U.S. signing any new SALT agreement?

Yes.
No.
Undecided.

7. Would you favor a 10 to 20 billion dollar increase in the U.S. defense budget if you know the Russians had achieved strategic military superiority over the U.S.?

Yes.
No.
Undecided.

8. If the Soviets achieve military superiority over the U.S., do you think it will increase the possibility that the Russians might take a gamble and risk a super power confrontation with the U.S.?

Yes.
No.
Undecided.

9. How would you rate President Carter's job to date in the area of defense and foreign policy?

Exellent.
Good.
Fair.
Poor.
Very poor.
Undecided.

Following letter from Senator Armstrong was also a part of the package of material, folded so that the following appeared first, which was actually printed on reverse side of Armstrong letter.

Do not open unless you have decided not to contribute to the Senate committee at this time.

SENATOR BILL ARMSTRONG,
Wednesday.

DEAR FRIEND: I have no way of knowing why you have decided not to contribute to the Senatorial Committee. But for the sake of this country, I think you should reconsider.

Since I arrived on Capitol Hill, I have been shocked at the power and influence of the peace-at-any-price disarmament lobby here in Washington.

I've been shocked even more at the extent of the Soviet military build-up. If we don't do something quickly, this build-up will give the Soviets strategic military superiority over the United States.

Most Americans don't know this alarming fact. That's why your contribution is so terribly important.

Without it we cannot distribute our Defense Survey and alert millions of American voters to the dangerous and unprecedented Soviet arms build-up. And we won't be able to raise the money we need to defeat the disarmament Democrats up for re-election in 1980. It's that simple.

Over the past few weeks, I've talked with the 10 other freshmen GOP Senators who were elected with me in 1978. We all agree that the Senatorial Committee played an important and indispensable role to elect us and to re-elect such Senators as Jesse Helms, John Tower and Ted Stevens.

But I know the Committee simply cannot continue its program unless you send a contribution along with your survey today.

Without your financial support, we can't defeat powerful Democratic Senators such as Franch Church, George McGovern, Alan Cranston, John Durkin and Birch Bayh, and stop the unilateral disarmament programs of the Carter Administration.

Your response to Senator Baker's letter may be your only chance to financially participate in this nationwide effort.

Please take a few minutes right now to write a check to fund this debate and elect Senators who will vote for a strong national defense system to keep world peace and to

BEST DOCUMENT AVAILABLE

protect the freedom, safety and security of you and your family.

Sincerely,

Bill Armstrong,
U.S. Senator.

RECOGNITION OF SENATOR CRANSTON

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California (Mr. Cranston) is recognized for not to exceed 15 minutes.

Mr. CRANSTON. Mr. President, I commend the Senator from Nebraska for his very interesting statement.

Does he have anything to add in regard to the material that was placed in the Record?

Mr. EXON. I thank my friend from California.

Printed in the Record will be the complete material that I received in my special envelope. I think when that material is printed, it speaks for itself.

I just add that I would not have cause to bring this to the attention of the U.S. Senate had the material I received in my special envelope not clearly indicated that the results of the phony survey was, in itself, going to be printed in the Record.

Therefore, I thought it was timely and appropriate for me to include the whole material, all of it, in the Record, before we have the thrill of seeing the results of the phony poll published in its entirety.

Mr. CRANSTON. I thank the Senator very much.

Mr. President, since I have not had a chance to look at that material, I will withhold further comment until I have that opportunity.

But I am grateful to the Senator for making it available.

Mr. EXON. If the Senator will yield, I happen to have copies of the material I received, and my special envelope, and all those special considerations I received. I will be happy to supply the Senator with a copy.

Mr. CRANSTON. I thank the Senator very much.

Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR STEVENS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska (Mr. Stevens) is recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I ask unanimous consent that I may have control of the time allocated to the Senator from Alaska.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the last place I thought I would ever hear a criticism of the presence of politics was the U.S. Senate.

I expect all of us have some passing familiarity with that undertaking, even the extraordinary competition for the right to serve and to represent our points of view in the public, in the mails, on television, on the Senate floor.

I have a secial fondness for my colleagues on the majority side of the aisle. But I dedicate a fair amount of my time trying to move their desks from that side to this side. I think that is in the very essence of the political system which, by the way, is unique, Mr. President. I do not believe a two-party system exists any place else in the free world other than the United States. That is, two broad-based parties that have within their ranks people who have differing points of view, but have a deep respect for the differing points of view.

We always manage to try to represent a majority. I have a reverent respect for that effort and that system.

I think sometimes that one of the great difficulties with America today, and her public and secular life, is that there has been a falling away from politics, a disaffection with politics, a belief that politics is some way beneath us.

Even in the hurly-burly of politics and the competition for the majority status in Congress, or the right to serve as President, or in the courthouses or in the city halls of this country, politics is important. But politics is competitive.

Mr. President, it is interesting to note the remarks that are made about the initiative and effort of the Republican Senatorial Campaign Committee to gain a majority status. It may even be that this is the first time in a long time when there is a realistic chance that we might move enough of those desks from the Democratic side to the Republican side, and that has my friend so disturbed. But there is a chance, and there has to be an effort for the Republicans to become the majority party in this body in 1980, and national defense will be an issue.

The Republicans have been in control of the Senate for 2 years out of the last 44. I do not think it is inappropriate for us to suggest the changes that have occurred in the national defense posture in this country in those years. I can remember most of those years. I can remember when the United States was the unrivaled military power in the entire world. Whether it was right or wrong, we could speak and the world trembled.

I think that was not right and was not a permanent arrangement, which we should seek to perpetuate, but it was true for a time. We had undoubted authority to impose our policy judgments by reason of our force of arms.

What is the situation today? The very essence of the SALT debate is whether or not we frittered away that advantage in those 44 years, to the extent that it is questionable that we are even as strong as the Soviet Union. I think we are. I think we are stronger than the Soviet Union—but I do not think we will be much longer, unless we reverse fundamentally important policy judgments made by this Congress, a Democratic-controlled Congress, and by this administration.

The cancellation of the B-1 bomber, the action with respect to the MX missile, the reduction by 50 percent in the size of the Navy shipbuilding program, the disarray that has resulted from a series of awkward and, I think, ineffective foreign policy and national defense initiatives is the very stuff of which politics is made.

As to a national defense survey, the Constitution says there will be a free press, but it does not say anything about a fair press. Maybe the same is true about surveys. Gallup, Harris, and others pride themselves on trying to make a neutral formulation of the questions they put, but I do not know of a similar requirement for politics.

I make no bones about it. When I do a national defense survey, I want people to know where I stand and what I think. I think a Democratic-controlled Congress has perpetuated our national defense to the point where we are now in serious disarray, and there is a significant question, a big question, about whether we have adequate national defense arrangements in this country.

In January of this year, I said SALT should become the forum for an examination of the relevance of our foreign policy and the adequacy of our national defense. Some said, "What ever happened to the doctrine that politics ends at the water's edge?" Of course, it ends at the water's edge, provided we are consulted on how American foreign policy should be conducted. But the foreign policy and national defense of this country are too important to be removed from the conflict of public debate and the testing that goes on in the political contest.

Mr. President, the distinguished Senator from Pennsylvania (Mr. Heinz) is the chairman of the Senatorial Campaign Committee. He is doing a marvelous job, in my judgment. He is performing according to the American tradition of political competition. He is performing well, and I think his committee will be successful, and I believe we will gain a majority on this side of the aisle. I think that one of the issues involved will be national defense.

Mr. President, I believe that one of the reasons why there is concern and aggravation on the other side of the aisle is that, as the country examines how we got in the shape we are in, people are going to realize that it was the Democratic Congress, in all but two of the last 44 years, that made these decisions.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. EXON. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Nebraska has 2½ minutes remaining.

Mr. EXON. Mr. President, first I want to say that I have the highest regard for my friend from Illinois, the minority leader.

Mr. BAKER. Tennessee.

Mr. EXON. In fact, I feel that there is a chance he might someday serve this Nation as its President.

Mr. BAKER. Mr. President, will the Senator permit me to interrupt? I hate to stop him in full swing, especially when I like what he is saying, but I have to point out that it was my wife's father who was from Illinois and who occupied this seat. I am from Tennessee.

Mr. EXON. I am sorry.

[Applause in the visitors' galleries.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries? Or let the galleries be closed.

Mr. EXON. I stand corrected, and with my apologies to the distinguished minority leader from Tennessee, I admit that I do get mixed up with your wife.

[Laughter.]

Mr. BAKER. I ask the Senator to yield on that point, too.

Mr. EXON. I will be glad to yield, but not on my time.

I have high regard for the minority leader, as I started to say when he interrupted me at a terribly crucial time. I thought he might like to think that I thought he might be President and might not be offended if I referred to him as being from the wrong State.

I started to say that I did not think that the fact that he might be President of the United States some day would be the worst thing that has ever happened to this country. Even though he is a member of the other body, I have high regard for him.

I suppose what he fails to understand from listening to my message, which I picked up from his comments, was the fact that he simply was not listening to the point I was trying to get across.

I thought I made it clear that legitimate discussions of national defense and all other matters were proper.

I just have cautioned, once again, that the organization that I referred to, the National Republican Campaign Committee, sent out in their literature statements that said "one of the most antidefense Congresses in our history."

Mr. President, I submit that that simply is not true. I hope the Senator from Tennessee will not see fit to endorse such an untrue statement. At least, I think it is untrue, and I think most people on both sides of the aisle will agree that it is untrue.

In his remarks, which I thought were generally clearly understood, the Senator from Tennessee said "the very stuff of which politics is made." Mr. President, that is indeed the message I was trying to get through; because if the very stuff of which politics is made is going to be distortions and untruths, then I think both Democrats and Republicans should stand up and say, "We will argue legitimately on the issues, but we will not stand for untruths."

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from California retrieve his time?

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may have back the time I yielded back.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. I yield to the Senator from Nebraska such time as he may need.

Mr. EXON. I thank the Senator from California.

One other point I want to make is that the distinguished minority leader said that the minority is not consulted on matters of national defense. I think the record in this body would clearly indicate that that simply is not the case, as generally understood.

I serve on a very important committee that has to do with defense, the Armed Services Committee and on that committee I sit across the table and work, day in and day out, with very dedicated members of the minority party of the U.S. Senate. I honestly believe that they have as much input with respect to defense policies as I do on the majority side.

Therefore, I say it is entirely fair that we argue in debate, so long as our debate and the facts we use or misuse are generally accepted in some context of being accurate. I believe that that is the very stuff of which politics is made, and not the opposite.

I yield the remainder of my time back to my friend from California.

Mr. CRANSTON. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I have viewed with somewhat amusement and listened with equal amusement to the response made by the distinguished minority leader. I can understand how he would want to respond because I see that the letter that was written, and to which the distinguished Senator from Nebraska has alluded, was signed by the distinguished minority leader.

The minority leader says that the political process in this country is a process in which we are free to state where we stand and that he has a right to criticize a "Democratically controlled Congress" for its position on defense, or whatever.

Yes, Mr. President, the minority leader has that right. He has the right to state where he stands and he has a right, also, if he wishes to do so, to criticize the Democratically controlled Congress. He maintains that he has the right to engage in taking a poll, and that is also true. What he did not say was that he also has a right to ask for political contributions in that poll, and I suppose Mr. EXON would be expected, hopefully, to make a contribution to the minority leader's campaign, since Mr. EXON was a recipient of one of the letters. I see where he can contribute $15, he can contribute $25, he can contribute $100, he can contribute $250, he can contribute $500 and then there is a blank space in which he can contribute any other amount, if he so wishes.

Mr. President, the Senator from Tennessee may have the right to do this. I do not question his right. I have never done it myself.

I certainly intend to state my position on national defense and I intend to state my position with respect to the record of Congress. After all, Congress is made up of Members on both sides of the aisle. It may be Democratically controlled. But one need not wonder why Congress is held in such low repute when the very Members of Congress make it a pastime to criticize the legislative branch to which they belong.

So it is fair game for everyone. It is fair game for those who are not Members and apparently it is particularly a pastime for those who are running for office and who are Members of Congress. I have never run down Congress. I do not intend ever to do so. I recognize it has its flaws, but if it were not for Congress we would not have the Republic. It is part of our constitutional system, and I certainly recognize the indiscretions of Members now and then and I know that Congress makes its mistakes. But I am not going to run down the institution.

As to this Congress, a Democratically controlled Congress, being antidefense or weak on defense, that is pure rubbish—rubbish.

The distinguished minority leader is a Member of this Congress and he is a part of the leadership and if Congress is weak on defense he can share part of that blame.

He talks about the last 42 years, and the fact that Congress has been controlled by the Democrats in all but 2 of those years.

Democrats have not been in the White House in all of those years. Democrats gave up the White House I believe in 1968, and the Republicans were in the White House from that time until January 1977. So this thing called leadership is shared by both parties, not only in Congress but also in the entire constitutional system, so it becomes a matter of the pot calling the kettle black.

One can say: Mr. Nixon was in the White House for several years. Mr. Ford was there. Vladivostok occurred while Mr. Ford was in the White House. SALT I occurred while Mr. Nixon was in the White House.

I thought the distinguished minority leader had embraced the agreements that came out of Vladivostok. I thought he supported SALT I. Now he is against SALT II. He criticized SALT II before his own Committee on Foreign Relations ever conducted a hearing thereon.

Yet, in my reading of SALT II, it improves upon the position of the United States under the Vladivostok agreements. And it is an improvement over SALT I. But that debate will be for another day.

I simply wish to express my personal fondness and respect for the distinguished minority leader, and I do respect him. He is my friend. We work together well. But when he starts talking about the Democratically controlled Congress, I think he should look at the record. He is talking about such so-called doves as ROBERT C. BYRD, the dove who offered the amendment under Mr. Nixon's Presidency to make it possible for the President of the United States—then Mr. Nixon—to have the flexibility to take whatever action was necessary to defend American troops in Vietnam from attacks originating out of Cambodia. My amendment carried. And Mr. Nixon called me from Camp David that afternoon and expressed his appreciation to this Democrat.

I could go into the record of a Democratically controlled Congress at length regarding defense.

I have stood for a strong defense under Republican Presidents and I have held up the hands of Republican Presidents when I thought they were right, and I opposed them when I thought they were wrong. I have held up the hand of Mr. Carter when I thought he was right and I have criticized him when I thought he was wrong. But let us not say that Democrats are for a weak defense, the implication being that only the Republicans are for a strong defense.

May I say to my friend from Tennessee that many of the programs that this Congress and the last Congress were able to enact would not have been enacted had it not been for support from that side of the aisle. Had it not been for the leadership of the distinguished minority leader, the Panama Canal treaties would not have been approved by this body. So I wish to give credit where credit is due. I think that is the way it should be done. But when it is stated that the Democratically controlled Congress is weak on defense, then that kind of a statement is going to be disputed. And each of us will have his say.

As to seats going from this side of the aisle to that side of the aisle, the Bible says that "young men shall see visions and old men shall dream dreams." I believe the minority leader has been seeing visions and dreaming dreams. But I do not expect to see any desks switching from this side of the aisle to the minority leader's side of the aisle. He is not going to get to move into my office. I like to have him visit my office. Every time I go to his office, he shows me that beautiful view down on the Mall and the Washington Monument, but I will continue to view the Washington Monument when I visit the minority leader's office.

Mr. President, what I have said is not in rancor. I say it in seriousness, and I do say it with respect to the minority leader. But I must say that I also express my gratitude to the Senator from Nebraska for bringing to the attention of the Senate and putting into the RECORD the letter regarding the poll. I think he has performed a service to the Senate.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Is there any time remaining to me, Mr. President?

The ACTING PRESIDENT pro tempore. The minority leader has 8 minutes.

Mr. BAKER. I will not use it all.

I want to persevere and continue in the spirit of good friendship that was exhibited by the majority leader and to point out that I regularly send him the floor dimensions of my office, and he regularly sends them back unopened.

When he comes to see the view from my window, which, by the way, is the second best view in Washington—up the Mall to the Washington Monument—he always points out that he admires the view but does not wish the office of the minority leader.

If it were under any other circumstances and differently put, I cannot think of a man in the entire world, in the whole universe, with whom I would join issue on that subject other than Mr. ROBERT C. BYRD. He is a historic majority leader, he truly is. He runs the Senate, I believe, with dispatch and efficiency that may be unrivaled in the history of this institution.

He certainly has an indepth knowledge of the rules such that I have never seen before, and I have seen a few. But he should know, Mr. President, that one of the side benefits that he probably never intended of this magnificent majority leadership was that he taught us how it is done. He set an example, and we want to emulate and follow in his good example so much that we are going to work hard to take that majority away from him.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader has disarmed me. [Laughter.]

The roses red upon my neighbor's vine
Are owned by him, but they are also mine.
His was the cost, and his the labor, too,
But mine as well as his the joy, their loveliness to view.

They bloom for me and are for me as fair
As for the man who gives them all his care.
Thus I am rich, because a good man grew
A rose-clad vine for all his neighbor's view.

I know from this that others plant for me,
And what they own, my joy may also be.
So why be selfish, when so much that's fine
Is grown for me upon my Tennessee neighbor's vine.

[Shaking hands with Mr. BAKER.]

Mr. BAKER. Mr. President, I do not wish to have the last word, but I recommend that we discontinue, else we are going to have a fiddling contest.

Mr. CRANSTON. Mr. President, I ask for my time back because I looked at the material that was received by the Senator from Nebraska, found that I was mentioned in it, and found a few other points that I would like to mention as well.

As the Senator from Nebraska was honored to receive the material, I suppose I should feel honored to be mentioned in the material.

The letter mentioning the Senator from California is not the letter signed by the minority leader. It is a letter signed by the junior Senator from Colorado. It lists me and four other Senators on this side of the aisle running for reelection in 1980 as, in effect, unilateral disarmament Democrats.

I would like to say, first, I have never believed in labels. I think it is hard to measure a man or a woman by any label, conservative, radical, liberal, moderate, whatever. You have to take into account the whole person and the whole person's views, and I think it is a superficial approach to political activities to resort to those labels.

The label of unilateral disarmament advocate certainly does not fit this Senator. The B-1 bomber is mentioned as one of the evidences of an antidefense stance. It so happens that I have been a strong supporter of the B-1 bomber. The B-1 bomber is cited both in the poll and by the minority leader in his letter.

It so happens that I am one of the leaders of the efforts to get the SALT treaty through the Senate. The SALT treaty is certainly the absolute opposite, the antithesis of a unilateral disarmament approach. It is an effort to achieve mutual cuts, mutual agreements on what each side may possess and may not possess in strategic nuclear weaponry.

It so happens that I also have been working with Senator SAM NUNN of Georgia, a prime advocate of increased defense expenditures—indeed the prime advocate of increased defense expenditures in the Senate—on an approach that I believe could well lead to reasonable increases in the strength of our national defense structure, along with the cuts in SALT III, mutual cuts between the United States and the U.S.S.R., and I stress mutual not unilateral. I have never been an advocate of unilateral disarmament.

The majority leader made a very valid point when he spoke about the fact that defense policies basically have been bipartisan policies through Republican and Democratic administrations, and with bipartisan support in Congress.

Defense authorization measures and defense appropriation measures when passing this body, and also when passing the other body, have always had the overwhelming support of Members on the minority side of the aisle. If these authorization bills and these appropriation bills have been so terrible, if they have devastated our strength vis-a-vis that of the Soviet Union why have not Members of the minority spoken out against them? Why have they voted for them?

One of the most interesting aspects of this interesting mailing is the so-called 1979 national defense survey. I would like to read one question from it just to demonstrate what a fine, outstanding, objective survey this is. Question No. 4 is:

> Do you support any U.S. defense policy that would allow the Soviet Union to achieve military superiority over the United States?
> Yes, no, and undecided.

Does anyone believe that any patriotic American would answer anything other than "no" to that question? Does anyone believe that any Member of the U.S. Senate on either side of the aisle would support any U.S. defense policy that would allow the Soviet Union to achieve military superiority over the United States? Of course, the answer is no.

Why a question like that is included in a survey like this is, I think, an interesting question. It shows the intent of the survey. It is a totally slanted survey, as most of this material is, and obviously slanted for the purposes outlined by the distinguished Senator from Nebraska.

I am delighted that he has brought this to our attention, and I think it can have a salutary effect.

The ACTING PRESIDENT pro tempore. Does the Senator from Tennessee yield back his time?

Mr. BAKER. I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, I believe I have a little time, and I will yield it back.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 4930, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEWART). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as chairman of the Senate Subcommittee on Appropriations for the Department of the Interior and related agencies, I take this occasion to express my gratitude to Mr. HUDDLESTON for the work he has done in assisting me during the hearings conducted on the legislation, the markup conducted on the legislation, and for his work today and on Monday and into next week here on the floor as we work on the Interior appropriations bill.

I have asked Mr. HUDDLESTON to be the floor manager on this bill. He has put many, many hours of study into this piece of legislation, and has been most dedicated in his attendance at the hearings. He has been supportive and is most knowledgeable of the markup process. I commend him again and give thanks to him.

Mr. HUDDLESTON. Mr. President, I certainly thank the distinguished majority leader, but I do not want his remarks to in any way indicate that he, himself, has not put a great deal of time and effort into the development of this legislation. He has maintained close contact with the markup process, with the presentation to the full Appropriations Committee, and with the final form in which this legislation comes to the floor.

The same is certainly true with respect to the distinguished minority member of the subcommittee, the Senator from Alaska, who has always evidenced a great interest in all of the matters that are contained within this bill, and who has been extremely helpful in reaching the final conclusions which have been made.

Mr. President, we bring to the floor today an unusually large and complex appropriation bill for the Department of the Interior, Department of Energy, Forest Service, and other related agencies. Total recommended appropriations of more than $27.3 billion, although slightly below the total budget estimate, are more than $15.5 billion over fiscal 1979 appropriations. The total recommended funding is also more than $17 billion above the House allowance.

The major single change in the bill is a heavy commitment to the production of synthetic fuels, or alternative fuels, as we prefer to call them. Because of the significance of this initiative, I will devote the major part of my statement to the committee's recommendations in that connection.

ALTERNATIVE FUELS PRODUCTION

To support the domestic production of alternative fuels and to establish a firm national commitment to that goal, the committee is recommending the largest single block of funding in the bill—$20 billion in total, $1.5 billion of it by transfer. This represents a substantial increase over the amount approved by the House, but it is $1.5 billion below the figure requested by the President, in a late-arriving amendment. It is also below the allowance assumed in the second budget resolution.

The alternative fuels production program we are recommending is admittedly in front of congressional authorizing legislation. We believe, however, that the recommended program is consistent with currently developing legislation, and funding provided in the bill can be merged later into any finally authorized programs. In view of the urgency to establish independence in this country, we believe that funding should not be delayed any further.

Because the total funding is so large, and because the substance of pending legislation has not yet been well defined, we have recommended appropriating the full $20 billion to a special fund in the Treasury called the Energy Security Reserve. The bill provides that appropriations in that fund shall be available only to the extent provided in advance in appropriation acts. This will preserve appropriations control over the funding until programs have been developed and their funding needs can be clearly identified.

Having established this Energy Security Reserve, we then recommend that $1.5 billion be made available immediately for production support and price guarantees. Unlike the House-passed bill, however, we recommend funding under authority of the Federal Nonnuclear Energy Research and Development Act, with modifications. Another $708 million is also made immediately available to cover loan guarantees, direct loans, cooperative agreements, and administrative costs. Loan guarantees can also be funded under existing authority, and we are recommending authority for cooperative agreements and direct loans in the bill. These provisions are spelled out in detail beginning on page 38 of the bill and discussed starting on page 70 of the report.

The immediate funding we recommend is to initiate a substantial interim program while Congress deliberates on enactment of permanent legislation establishing an alternative fuels production program. By providing the full $20 billion at this time, we are demonstrating a firm national commitment to alternative fuels production, and by placing the funds in a special reserve subject to future appropriation action, we are maintaining effective congressional spending controls. I believe the funding and the programs we are recommending will mesh smoothly with any subsequent production legislation that is developed.

The committee is aware that two committees are currently developing two legislative approaches to alternative fuel production. One is the so-called Moorhead bill approach, which relies on basic authorities of the Defense Production Act to provide purchase support and price guarantees for fuel production. A second approach—the one supported by the President's budget amendment—involves establishment of an independent energy security corporation to administer a wide variety of production incentives. If Congress enacts a windfall profits tax, revenues from this new levy would support this and other energy-related programs. Let me emphasize that the recommendations in the accompanying appropriation bill in no way attempt to prejudge the eventual approach Congress will select for alternative fuels production. Rather, this funding will be available to support the final legislative package, which I hope will be enacted in the reasonably near future. Meanwhile, the interim programs we have funded will permit an immediate start toward the goal of establishing energy independence through production of fuels derived from abundant domestic energy resources.

This program is designed strictly for stimulation of commercial production and does not include any technology development funding. You will note that adequate funds are provided under the normal Department of Energy programs for ongoing research, development, and noncommercial demonstration activities.

While we are using the demonstration authority of the Nonnuclear Research and Development Act, we are limiting it to commercial-scale projects with the emphasis on production.

ONGOING PROGRAMS

Regular programs funded in the bill, excluding alternative fuels production, are brought in above both the budget estimates and the House allowance. Despite a determined effort to trim out all unnecessary spending and defer less urgent programs, the committee was not able to reduce overall spending and still meet congressional priorities. I stress this because the Senate has, in two separate votes on budget resolutions, made a commitment to maintain tight limits on Federal spending as a means of combating inflation. We have agreed to abide by these established ceilings even if it means going back and rescinding appropriations.

In this connection, I must observe that preliminary estimates from the Congressional Budget Office indicate that total outlays from the committee's recommended appropriation allowance are nearly $10.2 billion. That is almost $400 million above the Interior subcommittee's fiscal 1980 target. And it is in the area of outlays that we face the most serious problems in staying within budget resolution ceilings.

I must also emphasize that the committee has honored more than $680 million in individual add-on requests from Members of the Senate and has given up nearly $275 million in proposed budget reductions, also at the request of Senators. We have offset these increases with other reductions, but it is clear that we can afford no further substantial increases. I urge Senators to examine any proposals they might have for appropriation increases with great care.

MAJOR CHANGES IN THE BILL

Beginning on page 3, the report summarizes changes recommended in the bill. Major reductions have been targeted on Federal land acquisition, construction programs, and State and local grant programs. This is because these are the areas where prior year appropriations are backlogged. Entering the final quarter of the current fiscal year there was more than $220 million in land acquisition funds lying unobligated. The unobligated figure was even higher—more than $400 million—in State energy grants. Although sharp reductions are recommended, the funded program level for 1980 will still be commensurate with 1979 levels.

We are also recommending substantial increases in many areas, including the Forest Service, the Territories, and the National Petroleum Reserve in Alaska. We are agreeing with the House that exploration of the Reserve cannot await policy decisions of the administration, and we have provided the funding to fulfill a commitment that is required by law for gas production in the Barrow area.

Although funding for Indian programs shows a net reduction, this mainly reflects construction cutbacks. Actual increases have been recommended within the totals for operations and for school and hospital construction.

Our recommendations for the Department of Energy include a heavy commitment to solvent refined coal demonstrations of both liquid and solid fuels, to MHD, and to several other fossil fuel initiatives. We have also included the full authorization for energy impact assistance—$120 million. Although energy impact assistance is not covered by a budget estimate in this bill, the administration asked for $150 million as part of the Department of Commerce budget.

Parks, recreation and wildlife, aside from land acquisition cutbacks, have been supported and even increased. On the basis of a subcommittee vote, we are recommending the full $360 million budget request for State assistance under the Land and Water Conservation Fund. However, the committee declined to recommend any of the $11.4 million requested by the President for recently-designated national monuments in Alaska. We believe the Congress should decide which areas are to be parks, wildlife refuges, and national forests before funding is provided for them.

For the record, the committee has approved $50,000, within funds available to the National Park Service, for construction of a needed boundary fence at Indiana Dunes National Lakeshore. This provision was inadvertently omitted from the committee report.

There is also a typographical error on page 99 of the report. The amount provided in the last paragraph for a feasibility study of a hospital purchase proposal in Alaska should be $300,000 not $200,000.

Mr. President, at this time, I yield to the distinguished Senator from Alaska if he has a comment to make.

Mr. STEVENS. Mr. President, I am pleased to join the distinguished Senator from Kentucky, who has acted on behalf of the majority leader and chairman of the Interior Subcommittee in submitting to the Senate what I consider to be an excellent bill, and also to commend him for his statement summarizing the major items contained in this bill. I do not wish to be redundant, but I would like to emphasize a couple of points.

First, we are under the budget request for fiscal 1980 and, when we remove the amount included for alternative fuels production, we are under the appropriations for last year.

Months of hearings and days of markup meetings have been held, and I believe the result is worthwhile. We have managed to hold the line on spending at a time when budgetary restraint is imperative. The major increases in this bill are in areas specifically designed to improve our domestic energy picture. In addition to the $20 billion we have provided for a long-range program of alternative fuels development, the committee has also rejected the administration's recommendation that exploration be curtailed in the National Petroleum Reserve in Alaska. In agreement with the House, $141.5 million is contained in this Interior bill to further this exploration program. The committee does support opening of this Reserve to private exploration, however, so bill language was adopted to close out the Federal program should Congress authorize private exploration during the remaining months of this session of Congress.

While Members of the Senate will no doubt want to discuss the committee allowance of $20 billion for alternative fuels, I would hope that we will not get bogged down in debate on this question. The committee felt it was of major importance to show our commitment to the synthetic fuels effort. Only $2.2 billion of the $20 billion would be immediately available for use in this area. The committee bill provides that the remainder of the funds be held in the Energy Security Reserve pending completion of authorization action by the House and Senate. Further, actual commitment of these funds would be subject to review by the Committee on Appropriations.

It is my conviction and one which I think is shared by the majority leader and the distinguished chairman of the Energy Committee (Mr. JACKSON), and other members of that committee, that prolonged discussion of the alternative fuels program is better left to the time when we consider the actual authorization bill, rather than considering the merits of competing types of synfuels programs at this time.

Another energy initiative which is of interest is the continued exploration of the South Barrow gas fields. The Federal Government is required by law to insure an adequate source of energy to the community of Barrow, Alaska and to the Federal agencies in that area. No funds had been requested by the administration to fulfill this obligation. The committee added $29.7 million at my request which is sufficient to drill three additional wells, provide access roads and related improvements.

In an effort to provide more adequate health care in the State of Alaska, the committee adopted several amendments to expand the clinic programs at Ft. Yukon and Ketchikan as well as to begin a remodeling program at Mt. Edgecombe Hospital in Sitka.

An increase of $100,000 over the budget has been allocated for the Forest Service's renewable resource evaluation program in Alaska. Report language accepted by the committee would also allow the Forest Service to transfer some of their property in Juneau to the city on which to build a convention center. This center, if built, would then house the Forest Service's visitors' information program.

Full funding is contained in the Senate version of the Interior bill for both the mineral institutes and the coal laboratories which are so important in energy-producing States. The House had deleted the $5 million requested for the coal labs.

While we have not restored the Youth Conservation Corps to the fiscal 1979 level, the committee has doubled the funds provided in the House-passed bill for this popular program. We are encouraging the Forest Service to limit the number of residential camps in order to make best use of the reduced amount available for fiscal 1980.

Mr. President, the committee has gone to great lengths to fashion a bill which supports effective Federal programs while making some reductions in those efforts which have not proven to be essential or which need major administrative improvements. We have also attempted to provide support for as many individual Senator's amendments as possible within the fiscal constraints we now face. I thank the distinguished chairman of the subcommittee for his leadership in this area and the staff for their assistance over the past months.

Mr. President, again, let me commend this bill to the Senate, as we will to the House when we have passed the bill.

There are items in this bill that I have opposed. But, on balance, I think this bill represents a reasonable commitment of taxpayers' money, not only to the energy program of our Federal Government, but also to the very sensitive areas of the Department of the Interior and the Department of Agriculture, which are within our jurisdiction.

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from Alaska.

Mr. President, I ask unanimous consent to have printed in the RECORD a table comparing appropriations recommended in the bill with those of the preceding fiscal year and with House allowances and budget estimates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980

Item	1979 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
					1979 appropriation	Budget estimate	House allowance
TITLE I—DEPARTMENT OF THE INTERIOR							
LAND AND WATER RESOURCES							
Bureau of Land Management							
Management of lands and resources	$342,756,000	$296,231,000	$295,361,000	$295,836,000	−$46,920,000	−$395,000	+$475,000
Acquisition, construction, and maintenance	19,011,000	16,343,000	16,343,000	16,343,000	−2,668,000		
Payments in lieu of taxes	105,000,000	108,000,000	108,000,000	108,000,000	+3,000,000		
Oregon and California grant lands (indefinite, appropriation of receipts)	55,000,000	55,000,000	55,000,000	55,000,000			
Range improvements (indefinite, appropriation of receipts)	8,665,000	10,900,000	10,900,000	10,900,000	+2,235,000		
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000	300,000	300,000			
Service charges, deposits, and forfeitures (indefinite, special fund)	13,750,000	13,750,000	13 750 000	13,750,000			
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000			
Total Bureau of Land Management	544,582,000	500,624,000	499,754,000	500,229,000	−44,353,000	−395,000	+475,000
Office of Water Research and Technology							
Salaries and expenses	28,357,000	30,739,000	30,977 000	30,522,000	+2,165,000	−217,000	−455,000
Total, Land and Water Resources	572,939,000	531,363,000	530,731,000	530,751,000	−42,188,000	−612,000	+20,000
FISH AND WILDLIFE AND PARKS							
Heritage Conservation and Recreation Service							
Salaries and expenses	15,174,000	14,954,000	15,656,000	15,289,000	+115,000	+335,000	−367,000
Urban park and recreation fund	20,000,000	150,000,000	125,000,000	125,000,000	+105,000,000	−25,000,000	
Land and Water Conservation Fund (indefinite)	737,025,000	598,000,000	447,059,000	554,175,000	−182,850,000	−43,825,000	+107,116,000
Pinelands National Reserve		12,000,000	12,000,000			−12,000,000	−12,000,000
Historic preservation fund	60,000,000	45,000,000	50,000,000	67,500,000	+7,500,000	+22,500,000	+17,500,000
Total, Heritage Conservation and Recreation Service	832,199,000	819,954,000	849,715,000	761,964,000	−70,235,000	−57,990,000	+112,249,000
U.S. Fish and Wildlife Service							
Resource management	200,439,000	208,055,000	207,055,000	205,421,000	+4,982,000	−2,634,000	−1,634,000
Construction and anadromous fish	97,856,000	47,574,000	56,327,000	56,945,000	−40,911,000	+9,371,000	+618,000
Migratory bird conservation account (definite, repayable advance)	10,000,000	10,000,000	15,000,000	8,400,000	−1,600,000	−1,600,000	−6,600,000
Development and operation of recreation facilities (indefinite, special fund)	150,000	200,000	200,000	200,000	+50,000		
Total, United States Fish and Wildlife Service	308,445,000	265,829,000	278,582,000	270,966,000	−37,479,000	+5,137,000	−7,616,000
National Park Service							
Operation of the national park system	387,806,000	394,177,000	383,512,000	380,244,000	−7,562,000	−13,933,000	−3,268,000
Construction	118,488,000	87,718,000	97,144,000	119,938,000	+1,450,000	+32,220,000	+22,794,000
Planning, development, and operation of recreation facilities (indefinite, special fund)	15,478,000	28,465,000	15,781,000	16,217,000	+739,000	−12,248,000	+436,000
John F. Kennedy Center for the Performing Arts	4,055,000	4,287,000	3,875,000	4,030,000	−25,000	−257,000	+155,000
Total, National Park Service	525,827,000	514,647,000	500,312,000	520,429,000	−5,398,000	+5,782,000	+20,117,000
Total, Fish and Wildlife and Parks	1,666,471,000	1,600,430,000	1,428,609,000	1,553,359,000	−113,112,000	−47,071,000	+124,750,000
ENERGY AND MINERALS							
Geological Survey							
Surveys, investigations, and research	418,606,000	459,321,000	448,290,000	450,805,000	+32,199,000	−8,516,000	+2,515,000
Exploration of national petroleum reserve in Alaska	231,048,000	4,427,000	145,927,000	175,627,000	−55,421,000	+171,200,000	+29,700,000
Total, Geological Survey	649,654,000	463,748,000	594,217,000	626,432,000	−23,222,000	+162,684,000	+32,215,000
Bureau of Mines							
Mines and minerals	148,507,000	135,194,000	134,883,000	131,603,000	−16,904,000	−3,591,000	−3,280,000
Helium fund (permanent contract authority)		(47,500,000)				(−47,500,000)	
Total, Bureau of Mines	148,507,000	135,194,000	134,883,000	131,603,000	−16,904,000	−3,591,000	−3,280,000
Office of Surface Mining Reclamation and Enforcement							
Regulation and technology	53,944,000	81,320,000	85,520,000	82,625,000	+28,681,000	+1,305,000	−2,895,000
Abandoned mine reclamation fund (definite, trust fund)	61,451,000	113,916,000	111,416,000	94,916,000	+33,465,000	−19,000,000	−16,500,000
Total, Office of Surface Mining Reclamation and Enforcement	15,395,000	195,236,000	196,936,000	177,541,000	+62,146,000	−17,695,000	−19,395,000
Total, Energy and Minerals	913,556,000	794,178,000	926,036,000	935,576,000	+22,020,000	+141,398,000	+9,540,000
INDIAN AFFAIRS							
Bureau of Indian Affairs							
Operation of Indian programs	792,052,000	792,020,000	792,753,000	770,835,000	−21,217,000	−21,185,000	−21,918,000
Construction	126,554,000	67,721,000	83,395,000	66,874,000	−59,680,000	−847,000	−16,521,000
Road construction	79,253,000	58,379,000	60,379,000	46,479,000	−32,774,000	−11,900,000	−13,900,000
Alaska native fund	30,000,000	30,000,000	30,000,000	30,000,000			
Trust funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000			
Trust funds (indefinite)	23,000,000	23,000,000	23,000,000	23,000,000			
Eastern Indian Land Claims Fund	3,500,000				−3,500,000		
Salt River Pima-Maricopa settlement			3,917,000	3,917,000	+3,917,000	+3,917,000	
Total, Bureau of Indian Affairs	1,057,359,000	974,120,000	996,444,000	944,105,000	−113,254,000	−30,015,000	−52,339,000
TERRITORIAL AFFAIRS							
Office of Territorial Affairs							
Administration of territories	55,410,000	46,804,000	84,161,000	63,061,000	+7,651,000	+16,257,000	−21,100,000
Trust Territory of the Pacific Islands	114,706,000	99,010,000	112,760,000	105,799,000	−8,907,000	+6,789,000	−6,961,000
Micronesian Claims Fund, Trust Territory of the Pacific Islands	12,600,000				−12,600,000		
Total, Office of Territorial Affairs	182,716,000	145,814,000	196,921,000	168,860,000	−13,856,000	+23,046,000	−28,061,000

Item	1979 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
					1979 appropriation	Budget estimate	House allowance
TITLE I—DEPARTMENT OF THE INTERIOR—Con.							
LAND AND WATER RESOURCES—Con.							
SECRETARIAL OFFICES							
Office of the Solicitor							
Salaries and expenses	$15,085,000	$15,860,000	$15,500,000	$15,741,000	+$656,000	−$119,000	+$241,000
Office of the Secretary							
Departmental management	43,100,000	48,761,000	45,760,000	45,144,000	+2,044,000	−3,617,000	−616,000
Construction management			9,400,000				−9,400,000
Salaries and expenses (special foreign currency program)	1,000,000	1,000,000	1,000,000	1,000,000			
Total, Office of the Secretary	44,100,000	49,761,000	56,160,000	46,144,000	+2,044,000	−3,617,000	−10,016,000
Total, Secretarial Offices	59,185,000	65,621,000	71,660,000	61,885,000	+2,700,000	−3,736,000	−9,775,000
Total, title I, new budget (obligational) authority, Department of the Interior	4,452,226,000	4,111,526,000	4,150,401,000	4,194,536,000	−257,690,000	+83,010,000	+44,135,000
Consisting of:							
Appropriations	4,452,226,000	4,111,526,000	4,150,401,000	4,194,536,000	−257,690,000	+83,010,000	+44,135,000
Definite appropriations	3,598,758,000	3,369,811,000	3,572,311,000	3,520,894,000	−77,864,000	+151,083,000	−51,417,000
Indefinite appropriations	853,468,000	729,715,000	566,090,000	673,642,000	−179,826,000	−56,073,000	+107,552,000
Permanent contract authority		(47,500,000)				(−47,500,000)	
TITLE II—RELATED AGENCIES							
DEPARTMENT OF AGRICULTURE							
Forest Service							
Forest resources management:							
Forest research	110,947,000	105,064,000	109,490,000	105,414,000	−5,533,000	+350,000	−4,076,000
State and private forestry	80,611,000	37,938,000	65,964,000	58,018,000	−22,593,000	+20,080,000	−7,946,000
National forest system	815,308,000	752,137,000	847,151,000	976,824,000	−18,484,000	+44,687,000	−50,327,000
Total, Forest management, protection and utilization	1,006,866,000	895,139,000	1,022,605,000	960,256,000	−46,610,000	+65,117,000	−62,349,000
Construction and land acquisition	430,010,000	337,438,000	425,823,000	409,458,000	−20,552,000	+72,020,000	−16,365,000
Youth conservation corps	60,000,000		27,400,000	54,000,000	−6,000,000	+54,000,000	+26,600,000
Timber salvage sales	3,000,000				−3,000,000		
Acquisition of lands for national forests:							
Special acts (special fund, indefinite)	385,000	325,000	325,000	325,000	−60,000		
Acquisition of lands to complete land exchanges (special fund, indefinite)	239,000	155,000	155,000	155,000	−84,000		
Rangeland improvements (special fund, indefinite)	5,400,000	5,900,000	5,900,000	5,900,000	+500,000		
Construction and operation of recreation facilities (indefinite, special fund)	3,459,000	3,850,000	3,850,000	3,850,000	+391,000		
Rights of way (indefinite)	100,000				−100,000		
Total, Forest Service	1,509,459,000	1,242,807,000	1,486,058,000	1,433,944,000	−75,515,000	+191,137,000	−52,114,000
DEPARTMENT OF ENERGY							
Alternative fuels production		20,000,000,000	1,500,000,000	18,500,000,000	+18,500,000,000	−1,500,000,000	+17,000,000,000
By transfer				(1,500,000,000)	(+1,500,000,000)	(+1,500,000,000)	(+1,500,000,000)
Fossil energy research and development	659,112,000	684,592,000	699,377,000	798,302,000	+139,190,000	+113,710,000	+98,925,000
Fissil energy construction	99,709,000	140,050,000	71,250,000	105,250,000	+5,541,000	−34,800,000	+34,000,000
Energy production, demonstration, and distribution	171,763,000	146,299,000	125,971,000	106,971,000	−64,792,000	−39,328,000	−19,000,000
Energy conservation	632,138,000	566,195,000	566,052,000	702,502,000	+70,364,000	+136,307,000	+136,450,000
Reappropriation		200,000,000	197,500,000	120,000,000	+120,000,000	−80,000,000	−77,500,000
Economic Regulatory Administration	99,233,000	183,263,000	125,697,000	144,264,000	+45,031,000	−38,999,000	+18,567,000
Strategic petroleum reserve	3,007,071,000	8,391,000	8,391,000		−3,007,071,000	−8,391,000	−8,391,000
Energy Information Administration	65,644,000	88,657,000	87,273,000	87,273,000	+21,629,000	−1,384,000	
Total, Department of Energy	4,734,670,000	22,017,447,000	3,381,511,000	20,564,562,000	+15,829,892,000	−1,452,885,000	+17,183,051,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Health Services Administration							
Indian health services	492,193,000	535,116,000	561,449,000	536,580,000	+44,387,000	+1,464,000	−4,869,000
Indian health facilities	76,960,000	50,240,000	74,302,000	26,062,000	−50,898,000	−24,178,000	−48,240,000
Total, Indian health	569,153,000	585,356,000	615,751,000	562,642,000	−6,511,000	−22,714,000	−53,109,000
Office of Education							
Indian education	71,735,000	76,875,000	75,875,000	75,900,000	+4,165,000	−975,000	+25,000
Office of the Assistant Secretary for Education							
Institute of Museum Services	7,852,000	10,900,000	10,900,000	10,900,000	+3,048,000		
Total, Department of Health, Education, and Welfare	648,740,000	673,131,000	702,526,000	649,442,000	+702,000	−23,689,000	−53,084,000
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION							
Salaries and expenses	8,752,000	950,000	950,000	950,000	−7,802,000		
SMITHSONIAN INSTITUTION							
Salaries and expenses	98,202,000	104,740,000	103,498,000	102,710,000	+4,508,000	−2,030,000	−788,000
Museum programs and related research (special foreign currency program)	3,700,000	7,700,000	3,700,000	4,700,000	+1,000,000	−3,000,000	+1,000,000
Science Information Exchange	2,063,000				−2,063,000		
Construction and improvements, National Zoological Park	3,900,000	6,550,000	6,500,000	6,000,000	+2,100,000	−550,000	−500,000
Restoration and renovation of buildings	2,100,000	4,900,000	5,250,000	5,150,000	+3,050,000	+250,000	−100,000
Construction	575,000	21,100,000	20,600,000	10,850,000	+10,275,000	−10,250,000	−9,750,000
Subtotal	110,540,000	144,990,000	139,548,000	129,410,000	+18,870,000	−15,580,000	−10,138,000
Salaries and expenses, National Gallery of Art	19,041,000	22,577,000	22,311,000	21,978,000	+2,937,000	−599,000	−333,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	1,588,000	1,648,000	1,611,000	2,611,000	+1,023,000	+963,000	+1,000,000
Total, Smithsonian Institution	131,169,000	169,215,000	163,470,000	153,999,000	+22,830,000	−15,216,000	−9,471,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980—Continued

Item	1979 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1979 appropriation	Budget estimate	House allowance
TITLE II—RELATED AGENCIES							
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES							
National Endowment for the Arts							
Salaries and expenses	$102,310,000	$97,000,000	$97,000,000	$97,000,000	−$5,310,000		
Administrative expenses	9,775,000	10,500,000	12,000,000	12,000,000	+2,225,000	+$1,500,000	
Subtotal	112,085,000	107,500,000	109,000,000	109,000,000	−3,085,000	+1,500,000	
Matching grants (indefinite)	37,500,000	46,900,000	45,400,000	45,400,000	+7,900,000	−1,500,000	
Total, National Endowment for the Arts	149,585,000	154,400,000	154,400,000	154,400,000	+4,815,000		
National Endowment for the Humanities							
Salaries and expenses	98,485,000	100,300,000	100,300,000	98,900,000	+415,000	−1,400,000	−$1,400,000
Administrative expenses	10,246,000	10,800,000	11,400,000	10,500,000	+254,000	−300,000	−900,000
Subtotal	108,731,000	111,100,000	111,700,000	109,400,000	+669,000	−1,700,000	−2,300,000
Matching grants (indefinite)	36,500,000	39,000,000	38,400,000	38,400,000	+1,900,000	−600,000	
Total, National Endowment for the Humanities	145,231,000	150,100,000	150,100,000	147,800,000	+2,569,000	−2,300,000	−2,300,000
Total, National Foundation on the Arts and the Humanities	294,816,000	304,500,000	304,500,000	302,200,000	+7,384,000	−2,300,000	−2,300,000
COMMISSION OF FINE ARTS							
Salaries and expenses	263,000	271,000	268,000	268,000	+5,000	−3,000	
ADVISORY COUNCIL ON HISTORIC PRESERVATION							
Salaries and expenses	1,204,000	1,672,000	1,350,000	1,460,000	+256,000	−212,000	+110,000
NATIONAL CAPITAL PLANNING COMMISSION							
Salaries and expenses	2,019,000	2,193,000	1,975,000	1,975,000	−44,000	−218,000	
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION							
Salaries and expenses	20,000	10,000	40,000	40,000	+20,000	+30,000	
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA							
Salaries and expenses	594,000				−594,000		
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION							
Salaries and expenses	1,659,000	1,856,000	1,811,000	1,856,000	+197,000		+45,000
Land acquisition and development fund (borrowing authority)	33,000,000	17,000,000	17,000,000	17,000,000	−16,000,000		
Public development	30,255,000	20,110,000	20,110,000	20,110,000	−10,145,000		
Total, Pennsylvania Avenue Development Corporation	64,914,000	38,966,000	38,921,000	38,966,000	−25,948,000		+45,000
Federal Inspector for the Alaska Gas Pipeline							
Permitting and enforcement		14,850,000		13,433,000	+13,433,000	−1,417,000	+13,433,000
Total, title II, new budget (obligational) authority, related agencies	7,396,620,000	24,466,012,000	6,081,569,000	23,161,239,000	+15,764,619,000	−1,304,773,000	+17,079,670,000
Consisting of:							
Appropriations	7,363,620,000	24,249,012,000	5,867,069,000	23,024,239,000	+15,660,619,000	−1,224,773,000	+17,157,170,000
Definite appropriations	7,280,037,000	24,152,882,000	5,773,039,000	22,930,209,000	+15,650,172,000	−1,222,673,000	+17,157,170,000
Indefinite appropriations	83,583,000	96,130,000	94,030,000	94,030,000	+10,447,000	−2,100,000	
Reappropriation		200,000,000	197,500,000	120,000,000	+120,000,000	−80,000,000	−77,500,000
Borrowing authority	33,000,000	17,000,000	17,000,000	17,000,000	−16,000,000		
By transfer				(1,500,000,000)	(+1,500,000,000)	(+1,500,000,000)	(+1,500,000,000)
RECAPITULATION							
Total, new budget (obligational) authority, all titles	11,848,846,000	28,577,538,000	10,231,970,000	27,355,775,000	+15,506,929,000	−1,221,763,000	+17,123,805,000
Consisting of:							
Appropriations	11,815,846,000	28,360,538,000	10,017,470,000	27,218,775,000	+15,402,929,000	−1,141,763,000	+17,201,305,000
Definite appropriations	(10,878,795,000)	(27,522,693,000)	(9,345,350,000)	(26,451,103,000)	(+15,572,308,000)	(−1,071,590,000)	(+17,105,753,000)
Indefinite appropriations	(937,051,000)	(825,845,000)	(660,120,000)	(767,672,000)	(−169,379,000)	(− 58,173,000)	(+107,552,000)
Reappropriation		200,000,000	197,500,000	120,000,000	+120,000,000	−80,000,000	−77,500,000
Borrowing authority	33,000,000	17,000,000	17,000,000	17,000,000	−16,000,000		
Permanent contract authority		(47,500,000)				(−47,500,000)	
By transfer				(1,500,000,000)	(+1,500,000,000)	(+1,500,000,000)	(+1,500,000,000)
TITLE I—DEPARTMENT OF THE INTERIOR							
Bureau of Land Management	544,582,000	500,624,000	499,754,000	500,229,000	−44,353,000	−395,000	+475,000
Office of Water Research and Technology	28,357,000	30,739,000	30,977,000	30,522,000	+2,165,000	−217,000	−455,000
Heritage Conservation and Recreation Service	832,199,000	819,954,000	649,715,000	761,964,000	−70,235,000	−57,990,000	+112,249,000
United States Fish and Wildlife Service	308,445,000	265,829,000	278,582,000	270,966,000	−37,479,000	+5,137,000	−7,616,000
National Park Service	525,827,000	514,647,000	500,312,000	520,429,000	−5,398,000	+5,782,000	+20,117,000
Geological Survey	649,654,000	463,748,000	594,217,000	626,432,000	−23,222,000	+162,684,000	+32,215,000
Bureau of Mines	148,507,000	135,194,000	134,883,000	131,603,000	−16,904,000	−3,591,000	−3,280,000
Office of Surface Mining Reclamation and Enforcement	115,395,000	195,236,000	196,936,000	177,541,000	+62,146,000	−17,695,000	−19,395,000
Bureau of Indian Affairs	1,057,359,000	974,120,000	996,444,000	944,105,000	−113,254,000	−30,015,000	−52,339,000
Territorial Affairs	182,716,000	145,814,000	196,921,000	168,860,000	−13,856,000	+23,046,000	−28,061,000

Item	1979 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
					1979 appropriation	Budget estimate	House allowance
TITLE I—DEPARTMENT OF THE INTERIOR—Con.							
Office of the Solicitor	$15,085,000	$15,860,000	$15,500,000	$15,741,000	+$656,000	−$119,000	+$241,000
Office of the Secretary	44,100,000	49,761,000	56,160,000	46,144,000	+2,044,000	−3,617,000	−10,016,000
Total, title I—Department of the Interior	4,452,226,000	4,111,526,000	4,150,401,000	4,194,536,000	−257,690,000	+83,010,000	+44,135,000
TITLE II—RELATED AGENCIES							
Forest Service	1,509,459,000	1,242,807,000	1,486,058,000	1,433,944,000	−75,515,000	+191,137,000	−52,114,000
Department of Energy	4,734,670,000	22,017,447,000	3,381,511,000	20,564,562,000	+15,829,892,000	−1,452,885,000	+17,183,051,000
Indian Health	569,153,000	585,356,000	615,751,000	562,642,000	−6,511,000	−22,714,000	−53,109,000
Indian Education	71,735,000	76,875,000	75,875,000	75,900,000	+4,165,000	−975,000	+25,000
Institute of Museum Services	7,852,000	10,900,000	10,900,000	10,900,000	+3,048,000		
Navajo and Hopi Indian Relocation Commission	8,752,000	950,000	950,000	950,000	−7,802,000		
Smithsonian	110,540,000	144,990,000	139,548,000	129,410,000	+18,870,000	−15,580,000	−10,138,000
National Gallery of Art	19,041,000	22,577,000	22,311,000	21,978,000	+2,937,000	−599,000	−333,000
Woodrow Wilson International Center for Scholars	1,588,000	1,648,000	1,611,000	2,611,000	+1,023,000	+963,000	+1,000,000
National Endowment for the Arts	149,585,000	154,400,000	154,400,000	154,400,000	+4,815,000		
National Endowment for the Humanities	145,231,000	150,100,000	150,100,000	147,800,000	+2,569,000	−2,300,000	−2,300,000
Commission of Fine Arts	263,000	271,000	268,000	268,000	+5,000	−3,000	
Advisory Council on Historic Preservation	1,204,000	1,672,000	1,350,000	1,460,000	+256,000	−212,000	+110,000
National Capital Planning Commission	2,019,000	2,193,000	1,975,000	1,975,000	−44,000	−218,000	
Franklin Delano Roosevelt Memorial Commission	20,000	10,000	40,000	40,000	+20,000	+30,000	
Joint Federal-State Land Use Planning Commission for Alaska	594,000				−594,000		
Pennsylvania Avenue Development Corporation	64,914,000	38,966,000	38,921,000	38,966,000	−25,948,000		+45,000
Federal Inspector for the Alaska Gas Pipeline		14,850,000		13,433,000	+13,433,000	−1,417,000	+13,433,000
Total, title II—Related agencies	7,396,620,000	24,466,012,000	6,081,569,000	23,161,239,000	+15,764,619,000	−1,304,773,000	+17,079,670,000
Grand total	11,848,846,000	28,577,538,000	10,231,970,000	27,355,775,000	+15,506,929,000	−1,221,763,000	+17,123,805,000

Mr. HUDDLESTON. Mr. President, I now ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendments as original text, provided that no point of order shall be considered to have been waived by agreeing to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 2, line 10, strike "$295,361,000" and insert "$295,836,000";

On page 3, line 23, strike "less than $62,700,000" and insert "to exceed $55,400,000";

On page 6, line 20, after "Alaska" insert a colon and the following:

Provided further, That none of these appropriations available to the Bureau of Land Management shall be used to effect reductions of licensed animal unit months to any grazing permittee or lessee that exceeds 10 per centum from the level established in fiscal year 1979

On page 7, line 7, strike "$30,977,000" and insert "$30,522,000";

On page 7, line 8, strike "$11,660,000" and insert "$11,464,000";

On page 7, line 15, strike "$15,656,000" and insert "$15,289,000";

On page 7, line 24, strike "$7,693,000" and insert "$7,393,000";

On page 8, line 7, strike "$447,059,000" and insert "$544,175,000";

On page 8, line 8, strike "$200,000,000" and insert "$359,307,000";

On page 8, line 10, strike "$3,690,000" and insert "$2,750,000";

On page 8, line 12, strike "$41,573,000" and insert "$21,953,000";

On page 8, line 13, strike "$20,600,000" and insert "$11,750,000";

On page 8, line 14, after the semicolon, strike "and";

On page 8, line 15, strike "$173,503,000" and insert "$149,022,000";

On page 8, line 16, after "Service, insert a semicolon and the following:

and (6) not to exceed $12,000,000 shall be available for land acquisition at Pinelands National Reserve only in accordance with the authorization and matching requirements of section 502 of Public Law 95-625

On page 8, line 20, strike "$12,000,000" and insert "$6,000,000";

On page 8, line 23, following the colon, strike through and including page 9, line 3, and insert in lieu thereof the following:

Provided further, That the amounts made available to the Bureau of Land Management, Forest Service, United States Fish and Wildlife Service, and National Park Service shall be reduced by $10,000,000 (such reduction to be allocated by the Secretary among such agencies).

On page 9, beginning with line 8, strike through and including line 13;

On page 9, line 17, strike "$50,000,000" and insert "$67,500,000";

On page 10, line 7, beginning with the colon, strike through and including the word "owner" in line 10;

On page 10, line 19, strike "$207,055,000" and insert "$205,421,000";

On page 10, line 20, strike "$3,000,000" and insert "$5,000,000";

On page 11, line 8, strike "$56,327,000" and insert "$56,945,000";

On page 11, line 8, after "expended" insert a colon and the following:

Provided, That $4,712,000 shall become available only upon enactment of S. 838 or similar legislation

On page 11, line 14, strike "$15,000,000" and insert "$8,400,000";

On page 12, line 6, strike "3" and insert "2";

On page 12, line 6, strike ", of which 2 are";

On page 13, line 22, strike "$383,512,000" and insert "$380,244,000";

On page 13, line 25, beginning with "Provided" strike through and including page 14, line 5, and insert in lieu thereof the following:

Provided further, That $105,000 shall be available for the National Park Service to assist the Town of Harpers Ferry, West Virginia, for police force use

On page 14, line 11, strike "$97,144,000" and insert "$119,938,000";

On page 14, line 12, after "expended" insert a colon and the following:

Provided, That $15,500,000 shall be available from the Capitalized Highway Trust Fund to liquidate contract authority provided under section 105(a)(8) of Public Law 94-280 for engineering services, roadway excavation, and pilot boring for the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87

On page 14, beginning with line 19, insert the following:

Road Construction

(APPROPRIATION TO LIQUIDATE CONTRACT AUTHORITY)

Appropriations previously provided in this account to liquidate contract authority in the amount of $5,552,000 are rescinded.

On page 15, line 7, strike "$15,781,000" and insert "$16,217,000";

On page 15, line 14, strike "$3,875,000" and insert "$4,030,000";

On page 16, line 22, strike "$448,290,000" and insert "$450,805,000";

On page 16, line 23, strike "$39,227,000" and insert "$39,814,000";

On page 17, line 8, strike "$145,927,000" and insert "$175,627,000";

On page 17, line 9, after "expended" insert a colon and the following:

Provided, That $141,500,000 provided for evaluation and assessment of the reserve shall be available only for closing out Federal exploration activities if legislation is enacted during the first session of the 96th Congress authorizing private exploration activities

On page 18, line 18, strike "$134,883,000" and insert "$131,603,000";

On page 18, line 18, strike "$107,501,000" and insert "$106,151,000";

On page 19, line 17, strike "$85,520,000" and insert "$82,625,000";

On page 19, line 22, strike "$11,194,916,000";

On page 20, line 22, strike "$792,795,000" and insert "$770,835,000";

On page 20, line 23, strike "$58,753,000" and insert "$58,553,000";

On page 21, line 19, strike "$83,395,000" and insert "$66,874,000";

On page 22, line 1, strike "$60,379,000" and insert "$64,379,000";

On page 24, line 23, after "provisions" insert a colon and the following:

Provided, That none of these appropriations shall be available to continue academic and residential programs of the Chilocco and Seneca boarding schools, Oklahoma, beyond January 15, 1980

On page 25, line 8, strike "$84,161,000" and insert "$63,061,000";

On page 25, line 9, strike "$80,089,000" and insert "$58,989,000";

On page 27, line 15, strike "$112,760,000" and insert "$105,799,000";

On page 28, beginning with line 8, insert the following:

PAYMENTS TO THE UNITED STATES TERRITORIES
FISCAL ASSISTANCE

There is hereby appropriated for the fiscal year 1980 and for each fiscal year thereafter, such sums as are authorized to be remitted to the Territories of Guam and the Virgin Islands under sections 1(c) and 4(c)(2) of Public Law 95–348, 92 Stat. 487.

On page 28, line 19, strike "$15,500,000" and insert "$15,741,000";

On page 28, line 24, strike "$45,760,000" and insert "$45,144,000";

On page 29, beginning with line 3, strike through and including line 5;

On page 32, beginning with line 8, insert the following:

SEC. 108. No appropriations made in this title shall be available in connection with any lease, administrative transfer, or withdrawal not now existing of lands and waters comprising Wild Horse Reservoir, Nevada, or any lands immediately adjacent thereto.

On page 32, beginning with line 13, insert the following:

SEC. 109. No appropriations made in this title shall be available for research, planning, identification of lands, implementation of plans, preservation of lands, or any other activity associated with the unique wildlife ecosystem program as now administered by the U.S. Fish and Wildlife Service not specifically authorized by law.

On page 33, line 2, strike "$109,490,000" and insert "$105,414,000";

On page 33, line 7, strike "$65,964,000" and insert "$58,018,000";

On page 33, line 15, strike "$847,151,000"; and insert "$796,824,000";

On page 33, line 16, strike "$188,218,000" and insert "$180,746,000";

On page 33, line 23, strike "$425,823,000" and insert "$409,458,000";

On page 33, line 24, strike "$30,735,000" and insert "$24,881,000";

On page 34, line 1, strike "$384,910,000" and insert "$383,076,000";

On page 34, line 2, after "roads" insert "and trails";

On page 34, line 4, strike "$8,166,000 is for construction of trails;";

On page 34, line 12, strike "27,400,000" and insert "$54,000,000";

On page 37, beginning with line 11, insert the following:

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System limitation for the emergency rehabilitation of burned over lands under its jurisdiction.

On page 38, line 2, strike "SYNTHETIC" and insert "ALTERNATIVE FUELS PRODUCTION";

On page 38, line 3, after "For" insert the following:

the establishment in the Treasury of the United States of a special fund to be designated the "Energy Security Reserve", $20,000,000,000, of which $1,500,000,000 shall be derived by transfer from the "Strategic petroleum reserve" account, to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: *Provided further*, That $1,500,000,000 shall be available immediately to the Secretary of Energy for

On page 38, line 13, strike "Defense Production Act of 1950, as amended (50 U.S.C. 2061 et seq.), $1,500,000,000," and insert "Federal Non-nuclear Energy Research and Development Act of 1974, as amended,";

On page 38, line 17, after "production" insert "by way of purchase commitments or price guarantees";

On page 38, line 18, strike "synthetic" and insert "alternative";

On page 38, line 19, beginning with "and" strike through and including page 39, line 3, the word "facilities";

On page 39, line 4, strike "President" and insert "Secretary";

On page 39, line 6, strike "synthetic" and insert "alternative";

On page 39, line 6, strike "and synthetic chemical feedstocks";

On page 39, line 7, after "'herein" insert a colon and the following:

Provided further, That an additional $708,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities, of which (1) not to exceed $100,000,000 shall be available for direct loans for project development feasibility studies, such individual loans not to exceed $4,000,000: *Provided*, That the Secretary may waive repayment of such loans where studies determine that project proposals have no economic or technical feasibility; (2) not to exceed $100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities; (3) not to exceed $500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.): *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of $1,500,000,000; and (4) not to exceed $8,000,000 shall be available for program management.

This Act shall be deemed to satisfy the requirements for congressional approval of sections 7(c) and 19 of said Act with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

For the purposes of this appropriation the term "alternative fuels" means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite, peat, biomass, solid waste, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof.

Within 60 days following enactment of this Act, the Secretary of Energy in his sole discretion shall establish and publish final criteria for loans described in this account.

On page 40, line 23, strike "$699,377,000" and insert "$798,302,000";

On page 41, line 8, strike "$71,250,000" and insert "$105,250,000";

On page 41, line 13, strike "$125,971,000" and insert "$106,971,000";

On page 41, line 14, strike "$104,500,000" and insert "$78,000,000";

On page 41, line 18, strike "$566,052,000" and insert "$702,502,000";

On page 42, line 3, strike "$180,000,000" and insert "$102,500,000";

On page 42, line 8, beginning with "*Provided*" strike through and including line 17, and insert in lieu thereof the following:

Provided further, That none of the funds provided for State energy conservation grants shall be available to any jurisdiction that has not implemented section 362(c)(5) of Public Law 94–163: *Provided further*, That $3,000,000 shall be available to the National Alcohol Fuels Commission

On page 43, line 1, strike "$125,697,000" and insert "$144,264,000";

On page 43, beginning with line 6, strike through and including line 9;

On page 44, line 21, strike "$541,449,000" and insert "$536,580,000";

On page 45, line 4, after "For" insert the following:

construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings; purchase of trailers; and for

On page 45, line 12, strike "$74,302,000" and insert "$26,062,000";

On page 45, line 20, after "construction" insert "of new facilities";

On page 46, line 12, after "activities" insert the following:

Provided, That none of these appropriations to the Health Services Administration shall be available for the lease of permanent structures without advance provision therefor in appropriations Acts

On page 46, line 19, strike "Part B ("15,600,000), and Part C ($5,830,000)" and insert "and Parts B and C, ($21,430,000)";

On page 46, line 22, strike "$75,875,000" and insert "$75,900,000";

On page 48, line 5, strike "$103,498,000" and insert "$102,710,000";

On page 48, line 18, strike "$3,700,000" and insert "$4,700,000";

On page 48, line 24, beginning with the colon, strike through and including page 49, line 2, the word "Institution";

On page 49, line 7, strike "$6,500,000" and insert "$6,000,000";

On page 49, line 15, strike "$5,250,000" and insert "$5,150,000";

On page 49, line 19, strike "$20,600,000" and insert "$10,850,000";

On page 50, line 19, strike "$22,311,000" and insert "$21,978,000";

On page 50, line 25, strike "$1,611,000" and insert "$2,611,000, of which $1,000,000 shall be available to carry out Public Law 95–286";

On page 52, line 9, strike "$111,700,000" and insert "$109,400,000";

On page 52, line 10, strike "$100,300,000" and insert "$98,900,000";

On page 52, line 14, strike "$11,400,000" and insert "$10,500,000";

On page 53, line 18, strike "$1,350,000" and insert "$1,460,000";

On page 54, line 13, strike "$1,811,000" and insert "$1,856,000";

On page 55, beginning with line 1, insert the following:

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

PERMITTING AND ENFORCEMENT

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, $13,433,000, of which $4,473,000 shall remain available until expended.

On page 56, line 1, beginning with "No" strike through and including the word "impact" in line 9, and insert in lieu thereof the following:

None of the funds appropriated under this Act shall be available to implement any amendment to or provision of, the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 providing for an increase in any month in the ratio of the number of entitlements issued any firm with respect to any imported refined petroleum product to the number of barrels of such product imported by such firm in such month,

(a) in the case of residual fuel oil, above 0.3; and

(b) in the case of any other refined petroleum product, above the ratio in effect on April 30, 1979 unless the President has transmitted such amendment or provision to the Congress as an "energy action" under section 551 of the Energy Policy and Conservation Act (Public Law 94–163) and neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in such section 551 of such Act.

On page 57, beginning with line 19, insert the following:

SEC. 307. Notwithstanding the provisions of any other law, appropriations in this Act or any other Act may be used to contract with private firms to provide plant care or watering services except for indoor office plants.

SEC. 308. Notwithstanding the provisions of any other law, red cedar may be exported from the State of Alaska, and no funds appropriated in this or any other Act shall be available to restrict such exports from the State of Alaska.

SEC. 309. No funds appropriated by this Act in excess of $80,000 shall be available for the legal representation of the Pueblos of Nambe, Tesuque, San Ildefonso, and Pojoaque, as plaintiffs-in-intervention, in connection with the suit State of New Mexico v. Aamodt, U.S. District Court No. 6639.

UP AMENDMENT NO. 628

(Purpose: To provide $800,000 in planning funds for the Pinelands National Reserve)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. WILLIAMS, proposes an unprinted amendment numbered 628.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 8, line 18, after "National Reserve", insert: , including $800,000 for planning.

Mr. BRADLEY. Mr. President, this amendment specifies in the bill that of the $12 million appropriated for the Pinelands National Reserve, $800,000 shall be available for planning expenses. The planning assistance is authorized as part of the grants to the State of New Jersey for acquisition and development of the Pinelands Reserve. It was the committee's intent to make sufficient funding available. It was learned following committee markup, however, that a specific provision in the bill would be needed to insure the availability of the planning funds.

This amendment which I offer on behalf of my distinguished senior colleague (Mr. WILLIAMS) and myself adds no new funding to the bill, and $11.2 million remains available for land acquisition at Pinelands.

Mr. President, having checked with both the majority and minority sides, I move the adoption of the amendment.

Mr. HUDDLESTON. Mr. President, the distinguished Senator from New Jersey is correct. We have considered this amendment and, as he pointed out, it was the intent of the committee to make these provisions. We thought we could do it in report language. It develops it will require an amendment to the bill.

As he also pointed out, it adds no additional funding, and for that we are grateful.

Mr. President, we are prepared to accept the amendment.

Mr. WILLIAMS. Mr. President, I am pleased to give my full support to the provision in the Interior appropriations bill which earmarks $12 million for the Pinelands National Reserve in New Jersey.

As the sponsor of the legislation that established the million-acre reserve, I am most gratified by the Appropriations Committee's decision to fund this innovative new program. I wish to thank the distinguished chairman of the Interior Subcommittee, Senator BYRD, and the esteemed chairman of the full committee, Senator MAGNUSON, for their favorable consideration of this important appropriation.

Located within a day's drive of some 50 million people, the Pinelands contain vast expanses of pine and oak forests, rare plant and wildlife species, and free-flowing streams. The ecology of the area is maintained by an aquifer that contains trillions of gallons of pure water.

Thousands of people also inhabit the Pinelands, living on farms and in small communities. While the State of New Jersey has established public forests and parks within the Pinelands, most of the land is privately owned. That land and the sensitive Pinelands aquifer are now threatened by uncontrolled residential and commercial development.

In drafting the Pinelands authorizing legislation last year, I worked closely with other members of the New Jersey congressional delegation, and with officials of the State and local governments and the Department of the Interior. We sought to protect the unique natural resources of the Pinelands, while allowing economic activities and compatible development to continue. We felt that the best way to accomplish this was through a comprehensive plan prepared by local, State, and Federal representatives. During the planning period, we also wanted to provide for the acquisition of environmentally sensitive land imminently threatened by development. Accordingly, the legislation authorized a total of $26 million for planning and land acquisition, to be matched by State funds on a 75 to 25 basis. The $12 million provided in this appropriations bill represents a substantial commitment to this effort.

Mr. President, I am pleased to join my junior colleague from New Jersey, Senator BRADLEY, in offering an amendment to the Pinelands provision in the bill to make clear our intent that the $12 million appropriation be available for planning as well as land acquisition. Under this amendment, up to $800,000 may be used for planning. As further clarification, let me stress that the planning funds are for the preparation of the comprehensive plan called for in the Federal authorizing legislation. They are not designed to help support any other activities of the Pinelands Planning Commission which may be assigned to it by the State of New Jersey.

With that additional clarification, I urge my colleague to support the amendment and the Pinelands provision.

Mr. STEVENS. Mr. President, I commend the Senator from New Jersey for his diligence in this matter. It was our intention.

I am delighted to support the amendment as does the Senator from Kentucky, due to the fact that we have ascertained that it is necessary to put the language in the bill rather than the report.

So I also urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 628) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 629

(Purpose: To correct allocations of Youth Conservation Corps appropriation)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 629:
>
> On page 34, line 13, strike "$13,700,000" and insert in lieu thereof "$27,000,000".
>
> On line 14, strike "$13,700,000" and insert in lieu thereof "$27,000,000".

Mr. HUDDLESTON. Mr. President, this amendment is merely a technical correction in the allocation to the Secretaries of Agriculture and Interior of increased funding recommended in the bill for the Youth Conservation Corps. The Senate bill provides $54 million for YCC activities, to be allocated one-half to the Secretary of Agriculture and one-half to the Secretary of the Interior. Because of a clerical omission, the allocation numbers were not updated to the increased allowance. This amendment corrects that problem. No additional funding is involved.

Mr. STEVENS. Mr. President, I am pleased to support the amendment. This is a program that was initiated by my good friend and southern neighbor from Washington (Mr. JACKSON) and I in 1969, and we are still very supportive of it.

I am pleased that the committee has seen fit to increase the amount to $54 million, which, incidentally, represents a 10-percent cut in this program, but does not eliminate it, as was proposed in the budget.

I am happy to see the Senator from Kentucky is carrying out our commitment to balance the funds evenly.

I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 629) was agreed to.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I

ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays on the passage of the pending measure.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Barbara Flickenger, of my staff, be accorded the privilege of the floor during all votes and all proceedings during the remainder of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NUNN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 630

(Purpose: To preclude the Secretary of the Interior from acquiring certain lands by condemnation for purposes of the Cape Lookout National Seashore)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 630.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 32, line 19, insert the following:

SEC. 116. None of the funds appropriated under this Act shall be used to acquire the following described lands by condemnation:

"All that certain tract or parcel of land situate, lying and being on Core Banks, in Harkers Island Township, Carteret County, North Carolina, being more particularly described as the same land conveyed to Sarah C. Reeves from Charles M. Reeves, Jr., Trustee et al., by deed dated May 27, 1975, recorded in Book 374, page 296, Carteret County Registry, North Carolina.

Mr. HELMS. Mr. President, this amendment is being offered as a sort of stop gap until such time as S. 1071, submitted by the two Senators from North Carolina, can be heard and acted upon by the Committee on Energy and Natural Resources where the bill is now pending.

The amendment I am offering has been discussed with the managers, and I believe that the managers of the bill are prepared to accept it.

Mr. HUDDLESTON. Mr. President, we have examined the amendment by the distinguished Senator from North Carolina and it is acceptable. We have no objection to it on this side.

Mr. HELMS. I thank the distinguished manager of the bill.

Mr. STEVENS. Mr. President, we support the amendment also.

Mr. HELMS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the Chair.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Mr. Tom Dougherty of the staff of Senator GLENN be permitted privileges of the floor during the consideration of H.R. 4930.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. JACKSON. Mr. President, as we consider the Interior appropriations bill for the Department of the Interior and related agencies, I believe my colleagues should be aware of the concerns about one provision of the bill expressed by Secretary of the Interior Cecil Andrus. I ask that the Secretary's October 11 letter to me which I received today be printed in the RECORD.

The letter follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 11, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Language in the Interior Appropriations Act coming out of the Senate Appropriations Committee could destroy any realistic hope of restoring to their productive potential the western rangelands administered by the Bureau of Land Management. The language proposes to limit any livestock grazing reductions in FY 1980 to 10%. The original proposal would have limited reductions to 20% over a 10-year period. This effort to impose constraints on the government's ability to manage and protect a basic resource is clearly intended as precedent.

This action comes less than a year after Congress enacted the Public Rangelands Improvement Act (PRIA) of 1978. PRIA, together with the BLM 4-Year Authorization Act, made the first serious national commitment of money in the Nation's history to restore the western rangelands—degraded by overgrazing stretching back over a century—to productive health. PRIA also asserted that these rangeland resources and funds are to serve the full range of rangeland uses: wildlife, erosion control, water quality and watershed protection as well as livestock. The Congress enacted PRIA because the rangelands are far below their productive potential. The General Accounting Office reported in 1977 that only 17% of the western rangelands were in good or excellent condition, 50% in fair condition and 33% in poor condition. The Senate Appropriations Subcommittee itself reported in connection with the Fiscal Year 1975 Appropriation Act (Report No. 93-1069) that "range conditions are deteriorating at an alarming rate." There is no question that historic overgrazing by livestock was the prime cause of degradation and that management of livestock use, along with judicious on-the-ground improvement programs, is required to restore the resource.

Congress underscored these findings of deterioration and urgent need for improvement in enacting PRIA and authorizing appropriations for a 20-year program of rangeland restoration. This historic commitment was made possible by the combined support of the western livestock industry and a wide range of western and national environmental organizations.

I have committed myself publicly to pressing for full funding of the amounts authorized for rangelands in the 4-year authorization for the Public Rangelands Improvement Act. But in a time of intensive competition for tax dollars, there is little hope of securing an effective coalition of political support for PRIA appropriations if the public perceives that rangelands are going to be restored only to be overgrazed—again—at the continued expense of wildlife, watershed, water quality, soil stabilization and other public values.

Environmental organizations, OMB, and Interior, while I am Secretary, will vigorously oppose public investments in rangeland improvements that will not result in benefits to all rangeland values.

The attempt to limit grazing cuts arises from a series of EIS's on grazing being prepared by BLM. Many of these statements establish (to no one's surprise, in view of the history of rangeland deterioration) that reductions in livestock use are required in many cases.

It is the policy of the Department and BLM to establish levels of use by livestock that, in combination with other management practices, will secure or maintain a productive rangeland resource for multiple uses. Alternative ways to achieve desired range conditions—including grazing systems and on-the-ground investments—are fully considered with extensive involvement by livestock operators and the public. A significant percentage of operators receive increases in livestock use. Any necessary grazing cuts are phased in over a 3-year period. As rangeland conditions improve it is our policy to restore livestock use to the extent consistent with multiple-use values.

The proposed limit on livestock cuts places a single use—livestock grazing—in a position to damage wildlife, soil, watershed and other public values. It threatens to limit the economic value of a well-managed rangeland livestock industry to the West as a whole by consenting to the continuation of overgrazing by individual operators. It is completely contrary to the multiple-use concept of public land management firmly set forth as national policy in the Federal Land Policy and Management Act and reinforced by PRIA.

I hope you understand and share the concern I feel about this subject, that your concerns may be reflected in floor debate on the Appropriations Act, and in communications with the Senate conferees.

Sincerely,

CECIL D. ANDRUS,
Secretary. ●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been a period for the transaction of routine morning business today?

The PRESIDING OFFICER. There has not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 1 p.m., and Senators may speak up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVESTMENT OPPORTUNITIES IN SRI LANKA

Mr. PERCY. Mr. President, when I was in Sri Lanka on a private trip in August, I encountered a large Japanese trade mission which was examining the significant investment opportunities there. The Japanese were impressed with the opportunities, as was I, and American business should be impressed, too. Late in August I met with President Jayewardene, the Minister of Finance and Planning, Mr. DeMel, Minister of Trade and Shipping, Mr. Lalith Athulathmudali, business and labor leaders, rice farmers, and craftsmen, and attended the International Conference of Parliamentarians on Population and Development in Cambodia. I was able to obtain an assessment of the political and economic situation in the country. I looked at investment opportunities in Sri Lanka as a former industrialist rather than through the eyes of a legislator.

When the current Sri Lankan Government came into office nearly 2 years ago, it abandoned economic policies that had stifled production. It turned to the market place with new policies to accelerate investment and development. It now actively seeks private foreign investment and, from what I saw, American businessmen have a real investment opportunity there. The labor force is highly literate, learns fast, and wages are still very favorable for employers. The government's mandate for these policies was recently confirmed in a heavy vote in local elections insuring political stability in the foreseeable future.

Sri Lanka's Government designated a 200-square-mile area north of Colombo for industrial development. It created the greater Colombo Economic Commission (GCEC), an autonomous body with broad authority to implement a development program. It selected a 500-acre area for a free trade zone—called in Sri Lanka the Investment Promotion Zone. Construction began immediately in the first 200-acre section adjoining the international airport about 18 miles north of Colombo.

New industries there are export oriented. Foreign investment is sought. Already 71 projects have been approved, representing investment of about $130 million, with 70 percent of it coming from investors outside the country. Thirty-five implementing agreements have already been signed. Six factories are already in production, even before the permanent infrastructure has been completed. Twenty-one more factories are under construction.

There is abundant low-cost labor. Average monthly wages for unskilled labor in 1978 were about $31 in Sri Lanka—probably $45 with fringe benefits included. This compares with $142 in Singapore, $143 in South Korea, and $836 in Japan, according to the ILO Year Book of Statistics for 1978. Skilled foreign labor is permitted to work in the zone.

Sri Lankans are rightfully proud of their history as a free, democratic society. The country's record on union rights is among the best in Asia. Since the Jayewardene government came in, there have been only a few strikes. Few other countries have shown as much concern for the social protection of its workers as Sri Lanka over the years, which helps explain its remarkably good quality of life for a people whose per capita GNP is under $200. Life expectancy is 68 years, closely paralleling that of Washington, D.C. Labor is alert and well educated, with more than 85 percent of the population literate. English is widely spoken.

Building sites are available on 99-year lease at a cost of $20,000 per acre, plus an annual nominal ground rent. Electricity and water rates and environmental protection costs are low.

Exemption or relief is available from corporate and individual income taxes, customs duties, exchange regulations, and import and export procedures. Generally, income may be exempted from tax for up to 10 years; imports for reexport or equipment for use in the free trade zone are given exemption from customs duties; equity and profits are permitted to be transferred from Sri Lanka freely and without tax; royalty payments are exempt from tax.

Sri Lanka is conveniently located on the crossroads between the gulf oil states and the surging markets of Southeast Asia. The port at Colombo is being redesigned with rapid containerized services. One American merchant marine captain recently called it the fastest turnaround time port in the Indian Ocean, and a number of west coast American shipping lines are using Colombo as a transshipment port for cargoes heading for south India and even the gulf.

An investment guarantee program between the United States and Sri Lanka enables American investors to obtain insurance from the U.S. Government against risks of loss from inconvertibility, expropriation, or war.

Investments from 21 countries have been approved to date. Promotion seminars have been held in Hong Kong, Singapore, West Germany, and Japan. Investment missions have visited Sri Lanka from Singapore as well as Japan. A mission from West Germany is scheduled this fall. An investment seminar sponsored by Manufacturers Hanover Trust Co. was held in New York on September 11. An American investment mission may be scheduled for mid-1980.

Sri Lanka efforts and its new policies have won for it the backing of the international lending institutions and aid donor countries. Aid for Sri Lanka from all sources is reaching an annual level of over $400 million.

In view of all these factors, I think that Sri Lanka offers very attractive opportunities for investment by American business. Furthermore, the friendly relations and the ties that bind the United States and Sri Lanka will be strengthened by our investment.

DISTRIBUTIVE EDUCATION CLUBS OF AMERICA

Mr. PRESSLER. Mr. President, as chairman of DECA's Congressional Advisory Board, I have had the opportunity to work with young men and women throughout the Nation who have been members of DECA—Distributive Education Clubs of America.

DECA was created to develop vocational understanding, encourage civic consciousness, social intelligence, and leadership development. I can testify emphatically to the fact that DECA is accomplishing those goals of helping develop competent and knowledgeable adults.

Over 96 percent of the distributive education secondary and postsecondary graduates are either employed or are in pursuit of education and training. This is a statistic of which DECA and those of us on the Congressional Advisory Board are proud.

As chairman of the Congressional Advisory Board, I would like to invite all my distinguished colleagues in the Senate and all the Members of the House to join the Congressional Advisory Board. They will be pleased to know that 13 Senators and 29 Members of the House have already done so. As members of the advisory board, we can together show our support of and interest in the youth of our country.

Having a position on DECA's Congressional Advisory Board also gives one the opportunity to be involved in DECA activities, including public appearances at major DECA events, hosting receptions for DECA groups, meeting with State delegates, offering advice on special projects, and showing our support of programs which encourage leadership.

DECA is the only national student organization operating through the Nation's schools to attract individuals to careers in marketing, merchandising, and management. And DECA members are making numerous studies and surveys to aid the economic development of their own communities.

Vocational education has become important to the development and training of our Nation's youth, and it is growing at a tremendous rate. DECA has been one of the keys to vocational education's qualitative growth through its chapters at our Nation's high schools, junior colleges, and universities.

Beginning in 1947 with only 800 students in 17 chapter States, DECA has grown to almost 200,000 students from 50 States, the District of Columbia, Guam, the Virgin Islands, and Puerto Rico.

Recently, I had the privilege of meeting the 10 national student officers. Representing nine States, the students included Blake Allen, Concord, Tenn.; Carol Dunham, Wichita, Kans.; Robert Bruder, Williston Park, N.Y.; J. Patrick

Shannon, Killeen, Tex.; Connie Ryan, Olympia, Wash.; Tim Clarke, Santa Barbara, Calif.; Chris Lupke, Monroe, Mo.; Debra Bartkowski, Middleburg, N.Y.; Greg Rahaim, Laurel, Miss.; and Colin Smith, Orem, Utah.

These students are working throughout the Nation to meet DECA's twofold purpose: First, to develop education in marketing and distribution which will contribute to occupational competence; and second, to promote understanding and appreciation for the responsibilities of citizenship in our free, competitive enterprise system.

Encouraging these students with direction and leadership are our Nation's teachers and administrators. I would especially like to thank Mr. Harry Applegate, executive director of the national DECA office, and Ms. Manera Constantine, director of professional services.

Mr. President, let me recite part of the DECA creed:

> I believe in fulfilling the highest measure of service to my vocation, my fellow beings, my country, and my God.
>
> I believe in the democratic philosophies of private enterprise, and competition, and in the freedoms of this nation; that these philosophies allow for the fullest development of my individual abilities.
>
> I believe that by doing my best to live according to these high principles, I will be of greater service both to myself and to mankind.

Mr. President, youth dedicated to such principles will make great leaders for America in the future. The Distributive Education Clubs of America movement deserves the support of America's leaders today. If any Members of this body would like to be more actively associated with DECA, I invite them to call my office for further information.

NATIONAL SECURITY QUESTIONS RAISED BY DEVELOPING SATELLITE TECHNOLOGY

Mr. PRESSLER. Mr. President, in my short time as a member of the Senate Commerce Subcommittee on Communications, I have been impressed with the rapid advances in communications technology.

In viewing these advances, I have become concerned about developments in satellite receiver technology. Although satellite technology certainly holds much potential for the communications industry, I believe that adequate attention has not been focused on the increasing vulnerability to interference or subversion by unfriendly sources.

As broadcast technology evolves from ground operations to satellite transmission, we have less and less control over signals that can be beamed to the American public. With proposals for direct satellite-to-home broadcast being enthusiastically promoted, it is forecast that within the next few decades each home will have its own receiver.

Our control over information transmitted by new technologies is significantly reduced. I have been informed by the Federal Communications Commission that there is nothing in present technology to prevent deliberate misuse or interference, save for the monitoring process. Even when monitored by a station, there are cases where incorrect information was broadcast for some time undetected.

On two occasions, I have written the President to urge action to address this problem. There is no evidence of study or policy development by our Government agencies responsible for communications and defense concerns.

We must take steps to insure adequate protection of our national communications facilities. I urge that my colleagues consider the importance of this issue and the need to protect our communications systems.

I ask unanimous consent that my letter of October 10, 1979, to President Carter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., October 10, 1979.

HON. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In April, 1979 I wrote to you to express my deep concern over questions of national security raised by developing commercial satellite technology. Having found no study of this issue, I asked what attention has been given this problem by our federal agencies.

With increased use of satellite facilities for broadcasting, our control over information transmitted to the American public is significantly reduced. Proposals for direct satellite-to-home television broadcast are being enthusiastically promoted by private companies, promising new and improved communications services. I have been informed by the Federal Communications Commission that there is nothing in present technology to prevent deliberate misuse or interference from an external source. Even when monitored by a station, there have been cases involving the broadcast of incorrect information for some time before the mistake was detected.

In the hands of unfriendly sources, a foreign satellite could broadcast false information for a period of time which would threaten our national security under certain circumstances. Although this is an extreme example, the vulnerability of our central broadcast facilities to interference or subversion poses a national security problem that requires immediate attention.

The National Association of Broadcasters has expressed concern that broadcasting satellites could present a vulnerable target to aggressors in time of war or when actions to disrupt the United States communications system are contemplated. In the event that developing technology results in the concentration of all national television broadcast communications on a relatively small number of satellites, these facilities could be easily destroyed, moved, or jammed, leaving no adequate backup system for emergency communications.

Comments regarding communications security made Department of Defense officials at Senate hearings on 1978 appropriations support this concern. Statements made at those hearings emphasize the need to protect important communications links. Security measures are used by the Department to "protect command and control communications from unauthorized access, exploitation by hostile intelligence activities, deliberate alteration of commands or information, and attempts at communication deception." Although the Department's communications security program includes all resources devoted to the protection of U.S. telecommunications against exploitation by foreign intelligence, it does not address problems involved in commercial operations.

Earlier responses to my letter of April 10 contained no information regarding the development of communications and defense policy to address this national security problem. I respectfully request a report of efforts underway in the National Telecommunications and Information Administration, the Department of Defense, and other agencies and departments concerned with national communications and security to ensure adequate protection of our communications facilities.

I urge your support for these efforts and thank you for your consideration of this serious matter.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

CRISIS INTERVENTION FUEL LOAN PROGRAM

Mr. LEAHY. Mr. President, I wish to express my concern for a problem which is only going to worsen—the problem that low-income families and Americans on fixed incomes will have keeping warm this winter.

This was a very, very serious problem last year. The almost doubling of fuel prices over the summer clearly means this problem will reach crisis proportions this winter. It is unimaginable—and unpardonable—that many families will be forced to choose between fuel to heat their homes and food to feed their families.

The night before last in the capital of my home State there was snow on the ground and the thermometer read 23 degrees. Earlier this week my wife and I were back at our home in Vermont and our lawn and our fields were totally covered with snow. It was a blunt and brutal reminder to Vermonters that, although the calendar may say that winter is weeks away, winter's cold had arrived earlier as always and the furnaces will be lit until next April.

It will be a long and expensive winter for the people of my State who are able to heat their homes. It will not be easy. Their fuel bills will be inflated and corners already sharply cut by inflation will be cut closer still to meet fuel oil payments. While it will be a hard winter for these Vermonters, it will be even worse for those who are poor and elderly on fixed incomes. For them this winter may well bring tragedy if this Congress does not wake up to the reality that there are needy people with nowhere to turn but to their Government in the cold nights to come.

It is not fair to make these Americans wait in the cold for help while we haggle over the question of abortion—a question that does not even belong in an appropriations bill in the first place.

While we debate in this warm Chamber, many Americans, particularly in the Northern half of the country, are living in fear. While the House plays abortion politics to win a pay raise, citizens are choosing food or fuel—even though both are necessary to stay alive. I would like to believe the other body is serious about its abortion amendment, but the fact is they are using it to blackmail the Senate into granting them a pay raise. I am opposed to the pay raise and I am ashamed of the other body for this strategy in trying to get it.

The abortion issue has been wrongly and irresponsibly presented to us as the litmus test of our social conscience, and it threatens to deny those needy people the help they so desperately need and deserve. That one single issue has prevented the passage of the Labor-HEW appropriation and the money for this program and hundreds of others which benefit the needy children, families, and elderly people of this country. In the name of what we are told is a "greater good," this one issue and this one group of individuals is threatening the lives and livelihood of millions of Americans.

I discussed this the other Saturday morning with the distinguished majority leader in the Chamber. We discussed the fact that if the abortion question is to be raised before Congress, let it be raised by itself. Let us vote up or down on it by itself. If the pay raise matter is to be voted on, let us vote on it by itself. But let us not hold hostage major programs of necessity to the people of this country.

If the abortion, pay raise, or any other issue has the support of the people of this country, it should be able to stand by itself. It should not have its support only because of the leverage it holds on the needed programs for the people of this country.

We may already be too late to make this crisis intervention program work to its full potential. Every hour we wait raises the chances that a proud, independent but needy American will freeze to death. Delay is unacceptable.

Last year, the Community Services Administration did not even have regulations for the program until April, long after the hardest and coldest months had passed. This year CSA has already issued new regulations in response to strong congressional criticism and pressure. They have reprogramed fiscal year 1979 money to help them get their administrative house in order for fiscal year 1980. They are ready to go now—as soon as we decide to give them the money.

I am not fooled into thinking that these new regulations will solve all our problems. I know that my colleagues are not. I hope that I will be proven wrong, but this program, by whatever name it is currently called, has been poorly run before, and I am afraid it could be poorly run again. This year the fuel assistance grants will be given directly to the States to subgrant, instead of to the local CAP agencies. This gives the Governors of each State the authority to administer the program as they think will best serve their State.

Mr. President, I see no adequate Federal action being taken to insure that people in true immediate need will be better served than before. We in Congress pass on our oversight controls to the States, and at the same time saddle them with a program that has proven to be a nightmare to administer. The administering agencies in the States and the American taxpayers are in effect shouldering the operation of a program that the Federal Government has been unable to run and is now trying to dump. Meanwhile, poor and elderly Americans are faced with no heat. It is not a question of simply turning down the thermostat to conserve fuel.

Certainly, in my State they are far past that stage, and I suspect that is the same in most other States.

We must make sure that adequate support is extended to the State agencies. We must see that training and technical assistance is freely and easily given to the local program operators. CSA should issue revised poverty guidelines to take into account the incredible inflation of the last few months. Most importantly, the administration must provide for and protect the interests of those to be served by providing proper monitoring and oversight.

I am skeptical of the CSA program. But the fact remains that it is the only solution we have to help keep low-income people from freezing to death this winter—not next winter, but this winter. We surely cannot expect this program to operate successfully if we continue to hold up funding. The CAP agencies in my State have already received dozens of calls from people who are not even able to get an initial delivery of fuel for the winter. Like it or not, winter has arrived and people are caught without fuel. The State agencies are ready to help, but we are holding them up.

It is time for action—it is time for the other body to stop playing games. The abortion issue is a serious one that deserves separate and considerable debate. I call on my colleagues to separate the issues and get on with the process.

Do not diminish the importance of this issue by saying it can only be considered if it holds other needed programs hostage. I can hear the moral indignation and outrage that will be spoken when we read the grisly details of people actually dying because of these delays in funding fuel assistance. I for one want to avoid this dismal scenario. Let us move on the fuel loan programs contained in the continuing resolutions—let us stop playing amendment politics with our citizens.

Let us take the responsible steps needed for the people of our country. Let us do it now.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, the Senate, at 12:18 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. There is nothing pending at the moment.

FOREIGN ASSISTANCE APPROPRIATIONS, 1980

Mr. INOUYE. Mr. President, we wish to call up the foreign assistance appropriations bill.

The PRESIDING OFFICER. The Senator is authorized to do so.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4473) making apropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 512

(Purpose: To prohibit funding for the Institute for Namibia)

The PRESIDING OFFICER. The pending question is the amendment of the Senator from North Carolina numbered 512.

Mr. HELMS. I thank the Chair.

Mr. President, the pending amendment is very, very simple. It would cut one-half million dollars from the so-called voluntary contributions to the United Nations intended for the U.N. Institute for Namibia.

Let us take a good close look at this institute. It is an educational arm of the Soviet-backed terrorist organization, SWAPO. I think it is an insult to the American taxpayer to even contemplate using U.S. funds for this purpose.

The U.S. funding is just one increment, however, of millions of dollars which the United Nations intends to funnel into this institute over the next 3 years.

In a recent letter to me, the Assistant Secretary of State for International Organization Affairs, Mr. Charles Maynes, has virtually confirmed that the so-called Institute for Namibia is nothing in this world but a SWAPO front. Although the Secretary attempts to make a distinction between military activities and educational activities, the fact remains that a grant to this institute is a grant to support SWAPO's revolutionary activity. I intended to go into more detail about this letter in a moment. Hopefully, it will help my colleagues to understand better the enormous range of funding which the United Nations provides to SWAPO, which it regards as "the sole and authentic representative of the Namibian people."

Mr. President, to that the Senator from North Carolina says "horseradish," because the truth is that SWAPO has no legitimate claim to represent the Namibian people, except the claim of terror. By funding SWAPO, the United States will make it impossible to have free elections in Namibia. There is a whole range of political groups in Namibia, both black and multiracial, who are dedicated to democratic principle; but SWAPO rejects democratic principles. Yet it is proposed under this bill to send U.S. taxpayers' money to the aid of SWAPO. A good example is described by Secretary Maynes himself, where he relates how SWAPO forced other political groups to leave the Institute.

I do not believe that the United States can be a party to funding even the educational arm of a terrorist group that rejects democratic principles.

It is understandable why the anti-American bloc at the U.N. should support such programs; but it is incomprehensible why the United States should support them.

The fact is that even though these programs are allegedly "educational" they in fact support the terrorist programs of Marxist revolutionaries in southern Africa. The United Nations has declared SWAPO to be the sole and authentic representatives of the people of Namibia and South Africa. They did this on the basis of the groups' terrorist activities and not upon any realistic assessment of the political strength of the organizations. It is clear Marxist dogma that a Marxist organization is the authentic representative of the people whether the people agree with it or not. It is the same doctrinaire drive for control that proclaims that Gus Hall's Communist Party of the U.S.A. is the authentic representative of the American people. Anybody who believes that will believe anything.

Since the U.N. has already proclaimed SWAPO to be the sole and authentic representative of the people of Namibia, to take just one example, SWAPO has become the beneficiary of millions of dollars of U.N. funding. These funds come from both assessed and voluntary contributions. In the bill before us today, we are dealing only with voluntary contributions, but no one can get the true picture without looking at both.

According to an article which appeared last year in the publication American Relations, the U.N. has set up three special agencies to support revolution in southern Africa. These include the U.N. Commissioner for Namibia, the U.N. Council for Namibia, and the U.N. Fund for Namibia, which in turn funds the Namibia Institute, which is what this amendment addresses. According to the article, the U.N. Commissioner for Namibia is the U.N.'s government in exile for Namibia, with three offices in New York, Lusaka, and Botswana, with a total budget of $1,722,500, for 1978–79. The U.N. Council for Namibia has 25 member nations with a budget of $1,581,700 for 1978–79. The Council also recognizes SWAPO as the "sole and authentic representative of the people of Namibia" and funds SWAPO's New York office to the tune of $182,200.

The U.N. Fund for Namibia is a trust fund account established in 1971, which has received $950,000 from the assessed U.N. budget, and $1,303,874 from voluntary contributions. In 1974, the U.N. General Assembly approved the establishment of the Institute for Namibia. The Fund for Namibia gave the Institute $846,549 by March 1977. However, the United Nations Development Fund also gave the Institute $3,750,000 from voluntary contributions.

It is the category of voluntary contributions that we are talking about here.

Concerned about the funding of such outfits as the Institute for Namibia, I wrote to the Assistant Secretary of State for International Organizations Affairs, Mr. Charles Maynes, about the veracity of these figures and other information I had received. Secretary Maynes confirmed them both in outline and detail and added even more disturbing information. A complete copy of Secretary Maynes' letter is on the desk of every Senator. We had it distributed last night and it is here again this afternoon, and I hope Senators will take a look at it.

Mr. President, I also ask unanimous consent that the letter of Secretary Maynes and its attachments be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. In response to my questions, Secretary Maynes wrote:

> All of the Institute's students are Namibians. The bulk of them appear to be members or supporters of SWAPO. However, some of the students are also supporters of another Namibian liberation movement, SWANU, and some profess no political preferance whatever. Professional staff members are listed on an enclosed table and are citizens of a variety of countries.

I am quoting, Mr. President, and I continue to quote the Secretary:

> Acting on behalf of the President, and after a careful review by our Embassy in Lusaka, Secretary Vance determined on February 6, 1979, that no fiscal year 1979 funds for the UN Institute for Namibia will be used to support the military or paramilitary activities of SWAPO. Although it is clear that there are some members of the faculty at the Institute who favor SWAPO and have expressed their preferences, these expressions, as well as those by groups who favor other political parties, have occurred within a climate of academic freedom that permits a range of political expression as well as the right to keep silent. There have been incidents between supporters of SWAPO and SWANU at the Institute. As a result of one incident a group of SWANU supporters left the Institute. However, our Embassy in Lusaka, maintains frequent contacts with the Institute, believes that these incidents have not affected the integrity of the Institute's academic program.

All that I just read was a precise quote from the Secretary's letter.

Mr. President, I am bound to ask has any Senator ever heard of such nonsense?

Here we have a case where the Secretary, Mr. Maynes, admits that "the bulk of the students appear to be members or supporters of SWAPO." Then he goes on to speak of what he calls "incidents"—and I hope the reporter will put quotation marks around the word "incidents"—where the climate of repression became so great that the minority organization, SWANU, had to leave the Institute. Can any Senator in his right mind vote to send a half billion dollars to an outfit like that? Five hundred thousand dollars of the American taxpayers' money.

We are going to see momentarily. But what kind of double talk is this about "academic freedom" from the Secretary?

Mr. President, I believe the facts of the matter are somewhat different. Let us nail down one thing forever more: SWAPO is a terrorist organization which murders innocent people, destroys property, and all the rest of it. SWAPO has chosen to declare war against the black people of Namibia. It has even declared war against those who even dissent within the SWAPO movement. Oh, that is great academic freedom; $500,000 of the taxpayers' money to support an outfit like. How absurd can we get?

The head of SWAPO, Sam Nujoma, had the dissenters arrested and imprisoned in Zambia. Oh, what a great fellow. By all means we ought to send him $500,000 of the taxpayers' money.

Mr. President, Senators had better not take a poll among the American people on this question.

He had the dissenters arrested and thrown in jail, and when a writ of habeas corpus was brought on behalf of these prisoners—you know, the ones who disagreed with the terrorists—this man, Sam Nujoma, had them spirited across the border to Tanzania, where the Tanzanian Marxist dictator, Jules Nyerere, has no compunction about legal niceties. He is not troubled about academic freedom and liberty. Oh, no. About 2,000 SWAPO dissenters have disappeared into Nyerere's jails and have never been seen again.

I will amend that. About 150 were released last year. That leaves 1,850 people who are either dead or locked in some dark prison cell because they committed the heinous crime of dissenting within SWAPO, the terrorist outfit.

Among those 150 were Andreas Chipanga, one of the original founders of SWAPO, and Dr. Kenneth Abrahams, a distinguished medical doctor with an international reputation. You see, they had committed the unpardonable sin of establishing a new political party, the SWAPO-Democrats, a party which rejects the terrorist tactics of Nujoma. Politically, they would be similar to the British Labor Party or the German Social Democrats.

Similarly, SWANU has joined a group called the Namibia National Front, a coalition of parties with a leftist orientation. Although SWAPO, SWAPO-D, and SWANU reject ethnic concepts of politics, the truth is that their base of support is tribal, coming mainly from the Ovambo and Herero tribes. None of them has any authentic claim to represent a majority even of their dominant tribes, much less Namibia as a whole.

The majority party is the Democratic Turnhalle Association, a multiracial democratic movement that recognizes the ethnic reality of the 11 ethnic groups in Namibia. In the elections held last December, DTA won not only a majority of the votes cast, but an absolute majority of both registered and prospective voters.

Mr. President, the Senator from North

BEST DOCUMENT AVAILABLE

Carolina has been in direct contact recently with all of the democratic parties—that is with a little "d"—in Namibia, and I can attest to the fact that there is a healthy political spectrum operating there. I do not support the political views and aims of all these parties, but I do support their right to exist and to go before the electorate in free and fair elections.

However, the United Nations does not support their right to exist. The United Nations recognizes only the terrorist organization, SWAPO, as the sole and authentic representative of the Namibian people. Moreover, it provides extensive political patronage to SWAPO, not only through the Namibia Institute, but through millions of dollars in assessed and voluntary contributions.

So here the U.N. is setting itself up to be the impartial judge of elections in Namibia, but the U.N. itself is heavily financing one party, SWAPO—the one party that is determined to seize power through the barrel of the gun, rather than through the ballot box.

So the bottom line of this amendment, Mr. President, should be very clear: This hypocrisy has got to stop. We cannot pretend that financing so-called "educational and academic" programs such as the Institute of Namibia has nothing to do with the war against freedom being carried on by SWAPO. Of course, it has everything to do with it. The people of this country, the citizens and taxpayers of the United States, must not be required to fund this terrorist Institute. But unless this pending amendment is adopted, that is precisely what is going to happen.

Mr. President, I ask unanimous consent that the article from American Relations entitled "How the United Nations Finances Terrorists" be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. I thank the Chair, and I yield the floor.

EXHIBIT 1

DEPARTMENT OF STATE,
Washington, D.C.

Hon. JESSE HELMS,
U.S. Senate.

DEAR SENATOR HELMS: Thank you for your letter of March 23, regarding SWAPO's relationship to the United Nations. We have requested information from our Mission to the UN and several foreign posts to respond to some of your questions, but I wanted to provide you now with the information available in the Department.

I would like to begin by noting that from 1946 on the Namibian problem has been uniquely internationalized because, alone among countries handling a League of Nations mandated territory, South Africa refused to transfer the mandate to the UN. This set South Africa on a collision course with the UN which has affected international treatment of the issue ever since

Regarding the treatment of political parties inside Namibia, the Security Council and the General Assembly have followed different courses. The Security Council has recognized no Namibian party as superior to any other. Through its approval of the Western settlement Proposal and its authorization of the formation of UNTAG by the Secretary General, the Council has clearly taken a stand in favor of the solution advocated by the Contact Group and originally agreed to by all parties to the settlement, including South Africa. The operations of the United Nations Transition Assistance Group (UNTAG) in Namibia will take place under the overall authority of the Security Council. The whole purpose of the proposed transition is to prepare for and conduct elections under United Nations supervision and control in which all Namibian political parties can take part on an equal basis. In this context, it is clear that SWAPO will have a position no more nor no less favorable than any other political party. Moreover, the record of the United Nations for impartiality in peacekeeping situations, such as in the Middle East and Cyprus, is very good indeed. There is every reason to believe that UNTAG will acquit itself in a similarly unbiased fashion.

Regarding the decision of the UN General Assembly to endorse SWAPO as the "sole and authentic representative of the Namibian people", many African states felt that early international recognition of one of the parties in Angola might have helped to prevent the civil war in that country. It was against this history that they decided to accord some recognition to SWAPO. Other members, agreeing that South Africa's continuing control of Namibia was illegal, accepted the African position. The Assembly arrived at this decision in 1973, well before the April 1977 beginning of the Western Five Power initiative on Namibia.

Although the U.S. has not acepted that SWAPO is the "sole and legitimate representative of the Namibian people", the U.S. does regard the South African occupation in Namibia as illegal and has since 1966 when the UN General Assembly, in Resolution 2145 of October 28, revoked the mandate which had been granted to South Africa by the League of Nations on grounds that South Africa was taking no action to bring the territory toward independence, that it had extended apartheid to Namibia, and that it had refused to recognize that the authority of the League of Nations for mandated territories had passed to the United Nations. The United States supported and voted in favor of that resolution in 1966. We also supported Security Council Resolution 264 of March 20, 1969, which recognized the UNGA action as well as the advisory opinion of the International Court of Justice which, in 1971, upheld the GA resolution by ruling that the South African occupation of Namibia was in fact illegal.

The following information is in response to the specific questions contained in your letter.

1. TRAVEL COSTS FOR SWAPO MEMBERS

We have had difficulties in identifying the exact travel cost for each individual but it appears that your figures for the travel expenses involved in paragraphs A–C of your letter were reached by taking the estimated total travel expense for all delegates, and dividing that figure by the number of delegates to attend. If that is the case, then I suggest that the figures involved may not be precisely accurate inasmuch as the travel expenses for any given representative may have been somewhat greater or smaller than those of another depending upon the distance traveled. Moreover, in at least some of these instances the proposed number of delegates did not attend the conferences in question, not all of the travel money was used, and some of it was returned to the original funding source.

Under UN regulations, the organization pays the travel costs to key meetings of a limited number of delegates from each country, including the U.S. Although the exact amounts may not be correct, nevertheless the premise of the questions A, B, and C is accurate, i.e., that the United Nations does pay the travel expenses incurred by representatives of SWAPO to attend various international conferences taking place generally within the UN system. Because UN members consider South African occupation of Namibia illegal, it is argued that it cannot represent the interests of Namibia at international meetings; consequently, provisions for SWAPO to attend have been made. The United States voted against the UNGA resolution calling for UN funding for this purpose. However, the resolution was adopted. I should note that these and other expenses which you mentioned were provided by Dr. Martti Ahtisaari, in his capacity as Commissioner for Namibia, and were taken from UN 1977 assessed budget funds.

2. UN COMMISSIONER FOR NAMIBIA

The activities of the UN Commissioner for Namibia are funded through the regular assessed budget of the United Nations. The Commissioner has offices located in New York, Lusaka, Zambia and Gaborne, Botswana. The distribution of the staff and resources in 1979 according to information provided by the UN is as follows:

	Established posts	Temporary posts	Resources (thousands)
New York	1 ASG	1 P-5	$514.0
	1 D-1	1 P-4	
	2 P-5	1 P-3	
	4 P-2/1	1 G-5	
	1 G-5	2 G-4	
	4 G-4		
Lusaka	1 D-1	2 P-3	346.2
	1 P-2	3 G-5	
	6 LL		
Gaborone	1 P-4		113.8
	1 P-3		
	1 G-4		
	2 LL		

The employees in the Commissioner's office are international civil servants, and no record is kept whether they are members or supporters of SWAPO since the UN does not request information on political affiliations.

3. THE UN COUNCIL FOR NAMIBIA

The Council for Namibia is funded through the regular assessed budget of the United Nations. The Council for Namibia was created in 1967 by the General Assembly, once the South African mandate was revoked, to be the legal administrator of the territory until it attained independence. The U.S., and the Security Council, have never recognized this role for the Council.

Resolution 33/182 authorized the expansion of the Council from 25 to 31 members. The present membership is composed of the following:

Algeria
Angola
Australia
Bangladesh
Belgium
Botswana
Bulgaria
Burundi
Chile
China
Colombia
Cyprus
Egypt
Finland
Guyana
Haiti
India
Indonesia
Liberia
Mexico
Nigeria
Pakistan
Poland
Romania
Senegal
Turkey
USSR
United Republic of Cameroon
Venezuela
Yugoslavia
Zambia

The Council meets in New York as required. During 1977 it was allocated 156 meetings on the basis of three meetings per week; however, actually only 86 meetings were held (including its standing committees and informal meetings). During 1978 the Council held a total of 97 meetings, 21 of which were Plenary Sessions and the balance were standing committees and informal meetings. The representative of SWAPO participates in the work of the Council as an observer.

4. THE UN FUND FOR NAMIBIA

The General Assembly established the UN for Namibia in 1971 to provide general development assistance to Namibia. In 1973 the

Council for Namibia was named trustee of the Fund. The principal source of funding for the UN Fund for Namibia is voluntary contributions made by UN member states and from UNDP, although during 1979 some $500,000 of the Fund's budget will come from the regular UN assessed budget, in accordance with UNGA Resolution 32/9. The actual amounts contributed by member states vary from year to year. An enclosed table provides a breakdown of contributions made by member states in 1978, as well as amounts pledged in 1979. The United States does not contribute to the Fund.

5. THE INSTITUTE FOR NAMIBIA

A. Funding

The principal source of funding for the Institute for Namibia is voluntary contributions from UN member states. However, as the Institute received $100,000 from the Fund for Namibia in 1977, a case could be made that some of the money given by the Fund to the Institute could be derived from the $500,000 provided to the UN Fund for Namibia from the assessed budget. Contributions from member states vary from year to year. Member states' contributions during 1978 amounted to $1,740,500; unpaid pledges, as of 31 December 1978, $57,900. In addition, in 1978 $15,000 was contributed by the UN HCR, $15,000 by UNESCO, and $42,000 was provided from public donations. An enclosed table provides a breakdown of contributions made in 1976 and 1977 as well as amounts pledged in 1979, in accordance with UNGA Resolution 33/182C.

The second primary source of funding for the Institute is the United Nations Development Program, which has reserved $3.75 million from the Second Cycle (1977–1981) Indicative Planning Figure for Namibia for support of the Institute. Annual UNDP contributions accordingly average in the neighborhood of $800,000.

B. Origins and political preferences of Institute students

All of the Institute's students are Namibians. The bulk of them appear to be members or supporters of SWAPO. However, some of the students are also supporters of another Namibian liberation movement, SWANU, and some profess no political preference whatever. Professional staff members are listed on an enclosed table and are citizens of a variety of countries.

Acting on behalf of the President, and after a careful review by our Embassy in Lusaka, Secretary Vance determined on February 6, 1979, that no fiscal year 1979 funds for the UN Institute for Namibia will be used to support the military or para-military activities of SWAPO. Although it is clear that there are some members of the faculty at the Institute who favor SWAPO and have expressed their preferences, these expressions, as well as those by groups who favor other political parties, have occurred within a climate of academic freedom that permits to keep silent. There have been incidents between supporters of SWAPO and SWANU at the Institute. As a result of one incident a group of SWANU supporters left the Institute. However, our Embassy in Lusaka, which maintains frequent contacts with the Institute, believes that these incidents have not affected the integrity of the Institute's academic program. It also seems clear that the degree of partisan support for SWAPO within the student body is subordinate to the basic Institute climate of academic freedom. The support of the United States and the United Nations for the Institute is predicated on the maintenance of this academic freedom.

6. ADDITIONAL FUNDING FOR THE COMMISSIONER FOR NAMIBIA, THE COUNCIL FOR NAMIBIA, THE FUND FOR NAMIBIA, THE INSTITUTE FOR NAMIBIA, AND UN SYSTEM PROJECTS WHICH MIGHT BENEFIT SWAPO MEMBERS.

The UN is unable to provide information concerning the source from which Agency contributions to the Institute are made because this information is not requested when a contribution is received. However, except as noted above, I am unaware of any funding provided to the Commissioner for Namibia, the Council for Namibia, the Fund for Namibia or the Institute for Namibia by any of the UN specialized agencies which you mentioned, UNDP or ECOSOC. However, UNDP and UN specialized agencies are involved in a number of humanitarian projects which benefit refugees throughout southern Africa. Frequently the refugees reside in camps, the administration of which is shared by a national liberation movement and the officials of the countries in which the camps are located. Moreover some of the refugees who reside in the camps and who benefit from the projects may be members or supporters of a particular liberation movement. A partial response to your questions in this area includes the following:

UNESCO.—Two educational projects supported by UNDP which could benefit SWAPO members and which, taken together, total $356,500. One of these provides teachers' salaries and equipment at the Namibia Health and Education Center in Zambia; the other provides similar assistance at SWAPO's school for Namibian children in Angola.

FAO.—To my knowledge FAO does not provide funds for projects. However, it does provide food assistance to some Namibian refugees, some of whom may be members or supporters of SWAPO.

UNICEF.—Provides no funding to the listed organizations but it does provide assistance to refugees from Namibia, some of whom may be SWAPO members or supporters.

ITU.—One UNDP funded project which sends 35 fellows selected by SWAPO to the Postal and Telecommunications Training College at Ndola, Zambia at a cost of $344,400 for a three-year period.

IAEA and WMO.—Neither of these specialized agencies provide funds to any of the four named Namibian organizations and I am unaware of any contributions which they might have made to projects which could benefit SWAPO.

ILO.—The US is no longer a member of ILO, and the Department has no information regarding its expenditures. However, ILO Geneva has informed us that ILO regular budget funds have been used for manpower planning in cooperation with the Institute for Namibia. In addition, the ILO will be an executing agency for the Nationhood Program for Namibia and will engage in programs financed by the UNDP and the UN Fund for Namibia. In these activities, the ILO will be working with the UN Commissioner for Namibia and the Institute for Namibia. However, the ILO has not worked with or funded the activities of the UN Council for Namibia.

WHO.—Namibia, represented by the Council for Namibia, is an associate member of the World Health Organization. The 28th UN General Assembly, in Resolution 3111, requested UN specialized agencies to take steps to enable the UN Council for Namibia to participate fully in the work of these agencies. In pursuit of that resolution, the World Health Assembly, in May 1974, admitted Namibia as an associate member and invited the UN Council for Namibia to designate a representative to participate in the work of the WHO. WHO has an office located in Lesotho which devotes its attention to Namibia. In 1978 the WHO program in Lesotho consisted of support for the representative in Lesotho, consultants in health services, and fellowships for health manpower development. WHO funds earmarked for Namibia in 1978 totaled $23,500, and $24,300 has been allocated for 1979.

7. REDUCTIONS

Regarding your inquiry about the allocation of reductions in the amount of $619.2 of the Secretary General's estimates $2,604.9 for Namibia under Section 3 of the budget (A/33/445/Add. 4), the attached Table sets forth in detail for each item the amounts allotted by the UN for 1979 and reflect savings available from the 1978 appropriation and the reduction made by the Fifth Committee. The resultant amount appropriated for 1979 is also shown.

As I noted above, I will provide a final followup response to your request as soon as the remainder of the information which you need becomes available.

Sincerely,
CHARLES WILLIAM MAYNES,
Assistant Secretary for International Organization Affairs.

U.N. FUND FOR NAMIBIA, 1978 CONTRIBUTIONS AND PLEDGES

Government	1978 contributions	U.S. dollars
Algeria	15,000	
Argentina	4,000	
Australia	28,450	$28,600
Austria	15,000	[1] 17,000
Belgium	30,921	
Finland		37,651
France		[1] 160,000
Ghana	1,740	[1] 1,740
Greece	3,000	
India	2,000	[1] 2,000
Indonesia	3,500	[1] 3,500
Iran	4,000	
Ireland	5,329	[1] 17,893
Japan	10,000	[1] 10,000
Kuwait	1,000	[1] 1,000
Liberia	3,000	
Netherlands	69,955	[1] 75,758
New Zealand	5,127	[1] 2,000
Philippines	2,000	
Senegal	1,000	
Turkey	1,250	[1] 1,000
United Arab Emirates	4,000	
Republic of Korea	5,000	[1] 10,000
Venezuela	1,000	
Pakistan	3,000	
Bahamas	500	
Brazil	5,000	
Cyprus	258	
Egypt	2,000	
Ethiopia	3,000	
Iceland	2,000	
Iraq	10,000	
Libya	15,000	
Mauritania	388	
Mexico	5,000	
Nigeria	10,000	
Togo	227	
Yugoslavia	5,000,	

[1] Pledges.

UNITED NATIONS INSTITUTE FOR NAMIBIA, CONTRIBUTIONS BY ALL DONORS

	1976 contributions	1978 contributions	1979 pledges
Brazil		10,000	
Canada	20,000	39,390	126,050
Cyprus		258	
Denmark		160,328	
Egypt		2,000	
Finland		114,906	125,502
France		20,000	
Germany, Federal Republic of		50,000	50,000
Ghana	2,000	1,000	1,740
Greece	2,000	4,000	
India		2,000	2,000
Ireland		5,640	
Italy			
Japan	50,000	50,000	100,000
Libyan Arab Jamahiriya		5,000	
Mali			
Netherlands	37,983	139,409	151,515
Nigeria		5,000	
Norway	53,957	144,480	176,523
Philippines		500	500
Republic of Korea		5,000	
Sweden		437,637	527,823
Togo		227	
Tunisia			
Turkey			1,000
United Arab Emirates		4,000	
United States of America	250,000	500,000	500,000
Venezuela		1,000	
Chile			1,000

ANNEX II

STAFF LISTING/MANNING TABLE, AS AT DEC. 31, 1977

Post (grade)	Name	National	Remarks
Office of the Director:			
Director (D-2)	Geingob, Hage G.	Namibia	
Personal assistant (P-1)	Tabor, Constance	Jamaica	
Secretary (G-5)			Vacant.
Secretary/typist (L-4)	Bright, Maureen	Zambia	
Secretary/typist (L-3)	S'hidhika, Phanny	Namibia	
Publications editor (P-4)			Do.
Constitutional, legal and judicial affairs:			
Deputy director (D-1)	Bomani, Mark D.	Tanzania	
Secretary (L-5)	Kaluba, Joyce	Zambia	
Senior lecturer (P-3)	Ushewokunze, C. M.	Zimbabwe	
Lecturer (P-2)	Tjiriange, E. N.	Namibia	
Assistant lecturer (P-1)	Sichilongo, M. D. F.	Zambia	
Secretary/typist (L-3)	Sanmuganathan, Lilani	Sri Lanka	
Historical, political and cultural:			
Assistant director (P-4)	Hamutenya, Hidipo	Namibia	
Secretary (L-5)	Onyango, Aileen	Uganda	
Senior lecturer (P-3)	Ncube, Mtshana	Zimbabwe	
Lecturer (P-2)	Al-Nagar, Omar	Sudan	
Assistant lecturer (P-1)	Parker, Kwadwo	Ghana	
Secretary/typist (L-3)			Do.
Do	Musonda, Grace	Zambia	Staff member in finance at L-4.
Economics:			
Assistant director (P-4)	Setai, Bethuel	Lesotho	
Secretary (L-5)	Mulelly, Dorothy	United Kingdom	
Senior lecturer (P-3)	Kabi, Faith	Lesotho	
Lecturer (P-2)	Kaulinge, M. J.	Namibia	
Assistant lecturer (P-1)	Matengu, Lemmy	do	
Secretary/typist (L-3)	Luweva, Eunice	Zambia	
Agricultural and land resources:			
Assistant director (P-4)	Semiti, G. A. J.	Tanzania	
Secretary (L-5)			Vacant.
Senior lecturer (P-3)	Mihai, Domitru	Romania	
Lecturer (P-2)	Mshonga, Shakespeare	Zimbabwe	
Assistant lecturer (P-1)	Iyambo, Simon	Namibia	
Secretary/typist (L-3)	Nangula, Sophia	do	
Social and educational:			
Assistant director (P-4)	Modise, Billy	South Africa	
Secretary (L-5)	Kategaya, Joan	Uganda	
Senior lecturer (P-3)	Tjitendero, Mose P.	Namibia	
Lecturer (P-2)	Muundjua, Pestus	do	
Assistant lecturer (P-1)	Matsepe-Casabuiri, I.	United Kingdom	
Lecturer (English) (P-2)	John, E. J.	India	
Assistant lecturer (English) (P-1)	Diallo, Aminata	United States	
Secretary/typist (L-3)	Shikangala, Maria	Namibia	
Do	Isa, Beatrice	Tanzania	
Medical officer (P-3)			Do.
Nurse (L-6)	Muundjua, Pumootu	Namibia	
Office of the Registrar:			
Registrar (P-3)	Shana, Stan C.	Zambia	
Secretary/typist (L-3)	Agoruah, Marian	Nigeria	
Senior archivist/librarian (P-2)	Jario, Koukoro	Namibia	
Assistant archivist/librarian (P-1)			Do.
Trainee archivist (L-5)	Katanga, Sylvija	Namibia	
Do	Muundjua, Ripanga	do	
Do			Do.
Do			Do.
Do			Do.
Secretary/typist (L-3)	Mumba, Rosemary	Zambia	
Office of administration:			
Chief administrative officer (P-5)	Lombe, Petson D.	do	
Secretary (G-4)			Do.
Finance officer (P-3)	Desta, Engda	Ethiopia	U.N. at P-1.
Secretary (L-4)	Nyaywa, Chiistar	Zambia	
Assistant finance officer (P-1)	Casals, Edgar	Philippines	U.N.
Finance clerk (L-3)	Kumwenla, George	Zambia	

ATTACHMENT C

SECTION 3—NAMIBIA

	Amount requested by SYG	Savings available from 1978 appropriation	Reduction	Appropriation
Secretariat of the Council	116.2		47.0	69.2
Plenary meetings	188.0	43.5	31.0	113.5
Missions	244.8	56.6	40.2	148.0
International conferences	261.8	60.7	43.0	158.1
SWAPO	182.5	106.0		76.5
Contacts	129.9	30.1	21.2	78.6
Institute for Namibia	13.1	3.1	2.2	7.8
Decree No. 1	105.8		30.8	75.0
Membership contribution	43.1			43.1
Special allocation	300.0			300.0
Nationhood program	519.7		103.7	416.0
Fund for Namibia	500.0			500.0
Total	2,604.9	300.0	319.1	1,985.8

EXHIBIT 2

HOW THE UNITED NATIONS FINANCES TERRORISTS

The Charter of the United Nations states that the first priority of the international organization is "to maintain international peace and security." Yet, in the name of peace, the United Nations in recent years has become a major source of support and legitimacy to ten revolutionary organizations which have depended upon terror as a primary weapon of influence and power.

A case in point is the assistance given to SWAPO, the "South West African Peoples Organization." SWAPO is the organization which has figured prominently in the highly touted Namibia settlement, popularly attributed to the leadership of U.S. Ambassador to the UN, Andrew Young, and his chief assistant, Ambassador Donald F. McHenry. At the end of July, SWAPO finally accepted proposals offered by South Africa and a five-nation UN Security Council committee for a settlement based upon elections watched by UN observers.

SWAPO's ability to hold out against the settlement was based on the twin foundations of diplomatic and financial assistance from the UN and military aid and terrorist training from the Soviet Union. Its trump card was its willingness to use murder and arson against the black peoples of South West Africa to blackmail the West. Terror was the weapon that finally pried from the United States the concession to support turning over the highly strategic deep water port of Walvis Bay to the future Namibia—in other words, to SWAPO and its Soviet ally.

Now that elections are in prospect, the

question of aid to SWAPO ought to be reexamined. SWAPO never had a mandate from the black peoples of South West Africa, much less from the total population. SWAPO leaders constantly emphasize that they believe in control, not in majority rule based on democratic principles. Nor is there any evidence that SWAPO's vision of a Marxist-Leninist society is what the people of South West Africa want. In fact, the evidence is just the opposite, for SWAPO itself has become badly split. UN aid to SWAPO places the United States in the position of throwing its support to one side in a dispute—not only giving the leadership cabal of SWAPO an unfair advantage over the SWAPO dissidents, but over the democratically oriented political parties as well.

SWAPO's political base is rooted only in the Ovambo peoples—about 46 percent of the residents of South West Africa. And even SWAPO's control over the Ovambo is not based on shared ideals or free consent; it is based upon systematic terror raids upon the innocent. The prospect of free elections gives the Ovambo an opportunity to escape from SWAPO's power. Perhaps that is why SWAPO has chosen to step up the terror in recent weeks, bringing into doubt its good faith in accepting the proposed settlement.

SWAPO'S SOVIET AND CUBAN SUPPORT

Under the leadership of Sam Nujoma, SWAPO has moved closer and closer to the Soviet bloc, almost in direct proportion to the strength of his support from the UN. Nujoma visited Moscow in August 1976, where he received promises of more sophisticated weapons for SWAPO. In October of that year, he went to Cuba as the guest of the Cuban Communist Party's Central Committee, where he had talks with Fidel Castro and Ernesto Veiga, head of Cuba's trade union movement, who gave him promises of Cuba's "unshakeable support."

The Soviet commitment was renewed during Nujoma's meeting with the Soviet ex-president Podgorny in Lusaka on March 29, 1977. In July, 1977, large Soviet transports, similar to Boeing 707's, unloaded large quantities of military equipment in Luanda, including ground-to-air missiles and ground-to-ground missiles. Some of the ground-to-air missiles found their way to the SWAPO base in Cassinga in the south of Angola.

To what extent such supplies have been transferred to SWAPO is not known; but in a speech the year previously to the UN Security Council, South African Ambassador R. F. "Pik" Botha (now Foreign Minister) reported that the Soviet weapons delivered to Angola included:

> . . . multiple-barrel 122-MM rocket launchers; 122-MM rocket launchers; 122-MM field guns; 100-MM mortars; 82-MM recoilless guns; 75-MM recoilless guns; RPG-7 anti-tank rocket launchers; Sagger anti-tank missiles; T34 tanks; mobile bridging equipment; BTR-52 infantry-fighting vehicles; MIG-21 aircraft; MIG-17 aircraft; Fiat D-91 aircraft; Alouette III with air-to-ground missiles; Harvard T-6's; SAM-7 ground-to-air missiles; 14.5 ZPU anti-aircraft, and so on.

These were the weapons, backed up by Cuban mercenaries, that Agostinho Neto used to seize Angola in the struggle against black guerrilla groups led by Holden Roberto and Jonas Savimbi. Such was the potential threat flashed by Nujoma in the face of the American negotiators.

In December, 1977, Nujoma went to East Germany and met with the East German Communist Party chief Erich Honecker and Politburo member Hermann Axen, with whom Nujoma signed a written compact of cooperation for 1978 and 1979.

As early as 1965, various groups of SWAPO agents had been trained in guerrilla warfare in Moscow, China, Algeria, Korea, Egypt, Ghana and Tanzania. Using these skills principally against the Ovambo, they gained an ascendancy over that population group, but picked up very little support among other black African peoples in South West Africa. Instead, many of these joined in with the South African-sponsored Democratic Turnhalle Alliance, a multiracial group dedicated to democratic principles. Among the most prominent among the Turnhalle leaders was the distinguished moderate, Chief Clemens Kapuuo, leader of the Hereo people.

ASSASSINATION OF KAPUUO

The main threat to SWAPO came from the democratic forces of the Turnhalle Alliance, just as the main threat to the Patriotic Front in Rhodesia came from Bishop Abel Muzorewa and the democratic black leaders. The campaign of terror against the common people was stepped up (see insert accompanying this issue), but a specific decision was made to assassinate moderate black leaders.

On February 7, 1978, two SWAPO agents burst into a political meeting at Okahao with submachine guns with the intent to murder Kapuuo. Kapuuo escaped, but another leader, Toivo Shiygaya, and his bodyguard were killed. Other fire aimed toward the unarmed crowd wounded a young boy. The SWAPO murderers escaped in the confusion.

Meanwhile, Nujoma, in a television interview, was saying:

> "We are not fighting for a reform in the colonial system. We are fighting to liquidate the entire colonial system and to achieve genuine liberation.
>
> ". . . The question of black majority rule is out—we are not fighting even for majority rule. We are fighting to seize power in Namibia for the benefit of the Namibian people. We are revolutionaries. You can talk to Kapuuo, Kerina and all those reactionaries about majority rule and not to SWAPO."

But there was to be little opportunity to talk to Kapuuo about anything, because Kapuuo lay dead in Windhoek from bullets fired by two SWAPO assassins on March 27.

THE CASSINGA STRIKE

On May 4, South African security forces, in a surgical strike, attacked a SWAPO base at Cassinga, in southern Angola. SWAPO apologists immediately assailed the attack as an assault on a "refugee" camp. On May 5, the UN General Assembly passed a resolution severely condemning South Africa for its attack, and expressing full and unqualified support for the continuation of the "armed liberation . . . of the Namibian people under the leadership of SWAPO."

"Armed liberation" was a much more honest description of the Cassinga base than "refugee" camp. The only refugees in the camp were some 100 children who had been abducted by SWAPO at gunpoint from a mission school in South West Africa. The South African security forces found formidable defense works, such as trenches, bunkers and underground shelters. Large quantities of Soviet and Eastern bloc weapons were found and destroyed, and men—and women—in uniform were captured in the trenches.

Also captured in Cassinga were motion pictures of training exercises of SWAPO troops in uniform on the parade grounds. Journalists who saw the films later identified various landmarks in the films that were evident in aerial photographs taken before the battle.

More to the point, captured documents indicated that SWAPO's code name for the base was MOSCOW. And further, documents showed that an agreement existed for the military and political training of 70 SWAPO members in the real Moscow—of whom 20 were already there.

THE IMPORTANCE OF WALVIS BAY

The strong Soviet and Marxist orientation of SWAPO makes more significant the maneuvering of the UN over the fate of Walvis Bay, the only developed deepwater port between Capetown and Luanda. The UN also condemned South Africa for "its decision to annex Walvis Bay"—an event that occurred over 100 years ago. Although South Africa has never claimed to have sovereignty over South West Africa (a territory originally held in mandate from the League of Nations), Walvis Bay has always been treated as sovereign territory. Whatever the future of South West Africa, South Africa simply cannot afford the strategic danger of a Soviet base in Walvis Bay. Nor could Western Europe remain easy at the prospect of a Soviet naval base bisecting the oil life-line from the Persian Gulf.

Walvis Bay was the trump card ostensibly played by Ambassador McHenry in winning Sam Nujoma's acceptance of the five-nation proposals for Namibia, proposals already accepted by South Africa. South Africa, however, had not agreed to include Walvis Bay in the settlement; the only agreement was to negotiate about the future of Walvis Bay with the new, democratically elected government of Namibia. However, the United States went around South Africa and agreed to a separate resolution on Walvis Bay that was not part of the settlement, but implied U.S. support for handing it over to SWAPO.

In July, the UN accepted the settlement, and the UN Secretary General sent a delegation to South West Africa to prepare for voter registration and for elections. But at the same time, SWAPO stepped up its terrorism with more raids and killings (see insert), a move which casts doubt upon the sincerity of Nujoma's acceptance of the free electoral process.

Within SWAPO, Nujoma himself is under fire. His relations with Agostinho Neto, the head of the Cuban-backed Angolan regime, have cooled since Neto was sobered by the South African strike on Cassinga. He has been strongly attacked by his rivals for his penchant for silk shirts and lavish hotel suites. More important is the imminent return of Andreas Chipanga, who is organizing what he calls SWAPO-D: SWAPO-Democratic.

Chipanga is bringing with him 11 former officers of SWAPO who had been locked up first in Zambia and then in Tanzania for criticizing Nujoma's high living and alleged Swiss bank accounts. When a writ of habeas corpus was brought in Zambia for their release from prison, Zambian authorities whisked them across the border to Tanzania where habeas corpus has been abolished by the "African socialism" of Julius Nyerere. Eventually even Nyerere was forced by African pressures to release Chipanga and his friends. They have been waiting in London for details of the electoral procedures to be established.

Aside from a commitment to democracy—and that is a highly significant difference—it is not clear how the principles of SWAPO-D differ from SWAPO. In addition, there is another political group, the Namibia National Front, that is to the left of the moderate Democratic Turnhalle Alliance. There is hope, therefore, that the citizens of the new Namibia will have a chance to make a democratic choice in the proposed elections. Yet the unyielding support of the United Nations for one and only one black political group out of a number of black political groups casts into doubt even the UN's commitment to democracy.

For the UN to single out one group as the "official" liberation group, which is to be the sole recipient of UN funding, assistance and political support is to take sides unjustly in an affair which ought to be the internal business of Namibians. But it is even more unthinkable that the UN would put the money collected from member nations behind a group that advocates and practices terrorism—a group that continues to step up terrorism even after a democratic settlement has been agreed to by all parties.

The role of the United States in giving diplomatic support to SWAPO, in the face of

SWAPO's overwhelming pro-Soviet, anti-Western, Marxist-oriented bias is almost to guarantee that a regime hostile to the United States and to the West will be given power. If SWAPO were the only alternative, a case might be made for working with SWAPO to gain influence. But the evidence is that there are many alternatives, some black, some multi-racial, most of them democratic. Neither the United States nor the United Nations should take sides in a manner to foreclose a truly democratic, multi-party, multiracial society in Namibia. Yet the record shows that both the U.S. and the UN have been taking sides. They have used the agencies of the UN to funnel huge amounts of cash and services to assist in the development of a society that is more amenable to Soviet interests than to the interests of the West.

HOW UN ASSISTANCE IS FUNNELED TO SWAPO

The very complexity of the UN and its allied agencies makes it difficult to trace total funding to terrorist organizations such as SWAPO. The United Nations itself is financed both through assessed and through voluntary contributions from member nations. Some of the specialized agencies are similarly financed through assessed and voluntary contributions, while others are financed purely through voluntary contributions. To make matters more difficult to untangle, some voluntary organizations simply channel funds through the administrative staff of another UN agency with special expertise for the execution of the project—a staff that could be supported by assessed funds.

The significance of the distinction between assessed and voluntary contributions is that the United States is assessed, just like a tax, for a sum equivalent to 25 percent of the assessed budget. But despite the whopping chunk of the tab which the United States pays, its influence in deciding the priorities of UN spending is minimal, since the Third World has the votes to override any objections. Although other nations, such as the Soviet Union, refuse to pay or underpay some of their assessments, the United States has seldom done anything but hand over a blank check.

As for voluntary contributions, the U.S. generally chooses to pay about 25 percent of the budgets established for most of the specialized agencies, although in some cases the proportion is much lower. In a few cases, such as after the withdrawal of the U.S. delegation from the Communist-dominated International Labor Organization (ILO), the United States pays nothing.

The official policy of the United States is that all so-called development funds for humanitarian purposes should come from voluntary contributions (development funds are the main source of contributions to terrorist groups). Yet, more and more, the UN bureaucracy has been increasing the amount and scope of development funds included in the assessed contributions, over which the United States has very little control. When this money is diverted to terrorist groups, the U.S. is thus in the position of supporting terrorism willy nilly.

Nevertheless, the United States still contributes freely to development funds in the voluntary budget, even though the U.S. knows that the priorities include terrorism.

Even when the funds do not come from the United States directly, the projects are often planned and operated by administrative personnel who are paid from the assessed funds, into which the U.S. has paid 25 per cent.

THE REGULAR UN BUDGET

The regular (assessed) UN Budget is a major source of funding for SWAPO. Three special agencies are under direct control of the main UN body:

(a) The UN Commissioner for Namibia;

(b) The UN Council for Namibia;

(c) The UN Fund for Namibia, which in turn funds The Namibia Institute.

The UN Commissioner for Namibia is the UN's government-in-exile for Namibia. It has three offices, in New York, in Lusaka, and in Botswana. The office in New York is the largest, with a budget of $1,129,200. The office in Lusaka, which is located, coincidentally, in the same city as the office of the Soviet Ambassador to Zambia, V. G. Solodovnikov, former director of the Soviet Africa Institute, and widely regarded as the director of Soviet field operations in Africa. It has a budget of $331,400. The office in Botswana has a budget of $261,900. Thus the total budget for the UN Commissioner for Namibia for 1978–79 is $1,722,500. These funds come directly from the assessed budget of the United Nations, of which the United States pays 25 percent.

The UN Council for Namibia has been considered by the UN as the administering authority for Namibia since 1967, although the Council's attempt to enter Namibia in 1968 was a failure. The Council has 25 member nations, and holds plenary sessions in Lusaka, the most recent being in March. The 1978–79 budget is $1,581,700. The Council recognizes SWAPO as "the sole and authentic representative of the Namibian people," and pays $182,200 for SWAPO's office in New York City. All of these funds come directly from the assessed budget of the United Nations, of which the United States pays 25 percent.

The UN Fund for Namibia is a trust fund account established in 1971, which has received $950,000 from the assessed UN budget, and $1,303,874 from voluntary contributions. In 1974, the UN General Assembly approved the formation of the Institute for Namibia, which opened its doors in Lusaka in August, 1976. The most recent available information shows that the Fund for Namibia had given $846,549 to the Institute by March, 1977. However, the UN Development Fund, which will be discussed in detail below, has also given $3,750,000 to the Institute from voluntary contributions. The Institute has a Senate of 11 members appointed for five-year terms.

The Commissioner, the Council, and the Institute are closely interrelated and consult with SWAPO at every step. In 1976, all the members of the Council, as well as the Commissioner, participated in the International Conference in Support of the Peoples of Zimbabwe and Namibia, held in Maputo, Mozambique, from May 16 to May 21. Prior to the Lusaka meeting this year, three consultation missions were sent by the Council, one going to Gabon, Algeria and Nigeria, one to Mozambique and Tanzania, and the third to Angola, Botswana and Zambia. Each mission was composed of five members of the Council and a representative of SWAPO.

Still further aid is provided by the UN High Commissioner for Refugees, which in 1977 provided $45,500 from voluntary contributions for aid to Namibian refugees. The High Commissioner for Refugees in addition, using funds provided by the Institute for Namibia, established a health clinic in Botswana for Namibian refugees, at a cost of $40,000. There is no way to determine whether such assistance went to bona fide refugee civilians, or whether it went to the military camps of the SWAPO terrorists.

UNICEF AND THE UNDP

Much assistance is also provided through agencies associated with the UN Economic and Social Council and through the independent agencies.

UNICEF, for example, whose special mission is concerned with children, provided funding of $455,900 to the World Health Organization (WHO) to establish a health institute for Namibian refugees in Tanzania. These funds came from voluntary contributions.

But by far the most ambitious program of assistance to SWAPO is arranged through the Economic and Social Council's United Nations Development Program (UNDP). The UNDP is supposed to be the UN's major arm for channeling development funds to underdeveloped nations. But the UNDP has interpreted that mandate to include assistance to the so-called liberation movements, including SWAPO.

Typically, UNDP projects consist not of cash transfers, but of the funding of special projects to provide specific assistance, thus putting supplies, facilities, and expertise at the disposal of the terrorist groups. The UNDP provided aid to projects benefiting SWAPO in 1976–77 amounting to at least $7,297,042, all of it coming from voluntary contributions. Within the UNDP there is a special account, called the Colonial People's Trust Fund, whereby contributor nations can earmark contributions for specific projects.

Among the UNDP projects included in the above amount are some which the UNDP funded directly, and some which were funded using the specialized UN agencies as the executing entity. Among those funded directly was the $3,750,000 grant previously listed for the Institute for Namibia. The UNDP also provided $120,000 for an emergency airlift of foodstuffs to Namibian refugees in Angola, with the food itself provided by the World Food Program. No one knows how much went to "refugee" camps such as the military base in Cassinga. The UNDP also provided $31,500 to SWAPO for "education and training in the field of public information."

By funding projects indirectly, the UNDP takes advantage of the special expertise of the specialized agencies. For example, through the World Health Organization, UNDP has provided:

$198,000 for the Namibian Health and Education Center in Zambia.

$23,382 for a second grant to the above.

$739,000 for the Tanzania Health Center.

$52,000 for the Namibian Health and Education Center in Angola.

An undetermined amount for SWAPO members included in general health assistance to all southern African liberation movements.

Through UNESCO, UNDP has provided $151,500 in general educational assistance to SWAPO, and $205,000 for educational assistance to SWAPO in Angola.

Through the International Labor Organization (ILO), the UNDP has provided $1,570,838 for 200 SWAPO and Patriotic Front (Rhodesia) trainees in Botswana, Zambia and Tanzania for a two-year project. Some of the trainees will receive further training at the ILO Training Center in Turin, Italy.

Through the International Telecommunication Union (ITU), the UNDP has provided $344,400 for training in radio, postal and telecommunications skills. Such skills, of course, have both a civilian and military application.

Through the Food and Agriculture Organization (FAO), the UNDP has provided $58,208 for the SWAPO farm in Zambia, $29,382 for the SWAPO farm in Angola, and $23,832 for "assistance in agriculture" to SWAPO. It is not clear whether these farms are for training in agricultural skills, or for providing food for the military bases in Angola and Zambia.

In addition to the UNDP funding, some of the above agencies provide benefits to SWAPO with funds from other sources. For example, the FAO has provided $1,025,000 in foodstuffs for refugees in Angola from voluntary contributions of its own. In addition, the World Food Program, closely allied with FAO, has provided an undetermined amount of food assistance to the Institute for Namibia.

Furthermore, UNESCO has budgeted $4.426 million in 1979–80 for assistance to all the

African liberation movements, including SWAPO. The proportion of assistance to SWAPO cannot be determined. This money will be used for the education of refugees and candidates sponsored by liberation organizations, for certain specialized training of qualified personnel, and for training in "respect for cultural identity." In addition to the $4.426 million from UNESCO's own budget, UNDP is planning to give UNESCO an additional $3.087 million—3 percent of its budget—for these purposes.

SUMMARY OF AID TO SWAPO

Because of the peculiarity of UN finances and the proliferation of quasi-independent UN agencies and mutual interfunding of the same projects, it is difficult to arrive at a specific total for aid to SWAPO. Although the data in this article is taken only from official UN and Congressional sources, it is far from complete, and comes from different time frames. For example, we have only been able to trace $950,000 in assistance taken from assessed budgets between 1971 and 1977. But for the proposed biennium 1978-79, the UN plans to spend $3,304,200 from assessed funds just for the Commissioner of Namibia and the Council for Namibia. It must be assumed that similar, although perhaps lesser, amounts were spent on these offices in the past.

As for funds from voluntary contributions, the amounts for projects mentioned in this article total $8,686,416 in the past. But it should be noted that UNESCO alone, just one agency, plans to spend $7,513,000 in the 1978-79 biennium. We have been unable to assemble total projections of spending for SWAPO for the biennium.

UN AID TO OTHER TERRORISTS

Although this analysis has concentrated upon aid to SWAPO, that group is not the only terrorist organization which has received funding, project assistance, diplomatic support and international legitimacy. At least nine other such groups have received regular support, although in some cases the groups finally seized power, and funding was shifted to normal development assistance.

Not surprisingly, the ten are all so-called "liberation" groups whose prime purpose is to overthrow Western-oriented administrations in certain territories and install "neutral" dictatorships of one kind or another—almost always overtly Marxist. The same groups almost always receive weapons, training and operational financing from Soviet, Chinese or Eastern bloc countries.

Given the power blocs that make up the United Nations, it is not surprising that the United Nations cloaks these essentially anti-Western operations with respectability. Nor is it surprising that the shibboleth of anti-racism is used as a convenient cover for what is actually a strategic move to deny strategic materials and geo-political locations to the support of the West. What is surprising is that money provided by the United States and Western European nations makes up the bulk of the financing provided by the UN to the terrorists.

THE APPROVED LIBERATION GROUPS

Only liberation groups which have received the stamp of approval from the Organization of African Unity (OAU) and the UN seem to be eligible for UN funding. The ten groups have included:

The Palestine Liberation Front.

The Patriotic Front (ZANU and ZAPU in Rhodesia).

The African National Congress to Azania (ANC-South Africa).

The Pan African Congress to Azania (PAC-South Africa).

Movimento Popular de Libertacao de Angola (MPLA).

Movement for the Liberation of Djiboute (MDL).

Front for the Liberation of the Coast of Somalia (FLCS).

Mouvement de Liberation National des Iles Comores (MOL).

Front National pour la Liberation de l'Angola.

And, of course, SWAPO.

What all of these groups have in common, besides a Marxist outlook in economics and political control, is a rabid anti-Western attitude. The UN refuses to support non-Marxist movements, such as Jonas Savimbi's UNITA in Angola, or Bishop Abel Muzorewa's UANC in Rhodesia. They are not considered to be "National Liberation Movements" (NLMs).

DEFINITION OF "TERRORIST"

Although the favored groups are officially considered NLMs by the UN, all of them more correctly ought to be termed terrorist groups. Some of their defenders seek to maintain that one man's freedom fighter is another man's terrorist; but the word "terrorist" is used here advisedly to denote groups which, as a matter of tactics, conduct murder raids against defenseless civilians, plant explosives in non-military targets designed to injure civilians at random, and abduct or assassinate citizens of wealth or political importance.

The use of terrorism is never justified, not even when it is applied in the name of social justice. The kidnapping, torture, or murder of innocent civilians is never justified by an appeal to Marxist-Leninist concepts, making literal the theory of "class warfare." No amount of oppression can ever justify actions whose principal target is the people who are supposed to be "liberated." The Western ethic rejects the idea of collective guilt, and recoils from the political murder of innocents. The appearance of terrorism as a political strategy, therefore, almost always denotes an attack on Western values and interests.

In aiding terrorist movements, the UN consistently casts its aid in the guise of humanitarian assistance. The programs bear the label of health assistance, education or food for refugees. The UN never reveals whether the health facilities are used to treat terrorists wounded in the act of killing innocent civilians, or whether education includes technical training in military specialties such as telecommunications, or whether the "refugees" are terrorists with knives or guns in their hands.

Yet, as was clearly established in the South African raid on Cassinga, these putative refugee camps can be something far more sinister. Every such camp undoubtedly will include wives, children and hangers-on; but in no sense can they be considered as innocent citizens forced into exile by oppression. They have willingly chosen the way of the sword; and they have turned it against their own people instead of against the authorities they denounce as oppressors. It is a sign of the times that the West willingly chooses terror instead of justice, and eagerly finances its own destruction.

SUMMARY OF SWAPO TERRORIST INCIDENTS SINCE JANUARY 1978

January 5.—An Ovambo man was shot by a gang of terrorists. A number of AK 47 cartridge cases were discovered near the body.

January 8.—A private car with 10 civilian passengers detonated a Russian landmine. Four of the passengers were killed outright and six were seriously injured.

February 7.—The Ovambo Minister of Health, Mr. Shiygaya, was assassinated with a Russian-made pistol after a political meeting in Ovambo.

February 21.—A group of terrorists abducted 119 children and their teacher from the St. Mary's Mission School in Ovambo.

March 3.—Headman Mangola Kanyala was killed by a group of terrorists. His body was mutilated and his wife and children abducted.

March 25.—Another Headman, working for the South African Police, was shot by terrorists using a Russian-made pistol.

March 27.—Two terrorists assassinated the leader of the Herero people, Mr. Clemens Kapuuo. Mr. Kapuuo was widely regarded as a possible future leader of an independent Namibia.

April 18.—Two Ovambo children were killed by a Russian hand-grenade.

April 21.—An attempt was made on the life of the Ovambo's Minister of Justice, Mr. Tara Imbili.

April 22.—A bus was hijacked on the road between Oshakati and Ruacana. The bus with about 70 to 80 people on board was taken to Angola.

April 24.—South African forces made contact with 20 terrorists approximately 10 km south of the Angolan-South West African border. After a skirmish, the terrorists withdrew into Angola.

April 24.—A vehicle of South African forces was ambushed by SWAPO terrorists approximately six km south of the Angolan-South West African border. Security forces returned fire following which the terrorists withdrew to the safety of Angolan territory. A South African soldier was killed in this incident.

April 28.—A SADF patrol was attacked approximately 25 km east of Ruacana.

April 29.—Shots were fired at the border post at Ruacana. Fire was not returned.

April 29-30.—Landmines of Communist origin were set to explode at the new homes built for the members of the Ovambo Cabinet and the Legislative Assembly building at Ongwediva.

April 30.—A SADF patrol was attacked by approximately 10 SWAPO terrorists 45 km east of Enana. One SADF member was killed.

May 1.—Heavy fire was brought down on a SADF patrol approximately 43 km southeast of Enana. A follow-up operation was mounted and the enemy fled over the Angolan border.

May 2.—The water pipeline running between Ondangua and Oshikango was sabotaged. (This pipeline is essential for the livelihood of the local inhabitants.)

May 3.—Heavy fire was directed at the guard post and buildings at Ruacana including structures of the water scheme. Several buildings were damaged. Fire was not returned.

May 20.—South African security forces encountered armed SWAPO elements from across the South West Africa-Angolan border on South West African territory.

May 22.—Further contact made with armed SWAPO elements in South West Africa.

May 23.—South African forces in the Ruacana area were fired on from Angolan territory. A member of the South African security forces was wounded.

May 26.—South African forces in the Ruacana area were again fired on from Angolan territory.

May 31-June 2.—Armed SWAPO elements again engaged in South West African territory.

June 4.—Two armed men were arrested at a point northwest of Outapi. Two Tokarev pistols, one R1 rifle and a hand-grenade which they had obtained from Angola were found in their possession.

June 21.—Two terrorists dragged Mrs Paulus Shilango out of her house, killed her and fled back across the border into Angola This incident occurred two km south of Oshikango.

June 30.—Near Oshikango a South African transport aircraft flying from west to east over South West African territory was fire upon from Angolan territory.

July 4 and 7.—South African security

forces were ambushed by armed elements from across the South West Africa-Angola border on South West African territory at the following positions:

(a) 17 degrees 52S 16 degrees 17E (approximately 10 km west of Okankolo).

(b) 17 degrees 53S 16 degrees 55E (approximately 60 km east of Okankolo).

July 7.—Security forces encountered armed elements from across the South West African-Angolan border on South West African territory at 17 degrees 35S 16 degrees. The encounter led to exchange of fire and a member of security forces was wounded.

July 7.—30 km northeast of Ondangua, an Omahenge area, a member of the local population, Nambamy Kange, was kidnapped by SWAPO terrorists.

July 13 and 15.—The following three incidents occurred as a result of landmines planted by SWAPO terrorists who infiltrated from Angola into the Omahenge area:

(a) Approximately 12 km northeast of Oshigambo a vehicle was badly damaged in a landmine explosion.

(b) Approximately 16 km south of Oshikango four members of local population died and eight were seriously injured in three explosions.

(c) Approximately 10 km south of Oshikango a further two landmines were detected.

July 20.—Approximately 120 SWAPO terrorists divided into four groups crossed the Angolan-South West African border into South West Africa between beacon 22 and beacon 31.

July 31.—Security forces made contact with SWAPO terrorists approximately 20 km east of Oshikano in Jati strip. Two terrorists were wounded and taken back across the border into Angola.

An unknown number of SWAPO terrorists were reconnoitering in South West Africa south of beacons 6–10.

July 16.—An Ovambo, Mrs. Helena Kanine, believed to be a DTA organizer, was murdered by SWAPO terrorists in the Ondangua area.

July 25.—Approximately 20 km north of Ondangua a deputy chief, Mr. Japhet Shilumba, was murdered in his shop by eight SWAPO terrorists. Mr. Shilumba was shot in the back of the head with a Makarov pistol. The shop was afterwards plundered.

July 27.—Mr. P. Nipukulula, a teacher at Eembahu 20 km from the Angolan border, was murdered by a SWAPO terrorist who shot him twice through the head and then stabbed him through the throat and heart with a bayonet. Wife of the deceased was threatened and shop ransacked. Empty AK 47 cartridge cases were found at the scene of the murder.

July 29.—Approximately 12 km west of Eenhana a water pipeline was blown up.

July 30.—Eight telephone poles were blown up by SWAPO terrorists approximately 2 km south of Oshikango.

July 22 and 24.—South African security forces approximately 35 km west of Ruacana were fired on from Angolan territory. In the second incident, two members of security forces were wounded.

July 31 and August 2.—The following incidents occurred as a result of landmines planted by SWAPO terrorists who infiltrated from Angola into South West Africa.

(a) Four security force vehicles were damaged.

(b) Landmines were defused by security forces. One member of security forces slightly injured.

(c) A private vehicle detonated a TM 46 landmine approximately 30 km south east of Enana. Two members of local population killed and two seriously injured.

(d) A private vehicle detonated a TM 46 landmine approximately 7 km west of Enana. One member of local population was killed and a member of the homeguard injured.

(e) A TM 3 mine was discovered and lifted by security forces approximately 55 km south of Ombulu.

August 12.—Security forces were ambushed by SWAPO terrorists approximately 60 km east of Onkankolo. Three members of security forces were killed.

August 13.—Terrorists fired on South African police patrol approximately 20 km southwest of Eenhana.

August 13.—Security forces were fired upon while drawing water approximately 5 km east of Oshikango.

August 12 and 13.—Following incidents occurred as a result of landmines planted by SWAPO terrorists who infiltrated from Angola into South West Africa:

(a) One TM 46 landmine was discovered and lifted approximately 2 km north of Singalumwe.

(b) One TM A3 landmine connected to TM 46 landmine discovered and lifted approximately 17 km west of Umbulu.

(c) A vehicle detonated a TM A3 landmine in the vicinity of Oshikango. A local resident, Mr. David Ohepo, was killed.

August 12.—A member of the local population, Mr. Elia Shikolola, was murdered by two SWAPO terrorists approximately 20 km south of Oshikango.

August 12.—A TM A3 landmine was discovered and lifted at approximately 18 km north west of Outapi. Tracks of 12 terrorists were found.

August 13.—A TM 46 landmine connected to a TM A3 landmine was detonated by security forces vehicle approximately 15 km south east of Eenhana and one member of the security force slightly injured.

August 13.—A security forces bush hat was found boobytrapped with a hand-grenade approximately 20 km west of Onkankolo.

August 14.—A TM 46 landmine was discovered and lifted approximately 17 km north east of Singalamwe.

August 15.—Security forces made contact with a group of SWAPO terrorists moving north toward the Angolan border 20 km east of Oshikango. After exchange of fire terrorists fled across border into Angola.

August 15.—One TM 46 landmine boobytrapped with a hand-grenade was discovered and lifted approximately 16 km northeast of Singalamwe.

August 15.—A damaged TM 46 landmine was discovered approximately 15 km northeast of Onkankolo.

August 16.—A manhole on a water pipeline was blown up by SWAPO terrorists approximately 8 km south of Oshikango.

August 16.—Security forces encountered a group of terrorists approximately 5 km east of Oshikango. The group was preceded by two women armed with AK 47 rifles. Terrorists scattered after exchange of fire.

Mr. INOUYE. Mr. President, if all of us took the time to study the map of Africa of 30 years ago, we would know that almost all the landed area of Africa was then under European rule—the Belgians, the Portuguese, the British, the French.

About 30 years ago a slow process began, suddenly turning into a tidal wave, of creating new countries, new countries that needed new leaders, new civil servants, new laws. The one major error the European powers made was that they spent no time and no money in preparing for this eventuality.

So what happened? Emperor Bokassa, a sergeant in the French Army, became the highest ranking native of a central African empire. Do not blame the people of the central African empire for Emperor Bokassa. If the leaders of the world had had the good sense then to set up an institute to train young men and young women, to prepare them to take over the reins of government, you would not have the problems that we are facing now in Africa.

I am certain most of us recall the name of Patrice Lumumba. He became the first President of Congo, formerly known as Belgian Congo, today called Zaire. Patrice Lumumba was the highest ranking civil servant in Belgian Congo. He was a postal clerk. The Belgians did not feel it was necessary to prepare the Congolese for self-government, for self-determination.

Then we have the infamous Idi Amin. Mr. President, you have seen his name, you have seen his pictures. He was the highest ranking government official in Uganda at the time the British left Uganda. He was a sergeant.

When Uganda achieved independence, most of the men and women in that country could hardly read or write, and we expected them to join the family of nations, to discuss the problems of the day in the great national forums. They were destined to fail. And here we are, by this amendment, trying our best to repeat that error.

Mr. President, every penny is precious. We are the trustees of the taxpayers of the United States. I do not mean to suggest that $500,000 is nothing. It is a lot of money. But $500,000 to train the future leaders of Namibia, to train these leaders under our auspices, I think is a fine investment.

Certainly, you will find students who are supporters or members of SWAPO. What are we to do? Should we do what we did with Fidel Castro?

Mr. President, today, Fidel Castro will be addressing the United Nations. He is one of our avowed enemies. He was the creature of American policy in Cuba.

We insisted upon supporting an American sergeant and made him the President of Cuba. I hope all of us will remember that name, Fulgencio Batista. Were there any speeches in the Senate condemning Fulgencio Batista for his prisons, for his tortures, for his lack of human rights?

No. We encouraged him. We discounted the corruption.

I do not think it took much of an intellect to realize that the Cuban people were not going to just sit by and take it. So a young lawyer named Fidel Castro began thinking about that. He came to us for assistance. We rejected him. When you reject someone like that, what do you expect him to do? Dig a hole and go into hiding? He did what many revolutionaries are doing. They go to the other side.

Mr. President, this is a small amendment in terms of dollars, just $500,000. But by taking this step we will be telling these people, who may be SWAPO's, who may not be SWAPO's, "We do not want you." We are literally pushing them into the arms of the Soviets.

If we are fearful of the Marxists, if our policy is against the Marxists—and I concur with that policy—this is not the way to fight them. I think the best way to fight them is to defeat this amendment.

Let us not make the mistakes others have made in Africa. Let us not repeat them again. Let us not develop Bokassas. We have enough of them. We have had Idi Amin. One was enough. If you want more Lumumbas, Amins, and Bokassas, be my guest, vote for this amendment.

Mr. TSONGAS. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Let me say to begin with, the remarks by the Senator from Hawaii are very eloquent. I have not said that before of any Senator, but I feel compelled to say so at this point.

The United States is at a strange juncture. I do not think we know what to believe in. We used to believe in racial equality. Things like apartheid used to be abhorrent to us. Well, apparently the pendulum is swinging. It is all right to get up and to support apartheid.

Talk about prisons. I wonder how many people spoke out on this floor—I was not here but I was in the House—when Steve Biko was murdered.

Not very many. Probably less today.

We cut the foreign aid bill yesterday by a percentage, which is another indication that although the United States may be compassionate, the U.S. Senate clearly is not. It is very obvious that we have standards: If you are white, we care for you. If you are white and American, we care for you. If you are black, if you are African, somehow, it is not the same.

Steve Biko died. He was one of the true black moderate leaders in Africa. I was not here, but I would make my guess that he died and that that death was greeted by silence in the Senate.

The theory is very clear, you see, that after Vietnam, when we got our nose bloodied because we supported another one of those Batistas, another one of those Trujillos, another one of these dictators that violate everything this country stands for and the Senate, the Senate went ahead and funded billions—$500,000? A pittance—this very Senate, $156 billion in Vietnam.

Why can a Senator—I refer to all of them and no one in particular—derive a sense of fulfillment from sending weaponry, sending bombs over Southeast Asia, napalm, obliterating human beings—why do we vote for those things, yet, when we have a chance for peace, we all get up and talk about being fiscally conservative?

If we are going to support apartheid, if we are going to support the white supremacist approach in South Africa, why do we not just say so? The South African system is quite clear: If you are white, the road is quite smooth. If you are black, do not get in the way. And even if you are a black moderate, do not get in the way. Steve Biko got in the way and he was killed.

All the standards that South Africa talks about are de minimis. The South African system is quite capable of violence.

We talk about race equality in this country and we profess to embrace it. Hogwash. If you believe in race equality, you believe in it for the entire world. There are no double standards. To believe in racism, to believe in South Africa, to believe in apartheid, in my mind, is a sad commentary on where this country has come some 25 years after the civil rights movement began.

I wonder how those of my generation who are black, who died in Vietnam—died because the Senate sent them to Vietnam—would feel that here we are, 10 years after their death, being put in a position where we are not supportive of black majority rule in South Africa. The link that the black Americans feel to blacks in Africa is no different from how I feel about the Greeks in Cyprus and Greece and how other people feel about their own ethnic heritage.

I do not know what is happening to this country, but I do not like it. I think it is a sad commentary, after 200 years of leadership, moral leadership, in the world, that we are being taken, kicking and screaming, into the realization that black majority rule in South Africa is proper. We should be leading that.

Where do the racists look for help? They look to the United States. Well, it is a funny thing about history: History does not bend. The momentum of history is clear. There is going to be black majority rule in Southern Africa and that is going to come whether we make damn fools of ourselves in the meantime or not. We can resist that and we can uphold the cause of white supremacy in Southern Africa. It does not make any difference; it is still going to come.

And when it comes, including all of black Africa, we shall be asked, "What did you do during the transition?" It is my hope that if this country regains its senses, the answer will be that we did what we could to put an end to apartheid because racial injustice is abhorrent to us. It is in all our literature. I just wish it were part of the literature of our hearts.

The South African scheme is quite simple. They are going to hang on as long as possible and they are going to live that good life as long as possible. Part of the plan is a kind of buffer zone, north. Muzorewa, Namibia are part of that plan.

We have two choices. We can support the South African notion and, by killing this Institute or withdrawing from it, we participate in that, and what will happen is this, as the Senator from Hawaii pointed out: Black majority rule will come, not by moderates but by extremists, and the same people who frustrated the moderates will be in here arguing for military aid to put down the extremists. And we will have the same phenomenon of a Senate that is reluctant to spend money for peace that will drool at the prospect of spending money to put down an insurrectionist movement.

That is not what this country used to be. The American Revolution began in Massachusetts and we all honor that. If the American Revolution began today and we had a vote in the Senate, I am not sure that King George would be displeased by what our sentiments would be.

Let us look at the countries that participate in the Institute. These are real, radical, Marxist countries: Canada—there is a hotbed of revolution if there ever was one; Denmark, France, Germany, Greece, Ireland, Japan, the Netherlands, Norway, and Sweden.

Is it conceivable that Canada, Denmark, France, Germany, Greece, Ireland, Japan, the Netherlands, Norway, and Sweden know something that we do not know? It just might be. What they are doing is investing in peace. They are investing in transition to a peaceful, moderate, secure, economically, and socially viable new world in Southern Africa.

That is in the American interest. Anything else and we do only one thing. We say to the Soviets, "Come on in. We give you credibility. We give you an entree."

And the Soviets are going to come in there, and they will come in and be supported because we turned our backs on moderation, on evolution, and we are mandating revolution and violence.

When the Soviets come in, let us at least at that point acknowledge they came in because of what we did.

The Soviet foreign policy in the Third World is inept. The only time they can succeed is when the United States makes a mistake. Angola is a classic example. Ethiopia is a classic example where the Soviets have come in. Egypt, the Sudan, Somalia. They have been thrown out.

The question is whether we in this amendment are going to snatch victory or whether, indeed, by our instincts we will snatch defeat from the jaws of victory.

I often, when I listen to this debate in this Chamber, try to bring myself back to 15 years ago when I lived in a village in Africa and try to imagine what it would be like to bring those Ethiopians I lived with to the galleries and let them listen to this debate.

I wonder what they would think of the United States in that case.

I tried to indicate that America was the defender of racial justice, was the defender of the right of people to have their own political destiny.

This vote that is coming up is just one of many opportunities this country is going to have to indicate whether it wants a peaceful evolution in Southern Africa or whether it wants violence.

If we want to frustrate moderation, if we want to be part of the system that will perpetuate apartheid in South Africa, here is the opportunity.

I think this country is better than that. I think the ideals of this country are better than that. I hope the Senate is better than that.

Mr. HELMS. Mr. President, when I listen to the debate, I am reminded of Lewis Carroll's "Through the Looking Glass," when Humpty-Dumpty said, "When I use a word, it means just what I choose it to mean—neither more nor less."

With all due respect to my friend from Massachusetts, I have to ask him some questions: Does he not know that we are not talking about South Africa, but about Southwest Africa—Namibia? Does he not know that all forms of apartheid have been dismantled in Southwest Africa—Namibia—by a vote of the democratic parties? Does he not know that Namibia is administratively separate from South Africa?

In my opening remarks I made clear the question that the Senate has to answer with respect to this so-called institute. That question is this: Why train only the terrorist groups? That is what the institute is doing and proposes to do with $500,000 of American taxpayers' money.

Why not train democratic leaders—democratic with a little "d"—people who believe in freedom. The democratic leaders are the ones hauled off to jail or shot by SWAPO itself.

I have already pointed out, Mr. President, that there exist many fine leaders in Namibia, both black and white, with great potential. Why would any Senator demand that we support only the Marxist terrorist leaders?

Those who oppose this amendment are making precisely that demand. No other face can be put on it.

Lest there be obfuscation, I would point out to my good friends that the Institute for Namibia is not a mere center for the training of civil servants. It is a Marxist indoctrination center, and that cannot be denied. The student body is dominated by SWAPO, so much so that other African liberation groups were driven away.

That is the nature of this institute to which we are going to send $500,000 of the American taxpayers' money. And this Senator says, "no." Even if we accept the assertion that the training is purely in administrative and technical studies, the fact remains that this training is intended strictly for SWAPO.

Nobody else. Nobody else need apply.

As a matter of fact, it is dangerous to their health if they do apply, if they do not agree, if they do not participate.

Only one political group, Mr. President, only one political group out of a whole wide spectrum of political groups interested in the future of Namibia receives this kind of training, from this nice little institute that my friend from Massachusetts likes so much.

I think that it is incredible that the United States would even consider supporting an institution that exists solely for the benefit of the one political group, especially a group that rejects democratic methods. It is the one group in Namibia that has adopted the strategy of terror against helpless civilians.

As I said earlier, and I repeat now, it has even imprisoned thousands of its own members because they have rejected the strategy of terror.

Those are the facts, Mr. President, and they cannot be successfully disputed.

Moreover, even if the Institute for Namibia is not directly engaged in military operations, even if the training is purely administrative and technical, these same SWAPO people, so trained, are then available for administrative roles in the terrorist military campaign. I believe that the Senate of the United States must not support terrorism in any way.

I say again that if the American people knew and understood that any Senator would support sending $500,000 of their money, the reputation of the Congress would drop even lower in the estimation of the American people.

Mr. President, I am ready to vote.

Mr. TSONGAS. Mr. President, I will not take the Senate's time any further, except to put into the RECORD page 7 of the letter to Senator HELMS from the Secretary of State, which goes into the issues of origins and political preferences of institute students, which I think should pretty much resolve that issue. I ask unanimous consent to have page 7 printed in the RECORD, and I yield back the remainder of my time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

B. ORIGINS AND POLITICAL PREFERENCES OF INSTITUTES STUDENTS

All of the Institute's students are Namibians. The bulk of them appear to be members or supporters of SWAPO. However, some of the students are also supporters of another Namibian liberation movement, SWANU, and some profess no political preference whatever. Professional staff members are listed on an enclosed table and are citizens of a variety of countries.

Acting on behalf of the President, and after a careful review by our Embassy in Lusaka, Secretary Vance determined on February 6, 1979, that no fiscal year 1979 funds for the UN Institute for Namibia will be used to support the military or paramilitary activities of SWAPO. Although it is clear that there are some members of the faculty at the Institute who favor SWAPO and have expressed their preferences, these expressions, as well as those by groups who favor other political parties, have occurred within a climate of academic freedom that permits a range of political expression as well as the right to keep silent. There have been incidents between supporters of SWAPO and SWANU at the Institute. As a result of one incident a group of SWANU supporters left the Institute. However, our Embassy in Lusaka, which maintains frequent contacts with the Institute, believes that these incidents have not affected the integrity of the Institute's academic program. It also seems clear that the degree of partisan support for SWAPO within the student body is subordinate to the basic Institute climate of academic freedom. The support of the United States and the United Nations for the Institute is predicated on the maintenance of this academic freedom.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER, the Senator from New York (Mr. JAVITS), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 42, nays 50, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—42

Armstrong
Baker
Bellmon
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Cochran
Cohen
Danforth
Dole
Domenici
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Laxalt
Long
Lugar
McClure
Morgan
Nunn
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stennis
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—50

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
Durkin
Eagleton
Exon
Glenn
Gravel
Hart
Heflin
Heinz
Huddleston
Inouye
Jackson
Johnston
Kennedy
Leahy
Levin
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Riegle
Sarbanes
Stafford
Stevens
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams

NOT VOTING—8

Cannon
DeConcini
Durenberger
Javits
Kassebaum
Ribicoff
Sasser
Talmadge

So Mr. HELMS' amendment (No. 512) was rejected.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAUCUS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 631

(Purpose: Expressing the sense of the Congress concerning further foreign military encroachment in the Western Hemisphere)

Mr. DOLE. Mr. President, I will send an amendment to the desk in just 1 minute, but I wish to specify what the amendment does.

I have changed the amendment in the last 30 seconds based on some comments from my colleagues that I agree with, which clarify the amendment.

The first section is simply a sense of the Senate. The first portion of the amendment reads:

> It is the sense of the Senate that the United States should work with the Organization of American States to insure that no further military encroachments are made into the Western Hemisphere by foreign countries.

That is the sense of the Senate.

The second portion is a limitation on expenditures and which says that none of the funds appropriated or otherwise made available under this act may be available for any country in the Western Hemisphere which does not oppose the stationing within its territory of hostile combat forces—that is the word "hostile"—from a country outside the Western Hemisphere or Soviet or Soviet-sponsored combat forces located within the Western Hemisphere on the date of enactment of this act or thereafter.

I send that unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr PRYOR). The clerk will report.

The second assistant legislative clerk read as follows:

> The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 631.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, between lines 12 and 13, insert the following:

SEC. 523. (a) It is the sense of the Senate that the United States should work with the Organization of American States to insure that no further military encroachments are made into the Western Hemisphere by foreign countries.

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country in the Western Hemisphere which does not oppose the stationing within its territory of hostile combat forces from a country outside the Western Hemisphere or Soviet or Soviet-sponsored combat forces located within the Western Hemisphere on the date of enactment of this Act or thereafter.

Mr. DOLE. Mr. President, all of us have been made aware recently of the presence of a Russian combat brigade permanently stationed in Cuba. For the first time in modern history a U.S. administration has acquiesced and accepted an active, foreign military force within the Western Hemisphere—a combat unit relatively small as far as danger to the shores of the United States, but capable of actual and implied offensive operations against many Latin American nations.

At this point, I am not sure what remains to the United States or for us in the Senate to do to effect the removal of these troops, whose stationing in Cuba our President apparently accepts. However, the Senator from Kansas believes we do have some options to discourage any further encroachment in this hemisphere by the Soviet Union or any other foreign power in the future. On this bill, involving U.S. money raised from our public taxpayers, we can demonstrate our present and future intent on this issuse.

AMENDMENT TO PROHIBIT FOREIGN TROOPS

My amendment would prohibit any funds under this act from being released to any nation in this hemisphere that allows the stationing of foreign combat forces within its borders. Unfortunately, this amendment cannot effect the Russian troops now in Cuba. It does however send a clear signal to the Soviet Union and others, including radical groups in Latin America itself, that future outside incursions will not be tolerated.

I would like to call the attention of my colleagues to Public Law 87-733, which sets forth U.S. policy toward Cuba and the relationship between joint, intra-American policy and the insertion of foreign military elements to the Western Hemisphere. It is a law and a policy the Senator from Kansas feels has been too much ignored in the recent past. Over a century and a half ago the United States recognized the threat military forces from without the hemisphere would pose to the stability and freedom of American States. At that time, we declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety." This classic statement was later reinforced and expanded by the participation of our hemispheric allies. In the Rio Treaty of 1947, the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 52 of the Charter of the United Nations."

And once again, the foreign ministers of the Organization of American States at Punta Del Este in January 1962, found that the danger had become more apparent still with the foundation of the present Government of Cuba which had "identified itself with the principles of Marxist-Leninist ideology and Communist world domination." From the very beginning, Cuba accepted military assistance from extracontinental Communist powers, and by accepting the stationing of Soviet troops within its borders, expanded the threat of military intervention in America on the part of the Soviet Union.

At that time, the United States joined our American allies in expressing our concern and made it U.S. policy to prevent by whatever means necessary, including the use of arms, the regime in Cuba from extending by force or the threat of force, its aggressive and subversive activities to any part of this hemisphere.

Critics of the recent furor over the Soviet brigade in Cuba trivialized an ominous global trend, that of expanding Soviet-Cuban measures within our hemisphere and around the world. This trend should have been recognized and resisted in Washington long before the recent version of a Cuban crisis evolved.

In the past several years, the Soviets have embarked upon a steady military buildup on Cuba, including air power (for example, Mig-23's), land (the Soviet brigade and sophisticated equipment) and sea power (Jane's Fighting Ships just found that Moscow's deliveries have launched Cuba in a new naval league, especially in comparison to its Latin American neighbors).

In return, Cuba has pushed a hard sell Soviet position while hosting as chairman of last month's nonaligned summit. The final communique lambasts the West for everything from the most vagrant human rights violations (no Marxist country is condemned) to the host of ills afflicting Africa (no Soviet-Cuban encroachments are mentioned).

But the most alarming aspect of its active global role is the fact that Cuba is also taking a more active hemispheric role. For the first time since the cold war was supposedly buried in detente, the Soviets and Cubans may be seriously moving in what has, up to now, been a forbidden sector for them. They may be ready to pick up the banner of the Che Guevara and support revolutionary struggles throughout the Americas. Opportunities shine bright. The new Sandinista Government of Nicaragua is helping its leftist comrades in El Salvador and, along with socialist Jamaica, has recognized the Heng Sarim (pro-Soviet) government in Cambodia, and apparently a puppet for Vietnam, and the Pham Van Dong (pro-Soviet) government in Hanoi. Even Mexico has just recognized the Soviet-supplied Polisario rebels in the former Spanish Sahara.

Finally, the dangerous trend is illustrative of Soviet global behavior. The issue is essentially a geopolitical one, and thus not one readily susceptible to our Secretary of State's legalistic approach to international relations. For the Soviet combat brigade in Cuba is not illegal in any sense—little in international affairs is legal or illegal. It is merely another step in the Soviets' geopolitical march and a particularly provocative one, given today's climate.

It comes at a time when the Soviets are rapidly building up their forces on other islands—those illegally occupied off Japan. It comes at a time when SALT is immediately before the Senate. Most revealing, Moscow dispatched to Cuba a 205-ton gunboat (another significant modernization of the Cuban Navy) precisely when Secretary Vance and Soviet Ambassador Dobrynin were conferring daily on the matter.

If the Soviets take such bold actions now, they can be expected to take bolder ones later, after the SALT and Cuban negotiations have passed. At least no one can reasonably expect them to act in a manner more sensitive to Western concerns and interests later than they do now.

Yet, this is precisely the Carter administration's assumption. The President explained on October 1 that the Kremlin's highest levels have promised that they will be cooperative in the future though they took provocative action in the past and are lying about the existence of the combat brigade in the present. Precisely, this type of thinking, and resulting policies, led us into these adverse geopolitical trends in the first place.

Unfortunately, the issues have been trivialized by the pathetic minicrisis the President and his supporters have contrived over Cuba. Also unfortunately, the President turns to his wise men and the public to ask, "what can I do now?" At this late time, it is similar to a football team trailing 44-0 in the fourth quarter whose coach asks the experts and the crowd, "what can I do now?"

With the recent introduction by the Soviet Union of a military brigade with combat capabilities into Cuba, it is the belief of this Senator that we must take all reasonable and deliberate steps within our power to cut off this or any threat to Western Hemisphere peace and stability. For that reason I offer this amendment withholding appropriations under this bill to any nation in the Western Hemisphere if foreign military forces with a combat capability are introduced within its borders, meaning military forces hostile to either the country concerned or forces acting hostile to the interests of the United States or to its hemispheric allies.

Mr. INOUYE. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. INOUYE. Hostile to whom?

Mr. DOLE. Hostile to the country they are in or to the interests of the United States and its allies. We tried to accommodate the question raised by the distinguished Senator from Hawaii.

To take British forces in Bermuda, for example, in that situation there is no intent to prevent them from being there. So we have changed the amendment to accommodate any fears the distinguished Senator from Hawaii may have. If not, perhaps we can modify it further.

Mr. INOUYE. Hostile to the host country?

Mr. DOLE. Yes.

Mr. INOUYE. That would be an invasion.

Mr. DOLE. In other words, the intent is in some cases, as the Senator from Hawaii pointed out they may be properly there, they may be friendly forces, they are there at the invitation of the host country, and they are not hostile to our interests, the interests of the United States. That is the point we wish to make.

Mr. INOUYE. I asked the question because I gather the Russians are in Cuba at the invitation of the Cubans.

Mr. DOLE. They are hostile combat forces, hostile to our interests.

Mr. INOUYE. Then the hostility is aimed at the United States?

Mr. DOLE. That is right.

Mr. INOUYE. That is the Senator's intention, right?

Mr. DOLE. Mr. President, I might say—and I will take just about 3 minutes or 5 minutes—that the Senator from Hawaii put his finger on the point I hope we can underscore. We have been made aware recently of the presence of a Russian combat brigade permanently stationed in Cuba. For the first time in modern history a U.S. administration has acquiesced and accepted foreign military forces in the Western Hemisphere, a combat unit, relatively small as far as danger to the shores of the United States is concerned, but capable of actual and implied offensive operations against many Latin American nations.

At this point I am not sure what remains to the United States or for us in the Senate to do to effect the removal of these troops, whose stationing in Cuba our President apparently accepts.

The Senator from Kansas believes that we do have some options to discourage any further encroachment in this hemisphere by the Soviet Union or any other foreign power in the future.

I will be very happy to discuss the amendment further. I think it is self-explanatory, and I hope the changes made accommodates the questions raised by the distinguished floor manager.

Mr. INOUYE. As the earlier colloquy indicates, we have looked into this amendment rather carefully, and with the changes made by the Senator from Kansas I am prepared, as chairman of the subcommittee, to accept the amendment.

Mr. GARN. Mr. President, I am prepared to accept the amendment, with the modification, on behalf of the minority.

Mr. DOLE. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 632

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for himself and Mr. HELMS, proposes an unprinted amendment numbered 632:

On page 7, line 2, after the word "program" insert the following:

"*Provided further*, that none of the funds appropriated in this paragraph shall be made available for any programs for the Palestinian Liberation Organization, the South West Africa People's Organization, the Zimbabwe African People's Union, and the Zimbabwe African National's Union."

Mr. GARN. Mr. President, I allowed the clerk to read it all because it was very short and self-explanatory. It is to prohibit funding for guerrilla organizations.

Mr. INOUYE. Mr. President, will the Senator yield for questions?

Mr. GARN. I would be happy to yield.

Mr. INOUYE. Mr. President, we have heard much about the Palestine Liberation Organization, so I do not think any explanation is necessary; also about the Southwest Africa People's Organization. However, for the record, can the Senator advise us as to the Zimbabwe African People's Union and the Zimbabwe African National's Union?

Mr. GARN. Yes; both of those are part of what is known as the Patriotic Front.

Mr. INOUYE. Mr. President, may we have some order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. INOUYE. My final question: These funds are funds appropriated for the international organizations?

Mr. GARN. Yes; that is correct.

Mr. INOUYE. With that understanding, Mr. President, as chairman of the subcommittee I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 633

(Purpose: To prohibit United States assistance to Cuba through organizations of the United Nations)

Mr. HARRY F BYRD, JR. Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment numbered 633:

On page 7, line 2 insert before the period the following: "; provided, however, that none of the funds appropriated or made available pursuant to this paragraph shall be obligated or expended to finance any program in Cuba."

Mr. HARRY F. BYRD, JR. I ask unanimous consent that the name of the distinguished Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment would deny the use of U.S. funds which are appropriated for the United Nations from being used for any programs in Cuba.

Premier Castro is now at the United Nations castigating the United States, and I see no reason why the American taxpayers should finance programs of Mr. Castro.

Mr. RANDOLPH. Mr. President, will the Senator yield? I do not wish to interrupt him.

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. I remember that approximately 20 years ago, Fidel Castro came into this Chamber. He was here in the corridors of the Capitol, and he said, in effect, or actually, perhaps, these words, "We come as your friends. We are your friends." That was the message at that time.

In my judgment the Castro government has been other than friendly. They have actually been an adversary of the U.S. Government and the policies of the democratic form of government as we believe in it and practice it here; would that be the feeling of the able Senator from Virginia?

Mr. HARRY F. BYRD, JR. The able Senator from West Virginia is, in my judgment, completely correct. Completely correct. It was exactly 20 years ago this month that the Senator from Virginia, as a newspaper correspondent, was in Cuba, and Castro had a giant anti-American rally in the grounds of the Presidential palace. The Cuban people and the Cuban press claimed that there were 1 million persons there. I listened to Castro denounce the United States for hours on end. That was in October of 1959, exactly 20 years ago.

Mr. RANDOLPH. Not long after he was here, actually.

Mr. HARRY F. BYRD, JR. He was here, I believe, if I am correct, in April of 1959.

Mr. RANDOLPH. That is correct; it was in the spring.

Mr. HARRY F. BYRD, JR. The spring of 1959.

Mr. RANDOLPH. Yes. And I recall hearing him say then what I have indicated.

Mr. HARRY F. BYRD, JR. Yes. I certainly agree with the comments of the distinguished Senator from West Virginia, and I hope that the Senate will approve this amendment.

Mr. RANDOLPH. I appreciate the generosity of the Senator in adding my name as a cosponsor to his amendment, which I trust will have the approval of the Senate.

Mr. HARRY F. BYRD, JR. I am always proud to be associated with the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. INOUYE. Mr. President, I have had the opportunity to discuss this amendment with the Senator from Virginia. The intent of the amendment is similar to that of the one Senator GARN introduced a few moments ago. I am prepared to accept the amendment.

Mr. GARN. Mr. President, I am also prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (UP. No. 633) was agreed to.

UP AMENDMENT NO. 634

(Purpose: To restore $12.3 million in budget authority for foreign military credit sales)

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 634:

On page 15, line 9——

Mr. GLENN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 15, line 9 strike "$661,200,000" and insert in lieu thereof "$673,500,000"

Mr. GLENN. Mr. President, my amendment seeks to add $12.3 million in budgetary authority for FMS credits—$661.2 million to $673.5 million. Let me emphasize that point. This is an increase in budget authority, not budget outlays.

This was the amount authorized by the Foreign Relations Committee and agreed to in conference by the House Foreign Affairs Committee.

Although the $12.3 million increase is a modest amount, it will have a significant impact on our national security and foreign relations initiatives around the world. These include Morocco, Oman, the Sudan, Greece, Turkey, the Philippines, and other countries in Southeast Asia, such as Thailand, who because of the renewed fighting in Cambodia have had to increase their own defense spending. Without my amendment much valuable assistance for these countries will be lost.

The $12.3 million is a guarantee against default on loans of $123 million. I emphasize that it is not a grant. The money will be repaid with interest. If the appropriation is cut even further in conference with the House, which is likely, the total loss to important programs could run as high as $200 million.

I recognize the Appropriations Committee's desire to cut spending, but I think this is the wrong place to make that point. Foreign Relations' recommendation is already well below the $1 billion appropriated last year.

I have spoken with both floor managers about this proposal. I hope they can accept this modest amendment, which is the key to triggering other much needed support for these beleaguered nations in the situation in which they find themselves at this time.

Mr. INOUYE. Mr. President, will the Senator yield for a question?

Mr. GLENN. Certainly.

Mr. INOUYE. Is the amount requested authorized?

Mr. GLENN. Yes, it is authorized by the International Security Assistance Conference report.

Mr. INOUYE. Then, Mr. President, I am prepared to accept the amendment.

Mr. GARN. I am willing to accept the amendment on behalf of the minority.

Mr. JAVITS. Mr. President, I just walked into the Chamber from a funeral in New York, and I could not be more pleased. I could not have come in at a more propitious time. I congratulate the Senator from Ohio and the managers of the bill. This seemed to me the most ill-advised place for economy we could find anywhere, and I am delighted that it is being righted now.

Mr. GLENN. I thank the Senator from New York very much for his comments. He and I have talked about this amendment. I believe it is critical, and I am glad that he arrived in time to help support the amendment of the Senator from Ohio.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (UP No. 634) was agreed to.

Mr. GLENN. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the name of the distinguished majority leader (Mr. ROBERT C. BYRD) and the name of the Senator from Iowa (Mr. JEPSEN) be added as cosponsors of the unprinted amendment (No. 633) which was just approved by the Senate, denying funds to Fidel Castro's Cuba.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, will the distinguished senior Senator from Virginia add my name as a cosponsor?

Mr. HARRY F. BYRD, JR. Delighted. Mr. President, I ask unanimous consent that the name of my distinguished colleague from Virginia (Mr. WARNER) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 635

Mr. GARN. Mr. President, on behalf of the Senator from Hawaii (Mr. INOUYE) and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for himself and Mr. INOUYE, proposes an unprinted amendment numbered 635:

On page 16, line 8, strike the figure "$5,598,"——

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 8, strike the figure "$5,598,241,000" and all that follows through line 9 at the end of parentheses and insert in lieu thereof: "$7,458,241,000 (of which not to exceed $6,000,000,000 shall be for direct loans)"

Mr. GARN. Mr. President, early in the discussion of this bill, the distinguished chairman and I agreed that there were inadequate funds provided for the Import-Export Bank. We have had several important changes in the bill in the way of reductions, and I think we have more room to play with than we did when we discussed this matter the other day.

I yield to my colleague from Hawaii.

Mr. INOUYE. Mr. President, I believe we have discussed this matter sufficiently. I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 635) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 636

Mr. GARN. Mr. President, I send to the desk another unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 636:

On page 13, line 9, after the figure "$103,000,000" insert a colon and the following:

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 9, after the figure "$103,000,000" insert a "colon" and the following: "*Provided*, That none of the funds appropriated in this paragraph shall be used to pay for abortions."

Mr. GARN. Mr. President, this amendment simply restores the out language and current language in the 1979 appropriations bill restraining the use of Peace Corps funding to perform abortions.

I will just say quickly, before we get into some big fiasco, that this has nothing to do with the Senate language, it has nothing to do with the Hyde language in the House, with none of that debate which has been going on for years. This simply would restore what is current law in this very narrow area.

Mr. INOUYE. Mr. President, as the record will clearly show, on all the votes related to abortion I have supported abortions. But in this case I concur with the amendment. This prohibition applies only to the Peace Corps. I am prepared to accept the amendment.

Mr. JAVITS. Mr. President, I would like to ask one question. I wondered why the Senator did not condition this, even the same way as in the Hyde amendment. In other words, if some Peace Corps person is in some faraway spot and there is a problem which involves saving their life. I do not know that we want to hinder that. I have no idea as to the Senator's purpose, but it seems that would be an elementary precaution today.

Mr. GARN. First of all, Mr. President, in response to the question of my distinguished colleague from New York, I did not want to open up all of the debate that has gone on for years over that kind of language, but simply to continue what has been the existing law, not to change it in any way whatsoever. This has been existing law.

Mr. JAVITS. This has been existing law in respect of the Peace Corps?

Mr. GARN. Yes.

Mr. JAVITS. What would the Senator say about that? Suppose the Peace Corps director faced that issue, that he has a person who was in grave peril?

Mr. GARN. I personally would have no objections to adding the phrase "to save the life of the mother." This was an administration recommendation, and recommended by the Peace Corps, itself, that we continue present law.

Mr. JAVITS. They did?

Mr. GARN. Yes.

Mr. JAVITS. I am willing to leave it that way. We are now speaking in a very human way. I think the managers should look into the subject in connection with the conference concerning the Peace Corps. I hope they would feel free to do what is humane and responsive in the situation.

I have visited Peace Corps people way up in the mountains of Venezuela, Colombia, and in other parts of the world. I have also visited them in Peru, where they were way out in the Indian uplands, or at least they were when I was there.

I have no desire to mess around with the amendment, but I do leave this to the managers. I think they ought to review the human problem.

Mr. GARN. I will assure the Senator that I will continue to watch it. Again, it is existing law and we have had no type of problem otherwise.

Mr. JAVITS. Will the Senator speak to the Peace Corps about it?

Mr. GARN. Yes, I would be happy to.

Mr. INOUYE. I would like to assure my friend from New York that in the year 1979, 52 ladies, members of the Peace Corps, were flown to Washington to undergo a hospital procedure for abortion. The transportation was borne by the Peace Corps.

This prohibition applies only to the surgical procedure. We are not dealing here with welfare recipients. We are dealing with women who I hope are adequately paid by this Government. So I think it is a reasonable amendment.

Mr. JAVITS. I think the Senator makes a lot of sense. In short, all we are doing is dealing with a surgical procedure, period, and not with the preliminary steps, examination, diagnosis, transshipment, or what.

Mr. GARN. The Senator is correct. All of these Peace Corps ladies were examined by physicians stationed at the embassy and upon the advice of the physician they were flown out. Incidentally, 11 were flown to other countries and 52 to the United States.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Is there objection to the amendment? If there is no objection, the amendment is agreed to.

Mr. GARN. I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 637

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 637.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, between lines 16 and 17, insert the following:

> FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS
>
> It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:
>
> Asian Development Bank: Paid-in capital, 16.3 percent; Callable capital, 16.3 percent; Asian Development Fund, 22.2 percent;
>
> African Development Bank: Special Fund, 18 percent;
>
> Inter-American Development Bank: Paid-in capital, 34.5 percent; Callable capital, 34.5 percent; Fund for Special Operations, 40 percent;
>
> International Bank for Reconstruction and Development; Paid-in capital, 24 percent; Callable capital, 24 percent;
>
> International Development Association, 25 percent;
>
> International Finance Corporation, 23 percent.

Mr. SCHWEIKER. Mr. President, this provision, which I have put into previous foreign aid appropriations bills, specifically sets limits in terms of the amount of contributions that we make to the international banks in which we participate. This is the same language that was in last year. I think the administration has used this as a way of keeping our pro rata share of the banks at a reasonable level. Going into negotiations there was some kind of consensus as to what the House and Senate would accept and not come back with a figure as happened several years ago which was exorbitantly high and out of line. I hope the managers of the bill will consider accepting this amendment in the way it is offered.

Mr. INOUYE. Mr. President, I have had the opportunity to discuss this matter and have studied the amendment at great length. As the Senator from Pennsylvania indicated, a similar sense of the Senate amendment was incorporated in prior bills. I believe it is in the spirit of the committee and I accept it.

Mr. JAVITS. Will the Senator yield? What is the amendment? I would like to know what it is.

Mr. INOUYE. "It is the sense of the Congress that the U.S. share of contributions used to future replenishments of the international financial institutions should not exceed" certain percentages. The Senator has listed certain banks such as Asian Development Bank, paid-in capital, 16.3 percent; callable capital 16.3 percent; the Asian Development Fund, 22.2 percent.

Mr. JAVITS. I thank the Senator.

Mr. GARN. Mr. President, I am willing to accept the amendment.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. If there is no objection, the amendment is agreed to.

Mr. GARN. I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I think we have just about accomplished a miracle. We are just about finished. I have two more amendments.

UP AMENDMENT NO. 638

(Purpose: To make a technical amendment)

The PRESIDING OFFICER. The clerk will state the first amendment.

The assistant legislative clerk read as follows:

> The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 638:
>
> On page 10, line 9, strike out "534" and insert in lieu thereof "535".

Mr. INOUYE. Mr. President, this is a technical amendment just changing numbers.

Mr. GARN. Mr. President, I have no objection to this amendment.

The PRESIDING OFFICER. Is there objection to the amendment? Without objection, the amendment is agreed to.

UP AMENDMENT NO. 639

(Purpose: To limit the availability of funds for entertainment expenses for the Peace Corps)

The PRESIDING OFFICER. The clerk will state the second amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 639:

On page 27, line 12, before the period insert a colon and the following: "*Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed $4,000 shall be available for entertainment expenses".

Mr. INOUYE. I believe the amendment is self-explanatory. All other agencies have such limitations.

Mr. GARN. Mr. President, I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Is there objection? If there is no objection, the amendment is agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the—the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, last night, the Senate approved an amendment to reduce the total appropriation in this bill by 3 percent. The amendment as drafted was placed at the end of the bill. I ask unanimous consent that it be inserted on page 25 as a part of section 525, which has been stricken by the committee.

Mr. JAVITS. Mr. President, will the Senator allow me just to see where he wants it? On page 25, in lieu of section 524?

Mr. HARRY F. BYRD, JR. No; Mr. President, in lieu of section 525.

Mr. JAVITS. Mr. President, what happened to section 524?

Mr. HARRY F. BYRD, JR. Section 524 has been stricken by the committee.

Mr. JAVITS. I have no objection, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is agreed to.

Mr. STEVENS. Mr. President, I hope my colleague from Hawaii will clarify a point for me. In the report, on page 139, the committee urges that Morocco receive the amount "requested" under the FMS credit program. It is my understanding that we changed the original wording of this language from "authorized" to "requested" because the authorization had not passed. However, it is my understanding that the committee meant to refer to the authorization for Morocco; is that correct?

Mr. INOUYE. Yes; that is correct. The committee is referring to the authorization level. The committee intended to urge that Morocco receive the amount which is authorized.

Mr. STEVENS. I thank the Senator for clarifying that point.

Mr. THURMOND. Mr. President, I rise in opposition to the foreign assistance and related agencies appropriations bill, which I view as financially irresponsible, in the light of the overwhelming economic troubles in this country, and fundamentally unsound, considering the aggressive actions of the Soviet Union and its Communist allies all over the world.

Not only do the amendments proposed by the Appropriations Committee and passed by the Senate take more money from taxpayer revenues for distribution to foreign governments, but they go much further and insure that a number of Communist countries—those who are dedicated to erasing the American way of life—will be, even though indirectly, among the recipients of our bounty.

Mr. President, during the debate on this bill we have all heard the "justifications" for increased foreign assistance spending and the reasons we need to give aid to Communist-dominated countries. Among those who will benefit from U.S. assistance through international financial institutions, is Vietnam, whose leaders seem intent on imposing their control over other nations in Southeast Asia by annihilating all those who stand in the way, including their own citizens.

I am not insensitive to the deplorable situation that faces a large portion of the population in these countries. However, I feel very strongly that we can never hope to solve all these nations' problems by simply giving out American money. We need to set our own house in order and deal with our serious domestic problems of inflation and energy supplies, before attempting to tackle those of the rest of the world. More importantly, we need to stand firm in our denunciation of countries that have no respect for human dignity and freedom. Earier this week, the Senate expressed willingness to do that when it voted to deny direct aid to Cuba and Mozambique.

Yesterday, that resolve was further strengthened when it was agreed to refuse direct aid to Angola, Laos, the Central African Empire, Cambodia, and Vietnam. Yet, the fact remains that American dollars are still being poured into financial institutions that are free to distribute them without regard to American policies. In effect, there is no restraint on the use of our money to indirectly support governments that are subjecting their populations to unspeakable horrors.

Mr. President, I strongly disagree with the Senate decision to support these irresponsible policies and intend to vote against this bill.

● Mrs. KASSEBAUM. Mr. President, my schedule does not permit me to be present on the Senate floor when the final vote is taken this afternoon on passage of the Foreign Assistance Act. I wish, therefore, to record for the record and for the continuing debate that I would have voted against passage. In the course of the week, I voted on each of the 12 amendments to the bill. Those amendments are broadly assignable to two categories. The first category is one that might be described as earmarking amendments. Those were proposals to condition U.S. contributions to international entities on certain restrictions regarding the uses to which moneys could be dedicated. I voted against these amendments. Such restrictions serve to alter the very concept of multilateral aid. Though I agreed with the motivations of the sponsors of many of these amendments, I objected to the broader impact that enactment would have had. The second category of amendments are those seeking to reduce funding. I voted generally in favor of amendments to this category. My rationale should be clear to anyone who has listened to the taxpayers, read a newspaper, or checked the stock market report. We must make some cuts in our spending. We must cut at home, and we must make cuts in our foreign aid. We must realize that our national resources are simply not sufficient to permit us to support the full breadth of our humanistic desires. This bill does not recognize that fact and, therefore, I would vote against its final passage.●

Mr. ROBERT C. BYRD. Mr. President, I wish to express my appreciation and that of the Senate to those Senators who made possible the full and fair consideration of the Foreign Assistance Appropriation bill.

First, I thank the chairman of the Appropriations Committee, Senator MAGNUSON, for his guiding hand, as this legislation progressed through his committee and onto the Senate floor.

Next, I thank the majority floor manager, Senator INOUYE, for his yeomanlike job in seeing this bill through the many hearing sessions and the exhaustive markup sessions. Senator INOUYE pursued his task with an exemplary conscientiousness, knowing the material, encouraging thorough debate, yet moving the bill along efficiently, so that we might consider it today. His persistence, and the many long hours he put into this legislation, are appreciated by all of us.

And, I also thank the minority floor manager, Senator GARN, for his cooperation and contribution to the eventual form of the bill that the Senate has approved today.

● Mr. HATFIELD. Mr. President, it is with great sadness that I have decided to vote against H.R. 4473. But I cannot, in good conscience, support that portion of the overall program which will go toward military assistance. Over $400 billion per year is spent by the family of nations to further fuel the already overfunded military machines of this world. This occurs while millions go to bed hungry at night, while illiteracy reigns more powerful than education. It is the height of hypocrisy that in this stage of our evolution we have not yet found ways to cultivate friendship in the world other than to transfer the means and the knowledge with which to kill one another. I cannot help but dream of the world that we might someday create when all of the technological expertise, physical manpower and financial backing which we now pour into the endless reservoir of the military is channeled toward peace, the eradication of disease and developing the tools with which people can provide for themselves and their families.

Israel is provided with a billion dollars in foreign military sales credits under this bill, half of which does not have to be repaid. This occurs with full knowledge that the bombing of innocent civilians in southern Lebanon is being conducted with American aircraft, cluster bombs and other antipersonnel devices. I offered an amendment to cut this appropriation by 10 percent to send a signal to Israel that they are acting in violation of United States and international law. This amendment was met with overwhelming opposition, the central argument being that we would be jeopardizing Israel's security. The U.S. Senate still clings to the illusion that security can be purchased with arms. This mindless policy of bombing villages does not nurture peace and security. It breeds hate, radicalism and the ongoing cycle of fear and destruction.

The illusionary perception that we can forever maintain an international squad of deputy sheriffs by providing them with blank orders for American weaponry continues virtually unchallenged. One day, and it may not be far into the future, we shall all awaken to see President Marcos' regime in the Philippines overturned by a political entity understandably hostile to the United States. We will lose a forward base in the Philippines and furthermore, we will hand over our bases to his successors. This ritualistic offering of our most sophisticated weapons to unstable regimes, as with Vietnam and Iran, has only resulted in the loss of those arsenals—to the forces of change. Maintaining the power of dictators may bring ephemeral contributions to the national interest, but as we have seen, it will ultimately be turned against us.

In summary, Mr. President, I commend the distinguished Senator from Hawaii, Mr. INOUYE, for his excellent leadership in fending off attempts to cut humanitarian assistance below the already meager level. But this path of solidifying and creating friendship with the nations of the world through military transfers is so counter to my most deeply held beliefs that I must stand in opposition to H.R. 4473.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. JAVITS. Mr. President, Senator INOUYE just spoke of a miracle. I understand that he wrought this miracle. It is a great job he has done, with fairness and deliberation, as is his wont.

Just to give a personal reference, I was here one Friday afternoon, some years ago, when we failed to pass a foreign aid bill which had become a complete shambles and Members just left and went home. I predict that that will not happen today, one; and two, that it is because of the celerity with which the business was conducted and the precision with which Senator INOUYE and Senator GARN knew their own minds, this matter will be effectively consummated. I think both are entitled to the deep appreciation of the Senate.

Mr. INOUYE. Mr. President, the Senator's generous remarks are most appreciated. He is always kind.

Mr. President, I should like, before we dispose of this matter, to express my thanks to the members of the staff: Mr. Jordan, Mr. Collins, and Miss Dackis. Without these three, I do not think the majority side could have survived. I am certain Senator GARN will say the same about Mr. Bond.

Mr. GARN. If the Senator will yield, almost the same. [Laughter.]

When you have a James Bond working for you on your staff, you cannot let his head get too big.

Mr. President, I have certainly enjoyed working with Senator INOUYE on this bill. We worked for a couple of years together on the Intelligence Committee. He left as chairman of that. Then we were put back together as chairman and ranking minority member on this subcommittee. He is always a pleasure to work with.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MATSUNAGA (after having voted in the affirmative). On this vote, I have a pair with the distinguished Senator from Nevada (Mr. CANNON). If he were present and voting, he would vote "nay." I voted "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Arizona (Mr. DECONCINI), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from Arizona (Mr. DECONCINI). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Arizona would vote "nay."

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

The PRESIDING OFFICER (Mr. BOREN). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 38, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—53

Baker
Baucus
Bayh
Bentsen
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Cohen
Cranston
Culver
Danforth
Dole
Durkin
Exon
Glenn
Gravel
Hart
Hayakawa
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Lugar
Magnuson
Mathias
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pryor
Riegle
Sarbanes
Schweiker
Stafford
Stevens
Stevenson
Stewart
Stone
Tower
Tsongas
Williams

NAYS—38

Armstrong
Bellmon
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cochran
Domenici
Eagleton
Ford
Garn
Goldwater
Hatch
Hatfield
Helms
Hollings
Humphrey
Jepsen
Johnston
Laxalt
Long
McClure
Melcher
Nelson
Pressler
Proxmire
Randolph
Roth
Schmitt
Simpson
Stennis
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Matsunaga, for.

NOT VOTING—8

Cannon
Church
DeConcini
Durenberger
Kassebaum
Ribicoff
Sasser
Talmadge

So the bill (H.R. 4473), as amended, was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections and change sectional numbers in the engrossment of the Senate amendments to H.R. 4473.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. INOUYE, PROXMIRE, CHILES, JOHNSTON, LEAHY, DECONCINI, MAGNUSON, GARN, HATFIELD, MATHIAS, SCHWEIKER, and YOUNG, conferees on the part of the Senate.

Mr. BIDEN. Mr. President, I would like to explain my vote on H.R. 4473.

I voted against reducing the foreign assistance throughout. I voted against the final bill because it exceeded the Senate version of the Budget Committee concurrent resolution, the Senate side, and that is the reason I voted against it, because I am committed to stay within those numbers within the Senate Budget Committee

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CERTAIN TEMPORARY BUSINESS AND AGRICULTURAL LOANS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2515, Calendar No. 381.

Mr. BAKER Mr. President, reserving the right to object—and I shall not object—this matter has been cleared on our side, and we are agreeable to its consideration and passage.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2515) to authorize on a temporary basis certain business and agricultural loans notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment, as follows:

On page 13, beginning with line 8, insert the following:

TITLE III—LIMITATION

SEC. 301. This Act shall apply only in those States having a constitutional provision which provides that all contracts for a greater rate of interest than 10 per centum per annum shall be void, as to principal and interest.

Mr. BUMPERS. Mr. President, before describing the financial emergency that exists in Arkansas at this moment because of the usury limit in our 1874 constitution, I want to thank the chairman of the Senate Banking Committee, Mr. PROXMIRE, for his efforts in expediting passage of H.R. 2515. He recognizes that Arkansas has been almost paralyzed by the usury ceiling. Delays of a few days in considering this legislation could have a severe economic impact on my State, and I appreciate the prompt consideration of H.R. 2515 by the Senate Banking Committee.

The Arkansas Constitution imposes an absolute, strictly construed 10-percent simple ceiling on all contracts of interest. If this celing is exceeded, the contract is void as to principal and interest. A constitutional convention has recently concluded deliberations in Arkansas, but the usury issue will not be referred to the people of Arkansas until November 1980.

Mr. President, the problem can be stated quite simply. The Federal Reserve discount rate, the rate the Fed charges member banks for loans, is 12 percent and will probably go higher. Interest paid on certificates of deposit by banks generally exceeds 10 percent. Arkansas banks, as a consequence, have been caught in the perverse squeeze of borrowing money which costs in excess of 10 percent and then lending it out at a rate limited by Arkansas' 10-percent usury ceiling. If there ever were a formula for becoming a "problem bank" in short order, this is it. I should add, parenthetically, that even the interest received by depositors from banks has been challenged recently as being a violation of the Arkansas Constitution.

All banks in Arkansas have been severely hurt by the high interest rate problem. The State-chartered banks are feeling even greater pressure than are the national banks. Under Federal law, national banks can charge interest at the rate of 1 percent above the Federal discount rate for 90-day commercial paper. The discount rate now is 12 percent, so national banks can charge 13 percent interest. State banks cannot charge more than 10 percent per annum. Consequently, many State banks are calling their loans, and if remedial legislation is not passed soon, most State banks will be trying to become national banks.

When interest rates are high, funds leave Arkansas financial institutions for higher returns elsewhere, since the usury limit disables Arkansas banks from competing for the funds. The four major Little Rock banks have lost $59.2 million in large CD deposits from the peak of $180 million in May 1978.

Mr. President, I ask unanimous consent that a chart displaying the DATA on this outflow of funds for the four Little Rock banks be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Mr. President, the dramatic announcement Saturday by the Federal Reserve Board that the Federal discount rate has been raised to 12 percent promises to bring even tighter credit policies for Arkansas consumers. I ask unanimous consent that an article from the Washington Post describing the recent actions by the Federal Reserve Board be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BUMPERS. Mr. President, the high cost of funds will force drastic limitations on loan volume, and Arkansas has been experiencing a credit squeeze long before this recent action.

The prime rate has increased six times since the end of July when it stood at 11¾ percent. Before the recent round of increases, the record level for the prime rate had been 12 percent, set in the recession year of 1974. Congress passed Public Law 93-501 on October 29, 1974, to provide temporary relief during that period of high money market interest rates. That law expired on July 1, 1977.

Numerous efforts have been made in Arkansas to cope with the usury problem: First, the municipal bond issues that are temporarily helping the housing market; and second, the State's investing its funds inside Arkansas' at lower rates of return to try to diminish the degree of overall deposit loss. The latter was permitted by one of the first bills passed in the 1979 Arkansas General Assembly. It is impossible to tell how much these temporary efforts have helped, but the situation will continue to deteriorate if high interest rates prevail and after these temporary measures are spent.

The Governor and Legislature of Arkansas recognized the impact of the usury ceiling on Arkansas' economy. A joint resolution passed by the Arkansas House and Senate early this year, signed by the Governor, requests Congress to restore Public Law 93-501.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. BUMPERS. Mr. President, the provisions of H.R. 2515 are similar to Public Law 93-501. The bill would authorize business and agricultural loans in the amount of $25,000 or more at a rate of 5 percent in excess of the applicable Federal Reserve discount rate on 90-day commercial paper, notwithstanding any interest limitations in State constitutions or statutes. The provision of the bill will expire on July 1, 1981, or in November 1980, if the change in the usury provision in the proposed Arkansas constitution is not approved in the general election. A state legislature may override the provisions of H.R. 2515. The bill does not affect home mortgage loans or consumer loans. For these borrowers, State usury laws would continue to control.

The limit has resulted in a loss of funds in the State, which affects the ability of banks to make loans. The inability to finance development directly impacts the unemployment rate in Arkansas.

During the last high interest rate period 1973–75, Arkansas lost ground in relation to the Nation. If we had not lost that ground, we would have had 4,604 more people with jobs at yearend 1975, than we actually had, and our unemployment rate would have been 0.54 percent lower. We gained against the Nation in the 1976–77 lower rate period, but so far have lost even more in this latest high-rate period. We are now above the national unemployment rate, and there were 5,654 fewer jobs at yearend 1978, in Arkansas, than if we had not been impacted worse than the national economy.

This legislation is not a long-term solution to the usury limit in the Arkansas constitution. However, failure to pass this emergency legislation quickly poses a direct threat to the economic health and viability of the Arkansas economy.

Mr. President, I strongly support the passage of H.R. 2515 and urge my colleagues in the House to act expeditiously in passing this bill as it has been amended in the Senate.

EXHIBIT 1

LARGE CD'S (CERTIFICATE OF DEPOSIT) IN THE FOUR LARGEST LITTLE ROCK BANKS, JANUARY 4, 1978 THROUGH AUGUST 15, 1979

	Amount of large CD's (millions of dollars)	Dollar change from previous date
1978		
Jan. 4	$143.1	
Jan. 11	134.2	−8.9
Jan. 18	134.9	.7
Jan. 25	140.9	6.0
Feb. 1	151.8	10.9
Feb. 8	153.8	2.0
Feb. 15	152.2	−1.6
Feb. 22	149.9	−2.3
Mar. 1	146.1	−3.8
Mar. 8	146.3	.2
Mar. 15	145.1	−1.2
Mar. 22	163.9	18.8
Mar. 29	163.3	−.6
Apr. 5	168.9	5.6
Apr. 12	179.9	11.0
Apr. 19	180.2	.3
Apr. 26	176.6	−3.6
May 3	173.9	−2.7
May 10	173.6	−.3
May 17	174.0	.4
May 24	173.3	−.7
May 31	180.0	6.7
June 7	179.7	−.3
June 14	178.0	−1.7
June 21	171.2	−6.8
June 28	166.9	−4.3
July 5	167.0	.1
July 12	164.8	−2.2
July 19	166.6	1.8
July 26	162.2	−4.4
Aug. 2	158.6	−3.6
Aug. 9	159.0	.4

	Amount of large CD's (Millions of dollars)	Dollar change from previous date
Aug. 16	164.8	5.8
Aug. 23	164.3	−.5
Aug. 30	164.5	.2
Sept. 6	165.9	1.4
Sept. 13	170.2	4.3
Sept. 20	167.2	−3.0
Sept. 27	159.3	−7.9
Oct. 4	154.4	−4.9
Oct. 11	150.8	−3.6
Oct. 18	151.1	.3
Oct. 25	142.3	−8.8
Nov. 1	143.9	1.6
Nov. 8	147.0	3.1
Nov. 15	145.7	−1.3
Nov. 22	143.5	−2.2
Nov. 29	142.8	−.7
Dec. 6	134.5	−8.3
Dec. 13	136.7	2.2
Dec. 20	135.6	−1.1
Dec. 27	136.0	.4
1979		
Jan. 3	126.8	−9.2
Jan. 10	110.9	−15.9
Jan. 17	109.0	−1.9
Jan. 24	110.3	1.3
Jan. 31	106.7	−3.6
Feb. 7	105.5	−1.2
Feb. 14	106.3	.8
Feb. 21	111.2	4.9
Feb. 23	110.8	−.4
Mar. 7	107.4	−3.4
Mar. 14	109.0	1.6
Mar. 21	108.0	−1.0
Mar. 28	127.9	19.9
Apr. 4	128.0	.1
Apr. 11	129.7	1.7
Apr. 18	140.4	10.7
Apr. 25	141.7	11.3
May 2	124.5	−17.2
May 9	137.0	12.5
May 16	137.2	.2
May 23	131.9	−5.3
May 30	140.1	8.2
June 6	143.9	3.8
June 13	143.4	−.5
June 20	140.7	−2.7
June 27	143.1	2.4
July 4	130.3	−12.8
July 11	136.0	5.7
July 18	137.9	1.0
July 25	143.6	5.7
Aug. 1	142.0	−1.6
Aug. 8	118.4	23.6
Aug. 15	120.7	2.3

Note: Large CD's are negotiable certificates of deposit of $100,000 or more.

Source: FED letter data.

EXHIBIT 2

[From the Washington Post, Oct. 7, 1979]

FED SQUEEZE CREDIT, RAISES LENDING RATE

(By John M. Berry)

The Federal Reserve Board, determined to end the speculative binge in financial markets that has battered the dollar, sharply boosted interest rates yesterday and adopted sweeping changes in the way it controls the availability of credit.

The steps, taken to combat a soaring inflation rate, will make most loans more costly for borrowers and—particularly for businesses and home buyers—harder to obtain.

Specifically, the Fed:

Increased from 11 percent to 12 percent the interest rate it charges on loans it makes to banks. Other short-term rates are sure to rise also. A similar one-percentage-point increase in the Fed's so-called discount rate was the key ingredient in last November's successful dollar rescue package.

Abandoned the practice it has followed for years of trying to control indirectly growth of the money supply and bank lending by setting a key interest rate, known as the federal funds rate. As some economists have been urging for years, the Fed now will concentrate on controlling the level of bank reserves, money that banks must set aside before they can make loans. Because of this change, some short-term interest rates will fluctuate sharply every day.

Slapped a new 8 percent reserve requirement on increases in funds that banks have been getting in forms not subject to direct Federal Reserve control. These funds, which include, among other items, borrowings of dollars in foreign markets and large certificates of deposit maturing in less than a year, have been growing by tens of billions of dollars a year. They are not counted as part of the money supply, yet they can be lent to borrowers like any regular deposit.

Even though the Fed's actions carry the potential for worsening the slowdown in the U.S. economy, the White House quickly endorsed the moves.

Press secretary Jody Powell said the steps "will help reduce inflationary expectations, contribute to a stronger U.S. dollar abroad and curb unhealthy speculations in commodity markets."

"The administration believes that success in reducing inflationary pressures will lead in due course both to lower rates of price increases and to lower interest rates," Powell said.

Federal Reserve Chairman Paul Volcker said the board acted because expectations of continued high inflation was creating "unsettled" conditions in financial markets around the world, including increased speculation in the United States.

Those conditions last week included a wildly fluctuating gold price that shot up to a peak of $444 an ounce before plummeting to $385.50 at Friday's close.

Meanwhile, the dollar's value on foreign exchange markets sagged to near the lows it hit a year ago just before the first rescue package was announced.

All week the markets rose and fell mostly on the basis of rumors, including one that the United States was readying new measures to shore up currency. Absurdly, there were rumors that Volcker had resigned or had died.

But Volcker stressed at a press conference that the Fed's eye is on the domestic economy as well as on foreign markets.

Total bank lending "has been excessive," Volcker declared. The Fed's intention is to slow expansion without shutting it off and causing a so-called credit crunch. "What we want to get at is the froth," he said.

Only two weeks ago the seven governors on the board split 4 to 3 when it decided to raise the discount rate from 10.5 percent to 11 percent, an all-time high. Yesterday's action on the discount rate was unanimous.

"What's changed since then is quite clear," Volcker said. "The business data has been good, better than expected. The inflation data has been bad, more so than expected." And financial markets have become generally unsettled, he added.

Last week the government reported the unemployment rate fell in September to 5.8 percent from August's 6.0 percent. Moreover, employment growth resumed as shown by the usually reliable survey of business establishments.

At the same time, however, a 1.4 percent jump in prices charged by producers of finished goods was reported. That was the largest one-month increase in nearly five years, and it brought into question Carter administration predictions that consumer prices would be rising at less than double-digit rates by the end of the year.

The Federal Open Market Committee, which oversees monetary policy and includes the presidents of five regional Federal Reserve banks as well as the seven governors, unanimously approved the Fed's switch from using the federal funds rate to control the level of bank reserves.

Federal Reserve officials have acknowleged for many that pegging the interest rate did not usually work the way it was supposed to in regulating growth of the money supply.

The federal funds rate is the rate one bank charges another for the loan of reserves, usually on an over-night basis. Policymakers have regarded it as an indicator of whether there were enough reserves available to banks to allow them to expand the amount of their loans to the public.

When the level of lending increases, the process adds to the amount of money in the system, thereby expanding the money supply.

But all these links are hardly tight, and the Fed often has not been able to control the money supply nearly as well as it wishes. The group of economists known as monetarists, who generally believe that the pace of economic activity depends largely on the amount of money in the system, have complained for years that the Fed should stop trying to keep interest rates stable and should instead zero in on keeping the money supply growing at a constant rate.

That is what the Fed will now try to do.

Bankers may have some trouble until they get used to the different way the Fed will be operating when it intervenes in financial markets. Part of that difficulty may be large daily variations in the federal funds rate, Volcker acknowledged.

The chairman emphasized that the Fed was not changing its targets for growth in the money supply, which is a 3 percent to 6 percent rate in M–1—the total of currency in circulation and checking account deposits at commercial banks—between the fourth quarter of 1978 and the fourth quarter of this year.

But recently the money supply was growing so rapidly that its "trajectory was too high," Volcker said. "These actions will bring the money supply under surer control."

With many economists forecasting a renewed slump after last summer's rebound, the Fed's actions are sure to be criticized by some as being too much too late. Except for the decline in the value of the dollar, the Fed's changes probably would have been much smaller, analysts said.

EXHIBIT 3

SENATE CONCURRENT RESOLUTION 44

Whereas, the current national money market rates for the lending and borrowing of money for the best secured loans (prime rates) are now not less than 11½% and are expected to increase further; and

Whereas, the diverse factors affecting money market rates are not within the control of this State; and

Whereas, said rates are seriously and adversely affecting the economy of the State of Arkansas in that there has been and will continue to be an outflow from the State of capital funds which would otherwise be available for loans desired and required by Arkansas residents for business, trade, and agriculture, thus having an adverse impact on trade, commerce, and consumer loans; and

Whereas, said rates have also brought about a cessation of the flow of money from other states into the State of Arkansas, thereby further decreasing the supply of loan and investments funds to the detriment of the citizens of this State; and

Whereas, in response to substantially similar high money market conditions existing in 1974, the Congress of the United States adopted Public Law 93–501 (October 29, 1974), amending the National Bank Act, the Federal Deposit Insurance Act, and the National Housing Act to permit national banks and federal savings and loan associations, and, unless preempted by State legislative action, federally insured State banks and savings and loan associations to charge interest on business and agricultural loans in the amount of $25,000 or more at a rate of not more than five percent (5%) in excess of the discount rate on ninety (90)-day commercial paper in effect at the Federal Reserve District where the institution is located; and

Whereas, the provisions of said Act were not preempted by this General Assembly, which had the right so to do by the terms of said Act, and became effective in the State of Arkansas; and

Whereas, said Act was upheld as applied to State lending institutions by the Honorable Oren Harris, United States District Judge for the Western District of Arkansas, and affirmed by the Eighth Circuit Court of Appeals in Stephens Security Bank v. Eppivic Corp., 411 F. Supp. 61 (1976), aff'd 553 F. 2d 102 (CA 8, 1977); and

Whereas, the experience under said Act, which expired by its terms on July 1, 1977, was beneficial to the people of the State of Arkansas and its economy; and

Whereas, the Borrowers' Relief Act has been introduced in the Congress of the United States which would reenact for a limited period the provisions of Public Law 93-501 and eliminate current discrimination against State-chartered lending institutions in respect to higher rates permitted to national banks;

Now Therefore, be it resolved by the Senate of the Seventy-Second General Assembly of the State of Arkansas, the House of Representatives concurring therein:

That it endorses and recommends the reenactment of the provisions of Public Law 93-501.

The Secretary of State of Arkansas shall cause copies hereof to be mailed to Senator William Proxmire, Chairman of the Senate Banking Committee; Congressman Henry Reuss of the House Banking Committee and to members of the House and Senate Banking Committees and members of the Arkansas Congressional Delegation.

Mr. PRYOR. Mr. President, I take this time to speak in support of H.R. 2515 and to provide my colleagues with a brief explanation of what it does and why it is needed.

My State of Arkansas has a peculiar problem. When our State constitution was drafted in 1874, the drafters limited the rate of interest that may be charged on any loan to 10 percent. The constitutionally prescribed penalty for exceeding the 10-percent limit is forfeiture of interest and principal. As a result, money is moving out of State in search of higher interest rates leaving Arkansas capital-dry.

The State is now taking steps to address the situation. A constitutional convention is preparing a number of recommended changes to the old constitution, including a new usury provision, but the voters will not have a chance to act on these recommendations until November, 1980.

In the meantime, however, national interest rates are going higher and higher and there is no relief on the horizon.

In this critical context, the Arkansas congressional delegation has sought temporary relief from its stifling usury provision through H.R. 2515. This bill is basically the same as the "Brock bill," which was passed by the Congress in 1973.

H.R. 2515 was considered at great length by the House Banking Committee and reported out unanimously with the support of all three Federal bank regulatory agencies and the Small Business Administration. It passed the House by voice vote on September 24.

In view of the urgency of Arkansas' economic situation, the Senate Banking Committee agreed to bypass the lengthy hearing process and send H.R. 2515 quickly to the floor for action today.

The bill would allow federally chartered or insured financial institutions to make business or agricultural loans of $25,000 or more notwithstanding any constitutional provision voiding all contracts at an interest rate over 10 percent. These loans would be limited to an interest rate of not more than 5 percent above the Federal discount rate.

The temporary interest ceiling preemption in the bill applies only to States with constitutionally imposed interest rate ceilings, such as Arkansas.

To guard the State's prerogative in this matter, the bill contains a provision which allows the State legislature to nullify this Federal action if it wishes to do so. Without such a protection of States' rights, I could not support this legislation.

Moreover, the terms of the bill would expire immediately if the Arkansas voters chose to retain the 10-percent ceiling. In any case, the law would die on July 1, 1981, should the new State constitution be adopted and go into effect.

It should also be noted that both the Arkansas State Legislature and the Governor have actively supported this legislation.

In short, the provisions of this bill are temporary, optional, and limited but nonetheless necessary to carry Arkansas over to its State referendum a year from now.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO TEMPORARILY SET ASIDE CONSIDERATION OF H.R. 4930

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order, providing for proceeding to the Interior appropriations bill for the time being until the conference report is disposed of, be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

CONTINUING APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on House Joint Resolution 412 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 12, 1979.)

Mr. MAGNUSON. Mr. President, it is with some reluctance that I rise to indicate my own support for the conference report, but I do support it.

It does not contain agreements that I personally would want to see in any continuing resolution.

But that is the essence of any conference committee on any measure.

Every conference involves compromise, often on vital issues and important questions of public policy.

This particular conference was faced with extremely difficult issues.

The House was adamant in favor of its position, and the Senate was just as adamant for its position on two items which unfortunately did not even belong in a continuing resolution on appropriations at all.

We have worked for over 3 weeks to try to resolve those differences.

Today we face the impending breakdown of Government over the weekend unless we reach some common ground.

Today, the paychecks for almost 2 million Government employees are already in jeopardy.

More importantly, the entitlements of millions of young children and adults are in jeopardy: 27 million school lunch recipients; 4 million individuals covered by the blind, aged, and disabled programs; and over 500,000 black lung beneficiaries.

These are just 3 of those entitlement programs where our fellow citizens are now in jeopardy.

By tomorrow morning, well over 2.7 million Government employees—including 1.6 million uniformed members of the Armed Forces—will face half-pay or even no-pay next week.

This is intolerable and your conferees, both the Senate and House, could not allow that to happen.

I recommend adoption of the conference report.

The alternative is unacceptable disruption of the basic services and operations of Government.

I am sure most Members of the Senate do not want that to happen; even though they may be reluctant to vote for one or two items in the conference report, if the issues were separated from this problem, they might vote otherwise.

I urge that we adopt the conference report in view of the emergency now facing the country.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I join Chairman MAGNUSON in recommending the agreement with the action of the House on the conference report.

I do this very reluctantly because I have never yet voted for a pay raise. This will involve a 5.5-percent pay raise over what we got previous to last Sunday night.

The Members of Congress have a 12.9-percent increase in effect now. But actually what Senators are doing is voting to reduce that 12.9 to 5.5 percent. The 12.9 will be permanent unless Congress acts to change it.

I believe we have worked out an acceptable compromise that can assure passage of this resolution and continued functioning of the Federal Government. It is the best possible compromise we can get, as I see it.

There are two basic elements to this compromise:

First, the conferees have agreed to the House language on Federal pay. This provides for limiting the cost-of-living increase to 5.5 percent, rather than the 12.9-percent automatic increase now in effect.

Second, the House has adopted the language on abortion proposed by our conference chairman, Senator MAGNUSON. This provides for a more restrictive approach by dropping Senate language relating to the physical condition of the woman.

The compromise provides the basis for settling a matter that has tied up the Federal Government for weeks.

Thousands of Federal employees will not get some or all of their next week's pay. The Washington Star today carries the story that states unless Congress takes action today some 1.6 million personnel in the Defense Department will not be paid next week. In addition, the benefits of millions of Americans and payments to legitimate contractors are threatened by the impasse that has developed.

We must not let this deadlock continue any longer. For the good of the Nation we must end it—and we can do so by agreeing to the conference report.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I move to adoption of the conference report.

Mr. WEICKER. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I rise to support the conference report on House Joint Resolution 412, making continuing appropriations for fiscal year 1980 until November 20.

As Members of the Senate are well aware, this conference report on the continuing resolution and the joint resolution itself have had a very difficult history. Members of the House and the Senate have disagreed over several important elements in the conference report. The Senate repeatedly has taken the position that there should be no congressional pay increase. The conferees have worked hard and they have worked long, and time and time again they have found themselves at an impasse with the two bodies. On more than one occasion a conference report has been sent to the House and the Senate with items in disagreement, and with no mutual ground that could be found as a common ground between the two Houses.

Not everyone will be pleased with the elements of this package. I continue to feel that the Senate's position in opposition to a congressional pay raise is the right position. But in any event, that pay raise is now in effect at 12.9 percent, and what the conference report would do would be to put a cap on that pay increase and make it 5.5 percent.

But aside from that issue, may I say that the Senate, I think, has acted responsibly, and we need not go back over the events of the last 2 weeks in this regard. The Senate's position has been made a matter of record, and that record will stand.

We now have an agreement again. The passage of time has created severe problems in Government and severe problems for many of our people; and, with the passage of each additional day, those problems are going to be compounded. Well over 58 million beneficiaries of programs, various and sundry, will be severely affected if this continuing resolution is not adopted this afternoon. Already, workers who count on the Federal Government for their pay or benefit checks have suffered from our inaction—1.3 million retired military personnel, 18.5 food stamp recipients, 1.5 million women, infants, and children, and millions more.

Let us take the black lung program alone, which is an important program for those of us who represent coal-producing States, and more important than that the beneficiaries themselves. Over 500,000 beneficiaries are involved.

Let us take a look at the Veterans' Administration. Over 5.5 million beneficiaries are involved.

If this matter is not settled this weekend, there can be no military procurement; 27 million school lunch recipients in the public schools of this country will not receive benefits.

There are the Federal Old Age and Survivors Trust Fund beneficiaries, the Federal Insurance Disability Insurance Trust Fund beneficiaries, railroad retirement account beneficaries, military retired pay, unemployment assistance—I have already mentioned veterans benefits, compensation, and insurance—medicaid and medicare, housing payments, child nutrition programs, food stamp program.

These are some of the programs and they represent some of the millions of people who will be adversely affected following this week-end if the Congress does not act.

Mr. President, there are many of us who continue to feel, as we have stated before, with respect to certain elements of this package. We took our stand. The conferees have done the best they could do. We are now at the point where a lot of people are going to begin suffering if the House and the Senate continue to find it impossible to reach an agreement. So I urge my colleagues to accept the exigencies of the situation and vote to support the conferees of the Senate, vote to support the managers, Mr. MAGNUSON and Mr. YOUNG, and vote to support the conference report. I will do that in some ways reluctantly, but there comes a time when I think we have to realize that millions, our constituents, look to us to rise above our own differences and think of the welfare of the country and the continued operation of the Government agencies.

The House is fast approaching a no-quorum situation. Tomorrow is Saturday. If this matter is not settled today, I would be reluctant not to come in tomorrow, if anything could be done to resolve the problem tomorrow.

That being the case, I intend to vote for the conference report. I would hope that my colleagues would do likewise.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, as late as this morning, I had indicated to my staff and to constituents, and, indeed, to Members on this side of the aisle, that I intended to vote against a pay increase, but I have changed my mind. I am persuaded that there is no other reasonable, practical, and responsible way for us to act except to do the only thing that is available to us, and that is to adopt this conference report at this time on this Friday under these circumstances. If we fail to do so, not only the list of horrors outlined by the distinguished majority leader, but goodness knows how many other dislocations and small and large human miseries are going to result.

I do not want a pay increase. I do not favor this pay increase. I am opposed to this pay increase. But I am opposed to seeing the Government grind to a halt. We have no other practical alternative. So it is a sad task for me to do what I am doing now, to take the floor to say that responsibility dictates what we have not favored doing, that we agree to a conference report that I dare say an overwhelming majority of this body oppose. The alternative, I think, is not conscionable.

I propose, Mr. President, that all of us on this side of the aisle give careful consideration to that. For my part I will support the conference report, and I join with the distinguished majority leader in urging the Members of the Senate to do likewise.

Mr. MAGNUSON. If the distinguished minority leader will yield, I want to thank both the majority leader and the minority leader for their statements. I am personally against a pay increase also, but the truth of the matter is that under the law Members of Congress are getting 12.9 percent now. So this is in the nature of a cap, a limitation.

I have been on hundreds of conferences. You have to give and have to take. When I think of the many items on which we have had agreements that are really included in this conference report, and it is only one on which we did not have an agreement, I think we must go ahead and adopt the conference report at this time.

Mr. YOUNG. Will the Senator yield for one statement?

Mr. MAGNUSON. I yield.

Mr. YOUNG. I want to say that the chairman was the last one to give in and agree to this 5.5-percent cap. He was the last one to agree.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to oppose the adoption of the conference report. I respect the comments made by the distinguished majority leader and the minority leader, but the very point that they make, that there is no alternative, is the very reason why this body should reject the report. That there is no alternative is to the shame of the House of Representatives.

When the distinguished majority leader read off the list of persons and/or programs that would be affected, let us understand very simply what he was saying. It was that those programs were held hostage. Those programs and those people were held hostage in order that the House of Representatives might vote itself a pay raise.

That is one way to do business. I do not think we are going to last very long either as a Senate, a Government, or a Nation if we govern under those kinds of conditions.

The agreement which the Senate is being asked to pass upon here this evening is almost identical to that which has been rejected in committee by the Senate Appropriations Committee by a count of 23 to 0 and by votes of 55 to 9 and 77 to 9 in this body. The only thing that has changed is not the substance of the content of the conference report, but the fact that, due to the actions of those in the other Chamber, misery is going to be inflicted on those outside these Chambers if we do not knuckle under to those who grasp for their pay raise.

I do not know about most Members here, but I react very negatively when somebody puts a gun to my head. That is exactly what is going on here.

I understand the positions of leadership, and let me make this very clear. These are very, very close issues on matters which, at the highest levels, might have to be worked out. But I think it is up to us to have to stand up and speak out as to the manner in which business is going to be conducted.

Mr. PERCY. Will the Senator yield?

(Mr. BAUCUS assumed the chair.)

Mr. WEICKER. I will in a moment.

Let me say that nothing has changed in terms of the content of the conference report, except that a provision has been omitted in the abortion language. Nothing else has changed. The only thing that has changed is that those across the hall, who have come back from their vacation and who now want their weekends away from D.C., want to push the Government of the United States right up to the edge of the cliff.

I think the time has again come to say no.

On the subject of the 12.9 percent pay increase now being in effect may I point out to all Members that it can be remedied, and it will be either by amendment, should the conference report pass, or if we reject the conference report, it can be dealt with in another manner. In other words, we are not automatically accepting 12.9 at all.

We are saying no to the pay raise. We made the pay raise the issue here in the U.S. Senate. We said no. We made it a very public issue. Admittedly, this will not stop inflation to a very great degree. But the example of self-sacrifice? That is what is important.

In a setting where no self-sacrifice has either been asked for or has been engaged in, I think the time has come for Congress to lead.

I yield for a question.

Mr. PERCY. The Senator from Illinois is strongly on record in favor of what has been done. He cannot conceive that the Senator from Washington has not earned his annual salary, not only each legislative day, but each half legislative day. I should like to ask one question.

The Senator from Illinois 2 weeks ago sent back to 125 stations in Illinois a tape saying that I am in favor of a pay increase so long as it is within the guidelines. So far as I can tell, there has been very little criticism of it. Few have argued that Members of the Senate and the House should not have pay increases along with everybody else.

Has anyone in the distinguished Senator's State of Connecticut ever implied that the distinguished Senator is not worth the salary he is being paid and should not receive pay increases so long as they are within the guidelines, like everyone else? The Senator from Illinois, like other Senators, does not live on his salary or depend on it. I think that, for those who do, it is demeaning to have to fight this battle of inflation all alone.

We are wasting more time talking about this pay raise than it is really worth. We could be using our time constructively on other issues. It is not a symbol, really. When we suggest that a Federal judge is worth more than a U.S. Senator or, as some suggest, a Congressman is worth more than a Senator, it is demeaning. We should not demean these positions.

Mr. WEICKER. I say to the distinguished Senator from Illinois that I respect his views, but the fact is he was on the short side, by a count of 57 to 9, on this particular issue. That is not what we are debating right now. That has been well resolved by this Chamber. What is at issue here is, having said no—no—we are now being asked, under very perilous circumstances for the people of this country, to backtrack, because one body has voted themselves an increase. They voted over there an increase for themselves—and they have been very consistent on that subject. The Senator from Illinois has also been very consistent. He voted for an increase. Over there, he would have won; here, he lost.

What is at issue, I think, and this is why all of us in this Chamber felt as strongly as we did when we voted on this previously, is the setting of the example of self-sacrifice. It has nothing to do with inflation or the dollars that are involved. It is self-scarifice. Indeed, at a time when nobody at all wants to make sacrifices, in the sense of energy and economically, the Senate of the United States was going to rise to the particular occasion—in this case, the economic debacle of this Nation—and say, "OK, for the time being now, we are going to go ahead and do our job; we are not out there to pick up the bucks."

The problem is that we were so strong in that position, and I think we were believed throughout the Nation. Now, in its usual way, it is going to come to pass that this posture is going to abandoned, that indeed, this was done as a matter of tradeoffs.

Do you realize how preposterous, outside of this Chamber, it is to be talking about tradeoffs between pay raises and abortion? That might sound normal here, but it just sounds plain nuts on the street. That is what has been going on—tradeoffs.

The problem is, gentlemen, we had no tradeoff. Senator HARRY F. BYRD, JR., got no tradeoff. His position was dropped. It is not a $750 million cut in travel funds but rather a $500 million cut. In the abortion language, it is the House language a couple of words changed. And the pay increase—everything just as the House of Representatives wanted.

Now it is not that we are asked to support the House position by virtue of logic, but by virtue of their act of holding the American people hostage. Their's is going to be a successful act. That is it, pure and simple.

I have a feeling that there are enough brains, enough ability, enough ingenuity here on the floor, and that there are enough days in this weekend to figure a way around this. So I ask my colleagues to reject the conference report, to take a position based on principle.

I do not think I have ever been so proud of this Chamber as I was for what it did over the past couple of weeks. It would have been very easy to go home, to drop this whole matter and say we were forced to it, but we stuck to our guns. I do not think the time to bend is now. Maybe we can not only set an example within these Halls—which I think is very important. We have started to stand up for principle, which is very important for the American people as a whole.

Mr. RANDOLPH. Mr. President, I believe that the able majority leader (Mr. ROBERT C. BYRD) and the able minority leader (Mr. BAKER) have taken a very responsible position in the comments that they have made here this afternoon. I do not want to be misunderstood. The able Senator from Connecticut, of course, speaks about some situations which, in a sense, are realistic. But the

American people out there—he has pointed to them—do not differentiate between the action of the Senate and the action of the House in matters of this kind. They place the blame at the doorstep of the Congress of the United States. We may have gradations of difference, but the people out there look at the Congress as a whole.

Again, I do not want to be misunderstood. I want to be very earnest, yet very considered in what I am now saying. If the pay raise comes through as an agreement on this conference report, I point out, and this is not pointing at any Senator, that a Senator does not have to receive that pay raise. Remember that. He does, under the law, have to receive it in the check from the U.S. Treasury, but if he or she desires to return that increase, that is done by check, month by month, or on a yearly basis if a Senator in this body desires to do so.

So you have the opportunity of a matter of consideration or conscience, whatever you want to call it; you have a preference of either receiving it and holding it, or receiving it and then returning that portion which is the increase we are considering in this conference report.

You say this has never happened, but it has happened many, many times, when Members have dedicated their increases, I say to Members of this body, in some instances, to colleges or charitable purposes. This is a matter that is well known. And there are Members of the Senate who have returned a portion of their salary, ofttimes the increase which has been voted in this body.

I think that, under those circumstances, I say to the able Senator from Connecticut, there is still the option with the Senator in his feeling about this matter of holding the increase. After all, even the salary, not thinking in terms of the other amounts of money that may accrue to a Senator, the Senator is paying, let us say, 50 percent of this amount in taxes to the Federal Government. He is not keeping the total amount. He is keeping only about 50 percent of it, or maybe 40 or 45 percent. So the matter of dollars really, although important individually, is not tremendously a substantial sum.

Mr. WEICKER. Since the Senator has addressed himself to me personally on this matter, will he yield?

Mr. RANDOLPH. I have counseled with my friend.

Mr. WEICKER. Will the distinguished Senator yield on this point?

Mr. RANDOLPH. Yes.

Mr. WEICKER. I do not dispute that every Member of this body deserves a pay increase. There is no dispute whatsoever. Everyone agrees. The issue on which we came down and came down hard was on the principle that during these economically troubled times, we as a body were going to set an example for the American people. And we did it in grand style. That is the issue, not what each individual does or does not do.

You deserve the pay increase. The body deserves it. I have nothing but the greatest respect for my colleagues and how they have conducted themselves over these months and years. They are way behind as to what pay they are entitled to get.

But as a matter of statesmanship, as a matter of the responsibility that attaches to being the most powerful group of men in the world, we had decided the time had come to set an example. Not any one of us can undo that. Only the body as a whole, by what we are about ready to confront, can so act.

Mr. RANDOLPH. Mr. President, just a moment and then I will, of course, want the chairman to take the floor.

But I do want to say, and I hesitate to do this, but I am the only Member of this body who voted to decrease his salary. That was in the Congress in 1933. We actually decreased our salaries in that 73d Congress.

We did that because it was a matter of the congressional feeling in that time of deep depression that the House and Senate should so act.

Mr. WEICKER. The Senator makes my point eloquently.

Mr. RANDOLPH. I did not mean to make the Senator's point. I meant only to say that there are times when we should pull back. There are times when we may move forward.

But I must think of the other considerations that the able and responsible majority leader mentioned. He talked about the 500,000 beneficiaries of black lung.

Of course, that is of interest to a State like West Virginia, or Pennsylvania, or Kentucky, or Illinois, or many other States. But remember, there is probably not a single State in this Union where there are not black lung beneficiaries. There are some in the State of Connecticut.

They did their work in a coal mining State, but they now live in Florida, or they live in Texas, or California.

So this is in no way a narrow matter that the majority leader speaks of. Coal has been mined in many States. These beneficiaries have brought from the good earth beneath it that energy which has helped to strengthen this country, to benefit the mobility of people everywhere. We do not forget them.

In 1969, Congress gave the benefit of the black lung legislation to the needy people of this country, the miners, their widows, many times their orphaned children.

Mr. President, I had not thought to speak at this length. But there comes a time when I feel that we should act in the way of our two leaders (Mr. ROBERT C. BYRD and Mr. BAKER), not in a partisan way, and the way the chairman of this committee and the ranking minority member of the committee have acted and pleaded with us. It will be a matter of individual conscience and, of course, individual preference.

I say that there is no retreating when we vote like this today. Absolutely not.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have a statement by Senator HOLLINGS which I ask unanimous consent to insert in the RECORD at this point. His statement is in opposition to the conference report because of the pay raise provisions involved.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HOLLINGS

I am opposed to the Conference Report on the Continuing Resolution, and the reason I will not sign it is because of the pay raise provisions contained therein.

I have repeatedly voted against the pay raise both in Committee and on the floor. My position has been made clear in the deliberations of both the Committee and the Conference, and because of the inclusion of this raise in the Conference Report, I am withholding my signature.

SEVERAL SENATORS. Vote! Vote!

Mr. MAGNUSON. Mr. President, is the adoption of the conference report pending?

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HART (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Kansas (Mrs. KASSEBAUM) would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 26, nays 62, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—26

Baker
Bellmon
Bentsen
Boschwitz
Byrd, Robert C.
Chafee
Gravel
Hatfield
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Lugar
Magnuson
Matsunaga
McGovern
Melcher
Moynihan
Percy
Randolph
Schweiker
Stafford
Williams
Young

NAYS—62

Armstrong
Baucus
Bayh
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Laxalt
Leahy
Levin
Long
Mathias
McClure
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stennis
Stevens
Stewart

Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

ANSWERED "PRESENT"—1

Hart

NOT VOTING—11

Cannon
DeConcini
Durenberger
Goldwater
Hollings
Kassebaum
Morgan
Ribicoff
Sasser
Stevenson
Talmadge

So the conference report was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was rejected, and I wish to ask the Senate to just give me about 5 minutes.

The Senate has expressed its point of view about the pay raise. I feel an obligation to put it in perspective if I can to try to see if we can save the situation.

I do not know how many Members know that the Coast Guard today——

Mr. WEICKER. Mr. President, regular order. The Senator asked unanimous consent.

The PRESIDING OFFICER. The regular order is that the motion is debatable.

Mr. WEICKER. I understand. There is a motion before the Senate at this time.

The PRESIDING OFFICER. The Senator moved to reconsider the vote.

Mr. WEICKER. Did anyone go ahead and move to lay that motion on the table?

Mr. ROBERT C. BYRD. No. He has the floor.

Mr. STEVENS. I have the floor.

The PRESIDING OFFICER. The Senator from Alaska has the floor and moved to reconsider the vote.

Mr. STEVENS. Mr. President, the Coast Guard today is lending money to its employees from its contingency fund because they cannot be paid.

As of today 22,000 people in the Department of Labor, 600,000 civilian employees in the Department of Defense and 22,000 in NASA will receive only half pay.

If this is not reversed, 1.6 million people in the Department of Defense will not get their paychecks on Monday.

There are 2,000 recipients of black lung benefits who will not get their payments.

I could go on in terms of the whole problem that is involved, but let me put it in another perspective: We now have a pay——

Mr. RANDOLPH. Mr. President, we are not in order.

The PRESIDING OFFICER. The Senator is correct. Will the Senator from Alaska suspend until the Senate is in order?

Members who wish to converse, please retire from the Chamber.

Mr. STEVENS. We have a pay adjustment now of 12.9 percent. Because of the failure to put on a pay cap, we have judges getting 12.9 percent for the rest of their lives. There is nothing we can do about that. Incidentally, the cost of that to the taxpayers, of our failure to limit judicial salaries to 5.5 percent, is $3.6 million a year.

Now in the executive branch, we have a payroll increased by 12.9 percent or $103 million annually; at the 5.5 pay cap which we are trying to put on now that would be reduced to $58 million annually.

The cost of failing to cap pay is accruing at the rate of $123,270 a day. In the 12 days that the 12.9 percent has been effective, the cost to the taxpayers has been $1,479,240.

In 2 more days, the cost will be more than a whole year's pay with a 5.5-percent cost-of-living adjustment for the Members of Congress. It will cost the taxpayers $1,714,900 to pay Congress 5.5 percent in terms of this cost-of-living allowance.

The problem is that if we fail to put the pay cap on, the Senate is going to have a whole new group of conferees. We have served notice, those of us who have tried four times now, that if this is rejected we are not going back to conference.

I have tried, and I think I have lost friendships in the House of Representatives because we have tried to work this out. As I say, the Senate has expressed its feeling about the pay raise.

Now, I ask the Senate to think about the Government and about the responsibility to the Government to see to it that these people are paid. It will take these new conferees at least 4 days to get where we did in 16 meetings.

How are we going to have a responsible Government when we are hung up on two issues? We are hung up on the pay raise and we will get to the abortion question later. We do not even get to that unless this conference report is approved.

I urge Senators to consider the responsibility that we have now sitting here on Friday afternoon at 5 o'clock to the people who are not going to get paid. What about the Coast Guardsman out there in the boat who is enforcing the 200-mile limit off my State? His family is sitting in Kodiak or Cordova or Sitka or Anchorage, maybe Juneau. He will have to come into sign the papers to borrow money so they can make the payments that are due.

What about the 1.6 million who are not going to get their checks at all or those who get half pay and the military contracts which ceased as of October 1.

I checked with the General Counsel of the Department of Defense. The contractors are not too worried; they have a claim against the Government. But the Senator from North Dakota will tell Senators that he received a call from a bank today saying, "Shall I loan this contractor the money to pay his employees, or are you guys going to put up the money finally?"

The contractors are not worried. It is the individual people who rely on their checks biweekly or monthly who are being harmed by this continued problem between the House of Representatives and the Senate.

The House of Representatives has voted time and time again on this pay raise and they are in the enviable position that until we agree to put the pay cap at 5.5 percent they are accruing 12.9 percent.

Until we put the pay cap at 5.5 percent, there are 22,000 people in the executive service downtown who are accruing their pay at 12.9 percent.

I find it hard to believe that we want to have a situation where because of our inability to agree on a 5.5-percent pay cap these people are accruing a claim against the Government no matter what we do. The courts have held they are due 12.9 percent. That became effective as of October 1 under the Pay Act.

As I have said, the Senate has expressed its point of view about being unwilling to have a pay increase and apparently if the conference report is approved there are going to be some amendments proposed concerning the pay increase. We have to face those as they come. But as far as the pay of the people in the executive branch and our own employees, as a matter of fact, why can we not agree on the 5.5 percent.

Let me tell you what that is. That is 5.5 percent of the pay they received in 1976. The recommendation was made in 1978 based upon a 1977 survey of increase over 1976 salaries, and we did not give it to them last year. We did not give it to ourselves, so we did not give it to any of the people downtown either.

This year there is a 7-percent pay raise because we postponed the effectiveness of what the President did. The 12.9 percent went into effect for those who did not get the 5.5 percent last year. They pick up the 5.5 plus the 7 percent and cumulatively that amounts to 12.9.

I can understand why some people do not like pay raises, and no one likes to vote for his own pay raise. Perhaps we ought to change this system.

I argued the last time we had this impasse for a change. But while it is in place, by failing to accept a 5.5-percent pay raise for yourself and for the Members of Congress, we are in a situation now where, although these people are the beneficiaries of the 12.9-percent pay raise, they do not get any pay.

I just do not undertsand this. Some people say the Senate is made up of millionaires. Now, I do not know if that is so. Maybe it is. I am not one. But those of you, I would like for you to consider it. What about the guy who has no money in the bank, who faces 10 percent inflation, who is a Government employee, and we are going to give him 5.5 percent as a pay increase when we finally get around to it? He is getting 12.9 now and, as I say, if he can get his paycheck he would be better off if we do not act, but we decided to give him 5.5 percent and, basically, that is a fair thing to do, and I hope everybody agrees with that, with regard to the executive branch at least because the judges already have it.

Somehow or other, Mr. President, I think we have to look at this situation. Incidentally, I indicated to the Senate that I would not take too much time, and I was told, perhaps, I could continue for a little bit and maybe some people who are having a meeting might come back with a suggestion that would be acceptable to the Senate, so I will continue talking for just a few more minutes.

I was told by the General Counsel of the Department of Defense that operation and maintenance funds are the most crucial for the Defense Department. Base support is contracted on a yearly basis, so all services on military bases have ceased. I hope you will hear that. All services on military bases have ceased. There is no money to pay for them.

With regard to repair of aircraft, telecommunications, and radar they can proceed if there are spare parts available, but no more spare parts can be acquired for any portion of the military, and I think that ought to be considered in terms of this also.

The continuing resolution would take care of that until November 20 and, hopefully, by that time we would have the Department of Defense bill. But in the time we have debated this and been at loggerheads with the other body, we have found a situation where one branch of the Governmnt has received a 12.9-percent increase in salary, and we will never lower that.

I do not think there is any disagreement over the additional 7 percent. That will not be changed. We are arguing about 5.5 percent basically for 535 people who have the privilege to represent their constituents here and who are supposed to be the ones who guide this country in terms of its policy.

For the life of me, I cannot understand the unwillingness of the Members of the Senate to think about the people who are out there who are not going to get paid. Somehow or other, I would urge you—I do not know what my good friend from Connecticut intends to do with my motion to reconsider—but as a practical matter, let me say you have expressed yourselves that you do not want a pay raise. All right, everybody understands that.

Now tell me, do you want your constituents to get paid? Do you want the people to be able to pay the rent? Do you want them to be able to pay their loans? Again, do you want the Coast Guardsman to have to come back to Juneau, to pay for food for his wife and kids? I really find it atrocious that I have to go into this, but I feel very seriously about it.

Since I have been in the Senate I have been on the Post Office and Civil Service Committee, and I am still serving in terms of the Governmental Affairs Subcommittee that took over the functions of that committee.

My good friends on the majority side who serve in the same capacity have the same information coming to them. It is appalling, the horror stories that have come to me today. What is going to happen if you do not act today? If you think you are going to get further action today from the House, in my opinion, you are wrong. I do not think you can get action today with a new group of conferees, and there is no way no matter what you do here this afternoon—no matter what you do, it is going to go back to conference. That is for sure because we will have no agreement. Even if they come up with an alternative, there is no agreement on the language, and it is going to go back into conference. It will be Monday or Tuesday at the latest before we act, and by that time all of the things I have discussed are going to have happened.

Mr. President, without yielding the floor I would like to ask my distinguished leader and the majority leader what their desires are concerning my motion to reconsider. I would really urge every Member to examine his heart and find out if he wants to be the one responsible for the things that I say are going to happen. I know they are going to happen, and I am asking that we reconsider the vote.

If you do not want your pay raise now vote on whether or not you want your constituents to get paid. That is the way I view the next vote, if we get to that point. First, we have to have the reconsideration.

I suggest the absence of a quorum, if I may, without losing the floor.

The **PRESIDING OFFICER**. Is there objection?

Mr. **WEICKER**. I object.

The **PRESIDING OFFICER**. Objection is heard.

Mr. **STEVENS**. I do not yield the floor.

Mr. **WEICKER**. I would like to ask my distinguished colleague from Alaska whether or not he will permit others to speak. I have no intention to make any motions.

Mr. **STEVENS**. I will be happy to yield if the Senator will not make a motion to table. If he makes a motion to table I will not have any debate, and on the basis that there will be no motion to table I ask unanimous consent that if I yield the floor there will be no motion to table my motion to reconsider until I have been heard again.

The **PRESIDING OFFICER**. Is there objection?

Mr. **LONG**. I object, Mr. President.

The **PRESIDING OFFICER**. Objection is heard.

Mr. **STEVENS**. That is my good friend from Louisiana. May I yield to him?

Mr. **ROBERT C. BYRD**. Yield first to the Senator from Connecticut who has been asking for some time.

Mr. **STEVENS**. May I yield to the Senator from Connecticut without losing my right to the floor.

Mr. **WEICKER**. I do not know exactly how to put this in the sense of a question.

I only want to comment, in response to the distinguished Senator from Alaska: No. 1 to my colleagues, a 12.9-percent increase will not per se take hold for Members of Congress. That is a matter we can address ourselves to either in the form of an amendment should the conference report pass or in the sense of the conference or in the sense of amending anything else that comes to the floor of this body.

Now again there is no point during the course of anyone's eloquence in bringing the responsibility for the state of affairs over to the Senate floor. It is not a situation created by the U.S. Senate. Very simply put it was the House of Representatives using the Coast Guard, using black lung recipients, using those who are the beneficiaries of the Federal payroll or Federal programs as hostage for their pay raise, and then bringing it to this particular point in time where, if we do not go along with that kind of blackmail, others will go ahead and suffer.

Do you want to know the votes by which you said "no" to a pay raise as a matter of principle, not as a matter of dollars and cents?

It is conceded that everybody deserves it, deserves a pay raise. You deserve it on the basis of ability, on the basis of the cost-of-living increase; we deserve it.

We voted the way we did, I believe, as a matter of principle to set an example. That has not changed. Indeed, it becomes all the more necessary now that you have a gun put to your head. The votes by the U.S. Senate on the matter of principle were 55 to 9 on September 28, 77 to 9 on October 1, 81 to 15 on October 9, 62 to 26 on October 12.

Now, do you want to be part of a deal? To use the example of tennis, you are going to enjoy the worst of all worlds. For those of you who enjoy tennis, you either go to the net or stay at the baseline, but do not get caught in the middle of the court. Nothing will be more embarrassing to this body as a matter of principle than if we say, "Well, we fought and then we gave in, so we got the pay raise," and at that juncture everybody tells you "They are all the same; they are all the same."

Mr. **STENNIS**. Mr. President, may we have order?

The **PRESIDING OFFICER**. The Senator is correct. The Senate is not in order. The Senator will suspend.

The Senator from Connecticut.

Mr. **WEICKER**. I do not believe the Government has ever been so creditable or so high in its principles as when we continue to vote down that pay raise—we, the U.S. Senate. It was not a dollars-and-cents matter. For the first time it was a matter of principle.

You do not have to worry about any 12.9 percent increase. There is not going to be any 12.9 for us or for the House of Representatives, because that is entirely capable of being handled legislatively. The issue is very simple: The House of Representatives has taken the American people to the brink. Is that a sufficient gun to your head that you are now going to go ahead and back off from a principle which you so clearly established on four other occasions on the Senate floor?

I yield to my distinguished colleague from Alaska.

Mr. **STEVENS**. Mr. President——

Mr. **MAGNUSON**. Mr. President, will the Senator from Alaska yield to me?

Mr. **STEVENS**. I am happy to yield to the chairman.

Mr. **MAGNUSON**. I had suggested in the conference——

The **PRESIDING OFFICER**. Will the Senator use his microphone?

Mr. **MAGNUSON**. I had suggested in the conference that we take this matter back to the Senate in disagreement, because we had not actually voted on it. The vote was a 55 to 9 vote on the whole conference report, and not on the pay raise, although the Appropriations Committee members did vote 23 to 0 against any increase. But I had suggested we take it back in disagreement, so that I could find out and the Senator from North Dakota could find out just how the Senate felt about it.

I kept telling the House conferees I did not think the Senate would approve a pay raise, and that they would not agree. But then it was decided that we take the conference report back and have a vote on that.

I just wanted to clear that up. It was with some reluctance that we decided to take the conference report, but in the interests of time, and deference to our colleagues in the House we felt we had better get a vote on the conference report, rather than a vote on the amendment in disagreement.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. STEVENS. Mr. President, I have the floor. I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator from Alaska for yielding. I would simply like the candid judgment of the chairman of the conference committee as to whether or not, in his judgment, if the Senate hangs tough, the House will yield on the 5.5 percent pay raise.

Mr. MAGNUSON. I cannot give any opinion on that at all. They have hung tough for 3 weeks. I do not see them changing their minds in the next 2 or 3 hours.

And something has to be done. This is not only the bureaucrats' salaries. This involves 57 million people—58.5 million people—and scores of programs vital to citizens in every State.

Mr. DURKIN. It is going up every hour.

Mr. MAGNUSON. Who will be affected by Monday?

Mr. JOHNSTON. If the Senator will yield further, it has been my judgment, based on what I have been told——

Mr. MAGNUSON. These are beneficiaries. These are not bureaucrats. I do not know what the House will do. I know the Senate is strong against this, and I am strong against it, too. I voted against the pay raise, and I held out until the very last.

Mr. JOHNSTON. If the Senator will yield for one more question, the reason for my last question, as one who voted on the Appropriations Committee and here on the floor numerous times to take a stand against the pay raise——

Mr. MAGNUSON. We have not voted on the floor. This is perhaps the first clear vote on the pay raise.

Mr. JOHNSTON. We voted the other night.

Mr. MAGNUSON. No; that was not just a vote against the pay raise.

Mr. JOHNSTON. Well, in any event, I have voted on the Appropriations Committee But I have been advised that it was felt in the conference committee, and I would like the judgment of the Senator from Alaska on this, that the House is not going to yield, and my question is, if they are not going to yield, do we inflict pain on a number of Federal employees for a number of days before we finally come around to approving the 5.5 percent, or do we do it now, which seems to be in the national interest? That is my question.

Mr. STEVENS. May I respond? As I understand what is going to happen, if my motion to reconsider is not agreed to, we will continue the funding for the pay at the level that existed on September 30, but it does nothing about the pay raise, which will continue at 12.9 percent for everyone until the matter is settled. My reading of the position of the House conferees is that they will not yield. Every one of them is up for reelection, and having voted for the 5.5-percent raise, has to go home to defend that vote. They are not going to rescind that and then go back home admitting they were wrong. This is a matter of practical politics. I do not think they will yield on the 5.5 percent.

We might get a continuing resolution to pay the employees of the Government by Monday or Tuesday, if we do adopt this conference report today.

Mr. WEICKER. Will the Senator yield for one question?

Mr. STEVENS. The Senator from North Dakota had asked me to yield. I yield to him.

Mr. YOUNG. Mr. President, I agree with the Senator from Alaska that the House is not going to change. They have all taken a position already by a yea-and-nay vote. They are all up for election, and they are just not going to change.

They point out to us all the millionaires we have in the Senate—about a third of us, according to them, and only about 7 percent on the House side. They figure they need it much worse than we do, and I think they do. They are younger and have bigger families.

Mr. WEICKER. Will the Senator yield for a question?

Mr. STEVENS. I yield to the Senator from Connecticut, then it is my intention to ask for a vote on the motion to reconsider.

Mr. WEICKER. Does the Senator from Alaska and the rest of my colleagues know what a gutsy bunch they are across the hall? They did not even have a rollcall vote on this issue. We have gone to the mark four different times, but they did not even have a rollcall vote on the issue. This is at least the second time for us. There has been no rollcall vote over there on this pay increase.

Mr. STEVENS. No, that is not correct.

Mr. MAGNUSON. We did not have a rollcall vote on the pay increase.

Mr. STEVENS. We did not have a rollcall vote on it until today. They have had three.

Mr. WEICKER. We have had four separate rollcall votes.

Mr. MAGNUSON. No, we voted on the conference report, and today's action was the first clear vote.

Mr. STEVENS. Mr. President, I yield, without losing my right to the floor, to the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I have received a good deal of mail and many phone calls on both sides of this issue, and as one of the elect millionaires in the Senate, and also one of those who said I would not vote for a pay raise during my first 2 years in the Senate, nevertheless, wanting the Government to continue, I voted "yea" on the last vote, and I will vote "yea" on the motion to reconsider, and simply give the increase of approximately $3,000 to colleges in Minnesota to establish scholarships. Perhaps those who do not want to accept the pay raise can give it back to the Government. But I think it is a shame we cannot vote to continue the functioning of our Government.

Mr. STEVENS. Mr. President, I yield, without losing my right to the floor, to the Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator for yielding without relinquishing his right to the floor.

I was not a member of the conference, but I did sit in with the conferees, because, having served in the House, I know some of the people who served as House conferees in that conference, and I wanted to get the flavor of their feeling as well as to follow what was happening in that conference.

I am also opposed to the pay increase, and have always voted that way, and find it very difficult to change that position.

However, when you have a conference in which there are unalterable forces on both sides, then something obviously, at some point, has to give. It is not simply a question of whether the Senate will give way. It is a question of whether or not the legislative process can go forward.

I regret the kind of rhetoric that is beginning to invade this discussion, both here in this body and in the other body, in which we are challenging the motives or the manhood of the people who serve here. I do not mean to exclude our colleague from Kansas when I use the term "manhood," because the lady from Kansas is very capable of holding her own in this body.

There are in the other body equally forceful views, but I regret that there are people using the kind of terms that lead to estranged relationships on a personal basis between this body and Members of the other body. I just want to caution my friends in this body that the atmosphere is becoming so charged that we are going to regret the actions we have taken in both bodies if we are not very careful.

I think those who have not sat in that conference, have not discussed it, have not seen the evolution of the feelings of people in both bodies, cannot begin to appreciate the course we are now taking and where that may lead.

Mr. President, I have suggested informally, and I would like to lay it before the body as a possible solution—some people will claim it is a copout—a possible suggestion that we adopt the conference report within this body tonight, and immediately follow that with a resolution that would require concurrence of the other body and signature by the President, rescinding the pay raise for Members of Congress. I know that may not happen in this body, and it may not be approved in the other body, but we would in that manner preserve our position and at the same time not paralyze the Government.

I do not believe this has come down to just simply an issue that we have got to prevail at all odds, without regard to the functions of Government. I think if anything it makes us look bad.

Our inability to resolve one issue with the other body makes us look far worse than anything else we might do here this evening.

I thank the Senator from Alaska.

(Mr. BAUCUS assumed the chair.)

Mr. STEVENS. I thank the Senator from Idaho.

Mr. President, I think the Senator from Idaho has a good suggestion.

The Senator from Massachusetts has requested that I yield to him.

Mr. TSONGAS. I thank the Senator for yielding. I voted no on the last vote. In all my time in the House, I always voted against pay raises. On the times I have lost, I have taken part of the pay raise and paid it into scholarships, very much like the Senator from Minnesota was discussing earlier. I must say I find it ironic, however, to hear people with seven-figure assets talking about a $3,000 pay raise being somewhat overly offensive. But that is perhaps a matter of some intellectual curiosity.

Having voted and expressed my feelings on the pay raise, if the pay raise goes through, that increase will go to the scholarship fund as the others have. I will now vote to reconsider. I think there is another responsibility, which is to keep this Government going. For that reason I will support the motion of the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Massachusetts. I want him to know I appreciate his gesture very much.

Mr. President, I am again trying to get this to the point where we can resolve it quickly. I know the majority leader also wants to do so. I will yield to the Senator from Tennessee, but first I will ask one question. Will the majority and minority leaders agree to see if we can voice vote the motion to reconsider and vote again on the conference report so we do not have to have two roll call votes? That will leave just one vote on the same subject, as far as I am concerned.

Mr. ROBERT C. BYRD. It will be fine with me.

Mr. BAKER. It is all right with me.

Mr. WEICKER. Reserving the right to object, I think something should be pointed out at this juncture, concerning all the alternatives before us, and concerning the suggestion made by the Senator from Idaho. We will have the opportunity to do in a formal way exactly what the Senator from Idaho was discussing, to this extent: Should the conference report pass, when the item in disagreement comes up, which is the abortion language, I will then move an amendment to that striking out a pay raise of any nature whatsoever for all Members of Congress. So Senators will have that opportunity, to single out that item.

I doubt that is going to help the situation. We will still be in disagreement on that item with the House of Representatives. So please understand that there is no easy way out of this. Should the conference report pass, we will be again back on the pay raise item as an amendment to the item in disagreement.

Mr. STEVENS. Mr. President——

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Alaska.

Mr. STEVENS. Let me make my last statement. I have attended each one of the conferences. When I went into the conference the Senator from Washington and the Senator from North Dakota made clear their position that there would not be a pay raise for the Congress. They have held that position because they felt it was the position of the Senate. That was the original position taken by the Appropriations Committee.

We have solidly run into the position of the House that there will be a pay raise. You can follow the suggestion of my good friend from Connecticut, if you want to, you can deny the motion to reconsider, or you can vote on the motion to reconsider and adopt the conference report, as I suggest. If you do not adopt the conference report, this will be back in conference over the weekend and you can expect, I think, to be called back repeatedly to try to see if you will approve whatever arrangement the next group of conferees can work out with the House. If they cannot work it out, we will appoint a new group. But I think I have read the House correctly; they are not going to change. We must get to the point reached by the Senator from Washington, who told me under no terms would there be a pay raise, who has recognized the situation that we have to put a pay cap on that salary, and the Senator from North Dakota who changed his position, responsibly, I feel, because they know the House is not going to change, the 12.9 percent continues to be an obligation of the Government until we act.

I agreed to yield to the Senator from Tennessee, Mr. President. If I may do that, I will also yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I think we are close to a way out of this dilemma. It seems to me that if we can proceed now to the consideration of the motion to reconsider, it would indeed be appropriate to do it by voice vote. I would hope frankly that we can do that. When we do proceed to dispose of that matter, then, we automatically have a range of options before us. We can accept the conference report and then we can proceed to the item of disagreement. We can accept or reject the amendment to be offered by the Senator from Connecticut, who has described that amendment.

Mr. President, I would hope at this point we can consider at least taking the first step to take us out of this dilemma and with the concurrence of the majority leader, if it does occur, proceed to the motion to reconsider on a voice vote.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, some of the Members in this body in voting on the conference report a while ago were under the impression that they were also voting with respect to the disagreement on the abortion issue.

Now that all Senators have had an opportunity to hear what the situation really is, I would hope that the Senate would vote to reconsider the vote that it just cast.

The Senate has taken its stand on the pay increase, but as of now if the House and Senate do not change the law as it presently stands, Members of the Congress are going to be receiving a 12.88-percent increase. So what this conference report does is to lower that cap to 5.5 percent.

We can go on and on, and on and on. The Senate has taken its stand. I have taken mine. Everybody else has made his position a matter of record. We can go on and on into tomorrow, on and on into Monday, Tuesday, and Wednesday of next week. But the people out in the country are going to begin to say, "Those fellows up there are haggling about a pay increase but what about my check? What about these children in the schools who get free milk, school lunches?"

There are 5.5 million veterans who are depending upon their checks also. There are 500,000 black lung beneficiaries who are depending upon their checks.

The people out in the country may not want to see Members of Congress get a 5.5-percent increase in pay. I can very well make a case for that 5-percent increase. I can make a case for the 12.9.

I stood up for the increase 2 or 3 years ago, and I can do it again. But they are going to get tired of our haggling over our increase. They are not going to be able to distinguish between the House and the Senate if we keep this up. They are going to put us all in the same bag, and say, "They are up there haggling over a 5.5-percent increase. What about my check, my veteran's check?"

"I worked for the security of my country. I stood on the firing line. What about my check?"

What about the old age beneficiaries?

"I have paid into this fund for all these years. What about my check?"

Are we going to deprive the schoolchildren of their school lunches and the free milk? How much longer are we going to haggle? We have taken our position repeatedly. The House is not going to yield. Then what is the point of our continuing to butt our heads against a stone wall and in so doing deprive more than 50 million people in this country who are beneficiaries of various programs?

Now, I say we have played politics long enough. Let us adopt this conference report and let the Government operate. If we do not get this thing settled tonight, we shall be back in tomorrow, if the House is there. If we do not get it settled then, we may come back Sunday, or at least, we shall be back on it on Monday. And then it is not going to be any easier. It is going to become more difficult and, at some point, one House is going to have to yield or this Government is going to come to a stop and we are all going to be blamed—those of us who are against the 5-percent increase, those of us who may be wanting a 12.9-percent increase and this is just one way of getting it, or those of us who are against the increase at all.

So I say let us be reasonable about the matter and recognize that we have taken our stand, we have done our duty, and it is time now to think about the 56 million recipients out there whose checks are going to be cut off.

That is all I have to say. I hope the Senate will reconsider.

Mr. HART. Will the Senator yield?

Mr. MAGNUSON. Mr. President, I want to tell the Senator that we are now accruing an increase of 12.9 percent and we have been paid a 12.9-percent increase since a week ago Sunday night. We have been paid that for 12 days. The longer we go on, the longer we might be said to be taking the 12.9 percent.

Mr. HART. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. HART. Could the majority leader explain to us the parliamentary situation again and how it is proposed to proceed concerning the votes?

Mr. ROBERT C. BYRD. Yes, the parliamentary procedure situation is as follows: The Senate has just voted down the conference report, but there is a motion to reconsider pending. If the Senate will vote up the motion to reconsider, then the Senate will again be on the motion to adopt the conference report.

If the Senate votes to adopt the conference report, then we can proceed to the amendments in disagreement. That would deal with the abortion matter.

If the Senate votes down that conference report, the ball game is over and I presume that the manager of the conferees will ask for a new conference and have new conferees appointed.

Mr. HART. If the leader will yield for a further question, does that also mean that there will not be a separate vote after the conference report on the pay issue?

Mr. WEICKER. May I respond to the Senator?

Mr. ROBERT C. BYRD. I can very well respond.

Mr. WEICKER. I say to the distinguished majority leader that I want to make the point that the Senate will have to go one step further. When the motion to concur in the matter of disagreement comes up, I shall immediately move at that time to amend it, which amendment reads:

> Notwithstanding any other provision of this joint resolution and notwithstanding any other provision of law, none of the funds appropriated by this joint resolution or any Act for the fiscal year 1980 may be used to pay the salary of any individual in any office or position the salary for which is subject to adjustment under section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) at a rate which exceeds the rate of salary payable for such office or position on September 30, 1978.

So it eliminates any pay raise—5.5, 12.9, any figure at all—for the Congress, period.

Mr. ROBERT C. BYRD. Mr. President, I move that we vote.

Mr. McCLURE and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I wonder if I could have the attention of the majority leader. I am seeking a way out of this dilemma. What the Senator from Connecticut has just indicated is a way of passing the buck to the House and perhaps putting the onus on them if they do not agree with us. It does not necessarily solve the dilemma that confronts us.

Mr. President, I wonder if the majority leader can tell me if he would support or if it would be in order to ask for unanimous consent at this time that, in the event the conference report is adopted embodying the pay increase at 5.5 percent, it could be in order to immediately consider legislation which would rescind that pay increase and act on it yet tonight and send it to the House also, for their action next week or at whatever time it might be appropriate as a separate legislative item?

Mr. MAGNUSON. I wish wholeheartedly that that could happen. I am tired of these issues that do not belong on a continuing resolution at all.

Mr. ROBERT C. BYRD. Mr. President, the Senator asked me a question. I shall be very glad to support such a resolution. I think it would have about as much chance as this conference report is going to have if it goes back, but at least it has that much chance.

Mr. McCLURE. Mr. President, I recognize that that puts the shoe on the other foot. Those who are opposed to the pay raise surrender whatever advantage they have using the continuing resolution as a vehicle to kill the pay raise, rather than those who want the pay raise having the advantage of the pressure created by this situation by having it in a continuing resolution in favor of the pay raise.

Mr. President, I suggest if that unanimous consent could be gotten so that we could act in that manner tonight, it might very well provide the means by which we can forge a resolution of this issue this evening in a way that will get the continuing resolution passed and the bills of this Government paid.

Mr. ROBERT C. BYRD. Mr. President, I do not think either of these approaches is going to succeed, but at least, that would cut the pay raise loose from the conference report, in a way. The Senate could take its stand and send a concurrent resolution to the other body or a joint resolution and let the Senate take its position again as being against the pay increase. But that would free the conference report from that issue in a way.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I believe I was in the majority on the last rollcall and I suspect I still am in the majority. It is somewhat irregular for Senators to move to reconsider and then hold the floor and deny others the opportunity to make the motion to table. I am not saying that they do not have the right to do it; I have done it myself on occasion, so I suspect they are right. But to deny the others the right to make their motion and then proceed to ask unanimous consent not to have a rollcall makes it even more irregular.

It is all right with me to let them have the motion to reconsider, have it voted on, even get it by unanimous consent, with this understanding, that at some point, those who are in the majority have a right to vote. As far as I am concerned, I have not been persuaded and I want to vote the same way I voted before. I hope we are not going to be asked now to waive the right to make a motion to table and to waive the right to have a rollcall and then to waive the right to have a rollcall on the motion itself.

Now, if we agree to let the matter be reconsidered, can we agree to have a rollcall?

Mr. STEVENS. Absolutely.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Louisiana knows as well as any Member of this body knows that he is not waiving the right to move to table. If he wants to have the yeas and nays on the motion to reconsider, he can ask for it. I am hoping for a voice vote and any Member who wants a rollcall vote on the conference report can ask for it and get it if he gets a sufficient second.

Mr. LONG. As far as I am concerned, you can have unanimous consent on the motion to reconsider, on condition——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be agreed to.

Mr. LONG. On just one condition, Mr. President. I ask for the yeas and nays on the conference report.

Mr. ROBERT C. BYRD. Mr. President, the Senator will have that opportunity. He knows that. He knows he will have that opportunity after the matter is reconsidered. He does not have to place a condition on it.

The PRESIDING OFFICER. The Chair informs the Senator that the yeas and nays are automatic because the initial vote on the conference report was by the yeas and nays and if it is reconsidered, the yeas and nays stay in effect unless vitiated by unanimous consent.

Is there objection to the request of the Senator from West Virginia? If not, it is so ordered.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the conference report. The yeas and nays are now ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada

(Mr. Cannon) and the Senator from North Carolina (Mr. Morgan) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. Durenberger), the Senator from Arizona (Mr. Goldwater), and the Senator from Kansas (Mrs. Kassebaum) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) and the Senator from Kansas (Mrs. Kassebaum) would each vote "nay."

The PRESIDING OFFICER. Is there any other Senator who wishes to vote? Does any other Senator wish to be recognized?

The result was announced—yeas 44, nays 42, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—44

Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Byrd, Robert C.
Chafee
Cochran
Cranston
Dole
Gravel
Hart
Hatfield
Hayakawa
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Moynihan
Pell
Percy
Randolph
Sarbanes
Schmitt
Schweiker
Stafford
Stennis
Stevens
Tower
Tsongas
Warner
Williams
Young

NAYS—42

Armstrong
Biden
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chiles
Church
Cohen
Danforth
Domenici
Durkin
Eagleton
Exon
Garn
Glenn
Hatch
Heflin
Helms
Humphrey
Jepsen
Laxalt
Leahy
Long
McClure
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pressler
Proxmire
Pryor
Riegle
Roth
Simpson
Stewart
Stone
Thurmond
Wallop
Weicker
Zorinsky

NOT VOTING—14

Bayh
Cannon
Culver
DeConcini
Durenberger
Ford
Goldwater
Hollings
Kassebaum
Morgan
Ribicoff
Sasser
Stevenson
Talmadge

So the conference report was agreed to.

The PRESIDING OFFICER. The Senate will be in order, so that we may proceed.

Mr. ROBERT C. BYRD. Mr. President, may we have order? There will be more rollcall votes tonight.

The PRESIDING OFFICER. The Senate will come to order.

Mr. ROBERT C. BYRD. Mr. President, there was some misunderstanding as to what I said. There will—w-i-l-l—be other rollcall votes tonight.

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5.

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 5.

Mr. JAVITS. Mr. President, may it be reported? I would like to hear amendment 5.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 118. Notwithstanding any other provision of this joint resolution except section 102, none of the Federal funds provided by this joint resolution for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. WEICKER addressed the Chair.

Mr. JAVITS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senate is not in order.

Mr. MAGNUSON. Mr. President, I have the floor.

Mr. WEICKER addressed the Chair.

Mr. MAGNUSON. I have the floor.

The PRESIDING OFFICER. The Chair informs the Senator——

Mr. MAGNUSON. I want to explain, for about 2 minutes, what the amendment is.

Mr. WEICKER. May I make my motion? I am not going to explain anything.

Mr. MAGNUSON. I have the floor, and I will yield to you.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. MAGNUSON. When did I lose the floor?

The PRESIDING OFFICER. When the Senator made his motion.

UP AMENDMENT NO. 640

Mr. WEICKER. Mr. President, I move to concur in the House amendment with an amendment. I send my amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Weicker) proposes an unprinted amendment numbered 640:

At the end of the House amendment insert the following:

Notwithstanding any other provision of this joint resolution and notwithstanding any other provision of law, none of the funds appropriated by this joint resolution or any Act for the fiscal year 1980 may be used to pay the salary of any individual in any office or position the salary for which is subject to adjustment under section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) at a rate which exceeds the rate of salary payable for such office or position on September 30, 1978.

Mr. MAGNUSON. Mr. President, I think the Senate should know what the original amendment No. 5 is. It is the so-called abortion amendment which did not belong on the bill at all, and the House-approved language drops "severe and long-lasting health damage to the mother" with the requirement that two physicians so certify. It adds to the so-called Hyde amendment "rape and incest."

So it is a combination between the House and Senate positions which the conferees—I would say reluctantly agreed to—and which the House of Representatives adopted earlier this afternoon and then sent back over.

I just wanted the Senate to know what amendment No. 5 actually is.

Now the Senator from Connecticut has decided to attach to that abortion amendment the pay raise amendment.

Mr. STEVENS. Mr. President, may I ask a parliamentary inquiry? I ask the chairman.

Mr. MAGNUSON. Go ahead.

The PRESIDING OFFICER. The Senate will be in order so the Chair may hear the inquiry.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

Will the Senator yield for a parliamentary inquiry?

Mr. MAGNUSON. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. If the amendment of the Senator from Connecticut is adopted and the amendment in disagreement is then approved will the conference report and the amendment go back to the House of Representatives tonight?

The PRESIDING OFFICER. The conference report will go back to the House of Representatives with the Senate amendment attached to the amendment in disagreement.

Mr. MAGNUSON. With both amendments?

The PRESIDING OFFICER. The entire conference report will be returned.

Mr. MAGNUSON. Because the Senator from Connecticut saw fit to attach the pay matter to the abortion amendment, and I want to know whether it will go back to the House of Representatives as both amendments or whether just pay amendment will go back to the House of Representatives. I do not think it makes any difference.

Mr. WEICKER. Mr. President, in response to the Senator from Washington, it is my understanding that my motion was to concur with the House amendment with an amendment. Therefore, both the Magnuson abortion language and the elimination of the pay raise will go back to the House of Representatives and then it is a simple matter for the House of Representatives. If they want Federal employees to get their pay all they have to do is vote on their pay raise.

Mr. MAGNUSON. I do not want to get to the merits of the pay raise. I worry about getting the limitation on abortion settled.

Mr. WEICKER. It goes back over there as the Senator stated.

Mr. MAGNUSON. I have been working on it for over 6 years now and I hope it will be settled tonight. It has been 6 years. It does not belong on an appropriation bill. I keep reiterating, Mr. President. I am going to think of some way—I do not know what it is—to get a Senate resolution that the legislative committees of the Senate take up the abortion issue where it more appropriately belongs.

I introduced five bills—the Senator from New Mexico mentioned it the other night—five bills on abortion. I took the Hyde amendment. I took every one. And they were referred in the last Congress to five different committees and the committees have not even had the courtesy to set a hearing date. It all comes back to appropriations. On every piece of legislation if it is a hot potato the legislative committees do not want to tackle, or someone gets frustrated because the legislative committee will not pass a piece of legislation that they are for, they come down to the Appropriations Committee and try and attach it there. Frankly I am getting a little bit fed up. The abortion issue has been holding up the whole Government. It does not belong on an appropriations bill and particularly a continuing resolution bill.

Now, they have abortion language in four other bills. HEW has it. The Defense Department has it. The Peace Corps has it. Foreign Relations has it. And the District of Columbia has it. All have abortion language on them, and that has to all be decided by the Appropriations Committee.

I think it is high time that we do something about it, change the rules or something.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. I yield.

Mr. STEVENS. Mr. President. I do think the Members of the Senate should know that if the abortion amendment brought back in disagreement is approved, it would only be in effect until the termination date of this concurrent resolution, which is November 20. Each one of the bills the chairman has mentioned has a separate abortion amendment on it, and each one of those will have to be settled separately.

This will only apply during the period of the continuing resolution.

I wish to propound another parliamentary inquiry, if I may, to the Chair.

Mr. MAGNUSON. Mr. President, I wanted to add that we may end up, if they continue to put abortion on an appropriations bill, with five different appropriation rules, not one, but five, or even more.

Mr. STEVENS. I certainly concur with the chairman.

Mr. President, if the Senator will yield further, we will be better off with one bill.

Mr. MAGNUSON. I yield the floor.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Mr. President, could the Chair tell me what will happen if the Senate should adopt the amendment of the Senator from Connecticut and the Houses of Representatives refuses to adopt it? If there is a conference demanded by the House of Representatives, are any of the matters contained in the conference report subject to the conference? So if I understand it, then, should the amendment of the Senator from Connecticut be adopted, the only matters before the conference would be the abortion amendment and the pay amendment?

The PRESIDING OFFICER. The amendment before the conference will be the amendments in disagreement.

Mr. STEVENS. Which would be the amendment, if amended by the amendment of the Senator from Connecticut? That was my question.

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Those are precisely the issues we labored over now for better than a month and we have yet to see the resolution of them. If we send this back to the House of Representatives I can tell the Senators they will not accept it, if the amendment of the Senator from Connecticut is adopted, we will not have achieved the goal of getting those paychecks out by Monday.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I certainly shall.

Mr. BUMPERS. Does the November 20 date apply to the pay increase for Members of Congress?

Mr. STEVENS. No. That was in the conference report and the language specifically applied to the abortion language the way it was written, but it does not apply to the pay raise.

Mr. MAGNUSON. The Senator asked me that question and I think he misunderstood me. The abortion language applies only to the time of the resolution but the pay section is permanent legislation.

Mr. BUMPERS. Mr. President, let me ask the second question then.

If everything else self-destructs on November 20 would the Weicker amendment also self-destruct, if it is passed, on November 20?

Mr. MAGNUSON. I do not know.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. If the Weicker amendment is adopted does that mean that it self-destructs on November 20 and thereby the 12-something increase would go into effect?

Mr. MAGNUSON. It could go into effect.

The PRESIDING OFFICER. The Chair advises the Senator that the Chair does not interpret law.

Mr. BUMPERS. I am sorry. I did not understand the Chair.

The PRESIDING OFFICER. The Chair does not interpret law.

Mr. BUMPERS. It is the Chair's understanding then that the Weicker amendment would be permanent until the Senate acted or the Congress acted again?

The PRESIDING OFFICER. The Chair will not interpret the law, the Chair will inform the Senator.

Mr. BUMPERS. The Chair feels he cannot rule on the effect of the Weicker amendment past November 20?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. Mr. President, may I respond to the distinguished Senator from Arkansas? What this amendment does is if the amendment of the distinguished Senator from Washington is adopted and the Weicker amendment is adopted and you have adopted the conference report, then that whole matter goes over to the House and no longer is there any responsibility focusing here. It is a simple matter. If the House of Representatives wants the Federal Establishment to get its paychecks, all it has to approve is what we have sent over, which is everything they asked for except the pay raise.

Mr. JAVITS. Mr. President, a parliamentary inquiry, if the Senator will yield for that.

Mr. WEICKER. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, is a separate vote appropriate for the Weicker amendment or would a vote for the Weicker amendment carry with it the Magnuson proposal?

The PRESIDING OFFICER. The Chair will inform the Senator that if the motion by the Senator from Connecticut succeeds there will not be a vote on the motion by the Senator from Washington because that will be superseded.

Mr. JAVITS. Only if it fails, then there will be a vote.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the Magnuson motion.

The PRESIDING OFFICER. The Chair will inform the Senator that it is not the pending question.

Mr. JAVITS. Pardon?

The PRESIDING OFFICER. That is not before the Senate and it would require a unanimous-consent request on the yeas and nays.

Mr. JAVITS. Well, Mr. President, we might as well do it because we will probably get there.

I ask unanimous consent that the yeas and nays may be in order on the Magnuson amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, the first question, barring any amendment which the Senator from New York might propose, would be on the Weicker amendment. If that is voted on or passed, then——

Mr. PRYOR. Mr. President, I cannot hear the Senator.

Mr. WEICKER. I apologize. The answer is in the normal course of events, as it now stands, the first vote to be taken would be on concurrence in the Magnuson amendment with the Weicker amendment.

The PRESIDING OFFICER. Concurrence with the House amendment.

Mr. WEICKER. With the House amendment, as amended by the Weicker amendment.

The PRESIDING OFFICER. That is correct.

Mr. WEICKER. The Senator from New York has every right to offer any amendment he wants to.

Mr. JAVITS. The Senator from New York has asked unanimous consent that if the Magnuson amendment is before us, if the amendment of the Senator's fails, that we have the yeas and nays.

Mr. WEICKER. I cannot agree to that. I would want to have a vote, in other words, on the House amendment as amended by the Weicker amendment.

Mr. JAVITS. It does not change the Senator's situation. The Senator will get his vote just the same.

Mr. DOMENICI. That is what the Senator is asking for?

Mr. JAVITS. Because we want it clear now that we will have a record vote on Magnuson.

Mr. WEICKER. At this time I would have to object.

Mr. JAVITS. All right.

The PRESIDING OFFICER. Objection is heard.

The Senator from Washington.

Mr. MAGNUSON. I wish we would not continue to refer to this and call it the Magnuson amendment. [Laughter.] MAGNUSON did not willingly agree with it.

Mr. JAVITS. OK.

Mr. MAGNUSON. It is a committee amendment and a conference amendment, and the latest House position. I did not willingly agree with it. I am actually on the side of the Senator from New York, but in conference we had to come to some agreement once again.

Mr. JAVITS. Mr. President, I ask unanimous consent that the record be corrected accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, may I ask the Senator from Alaska a question about the conference? With reference to the conference on the abortion issue, can the Senator just quickly explain, is the language the language of the Hyde amendment or not and, if not, is it the existing law as we agreed to it last year and, if not, what is it?

Mr. STEVENS. I will say to my friend from New Mexico that the Senate language deleted the words "or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians." We removed that language.

This compromise has now been approved by the House. I observed the debate there, and I can state that both factions involved in the abortion issue realize it was a compromise and it only lasts until November 20. So it is not the Hyde language, it is not the Senate language. It is a compromise version for this resolution only.

Mr. DOMENICI. With only that section the Senator read deleted.

Mr. STEVENS. Only that section was deleted.

Mr. President, may I have the floor in my own right?

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the House amendment as amended by the Weicker amendment.

Mr. STEVENS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. The Senator just wants a record vote on his own amendment. He is presuming we have amended that amendment. We have not amended that amendment yet.

Mr. WEICKER. I have a——

The PRESIDING OFFICER (Mr. STEWART). Does the Senator request the yeas and nays on his amendment?

Mr. WEICKER. Yes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is not that joining the two issues? He has the issue of the pay raise; the issue of abortion was already before us on the motion of the Senator from Washington. How can the Senator from Connecticut presume that we have already adopted his amendment? That motion is not in order, in my opinion. It is only in order to move the Senator's amendment to the amendment that is in disagreement.

The PRESIDING OFFICER. Under the precedents of the Senate a motion to agree to a House amendment with an amendment has precedence over a motion simply to agree.

Mr. STEVENS. I stand corrected.

Mr. President, I do hope however, that we understand the impact of this would put the abortion issue back in conference, too. Let us not kid ourselves. That was the main issue that we have been tied up on.

The conferees did make a change in the Senate language, and we deleted the clause that I read. I can tell the Senate the effect of that is to deny Federal funding for approximately 7.8 percent of the abortions that were funded with Federal funds since April of this year. That was a change in the Senate's position.

I want you to know that when it goes back to conference, it goes back with the whole subject still in conference, that is my understanding. It is the House language. If the House refuses to take the amendment of the Senator from Connecticut or the version that is in disagreement as amended, the whole subject of the amendment will go back to conference, in my opinion, because we are not agreeing to the whole thing except with a clause, and if I were a conferee I would raise the question of abortion again, and I have raised it, I have objected to this, and I have only gone along with it reluctantly in order to try to solve this problem.

This change includes the case of a woman who has cancer and has to decide whether to take chemotherapy treatment and risk damage to the fetus or whether she should have an abortion, try to cure the cancer and then attempt to have another pregnancy later. It is a very limited matter, perhaps, to some people.

It also covers a situation of a woman who has diabetes and the treatment for diabetes could harm the fetus, and they decide to treat the diabetes, remove the fetus, and give her a chance to have a normal child after the diabetes has been treated.

I have defended, along with the former Senator from Massachusetts (Mr. Brooke), the language that has been in the Senate version for a long time, and even on that we made some reluctant concessions. This is another concession, and I personally have made it only until November 20.

If the Senator from Connecticut's amendment is adopted contrary to what I just said, I am going to ask to go back to that conference, because this to me is a matter of principle to which I agreed only because of the circumstances. I heard Congresswoman FENWICK make comment about her position on this. She, too, understood the situation that because of the paycheck problem, because of the problem of the integrity of our Government, some of us have to yield a little bit.

So we have yielded 7.8 percent on the funding of abortions for the period of this continuing resolution, and we will see what happens to the bill. But, I, for one, am not going to yield any further. And I am going to try to convince the Senate, if this comes back again, that what we have done is wrong.

I am telling the Senate again, those of us who have fought on this issue, and we have voted time and time and time again the same position, that we have yielded in order to try to get a resolution. It is not the minority on this issue of abortion; it is those of us in the majority who have yielded, and reluctantly so.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. HART. Having been a conferee on this matter for some time now, is it the opinion of the Senator from Alaska that the pending proposal would be more acceptable to the House if an amendment were offered so the time were shorter than November 20?

Mr. STEVENS. I might say that the House agreed to November 20 in this resolution. They thought that it would assist in orderly funding to make it December 31, if we were dealing with the whole Government on the other amendment. But I do not think the time element makes any difference.

If we send this back with the pay amendment without the abortion amendment, the House would not take it; they would reject the whole subject.

Mr. HART. Not even for 2 weeks?

Mr. STEVENS. Pardon me, the House also yielded an abortion, because the House had requested the Hyde amendment. So this is not a dishonorable compromise; I am not implying that.

There were two issues they solidly wanted and we decided we would agree to the pay raise and modify the difference between the Senate abortion position and the Hyde position.

Several Senators addressed the Chair.

Mr. STEVENS. I yield the floor, unless someone has a question of me.

UP AMENDMENT NO. 641

Mr. TSONGAS. Mr. President, let me restate the circumstances as I understand them.

We have language on abortion, which amendment I believe the Senate has agreed temporarily to as a solution. We have the House of Representatives that has voted for a pay raise. We have the Senate that does not want a pay raise. I believe that is the situation.

Therefore, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 641:

In lieu of the language intended to be proposed by the Senator from Connecticut—

Mr. TSONGAS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. WEICKER. Mr. President, I am constrained to object. I would like to hear the language.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the reading.

The legislative clerk read as follows:

In lieu of the language intended to be proposed by the Senator from Connecticut (Mr. WEICKER) insert the following:

Notwithstanding any other provision of this joint resolution; or any other provision of law, none of the funds appropriated by this joint resolution or any Act for the fiscal year 1980 shall be used to pay the salary of any Member of the United States Senate at a rate which exceeds the rate of salary payable on September 30, 1978.

Mr. TSONGAS. Mr. President, if indeed the situation is as I have described, the House wants theirs and the Senate does not want theirs. Therefore, this amendment should develop the issue. My disability on this is that I used to serve in the House and perhaps have a different perspective.

We are in a different situation in the Senate. It is not as though I feel the salaries should not be commensurate, but we have greater capability to earn money through honorariums, and I for one can agree that that is the case.

If we are insistent that we do not want a pay raise, and the House insists they want one, this should develop the issue, and I would think the matter could proceed apace.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. WEICKER. Mr. President, I rise to oppose the amendment of the distinguished Senator from Massachusetts, which is the embodiment, this evening, of what we called in the Appropriations Committee the Byrd compromise, in effect saying that Senators be eliminated from their raise, but that House Members can get theirs.

I repeat, I am not going to take a great deal of time, and I am not going to repeat the arguments I made before. It is a matter of principle. I remember my good friend from Idaho saying, during the deliberations of the Appropriations Committee, "Why don't we say Senators can have abortions but House Members cannot?"

That is exactly the sort of thing we are saying here, trying to split it up in that regard. I would hope this amendment would be defeated, and that we would get back to the basic proposition that it applies to both Houses of the Legislature. I would hope we would solve the problem as one unit, that the amendment would be defeated, and that we would be getting it back as soon as possible where it all belongs, where the House Members want it, so that all the Members would be paid, all employees and beneficiaries would get their checks. All they have to do is "X" their pay raises. It is as simple as that.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. MAGNUSON. Is the Weicker amendment subject to a point of order under rule XVI?

The PRESIDING OFFICER. It might be at the appropriate time, but it is not at this time, because it is not the pending question.

Mr. MAGNUSON. If and when it becomes the pending question, is it subject to a point of order?

The PRESIDING OFFICER. The Chair will deal with that question when it is raised at the proper time.

Mr. MAGNUSON. I may raise it.

Mr. ROBERT C. BYRD. Mr. President——

Mr. MAGNUSON. I might raise it on the Tsongas amendment, because that is subject to a point of order, too. But I am not going to raise it on his amendment. The Weicker amendment is clearly subject to a point of order.

Mr. ROBERT C. BYRD. Mr. President, the joint leadership has assured Members that they will have an opportunity to vote to eliminate the congressional pay increase, and I hope that they will be given that opportunity, and that the Senate will, in the meantime, defeat the pending amendment by Mr. WEICKER. His amendment, if adopted, would just put us right back where we were. It will put the pay increase back into conference, the abortion matter will be in for conference, and the checks of the black lung recipients, the veterans, the old people, the decrepit, the widows, the orphans, the school children, the school lunch program and school milk, are not going to be paid.

The proposition that has been offered by the Senator from Connecticut is an attractive one. It gives the Senate a chance, again, to vote against a congressional pay increase.

But I say let us vote down the Weicker amendment and vote on the motion proposed by the distinguished Senator from Washington (Mr. MAGNUSON), and let the joint leadership bring up a joint resolution eliminating the congressional pay increase as a separate matter. Cut it loose from the continuing resolution conference report.

We gain nothing by having stayed here an hour and a half. Having turned around the vote, having voted to reconsider by unanimous consent and having voted up the conference report, so that we marched back up the hill, now, if we vote for the Weicker amendment, with all due respect to my good friend from Connecticut, we will undo everything, after having wasted an hour and a half.

We put the matter back in conference. The same two thorny issues which have held up the conference and held up the checks to 56 million recipients in this country, or will hold them up after this weekend, is back in conference. I therefore move to table——

Mr. BAKER. Mr. President, will the majority leader withhold that?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I thank the majority leader for withholding the motion to table.

It is not often that we express ourselves in a joint resolution by the leadership. I believe I am correct in saying that both the majority leader and I have changed our position on this matter in order to make our appeal to the respective sides of the aisle that we approve this conference report. I was pleased to do that. I think it was a mark of the responsibility of leadership that we shared.

Mr. President, there is not a joint leadership position on the question of the adoption of the Weicker amendment on the item in disagreement. I frankly did not know of the amendment offered by the distinguished Senator from Massachusetts. I only rise to say, Mr. President, that I intend to vote for the Weicker amendment. I will join with the distinguished majority leader in offering a separate freestanding resolution dealing with the pay increase. But I want to make it clear that opposition to or a motion to table the Tsongas amendment or the Weicker amendment does not constitute a joint leadership position.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, let me read the Weicker amendment so that we will be aware of the hocus-pocus that we are going to be voting upon. I do not say that in casting a reflection upon the subject, but I want the Senate to know that if it votes up this amendment the Senate has participated in an act of hocus-pocus. It will have turned right around and voted to put back into conference the very same issues which have held up the conference and the Congress, and soon to be the Government, now for all too long.

In the amendment Mr. WEICKER says—

Notwithstanding any other provision of this joint resolution, and notwithstanding any other provision of law, none of the funds appropriated by this joint resolution or any act for fiscal 1980 may be used to pay the salary of any individual in any office or position, the salary for which is subject to adjustments under section "so and so and so and so" of the Legislative Reorganization Act at a rate which exceeds the rate of salary payable for such office or position on September 30, 1978.

It puts it back in conference. That is where the bottleneck has been all along.

What sense does it make for the Senate to remove that issue from the conference by the vote just recorded a few moments ago and turn right around and vote for an amendment that throws it back into conference? The conference report is going to be here all weekend if that happens; very likely the Senate will be in session tomorrow, if the House is in session. In the final analysis someone is going to have to give. People out in the hinterlands are going to wonder what is happening. They are going to say, "Those guys up there are fussing over their 5.5-percent increase. What about my check? When am I going to get my check?"

So I say let us vote down the Weicker amendment, go on and vote on the motion by Mr. MAGNUSON, and then let the joint leadership offer a resolution that will do precisely what Mr. WEICKER's amendment would do but would not tie up the conference report.

Mr. THURMOND. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. THURMOND. If the Weicker amendment is voted down, then we come to the Magnuson amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. THURMOND. The Magnuson amendment merely accepts a conference wording on abortion and the conference wording on abortion covers three points, which seems to me to be adequate. It is not quite as far as the Senate went, but it is almost. Those three are, the life of the mother would be endangered if the fetus were carried to term, second in case of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service.

So there are three points that the conference has agreed upon. That appears to be reasonable.

In order to get rid of this abortion question, it seems we ought to vote against the Weicker amendment and then get a vote on the Magnuson amendment. That would settle the question.

Mr. ROBERT C. BYRD. The Senator is correct. That would remove the abortion issue. The majority leader has pledged to give the Members of this Senate the opportunity to vote on the very same language as Senator WEICKER's amendment, but it removes it from the conference report. Mr. President, I move to table the Weicker amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. WEICKER. I ask for the yeas and nays.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. I temporarily withhold my motion to table and yield to the Senator from Massachusetts.

Mr. TSONGAS. If my motion is agreed to would the conference report then go back to the House with that provision?

The PRESIDING OFFICER. Will the Senator repeat his question?

Mr. TSONGAS. If my motion before the body is agreed to, the conference report with the provision will go back to the House, is that not correct?

The PRESIDING OFFICER. Action on the conference report would be concluded. The amendment in disagreement would go back to the House.

Mr. TSONGAS. And should the House at that point accept the disagreement, would the matter then be resolved?

The PRESIDING OFFICER. If the House accepted the Senate position, the matter would be resolved.

Mr. TSONGAS. That would be something worth looking into.

Mr. HART. A parliamentary question, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the pending business, Mr. President?

The PRESIDING OFFICER. The amendment of the Senator from Massachusetts.

Mr. HART. Is it in order for the majority leader to move to table a matter that is not the pending business?

The PRESIDING OFFICER. It most certainly is, under the precedents.

Mr. HART. I thank the Chair.

The PRESIDING OFFICER. If agreed to, it carries the amendment of the Senator from Massachusetts with it.

Mr. HART. Do I understand the Chair to say that it is in order for the majority leader to move to table an amendment which is not the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. HART. Mr. President, then what is the vote? What is the procedure? Do we vote on the motion to table or on the pending business?

The PRESIDING OFFICER. Under rule XXII a motion to table takes precedence over an amendment, so we will vote on that first.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. WEICKER. Would it not be in order first to vote either up or down or on a tabling motion of the amendment of the Senator from Massachusetts, and then, having disposed of that, go on to the amendment of the Senator from Connecticut? Would a motion to table the amendment of the Senator from Massachusetts be in order?

My parliamentary inquiry has been made. I am not sure that the majority leader wanted the result I thought I heard. If the Weicker amendment is not tabled—I am now posing a question to the Chair—if the Weicker amendment is not tabled, does it then take with it the amendment of the Senator from Massachusetts?

The PRESIDING OFFICER. That amendment would then have to be acted upon.

Mr. WEICKER. If the amendment of the Senator from Connecticut is tabled, then that vote takes with it also the amendment of the Senator from Massachusetts; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. WEICKER. Very well. I am perfectly willing to have a vote.

Has the Senator made the formal request?

Mr. ROBERT C. BYRD. Mr. President, I am ready to move to table. I am sorry that the motion to table, if it carries, will carry with it the motion of the distinguished Senator from Massachusetts, but he will have an opportunity, if he wishes, to offer his amendment to the joint resolution that I intend to offer later.

I now move to lay the motion of the Senator from Connecticut on the table.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion of the Senator from Connecticut. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from Kentucky (Mr. FORD), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mrs. KASSEBAUM) would vote "nay."

The PRESIDING OFFICER. Is there any other Senator wishing to vote?

The result was announced—yeas 43, nays 42, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—43

Baucus
Bellmon
Bentsen
Boschwitz
Bradley
Byrd, Robert C.
Chafee
Cochran
Cranston
Durkin
Gravel
Hatfield
Hayakawa
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Levin
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Randolph
Schweiker
Simpson
Stafford
Stevens
Thurmond
Wallop
Williams
Young

NAYS—42

Armstrong
Baker
Biden
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Chiles
Church
Cohen
Danforth
Domenici
Eagleton
Exon
Garn
Glenn
Hart
Hatch
Heflin
Heinz
Helms
Jepsen
Leahy
Long
Mathias
Metzenbaum
Muskie
Nunn
Pressler
Pryor
Riegle
Roth
Sarbanes
Schmitt
Stennis
Stewart
Stone
Tower
Tsongas
Warner
Weicker
Zorinsky

NOT VOTING—15

Bayh
Cannon
Culver
DeConcini
Dole
Durenberger
Ford
Goldwater
Hollings
Kassebaum
Morgan
Ribicoff
Sasser
Stevenson
Talmadge

So the motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, we have already voted on this thing over and over and over. Now, are we going to vote on a motion to table the motion to reconsider, the motion to table the motion to reconsider, and on and on?

I would hope if Senators insist on a rollcall vote, they will vote to table this motion to reconsider.

Mr. CHAFEE. Mr. President, is it possible to have this a 10-minute vote?

Mr. ROBERT C. BYRD. Let us not have a vote at all.

I move to table the motion to reconsider.

Mr. WEICKER. Mr. President, due to the courtesies of the distinguished majority leader, I was prepared to withdraw my motion, but I would go ahead and ask for the yeas and nays on my motion.

Mr. ROBERT C. BYRD. I withdraw my motion.

Mr. WEICKER. Mr. President, I can only imagine that the arms will get screwed up even tighter as the evening wanes, and so——

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, what is now the business before the Senate?

The PRESIDING OFFICER. The motion to reconsider the vote by which the amendment was tabled.

Mr. BAKER. He withdrew that.

The PRESIDING OFFICER. Is there objection to withdrawing the motion to reconsider? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, what is now the business?

Mr. MAGNUSON. My motion to concur in the House amendment.

Mr. JAVITS. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The motion of the Senator from Washington to concur in the House amendment.

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to table the motion to reconsider.

Mr. JAVITS. Mr. President, as I understood the parliamentary situation, the committee proposition is now before the Senate, and on that I thought the yeas and nays——

Mr. ROBERT C. BYRD. I misunderstood.

Mr. President, I ask unanimous consent that the rollcall votes for the remainder of the day be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, Congress enacted medicaid into law in 1965 when the vast majority of States declared abortion a crime except when needed to save the mother's life. Therefore, the medicaid title could not have been intended as a mandate to the States to fund "medically necessary" abortions beyond those necessary to preserve the mother's life. Any other conclusion would mean that the Congress intended to force the States to violate their own abortion laws. To impute such an intent to Congress is absurd.

A look at the history of medicaid payments for abortion indicates that before the Supreme Court decision of 1973, there were very, very few abortions reimbursed by the Federal Government. It is important to emphasize that we are determining the extent to which the Federal Government will pay for abortions. This language does not, and is not intended to restrict the power of the States. The States may still refuse to pay for abortions to the extent they deem appropriate.

I thank the Chair.

Mr. DOLE. Mr. President, after pursuing the best possible legislation both on the issue of compensation of elected officials and of abortion, there finally comes a point when the best solution must yield to the best available solution.

Whatever our personal views on abortion and the intricate complexities of Federal involvement in financing or even appearing to endorse it, we have finally come to the point where we must consider other goods. The heat and the hard rhetoric of the past few days signals more clearly than anything that I could say; that honest men are disagreeing on a matter of crucial importance. Many of us will regret things said in anger of others whose views are just as firm as our own although opposed.

Mr. President, we all are aware that the House passed and some of us in this body have supported a very restricted role for Federal involvement in abortion financing. At issue before us tonight are concessions from both sides. Acceptance of this compromise clearly does not reflect the fundamental views of this Senator on the rightness of his well known position on abortion. A change for the better is implicit in my acceptance of the compromise language. To seek more now endangers other values just as fundamental.

Our capacity to reach viable compromise as a legislature; our ability to deal with each other in good faith and the very orderly functioning of this Government require that we now strike this compromise solution.

We have reached the only compromise now available. We cannot continue to pursue our absolutes at the price of damaging our very form of government. For now, no matter how firmly each side holds its views, we must move on to funding the Government. Without the social foundation which our deliberations provide, no victory has meaning. We can all admit that the compromise does not reflect our principles in full on either side of the issue. Nor is the issue finally to be resolved here and now. An ultimate solution is not now within sight. But we must not destroy our capacity to work and live in a world of compromise. I urge those who, as I would prefer a firmer line on the issue of abortion to recognize that now we must accept limited objectives and limited concessions in order to preserve the orderly flow of legislative business which has been the hallmark of this body since its inception.

Mr. ROBERT C. BYRD. Mr. President, I hope Senators will not leave, because I would like to call up the joint resolution giving Senators an opportunity, to vote against a congressional pay raise.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington to concur in the House amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Minn

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sota (Mr. DURENBERGER) and the Senator from Kansas (Mrs. KASSEBAUM) would each vote "nay."

The PRESIDING OFFICER (Mr. STONE). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 43, nays 41, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—43

Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cochran
Cranston
Exon
Gravel
Hatfield
Hayakawa
Heflin
Huddleston
Inouye
Jackson
Johnston
Kennedy
Laxalt
Leahy
Lugar
Magnuson
Matsunaga
McClure
McGovern
Muskie
Nelson
Nunn
Pryor
Randolph
Stafford
Stennis
Stevens
Stewart
Thurmond
Tsongas
Warner
Williams
Young

NAYS—41

Armstrong
Biden
Bradley
Bumpers
Burdick
Chafee
Cohen
Danforth
Domenici
Durkin
Eagleton
Garn
Glenn
Hart
Hatch
Heinz
Helms
Humphrey
Javits
Jepsen
Levin
Long
Mathias
Melcher
Metzenbaum
Packwood
Pell
Percy
Pressler
Proxmire
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stone
Tower
Wallop
Weicker
Zorinsky

NOT VOTING—16

Bayh
Cannon
Culver
DeConcini
Dole
Durenberger
Ford
Goldwater
Hollings
Kassebaum
Morgan
Moynihan
Ribicoff
Sasser
Stevenson
Talmadge

So Mr. MAGNUSON's motion to concur in the House amendment was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. YOUNG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SALARIES OF MEMBERS OF CONGRESS

Mr. ROBERT C. BYRD. Mr. President, the minority leader and I assured the Senate that it would have an opportunity to vote on a joint resolution to eliminate the pay increase for Members of Congress. This is an appropriate suggestion that was proposed by Mr. MCCLURE, Mr. DOMENICI, and others.

Mr. President, on behalf of myself and Mr. BAKER, Mr. MCCLURE, Mr. CRANSTON, Mr. DURKIN, Mr. THURMOND, Mr. HART, Mr. DOMENICI, Mr. WARNER, Mr. COCHRAN, Mr. BAUCUS, Mr. BOREN, Mr. LEVIN, Mr. PELL, Mr. SARBANES, Mr. STENNIS, Mr. TSONGAS, Mr. NELSON, Mr. LAXALT, and Mr. RANDOLPH, I sent a joint resolution to the desk for that purpose and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 113) relative to salaries of Members of Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of Section 101(c) of House Joint Resolution 412 or any other law, for the fiscal year 1980, the rate of pay of any individual in any office or position the salary for which is subject to adjustment under Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) shall not exceed the rate of salary payable for such office or position on September 30, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, this will be the last vote today. There will not be any more votes until Monday.

The PRESIDING OFFICER. The question is on agreeing to the joint resolution.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from North Carolina (Mr. MORGAN), the Senator from Tennessee (Mr. SASSER), and the Senator from Iowa (Mr. CULVER), would each vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Kansas (Mrs. KASSEBAUM), are necessarily absent.

The PRESIDING OFFICER (Mr. HEFLIN). If there are any Senators who desire to vote, let them come forward and cast their votes.

The result was announced—yeas 72, nays 12, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—72

Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cochran
Cohen
Cranston
Danforth
Domenici
Durkin
Eagleton
Exon
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Laxalt
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McClure
McGovern
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stennis
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—12

Bellmon
Chafee
Gravel
Jackson
Javits
Kennedy
Lugar
Melcher
Percy
Schweiker
Stevens
Williams

NOT VOTING—16

Bayh
Cannon
Culver
DeConcini
Dole
Durenberger
Ford
Goldwater
Hollings
Kassebaum
Morgan
Moynihan
Ribicoff
Sasser
Stevenson
Talmadge

So the joint resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I shall not move to reconsider that vote at this time.

Mr. WARNER. Mr. President, I have consistently opposed the granting of pay raises for Members of Congress. It has been, and it remains, my view that we who serve the people in positions of congressional responsibility, and who are financially able to do so, should set an example of self-restraint—particularly in these inflationary times.

If given the opportunity to vote directly on the issue of a congressional pay raise, I would vote against it and I did so on the final vote today.

The vote on the continuing resolution conference report, however, presented no such clear-cut choice.

Millions of Americans who serve their country as employees of the Federal Government have been facing the prospect of payless paydays because of the failure of the House and Senate to agree. Recipients of Federal benefit programs are being cut off. The longer we delay, the more the human suffering multiplies.

Because I became convinced that an overriding public interest was at stake, I cast my vote for the proposed compromise. It is more important, I submit, to pay Federal employees the wages and salaries they have justly earned and to let the process of Government move forward.

However, Mr. President, I wish to state for the record that I—as one Senator—do not choose to retain any pay raise which may come to me as a result of congressional action on this or any other day. During my first term as a Member of the Senate, I pledge to accept no more salary than that amount fixed by law as of the date I took my oath of office.

AUTHORITY TO RECEIVE MESSAGES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the recess of the Senate over until Monday next, the Secretary of the Senate be authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until Monday next, the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Hawaii (Mr. Matsunaga) be designated as Acting President pro tempore for the purpose of signing House Joint Resolution 412.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPORTANCE OF GUANTANAMO BAY, CUBA, TO U.S. DEFENSE FORCES

Mr. THURMOND. Mr. President, an outstanding article on the importance of Guantanamo Bay, Cuba, to the U.S. defense posture in the Caribbean was published in the October 8, 1979 issue of the Navy Times.

The author of the article, retired Marine Brig. Gen. J. D. Hittle, Jr., also a former Assistant Secretary of the Navy for Manpower and Reserve Affairs, offered his readers a number of valid observations on the Soviet threat in the Western Hemisphere.

This article was written prior to the television address by President Jimmy Carter on the American response to the brigade in Cuba. However, General Hittle's observations are timely and stress the problems posed by the increased Soviet presence in Cuba and the need for the United States to stand firm in Guantanamo Bay and elsewhere in Latin America.

Mr. President, I ask unanimous consent that this article be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Guantanamo Bay a Strategic Prize

(By Brig. Gen. J. D. Hittle, USMC (Ret.))

The crisis over Russia's combat brigade in Cuba is putting the strategic spotlight on our naval base at Guantanamo Bay.

It shouldn't be any surprise. Guantanamo Bay has been high on the Kremlin-Castro hit list ever since Castro came out of the mountains and made Havana a suburb of Moscow.

The Kremlin objective is a simple one. We get out so that the Russian navy can get in. Give the Moscow long-range planners the high mark they deserve. They know a strategic prize when they see one. And that, unfortunately, is more than can be said for some U.S. "strategists."

Already, the faint-hearts are taking up the Kremlin-Castro cry for us to give up our Guantanamo base. A brief review of some key incidents involving the Russian brigade underlines its "linkage" to our Guantanamo base. The U.S. announcement of the brigade in Cuba came during the conference of so-called nonaligned nations in Havana. Cuba's immediate response was to point the accusing finger at Washington for our naval base in Cuba.

Russia's worldwide propaganda line quickly fell in step with Castro. Moscow's basic theme was how bad the United States is for having troops in foreign countries.

Our Guantanamo Bay naval base falls, of course, within such a complaint. And then the predictable happened. The trial balloons began going up. Too many who should know better started talking about a solution: Russia withdraw its brigade from Cuba, and we withdraw from Guantanamo Bay.

It might be a solution—but not for the United States. We would be giving away a strategic asset of immense importance to our protection of the increasingly troubled Caribbean area, and vital to our control of north-south Atlantic sea lanes. Russia would take out (maybe!) 2000-3000 troops. But the Kremlin would still have its MIG-23s in Cuba, still have submarine facilities, still have its training units, still have any other forces we haven't happened to find—yet. Russia would get our Guantanamo naval base, all built and ready to help project increased Soviet seapower into the sea flanks of the Americas. And, of course, it should be expected that the brigade would soon, in one form or another, be back in operation.

Before we get ourselves into such a one-sided deal over the brigade, or any other issue, we had better review some of the strategic facts of life about Guantanamo Bay. We aren't talking about some sleepy tropical coaling station that time, events and technology have passed by. Rather, it's one of the most important naval bases in the world.

Located on the southeastern tip of Cuba, our base is inseparable from Caribbean strategy. Its role in protection of Atlantic approaches to Panama is even more critical now that Panama's Gen. Torrijos, with Castro's advice has us on our way out of the Canal Zone.

Looking eastward, Guantanamo Bay is within view of the Windward Passage. This is the narrow ribbon of deep water separating Cuba and Haiti. Through this saltwater chokepoint funnels much of the shipping between the Panama Canal and the North Atlantic, as well as a large portion of North-South shipping between the Caribbean and the North Atlantic.

It is Guantanamo Bay's nearness to the Windward Passage that gives our base so much of its strategic meaning. It makes our continued presence an inescapable requirement, if we intend to remain a powerful maritime nation and a really free one.

The sea-control relationship of Guantanamo Bay to the Windward Passage isn't abstract strategic theory. Its reality is underlined by the deadly toll of Allied shipping exacted by Nazi wolf-pack subs in World War II. German U-boat strategists studied the sea lanes and the Atlantic-Caribbean geography. And they stationed their subs at the Windward Passage approaches.

What the torpedo toll would have been without a U.S. naval base at Guantanamo is, even in hindsight, frightening.

Castro and the Kremlin—which backs his regime at a cost of a couple of million dollars a day—have another high card to play in their effort to run us out of our base. This high card is the fortification system surrounding the U.S. base at Guantanamo Bay. It may surprise many Americans, but this huge, modern fortification isn't ours. It's Castro's.

These fortifications are not the result of some amateur ground-scratching exercise by some poorly trained back-country Cuban militia. Far from it. The use of terrain, the shape of the firing positions, and the deeply-imbedded trench system bear the stamp of skilled Soviet design and supervision.

The fortification consists basically of a series of gun positions. One highly organized strong point boasted more than 20 firing positions. All are skillfully placed to be mutually supporting.

Connecting the firing positions are well-located trenches. These run generally parallel to the base boundary. They also extend to the rear, providing covered routes of approach for personnel and supplies.

Each Cuban gun position is constructed of prefabricated concrete, estimated to vary from 3 to 6 inches thick. Only the gun-port and a low rounded roof extend above the surface of the ground. The trenches are of concrete—floors, sides and roofs. On one visit, I could clearly see with glasses the prefabricated concrete slabs being put in place. Then they were covered with poured concrete and earth.

On a visit a few years later, much of the fortification system could not be seen. Fast-growing tropical vegetation provided natural camouflage.

The sheer immensity of the fortification system can be realized from the fact that it runs along much of the high ground overlooking the 15-mile land boundary of the base. Soviet military engineers did a good job.

U.S. engineers estimated that the construction alone—not counting the armament it could accommodate—came to $15 million. That's the pre-inflation figure of the 1960s!

It doesn't take any high-priced crystal ball to visualize how these expensive fortifications could fit into the Kremlin's reaction to Washington's protest over the Russian combat brigade.

Castro could quickly cook up a shooting incident along the Guantanamo base boundary. Rapidly it would, with Kremlin help, snowball into a crisis. This would all fit neatly into the current Russian propaganda line designed to put the cat on our back by shifting worldwide attention from the Russian brigade to our overseas bases and deployments.

Castro would be beating the drums even louder for us to get out of Guantanamo. To fuel the crisis, and to give himself "credibility," he would have his Russian equipped and trained troops manning the fortifications. They would be looking down Russian-made gun barrels pointed at U.S. targets.

It is precisely in such a situation where the presence of Russian combat troops in Cuba becomes a major, perhaps even an overriding factor. Now that we know the Kremlin has stationed troops in Cuba, how could we ever be sure that they weren't with, or backing up, Castro's Cuban force? The answer is: We couldn't be sure. Thus, herein could be part of the answer to the question why the Kremlin has stationed combat troops in our strategic front yard: In any armed confrontation between the United States and Cuba the United States will have to weigh the possibility that we would have to shoot through a Russian soldier to hit a Cuban.

The Kremlin, remembering our surrender in Southeast Asia, and our failure to support the Shah in Iran, has good reason to believe our national spine is still willowy and we won't take such a risk over Guantanamo Bay.

Thus, subjected to Soviet orchestrated worldwide propaganda, and faced with Cuban—and Russian?—troops in the fortifications around the base, there would be heavy pressure on the United States to eliminate "the threat to international tranquility."

To do so, all we would have to do is get out of Guantanamo Bay. If the United States ever fell for such a Red scenario, our departure from Guantanamo Bay would be one of the greatest strategic disasters of modern times.

The plain fact that we need it for the defense of United States and friendly interests is reason enough to hold Guantanamo Bay. But, the issue of Guantanamo Bay goes even beyond such important considerations. Our withdrawal from our base would be a historic benchmark in the deterioration of our strategic position in the Caribbean and the ascendency of Russian encroachment. The strategic history of Cuba has been, in large measure, the strategic history of the Caribbean area.

We must as a nation remember the geographic, and hence the strategic, fact that Cuba isn't just another island out in the Atlantic off our East Coast.

A look at a global map discloses a startling fact: the western tip of Cuba lies on just about the same north-south line as Indianapolis, Ind. That's a measure of how deeply Russia, through its military use of Cuba, has outflanked the United States on the south.

And so, should Guantanamo go by default, our strategic setback would be compounded by the certain knowledge that Russian fleet units would get what we had given up.

With such a base in the strategic heart of the Americas, Soviet submarine commanders would enjoy operational advantages undreamed of by Nazi undersea skippers in World War II.

Availability of Guantanamo Bay would mean a quantum jump in Russian naval operating effectiveness.

It is imperative that the United States stand firm on the Guantanamo treaty. If we don't we can be sure of one thing: The day the last U.S. ship sails out of Guantanamo Bay, Russian naval captains will be checking their course and speed to its entrance.

RADIOACTIVE FALLOUT

Mr. GARN. Mr. President, today I join Senator KENNEDY and my colleague from Utah, Senator HATCH, in directing the attention of the Senate to a serious problem which may be small in geographical dimensions but can have a widespread impact in terms of human justice. This is the tragic case of the residents of Utah and Nevada who were exposed to radioactive fallout during the Nevada open air atomic testing of the 1950's, and who have subsequently suffered from unusually high rates of cancer and leukemia.

Scientists are just now discovering what these citizens have known through painful experience: That dangerously high levels of radiation from test clouds reached their communities and jeopardized public health. Although at the time there was some concern about what constituted unsafe exposure levels, the downwind areas were not monitored adequately to establish whether the residents were exposed to any danger.

Now, years later, we have compelling evidence that the exposure levels were far from safe—and probably induced cancer and leukemia rates which were $2\frac{1}{2}$ to 3 times the national average. It is clear, in my opinion, that the victims of this unfortunate situation are entitled to compensation.

In his position on the Senate Human Resources Committee, my colleague from Utah, Senator HATCH, has joined the chairman of the Health and Scientific Research Subcommittee, Senator KENNEDY, in introducing a bill which I support as an appropriate vehicle for dealing with this problem. It assigns Federal liability for certain damages and provides compensation to affected persons; yet, in the interests of fiscal responsibility, it limits the compensation to those who can meet certain qualifying criteria.

It was a delicate task to construct a bill which would neither merely throw large sums of money at the problem, nor deny compensation to those without the scientific data to document their exposure to radiation. Compensation has been a sensitive issue, primarily because there is a lack of sufficient medical or scientific knowledge to prove conclusively that the radiation exposure caused certain illnesses. Compounding the problem was the fact that the Government's failure to keep adequate fallout records during the testing is largely responsible for the lack of relevant data.

Nevertheless, I could not justify a bill which only tried to assuage the Government's guilt with irresponsible financial remedies, and I am sure the affected Utahans echo that concern. This bill provides a careful and well reasoned formula for those who have valid claims, and I am encouraged by its approach. With its introduction, I hope we can act quickly and firmly in resolving this important problem.

Many of the citizens exposed to the radiation now face insurmountable burdens in obtaining and paying for medical care and treatment. Since radiation exposure is particularly lethal to the very young and the very old, many of those suffering are also the least able to cope with the enormous expenses associated with combating cancer and leukemia. They are caught between the demands of their illnesses, and their general reluctance to—in the words of one Utah woman—"sue the Government I so dearly love." Yet their financial troubles continue to increase even as their condition worsens. Let us not compound the mistakes of the 1950's with unnecessary delays today.

In seeking support for this bill, I would like to pay tribute to the courage and strength of the Utahans with whom I have talked and worked on this issue.

To discover one has cancer is an emotionally devastating experience. To learn that one's illness was caused by Government negligence could certainly lead to bitterness and disillusionment.

Yet, almost without exception, these people have had only one goal in mind: the prevention of such a tragedy in the future. Time and again they have shown me that their primary interest is the future health and safety of all Americans as we continue to learn to live with nuclear power. This was clearly illustrated during the testimony presented by Utahans at a hearing of the Health and Scientific Research Subcommittee I attended in Salt Lake City last April.

The faith they continue to exhibit in the Federal Government's willingness and ability to handle the issue fairly and honestly also deserves comment. They often have refused to believe that those conducting the tests were deliberately negligent in protecting their welfare. The calm and sensible attitude of these residents provided an intelligent counterbalance during the emotional fervor encouraged by some media coverage of the issue. I have the highest respect for those victims who have resisted the temptation to get caught up in a wave of vindictiveness. They realize there is little to be gained from vengeance, but much to be gained from working together to seek a just solution. These patient and loyal citizens, who have retained these attitudes, deserve the most encouragement we can offer. Their simple sense of justice—which we should all admire—must not be violated a second time by a failure to act now.

I ask my colleagues to join together as a body in support of this bill. While it may involve some Federal expenditure, it will signal that we are responsive to the just and humane concerns of our citizens. It will show those who have suffered that we recognize their personal sacrifice, and the heavy price they are paying for a mistake that could have been avoided.

Most importantly—to me and my constituents—this compensation will signal that the Federal Government acknowledges a past mistake, and will be accountable for the consequences, and will do everything in its power to prevent its recurrence.

ANDRE MEYER

● Mr. PERCY. Mr. President, I am honored and privileged to join together with my friend and colleague, Senator JAVITS, the senior Senator from New York, in paying tribute to our beloved, departed friend Andre Meyer.

Andre Meyer was not only my friend but also at my request early in my business career became financial counsel and investment banker for Bell & Howell Co.

Much of the diversification program of Bell & Howell that has proven through the years to be successful and much of the growth of Bell & Howell through outside acquisition is attributable directly to the advice and counsel of both Andre Meyer and his able and distinguished colleague, Felix Royatyn, who has achieved in his own right not only great distinction as an investment banker but also as a principal architect of a program to save New York City from bankruptcy.

Felix Royatyn's own brilliant career was achieved in his own right, but Felix Royatyn would be the first, together with me, to pay tribute to Andre Meyer for the inspiration he provided to his own career. I pay similar tribute to Andre Meyer.

He was devoted to his country of origin—France—but was not only devoted but fiercely patriotic to his adopted country the United States. His love of the United States did not prevent him from constructive criticism which he freely gave to President John F. Kennedy to whom he was an intimate adviser and to virtually every President of the United States during his past several decades.

Andre Meyer was a prodigious worker, the only business friend I could telephone at 6 in the morning and know that he had already been hard at work in his study in order to make incredibly productive each working day.

Andre Meyer loved his family as all of us learned to love his wife, Bella, and he was devoted to his friends.

He, without question, was one of the most brilliant investment bankers of our time, and he was recognized worldwide for his financial genius. He was a philanthropist, generous with his vast resources but even more generous with his friend of a more precious commodity, his time.

We shall all sorely miss him, but the Governments of France and the United States, the free world, and all of their citizens are the better for his long and productive lifetime.

The press and media have paid tribute to him, but only those of us who were privileged to know him can fully appreciate his remarkable qualities that shall provide an inspiration to all of us throughout the course of our lifetimes.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

REPORTS ON HIGHWAY AND MOTOR VEHICLE SAFETY—MESSAGE FROM THE PRESIDENT—PM 123

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying reports, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

The 1966 traffic safety legislation which initiated a cohesive national effort to curb deaths, injuries and accidents on the Nation's highways also requires that annual reports be rendered to the Congress on the administration of the Acts. This is the 12th year these reports have described the problems and the remedies that have been applied to ameliorate them.

The report on motor vehicle safety includes the annual reporting requirement in Title I of the Motor Vehicle Information and Cost Savings Act of 1972 (bumper standards). An annual report also is required by the Energy Policy and Conservation Act of 1975 which amended the Motor Vehicle Information and Cost Savings Act and directed the Secretary of Transportation to set, adjust and enforce motor vehicle fuel economy standards. Similar reporting requirements are contained in the Department of Energy Act of 1978 with respect to the use of advanced technology by the automobile industry. These requirements have been met in the Third Annual Fuel Economy Report, the highlights of which are summarized in the motor vehicle safety report.

In the Highway Safety Acts of 1973 and 1976, the Congress expressed its special interest in certain aspects of traffic safety which are addressed in the volume on highway safety. The annual reporting requirements set forth in the Highway Safety Act of 1978 will be covered in future editions of this report as may be appropriate.

JIMMY CARTER.

THE WHITE HOUSE, *October 12, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:07 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 929. An act for the relief of Eun Kyung Cho and Hei Kyung Cho;

H.R. 1486. An act for the relief of Chang Petersen;

H.R. 1628. An act for the relief of Susan Katherine Adamski;

H.R. 3146. An act for the relief of Patrick A. and Wayne L. Thomas; and

H.R. 5419. An act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvements of programs carried out thereunder, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. SIMON, Mr. BRADEMAS, Mr. BEARD of Rhode Island, Mr. MILLER of California, Mr. HAWKINS, Mr. BIAGGI, Mr. STACK, Mr. ASHBROOK, Mr. KRAMER, Mr. COLEMAN, and Mr. ERDAHL were appointed managers of the conference on the part of the House.

At 2:21 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 2 to the joint resolution; and that the House recedes from its disagreement to the amendment of the Senate numbered 5 to the joint resolution, and concurs therein with an amendment in which it requests the concurrence of the Senate.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2312. A communication from the Director, Legislative Liaison, Department of the Air Force, reporting, pursuant to law, on revenues derived from recovered materials, for fiscal year 1978; to the Committee on Armed Services.

EC-2313. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Jordan for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2314. A communication from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the control of interstate and foreign commerce in fish and wildlife; to the Committee on Environment and Public Works.

EC-2315. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, an amendment to the approved prospectus for the South Bend, Indiana, Federal Building-U.S. Courthouse, in the amount of $4,901,000; to the Committee on Environment and Public Works.

EC-2316. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied in the Fairmont Building, 7735 Old Georgetown Road, Bethesda, Maryland; to the Committee on Environment and Public Works.

EC-2317. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes that the Government exercise an option to renew the lease for space presently occupied in the Casimir Pulaski Building, 20 Massachusetts Avenue, Washington, D.C.; to the Committee on Environment and Public Works.

EC-2318. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition of space by lease by Phoenix, Arizona; to the Committee on Environment and Public Works.

EC-2319. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the U.S. Post Office and Courthouse, 1300 S. Harrison Street, Fort Wayne, Indiana, in the amount of $4,200,000; to the Committee on Environment and Public Works.

EC-2320. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Senate Building Beauty Shop, for the Fiscal Year Ended February 28, 1979," October 12, 1979; to the Committee on Governmental Affairs.

EC-2321. A communication from the Federal Election Commission, transmitting, pursuant to law, a report on the Presidential Election Campaign Fund; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATHIAS:

S. 1881. A bill for the relief of Frank Donald McCormack; to the Committee on the Judiciary.

By Mr. CULVER (for himself, Mr. BAKER, and Mr. CHAFEE):

S. 1882. A bill to provide for the control of interstate and foreign commerce in fish and wildlife; to the Committee on Environment and Public Works.

By Mr. COCHRAN:

S. 1883. A bill to amend the Cooperative Forestry Assistance Act of 1978 to provide assistance, by means of cost sharing, to private forest landowners whose forest lands have been severely damaged as the result of a natural disaster; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOREN (for himself and Mr. Roth):

S.J. Res. 110. A joint resolution proposing an amendment to the Constitution of the United States to establish a ten year term of office for Federal judges; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself and Mr. Thurmond):

S.J. Res. 111. A joint resolution to authorize and request the President to proclaim December 3, 1979 through December 9, 1979, as "National Boy Scouts Calendar Distribution Week"; to the Committee on the Judiciary.

By Mr. HART:

S.J. Res. 112. A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

By Mr. ROBERT C. BYRD (for himself, Mr. Baker, Mr. McClure, Mr. Cranston, Mr. Durkin, Mr. Thurmond, Mr. Hart, Mr. Domenici, Mr. Warner, Mr. Cochran, Mr. Baucus, Mr. Boren, Mr. Levin, Mr. Pell, Mr. Sarbanes, Mr. Stennis, Mr. Tsongas, Mr. Nelson, Mr. Laxalt, and Mr. Randolph):

S.J. Res. 113. A joint resolution relative to salaries of Members of Congress; considered and passed.

By Mr. MAGNUSON (for himself, Mr. McGovern, Mr. Melcher, Mr. Baucus, Mr. Young, Mr. Jackson, Mr. Church, and Mr. Hatfield):

S.J. Res. 114. A joint resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CULVER (for himself, Mr. Baker, and Mr. Chafee):

S. 1882. A bill to provide for the control of interstate and foreign commerce in fish and wildlife; to the Committee on Environment and Public Works.

LACEY ACT AMENDMENTS OF 1979

● Mr. CULVER. Mr. President, today I am introducing at the request of the administration the "Lacey Act Amendments of 1979." I believe this proposal is a good vehicle for discussions of possible legislative remedies to facilitate law enforcement efforts in controlling illegal trade in wildlife.

There seems to be little doubt that new measures are necessary to help curb illicit trade in animals and plants and goods produced from them. According to some estimates, the unlawful trade in live birds and animals alone may run as high as tens of millions of dollars annually, and trade in wildlife products is running many times higher. Tragically, many of these animals are threatened or endangered species.

The "Lacey Act Amendments of 1979" would repeal the present Black Bass Act and sections 43 and 44 of the Lacey Act and replace them with a single comprehensive statute. This legislation principally:

Proposes a "strict liability" provision with a moderate penalty, in lieu of criminal intent standards, in those cases where forfeiture or a civil penalty would be a sufficient deterrent to future violations;

Authorizes civil penalties of up to $10,000 per violation to be assessed against any person who in the exercise of due care should know that he is violating the act;

Authorizes criminal sanctions of up to $20,000 per violation in fines or 5 years in jail;

Provides for administrative forfeiture for items of low value;

Extends legal protection to certain species of wildlife not presently covered (e.g. coral); and

Broadens coverage to violations of Indian tribal law.

The Subcommittee on Resource Protection, which I chair, has scheduled hearings on November 6 and 7 on international wildlife issues. The problems addressed by this legislation will be among the principal areas of interest in those hearings, and I look forward to having a thorough discussion of the provisions of this bill and the illicit trade in wildlife and plant species.●

● Mr. CHAFEE. Mr. President, the Justice Department estimates that the illegal trade in certain live bird species and other animals runs to tens of millions of dollars a year. The illegal trade in wildlife products is many times higher. What is truly disturbing is that much of this illegal traffic involves protected wildlife, such as endangered and threatened species. The rarer the creature, the higher the price.

I think it is time that the Congress take a look at the whole issue of international wildlife, including what could be termed an international scandal of animal smuggling. In fact, the Environment and Public Works Subcommittee on Resource Protection, chaired by Senator Culver, will hold hearings on November 6 and 7 on international wildlife problems. In light of these upcoming hearings, Senators Culver, Baker, and I are today introducing, by request of the administration, the Lacy Act Amendments of 1979. These are provisions changing existing law concerning illegal importation and smuggling of wildlife.

The subcommittee will consider this administration proposal, among others, during its upcoming hearings. I look forward to working on the overall issue, which has long been a personal concern of mine.

Mr. President, I ask unanimous consent that the text of the transmittal letter from the Department of the Interior be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Washington, D.C., October 11, 1979.

Hon. Walter F. Mondale,
President of the U.S. Senate,
Washington, D.C.

Dear Mr. President: The President, in his August 2, 1979, Environmental Message to Congress, has directed that legislation be submitted to overcome the obstacles which inhibit law enforcement efforts in controlling illegal trade in wildlife and plants. The following draft bill "To provide for the control of interstate and foreign commerce in fish and wildlife" is designed to improve our law enforcement capabilities and to strengthen the laws regulating trade in wildlife. The bill would be cited as the "Lacey Act Amendments of 1979."

We recommend that it be referred to the appropriate Committee for consideration and that it be enacted.

This proposal repeals the present Black Bass Act, as amended (16 U.S.C. 851-856) and sections 43 and 44 of the Lacey Act of 1900, as amended (18 U.S.C. 43 and 44), and replaces them with a single, comprehensive statute which we recommend be codified in Title 16.

The current Black Bass Act prohibits the importation or transportation in interstate or foreign commerce of black bass and other fish in violation of foreign, State, or other applicable law, or the purchase of such fish. As written, however, it does not adequately deal with the problems in this area. For example, it only comes into play when the law of the State of origin has been violated. Thus, the shipment of white amur (grass carp) from Arkansas to California is not a violation of the Act, notwithstanding a California law finding this fish injurious to its environment, because Arkansas has no law prohibiting shipment of such fish. The criminal penalties in the Black Bass Act are also unsatisfactory. The maximum penalty is $200 or three months in jail. These penalties provide no real deterrent to a commercial violator and the standard of proof of criminal intent which is required is so high that law enforcement officials have no real incentive for strict enforcement.

Section 43 of the Lacey Act prohibits transportation and certain other activities involving wildlife and parts or products thereof (other than migratory birds, which are protected under the Migratory Bird Treaty Act, as amended (16 U.S.C. 703-712)) taken, transported, or sold in violation of Federal, State or foreign laws and regulations.

Section 44 of the Lacey Act provides for labeling (or otherwise identifying the contents) of packages containing wildlife transported in interstate or foreign commerce. Like the Black Bass Act, section 43 of the Lacey Act may be interpreted to require criminal intent standards which are very difficult for the prosecution to meet. The legislative history of the Act may be read to require that the defendant have knowledge of the applicable foreign, State or Federal law.

This has proved to be a standard which is nearly impossible for the prosecution to meet. In addition, section 43 of the Lacey Act contains no provision for assessing civil penalties without a showing of knowledge or lack of due care on the part of the defendant. Our bill proposes a "strict liability" provision which imposes a moderate penalty following conviction. We believe that this provision will be particularly helpful in cases where forfeiture or a civil penalty would be a sufficient deterrent to prevent further violations.

The bill also authorizes criminal sanctions of up to $20,000 in fines and/or 5 years in jail. Furthermore, the present law provides only for judicial forfeiture. Our proposal provides for an administrative forfeiture procedure for items of low value similar to the one found in the Endangered Species Act and other wildlife laws which have incorporated the forfeiture provisions of the customs laws.

We also recommend that legal protection be extended to species of wildlife not now covered by the Act. For example, current Federal law apparently does not permit us to investigate unlawful interstate and foreign traffic in coral, although it is protected by some State and foreign laws. We encourage the States and foreign governments to protect a broad variety of species; our legal mechanisms should be supportive of those governments in the interstate and foreign commerce area.

The proposed legislation also broadens the coverage of the present Lacey Act to include wildlife and wildlife parts or products taken in violation of Indian tribal law. This was done because many tribes have management authority over substantial wildlife resources within their tribal boundaries.

A reward provision has also been added that would allow the payment of rewards for information which leads to a criminal conviction, a civil penalty assessment or the forfeiture of property. The amount of the reward if any, is not to exceed the amount of penalty, fine or forfeiture collected.

Both the Black Bass Act and section 44 of the Lacey Act contain marking requirements for shipments of fish and wildlife. Our proposal would allow the Secretary to make these provisions uniform and modify them to conform to modern commercial practices.

We believe that this bill, if enacted, will resolve problems in the existing laws concerning illegal trade in wildlife, and will also improve and strengthen the ability of the government to control illegal trafficking in wildlife.

We urge the Congress to act favorably on this proposal for the protection of our diminishing fish and wildlife resources.

The Office of Management and Budget has advised that this proposal is in accord with the program of the President.

Sincerely,

DAVID HALES,
Acting Assistant Secretary.●

By Mr. COCHRAN:

S. 1883. A bill to amend the Cooperative Forestry Assistance Act of 1978 to provide assistance, by means of cost sharing, to private forest landowners whose forest lands have been severely damaged as the result of a natural disaster; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. COCHRAN. Mr. President, I am today introducing legislation to clarify and expand the applicability of the forestry incentive program in the case of timber damage suffered in a natural disaster.

Hurricane Frederic, which recently struck the Gulf Coast, including portions of Mississippi, Alabama, and Florida, wrought extensive damage in timberlands held by private landowners. Some estimates of that damage are now available. According to the Agricultural Stabilization Conservation Service and to the Forest Service, Hurricane Frederic damaged 1.95 million acres of timber in Mississippi. Of the acreage in Mississippi damaged, 325,000 acres of privately owned timber were damaged so severely as to require reseeding. Every year, of course, millions of acres of valuable timber are damaged by fire with many damaged so severely as to require reseeding.

Under the existing forest incentive program administered by the Agricultural Stabilization Conservation Service, cost sharing assistance is provided for afforestation of suitable open lands, reforestation of cut over or other nonstocked or understocked forest land, and for timber stand improvement. The funds allocated to the States to carry out this program are based on the area in private ownership of 1,000 acres or less of forest land with growth potential and the availability of technical services to carry out the program.

There is no specific provision to allocate funds in the program for those areas where existing forest land has been damaged or destroyed by a natural disaster.

Because disaster assistance in reforestation is not generally available, millions of acres of timberland are not replanted every year. We need this timberland.

My bill amends the Cooperative Forestry Assistance Act of 1978 to provide assistance to private landowners whose forest lands have been severely damaged as a result of a natural disaster.

The bill provides for Federal Government cost sharing assistance of up to 75 percent of the cost for clearing and reseeding up to 1,000 acres of timberlands damaged by a natural disaster for forest landowners who own 2,000 acres or less.

The funding for this program will come out of the forestry incentive program. The Secretary of Agriculture will take into account timber damaged by natural disaster when making allocation of forestry incentive program funds to individual States.

I cannot think of a more appropriate function for this program than in assisting small timber owners in clearing and replanting timberlands already in production but deemed unproductive because of a natural disaster. I hope that the Senate will see fit to act on this measure as quickly as possible.●

By Mr. BOREN (for himself and Mr. ROTH):

S.J. Res. 110. A joint resolution proposing an amendment to the Constitution of the United States to establish a 10-year term of office for Federal judges; to the Committee on the Judiciary.

● Mr. BOREN. Mr. President, taking heed to Thomas Jefferson's warning that the makeup of the Federal judicial system contains "the germ of dissolution of our Federal Government," I am today introducing a constitutional amendment which would eliminate life tenure for Federal judges and limit their terms in office.

There is no clearer illustration of the old adage that absolute power corrupts absolutely than the use of excessive power by some Federal judges. It is too much to expect a human being to restrain his own power when he has that power for life and is accountable to no one.

We must strike a balance between the necessary independence of the judiciary from political pressures and the need to hold judges accountable for the proper performance of their duties. This legislation will strike the proper balance.

Under this legislation, the Constitution would be amended to limit the tenure of Federal judges, who are appointed by the President and confirmed by the Senate, to a 10-year term. The bill includes U.S. Supreme Court Justices. A judge could be reappointed for additional 10-year terms by the President, subject to reconfirmation by the Senate.

Presently, there is really no practical way to remove a judge who usurps authority not rightfully his or becomes less capable while on the bench.

The only method for removal established by the Constitution is impeachment. Unless a Federal judge has committed a crime or some clearly impeachable offense, he cannot be removed. No Federal judge has been removed by impeachment for 43 years. The last impeachment was in 1936 when Judge Halsted L. Ritter of the Southern District of Florida was removed.

A term of 10 years is long enough to protect the judge against daily political pressures so that justice will be impartial and fair. A good judge could be reappointed. However, this legislation would mean that the people would not be saddled with a bad judge for life. Even persons who are very good judges when appointed may suffer physical or emotional changes over the years which would make them unfit for reappointment.

While the majority of Federal judges serve with distinction and a proper respect for the law, there must be a practical check on those who do not.

Even while the Constitution was being drafted, leading scholars of the day objected to its life tenure provisions, and revisions of this section of the Constitution have been considered on several occasions since that time.

Among the leading early opponents of life tenure was Thomas Jefferson, who advocated limited terms for Federal judges.

In his treatise "Democracy," Jefferson wrote:

> To consider the judges as the ultimate arbiters of all constitutional questions (is) a very dangerous doctrine indeed, and one which would place us under the depotism of an oligarchy * * * and their power (is) the more dangerous as they are in office for life * * * The constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots.

Over the years, there have been over 100 proposals presented in Congress to amend the Constitution relative to appointment and tenure of judges, but none of the proposed amendments generated enough support to pass both Houses of Congress by the required two-thirds vote to begin the process of ratification.

Only one proposal, Senate Joint Resolution 106, "Reconfirmation of Federal Judges," was ever even the subject of a hearing. This was held before the Senate Judiciary Subcommittee on Constitutional Amendments on May 19, 1972.

While history shows that this effort is an uphill battle, it must be continued. Support is growing because the recognition of the unhealthy effects of life tenure for judges is growing.

Some Federal judges today tend to feel that they constitute a superlegislature. They tend to act as if they were anointed and not appointed. They freely legislate social issues and clearly preempt the Congress and the executive branch.

The Federal courts have the legitimate right and the duty to protect the individual citizen against unconstitutional acts by the other branches of Government. However, the Federal judiciary has become the branch of Government which has assumed authority to revise the Constitution without admitting that it is doing so.

Clearly, the Constitution leaves legislating to the Congress and State legislatures, and establishes definite provisions for amending the Constitution which give the people a say in the amendment process. While the courts should legitimately interpret the Constitution, too often the process turns into a practical amendment of the Constitution by the arbitrary whim of some Federal judge who serves for life.

This bill calls for an amendment to the U.S. Constitution, which would require ratification of the legislatures of three-fourths of the States within 7 years after the amendment is approved by Congress.

It amends article III of the Constitution to state "that the term of office of each Federal judge shall be for 10 years and will begin at noon on the day after the President has commissioned the judge."

The amendment would take effect immediately upon ratification, but would not be retroactive and would not apply to Federal judges serving prior to its ratification. It would apply only to persons appointed to a Federal judgeship after ratification of the amendment.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 110

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE

"SECTION 1. Notwithstanding the provisions of the second sentence of section 1 of article III of the Constitution of the United States, the Judges, both of the supreme and inferior Courts, shall be appointed to their offices for such terms during good behavior. The term of office of each judge shall begin at noon on the day after the day on which the President commissions such judge. During the tenth year of each term of office of any such judge, the President of the United States may place his nomination for an additional term of office for that judgeship before the Senate for its advice and consent to such additional term. Any judge whose nomination for an additional term of office is so placed may remain in office until the Senate gives its advice and consent to, or rejects, such nomination. If the Senate gives its advice and consent to an additional term of office, that term shall commence from the date of such advice and consent, or the day immediately following the last day of his previous term of office, whichever is later.

"SECTION 2. Section 1 of this article shall take effect on the date of ratification of this article, but shall apply only with respect to any person appointed a judge of the Supreme Court or as a judge of an inferior court after such date of ratification.".●

● Mr. ROTH. Mr. President, I am very pleased to join with my colleague from Oklahoma as the principal sponsor of a joint resolution proposing a constitutional amendment to limit the tenure of Federal judges to 10 years.

This legislation is essential to halt the continuing erosion of one of our most sacred principles—the separation of legislative, judicial, and executive powers.

This state of affairs was unacceptable to the distinguished writers of "The Federalist" two centuries ago, and it is unacceptable to the people of this Republic today.

In recent years the Federal judiciary has moved away from its traditional role of curbing abuses in the legislative and executive branches to the force drafting of wholesale social change. Federal court judges have sought to rewrite the Constitution in the guise of interpreting it. In the process they have usurped prerogatives properly belonging to the elected representatives of the people. By decreeing "enlightened" social policy rather than interpreting the law, the "new" judiciary has become a superlegislature responsible to no one. They have become a continuing constitutional convention without elected delegates and, in a very real sense, a judicial oligarchy decreeing to the States and Congress what they must do. This situation must be brought to a rapid conclusion for it violates the very principles upon which this Nation has grown and prospered since its inception.

Today's "new judiciary" includes within its purview education policy, mental health, and the size and design of prisons. The Members of this body have been handed decisions which affect hospital administration, penal institutions, child support, voting registration, and natural resource allocation. The judiciary has even gone so far as to seek to limit the size of college football squads, ban smoking in public places, and set school tax rates.

Regardless of the merits of these cases, judges are not social planners, they are legal theorists. They have neither the resources nor, most importantly, the mandate to intervene in the policy development and implementation functions of the executive and legislative branches.

Supreme Court Justice John M. Harlan wrote that—

> The Constitution is not a panacea for every blot upon the public welfare; nor should the court, ordained as a judicial body, be thought of as a general haven for reform movements.

Well, the judiciary never took Judge Harlan's words seriously. To the extent any court perceives its functions as one of making fundamental value choices for society, while ignoring traditional constitutional values, then to that extent the court is exercising its power illegitimately.

Judicial restraint is an implied condition of the authority of judicial review. While legislative overreaching may result in the sacrifice of individual protections secured by the Constitution, judicial overreaching may sacrifice the right of the people to govern themselves.

Many believe the courts should act whenever Congress either has not done so or when Congress passes a law with which they disagree. Those who hold these views are intoxicated by the quick, simple way in which the courts can decree what they deem to be desirable social ends. Recourse to the courts avoids the often slow and frustrating effort necessary to analyze the problems, devise precise solutions and develop the political coalition to advance their cause.

In addressing this issue, Chief Justice Burger has stated:

> This (recent significant change brought about by litigation) has given rise to the alluring prospect that our world can be changed in the courts. I confess it is an intriguing idea. Federal judges in particular need not be troubled by constituents or elections and can therefore concentrate on problems without regard to public opinion . . .
>
> Those who would look to judges, and especially tenured federal judges, to innovate and reshape our society will do well to ponder what remedy is available if the world shaped by the judicial process is not to their liking. I suggest that this approval be considered against the background of our traditions and history which began with a revolution instituted to overthrow a government that was beyond recall by the votes of the people.

The Chief Justice went on to conclude that—

> It was never contemplated in our system that judges would make drastic changes by judicial decision.

And it is this departure from the traditional role and responsibility of the courts that we must correct; 152 new Federal judges will take office this year and next. This unprecedented expansion of the Federal judiciary will have a profound impact on the separation of powers in our federalist system.

I believe that by limiting Federal judgeships to a period of 10 years, we can insure that the President and the Congress have an opportunity to evaluate judicial performance and insure that it reflects the needs and mores of our society. At the same time, the length of the judicial term—more than twice that of the President's—would insure the independence and separate nature of our judiciary.

The country urgently needs judges who reflect the tradition of judicial self-restraint as envisioned by the Founding Fathers. Only in this manner can the judiciary maintain its proper role in our constitutional system.

By reducing the tenure of Federal judges from lifetime appointments to a period of 10 years, we can insure that this is done. If, at the end of any 10 year term, a judge is found to be exercising his role as adjudicator in an exemplary manner, the President may reappoint and the Senate may then reconfirm that judge for another 10-year term.

This amendment would apply to any person holding such office prior to ratification of this article.

Mr. President, our resolution is crucial to the preservation of our federalist system, and I urge my colleagues to join with us in sponsoring it.●

By Mr. HOLLINGS (for himself and Mr. Thurmond):

S.J. Res. 111. Joint resolution to authorize and request the President to proclaim December 3, 1979, through December 9, 1979, as "National Boy Scouts Calendar Distribution Week;" to the Committee on the Judiciary.

NATIONAL BOY SCOUTS CALENDAR DISTRIBUTION WEEK

● Mr. HOLLINGS. Mr. President, one of the fondest memories I have from my childhood is my membership in the Boy Scouts of America. There is hardly anyone who is not familiar with the outstanding work of this organiation and the many contributions that scouting has provided in leadership training and other areas for the young men of our Nation. Without recounting this organization's list of achievements, I will only say that the contribution has been very significant and we are all greatly indebted for it.

Today I am introducing a joint resolution to honor the 55th year of the official Boy Scout calendar program by calling for the week of December 3-9, 1979, to be recognized as "National Boy Scouts Calendar Distribution Week." The calendar program was established as a vehicle to familiarize and promote the Boy Scouts. For over 50 years the calendar illustrations were done by the celebrated artist Norman Rockwell, and, since his death in 1978, they have been done by his protege Joe Csatari. "National Boy Scouts Calendar Distribution Week" will be a fitting tribute to the many contributions scouting has made to the social fabric of America. I urge you to join with me in calling attention to the official Boy Scout calendar program and in so doing promoting the Boy Scouts of America.●

By Mr. HART:

S.J. Res. 112. Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

CONTINUING APROPRIATIONS, 1980

● Mr. HART. Mr. President, the joint resolution I am introducing today is an emergency measure to give the Department of Defense and other Federal agencies temporary funds to meet their payrolls and provide benefit checks for 2 weeks while Congress continues to work on resolving the stalemate on the continuing resolution for fiscal year 1980.

With this measure, paychecks could be delivered on schedule to the 1.6 million military personnel and thousands of Federal employees who now fear their paychecks will arrive late, if at all.

Since all efforts to resolve the disputes over the continuing resolution have failed, I strongly believe we need to pass this emergency short-term measure.

The continued congressional impasse over a pay raise for Members of Congress is causing unnecessary hardship to millions of military personnel and Federal workers. This delay is inexcusable and unconscionable. I am outraged—as are most of our constituents—by the spectacle of Members of Congress fighting over their own pay raise while members of our Armed Forces and Federal employees do not get paid at all.

Even if this issue is resolved in time for the paychecks to be delivered on schedule—whether through this resolution or congressional passage of the continuing resolution—this kind of unnecessary cause for concern should not be allowed to happen again.●

By Mr. MAGNUSON (for himself, Mr. McGovern, Mr. Melcher, Mr. Baucus, Mr. Young, Mr. Jackson, Mr. Church, and Mr. Hatfield):

S.J. Res. 114. A joint resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad; to the Committee on Commerce, Science, and Transportation.

● Mr. MAGNUSON. Mr. President, I send to the desk a joint resolution to provide for the orderly restructuring of the Milwaukee Railroad. The primary purpose of this legislation is to assure that Congress and the Interstate Commerce Commission have a sufficient opportunity to address the crisis facing the Milwaukee Railroad as a result of its pending bankruptcy, and to assure that this important question involving national rail transportation policy is addressed in a proper forum; namely, the legislative branch. The trustee of the Milwaukee Railroad, appointed by a Federal bankruptcy court in Chicago, has proposed abandonment of approximately 6,000 miles of this transcontinental line primarily in the area west of Mile City, Mont. We are faced with a proposal for the most massive abandonment of rail road in the history of this country. In light of the fact that Congress will soon be discussing rail deregulation, I believe it is particularly important that the potential anticompetitive effects of a massive abandonment by the Milwaukee Railroad be fully explored and considered by the Congress before this abandonment occurs.

Mr. President, this week a coalition consisting of employees, shippers and rail labor released the results of a study prepared by Policy and Management Associates, Inc. of Boston, Mass., which concluded that Milwaukee Railroad lines from Minneapolis-St. Paul to Seattle, Wash. could be reorganized as a viable and separate railroad prior to 1985. According to that study, a series of earlier studies commissioned by the Department of Transportation and others made basic errors in underestimating the growth in coal, grain and overseas container traffic in this area, which cuts across the northern tier States. Because of the important questions raised by the study, I would hope that my colleagues will give it serious consideration in the upcoming discussion of the resolution that is being introduced today.

The chairman of the Interstate Commerce Commission, Mr. A. Daniel O'Neal, recently advised me that in the opinion of the ICC, directed service over the lines proposed for abandonment would be at substantially greater cost to the Government than if further repayable loans were made available. In the upcoming weeks we can fully expect to learn just how expensive directed service will be. A recent ICC directed service order covering 7,200 miles of the Rock Island has already consumed almost all of the $14 million currently available to the ICC. The Congress will provide an additional $50 million for directed service through the Department of Transportation's fiscal year 1980 appropriation. However, the ultimate cost of directed service over the Rock Island cannot be ascertained at this time, and may well run in excess of $100 million.

I think it is important to note that the Federal Government must reimburse a directed carrier for any losses in the operation of the Rock Island as well as a 6 percent profit based on gross revenues. The Federal Government will never be repaid any portion of this multimillion dollar grant.

This resolution will provide for the availability of further ERSA funding for the Milwaukee Railroad until a plan for reorganization can be submitted to both the ICC and the bankruptcy court for approval and implementation by May 10, 1980. The Interstate Commerce Commission expects to have completed action on the Milwaukee abandonment petition by that date, at which time the reorganization plan could be implemented or an abandonment of the lines in question could be ordered.

Mr. President, I am very pleased that the distinguished Senator from Nevada (Mr. Cannon) chairman of the Senate Committee on Commerce, Science and Transportation, has indicated a willingness to address this serious problem on an expedited basis. My colleagues and I firmly believe that the resolution introduced today provides an opportunity for both the thorough discussion and early action that this crisis demands. I hope that an early hearing on this matter will serve to further clarify the issues involved, so that a markup can be held in early November followed by floor action prior to November 30:

Mr. President, I ask unanimous consent that the full text of the resolution be printed in te Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

CONGRESSIONAL FINDINGS

Section 1. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, Saint Paul, and Pacific Railroad Company (hereinafter the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Minnesota, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry;

(5) other railroads have the ability and willingness to employ displaced Milwaukee Railroad employees;

(6) the ownership by employees or employees and shippers of a substantial part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(7) coal shipments from the great coal deposits underlying Montana, Wyoming, North Dakota, and South Dakota are dependent upon continuing rail service over the lines of the Milwaukee Railroad;

(8) the agricultural producing and marketing activities in this tier of States is equally dependent upon rail service provided by the Milwaukee Railroad;

(9) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare and would reduce rail competition in the affected tier of States;

(10) cessation of such services is imminent; and

(11) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this resolution must be taken to restructure the Milwaukee Railroad and to avoid the substantial unemployment and damage to the economy of the region and of the Nation which a cessation of operations by the Milwaukee Railroad would otherwise cause.

SALES AND TRANSFERS

SEC. 2. (a) The Milwaukee Railroad, in consultation with the Secretary of Transportation, may negotiate and enter into agreement to sell all or any portion of its railroad system to any other rail carrier or to any other person. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 22(b) of this joint resolution or May 10, 1980, whichever first occurs.

(b)(1) The Secretary of Transportation, under the authority of section 5(a) through (e) of the Department of Transportation Act, may develop plans and participate in negotiations for, and recommend to the trustee of the Milwaukee Railroad the sale or transfer of any portion of the Milwaukee Railroad. In developing such plans and entering into such negotiations, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Proposals developed under this section shall be submitted to the court having jurisdiction over the reorganization of the Milwaukee Railroad (hereinafter the "bankruptcy court"). Such a proposal may in no event become final or effective until the occurrence of an event described in section 22(b) of this joint resolution, or May 10, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

SEC. 3 (a)(1) Upon the occurrence of an event described in section 22(b) of this joint resolution, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 22(b) of this Act, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of lines of the Milwaukee Railroad subject to paragraph (2) of this subsection.

In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49, United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities of timing of payment of labor protection which might have existed in the absence of this joint resolution.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 4. (a)(1) No later than January 1, 1980, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.

(2) The Commission shall, within thirty days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code, and for purposes of making such finding the plan as submitted shall be presumed to be feasible.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(a) adequate public and private financing is available to the proponents of such plan;

(b) such plan is fair and equitable to the creditors;

(c) implementation of such plan will occur by May 10, 1980; and

(d) that portion of the railroad covered by the plan can be operated on a self-sustaining basis.

For the purposes of the findings under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State or local funds available under programs which are or may be available to the proponent and which the proponent is qualified to obtain.

(b) If the Commission finds that the plan is feasible, it shall submit its findings to the bankruptcy court. Within ten days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the creditors of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the creditors of the Milwaukee Railroad, the proponents of such plan shall, no later than May 10, 1980, take such steps as may be necessary to implement the plan. For purposes of this section, the term "implement the plan" means that the proponents shall (1) obtain preliminary commitments from private and public sources of financing and (2) obtain a certificate of public convenience and necessity to operate as rail carrier.

(d) Except as provided in subsections (a)(2) and (b) hereof, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) the trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or position of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 5. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term "restructuring" includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system in accordance with section 22 of this joint resolution, and for purposes of financing the operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 23(b) of this joint resolution or on March 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970. The provisions of paragraph 3(b)(3) and of the last sentence of subsection 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service as required by section 22 of this joint resolution, and (2) the revenues of such railroad, both to be determined in accordance with the uniform system of accounts prescribed by the Interstate Commerce Commission.

(f) Notwithstanding the provisions of section 3(c) of the Emergency Rail Services Act of 1970 certificates guaranteed under this joint resolution shall not have priority in bankruptcy over the claim of any creditor of the Milwaukee Railroad as of the date of enactment of this joint resolution. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from the enactment date of this joint resolution, whichever first occurs.

RAILROAD PREFERENTIAL HIRING

SEC. 6. Notwithstanding any provision of law which affect the granting of preferences or priorities or equal treatment in employment, each rail carrier shall give preference in hiring to any employee of the Milwaukee Railroad who is separated from his employment by reason of any reduction of service by such railroad occurring prior to March 1, 1981. For purposes of this section, "reason of any reduction of service" does not include resignations, retirement, or discharge for cause.

MOVING EXPENSES

SEC. 7. (a) Subject to subsection 15(c) any current employee of the Milwaukee Railroad—

(1) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who is separated from his employment by reason of any reduction of service by the Milwaukee Railroad prior to March 1, 1981, and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier, shall be entitled to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be entitled are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The actual wage loss, not to exceed 7 working days, to enable the employee to find a new place of residence.

(3) The closing costs involved in disposing of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(5) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Claims for moving expense benefits under this section shall be paid by the Milwaukee Railroad, and shall be treated as administrative expenses of the estate of such railroad.

(d) Any claim of an employee for moving expense benefits under this section shall be filed with the Railroad Retirement Board. The board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

(e) As used in this section, the term "current employee" means an employee who has performed active service for the Milwaukee Railroad on or after September 1, 1979.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 8. (a) Any current employee of the Milwaukee Railroad and employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction of service by the Milwaukee Railroad occurring prior to March 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to March 1, 1984, shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) 80 per centum of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) Entitlement to monthly supplementary unemployment compensation under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(g) As used in this section, the term "restructured Milwaukee Railroad" means the entity which operates the lines of the railroad of the Milwaukee Railroad after May 10, 1980, as reduced or modified by the bankruptcy court.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the joint resolution entitled 'Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad' " immediately before the period at the end thereof.

(i) As used in this section the term "current employee" has the same meaning as given to such term in section 7(e) of this joint resolution.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 9. (a)(1) Within sixty days after the date of enactment of this joint resolution, and at the end of each of the sixteen following thirty-day periods, the Milwaukee Railroad shall submit to the Railroad Retirement Board a list of individuals separated from employment with the Milwaukee Railroad who at the time of such separation indicated a desire to appear on a list to be distributed to all rail carriers. Each such list shall include the class or craft qualifications of each employee listed, his seniority status with the Milwaukee Railroad, and such other information as the Board considers appropriate. The first list shall include only individuals separated after the date of enactment of this joint resolution and before the date on which the list is submitted pursuant to this paragraph. Each subsequent list shall include only those individuals separated after the submission of the previous list and before the submission of such subsequent list.

(2) Within five days after each day specified in paragraph (1) of this subsection, the Railroad Retirement Board shall mail a copy of the list submitted to the Board by the Milwaukee Railroad by such date to all other rail carriers. In addition, the Board shall maintain a current copy of such list in each office of the Board.

(b)(1) Within sixty days after the date of enactment of this joint resolution, and at the end of each of the sixteen following thirty-day periods, each rail carrier shall submit to the Railroad Retirement Board a list of employment, by class and craft, available with such carrier as of the date of the submission of such list. Each such list shall set forth such information with respect to such employment as the Board considers appropriate.

(2) Within five days after each date specified in paragraph (1) of this subsection, the Railroad Retirement Board shall prepare a compilation of all of the positions of employment by class and craft submitted by each rail carrier by such date, and shall mail a copy of such compilation to each employee who, pursuant to subsection (c) of this section notifies the Board of such employee's interest in such compilation. In addition, the Board shall maintain a copy of such compilation in each office of the Board.

(c) Any employee of the Milwaukee Railroad described in section 6 of this joint resolution may notify the Railroad Retirement Board that he is interested in receiving a copy of each compilation of positions of employment by class and craft prepared by the Board, pursuant to subsection (b)(2) of this section.

(d) Within twenty days after the Railroad Retirement Board mails a compilation of employment positions to employees pursuant to subsection (b)(2) of this section, any such employee may submit a bid on any position contained in such compilation to the rail carrier which listed the position.

(e) Any rail carrier which, during the twenty-day period after a compilation of positions is mailed, receives one or more bids on any employment position listed by such rail carrier in such compilation shall offer such employment position to the employee who submitted a bid on such position during such period who has the most seniority in the class or craft within which such position is listed. Such offer shall be made to such employee whether or not such rail carrier hired another person for such employment position during the period of time beginning on the date of the submission to the Board of the list containing such position and the last date on which bids were submitted by employees for such position pursuant to this section.

(f) Nothing in this section shall impair the seniority rights or other interests under a collective bargaining agreement of any person employed by a carrier which offers employment positions pursuant to this section, unless otherwise specifically authorized or required by applicable union law.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

SEC. 10. (a) Subject to subsection 15(c) any current employee of the Milwaukee Railroad and any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier.

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than thirty-six months of employee relocation incentive compensation under this section. No such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least eight months of such compensation, but after such data such employee shall only receive such eight-month minimum if such employee is employed continuously after such date.

(c)(1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) 80 per centum of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977 and ending on the date of enactment of this joint resolution; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad.

(2) The amount of compensation payable to an employee shall be the amount by which the monthly compensation described in paragraph (1)(A) of this subsection exceeds the monthly compensation described in paragraph (1)(B).

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee is eligible for or receives supplementary unemployment insurance under section 7 of this joint resolution.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for relocation incentive compensation under this section shall be filed with the Railroad Retirement Board. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

(g) As used in this section, the term "restructured Milwaukee Railroad" has the meaning given to such term in section 8(g) of this joint resolution.

(h) As used in this section the term "current employee" has the same meaning as given to such term in section 7(e) of this joint resolution.

SEPARATION ALLOWANCE

SEC. 11. (a) Subject to subsection 15(c) any employee of the Milwaukee Railroad may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad, in an amount equal to $2,000 for each year of completed service and in addition thereto, full payment for all vacation time earned but not previously taken and of deferred compensation. The amount of separation allowance payable to an employee under this section shall not exceed $25,000.

(b) Any separation allowance under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

(c) as used in this section "any employee" shall mean an employee who has performed active service for the Milwaukee Railroad on or after September 1, 1979, and who is separated from his employment by reason of any reduction in service by such railroad occurring prior to March 1, 1981. For purposes of this section "reason of any reduction of service" does not include resignation, retirement, or discharge for cause.

NEW CAREER TRAINING ASSISTANCE

SEC. 12. (a) Any employee who elects to receive separation allowance under section 11 of this joint resolution shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

ELECTIONS

SEC. 13. (a) Any employee who receives moving expense benefits under section 7 of this joint resolution, supplementary unemployment compensation under section 8, or employee relocation incentive compensation under section 10, shall not be eligible for a separation allowance under section 11 or for new career training assistance under section 12.

(b) An empoyee who receives a separation allowance under section 11 of this joint resolution shall not be eligible for assistance under section 7, 8, or 10.

(c) Any employee who receives any assistance under section 7, 8, 10, or 11 of this joint resolution shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 8 of this joint resolution not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 12 of this joint resolution not to exceed $1,500,000.

(c) There are authorized to be appropriated to the Railroad Retirement Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 15. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, shall guarantee obligations of the Milwaukee Railroad for purposes of providing moving expenses under section 7, employee relocation incentive compensation under section 10, and separation allowances under section 11. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to subsection (a) shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under subsections (a) and (b) of this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible under sections 7, 10, and 11 of this joint resolution, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances provided under sections 7, 10, and 11 of this joint resolution.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations guaranteed under this subsection shall not exceed $30,000,000.

(f) Obligations guaranteed pursuant to this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the enactment date of this joint resolution.

TRANSACTION ASSISTANCE

SEC. 16. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 845) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsection (a) through (e) of this section, the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person or retained by the Milwaukee Railroad and that will be used for common carrier rail service.".

ASSESSMENT OF COAL HAULING NEEDS

SEC. 17. The Secretary of Energy shall immediately conduct an assessment of present and potential coal hauling needs in the area served by the Milwaukee Railroad and report his findings to the Congress within thirty days after the date of enactment of this joint resolution.

DIRECTED SERVICE

SEC. 18. Until May 10, 1980, the provisions of this joint resolution shall be in lieu of any directed service under section 11125 of title 49 of the United States Code.

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 19. The provisions of the National Environmental Policy Act shall not apply to transactions carried out pursuant to this joint resolution.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 20. (a) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this joint resolution.

(b) In carrying out its duties under this joint resolution, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the provisions of this joint resolution.

PUBLICATIONS AND REPORTS

SEC. 21. (a) Within thirty days after the date of enactment of this joint resolution, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 7 through 13 of this joint resolution.

(b) During the two-year period beginning on the date of enactment of this joint resolution, the Railroad Retirement Board shall submit a report to the Congress every six months describing its activities under sections 7, 8, 9, 10, 11, and 12 of this joint resolution.

CONTINUATION OF SERVICE

SEC. 22. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on May 1, 1979, (2) shall continue no less than the required level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system: *Provided, however*, That the Milwaukee Railroad shall expend such funds as may be necessary from the funds provided in section 5 of this joint resolution, not to exceed a maximum of $10,000,000, for the purpose of meeting safety requirements.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 4(a) of this joint resolution;

(2) the proposed plan is found by the Commission not to be feasible;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 4(c) of this joint resolution.●

● **Mr. BAUCUS.** Mr. President, I am pleased to join Senator MAGNUSON in introducing comprehensive legislation which provides a reasonable approach for dealing with the problems of the bankrupt Milwaukee Railroad.

The legislation provides an opportunity for continued service on western portions of the railroad which are now slated for abandonment. However, the approach avoids a long-term Federal financial commitment. It does not create a new "Conrail."

Abandonment of the Milwaukee's western lines would result in a massive adverse economic impact. The Northern Tier has few transportation alternatives and little competition. Much of the region would be left with only one railroad to provide service. Some 3,000 direct Milwaukee jobs would be lost, with massive impact on small communities along Milwaukee lines.

The legislation Senator MAGNUSON and I are introducing provides an opportunity to avoid these adverse economic impacts without a massive commitment of Federal dollars.

DESCRIPTION OF LEGISLATION

The findings section of the legislation states that cessation of service by the Milwaukee Railroad would cause economic repercussions (including curtailment of essential coal and grain shipments and employee hardships), that employee ownership may be a key to reorganization, and that the legislation is necessary to restructure the Milwaukee Road.

EMBARGOES AND ABANDONMENTS

The legislation replaces expensive "directed service" (such as that recently ordered by the ICC for another bankrupt railroad, the Rock Island) with expanded availability of loans under the Emergency Rail Services Act of 1970.

Federal loans will avoid the necessity of any immediate abandonments. In the event that acceptable reorganization plans are not presented, the legislation will expedite abandonment of unprofitable lines by eliminating the requirement of ICC approval of such abandonments.

EMPLOYEE AND SHIPPER OWNERSHIP

Employees of the Milwaukee Road and shippers in affected regions are attempting to develop alternative reorganization plans to preserve Milwaukee service. The legislation gives interested organizations until January 1, 1980, to present an alternate plan. If the Bankruptcy Court and Interstate Commerce Commission approve the plan, Federal loans will be available to keep the Milwaukee system operating until the reorganization plan can be implemented.

The deadlines for implementation and submission of reorganization plans correspond to the dates already established in Interstate Commerce Commission abandonment proceedings.

Federal loans provided under the proposed legislation would replace directed service grants that would otherwise be provided by the Interstate Commerce Commission. The cost of additional emergency loans will be roughly the same as directed service—however, the Federal Government will have an opportunity to recover its outlay.

EMPLOYEE BENEFITS

The legislation provides for moving expenses, paid by the Milwaukee Railroad, for employees who are required to move because of restructuring. Supplemental unemployment insurance will be provided to displaced Milwaukee employees for up to 36 months. A separate allowance, paid for by the Milwaukee Railroad, is provided for any Milwaukee employee who is eligible for ICC-imposed or contractually imposed employee protection.

THE MILWAUKEE PROBLEM

The Milwaukee is the Nation's sixth largest railroad, hauling principally grain and other farm products, timber, and coal. Some 10,000 employees are required to operate the 9,800 mile Milwaukee system.

Following several years of low cash flow attributed to increased operating costs, reduced traffic volumes, and deferred maintenance which resulted in operating difficulties, the Milwaukee filed in December 1977, a petition for reorganization under section 77 of the Bankruptcy Act.

In August 1978, the bankruptcy trustee announced his intention to abandon lines west of Minneapolis, Minn. Employees of the affected western lines pointed out that this decision was made without comprehensive financial analysis and ignored the economic potential and transportation needs of the region.

In April 1979, the trustee petitioned to eliminate service on roughly two-thirds of the Milwaukee system, stating that the railroad's lack of cash made the abandonment imperative.

The U.S. Senate reacted in May 1979, by passing Senate Joint Resolution 81 (which I introduced) to provide a 60-day moratorium on any abandonments. The Interstate and Foreign Commerce Committee of the House reported similar legislation, H.J. Res. 341.

On May 31, the request to abandon was denied by the Bankruptcy Court. Creditors of the Milwaukee Railroad appealed the denial.

Late in July, the Federal Railroad Administration released four studies of the Milwaukee. A cover letter signed by Acting Secretary of Transportation Graham Claytor stated that:

> The western lines of the Milwaukee are not likely to become self-sustaining, either independently or as part of a reorganized Milwaukee system . . . We envision, therefore, that we will require any future assistance for the Milwaukee to be used only for those portions of the system which are reorganizable.

In mid-August, the trustee presented a reorganization plan to the Bankruptcy Court and made a second request for an embargo of western lines. The trustee argued that DOT's position opposing continued financial aid for western lines made their further operation impossible.

Last week, the bankruptcy judge granted the second embargo request, which was to be effective November 1. Again, the U.S. Senate reacted, attaching an October 1 amendment to the Continuing Appropriations Resolution requiring continued operation of the entire system through November 30. Senator CANNON, chairman of the Commerce Committee, assure Members of the Senate that his committee would act quickly on long-term Milwaukee legislation.

Meanwhile, Congressmen FLORIO and MADIGAN of the House Surface Transportation Subcommittee introduced a substitute to House Joint Resolution 341 which was cleared for floor action by the Rules Committee on September 27. The House substitute bill is similar to the legislation Senator Magnuson and I introduced today. It will require the entire railroad to continue operation through 1979. If acceptable reorganization plans are produced by employee and shipper interests, Federal loans will be available to keep the railroad operating until the plans can be implemented. The Florio-Madigan legislation also provides employee benefits including supplemental unemployment insurance.

On October 2, the 7th District Court of Appeals overturned the Bankruptcy Court decision denying the first Milwaukee embargo request. This decision, if unchallenged, could allow a legal embargo of the Milwaukee's western lines before November 1. However, the continuing appropriations resolution, expected to clear the Congress with its railroad provisions in the present form, would make such an embargo impossible.

NEW MILWAUKEE LINES

Soon after the trustee announced his intention to abandon western lines in August 1978, western employees formed a group they called SORE—Save Our Railroad Employment. These employees argued that the western lines of the Milwaukee are an essential part of the national transportation system and can operate profitably. They pointed out that the trustee had evidently made his abandonment decision with very little economic analysis or consideration of the adverse economic consequences.

In June 1979, western shippers joined employees to form an organization called New Milwaukee Lines. New Milwaukee Lines is a nonprofit organization incorporated in the State of Washington. Major shippers, representatives of railroad labor, and representatives appointed by the Governors of affected States serve on the New Milwaukee Lines Board.

New Milwaukee Lines was formed as an interim organization to proivde continued competitive railroad service in areas now served by the Milwaukee. To do this, New Milwaukee Lines has undertaken and coordinated Federal, State, local, and private efforts to prevent railroad abandonments. New Milwaukee Lines has commissioned the highly-regarded railroad consulting firm, the Consulting Center of Alexandria, Va., to develop an organizational, financial, management, and marketing plan for a shipper-and-employee-owned railroad to replace service on a substantial part of the Milwaukee system.

New Milwaukee Lines is making a massive financial and manpower effort to insure continued service in the West. The group intends to present an alternative plan of reorganization to the Interstate Commerce Commission by December 1, and intends to implement its reorganization plan as quickly as possible.

In a recent meeting attended by Senator MAGNUSON and myself, Trustee Olgilvie assured us that he would negotiate in good faith with New Milwaukee Lines representatives for the sale of all or a portion of the Milwaukee Railroad.

SUMMARY

Mr. President, the western lines of the Milwaukee Road are a vital part of the national transportation system. These lines will be increasingly important as new markets develop in Asia for U.S. grain and other products. They traverse nearly one-half of the Nation's coal reserves—reserves that can only contribute to the Nation's energy supply if they are served by strong railroads.

Independent studies show that the western lines can be financially self-sustaining. Shippers and employees have mounted a strong effort to preserve service on these lines.

Mr. President, the legislation we are introducing today gives us an opportunity to preserve vital railroad service to the Northwest without imposing an excessive burden on American taxpayers. It is an opportunity the Senate should not let pass. I urge my colleagues to support the Magnuson position on the Milwaukee Railroad during the Commerce markup scheduled for October 16 and on the Senate floor.

INDEPENDENT ANALYSIS OF MILWAUKEE RAILROAD

Mr. President, the Rail Labor Executives Association and New Milwaukee Lines have commissioned an independent analysis of the Milwaukee Railroad system with particular emphasis on the future viability of its Western lines.

The Rail Labor Executives Association represents all of the international labor unions involved in the railroad industry. New Milwaukee Lines is a coalition of Milwaukee Railroad shippers, employees, and representatives from affected State governments.

The Milwaukee Lines study, which was prepared by Policy & Management Associates of Boston, Mass., at a cost of $15,000, concludes that the Milwaukee's Western lines can operate as a separate viable railroad.

The Milwaukee Lines study further points out that previous studies of the Milwaukee Road contain basic errors in estimated revenue growth for coal, grain, and overseas container traffic. These errors have resulted in understated revenues and profits for the western lines.

The Milwaukee Lines study points out that an employee stock ownership plan could be expected to have significant impacts on productivity of railroad employees. This higher productivity would be reflected in lower operating costs and larger profits for an employee-owned railroad.

Mr. President, I ask unanimous consent that the Milwaukee Lines study be printed at this point in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

MILWAUKEE LINES STUDY

(An independent assessment of proposals and studies regarding the Milwaukee Line)

I. INTRODUCTION

The purpose of this study is to provide an independent objective assessment of the viability of two different system configurations of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Milwaukee Road):

(1) Lines West—Twin Cities to Tacoma.

(2) Transcontinental—Tacoma to Louisville.

This effort focused on a review of existing studies, proposals and analyses of the Milwaukee Road and included the following documents:

(1) Milwaukee Road Strategic Planning Studies, Volumes I and II, prepared by Booz-Allen & Hamilton, Inc. for Stanley E. G. Hillman, Trustee, Chicago, Milwaukee, St. Paul and Pacific Railroad Co. May 1979.

(2) S.O.R.E. Lines West Proposal, April 28, 1979.

(3) Assessment of the Financial Selfsustainability of the S.O.R.E. Lines West Proposal, by The Consulting Center, Inc., USA, July 2, 1979, sponsored by the U.S. Department of Transportation.

(4) Traffic Effects Study: The Viability of the Western Lines of the Milwaukee Road, prepared for the U.S. Department of Transportation, Federal Railroad Administration, by Reebie Associates and Day & Zimmermann, Inc., Final Report, July 1979. (DOT-FR-8072).

(5) Letter from W. Graham Clayton, Jr., Acting Secretary, U.S. Department of Transportation to Senator Max S. Baucus, Chairman, Subcommittee on Oversight of the Internal Revenue Service, dated July 31, 1979.

(6) A Review of Booz-Allen & Hamilton's "Milwaukee Road Strategic Planning Studies," Federal Railroad Administration Staff Paper, July 23, 1979.

(7) Reorganization Plan Submitted by the Association to Save Our Railroad Employment, in the United States District Court for the Northern District of Illinois, Eastern Division, Docket No. 77B 8999, September 10, 1979.

(8) Financial Analysis of the Impact on Labor and Labor Protection of the SORE Lines West Proposal, submitted to Office of the Secretary of Transportation, U.S. Department of Transportation, by Mark Battle Associates, Inc., July 19, 1979.

The review and analyses which follow were performed by the consulting firm of Policy and Management Associates, Inc., (PMA), Boston, Massachusetts.[1]

The three principals involved in this effort and their qualifications are as follows:

1. Robert Brandwein

An economist with extensive background in rail and truck transportation and economic development. In the transportation field, he was director of the consulting team which assisted in the development of the State of Wisconsin Railroad Plan, director of an evaluation of the survivability of the Boston and Maine Railroad, co-director of a major study of intercity transportation for the U.S. Senate Committee on Commerce, Science and Transportation, participant in a study of the impact of motor carrier regulation on small communities for the U.S.

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[1] The detailed resumes of the principal investigators are included in Appendix A.

Senate Committee on Commerce, Science and Transportation, and several studies of viability and financing of freight railroads and commuter rail. In the economic development area, he has directed projects which analyzed the feasibility of reopening a major steel mill under community and worker ownership, acquisition of manufacturing firms and development of industrial parks. Further, he has worked on many business development projects with business and community groups.

2. *Alan A. Altshuler*

Dr. Altshuler is the Chairman of the Department of Political Science and Urban Studies at Massachusetts Institute of Technology. He is a former Secretary of Transportation and Construction for the Commonwealth of Massachusetts where he was intimately involved in the public policy issues of the 3R and 4R Acts. He is currently an expert witness in the Penn Central properties valuation case and is the Chairman of the Board of PMA.

3. *Nancy W. Sheldon*

An expert in public policy and regulations relating to the development of the fuel and nonfuel minerals in the United States. She has just completed direction of a major study of regulation in the copper industry for the National Science Foundation. Earlier she has either directed or participated in efforts relating to the impact of minerals exploration and development on public lands, the economic impact of railroad operations on communities, and environmental issues of land use policies. Mrs. Sheldon is a Senior Executive Consultant to PMA.

II. SUMMARY OF FINDINGS

Prior to 1985, the Lines West system as a separate railroad will be a viable railroad.

All existing studies and factors point to the long-term viability and desirability of a transcontinental system—Tacoma to Louisville. However, a final judgment cannot be made at this time as to the viability of such a transcontinental system because of the unresolved issues regarding mergers and acquisitions relating to the competitive railroads in the Midwest and the lack of information on traffic, expense forecasts and operations.

Existing studies of the Milwaukee Road contain basic errors in estimated revenue growth for coal, grain and overseas container traffic which have understated revenues for the Lines West.

The estimates of diversion of traffic to other modes in the Reebie study (primarily truck) are illogical, unrealistic, and conceptually in error.

Joint trackage with the Burlington Northern (BN) resulting from the BN inclusion case can bring significant traffic/revenue to the Milwaukee Road.

An ESOP can be expected to have a significant impact on productivity which will be reflected in lower operating costs and larger profits.

Implementation of the system proposed by the Trustee in his reorganization plan would have significant adverse impacts on economic growth in the Plains and Western states, foreign trade through the Seattle-Tacoma Port, energy consumption by the transportation sector, the highway system and air quality.

III. ANALYSIS

Our analysis which has led us to the above findings is contained in the following five sections:

Critique of existing revenue projections and development of revised revenue estimates.

Costs of operations, including impact of ESOP.

Analysis of financing the acquisition, rehabilitation and continuing operations of the Lines West and transcontinental systems.

Discussion of the issues relating to the structure of the Midwest railroad system and the BN inclusion case.

Public benefits and costs of the Trustee's reorganization system.

A. Existing revenue projections and development of revised revenue estimates

1. *Existing Revenue Projections.*—The revenue forecasts contained in the various studies are summarized in the following exhibit:

EXHIBIT I

REVENUE FORECASTS

[Dollar amounts in millions]

Year	SORE	Booz-Allen		Consulting center	Reebie
		Gross freight revenues	Revenues		
1	$143.0	$168.8	$162.5	$141.0	[1] $189.6
2	162.3			153.9	
3	186.2		204.5 206.5	169.6	
4	211.6			189.0	
5	244.9			218.8	
6		228.6	220.6	234.0	[2] 71.2
Percent change	+71	+35	+36	+66	−62

[1] 1977.
[2] 1985.

It is our view that all of the above revenue forecasts understate the traffic and resulting revenue which a railroad line from St. Paul to Tacoma would capture by 1985. The basic error is in the estimation of the amount of coal which will be carried by rail in this area and the amount which would be carried by a new Milwaukee railroad. Further, underestimates have been made by all parties in grain and overseas container traffic.

This review and analytical effort did not have the time or resources available to develop pro forma financial statements based on changes in traffic, commodity mix and revenues. However, we were able to examine the future of coal traffic in the region, its impact on the Milwaukee Road and the projections which were developed, and therefore attach incremental traffic to the existing projected revenues. Analysis of rail profit is based upon a high percentage of fixed cost vs. variable cost, the additional traffic makes a substantial "bottom line" difference.

Three of the four revenue forecasts are not that much in variance with each other; projecting increases from 35 percent to 71 percent and dollar increases of $58 million to $102 million. One of the revenue forecasts (Reebie) is in such extreme variance that one must question the realism of its methodology and results. Before developing a revised forecast we will comment on the Reebie methodology and results.

The Reebie Study

The Reebie study uses "the most recent projections of economic activity within the study area, developed by the U.S. Department of Commerce." As one example of how the projections are used, the projected 57 percent growth in the mining sector for Montana from 1977–1985 is given entirely to the Burlington Northern Railroad since that railroad handles "that traffic at present." Further, they assumed for the Milwaukee "that future Western Lines' volume must be based primarily on the expansion of existing sources rather than the attraction of major new blocks of traffic." Even with this faulty approach to forecasting, the Reebie study concluded that "in the absence of diversions to other modes, the traffic carried by the Western Lines in 1977 could have been expected to grow by more than 20 percent by 1985." However, the study, through a cost model, computes that only 43 percent of the projected tonnage could be carried by the Western Lines with the remainder primarily going to truck (85 percent), TOFC (10 percent) and barge (5 percent). The products accounting for the bulk of diversion by tons to truck are primary forest products (41 percent), coal (25 percent), pulp and paper (8 percent), grain (5 percent) and lumber (3 percent).

The Reebie study can be faulted on many grounds. However, the major criticisms are:

Considering the report was submitted in July 1979, it uses dated economic projections. The BEA, U.S. Department of Commerce projections were published in October 1977 and based upon 1976 information at the latest. Current (as of August 29, 1979) projections show significant differences for the 1980–1990 period as compared to the 1977–1985 period. For example, the comparative data for the mining sector in three states is as follows:

	Reebie	Latest data
Montana	1.57	1.66
South Dakota	1.13	1.21
North Dakota	1.39	1.45

The latest data is going to be revised upward this fall, further increasing the variance. Also, the projection factors are income-based so they understate the growth in tonnage where economies of scale and increased productivity are occurring such as coal strip-mining. Further, the 1980 base is much larger than 1977 so that larger percentage increases are reflected in even larger absolute tonnages.

The Reebie report is in serious error when it states that "no new mining operations are now being developed along the Western Lines." According to the National Coal Association, the following mines were either in production (1976) or expected full production in the future (see Exhibit II).

Based upon our initial contact, it appears that the majority of these mining operations can be served by the Milwaukee Road. Knife River Coal Company in North Dakota is also expanding or starting mines which could be served by the Milwaukee Road. (In the discussion of the inadequacy of all the revenue projections, we will present more data on the coal industry and its expanding outlook.)

The Reebie study postulates diversion of 57 percent of the projected 1985 Milwaukee Road volume to other modes, primarily truck. This is in sharp contrast to every other forecast and is counter to the current economic evidence. The U.S. Department of Transportation, in a major study published in 1977,[1] concluded:

> "In general, the total 1990 diversion of traffic and revenue from rail to larger truck is expected to be small—less than 1 percent. For markets not affected by the huge influx of Western coal and for higher value commodities, the local diversion could be considerably greater. In no market, however, does it appear that rail freight traffic volume or revenue in 1990 would be less than in 1975, even allowing for diversion to truck."

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[1] National Transportation, Trends & Choices (to the Year 2000).

EXHIBIT 1

MINING ACTIVITY IN MONTANA

Company	Mine	Location (county)	1976 production (if in operation) (million tons)	Year of expected start-up	Year of expected full production or 1985	Expected annual production at full operation or in 1985 (million tons)[1]
Amax, Inc.	East Sarpy Creek	Crow Reservation		1981	1984	5.00
Decker Coal Co	East	Big Horn		1980	1983	8.00
Do	North	do		1979	1983	4.00
Do	West	do	10.207	Prior to 1975	1984	11.50
Dryer Bros	Circle West	McCone		1984	1985	5.00
Burlington Northern	Unnamed	Musselshell		1980	1983	1.20
NERCO (Pacific P. & L.)	Spring Creek	Big Horn		1980	1982	10.00
Shell Oil Co	Young's Creek	Crow Reservation		1982	Indefinite	8.00
Do	Pearl	Big Horn		1982	1983	2.00
Western Energy	Colstrip 1-4	Rosebud	9.265	Prior to 1975	1985	20.00
Westmoreland Resources	Aessloka	Big Horn	4.084	do	1983	14.00
Total			23.556			88.70

[1] Includes 1976 production if any.

In recent months truckers have received authorization to add up to a 9.5 percent charge to their freight rates for fuel, compared to railroad surcharges that add up to 3.6 percent. As fuel costs continue to rise, cost differentials will continue to favor rail since, according to the Final Environmental Statement on Federal Coal Management Program, Bureau of Land Management, U.S. Department of the Interior (April 1979), it takes 670 BTU/ton-mile for rail transport and 2,800 BTU/ton-mile for truck transport, a factor four times greater. Recent interviews with transportation managers of large U.S. corporations (Dupont Co., International Paper Co.) indicate their expectations that more of their freight will be shipped by rail because of the impact of fuel surcharges.

The unrealistic projection of truck diversion by the Reebie study is highlighted by their own analysis that "in excess of 1.0 million carloads" out of a total 1.9 million carloads in the geographic area served by the Western Lines of the Milwaukee Road "are vulnerable to diversion to other modes." Based on this vulnerability they project that 71 million tons of freight representing over one million carloads will be "probable rail diversions to truck." While some short-haul movements will be diverted to truck and other modes, the diversion of 500,000 carloads of coal per year, as projected, to truck in this region would place severe and impossible stresses on the highway system.

The arithmetic in the Reebie study is not consistent nor accurate in some crucial computational areas. The revenue of the Western Lines in 1985 was derived as follows: "by applying the ratio of retained 1985 tonnage to 1977 tonnage to the 1977 revenues." In Appendix C of the Reebie report the ratio of retained 1985 tonnage to 1977 tonnage is shown as 52.5 percent.

$$\left(\frac{4,788,632}{9,114,761}\right)$$

The 1977 revenues were stated as $189,600,000. Therefore, using the formula, the the 1985 revenues should be $99,540,000, not the $71,200,000 shown in Exhibit 21—a difference of $28,340,000 in understated revenue.

Even granting that there was only a computational error involved in the revenue estimation for 1985, the conceptual approach is faulty. Approximately 35 percent of the diverted tonnage is in short-haul primary forest products which originate and terminate in Zone 1 (Tacoma/Seattle to Cedar Falls, Washington). We estimate that average revenue per carload is about $120. According to the Reebie study, 46 percent of the 1977 Western Lines loss can be attributed to Zone 1. However, in projecting revenues for 1985, it appears that all retained 1985 tonnage was weighted equally and the commodity and length of haul mix remained constant. Both assumptions are incorrect and bias the results.

There are many other portions of the Reebie study relating to revenue which can be faulted and severly criticized. Unfortunately, Acting Secretary Clayton based, in part, one of his major conclusions on the evidence presented in this study. We believe the Reebie study should be disregarded.

2. Revised Revenue Projections

Coal, grain and overseas container traffic form the basis for our revised revenue projections for the Milwaukee Road Lines West. In this section, we will discuss and support our opinion that all of the studies which we have reviewed and cited in the introduction have underestimated potential and expected revenues.

a. Coal.—In its Annual Report to Congress, the Energy Information Administration (EIA) of the Department of Energy has just published, in July 1979, its latest projections which show coal in the Great Plains Region (Montana, North and South Dakota, Wyoming and Northern Colorado) moving rapidly upward about 75 million tons per year. Exhibit III presents this data.

EXHIBIT III

PRODUCTION OF COAL

[In millions of tons]

Region	1972	1977	1985	1990	1995
Great Plains	26	86	224	536	881
Rest of West	24	48	62	71	103
Other United States	544	558	747	858	1,014
National	594	692	1,033	1,465	1,998

Total production and requirements in 1980 are projected at 711 million tons. The substantial increases in consumption shown for 1985 contemplate only power plants that are already being planned. According to the EIA, these consumption projections are expected to be met from existing mines and mining areas and the government's new leasing program is expected to permit additional areas to be on stream after 1985.

Of the 1.2 billion tons per year additional requirement by 1995, two-thirds (800 million tons per year) will come from the Great Plains area, an increase of 75 million tons per year starting very early in the 1980's. This projection takes into account the new 1978 EPA clean air standards making possible burning coal from every part of the country including the greater use of high sulfur coal. To provide the remaining growth will require that high sulfur (and higher cost) mining areas will have to be doubled.[1]

The 1977 output in the Great Plains area was 86 million tons. Given the projections, the transportation requirements in the North Western tier of states will become very substantial. Annual growth rates of 12.7 percent to 1985, 19.1 percent between 1985 and 1990 indicate dynamic traffic growth far greater than the 3 percent growth of the National GNP as used in previous studies.

In its recently published Final Environmental Statement on the Federal Coal Management Program, the Department of the Interior notes that in terms of net ton-miles of transportation service, the division among different modes across all states, used in the Federal Coal Management projection is as follows:

[In percent]

Rail	77
Pipeline	13
Waterway	9
Trucks	1

Total estimated freight transportation services for coal would be:

[Billion ton miles]

	1985	1990
Interstate	574	854
Intrastate	17	18

Further, the study stated that "truck transportation would be normally limited to short-haul movements within a state of 50 to 75 miles except where there is a failure to provide service."

Also "western coalfields would, for the most part, be inaccessible to water transportation although movements" connecting with these "modes via the Great Lakes and the Mississippi River system would increase."

The bulk of the coal would be transported in unit trains of 100 ton hopper cars typically with 100 cars (10,000 tons) pulled by five 3000 H.P. locomotives for 700 miles on interstate movement making about 40 trips per year. Intrastate hopper cars would make about 50 trips a year.

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[1] With the new Clean Air Act Amendments, coal burning is facilitated and difficulties are clarified. Also, EPA Deputy Administrator, Barbara Blum says that EPA policies are shortening power plant permit time: already 46 coal conversions and 74 new plants have been approved. A list of 350 coal-fired plants planned for construction between 1977–86 has been prepared by the National Coal Association.

The latest projections also show the quantitative movement from the coal producing regions to the various Demand Regions. For the Great Plains Region of Montana, North and South Dakota, Wyoming and Northern Colorado the destinations of coal movements would be as follow in millions of tons per year:

Demand region	1977	1985	1990	1995
East coast	0	0	0	
South	0	2	11	20
Midwest	36	101	208	308
Southwest	7	48	212	355
Total out of region	41	151	431	683
West	4[illegible]	73	105	198
Total annual production of plains region (million tons).	86	224	536	881

The recent report (June 1979) of the National Transportation Policy Study Commission (NTPSC) confirms the high growth of coal demand, production and the requirements for coal transportation by rail. Exhibit IV presents a map of coal supply and demand regions. Exhibits V, VI and VII show a western railroad identification map and projections of coal movement for 1985 and 2000 as seen by the NTPSC. The projections by the NTPSC are very much in agreement with the Department of Interior estimates. Total production for the Great Plains region is expected to increase from 60 million tons in 1975 to 228 million tons in 1985 and 1,122 million tons in the year 2000. Transported coal from the Great Plains region is to increase from 48 million tons to 184 million tons to 504 million tons over the same time frame. The significant flows include:

Great Plains to East North Central

Great Plains to West North Central

The NTPSC projections show a modal split of 88 percent rail and 12 percent barge in 1985 (excluding local movements and mine-mouth generation).

An important point was made by the NTPSC report which has a direct relationship to the Milwaukee Road situation:

One significant conclusion which can be drawn from the NTPSC regional forecasts is that to judge energy transport needs on the basis of 1985 flows could result in shortsighted policies. The critical shift in coal movements after 1985 from eastern to western coal sources is expected to change the relative balance of flows over different segments of the coal rail network.

From the NTPSC's investigations, it is believed that by 1985 many segments of the nation's rail system may experience some degree of deficiency. The key corridors requiring investment will be those which connect the Great Plains coal region to the West North Central and West South Central Census Regions and the corridor which connects the Appalachian coal region, especially Kentucky and Tennessee the South Atlantic Census region.

Further, the NTPSC has projected carriage of coal by the Milwaukee Road for 1985 and 2000. They show 18.1 million tons will be carried in 1985 (9.5 originating and 8.6 other) and 70.8 million tons in the year 2000 (15.9 originating and 54.9 other). This only covers tonnage carried between BEA regions and excludes local movements. Exhibits IV, V and VI provide specific detail by line segment.

The most "optimistic" of the revenue projections, the Lines West Proposal, includes a total of 42,705 carloads of coal or approximately 3 million tons per year generating revenues of $24.3 million. It is our opinion, based on the NTPSC and Department of Interior data sources, that a minimum of 136,000 carloads, or 9.5 million tons of coal will be carried on the Lines West and generate $77.5 million in revenue. This is an increase of $53.2 million over the most optimistic revenue projection for coal transport.

A danger in using national average growth figures to project local growth and growth in transportation is that very important influences can be missed. An example of this is the extraordinary impact of growing coal mining in the Northwest, and the resulting extreme requirement of transportation of coal in the region.

It is now clear that even a modest national growth means a very great increase in coal production, especially if growth in oil imports are to be constrained voluntarily (or involuntarily). This great growth in coal production will be magnified even further in the Northwest, since that is where two-thirds of the coal increase will originate. Coal production in the Great Plains area is forecast to be two and one-half times as great by 1985 and six times as great by 1990 (10 times as great by 1995).

Coal movement now represents an important part of U.S. transportation but coal movement will grow to equal all other traffic put together. In the Northwest this proportion will probably be even greater and will quickly tax the railway system there. Since about half of the U.S. coal reserves and new output originates in the Plains States region of Montana, North Dakota, South Dakota, Wyoming, and Northern Colorado and the railroad lines are less than nine percent of the Nation's total, it is apparent there will be a much heavier demand pressing upon them. In the face of this, any diversion or deterioration of those transportation resources should be evaluated carefully and any decision affecting the health or continuation of these operations would be vital.

This extraordinary growth of coal will have secondary growth effects in the area which are only just beginning to be recognized. Certainly, noncoal traffic is already significant and growing, and the sizable grain traffic is strengthening and could increase substantially from base projections. Putting extraordinary coal growth on top of other growth, some of which is very positive, gives a very strong picture of transportation demand in the Northwest.

b. Grain.—In 1978 the entire Milwaukee Road carried 63,714 carloads of grain. The Lines West (SORE) proposal forecasts 21,170 carloads of grain will be carried by the Lines West in 1985. All of the evidence indicates that grain traffic could be much greater, given car availability. As an example, the Reebie study has projected that the Lines West would carry 25,514 carloads of grain in 1985, without diversion. The Reebie growth rates are too low.

According to the National Economic Analysis Division of the U.S. Department of Agriculture, the Northwestern states can make a higher relative response to increases in world demand for food than can the rest of the nation. These increases in the Northwest can come from further genetic improvements, further gains in farming technology and especially from increased employment of land. Although there is growth potential in the other parts of the nation, the economics of productivity, markets and transportation have favored the fullest use of many other areas and they now have less potential in the way of further gains.

With the likelihood of a strong world demand for U.S. grains the Division sees a strong response from the nation. Average growth will exceed the conservative base projected averages, but would result in dramatically greater growth in the Northwestern states where the preponderance of the extra output would be necessary.

The Economic Analysis Division is now involved in doing a breakdown for 17 Western states of the Economic Projections Programs for Food and Agriculture carried out by the Economics, Statistics and Cooperative Services. One baseline projection for the Northwestern states of Washington, Oregon, Idaho, Montana, North and South Dakota and Minnesota shows a 1990 projection for wheat of 1.31. Although much grain is transported by rail in Minnesota, Oregon and Idaho, they also have the advantage of cheap water transport to reach their markets. Eliminating these states gives a growth ratio for the remaining producers of 1.25.

These growth ratios are more relevant for growth in grain movement than those derived from the Department of Commerce data on Agriculture, Forestry and Fishing. Even as a baseline projection, they show a more dynamic growth than the composite growth ratio of 1.12 for Agriculture, Forest and Fisheries used by Reebie.

The greatest grain transport requirements in the Northwest region come from grain (and other commodities) which is shipped out of state rather than consumed locally. If total production grows more rapidly than local consumption, the growth in transportation of product to distant markets grows at a rate faster than just the growth rate of production.

To illustrate this we look at projections for the Total Grain Output and Consumption for the State of Montana provided by Dr. Won Koo, Professor in the Agricultural Department of the University of Montana. This projection is for millions of bushels of wheat, barley, oats and corn for 1985, 1990, and 2000:

	1985	1990	2000	15-yr growth ratio 2000/1985
Total production	245	268	308	1.257
Local use	63	60	64	
Transported elsewhere	182	208	244	1.341

Dr. Koo estimates that 60 to 70 percent is projected to be shipped to the West Coast by rail.

Although we believe the Reebie study projections and the Lines West projections for grain traffic are too low, we were unable to develop specific carload estimates. Therefore, at a minimum, the carloads carried in 1985 by Lines West should be calculated at 25,514 (the Reebie data). This would mean an additional 4,344 carloads or $8,688,000 in incremental revenue for the Lines West proposal.

c. Overseas Container Traffic.—It is not exactly clear where the overseas container traffic is included. The Lines West proposal seems to have used a 3 percent growth rate and included the containers in a TOFC, FAK classification. The Consulting Center seems to do the same but reduces the average annual growth rate to 1.85 percent. The Reebie study does not isolate overseas container traffic but apparently includes it on a commodity by commodity basis which it then projects by use of domestic income growth rates. The statement of the Port of Seattle before the Subcommittee on Transportation of the United States Senate, Committee on

Commerce, Science and Transportation on May 21, 1979, is convincing in its projections of container traffic and the potential for the Lines West road. Presently, only the Milwaukee and Burlington Northern provide single-line service between Seattle and Chicago (Seattle's biggest market). The Union Pacific, which also serves Seattle, provides service to Chicago only through interchanges in Nebraska or Kansas City. The importance of the Milwaukee's role is underscored by the fact that its yard in Seattle is closest to the harbor area and it has always carried disproportionately more maritime-related cargo than its size alone might suggest. Over the past three years, the Milwaukee has handled an average of approximately 47 percent of all of Seattle's overland common-point container traffic:

Percentage of OCP container traffic at Seattle handled by all rail carriers

[In percent]

Carriers:	*Average, 1976–78 by LBS*
Milwaukee	47
Burlington Northern	16
Union Pacific	36

Source: Port of Seattle Records.

The Port of Seattle, through its Planning and Research Department, made estimates of the growth of future container traffic over the next five-year period. The Port estimates that by 1983 Seattle's OCP traffic (virtually all of which will move by transcontinental rail) will increase dramatically:

Estimate of Seattle OCP container traffic for the next five years

Year:	*Estimated OCP Container Traffic (TEUs)*
1979	73,000
1980	78,500
1981	85,000
1982	91,500
1983	100,000

Assuming that the Milwaukee Road attracts roughly only the same percentage of this traffic in the next five years as it averaged in the past three years, it could be expected to be tendered a total of approximately 200,000 TEU's of container traffic over the next five years.

The growth in OCP container traffic will be at the rate of 8 percent per year as opposed to the lower 3 percent and 1.85 percent rates of other studies. While it is difficult to identify the base traffic amount, we would estimate that the Lines West projection has underestimated the number of carloads by 4,722 in year five or by an additional $3.3 million in revenue for year five alone.

d. Summary of Revenue Projections.—In summary, we have concluded that year five revenue projections have been underestimated in all of the studies which we reviewed. We believe that increased revenue of $65.2 million will accrue to the Lines West operation in year five. This revenue will come from the following sources:

	Millions
Coal	$53.2
Grain	8.7
Overseas container	3.3
Total	65.2

During the interim years two through five, lesser amounts of revenue will be generated.

B. Costs of Operations.—This assessment effort did not have the resources or access to "a family of computer models" which included a network simulation model as well as a post-processor model to convert operations to inputs for a financial model. However, we were able to examine the relationships between increases in operating revenue and increases in operating expenses and postulate the impact of an additional $65.2 million in coal, grain and container traffic. For the three valid studies (Reeble excluded) the data was as follows:

[Dollar amounts in millions]

	SORE			Consulting center			Booz-Allen		
	Year (1)	Year (5)	Percent difference	Year (1)	Year (5)	Percent difference	Year (1)	Year (5)	Percent difference
Operating revenue	$141.0	$239.8	+70	$141.0	$234.0	+66	$162.5	$228.6	+41
Operating expenses	160.6	215.3	+34	161.6	220.5	+36	183.9	223.1	+21

Although the absolute revenue and expense levels vary among the three studies, the relationship between increased revenue and increased operating expense is consistent—approximately a factor of 2 (2.1, 1.8, 2.0). The use of this factor will enable us in a crude but reasonably accurate way to project the increase in operating expenses which would result from a $65.2 million increment in revenues. The computation is as follows:

Base Year 5 Revenue (SORE), $239.8.

Additional Revenue, $65.2.

Revised Year 5 Revenue, $305.0.

Revenue % Δ, +27 percent.

Base Year 5 Expenses, $215.3.

Application of one-half Revenue Increment, $29.1.

Revised Year 5 Expenses, $244.4.

Revised NROI, $60.6.

Original NROI, $24.5.

Increase in NROI-Year 5, $36.1.

Applying the same calculation to the Booz-Allen revenues and expenses, the fifth year NROI increases from $5.5 million to $38.4 million.

Without questioning or scrutinizing closely the individual expense items, we can state with a degree of confidence that the increased revenues projected in the earlier section will be translated into "bottom-line" results which will dramatically increase the NROI. The fifth year NROI will range from $38.4 million to $60.6 million.

Impact of an ESOP.

The proposal put forth in the SORE Lines West proposal includes the concept of an Employee Stock Ownership Plan (ESOP). As stated in the Lines West proposal:

An ESOP is a program providing a means for employees to acquire an ownership interest in their company through the earnings of the company. Typically a loan is made to an ESOP Trust which uses the loan money to buy stock in the particular company. The company immediately receives the funds from the stock sale, and agrees to make regular payments to the trust sufficient to allow the trust to pay off the original loan. As the loan is paid off, the stock in the trust is assigned to the individual employees of the company, based on their period of service and rate of pay.

Under the SORE proposal, the federal government through the Economic Development Administration, or a similar agency, would guarantee a loan of $32 million to an ESOP Trust which would, in turn, use the money to purchase all of the common stock of the new company. The new company would make annual tax deductible payments to the trust with which the trust would repay the loan. As the loan is repaid, the shares of stock would be credited to the accounts of individual employees. The ESOP loan would be repaid by company contributions over 15 years. If individual employees elected to purchase shares in addition to those purchased for them by the new company's annual payments, the loan would be paid at an earlier date.

Aside from its utility as a source of capital and the tax benefits of the payments to the ESOP trust, the formation of an ESOP can be expected to improve labor productivity and increase profits. As one recent study by the National Center for Economic Alternatives concluded:

In the most extensive survey to date on the performance of [employee]-owned companies in the United States, the Institute for Social Research, in a 1977 report, concluded that the thirty [employee]-owned companies for which performance data was available showed a higher level of profit than did comparable sized firms in their respective industries. The study found that [employee]-owned companies were 1.5 times as profitable as comparable conventional firms.

There are numerous individual examples and case studies of the favorable impact of ESOP's or worker ownership on productivity. Plywood companies in the Pacific Northwest, Northern California scavenger firms, South Bend Lathe in Indiana, Vermont Asbestos Group, E Systems, and Saratoga Knitting Mill are all examples where the acquisition of an ownership interest by employees led to improved productivity and profit turnarounds. A fairly typical example of the impact, is the Tembec Forest Products Company in Canada. Tembec Forest Products Company is a 44 percent employee-owned paper mill with 600 employees which was purchased from the Canadian International Paper Company in 1973. In the first three years after the change of ownership, productivity increased 30 to 40 percent; absenteeism dropped from 3.9 percent to 1.7 percent; there were fewer grievances, less pilfering and more employee suggestions on means of improving productivity.

While it is difficult to attach a dollar amount on the impact that an ESOP would have on the NROI, we can be confident that the ESOP will have a beneficial impact on productivity. Since the viability of a Lines West or Transcontinental system will depend, especially in the first few years, on a large amount of employee cooperation and "extra effort" it is important that there be an incentive and an atmosphere for this to occur. Our review of the performance of employee-owned firms has convinced us that the ESOP arrangement will provide an important incentive for improvement in labor productivity and therefore "bottom-line" profits.

C. Financing Analysis.—There are several basic components to be considered in the financing of the acquisition, rehabilitation and continuing operations of the Lines West and Transcontinental systems:

Acquisition Cost.

Rehabilitation.

Operating Deficits.

Working Capital.

Labor Protection.

Unfortunately, much of the data and information presented in the prior studies either conflicts; is subject to legal interpretation which may take years to litigate and resolve; or is presented within such a wide range that conclusions are difficult to reach. Therefore, what follows is based upon our opinion and judgment as to what is likely to occur that is realistic and logical. It is important to recognize that the financial operations take on an entirely different outlook when viewed in the light of an NROI which is $30-$40 million (in year 5) higher than the existing projections. The ability to finance debt and the lack of a cumulative deficit are significantly improved.

In addition, there is a lack of information regarding the costs of acquisition of Transcontinental lines, labor protection, financial impact on that segment and working capital requirements. Therefore, our financing analysis has been confined to the Lines West system. In the next section of this report we discuss more fully the Transcontinental lines.

The basic outline of the Lines West proposed financing is:

(1) Acquisition of assets valued at liquidation in the amount of $370 million.

(2) Acquisition to be financed by the assumption of $152 million in existing debt.

(3) Estimated rehabilitation costs of $118 million to be financed with Title V loans (no repayment until year 11 and interest at two percent).

(4) Operating deficits to be met by a loan of $28.1 million (ERSA, interest only for first three years and principal and interest thereafter).

(5) Working capital to be met by an ESOP loan of $36 million through EDA loan guarantee.

The Consulting Center report has criticized this financing proposal as follows:

(1) Several aspects of the acquisition would either be unacceptable to the Trustee or legally not possible.

(2) The rehabilitation costs should be increased to $166 million to account for inflation.

(3) The acquisition cost of the assets required to run the railroad operations only would be $246 million and federal guarantees would be needed to finance the acquisition.

(4) A $30 million capital program was added.

We were unable to resolve, as part of our assessment, the legal and bargaining issues involved in the acquisition of assets. Therefore, we developed two sets of financing costs based upon the different costs and types of assets to be acquired. Our assumptions and calculations for year five capital costs are as follows:

Financing package 1

Item:	*Annual carrying cost, year 5*
1. Existing debt for acquisition of $152 million at 9 percent interest	$13,680,000
2. Rehabilitation costs of $166 million at 2 percent interest	3,320,000
3. ESOP loan of $36 million at 10 percent interest	3,600,000
4. Cumulative operating deficit balance of $30 million at 10 percent interest	3,000,000
5. Capital program of $30 million at 10 percent interest	3,000,000
Total carrying cost, year 5	26,600,000

Financing package 2

Item:	*Annual carrying cost, year 5*
1. Existing debt for acquisition of $246 million at 9 percent interest	$22,140,000
2.-5. The same as package 1 except $40 million more in cumulative deficit	16,920,000
Total carrying cost, year 5	39,060,000

Under the assumptions in Financing Package 1, the new railroad will have ownership of the Milwaukee Land Co. with a resulting income of $10 million. The revised pro formas for year 5, based upon our assessment of Revenues, Operating Costs and NROI are presented below for each financing package.

	No. 1	No. 2
NROI	60.1	60.6
Interest charges	26.6	39.1
Depreciation	2.2	2.2
Income before taxes	31.8	19.3
Subsidiary earnings	10.0	0
Net income before taxes	41.8	19.3

Under either financing and acquisition package, the Lines West operation will be substantially profitable in year 5.

Our analysis has not been precise enough to pinpoint the exact breakeven period in the first five years. However, our calculations indicate that at the end of the third year or by the beginning of the fourth year, operations will be profitable. At this point revenue from coal will dramatically increase as mining operations expand or come onstream. Financing will be required in the first four years to carry the deficit but net income will be so substantial in year 5 that the balance will be approximately $30 million by year end and repaid in year 6 out of earnings. If the Milwaukee Land Co. is not included, then Package 2 would have a cumulative deficit $40 million higher than without the subsidiary.

It is our conclusion that under either of the realistic acquisition and financing packages, the Lines West system will be a viable railroad system with favorable long-term prospects for repayment of debt.

The labor protection costs are significant and should not be overlooked as a contributor in the negotiation for the acquisition of the Lines West assets. The Labor protection costs range from $83 million to $521 million. It is our view that Financing Package 1 would be highly probable if the labor protection costs were part of the equation.

D. The Midwest Railroad System, the Transcontinental System and the BN Inclusion Case.—The Transcontinental lines (Tacoma to Louisville) are a national asset. The ability of a single major railroad to transverse two-thirds of the continent from the Pacific Ocean to the heart of the Appalachian region in the eastern United States is important. Although we were unable to develop any pro forma financial statements for this configuration, it was clear based upon existing data that the potential is there for a viable transcontinental railroad system. The Booz-Allen study has developed pro forma income statements for a "Louisville Transcontinental" system and the long-term option shows an NROI of $15 million, an improvement of $44 million in NROI from 1977 levels.

What is more significant—this improvement occurs in the absence of consideration of rail deregulation, revisions in labor agreements, increases in car capacity, per diem and demurrage changes and consideration of the Midwest rail situation and potential mergers.

Rail deregulation can certainly help the Milwaukee Road build traffic through more realistic pricing. Market shares which were lost to trucks, i.e., perishables from the Pacific Northwest to the Midwest, are ideal candidates for recovery by railroads under deregulation. Similarly, improved rates on other commodities are possible.

The uncertainty surrounding the Rock Island and its survival and or dismemberment as well as the weakness of other Midwest railroads such as the ICG, lend an air of uncertainty to the competitive situation. While we cannot forecast the scenario which will occur, it does seem rational to keep in operation a railroad which provides Tacoma-Louisville transcontinental service if it is economically viable, and in fact, strengthen its operation by acquisition of segments of some of the weaker roads.

The Booz-Allen analysis projects that there would be 8,200 employees under the long-term Louisville option. This would mean a significant savings in labor protection costs and is one other favorable factor to consider in the retention of the transcontinental lines.

Further, the Booz-Allen study does not account fully for the labor-management cooperation which would occur under an ESOP ownership situation. The existing labor-management demonstration program has the potential to reduce operating costs and increase revenues (through expansion of SPRINT) significantly.

For traffic moving from the Pacific Northwest to Indiana and Kentucky, there are important savings in a single-line operation. Since no other line provides this service, the Milwaukee has a unique marketing and service opportunity which takes advantage of the greater efficiency and lower equipment requirements resulting from single-line service over such a long haul.

The BN Inclusion case, which is still pending, could provide access for the Milwaukee Road to several important market areas and would improve operations significantly in some areas. Illustrative of this case are two of the more important joint trackage or access requests:

The line from Des Moines to the KC-Chicago main line which will shorten the distance considerably to the Kansas City and Mapac gateway connection.

Access to the Superior terminal for freight interchange.

Both of these changes, as well as the seven other requests, would either increase the traffic base or lower costs for the Milwaukee Road.

E. Public Benefits and Costs of the Trustee's Reorganization Plan—Under the Trustee's Reorganization Plan a significant amount of rail service will be abandoned and in the Lines West geographic area, 3,534 employees will lose their jobs. These employees account for a $64 million payroll. The direct short-run impact of this job loss will be temporarily alleviated by labor protection payment and rail unemployment insurance benefits. However, the direct effects on shippers and the long-term economic and social indirect impacts on communities and economic growth will be substantial.

In many of the communities the reemployment and retraining opportunities are minimal for workers in their 40's and 50's. What does occur is outmigration, leaving communities as nothing more than "ghost towns" with an eroded tax and employment base but providing more per capita services than before. Schools and public buildings become under-utilized and the community disintegrates. This is a story which has occurred increasingly in the old industrial cities of the Northeast and Midwest; has happened in the West (the old mining towns); and, given the Trustee's Reorganization plan, will happen again to numerous towns and cities along the Milwaukee Road.

The public costs of the loss of a major transcontinental rail service are numerous and require a more rigorous analysis and data gathering effort than our resources would allow. However, we have listed some of the types of costs to be considered:

1. Increased transportation costs to shippers/receivers of manufactured goods.

2. Adverse impact on economic growth in areas where locational decisions are based on rail access.

3. Increased consumer prices for materials and products hauled more efficiently by rail.

4. Increased demand for truck-carrying capacity, either to-truck-to-rail or through-truck, to bring products to market.

5. Significantly higher load utilization factors on highways and bridges leading to earlier deterioration and replacement.

6. Placing import/export business through the Pacific Northwest at a disadvantage in terms of capacity and service frequency.

7. Elimination of competitive rail service for large geographic areas of the western United States with shippers facing a monopoly railroad. Under rail deregulation, this situation will no doubt worsen.

8. The energy crisis in the U.S. will be affected in terms of supply (price of transporting coal) and demand (greater consumption of oil to haul by truck).

9. Long-term unemployment brings with it a greater degree of alcoholism, mental health problems and family breakdown.

10. The economic and social infrastructure supported directly by railroad employment and indirectly by shippers dependent on the railroad for transportation will disintegrate in the long run. We estimate that a $63 million payroll supports indirect expenditures of $126 million. To this amount should be added the employment and local purchases generated by dependent shippers.

F. SUMMARY

It is our conclusion that the studies and analyses which were developed by all groups in assessing the viability of the Milwaukee Line were seriously deficient and understated in their traffic and revenue forecasts, and, therefore, were erroneous in their conclusions as to viability of segments of the system. The bulk of this underestimate can be traced to either errors or overly conservative estimates in coal, grain and overseas container traffic. Estimates of diversion to truck of existing traffic in one study were faulty.

The Transcontinental lines appear to offer significant operational cost savings as well as the preservation of what is a significant national asset—a rail system which covers two-thirds of the nation from the Pacific Northwest to the Appalachians in the East. In addition, labor protection costs will be greatly lessened with this system retained.●

ADDITIONAL COSPONSORS

S. 224

At the request of Mr. HATCH, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 224, a bill to prohibit permanently the issuance of regulations on the taxation of fringe benefits.

S. 969

At the request of Mr. THURMOND, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 969, a bill to authorize the construction and maintenance of the Gen. Draza Mihailovich Monument in Washington, D.C., in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from Arkansas (Mr. BUMPERS) and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1163

At the request of Mr. DOLE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1163, the carryover basis repeal bill.

S. 1203

At the request of Mr. BAYH, the Senator from Ohio (Mr. METZENBAUM), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1394

At the request of Mr. HUMPHREY, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 1394, a bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax.

S. 1480

At the request of Mr. CULVER, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 1480, the Environmental Emergency Response Act.

S. 1645

At the request of Mr. HAYAKAWA, the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1645, a bill to amend the Internal Revenue Code of 1954 to permit a credit for interest received on savings.

S. 1660

At the request of Mr. SCHMITT, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1660, a bill to amend the Federal Civil Defense Act of 1950 to provide for an enhanced civil defense program for fiscal years 1980 through 1986, and for other purposes.

S. 1812

At the request of Mr. RIBICOFF, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1812, a bill to establish a national program of protection against medical expenses for all Americans.

SENATE JOINT RESOLUTION 98

At the request of Mr. BRADLEY, the Senator from Montana (Mr. MELCHER) was added as cosponsors of Senate Joint Resolution 98, a joint resolution designating the week of October 8 through October 14, 1979, as "National Diabetes Week."

AMENDMENT NO. 509

At the request of Mr. CHURCH, the Senator from Louisiana (Mr. JOHNSTON), the Senator from Alabama (Mr. STEWART), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of amendment No. 509 intended to be proposed to the SALT II treaty, Ex. Y, 96-1.

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

AMENDMENT NO. 515

(Ordered to be printed and to lie on the table.)

Mr. GLENN, as in executive session, submitted a reservation intended to be proposed by him to the resolution of ratification of the treaty between the United States of America and the Union of Soviet Socialist Republics on the limitation of strategic offensive arms, done at Vienna on June 18, 1979 (Ex. Y, 96-1).

● Mr. GLENN. Mr. President, I rise today to call attention to an editorial that appeared in the Washington Star yesterday entitled "Emphasis on Verification." I ask unanimous consent that it be printed in the RECORD. It is an excellent piece of work, that I believe puts the conclusions of the SALT monitoring report, recently completed by the Select Committee on Intelligence, in the proper perspective. For example, the editorial concludes, and I quote:

> The burden of the Intelligence Committee Report of October 5—at least as we read it—is that "aggressive" verification (the will to press any suspicion of cheating or exploitation of the treaty terms before the Consultative Commission) is as essential to the nation's security as merely counting or measuring launch vehicles and missiles.

Monday, the Foreign Relations Committee begins markup of SALT II and I intend at that time to introduce a number of proposals that I believe improve the treaty. One in particular, however, is so closely related to the Star's concern, that I have decided to submit it separately today.

The purpose of this reservation is to provide for notification of appropriate committees of the Congress whenever a question of compliance with any provision of the treaty is raised at the standing Consultative Commission. My intention is to insure there will be "aggressive verification" of the SALT II provisions. To achieve this end, I believe it is necessary that on a timely basis the Senate be kept fully informed regarding compliance issues. I hope others will join with me in sponsoring this proposal.

Let me close by quoting again from the Star editorial.

> Verification, in short, remains a political act. And like all political acts it requires judgment, choice, wisdom and the courage to rock the boat. Verification, in fact, is not "washed up" as a determinative issue in treaty ratification. The report gives it renewed—and entirely appropriate—emphasis.

For my part, I have not scratched verification off my list of concerns, as has the administration, and I promise to continue rocking the boat on this important issue.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EMPHASIS ON VERIFICATION

The well-laundered public version of the Senate Intelligence Committee's secret report on U.S. capacity to "monitor" the SALT II accord is a blandly ambiguous document, whose guarded phrases are delicately calculated to bridge rather than aggravate disputes.

Pro-SALT senators will doubtless draw comfort from the committee's findings that "in most cases, monitoring requirements were given high priority during treaty negotiations"; that "under current Soviet practices, most counting provisions [i.e., of launch vehicles] can be monitored with high or moderate confidence," as with slightly less confidence may be "qualitative limitations on weapons systems"; and, finally, that the treaty on the whole "enhances the ability of the U.S. to monitor those components of Soviet strategic weapons forces which are subject to (its) limitations."

Anti-SALT senators, however, are not denied cautionary conclusions. There is the admission that certain loopholes in the *first* SALT accord allowed the Soviets to spring some unanticipated and unpleasant "surprises," such as the emplacement of the larger SS-19 missiles in enlarged SS-11 silos, in circumvention of "safeguards the U.S. thought it had obtained in SALT I." Another surprise, the committee reminds us, was that "the range of the SS-N-8 missile on the Delta class Soviet . . . submarine was greater than expected," and thus enlarged concessions given the Soviets under a different estimate. And there is the disturbing admission that "intelligence of possible Soviet violation of the (SALT I) treaty was, in some cases, and for a time, withheld from executive branch officials who had a need for such information."

The report, then, is a mixed one, faintly tilting to the conclusion that for most vital purposes the U.S. is not deficient in "monitoring" capabilities; and that under the pending treaty they would be easier to discharge.

But beyond that, even if serves to allay unrest about monitoring capability, the report raises understated but important questions about our determination and ability to exploit that capability.

Some of our colleagues, we are intrigued to see, soft-pedal that point. They suggest, remarkably, that the committee not only "does not pronounce on verification(,) it does not even mention the word," and that "the tone of the debate about the new report . . . indicate(s) that verification has been all but washed out as an issue on which final judgment of the treaty will be based."

This is a curious reading, in view of the committee's explicit statement (page 8, paragraph 2) that "the capability to determine whether the Soviets had violated the SALT II agreement would be of little consequence if at the same time the U.S. did not have the will and determination to pursue an aggressive verification policy." (Our emphasis.)

In fact, the burden of the Intelligence Committee report of October 5—at least as we read it—is that "aggressive" verification (the will to press any suspicion of cheating or exploitation of the treaty terms before the Consultative Commission) is as essential to the nation's security as merely counting or measuring launch vehicles and missiles.

If the intelligence agencies are too bureaucratic to assemble and report suspicions promptly and fully to the president and others who need to know; or if the evaluation of intelligence data is not constantly checked by politically independent assessors, as the committee suggests it should be; or if the president himself and the National Security Council are too keen to vindicate their judgment that the treaty is a good bet to make a potentially disruptive issue of suspected violations, then not even the most sophisticated monitoring devices will count for much.

Verification, in short, remains a political act. And like all political acts it requires judgment, choice, wisdom and the courage to rock the boat. Verification, in fact, is not "washed up" as a determinative issue in treaty ratification. The report gives it renewed—and entirely appropriate—emphasis.●

INTERIOR APPROPRIATIONS, 1980—H.R. 4930

AMENDMENT NO. 516

(Ordered to be printed and to lie on the table.)

Mr. MELCHER (for himself and Mr. McGovern) submitted an amendment intended to be proposed by them, jointly, to H.R. 4930, an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

● Mr. MELCHER. Mr. President, I am introducing an amendment to restore $10 million to Indian education programs cut by the Senate Appropriations Committee.

My proposal is a straightforward one—in the committee's laudable attempt to trim waste from the Federal budget, it has cut deeply into much-needed support of the country's Indian schools. There is no question but that we must stop cost-ineffective programs. And, there is no question that some of the Indian schools currently run by the Bureau of Indian Affairs or operated under private contract are not cost effective. A strong argument perhaps can be made for reducing, or eliminating entirely, support for one or two Indian schools. The Select Committee on Indian Affairs is looking into this entire subject.

But, the committee's attempt to reduce waste will not zero in on the targets they intend. The $10 million proposed reduction will affect all of the approximately 220 Indian schools throughout the country. Under the funding formula established by sections 1128 and 1129 of the Education Act Amendments of 1978 (Public Law 95–561), every school is supported from a central fund. There is no targeting of appropriations. If $10 million is taken out of the pot, all schools will have about 5 percent less to work with. This does not serve the national interest—it is not practical, it will certainly not further Indian education.

As chairman of the Senate Select Committee on Indian Affairs I would say that if there is a need to reduce or stop funding to certain schools, then let us have a close look at the formula. Let us review the authorizing legislation.

In my home State of Montana there are two schools which would be directly—and negatively—impacted by this cut. They are the Labre Indian School at Ashland and the Busby Indian School in Busby. Both of these schools serve the Northern Cheyenne Indian Tribe and both historically have had to fight for every penny of support. To tell the 433 students at Labre and the 251 students at Busby they will have to do with less next year because there are inefficient schools in other States does not seem right. It is something we can prevent.

I do not think, Mr. President, that we should revamp the authorizing program on this appropriations bill. I would strongly urge my colleagues to support my amendment to restore the $10 million to Indian education.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 516

On line 22 of page 20, strike $770,835,000, and in place thereof insert $780,835,000.●

SUNSET ACT—S. 2

AMENDMENT NO. 517

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. JAVITS (for himself, Mr. Ribicoff, and Mr. Percy) submitted an amendment intended to be proposed by them, jointly, to S. 2, a bill to require authorizations of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes.

SUNSET AMENDMENT

● Mr. JAVITS. Mr. President, as a cosponsor of S. 2, the Sunset Act, I support the important objectives of that legislation. In my view, Congress should devote more time and attention to the systematic oversight of existing programs. With the passage of time, all too many programs may diverge from congressional intent; the press of other business may allow other programs to continue long after having served their purpose. Thus I commend the authors of S. 2 for their diligent effort in developing a thoughtful approach to this problem.

However, serious reservations have been expressed about S. 2 in its present form. Over the past several months, the Governmental Affairs Committee held extensive hearings on the bill. During those hearings, a number of witnesses representing business, labor, public interest groups, and the organized bar provided the committee with insight into certain problems associated with S. 2. Specifically, two major concerns were identified.

First, S. 2 was viewed as too ambitious. The 10-year review cycle will mean a very significant increase in the workload of Congress. The bill requires that one-fifth of all nonexempt Federal programs be reauthorized each Congress. Definite totals are unavailable, because the bill does not define "program." But estimates on the total number of Federal programs range between 1,250 and 50,000. Based on these figures, Sunset could require an additional 100–200 reauthorization votes each Congress.

How can we review so many programs each Congress in any meaningful way? I submit that we cannot. And, if the review is likely to be only superficial, what is the point of the exercise? The public interest would be better served by careful examination of selected programs, rather than a cursory review of a large number of programs.

The second major problem, and this is one to which I am particularly sensitive, involves the automatic termination mechanism in S. 2. Under the bill, programs scheduled for review terminate at the end of a Congress unless they are affirmatively reauthorized. Obviously, no program should be continued if a majority in Congress wishes to see it terminated. However, I am concerned that, particularly in the Senate, we may never have the opportunity to vote on some reauthorizations. I feel that important programs could simply lapse without any expression of congressional will.

The nature of our process suggests the probability of that outcome. It is always easier in the Senate to build coalitions against programs than for them. As my colleagues are aware, even the threat of a filibuster by a few Senators is sometimes enough to stall legislation. Program reauthorization should not be held hostage to the delay of filibuster, for the consequence of congressional inaction would be the termination of programs.

I realize that S. 2 provides for a continuing resolution should that occur. However, nothing in the bill requires that a reauthorization bill be brought to the floor. Further, a continuing resolution is an inadequate solution, since even if it avoids sudden termination, it may result in the slow strangulation of a program and it, too, can be hung up.

The amendment Senators RIBICOFF, PERCY, and I are submitting today addresses these problems. It provides a mechanism whereby Congress will select programs for intensive review. Once that decision is made, those programs would be subject to termination unless reauthorized. That selection will be made from the present sunset schedule contained in title I of S. 2. Our amendment also provides for an expedited mechanism to insure a vote on the reauthorization bills—thus minimizing the problem of termination simply by inaction.

Let me describe the amendment in detail. We propose that, from the programs on the review schedule, each authorizing committee would select the programs it wishes to review in depth. This list, of "sunset agenda," would be acted on at the time of the first concurrent budget resolution, and would be subject to floor amendment. Once Congress approves the sunset agenda, the programs selected would receive the same intensive review now provided for under title III of S. 2. Thus the sunset agenda for the following Congress would be established, and evaluation of the accomplishments and problems of specific programs would begin.

In the next Congress, committee chairmen would be required to introduce reauthorization bills for each program on the sunset agenda within 15 days after the beginning of the second session. If the committee does not report out a reauthorization bill by May 15, it would be in order to move to discharge that committee from consideration.

Once a bill has been reported out, or the committee discharged, the amendment follows existing provisions of the Reorganization and Budget Acts with respect to floor consideration. Thus, any Member may move to force consideration of the bill. Such a motion is privileged in the Senate, and highly privileged in the House, and is nondebatable.

Debate on the bill itself is limited to 10 hours, with debate on amendments restricted to 2 hours; then there must be a vote. Only if there is a negative vote on a reauthorization bill would a program terminate.

Mr. President, I want to emphasize that our objective is to strengthen the sunset process, and to insure that the review is both careful and intensive. I do not want to see us become bogged down in a nightmare of hearings, studies and reports, and procedural problems on the floor. If that happened, sunset could collapse of its own weight. A manageable and meaningful sunset process is in the country's interest, and that is what this amendment will provide.

I look forward to discussion and clarification of these issues.●

● Mr. PERCY. Mr. President, I am delighted to join with Senator JAVITS and Senator RIBICOFF today in introducing this amendment to S. 2, the Sunset Act. We believe that this revision will make the sunset process workable, thereby insuring that comprehensive oversight of Federal spending programs will be conducted.

The need for sunset legislation cannot be denied. Congress has functioned for too long with no organized process of dealing with program performance. It is true that Congress can conduct oversight of a program and agency at any time. Congress can also place any Federal program on a periodic authorization so that program deficiencies will be identified and corrected.

But Congress does not have a habit of doing these sensible things. For that reason that we need sunset—to spur the committees to undertake this vital review.

The President's budget for this fiscal year made the choices abundantly clear to us. We can begin to get a handle on the budget now, or we can slip along until we have virtually no budgetary control.

Uncontrollable outlays have grown like topsy in the past decade. In 1967, open-ended programs and fixed costs accounted for 36 percent of total budget outlays. By 1973—just 6 years ago—they surpassed 50 percent of the budget and this year the President estimates these uncontrollables will reach nearly 60 percent of budget outlays. When outlays for prior-year obligations are added into this amount, we find that 75 percent of the budget is uncontrollable.

Sunset can help us to regain control over these programs but only if it is realistic. We have been concerned that too ambitious a proposal would flood the Congress with paperwork—imposing such a heavy burden that "evaluations" would by necessity become rubberstamps. The amendment we are introducing today will streamline S. 2. Allowing Congress to select programs for review will permit us to chart a meaningful review schedule given overall congressional interests and concerns. And the agenda process we have created will insure that the will of the Congress prevails in choosing those programs which need reform.

The amendment we are introducing today does not specifically touch on regulatory agencies, but it is my intention to submit, in the near future, an amendment to title V of S. 2. I added title V last fall in order to insure comprehensive congressional oversight of regulatory agencies. As a result of hearings conducted by the Governmental Affairs Committee this spring, I have made a number of changes in this procedure which better focus attention on the fundamental issues which must be addressed.

I look forward to our committee markup of sunset in the near future, and hope we can get this bill to the President's desk early next year. It is an important step in our effort to control spending and balance the budget.●

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold 1 day of hearings on Monday, October 15, 1979, on the changes in monetary policy implemented by the Federal Reserve Board last Saturday. These changes are of such importance to the financial markets and the economy in general, that I feel it is important to discuss both the short- and long-term implications of this move.

I have asked Chairman Volcker to appear so that he may explain more fully the intended effects of the policy actions taken by the Federal Reserve System. We have also put together a panel of economists who will give their individual views of what these important changes mean for the economy. That panel is composed of: Dr. Ralph Bryant, senior fellow, The Brookings Institution, Washington, D.C.; Prof. Allan H. Meltzer, graduate school of industrial administration, Carnegie-Mellon University, Pittsburgh, Pa.; Mr. Robert Nathan, chairman of the board, Robert Nathan Associates, Inc., Washington, D.C.; and Mr. Lief Olsen, chairman, economic policy committee, Citibank, New York, N.Y.

The hearings will be held in room 5302 of the Dirksen Senate Office Building and will begin at 9:30 a.m.

Additional information about the committee's hearings can be obtained by contacting Steven M. Roberts, chief economist of the committee, at 224-7391.

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I would like to announce, for the information of Senators and the public, the October hearing schedule of the Committee on Veterans' Affairs.

October 25:

At 9:30 a.m., in room 345 of the Cannon House Office Building, the Senate and House Committees on Veterans' Affairs will hold a joint hearing to investigate admitting practices and treatment of veterans in Veterans' Administration hospitals and clinics. The purpose of this hearing is to identify deficiencies in the provision of care and to determine if the demand for VA health care is exceeding the supply of treatment available. As part of this investigation, the committees will look into the effect of Office of Management and Budget imposed budget restrictions which have forced reductions in VA medical personnel and the elimination of hospital beds and into claims that VA waiting lists and admissions schedules are manipulated to conceal deficiencies in the system.

October 29:

The committee has scheduled a hearing on S. 1523 and H.R. 4015, companion measures which would establish additional demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration. The hearing will begin at 9:30 a.m., in room 5110 of the Dirksen Senate Office Building.

Anyone desiring further information on these hearings should contact Bill Brew, associate counsel of the committee, at 202-224-9126.●

JOINT ECONOMIC COMMITTEE

● Mr. BENTSEN. Mr. President, on Monday, October 29, 1979, the Joint Economic Committee will hold a special hearing in observance of the 50th anniversary of the beginning of the Great Depression. It was on this date in 1929—Black Tuesday—that the stock market crashed, bringing to an end, at least symbolically, the boom of the 1920's and beginning the hard times of the 1930's.

It is entirely appropriate, in light of current economic conditions, that we look back on Monday, October 29, at the causes and effects of the Great Depression, particularly with a view toward answering the question, "Can it happen again?" This will be the focus of the Joint Committee's hearing.

The hearing will begin at 2 p.m. in Room 318 of the Russell Senate Office Building. The following witnesses will appear:

John Kenneth Galbraith, professor of economics, emeritus, Harvard University, and author of "The Great Crash," 1929;

Alan Greenspan, president of Townsend, Greenspan & Co., and former Chairman of the Council of Economic Advisers under President Ford.

Walter Heller, professor of economics at the University of Minnesota and former chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● MR. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance will hold a hearing on Monday, October 22, 1979, on miscellaneous tax bills.

The hearing will begin at 9 a.m. in room 2221 of the Dirksen Senate Office Building.

The following pieces of legislation will be considered:

S. 1435, sponsored by Senators NELSON, BENTSEN, PACKWOOD, and CHAFEE. The bill provides for the more rapid depreciation by businesses of investments in machinery equipment and buildings. Revenue estimates on this measure are not available at this time. The measure will benefit virtually all businesses.

S. 1021, sponsored by Senator DANFORTH. The bill would provide the holders of municipal bonds with an option to either exclude the bond interest from taxable income as under present law or to claim a Federal tax credit of 67 percent of the amount of interest. This measure is estimated to decrease revenues by $6 million in 1980; $74 million in 1981; $244 million in 1982; $403 million in 1983; and $526 million in 1984. The measure will benefit purchasers of municipal bonds.

S. 1078, sponsored by Senators JAVITS, GOLDWATER, DOMENICI, WILLIAMS, and PELL. The bill would provide a credit against taxes on an artist's estate for testamentary transfers of his art to the Federal Government. The bill would also provide a credit against an artist's income taxes for donations of his artwork to charitable organizations and amend other sections of the Internal Revenue Code relating to "hobby losses" and the capital gains treatment for copyrights. This measure is estimated to decrease revenues by $20 million per year. The measure will benefit artists.

S. 1467, sponsored by Senators DOLE and BENTSEN. The bill would provide that the retirement-replacement-betterment method of accounting for property used by a common carrier is an acceptable method for determining depreciation allowances for income tax purposes. This measure is estimated to have no revenue effect. The measure will benefit common carriers.

Witnesses who desire to testify at the hearing should submit a written request to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on October 18, 1979.

The subcommitttee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length, and mailed with five copies by November 16, 1979, to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Committee on the Judiciary deemed to have been authorized to meet retroactively during the session of the Senate yesterday, October 11, 1979, to hold a hearing on the balanced budget amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 16, 1979, beginning at 2:30 p.m. to hold an oversight hearing on the refugee Attorney General parole authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 17, 1979, beginning at 2 p.m. to hold a hearing on pending judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, October 18, 1979, beginning at 2:45 p.m. to hold a hearing on pending judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, October 15, 1979, to hold a markup session on the Alaska lands legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. Mr. President, I also ask unanimous consent that the Committee on Energy and Natural Resouces be authorized to meet during the session of the Senate on Tuesday, October 16, 1979, to hold a markup session on the synthetic fuels legislation and other pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Energy Resources and Materials Production Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on oil and gas leasing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POPE JOHN PAUL II IN IOWA

Mr. CULVER. Mr. President, the recent week-long visit by Pope John Paul II to the United States was a rich and moving time for Americans of all faiths. His eloquent appeals for world peace and social justice, the special concern he showed for children, and the elderly, and the disadvantaged, and the evident warm rapport he so quickly developed with his American audiences made this a deep human experience for us as well as an historic event.

Iowans were particularly honored that he placed our State on his itinerary as a symbol of the American heartland. I was privileged to be one of those who attended the Mass which he celebrated at the Living History Farms outside of Des Moines. He reminded us that farmers have a special responsibility to humankind as stewards of the productivity of the land. The three qualities which, he urged, should animate our attitudes toward the land—gratitude for the abundance, a commitment to conserving its fruitfulness for future generations, and a willing generosity to share our agricultural riches with less fortunate peoples—struck responsible chords among Iowa farmers.

Several recent editorials in Iowa newspapers reflect upon the meaning of Pope John Paul II's visit to our State. I request that they be printed in the RECORD.

The statements follow:

[From the Des Moines Register, Oct. 6, 1979]

WHAT A SPLENDID DAY!

Oh, what a splendid day it was!

The throng spread across the hillside of a picture-postcard Iowa setting—blue skies, red barn and silos, green grass, the first eruptions of fall color. The "first glimpse" excitement at the airport. The human glow emanating from that island of peace, St. Patrick's Church, as the pope dropped in to speak and touch.

And, of course, Pope John Paul II himself, loving and caring, honored and loved for himself as well as for his office. His presence affirmed faith more insistently than any event most Iowans have encountered outside of their churches in this increasingly secular age. And for some, the experience might have matched anything inside their churches as well.

No evangelist ever stressed the particulars of his belief more insistently than the pope has in this American visit, and in his visit to the lush fields of central Iowa. But we can recall no event so ecumenical in character, encompassing not only the entire Christian community but embracing those of other beliefs and a good many of no belief.

Much of the grace of the event can be attributed to the nitty-gritty planning and execution. By providing for the worst—with medical facilities, communications and plenty of volunteer marshals along with professional lawmen—the planners were blessed with nothing but the best.

But crowd control was only one detail of planning. The ecumenical service that preceded the Mass established a character of expectation and participation that may have been unique for the papal visit to this country. The inspiring music of brass instruments, guitars and choir was at once distinctive and universal. The gorgeous quilted backdrop on the altar distilled the day's experience and heightened the vibrant setting.

And the pope's words? They were simple, clear, direct. He spoke of the land in such familiar terms that it would be easy to * * * conserved with care since it is intended to be fruitful for generation upon generation," he said. "You are stewards of some of the most important resources God has given to the world."

But one need not move far from these shared generalities to find conflict with the presumed right of the property owner "to do as I please," with the problems of chemical pollution, the profit-minded machinations of world trade, the pressures of economic survival and maximum profits and the heritage of past land abuses.

For hundreds of thousands, including many who shared the experience through television coverage as well as those on the spot, it was an experience defying capsule superlatives. But someone who share in another well-remembered Iowa gathering in a farm field in August of 1979 may have topped them all with. "It was better than Wadena."

IT ALL WENT WELL

A papal visit is more than a spiritual event. It's also a problem in logistics. How do you get some 340,000 persons—more than one-tenth the population of Iowa—assembled on a single farm to see and hear a papal Mass without destroying the dignity of the occasion?

That was the question that faced ecclesiastical and secular authorities here when Pope John Paul II announced that he would include Des Moines in his U.S. tour. They responded magnificently—one is tempted to say miraculously. There were some lost children and adults and some medical emergencies. But, by and large, everything was handled with extreme efficiency and dignity.

Our hat goes off to city, county and state officials and to the Roman Catholic diocese. Special thanks should go, of course, to the pontiff himself and to those hundreds of thousands of Iowans and others who made his visit here such a holy and heartening event.

[From the Waterloo (Iowa) Courier, Oct. 7, 1979]

POPE JOHN PAUL: HIS AURA GRACED OUR STATE, NATION

In a burst of what might be called over-exuberance following Thursday's visit to Iowa by Pope John Paul II, some commentators have repeatedly declared that Des Moines and this state "will never be the same."

At least on the surface, things already are "back to normal" in Iowa. A cynic might even say that the pope's historic visit is now only a memory.

But to the extent that Pope John Paul touched the hearts and minds of Iowans, and indeed all Americans during his multi-city visit last week, things will really "never be the same."

And he could not help but leave positive impressions on the hundreds of thousands who caught a first-hand glimpse and the tens of millions more who viewed him on television.

For example, how could anyone miss the simple genuineness and sincerity John Paul exuded constantly.

In truth, "exude" aptly describes what this complex man did—not in the "hail fellow well met" effervescent sense, but rather in the fact that he seemed to exhibit as many facets as there are kinds of people.

His well-known spontaneous interest in and attraction to young people was obvious—whether in New York, Philadelphia, Des Moines or Chicago. His eyes seemed to light up and his whole face sparkled when among the young.

In a larger sense, however, John Paul exuded an aura of all humanity, especially before the United Nations, showed scholarliness and knowledge of world affairs as he urged efforts to "do away with the very possibility of provoking war."

In Iowa, the pope demonstrated understanding of the importance of the land to all mankind—urging farmers to conserve the soil as God's stewards.

But more important than what he said at any point in his journeys was the atmosphere of warmth, compassion, knowledge and understanding by this leader of the Roman Catholic Church.

And stirring as John Paul undoubtedly was to Catholics in Iowa and elsewhere in the nation, his contribution to the ecumenical mood of America, though immeasurable, is bound to be considerable and significant.

One need not be a Catholic to have been impressed by John Paul.

In fact, as he stood before the multitudes at Living History Farms Thursday afternoon, one could imagine that beneath the flowing robes stood an Iowa farmer—his hair blowing and cheeks turning pink in the raw breezes.

Here, in one man, was a simple majesty without pompous pomp. Here was humility before God. Here was the charisma, not of a political leader but of mankind for God and God for mankind.

John Paul's visit graced this state and nation. That's worth a grateful "amen."

[From the Cedar Rapids Gazette, Oct. 8, 1979]

A MEMORY TO CHERISH

When the pope's visit to Iowa was announced in late August, longtime Iowans tried to measure the pending event against other big crowd-generating spectacles in state history—President Truman's speech at a national plowing match near Dexter in 1948, President Eisenhower's appearance with then-Senator John Kennedy at a plowing competition near Marion in 1958, and so on.

But by the evening of the big day last week, it was obvious that the pontiff's unprecedented stop-off in the nation's heartland defies comparison. The occasion was simply more—more people (340,000), more inspiration from the speaker, more cooperation from officials and civilians, more fellowship among the watching throngs, more conviction that this was an unforgettable day.

Witnesses spoke in superlatives. Gov. Ray never had seen a crowd so well-behaved. Archbishop James J. Byrne of Dubuque was "thrilled with everything—the Holy Father, the people, the arrangements." The Rev. Vincent O'Keefe, assistant superior general of the Jesuit Order stationed in the Vatican, said Living History Farms was "by far the loveliest setting so far on the whole trip."

To the devout, the experience was joyful, electrifying. To casual Christians and many other observers, it was serendipitous—an unexpectedly refreshing respite from cares, a time of indescribable contentment. It was, as the governor described it, "a truly ecumenical event."

The weather's contribution was noteworthy, too. Everywhere he went, the pope drew sunshine. Also refreshingly, the crass hucksterism faded fast: Pilgrims were too intent on reaching the scene to pause long over merchant's wares.

Pundits may spend weeks appraising the pope's pointed messages—notably his criticism of American materialism and his reiteration of the anti-contraception stand. For the moment, though, it is pleasant to reflect upon the good will spread by this remarkable man.

As representatives of all Americans in rural life, Iowans can be proud that Pope John Paul II put this state in his exhausting itinerary. That he found Iowa warm, hospitable and harmonious is cause for further gratification.

TIME TO PLAY FAIR WITH TAXPAYERS

● Mr. DOLE. Mr. President, there has been quite a bit of discussion in the press recently about the so-called "underground economy" and the problems it causes for the Internal Revenue Service. The IRS is concerned that it is losing too much tax revenue from failures to report income that is not subject to withholding and wants to improve its control over "underground" income.

It is not exactly clear where the underground economy begins and ends, but at least it includes income from illegal activities and unreported income earned in second jobs by informal arrangement. The IRS may also be viewing the exchange of services without payment on either side as an evasion of income reporting. No one can criticize the IRS for wanting to increase the reporting of taxable income, for that is their job. Certainly no one defends those who profit from criminal activity. But the only additional people the IRS is likely to reach are those with marginal incomes, who are struggling to get ahead financially. Before we encourage the IRS to increase its enforcement efforts, we ought to consider why it is that people try to evade the requirement of reporting income. It should not be necessary to post an IRS agent at every street corner to see if people are helping their neighbors on a cooperative basis rather than charging each other for services—not if the tax system is widely accepted as fair and reasonable.

Of course, there are always some individuals who are greedy and who will try to evade any obligation to contribute their fair share to the cost of running the Government and providing public services.

But by and large the American people have a sense of obligation to one another and a notion of fair play. It is this sense, more than enforcement efforts, that must be maintained in order for the income tax system to work. People must be willing to contribute and voluntarily comply with the requirements of the Internal Revenue Service.

Mr. President, nothing undermines this sense of fair play so much as inconsistent application of the tax laws and hypocrisy on the part of the Government. The Senator from Kansas believes that false promises of tax reduction by the Government, combined with the perpetual growth of Government, is responsible for much of the "underground economy." Not only does inflation eat away at people's incomes, but inflation increases the tax bite as well, whether or not Congress has passed what it claims to be a tax cut. It is no wonder that people are bewildered, and despair of ever getting real relief.

What confuses people is taxflation. When their incomes grow in response to inflation, people move into higher tax brackets, and their real tax liability increases. Yet because of rising prices their purchasing power has not increased. The best that tax cuts do is restore some or all of the inflationary tax increase: There is no real reduction in tax liability. We cannot condone tax evasion, but it is easy to understand why taxpayers increasingly seek ways, legitimate or illegitimate, to exclude some of their income from taxation. Most people will play fair with the Government if the Government plays fair with them.

Fairness can be restored by passing the Tax Equalization Act, S. 12. The bill, which I have introduced, would require the tax liabilities to be determined on the basis of real, not inflated, income. The tax brackets, zero bracket amount, and personal exemption would be restated each year to reflect the rise in the Consumer Price Index. The inflation tax windfall to the Government would be eliminated, and people would experience stable tax rates unless Congress acted to change them. If we expect American taxpayers to deal honestly with the Government, we are obliged to deal honestly in return by providing tax equalization.●

HEALTH WARNING LABELS

● Mr. HUDDLESTON. Mr. President, on May 7 the Senate passed an amendment to S. 440 calling for a health warning label to be placed on beverage alcohol containers of at least 24 percent alcohol by volume. Because I believe the public debate on that health warning label requirement has heretofore been slanted in a manner which has prohibited opponents of the warning label from a full display of their arguments, I submit the statement made by Dr. David J. Pittman, an eminent authority in the alcohol abuse field, before the Senate Alcoholism and Drub Abuse Subcommittee on September 14 and ask that it be printed in the RECORD. I believe it is necessary to introduce some balance into proceedings which surround this matter.

Dr. Pittman is the chairman of the Sociology Department at Washington University in St. Louis and has been involved in the field of alcoholism for some 25 years. I believe that his comments with respect to the health warning label should be viewed by all concerned in the hope that the emotionalism surrounding this issue will not completely obscure the facts.

A thorough review of Dr. Pittman's testimony, and, indeed the entire subcommittee proceeding will reveal an almost clear-cut consensus that we cannot, on the basis of any scientific study, demonstrate that a warning label will be helpful in reducing consumption on the part of those afflicted by the disease of alcoholism.

The statement follows:

STATEMENT OF DAVID J. PITTMAN, PH. D

SUMMARY

From my perspective as an academician, researcher, and current and former office holder in many local, state, national and international private and public alcoholism organizations, I am opposed to governmental mandated health warning labels on containers of beverage alcohol for many reasons. They are briefly:

1. Health warning labels are simplistic and cosmetic, though probably well intentioned devices to ameliorate the alcoholism problem in the United States.
2. There is not a single scientific study which would indicate that health warning labels would raise the public's awareness of alcohol problems or be effective in altering an individual's drinking pattern which is causing him or her problems.
3. There is a real danger that health warning labels would be misleading and reinforce the archaic belief that alcohol causes alcoholism, without any attention being paid to the crucial role of biological, psychological, and environmental factors in alcohol problems.
4. Health warning labels are unnecessary for the majority of Americans who do not have alcohol problems and drink in appropriate ways.
5. Health warning labels on containers ignores the fact that approximately 30 per cent of beverage alcohol is consumed in commercial, familial and party contexts.
6. American society currently is characterized in Etzioni's terms by "regulatory overload," and the population is being bombarded by so many health warning alerts on so many products that they are being viewed by indifference by the population.
7. Almost any product or behavior can be hazardous to one's health from automobiles to salt for patients with hypertension. The federal government cannot be the parent or guardian for all citizens in all matters. New regulations for the protection of the population, however well intentioned, creates a vast bureaucratic empire for their enforcements and the costs of regulation are passed on to the consumer in high prices for the products and increased taxes.

A more positive approach than one-shot warning labels to sensitizing the population to alcohol problems is a sustained information and education campaign, both to the general population and to specific target groups over a period of years to the hazards of inappropriate drinking behaviors and their consequences utilizing both the resources of the public and private sector especially the active involvement of the beverage alcohol industry.

STATEMENT

Senator Riegle and Members of the Senate Subcommittee on Alcoholism and Drug Abuse: I am David Pittman, Chairman and Professor of Sociology at Washington University in St. Louis, where I have been a member of the faculty since 1958. I am pleased to present my views on consumer health warnings for alcoholic beverages and related issues, especially health warning labels on containers of alcoholic beverages to this distinguished subcommittee.

I have been active at the local, state, national and international levels of alcoholism prevention, education treatment and rehabilitation for the last 25 years beginning with my doctoral dissertation research on the chronic drunkenness offender, which was published in an expanded book form (Pittman & Gordon, Revolving Door, New Haven: Yale Center of Alcohol Studies 1958) with the aid of a collaborator (C. Wayne Gordon, Ph.D.), which made the bold recommendation (at that time, 1958) of decriminalizing public drunkenness and creating detoxification centers and rehabilitation centers for these individuals at the local and state level. I am extremely proud that the first community in the United States to decriminalize public drunkenness and establish a detoxification center with rehabilitation services was in St. Louis, Missouri, in 1966 and is still operational in 1979. My colleagues in the St. Louis and Missouri governments as well as those from Washington University, including myself, were instrumental in designing this facility and engendering support and funding for this endeavor.

Currently my interests are mainly in the areas of the prevention of alcoholism and alcohol-related problems. I should indicate, however, that my comments concerning health warning labels are my personal beliefs and do not necessarily represent the position of my university, any organizations of which I am a member or an officer, or any public or private agency from which I receive funding for research or educational activities, whether it be the National Council on Alcoholism, the United States Brewers Association, Incorporated, the National Institute on Alcohol Abuse and Alcoholism, etc.

I have read the Legislative Hearing Report of the 95th Congress, "Alcohol Labeling and Fetal Alcohol Syndrome, 1978," the Bureau of Alcohol, Tobacco and Firearms (BATF) and Department of the Treasury document, The Fetal Alcohol Syndrome: Public Awareness Campaign, February 1979, and the Congressional Debate on warning labels in the CONGRESSIONAL RECORD of May 7, 1979.

The conclusion I have reached not only from reading these documents as well as my own experience as an academician, researcher, and as a leader in innovations in treatment and legislative activities to aid alcoholics and their families, is that health warning labels are simplistic and cosmetic, though probably well-intentioned, devices to ameliorate the alcoholism problems in the United States.

First, there is not a single scientific study which would indicate that health warning labels on containers of alcoholic beverages would either raise the public awareness of alcoholism and alcohol problems as significant public health problems or, above all, that they would be effective in altering drinking patterns of the already alcohol-addicted group of drinkers and those in high risk groups for developing alcoholism and alcohol problems. This point is made in the BATF publication, The Fetal Alcohol Syndrome: Public Awareness Campaign, February 1979, which states, "The effectiveness of labeling of alcoholic beverages is not certain." (p. 27) Sweden, which has a low per capita consumption rate of alcoholic beverages but extensive alcohol problems, has introduced a number of measures to reduce drinking of alcoholic beverages with higher prices for distilled beverages, health warning labels on containers of alcoholic beverages, and restriction on life style advertising which would glamorize drinking. However, there is no evidence yet that these measures have reduced the alcohol problem in that country.

Second, health warning labels on containers on alcoholic beverages would be misleading and reinforce prevailing sentiments that the real cause of alcoholism and alcohol-related problems is to be found in the agent, ethyl alcohol, and not in the more relevant variables of the individual (or the host in epidemiological terms) and in the environmental or sociocultural conditions in American society. More explicitly, the warning labels will be ineffective for those minority and stigmatized groups whose alcohol problems are intimately related to their position in American society; e.g., American Indians, Eskimos, Aleuts, low-income Blacks and Chicanos. The solution to their high rates of alcohol pathology will be alleviated only by an improvement in their socioeconomic position in America. Furthermore we already know that alcoholics do not respond to lectures, exhortations, warning labels or moralizing of any type. If lectures or exhortations were going to solve the alcoholism problem, it would have disappeared during the previous generations, marked by Prohibition, Carrie Nation types, and pledges to remain sober.

Third, the overwhelming majority of Americans who do drink do not have problems with alcohol. Health warning labels are not needed for this group of people who drink in non-injurious ways to their health. We should remember that drinking patterns are learned in the individual's family unit and a strong positive family environment is one of the best protections against a child's later becoming an alcohol abuser. Furthermore, drinking patterns are modified by the individual's peer group and friends. By the time the individual is legally of age to purchase and consume alcoholic beverages he or she already has a set of attitudes and beliefs about alcoholic beverages.

In summary, we need to determine why some people drink to excess or have alcohol problems, and in most cases why humans have been drinking since the beginning of human history without significant problems; these are the primary research questions to which our attention should be addressed.

Fourth, a warning label that excessive consumption of alcoholic beverages may damage one's health comes at the end point of personal drinking decision making—namely after the purchase of the alcoholic beverage. Do we scientifically know whether or not a label will be read by the purchaser? Also, how does a warning label affect the consumption of alcoholic beverages ordered in restaurants, taverns and cocktail lounges where a proposed label would not be in view? It should be pointed out that approximately 30 per cent of the beverage alcohol is consumed in cocktail lounges, taverns, private parties, etc. How would warning labels apply to these situations?

Fifth, as Professor Etzioni noted in his evaluation of the responses to the advanced notice of proposed rule making on warning labels on containers of alcoholic beverages, "an excessively liberal use of government power has already led to regulatory overload [in American society]" (The Fetal Alcohol Syndrome: Public Awareness Campaign, ibid., p. 228). The federal government is not responsible for being the parent or guardian for all citizens. Almost any product or behavior can be injurious to one's health. Automobiles, aircraft, long gasoline lines, sugar products such as cookies if used by diabetics, high caloric foods if used by obese individuals, products with high cholsterol content for patients with heart disease, salt for those who have hypertension, etc., can all be hazardous to one's health, but they do not carry warning labels. The federal government cannot and should not regulate every area of human endeavor or behavior; in my view the federal government has put out so many health warning alerts on so many products that they have reached the point of being not only absurd but are viewed with indifference by the population.

I, as well as many other Americans in this inflationary period of high taxation, shudder to think of the vast bureaucratic empire that will be created in the Federal Drug Administration or the Federal Trade Commission to enforce this new regulation to protect ourselves against ourselves. To be enforced equitably, does the administrative agency propose—since alcohol beverages are sold as mixed drinks as well as purchased in containers—to require that all cocktail glasses be engraved with the warning, "Caution: Consumption of alcoholic beverages may be hazardous to your health"? These are practical details but we are all too aware of the rule-making capacity of such bureaucratic agencies as OSHA, EPA, the Department of Energy, etc. Americans, in all recent opinion polls I have read, are tired of the overregulation of their lives by vast impersonal agencies on the banks of the Potomac. Health warning labels on alcoholic beverages is just another aspect of this governmental overregulation and will be cost-ineffective in reducing alcoholism. Furthermore, what will be the cost of implementing these health warning labels?

From the American experience with federal governmental regulations over the last decade we must be cognizant of the fact that the placing of regulatory power, such as health warning labels in the hands of the Department of Health, Education, and Welfare, means that a vast bureaucratic army of new public employees must be maintained to exercise surveillance over the makers of the beverage alcohol. We must keep in mind the cogent comment of the sociologist Nathan Glazer who states:

> Place someone in the position of a regulator and he is likely to see his task as more important, his role as less instrusive, and the extension of his role as more justified, than do the people he regulates.*

Finally, I believe that the final danger in mandating health warning labels on containers of alcoholic beverage is that the United States Congress will give the population the impression that they have taken effective action against the problem of alcoholism and alcohol abuse, at a low cost to the federal treasury, since the cost of governmental regulation is always passed on to the consumer with higher prices for the product or in higher taxes. But, again, there is no evidence that at this time warning labels will have any significant impact on ameliorating America's alcoholism problem among high risk groups for developing alcohol problems (Eskimos, American Indians, male homosexuals, children of alcoholics).

A MORE REALISTIC APPROACH TO INCREASE PUBLIC AWARENESS OF THE POTENTIAL HEALTH HAZARDS OF BEVERAGE ALCOHOL USAGE

We should be aware of the fact that humans have been producing and consuming alcoholic beverages for over 20,000 years and that its use in some societies and groups has been integrated into religious, ceremonial and celebratory activities, and furthermore used for medicinal purposes. Particularly relevant is the fact that in Western societies, alcohol beverages have played an important role in these cultures and became an integral part in the dietary habits of Western societies in Europe before the United States was discovered and settled.

A cursory examination of ancient, medieval and contemporary history reveals that the civilizations of Ancient Greece and Rome were aware of the negative consequences of excessive drinking with warnings about "drinking too much wine was evil," that "moderate drinking should be the standard," and even at one point in Roman history women were forbidden to drink.

These historical observations are not intended to trace the history and use of alcohol. Instead these brief observations show how man's attitudes towards alcohol have been confused and ambivalent. The Greeks both praised and condemned alcohol. Also, a society can change its attitude towards alcohol. Early Rome was moderate in its drinking patterns, but later characterized by its excessive use of alcohol. Man has used and misused alcohol since the beginning of history and, most likely, will continue to use and misuse it until the end of history. In other words, there is nothing new about alcohol problems or the attempts to deal with them. It is unlikely that man will ever be able to do away with all the problems associated with alcohol. He must accept its disadvantages along with its benefits. However, we can now alleviate many of the problems associated with alcohol. And, our ability to

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cope with these problems will increase as our knowledge of alcohol and its uses increases.

Our attempts to cope with problems of alcohol misuse are not a recent phenomenon of the 1970's for previous generations have been aware of this problem and have adopted various measures to deal with the problem ranging from complete Prohibition in the United States, except beverage alcohol for medicinal purposes from 1920-1933, to various age restrictions on the purchase and consumption of alcoholic beverage, restrictions on the hours, days, and places of sale for alcoholic beverages, etc.

But any program to sensitize the American population to the health hazards of excessive and inappropriate use of alcoholic beverage must be based on the foundation that the majority of adult Americans consume alcoholic beverages and that any program that does not meet the reality test of the experience of the American consumer is fraught with failure.

Specifically, the best advice for alleviating America's alcohol problem is one that is based on a sound scientific foundation with strong educational programs that continue over a period of decades. The current problems with alcohol misuse did not develop overnight and are not going to be eradicated by simplistic and cosmetic devices such as printed warning labels on containers of alcohol beverages. Concretely the following programs need either to be implemented or strengthened:

(1) The disease of alcoholism which afflicts millions of Americans still too frequently has a stigma attached to it. Public attitudes toward the alcoholic while more understanding than two decades ago still too frequently cast the alcoholic as one who caused his or her own disease. Private and public agencies need through concrete action to implement the orientation that alcoholism is a treatable disease and individuals can and do recover from alcoholism. Specifically decriminalization of the public drunkenness offense with concomitant funding for treatment programs has begun to lag in this country in the late 1970's. Our largest state, California, still has not decriminalized public drunkeness, and individuals are still being arrested and jailed for having a disease which is treatable. Many states still do not mandate that group health insurance policies must include coverage for alcoholism as a primary diagnosis. Many private and public sector businesses and agencies do not have employee assistance programs for problem drinkers as part of their ongoing services, although the cost-feasibility of such programs was shown as early as 1943 by the DuPont Corporation. Treatment services for risk groups for alcoholism are still woefully inadequate for such populations as minority groups, many lower-income individuals, etc. In short, the priority attached to providing services for the alcoholic individual is generally low at all levels of governmental and private organizational structure.

(2) Research funding by both the private and public sector for studies geared to the prevention of alcohol abuse as well as to the causes of alcohol abuse and alcoholism are negligible compared to funds invested in such areas as cancer, heart disease, diabetics, etc. Although it is generally assumed that alcohol abuse and alcoholism are related to the complex interaction of biological, sociocultural and psychological factors in the environment, our body of scientific knowledge in these areas is fragmentary and inconclusive. This is true regardless of the area under consideration whether it be the effect of alcohol advertising on drinking behavior and norms or the fetal alcohol syndrome (FAS). As Dr. Jack Mendelson has stated in reference to the FAS, "A surprising shortcoming in virtually every study of the fetal alcohol syndrome is a failure to consider or to adequately identify factors other than alcohol intake which may have contributed to behavioral and morphological derangements in the newborn." (**Advances in Alcoholism*, Raleigh Hills Foundation, June July, 1979, Vol. I, No 11, p. 3).

A stronger commitment to research, both basic and applied, is desperately needed in this field not only by the public sector but also the private sector, including the alcohol beverage industry.

(3) A sustained education and information campaign, both to the general population and specific target groups, is needed over a period of years to sensitize the public and professional groups to the hazards of inappropriate drinking behaviors.

Concretely, alcohol-specific education needs to be included in the elementary and high school curriculum so individuals can make informed decisions about their own personal drinking patterns. Alcohol-specific education needs to be included and strengthened in the college and professional school curricula—especially many professional schools (such as medicine, social work, nursing, health education, psychology, sociology, pharmacology, etc.) still do not provide adequate training to the personnel to diagnose and treat individuals with alcohol abuse problems.

Mass media campaigns on the appropriate use of alcoholic beverages should be encouraged as well as those which assign positive attributes to those who choose to abstain from drinking. Too frequently in the past abstainers have been negatively characterized in both printed and visual media as a reaction to the Prohibition Era (1920–1933) of suppression of alcoholic beverages.

Educational or public awareness campaigns are not the sole responsibility of the federal government; in fact private organizations such as the National Council on Alcoholism, the Education Commission of the States, the North Conway Institute, the American Council on Alcoholism, professional groups such as the American Medical Society, the American Nursing Association, labor unions, private industry and the alcohol beverage industry all should be intimately involved in informing the public of the potential health hazards of inappropriate use of alcoholic beverages for women in child-bearing ages, for high risk groups for developing alcoholism, for operators of motor vehicles (that alcohol use and driving do not mix).

Such educational and public awareness campaigns should not be limited to specific time periods but should be constant ongoing activities.

(4) My conclusions on the feasibility of warning labels for containers of alcoholic beverages are similar to those reached by the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms on "The Fetal Alcohol Syndrome Public Awareness Campaign—Progress Report" (Notice No. 318; Re: Notice No. 316) which states in summary:

> The Department has concluded that there is a need for a public awareness campaign which educates the public about the possible dangers that consumption of liquor, beer, and wine by a pregnant woman can present to an unborn child. Because of the nature of the evidence now available as to the possible dangers, it is not yet clear that warning labels on alcoholic beverage containers would be the best tool to educate the public; and because the Department wants in all instances to avoid unnecessary government regulation, it is encouraging the alcoholic beverage industry to work with the Government and private interest groups to educate the public about the possible dangers.

Such a public awareness campaign, which involves the active cooperation of federal government, private organizations, and the alcohol beverage industry, should minimize the involvement of all parties concerned in alerting the American population to the risks associated with the inappropriate use of alcohol. However, such campaigns should not only be directed to women in child bearing ages but also to other areas where there are problems, such as driving and drinking, drinking by under-age individuals, and groups which have a high incidence of alcohol problems. Such programs have the advantage of being potentially more effective in reaching individuals than a simplistic solution such as a printed warning label on a container of beverage alcohol that "consumption of alcoholic beverages may be hazardous to your health," which reaches the consumer after the decision to purchase alcohol has been made.

In conclusion, I wish to thank this distinguished Senate Subcommittee for the opportunity to share my thoughts on the utility of health warning labels for reducing alcoholism and alcohol-related problems. As one of the "other victims of alcoholism" in that my father died from the consequences of alcoholism, my opinions are based not only on academic knowledge and personal experience but from deeply held personal beliefs about the role of the federal government in a democratic society.●

EASTER SEAL SOCIETY SUPPORTS PASSAGE OF VOTING RIGHTS FOR HANDICAPPED AND ELDERLY

● Mr. BAYH. Mr. President, I was most gratified to receive a letter recently from the National Easter Seal Society endorsing passage of S. 597, Voting Rights for the Elderly and the Handicapped which I introduced on March 8 of this year. As my colleagues know, the National Easter Seal Society is one of the most prestigious and well respected organizations in our country today. Their efforts over the past 6 years have enabled handicapped persons to make significant strides in all areas of their lives to obtain full participation in society. I am honored to have the Easter Seal Society support the passage of this essential legislation.

The right to vote is taken for granted by many citizens without physical handicaps. However, many elderly persons and persons with physical disabilities experience hardship when trying to exercise their right to vote. They find polling and registration sites off limits due to physical barriers. I believe strongly that persons who find it difficult or impossible to obtain access to buildings due to physical barriers should not be denied the right to vote on election day.

The Voting Rights for the Elderly and the Handicapped Act addresses this situation by requiring the Attorney General, in consultation with the Secretary of HEW, to set standards for all polling places used in Federal elections which would assure access to such facilities for elderly and handicapped voters. At a minimum these standards would require that all polling and registration places be located in a building or other facility which provides access, by ramp or otherwise, to individuals in a wheelchair. If no accessible polling or registration site is available, an alternative method would have to be provided. The problems the blind have with voting would also be addressed by the bill. Blind voters or other voters with difficulties in either operating a voting machine or marking a paper ballot would be allowed to designate an individual to assist them.

I would like to share with my colleagues the thoughts of Mr. Joseph Romer of the National Easter Seal Society on the importance of passing S. 597, the Voting Rights of the Elderly and the Handicapped Act. I ask that the letter from the National Easter Seal Society be printed at this point in the RECORD.

The letter follows:

NATIONAL EASTER SEAL SOCIETY,
October 9, 1979.

Hon. BIRCH BAYH,
Russell Senate, Office Building,
Washington, D.C.

DEAR SENATOR BAYH: I am writing to proffer our organization's views on Senate Bill 597, your bill which would require that polling and registration places utilized for elections for federal office be accessible to physically handicapped and elderly individuals.

I should say at the outset that our organization, the National Easter Seal Society, is the nation's oldest and largest voluntary health agency serving the handicapped. During the year 1979, Easter Seal Societies across the country are providing a comprehensive spectrum of services to more than 350,000 persons with disabilities. Easter Seal affiliates offer a wide variety of services to handicapped persons disabled from any cause. Our clients include victims of accidents, cerebral palsy, multiple sclerosis, blindness and the whole range of birth defects.

In addition to providing direct services, the society benefits the entire handicapped population of the nation by its legislative and other governmental activities. The organization is also substantially involved in public education and research designed to enhance the lives of disabled people.

In our dual role as a provider of rehabilitation services to the disabled and as an advocate for the handicapped, we have a substantial interest in the issue of accessibility generally and particularly as it relates to federal elections.

Senate Bill 597, which would require the Attorney General in consultation with the Secretary of Health, Education and Welfare to set standards for all polling and registration places used in federal elections, would assure access to these facilities for elderly and physically handicapped voters.

This legislation is consistent with both Section 504 of the Rehabilitation Act of 1973 and the Architectural Barriers Act of 1968. The former provides that, "No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from participation in . . . any program or activity receiving federal financial assistance.". The latter requires that buildings and facilities financed with federal funds be designed and constructed or altered to be accessible to and usable by physically handicapped persons.

This proposal is an important piece of legislation in many respects. First of all, the enactment of this proposal would increase voter participation in federal elections which is a laudable goal in itself. Many individuals who do not presently utilize absentee ballot procedures would be more inclined to vote if they were able to vote in person rather than by mail or through agents of local election boards sent to their homes with ballots. It should also be noted that the cost of making these facilities accessible would be offset, to a certain extent, by a reduction in administrative expenses and personnel presently needed for absentee ballot voting.

Secondly, this measure, if enacted, would have significant intangible benefits. Allowing this category of Americans to more visibly participate in our democratic process would enhance this country's commitment to end the isolation and dependence of many of these people. The elimination of barriers obviously cannot remove all social and psychological stigmas associated with disabilities. However, it can create an environment in which persons with handicaps can live with dignity and diminish the attitudinal barrers towards handicaps which are still prevalent in our society.

We hope that our endorsement of and comments about Senate Bill 597 will in some way give an added impetus to the enactment of this legislation.

Sincerely,

JOSEPH D. ROMER,
Director of Governmental Affairs.●

NATIONAL EMPLOY THE HANDICAPPED WEEK—OCTOBER 7-13, 1979

● Mr. DOLE. Mr. President, this second week of October, October 7 through 13 has been proclaimed "National Employ the Handicapped Week." Every year, thousands more disabled persons become rehabilitated and capable of gainful employment and I am pleased that we are recognizing their achievements and potential by designating this week in which to recognize the many employment opportunities for the disabled.

TO PROHIBIT DISCRIMINATION

There have been many measures introduced in this Congress which addresses the employment opportunities and capabilities of the handicapped and I would like to mention just a few.

In addition to the Vocational Rehabilitation Act of 1978, this year I joined with Senator WILLIAMS in introducing S. 446, a bill which will amend title VII of the Civil Rights Act and prohibit discrimination against individuals because they are handicapped. This measure has been reported out of the Committee on Human Resources and placed on the Senate Calendar ready for action by the Senate. I am hopeful that we may take up consideration of this meaningful bill sometime before the end of the month.

According to the 1970 census, there are approximately 12 million noninstitutionalized persons aged 18 to 64 years who are disabled. At least 7 million of these individuals are able to work. The extent to which these capable individuals are denied employment in their communities is alarming and I believe should be addressed by this Congress.

Although the handicapped comprise only 11 percent of our total population, handicapped men make up almost 25 percent of our unemployed males. Disabled men have a unemployment rate twice as high as that of nondisabled men. Our inability to recognize these individuals potential and provide employment for their skills only serves to deprive our economy and society to an even greater extent.

Coverage of the handicapped under this title of the Civil Rights Act will signal the Federal Government's firm committment to end discrimination against the handicapped and finally give these citizens the opportunity to pursue a career of their choice and earn a living without having to bear a double burden of their handicap and employment discrimination. I believe this Nation is ready to move forward and eliminate all the misconceptions that have existed toward the disabled and handicapped worker.

EARNED INCOME FOR THE DISABLED

Mr. President, earlier this year I introduced S. 591, a bill which would amend title XVI of the Social Security Act with respect to presumptive disability, earned income in sheltered workshops, benefits for individuals who work despite a severe medical impairment, and the exclusion of certain work expenses in determining substantial gainful activity.

Last year the Finance Committee studied the supplemental security income (SSI) program and its impact on severely handicapped persons. Weekly, I receive letters from disabled individuals who complain that the provisions of the SSI program impose strict work disincentives on those who wish to move from the unemployment rolls to meaningful jobs. However, because SSI benefits are cut off when a person's earnings reach $280 per month, many handicapped find it impossible to live independently on such a small income.

Again, the SSI provisions are built on the misconceptions that I noted earlier in that handicapped persons do not and cannot work. We know now that this is simply not true. Handicapped citizens are making advances in their efforts to be recognized as working individuals rather than disability statistics on the unemployment rolls. Given a little effort, which I believe this bill, along with others during this Congress, many—if not most—handicapped persons can find employment suitable to their talents and skills.

Stated briefly, my bill provides that a person who was once disabled and receiving SSI to be considered presumptively disabled if he leaves the SSI rolls to seek employment and later finds it necessary to quit his job and go back on SSI. For many persons the difficulty and delay in regaining SSI benefits deters them from initially attempting to become employed. Under this presumptive disability clause, applicants would still have to meet other requirements, which includes income and assets restrictions.

A second provision of this bill provides that earnings received in sheltered workshops and work activities centers shall be deemed as earned income rather than unearned income. I believe the time has come to recognize sheltered workshops as a legitimate work experience and treat earnings from them like earnings received from any other job.

A third provision would allow persons who are disabled on the basis of a medical disability to continue receiving cash benefits even after their earnings reach the level of substantial gainful activity. In other words, when a medically disabled person has earnings in excess of $280 a month, he shall continue to receive a cash supplement equal to the SSI payment which the blind now receive. The cash supplement will continue until earnings reach the break-even point. Payments under this provision would be treated as supplemental security income benefits so long as the recipient continues to meet the disability requirements and nondisability related requirements, except for earned income.

This provision is vital in that it allows handicapped persons to accept a job without running the risk that all public assistance will be cut off when his monthly earnings are still low.

Another aspect of my bill would allow the continuation of medicaid benefits to certain handicapped persons who meet or equal the medical listings, and whose earnings surpass the break-even point, resulting in the termination of their SSI benefits. Again, simply this provision is geared toward the handicapped person who is able to work, but who continues to have high medical expenses which he cannot cover with his income. If we can remove disincentives by continuing medicaid so that the person can enter the work force, we are helping this individual to make a gradual transition from complete dependence on the Federal Government to that of independence.

The final provision of my bill allows an individual who because of his disability requires assistance in order to work, to disregard the cost of attendant care, and certain medical devices and equipments in the determination of SGA. In many instances, the cost of attendant care would consume more, if not all of a person's starting salary and it is again financially impossible for him to hold employment.

I am pleased with this bill and hope that quick action can be taken before the end of the 96th Congress.

ARCHITECTURAL BARRIERS TO THE WORKER

Another bill which I have introduced this Congress deals with making a permanent allowance for a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from $25,000 to $50,000. This idea is not new for it was first proposed several years ago, however, this year I am introducing this legislation to continue indefinitely this deduction.

Regardless of how much gain is made in the areas of education, employment, or whatever, all achievements will be limited until disabled persons are allowed to move freely on our sidewalks, in our buildings, and in our public transportation systems. In many ways the problem of accessibility is one of the most pressing which faces the disabled person. I believe, that this legislation will lead to the increased employment of handicapped persons which in the past they have been denied because of barriers to transportation systems and buildings. It is my hope that this bill will also be acted upon by this Congress and continue efforts to integrate the disabled into all walks of life.

CONCLUSION

Mr. President, I believe if these needs I have addressed can be dealt with effectively, we will have progressed considerably toward removing the legal and architectural barriers to employments which the handicapped experience each and every day. Experience has shown that the disabled are often preferred workers over the nondisabled because on the average their job performance, attendance record, and reliability tend to be above average.

Our primary emphasis should be to grant these millions of individuals the opportunity—opportunity to work in establishing their independence and own level of excellence. I am hopeful that during this week the workers and employers of this Nation have and will continue to make the working world more accessible to the disabled. There is no reason why the disabled should not be encouraged to seek employment. With a little patient work, the barriers will be broken.●

COSPONSORSHIP OF PRESIDENT CARTER'S NATIONAL HEALTH PLAN ACT—S. 1812

● Mr. CRANSTON. Mr. President, I am pleased to cosponsor S. 1812, the proposed National Health Plan Act, developed by the administration and introduced recently by the distinguished Senator from Connecticut (Mr. RIBICOFF).

Throughout my service in the Senate, I have cosponsored the proposed Health Security Act which, although needing some changes, I believe offered the most comprehensive health insurance plan under consideration. This year, Senator KENNEDY and President Carter have both developed new national health insurance proposals. I am cosponsoring both proposals, since I believe they are the most comprehensive. I will be working very hard to bring them together along with bills introduced by Senators LONG, TALMADGE, RIBICOFF, HART, DOLE, SCHWEIKER, and DURENBERGER, among other proposals that, I am convinced, will form the basis for action on national health insurance by Congress in the near future.

Mr. President, many of these proposals would require, as part of the overall plan, that employers pay an additional payroll tax or offer to their employees a private sector insurance plan. The employer's portion of the premium for this insurance varies among the proposals. The intent of these proposals is to minimize the role of the Federal Government and rely to the greatest extent on the private sector, both as to the source of the insurance itself and in terms of the means by which most coverage is financed. I agree with this basic financing approach, but recognize that it must be cast in such a way that the costs do not fall unfairly on any one segment of society.

Many of these proposals would offer a phased approach to national health insurance. If we decide to move toward national health insurance on some kind of incremental basis, I will do all I can to insure that two population groups are given priority consideration for coverage at the earliest possible time. These groups are, first, pregnant women and infants; and, second, those individuals between the ages of 62 and 65 who are receiving social security benefits, or those individuals between the ages of 60 and 65 who have an indirect relationship through a spouse to social security benefits.

As a member of the Senate Subcommittee on Health and Scientific Research, Mr. President, I will be participating actively in the development of a national health insurance program that can command broad support and I will seek to insure that the program as finally implemented will address the following four issues that I feel are paramount:

Accessibility of comprehensive health care for all individuals;

Equitable financing of the program;

Reasonable and workable cost controls; and

Freedom of choice for the patient in a pluralistic system.●

LOOK ALIKE DRUGS

● Mr. HATCH. Mr. President, during consideration by the Senate of S. 1075, the Drug Regulation Reform Act of 1979, I offered an amendment to deal with the problem of "look alike" drugs. A frequent practice in the pharmaceutical industry is for second manufacturers of a drug to copy or simulate the appearance of a brand name product. As a result these products in many instances are indistinguishable from the brand name drugs, with significant implications for the health, safety, and rights of consumers.

My amendment, which was adopted by the Senate, would bar subsequent manufacturers from making a product so nearly identical in overall appearance to the brand name drug so as to create the substantial likelihood that ultimate consumers will not be able to distinguish between them. The amendment was the product of a cooperative effort between the distinguished Senator from Massachusetts (Mr. KENNEDY) and myself to develop an appropriate legislative solution, acceptable to all parties, to this troublesome issue. The accord we reached will meet our mutual objective of protecting the safety and rights of patients and is fully consistent with the overall thrust of S. 1705 unanimously passed by the Senate on September 26.

In the interim, I have become concerned that some confusion has arisen over the precise meaning of the amendment. I fear that the mistaken impression may have been left that, provided two drug products bear different identifying marks, even though they may be the same color, size, or shape, the prohibitions set forth in the amendment would not apply. This is inaccurate. In fact, this was the general meaning of the "look alike" provision in S. 1075, as reported, which was unacceptable and which was replaced by our mutually agreed upon amendment.

Given my desire that the full intent of the provision is understood, I want to take this opportunity to make it absolutely clear that the objective test in the amendment adopted by the Senate is the ability of ultimate consumers to distinguish between the overall appearance of two drug products. Overall appearance includes the attributes of color, size, and shape. It may also refer to any mark which might appear on the drug product. There will be, no doubt, instances where two drug products are so nearly identical in overall appearance that there will be a substantial likelihood that ultimate consumers will not be able to distinguish between them, even if they bear different trademarks, names, or the like, or, for that matter, one of them bears no mark. In these instances the full force of the amendment will apply.

It is my hope that this explanation clarifies the issue and precludes the possibility of any future misinterpretation.●

BAYH URGES PASSAGE OF S. 1203

● Mr. BAYH. Mr. President, S. 1203, which would eliminate the 5-month waiting period for persons eligible for social security benefits if they have a terminal illness, was introduced on May 22 and is now sponsored by more than 21 Senators including 4 members of the Finance Committee to which it was referred. I anticipate that, in the next few days, the bill that Mr. BUMPERS, Mr. JACKSON, Mr. MAGNUSON, and I originally cosponsored will attract other sponsors as it has attracted support from other members of the committee.

In our eagerness to do something to reduce expenditures it is terribly important that we keep our wits about us and do only those things which stand the test of logic and which hold real promise of helpfulness.

One of those things is to provide timely aid to persons with a terminal illness, and by that I mean some patients with severe arteriosclerosis, certain myocardial infarctions, certain patients with congestive heart disease, and patients with some forms of cancer. These patients, by the time they are disabled, have often spent tremendous sums of money on medical care, usually beyond anything provided by insurance. It is not the same with persons disabled by accidents, whose disability comes in an instant.

The terminally ill patient, by the time he is disabled is usually in dire need of money. Many need to sell their homes. Though their families might collect life insurance after their deaths, these benefits are often received too late, often after they have liquidated assets, and after financial drain has reduced them below the poverty line. This is as true for those of comfortable means as well as those living on tighter budgets.

It makes no sense, either from a rational point of view, and certainly for the individual family to have families become destitute because of expenses associated with treating the terminally ill. That is why I have introduced S. 1203. It would provide a modest $320 per month, on the average, for disabled, terminally ill patients during the 5 months in which they are now required to wait for benefits.

The hearings record on this bill will reflect the unfortunate consequences of the current arrangement: Numerous letters testifying to checks from social security arriving on the month of a patient's death, or the day of his funeral, or after the aid is too late to do any good. Social Security Administration actuaries, for instance, estimate that the cancer patients who would benefit from S. 1203 would get about 2½ months to 3 months more benefits than they are entitled to under present arrangements, not the full 5 months in the bill because, on the average, they do not live that long after becoming disabled.

I think that money invested in maintaining familial financial stability would be of real value and possibly reduce costs in the larger run by giving families the time to adjust to new living arrangements and saving their homes from foreclosure and the attendant disruption and loss of assets. With stabilized families, we might recapture tax payments that disappear when a family loses its viable position in the marketplace.

Mr. President, 23 other Senators have joined me in cosponsoring this bill. I urge my other colleagues to join us in this effort. I hope the Senate will see fit to adopt this measure this session, thus sparing families already experiencing personal losses the additional stress associated with financial ruin.●

SALT AND NATO ALLIES

● Mr. BRADLEY. Mr. President, yesterday the chairman of the Subcommittee on European Affairs of the Foreign Relations Committee, Senator BIDEN, released a very useful report concerning what I believe to be one of the most important aspect of the SALT debate, which is the consequence of SALT ratification or SALT rejection on the overall strength and unity of the North Atlantic Alliance. This report is impressive and deserves wide attention. I therefore ask that there be printed in the RECORD the statement made by Senator BIDEN when issuing the report itself and the text of the report itself.

The material follows:

STATEMENT BY SENATOR JOSEPH R. BIDEN, JR.

My purpose today, as Chairman of the European Affairs Subcommittee, is to issue a Committee staff report entitled "SALT and the NATO Allies" and to stress the important theme which it documents, which is the crucial relationship between SALT ratification and the strength of the Atlantic Alliance.

No aspect of American military power—our ICBM's, our strategic bombers, our submarines—is more important to the security of the United States than the strength and unity of the Alliance of Western democracies. NATO is the foundation-stone of our national defense. Thus, no consequence of Senate approval or rejection of SALT II is more important than the effect of such action on the Alliance—on its political unity and its military strength.

It is for this reason that I believe the report I am issuing today should be seen as addressing the fundamental question now facing the Senate in the SALT debate. Let me begin by placing the report in context.

Over several months, as the SALT debate has evolved, critics of the Treaty have employed a number of tactics. At the outset, their main thrust was to attack the Treaty as having what it was then fashionable to call "fatal flaws." Indeed, before the SALT hearings began, the "fatal flaws" bandwagon looked like a serious threat to the Treaty. In fact, however, one of the great achievements of the public hearing process was to demonstrate, quite quickly and conclusively, that these allegations about the Treaty's terms were essentially invalid. Particularly notable in this regard was the so-called heavy-missile argument, which can now be seen as an effort by some to capitalize on the scare value of what was not only a non-issue but in fact, because of the Treaty's fractionation limits, a clearly positive feature of SALT II.

Another question raised was that of the Treaty's verifiability Under scrutiny, this criticism too has withered away. Indeed, as a member of the Intelligence Committee who has studied this question intensively, I believe verification is an issue which should now be laid to rest.

Still another issue has been that of "linkage." Under this heading we have seen a wide variety of what I would euphemistically call political creativity. Some Senators have boldly asserted that we should use SALT to try to control every aspect of Soviet behavior everywhere in the world, although how they would do this they never explain. Others, more modestly, have seemed content to tie the future of SALT to a brigade of Soviet troops in Cuba. Both efforts are of course doomed to failure—one suffering from hubris, the other from an almost comic loss of proportion. One must hope that the circus-like atmosphere of the past month has provided a sobering catharsis and that the SALT debate can now gravitate back toward a realization that this Treaty must be judged on its merits as a step toward verifiable arms limitation, not geopolitical behavior control.

Still another issue has been created by what might be called the "tougher-than-thou crowd," whose membership includes Secretary Kissinger and many others out of office, but which also includes some Senators. Members of this group are attempting to use a kind of domestic linkage by adopting the principle that no matter what the Administration wants to spend on defense, they want two percent more—and won't vote for SALT until they get it. One cannot help but feel that this approach has less to do with the Nation's defense than with a certain kind of political positioning by those who wish to be seen as arbiters of the Senate debate.

Finally, there is the criticism which concerns America's NATO Allies, who have voiced unanimous support for the SALT II Treaty but who have done this, so it is alleged, only because they were forced to do so out of loyalty to NATO's senior partner. Privately, according to the allegation, our Allies have deep-seated misgivings: specifically, they don't like the Treaty's terms, and generally they see the Treaty as a sign of American weakness.

Recognizing when the debate began that this unsubstantiated rumor-mongering about our European Allies had to be addressed, I decided on three steps:

The first was to meet personally, and discuss SALT with, a diverse variety of Allied officials, both in the NATO command and in the governments of several key Allies. Particularly important to me in this regard were my conversations with Helmut Schmidt and much of the top political and military leadership in West Germany.

My second step was to conduct public hearings on the Allied attitudes question, hearings during which an exception was made to long-standing Committee tradition so that first-hand testimony could be received from a special European delegation selected to represent the North Atlantic Assembly, the interparliamentary organ of the NATO Alliance.

Third, and most comprehensively, I commissioned a thorough study by the Foreign

Relations Committee staff. This study was conducted by the Committee's two specialists on European affairs, John Ritch and Alfred Friendly, who based their analysis—and this report—on scores of interviews with knowledgeable Europeans, ranging from journalists and academics, to working level staff in the European bureaucracies, to governmental officials at the very highest levels in West Germany, France, and the United Kingdom.

From all three initiatives emerged a single unqualified truth: The Allies want SALT—they want it ratified, and they want it ratified soon. This fact was clear to me from my personal conversations with Allied leaders, it was resonant in the testimony of the North Atlantic Assembly delegation, and it is strongly and persuasively evident in the report I am issuing today.

The value of this report, I believe, is that it documents and thoroughly explains *why* our Allies want SALT and, conversely, why the effect of rejecting SALT would be so damaging to the Alliance, and thus to American security.

Stated most broadly, the Alliance needs SALT ratification for two reasons: one political, the other military.

The political reason is the need to reaffirm strong American leadership of the Atlantic Alliance. It must be understood that events of recent years—the unimpressive U.S. response to the energy crisis, the sharp decline of the dollar, and perceived American foreign policy set-backs in areas ranging from Vietnam to Iran—have combined to raise serious questions among Europeans about American competence and strength. At the same time, however, the Allies continue to rely on the United States to provide the backbone of NATO and to lead the Alliance in the conduct of East-West relations. For the United States now to repudiate a SALT Treaty which was negotiated by three Administrations—and a process which Europeans see as making an essential contribution to the stable East-West relations on which their security depends—would send through Europe the most profound and far-reaching doubts about U.S. reliability as leader of the West.

The military reason is that NATO efforts to establish a satisfactory European theater nuclear balance are heavily conditional upon SALT ratification. This NATO effort is conceived as necessarily consisting of two parts. The first is a program of theater nuclear force, or TNF, modernization to enhance NATO's theater deterrent. The second is a theater arms control initiative, to be undertaken from this position of strength, presumably through SALT III, in an attempt to reach an East-West agreement codifying a stable theater balance. Because acute political sensitivities surround nuclear weapons deployments in Western Europe, there is now a consensus within the Alliance that any TNF modernization decision must be accompanied by—and indeed may be politically impossible without—a simultaneous Alliance effort to achieve theater arms control. For reaching final and unanimous agreement on this two-track approach, NATO has set December 1979 as its target date. But U.S. rejection of SALT II, by precluding or indefinitely postponing theater arms control possibilities, could easily undercut this entire effort. The result would be a dengerous scissors effect: NATO TNF improvements would be impeded while Soviet TNF deployments would be left unconstrained.

Thus, those Senators who are truly and deeply concerned about the Atlantic Alliance should, I believe, feel compelled by the imperatives of NATO to support this Treaty and its ratification without delay. Conversely, if our Soviet adversies were as devious as often alleged, they should now like nothing better than to see the Senate defeat this Treaty. As indicated by President Brezhnev's statement of last week, the Soviets are clearly concerned about the steps NATO is seeking to take. And nothing could more effectively serve to damage American leadership of the Alliance, and NATO's effort to improve its relative military strength, than Senate defeat of SALT II. I am hopeful that this truth will begin to dawn on our supposedly tough-minded Treaty opponents.

As the debate now moves to the Senate floor, the point will need to be stressed, reiterated and stressed again: It is in the fundamental defense interests of the United States to ratify this Treaty—so that we may move forward to strengthen NATO and to reaffirm American leadership in the Western Alliance. If we fail through short-sighted legislative action, we will weaken not only American prestige, we will weaken the Alliance on which our security depends. The purpose of the debate ahead must be to make this truth so loudly and clearly heard that it sweeps aside the political posturing which now besets—and threatens—us.

Letter of Transmittal

September 28, 1979.

Hon. Joseph R. Biden, Jr.,
Chairman, Subcommittee on European Affairs, U.S. Senate.

Dear Mr. Chairman: The enclosed report was prepared after we returned on June 9 from more than two weeks in Europe where, at the Subcommittee's request, we examined the question of Allied attitudes toward the SALT II agreement. Although the Treaty was not signed by President's Carter and Brezhnev until the June 18th ceremonies in Vienna, its essential terms were already well known in Europe by the time of our trip. In seeking a representative sample of informed West European opinion, we concentrated on obtaining the views of three key Allies—the United Kingdom, West Germany, and France—and supplemented those findings by meeting with NATO officials in Brussels and with NATO parliamentarians attending the semi-annual session of the North Atlantic Assembly in late May in Oslo. During the trip, we interviewed—sometimes formally, sometimes informally—scores of government officials, parliamentary leaders, and informed European and American observers.

Whether formal or informal, each interview followed a standard procedure. We first declared our purpose and gave our guarantee that the discussion was "not for attribution." On that basis we then sought—and to our satisfaction obtained—candid appraisals of SALT II in its military and its political context, including its impact on NATO theater nuclear force modernization planning and on SALT III options.

Before the trip we obtained extensive briefings in the Departments of State and Defense and the Central Intelligence Agency. From those discussions we acquired useful background information on the interplay within NATO which occurred as SALT II evolved and which is now occurring on the issue of theater nuclear force modernization in Western Europe. We also developed the description of U.S.-Allied interaction on SALT II—as seen from the official American perspective—which appears as an appendix to this report.

Our European interviews began in Oslo, where John Ritch, as Secretary of the Senate Delegation to the North Atlantic Assembly, was able to discuss SALT with well-informed parliamentary representatives from many of the NATO countries. In London the two of us met key officials in the Foreign Office and Ministry of Defense, the directors of the International Institute for Strategic Studies and the Royal United Services Institute, and a number of prominent European and American journalists versed in NATO affairs. We then joined you in Bonn for your extended talks with Chancellor Helmut Schmidt, Foreign Minister Hans-Dietrich Genscher and Defense Minister Hans Apel, and met on our own with selected military and parliamentary leaders, and several knowledgeable academics and journalists. In Paris we discussed SALT and Alliance policies with officials from the Foreign and Defense Ministries, strategic affairs analysts at the Institut Francais des Relations Internationales, the director of the Atlantic Institute, and a selection of French academics and American and French journalists. Finally, visting Brussels, we met with the U.S. Permanent Representative to the North Atlantic Council and his staff; certain of their counterparts from the delegations of Belgium, the Netherlands, France, the United Kingdom, and West Germany; the Director for Nuclear Planning and other members of NATO's international staff; officials from the Belgian foreign ministry; and journalists covering NATO affairs. In each European capital we were ably briefed and effectively assisted by officers of the U.S. Foreign Service.

Subsequent to our trip, John Ritch, participated in private meetings with Francis Pym, British Minister of Defense in the new Conservative government, and Jean Francois-Poncet, Foreign Minister of France. In both discussions, the principal topic was SALT and European security. This report therefore reflects our exposure to the candid opinions of a full cross-section of knowledgeable Europeans, ranging from journalists and academics, to working level staff in the European bureaucracies, to government officials at the very highest levels in West Germany, France, and the United Kingdom.

In drafting this report, we felt that current European attitudes toward SALT could be adequately explained only by first discussing the long-standing and continuously evolving role of American nuclear weapons in the Atlantic Alliance. The report therefore begins with a background section which describes that historical context. Following completion of this report, which was originally classified, a State Department review was begun on September 10 at your request in order to determine what deletions should be made for security reasons before the report was published. That review was completed on September 21 and the appropriate deletions have been made.

Sincerely yours,

John B. Ritch, III.
Alfred Friendly, Jr.

SUMMARY

While the American debate has focused heavily on technical aspects of "essential equivalence" and on questions of "linkage," Europeans judge SALT II primarily in terms of its potential contribution to stable East-West relations. Politically, they value SALT as central to a process of détente to which they remain committed. Militarily, they see SALT ratification as a crucial precondition to the modernization of NATO's theater nuclear forces (TNF) and to superpower negotiations to cap the European arms race. Thus, public statements by key Allied leaders in favor of SALT II reflect broad-based West European support for the Treaty's ratification, and not simply loyalty to the Alliance's senior partner.

Indeed, the Allies fear that U.S. rejection of the Treaty would increase tension in Europe and would inhibit efforts to stabilize a European military balance through NATO force improvements and East-West negotiations. Since that East-West relationship, to which they see SALT making an essential contribution, is a priority concern for Europeans, they reject the notion that defeat of the Treaty would give proof of renewed American resolve. On the contrary, because of their concern about growing Soviet power and uncertain American leadership, the Allies now regard the ratification of SALT II as a major test of U.S. reliability as leader of the West.

With or without SALT II. West Europeans generally view the United States and the Soviet Union as having reached essential strategic equivalence—a parity that SALT II will do little more than codify. However, because they see strategic parity as tending to deter and thus neutralize each superpower's central systems, the Allies now attach even greater significance to the military balance within Europe itself—a balance commonly perceived to be shifting against the West. In addition to steady Soviet improvements at the conventional level, Soviet deployments of the SS–20 intermediate-range missile and of the Backfire bomber have generated special Allied concern. In response, NATO has agreed on the U.S.-proposed Long-Term Defense Program, a goal of annual 3 percent real increases in defense spending, and initial planning for TNF modernization.

Because of their TNF concerns, a number of Allies voiced apprehension during the SALT II negotiation that certain provisions of the agreement might affect modernization efforts. Through an extended process of multilateral and bilateral consultation, however, the United States has generally allayed such concern. Soon after Treaty signature, a formal and explicit U.S. declaration to the North Atlantic Council, drafted in consultation with the Allies, underlined the pledge that SALT II will not interfere with Allied cooperation on TNF modernization. Coming before ratification, that public statement, capping an extensive SALT negotiating record of declared U.S. intentions, leaves the Soviets no legal basis to oppose full intra-NATO cooperation on theater systems. Moreover, on a practical level, the very fact that the issue has arisen may well incline future U.S. decision-making toward increased emphasis on Allied cooperation.

NATO efforts to establish a satisfactory European theater nuclear balance are conceived as necessarily consisting of two parts. First, the TNF modernization program can serve both to enhance NATO's theater deterrent and to demonstrate Alliance resolve to respond effectively to expanding Soviet deployments. Second, a theater arms control initiative—undertaken from this position of strength—can produce an East-West agreement to codify a stable theater balance and thereby prevent an unlimited theater arms race.

Many among the Allies worry that both parts of this effort—TNF modernization and TNF arms control—could be adversely affected by Senate rejection of SALT. As demonstrated by the recent neutron bomb episode, acute political sensitivities surround the question of upgrading nuclear weapons based in Europe. As a result, an Alliance consensus has developed that any TNF modernization decision must be accompanied by—and indeed may be politically impossible without—a concerted Alliance effort to achieve theater arms control. Since most knowledgeable West Europeans believe that theater limits should be pursued through the bilateral SALT process, U.S. rejection of SALT II, by precluding or indefinitely postponing theater arms control possibilities, could have a dangerous scissors effect—simultaneously impeding NATO TNF improvements while leaving Soviet TNF unconstrained.

The unimpressive U.S. response to the energy crisis, the sharp decline of the dollar, and perceived American foreign policy setbacks in areas ranging from Vietnam to Iran have combined to raise serious European doubts about American competence and strength. At the same time, however, the Allies continue to rely on the United States to provide the backbone of NATO and to lead the Alliance in the conduct of East-West relations. In this context, the SALT process is seen as not only consistent with, but integral to, NATO's twin principles of defense and détente.

Given this orientation and their dependence on American constancy and resolve, the Allies would be deeply disturbed by U.S. repudiation of a SALT II Treaty negotiated by three Administrations. Moreover, because of its likely negative effect on TNF modernization and TNF arms control efforts, Senate rejection of SALT II could well have the practical impact of damaging NATO's internal unity and relative military strength.

PREFACE

In October 1977, appearing in London at the International Institute for Strategic Studies, Helmut Schmidt delivered a speech that was to become a landmark in the thirty-year history of the Atlantic Alliance. Throughout that history, America's European allies have depended—militarily and psychologically—on the protection of what has been commonly called the U.S. "nuclear umbrella" or "nuclear guarantee." Yet Chancellor Schmidt's statement suggested another possibility. The United States and the Soviet Union, he noted, had achieved—and were codifying in SALT—a condition of nuclear parity. At the same time, however, in contrast to this superpower balance, the Soviets were markedly increasing their nuclear strength within the European theater, primarily through deployment of new SS-20 intermediate-range ballistic missiles. The West must respond, Schmidt asserted, by rectifying the nuclear balance in Europe itself.

Though unobjectionable on its surface, the Chancellor's admonition raised a question both perplexing and fundamental to the nature of the Alliance. For if steps could be taken to defend Western Europe by nuclear weaponry deployed on the European continent—if a "Euro-strategic balance" could indeed be achieved—what role in NATO's deterrent posture would remain for the American-based nuclear arsenal? For three decades, NATO has been cemented by a faith that in their nuclear deterrent posture, Western Europe and America are linked or "coupled." Was Schmidt, by advocating a nuclear build-up in Western Europe, proposing action that would "de-couple" the American deterrent by making it redundant? Or was he suggesting that the U.S. nuclear guarantee could no longer be relied on—that a "de-coupling" had already occurred as a result of superpower nuclear parity—and that West Europeans must therefore take steps to defend themselves?

Within the small transatlantic community of strategic thinkers, it has long been understood that deterrence is as much a political as a strictly military matter, and that "coupling" relates primarily to attitudes and perceptions. If the West Europeans and Americans feel strategically "coupled"—and, even, more important, if Soviet officials perceive that they are—then American strength is effectively contributing to the deterrence of Soviet aggression or intimidation against Western Europe. Conversely, for a key member of the Alliance to raise the specter of "de-coupling" has a certain self-fulfilling quality, bringing into question an assumption and general perception essential to Western defense.

Accordingly, soon after Schmidt's speech, it came to be said that the Chancellor regretted the inferences drawn from his statement; and West German officials were at pains to explain that Schmidt did not favor "Eurostrategic" parity, with all of its "decoupling" implications, but simply a stronger theater posture—backed, as always, by the ultimate guarantee of American power. Nonetheless, by implicitly questioning the adequacy of the American umbrella during a new age of superpower parity, Schmidt had voiced a European concern that has been intensified by current uncertainties about the coherence and resolve of American foreign policy. It is this concern, generally felt and vaguely articulated, that today shapes the European attitude toward SALT and the future of Western defense.

I. BACKGROUND

The role of nuclear weapons in NATO

American deployments of nuclear weapons in Europe began in the 1950's, serving both as an adjunct of the U.S. strategic capability and as a "substitute" for NATO conventional forces, since conventional parity with the Warsaw Pact was then judged politically and economically unattainable. Among the early U.S. nuclear deployments in Europe were intermediate-range strategic systems (bombers, IRBM's) targeted on the U.S.S.R., but these were later phased down as new technologies permitted the adoption of more distant and survivable basing strategies (U.S.-based bombers, ICBM's, and SLBM's) which allowed for an extra-European capability to strike the Soviet Union. Thus, over time, U.S. nuclear systems tended, although not completely, to bifurcate into (a) shorter-range European-based "tactical" or battlefield systems and (b) "strategic" systems able to strike the Soviet Union from submarines and from missile sites and bomber bases in the United States. Falling between these two categories—and thus into a "gray area"—have been so-called forward-based systems (FBS), primarily in the form of U.S. aircraft capable of reaching Soviet territory from carriers at sea and from bases in the United Kingdom.

The Role in Evolution

When American nuclear weapons were first deployed in Europe, the United States enjoyed unquestioned strategic superiority over the Soviet Union. The doctrine of "massive retaliation" was strongly enunciated, and the Soviets were seen as in a distinctly inferior position, able at most to use their conventoinal preponderance to hold Europe "hostage" against United States use of strategic forces but unable to threaten the United States itself. By the late 1950's, however, Soviet missile development had created the perception of a significant nuclear threat to the United States as well as to Europe, provoking debates about European vulnerability and the credibility of America's deterrent. This situation served as a spur to the national nuclear programs of Britain and France and stimulated discussion, primarily in the United States, of possible NATO responses, eventually engendering a proposal by the Supreme Allied Commander, Europe (SACEUR) for a NATO MRBM.

In the early 1960's, in the face of French moves to establish a nuclear deterrent independent of NATO, the United States proposed creation of a Multilateral Force (MLF), which was intended to finesse the SACEUR proposal for an MRBM and to head off further nuclear proliferation by allowing the Federal Republic of Germany (FRG) to participate directly in an Alliance deterrent. Designed as a limited size, mixed-manned, seaborne force, with U.S. weapons unambiguously targeted on the U.S.S.R., the MLF ultimately failed because of its doubtful military effectiveness and also, perhaps more significantly, because the United Kingdom and France alike perceived it as designed specifically for the West Germans and therefore as threatening to erase much of the distinction between them and the FRG.

Upon dropping the MLF proposal, the United States instead—

(*a*) Advanced suggestions for improved consultation machinery, which ultimately evolved into NATO's Nuclear Planning Group (NPG), in which the FRG and Italy were given equal status with the United States and the United Kingdom;

(*b*) Rapidly expanded its deployments of theater nuclear forces (TNF) primarily in Germany, creating physical evidence of U.S. commitment which the FRG considered even more important than the proposed MLF arrangements; and

(c) Undertook efforts to spread nuclear participation and responsibility within NATO through bilateral Programs of Cooperation (POC's), which provide nuclear weapons (artillery, tactical missiles, naval nuclear bombs, and nuclear-capable aircraft) on a dual-key [1] basis to seven Allies (including the FRG) and which came to involve, overall, nearly half the U.S. nuclear weapons deployed in Europe.

This combination of political consultation arrangements and U.S. theater nuclear deployments for its own and Allied forces provided the framework for resolving the problem posted by the initial Soviet MRBM deployments.

Because U.S. nuclear strength was, from an early point, integral to NATO's posture, any apparent alteration in American nuclear doctrine or deployments has touched directly upon West European sensitivities. A pointed example came in the aftermath of the 1962 Cuban missile crisis, when the withdrawal of Soviet-targeted U.S. missiles from Italy and Turkey was, despite U.S. denials, generally understood by Europeans to be a trade for Soviet withdrawals from Cuba. It was in part to provide clear assurance that the U.S. nuclear commitment remained firm that the United States subsequently undertook to maintain a certain number of Polaris submarines in the Mediterranean, and later supplemented this with the allocation of a substantial number of Poseidon SLBM RV's to SACEUR for targeting purposes. Placing such systems under SACEUR helped perceptually to tighten the coupling between "tactical" and "strategic" systems.[2]

At the same time, responding to the growing Soviet capability for nuclear retaliation, the United States became concerned with the escalatory implications of a doctrine which relied too heavily upon nuclear weapons and, in an effort to raise the nuclear threshold, began to place greater emphasis on conventional defense. In 1967, Allied and U.S. interests were reconciled under the umbrella of a revised NATO doctrine (commonly referred to as MC-14 3) which embodied the concept of a balanced deterrent continuum. Theater nuclear forces (TNF) became the central leg of a "NATO Triad" which tied together NATO's conventional and strategic forces, while leaving deliberately vague the circumstances under which nuclear weapons, either theater or strategic, might be employed.

Throughout this evolution of circumstances and doctrine, the political implications of nuclear weapons varied widely among different Allies:

For the United States, nuclear weapons provided the essential evidence to support U.S. leadership in the Alliance and American commitment to the defense of Europe.

For the United Kingdom, which developed its own nuclear capability in cooperation with the United States, nuclear weapons contributed to the "special relationship" and offered a limited measure of independence and political influence.

For France, nuclear weapons raised an issue of credibility ("Could the United States really be counted on to trade New York for Frankfurt or Paris?") and presented a means to assert national political independence by developing an autonomous nuclear capability and removing itself from integrated military participation in NATO.

For the Federal Republic of Germany, in contrast, nuclear weapons became a source of perpetual tension. Having been constrained from the development or possession of nuclear weaponry, first by the West European Union (WEU) Treaty of 1954 and again by the Non-Proliferation Treaty (NPT) of 1968, the FRG has remained highly sensitive to its special status of full dependence on the U.S. nuclear guarantee. Accordingly, nuclear posture and doctrine have periodically surfaced as topics of concern within West German politics, as FRG officials have sought to reassure themselves and their public that the threat of strategic escalation is credible, that Soviet conventional forces can be deterred, and that nuclear war is not being considered a matter for German territory alone.

Among Europeans in general, the actual use of theater nuclear forces (TNF) in anything resembling classic military combat has naturally remained a horrifying notion. Thus, while consistently opposed to any lessening of U.S. nuclear deployments in Europe, West Europeans have remained concerned that NATO's TNF posture not have the perverse effect of "decoupling" America from Western Europe by permitting the possibility of a devastating war on European soil without danger to, and hence strategic commitment by, the United States. To overcome this "decoupling" paradox—by which American commitments of TNF might actually enable the United States to limit its involvement in a European war—American and European officials have generally sought to emphasize the deterrent aspects of TNF deployments, stressing the escalatory linkage to U.S strategic forces rather than the warfighting capabilities of specific TNF systems.

Nonetheless—and almost inevitably—European confidence in the "coupling" of American and Western Europe for defensive purposes has fluctuated over time, under the influence of such factors as the internal European political climate, the state of East-West relations, recurrent debates on arms control and NATO strategy, the presence and visibility of U.S. TNF in Europe, and perceived trends in American and Soviet military strength. Perhaps an even more important factor—despite its seeming separation from the question of European defense—has been the European perception of political uncertainty in the United States resulting from Vietnam, Watergate, and, most recently, from action or inaction affecting Angola, Taiwan and Iran and by the inadequate U.S response to the energy crisis. On the other hand, however, European confidence in "coupling" has been fortified by several constants: the continuing presence in Europe of a substantial U.S. conventional force (at present, some 300,000 military and their associated dependents); a large number of American citizens permanently resident in Europe; U.S. business investments in Europe with a collective annual product surpassing the GNP's of all but a few nations in the world; and, of course, the pervasive understanding that U.S. interests would be severely damaged should Soviet influence be allowed to intrude into Western Europe.

Today, the key element in NATO doctrine is a theory of escalation and linkage: deterrence is seen to rest not on any one leg of the NATO Triad, but on the possibility that all, up to and including U.S. strategic forces, might be called upon to support the others. For the Europeans, a doctrine providing for the possibility of escalation to theater and strategic systems constitutes the essence of the U.S. nuclear guarantee. This is both reassuring—in that it means the Soviet Union cannot hope to fight Europe alone—and a source of constant anxiety since it underscores the extent to which European security is dependent on the United States. Conversely, for the United States, doctrinal linkage upward to strategic forces makes more credible the possible use of U.S. nuclear weapons in a European conflict, and thus strengthens deterrence while also underlining American leadership in the Alliance and the U.S. decision-making role in crisis or war.

Inherent in the escalation-linkage principle is the concept of flexibility in responding to any level of aggression. Flexible response requires a broad spectrum of planned *options*. A range of NATO nuclear options serves to (a) maximize Soviet uncertainty about the nature of NATO's response to attack, (b) minimize the political burdens on West European governments of a rigid employment plan which might imply an automatic recourse to nuclear weapons and which might seem to focus excessively on their territory, and (c) enable NATO to attempt to control escalation in the event of war. In the TNF posture, a range of options is provided by a spectrum of geographically dispersed weapons with different yields in a variety of delivery systems: dual-capable tactical aircraft, tactical ballistic missiles, maritime nuclear weapons, artillery, and United States and United Kingdom SLBM's. With regard to the strategic forces, options are provided by the overall coupling of U.S. strategic forces to NATO and, specifically, by recent U.S. planning for Limited Nuclear Options (LNO's), under which U.S. strategic forces could be used selectively in direct support of Alliance objectives for example, to hit supply, marshaling and communications operations in the Soviet Union.

While a broad range of options is generally thought to enhance deterrence by providing for measured—and therefore credible—responses, some observers have argued that LNO's are "decoupling," in that they could be seen as an effort by the United States to limit a conflict to the European theater. Others argue that including LNO's in the Single Integrated Operational Plan (SIOP) of U.S. strategic forces makes their use *more* credible and thereby strengthens the coupling of U.S. strategic forces to NATO, a connection which is already emphasized by (a) the integration of SIOP and SACEUR target planning, and (b) the assignment of U.S. assets to SACEUR—both the highly visible U.S. TNF in Europe (e.g., dual-capable aircraft) and the less visible but highly capable U.S. strategic systems (SLBM's).

Modernizing Theater Nuclear Forces

In his October 1977 speech at the International Institute for Strategic Studies in

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[1] Although the phrase "dual key" originated in the requirement that two officers are needed to activate a nuclear weapon, it is also now used to refer to the joint decision-making involved in the use of nuclear weapons deployed in Europe. Precise consultation procedures for the use of nuclear weapons during a NATO conflict were established in 1962 under the so-called Athens Guidelines. Subsequent elaborations of these Guidelines provide that special weight be accorded the views of those NATO countries on or from whose territory nuclear weapons would be employed, countries providing the warheads, and/or the countries providing or manning nuclear delivery systems. It is well understood, however, that agreed consultation procedures will be exercised only if time and circumstance permit and that the nuclear power or powers have the final responsibility for the decision to use nuclear weapons. Overall, the joint decision-making concept can be said to apply in two different senses. In the case of European-owned systems (with the exception of the independent systems of France and the United Kingdom), it refers to the need for the United States to authorize the release of warheads to the country in question. In the case of U.S.-owned and operated systems, it refers to the NATO consultation process.

[2] Because no U.S. nuclear weapons, even those under SACEUR, may actually be used without affirmative, Presidential decision, it may be fair to say that the assignment of U.S. weapons to SACEUR control changes appearance more than reality.

London, West German Chancellor Helmut Schmidt not only questioned the credibility of the coupling of American strategic forces to Europe—which he argued was undercut by strategic parity—but went on to press for parity in conventional and theater nuclear forces to preserve stability and deterrence in Europe. The implication of the Chancellor's argument was that in a condition of strategic parity—the "essential equivalence" to be codified in the SALT II Treaty—U.S. strategic forces could be neutralized; NATO TNF could be deterred because of Soviet superiority in long-range theater systems; and the Soviet conventional and theater nuclear preponderance could then be freely brought to bear against Western Europe—at least as a major source of political leverage.

This argument reflected German concern that a "gap" presently exists in the NATO Triad, and that the NATO escalation strategy might not actually be feasible because, beyond the level of battlefield and relatively short-range systems, NATO has few escalation options available to threaten the Soviet Union itself, short of calling on U.S. external strategic forces, which might not be readily brought into play. The source of such anxiety rests on the concern that the United States might not use any of its strategic forces, even in a limited nuclear strike, for fear that this would provoke a Soviet strategic response, with the risk of escalation to a full strategic exchange. Thus, so this argument goes, NATO needs an intermediate, European-based capability to threaten the Soviet homeland as a counter to the threat posed by the growing Soviet theater nuclear and conventional capability.

In response to this German argument, United States and other NATO officials pointed out that attempting to create a regional European ("Eurostrategic") balance could strongly imply the decoupling of U.S. strategic forces, and thus, paradoxically, serve to undermine deterrence in Europe. In the face of this criticism, FRG officials have responded with a more sophisticated argument which, while retaining the essence of the Chancellor's concern, reaffirms strategic coupling as the centerpiece of deterrence. The present FRG position is that greater long-range strike capability in the European theater is needed to maintain the "continuum of deterrence," to place the U.S.S.R. itself more at risk from the theater, and to ensure coupling to U.S. strategic forces. Some believe that the FRG may be motivated by a need to test U.S. willingness, under something less than crisis conditions, to assuage European concerns even at the cost of offending the Soviets.

Although the codification of superpower parity, along with general concern about American leadership, would have been sufficient to raise new questions about the adequacy of nuclear deterrence in Western Europe, these questions have been given a greater sense of urgency by current deployments of new Soviet nuclear weapons having a long-range theater capability—the SS-20 and the Backfire bomber. It can, of course, be argued that these weapons represent no more than an inevitable upgrading of Soviet weaponry, commensurate with advances in technology. The mobile SS-20, for example, is augmenting or replacing the older MR/IRBM force of SS-4's and SS-5's which, though relatively vulnerable and less accurate, has long posed a theater nuclear threat to Western Europe. But against a background of uncertainty about the future of détente, and in the wake of the 1978 neutron bomb fiasco, NATO officials have felt a compelling need to devise a unified Allied response which would (a) satisfy FRG anxieties about "decoupling"; (b) neutralize any sense that the European theater power balance is shifting against NATO; (c) demonstrate to all concerned the ability of the Alliance to act decisively on a subject which, as the neutron bomb episode showed, is politically sensitive; and (d) persuade the Soviets to submit the SS-20 and the Backfire to future arms negotiations by making clear that, without limitations, the Allies will make deployments to counter Soviet theater increases.

Within NATO, the process of deciding upon a specific program of "TNF modernization" has been carried on within the "High Level Group" (HLG)—an adjunct of the Nuclear Planning Group—which began its work in mid-1977 along with nine other task forces created under the aegis of the Long-Term Development Program (LTDP). (The LTDP was formally adopted by NATO heads of state in May 1978). By mid-1978, the HLG had reached a consensus that TNF modernization should include the deployment on the continent of additional, improved long-range nuclear weaponry specifically capable of reaching Soviet soil. This, it was argued, would fill in a "missing rung" on the "ladder of escalation" so that NATO would be in a position to respond to any selective use of Soviet TNF against Western Europe by striking Soviet territory without resorting to U.S. central systems. This capability, according to war-fighting theory, would deny the Soviet Union any potential advantage of "escalation control."

By the end of 1978, however, the political difficulties of actually upgrading NATO's long-range theater nuclear capability had begun to become apparent. For Chancellor Helmut Schmidt, the introduction into West Germany of weapons capable of striking Soviet soil raised concern about the possible international response. To ensure that the FRG would not alone bear the brunt of Soviet reaction to NATO TNF modernization, and also to remove any suspicion that West Germany might be seeking a change in its nuclear status, Schmidt promulgated a "non-singularity" policy by declaring that, while a NATO response to the SS-20 was necessary, Germany would not allow itself to be the only continental country to accept deployment of long-range nuclear weapons. This statement immediately raised the question of which other countries might accept them, the obvious candidates being those in which tactical nuclear weapons are currently deployed: Belgium, Holland and Italy.[3]

Within Chancellor Schmidt's SPD party, moreover, those concerned that détente not be jeopardized offered an argument similar to that raised in connection with the neutron bomb: that no deployments should be made until an arms control effort to stop the theater nuclear build-up had at least been tried with the Soviets. This approach found active support in other European countries, particularly among political and military leaders who appreciated the potential difficulty of persuading public opinion of the need for new nuclear deployments. Political reality thus dictated that, to be successful, NATO's TNF modernization effort should be joined to a genuine arms control initiative.

In February 1979, with the burden of decision having been broadened and with concern rising that NATO might be creating for itself another embarrassment analogous to the neutron bomb episode—and potentially much more damaging—the North Atlantic Council created a "Special Group" to identify serious arms control approaches in the area of theater nuclear weapons. Such a step was seen as an essential development to satisfy those in the affected countries who might oppose the introduction of significant new nuclear weapons in the absence of a concerted Allied effort to negotiate mutual constraints on such systems. It was also seen as a necessary intellectual and practical undertaking since, in SALT III, it is generally expected that theater weapons will be under discussion and a NATO viewpoint will be required.

By spring of 1979, it had become an accepted NATO target to achieve a decision on TNF modernization and arms control by year's end. Meeting at Homestead Air Force Base in Florida, NATO defense ministers agreed in principle to the concept of a deployment, in the early 1980's, of some 200–600 warheads for long-range theater delivery, probably through a combination of new, extended-range Pershing missiles and ground launched cruise missiles. What remained was to integrate such a program with an arms control approach as devised by the "Special Group," and then to win acceptance of the integrated plan from all of the Allies, particularly those which would have to accept actual deployments of new long-range theater nuclear weapons. At present, the decision to modernise NATO TNF appears to be heavily conditional on the development of an acceptable arms control proposal.

II. FINDINGS

Allied attitudes to SALT II

It is against the background of almost cyclical European concern over the U.S. commitment to NATO, and of renewed attempts on both sides of the Atlantic to put reassurance into concrete form, that America's allies have made their positive judgment of the SALT II Treaty. And where the debate in the United States has often seemed to turn on technical questions about the components of "essential equivalence," the European verdict has been from the first—and remains—primarily a political one.

The Political Verdict

"The Alliance has to be led," observed a French analyst, skeptical of SALT's virtues, but not of the need both for a firm Western policy in strategic matters and for decisive American direction of that policy. Like many others who question America's ability to respond to global challenges and to local instability—on issues from energy shortages to revolution in Iran and Communist activity in Ethiopia, Angola and the Yemen—he saw Senate rejection of SALT II as a potentially stunning blow to Washington's ability to project an image of competence and power. Another European, an experienced diplomat, put the political case for SALT ratification by inverting an argument used by those American treaty opponents who have suggested that, by repudiating SALT II, the United States would send a clear—and, to our Allies, welcome—signal of determination to get tough with the Russians. "We would not regard rejection as a token of leadership, of virility, of manhood, or renewed American determination, as some of your SALT critics seem to think. Nor would we see it as a gesture to Europe. We didn't ask for the treaty to be rejected."

Senior political figures in both England and Germany agreed in characterizing rejection of SALT II as a potential "disaster." As an FRG official at the highest level put it, "defeat of the treaty would create a prejudice against America's leadership and its ability to conduct its own affairs and the affairs of others . . . It would be a worldwide disaster strategically, politically and economically. It would mean a return to the Cold

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[3] Although tactical nuclear weapons are also deployed in Greece and Turkey, possibilities for new long-range TNF deployments in those countries are prejudiced by Greece's withdrawal from NATO's military structure and current tensions between Turkey and the United States relating to Cyprus. Meanwhile, Norway and Denmark continue to adhere to firm policies of not allowing the deployment of nuclear weapons in their territories.

War period and to the arms race. You would win that race," he said, expressing confidence in America's technological prowess, "but the world would be changed for the worse, not the better."

In general, Europeans take both a more positive view of East-West détente than do many Americans and a more alarmist view than treaty foes here of the destabilizing impact rejection would have on European as well as American dealings with the U.S.S.R. From a politician on the left of his own left-of-center party came the concern that treaty rejection "would shoot crisis management to pieces." Moreover, he added, "I am absolutely sure that if SALT is not ratified, a few nations which are not yet nuclear states would seriously consider changing their status, because the United States would be seen as failing to meet its obligations under the Non-Proliferation Treaty."[1]

A more conservative official in the same capital defined SALT as "a cornerstone for East-West relations. Three presidents have been involved in negotiating it, and if it fails, that will be a major setback which will affect not only the United States but also Europe—and West Germany most of all." While reluctant to forecast actual developments in the event of non-ratification, he and others worried openly that Germany, first of all, would fall under pressure from within to respond positively to likely Soviet feelers for separate political understandings.

It should be noted that no European with whom we spoke subscribed to the concept of "self-Finlandization," a concept which has recently achieved some vogue among U.S. foreign policy pundits who have speculated that under certain circumstances West Europeans might feel obliged to submit themselves to greater Soviet influence. Treaty critics have invoked the concept to suggest that Western Europe may "self-Finlandize" unless the United States shows a new toughness by such bold actions as rejecting SALT II. Reversing this argument, Treaty supporters have argued that "self-Finlandization" may occur if the United States shows itself so indecisive as to negotiate and then immediately repudiate such a critically important agreement.

"Soviet policy has always sought to drive a wedge between the United States and the Europeans," observed an experienced analyst in London. "That goal is a constant. If you Americans turn on your own policy in SALT now, you are simply inviting people on the Continent to look out for themselves. And the Soviets will be right there with offers that will be hard to refuse." Across the North Sea, a veteran political leader worried that failure for President Carter on SALT II would trigger a process of Western political "decline; it will start gradually in 1980 if your President cannot bring about ratification, but it will occur. Moreover, we all know there has to be a change soon at the top of the Soviet Union, and if the treaty fails, the new leaders will feel the need to be tough and to show their toughness."

At a minimum, European political leaders believe that nothing good can come from the Senate's undoing the work of the Nixon, Ford and Carter Administrations. "It would be a very bumpy flight afterwards," said an official in Brussels, "full of air-pockets and very serious uncertainties." A parliamentarian in Bonn was willing to go farther. "Without ratification," he said, "there will be no chance for progress in negotiating any of the intermediate issues. MBFR is stalled now. I think SALT will give an impulse to progress at Vienna, but without SALT it will sit dead in the water."

In public, German Chancellor Helmut Schmidt summed up the European concerns in his June 7 commencement address at Harvard University:

> Failure of SALT II would be a set-back for the policy of detente and ongoing arms control efforts. Instead of the universally sought curbing of the nuclear arms race, we would have to expect an even fiercer arms race. Failure of SALT II would also be a signal to the East: it would weaken the political elements there who are in favor of reconciliation and understanding with the West.
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> No people in Europe would be more seriously affected by the consequences of the failure of SALT II than the German people. For in our geopolitical situation we need to be able to trust in two things more than anybody else: trust in the ability of the West to achieve and preserve a stable equilibrium, and trust in the continuation of the policy of détente on this sound foundation.

NATO Secretary General Joseph Luns told an American newspaper interviewer that rejection would raise "not so much a question of leadership, but a question of credibility of decision by your government . . . an indication of a certain weakness . . . ." A Dutch political leader observed that his countrymen were "100 percent for SALT, without needing to read the fine print, because its failure would put the whole concept of American leadership in doubt and undercut the premise that the United States can deal effectively for all of us with the East." Bluntest of all, but in private, a senior NATO policy planner commented: "There's a basic trust in America reinforced by the fact that there's no one else to trust anyway. But if SALT were rejected, it would make everyone fear a vacuum in the management of the strategic relationship, and we in Europe would deeply resent being forced to contemplate the choices that would then arise."

The Technical Concerns

Although clearly evident now, the European political consensus in support of SALT II has not emerged without some serious soulsearching over the Treaty's specific, technical terms and their likely impact on NATO options and interests. Two concerns have been the focus of European inquiry and anxiety—the treaty's Article XII noncircumvention clause and the Protocol's prohibition until December 31, 1981 on the deployment of longer-range ground- and sea-launched cruise missiles. Additionally, Europeans are somewhat uncertain of the practical meaning of the Joint Statement of Principles as it implies a U.S. willingness to negotiate a lasting bargain restricting theater as well as strategic weapons. On all these matters, Europeans say publicly and privately that U.S. assurances about the implications of the agreed language have satisfied them. Nevertheless, the history of the non-circumvention clause, the Protocol, and the Joint Statement of Principles bears examining, for it poses issues likely to reappear in future East-West efforts on nuclear arms limitation.

Non-circumvention.[2]—Allied concern about the pledge in Article XII "not to circumvent the provisions of this Treaty, through any other state or states, or in any other manner" was predictable and legitimate. In agreeing to this phrasing, Europeans wondered, was the United States putting any obstacle in the path of future NATO military cooperation, disrupting in any way the pattern of collaboration on the development and deployment of weaponry? The question is a serious one, about which the United States has had repeatedly to consult and reassure its Allies. For some of them, it remains an area in which further reassurance from the Senate, in the Treaty ratification process, would be welcome.

The question of transferring nuclear technology across the Atlantic arose as early as World War II when Prime Minister Churchill first offered British scientific help to the Manhattan Project. Since then—and more particularly since NATO was formed under U.S. leadership—weapons sharing has been not only a military but a highly symbolic matter generally governed by the political judgment of American Presidents. On certain decisions, for example, Presidents Eisenhower and Kennedy followed their own instincts over the advice of even their most senior advisers. (Indeed, in deciding to supply Polaris missiles to Britain, Kennedy reversed his own policy.) In short, past transfers from the United States to its Allies have been approved one at a time. And according to Administration officials, SALT II's terms will in no way alter that practice.

If SALT does leave NATO cooperation in nuclear weapons unaffected, it will not be for any failure on the part of Soviet negotiators to seek real restraints on weapons sharing and deployment within the Alliance. The issue first arose early in the SALT I negotiations, when the U.S.S.R. sought to include forward-based (FBS) American systems and Allied systems under the agreed limitations. Being unwilling to have any of their own theater weaponry counted, the Soviets were ultimately obliged to drop this demand, but they also sought for a time to obtain a promise from the American side that no weapons or technology covered by the interim agreement would be transferred to America's European partners. In response, the United States offered only a non-circumvention clause—as a way of promising not to circumvent the spirit of the agreement by augmenting FBS—and eventually the question faded out of the SALT I bargaining.

In SALT II, however, the issue of Europe-based weaponry promptly reappeared, with the Soviets demanding compensation for British and French systems and for United States FBS. In response, the United States declined to discuss Allied systems and made clear that as long as the Soviets refused to discuss *their* Europe-oriented systems, the United States would not agree that its F-111's in England or carrier-based aircraft should be treated as *strategic* delivery vehicles and subjected to the ceilings SALT II would set.[3] In addition, the Soviets proposed not only a non-circumvention provision but also a non-transfer clause which would have limited U.S. freedom to sell or otherwise provide its allies with advanced technology and weapons systems. The United States rejected this Soviet demand and eventually won acceptance for what became the non-circumvention clause, Article XII, which in the official Washington view is an essentially redundant provision, as it only reinforces the obligation, inherent in any agreement, not to violate the accord directly or indirectly.

America's NATO Allies were nonetheless more than a little concerned over the implications of a clause which, redundant or not, at least gave the appearance of an added restriction on U.S. decisionmaking. Especially in view of plans to modernize NATO's long-range theater nuclear forces (see previous and following sections), Europeans held and expressed real concern that Article XII might mean more in practice than it appeared to say. In the 19 formal North Atlantic Council consultations on the progress of the SALT negotiations before the Vienna summit—and in a number of bilateral discussions, especially with the British—the United States was repeatedly asked to clarify the non-circumvention position and regularly reminded of NATO's concern about it.

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[1] In a clause directly relevant to the superpowers, the 1968 Non-Proliferation Treaty commits its signatories "to achieve at the earliest possible date the cessation of the nuclear arms race to undertake effective measures in the direction of nuclear disarmament."

[2] Appendix A provides a more detailed account of how the noncircumvention clause, the Protocol, and the Joint Statement of Principles arose in the SALT II negotiations, how they were presented to the Allies, and how those provisions are viewed by U.S. officials.

[3] This stance is mirrored on the Soviet side now by the U.S.S.R. refusal to incorporate in the SALT II Treaty proper any limits on its Backfire bomber, which it regards as a tactical, theater weapon and has deployed in that role against European and Chinese targets. U.S. insistence on "counting" Backfire as strategic would undoubtedly lead to a reciprocal Soviet demand that United States FBS also be treated as strategic systems.

As a result of that process, officials in Brussels, Bonn and London with whom we spoke were all prepared to say that their doubts had been allayed. (Because of the military and technological independence of France's nuclear force, French officials generally declined comment on the non-circumvention issue, describing it as a question relevant to the other Allies, principally Britain.) As one senior NATO diplomat put it, "we have been given adequate assurances on the non-circumvention question. Indeed, they (the Americans) have gone out of their way to be sure that the issue does not cause upsets on this side of the Atlantic." In Parliament, moreover, Prime Minister Thatcher noted on June 14, "The United States have made clear that SALT II will not affect existing cooperation within the Alliance. So far as our own position is concerned, we have received assurances that there is nothing in the agreement to prevent us from insuring the continuing effectiveness of Britain's nuclear deterrent," a force (consisting now of aging Polaris submarines and Vulcan bombers) for which considerable modernization, reliant in part on U.S. assistance, is being actively planned.

An FRG parliamentarian recognized as a defense specialist did, however, make the important point that no room should be allowed for the Soviets to present their own interpretation of Article XII and to use that interpretation as a way to bring pressure to bear on an ally such as West Germany not to participate in appropriate measures of TNF modernization. "On non-circumvention, the formulation must not be *ambiguous*. We have had some treaties with ambiguities, and the experience has not always been good. As the superpower," he added, "you must be the one to decide the doubts, because if there is an ambiguity, the Russians will use it to put pressure on us and they will do it through those in Germany and West Europe who now and in the future will favor reapproachment. In the SPD [the FRG's ruling Social Democratic Party], there is a growing faction which tries to avoid conflict with the Russians by adopting Russian positions. So on non-circumvention, we should have a very strong statement that would make it clear that necessary military steps to assure the maintenance of the military balance will not be prejudiced. This must be transmitted to the Russians, especially in relation to theater nuclear force modernization."

On June 29, two weeks after the Treaty signature ceremonies in Vienna, the United States issued precisely such a unilateral interpretation in the form of a public declaration to the North Atlantic Council concerning the non-circumvention provision.[4] In that interpretive statement, the United States affirmed that transfers of weapons or technology to its Allies would continue "and cannot, ipso facto, constitute circumvention." Also "the transfer of weapons systems or technology for systems which were not numerically limited or prohibited by the agreement would be unaffected by the agreement." And even "with respect to systems numerically limited by the agreement . . . transfers would not be necessarily precluded." Only with regard to systems actually *prohibited* to the United States under the agreement will the United States "not be able to transfer to its Allies or other states those weapons systems or technology uniquely related to such systems." In sum, "the non-circumvention provision will not affect existing patterns of collaboration and cooperation with its Allies, nor will it preclude cooperation in modernization." Finally, in the event the Soviet vision, "only the United States is subject to developing the language of the interpretive vision, "only the United States is subject to challenge."

The Protocol.—As with their concerns about the non-circumvention provision, the Allies have shown apprehension over the possible effect on Allied cooperation of the temporary, Protocol-imposed ban on longer-range ground- and sea-launched cruise missiles. Could it become, they have asked, a precedent for future negotiated constraints?

Since cruise missiles with ranges above 600 kilometers (373 miles) cannot be operational until 1982 at the earliest, the Protocol's bar on their deployment through 1981 is ostensibly irrelevant to Alliance planning. But because the Protocol appears as a concession to Soviet fear of advanced U.S. technology in the field of cruise missiles, some among the Allies worry that the United States will be under great pressure to extend the limits to prevent the delay of negotiations on central systems. Given the Soviets' abiding interest—and hitherto lack of success—in imposing SALT limits on European systems, many Allied analysts are convinced that SALT III will see a determined Soviet push to extend the Protocol's restrictions as far forward as possible.

On this point, too, the Allies repeatedly sought and obtained U.S. assurance, their concern having been heightened by possibly inadequate consultation between Washington and NATO during early SALT II discussions pertaining to theater nuclear weapons. Now many who agree that consultation has much improved would still like to see those assurances underscored by the Senate.

Behind their misgivings is a basic perception of the impact of SALT II on the theater or "Eurostrategic" balance. As a senior defense analyst explained, "When you fix the level of strategic parity as you do in SALT II, the disparities below that level become more important simply because they can no longer be balanced by changes at the strategic level. Strategic parity is there with or without SALT II, but now, logically, parity must be pursued at all other levels. Psychologically, it may turn out to have been a mistake to include cruise limits in the Protocol without getting anything comparable to cover the Soviets' SS-20 missiles. The Russians will start SALT III by saying, in effect, 'We start from where we are now, and *nobody* moves any farther while we negotiate.' That will leave them with SS-20's in the field and us without cruise missiles anywhere."

His answer—and that of others who did not put their misgivings so straightforwardly—is that the Senate should make clear that the Protocol restraints will not be extended without the renewal being treated as another treaty to be ratified. Moreover, he and all others with whom the point was raised advocated an early NATO commitment to deploy at least some cruise missiles after 1981 in order, first, to satisfy the military requirement of reinforcing the NATO deterrent and, second, to demonstrate to the Soviets that they can hope to limit NATO systems only by agreeing to negotiate restraints on *their* theater systems. It is this view which has motivated the NATO effort to achieve, by December of this year, a firm commitment to a program of TNF modernization.

Even a parliamentarian noted for his commitment to arms control declared that "NATO must clearly signal the Soviet Union that without Soviet agreement to take the necessary steps on arms control, the West will proceed with the theater modernization it considers necessary. There is one group in the Soviet Union which thinks NATO cannot take that decision on modernization. Another believes we can, and I want to strengthen the second group with a clear signal. We have to make it clear that if there is no solution on arms control by 1982, we will go forward and achieve a defense-based solution."

While the views cited about reflect a broad feeling in Europe that the United States should not extend the Protocol, they also contain an anxeity that not all Europeans share. One official who has been a regular and close participant in the NATO discussions took the position that there was no question of the Protocol's having a life of its own, that indeed the temporary limits on GLCM's and SLCM's were so modest as to amount to a major *Soviet* concession. "I am certain that the Soviet will seek an extension of the Protocol, but I'm also sure the United States will not give it to them. In fact, the Protocol amounts to a clever compromise to enable cruise missiles to be mentioned without really binding NATO in any effective way. The right question to ask is why the Soviets agreed to accept the Protocol. It's really not a very strong position for them, and it is possible to see it actually as a signal American victory."

Joint Statement of Principles.—Finally, a third and related area of Allied concern is the undertaking, contained in the Joint Statement of Principles signed at Vienna, to "pursue . . . resolution" of the issues mentioned, but only temporarily dealt with, in the Protocol. This promise—couched in purposefully vague language of intention and resolve—is read in Europe as a natural, but non-binding one. Although a number of European officials, particularly the French, expressed doubt that theater negotiations would prove productive, most appeared to expect, and hope, that SALT III would at least try to deal comprehensively with the theater arms balance, and that an appropriate form of Allied consultation would be found.

To the extent that they have a clear picture of what they want from theater negotiations—and few do—most Europeans seem certain that the only way to put a cap on the nuclear build-up in Europe is to include cruise missile systems in the "bargaining chips" the United States will bring to the negotiating table. Only the deployment of such arms, they believe, will give the Soviets the impetus to do what they have so far refused to consider: accept restraints on their own theater weapons. Even among Europeans who argue that negotiations on theater systems should be tried first, there is general acceptance of TNF modernization as a necessary fall-back if theater arms control fails.

"It is quite simple," insisted a NATO official, expressing the view we found most prevalent. "No one thinks the Soviets will bargain away hardware they have against missiles we have not installed. They will not give something for nothing. Yet everyone expects that SALT III will be a Eurostrategic negotiation as well as an effort to cut back on the central systems. So the fact that the guidelines in the Joint Statement point toward serious negotiation on cruise missiles does not disturb us. The questions we can't answer yet have to do with the form of the negotiation,

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[4] The full text appears as Appendix B. In developing the language of the interpretive statement, the United States conducted a number of NATO and bilateral consultations, and made a number of significant changes to accommodate Allied concerns.

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the scope of it as it might affect the French and British deterrents, and the participants."

CONCLUSION

Those questions about SALT III are dealt with in the following section of this report. In ending this section dealing with Allied attitudes to SALT II, it is appropriate to stress that the Europeans in general do look forward to SALT III's occurring and occurring soon. But they recognize that unless SALT II is ratified, the next round of superpower arms control talks will be long delayed, if not precluded. Moreover, they fear that without SALT II, they may be put in the unequal—and to them dangerous position—of having to deal directly on arms control with the Soviet Union. Such a process, they feel, would be unlikely to produce an outcome favorable to the West. "That," said a senior NATO diplomat, "is the nightmare we really fear. We want you to get SALT II out of the way, confirm your consistency in this area and lead us into a new round of arms control bargaining that can only come out well if America is politically strong enough to lead NATO strongly."

III. PROSPECTS

Looking forward: Arms race/arms control

Allied desire for effective U.S. leadership in NATO extends beyond the immediate issue of SALT II. Europeans seek proof of America's ability to manage the East-West relationship now and over the long term. Moreover, they want that statecraft applied to the Alliance itself and, before 1979 is out, to the NATO decision on its own arms and arms control future.

That decision has in fact assumed an importance for NATO insiders almost as great as SALT itself. Our European sources were all but unanimous in characterizing it as a crucial test of the Alliance's political cohesion. Even a French analyst, whose government will watch the outcome on theater nuclear force (TNF) modernization from the sidelines, treated the search for consensus on upgrading NATO's long-range deterrent and on negotiating a ceiling for such weapons as a major political event. "TNF," he commented, "is a perfect opportunity for the United States to show that it is not decoupling and for the Germans to show that they are not being Finlandized."

Behind that judgment lies a concern which other Europeans share: that neither the Allies nor their senior partner may prove equal to the test. Fresh in memory is the 1977-78 experience with the neutron bomb, a weapon the United States persuaded its reluctant Allies to accept and then abruptly postponed a decision on producing—ironically, because of its fears of European political sensitivities. As described by an American journalist, that confusing and painful episode has produced among European leaders "the scalded-child effect." Thus, in approaching the sensitive issue of new nuclear weapons capable of striking Soviet territory from Continental bases, they have put an extremely high value on reaching a common verdict—largely because they fear that failure to obtain concensus on an issue even more important than the neutron bomb would now constitute for the Alliance a self-humiliating signal of impotence.

Many among the Allies have also attached a high priority to making the decision this year, believing that promptness in responding to the perceived Soviet challenge is as important as the precise nature of the response. Yet the decision is extremely complicated and politically sensitive, for it involves the selection of weapons systems, of countries where they are to be deployed, of cost-sharing arrangements for their procurement, and of a NATO policy on East-West negotiations to limit theater nuclear forces. And since these choices have crucial, long-term implications, some within NATO worry that excessive haste may be a danger.

The TNF Issue: The Military Dimension

In one sense, Chancellor Schmidt's October 1977 speech at the IISS did no more than call public attention to a problem NATO officials had already targeted for high-level concern: the upgrading in numbers and quality of Warsaw Pact theater nuclear forces and the need for a NATO response. If any one system served as a spur to rising Western anxiety, it was the SS-20, a solid-fueled, road-mobile, triple-MIRVed missile first noted by the West some four years before its deployment began in the Soviet Union during the summer of 1977. Although viewed as a replacement for the liquid-fueled, stationary and single-warheaded SS-4's and SS-5's which the Soviet Union had first deployed over a decade earlier, the SS-20 was also seen, because of its greater range[5] and accuracy, as giving the Soviets a significant new offensive capability for limited and controlled theater nuclear strikes. Whereas the SS-4's and SS-5's had been perceived essentially as counter-city weapons useful for retaliation, the SS-20 raised the possibility of an effective Soviet first-strike against NATO military targets in the European theater.

The mobility feature of the SS-20 could, of course, be described as consistent with Western interests, in that the fixed emplacement of the SS-4's and SS-5's renders them vulnerable to a first-strike and thus possibly more likely to be used preemptively in a crisis. In contrast because of its greater survivability, the SS-20 is not a "shoot it or lose it" weapon and could be held confidently in reserve for retaliation—in short, an ideal second-strike or defensive weapon. (This argument is analogous to one used with regard to central systems: that the United States has an interest in seeing the Soviet Union diversify its strategic arsenal and mobilize its ICBM's because increased survivability will render the Soviets less fearful of a first-strike and thus less likely to initiate a preemptive first-strike of their own.)

But Western analysts have focused on the offensive significance of SS-20 deployments which results not only from its greater accuracy and lower yield but also from the numerical increase it will provide to the Soviet attack capability. Although approximately [deleted] of the SS-4 and SS-5 rockets have now been withdrawn (leaving most of the remainder in hardened silos), Soviet SS-20 deployments have so far produced a net increase of [deleted] percent in theater-oriented nuclear warheads. Specifically, by mid-1979, there were known to be [deleted] SS-20 regiments in the field, [deleted] of them targeted on Western Europe, [deleted] aimed at China, and [deleted] sited so that the rockets can fire East or West. With each regiment comprising nine triple-MIRVed missiles, there are already [deleted] SS-20 warheads positioned to strike Western Europe, as compared to a decrease of [deleted]—from [deleted] to [deleted]—of the single war-headed SS-4's and SS-5's. Since further SS-4/SS-5 dismantlements are by no means assured,[6] and with further SS-20 deployments apparently scheduled along with steady production of the Backfire bomber, the marked expansion of Soviet theater capabilities must be expected to continue.[7]

Against these Warsaw Pact systems—and without considering the continuing Soviet build-up and modernization of tactical forces, such as tanks, helicopters, medium-range and surface-to-air missiles—NATO has a formidable *number* of nuclear weapons but a less diverse and flexible *array* of them. NATO systems capable of hitting Soviet targets include 45 U.S. SLBM's MIRVed with 400 warheads[8] 64 British Polaris single-target SLBM's[9] 156 U.S. F-111 forward-based fighter-bombers, 48 British Vulcan bombers, and A-6 and A-7 fighter-bombers on two U.S. aircraft carriers nominally assigned to the theater. (In addition, not under NATO command, is the French *force de frappe*, consisting of 64 single-warheaded SLBM's 18 IRBM's, and 36 Mirage IV bombers.) On the Continent, however, NATO's multiplicity of missiles and nuclear-armed aircraft (Pershing I's, Lances, and F-104's and F-4's) includes no system capable of effectively reaching the Soviet Union, even from West German bases. Thus, even before introduction of the SS-20 and the Backfire bomber, NATO theoreticians had been aware of what they call "a gap in the continuum of deterrence."

This concept, which assumes that nuclear weapons could be introduced into a European conflict in such a way as to control the escalation of their use, arises from the precept that NATO should have a progressive series of responses, or "rungs," constituting a "ladder" of nuclear escalation options, with each level adapted to specific situations and uses. According to NATO planners, the Alliance deterrent is missing a "rung" because it lacks an adequate component of weapons capable of striking Soviet target without engaging Western systems normally considered strategic.

They argue that if, for example, a NATO commander should want to use only one or two nuclear warheads against Soviet territory—as a signal of intent as well as a military response—he could be inhibited by the present structure of NATO nuclear forces. Attacking Soviet targets with bombers or fighter bombers, they point out, would be slow and possibly ineffective because of improving Soviet air defenses. Alternatively, a decision to use only a single SLBM would not only involve fourteen relatively inaccurate warheads; it could also be impeded by a U.S. President hesitant to risk the Soviet counter-strike against U.S. territory which might result from the use of a "strategic" weapon.

To NATO analysts, the question is one of credibility; and to answer it they seek an increment in theater nuclear forces which, by demonstrating Western resolve to respond to Soviet theater improvements and by filling the long-noted "gap" with new nuclear options, will reinforce Soviet perceptions of the Alliance deterrent.

The TNF Issue: The Political Dimension

To an American it might appear that the West already has an overwhelming nuclear presence in Europe and that the U.S. commitment to engage in Europe's defense is as certain as any international pledge can be. To Europeans, however, that commitment is constantly under scrutiny. When they contrast the pace of Soviet modernization of theater nuclear forces to the tempo of the Western build-up, they ask, like the archetypical if apocryhal constituent, "What have you done for me lately?" And the answer they appear to want to this basically political query is a new line of military hardware: long-range TNF. With the right number of such weapons on order and in place—neither too many (which would "de-couple") or too few (which would lack credibility)—military and political experts argue that America's resolve would be reconfirmed. Only with such weapons coming on line, moreover, do Europeans believe they have a reasonable prospect of persuading the U.S.S.R. to negotiate an end to the theater nuclear arms race.

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[5] The SS-20's range is 2,750 miles as against 1,200 and 2,080 miles for the SS-4 and SS-5.

[6] SS-4/SS-5 dismantlements to date occurred prior to SS-20 deployments and only at sites near the Sino-Soviet border which would be in danger of being overrun in the event of hostilities.

[7] U.S. analysts believe that current SS-20 deployments (about 100 launchers, $\frac{2}{3}$ targetable on Western Europe) constitute somewhere between $\frac{1}{4}$ and $\frac{1}{3}$ of the total planned.

[8] No particular submarines from the U.S. force are under NATO command; rather, at any given moment, 45 U.S. SLBM's are targeted according to NATO specification.

[9] Each British SBLM has 3 warheads, but because these MRVs are not independently targetable, they are capable of destroying only one target.

"The TNF problem," admitted a veteran NATO diplomat, "is mainly a political and psychological one. Because we didn't dismiss the SS-20's as useless overkill typical of Soviet practice, we are now unable to ignore them. And to many people on the Continent they do look like a threatening increase either in the Soviet capacity to fight a war or engage in nuclear blackmail or do both. They pose a problem which must be addressed."

In a different era—one of clearly perceived U.S. dominance in strategic nuclear resources—the problem might not even exist. It is against the background or superpower nuclear parity and of SALT II as a recognition of that parity that Europeans turn anxious eyes on the state of theater nuclear forces. "For hard-thinking Europeans," wrote Geoffrey Pattie when he was a back-bench Conservative Member of British Parliament in 1977, "it is a parity that can only logically mean one thing: the readiness of the United States to defend continental Western Europe with nuclear weapons is now tempered by an American realization that the Solvet voice is as strong as their own. In short, the guarantee of U.S. nuclear protection that Western Europe secured 20 years ago—and generally believes it still has—is no more reliable than, say, the mutual agreements exchanged by both sides in the Russo-German pact of 1939." [10]

Now that Mr. Pattie has become minister responsible for the Royal Air Force, he would presumably couch his skepticism in more diplomatic terms. Even phrased differently, however, the doubts are the same, and are shared by many who measure American resolve—negatively—by the course of events since the collapse of South Vietnam in the spring of 1975. "At one level," said an experienced American journalist, "the problem is a military one for the NATO theologians, but the important level is the political one. It's there that you have Europeans looking at U.S. policy in Korea and Taiwan, in Angola and Ethiopia, in Afghanistan and Iran, in the oil markets and the currency exchanges and, even if they might concede that each decision was right on its merits, they wonder what the hell the United States is up to. They see it sliding downhill, and they don't like what they see."

Just as the M-X missile has become a symbol inside the United States of American determination to arrest a supposed drift toward strategic inferiority, TNF modernization has come to have a political, as well as a technical meaning for knowledgeable Europeans. In Bonn a conservative defense expert initially rested his case for urgent upgrading of NATO on his profound doubts about the direction of Soviet policy. Quickly, however, he added that even with the Carter Administration's "stronger commitment and engagement in Europe, there is a growing perception of American weakness in handling the global Russian threat." To counter that perception, he urged the case for TNF modernization by putting what he conceded was "a bad argument but unfortunately a valid one: after the neutron bomb business and what it did to the Alliance's faith in the United States, we now have to say yes to TNF because we cannot afford politically to say no." In the area of perceptions, moreover, he and others saw a clear need for a Western response to what they described as a Warsaw Pact build-up inconsistent with any reasonable expectations of the military self-restraint improved East-West relations should have fostered. "Aside from the perception that the SALT ceilings leave the United States with no warheads to be spared for Europe's defense," he said, "there is the basic question we in Europe ask about why the Soviets have conducted such a build-up in a period of détente. The overwhelming superiority they are obtaining creates a new political dimension. It has to be read as giving them the chance to exercise nuclear blackmail in Europe, and it has to be answered somehow."

Had there been different outcomes in Vietnam, Angola or Iran, it is quite conceivable that European perceptions of U.S. resolve and comparative military strength vis-a-vis the U.S.S.R. would be less alarmist and the need for a major investment in long-range TNF modernization less keenly felt. In the actual situation in mid-1979, however, European uneasiness is real, and TNF upgrading has developed as the preferred military remedy to the political malaise.

Options and Constraints in the Gray Area

Since its creation at a NATO defense ministers' meeting in Bari, Italy in October 1977, the High-Level Group [11] has been the arena for Alliance debate over the "gray area" problem. The debate was and is a real one. Indeed, not until late 1978 did the United States fully accept the Europeans' analysis of the need for TNF modernization. Since then, however, the United States—by way of seeking to demonstrate responsiveness to European concerns—has been in the forefront of those in NATO pressing for a TNF decision. Meanwhile the West Germans, who gave the issue prominence, have ironically been among those posing the most difficult political questions about its solution.

The easiest part of the TNF decision deals with numbers. Within the HLG a consensus has emerged that NATO need not—indeed should not—seek to match every new Soviet warhead with one of its own capable of reaching the U.S.S.R. While the Warsaw Pact's long-range, Soviet-based capability (just in SS-20's and Backfire bombers) could well top 1,500 warheads by the mid-1980's, NATO planners see only a need to procure and deploy launchers capable of carrying between 200 and 600 warheads. To put a great many more such weapons into the European theater, they believe, could create an impression that the United States is "decoupling" from Europe's defense by putting it on its own nuclear feet. To install fewer would make each system extremely costly to produce and would make little deterrent impact.

Participants in the HLG discussions have stressed the principle that the modernization should be an "evolutionary" one rather than a massive, tit-for-tat response to the Soviet build-up. While installation of the new systems would be designed to remove any Soviet doubts about the vulnerability of U.S.S.R. territory in the event of a European conflict, they believe that upgrading can and should be done without seeming to expand NATO dependence on nuclear weapons and indeed—by making certain reductions in tactical weapons—without increasing the total number of NATO warheads in Europe. Accordingly, they concur that TNF modernization should not be allowed to divert funds away from needed improvements in NATO conventional forces.

A more challenging question than the *number* of weapons is the *composition* of the new long-range force. From the beginning, HLG discussions focused on two planned U.S. systems: mobile Pershing II missiles with an extended range of some 1,500 kilometers (roughly 950 miles) and ground- and/or sea-launched cruise missiles with ranges up to 2,500 kilometers (1,550 miles). While the latter are less expensive and more accurate, they are also thought to be more vulnerable to future Soviet air defenses. Pershing II's, though more costly and shorter-range (requiring deployment on the Continent), are viewed as superior in getting through to their targets—in the jargon, they will have higher "penetrativity." Cruise missiles may be ready for deployment in 1982; Pershings probably not until a year or more later.

Given these and other technical considerations, the HLG has now decided upon recommending to member governments a mix of Pershing II's and GLCM's as the initial NATO commitment to TNF modernization. While two of the three systems would be land-based, making them in theory somewhat more vulnerable to Soviet attack, their very presence on the ground is thought to make them more "visible"—both to the Allies and to the Warsaw Pact—than the more secure submarine- or ship-launched cruise missiles.

The choice of land-based weapons, however, raises the still unresolved question of whose land they will be based on. As a general principle, NATO would prefer to have the widest possible participation of its members in the deployment of such systems, but Norway and Denmark both have well-established policies banning nuclear weapons from their territory, France and Greece have both withdrawn from full military cooperation in NATO, Iceland and Portugal are too far away, and Turkey's internal politics and strained ties to the United States rule it out of immediate consideration. The choice then is limited to England (where Pershing II's would be too far from Soviet targets to be of use), Germany, Italy and the Benelux nations. Both because of its geographical position and because of its interest in TNF modernization, West Germany is the prime candidate, but Chancellor Schmidt has insisted repeatedly and forcefully that his nation will accept new TNF systems only if at least one other continental NATO nation does so as well.

Underlying Schmidt's "non-singularity" policy are two considerations. The first, as a very senior German politician explained, is that "we do not want to give anyone, East or West, any reason to suspect that Germany is gaining increased access to the nuclear trigger, and those suspicions are easy to provoke." The second is the probable Soviet response if Germany were to be the only NATO member to acquire new capacity to strike Soviet targets. Moreover, with or without a major Soviet propaganda campaign, many left-of-center German politicians would regard their nation's "singularity" as dangerous and unnecessary.

Given the firm German position on basing, the burden of sharing in the new deployments falls most heavily on Belgium and the Netherlands. Public opinion in Holland, where one million signatures were collected on a petition protesting the neutron bomb, is certain to be hostile to new TNF weapons, and the issue could also pose domestic political problems in Belgium. To soften anticipated opposition, NATO leaders have committed themselves to packaging their TNF procurement decision with a clear Alliance engagement to seek negotiations to control the theater nuclear build-up. Although one planner slighted the effort as a search for an "arms control fig-leaf," most of our other sources maintained that the arms control element of the NATO TNF decision had to be substantive and plausible, not "Christmas-paper wrapping."

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[10] *A New World Role for the Medium Power: The British Opportunity*, by James Bellini and Geoffrey Pattie, Royal United Services Institute for Defense Studies, London, 1977, p. 8.

[11] The HLG was previously called Task Force 10 because it was assigned responsibility for analysis and projects under the tenth and final point of the Long-Term Development Program.

TNF Arms Control: The Unanswered Questions

The need to achieve an Alliance position on the arms control question—an advance of actual East-West talks—imposes a major political constraint on the pace of TNF decision-making. The diverse factors involved would be hard enough to weigh if they were choices to be made by the United States alone in the course of a third round of SALT talks. As issues for NATO consultation and coordination, they are all the more complex.

With regard to future negotiations on theater nuclear weapons, Allied strategists are agreed on three points:

(1) Having sought to include U.S. forward-based systems (FBS) in both SALT I and II, Soviet negotiators can be expected to press the issue again in SALT III (indeed, the Joint Statement of Principles signed at Vienna explicity forecasts an attempt to deal permanently with cruise missiles, the deployment of which is only temporarily limited by the SALT II Protocol);

(2) The United States should continue insisting that it will discuss ceilings on its European-based weapons systems only if the Soviets agree that their theater-targeted systems are also subject to negotiation; and

(3) While it is in NATO's interest to negotiate an end to the theater arms race, it is unlikely that the Soviets will bargain on Backfires and SS-20's unless the West has committed itself to deploy—or is actually deploying—comparable weapons, the deployment of which the Soviets wish to slow or halt.

Agreeing on both the likelihood and the desirability of TNF arms control negotiations still leaves Alliance policymakers facing an array of unanswered questions which, since early this year, a NATO "Special Group" on TNF arms control (analogous to the High Level Group on TNF modernization) has been trying to address, with a view to achieving some resolution by autumn.

Among these issues are the forum in which theater negotiations should occur (including the way in which French and British nuclear systems should be dealt with in the talks), the goals of the negotiation, the relationship between control of TNF and further limitations on "central" systems, and the role of the NATO Allies in determining negotiating tactics.

Forum and Participants.—Generally, but not unanimously, our sources forecast and approved an effort to deal with TNF arms control issues within a United States-Soviet SALT III negotiation. Since all Warsaw Pact long-range systems (SS-20's, SS-4's and SS-5's, Backfire bombers, and others) are based in the Soviet Union and since U.S. systems, even those based in Europe, remain under Presidential control, the two superpowers are seen as the logical parties to a bargain on limiting long-range TNF development. Moreover, NATO theorists would be averse to the decoupling implications of a multilateral negotiation which, by focusing solely on TNF, might suggest that such weapons are to some degree separate from U.S. defense systems—part of a Eurostrategic balance whose elements stand by themselves.

Even in a bilateral superpower negotiation, the Soviets could still be expected to demand "compensation" for the independent nuclear forces of the United Kingdom and France. Indeed, this would be an obvious issue if negotiations were to follow the SALT II model and aim at establishing equal aggregate ceilings on theater systems. Most observers believe, however, that adequate Allied consultations can preclude the need for French and British representatives to join the Americans and Soviets at the negotiating table.

While generally accepting SALT III as the best framework for TNF arms control, Europeans are also aware of proposals for a broader European disarmament conference, along the lines suggested by France at the U.N. Special Session on Disarmament in 1978 or by the Warsaw Pact foreign ministers at their Budapest meeting in May of this year. Although the French and Soviet-bloc suggestions are not identical—and neither holds much appeal to NATO in general as a forum for nuclear arms control talks—both ideas are likely to be agenda items at the late-1980 Madrid meeting involving the 35 signatories of the Helsinki Accord. And if, as is likely, SALT III has by then made little progress, there may be a push at Madrid to wrap TNF talks into a broader European forum.

Goals.—While the United States may well seek significant reductions in central strategic systems during SALT II, Europeans see TNF arms control in terms more of limiting development than of cutting existing arsenals. At their most optimistic, NATO experts envision a bargain requiring the U.S.S.R. to freeze deployment of SS-20's (at a level probably three times higher than the number now in the field) and to dismantle a good portion of the silo-based SS-4 and SS-5 missiles. Although such an agreement would still leave West Europe under threat from considerably more Soviet-based nuclear warheads than are now in place, NATO strategists are doubtful that the Soviets could be persuaded to halt planned deployments of their newest weapons.

While they also doubt that any negotiated theater ceilings would fully eliminate the theater imbalance between NATO and the Warsaw Pact, most would not reject out of hand a bargain involving unequal numbers—a position arising from concern with decoupling perceptions. "A measure of imbalance," one senior planner explained, "is actually something we should want to preserve. If the East-West match in Europe were really a match, American strategic systems would not appear to be needed for Europe's defense. Therefore our aim should be rough equivalence, not parity in medium-range or theater systems. But to achieve that aim," he added, "we must be firmly engaged in TNF programs the Soviets want to control."

Linking Theater and Strategic Arms Control.—Assuming that the United States will be the West's chief negotiator for the TNF arms control effort, some of our sources wondered aloud how American bargainers would handle the job of representing their own and Europe's interest in tandem. Could a moment arise in the negotiations when the Soviets offer the United States an attractive arrangement on central systems—at the price of an unattractive one on theater arms control? "We will be facing a problem of management within the Alliance much larger than any we have faced before," predicted one nongovernmental strategist. "SALT I was basically a bilateral, superpower engagement with little impact on Europe. SALT II already took a certain bite at the European side of nuclear arms, but SALT III could conceivably take a very large bite. It will be a real test of our confidence in U.S. leadership and of your ability to manage things so that confidence is not impaired."

Another European put his view as a question: "What would the United States do if the price of getting reductions in Soviet heavy missiles includes putting very low limits on your FBS or keeping cruise missiles out of Europe? You will be juggling apples and oranges" he added, "and we cannot be sure that you will not care more about the apples that could land on your head than the oranges that could land on ours." Even in SALT II, one French analyst contended, an ominous SALT III pattern was clear. "The letter on the Backfire bomber," he said, "is a good example of what we worry about. Basically, what it says is that a bad Backfire is one which could kill Americans, while a good Backfire is one which only kills Europeans."

Turning the concerns around, however, a French analyst outside the government came up with a guardedly optimistic forecast about the U.S. ability to bargain on behalf of Western Euprope. "You may be able to sell real reductions in SALT III to the Soviets," he maintained, "by showing them the prospect of a nuclear-armed Germany if SALT fails. If Europeans and Germans themselves are worried about Bonn getting the bomb, that is nothing compared to the Soviets' phobia. If you look from Moscow at the possibility of cruise missiles being put into Germany, you see it as Germany losing its nuclear virginity. There is no way, once those things are on the ground, for the Soviets not to suspect that Germans will get control of some of them. They already think Germany is interested in building its own cruise missiles, and that worries them a great deal."

A New Order of Consultation.—Given their concerns about the future—and the practices of the relatively recent past—Europeans reasonably expect a new role in the coordination of Western arms control tactics. While all of our sources agreed that NATO consultation on military and political matters has greatly improved in the last two years, they also remember the gaps during SALT I and early in SALT II. "Obviously," remarked an HLG participant, "the United States is always in the position of deciding what information about the progress of SALT or of its own thinking it will give out in formal or informal briefings. And there have been times—but fewer and fewer lately—when the Allies have been *informed* after the fact instead of *consulted* beforehand." Now, however, with the formation of the High Level and Special Groups, Allied consultations have an institutional framework which seems likely to outlast the planned 1979 decision on TNF.

General expectation of increased participation by the Allies arises not only from the expanding importance of theater issues but also from the steady political and economic resurgence of Western Europe. For the most part, the United States has accepted as inevitable—and has indeed welcomed—the growth of Allied self-confidence and assertiveness, but it has also made decision-making more complicated. "The basic nature of NATO is changing," said a senior European defense official. "Until now the United States handled all nuclear matters. Now the U.S. asks if we are ready to take responsibility ourselves for deploying nuclear weapons. Putting that question means your giving up any thought of a free hand on nuclear arms control." At the same time, however, most observers agreed that, given the increasing complexity to nuclear negotiations along with heightened public sensitivity to nuclear issues, effective American leadership in the Alliance would be more necessary than ever. As an American at NATO headquarters quipped, "the era of the nuclear free lunch is over. It is no longer a matter of the United States spreading out its wares and the Europeans picking and choosing what they want or, more often, letting us make the choices for them. The challenge now is for the United States to lead them to the choices we think are right."

The needed balance was suggested by another NATO diplomat, one from Europe, who drew a distinction between the levels of consultation within the Alliance necessary for SALT and for the MBFR talks, concerning force reductions in Central Europe, which have been underway since 1973 in Vienna and which have required the development within NATO of formal Western positions. "Much of SALT III," he said, "can take place without European participation, but on TNF matters consultation will have to be very close. We cannot go all the way to the MBFR pattern, because the talks should remain essentially bilateral without NATO's being charged with agreeing to explicit, precise negotiating instructions. But the Americans," he concluded, "can no longer think of making a SALT agreement over the heads of Europeans."

Timetable.—As the Alliance has sought answers to the questions discussed above, it has also set itself a target—the mid-December meeting of the North Atlantic Council—for resolving them. Although the intensive consultations in the High-Level and Special Groups have moved the Allies close to the required consensus, it is not yet clear that a key political element of the equation will be in place in time for the NATO Ministers to make the TNF modernization decision on schedule.

The missing ingredient is Senate ratification of SALT II. Without that proof of U.S. commitment to nuclear arms control and to continuation of the search for East-West stability, Europeans will find it hard to take the difficult political decisions on TNF modernization. For technical reasons NATO's military planners are anxious to have no delay on the actual choice of weapons systems to be procured. For political reasons—having set themselves a deadline—Alliance leaders are even more anxious that they maintain their schedule. "In this case," said one senior NATO analyst, "a delay will be seen as the equivalent of a decision not to go ahead, and that would be very damaging."

As the decision on TNF modernization now takes shape in NATO, it seems unlikely that any systems governed by SALT II Treaty ceilings will be involved in the first stages of upgrading NATO's theater nuclear forces. As indicated in Part I of this report, the American weapons systems now under development and leading candidates for deployment in Europe under the aegis of TNF modernization are the mobile, extended-range Pershing II ballistic missile and the ground-launched cruise missile. Because their projected ranges will enable them to reach Soviet territory from sites in Europe, the Soviets could, of course, argue that these weapons are "strategic" and constitute a circumvention of the Treaty—the non-circumvention idea was, after all, originally conceived as a measure by which the United States would provide assurance that it would not augment its forward-based systems. But given the negotiating history of SALT II and the record of U.S. public declarations, culminating in the June 29 interpretive statement, the Soviets will have no grounds—on the basis of the Treaty, the negotiating record, or stated U.S. intentions prior to ratification—to challenge U.S. assistance to NATO TNF modernization. The same holds true for U.S. assistance in the modernization of existing British strategic systems, an option which the United States has clearly reserved by its statement that the transfer to Allies of systems numerically limited by the Treaty—such as Trident missiles or airlaunched cruise missiles—is not necessarily precluded.

Nonetheless, because Soviet reaction to any such deployments or transfers is impossible to forecast, a number of Europeans would welcome the Senate's underlining the support of the entire U.S. Government for the assurances the Administration has given. In the construction of a Senate resolution consenting to Treaty ratification, this can easily be done. But careful consideration should be given to the language and legal effect of any such text. On the one hand, it should be recognized that by compelling the Soviets to agree to the U.S. right to continue cooperation with its Allies—as the Soviets would have to do in accepting an Instrument of Ratification incorporating a Senate-initiated reservation or understanding—the United States would also be conceding the Soviets a legal basis to claim that any given instance of cooperation exceeded what was permissible under the U.S. interpretive statement. (As a matter of principle, the United States has thus far refused to concede the Soviets any such right; it was indeed for that reason that the June 29 statement was a unilateral policy declaration.) On the other hand, given past U.S. policy of deciding actual transfers on a case-by-case basis, the Administration will obviously not wish to see Senate language which in effect commits the United States to respond positively and automatically to any and all European requests. With or without such language, this or a future Administration will, undoubtedly be at pains to demonstrate that SALT has not intruded upon the U.S. commitment to NATO. Indeed, in that sense, it could easily be argued that the non-circumvention issue has promoted, not impeded, Allied cooperation.

APPENDIX A

THE OFFICIAL U.S. PERSPECTIVE ON SALT'S EFFECT ON THE EUROPEAN THEATER

The body of this report focuses on European attitudes to nuclear weapons in NATO and to SALT II and SALT III. This appendix discusses, from the official U.S. perspective, the SALT II Treaty issues of specific concern to Europeans. What follows is a brief account—derived from discussion with Administration officials—of how the non-circumvention clause, the Protocol, and the Joint Statement of Principles arose in the SALT II negotiation and how they were presented and explained to the NATO Allies.

NON-CIRCUMVENTION

The concept of a non-circumvention provision first arose in connection with a definitional issue that impeded SALT negotiations from the outset: the question of what constitutes a "strategic" weapon. For their part, the Soviets have strongly favored the simple definition of a "strategic" system as being any weapon owned by one side capable of striking the territory of the other. Such a definition would count all of the central strategic systems—ICBMs, SLBMs, and heavy bombers—on both sides, but would also include all U.S. forward-based systems (FBS) while excluding all Soviet systems not deployed to strike U.S. territory. While arguably fair with regard to the superpower balance, this approach would weigh in favor of the Soviets in the European theater and has thus remained unacceptable to the United States. Accordingly, the U.S. approach has been to sidestep the question of defining a "strategic" system and to argue that SALT should deal exclusively with central systems, and not with theater systems such as the more than 500 U.S. aircraft deployed in the European and Pacific theaters which can strike Soviet territory.

During the SALT I negotiations, this definitional dispute stalemated progress for an extended period and was never resolved. As the SALT II negotiations began, the Soviets proposed asymmetrical central system limitations, with a larger aggregate for themselves to compensate for U.S. FBS and for Allied nuclear forces. The U.S. goal in turn was to achieve agreement on the principle of *equal* aggregates, with FBS excluded and with no compensation for Allied systems. It was in the context of seeking Soviet agreement to this basic principle that U.S. negotiators first conceived the idea of a provision by which the Soviets, if they did agree to exclude FBS from treaty limits, could at least be assured that the United States would not circumvent ceilings on central systems by augmenting forward systems.

At Vladivostok in November 1974, when the Soviets withdrew their demand that FBS be included in SALT II, the United States temporarily set aside its non-circumvention proposal. But as negotiations resumed in Geneva in early 1975, the question arose again when the Soviets proposed that the new treaty contain not only a *non-circumvention* provision but also a *non-transfer* provision under which each party would undertake "not to transfer strategic offensive arms to other states, and not to assist in their development, in particular, by transferring components, technical descriptions or blueprints for these arms." The Soviets subsequently defined "strategic offensive arms" as arms limited in the Treaty and the Protocol.

Although the United States had agreed to such a non-transfer provision in the ABM Treaty of 1972, U.S. negotiators categorically rejected the Soviet non-transfer proposal regarding offensive strategic arms. The Soviets continued, however, to press for U.S. acceptance of their dual non-circumvention non-transfer concept. As a result, the issue was left at an impasse.

In June 1977, in consultation with the North Atlantic Council (NAC), the United States discussed the possibility of proposing to the Soviets that they drop their non-transfer proposal in exchange for American acceptance of a general non-circumvention provision. The United States suggested to the Allies the following alternative formulations:

"[illegible] order to ensure the viability and effectiveness of this Treaty, each Party undertakes not to circumvent the provisions of this Treaty."

"In order to ensure the viability and effectiveness of this Treaty, each Party undertakes not to circumvent the provisions of this Treaty, through any other state or states, or in any other manner."

The United States told the Allies that it considered the first alternative to be preferable, since it used more general language, but emphasized that the difference between the two was not substantive because neither version did anything more than make explicit the obligation inherent in any international agreement not to circumvent the agreement's provisions. At the same time, the United States pointed out that the second alternative was more likely to induce Soviet withdrawal of the non-transfer proposal; and, on that basis, the United States suggested it be considered a "fallback" to the first proposal. The NAC responded by agreeing that the United States should propose the first version to the Soviets, and consult again with the Allies if the "fallback" appeared necessary.

In August 1977, following this consultation, the United States presented its non-circumvention proposal to the Soviets. Five months later, in January 1978, the Soviets responded with a counterproposal which softened the wording of their non-transfer proposal by (a) deleting any reference to components, technical descriptions and blueprints and (b) combining non-transfer and non-circumvention stipulations into a single provision.

In February 1978, having reasserted to the Soviets that any nontransfer obligation was unacceptable, the United States consulted with the NAC, telling the Allies that the "fallback" version would now probably be useful in persuading the Soviets to abandon their nontransfer proposal and resolve the issue. The United States reemphasized that the additional language on "other states" would neither alter the meaning of the provision nor even add any obligation beyond those already present in the agreement. By simply making explicit an obligation inherent in all international agreements, the United States reiterated, the provision would not prevent the United States from continuing existing patterns of collaboration and cooperation in the Alliance, nor would it preclude assistance in theater nuclear modernization.

Despite this reassurance, some concern was expressed in the NAC that, if adopted, the "fallback" language on "other states" might be seen by the Soviets and the public as somehow broadening the effect of the original U.S. proposal. In response, the United States told the Allies that it would be prepared, after signature of the agreement, to make a formal statement explaining the significance of the noncircumvention provision and reaffirming U.S. ability to cooperate with its Allies.

In April 1978, in further consultation with the NAC on the noncircumvention non-transfer issue, the United States affirmed its intention to employ the "fallback" language and to issue, after signature, a unilateral statement of interpretation to the NAC and to the Congress. This interpretive statement would make clear that, while the United States had no intention of circumventing the SALT agreement, the agreement would not restrict legitimate patterns of intra-Alliance cooperation, nor would the non-circumvention provision give the Soviets any additional legal or political grounds for challenging such cooperation.

Later that month, on April 20 and 21, during discussions between Secretary of State Vance and Soviet Foreign Minister Gromyko in Moscow, the Soviets agreed to withdraw their proposal for a noncircumvention/non-transfer provision in exchange for agreement on a generalized noncircumvention provision using the language of the "fallback" U.S. proposal. In proposing this provision, the United States made clear to the Soviets—on the negotiating record—that the addition of the phrase "through any other state or states, or in any other manner" did not substantively alter the meaning of the original U.S. proposal, that this language was not tantamount to a non-transfer provision, that the non-circumvention provision simply made explicit an obligation inherent in all international agreements, and that the United States would continue existing patterns of defense cooperation with its Allies under SALT II.

On April 24, the United States informed the NAC of the successful resolution of the non-circumvention issue, and reaffirmed its intention of making a unilateral interpretive statement—a statement which would not be negotiated with the Soviets.

On May 3, 1978, the United States and Soviet SALT delegations in Geneva formally agreed on the text of the non-circumvention provision.

Over the following year, the United States engaged in a series of bilateral consultations with Allies concerning the language of the interpretive statement. In the process and in response to specific requests from the FRG, the United States also provided policy statements clarifying two aspects of the interpretive statement: its application to transfers of components and to cooperation on research and development; and its application to transfers of the various types of cruise missiles covered by SALT II.

On June 29, 1979, following the June 18 signing of the SALT II Treaty by Presidents Carter and Brezhnev in Vienna, the United States presented to the North Atlantic Council its interpretive statement, the text of which appears as Appendix B.

Concerning the agreed-upon non-circumvention clause, which is now Article XII of the Treaty, U.S. officials we interviewed stressed the following points:

The non-circumvention provision should be viewed not as a concession to the Soviets, but rather as a face-saving negotiating device which proved useful in defeating the Soviet effort to include in the Treaty a non-transfer provision.

The United States has made clear, both on the negotiating record and through the interpretive statement, that the non-circumvention provision requires no more than that the United States adhere to the basic terms of the agreement.

The United States has also made clear to the Allies and to the Soviets that, because the Treaty is bilateral, the clause cannot be a basis for implicating third countries in the event of a dispute.

THE PROTOCOL

In March 1977, the new Carter Administration decided to try to go beyond the Vladivostok ceilings by proposing to the Soviets a more comprehensive approach which included greater overall reductions, specific reductions in Soviet heavy ICBM's, annual flight test limits on ICBM's and SLBM's, and strict limits on new systems and technological changes. Along with this comprehensive proposal, which Secretary Vance carried to Moscow, President Carter proposed as an alternative a treaty that simply codified the Vladivostok ceilings and deferred the difficult issues—namely, the Backfire bomber and cruise missiles. The Soviets' response was to reject both proposals, while stressing that they wished to continue negotiations within the general Vladivostok framework. Two months later, after negotiations resumed, the two sides agreed upon a more specific framework for SALT II that envisioned (a) an agreement going somewhat beyond Vladivostok, (b) interim limits on the most contentious systems, and (c) a statement of goals to be pursued in SALT III. As eventually negotiated, this "three-tier" framework contains:

A Treaty to last through 1985, embodying the Vladivostok accord but with cuts below the overall Vladivostok ceiling;

A Protocol, scheduled to expire on December 31, 1981, which deals with mobile ICBM's, ground- and sea-launched cruise missiles (GLCM's and SLCM's) and air-to-surface ballistic missiles; and

A Joint Statement of Principles for SALT III, which includes a commitment to seek further reductions, broader technological constraints on new weapons, and a resolution of those issues contained in the Protocol.

In negotiating the Protocol, the principal United States and Allied objective was to ensure that none of its cruise missile provisions would restrict Alliance options—a purpose which required rejection of persistent Soviet efforts to obtain a ban, or at least stringent restrictions, on ground- and sea-launched cruise missiles. Eventually, the U.S. position prevailed, and the Protocol's provisions as negotiated will permit the United States to develop and test cruise missiles from any platform and to any range. Only the actual deployment of GLCM's and SLCM's with ranges in excess of 600 kilometers is banned for the Protocol period; but since the Protocol will expire before the dates of initial operating capability (IOC's) of either the GLCM or the SLCM, this will not in itself inhibit deployment decisions.

A significant aspect of the United States and Allied objective was to protect NATO's conventional cruise missile option for possible theater use in the post-Protocol period. In an effort to curtail this option, the Soviets sought to apply the SALT limits on cruise missiles to conventional as well as nuclear systems for the full period of the Treaty, apparently hoping to establish a precedent for any post-Protocol limits established for GLCM's and SLCM's. The United States, however, rejected this proposal, and as a result the Protocol provides that the cruise missiles limited in that document (GLCM's and SLCM's) will be subject to an "armed" definition—that is, any cruise missile equipped for weapon delivery will be subject to the relevant limitations—only for the term of the Protocol. Moreover, in order to undercut the use of this provision as a precedent, the United States required that the Protocol be worded so as to make clear that the "armed" definition will expire in 1981, along with the limitations themselves.[1] To further protect the conventional option, the United States also made clear on the negotiating record and in public statements that the definition of cruise missiles in the Protocol sets no precedent for any definition which might be developed in the event of future negotiated limitations on GLCM's and SLCM's.

With regard to mobile ICBM's, the Protocol bans both deployment and also the testing of ICBM's from such launchers. It does, however, permit the development and testing of the launchers themselves, which is all the U.S. mobile ICBM program requires during the Protocol period. As to any precedent for possible extension after the Protocol expires, the Treaty itself undercuts this by explicitly providing that, if no limits are established for mobile ICBM's, any mobile ICBM launchers deployed in the post-Protocol period are to be included in the appropriate aggregate limitations.

With regard to air-to-surface ballistic missiles (ASBM's), the terms are similar. The Protocol bans testing and deployment, but since development of ASBM's is not deemed important to American planners during the Protocol period, U.S. programs are essentially unaffected. Moreover, as with mobile ICBM's, the Treaty provides for the inclusion of ASBM's in the SALT aggregates after the Protocol expires, thus ensuring that no precedent is established.

Overall, U.S. negotiators appear to have been well aware of the need to counter, in advance, anticipated Soviet political pressure directed toward extending the Protocol beyond its specified expiration date, or including the Protocol limitations per se in a follow-on SALT III agreement. Accordingly, the United States emphasized to the Soviets on the negotiating record that the Protocol limitations are temporary, and do not establish any precedent for possible future limitations. Moreover, pursuant to close consultations with the Allies, the United States issued the following unilateral statement: "Any future limitations on U.S. systems principally designed for theater missions should be accompanied by appropriate limitations on Soviet theater systems." (Separate statement to NAC, June 29, 1979.)

With regard to the Protocol, U.S. officials we interviewed stressed the following points:

(a) The Protocol cannot impede, or even slow, U.S. development of the GLCM and SLCM, which will not be ready for deployment—the only action banned by the Protocol—during the Protocol's life.

(b) U.S. statements on the negotiating record and in public, set against the background of active U.S. development programs for the GLCM and SLCM, constitute a powerful case against any Soviet effort to argue that the Protocol limitations constitute a precedent and should be extended.

(c) Underscoring this is the unilateral U.S. statement, which has made clear that the United States will only discuss GLCM's and SLCM's in the context of reciprocal limitations on Soviet theater systems.

THE JOINT STATEMENT OF PRINCIPLES

Like the Protocol, the Joint Statement of Principles (JSP) grew out of the May 1977 discussions between Secretary Vance and Foreign Minister Gromyko. As the final part of a three-piece package, the JSP was intended to underscore the ongoing nature of the SALT process and the commitment of the Parties to negotiate further in the future.

During negotiations on the Joint Statement, after it proved impossible to reconcile the conflicting specific goals envisioned by the two sides, agreement was eventually reached that both would drop their specific proposals and accept a broader set of principles. The result is a JSP which embodies a very general expression of basic objectives for strategic systems, measures to enhance verification, and the like.

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[1] Cf. Article II, paragraph 3, which begins with the phrase, "For the purposes of this Protocol. . . ."

Specifically, the Joint Statement consists of a preamble and four sections:

The preamble reaffirms the basic principles of strategic stability, and the intention of the two sides to conclude a follow-on SALT III accord.

Section I establishes the general goal of further limitation and reduction in numbers of strategic arms and further qualitative limitations, as well as the more specific goals of measures to limit those strategic offensive arms most destabilizing to the strategic balance, and measures to reduce the risk of surprise attack.

Section II states that further limitations must be subject to adequate verification by "national technical means" (NTM) and additionally, as appropriate, by "cooperative measures" contributing to the effectiveness of verification by NTM.

Section III sets forth some more particular objectives, although still in very general terms: "significant and substantial" reductions in strategic offensive arms; qualitative limits on new types of strategic offensive arms and on modernization of existing strategic offensive arms; and resolution of Protocol issues "in the context of the negotiations relating to the implementation of the principles and objectives" laid out in the Joint Statement.

Section IV establishes the objective of pursuing "other steps" to enhance stability and to reduce the risk of nuclear war.

During negotiations on the language of the JSP, an obvious Soviet objective was to include some reference to a need, in future negotiations, to limit—or to compensate the Soviets for—U.S. forward-based systems and Allied nuclear systems. Throughout SALT, the United States has opposed this concept and continued to do so with regard to the future negotiations envisioned by the JSP. Thus, after consultations within NATO as well as intensive bilateral discussion with FRG officials, the United States supported the inclusion of only a very general statement to the effect that, in the SALT II negotiations, the Parties would consider the "factors that determine the strategic situation." In agreeing upon this language, neither the Soviets nor the United States linked to the FBS and compensation issues—a connection that the U.S. side was prepared to reject. From the U.S. perspective, the language finally adopted is not only harmless but somewhat useful because it provides an additional basis for raising such issues of U.S. concern as strategic defenses, an area where the Soviets are considered to be at an advantage.

In discussing the JSP, U.S. officials we interviewed stressed the following points:

(*a*) The JSP established neither a specific nor an exclusive agenda for SALT III; the statement is a non-binding, highly generalized declaration which does not prejudge or preclude any issues either side may wish to raise.

(*b*) The commitment to seek resolution of the contentious issues contained in the Protocol is qualified by the language which calls for consideration of "factors that determine the strategic situation"; this serves to reinforce the unilateral U.S. statement (see previous discussion of the Protocol) that theater weaponry can be discussed in SALT III only on a reciprocal limitation basis.

APPENDIX B

TEXT OF THE U.S. INTERPRETIVE STATEMENT TO THE NORTH ATLANTIC COUNCIL

[Issued June 29, 1979]

In the view of the United States, the non-circumvention provision in the SALT agreement simply makes explicit the inherent obligation any state assumes when party to an international agreement not to circumvent the provisions of that agreement. It is a basic tenet of international law that agreements once entered into are to be carried out and not circumvented, and the United States would be so obligated with or without a non-circumvention provision. It is the position of the United States that the non-circumvention provision does not impose any additional obligation whatever on it beyond the specific obligations of the provisions of the Treaty and, for the period of its effectiveness, the Protocol, nor does it broaden the interpretation of those obligations.

The United States has consulted intensively with the Alliance throughout the SALT TWO negotiations, recognizing the important Alliance interest in the SALT TWO agreement which deals with the strategic relationship between the United States and the Soviet Union. In view of the possible implications of the non-circumvention clause for Alliance cooperation, the United States reiterates what it has specifically stated in Alliance consultations during the negotiations, that is, the non-circumvention provision will not affect existing patterns of collaboration and cooperation with its Allies, nor will it preclude cooperation in modernization. The United States believes that, in practice, the non-circumvention provision, which it will apply as stated below, will not interfere with continued nuclear and conventional cooperation with its Allies.

As to the issue of transfers, the United States has consistently rejected the inclusion of a provision on non-transfer in the SALT agreement. We have made clear in the negotiating record that transfers of weapons or technology to our Allies will continue and cannot, ipso facto, constitute circumvention. The United States will deal with future requests for transfers of weapons systems and technology on a case-by-case basis under the SALT TWO agreement, as it has done in the past. The transfer of weapons systems or technology for systems which were not numerically limited or prohibited by the agreement would be unaffected by the agreement. With respect to systems numerically limited in the agreement, as under the Interim Agreement, transfers would not be necessarily precluded by the agreement. Of course, requests for such transfers would, in many cases, involve policy issues, and would have to be dealt with in light of the circumstances of the situation and the particular request. This would also be the case if there were no agreement.

The United States will not be able to transfer to its Allies or other states those weapons systems or technology uniquely related to such systems, which are prohibited to the United States itself by the agreement. The United States fully accepts its responsibility not to circumvent the agreement. For the United States to supply to other state systems of a type that is prohibited to the United States itself by a provision of the agreement would be a circumvention of the agreement, even if there were no non-circumvention provision.

In accordance with recognized international practice, no third party can be bound or legally affected by the obligations the United States assumes under the SALT Agreement. The United States would reject and would view as inconsistent with the political and strategic purposes of the agreement any attempt by the Soviet Union to raise, on the basis of the non-circumvention provision, questions concerning the activities of states not party to the agreement. In both a legal and practical sense, only the United States is subject to challenge in connection with questions raised by the Soviet Union with respect to the SALT agreement.

APPENDIX C

NATO AND WARSAW PACT THEATER NUCLEAR WEAPONS

United States/Allied	Owner	European deployments		Other U.S. NATO reinforcements		Deployment area	Maximum radius (mk
		Aircraft or launchers	Warheads (without reloads)	Aircraft or launchers	Warheads (without reloads)		
Long range (>1,000 km):							
Poseidon SLBM	United States	45	400			Various	(1)
Polaris SLBM	United Kingdom	64	64			Various	(1)
French SLBM	France	64	64			Various	(1)
French IRBM	France	18	18			France	(1)
Vulcan bomber	United Kingdom	54	108			United Kingdom	(1)
F-111 fighter bomber	United States	156	312	(1)	(1)	United Kingdom	(1)
A-6 fighter bomber	United States	(1)	(1)	(1)	(1)	Afloat	(1)
A-7 fighter bomber	United States	(1)	(1)	(1)	(1)	Afloat	(1)
Mirage IV bomber	France	36	36			France	(1)
Medium range (100 to 1,000 km):							
Pershing Ia SSM	United States, Federal Republic of Germany.	(1)	(1)	(1)	(1)	Federal Republic of Germany	(1)
Lance SSM	United Kingdom, Federal Republic of Germany, United States, Belgium, Italy.	(1)	(1)	(1)	(1)	Federal Republic of Germany, Italy	(1)
Pluton SSM	France	(1)	(1)			France	(1)
Buccaneer fighter bomber	United Kingdom	(1)	(1)			United Kingdom	(1)
F-104 fighter bomber	Belgium, Greece, Italy, Netherlands, Turkey, Federal Republic of Germany.	(1)	(1)			Belgium, Greece, Italy, Netherlands, Turkey, Federal Republic of Germany.	(1)
F-4 fighter bomber	United States	(1)	(1)	(1)	(1)	Various	(1)
Jaguar fighter bomber	United Kingdom, France	(1)	(1)			United Kingdom, France	(1)
Mirage III fighter bomber	France	(1)	(1)			France	(1)
Short range (<100 km): 155 mm and 203 mm howitzer.	Federal Republic of Germany, Italy, Netherlands, Belgium, United Kingdom, United States, Greece, Turkey.	786	786	200	200	Greece, Turkey, Federal Republic of Germany, Italy, Netherlands.	(1)

[1] Deleted.

APPENDIX C—Continued

NATO AND WARSAW PACT THEATER NUCLEAR WEAPONS—Continued

U.S.S.R. Warsaw Pact	Owner	European deployments[1]		Western U.S.S.R. deployments[2]		Deployment area	Maximum radius (km.)
		Aircraft or launchers	Warheads (without reloads)	Aircraft or launchers	Warheads (without reloads)		
Long range (>1,000 km):							
SS-20 IRBM	U.S.S.R			(3)	(3)	U.S.S.R	(3)
SS-5 IRBM	U.S.S.R			(3)	(3)	U.S.S.R	(3)
SS-4 MRBM	U.S.S.R			(3)	(3)	U.S.S.R	(3)
SS-N-5 SLBM	U.S.S.R	(3)	(3)			Baltic, North Sea	(3)
Backfire bomber	U.S.S.R			(3)	(3)	U.S.S.R	(3)
Badger bomber	U.S.S.R			(3)	(3)	U.S.S.R	(3)
Blinder bomber	U.S.S.R			(3)	(3)	U.S.S.R	(3)
Medium range (100 to 1,000 km)							
Scaleboard SS-12 SSM	U.S.S.R			(1)	(1)	U.S.S.R	(3)
Scud SS-1c SSM	U.S.S.R., German Democratic Republic, Romania, Poland, Czechoslovakia, Hungary, Bulgaria.	(3)	(3)	(3)	(3)	All	(3)
SS-N-4 SLBM	U.S.S.R	(4)	(3)			Baltic	(3)
Fencer SU-24 fighter bomber	U.S.S.R			(3)	(3)	U.S.S.R	(3)
Foxbat B-Mig 25 fighter bomber	U.S.S.R	(3)	(3)	(3)	(3)	German Democratic Republic, Poland, U.S.S.R.	(3)
Fitter C D SU-17 20 fighter bomber	Poland, U.S.S.R	(3)	(3)	(3)	(3)	Poland, U.S.S.R	(3)
Fitter A SU-7 fighter bomber	U.S.S.R, Poland	(3)	(3)	(3)	(3)	U.S.S.R., Poland, Czechoslovakia, German Democratic Republic.	(3)
Flogger B D F Mig 23 27 fighter bomber.	U.S.S.R	(3)	(3)	(3)	(3)	U.S.S.R., Poland, German Democratic Republic.	(3)
Brewer B C bomber	U.S.S.R	(3)	(3)	(3)	(3)	Hungary, U.S.S.R	(3)
Fishbed Mig-21 fighter bomber	U.S.S.R	(3)	(3)	(3)	(3)	U.S.S.R., German Democratic Republic, Poland, Hungary, Czechoslovakia.	(3)
Short range (<100 km)							
Frog-7 rocket	U.S.S.R., German Democratic Republic, Poland, Romania, Czechoslovakia, Hungary, Bulgaria.	(3)	(3)	(3)	(3)	All	(3)
203 mm howitzer, 240 mm mortar	U.S.S.R			(3)	(3)	U.S.S.R	(3)

[1] Includes systems deployed in non-Soviet Warsaw Pact countries and adjacent waters during peacetime.

[2] Includes deployments in the Leningrad, Baltic, Belorussia, Carpathia, Odessa, Kiev, North- and Trans-Caucasus, Moscow, and Volga Military Districts.

[3] Deleted. ●

POPE JOHN PAUL II

● Mr. DOLE. Mr. President, I would like to take this opportunity to express my views and I am sure the views of many Americans in thanking Pope John Paul II for his recent visit to our country.

The Pope brought with him the fulfillment of the dreams of many Americans, Catholic and non-Catholic alike, who would otherwise never have had the opportunity to see one of the world's truly great religious leaders. At a time of national unrest the Pope brought with him to America a sincere love for all mankind and a hope that all Americans could accept, enjoy and mcst important benefit from. For those Roman Catholic Americans, this experience was certainly most memorable.

Mr. President, Pope John II's week-long visit filled America with tranquility, not trepidation; dignity, not divisiveness among men and genuine love for and faith in human nature. I hope that the good feelings flowing over the entire country during the Pope's visit will linger with us. Millions of Americans turned out to welcome this man in urban and rural areas alike. He touched all with his tender yet forceful manner. Mr. President, it seemed that at one of our country's most tense moments we relaxed.

Mr. President, the Pope has left America, but his words and deeds have remained: He arrived as an ecclesiastical leader, but left as more an American, a partner, and a friend.●

LEGISLATIVE VETO

● Mr. JAVITS. Mr. President, one of the more controversial subjects that we will have to face this session of Congress is the subject of the legislative veto, and its application to agency regulations. While this controversy is likely to arise with respect to several pieces of proposed legislation, the first test in the Senate will most likely come on the FTC authorization bill.

I believe on the effective application of the legislative veto to policy decisions but not to regulations like those of the FTC, and similar agencies. Among other things, I feel that the veto could lend to a reduction in due process guarantees and increased risk of delay and uncertainty.

Recently, one of the leading business newspapers, Advertising Age, ran an editorial raising these same concerns. I concur in the editorial statement that—

> Prudent businessmen will want to think carefully before welcoming changes which move our government from a rule of law to a rule of men.

I would like to share that editorial with my colleagues and request it be printed in the RECORD.

The editorial follows:

SHOULD CONGRESS VETO DUE PROCESS? MOVE AGAINST FTC IS RISKY COURSE

Many businesses and industry groups, including the American Assn. of Advertising Agencies, are pressing for legislation changing the Federal Trade Commission rulemaking to include a congressional veto. The political climate favors the project. We think business executives should realize this is no small thing. It will represent a new balance of power in Washington which may lead to surprising results.

The popular rationale for the veto is that it makes government more responsive to the elected representatives. Actually, this is another way of saying that decisions which now rest on due process, administered by courts, will be more susceptible to political pressure.

We believe the lessons of history prove conclusively that property is safer when protected by law than by the fortunes of political tides. So we feel prudent businessmen will want to think carefully before welcoming changes which move our government from a rule of law to a rule of men.

Over the years, business has fought hard for regulatory agencies structured so decision-makers act on an open record free from political pressure. President Dwight D. Eisenhower fired his most trusted White House assistant merely because he sought to influence the course of an FTC investigation.

Only a few months ago, many of the same groups which support this veto were in court complaining that FTC chairman Michael Pertschuk's public statements showed he does not have an open mind on the children's advertising issue, and the court barred Mr. Pertschuk from further participation in this rulemaking.

If the Four A's and others supporting this veto are seriously interested in having decision-makers with open minds, where do they expect to find such people once the veto is in place? How does anyone go about being openminded on a problem where there is a veto pistol pointing at his head, and a politically potent congressional finger on the trigger?

When emotions run high it is easy to overlook the certainty that these things will cut both ways. Some businesses expect to gain from the veto, and sometimes they will gain at the expense of other businesses. Doctors, eyeglass dispensers, accountants and many others have it in for FTC for wiping out traditional restraints which restricted advertising in their professions. In all probability any number of them can muster the political clout needed to overrule the commission. But what about those industry members who welcome this new opportunity to advertise and the newspapers and broadcast stations which stand ready to serve them? What rights can they demand from a congressional committee? What assurance will they have that their case gets judged on merit?

Those who are ready to stake their destiny on Congress might ponder the incident a few days ago when a House appropriations subcommittee ordered FTC to stop several projects, including its oil industry cases. All that was needed to reverse this vote was one editorial in a newspaper in the home district of the chairman, urging voters to keep his action in mind next winter when they pay their bills.

The veto concept is new, really, only in the sense that it officially sanctions forms of political intervention which have gone on as long as anyone can remember. Since Congress holds the purse strings, it already has ample opportunity to make its wishes known when it feels things are getting out of hand. If you doubt this, compare what goes on at FTC now with what was going on a year or two ago when the Four A's decided this veto was needed to prevent FTC from going off on tangents.

Inasmuch as no rule has yet run the entire gauntlet of hearings and court procedures, it can't be argued that the veto is needed because existing safeguards don't work. In fact, the contrary appears to be true. One by one, ill conceived ideas fall by the weight of their own absurdity as they move through the decision-making process. It would be better, however, if businessmen were relieved of the constant threat that they will be exposed to unwanted expense and trauma. A number of business executives have urged Congress to write a new law which induces the prospect of capricious rulemaking by defining words like "unfair" so that the commission's discretion is narrowed. We think this makes far more sense than ripping away the safeguards of due process which most free men treasure.●

MIDDLE EAST POLICY

● Mr. COCHRAN. Mr. President, I wish to call attention to a speech on the Middle East delivered yesterday by Gov. John Connally.

All of us know that it requires a great deal of courage to speak out openly and frankly on the subject of war or peace in the Middle East.

But the dangers of war and economic upheaval in the Middle East are substantial, and we can no longer afford to push this matter under the rug.

All of us in the Senate strongly support the security of Israel. But the time has come for us to move forward toward a rapid comprehensive settlement.

And I believe Governor Connally's peace plan offers constructive ideas on how peace might be brought about.

I commend Governor Connally for having recommended this innovative and far ranging peace plan.

Mr. President, I ask that Governor Connally's Middle East peace plan be printed in the RECORD.

The material follows:

ADDRESS BY GOVERNOR JOHN B. CONNALLY

My purpose today is to speak of the Middle East. In this presentation, I want to offer my views on those actions and objectives which I believe to be essential for assuring stability and peace in that tense and troubled region of the world. But before I proceed, let me first explain why I have chosen to address this concern.

The Office of the American Presidency bears many responsibilities. Its occupants must perform in many roles. In my view, no responsibility of that office is greater—and no role of its occupant is ever more important—than that of striving to keep the peace, not only for our nation but for all nations.

This imposes special obligations upon all who offer themselves for that high office. It imposes an obligation to be forthcoming, to speak clearly and without concern for political consequences about the great issues of peace. It imposes an obligation for candor, to share one's views and thoughts and plans with the American public before—rather than after—they make their decisions about their national leadership.

That is why I speak today as I do. I know full well that the issues presented by the Middle East are as sensitive and delicate as any that can be raised. I realize that there are no simple and easy solutions which will fully satisfy either the Arabs or the Israelis. But peace in the Middle East is too important—too important to our friends there, too important to ourselves and too important to the world—for full and frank discussion to be evaded or avoided.

There is still another reason to speak now. In some quarters, there is presently a notion that no serious attempt to achieve a comprehensive Middle East settlement should be pressed until after our elections in 1980. Advocates of this course propose that our government try merely to keep the peace process alive by focusing on preparatory discussions, peripheral issues and frequent expressions of faith and optimism until our presidential election is out of the way.

In my view, such temporizing is unacceptable. The quest for peace should never be secondary to domestic politics. Playing for time always involves risks. To play for time in regard to a region where the fuses are so short as in the Middle East would be to play a most dangerous game.

Tensions which threaten the peace span the globe. Nowhere, though, are the stakes so high as in the Middle East. What is at stake there is much more than just the interests of either the Arabs or the Israelis. The tensions in this volatile region imperil the stability and order of all the industrial world.

The oil of the Middle East is and will continue to be the lifeblood of Western civilization for decades to come. The continued flow of oil from that region is and will continue to be critical to the realization of the aspirations of the millions who live in the developing world. So long as those tensions go unabated, so long as the threat of war remains, there hovers over our nation and all the nations of the West the awful specter of economic upheaval, social disruption and political chaos.

Our Middle East policy must not be paralyzed by politics. We must act with courage, perseverance and boldness to move toward a lasting settlement of the Arab-Israeli differences.

URGENCY OF THE PROBLEM

I feel that this matter has a special urgency to our own nation that transcends "politics as usual." The United States has a vast economic, political, and geostrategic interest in stability in the Middle East which will be threatened until a final and comprehensive Arab-Israeli peace settlement is concluded. Until that day arrives, we will live on the edge of chaos.

As long as the central issues in the Arab-Israeli dispute—namely, the disposition of the West Bank, Golan, Gaza, and East Jerusalem, and the Palestinian questions—go unresolved, peace will elude us. All our efforts to create greater global stability and to manage economic interdependence among nations will be doomed.

The endless wars, threats of wars, and economic disruptions coming from the Middle East are, in a very real sense, poisoning the well from which the people of the entire world must drink.

No one suffers more from Middle East instability than the people of Israel.

Israel is entering the most difficult economic phase of its history, which is greatly complicated by the military situation.

Because of the uncertainties it faces, Israel is forced to allocate more of its resources to the military—almost 30 percent of its total output—than any other nation in the world. The people of Israel bear the greatest military cost burden per capita in the world. These heavy military expenditures are also a major contribution to Israel's runaway inflation rate, now approaching a staggering 100 percent per year.

Without billions of dollars in American economic and military aid, Israel simply could not survive. Yet it is only candid to say that support for this level of aid, in the absence of greater willingness by Israeli leadership to compromise with their neighbors, is eroding.

Poison from the Arab-Israel dispute is invading our own country. The tension between Black and Jewish communities is only the latest in a series of conflicts that could, in time, impinge upon the integrity of our own society. Within the Jewish community, there is growing antagonism between those favoring Mr. Begin's policies, and those who feel greater willingness to compromise is necessary in the interest of peace and stability.

All together, these tensions are threatening the most precious commodity of our nation: its social compact—the glue that holds the disparate elements of our population together as a single, united people.

Some observers have already pointed out that tensions in the Middle East are very similar to conditions which existed in the Balkans just prior to the First World War. The same explosive mixture of ethnic and religious rivalries, combined with high economic and strategic stakes is present. The last Middle East war in 1973 edged us forward to confrontation with the Soviet Union. It is not an overstatement to say that another conflict could lead to World War III.

The world simply has too much at stake to let the fuse on this bomb continue smouldering. We must do all that we can as soon as we can to snuff out the flames.

BASIC PRINCIPLES FOR PEACE

Earlier this year, a number of America's most prominent Jewish leaders and intellectuals sent a public letter to Prime Minister Begin urging him to abandon his policy of creeping annexation of the West Bank by means of his settlement program. These leaders called Mr. Begin's West Bank policy "morally unacceptable and perilous for the democratic character of the Jewish state."

Since accounts of this letter to Prime Minister Begin appeared in the press, I have given a great deal of thought to the matter—to the whole question of peace in the Middle East.

First and foremost, I believe the only basis for a Middle East peace settlement is a balanced agreement which will meet Israel's requirements for peace and security within recognized borders, and Arab requirements for the evacuation of their territories occupied in the 1967 war, and some form of Palestinian self-determination.

This would meet the basic criteria of UN Security Council Resolution 242 of November 1967: "inadmissability of acquisition of territory by war," "withdrawal of Israeli armed forces from territories occupied in the recent conflict (1967);" recognition of the "sovereignty, territorial integrity and political independence of every State in the area" and the right of all nations of the area "to live in peace within secure and recognized boundaries." It would also recognize the moral imperative that Israel's military occupation for twelve years of over a million Palestinians must end. The call by Pope John Paul II at the UN General Assembly for a "just settlement of the Palestinian question" should be heeded.

Four Presidents have subscribed to Resolution 242. It must remain the bedrock of future Arab-Israeli negotiations regardless of the forum and parties engaged.

Unfortunately, very serious doubts have arisen over whether the present Israeli government intends to return the remaining occupied territories, particularly the West Bank. Prime Minister Begin has stated that the only solutions for the final status of the West Bank and Gaza were "autonomy," with Israel retaining ultimate control, or Israeli annexation. His recent decision to end a 12-year prohibition against the purchase of West Bank lands by private Israeli citizens is the latest in a series of actions apparently intended to buttress the Israeli government's claims to sovereignty over the area. This action comes after the Cabinet's approval earlier this year of a greatly expanded program for establishing new Israeli settlements on the West Bank.

SOVIETS AND PALESTINIANS

The problem is complicated further by the fact that neither the Soviet Union nor the more extremist elements in the Palestinian movement appear to want a compromise peace in the Middle East.

The Soviets clearly benefit from continuing regional instability. The constant tension and warfare in the region provide them with virtually unlimited opportunities for exploiting the free world. The Russians have coveted the Middle East since the time of Peter the Great. They know well that control of a sizable proportion of Middle East oil would put the free world at their mercy. Moreover, the Soviet Union's own oil production will fall below the level of its needs in the 1980's, according to published CIA reports. This will give the Soviet Union another important reason for wanting control over Middle East oil.

The Soviets know that if the Arabs didn't need them as a military counterbalance to Israel, the Arabs would, in most cases, throw the Soviets out—just as Sadat did, and for the same reasons.

Because of this, we cannot count on Soviet help to bring peace to the Middle East. On the contrary, we should expect them to throw every road block they can think of in the way of peace. We must simply move ahead without them and in spite of them

By the same token, we can expect little help in the peace process from the more extremist elements in the Palestinian movement. Some of the more radical types still advocate the complete destruction of Israel. This, of course, is utterly unacceptable.

It is vital to neutralize both the Soviets and the extremist Palestinian elements.

This requires dynamic and effective American diplomatic leadership. It also requires the willingness of Israel to conclude a compromise peace with her moderate neighbors.

The Arabs must be prepared to deal realistically with Israel's legitimate security concerns, and Israel must be prepared to deal with the Arab requirements for a return to the 1967 borders and Palestinian self-determination. All parties must be prepared to renounce all hostile actions including armed incursions, blockades, boycotts, and propaganda.

Without Arab and Israeli willingness to talk in these terms, all of us are wasting our time. The bomb in the Middle East will continue ticking.

We should also be willing to give the Palestinian leadership a chance to talk provided they are prepared to accept Resolution 242 and hence the territorial integrity of Israel, and renounce all terrorist tactics.

In my view, any Palestinian leader who is willing to put aside violence, sit down and work constructively on the details of a compromise peace settlement should be welcomed.

Those Palestinians who show themselves willing to participate in and abide by the results of Palestinian self-determination, and later to cooperate in the peaceful development of the region, should be given an opportunity to do so.

This is the best way to strengthen the moderates and undercut the radicals within the Palestinian ranks.

But let me emphasize that once the door is opened for the Palestinian leadership to negotiate the detail of self-determination, those Palestinian extremists who refuse to cooperate, and continue to indulge in terrorism, should be treated as international outlaws by the international community. They should be given neither peace nor refuge in any land.

The Palestinians and Israelis should give serious consideration to a territorial solution within a framework of the Kingdom of Jordan. King Hussein's absence from the negotiating table has contributed to the polarization of Israeli and Palestinian positions. The Carter Administration's shabby treatment of this long-time friend of the United States is not only lamentable on a personal basis, but is also poor diplomacy since it ignores the fact that King Hussein could provide the ultimate keys to a West Bank settlement.

In theory the Palestinians could—and probably should—exercise their right to self-determination and self-government within a sovereign Arab state by deciding to become an autonomous area within Jordan. Most of the Palestinians on the West Bank already are Jordanian citizens and the bulk of the population of the reconstituted Jordan would be Palestinians.

CAMP DAVID

The Egyptian-Israeli peace treaty was a significant first step toward a comprehensive Middle East settlement made possible in no small part by the courage and creativity of President Sadat and Prime Minister Begin.

Unfortunately, the Camp David Agreements do not also provide the basis for successful negotiations on the remaining issues. The Carter Administration's rhetoric can no longer disguise the lack of progress in broadening the scope of Arab-Israeli reconciliation.

In short, one year after the Camp David summit the approach developed there is without force or effect.

I believe the United States must start a new process toward peace by presenting to the parties a new set of principles that would be the building blocks for a fair and comprehensive settlement of the remaining issues. They should include both those matters directly involving the Arab-Israeli dispute as well as those only one step removed; namely, the availability of oil to the people of the United States and the entire free world.

These principles must then be backed up by a far more forceful American diplomacy. There is no point in submitting ideas which are ignored, something which has happened all too frequently in the present administration.

At this point, I would like to outline a nine-point proposal for a peace settlement in the Middle East. These principles would provide the framework for direct negotiations between the Israeli and Arab parties with the U.S. playing the role of a diplomatic catalyst between them.

PEACE PLAN AND DIPLOMATIC STRATEGY

1. Except for minor border rectifications, mutually agreed upon, Israel must withdraw from the West Bank, Gaza, and Golan, all of which will be demilitarized. Israel would, however, be permitted to lease military strong points in each of these areas for a mutually agreed upon period of time, and have guaranteed access to these points.

2. All Israeli civilian settlements, including the so-called paramilitary ones, must be withdrawn from the West Bank, Gaza, and Golan. The withdrawal should take place on a phased basis, after the peace treaties are signed between Israel and the Arab states, and clear evidence of good faith is established at each stage. Financial assistance for the removal and resettlement of these communities in Israel should be provided.

3. The Palestinian people should decide for themselves whether they prefer the West Bank and Gaza to be governed as an entirely independent entity or to be an autonomous area within the Kingdom of Jordan. The latter approach has great merit and should be thoroughly explored. It would allow the Palestinians to exercise their right to self-determination and self-government within a sovereign Arab state.

Under any arrangement, however, there must be iron-clad provisions barring significant military forces or military relationships which would threaten Israel.

4. Jerusalem's religious significance to Jews, Moslems and Christians, and the city's tragic past, make it an issue of great symbolic importance.

No solution will satisfy fully the demands of all parties. The ultimate resolution of the status of Jerusalem should, however, meet the following criteria:

(a) Unimpeded access to all the holy places with each under the custodianship of its own faith;

(b) No barriers dividing the city which would prevent free circulation throughout it;

(c) Substantial political autonomy for each of the national groups within the city in the area where it predominates.

The secondary issues of sovereignty over Jerusalem is something that should be considered during the actual peace conference. There are a number of workable alternatives, including Arab or Israeli sovereignty based on residence patterns, a dual sovereignty for the entire municipal region, with individuals deciding which passport they prefer to carry, or possibly some third alternative. Should, after a six-month period, the negotiators remain deadlocked on this issue, the United States should step in to mediate the remaining area of difference.

5. A customs union between Israel, the Palestinian homeland, and possibly other Arab states should be established as part of the final settlement. This would ensure the free flow of goods and people and integrate the region economically to the advantage of all.

6. A joint Israeli-Palestinian development bank should be established in Jerusalem. It should be supported proportionately by:

(a) the moderate Arab OPEC states,
(b) Western Europe,
(c) Japan and
(d) the United States.

All of them share an intense interest in the Middle East peace and stability. This bank would have three primary functions:

(a) Contribute to the economic development of the region through the funding of economic infra-structure projects.

(b) Serve as a vehicle to make restitution for lands and property claims which have arisen over the course of the Arab-Israeli conflict. This will include Palestinians who lost land and property as a result of Israeli actions, and Jews who lost land and property in Arab nations as a retaliation. A special international commission would be established to weigh and judge the individual claims.

(c) Act as a financing agent for the relocation of Israeli settlers from the occupied territories, and to assist in the resettlement of the Palestinian refugees.

7. We must secure a clear understanding from Saudi Arabia and other moderate oil-producing nations in the region that a just and comprehensive peace settlement means a

return to stable oil prices in real terms. The Arabs must, in short, forsake the oil weapon in return for Israel's withdrawal from the occupied territories.

8. The United States should organize a new treaty alliance to cover the Middle East, as a further guarantee of the ultimate settlement, and to protect regional oil fields and shipping lanes from Soviet or terrorist interference. The alliance should include Israel, the moderate Arab states, NATO and Japan.

The geostrategic vortex of the struggle between the Free World and Communism has shifted to the Middle East and all of the states with a critical interest in its outcome should bear their fair share of the defense burden.

9. Finally, it should be clear from what I have said that military and economic stability in the Middle East is a prerequisite to peace, and without greater assurance of military security which translates into the very survival of Israel, the Israelis understandably will not give up the Golan Heights, the West Bank and the military security they provide.

Equally certain, failure to withdraw from occupied territory prevents Israel's antagonists from recognizing the existence, much less the security, of Israel.

No Palestinian self-determination can be achieved under such circumstances, and no reasonable resolution to the status of the holy shrines of Jerusalem will occur except as part of an overall settlement.

As a prelude to peace, who but the United States can provide the political, economic and military stability that will assure time for logic and reason and understanding to overtake and overcome fear, distrust and intransigence?

Therefore, for the critical key that can make a reality of the previous eight points, the United States should maintain a strong military presence in this vital area, including major Air Force components. It may be possible, for example, to lease the former Israeli airfields in the Sinai.

I would propose further that we take elements of the Sixth Fleet in the Mediterranean and the Seventh Fleet in the Far East and, with such augmentation as necessary, create a Fifth Fleet to be stationed in the Indian Ocean.

An immediate approach should be made to the Sultan of Oman with a proposal to develop Masirah Island or other appropriate site into a U.S. naval base to support the new Fifth Fleet and provide security for the Arabian Sea and the strategic Straits of Hormuz.

These steps would demonstrate our determination to further the peace and to protect our other vital interests in the area. Since World War II we have maintained military forces in the Far East and Western Europe for the same purpose. We must now provide a military shield for our Middle East interests as well.

As in Europe and South Korea, our military presence will stabilize the region.

SUMMARY

The time has come for American political leaders, from both parties, finally to face the Arab-Israeli problem squarely. Too much time and treasure have already been wasted: too many lives and too many opportunities for peace have already been squandered.

A clear distinction must be drawn by the United States between support for Israel's security—which is a moral imperative—and support for Israel's broader territorial acquisitions.

For their part, the Arabs must finally accept Israel's sovereignty and territorial integrity, renounce forever all hostile actions toward Jews and give up the use of oil supply and prices to force political change.

In short, we must now pursue a new approach based not merely on individual Arab or Israeli interests, but on American interests. Our government should not be apologetic in the least for seeking a rapid peace settlement when our society is endangered by continued instabilities in the region. Moreover, if through a catastrophe in the Middle East America's economy is gravely weakened, so too will be our ability to defend and support Israel.

Our present Middle East diplomacy helps no one. Not the people of Israel who desperately need and want peace. Not the Palestinian refugees in their miserable camps. Not the people of the United States who worry both about Israeli security and vital oil supplies.

The only ones who gain by the present paralyzed American diplomacy are the Soviets, who are delighted at the tensions and conflicts in the Middle East.

For all these reasons, it is essential that we speed up the peace process.

Peace in the Middle East will greatly reduce the risk that this generation of young Americans will be called upon to sacrifice because diplomats and politicians failed in their responsibility.

Peace in the Middle East means that the economic disruptions which have threatened and harmed the American people for the past several years will be greatly reduced.

Peace in the Middle East means the beginning of an unprecedented development for the entire region, with billions of dollars now wasted on arms used instead to improve the lives of all the people in the region—Arab and Israeli.

Each of the principals in the drama of the Middle East is walking a highwire of danger and destiny where one misstep can be fatal. The United States can—and must—provide the safety net for all their perilous journeys.

For generations in the Middle East people of two religions and cultures have extended greetings with two very similar words: Shalom! Salaam!

We can help put more meaning into those words of peace. There is no greater challenge on the American agenda today. ●

NEW MEDICINE FOR OUR INFLATION SICKNESS

● **Mr. MELCHER.** Mr. President, on October 6, Paul Volcker, Chairman of the Federal Reserve Board, announced two new moves by the Fed to fight inflation. These policies when combined may well push the prime interest rate to 15 percent by the end of this year.

I have been following Government anti-inflation policies for some time now, and this last move in connection with the overall policy trends have convinced me that we are heading in the wrong direction. I am not an economist—I am a veterinarian. But in the view of this veterinarian, the administration's mistake is relying on traditional remedies to cure an entirely new illness.

Traditional economic theory places inflation and recession at the opposite ends of the same economic scale. The cure for inflation has always been fiscal and monetary restraint to cool off the economy, with wage and price restraints if things get too bad. On the other hand, the cure for recession has always been fiscal and monetary expansion to heat up the economy—the proverbial "pump priming."

If economists 20 years ago, 10 years ago, or maybe even 5 years ago were to be told that we could have a 13–14 percent national inflation rate and at the same time have a stagnant or even declining national economy, they would have scoffed at the idea. Yet, that is just what we face today.

The inflation rate in the United States has ben accelerating at an alarming rate in recent years. Consumer prices rose 5.8 percent in 1976, 6.5 percent in 1977, 7.7 percent in 1978, and exploded to 13.2 percent in the first 8 months of this year. Our latest wholesale price index figures for September are the worst yet. They come out to a rate of increase of 15.7 percent a year.

Combined with rocketing inflation, we have had little or no real economic growth. Real GNP fell in the second quarter of 1979; industrial production has stagnated since February; employment gains have been meager and unemployment actually rose from 5.7 percent in July to 6 percent in August. Adjusted retail sales in July were almost 3 percent below a year before.

In my mind, traditional economic responses have proved totally useless in dealing with the new inflationary "illness" that now plagues our society. In fact, by attempting to apply the wrong medicine, the administration's inflation fighters may actually have made us sicker.

As a practicing veterinarian, when I ran into a case like this—where a sick animal would not respond to the usual cure—I would reexamine the patient, consult the textbooks, and take a fresh approach with medical treatment to find what might help before the patient died. This is what I think we need to do with our current inflation problems.

I do not want to oversimplify the problem. Our current inflation difficulties are complex and they are going to require coordinated action in many different areas before we are out of the economic woods. I do think that some problems are more obvious than others and easier to treat. We should start with them.

We can readily identify three of the causes of our current round of inflation. The first comes from outside our society. This is the inflation caused by the 1,000-percent increase in OPEC oil prices over the last 8 years. We now import about 50 percent of our oil and the OPEC price increase alone has added 4 to 5 percent to our inflation rate during the last decade. Economist Arthur Okun estimates that every $1 increase in OPEC oil prices takes $4 billion out of the pockets of American consumers. OPEC actions in the last 8 months alone have cost the American consumer an additional $28 billion.

No anti-inflation policy can hope to be successful if it does not provide for some relief from the inflationary impact of the price increases of crude oil brought about by the actions of the OPEC cartel. We can help ourselves through better efforts at conservation and new production of domestic sources of energy, but these are solutions that will likely take years to have a significant effect. In the meantime, I have suggested through legislation that I have introduced that we counteract this international price gouging by getting together with other oil importing nations to find a way of coordinating our dealings with OPEC. It is urgent that the oil-importing nations develop a method of restraining the pressure that OPEC is creating to outbid one another for crude, which will continue to push prices higher and higher, and our inflation rate along with it.

The second major inflationary push comes from within our society. It is endemic to our economy today. It is the decline in the growth of national productivity over the past decade. In 1950 it took seven Japanese workers to equal the productivity of one American. Now it takes two. Where it once took three West Germans to do the work of one American, it now takes only 1.3.

Some people have tried to lay the decline in our national productivity growth rate at the feet of the American workers. A recent study completed by Prof. John W. Kendrick of George Washington University, who is also the former Chief Economist for the U.S. Department of Commerce, shows this is not true. Professor Kendrick analyzes the component parts of the decline in our productivity growth, comparing the periods 1948–66 and 1966–77. Our national "total factor productivity" increased at a rate of 2.7 percent a year for the earlier period, but only at a rate of 1.3 percent a year for the later period. Of the indicated decline of better than one-half, Professor Kendrick found that the changes in "labor quality" were negligible. The major losses in productivity came because of declines in "advances in knowledge"—his term for technology. Fully 30 percent of the decline in national productivity occurred because we ignored the need to continue developing new technology. Almost all of the rest was caused by inefficient "resource allocations" and "Government regulation."

In short, we have deemphasized our technological superiority. Where we spent 3 percent of our gross national product for research and development in 1964, we spent only 2.2 percent in 1978. In the decade 1966 to 1976 our capital investment was 13.5 percent of GNP, while it was 26.4 percent in Japan, 17.4 percent in West Germany, 17.2 percent in Canada, 16.6 percent in France, and 14 percent in Great Britain.

Thirdly, we lost productivity in many plants and industries because they are operating at less than 70 percent of their capability because of imports. Since 1973, our imports of manufactured goods have increased from $65 billion to $109 billion, or 68 percent. At the same time, our domestic industrial production of manufactured goods has risen only 39 percent. Foreign imports have cut into our domestic industries and, to the extent that they suffer, we should recognize that the entire U.S. economy suffers.

We are the most generous of all nations in allowing imports that hurt our own industries. It is not only foolish; it is also a self-inflicted bloodletting which the U.S. economy is not healthy or vigorous enough to sustain. Rather than Federal Reserve Board high interest rate manipulation, the remedy for the U.S. economy is higher productivity of U.S. products with fewer imports and that will dampen the inflationary pressures of continual adverse balance of payments. This application of fiscal medicine—reducing the foreign drain of American dollars—is comparable to using penicillin for a staph-infected boil, instead of just hot packs and pine tar.

Any successful anti-inflation policy is going to have to contain new incentives for increased capital spending, particularly in the area of technological development. We need to do two things: The first is to increase consumer saving and thus make more money available for investment at lower costs. Over the last decade, personal savings amounted to 15 percent of net income in Germany, but only 5 percent in the United States. I am a cosponsor of legislation to exempt from personal taxation up to $100 per year in dividends or interest from savings accounts. That is a modest incentive for an increase in personal savings. We should also defer taxes on stock dividends that are reinvested immediately, and collect the tax when the stock is sold. Both of these approaches will help to provide an increased supply of badly needed investment funds.

The second half of our policy should be to provide incentives for the actual investment. This should come in the form of faster depreciation, adjusting depreciation rates for inflation, and rethinking the use of the investment tax credit so that it is targeted to create technological innovation and greater U.S. industrial efficiency. Legislative proposals in each of these areas are now before Congress, but few seem to have any hope of action soon. I would urge the Senate Finance Committee and the House Ways and Means Committee to turn their attention to the proposals in these areas and come up with an investment incentive package that would spur investment in new technology and greater industrial efficiency here in the United States.

Mr. President, there are two approaches to fighting inflation. The traditional way, which is to restrain demand and bring with it all the attendant human hardships that go along with greater unemployment and recession, is not only unattractive, but today's evidence points to the fact that it is also increasingly ineffective against our current round of inflation. The second way, the way that I think we ought to be going, is to spur productivity and to work to bring some stability to our energy prices. I might note here that these two goals are not mutually exclusive. In fact, they complement one another. We want not only more productivity per hour of output, but also more productivity per unit of energy utilized. Reemphasizing our technological development and increasing productivity will help achieve both goals.

Either approach takes effort and foresight, but I prefer to take my chances with a policy that is positive and forward looking rather than one which is defeatist in nature and, even if successful, would provide no long-term benefits to American society. I hope that others agree.●

POPULAR SOVEREIGNTY

● Mr. JAVITS. Mr. President, with an election year in prospect, it is important to remind ourselves of certain realities of contemporary American political life. One of these is the alarming decline in voter participation in the electoral process.

Recently, in a talk at the third annual commemorative conference of the Great American Achievements Program, held in Saratoga Springs, N.Y., our colleague, Senator MATHIAS, examined this question and its implications for the future of our democratic society.

As will surprise no one in this body, Senator MATHIAS' thoughtful discussion raises issues on the drastic fall in voter participation in national elections that should concern us all as another national election approaches. I ask that his remarks given at this conference, which was sponsored by the Bicentennial Council of the Thirteen Original States Fund, Inc., be printed in the RECORD.

The address follows:

REMARKS BY SENATOR CHARLES MCC. MATHIAS, JR.

If you were to ask a cross-section of Americans what kind of a government we have, I think most of them would automatically answer that we have a "government of the people, by the people and for the people." I think they would also boast that over the years it has become even more so, as we have broadened our ideas about who "the people" are. And so I think they would be very much surprised to be told that there is a good deal less "of, by and for the people" to our government today than there was in the last half of the 19th Century.

But that's the truth. And it's something we must give a great deal of thought to as we consider our constitutional system during this bicentennial period.

In the last decades of the 19th Century the turnout for Presidential elections in the United States was between 70 and 80 percent of the voters. In 1960 it was 63.4 percent. In 1976 it was 53.3 percent. In the 1974 Congressional election only 38.2 percent of the eligible voters bothered to go to the polls. The truth is that the "government of the people, by the people, and for the people" now has the lowest voter participation rate in the world except for Botswana, Chad and Yemen.

So when we describe popular sovereignty today the prepositions we should be using are "for" and "to" because we are beginning to have a government elected by a minority of the voters that does things "for" the people or "to" the people, depending on your point of view. It is certainly not "of" or "by" the people in a broad sense.

The marked and growing lack of interest among Americans in ruling themselves is draining the meaning from the idea of popular sovereignty.

"What is occurring is a trend for which the term apathy is too mild a word," according to Curtis B. Gans, the Co-Director of The Committee for the Study of the American Electorate. "There are substantial numbers of Americans," he says, "who are disenchanted with the political process, disgusted with their leaders, and disillusioned by the failure of . . . both political parties to meet their needs."

For well over a decade now, public participation in politics has been on the decline. Despite greatly eased registration laws, both registration and the number of registered voters has been declining steadily. Only 27 percent of the eligible electorate voted for President Carter in 1976; or to put it another—more striking—way, 73 percent of the eligible voters did not vote for President Carter in 1976. In 18 states, including three of the largest—California, New York and Texas—voter participation was below 50 percent of those eligible. And, in all, 70 million eligible Americans failed to vote.

It is discouraging to reflect that the "dropouts" from American political life have effectively nullified the tremendous gains won over the past century to extend the franchise. And it is even more discouraging to consider that 46 percent of the total number of non-voters in 1976 were under 34 years of age.

These facts, especially the evidence that younger Americans in record numbers are not participating in our system of government, are eloquent testimony to the need for the Great American Achievements Program. The emphasis on youth that pervades this program is appropriate, timely and important.

If the concept of popular sovereignty is to be more than a hollow slogan, then Americans must understand the nature of their responsibilities in our constitutional system.

If we are to remain a democratic nation, we cannot afford to ignore voter apathy. It strikes at the heart of our system.

Representative government in the United States will always be in danger of being skewed in non-representative directions until the mass of the people makes its presence and its opinions felt.

Of course, this problem is not entirely new to American political life. In fact, it was mentioned on this very day—September 17th—in 1887, during the great public celebration of the centennial of the constitution in Independence Square in Philadelphia. On that occasion, Supreme Court Justice Samuel F. Miller, the keynote speaker, concluded what must have been a two-hour oration, by saying:

> "While I feel it impossible to find language in which to express my admiration and my love for the Constitution of the United States and my profound belief that the wisdom of man, unaided by inspiration, has produced no writing so valuable to humanity, I should fail of a most important duty if I did not say on this public occasion, that no amount of wisdom in a constitution can produce wise government unless there is a suitable response in the spirit of the people."

I would like to close my own remarks by expressing the hope that the effort we are engaged in here today will help to kindle that "suitable response in the spirit of the people."●

IMPROVING OUR FAIR HOUSING LAWS

● Mr. **BIDEN**. Mr. President, I am pleased to announce my intention to cosponsor S. 506, the Fair Housing Act Amendments of 1979.

The purpose of this legislation is to prevent discrimination by race, sex, religion, color, national origin or handicap in the sale or rental of housing.

Discrimination in housing is one of the fundamental causes of racial segregation. As I have consistently maintained throughout my 7 years in the U.S. Senate, the Federal Government has an obligation to move against segregation in education, employment and housing. I have supported effective means of combating segregation, such as providing more funds for educating the disadvantaged, for training the unemployed and for opening more opportunities in housing. It is by attacking the totality of segregation by methods such as these and more that we will be successful, not through ill-conceived approaches such as school busing for racial balance.

This bill directly addresses one of the major facets of the problem.

Racially discriminatory practices in the rental and sale of private housing, as well as discriminatory practices of the Government in the operation of public housing programs have contributed heavily to the isolation and racial segregation in many American communities today.

By preventing blacks from living in neighborhoods of their choice we have created segregated communities. Because our school system is based on the neighborhood school concept, our school systems have been segregated. Housing discrimination hurts blacks in other ways. By denying blacks the opportunity to live in communities of their choice, we have denied them the mobility necessary to obtain equal opportunity in employment. Racial isolation and segregation has forced blacks to obtain medical and other social services in large and often inferior community health facilities.

Clearly the real way to solving the problems created by racial segregation is to attack its fundamental roots: discrimination in housing.

Housing discrimination manifests itself in many ways:

> Public housing policies have promoted segregation within many publicly-owned and operated housing projects.
>
> Discrimination in government mortgage insurance programs operated by the Farmers Home Administration, the Veterans Administration and Federal Housing Administration have also contributed to racially identifiable neighborhoods.
>
> Racially restrictive covenants have limited rental housing opportunities to many persons.
>
> Redlining and discriminatory lending practices have limited the ability of minorities and women to obtain mortgage financing.
>
> Discriminatory practices of the real estate industry, including limiting access of black realtors to realty associations and multi-listing services, refusal by white realtors to cobroke on transactions fostering racial integration, blockbusting, steering and other practices have also limited housing choices for many Americans.

Mr. President, title VIII of the 1968 Civil Rights Act outlawed many of these practices. However, this act failed to prescribe adequate enforcement powers to the Department of Housing and Urban Development to carry out its mandate. HUD has had to rely on conciliation and mediation in an attempt to end discriminatory practices. In many cases conciliation and mediation attempts have been unsuccessful.

Until recently, HUD has not published regulations outlining and defining discriminatory practices. In the absence of effective HUD strategies, litigants often have no choice but to seek civil damages in the Federal courts. This can be expensive and time-consuming. For many persons the high cost of court action is a deterrent. The net result is that racially discriminatory housing practices continue to foster segregation.

This bill, S. 506, would remedy the shortcomings of title VIII of the 1968 Civil Rights Act by giving HUD certain carefully prescribed powers to enforce the 1968 act. This differs considerably from the broad, discretionary powers given to the Department of Health, Education, and Welfare to order busing in public schools.

To begin with, busing cases have the potential of affecting entire communities and their impact is always disruptive if not detrimental. Busing cases often involve substantial increases in local taxes and involve extremely complex questions of law and fact. Administrative agencies should not be given the power to resolve complaints of such a broad and wide ranging nature. On the other hand, housing discrimination cases are usually confined to discriminatory practices of individual landlords, realtors, or housing agencies. Administrative agencies have often been given some adjudicatory powers to resolve individual cases of discrimination. This is true in areas of employment discrimination as well as mediation of labor-management disputes. If a case involving systematic patterns and practices of discrimination occurs then this case is referred by HUD to the Attorney General for action in the courts. HUD does not finally resolve these cases.

Finally, busing was often ordered by HEW in an arbitrary and unsystematic fashion. The intent of the Eagleton-Biden language on busing was to curtail the excesses of unbridled bureaucratic discretion. S. 506 grants investigative and adjudicatory powers to HUD to resolve housing discrimination complaints. However, significant limitations are placed on HUD's actions.

First, HUD may not order preliminary equitable relief without going through the Federal court system to obtain such relief. HUD's actions would be subject to all the same procedural safeguards that characterize a judicial proceeding, including the right of appeal in the court system. Attorneys' fees may be awarded to prevailing parties in any litigation. All decisions made by HUD are subject to appeal in the Federal court system. HUD also retains the option of holding conciliation and mediation conferences to resolve complaints without going to court.

Mr. President, I believe that S. 506 is needed today. In 1973, 2,763 discrimination complaints were reported to HUD. This number rose to 3,391 complaints in 1977. Of these complaints approximately 70 percent were filed by blacks charging racial discrimination in the sale or rental of housing.

Conciliation conferences were called in approximately 21 percent of all complaints. However, only half of these conferences were successful in resolving the discrimination complaint. In the remainder of the cases, the parties either had to turn to the court system for relief or the complaint went unresolved.

A further indication of the continued existence of discriminatory housing practices was the survey conducted by the National Commission Against Discrimination in Housing in 1977. The survey conducted over 3,200 test visits to realtors and landlords in 40 metropolitan areas throughout the country.

The results indicated that 20 percent of rental agents and 21 percent of all sales agents discriminated against blacks. The chance of any black encountering discrimination in visits to any four realty agents was 75 percent for rental housing and 62 percent for the sale of owner-occupied housing. The study concluded that significant housing discrimination still existed in many areas of the country.

A recent survey of American housing characteristics indicated that blacks were still disproportionately underrepresented in suburban housing. Although blacks owned 6.6 percent of all new housing units built between 1970 and 1975, only 3.3 percent of such new housing in the suburbs were owned by blacks. The statistics for rental housing reveal a similar pattern. While 11.0 percent of all new rental housing was rented by blacks, only 7.2 percent of new suburban rentals were occupied by blacks.

Because many new job opportunities have been created in suburban areas, lack of housing opportunities for blacks in the suburbs could mean a loss of employment opportunities. This is just another reinforcement for racial segregation.

Continued efforts need to be made to reduce housing discrimination in the United States. Unfortunately, attempts to end housing discrimination have been hampered by lack of adequate Government mechanisms to resolve citizen complaints.

A number of studies have identified the principal inadequacies of the present system. These inadequacies include: First, inability of HUD to order temporary or permanent relief for persons discriminated against by realtors or landlords; second, lack of authority for HUD to initiate investigations of individuals or groups practicing discrimination, third, lack of authority for the Attorney General to file suit on behalf of individuals; fourth, lack of adequate staffing and budget for HUD to enforce title VIII complaints; fifth, inability of prevailing complaints to collect attorney's fees; and sixth, lack of systematic procedures within HUD to investigate and conciliate complaints.

The bill currently before Congress takes great steps toward correcting many of the deficiencies in the existing law.

First, it would provide HUD with "cease and desist" powers once a finding of discrimination had been made. HUD would also gain standing to go to court through the Attorney General to enforce the fair housing law.

Second, it would give the Department of Justice the power to intervene in individual court actions.

Third, it would retain the Department of Justice's present authority to bring pattern and practices suits.

Fourth, it would allow an aggrieved person two alternative enforcement routes, the first through an administrative system of filing a charge with HUD and the second through the judicial system by bringing suit in the Federal courts.

Fifth, it would permit collection of attorney's fees by prevailing parties.

Sixth, it would expand the law to include handicapped as a protected class.

These changes, if enacted, plus new internal procedures initiated by HUD should go a long way toward developing effective and flexible tools to combat housing discrimination.

Mr. President, quite frankly I had a number of concerns about this bill. First, I was concerned about the potential abuse of bureaucratic powers by HUD without providing necessary checks of this power. However, how do we protect those persons who are unfairly accused of discrimination in housing and insure that they do not suffer economic injury.

However, the Subcommittee on the Constitution is about to adopt several amendments to the bill. These amendments plus provisions in the bill as introduced will serve as an effective check on HUD's powers. I have also been greatly encouraged by recent internal changes made in HUD's management of civil rights enforcement efforts. These changes initiated under Secretary Harris will, I believe, be further improved by Secretary Landrieu.

First, all administrative proceedings must be carried out in accordance with standard due process procedures.

Second, the subcommittee will propose an amendment preventing HUD from issuing "cease and desist" orders before a final finding of discrimination has been made unless HUD first obtains such an order from a Federal district court through the Attorney General. This procedure was changed to reduce the risk that HUD would improperly order injunctive relief without sufficient evidence to do so. I was concerned that many small landlords could incur substantial economic injury if HUD ordered them not to rent out their apartments for a period of time and subsequently dropped the case for lack of evidence. The result would have been that landlords owning only a few units could have been deprived of several months rent and have no way of securing compensation for these damages. The change proposed by the Constitution Subcommittee is one method of handling that issue.

An alternative and perhaps more desirable method of achieving this same objective would have been to introduce a bonding provision which would have required HUD to post bond whenever preliminary relief was ordered. If HUD could not then prove discrimination or dropped the complaint, the bond would be forfeited and the landlord or realtor compensated for the economic injury sustained as a result of HUD's action. A bonding provision would not be as cumbersome as the requirement for HUD to obtain a temporary restraining order from a district court.

Third, all decisions from both the administrative and judicial routes are subject to appeals in a higher court.

Fourth, the new enforcement powers to not preclude HUD from using the conciliation or mediation route. These options are also available.

In my opinion, these provisions offer sufficient due process protections to all parties involved.

Mr. President, the purpose of these amendments is to give the Federal Government adequate enforcement authority to fulfill the mandate of the Civil Rights Act of 1968. It has been 11 years since Congress first expressed its commitment to provide for fair housing throughout the United States. That promise has been largely unfulfilled. With the passage of S. 506 I believe we can take a giant step toward realizing the goal of fair housing opportunity for all Americans. I am pleased to be a cosponsor of the bill and work for its enactment during this session of Congress.●

PAT CLAGETT

● Mr. MATHIAS. Mr. President, last week the citizens of Annapolis and many other Marylanders throughout the State were deeply saddened by the untimely death of Mrs. Mary Elizabeth (Pat) Clagett. At the time of her death, Mrs. Clagett was only 61 years old. But, in the brief span of years granted her, Pat Clagett brought enough joy and comfort and beauty to the lives of others to fill a much longer lifetime.

When one who has given so much to family, friends, and community dies, the loss is particularly keenly felt. Mrs. Clagett will long be remembered for her contributions to the betterment of the community through her work with the YWCA of Annapolis, of which she was past president and a member of the board, and through her volunteer activities with the Crownsville Rehabilitation Center. She will also be remembered for her love of flowers and for the genius of her fingers which gave an added dimension of beauty to even the most glorious flowers she arranged.

To her husband Timothy Manning Clagett, former vice president of the Motion Picture Association of America and currently with the Maryland Department of Economic and Community Development, and to their children, Mrs. Mathias and I extend our deepest sympathy. In this, I would like to associate myself with the expression of sympathy sent to the Clagett family by the president of the Motion Picture Association of America, Jack Valenti, and his wife, Mary Margaret. He wrote:

> A light seems to dim from the sky when one so lovely and loved as Pat departs but the lives of all who knew her will be in better fortune because of the privilege of counting her friend and companion.

I ask that the following brief account of Mrs. Clagett's life be printed in the RECORD.

MARY CLAGETT

Mary Elizabeth (Pat) Clagett, 61, who was known for her volunteer work in the community, died of cancer yesterday at Anne Arundel General Hospital after a lengthy illness.

A past president and member of the board of the YWCA of Annapolis, Mrs. Clagett had been an administrative aide at the Providence Center for the past four years. She was past president and an honorary member of the Garden Club of Olde Annapolis Towne and was known for her floral displays.

She had also worked with the volunteer services at the Crownsville Rehabilitation Center and was a member of the Epiphany Community at Manresa.

A native of Cambridge, Mass., Mrs. Clagett was a 1936 graduate of the St. Agnes School in Alexandria, Va. She had lived in Annapolis for the past 22 years.

Her survivors include her husband, Timothy Manning Clagett; three daughters, Karen C. Sherman of Vista, Calif., Patricia D. Clagett of Annapolis and Adele C. Slipher of Bethesda; a son, Gordon J. Clagett of Marblehead, Mass.; her mother, Mrs. Arthur P. Jell of Annapolis; and a great-aunt, Florence Norris of Hollywood, Fla.

Memorial services will be held at 2:30 p.m. tomorrow at the Taylor Funeral Chapel, 147 Duke of Gloucester St. In lieu of flowers, the family suggests contributions to the American Cancer Society.●

ORDER FOR RECESS UNTIL 11 A.M. ON MONDAY

Mr. **ROBERT C. BYRD**. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 o'clock on Monday morning next.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

REGULATION Q

Mr. **PROXMIRE**. Mr. President, I wish to call to the attention of my colleagues an article which appeared recently on the front page of the Wall Street Journal of October 5, 1979, entitled: "Europe's Savings Rate, Far Outstripping United States, Aids Economic Growth."

Mr. President, as this article points out, the United States has one of the lowest savings rates in the world and it is hurting our economy. One of the principal culprits is regulation Q which is a Government regulation setting abysmally low rates on the rate of interest financial institutions are permitted to pay savers. Because of regulation Q savings are discouraged and consumption encouraged. This is the wrong economic policy because it fuels inflation.

The Banking Committee recently reported legislation (S. 1347) which will phase out regulation Q over a 10-year period. This legislation will encourage savings and aid us in the fight against inflation.

I hope that each of my colleagues will give this legislation their serious consideration and support in the interests of a more stable economy.

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EUROPE'S SAVINGS RATE, FAR OUTSTRIPPING U.S., AIDS ECONOMIC GROWTH

(By June Kronholz)

FRANKFURT.—The late-summer sales are offering what, to Germans, are terrific bargains: canvas sandals for $30, large-size cotton dresses for $100, major appliances for perhaps double U.S. prices, and the usual array of last winter's heavy-duty underwear for $8.70 a set.

Despite such temptations, Renate Schumacher, a 24-year-old telephone operator, expects to stick to the budget she devised four years ago. From her take-home pay of about $740 a month, she regularly banks $284 and "whatever is left" after paying for rent, food and upkeep on her automobile.

Old stories of depression, deprivation and hyper-inflation are passed along like family recipes here, and they have turned West Germany into a nation of super-savers. This year Germans will spend more and borrow more than ever before, but they also will save more—the equivalent of about $60 billion. In all, they will squirrel away about 14% of their disposable incomes, more than double what Americans will put away.

VIRTUOUS HABIT

The importance of that high savings rate is that it has what one economist calls "a virtuous effect" on a country's economic performance. Instead of turning to stock offerings to raise money, German companies traditionally turn to their banks—an easier and more reliable way to raise funds. With deposits high, the banks have plenty of money available to lend for plant investment and expansion.

All this is a prime factor in the German economy's success story—and a comment on the comparatively slack economic performance of the United States. The funds made available by saving have helped push productivity ahead at a faster rate in Germany since the 1960s than in any other Western nation. And even though productivity shows signs of slowing lately, it still is expected to rise five times faster this year than in the United States.

Savings rates—the percentage of income that people put into bank accounts, bonds, securities, insurance and mortgages—have been growing steadily in most of Western Europe in recent years. The French are expected to save even more than the Germans—about 17% of their incomes this year, according to the Organization for Economic Cooperation and Development. In Italy, where the Consumer Price Index is rising faster than in any other major European country, savings will total about a quarter of disposable income, the OECD says.

There is some government encouragement behind these figures. Frenchmen get generous tax breaks on their savings-account interest, and the German government stimulates savings by offering a cash bonus to savers of up to about $100 in each year.

THE INVOLUNTARY FACTOR

Much of the growth in European savings is due to payroll-savings plans and other contractual savings programs. Britons, for instance, saved more than 14% of their disposable income last year, double the rate of the 1960s. But London's National Institute for Economic and Social Research estimates that about half of their current savings are involuntary—payroll-paid life-insurance and pension programs, for example.

Deepening fears of inflation seem, oddly, to encourage savings in Europe. Previous inflations spurred people to spend their money before it lost further buying power. "The logical thing to do is to borrow everything you can," says Roger Bookhouse, an economist for Bankers Trust Co. in London.

But, beginning in the 1970s, European consumers have been doing just the opposite. "They feel the need for a larger cushion," says F. T. Blackaby, deputy director of London's National Institute. "They fear the future."

In 1974, these economic fears, fueled by Germany's highest inflation rate (7%) since World War II, prompted Germans to bank so much of their money that the government, worried that the economy would stagnate, passed a series of measures to encourage spending. It was no use producing more if no one was buying. (The economy recovered anyway, and savings rates dropped back.)

This year, while other Europeans warily anticipate a recession inspired by high oil prices, Germany has no such concerns. Inflation and unemployment are only about 4% each, and the real gross national product will grow by 4% this year, double the American rate, according to the Deutsche Bundesbank, Germany's equivalent to the U.S. Federal Reserve.

THEY SPEND, TOO

As enamored as ever with new cars and eager to travel because current foreign-exchange rates are in their favor, Germans will increase their consumer spending by 7% this year over 1978, the Paris-based OECD predicts. Dresdner Bank, Germany's second largest, says that consumer loans, which weren't even offered by German banks until 1959, now average about $1,000 for every German and will jump about 20% this year.

Still, Germans are expected to keep saving, because—well, because they always have. "It's something Germans got with their mother's milk," says Herbert Wolf, chief economist for Commerzbank, a major bank.

A poll that Commerzbank conducted among its depositors concluded that Germans don't save to buy anything in particular. Indeed, when they buy a car, furniture or a package-tour vacation, it usually is on the installment plan, even though almost all borrowers have savings accounts too. Most Germans told Commerzbank that their savings were for emergencies or for old age, even though Germany has generous social security and medical care programs.

Because wages are rising twice as fast as prices in Germany—and because inflation isn't eating away at purchasing power—Germans can afford to save more than most people. Germany's commercial banks almost ignored private savers, leaving them to the savings banks, until they recognized the growth in disposable income 20 years ago. The commercial banks then quickly began opening 1,000 bank offices a year to help handle savings accounts.

Now, Dresdner estimates that 95% of Germans have savings accounts, and that bank savings alone average $3,900 a person. To handle all those depositors, Germany has 44,000 bank offices—one for every 1,400 people—and traveling tellers regularly visit elementary schools to open accounts for children as young as six.

Whatever motives Germans may have for saving, interest rates don't seem to be the primary one. A few years ago, a research firm discovered that two-thirds of Germany's depositors didn't know how much interest they were being paid.

Now, Germans are becoming more aware of interest rates, the major banks say. But passbook accounts still are the most popular way to save, even though they pay only 3.5% interest now and were paying a mere 2.5% a year ago. (Other forms of bank saving, including certificates of deposit, pay higher interest rates, but aren't as popular.)

Despite that low return, Gunnar Kockerols, who is studying for a doctorate in economics at the University of Frankfurt, says he regularly puts 40% of his income as a teaching assistant into a passbook account. With a certain doomsday logic, Mr. Kockerols says he saves "because of my own anxiousness and what might come," and he saves in a passbook account because "I want to be able to get to my money."

The German preference for a safe, handy investment helps explain the indifference to investing in company stock. Last year, Germans put the current equivalent of $31 billion into banks, but only $1 billion into stock.

the Bundesbank says. The Frankfurt stock exchange, one of eight in the country, lists only 229 companies.

Other investments are similarly unpopular; bond holdings far outnumber stock holdings, but the Bundesbank says their sales have been falling for two years.

Not everyone learned the same lessons from Germany's bad economic times, of course. Although there are 15 bank offices within a short walk of her job, Kerstin Franke says she saves only about 3% of her income as a travel agent—and even that will be put into a piece of real estate as soon as she can manage it. "After the last war, the people who saved found their money was worth nothing," she reasons.

Nonetheless, economists don't expect many young people to scuttle their bank accounts as Miss Franke plans to do. The savings rate will grow slightly again this year, predicts Mr. Wolf, the Commerzbank economist. "Americans sleep well with debts," he explains. "But Germans sleep well only when they have money in the bank."

TEACHING THE STORY OF THE HOLOCAUST

Mr. PROXMIRE. Mr. President, on Wednesday, October 10 the Washington Post reported the story of an area high school teacher who, as part of his American civilization course, included a unit on the Nazi killings of 6 million Jews during World War II.

I applaud the efforts of those who are attempting to raise the level of consciousness to this most heinous and reprehensible international crime of genocide.

The most interesting aspect of the article, however, is not the teaching of the holocaust, but the students' reactions to the startling details of the slaughter. They sit and listen in amazement.

The article reports that after one particularly gruesome film on concentration camps, the students were asked to write out their own questions. Some of them were "Why wasn't there more resistance?", "Could it happen again?", and "What did the United States do?"

Mr. President, what did the United States do?

The answer to that question is, I am sorry to say, nothing. In response to whether it could happen again, the answer is yes, it could happen again, and the United States would not be in the best position to do anything to stop it.

Why? Because we have as yet failed to recognize the importance of the Genocide Convention, a convention that the United States helped draft. For 30 years, we have had the opportunity to denounce the abhorred crime of genocide. But we have not.

Mr. President, it is time that we listen to the voices of our schoolchildren and answer the question of "What did the United States do?" We must act decisively and ratify the Genocide Convention.

Mr. President, I ask unanimous consent that the article from the October 10, 1979 Washington Post be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEW IMPACT OF THE HOLOCAUST: RESPONSE "TREMENDOUS" IN FAIRFAX SCHOOL SHORT COURSE

(By Lawrence Feinberg)

The film was stark and unpleasant. There were pictures of Jewish families marching into cattle cars, mounds of human hair that was collected to fill mattresses, lines of naked people filing into gas chambers, heaps of bodies being buried by bulldozers.

After it was shown to 11th graders last spring at Lake Braddock Secondary School in Fairfax County, teacher Ronald Axelrod said his students wrote out their own questions about the Nazi killings of 6 million Jews during World War II.

"How could people be so cruel?

"Why did it happen?

"Why were Jews chosen?

"Why wasn't there more resistance?

"Could it happen again?

"What did the United States do?"

For the next two weeks Axelrod and the 75 students in his American Civilization classes read and talked about the Nazi effort to exterminate Jews.

"Before we started there was almost a total lack of knowledge," Axelrod said. "The textbooks don't have much on it. The school has a very, very small Jewish population. Nobody knew. But the response was tremendous. There was a tremendous amount of thought by students about what happened and on where they were now."

Axelrod's classes, which he expects to expand to six weeks this year, are part of a growing spurt of interest in schools throughout the country in teaching about the Holocaust, in which the Nazis systematically killed 6 million Jews and 5 million other civilians.

"For a long time there just wasn't much about the Holocaust in the curriculum," said Paul Purta, executive director of the National Council for the Social Studies, whose 17,000 members are mostly high school teachers. "But in the last few years there's been a high degree of interest in teaching about it and more and more is happening."

School systems with formal units on the Holocaust now range from Brookline, Mass., to Baltimore, from DeKalb County, Ga., to Los Angeles.

One "immense catalyst for them," Purta said, was the week-long NBC television series, "Holocaust," which was first broadcast in 1977 and repeated last month. The subject has also been strongly pushed by Jewish organizations, particularly the Anti-Defamation League of B'nai B'rith.

"It's part of a general rising of ethnic consciousness which started with Black Studies [in the late 1960s]," Purta said. "But there is a problem: Where is all of this going to fit in the curriculum? Everybody wants their little corner and it is extremely difficult to know where to put it all."

Yesterday and Monday, Purta's social studies group and the Anti-Defamation League sponsored a two-day national conference on teaching about the Holocaust. It drew about 200 teachers, professors and school officials to the Hospitality House Motor Inn in Arlington.

Most participants said adding material on Nazis and the Jews to history courses has stirred little controversy. But Leonard Rubin, director of staff development for the Chicago public schools, said a proposed unit on the topic in his school system has aroused fears that there would be "a lack of balance and that victims of other holocausts, such as the Armenians (during World War One) and the American Indians would be left out."

"The board of education wanted to know what we would be doing for the blacks, Rubin said, "what we were doing for the Irish and the Chicanos and the Armenians."

Rubin said a staff committee now is preparing a new proposed curriculum with a long list of episodes of "man's inhumanity to man." He said it includes black Americans in the 20th century, Catholics in Northern Ireland, and the internment of Japanese in America during World War Two, as well as the Nazi effort to exterminate Jews.

"There's some fear," Rubin added, "that the [Jewish] Holocaust may be subsumed in all of man's inhumanity to man."

Harriet Steinhorn, of Beltsville, a teacher of Hebrew who survived five Nazi concentration camps during World War II, said she now speaks to many junior and senior school classes in public schools about her experiences.

"They all listen," Steinhorn said, "and the questions just pour out of them. . . . There was one group with black children who were so amazed that it happened to Jewish people because they believed they were the ones who were the most persecuted and they couldn't imagine someone could be persecuted even more. But they wanted to know."

JOHN H. WOOD, JR., FEDERAL COURTHOUSE

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 375.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the reservation is for the purpose of advising that this item is cleared on our calendar, and we are ready to proceed to its consideration.

The **PRESIDING OFFICER.** The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1728) to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the "John H. Wood, Jr., Federal Courthouse".

● **Mr. TOWER.** Mr. President, I would like to lend my strong endorsement to this legislation to designate the Federal Building in San Antonio as the John H. Wood, Jr. Federal Courthouse. Judge Wood exemplified the Federal judiciary working at its best, and I believe this is a fitting tribute to an outstanding jurist.

John Wood was a tough-minded judge, who never waivered from his quest for justice. He fought crime by frequently meting out heavy sentences, but he scrupulously guarded the rights of defendants in his courtroom. In addition, he was a staunch supporter of first amendment rights of the press.

His fairness and his diligence won him the respect of his colleagues, attorneys who practiced before him, and all those who worked with him in the Federal court system. Judge Wood showed that a nononsense approach to the job could accompany courtesy and kindness, and he earned the affection of many.

He also was a man of great courage. Knowing his life was in danger, he relentlessly pursued his duties, refusing to shirk his responsibility or shrink from peril. That devotion to duty appears to have led to his death.

I had the distinct honor to nominate John Wood for this judgeship, and I view his tragic death not only as a loss to the administration of justice in the Western District of Texas, but also as a great personal loss.

Judge Wood came to his job eminently

qualified. He had served in the law firm of Beckmann, Stannard, Wood & Keane in San Antonio from his graduation from law school in 1938 to his appointment to the Federal judgeship in 1971.

He had a wide knowledge of the law, but continued to research. His decisions were based upon a thorough study of the law in each case.

No matter how small the case may have seemed to be, Judge Wood exercised the same care and adherence to rights and procedure.

The name of this man will do honor to the Federal Courthouse in San Antonio. It will be a constant reminder to all those who work or have business there of the standards American justice should represent.

This tribute we pay Judge Wood today is but a small token of the honor he earned, and I encourage my colleagues to take favorable action on this pending legislation.●

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1728) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, shall hereafter be called and designated as the "John H. Wood, Jr., Federal Courthouse". Any reference in the law, map, regulation, document, record, or other paper of the United States to such building shall be held to be reference to the John H. Wood, Jr., Federal Courthouse.

Mr. MATSUNAGA. I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR LATE FILING OF CONFERENCE REPORT ON S. 1030

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have permission to file a conference report on S. 1030 up until 10 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. ON MONDAY

Mr. MATSUNAGA. Mr. President, if there be no further business to come before the Senate, I move, under previous order of the Senate, that the Senate stand in recess until 11 a.m. on Monday next.

The motion was agreed to; and at 7:28 p.m. the Senate recessed until Monday, October 15, 1979, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Friday, October 12, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We commend ourselves to You, O mighty Lord, for Your continued care and love. Just as we implore Your presence in the matters that affect our Nation and world, so we pray for Your spirit in our personal lives and the lives of those we love. Where there is illness grant us healing, where there is anxiety grant us peace, and where there is loneliness give us the assurance of the way, the truth, and the life.

We commit our lives and those dear to us into Your hands, O Lord, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WRIGHT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WRIGHT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 8, answered "present" 3, not voting 101, as follows:

[Roll No. 550]

YEAS—321

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Broyhill
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Ritter
Robinson
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Trible
Udall
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.

NAYS—8

Crane, Daniel
Goodling
Jacobs
Lloyd
Mattox
Mitchell, Md.
Schroeder
Wilson, Bob

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ANSWERED "PRESENT"—3

Forsythe
Hagedorn
Neal

NOT VOTING—101

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Applegate
Aspin
Badham
Beard, R.I.
Bedell
Beilenson
Bolling
Boner
Bonior
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burton, John
Butler
Chappell
Chisholm
Clausen
Clay
Cleveland
Collins, Ill.
Conable
Cotter
Coughlin
Crane, Philip
de la Garza
Deckard
Dellums
Diggs
Dodd
Duncan, Oreg.
Edwards, Okla.
Fascell
Flood
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Giaimo
Gibbons
Gray
Guarini
Gudger
Guyer
Heckler
Holland
Holtzman
Jones, N.C.
Latta
Leach, Iowa
Leach, La.
McCloskey
McDonald
McEwen
Martin
Mathis
Mazzoli
Michel
Mikulski
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nolan
Panetta
Preyer
Pritchard
Quayle
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rousselot
Runnels
Santini
Simon
Solarz
Spellman
Stokes
Thompson
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Walker
Weiss
Wilson, C. H.
Winn
Wirth
Yatron
Young, Alaska
Zablocki
Zeferetti

□ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 929. An act for the relief of Eun Kyung Cho and Hei Kyung Cho; and

H.R. 1486. An act for the relief of Dang Petersen.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 4 to a bill of the House of the following title:

H.R. 5419. An act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes.

□ 1020

CONFERENCE REPORT ON S. 975, INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. BOLAND. Mr. Speaker, I present a conference report on the bill S. 975, the Intelligence and Intelligence-Related Activities Authorization Act, Fiscal Year 1980, for printing in the RECORD under the rule.

The Clerk read the title of the Senate bill.

Mr. BOLAND. Mr. Speaker, I call the attention of Members to the fact that many details of this authorization are contained in a classified schedule of authorizations and in a classified annex to the joint statement. These documents are available for review by Members in the committee offices in room H–405 of the Capitol from 8:30 a.m. until 5 p.m. beginning tomorrow and extending until the conference report is considered by the House.

The conference report and statement on the Senate bill (S. 975) authorizing appropriations for intelligence and intelligence-related activities, fiscal year 1980, are as follows:

CONFERENCE REPORT (H. REPT. No. 96–512)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1980".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 for the conduct of the intelligence and intelligence-related activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(b) The amounts authorized to be appropriated under this Act, and the authorized personnel ceilings as of September 30, 1980, for the conduct of the intelligence and intelligence-related activities of the agencies listed in subsection (a) are those listed in the classified Schedule of Authorizations prepared by the committee of conference to accompany the conference report on the bill S. 975, 96th Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

(d) In addition to the amounts authorized to be appropriated under subsection (a)(9), there is authorized to be appropriated for fiscal year 1980 the sum of $12,100,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1980 the sum of $11,500,000.

(b)(1) The Intelligence Community Staff is authorized 245 full-time personnel as of September 30, 1980. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(2) During fiscal year 1980, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(3) During fiscal year 1980, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(c) During fiscal year 1980, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) in the same manner as activities and personnel of the Central Intelligence Agency.

SEC. 202. Effective October 1, 1979, section 201 of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95–370; 92 Stat. 626) is amended—

(1) by striking out the third sentence of subsection (b); and

(2) by striking out subsection (c).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1980 the sum of $51,600,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION, FISCAL YEAR 1979

SEC. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95–370; 92 Stat. 626), funds are hereby authorized to be appropriated for fiscal year 1979 for the conduct of intelligence and intelligence-related activities of the United States Government in the amounts listed in the classified Schedule of Authorizations described in section 101(b).

TITLE V—TECHNICAL PROVISIONS

SEC. 501. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

SEC. 502. Section 5924(4)(B) of title 5, United States Code, relating to payment of travel expenses to and from schools in the United States of dependents of certain employees serving overseas, is amended by striking out "or the United States Information Agency," and inserting in lieu thereof the following: ", the International Communications Agency, the Central Intelligence Agency, or the National Security Agency.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, amend the title so as to read: "An Act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the United States Government, and for other purposes.".

And the House agree to the same.

EDWARD P. BOLAND,
BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,
For consideration of differences on Intelligence Related Activities only:
MELVIN PRICE,
RICHARD H. ICHORD,
BOB WILSON,
Managers on the Part of the House.
BIRCH BAYH,
D. INOUYE,
ADLAI STEVENSON,
HENRY M. JACKSON,
PATRICK J. LEAHY,
SAM NUNN,
GARY HART,
BARRY GOLDWATER,
MALCOLM WALLOP,
C. McC. MATHIAS,
JOHN H. CHAFEE,
DAVID DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the United States Government, the Intelligence Community staff and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses as stated in such classified annexes and supplement are shown below or in the classified annex to this joint statement:

In view of the differences in committee jurisdiction between the two houses over intelligence-related activities (IRA), the differences in IRA programs between the House and Senate were resolved by a special conference group. This group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for IRA represent the funding levels jointly agreed to by the IRA conferees and the House and Senate conferees for the Department of Defense Authorization Act, Fiscal Year 1980, for those programs subject to annual authorization and contained in the Department of Defense Authorization bill. In addition, the IRA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement and its classified annex for IRA programs which fall into the appropriation categories of Military Pay, Operations and Maintenance, and Other Procurement.

Section 101(d) of the Senate bill authorized an increase of $0.5 million for the FBI domestic terrorism program and an increase for the FBI foreign counterintelligence program. The Senate Select Committee on Intelligence originally recommended no increase in either program, but suggested a reallocation of resources to meet domestic terrorism program requirements. The Senate Judiciary Committee recommended a $0.5 million increase for the domestic terrorism program. The Senate action on the Department of Justice Authorization Act (S. 1157) adopted this $0.5 million increase for domestic terrorism and an additional overall increase of $4.0 million to be allocated to FBI priority programs including foreign counterintelligence (Cong. Rec., pp. S6793–S6795). Subsequently, the Senate adopted the Intelligence Authorization Act with an amendment to conform to the previous Senate action regarding the FBI. This amendment approved revisions in the classified report of the Senate Select Committee on Intelligence to increase the domestic terrorism program by $0.5 million and to allocate a portion of the overall $4.0 million increase to the foreign counterintelligence program in accordance with the action of the Senate and FBI priority requirements.

The House bill authorized an increase of $1.8 million over the budget request for the FBI domestic terrorism program and no increase for the FBI foreign counterintelligence program.

Section 101(d) of the conference report adopts the Senate authorization of an increase of $0.5 million for the FBI domestic terrorism program. The increase for the FBI foreign counterintelligence program is authorized by section 101(a). The amount of the increase authorized for the FBI foreign counterintelligence program in section 101(a) of the conference report is contained in the classified Schedule of Authorizations accompanying the report of the committee of conference.

TITLE II—INTELLIGENCE COMMUNITY STAFF: CONFERENCE ACTIONS, FISCAL YEAR 1980

[In millions of dollars]

Project	Fiscal year 1980 budget request	House action	Senate action	Conference authorization
External contracts	3.1	−1.1		2.0
Not subject to conference	9.5			9.5
Total IC staff funding	12.6	−1.1		11.5

The Senate agreed to the House position which provides for a reduction of $1.1 million for Intelligence Community Staff External Contracts and Analysis.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

There was no conference difference to be resolved on title III. Both the House and the Senate authorized $51,600,000, the amount requested.

TITLE IV—SUPPLEMENTAL AUTHORIZATION, FISCAL YEAR 1979

The Senate agreed to the House supplemental authorization of funds for fiscal year 1979. The amount and purpose of the funds is contained in the Schedule of Authorizations.

TITLE V—TECHNICAL PROVISIONS

The House agreed to a Senate provision which amends section 5924(4)(B) of title 5, United States Code. Section 5924(4)(B) authorizes travel expenses of dependents of Department of State or United States Information Agency (now International Communications Agency) employees for one round trip per year to and from the United States to obtain a secondary or undergraduate college education. Section 502 of the conference report extends the coverage of this provision to employees of the Central Intelligence Agency and the National Security Agency.

TITLE OF THE BILL

The conferees agreed to the House title for the bill which reads: "An Act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the United States Government, and for other purposes." The Senate title did not provide for intelligence-related activities which were authorized by the House bill and were agreed to in the conference report. The Senate title did not provide for the supplemental authorization for fiscal year 1979 contained in the House bill and agreed to in the conference report.

EDWARD P. BOLAND,
BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,
For consideration of differences on Intelligence Related Activities only:
MELVIN PRICE,
RICHARD H. ICHORD,
BOB WILSON,
Managers on the Part of the House.
BIRCH BAYH,
D. INOUYE,
ADLAI STEVENSON,
HENRY M JACKSON,
PATRICK J. LEAHY,
SAM NUNN,
GARY HART,
BARRY GOLDWATER,
MALCOLM WALLOP,
C. McC. MATHIAS,
JOHN H. CHAFEE,
DAVID DURENBERGER,
Managers on the Part of the Senate.

FED ACTIONS HAVE ADVERSE IMPACT ON SMALL BUSINESS COMMUNITY

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Iowa. Mr. Speaker, as chairman of the House Small Business Committee I am deeply concerned about recent actions by the Federal Reserve Board and their impact on the small business community.

As a result of the Fed's actions to raise interest rates, banks will pass higher rates through to customers, reduced credit availability and higher interest charges will cause many small businesses to close or produce less. It is much more difficult for a small business to acquire capital from other sources.

I am afraid that we will see a dramatic increase in small business failures. Those with a large business inventory or who use credit to pay costs until paid for their products may find it impossible to continue because they cannot increase prices enough to pay for the increased cost of credit. This will also cause an increase in unemployment and increases in the prices of products produced by small businesses.

I realize that the Federal Reserve Board must take steps to control this outlandish inflation rate, but some of the causes are beyond their control and to the extent it reduces production by small business, it is inflationary. I appeal to the Fed to devise some mechanism which would shield small businesses from bearing a disproportionate part of the burden of fighting inflation.

I also hope that the Nation's bankers would not discriminate against small businesses in making loans during these times. I have learned that some small businesses are charged 5 points more than they paid last week—this is blatantly unfair.

It is clear that all Americans must help in the fight against inflation, but our job is to see that everyone, both small and large, be treated equally in this fight.

SALUTE TO MRS. JUANITA M. KREPS

(**Mrs. BOGGS** asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, this morning I would like to salute a unique American woman and leader, Juanita M. Kreps, who has submitted her resignation as Secretary of Commerce.

Mrs. Kreps established a national reputation for herself as an administrator, an economist and an educator during her tenure on the faculty of Duke University. Prior to accepting President Carter's invitation to join his Cabinet, she served as a director of several major American corporations, as well as the New York Stock Exchange.

In 1977 she became the first woman to head the Department of Commerce, one of the largest and most diverse of the Federal departments. Her responsibilities there spand the spectrum from trade to technology, from economic development to the weather and back again. She quickly established a reputation as an effective and dynamic administrator of a truly complex agency.

I believe Mrs. Kreps made her greatest impact as Secretary of Commerce in two areas. First, she did much to focus needed attention on the barriers that exist for women already in the business world and those trying to enter it. Through her efforts programs are now underway to provide counseling and assistance to America's businesswomen. Second, recognizing the importance of trade to our Nation's economy, she devoted a great deal of her attention to fostering programs to expand our export trades, thus improving our international balance of payments. She played a key role in the negotiations leading up to the historic trade agreement with the People's Republic of China and initiated that pact on behalf of our Government last July while on an official visit to China. In addition, she has done much to reduce the "red tape" that frequently interferes with the effectiveness of governmental programs.

Juanita Kreps' departure from the Cabinet next month will be a loss both for the Commerce Department and for the Nation, but I know we will be able to call on this dedicated public citizen for her advise and counsel in the future.

SECRETARY JUANITA KREPS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. ALEXANDER. Mr. Speaker, I would like to associate myself with remarks just made by the gentlewoman from Louisiana. I have known and worked with Juanita Kreps since she joined President Carter's administration as the Secretary of Commerce.

Juanita Kreps was the first woman to head the Department of Commerce and she and her staff worked diligently to develop a national export policy. I had the honor and privilege of working with the Secretary and the Department of Commerce in my duties as Chairman of the House Export Task Force and as a member of the President's Export Council. She was constant in her attendance, knowledgeable about the issues, and willing to take constructive criticism or to defend the policies of her Department.

Juanita Kreps had contacts with the business world, the Government bureaucracy, and academia. This combination of factors made her a first-class Secretary of Commerce. She was instrumental in the recent reorganization of the Commerce Department and was in the forefront of trying to expand U.S. exports especially to the People's Republic of China. Hopefully, her successors will continue the development of these goals. If they do, then this country will have taken several large strides in eliminating our balance-of-trade deficit.

I wish Juanita Kreps all of the best in her return to private life but I for one will miss her.●

ENERGY INITIATIVES OF 96TH CONGRESS PRAISED

(**Mr. ANTHONY** asked and was given permission to address the House for 1 minute.)

Mr. ANTHONY. Mr. Speaker, I rise in support of the energy initiatives that have been taken this year by the 96th Congress. This legislative session has proven to be one of the most active in history in terms of meeting our Nation's future energy requirements.

The United States is the world's largest user of energy. Since 1973, we have become increasingly dependent on imported oil to meet our energy needs. But, the 96th Congress has not neglected the importance of becoming self-reliant.

We have established directives for the development of synthetic fuels and promoted the use of solar energy. And, since October has been designated as International Energy Conservation Month, I think it is particularly relevant to point to our efforts to promote programs which will help us make better use of the energy resources we do have available to us.

As I salute the efforts of the 96th Congress in the field of energy, I am especially proud to say that my congressional district is the proposed site of a new lignite mine and generating plant which will be part of the energy future of our Nation. Thus, we will be utilizing a natural resource to help free us from the OPEC stranglehold.

URBAN INITIATIVE ANTICRIME PROGRAM PRAISED

(**Mr. DIXON** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, we are all aware of the high incidence of crime in large, urban cities, as well as in small, suburban towns. In most instances, the fear of being victimized is of a higher rate than crime itself. According to a Louis Harris poll, elderly are even more fearful about crime than they are about their economic insecurity or their waning physical health.

It can be said that one thing all Americans share in common is their desire for a crime-free society. While this may be an unattainable utopia, the Carter administration has taken realistic steps to reduce crime, and the fear of crime in communities throughout the Nation.

The urban initiative anticrime program is a $30 million effort administered by HUD in partnership with nine other agencies. It is designed to develop crime prevention programs in public housing projects across the country. This program is the administration's effective response to stemming crime in our cities.

According to the National Commission on the Causes and Prevention of Violence—

> The greatest progress toward reducing violence in America is by taking the actions necessary to improve the conditions of family and community life for all who live in our cities, especially the poor. . . .

It is quite apparent that President Carter has taken such an initiative to reduce the violence in our communities by focusing on improving the conditions of public housing complexes where the poor are concentrated.

Statistics show that in cities such as Richmond, Va.; Seattle, Wash.; and Tampa, Fla., where they have developed competent programs, involving tenants both young and old, management, and local police, crime was reduced in most cases by more than 50 percent.

In light of this fact, Mr. Speaker, I believe when the American public looks to the present administration for worthy accomplishments in crime-fighting measures, its record will speak for itself.

☐ 1030

THE BAHA'I FAITH

(**Mr. FISHER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, I would like to call attention to a particular religious sect, the Baha'i faith, whose origins are in Iran but whose followers have spread into many other countries, including the United States. It seems especially appropriate to speak of religion at this time, when His Holiness Pope John Paul II has just finished his tour of the Eastern United States. In this spirit, I want to address the questions of religious freedom and tolerance as these matters relate to the Baha'is.

The Baha'is are a minority sect, considered sometimes a heretical sect of the Shi'i Moslem religion. Perhaps as a result of conflicts arising from this fact, the Baha'i have never been guaranteed rights in the Iranian Constitution, even though such rights are guaranteed to other religious minorities in Iran, including Jews, Christians, and Zoroastrians.

Recently, a number of followers of the Baha'i faith in this country have expressed concern to me about reports of harassment of Baha'is in Iran, and of confiscation of property and assets. The most recent incident reported to me is the attack occurring in Shiraz on September 8 against the Most Holy Shrine of the Baha'i.

I know something of the Baha'is. They are a peace-loving and dedicated people whose religious philosophy emphasizes the spiritual unity of mankind. They deserve as much attention and respect as any of the other religious groups mentioned in the Iranian Constitution. I hope that the new Iranian Government will follow the humanitarian precepts of Islam and the principles of human rights. I ask that the Iranian Government not only take steps to prevent persecution of minorities like the Baha'i sect, but that Iranian officials actually make efforts to encourage the Baha'i and other religious groups to worship as their consciences dictate. I also urge our State Department to do everything it properly can to assist Baha'is in this country in their efforts to preserve their shrines and their position in Iran, where it is now threatened.

LET US NOT GO TO THE MAT ON AN ISSUE ON WHICH THE MAJORITY OF US ARE NOT WILLING TO GO ON RECORD

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, we on two deadlocked issues with the Senate are threatening the entire Federal payroll of several million people, 1.6 million of them being our already economically strapped military. One of the issues on which we are morally right and on which the House was given the right to reaffirm its position by record vote was the language of the abortion amendment, the other is the 5.5-percent pay increase. We have never voted for it on the record, but we ought to be given that same right. If we vote it up, fine, we can go to the mat. But let us not go to the mat on an issue on which the majority of us are not willing to go on record in support of our position. I question the right of the House leadership to risk the whole reputation of this House by putting us on the mat on a wrong issue at the wrong time—an issue we would vote down if given the privilege to vote on the record by the majority party leadership.

THE ELEMENTS OF A COMPREHENSIVE PEACE IN THE MIDDLE EAST

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, I would like to say a friendly word about a Democrat and a former Democrat. First of all, I wish to commend to the attention of the Members the splendid speech that our colleague, the Delegate from Washington, D.C. (Mr. FAUNTROY), made on the Palestinian question here in this Chamber last night. Second, I also wish to commend most strongly the splendid statement on Middle Eastern policy that former Gov. John Connally made yesterday at the National Press Club. In that speech he laid out the elements of a comprehensive peace in the Middle East, one of which would require the return of the occupied lands and self-determination for the Palestinians, but which would also provide a U.S. guarantee of the comprehensive settlement and in the process, hopefully, the United States would acquire a dependable military base in that region. In that statement he showed candor, commonsense, and courage—qualities which are in short supply these days.

THERE IS NO REASON FOR ENDLESS MUDDYING OF WATERS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I do not know how long our Republic can go on with a number of Secretaries of State, self-appointed, operating all over this world on behalf of one or another different group. It is intolerable. We have here the President of Egypt, Mr. Sadat, and the Prime Minister of Israel, Mr. Begin; we have a most able duly appointed Ambassador, Mr. Strauss. There is no reason for this endless muddying of the waters in a most delicate situation that is being handled by competent people.

I blame nobody who wants to speak out. Others may see things differently. But I do believe that all of us ought to have a higher sense of responsibility than to intervene in the most dangerous place in the world, not fully knowledgeable, perhaps, as to what the full elements are. I am sure there is much sincerity and good will. What we need is wisdom.

WE ARE NOW LEGISLATING BY DEADLINE AND CRISIS

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we live in troubled times. The dollar is decaying; the stock market is falling; prices are skyrocketing; interest rates are going out of sight. Working Americans are suffering a loss in real take-home pay, and all we are offered for the future is more belt tightening, more austerity, and more economic pain.

Now our economic problems are compounded by a deadlock within the legislative branch that borders on the absurd. The current deadlock between this House and the other body was unnecessary and avoidable.

We are not facing a crisis of constitution; we are not facing a crisis of institutions. We are facing a collapse of leadership. We are now legislating by deadline and crisis.

The current leadership has lost enough votes and deadlocked the legislative branch so often that in a parliamentary system it would have lost confidence and we would now be in a general election.

We are not a parliamentary system, but we do need responsible leadership. If the current leaders cannot manage the legislative process, it might be a useful step for them to resign and allow a bipartisan coalition to run the Congress.

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATION

Mr. SHARP. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana (Mr. SHARP).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3000, with Mr. STUDDS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, October 11, 1979, title II was open to amendment at any point.

Are there further amendments to title II?

AMENDMENT OFFERED BY MR. SHARP

Mr. SHARP. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHARP: Page 40, after line 23, insert the following new section:

INFORMATION ASSISTANCE FOR LOCAL CONSERVATION ACTIVITIES

SEC. 202. (a) Of the amount authorized to be appropriated under section 201(3)(B) there is authorized to be appropriated to the Department for the fiscal year ending September 30, 1980, not to exceed $1,100,000 for purposes of carrying out the local energy reference center under subsection (b) and $1,200,000 for purposes of carrying out the documentation and data-sharing grant program under subsection (c).

(b)(1) Not later than 120 days after the date of the enactment of this Act, the Secretary shall establish a local energy reference center, to serve during the fiscal year ending September 30, 1980, as a data bank and information center for States and units of local government. The local energy reference center shall be established through a contractual arrangement with a nonprofit organization experienced in the dissemination of information to localities, such as a national organization representing elected local government officials, or a consortium of such organizations. The local energy reference center shall—

(A) maintain a program for the collection and processing of information—

(i) which relates to the promotion of energy conservation or the development of renewable energy resources;

(ii) which is of general usefulness to units of local government; and

(iii) which has been voluntarily submitted to the center; and

(B) make such information available (and provide copies thereof), with or without charge, to any State or unit of local government requesting such information.

(2) The center may reimburse any unit of local government which provides information to the center for costs of duplication incurred in providing that information.

(c)(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall establish a program under which grants will be made, upon proper application, to units of local government which have demonstrated success in energy projects and which meet such criteria as the Secretary shall prescribe for such program. Such grants shall be for—

(A) collecting, processing, and duplicating information which relates to the energy projects conducted by that unit of local government and which is of general usefulness to other units of local government; and

(B) providing such information to the reference center created under subsection (b) or directly providing that information, on request, to other units of local government.

(2) No grant recipient under this subsection may receive more than 3 percent of the total funds appropriated for purposes of this subsection.

(d) For purposes of this section—

(1) the term "unit of local government" means any city, county, town, municipality, or any other political subdivision created by or pursuant to State law;

(2) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

(3) the term "energy program" means any program or activity carried out by a unit of local government intended to reduce energy consumption, increase efficiency of energy use, or increase the use of renewable resources.

Mr. SHARP (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SHARP. Mr. Chairman, this amendment calls for setting aside $2.3 million of the moneys that are authorized for the Energy Information Administration. The money is to facilitate the sharing of information among local communities and State governments—to facilitate sharing of the practical experience that is growing in our communities in meeting the energy situation of this country.

In hearings last year before the Energy and Power Subcommittee, we found that many important initiatives are being taken by our local governments in terms of energy conservation, in terms of energy planning, in terms of developing renewable resources. But one of the most common complaints we heard from local communities was their difficulty in getting information about what other communities have done, what other efforts have been made, whether those efforts have been successful, or what difficulties accompanied those efforts.

The amendment calls for the establishment of an energy reference center to be contracted for outside of the Department by a consortium of private, nonprofit organizations which are in the habit of distributing information among local communities.

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I think this would be a more efficient way to operate because our experience with the Department of Energy has been that local governments have gotten a very low priority, given the extraordinary amount of responsibilities we have placed on the backs of the Department.

Mr. Chairman, I would urge that the Committee of the Whole agree to this amendment as one small step to help further some of the exciting and very important work being done at the local level in this country.

Mr. DINGELL. Mr. Chairman, on behalf of this side, I advise they have no objection to the amendment. I think it is good and helps the bill. I urge my colleagues to support it.

Mr. DANNEMEYER. Mr. Chairman, on behalf of the minority we have no objection to the amendment.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. SHARP).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COURTER

Mr. COURTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COURTER: Page 40, add at the end of line 23 the following new subsection (c): No funds authorized to be appropriated pursuant to this Act may be used to promulgate, administer or enforce any regulation or to issue or enforce any order which would continue any mandatory allocation or price control of motor gasoline.

Mr. COURTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Chairman, I will not object but I do reserve a point of order.

There was no objection.

Mr. COURTER. Mr. Chairman, yesterday we spent approximately 5 hours debating the authorization bill, H.R. 3000, with regard to authorization for the Department of Energy. During that debate an amendment was offered by the gentleman from Connecticut (Mr. MOFFETT) which was rejected overwhelmingly by this House. The gentleman from Connecticut (Mr. MOFFETT) and his colleagues did an excellent job in articulating that particular position with regard to reinstating controls across the board, in essence rolling back the President's decision he made in June of this year.

Yesterday afternoon the gentleman from Idaho (Mr. SYMMS) on the Republican side offered an amendment which had to do with the immediate decontrol of crude oil and other types of petroleum products. That particular amendment was narrowly defeated in a division, which was, by my recollection approximately two votes.

Mr. Chairman, this particular amendment I have is a modification of the Symms amendment. For those people in this room who felt the Symms amendment went too quickly too far, I would hope they would seriously consider voting in favor of my amendment.

Mr. Chairman, my amendment basically addresses the problem of the allocation formula and price controls on gasoline only. I offer this amendment because I believe that our recent gasoline problems have been greatly compounded by Government manipulations of the market. Under Government regulation of the market for gasoline, a shortage of less than 10 percent this past year was turned into a national crisis. Increased production has been retarded by price controls and the allocation system has prevented the orderly and appropriate distribution of gasoline supplies to customers across this country of ours.

Mr. Chairman, essentially there are a number of benefits when we talk in terms of ending the price controls of gasoline and also lifting the allocation formula which really created the long gas lines this past summer.

Mr. Chairman, price signals will cause conservation and help reduce the demand. I think there has been argument on that particular issue on the Moffett amendment yesterday. Shortages also will be spread evenly as suppliers in areas of shortage are free to bid for supplies from areas of surplus. Basically what we saw this past summer were areas in the United States that suffered tremendously long gasoline lines. My State, the State of New Jersey, for example, there were 3, 4, and sometimes 5 hours of waiting in gasoline lines.

Some areas of the country where gasoline was cheaper, there were no lines whatsoever. Dr. Schlesinger indicated before he left the Department of Energy that this particular situation was created by the allocation formula. The allocation formula put gasoline where cars were not. This situation can no longer be tolerated.

Mr. Chairman, for the consumer, the price controls have delayed conservation, which is the most immediately realizable method at our disposal for reducing our dependence on foreign oil. For the petroleum industry the effect of price controls has been a reduction in capital investment and the result is low productivity. Six years of price controls on motor gasoline has curtailed investment in new refineries, refinery improvements and expansions which could have met the increasing demand for gasoline.

Mr. Chairman, I do not know how long it has been since the Northeast or the eastern part of the United States of America has had a new refinery or significant improvements to refineries. I submit one of the reasons investors are not putting capital in this particular area is because of the price controls on gasoline.

In addition, Mr. Chairman, price controls have diverted crude oil which would have been used for gasoline production to the production of other petroleum products. This was admitted by the Department of Energy in a report appearing in the Washington Post August 5th:

> It is more profitable for refiners to maintain or increase the other like products at the expense of gasoline because of the Federal price control regulations on gasoline.

Mr. Chairman, I would also quote an editorial from the Washington Post which appeared in September. Which says:

> The family that heats its home with oil is now helping to pay for the gasoline that propels its neighbors' cars up the highways. If Mr. Carter wants to help the people who are confronted with those enormous bills for oil heat this winter, he might usefully begin immediately by decontrolling gasoline.

Mr. Chairman, the Department of Energy's allocation system has had an equally disruptive effect.

The **CHAIRMAN** pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. COURTER was allowed to proceed for 4 additional minutes.)

Mr. **COURTER**. The Department of Energy's allocation system has had an equally disruptive effect on the orderly supply of gasoline. This fact was also recognized in the Department of Energy report which said:

> An historical demand base period inherently cannot reflect the most recent changes in the demand for gasoline.

In other words, differing rates of economic growth and other demographic and economic changes which affect the demand for gasoline go completely unnoticed by any type of allocation formula derived by man. As a result, as we saw in California earlier this year, high-growth areas experienced sharp shortfalls in gasoline supply.

Mr. Chairman, I also would like to emphasize that my amendment has nothing to do with regard to emergency gas rationing. When there is a severe shortfall of gasoline or of oil products, I can understand where rationing must be necessary, but my amendment does not speak to that issue whatsoever.

Furthermore, Mr. Chairman, the effect of an allocation system which grants gasoline to States based on the amount consumed in a selected base period, is to make no distinction whatsoever between wasteful and prudent uses of gasoline. If a State has wasted gas, this system preserves its share of supply intact. This system does nothing at all to discourage waste and to reward conservation.

Mr. Chairman, the President has decided to decontrol crude oil prices and I support the step. The House of Representatives by virtue of its vote yesterday supports that step. Prices of heating oil and other petroleum products are also decontrolled. In light of our overall energy objectives, this policy, I believe and this House believes by the vote of yesterday, is sound. Prices which reflect true replacement costs will cause producers and consumers to respond in a manner that will balance supply and demand. Our policy on gasoline is truly anomalous and it must be corrected. It is an anachronism in today's world of gradual decontrol.

Mr. Chairman, I invite my colleagues to contemplate the implications of a policy whereby we maintain gasoline price controls where prices of heating oil and other products are decontrolled. In effect, we are asking for conservation in the essential area of home-heating oil while we do nothing to tap the great potential for conserving gasoline.

Mr. Chairman, what is even more upsetting is the fact that these contradictory policies cause refiners to pass the high cost of refining gasoline along to the consumers of other refined petroleum products such as heating oil whose prices are not controlled today and, once again, by the vote of the House of Representatives yesterday, there is no indication that the price of heating oil is going to be controlled.

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In other words, as the Washington Post once again points out in a recent editorial, we are causing consumers of home heating oil to subsidize gasoline consumption, subsidize individuals that would rather cruise on our Nation's highways.

Basically, my amendment is a modest one. It is not nearly as severe as the Symms amendment, which lost in a division by only two votes yesterday. It addresses a very serious situation with regard to gasoline prices only and the gasoline allocation formula which really created the long gas lines we had during this past summer.

Mr. **TAUKE**. Will the gentleman yield?

Mr. **COURTER**. I yield to my colleague, the gentleman from Iowa.

Mr. **TAUKE**. Mr. Chairman, I would like to commend the gentleman for the amendment that he has offered and point out that not only does this amendment do the things that the gentleman suggested in his remarks, but in addition, this amendment has the possibility of relieving another serious problem in the energy industry; specifically, that the company-owned retail outlets are squeezing the independent outlets out of business.

Now, I am a member of the Antitrust and Restraint of Trade Subcommittee of the Committee on Small Business.

The **CHAIRMAN** pro tempore. The time of the gentleman from New Jersey (Mr. COURTER) has expired.

(At the request of Mr. TAUKE, and by unanimous consent, Mr. COURTER was allowed to proceed for 2 additional minutes.)

Mr. **TAUKE**. Mr. Chairman, will the gentleman yield further?

Mr. **COURTER**. I yield to the gentleman.

Mr. **TAUKE**. Mr. Chairman, during the past 2 months we have had a whole parade of witnesses, including yesterday the head of the Office of Competition in the Department of Energy, and virtually all of them have suggested that one of the major reasons that we have seen such a rapid increase in the number of company-owned, refiner-owned retail outlets and such a decline in the number of independently owned retail outlets is because of the inequities in the allocation of the price structure that revolves around gasoline.

Virtually all of them have also suggested that if we could get rid of that, those regulations, get rid of that structure, that we could provide some additional methods or we could make it much easier, I should say, for the independents to remain in the business; so this is an amendment that will allow the small business man to remain in the energy business and prevent the major oil companies from virtually taking over the retail marketing outlets in that aspect of the oil business; so I commend the gentleman for his amendment for all the reasons that the gentleman articulated in his remarks; but also because of this very compelling reason.

Mr. **COURTER**. Mr. Chairman, I thank the gentleman for his contribution. I neglected to get to that particular point.

I met with many independent owners of gasoline stations throughout the State of New Jersey and other areas as well. One of their main concerns was the fact that they were being pressured or forced out of business. They were being pressured out of business because of the fact we have price controls targeted to that particular area and it is the major oil companies that do not have this problem. The major oil companies are now taking over the small independent corner gasoline station that wipes our windows for free, that checks our gasoline, that checks our oil and that does all the other things that we so normally would like to see.

I thank the gentleman for his contribution.

The **CHAIRMAN** pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. **DINGELL**. Mr. Chairman, I do not.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the House has been, I think, wisely rejecting amendments which would on the one hand reimpose controls, and on the other hand rejecting amendments which would eliminate controls.

Now, I have assured my colleagues in the House that full opportunity will be afforded any who introduce legislation to have the matters heard and considered before the Subcommittee on Energy and Power, especially on those matters which relate to pricing policies of this Government, and again I reiterate the same offer.

It is my hope that the House will reject this amendment, which may have the effect of decontrolling gasoline as being something which is extremely unwise. I say "may" have the effect because the language of the amendment only prohibits regulations which "continue" allocation of price controls. I do not believe present regulations can be considered ones which "continue" the regulations.

Now, let us look at the situation which brought us to the point where we have price controls and allocation controls today. You know, the energy crisis is not a new phenomenon. The first legislation relating to allocation of energy supplies in this country was the Emergency Pe-

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troleum Allocation Act of 1973. That was passed as a result of the importuning of the jobbers, the gasoline station operators, a lot of small refiners, and the consuming public of this Nation. These concerns began long before the Arab oil embargo and before the crisis with which we are now inflicted had begun. At that time there were gasoline station lines around this country in many parts of the country and gasoline station supplies of gasoline had already begun to be tight. Jobbers were being driven to the wall, ruthless practices were taking place in the industry which would have an extremely bad effect upon not only the consuming public, but upon the segments of the industry least able to sustain the ruthless antitrust tinged practices of the oil industry; so as a result of this, the House in a rather extraordinary exercise passed the Emergency Petroleum Allocation Act.

Subsequently, we found President Nixon using the authorities thereof at the time of the Arab embargo, imposing price controls on gasoline, petroleum refinery supplies, and so forth.

The consequences of that were that we then went into the allocation systems and all the things that our colleagues who support this amendment now complain about.

Now, we have embarked in this country on an attempt to phase out controls and to move through a system of phaseouts under a program of free market activity in the petroleum and in the petroleum retailing industry. That may or may not be good and we may have cause to regret it; but in any event, to move suddenly and say that price controls are removed would, I think, be very, very unwise for us to do. The consequences are not clear. I am sure, to the author and I am satisfied they are not clear to most of my colleagues in this room.

Let us look at the situation in which we find ourselves. During this spring a cutoff of Iranian oil, about 5 percent of the U.S. petroleum supplies, resulted in a major crisis throughout the entire petroleum consuming and industrialized world. The consequences of that were that the price structure on gasoline, the price structure on heating oil and refined products, as well as crude, literally went crazy and crude which had been selling for something on the order of $12 to $14 all of a sudden went to somewhere between $27 and $40 a barrel. In our monitoring of the world's pricing, we found prices had gone as high as $42 and we heard of $50 a barrel.

Now, that is about $1.20 to $1.25 a gallon for crude oil. That is before the refinery gets its bite and before refinery costs come into play. It means that if supplies remain tight gasoline could run somewhere in this country on the order, not of a dollar but $1.50. Of course, in a time when easterners were standing in line for gasoline, it would mean that gasoline could be sold for almost anything that the traffic would bear.

Again, we heard stories of gasoline being sold by dealers functioning on the alleged basis of banked costs for as high as $1.50 a gallon in the spring of this year.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 4 additional minutes.)

Mr. DINGELL. Now, Mr. Chairman, if my colleagues have been observing what has been going on in the producing areas of the world, they will understand that there is a great deal of unrest. The Afghans have a Communist government in Afghanistan right next door to Iran. They are fully prepared to make trouble, not only in Afghanistan, but to move across the border in the oil producing areas of Iran.

My colleagues should know that in Iran they have a very unstable government and that refinery sabotage and pipeline sabotage is almost a daily occurrence over there and civil war and internecine struggles go actively on in Iran.

1100

The rest of the area in the oil producing sector is a matter of the gravest concern. Forty percent of the world's oil comes out of a narrow strait called the Strait of Hormuz, which is about 2 miles wide, and it would take the sinking of one tanker or perhaps two tankers in this area to close that strait for a period long enough to cause hideous disruption to the entire industrialized world.

We are moving toward decontrol of gasoline. Let us analyze that. What are the arguments now against this?

First of all, no hearings have been held. Second of all, the consequences of it are not known. Third of all, in a disordered gasoline market the opportunity for enormous price rises for gasoline under present circumstances exists.

It should be known that before allocations and allocation controls went into place there was disorder in the marketplace and there were gasoline shortages in all parts of this country. And it should be known that not because of the allocation system but simply because of the nature of the change in demand, we found that there were disorders in the system here.

To eliminate the allocation structure would not necessarily eliminate the lines and the difficulties which exist.

Now, let us look at this further. First of all, this is the wrong time to decontrol. Second, even the refiners admit supplies will continue to be tight, and if the shift to heating oil persists as it is, there is every probability we will see gasoline station lines taking place in many parts of the country because of the shift from the running of gasoline to heating oil. Prices under decontrol in a disorderly market with supply shortages could skyrocket to a much higher figure, perhaps $2 a gallon and perhaps even more.

Since the tilt regulation has gone into place, refiners have been making a generous price, even too generous, as far as the profits on gasoline are concerned. New regulations on retailers give them much more generous margins. The gasoline "tilt" regulation alone, as I have mentioned, has added 5 cents a gallon to previous margins of refiners.

At this moment refiners are increasing their banks again because they cannot pass through all the costs and gather all the profits the tilt affords them.

Lastly, while there are problems with allocation regulations, there are still strong reasons for regulation. First of all, there are priority needs, emergency users, and priority uses for agriculture.

If we want to eliminate the issuance of priorities to State and local units of government, such as fire, police, and agriculture, which will have priority in the use of gasoline, then we should support this amendment, because that will strike out the priorities which exist as respects agriculture, fire, police, public safety, local governments, ambulances, the Federal Government, and so forth.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. DINGELL. Mr. Chairman, if we want to make regional equity, we should vote against the amendment because the allocations are constantly adjusted and have been adjusted as a result of the occurrences that we experienced during the shortages. If we do, we should understand that these proposals assure or, rather, the allocation system now assures all the small dealers and all of our small jobbers will get supplied. If we want to take away that assurance and assure that only the big users or those who are enormously strong in the economic marketplace can get supplies of products to sell or products to use—and I am talking about the little farmer, the little rancher, and the little household—then we should support this amendment because that is what it does, and it does it at a time when a disorderly market exists and a much more disorderly market by reason of a shutoff of supply could occur with a snap of the fingers.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will say to the members of the committee that I have listened very carefully to the distinguished chairman of my subcommittee as he delivered his "now-is-not-the-time" speech, and I want to commend him for it because every time I hear it, it gets better. But the problem is that we have heard this same speech and the same argument for 4 or 5 years now.

The fact is that gasoline price decontrol and removing this whole complicated allocation system was proposed as long ago as January of 1977, and it was said in the Subcommittee on Energy and Power that "now is not the time," so we waited until the summer of 1978, and there was clear evidence, it was said, that if decontrol went in and we had a modest crude oil shortage, there would be havoc and dislocation in the gasoline market. The speech was given that "now is not the time," and so decontrol was set on the shelf and not implemented.

Then we did get a shortage in the spring of 1979, and in March that allocation system and price control mechanisms were in place. The shortage was triggered, and we saw what happened in this country for 2 months because that mechanism was in place.

I would like to remind the members of the committee that even though we did have a disruption in the crude oil market in the spring, it amounted at the most during the peak times of that period of shortage to a 5-percent crude shortage coming into the economy. If we look at the figures that were available for the gasoline pool for the entire market, the maximum gasoline shortage that we had at the peak of that so-called crisis was 9 percent. If that be the case, if there was a modest crude oil shortage of 5 percent or, for a limited period of time of about 60 or 70 days, a gasoline shortage of 9 percent, how does it turn out, then, that in certain places of the country we had 20, 30, and 40 percent shortages at the retail pump?

If we want the answer to that, all we have to do is look at the internal mechanisms and the logic by which this gasoline allocation system works.

I find it ironic here today that we are being told we have to keep this system in place, when we closed the proceedings last evening with an argument about heating oil prices and the margins the refiners are getting today on heating oil. It is rather interesting to take a look at the type of products that come out of the refineries, the heating oil product and the gasoline product. We control the the gasoline product. We control the margin on the price of gasoline and not the margin on heating oil.

The answer to anybody who looks at this is that we are going to get some cross-subsidization. We are going to get some of the costs going into the refining of that barrel of gasoline shifted into heating oil on the other side.

That is interesting in light of the rhetoric in the House about heating oil prices and the fact that those prices have doubled for many low-income and middle-income families who are going to find it difficult to pay for heating their homes this winter, and yet we have to keep in place a system that cross-subsidizes gasoline so that the teenagers in the country can drive their hotrods to school, and so forth. It makes absolutely no sense whatever.

So the most important step we can take in terms of decontrol is indeed to recognize that cross-subsidization is obviously built into the system today.

To make another point, we have had the energy debate in the last day or so, and many Members on this side of the aisle have cited the study done by the Harvard Business School. They keep continually pointing to those conclusions as if they had great authority, so let us use those conclusions today. One of the clear implications of that study is that if we cannot continue to price gasoline below the world market price, if we expect that huge segment of our petroleum usage accounted for by gasoline and motor fuel to move toward lower rates of consumer usage and higher rates of efficiency in our driving patterns, vehicle purchase patterns, and so forth.

It seems to me that when all is said and done, the reason we need to get rid of this allocation and price control mechanism is simply that the Government is proposing to take on a task or do something that is literally impossible.

I would remind the House that everyday the petroleum sector, the refining system in this country, turns out 300 million gallons of gasoline from 150 refineries, and that then moves through 30,000 middlemen to 200,000 retail outlets each day. It then is put into the tanks of 110 million motor vehicles in this country.

We have 3,000 pages of regulations today, and we have many interpretations and exemptions in order to impose the system on that complex market in order to allocate and price the gasoline that moves through the system everyday. But if anybody looks at the sheer immensity and complexity of the logistics in that system, we can understand why we had all the dislocations we had last spring.

□ 1110

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. The point is, last spring we had lines in this country, but they were not universal. There were no gasoline lines in 85 percent of the country. Why did they suddenly spring up in southern California in 1 month and in Washington, D.C., the next month, and further up the east coast a few weeks later?

The answer is that the dislocation is built into the allocation system. It is based on static, rigid, base-period use of a year ago which simply cannot track the fact that when there is a perceived shortage, when people fear that gasoline is not going to be available, they change their motoring habits, they stay closer to home, they do not drive down the interstate, they do not drive to the beaches, the resorts, the mountains and the other more distant places. But nevertheless the gasoline keeps moving to those places where it was used last year, and so you create great dislocations in the system, shortages in the cities, and it has nothing to do with the Ayatollah, with the crude supply, with the gasoline, the competition in the industry or anything else. It is a pure product of the gasoline allocation system.

The former Secretary of DOE, Mr. Schlesinger himself, told the President that the problem with this system is that it puts the gasoline where the drivers are not. Almost everyone who has looked at it inside and outside the Government has urged that this allocation system be suspended and disbanded. That is what is being attempted with this amendment here today, and I would urge the House to support it.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, a moment ago we heard the expression "regional equity" utilized; that is, we will have regional equity with the allocation system. It seems to me that, from what the gentleman suggested, from what I saw in California, what we get is regional inequity because, as the gentleman says, we have a system of allocation based on some factors other than the actual experience then occurring. And the fact is that basically the market system can adjust to changes far better than bureaucrats here in Washington, D.C.

Mr. STOCKMAN. The gentleman is precisely right. This allocation system has nothing to do with equity. In fact, it is a jungle of inequity. It penalizes big cities, it penalizes growth areas, it rewards those who are in privileged categories to get 100 percent of their needs; whether they are consuming it or hoarding it, it does not matter. I cannot imagine any system that can do more damage in terms of trying to move available supplies.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. STOCKMAN) has again expired.

(On request of Mr. COURTER and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. COURTER. Mr. Chairman, if the gentleman will yield further, I think the gentleman in the well has made an excellent point, and I hope all of the Members listened to the point. We spent hours deliberating, arguing, and talking on this subject.

The point I am trying to make is that yesterday, when we were talking about controls when the Moffett amendment was proposed, Members articulated well that particular amendment because they said that we have to be very concerned about the poor families, the middle-income taxpayers who have been plucked like a chicken far too long in this country, and they cannot afford a dollar per gallon now for heating oil. But by putting price controls in one particular commodity of the same corporation, that is, gasoline, and allowing no type of controls whatsoever on the ultimate or some other type of commodity coming from the same crude oil, that is, heating oil, then obviously the corporations will in fact be getting their profit by expanding the profit area in the heating oil area. For those Members who want to do something for those people of the United States today who are wondering how they are going to get through the winter, how they are going to possibly come up with an additional $500 more to pay for their oil heat, I suggest that all they have to do is to look at this amendment, realize what it does, and vote in favor of it.

Mr. STOCKMAN. I appreciate the gentleman's remarks.

Mr. Chairman, let me just say further that the chairman of the committee talked about the antitrust implications of removing the allocation system. But the fact is, DOE itself published a study which indicated that the allocation system is inherently anticompetitive and that it is harming small dealers and jobbers, and so forth. The fact is that under the current regulations you have built-in price discrimination. The regulations force the refineries to sell gasoline at a lower margin through their company-operated outlets than an independent dealer would sell at across the street.

Mr. MOFFETT. Mr. Chairman, I move to strike the last word, and I will make my statement in a very brief fashion.

Mr. Chairman, my amendment of yesterday has been brought up once again, and perhaps, given the score yesterday, it is better for my sake not to dwell on it. But it is being raised in a very ridiculous fashion by the author of the amendment, in that it is suggested—and this is really hard for me to believe—that those of us who are concerned about people with heating bills that are $400 to $600 at a minimum higher than they were last year, that our salvation and the salvation of our constituents can be found in the amendment offered by the gentleman to decontrol gasoline.

I would ask the gentleman, if he would permit, if he could tell me what happened after the $5 billion gasoline tilt rule went into effect several months ago. The gentleman may know that prior to the gasoline tilt rule being granted, assertions were made by oil companies and, in fact, by the administration, which supported the tilt rule, that this would have a beneficial effect on heating oil prices.

Does the gentleman feel that the $5 billion that was virtually given away to the major refiners in the tilt rule, which is, by their own admission, not resulting in new refinery capacity, not resulting in the production of more unleaded gasoline, does the gentleman feel that the tilt rule, because it is akin to what the gentleman is offering, in a sense, and it promises the same thing, that it would have a beneficial effect on heating oil prices in his district?

Mr. COURTER. If the gentleman will yield, I think the gentleman is really basically missing my point. I am not here really advocating any kind of tilt rule. What I am suggesting is the fact that if this body voted in favor of the gentleman's amendment yesterday, there is a certain amount of logic in saying we have a problem in a particular area and we have to control, regulate, allocate everything and all products in that particular area. I think there is a certain amount of logic and appeal to that argument. I do not agree with it, however.

My point is the fact that once we have decided to decontrol gradually the price of crude oil, once we have decided to have no controls on heating oil, I think it is just wrong to keep controls on gasoline and an allocation formula. The equivalent of the chairman of the Board of that particular organization, the Department of Energy, if you will, Dr. Schlesinger, said, in effect, that the allocation formula is not flexible enough to make sure that we have gasoline where drivers are.

Mr. MOFFETT. I understand.

Mr. COURTER. If the gentleman will continue to yield so I can respond to his query, the fact that if we allow, for example, price controls on gasoline and not on heating oil, all we are obviously going to be doing is to be squeezing a balloon that is blown up, and it is just going to get larger someplace else. Where it is going to get larger obviously is on the paycheck of the individual who has to heat his home this winter with oil. That is my problem.

Mr. MOFFETT. I understand and I appreciate the gentleman's thorough response to my question. But let me make this point to the gentleman. We obviously disagree on this, but I think the point needs to be made.

The gentleman, and others, and, in fact, I think a majority of House, let us face it, believe that there is a free market. My friend, the gentleman from Ohio (Mr. BROWN), said yesterday some of us were trying to repeal the law of supply and demand. Not true. What we are trying to do is to bury the myth that you know or I know or anyone in this body knows what is going to happen when, for example, you take the controls off of gasoline.

The gentleman may notice that when I rose to speak I did not say that I was speaking in opposition to the gentleman's amendment, although I will probably oppose it in the end. I do not have that much conviction about opposing the gentleman's amendment, to tell you the truth.

Mr. COURTER. I am glad to have the gentleman's acquiescence on the amendment.

Mr. MOFFETT. The gentleman does make a good point that after you have let everything else out of the bag, to keep controls on gasoline raises a question. OK. I am a little reluctant, though, to rely on this marketplace that the gentleman talks about so much, to see that gasoline is allocated in an emergency, even though, as the gentleman from Michigan articulates so well, the allocation program has not functioned tremendously well in the past. There are those who have testified and who have stated and who have asserted—and who do have some expertise—that we would have been in even worse shape without the gasoline controls and the allocation system that we had over that period of those 4 terrible months or so.

What I am saying—and I am trying to raise perhaps a more central point without speaking directly in opposition to the gentleman's amendment—we are dealing with a different substance here, we are dealing with a basic necessity, and we are dealing with a system that does not respond in a way that other systems do to the forces of supply and demand in a way that the economists like the gentleman from Michigan (Mr. STOCKMAN) and others learned about in their textbooks.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the necessity for adopting this amendment was brought to my attention by a case that developed in Buena Park, Calif., during the shortage of this year. There is a gas station dealer there, and he, on the basis of a business opportunity, improved his facility, went into considerable additional debt, on the supposition that he would be able to continue to enjoy a certain allocation from his supplier.

□ 1120

Shortly after that, the crunch developed in our country in terms of availability of petroleum products, and he found that his ability to get gasoline was reduced to the point where it was no longer financially possible for him to service his debt. He was going broke.

So what did he do? Under the allocation system, he had to apply to the Department of Energy for an additional allocation of gasoline to be sold from that facility. Part of his argument was that, since several gas stations in his immediate neighborhood had gone out of business recently, therefore, there should be additional supplies available to him.

How long do you think it took for that application to be processed by the Department of Energy? A week? A month? Six weeks? Try four months. It was four months before the gentleman even had a response. If he did not get this additional allocation, he would be out of business.

Incidentally, when he finally got the response, they turned him down. The man's ability to stay in business has been severely jeopardized because of the allocation system.

I am sure that this case history can be repeated time and time again throughout this country.

We have an allocation system out there, if we but have the courage to use it; namely, supply and demand in the marketplace to determine the apportionment of the available supply.

Maybe some of the Members saw an ad in the Washington Post yesterday, which was signed by 79 persons advocating immediate decontrol of petroleum products in this country and the scrapping of the allocation system. When one looks at the names on that—and I discussed this ad with a Member of this floor yesterday—he observed to me, "They are all millionaires."

Out of curiosity, when I got home last night, I got out that ad, and I looked at some of those names. After looking through them, I suspect many of them are not millionaires. They do not have an economic interest, a special interest, in terms of owning stocks of oil companies in order to make their urging of decontrol suspect.

They just believe in the market system enough so that they are willing to put their names on the line. There are some very responsible economists begging this Congress to take the responsible step of getting out of attempting to regulate a very scarce commodity in our society; and if we have the courage to do it, we should adopt this amendment.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I want to concur and support this amendment. Those of us who represent the metropolitan Washington, D.C., area, and I represent southern Maryland as well as the Eastern Shore, attended a series of meetings in recent months when the gasoline shortages occurred in this area with officials of the Department of Energy, including the former Deputy Secretary Mr. O'Leary.

All of the metropolitan Congressmen wrung their hands repeatedly about the situation that existed, and every one of the meetings we had with Mr. Schlesinger, Mr. O'Leary and the others always came down to the same answer. Mr.

O'Leary freely admitted the gasoline allocation system was the culprit; that there was no way the DOE bureaucracy could keep up with the gasoline distribution demands that were occurring and the result was the long lines and a great deal of inconvenience and hardship.

It was months and months, as the gentleman has described, before Government could respond to shortages in various areas. It was the Government causing these shortages under their allocation powers.

I think this amendment finally allows us to address that serious problem. I hope all of my metropolitan Washington colleagues will join in supporting this amendment that will prevent future gasoline crises which are manufactured by Government instead of being caused by any culprit somewhere in the netherland, oil companies, or anyone else.

It is pure and simple bungling by the Government, the inability of bureaucrats to administer energy supplies when the free market could do a much better job.

So, I commend the gentleman from New Jersey (Mr. COURTER). Here is a chance to stop the gas lines. That is the issue when you vote no or yes here.

Mr. DANNEMEYER. Very well spoken.

It is unfortunate that two members of the President's Cabinet left recently. Each of them, interestingly enough, suggested that we decontrol petroleum products, Mr. Schlesinger and Mr. Blumenthal.

I cannot help but feel one of the reasons President Carter elected to terminate them from their status in their high positions was because philosophically they were at variance with what he wanted to do. I only wish that the advice of those two former Cabinet members would be heeded.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

There is one thing that I think has to be understood about this amendment. I would hope that some of those who are in favor of deregulation generally would hear what I have to say.

Half of the barrels of crude goes to gasoline. About a quarter of the barrels of crude goes to middle distillants.

As you know, I believe that whenever you control crude oil, you must control crude oil products. Gasoline is a major crude oil product.

I think, as most of my colleagues know, that DOE should again control middle distillants in a tight market. If it does not, I think we are headed for disaster.

It is not a solution to remove controls from gasoline, because gasoline is the major product that is produced from oil.

Now, if you control crude oil—and I want to talk to some of my Texas colleagues here now and in Louisiana and Oklahoma—if you control only crude oil but do not control products, and gasoline is a major product, what you do is control independent oil companies and those oil companies which are only producing crude. You permit the integrated oil companies who produce nearly all of the products to have a loophole through which they can easily move.

It means that the profits are drained out simply at another place. They are drained out at the gasoline point instead of at the crude point.

It does not make any difference to Exxon, for instance, whether crude oil is held down in price. They buy a lot of their crude oil from independents—as long as they can sell the product at an uncontrolled price.

If the Members vote in favor of removing the major control on products, they are not voting just in favor of oil generally, but are voting in favor of the 20 largest oil companies in the country, whose profits have risen from the first quarter of last year to the first quarter of this year by 60 percent; and we have not given a darn thing to those who are going out and seeking the oil at a great risk. To pass this amendment is to completely surrender to the major oil companies, the ones who have caused the increases in gasoline prices by what I contend constituted, if not a deep, dark plot, at least a concert of action which raised that price by the reduction in production of domestic oil during last year.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the distinguished gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

The gentleman indicated what we do not want to do is poke a hole in this control process so everything gushes out of one hole.

What I am suggesting is the fact that there is already a hole in the containment vessel, and that particular hole basically is the home heating oil situation.

The gentleman suggested to the contrary.

That situation is obviously not going to be changed; this House had the opportunity to change it yesterday. It overwhelmingly voted against that change.

What we must do to eliminate additional pressure on the individuals who have to pay more for heating oil this summer is to decontrol gasoline.

Mr. ECKHARDT. I think the gentleman took a very sensible position, that there should not be the hole which he described. The hole is too big. It constitutes about 25 percent of the product.

As a matter of fact, I understand an amendment will be offered by the gentleman from Minnesota (Mr. VENTO) to call upon DOE to consider the question of whether or not, when it removed price and allocation controls on middle distillants at a time when there was an excess of crude oil in the market, it should not at this time, when facts have drastically changed, revisit the question and place controls on middle distillants. I think DOE should.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

☐ 1130

Mr. ECKHARDT. I do not believe for a minute that the door is completely closed to placing reasonable controls on allocation and price of middle distillates. I think it should be done. Indeed, I think in addition to that, DOE is going to have to do something else it has the power to do today and that is determine the split in the barrel, at least fix the split in the barrel so we do not produce so much gasoline as to deprive the market of middle distillates and diesel.

If the gentleman were correct that the whole thing is going to pot because gradually segments of the program are going to be cut away, he probably would be right. Frankly, I think it is close to going to pot at the present time. But I am willing to take the chance that some reason will prevail somewhere down the line.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. COURTER. I am glad the gentleman said I was probably right because I think the vote we had yesterday clearly indicates that and also the statement of the President of the United States.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has again expired.

(At the request of Mr. COURTER and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 30 additional seconds.)

Mr. COURTER. If the gentleman will continue to yield, the statement of the President of the United States and the policy of the Department of Energy all give me the clear understanding that we are going to pursue the road of gradual decontrol, that we are not now, at this particular juncture in the history of the United States, going to put controls back on heating oil; that is totally and completely obvious.

What I am suggesting is that we be consistent; that we make sure homeowners are not faced with a constantly increasing burden in heating their homes this summer. We must adopt the amendment.

Mr. ECKHARDT. If the gentleman will yield back to me for just a moment, I would say if that policy is followed, and if we do not do something about insisting on the breaking of the barrel in favor of home heating oil and diesel, I am concerned more about diesel than heating oil, then we are going to be in terrible shape next year.

Mr. SAWYER. Mr. Chairman, I rise in support of the amendment.

A number of years ago I was quite actively involved in the refinery business and I have a little understanding of it. A refinery can in no way tell what its cost for gasoline as compared to middle distillates or residuals will be. It buys a barrel of oil, it knows what it pays for it. It knows what it has to get from it as overhead and profit per barrel. There is no logic between the pricing mechanism between cuts of the crude oil other than supply and demand. It is just like a slaughterhouse buying a beef cattle, it does not know how much cost there is in a New York cut as opposed to a round steak as opposed to a flank steak. It has to get a certain recovery on its price for the whole critter and it spreads its price on where the traffic will bear to get its overall overhead back and its margin of profit that it thinks it should get.

The one objection I have always had strongly to price controls or wage controls in general is we cannot control a segment of the economy. It must be either all or none. The last time we tried that we left agricultural products out. At that time I represented Gerber Products Co. which was controlled in its selling prices and had to buy uncontrolled agricultural products. Gerber almost had serious financial difficulties in the process. Controls must go from top to bottom if there are to be controls at all.

Here we are taking a single barrel of oil from which all of these products—heating oil, gasoline, diesel oil, and so forth—come, as the various cuts, and trying to fix the price on one segment and not on the other which is disaster. There is only one answer to this, and that is we are going to force the buyers of the middle distillates that are not controlled to subsidize artificially low prices on gasoline. It would be exactly the same as fixing the price on and allocating of New York strips. What is going to happen is that there is going to be a continuing excessively high demand for that desirable cut, and you are going to make the poor buyers of hamburger pay for it.

I am in strong favor of the amendment. I think the way it sits now, regardless of the view of the gentleman from Texas we must decontrol gasoline. I would maybe agree with the gentleman from Texas if we had controlled middle distillates we might have a choice but leaving middle distillates uncontrolled is like controlling New York strips and leaving the rest of the critter uncontrolled. It is clear who is going to subsidize who and where we are going to force the disproportion of demand.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman.

Mr. ECKHARDT. Much of what the gentleman says is correct. Of course, it is approximately what I was saying. We simply come to different conclusions as to how to balance it off.

What would the gentleman think about a control that permitted the price of either middle distillates or gasoline to be balanced in the way the refiner wants it as long as both allow only a single markup? It seems to me unless we do something like that, unless we put some kind of control, put the control on both, if you want to, or put the control on the markup from the price of gasoline to the refined product, unless you do that you simply permit the refinery, the big oil company, integrated oil company to draw off all of its profits to the extent to which it desires to draw them off and control those who are not integrated oil producers and who sell to the big oil companies. How would the gentleman settle that question?

Mr. SAWYER. I would say to the gentleman as far as controlling the middle distillates, I go back to the question: Are you in favor of a totally controlled economy? If you are, you have to control every part of it or it will not work at all. The same thing is true whether you are in favor of petroleum or oil control prices. If you are, you have got to stay with the full control.

I happen to be against both controls because they do not work. History has proven they do not work.

Mr. ECKHARDT. That is right.

Mr. SAWYER. Certainly last summer proves they do not work.

Mr. ECKHARDT. But that was voted down yesterday also, along with the Moffett amendment. As long as we maintain controls on crude and do not control the product, we simply turn the money over to the major oil companies only.

Mr. SAWYER. But if we control—and I disagree with this 50 percent being in gasoline, it depends entirely on the crude, some crudes run as high as 40 percent, some as low as 16 percent based on the weight of the crude.

Mr. ECKHARDT. The gentleman is absolutely correct on that point. But the average amount is somewhere in the neighborhood of 50 percent.

Mr. SAWYER. Give or take.

The point is if you are in favor of controls, and I am not, you cannot decontrol part and leave the other part controlled or you will get the same distortion you would in controlling New York strips and leaving the rest of the beef steer uncontrolled. The poor guy that has to buy hamburger, or in this case the poor guy who has to buy heating oil is being stuck for subsidizing the other part because there has to be a certain margin of profit and overhead spread over the entire critter or the entire barrel of oil. It is going to come out of the one who has to buy the part that is not controlled.

● Mr. DINGELL. Mr. Chairman, I must oppose the amendment of the gentleman from New Jersey, because of the potential anticompetitive effects of the disclosure provisions of the amendment and the midwest amendment of the Freedom of Information Act which is in the jurisdiction of the Committee on Government Operations.

I have received a letter from Assistant Attorney General of the Antitrust Division John Shenefield which expresses similar concerns. The letter states:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C. August 2, 1979.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of Justice on an amendment to H.R. 3180, a bill to authorize supplemental appropriations for the Department of Energy, expected to be offered by Congressman Peter A. Peyser, providing for the collection and public dissemination of certain company identified oil industry data by the Energy Information Administration ("EIA") of the Department of Energy. Specifically, the amendment would require EIA to collect monthly data and current estimates of company specific refining capacity, capacity utilization, and stocks of crude oil and refined petroleum products. EIA would be required to publish such data not later than the sixth day of each calendar month during which the data are submitted.

Congressman Peyser's proposed amendment to H.R. 3180, if enacted, would require the public dissemination of competitively sensitive company specific information. The publication of such information has the potential for severely restricting competition. For example, the availability of such data could enable rival firms to detect attempts to increase market share and could thus serve as a basis for policing unlawful collusive activity. Not only would the dissemination of such data enhance the likelihood and feasibility of overt collusion, but it would also increase the possibility that in reliance upon such information, oil industry firms would alter their individual competitive behavior in the expectation of similar response by their rivals. Access to competitively sensitive information could, for example, signal to oil industry firms the marketing plans of their competitors prompting less than competitive market responses on their part. Thus, the ready availability of such competitively sensitive information, even in the absence of express collusion, may greatly reduce the incentives for vigorous competiton.

The Department of Justice believes the public interest would be adequately protected by the development of an effective Financial Reporting System that would involve the collection by EIA of competitively relevant information and the distribution of the information to the competition agencies, including the Antitrust Division. For these reasons, the Department of Justice opposes enactment of Congressman Peyser's proposed amendment to H.R. 3180.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely yours,
JOHN H. SHENEFIELD,
Assistant Attorney General,
Antitrust Division. ●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. COURTER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COURTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 188, not voting 54, as follows:

[Roll No. 551]

AYES—191

Abdnor
Alexander
Andrews,
N. Dak.
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Boggs
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Campbell
Carney
Chappell
Cheney
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Foley
Forsythe
Frenzel
Frost
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Hagedorn
Hall, Tex.
Hamilton
Hammer-
schmidt
Hance
Hansen
Harkin
Harsha
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan

Lungren
McClory
McCloskey
McDonald
McHugh
McKay
McKinney
Madigan
Marriott
Mattox
Michel
Miller, Ohio
Mineta
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Nelson
O'Brien
Pashayan
Patten
Paul
Petri
Fickle

Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Royer
Rudd
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton

Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Wampler
Watkins
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—188

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Bailey
Baldus
Barnes
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonker
Bouquard
Brademas
Brodhead
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Clay
Coelho
Conte
Conyers
Corman
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fazio
Ferraro
Fisher
Fithian
Flippo

Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hanley
Harris
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Hutto
Jenkins
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Luken
Lundine
McCormack
McDade
Maguire
Markey
Marks
Marlenee
Matsui
Mavroules
Mazzoli
Mica
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Mottl

Murphy, N.Y.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Rose
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Snowe
Solomon
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Traxler
Udall
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—54

Anderson, Ill.
Badham
Beard, R.I.
Bedell
Bolling
Bonior
Brooks
Brown, Calif.
Butler
Chisholm

Clausen
Cleveland
Collins, Ill.
Conable
Cotter
Crane, Philip
Davis, S.C.
de la Garza
Diggs
Dodd

Fascell
Flood
Gibbons
Guyer
Holland
Jones, N.C.
Leach, La.
McEwen
Martin
Mathis

Mikulski
Moorhead, Pa.
Murphy, Ill.
Nolan
Quayle
Richmond
Roberts
Rodino

Roe
Rosenthal
Rousselot
Runnels
Sebelius
Solarz
Thompson
Treen

Ullman
Van Deerlin
Vander Jagt
Walker
Whitten
Winn
Yatron
Zeferetti

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Messrs. YOUNG of Missouri, ROSE, HOPKINS, REUSS, and BIAGGI changed their votes from "aye" to "no."

Messrs. AuCOIN, DUNCAN of Oregon, GOODLING, and HOPKINS, Mrs. FENWICK, Mr. DAVIS of Michigan, and Mr. ABDNOR changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DONNELLY

Mr. DONNELLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amended offered by Mr. DONNELLY: Page 40, after line 23, insert the following new subsection:

(c)(1) The Secretary of Energy, acting through the Economic Regulatory Administration, shall conduct an investigation with funds appropriated pursuant to subsection (a)(2)(E) to determine the extent to which the credit practices in effect between and among refiners and others engaged in the marketing and distribution of middle distillates within the United States—

(A) adversely affect the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers of middle distillates;

(B) are justified by current market conditions; and

(C) are consistent with the objectives of section 4(B)(1) of the Refinery Petroleum Act of 1913.

(2) As soon as practicable (but in no event later than 180 days after the date of the enactment of this Act), the Secretary shall complete the investigation under paragraph (1) and shall prepare and submit to the Congress a report on the results of that investigation. Such report shall include—

(A) the Secretary's findings,

(B) a description of any administrative actions to be taken on the basis of that investigation and such findings, and

(C) any recommendations which the Secretary considers appropriate.

(3) For purposes of this subsection—

(A) the term "middle distillate" means No. 1 and No. 2 heating oils and No. 1-D and No. 2 D diesel fuels, as such terms are defined in section 212.31 of title 10, Code of Federal Regulations (as in effect on the date of the enactment of this Act); and

(B) terms used in this subsection which are defined in the Emergency Petroleum Allocation Act of 1973 shall have the meanings given them by that Act.

Mr. DONNELLY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

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Mr. DONNELLY. Mr. Chairman, the amendment that I offer, addresses a very serious problem that is going to affect the people who live in the oil-dependent Northeastern States and those who do business in those States.

Mr. Chairman, what we are seeking to do is commission a study by the energy regulatory agency within the Department of Energy into the tight credit squeeze which has hit the consumers and retailers the Northeastern States.

Historically the people who are dependent upon oil in the Northeastern States have had 30 days in which to pay their bill and if that bill was paid within 10 days they would have a 1-percent rebate. However, the crisis we face now is that many dealers and many consumers have to pay their bill either within 10 days with no rebate or pay with cash on delivery.

Specifically, Mr. Chairman, the study will look into how credit terms affect the competitive viability of the independent refiners, small refiners, nonbranded independent marketers and branded independent marketers of middle distillates, to see if his credit is justified by the current market conditions and other current credit terms between refiners and their wholesalers and retailers consistent with the public interest.

Further, it will look into the differences of credit and purchase restrictions in effect between the refiners and their wholly or partially owned subsidiaries, and for those between the refiner and the nonaffiliated, independent, small business petroleum marketer.

Mr. DINGELL. Mr. Chairman, will the gentleman from Massachusetts yield?

Mr. DONNELLY. Certainly I will yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I have had a chance to review the amendment. I find that it is a matter on which the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce has held a number of hearings. The gentleman has consulted with me and the committee staff and we find this to be a good amendment to which we have no objection. I urge the committee to endorse and adopt it.

Mr. EDGAR. Mr. Chairman, will the gentleman yield to me?

Mr. DONNELLY. Certainly.

Mr. EDGAR. I would like to commend the gentleman on his amendment and urge that the House pass the amendment. I think the gentleman brings up an important point about the credit issues both to the consumer and to the small businessman. I think this study is an important one. I commend the gentleman for his action.

Mr. MOFFETT. Mr. Chairman, would the gentleman yield briefly?

Mr. DONNELLY. Surely.

Mr. MOFFETT. I think the gentleman has put his finger on a very important issue here. The Committee on Government Operations subcommittee which I chair has been holding hearings which in part focus on the credit terms of the major oil companies, the major refiners.

Mr. Chairman, one thing is quite clear that they are liberalizing their credit terms even in view of the crunch that is hitting a lot of distributors and small dealers and certainly hitting consumers. In fact, Texaco made a grand pronouncement about a new heating oil policy and in fairness to them they are liberalizing their credit terms but no other companies seem to be doing that.

I think the gentleman's amendment is an important one and hopefully it will have the Department of Energy focus more closely on these credit terms, something that we all have been calling for.

Mr. DONNELLY. I thank the gentleman for his comments.

Mr. RATCHFORD. Mr. Chairman, would the gentleman yield?

Mr. DONNELLY. Yes.

Mr. RATCHFORD. Mr. Chairman, I, too, would like to commend the gentleman because, being from a State that has a heavy reliance on home-heating oil, we are very sensitive to the problem. It is an undiscussed problem because in the continuing debate we have participated in today on the subject of gas and oil we have heard about supply and we have heard about price, but the issue we have not heard about is the whole question of credit.

Mr. Chairman, earlier this year at a hearing in Waterbury, Conn., where the gentleman from New York (Mr. BIAGGI) of the Select Committee on Aging, and myself held a hearing on this issue, we had some interesting testimony and in support of the gentleman's amendment I would like to read briefly from that testimony.

Mr. Chairman, we had as one of the witnesses the spokesman for the independent retailers in the State of Connecticut.

One of the statements he made is as follows:

> There is in New England an estimate that as many as 300 fuel dealers may go out of business this year.

The spokesman, Mr. Berson, went on to testify as follows:

> I would like to put on the record some of the problems of the marketing segment of the oil industry. We are the ham in the sandwich. We are between the refiners who sell it to us and the consumers who buy it from us.

The witness said that this year the companies have become extraordinarily rigid in their payment terms:

> You must pay for that oil to be in good standing within 10 days. If you don't pay for that oil within 10 days you just don't get the oil. So a lot of the people who depend upon their good old friendly oil dealer will find that they still have the desire to help them as he always has in the past but the oil dealer simply does not have the ability to help them.

Mr. Chairman, this study is critical. We need the weight and the backing of the Department of Energy to say to the retailers, "We will help you."

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DONNELLY was allowed to proceed for 2 additional minutes.)

Mr. DONNELLY. I yield to the gentleman from Connecticut.

Mr. RATCHFORD. And to say to the suppliers, "We are not going to provide a credit crunch which puts the small retailer out of business. If that retailer is put on 10 days, that retailer in turn puts the person heating his or her home on cash and if that person is put on cash with a 100-percent increase we have seen on prices in 2 years, a lot of people simply are not going to be able to afford home-heating oil this winter.

Mr. Chairman, I applaud the gentleman. The study is necessary. I hope that out of it will come some solution for the credit crunch that is building not only in Connecticut, not only in New England but in every State in this country which relies on home-heating oil as its principal source of energy.

Mr. Chairman, I support the amendment.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman for his comments.

Ms. FERRARO. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I gladly yield to the gentlewoman.

Ms. FERRARO. Mr. Chairman, I, too, rise in support of the gentleman's amendment and commend him for it.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks. I rise in suport of the amendment offered by the gentleman from Massachusetts (Mr. DONNELLY).

This amendment would authorize a study by the Secretary of Energy to determine the effect that credit policies of the major oil companies have on marketers of home heating oil as well as independent and small refiners.

Mr. Chairman, many of us feel that Congress relies on studies all too often. But in this case, we are faced with a situation about which we know very little. Credit terms to oil dealers might normally be considered as a matter to be discussed only in corporate board rooms. However, our experience this summer has shown that these credit policies can have a real effect on the ability of dealers to provide adequate supply. Therefore the public interest is most certainly involved.

Allow me to briefly recount some event which occurred this past summer that demonstrate the effect tight credit policies can have on supplies. In late July, Gulf Oil Co. informed its dealers that new credit terms were going into effect August 1. These new terms would have required full payment of accounts receivable to the oil company within 10 days. The previous policy had been to allow 30 days, and to give a 1-percent discount if the accounts were paid within 10 days. This new policy would have forced the dealers to deliver oil to customers on a COD basis.

Imagine a senior citizen with a 175 gallon tank in their front yard. In the past, they could have the tank filled and would have 30 days over which to spread the cost. If Gulf's new policy took effect, they would have to pay the entire sum on delivery. Obviously, they would have to buy less oil—probably less than they really needed.

By the same token, dealers would have had to buy less oil because they would not be able to finance inventories.

To further exacerbate this problem, Gulf also notified dealers that they were discontinuing their seasonal finance loan program which provided dealers with extra credit they could use in winter months to keep inventories on hand.

Immediately after Gulf sent out these letters to dealers, I was contacted by dealers in my district who felt they were in serious trouble, not only in providing adequate supplies—but in just staying in business.

I arranged a meeting on August 1, at which members of the New York congressional delegation heard the problems of the dealers. Following the meeting, the delegation sent a letter to the chairman of the board of Gulf, asking him to rescind these harmful new credit terms.

Thanks to the delegation's quick action, Gulf extended the payment period for accounts receivable to 30 days and reinstated the seasonal financing program.

For the moment, a crisis was avoided. But in this case it was the good sense of Gulf Oil when faced with pressure that ended the immediate problem.

Mr. Chairman, this is just one company and one State. But this example points out the effect that credit policies can have on the ability of our supply system to provide for the needs of the people.

Although the more repressive policies Gulf had proposed have not been put into effect, all the major oil companies have policies which are causing hardships. The most crucial policy relates to the dollar amount of credit from the company to the dealer. This year, dealers have the same dollar amount of credit as they did last year. Given the fact that the price of home-heating oil has almost doubled, the oil dealers can purchase only half as much oil on credit as they could last year. As I noted before, dealers are having a difficult time keeping sufficient inventories on hand because of the lack of credit.

The study this amendment proposed will not have a significant effect on our efforts to insure adequate heating oil supplies this winter. It will however, provide us with important information on how credit policies affect market conditions—and whether or not the public interest is being adversely affected.

It is my hope my colleague will support this most worthwhile amendment.

Mr. DONNELLY. In conclusion, Mr. Chairman, I think it is important at a time when the price of home-heating oil has doubled, when there is a question of the availability of supply, when the historic credit terms have been reduced over 50 percent, that we mandate the Department of Energy through the energy regulatory agency to take a long, close look at this problem. We face the situation in the months of December, January, and February when many people, many poor, elderly, low-income, middle-income people are going to have a very difficult time coming up with the dollars, $1,000 or $1,200 cash that is going to be necessary to provide a continuity of supply to be able to heat their homes.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. DONNELLY was allowed to proceed for 1 additional minute.)

Mr. DONNELLY. The economic consequences for those people that run single businesses, the Ma and Pa grocery stores, et cetera, could be devastating, especially in the New England region unless they are allowed an additional amount of flexibility.

Mr. Chairman, I think there might be

a case to be of a credit squeeze within the industry. I think the fair way to do it is to look at the problem, have our agency heads look at the problem and report back to the Congress with some recommendations about how this problem can be solved in the future.

Mr. Chairman, I yield back the balance of my time.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was interested in what the group from New England has said about the price of heating oil. My first thought was that the answer is not a study, but that the answer is to use another type of fuel. I would suggest to them that they think about using coal.

Mr. Chairman, when we talk about changing credit terms, all we are talking about is just another way of paying less for it. There is no such thing as a free lunch. Most of this fuel oil New England is buying is coming from the Arab OPEC countries. Yesterday we heard so many people from New England speak in behalf of the Arab OPEC countries.

Mr. Chairman, I want to bring out one or two things which some of my friends from New England might have forgotten. Back about 100 years ago—it was just about a hundred years ago—there was only one energy source in this country and it was whale oil.

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Now, whale oil was brought in by the Yankee clipper ships that went out of New England. The Yankee ships controlled the entire market and as a result of it, the price of whale oil went higher and higher and higher.

Now, if fuel oil goes too high, we will have the same thing happen soon that happened back then in Pennsylvania. If you will remember, that is how the United States got into the oil business. Whale oil just got so high in price that some people sat down and figured out that we have got to find a substitute. They went over to Titusville, Pa., and they found there was a little natural oil seeping out of the ground. So they drilled and that is where the oil industry got started.

This suggestion about creating a new study: We study and study and study. We do not need any more studies in this Congress. That is just another way of avoiding the issue. What they are asking for basically in this bill is a way to lower the price. We have already got two or three ways of lowering the price that I do not understand. Heating oil users have an entitlement on heating oil and this is the way I understand it. If you will buy that heating oil from abroad, the refinery gets $5 a barrel discount. If you buy that heating oil from oil produced in our own country, you do not get that heating oil discount.

How many entitlements, how many credit discounts, how many programs do we need to develop? It does not do any good. The price of world oil is what we are going to pay the OPEC for it. Many of you yesterday argued in behalf of paying more and more to the OPEC countries, to pay more and more to OPEC to buy more and more OPEC oil. Half of our oil this country consumes today is imported oil. We are talking about heating oil that concerns the Arab OPEC countries and they are raising the price on us every day It was $22.40 a barrel last week. I spoke on the floor yesterday, then I checked and I found out that OPEC wants to get $24 a barrel for it. Every time we turn around OPEC is raising the price, they are always raising the price. It does no good to take it out of the hide of some guy that is a distributor up there in Massachusetts. He is just making a living. If you do not like his fuel oil, why not go back to where this discussion started. If the price is too high just stop buying fuel oil. You can start transferring over and using coal for your fuel up in New England. Or if you do not like coal you can use nuclear. But leave the poor middleman on fuel oil out of your studies.

Mr. CONTE. Mr. Chairman, the price and supply of fuel oil has been the subject of concern for all us from the Northeast and other regions of the country as well. The target of 240 million barrels of home heating oil in storage by October 31, 1979, appears to be in reach now. Since the supply problem apparently has been resolved, the question of price and credit must be addressed.

The price of home heating oil has risen dramatically by 60 percent since January of this year. In addition, many dealers have seen their credit reduced from a 30-day payback period with a 1 percent discount if within 10 days, to a 10-day payback limit with no price discounts for early payment. These unreasonably stringent credit terms and purchase restrictions are being imposed on dealers, who in turn, must pass this credit on to their customers.

Without question, this tight credit policy is placing severe hardship on the small business fuel oil dealer as well as the consumer of that necessity. The 10-day payback period presents serious budget problems for low- and middle-income households who will be forced to pay their bills or face the termination of essential fuel oil deliveries.

Mr. Chairman, I support this amendment which instructs the Secretary of Energy to initiate an investigation into the credit practices within the fuel oil distribution system.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DONNELLY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Add the following new section 202:

"SEC. 202(a) There are authorized to be appropriated such funds as may be necessary to the Department of Energy for the fiscal year ending September 30, 1980, for a study by the Department of Energy to consider exercising the authority granted to the President, and by delegation from him, to the Department of Energy, under section 12(g) of the Emergency Petroleum Allocation Act of 1973, as amended, pursuant to which the Energy Department may reimpose price and allocation controls.

(b) Not later than fifteen days from the date of the enactment of this Act the Secretary of Energy shall file a report to both Houses of Congress in which the Secretary shall examine the middle distillate situation and, in so doing, make detailed findings with respect to all matters required to be addressed in findings made pursuant to section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973. In making the report, the Secretary shall examine the middle distillate situation as though he were reaching an initial decision to decontrol the product, and shall, in the report, reach the conclusion that pursuant to the requirements of section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973, such a decision is or is not warranted.

(c)(1) If the Secretary finds in accordance with section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973 that a decontrol decision is not warranted he shall, without regard to any administrative procedural requirements which ordinarily apply to such action, immediately exercise the authority delegated to him under section 12(f) of the Emergency Petroleum Allocation Act of 1973 and order reimposition of price and allocation controls.

(2)(A) The controls the Secretary shall order reimposed pursuant to subsection (c)(1) of this section shall be those which existed at the time middle distillate controls were effectively removed from the Emergency Petroleum Allocation Act of 1973 requirements in 1976, unless the Secretary shall find that any part of such requirements is inequitable or inappropriate, in which case the Secretary shall modify such part as he deems necessary and appropriate; provided however, that the Secretary shall submit a detailed explanation of each such modification to both Houses of Congress pursuant to the Procedures of section 551 of the Energy Policy and Conservation Act, and that such modification shall not take effect if either House of Congress disapproves such modification within twenty-one days under the Procedures of section 551 of the Energy Policy and Conservation Act.

(B) If the Secretary, pursuant to the requirements of this Act, orders the reimposition of price and allocation controls over middle distillate products, he shall also immediately order such other actions within his authority as may be necessary to alleviate problems caused by the shortage of such products, and, if he deems it necessary and appropriate, he may waive any and all administrative procedures which ordinarily must be followed before taking such actions.

(d) For the purposes of this Act, "middle distillate" and "middle distillate products" shall mean numbers 1 and 2 heating oils, numbers 1-D and 2-D diesel fuels and kerosene."

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. LOEFFLER. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota that the amendment be considered as read and printed in the RECORD?

There was no objection.

The CHAIRMAN pro tempore. A point of order is reserved.

Mr. VENTO. Mr. Chairman, I think now more than ever that this amendment is a very important one. The amendment has been printed in the RECORD. The amendment has been before the Members for nearly 2 months since this bill was initially scheduled. The action of this body in terms of acting to decontrol the allocation and price mechanisms for gasoline will necessarily cause a serious tilt in terms of what has been a precarious balance between the production of gasoline and middle distillate products.

This amendment requests that the Secretary of the Department of Energy would undertake a study based upon the criteria in the law of the Emergency Petroleum Allocation Act and undertake that study based on the criteria by which we arrived in 1976 at decontrol of middle distillates and to look at the same criteria to determine whether or not it would be appropriate to put back into effect both price and allocation controls for middle distillate products.

Mr. Chairman, all too often this body fails to act in time to prevent a clearly foreseeable difficulty from occurring and in those cases we are then faced with approving remedial actions which are often too late and insufficient to remedy the problem.

The amendment that I am offering today is designed to assess the current situation and to meet and alleviate problems that could arise in full severity in the next few months.

Because of questions of supply in the price of middle distillates, particularly fuel oil, our Nation is faced with the real possibility of shortages in heating oil this winter. As of July 22 we had 135 million barrels of heating oil in stock. Now, of course that has risen recently to nearly 230 million barrels and pushing for the goal that the President I think has rightly outlined of 240 million; but yet this is not sufficient to meet all of the supplies nor the anticipated demand. It does not take into consideration fully what demand may be, for example trucking, and severe weather are not adequately considered. We cannot predict these factors and the established stockpile does not consider them.

Shortages of heating oil would have, of course, an impact on a large portion of American households. Census Bureau data contained in the 1976 annual housing survey shows that over 20 percent of the U.S. household units are heated by fuel oil.

The Department of Housing and Urban Development also reports that over 19 percent of the owner-occupied single dwelling units in this country are heated with fuel oil. Widespread shortages during a severe winter will cause more than lowered temperatures in houses and homes. It will result in countless loss of human life and inestimable economic losses.

We must be prepared to meet this threat. We must be ready to provide adequate supplies of heating oil when and where they are needed. We cannot have a glut of heating oil in Florida or Missouri, when the people in Minnesota and New York freeze.

My amendment will provide the necessary mechanism for the allocation of fuel oil if shortages occur.

I would just conclude by saying that this amendment will alleviate the problem by directing the Secretary of Energy to study the current situation for the middle distillates based on the criteria contained in the Emergency Petroleum Allocation Act of 1973 and to report his findings to Congress. If the current situation does not meet the threshold of EPAA, the Secretary is then directed to reimpose price and allocation controls.

I might point out that it does give Congress the opportunity to veto this action by the Secretary of DOE. There are complete safeguards in the law. What we are really asking is that we could as winter draws near, and it becomes even more apparent that we should utilize the mechanism in place to avoid the hardship of shortages and shortfalls in middle distillates and assure their affordability to all consumers.

I am just asking that we use the tools that have been developed for this particular purpose. With the passage of the last amendment, certainly we raised the spector that the increase in production of gasoline now which is free to flow at whatever price they can obtain for it will, indeed, result in a bias toward the production of that gasoline. That is one of the reasons in 1976, in my judgment, that this allocation provision was passed; that is, that then we had a tilt in favor of the production of middle distillates. Ironically, it has not been able to respond to needs adequately evidenced by the recent problems due to crude oil stock shortages.

We have now, I think, in this recent amendment that passed, destroyed whatever precarious balance existed and tilted things in the opposite direction toward gasoline production. I think that we ought to use this available tool to respond to middle distillate demands. Many have made the controls of the Government the scapegoat for the energy problem. That is basically what has happened on the floor in the last 2 days. Yet Government does not absolutely control the supply side. Government certainly does not control the demand side. We have some cosmetic things that we have done in both instances, but there is a lot more that we can do and I believe that the people of this country expect us to do.

The CHAIRMAN pro tempore. The time of the gentleman from Minnesota (Mr. VENTO) has expired.

(By unanimous consent, Mr. VENTO was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, at the time that we face this inability to come to grips with this, we are throwing away, backing away from the actions that people justifiably expected us to utilize in times of difficulty such as we are facing. There is a worldwide shortage of these products. That is in essence why we have not had the products available.

We know that there are finite amounts of energy available, especially conventional oil. We have to do a great deal more to develop alternatives, but we also should have at our disposal the opportunity to engage the tools that will not result in the dislocation and the catastrophic events that are likely to occur, the economic dislocation that will occur, the human suffering that will occur, in terms of the distribution, the maldistribution and the unjustified pricing of middle distillate. We cannot do it all on a remedial basis. We cannot do it, for instance, by simply imposing a tax. The middle class of this country will be paying that tax and will be getting in many instances few benefits back as they face higher OPEC prices. There is no natural market force here that we are trying to repeal.

□ 1220

There is no world market or any free market system with regard to these particular commodities.

As I said yesterday on the floor when we were talking about the issue of decontrol, if the American people do not have a voice through their elected representatives in this House and in the Senate, who will speak for them with regard to this issue? Can they speak only with their pocketbooks? Many will be silenced or reduced to a whisper by such representation. The fact is that people are not going to get a spokesman through the multinational oil companies and they are not going to get a spokesman through the OPEC nations.

We know what the problems are in terms of dislocation, in terms of the reevaluation of our human resources and the reevaluation of our natural resources in this country, as other nations work through the cartel system to raise the price of commodities to reflect the value of their products.

So, Mr. Chairman, I suggest to my friends that this is really a very modest amendment. It does not talk about control at the wellhead, and it does not suggest immediate controls on middle distillates. All it requires is that we use the same criteria that gave us the decontrol with regard to middle distillates, to reexamine those criteria, and if the situation is justified, to reimpose those middle distillates controls.

POINTS OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. I do, Mr. Chairman, if I am recognized.

I make the point of order that the amendment is not germane.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. DINGELL) is recognized on his point of order.

Mr. DINGELL. Mr. Chairman, first of all, the amendment is a very complex amendment, as the Chair is well aware.

Amongst the problems, from the standpoint of germaneness, which exist with regard to the amendment, subsection (c)(2)(A) of the amendment states that the Secretary shall do certain things if the Secretary makes certain findings. So the first problem we have is that the Secretary is required to make findings—and this is not germane to the bill—and that he must then reimpose controls on middle distillates under regulations in effect in 1976. This, then, requires that the regulations relate back to a time earlier than the effective date of the legislation.

It also requires, I believe, that the price controls carry forward after the effective date for the expiration of the 1-year authorization which is before the House. The Secretary then could only modify these regulations if neither House vetoes the regulations.

Again, Mr. Chairman, the Chair will observe that there is no provision for one-House vetoes or for this kind of action in the bill.

To repeat, the amendment is not germane to the bill, which only authorizes funds for fiscal year 1980.

There are further reasons. First, it modifies prior pricing laws by subjecting certain regulations to a one-House veto. These regulations are not otherwise subject to a one-House veto on the basis of the statute, and the Chair will find there is no reference to one-House vetoes anywhere in the bill.

The proposal further is nongermane by waiving procedural requirements of law, and, further, it is not germane by requiring reimposition of controls based on a finding different from that which is required by the Emergency Petroleum Allocation Act.

The amendment is further nongermane because it is a limitation on all regulations which modify the reimposed regulations. Thus once the President reimposes controls, which under the amendment must be reimposed as they appeared in the Code of Federal Regulations in 1976, he may only modify the regulations by subjecting them to a one-House veto. This limitation would apply to all future regulations, including regulations prescribed after fiscal year 1980.

So the amendment goes beyond the term of the bill before us. Thus the requirements in the regulations extend beyond the fiscal year 1980, and again this renders the proposal nongermane.

It provides new regulatory powers, not contained in existing law, in a bill which is simply a 1-year extension of financial authorizations to the Department of Energy, since it requires regulation of middle distillates without making the findings required under the Emergency Petroleum Allocation Act.

Next, it permits additional regulatory actions without being subject to statutory procedures, a good number of which, I believe, would clearly be in contravention of existing law, again being nongermane by reason of imposing new statutory powers on a Secretary and new statutory duties on a Secretary in a proposal which is simply a 1-year authorization for the funding of the Department of Energy.

The CHAIRMAN pro tempore. Does the gentleman from Minnesota (Mr. Vento) desire to be heard on the point of order?

Mr. VENTO. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman

Mr. VENTO. Mr. Chairman, in the opening of the amendment it deals with the appropriation of such funds in this act. They are authorized to be appropriated and to be expended for the purpose of this study.

Mr. Chairman, indeed the amendment is complex, but the study that is anticipated here tracks Public Law 94-163, which indeed is covered and affected by this 1-year authorization that we have before us.

The fact of the matter is that the opposition of the gentleman from Michigan (Mr. Dingell) raises substantive points which are not, in my judgment, points of order, but insofar as he has, the law does provide for a congressional review and indeed a veto of the actions by the Secretary. The powers assumed in this are powers that the Secretary now possesses.

This simply talks in terms of using those powers for purposes designed in this particular measure.

So, Mr. Chairman, I think that the amendment clearly is in order. The entire title and the legislation itself deal with the Emergency Petroleum Allocation Act. This deals with the Emergency Petroleum Allocation Act, just as does the entire title of the bill.

So clearly I think, since we have considered such regulation, decontrol, and reimposition of controls, this amendment is cerainly in the tenor and the nature of the legislation and the amendments we have considered today.

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. Loeffler) desire to be heard on his point of order?

Mr. LOEFFLER. I do, Mr. Chairman.

Mr. Chairman, I make the point of order that the amendment is not germane. Although the amendment is cast in the form of a study, it requires the reimposition of price controls if the Secretary of the Department of Energy makes certain findings, and it requires that "the Secretary shall modify" such findings of the Emergency Petroleum Allocation Act "as he deems necessary and appropriate." This is the language in the gentleman's amendment.

This language in the amendment has the effect of changing existing law. There is a mechanism already under existing law, the Emergency Petroleum Allocation Act, which allows the President to make this determination.

Finally, the provisions dealing with the reimposition of price controls under EPAA, while being vested with the President, are in existing law.

In addition, the application of this amendment would extend beyond the fiscal year 1980, which is the period of time that the authorization bill addresses.

For these two reasons, Mr. Chairman, I believe the amendment is not germane, and I hope that the Chair is prepared to make such a ruling.

The CHAIRMAN pro tempore (Mr. Studds). The Chair is prepared to rule.

The Chair concurs with the gentleman from Minnesota (Mr. Vento) that the first part of the amendment authorizing a study during fiscal year 1980 is indeed in order.

The Chair rules, however, based on two other observations. Subsection (c) of the amendment would require the Secretary under certain circumstances to reimpose price allocation controls. This is a requirement that constitutes a permanent change in law and is not in order in a bill which is essentially a 1-year reauthorization of the Economic Regulatory Administration.

Moreover, the Chair would observe that on the second page of the amendment, in the first paragraph, the procedural changes constitute a change in the rules of the House by changing the time for Congressional review as specified in the Energy Policy and Conservation Act, and would not be germane in title II, and the Chair, therefore, sustains the point of order.

AMENDMENT OFFERED BY MR. GRAMM

Mr. GRAMM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gramm: Page 40, at the end of line 23, add the following: "Notwithstanding any other provision of this Act, nothing shall preclude the expenditure of funds for the purpose of allocating motor gasoline on a priority basis for agricultural users or any other priority allocation to fulfill the purposes of section 4(b)(1) of the Emergency Petroleum Allocation Act.".

Mr. GRAMM. Mr. Chairman, I think this amendment is a simple one. I believe it will be viewed by most of my colleagues as being noncontroversial.

In the previous amendment that we passed, in our eagerness to get on with the job of deregulating gasoline so it might be viewed on a par at the refinery level and by consumers with heating oil, we stripped away the whole allocation program. As a result, we have exposed the farmer to the possibility that during the harvest season and during planting he might not have sufficient fuels, and as a result the farmer might find himself in a position where nature does not wait on him and because of the inability of the President to designate priority use, the farmer might not be able to get relief.

□ 1230

We also, in the process of eliminating the allocation program, eliminated the assurance that we will have police protection, fire protection and all of the other vital services that are outlined in section (b)(1).

The purpose of my amendment is to simply put back priority allocation for agriculture and for essential services as outlined in the existing law, but not reimpose the allocation program itself.

Mr. Chairman, my amendment is designed to provide the Secretary certain emergency authorities for allocating motor gasoline for certain high priority users in times of a severe gasoline supply interruption. It does not permit the Secretary to institute a general allocation scheme for other than high priority users. It only permits the Secretary to allocate to certain important categories of users such as agricultural users and users which help assure public safety and health.

Most importantly, my amendment does not permit the Secretary to reimpose any price controls. It only permits the allocation of motor fuel to very specific high priority users in certain extraordinary circumstances.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Is my understanding correct that the the purpose of this amendment is merely to retain the residual or standby power to make such allocations to these limited categories of priority sectors if over the course of the next fiscal year some severe emergency would occur where we have to get gasoline for a planting season, and so forth?

Mr. GRAMM. My colleague, the gentleman from Michigan, is correct. My intention here is simply to give priority allocation for such priority uses as agriculture during harvesting and planting, fire and police protection, medical facilities and other services.

Mr. STOCKMAN. If the gentleman will yield further, this simply empowers the department; so, therefore, it really would be a standby kind of authority in case it were needed; is that correct?

Mr. GRAMM. It simply reaffirms the power of the President in an emergency to see that our police officers have gasoline to enforce the law, that our doctors have gasoline to reach the sick, that our farmers have gasoline and diesel fuel to plant their crops and to harvest them.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I would say to my colleague, the gentleman from Texas (Mr. Gramm), and my colleague, the gentleman from Michigan (Mr. Stockman), that it is getting rather confusing on the floor, at least for this Member. I had just sort of come to the conclusion that we could finally entitle this the decontrol Congress, the Congress that was going to get the Government out of the energy marketplace.

Now, here we are with perhaps the two greatest proponents, with the possible exception of the gentleman from Ohio (Mr. Brown), certainly two of the finest proponents of decontrol, deregulation, getting rid of allocation, who are now saying, "Wait a minute now, that vote passed to decontrol gasoline and take the allocations away," and just when I and others are staring to call this the decontrol Congress, I ask my colleagues, the gentleman from Michigan and the gentleman from Texas, what are you saying? Are you saying that you did not want that last vote to pass?

Mr. GRAMM. Mr. Chairman, let me reclaim my time and respond in the beginning by thanking the gentleman for all of his compliments.

Mr. MOFFETT. The gentleman knows that I mean it.

Mr. GRAMM. The point I am making is that in the decontrol process, no one in his right mind, ever intended to put the police department in downtown New York at risk in the marketplace in getting gasoline. I do not think anyone intended that a physician who has called on the house of a person who is dying should be put at risk in the marketplace in getting gasoline. I think this was an inadvertent unintentional effect of the amendment we passed before, and it is to close that loophole that I offer my amendment.

Mr. MOFFETT. If the gentleman will yield further, the gentleman says he does not think anyone intended that the doctor would not get gasoline or the policeman or the fireman. I am sure that no one intended that people in New England would go without heating oil, those who are unable to pay their bills, either, but we decided to let the marketplace take care of that.

Mr. GRAMM. I will reclaim my time to say that we have not done so. We have decided to let the market allocate. But the President has proposed a massive income reallocation program to the poor and also has discussed a program for middle income, to transfer wealth, to help them pay utility bills. I think it is correctly recognized that we have a poverty problem, and we ought not confuse that poverty problem with our energy problem.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. Gramm) has expired.

(By unanimous consent, Mr. Gramm was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Hawaii.

Mr. Chairman, it was my understanding that it was the ability of the Department of Energy to decide how to allocate, that their discretion produced an abundance and an oversupply of oil in many of our rural areas and produced four-block lines in the East and in Washington. I wonder if the gentleman could relate what he is trying to give as a prerogative to the administration to the problems that were created by the prerogatives that they had in the past.

Mr. GRAMM. I would be glad to respond to my colleague, the gentleman from Hawaii. Basically, I am just restoring powers that previously existed whereby, at the discretion of the President, special allocations could be made for police protection, for fire protection, for agricultural uses during planting and harvesting, and for all other emergency uses. I think it is clear that the administration cannot engage in general allocation. But even if mistakes should result, even if there should be oversupply, I think it is imperative that we preserve an ability to allocate in an emergency for police and fire protection, for health services, and for agricultural use during planting and harvesting.

Mr. HEFTEL. I hope the gentleman's confidence is not misplaced in the ability to carry out the objective that the gentleman has in mind.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I would just say that, in listening to the tenor of this discussion, to reply to the gentleman from Connecticut, we are 95 percent confident that the marketplace will allocate the gasoline correctly and that the farmers will be getting their gasoline, and the others. But it seems to be some nervousness, some concern among Members, that if a particularly severe crunch in one localized area of the country should occur, the President has to have some tools to address that on a short-term basis.

The gentleman knows we spent some 3 weeks in conference on the standby rationing plan, the standby conservation plan, and we used the same arguments. We hope we never have to use them, but you need some kind of tools on the shelf in case totally unexpected problems arise where you need some short-term relief, limited solely to the allocation of supplies, not the control of prices. That is the purpose of this amendment. I am using the gentleman's argument from those other two cases and I am sure he can understand the logic of the argument.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT OFFERED BY MR. GRAMM

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment.

The clerk read as follows:

Amendment offered by Mr. Eckhardt to the amendment offered by Mr. Gramm: After "purpose of" insert "(1)".

After "Allocation Act" insert "or (2) otherwise carry out the provisions of section 4 of such Act".

Mr. ECKHARDT. Mr. Chairman, what is being done here and what has to be done here is illustrative of the danger of attempting to make drastic changes by amendment on the floor. Of course, the amendment that we passed a moment ago, removing the use of any funds with respect to enforcing allocation of pricing of gasoline, swept much beyond what is safe and prudent restraint provided by the committee and subcommittee.

What my amendment would do is also protect not only allocations of motor gasoline on a priority basis for agricultural uses, or any other priority allocation to fulfill the purposes of section 4(b)(1), which includes, among other things, protection of public health, equitable distribution of products at equitable prices among all regions, maintenance of services of mass transit, defense, energy production, dairy production, ranching, fire and police, fishing, public health, pharmaceutical, utilities and local government, including hospitals, but also clarifies that such allocations are made at equitable prices.

The amendment also clarifies what appears to be the intent of the amendment offered by the gentleman from Texas. The amendment would insure that this legislation not preclude the use of funds "to fulfill the purposes of section 4(b)(1)." Included among these purposes are the equitable allocation of products at equitable prices among all regions of the country. While I believe the gentleman's amendment to permit the establishment of equitable prices under the section 4 regulation, notwithstanding the Courter amendment, my language is offered to clarify the meaning of "allocation to fulfill the purposes of 4(b)(1)." Section 4(b)(1) is actually a subsection which establishes the conditions for the exercise of the authority contained in subsection 4(a). Pricing and allocation regulations are often blurred, as for example the entitlements regulations, which although prescribed under allocation authority, establish crude oil prices for refiners.

It is extremely dangerous to act as hastily as we have done in the last half-hour. All I am doing is assuring that the priorities involved will not be in any wise affected by the previous amendment.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I think I basically find the gentleman's amendment a worthwhile and valuable addition to mine. I would like, however, to ask a couple of questions.

Would the gentleman's amendment

still leave this at the discretion of the President?

Mr. ECKHARDT. It would leave it to the discretion of the President as provided in existing law, but I would yield to the chairman of the subcommittee on that. I have retained your language which merely states that nothing in this act "shall preclude" the use of the authorities.

Mr. DINGELL. Mr. Chairman, I believe the answer to the gentleman's question is yes.

Mr. GRAMM. Would the gentleman's amendment in any way reimpose the general allocation system for the general user?

Mr. ECKHARDT. If it were determined to be consistent with the objectives of section 4(b)(1) of the act it could.

Mr. GRAMM. If it were so determined by the President?

Mr. ECKHARDT. That is correct.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, while I do not support the amendment of the gentleman from Texas (Mr. ECKHARDT), I will vote for my amendment, as amended, should his amendment be approved.

Such a compromise would show the will of the House that we move to deregulation. It establishes priorities in the allocation system, and it puts the decision as to whether allocation should be reimposed back in the President's lap.

I think it should be recognized by my colleagues that this would represent, if this appropriations bill were passed with this amendment in it, a substantial victory, and that it would put the burden on the President to make the decision to reimpose allocation.

I think that it is highly unlikely, should my amendment fail, that we will be able to preserve the deregulation amendment when we come back to the full House.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from New Jersey.

□ 1240

Mr. COURTER. I thank the gentleman for yielding.

I would like to go on record indicating I do not agree with the gentleman's observation of the situation. I do not agree with what the gentleman says, and I urge the Members to vote against the amendment of the gentleman from Texas, to the Gramm amendment.

Mr. MOFFETT. Mr. Chairman, I move to strike the last word.

I think it is really important, Mr. Chairman, to review what has happened here in the last 24 hours. The Congress took several more steps toward becoming a decontrol Congress, moving the Government out of the energy marketplace and then accepted the amendment of the gentleman on gasoline decontrol.

Now, let us face it, our friends who have been preaching free market are moving back, scurrying around, trying to figure out how to get Government back in our lives again. I think that contradiction ought to at least be noted, that in fact that is what is happening.

We are sending mixed signals to people. I, in fact, did not vote for the gasoline decontrol amendment. I think it is a damaging amendment. I do not think it does all as much harm as the gentleman from Michigan (Mr. DINGELL) and others have said, given the fact other things are decontrolled.

Here we are now, and it seems to me, the gentleman from Texas (Mr. GRAMM) is saying is moving toward just a sense of the Congress rather than absolute decision on whether this is a decontrol or not. The gentleman is saying this is a positive step forward now. It is not as far as we want to go, but we had to get the allocations back in there.

Is that not what the gentleman is saying?

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Texas.

Mr. GRAMM. I introduced an amendment that did all that I intended it to do, and that was to reestablish priority allocation in an emergency.

The gentleman from Texas (Mr. ECKHARDT), my senior colleague, introduced an amendment, which expanded that set of priorities and also gave the President the power to reimpose the system which we have through this bill precluded funding of.

Even should the Eckhardt amendment pass it does give us a sense of the Congress, and I think, given the very close vote, given the likelihood that we will vote on this again when we move back into the House, I think it would be an important step; and I think that it strengthens our position should that vote be taken.

Mr. MOFFETT. There is no question it strengthens the gentleman's position politically. The point I must raise is here we are scurrying now to try, or at least on the gentleman's side of the issue, to try and attract more votes to try and clean it up a little bit.

I still think that many of the Members who sponsored or supported it did not expect it to pass and were caught off guard, but that is for the gentleman to decide and for me to speculate about.

Here we are now moving in a very confusing direction, where no one in the majority sense here has ever moved to say we think that the heating oil customers of New England should be well protected, and we are afraid they are not going to have funds to pay their bills.

Now, the gentleman, to his credit, has brought up the fuel assistance measure, but the gentleman knows what Senator LONG and others are doing with the funds that are planned to provide that assistance. I just want the American people to understand that there are people who go in the well and make very sincere speeches about getting the Government out of our lives, and then the votes come down; and they happen to fall on the side of those people. I have great respect for them and for the decisions that ensue, fine, but then we backtrack to try to pick up some more votes and put allocations back in and figure out how we can contradict our last position, because there might be another vote coming up.

Let us face it. That is exactly what is happening here, except it does not happen when we talk about people heating their homes. I think we ought to acknowledge that.

Mr. GRAMM. If the gentleman will yield further, it seems to me, what we are doing here is engage in the process upon which the Constitution was built and the whole process by which lawmaking occurs, and that is the process of compromise.

Mr. MOFFETT. I am not disputing that.

Mr. GRAMM. I the gentleman would continue to yield, it seems to me we have in this process given a very clear signal that while it is our intention through this appropriations bill to end the allocation program, we have given the President the power if extraordinary circumstances should warrant, to call back in the allocation program on special need uses. That, I see as a compromise.

Mr. MOFFETT. That, I understand.

I am getting handed notes here to say that it is really OK and that we are protected on price. Maybe it is not really decontrol after all.

What I am saying is people who have opposed the reimposition of heating oil controls and have opposed crude oil controls are now saying, "MOFFETT, it is really OK. Gasoline prices are going to be protected."

I am saying there is something wrong with the priorities of this Congress when people who heat their homes are left totally unprotected.

I am just not willing to play that game. The gentleman is talking about compromise. I am as willing to compromise as anyone on most issues, but I think there is a little hypocrisy going on in this Congress, because gasoline happens to be used all over the country, and heating oil does not happen to be used all over the country. Let us face it. That is the politics of that issue. That is all I am saying.

The CHAIRMAN pro tempore. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

(At the request of Mr. GRAMM and by unanimous consent, Mr. MOFFETT was allowed to proceed for 1 additional minute.)

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, the point I am trying to make, on a vote that close, is that I think a compromise is in order.

I have not handed the gentleman any notes. I do not know where the gentleman gets these notes.

Mr. MOFFETT. No. I understand that.

Mr. GRAMM. If the gentleman will continue to yield, I want to put the burden on the President for making this decision. I am sure that the gentleman is aware that the President has considered junking the allocation program.

Mr. MOFFETT. I would just like to say, why does not the gentleman take his victory and go home with it? That is what the gentleman has been telling us, that gasoline decontrol is a good thing. That is what was argued in the well. What are we doing? Take the victory and go home with it, and let us have the American people recognize this for what it is, the decontrol Congress.

BEST DOCUMENT AVAILABLE

The Government should not be involved in energy policy or pricing policy to any appreciable extent. The marketplace is going to take care of you folks. Let us walk out of here with that being a majority position rather than get cute again. That is what we are doing.

Mr. GRAMM. If the gentleman will continue to yield, I would be happy to take that victory and go home.

Mr. MOFFETT. I suggest that that is what the gentleman should do.

Mr. GRAMM. I know that I am not going to get this victory when we go back into the full House; therefore, I think this is better than nothing. I think it moves in the direction the country should go.

Mr. MOFFETT. As long as we understand what is going on.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment offered by the gentleman from Texas (Mr. GRAMM).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DINGELL. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 552]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Udall
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki

☐ 1300

The CHAIRMAN pro tempore. Three hundred and forty-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

PARLIAMENTARY INQUIRY

Mr. COURTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. COURTER. Mr. Chairman, my parliamentary inquiry is the following: Is it true that an affirmative vote on Eckhardt will, in essence, just reverse what the House did on my amendment a moment ago?

The CHAIRMAN pro tempore. The Chair will inform the gentleman that that is not a parliamentary inquiry.

The Chair will state the situation when the point of order of no quorum was made. There was a request by the gentleman from Michigan (Mr. DINGELL) for a recorded vote on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment offered by the gentleman from Texas (Mr. GRAMM).

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Michigan (Mr. DINGELL) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. The Chair will remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 182, noes 191, not voting 60, as follows:

[Roll No. 553]

AYES—182

Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Applegate
Bailey
Baldus
Barnes
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Boland
Boner
Bonker
Bouquard
Brademas
Brodhead
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Conte
Conyers
Corman
D'Amours
Danielson
Daschle
Dellums
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hanley
Harris
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Hutto
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Luken
Lundine
McCormack
McDade
Maguire
Markey
Marks
Marlenee
Matsui
Mavroules
Mica
Mikulski
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Snowe
Solomon
Spellman
St Germain
Stack
Staggers
Stewart
Stokes
Studds
Swift
Traxler
Udall
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wolff
Wolpe
Wright
Yates
Zablocki

NOES—191

Abdnor
Alexander
Anderson, Calif.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Boggs
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Carney
Chappell
Cheney
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer

BEST DOCUMENT AVAILABLE

Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Fenwick
Findley
Fish
Forsythe
Frenzel
Frost
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Hagedorn
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Hightower
Hillis
Holt
Hopkins
Horton
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffries
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McCloskey
McDonald
McHugh
McKay
Madigan
Marriott
Mattox
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Mineta
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Ind.
Natcher
Nelson
O'Brien
Pashayan
Patterson
Paul
Perkins
Petri
Pickle
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Royer
Rudd
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—60

Anderson, Ill.
Badham
Beard, R.I.
Bedell
Blanchard
Bolling
Bonior
Brooks
Brown, Calif.
Butler
Campbell
Clausen
Cleveland
Collins, Ill.
Conable
Cotter
Crane, Philip
Davis, S.C.
de la Garza
Diggs
Dodd
Emery
Fascell
Flood
Gibbons
Guyer
Harkin
Harsha
Hinson
Holland
Jones, N.C.
Leach, La.
McEwen
McKinney
Martin
Mathis
Moorhead, Pa.
Murphy, Ill.
Nolan
Quayle
Richmond
Roberts
Rodino
Rosenthal
Rousselot
Runnels
Santini
Sebelius
Solarz
Stark
Thompson
Treen
Ullman
Van Deerlin
Vander Jagt
Walker
Winn
Yatron
Young, Mo.
Zeferetti

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. GRAMM).

The question was taken: and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRAMM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 119, not voting 57, as follows:

[Roll No. 554]

AYES—257

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
AuCoin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Byron
Carney
Carter
Cavanaugh
Chappell
Cheney
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Corman
Coughlin
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Daschle
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fazio
Findley
Fish
Fisher
Fithian
Flippo
Foley
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Hefner
Hightower
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Oberstar
Obey
Panetta
Pashayan
Pease
Perkins
Petri
Pickle
Preyer
Pursell
Quillen
Railsback
Ratchford
Regula
Rhodes
Ritter
Robinson
Roe
Rose
Roth
Royer
Rudd
Santini
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Steed
Stenholm
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Volkmer
Walgren
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Wydler
Young, Alaska

NOES—119

Ambro
Annunzio
Aspin
Atkinson
Barnes
Beilenson
Bingham
Blanchard
Boland
Brademas
Brodhead
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Collins, Tex.
Conyers
Courter
D'Amours
Danielson
Dannemeyer
Dellums
Dixon
Donnelly
Downey
Drinan
Early
Edgar
Edwards, Calif.
Fary
Fenwick
Ferraro
Ford, Mich.
Ford, Tenn.
Frenzel
Garcia
Giaimo
Gingrich
Gradison
Gray
Green
Grisham
Guarini
Harris
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Howard
Hughes
Jeffries
Kastenmeier
Kemp
Kindness
LaFalce
Lederer
Leland
Livingston
Long, Md.
Luken
Lungren
McDonald
McHugh
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Minish
Mitchell, Md.
Moakley
Moffett
Mottl
Myers, Pa.
Nedzi
Nowak
Oakar
Ottinger
Patten
Patterson
Paul
Pepper
Peyser
Price
Pritchard
Rahall
Rangel
Reuss
Rinaldo
Rostenkowski
Roybal
Russo
Sabo
Satterfield
Scheuer
Seiberling
Shannon
Shuster
Spellman
St Germain
Stack
Stanton
Stewart
Stockman
Stokes
Stratton
Studds
Vanik
Vento
Waxman
Weiss
Wirth
Wylie
Yates
Young, Fla.
Zablocki

NOT VOTING—57

Anderson, Ill.
Badham
Beard, R.I.
Bedell
Bolling
Bonior
Brooks
Brown, Calif.
Butler
Campbell
Clausen
Cleveland
Collins, Ill.
Cotter
Crane, Philip
Davis, S.C.
de la Garza
Diggs
Dodd
Fascell
Flood
Florio
Gibbons
Guyer
Harkin
Harsha
Hinson
Holland
Jones, N.C.
Leach, La.
McEwen
Martin
Mathis
Miller, Calif.
Moorhead, Pa.
Murphy, Ill.
Nolan
Quayle
Richmond
Roberts
Rodino
Rosenthal
Rousselot
Runnels
Sebelius
Solarz
Stark
Thompson
Treen
Ullman
Van Deerlin
Vander Jagt
Walker
Winn
Yatron
Young, Mo.
Zeferetti

□ 1330

Mr. ECKHARDT changed his vote from "no" to "aye."

Mr. CONYERS and Mr. YATES changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DINGELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that after the continuing resolution, we will have a rule and then we will get back to the bill that we have been discussing.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 412, CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96-513)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 4.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same.

The committee of conference report in disagreement amendments numbered 2 and 5.

Jamie L. Whitten,
Edward P. Boland,
William H. Natcher,
John M. Slack,
Robert Duncan,
Charles Wilson,
Adam Benjamin, Jr.,
Silvio O. Conte,
Robert H. Michel,
Joseph M. McDade,
Managers on the Part of the House.

Warren G. Magnuson,
Robert C. Byrd,
Daniel K. Inouye,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Richard S. Schweiker,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res 412) making continuing appropriations for the fiscal year 1980, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: Restores House language which restricts Cost-of-Living increases to 5.5 percent instead of the 12.9 percent provided by law, for executive employees, including Cabinet officers, agency heads, Members of the House of Representatives and Senators, federal judges, various high ranking departmental and agency officers, certain supergrade personnel, and others, and further provides that such 5.5 percent shall be in lieu of the 12.9 percent due under existing law.

This action, sharply decreasing such automatic increases, is taken in an effort to contribute toward the objective of immediately slowing and over a period eventually stopping further inflation. The limitation of 5.5 percent represents a significantly sharp decrease and amounts to only about one-fourth to one-third of the actual rate of inflation during this period. It is hoped that this example will be followed by other parts of the Federal Government, private industry, and State and local government.

The language of the resolution includes the following: "For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year."

The conferees wish to note that by continuing the application of section 304 of the Legislative Branch Appropriation Act, 1979, the joint resolution ensures that many individuals in positions which were transferred to the new Senior Executive Service (SES) may not receive pay increases of more than 5.5 percent. Although under the Civil Service Reform Act the maximum rate of pay for the SES is set at level IV of the Executive Schedule, those positions transferred into the SES earlier this year which on September 30, 1978, were subject to the level V ceiling will continue to be subject to the level V ceiling.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which sets forth conditions relating to salaries and emoluments within the meaning of Article I, Section 6, clause 2 of the Constitution, and which also sets forth additional conditions whereby any Member of Congress may bring civil action in U.S. District Courts regarding the appointment of Circuit Court judges.

Amendment No. 3: Retains the language proposed by the Senate which provides funding authority under this joint resolution for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389) at a rate of operations, and to the extent and in the manner provided for in such Act as adopted by the House of Representatives on August 2, 1979, except for the matter involving the funding of abortions which is addressed in a later provision of this resolution.

Amendment No. 4: Reduces funds for travel and transportation of persons and transportation of things, for officers and employees of the executive branch of the government by $500,000,000 as proposed by the House instead of $750,000,000 as proposed by the Senate.

In applying these reductions, the conferees expect each department and agency of the executive branch of the Government to review thoroughly current travel practices in an effort to eliminate unnecessary and excessive travel as well as travel abuses. Government employees should refrain from using first class travel, and should confine their travel to tourist class.

Amendment No. 5: Reported in disagreement.

Jamie L. Whitten,
Edward P. Boland,
William H. Natcher,
John M. Slack,
Robert Duncan,
Charles Wilson,
Adam Benjamin, Jr.,
Silvio O. Conte,
Robert H. Michel,
Joseph M. McDade,
Managers on the Part of the House.

Warren G. Magnuson,
Robert C. Byrd,
Daniel K. Inouye,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Richard S. Schweiker,
Managers on the Part of the Senate.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to call up the conference report on the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER. The gentleman from Mississippi (Mr. Whitten) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. Whitten).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, the managers on the part of the House and the Senate have concluded conference on House Joint Resolution 412 making continuing appropriations for fiscal year 1980.

Mr. Speaker, this matter has been debated some several times and I shall therefore be very brief in my explanation. I believe we bring recommendations which will be acceptable to the House under the circumstances.

May I say that the Senate receded on the matter of a cap on the amount of compensation for Members of Congress, the House and the Senate, which limits the amount to the 5.5 percent as against the 12.9 percent which is provided by law, but for which no appropriation has been made.

On the abortion issue, that is in disagreement and will come up later outside the conference report.

The other matters we have worked out in line with the conference report that was earlier adopted by the House and turned down by the Senate due in my opinion to some misunderstanding.

In a nutshell, that is the matter that we have before us at this time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. Benjamin).

Mr. BENJAMIN. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, the conference agreement provides continuing appropriations totaling $1,157,985,400 for fiscal year 1980 for the legislative branch, which is

$18,097,900 above the level enacted to date for fiscal year 1979 and $95,055,200 below the budget estimates. This agreement reflects the amounts specified in H.R. 4390 as reported to the House on June 7, 1979, and, in addition, $218,063,000 for various Senate items.

Mr. Speaker, I include at this point in the RECORD a tabulation of the conference agreement which compares the House and Senate actions and the amount agreed to in conference:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 412—CONTINUING RESOLUTION FOR FISCAL YEAR 1980—LEGISLATIVE BRANCH

[Fiscal years]

	New budget authority					Conference compared with 1980 estimate
	Enacted, 1979	Estimates, 1980	House, 1980[1]	Senate, 1980	Conference, 1980	
TITLE I—CONGRESSIONAL OPERATIONS						
SENATE						
Compensation and Mileage of the Vice President and Senators and Expense Allowances of the Vice President, the Leaders, and Whips of the Senate						
Compensation and mileage of the Vice President and Senators	$6,480,000	$6,827,000	$6,827,000	$6,827,000	$6,827,000	----------
Expense allowances of the Vice President, President pro tempore, majority and minority leaders and majority and minority whips:						
Vice President	10,000	10,000	10,000	10,000	10,000	----------
President pro tempore of the Senate	----------	10,000	10,000	10,000	10,000	----------
Majority leader of the Senate	5,000	10,000	10,000	10,000	10,000	----------
Minority leader of the Senate	5,000	10,000	10,000	10,000	10,000	----------
Majority whip of the Senate	2,500	2,500	2,500	2,500	2,500	----------
Minority whip of the Senate	2,500	2,500	2,500	2,500	2,500	----------
Total, expense allowances	25,000	45,000	45,000	45,000	45,000	----------
Total, Vice President and Senators	6,505,000	6,872,000	6,872,000	6,872,000	6,872,000	----------
SALARIES, OFFICERS AND EMPLOYEES						
Office of the Vice President	810,000	810,000	810,000	810,000	810,000	----------
Office of the President pro tempore	120,000	123,000	123,000	123,000	123,000	----------
Offices of the majority and minority leaders	440,000	540,000	540,000	540,000	540,000	----------
Floor assistants to the majority and minority leaders	103,000	109,000	109,000	109,000	109,000	----------
Offices of the majority and minority whips	252,000	252,000	252,000	252,000	252,000	----------
Offices of the secretaries of the conference of the majority and the conference of the minority	136,000	140,000	140,000	140,000	140,000	----------
Office of the Chaplain	42,000	55,000	55,000	55,000	55,000	----------
Office of the Secretary	4,318,000	4,407,000	4,407,000	4,407,000	4,407,000	----------
Committee employees	11,437,000	11,825,000	11,825,000	11,825,000	11,825,000	----------
Conference committee	792,000	792,000	792,000	792,000	792,000	----------
Administrative, clerical, and legislative assistance to Senators	75,045,000	75,133,000	75,133,000	75,133,000	75,133,000	----------
Office of Sergeant at Arms and Doorkeeper	20,866,000	21,072,000	21,072,000	21,072,000	21,072,000	----------
Offices of the secretaries for the majority and minority	428,000	434,000	434,000	434,000	434,000	----------
Agency contributions and longevity compensation	9,088,000	9,943,000	9,943,000	9,943,000	9,943,000	----------
Total, salaries, officers and employees	123,877,000	125,635,000	125,635,000	125,635,000	125,635,000	----------
OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE						
Salaries and expenses	840,000	899,000	899,000	899,000	899,000	----------
CONTINGENT EXPENSES OF THE SENATE						
Senate policy committees	1,462,000	1,462,000	1,462,000	1,462,000	1,462,000	----------
Automobiles and maintenance	58,000	65,000	65,000	65,000	65,000	----------
Inquiries and investigations	31,555,000	32,600,000	32,600,000	32,600,000	32,600,000	----------
Folding documents	109,000	109,000	109,000	109,000	109,000	----------
Miscellaneous items	29,456,000	39,195,000	39,195,000	39,195,000	39,195,000	----------
Postage stamps	6,000	7,000	7,000	7,000	7,000	----------
Stationery (revolving fund)	39,000	40,000	40,000	40,000	40,000	----------
Total, contingent expenses of the Senate	63,085,000	73,478,000	73,478,000	73,478,000	73,478,000	----------
Total, Senate	194,307,000	206,884,000	206,884,000	206,884,000	206,884,000	----------
HOUSE OF REPRESENTATIVES						
Compensation and Mileage for the Members						
Compensation of Members	27,699,300	27,690,000	27,690,000	27,690,000	27,690,000	----------
Mileage of Members	210,000	210,000	210,000	210,000	210,000	----------
Total, compensation and mileage for the Members	27,909,300	27,900,000	27,900,000	27,900,000	27,900,000	----------
House Leadership Offices						
Office of the Speaker	566,100	566,100	566,100	566,100	566,100	----------
Office of the Majority Floor Leader	396,500	396,500	396,500	396,500	396,500	----------
Office of the Minority Floor Leader	491,500	491,500	491,500	491,500	491,500	----------
Office of the Majority Whip	431,600	431,600	431,600	431,600	431,600	----------
Office of the Minority Whip	336,600	336,600	336,600	336,600	336,600	----------
Total, House leadership offices	2,222,300	2,222,300	2,222,300	2,222,300	2,222,300	----------
Salaries, Officers and Employees						
Office of the Clerk	8,201,900	8,378,400	8,378,400	8,378,400	8,378,400	----------
Office of the Sergeant at Arms	12,908,600	12,951,900	12,951,900	12,951,900	12,951,900	----------
Office of the Doorkeeper	4,569,500	4,615,100	4,530,100	4,530,100	4,530,100	−$85,000
Office of the Postmaster	1,239,600	1,284,700	1,284,700	1,284,700	1,284,700	----------
Office of the Chaplain	25,000	50,000	50,000	50,000	50,000	----------
Office of the Parliamentarian	256,200	280,000	280,000	280,000	280,000	----------
Compilation of precedents of the House of Representatives	305,000	200,000	200,000	200,000	200,000	----------
Technical assistant, Office of the Attending Physician	32,400	32,400	32,400	32,400	32,400	----------
House Democratic Steering Committee	323,000	323,000	323,000	323,000	323,000	----------
House Democratic Caucus	85,600	85,600	85,600	85,600	85,600	----------
House Republican Conference	566,900	566,900	566,900	566,900	566,900	----------
6 minority employees	277,100	300,000	300,000	300,000	300,000	----------
L. B. J. interns and former Speakers' staff	688,600	630,300	630,300	630,300	630,300	----------
Total, salaries, officers and employees	29,479,400	29,698,300	29,613,300	29,613,300	29,613,300	−85,000

Footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 412—CONTINUING RESOLUTION FOR FISCAL YEAR 1980—LEGISLATIVE BRANCH—Continued

[Fiscal years]

	New budget authority					Conference compared with 1980 estimate
	Enacted, 1979	Estimates, 1980	House, 1980 [1]	Senate, 1980	Conference, 1980	
TITLE I—CONGRESSIONAL OPERATIONS—Continued HOUSE OF REPRESENTATIVES—Continued						
Committee Employees						
Professional and clerical employees (standing committees)	24, 705, 000	24, 705, 000	24, 705, 000	24, 705, 000	24, 705, 000	
Committee on Appropriations (Studies and Investigations)						
Salaries and expenses	2, 903, 900	2, 950, 000	2, 950, 000	2, 950, 000	2, 950, 000	
Committee on the Budget (Studies)						
Salaries and expenses	261, 000	277, 000	277, 000	277, 000	277, 000	
Office of the Law Revision Counsel						
Salaries and expenses	449, 000	465, 000	465, 000	465, 000	465, 000	
Office of the Legislative Counsel						
Salaries and expenses	1, 939, 400	1, 987, 000	1, 987, 000	1, 987, 000	1, 987, 000	
Members' Clerk Hire						
Clerk hire	117, 790, 700	118, 307, 600	118, 307, 600	118, 307, 600	118, 307, 600	
Contingent Expenses of the House						
Allowances and Expenses						
Official expenses of Members	38, 367, 989	39, 418, 800	39, 418, 800	39, 418, 800	39, 418, 800	
Supplies, materials, administrative costs and Federal tort claims	2, 578, 511	3, 483, 600	3, 483, 600	3, 483, 600	3, 483, 600	
Furniture and furnishings	1, 085, 000	2, 079, 000	2, 079, 000	2, 079, 000	2, 079, 000	
Reporting hearings	1, 501, 000	1, 650, 000	1, 650, 000	1, 650, 000	1, 650, 000	
Reemployed annuitants reimbursement	2, 099, 700	661, 500	661, 500	661, 500	661, 500	
Government contributions	14, 770, 000	14, 632, 100	14, 632, 100	14, 632, 100	14, 632, 100	
Miscellaneous items	338, 400	451, 700	451, 700	451, 700	451, 700	
Total, allowances and expenses	60, 740, 600	62, 376, 700	62, 376, 700	62, 376, 700	62, 376, 700	
Special and Select Committees						
Salaries and expenses	46, 762, 000	55, 551, 200	42, 100, 000	42, 100, 000	42, 100, 000	—13, 451, 200
Total, contingent expenses of the House	107, 502, 600	117, 927, 900	104, 476, 700	104, 476, 700	104, 476, 700	—13, 451, 200
Total, House of Representatives	315, 162, 600	326, 440, 100	312, 903, 900	312, 903, 900	312, 903, 900	—13, 536, 200
JOINT ITEMS						
Contingent Expenses of the Senate						
Joint Economic Committee	2, 353, 000	2, 749, 000	2, 749, 000	2, 749, 000	2, 749, 000	
Joint Committee on Printing	716, 000	864, 000	864, 000	864, 000	864, 000	
Total, contingent expenses of the Senate	3, 069, 000	3, 613, 000	3, 613, 000	3, 613, 000	3, 613, 000	
Joint Committee on Taxation						
Salaries and expenses	2, 375, 200	2, 607, 200	2, 455, 000	2, 455, 000	2, 455, 000	—152, 200
Office of the Attending Physician						
Medical supplies, equipment, expenses, and allowances	465, 000	459, 000	459, 000	459, 000	459, 000	
Capitol Police						
General expenses	750, 100	809, 500	809, 500	809, 500	809, 500	
Capitol Police Board	1, 421, 000	1, 297, 000	1, 263, 000	1, 263, 000	1, 263, 000	—34, 000
Total, Capitol Police	2, 171, 100	2, 106, 500	2, 072, 500	2, 072, 500	2, 072, 500	—34, 000
Education of Pages						
Education of congressional pages and pages of the Supreme Court	216, 700	241, 800	220, 000	220, 000	220, 000	—21, 800
Official Mail Costs						
Expenses	64, 944, 000	70, 707, 000	50, 707, 000	50, 707, 000	50, 707, 000	—20, 000, 000
Capitol Guide Service						
Salaries and expenses	593, 000	613, 000	613, 000	613, 000	613, 000	
Statements of Appropriations						
Preparation	13, 000	13, 000	13, 000	13, 000	13, 000	
Total, joint items	73, 847, 000	80, 360, 500	60, 152, 500	60, 152, 500	60, 152, 500	—20, 208, 000
OFFICE OF TECHNOLOGY ASSESSMENT						
Salaries and expenses	9, 700, 000	12, 500, 000	11, 000, 000	11, 000, 000	11, 000, 000	—1, 500, 000
CONGRESSIONAL BUDGET OFFICE						
Salaries and expenses	11, 368, 000	13, 586, 000	12, 117, 000	12, 117, 000	12, 117, 000	—1, 469, 000
ARCHITECT OF THE CAPITOL						
Office of the Architect of the Capitol						
Salaries	2, 382, 000	3, 055, 000	2, 836, 000	2, 836, 000	2, 836, 000	—219, 000
By transfer	(108, 000)					
Contingent expenses	210, 000	210, 000	210, 000	210, 000	210, 000	
Total, Office of the Architect of the Capitol	2, 592, 000	3, 265, 000	3, 046, 000	3, 046, 000	3, 046, 000	—219, 000

Footnote at end of table.

	New budget authority					Conference compared with 1980 estimate
	Enacted, 1979	Estimates, 1980	House, 1980[1]	Senate, 1980	Conference, 1980	
Capitol Buildings and Grounds						
Capitol buildings	6,157,000	8,541,000	7,394,000	7,394,000	7,394,000	−1,147,000
By transfer	(223,000)					
Capitol grounds	2,565,000	4,223,000	4,062,000	4,062,000	4,062,000	−161,000
By transfer	(79,000)					
Senate office buildings	10,928,600	10,983,000	10,983,000	10,983,000	10,983,000	
By transfer	(334,000)					
Senate garage	164,000	196,000	196,000	196,000	196,000	
By transfer	(7,000)					
House office buildings	21,465,000	20,391,000	18,484,000	18,484,000	18,484,000	−1,907,000
Installation of solar collectors in House office buildings	1,500,000					
Capitol Power Plant (operation)	13,635,000	15,133,000	14,181,000	14,181,000	14,181,000	−952,000
Total, Capitol buildings and grounds	56,414,600	59,467,000	55,300,000	55,300,000	55,300,000	−4,167,000
Total, Architect of the Capitol (except Library buildings and grounds)	59,006,600	62,732,000	58,346,000	58,346,000	58,346,000	−4,386,000
LIBRARY OF CONGRESS						
Congressional Research Service						
Salaries and expenses	25,553,000	30,335,000	27,090,000	27,090,000	27,090,000	−3,245,000
GOVERNMENT PRINTING OFFICE						
Congressional printing and binding	73,961,000	76,212,000	74,500,000	74,500,000	74,500,000	−1,712,000
Total, title I—Congressional operations	762,905,200	809,049,600	762,993,400	762,993,400	762,993,400	−46,056,200
TITLE II—OTHER AGENCIES						
BOTANIC GARDEN						
Salaries and expenses	1,392,000	1,473,000	1,464,000	1,464,000	1,464,000	−9,000
By transfer	(56,000)					
LIBRARY OF CONGRESS						
Salaries and expenses	92,249,000	108,293,000	102,380,000	102,380,000	102,380,000	−5,913,000
By transfer	(1,933,000)					
Copyright Office, salaries and expenses	8,560,500	10,542,000	9,251,000	9,251,000	9,251,000	−1,291,000
By transfer	(61,000)					
Books for the blind and physically handicapped, salaries and expenses	36,729,700	36,948,000	34,337,000	34,337,000	34,337,000	−2,611,000
Collection and distribution of library materials (special foreign currency program):						
Payments in Treasury-owned foreign currencies	3,603,500	3,495,500	3,187,100	3,187,100	3,187,100	−308,400
U.S. dollars	256,600	406,500	375,900	375,900	375,900	−30,600
Total, collection and distribution of library materials	3,860,100	3,902,000	3,563,000	3,563,000	3,563,000	−339,000
Furniture and furnishings	7,694,000	2,880,000	870,000	870,000	870,000	−2,010,000
Total, Library of Congress (except Congressional Research Service)	149,093,300	162,565,000	150,401,000	150,401,000	150,401,000	−12,164,000
ARCHITECT OF THE CAPITOL						
Library Buildings and Grounds						
Structural and mechanical care	2,847,000	8,785,000	4,410,000	4,410,000	4,410,000	−4,375,000
By transfer	(95,000)					
COPYRIGHT ROYALTY TRIBUNAL						
Salaries and expenses	805,000	631,000	471,000	471,000	471,000	−160,000
GOVERNMENT PRINTING OFFICE						
Printing and binding	11,476,000	19,541,000	13,646,000	13,646,000	13,646,000	−5,895,000
Office of Superintendent of Documents, salaries and expenses	23,613,000	23,037,000	23,000,000	23,000,000	23,000,000	−37,000
Total, Government Printing Office (except congressional printing and binding and acquisition of site and general plans and designs of building)	35,089,000	42,578,000	36,646,000	36,646,000	36,646,000	−5,932,000
GENERAL ACCOUNTING OFFICE						
Salaries and expenses	185,906,000	206,763,000	200,300,000	200,300,000	200,300,000	−6,463,000
COST-ACCOUNTING STANDARDS BOARD						
Salaries and expenses	1,850,000	1,800,000	1,300,000	1,300,000	1,300,000	−500,000
Total, title II—Other agencies	376,982,300	424,595,000	394,992,000	394,992,000	394,992,000	−29,603,000
TITLE III—CAPITAL IMPROVEMENTS						
GOVERNMENT PRINTING OFFICE						
Acquisition of site and general plans and designs of building		19,396,000				−19,396,000
Grand total, titles I, II and III: New budget (obligational) authority	1,139,887,500	1,253,040,600	1,157,985,400	1,157,985,400	1,157,985,400	−95,055,200
RECAPITULATION						
Title I—Congressional operations	762,905,200	809,049,600	762,993,400	762,993,400	762,993,400	−46,056,200
Title II—Other agencies	376,982,300	424,595,000	394,992,000	394,992,000	394,992,000	−29,603,000
Title III—Capital improvements		19,396,000				−19,396,000
TITLE I—CONGRESSIONAL OPERATIONS						
Senate	194,307,000	206,884,000	206,884,000	206,884,000	206,884,000	
House of Representatives	315,162,600	326,440,100	312,903,900	312,903,900	312,903,900	−13,536,200
Joint Items	73,847,000	80,360,500	60,152,500	60,152,500	60,152,500	−20,208,000
Office of Technology Assessment	9,700,000	12,500,000	11,000,000	11,000,000	11,000,000	−1,500,000
Congressional Budget Office	11,368,000	13,586,000	12,117,000	12,117,000	12,117,000	−1,469,000
Architect of the Capitol (except Library buildings and grounds)	59,006,600	62,732,000	58,346,000	58,346,000	58,346,000	−4,386,000
Congressional Research Service, Library of Congress	25,553,000	30,335,000	27,090,000	27,090,000	27,090,000	−3,245,000
Congressional printing and binding, Government Printing Office	73,961,000	76,212,000	74,500,000	74,500,000	74,500,000	−1,712,000
Total, title I—Congressional operations	762,905,200	809,049,600	762,993,400	762,993,400	762,993,400	−46,056,200

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 412—CONTINUING RESOLUTION FOR FISCAL YEAR 1980—LEGISLATIVE BRANCH—Continued

[Fiscal years]

	New budget authority					Conference compared with 1980 estimate
	Enacted, 1979	Estimates, 1980	House, 1980[1]	Senate, 1980	Conference, 1980	
TITLE II—OTHER AGENCIES						
Botanic Garden	1, 392, 000	1, 473, 000	1, 464, 000	1, 464, 000	1, 464, 000	−9, 000
Library of Congress (except Congressional Research Service)	149, 093, 300	162, 565, 000	150, 401, 000	150, 401, 000	150, 401, 000	12, 164, 000
Library buildings and grounds, Architect of the Capitol	2, 847, 000	8, 785, 000	4, 410, 000	4, 410, 000	4, 410, 000	−4, 375, 000
Copyright Royalty Tribunal	805, 000	631, 000	471, 000	471, 000	471, 000	−160, 000
Government Printing Office (except congressional printing and binding)	35, 089, 000	42, 578, 000	36, 646, 000	36, 646, 000	36, 646, 000	−5, 932, 000
General Accounting Office	185, 906, 000	206, 763, 000	200, 300, 000	200, 300, 000	200, 300, 000	−6, 463, 000
Cost-Accounting Standards Board	1, 850, 000	1, 800, 000	1, 300, 000	1, 300, 000	1, 300, 000	−500, 000
Total, title II—Other agencies	376, 982, 300	424, 595, 000	394, 992, 000	394, 992, 000	394, 992, 000	−29, 603, 000
TITLE III—CAPITAL IMPROVEMENTS						
Government Printing Office		19, 396, 000				−19, 396, 000
Grand total, new budget (obligational) authority	1, 139, 887, 500	1, 253, 040, 600	1, 157, 985, 400	1, 157, 985, 400	1, 157, 985, 400	−95, 055, 200

[1] Reflects amounts contained in H.R. 4390, as reported June 7, 1979, and Senate items in the amount of the amended budget estimates.

Furthermore, Mr. Speaker, I should note that funds for the Joint Economic Committee and Joint Committee on Printing are provided at the rate contained in the budget estimates since these funds are disbursed by the Secretary of the Senate, although the recommendations in H.R. 4390 had reduced those amounts by $281,000 and $145,000, respectively. It is my expectation that these excess funds should only be applied to increased pay costs, thus obviating the need for supplemental pay increase appropriations.

Mr. Speaker, the amendments agreed to in conference are fully explained in the statement accompanying the conference report.

This is a good, responsible conference report, Mr. Speaker, and I urge its adoption by the House.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the conference report on House Joint Resolution 412, which continues appropriations for the fiscal year 1980 and for those Federal agencies and activities which do not have appropriations enacted for the fiscal year 1980.

There were five amendments before the conferees, including amendments concerning pay and abortion.

We met with the Senate conferees three different times. The meetings were intense, and the discussions were often "candid," to use a diplomatic term.

The intensity reflected the pay and abortion issues, and also the great concern among the conferees that Federal employees are facing short paydays, and many Federal programs would soon run out of funds.

So in spite of the highly controversial nature of the issues before us, the conferees worked long and hard to reach an agreement to present to their respective Houses, and finally did succeed.

I think this is a good conference report, and I believe that the recommendations of the conferees represent the best compromises possible under the circumstances.

Everyone had to give a little bit. We came up with a good compromise here. It is a conference report that this House should vote for and get on with the payment of the salaries and the entitlements and all the other activities of the Federal Government.

I will review the five amendments before the conferees, and the recommendations of the conferees on each amendment.

On amendment No. 1, the Senate receded to the House position, which reduces from 12.9 to 5.5 percent the increase in pay for upper level Federal employees, including Members of Congress.

This amendment is included in the conference report.

On amendment No. 2, the House agreed to Senate language which provides that any additional salary payment under existing law is not to be construed as an increase in salary or emoluments within the meaning of article I, section 6, clause 2 of the Constitution.

This provision of the Constitution states that no Member of the House or Senate may be appointed, during his term of office, to any office for which the emoluments were increased during his term of office.

Amendment 2 also provides that any Member of Congress may bring a civil suit to contest the constitutionality of the appointment or continuance in office of any judge appointed to the U.S. Court of Appeals for the District of Columbia during the 96th Congress.

On amendment 3, the House agreed to the Senate amendment, which continues appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, at the rate and under the terms and conditions in the conference report on the Labor-HEW Appropriation Act for fiscal 1980 as passed by the House.

Abortion is dealt with separately under amendment 5, outside of the conference report.

On amendment 4, the Senate agreed with the House provision, which reduces obligations for executive travel by $500 million, instead of by $750 million as proposed by the Senate.

Amendment 5 is reported in disagreement, but it is expected that a preferential motion will be offered to recede and concur in the amendment of the Senate with an amendment which represents a compromise on the abortion issue.

The compromise language represents current law, without the exception "where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so certified by two physicians."

The resolution would extend through November 20, 1979.

I urge my colleagues to vote for the conference report.

A vote for the conference report is a vote to reduce the pay increase now in effect under current law from 12.9 to 5.5 percent.

A vote against the conference report is in effect a vote to continue the 12.9-percent pay increase now in effect.

● Mr. VOLKMER. Mr. Speaker, although the House has approved compromise language on the abortion issue, I would like to state my strong opposition to this language.

The rape, incest, and drugs and devices provisions of the compromise are unacceptable. I will continue to work for the adoption of the Hyde amendment.

I will also work for language that gives each State the right to make their own determination regarding the use of State funds for abortions. This is the intent of Congress yet the Federal courts have not ruled in this manner, therefore forcing taxpayers money to be used to pay for abortions.

There can be no compromise when dealing with human life, and since this compromise only extends until November 20, 1979, I ask my colleagues to stand by the Hyde amendment and the States' rights language.●

● Mrs. SPELLMAN. Mr. Speaker, as we express concern for life let us also show concern for the millions of lives being held hostage by our inability to come to agreement on the conference report. Black lung beneficiaries, social security recipients, those who are unemployed or who need health care under medicare or medicaid, those receiving supplemental security income because they are disabled, people participating in drug abuse or alcoholism programs funded by the Federal Government—the lives of all of these people will be profoundly affected if we do not pass this continuing resolution today. These programs are grinding to a halt because there is no money to fund them.

And, there is no money to pay the people to operate the programs, either. My office has been besieged by callers who learned that their employers cannot pay them—the Federal Government cannot pay its own workers.

These employees are angry, confused, hurt—they all express outrage, and I, for one, do not blame them. Perhaps their paycheck is not important to some of my colleagues, it is obviously not important to the gentleman who stated that he did not give a damn about the 2 million paychecks. But believe me, it is not easy to get along on half a check, or no check when the rent is due, or the mortgage is due, when the pantry needs filling. I have heard from women who are the sole breadwinners for their families who will have real problems if we cannot agree on the continuing resolution. I have heard from workers who fear their mortgage company "in California will foreclose because my mortgage is 9 percent and they can get 14 percent now." They have asked me how this can happen—does the Congress not realize they have bills to pay, too? Is it any wonder that employee morale in the Federal Government is at an all-time low? How can we expect efficiency from people we treat in so cavalier a manner?

Mr. Speaker, for the past several years we have held the HEW appropriations bill, together with its programs and employees, hostage for months on end. Now, it appears we have expanded the hostage group to include nearly three-quarters of the Federal Government and the millions of Americans who rely on Government programs. It is situations like this which make the Congress look ridiculous, simply because we cannot agree.

Do support the conference report and end this hostage situation.●

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: On page 6, immediately after line 18 insert:

Any additional payment under existing law is not to be construed as an increase in salary or emoluments within the meaning of Article I, Section 6, Clause 2 of the Constitution, except that:

(1) Any Member of Congress, whether he voted to confirm or not to confirm the appointment of any judge appointed during the 96th Congress of the United States Court of Appeals for the District of Columbia, or whether he abstained from, or was not present for such vote, may bring a civil action in the United States District Court for the District of Columbia or in any United States District Court in the State he represents to contest the constitutionality of the appointment and continuance in office of said circuit judge on the ground that such appointment and continuance in office is in violation of Article I, Section 6, Clause 2 of the Constitution;

(2) The designated United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office;

(3) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court; and

(4) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to amendment of the Senate numbered 2 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: On page 20, insert:

SEC. 118. Notwithstanding any other provision of this joint resolution, none of the Federal funds provided by this joint resolution or provided for fiscal year 1980 by any other Act for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 5.

PREFERENTIAL MOTION OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. WRIGHT moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 118. Notwithstanding any other provision of this joint resolution except section 102, none of the Federal funds provided by this joint resolution for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

□ 1340

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I believe this represents our best, if not our only, opportunity to resolve the impasse at which we find ourselves.

This amendment would be a victory for the House in that the Senate would yield from its earlier insistance on the inclusion of all the language that had been agreed to last year in the anti-abortion prohibition. Yet it would not be a total victory for the position of the House, as no compromise ever is.

From the standpoint of those who want strict anti-abortion language, it would include the prohibition against abortions other than those in which the life of a mother is endangered or where rape or incest has taken victims, when such rape or incest has been reported promptly to a law enforcement agency or public health service.

The language concerning severe and long-lasting physical health damage to the mother would be eliminated.

Let me remind those on either side of this issue who might not be fully satisfied, that this will apply only until November 20. Following that, there will be another opportunity to refine and improve anti-abortion language. But this at least will get us over the problem and will not hold hostage to our idealogical disagreements all those activities of the Government for which we have the responsibility to see that they are carried on.

Unless this language is agreed to today, here is what is going to happen:

More than 2 million Federal employees will not be paid. Military personnel charged with defending this country will not be paid.

Black lung recipients throughout America will be denied those benefits to which they are legally entitled and which they financially need.

Veterans' benefits will be delayed to recipients throughout America. Those who have sacrificed their wholeness in defense of this country will be denied those benefits which a grateful Nation has voted they should receive. Disabled veterans, many of them in serious financial need, will not receive those benefits that the law provides for them.

Nearly all of the States will be without funding for the special feeding programs for women and children and infants.

All funding will stop for Defense Department procurement. There will not be any money for the Defense Department to pay for ongoing weapons systems or to buy any ammunition or any new supplies for our Nation's defense.

In addition to this, I ask the Members only to ponder the effect upon foreign confidence in the dollar. Think what could happen at this moment when least of all we can tolerate a failure in the confidence in the Government of the United States?

For all those reasons, Mr. Speaker, I earnestly implore that the Members adopt this amendment, and I have reason to believe that the other body will agree.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Yes, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I do not rise in opposition to this amendment. I think the majority leader's words have been persuasive, and we must accept a compromise, which is the art of government.

But I would like to say this to some of my friends who may be disturbed to see that the victims of rape and incest are still going to be covered. I wonder how many men in this House would willingly vote for the possibility of permanent physical damage to their health when they enter marriage. How many? That is the danger facing women.

So, Mr. Speaker, I say to those who do not agree with me that I hope they will take comfort in the thought that if there is compromise here, this will enable us to go forward with the business of the House.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I want to commend the able majority leader for a good faith effort to compromise what is essentially uncompromisable.

The word "abortion" has a clinical sound to it—but it always happens over someone's dead body, a defenseless totally vulnerable unborn child. When you consider that human life is at stake, then one abortion is one abortion too many.

We have been manuevered into a most untenable position by those who control the ebb and flow of legislation. Paychecks are in jeopardy for hundreds of thousands of Federal employees, each of whom has been held unwitting hostage to the struggle of the conferees.

Our House conferees deserve the highest praise, as they have been heroic in their steadfastness on behalf of innocent human life. No one can know fully the pressures they have undergone, but Americans ought to feel proud that such men of integrity and courage serve in Congress.

I cannot endorse this new language, even though it is a substantial improvement over the current language—even though it will mean fewer and fewer tax paid abortions. I cannot endorse it because some abortions will still occur under this language. I know I speak for all the Pro-Life legislators who have voted with us so far.

My colleagues will have to decide for themselves whether to continue the struggle with the payless paydays confronting Federal employees. I think it is a bitter choice that is imposed on each of us, one that is as unfair as it could possibly be. This issue will not go away. Too many Members view this as a matter of conscience. I join them and salute them, and assert this fight has only begun.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I also congratulate the majority leader for trying to work out something, but I would point out to this House that one of the world's great religious leaders said on the Mall Sunday, "Stand up for life."

These weird snakes across the aisle from me can hiss all they want. I do not care about 2 million damned paychecks being held up. We killed 2 million human beings in their mothers' wombs in the last 2 years. These Federal employees will get their pay checks next week, but all those babies will never get their lives back.

I am now going to put a Dornan amendment on the Treasury bill and on every other bill in this House that kills innocent human life, so be prepared for it.

I ask you, Mr. Speaker, to speak in the well as eloquently for human life as you have in killing the B-1 bomber and as eloquently for human life as you have for giving the Panama Canal to a dictator.

Mr. WRIGHT. Mr. Speaker, permit me just briefly to express my thanks to all those Members who have expressed themselves. I think what we have heard is significant.

I think it is significant that one of those who commented feels that this language is too restrictive and another who commented feels that it is not sufficiently restrictive. Perhaps one of them may be right, I do not know. I do not have clairvoyance nor almighty wisdom, nor do most of us, but I do know within reason that this is the best that we can achieve. I think it is the reasonable and responsible thing to do.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Texas (Mr. WRIGHT).

The preferential motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

FURTHER ANNOUNCEMENT BY THE SPEAKER—LEGISLATIVE PROGRAM

The SPEAKER. The Chair would like to correct a previous statement and announce the schedule of the remainder of the day.

We will take up House Resolution 307, the rule on the alcoholism and drug abuse prevention and treatment programs, and the bill will be debated on Monday.

Then we will take up a bill concerning Appalachia, in which I understand the gentleman from Arizona (Mr. UDALL) and the gentleman from Arizona (Mr. RHODES) are both interested.

There is a conference report to follow that, I believe. We will take up that conference report and consider the Senate amendments.

We will then get back to LEAA. The gentleman from Michigan (Mr. DINGELL) has requested that further consideration of his bill be withdrawn, and we will take that up Tuesday.

We will remain in session until we receive a report from the Senate as to what they did with the continuing resolution.

☐ 1350

Mr. BROWN of Ohio. Mr. Speaker, do I understand that the Department of Energy authorization bill on which we have labored so diligently over the last day and a half is now off the calendar until next week?

The SPEAKER. The gentleman understands correctly.

PROVIDING FOR CONSIDERATION OF H.R. 3916, EXTENSION OF ALCOHOLISM AND DRUG ABUSE PREVENTION

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 307 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 307

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3916) to extend for one fiscal year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 3916, the House shall (1) proceed, sections 401(b)(1) and 402(a) of the Congressional Budget Act (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 440, and it shall then be in order in the House to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 3916 as passed by the House which correspond to section 1 of said bill as reported to the House; and then (2) proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 525, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3916 as passed by the House which correspond to section 2 of said bill as reported to the House.

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 307 provides for the consideration of H.R. 3916, a bill to extend for 1 year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972.

This is an open rule allowing any germane amendments to be offered when the bill is considered under the 5-minute rule. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce.

The Senate considered reauthorization of alcohol abuse and drug abuse programs in two separate bills. Should the House pass H.R. 3916, the rule will allow the House to consider S. 440, which provides a 3-year, $669 million reauthorization of alcoholism programs; and S. 525, which provides a 1-year, $243 million authorization for fiscal year 1980 for drug abuse prevention and treatment.

The rule provides waivers of points of order against both Senate bills so that they might be considered in the House. Sections 401(b)(1) and 402(a) of the Budget Act are waived against consideration of S. 440. Section 401(b)(1) prohibits legislation providing new entitlement authority to take effect before the beginning of a new fiscal year. Section 402(a) of the Budget Act prohibits the consideration of any bill which authorizes new budget authority for a fiscal year unless that bill has been reported on or before May 15, preceding the beginning of that fiscal year. The rule also provides waivers of points of order against consideration of S. 525 for failure to comply with section 402(a) of the Budget Act.

These waivers are of a purely technical nature since the resolution will allow the House to strike all after the enacting clause of S. 440 and S. 525 and to substitute the corresponding language of the House-passed bill.

Mr. Speaker, H.R. 3916 authorizes $221.5 million for alcohol abuse programs and $206 million for drug abuse programs. The authorization for alcohol abuse programs is identical to levels authorized by Congress for fiscal year 1979. The authorization for drug abuse programs is $23 million less than the sum authorized in fiscal year 1979 and is consistent with the President's fiscal year 1980 budget request.

The House bill contains provisions which are intended to insure that special consideration will be given to the needs of and services for women and the elderly with regard to alcohol and drug abuse prevention, treatment and rehabilitation programs.

Mr. Speaker, I urge my colleagues to adopt House Resolution 307 so that we might begin consideration of H.R. 3916.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. BEILENSON) has explained accurately all of the provisions of the resolution.

Mr. Speaker, this is a good measure. It should be enacted into law, and I hope that the House passes the resolution so that we can get down to business next week and consider the measure.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank my colleague, the gentleman from Tennessee (Mr. QUILLEN), for his words of support.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 350, nays 6, not voting 77, as follows:

[Roll No. 555]

YEAS—350

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Heftel
Hightower
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki

NAYS—6

Bauman
Collins, Tex.
Crane, Daniel
McDonald
Paul
Symms

NOT VOTING—77

Anderson, Ill.
Badham
Beard, R.I.
Bedell
Blanchard
Bolling
Bonior
Brooks
Brown, Calif.
Butler
Campbell
Clausen
Clay
Cleveland
Collins, Ill.
Cotter
Crane, Philip
Davis, S.C.
de la Garza
Diggs
Dingell
Dixon
Dodd
Dougherty
Duncan, Oreg.
Fascell
Flood
Gibbons
Gradison
Guyer
Harkin
Harsha
Hefner
Hillis
Holland
Ireland
Jacobs
Jenrette
Jones, N.C.
Kemp
Leach, La.
McEwen
McKay
Martin
Mathis
Mitchell, Md.
Moorhead, Pa.
Mottl

Murphy, Ill.
Nolan
Pashayan
Quayle
Railsback
Richmond
Ritter
Roberts
Rodino
Rose
Rosenthal
Rousselot
Runnels
Sebelius
Seiberling
Snowe
Solarz
Thompson
Treen
Ullman
Van Deerlin
Vander Jagt
Walker
Wilson, Bob
Wilson, C. H.
Winn
Yatron
Young, Mo.
Zeferetti

☐ 1410

Mr. YOUNG of Florida changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ARCHEOLOGICAL RESOURCES PROTECTION ACT OF 1979

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1825), to protect archeological resources on public lands and Indian lands, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment and the House amendment to the Senate amendments.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Archaeological Resources Protection Act of 1979".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.
Sec. 4. Excavation and removal.
Sec. 5. Custody of resources.
Sec. 6. Prohibited acts.
Sec. 7. Penalties.
Sec. 8. Civil damages.
Sec. 9. Rewards; forfeiture.
Sec. 10. Confidentiality.
Sec. 11. Regulations; intergovernmental coordination.
Sec. 12. Savings provisions; mining; rock collection.
Sec. 13. Report.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness; and

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage.

(b) The purpose of this Act is to protect, for the present and future benefit of the American people, the archaeological resources and sites which are on public lands and Indian lands.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such archaeological resources shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials nonfossilized and fossilized paleontological specimens when found in an archaeological context, and any portion or piece of any of the foregoing items. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least fifty years of age.

(b) The term "Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term "Federal land manager" means the Secretary of the Interior.

(c) The term "public lands" means—

(1) lands or interests in lands which are administered as part of—

(A) the National Park System,

(B) the National Wildlife Refuge System, or

(C) the National Forest System; and

(2) all other lands the fee title to which is held by the United States other than lands on the Outer Continental Shelf and lands under the jurisdiction of the Smithsonian Institution;

(d) The term "Indian lands" means land the fee title to which is held by Indian tribes, or Indian individuals, either in trust by the United States or subject to a restriction against alienation imposed by the United States.

(e) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688).

(f) The term "person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of an Indian tribe or of any State or political subdivision thereof.

(g) The term "State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

EXCAVATION AND REMOVAL

SEC. 4. (a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

(b) A permit may be issued pursuant to an application under subsection (a) if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interests;

(3) the archaeological resources derived from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution; and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Secretary of the Interior, before issuing such permit the Secretary shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 10.

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act, to insure compliance with other applicable provisions of law, and to protect other resources involved.

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of section 6, or the terms and conditions of the permit. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7(a) against the permittee or upon the permittee's conviction under section 7(b).

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431) for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe: *Provided*, That, in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section or under the Act of June 8, 1906 (16 U.S.C. 431).

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431–433) for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906, shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before the date of the enactment of this Act which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966 (80 Stat. 917, 16 U.S.C. 470f).

CUSTODY OF RESOURCES

SEC. 5. The Secretary of the Interior may promulgate regulations providing for—

(a) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and, with the consent of the Indian or Indian tribe, Indian lands pursuant to this Act, and

(b) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) or the Act of June 8, 1906 (16 U.S.C. 431–433).

Following promulgation of regulations under this section notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

PROHIBITED ACTS

SEC. 6. (a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4, a permit referred to in section 4(h)(2), or the exemption contained in section 4(g)(1).

(b) No person may sell, purchase, exchange, transport, receive or offer to sell, purchase, or exchange any archaeological resource if such resources was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a); or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

(d) The prohibitions contained in this section shall take effect on the date of the enactment of this Act.

(e) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

PENALTIES

SEC. 7 (a)(1) Any person who violates any prohibition contained in a regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under the subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account—

(A) the archaeological or commercial value of the archaeological resource involved; and

(B) the cost of restoration and repair of the resource and the archaeological site involved. Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person.

The amount of any penalty assessed under this subsection shall not exceed $1,000 for each violation or $2,000 in the case of a second or subsequent violation.

(3) Any person aggrieved by an order assessing a civil penalty under paragraph (1) may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the thirty-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment upholding the assessment of a civil penalty, the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(5) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5 of the United States Code. The Federal land manager may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Any person who knowingly violates, or solicits or employs any other person to violate, any prohibition contained in section 6 shall, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both. If the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $5,000, any person who knowingly violates, or solicits or employs any other person to violate, any prohibition contained in section 6 shall be fined not more than $20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent violation under this subsection the penalty shall be $100,000, or five years, or both.

CIVIL DAMAGES

SEC. 8. (a) Any person who violates a prohibition contained in section 6 shall be liable to the United States for any damage to the archaeological resource involved and may be sued civilly in the United States district court for the district in which the resource is located.

(b) For purposes of this section, damages to an archaeological resource include—

(1) the archaeological value of the resource;

(2) the commercial value of the resource; and

(3) the cost of restoration and repair of the resource and the site involved.

REWARD; FORFEITURE

SEC. 9. (a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay, from penalties and fines collected under section 7, an amount equal to one-half of such penalty or fine, but not to exceed $500, to any person who furnishes information which leads to the finding of civil violation or the conviction of criminal violation with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of section 6 occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 7(b);

(2) assessment of a civil penalty against such person under section 7(a) with respect to such violation; or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in section 6 invoke archaeological resources exacavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payments to an Indian or Indian tribe involved of all damages collected pursuant to section 8 and forfeitures under this section.

CONFIDENTIALITY

SEC. 10. Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(a) further the purposes of this Act or the Act of June 27, 1960 (16 U.S.C. 469–469c); and

(b) not create a risk of harm to such resources or to the site at which such resources are located.

REGULATIONS; INTERGOVERNMENTAL COORDINATION

SEC. 11. (a) The Seecretaries of the Interior, Agriculture, and Defense, after consultation with other Federal land managers, Indian tribes, and representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996).

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a), as may be appropriate for the carrying out of his functions and authorities under this Act.

SAVINGS PROVISIONS; MINING; ROCK COLLECTION

SEC. 12. (a) Nothing in this Act shall be construed to repeal or modify the mining or mineral leasing laws of the United States.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock or mineral which is not an archaeological resource, as determined under uniform regulations promulgated pursuant to this Act.

REPORT

SEC. 13. As part of the annual report submitted to the Congress under section 5(c) of the Archaeological Recovery Act of 1960 (74 Stat. 220; 16 U.S.C. 469–469a), the Secretary of the Interior shall include a report to the Congress respecting the activities carried out under this Act.

Amend the title to read as follows: "An Act to protect archaeological resources on public lands and Indian lands, and for other purposes.".

House amendment to Senate amendments: Strike out in its entirety the Senate amendment to the text of the bill and substitute the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Archaeological Resources Protection Act of 1979".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such regualtions containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

(2) The term "Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term "Federal land manager" means the Secretary of the Interior.

(3) The term "public lands" means—

(A) lands which are owned and administered by the United States as part of—

(i) the national park system,

(ii) the national wildlife refuge system, or

(iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution;

(4) The term "Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688).

(6) The term "person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term "State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

EXCAVATION AND REMOVAL

SEC. 4. (a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

(b) A permit may be issued pursuant to an application under subsection (a) if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,

(3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9.

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act.

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 6. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7 against the permittee or upon the permittee's conviction under section 6.

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431) for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section.

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431–433) for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906, shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before the date of the enactment of this Act which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966 (80 Stat. 917, 16 U.S.C. 470f).

(j) Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this Act.

CUSTODY OF RESOLUTIONS

SEC. 5. The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this Act, and

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) or the Act of June 8, 1906 (16 U.S.C. 431–433).

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

PROHIBITED ACTS AND CRIMINAL PENALTIES

Sec. 6. (a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4, a permit referred to in section 4(h)(2), or the exemption contained in section 4(g)(1).

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a), or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance or permit in effect under State or local law.

(d) Any person who knowingly violates, or counsels, procures, solicits or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than $10,000 or imprisoned not more than 1 year, or both: *Provided, however,* That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $5,000, such person shall be fined not more than $20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than $100,000, or imprisoned not more than five years, or both.

(e) The prohibitions contained in this section shall take effect on the date of the enactment of this Act.

(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

(g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

CIVIL PENALTIES

Sec. 7. (a)(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

(b)(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty,

the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) shall be conducted in accordance with section 554 of title 5 of the United States Code. The Federal land manager may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

REWARDS; FORFEITURE

Sec. 8. (a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under sections 6 and 7 an amount equal to one-half of such penalty or fine, but not to exceed $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 6 occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 6,

(2) assessment of a civil penalty against such person under section 7 with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 6 involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 7 and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

CONFIDENTIALITY

Sec. 9. (a) Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act of under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(1) further the purpose of this Act or the Act of June 27, 1960 (16 U.S.C. 469–469c), and

(2) not create a risk of harm to such resources or to the site at which such resources are located.

(b) Notwithstanding the provisions of subsection (a), upon the written request of the Governor of any State, which request shall state—

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

REGULATIONS; INTERGOVERNMENTAL COORDINATION

Sec. 10. (a) The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996). Each uniform rule or regulation promulgated under this Act shall be submitted on the same calendar day to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of 90 calendar days following the date of its submission to such Committees.

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a), as may be appropriate for the carrying out of his functions and authorities under this Act.

COOPERATION WITH PRIVATE INDIVIDUALS

SEC. 11. The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this Act, to foster and improve the communication, cooperation, and exchange of information between—

(1) private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act, and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associates of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this Act, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

SAVINGS PROVISIONS

SEC. 12. (a) Nothing in this Act shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 3(1).

(c) Nothing in this Act shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

REPORT

SEC. 13. As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 5(c) of the Act of June 27, 1960 (74 Stat. 220; 16 U.S.C. 469–469a), the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this Act, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this Act. Such report shall include a brief summary of the actions undertaken by the Secretary under section 11 of this Act, relating to cooperation with private individuals.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LAGOMARSINO. Mr. Speaker, I reserve the right to object.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the amendment to the Senate amendment to H.R. 1825, the Archeological Resources Protection Act of 1979 would modify the original House-passed version of H.R. 1825 in the following ways:

First. The definition of "archeological resource" in section 3(1) no longer specifically excludes bullets and arrowheads; however, these items are given special consideration in sections 6, 7, and 12 so that hobbyists need not fear Federal penalties.

Second. The definition of "archeological resource" no longer makes use of the term archeological context except insofar as paleontological specimens are concerned.

Third. "Public lands" is redefined to exclude lands under the jurisdiction of the Smithsonian Institute.

Fourth. "Indian lands" is redefined to protect non-Indian owners of subsurface rights.

Fifth. The requirement to disclose information to Indian tribes is made applicable to all "Federal land managers" rather than just the Secretary of the Interior.

Sixth. When State Governors are given permits on request, they must identify the responsible individual, and if the applicable provisons of the act are violated, the permit can be revoked.

Seventh. Persons who cause more than $5,000 damage can be convicted of a felony on the first offense and are subject to imprisonment of not more than 2 years.

Eighth. Civil penalties are measured solely by the value of the resources involved and the costs of restoration and repair. The penalty may be double these, but no additional amount may be levied.

Ninth. Rewards are limited to $500 to be paid "from penalties and fines collected".

Tenth. The TVA is allowed to participate in the writing of the implementing regulations.

Eleventh. The uniform regulations do not take effect until 90 days after they have been transmitted to the House Interior Committee and the Senate Energy and Natural Resources Committee.

This amendment reflects the compromise reached by the interested members between the House-passed version and the Senate amendment. This has been a bipartisan effort to protect archeological resources found on public lands and Indian lands of the United States, and I believe this compromise serves that purpose well.

The bill is not changed in its basics. Archeological resources are protected. State and privately owned lands are not affected. Existing multiple use activities are not subjected to any additional significant barriers which would inhibit authorized uses of public lands.

Two modifications of the definition of "archeological resource" require additional explanation. The first change is that bullets and arrowheads are no longer excluded from the definition. It is still the intent of the authors and supporters of this bill that only artifacts of true archeological interest will be considered "archeological resources." Such items as coins, bottles, and bullets are clearly not intended to come under the purview of this law unless found within an archeological site. While arrowheads located on the surface of the ground may be considered archeological resources, and permits may be required to remove them, no civil or criminal penalty may be imposed under this act. Other acts also regulate the removal of arrowheads. They are unchanged, and some have potential penalties.

The second change in the definition is that the term archeological context is used only insofar as paleontological specimens are concerned. This allows the regulations to protect artifacts of true archeological interest even when found in isolation, but in general, it is the recognition of the importance of the integrity of the archeological site and the context in which archeological resources are found that should guide land managers in their protection and enforcement efforts. As to paleontological specimens, the amendment retains the absolute rule that they must be in an archeological context to be protected.

One further clarification may be needed. If a Federal land manager assesses a civil penalty pursuant to section 7 and needs to go to court to enforce it, language in subsection (b) allows the Federal land manager to "request the Attorney General to institute a civil action." Some Federal land managers, such as TVA, are not represented by the Attorney General, and can institute their own enforcement actions.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I note that one of the changes in the current version of the bill applies the provision requiring disclosure of information to all Federal land managers rather than just the Secretary of the Interior. It is my understanding that this change does not alter the intent of the section as expressed in the colloquy between the gentleman from Arizona (Mr. UDALL) and the gentleman from California (Mr. CLAUSEN) during the debate on the original House-passed version (CONGRESSIONAL RECORD of July 9, 1979, at page 5513). Is this correct?

Mr. UDALL. The gentleman is correct.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. Speaker, I rise in support of H.R. 1825, the Archaeological Resources Protection Act of 1979. First, I would like to commend the distinguished chairman and the minority leader for their cooperation and assistance in reaching agreement on this important legislation to protect our Nation's irreplaceable treasures.

I believe this legislation will be a strong deterrent to protect against the wanton destruction of these invaluable archaeological resources and help prevent their plunder by a handful of people seeking personal gain.

I am gratified that we were able to achieve this goal while at the same time permitting the individual citizen to enjoy the recreational uses of the public lands including collecting those items which are not of true archaeological or scientific interest.

The language as it currently reads is an important compromise with regard to the specific coverage of the bill. The important protections of the bill apply to "archaeological resources" as that term is defined. We have specifically provided authority to the Secretary of the land management agencies to promulgate regulations to elaborate on which archeological resources are covered and which are not. While we provide him such authority and responsibility to promulgate such regulations, it is equally important for us to provide him with a clear understanding of our intention as to which items we believe are acheological resources. In the legislation, we have defined to be material remains of past human life or activities which are of archeological interest as determined by regulations.

To guide the Secretary in promulgating the regulations, a list of items is provided which must be included in such regulations. The list includes such things as pottery, basketry, and other objects. This does not, however, mean that each of these items is automatically of archeological interest—it merely means that each must be covered in the final regulations. Our intent is not to cover items of little archeological interest. In that regard, section 12 has listed items which we believe will not usually be of archeological interest—coins, rock, and bullets. Similarly, arrowheads found on the surface of the ground have been excluded from the penalty section because such items are not the type of item we consider having overriding archeological interest. This is principally because such items are collected for hobby purposes by amateur collectors who are not the enforcement targets of this bill.

We intend that the hobby collector of these items not be covered except in rare and limited circumstances when such items are found in an archeologic context of significant scientific or cultural interest. Likewise, bottles or containers found in old mining areas are not considered to be archeologically significant within the coverage of this act.

Further, the archeological significance of an item is based upon the item itself and its setting. For example, a few scattered beer bottles more than 100 years old may be very interesting to a collector of beer bottles, but they do not constitute the kind of substantial historical or cultural evidence which is meant to be protected here. The intent behind this act is to protect these kinds of items only in a true archeological setting.

Because of the importance of the regulations, we are requiring that they be submitted to the Congress for our review. We are certain that together with the land management agencies and through a cooperative approach with the Congress, we can protect America's invaluable archeological treasures without preventing the average citizen from enjoying the multiple use benefits of the public lands.

In this regard, I would also note that the intent of the Interior Committee and the House regarding multiple uses has been retained in section 12(a). The language of this provision clearly indicates that the bill is not intended to require new permits to carry out the provisions of the Archeological Recovery Act of 1960 for example, or as requiring a permit to conduct archeological surveys prior to oil or gas drilling activities. In short, provisions of existing law and regulations were deemed sufficient by the committee as they relate to multiple uses of public lands and by passing this act there is not intention to add a new layer of administrative or procedural delay which would impede approved activities or projects on the public lands.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. McCORMACK. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I have several questions on the legislation for the gentleman from Arizona. I have been interested in this legislation because I have a number of constituents who enjoy going on recreational hikes in eastern Washington, and picking up arrowheads and old bottles and such items. Over the last 40 or 50 years many of them have made collections of these articles. I would like to know what impact this legislation would have on an individual citizen who picks up arrowheads or other artifacts, or even bottles from Federal land and brings them home for a collection? I would like to know how this legislation would affect such activities.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I am happy to yield to the gentleman.

Mr. UDALL. Mr. Speaker, there will be no adverse impact. The gentleman from Nevada (Mr. Santini) and other Members were greatly concerned on this question. We made clear in the bill and in the report, and I want to make it clear again in my remarks today, that nothing here is intended in any way to interfere with hobbyist-hikers, people who like to pick up arrowheads and bottles from the surface of the land and so on. That is a perfectly legitimate use of public land. We want to make sure that it continues.

Furthermore, any collections people may have had from past activities are beyond the reach of this bill.

Mr. McCORMACK. I thank the gentleman for his explanation and I do not object to his request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona to dispense with the reading of the Senate amendments and the House amendment to the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Arizona?

Mr. SANTINI. Mr. Speaker, reserving the right to object, for those of us who are concerned about possible embarrassment to the national leaders, foremost of which is the President of the United States, who has in the past engaged in the hobby pursuit, of arrowhead collecting, and given all of his recent misfortunes, he has had of late, involving confrontations with rabbits and other distressing episodes, his fortunes would be further depressed if he were to be arrested on a BLM piece of ground because he found an arrowhead there.

□ 1420

As H.R. 1825 is presently written, would the President of the United States incur either a criminal sanction or a civil sanction if he, perhaps in the company of a Member of Congress, was found to have picked up an arrowhead on BLM lands or Forest Service lands?

Mr. UDALL. The answer to the gentleman's question is no. I commend him for helping us to try to tighten this up and making it very clear the sort of thing he fears will not occur.

Mr. SANTINI. How about miniballs? The gentleman from North Carolina had indicated that there was a concern among some of his constituents that purloining a miniball might invite the prosecutional wrath of the Federal Government.

Mr. UDALL. We do not intend that to happen, and we will make it very clear that it does not happen in the report.

Mr. SANTINI. I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Arizona (Mr. Udall)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks, and that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. GUDGER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2061) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. Gudger).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 320, nays 15, not voting 98, as follows:

[Roll No. 556]

YEAS—320

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harris
Hawkins
Heckler
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Roth
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vanik
Vento
Volkmer
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki

NAYS—15

Collins, Tex.
Devine
Evans, Ga.
Hansen
Heftel
Jones, Okla.
Latta
Lloyd
McDonald
Mitchell, Md.
Moffett
Oakar
Paul
Schroeder
Symms

NOT VOTING—98

Anderson, Ill.
Badham
Beard, R.I.
Bedell
Bolling
Bonior
Breaux
Brooks
Brown, Calif.
Buchanan
Butler
Campbell
Clausen
Clay
Cleveland
Collins, Ill.
Cotter
Crane, Philip
Davis, S.C.
de la Garza
Diggs
Dodd
Downey
Duncan, Oreg.
Edgar
Fascell
Findley
Flood
Forsythe
Gephardt
Gibbons
Gradison
Guyer
Hall, Ohio
Harkin
Harsha
Hefner
Hightower
Hillis
Holland
Horton
Huckaby
Ichord
Ireland
Jacobs
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
Kindness
LaFalce
Leach, La.
McEwen
McHugh
McKay
Martin
Mathis
Mikulski
Moorhead, Pa.
Mottl
Murphy, Ill.
Nichols
Nolan
Ottinger
Pashayan
Pritchard
Quayle
Railsback
Rhodes
Richmond
Roberts
Rodino
Rose
Rosenthal
Rousselot
Roybal
Runnels
Sebelius
Snowe
Solarz
Synar
Thompson
Treen
Ullman
Van Deerlin
Vander Jagt
Walgren
Walker
Waxman
Weaver
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Winn
Wright
Yatron
Young, Mo.
Zeferetti

☐ 1430

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2061, with Mr. McCormack in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 10, the bill had been considered as having been read and open to amendment at any point.

Are there further amendments?

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory: On page 222 after line 20 insert the following:

827. (a) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to use funds, and to authorize States to use funds, for programs, projects or events devoted to the international aspects of crime prevention and criminal justice.

(b) Notwithstanding any other provision of law, the State of California is authorized to utilize the proceeds of block grants awarded during fiscal year 1979 or fiscal years previous thereto to fund the 1980 Sixth United Nations Congress on the Prevention of Crime and Treatment of Offenders.

☐ 1440

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this amendment does nothing more than to authorize the State of California at the direction of its California Office of Criminal Justice Planning, to expend the sum of $400,000, which it already has and which it has received from block grants in prior years to utilize that money in helping to finance a United Nations Conference on Crime Prevention and Criminal Justice. This is supported by the majority and minority leaders of the House and the Senate Judiciary Committees and it is supported by the Criminal Justice Planning Office in the State of California.

Mr. Chairman, this amendment would make it possible for the United States to host the 1980 United Nations Congress on the Prevention of Crime and Treatment of Offenders sponsored by the U.N. Crime Prevention and Criminal Justice Branch. Congressman Conyers, Senator Thurmond, Senator Kennedy, and myself have written to the Secretary of State urging him to extend an official invitation to the U.N. to hold this important international convocation in California.

Specifically, subsection (b) of this amendment would authorize the State of California to utilize $400,000 of previously awarded but unexpended block grant funds from previous fiscal years to host the 1980 Congress. The California Office of Criminal Justice Planning already has this money on hand and has expressed a strong desire to utilize it to host the U.N. Congress. Once Congress authorizes California to utilize this unobligated $400,000 for this purpose, the State Department has indicated it will then extend its official invitation to the U.N.

It is clearly in the best interest of the United States that this U.N. Congress be held on our own shores. Hosting this event—which will attract thousands of judges, lawyers, scholars, and other criminal justice experts from around the world—will provide interested Members of Congress and American criminal justice planners with instant access to an important international gathering of crime-fighting experts. It will give us an exciting opportunity to learn from the examples of other nations as such agenda topics as "crime trends and crime prevention strategies" and "juvenile justice" are discussed.

Subsection (a) of this amendment simply authorizes LEAA and its components to expend funds in the future on programs, projects, or events similar to the U.N. Congress devoted to the international aspects of crime prevention and criminal justice. Indeed, there is much the United States can learn from the criminal justice experiences of other countries which could be adapted to fight crime in our own country.

There is ample precedent for such a statutory provision. In the past, through interagency agreements with the Department of State, LEAA has funded pro-

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grams dealing with combatting terrorism. LEAA has funded through the U.N. Social Defense Research Institute the development of an international clearinghouse component of LEAA's National Institute. LEAA funded partially the last U.N. Congress on crime prevention by funding the preparation of background papers, and LEAA's institute is presently preparing four discussion papers for the 1980 Congress.

I urge the adoption of this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. At the beginning of his amendment, the gentleman from Illinois refers to the Office of Justice Assistance, Research, and Statistics which the House deleted when we voted on this issue 2 days ago. I would respectfully suggest the gentleman either amend his amendment or withdraw and redraft his amendment so that it does not refer to OJARS, which passed a couple days ago.

Mr. McCLORY. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I ask unanimous consent to modify my amendment, eliminating the reference to the Office of Justice Assistance, Research, and Statistics, leaving the rest of the amendment as it is.

Mr. GUDGER. Mr. Chairman, would the gentleman from Illinois yield to respond to a question?

Mr. McCLORY. I will be happy to yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, that would leave the amendment reading that "the National Institute of Justice, the Bureau of Justice Statistics and the Law Enforcement Assistance Administration are authorized to use funds," and thereafter in the form of the amendment as originally presented.

We certainly have no objection to the unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will report the modification to the amendment.

The Clerk read as follows:

> On page 222 after line 20 insert the following:
>
> 827. (a) The National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to use funds, and to authorize States to use funds, for programs, projects or events devoted to the international aspects of crime prevention and criminal justice.
>
> (b) Notwithstanding any other provision of law, the State of California is authorized to utilize the proceeds of block grants awarded during fiscal year 1979 or fiscal years previous thereto to fund the 1980 Sixth United Nations Congress on the Prevention of Crime and Treatment of Offenders.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I thank the gentleman for yielding.

I know of no opposition to this amendment. I note that the chairman of the committee, the gentleman from New Jersey (Mr. RODINO), has indicated his wholehearted support. The amendment is in recognition of the fact that crime, especially drug-related crime, is an international problem and the LEAA should be authorized to support meaningful programs on an international scale which could provide useful models for American innovations in crime prevention.

Mr. Chairman, I was aware at one point there was some concern about a limitation of funding in this area but the particular problems have been fully resolved and we see no problem with this amendment on this side.

Mr. McCLORY. I thank the gentleman.

Mr. Chairman, I might say I attended the U.N. conference in Geneva, I think it was 4 years ago, and it is true they deal with subjects of international terrorism, drug trafficking, skyjacking and that sort of thing. I attended with former FBI Director, Clarence Kelly, and the former head of the LEAA, Pete Velde, and it was a very successful conference which I think was very useful to our country as well as to the other countries.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague for yielding.

I wonder if the gentleman could tell us how much money is involved here and, second, why this particular provision for California?

Mr. McCLORY. The conference might be held in San Francisco. They want to hold it out there. Without this, I think there would be some question as to whether or not they could apply LEAA funds, which they already have and which have already been allocated to them for this purpose.

Mr. Chairman, these moneys were appropriated and were allowed in prior years. The amendment merely would authorize their use of the funds from these LEAA grants.

Mr. GUDGER. Mr. Chairman, I wonder if the gentleman would yield further to me that I might answer more specifically the question of the gentleman from Ohio?

Mr. McCLORY. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, it is our understanding on this side that this amendment would authorize the State of California to utilize $400,000 of previously awarded but unexpended block grant funds to host this 1980 event and that these funds are already available. We are not really relating, probably, to any funds at all under this particular act.

However, Mr. Chairman, we must also take into consideration other information which I have and that is that San Francisco is merely a bidder for this event and has not yet been awarded the event.

Mr. McCLORY. The gentleman is correct. The final decision will be made next Wednesday. The earlier decision, or the earlier recommendation was to hold this in Australia which would be a very inconvenient place for a great many nations to attend. San Francisco is anxious to have this and it is a very useful meeting, I can assure the gentleman.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I wonder why we spend $400,000. We would not be paying for the travel of anyone outside of the country, would we?

Mr. McCLORY. No, we would not.

Mr. ASHBROOK. None of these funds would be utilized for paying for foreigners to come to this country?

Mr. McCLORY. No, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY), as modified.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 557]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Dickinson
Dicks
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen

Harris
Hawkins
Heckler
Heftel
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vanik
Vento
Volkmer
Walgren
Wampler
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Alaska
Young, Fla.
Zablocki

☐ 1500

The CHAIRMAN. Three hundred and twenty-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

Does the gentleman from Maryland insist upon his demand for a recorded vote?

Mr. BAUMAN. I certainly do, Mr. Chairman.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 127, noes 203, not voting 103, as follows:

[Roll No. 558]

AYES—127

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Baldus
Barnes
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Bonker
Bowen
Brodhead
Buchanan
Burton, John
Burton, Phillip
Carr
Coelho
Conyers
Corcoran
Corman
Danielson
Dellums
Derwinski
Dickinson
Dicks
Dixon
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frost
Fuqua
Gilman
Gonzalez
Gray
Green
Grisham
Gudger
Harris
Hawkins
Hollenbeck
Holtzman
Horton
Howard
Jeffords
Johnson, Calif.
Kastenmeier
Kazen
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Lowry
Lundine
McClory
McCloskey
McCormack
Maguire
Matsui
Mikulski
Miller, Calif.
Mineta
Moffett
Murphy, N.Y.
Myers, Pa.
Neal
Nedzi
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rangel
Reuss
Roe
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Seiberling
Simon
Skelton
Spellman
Stack
Stark
Steed
Stockman
Stokes
Studds
Swift
Vanik
Weiss
Williams, Mont.
Wolff
Yates
Zablocki

NOES—203

Abdnor
Alexander
Ambro
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Boland
Boner
Bouquard
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Byron
Carney
Cavanaugh
Chappell
Cheney
Clinger
Collins, Tex.
Conable
Conte
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Derrick
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Flippo
Fountain
Fowler
Frenzel
Gaydos
Gephardt
Giaimo
Gingrich
Ginn
Glickman
Goodling
Gore
Gramm
Grassley
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Heckler
Heftel
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffries
Jenkins
Jones, Okla.
Jones, Tenn.
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Luken
Lungren
McDade
McDonald
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Natcher
Nelson
Paul
Pease
Petri
Quillen
Rahall
Ratchford
Regula
Rinaldo
Ritter
Robinson
Roth
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenorenner
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vento
Volkmer
Walgren
Wampler
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Wirth
Wolpe
Young, Alaska
Young, Fla.

NOT VOTING—103

Anderson, Ill.
Aspin
Badham
Beard, R.I.
Bedell
Boggs
Bolling
Bonior
Brademas
Brinkley
Brooks
Brown, Calif.
Burlison
Butler
Campbell
Carter
Chisholm
Clausen
Clay
Cleveland
Coleman
Collins, Ill.
Cotter
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Devine
Diggs
Dingell
Dodd
Donnelly
Fascell
Flood
Garcia
Gibbons
Goldwater
Gradison
Guyer
Harkin
Harsha
Hefner
Hightower
Hillis
Holland
Ireland
Jacobs
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
Leach, La.
Lee
McEwen
McKay
Martin
Mathis
Moorhead, Pa.
Mottl
Murphy, Ill.
Murtha
Nichols
Nolan
Nowak
Pashayan
Pritchard
Pursell
Quayle
Railsback
Rhodes
Richmond
Roberts
Rodino
Rose
Rosenthal
Rousselot
Runnels
Sebelius
Shannon
Snowe
Solarz
St Germain
Stewart
Synar
Thompson
Treen
Ullman
Van Deerlin
Vander Jagt
Walker
Watkins
Waxman
Wilson, Bob
Wilson, C. H.
Winn
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Mo.
Zeferetti

☐ 1510

Mr. JONES of Tennessee and Mr. LUNGREN changed their votes from "aye" to "no."

Mr. PEPPER changed his vote from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

Mr. GUDGER. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Nevada (Mr. SANTINI) for the purpose of a colloquy.

Mr. SANTINI. I thank the gentleman for yielding.

Mr. Chairman, the specific purpose of this inquiry is to establish the legislative intent of the committee with regard to whether or not the restructuring contained in H.R. 2061 represents any change in attitude on the part of the committee with regard to the support of continuing judicial education.

Mr. GUDGER. Mr. Chairman, I would like to respond to the gentleman from Nevada by stating that, if anything, H.R. 2061 appears to increase the Federal criminal justice commitment toward education.

I would like to read to the gentleman from section 703(a) on page 185 of the act the following:

> "The Administration is authorized—
>
> "(1) to assist in conducting local, regional, or national training programs for the training of State and local criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution, defense, or adjudication of those charged with crime, corrections, rehabilitation, probation, and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation."

We are aware of the great State of Nevada's commitment to the education of judicial personnel throughout the

United States, particularly the National Judicial College which is operated at the University of Nevada at Reno is particularly to be commended.

LEAA funds have historically been available to help fund that institution, as have also private foundation funds and other resources from various sources.

We do not intend by this Act to curtail this participation, nor to in any way terminate the right of that institution and other similar institutions to continue to share in LEAA funds.

Mr. SANTINI. Then would it be the intent of the committee and the authors of this legislation that that support should continue?

Mr. GUDGER. It is my understanding of this act that it is the intent of the introducers and of the committee that that support shall be optional for continuance. It will have to, of course, be included within a plan offered either by Reno as a miniblock community or by the State of Nevada. But if included in such a plan, the funds would be qualified for grant under the LEAA program.

Mr. SANTINI. And it is the intent of the committee and the authors of this legislation to encourage continuing education by the judiciary and the support of that enterprise by this legislation?

Mr. GUDGER. Let me say this: That institution, if qualifying for formula grants through the planning process, which I have just described, could qualify. It can also qualify through discretionary grants specifically as provided in section 602 of the bill, and might qualify on 50-50 sharing basis for national priority grants. But certainly in no instance does this educational function fail to qualify for participation in the program.

Mr. SANTINI. I thank the gentleman for his clarification of intent.

(By unanimous consent, Mr. GUDGER was allowed to proceed for 3 additional minutes.)

Mr. GUDGER. Mr. Chairman, at this time I will engage in a colloquy with the gentleman from Virginia (Mr. SATTERFIELD), and I yield to the gentleman for that purpose.

Mr. SATTERFIELD. Mr. Chairman, I thank the gentleman for affording me this opportunity to obtain clarification of certain language in this bill.

Section 402(c) of the bill provides for the chief executive officer of an eligible jurisdiction, that is a municipality, county, or other local government as defined in section 402(a), 2, 3, and 4, to designate the office to prepare and develop applications for formula grants and also authorizes the same chief executive office to exercise the power of joint appointment of the local criminal justice advisory board and to perform various other acts. Section 402(c) is silent as to how members of a local criminal justice advisory board are to be selected when a municipality or county acts singly. Am I correct in my understanding that it is the intent of this section that the chief executive officer is to establish the office or designate a board in this situation.

Mr. GUDGER. The gentleman is correct in that understanding.

Mr. SATTERFIELD. In my district, there are three local government jurisdictions. In each, the chief executive officer is appointed by the governing body, but under existing State law, the charters granted by the State legislature, the authority to make these designations, board appointments is vested in the elected body of these jurisdictions and not in its chief executive officer.

My question is—in making these appointments referred to in our previous statement and question—is it the intent of H.R. 2061 that the executive officer may act unilaterally and that his action would be binding even when contrary to the resolution or other action of the elected governing body, or is the sense of the act that he would be the certifying agent of the municipality or county and his actions would be binding but subject to being vacated if not in accord with preceding or subsequent resolution—or other action—of the elected governing body?

Mr. GUDGER. It is not the intent of section 402(c) of H.R. 2061 to supersede State law with respect to the appointment of advisory boards and the designation of city or county agencies. Its purpose is merely to designate the official of the municipality or county to whom the administration is to look for certification of municipal or county action, and to assure that the administration shall be entitled to act upon information supplied by the chief executive officer of the eligible jurisdiction as the agent of the municipality or county. Nothing else appearing—but that where the chief executive officer acts in excess of his authority under State and local law, his act would be ultra vires.

The administration would recognize and respond and acknowledge as binding actions of local municipal or county governing body in the circumstances which you have described when it conflicts with the action of the chief executive officer of that municipality or county. The administration would permit the local governing body in such an instance to perform the functions of section 402(c) either directly, upon certification of its clerk, or through its chief executive officer, at its option.

Does this answer the gentleman's question?

Mr. SATTERFIELD. Yes, I believe that the gentleman from North Carolina has fully answered my question in both its aspects—that is where the local governing body, in instances described, acts independently or when it acts subsequently or concurrently in conflict with some action on the part of its chief executive officer. H.R. 2061 does not, under any circumstances, rescind or affect the authority of such elected governing bodies to establish such offices or appoint advisory boards.

Mr. GUDGER. The gentleman is correct.

□ 1520

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the 5 minutes. I would like to take this time to yield to my colleague on the subcommittee the gentleman from Missouri (Mr. VOLKMER), with reference to a question relating to the National Institute of Corrections and the possible duplication of efforts in connection with the LEAA.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to thank the gentleman from Wisconsin (Mr. KASTENMEIER) for yielding to me for what I consider a most important question, in this day and age of trying to remove duplication.

I would like to make an inquiry of the chairman of the subcommittee with jurisdiction over corrections matters, Mr. KASTENMEIER. The LEAA authorization before us today contains in section E provision for substantial assistance to States to improve their correctional programs. And yet soon we will be called upon to authorize the entire Department of Justice budget, including the program of the National Institute of Corrections which also provides assistance to States to improve their correctional programs. I want to know if these two programs are not duplicative and what oversight activity you plan to assure the House that we do not have two agencies doing the same thing.

Mr. KASTENMEIER. Mr. Chairman, I would be happy to respond to the gentleman's concerns.

The National Institute of Corrections was created as an agency within the Federal Bureau of Prisons in 1974. NIC has always had a modest budget and staff and unlike LEAA has not been in the position of providing large block grants or substantial financial assistance to States. Rather, with a budget this year of under 10 million, NIC provides primarily technical assistance to local and State corrections systems. The National Jail Center in Boulder, Colo., run by NIC has focused on the unique problems of county jails around the country.

In my judgment the work of NIC has been exemplary and rather than being duplicative of LEAA's efforts, the work of NIC has complemented the funding and other assistance of LEAA. I believe this is a view shared by corrections experts across the country.

The subcommittee held oversight and legislative hearings in July on Federal assistance to State corrections, and both NIC and LEAA presented testimony. I am satisfied that their work is not duplicative, but is essential and constructive and should be encouraged. This oversight effort will continue with both staff work and further hearings later in this Congress.

Mr. VOLKMER. I thank the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 164, lines 24 and 25, amend the bill by adding the following after the word "project," "including photographic equipment, and fingerprint equipment, for law enforcement purposes.".

Mr. VOLKMER. Mr. Chairman, this amendment is a considerably pared-down amendment from the amendment which failed yesterday by a slight vote, the one that provided for equipment up to $1,000.

This only provides for photographic equipment, fingerprint equipment, and that is all that could be purchased with LEAA money and solely for law-enforcement purposes.

I think the amendment is quite clear, I cannot see how anyone could object to it.

In other words, the small town which has a one- or two-man force and has a small tax base, sometimes in my own district, has a hard time coming up with $100 to $200 for these things, so they use old antiquated equipment. This is for small amounts. We could upgrade their law enforcement for a very small amount of money.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

This amendment provides for money from LEAA to buy photographic equipment and what else?

Mr. VOLKMER. For law enforcement purposes and fingerprint equipment.

Mr. HYDE. That is all?

Mr. VOLKMER. That is it.

Mr. HYDE. No bulletproof vests?

Mr. VOLKMER. No; no guns, none of that, and no cars, no radios, no CB's, none of that.

Mr. HYDE. If the gentleman will yield further, I would ask the gentleman why he is confining it just to fingerprint equipment and photographic equipment? Do they not need radios, or do not some need radios? Why is the gentleman limiting it to that?

Mr. VOLKMER. I am limiting it to it, because I tried yesterday to get a larger amount, and I failed, or the other day, when we had it; and I failed on that. I am limiting it, because when I discussed this just last week when we were out on the interim with my sheriffs and with my police; and when I found out what they needed specifically, this was the major item that they needed. I am trying to take care of something that I know there is a need in my area.

I do not know what the gentleman's need is. If the gentleman's need is for radios, the gentleman could offer an amendment for radios.

Mr. HYDE. If the gentleman would yield, I would think computers might be useful for big metropolitan areas.

Mr. VOLKMER. Computers are in the bill.

Mr. HYDE. I understand that, but now the gentleman is going to force photographic equipment and fingerprint equipment only on the whole country?

Mr. VOLKMER. No; I am not forcing it at all. Nobody has to get it if they do not want it. Nobody has to. It is only if it is approved by the State council on application, and a need has to be shown for it.

Mr. HYDE. If the gentleman would yield further, why not just show hardware under the sum of $1,000 so various areas which might need handguns or might need other things could get them.

Mr. VOLKMER. I tried that.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I am confused as to the precise language of the amendment, and I am wondering whether I have the language of the amendment in front of me.

Mr. VOLKMER. I do not know. It says, "Including photographic equipment and fingerprint equipment for law enforcement purposes."

Mr. McCLORY. It starts out by saying, "Amend the bill by adding the following after the word 'project.'"

1530

Mr. VOLKMER. That is right on lines 24 and 25.

Mr. McCLORY. Photographic equipment and fingerprinting equipment for law enforcement purposes. In other words, if there is a project that is being developed for which there is fingerprinting, then that can be spent for the project?

Mr. VOLKMER. It says:

> * * * grant funds awarded under part D shall not be used except as provided in section 102(g) for—
>
> (1) The purchase of equipment or hardware, or the payment of personnel costs unless the cost of such purchases or payments is incurred as an incidental and necessary part of an improvement program or project.

So if it is a part of that improvement program or project, then they can get the fingerprint equipment or the photographic equipment. It is limited, very limited.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentlewoman.

Mrs. FENWICK. I think it is intelligent to allow some discretion to those who need small amounts for certain equipment. I can understand the desire to avoid the guns and the mace and that sort of thing, but I do approve the purchase of bulletproof vests for police officers which are purely protective. Also, they should be able to buy photographic equipment, fingerprinting equipment, et cetera. Could we not just include such auxiliary equipment as bulletproof vests, photographic equipment, fingerprinting equipment?

Mr. VOLKMER. I would say to the gentlewoman we surely could and I would agree with her. I tried to do that. I surely tried to do that, I would say to the gentlewoman from New Jersey, I tried to and I lost.

Mrs. FENWICK. And I was with the gentleman.

Mr. VOLKMER. I appreciate that.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, let me say in response to the inquiry of the gentlewoman from New Jersey that there is anticipated an amendment which will deal with the bulletproof vests and will relate to that particular human survival concern which the gentlewoman has expressed. I would like to say that this particular amendment does not strike me as being a significant departure from what is already in the law, because already it is possible for a local government to buy hardware provided that it is part of an improvement program or project.

I certainly perceive the gentleman's concerns for adequate identification facilities. Photographic equipment and fingerprinting equipment would both be a part of an identification project and thus should be permissible expenditures under the bill any way. Therefore, I, on this side, have no objection to the amendment. Indeed, I think the gentleman merely clarifies a point which he thinks requires some particular clarification.

Let me also add the gentleman has correctly, I think, defined the situation. This amendment does not say that law enforcement agencies in local communities are required to buy these things. It merely allows them to formulate a plan and apply for the funds to purchase such equipment.

Mr. VOLKMER. And just not for that alone. They cannot just put in an application and say I want one fingerprint set and the LEAA has to send it. That is not in here.

Mr. GUDGER. If the gentleman will yield further, I know of no objection on this side.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I am at a loss to understand why we specifically ask for photographic equipment and fingerprint equipment as a part of these Federal funds. This is basic for any law enforcement agency and they should have it in operation before they can even get off the ground. It seems to indicate that this is going to be used, or Federal funds are going to be used in lieu of what really should be used in the way of local funds that provide the establishment of any local law enforcement agency.

It is my understanding that LEAA funds in the beginning and now are only provided for those things which better a police department in some way. Education, for example.

Mr. VOLKMER. Oh, no. We have computers in this bill.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

(At the request of Mr. McCLORY and by unanimous consent Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I would like to point this out, that the language of the bill provides a prohibition against hardware and payment of personnel, and we do not want to give

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blanket freedom to do that. The bill says:

> Unless the cost of such purchases or payments is incurred as an incidental and necessary part of an improvement program or project."

So the authority is really already there. It is a lot broader in the law as it is than through the amendment the gentleman is now offeirng.

Mr. VOLKMER. All I am trying to do is specifically say this equipment, this equipment includes these things and that is all.

Mr. McCLORY. If the gentleman will yield further, I have no objection to his amendment. I think it is entirely redundant. It may be making it a little more exclusive.

Mr. VOLKMER. I would say to the gentleman it all depends on who is running the LEAA, because the LEAA may say well, that is not part of a project, that should never be part of a project. This way the Congress will have spoken.

Mr. McCLORY. I see no objection to the amendment whatever except for the redundancy, and I would hope that the subject of the bulletproof vests could be included in the gentleman's amendment as well and we would include that as equipment that is incidental to the equipment.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I will yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, I would say I think the gentleman's amendment might be improved by saying "but not limited to" so that we do not get the argument that including as meaning it was exclusively those two minor items.

Mr. VOLKMER. I will not argue with the gentleman.

Mr. SAWYER. It seems if we said "not limited to" it would clarify the matter.

Mr. VOLKMER. I would much rather have the type language the gentleman talks about, and that is what I did try the other day with a limit of $1,000 on a per unit basis. That is what I failed on. Now I am coming back on a much more restricted basis to try and at least get something in this bill to help local communities.

Mr. SAWYER. Except this makes it appear that we are kind of filling an order for Hannibal, Mo., in particular, or something of that type.

Mr. VOLKMER. No, for Marion County.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT OFFERED BY MR. VOLKMER

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK to the amendment offered by Mr. VOLKMER: Insert after the word "including" "bulletproof vests."

Mr. PEYSER. Mr. Chairman, I reserve a point of order at this time on the germaneness of this particular amendment.

The CHAIRMAN. The gentleman from New York reserves a point of order on the amendment.

Mr. ASHBROOK. Mr. Chairman, we have heard the debate. The gentlewoman from New Jersey, the ranking minority Member from Illinois, everybody seems to think we should include "bulletproof vests" in this section. All this amendment does is to accommodate that particular desire on the part of the membership.

I would like to yield back my time. I do not think we need further debate.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from New York insist on his point of order?

Mr. PEYSER. Mr. Chairman, I do.

Mr. Chairman, I do this to my friend from Ohio because my concern is exactly the same as his, which is to guarantee that we do include in this bill the availability of bulletproof vests, because it is a whole different subject. I raise the point that it is not germane to this particular equipment that is being discussed at this time. When we previously discussed this with the Parliamentarian the point was made that it could not be amended on the other side by having the bulletproof vest amendment amended by adding cameras and other equipment. It is not a germane fact to this issue and the type of equipment we are dealing with and discussing, and for that reason it should be ruled out of order.

I will say that it is my intention, to the gentleman from Ohio, to offer this amendment as I did the other day, offer the exact same amendment. I intend to offer it today as soon as this discussion is finished.

Does the gentleman from Ohio wish to be heard on the point of order?

Mr. ASHBROOK. Mr. Chairman, I would merely say in response that I do not believe my colleague from New York has stated adequate grounds on the point of order. I think the proposition he propounded, the question placed to the Parliamentarian was on the Volkmer amendment when we were in an entirely different position the other day and we have already opened up two categories. It seems to me this comes within the general description of the type of police gear, type of police paraphernalia, electronic devices that could be used, and I would think the point of order should be overruled.

□ 1540

The CHAIRMAN. Does the gentleman from Missouri wish to speak on the point of order?

Mr. VOLKMER. Yes, Mr. Chairman, I would like to speak on the point of order. As to the question of germaneness, as I understand it my amendment says, "including photographic equipment, fingerprint equipment," and then the words "for law enforcement purposes."

Therefore, in my opinion anything that would be in there for law enforcement purposes would be germane. In other words, if somebody would offer an amendment for pistols, or offer an amendment for bullets, or offer an amendment for police caps or cars or anything else for law enforcement purposes, it is germane. This is not restricted just to a certain type of equipment. We have photographic equipment and fingerprint equipment. They are not related at all. Bulletproof vests are for law enforcement purposes.

The CHAIRMAN. The Chair is prepared to rule.

The question really comes down to how to define and segregate categories of law enforcement equipment. The Chair is persuaded that the term, "photographic equipment and fingerprint equipment" is a generic category that deals with information rather than protection of law enforcement officers.

Bulletproof vests are within the different category of equipment for the protection of law enforcement officers. The Chair recognizes that this is a fine line, but rules that under the precedents the amendment is not germane to the pending amendment and the point of order is sustained.

Mr. ASHBROOK. Mr. Chairman, is the point of order upheld?

The CHAIRMAN. Yes.

Mr. ASHBROOK. Mr. Chairman, I appeal the ruling of the Chair.

The CHAIRMAN. The question is, Shall the Chair's ruling stand as the judgment of the Committee?

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 559]

Abdnor
Addabbo
Akaka
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clinger
Coelho
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.

Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hinson
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vanik
Vento
Volkmer
Walgren
Wampler
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

☐ 1550

The CHAIRMAN. Three hundred and twelve Members have answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote appealing the decision of the Chair.

Does the gentleman from Ohio (Mr. ASHBROOK) insist upon his demand for a recorded vote?

Mr. ASHBROOK. I do not, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The question was taken, and on a division (demanded by Mr. VOLKMER) there were—ayes 10, noes 81.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, on that amendment, which is my amendment and I feel very strongly about this amendment, I now demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 174, not voting 110, as follows:

[Roll No. 560]

AYES—149

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Anthony
Applegate
Ashbrook
Atkinson
Bafalis
Bailey
Bauman
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Boner
Bowen
Brown, Ohio
Burlison
Byron
Carney
Carter
Cheney
Collins, Tex.
Conable
Courter
Daschle
Davis, Mich.
Deckard
Derrick
Dornan
Dougherty
Edwards, Calif.
Edwards, Okla.
English
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Ferraro
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frost
Gaydos
Gephardt
Giaimo
Gilman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Hinson
Hopkins
Horton
Howard
Huckaby
Hughes
Jenkins
Jones, Okla.
Kazen
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Lent
Levitas
Lewis
Loeffler
Long, Md.
Lott
Lujan
McCormack
Marks
Marlenee.
Marriott
Mazzoli
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nichols
Oberstar
Panetta
Pepper
Petri
Peyser
Pickle
Price
Rahall
Rinaldo
Ritter
Robinson
Roe
Roth
Sawyer
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
Stack
Staggers
Stenholm
Stratton
Symms
Taylor
Volkmer
Walgren
Wampler
White
Williams, Mont.
Wilson, Tex.
Wolff
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOES—174

Andrews, N.C.
Andrews, N. Dak.
Archer
Ashley
AuCoin
Baldus
Barnard
Barnes
Beard, Tenn.
Beilenson
Bethune
Bingham
Boland
Bonker
Bouquard
Brademas
Breaux
Brodhead
Broomfield
Broyhill
Buchanan
Burgener
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Clinger
Coelho
Conte
Conyers
Corcoran
Coughlin
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Dellums
Derwinski
Dickinson
Dingell
Dixon
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
Erdahl
Erlenborn
Evans, Ga.
Fary
Fazio
Findley
Fish
Fisher
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Gingrich
Ginn
Gray
Green
Hall, Ohio
Harris
Hawkins
Heckler
Holt
Holtzman
Hubbard
Hutto
Hyde
Ichord
Jeffords
Jeffries
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leland
Livingston
Lloyd
Long, La.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Mitchell, Md.
Moffett
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Obey
Ottinger
Patten
Patterson
Paul
Pease
Perkins
Preyer
Quillen
Rangel
Ratchford
Regula
Reuss
Rostenkowski
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Schroeder
Schulze
Seiberling
Shuster
Simon
Spellman
Stangeland
Stanton
Stark
Steed
Stockman
Stokes
Studds
Swift
Tauke
Thomas
Traxler
Trible
Udall
Vanik
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Wirth
Wolpe
Yates

NOT VOTING—110

Albosta
Alexander
Anderson, Ill.
Annunzio
Aspin
Badham
Beard, R.I.
Bedell
Blanchard
Boggs
Bolling
Bonior
Brinkley
Brooks
Brown, Calif.
Burton, John
Butler
Campbell
Clausen
Clay
Cleveland
Coleman
Collins, Ill.
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Davis, S.C.
de la Garza
Devine
Dicks
Diggs
Dodd
Donnelly
Duncan, Oreg.
Fascell
Flood
Fuqua
Garcia
Gibbons
Glickman
Gradison
Guyer
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Ireland
Jacobs
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
Leach, La.
Lee
McEwen
McKay
Martin
Mathis
Moakley
Moorhead, Pa.
Mottl
Murphy, Ill.
Nolan
Pashayan
Pritchard
Pursell
Quayle
Railsback
Rhodes
Richmond
Roberts
Rodino
Rose
Rosenthal
Rousselot
Runnels
Scheuer
Sebelius
Shannon
Snowe
Solarz
St Germain
Stewart
Stump
Synar
Thompson
Treen
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Watkins
Waxman
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wright
Wyatt
Wydler
Wylie
Yatron
Zeferetti

☐ 1610

Mr. LONG of Maryland changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GUDGER. Mr. Chairman, I move to strike the last word.

At this time I yield to the gentleman from Alabama (Mr. SHELBY) for the purpose of a colloquy.

Mr. SHELBY. Mr. Chairman, I rise for the purpose of asking the distinguished gentleman from North Carolina, a question. It is my understanding that the Bureau of Justice Statistics (BJS), as envisioned by H.R. 2061, will publish national statistics on crime and justice. Many of these statistics will be collections of statistics provided to it by State Statistical Analysis Centers, whose role at the State level will be to collect, analyze, and provide statistical information to State decisionmakers in the fields of crime and justice. Thus, the relationships between the BJS and the SAC's must be close in order to assure good justice statistics.

There is ambiguity in current law about where funds for the SAC's should come from. Currently, in LEAA, there is an NCJISS with both a Statistics and a Systems Division. At different times, both these divisions have provided funding for the development of State level information systems, and for the support of State SAC's. What was the intent of the committee, in reporting out H.R. 2061 establishing the new BJS, to clarify that ambiguity?

Mr. GUDGER. As stated on page 17 of H.R. Report No. 96–163, dated May 15, 1979, on the Justice System Improvement Act of 1979:

> In order to carry out the aforementioned provisions of the Bureau, the Committee strongly recommends that primary emphasis be given to creating and strengthening the state Statistical Analysis Center (SAC) concept. The failure of attempts to implement the recommendations of the Wickersham Commission, described above, was due in large part to the failure to involve state and local criminal justice agencies as the primary data collection agents. The Committee feels strongly that their involvement in this manner and that of other systems—such as the federal and state courts—which general statistics is essential if the BJS effort is to succeed. Grants to support states and local statistic activities can be conditioned upon satisfactory participation in the efforts of the BJS.

☐ 1620

Mr. Chairman, I think this responds adequately to the gentleman's inquiry and indicates a concept in the Bureau of Justice statistics that they will depend very heavily on the State SAC's.

Mr. SHELBY. Mr. Chairman, it does indicate that, and I thank the gentleman.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 120, beginning in line 22, strike out "(3) support" and all that follows through "justice system;" in line 24.

Page 120, line 24, strike out "(4)" and insert "(3)" in lieu thereof.

Page 120, line 25, strike out "(5)" and insert "(4)" in lieu thereof.

Page 120, line 25, strike out "(6)" and insert "(5)" in line thereof.

Page 121, line 1, strike out "(7)" and insert "(6)" in lieu thereof.

Page 121, line 3, strike out "(8)" and insert "(7)" in lieu thereof.

Page 121, line 7, strike out "(9)" and insert "(8)" in lieu thereof.

Page 121, line 10, strike out "(10)" and insert "(9)" in lieu thereof.

Page 122, beginning in line 14, strike out "parts E and" and insert "part" in lieu thereof.

Page 125, line 8, strike out "national priority grants under part E and".

Page 126, line 23, strike out "E,".

Page 131, beginning in line 18, strike out "national priority grants under part E and".

Page 165, line 23, strike out "E,".

Page 165, line 23, strike out "70" and insert "80" in lieu thereof.

Page 167, line 16, strike out "E or".

Page 173, strike out line 16 and all that follows through line 23 on page 178.

Page 195, line 9, strike out "E,".

Page 196, beginning in line 4, strike out "parts E and F" and insert "part F" in lieu thereof.

Page 215, strike out line 1 and all that follows through line 3.

Page 215, line 4, strike out "(3)" and insert "(2)" in lieu thereof.

Page 215, line 4, strike out "E,".

Page 215, strike out line 7 and all that follows through line 12.

Page 215, line 13, strike out "(5)" and insert "(3)" in lieu thereof.

Page 215, line 19, strike out "(6)" and insert "(4)" in lieu thereof.

Page 216, line 1, strike out "(7)" and insert "(5)" in lieu thereof.

Page 216, line 4, strike out "(8)" and insert "(6)" in lieu thereof.

Page 216, line 8, strike out "(9)" and insert "(7)" in lieu thereof.

Page 216, line 13, strike out "(10)" and insert "(8)" in lieu thereof.

Page 216, line 17, strike out "(11)" and insert "(9)" in lieu thereof.

Page 228, line 17, strike out "E,".

Page 228, line 21, strike out "$750,000,000" and insert "$685,700,000" in lieu thereof.

Page 228, line 22, strike out "$750,000,000" and insert "$685,700,000" in lieu thereof.

Page 228, line 23, strike out "$750,000,000" and insert "$685,700,000" in lieu thereof.

Page 228, line 23, strike out "750,000,000" and insert "$685,700,000" in lieu thereof.

Page 230, line 22, strike out "E,".

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, this amendment deletes the new program of national priority grants that is contained in this bill.

At a time when the total appropriation for the Law Enforcement Assistance Administration is being reduced by approximately $200 million, it ill behooves this Congress to establish a new program of new grants within the Law Enforcement Assistance Administration. The national priority grants would be funded at approximately $64.3 million per year for a total of $256 million should this amendment not be adopted. The $256 million figure would be over the next 4 years. This is according to a study that has been made by the Congressional Research Service.

I question whether we should have another program, to begin with, and I also question whether it is proper at this point in time to have the bureaucrats in LEAA determining the priorities rather than having additional money being sent back for distribution to our States and local units of government. The problem with the national priority grants is simply that it takes the decisionmaking power over what the priorities are away from the State and local jurisdictions who should know best and places it in the hands of an agency in Washington that has not done a very good job in the past, by practically everybody's assessment.

The basic question to be decided in the vote on this amendment is: Who sets the priorities? The question is whether the priorities should be set by LEAA or whether the priorities should be set in the planning process at our State and local levels.

Both the block grant funds under part D and the discretionary funds under part F of this bill are not affected whatsoever by this amendment. The part D funds and the part F funds can be used to finance those high-risk projects which may or may not be successful and, consequently, a local government might not want to finance a part of them.

So, Mr. Chairman, I urge the membership of the committee today to save the taxpayers $256 million over the next 4 years through the adoption of this amendment, killing an untried and untested new program.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I want to identify myself with the views expressed by my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER), and congratulate him for his work on this particular subject.

I think we all recognize that the money is going to be short in all programs, and to spread this much more in funds over untried and untested areas certainly does not make sense at this point and at a time of budgetary restraints.

Mr. Chairman, I hope the amendment is approved.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Ohio (Mr. ASHBROOK) for his comments.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I will ask the gentleman, does it not strike him that this type of program, as encompassed in the bill, flies in the face of what we are attempting to do in response to some of the complaints that have been registered about the LEAA program in the past?

Mr. SENSENBRENNER. It certainly does. Many of the complaints we have heard throughout the country indicate that the LEAA program has been too imbedded with the Washington-knows-best philosophy. All the national priority grant program proposes to do is to extend this Washington-knows-best philosophy when in fact we should be going in the opposite direction.

Mr. Chairman, I yield back the balance of my time.

Mr. GUDGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, earlier, in dealing with this bill, it was the sense of the House as I interpreted it that we felt there should be matching funds for all programs. On the formula grant programs we approved an amendment offered by the gentleman from Michigan (Mr. SAWYER) to require that each community put up 10 percent of the cost of any formula grant program.

The priorities program which the pending amendment would strike from the bill would eliminate from the bill those programs which are 50–50 matching programs. In other words, it strikes that 10 percent of the total funding in this bill which would go into special projects which have been tested and tried and found to be successful, programs such as the "sting" projects where the local community is committing itself to spend 50 percent of the cost of the project.

Mr. Chairman, I would like to urge this upon my colleagues here: First, I ask, what are priority projects? What are we talking about? Earlier today I spoke with the gentleman from Michigan (Mr. SAWYER) who offered the amendment to require that formula grants be matched by 10 percent local funds. He described to me a project which had been immensely successful in his own congressional district in his own State. That was a "sting" type operation.

Mr. Chairman, I would like to yield to the gentleman so that he might describe to us what he thinks about these priority programs where the local government may be able to meet part of the cost but not all of the cost of the venture. I yield to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, I thank the gentleman from North Carolina (Mr. GUDGER) for volunteering me to enter this discussion and for yielding to me.

This happened, Mr. Chairman, right in my district. As a matter of fact, it is the second one that has been concluded in the State over the last year. They expended $28,000 in Federal funds to do the actual buying and the setting up of the videotaping equipment and the taping equipment. It was all manned by local undercover police and undercover members of the sheriff's department.

After the expenditure of $28,000, they just closed it down after 5 months of operation, and they recovered $335,000 worth of stolen property and issued 201 felony warrants which we are pretty well cast in concrete, with the kind of videotaping and everything else that was done.

I think this is one of the most successful projects there has been. I happen to have been the prosecutor in that county. I know that without this kind of demonstration we could never get that county commission to put up the $28,000 of purchase money needed to do this job. I have not the slightest doubt now that the county will do this from time to time on its own hook because they estimated that the unclaimed stolen property that was bought and sold for the benefit of the local unit will probably exceed the $28,000 that was spent to acquire the whole lot.

Mr. GUDGER. Mr. Chairman, I thank the gentleman from Michigan (Mr. SAWYER) for his description of just exactly what a priority program should be and why there needs to be local participation to show local confidence in being able to function effectively with a new project or a new program. This shows us why there needs to be a nationwide opportunity for understanding of various new programs as they develop and this priority program helps assure this.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Wisconsin (Mr. SENSENBRENNER), it seems to me, misunderstands the criticism that has been directed at LEAA. Actually, in this piece of legislation we are trying to build up the program in a way to meet the various criticisms that have been leveled at it.

□ 1630

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. GUDGER) has expired.

(On request of Mr. McCLORY and by unanimous consent, Mr. GUDGER was allowed to proceed for additional minutes.)

Mr. GUDGER. Mr. Chairman, I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, the criticisms that have been leveled at LEAA have not been leveled at the bureaucracy downtown, where they have a very small number of personnel, very little to do. This has been virtually a block grant special revenue-sharing type of program. The criticism has been leveled at the local communities, where the local officials have made the errors. That is the unfortunate part about this program.

So what the national priority program undertakes to do, what this legislation undertakes to do, is to provide some monitoring, some evaluating and some direction from the Federal Government to try to see that the funds are utilized in a way which has been found to be efficient and effective at the local level. And for us to divorce ourselves of that kind of responsibility seems to be to overlook the whole law enforcement process. We are not trying to run the police departments, but what we are trying to do is to give some guidance, some direction, some coordinating influence with respect to law enforcement, which is a national responsibility. Crime is a national problem. But to suggest that the Federal Government should not have any input insofar as what programs are effective, what ways can communities help to do a better job for themselves seems to me to do a disservice in this. So it is really undertaking to improve the Federal role that we have put this in here, not for the purpose of building up the Federal bureaucracy. The gentleman misunderstands the effect and the purpose of these provisions.

Mr. GUDGER. Mr. Chairman, I would like to make this observation: Were we to wipe out the 10 percent of these funds that would go into the national priorities program on a 50–50 matched basis with the local community, that money would then go into the formula grant feature of this bill, and it would be a 90–10 match under the Sawyer amendment.

I suggest that where a community wants to match by 50–50 a particular project which it feels is worth its contribution to that extent, we would be doing that community a disservice not to let it take advantage of these nationally proven programs, such as that which was illustrated so capably by the distinguished gentleman from Michigan.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Chairman, I am afraid that the gentleman from Wisconsin is not the one who is confused on this.

A national priority grant program is not in existence at the present time, I say to the gentleman from North Carolina. This is a new program that has been concocted in H.R. 2061.

Mr. GUDGER. I am quite aware of that.

Mr. SENSENBRENNER. The sting program and the other programs that the gentleman from Michigan, the gentleman from Illinois, and the gentleman from North Carolina have referred to——

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. GUDGER) has again expired.

(On request of Mr. SENSENBRENNER and by unanimous consent, Mr. GUDGER was allowed to proceed for 2 additional minutes.)

Mr. GUDGER. Mr. Chairman, I yield again to the gentleman from Wisconsin (Mr. SENSENBRENNER) to explain to me something that I knew quite well, that the national priorities program is a new concept and we think a very good one.

Please continue.

Mr. SENSENBRENNER. All of those programs that the gentleman testified and the other gentlemen testified were so successful were financed out of the discretionary grant program, which is a program that is authorized by existing law. This amendment does not touch the discretionary grant program or the funding for the discretionary grant program. So the sting projects and these other wonderful projects will continue to be eligible for funding if my amendment should be adopted. It just prevents another new program from being administered from LEAA to the tune of an additional $64.3 million cost to the taxpayers per year.

Mr. GUDGER. I will ask the gentleman this question:

Does the gentleman's amendment propose that this 10 percent be transferred over to the discretionary grant program? Or to the contrary, does the gentleman have an amendment to submit later to abolish the discretionary grant program?

Mr. SENSENBRENNER. The answer is no to the gentleman's first question and no to the gentleman's second question. I do not propose abolishing the discretionary grant program. I just think we ought not to go into a new program of national priority grants at this time when we are in a tight fiscal situation and an agency which has been roundly criticized for not stretching the taxpayers' dollar as far as it should be stretched.

Mr. GUDGER. Does the gentleman believe that if there is an abandonment of the national priorities program that that money will go into a formula grant on a 90–10 match?

Mr. SENSENBRENNER. No, it will not.

Mr. GUDGER. Where does the gentleman contend it will go?

Mr. SENSENBRENNER. It goes into the taxpayer's pocket.

Mr. GUDGER. Mr. Chairman, I yield to the gentleman from Illinois (Mr. McCLORY) to answer that last question.

BEST DOCUMENT AVAILABLE

Mr. McCLORY. Mr. Chairman, I say that if the national priority program is abandoned, then it does go into the 90–10 program, because we have an overall appropriation here, and the same amount is going to be appropriated whether we have a national priority program or not.

Mr. GUDGER. I thank the gentleman.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point this out: I have worked on the subject of this legislation for a long time. We have had extensive hearings on it, and it has undergone very, very careful study. What we found under the prior Law Enforcement Assistance Administration program was that communities were receiving their block grants, their formula grants, and that they were engaging in various types of law enforcement programs but they were not being evaluated, they were being monitored and successful programs were not being utilized by other communities. So what we have undertaken to do with the national priority grant program is to provide for monitoring and evaluation of programs decide what programs are successful and offer such programs to other communities so that they might participate in that same type of program on a 50–50 match basis. So that is the whole purpose of it. How do you give effect and benefit to an evaluation unless you do provide some manner to establish such priority grants?

So this, it seems to me, is the way to improve the administration of criminal justice and to provide a substantial input on our part to see that the benefits of this legislation can be enjoyed throughout the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 561]

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bonior
Bonker
Bouquard
Bowen
Brademas
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Clinger
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dixon
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hinson
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffords
Jeffries
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Ritter
Robinson
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Swift
Symms
Tauke
Taylor
Traxler
Trible
Vanik
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wolpe
Yates
Young, Fla.
Zablocki

☐ 1650

The CHAIRMAN. Two hundred and seventy-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORD VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin (Mr. SENSENBRENNER) for a recorded vote.

Does the gentleman from Wisconsin insist upon his demand for a recorded vote?

Mr. SENSENBRENNER. I do, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 197, not voting 151, as follows:

[Roll No. 562]

AYES—85

Abdnor
Archer
Ashbrook
Atkinson
Bauman
Beard, Tenn.
Bereuter
Bethune
Bingham
Breaux
Brown, Ohio
Buchanan
Carney
Cavanaugh
Collins, Tex.
Conable
Conyers
Coughlin
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Evans, Del.
Evans, Ga.
Frenzel
Gingrich
Goldwater
Goodling
Grisham
Hagedorn
Hammerschmidt
Hance
Hansen
Hinson
Holt
Hopkins
Hughes
Ichord
Jeffries
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lent
Lott
Lujan
Lungren
McCloskey
Marriott
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Paul
Petri
Pritchard
Ritter
Robinson
Roth
Rudd
Satterfield
Schulze
Seiberling
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Symms
Tauke
Weaver
Whitehurst
Whitten
Young, Fla.

NOES—197

Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Boner
Bonker
Bouquard
Bowen
Brademas
Broomfield
Broyhill
Burlison
Burton, Phillip
Byron
Carr
Carter
Cheney
Clinger
Conte
Corcoran
Danielson
Daschle
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frost
Gaydos
Gephardt
Gilman
Gore
Grassley
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harris
Hawkins
Heckler
Holtzman
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Jeffords
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lederer
Lehman
Leland
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McDade
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Murphy, Pa.
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Roybal
Royer
Russo
Sawyer
Schroeder
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Stack
Staggers
Stark
Steed
Stockman
Stokes
Stratton
Studds
Swift
Traxler
Trible
Udall

Vanik
Volkmer
Walgren
Waxman
Weiss
White
Whitley
Whittaker
Williams, Mont.
Wirth
Wolpe
Yates
Zablocki

NOT VOTING—151

Albosta
Alexander
Anderson, Ill.
Aspin
Badham
Barnard
Beard, R.I.
Bedell
Blanchard
Boggs
Boland
Bolling
Bonior
Brinkley
Brodhead
Brooks
Brown, Calif.
Burgener
Burton, John
Butler
Campbell
Chappell
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Davis, S.C.
de la Garza
Devine
Diggs
Dingell
Dodd
Donnelly
Early
Fascell
Flood
Florio
Foley
Fountain
Fuqua
Garcia
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gradison
Gramm
Guyer
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
LaFalce
Leach, La.
Lee
Levitas
McDonald
McEwen
McKay
McKinney
Martin
Mathis
Mattox
Moakley
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Neal
Nolan
O'Brien
Oakar
Pashayan
Patterson
Pickle
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Runnels
Sabo
Santini
Scheuer
Sebelius
Shannon
Slack
Snowe
Solarz
Spellman
St Germain
Stewart
Stump
Synar
Taylor
Thomas
Thompson
Treen
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Wampler
Watkins
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.
Zeferetti

The Clerk announced the following pairs.

On this vote:

Mr. McDonald for, with Mrs. Spellman against.

Mr. WHITTAKER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1700

Mr. BRADEMAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time solely for the purpose of announcing to the Members of the House that the Speaker has asked me to say that the Committee on Appropriations is meeting at the present time, the other body having rejected the conference report on the continuing appropriations resolution.

Mr. Chairman, the Committee on Appropriations is expected within an hour or so to report to the House a simple continuing resolution which would extend spending at the 1979 level for a period of 30 days. Therefore, it is anticipated that a resolution of that nature will be coming back to us in about an hour.

Mr. RANGEL. Mr. Chairman, will the gentleman yield for a question?

Mr. BRADEMAS. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, it is my understanding that the House Appropriations Committee is presently considering placing into the law a limitation of $8,500 on outside income. Is that correct?

Mr. BRADEMAS. Mr. Chairman, I appreciate that my beloved friend from New York is flushed with the glory of that magnificent party that the New York delegation gave us the other night, but I have to say to him that I do not know what the Committee on Appropriations will put into the resolution to which I made reference beyond the simple extension for 30 days of appropriations at the 1979 level. I simply do not know the answer to his question, but I might say to the gentleman that had I not been making the announcement I am making, I should have been tempted also to have joined in the applause.

Mr. RANGEL. In the absence of the Speaker, it would be helpful perhaps if the gentleman could convey to the Appropriations Committee the sentiments of the House.

Mr. BRADEMAS. I am grateful for the contribution of my friend from New York.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would just say to the gentleman from Indiana, as much as a limitation on the income of both Houses may be important and as important as the pay raise may be to some, many of us feel strongly that an extension of the spending authority of the Government must be accompanied by appropriate language dealing with the issue of abortion. I know the hour is late. And in response to those on the majority side who are hissing I am interested to see your priorities for this House are to hiss those who would deny your pay raise as well as those who speak up for the right to life. The quality of your action speaks for itself.

I am raising a serious issue which the majority of this House has repeatedly upheld, and I would hope that the committee would take into account the need for including a restriction against abortion, because otherwise we will be here for a long period of time today or tomorrow. The issue cannot be evaded.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Chairman, for my own information, is it not true that the House has already passed funding bills for all the departments of Government except HEW?

Mr. BRADEMAS. I am not sure that that is accurate.

Mr. DOUGHERTY. What about the Department of Defense? I am under the impression—perhaps somebody can enlighten me—but I am under the impression that the Senate has 11 funding bills that we have passed, that they could enact tonight, that would fund the majority of the agencies of the Federal Government; and that the only department that would be hung up would be the legislative and HEW. I think we ought to go on the record if that is correct.

Does the gentleman know if that is correct or not?

Mr. BRADEMAS. I appreciate the points the gentleman makes. I think the thrust of what he said is accurate; namely, that the House has acted more expeditiously on the appropriations bills than has the other body, but I have to say in all candor that is not the immediate problem with which we are faced.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, the House has passed all the appropriation bills except the legislative appropriation bill which is in the continuing resolution. The remaining bills that have not been signed by the President and passed both Houses are all laying over in the Senate.

Mr. BRADEMAS. I thank the gentleman.

Mr. DOUGHERTY. The point is, I think we ought to go on record that we have indeed in the House acted responsibly and provided the Senate with the opportunity to fund the great majority of the agencies of the U.S. Government, and the Senate has arbitrarily tried to hold these bills hostage in order to force us to do something we do not want to do.

Mr. BRADEMAS. I might just observe, following what the gentleman has said and without making any editorial comment at all, I think I am right in saying that 13 of the appropriation bills had been passed by the House of Representatives in July.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the distinguished minority whip.

Mr. MICHEL. Mr. Chairman, might I inquire of the distinguished majority whip whether it is the intention of the leadership on the other side to resolve this matter finally tonight regardless of how it may be resolved, so that we are not involved with another weekend of furious calls from around the country asking, "What about my pay?" "Are we going to get our checks?"

I have to make the observation that I think we are acting very ridiculous around here. We absolutely must face up to the issue tonight and resolve it one way or another, and not be prolonging this thing.

Mr. BRADEMAS. I might say to the gentleman from Illinois that I am advised that the other body is debating at the present time reconsideration of the vote by which the conference report was rejected.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I know this may not be a popular thing to say, and I do not know how it will be received, but personally, when I look at the people who are imperiled by our not passing this bill, I really think that raising the questions of abortion and pay raises and things like that, or taking away the privileges which the Senate has for honoraria, it is really a rather cruel thing to hold hostage young people who have a hard time getting by, who are in our military and other positions of employment. This is a sad thing to me to contemplate, if the Members were serious in the applause that was given concerning raising the honoraria issue.

I have never had an honorarium in my life. I am opposed to the pay raise. I am a very strict person with regard to abortion, but I myself am willing to compromise and vote for a liberal abortion provision and vote for a pay raise, which I very much think we should not have. I am willing to make all those kinds of compromises because, when I look at the persons involved in this emergency, providing for them is of greater importance than those other issues because at stake here is the very responsibility of the Federal Government.

We cannot move this along in any other way than by agreeing to compromise. It is true that rules have gotten us in this position. But we must not say to the world, and to our country, that we are going to let young people suffer, who have families and have trouble getting their bills paid and feeding their children because of not being paid, just because we are up tight about something like technical things with regard to abortion, or whether we in Congress have a pay raise or not.

I personally am opposed to both provisions in dispute so far. I am a strict man against abortion and against the pay raise, but I am prepared to vote for liberalized abortion provisions and for a pay raise if that is what it takes, because my responsibility and the responsibility of this House is too great.

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Mr. BRADEMAS. I thank the gentleman from Florida for his contribution.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding. I think the gentleman from Florida (Mr. BENNETT) has put this in its proper focus, that we are now faced with the question of whether or not we are going to protect the rights of those who are already born, and it is time we started thinking about them.

Mr. BRADEMAS. I thank the gentleman from Ohio.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: On page 164, line 25, after the "ect" add ": *Provided however*, That the restriction shall not apply to purchases of bulletproof vests".

Mr. PEYSER. Mr. Chairman, if I may for 1 minute, I do want to thank the chairman of the full committee and the gentleman from North Carolina, the chairman of the subcommittee, and the ranking member, who have assisted me in replacing this amendment in the correct spot. I also want to acknowledge the gentleman from Ohio (Mr. ASHBROOK) who has allowed me to offer this amendment at this time, and I appreciate that.

Mr. Chairman, this amendment, for those who are not on the floor, deals with a lifesaving situation for our police officers around the country. This merely authorizes the director of LEAA to acquire if he deems it necessary in any given area, the bulletproof vests that now we have police officers around the country selling raffle tickets for in order to get them. There are many people who helped me on this. I would like to acknowledge the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment offered by my distinguished colleague from New York (Mr. PEYSER) to allow LEAA funds to be used for the purchase of bulletproof vests.

As one who was wounded 10 times during my 23-year service as a New York City police officer, I have experienced first-hand the serious risks a policeman faces each day on the job. Certainly, any effort to reduce these risks, such as the increased use of bulletproof vests, should have the full support of Congress.

The need for such legislation is clear—the number of police officers killed in the line of duty is growing. In New York City alone, four police officers have been killed since August 2. The New York Post recently interviewed the widows of the slain officers. I would like to recount a portion of the Post article:

Diane Schimenti hasn't been back to her Staten Island home since her husband Tom, 35, was killed outside Grand Central Station last August. She and her two young children can't stand the thought of moving back into a house which they say is no longer a home . . .

Jessica Russell, 3½, is just beginning to understand her father, Michael, 30, was shot and killed. She now asks her mother if she can visit her father in heaven.

Recognizing the need to take effective measures aimed at preventing such senseless tragedies, many police departments around the country are acquiring bulletproof vests for added protection. Unfortunately, quite a few police departments do not have the funds available to purchase a sufficient number of bulletproof vests. This is why our favorable consideration of the amendment is so important.

The 96th Congress convened with a message from the people to eliminate wasteful Government programs—increase efficiency. Well, I submit that there is not a more cost-efficient Government program than one that is successful in saving a human life. The measure offered by Mr. PEYSER seeks to accomplish that goal and I urge my colleagues to join me in supporting the amendment.

Mr. Chairman, since police officers are relying more and more on bulletproof vests, the potential hazards of metal piercing bullets become even greater. Based on reports from the Patrolmen's Benevolent Association, I have conducted a comprehensive investigation into the risks posed by certain metal piercing bullets than can penetrate bulletproof vests when fired from a handgun.

As a result of my investigation, I am preparing legislation aimed at banning the manufacture, sale, and import for "Public use," all such bullets that are able to penetrate seven layers of kelvar (the composition of a lightweight bulletproof vest) when fired from a handgun. To clearly define the bullets affected by the ban, my bill will require that within a specified time period, all handgun bullets must be tested and certified by the Federal Government as to its metal piercing capability.

The law enforcement officers of our Nation need our support. I am confident that we will not fail them.

Let me add that this is an amendment which deserves support as it benefits all those who wear the uniform of law enforcement, from auxiliary police to housing and transit and sanitation police. At this point in the RECORD I wish to insert a telegram I received from John H. Brennan of the Uniform Sanitation Men's Association of New York. All men of law enforcement take the same risks. They deserve the same protection.

In 1976, I led the fight in Congress which led to passage of the public safety officers death benefits bill. We demonstrated our commitment to help the widows and survivors of slain public safety officers. Today we are asked to take an action to help the law enforcement officer—no matter the uniform he wears—who is alive and on the beat today.

NEW YORK, N.Y.,
October 10, 1979.

Hon. MARIO BIAGGI,
Rayburn House Building,
Washington, D.C.:

Urge your support of the Peyser amendment providing LEAA funds for the purchase of bullet-proof vests for law enforcement officers. Sanitation police because of their blue police uniforms are targets and exposed to the same dangers as all police and desperately need the protection of bullet-proof vests.

JOHN BRENNAN,
New York City Uniform
Sanitation Men's Association.

In 1976, I led the fight in Congress which led to passage of the public safety officers' death benefit bill. We demonstrated our commitment to help the widows and survivors of slain public safety officers. Today we are asked to take an action to help the law enforcement officer—no matter the uniform he wears—who is alive and on the beat today.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding.

I would like to state this, Mr. Chairman, that we do not look upon this amendment as dealing with hardware in general. We look upon it as dealing with lifesaving devices of peculiar value to those who are in a highly hazardous profession. I wore a flack vest through 30 missions of flight with the 8th Air Force in World War II. It saved my life, I am sure, on many occasions. I know how valuable this type of equipment can be from my own personal experience.

I would like to make this other observation, Mr. Chairman. The gentleman in the well (Mr. PEYSER) has already demonstrated that this is not expensive equipment. A vest costs $67 when bought in large quantities. We are not talking about an expensive item, but we are talking about an important item. So far as I know, there is no opposition to this amendment on this side, and I will be happy to vote for it.

Mr. PEYSER. I thank the Chairman.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding. I want to commend the gentleman for his concern in presenting this matter to the floor.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York (Mr. PEYSER) which would allow funds provided to police forces by the Law Enforcement Assistance Administration to be used for the purchase of bulletproof vests.

Mr. Chairman, it is ironic that while LEAA funds were used to develop the lifesaving materials used in bulletproof vests, the authorization bill before us would prohibit their purchase with those same funds. Every day, police and other law enforcement officers risk their lives to protect the public from violent crime. It seems incredible that we would not extend ourselves in every possible way to protect their safety.

Street crime is increasing nationwide—within the last few days, the FBI published reports indicating that 9 percent more murders were committed within the first 6 months of 1979 as compared to the same period in 1979. Robbery increased 15 percent during the same period.

In each of the last 2 years, 93 law enforcement officers were killed in the line of duty. As violence in our streets increases, it is almost inevitable that even more deaths will result—unless we vote for this amendment.

The amount of money it will take to equip every peace officer in the United States with a bulletproof vest is only a small fraction of our national law-enforcement budget. If local police want to use their LEAA funds for this most worthy, lifesaving purpose, we should allow them to do so.

Mr. PEYSER. I thank the gentleman for his comments.

Mr. Chairman, I yield back the remainder of my time.

Mr. SAWYER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am thoroughly familiar with the so-called second-chance vests. In fact, I have had occasion to wear them. I just checked with the Grand Rapids Police Department. They cost $64. I recognize they will cost a few more dollars in New York like everything else does, but basically the State police in Michigan contract for them on big lots, and they are made available to every little town and sheriff's department. All of them have gotten them with local funds. Recognize that I am not saying that they are not a good thing and are not necessary, but if we are going to use an emotional phrase and say they are lifesaving, so also is a revolver very often, so also is a radio very often. All police equipment is designed to protect the police department, as well as to help them perform their mission, and if we are going to single out a bulletproof vest, it is not a question of whether they should have it; it is a question of whether this is a legitimate item for the Federal Government to provide as opposed to all other equipment which the local and State authorities ought to provide. I think that we are extending a program beyond where it should go. As a matter of fact the greatest shortcoming of second-chance vests is the same as with seatbelts and passive restraint equipment in automobiles—they are not often worn. This is particularly true in the warm weather when they are not only somewhat bulky but very uncomfortably hot.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding. I think what the gentleman perhaps does not realize is that many of the areas, and not just the urban areas but certainly they are an example around the country, do not have at this time the economic wherewithal to acquire this equipment, and they are trying in many ways. For instance, there are police departments in Chicago, in Boston, in Los Angeles, and in San Francisco, as well as New York who are endeavoring to equip their men with bulletproof vests, but at this time many of them, less than 50 percent, do not have them, to the point where, as I mentioned, we have police officers literally selling chances to obtain them. All I am saying is that this gives the director at his discretion the opportunity in any given area of expending this money for this purpose, and I honestly cannot think of a better place in this legislation for trying to do this.

Mr. SAWYER. If I may recapture my time, to say that any community cannot afford a $64 item is just to say that their legislative body or their local appropriations body is too penurious to do it. It would be different if it were a $500,000 computer, or something like that.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding. I want to tell the gentleman I agree with him 100 percent. I am for this amendment, but I agree with his sentiments 100 percent. The difference is this amendment will give a signal, at least a signal, direction, and encouragement to the local officials all over the country to respond and purchase bulletproof vests for the men that they employ. It is their fundamental primary responsibility, and I could not agree with the gentleman more.

Mr. SAWYER. It will give them encouragement to get it from the Federal Government instead of digging into their own pockets, which they should do. After all, they do not cost any more than a revolver—not as much, as a matter of fact.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer four amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I ask unanimous consent that the reading of the amendments be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. BIAGGI: Page 136, line 4 after "including" insert the following "crimes against the elderly".

Page 136, line 4 after "," insert the following "white collar crime".

Page 137, line 9 after "victimization" but before the semicolon insert "including but not limited to crimes against the elderly".

Page 138, line 8 after "crime" insert "including but not limited to crimes against the elderly".

Mr. BIAGGI. Mr. Chairman, as an original member of the House Select Committee on Aging and a former law enforcement officer I rise to offer these amendments to H.R. 2061, the Justice Improvement Act of 1979. The amendments are simple, they simply seek to include as one of the responsibilities of the new Bureau of Justice Statistics to compile more specific data on crimes against the elderly.

Under my amendments, both the incidents of crime and their impact in terms of victimization would be measured. It would overcome a serious deficiency in the existing criminal justice system which fails to provide us with any specific data on crimes committed against the fastest growing segment of our population.

My amendments parallel recommendations made by our House Select Committee on Aging in a 1977 report on elderly crime victimization. It called for a separate office to compile crime data with emphasis on collection of data on crimes against the elderly.

The American Association of Retired People in their 1979 legislative agenda called for—

> More detailed and uniform crime statistics including such items as victims age ought to be compiled so as to reveal those crimes of which the elderly are disproportionately victimized.

I believe my amendments would compliment the work of the new Bureau whose creation I fully support. Proper compilation of crime statistics can help channel adequate LEAA resources both for crime prevention programs and for crime victim assistance.

Repeated national polls indicate that an older persons' greatest fear is crime.

In my home city of New York where crime statistics involving crimes against the elderly are compiled we know the following:

Although those persons over 60 make up 17.4 percent of the population they were victims of 21 percent of purse snatches 26.7 percent of pocketbook robberies 27 percent of dwelling robberies and 24.7 percent of robberies inside apartments.

It is important that this national problem be addressed in this legislation. Accurate data compilation is essential to insuring proper deployment of Federal resources to fight crime. I urge support for this amendment today. It can help reflect our concern with protecting our older citizens from the horror of crime.

Another facet that should bear on our thinking today is the high rates of consumer oriented crimes committed against older persons. A particularly offensive type of crimes are those known as confidence games where senior citizens are bilked out of entire life savings by unscrupulous con artists. I have conducted hearings on this in my home city of New York where in 1976, more than $5 million were lost by senior citizens duped by confidence games. Earlier this year two elderly sisters in the Bronx committed suicide after they discovered they had been bilked out of almost their entire life savings by a con scheme.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding. I want to commend the gentleman from New York, who has been a very active and forceful leader on the Select Committee on Aging, for his concern that this particular area secure specific attention by the Bureau of Justice Statistics. I wholeheartedly concur in the objective of this amendment, support it, and I know of no objection to it on this side.

Mr. BIAGGI. I thank the gentleman.

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Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Iowa.

Mr. GRASSLEY. I want to thank the gentleman offering this amendment.

Mr. Chairman, I rise in support of the amendment offered by my compatriot, Congressman MARIO BIAGGI, H.R. 2061, LEAA appropriation to create a Bureau of Justice Statistics.

Though national crime statistics show a lower victimization rate for the older population than for the population as a whole, these national statistics can be deceiving. Therefore, I include the following highlights concerning crime against the elderly as reported by the National Council on Aging, Inc., in the RECORD:

> National crime statistics show lower victimization rates for the older population than for the population as a whole, but local surveys often contradict those findings. A national Law Enforcement Assistance Administration (LEAA) survey in 1975 found that there was a personal larceny rate of 25 victimizations per 1,000 older people (65 and over), compared to a rate of 96 victimizations per 1,000 people of all ages. But an eight-city LEAA survey the year before revealed a personal larceny rate of 362 per 100,000 older people, compared to 317 per 100,000 people of all ages.
>
> The elderly are more frequently the victims of crimes against property than crimes against the person. In 1975, the burglary rate for persons over 65 was 54 incidents per 1,000 households, while the robbery rate was four incidents per 1,000 persons.
>
> What little data there are suggest that the elderly are frequent vicitms of fraud and confidence games. The San Francisco and Los Angeles police departments report that more than 90 percent of the confidence victims are over 65.
>
> Certain factors—such as being female, poor and living alone—increase the likelihood of being victimized. In a Kansas City study, older residents of low-income areas were victimized at rates three to four times that of the overall city population. A California study found that one in 24 older women was likely to be robbed compared to one in 146 for the general population.
>
> The economic, physical and psychological impact of crime against the elderly can be more severe than for the younger population. In Kansas City, where the older burglary victims' median loss was $96, 48 percent of the burglary victims lived on less than $3,000 per year, and, many times, this was a fixed income.
>
> Fear of crime is a pervasive attitude in the lives of millions of older persons—the victimized and nonvictimized alike. A national public opinion survey in 1974 discovered that one out of four older persons considers fear of crime a very serious personal problem.
>
> The threat of criminal assault restricts the lifestyle and mobility of older people. The 1974 public opinion survey found that the danger of being robbed or attacked on the street was the most frequent and serious obstacle to getting places mentioned by older respondents.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. BIAGGI).

The amendments were agreed to.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. BIAGGI. Mr. Chairman, I intended to offer an amendment to H.R. 2061, the Justice System Improvement Act of 1979. My amendment would require that States, units of local government, and public agencies which seek funds from the LEAA, enact a law enforcement officers bill of rights as part of their plan. Simply stated, this amendment seeks to extend to police officers the same guarantees of civil rights and due process as all other Americans enjoy.

The amendment is similar to legislation I have introduced during the past five Congresses. This year's bill, H.R. 2443, has over 60 cosponsors.

My 23-year career in the New York City Police Department gave me extensive insights into some of the problems which law enforcement personnel face regarding their civil rights. It prompted me to introduce the law enforcement officers bill of rights in my very first year in Congress, 1969.

Earlier this year, an overwhelming majority of the House voted in favor of legislation to promote the civil rights of institutionalized persons, including those in correctional facilities. Certainly, the merits of that legislation is clear. However, I am confused as to why the rights of incarcerated individuals would receive priority attention over our Nation's law enforcement personnel.

I recognize the need for specific legislative authority for the Attorney General to intervene in cases where institutionalized persons have had their rights systematically violated. I am well aware of the primarily State and local responsibilities in promoting and guaranteeing these rights. Yet, it has been shown on too many occasions, that States and localities are not exercising their responsibilities as advocates. The need for Federal intervention has been clearly shown, and I am very proud of the responsible action taken by the House in effectively dealing with this serious matter.

However, I maintain that these same arguments can be made in favor of Federal intervention on behalf of law enforcement personnel. I take issue with the fact that while we have committed ourselves to civil rights and equal justice for all, including the incarcerated, we have long failed to insure that these same rights are extended to law enforcement personnel. My amendment would effectively help to remedy this situation.

Briefly, my amendment would encourage States and localities to establish a law enforcement officers bill of rights under the guidance of the Administrator of the Law Enforcement Assistance Administration. As the author of this amendment, it is my intent that the LEAA Administrator will use the following criteria as guidelines for an effective bill of rights.

First, law enforcement personnel would have the right to participate in political activities while off duty and out of uniform.

Second, law enforcement officers under investigation must be notified from the outset of the nature of the complaint, all complaints, as well as those who will be present during the interrogation, and their legal rights including right to counsel.

Third, all interrogations must be conducted in a reasonable manner and while being conducted no threats of disciplinary action shall be made.

Fourth, the complete interrogation proceeding must be recorded.

Fifth, a law enforcement officer must be notified and given reasons for any punitive action taken against him prior to the effective date of such action.

Sixth, law enforcement officers have the right to bring civil suits against all those who violate their rights under the bill of rights.

Seventh, no law enforcement officer shall be required to disclose information on personal finances as a basis for promotion.

Eighth, adequate representation of law enforcement personnel must be provided whenever a police complaint review board is established.

During the 94th Congress, when I offered this amendment to the 1976 Law Enforcement Assistance Act extension, I was asked, "What suggests that law enforcement officers are denied their constitutional rights any more often than citizens engaged in any other pursuit?" I also heard concerns that such legislation would be interfering with State and local jurisdictions. I would like to respond to both of these concerns.

First, let me say that despite constitutional guarantees, I have written documentation of specific cases where a law enforcement officer's rights have been violated. The cases touch precisely on the problems that are addressed in this amendment: An investigation taking place against an officer on a verbal complaint and unspecified charges; failure to allow an officer the right to an attorney during questioning; an officer not being informed that an investigation was being conducted against him; and an officer being threatened that he would lose his job if he filed a complaint against another officer.

Perhaps the clearest indication of the unfortunate situation that my amendment seeks to correct, is the police officer who, when inquiring as to what his individual rights were, was told by his Captain "that since you are a police officer you have no rights."

Second, while the idea of a law enforcement officers bill of rights is gaining momentum in this Nation—California, Maryland, and Virginia, as well as several major cities, have adopted versions of a bill of rights—the majority of States and localities have failed to address this problem despite the obvious need to do so. As this House saw that States and localities were not exercising their responsibilities as advocates for the rights of institutionalized persons, I contend that the States and localities also need our leadership to compel them to act responsibly on behalf of the law enforcement officer.

I must also emphasize at this point, that my amendment only encourages the development of a bill of rights for law enforcement officers. The primary responsibility of developing specific statutes would be left to the State as part of their plans for LEAA funds. The only Federal involvement would be in withholding these funds if the State did not provide for such a bill of rights in their plan, and the guidance provided by the LEAA Administrator.

Recognizing the political risks involved when we talk about taking away LEAA funds from States or localities, my amendment specifies that such action will not take place until at least 2 years after enactment of the Justice System Improvement Act of 1979. This would certainly provide the States and localities with adequate time to establish a bill of rights, and if any problems should arise, this time frame could be extended under my amendment. The amendment clearly states that LEAA funds are not to be withheld from those States or localities that are working in good faith toward establishing a bill of rights, even though they may not have one formalized within the 2-year timeframe.

Some will argue that offering an amendment and avoiding procedure on this important issue is not the proper way to legislate. However, I contend that I have accommodated every criticism made during debate in the previous sessions of Congress. In 1973, hearings were conducted on the law enforcement officers bill of rights. I revised the legislation when I received objections so as to make it more acceptable. Yet there has been no movement on this legislation since that time, except for actions which I initiated.

Thus, I contend that much thought and deliberation has gone into the product that is before the House for consideration today. Let me also state that my respect for law enforcement, and for the responsibility of Government supersedes many other considerations. Let me add that these concerns are not divided here—they are consistent.

The amendment enjoys the support of rank-and-file law enforcement personnel, including the Fraternal Order of Police, with a membership of 150,000, and the International Union of Police Association (IUPA), with 60,000 law enforcement personnel members. Further, the Assembly of Governmental Employees (AGE), which represents more than 600,000 public employees, has endorsed this important measure stating—

> We find great irony in the fact that law enforcement officers have fewer rights under present law than the thief, murderer or rapist. . . If we expect our police officers to operate effectively, we must protect their rights as consistently, stringently and adamantly as we protect the rights of the criminals they protect us against.

Mr. Chairman, from my first day on the beat to the present, I have maintained an active interest in the law enforcement profession and the individual professionals who comprise it. I fully recognize that this Nation's first line of defense against crime rests with law enforcement peronnel. It is time they were acknowledged and appreciated. Approval of this amendment will be a giant step in the right direction.

The law enforcement community has waited patiently for Congress to act on this legislation. Their patience after 10 years is waning. The morale of law enforcement officers is reaching an all time low. This is especially true in New York City, where four police officers have been killed since August 2. The law enforcement community will no longer tolerate seeing their colleagues murdered, and then hearing the Congress and the public arguing for the rights of the criminal.

They are not asking for much. They simply want to be assured that they will have the same civil and due process rights as those persons they protect. We should provide that assurance today and thus clearly demonstrating that the Congress fully supports our Nation's law enforcement officers.

I would ask the chairman of the committee if he would care to engage in colloquy with me.

Mr. GUDGER. Mr. Chairman, I would like to thank the gentleman from New York (Mr. BIAGGI) for his action in this matter. It is my understanding that some years earlier, this particular concept was advanced by the gentleman in an independent bill and was the subject of some discussion between him and leaders of the Committee on the Judiciary as a result of which the gentleman had hoped we would have some hearings on this particular concept.

Mr. Chairman, I personally share the convictions of the gentleman that the committee could well consider a law enforcement officers bill of rights. It is a very sophisticated matter which does require appropriate hearings and careful consideration. I have talked with the chairman of the committee to express this concern as has the gentleman in the well. I hope we will soon see such hearings in the Committee on the Judiciary where this matter can receive careful and appropriate attention.

Mr. Chairman, I would say to the chairman and to those present that the amendment which the gentleman has drawn and has just withdrawn is highly complicated, very far reaching, very substantive. We would take hours in debate here if it were advanced tonight. I thank the gentleman for withdrawing the amendment at this time.

Mr. GILMAN. Mr. Chairman, would the gentleman yield?

Mr. BIAGGI. I would be glad to yield to my friend from New York.

Mr. GILMAN. Mr. Chairman, I want to commend the gentleman from New York for keeping this issue of a police officers bill of rights alive. I have joined the gentleman on prior occasions in cosponsoring this legislation. I would hope that we can again cosponsor the legislation next year and eventually have a hearing before the committee as the distinguished chairman has indicated. I think it is a very important issue and one that should be finally resolved by this body.

Mr. BIAGGI. I thank the gentleman for his comments. I am grateful to the chairman for his sympathetic response.

Mr. GUDGER. I am sure the gentleman in the well is aware that I cannot give direct assurances on this particular topic but I do believe I have correctly stated what has been the concern expressed by the chairman of the full committee, the gentleman in the well, myself and others about this particular field and concern.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 146, line 18, after the semicolon insert "and".

Page 146, strike out line 19 and all that follows through line 13 on page 147.

Page 147, line 14, strike out "(6)" and insert "(2)" in lieu thereof.

Page 148, line 7, strike out "402(a)(6)" and insert "402(a)(2)" in lieu thereof.

Page 150, strike out line 4 and all that follows through line 9.

Page 150, line 10, strike out "(B)" and insert "(A)" in lieu thereof.

Page 150, line 10, strike out "the smaller".

Page 150, line 11, strike out "defined in section 402(a)(6)".

Page 150, line 12, strike out "(C)" and insert "(B)" in lieu thereof.

Page 150, line 17, strike out "(D)" and insert "(C)" in lieu thereof.

Page 150, line 21, strike out "(E)" and insert "(D)" in lieu thereof.

Page 151, strike out line 17 and all that follows line 19 on page 153.

Page 153, line 20, strike out "(4)" and insert "(3)" in lieu thereof.

Page 153, in each of lines 21 and 25, strike out "402(a)(6)" and insert "402(a)(2)" in lieu thereof.

Page 154, strike out line 15 and all that follows through line 7 on page 156.

Page 156, line 8, strike out "(d)" and insert "(c)" in lieu thereof.

Page 157, line 15, strike out "(e)" and insert "(d)" in lieu thereof.

Page 158, line 3, strike out "council," and insert "council and" in lieu thereof.

Page 158, line 4, strike out "and local offices, established pursuant to section 402(c),".

Page 158, beginning in line 10, strike out "council," and all that follows through 402(c)," in line 12 and insert "council and the judicial coordinating committee" in lieu thereof.

Page 158, beginning in line 23, strike out "or section 402(b)(4) as appropriate" ending on line 24.

Page 168, beginning in line 9, strike out "402(a)(2)" and all that follows through "section" in line 10.

Page 170, beginning in line 4, strike out "Eligible jurisdictions" and all that follows through line 15.

Page 170, beginning in line 18, strike out "402(a)(6)" and all that follows through "402(c)," in line 22 and insert "402(a)(2)," in lieu thereof.

Page 171, beginning in line 8, strike out "If in a particular State" and all that follows through line 14.

Page 172, line 19, strike out "through (6)".

Page 230, beginning in line 5, strike out "An amount" and all that follows through "$25,000." in line 13.

Page 230, line 25, strike out "402(a)(4)" and insert "402(a)(2)" in lieu thereof.

Page 231, beginning in line 4, strike out "which are not" and all that follows through "and (4)" in line 6

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, this amendment deletes the mini-block grant program which was first authorized in 1976 during the last reauthorization of the Law Enforcement Assistance Administration. Basically, the mini-block grant program allows an eligible local jurisdiction, presently a community of over 250,000 population, or combinations of communities to reach that threshold, an opportunity to apply directly to the Law Enforcement Assistance Administration for funding for a program.

Mr. Chairman, the mini-block grant program allows these local jurisdictions to bypass those State planning agencies as a way of getting funds. The program has been a failure. According to the testimoney which was received by the Crime Subcommittee of the Committee on the Judiciary from the Deputy Attorney General, approximately 12.5 percent of the eligible jurisdictions have applied for mini-block grants.

Mr. Chairman, the committee report indicates that the reason for this low application rate is because all of the planning and bureaucratic redtape that was required. I ask, since this bill is supposedly cutting redtape, why we should continue the mini-block grant program at all?

Mr. Chairman, the way the committee is worded is that it allows an eligible jurisdiction to double dip into the part D funds that are available for grants to States and to communities. An eligible community can first go to its State planning agency with a proposal and be rejected and then go off running to the LEAA office in Washington with the identical same proposal and get funded.

Worse, under the funding proposal contained in part D, if the eligible community is funded by the LEAA bureaucrats in Washington, the amount of money that is available for State formula grants is reduced on a dollar-per-dollar basis on the amount that the funding has been approved under mini-block program by LEAA.

Mr. Chairman, this does sound complicated and it is complicated but, in effect, what the mini-block program does is completely destroy a State's prerogative to set its priorities on where the available LEAA funds will go. Furthermore, the mini-block grant provisions contained in the bill today allows the Federal Government to be an arbitrator. The mini-block grant law as it is set forth in this bill provides that in case of a dispute between a local government and a State government, the LEAA is put in the position of binding arbitration. That means that the Federal Government and its officials including Members of Congress are put plum in the middle of any dispute that goes on between the local government and the State government on a funding proposal.

In sum, first, mini-block grants have been a failure because of the low number of eligible jurisdictions which have applied for them.

Second, my amendment eliminates the double dipping in allowing LEAA to fund programs that were rejected at the State level.

Third, it gets rid of this business of the Federal Government being the umpire in disputes between the State and local jurisdictions.

Finally, Mr. Chairman, it prevents mini-block grants from being used to reduce the funds that are available through the formula grant process under part D to the States, as the law would provide if my amendment is defeated.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I do yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, originally I opposed the mini-grant program, when it was put into the bill 3 years ago I felt disposed to oppose it at that time. I am rather surprised at the gentleman's statement that it has been unsuccessful. Of course, the purpose and intent of the mini-block program is to eliminate one of the layers of approval and one of the layers of planning which is otherwise involved in a criminal justice planning program.

□ 1730

It was my view that the municipalities which qualify for mini-block grants were really eliminating a level of redtape, minimizing the amount of bureaucracy which was involved and preserving the maximum amount of funds for the Federal justice program, which would be in contrast to what the gentleman says.

Now, I question whether there is a double dipping problem. There is no duplicate receipt of funds. When the gentleman refers to double dipping, what he means is that if the community does not apply for the funds through a State planning agency, then it goes directly to the Federal level and then receives an allocable amount that comes through the formula grant program; so that there is only one receipt of funds. There is no duplication of funds.

Mr. SENSENBRENNER. Mr. Chairman, the gentleman is correct. There is only one receipt of funds; however, the eligible jurisdiction at the local level can go to Washington and LEAA may grant assistance after being rejected at the State level. Therein lies the double dipping that I object to so strenuously; so really, the eligible jurisdictions have two kicks at the cat. They can kick at the State cat first, and if the State cat does not die, they can kick at the Federal cat to get the money.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(At the request of Mr. McCLORY and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield further?

Mr. SENSENBRENNER. I yield.

Mr. McCLORY. Is it not true at the present time without the mini-grant program, if the municipality or a county, for instance, is rejected by the State planning agency, they can still go to the Federal LEAA and try to get approval?

Of course, they can apply for discretionary grant funds, too, if rejected at the State level, and possibly still get funded.

The thing that I am concerned about is this. I think we are trying to repose as much responsibility at the local level as possible. The minigrant program does repose maximum responsibility on the counties and on the cities which have their own law enforcement agencies and departments. We try to encourage them to develop their plans and if they qualify, they receive the funds directly without going through these other levels in a regional planning agency and a State planning agency.

Mr. SENSENBRENNER. Mr. Chairman, I am sorry, but I disagree with my friend, the gentleman from Illinois, that the mini-grant program encourages the local and State governments to do the planning and set their own priorities, because it does allow an end run around the State planning to go off to Washington to get some funds. If a community gets a $2 million grant under the way the mini-grant law is awarded in this bill, that means the State planning agency has $2 million less to distribute, according to the priorities which it has set, and therein lies the real flaw in the mini-grant block program.

I would prefer to have the State planning agency set the priorities and distribute those funds available without allowing multiple applications to multiple agencies. Three wrongs do not make a right.

Mr. GUDGER. Mr. Chairman, I rise to speak in opposition to the amendment.

Mr. Chairman, I think this is an opportune time for us to review what is the sense and purpose of H.R. 2061. It is to eliminate unnecessary and duplicative planning. It is to simplify the process of distribution of funds, and most particularly it is designed to assure that there be as much local direction and planning as possible.

Now, the gentleman from Illinois has already addressed that point.

Let me point out that not only does this bill allow for population units of 100,000 or more to apply and qualify for their funds directly to the State and be assured of getting an apportionment based on their population, but it also allows them to develop a 3-year plan, instead of a 1-year plan as is now required.

Now, we are moving away from the annual plan. Why? So as to eliminate unnecessary paperwork. We are allowing the local community to get its proportionate share of the funds that are allocable to the State, based on the population formula more or less with a minimum opportunity for rejection by the State. This, we think, will reduce the number of dollars that flow into planning and will assure there will be a maximum amount of dollars available for actual law enforcement out in the community involved.

Why is this so important? Well, we have seen the appropriations for LEAA cut by nearly 33⅓ percent from some $670 million down to $460 million.

We have got to be careful and we have got to be thrifty and we have got to eliminate unnecessary planning.

Now, communities have had experience in this area. They know now what their needs are far better than they did in earlier years. They do not need that planning. This bill enables them to handle their affairs effectively and efficiently.

To abolish the miniblock concept, I think would be to abolish one of the major most precious features in this bill.

I give credit to the distinguished gentleman from Missouri here seated beside me who reduced the population requirement for miniblocks from 250,000 by amendment within the committee to 100,000. I point out, it is not just a town of 100,000, population not a county of 100,000, but units of several counties or adjoining municipalities which collectively aggregate a population of 100,000.

So we have quite a lot of flexibility built into the system which goes out the window if we eliminate miniblock eligibles.

Now, there may be some States in which strong State management is indicated, but there are certainly many instances where communities are well able to take care of their own planning and their own projects and programs. This allows them that flexibility. This, and other features of the bill make this system far more economical, far more efficient, far more close to the people than it would be wtihout the miniblock feature.

To vote against the amendment is to vote for increased local administration and local management of a program which the localities should be capable of handling themselves.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak briefly in opposition to the amendment of the gentleman from Wisconsin and just like to say that in my opinion I would like to echo the words of the gentleman from North Carolina, that what we are attempting to do in the mini-block grants is actually to pass through the State agencies and directly to the local jurisdictions, so that they can solely alone develop their own programs, and by reducing the population from 250,000 to 100,000 in the aggregate, that we, too, in the rural areas would be able to combine jurisdictions, whether they be cities and counties, in order to promote anticrime programs within those jurisdictions, set up their own programs and have them directly apply to the national and approved without having to go through the State.

I think the whole idea of the miniblock grants is a good idea and I speak in opposition to the amendment.

☐ 1750

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 563]

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boner
Bonker
Bouquard
Bowen
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Byron
Carney
Carr
Carter
Cavanaugh
Cheney
Clinger
Coelho
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.

Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hinson
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Lewis

Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oberstar
Obey
Panetta
Patten
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Ritter
Robinson
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway

Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Studds
Swift
Symms
Tauke
Taylor
Trible
Vanik
Volkmer
Walgren
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wirth
Wolpe
Wright
Yates
Young, Fla.
Zablocki

☐ 1750

The CHAIRMAN. Two-hundred and seventy-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from Wisconsin (Mr. SENSENBRENNER) for a recorded vote. Five minutes will be allowed for this vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 40, noes 246, not voting 147, as follows:

[Roll No. 564]

AYES—40

Archer
Ashbrook
Atkinson
Bauman
Bereuter
Bowen
Cavanaugh
Collins, Tex.
Conable
Davis, Mich.
Dickinson
Dornan
Edwards, Okla.
English
Hance
Hansen
Ichord
Jeffords
Jeffries
Jones, Okla.
Kelly
Leach, Iowa
Leath, Tex.
Lewis
Luken
McCloskey
Moorhead, Calif.
Murtha
Myers, Ind.
Petri
Roth
Rudd
Satterfield
Sensenbrenner
Shuster
Spence
Stanton
Stenholm
Symms
Tauke

NOES—246

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bethune
Biaggi
Bingham
Blanchard
Boner
Bonker
Bouquard
Brademas
Breaux
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Byron
Carney
Carr
Carter
Cheney
Clinger
Coelho
Conte
Conyers
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harris
Hawkins
Heckler
Hinson
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Lederer
Lehman
Leland
Lent
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Murphy, N.Y.
Murphy, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oberstar
Obey
Panetta
Patten
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Ritter
Robinson
Rostenkowski
Roybal
Royer
Russo
Santini
Sawyer
Schroeder
Schulze
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Stack
Staggers
Stangeland
Stark
Steed
Stockman
Stratton
Studds
Swift
Taylor
Trible
Udall
Vanik
Volkmer
Walgren
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wirth
Wolpe
Wright
Yates
Young, Fla.
Zablocki

NOT VOTING—147

Albosta
Alexander
Anderson, Ill.
Applegate
Aspin
Badham
Barnard
Beard, R.I.
Bedell
Bevill
Boggs
Boland
Bolling
Bonior
Brinkley
Brooks
Brown, Calif.
Burton, John
Burton, Phillip
Butler
Campbell
Chappell
Chisholm
Clausen
Clay
Cleveland
Coleman
Collins, Ill.
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Davis, S.C.
de la Garza
Devine
Diggs
Dodd
Donnelly
Duncan, Oreg.
Evans, Del.
Fascell
Flood
Florio
Ford, Mich.
Fuqua
Garcia
Giaimo
Gibbons
Ginn
Glickman
Gradison
Gramm
Guyer
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
LaFalce
Latta
Leach, La.
Lee
Levitas
McDonald
McEwen
McKay
Martin
Mathis
Mattox
Michel
Moakley
Moorhead, Pa.
Mottl
Murphy, Ill.
Myers, Pa.
Nichols
Nolan
Oakar
Ottinger
Pashayan
Patterson
Paul
Pickle
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rousselot
Runnels
Sabo
Scheuer
Sebelius
Seiberling
Shannon
Slack
Snowe
Solarz
St Germain
Stewart
Stokes
Stump
Synar
Thomas
Thompson
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Wampler
Watkins
Waxman
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.
Zeferetti

☐ 1800

Mr. KINDNESS and Mr. WHITTAKER changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 147, line 5, following "State," insert the following: "or any combination of units of local government all in the same county,".

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, we have had an opportunity to examine the gentleman's amendment. We have no objection to it.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, we have no objection to the gentleman's amendment. I think it clarifies a point which I think was the intent of the Committee on the Judiciary in the first instance.

Mr. DANNEMEYER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 230, line 2, strike "7½ per centum" and insert in lieu thereof "20 per centum".

On page 230, line 6, strike "7½ per centum" and insert in lieu thereof "20 per centum".

Mr. VOLKMER. Mr. Chairman, this amendment amends the amount that can be used by the State and local government agencies for planning and administration of the LEAA grants and applications.

The present law does not have a limitation on it. The bill provides for a 7½-percent limitation, with the idea that there would be sufficient funds coming from local communities in order to make up the difference and pull it in. However, in many communities today that are hard strapped for money, this will not be possible.

If the Members can envision something for just a moment, they will realize that if there is a local area where they are getting maybe a $3,000 grant and are limited to 7 percent on planning and administration on the grant, that is actually talking about around $250.

What I am attempting to do by this amendment is to increase the amount that can—not does not have to be, but can—be used for planning and administration on the grants and applications.

This would enable especially the smaller communities, those communities with small grants, not large ones, to be able to have sufficient funds in order to provide for planning and administration. The State would also have sufficient funds.

If the Members can envision, let us say, in the larger metropolitan areas, where they are making application for, let us say, Detroit, Chicago, or St. Louis, for a sophisticated telecommunications equipment operation, which is authorized in this bill or for a big computer operation, which is large equipment, which is authorized in this bill for say $300,000, 7 percent of that is $21,000 that they can use.

Let us say that there is a small community that is just trying to get $3,000 or $4,000 or $5,000 for a program for witness assistance or something like that, they are very limited in the actual amount that they can use on administration, which basically means that they are not really going to be able to do it unless they come up with local matching funds or sufficient funds locally to do it with. Therefore, the formula as contained in the bill, in my opinion, really is discriminatory against the small communities and against communities where they are small grant applications and against the small States which do not have large amounts coming to them.

☐ 1810

What I am attempting to do here is just increase that amount to a slight degree so they will be able to use up to that.

Again, I want to emphasize this does not say that amount has to be used for planning administration. It only says that amount up to that amount can be used.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I am glad to yield.

Mr. DICKINSON. Mr. Chairman, I have listened to the gentleman and I am trying to follow. He is saying a small community that maybe has two police cars and they want to spend $7,000, but they are going to be able to spend $300 in planning. What in the world are they going to do with it? It is the damndest thing I have ever heard.

I am from a rural area, I have been a police judge and I have been a county judge, and what the gentleman is doing just blows my mind. We have a small community. They are paid to make these decisions to start with when they are elected, and the gentleman wants to set aside something so that they can decide whether or not to buy a police car or something. I yield back.

Mr. VOLKMER. I would say to the gentleman I do not think he realizes one thing in this bill. We do not have a police car in this bill.

Mr. DICKINSON. Well, whatever.

Mr. VOLKMER. Not one. Not one.

Mr. DICKINSON. Well, whatever, to say we are going to set aside in a small community X amount of money so that the city council or whoever is going to sit by and make these decisions, we are going to set aside this much money so they can administratively decide how to spend this money, it just blows my mind. That is what they are hired for in the first place. I just have to oppose it.

Mr. VOLKMER. That is fine. The gentleman can oppose it. But what it does mean in the larger communities is that they will have that much larger an amount because the amount of the application is for a much larger amount and invariably they will use it. There is no dollar figure in here, and perhaps if the gentleman would be willing we could put in a $3,000 figure as a limit that could be used for planning administration.

The **CHAIRMAN.** The time of the gentleman from Missouri has expired.

(By unanimous consent Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. VOLKMER. If we put that limit, then I am sure those from the larger States and communities would immediately have a hue and cry against it because they will say that it will not be a sufficient amount in order to do the planning administration. But as long as it is at the 7.5 percent, which would be 7.5 percent of $500,000 for an application, or $300,000 application, and it would mean several thousands of dollars. But if it is 7.5 percent of $5,000 in the application it only means $350.

Mr. GUDGER. Mr. Chairman, I rise to speak in opposition to the amendment.

This bill has been very carefully drawn to try to put a cap on planning expenses. Let me point out to the Members that each State gets $200,000 match-free for general planning at least $50,000 of this match-free amount to be earmarked for judicial planning. In addition the States receive another $100,000 in 50–50 match funds. That makes $250,000 per State for planning.

Just taking the planning money and ignoring the judiciary money, we have authorized in the fund already $10,000,000 for planning purposes. In addition to this, the States may receive 7½ percent of their formula grant appropriation for planning purposes if on a matching basis. If they were to take 20 percent as proposed by this amendment of the part D funds, which aggregate roughly $240 million, we add either $48 million more to planning, making an aggregate of $58 million authorized for planning.

We have had to see a great reduction in LEAA funds under the Appropriations Act of this year. We dropped down from some $675 million to roughly $450 million. If we are going to take off about $58 million for planning, we will be using fully one-fourth of formula grant funds. I think this will waste a great deal of money that need not be wasted.

Earlier, I explained that there will be a reduced need for planning funds since applicants will not be making annual applications but can make one application for a 3-year period. Thus, there is no need for annual planning expenditure under this bill.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. Yes, I yield to the gentleman.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. One of the criticisms leveled at the LEAA program is that excessive amounts of money have been expended for planning. We put a cap on it and it seems to me it is a logical, a legitimate cap. Let us not open the door new and encourage more planning, duplicative planning, which is what we are trying to get rid of. I think the amendment should be rejected.

Mr. GUDGER. I thank the gentleman from Illinois for his succinct analysis of what I was trying to say.

Let me say this in summary. We have changed the law in this new bill so that planning will now be for 3 years and not for 1. We changed the law in this new bill so that local units of government can get together and if they have a collective population of 100,000, and do their own planning. So we can avoid duplication in that area.

We have done a lot in this bill, we think, to eliminate waste. To adopt this amendment would create the opportunity for great waste, we believe, in over-planning and drowning in paperwork a system that needs to be streamlined so that our dollars can go right where they are needed—to the local units of government.

Mr VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. Yes, I will be happy to yield.

Mr. VOLKMER. In those counties which in my area would probably take 10 counties to get to the $200,000 or $100,000, and right now there is no regional government that would combine all of those, let us say they decided, the law enforcement body within the city and counties decided to combine into a miniblock, and they wished to make an application for a grant that would benefit that total area, whether it be witness assistance or, heaven forbid, because we do not have that much, an arson program, a rape program, or something like that, a telecommunications, sophisticated computerization as authorized in this bill, where does the money come from to prepare the application and to plan it out? Where does the money come from?

Mr. GUDGER. $200,000 match free in the State of Missouri——

Mr. VOLKMER. That is for the State.

Mr. GUDGER. That is for the State, and miniblock eligibles as I understand the law.

Mr. VOLKMER. I disagree with the gentleman. As I understand the law, that goes to the State for the State planning, and not to the minigrants, and the minigrants are going to have to come out of their funds. That is what concerns me, is that fact that if you reduce it to that percent we are not going to have any funds for those minigrants. I support minigrants, but I do not think we are going to be able to do it.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment was rejected.

Mr. McCLORY Mr. Chairman, I move to strike the last word.

I take this time to inquire how many more amendments there are. I would hope we could conclude this bill promptly and vote on it. We have been sitting here and we are spending a great deal of time on the bill. How many more amendments are there, may I inquire, Mr. Chairman?

The **CHAIRMAN.** The Clerk informs me we have seven at the desk, but I only see two Members standing with amendments.

AMENDMENT OFFERED BY MR. NEAL

Mr. NEAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEAL: Page 236, beginning in line 6, strike out "or as a fireman." and insert in lieu thereof the following: ", a fireman, or a rescue squad member; and".

Page 236, line 3, strike out "and".

Page 236, after line 7 insert the following:

"(8) 'rescue squad member' means a person—

"(A) certified by a public agency to carry out; or

"(B) acting for a nonprofit corporation and carrying out;

functions as part of a legally organized rescue squad or similar pre-hospital emergency medical unit.

Mr. NEAL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. NEAL. Mr. Chairman, this is a very simple amendment. We just want to insure that rescue squad personnel are covered by the Public Safety Officers Death Benefits Act, which is administered by the Law Enforcement Assistance Administration. Many of us in this chamber who voted for this legislation in 1976 thought we were covering rescue squad personnel, but LEAA's regulations exclude these public safety officers unless they are involved in actual fire suppression.

Mr. Chairman, fire suppression does not include many crucial activities commonly detailed to rescue squad units, among them search and rescue of trapped persons, forcible entry, lighting, and assistance in cleanup operations. It is significant that in localities which do not have rescue squads these duties are assigned to fire department personnel. Mr. Chairman, without this amendment, if a fireman and a rescue squad member were killed while working together to save a person trapped in a burning building, the survivors of the firefighter would receive the $50,000 death benefit, but the rescue squad members' survivors would be ineligible.

Mr. Chairman, rescue squad personnel can also face great personal danger from drug abusers, from the mentally deranged, and from criminals who might be injured while committing a crime.

Obviously, rescue squad members are going to continue to face this kind of danger—that is their job. But, in contrast, when other public safety officers face the same kinds of situations, they will have the protection of the death benefits act.

Mr. Chairman, more than 40 cosponsors have endorsed this proposal. I urge my colleagues to accept the amendment. It is a matter of simple equity.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am so happy to hear this amendment offered. In New Jersey we would be lost without our rescue squads. They are absolutely indispensible to the workings of our organized fire and police departments.

Mr. NEAL. The gentlewoman is absolutely correct, and I certainly appreciate her support.

Mr. WHITLEY. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to my colleague from North Carolina.

Mr. WHITLEY. Mr. Chairman, I would like to speak in support of this amendment and to say that in my home county within the past 2 years we have had two deaths of volunteer rescue squad members. On one occasion a boat which was engaged in dragging the river for a person presumed to be drowned was capsized and the rescue squad member participating in the search was drowned. In the other case, the rescue squad vehicle was answering an emergency call at something like 2 o'clock in the morning, and a driver who was determined to be under the influence of alcohol ran a stop sign at a high rate of speed and crashed into the side of the emergency vehicle, and the driver was killed.

In both cases these were services that, but for the rescue service, would have been rendered probably by the regular law enforcement officers. If a law enforcement officer, doing the same thing that these rescue squad members—these emergency medical technicians—were doing, had been killed in the line of duty, they would have been covered by the act.

Like volunteer firemen who are covered, these men are volunteers. They are paid nothing for their services.

Mr. Chairman, I strongly concur with the gentleman from North Carolina that it is simple justice to cover them under the provisions of this act.

Mr. NEAL. I certainly thank the gentleman.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I want to thank the gentleman for yielding, and commend him. As one of the original sponsors of the original bill that provided coverage for the survivors of law enforcement officers and firemen, there was an omission, obviously. The rescue workers never came within our contemplation, but we were talking about a new idea, and the Congress responded in proper fashion.

To deal with that omission, this amendment is timely, because we are aware of some of the work that the rescue squad workers perform. They are subjected to many of the conditions that imperil life and limb, and they are losing their lives. Under proper circumstances, they would be otherwise qualified. They would not be qualified except for this amendment. I congratulate the gentleman.

Mr. NEAL. I thank the gentleman very much for his comments.

Mr. Chairman, I would just like to emphasize again what the gentleman from New York and the other gentleman from North Carolina have said. These people are engaged in work identical to people who are covered and both our volunteer fire departments and rescue squad people perform a vital service in our communities. This is a matter of simple equity.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. NEAL was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, we had this amendment in the Judiciary Committee as offered by the other gentleman from North Carolina. The things that concern me—and perhaps the gentleman has covered them—is whether the gentleman's amendment, and I would like to say that I have no objection to the amendment, but what concerned me was that the amendment that had previously been offered in the Judiciary Committee only covered those that were within a lawful legal jurisdiction such as a county or city and sponsored as a public entity.

What happens is that we in Missouri have many emergency rescue squads or emergency operations that are not sponsord by municipalities, that are not for profit, that have been established for that sole purpose and are supported either through the Community Chest, the United Way, or different private solicitations and so forth. Those people do the very same thing as those who are sponsored as volunteer efforts in communities.

I would like to know whether the gentleman's amendment covers my volunteers, who do the same thing as his volunteers, or whether mine are going to be left out in the cold because, to be honest with the gentleman, a lot of my State appears to be left out in the cold in this bill. I would just like to know if I am again left out in the cold.

Mr. NEAL. It is the intent of the amendment to include all volunteers. The gentleman will notice that is precisely the intent.

Mr. VOLKMER. Could the gentleman read me the language again?

Mr. NEAL. I think the portion that would speak to this——

Mr. VOLKMER. The one that had been offered in the Judiciary Committee, in my opinion, would not have included my people.

Mr. NEAL. It says:

> Those people functioning as part of the legally organized rescue squad or similar pre-hospital emergency medical unit.

In my study, my little reference chart here tells me that volunteers are included, absolutely.

Mr. VOLKMER. Whether or not they are sponsored by a local jurisdiction or governmental entity, or whether they are not for profit, or whether just an agency?

Mr. NEAL. Now, profitmaking organizations do not qualify, but they do not qualify under the 1976 law in any case.

Mr. VOLKMER. I have a copy of the gentleman's amendment. It says, "legally organized rescue squads." That would cover my people.

Mr. NEAL. That is why I read that section.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield for a question?

Mr. NEAL. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, assume that two or three people at a drowning site took it upon themselves to assist in trying to rescue people, would those people be covered if one of those who have joined together happened to die or get killed?

Mr. NEAL. I do not believe so. I do not believe so.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

(At the request of Mr. Hall of Texas and by unanimous consent, Mr. Neal was allowed to proceed for 1 additional minute.)

Mr. NEAL. I do not believe so, because the amendment says and refers to people covering the functions as part of a legally organized rescue squad or similar pre-hospital emergency medical unit "legally organized," I think would be operative.

Mr. HALL of Texas. "Legally organized," so that clause would be the critical point as to whether they would or not?

Mr. NEAL. That would be my understanding.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment would greatly expand a program that was bad, it seems to me, from its inception. What the Federal Government is doing in paying death benefits to local municipal or volunteer fire departments and police departments, I do not know. The reason that we have this provision before us is because, particularly during the times of these large demonstrations during the Vietnam war when there were a lot of policemen and firemen who were being injured in the course of public demonstrations against the war, we felt a National or Federal responsibility. It was principally dangerous for the firemen, because frequently there would be fires set and then the firemen would come out and then the demonstrators would demonstrate against the firemen.

☐ 1830

So it was felt that there was a Federal responsibility with regard to local firemen who might be volunteer firemen in a local community. But for us to arbitrarily say we are going to pay $50,000 for any such volunteer fireman who is killed in the line of duty, it just bewilders me. I fail to understand how we can assume that kind of function at the national level. When we added the subject of the police departments and the fire departments, we took on quite a bit of responsibility—I do not know how much it was.

This amendment that the gentleman is now offering was defeated by a little better than a 2-to-1 margin—11 to 5—in the committee, and it is most unfortunate that it would find its way into this legislaion at all. These rescue squads, which undoubtedly perform extremely valuable work and represent a very dedicated group—most of them like to do this work; they like to be rescue workers; they like to help in this kind of work and are volunteers for the most part. But for us to assume now at the Federal level that we are going to provide a $50,000 benefit to their widows or to their survivors, or whatever, just seems to me to be totally beyond what our responsibility should be.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Is the gentleman then saying that these gentlemen take less risk than the firemen and the policemen?

Mr. McCLORY. As the gentleman knows, I have said I was against the program. It was misconceived in the first place.

Mr. VOLKMER. The gentleman is against it.

Mr. McCLORY. It is my time.

The CHAIRMAN. The gentleman from Illinois (Mr. McClory) has the floor.

Mr. McCLORY. I was trying to explain how we got into this. We got into it during an emotional period at a time when there were massive demonstrations in which there was a feeling that there was Federal responsibility. What Federal responsibility is there, or what national interest is there, if there is an accident involving a rescue squad out in Oklahoma, out in Arkansas, in Illinois, or in Missouri for that matter?

It is completely beyond our control and beyond our national interest, it seems. It has nothing to do with any great conflagration like the Vietnam war or any such subject like that in which there were massive demonstrations. The problem here is of a Federal program getting completely out of hand. I just hope that we will reject this resoundingly. Frankly, I would like to see us abolish the entire program.

Mr. VOLKMER. That is what I was getting at, if the gentleman will yield. He would prefer to knock out the whole program for policemen, firemen, and everybody else; is that correct?

Mr. McCLORY. That is not what I am arguing for now. I am not offering any amendment to delete that.

Mr. VOLKMER. That is your preference.

Mr. McCLORY. I am making an argument against expanding the language and against this whole new group of individuals, the numbers of which I have no idea, and I do not know where the money would come from. Apparently the money would come out of law enforcement. It would come out of the fight against street crime, because there is no other authority for the funds in here.

Mr. VOLKMER. If the gentleman will yield, they are a separate appropriation.

Mr. McCLORY. I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. Neal).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. NEAL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 565]

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Byron
Carney
Carr
Carter
Cavanaugh
Cheney
Clinger
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Hinson
Holt
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nowak
O'Brien
Oberstar
Obey
Panetta
Patten
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Rhodes
Rinaldo
Ritter
Robinson
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa

Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stokes
Stratton
Studds
Swift
Symms
Tauke
Taylor
Trible
Vanik
Volkmer
Walgren
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wirth
Wolpe
Yates
Young, Fla.
Zablocki

☐ 1850

The CHAIRMAN. Two hundred and seventy Members have answered to their names. A quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from North Carolina (Mr. Neal) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 99, not voting 154, as follows:

[Roll No. 566]

AYES—180

Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Atkinson
Bafalis
Bailey
Barnes
Bauman
Benjamin
Bennett
Bevill
Blanchard
Boner
Bonker
Bouquard
Bowen
Brodhead
Broomfield
Broyhill
Buchanan
Burgener
Byron
Carney
Carter
Cheney
Conte
Coughlin
Courter
Daschle
Davis, Mich.
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dornan
Dougherty
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Okla.
Emery
English
Ertel
Evans, Ga.
Evans, Ind.
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Gaydos
Gephardt
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Gray
Grisham
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harris
Hawkins
Hinson
Holt
Howard
Hubbard
Huckaby
Hughes
Hutto
Jenrette
Jones, Tenn.
Kazen
Kelly
Kildee
Kostmayer
Leath, Tex.
Lederer
Lehman
Leland
Lent
Livingston
Loeffler
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKinney
Marks
Marriott
Matsui
Mica
Mikulski
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Neal
Nowak
Oberstar
Panetta
Patten
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Rahall
Rangel
Ratchford
Rhodes
Rinaldo
Ritter
Roth
Royer
Russo
Santini
Schroeder
Sensenbrenner
Sharp
Shelby
Shuster
Simon
Skelton
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Steed
Stenholm
Stokes
Studds
Swift
Trible
Volkmer
Walgren
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wolpe
Young, Fla.
Zablocki

NOES—99

Abdnor
Annunzio
Archer
Ashley
AuCoin
Baldus
Beard, Tenn.
Beilenson
Bereuter
Bethune
Brademas
Breaux
Brown, Ohio
Burlison
Carr
Cavanaugh
Clinger
Collins, Tex.
Conable
Conyers
Corcoran
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Dellums
Dixon
Drinan
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Calif.
Erdahl
Erlenborn
Fary
Findley
Forsythe
Frenzel
Giaimo
Grassley
Green
Guarini
Hammerschmidt
Hyde
Ichord
Jeffords
Jeffries
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kindness
Kogovsek
Kramer
Lagomarsino
Leach, Iowa
Lewis
Lloyd
Long, La.
Lungren
McClory
Madigan
Maguire
Marlenee
Mavroules
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Minish
Moffett
Moorhead, Calif.
Myers, Ind.
Nedzi
O'Brien
Obey
Pease
Price
Pritchard
Robinson
Rostenkowski
Roybal
Rudd
Satterfield
Sawyer
Seiberling
Shumway
Smith, Iowa
Smith, Nebr.
Stanton
Stark
Stratton
Symms
Tauke
Taylor
Udall
Vanik
Weaver
Wirth
Yates

NOT VOTING—154

Albosta
Alexander
Anderson, Ill.
Anthony
Applegate
Aspin
Badham
Barnard
Beard, R.I.
Bedell
Biaggi
Bingham
Boggs
Boland
Bolling
Bonior
Brinkley
Brooks
Brown, Calif.
Burton, John
Burton, Phillip
Butler
Campbell
Chappell
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Davis, S.C.
de la Garza
Devine
Diggs
Dingell
Dodd
Donnelly
Evans, Del.
Fascell
Fazio
Flood
Florio
Ford, Mich.
Fuqua
Garcia
Gibbons
Ginn
Glickman
Gradison
Gramm
Guyer
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Ireland
Jacobs
Jenkins
Johnson, Colo.
Jones, N.C.
Kemp
LaFalce
Latta
Leach, La.
Lee
Levitas
Lowry
McDonald
McEwen
McKay
Markey
Martin
Mathis
Mattox
Moakley
Mottl
Murphy, Ill.
Myers, Pa.
Nelson
Nichols
Nolan
Oakar
Ottinger
Pashayan
Patterson
Paul
Pursell
Quayle
Quillen
Railsback
Regula
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rousselot
Runnels
Sabo
Scheuer
Schulze
Sebelius
Shannon
Slack
Snowe
Solarz
St Germain
Stack
Stewart
Stockman
Stump
Synar
Thomas
Thompson
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Wampler
Watkins
Waxman
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.
Zeferetti

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Volkmer: On page 228, line 14, insert "and" following the ";" and on line 15 strike the ";" and all that follows through "1983" on line 17.

On page 228, line 23, insert "and" following the ";" and on line 24 strike the ";" and all that follows through "1983" on line 25.

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, this amendment is very simple. It merely reduces the authorization period of the bill from 4 years to 3 years. The present bill provides for 3-year programs by the State, instead of 1 year, which was the previous law. It does not provide for 4 year programs.

Mr. Chairman, I have discussed this with the gentleman from North Carolina. I believe that the gentleman from North Carolina agrees that this is the proper period of time for the legislation.

Mr. GUDGER. Mr. Chairman, I rise in support of the amendment. We accept the amendment and feel it is consistent with the sense of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Volkmer).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bereuter: On page 229, line 19, the first sentence of section 1003(a) is amended by adding before the period and immediately after the words "judicial coordinating committee" the following: "or to the Criminal Justice Council where that council performs the functions of a judicial coordinating committee and no such committee has been constituted".

☐ 1900

Mr. BEREUTER. Mr. Chairman, first, I wish to commend the gentleman from Kansas (Mr. Glickman) for his initiative in bringing this matter to the attention of the House.

I have discussed the amendment with the committee and it is my understanding that there is no objection to the clarifying language I have prepared to add to section 1003(a). The intent of my amendment is to put into the legislation language that makes clear that certain funding available to State judicial coordinating committees may be allocated to State criminal justice councils in those States which do not have judicial coordinating committees. The Senate committee report on the companion bill to H.R. 2061 indicates that those funds could be available to the State criminal justice councils for court planning. And, according to the LEAA's General Counsel—

Clarification or resolution of this inconsistency would be in the best interest of effective State judicial planning and coordination.

In addition to my own State of Nebraska, a number of others do not have judicial coordinating committees. Those other States are Connecticut, Hawaii, Idaho, Indiana, Maine, Maryland, Kansas, Ohio, Oklahoma, Virginia, West Virginia, and Puerto Rico. This clarification will be of particular importance to those States. And, I would add that this amendment does not mean new funding will become available to those States. This judicial planning funding has, under the present law, been able to revert to the criminal justice council with responsibility for judicial planning. My amendment will assure that those funds are not cut off on technical grounds.

I appreciate the support of the committee on this and urge my colleagues to lend their support in adopting the amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I think this is a very good amendment. It is in the nature of a technical amendment, and I accept it on this side.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I commend the gentleman from Nebraska (Mr. Bereuter) for his presentation. The amendment he has offered is entirely acceptable to us, and I know of no opposition to the amendment.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman from North Carolina (Mr. Gudger) for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. Bereuter).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Volkmer: Page 166, beginning in line 5, strike out "one of the following" and all that follows through the end of line 4 on page 168, and insert in lieu thereof the following: "to relative population.".

Page 168, line 5, strike out "(3)" and insert "(2)" in lieu thereof.

Page 168, line 6, strike out "and (2)".

Page 170, line 1, strike out "(4)" and insert "(3)" in lieu thereof, and also on page 170, line 1, strike "(3)" and insert "(2)" in lieu thereof.

Page 170, line 16, strike out "(5)" and inserting "(4)" in lieu thereof.

Page 148, line 8, strike out "405(a)(5)" and insert "405(a)(4)" in lieu thereof.

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, I will try to explain this amendment very briefly, even though it is pertaining to a formula that is quite involved.

At the present time all funds from LEAA are allocated back to all States on a population basis. The present bill provides for a four-factor formula, which includes the amount of effort and other factors, that only kicks in, however, when you rise above the amount that had been appropriated under part D moneys above the 1979 level. Other than that, as would occur in 1980, it would still be by population.

So actually this amendment for this current year will really not change anything because of the amount that has been appropriated. However, in the event that in the next succeeding year part D moneys which were granted to the States would rise above the 1979 level, then the four-factor formula would kick in, and when it does, it means that only certain States would get additional money, and that other States would remain on basically the population level.

I believe that this is equitable, that we should remain on the population basis as we have in the past. That, I believe is very fair.

This amendment would mean that in the next 3 years, no matter how much was appropriated on the part D moneys, it would remain and be distributed among the States on the population basis, which has been done since we have had LEAA.

The four-factor formula, for those Members who may be interested if there are those who wish to vote for that, does benefit such States as New York, California, Texas, and a few others. Other States, including most of the middle-populated States and the low-populated States, would not be able to benefit from the increased funds that would possibly be appropriated on the part D money.

Mr. Chairman, I believe, for all States to benefit equally, they should be on a population basis. I have had a number of Members of this body come to me and express interest and support for this amendment.

Mr. GUDGER. Mr. Chairman, I rise in opposition to the amendment.

I will be very brief, Mr. Chairman, because I know my time needs to be limited, but let me say this:

This amendment can have no impact on fiscal year 1980. We would have had to appropriate $100 million more for this formula to be exercised by any jurisdiction for next year. Therefore, the amendment is actually moot so far as 1980 is concerned. Furthermore, there is a ceiling of 110 percent of a State's allocation under the population formula already incorporated in the bill.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Volkmer).

The amendment was rejected.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Volkmer: Page 231, after line 6, insert the following:

"(f) Notwithstanding any other provision of this title, not more than 12 per centum of the sums available for any fiscal year for assistance under parts E and F of this title shall be made available in any one State.

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, I know there are Members who are anxious to leave, and I am just as anxious as the rest of them. I have already missed three planes, and I have stayed around. I was here last night. I would like to explain this amendment again. The amendment was offered in the Committee on the Judiciary, and I do not believe it is too far-fetched for me to expect the Members to just listen for a few minutes.

This is a very simple amendment. All it does provide is a cap on the funds that any one State can receive from total LEAA money. It just says that no one State can receive more than 12 percent of the total amount that we appropriate for LEAA.

Since we have defeated my amendment on the population formula and with the four-factor formula built in, it is possible for some States, if enough funds are appropriated as authorized in the bill, to receive up to 15 or 20 percent of the total amount. This amendment means that we can distribute the funds more equitably among all the States, especially the middle- and low-income States or the low-populated States.

Mr. Chairman, this amendment just says there is a 12-percent cap and no one State would get more than 12 percent of the total amount.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I am pleased to notify the House that the Senate has tabled the motion offered by Senator Weicker to knock out the congressional pay raise, and they have concurred on the abortion amendment.

Mr. VOLKMER. Mr. Chairman, I am glad to hear that announcement, and I am more than happy with it. I am very happy, along with the gentleman from Massachusetts and all the other Members, to hear it.

Mr. Chairman, I yield back the balance of my time.

Mr. GUDGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Missouri (Mr. Volkmer) has correctly stated that he advanced this amendment in the Committee on the Judiciary and it was defeated. I urge its defeat here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Volkmer).

The amendment was rejected.

● Mr. SANTINI. Mr. Chairman, I am gratified to confirm the committees intent to continue to stress the importance of the role of LEAA in support of education for members of the judiciary. The National Judicial College of the University of Nevada in Reno—funded in part through Law Enforcement Assistance Administration grants--is celebrating its 14th anniversary this year. We in Nevada are very proud of the contributions which the National Judicial College is making to the northern Nevada community and to the Nation's judiciary as well.

The college is filling a much-needed role in upgrading the standards and competence of the judiciary nationwide. U.S. Supreme Court Justice Warren E. Burger recently called the judicial college "one of the most important developments in the administration of justice in this century." Through the courses offered at the college, judges are able to observe their courtroom capabilities on videotape, discuss their good points and shortcomings with fellow judges, and undergo intensive training in sentencing, evidence, court and juror management. Methods to reduce court delays are also discussed. Another tribute to the college's effectiveness is evidenced by the fact that although many more judges were graduated and several new sessions were added the operating expenditures for these programs has remained virtually the same during the last 4 years.

The college is an outstanding educational institution for judges. This school has represented one of the Nation's most important initiatives for improvement in our State court systems.●

● Mr. FLORIO. Mr. Chairman, I support the amendment that was offered by the gentleman from North Carolina (Mr. NEAL).

The purpose of the gentleman's amendment has been the subject of a number of measures introduced in this House by Members on both sides of the aisle. During the past 3 years I have been the principal sponsor of legislation to extend the benefits provided under the Public Safety Officer's Benefits Act to the families of rescue squad members, ambulance and other emergency rescue personnel killed during the performance of their duties.

Many communities across the country rely upon the men and women who make up rescue and similar emergency medical units to respond to all kinds of emergency situations. My own State of New Jersey has over 500 legally organized volunteer rescue squads whose members are on 24-hour call to endure potential hazards to save lives. Often rescue squads work closely with the local fire and police departments in the saving of life and property. Especially in smaller communities, rescue squads frequently reinforce fire and police personnel in the search and rescue of trapped persons and drowning victims, and are called upon to enter hazardous buildings and assist in cleanup operations after a fire has been extinguished.

Today we have the opportunity to insure that deaths resulting from these and other hazardous duties performed daily by rescue squads are recognized as a payable claim under the provisions of the Public Safety Officers' Benefit Act.

Under existing law, benefits can only be provided to the families of rescue squad members when the officer's death results from activities directly related to fire suppression. The inequity in this provision is quickly seen when you consider a firefighter, but not a rescue squad member, is protected by the benefit coverage of the act, even when both officers are working side-by-side in an activity not directly related to fire suppression.

The work of rescue squads in countless communities across our Nation often represents the difference between life and death at an accident or other emergency scene. Regrettably, rescue squad members have lost their lives as a direct result of their efforts to save others. These deaths will continue as rescue squads and other emergency medical units face serious hazards in the performance of their work.

Mr. Chairman, simple fairness dictates that the same benefit coverage be extended to this important group of public servants that has already been provided to their police and fire department colleagues. I urge my colleagues to join me in supporting this amendment in order that the families of rescue squad members be provided with the survivor's benefit coverage they assuredly deserve.●

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. MCCORMACK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2061) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, pursuant to House Resolution 351, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SENSENBRENNER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SENSENBRENNER moves to recommit the bill, H.R. 2061, to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 220, noes 54, not voting 159, as follows:

[Roll No. 567]

AYES—220

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Blanchard
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Carr
Carter
Cheney
Clinger
Conable
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Emery
Erdahl
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Gaydos
Giaimo
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Grassley
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harris
Hawkins
Heckler
Hinson
Howard
Huckaby
Hyde
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Lederer
Lehman
Leland
Lent
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Lundine
Lungren
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Marks
Marriott
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nowak
O'Brien
Oberstar
Obey
Panetta
Patten
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Rhodes
Rinaldo
Ritter
Robinson
Rostenkowski
Roybal
Royer
Santini

Sawyer
Schulze
Sharp
Shelby
Skelton
Smith, Iowa
Smith, Nebr.
Solomon
Spellman
Spence
Staggers
Stanton
Stark
Stockman
Stokes
Stratton
Studds
Swift
Tauke
Trible
Udall
Vanik
Walgren
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wolpe
Yates
Young, Fla.
Zablocki

NOES—54

Archer
Ashbrook
Bauman
Beilenson
Bereuter
Burgener
Carney
Cavanaugh
Collins, Tex.
Conyers
Dannemeyer
Daschle
Duncan, Oreg.
Early
Edwards, Okla.
English
Erlenborn
Ertel
Frenzel
Gephardt
Hance
Hansen
Holt
Hubbard
Hughes
Ichord
Jeffries
Jones, Okla.
Kelly
Kramer
Leath, Tex.
Lewis
Luken
Marlenee
Moffett
Pease
Petri
Roth
Rudd
Russo
Satterfield
Schroeder
Seiberling
Sensenbrenner
Shumway
Shuster
Simon
Stangeland
Steed
Symms
Taylor
Volkmer
Weaver
Wirth

NOT VOTING—159

Albosta
Alexander
Anderson, Ill.
Anthony
Applegate
Aspin
Badham
Barnard
Beard, R.I.
Bedell
Biaggi
Bingham
Boggs
Boland
Bolling
Bonior
Brinkley
Brooks
Brown, Calif.
Burton, John
Butler
Byron
Campbell
Chappell
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Davis, S.C.
de la Garza
Devine
Diggs
Dodd
Donnelly
Edwards, Calif.
Evans, Del.
Fascell
Fazio
Ferraro
Flippo
Flood
Florio
Ford, Mich.
Forsythe
Fuqua
Garcia
Gibbons
Ginn
Glickman
Gradison
Gramm
Gray
Guyer
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Hutto
Ireland
Jacobs
Jenkins
Johnson, Colo.
Jones, N.C.
Kemp
LaFalce
Latta
Leach, La.
Lee
Levitas
Long, Md.
Lowry
McCloskey
McDonald
McEwen
McKay
Markey
Martin
Mathis
Mattox
Moakley
Mottl
Murphy, Ill.
Myers, Pa.
Nelson
Nichols
Nolan
Oakar
Ottinger
Pashayan
Patterson
Paul
Pursell
Quayle
Quillen
Railsback
Regula
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rousselot
Runnels
Sabo
Scheuer
Sebelius
Shannon
Slack
Snowe
Snyder
Solarz
St Germain
Stack
Stenholm
Stewart
Stump
Synar
Thomas
Thompson
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Wampler
Watkins
Waxman
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.
Zeferetti

□ 1920

Mr. SIMON changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. GUDGER. Mr. Speaker, pursuant to the provisions of House Resolution 351, I call up from the Speaker's table the Senate bill (S. 241), to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. GUDGER

Mr. GUDGER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GUDGER moves to strike out all after the enacting clause of the Senate bill, S. 241, and to insert in lieu thereof the provisions of the bill, H.R. 2061, as passed, as follows:

That this Act may be cited as the "Justice System Improvement Act of 1979".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to read as follows:

"TITLE I—JUSTICE SYSTEM IMPROVEMENT

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated, intensified, and made more effective and equitable at all levels of government.

"Congress further finds that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency by developing and implementing effective programs to improve the quality of juvenile justice in the United States.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local governments, the financial and technical resources of the Federal Government should be made available to support such State and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require: (1) systematic and sustained action by Federal, State, and local governments; (2) greater continuity in the scope and level of Federal assistance; and (3) continuing efforts at all levels of government to streamline programs and upgrade the functioning of agencies responsible for planning, implementing and evaluating efforts to improve justice systems.

"It is therefore the declared policy of the Congress to aid State and local governments in strengthening and improving their systems of criminal justice by providing financial and technical assistance with maximum certainty and minimum delay. It is the purpose of this title to (1) authorize funds for the benefit of States and units of general local government to be used to strengthen their criminal justice and juvenile justice systems; (2) develop and fund new methods and programs to enhance the effectiveness of criminal justice agencies; (3) support the development of city, county, and statewide priorities and programs to meet the problems confronting the justice system; (4) reduce court congestion and trial delay; (5) support community anticrime efforts; (6) improve and modernize the correctional system; (7) encourage the undertaking of innovative projects of recognized importance and effectiveness; (8) encourage the development of basic and applied research directed toward the improvement of civil, criminal, and juvenile justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, civil disputes, and the operation of justice systems; and (10) support manpower development and training efforts. It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for criminal justice activities below the level of such support prior to the availability of such assistance.

"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"SEC. 101. There is hereby established within the Department of Justice under the direct authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as the 'Administration'). The Administration shall be under the direction of an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and such other Deputy Administrators as may be designated by the Attorney General. The Administrator shall have final authority over all grants, cooperative agreements, and contracts awarded by the Administration.

"SEC. 102. The Administrator shall—

"(a) provide funds to eligible States and units of local government pursuant to part D of this title in order to finance programs approved in accordance with the provisions of this title;

"(b) recognize national criminal justice priorities established by the Office of Justice Assistance, Research, and Statistics in accordance with parts E and F of this title, inform States and units of local government concerning such priorities and award and allocate funds among the eligible States, units of local government, and public and private nonprofit organizations according to the criteria and on the terms and conditions determined by the Administration to be consistent with parts E and F of this title;

"(c) publish and disseminate information on the condition and progress of the criminal justice system and establish and carry on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Administration affecting State and local criminal justice priorities;

"(d) cooperate with and render technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities;

"(e) exercise the powers and functions set out in part H;

"(f) exercise such other powers and functions as may be vested in the Administrator pursuant to this title.

"(g) provide funds to eligible jurisdictions under this title for the development of operational information and telecommunications systems.

"SEC. 103. (a) There is established in the Law Enforcement Assistance Administration the Office of Community Anti-Crime Programs (hereinafter in this section referred to as the 'Office'). The Office shall be under the direction of the Administrator and shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to—

"(A) apply for grants which encourage community and citizen participation in crime prevention and criminal justice activities;

"(B) participate in the formula grant application process pursuant to section 402(f) of this title;

"(C) provide program development and encouragement of neighborhood and community participation in crime prevention and public safety efforts; and

"(D) implement programs and projects assisted with grants under subsection (b) of this section.

"(2) coordinate its activities with other Federal agencies and programs, including the Community Relations Service of the Department of Justice, which are designed to encourage and assist citizen participation in criminal justice activities;

"(3) provide information on successful programs of citizen and community participation to citizen and community groups;

"(4) review, at its discretion, formula grant applications submitted under section 403 of this title in order to assure that the requirements for citizen, neighborhood, and community participation in the application process have been met; and

"(5) make recommendations, after consultation with citizen, neighborhood, and community organizations, to the Director of the Office of Justice Assistance, Research, and statistics for the designation of effective community anticrime programs for funding as national priority grants under part E and discretionary grants under part F.

"(b) The Office of Community Anti-Crime Programs is authorized to make grants to community and citizens groups, which grants shall be used—

"(1) to enable the community to engage in a process leading to the identification of problems facing that community with respect to crime or conflicts, disputes, and other problems that might lead to crime;

"(2) to provide for the consideration by the community of plans to alleviate such problems with special attention to projects that—

"(A) have been successful in other communities in dealing with the same or similar problems;

"(B) provide alternatives to the criminal justice system in resolving conflicts and disputes and in repairing the injuries suffered;

"(C) promote increased citizen participation and confidence in the process used to resolve conflicts and disputes; and

"(D) address the social and economic causes of crime.

"(3) to enable community and citizen groups to participate in assistance programs under this title, but no grant under this section may be used principally to seek technical assistance or a grant under this title;

"(4) to conduct training of community groups in the management of grants and such other skills as the Office determines are necessary to enhance the involvement of neighborhoods and citizens in community crime prevention and dispute resolution projects; and

"(5) to carry out projects determined to be likely to alleviate the community's crime problems as identified through the process set forth in this subsection.

"(c) In carrying out the functions under this part the Administrator shall make appropriate provisions for coordination among neighborhoods and for consultation with locally elected officials.

"PART B—NATIONAL INSTITUTE OF JUSTICE

"SEC. 201. It is the purpose of this part to establish a National Institute of Justice, which shall provide for and encourage research and demonstration efforts for the purpose of—

"(a) improving Federal, State, and local criminal, and juvenile justice systems;

"(b) preventing and reducing crimes;

"(c) insuring citizen access to appropriate dispute-resolution forums; and

"(d) improving efforts to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption."

The Institute shall have authority to engage in and encourage research and development to improve and strengthen criminal and juvenile justice systems and to disseminate the results of such efforts to Federal, State, and local governments, to develop alternatives to judicial resolution of disputes, to evaluate the effectiveness of programs funded under this title, to develop new or improved approaches and techniques, to improve and strengthen the administration of justice, and to identify programs or projects carried out under this title which have demonstrated success in improving the quality of justice systems and which offer the likelihood of success if continued or repeated.

"SEC. 202. (a) There is established within the Department of Justice, under the direct authority of the Attorney General, a National Institute of Justice (hereinafter referred in this part as the 'Institute').

"(b) The Institute shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall have had experience in justice research. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Institute makes any contract or other arrangement under this Act.

"(c) The Institute is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with, public agencies, institutions of higher education, private organizations, or individuals to conduct research, demonstrations, or special projects pertaining to the purposes described in this part, and provide technical assistance and training in support of tests, demonstrations, and special projects;

"(2) conduct or authorize multiyear and short-term research and development concerning all parts of the criminal, and juvenile justice systems in an effort (i) to identify alternative programs for achieving system goals, (ii) to provide more accurate information on the causes and correlates of crime, (ii) to improve the functioning of the criminal justice system, (iv) to develop new methods for the prevention and reduction of crime, the prevention and reduction of parental kidnapping, including the development of programs to facilitate cooperation among the States and units of local government, the detection and apprehension of criminals, the expeditious, efficient, and fair disposition of criminal cases, and the development of adequate corrections facilities and effective programs of correction, and (v) to develop programs and projects to improve and expand the capacity of States and units of local government and combinations of such units, to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption, to improve and expand cooperation among the Federal Government, States, and units of local government in order to enhance the overall criminal justice system response to white-collar crime and public corruption, and to foster the creation and implementation of a comprehensive national strategy to prevent and combat white-collar crime and public corruption. In carrying out the provisions of this subsection the Institute may request the assistance of both public and private research agencies;

"(3) evaluate the effectiveness of projects or programs carried out under this part;

"(4) evaluate, where appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title, and disseminate such information to State agencies and, upon request, to units of general local government;

"(5) make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen criminal and juvenile justice systems;

"(6) provide research fellowships and clinical internships and carry out programs of training and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects including those authorized by this part;

"(7) collect and disseminate information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations relating to the purposes of this part;

"(8) serve as a national and international clearinghouse of the exchange of information with respect to the purposes of this part;

"(9) submit an annual report to the President and Congress on the state of justice research. This report shall describe significant achievements and identify areas needing further study. Other Federal agencies involved in justice research shall assist, upon request, in preparation of this report;

"(10) after consultation with appropriate agencies and officials of States and units of local government, make recommendations to the Attorney General for the designation of programs or projects which will be effective in improving the functioning of the criminal justice system, for funding as national priority grants under part E and discretionary grants under part F; and

"(11) encourage, assist, and serve in a consulting capacity to Federal, State, and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services.

"(d) To insure that all criminal and juvenile justice research is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(2) confer with and avail itself of the cooperation, services, records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section, and the agencies shall provide such information to the Institute as required to carry out the purposes of this part;

"(4) seek the cooperation of the judicial branches of Federal and State Government in coordinating juvenile and criminal justice research and development; and

"(5) exercise the powers and functions set out in part H.

"SEC. 203. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"SEC. 204. (a) There is hereby established a National Institute of Justice Policy Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members shall represent the public interest and should be experienced in the criminal or juvenile justice systems, including, but not limited to, representatives of States and units of local government, representatives of police, courts, corrections, and other components of the justice system at all levels of government, representatives of professional organizations, members of the academic and research community, members of the business community, prosecution and defense attorneys, officials of neighborhood and community organizations, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Institute with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Director of the Bureau of Justice Statistics shall serve as ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(b) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (a) shall be three years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (a) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of ttile 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) recommend the policies and priorities of the Institute;

"(2) create, where necessary, formal peer review procedures over selected categories of grants, cooperative agreements, and contracts;

"(3) recommend to the President at least three candidates for the position of Director of the Institute in the event of a vacancy; and

"(4) undertake such additional related tasks as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"Part C—Bureau of Justice Statistics

"Sec. 301. It is the purpose of this part to provide for and encourage the collection and analysis of statistical information concerning crime (including white-collar crime and public corruption), juvenile delinquency, civil disputes and the operation of juvenile, and criminal justice systems; and to support the development of information and statistical systems at the Federal, State, and local levels to improve the efforts of these levels of government to measure and understand the levels of crime (including crimes against the elderly, white-collar crime) and public corruption), juvenile delinquency and civil disputes and the operation of the juvenile, and criminal justice systems.

"Sec. 302. (a) There is established within the Department of Justice, under the direct authority of the Attorney General, a Bureau of Justice Statistics (hereinafter referred to in this part as 'Bureau').

"(b) The Bureau shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall have had experience in statistical programs. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this Act.

"(c) The Bureau is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with public agencies, institutions of higher education, private organizations, or private individuals for purposes related to this part; grants shall be made subject to continuing compliance with standards for gathering justice statistics set forth in rules and regulations promulgated by the Director;

"(2) collect and analyze information concerning criminal victimization including but not limited to crimes against the elderly;

"(3) collect and analyze data that will serve as a continuous and comparable national social indication of the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, and other statistical factors related to crime, and juvenile delinquency, in support of national, State, and local justice policy and decision-making;

"(4) collect and analyze statistical information, concerning the operations of the criminal and juvenile justice systems at the Federal, State, and local levels;

"(5) collect and analyze statistical information concerning the prevalence, incidence, rates, extent, distribution, and attributes of crime, and juvenile delinquency, at the Federal, State, and local levels;

"(6) analyze the correlates of crime, and juvenile delinquency, by the use of statistical information, about criminal, and juvenile, justice systems at the Federal, State, and local levels, and about the extent, distribution and attributes of crime, and juvenile delinquency, in the Nation and at the Federal, State, and local levels;

"(7) compile, collate, analyze, publish, and disseminate uniform national statistics concerning all aspects of justice, crime including but not limited to crimes against the elderly, juvenile delinquency, criminal offenders, and juvenile delinquents in the various States;

"(8) formulate national standards for justice statistics and for insuring the reliability and validity of justice statistics supplied pursuant to this title;

"(9) maintain liaison with the judicial branches of the Federal and State Governments in matters relating to justice statistics, and cooperate with the judicial branch in assuring as much uniformity as feasible in statistical systems of the executive and judicial branches;

"(10) provide information to the President, the Congress, the judiciary, State and local governments, and the general public on justice statistics;

"(11) establish or assist in the establishment of a system to provide State and local governments with access to Federal informational resources useful in the planning, implementation, and evaluation of programs under this Act;

"(12) conduct or support research relating to methods of gathering or analyzing justice statistics;

"(13) provide financial and technical assistance to the States and units of local government relating to collection, analysis, or dissemination of justice statistics;

"(14) maintain liaison with State and local governments and governments of other nations concerning justice statistics;

"(15) cooperate in and participate with national and international organizations in the development of uniform justice statistics;

"(16) insure conformance with security and privacy regulations issued pursuant to section 820; and

"(17) exercise the powers and functions set out in part H.

"(d) To insure that all justice statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(2) confer with and avail itself of the cooperation, services records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this title, and the agencies shall provide such information to the Bureau as required to carry out the purposes of this section; and

"(4) seek the cooperation of the judicial branch of the Federal Government in gathering data from civil, juvenile, and criminal justice records.

"(e) In formulating standards for gathering justice statistics under this section, the Director shall consult with representatives of State and local government, including, where appropriate, representatives of the judiciary.

"Sec. 303. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Bureau shall require whenever feasible as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"Sec. 304. (a) There is hereby established a Bureau of Justice Statistics Advisory Board (the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members shall represent the public interest and should include representatives of States and units of local government, representatives of police courts, corrections, and other components of the justice system at all levels of government, representatives of professional organizations, members of the academic, research, and statistics community, prosecution and defense attorneys, members of the business community, officials of neighborhood and community organizations, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place and stead of the Chairman in the absence of the Chairman. The Director shall also be a member of the Board but shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Bureau with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall serve as ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman.

"(b) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (a) shall be three years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Terms of the members appointed under subsection (a) shall be staggered so as to establish a rotating membership according to such method as the Attorney General may devise. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) review and make recommendations to the Bureau on activities undertaken by the Bureau and formulate and recommend to the Director policies and priorities for the Bureau;

"(2) recommend to the President at least three candidates for the position of Director of the Bureau in the event of a vacancy; and

"(3) carry out such additional related functions as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"Sec. 305. Notwithstanding any other provision of this title, the Bureau shall not collect or maintain, or otherwise involve itself with, any data or other statistical information relating to the civil justice system, civil disputes, or any other civil matter.

"Sec. 306. Data collected by the Bureau shall be used only for statistical or research purposes, and shall be gathered in a manner that precludes their use for law enforcement or any purpose relating to a particular individual other than statistical or research purposes.

"Part D—Formula Grants

"DESCRIPTION OF PROGRAM

"Sec. 401. It is the purpose of this part to assist States and units of local government in carrying out programs to improve and strengthen the functioning of the criminal justice system. The Administration is authorized to make grants under this part to States and units of local government for the purpose of—

"(a) Combating crime by—

"(1) establishing or expanding community- and neighborhood-based programs that enable citizens to undertake initiatives designed to reduce the rate of local neighborhood crime; and

"(2) developing programs or projects to improve and strengthen law enforcement agencies.

"(b) Developing and implementing programs and projects designed to improve court administration, prosecution and defense, including but not limited to programs and projects to—

"(1) reduce the time between arraignment and disposition;

"(2) reform existing procedures and rules;

"(3) develop innovative institutions, procedures, and programs, including juvenile programs; and

"(4) promote statewide standards and improvement of State court systems.

"(c) Developing and implementing programs and projects designed to improve correctional services and practices, including but not limited to programs and projects to encourage advanced practices, the operation and renovation of correctional institutions and facilities, programs to deal with the special needs of drug dependent offenders, including community-based halfway houses and other community-based rehabilitation centers for initial preconviction or postconviction referral of juvenile and other offenders.

"(d) Studying the development and implementation of programs providing compensation and other assistance to victims of violent crimes and other programs encouraging and promoting victim and witness participation in the criminal justice process and programs designed to reduce the incidence of crimes involving victims.

"(e) Devising effective alternatives to the criminal justice system, including but not limited to pretrial diversion programs and such other projects as will reduce congestion in the courts without violating civil and constitutional rights of individuals, and the rate at which defendants, including juvenile defendants, reappear in court.

"(f) Developing programs to combat organized crime, arson, public corruption, white-collar crime, and fraud against the Government.

"(g) That portion of any Federal grant made under this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant.

"ELIGIBILITY

"Sec. 402. (a) The Administration is authorized to make financial assistance under this part available to an eligible jurisdiction to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance wtih the provisions of this title. An eligible jurisdiction shall be—

"(1) a State, as defined in section 901(a) (2) of this title but shall not include American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands;

"(2) a municipality which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(3) a county which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(4) any combination of contiguous units of local government, whether or not situated in more than one State, or any combination of units of local government all in the same county, which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration;

"(5) a municipality which has a population of less than one hundred thousand which contains the largest population in a standard metropolitan statistical area as designated by the United States Department of Commerce; or

"(6) a unit of local government, or any combination of such contiguous units without regard to population, which are otherwise ineligible under the other paragraphs of this subsection.

"(b)(1) Each State shall establish or designate and maintain a criminal justice council (hereinafter referred to in this title as the 'council') for the purpose of—

"(A) analyzing the criminal justice problems within the State based on input from all eligible jurisdictions, State agencies, and the judicial coordinating committee and establishing priorities for expenditure of funds based on the analysis;

"(B) preparing, developing, and reviewing a comprehensive State application reflecting the priorities;

"(C) receiving, reviewing, and approving (or disapproving) applications or amendments submitted by State agencies, the judicial coordinating committee and units of local government, or combinations thereof, as defined in section 402(a)(6) of this title, pursuant to section 405(a)(5) of this title, and providing financial assistance to these agencies and units according to the criteria of this title and on the terms and conditions established by such council at its discretion;

"(D) receiving, coordinating, reviewing, and monitoring all applications or amendments submitted by State agencies, the judicial coordinating committee, units of local government, and combinations of such units pursuant to section 403 of this title, recommending ways to improve the effectiveness of the programs or projects referred to in said applications, assuring compliance of said applications with Federal requirements and State law and integrating said applications into the comprehensive State application;

"(E) preparing an annual report for the Governor and the State legislature containing an assessment of the criminal justice problems and priorities within the State; the adequacy of existing State and local agencies, programs, and resources to meet these problems and priorities; the distribution and use of funds allocated pursuant to this part and the relationship of these funds to State and local resources allocated to crime and justice system problems; and the major policy and legislative initiatives that are recommended to be undertaken on a statewide basis;

"(F) assisting the Governor, the State legislature, and units of local government upon request in developing new or improved approaches, policies, or legislation designed to improve criminal justice in the State;

"(G) developing and publishing information concerning criminal justice in the State;

"(H) providing technical assistance upon request to State agencies, the judicial coordinating committee, and units of local government in matters relating to improving criminal justice in the State;

"(I) assuring fund accounting, auditing, and evaluation of programs and projects funded under this part to assure compliance with Federal requirements and State law.

"(2) The council shall be created or designated by State law and shall be subject to the jurisdiction of the chief executive of the State who shall appoint the members of the council, designate the chairman, and provide professional, technical, and clerical staff to serve the council. The council shall be broadly representative and include among its membership——

"(A) representatives of eligible jurisdictions as defined in section 402(a) (2), (3), (4), and (5), who shall comprise at least one-third of the membership of the council where there are such eligible jurisdictions in the State and where they submit applications pursuant to this part;

"(B) representatives of the smaller units of local government defined in section 402(a)(6);

"(C) representatives of the various components of the criminal justice system, including representatives of agencies directly related to the prevention and control of juvenile delinquency, and prosecution and defense attorneys;

"(D) representatives of the general public including representatives of neighborhood and community-based and business and professional organizations of the communities to be served under this part; and

"(E) representatives of the judiciary including, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer; if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members and the local trial court judicial officer shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership; additional judicial members of the council as may be required by the Administration shall be appointed by the chief executive of the State from the membership of the judicial coordinating committee.

Individual representatives may fulfill the requirements of more than one functional area or geographical area where appropriate to the background and expertise of the individual.

"(3)(A) Applications from eligible jurisdictions as defined in section 402(a) (2), (3), (4), and (5) may, at the discretion of such eligible jurisdiction, be in the form of a single application to the State for inclusion in the comprehensive State application. Applications or amendments should conform to the overall priorities, unless the eligible jurisdiction for good cause determines that such priorities are inconsistent with their needs. Such application or amendments shall be deemed approved unless the council, within ninety days of the receipt of such application or amendment, finds that the application or amendment—

"(i) is in noncompliance with Federal requirements or with State law or regulations;

"(ii) is inconsistent with priorities and fails to establish, under guidelines issued by the Administration, good cause for such inconsistency; or

"(iii) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State or local supported programs or applications.

Where the council finds such noncompliance, inconsistency, conflict, or duplication, it shall notify the applicant in writing and set forth its reasons for the finding.

"(B) The applicant shall, within thirty days of receipt of written findings of the council pursuant to (A) submit to the council a revised application or state in writing the applicant's reasons for disagreeing with the council's findings.

"(C) A revised application submitted under (B) shall be treated as an original application except that the council shall act on such application within thirty days.

"(D) If an applicant states in wirting a disagreement with the council's written findings as specified in (b)(3)(A) (i), (ii), and (iii), the disagreement shall be submitted to binding arbitration under procedures established by the Administration. Such procedures shall include a panel composed of one member selected by the council, one member selected by the eligible jurisdiction, and one member selected by the mutual agreement of the council and eligible jurisdictions. Where the council and the eligible jurisdiction cannot agree on a third panel member, the Administration shall designate such member. The panel shall examine the factual and legal basis for the action of the council and the eligible jurisdiction and shall approve the action of the council or the action of the eligible jurisdiction. The decision of the panel will not be final on matters of Federal law or policy. In cases where the council's action is not supported by clear and convincing evidence or where the council acted arbitrarily and capriciously, the panel hearing the matter may direct the council to approve the application or amendment.

"(E) Approval of the application of such eligible local jurisdiction shall result in the award of funds to such eligible jurisdiction without requirement for further application or review by the council.

"(4) Applications from State agencies and eligible jurisdictions as defined in section 402(a)(6) must be in the manner and form proscribed by the council. Where the council determines under section (b)(1) (C) and (D) that an application or amendment from a State agency or an eligible jurisdiction as defined in section 402(a)(6):

"(A) is in noncompliance with Federal requirements or with State law or regulation;

"(B) is inconsistent with priorities, policy, organizational, or procedural arrangements, or the crime analysis; or

"(C) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State, or local supported programs or applications.

The council shall notify the applicant in writing of the finding and the reasons for the finding and may deny funding or recommend appropriate changes. Appeal of the council's action shall be in accord with procedures established by the council for such matters.

"(c) The chief executive(s) of an eligible jurisdiction as defined in section 402(a) (2), (3), (4), and (5) shall create or designate an office for the purpose of preparing and developing the jurisdiction's application to be submitted to the council pursuant to section 403 of this title. Each eligible jurisdiction shall establish or designate a local criminal justice advisory board (hereinafter referred to in this title as the 'Board') for the purpose of—

"(1) advising the council on priorities;

"(2) advising the chief executive of the eligible jurisdiction pursuant to this title;

"(3) acting on applications or amendments by the eligible jurisdiction; and

"(4) assuring an adequate allocation of funds for court programs as defined in section 401(b) based upon that proportion of the eligible subgrant jurisdiction's expenditures for court programs which contributes to the subgrant jurisdiction's eligibility for funds and which take into account the court priorities recommended by the judicial coordinating committee. Such board shall be established or designated by the chief executive of the eligible jurisdiction and shall be subject to the jurisdiction of the chief executive who shall appoint the members and designate the chairman.

Such board shall be broadly representative of the various components of the criminal and juvenile justice system and shall include among its membership representatives of neighborhood and community-based and professional organizations. In the case of an eligible jurisdiction as defined in section 402(a)(4) of this title, the membership of the board shall be jointly appointed in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Decisions made by the board pursuant to this subsection may be reviewed and either be accepted or rejected by the chief executive of the eligible subgrant jurisdiction, or in the case of an eligible jurisdiction as defined in section 402 (a)(4) of this title in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Where an eligible jurisdiction as defined in section 402(a) (2), (3), or (5) chooses not to combine pursuant to section 402(a)(4) and chooses not to exercise the powers of this subsection, it shall be treated as an eligible jurisdiction under section 402(a)(6).

"(d) The court of last resort of each State may establish or designate a judicial coordinating committee (hereinafter referred to in this title as the 'Committee') for the preparation, development, and revision of a three-year application or amendments thereto reflecting the needs and priorities of the courts of State. For those States where there is a judicial agency which is authorized by State law on the date of enactment of this subsection to perform this function and which has a statutory membership of a majority of court officials (including judges and court administrators), the judicial agency may establish or designate the judicial coordinating committee. The committee shall—

"(1) establish priorities for the improvement of the various courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State;

"(3) develop, in accordance with part D of this title, an application for the funding of programs and projects designed to improve the functioning of the courts and judicial agencies of the State.

The committee shall submit its three-year application or amendments to the council. The committee shall review for consistency with the court priorities, applications, or amendments from any jurisdiction which has incurred expenditures for court services from its own sources. The council shall approve and incorporate into its application in whole or in part the application or amendments of the committee unless the council determines that such committee application or amendments are not in accordance with this title, are not in conformance with, or consistent with, their own application made pursuant to section 403 of this title or do not conform with the fiscal accountability standards of this title.

"(e)(1) The council will provide for procedures that will insure that all applications or amendments by units of local government or combinations thereof or judicial coordinating committees shall be acted upon no later than ninety days after being first received by the council. Final action by the council which results in the return of any application or amendments to an applicant must contain specific reasons for such action within ninety days of such receipt. Any part of such application or amendments which is not acted upon shall be deemed approved for the purposes of this title. Action by the council on any application or part thereof shall not preclude the resubmission of such application or part thereof to the council at a later date.

"(2) The council, the judicial coordinating committee, and local offices, established pursuant to section 402(c), shall meet at such times and in such places as they deem necessary and shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted if final action is to be taken at the meeting on the State application or any application for funds or any amendment thereto. The council, the judicial coordinating committee, and local officers, pursuant to section 402(c), shall provide for public access to all records relating to their functions under this title, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.

"(3) The council shall, at a time designated in regulations promulgated by the Administration, submit its application made pursuant to this part to the Administration for approval. Its application shall include funding allocations or applications which were submitted by State agencies, the judicial coordinating committee, and units of local government, or combinations thereof, and which were first reviewed and approved by the council pursuant to section 402(b)(3) or section 402(b)(4) as appropriate.

"(f) To be eligible for funds under this part all eligible jurisdictions shall assure the participation of citizens and neighborhood and community organizations, in the application process. No grant may be made pursuant to this part unless the eligible jurisdiction has provided satisfactory assurances to the Administration that the applicant has—

"(1) provided citizens and neighborhood and community organizations with adequate information concerning the amounts of funds available for proposed programs or projects under this Act, the range of activities that may be undertaken, and other important program requirements;

"(2) provided citizens and neighborhood and community organizations an opportunity to consider and comment on priorities set forth in the application or amendments;

"(3) provided for full and adequate participation of units of local government in the performance of the analysis and the establishment of priorities required by section 402(b)(1)(A); and

"(4) provided an opportunity for all affected criminal and juvenile justice agencies to consider and comment on the proposed programs to be set forth in the application or amendments.

The Administrator, in cooperation with the Office of Community Anti-Crime Programs, may establish such rules, regulations, and procedures as are necessary to assure that citizens and neighborhood and community organizations will be assured an opportunity to participate in the application process.

"APPLICATION

"SEC. 403. No grant may be made pursuant to part D of this title unless the application sets forth criminal justice programs and projects covering a three-year period which meet the objectives of section 401 of this title. This application must be amended annually if new programs or projects are to be added to the application or if the programs or projects contained in the original application are not implemented. The application must include—

"(1) an analysis of the crime problems and criminal justice needs within the relevant jurisdiction and a description of the services to be provided and performance goals and priorities, including a specific statement of how the programs or projects are expected to advance the objectives of section 401 of this title and meet the problems and needs of the jurisdiction;

"(2) an indication of how the programs or projects relate to other similar State or local programs or projects directed at the same or similar problems;

"(3) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Administration, where the applicant is a State, and to the council where the applicant is a State agency, the judicial coordinating committee, or a unit or combination of units of local government—

"(i) a performance report concerning the activities carried out pursuant to this title; and

"(ii) an assessment by the applicant of the impact of those activities on the objectives of this title and the needs and objectives identified in the applicant's statement;

"(4) a certification that Federal funds made available under this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for criminal justice activities;

"(5) an assurance that there is an adequate share of funds for courts, prosecution, and defense programs;

"(6) a provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Administration shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds received under this title;

"(7) a provision for the maintenance of such data and information and for the submission of such reports in such form, at such times, and containing such data and information as the Administration may reasonably require to administer other provisions of this title;

"(8) a certification that its programs or projects meet all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration and shall be executed by the chief executive officer or other officer of the applicant qualified under regulations promulgated by the Administration; and

"(9) satisfactory assurances that equipment, whose purchase was previously made in connection with a program or project in such State assisted under this title and whose cost in the aggregate was $100,000 or more, has been put into use not later than one year after the date set at the time of purchase for the commencement of such use and has continued in use during its useful life.

"REVIEW OF APPLICATIONS

"SEC. 404. (a) The Administration shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereof is consistent with the requirements of this title;

"(2) the application or amendment thereof was made public prior to submission to the Administration and an opportunity to comment thereon was provided to citizens and neighborhood and community groups; and

"(3) prior to the approval of the application or amendment thereof the Administration has made an affirmative finding in writing that the program or project is likely to contribute effectively to the achievement of the objectives of section 401 of this title.

Each application or amendment made and submitted for approval to the Administration pursuant to section 403 of this title shall be deemed approved, in whole or in part, by the Administration within ninety days after first received unless the Administration informs the applicant of specific reasons for disapproval. Subsequent to approval of the application or amendment, the amount of the grant may be adjusted by the Administration in accordance with the provisions of this title.

"(b) The Administration shall suspend funding for an approved application in whole or in part if such application contains a program or project which has failed to conform to the requirements or statutory objectives of this Act as evidenced by—

"(1) the annual performance reports submitted to the Administration by the applicant pursuant to section 802(b) of this title;

"(2) the failure of the applicant to submit annual performance reports pursuant to section 802(b) of this title;

"(3) evaluations conducted pursuant to section 802(b);

"(4) evaluations and other information provided by the National Institute of Justice.

The Administration may make appropriate adjustments in the amounts of grants in accordance with its findings pursuant to this subsection.

"(c) Grant funds awarded under part D shall not be used except as provided in section 102(g) for—

"(1) the purchase of equipment or hardware, or the payment of personnel costs unless the cost of such purchases or payments is incurred as an incidental and necessary part of an improvement program or project: *Provided, however,* That the restriction shall not apply to purchases of bullet proof vests. In determining whether to apply this limitation, consideration must be given to the extent of prior funding from any sources in that jurisdiction for substantially similar activities;

"(2) the payment of general salary increases for employees or classes of employees within an eligible jurisdiction;

"(3) construction projects; or

"(4) programs or projects which, based upon evaluations by the National Institute of Justice, Law Enforcement Assistance Administration, Bureau of Justice Statistics, State or local agencies, and other public or private organizations, have been demonstrated to be ineffective. Such programs must be formally identified by a notice in the Federal Register after opportunity for comment.

"(d) The Administration shall not finally disapprove any application submitted to the Administrator under this part, or any amendments thereof, without first affording the applicant reasonable notice and opportunity for a hearing and appeal pursuant to section 803 of this title.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 405. (a) Of the total amount appropriated for parts D, E, and F of this title in any fiscal year, 80 per centum shall be set aside for part D and allocated to States, units of local government, and combinations of such units as follows:

"(1) Funds shall first be allocated among each of the participating States as defined in section 402(a)(1) according to one of the following two formulas, whichever formula results in the larger amount:

"(A) Of the total amount to be allocated pursuant to this part:

"(i) 25 per centum shall be allocated in proportion to the relative population within the State as compared to the population in all States;

"(ii) 25 per centum shall be allocated in proportion to the relative number of index crimes (as documented by the Department of Justice) reported within the State as compared to such numbers in all States;

"(iii) 25 per centum shall be allocated in proportion to the relative amount of total State and local criminal justice expenditures from their own sources within the State as compared to such amounts in all States; and

"(iv) 25 per centum shall be allocated in proportion to the relative population within the State, weighted by the share of State personal income paid in State and local taxes, as compared to such weighted populations in all States; or

"(B) The total amount to be allocated pursuant to this part shall be allocated in proportion to the relative population within the State as compared to the population in all States;

except that no State which receives financial assistance pursuant to section 405(a)(1)(A) shall receive an amount in excess of 110 per centum of that amount available to a State pursuant to section 405(a)(1)(B).

"(2) If the fund allocation to each of the States pursuant to section 405(a)(1) results in a total amount in excess of the amount appropriated for the purposes of this part, additional funds shall be allocated by the Administration from part E or F to the States for purposes consistent with those parts so that the total amount equals the total amount allocated under section 405(a)(1). No State shall receive an allocation pursuant to section 405(a)(1) which is less than the block grant allocation received by such State for fiscal year 1979 pursuant to parts C and E of the Omnibus Crime Control and Safe Streets Act as amended (42 U.S.C. 3701, et seq.), except that if the total amount appropriated for part D for any fiscal year subsequent to fiscal year 1979 is less than the total block grant appropriation for parts C and E during fiscal year 1979, the States shall receive an allocation according to their respective populations.

"(3) From the amount made available to each State pursuant to subsections (1) and (2), the Administration shall determine basic allocations to be made available to the State, to eligible jurisdictions as defined in section 402(a) (2), (3), (4), or (5) and to eligible jurisdictions as defined in section 402(a)(6). Such allocations shall be determined:

"(A) by distributing 70 per centum of available funds allocated under subsections (1) and (2) to the State and those eligible units of local government within the State as defined in section 402(a) in a proportion equal to their own respective share of total State and local criminal justice expenditure from all sources; and

"(B) by equally dividing the remaining 30 per centum of available funds allocated under subsections (1) and (2) among the four purposes specified in section 401 of this title and distributing to the State and to those eligible units of local government within the State as defined in section 402(a), in four shares in amounts determined as follows:

"(i) for combating crime as specified in section 401(a), a proportion of the available funds equal to their own respective share of total State and local expenditures for police services from all sources;

"(ii) for improving court administration as specified in section 401(b), a proportion of the available funds equal to their own respective share of total State and local expenditures for judicial, legal, and prosecutive, and public defense services from all sources;

"(iii) for improving correctional services as specified in section 401(c), a proportion of the available funds equal to their own respective share of total State and local expenditures for correctional services from all sources; and

"(iv) for devising effective alternatives to the criminal justice system as specified in section 401(d) a proportion of the available funds equal to their own respective share of total State and local expenditures from all sources.

"(4) All allocations under subsection (3) shall be based upon the most accurate and complete data available for such fiscal year or for the most recent fiscal year for which accurate data are available. Eligible jurisdictions as defined in section 402(a)(4) may not receive an allocation based upon the population of eligible cities and counties as defined in section 402(a) (2), (3), and (5) unless such cities and counties participate in activities under this title as part of a combination of units of local government as defined in section 402(a)(4). In determining allocations for the eligible units as defined in section 402(a), an aggregate allocation may be utilized where eligible jurisdictions as defined in section 402(a) combine to meet the population requirements of section 402(a)(4).

"(5) The amount made available pursuant to subsection (3) to eligible units of local government within each State, as defined in section 402(a)(6), and to eligible jurisdictions, as defined in section 402(a)(2), (3), or (5) which choose not to combine pursuant to section 402(a)(4) and choose not to exercise the powers of section 402(c), shall be reserved and set aside in a special discretionary fund for use by the council pursuant to section 402 of this title, in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to such units of local government or combinations thereof. The council shall allocate such funds among such local units of government or combinations thereof which make application pursuant to section 403 of this title, according to the criteria of this title and on the terms and conditions established by such council at its discretion. If in a particular State, there are no eligible units of local government, as defined in section 402(a)(2), 402(a)(3), or 402(a)(4), or 402(a)(5) of this part, the amount otherwise reserved and set aside in the special discretionary fund shall consist of the entire amount made available to local units of government, pursuant to this section.

"(b) At the request of the State legislature while in session or a body designated to act while the legislature is not in session, general goals, priorities, and policies of the council shall be submitted to the legislature for an advisory review prior to its implementation by the council. In this review the general criminal justice goals, priorities, and policies that have been developed pursuant to this part shall be considered. If the legislature or the interim body has not reviewed such matters forty-five days after receipt, such matters shall then be deemed reviewed.

"(c) No award of funds that are allocated to the States, units of local government, or combinations thereof under this part shall be made with respect to a program or project other than a program or project contained in an approved application.

"(d) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State, unit of local government, or combination thereof for that fiscal year will not be required, or that the State, unit of local government, or combination thereof will be unable to qualify or receive funds under the requirements of this part or section 1003 of this title, such funds shall be available for reallocation to the States, or other units of local government and combinations thereof within such State, as the Administration may determine in its discretion.

"(e) A State may award funds from the State allocation to private nonprofit organizations. Eligible jurisdictions as defined in section 402(a) (2) through (6) may utilize the services of private nonprofit organizations for purposes consistent with this title.

"(f) Prior to the initial allocation under section 405(a), no more than $300,000 shall be allotted among American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands for purposes of this title in accordance with their respective programmatic and administrative needs and based upon such terms and criteria as the Administration may adopt.

"(g) In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, a State shall submit a plan for carrying out the purposes of that Act in accordance with the provisions of this title and section 223 of that Act. Such plan may at the direction of the Administrator be incorporated into the State application to be submitted under this part.

"(h) Eligible jurisdictions which choose to utilize regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

"PART E—NATIONAL PRIORITY GRANTS

"SEC. 501. It is the purpose of this part, through the provision of additional Federal financial aid and assistance, to encourage States and units of local government to carry out programs which, on the basis of research, demonstration, or evaluations by the National Institute of Justice, by State or local governments, or by other public or private organizations, have been shown to be effective in improving and strengthening the administration of justice.

"SEC. 502. Of the total amount appropriated for parts D, E, and F of this title in any fiscal year, 10 per centum shall be reserved and set aside pursuant to this part as funding incentives for use by the Administration in making national priority grants (in addition to any other grants which may be made under this title to the same entities or for the same purpose) to States and units of local government.

"SEC. 503. (a) The Attorney General shall periodically designate national priority programs and projects which through research, demonstration, or evaluation have been shown to be effective or innovative and to have a likely beneficial impact on criminal justice. Such national priorities may include programs and projects designated to improve the comprehensive planning and coordination of State and local criminal justice activities. Priorities established by the Attorney General shall be considered priorities for a period of time determined by the Attorney General but not to exceed three years from the time of such determination. Such priorities shall be designated by the Attorney General according to criteria, and on such terms and conditions as the Attorney General may determine.

"(b) The Attorney General shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest national priority programs and projects. The Attorney General shall then, pursuant to regulation the Attorney General promulgates annually, publish proposed national priority programs and projects pursuant to this part and invite and encourage public comment concerning such priorities. Such priority programs and projects shall not be established or modified until the Attorney General has provided at least sixty days advance notice for public comment and shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time, the Attorney General shall establish priority programs and projects for that year (and determine whether existing priority programs and projects should be modified). The Attorney General shall publish in the Federal Register the priority programs and projects established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"SEC. 504. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) identifies the priority program to be funded and describes how funds allocated pursuant to this part and pursuant to part D will be expended to carry out the priority program;

"(2) describes specifically what percentages of funds allocated for the upcoming year pursuant to part D of this title will be spent on priority programs and projects pursuant to this part;

"(3) describes specifically the priority programs and projects for which funds are to be allocated pursuant to part D of this title for the upcoming fiscal year;

"(4) describes what percentage of part D funds were expended on national priority projects during the preceding fiscal year; and

"(5) describes specifically the priority programs and projects for which funds were allocated pursuant to part D of this title during the preceding fiscal year and the amount of such allocation.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"Sec. 505. (a) The Administration shall, after appropriate consultation with representatives of State and local governments and representatives of the various components of the justice system at all levels of government, establish reasonable requirements consistent with this part for the award of national priority grants. Procedures for awards of national priority grants shall be published in the Federal Register and no national priority grant shall be made in a manner inconsistent with these procedures. The Administration in determining whether to award a priority grant to an eligible jurisdiction shall give consideration to the criminal justice needs and efforts of eligible jurisdictions, to the need for continuing programs which would not otherwise be continued because of the lack of adequate part D funds, and to the degree to which an eligible jurisdiction has expended or proposes to expend funds from part D or other sources of funds, including other Federal grants, for priority programs and projects. No jurisdiction shall be denied a priority grant solely on the basis of its population.

"(b) Grants under this part may be made in an amount equal to 50 per centum of the cost of the priority program or project for which such grant is made. The remaining costs may be provided from part D funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction. The Administration may provide technical assistance to any priority program or project funded under this part. Technical assistance so provided may be funded in an amount equal to 100 per centum of its cost from funds set aside pursuant to this part.

"(c) Amounts reserved and set aside pursuant to this part in any fiscal year, but not used in such year, may be used by the Administration to provide additional financial assistance to priority programs or projects of demonstrated effectiveness in improving the functioning of the criminal justice system, notwithstanding the provisions of section 505(b) of this title.

"(d) The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Administration for an additional period of up to two years if an evaluation of the program or project indicates that it has been effective in achieving the stated goals. The Administration shall assure that the problems and needs of all of the States are taken into account in distributing funds under this part among the States.

"Part F—Discretionary Grants

"Sec. 601. It is the purpose of this part, through the provision of additional Federal financial assistance, to encourage States, units of local government, combinations of such units, or private nonprofit organizations to—

"(a) undertake programs and projects to improve and strengthen the criminal justice system;

"(b) improve the comprehensive planning and coordination of State and local criminal justice activities;

"(c) provide for the equitable distribution of funds under this title among all segments and components of the criminal justice system; and

"(d) develop and implement programs and projects to redirect resources so as to improve and expand the capacity of States and units of local government and combinations of such units, to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption, to improve and expand cooperation among the Federal Government, States, and units of local government in order to enhance the overall criminal justice system response to white-collar crime and public corruption, and to foster the creation and implementation of a comprehensive national strategy to prevent and combat white-collar crime and public corruption.

"Sec. 602. Of the total amount appropriated for parts D, E, and F of this title in any fiscal year 10 per centum shall be reserved and set aside pursuant to this part in a special discretionary fund for use by the Administration in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to States, units of local government, combinations of such units, or private nonprofit organizations, for the purposes set forth in section 601 of this title. The Administrator shall assure that funds allocated under this subsection to private nonprofit organizations shall be used for the purpose of developing and conducting programs and projects which would not otherwise be undertaken pursuant to this title including programs and projects—

"(1) to stimulate and encourage the improvement of justice and the modernization of State court operations by means of financial assistance to national nonprofit organizations operating in conjunction with and serving the judicial branches of State governments;

"(2) to provide national education and training programs for State and local prosecutors, defense personnel, judges and judicial personnel, and to disseminate and demonstrate new legal developments and methods by means of teaching, special projects, practice, and the publication of manuals and materials to improve the administration of criminal justice. Organizations supported under this subsection will assist State and local agencies in the education and training of personnel on a State and regional basis;

"(3) to support community and neighborhood anticrime programs; and

"(4) to improve the administration of justice by encouraging and supporting the development, dissemination, implementation, evaluation, and revision of criminal justice standards and guidelines.

"Sec. 603. (a) The Attorney General shall periodically establish discretionary programs and projects for financial assistance under this part. Such programs and projects shall be considered priorities for a period of time not to exceed three years from the time of such determination.

"(b) The Attorney General shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest discretionary programs and projects. The Attorney General shall then, pursuant to regulations, annually publish the proposed priorities pursuant to this part and invite and encourage public comment concerning such priorities. Priorities shall not be established or modified until the Attorney General has provided at least sixty-days advance notice for such public comment and the Attorney General shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time and after consultation with appropriate agencies and officials of State and units of local government, the Attorney General shall determine whether existing established priorities should be modified. The Attorney General shall publish in the Federal Register the priorities established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"Sec. 604. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to this part;

"(2) describes the services to be provided, performance goals and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals and agrees to conduct such evaluation according to the procedures and terms established by the Attorney General; and

"(4) indicates, if it is a private nonprofit organization, that it has consulted with appropriate agencies and officials of State and units of local government to be affected by the program and project.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"Sec. 605. The Administration shall, in its discretion and according to the criteria and on the terms and conditions it determines consistent with this part, provide financial assistance to those programs or projects which most clearly satisfy the priorities established by the Attorney General. In providing such assistance pursuant to this part, the Administration shall consider whether certain segments and components of the criminal justice system have received a disproportionate allocation of financial aid and assistance pursuant to other parts of this title, and, if such a funding is made, shall assure the funding of such other segments and components of the criminal justice system as to correct inequities resulting from such disproportionate allocations. Federal funding under this part may be up to 90 per centum of the cost of the program.

"Sec. 606. The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the

Administration for an additional period of up to two years if—

"(a) an evaluation of the program or project indicates that it has been effective in achieving the stated goals; and

"(b) the State, unit of local government, or combination thereof and private nonprofit organizations within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from part D funds or from any other other source of funds, including other Federal grants, available to the eligible jurisdiction.

"PART G—TRAINING AND MANPOWER DEVELOPMENT

"SEC. 701. It is the purpose of this part to provide for and encourage training, manpower development, and new personnel practices for the purpose of improving the criminal justice system.

"SEC. 702. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local agencies engaged in the prosecution of white collar and organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against white collar and organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

"SEC. 703. (a) The Administration is authorized—

"(1) to assist in conducting local, regional or national training programs for the training of State and local criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution, defense, or adjudication of those charged with crime, corrections, rehabilitation, probation, and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation. While participating in the training program or traveling in connection with participation in the training program, State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service;

"(2) to carry out a program of planning, development, demonstration, and evaluation of training programs for State and local criminal justice personnel;

"(3) to assist in conducting programs relating to recruitment, selection, placement, and career development practices of State and local law enforcement and criminal justice personnel, and to assist State and local governments in planning manpower programs for criminal justice; and

"(4) to carry out a program of planning, development, demonstration, and evaluation of recruitment, selection, and placement practices.

"(b) The amount of a grant or contract under this section may be up to 100 per centum of the total cost of a program, but the total financial support may not exceed 80 per centum of the total operating budget of any funded institutions or programs.

"(1) Institutions funded under this section shall assure that to the maximum extent feasible efforts shall be made to increase the non-Federal share of the total operating budgets of such institutions or programs with the objective of becoming self-sustaining.

"(2) To the greatest extent possible funds appropriated for the purposes of this section shall not be utilized to provide per diem or subsistence for State and local officials receiving such training.

"SEC. 704. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide at the request of a State or unit of local government, training for State and local criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen criminal justice; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs, and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"SEC. 705. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen criminal justice.

"(b) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to criminal justice or suitable for persons employed in criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a criminal justice agency at the rate of 25 per centum of the total amount of such loan plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

"(c) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for tuition, books, and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded criminal justice agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to criminal justice or an area suitable for persons employed in criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to criminal justice or suitable for persons employed in criminal justice, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of criminal justice education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

"(2) education and training of faculty members;

"(3) strengthening the criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums. The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

"(f) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

"(g) The functions, powers, and duties specified in this section to be carried out by the Administrator shall be transferred to the Secretary of the Department of Education upon its establishment by an Act of Congress.

"PART H—ADMINISTRATIVE PROVISIONS

"SEC. 801. (a) The Attorney General, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, and the National Institute of Justice are authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary to the exercise of their functions, and are consistent with the stated purpose of this title.

"SEC. 802. (a) The Law Enforcement Assistance Administration shall, after consultation with the National Institute of Justice, the Bureau of Justice Statistics, State and local governments, and the appropriate public and private agencies, establish such rules and regulations as are necessary to assure the continuing evaluation of the programs or projects conducted pursuant to parts D, E, and F of this title, in order to determine—

"(1) whether such programs or projects

have achieved the performance goals stated in the original application;

"(2) whether such programs or projects have contributed or are likely to contribute to the improvement of the criminal justice system and the reduction and prevention of crime;

"(3) their cost in relation to their effectiveness in achieving stated goals;

"(4) their impact on communities and participants; and

"(5) their implication for related programs.

In conducting the evaluations called for by the subsection, the Law Enforcement Assistance Administration shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants, and shall compare the effectiveness of programs or projects conducted by States and units of local government pursuant to part D of this title with similar programs carried out pursuant to parts E and F of this title. The Law Enforcement Assistance Administration shall require applicants under part D of this title to submit an annual performance report concerning activities carried out pursuant to part D of this title together with an assessment by the applicant of the effectiveness of those activities in achieving the objectives of section 401 of this title and the relationships of those activities to the needs and objectives specified by the applicant in the application submitted pursuant to section 403 of this title. The administration shall suspend funding for an approved application under part D of this title if an applicant fails to submit such an annual performance report.

"(b) The procedures established to implement the provisions of this title shall minimize paperwork and prevent needless duplication and unnecessary delays in award and expenditure of funds at all levels of government.

"SEC. 803. (a) Whenever, after reasonable notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, either the Office of Justice Assistance, Research and Statistics, National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration finds that a recipient of their respective assistance under this title has failed to comply substantially with—

"(1) any provision of this title;

"(2) any regulations or guidelines promulgated under this title; and

"(3) any application submitted in accordance with the provisions of this title, or the provisions of any other applicable Federal Act, they, until satisfied that there is no longer any such failure to comply, shall—

"(i) terminate payments to the recipient under this title;

"(ii) reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title; or

"(iii) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

"(b) If a State grant application filed under part D or if any grant application filed under any other part of this title has been rejected or a State applicant under part D or an applicant under any other part has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount that such applicant believes appropriate under the provisions of this title, the Office of Justice Assistance, Research and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration, as appropriate, shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever such an applicant or grantee requests a hearing, the Office of Justice Assistance, Research and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations, including hearings on the record in accordance with section 554 of title 5, United States Code, at such times and places as necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made with respect thereto shall be final and conclusive, except as otherwise provided herein.

"(c) If such recipient is dissatisfied with the findings and determinations of the Office of Justice Assistance, Research and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, following notice and hearing provided for in subsection (a) of this section, a request may be made for rehearing, under such regulations and procedures as the Attorney General may establish, and such recipient shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved.

"SEC. 804. In carrying out the functions vested by this title in the Office of Justice Assistance, Research and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, their determinations, findings, and conclusions shall, after reasonable notice and opportunity for a hearing, be final and conclusive upon all applications, except as otherwise provided herein.

"SEC. 805. (a) If any applicant or recipient is dissatisfied with a final action with respect to section 803 or section 804 of this part, such applicant or recipient may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or recipient is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action. A copy of the petition shall forthwith be transmitted by the petitioner to the Office of Justice Assistance, Research and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice and the Attorney General of the United States, who shall represent the Federal Government in the litigation. The Office of Justice Assistance, Research and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, as appropriate, shall thereupon file in the court the record of the proceeding on which the action was based, as provided in section 2112 of title 28, United States Code. No objection to the action shall be considered by the court unless such objection has been urged before the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice as appropriate.

"(b) The court shall have jurisdiction to affirm or modify a final action or to set it aside in whole or in part. The findings of fact by the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Attorney General, if supported by substantial evidence on the record considered as a whole, shall be conclusive, but the court, for good cause shown, may remand the case to the Law Enforcement Assistance Administration, the National Institute of Justice, the Bureau of Justice Statistics, or the Attorney General to take additional evidence to be made part of the record. The Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Attorney General may thereupon make new or modified findings of fact by reason of the new evidence so taken and filed with the court and shall file such modified or new findings along with any recommendations such entity may have for the modification or setting aside of such entity's original action. All new or modified findings shall be conclusive with respect to questions of fact if supported by substantial evidence when the record as a whole is considered.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, the National Institute of Justice, or the Attorney General or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certifications as provided in section 1254 of title 28, United States Code.

"SEC. 806. The Attorney General, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration may delegate to any of their respective officers or employees such functions as they deem appropriate.

"SEC. 807. In carrying out their functions, the Attorney General, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforecment Assistance Administration, or upon authorization, any member thereof or any hearing examiner or administrative law judge assigned to or employed thereby shall have the power to hold hearings and issue subpoenas, administer oaths, examine witnesses, and revise evidence at any place in the United States they may designate.

"SEC. 808. Section 5314 of title 5, United States Code, is amended as follows:

"(a) by adding at the end thereof—

" '( ) Director, Office of Justice Assistance, Research, and Statistics.'

"(b) by deleting—

" '(55) Administrator of Law Enforcement Assistance.'

"SEC. 809. Title 5, United States Code, is amended as follows:

"(a) Section 5315(90) is amended by deleting 'Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration' and by adding at the end thereof—

" '( ) Administrator of Law Enforcement Assistance.'

" '( ) Director of the National Institute of Justice.'

" '( ) Director of the Bureau of Justice Statistics.'

"(b) Section 5315 of title 5, United States Code, is amended by striking out the following:

" '(113) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.'

"SEC. 810. Subject to the Civil Service and classification laws, the Attorney General, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out their powers and duties under this title and are authorized to select, appoint, employ, and fix compensation of such hearing examiner or administrative law judge or to request the use of such administrative law judges selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out their powers and duties under this title.

"SEC. 811. The Attorney General, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent deemed appropriate after giving due consideration to the effectiveness of such existing services, equipment, personnel, and facilities.

"SEC. 812. In carrying out the provisions of this title, including the issuance of regulations, the Attorney General shall consult with other Federal departments and agencies and State and local officials.

"SEC. 813. (a) The Attorney General, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its function under this title.

"(b) The National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, and the Attorney General in carrying out their respective functions may use grants, contracts, or cooperative agreements in accordance with the standards established in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501).

"SEC. 814. (a) The Attorney General, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code.

"(b) The Attorney General, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to appoint without regard to the civil service laws, technical or other advisory committees to advise them with respect to the administration of this title as they deem necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising them or attending meetings of the committees, shall be compensated at rates to be fixed by the Offices but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"SEC. 815. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any State or any political subdivision thereof.

"(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration—

"(1) to require, or condition the availability or amount of a grant upon the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency; or

"(2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

"(c)(1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this title.

"(2)(A) Whenever there has been—

"(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency, to the effect that there has been a pattern or practice of discrimination in violation of subsection (c)(1); or

"(ii) a determination after an investigation by the appropriate Administrator or Director (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of general local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c)(1);

the appropriate Administrator or Director shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c)(1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the appropriate Administrator or Director. On or prior to the effective date of the agreement, the appropriate Administrator or Director shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the appropriate Administrator or Director detailing the steps taken to comply with the agreement. These reports shall cease to be filed upon the determination of the Office of Justice Assistance, Research, and Statistics that compliance has been secured, or upon the determination by a Federal or State court that such State government or local governmental unit is in compliance with this section. Within fifteen days of receipt of such reports, the appropriate Administrator or Director shall send a copy thereof to each such complainant.

"(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

"(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

"(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the appropriate Administrator or Director shall notify the Attorney General that compliance has not been secured and caused to have suspended further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the appropriate Administrator or Director in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the appropriate Administrator or Director after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c)(1).

"(D) Payment of the suspended funds shall resume only if—

"(i) such State government or unit of general local government enters into a compliance agreement approved by the appropriate administrator or director and the Attorney General in accordance with subparagraph (B);

"(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the appropriate Administrator or Director in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c)(1) by such court; or

"(iii) after a hearing the appropriate Director Administrator or Director pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

"(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the appropriate Administrator or Director shall cause to have suspended further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

"(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notifiaction under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing on the record in accordance with section 554 of title 5, United States Code, in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the elleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G).

"(C)(i) At any time after notification under subparagraph (A), but before the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing on the record in accordance with section 554 of title 5, United States Code, which the appropriate Administrator or Director shall initiate within sixty days of such request.

"(ii) Within thirty days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), the appropriate Administrator or Director shall make a finding of compliance or noncompliance. If the appropriate Administrator or Director makes a finding of noncompliance, the appropriate Administrator or Director shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c)(3), cause to have terminated the payment of funds under this title, and, if appropriate, seek repayment of such funds.

"(iii) If appropriate Administrator or Director makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

"(H) Any State government or unit of general local government aggrieved by a final determination of the appropriate Administrator or Director under subparagraph (G) may appeal such determination as provided in section 905 of this title.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged in or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this title as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

"(4)(A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the administrative complaint was filed with the appropriate Administrator or Director or any other administrative enforcement agency, unless within such period there has been a determination by the appropriate Administrator or Director or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

"(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(C) In any action instituted under this section to enforce compliance with section 816(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"Sec. 816. On or before March 31 of each year, the Attorney General shall report to the President and to the Committee on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

"(1) a description of the progress made in accomplishing the objectives of this title;

"(2) a description of the national priority programs and projects established by the Office pursuant to part E of this title;

"(3) the amounts obligated under parts D, E, and F of this title for each of the components of the criminal justice system;

"(4) the nature and number of jurisdictions which expended funds under part D of this title on national priority programs or projects established pursuant to part E of this title, and the percentage of part D funds expended by such jurisdictions on such programs or projects;

"(5) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(6) a description of the procedures used to audit, monitor, and evaluate programs or projects to insure that all recipients have complied with the Act and that the information contained in the applications was correct;

"(7) the number of part D applications or amendments approved by the Administration without recommending substantial changes;

"(8) the number of part D applications or amendments in which the Administration recommended substantial changes, and the disposition of such programs or projects;

"(9) the number of programs or projects under part D applications or amendments with respect to which a discontinuation, suspension, or termination of payments occurred together with the reasons for such discontinuation, suspension, or termination;

"(10) the number of programs or projects under part D applications or amendments which were subsequently discontinued by the jurisdiction following the termination of funding under this title; and

"(11) a description of equipment whose cost in the aggregate was $100,000 or more that was purchased in connection with each program or project assisted under part D, and the current use status of such equipment.

"Sec. 817. (a) Each recipient of funds under this Act shall keep such records as the Attorney General, shall prescribe, including records which fully disclose the amount and disposition by such recipient of the funds, the total cost of the project or undertaking for which such funds are used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Attorney General or any of the Attorney General's duly authorized representatives, shall have access for purpose of audit and examination of any books, documents, papers, and records of the recipients of funds under this title which in the opinion of the Attorney General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(c) The Comptroller General of the United States or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers, and records of recipients of Federal funds under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(d) Within one hundred and twenty days after the enactment of this subsection, the appropriate administrator or Director shall review existing civil rights regulations and conform them to this title. Such regulations shall include—

"(1) reasonable and specific time limits for the appropriate Administrator or Director to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of section 815(c) of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the appropriate Administrator or Director to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of section 815(c) of this title.

"(e) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant, cooperative agreement, or contract under this Act or by subgrant or subcontract from primary grantees or contractors under this Act.

"Sec. 818. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest date is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the appropriate Administrator or Director shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purposes of challenge or correction.

"(c) All criminal intelligence systems operating through support under this title shall collect, maintain, and disseminate criminal intelligence information in conformance with policy standards which are prescribed by the Office of Justice Assistance, Research and Statistics and which are written to assure that the funding and operation of these systems furthers the purpose of this title and to assure that such systems are not utilized in violation of the privacy and constitutional rights of individuals. Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000 in addition to any other penalty imposed by law.

"Sec. 819. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). Such individuals shall not be considered Federal employees except for purposes of chapter 81 of title 5 with respect to job-incurred disability and title 28 with respect to tort claims.

"Sec. 820. (a) All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 210(a) of the Juvenile Justice Deliquency Prevention Act of 1974.

"(b) The Director of the National Institute of Justice and the Director of the Bureau of Justice Statistics shall work closely with the Administrator of the Office of Juvenile Justice and Delinquency Prevention in developing and implementing programs in the juvenile justice and delinquency prevention field.

"Sec. 821. No funds under this title shall be used for land acquisition.

"Sec. 822. Notwithstanding any other provision of this title, no use will be made of services, facilities, or personnel of the Central Intelligence Agency.

"Sec. 823. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.

"Sec. 824. (a) No part of the money appropriated for the purposes of this title shall be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any matter an official or legislator of any State, to favor or oppose, by vote or otherwise, any legislation or appropriation, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

"(b) Any recipient who violates this section shall reimburse the Federal Government for all the sums that have been made available under this title for the project in connection with which such violation occurred.

"Sec. 825. Notwithstanding any other provision of this title, no agency or other entity that is established by this title shall concern or involve itself with the civil justice system, civil disputes, or any other civil matter.

"Sec. 826. The Law Enforcement Assistance Administration may require a State council, a grantee, or other recipient of assistance under this title to reimburse the Administration for the federally assisted part of the cost of any equipment whose purchase was in connection with a program or project assisted by such Administration under this title and which cost in the aggregate $100,000, or more. If such equipment has not been placed in use one year after the date set at the time of purchase for the commencement of such use, or has not continued in use during its useful life. In lieu of requiring reimbursement under this section, such Administration may require that the State council, a grantee, or other recipient of assistance under this title take appropriate measures to put such equipment into use.

"Part I—Definitions

"Sec. 901. (a) As used in this title—

"(1) 'Criminal justice' means activities pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinpuency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency.

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(3) 'Unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title.

"(4) 'Construction' means the erection, acquisition, or expansion (but not including renovation, repairs, or remodeling) of new or existing building or other physical facilities, and the acquisition or installation of initial equipment therefor.

"(5) 'Combination' as applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement program or project.

"(6) 'Public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

"(7) 'Correctional institution or facility' means any place for the confinement or rehabilitation of offenders or individuals charged with or convicted of criminal offenses.

"(8) 'Comprehensive' means that the application must be based on a total and integrated analysis of the criminal justice problems, and that goals, priorities, and standards for methods, organization, and operation performance must be established in the application.

"(9) 'Criminal history information' includes records and related data, contained in an automated or manual criminal justice informational system, compiled by law enforcement agencies for the purpose of identifying criminal offenders and alleged offenders and maintaining as to such persons records of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation, and release.

"(10) 'Evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.

"(11) 'Neighborhood or community-based organizations' means organizations which are representative of communities or significant segments of the communities.

"(12) 'Chief Executive' means the highest official of a State or local jurisdiction.

"(13) 'Municipality' means—

"(i) any unit of local government which is classified as a municipality by the United States Bureau of the Census; or

"(ii) any other unit of local government which is a town or township and which, in the determination of the Administration—

"(a) possesses powers and performs functions comparable to those associated with municipalities;

"(b) is closely settled; and

"(c) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

"(14) 'Population' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

"(15) 'Attorney General' means the Attorney General of the United States or his designee.

"(16) The term 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean the highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort' the term 'court' means a tribunal recognized as a part of the judicial branch of a State or of its local government units.

"(17) 'Institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

"(18) 'White-collar crime' means an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage.

"(b) Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Administration may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

"(c) One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a program or project in whole or in part.

"Part J—Funding

"Sec. 1001. There are authorized to be appropriated for the purposes of carrying out the functions of the Bureau of Justice Statistics and the National Institute of Justice $50,000,000 for the fiscal year ending September 30, 1980; $50,000,000 for the fiscal year ending September 30, 1981; and $50,000,000 for the fiscal year ending September 30, 1982. There is authorized to be appropriated for parts D, E, F, G, H, J, and L, and for the purposes of carrying out the remaining functions of the Law Enforcement Assistance Administration $750,000,000 for the fiscal year ending September 30, 1980; and $750,000,000 for the fiscal year ending September 30, 1981; $750,000,000 for the fiscal year ending September 30, 1982. Funds appropriated for any fiscal year may remain available for obligation until expended.

"Sec. 1002. In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there shall be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs, with primary emphasis on programs for juveniles convicted of criminal offenses or adjudicated delinquent on the basis of an act which would be a criminal offense if committed by an adult.

"SEC. 1003. (a) The Law Enforcement Assistance Administration shall allocate $250,000 to each of the States as defined in section 402(a)(1) for the purpose of establishing or designating and operating a Criminal Justice Council pursuant to this title and an additional amount of at least $50,000 shall be made available by the Law Enforcement Assistance Administration for allocation by the State to the judicial coordinating committee or to the Criminal Justice Council where that council performs the functions of a judicial coordinating committee and no such committee has been constituted. Of these sums, $200,000, including at least $50,000 for judicial coordinating committees, shall be available without a requirement for match. The remaining $100,000 shall be matched by the State in an amount equal to any such amount expended or obligated.

"(b) The Law Enforcement Assistance Administration shall allocate additional funds to a State for use by the State and its units of local government in an amount that is not more than 7½ per centum of the total part D allotment of such State. Any of the additional funds which are expended or obligated by the State shall be matched in an amount equal to any such expended or obligated amount. An amount equal to at least 7½ per centum of the part D allocation of an eligible jurisdiction as defined in section 402(a) (2), (3), (4), or (5) must be made available by the State to each such jurisdiction from these additional funds. The eligible jurisdiction shall match the amounts passed through in an amount equal to any such amount expended or obligated by the eligible jurisdiction for all Federal funds in excess of $25,000. The match requirements of this section shall apply to each State in the aggregate.

"(c) Any funds allocated to States or units of local government and unexpended by such States or units of local government for the purposes set forth above shall be available to such States or units of local government for expenditure in accord with part D. The funds allocated to the States and other eligible jurisdictions under this section shall be in addition to the funds allocated to the States and other eligible jurisdictions under parts D, E, and F of this title.

"(d) When an eligible jurisdiction is part of a combination of units of local government, as defined in section 402(a)(4), funds required to be made available to the eligible jurisdictions under this section shall be made available to the combination.

"(e) The State may allocate at its discretion to units of local government or combinations of such units which are not eligible jurisdictions as defined in section 402(a), (2), (3), (4), and (5) funds provided under this section.

"SEC. 1004. There are authorized to be appropriated for the purposes of carrying out the functions of the Office of Community Anti-Crime Programs $25,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $25,000,000 for the fiscal year ending September 30, 1982; and $25,000,000 for the fiscal year ending September 30, 1983.

"PART K—CRIMINAL PENALTIES

"SEC. 1101. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal, or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, the Bureau of Justice Statistics, or whoever receives, conceals, or retains such funds, assets or property with intent to convert such funds, assets or property to his use or gain, knowing such funds, assets or property has been embezzled, willfully misapplied, stolen or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"SEC. 1102. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"SEC. 1103. Any law enforcement or criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics shall be subject to the provisions of section 371 of title 18, United States Code.

"PART L—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 1201. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code; or

"(2) payments authorized by section 12 (k) of the Act of September 1, 1916, as amended (D.C. Code, sec 4-531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 1202. No benefit shal be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

"SEC. 1203. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(i) eighteen years of age or under;

"(ii) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(iii) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing;

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a fireman, or a rescue squad member; and

"(8) 'rescue squad member' means a person—

"(A) certified by a public agency to carry out; or

"(B) acting for a nonprofit corporation and carrying out;

functions as part of a legally organized rescue squad or similar pre-hospital emergency medical unit.

"ADMINISTRATIVE PROVISIONS

"SEC. 1204. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 1201, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.

"PART M—TRANSITION—EFFECTIVE DATE—REPEALER

"SEC. 1301. (a) All orders, determinations, rules, regulations, and instructions of the Law Enforcement Assistance Administration which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President or the Attorney General, or the Director of the Bureau of Justice Statistics, the National Institute of Justice and the Administrator of the Law Enforcement Assistance Administration with respect to their functions under this Act or by operation of law.

"(b) The Director of the National Institute of Justice may award new grants, enter into new contracts or cooperative agreements or otherwise obligate previously appropriated unused or reversionary funds for the continuation of research and development projects in accordance with the provisions of title I of the Omnibus Crime Control and Safe Streets Act, as in effect prior to the date of enactment of this Act, based upon applications received under that Act prior to the effective date of this Act or for purposes consistent with provisions of this Act.

"(c) The Director of the Bureau of Justice Statistics may award new grants, enter into new contracts or cooperative agreements or otherwise obligate previously appropriated unused or reversionary funds for the continuation of statistical projects in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act, as amended, prior to the date of enactment of this Act based upon applications received under these Acts prior to the effective date of this Act or for purposes consistent with provisions of this Act

"(d) The Administrator of the Law Enforcement Assistance Administration may award new grants, enter into new contracts or cooperative agreements, approve comprehensive plans for the fiscal year beginning October 1, 1979, and otherwise obligate previously appropriated unused or reversionary funds or funds appropriated for the fiscal year beginning October 1, 1979, for the continuation of projects in accordance with the provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as written in law prior to the date of enactment of this Act or for purposes consistent with provisions of this Act.

"(e) The provisions of this statute shall not affect any suit, action, or other proceeding commenced by or against the Government prior to the effective date of the Act.

"(f) Nothing in this Act would prevent the utilization of funds appropriated under this Act for all activities necessary or appropriate for the review, audit, investigation, and judicial or administrative resolution of audit matters for those grants or contracts that were awarded under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. The final disposition and dissemination of program and project accomplishments with respect to programs and projects approved in accordance with the Omnibus Crime Control and Safe Streets Act as written in law prior to the date of enactment of this Act and sections 4351 to 4353 of title 18, United States Code, and which continue in operation beyond the effective date of this Act may be carried out with funds appropriated under this Act.

"(g) Except as otherwise provided in this Act, the personnel employed on the date of enactment of this Act by the Law Enforcement Assistance Administration are transferred to the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics as appropriate considering the function to be performed by these organizational units and the functions previously performed by the employee. The transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation as a result of such transfer.

"(h) Any funds made available under parts B, C, and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, prior to the effective date of this Act which are not obligated by a State or unit of local government, may be used to provide up to 100 per centum of the cost of any program or project.

"(i) Notwithstanding any provision of this title all provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, which were in effect prior to the effective date of this Act and which are necessary to carry out the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, remain in effect for the sole purpose of carrying out the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and the State criminal justice council established under this Act shall serve as the State planning agency for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

"(j) The functions, powers, and duties specified in this title to be carried out by State criminal justice councils or by local offices may be carried out by agencies previously established or designated as State, regional, or local planning agencies, pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, as amended: *Provided*, That they meet the representation requirement of section 402 of this Act within two years of the effective date of this Act.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 2061, was laid on the table.

GENERAL LEAVE

Mr. GUDGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill, H.R. 2061, just passed.

The SPEAKER pro tempore (Mr. HOWARD). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 412) entitled "Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.".

And, that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 5 to the above-entitled bill.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I would like to take this time to inquire of the distinguished majority whip, the gentleman from Indiana (Mr. BRADEMAS), as to the program for the following week and the rest of this week.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, the program for the House of Representatives for the week of October 15, 1979, is as follows:

On Monday, October 15, the House meet at noon on the Consent Calendar and on five bills under suspension.

All record votes will be postponed until Tuesday, October 16, 1979.

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The suspensions, Mr. Speaker, are as follows:

H.R. 4259, Gold Medal for Red Cross.

H.R. 5288, veterans rehabilitation and education amendments.

H.R. 5386, Higher Education Act amendments.

H.R. 5176, the GAO personnel system.

H.R. 4307, waive time limit on certain military awards.

Then, Mr. Speaker, we have H.R. 3303, the Justice Department authorizations for fiscal year 1980, an open rule with 1 hour of debate. The rule has already been adopted. It will be general debate only.

On H.R. 3916, the extension of the alcoholism and drug abuse prevention, we have a open rule, 1 hour of debate, and the rule has already been adopted. There will be general debate only.

On Tuesday, October 16, the House meets at noon on the Private Calendar. There will be no bills under suspension. Recorded votes will be held on bills debated on Monday, October 15.

The conference report on H.R. 3173, the international security assistance.

Then the House will consider H.R. 3303, the Justice Department authorizations for fiscal 1980, votes on amendments and the bill.

Then H.R. 3916, the extension of alcoholism and drug abuse prevention, votes on amendments and the bill.

Then H.R. 3000, the Department of Energy authorizations for fiscal year 1980, complete consideration of that bill.

Mr. Speaker, on Wednesday, Thursday, and Friday, October 17, 18, and 19, the schedule is as follows: On each of these days the House will meet at 10 a.m., for consideration of:

S. 832, the FEC amendments, an open rule, 2 hours of debate.

H.R. 2172, the International Sugar Stabilization Act of 1979, an open rule, 1 hour of debate. The rule has already been adopted.

Then H.R. 3947, the military construction authorizations bill, an open rule, 2 hours of debate.

Then H.R. 2218, the Endangered Species Act authorizations, open rule, 1 hour of debate.

H.R. 3683, the Consolidated Farm and Rural Development Act, an open rule, 1 hour of debate.

Finally, H.R. 2313, the Federal Trade Commission authorization, subject to a rule being granted.

Mr. Speaker, the House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday. Conference reports may be brought up at any time and any further program will be announced later.

I thank my friend, the distinguished minority leader, for yielding.

Mr. RHODES. I note that the time is now 7:30, and I believe last week it was said that the House would adjourn at 3 p.m. on Friday. Can we be fairly sure that next Friday we will adjourn at 3?

Mr. BRADEMAS. The answer to the gentleman's question is yes.

Mr. RHODES. I thank the gentleman.

I also would like to make just one comment about S. 832. It is an open rule as set forth in the schedule. But I would sort of wonder if the gentleman would not agree with me that since it also provides for the consideration of an amendment which would otherwise not be germane that we could sort of call it a super open rule, a little more open than most rules, for instance?

Mr. BRADEMAS. Of course, I would leave it to my friend to use whatever editorial license he feels most comfortable with.

Mr. RHODES. I thank my friend.

May I inquire a bit about the House schedule guidelines which my good friend the majority whip put out on October 11 and which, incidentally, pleases everybody that I know. I think it is a fine piece of work and a fine schedule. The minority agrees with it, I would say, practically 100 percent.

Mr. BRADEMAS. I thank the gentleman.

Mr. RHODES. I assume as time goes by we will have some better idea as to what days of the week we might expect business and what days of the week we might expect pro forma sessions so that the Members might be able to make more definite plans than I think they probably could under the present circumstances?

Mr. BRADEMAS. The gentleman is correct in that assessment. I would say to the gentleman that it is the intention of the leadership on this side that there should be no votes on Monday for the rest of the year and, of course, we will have to take into account the other days as they come along. But we have tried, as the minority leader has kindly suggested, to give Members as clear a picture as possible of what they can anticipate.

Mr. RHODES. I might also mention, if my memory serves me correctly, when the other body was considering the censure of the Senator from Wisconsin some years ago the House actually adjourned sine die during that consideration with, of course, the consent of the other body. In the last week or so the relations between the other body and the House have not been as harmonious as we might like them to be, but perhaps they will become more harmonious. If so, would it be the thought of the majority leadership that we might be able to get the other body leadership to agree to a sine die resolution on the part of the House without the Senate adjourning?

Mr. BRADEMAS. I might say to the minority leader that it is more probable that the House would continue in pro forma session rather than the route that the minority leader has suggested.

Mr. RHODES. I thank the gentleman.

ADJOURNMENT TO MONDAY, OCTOBER 15, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule shall be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, October 15, 1979, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

TITLE AMENDMENT TO H.R. 1825

The SPEAKER pro tempore. Without objection, the amendment to the title of the bill, H.R. 1825, is agreed to.

There was no objection.

TABLING OF HOUSE RESOLUTIONS 440 AND 444

The SPEAKER pro tempore. Without objection, House Resolution 440, waiving certain points of order against the conference report on the joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes, and House Resolution 444, waiving certain points of order against the conference report on the joint resolution (H.J. Res. 412) making continuing appropriations for the fiscal year 1980, and for other purposes, are laid on the table.

There was no objection.

ANNUAL REPORTS ON TRAFFIC SAFETY LEGISLATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce and the Committee on Public Works and Transportation:

To the Congress of the United States:

The 1966 traffic safety legislation which initiated a cohesive national effort to curb deaths, injuries and accidents on the Nation's highways also requires that annual reports be rendered to the Congress on the administration of the Acts. This is the 12th year these reports have described the problems and the remedies that have been applied to ameliorate them.

The report on motor vehicle safety includes the annual reporting requirement in Title I of the Motor Vehicle Information and Cost Savings Act of 1972 (bumper standards). An annual report also is required by the Energy Policy and Conservation Act of 1975 which amended the Motor Vehicle Information and Cost Savings Act and directed the Secretary of Transportation to set, adjust and enforce motor vehicle fuel economy standards. Similar reporting requirements are contained in the Department of Energy Act of 1978 with respect to the use of advanced technology by the automobile industry. These requirements have been met in the Third Annual Fuel Economy Report, the highlights of which are summarized in the motor vehicle safety report.

In the Highway Safety Acts of 1973 and 1976, the Congress expressed its special interest in certain aspects of traffic safety which are addressed in the volume on highway safety. The annual reporting requirements set forth in the Highway Safety Act of 1978 will be covered in future editions of this report as may be appropriate.

JIMMY CARTER.

THE WHITE HOUSE, *October 12, 1979.*

CONGRESSMAN BOB WILSON HONORED BY MARINE CORPS LEAGUE

(Mr. PRICE asked and was given permission to address the House for 1 minute.)

● Mr. PRICE. Mr. Speaker, I am pleased to announce that at its 56th national convention, held in Milwaukee, Wis., the congressionally chartered Marine Corps League paid tribute to our colleague and my friend, **BOB WILSON** of California.

Mr. WILSON was the recipient of the league's highest honor, the Iron Mike Award. It is named after a famous memorial statue of a World War I marine at the Marine Corps Recruit Depot, Parris Island, S.C. It is presented annually to a man who has made notable contributions to the Marine Corps and supported the Marine Corps mission during the preceding year.

Our colleague certainly fills that prerequisite. As marine Cy Kammeier, executive director of the league, noted in his nominating letter, Congressman

Bob Wilson, among many other accomplishments, has:

Actively participated in the development and strengthening of the Navy/Marine Corps team;

Continues to be a proponent of STOL and V/STOL aircraft technology demonstrating support of the Corps' AV–8A and AV–8B Carrier procurement program for close combat air support missions;

Champions the value of the surface effect ship (SES) whose technology potentially provides for craft with speeds in excess of 80 knots and which will revolutionize the Marine Corps' amphibious capabilities;

Served as a prime proponent of an additional nuclear aircraft carrier that will carry Marine air squadrons;

Sponsored a bill that reinstitutes education benefits for military personnel serving in a peacetime environment;

Actively pursued the passage of amendments to the survivors benefit plan; and

Helped lead efforts in the House to provide for the continuation of junior enlisted travel entitlements.

Of course, the preceding achievements represent only a portion of his accomplishments toward assuring that our armed services are well armed and manned by qualified personnel. They also are repersentative of what Bob Wilson has done to serve his constituents and the people of the United States since his arrival in Congress in 1952.

Naturally, we expect this sort of a performance from a marine and Bob Wilson is a marine. He is a lieutenant colonel in the Marine Reserve and his tireless efforts consistently reflect credit on that service as well as that of being a Member of Congress.

Mr. Wilson serves as the ranking Republican on the Armed Services Committee, and his cooperation, assistance, and tireless efforts are legendary, not only within the committee, but throughout the armed services.

Mr. Wilson is the first Member of the House of Representatives to receive this coveted recognition.

He joins such great personalities as comedian Bob Hope; actor John Wayne; former ABC newsman Howard K. Smith; president of Time-Life Broadcast, Inc., Barry Zorthian; former Secretary of the Navy, and now U.S. Senator John Warner; and the late, former U.S. Senator Dewey Bartlett.

I know my colleagues will join me and the Marine Corps League in saluting the Congressman for a "job well done."●

MODERNIZED WATER MANAGEMENT CALLED FOR

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. MILLER of California. Mr. Speaker, this morning's Washington Post, in an important editorial, focuses on the critical issue of water supplies in this country. The Post correctly notes that water shortages in the not too distant future could parallel the current energy crisis.

The similarities with energy are numerous. Water consumption is encouraged by unrealistically low prices. Those prices, in many cases, are the result of billions of dollars in Federal subsidies, provided mainly through the Reclamation Act. For years, long-term water contracts have been signed, often with very wealthy agribusinesses interests in the West, guaranteeing subsidized water for as long as 40 years without price adjustment.

Little wonder that, according to GAO, as much as half of the irrigation water is wasted; there is simply no incentive to conserve. Nowhere in the law is there any mandate that federally supplied and subsidized water resources be used efficiently. Ironically, a joint Interior-Agriculture-Environmental Protection Agency study just released suggests that the modest investment of $5 billion over 30 years could result in additional water supplies of 2 to 5 million acre-feet, which is a far better investment than most of the dams and conveyance facilities we construct, again with billions of dollars in taxpayer subsidies.

Yet, water management is regarded as a repugnant concept among some water consumers. A major political figure in California who represents water interests referred to some forms of conservation and management as the equivalent to "World War IV" among irrigators.

As with energy, we must ultimately fall back upon conservation and efficient use. Within the next few days, I will introduce the Federal Reclamation Management Reform Act which will modernize that program not merely for the convenience of the project beneficaries, but in the interest of the taxpayer. Water policy is inseparable from reclamation policy; we can no more discuss reclamation without water than we can discuss energy without talking about oil and gas. And as with energy, the Post reminds us, disaster in our water policy is not as far away as we would like to believe.

The editorial follows:

WATER SHORTAGE EVERYWHERE

Why is water scarce and growing scarcer, approaching the status of a genuine shortage? In large part because we waste it. Anyone who has ever visited Los Angeles, for example, knows that the leaf rake is an endangered species there—these days leaves are *blown* off lawns and driveways with a spray hose. That's called progress. But agriculture is the truly big waster: the General Accounting Office recently concluded that at least half of the water used for irrigation in this country is wasted.

And why does wasting water come so easy? In large part because of billion-dollar federal subsidies that provide water for irrigation at a fraction of its real cost. A utility in Utah, for example, recently paid $1,750 per acre-foot of water while not far away, in California's San Joaquin valley, farmers were paying less than $10. In addition, there is increasing concentration of growth in areas where water supplies are lowest—in the Sun Belt. Many of these booming cities, like Phoenix, for example, have been built on non-renewable supplies of ground water. Phoenix prides itself on having "made the desert bloom," but the price is a water table that has dropped 400 feet and more. With a measly 10 inches of annual rainfall, Arizona ranks among the top 10 states in per-capita water consumption.

In the East, where flooded basements are more common than falling water tables, a less familiar type of shortage may be developing. This is not an absolute shortage, but a shortage of *usable* water, water that is, in the vernacular of the trade, "fishable and swimmable." Some years ago Congress decided to try to reach that goal—fishable and swimmable—for the nation's waters by 1983. It won't be met, though not for want of trying. The construction of waste-water treatment facilities is now the nation's largest public works project, outdistancing even the pork-barrel dams and various Corps of Engineers boondoggles. But despite the nearly $30 billion in federal money that has been spent, the goal of clean water keeps receding. And the list of hazardous substances that should be removed from water to ensure safety grows.

The chairman of one congressional committee on water resources said the other day that "if we don't do something," the water shortage could make the energy crisis look like "a pink tea party." But there doesn't have to be a national water crisis. The country has about as much water available as it ever had—about 600 billion gallons per day. It is simply being *used* faster than it can be replenished. And since part of the reason is the price which has been held by federal policy way below water's real value, and part the wasteful practices for which there are many technological alternatives, the similarities to past mistakes with oil and gas should be too obvious to ignore.

THE COUNCIL FOR BASIC EDUCATION—A LONELY VOICE FOR ACADEMIC EXCELLENCE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, let us for a moment do a bit of fantasizing. Let us imagine that the entire Washington education establishment, without warning, were to vanish this afternoon. Instead of getting a shiny new seat in the President's Cabinet, the Office of Education sinks without a trace into the Potomac. The National Education Association and the American Federation of Teachers shut down their gigantic Washington headquarters and limit their efforts to the only thing they do well, organizing local teacher strikes. The gaggle of special interest lobbies at Dupont Circle folds its tents and they all go home to the State capitals' foundations, think tanks and university bureaucracies from whence they trickled—or was it a flood. Of the entire frantic enterprise, nothing remains but a collection of surplus office furniture and several thousand well-worn sets of the Code of Federal Regulations with their thousand-plus pages of fine print regulations.

What impact would this incredible scenario have in the classrooms of Massachusetts and Ohio and California? Would teachers suddenly find it harder to teach, and students to study, because we no longer had thousands of full-time specialists in Washington inventing evermore spending programs and revising and rerevising evermore regulations? Or would the disappearance of these specialists come as a liberation, a deliverance from mindless redtape, and a renewed opportunity to concentrate on learning and learners? When you realize that academic test scores have declined steadily ever since the era of Federal activism in education began during the Great Society, you have to wonder.

But there is one little piece of the Washington education network whose disappearance really would represent an unambiguous loss to the life of the mind. I refer to the Council for Basic Education, which has been working quietly for the past generation on behalf of a number of principles which are as essential to real education as they are unappetizing to the Federal empire builders who equate size with quality and innovation with progress. The council insists without embarrassment that schools exist, or should exist, primarily to teach an "aristocracy of basic subjects"—not values clarification, sensitivity training, death, sex, or consumerism, but things like reading and writing, history and literature, science and the arts. Since 1956 it has crusaded against educational gimmickry—and the Washington establishment has certainly given it plenty of gimmicks to crusade against.

Starting today, the council will hold its annual meeting here in Washington. Unlike the National Education Association, it will not seek to buttonhole Congressmen for more dollars for programs that have failed to accomplish anything or conduct training sessions in public relations and political activism. It will simply offer a panel discussion on why citizens have lost confidence in the public schools, and whether that loss of confidence is justified.

The Washington Post recently published an excellent article on the aims and activities of the Council for Basic Education. If you have been wondering whether there is anyone among the thicket of Washington activists whose first concern is genuine education, you will find this article well worth reading.

[From the Washington Post, Aug. 12, 1979]

Counseling Basic Education

(By Larry Van Dyne)

America's educators, who are as eager as everybody else to get into the federal till, have covered the Washington landscape with lobbies of every imaginable sort. Superintendents, biology teachers, Catholic colleges, principals, university researchers, historians, home economics teachers, community colleges, school secretaries—everybody has an association of this or an association of that. Occasionally within this vast network, one even comes upon an association speaking for students and children.

Among these groups one of the smallest, yet most interesting, is an organization called the Council for Basic Education. By the standards of the rest of Washington's education lobby, it is a paltry thing. Usually only 15 of its 8,000 dues-paying members show up for annual meetings, and its Washington staff numbers only eight people. (The National Education Association, the teachers' lobby, employs 600). It has never testified at a congressional hearing, as far as anyone can remember, nor been invited to lay its program before the President. Its most visible activity is the publication of a lucid, spiritely bulletin that comes out 10 times a year, rarely runs more than 20 pages and fits into the inside pocket of a suit jacket. And its headquarters, in an office building on 15th Street, is a rabbit-warren of offices distinguished mainly by spare decor and small size.

Yet the Council has a certain old-fashioned appeal. In the education business—where beguiling gimmicks come and go with the regularity of trouser cuffs—the Council stands like some unchanging force of nature. From its founding in 1956, it has argued over and over for a single proposition: that the main purpose of schools is to teach children an "aristocracy of basic subjects"—reading, writing, literature, mathematics, history and government, science, foreign languages and the arts. Anything that distracts them from that purpose—driver's education, cooking classes, consumer education, square dancing, death education, good-grooming courses and any number of other "frills"—makes the Council cranky and quarrelsome. School assemblies, it was once said in the Council's bulletin, are a mere "parade of would-be comedians, trained dogs and has-been magicians."

During most of its history, the Council has been a gadfly buzzing around the educational establishment, but the current "back-to-basics" movement among parents and school boards has put the organization in vogue. Within the past five years, its membership has increased by 3,000, or 60 percent. A. Graham Down, the Council's English-born executive director, is increasingly in demand these days to speak to parents and educators; newspaper and television reporters come around frequently to seek the Council's opinions, and it has become a national clearinghouse for information about "fundamental schools," a scattered group of basics-oriented schools that have sprung up under pressure from parents disenchanted with regular classrooms.

The Council was started as a protest against a little-remembered phenomenon of the early 1950's called "life-adjustment education"—and it has since lived through several wide swings of the pendulum of educational philosophy and practice. Life-adjustment education was a perversion of John Dewey's progressivism that stressed the role of public schools in the social and vocational adjustment of children—at the expense, in the Council's opinion, of their intellectual development. Typical of the life-adjustment posture was a report of a National Educational Association commission in the early 1950's. The commission, whose members included Harvard President James Conant and Columbia President Dwight Eisenhower, allowed that "mathematics and mechanics, art and agriculture, history and homemaking are all peers."

To the Council's founders, this was dangerous anti-intellectualism. The principal founders were a former school-board member named Mortimer Smith, a self-educated man who had written a couple of books attacking the life-adjustment philosophy and teachers' education (he served until 1974 as the Council's executive director), and Arthur Bestor, a historian who had written a book called *The Educational Wastelands*. They persuaded a number of well-known intellectuals to join as charter members, including Malcolm Cowley, Joseph Wood Krutch, Alfred A. Knopf, Allan Nevins, Mark Van Doren, Howard Mumford Jones and Richard Hofstadter. (The current board of directors includes Jacques Barzun, Clifton Fadiman and Francis Keppel, a former U.S. Commissioner of Education.)

Fadiman wrote one of the Council's early manifestos on basic education, calling for "emergency measures" to meet the crisis of life-adjustment. The philosophy he presented was pretty much what the Council endorses today: Some subjects are inherently more worthwhile than others, and schools ought to concentrate on teaching children to master those basics. Teaching a young man to tie a four-in-hand knot was nice, Fadiman said, but it made more sense to teach him to read so he could follow knot-tying instructions for himself. Fadiman often could barely control his outrage: "If he has learned little or no history, geography, science, mathematics, foreign languages, or English he will, naturally enough, learn . . . golf, quail-shooting, barbecuing, and some specialized technique of buying and selling."

From the start, the Council kept a vigilant eye on fuzzy thinking in the schools. Its bulletin has taken delight, for example, in reporting educational innovations like these:

Three thousand home economics teachers in the Midwest accepted a Chicago manufacturer's offer of a free classroom kit including a color film explaining "five basic bra types" as well as a record, teacher's guide, a companion student booklet, a wall-chart and demonstration bra.

A well-known educational consultant produced a study on "the place of the dog in the school curriculum" and suggested development of "aides to teachers wishing to utilize their pupils' dog interest in various curriculum areas."

And, finally, a school in upstate New York offered a course on "Family Living" that included units on "mate selection" and "learning to be livable, lovable, and datable—complete with advice from a panel of livable, lovable, datable grandmothers.

In 1957, about a year after the Council started its crusade for toughening up American schools, it got a powerful ally in the unexpected form of the Russian Sputnik. American schools were blamed for this embarrassing proof of our technological backwardness, and Congress voted new money for schools and colleges to upgrade science, mathematics and foreign languages. (The legislation, significantly, was called the "National Defense Education Act.") Teams of curriculum development specialists from M.I.T., Harvard, and other centers of high science went forth to shape high-school curricula to bring our budding scientists and engineers up to par with those of the Russians.

As much as the Council applauded the boost in basics that followed Sputnik, the trend did not last. During the late '60s, the pendulum of educational reform swung back the other way in an orgy of liberal school reform—exemplified by "open classrooms" and the abandonment of required courses. Once more, the Council found itself and its ideas on the outs.

Now, of course, those same liberal reforms have created a strong public reaction of their own. They are often blamed for a much-publicized decline in test scores among the college-bound, and that has combined with teacher militancy and rising school operating costs to convince many taxpayers they are getting an expensive run-around from educators. The new emphasis on basic skills and the creation of fundamental schools have been among the products of this disaffection, along with requirements in some states, which the Council has applauded, that students pass "minimum competency" tests before receiving their high school diplomas.

The Council has misgivings about certain aspects of some of the fundamental schools—their excessive regimentation, for example, and their occasional emphasis on religion and patriotism. But generally it is happy to see the public mood shifting toward its old set of values about basic skills.

"Reports of high morale among students and teachers alike, of waiting lists, of good parent cooperation, and of very respectable achievement suggest that the alternative fundamental schools are making a successful demonstration of basic education," said

George Weber, until recently the Council's associate director. "Perhaps most important and promising is their influence on other schools, which may be rather like that of a third party in politics."

Any organization as forthright and critical as the Council for Basic Education is bound to get some criticism thrown back its way, of course. And one of the most persistent criticisms leveled against it is that it is "elitist"—led by pompous intellectuals overly concerned about rarefied academic standards which are irrelevant to the problems of poor children who are not doing well in school.

"Nonsense! The charge is absolutely unfounded," says Down. "We have always argued that even the most disadvantaged children can learn basic skills and ought to settle for nothing less—long before Jesse Jackson started 'Push for Excellence.' From the very beginning of the organization, Arthur Bestor saw that it was not fair in a democratic society to train the many and send them to a factory and educate the few and send them to Harvard.

"Our position is that the current level of illiteracy, around 15 percent among 17-year-olds, is simply inexcusable. The educational establishment won't deliver, but there is no good reason why it can't."

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□ 1940

THE GATHERED STORM IN THE CARIBBEAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

● Mr. **ASHBROOK**. Mr. Speaker, I was totally appalled at the way President Carter dismissed the Soviet threat off of our shores. His attitude of worrying more about SALT II and the Florida straw poll than the impact of a special brigade in the Caribbean is just one more example of the moral bankruptcy this man has brought to the Oval Office. To underplay the role of Soviets permanently stationed in Cuba is to ignore the major trends of events in the region. To do so, out of ignorance or opportunism, is to place America in more danger than any time since Pearl Harbor. We are literally facing the prospect of having our southern border become a Soviet lake.

The existence of a clear and present danger of Soviet hegemony in the Caribbean is the result of many years of subversion in the region by Soviet and Cuban trained agents. The systematic undermining of governments friendly to the United States has been aided and abetted by the lack of concern on the part of our State Department in this and earlier administrations. In fact, the State Department has even assisted Soviet purposes in the region by pressing for the Panama Canal giveaway and aiding in the downfall of President Somoza in Nicaragua. Only if the United States shows resolve in the Caribbean, and not just one war maneuver and some bureaucratic reshuffling, will the tide be turned.

An overview of the sorry record of American timidity in the face of organized Communist aggression provides a frightening scenario for what is to come in the Caribbean. The appeasers and the unilateral disarmament advocates have succeeded in steering this Nation on a course of Latin American policy that has updated the domino theory. No longer will American need to watch one nation after another fall under Communist tyranny in Southeast Asia, they have already fallen. Now we will get to watch all of our southern neighbors fall under Cuban and Soviet control until only Texas and Florida are left as barriers to a Communist Caribbean. This is not a very settling thought, but it is the reality of the situation unless something changes.

Until 1959 the Monroe Doctrine and a strong America had been able to maintain peace and tranquility in the Western Hemisphere. Governments changed hands, sometimes violently but there never existed any organized foreign aggressive force in the Americas. In 1959 this situation changed. Aided by our State Department Castro came to power in Cuba. In a process that would be repeated many times, including Nicaragua, the United States was duped into thinking that a Communist trained terrorist was really a pro-American freedom fighter. Fueled with American good will and foreign aid Castro consolidated power in Cuba. Once installed with a relatively stable regime he showed his true colors by seizing U.S. property and declaring his allegiance to the Kremlin.

Castro's open bond with Moscow began a partnership in tyranny that would circle the globe. U.S. timidity in the Bay of Pigs in 1961 prevented an early termination of Castro and the death and destruction his dictatorship was to bring to the Third World. In 1962 Castro was already on the march aiding in the formation of the Revolutionary Army of the People, a Trotskyite cadre in Argentina. Later that same year the first attempt by the Soviets to establish bases in Cuba was unearthed. The following missile crisis supposedly resulted in a foreign policy victory for America. In retrospect this so-called victory only served to mask the longer range strategy of the Kremlin in the region. In 1963 Krushchev spelled out the true meaning of the missiles of October:

> We are told that we retreated because we removed our rockets from Cuba. But this is a view fit only for people who do not see how very complicated political struggles are today, struggles which require flexibility and an ability to maneuver. Yes, it was a concession we made for a concession on the other side; it was a mutual concession. The imperialists had to make a concession by renouncing the invasion of Cuba. As for us, our aim in installing the rockets was to safeguard Cuba against an imperialist invasion. It follows that our rockets played their part.

With a long-term lease on Cuba assured Castro began to probe Latin America for possible prey. Che Guevara and other Castro associates, including members of Cuba's Party Central Committee, fanned out into the jungles of South America. Thankfully, Guevara's terrorist activities were brought to an abrupt end in a shootout in Bolivia. However, the death of Guevara did not delay Cuban aggression for long. Castro set about establishing a network of subversion throughout the hemisphere that would serve his purposes for many years. This network is known as the American Department of the Central Committee of the Communist Party of Cuba.

Many of the staff members of the America Department are recruited from the Cuban Intelligence Service, the DGI. The America Department serves as the liaison between the Cuban Government and the terrorist and subversive movements in other countries. It is an intelligence apparatus engaged primarily in covert action. On August 2, 1979, Radio Havana identified the new Cuban Ambassador to Nicaragua, Julian Lopez. What they neglected to mention was that in 1976, Lopez was identified as the chief of a section of the America Department of the Central Committee of the Communist Party of Cuba.

Much of the public activity of the America Department of the Central Committee of the Communist Party of Cuba is conducted through an organization called ICAP which translates as the "Cuban Institute of Friendship with the Peoples." ICAP serves as the conduit to invite young people to visit Cuba as well as for the establishment of Cuban friendship societies in other countries. Both the visits and the friendship societies provide cover for the terrorist and guerrilla training to young people by the Castro regime. On June 23, 1979, Radio Havana broadcast a report of a solidarity meeting held at the ICAP headquarters on behalf of the FSLN. Present at the meeting were a number of Latin American terrorist leaders including an FSLN representative and a representative of the Farabundo Marti Popular Liberation Forces of El Salvador, also known as the FPL. The FPL works closely with the Sandinistas and a number of FPL members served in the Sandinista Army during the recent fighting in Nicaragua.

The Cubans have also trained members of American terrorist organizations in Cuba. Among the groups that have received such training is the Weather Underground Organization which bombed the Capitol, the State Department, and other public buildings. The Federal Bureau of Investigation has released a declassified and expurgated version of its top secret report "Foreign Influence—Weather Underground Organization (WUO)," dated August 20, 1976, as a result of a Freedom of Information Act request. The report describes the organization of the Venceramos Brigade (VB), which was set up by the Weather Underground Organization for the ostensible purpose of bringing young Americans to Cuba to cut sugarcane.

According to the FBI report:

> A very limited number of VB members have been trained in guerrilla warfare techniques including use of arms and explosives. This type of training is given only to individuals who specifically request it and only then to persons who the Cubans feel sure are not penetration agents for American Intelligence. (p. 126)

The FBI report also described the interest of the Cuban Intelligence Service, the DGI in the Venceramos Bridgade.—

> The DGI interest in the VB is an extension of its overall policy relating to the collection of intelligence on the US, its primary target.

> The DGI considers recruitment of VB members selected after detailed assessment, as one of the primary means through which intelligence can be collected on the US.
>
> The DGI believes that it is to their advantage to establish and maintain contact with organizations, groups and individuals who are sympathetic to the Cuban revolution and who are disenchanted with the present conditions in the US, and sees the VB as such a group.
>
> The ultimate objective in the DGI's participation with the VB is the recruitment of individuals who are politically oriented and who some day may obtain a position, elective or appointed, somewhere in the US Government, which would provide the Cuban Government with access to political, economic, or military intelligence. In addition, the DGI attempts to select individuals who can legitimately apply for membership in various political or student-type organizations to report on the activities, personalities and political orientation of the group. The DGI also seeks individuals among the VB who can fulfill operational support roles; that is, who wittingly or unwittingly would serve as an accommodation address or serve in some other intelligence support capacity. (p. 125)

The FBI report also revealed that on February 10, 1976, Kathie Boudin, a Weather Underground fugitive, was known to be in Cuba—page 194.

The FALN, a Puerto Rican terrorist group which operates in the United States, has also received support from the Castro government of Cuba. The FALN is responsible for five murders in New York City. In an official communique dated October 27, 1975, the FALN stated:

> We especially acknowledge the loyal support given to our organization by the Cuban people and government in a speech made by Prime Minister Fidel Castro in August in which he said that the Cuban Government would do all it could to support the FALN.

The aggression of Cuba was also fueled by the rise to power of Omar Torrijos in Panama. A Marxist by allegiance, Torrijos was able to follow in Castro's footsteps and successfully dupe the U.S. State Department into thinking that only by giving up the Panama Canal could U.S. influence in the Caribbean be maintained. The American media fell for this ploy as did the Carter White House and the Congress. The media overlooked the linkages of Panama with Cuba and the role Panama played in destroying the Somoza government. The result was two major setbacks for the United States in the region, as explained by Torrijos associate Miguel Montiel in an August 3, 1979, column in the Panama City newspaper, Matutino. According to Montiel:

> Panama today occupies a vanguard place within the framework of the peoples struggle for national liberation. In that struggle, and under General Torrijos' leadership, our people have dealt U.S. imperial power two significant blows: the first, whether opponents from right or left in this country like it or not, was the Torrijos-Carter treaties. Panama has weakened the omnipotent U.S. power and created new and better conditions of struggle for our total and final liberation. Second, with the fundamental support that Panama gave the Nicaraguan people in their struggle against Tyrant Somoza, Panama not only helped Democratize Nicaragua but has also helped create the conditions needed to democratize all of Central America through the total defeat of the principal enemy of democracy in the area: Anastasio Somoza Debayle and his godfather the United States.

In Nicaragua the Sandinistas have also joined their Cuban and Soviet allies in organizing aggression in the Carribean. In spite of promised aid from America and the great assistance the United States gave them in their overthrow of Somoza, the new Nicaraguan regime has already denounced the United States at the Nonalined Nation's Conference in Havana. On August 1, 1979, Miguel d'Escoto, the new Foreign Minister for Nicaragua, stated that the Sandinista foreign policy would be to join "the struggle against imperialism, colonialism, neocolonialism, apartheid, Zionism, and all types of foreign occupation, domination, interference and hegemony." It is interesting, but not surprising, that Cuban and Soviet actions in some of these fields are exempted from their concern.

The U.S. lack of resolve in opposing these governments in the Carribean has allowed them to immediately turn their attention to subverting other nations. With America on the run a virtual smorgasbord is now laid out in front of the Communist regimes.

EL SALVADOR, THE NEXT DOMINO?

This small nation of 5 million people is considered by many as the next possible target for the Communists. President Carlos Romero has been trying in recent years to moderate his government and to adopt substantive reforms. He has announced amnesty for all political exiles and has promised elections in 1982. However, a terrorist group has formed in the nation called the People's Liberation Force, an arm of the Popular Revolutionary Bloc (BPR). In July alone 52 persons were assassinated for political reasons and other violence is spreading in this tiny nation. There are unconfirmed reports that a radio station has been established in Nicaragua to broadcast into El Salvador on behalf of another terrorist group, the Farabundo Marti Popular Liberation Forces (FPL). In addition, FPL activists who had served in the Sandinista forces have now returned to El Salvador and are assisting the terrorist cadres.

These terrorist groups have adopted the Sandinista tactics of trying to cripple the economy of the country first. A series of kidnappings of foreign businessmen has already begun to hinder investment and loans. Of 408 Japanese executives who were in the country when FPL actions began only 40 remain. Other foreigners are also leaving.

HONDURAS

This northern neighbor of Nicaragua thought it could buy time against the terrorist tide if it provided sanctuary for the Sandinistas during the battle against Somoza. This pact with the devils has created a shaky peace in the country. Elections have been promised by the government for next April, but only time will tell if this nation can be strong enough to be independent from the Sandinistas or whether Finlandization will have a Latin counterpart.

COSTA RICA

The southern neighbor of Nicaragua is another nation that cast its lot with the Sandinistas. This democracy has no army of its own and therefore felt itself defenseless to the Sandinista demands for use of their nation as a staging area. Its open border with Nicaragua has become an opportunity for the Sandinista regime to pry Costa Rica away from the United States. There are already signs that President Rodrigo Carazo plans to follow the path of nonalinement in order to placate his neighbor. To his south is Panama so the squeeze is on from both sides. It is difficult to say how long democracy may have in this nation as Communist infiltration of the railroad, banana, port, government, and teacher unions is very apparent.

GUATEMALA

This nation may have enough internal strengths to be the last hold out in Central America. The country is prosperous and is the beneficiary of over 10,000 Americans, many retirees, who live in the country. However, there is already Marxist guerrillas active in the countryside and efforts have been made to organize the diverse Indian tribes to aid the rebels.

The Central American nations will provide major land bases for future activities by the Cubans and Soviets. From their allied nations and eventually from the other nations that will be co-opted or overrun they can fan out into South America and up into Mexico. The Soviet presence in Cuba strengthens Castro's bargaining position with these nations and enhances his own ability to draw upon Soviet equipment and knowledge of subversion to hasten the day when Central America is his for the taking. More ominous actions are taking place on the islands of the Carribbean. Many of these have been considered American playgrounds for years. Puerto Rico is a part of the United States. These islands and nations form an outer ring of American influence that provides safety to the Gulf of Mexico and the American mainland. This is why Castro has been busy engulfing these islands one by one. At the nonalined Nations Conference two of his recent successes joined him in calling for the United States to be ousted from Puerto Rico.

GRENADA—CUBAN SHOWCASE?

This island has been a prized victim of Castro's efforts. The New Jewel Movement, led by Maurice Bishop, overthrew the government of Sir Eric Gairy with Cuban aid. There is now at least 60 Cuban military personnel in the country and Cuban money is pouring in to help build public work projects. One U.S. State Department official stated that "Grenada may well become a showcase for the kind of aid Cuba can offer a Caribbean state that tilts to the left." It is rumored that the Cubans plan to set up a port for the use of Soviet shipping.

Cuba has honored Grenada by naming Julian Rizo as Ambassador. Rizo used to be the First Secretary to the Cuban Mission to the United Nations. He served in this capacity until he was exposed as a high ranking DGI officer using the U.N. as a base of operations. This showcase may yet see itself as a "Cuba East" complete with Soviet personnel.

JAMAICA

This beautiful island nation was once a major American tourist spot. Now 5,000 Cuban troops bask in its sun. The former U.S. operated Vernan Airfield in Clarendon is now a training facility for the Cubans. Several top KGB operatives, including Vladimir Klimentou and Michael Kouskovsky have been assigned to the island. The Daily Gleaner, a world reknown newspaper based in Kingston, is under assault because it refuses to back down and tow the government line on Communist encroachment. Opposition leaders, like Edward Seaga, are also in danger of being suppressed as this nation moves into the Cuban-Soviet orbit and away from democracy.

Cuban successes on Jamaica and Grenada have encouraged further adventurism. In recent months Communist backed rebel groups have risen to power in both St. Lucia and Dominica. The ring is closing around the remaining free nations of the Caribbean, but only time will tell if the rest will be strong enough to withstand the tide of aggression.

The Caribbean has always been an area of turbulence. Every year warm winds combine with ocean currents to create the hurricanes that ravage the U.S. coast. The signs are clear that new forces are at work in the area. These are fueled not by warm breezes but from cold calculation sweeping in from Havana and Moscow. Unless the United States acts quickly and decisively its coastline may be ravaged by some nonweather forces. The storm has gathered and it is up to us to heed its warnings.●

A TRIBUTE TO LTS. JAMES, JOHN, AND THOMAS HUNT, GRADUATES OF THE AIR FORCE ACADEMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

● Mr. LEWIS. Mr. Speaker, in a world where mediocrity rather than excellence is becoming the standard, and merely getting by is often more valued than farreaching accomplishment, it is truly refreshing to be associated with individuals whose hard work and success go much beyond that of the ordinary. Lts. James, John, and Thomas Hunt of the U.S. Air Force are such individuals. As it is my privilege to pay tribute to these young Americans, I further commend to the House of Representatives their parents, Philip and Eleanor Hunt who share with us their unique experience of having all three of their sons graduate from the U.S. Air Force Academy.

I have known the Hunts for almost 15 years, during which time I have seen these young men grow to become solid citizens. They all have had outstanding high school and academy careers and their accomplishments are many.

First Lt. James Hunt, stationed at Elmendorf Air Force Base in Alaska as an aircraft commander and functional test flight pilot was continually at the top of his class at the Air Force Academy and during pilot training. He graduated 87th in his class, was on the dean's list seven of eight semesters and graduated on the Commandant's list from the Academy.

During his undergraduate pilot training he received the commander's trophy as the outstanding graduate of Vance Air Force Base's class of 1977–78. He received the academic award, was a distinguished graduate and the outstanding graduate in both the T–37 and T–38 aircraft. During advanced training at George Air Force Base, he received the "academic wizard" award for the highest overall test scores. James won the "top gun" award for the most accurate air-to-ground deliveries and was the outstanding graduate of the class of 1978 at George Air Force Base.

First Lt. John Hunt, graduated from the Air Force Academy in 1977, was on the Commandant's list and was on the dean's list for 2 years. During his tenure at the Academy, John lettered in varsity wrestling, was the wing champion wrestler as well as a member of the Cadet Drum and Bugle Corps. As a leader in his squadron, he held positions of drug and alcohol representative, training officer, executive officer, and squadron commander.

During his undergraduate pilot training John graduated in the T–37 and T–38 aircraft and received his advanced training at George Air Force Base where he won the "top strafe" award in the F–4 class. Presently, he is stationed at Moody Air Force Base in Valdosta, Ga., as an aircraft commander.

Second Lt. Thomas Hunt, who graduated from the Academy this past spring, is the youngest of the three brothers and perhaps the best athlete of the family. He was a 4-year letterman in gymnastics and won the "outstanding cadet in physical fitness" trophy. His volunteer work with the handicapped led to involvement in inverted competition—running on one's hands. He holds the world record in the inverted 50-yard sprint at 18.7 seconds. He will travel to Japan to compete against the Japanese national champion and he will also travel to California to appear on the Guinness Game Show to attempt to break his own world record.

Thomas was on the dean's list seven or eight semesters, a member of the Catholic Cadet Choir and their solo flutist while at the Air Force Academy. He is presently stationed at Wright Patterson Air Force Base in Dayton, Ohio, working in the environmental hazards division, where he is involved in plant and water fish environmental research.

Mr. Speaker, I hold these gentlemen in the highest esteem, they are truly outstanding Americans who demonstrate that excellence is not a thing of the past. In these men, and those like them, I see the hope and promise of a future that is bright. Far too often we take for granted the contributions of the outstanding in all walks of life. It is certainly fitting that these young men be recognized for their contributions to the Air Force and to our country. Therefore, on behalf of all my colleagues, I take this opportunity to congratulate and commend James, John, and Thomas Hunt.●

THE FISHERY DEVELOPMENT ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FORSYTHE) is recognized for 10 minutes.

● Mr FORSYTHE. Mr. Speaker, I, together with the chairman of the Committee on Merchant Marine and Fisheries and four cosponsors, have today introduced comprehensive legislation to assist the U.S. fishing industry in taking advantage of the vast fisheries resources found off the coasts of the United States.

The Fishery Conservation and Management Act of 1976 was passed to take immediate and much needed action to conserve and manage the vast fishery resources found off the U.S. coasts. As a consequence of ever-increasing fishing pressure, largely foreign, and a lack of controls, the survival of many stocks of fish was threatened. The decline of the U.S. fishery resource, which was caused by this overfishing, resulted in severe economic damage in many of our coastal areas which were critically dependent upon the commercial and recreational fishing industry as a major source of employment.

In my view, the passage of the Fishery and Conservation Management Act marked the drawing of a new era in fisheries conservation. The success of the FCMA in this regard is reflected by the fact that the foreign catch within the fishery conservation zone has been reduced from 2.7 million metric tons in 1976 to under 1.8 million metric tons in 1978. In the same period, the number of foreign fishing vessels operating in the U.S. zone has been reduced from 2,500 to approximately 700. Fishery management plans have been developed for numerous fisheries.

In addition to providing for the rational management of our fisheries resources, the act created a priority access for U.S. fishermen, thereby establishing an economic foundation for the development of the U.S. fishing industry. Unfortunately, the U.S. share of the total commercial harvest within the fishery conservation zone has increased from only 48 percent in 1976 to 52 percent in 1978. The processing of this harvest has also increased only slightly. There is much that needs to be done to increase U.S. harvesting and processing capacity.

I recognize that the passage of the FCMA has resulted in an increased interest in fisheries development. There has been a substantial increase in the amount of investment in the U.S. industry. However, recent reports indicate that most of this investment has been in the traditional, high value fisheries. Little investment has gone into those fisheries which have not been previously tapped, or which have not been fully utilized, by

U.S. fishermen—the so-called under-utilized species.

Mr. Speaker, fisheries development cannot be confined to the traditional species. It must be expanded to encompass underutilized species such as Alaskan groundfish where less than 1 percent of the total harvest is taken by U.S. vessels. We must expand our efforts because significant economic advantages will flow from the full utilization of U.S. fishery resources. While 20 percent of the world's available fishery resources are found within the U.S. fishery conservation zone, and while the United States consumes 7.5 percent of the world harvest of fish, we only take 4 percent of the world catch. The result is an unacceptable balance-of-payments deficit in the fishery sector. In 1978, the United States exported $900 million in fisheries products. In the same year, we imported $3.1 billion of fish, shellfish, and associated products. This fisheries trade deficit, in excess of $2 billion, represents almost 10 percent of the total U.S. balance-of-payments deficit. The strain placed upon the U.S. dollar by this deficit adds to the rampaging inflation which severely affects Americans of all ages and economic strata.

Many of the fisheries which are underutilized by U.S. fishermen are being harvested by foreign fishing fleets, despite the first priority given to U.S. fishermen. For these fisheries, a ready market exists—if we can take advantage of it. If these fisheries could be developed by and for the U.S. industry, it is estimated that within the next decade more than 40,000 jobs would be created, more than $1 billion per year would be added to the U.S. economy, and the U.S. trade deficit would be reduced by $1.7 billion per year—and I submit that this is just the beginning. A comprehensive fishery development program will eventually convert the United States from a net importer to a net exporter of fisheries products. Further, it is estimated that for every $1 million of landings, up to 113 jobs will be created. Coastal communities that have seen their economy suffer from foreign exploitation of U.S. fisheries will see a swift revival because of efforts made to develop the U.S. fishing industry.

Extensive studies directed by the Department of Commerce, which have been published this year, show these results to be plainly achievable, although there are impediments which must be overcome. The Fisheries Development Act of 1979, which I am introducing today, will amend the Fishery Conservation and Management Act to provide the mechanisms to effectively and efficiently develop the most promising fisheries which are not now being utilized to their full potential by U.S. fishermen. The particular needs in any one area will be unique, and, therefore, it is important that the factors limiting the development of each of these segments be examined for that particular fishery and that, for each, a reasoned set of solutions: private, State, and Federal, be formulated and implemented. It will do no good to encourage the construction of a new and modern fleet of fishing vessels if there are no harbors for them to dock in, no shoreside facilities to process and store their catch, and no markets available. It is for this reason that the legislation I am today introducing calls for individualized, yet comprehensive, development plans.

In selecting those fisheries which should be targeted for priority development, the Secretary of Commerce is to consider factors such as the potential yield from the fishery, the present and potential domestic and foreign markets, the adequacy of port and harbor facilities, the present and potential harvesting and processing capacities and technologies, legal constraints, and the economic and social benefits which may result from fisheries development. For those fisheries identified as "priority development fisheries" the Secretary shall determine the impediments to the development of that fishery and set forth and coordinate specific projects and activities which should be undertaken to overcome these obstacles. The act would make available 50-50 percent matching grant funds to carry out any action set forth in the plan. To fund this effort, the act proposes to use moneys already available under the Saltonstall-Kennedy Act from duties levied on the import of fisheries products. The act also authorizes an additional $15 million for this purpose.

The proposed legislation reaches far beyond what I have described so far. It also proposes to include all segments of the U.S. fishing industry in existing capital formation programs. The capital construction fund, a Federal income tax deferral mechanism, is now available to assist in financing new fishing vessels. Participants place excess funds into a tax-free capital construction account which permits the more rapid accumulation of capital. Taxes are recaptured only after the funds are used. This highly successful device which exists at no cost to the taxpayer would be made available for the construction of onshore fisheries facilities. To provide for the construction of a modern fishing fleet when there are insufficient onshore processing facilities is the height of folly.

Similarly, the legislation I have introduced today extends the fishing vessel obligation guarantee program to onshore facilities. Under this program, the Federal Government encourages private financing by guaranteeing loans which are made for the acquisition of fishing vessels. To date, the program is self-supporting since participants are charged a service fee.

Despite the emphasis which I have placed on the development of underutilized fisheries I believe we cannot, indeed we must not, ignore the needs of those segments of the U.S. fishing industry which are harvesting and processing fully utilized fisheries. It was for this reason that I joined with other Members of the Merchant Marine and Fisheries Committee in sponsoring legislation which attempts to revitalize the Saltonstall-Kennedy Act which is being used primarily to assist the developed U.S. fisheries.

Mr. Speaker, the legislation which I introduced a few weeks ago, H.R. 5243, to revive the Saltonstall-Kennedy program, and the legislation which I am introducing today are a beginning. I do not contend that either bill is perfect. What I do contend is that there are substantial benefits which can be derived from fully developing the U.S. fishing industry. A limited program which gives the industry the tools it needs to fully develop the extensive U.S. fisheries resources is in the national interest.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment, of which I am the ranking minority member, will be holding extensive hearings on fisheries development in the near future. I am confident that the information which will be developed in those hearings will serve to improve and refine the bill which I am proud to introduce today.●

PERSONAL BANKRUPTCY: A SIGN OF THE TIMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I am not one to say I told you so, but * * *. It troubles me greatly to see news article after news article on an ever-increasing event—personal bankruptcy.

Personal bankruptcies are increasing in record numbers—up 8 percent over last year. Now that the new Federal law governing personal bankruptcy has gone into effect, there will be a rush of filings in the courts equaled only by the rush of financial institutions to extend credit.

This rise in personal bankruptcy is a direct result of financial institutions ignoring repeated calls to revise their easy-credit policies. The same financial institutions that scoffed at my longstanding concerns over their free-wheeling credit practices are now finding delinquency rates spiraling.

At the end of 1978 VISA and Mastercharge had $810 million in accounts delinquent over 30 days. That is a 75-percent increase over the previous year. We can only guess at what this year's delinquency rate will be.

With those whose debts have outgrown their ability to pay, the common link is credit cards. Some 600 million credit cards are now in circulation. Establish credit with one, and you can get another. If you have two, you can get four, and sometimes you do not even have to apply, it will just be sent to you.

It is this multiplicity of credit lines that call bankruptcy courts to order. I am not alone in my concern, Mr. Speaker. In a September letter to all national bank presidents, Comptroller of the Currency, John Heimann, warned:

> It is in the area of multiple credit lines particularly where observers perceive the greatest potential risk . . .

It is with these multiple credit lines that consumers go broke before they know it. It is also becoming increasingly common to use one credit line to pay off the other.

The Comptroller also warned that:

> Some excesses may have developed, even though lenders' experiences to date and statistics on delinquencies continue favorable.

Mr. Speaker, Congress is continually criticized for not acting until a crisis is upon us. Profit-hungry financial institutions are heading for a crisis of monumental portions, and yet credit continues to flow freely.

We have only to look around us to see that keeping up with the Joneses is alive and well in this country. It is a sign of the times, however, that you are likely to meet the Joneses in bankruptcy court.●

FAIR FINANCIAL INFORMATION PRIVACY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 15 minutes.

● Mr. CAVANAUGH. Mr. Speaker, today, Congressmen GOLDWATER, REUSS, PREYER, LAFALCE, VENTO, LOWRY, MITCHELL of Maryland, and I are introducing the legislative result of the administration's privacy initiative.

The legislation is aimed at completing the work in the financial privacy field we began last year when the Congress passed the Right to Financial Privacy Act of 1978. That act was designed to prevent unwarranted Federal intrusion into an individual's records held by banks and other financial institutions by giving the individual the right to challenge, in court, a Government agent's attempt to obtain those records.

The bill we are introducing today would give consumers important new rights with respect to records held by consumer reporting agencies, creditors, depository institutions, and independent check-credit card authorization services. Significantly, the legislation does not create any substantial new paperwork burden on the financial industry. The administration has crafted this bill in close consultation with industry representatives to minimize the paperwork burden. Many of the new procedures are simple and can be easily added to the steps these institutions now take. Others must be initiated by the consumer, not the institution.

This bill, like the Right to Financial Privacy Act, implements key recommendations of the Privacy Protection Study Commission. In a comprehensive report on the changes that technology has wrought in the way information about Americans is gathered and used, the Commission recommended new legislation to govern both the individual's relationships with the Government and with the recordkeepers themselves. Therefore, we are continuing last year's effort to implement the Privacy Commission's important recommendations.

On October 2, Secretary Kreps announced that the legislation resulting from the President's April 2 privacy message was ready. We are here today to demonstrate that there is significant congressional interest in the passage of legislation designed to establish clear governmental policies regarding the collection and disclosure of information about U.S. citizens early, before we lose our individual rights to privacy in a maze of computer and "big brother" files. The President's legislation provides a comprehensive framework that the Congress will use as a guide.

The American public is very concerned about invasions of its privacy by government and financial institutions. According to a Louis Harris poll released in May 1979, 73 percent of the public feels that we are close to the big brother society described by George Orwell in his "1984" classic novel.

It is time for the Congress to respond to these concerns. This legislation goes a long way toward helping to prevent such a society from developing.

The measure seeks to provide important new safeguards for consumers using credit cards or holding insurance policies. The Fair Financial Information Practices Act would:

Give consumers increased rights to see, copy, and correct files maintained about them by consumer reporting agencies and insurance companies. Information from consumer reporting agencies is used regularly by institutions in the decision-making process regarding offering credit, employment, or insurance to applicants. Records collected by one institution may be disclosed to many institutions for many purposes, and perpetuated errors may result in adverse credit decisions causing prolonged, unwarranted problems in obtaining credit for innocent consumers.

Require credit grantors to inform individuals about information collection and disclosure practices and to inform applicants of reasons for any adverse decisions regarding their credit standings.

Create a legally enforceable "expectation of confidentiality" allowing individuals the opportunity to block access to their records under certain circumstances, such as where they are sought for marketing purposes.

Insure that credit and check authorization services, which verify check and credit card purchases for retailers, maintain procedures to assure accuracy and to speedily correct inaccurate information.

Limit disclosures to third parties of an individual's savings and checking account records maintained at banks, savings and loan associations and credit unions.

Another part of the package, the Privacy of Electronic Fund Transfers Act, would safeguard communications aspects of electronic fund transfer (EFT) systems, as there are protections provided by wiretap statutes for telephone calls and postal statutes for letters.

My good friend Congressman RICHARDSON PREYER, who is a cosponsor of this package, will introduce title V, the Fair Insurance Information Practices Act, as a separate bill today as well. It is the insurance title that breaks the most significant new ground in the privacy area. I am pleased that Congressman PREYER's Information Subcommittee of the House Government Operations Committee has tentatively set October 31 as the first day of hearings. Representatives from the administration, the insurance industry, State commissioners, and consumer groups will have the opportunity to start the hearing record on privacy in this Congress. I expect that the Banking Committee hearings will begin shortly in the Consumer Affairs Subcommittee.

I hope that all Members will devote some personal time to the study of the records privacy issue. The potential threats to our own individual privacy, and that of each of our constituents is real. In the near future additional cosponsors of this important legislation will be announced. Any Member who wants to show his support for the privacy concepts embodied in this legislation should contact my office.

The text of the EFT bill follows. Copies of the larger bill will be available from the House document room shortly.

H.R. 5595

SHORT TITLE

SEC. 101. This Act may be cited as the "Privacy of Electronic Fund Transfers Act of 1979."

DEFINITIONS

SEC. 102. (a) "Electronic fund transfer" means a transfer of funds effected through an item which, at any time from initiation to completion of the transfer, is contained in any form of communication which is registered upon, or is in a form suitable for being registered upon, magnetic tape, disc, bubble or any other medium designed to capture and contain signals used for the electronic communication or storage of messages.

(b) "Service provider" means any person who provides services, including data processing, telecommunications and courier services, intended to accomplish or facilitate, during the period between initiation and completion of a transfer, an electronic fund transfer, but only in regard to the operations of the person in the actual provision of services intended to accomplish or facilitate an electronic fund transfer.

(c) "Item" means any instrument for the payment of money, whether or not it is negotiable and whether or not it takes a paper form.

(d) "Financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who holds an account belonging to the originator or addressee of an item which is debited or credited to that account and is intended to accomplish an electronic fund transfer.

(e) "Intercept" means to acquire, at any time from initiation to completion of a transfer, the information contained in an electronic fund transfer.

(f) "Person" means a natural person, partnership, corporation, association, government instrumentality or other legal entity.

(g) "Addressee" means the person to whom an electronic fund transfer is designated to be made, whether payment is directly to the person or to an account in a financial institution.

(h) "Originator" means the person by whom an electronic fund transfer is designated to be made, whether payment is directly from the person or from an account in a financial institution.

(i) "Government authority" means any

agency, department, bureau, or other authority of the government of the United States, or of any State, commonwealth, territory or possession, or any political subdivision thereof, or any officer, employee, or agent of the foregoing.

PROTECTION OF ELECTRONIC FUND TRANSFERS

SEC. 103. (a) No service provider or its officers, employees, or agents shall disclose the existence, location, date, time, contents, effect, or meaning of any item involved in an electronic fund transfer except (1) to a government authority as provided by Section 104, or (2) to an officer, employee or agent of a financial institution for the sole purpose of determining the contents of an item which was debited or credited to an account maintained by the financial institution and only to the extent the disclosure is needed to determine whether a payment was made and if it was correctly made, or (3) pursuant to the specific authorization of the originator or addressee of the item.

(b) Nothing in this section prohibits a service provider from disclosing the existence, location, date, time, contents, effect, or meaning of an electronic fund transfer to its employees or agents to the extent necessary as part of its service in providing for the electronic transfer of funds.

(c) Nothing in this Act prohibits a financial institution from disclosing, pursuant to other laws, its record of an item from the records of the accounts of its customers.

(d) Nothing in this Act prohibits the disclosure of any item or other financial information which is not identified with, or identifiable as being derived from, the financial records of a particular person.

(e) Nothing in this Act prohibits the disclosure to appropriate government authorities of any item or other financial information that a service provider discovers in the course of business, if the disclosing service provider or financial institution believes that the item or information reflects criminal activity.

DISCLOSURE TO A GOVERNMENT AUTHORITY

SEC. 104. A service provider may disclose information contained in or relating to an item involved in an electronic fund transfer or may permit interception of an electronic fund transfer:

(a) pursuant to the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. Section 1801 note; P.L. 95-511); or

(b) pursuant to a court order obtained under the provisions of Sections 105 and 106; or

(c) pursuant to the emergency provisions of Section 107.

APPLICATION FOR A COURT ORDER

SEC. 105. (a) The Attorney General, an Assistant Attorney General, or a designated officer of the Department of Justice specifically authorized by regulation may authorize an application to a United States district court of competent jurisdiction for an order to acquire the record of an electronic fund transfer from a service provider or to intercept an electronic fund transfer when such acquisition or interception may provide evidence of a criminal offense under a Federal law which constitutes a felony.

(b) The Attorney General or chief criminal prosecutor of a state may authorize an application to a state court of competent jurisdiction for an order to acquire the record of an electronic fund transfer from a service provider or to intercept an electronic fund transfer when such acquisition or interception may provide evidence of a criminal offense which involves murder, kidnapping, robbery, extortion, forgery, bribery, embezzlement, fraud, racketeering, a violation of this Act, or any other crime which threatens serious physical injury to an individual or will result in serious damage to property and is punishable by imprisonment for more than one year.

(c) Each application pursuant to subsections (a) and (b) shall be made in writing upon oath or affirmation to a court of competent jurisdiction. Each application shall include the following information:

(1) the identity of the investigative or law enforcement officer making, and the officer authorizing, the application;

(2) a full statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including (i) a reasonable description of the particular offense that has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which, or the place where, the electronic fund transfer is to be intercepted or of the service provider from whom the record will be obtained, (iii) the identity of the person, if known, committing the offense with respect to which electronic fund transfers are to be intercepted or records are to be acquired;

(3) a reasonable description of what other investigative procedures have been tried and failed, or why other investigative procedures reasonably appear to be unlikely to succeed if tried;

(4) a statement of the period of time for which the interception is likely to be required to be maintained and, if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described electronic fund transfer has been first obtained, a particular description of facts establishing reasonable cause to believe that additional electronic fund transfers of the same type will occur thereafter;

(5) to the extent known, a full statement concerning all previous applications for authorization to intercept, or for approval of interceptions begun under the emergency provisions of Section 107, electronic fund transfers involving any of the same persons or accounts specified in the application, and the action taken by the court on each such application; and

(6) where the application is for the extension of an order authorizing or approving interception, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

The judge or magistrate hearing the application may require the applicant to furnish additional evidence in support of an application.

COURT ORDER

SEC. 106 (a) Upon application pursuant to Section 105, the court may enter an ex parte order, as requested or as modified, authorizing or approving interception of electronic fund transfers within the jurisdiction of the court, if it determines on the basis of the facts submitted by the applicant that—

(1) there is reasonable cause for belief that an individual is committing, has committed, or is about to commit an offense enumerated in subsections (a) or (b) of Section 105;

(2) either,

(i) there is reasonable cause for belief that interception of an electronic fund transfer identified with the individual will locate him, and that location of the individual is necessary in order to apprehend the individual or in order to continue investigation of the individual in relation to the offense identified pursuant to paragraph (c)(2) of Section 105, or

(ii) there is reasonable cause for belief that information or evidence obtained through interception of electronic fund transfers identified with the individual will be relevant to the offense identified pursuant to paragraph (c)(2) of Section 105; and

(3) alternative investigative procedures to obtain the same information or evidence have been tried and failed or reasonably appear unlikely to succeed if tried and the information sought is not reasonably available elsewhere.

(b) Each order authorizing or approving the interception of any electronic fund transfer from a service provider shall specify—

(1) the identity of the person, if known, whose electronic fund transfers are to be intercepted, or the identity of the person the records of whose electronic fund transfers are to be acquired from a service provider;

(2) the nature and location of the facilities as to which, or the place where, authority to intercept or to acquire records is granted;

(3) a statement of the offense to which they relate;

(4) the identity of the agency authorized to intercept the electronic fund transfer or to acquire the records of the electronic fund transfer from the service provider; and,

(5) the period of time during which interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described electronic fund transfer has been first obtained.

(c) No order may authorize or approve the interception of any electronic fund transfer for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. No order shall permit continued interception of electronic fund transfers in order to provide on-going surveillance of an individual unless the reasonable cause requirements of subparagraph (a)(2)(ii) are met.

(d) Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (c) of Section 105 and with the court making the findings required by Section 106. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days.

(e) Every order and extension shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of electronic fund transfers not subject to interception under the order or extension, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

(f) Whenever an order authorizing interception for a period in excess of 48 hours is entered, the order may require reports to be made to the court which issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such reasonable intervals as the court may require.

(g) Applications made and orders granted under this Act shall be sealed by the court. Custody of the applications and orders shall be wherever the court directs. Such applications and orders shall be disclosed only upon a showing of good cause before a court of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge or magistrate, and in any event shall be kept for ten years.

EMERGENCY ACCESS

SEC. 107. (a) Notwithstanding any other provision of this Act, any investigative or law enforcement officer, specially designated in regulation by the Attorney General or by the principal prosecuting attorney of any State and acting pursuant to a statute of that State, who reasonably determines that—

(1) an emergency situation exists with respect to criminal activities threatening to life that requires an electronic fund transfer be intercepted before an order authorizing such interception can with due diligence be obtained, and

(2) there are grounds upon which an order could be entered to authorize such interception,

may intercept such electronic fund transfer.

(b) An application for an order approving an interception pursuant to subsection (a) must be made in accordance with this section within forty-eight hours after the interception occurs, or begins to occur. In the absence of an order, such interception shall immediately terminate when the information sought is obtained or when the application for the order is denied, whichever is earlier. In the event the application for the order is not approved, an inventory shall be served on the person named in the application as provided for in Section 108.

(c) Notwithstanding any other provision of this Act, a special agent of the Secret Service may, for the purpose of carrying out the protective functions of the Service (18 U.S.C. 3056; 3 U.S.C. 202, P.L. 90-331 as amended), intercept an electronic fund transfer in order to locate an individual, provided that:

(1) the Director of the Secret Service authorizes the interception after first determining that there is reason to believe that location of the individual is necessary in order to carry out the protective functions of the Secret Service;

(2) the interception shall immediately terminate when the individual is located;

(3) the officer authorizing the interception certifies in writing within 48 hours to a United States district court of competent jurisdiction that:

(i) an interception of the electronic fund transfers of a designated individual occurred or is occurring; and

(ii) there was reason to believe that location of the individual was necessary in order to carry out the protective functions of the Secret Service; and

(4) If, after receiving the certification required by paragraph (3), the court finds that the requirements of paragraphs (1) and (2) were not met, the court shall order termination of the interception, if it is not yet terminated, and an inventory shall be served on the individual whose electronic fund transfers were intercepted as provided for in Section 108.

NOTICE

SEC. 108. (a) Within a reasonable time but not later than 120 days after the denial of an application for an order of approval under Section 106 or the termination of the period of an order or an extension thereof, the issuing or denying court shall cause to be served on the persons named in the order or the application, and such other parties to intercepted electronic fund transfers as the court may determine in its discretion are in the interest of justice, an inventory which shall include notice of—

(1) the fact of the entry of the order or the application;

(2) the date of the entry, or the denial, of the application;

(3) the period of authorized, approved or disapproved interception, if electronic fund transfers were intercepted, and

(4) the fact that during the period electronic fund transfers were or were not intercepted.

(b) The court may in its discretion make available to the person whose electronic fund transfers were intercepted or his counsel for inspection portions of the intercepted electronic fund transfers, applications, and orders.

(c) Upon request by the applicant for an order, the court may grant a delay in service of the inventory or any other notification pursuant to subsection (a), which delay shall not exceed one hundred and eighty days following the conclusion of the interception, if the court finds, upon the showing of the applicant, that there is reason to believe that service of the inventory would—

(1) endanger the life or physical safety of any person;

(2) result in flight from prosecution;

(3) result in destruction of, or tampering with, evidence;

(4) result in intimidation of potential witnesses; or

(5) otherwise seriously jeopardize an investigation or official proceeding, or unduly delay a trial or ongoing official proceeding, to the same extent as the circumstances in the preceding paragraphs.

If the court so finds, it shall enter an ex parte order granting the requested delay. Additional delays of up to ninety days may be granted by the court upon application, but only in accordance with this subsection. Upon expiration of the period of delay, the inventory shall be served immediately.

CONTEMPT OF COURT

SEC. 109. Any violation of the provisions of Sections 105, 106, 107 or 108 may be punished as contempt of the court issuing or denying an order.

CRIMINAL PENALTIES

SEC. 110. Whoever, other than the originator or addressee of an electronic fund transfer, in violation of this Act intentionally discloses the existence, location, date, time, contents, effect, or meaning of an item intended to accomplish an electronic fund transfer or intercepts such an item, or whoever embezzles, modifies, destroys or otherwise tampers with such an item shall be fined not more than $100,000 or imprisoned not more than five years or both.

CIVIL RELIEF

SEC. 111. (a) A person aggrieved by a violation of this Act in respect to an electronic fund transfer to which he was a party may maintain a civil action for actual damages and for equitable relief against:

(1) the United States, an authority of a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this Act, or any other governmental unit, each of which shall be liable for violations of this Act by their officers or employees while the officers or employees are acting within the scope of their office or employment;

(2) an officer or employee of a State who has violated this Act, if the State has not waived its sovereign immunity as provided in paragraph (1), or an officer or employee of the United States, a State, or any other governmental unit who has violated this Act while acting outside the scope of his office or employment;

(3) any other violator.

The district courts of the United States shall have jurisdiction in the matters under the provisions of this Section.

(b) Any person entitled to recovery under this section shall receive not less than $1,000.00.

(c) In any suit brought under this section in which the complainant has substantially prevailed, the court may, in addition to any actual damages or equitable relief, award such punitive damages as may be warranted and may assess against the defendant reasonable attorney fees and other costs of litigation reasonably incurred.

EXCLUSION OF EVIDENCE

SEC. 112. Whenever the existence, location, date, time, content, substance, effect, or meaning of any item intended to accomplish an electronic fund transfer has been disclosed or tampered with or the item intercepted in violation of this Act, no part of the contents of such an item and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee or other authority of the United States, a State, or a political subdivision thereof, except to the extent that the contents of the item or evidence derived therefrom is employed as evidence in the prosecution of a violation of this Act or as evidence to impeach perjured testimony.

GOOD FAITH RELIANCE

SEC. 113. A good faith reliance on a court order issued pursuant to Section 106 of this Act, or on the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. Section 1801 note, P.L. 95-511) where applicable, or on the provisions of Section 107 of this Act shall constitute a complete defense to any civil action for damages or criminal action brought under this Act.●

FEDERAL CONTRACTING COST TAXPAYERS BILLIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker, I would like to call the attention of my colleagues to H.R. 4717, a bill which I have introduced to address an area which I know is of great interest to each of us—control of wasteful Federal spending.

As chairman of the Human Resources Subcommittee of the Post Office and Civil Service Committee, I have been investigating the use of contracting by the Federal Government; the results of this investigation are shocking.

No one in the Government even knows how much taxpayer money is being spent on this contracting, although estimates range as high as $150 billion annually, more than one-fifth of the entire budget. Efforts to control Federal spending by limiting the number of Federal employees have not worked. When faced with personnel ceilings, agencies hire contract employees; often at a higher cost than doing the job in-house. There is now a "shadow government" composed of an estimated 8 million outside contract employees and consultants.

The most alarming fact that has emerged from my investigation is documentation of the spending spree engaged in by agencies in the fourth quarter of the fiscal year. When HUD obligates 49 percent and HEW obligates 20 percent of their expenditures on grants and contracts in the last month of the fiscal year, I must conclude that taxpayers' money is slipping down a bottomless hole, one result of which is the rampant inflation we are presently experiencing.

H.R. 4717 addresses each of these issues. It requires cost-effectiveness be the test to determine whether Federal employees or contract employees perform work which could feasibly be performed by either. It requires agencies to spend no more than 20 percent of their single year obligations in the last 2 months of the fiscal year. It requires Federal managers to be evaluated on the cost-effectiveness of their contract decisions.

Today, I have added the names of 32 of my colleagues to the list of cosponsors of H.R. 4717. I urge the other Members of this body to join with me in bringing a halt to this waste of taxpayers money.●

ADDRESS OF CONGRESSMAN JOHN BRADEMAS, AMERICAN FILM INSTITUTE CONFERENCE ON FILM AND TELEVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I had the privilege today of delivering the keynote address at the First Annual National Conference on Film and Television sponsored by the American Film Institute and held in Los Angeles.

Cochairmen of the board of directors of the AFI are George Stevens, Jr., director of the institute, and Charlton Heston, the distinguished actor.

Participating in the conference are persons involved in all aspects of film and television—actors, directors, producers, financiers, educators, archivists, librarians, and critics.

Although I had planned to be on hand in Los Angeles to deliver my address, the fact that the House of Representatives was in session today on important legislation prevented my delivering my remarks in person and I therefore did so by means of video tape.

Mr. Speaker, I include at this point in the RECORD the text of my address on this occasion:

FIRST ANNUAL NATIONAL CONFERENCE ON FILM AND TELEVISION, AMERICAN FILM INSTITUTE, LOS ANGELES, CALIF., OCTOBER 12, 1979

Mr. Stevens, Mr. Heston, distinguished guests, ladies and gentlemen.

It is for several reasons that I was pleased to accept your invitation to take part in the American Film Institute National Conference on Film and Television, although I confess that I had not anticipated employing the subject of your meeting as a means of speaking to you! Only the fact of major legislation on the floor of the House of Representatives today prevents my being with you in person.

I said that there were several reasons I was glad to take part in your conference.

First is that I always look forward to visiting Southern California. I spend most of my time rushing back and forth between South Bend, Indiana—that's a little north of "breaking away" and just south of "Laverne and Shirley"—between South Bend and Washington, D.C. So, the prospect of coming to California was a refreshing change of pace.

GEORGE STEVENS, JR., AND THE AFI

Second, this conference affords me an opportunity publicly to express my high regard for a valued personal friend whose dedicated leadership of the American Film Institute since its founding 12 years ago is in large measure responsible for the outstanding achievements of the Institute—George Stevens, Jr. Although George will no longer be serving as Director of the AFI, no one doubts that he will continue to devote his considerable talents to enhancing the place of film in American life.

I think it fair to say that AFI has endeavored to take what is essentially a two-dimensional medium—film—and to give it a *third* dimension—depth, intellectual as well as spatial depth; and even a fourth—time.

For the American Film Institute's archival and restorative work has brought back our past; its publications and seminars have increased our understanding of the state of the cinematic art today, while its internships and training programs have helped insure a future of continued quality and still richer diversity.

The third reason I am pleased to speak to you is the subject of your conference—film and television in America.

And you may well ask: Why should an Indiana Congressman be talking, even through this medium, of such matters to archivists, educators, librarians, film and television makers?

So let me then observe that for the past twenty-one years, I have been working in Congress—as a Member of the House Committee on Education and Labor—on a variety of legislative matters that, I believe, either directly affect what many of you do or that powerfully touch the lives of people whom you, through film and television, also touch.

Over the last two decades, I have been involved in helping write laws that provide Federal support to education at every level as well as assistance for libraries and museums, services for the elderly, the education of handicapped children, rehabilitation of the disabled and, of course, I have sponsored the National Arts and Humanities Endowments and the various activities they assist, including the American Film Institute.

So I feel at home with you.

Let me say, too, as one who with George Stevens was present at the creation of the American Film Institute, that I recall the hope that President Johnson then expressed for it, in his words: "Bringing together the leading artists of the film industry, outstanding film educators and young men and women who wish to pursue this 20th Century art form as their life's work."

And here you are.

THE IMPACT OF FILM AND TELEVISION

We meet at a time when the impact of film and television on American life has never been more powerful or pervasive.

We in Washington, I can assure you, are more aware than we have ever been of what you do, and "The Deer Hunter", "The Seduction of Joe Tynan", "Roots"—films grappling with questions of war and ambition and race—all central concerns of those who serve in government—are only a few of the reasons I say this.

For film and television programs of all types have an unprecedented reach within our country. Ninety-eight percent of all American homes have television sets; there are over 16,000 motion picture theaters coast to coast.

The impact of all of this is enormous—and it is increasing.

Film and television represent for most Americans their major source of information about their country and the world.

These forms of communication are powerful transmitters of values . . . about individuals and society.

Film and television are the stage on which our national dramas and traumas are played.

Anyone of us can offer examples of what I mean. Let me cite four.

The most recent, of course, is the televising of the visit of Pope John Paul II last week.

Yesterday a Wall Street banker told me that, in his view, the daily reporting on television news programs of the price of gold has had a considerable impact on the price the following day.

It was both a recognition of the power of television in our lives and a tribute to the genius of Norman Lear that the Smithsonian Institution last year installed in its permanent exhibition hall the chairs of Archie and Edith Bunker.

"Holocaust" illustrates in an extraordinary way the emotional—and political—impact of the marriage of film to television.

Through cable systems across the country, debates in the House of Representatives now reach an estimated four to five million people daily—not much of a Nielsen rating for many of you, but, for most of us, vast audiences.

THE REVOLUTION IN COMMUNICATIONS TECHNOLOGY

The kinds of materials both film and television offer to the American people have, therefore, changed immensely.

But still more significant in their effect on film and television in our society are dramatic advances in the technology of these industries.

I surely need not describe in detail to you developments that, even as we meet, blur, obscure and complicate the future.

Consider such facts as these:

737 commercial television stations and 277 educational ones now operate in the United States—over 1,000 stations in all.

There are in this country, as I remarked earlier, over 16,000 move screens, indoors and out.

We have an estimated 15 million basic cable homes and some 4 million pay ones. By 1985—just six years from now—these numbers will almost double—to 30 million in basic and 7 to 8 million pay cable homes, respectively.

By 1985 there will also be nearly two and a half million homes served by STV—subscription-over-the-air pay television—and another 1.7 million through what is called multipoint distribution.

So by 1984 there will be nearly 12 million homes receiving some form of pay cable or pay television in which uninterrupted programming will be offered.

Moreover, the introduction of the video cassette recorder will surely greatly affect the thinking of producers and distributors of existing or potential program material.

These VCRs are now selling at the rate of 400,000 a year, with some 800,000 already in place.

And the video-disc is now being offered in test markets and without question it, too, will be in the marketplace by the millions.

Finally, there is the satellite, those whirling skeletons of metal and magic riding in stationary orbit 23,000 miles above the equator.

Transponders on these satellites are capable of hurling programs with the speed of light to large earth stations to be collected by cable systems, television stations and cinema houses. Not only this, for now COMSAT is claiming the technological capacity to rifle these programs direct to homes equipped with an earth receiver costing less than a large Advent screen.

THE IMPLICATIONS FOR SOCIETY OF THE REVOLUTION IN COMMUNICATIONS TECHNOLOGY

This communications web grows more intricate each day. And its result, bluntly put, is a communications convulsion comparable in some respects to the Industrial Revolution.

Now what do all these remarkable achievements mean for us? Surely I cannot say with certainty. Matters are moving far too quickly for a layman like me to venture more than a guess. We have, after all, moved in little more than a century from Daguerreotypes and lead-type printing presses to video games and satellite transmission of full-color motion pictures with Dolby sound. And the pace accelerates!

Still, while the details of this approaching technological society are unclear to us, many of the issues raised by these new developments have already begun to suggest themselves. For the implications of these changes on each individual and on society as a whole are diverse and they are profound. Yet they have not, in my judgement, received the attention they deserve. And I am sure that you agree else you would not be in Los Angeles discussing these matters this week.

But these implications must be faced—that much is clear—if we hope to control rather than be controlled by this rapidly advancing technology. As Humpty-Dumpty said to Alice, "The question is which is to be master, that's all."

POLITICAL QUESTIONS

As I have said, I do not pretend to be qualified to offer answers to the many problems—economic, social, educational, political, moral—that the new technology will bring us.

But I do want to suggest to you at least some of the questions that I feel we should address.

And please bear in mind that I shall seek to be instructive, rather than exhaustive, in putting these questions.

First, it must be clear that the revolution in communications technology raises questions of a profoundly political nature.

What will the growth of so-called "superstations" do to local broadcasters?

For example, how does the goal of "localism" and community service which has been at the heart of much broadcast regulation over the years square with the importation of signals from Atlanta or New York City?

More basically, how will the broadened spectrum made possible by cable and satellite shape any future attempt to rewrite the Communications Act? As my House Colleague, the Chairman of the Communications Subcommittee, Congressman Lionel Van Deerlin of California, has put it, "We have new ways of communicating with each other that couldn't have been dreamed of in 1934—photocopying, cable, satellites, two-way television, and we are saddled with a law that was written during the days of the New Deal."

In respect of the Communications Act, to go on from Mr. Van Deerlin's observation, can we redo or undo what has already been done? Is it true, as the author Gene Youngblood contends, that "We have to realize that television is not inherently centralized. . . . It can be restructured?" Or is it the case, as network lobbyist William Leonard argues, that "Television is like New York; you can't start over with the Indians?"

In respect of such questions as these, and others equally important, there are major issues of public policy as yet unresolved.

Clearly, not everything that you in film and television do will depend on actions taken by the Federal Government—nor should that be the case. On the other hand, as you are also aware, decisions made by the Government—on reform of copyright, on protection of syndicated exclusivity, on rewriting the Communications Act, on granting Small Business Administration "Mesbic" loans to minority film makers—all these will play a significant part in determining the dimensions for the wider society of the communications revolution.

There is a second set of questions triggered by the changes in the technology of communications—and these run to the creative process.

Does a rewrite of the Communications Act which proposes, for example, to eliminate requirements of public service programming shrink the market for those of you who do news and documentary work?

Or, conversely, would the elimination of the "Fairness Doctrine" and "Equal Time" requirements actually spur broadcasters to more numerous and more adventurous treatment of issues of public importance?

Again, will the availability of programs for individual access ease in some degree the ratings war? Will this easing in turn encourage the production and distribution of programs for more specialized audiences below the blockbuster level?

EDUCATIONAL QUESTIONS

And the changes in film and television technology also pose issues with great significance for the ways in which we teach and learn in the American society.

How do film and television contribute to the educational processes in our schools, for example?

Does the increasing use of television for education make learning less painful and, therefore, easier to absorb? Or is there a danger that learning by television may mean only passive "absorption" and so hinder students from becoming thinking, reasoning human beings?

Will the new "Two-Way" technology permitting students to talk back to their sets help solve this problem?

Neil Postman, an articulate teacher and one who once favored the "opening up" of elementary and secondary education back in the 60's, has just written in The New York Times calling for schools to tighten their curricula and to reassert traditional educational values. Among the major reasons, said Mr. Postman, for his shift in viewpoint: television.

"In the 60's (he says) we were calling for more effective curriculums. It now turns out that the media are providing exactly this—the schools have become, in effect, an alternative curriculum to the varied and powerful curriculums that go by the name of the media."

Postman's point is intriguing. Has television really supplanted the school system as the major source of learning in America today? And is this a good thing?

ECONOMIC QUESTIONS

I need not in your city belabor the point that all these changes in the ways in which film and television work have spawned a wide variety of crucial economic issues as well.

For example, how are we to balance the desire to "set cable free"—to allow it the greatest development possible—on the one hand, and the need to insure, on the other hand, fair compensation for program distributors? I am well aware of the concern, which I believe to be legitimate, on the part of program creators, that measures be adopted which will allow them to receive full value of their work. "Syndicated exclusivity" is the relevant phrase here.

After three decades of keeping the reins on the growth of cable, do we now risk overcompensating at someone else's expense?

Again, do we need the various law suits pending, as in the MCA/Sony case, moving toward appeal, to remind us that there is very big money at stake in these new developments? And, as the competition intensifies for larger and larger slices of the pie, we must ask ourselves the question, who is looking out for the public interest?

MORAL QUESTIONS

I think that no one can deny that instruments of communication so powerful and omnipresent as are film and television in our society pose as well as all the other questions that I have been enumerating a diversity of moral issues.

My friend, Daniel Boorstin, the distinguished Librarian of Congress, who is also participating in this conference, has written that "the crisis of our time, the next great crisis of human consciousness, has come with television."

Dr. Boorstin notes that the "act" or rather, as he puts it, "the non-act of television viewing now consumes more of our citizens' and our children's waking hours than is spent reading or eating, and almost as many hours as are spent sleeping. This," says Dr. Boorstin, "is revolution!"

Do we risk forgetting, in our excitement over the latest technological marvels, that no communications systems is any better than its content? My point here is an obvious one, but I believe it nonetheless crucial. For we cannot allow the hardware of technology to overwhelm the creative process, the processes of the intellect and the imagination.

And, finally, in the information society of the future, do we simply run the risk of overload? As a Member of Congress, I am well aware of this particular possibility. The French psychologist Roger Fretigny had this interesting thought in this connection: "Today, television, as well as richly illustrated textbooks and information handed out to the saturation point, have deprived the individual both of the time and the means to fabricate and unfurl his fantasies. . . . Saturating man with unsolicited fantasy both reduces his value as a human being and obliges him to snap his moorings."

THE NEED FOR THOUGHT AND DIALOGUE

Now in raising all of these questions, I have thought only to highlight some of the implications of the revolution in communications technology.

But I must add that these implications are not the sole preserve of you in the world of film and television.

Those of us who are your elected Representatives in government—and, really, all of us—will have to deal with more fundamental questions about the place of communications in our society. For the revolution of technology in film and television is one that involves us all, willingly or not.

I cannot, therefore, stress too highly the importance of bringing solid evidence and systematic thought to bear in the consideration of the kinds of issues that I have been setting before you. And I believe that all those who are connected with television and film, in whatever capacity—actor, director, writer, historian, archivist, engineer, teacher, financier, legislator, viewer, listener—need to feel that they are part of a common enterprise.

Above all, or so at least it seems to me, we must think, think, long and hard about all of these matters. For, as Douglass Cater has put it, "The media project shadows by which American society judges itself—whether we are pretty or ugly, healthy or sick . . ."

It seems to me that the American Film Institute can play a major role in the common enterprise of which I speak, that of thought and dialogue. The respect in which AFI is held in film circles across the country; the range of expertise on which it can call; its dedication to preserving and enhancing the film experience in this country—all of these factors make the position of AFI a special one.

It is said that when D. W. Griffith's

"Birth of a Nation" was shown at the White House in 1913—the first moving picture to be seen there—President Woodrow Wilson emerged from the screening and declared, "It's like writing history with lightning."

Let me salute all of you in the world of film and television for providing that special illumination. I hope that as we move toward the next century, you in the cinematic arts will continue to light the way.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, on rollcall No. 556, a vote to go into the Committee of the Whole House on the State of the Union on H.R. 2061, I was at an important conference and failed to reach the floor in time to vote. Had I been present, I would have voted "aye."●

CALIFORNIA WILDERNESS ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, I am today introducing the California Wilderness Act of 1979, for myself and a number of California Members, to designate 35 wilderness areas and additions to wilderness areas in 16 national forests in the State of California.

This legislation will generally implement the national forest wilderness recommendations of the President, as communicated to the Congress by the Secretary of Agriculture on May 2 of this year. These are the recommendations printed in House Document No. 96-119 and referred to the Committees on Interior and Insular Affairs and Agriculture on May 4, 1979.

This bill is the product of efforts initiated by a group of California organizations representing national forest users, including timber, recreation, grazing, mining, and other groups. Concerned about the amount of time being taken to resolve wilderness issues, these organizations got together to attempt to define a compromise position which would be a first step toward reaching reasonable agreements on these issues.

In addition to designating the 35 wilderness areas recommended by the administration, the bill also releases national forest areas proposed for multiple use other than wilderness for management in accordance with the Forest and Rangelands Renewable Resource Planning Act of 1974, as amended.

The purpose of this section is to assure that national forest uses permitted under approved management plans can proceed, so that activities of economic importance to localities, the State, and the Nation can be carried out without undue delay.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, due to hearings conducted by the National Alcohol Fuels Commission, on which I serve, in Jonesboro, Ark., in my district on September 27 and September 28, I was unable to be present and voting on a number of matters before the House. Had I been present, I would have voted in the following manner:

Rollcall No. 516, "nay";
Rollcall No. 518, "no";
Rollcall No. 519, "no";
Rollcall No. 520, "yea";
Rollcall No. 521, "no";
Rollcall No. 522, "yea";
Rollcall No. 523, "yea";
Rollcall No. 524, "yea";
Rollcall No. 525, "yea";
Rollcall No. 526, "yea";
Rollcall No. 527, "nay";
Rollcall No. 528, "aye";
Rollcall No. 529, "aye"; and
Rollcall No. 530, "yea".●

FAIR INSURANCE INFORMATION PRACTICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I am today introducing the administration's proposed Fair Insurance Information Practices Act, which has been presented to the Congress as title V of the omnibus Fair Financial Information Practices Act. I have added a technical amendment to this title in order to assure that there will be no overlap of the provisions of this act with the provisions of the Privacy Act of 1974.

The bill is meant to be a starting point for discussion. It is based generally on the 1977 recommendations of the Privacy Protection Study Commission regarding the collection and use of personal information by the insurance industry. As you may recall, the Commission, which was established by the Privacy Act of 1974, was directed by the Congress to examine the recordkeeping procedures and privacy safeguards in the private sector and to recommend the extent, if any, to which the requirements and principles of the Privacy Act should be applied to the information practices of private organizations. The Fair Insurance Information Practices Act is the result of the Commission's findings and recommendations with regard to the insurance industry's information-collection and recordkeeping practices.

The act is designed to maintain a balance between the insurer's legitimate business need for personal information and the individual's right to fairness and confidentiality in the handling of that information. Like the Privacy Act, it attempts to give individuals more control over the quality and use of information concerning themselves when they seek the benefits of insurance protection.

The measure establishes standards for the collection, use, and disclosure of personal information gathered by insurance institutions, agents, and insurance support organizations in connection with insurance transactions. It requires that insurers give notice of their information collection and disclosure practices to all applicants for insurance and that they abide by these notices. It sets limits on the disclosure of personal information without the individual's consent. It requires insurers to notify individuals of the reasons for adverse decisions on applications for insurance. And, it allows individuals to inspect and correct erroneous information concerning themselves, some of which may have contributed to an adverse decision.

The bill sets uniform nationwide standards for the handling of personal information by insurance institutions, agents, and insurance support organizations. While the act permits an aggrieved citizen to bring an individual cause of action in either a Federal or State court, it specifies administrative enforcement of its provisions exclusively by State insurance authorities. It provides for no Federal regulatory role, and consequently no Federal expenditures. In this respect, the bill adopts a unique regulatory approach which recognizes the need for privacy protection for all citizens, but places enforcement responsibility with State regulators who are the most expert in the insurance area. In my judgment, this cooperative approach seems to make a great deal of sense, particularly in that it draws on existing regulatory mechanisms and avoids costly and nonproductive overlapping regulation.

This legislative approach—the prescription of Federal law to be implemented by the States—seems particularly appropriate in view of the States role with respect to the regulation of the insurance industry as envisioned by the Congress in 1945, with the enactment of the McCarran-Ferguson Act. The proposed bill allows the States to continue in their role as regulators while at the same time guaranteeing to all citizens certain rights with regard to the fair handling of information concerning themsleves.

The President is to be congratulated for the time and energy that went into the formulation of this proposal. Resolving the issues it raises, of course, will require the help of the insurance industry, as well as of those entrusted with the responsibility of regulating that industry.

The Subcommittee on Government Information and Individual Rights which I chair will soon begin hearings on this matter. I expect that hearings will take place over a number of months since this is a complex issue with no pat and easy answers. My mind is certainly open on its resolution. The legislation merits extensive and close examination since its outcome will deeply affect the individual's right to privacy and fairness in the handling of personal information, as well as the recordkeeping practices of commercial enterprises for many years to come.

We will look forward in these hearings to receiving the views of the administration, members of the insurance community, State insurance commissioners, representatives of consumer groups, and others who would be affected by the

bill. Anyone with comments on the Fair Insurance Information Practices Act or with an interest in the subject generally is invited to contact the subcommittee at (202) 225-3741.●

THE EFFECT OF HIGHER INTEREST RATES ON SMALL BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SMITH) is recognized for 5 minutes.

● Mr. SMITH of Iowa. Mr. Speaker, I have been deeply concerned about the effect of higher interest rates on small business. On Thursday, as a result of numerous conversations with my colleagues about this problem, I communicated these concerns to House Members. I would like to place the text of my "Dear Colleague" letter in the RECORD at this point:

COMMITTEE ON SMALL BUSINESS,
Washington, D.C., October 11, 1979.

DEAR COLLEAGUE: Some of the Members have inquired as to the probable result of the recent steep increases in interest rates and the Federal Reserve Board's policies. Following is a statement prepared by our staff economist with the help of information to which we have access.

IMPACT OF RECENT FEDERAL RESERVE ACTIONS

The Federal Reserve Board's anti-inflation monetary policy, enacted over the weekend (October 6-7, 1979), should have the following impacts on small business:

1. As a result of the Fed's actions to raise interest rates (prime rate at 14.5 percent) banks will pass along higher rates to customers, money will become tighter and high interest charges will keep many out of the loan market. Banks will enact stricter lending policies and it will be more difficult to qualify for a loan.

Struggling, small businesses may be hardest hit. Loan money to keep marginal operations afloat will not be available on the open market. Expect increases in small business failures. The most immediate impact may be on small retailers.

2. Stricter loan qualification requirements will be imposed on consumer loans and home mortgages. Expect slow down in consumer demand. Loans for new construction will be tight. Despite reassurances to the contrary, the housing industry could be hard hit, especially small, marginal builders.

3. There has been a strong business inventory buildup in recent weeks. A large decrease in credit purchases may severely impact small businesses with large inventories. Expect the recession to be somewhat deeper than previously predicted.

4. Expect increased lay-offs (unemployment) as small businesses attempt to cut costs wherever possible.

5. Smaller banks may be squeezed worse than larger banks if high interest rates on short term instruments (e.g. T-bills) drain off savings deposits. Problems at smaller banks could ripple back to exaggerate small business credit problems in general.

6. The initial reaction in futures markets was lower prices (especially for grains, livestock, copper, and wood products) reflecting the anti-inflationary aspects of the Fed's action.

7. Internationally, the dollar seemed to gain fundamental strength as short term money moved into U.S. markets to take advantage of the high interest rates. A stronger dollar will reduce demand for U.S. grain and other exports.

In summary, small businesses with limited resources, limited credit alternatives, limited access to investment capital and with limited flexibility face more difficult times and can be expected to face reductions in credit sales leading to reduced production levels. There will be a substantial increase in the demand for government direct and subsidized loan programs.

With best wishes, I am,
Sincerely,
NEAL SMITH, *Chairman.*●

CONFERENCE REPORT ON S. 1030

Mr. STAGGERS submitted the following conference report and statement on the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96-516)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Emergency Energy Conservation Act of 1979".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STANDBY MOTOR FUEL RATIONING

Sec. 101. Findings.
Sec. 102. Report on plan development.
Sec. 103. Procedures for developing and implementing rationing plan.
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TITLE I—STANDBY MOTOR FUEL RATIONING

SEC. 101. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) a standby rationing plan for gasoline and diesel fuel should provide, to the maximum extent practicable, that the burden of reduced supplies of gasoline and diesel fuel be shared by all persons in a fair and equitable manner and that the economic and social impacts of such plan be minimized; and

(2) such a plan should be sufficiently flexible to respond to changed conditions and sufficiently simple to be effectively administered and enforced.

SEC. 102. REPORT ON PLAN DEVELOPMENT.

(a) REPORT.—As soon as practicable after the date of the enactment of this Act (but in no event later than 120 days after such date of enactment), the President shall prepare, and transmit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report describing the measures taken after such date of enactment (and the costs thereof) to establish a system of rationing of gasoline and diesel fuel pursuant to sections 201 and 203 of the Energy Policy and Conservation Act (42 U.S.C. 6261, 6263), together with a description of the additional measures to be taken in establishing such system, a timetable for completion of such measures, and an estimate of the costs thereof.

(b) SPECIFIC ISSUES TO BE ADDRESSED IN REPORT.—The report under subsection (a) shall include—

(1) a description of the extent to which ration coupons or other evidences of right under such a rationing system would be distributed to each end-user of gasoline or diesel fuel on the basis of such end-user's needs, and an explanation of the extent to which such distribution would not be based on such end-user's needs;

(2) an analysis of having the entitlement under the rationing system to such end-user rights be granted on the basis of individuals licensed to operate motor vehicles on the public roads and highways, and an explanation of the extent to which such entitlement will be granted on that basis;

(3) a description of the extent to which the rationing system would meet the needs and hardships of end-users by the use of local boards as provided for under section 203(d) of such Act (42 U.S.C. 6263(d)), and an explanation of the extent to which such boards would not be used;

(4) a description of how the rationing system complies with the objective of providing for the mobility needs of handicapped persons (including means for their obtaining such end-user rights) as required under section 203(a)(2)(A) of such Act (42 U.S.C. 6263(a)(2)(A)); and

(5) a description of the steps to be taken to provide adequate end-user allocation under the rationing system for the needs of those in suburban and rural areas, particularly mid-sized cities, small towns, and rural communities, not adequately served by any public transportation system.

(c) COMMITTEES TO BE KEPT CURRENTLY INFORMED.—The President shall keep such committees fully and currently informed about the progress in establishing and administering a system of rationing and of any problems and delays in establishing and administering the system.

(d) ADDITIONAL REPORT.—90 days after the report is transmitted under subsection (a), the President shall prepare and transmit to each such committee another report unless a rationing contingency plan has been prescribed and transmitted to each House of the Congress during the preceding 90-day period. Such report shall contain the same information as required for the report under subsection (a), except that such information shall be made current to the date of the report.

(e) Public Notice of Reports.—The President shall provide public notice of any report under subsection (a) or (d) at the time of its transmittal, shall make such report available to the public, and shall transmit copies of such report to the Governors of the various States.

Sec. 103. Procedures for Developing and Implementing Rationing Plan.

(a) Plan Development.—Section 203(a)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6263(a)) is amended by striking out "The President shall prescribe," and inserting in lieu thereof "As soon as practicable after the date of the enactment of the Emergency Energy Conservation Act of 1979, the President shall prescribe,", and by adding at the end thereof the following new sentence: "The President, to the maximum extent practicable, shall consult with the Governors of the various States (or the representatives of such Governors) during the development of any rationing contingency plan under this section.".

(b) Plan Approval and Implementaton.—(1) Section 201(e) of such Act (42 U.S.C. 6361(e)) is amended to read as follows:

"(e)(1) For purposes of this subsection, any rationing contingency plan shall be considered to be approved if—

"(A) the President has transmitted such rationing contingency plan to the Congress in accordance with section 552, and

"(B) such rationing contingency plan has not been disapproved by a joint resolution adopted into law after passage by both Houses of the Congress in accordance with section 552.

"(2)(A) Except to the extent provided under subparagraph (B), the President may put into effect a rationing contingency plan which is considered approved under the preceding provisions of this subsection only if—

"(i) the President has found, in his discretion, that putting such rationing contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program, subject to paragraph (3);

"(ii) the President has transmitted such finding to the Congress in accordance with section 551, together with a request to put such rationing contingency plan into effect; and

"(iii) neither House of the Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

"(B)(i) The President may put into effect such an approved rationing plan without the finding required under subparagraph (A)(i) (and without regard to the requirements of subparagraph (A)(ii) and (iii)) if—

"(I) the President has transmitted to the Congress in accordance with section 552 a request to waive such requirements; and

"(II) such request has been approved by a resolution by each House of the Congress within 30 days of continuous session of Congress after the date of its transmittal, in accordance with the provisions of section 552 applicable thereunder to energy conservation contingency plans.

"(ii) Any authority to put a rationing contingency plan into effect under clause (i) pursuant to a request under such clause shall terminate on the 60th calendar day after the date on which a resolution approving that request is adopted by the second House to have so approved that request.

"(iii) In applying the provisions of section 552 for purposes of this subparagraph—

"(I) subsections (b), (d)(2)(B), and (d)(7) shall not apply;

"(II) the references to 60 calendar days and 20 calendar days shall be considered to refer to 30 calendar days and 10 calendar days, respectively; and

"(III) the references to any contingency plan shall be considered to refer to a request under this subparagraph.

"(3) For purposes of paragraph (2)—

"(A) The term 'severe energy supply interruption' means a national energy supply shortage which the President determines—

"(i) has resulted or is likely to result in a daily shortfall in the United States of gasoline, diesel fuel, and No. 2 heating oil supplies for a period in excess of 30 days (including reductions as a result of an allocation away from the United States under the international energy program) of an amount equal to 20 percent or more of projected daily demand for such supplies;

"(ii) is not manageable under other energy emergency authorities, including any energy conservation contingency plans approved under subsection (b) and any emergency conservation authority available under title II of the Emergency Energy Conservation Act of 1979;

"(iii) is expected to persist for a period of time sufficient to seriously threaten the adequacy of domestic stocks of gasoline, diesel fuel, and No. 2 heating oil; and

"(iv) is having or can reasonably be expected to have a major adverse impact on national health or safety or the national economy.

"(B) For purposes of determining the shortfall of supplies under subparagraph (A)(i), the projected daily demand for gasoline, diesel fuel, and No. 2 heating oil supplies shall be the amount of such supplies that were available during any consecutive period of 12 calendar months which the President considers appropriate and which occurred during the 36 calendar month period which immediately precedes the month in which such finding is made, such amount to be adjusted—

"(i) to take into account, for the period between the base period and the month in which the determination is made, the normal growth in demand for gasoline, diesel fuel, and No. 2 heating oil, as determined by the President on the basis of growth experienced during the 36-month period from which the base period was selected; and

"(ii) to take into account seasonal variations in demand for such fuels, as determined by the President.

"(C) The term 'necessary to comply with obligations of the United States under the international energy program' refers to a necessity which the President determines to have impacts comparable to those provided for in subparagraph (A) of this paragraph.

"(4)(A) A rationing contingency plan may not be amended after it is transmitted to the Congress and before it is considered approved under paragraph (1).

"(B) Except as provided in subparagraphs (C) and (D), a rationing contingency plan which is considered approved under this subsection may not be amended other than by an amendment with respect to which—

"(i) a period of 15 calendar days of continuous session (within the meaning of section 552(c)) has passed after the receipt of the proposed amendment by the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate; or

"(ii) each such committee before the expiration of such period has transmitted to the President written notice stating in substance that such committee has no objection to the proposed amendment.

"(C) Except as provided in subparagraph (D), a rationing contingency plan may not be amended during any period in which such plan is in effect pursuant to paragraph (2) unless the President has transmitted such amendment to the Congress in accordance with section 551(b), and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 551.

"(D) The requirements of subparagraphs (B) and (C) shall not apply with respect to any amendment which is a technical or clerical amendment.".

(2)(A) Section 552(b) of such Act (42 U.S.C. 6422(b)) is amended—

(i) by striking out "No such contingency plan" and inserting in lieu thereof "(1) No such energy conservation contingency plan";

(ii) by striking out "(d)(2)" and inserting in lieu thereof "(d)(2)(A)"; and

(iii) by adding at the end thereof the following new paragraph:

"(2)(A) Subject to subparagraph (B), any such rationing contingency plan shall be considered approved for purposes of section 201(d) only if such plan is not disapproved by a resolution described in subsection (d)(2)(B)(i) which passes each House of the Congress during the 30-calendar-day period of continuous session after the plan is transmitted to such Houses and which thereafter becomes law.

"(B) A rationing contingency plan may be considered approved prior to the expiration of the 30-calendar-day period after such plan is transmitted if a resolution described in subsection (d)(2)(B)(ii) is passed by each House of the Congress and thereafter becomes law.".

(B) Section 552(c)(2) of such Act (42 U.S.C. 6422(c)(2)) is amended by striking out "60-calendar-day period" and insert in lieu thereof "calendar-day period involved".

(C) Section 552(d)(2) of such Act (42 U.S.C. 6422(d)(2)) is amended—

(i) by striking out "For purposes of this subsection," and inserting in lieu thereof "(A) For purposes of applying this section with respect to any energy conservation contingency plan,"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) For purposes of applying this subsection with respect, to any rationing contingency plan (other pursuant to section 201(d)(2)(B)), the term 'resolution' means only a joint resolution described in clause (i) or (ii) of this subparagraph with respect to such plan.

"(i) A joint resolution of either House of the Congress (I) which is entitled: 'Joint resolution relating to a rationing contingency plan.', (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: 'Tnat the Congress of the United States disapproves the rationing contingency plan transmitted to the Congress on , 19 .',

the blank spaces therein appropriately filled

"(ii) A joint resolution of either House of the Congress (I) which is entitled: 'Joint resolution relating to a rationing contingency plan.', (II) which does not contain a preamble, and (III) the matter after the resolving clause of which is: 'That the Congress of the United States does not object to the rationing contingency plan transmitted to the Congress on , 19 .', the blank spaces therein appropriately filled."

(D) Section 552(d)(4)(A) of such Act (42 U.S.C. 6422(d)(4)(A)) is amended by inserting after "after its referral" the following: "in the case of any energy conservation contingency plan or at the end of 10 calendar days after its referral in the case of any rationing contingency plan".

(E) Section 552(d)(4)(B) of such Act (42 U.S.C. 6422(d)(4)(B)) is amended by striking out "An amendment" in the second sentence and inserting in lieu thereof "Except to the extent provided in paragraph (7)(A), an amendment".

(F) Section 552(d)(5)(B) of such Act (42 U.S.C. 6422(d)(5)(B)) is amended by striking out "An amendment" in the third sentence and inserting in lieu thereof "Except to the extent provided in paragraph (7)(B), an amendment".

(G) Section 552(d) of such Act (42 U.S.C. 6422(1)) is amended by adding at the end thereof the following new paragraph:

"(7) With respect to any rationing contingency plan—

"(A) In the consideration of any motion to discharge any committee from further consideration of any resolution on any such plan, it shall be in order after debate allowed for under paragraph (4)(B) to offer an amendment in the nature of a substitute for such motion—

"(i) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

"(ii) consisting of a motion to discharge such committee from further consideration of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if the discharge motion sought to be amended relates to a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable. Debate on such an amendment shall be limited to not more than 1 hour, which shall be divided equally between those favoring and those opposing the amendment.

"(B) In the consideration of any resolution on any such plan which has been reported by a committee, it shall be in order at any time during the debate allowed for under paragraph (5)(B) to offer an amendment in the nature of a substitute for such resolution—

"(i) consisting of the text of a resolution described in paragraph (2)(B)(i) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(ii) with respect to the same such plan, or

"(ii) consisting of the text of a resolution described in paragraph (2)(B)(ii) with respect to any rationing contingency plan, if the resolution sought to be amended is a resolution described in paragraph (2)(B)(i) with respect to the same such plan.

An amendment described in this subparagraph shall not be amendable.

"(C) If one House receives from the other House a resolution with respect to a rationing contingency plan, then the following procedure applies:

"(i) the resolution of the other House with respect to such plan shall not be referred to a committee;

"(ii) in the case of a resolution of the first House with respect to such plan—

"(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no resolution from the other House with respect to such plan had been received; but

"(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan which has the same effect shall be automatically substituted for the resolution of the first House.

"(D) Notwithstanding any of the preceding provisions of this subsection, if a House has approved a resolution with respect to a rationing contingency plan, then it shall not be in order to consider in that House any other resolution under this section with respect to the approval of such plan."

(c) ELIMINATION OF CERTAIN ADMINISTRATIVE REQUIREMENTS.—(1) Section 201(f) of such Act (42 U.S.C. 6361(f)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this subsection, such economic analysis and evaluation is not required to be performed, or transmitted to the Congress, under this subsection in the case of any rationing contingency plan.".

(2) Section 203 of such Act (42 U.S.C. 6361) is amended by adding at the end thereof the following new subsection:

"(g) Any authority of the President with respect to a rationing contingency plan under this Act which is delegated to the Secretary shall be exercised by the Secretary without regard to section 404 of the Department of Energy Organization Act (42 U.S.C. 7174).".

SEC. 104. REQUIRED ELEMENTS OF RATIONING PLAN.

Section 203(a) of the Energy Policy and Conservation Act (42 U.S.C. 6263(a)), as amended by section 103, is further amended by adding at the end thereof the following new paragraph:

"(3) Any rationing contingency plan prescribed under this section shall provide that—

"(A) the end-user rights specified in paragraph (1) shall be distributed on a State-to-State basis that results in the degree of shortfall from the base period use being equally shared among the various States, considering the most recent base period use data available;

"(B) to the maximum extent practicable, such rights shall be made available to classes of end-users on a basis which takes into account fairly the relative needs of such end-users; and

"(C) adequate end-user rights are available to carry out paragraph (1) (A) and (B) as required under paragraph (1).".

SEC. 105. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS.—(1) Section 201 of the Energy Policy and Conservation Act (42 U.S.C. 6261), as amended by section 103, is further amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Section 201(b) of such Act (42 U.S.C. 6261(b)) is amended by striking out "Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective" and inserting in lieu thereof "Except as otherwise provided in subsection (c), no energy conservation contingency plan may become effective".

(3) Section 201(c) as redesignated) of such Act (42 U.S.C. 6261(d)) is amended by striking out "a contingency plan" each place it appears and inserting in lieu thereof "an energy conservation contingency plan".

(4) Section 552(d)(2)(A) of such Act (42 U.S.C. 6422(d)(2)) is amended by inserting "energy conservation" before "contingency plan" each place such term appears.

(5) Section 201(e) (as redesignated) of such Act (42 U.S.C. 6261(f)) is amended by striking out "or (e)(1)(B)" and inserting in lieu thereof "or (d)(1)".

(b) TECHNICAL AMENDMENTS.—(1) Section 203(d)(2) of such Act (42 U.S.C. 6261(d)(2)) is amended—

(A) by striking out all that precedes subparagraph (A) and inserting in lieu thereof the following:

"(2) Any rationing contingency plan under this section shall set forth—"; and

(B) by striking out "his" in subparagraph (A) and inserting in lieu thereof "the President's".

(2) Section 203(d)(3)(A) of such Act (42 U.S.C. 6261(d)(3)(A)) is amended by striking out "following the establishment of criteria and procedures under paragraph (2)" and inserting in lieu thereof "beginning 30 days (or such earlier date as the President considers appropriate) after a rationing contingency plan is considered approved under this section".

(3) Section 203 of such Act (42 U.S.C. 6261) is amended by striking out "paragraph (1)" where it appears in subsections (d)(1)(B) and (e)(3) and inserting in lieu thereof "subsection (a)(1)".

(4) Section 203 of such Act (42 U.S.C. 6261) is further amended—

(A) in subsection (a)(1) thereof, by striking out "in accordance with section 523(a) of this Act"; and

(B) by adding at the end thereof the following new subsection:

"(h) Any rationing contingency plan, or any amendment thereto, as well as any regulation thereunder, shall be prescribed in accordance with section 523(a), except that the period for any oral or written comments on any such proposed plan, amendment, or regulation may not extend beyond the 45th day after the date of the publication of the notice of the proposed plan, amendment, or regulation.".

(5) Section 203 of such Act, as amended by paragraph (4), is further amended by adding at the end thereof the following new subsection:

"(i) Any ration coupon or any other evidence of right prepared by or on behalf of the United States for use in connection with a rationing contingency plan shall be considered to be an obligation or other security of the United States for purposes of title 18, United States Code.".

(6) Section 552(b)(1) of such Act is amended by striking out "section 201(a)(2)" and inserting in lieu thereof "section 201(b)".

TITLE II—EMERGENCY ENERGY CONSERVATION

SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) serious disruptions have recently occurred in the gasoline and diesel fuel markets of the United States;

(2) it is likely that such disruptions will recur;

(3) interstate commerce is significantly affected by those market disruptions;

(4) an urgent need exists to provide for emergency conservation and other measures with respect to gasoline, diesel fuel, home heating oil, and other energy sources in potentially short supply in order to cope with market disruptions and protect interstate commerce; and

(5) up-to-date and reliable information concerning the supply and demand of gasoline, diesel fuel, and other related data is not available to the President, the Congress, or the public.

(b) PURPOSES.—The purposes of this title are to—

(1) provide a means for the Federal Government, States, and units of local government to establish emergency conservation measures with respect to gasoline, diesel fuel, home heating oil, and other energy sources which may be in short supply;

(2) establish other emergency measures to alleviate disruptions in gasoline and diesel fuel markets;

(3) obtain data concerning such fuels; and

(4) protect interstate commerce.

SEC. 202. DEFINITIONS.

For purposes of this title—

(1) The term "severe energy supply interruption", when used with respect to motor fuel or any other energy source, means a national energy supply shortage of such energy source which the President determines—

(A) is, or is likely to be, of significant scope and duration;

(B) may cause major adverse impact on national security or the national economy; and

(C) results, or is likely to result, from an interruption in the energy supplies of the United States, including supplies of imported petroleum products, or from sabotage or an act of God.

(2) The term "international energy program" has the meaning given that term in section 3(7) of the Energy Policy and Conservation Act (42 U.S.C. 6202).

(3) The term "motor fuel" means gasoline and diesel fuel.

(4) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government or any agency of the United States or any State or political subdivision thereof.

(5) The term "vehicle" means any vehicle propelled by motor fuel and manufactured primarily for use on public streets, roads, and highways.

(6) The term "Secretary" means the Secretary of Energy.

(7) The term "Governor" means the chief executive officer of a State.

(8) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

PART A—EMERGENCY ENERGY CONSERVATION PROGRAM

SEC. 211. NATIONAL AND STATE EMERGENCY CONSERVATION TARGETS.

(a) DETERMINATION AND PUBLICATION OF TARGETS.—(1) Whenever the President finds, with respect to any energy source for which the President determines a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program, the President, in furtherance of the purposes of this title, may establish monthly emergency conservation targets for any such energy source for the Nation generally and for each State.

(2) Any findings of the President under paragraph (1) shall be promptly transmitted to the Congress, accompanied by such information and analysis as is necessary to provide the basis for such finding, and shall be disseminated to the public.

(3)(A) The State conservation target for any energy source shall be equal to (i) the State base period consumption reduced by (ii) a uniform national percentage.

(B) For the purposes of this subsection, the term "State base period consumption" means, for any month, the product of the following factors, as determined by the President:

(i) the consumption of the energy source for which a target is established during the corresponding month in the 12-month period prior to the first month for which the target is established; and

(ii) a growth adjustment factor, which shall be determined on the basis of the trends in the use in that State of such energy source during the 36-month period prior to the first month for which the target is established.

(C)(i) The President shall adjust, to the extent he determines necessary, any State base period consumption to insure that achievement of a target established for that State under this subsection will not impair the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(b)(1)).

(ii) The President may, to the extent he determines appropriate, further adjust any State base period consumption to reflect—

(I) reduction in energy consumption already achieved by energy conservation programs;

(II) energy shortages which may affect energy consumption; and

(iii) variations in weather from seasonal norms.

(D) For purposes of this subsection, the uniform national percentage shall be designed by the President to minimize the impact on the domestic economy of the projected shortage in the energy source for which a target is established by saving an amount of such energy source equivalent to the projected shortage, taking into consideration such other factors related to that shortage as the President considers appropriate.

(b) NOTIFICATION AND PUBLICATION OF TARGETS.—The President shall notify the Governor of each State of each target established under subsection (a) for that State, and shall publish in the Federal Register, the targets, the base period consumption for each State and other data on which the targets are based, and the factors considered under subsection (a)(3).

(c) ESTABLISHMENT OF TARGETS FOR FEDERAL AGENCIES.—In connection with the establishment of any national target under subsection (a) the President shall make effective an emergency energy conservation plan for the Federal Government, which plan shall be designed to achieve an equal or greater reduction in use of the energy source for which a target is established than the national percentage referred to in subsection (a)(3)(D). Such plan shall contain measures which the President will implement, in accordance with other applicable provisions of law, to reduce on an emergency basis the use of energy by the Federal Government. In developing such plan the President shall consider the potential for emergency reductions in energy use—

(1) by buildings, facilities, and equipment owned, leased, or under contract by the Federal Government; and

(2) by Federal employees and officials through increased use of car and van pooling, preferential parking for multipassenger vehicles, and greater use of mass transit.

(d) REVIEW OF TARGETS.—(1) From time to time, the President shall review and, consistent with subsection (a), modify to the extent the President considers appropriate the National and State energy conservation targets established under this subsection.

(2) Any modification under this paragraph shall be accompanied by such information and analysis as is necessary to provide the basis therefor and shall be available to the Congress and the public.

(3)(A) Before the end of the 12th month following the establishment of any conservation target under this section, and annually thereafter while such target is in effect, the President shall determine, for the energy source for which that target was established, whether a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program. The President shall transmit to the Congress and make public the information and other data on which any determination under this subparagraph is based.

(B) If the President determines such a energy supply interruption does not exist or is not imminent or such actions are not required, the conservation targets established under this section with respect to such energy source shall cease to be effective.

(e) DETERMINATION AND PUBLICATION OF ACTUAL CONSUMPTION NATIONALLY AND STATE-BY-STATE.—Each month the Secretary shall determine and publish in the Federal Register (1) the level of consumption for the most recent month for which the President determines accurate data is available, nationally and for each State, of any energy source for which a target under subsection (a) is in effect, and (2) whether the targets under subsection (a) have been substantially met or are likely to be met.

(f) PRESIDENTIAL AUTHORITY NOT TO BE DELEGATED.—Notwithstanding any other provision of law, the authority vested in the President under this section may not be delegated.

SEC. 212. STATE EMERGENCY CONSERVATION PLAN.

(a) STATE EMERGENCY CONSERVATION PLANS.—(1)(A) Not later than 45 days after the date of the publication of an energy conservation target for a State under section 211(b), the Governor of that State shall submit to the Secretary a State emergency conservation plan designed to meet or exceed the emergency conservation target in effect for that State under section 211(a). Such plan shall contain such information as the Secretary may reasonably require. At any time, the Governor may, with the approval of the Secretary, amend a plan established under this section.

(B) The Secretary may, for good cause shown, extend to a specific date the period for the submission of any State's plan under subparagraph (A) if the Secretary publishes in the Federal Register notice of that extension together with the reasons therefor.

(2) Each State is encouraged to submit to the Secretary a State emergency conservation plan as soon as possible after the date of the enactment of this Act and in advance of such publication of any such target. The Secretary may tentatively approve such a plan in accordance with the provisions of this section. For the purposes of this part such tentative approval shall not be construed to result in a delegation of Federal authority to administer or enforce any measure contained in a State plan.

(b) CONSERVATION MEASURES UNDER STATE PLANS.—(1) Each State emergency conservation plan under this section shall provide for emergency reduction in the public and private use of each energy source for which an emergency conservation target is in effect under section 211. Such State plan shall contain adequate assurances that measures contained therein will be effectively implemented in that State. Such plan may provide for reduced use of that energy source through voluntary programs or through the application of one or more of the following measures described in such plan:

(A) measures which are authorized under the laws of that State and which will be administered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivisions); and

(B) measures—

(i) which the Governor requests, and agrees to assume, the responsibility for administration and enforcement in accordance with subsection (d);

(ii) which the attorney general of that State has found that (I) absent a delegation of authority under Federal law, the Governor lacks the authority under the laws of the State to invoke, (II) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing under a delegation of authority pursuant to Federal law; and (III) if implemented, would not be contrary to State law; and

(iii) which either the Secretary determines are contained in the standby Federal conservation plan established under section 213 or are approved by the Secretary, in his discretion.

(2) In the preparation of such plan (and any amendment to the plan) the Governor shall, to the maximum extent practicable, provide for consultation with representatives of affected businesses and local governments and provide an opportunity for public comment.

(3) Any State plan submitted to the Secretary under this section may permit persons affected by any measure in such plan to use alternative means of conserving at least as much energy as would be conserved by such measure. Such plan shall provide an effective procedure, as determined by the Secretary, for the approval and enforcement of such alternative means by such State or by any political subdivision of such State.

(c) Approval of State Plans.—(1) As soon as practicable after the date of the receipt of any State plan, but in no event later than 30 days after such date, the Secretary shall review such plan and shall approve it unless the Secretary finds—

(A) that, taken as a whole, the plan is not likely to achieve the emergency conservation target established for that State under section 211(a) for each energy source involved,

(B) that, taken as a whole, the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof,

(C) that the requirements of this part regarding the plan have not been met, or

(D) that a measure described in subsection (b)(1) is—

(i) inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(ii) an undue burden on interstate commerce, or

(iii) a tax, tariff, or user fee not authorized by State law.

(2) Any measure contained in a State plan shall become effective in that State on the date the Secretary approves the plan under this subsection or such later date as may be prescribed in, or pursuant to, the plan.

(d) State Administration and Enforcement.—(1) The authority to administer and enforce any measure described in subsection (b)(1)(B) which is in a State plan approved under this section is hereby delegated to the Governor of the State and the other State and local officers and employees designated by the Governor. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under subsection (e).

(2) All delegation of authority under paragraph (1) with respect to any State shall be considered revoked effective upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

(3) If at any time the conditions of subsection (b)(1)(B)(ii) are no longer satisfied in any State with respect to any measure for which a delegation has been made under paragraph (1), the attorney general of that State shall transmit a written statement to that effect to the Governor of that State and to the President. Such delegation shall be considered revoked effective upon receipt by the President of such written statement and a determination by the President that such conditions are no longer satisfied, but only to the extent of that determination and consistent with such attorney general's statement.

(4) Any revocation under paragraph (2) or (3) shall not affect any action or pending proceedings, administrative or civil, not finally determined on the date of such revocation, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such revocation.

(e) Civil Penalty.—(1) Whoever violates the requirements of any measure described in subsection (b)(1)(B) which is in a State plan in effect under this section shall be subject to a civil penalty of not to exceed $1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of measures the authority for which is delegated under subsection (d).

Sec. 213. Standby Federal Conservation Plan.

(a) Establishment of Standby Conservation Plan.—(1) Within 90 days after the date of the enactment of this part, the Secretary, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), shall establish a standby Federal emergency conservation plan. The Secretary may amend such plan at any time, and shall make such amendments public upon their adoption.

(2) The plan under this section shall be consistent with the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(b)(1)), and shall provide for the emergency reduction in the public and private use of each energy source for which an emergency conservation target is in effect or may be in effect under section 211.

(b) Implementation of Standby Conservation Plan.—(1) If the President finds—

(A) after a reasonable period of operation, but not less than 90 days, that a State emergency conservation plan approved and implemented under section 212 is not substantially meeting a conservation target established under section 211(a) for such State and it is likely that such target will continue to be unmet; and

(B) a shortage exists or is likely to exist in such State for the 60-day period beginning after such finding that is equal to or greater than 8 percent of the projected normal demand, as determined by the President, for an energy source for which such conservation target has been established under section 211(a);

then the President shall after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(2) If the President finds after a reasonable period of time, that the conservation target established under section 211(a) is not being substantially met and it is likely that such target will continue to be unmet in a State which—

(A) has no emergency conservation plan approved under section 212; or

(B) the President finds has substantially failed to carry out the assurances regarding implementation set forth in the plan approved under section 212,

then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(c) Basis for Findings.—Any finding under subsection (b) shall be accompanied by such information and analysis as is necessary to provide a basis therefor and shall be available to the Congress and the public.

(d) Submission of State Emergency Conservation Plan.—(1) The Governor of a State in which all or any portion of the standby Federal conservation plan is or will be in effect may submit at any time a State emergency conservation plan, and if it is approved under section 212(c), all or such portion of the standby Federal conservation plan shall cease to be effective in that State. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on such date, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

(e) State Substitute Emergency Conservation Measures.—(1) After the President makes all or any part of the standby Federal conservation plan effective in any State or political subdivision under subsection (b), the Secretary shall provide procedures whereby such State or any political subdivision thereof may submit to the Secretary for approval one or more measures under authority of State or local law to be implemented by such State or political subdivision and to be substituted for any Federal measure in the Federal plan. The measures may include provisions whereby persons affected by such Federal measure are permitted to use alternative means of conserving at least as much energy as would be conserved by such Federal measure. Such measures shall provide effective procedures, as determined by the Secretary, for the approval and enforcement of such alternative means by such State or by any political subdivision thereof.

(2) The Secretary may approve the measures under paragraph (1) if he finds—

(A) that such measures when in effect will conserve at least as much energy as would be conserved by such Federal measure which would have otherwise been in effect in such State or political subdivision;

(B) such measures otherwise meet the requirements of this paragraph; and

(C) such measures would be approved under section 212(c)(1)(B), (C), and (D).

(3) If the Secretary approves measures under this subsection such Federal measure shall cease to be effective in that State or political subdivision. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on the date the Federal measure ceases to be effective in that State or political subdivision, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

(4) If the Secretary finds after a reasonable period of time that the requirements of this subsection are not being met under the measures in effect under this subsection he may reimpose the Federal measure referred to in paragraph (1).

(f) State Authority To Administer Plan.—At the request of the Governor of any State, the President may provide that the administration and enforcement of all or a portion of the standby Federal conservation plan made effective in that State under subsection (b) be in accordance with section 212(d)(1), (2), and (4).

(g) PRESIDENTIAL AUTHORITY NOT TO BE DELEGATED.—Notwithstanding any other provision of law (other than subsection (f)), the authority vested in the President under this section may not be delegated.

(h) REQUIREMENTS OF PLAN.—The plan established under subsection (a) shall—

(1) taken as a whole, be designed so that the plan, if implemented, would be likely to achieve the emergency conservation target under section 211 for which it would be implemented.

(2) taken as a whole, be designed so as not to impose an unreasonably disproportionate share of the burden of restrictions on energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof, and

(3) not contain any measure which the Secretary finds—

(A) is inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(B) is an undue burden on interstate commerce,

(C) is a tax, tariff, or user fee, or

(D) is a program for the assignment of rights for end-user purchases of gasoline or diesel fuel, as described in section 203(a)(1)(A) and (B) of the Energy Policy and Conservation Act (42 U.S.C. 6263).

(i) PLAN MAY NOT AUTHORIZE WEEKEND CLOSINGS OF RETAIL GASOLINE STATIONS.—(1) Except as provided in paragraph (2), the plan established under subsection (a) may not provide for the restriction of hours of sale of motor fuel at retail at any time between Friday noon and Sunday midnight.

(2) Paragraph (1) shall not preclude the restriction on such hours of sale if that restriction occurs in connection with a program for restricting hours of sale of motor fuel each day of the week on a rotating basis.

(j) CIVIL PENALTIES.—(1) Whoever violates the requirements of such a plan implemented under subsection (b) shall be subject to a civil penalty not to exceed $1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided under paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of that portion of the standby Federal conservation plan for which authority is delegated to that State under subsection (f).

SEC. 214. JUDICIAL REVIEW.

(a) STATE ACTIONS.—(1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of—

(A) any target established by the President under section 211(a);

(B) any finding by the President under sections 213(b)(1)(A), relating to the achievement of the emergency energy conservation target of such State, or 213(b)(2), relating to the achievement of the emergency energy conservation target of such State or the failure to carry out the assurances regarding implementation contained in an approved plan of such State; or

(C) any determination by the Secretary disapproving a State plan under section 212(c), including any determination by the Secretary under section 212(c)(1)(B) that the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof.

Such action shall be barred unless it is instituted within 30 calendar days after the date of publication of the establishment of a target referred to in subparagraph (A), the finding by the President referred to in subparagraph (B), or the determination by the Secretary referred to in subparagraph (C), as the case may be.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than twenty days after the decision of the court of appeals.

(b) Court of Appeals Docket.—It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a)(2).

(c) Injunctive Relief.—With respect to judicial review under subsection (a)(1)(A), the court shall not have jurisdiction to grant any injunctive relief except in conjunction with a final judgment entered in the case.

SEC. 215. REPORTS.

(a) MONITORING.—The Secretary shall monitor the implementation of State emergency conservation plans and of the standby Federal conservation plan and make such recommendations to the Governor of each affected State as he deems appropriate for modification to such plans.

(b) ANNUAL REPORT.—The President shall report annually to the Congress on any activities undertaken pursuant to this part and include in such report his estimate of the energy saved in each State and the performance of such State in relation to this part. Such report shall contain such recommendations as the President considers appropriate.

PART B—OTHER AUTOMOBILE FUEL PURCHASE MEASURES

SEC. 221. MINIMUM AUTOMOBILE FUEL PURCHASES.

(a) GENERAL RULE.—If the provisions of this subsection are made applicable under subsection (c), no person shall purchase motor fuel from a motor fuel retailer in any transaction for use in any automobile or other vehicle unless—

(1) the price for the quantity purchased and placed into the fuel tank of that vehicle equals or exceeds $5.00; or

(2) in any case in which the amount paid for the quantity of motor fuel necessary to fill the fuel tank of that vehicle to capacity is less than $5.00, such person pays to the retailer an additional amount so that the total amount paid in that transaction equals $5.00.

Any person selling motor fuel in transactions to which the provisions of this subsection apply shall display at the point of sale notice of such provisions in accordance with regulations prescribed by the Secretary.

(b) $7.00 TO BE APPLICABLE IN THE CASE OF 8-CYLINDER VEHICLES.—In applying subsection (a) in the case of any vehicle with an engine having 8 cylinders (or more), "$7.00" shall be substituted for "$5.00".

(c) APPLICABILITY.—(1) Unless applicable pursuant to paragraph (2), the requirements of subsection (a) shall apply in any State and shall be administered and enforced as provided in subsection (g) only if—

(A) the Governor of that State submits a request to the Secretary to have such requirements applicable in that State; and

(B) the attorney general of that State has found that (i) absent a delegation of authority under a Federal law, the Governor lacks the authority under the laws of the State to invoke comparable requirements, (ii) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing such requirements under a delegation of authority pursuant to Federal law, and (iii) if implemented such requirements would not be contrary to State law.

Subject to paragraph (2), such provisions shall cease to apply in any State if the Governor of the State withdraws any request under subparagraph (A).

(2) The requirements of subsection (a) shall apply in every State if there is in effect a finding by the President that nationwide implementation of such requirements would be appropriate and consistent with the purposes of this title.

(3) Such requirements shall take effect in any State beginning on the 5th day after the Secretary or the President (as the case may be) publishes notice in the Federal Register of the applicability of the requirements to the State pursuant to paragraph (1) or (2).

(4) Notwithstanding any other provision of law, the authority vested in the President under paragraph (2) may not be delegated.

(d) EXEMPTIONS.—The requirements of subsection (a) shall not apply to any motorcycle or motorpowered bicycle, or to any comparable vehicle as may be determined by the Secretary by regulation.

(a) ADJUSTMENT OF MINIMUM LEVELS.—The Secretary may increase the $5.00 and $7.00 amounts specified in subsections (a) and (b) if the Secretary considers it appropriate. Adjustments under this subsection shall be only in even dollar amounts.

(f) CIVIL PENALTIES.—(1) Whoever violates the requirements of subsection (a) shall be subject to a civil penalty of not to exceed $100 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action under this section brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of the requirements of subsection (a) the authority for which is delegated under subsection (g).

(g) ADMINISTRATION AND ENFORCEMENT DELEGATED TO STATES.—(1) There is hereby delegated to the Governor of any State, and other State and local officers and employees designated by the Governor, the authority to administer and enforce, within that State, any provision of this part which is to be administered and enforced in accordance with this section. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under subsection (f).

(2)(A) All delegation of authority under paragraph (1) with respect to any State shall be considered revoked effective (i) upon the receipt of a written waiver of authority signed by the Governor of such State or (ii) upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

(B) If at any time the conditions of subsection (c)(1)(B) are no longer satisfied in any State to which a delegation has been made under paragraph (1), the attorney general of that State shall transmit a written statement to that effect to the Governor of that State and to the President. Such delegation shall be considered revoked effective upon receipt by the President of such written statement and a determination by the President that such conditions are no longer satisfied, but only to the extent of that determination and consistent with such attorney general's statement.

(C) Any revocation under subparagraph (A) or (B) shall not affect any action or pending proceedings, administrative or civil, not finally determined on the date of such revocation, nor any administrative or civil action or proceeding, whether or not pending, based on any act committed or liability incurred prior to such revocation.

(D) The Secretary shall administer and enforce any provision of this part which has been made effective under subsection (c)(2) and for which a delegation of authority is considered revoked under subparagraph (A).

(h) Coordination With Other Law.—The charging and collecting of amounts referred to in subsection (a)(2) under the requirements of subsection (a), or similar amounts collected under comparable requirements under any State law, shall not be considered a violation of—

(1) the Emergency Petroleum Allocation Act of 1973 or any regulation thereunder; or

(2) any Federal or State law requiring the labeling or disclosure of the maximum price per gallon of any fuel.

Sec. 222. Out-of-State Vehicles To Be Exempted From Odd-Even Motor Fuel Purchase Restrictions.

(a) General Rule.—Notwithstanding any provision of any Federal, State, or local law, any odd-even fuel purchase plan in effect in any State may not prohibit the sale of motor fuel to any person for use in a vehicle bearing a license plate issued by any authority other than that State or a State contiguous to that State.

(b) Definitions.—For purposes of this section the term "odd-even fuel purchase plan" means any motor fuel sales restriction under which a person may purchase motor fuel for use in any vehicle only on days (or other periods of time) determined on the basis of a number or letter appearing on the license plate of that vehicle (or on any similar basis).

Part C—Building Temperature Restrictions

Sec. 231. Amendment to Energy Policy and Conservation Act.

Section 202 of the Energy Policy and Conservation Act (42 U.S.C. 6262) is amended by adding at the end thereof the following new subsection:

"(d)(1) In the case of an energy conservation contingency plan that regulates building temperatures, any State or political subdivision thereof may submit to the President a comparable plan, as described in subsection (b)(1), and include in such plan procedures permitting any person affected by such contingency plan to use alternative means of conserving at least as much energy in affected buildings as would be conserved by the energy conservation contingency plan that regulates building temperatures. Such plan shall include effective procedures for the approval and enforcement of such alternative plans by such State or such political subdivision thereof.

"(2) The alternative plan under paragraph (1) need not conserve energy in the same fashion as the energy conservation contingency plan that regulates building temperatures.

"(3) Nothing in this subsection shall preclude any political subdivision of a State from applying directly to the President for approval of a comparable plan under paragraph (1).".

Part D—Studies

Sec. 241. Studies.

(a) Study of Commercial and Industrial Storage of Fuel.—Not later than 180 days after the date of the enactment of this part, the Secretary shall conduct a study and report to the Congress regarding the commercial and industrial storage of gasoline and middle distillates (other than storage in facilities which have capacities of less than 500 gallons or storage used exclusively and directly for agricultural, residential, petroleum refining, or pipeline transportation purposes).

(b) Contents of Report.—Such report shall—

(1) indicate to what extent storage activities have increased since November 1, 1978, and what business establishments (including utilities) have been involved;

(2) the estimated amount of gasoline and middle distillates (in the aggregate and by type and region) which are in storage within the United States at the time of the study, the amounts which were in storage at the same time during the calendar year preceding the study, and the purposes for which such storage is maintained; and

(3) contain such findings and recommendations for legislation and administrative action as the Secretary considers appropriate, including recommendations for improving the availability and quality of data concerning such storage.

Sec. 242. Middle Distillate Monitoring Program

(a) Monitoring Program.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a periodic basis in each State.

(2) The program to be established under paragraph (1) shall provide for—

(A) the prompt collection of relevant demand and supply data under the authority available to the Secretary under other law; and

(B) the submission to Congress of periodic reports each containing a concise narrative analysis of the most recent data which the Secretary determines are accurate, and a discussion on a State-by-State basis of trends in such data which the Secretary determines are significant. (3) All data and information collected under this program shall be available to the Congress and committees of the Congress, and, in accordance with otherwise applicable law, to appropriate State and Federal agencies and the public.

(4) Nothing in this subsection authorizes the direct or indirect regulation of the price of any middle distillate.

(5) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section.

(b) Report.—Before December 31, 1979, the President shall submit a report to Congress in which the President shall examine the middle distillate situation, summarizing the data, information, and analyses described in subsection (a) and discussing in detail matters required to be addressed in findings made pursuant to section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 760(d)(1)).

Part E—Administrative Provisions

Sec. 251. Administration.

(a) Information.—(1) The Secretary shall use the authority provided under section 11 of the Energy Supply and Environmental Coordination Act of 1974 for the collection of such information as may be necessary for the enforcement of the provisions of parts A and B of this title.

(2) In carrying out his responsibilities under this title, the Secretary shall insure that timely and adequate information concerning the supplies, pricing, and distribution of motor fuels (and other energy sources which are the subject of targets in effect under section 211) is obtained, analyzed, and made available to the public. Any Federal agency having responsibility for collection of such information under any other authority shall cooperate fully in facilitating the collection of such information.

(b) Effect on Other Laws.—No State law or State program in effect on the date of the enactment of this title, or which may become effective thereafter, shall be superseded by any provision of this title, or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with any such provision of section 213 or 221 (or any rule, regulation, or order under this part relating thereto) in any case in which measures have been implemented in that State under the authority of section 213 or 221 (as the case may be).

(c) Termination.—(1) The provisions of parts A, B, D, and E of this title, including any actions taken thereunder, shall cease to have effect on July 1, 1983.

(2) Such expiration shall not affect any action or pending proceeding, administrative or civil, not finally determined on such date, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.

TITLE III—GENERAL PROVISIONS

Sec. 301. Funding for Fiscal Years 1979 and 1980.

(a) For purposes of any law relating to appropriations or authorizations for appropriations as such law relates to the fiscal year ending September 30, 1979, or the fiscal year ending September 30, 1980, the provisions of this Act (including amendments made by this Act) shall be treated as if it were a contingency plan under section 202 or 203 of the Energy Policy and Conservation Act which was approved in accordance with the procedures under that Act or as otherwise provided by law, and funds made available pursuant to such appropriations shall be available to carry out the provisions of this Act and the amendments made by this Act.

Sec. 302. Effective Date.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

Harley O. Staggers,
John D. Dingell,
Richard Ottinger,
Philip R. Sharp,
Toby Moffett,
James T. Broyhill,
Clarence J. Brown,
Dave Stockman,
Managers on the Part of the House.

Henry M. Jackson,
J. Bennett Johnston,
H. M. Metzenbaum,
Pete V. Domenici,
James A. McClure,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—STANDBY MOTOR FUEL RATIONING

Senate bill

The Senate bill contained no comparable provision, thereby retaining existing law, the Energy Policy and Conservation Act (EPCA).

Under the provisions of EPCA, the President was required to develop a standby rationing plan and transmit it to Congress, where it may be approved by both Houses during a 60-day period. If approved, the plan becomes a standby authority which may be made effective by the President if he finds that a severe energy supply interruption exists, or that rationing is necessary to comply with obligations of the United States under the international energy program. The decision to implement rationing is subject to a 15-day, one-House veto.

House amendment

The House provision eliminated the requirement that a rationing plan first be approved by Congress. The President's decision to implement a plan would still be subject to a one-House veto, as under existing law.

In addition, the House provision:

(1) Required the President to develop a new plan as soon as practicable;

(2) Required a progress report on the plan within 90 days, which specifically deals with—

(a) the extent to which coupons would be distributed on the basis of end-user needs;

(b) an analysis of providing coupons on the basis of drivers' licenses;

(c) the extent to which local boards would be utilized;

(d) the extent to which the needs of the handicapped are met; and

(e) a description of steps to be taken to provide for the needs of those in suburban and rural areas, particularly those not adequately served by mass transportation;

(3) Required biweekly progress reports to the jurisdiction Committees; and requires the Committees to hold hearings on the 90-day report, and make any appropriate findings;

(4) Required that the details of the plan be transmitted to the Congress at least 30 days of continuous session of Congress prior to the decision to implement the plan;

(5) Required that the rationing plan—

(a) distribute coupons so that the degree of shortfall is shared equally among the States;

(b) distribute coupons, to the maximum extent practicable, on the basis of end-user needs; and

(c) provide adequate coupons for priority needs;

(6) Defined "energy supply interruption" for purposes of triggering rationing to mean a shortage which the President determines—

(a) has resulted, or is likely to result, in a shortfall of petroleum product supplies for a period in excess of 30 days of at least 20% of the supplies available in the previous 12 months;

(b) is not manageable under other emergency authorities; and

(c) is expected to seriously threaten domestic stocks of products;

The commencement of international hostilities or a determination that rationing is necessary for assuring adequate supplies for protecting national security is sufficient to determine that an energy supply interruption exists; and

(7) Provides that the term "necessary to comply with obligations of the United States under the international energy program" means a necessity with impacts comparable to those of a severe energy supply interruption.

Conference substitute

The conferees adopted the House provision with some modifications. The conference substitute differs from the House provision in two significant respects. First, the agreement provides for an expedited process of Congressional review of a rationing plan prior to implementation. Second, the agreement revises and clarifies the "triggering" conditions for the implementation of a rationing plan. The agreement also modifies the House provision and existing law to expedite the development of a new plan, to clarify the amendment process, and to make other technical changes.

Present law requires both Houses of Congress to approve a rationing plan in order for it to become a standby authority. The decision to implement rationing is then subject to a second review process and veto by either House. The House provision sought to replace this Congressional review process with a single review of both the plan and the decision to implement the plan, all subject to a one-House veto. As a further safeguard, a requirement for a 20 percent shortfall in order to ration was included in the House bill.

The conferees believe it important that a rationing plan be developed and put into standby status, although they hope that its implementation will not be necessary. The conferees believe that some form of review of the new rationing plan prior to being placed into a standby status is crucial. However, the conferees also agree that the approval process, whereby one House could withhold approval and thereby prevent the plan from being placed into a standby status, has proved unsatisfactory.

The conference substitute provides that once the President has developed an adequate standby gasoline and diesel fuel rationing plan, he must submit it simultaneously to both Houses of Congress while each is in session. The Congress would then have 30 calendar days of continuous session to review the plan. Thirty calendar days of continuous session does not include the period of adjournment of Congress sine die, or recesses by either House of more than three days. The 30-day time commences on the day the President's plan is received by both Houses. At the end of this period, the plan is considered approved and would go on the shelf as a standby rationing plan, unless a joint resolution is adopted into law by both Houses within this 30-day period disapproving the President's plan. During this 30-day period, the President cannot amend the plan. The plan could also go on the shelf as a standby rationing plan at an earlier time, if both Houses enact a joint resolution into law of approval, as discussed below.

Any joint resolution that is passed by Congress within this period would go to the President for approval or veto. If a joint resolution of disapproval is vetoed, the plan would go into an approved status, unless Congress overrides the veto in accordance with the Constitutional process. The 30-day period relates only to the time period for Congress to pass the resolutions and not the period for Presidential signature or veto, or Congressional consideration of a veto.

The conference substitute includes expedited procedures for the consideration of both joint resolutions of disapproval and joint resolutions of approval. The procedures, which are modifications of procedures in EPCA follow. The form of both resolutions is prescribed under the conference substitute, and they are not amendable. The resolutions, when introduced, must be referred immediately to the committees of jurisdiction. Those committees would have a minimum of ten days after referral to consider the resolution. Any member can, under the procedures in the conference substitute, move to discharge the appropriate committee of either type of resolution after 10 calendar days of continuous session and such a motion is highly privileged. Debate on such a motion is limited to one hour. It is in order to offer a substitute motion to discharge the committee of the opposite resolution, i.e., approval for disapproval, or vice-versa. The substitute motion is permitted an additional hour of debate. If the substitute motion succeeds, it is then in order to proceed with consideration of the resolution. If the motion fails, it is in order to vote upon the original discharge motion. If the original motion then succeeds, it is in order to consider the resolution which is discharged. If it fails, it is no longer in order to move to discharge either form of resolution. If no substitute motion is offered, the success or failure of the discharge motion will still preclude all future discharge motions.

Similarly, when a committee reports a resolution, it is in order at any time to move to proceed to consideration of the resolution, and such a motion is highly privileged. The resolution cannot be amended, and a motion to recommit is not in order. However, a motion to substitute the opposite form of resolution is in order.

Once a House has passed or rejected a resolution, it is not in order to consider similar resolutions. If the two Houses pass opposite resolutions, the plan would go on the shelf on standby status after the 30-day period expires.

If a plan is disapproved, the President may submit another plan, or the same plan with revisions, which would then be subject to same process.

The conditions contained in the House amendment for the implementation of rationing were modified in several respects. The requirement for a 20 percent shortfall has been retained. The method for calculating the percentage shortfall has been modified to more closely relate to the difference between supply and demand. The provision in existing law subjecting a rationing decision to a one-House veto has been retained. In addition, provision is made to permit implementation, subject to approval by both Houses, even if the shortfall is less than 20 percent.

The House amendment compared anticipated supplies with the supplies available during the prior 12-month period. The conference agreement compares anticipated supplies with projected demand. Projected demand is to be determined by applying a growth factor to a consecutive 12-month base period chosen by the President from the prior 36 months. The flexibility granted the President to choose the appropriate base period is designed to permit the President to choose a period unaffected by supply shortages. The growth factor is to be based upon growth trends during the past three years. The projection of demand must also take into account seasonality. In other words, in projecting demand, the President should reflect the fact that consumption is greater in certain months than in other months. Unlike the House bill, which based its calculations upon all crude oil and petroleum products, the conference agreement looks only at gasoline, diesel oil, and Number 2 heating oil supplies. This change was adopted so that the calculation of the shortage relates more closely to the fuels which are to be rationed. Although heating oil is not to be rationed, it is generally interchangeable with diesel oils, and refinery yields of heating oil bear a relationship to yields of gasoline.

Because it is difficult to project whether rationing may be necessary at a lower shortfall, the conference agreement provides a mechanism for making such a determination. The President is permitted to request authority to ration even at levels below 20 percent. If, under expedited EPCA procedures, both Houses approve the request, the President would be granted authority to put into effect rationing at any time during the next 60 days. Once put into effect under either procedure, the plan could be operated for nine months, as is the case of present law.

The conferees, in adopting the House concept of a "trigger" for the implementation of rationing, require, among other things, a Presidential finding of a severe energy supply interruption, which is defined as a 20 percent shortfall in certain petroleum products. The Presidential finding of severe energy supply interruption is not intended to be reviewable in any court. The one-House veto prior to implementation is designed in part to be a Congressional review of this Presidential finding. Since the determination can be based upon predicted supplies, the determination is certain to involve a high degree of judgment and exercise of discretion. The data is likely to be somewhat imprecise, and the President will only be able to make a judgment based upon such data.

The conference agreement prevents amendments of the plan during the initial period of Congressional review. After such time, and until a plan is implemented, all amendments (other than technical and clerical) must be transmitted to the jurisdictional committees. Such amendments may not be made effective for a period of 15 days, unless both committees state that they have no objection to such amendments. All amendments would also be subject to the rulemaking procedures in section 523 of EPCA.

After a plan is implemented, under existing law, all subsequent amendments (other than technical and clerical) must be sent to Congress where they are subject to a veto by either House during a 15-day period of continuous session under the EPCA procedures. All amendments would be subject to the rulemaking procedures in section 523 of EPCA.

The process for developing a new plan has also been expedited. The requirement under existing law for an economic analysis to accompany the plan has been eliminated since one has already been prepared. However, the conferees expect the President to include some discussion of the economic impacts of the plan submitted under this act. Similarly, an environmental assessment of the previous plan has already been prepared, and the conferees believe this to be sufficient for the new plan required by this substitute. The conferees also recommend that to the extent that Executive Order 12044 is applicable, the President use the provisons of that order permitting expedited development of regulations. The time limits for written and oral comments on the proposed plan have also been shortened. However, the conferees expect the President to consider all such comments and not to ignore reasonable suggestions or reject them merely because they may result in higher costs or greater administrative complexity. The agreement makes clear that regulations and rules prescribed by the Secretary of Energy under any delegation from the President are not to be reviewed by the Federal Energy Regulatory Commission under section 404 of the DOE Organization Act. The Department of Energy utilized contractors in the development of the previous plan. The use of contractors to develop a new plan should be avoided or minimized. Personnel from other agencies should be detailed for this effort, if necessary.

The agreement also clarified the language relating to the requirements for the plan. The new subparagraph 203(a)(3)(A) of EPCA has been revised to make clear that in calculating the amount of coupons to be granted to motorists, the calculation must include an adjustment factor to ensure that coupons are distributed in a manner which results in motorists in each State incurring the same percentage reduction in gasoline, based upon data on use in each State. The data should be the most recent available data, and should reflect, to the maximum extent practicable, the actual consumption by motorists residing within each State.

The House amendment also contained a requirement that, to the maximum extent practicable, coupons be distributed to end-users on the basis of need. The objective of the rationing program is to distribute coupons equitably, and the distribution should attempt to reflect needs. Nevertheless, no rationing program can distribute coupons in a manner which reflects end-user's needs. The language of this clause has been modified to make clear that this requirement is general in nature, and its intent is to require the plan's drafters to consider the varying needs of classes of end-users, to the maximum extent practicable.

The plan itself, of course, cannot reflect all such needs. State set-asides and local boards can provide more individualized relief for hardships and needs.

The conferees expect the plan which is submitted to the Congress to be a detailed plan. The last plan which was submitted for review was vague in many of its details with respect to the distribution of coupons. While it is impracticable to expect all final implementing regulations to be developed in a short time frame, and the conferees, in fact, expect that the plan will permit DOE the necessary authority to develop such regulations, the plan must have sufficient detail to enable the Congres to evaluate whether the plan meets the statutory criteria with respect to the distribution of coupons.

The third requirement is intended to make clear that the plan provide adequate end-user rights to incorporate the priority considerations for fuel distribution set forth in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA). These priorities, such as agriculture, energy production, and health and safety, are recognized in EPAA, and the rationing plan must also do so. Priority consideration does not necessarily mean that such uses will receive 100% of need, but adequate coupons should be made available to be consistent with EPAA objectives. With regard to their priority considerations, the conferees intend that the reference to protection of public health, safety and welfare in paragraph 4(b)(1)(A) of the EPAA includes maintenance of telephone and telecommunications services during an emergency.

The agreement includes several other modifications. The requirement for biweekly reports by the President has been dropped, but the President is required to submit an additional progress report 90 days after the first report if the plan has not been completed and forwarded to Congress. The additional report may address the issues by reference to the first report for matters which have not changed. The time for the first report has been increased to 120 days. The conferees fully intend that a high priority be given to developing a new rationing plan.

The requirement of the Congressional committees to hold hearings on the report, and to report to the Congress as they found appropriate, has been dropped. The conferees intend that the jurisdictional committees, pursuant to a schedule determined by each such committee, hold hearings on the plan to inform the Congress and the public in a timely manner concerning the probable impact of the plan.

The agreement also adds a provision providing that ration coupons become, only for purposes of the U.S. criminal statutes, obligations of the United States, so that criminal penalties in existing law would apply in the case of counterfeiting of coupons, and other similar offenses. This provision applies to coupons printed several years ago which are now in storage but available for use.

TITLE II EMERGENCY ENERGY CONSERVATION

SEC. 201. FINDINGS AND PURPOSES

The conference substitute generally follows the House amendment in stating Congressional findings and the purposes with some modifications.

The findings and purposes show the intent of Congress to provide emergency authority in furtherance of interstate commerce and in protecting the security of the nation in order to cope with the problems associated with shortages of gasoline, diesel fuel, home heating oil, and other energy sources. The conferees recognize that such shortages cause market disruptions, seriously impede interstate commerce and adversely affect national security. The purposes of the title are to provide a means whereby the States and local entities are given the first opportunity to develop emergency conservation measures to meet energy targets in times of shortages. If they fail to meet the targets, then provision is made for Federal conservation measures, all aimed at protecting interstate commerce and national security. The conferees believe that if the nation is to avoid rationing then this conservation program must be effectively carried out by the States and the Federal government.

SEC. 202. DEFINITIONS

Several definitions in the House amendment are deleted because these terms are not necessary for the conference substitute. The definitions retained are from the House amendment.

The definition of the term "energy" from the Senate bill, which incorporated several indirect statements of priority for energy consumption is deleted. The question of priority use is directly addressed elsewhere in the conference substitute.

The term "vehicle" as used in Part B of this title includes recreational vehicles, motor homes and vehicles capable of on-road and off-road operation.

PART A. EMERGENCY ENERGY CONSERVATION PROGRAM

SEC. 211. NATIONAL AND STATE EMERGENCY CONSERVATION TARGETS

The conference substitute, in establishing emergency authorities for energy conservation, combines elements of the Senate bill and the House amendment in setting forth the methods to be used by the President for determining energy conservation targets. The establishment of these targets serves as a trigger for the most significant requirements of the title.

Before establishing a target, the President must find an actual or potential severe energy supply interruption or that action is required to fulfill obligations of the United States under the international energy program. The conferees intend that a target will not be established with respect to any energy source unless the President has made the requisite findings. The conferees further intend that the findings by the President of July 10, 1979 made under the Energy Policy and Conservation Act for the program restricting building temperatures (44 FR 39354) would not trigger the authorities of this title. Once an independent finding is made under this title, the President is required to establish monthly targets. By requiring a new finding, the conferees do not intend to negate the finding of July 10. The conferees merely want the program under this Act to be treated separately from the EPCA program.

The targets are to be specific to an energy source. The conferees use the term "energy source" from the House amendment. It is not defined, but it could refer to electricity or to one or more fuels, as the President determines is required by the supply shortage. The targets are to be calculated for each State, and for the nation generally, by applying a uniform national percentage reduction to a base period consumption of the energy source involved. The uniform national percentage is to be selected by the President to minimize the impact of projected energy shortages on the domestic economy by conserving an amount of energy equivalent to this projected shortage. The conference language permits the President, in his discretion, to take into consideration other factors that he considers appropriate related to the projected shortage.

The conferees intend that the size of the national percentage reduction be related to the size, in percentage terms, of the projected shortage of the energy source for which a target is being established. The President would be granted flexibility to choose a percentage reduction different than the exact numerical value of the projected shortage. Any difference, however, would have to be explained in terms of the projected supply situation the nation might be facing. For example, it may not (and, in general, it will not) be possible to accurately forecast the magnitude of the shortage. The President may, therefore, wish to adopt a percentage reduction which assumes a slightly pessimistic unfolding of events. Then if errors occur in the forecast of a shortage they will lead to a stronger rather than weaker conservation response. As another example, it may be important to conserve amounts of a given refined petroleum product somewhat in excess of a projected shortage of that product in order that the output of other products with which it competes in refinery production can be sufficient to accumulate the necessary inventories for a period of heavy demand. The President may therefore seek a percentage reduction in the use of the first refined product which is somewhat larger than the projected shortage of that product, but the choice of this figure must be directly related to the projected supply situation with respect to petroleum fuels and other fuels influenced by petroleum use.

Thus the conferees intend that there be a rational basis for the President's choice derived from what is known about a projected shortage and from the anticipated reaction of the energy supply system and energy consumers to that shortage.

Under the conference substitute, the base period against which this uniform national percentage is applied would be calculated by the President in two steps. The first step is essentially mathematical and requires little judgment on the President's part. The President would determine the consumption in a State of the energy source for which a target is being set. This consumption would then be multiplied by a growth adjustment derived from his analysis of the trends in the use of that energy source in that State over the past three years. The conferees intend by the use of the word "trend" to grant the President the flexibility to look beyond simple linear extrapolation of three-year average change in use of the energy source in question. It is expected that the President will use the most up-to-date and accurate measure of growth in energy consumption in each State taking into account variations in that growth rate in evidence over the three-year period prior to the determination.

The second step in the determination of a State base period consumption involves some analysis of the characteristics of energy use in each State. The conferees did not adopt the mandatory approach of the Senate bill which removed from the State base period energy consumption energy consumed for specific purposes. In lieu of this approach the conference substitute requires the President to adjust, to the extent he determines necessary, each State base period consumption, to insure that achievement of the State target will not impair attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA). These objectives, which have provided statutory guidance to the allocation of petroleum fuels since 1973, incorporate widely accepted and balanced statement of priorities in energy use. For example, they include, to the maximum extent practicable—

The protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

The maintenance of all public services (including facilities and services provided by municipally, cooperatively or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

The maintenance of agricultural operations, including farming, ranching, dairy and fishing activities and service directly related thereto; and

The allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of fuels and minerals essential to the requirements of the United States and for required transportation related thereto.

This partial list of objectives from EPAA is quoted here by way of illustration and does not imply that the conferees seek to elevate one of these purposes over any other. Indeed, it is precisely because the conferees did not seek a new definition of the priority requirements for energy consumption in the domestic economy which is different from that embodied in the EPAA that the objectives of the regulation under that Act were referenced by the conferees.

The manner in which the President adjusts each State base period consumption under this requirement is not spelled out in detail in the conference substitute. The conferees intend that the President make this adjustment to the extent he determines necessary.

The conferees recognize that authorities of the Emergency Energy Conservation Act may encompass mandatory conservation of non-petroleum as well as petroleum fuels. In the case of non-petroleum fuels, the manner of attainment of the objectives of the EPAA may not always be analogous to the use of those authorities for petroleum. However, the guidance provided by the EPAA objectives should be sufficient to permit equitable and sensible reductions in the use of any type of energy required in a future emergency for those fuels where appropriate.

With regard to those priorities the conferees intend that the reference to protection of public health, safety and welfare in paragraph 4(b)(1)(A) of the EPAA includes maintenance of telephone and telecommunications services during an emergency.

In addition to the adjustment the President makes with regard to priority uses, he is also authorized, in his discretion, to take into account reduction in energy consumption already achieved by energy conservation programs, energy shortages which may affect energy consumption, and variations in weather from seasonal norms in establishing the State base period consumption for each State. These adjustments are available to the President to use if, in his judgment, they would result in a State base period consumption which more realistically reflects the energy supply and demand situation in such State during the period in question.

Upon making the findings required under the conference substitute, the President would notify the Governor of each State of the target established for that State. The conferees have included provisions requiring the availability to the Congress and the public of information and analysis from which findings, targets and base period consumption levels are derived. The conferees believe that the credibility of an emergency energy conservation effort will be enhanced by an open and frank explanation of the basis for the President's conclusions on these matters. A high level of credibility will be critical to the achievement of an effective response.

Upon the establishment of any national target the President is required to make effective an emergency energy conservation program for the Federal government and for its employees in connection with their employment. No specific new authority is conferred by this section. The President would look to other law to determine what emergency energy conservation measures he would implement. For example, the President is required to consider the potential for energy savings by Federal employees through vanpooling. The President must find authority in other law with regard to the establishment of a van pool program before such a program could actually be made effective.

The conferees expect that the President will designate a single Federal agency, such as the Department of Energy, to carry out and enforce this plan throughout the Federal government.

The conferees emphasize that the emergency conservation plan for the Federal government established under this section is not intended to be merely hortatory. It is expected that the Federal sector will set the example for the rest of the nation by establishing a serious, effective energy conservation program that will in no uncertain terms achieve its targets.

The conferees also expect that the notion of an effective emergency conservation plan for the Federal government will include a genuine sensitivity to the relationship between employee comfort and productivity.

The conferees deleted a provision in the Senate bill which would have required the President to consider procurement policies emphasizing energy conservation in formulating his emergency plan. The deletion of this provision does not indicate any lack of interest in increasing the use of more energy efficient equipment by the Federal government. Indeed the conferees feel strongly that this is an area in which the record of the executive branch is very poor. However, the conferees believe that changes in procurement practices to emphasize energy conservation and energy efficiency ought to be part of the continuing efforts of the Federal government to address energy problems. These efforts should not be predicated on the finding of an energy emergency.

A target for any energy source established under this title would remain in effect for up to 12 months, after which the target ceases to be effective unless the President determines that the conditions which initiated the establishment of such target still obtain. At a later time another energy emergency may occur and the President could then make a new finding and establish new targets.

In this section and elsewhere in the title several authorities are vested in the President which require judgment and which when exercised could lead to results of potentially wide-ranging impact on the economy locally and nationally. The conference substitute includes in these instances the provision of the House amendment prohibiting the delegation of these authorities. The conferees do not intend by this prohibition to preclude assignment of the workload of the development and analysis of proposed executive branch actions to any agency or instrumentality of the executive branch. Rather, the effect of this provision is to place responsibility for the final decision in the President and not in some other Federal official.

SEC. 212. STATE EMERGENCY CONSERVATION PLANS

Under the conference substitute, the Governor of each State is required to submit a State emergency energy conservation plan to the Secretary of Energy no later than 45 days after publication of an energy conservation target for that State. This time period can be extended, at the discretion of the Secretary, to take into account extraordinary circumstances. Each State is encouraged to submit its plan in advance of the establishment of a target so that, to the extent possible, mechanisms to deal with likely energy emergencies can be worked out in advance. The conferees wish to stress the importance of advance emergency planning so that actions taken after the occurrence of an emergency are coordinated and effective. Too often these actions merely represent a hasty and unproductive reaction to events for which no preparation exists.

At the request of the Governors, the legislation gives the States the opportunity to take the lead in emergency energy conservation planning. The conferees expect the States to act quickly and effectively in developing these plans.

The conferees recognize that the anticipation of future energy emergencies is inherently an imprecise process. However, contingency planning for emergencies is carried out sucessfully in many areas of concern. The aim of this title is to see that effective State emergency conservation plans are developed and available for use when they are needed. The conferees therefore expect the Secretary of Energy to make every reasonable effort to get States involved in such planning in advance of the occurrence of an emergency.

Such planning must of necessity postulate various levels of emergency conditions and set forth the reponse that is contemplated to each. The conferees believe that through this process the Secretary of Energy will be able to tentatively approve much of the basic structure of State emergency energy conservation plans in advance of any emergency. Such approval must remain tentative, however, with the Secretary retaining the right to undertake a final review of the plan as a whole in the light of existing conditions once an emergency occurs. In no sense should tentative approval be construed as a delegation of Federal authority to impose any provision of a State plan.

The conference substitute generally follows the House amendment in setting forth conditions on the content of State emergency conservation plans and the Secretary's review and approval of these plans. Each plan must contain adequate assurances that measures contained in the plan will be effectively implemented in response to an emergency. The measures contained in the plan could include measures authorized under State law or measures for which the Governor seeks a delegation of Federal authority to administer and enforce. In the case of this latter class of measures the attorney general of the State must find that such a delegation is needed to impose the measure, and that implementation of the measure is not contrary to State law. Any individual measure in a proposed State emergency energy conservation plan which the Secretary finds is not also contained in the standby Federal conservation plan established under this title could be disapproved by the Secretary in his discretion.

The conference substitute includes an explicit provision making it clear the Governor of any State may include in that State's plan provisions permitting persons affected by any measure in the State plan to use alternative means of conserving at least as much of the energy source involved as would be conserved by the measure. The responsibility for insuring that these alternative means would achieve such conservation rests with the State. The plan would have to spell out the procedures for the approval and enforcement of the alternative means by the State or a political subdivision thereof. The Secretary must be satisfied that the State has provided an effective procedure for the approval and enforcement of alternative means and that such conservation will thereby be achieved before he approves a State plan with such alternative means.

The conference substitute adopts the House approach in providing that the President approve a State plan within 30 days after receiving it unless he makes specific findings set forth in the legislation. In this choice of language the conferees do not intend that a State plan be deemed approved automatically simply because the 30-day period expires. Affirmative approval by the Secretary is required in all cases. Meeting the deadline should be much easier in the case of States that have received tentative approval.

If the Governor requests the use of a Federal measure in a State plan, he must also bear the responsibility to administer and enforce the measure under delegation of Federal authority. If at any time the conditions set forth in the legislation for this delegation no longer apply, for example, in the case that State legislature affirmatively prohibits such delegation, provision is made for revoking the delegation, but only to the extent those conditions no longer apply.

SEC. 213. STANDBY FEDERAL CONSERVATION PLAN

The conference substitute combines provisions of the Senate bill and the House amendment concerning the standby Federal emergency energy conservation plan to be established under the Act. The President is required within 90 days after enactment to establish (in accordance with section 501 of the Department of Energy Organization Act) a standby Federal emergency conservation plan. This plan would provide for the emergency reduction in the public and private use of energy consistent with the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973. The President shall prepare a plan whether or not conservation targets for specific energy sources have been established.

The conferees intend that this Federal plan serve as a guide to the States with regard to the emergency energy conservation measures which the Secretary of Energy feels will be most effective in achieving the emergency reduction in the use of each energy source for which a target is in effect under section 211 of the Act or for which it is likely that a target may be set in the near future. The Federal plan should also clearly indicate what steps the Federal government will take in implementing this plan in a State if Federal implementation occurs pursuant to this Act. For example, depending upon climate and season, different measures will be more effective in conserving energy in different States. Thus the President may choose to emphasize different measures in different States. The plan could provide that some measures will not be imposed at all in certain States.

The Federal plan should also indicate at what level of shortage various measures will be brought into effect. For energy emergencies resulting in relatively mild shortages a few measures with broad exemptions to preserve economic activity may suffice. On the other hand, acute shortages will, in general, be accommodated only by a variety of emergency energy conservation techniques incorporating broad participation by all sectors of the economy.

To fulfill its function under this Act the Federal plan must therefore contain measures capable of implementation in a variety of States to achieve accommodation to a range of reasonably anticipated shortages of particular energy sources. It must also serve as an example for the States in defining the emergency energy conservation measures which the Secretary of Energy will be looking for in the State plan which each Governor is required to submit after a target is set. This is especially important since individual measures in a State plan for which a delegation of Federal authority is sought, but which are not also contained in the Federal plan, may be disapproved by the Secretary of Energy in his discretion.

The conference substitute sets forth specific conditions which must be met before the President imposes all or any portion of the Federal plan in a State. These conditions have been fashioned so that, to the maximum extent practicable, States will be encouraged to come up with their own emergency conservation plans. The conferees believe very strongly that emergency energy conservation can be most effectively achieved with the least disruption if local officials are responsible for planning, administration and enforcement of energy conservation measures. Therefore, the conferees sought to provide, to the greatest extent possible, opportunity for State initiative in assuming these responsibilities.

Intervention by the Federal government in the form of imposition of the Federal plan is provided for in the case that a State is unresponsive to the national need to conserve energy on an emergency basis.

The conference substitute seeks to provide an extra measure of flexibility to a State which assumes responsibility for emergency energy conservation within its jurisdiction. Thus, before the President could implement any part of the Federal plan in any State with an approved State emergency conservation plan—which is being implemented in good faith by that State--the President must make all the following findings:

The State plan has been in operation for a reasonable period of time not less than 90 days;

The energy conservation target in effect in such State is not being substantially met and it is likely that the target will continue unmet;

A shortage of at least 8 percent of the energy source involved exists or is likely to exist for at least 60 days in such a State.

The threshold for implementation of the Federal plan by the President is much lower in the case of a State which has no plan approved by the Secretary or which, although it has an approved State plan, such plan is not being implemented as provided for in assurances given the Secretary of Energy by the Governor when the plan was approved. In these instances the President may impose the Federal plan after any reasonable period of time based only upon a finding that an energy conservation target in effect in that State is not substantially being met and that it is likely to continue unmet.

The conferees believe it is very important to provide for a coherent national response to acute energy shortages. Nothing can do more to destroy such a response than the perception that the citizens of some States are not reducing consumption while others are sacrificing to meet a target set for them by the Federal government. The legislation therefore must contain effective authority for the President to act if it appears that a State plan is not being implemented according to the provisions of that plan. It is even more important that States not be permitted to avoid participation altogether by failing to submit a plan the Secretary of Energy can approve. In each of these instances the conference substitute directs the President to make all or any part of the Federal plan effective in the State for such period or periods the President finds appropriate to achieve the target in effect in that State.

Because of the importance of the findings the President would make in connection with a decision to implement a Federal plan in any State, the conference substitute requires that the information and analysis providing the basis for these findings be available to the Congress and the public. The conferees intend that information made available under this section be that which the President determines is necessary to provide a basis for these findings.

After the President has made all or a portion of the Federal standby conservation plan effective in a State under the provisions of the Act, a second series of options is available to that State to assume responsibility for the mandatory energy conservation programs in effect in its jurisdiction. The Governor of the State may at any time submit a State emergency conservation plan for consideration by the Secretary under the same conditions of approval as would have applied had the State submitted its plan in a timely fashion as required by the Act. As an alternative approach, such a State (and any political subdivision in such a State) may elect to substitute one or more measures under authority of State or local law for any Federal measure in effect under the Federal standby conservation plan which has been implemented by the President. The Secretary of Energy is required to provide procedures for such substitution on a measure-by-measure basis for elements of the Federal plan. These substitute measures may include provisions whereby persons affected by the Federal measure are permitted to use alternative means of conserving at least as much of the energy source involved as would be conserved by the Federal measure.

The conferees believe that this option offers promise for achieving effective energy conservation in ways which may not have been anticipated in any State or Federal plan. The critical element in such an approach to energy conservation, however, is the possibility that it may not be adequately enforced because of the numerous alternative means which may be used. Indeed nationwide, or even state-wide, enforcement of such a provision by the Federal government using Federal officials would be next to impossible. There would be considerable danger of a breakdown in the credibility and, therefore, the effectiveness of a mandatory energy conservation program if it became evident that procedures for approval and enforcement are inadequate to prevent individuals from using "alternative means" as an excuse for avoiding energy conservation.

Thus, the conferees are aware of the potential of this technique and of its weaknesses. Therefore, the conference substitute provides that substitute measures offering the option of using such unspecified alternative means contain procedures which the Secretary determines will be effective for the approval and enforcement of such measures by the State or political subdivision thereof.

The Secretary is authorized to approve substitute measures if he finds they would conserve at least as much energy as would be conserved by the Federal measures and that such measures would have been approved had they been a part of a State plan submitted to the Secretary for approval under the Act.

In the event that substitute measures are approved, the Federal measure in question would cease to be effective in the State or political subdivision, as the case may be, but the Secretary could reimpose the Federal measure if, after a reasonable period of time, he finds that such substitute measures are not being implemented as required by the Act.

The conferees wish to emphasize that these options for a "second chance" at State or local design, administration and enforcement of mandatory energy conservation are included in the legislation in an effort to go to every reasonable length to encourage good faith participation by the States and other local governmental entities. It is not intended that the Secretary permit the practical application of this extra flexibility to serve as a cover for a failure of State and local officials to assume their responsibility to participate in meeting the national need to conserve energy during an emergency. Therefore, the conferees intend that the Secretary's oversight of these "second chance" programs be especially attentive to their effectiveness and to the diligence with which they are administered and enforced.

The Federal plan established under this Act must meet the conditions set forth in the House amendment. In addition, a prohibition on the regulation of weekend hours for service stations is included. Such a measure was proposed by the President under the authority contained in section 202 of the Energy Policy and Conservation Act (P.L. 94-163) but was not voted on by Congress and, therefore, never became effective as provided for in that Act. Because of this, a statutory prohibition on this type of measure was included in this Act.

The conferees expect that the Federal plan prescribed under this Act will not contain the identical measures which have been submitted under EPCA authority and formally rejected by Congress under procedures specified in that law.

SEC. 214. JUDICIAL REVIEW

The conference substitute combines similar provisions in the Senate bill and the House amendment. The substitute provides a procedure for judicial review by any State of any target established for that State, of any determination by the President that an approved State plan is not achieving its assigned target, and of any disapproval by the Secretary of Energy of a State emergency conservation plan. Any action under this section must be instituted within 30 days of publication of the target, determination, or disapproval, as the case may be.

Finally, in adopting this provision for judicial review, the conferees do not intend to expand, modify or retract the rights of any person to judicial review under existing law regarding matters arising under this Act to the extent that such law permits such review.

SEC. 215. REPORTS

The conference substitute combines the provisions of the Senate bill and the House amendment and requires the Secretary to monitor any implementation of State emergency conservation plans and of the standby Federal conservation plan and make such recommendations to the governor of each State in which any of these plans is in effect as he deems appropriate. The President is required to report annually with recommendations to Congress on activities under this part and on the energy savings in, and performance of, each State in relation to this part.

PART B. OTHER AUTOMOBILE FUEL PURCHASE MEASURES

SEC. 221. MINIMUM AUTOMOBILE FUEL PURCHASES

The conferees substitute contains the provision of the House amendment with respect to the establishment of a program restricting purchases of motor fuel in any automobile or other vehicle to certain minimum amounts. The portions of this provision dealing with the delegation of Federal authority to States and revocation of that delegation are modified so as to be consistent with the corresponding language contained in Part A of this title.

SEC. 222. OUT-OF-STATE VEHICLES TO BE EXEMPTED FROM ODD-EVEN MOTOR FUEL PURCHASE RESTRICTIONS

The conference agreement adopts the provision of the House amendment dealing with limitation on odd-even fuel purchase plans in effect in any State under Federal, State or local law.

In adopting this provision the conferees intend that contiguous States or even communities within a State may agree to provide exemptions in their odd-even motor fuel purchase restrictions with respect to vehicles bearing license plates of a contiguous State or community.

The House amendment contained a provision that required the Governor in preparing and implementing a State plan to provide for certain consultations. The conferees deleted the provision.

When implementing a State emergency conservation plan for motor fuel, the Governor is urged to consult with affected businesses and business organizations to consider the use of voluntary arrangements for staggering the business hours of motor fuel retailers in order to assure the availability of motor fuel to all segments of the public.

PART C. BUILDING TEMPERATURE RESTRICTIONS

SEC. 331. AMENDMENT TO ENERGY POLICY AND CONSERVATION ACT

The House bill contained a provision offered by Congressman Wylie that amended section 202 of the Energy Policy and Conservation Act to require that any energy conservation contingency plan that regulates building temperatures must permit an exemption for any building in which would be achieved an equivalent reduction in energy consumption by other means. The Senate bill had no comparable provision.

The conference agreement contains a modified version of this amendment. It permits a State or political subdivision that is subject to the building temperature restrictions to include in any comparable plan procedures permitting persons affected by the temperature restrictions to propose alternative conservation means that will achieve at least as much energy in their buildings as would the temperature restriction plan. The State or local community would have to establish an effective mechanism for approving on a building-by-building basis the alternative means and for enforcing the means once approved. This mechanism for State and local approval and enforcement would have to be spelled out in the comparable State plan to be approved by the President, who has discretion to approve or disapprove the comparable plan.

The conferees intend that in each building in which an alternative means of complying with the building temperature is in effect a description of the requirements that are imposed on that building will be posted conspicuously.

The conferees believe that the Wylie amendment provided for innovative approaches not only as an alternative to mandatory regulation of building temperatures, but also with respect to the emergency energy conservation provisions of Part A of this title. The alternative means for conservation suggested by the amendment can be utilized so long as each means can be effectively approved and enforced at the State and local level. The conference substitute requires such State or local approval and enforcement.

Section 202 of the Energy Policy and Conservation Act provides that a State or local government may submit to the President a comparable plan in lieu of an energy conservation contingency plan. However, the contingency plan on building temperature restrictions did not give local units of government the opportunity to submit proposed comparable plans directly to the Secretary.

The conference substitute clarifies this matter. Any political subdivision of a State may offer a comparable plan directly to the Secretary without first seeking State approval.

In addition, the plan limited the scope of the means of saving energy by specifying that any comparable plan must deal with the same subject matter. Paragraph (2) of the conference substitute removes any requirement as to the manner in which energy will be saved in a building subject to a plan comparable to the building temperature restrictions. The fashion of saving energy need only save at least as much energy as would be saved under the building temperature restrictions.

The comparable plan submitted to DOE by States or local governments need not contain an exclusive list of the methods by which buildings may conserve at least as much energy as would be conserved under the temperature restrictions. The intent here is to permit States and localities to encourage building owners and operators to develop their own innovative methods which they would submit as proposals for alternative plans to the State or local governments for their approval and enforcement. If they do not achieve at least as much conservation, the President can withdraw approval of the State plan.

The provision adopted by the conferees relating to building temperature restriction is dependent on DOE's expedited review of comparable plans submitted by State or local authorities. The conferees therefore urge DOE promptly to process these applications as soon after they are received as possible. Pending approval the present temperature restrictions are to remain in effect.

Part D—Studies

SEC. 241. STUDY OF COMMERCIAL AND INDUSTRIAL STORAGE OF FUEL

The conferees adopted the provision in the House bill requiring a study of commercial and industrial storage of fuel. The conferees did not adopt the hoarding provision of the Senate bill which amended section 16 of the Emergency Petroleum Allocation Act of 1973. That section requires the President to implement by regulation a prohibition on hoarding of refined petroleum products during a severe energy supply interruption. The President declared the existence of a severe energy supply disruption on July 10, 1979, but anti-hoarding regulations as required by existing law have not been issued. The anti-hoarding provision in the Senate bill would have imposed a prohibition on such hoarding even in the absence of a declaration of a severe energy supply disruption. In deleting this requirement, the conferees wish to re-emphasize their intention that the President comply with the requirement of section 16 of the EPAA.

The conferees anticipate that the study on commercial and industrial storage of fuel will not be an extensive inventory of fuel in every fuel tank of more than 500 gallons. Rather, the intent is to accurately describe the inventories of fuel at levels down to 500 gallons, using whatever statistical sampling techniques are necessary to support the conclusions of the study.

In addition, the conferees emphasize that their reference to fuel storage tanks as small as 500 gallons is not intended to suggest in any way a Congressional premonition of or favoritism toward anti-hoarding regulations that would reach storage tanks that small. The figure of 500 gallons was adopted as a minimum size only to permit the general results of the study to address these small tanks that are so numerous.

SEC. 242. MIDDLE DISTILLATE MONITORING AND REPORT

The conference substitute is a modified and combined version of two provisions in the House amendment. The conferees agreed that the report to Congress need not come on the days of the month enumerated in the provision in the House bill. Instead, the report should be regular and periodic.

It is the intention of the conferees that the periodic report by the Secretary of Energy on the supply and demand of middle distillates will include information on the secondary stocks of middle distillates so as to permit a more complete picture of the middle distillate situation. In addition the conferees intend that this periodic report include information on the profit margins of refiners, wholesalers and retailers of middle distillates to enable the public to know who benefits from increases in the price of middle distillates.

The conferees deleted the national middle distillate set-aside program for agricultural production, residential heating needs, and commercial fishing which was contained in the House amendment.

Existing law (the EPAA) authorizes standby allocation regulations, including set-aside programs, through September 30, 1981. Under existing law State set-aside programs are in effect which require up to 4 percent of the amount of middle distillates supplies be reserved for distribution to hardship cases. The distribution of fuel generally under EPAA is governed by priorities set forth in section 4(b)(1) of the EPAA which include "protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units) and national defense" and "maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities and service directly related thereto".

In short there is sufficient authority in existing law to provide middle distillates on a priority basis for agriculture, residential heating, commercial fishing and other priority activities. The conferees expect that these existing authorities will be implemented as necessary to meet the needs of priority activities for middle distillate supplies. The conferees would request that the administration in using those authorities will create a coherent policy to determine what the priorities are and should be.

Part E. Administrative Provisions

SEC. 251. ADMINISTRATIVE PROVISIONS

The conference substitute contains the House provision permitting the Secretary to enter into an agreement with the Governor of any State under which amounts assessed under the Act as civil fines may be collected and retained by the State to cover administration and enforcement costs.

The House provision relating to the use by the Secretary of Energy of the authority of section 11 of the Energy Supply and Environmental Coordination Act of 1974 (P.L. 93-319) is modified in the conference substitute to require the Secretary to use such authority for the collection of such information as may be necessary for the enforcement of the provisions of Parts A and B of this title.

The House provision with regard to the effect of this title on other laws is contained in the conference substitute.

The termination date for this title adopted by the conferees is June 30, 1983, midway between the termination dates of the Senate bill and the House amendment.

The conferees agreed to delete the provision of the House amendment that requires that every executive branch agency in adopting any rule or policy of general applicability to include a finding that such rule or policy is consistent with any national conservation targets established by the President. Existing law provides a similar requirement. Section 382(b) of the Energy Policy and Conservation Act requires several enumerated Federal agencies to "where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation." It does not apply to any authority exercised under any provision of law designed to protect the public health or safety. The conferees expect the DOE to report on what actions have been taken to implement this section fully by these agencies.

TITLE III—GENERAL PROVISIONS

SEC. 301. FUNDING

The conferees adopted the House provision with some modification. There was no comparable Senate provision.

The conferees fully intend that there be sufficient authorization and appropriation to fund the rationing and conservation programs of the bill in fiscal year 1980. Direct appropriations, as well as reasonable reprogramming, is authorized. If more funds are needed, the President should request them in this session of Congress.

SEC. 302. EFFECTIVE DATE

The conferees adopted the House provision. There was no comparable Senate provision.

Harley O. Staggers,
John D. Dingell,
Richard Ottinger,
Philip R. Sharp,
Toby Moffett,
James T. Broyhill,
Clarence J. Brown,
Dave Stockman,
Managers on the Part of the House.
Henry M. Jackson,
J. Bennett Johnston,
H. M. Metzenbaum,
Pete V. Domenici,
James A. McClure,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NICHOLS (at the request of Mr. WRIGHT), after 5:30 p.m. today, on account of a death in the family.

Mr. CORMAN (at the request of Mr. WRIGHT), after 3 p.m. today, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on acconut of official business.

Mr. GUYER (at the request of Mr. RHODES), for today, on account of official business.

Mr. LEACH of Louisiana (at the request of Mr. WRIGHT), beginning on October 11 for an indefinite period, on account of personal reasons.

Mr. WILLIAMS of Ohio (at the request of Mr. MICHEL), from 3:30 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUNGREN) to revise and extend their remarks and include extraneous material:)

Mr. ASHBROOK, for 60 minutes, today.

Mr. LEWIS, for 5 minutes, today.

Mr. FORSYTHE, for 10 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. MINETA) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. CAVANAUGH, for 15 minutes, today.

Mr. HARRIS, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

Mr. JOHNSON of California, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. SMITH of Iowa, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LUNGREN) and to include extraneous matter:)

Mrs. HOLT.

Mr. GOODLING in two instances.

Mr. FORSYTHE.

Mr. FINDLEY.

Mr. COUGHLIN.

Mr. EVANS of Delaware in two instances.

Mr. DERWINSKI in two instances.

Mr. O'BRIEN.

Mr. CONTE.

Mr. GRASSLEY.

Mr. WHITEHURST.

Mr. MCCLOSKEY.

Mr. PHILIP M. CRANE.

Mr. MCKINNEY.

Mr. SYMMS in two instances.

Mr. BROYHILL.

Mr. DANNEMEYER.

Mr. GILMAN.

(The following Members (at the request of Mr. MINETA) and to include extraneous material:)

Mr. GARCIA.

Mr. ADDABBO.

Mr. MAZZOLI in two instances.

Mr. MAVROULES.

Mr. WOLFF.

Mr. MURPHY of New York in two instances.

Mr CORMAN.

Mr. LUKEN.

Mr. BIAGGI in 20 instances.

Mr. WON PAT.

Mr. PREYER.

Mr. WYATT.

Mr. MINISH.

Mr. SKELTON.

Mrs. SCHROEDER.

Mr. VENTO.

Mr. SATTERFIELD.

Mr. DRINAN.

Mr. SIMON in three instances.

Mr. FLORIO.

Mr. BONER of Tennessee.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 929. An act for the relief of Eun Kyung Cho and Hei Kyung Cho;

H.R. 1486. An act for the relief of Cang Petersen;

H.R. 1628. An act for the relief of Susan Katherine Adamski;

H.R. 3146. An act for the relief of Petrick A. and Wayne L. Thomas; and

H.R. 5419. An act to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes.

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 41 minutes p.m.), under its previous order the House adjourned until Monday, October 15, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2620. A letter from the President of the United States, transmitting proposed supplemental appropriations and budget amendments for fiscal year 1980 (H. Doc. No. 96–207); to the Committee on Appropriations and ordered to be printed.

2621. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to Jordan (Transmittal No 80–08), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2622. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting proposed final regulations prescribing policies for the administration of Bureau of Indian Affairs education programs, pursuant to section 1138 of Public Law 95–561, and section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2623. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Robert B. Oakley and Anne F. Holloway, Ambassadors-designate to Zaire and Mali, respectively, and by members of their families, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2624. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Jordan (Transmittal No. 80–08), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2625. A letter from the Chairman, Federal Election Commission, transmitting a report on the 1976 Presidential campaigns and nominating conventions, pursuant to section 801 of Public Law 92–178 and section 406(b)(1) of Public Law 93–443; to the Committee on House Administration.

2626. A letter from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of judgment funds awarded by the U.S. Court of Claims to the Apache Tribe of the Mescalero Reservation and the Fort Sill Apache Tribe of Oklahoma, pursuant to sections 2(a) and 4 of Public Law 93–134; to the Committee on Interior and Insular Affairs.

2627. A letter from the Secretary, Interstate Commerce Commission, transmitting notice of the Commission's inability to render a final decision in investigation and suspension docket No. 9205, Trainload Rates on Radioactive Materials, Eastern Railroads, and docket No. 9025 (Sub-No. 1) (same title), within the specified period, and of the Commission's determination to extend the time period for acting in these proceedings, pursuant to sections 10707(b)(1) and 10327(k) of title 49, United States Code; to the Committee on Interstate and Foreign Commerce.

2628. A letter from the Attorney General, transmitting notice of the Justice Department's intention not to defend the constitutionality of a provision of the Public Broadcasting Act of 1967 which prohibits all public broadcasting stations from editorializing and supporting or opposing political candidates, pursuant to section 13(a) of Public Law 95–624; to the Committee on the Judiciary.

2629. A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the control of interstate and foreign commerce in fish and wildlife; to the Committee on Merchant Marine and Fisheries.

2630. A letter from the Administrator of General Services, transmitting an amendment to the approved prospectus for the South Bend, Ind., Federal Building U.S. Courthouse, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2631. A letter from the Comptroller General of the United States, transmitting a report on issues related to improving the U.S. balance of trade and international payments (ID 79–11, October 10, 1979); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, Foreign Affairs, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLAND: Committee of conference. Conference report on S. 975 (Rept. No. 96-512). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 412: with amendment (Rept. No. 95-513). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 507. A bill to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes; with amendment (Rept. 96-514). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 1030 (Rept. No. 96-516). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 3905. A bill to authorize the Secretary of Agriculture to guarantee loans for the construction and operation of alcohol fuel plants, to provide for the sale of agricultural commodities for the operation of such plants, to amend the Agricultural Act of 1949 with respect to the set-aside program for feed grains, and for other purposes; with amendments. Referred to the Committee on Banking, Finance and Urban Affairs for a period ending not later than October 26, 1979, for consideration of such portions of the bill and amendments as fall within its jurisdiction under clause 1(d), Rule X, and ordered to be printed. (Rept. No. 96-515, pt. 1).

[Omitted from the Record of October 10, 1979]

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Agriculture discharged from consideration of the bill (H.R. 4904) to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes, and referred to the Committee on the Whole House on the State of the Union, and order to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 5555. A bill to amend the Fair Credit Reporting Act, and for other purposes; jointly, to the Committees on Banking, Finance, and Urban Affairs and Interstate and Foreign Commerce.

By Mr. BRINKLEY:

H.R. 5556. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 5557. A bill to amend the Internal Revenue Code of 1954 to double the unified credit against estate and gift taxes and to provide an inflation adjustment of such credit; to the Committee on Ways and Means.

H.R. 5558. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. CAVANAUGH (for himself, Mr. Goldwater, Mr. Ruess, Mr. Mitchell of Maryland, Mr. LaFalce, Mr. Vento, Mr. Lowry, Mr. Preyer, and Mr. Stark):

H.R. 5559. A bill entitled: "Privacy Protection Amendments of 1979"; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

H.R. 5560. A bill entitled: "Privacy of Electronic Fund Transfers Act of 1979"; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. DANIEL B. CRANE:

H.R. 5561. A bill to provide for congressional review of annual congressional pay adjustments, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DASCHLE:

H.R. 5562. A bill to amend section 44C of the Internal Revenue Code of 1954 to facilitate the use of alcohol fuel; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself, Mr. Seiberling, Mr. Drinan, Ms. Holtzman, Mr. Volkmer, Mr. Matsui, Mr. Hyde, Mr. McClory, Mr. Butler, Mr. Beilenson, and Mr. Corrada):

H.R. 5563. A bill to amend title 28 of the United States Code to provide that certain judicial pleadings and proceedings in the Commonwealth of Puerto Rico may be conducted in the Spanish language, and for other purposes; to the Committee on the Judiciary.

By Mr. EMERY (for himself and Mr. Frenzel):

H.R. 5564. A bill to amend the Federal Election Campaign Act of 1971 to limit the amount of contributions to political committees advocating the election of unannounced candidates for Federal office; to the Committee on House Administration.

By Mr. CAVANAUGH:

H.R. 5565. A bill to amend section 154 of title 23 of the United States Code to increase the national maximum speed limit; to the Committee on Public Works and Transportation.

By Mr. HARKIN:

H.R. 5566. A bill to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which they are approved, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. McDONALD:

H.R. 5567. A bill to terminate Federal involvement in education; to the Committee on Government Operations.

H.R. 5568. A bill to abolish the Federal Election Commission; to the Committee on House Administration.

By Mr. MARLENEE:

H.R. 5569. A bill to amend section 421 of the Elementary and Secondary Education Act of 1965 to permit the use of funds for the purchase of band instruments; to the Committee on Education and Labor.

By Mr. MURPHY of New York (for himself, Mr. Forsythe, Mr. Biaggi, Mr. Young of Alaska, Mr. Bonker, and Mr. Wyatt):

H.R. 5570. A bill to revitalize the fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. PREYER (for himself and Mr. Scheuer):

H.R. 5571. A bill to facilitate the ability of product sellers to establish product liability risk retention groups, to purchase product liability insurance on a group basis, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RINALDO (for himself, Mr. Preyer, Mr. Eckhardt, Mr. Neal, and Mr. Broyhill):

H.R. 5572. A bill to provide for the establishment of smoke detector placement demonstration projects, and for other purposes; to the Committee on Science and Technology.

By Mr. SKELTON (for himself, Mr. Evans of Georgia, Mr. Shelby, Mr. Ginn, Mr. Lederer, Mr. Dornan, Mr. Won Pat, Mr. Runnels, Mr. Weaver, Mr. Stump, Mr. Ichord, Mr. Beilenson, Mr. Corrada, Mr. Montgomery, Mr. Nolan, Mr. Dan Daniel, Mr. Schulze, Mr. Albosta, Mr. Lujan, Mr. Charles Wilson of Texas, and Mr. Rose):

H.R. 5573. A bill to amend title 10, United States Code to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes; to the Committee on Armed Services.

By Mr. STENHOLM (for himself, Mr. Hightower, and Mr. English):

H.R. 5574. A bill entitled "Farm Disaster Program Act of 1979"; to the Committee on Agriculture.

By Mr. SYMMS (for himself, Mr. Collins of Texas, Mr. Sebelius, Mr. de la Garza, Mr. Johnson of Colorado, Mr. Solomon, Mr. Hansen, Mr. Satterfield, Mr. Robinson, Mr. Wampler, Mr. Lagomarsino, Mr. Jeffries, Mr. Kelly, Mr. Goldwater, Mr. Erdahl, Mr. Butler, Mr. Stangeland, Mr. Whitehurst, Mr. Regula, Mr. Hagedorn, Mr. Petri, Mr. Daniel B. Crane, Mr. Robert W. Daniel, Jr., Mr. Thomas, and Mr. Lewis):

H.R. 5575. A bill to amend the Farm Labor Contractor Registration Act of 1963, as amended, and for other purposes; to the Committee on Education and Labor

By Mr. VANIK:

H.R. 5576. A bill to make certain technical corrections to the Trade Agreements Act of 1979; to the Committee on Ways and Means.

By Mr. WYATT (for himself, Mr. de la Garza, Mr. Murphy of New York, Mr. Roberts, Mr. Breaux, Mr. Gonzalez, Mr. Pickle, Mr. Eckhardt, Mr. Loeffler, Mr. Donnelly, and Mr. Lowry):

H.R. 5577. A bill to authorize the Secretary of Transportation to provide compensation for economic loss resulting from oil pollution caused by the blowout of Ixtoc I, Bay of Campeche, Mexico; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Tranportation.

By Mr. PHILLIP BURTON (for himself, Mr. John L. Burton, Mr. Bingham, Mr. Dellums, Mr. Edwards of California, Mr. Kastenmeier, Mr. Kostmayer, Mr. Markey, Mr. Miller of California, Mr. Ottinger, Mr. Patterson, Mr. Roybal, Mr. Stark, Mr.

BEST DOCUMENT AVAILABLE

Vento, Mr. Waxman, Mr. Beilenson, Mr. Won Pat, Mr. Evans of the Virgin Islands, Mr. Moffett, Mr Kildee, Mr. Weiss, Mr. Dixon, Mr. Brodhead, Mr. Mitchell of Maryland, and Mrs. Fenwick):

H.R. 5578. A bill to designate wilderness on certain national forest lands in the State of California; to the Committee on Interior and Insular Affairs.

By Mr. CAVANAUGH:

H.R. 5579. A bill to provide that no salary increase shall be given Members of Congress until the Federal budget is balanced; to the Committee on Post Office and Civil Service.

By Mr. DAN DANIEL:

H.R. 5580. A bill to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mrs. HECKLER (for herself and Mr. Daschle):

H.R. 5581. A bill to amend title 38, United States Code, to provide for a program of career development, advancement, and training and for outreach and supportive services for Vietnam-era veterans; to the Committee on Veterans' Affairs.

By Mr. PREYER:

H.R. 5582. A bill to improve information practices in the insurance industry, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

By Mr. RODINO:

H.R. 5583. A bill to amend the act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

By Mr. SANTINI:

H.R. 5584. A bill to provide for certain lands to be held in trust for the Moapa Band of Paiutes and to be considered to be a part of the Moapa Indian Reservation; to the Committee on Interior and Insular Affairs.

By Mrs. SPELLMAN (for herself, Mr. Barnes, Mr. Bauman, Mrs. Byron, Mrs. Holt, Mr. Long of Maryland, Ms. Mikulski, and Mr. Mitchell of Maryland):

H.R. 5585. A bill to amend the Internal Revenue Code of 1954 with respect to exemption from income taxation of certain mutual deposit guarantee funds; to the Committee on Ways and Means.

By Mr. JOHNSON of California (for himself, Mr. Clausen, Mr. Danielson, Mr. Pashayan, and Mr. Coelho):

H.R. 5586. A bill entitled: "California Wilderness Act of 1979"; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. BRINKLEY:

H.J. Res. 418. Joint resolution proposing an amendment to the Constitution of the United States relating to the tenure in office of Supreme Court Judges; to the Committee on the Judiciary.

By Mr. COLLINS of Texas:

H.J. Res. 419. Joint resolution proposing an amendment to the Constitution of the United States to provide for a single 6-year term of office for the President, Vice President, Senators, and Members of the House of Representatives, and for other purposes; to the Committee on the Judiciary.

By Mrs. HECKLER:

H.J. Res. 420. Joint resolution designating March 29 of each year as "Vietnam Era Veterans Day"; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST:

H. Res. 445. Resolution establishing an Ad Hoc Committee on Water Resources; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 5587. A bill for the relief of Tsui Yuen (also known as Chun Chui Yuen); to the Committee on the Judiciary.

By Mr. FAZIO:

H.R. 5588. A bill for the relief of Divinia Manatad and Jeuerita Manatad; to the Committee on the Judiciary.

By Mr. GLICKMAN:

H.R. 5589. A bill for the relief of Yuk Lam Tsui and his wife, Chung Lau Cheung; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 334: Mr. Oberstar.

H.R. 1539: Mr. Conable and Mr. Chappell.

H.R. 1603: Mr. Rose, Mr. Derwinski, and Mr. Anderson of Illinois.

H.R. 3284: Mr. Lehman, Mr. Neal, Mr. Stokes, Mr. Gore, Mr. Pepper, Mr. Murphy of New York, Mr. AuCoin, and Mr Dougherty.

H.R. 4465: Mr. Beilenson, Mr. Carr, Mr. Conte, Mr. Corman, Mr. Dellums, Mr. Diggs, Mr. Drinan, Mr. Edwards of California, Mr. Evans of the Virgin Islands, Mr. Flood, Mr. Ford of Tennessee, Mr. Guarini, Mr. Jenrette, Mr. Kogovsek, Mr. Murphy of Illinois, Mr. Myers of Pennsylvania, Mr. Ottinger, Mr. Patterson, Mr. Pepper, Mr. Price, Mr. Rangel, Mr. Richmond, Mr. Rodino, Mrs. Spellman, Mr. Stokes, Mr. Thompson, Mr. Vento, Mr. Wolpe, Mr. Won Pat, and Mr. Lowry.

H.R. 4646: Mr. Staggers.

H.R. 4717: Mr. Rahall, Mr. Vento, Mr. Patten, Mr. Dellums, Mr. Whitehurst, Mr. Guarini, Mr. Forsythe, Mr. Lujan, Mr. Hagedorn, Mr. Hughes, Mr. Charles H. Wilson of California, Mr. Yatron, Mr. Miller of California, Mr. Thompson, Mr. Lehman, Mr. Coelho, Mr. Mottl, Mr. Corcoran, Mr. Jeffords, Mr. Blanchard, Mr. Williams of Montana, Mr. Fazio, Mr. Neal, Mr. Carney, Mr. Solarz, Mr. Cavanaugh, and Mr. Won, Pat.

H.R. 5165: Mr. Dannemeyer, Mr. Cheney, Mr. Roe, Mr. Gingrich, Mr. Kogovsek, Mr. Dan Daniel, Mr. Charles Wilson of Texas, Mr. Cleveland, Mr. Lungren, Mr. de la Garza, and Mr. Williams of Ohio.

H.R. 5225: Mr. Ertel, Mr. Evans of Georgia, Mr. McDonald, Mr. Deckard, and Mr. Abdnor.

H.R. 5236: Mrs. Spellman, Mr. Corcoran, and Mr. Edgar.

H.R. 5263: Mr. Bonior of Michigan and Mr. Gilman.

H.R. 5523: Mr. Alexander and Mr. Runnels.

H. Res. 423: Mr. Weiss.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3000

By Mr. DASCHLE:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—Page 58, after line 19, insert the following new section:

COLLECTION, EVALUATION, AND DISSEMINATION OF INFORMATION REGARDING BIOMASS

Sec. 602. (a)(1) The Secretary of Energy shall collect, evaluate, and disseminate to the general public information regarding—

(A) the collection of biomass and the conversion of biomass to energy and to fuels for the production of energy, including the technology of such collection and such conversion,

(B) any financial assistance and any financial incentive available from any source in connection with the conversion of biomass to energy or to fuels for the production of energy (including the construction of plants for such conversion) or in connection with the production of energy from fuels produced from biomass,

(C) the utilization of fuels and byproducts produced from biomass, and

(D) any law of the United States applicable to the collection, acquisition, transportation, transfer, conversion, or disposal of biomass, or fuels or byproducts produced from biomass.

(2) The Secretary shall inform the general public of the availability of information collected and evaluated under paragraph (1).

(b) Not later than 60 days after the close of each fiscal year occurring after the date of the enactment of this Act, the Secretary shall submit to each House of the Congress a report describing the activities undertaken by the Secretary to carry out subsection (a), the results of such activities, and any recommendations of the Secretary regarding the implementation of such subsection in such fiscal year.

By Mr. LUJAN:

(To the amendment in the nature of a substitute; page and line numbers refer to H.R. 4839.)

—On page 65 after line 20, insert the following new section,

SITE RECOMMENDATION FOR A HIGH-LEVEL WASTE GEOLOGICAL STORAGE REPOSITORY

Sec. 704. (a) the Secretary of Energy, in selecting a site for locating a permanent geological repository for nuclear high-level wastes, should give primary consideration to candidate sites located on Federal Government lands with suitable hydrology and geology which are in, or immediately contiguous with, sites having uncontained underground deposits of significant quantities of high-level byproduct and special nuclear materials, as defined by Section 11 of the Atomic Energy Act of 1954.

And renumber the final section.

H.R. 3303

By Mr. STARK:

—Page 40, after line 23, add the following:

Sec. 15. The Attorney General shall request the Administrator of General Services to remove "J. Edgar Hoover" wherever it appears on the J. Edgar Hoover F.B.I. Building, a Federal building located in the block bounded by Ninth Street Northwest, Tenth Street Northwest, E Street Northwest, and Pennsylvania Avenue Northwest, in the District of Columbia.

EXTENSIONS OF REMARKS

A TRIBUTE TO FELIX GRANT AND 25 YEARS OF THE ALBUM SOUND ON WMAL AM-63 RADIO

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. FAUNTROY. Mr. Speaker, today, I would like to recognize a man and his music. Felix Grant has been filling the Washington airwaves on WMAL AM 63 with "the Album Sound" for 25 years, making his show the longest running of its type. "The Album Sound" has played a very important role in the development of jazz in the Washington community and around the world. Although Felix Grant is affectionately known as "D.C.'s Mr. Music," he might also be referred to as an "Ambassador to Music," crossing international borders, literally, linking people together through music.

"The Album Sound" itself incorporates the complete spectrum of jazz and blues with a strong international flavor. Felix's involvement in the development of the international flavor of music to the United States is the accomplishment of which Felix is most proud. His ability to recognize new sounds and to explore them by traveling to different countries led to a new world of music in the States and abroad. Not only was Felix instrumental in the introduction of new trends in Brazilian music to America, but he also gave visibility to other highly skilled forms of music from countries, such as Jamaica, which had never been heard outside its own boundaries before.

Felix's ambassadorial role has resulted in many honors internationally. In 1964, he was awarded the Order of the Southern Cross, Brazil's highest civilian award and the Jamaicans have honored him by naming the jazz library at the Kingston, Jamaica School of Music after him. It is the only such library named after an American outside the continental limits. He was the first radio personality to be featured in an article in the USIA language publication, Amerika, and in 1966 he was selected by the U.S. State Department to lead a delegation which established a cultural liaison between the District of Columbia and Brasilia. From the origin of "the Album Sound," Felix reached people on an international level, as his broadcasts prepared for WMAL were taped and heard worldwide via the Armed Forces radio network.

Currently, Felix serves as president of the Washington, D.C.-Brazilia Partners of the Americas, established to encourage an interchange on cultural, education, and sports levels, on the executive board of its parent organization the National Association of the Partners of the Alliance (NAPA), and on the board of directors of the Brazilian-American Cultural Institute in Washington, D.C.

In a world where few things remain constant, the constancy of format and quality of Felix Grant's "The Album Sound" on WMAL radio is a pleasant exception to the rule.

WMAL AM-63 radio will celebrate Felix's 25 years with a concern at the John F. Kennedy Center for the Performing Arts on Monday, October 15 at 8:30 p.m. Their news release tells the story best and I include it in order that my colleagues can share in the good feelings that this station and so many others have for this wonder person—Felix Grant:

> WMAL AM 63 TO CELEBRATE TWENTY-FIVE YEARS OF FELIX GRANT'S "THE ALBUM SOUND"
>
> WMAL AM 63 will celebrate the twenty-fifth anniversary of Felix Grant's show "The Album Sound" with a gala event at the Concert Hall of the John F. Kennedy Center for the Performing Arts on Monday, October 15 at 8:30 p.m. This anniversary of "The Album Sound" represents the longest running radio show of its kind.
>
> Performers at the event will represent the broad spectrum of jazz that Grant has played through the years, and for which his show has become noted in the jazz community. The concert will feature the elder statesman of jazz Dizzy Gillespie, vocalist Clea Bradford, Brazilian percussionist Dom Um Romao, and the Newport Jazz All Stars with George Wein along with Vic Dickenson, Panama Francis, Illinois Jacquet, and Slam Stewart.●

S. 1308: FEDERAL LAND USE PLANNING?

HON. JAKE GARN

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, October 11, 1979

● Mr. GARN. Mr. President, last week, the Senate passed S. 1308, the Energy Mobilization Act, creating a board designed to overcome redtape and expedite the construction of priority energy projects.

No one has been more critical of the morass of environmental law hamstringing the efforts of the energy industry to rationalize energy markets in this country. However, I am constrained to say that Congress will regret passing S. 1308, if it does so. The time will come when those of us who voted against this bill will be able to stand on the floor of the Senate and remind our colleagues of the arguments we made against it last week.

There are those who argued last week that this bill will expedite energy development. It will not. The Energy Mobilization Board will be one more layer of bureaucracy added to what we already have. At every step, the deadlines were left susceptible to relaxation, and you may be sure that they will be relaxed. Lawyers skilled at finding mechanisms for delay will have a field day in the confusion created by S. 1308. We can confidently look forward to 3 or 4 years of litigation, and then the sponsors of this bill will be back with something they might call the Energy Litigation Control Board; and still we will have no energy.

Passage of this legislation does not remove the worst cause of delay: environmental legislation establishing standards based on politics, and not on scientific finding of harm. Above all, standards which ignore the balancing of risks and benefits that must go into any decision on these issues. Until the environmental standards we impose, or which are imposed by the bureaucracy under legislation we pass, are required to be realistic, cost-effective, and achievable, we can expect legal and bureaucratic delays, in-fighting, and always and forever, no energy.

Real as these defects in S. 1308 are, there is still another defect which is worse. That is the destruction of the federal system which this bill will bring about.

Under S. 1308, as passed by the Senate, the Energy Mobilization Board will establish deadlines for completion of the approval phase of an energy project. That is unobjectionable in itself, but the powers the Board is given are completely out of line. The Board must consult with State and local officials, but is not obliged to observe the timetables and procedures set down in local law. The Board can decide that where a State proposes to take 18 months to make a permitting decision, 12 months is enough; and where a State provides for a certain procedure for granting a zoning change or variance, some other procedure will be all right. These decisions are imposed unilaterally on the State or local jurisdiction.

And should the State or local government not be moving fast enough to please the Board, the Board can step in and make the decision on its own authority. In doing so, it will apply State or local law.

Now let me emphasize that, Mr. President. This is not a case where a Federal agency, on a finding of emergency of some kind, supersedes local authority and applies its own laws and procedures. Not at all. In this case, without any finding of emergency whatever, the Energy Mobilization Board can simply shove the local entity aside, and make the decision as if it were the local government.

Now I submit, Mr. President, that this is an unprecedented power. I believe it to be unconstitutional. There is no telling what the Supreme Court will hold these days, but I think there is no precedent for this kind of action, and no justification for it either. It is not the States and local governments which are the source of the delays we see all around us. It is the Federal Government. But using this as an excuse, Congress is engaged in passing an unconstitutional law, one that has the effect of preempting State and local control over land-use questions. Needless to say, private

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

rights of property and ownership will go by the boards as well.

The National Governors' Association was quick to recognize the implications of S. 1308, and warned against it in the Senate. Unfortunately, the questions of land-use planning, and local autonomy were largely obscured in a debate over the need for energy. There is no question that we need energy. But we also need to preserve a Federal system. In fact, it is the destruction of that Federal system, its pervasive weakening, that has brought us to our present plight. Completing the destruction will not get us out of it. If we are ever to achieve energy independence, it is critical that we return to a full Federal system, with States and local governments left free to manage their own affairs. S. 1308 goes in exactly the opposite direction.

Gov. Richard D. Lamm of Colorado, chairman of the National Governors' Association's Committee on Natural Resources, has written eloquently of these matters, and I submit his remarks for the Record. The Senate has failed to give S. 1308 the consideration it deserved. I hope the House of Representatives will do better.

The remarks follow:

State-Local Issues in Legislation to Create an Energy Mobilization Board

(By Richard D. Lamm)

It is difficult to make claim judgments about energy matters in America this fall. Everyone now recognizes that action is long overdue. But it is precisely in times like these, when we tend to confuse movement with progress that we must guard against panicky solutions.

Few issues have alarmed state and local governments like the proposed Energy Mobilization Board now before Congress. Proponents claim that such a federal board is needed to cut through "red tape" and thus expedite the building of power plants. Two of the legislative proposals—those of the House Commerce and Senate Energy Committees—give the board broad power to waive or intervene in state and local laws governing facility siting.

CONSTITUTIONAL CONCERN

Opponents have focused largely on concerns that the legitimate goals of such laws—such as protecting public health and safety and the quality of our environment—will be swept aside arbitrarily. Of at least equal importance, but largely overlooked in the debate, is the profound damage that such a board would inflict on our constitutional principles of self-government. And without helping to slove the energy problem.

Implicit in the proposals for a mobilization board is the assumption that state and local laws are the principal causes of delaying energy projects. Evidence for this proposition, beyond a few isolated and highly publicized examples, is lacking. Indeed, what few studies have been done suggest that far more often the federal government lags behind timely state approval of energy facility permits.

In a 1977 study of both nuclear and nonnuclear energy facilities, entitled "Improving Regulatory Effectiveness in Federal-State Siting Action," the Nuclear Regulatory Commission concluded that state site examination activities were not a source of significant delay in certifying proposed power plants. In contrast, the study found that federal agencies were inconsistent and at times contradictory in implementing regulations and applying statutory authority.

TIMETABLES FOR DECISIONS

Among changes recommended by the study, was creation of a federal council to set timetables for federal decisions and to coordinate those decisions with state and local actions. Most state and local officials would applaud such a step and would even support a mobilization board such as that proposed by Senators Abraham A. Ribicoff (Conn.) and Edmund S. Muskie (Maine) or by the House Interior Committee, which would set deadlines for state and local decision making without intervening in the outcome of the decisions. Indeed, a recent 36-state survey by the National Governors' Association indicates that 18 states already have deadlines, typically 12 to 18 months, for processing permits.

The findings of these and other studies are consistent with experiences in Colorado where, in the oil shale industry, for example, the federal government has been far more a factor in delaying projects than state or local laws. One company in Colorado has been delayed by the Department of Interior's refusal to transfer land needed for a disposal site; two companies have been significantly delayed by environmental impact statements, and others are waiting for federal energy policy to stabilize.

FEDERAL PREEMPTION

The case for federal preemption, then, is weak, particularly when compared to the dangers it poses. The last 40 years have seen a massive erosion of state and local jurisdictions, but the Energy Mobilization Board would be the boldest step ever taken in that direction in time of peace. In the past, Congress has either preempted specific state and local statutes, as with the federal Bankruptcy Act of 1933, or has delegated to agencies the power to preempt laws in specific areas, such as water pollution. But in some versions of the legislation now before Congress, the kinds of state and local statutes subject to the board are not even enumerated. Conceivably, they could range from local health certificates to county zoning ordinances to comprehensive state land-use or facility siting laws. The spector of a nonelected board with such broad authority to override state or local law is of more than parochial interest.

Thomas Paine, who like most of the founding fathers considered government a necessary evil, put it succinctly, "Let the crown . . . be . . . scattered among the people whose right it is." The founding fathers envisioned that the dual sovereignties of the state and federal governments would prevent a massive unbalancing of power. This principle, embodied in the Tenth Amendment to the Constitution, is part of our Bill of Rights.

A NIGHTMARE OF LAWS AND POLICIES

Since those days, we have come to recognize many more national problems. State and local governments and the private sector are awash with federal laws and regulations that preempt state and local laws. In some cases, particularly in the early 1960s, preemption extended individual rights and liberties when there was overwhelming evidence of a need to do so.

But recently, there has been increasing evidence that federal preemption has gone too far. Rather than extending individual rights and liberties, the Energy Mobilization Board would undermine the ability of our citizens to make state and local laws to protect their health and safety. And on what evidence?

Congress has created a nightmare of laws and policies that have caused substantial delays and disruptions, and now, in an attempt to address national energy concerns, points the finger at state and local government and says, "It's your fault." Good politics, perhaps, but dangerous public policy. A policy that will certainly not produce additional energy.

We applaud Congress's attempt to make the federal system work faster, but we ask it to pause and think twice before shredding whatever remains of the Tenth Amendment to the Constitution. ●

NEW STORM OVER THE TUNA FISHERY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the Record, I include the following:

New Storm Over the Tuna Fishery

An agency of the federal government is far off course in its threat to impose new and arbitrary restrictions on the $2 billion American tuna industry, which employs up to 30,000 workers—most of them in San Pedro and San Diego.

Three years ago, the National Marine Fisheries Service took a census of the porpoise population in the South Pacific tuna fishery, found that certain species were in danger of depletion and set quotas on the number of the mammals that American tuna captains could kill in the nets.

The air-breathing, surface-swimming porpoises accompany schools of yellowfin tuna, and they drown when they are caught in the folds of the huge seines.

We agreed at the time that the limits were justified, although they were, of course, binding only on American-flag seiners, not on foreign vessels that fish the same waters. But the American captains went on strike, insisting that the restrictions would force them to return to port with only half a catch while the competition could remain on the fishing grounds until its hold were full.

The American seiners hung at their moorings for 90 days while the industry argued vainly for higher quotas. But government officials said the quotas could be met if the fleet would invest in new gear and use new maneuvering techniques that would enable most of the porpoises to escape the nets.

The captains finally agreed to do their best, and their best has been beyond all expectations. When the quotas were set, the porpoise kill by American vessels was thought to be as high as 100,000 a year. Through nine months of 1979, only 14,374 are known to have died—against this year's quota of 41,610.

One official of the National Marine Fisheries Service concedes that the industry has "done a first-class job of reducing mortality."

But a new storm has struck the fleet. The government now questions the accuracy of its 1976 census, and says a new count shows a much smaller population—one that may compel the government to impose still lower or even zero, quotas on two of the most common species.

The captains, with good reason, are furious. They say that the more recent census is incomplete and unreliable, and that it disagrees with their own observations. They point to their own good-faith effort to cooperate with the government, and to their considerable investment in new equipment, to reduce the present kill even below allowable levels.

But their pleas have fallen on deaf bureaucratic ears before, and will again if the government decides to use the latest count as the basis for quotas that could be disastrous to the industry. Zero quotas would, in effect, prevent the American fleet from fishing a school of tuna if porpoises also were present, while foreign-flag seiners could harvest the catch.

We recall that three years ago the government had full faith in the accuracy of its porpoise census; otherwise the restrictions would not have been as severe as they were. Now it claims to have greater faith in its latest count.

If the bureaucrats can admit that they were absolutely wrong in 1976, they now have an obligation to prove that they are absolutely right in 1979.

The irony is that the fisheries service does not argue that the porpoise population is declining; to the contrary, it agrees that it is probably on the rise, for which the fleet itself can claim part of the credit. The agency's only contention is that the most recent count shows that the population should be still higher than it is to insure survival.

We have two thoughts. The first is that the second census must remain as suspect as the first until the industry has a full opporunity to challenge it. The second is that the survival of the porpoise ought to be a world concern, as in the protection of the great whales, and that international agreements, not restrictions on the American tuna fleet alone, would be the more appropriate course for this country to consider.●

WEST HEMPSTEAD WINS BIG LEAGUE BASEBALL CHAMPIONSHIP

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. WYDLER. Mr. Speaker, I would like to take this opportunity to pay my respects to the 1979 world champions of the big league division of the Little League—the West Hempstead, Long Island, N.Y. All-Star Team. All the people of the fabulous Fifth Congressional District are proud of them.

This is the first time that a team from the United States has held this world title in the past 5 years. The West Hempstead team, composed of boys ages 16 through 18, won the New York State championship by defeating Rockland, and then went on to the eastern regional at Williamsport, Pa., where they defeated teams from Maryland, Pennsylvania, and Rhode Island to become the eastern regional champs.

The young men from West Hempstead then competed in the World Series at Fort Lauderdale, Fla., against teams from the south, west, and north, plus teams from six foreign nations. They emerged from this double elimination tournament as the 1979 world champions.

Two of the West Hempstead ball players, Charlie Locasto and Bruce Castoria, were named to the all world team. In addition, Chris Steiner, an outstanding ballplayer, was named the most valuable player of the entire world tournament, and I congratulate him singularly on this honor.

The other members of the 1979 world champs were Tom Notaro, Bob D'Ambrosio, Gregg Mineur, Bob Jahelka, and Gary Brown, all of West Hempstead; Louis Castoria of Floral Park, John Costello of Oceanside, Joe Aguilera of New Hyde Park, John Hull of Elmont, Tom Diceglio of Cedarhurst, and Jim Riecker of Oceanside.

I also wish to congratulate the managers and coaches of this team, being Joe Forzano, Bob Besch, and Joe DiLorenzo, all of West Hempstead.

I am pleased to raise my voice to officially recognize these young athletes who have brought great sports honor to their hometown and who hopefully some day may grace the baseball diamonds of the major leagues.●

PRIVATE SECTOR SOLUTIONS: HOSPITAL COST CONTAINMENT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. SHUMWAY. Mr. Speaker, a great deal has been said in this Chamber, in committees, and in individual Members' personal comments concerning the need for encouraging and heeding the ingenuity if the private sector. However, with all due respect, these commendable remarks are followed by precious little action. By this, I do not mean that the private sector ignores our appeals for suggestions and recommendations—rather, the suggestions which are forthcoming never seem to progress beyond our "in" baskets.

In an effort to rectify that dead end, I am offering today an outstanding series of recommendations as to how the problem of hospital cost containment might be addressed without costly, confining, and administratively complex Federal regulations. The comments in question were provided to me by Lawrence Robinson, Jr. chief executive officer of the Memorial Hospitals Association of Modesto, Calif. Mr. Robinson's extremely well though out remarks speak so clearly for themselves that I would like to share them in their entirely with my colleagues. These proposals are a classic example of American ingenuity at work, and I firmly believe that this one letter addresses more responsible attention to the issue than the efforts of any number of Government agencies and congressional committees. I trust that my colleagues will concur in my hearty endorsement of Mr. Robinson's game plan.

MEMORIAL HOSPITALS ASSOCIATION,
Modesto, Calif., October 3, 1979.

HON. NORMAN SHUMWAY,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR NORMAN: The House Committee of Interstate and Foreign Commerce last Wednesday voted out an amended version of HR-2626, the Carter Administration's hospital cost containment proposal.

As I understand it, this means there are now two versions of HR-2626 on the floor—the Ways and Means Committee voted the bill out in late July and the Rules Committee must decide how the bills are to be handled.

The purpose of my letter, Norman, is to ask your consideration in voting against either, or both versions.

We must come to a realization that the original basis of compensation built into the law (on a cost basis, regardless of how efficient or inefficient the hospital is), has simply caused problem upon problem and then regulation upon regulation plus additional law in an attempt to control a cost problem that is fundamentally unsound from its original premise.

The basis of compensation must be examined—not the symptoms of a faulty basis. We keep attacking the symptoms of bad organizational structure when going right to the heart of the matter and attacking and redrafting the basis upon which hospitals should be compensated, contains the cure. We can go on passing laws and drafting regulations upon regulations, in an attempt to cure the ills caused by a bad first decision and the situation simply will never be controlled.

There are good suggestions as to how costs can be controlled. They have been presented, as I understand it, to various committees of the Congress. Basically, it seems to me there are two vital essentials that need to be recognized as fundamentals to the whole process. If these two are examined, a good bit of the very expensive health care law now in existence can be eliminated and certainly no further cost containment programs would be needed. They are as follows:

(1) There are different regions of the United States that have different wage rates and costs. These are spelled out in the Department of Labor Bulletins and others. Properly run effective hospitals within each of these regions should be analyzed. Their costs in providing each of the manifold services that a hospital delivers, plus a reasonable margin of profit should become the price that the government compensates hospitals for the delivery of health care services. That is likely to be less than we are now paying on a cost reimbursement basis. Efficient, well-run hospitals will not only cover costs, but will make a small margin of profit under that scale of charges. Inefficient hospitals will either become efficient or have financial difficulties. However, in either case, any hospital on this basis will be loathe to make unnecessary capital investments, whether in plant or equipment, if the revenue to pay for it has to come out of a slim margin of profit. Essential elements will be secured by the effective well-run hospital, the others will not secure equipment.

The present basis compensates hospitals on the basis of their costs, inefficient hospitals being compensated higher than efficient hospitals. The law attempts to address capital acquisitions by such hospitals when it itself has set up the basis by which much inadvisable capital investment has occurred. When depreciation, interest, operating costs, housekeeping costs and so forth are all compensated, whether the equipment is effectively used or not, the emphasis simply isn't upon management to make careful investment decisions.

(2) Some doctors in some hospitals overutilize. Profits usually are the result. This does nothing but cost our nation money, and subject patients to unnecessary procedures. Not all doctors and not all hospitals, but I have heard it mentioned enough that it is an important issue. We have set up Utilization Review Committees and they should be strengthened. There probably should also be some very punitive language written into the law to punish those who regularly overutilize, possibly making a practice of such a felony. This legislation should be clearly drafted and rigorously enforced.

The first suggestion above will keep hospitals from making inefficient and unwise capital investments. It will also keep them from overstaffing and running ineffective hospitals from a cost standpoint. The second one will keep both efficient and inefficient hospitals from trying to maximize profits by maximizing usage of their existing facilities.

If both of these subjects are properly addressed, it is my view that you are back to a fundamentally sound position and that an understandable easy to administer, effective cost control and utilization control program can be developed. We are now creating mountains of laws and regulations; armies of people on the public side trying to administer them and equal armies on the hospital and medical side trying to answer to the regulations. All of this is doing nothing but causing health care costs to shoot out of site.

Norman, thank you for your patience in reading my "disortation". Responsible hospital Administrators all over this land are beginning to reach a level of extreme frustration with the present situation.

Sincerely,

LAWRENCE R. ROBINSON, Jr.,
Chief Executive Officer.●

PERSONAL STATEMENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. VENTO. Mr. Speaker, on Tuesday October 9, I voted in opposition to H.R. 5048, which amends the Manassas National Battlefield Park, Virginia, Act. My vote was not in opposition to the expansion of the park boundaries. I believe that such expansion is necessary to protect an important site of American history and I wish to commend the sponsor of the bill, Congressman HARRIS, for his continued efforts in this matter.

Despite the demonstrated need for expanding this park, I opposed final passage for this measure because it contained certain provisions which could create precedents harmful to the integrity of our national conservation systems.

H.R. 5048 provides that the Secretary of the Interior may not acquire fee simple title to lands within the 1954 park boundaries without the consent of the owner as long as the land continues its present use. While the question of inholdings is a delicate issue and can dramatically affect individuals, a blanket prohibition on acquisition may not be the best method to proceed. Dealing with inholders in a sensitive manner is a much more effective mechanism.

An additional concern that I have regarding this proposal is the disposition of Federal lands for the construction of a State highway. The bill is unclear as to whether the Federal Government is to recover costs for the land. The issue of building a major road in the park raises serious questions and the failure to recover any Federal expenditures exacerbates this manner.

It is my hope that these provisions will be deleted by the Senate and in conference. I have little difficulty with these provisions as applied solely to Manassas. However, the national implications and potential repercussions are of such gravity that I must oppose this measure. I will work to insure that these exceptions will not become our national policy.●

ADVANCED CONCEPTS IN FUSION ENERGY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. STARK. Mr. Speaker, fusion energy represents one of our brightest hopes for an inexhaustible energy source. Fusion energy is environmentally benign, globally safe, and its fuel is universally available. The development of controlled fusion energy will require an immense research and development effort which deserves a high degree of support from Congress and the American people.

The House is now considering H.R. 3000, the Department of Energy authorization bill. The House Science and Technology Committee has recommended a large cut in basic fusion research labeled "Advanced Concepts." This cut would put Congress in the position of deciding to emphasize conventional fusion research over more innovative approaches. Such a decision could seriously endanger the future of our fusion energy program. To maximize our chances of developing controlled fusion energy we must encourage a broadly based scientific effort which supports both traditional and speculative approaches. Congress should avoid specifying the direction of fusion development projects which can be better evaluated by professional scientists and the specialists employed by the Department of Energy.

Every important scientific and technological breakthrough was once an "advanced concept." We must not jeopardize our vital fusion energy program by arbitrarily and irresponsibly dictating priorities to the scientists and engineers charged with this important work.

I would like to bring to the attention of my colleagues a letter to the editor of Science. It was written by Mr. Herbert Berk and Mr. Brendan McNamara, of the Lawrence Livermore Laboratory, and concerns funding for the magnetic fusion energy program, an advanced concept in fusion research.

LAWRENCE LIVERMORE LABORATORY,
August 27, 1979.

The EDITOR,
"Science," American Association for Advancement of Science, Washington, D.C.

DEAR SIRS: Basic research in the Magnetic Fusion Energy program will be severely cut under a Bill from the House Science & Technology committee in an attempt to manage the program's progress towards controlled fusion. The recommendations explicitly identified the area of "Advanced Concepts", and as a result, 50% of the nations' University research in alternative plasma confinement methods will be cut. We personally believe the Congressional action stipulating which specific areas should and should not be supported, is unwise. Technical decisions on how best to develop controlled fusion energy should be made by the scientific staff of the Department of Energy, who interact with scientists in the field to continuously assess the impact of specific research on the overall program.

As an example, the Congressional decision will cause the curtailment of the successful experiments on the use of ion and electron beams to create toroidally confined plasma rings. Ironically, experiments on similar reversed field configurations are under way at Los Alamos Scientific Laboratory and at Lawrence Livermore Laboratory, and the Princeton Plasma Physics Laboratory is preparing a proposal for a similar device, the Spheromak. Each of these efforts is attempting to use different technologies to produce a more compact version of the most successful fusion experiment, the Tokamak. The university efforts will be eliminated because of the label, "Advanced Concepts".

The misconceptions run deeper, since the committee's initial draft called a halt to work on "plasma turbulence". The Tokamak is the leading fusion device, but its plasma confinement properties are governed by "plasma turbulence". The theory of these processes needs further development and is a central issue in the controlled fusion program.

The impact of the Congressional dictates on creativity and morale in the University community is profound. University research is cheap in terms of the engineering and equipment it needs, but invaluable in new ideas, objective input to the National program, and teaching of graduate students who will enter the Fusion program. The cuts represent an immediate loss to the fusion program of about twenty professorial staff and their students, and will discourage many more from entering the field. The action of the appropriations committee is surprising in that it has consistently supported the Fusion program. The motivation may be that they are attempting to accelerate the development phase and deemphasize basic research. This is a narrow view, especially in a field as complicated as plasma physics. The committee is in conflict with the Presidential policy of stimulating basic research. The DoE's own recent policy, announced by John Deutch, recommends increased effort on alternative confinement schemes as well as a strong effort in the mainline areas.

We strongly urge that the Congress reevaluate its actions. The need for basic research in controlled fusion is of high priority and should not be forgotten in the desire to accelerate the development of a practical power source. Indeed, maintaining basic research in this field will probably facilitate the development of a future reactor.

HERBERT L. BERK,
BRENDAN MCNAMARA.●

CONGRESSIONAL BASEBALL GAME OF 1979

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. CHAPPELL. Mr. Speaker, I rise today in order to announce the results of the annual Democrat-Republican baseball game held July 26 at the Alexandria Mariners' Park this year. It was a well-played game full of suspenseful baseball drama. In the fifth inning the Republicans rallied with a two-run homer making the score 4 to 3. However, it was not enough, and Diamond Dust CONTE's excellent ensemble fell to defeat once again 7 to 3. On our part it was brilliant coaching strategy along with adept defensive play and cunning expertise on the mound which proved us to be the better team and, most likely, the best team of Democrats ever fielded.

I want to thank all those Members of

Congress, staff, and friends for participating in the event this year. After all the tickets were counted we were able to contribute to a deserving charity for the first time in the current 18-year history of the baseball series. On August 3. Jackson Weaver and Frank Harden of WMAL radio in Washington, D.C., came to the Capitol and Majority Leader Jim Wright coaches Silvio Conte, Mendel Davis, and myself presented them with a $1.000 check for Children's Hospital. In addition, they also received a dozen baseballs donated by Carolina League umpire Jerry McCann for the kids. It is anticipated the funds will be used in the renal dialysis unit at Children's Hospital.

I want to thank all team members for their excellent participation. Also, I want to thank all those staff persons participating in putting the event together this year. They are:

Hyde Murray, Maggie Genovese, Bob Hall, Diane Keyser, Steve Keller, Steve Cohen, Carol Dubard, Helen Lomax, Lena Lupica, Jim Gallagher, Julia Burlen, Mary Sweet, Jim Sparling, Leslie Rosenbaum, Mary Ann Fronce, Erik Sherr, Mackey Dixon Ayres, Alice McNeil, Frank Winston, Todd Lankford, Dave Brown, Tad Fisher, Bill Sims, Jim Molloy, Tim Friedman, Dennis O'Toole, Jim Oliver, Tom Rogers, Laurie Riegel;

Eldrige Spearman, Matt Dwyer, Holly Ostrum, Bob Siegrist, Leo McMullen, Donna McNeilly, Sarah McCray, Patricia Kinzhuber, Lynn Mathes, Margaret Downs, Sue Nelly, Jackie Davis, Becky Fox, Rhonda Leach, Sheila Simpson, Fowler West, Cathy Mitchell, Barbara Sadoff, Ten Henshaw, Ed Nichols, Sue Forrest, Ron Martinson, Bob Yesh, Rich DeSalvo, George Russell, Donna Edgins, Don Foley, Ken Burkhead, and Joe Foley.●

LEGISLATIVE VETO

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. MAZZOLI. Mr. Speaker, a lot of times I disagree with James J. Kilpatrick's views on current events of the day.

However, his column on the legislative veto was very much on target and deserves to be read and carefully considered by every Member of the House since we will soon be faced with this issue:

Using the Legislative Veto

> Toward the end of September a pillow fight over congressional pay scales kept us enthralled. It was an unseemly spectacle, as the sinful House, eager to raise its own salaries, connived to circumvent a virtuous Senate. What we were watching, at a lower level of sis-boom-bah, was an exercise in the use of a legislative veto. That is the topic for today.
>
> Every schoolboy knows what is meant by a presidential veto. It is the procedure by which the executive undertakes to nullify the will of the legislative branch. A legislative veto is something else. It is a device by which one house of Congress, or both of them, undertakes to nullify the will of the executive branch. But where the presidential veto is plainly fathered by the Constitution, the legislative veto is a kind of bastard child, born of desperation, sired by suspicion.
>
> Many scholars contend that the legislative veto violates the Constitution. This was the position taken recently by Attorney General Benjamin R. Civiletti in arguing the Carter administration's case against the device. Such a veto, he said, circumvents the role of a president in the legislative process. While the purpose may be to increase the accountability of "unelected bureaucrats," the perverse effect is to remove our elected presidents from participation.
>
> Under the Constitution, Civiletti said, every bill or resolution in which the House and Senate concur must be presented to the president for his signature or veto. When the Congress bypasses this provision, in order to frustrate the executive branch, the doctrine of separation of powers is undermined.
>
> Many of us on the conservative side, boasting of our dedication to Strict Construction, probably would agree in principle with Civiletti. In theory, it is the responsibility of the Congress to enact the laws; and it is the responsibility of the executive branch faithfully to execute them. The doctrine of separation of powers, abused though it has been, remains a foundation stone of our governmental structure.
>
> The structure has been leaking for years. Far more "laws" are made by the bureaucracy than by the Congress. The procedure is for Congress to create such an agency as the Federal Trade Commission and to vest it with power to impose rules and regulations having the force and effect of law. But suppose the power is abused. Suppose the basic law is not being "faithfully executed." What then?
>
> One remedy, in theory, is judicial review, but judicial review takes forever and costs the litigants a fortune; some rules and regulations may evade review altogether. Another remedy is for Congress to undertake the whole laborious task of writing new law, naturally subject to veto, in an effort to clip an agency's wings.
>
> A third approach embodies the idea of a legislative veto. Congress began toying with this interesting device in 1933. Since then, at least 196 acts have embraced such a provision—among them the act providing for a legislative veto of high-level pay raises that otherwise would go into effect automatically by executive order.
>
> Not only the Congress but also the states, notably Wisconsin, have been experimenting with the legislative veto. Both House and Senate are now brooding over bills to extend the mechanism into new areas of executive prerogative. It is a troubling development, for Civiletti's objections generally are sound. The legislative veto ought to be invoked, if at all, only as a last resort.
>
> But, confound it, in the maddening war between the people and the bureaucracy, that is where we have been driven. We need some emergency brakes capable of stopping the juggernaut dead in its tracks, that the FTC has basic authority to tell dentists what is ethical and unethical. But that is precisely what the FTC was undertaking to do last month when it entered a decree against the American Dental Association.
>
> It is this kind of bureaucratic arrogance that has prompted the growth and exercise of a legislative veto. I don't like the device, but on balance, I like the bureaucracy's usurpation of power even less.●

COURAGE OF LEV ELBERT

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. GRAY. Mr. Speaker, I am honored to take part in the ongoing congressional tribute to those courageous Soviet Jews who have waited, in many cases, years for permission to emigrate. They have endured harassment, imprisonment, and separation from their families, but their spirit endures, and we have a continuing moral obligation to support their brave effort.

One family, Mr. Speaker, is headed by Lev Elbert. He and his wife, Inna Mizrukhin, have waited with their young son since 1976 to leave the U.S.S.R. They have been denied permission on grounds that Lev once had access to classified information while in the army, but this is a groundless reason, completely.

In February 1977, they were among six Jews in Kiev who took part in a demonstration at the Ukrainian Supreme Soviet to demand that written reasons be given for all denials of exit visas.

> No untoward incidents occurred at that time. However, in April 1977, Inna, a physician, was beaten up twice in 1 day by attackers who threatened that if she persisted with her application for emigration she could expect more trouble. When the police were summoned by a passerby, Inna reported: "They merely went through the motions of looking at their identity cards and took no further action."

Undaunted, her husband, several days later, was 1 of 7 in Kiev who embarked on a 5-day hunger strike to protest their continued refusals.

In a recent appeal, Lev wrote:

> On the 26th of August 1976, we had applied for exit visas to Israel. On November 2, we were refused the permission to emigration on the "grounds" of my "having access to classified information while in the army." In 1973–1974 I have served as a private in a construction battalion, building a swimming pool, which can't be regarded as a "top secret" project. Neither did I receive any clearance before, in and/or after my service in the army.
>
> My constant and thoroughly motivated complaints and applications to the authorities stating how ludicrous my refusal was, has been of no avail. I ask you to intercede on behalf of my family with the Soviet Government, which as signatory to the "Helsinki Agreement," should allow us the undeniable human right to choose the country to live in, and enable us to reunite with our relatives in Israel.

And from Israel, Inna's brother, Dr. Alexander Mizrukhin, wrote:

> I appeal to all who are not indifferent to human rights and the fate of separated families of Soviet Jews.
>
> They are now in very dangerous position. They are constantly persecuted by the KGB . . . The only "anti-Soviet activity" of my sister and her husband has been the strong desire to go to Israel, the desire to reunify our family. . . .
>
> We have applied to all Soviet authorities, but in vain. Now I ask the Soviet government: What worth are the words in the Helsinki Agreement?
>
> I appeal to the people and government of the United States—the country of great democracy. I request help to reunite our family in Israel, our homeland—the way to which is so long and painful for Soviet Jews.

I am hopeful, Mr. Speaker, that Lev Elbert and his family will soon see freedom, and be reunited with their kin in Israel. If we in the United States can continue to focus attention on their plight, perhaps that day will come all the more sooner.●

RESOLUTION ADOPTED BY NATIONAL BOARD OF ANCIENT ORDER OF HIBERNIANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. BIAGGI. Mr. Speaker, on September 21, the National Board of the Ancient Order of Hibernians, the oldest and largest Irish-American organization in the Nation met in Syracuse, N.Y. It was my honor to address the board and other members of the AOH at their dinner.

During the meetings of the national board a number of important resolutions were adopted. I wish to place one into the RECORD today. The Ancient Order of Hibernians along with the Irish National Caucus requested the creation of the ad hoc congressional committee for Irish affairs. The committee was formed on September 27, 1977 and I was asked to serve as chairman. The committee is now 130 members strong and responsible for elevating the Irish issue from a position of relative obscurity to one of national and international visibility.

The AOH resolution calls on the ad hoc committee to pursue with vigor three fundamentally important items which we have been involved with. The first is to work for a permanent ban on the sale and export of U.S. weapons to the Royal Ulster Constabulary. The second, is for the committee to investigate hiring practices of U.S. firms in Ireland; and the third would be full House consideration and support for House Concurrent Resolution 122 which I introduced with some 70 cosponsors calling on Great Britain to embark on a new peace initiative for Ireland.

I urge my colleagues to give close consideration to this resolution as it is an important statement from a large and influential organization of Irish Americans. I commend the national president, Thomas McNabb and the national historian, Robert Bateman for their tireless efforts on behalf of peace in Ireland and their close work with the ad hoc committee.

The resolution follows:

NATIONAL BOARD MEETING

Motion By Robert J. Bateman, National Historian.

The National Board of the Ancient Order of Hibernians in America calls upon the 130 member of the Ad Hoc Congressional Committee for Irish Affairs to support, and work for, a permanent, total ban on the sale of any and all arms from the United States to the Royal Ulster Constabulary.

That we call for direct Congressional action to investigate the hiring practices of United States' firms in Northern Ireland in an effort to determine whether or not American firms are, in any way, practicing discrimination in the area of employment in Northern Ireland.

That we insist that they work for a favorable Congressional vote on House Concurrent Resolution 122 which would put Congress on record as calling on the British Government to embark upon a new initative for Ireland that ends all violations of human rights and promotes self-determination.

And that copies of this motion be transmitted to the Ad Hoc Congressional Committee for Irish Affairs, the media and all other relevant parties through the Irish National Caucus.●

WAIT UNTIL DEPARTMENT OF EDUCATION IS OPERATIONAL

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. ABDNOR. Mr. Speaker, a South Dakota teacher, writing to commend my vote on the Department of Education, concludes:

> My purpose is to point out how Federal moneys spent in the name of education victimize not only students but classroom teachers who have to bend and flex to accommodate the program.

I wish I could be more optimistic about the future of education under the new Department. Unfortunately, it is more likely that the problems indicated in this letter are a very mild forerunner of the further deterioration we may expect in educational programs as Federal policies become more dominant.

The full text of this teacher's letter is commended to the attention of my colleagues:

> Thank you for voting against a Federal Department of Education. And that from an NEA member. The philosophy behind the idea of a department—to give prominence to the importance of education instead of being just another bureau draw—is supportable. However, the cry over declining test scores increases with the greater number of Title I kids reaching that testing age.
>
> Again, the philosophy behind Title I is supportable—to give increased instruction or increased enabling to the disadvantaged learners. By the time all the people involved in administering the program are salaried and by the time monies for learning materials and equipment are expended—sometimes unwisely because it must be spent or lost for next year's appropriation—about all that can be said for the program is that it reduced the number of unemployed and fattened the bank deposits of the materials and equipment producers. As for the student, those who need continuity and security are the very ones who are fragmented by the methods and procedures of a classroom teacher, a couple of different remedial (?) teachers, and then an aide.
>
> For some students, the program is for the dumb kids. It demoralized some. For others, it is a funtime away from the classroom rigors and spend classroom time watching the clock to see how long until it is time to go. They learn to work only when an adult is constantly with them—so dependency is built into them. And some realize that if they test out of the program, no more excursions down to funtime, and do not apply themselves to the tests. I have felt it is because tests are not aided as was the "learning" time and so they cannot function on tests. And test scores from tests taken in a strange room with strangers administering them are the criteria.
>
> Furthermore, if students test out of the program, the remedial teachers and aides and their supervisors push the panic button and hound the classroom teacher for those they didn't see fit to take earlier because they are limited to five students to two adults (while the classroom teachers without aides cope with 25-35 students). The panic is for their job, of course.
>
> My purpose is to point out how Federal monies spent in the name of education victimize not only students but classroom teachers who have to bend and flex to accommodate the program.●

STARVING CAMBODIANS CROSS INTO THAILAND

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. SOLARZ. Mr. Speaker, literally thousands of Cambodians, many of them Khmer Rouge civilians and soldiers, weak from hunger and malaria, crossed into Thailand on October 10 after the Heng Samrin government shelled the border area. The condition of these refugees is the result of the war in Cambodia and the continuing refusal of the Heng Samrin government to accept massive aid, if the aid is also sent to starving civilians under the control of their rival forces.

These shameful conditions—with women and children literally starving to death—should remind the Congress of the need to authorize funds for humanitarian assistance without delay. No civilized nation should quarrel with provisions for the immediate aid of as many of the desperately needy as is humanly possible. It seems to me that it is more important right now to provide at least some help quickly than it is to wait for the development of the ultimate well-balanced relief program before we offer our assistance.

This complicated situation is exacerbated by the fact that an estimated 360,000 Cambodians may soon cross the border into Thailand, adding to the thousands of Cambodian refugees already in Thai camps.

I would like to introduce two articles which appeared in the October 11, 1979, Washington Post and the Baltimore Sun which further illustrates the present deplorable state of affairs.

The article follows:

[From the Washington Post, Oct. 11, 1979]

NEW KHMER FLIGHT TO THAILAND BEGINS

(By John Burgess)

BAN THAP PHEIK, THAILAND.—Thousands of Khmer Rouge civilians and soldiers, many of them weak from hunger and malaria, crossed into Thailand today in the largest exodus from Cambodia since June.

The refugees, whose numbers were estimated at 5,000 to 10,000, fled from a major Khmer Rouge stronghold at Phnom Malai, about 20 miles from the Thai border, after Vietnamese-backed troops of the Heng Samrin government shelled the border area.

The exodus of civilians and soldiers loyal to the ousted Pol Pot government coincided with warnings by refugee agencies that food shortages and expected resumption of fighting would force hundreds of thousands of Cambodians to flee the country.

Carrying blackened kettles, machetes, straw mats and small stocks of rice, the Khmers moved slowly, three abreast, along the border highway as astonished Thai villagers looked on.

Some small children had the spindly limbs and vacant stares of severe malnutrition. But disease, especially malaria, seemed to be the biggest problem for the group.

Adults and children were visibly feverish. Some could walk only with the help of friends.

"Can you get me some medicine?" one man asked. "I'm very cold."

A one-legged teen-ager hobbled along with the help of wooden crutches; a blind boy walked with one hand on the shoulder of another child.

A man, shivering with fever, collapsed under a tree as he reached the highway. A woman huddled beneath tall grass as she held a 15-day-old baby that seemed seriously ill.

Thai soldiers intercepted the ragged band as it wound its way through bushland and abandoned fields. The Khmers were directed to unused land about a half mile from the border where they sank to the ground with no shelter except some trees.

They would be allowed to stay only temporarily, Thai officers said. When they had regained their strength and fighting had subsided across the border, they would be sent back, according to the Thai officials.

The Thai government has indicated in the past, however, that third countries would be allowed to resettle newly arriving Cambodians—if it was done without delay.

[In Washington, the Carter administration pledged an initial $7 million for an international relief effort to prevent starvation in Cambodia. It would include 10,000 tons of food commodities and $2 million in refugee relief funds.]

Last month, a senior Thai official said 60,000 Cambodians had gathered along the Thai border and could be expected to cross over. In following weeks tens of thousands more people appear to have moved west towards Thailand.

Additional pressures will be created if Vietnamese troops launch an expected major offensive to mop up remnants of the Khmer Rouge Army, driven from Phnom Penh in January. Diplomats estimate 170,000 Vietnamese troops are in Cambodia backing the Heng Samrin government.

Foreign relief agencies have sent food supplies into Phnom Malai—located about 20 miles from the Thai border town of Aranyaprathet—and other places where people have gathered.

Squatting beneath a tree, Prak Sem, a middle-aged man whom the refugees identified as their leader, said that attacks by Vietnamese troops prompted the evacuation. Those who entered Thailand desperately needed food and medical aid, he said. More people would leave Cambodia from a point further south, he said. He claimed that none of the refugees were soldiers but that, nonetheless, everyone would return to Cambodia as soon as possible to help drive out the Vietnamese.

Nevertheless, a Thai soldier rounding up the refugees said a number of Khmer Rouge soldiers had entered and an AK47 automatic rifle was confiscated by Thai troops, apparently from a man accompanying Prak Sem. One 50-year-old man said that many of the young men among the refugees were soldiers who had hidden their weapons in the jungle.

The best-fed people in the group appear to be young men of military age, an indication that in Khmer Rouge camps soldiers are given priority for the limited food stocks.

The man said he and his family arrived at the Phnom Malai stronghold, a series of thatch hut settlements, two months ago.

Food was short and disease rampant, he said. "We had no drugs for injections or pills. People died every day—10 in a single night." Four days ago his wife succumbed to fever, he added.

The Khmer Rouge kept many civilians in the camp against their will. No one was allowed out until this morning when "the organization," as the Khmer Rouge is called, ordered everyone to cross the stream that marks the border. The order came after a barrage of shells from Heng Samrin troops.

Those too sick to move were left behind, the man said. Some Khmer Rouge soldiers also stayed.

It remains unclear why a single shelling provoked such an exodus. A Thai officer said the Khmer Rouge control a strip of land 18 miles deep at Phnom Malai.

But recently they encountered a Heng Samrin patrol deep in their territory. The shelling, the first in Phnom Malai in many months, may have caused fear that a ground attack was coming.

The Thai military plans to bring food and water to the refugees Thursday. Officials from the U.S. Embassy and the United Nations have also arrived at the scene to survey the people's needs.

[From the Baltimore Sun, Oct. 11, 1979]

CAMBODIAN PAWNS ARE STARVING

(By Henry L. Trewhitt)

WASHINGTON.—As many as 3 million Cambodians are slowly starving, helpless pawns in the geopolitical maneuvering of at least a half-dozen governments.

Only a trickle of aid is entering the country. Beginning this week, a C-130 transport plane operated by the International Red Cross is scheduled to begin daily flights with food. Private relief agencies say they are delivering all the supplies they have and are able to deliver to the country.

But specialists here are skeptical about that. They fear the lack of transportation and the political constraints of competing governments will keep food from those who need it, leaving it mainly for the Vietnamese army units inside Cambodia.

The United States is increasing support for the agencies, offering $5 million worth of food. But Washington is moving cautiously because of political obstacles and because, as Representative Stephen J. Solarz (D. N.Y.) puts it, more substantial aid is "enmeshed in bureaucratic difficulties."

Yet a report by the Indochina Refugee Action Center here says hundreds of thousands of Cambodians will die by Christmas unless dramatic aid—perhaps $100 million worth—gets to them within weeks.

There seems no hope of that happening. For above all else, Cambodia's fate is being shaped by historical misfortune. It has become the political battleground for all the political and territorial interests and ethnic hatreds left by the Communist conquest of Vietnam.

The interests at stake are local, regional and global, though most of the world, in the Action Center's word, is "uninvolved." Those who are involved appear to have placed the fate of the remaining Cambodians far down their list of priorities.

Vietnam—dominating most of Cambodia through a government it installed—has the controlling voice in the acceptance of aid. But Vietnam attaches conditions.

It wants nothing to go to the desperate remnants of the Pol Pot regime, which it ousted at the beginning of this year. Whether it will permit foreign supervision to guarantee that aid gets beyond its own troops is in doubt.

Even with complete cooperation by the Vietnamese, no one is certain that food could be distributed in time to save many Cambodians. Roads have been destroyed by war. Few trucks still run, and there is no fuel for vehicles that do. Cambodians are so weak that few can work at distribution.

In the bleakest appraisal of all, many American officials question whether Vietnam wants Cambodians to survive. There is little doubt that Vietnam set out to dominate Indochina. Now that it controls Laos and Cambodia, the death of millions of Cambodians resolves a historic ethnic conflict.

The message is clear to Thailand, now desperately arming with American weapons. Thailand already harbors tens of thousands of Cambodian refugees, along with some 120,000 from Vietnam.

With each Vietnamese attack on the Pol Pot forces holding out near the Thai border, thousands more cross into Thailand. More than 10,000 crossed yesterday, as Vietnam began a dry season offensive. Thailand says it will send them back as soon as the firing subsides.

The Thai government, like many in the region, is ambivalent. It wants to avoid provoking Vietnam into crossing the border. But it opposes anything that sustains the Vietnamese position in Cambodia—such as misdirected aid.

The five members of ASEAN, the Association of Southeast Asian Nations, are in much the same position. Fearing Vietnamese expansionism, they look to the United States for encouragement. But neither do they wish to invite Vietnamese wrath.

To the north, China threatens to teach Vietnam another "lesson," its word for its brief invasion of North Vietnam at the turn of the year. The danger of another invasion, with its potential for snowballing into a broader confrontation, will become acute if Vietnam drives Pol Pot into Thailand.

Enter the superpowers. The Soviet Union has an aggressive, powerful client in Vietnam that offers Moscow strategic domination of Southeast Asia if its position can be stabilized.

For the U.S., interests in the area are more diverse. Washington already has lost its position in Vietnam and Laos. If Thailand falls, its impotence will be certified.

ASEAN is watching closely. And so, of course, is China, which complains often that the U.S. is too gentle in dealing with the Soviet Union and its clients.

For its part the administration proceeds with extreme caution. It hopes, among other things, that China stays out of Indochina this time. Several members of Congress insist it should do more than hope.

Representative Lester L. Wolff (D., N.Y.), one sponsor of a bill for $30 million in Cambodian aid, said yesterday that U.S. officials must warn China away from Vietnam. Noting that Defense Secretary Harold Brown will visit China soon, he said Mr. Brown should tell China that "congress will look with great disfavor on a trade agreement if China goes into Vietnam again."

Amid all these pressures, President Carter has avoided taking the lead with Cambodian aid. At his news conference Tuesday, he emphasized that the U.S. will "move without any further delay as soon as it is possible to join other countries in these efforts."

But, in fact, there is a dispute within the administration about how much money to provide and how it should be applied.●

HUMAN BEHAVIOR CAUSES FIRES, DETECTORS CAN PREVENT THEM

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. NEAL. Mr. Speaker, I am today introducing the Smoke Detector Demonstration Act, which I believe will provide the Federal Government a rare opportunity to render a vital service to every person in America without intruding into their lives.

We hear and read almost daily of the tragedy wrought by fire when—whether ignited by accident, carelessness or design—it snuffs out the lives of people, most often children and the elderly. We have, in almost all instances possible, sought at local, State, and Federal levels to "fireproof" the Nation. Through building codes, fire regulations and product safety, we have gone about as far as we can go to avert this ever-occurring disaster. Yet the United States, for all its insight and concern, has one of the worst fire fatality records in the world.

Obviously, Mr. Speaker, the greater number of fire victims are caught unaware. Given early warning, many if not most of them would escape. Smoke detectors, properly placed in occupied dwellings and buildings, are the best and most dependable devices for such warning, requiring little more attention than putting them in place.

The Smoke Detector Demonstration Act does not propose to install such detection devices in every home in America, or to require that they be installed. It provides that the U.S. Fire Administration shall establish and conduct smoke detector placement demonstration projects through the communities in America, working through the volunteer fire departments in small communities and the municipal fire agencies in larger towns and cities. These local people, not the Federal Government, will handle the demonstration projects.

I believe it is appropriate, Mr. Speaker, that this legislation be introduced this week, which is National Fire Prevention Week. At the same time, it behooves us to look for the reasons why the United States has a fire fatality rate twice as high as Canada's, four times as high as Japan's, and 10 times as great as that of France.

I am convinced, Mr. Speaker, that behavior is the major cause of fire in this country. I am supported in this view by the fire prevention bureau of Winston-Salem, N.C., my hometown. Its director, Oscar Beal, said earlier this week:

> The biggest problem here and nationally is human behavior. We may write up a fire as unattended cooking or a faulty furnace . . . but it all goes back to human behavior.

When we carelessly store flammable materials and liquids in unventilated places, we are inviting a fire into our home.

When we ignore instructions on installation and operation of electrical appliances and equipment; when we neglect maintenance of stoves and furnaces; when we take it for granted that we have to strike a match to start a fire, we are inviting a fire into our homes.

When we smoke in bed, or fall asleep in a chair or on a sofa with a lighted tobacco product in our hand; when we are careless about dousing cigarettes and emptying ashtrays, we are inviting a fire into our home.

These fires cannot be said to have been caused by the products involved. They are the result of human neglect, or personal behavior, against which the only defense is heightened responsibility and increased knowledge.

We must hope that we wake up to those responsibilities as a Nation, and as individuals. We must strengthen the fire prevention programs in communities throughout the country. In the meantime, Mr. Speaker, the universal use of smoke detectors would go a long way, I believe, in reducing the horrid rate of death and injury from fire in this country.

We can help increase the awareness of the dangers of fire, and help people decide for themselves that they want the added protection of a reliable smoke detection device in their homes, by enacting this legislation.●

HISTORY OF ATOMIC ACCIDENTS

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. WEAVER. Mr. Speaker, as a participant in the public information project on the little-known history of atomic accidents, I am today introducing the following excerpt from Leo Goodman's catalog of mishaps involving nuclear materials:

1950 ATOMIC ACCIDENT NO. 10

December 13, 1950—Explosion, Chalk River, Canada

Excerpt—Source: TID 8206 ("A Compendium of Information for Use in Controlling Radiation Emergencies"), February 1960.

At Chalk River, Canada, on December 13, 1950, there was an explosion involving a relatively small amount of material, killing one man and injuring and contaminating five others. Only through good luck, 45,000 pounds of the same material in a room adjacent to the room in which the explosion occurred did not detonate. This accident is not widely known because there was much stricter security at the time the incident occurred. It is possible now to relate more about this accident and a few significant lessons that were learned from it. In fact, it may interest some of you to know that this accident helped initiate action on the part of the National Committee on Radiation Protection to produce Handbook 56, "Safe Handling of Cadavers Containing Radioactive Isotopes."

Many lessons were learned from this accident, and it should be of interest to quote the following from AEC 43 345, dated February 9, 1951:

"The relative urgency of different kinds of medical treatment became immediately complicated by radiation, since, in cases where shock would normally have been given priority, the doctors hesitated to make hypodermic injections through contaminated skin. The decontamination of wounds was complicated by the lack of a probe sufficiently directional to tell from what part of the wound the radiation was coming. The volume of contaminated materials became a sizeable problem. As a result of the explosion, four truckloads of materials required decontamination, while two more truckloads had to be scrapped. For two days after the accident, most of the medical facilities were tied up as a result of contamination. After preliminary treatment at the plant hospital at Chalk River, a new kind of decision had to be made concerning the extent to which the patient should be decontaminated before transfer to the townsite hospital could be allowed.

"Identification of the personnel was difficult because badges had been blown off or destroyed. One of the casualties had about 200 mr per hour over the face and chest, and this further inhibited work. Unprecedented problems arose in connection with transferring the contaminated body to an undertaker.

"The medical group at Chalk River had been planning for some time to rebuild the medical set-up at the plant, and, until this accident, their thinking had been almost entirely concerned with facilitating routine decontamination. The accident exposed shortcomings in the present set-up, and the experience of handling the contaminated and wounded patients dictated revision of their plans for rebuilding."●

DRINAN SALUTES THE TOWN OF FRAMINGHAM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. DRINAN. Mr. Speaker, last night in Framingham, Mass., a town in my congressional district, a special town meeting was held. At that meeting a rather extraordinary vote was taken regarding a spending proposal. The outcome of that vote, I feel, says something very encouraging about the people of Framingham, and perhaps about the people of America as well.

Fred Kelley, a 39-year-old retired firefighter and father of five children, has suffered two heart attacks while serving on the Framingham Fire Department. Doctors have told him that his only chance for survival is a heart transplant operation. Last night the people of Framingham had to decide whether or not to appropriate $60,000 to help pay for that operation.

Those at the town meeting voted nearly 10 to 1 to save Mr. Kelley's life.

Mr. Speaker, $60,000 is a large sum of money, particularly for a local government. And yet, even in these times of extreme fiscal restraint, the people of Framingham chose to show their gratitude and their compassion for a man who had risked his life and his health to serve and protect them.

I commend the people of Framingham. I am proud to represent them here in the Congress. Their unselfish act, decided in the true democratic tradition of our New England heritage—the town meeting—has served to reaffirm my faith in Americans as being a generous, compassionate people.

I would like to include in the RECORD the following article which appeared in this morning's Boston Globe:

[From the Boston Globe, Oct. 11, 1979]

HIS TOWN'S GIFT—THE CHANCE FOR A NEW HEART

(By Andrea Estes and Eileen McNamara)

FRAMINGHAM.—There was a tension in Fred Kelley's red-shingled house on Carver street early last night that the gathering of friends, the hum of television cameras and the antics of the family's two dogs could not break.

Kelley, a 39-year-old retired firefighter twice stricken by heart attacks, had chosen not to attend last night's town meeting that would decide whether he could have the heart transplant necessary to prolong his life past its 40th year.

"There's probably a lot of foolish arguments going on right about now," he said, toying with his digital watch. "If I were there I'd probably get upset and start arguing myself."

But when the telephone rang at 8:58 p.m., it was clear that no foolish arguments had prevailed.

After 45 minutes of debate, the special town meeting voted 104-13 to appropriate $60,000 to pay many of Kelley's medical expenses.

"They did. They passed it. My God," Kelley whispered into the receiver, his eyes filling and then brimming over. He remained unflustered by the television cameras recording his reaction.

The town funds will finance medical tests and preoperative care for the veteran firefighter, who suffered both heart attacks while on duty in the past two years.

The cost of the operation, to be performed at Stanford University Hospital in Palo Alto, Calif., will be covered by a federal grant.

Sitting at the head of his family's kitchen table, tapping the formica top with the base of his Lite Beer can, the blond and bearded father of five looked the picture of robust health.

"Yeah, sometimes it is hard for me to believe," he said of his ailing heart, his voice sinking into silence.

After a champagne toast "to everyone who realized the meaning of life," Kelley was more reflective than exuberant.

"I'm so, so grateful," he said, almost to himself. "But this is just the first step. It is still not a happy trip. I might die out there."

Framingham officials were expected to telephone the California hospital today to tell surgeons there of the town's decision. Stanford will conduct tests to make sure Kelley qualifies for transplant surgery.

"I've been told to plan on the latter part of October," Kelley said. "So that means in about two weeks I'll be going out there."

It was the sort of talk to be shared another night, he seemed to realize as his wife, Evelyn, and daughter Kathy, 20, burst into the snow-covered, ranch-style house, tears streaming into their smiles.

The moments that followed were a rush of emotions as his oldest son, Fred Jr., 19, collapsed into his arms and his youngest son, Brian, 10, fought through taller relatives to get close to his father.

"With friends behind us like we had, we found the courage," Mrs. Kelley said, her hand trembling as she raised a glass of champagne to her lips.

"Just this morning, at nine o'clock, a perfect stranger called to say we are all rooting for you—a man I didn't even know."

The family had been flooded with mail since Kelley's condition became public. "It's been fantastic. You don't know those kind of people are out there until something like this happened.

"One day five little kids came in here with $50 more."

Although most spoke of their reverence for life, some town meeting members expressed concern last night about the precedent that could be set by a vote in favor of the appropriation, which will be drawn from a $1 million budget surplus.

"I am wondering what floodgates we are opening up here, what criteria they (town selectmen) intend to employ in the future of such requests," Jay Gordon cautioned the gathering. "There are bound to be in the future such requests."

The only obvious floodgates opened last night were emotional ones. "I think it proves that people really care about people,' said Kelley, a 15-year veteran of the town's fire department.

The selectmen previously had recommended appropriating the funds, but a two-thirds vote of the town meeting members was required before the funds could be appropriated. The funds were appropriated under a law that allows a town to pay medical expenses of disabled town employees.

The Farmingham Police and Fire Fighters associations also established a special fund to defray the supplemental costs of Kelley's surgery.

More than $11,000 in donations have been received from private citizens and businesses across New England and Canada. The donors' letters expressed their sense that Kelley's predicament could as easily have been theirs.

"I think town of Farmingham has a conscience," Peter Ablondie, chairman of the town's selectman, said after the vote. "Who are we to say he can't have an extra six days, six months or six years?" ●

ILLEGAL ALIENS GET ANOTHER FREE RIDE FROM THE U.S. GOVERNMENT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to advise my colleagues of an article which appeared in this morning's Washington Post relaying the trials and tribulations of an illegal alien from India who got his longstanding wish to be deported back to his native India. The amazing fact is—he got a bonus when he got his wish—the U.S. Government provides him with the plane fare back to India. How generous can we be?

That perhaps is a question we should ponder in some detail. Imagine this scenario. A person enters this Nation in willful violation of law, either obtains a job which he might get at the expense of an American citizen or goes on the public dole. In any event he becomes a form of public charge. Then his illegal tenure in the United States is rewarded with a free plane ride home. If the illegal alien in question is like 30 percent of all other illegal aliens he will come back to the United States and the circle is complete.

This is an abuse of the American tax dollar. It provides us with a real incentive to enact legislation both restricting the flow of illegal aliens into this Nation and shifting the cost of deportation away from the U.S. taxpayer. In previous years I have sponsored legislation, a main provision of which assessed the employers of illegal aliens with a penalty of having to pay deportation costs. Unfortunately no action was ever taken on the bill.

I insert this article into the RECORD for the consideration of my colleagues:

ILLEGAL ALIEN GETS HIS WISH: (FREE) DEPORTATION TO INDIA

(By Christopher Dickey)

Dhanajay Paranjpe, an illegal alien who begs his living in Washington's streets, also has been begging the U.S. Immigration and Naturalization Service (INS) for months to deport him back to India. Yesterday he finally got his wish.

At a morning hearing, an immigration judge ordered him shipped home at U.S. Government expense. On Friday afternoon he is scheduled to fly from Dulles to Kennedy Airport and from there to India—at a cost of $933, according to INS officials.

Paranjpe—a 32-year-old Ph. D., poet and painter who also is known as Mumbiram—thanked the judge for giving him "a free passage to India for (my) soul and more."

One immigration official sighed resignedly, "That's where the taxpayers' money goes. But what are you gonna do?"

Paranjpe began waging his campaign for deportation several months ago after he found out he could not obtain legal residence in the United States as an artist—especially as one who refused to take money for his work and insisted on begging for a living. As Paranjpe sees it, a Brahmin like himself does not "engage in servitude for wages."

Every few weeks throughout the summer Paranjpe would go to INS district headquarters and complain that thousands of people who want desperately to stay in the United States are arrested and deported each year. Having lived here for 12 years and having been an illegal alien since his visa expired in 1974, he reasoned, the INS ought to deport him, too.

But it was not until he had told his story to a newspaper that the INS found ways to winnow through its red tape to honor such an extraordinary request. By then Paranjpe had again disappeared into the streets of Washington. ●

LOCAL INPUT VITAL

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. ABDNOR. Mr. Speaker, in South Dakota these days, mention the name, "Hoe-down," and while you may elicit a few comments on the merits of modern art, you are more apt to provoke a stern lecture on government waste.

"Hoe-down," is a sculpture commissioned for the Huron, S. Dak., Federal Building under the General Services Administration "Art in Architecture" program. It is a creation of iron plates penetrated by wooden poles resting on a 24-foot concrete slab.

Its price tag: $25,000.

The Huron Federal Building was constructed and occupied several years ago. Aside from the architect, few—if any—Huron residents had any idea there was to be any artwork, much less $25,000 worth—until "Hoe-down" was delivered last July.

It was a case of hate-at-first-sight coupled with outrage at the cost.

Petitions were circulated and signed by over a third of the residents of the community protesting the waste and asking that "Hoe-down" be removed.

Public meetings were called; radio talk-shows buzzed with indignant comment.

The mildest of the comments suggested that if Huron was required to have "art" at their Federal building, people in Huron should have been able to have some input in its selection.

Although the Los Angeles sculptor who created "Hoe-Down," claims it represents the sense of order and dependence on the weather he found on a visit to South Dakota, many residents find the scuplture, "an insult to our intelligence."

Huron is not the only community to be affronted by the artwork imposed upon them by the Federal Government under the "Art in Architecture" program, which was established in 1963 by GSA then suspended between 1966 and 1972 because of the unprecedented increases in construction costs.

Critics of the program or the artwork it produces are promptly labeled "censors," and "repressors of free expression." At the very least, they are "unqualified to judge."

While the "Art in Architecture" program is not without merit, there is no question in my mind that aimed at improvements can be and must be made, particularly in regard to obtaining local participation in the selection of the artwork.

Today, I am introducing legislation to establish procedures for acquisition and installation of works of art in public buildings. This legislation:

First. Is applicable to buildings owned by the United States, whether they be new construction, alteration or revision of existing buildings, or buildings being purchased;

Second. Designates the Administrator of the General Services Administration to make the determination whether the building will contain works of art;

Third. Requires, if works of art are to be purchased, the Administrator to solicit proposals from the artistic community as he determines relevant, with the proposals to be submitted in sufficient detail to indicate the form, size, and estimated cost;

Fourth. Requires each project to have a selection panel created of 10 members. Four of the members will be appointed by the Administrator and six will be appointed by the Governor of the State from persons who reside within the area where the project will be located. The selection panel shall choose among the submitted proposals the work of art to be purchased and installed. If the panel is unable to agree, the Administrator is notified and the process is repeated.

Fifth. The cost of carrying out this process of acquiring, purchasing, and installing works of art is not to exceed one-half of 1 percent of the total cost of the project exclusive of the cost of the works of art.

Mr. Speaker, my proposal affords a significant improvement over the present procedure wherein a percentage of the building cost is set aside for "art" and a committee chosen by the National Endowment for the Arts picks an artist and commissions the artwork—a process allowing little, if any, comment from the people who are going to have to live with the artwork after it is erected or installed.

The full text of my bill follows:

H.R. —

A bill to establish a procedure for acquisition and installation of works of art in public buildings

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of a law, a project for construction, alteration, repair, or reconstruction of a public building may include acquisition and installation of a work of art only if—

(1) the Administrator—

(A) determines under subsection (a) of section 2 of this Act that the project should include acquisition and installation of works of art; and

(B) solicits and receives proposals for creation of works of art under subsection (b) of such section; and

(2) such work of art is selected under section 3 of this Act by the selection panel which the Administrator establishes to review proposals to be included in such project.

SEC. 2. (a) The Administrator shall determine whether a project for construction, alteration, repair, or reconstruction of a public building shall include acquisition and installation of works of art.

(b)(1) If the Administrator determines that a project for construction, alteration, repair, or reconstruction of a public building should include acquisition and installation of works of art, the Administrator shall solicit proposals for creation of such works of art from the American artistic community. Such proposals shall be in such form as the Administrator may determine and shall be in sufficient detail to indicate the design, size, and projected cost of the work of art.

(2) The Administrator shall submit those proposals which meet the requirements of this subsection and which the Administrator determines are appropriate for inclusion in such project to the selection panel which he establishes for such project under section 3 of this Act.

SEC. 3. (a) The Administrator shall establish, for each project for construction, alteration, repair, or reconstruction of a public building which the Administrator determines should include acquisition and installation of works of art, a selection panel to review proposals for works of art to be included in such project. Such panel shall consist of 10 members as follows:

(1) Four appointed by the Administrator.

(2) Six appointed by the Governor of the State in which the project is being carried out from among persons who reside in the area in which the project is being carried out.

(b)(1) The selection panel shall review the proposals for creation of works of art submitted to it by the Administrator and shall select that proposal which six or more of the members of the panel determine is suitable for inclusion in such project and notify the Administrator of such determination.

(2) If the panel is not able to select any proposal which is suitable for inclusion in the project from among the proposals submitted to it by the Administrator, the panel shall so notify the Administrator who may solicit under section 2 of this Act additional proposals for creation of works of art to be included in the project.

SEC. 4. Notwithstanding any other provision of law, the total cost of acquisition and installation of works of art under a project for construction, alteration, repair, or reconstruction of a public building shall not exceed one-half of one percent of the total cost of the project, excluding the total cost of acquisition and installation of works of art.

SEC. 5. As used in this Act, the term—

(1) "Administrator" means the Administrator of General Services; and

(2) "public building" means any building acquired by the United States before, on, or after the date of enactment of this Act.●

TEST PUBLISHERS SEE DROPPING OF EXAMS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. GOODLING. Mr. Speaker, many of us may recall the essay by Charles Lamb, "A Dissertation Upon Roast Pig." It describes how the natives of a remote land discovered that roast pig was a tasty meal after a pig had been trapped in a burning hut. From that time on, whenever roast pig was desired the natives placed one in a hut and burned down the hut about it.

As a feature article in the October 8, New York Times illustrates, a similar procedure has been applied to college entry testing in New York where, earlier this year, the State legislature with much fanfare enacted a so-called truth in testing law in order to correct perceived shortcomings.

What have been the results of the New York experiment? According to the Times article:

> Three-quarters of the standardized college and graduate school admission tests covered by the so-called 'truth in testing' law in New York State will probably not be given in the state after the law goes into effect Jan. 1.
>
> Sponsors and publishers of 20 of the 26 tests covered by the law have concluded that it is economically impossible to comply with the requirement to publish questions within 30 days of reporting students' scores.

It is interesting to note that the tests which had been the targets of criticism—the scholastic aptitude test (SAT), the graduate record examination (GRE), the law school admissions test, and the tests administered by the American College testing assessment program—will still continue. But other tests, which individually are given in lesser volume and which have received little criticism, will be adversely affected. Actually, it is somewhat of a misstatement to say that the tests will be adversely affected—it is the students and the colleges and universities which rely on these tests who will suffer.

The New York law seems to be a poor recipe for roast pig. While it will succeed very well in burning down the huts, there still is no evidence that it will produce any roast pig.

But even before the New York law goes into effect on January 1, there is a strong push being exerted in the Congress to enact legislation based on that law and going beyond it. This legislation is so drawn that its regulations would be required to be drafted at a faster pace than other education laws, such as education for the handicapped, assistance to the disadvantaged and college student aid.

Not only has the New York law not yet gone into effect but, as the New York Times article points out, the sponsor of the law, State Senator Kenneth P. LaValle, has indicated that he plans to "convene the Senate Higher Education Committee to discuss possible changes in the legislation." These changes, it is stated in the Times, "could be made when the legislature convenes, probably in November, to set a date for primary elections."

Thus, this House is being asked to follow the example of a New York law which not only has not yet gone into effect but which may be further amended because of newly-discovered shortcomings. We are asked to enact national legislation based on a New York law—and include even more comprehensive language—when it is apparent that unfore-

seen negative results will be the outcome of the State legislation. And we are even being asked to mark up this legislation in subcommittee before the State legislators in New York have had an opportunity to make revisions based on their experience.

The New York Times article follows:

TEST PUBLISHERS SEE DROPPING OF EXAMS

(By Edward B. Fiske)

Three-quarters of the standardized college and graduate school admission tests covered by the so-called "truth in testing" law in New York State will probably not be given in the state after the law goes into effect Jan. 1, according to the State Education Department.

Sponsors and publishers of 20 of the 26 tests covered by the law have concluded that it is economically impossible to comply with the requirement to publish questions within 30 days of reporting students' scores, according to David R. Bower, administrator of the office of post-secondary assessment and testing of the Education Department.

"The law is having the greatest impact on tests with low volumes," he said. Students will be able to take the Scholastic Aptitude Tests and other major examinations that are given to large numbers of students.

UNABLE TO REUSE OLD FORMS

The tests expected to be withdrawn include those routinely used for admission to professional schools of medicine, dentistry, pharmacy, optometry and nursing, and the Miller Analogies Test, which is used in a variety of graduate fields. Citing the sponsors of the tests say they will not be able to reuse old forms of their tests.

With regulations for implementing the law still in the drafting stage, officials of the State Education Department and others are still unclear about the ultimate impact of the new law on both individuals and institutions.

"I suppose some schools will have to simply drop the use of test scores and rely on other kinds of information," Mr. Bower said. "But then colleges say that they never rely on test scores in making their decisions anyway. For students with good grades, this will probably be all right, but for others it could cause serious problems."

Some test makers expect some students simply to cross state lines to take the tests. The State Education Department, however, has taken the view that the law applies to any test whose results are sent to an institution in New York State. If this interpretation holds, crossing state lines would be of no benefit to students planning to attend instituitions in New York State. New York is the only state to have such a disclosure law.

"As we assess the situation today, we don't see how we can continue in the business in New York State" and Roger Lennon, associate to the chairman of Harcourt Brace Jovanovich Inc., owner of the Psychological Corporation, which is planning to withdraw a dozen examinations. "We can continue to provide the programs and services in the other 49 states, and not New York, or get out of the business entirely."

Although no formal policy has yet been announced, the College Entrance Examination Board, which sponsors the Scholastic Aptitude Test and the Graduate Record Examination, is expected to continue operating in New York on a reduced level. The American College Testing Service, the other large college admission testing agency, and the Law School Admissions Council, which gives the Law School Aptitude Test, have indicated that they will follow similar policies.

SOME LONG-TERM PROBLEMS

The Graduate Management Admission Council, which sponsors the Management Admissions Test, has announced that it will continue to operate in the state. "The law poses some long-term technical problems, but we hope to continue our present level of services," said William Broesamle, the council chairman.

Sponsors and publishers of the tests said in interviews that the new law constituted an enormous—and in some cases prohibitive—burden.

"Each new form of the Entrance Examination for Schools of Nursing costs $25,000," said Mr. Lennon of Harcourt Brace Jovanovich, who noted that most of the tests being withdrawn by the Psychological Corporation were given to no more than several hundred New Yorkers annually. "If we were to continue giving it 19 times in New York to 1,500 candidates, the cost would be $475,000, or $317 per student."

The principal sponsor of the "truth in testing" bill, Senator Kenneth P. LaValle, Republican of Port Jefferson, L.I., said the decisions to withdraw from the state were "hasty" and premature.

"They're not even giving the law a chance,' he said.

PROBLEM ON SPECIAL EXAMS

George Hanford, the new president of the College Board, said that with 250,000 New Yorkers taking S.A.T. examinations each year the cost of additional forms for the seven regular administrations each year could probably be absorbed with a modest surcharge above the regular $8.25 fee for New York students. But he added that the board faced a "major problem" with special examinations.

"We give examinations on Sundays for students who for religious reasons cannot take them on Saturdays, and we make arrangements with handicapped students to administer them virtually any day of the year." he said. "There's no way we can continue this level of service if we have to reveal the questions every time we use a new form."

The College Board is expected to announce its plans shortly. It has already indicated, however, that it will probably withdraw the Pruebas de Aptitud Academica, the Spanish version of the S.A.T., which is produced in Puerto Rico and used on a limited basis in New York.

The Admissions Testing Law of 1979 was passed by the Legislature and signed by Governor Carey in July in response to vigorous lobbying by student and consumer groups. These argued that the testing industry operated in too much secrecy and that students had a right to see and understand the examinations that play an important part in their academic and professional careers.

ARGUMENT OF OPPONENTS

The legislation was opposed by Gordon M. Ambach, the State Commissioner of Education, and by the testing industry. They contended that the additional costs would far outweigh any educational or other benefits and that there were other ways to bring about more "accountability" on the part of test makers.

The law requires manufacturers of college and graduate school admission tests to publish test questions within 30 days of reporting scores and, upon request, to give students copies of their answers. It also requires test publishers to supply the Commissioner with reports of research done in conjunction with these tests and to take certain steps to assure confidentiality.

In recent weeks, sponsors and publishers of the tests covered by the law have held a series of meetings with Senator LaValle to explore problems posed by the legislation. Some have asked for a six-month delay in the implementation date, and others have asked to have tests exempted.

Sponsors of the New Medical College Admissions Test, for example, argue that the specialized nature of their subject matter limits the number of questions—and thus new forms—that they could come up with.

"UNIMPRESSED" BY ARGUMENTS

James W. Graham, associate secretary of the Council on Dental Education of the American Dental Association, said that there was a similar problem with the "perceptual ability" section of the Dental Admission Testing Program. "There are only so many ways you can draw pictures of boxes," he said.

Senator LaValle said that he was "unimpressed" with the arguments for a delay. "I get the impression that some of them just want out from the law." he said. "When you pass a major piece of legislation that changes things drastically, there is no way you can avoid a little chaos in the first six months."

He acknowledged, however, that the economic cost of "special administrations" posed a legitimate problem and said he planned to convene the Senate Higher Education Committee to discuss possible changes in the legislation. Such changes could be made when the Legislature convenes, probably in November, to set a date for primary elections.

There is already a precedent for excluding low-volume tests because the law specifically exempts the achievement test sections of the S.A.T. and the G.R.E. examinations. "There is too small a population taking these," said Senator LaValle. "There was input from Educational Testing Service, and it made sense." The testing service develops the tests for the College Board.

POLITICAL MISCALCULATION

Asked why other tests, such as the Aptitude Test for Allied Health Programs, which is given to only 200 New Yorkers every year, were not excluded on the same ground, Senator LaValle replied: "They never came and told us about the problem. They just assumed that the bill would never pass."

Mr. Lennon of Harcourt Brace Jovanovich conceded that, in not testifying at hearings on the bill, he and others at the Psychological Corporation had made a political miscalculation. "Had I felt it was more likely to pass, I might have urged us to be more active," he said.

A major issue is whether the new state law is, for all practical purposes, a "national" law.

Mr. Lennon said that, in accordance with the interpretation of the New York State Education Department, the Psychological Corporation would not only stop administering tests in New York, but would also instruct institutions and individual counselors using the Miller Analogies and two other locally administered tests not to forward the results to any New York colleges and universities.

The Law School Admissions Council indicated that it would probably adjust its entire Law School Admissions Test program to the requirements of the New York law.

"The principle of uniformity is important," said L. Orin Slagle, president of the council. We want to keep conditions for everyone as comparable as possible."

Other test sponsors, however, argue that the State Education Department's interpretation is not warranted by the language of the law and that, even if it is, it is unenforceable.

Whether the law is, in fact, a national one has important consequences for the cost of future tests to New York residents.●

UNIONS AND PRODUCTIVITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. LaFALCE. Mr. Speaker, during the last 100 years, despite formidable obstacles, labor unions have made invaluble contributions to this country. They have contributed to meaningful increases in the standard of living for all American workers; they have helped to make the workplace a safer one; and they have valiantly worked for the basic human rights of all people, both at home and abroad.

The list of the accomplishments of labor unions could easily become endless, but I want to concentrate on a long neglected positive contribution of labor unions: higher productivity. Although there have been estimates about the effect of unionization on productivity, there has never been any hard data on the subject, which has allowed some antiunion activists to allege that unions invariably have a pernicious effect on productivity.

However, a recent study for the National Bureau of Economic Research clearly demonstrates that unions and unionization can have a positive impact on productivity. In a microeconomic study, Dr. Kim B. Clark of the Harvard Business School conducted an exhaustive examination of the U.S. cement industry and concluded that all of the data in that industry pointed to a positive correlation between unions and unionization on the one hand and higher productivity on the other hand.

I want to share the abstract of Dr. Clark's study with all of my colleagues. The full study may be obtained from the National Bureau of Economic Research, 1050 Massachusetts Avenue, Cambridge, Mass. 02138.

The abstract follows:

UNIONIZATION AND PRODUCTIVITY: MICRO-ECONOMETRIC EVIDENCE

It is widely agreed that unionization affects the rules and procedures governing the employment relation in organized establishments. The effect of these changes on establishment productivity, however, is unclear. Existing evidence is based on a comparison of union non-union differences in value added per hour worked. Although positive union effects have been estimated, possible differences in prices and technology in the union and non-union sectors render the results inconclusive. The effect of unions on productivity is examined in the present paper using establishment level data from the U.S. cement industry. The cement industry provides a useful empirical framework. Output is easily measured in physical terms, and data on both union and non-union establishments permit estimation of the union effect controlling for differences in technology. The results suggest that unionized establishments are 6–8 percent more productive than their non-union counterparts. This conclusion is supported in time series data, where a comparison of productivity before and after unionization reveals a positive union effect of similar magnitude. Since the statistical analysis controls for capital-labor substitution, scale effects and technological change, the evidence suggests that unionization leads to productive changes in the operation of the enterprise. The results are relatively robust. Specification changes and adjustments for omitted variables leave the basic findings intact.

KIM B. CLARK,
Harvard Business School.●

TOWARD A BETTER UNDERSTANDING OF SOUTHERN AFRICAN ECONOMIC-DEVELOPMENT ISSUES

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. GRAY. Mr. Speaker, I would like to bring to the attention of the Members of Congress a new publication on Southern African economic development launched by the African Bibliographic Center as part of a journal it is implementing, funded by the Africa Bureau of the U.S. Agency for International Development (AID).

The name of the publication is SADEX, which is the acronym for the Southern Africa Development Information/Documentation Exchange, a project that continues the congressional mandate to AID in the International Security Assistance and Arms Control Act of 1977 authorizing it to organize "a central repository of information" on Southern Africa in this country. This project would interact with regional development efforts such as proposed at the July Southern Africa Development Coordination Conference in Arusha, Tanzania along with the work of the U.N. Economic Commission for Africa.

The Africa Bureau of AID is to be commended on this project for its choice of the African Bibliographic Center to implement this effort given its fine track record over 16 years as a minority-run organization in the field of information and documentation in African affairs. This track record is reflected in the fine quality of the new SADEX publication. The following excerpt from the journal explains what this publication and project are about:

EXCERPT

SADEX is produced in conjunction with the Southern Africa Development Information Documentation Exchange (SADEX) project under a contract from the Africa Bureau of the U.S. Agency for International Development (AID) to the African Bibliographic Center (ABC). This undertaking supersedes the AID-funded Southern Africa Development Analysis Project (SADAP) for which ABC provided information and documentation support services, including the Afriecon SADAP Accessions Bulletin.

The SADEX project is intended to complement and interact with efforts already underway in Southern Africa to establish an economic information and documentation network as mandated in 1978 by the council of Ministers of the East, Central and Southern Africa subregion of the U.N. Economic Commission for Africa (ECA), and by the Southern Africa Development Coordination Conference convened in Arusha, Tanzania, July 3-4, 1979.

The SADEX project publication, SADEX, is intended primarily to serve the development needs and priorities of Southern Africans and others throughout the world involved in development planning and project implementation relating to Southern Africa.

SADEX readers reflect a broad and multilateral donor agencies and their contractors, individual specialists, universities and research institutions, documentation centers, and private donor institutions and organizations.

SADEX is designed to provide this constituency with a forum for the exchange of knowledge, research, experiences and ideas of relevance to Southern African development.

Each issue of SADEX will contain a feature section consisting of articles, special bibliographic essays and literature surveys; an information section that will variously include identification of forthcoming publications, recent SADEX accessions, abstracts of development-related publications, information briefs arranged according to sector, identification of development projects, research in progress, and conferences and meetings; a book review section; a bibliographic section arranged principally by country with numerically indexed entries; an author index; and in the near future, a subject index.

The scope of SADEX listings in the bibliographic section includes all of the frontline states—Angola, Botswana, Mozambique, Tanzania and Zambia—as well as Lesotho, Malawi and Swaziland, and the pre-independent countries of Zimbabwe and Namibia. Although not central to the scope of SADEX and the SADEX project, South Africa is of obvious importance to the unfolding dynamics of the region, and therefore, materials on Southern Africa within this context will be indexed under the "Regional" heading in the bibliographic section.

The African Bibliographic Center is solely responsible for the production and contents of SADEX, and for conducting the Southern Africa Development Information Documentation Exchange project.●

BOB WILLIS OF THE AMERICAN FEDERATION OF GRAIN MILLERS (AFL - CIO, CLC) TESTIFIES AGAINST IRRESPONSIBLE FTC ACTION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1979

● Mr. KEMP. Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD at this time the testimony of Mr. Robert W. Willis, executive vice president of the American Federation of Grain Millers (AFL–CIO, CLC), before the Senate Commerce Committee's investigation into the Federal Trade Commission.

The American Federation of Grain Millers has been concerned about the FTC lawsuit against the ready-to-eat (RTE) cereal industry which claims that there is anticompetitive practice among the largest cereal manufacturers that can be solved by divesting these companies of their biggest selling brand names.

What concerns the Grain Millers, and me, is the fact that at no time during the preparation of the case or during the actual deliberations before the administrative law judge was the impact on the workers at these cereal plants taken into account. No economic impact study was ever conducted—nor was there any analysis conducted of the effect of this divestiture upon the labor contracts of the workers bargained in good faith under the National Labor Relations Act. Similar targeting by the FTC of the Federal Glass Co. in Columbus, Ohio, resulted in the complete shutdown of the company, forcing 1,500 laborers out of work. No labor impact study had been conducted in this instance, either.

It is important that this body give full consideration to the statement of Robert Willis on this issue, and I urge my colleagues' careful review of the following testimony:

TESTIMONY OF ROBERT W. WILLIS

Mr Chairman: On behalf of the American Federation of Grain Millers International Union, The International Brotherhood of Teamsters, and the many other affiliated AFL CIO Unions who have joined with us in our cause, we wish to express our deep appreciation for the opportunity to appear before this distinguished committee.

Our Cause is to prevent the cruel and unnecessary loss of over 2,600 union jobs. We want to protect contracts, wages, pensions, and other benefits which we have negotiated for our members. We want to prevent the economic impact to the cities, counties and states which will be affected by the loss of jobs which will result from the Federal Trade Commission Order to force divestiture of the cereal plants of Kellogg, General Mills and General Foods.

We have gone the route with the Federal Trade Commission which, until one month ago tomorrow, refused to even listen to us or consider what affect the proposed remedy in the cereal divestiture case would have on employees and the cities and states where they live.

First, our attorneys petitioned in a long legal battle to be heard as a full party to this case. In denying our Motion to Intervene in the case, the FTC replied that our pleas were "untimely" and "irrelevant". They also responded by saying that "Employees have no overriding right to perpetual employment on the same or any other terms". We appealed Judge Hinkes' decision but were again turned down. We could not believe this—not in the United States of America.

Next our representatives in Washington asked for a meeting with FTC. We wrote. We telephoned. We pleaded. But again we were denied a real hearing on this matter.

The strange part of this is, we came as friends, not enemies, and we believed that the FTC would act in the best interests of citizens of the United States.

Finally our belief in the Federal Trade Commission crumbled. Our sense of fairness and decency, of justice, was shattered.

Our rank and file members asked us "Why are they going to take our jobs away?" "What laws have we broken?" "Who is trying to do this to us?" "Doesn't anyone have control over the FTC?" "What about our Congressmen, our Senators, and our President?" "Will they not help us?"

We, as union officials had no answer for them, but we heard the questions by our members loud and clear.

Mr. Chairman, we are not lawyers or trained legislative agents. We are good union people who will stand up and fight for our rights.

So on September 5th, over 350 of us from all over the country picketed the FTC during Hurricane "David", most of us without rain protection. We stayed, however, and delivered our message, and it worked. For the first time we were invited into a meeting by the FTC to present our case to Deputy Director Schwartz, the two attorneys in the cereal case and other representatives of the FTC.

They told us how glad they were to hear our story. They requested our suggestions about the case and questioned why we had not used our status as amicus curiae to file briefs in the case.

Mr. Chairman, I am no psychologist but I have spent a lot of time in negotiations and can tell from experience when the other side knows that they are wrong. The FTC officials were very uncomfortable with the facts we presented to them, and about the "Hinkes affair". Judge Hinkes was in the process of negotiating a separate contract with the Federal Trade Commission during the same period he was considering our Motion to Intervene.

Our meeting ended with Deputy Director Schwartz making a statement to the affect that we were about at the same point as we were when the meeting began. I shared his views.

Mr. Chairman, you may ask why our Union has not followed the suggestions of the FTC at the meeting. Our answer is simply this. We believe the overtures expressed by the FTC representatives were merely a smoke screen and an attempt to justify their refusal to allow us to intervene as a full party in the case.

What do I mean by this? No one knows better than the FTC attorneys in the case that we are prohibited from filing an amicus brief at this time. The fact is, Judge Hinkes' Order refusing our right to intervene and giving us amicus status was very specific as to the extent and limit of our involvement. I quote from Judge Hinkes' Order dated June 9, 1978.

"It is hereby ordered that International Union's motion for leave to intervene is denied.

It is further ordered that International Union may, if it so elects, submit a brief as amicus curiae at the conclusion of hearings in this matter."

According to our attorneys, this is the full extent of our legal rights in the case and the reason we have filed no amicus brief. In compliance with Judge Hinkes' ruling, we are prohibited from any further legal participation until after the conclusion of the case.

We also doubt that the FTC is now suggesting that we meet with them outside of the courtroom and attempt to negotiate a settlement to the case. To do so would not be proper and would have no legal affect.

The position of the FTC attorneys is a matter of record, and it is clear that they have no concern whatever for those who will be affected. When our attorneys appealed to the Commission and requested a review of Hinkes' Order denying us the right to intervene, the attorneys for the FTC filed a brief dated July 20, 1978, opposing our application for review. I would like to quote two statements from the brief which summarizes their feelings

"This employment question is wholly irrelevant to the liability issue—whether the respondents are in violation of Section Five of the Federal Trade Commission Act. The employment question also has no bearing on the issue of the effectiveness of the divestiture remedy in correcting any unfair method of competition found."

"The Union alleges that the proposed divestiture will result in "cataclysmic" effects upon the job security and benefits of respondents' employees. But such a claim, even if true, is not relevant."

After this meeting with the FTC on the 5th of September, we pressed on.

On September 6th at 10 a.m., some 60 key members of our Union met in the Sam Rayburn Building with members of the Congress and the Senate to explain our plight to them. We, in turn, were supported by The International Brotherhood of Teamsters, The Retail-Wholesale International Union, The Flint Glass Workers International Union and The Rubber Workers Union, as well as by the AFL-CIO Food and Beverage Trade Department, all of whom spoke on our behalf.

It was most apparent that the Legislators and their staffs in attendance were like us—shocked at the FTC taking action that would take away jobs from over 2,600 union members, destroy their long-standing union collective bargaining agreements, cut off their pensions, hospitalization and other benefits. All of this without even studying the affects of this drastic remedy on human beings, their families and their communities.

As our fellow unionists spoke and as the various Congressmen listened, I felt that for the first time we had a fighting chance. Our members felt this too: that here was, finally, for the first time, someone in our Federal Government who understood what our people had been trying to say. We were learning the hard way. However, our legislative representatives told us the FTC had clearly overstepped its boundaries and had indeed assumed a legislative role beyond their congressional mandate. The FTC has exceeded its administrative authority by clearly ruling in the jurisdiction of the National Labor Relations Act and the Congressional Mandate of the Department of Labor.

On another matter, the Grain Millers also share the concern expressed by Phil Leonard of the United Rubber Workers at the congressional caucus held on September 6th concerning FTC's proposal to ban children's advertising. Again, as in the cereal divestiture case, the FTC has not considered the economic impact and loss of jobs which would result from such a ban. Mr. Leonard's statement is attached for your information.

Mr. Chairman, we submit that this is a legislative oversight problem and propose that the cereal divestiture case be removed from the FTC calendar until such time as they have conducted an economic job impact study of the proposed remedy. We propose that the Congress itself should approve any remedy which involves our rights under the Department of Labor and the National Labor Relations Act. Any remedy must, as a minimum, provide that:

1. There be no loss of employment as a result of FTC divestiture efforts.

2. Our Union recognition contracts be honored in full by any continuing employer, and without any reduction of wages, hours, working conditions and existing level of benefits.

3. Traditional existing coordination of collective bargaining patterns be continued.

4. Transfer practices and any moving expenses be granted to all Union employees by any successor company or its subsidiaries.

Further, we ask you to examine the provisions of the National Environmental Policy Act of 1969 and determine whether the FTC has complied with this Act; specifically the underlined portions of the Act, especially under Section 102(C), a copy of which is attached. We would also ask that you give careful consideration to the other items attached to this statement.

Finally, Mr. Chairman, we submit that there must be a way for the Commission to rule in the consumers' favor, but without throwing people out of work, destroying their contracts, and ruining their lives.

We are very thankful to have had this opportunity, and we shall remember your kindness.

ROBERT W. WILLIS,
Executive Vice President and
Assistant to the President.

National Environmental Policy Act of 1969

[* 7501]

FEDERAL LAWS—EXECUTIVE ORDERS

Public Law 91-190, 83 Stat. 852 (1970); as amended by P.L. 94-52, 89 Stat. 258 and P.L. 94-83, 89 Stat. 424 (1975)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969".

[* 7502] PURPOSE

Sec. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and *stimulate the health and welfare of man;* to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

TITLE I—DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

[* 7503] DECLARATION

[* 7503.05]

Sec. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, *particularly the profound influences of population growth, high-density urbanization, industrial expansion,* resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, *to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.*

[* 7503.10]

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) *assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;*

(3) *attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;*

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) *achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and*

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

[* 7503.15]

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

[* 7504] POLICY IMPLEMENTATION

Sec. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) *include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on*

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

[* 7505] AGENCY REVIEWS

Sec. 103. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

[* 7506] OBLIGATIONS NOT AFFECTED

Sec. 104. Nothing in Section 102 or 103 shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

[* 7507] POLICIES AND GOALS SUPPLEMENTARY

Sec. 105. The policies and goals set forth in this act are supplementary to those set forth in existing authorizations of Federal agencies.

NEW YORK, N.Y.,
September 24, 1979.

ROBERT WILLIS,
American Federation of Grain Millers,
Minneapolis, Minn.

On behalf of our international union we join with the Grain Millers Union to urgently request that your committee holds up the FTC budget on the cereal case until Congress is satisfied that the job loss resulting from such action will severely damage the lives of these 2600 workers, their families and cities. Our union is a living example of this kind of FTC action taken without regard for the social and economic disaster that is brought to over a thousand of our members in the Federal Glass case in Ohio. Give the grain miller the chance that was denied our members who are now out of a job. Respectfully yours.

Original sent to Senator Wendell Ford, Washington, D.C.

IVAN T. UNCAPHER,
Secretary Treasurer. ●

ON THE NEED TO ESTABLISH A NATIONAL COMMISSION TO STUDY THE INTERNMENT OF JAPANESE-AMERICANS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. DIXON. Mr. Speaker, our distinguished majority leader, JIM WRIGHT, and the respected chairman of the House Judiciary Committee, PETER RODINO, have introduced H.R. 5499, a bill to establish a national commission to investigate the origins, remedies, and ramifications of Executive Order 9066. This Presidential proclamation authorized the internment of more than 100,000 Japanese-Americans during World War II.

Well over 100 Members of the House and Senate have cosponsored this measure, and I was honored to be a cosponsor upon its introduction. It is my strong hope that the House will act expeditiously on this legislation, so that we can begin to understand many of the issues related to this tragic chapter in our Nation's history.

Yesterday's San Jose Mercury News contained an enlightening editorial in support of H.R. 5499. I would like to share it with my colleagues, and I urge those who have not already cosponsored this measure to add their names in support.

INVESTIGATE WWII INTERNMENT OF JAPANESE-AMERICAN CITIZENS

President Franklin D. Roosevelt called Dec. 7, 1941, the day the Japanese attacked Pearl Harbor, "a date which will live in infamy."

Today, a great many Japanese-Americans think that description fits Feb. 19, 1942, as well.

They have a valid point.

On Feb. 19, 1942, the president issued Executive Order 9066 which authorized the internment of all persons of Japanese ancestry living on the Pacific Coast. The order produced America's first concentration camps, whose alumni are now pressing Congress for redress.

Legislation co-authored by 118 members of the Senate and Houes of Representatives would set up a 15-member fact-finding panel charged with determining whether the wartime internment of Japanese-Americans was necessary, and, if it wasn't, what sort of redress would be proper.

The commission proposal is sensible in its own right. It is, in addition, a compromise aimed at reunifying the Japanese-American community. The redress-reparations issue has divided Japanese-Americans into two antagonistic camps in recent months. One segment believes Congress should pay a $25,000 indemnity to every Japanese-American who spent the war years behind barbed wire, the other camp opposes reparations as needlessly divisive. It fears pressing the point will stir up old anti-Japanese sentiments.

A fact-finding commission would serve a highly useful function now, 37 years after the fact. Nearly two generations of Americans have come to maturity since Executive Order 9066 was promulgated their understanding of what happened then, and why, is sketchy at best. It is a chapter of American history that needs to be understood thoroughly so that it is never repeated.

In brief, this is what happened. Two months after Pearl Harbor, the Army determined—for reasons still open to dispute—that all persons of Japanese ancestry living on the Pacific Coast constituted a potential threat to national security. The Army insisted it was impossible to differentiate between loyal and disloyal Japanese-Americans and therefore all of them should be gathered up and moved away from coastal areas. And they were.

In all, 110,000 persons of Japanese ancestry were uprooted from their homes in California, Oregon and Washington and confined in 10 relocation centers in the interior of the country. Two-thirds of these were American citizens against which no charge, civil or criminal, had been brought. Of the 110,000 total, 93,000 were Californians—including Norman Mineta, now a Democratic member of the House from San Jose.

The 10 relocation centers were operated by the War Relocation Authority and held American citizens almost exclusively. They were separate from the four internment camps in which the Department of Justice penned up enemy aliens, mostly Germans and Italians.

Not that the United States was alone in suspending civil rights. The Canadians rounded up 23,000 Japanese ancestry residents a month before the United States did, and kept their internees locked up longer. The last Japanese-Canadian didn't get back to British Columbia until 1949.

Persons of Japanese ancestry living in Mexico, Central and South America, Haiti and the Dominian Republic were also rounded up and interned—many of them in camps in the United States.

All things considered, a special congressional commission could perform a useful educational function in this field. Too little is remembered about it today.●

A PIONEER FOR PROGRESS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. LUKEN. Mr. Speaker, on Friday, October 12, 1979, residents of West College Hill and surrounding areas of my district will come together to honor a most outstanding member of their community, the Reverend Edward Jones.

Reverend Jones has truly earned this day as he celebrates the 48th anniversary of his ministry—the entire time of which has been spent in service to the people of West College Hill. For this reason our Reverend Jones is being honored. But let me assure you, Mr. Speaker, and all our colleagues here in the U.S. House of Representatives, that his service goes far beyond this.

No one individual has given as much to the community and seen as much transpire. As a third generation member of his family to live in West College Hill, Reverend Jones is the founder of the First Baptist Church (1932) and chairman of the board of the West College Hill neighborhood services project, both of which are solid foundations in the community and both of which were instrumental in bringing the community to the proud stature it has today. They both bear the trademark which has surrounded Reverend Jones' life, that of high ethical and moral character coupled with the tireless effort of bettering the lives of all around.

Because of the works of the Reverend Jones, this community is closer, stronger, and more capable of carrying on the cultural pride and integrity he has given it.

Therefore, Mr. Speaker, I rise today to ask you and all of our colleagues to recognize the efforts of a true pioneer in the cause of bettering the physical and spiritual development of man, the Reverend Edward Jones.●

SOVIET FERTILIZER: AMMONIA FROM RUSSIA DISRUPTS U.S. MARKET, TRADE PANEL RULES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. McDONALD. Mr. Speaker, the title to this item is the culmination of a series of stupidities by the United States in our so-called East-West trade. We have shot ourselves in the foot again. Back in 1974, Mr. Armand Hammer, who strangely is one of few westerners who ever makes money on commercial deals with the U.S.S.R., arranged a real sweetheart deal. He negotiated to supply 1 million tons of superphosphoric acid annually to the U.S.S.R. from plants in Florida in order to supply four new ammonia plants to be built in the U.S.S.R. Armand Hammer and Occidental Petroleum would, in return, receive ammonia and urea to be sold in the United States. In order to do this Occidental Petroleum received a subsidy from the U.S. Maritime Administration to cover half the cost of the three necessary ships to bring this material to the United States. A sum of $180 million for the construction of these plants was also furnished at 6 percent by the U.S. Export-Import Bank. Result, the Soviet produced ammonia began flooding the U.S. market in 1978 and 1,000 American jobs have been lost. It was thought at the time this arrangement came up that most of the ammonia would be used in Russian agriculture for fertilizer. No, it went to exports which did in American business and it is about time the Congress put a halt to this rape of the American taxpayer and American business. The story from Barron's of October 8, 1979 follows:

SOVIET FERTILIZER—AMMONIA FROM RUSSIA DISRUPTS U.S. MARKET, TRADE PANEL RULES

(By Shirley Hobbs Scheibla)

WASHINGTON.—In a 3-2 decision last week, the U.S. International Trade Commission (ITC) ruled that imports of ammonia fertilizer from the Soviet Union are disrupting American markets. The remedy voted by the majority was to impose import quotas for three years, beginning with 1 million short tons in 1980, 1.1 million in '81 and 1.3 million in '82.

Those quotas would cap imports at higher levels than last year and this year, but hold them below the levels that would otherwise have been expected.

The imports are from a Russian fertilizer complex which has financing of $180 million at 6% from the U.S. Export-Import Bank (*Barron's* Oct. 1, 1979). The U.S. Maritime Administration is paying Occidental Petroleum a subsidy to cover half the $156.2

BEST DOCUMENT AVAILABLE

million cost of three vessels to carry the ammonia.

Thus, if affirmed by the President and Congress, the ITC decision will put the U.S. government in the position of discuraging imports which actually were encouraged by U.S. subsidies.

BIG PICTURE

According to Sen. Henry L. Bellmon (R. Okla.) "the message in the case is that those in Eximbank and the executive branch need to look at the big picture and take a larger view than in the past." Bellmon added that Congress is sufficiently apprehensive about the high level of crude oil imports to be wary of becoming dependent on Russia for fertilizer. The senator wrote President Carter urging him to approve the commission's decision.

Similarly, Senator Birch Bayh (D., Ind.) asked the President to "act positively" upon the relief recommended and called the ITC action "a display of foresight which should help to set off the development of yet another source of American dependence on foreign sources of raw materials."

On Oct. 11, the written opinions of the commissioners go to President Carter, who then has 60 days to consider them. If he ignores the majority decision, Congress then has 90 days to override the President.

While Long doesn't like the idea of quotas, he says they are the only answer in this case, since cost of production doesn't figure into the Russians' decision to export fertilizer from the subsidized plant.

Representative Clarence Long (D., Md.) chairman of the Foreign Operations Subcommittee of the House appropriations Committee, predicted that if Mr. Carter does so Congress will override him, providing the tension regarding the Russian brigade in Cuba continues.

FAIR TRADE

After the ITC meeting Commissioner Catherine Bedell disclosed that: "In my written opinion, I intend to treat why the damage will increase because the Russian imports are to go up." Commissioner Bedell says she sees no reason the U.S. shouldn't trade with Russia so long as the trade is fair. But she doesn't think that condition is met when Russia has a cut-rate loan from Eximbank, and Oxy has a subsidy from the Maritime Commission. The case is deemed a landmark one for the agency because it is its first major ruling involving a so-called buy-back arrangement. Really a form of barter, such arrangements involve selling one thing in return for another.

Chief factor in the damage to domestic producers is the increased cost of energy, which is two-thirds of the cost of making ammonia. Thus, the domestic industry will remain vulnerable to ammonia imports, under the circumstances, from those countries with low-cost natural gas.

During the first half of this year, 35 U.S. ammonia producers suffered a net loss of $4 million, compared with a profit before taxes of $316 million in 1976.

The figures were compiled from responses to ITC questionnaires. Meanwhile capital outlays of U.S. producers dropped from $440 million in 1976 to $17 million in the first half of this year.

"Have we reached the zenith of increasing capacity," asked Commissioner Bedell during the meeting. A staff investigator responded, "for the short term there will be no additions to capacity. For the long range, it will depend on U.S. prices for ammonia. Some representive producers have told me that they would need ammonia prices of $200 a ton to start a new plant." He predicted a 5 percent growth in U.S. consumption for this year through 1981. ●

THE NEW DEPARTMENT OF EDUCATION

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. PERKINS. Mr. Speaker, I would like to include in the RECORD today a very thought-provoking article written by Dr. Samuel Halperin, director, Institute for Educational Leadership, concerning the new Department of Education. Since the Department is about to be established, I would urge the Members and the public to review Dr. Halperin's fine analysis of its potentials and problems.

The article follows:

THE NEW DEPARTMENT OF EDUCATION: YEAR ONE (AND NOW, REALLY . . .)

(By Samuel Halperin)

215 to 201—a larger than expected, but obviously unenthusiastic, vote of the House of Representatives on September 27, 1979, and the bill to create a cabinet-level Department of Education passed its final hurdle on that long and tortuous road to enactment.

But laws are one thing and well-functioning programs and bureaucracies quite another. What lies ahead for the new Department of Education, particularly in its critical formative stage: high promise, bureaucratic disaster, more of the same?

Learning from the fiasco surrounding the pell-mell establishment of the Department of Energy, Congress provided that the Education Department could take up to six months from the date of the Secretary's confirmation by the Senate before actually coming into being. In the half-year interim, President Carter will name the new Secretary (according to White House aides, swiftly, and from an excellent array of highly qualified possibilities); Office of Management and Budget Director James McIntyre will unveil his D.Ed. transition implementation team; directives to the General Services Administration, Office of Personnel Management and F.B.I. will galvanize a search for office space,[2] telephones, payroll and other management systems, top Departmental personnel, and all the other resources, human and material, needed to implement a department larger than five other now seated in the Cabinet.

GREAT EXPECTATIONS

In the bitter struggle to create the Department, various proponents and opponents predicted every conceivable benefit and danger were the 13th cabinet-level department to be created. The basic fact, however, is that President Carter proposed a governmental reorganization measure which does not in itself, alter existing laws, programs or policies. Whatever the possible implications for future federal education policy, the immediate reality has to do mostly with bureaucratic structure and personnel. So, now that the President's proposal is law, what are the expectations that will guide the Executive Branch in setting up the Department and choosing its baker's dozen of top appointees?

Foremost among the goals of the Carter administration is effective management of the $14 billion plus of federal education programs entrusted to D.Ed. By this is meant that public funds must reach Congressionally-targeted objectives promptly and that they truly assist, not hamper, the operations of the myriad of educational institutions now receiving them. To do this, the Office of Education, the core of the new Department which is widely regarded (at least in official Washington) as "a bureaucratic mess," "an administrative cesspool," must be reshaped and rejuvenated. Over time, some 170-plus separate programs must be "streamlined, coordinated, consolidated." Redtape and excessive paperwork must be trimmed. A largely demoralized bureaucracy—about 7,500, not including the 10,000 in the Department of Defense's Overseas Dependent Schools—must be cut (see below) and simultaneously made more responsive to state and local educational authorities who complain of costly delays, impotent replies, and sheer non-helpfulness in meeting their urgent educational inquiries.

In short, with the full-time attention of a cadre of 75-100 mostly new appointees with proven managerial competence, the Carter White House hopes the tarnished image of Education in the Nation's Capital can be rehabilitated. (Removing the "E" from HEW, thus leaving the Department of Health and Human Services, is also touted as an important relief measure in helping Secretary Patricia Harris get control of the far-flung HHS domain, whose current bureaucratic malaise is no less debilitating than that afflicting the Education Division of HEW.)

Second, the Carter camp hopes that D.Ed. will provide a new type of leadership to restore confidence to the entire American educational community and the public at large. Carter advisors know that deeply imbedded traditions of diversity and autonomy make it highly unlikely that Washington can ever call most education shots, nor do they profess a desire to do so. Neither do they foresee the availability of significantly larger federal financial resources which could justify a larger federal role in education.

But vigorous action is needed nevertheless, they say, to help the American public grapple with a host of difficult issues (for example, declining test scores and enrollments, the viability of small colleges, the health of graduate education, the future of secondary schools, the school-work transition, and many others). A federal role of "asking tough questions" about education and stimulating the entire society, not merely the educational establishment, to think innovatively about the answers is roughly what is meant by this new style of federal leadership. In short, by conceptualizing and energizing a vigorous national reconsideration of the central role of education in society, the Administration hopes to see emerge a less parochial educational system, one which reaches out to construct new alliances with non-educational groups. Once again, in this vision, education will be seen as the indispensable investment of our entire society in future prosperity and national purposefulness.

PROBLEMS!-PROBLEMS!

As against these White House expectations, the Carter team recognizes that D.Ed. will face a number of formidable obstacles in its earliest days:

First among these is the uncertainty of the President's own tenure in office. The hope of attracting unusually capable leadership to full-time direction of D.Ed.'s affairs was one of the most compelling arguments for creation of the new Department. But, with D.Ed. tentatively scheduled to commence operations in May 1980 only weeks before the Democratic national nominating convention and six months before

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Director, Institute for Educational Leadership, The George Washington University, and former Deputy Assistant Secretary of HEW for Legislation.

Components of the new Department are now scattered over at least 20 buildings.

the November presidential elections—the White House worries whether truly exceptional talent will be willing to accept the challenge of D.Ed.—for a possibly brief term of public service.

To overcome this highly unsettling prospect, the Carter camp hopes to recruit an "inspirational" Secretary of Education to serve as an example to his/her talented, if possibly hesitant, subcabinet choices. (By the time this article appears in print, the announcement of the Secretary-designate should help *Change* readers assess how well the President's personnel strategy is likely to work in this regard.)

The current uncertainty surrounding the President's future and that of his would-be top appointees is compounded by the political near-necessity of using at least some of the 13 principal new officers in D.Ed. and 60-80 other supporting political appointments to woo groups which the President needs for renomination and re-election. While all of this is well-established in American political tradition, D.Ed. planners in OMB and the White House worry that too many compromises of quality in the key appointments will prevent the new Department from getting off to a fast and effective start. Wishing to see D.Ed. founded with a "critical mass" of unusually fine talent—an opportunity which rarely happens in government—their counsel to the President will not be novel: "Resist appointing second-raters. Why not the best?"

At the same time the White House fills some two score new staff and operational offices required for even the spartan implementation of a new cabinet-level department, it must begin immediately to reduce D.Ed.'s overall staff. As one condition of establishing the Department, the Congress required a net cut of 500 positions (on a base of approximately 7,500) by the end of 1981. This together with the necessity of establishing new central support services (e.g. computer records, payroll), of taking over many of the functions of the Offices of Civil Rights and Inspector General, all now included under HEW's personnel ceilings, combined with the enormous difficulty of eliminating unwanted employees protected by the Civil Service, mean that personnel matters will dominate much of D.Ed.'s initial agenda, to the possible detriment of larger issues.

Enforcement of civil rights in the field of education presently occupies 75 percent or more of the entire HEW Office of Civil Rights staff and demands much time from the HEW Secretary. With the old bifurcation between the U.S. Office of Education and the Office of Civil Rights abolished under D.Ed., the new Secretary will face exceedingly difficult managerial and political problems. It will, thus, be a constant struggle to keep his agenda clear for fresh thinking about educational issues beyond management and the "politics" of enforcing civil rights.

Nothing forces precision surer than the annual preparation of the Federal Budget. Here, too, the new team at D.Ed. will have to run even before it learns to walk. For the President has already decided that the new Department will have its own budget for Fiscal Year 1981, that is in the Budget presented to the Congress in January 1980. Thus five months before there is an actual D.Ed., and probably months before the full D.Ed. staff is in place, a new departmental budget must be ready for the Congress.

Moreover, the new D.Ed. budget will be considered by several Congressional committees organized along traditional jurisdictional lines, rather than by single appropriations subcommittee for the new Department. Thus, the Secretary and his principal aides will have to make substantial investments of time on Capitol Hill defending budgets for undergraduate science education, the former Department of Agriculture Graduate School, etc., in addition to the Congressional subcommittees on Labor and HEW Appropriations.

With a projected federal deficit exceeding $30 billion, double digit inflation, deepening recession, increasing expenditures for defense, and rising unemployment, the new Secretary of Education will be hardpressed to please those constituents who expect the new Department to increase federal spending for education. Yet, the expectation in the federal city is that President Carter, Vice President Mondale and OMB Director McIntyre, having made enormous personal and political investments to bring D.Ed. into being, will also find some way to pull a rabbit, even a lean one, out of their January 1980 fiscal hat. Here, too, readers of *Change* will have an early indication of presidential intentions and possible favored treatment for education in January, months before D.Ed. actually hangs out its shingle for business.

Other knotty problems must also be addressed early in D.Ed.'s life:

The establishment of a new Assistant Secretaryship for Educational Research and Improvements. What will be the fate of the much-buffeted National Institute of Education which is likely to be organizationally allied to such hitherto separate agencies as the Fund for the Improvement of Post-secondary Education, National Center for Educational Statistics, Institute for Museum Services, and possibly a number of discretionary programs only recently gathered together "on paper" in USOE's new Bureau of School Improvement?

The merger of previously separate, mostly non-cooperating and highly demanding programs (education of the handicapped and vocational rehabilitation) under a new Assistant Secretaryship for Special Education and Rehabilitative Services.

The absorption, over a three-year period, of the worldwide network of Department of Defense Overseas Dependents' Schools. One of the largest school districts in enrollment and by far the largest in area, D.Ed. will have to learn quickly how to actually operate school programs, rather than merely provide money for others to do so.

And, scarcely the least important, the accumulated burden of cynicism, suspicion and distrust, fanned by much of the national media, surrounding the creation of D.Ed. In this environment, the new Department may enjoy only the briefest of "honeymoons" with the Congress and key interest groups as its every act, each new appointee or change in regulation is scrutinized under Mt. Palomar Observatory-sized lenses. The political Right will be watching for telltale signs of unwarranted federal control of education, which they believe are certain to appear; the political Left will be on alert to any indication of a weakening in the federal government's commitment to civil rights and affirmative action.

To keep D.Ed. from being tested too early and deflected into purely defensive postures, it will be essential for D.Ed.'s new leadership to reach out early and to reconstruct the former coalition of interests which was sundered in the legislative acrimony accompanying the creation of D.Ed. Without the future support of the American Federation of Teachers and the AFL-CIO, the various constituents of the Leadership Conference on Civil Rights, Catholic and other non-public-school interests, senior citizens, feminists, the disabled and a host of other organized interests which either opposed or were monumentally indifferent toward its creation, the new Department will face a most uncertain future. And if D.Ed. falters or fails, it is difficult to see how anyone—ardent proponents or "I-told-you-so's"—will be better off in a climate growing distinctly hostile to social programs generally and education in particular.●

FIRE PREVENTION WEEK

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. RINALDO. Mr. Speaker, National Fire Prevention Week is a sobering reminder of our commitment to guard against needless fatalities and unnecessary suffering. But it is not a time to pause and reflect; it is a time for action. My colleagues and I meet that commitment by introducing the Smoke Detector Demonstration Act.

More than 12,000 lives are lost to fires in the United States each year; survivors experience untold suffering. Nearly two-thirds of these fatalities occur in the home. Children, the elderly, and the poor are most vulnerable to the ravages of fire. No one is safe from arson. Newspaper headlines and on-the-spot TV coverage remind us of this grisly truth in all of our communities. It also speaks a sad commentary on the casual attitude that we have taken toward alleviating the problem, especially when much of the death and suffering is preventable. Plenty of talk and newsprint evidence the problem, but corresponding action is sorely lacking.

Even more surprising is the fact that the United States has the worst record of fire related fatalities of advanced Western countries. On a per capita basis, Canada has half the number of fatalities, while Japan and France have a 4th and a 10th respectively. Both in absolute figures and on a percentage basis, the United States is at the bottom of the heap.

Smoke detectors are our best bet in the scheme of fire detection and prevention. They are so inexpensive and easy to install that many communities have required them through building codes and other local ordinances. In this connection, however, the development of the law has been piecemeal, patchwork, and fragmented. Older buildings, the ones that usually need protection, are grandfathered out of the laws' requirements. Even with the life-saving potential of smoke detectors, it is surprising that there are lingering doubts about their usefulness. Although questions about the radiation effect of some detectors has unnecessarily hindered the acceptance of smoke detection devices, it should be recognized that the Consumer Product Safety Commission has dismissed the radiation impact as negligible.

The Smoke Detector Demonstration Act is not just another program where the Feds move in and push the local people aside. Rather, it is designed to put the demonstration project in the hands of the local fire prevention agency. In smaller communities the volunteer fire department will run the program, while in the larger towns, it will be handled by an established fire department. But regardless of the size of the city, one thing is certain, the local citizens will handle the project. Some of the other important features of the bill are:

Administered by the U.S. Fire Administration.

Communities selected shall be throughout the United States, including towns in the so-called "burn-belt" part of the country.

Institutions serving children, the elderly and the poor must be included.

Use presently available smoke detector technology.

Report to Congress in 3 years.

Cost effectiveness will be guaranteed inasmuch as the program calls for actual placement in homes and public buildings and not just laboratory testing. These are the structures that would not otherwise have detectors because of the absence of local law or because they are grandfathered out of the law.●

PRODUCT LIABILITY RISK RETENTION ACT OF 1979

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. BROYHILL. Mr. Speaker, I am cosponsoring the Product Liability Risk Retention Act of 1979 which Congressman RICHARDSON PREYER is introducing today. The Subcommittee on Consumer Protection and Finance is presently holding hearings on the product liability problem. We began these hearings by examining the nature and causes of the product liability problem. The testimony received to date confirms the existence of a serious problem. Many American businesses have found it increasingly difficult to buy product liability insurance. Some firms have been unable to obtain product liability insurance at any cost; some of these firms indicate that they have never had a product liability claim. We intend to proceed to receive testimony on the proposed legislative remedies at the end of this month. I believe that our hearing record should include a thorough consideration of the proposed Risk Retention Act. As the interagency task force on product liability found, the causes of the problem are generally considered to be several: Uncertainties in the tort litigation system, liability insurance ratemaking procedures, and unsafe manufacturing practices. Because of the complexity of the problem, I realize that any one bill or any single approach will not necessarily be a total solution. However, I believe it is important to discuss and review, within the context of these hearings, the advantages and disadvantages of the Risk Retention Act. It represents another approach to the problem of providing affordable product liability insurance for American business.●

WE SHOULD BE SUBSIDIZING COAL INSTEAD OF OIL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. HUGHES. Mr. Speaker, I would like to call to your attention an enlightening editorial which recently appeared in the Philadelphia Inquirer. Its author, David R. Kotok, has proposed a "common sense" solution to our energy crisis, which I feel is worthy of note.

Mr. Kotok, a noted economist and investment advisor, and a prominent citizen of our State of New Jersey, believes that the best way to reduce our dependence on imported oil is to replace the foreign tax credit, which perpetuates our reliance on foreign oil, with a series of subsidies for domestic coal production and utilization. I believe that he has made some excellent points.

The editorial follows:

WE SHOULD BE SUBSIDIZING COAL INSTEAD OF OIL

(By David R. Kotok)

Suppose we had an energy plan that lessened our dependence on foreign oil, developed our domestic coal supply, didn't raid the U.S. Treasury, kept the air clean, improved our rail system, closed tax "loopholes," didn't create new government agencies and was understood by the public.

That plan is needed to restore confidence in government. It is demanded by the financial markets as a prerequisite to a strong dollar. It is necessary if our foreign policy is to be freed from OPEC blackmail.

That plan is available.

The first element of the plan is removal of incentives in favor of foreign oil. Presently, U.S. oil companies (and other multinationals) avoid U.S. income taxes two ways: They use taxes paid to foreign governments as a credit against U.S. tax liability on foreign operations; and they defer U.S. tax indefinitely by keeping earnings abroad.

Rep. Charles A. Vanik (D., Ohio) sponsored a bill (HR 4128) which would repeal the foreign tax credit and institute current taxation of unrepatriated earnings. With congressional review under way, the vested interests on both sides are very active.

Proponents of the Federal Tax Credit cite the following: It prevents double taxation; it respects the rights of sovereign governments to impose income taxes; it is not a royalty, especially in countries where the government owns the oil; it encourages exploration in non-OPEC areas; its tradition dates back 60 years; it is needed to keep U.S. companies competitive with foreign HQ'd companies, hence, repeal would make the U.S. dependent "not merely upon foreign supplies but on foreign suppliers."

The Vanik Bill supporters have strong arguments: Foreign taxes are really disguised royalties; levies by foreign governments should be treated as a cost of doing business just like taxes to state and local governments; existence of the foreign tax credit encourages foreign governments to tax U.S. companies at rates higher than in the U.S.; the patriotic tendencies of the oil companies were demonstrated during the 1973 embargo, the foreign tax credit is really a form of foreign aid or foreign revenue-sharing; without the credit oil companies will seek opportunities in countries with lower tax rates and greater respect for property rights, thus encouraging non-OPEC exploration and production.

The key point, missed by both sides, is that the foreign tax credit is an economic subsidy. The principle in economics is clear: supplies of subsidized goods expand at the expense of those constrained. It is the very existence of the subsidy which has encouraged foreign oil at the expense of domestic, and oil generally instead of alternates.

Deferral is another economic subsidy which encourages the transfer of U.S. capital and technological capability to foreign operations while simultaneously postponing the return on that investment. This principle made sense in the "Marshall Plan" days following World War II. We must question its wisdom in the days of a weaker dollar and dependence on foreign energy sources.

The second element of the plan is decontrol of oil and gas. The phaseout of controls is under way; however, the pro-control constituency remains determined to reinstitute this process.

Supporters of controls persist in spite of substantial evidence that pricing of refined products in the U.S. is really set by the world markets. They ignore evidence that the controls of the last few years have inhibited domestic exploration and production of oil and gas.

Controls are the domestic constraint which must be removed if the elimination of foreign oil subsidy will completely succeed.

The third element of the plan is plain old "common sense." If America's most abundant energy source is coal then it logically follows that economic subsidy should be directed that way. The proposed subsidy entails a money credit from the federal government on a per-ton basis allocated among four components.

The first, the extracting companies, would receive an amount for each ton mined, provided the funds were used in the expansion and improvement of the mines or pits. Policing by the IRS with definitive provisions similar to those for the investment tax credit enable implementation without additional federal bureaucracy.

The second, a per-ton money component for labor, provides the necessary funding for health and safety issues. Mine-related death payments and disability benefits can fall under existing authority like the Employee Retirement Income Security Act of the Pension Benefit Guarantee Corporation. Existing union welfare funds could be used under proper supervision.

Component three would provide a money payment per-ton to the domestic consumers, provided it was used for environmental purposes. Utilities and heavy industry would receive incentive assistance needed for scrubbers and other equipment. The Environmental Protection Agency has already established air quality standards which could be implemented as coal consumption increased.

The fourth money component would be a payment per-ton to upgrade the nation's rail system. These funds would be dedicated to expanding coal carrying capability and improving the track system. The benefits of an upgraded rail system extend far beyond the coal industry.

Stop the subsidy of foreign oil, remove domestic constraints, promote coal, don't raid the Treasury—these characteristics suggest a plan without the bureaucratic complexities of the "Windfall Profits Tax" and without the billions for synthetic fuel.

Will the oil interests allow the Foreign

Tax Credit "sacred cow" to be exchanged for domestic coal? Can the congressional process create a balanced program? Would the "Syn-Fuel" supporters relent? Could we apply credits to coal shipped abroad without tariff treaty violations? Can "sunset legislation" put a time limit on this proposal so that the solution to today's problem won't become the monster of the year 2000?

Affirmative answers to these questions lead to domestic coal substituting for foreign oil. That would be common sense.●

HARD OF HEARING AMERICANS FACE SPECIAL PROBLEMS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. SIMON. Mr. Speaker, Jo Oberstar, the wife of Congressman JAMES OBERSTAR, called my attention to an excellent article which appeared in a magazine called Listening, a magazine evidently designed for the deaf and hard of hearing Roman Catholics.

The author of the article, Howard E. Stone, was with the Central Intelligence Agency for 25 years.

Our Subcommittee on Select Education has jurisdiction over the education programs for the handicapped and some other programs for the handicapped.

I hope we can have Howard Stone as a witness sometime in the future.

In the meantime, the story he presents is one that ought to be given greater distribution. I hope my colleagues will read it.

WHAT ABOUT US, THE 4,000,000 HARD OF HEARING CATHOLICS?

(By Rocky Stone)

(Howard E. Stone writes from Bethesda, Maryland. He was with the Central Intelligence Agency for twenty-five years. He is the father of two sons and two daughters. His wife Alice Marie is a certified Catholic Chaplain in ministry at Walter Reed Hospital in Washington, D.C. "Rocky" received the Distinguished Intelligence Medal, CIA's highest award.)

There are nearly twenty million Americans who are hard of hearing. Their impairments range from slight to serious. Unlike the deaf, a tightly cohesive minority of two million who have largely solved their "identity problem," the hard of hearing have not banded together. They seem to prefer to remain in the background, fearful to admit their problems, sometimes too vain to use remedial aids, and unwilling to acknowledge the implications of their behavior.

I have been hard to hearing for most of my life. I know that the uncertainty of our situation creates anxiety which we are quick to deny. We are not deaf, yet many of us do not hear well enough to function effectively in a hearing world. In our efforts to hear we often believe we have heard when we have not. Acknowledging this truth is bitter. We are neither here nor there.

At 54, I have been hard of hearing for 35 years. My hearing loss is profound and my tinnitus (ringing in the ears) is severe. When it began, I also suffered a temporary loss of articulation. I know the profound emotional impact that loss of hearing has on a person. I have experienced the heartache caused by what seems to be "social ineptitude," the scorn of those who interpret confusion in the hearing-impaired as stupidity, the ugly facial expressions which often accompany raised voices, the frustration of not being able to participate, the longing to hear the sounds of nature, children, drama, music, the burning desire to sing, the loneliness of withdrawal, and the sorrow when even those closest to us do not seem to understand.

Those of us with hearing impairments often carry a burden of secret anger at our treatment by our brothers and sisters, yet we cannot blame them so long as we mask our hurt. We should, instead, educate them (and ourselves) about the nature, complications, and remedies of our problems. In the doing, we may have to reveal the anguish in our hearts, but we should also reveal our dignity, our unquenchable desire to participate as equals in the communities which we helped to build.

Often we are told that anything can be transformed from theory into practice if there is sufficient desire. How do we move from desire to achievement? In our society, it is necessary for those with a cause to form a constituency, to communicate from a broad and solid base, in order to influence those in power to action. Before we ask: "What is being done for the hard of hearing?" we should ask: "What are the hard of hearing doing for themselves?" We must begin by talking about our problem and by encouraging one another.

Let me continue with my own experience. After a brief period of wallowing in self-pity and asking: "Why me?" I received a gift of courage to get on with my life and to recognize my disability in a positive light. I taught myself to read lips and I began really to listen. (It was probably the first time in my life that I did so—and then only because I had to.) My power of concentration improved markedly. Gradually, I became alert to little things, an entire range of non-verbal communications—body movements, facial and eye expressions—all of which helped me to "hear." Good communication, whether one is hearing-impaired or not, requires considerable effort. Perhaps that is why we have so little of it.

Shakespeare's observation is a timeless verity. In Henry IV, he says: "It is the disease of not listening, the malady of not marking (paying attention) that troubles me." Many people still do not listen. I was forced to do so, and in the process I have profited greatly.

I attended the University of Southern California and majored in international relations. The first two years, I did not have a hearing aid; the second two years, I was still getting used to it. I rarely took notes. I graduated *cum laude*. In 1948, I decided that the Middle East would be an important area in the future of U.S. foreign policy. I arranged for an Arab friend to teach me Arabic in return for my help to him on his master's thesis. In 1949, I applied for one of three fellowships offered by the School of Advanced International Studies (SAIS) in Washington, D.C. *Time* magazine later reported that over 700 people applied to SAIS that year. About seventy, including the three "fellows," were admitted—I was one of the three "fellows." My language was Arabic! No one ever told me that a person with my hearing impairment couldn't learn Arabic. In fact, of the letters written in support of my application, only one even mentioned my hearing problem. Later, when I entered the Central Intelligence Agency, I was switched to Farsi (Persian), and I learned to use that language well enough to handle agents who could speak no English.

I rose to senior officer status in the Central Intelligence Agency—not as an analyst dealing with problems on paper, but in operations where the emphasis is on people and effective communications. Only rarely did I experience adverse feedback because of my hearing impairment. I retired at 50 because I wanted to move into new areas of activity while I was still young enough to do so.

My disability has made me use my mental resources to the fullest, made me focus better, work harder. It gave me an edge in a highly competitive milieu, and I doubt that I would have achieved what I did had I not been hearing-impaired.

During my service in Vietnam, I made a number of trips to Washington to discuss different problems and programs. On one such visit, in 1967, I was describing to Dick Helms (then CIA Director) a program some of us thought had potential to bring about a political solution to the conflict. Helms interrupted me. "Wait a minute. I had lunch with McNamara yesterday and we were discussing your proposal. I'll call him." He reached the Secretary of Defense quickly. "Bob," he said, "Rocky's here and he has something I think you should hear. When can you see him?"

"Right away," McNamara replied.

Big Joe Smith, then deputy chief of the Far East Division, accompanied me. We were announced and McNamara came to the door to meet us. He greeted us cordially, then turned and strode briskly back to his desk. I took one look at the room and my heart sank. The office of the Secretary of Defense is enormous. In the center was McNamara's very large desk. There was one chair behind it. All other furniture was located far across and beyond that huge desk. I simply cannot hear in such circumstances. I had no choice. When McNamara lowered himself into his chair and glanced up to commence our conversation, he was startled to find me less than two feet away from him—seated in the middle of his desk! But he said nothing. During our conversation of more than one hour, I had frequent opportunity to emphasize various points with body language and physical contact. It was a very good conversation! Before I returned to the Agency, McNamara had been in touch with Helms. A note from Des Fitzgerald (then deputy director for operations) was shown to me. McNamara offered to augment CIA's financial resources if needed; He offered anyone in the Defense department, "regardless of rank or position" (all I had to do was to name the person needed); and he praised our personnel for creativity, imagination, intelligence, etc. The next day Des Fitzgerald accompanied me to the White House. His first comment at that meeting was, "Yesterday McNamara gave Rocky the Pentagon—what are you going to give him?" I tell this story because I do not believe that I could have effectively communicated my message to McNamara had I been sitting so far away from him—even if I had had no hearing impairment. And it was my hearing impairment which gave me the edge.

All of us who are hard of hearing remain unique individuals whose human value is precious. No matter how difficult things seem at times, we must perceive this fundamental sequence: there is a God, and he has encouraged our human dimension through His Son. Gradually, people are becoming sensitive to people and, in turn, to the whole of creation and its source. We are going out of ourselves to serve others. In this lies our hope. When we turn inward, we see an outer world which we have created; when we turn to one another, we find new worlds within ourselves. Too many of us who are hearing-impaired turn inward.

Which way to turn is a choice which faces all people. For the hard of hearing there is an added dimension: to resist the temptation to turn inward is an added test of character. When we accept the challenge and overcome it, we become worthy—along with Helen Keller—of Edmund Stedman's words: "Not you, not you—'tis we who are deaf, and dumb, and blind."

What must we do to earn such an accolade? We can begin by admitting our hearing impairment. We can educate ourselves and those closest to us about our problem. We can seek competent medical and audiological diagnosis. We can determine whether we qualify for surgical correction. We can be fitted with a hearing aid, study lip reading, and, if necessary, sign language. In short, we can use whatever is available to augment our hearing or, if we cannot hear well enough, to use whatever will help us to understand and communicate. Before all else, we must overcome pride, vanity and prejudice. While we should be wary of those who might seek to take advantage of us, to exploit us, we should also realize that there are countless others who are ready to help us once we begin to help ourselves.

Perhaps none of you is as ignorant as I, but I was hard of hearing for 34 years before I even became aware of the word TINNITUS.[1] I thought everyone with a hearing problem had ringing in the ears. Not so! I didn't know that there was a sharp distinction between the deaf and the hard of hearing. I realize now that I exist in a twilight zone, unable to hear in the sunlit world of sound, yet not enveloped in a night of silence. I realize that the difference, the ambiguity, is my problem.

In my ignorance, I coped successfully by lip reading, the use of a hearing aid, and my wits. You can do as well or better. I was told 35 years ago that within two years medical science would be able to transplant nerves (even close to the brain) and that my hearing impairment would be corrected. But advancements in the field of hearing loss have lagged behind others. Although promises of a better life have not been kept in relieving hearing problems, some difficulties can be corrected by surgery. Technical progress has occurred in other areas.

Let me tell you about my experience with the audio loop.[2] At a recent conference I attended, one section of the conference room was looped. That is, an induction coil was run around several rows of chairs. It had its own amplifier and microphone. Those of us with hearing aids were told to turn on our telephone switches. When I did so, I heard better than I had for 35 years! Do you know what the implications of this are for me? Often, I have had thoughts of running for Congress, but I always vetoed them because, even if elected, I would not have been able to hear in the great halls of our capitol. Now, with an induction coil, the loop, I could hear there! Perhaps it is too late for me, but it may not be too late for others. I have trouble hearing in church. With two or three pews "looped," no one with a hearing aid should have much trouble participating fully. I don't attend movies, plays, operas, public meetings (if I can avoid them); I don't watch anything but sports on television.

Now all of these things are accessible to me, to all of us who use hearing aids equipped with a telephone switch, with the "loop." Some audiologists are not impressed, but I believe that is because commercial loops have not yet taken advantage of the low frequency residual hearing that many of us have and they generate too weak an electromagnetic field. Such deficiences can be overcome inexpensively. I believe that there is not a church, theater or public meeting place in the country that cannot afford a functionally effective loop. And I'm not alone.

In May 1978, the President's Committee on Employment of the Handicapped (PCEH) had a conference in Washington, D.C. At this conference, the hearing-impaired had a designated area looped in a section of the banquet hall approximately 150 feet from the speaker's podium. The hall contained approximately 1500 people, of whom about 25 were hearing-impaired individuals who listened on the loop. These impaired individuals were able to follow the proceedings much better than their hearing friends and professionals who were seated with them. Distance, poor acoustics, and background noise all contributed to the inability of the hearing individuals to follow comfortably the program material. Before the conference ended, some of the hearing individuals located in the vicinity of the loop had borrowed hearing aids so that they too could follow the proceedings via the loop.

Bill Paschell, founder of the Washington Area Group for the Hard of Hearing (WAG-HoH) believes his group could barely function without the Carron loop. Even the one-fourth of the membership who are either severely or profoundly bilaterally hearing-impaired can participate in the give and take of debate. Paschell feels there is little doubt that this type of audio loop has practical use in everyday employment situations. As a new and participating member of WAG-HoH, I agree with him.

It is very important to differentiate between the deaf and the hard of hearing, particularly those categorized as profoundly hearing impaired. The latter often test out as "deaf" in audiological testing, yet they may have enough residual hearing, or have been trained to use what residual hearing they have, so that they can communicate using powerful hearing aids. Some do well in "one on one" conversation, although most all have extreme difficulty hearing in group situations. While the needs of the deaf and the hard of hearing overlap slightly, their differences are more significant. When we lump the two groups together, we do a disservice to both. A pamphlet, "Beyond the Sound Barrier," put out by the Regional Rehabilitation Research Institute on Attitudinal, Legal and Leisure Barriers, indicated: "This booklet will deal primarily with attitudinal barriers facing deaf and hearing impaired individuals, and what you can do about them." In the "What you can do" section, of ten suggestions listed, six referred to the need for sign language and/or interpreters, and one referred to the TTY. Only two would have been of some help to the hard of hearing—captioned films and written summaries. There was no mention of audio loops, the need for telephones to be compatible with hearing aids, amplified telephones and other means of helping hard of hearing persons. Finally, there was a separate bibliography devoted entirely to material about "deaf citizens." There are some twenty million of us who are *not* deaf, but we don't hear too well.

Given our large numbers, there is no reason why the hearing-impaired cannot become a powerful lobbying force. We should foster medical research in the understanding and ultimate conquest of hearing impairment; we should develop awareness among ourselves as to what our range of possibilities is for improvement in our hearing; we should develop awareness among others of our unique problems; we should seek improvement in all devices which augment hearing; and we should seek certain standardization in hearing aid manufacture which will permit users of hearing aids to exploit other devices of augmentation such as the loop. To achieve such goals, we must organize on a large scale. We must reflect the determination of our constituents to improve the lot of the hard of hearing. By working together, I am convinced, we move from the shadows into the sunshine.●

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[1] According to the National Institutes of Health, more than 36 million Americans suffer from tinnitus.

[2] The loop is made of many heavy gauge wires and driven by a moderately powerful amplifier. Impedance between the two is closely matched. It has a strong, uniform magnetic field, a wide band-width, a mellow sound and an audio signal sufficiently strong to satisfy the majority of hearing aid users. The strong magnetic field is unaffected by its surroundings and, to date, the loop has shown no sign of masking. Additionally, severely impaired users can take advantage of increased amplification in their hearing aids which they cannot use in normal circumstances because of feedback problems resulting from their ear molds. It should be noted that this design "flies" directly in the face of the general philosophy about loop design held by many audiologists and teachers of the deaf, both here and abroad. But it works! And a 10-foot by 15-foot area can be looped for under $500. By looping a small section, instead of an entire area, you provide a service to to those who can use it and, at the same time, you do not deprive hearing individuals from using the space if it is not needed by the hearing impaired. This particular loop has been designed by Desmond Carron whose deaf daughter provides the motivation for him already to have helped hundreds of other deaf and hard of hearing persons see possibilities of a better life.

COUNTRY MUSIC ASSOCIATION—13TH ANNUAL AWARDS PRESENTATION

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● **Mr. BONER of Tennessee.** Mr. Speaker, on Monday, October 8, 1979, at the Grand Old Oprey House in Nashville, Tenn., I was privileged to join with hundreds of performers and other individuals to witness the Country Music Association's 13th Annual Awards Presentation sponsored by Kraft Foods, Inc. To receive a SMA award is to attain the highest degree of recognition accorded a country music performer or songwriter, for the CMA award is an honor indicative of a standard of excellence set forth by members of the country music industry itself. Voted upon by the entire membership of the Country Music Association, each of the CMA awards is given to that person or persons demonstrating outstanding achievement in country music by their own peers.

Mr. Speaker, I was privileged and honored to witness the talented performers that appeared on stage at the Grand Old Oprey House before a national CBS–TV audience. At this time I would like to commend those performers who received the Country Music Association awards. They are as follows: Instrumental Group of the Year, Charlie Daniels Band; Female Vocalist of the Year, Barbara Mandrell; Entertainer of the Year, Willie Nelson; Single of the Year, "The Devil Went Down to Georgia" by the Charlie Daniels Band on EPIC records; Instrumentalist of the Year, Charlie Daniels; CMA Hall of Fame, Hank Snow and Hubert Long (posthumous); Album of the Year, The Gambler by Kenny Rogers on EMI/US Records; Male Vocalist of the Year, Kenny Rogers; Vocal Duo of the Year, Dottie West and Kenny Rogers; Vocal Group of the Year, the Statler Brothers; and Song of the Year, "The Gambler" written by Don Schlitz and published by Writers Night Music.

In addition, Mr. Speaker, I would like to commend the officers of the Country Music Association, especially President Ralph Peer II, of the Peer Southern Organization, and the board of directors chaired by Tom Collins of Pi-Gem Music, Inc. I would also like to commend Joe Walker, executive director; Dick Frank, legal counsel; and Mike Milom, legal counsel.

Mr. Speaker, the citizens of Tennessee join with the Nation in honoring the Country Music Association's 13th Annual Award Winners.●

PUERTO RICANS IN CETA PROGRAM

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. GARCIA. Mr. Speaker, in the October 2, 1979, issue of the New York Times, the poor participation of Puerto Ricans in the CETA program was brought to the public's attention. As a group, Puerto Ricans should be participating to a greater extent in this Federal program, given our number in the population, the great degree of poverty which exists among us, and the discrimination which we suffer regarding education and employment opportunities.

The article follows:

PUERTO RICAN UNIT CHARGES UNDERCOUNT ON CETA FUNDS

(By David Vidal)

The National Puerto Rican Forum contends that New York City has lost money through a "serious undercount" of Hispanic people eligible for funds and services under new Federal rules for the administration of the Comprehensive Employment and Training Act.

Federal, state and city agencies, particularly the city's Department of Employment, which handles CETA contracts, are affected by the assertion, which followed a report recently issued by the forum, the oldest nonprofit Puerto Rican service organization on the mainland. The forum is a recipient of CETA funds specializing in job training and placement.

The report, which is under study by Federal and city officials, maintains that the percentage of Hispanic people eligible in the general pool in the city—placed at 29 percent in this year's statistics—should actually be put at 38 percent.

Saying that it could not obtain data from the city, the organization contends that only $30 million to $50 million was appropriated to the Hispanic community, but that 29 percent of CETA funds—an amount equal to $119.7 million in fiscal 1979—would be its share even at the lower figure.

There is little doubt that the shortfall is and has been significant," said Manuel A. Bustelo, the forum's executive director. "Now York City has lost Federal moneys and assistance each year that could have positively contributed to the advancement of poor and near-poor Puerto Ricans and other Hispanics." He added that the widespread use among statisticians of the ethnic term "Hispanic" also posed a problem.

"When you lump Puerto Ricans with Hispanics," he said, "you come out with a median family income that is misleading in the case of Puerto Ricans, Puerto Ricans, being the most economically disadvantaged, are therefore the most eligible for CETA programs."

Puerto Ricans are not only far below the nationwide average, but also far below other major Hispanic groups in key socioeconomic areas. When included in a Hispanic category, Mr. Bustelo argued, Puerto Ricans rank higher than blacks when in fact they are worse off.

Ronald T. Gault, the city's Commissioner of Employment, questioned some of the forum's charges.

"The central issue is: Can we identify and agree upon a mutually acceptable data base upon which we will make programming and funding decisions," he said. "There is no disagreement that there are certain elements of our CETA program that have to be strengthened in terms of our funding. But the forum's broad-brush stroke is not warranted for all CETA programs and is not valid when you consider the total picture."

RULES INTERPRETATION AT ISSUE

Critical to the dispute is the interpretation of the Federal rules embodied in the 1978 amendments to the Comprehensive Employment and Training Act, which went into effect last April. The rules require an "equitable" distribution of funds to "significant" segments of the population, but do not define what is equitable and specify only that the "best available data" be used.

City officials agree that the data are flawed, but disagree that "equitable" means "proportionate," as the Puerto Rican organization argues.

The dispute comes as the city is in the process of submitting its plans to the Federal Government for the estimated $380 million in CETA funds it has to administer in the 1980 fiscal year, which began Oct. 1 The amount is a reduction from $413 million in fiscal 1979.

Donald W. Menzi, executive director of the Manpower Planning Council, an appointed city advisory body on CETA policy and procedure, said: "There is a requirement that population groups be served equitably. Serving and allocation aren't interchangeable. The whole question is currently being revised." The Puerto Rican forum is a member of the Manpower Planning Council.

DISPUTE CENTERS ON DATA

Donald J. Kulick, the associate regional administrator of the United States Department of Labor, who is responsible for the Federal review of the city's CETA programs, said the dispute boiled down to the data.

"Is their data extrapolation more accurate than the data given by the city?" he asked. "We are studying that right now "

Stanley Brezenoff, head of the city's Human Resources Administration and former Commissioner of Employment, agreed, as did Mr. Gault, that the basic contention of an underserved Hispanic community was correct.

"Starting with that, it gets much more complicated," Mr. Brezenoff said.

Mr. Gault questioned the organization's procedures in arriving at its statistics. But he added that the state's Labor Department had recently supplied new data that he said he hoped would help resolve the issue.●

PUBLIC SERVICE AWARD FOR SENATOR CHARLES McC. MATHIAS, JR.

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mrs. HOLT. Mr. Speaker, I would like to take this opportunity to call attention to an honor recently accorded to one of my Maryland colleagues, Senator CHARLES McC. MATHIAS, JR.

Senator MATHIAS was recently selected by the American Academy of Pediatrics to receive that organization's 1979 Excellence in Public Service Award for distinguished service on behalf of children and child health.

Each year the academy recognizes an individual in public service who has endeavored to enhance the health and welfare of our Nation's children. The academy presents this award in the hope that it will serve as an impetus for additional efforts to improve the quality of life for children. Recipients are selected on the basis of their efforts on behalf of children, such as the sponsorship of child health care legislation, administration of programs or activities relating to children, or noteworthy efforts in promoting the aims and objectives of the academy in seeking quality health care for children.

I am pleased to have the opportunity to inform my colleagues of this award.●

HOME HEATING FUEL CRISIS PART IV[1]

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. GILMAN. Mr. Speaker, I would like once again to draw to the attention of my colleagues a significant issue that has a bearing on virtually every home in this country; the home heating fuel crisis.

This week's unanticipated 4-inch snowfall in around our Nation's Capitol, was the earliest snowfall in a century and may be indicative of a severe winter yet to come. I am troubled by such a prospect in view of the home heating fuel crisis that our Nation is confronted with.

With the winter months almost upon us, the need for positive action to alleviate the home heating oil situation has become more than urgent. In some instances human life may already be in jeopardy. Should temperatures remain moderate, it may be that home heating fuel supplies will be moved to the secondary and tertiary level before severe cold and snow makes the transportation of large amounts of supply impossible. If refiners are encouraged to begin shipments to oil jobbers and retail outlets immediately, there may be adequate fuel on hand to avoid a large-scale disaster. Yet even this does not appear to be the case. If DOE remains adamant about retaining heating oil stocks in primary storage, we will be well on the way toward a disaster. I say disaster because there are various shades to this problem and all of them are compounded by the DOE's refusal to recognize them as a matter of life and death and acting with the necessary expedience to circumvent them. Having recently completed a study of the independent home heating fuel dealers in my district, I must report that the situation looks quite grim. In order to share the concerns of our region with my colleagues, at this point in the RECORD, I am inserting, in full, one of the responses I have received from our independent fuel oil dealers.

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[1] This is the fourth part in a series of reports on the home heating fuel crisis, reports Nos. 1, 2, and 3, appearing in the RECORD on September 17, (p. 24942), 9/21 (p. 25779) and 9/29 (p. 26956), respectively.

ABBOTT & MILLS, INC.,
Newburgh, N.Y., September 19, 1979.

Congressman BENJAMIN GILMAN,
2454 Rayburn Building,
Washington, D.C.

DEAR MR. GILMAN: Abbott & Mills is an independent fuel oil dealer operating in the greater Newburgh area which services approximately 4,000 home heating oil accounts. Our three suppliers, Exxon, Mobil and Hess have tentatively agreed to supply us with about 84% of our projected needs. Below are listed pertinent figures to illustrate our projected shortage for the coming Heating Season that are available by contract from our major suppliers.

FUEL ALLOCATIONS

Date	Exxon	Mobil	Hess	Total gallons available	Projected need in gallons, 8-yr average	Shortage
September 1979	116, 200	87, 000	22, 000	225, 200	230, 000	4, 800
October 1979	147, 200	43, 000	43, 000	233, 200	356, 000	122, 800
November 1979	198, 700	36, 000	70, 000	304, 700	500, 000	195, 300
December 1979	335, 800	280, 000	109, 000	724, 800	810, 000	85, 200
January 1980	381, 500	276, 000	107, 000	764, 500	950, 000	185, 500
February 1980	358, 600	210, 000	117, 000	685, 600	838, 000	152, 400
March 1980	290, 200	151, 000	84, 000	525, 200	647, 000	121, 800
April 1980	112, 400	150, 000	39, 000	301, 400	410, 000	108, 600
Total	1, 940, 600	1, 233, 000	591, 000	3, 764, 600	4, 764, 000	976, 400

In the past, to supplement our short supply we purchased the below listed gallonages from the following companies:

Gasoline Marketers of America, Inc., 2 Sylvan Way, Parsippany, N.J. 07054:

January 1978	14, 462
February 1978	66, 628
March 1978	94, 145
April 1978	105, 883
May 1978	37, 107
June 1978	5, 503
August 1978	2, 008
November 1978	105, 381
Total	431, 100

Supreme Petroleum Co., 45 Route 206 South, Somerville, N.J. 08876:

August 1978	10, 156
September 1978	9, 527
October 1978	19, 055
February 1979	42, 210
March 1979	2, 000
Total	72, 792

A. R. Newcombe, Inc., P.O. Box 1488, Kingston, N.Y. 12401:

February 1979	31, 204
April 1979	32, 735
Total	63, 939

Harry Fapazian, 12 Church Street, Cornwall, N.Y. 12518:

January 1979	10, 500
March 1979	8, 180
Total	18, 680

Antonelli's Oil Service, 170A Windsor Highway, Newburgh, N.Y. 12550:

April 1979	25, 000
Total	25, 000

B & C Oil Company, Depot Street, Pine Bush, N.Y. 12566:

April 1979	15, 000
Total	15, 000

Sickler, 20 George Street, Walden, N.Y. 12586:

March 1979	16, 015
Total	16, 015

N.Y. State Set Aside:

April 1979	25, 000
Total	25, 000

The above gallonage purchased from suppliers other than Exxon, Mobil and Hess plus State Set Aside totaling 667,500 is not available to us during the 1979–1980 Heating Season. During the months February 1979 through August 1979 we have not had sufficient supply to fill our customers' tanks. During the latter part of each of these months we have had to deliver small drops, (100 gallons each), to ensure an adequate supply for all customers. At this time we estimate that our total customer storage is 300,000 to 400,000 gallons less full than normal for this time of year. This constitutes a total shortage of 900,000 to 1,000,000 through April 1980.

We have applied to N.Y. Set State Aside for 40,000 gallons for August 1979 and have received a directive for 7,000 gallons to be supplied by Exxon. Obviously this is not the solution to the problems facing us the coming winter.

We feel that the stockpiling of heating oil by the major oil companies to show adequate supplies for the coming season is painting a false picture for the public and government officials. As stated before most of our customers' tanks are nearer empty than full because the major oil companies will not release enough product for us to fill those tanks to a normal level for this time of year. Ultimately this holding back of heating oil costs the consumer a great deal, both because of the rapid wholesale price increase and the increased delivery cost of short deliveries.

We strongly urge that the major oil companies be required to release adequate supplies of heating oil now. We feel this will slow down the rapid price increases and ensure the equitable distribution of supplies available among all end-users of heating oil.

Sincerely,

JAMES N. MILLS.

It should be obvious from this constituent letter that things are not running as smoothly as either the DOE or the major oil companies would like to have us believe. In fact, the majority of the responses I have received indicate that the independent dealer has had to apply for State set-aside fuel and invariably received less than 50 percent of his request. The consensus shows that the general shortfall of home heating fuel is around 15 percent. Given this fact, coupled with the lack of fuel in the distribution pipelines around the Nation, I cannot understand the administration's contention that we will be able to adequately heat all our homes this winter.

There is an additional crucial element to be considered. Even if we are in the position to supply all of our homes with the necessary fuel to heat them, many will not be in a position to afford the cost. This must not be taken lightly. In fact, it may end up being responsible for fueling more inflation than fueling houses.

The price of home heating fuel has escalated by roughly 73 percent in the last year to an average of 88 cents a gallon, and there is every indication to believe that it will continue to climb throughout the heating season. The price increases in the last few months have dwarfed anything seen before. I am particularly concerned because it has become glaringly obvious that the burden of these higher energy costs will once again fall heaviest on the low-income households, the poor and the elderly.

In 1978, the average low-income family spent approximately 33 percent of its income on direct energy costs whereas the average median income household spent about 9.6 percent of its income on direct energy costs. It does not take much figuring to conclude that many households will be spending 40 percent and upwards of their income this winter on home heating fuel.

This burden is particularly harsh for New Yorkers who are dependent upon oil for 66 percent of their energy needs. It is estimated that each penny of price increase, which is roughly a penny raise a week, will cost New Yorkers an aggregate of $37 million.

Insofar as any type of relief is concerned, we see very little of it coming from the White House. President Carter has whittled down the funds for immediate relief to the elderly and fixed-income groups to a mere 1.2 billion. The rest, he contends, will come from the proposed windfall profits tax. Unfortunately, the President's windfall profits tax has not fared well in the Senate and there is no clear idea of what the final result will be. In view of this, it appears considerably wiser to look toward some of the legislation pending in Congress, which allocates between 3.5 and 5 billion to help ease the home fuel burden either through tax credits or cash payments. However, President Carter did announce, this week, that he had instructed Energy Secretary Charles Duncan to work with the major oil refiners "to insure proper distribution as a first priority." Carter also stressed the fact that he would pressure oil suppliers to maintain heating oil and diesel production at high levels to assure continued flow of adequate supplies throughout this winter, as well as increasing allocations to marketers to accelerate delivery to wholesalers and retailers before the weather makes it a physical impossibility.

While I applaud the President for having taken these crucial steps, nevertheless, I am still concerned about the implementation of these plans and I regret the administration reluctance to reimpose price controls on these products. To do so would aid greatly in helping alleviate the burden of the elderly and those on fixed income who otherwise are destined to face severe financial problems this winter. We should look toward a number of other courses of action that would help alleviate the home heating situation:

First. We should expand our refining capacity to the point where it can handle the burden of transition from gas to home heating fuel.

Second. We should take immediate steps to insure that there is a constant flow of oil in the distribution pipelines and storage tanks of the independent dealers and their customers.

Third. We should provide additional tax credits for the further insulation of homes and public buildings.

Mr. Speaker, I urge my colleagues to continue to take a closer look at the situation in their own districts and what this problem is doing to our country as a whole. Let us act expeditiously and with forethought in finding not only solutions to the immediate problems but to the long-range solutions for resolving our Nation's energy problems.●

ISADORE FAMILIAN

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. CORMAN. Mr. Speaker, the University of Judaism in Los Angeles will confer the degree of doctor of humane letters, honoris causa, upon Isadore Familian at a special academic convocation on Sunday, November 4, at Sinai Temple in Los Angeles.

The degree to be presented to this outstanding community leader is particularly notable because it represents the first time in more than two decades that such an academic honor has been received by a lay leader at this fine institution.

Isadore Familian, whose name is borne by the Sunny and Isadore Familian campus of the University of Judaism, has been associated with the university almost since its inception more than 30 years ago. He is chairman of the Founders of the University of Judaism, a member of the board of directors, and former chairman of the Greater University of Judaism Committee. He also has served as chairman of the Patrons Society.

In addition to his dedication to the university, Mr. Familian lends his time and energy to a variety of other educational, medical, and cultural institutions. He and his wife, Sunny, worked as a team to support programs of the City of Hope Medical Center, Los Angeles Music Center, and Adat Ari El, among others.

Isadore Familian gained his desire to accept responsibility for the welfare of his fellow man from his distinguished father, David Familian, who set the imprint of communal devotion and religious concern for the family to follow. And follow the family did—his children, Marvin and Sondra Smalley, and Gary and Liz Familian, have maintained their parents' interest in working with the community and in taking leadership positions within it. Another generation of grandchildren soon will accept these responsibilities.

During the special academic convocation, the Distinguished Service Medal of the University of Judaism will be presented to Dr. Abram L. Sachar, chancellor of Brandeis University. The principal speaker will be Dr. Gerson D. Cohen, chancellor of the Jewish Theological Seminary of America and of the University of Judaism.●

OIL EXCHANGE WOULD MAKE SENSE, SO—

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. DANNEMEYER. Mr. Speaker, I would like to bring to the attention of my fellow Members an editorial found in the September 27, Los Angeles Times discussing the House consideration of my amendment to permit the exchange of Alaskan North Slope crude oil. This editorial clearly and concisely lays out the arguments surrounding the issue and effectively counters the greatest point raised against approval of the amendment.

It was repeated during the discussion on the amendment that the public would not accept or understand the export of Alaskan oil at this time. It was argued that the issue was too complex and would be psychologically bad for the Nation. This great newspaper, the Los Angeles Times, has concisely explained the issue in a small space in a manner that can be understood by the electorate. I share in the faith that the Times has in the ability of the voters to inform themselves and make intelligent decisions in the polling booth. I submit this editorial in the hope that it will serve as an example of clear logical analytical reporting that can permit the voter to do so.

OIL EXCHANGE WOULD MAKE SENSE, SO—

Japan buys oil in Mexico and sends it on long and expensive tanker journeys to the home islands, and the United States produces oil in Alaska and moves much of it to market on a roundabout and costly trip through the Panama Canal to Gulf Coast ports. Both countries could save money without losing a barrel of oil by a simple swap arrangement. What Japan buys in Mexico could be moved to the United States in exchange for oil from northern Alaska. It would be a sensible and mutually beneficial trade.

Why, then, has there been and is there about to be renewed a law against it?

The reasons are varied, ranging from the unshakable conviction of some in Congress that what's American ought to remain American, to the not overly realistic hope of many Midwestern politicians that someday a pipeline over a route yet to be determined will deposit Alaskan crude at their very doorsteps. The consequences of these attitudes are that less oil is being produced in Alaska than could be, many consumers are paying more for that oil because of high transportation costs than is really necessary, and the government is losing potential tax revenues.

Neither in refining capacity nor in regional demand can the West Coast handle Alaska's total oil output. The plan to pipe that excess oil from Long Beach to Texas for distribution to Midwestern markets has been abandoned. So the Panama Canal tanker route remains the only option for getting the oil to where it is needed. President Carter wanted Congress to expand the options by letting die a law banning Alaskan oil exports. The House this week, on a 339–61 vote, instead chose to extend the law for four years. Perhaps—we have heard this condescending argument made before—there was concern that constitutents wouldn't understand a vote to export American oil in a time of shortage. If so, that says more about the ability of Congress to explain than it does about the capacity of the public to comprehend.

It would not tax the ingenuity of policymakers to work a deal with Japan that would fully protect the United States against any loss of oil under a swap arrangement. If, for example, something happened to interrupt Japan's purchases of Mexican oil, and that oil could no longer go to the United States, then the swap arrangement could be immediately suspended and the Alaskan output destined for Japan could once more begin its long tanker voyage to American markets. In a worst-case situation, in other words, the status quo would simply be restored. Congress, unfortunately, seems determined to keep the status quo as it is—to no public or national benefit that we can see, whether measured by energy costs or by added oil production.●

HEARING THE POPE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. MAZZOLI. Mr. Speaker, millions of words and thousands of inches of newspaper space have been devoted to the analysis of the impact of the recent visit to the United States of Pope John Paul II.

Each of these analytic pieces is worth our reading and contemplating. However, two items struck me as being especially pertinent and worthy of being brought to the attention of my colleagues in the House of Representatives.

One is a column written by James Reston which appeared in the New York Times on October 5, 1979. Another is an editorial from the Washington Post which appeared on October 7, 1979.

I am pleased to have been the author of House Resolution 412, by which the House of Representatives officially greeted Pope John Paul II to the United States.

The Pope is an influential world figure and a notable world religious leader. His words are important for every American regardless of religious affiliation.

I am sure that we will see, in the future, the fruitful effects of this man's vision, courage, and leadership.

The articles follow:

HEARING THE POPE

To notice, as many rightly have, that Americans are paying more attention to the pope than they are to his rigorous message is not quite to complete the analysis. Yes, it it true that those exhilarated crowds of worshippers and watchers are probably not on the verge of transforming their values and habits totally, or even partially. We are not about to witness a mass renunciation in word and deed of that insidious materialism that narrows the vision and deforms the social sympathies of so many among us—all perhaps—so much of the time. But John Paul II did not come here to work magic or effect a movie-type miracle or create, at a single stroke, the Kingdom of Heaven on earth. It is enough that he has been tireless in his stress on the need to combat social injustice and to share our luck and riches with others, and that millions heard him. It is not as reckless to conclude that nothing and no one will be different as a result, as it would be to conclude that Americans are about to be completely transformed?

The secular stake in John Paul's journey is clear. Social, political and economic values have been repeatedly challenged by him. In a sense he is the Third World's best friend, and—without any qualification—he is surely its best spokesman. That is not just because the competition is so thin. Rather, it is because this pope conveys so much certainty and conviction and such unwillingness to be deflected on the subject of world wealth and world poverty, personal luxury and personal suffering.

This preoccupation, in a way, makes more credible, not less, the pope's simultaneous refusal to yield on questions of birth control, which have such a staggering impact on the very societies and lives he is trying to better. For non-Catholics or Catholics who resist the pope on this, a certain respect is still forthcoming. No one could fault him for indifference to the consequences of his belief or mental density as to what those consequences are. The depth of his Christian conviction concerning contraception may be measured precisely in the fact that he cannot and will not yield, even though the condition of the world's wretched poor is his prime and all-consuming social concern.

Those of us who respectfully and passionately regret his stand on this question nonetheless probably come away from our televised week-long encounter with the pope with a heightened appreciation of the religious and secular values he embodies. His orthodoxy on matters affecting the church itself—the rules governing the clergy, forms of observance and so forth—is not a public issue for others to decide. But watching the papal progress through America, people outside the church as well as those within it surely sensed the authenticity and benevolence of this man's Christian belief and his determination that the Catholic Church should lead in the social redemption of the poor and exploited in an unjust world.

True, Americans did not rise up as one and renounce their earthly goods or their cultivation of some of the most ancient and least ingratiating of vices—like gluttony and greed. And, if the past several thousand years of human history is any guide, probably they won't. But the people in this country are not clods; they are not dumb, and they are not morally dead. The pope spoke of universal values in a universal language, and he had the nation's attention. People heard him.

THINGS WE FORGET

(By James Reston)

WASHINGTON, October 4.—At the very least, Pope John Paul II has demonstrated something we have forgotten in America and even tend to deny: that a solitary individual with strong convictions and noble aspirations still touches the heart of a vast continental nation.

It is precisely the doubt on this point that has eroded the faith of so many, and led to such cynicism among the squabbling leaders of this political community.

What difference, people ask here, would it really make if Kennedy replaced Carter as the Democratic Party's nominee for the Presidency in 1980? Of if Reagan, Connally, Baker, Ford, or somebody else took over the White House for the Republicans?

The general view here is that all the candidates for the leadership of the Republic are trapped in a complicated system of 35 state primary elections, popularity polls, fundraising drives and television spectaculars. But so far, none of them have touched the spirit and longing of the people as the Pope has done in the last few days.

All the political leaders here have been playing games with the political problems of the day. President Carter has been pretending he was changing the "status quo" in Cuba with a series of meaningless military demonstrations out of Key West. His political opponents, specifically John Connally and Senator Baker, have been playing politics with his dilemma by saying that, confronted by the Soviet challenge, he was weak. He "blinked," they said, not defining what they would do if he turned a minor controversy in Cuba into a major world confrontation with the Soviet Union.

The Pope of Rome has been taking a wholly different view of the controversies between nations. He has been saying that the "security" of the Western world does not lie in its military arms alone, but in its moral authority, in its faith in itself, and in its compassion for the suffering and starving peoples of the world.

He has clearly not come to the Western Hemisphere—which he calls "the continent of hope"—to congratulate us on our material success, but to condemn it. The paradox of his visit is that he has been so successful with the people while so critical of their way of life. With the possible exception of Solzhenitsyn, he has condemned the moral anarchy, sexual license, and material consumerism in this country more than any other social critic.

Yet somehow, despite his condemnation of our spiritual bewilderment, he has been received here with more applause than any other religious or secular leader in the world. This is not going to lead to any kind of religious reformation, or popular belief in the Roman Catholic faith—his stern views on contraception, abortion, celibacy and religious training in the family divide even his own parishioners. But his faith and conviction still influence the moral apathy of the age.

What the Pope has done—at least here in Washington—is to make people in high office realize the force of moral conviction. To make them remember that they are not merely bureaucrats who propose laws, but that they are also the custodians of the nation's ideals, of the hopes and faith that sustain it from one generation to another, and that anybody in office, or seeking office, can be important in promoting these ideals.

This is an important lesson for Washington these days. It has begun to doubt its ability to govern, even to reach any kind of consensus on the great issues of public policy. The President, as chief executive officer of the Republic and Commander in Chief, has not been able to get the consent of the Congress for the policies he believes are vital to the security of the Republic.

Likewise, the leaders of the majority members of the Congress—Senator Byrd of West Virginia and Speaker Tip O'Neill of Massachusetts in the House of Representatives—are defied so often by members of their own party that they have begun to wonder if any voice in whatever exalted office has any influence at all on public opinion.

But Pope John Paul II has somehow cut across all these doubts. He has brought us back to elemental things, and shown that even a lonely voice, crying for the beliefs we have lost, can be important.

"This is the way of greatness," Walter Lippmann wrote back in 1943. "In the supreme moments of history, terms like duty, truth, justice, and mercy—which in our torpid hours are tired words—become the measure of decision. We, unhappily, are acting as if we had forgotten them. We seem to be ashamed to utter them, in part because we tremble at the gibes of the Philistines, but in the main because they are remote from our habitual feeling. . . . We are trying to be too shrewd, too clever, too calculating when what the anxious and suffering peoples cry out to us for is that we practice the elemental virtues and adhere to the eternal verities. They alone can guide us through the complications of our days. The straight and righteous path is the shortest and the surest."

This is precisely what Pope John Paul II has been saying in Boston, New York and Philadelphia—and apparently the people were listening to him and somehow feeling that it would break men's hearts if they didn't.●

INTRODUCTION OF THE PRODUCT LIABILITY RISK RETENTION ACT OF 1979

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. PREYER. Mr. Speaker, today, I have introduced the Product Liability Risk Retention Act of 1979 for discussion purposes and so that it may be considered during the Subcommittee on Consumer Protection and Finance's hearings on product liability. Cosponsoring the bill are Mr. SCHEUER, chairman of the Subcommittee on Consumer Protection and Finance, and Mr. BROYHILL, ranking minority member of the Committee on Interstate and Foreign Commerce.

Title I of this legislation would enable product manufacturers and sellers to form their own insurance cooperatives called "risk retention groups." Members of such groups would be able to pool all, or a portion of, their product liability risk. Title II of the bill would permit the purchase of product liability insurance on a group basis by persons engaged in the same or similar business. Such self-insuring groups could reduce insurance costs for some businesses, particularly small firms which have had good claims experience. In addition, the act should insure the prompt payment of the legally valid claims of injured persons by encouraging companies who cannot afford commercial insurance or who must absorb a very high deductible to join such insurance cooperatives.

This act, prepared by the Department of Commerce, is the result of an 18-month Federal interagency study of means to address the product liability problem. This legislative proposal has been endorsed by the administration as well as groups like: the National Association of Manufacturers, the Risk and Insurance Management Society, Inc., Consumers Union, National Consumers League, Congress Watch, the National Machine Tool Builders Association, Sporting Goods Manufacturers Association, Scientific Apparatus Makers Association and the National Association of Wholesaler-Distributors.●

THE INTRODUCTION OF H.R. 5570

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. MURPHY of New York. Mr. Speaker, the U.S. fishing industry is among the least developed of the current industrial powers of the world. One-fifth of the world's total fishery resources is located within 200 miles of U.S. shores. It is, however, responsible for only about 4 percent of the world's catch while it consumes about 7.5 percent. The very fact that we consume almost twice as much as we harvest points to a clearly unfavorable balance of payments. In fact, the 1978 fisheries deficit was over $2 billion, putting it among the top eight contributors to the overall U.S. deficit.

There are, nevertheless, some encouraging signs toward the development of the U.S. fishing industry. The landmark legislation which precipitated this development—the Fishery Conservation and Management Act of 1976 (FCMA)—was a product of the Merchant Marine and Fisheries Committee. This act made it unlawful for foreign fishing vessels to take fish within the 200-mile fishery conservation zone (FCZ) of the United States without a permit issued to such vessels pursuant to a governing international fishery agreement between the United States and the foreign nation concerned. As a result of this conditional restriction, we have seen the foreign catch within the FCZ decline from 2.7 million metric tons in 1976 to slightly under 1.8 million metric tons in 1978 and the number of foreign vessels operating in the FCZ decline from a high of about 2,500 in 1976 to a low of approximately 700 in 1978.

Another encouraging result of the passage of this legislation is that the U.S. fishery exports are on the increase. In 1977, the value of U.S. exports of fishery products rose to more than $520 million, an increase of over $136 million or 35 percent from the approximately $334 million in 1976. In 1978, U.S. exports rose to $905 million, a whopping 74 percent increase over the previous high of $520 million in 1977. Although, during this same 2-year span, the U.S. share of the total commercial harvest within the FCZ has increased only slightly—from 48 percent to about 52 percent, this small increase has shifted the balance in our favor so that our fishermen are now reaping a majority of this rich harvest. The processing of this harvest by Americans also has increased only slightly during this period.

We have made a good beginning toward greater domestic fisheries production but much more needs to be done to increase both our harvesting and processing capabilities. One way of assisting at this time is to concentrate on the development of our underutilized fisheries—those fisheries that heretofore have been harvested within the FCZ by foreign vessels. The legislation which Congressman FORSYTHE, other members of my committee, and I are introducing today is designed to assist U.S. fishermen and processors in the utilization of those fisheries.

Therefore, that legislation, which is entitled the Fisheries Development Act of 1979, would amend the FCMA to provide for the development of a national program for underutilized fisheries.

The Secretary of Commerce, in consultation with the Regional Fishery Management Council concerned, will be required to determine which of the fisheries designated as underutilized have the most potential for commercial development. Any fishery determined to have such potential will be designated as a priority development fishery. For each priority development fishery, a plan identifying the obstacles to commercial development and setting forth those specific actions which will be undertaken to develop the fishery to its commercial potential will be prepared.

The Secretary will be authorized to make grants—on a 50–50 matching fund basis—or to enter into contracts to carry out or assist other persons to carry out any action set forth in any development plan.

The Saltonstall-Kennedy (S–K) Act, which uses moneys collected from duties on imported fishery products would be amended to specifically authorize the use of S–K funds to carry out a development program for underutilized fisheries. To supplement the S–K funds, the bill authorizes to be appropriated an additional $15 million per year for a period of 3 years.

To further assist the fishing industry in the development of U.S. fisheries, the capital construction fund (CCF) program—which provides for a Federal income tax deferral mechanism to stimulate capital accumulation for replacement vessels—and the title XI (obligation guarantee) program which provides for Federal loan guarantees for persons purchasing vessels would be broadened to include onshore fishery facilities. The bill would make available an additional $750 million in obligation guarantees for fishing vessels and facilities.

The term "fishery facility" as defined in the bill would include any structure designed for the unloading and receiving from vessels; processing; holding pending processing; distribution after processing; or holding pending distribution, of fish from one or more fisheries, as well as any land and equipment associated or used in connection with such structure.

Passage of the Fisheries Development Act of 1979 is of paramount importance. It will provide the vehicle necessary for the development of our underutilized fisheries as well as for the development and expansion of our traditional fisheries. Hopefully, it will provide the final link toward the realization of our goal of self-sufficiency for our fishing industry and a favorable balance of payments on fishery products.

It should be noted that language to extend the CCF and the obligation guarantee programs to shoreside fisheries facilities was included in S. 640, the Maritime Administration authorization bill, as passed by the Senate. It was the decision of the conferees, however, to exclude those provisions in order that they might be subjected to the hearing process and that the views of all interested parties might be considered. I believe this is a wise decision and that it will not unduly delay extension of these programs to shoreside facilities. Our Subcommittee on Fisheries and Wildlife Conservation and the Environment will begin oversight hearings on fisheries development later this month and the committee hopes to present its bill to the House for consideration expeditiously.

The full text of H.R. 5570, as introduced, follows:

H.R. 5570

A bill to revitalize the fisheries of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fisheries Development Act of 1979".

TITLE I—AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

SEC. 101. DESIGNATION OF UNDERUTILIZED FISHERIES.

(a) DESIGNATIONS BY REGIONAL FISHERY MANAGEMENT COUNCILS.—(1) Section 303(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1853(a)) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting immediately after paragraph (4) the following new paragraph:

"(5) if the fishery is determined for any year to be an underutilized fishery, designate the fishery as a harvester underutilized fishery or a processor underutilized fishery or both, as the case may be; and".

(2) Section 303(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1853(d)) is amended by striking out "(5)" and inserting in lieu thereof "(6)".

(b) DESIGNATIONS BY SECRETARY.—Section 201(h) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(h)) is amended—

(1) by redesignating subparagraphs (B) and (C) of paragraph (1) as subparagraphs (C) and (D), respectively;

(2) by inserting immediately after subparagraph (A) of paragraph (1) the following new subparagraph:

"(B) the capacity and extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield determined under subparagraph (A);";

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting immediately after paragraph (1) the following new paragraph:

"(2) shall, if the fishery is determined for any year to be an underutilized fishery, designate the fishery as a harvester underutilized fishery or a processor underutilized fishery or both, as the case may be;"; and

(5) in paragraph (4) (as redesignated by paragraph (3) of this subsection) by striking out "(5)" and inserting in lieu thereof "(6)".

(c) DEFINITIONS.—Section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802) is amended—

(1) by redesignating—

(A) paragraphs (13) through (19) as paragraphs (14) through (20), respectively;

(B) paragraphs (20) through (23) as paragraphs (22) through (25), respectively; and

(C) paragraphs (24) through (26) as paragraphs (27) through (29), respectively;

(2) by adding after paragraph (12) the following new paragraph:

"(13) The term 'harvester underutilized fishery' means a fishery in which the capacity of fishing vessels of the United States to harvest, and the extent to which fishing vessels of the United States will harvest, such fishery in any year (as determined under section 303(a)(4)) are below the range within which the optimum yield of such fishery normally fluctuates."

(3) by adding after paragraph (20) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(21) The term 'processor underutilized fishery' means a fishery in which the capacity of United States fish processors to process, and the extent to which United States fish processors will process, fish from such fishery are below the range within which the optimum yield of such fishery normally fluctuates."; and

(4) by adding after paragraph (25) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(26) The term 'underutilized fishery' means a fishery which is a harvester underutilized fishery or a processor underutilized fishery, or both.".

(d) Initial Designations.—As soon as practicable after the date of the enactment of this Act, each Regional Fishery Management Council and the Secretary of Commerce shall comply with sections 303(a)(5) and 201(h)(2), respectively, of the Fishery Conservation and Management Act of 1976 (as added by subsections (a) and (b)) with respect to each fishery for which a fishery management plan or preliminary fishery management plan, as the case may be, is in effect on such date of enactment.

Sec. 102. Development of Underutilized Fisheries.

(a) Establishment.—The Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801–1882) is amended by adding at the end thereof the following new title:

"TITLE V—NATIONAL DEVELOPMENT PROGRAM FOR UNDERUTILIZED FISHERIES

"Sec. 501. Assessment of Development Potential.

"The Secretary, in consultation with the Council concerned and appropriate persons, shall determine which of those fisheries designated as underutilized fisheries under section 201(h)(2) or 303(a)(5) have the most potential for commercial development. In making such determination, the Secretary shall identify and evaluate, on the basis of the best available evidence, those biological, economic, environmental, technological, legal, and other relevant factors that will or may affect the fisheries' potential for commercial development, including, but not limited to—

"(1) the potential optimum yield of the fishery;

"(2) the present and potential domestic and foreign markets for the products of the fishery, as indicated by such factors as—

"(A) the availability of appropriate distribution systems to service such markets, and

"(B) foreign trade, tariff, and non-economic barriers;

"(3) the location of the fishery and knowledge of such location;

"(4) the adequacy of the existing and potential port and harbor facilities available to vessels that harvest within the fishery;

"(5) the nature and extent of the present and potential harvesting and processing capacities within the fishery;

"(6) the nature and extent of usage of the present and potential harvesting and processing technologies that are, or may be applied with respect to the fishery;

"(7) legal and regulatory constraints; and

"(8) the local, regional, and national economic and social benefits that may result from the development of the fishery.

"Sec. 502. Fishery Development Plans.

"(a) Establishment of Plans.—The underutilized fisheries that the Secretary determines, under section 501, to have the most potential for commercial development shall be designated by the Secretary as priority development fisheries. The Secretary shall prepare, in consultation with the Council concerned and other appropriate persons, a development plan for each priority development fishery and thereafter shall establish such plan by regulation. Each such plan shall, according to whether the fishery is a harvester or a processor underutilized fishery, or both—

"(1) determine obstacles to commercial development of the fishery based on an assessment of the factors specified under section 501;

"(2) set forth those specific projects and activities which should be undertaken in order to develop the fishery to its commercial potential; and

"(3) coordinate the undertaking of the projects and activities referred to in paragraph (2) in order that the development of the fishery can progress in an orderly and efficient fashion.

"(b) Modification and Termination of Plans.—(1) The Secretary, in consultation with the Council concerned and appropriate persons, may make such modifications to a plan established under subsection (a) as may be necessary to carry out the commercial development of the fishery to which such plan applies. Any such modification shall be established by regulation.

"(2) The Secretary shall by regulation terminate any fishery development plan, if, after consultation with the Council concerned and appropriate persons, he determines that—

"(A) the fishery is no longer an underutilized fishery, or

"(B) the plan will not be successful in developing the fishery to a level at which it will no longer be an underutilized fishery.

"(c) Annual Review of Priority Development Fisheries.—The Secretary shall periodically review the underutilized fisheries designated under section 201(h)(2) or 303(a)(5) in order to determine under section 501 whether any of such fisheries should be designated as priority development fisheries. Such reviews shall be made not less often than once in each calendar year.

"Sec. 503. Contracts and Grants for Plan Projects and Activities.

"(a) In General.—The Secretary may, through the making of grants and the entering into of contracts, carry out, or assist other persons to carry out, in whole or part, any project or activity set forth in any development plan established under section 502. Grants may be made to, and contracts entered into with, any person (including, but not limited to, Federal and State departments and agencies) under this section having the requisite knowledge and experience, in the opinion of the Secretary, to carry out successfully the project or activity concerned. In deciding whether to make grants or enter into contracts under this section, the Secretary shall take into consideration whether similar projects or activities are being carried out under Federal, State, or private auspices.

"(b) Terms and Conditions.—Any grant made, or contract entered into, under this section shall contain such terms and conditions as the Secretary shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States.

"(c) Grant Limitation.—The amount of any grant made under this section may not exceed one-half of the estimated cost of the project or activity for which it is made. In computing the estimated cost of any such project or activity, the Secretary shall take into account, in addition to cash outlays to be made by the grant recipient, the value of such in-kind contribution (including, but not limited to, personal services) and real and personal property applied by the recipient in carrying out the project or activity. The Secretary shall establish by regulation the standards under which the value of in-kind contributions and real and personal property will be determined for purposes of this subsection. Any valuation determination made by the Secretary for purposes of this subsection shall be final and conclusive.

"(d) Audit.—Each recipient of a grant or contract under this section shall make available to the Secretary and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under such grant or contract.

"Sec. 504. Authorization of Appropriations.

"There are authorized to be appropriated such sums as may be necessary, but not to exceed $15,000,000, for each of the fiscal years beginning on October 1, 1980, October 1, 1981, and October 1, 1982, for the purposes of carrying out this title. Such amounts shall be in addition to any other amounts authorized to be appropriated for such purposes.".

Sec. 103. Conforming Amendments

(a) Authorization of Appropriations.—Section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended by inserting "other than title V," immediately after "Act,".

(b) Table of Contents.—The table of contents to the Fishery Conservation and Management Act of 1976 is amended by adding at the end thereof the following:

"TITLE V—NATIONAL DEVELOPMENT PROGRAM FOR UNDERUTILIZED FISHERIES

"Sec. 501. Assessment of development potential.
"Sec. 502. Fishery development plans.
"Sec. 503 Contracts and grants for plan projects and activities.
"Sec. 504. Authorization of appropriations.".

TITLE II—AMENDMENTS TO THE MERCHANT MARINE ACT, 1936

Chapter 1—AMENDMENTS TO TITLE VI

Sec. 201. Extension of Capital Construction Fund to Fishery Facilities.

(a) In General.—Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

"(a) Agreement Rules.

"Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more eligible fishery facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fishery facilities. Any agreement entered into under this section—

"(1) shall be for the purpose of providing—

"(A) replacement vessels, additional vessels, or reconstructed vessels, built in the United States (or, in the case of a fishing vessel, built in the United States, American Samoa, the Virgin Islands, Guam, or any Commonwealth, territory or possession of the United States) and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States, or

"(B) replacement fishery facilities, additional fishery facilities, or reconstructed fishery facilties, located in the United States, American Samoa, the Virgin Islands, Guam, or any Commonwealth, territory, or possession of the United States, and

"(2) shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f).

The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of the sum of that portion of such person's taxable income for such year which is attributable to the operation of the agreement vessels and that portion of such person's taxable income for such year which is attributable to the operation of agreement fishery facilities. For purposes of the preceding sentence, taxable income shall be computed in the manner provided in subsection (b)(1)(A).".

(b) DEFINITIONS.—Subsection (k) of section 607 of the Merchant Marine Act, 1936, is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'eligible fishery facility' means any fishery facility which is located in the United States.

"(10) The term 'qualified fishery facility' means any fishery facility—

"(A) which is located in the United States, and

"(B) which the person maintaining the fund agrees with the Secretary of Commerce will be used for one or more of the functions described in the first sentence of paragraph (12).

For purposes of this paragraph, the term 'United States' includes American Samoa, the Virgin Islands, Guam, and any Commonwealth, territory, or possession of the United States.

"(11) The term 'agreement fishery facility' means any eligible fishery facility or qualified fishery facility which is subject to an agreement entered into under this section.

"(12) The term 'fishery facility' means any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more fisheries. Such term also includes the land necessary for any such structure or appurtenance and the equipment which is for use in connection with any such structure or appurtenance and which performs any function referred to in the preceding sentence.

"(13) The terms 'fishing' and 'fishing vessel' have the meanings given such terms by paragraphs (10) and (11) of section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(14) The term 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Subparagraph (A) of section 607(b)(1) of such Act is amended by inserting "the sum of (i)" after "(A)", and by inserting ", and (ii) that portion of the taxable income of the owner or lessee for such year (as so computed) which is attributable to the operation of the agreement fishery facilities" after "the fisheries of the United States".

(B) Subparagraph (B) of such section 607(b)(1) is amended by inserting "and the agreement fishery facilities" after "the agreement vessels".

(C) Subparagraph (C) of such section 607(b)(1) is amended by inserting "or agreement fishery facility" after "any agreement vessel" each place it appears.

(D) Paragraph (2) of section 607(b) of such Act is amended by inserting "or an agreement fishery facility" after "an agreement vessel" and by inserting "or such facility (as the case may be)" after "such vessel".

(2)(A) Subparagraph (A) of section 607(f)(1) of such Act is amended by inserting "or a qualified fishery facility" after "a qualified vessel".

(B) Subparagraph (C) of section 607(f)(1) of such Act is amended to read as follows:

"(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of—

"(i) a qualified vessel,

"(ii) a qualified fishery facility, or

"(iii) a barge or container which is part of the complement of the qualified vessel.".

(3)(A) Paragraphs (2) and (3) of section 607(g) of such Act are amended by inserting "fishery facility," after "vessel," each place it appears.

(B) Paragraph (4) of section 607(g) of such Act is amended by inserting "fishery facilities," after "vessels,".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

Chapter 2—AMENDMENTS TO TITLE XI

SEC. 211. GUARANTEE OF OBLIGATIONS FOR FISHING VESSELS AND FOR FISHERY FACILITIES CAPABLE OF BEING USED FOR PRIORITY DEVELOPMENT FISHERIES

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1101-1109) is amended as follows:

(1) Section 1101 is amended by adding at the end thereof the following new subsections:

"(i) The term 'priority development fishery' means any fishery designated as such by the Secretary of Commerce under section 502 of the Fishery Conservation and Management Act of 1976.

"(j) The term 'fishery facility' means any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more priority development fisheries. Such term also includes the land necessary for any such structure or appurtenance and the equipment which is for use in connection with any such structure or appurtenance and which performs any function referred to in the preceding sentence.".

(2) Section 1103(f) is amended by inserting immediately before the period the following: "; except that 5 percent of such sum shall be reserved for the guarantee of obligations for fishing vessels and fishery facilities that meet the economic soundness criteria set forth in section 1104(d)(1), and 5 percent of such sum shall be reserved for the guarantee of obligations for fishing vessels and fishery facilities that meet the economic soundness criteria set forth in section 1104(d)(2)".

(3) Section 1104 is amended—

(A) in subsection (a)—

(i) by striking out "or" at the end of paragraph (3),

(ii) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or"; and

(iii) by adding immediately after paragraph (4) the following:

"(5) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made for, the construction, reconstruction or reconditioning of fishery facilities capable of being used for priority development fisheries. Any obligation guaranteed under paragraph (5) shall be treated, for purposes of this title, in the same manner and to the same extent as an obligation guaranteed under this title which aids in the construction, reconstruction, or reconditioning of a vessel; except with respect to provisions of this title that by their nature can only be applied to vessels.";

(B) in subsection (d)—

(i) by striking out "No" and inserting in lieu thereof "(1) Except as provided in paragraph (2), no"; and

(ii) by adding at the end thereof the following:

"(2) In applying paragraph (1) with respect to commitments to guarantee, and the guarantee of, obligations for fishing vessels and fishery facilities designed for use in priority development fisheries, the Secretary of Commerce may apply an economic soundness test that is less stringent than that which would apply but for this paragraph."; and

(C) in subsection (g)—

(i) by inserting "(1)" immediately after "(g)"; and

(ii) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Commerce shall establish within the Fund the following subfunds:

"(A) The standard fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels and fishery facilities to which the economic soundness criteria set forth in section 1104(d)(1) apply.

"(B) The high-risk fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels and fishery facilities to which the economic soundness criteria set forth in section 1104(d)(2) apply.

"(C) The general subfund which shall contain all moneys received for, and incident to, the guarantee of obligations for vessels other than fishing vessels.".

(4) The first sentence of section 1105(d) is amended by inserting immediately before the period at the end thereof the following: ", and shall be paid from the appropriate subfund required to be established under section 1104(g)(2)".

SEC. 212. FISH AND WILDLIFE ACT OF 1956.

(a) REPEAL.—Section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) is repealed.

(b) TRANSFERS.—All moneys in the fisheries loan fund created by section 4(c) of the Fish and Wildlife Act of 1956 as of the close of the day before the date of the enactment of this Act are transferred to the subfund required to be established under section 1104(g)(2)(B) of the Merchant Marine Act, 1936 (as amended by section 211 of this Act).

(c) EFFECT OF REPEAL.—The repeal made by subsection (a) shall not affect in any manner the rights and obligations of any person under any loan made by the Secretary of Commerce under section 4 of the Fish and Wildlife Act of 1956 before the date of the enactment of this Act and in the case of any default on any such loan the Secretary of Commerce shall be entitled to such recourse as he would have been entitled to if such repeal had not been enacted. The payments of principal and interest on any loan made under such section 4 and received by the Secretary of Commerce after such date of enactment shall be deposited by the Secretary into the subfund required to be established by section 1104(g)(2)(B) of the Merchant Marine Act, 1936.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AMENDMENTS TO SALTONSTALL-KENNEDY ACT.

Section 2(a) of the Act of August 11, 1939, commonly referred to as the Saltonstall-Ken-

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nedy Act (15 U.S.C. 713c-3), is amended by striking out "Secretary of Commerce" the second place it appears therein, and all that follows thereafter, and inserting in lieu thereof the following "Secretary of Commerce—

"(1) to carry out title V of the Fishery Conservation and Management Act of 1976;

"(2) to promote the free flow of domestically produced fishery products in commerce by conducting a fishery educational service;

"(3) to conduct technological, biological, and related research programs, and

"(4) to develop and increase markets for the products of such fisheries.

For purposes of any research that may be carried out under such title V or paragraph (3), the monies transferred to the Secretary of Commerce under this subsection shall be available for the purchase or other acquisition, construction, equipment, operation, and maintenance of vessels or other facilities necessary for conducting such research.".●

CONGRATULATIONS TO DR. GERALD J. SPECTER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. GOODLING. Mr. Speaker, recently, I was notified of the special commendation by the State Senate of Pennsylvania of Dr. Gerald J. Specter, a resident of the congressional district which I represent. Dr. Specter has been honored for 30 years of outstanding service in health care education in the State of Pennsylvania. It gives me great pleasure to share this distinguishing citation.

COMMENDATION OF THE SENATE OF PENNSYLVANIA

Whereas, Dr. Gerald J. Specter has devoted thirty years of dedicated service to public health care and management; and

Whereas, Dr. Specter is currently serving as Executive Vice President of Health Care Facilities Association of Pennsylvania. Dr. Specter was educated at the University of Pittsburgh and the University of North Carolina. He served with distinction in the United States Army from 1944 until 1945. Dr. Specter has held numerous positions in health education including, Chief of Health Education and Public Information for Allegheny County Health; Director of Health Education for Philadelphia Tuberculosis and Health Association, Health Education Consultant for World Health Organization in India; and Assistant Research Professor of Health Education, Population Division, Graduate School of Public Health, University of Pittsburgh. Dr. Specter has written numerous articles on various aspects of health care education. He is a fellow of the American Public Health Association and the Society for Public Health Education.

Now therefore, the Senate of the Commonwealth of Pennsylvania extends special commendations to Dr. Gerald J. Specter for his outstanding services in health care education during the past thirty years and extends best wishes for continued success and good work;

And further directs that a copy of this document, sponsored by Senator Edward P. Zemprelli, be transmitted to Dr. Gerald J. Specter, 5002 McDonald Drive, Mechanicsburg, Pennsylvania.●

IXTOC I OIL POLLUTION COMPENSATION ACT OF 1979

HON. JOE WYATT, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. WYATT. Mr. Speaker, today I am introducing a piece of legislation which means a great deal to many citizens on the south Texas coast and may ultimately affect the entire U.S. coastline on the Gulf of Mexico. Congressman de la Garza and myself recently had the opportunity to host fellow Members in Corpus Christi, Tex., to hear testimony from persons in both our districts concerning the economic, environmental, and other effects of the Ixtoc I oil spill which began on June 3 of this year in the Bay of Campeche.

This testimony has led to the introduction of two earlier pieces of legislation, H.R. 5338 by Mr. Roberts, Mr. de la Garza and Mr. Breaux, and H.R. 5356 by myself.

I certainly appreciate the interest my fellow Members have taken in our problem and especially wish to thank Mr. Roberts and Mr. Breaux for cochairing the field hearings and sponsoring legislation to help alleviate the potentially catastrophic effects of this disaster. Of course, I would also like to thank Mr. Studds, Mr. Livingston, Mr. McCloskey, and Mr. Gonzalez for sacrificing a weekend with us to hear testimony. None of this would have been possible without the active interest Chairman John Murphy took and I sincerely appreciate all the help he has given me.

This situation is unique in many respects and, lacking a comprehensive compensation scheme, not covered by conventional, existing disaster relief programs. There is also no possibility, and existed no possibility prior to the disaster, for insurance to cover this type of loss.

I might add also that this is not a natural disaster. It is manmade. Therefore, it is certainly not the type of occurrence one should be prepared to expect by virtue of where one lives or locates his business. To this point, there has been very little physical damage, but very intense economic damages to some communities. The potential does exist, however, that the long-range environmental effect will be severe. In addition, had it not been for the geographical location of the well, the offshore oil pollution compensation fund created by the Outer Continental Shelf Lands Act Amendments of 1978 would have provided a like form of compensation.

My feeling is that the United States owes a responsibility to its citizens to protect them from disasters caused by the actions or inactions of foreign industry. There is no certainty that compensation will be forthcoming from the responsible parties.

For the reasons I just stated, I have incorporated by reference the damage, claims, and other provisions of the offshore oil pollution fund legislation in this bill which ten of my colleagues have agreed to cosponsor prior to introduction. This legislation would also authorize an appropriation of up to $80 million to pay claims for such economic losses as—

First. Injury to, or destruction of, real or personal property;

Second. Loss of use of real or personal property;

Third. Injury to or destruction of, natural resources;

Fourth. Loss of use of natural resources;

Fifth. Loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; and

Sixth. Loss of tax revenue for a period of one year due to injury to real or personal property.

The limitations on claimants are the same as in the offshore oil pollution fund legislation consistent with the purposes of this bill.

This legislation would also authorize funding to allow the State of Texas to establish a saltwater fish hatchery for which the Texas Parks and Wildlife Department presented testimony citing a need as a result of the Ixtoc I oil spill. This is primarily due to the high probability of damage to red drum larvae and the amount appropriated would be deducted from any claim made by Texas for damages to the saltwater fisheries. It is an attempt to mitigate almost certain damages and reduce the time it will take for the natural resource to regain its former status.

I would like to read testimony presented at our field hearings in Corpus Christi by the Texas Parks and Wildlife Department which should help clarify the need for this facility.

The testimony follows:

STATEMENT PRESENTED AT JOINT HEARING OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES AND THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION AT CORPUS CHRISTI, TEX., SEPTEMBER 8, 1979, CONCERNED WITH THE OIL SPILL IN GULF OF CAMPECHE

TEXAS PARKS AND WILDLIFE DEPARTMENT,
Austin, Tex., September 7, 1979.
Hon. JOSEPH WYATT,
Federal U.S. Court House,
Corpus Christi, Tex.

DEAR CONGRESSMAN WYATT: On behalf of the Texas Parks and Wildlife Department I appreciate this opportunity to express our concerns relative to the Ixtoc I spill and its potential impact on marine life in the Texas coastal area.

One of our major interests is this year's spawn of red drum. Texas Parks and Wildlife Department personnel have conducted joint studies with University of Texas Institute of Marine Science personnel on the toxicity of the spill material on red drum eggs and fry. Their findings provide a basis of great concern for the survival of spawn of this species in the inshore Gulf area. These tests indicated the spill material at low concentrations (18 parts per million) was capable of causing mortalities and physiological deformities of the newly hatched fish. The red drum are presently entering the peak of their spawning season which unfortunately has coincided with the occurrence of large oil slicks in the same general areas along the lower and central Texas coast.

Contact of the eggs with oil is practically assured due to the nature of the fertilized eggs to float at the surface for about 24 hours prior to hatching. Oil slicks in the vicinity of spawning activity would thus be detrimental to the survival of the eggs and fry. The degree of actual loss is speculative and would vary with the oil concentrations, surface coverage and degree of contact with the eggs. The potential, however, is a very high for a significant reduction of the numbers of red drum fry which could escape the oil in the Gulf of Mexico and in the passes through which they must be carried by incoming tides to gain access to the nursery areas in the bays. Even under ideal conditions the circumstances necessary to provide juvenile red drum to the bay fishery are acutely dependent on spawning success, proper current flow and hospitable environmental conditions within the bay system.

Research conducted by the Texas Parks and Wildlife Department at the Marine Fisheries Research Station at Palacios and with University of Texas personnel at the National Marine Fisheries Laboratory at Port Aransas have developed the basic technology for spawning and rearing of red drum, spotted seatrout and other species under controlled conditions. During the past year these facilities have produced 1,200,000 fingerling red drum and 12 million fry for stocking into Texas bays, thus providing a direct stocking into the nursery areas which will greatly enhance the survival rate. Studies are presently underway to evaluate the influence of these stockings on resident populations.

Maximum annual production from the 21 acres of ponds at Palacios is about 2.4 million fingerlings. If an entire natural spawn of fish were lost or significantly reduced a stocking of 40 to 60 million fingerlings would be required to achieve a density necessary to assure a fishable population during the following two years in the coastal bays. A more realistic approach would be to assume catastrophic losses would more likely be in individual bay systems rather than coastwide. A production facility of 200 acres of ponds could produce from 25-30 million fingerlings per year or provide a sufficient stocking within a one-year period for approximately half the coastal bays. The construction cost for such a facility is estimated about $6 million.

The State of Texas is in need of federal funding assistance for such a facility to assist the recovery of stocks lost from the oil spill and alleviate future pressures on the resident fish populations from man-made and natural catastrophes.

The justification for such a facility is from both an aesthetic and economic basis. Public utilization of the coastal areas for recreation is estimated to increase by 133% by the year 2000. The present natural populations of red drum and other species are being harvested at their maximum levels and fish population reductions will adversely affect catch efficiencies which in turn will adversely affect the local economics of the impacted areas. Saltwater sportfishing activities surveyed in 1975 found that the recreational fishery in the coastal areas generated $234 million in direct revenues to local businesses. Sales of bait, tackle and fuel exceeded $56 million. Restaurants and motels benefited from the 17.8 million man-days of effort expended by fishermen of whom the majority interviewed from Matagorda Bay to the lower Laguna Madre were out-of-county residents. These figures do not include the expenditures for boats, motors, trailers and other accessory equipment which would approximately double the 1975 value of saltwater recreational fishing to $470 million.

Commercial shrimping and fishing activities in the coastal areas in 1978 produced a dockside value of $130 million from shrimp and $2.4 million from finfish. Red drum were valued at $511,000 and spotted seatrout at $705,000. Projected values of the commercial fishery at retail or restaurant levels is approximately $400 million per year.

Any coastal area which declines in commercial production, tourism and recreational fishing suffers a direct economic loss as seen in the lower Texas coastal area in August and early September of this year. The long-range biological effects of the present oil spill will not be known for several months and possibly two years. The economic impact, however, was immediate and could continue for an extended period. We feel that a culture facility can help alleviate the long-term impact from fish population shortages and help maintain the local economies by providing a stable fishery for our residents and tourists to pursue their fishing and recreational endeavors.

Sincerely,

CHARLES D. TRAVIS,
Executive Director.

PORT ARANSAS, TEX.,
September 8, 1979.

Mr. Chairman and distinguished members of the House Committee on Merchant Marine and Fisheries:

I would like to make a statement concerning the effects of the Mexican oil spill on the eggs and larvae of the redfish (*Sciaenops ocellata*).

Tests conducted by my staff at the University of Texas, Marine Science Institute at Port Aransas on three phases of oil have indicated the toxicity to the early life stages of redfish.

Tests in which redfish eggs were placed in water with mousse showed 86% were dead, deformed or unhatched at the end of 24 hours.

Tests using the water soluble fraction (WSF) which contained 30 ppm oil on redfish eggs and larvae indicated the toxic concentration (TLM 50) to be 18 ppm in 24 hours.

Tests using water collected from the surf while oil was on the beach indicated 81.5% of the redfish larvae were dead or deformed at the end of 48 hours.

These tests indicate the Mexican oil reaching redfish spawning grounds is toxic to redfish eggs and larvae and will have a definite impact on that year class of redfish. The extent will depend on how much of the spawning area is affected.

CONNIE R. ARNOLD, Ph. D.,
Research Scientist.

Before closing, I would like to thank my colleagues for the interest many have expressed in the bill, especially those who chose to cosponsor upon introduction, and urge all of you to aid in the passage of this much needed legislation.●

CONSUMER ADVOCACY?

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. SYMMS. Mr. Speaker, in today's Denver Post there appeared an AP dispatch advising that the Food and Drug Administration, with the approval of the Office of Management and Budget, would be passing out $250,000 to consumers and consumer groups who help them enforce their regulations.

Upon inquiring with both the OMB and the FDA, I was advised that the quarter of a million dollars would be used to fund FDA's public participation program so that consumers and consumer groups testifying at the FDA's administrative hearings could be reimbursed for their travel expenses, et cetera.

Now, well it is all fine and dandy to encourage public participation in the Government's decisionmaking process, I can hardly believe that most taxpayers are willing to pony up $250,000 so that their voices can be heard. If anything, Government agencies should have heard that the biggest complaint of consumers and taxpayers is their high taxes.

It has been my experience during my years in Congress that most of these "public participation" programs are bailouts for parasitic consumer advocacy groups whose main purpose is not to help consumers but to perpetuate themselves.

While $250,000 may seem like a minuscule amount of money in comparison with the Federal budget, it is important that we start reducing someplace. As we all know, you save a billion dollars, a dollar at a time.●

RETIREMENT OF CHARLES SMITH

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. ADDABBO. Mr. Speaker, recently a dear and trusted friend, Charles R. Smith, chairman of Community Board 9 in Queens, announced his retirement. He will soon be moving, along with his wife Mary, to North Carolina.

I have known Charles Smith for countless years and am proud to say he is one of the finest gentlemen I have ever met. He served as chairman of Community Board 9 for over a decade. The district encompasses 112 miles of streets and over 100,000 population. He was instrumental in having Atlantic Avenue stripped and paved, getting scooters for policemen patrolling Forest Park, and he devoted endless hours on behalf of the Jamaica Avenue Richmond Hill Revitalization Corp., and the Greater Woodhaven Development Corp. He also worked hard in insuring the relocation of sanitation department 55 to Atlantic Avenue and 132d Street, as well as successfully opposing a 35,000 apartment unit complex proposed to be constructed over MTA yards in Kew Gardens.

Charles Smith has a long history of unselfish public service to the people of Queens. I am personally saddened to see Charles leave our community but I am grateful for the many years of service he has toiled on our behalf. I wish he and his lovely wife Mary the best of luck in their new home in North Carolina, and hope their retirement is a happy and healthy one.●

A JAPANESE LEADER WITH SOUND ADVICE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. SIMON. Mr. Speaker, a few weeks ago I received a letter from the Honorable Tokuma Utsunomiya, Member of the Japanese Diet, the equivalent of our House of Representatives.

In a speech discussing military expenditures, among other things, he has this to say:

> Military spending brings about stagflation, or recession accompanied by high commodity prices, and brings about a weakening of the economies and an improverishment of the lives of the people of the countries involved.

There was a time when the Japanese learned a great deal from us, and things are now reversed to a great extent where we can learn a great deal from them.

I hope my colleagues will take the time to read his article which was originally published in the weekly magazine, "Asahi Journal."

THE DANGEROUS ARMS RACE

(By Tokuma Utsunomiya)

MEMBER OF THE HOUSE OF REPRESENTATIVES—(JAPAN)

The recent rampancy of unthinking expressions of hawkish ideas and statements cannot but cause me deep anguish about the future of Japan. There is the danger of Japanese politics being swept along in an unwholesome direction before the people of Japan become aware of it. I have written the following article in order to resist and block this trend.

I do not believe that Japan has abandoned in its Constitution its right to self-defence and I believe it would be better if Japan's self-defence capabilities were made more disciplined, stronger and more effective under the ultimate control of the National Diet.

However, I feel that the arguments in favor of strengthening Japan's self-defence and rearming Japan, which have been voiced in the past and are being voiced today, contain certain dangers. These arguments are based on the excessive trust in armed might that prevailed in pre-war Japan and on a subservience to the Cold War policies of the United States. Moreover, those who put forth these arguments are persons who have not been able to rid themselves of the habit of placing military affairs and administrative processes before politics.

As a matter of fact, Japanese politics, which permitted, for the sake of economic growth, the great destruction of the natural environment evident around us today, is capable of seeking the expansion of Japan's self-defence capabilities not for the sake of the people but for the benefit of corporations and as a means of stimulating the economy. Indeed, we cannot deny that just such extremely dangerous trends are evident in the arguments calling for Japan to lift its ban on the export of arms and in expressions of hopes of a war breaking out in the near future.

However, this does not mean I am denying Japan's right to expand its self-defence capabilities in keeping with needs and for the sake of the Japanese people, provided this expansion is carried out under proper political control. Japan's "peace" Constitution and its three non-nuclear principles (not to possess, produce and import nuclear arms) are the products of the wisdom of Japan's post-war politics. To indiscriminately abandon or overthrow our "peace" Constitution and the three non-nuclear principles is tantamount to permitting ultra-rightist totalitarianism, in all its supidity, to destroy Japan once again.

Japanese politics should hold high Japan's "peace" Constitution and its three non-nuclear principles, not as a sop to Japan's pacifist opposition parties or to domestic public opinion, but to all countries of the world and should strongly advocate in the United Nations and in other international forums the abolition of nuclear arms and large-scale disarmament.

To do so would be to provide a grand vision to the Japanese people and, at the same time, would be in keeping with Japan's vital national interests. Japan, with its dense population crammed into a small space and with its advanced industrialization, is extremely vulnerable to destructive nuclear weapons from both the air and the sea.

The range of today's nuclear weapons is very great. They can be aimed from anywhere at a given target with great accuracy. Of all parts of the world, the areas in which a single nuclear missile can wreak the greatest destruction possible are the Tokyo-Yokohama, the Osaka-Kobe and the North Kyushu districts in Japan. Further, Japan's economy depends on marine transportation and, in the case of oil alone, Japan imports close to 300 million tons from abroad in tankers. If a large-scale attack were launched against Japan's commercial sea lanes, we must expect immediate paralysis of Japan's economy and its national livelihood. Even if the Japanese people may not be aware of this fact, foreign military experts know this all too well.

Japan, by its very geophysical structure, does not have today the ability to wage a war. It can only repel small-scale armed attacks.

If Japanese politics were foolish enough to drag Japan into a large-scale war, the first and probably the last fight the Japanese people can engage in would be the struggle of doctors and nurses to accommodate and care for countless young and old and male and female non-combatants. For this reason, "hawkish" patriots should not exist in Japan in the first place. If any such patriots are to be found, they would either be mad men or the mouthpieces of foreign countries.

Peace is as necessary as the sun for Japan. For this reason, Japan must work to create internationally an atmosphere of peace and to make the peace-keeping structure of the United Nations into a powerful organ. For this, it would be in Japan's greatest national interest to call actively for the abolition of nuclear arms and for general disarmament.

However, the world reality today is one in which the arms buildup and the play at soldiery have spread to such an extent that arguments for disarmament and peace seem only a conceptual game.

Both in the USSR and in the United States the military technocracy has become extremely strong and, although the defeat of the United States in the Vietnam War appeared to have set back the industrial-military complex, it has already staged a comeback. In the midst of the opposition to President Carter's Panama Canal agreement and his plans to withdraw troops from South Korea, there has become noticeable a joining together of the forces of the industrial-military complex and right-wing organizations.

The world-wide struggle for hegemony between the two superpowers, the United States and the USSR, has become critical and both nations now possess nuclear arms in quantities several times greater than that needed to completely destroy all living things on the face of this earth. An arms race between the two nations still continues—an arms race centered on nuclear weapons and fraught with the danger of the product of the highest wisdom of human civilization being used in the most foolish manner.

The military budget of the USSR in fiscal 1977 was $127,000 million, according to figures announced by China. This added to the military budget of the United States means that close to $300,000 million was spent during the past fiscal year for military purposes. The U.S. budget for fiscal 1977 lists military expenditures of $101,500 million. This represents an increase of $11,000 million over fiscal 1976. Besides military expenditures, there are disbursements for pensions to military personnel, space development and foreign intelligence activities. This forms the basis for the estimate of the close to $300,000 million in military and military-related spending of the United States and the USSR in fiscal 1977.

This enormous sum is one-third of the total value of world trade and three times the total value of U.S. trade in 1975. It means that vast economic energies are being kept out of economic circulation and prevented from enriching human lives.

In the case of Socialist societies, it is clear that a 20 percent increase in military expenditures means a 20 per cent decrease in the real incomes of their peoples. However, in capitalist societies, it is said that increases in military expenditures stimulate the economy and result in an increase in real incomes.

It is certain that in present-day Japan, at a time when one-third of the nation's steel production capacity and over 50 per cent of Japan's shipbuilding capacity remain idle, orders for arms would save the plight of iron and steel and shipbuilding companies and would enable them to return profits. However, for the people as a whole, it would mean an increase in their tax burden and a drop in their real incomes.

Generally speaking, if we lived in an age today in which we did not have to worry about the finite nature of resources and industrial sites, arms orders, incapable of contributing on their own to the improvement of the lives of the people, would, nonetheless, stimulate the expansion of production facilities, would have so-called "spinoff effects", would trigger a business boom and would have the effect of increasing the real incomes of the people.

However, at present, the military spending and arms exports of both the USSR and the United States and the vast military expenditures of other countries in the world are sucking the life-blood of the world's economy and the expansion of production aimed at supplementing this loss of economic blood is being limited by shortages of resources and industrial sites and is not contributing to the improvement of economic conditions and to the increasing of real incomes.

Rather, military spending brings about stagflation, or recession accompanied by high commodity prices, and brings about a weakening of the economies and an impoverishment of the lives of the people of the countries involved. In short, the reason why so-called modern economic sciences appear impotent is because they cannot clearly point out the fact that under the present arms race economic growth brings in its train severe pollution and the wasteful dissipation of resorces and the fact that economic growth under these conditions cannot contribute to the welfare of mankind. (From the June 6, 1978 issue of the Economist.)●

REPRESENTATIVE RON PAUL TRYING TO KEEP CONGRESS HONEST

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, our colleague, Dr. RON PAUL, has prescribed some needed remedies for the illness of big government. Recently, John Chamberlain described the healthy effect Dr. PAUL is having on the House of Representatives. I would like to call the article to my colleagues' attention:

REP. RON PAUL TRYING TO KEEP CONGRESS HONEST

At this stage in the history of the American Republic we are faced with an ironic dilemma: how to elect politicians to protect us from politicians. If we don't start sending anti-congressmen to Congress pretty soon, the paradox of benevolent government is going to hit us in the midriff. We will be getting total welfare paid for by a totally worthless currency.

There is one member of Congress who senses the ridiculous nature of our current situation. He is Ron Paul of Texas. The missives he sends out to his constituents in the 22nd District of his lively home state are not likely to make him beloved by a majority of his colleagues, but they bubble with a humor that would have commended itself to Jonathan Swift.

The day hardly passes that does not see Ron Paul tossing a bill into the hopper that is designed to fill his colleagues with a sense of shame for what politicians do to people in the name of the people.

Ron Paul began in a low key. He sponsored a bill to make representatives and senators pay for their own parking. He attacked junketeering. But these were just warming up exercises, a prelude to his chef-d'oeuvre, which calls for establishing an inverse relationship between the rise in the cost of living and a congressman's monthly paycheck.

Since it is Congress that has created and maintained the system that floods the nation with paper money that steadily declines in value, Ron Paul thinks the authors of what might be called double digititis should get a taste of their own medicine. For every monthly percentage point rise in the Consumer Price Index, Paul would see to it that, in the following month, representatives and senators would get a 1 per cent cut in pay.

Paul doesn't think his bill will pass this year, if ever. His friends in Congress, he says, are a pampered lot. Their salaries are indexed for the inflation they cause. The salaries carry with them lush pensions and an exemption from Social Security taxes. Nothing will happen until enough people get sufficiently angry to send a few hundred Ron Pauls to Congress.

Another good Ron Paul idea that will surely die a-borning is his Saver's Tax Relief Act of 1979, a bill to provide federal income tax exemption for all interest income received by Americans. Paul notes that Americans are now saving a smaller percentage of their incomes than happens to be the case with savings in other industrialized nations. So our capital formation, the source of new business, languishes. There is no incentive to save when the interest is less than the rate of inflation.

Paul blames Congress not only for inflation but for the energy crisis. He notes that the Supreme Court has held, in two decisions, that citizens can sue members of Congress for libel and, in the case of employes, for sex discrimination. With these court decisions as precedents, Paul suggests that people who have suffered losses through gasoline and diesel fuel shortages sue the scoundrels who have imposed price controls and unconstitutional energy allocation laws.

Ron Paul's tongue-in-cheek advice has its intensely serious side: he is trying to tell his fellow legislators that the business of a government is to protect people in their rights as they pour their energies into their own enterprises.

When government gets into economics, it messes things up. It is ironic that the keenest criticism of our government-imposed Social Security System should come from the 2.8 million federal civil service workers who insist on maintaining their own pension fund, based on a worker's entire earnings rather than a portion thereof. The federal system is safe; Social Security, on the other hand, could go broke by the year 2028 without vastly increased funding.

Congress should listen to Ron Paul's ironic reminder that it is not seemly to exempt government people from the inflictions that are imposed by law on the rest of us. If federal employes are entitled to a sound security system, so is everybody. Social Security should be made voluntary, as Sen. Barry Goldwater suggested a long time ago.●

FEDERAL WORKERS DESERVE THEIR PAY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. WON PAT. Mr. Speaker, I rise to protest the blatant abuse millions of Federal employees are receiving. Their pay is being held hostage by a few who are concerned about their issues and this is simply not fair.

The two issues holding up consideration of agency budget measures are abortion and congressional pay raises. Last year and again this year, these issues have been coupled with nongermaine budget bills.

I am of the opinion that these issues deserve to be tackled out in the open and on their merits. They should not be tied to budget bills. The only ones to suffer are loyal Federal employees and military personnel. How can we in the Congress expect loyalty from these people when we show utter contempt for their well being.

It has been a long time since anyone here in the Congress went without a pay check. Yet, we are about to consign millions of Federal workers to this fate simply because we insist on fighting over issues that have nothing to do with these people or their pay. They worked hard for their money and they deserve to be paid in full and on time.

If the Congress cannot get together on this issue in time to assure Federal employees their pay, then I suggest that we in the Congress vote to either vote now to separate the issue of agency budget requests from the other two questions at hand or vote now to hold up our pay as well. At least we would then show those we ask to work on our behalf that we are willing to take the good with the bad—just as we expect them to do.●

PERSONAL EXPLANATION

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. FORSYTHE. Mr. Speaker, over the summer it was necessary for me to be absent from Washington because I was recovering from surgery. I regret that I could not be here to cast my votes. However, on September 27, 1979, I began an explanation of how I would have voted had I been present. I would like to continue that explanation today:

Rollcall No. 267. H.R. 111. Panama Canal Treaties implementation. Hansen amendment as amended to provide for annual payments to Panama from canal revenues, to authorize property transfers to Panama and to establish U.S. costs in implementing the 1978 treaties. June 20, 1979. I would have voted "no."

Rollcall No. 268. H.R. 111. Panama Canal Treaties implementation. Kramer amendment to provide that Panamanians cannot be appointed to the Panama Canal Commission until a government is installed in Panama through free elections. June 21, 1979. I would have voted "no."

Rollcall No. 269. H.R. 111. Panama Canal Treaties implementation. Montgomery amendment to charge to Panama the $75 million cost of U.S. military construction incurred as a result of implementing the treaty. June 21, 1979. I would have voted "yes."

Rollcall No. 270. H.R. 111. Panama Canal Treaties implementation. P. Crane amendment to require congressional approval after December 30, 1999, before the Panama Canal railroad or any other U.S. property in the Canal Zone could be transferred to Panama. June 21, 1979. I would have voted "no."

Rollcall No. 271. H.R. 111. Panama Canal Treaties implementation. Bauman motion to recommit the bill to the Merchant Marine and Fisheries Committee with instructions to report the bill back to the House with the original text of the Hansen amendment to require Panama to pay all U.S. costs in implementing the canal treaties. June 21, 1979. I would have voted "no."

Rollcall No. 272. H.R. 111. Panama Canal Treaties implementation. Passage of the bill to implement the Panama Canal treaties by creating a Panama Canal Commission, requiring congressional approval of all spending by the canal and authorizing payments to Panama from canal revenues under certain restrictions. June 21, 1979. I would have voted "no."

Rollcall No. 273. H.R. 3173. Foreign military aid. Derwinski motion to instruct the House conferees on the bill to authorize foreign military aid for fiscal 1980, to insist on its disagreement with a Senate amendment providing $50 million in grant military assistance to Turkey. June 21, 1979. I would have voted "yes."

Rollcall No. 274. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. Boland motion that the House resolve itself into the Committee of the Whole for the consideration of the bill to appropriate fiscal 1980 funds for the Department of Housing and Urban Development and independent agencies. June 22, 1979. I would have voted "yes."

Rollcall No. 275. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. Ambro amendment to increase Environmental Protection Agency funds by $4 million for groundwater contamination research and by $6 million for research into methods of controlling hazardous substances. June 22, 1979. I would have voted "yes."

Rollcall No. 276. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. LaFalce amendment to increase EPA funds by $10 million for research into and $10 million for emergency measures to control hazardous wastes. June 22, 1979. I would have voted "no."

Rollcall No. 277. H.R. 1046. Magistrate Act. Kastenmeier motion to suspend the rules and pass the bill to amend the 1968 Magistrate Act to expand the authority of Federal magistrates to try civil and Federal misdemeanor cases and to provide for merit selection of magistrates in order to expedite litigation of minor cases in the U.S. district courts. June 26, 1979. I would have voted "yes."

Rollcall No. 278. H.R.. 4303. Food stamps for the elderly. Harkin motion to suspend the rules and pass the bill to allow households containing a person who is aged 60 or older, or who receives supplemental security income benefits, to deduct from income, for the purpose of computing food stamp benefits, any medical expenses in excess of $35 a month and all shelter costs that exceeded 50 percent of monthly income. June 26, 1979. I would have voted "yes."

Rollcall No. 279. H.R. 3930. Defense Production Act. Dingell amendment to limit the definition of energy production in the act only to that for defense purposes. June 26, 1979. I would have voted "no."

Rollcall No. 280. H.R.. 3930. Defense Production Act. Moorhead motion to end debate on the section defining the terms used in the bill at 6:40 p.m. June 26, 1979. I would have voted "yes."

Rollcall No. 282. H.R. 3930. Defense Production Act. Dingell amendment to delete a sentence authorizing the President to command any fuel supplier to provide the Government with synthetic fuels. June 26, 1979. I would have voted "no."

Rollcall No. 283. H.R. 3930. Defense Production Act. Udall amendment to prohibit the eight largest oil companies from contracting with the Government to provide synthetic fuels. June 26, 1979. I would have voted "no."

Rollcall No. 284. H.R. 3930. Defense Production Act. Passage of the bill to require the President, through purchase contracts, loans and loan guarantees and, if necessary, Government-backed corporations, to encourage production of the oil equivalent of 500,000 barrels a day in synthetic fuels by 1985 and 2 million barrels a day by 1990. June 26, 1979. I would have voted "no."

Rollcall No. 285. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. Boland motion that the House resolve itself into the Committee of the Whole for the further consideration of the bill. June 27, 1979. I would have voted "yes."

Rollcall No. 287. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. Nelson amendment to cut $685 million in general revenue sharing funds allocated to State governments. June 27, 1979. I would have voted "no."

Rollcall No. 288. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. Weiss amendment to cut $14.7 million from National Aeronautics and Space Administration research funds earmarked for development of a commercial supersonic airliner. June 27, 1979. I would have voted "yes."

Rollcall No. 289. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. Miller motion to recommit the bill to committee with instructions to reduce spending by 2 percent across-the-board on programs not required by law. June 27, 1979. I would have voted "yes."

Rollcall No. 290. H.R. 4394. HUD-independent agencies appropriations, fiscal 1980. Passage of the bill to appropriate $71,963,475,000 for the Department of Housing and Urban Development and 20 independent agencies, including the Veterans' Administration, the National Aeronautics and Space Administration, and the Environmental Protection Agency. June 27, 1979. I would have voted "yes."

Rollcall No. 291. H.R. 4389. Labor-HEW appropriations. Ashbrook amendment to prohibit payment of Comprehensive Employment and Training Act funds to persons named by the General Accounting Office as violators of law. June 27, 1979. I would have voted "yes."

Rollcall No. 292. H.R. 4388. Labor-HEW appropriation, fiscal 1980. Symms amendment to reduce by $10.3 million the appropriation for the Occupational Safety and Health Administration. June 27, 1979. I would have voted "yes."

Rollcall No. 293. H.R. 4389. Labor-HEW appropriations, fiscal 1980. Obey amendment to prohibit use of funds in the bill to pay for abortions, unless the life of the mother would be endangered if the fetus were carried to term, in cases of rape or incest or in cases where two doctors certified that carrying the fetus to term would result in severe and long-lasting physical damage to the mother. June 27, 1979. I would have voted "yes."

Rollcall No. 294. H.R. 4389. Labor-HEW appropriations, fiscal 1980. Byron amendment to prohibit Occupational Safety and Health Administration inspectors from visiting a work-site within 6 months of an inspection by a State safety and health agency, with certain exceptions, including cases where a worker had been killed. June 27, 1979. I would have voted "yes."

Rollcall No. 295. H.R. 4389. Labor-HEW appropriations, fiscal 1980. Early amendment to increase by $47 million the appropriation for the National Institutes of Health, June 27, 1979. I would have voted "no."

Rollcall No. 296. H.R. 4389. Labor-HEW appropriations, fiscal 1980. Michel amendment to reduce the appropriation for HEW by $500 million, with the reduction to be taken from programs identified by the HEW Inspector General as containing waste, fraud, and abuse. June 27, 1979. I would have voted "yes."

Rollcall No. 297. H.R. 4389. Labor-HEW appropriations, fiscal 1980. Dodd amendment, as amended by the Obey amendment, to add $2 million to the appropriation for the Community Services Administration, to develop a plan for administration of the emergency fuel assistance program for the poor. June 27, 1979. I would have voted "no."

Rollcall No. 298. H.R. 4389. Labor-HEW appropriations, fiscal 1980. Bereuter amendment to prohibit use of HEW funds to implement the system for hospital uniform reporting. June 27, 1979. I would have voted "yes."

Rollcall No. 299. H.R. 4389. Labor-HEW appropriations, fiscal 1980. Passage of the bill to appropriate $73.1 billion for the Departments of Labor and Health, Education, and Welfare, and related agencies, for fiscal year 1980. June 27, 1979. I would have voted "no."

Rollcall No. 300. H.R. 3919. Windfall profits tax. Adoption of the rule providing for floor consideration of the bill taxing profits oil companies will realize from decontrol of domestic oil prices. June 28, 1979. I would have voted "no."

Rollcall No. 301. H.R. 3919. Windfall profits tax. Ways and Means Committee amendments providing for a tax rate of 70 percent and a permanent tax on price increases, adjusted for inflation plus 2 percent annually, of more than $17 a barrel. June 28, 1979. I would have voted "no."

Rollcall No. 302. H.R. 3919. Windfall profits tax. Jones substitute providing for a tax rate of 60 percent, discontinuation of the windfall tax at the end of 1990 and other changes. June 28, 1979. I would have voted "yes."

Rollcall No. 303. H.R. 3919. Windfall profits tax. Shannon amendment extending for 13 months the tax on oil discovered before 1973. June 28, 1979. I would have voted "no."

Rollcall No. 304. H.R. 3919. Windfall profits tax. Conable motion to recommit with instructions to add a "plowback" that would give oil companies a credit for 75 cents of every dollar reinvested in energy development in excess of historic investment patterns. June 28, 1979. I would have voted "yes."

Rollcall No. 305. H.R. 4439. U.S. Zimbabwe Rhodesia policy. Broomfield amendment to terminate the existing sanctions against Zimbabwe-Rhodesia by December 1, 1979, and to provide for a continuation of the sanctions past that date if Congress approved a Presidential request for an extension. June 28, 1979. I would have voted "yes."

Rollcall No. 306. H.R. 4439. U.S. Zimbabwe-Rhodesia policy. Passage of the bill to terminate sanctions against Zimbabwe-Rhodesia by October 1, 1979, unless the President determined that it would not be in the national interest to do so and reported his views to Congress. June 28, 1979. I would have voted "yes."

Rollcall 307. H.R. 827. Postal supervisors arbitration. Clay motion to suspend the rules and pass the bill to establish an arbitration board and procedures to settle disputes between postal supervisors and the U.S. Postal Service. July 10, 1979. I would have voted "no."

Rollcall 308. H.R. 3821. Fiscal 1979 intelligence agencies supplemental. Mazzoli amendment to require the President to publicly disclose on November 1, 1979, the total amount appropriated for fiscal 1980 national foreign intelligence programs. July 10, 1979. I would have voted "no."

Rollcall No. 309. H.R. 4537 Trade Agreements Act. Passage of the bill to make changes in U.S. law to carry out multilateral trade agreements limiting nontariff barriers to trade, including export subsidies and customs valuation methods. July 11, 1979. I would have voted "yes."

Rollcall No. 311. H.R. 2444. Education Department. Quayle amendment to limit the Department to 200 fewer employees than were currently working on programs to be transferred into it; to count consultants hired by the Department as employees; and to remove the provision in the bill allowing the department to add 50 new employees each year without congressional approval. July 11, 1979. I would have voted "yes."

Rollcall No. 313. H.R. 2444. Education Department. Ashbrook amendment to prohibit the department from providing facilities to institutions of higher education that used mandatory student fees to pay for abortions, except for those to save the life of the mother. July 11, 1979. I would have voted "no."

Rollcall No. 314. H.R. 2444. Education Department. Passage of the bill to establish a separate Federal Department of Education. July 11, 1979. I would have voted "no."

Rollcall No. 315. House Resolution 231. Foreign aid reorganization. Adoption of the resolution to disapprove President Carter's reorganization plan No. 2 to reorganize most foreign aid programs under a new International Development Cooperation Agency to be effective October 1, 1979. July 11, 1979. I would have voted "yes."

Rollcall No. 316. H.R. 3363. State Department authorization. Broomfield motion to instruct the House conferees to agree to the Senate amendment expressing the sense of Congress that free and fair elections had been held in Zimbabwe-Rhodesia, and that the President should lift economic sanctions against that nation. July 11, 1979. I would have voted "yes."

Rollcall No. 319. H.R. 4057. Food stamps. Ashbrook amendment to reduce to $280 million, from $620 million, the increase in the spending ceiling for the food stamp program for fiscal year 1979. July 11, 1979. I would have voted "yes."

Rollcall No. 320. H.R. 4057. Food stamps. Passage of the bill to increase by $620 million the spending ceiling for the food stamp program in fiscal 1979. July 11, 1979. I would have voted "no."

Rollcall No. 322. H.R. 4392. State, Justice, Commerce, judiciary appropriations, fiscal 1980. Slack amendment to add $41.2 million for United Nations technical assistance programs. July 12, 1979. I would have voted "no."

Rollcall No. 324. H.R. 4392. State. Justice, Commerce, judiciary appropriations, fiscal 1980. Ashbrook amendment to reduce appropriations for the State Department by 5 percent. July 12, 1979. I would have voted "yes."

Rollcall No. 326. H.R. 4392. State, Justice, Commerce, judiciary appropriations, fiscal 1980. Murphy amendment to add $63 million for Maritime Administration ship building and acquisitions programs. July 12, 1979. I would have voted "no."

Rollcall No. 327. H.R. 4392. State, Justice, Commerce, judiciary appropriations, fiscal 1980. P. Crane amendment to eliminate all funding—$1.6 million—for the U.S. Metric Board. July 12, 1979. I would have voted "no."

Rollcall No. 328. H.R. 4392. State, Justice, Commerce, judiciary appropriations, fiscal 1980. Collins amendment to prohibit any use of appropriated funds for the Justice Department to be used to require the busing of school children, except for students requiring special education as a result of being mentally or physically handicapped. July 12, 1979. I would have voted "yes."

Rollcall No. 329. H.R. 4392. State, Justice, Commerce, judiciary appropriations, fiscal 1980. Slack amendment to add $41.2 million for United Nations technical assistance programs. July 12, 1979. I would have voted "no."

Rollcall No. 330. H.R. 4392. State, Justice, Commerce, judiciary appropriations, fiscal 1980. Passage of the bill to appropriate $7,562,450,550 in fiscal 1980 for the operations of the Departments of State, Justice, and Commerce, the judiciary and 18 related agencies. July 12, 1979. I would have voted "no."

Rollcall No. 332. H.R. 4393. Treasury, Postal Service, General Government appropriations, fiscal 1980. Symms amendment to prohibit the use of Treasury Department appropriations for the collection of any tax imposed by the Internal Revenue Service unless the conduct of IRS employees complied with the provisions of the Fair Debt Collection Practices Act. July 13, 1979. I would have voted "yes."

Rollcall No. 333. H.R. 4393. Treasury, Postal Service, General Government appropriations, fiscal 1980. Ashbrook amendment to prohibit the use of any funds appropriated in the bill to formulate or carry out any rule or policy that would cause the loss of tax-exempt status of any private, religious or church-operated school, unless such rule or policy was in effect prior to August 22, 1978. July 13, 1979. I would have voted "yes."

Rollcall No. 334. H.R. 2282. Veterans disability compensation. Montgomery motion to suspend the rules and pass the bill to provide a cost-of-living increase in compensation rates for disabled veterans and for their survivors. July 16, 1979. I would have voted "yes."

Rollcall No. 335. H.R. 3641. Health information programs. Waxman motion to suspend the rules and pass a bill to authorize $45 million for Federal health information programs for fiscal 1980–82; $7.5 million for Federal physical fitness programs for fiscal 1982; $45 million for certain mental health programs for fiscal 1980; and to establish a national clearinghouse on digestive diseases, and authorize $5.7 million for fiscal 1980–82. July 16, 1979. I would have voted "yes."

Rollcall No. 336. H.R. 3951. Washington Metro authorization. Ashbrook amendment to waive the Davis-Bacon Act wage requirements for laborers and mechanics for work performed on the Washington, D.C. rapid rail system. July 16, 1979. I would have voted "yes."

Rollcall No. 337. H.R. 3951. Washington Metro authorization. Passage of the bill to authorize $1.7 billion for fiscal 1982–87 to complete construction of the 101-mile Metro rapid transpit system of the National Capital region. July 16, 1979. I would have voted "yes."

Rollcall No. 338. H.R. 4393. Treasury, Postal Service, General Government appropriations, fiscal 1980. Bauman to prohibit the $50,000 appropriation for the expense allowance of the president to be expended for any other purpose and to require that any unused portion of the expense account shall revert to the Treasury. July 16, 1979. I would have voted "yes."

Rollcall No. 339. H.R. 4393. Treasury, Postal Service, General Government appropriations fiscal 1980. Ertel amendment to prohibit the expenditure of funds appropriated for allowances and office staff of former Presidents to be used for travel expenses. July 16, 1979. I would have voted "no."

Rollcall No. 340. H.R. 4393. Treasury, Postal Service, General Government appropriations, fiscal 1980. Passage of the bill to appropriate $8,791,624,000 for the Treasury Department, the Postal Service, and Executive Office of the President, and certain independent agencies for fiscal 1980. July 16, 1979. I would have voted "yes."

Rollcall No. 341. H.R. 4289. Fiscal 1979 supplemental appropriations. Adoption of the conference report to appropriate $13,783,822,100 for operations of various Federal departments and agencies for fiscal 1979. July 17, 1979. I would have voted "no."

Rollcall No. 343. H.R. 4580. District of Columbia appropriations, fiscal 1980. Dornan amendment to prohibit the denial of appropriated funds to save the life of a pregnant woman entitled to receive medical benefits under the act. July 17, 1979. I would have voted "no."

Rollcall No. 344. H.R. 4580. District of Columbia appropriations, fiscal 1980. C. Wilson substitute amendment, to the Dornan amendment, to limit appropriated funds for abortions to Federal moneys. July 17, 1979. I would have voted "yes."

Rollcall No. 345. H.R. 4580. District of Columbia appropriations, fiscal 1980. Passage of the bill to appropriate $1,810,751,100 for fiscal 1980—the appropriations was composed of $327,525,700 in Federal funds and $1,483,225,400 in revenues raised by the city. July 17, 1979. I would have voted "no."

Rollcall No. 346. H.R. 2444. Education Department. Brooks motion that the House insist on its amendments to the bill to create a Department of Education and request a conference with the Sen-

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ate. July 17, 1979. I would have voted "no."

Rollcall No. 347. H.R. 2444. Education Department. Walker motion that the House conferees insist on the amendment to make one of the purposes of the Department the goal of insuring that no one is denied access to education on account of racial or sexual quotas. July 17, 1979. I would have voted "yes."

Rollcall No. 348. H. Res. 369. Dress code for male House Members. Bauman motion to table the resolution to permit male House Members to dispense with coats and ties during the period from June 1 through Labor Day for 1979 and subsequent years, so long as energy shortages persisted, as determined by the House Speaker. July 17, 1979. I would have voted "yes."

Rollcall No. 349. H.R. 4473. Foreign aid appropriations, fiscal 1980. Long motion that the House resolve itself in the Committee of the Whole to consider the bill to appropriate fiscal 1980 funds for foreign assistance programs. July 18, 1979. I would have voted "yes."

Rollcall No. 350. H.R. 4473. Foreign aid appropriations, fiscal 1980. McHugh, Obey substitute amendment to the Young amendment, to reduce by $17.7 million—(2 percent of the committee-recommended amount—the appropriation for the Inter-American Development Bank. July 18, 1979. I would have voted "yes."

Rollcall No. 351. H.R. 4473. Foreign aid appropriations, fiscal 1980. Lott amendment to reduce by $144.9 million the appropriation for the International Board for Reconstruction and Development—an agency of the World Bank. July 18, 1979. I would have voted "no."

Rollcall No. 352. H.R. 4473. Foreign aid appropriations, fiscal 1980. Young amendment to the Smith substitute amendment to the Obey amendment to make an additional $1 million cut for the International Development Association. July 18, 1979. I would have voted "yes."

Rollcall No. 353. H.R. 4473. Foreign aid appropriations, fiscal 1980. Smith substitute amendment, as amended to the Obey amendment, to reduce by $207 million the amount sought for the International Development Association. July 18, 1979. I would have voted "no."

Rollcall No. 354. H.R. 4473. Foreign aid appropriations, fiscal 1980. Obey amendment to cut $5.84 million—2 percent—of the $292 million appropriation sought for the fourth replenishment of funds to the International Development Association. July 18, 1979. I would have voted "yes."

Rollcall No. 355. H.R. 4473. Foreign aid appropriations, fiscal 1980. Young amendment to eliminate the $292 million appropriations sought for the fourth replenishment of funds for the International Development Association. July 18, 1979. I would have voted "no."

Rollcall No. 356. H.R. 4473. Foreign aid appropriations, fiscal 1980. Young amendment, as amended by McHugh, to prohibit use of funds in the bill provided for the International Development Association to finance any assistance or reparations to Vietnam. July 18, 1979. I would have voted "yes."

Rollcall No. 357. H.R. 4473. Foreign aid appropriations, fiscal 1980. Solomon amendment to prohibit a $359.5 million U.S. payment to the Asian Development Bank unless Taiwan were permitted to continue its membership in the bank. July 18, 1979. I would have voted "yes."

Rollcall No. 358. H.R. 3917. Health planning and resource development. Adoption of the rule providing for House floor consideration of the bill to revise and extend through fiscal 1982 the Health Planning and Resources Development Act of 1974 and to authorize a 3-year total of $1.2 billion for planning activities and resources development. July 19, 1979. I would have voted "yes."

Rollcall No. 359. H.R. 3917. Health planning and resource development. Preyer amendment to the Satterfield amendment, to require State health planning agencies to receive comment on and publish their criteria for reviewing certificate-of-need applications for approval of medical service changes and to prohibit any conditional approvals that do not conform to the published review criteria. July 19, 1979. I would have voted "no."

Rollcall No. 360. H.R. 3917. Health planning and resource development. Livingston amendment to make certain changes in membership requirements for health planning agencies and to convert private nonprofit HSA's to public agencies. July 19, 1979. I would have voted "yes."

Rollcall No. 361. H.R. 3917. Health planning and resource development. Paul motion to recommit the bill to committee with instructions to add a provision that planning agencies must evaluate effects of their health plans on medical ethics as embodied in the Hippocratic oath. July 19, 1979. I would have voted "no."

Rollcall No. 362. H.R. 3917. Health planning and resource development. Passage of the bill to extend through fiscal 1982 and revise the Health Planning and Resources Development Act of 1974 and to authorize a 3-year total of $1.2 billion for planning activities and resources development. July 19, 1979. I would have voted "yes."

Rollcall No. 363. H.R. 4473. Foreign aid appropriations, fiscal 1980. Long motion that the House resolve itself into the Committee of the Whole to consider the bill to appropriate fiscal 1980 funds for foreign assistance programs. July 19, 1979. I would have voted "yes."

Rollcall No. 364. H.R. 4473. Foreign aid appropriations, fiscal 1980. Smith amendment to reduce by $16.7 million the appropriation for the African development funds. July 19, 1979. I would have voted "no."

Rollcall No. 365. H.R. 4040. Defense procurement. Adoption of the rule providing for House floor consideration of the bill to authorize $42.1 billion for weapons procurement and military research in fiscal 1980. July 19, 1979. I would have voted "yes."

Rollcall No. 366. H.R. 7. Bank reserve requirements. Passage of the bill to reduce requirements for Federal Reserve System members and provide a system of mandatory universal reserve requirements for checking accounts in the event the total amount of checking account deposits subject to reserve requirements dropped below 67.5 percent. July 20, 1979. I would have voted "yes."

Rollcall No. 367. House Resolution 359. House staffing authorization. Adoption of the resolution to permit each House Member to add to their clerk-hire payroll up to four employees—if they fell into one of the five specified categories—without violating the existing ceiling in House rules of 18 permanent clerks per Member. July 20, 1979. I would have voted "no."

Rollcall No. 369. H.R. 4440. Transportation appropriations, fiscal 1980. Duncan motion that the House resolve itself into the Committee of the Whole for consideration of the bill to appropriate fiscal 1980 funds for the Department of Transportation and related agencies. July 23, 1979. I would have voted "yes."

Rollcall No. 370. H.R. Export Administration. Bingham motion that the House resolve itself into the Committee of the Whole for consideration of the bill to revise and extend the Export Administration Act. July 23, 1979. I would have voted "yes."

Rollcall No. 371. Procedural motion. Ashbrook motion to approve the House Journal of Monday, July 23, 1979. July 24, 1979. I would have voted "no."

Rollcall No. 372. House Journal Resolution 74. School busing amendment. Mottl motion to discharge the House Judiciary Committee from further consideration of the joint resolution to propose an amendment to the Constitution to prohibit compelling students to attend a school other than the one nearest their home. July 24, 1979. I would have voted "no."

Rollcall No. 373. House Joint Resolution 74. School busing amendment. Stokes motion to order the previous question on the joint resolution to propose an amendment to the Constitution to prohibit compelling students to attend a school other than the one nearest their home. July 24, 1979. I would have voted "yes."

Rollcall No. 374. House Joint Resolution 74. School busing amendment. Passage of the joint resolution to propose an amendment to the Constitution to prohibit compelling students to attend a school other than the one nearest their home to achieve racial desegregation. July 24, 1979. I would have voted "no."

Rollcall No. 375. H.R. 4453. Saccharin extension. Waxman motion to suspend the rules and pass the bill to extend a moratorium on the Food and Drug Administration ban on the artificial sweetener saccharin through June 30, 1981, and to require studies and health warnings on saccharin-flavored products and in stores selling the products. July 24, 1979. I would have voted "yes."

Rollcall No. 376. H.R. 3996. Amtrak reorganization. Gore-Fowler amendment to the Eckhardt amendment to provide for a 1-year moratorium on any Amtrak route cuts. July 24, 1979. I would have voted "no."

Rollcall No. 377. H.R. 3996. Amtrak Reorganization Act of 1979. Florio motion that the House resolve itself into the Committee on the Whole for further consideration of the bill. July 25, 1979. I would have voted "yes."

Rollcall No. 379. H.R. 3996. Amtrak Reorganization Act of 1979. Hagedorn amendment to require Amtrak to establish fares that would produce revenues equal to 40 percent of total Amtrak expenses in fiscal 1980, 45 percent of total Amtrak expenses in fiscal 1980, 45 percent in 1981, and 50 percent in 1982. July 25, 1979. I would have voted "yes."●

THE ADMINISTRATION'S PRIVACY PROPOSALS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. McKINNEY. Mr. Speaker, several of my colleagues today have introduced two bills drafted by the administration dealing with the protection of individual privacy. Last year I was deeply involved in the passage of the Right to Financial Privacy Act, an important title of Public Law 95-630, and plan to play an active role in the development of these and future legislative proposals relating to the rights of American citizens to protect their personal records.

The Fair Financial Information Practices Act and the Privacy of Electronic Fund Transfers Act introduced today were submitted to us by the Department of Commerce. The authors of this legislation and the White House are to be commended for moving in the proper direction. However, I was not able to cosponsor these bills because they do not move far enough to offer the necessary protection. This shortcoming reflects, I am certain, the constant attacks by the Justice Department to weaken any proposal interfering with their carte blanche access to—and frequent abuse of—personal records of American citizens.

Secretary Kreps stated in presenting these proposals that—

> We are still a long way from approaching the Orwellian nightmare that excesses could produce.

After the horrifying disclosures made to the House Select Committee on Assassinations demonstrated to me the alarming frequency of intentional government abuses of basic rights to privacy, I can not agree with the Secretary that the nightmare of "Big Brother knowing all" is a long way off. Also, I find the attitude of our law enforcement agencies to be frightening when they place themselves above the laws they were created to enforce legislative action is definitely needed to correct the police state mentality that reasons "if you do not support me, I will destroy you." The allegation of being soft on white collar crime is no excuse for taking away the constitutional rights of American citizens and in fact reflects the arrogance of power that must be checked now.

I understand that my friends who are sponsoring these proposals are not wedded to the language as drafted but are endorsing the concept. I am with them in that regard and I know that we will be working together to redefine and improve the provisions when hearings are held on the bills. Furthermore, I hope that our efforts will result in the development of standards that will reduce the concerns of the American people about threats to their privacy by the Government or from private parties.

These privacy proposals are intended to create a clear, legally enforceable expectation of confidentiality. In my opinion, these bills need substantial refinement, but I am confident that Congress will meet the expectations of the public.●

ATTORNEY GENERAL BENJAMIN CIVILETTI STATES THAT LEGISLATIVE VETO VIOLATES THE LETTER AND SPIRIT OF THE CONSTITUTION

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. DRINAN. Mr. Speaker, several Members of the House have endorsed H.R. 1776 which would require that no agency rule shall become effective if within 90 calendar days of continuous session of Congress both Houses of Congress adopt a concurrent resolution disapproving the rule, or if within 60 calendar days of continuous sessions of Congress one House of Congress adopts such a resolution and transmits it to the other House which does not disapprove it within 30 calendar days of continuous session after its transmittal.

Attorney General Civiletti, testifying before the Subcommittee on Rules of the House on September 26, 1979, categorized section 4 of H.R. 1776 as a threat to the "fundamental principles which have given our Government resiliency and longevity."

The legislative veto in the opinion of the Attorney General "does fundamental violence to principles underlying our Constitution which Federal officials, appointed and elected, have sworn to uphold."

The complete testimony of Mr. Civiletti follows:

STATEMENT OF BENJAMIN R. CIVILETTI, ATTORNEY GENERAL

Mr. Chairman and Members of the Subcommittee:

I have been asked to appear this morning to discuss with you the legislative veto. While I recognize that an argument advanced in favor of legislative veto provisions is that they will assist Congress in its important goal of improving oversight of the federal bureaucracy, it is my opinion that these provisions violate the letter and spirit of our Constitution. I further believe that legislative veto devices actually exacerbate, rather than ameliorate, problems which need urgent attention, such as agency delay, lack of accountability and the power of special interest groups in the regulatory process.

In a message transmitted to both the House and the Senate on June 21, 1978, the President stated his position that legislative veto provisions are unconstitutional because they infringe upon the Executive's constitutional duty to faithfully execute the laws and because they authorize congressional action that has the effect of legislation but deny the President the opportunity to exercise his veto. Legislative vetoes thereby circumvent the President's role in the legislative process established by Art. I, § 7 of the Constitution. I am submitting a copy of the President's message and I ask that it be included in the record.

Today I would like to address the Constitutional issue because of the importance I attach to preserving the system of government established almost 200 years ago—one which has served us well. I believe that legislative veto devices threaten fundamental principles which have given our government resiliency and longevity.

Section 4 of H.R. 1776 would require, inter alia, that no agency rule (other than an emergency rule) shall become effective if within 90 calendar days of continuous session of Congress both Houses of Congress adopt a concurrent resolution disapproving the rule, or if within 60 calendar days of continuous session of Congress one House of Congress adopts such a resolution and transmits it to the other House which does not disapprove it within 30 calendar days of continuous session after its transmittal. In addition, either House of Congress may adopt a resolution directing agency reconsideration of a rule other than an emergency rule within 90 calendar days of continuous session of Congress after the rule was promulgated. H.R. 601 provides, inter alia, that an agency rule shall not become effective if within 60 legislative days after promulgation either House of Congress adopts a resolution disapproving it because it is contrary to law, congressional intent or beyond the legislative mandate.

H.R. 512 provides, in its bare essentials, that an agency rule shall not become effective if within 60 calendar days after its promulgation, either House of Congress adopts a resolution disapproving such rule or regulation.

Although the particular procedural mechanisms provided for in these three bills differ in certain respects, the fundamental constitutional issue posed by each of them is the same. My analysis of the constitutionality of the legislative veto is quite simple. The objective of a legislative veto, as I understand it, is to increase political accountability on the part of the so-called "unelected bureaucrats." Yet legislative vetoes actually have the perverse effect of removing the President, the one person among us who is elected by all the people of this country, from participation in the process by which this political accountability is to be achieved. Indeed, some legislative vetoes permit either the House or Senate acting alone to nullify executive action thus removing one House of Congress as well as the President from participation in the process, permitting one House of Congress to block action which an agency has taken, with which the other House and the President may be in agreement and which might well be upheld by a court on review for its legality.

From the outset it is apparent that a system specifically designed to concentrate "political accountability" in one House of Congress or in both Houses without the participation of the President raises constitutional questions of the first order. The starting point of any analysis of American constitutional government, a government of limited powers, is that the framers constructed a very carefully balanced system of accountability based on a tripartite separation of powers. The legislative power was vested in the Congress, the power to execute the laws passed by Congress was vested in the Executive, and the power finally to say what the law is was left to the courts. But the power of Congress to legislate is not unrestrained; it was made subject to the President's veto. Nor is the President's power to execute the law absolute; Congress could always override the President's action by enacting new legislation. And if the legislation were vetoed by the President, then Congress has the ultimate authority to override the veto. That is our constitutional system, a system based on a carefully designed balance of powers.

The proponents of legislative vetoes would upset this balance. Legislative votes authorize congressional action which has the effect of legislative, but deny to the President his constitutional role in the process, the power to approve or disapprove that congressional action under Art. I, § 7 of the Constitution.

A. The Presentation Clauses:

The legislative veto simply cannot stand in the face of the language and history of the Presentation Clauses, clauses 2 and 3 of Art. I, § 7. Clause 2 provides, first, that every bill which passes the House and the Senate shall, before it becomes law, be presented to the President for his approval or disapproval. If disapproved, it does not become law unless repassed by a two-thirds vote of each House. (Art. 1, section 7, clause 2). At the Constitutional Convention the Framers considered and explicitly provided for the possibility that Congress might attempt to evade the requirement that "bills" be presented to the President by passing "resolutions" rather than bills. During the debate on this clause, James Madison observed that:

"If the negative of the President was confined to bills, it would be evaded by acts under the form and name of Resolutions, votes & c . . ."

Madison believed that additional language was necessary to pin this point down and therefore "proposed that 'or resolve' should be added after 'bills' . . . with an exception as to votes of adjournment & c."

Madison's notes show that "after a short and rather confused conversation on the subject," his proposal was at first rejected. However, at the commencement of the following day's session, Mr. Randolph, "having thrown into a new form" Madison's proposal, renewed it. It passed by a vote of 9–1. 2M Farrand, *Records of the Federal Convention of 1787* (rev. ed.) 301–35. Thus, the Constitution today provides—not in clause 2 of section 7, dealing with the passage of legislation (which has its own Presidential veto provision), but as an entirely separate clause Art. I, § 7, cl. 3—that:

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him shall be repassed by two-thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

The wording of this provision is plain and its formulation as a separate clause apart from the clause dealing with legislation is clear in its intent to protect against all congressional attempts to evade the President's veto power. The function of the Congress in our system is to legislate, and all final congressional action of public effect, whether or not it is formally called a law, must follow the prescribed procedure which includes presentation to the President for his approval or veto.

B. Separation of Powers:

The principle of separation of powers—which James Madison described as the most fundamental principle in our Constitution—provides that each of the three branches of our government must restrict itself to its allocated sphere of activity: legislating, executing the law, or seeing to its interpretation. This is not to say that every governmental function is inherently and of its very nature either legislative executive, or judicial. Indeed, some activity might be performed by any of the three branches—and in that situation it is up to Congress to allocate the responsibility. See, e.g., *Wayman v. Southard*, 10 Wheat 1, 42–43, 46 (1825). Once it has done so, however, the very essence of separation of powers requires that Congress cannot control the discharge of functions assigned to the Executive branch or to the courts, except through the plenary legislative process of amendment and repeal.

Beginning with a statement by James Madison during the Great Debate of 1789 concerning the statutes establishing offices, it has been recognized that the power of Congress over the execution and implementation of a statute comes to an end with its enactment. See Annals of Congress, 1st Cong., col. 582. The President, not Congress, has the sole authority and responsibility to ensure that the laws are faithfully executed pursuant to Art. II, § 3 of the Constitution. The President can be overruled in his interpretation of the law by the courts in a particular decision, and by the Congress through legislation. But the essential fact is that Congress can only overrule the President by passing new legislation and, if necessary, doing so over the President's veto.

Proponents of the legislative veto argue that such devices actually fortify the separation of powers by providing Congress with a check on an agency's exercise of delegated power. No doubt congressional review is a check on agency action, just as committee review or committee chairman review would provide a check. But such review involves the imposition on the Executive of a particular interpretation of an enacted law—the interpretation of a new Congress, or one House of that Congress, or one committee, or one chairman—without the check of the legislative process which includes the President's veto. In that case Congress is either usurping the power of the President to execute the law, or of the courts to construe it; or Congress is legislating. If it is legislating, which is the only power given to Congress to exercise, the Constitution is explicit that the President must have the opportunity to participate in that process by vetoing the legislation. Unfortunately, the legislative veto will only compound, and not reduce, the frustrations experienced by dedicated public servants and interested citizens. As the President stated in his message of June 21:

"The most troubling problem . . . is that the legislative veto treats symptoms not causes. The vast effort required to second-guess individual regulatory decisions could impede the crucial task of revising the underlying statutes.

"Agencies issue regulations because Congress passes laws authorizing them, or frequently mandating them. Many of these laws have not been seriously re-examined for years and need change. . . . We must deregulate where appropriate, make regulation easier to understand and to honor, and control the costs which regulations impose on our economy."

The Justice Department and the Administration are ready to work closely with the Congress in accomplishing the laudable goals of regulatory reform. But the device of the legislative veto is an unacceptable and inappropriate means of attempting to achieve them. It exacerbates existing problems in several respects and does fundamental violence to principles underlying our Constitution which federal officials, appointed and elected, have sworn to uphold.●

A TRIBUTE TO WALLY SCHIRRA

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. RUSSO. Mr. Speaker, I am pleased to note that former astronaut Wally Schirra will be honored in my district this week and I am especially pleased to be part of the festivities.

Distinguished astronaut and retired Navy Captain Schirra will be the guest of Realty World at a special brunch on Sunday, October 14, in Oak Lawn, Ill. It will be a thrilling occasion for many people as they have the opportunity to meet one of our great astronauts.

Captain Schirra flew three missions for our space program: Mercury VIII, Gemini VI, and Apollo VII. In fact, he was one of the original seven astronauts chosen by NASA in 1959. Truly one of our modern-day heros, adventurers, pioneers, Captain Schirra is a credit to the program in which he distinguished himself, and to himself as a person of singular talent and courage.

I know my colleagues join with me in expressing gratitude to Captain Schirra for his work and continued best wishes for the future.●

NEW YORK STATE URGES THE CORPS OF ENGINEERS TO ACCEPT THE NORTH CENTRAL DIVISION'S RECOMMENDATION TO KEEP A FULL FORCE DISTRICT OFFICE AT BUFFALO

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. KEMP. Mr. Speaker, the State of New York, its congressional delegation, and Representative FRANK HORTON, chairman of the New York delegation on the Northeast-Midwest Congressional Coalition, have all joined the western New York congressional delegation in supporting the recommendation by the north central division of the Army Corps of Engineers that the Buffalo District Office of the Corps of Engineers be kept at full force in any consideration of a reorganization of the Corps of Engineers.

There has been great concern in western New York over reports that the Buffalo District Office of the Army Corps of Engineers could be transferred from the Buffalo area or significantly reduced in terms of personnel. While we understand the Corps' desire to consider all alternatives in its proposed reorganization, we strongly oppose any action which would reduce the Buffalo District Office and impair the vital services which the Corps provides to western New York.

Members of the New York congressional delegation who have signed a formal petition to the Chief of Engineers, Lt. Gen. John W. Morris to keep a full-force district office in Buffalo include:

NEW YORK CONGRESSIONAL DELEGATION

Representatives Jack Kemp, Henry J. Nowak, John J. LaFalce, Barber B. Conable, Jr., Stanley N. Lundine, Mario Biaggi, Donald J. Mitchell, James Hanley, Frederick W. Richmond, and Joseph P. Addabbo.

Representatives Stephen J. Solarz, Geraldine A. Ferraro, Samuel S. Stratton, Hamilton Fish, Jr., Thomas J. Downey, Benjamin A. Gilman, Peter A. Peyser, Norman F. Lent, Shirley Chisholm, and John M. Murphy.

Representatives Ted Weiss, Robert Garcia, Charles B. Rangel, James H. Scheuer, Gary A. Lee, Robert C. McEwen, Gerald B. H. Solomon, Matthew F. McHugh, Frank Horton, Richard L. Ottinger, and Lester L. Wolff.

I am enclosing for the benefit of my colleagues in the Congress the official proposal by Maj. Gen. Richard L. Harris, North Central Division Engineer, which contains the following recommendation:

The proposed North Central Division organization would be comprised of five full-functioning districts with headquarters located at St. Paul, Rock Island, St. Louis Detroit and Buffalo.

At this time I would like to acknowledge the fine assistance and leadership my colleague from Buffalo, Representative HENRY NOWAK, has given from his position on the Public Works Committee toward the efforts to retain Buffalo as a full-functioning Corps of Engineers district.

The battle is not yet won, as Lt. Gen. Morris, Chief of Engineers, is to rule on the final realinement plan next week. We respectfully ask General Morris to take our recommendations and that of the North Central Division Engineer under careful advisement, and we strongly urge that this recommendation be accepted. To do otherwise would mean the loss of hundreds of jobs in New York State, and a significant loss of technical assistance to property owners whose homes and lands are most benefited by on-the-spot assistance from the Corps in times of natural disaster.

General Harris' recommendations follow:

NORTH CENTRAL DIVISION ENGINEER ANNOUNCES REORGANIZATION PROPOSALS

CHICAGO, ILLINOIS, 25 May—Major General Richard L. Harris, North Central Division Engineer, today announced his recommendations for realignment and reorganization of the U.S. Army Corps of Engineers district offices in the Great Lakes and Upper Mississippi River Basins.

The recommendations, if approved by higher level authorities in Washington, D.C., will encompass the following actions:

a. Transfer of the St. Louis District from the Lower Mississippi Valley Division to the North Central Division.

b. Disestablishment of the Chicago District.

c. Transfer of Great Lakes Basin watershed functions and responsibilities currently assigned to the Chicago District to the Detroit District. This includes the Lake Michigan watershed in northeastern Illinois and eastern Wisconsin, as well as all of the northwestern portion of the State of Indiana.

d. Transfer of the river-oriented functions and responsibilities of the Chicago District to the Rock Island (Illinois) District. This includes the Illinois, Chicago and Kankakee rivers in Illinois, and the Lower Fox river in Illinois and Wisconsin.

e. Transfer to the Detroit District the lake-oriented work of the St. Paul District, including the Duluth-Superior field office.

f. Establishment of a special liaison office for the metropolitan Chicago area at North Central Division Headquarters in Chicago.

General Harris' recommendations are based on the findings of a detailed, comprehensive study of how best to realign Corps of Engineers resources to improve the management and execution of Federal water and related land resource programs for which the Corps is responsible in the North Central Division area.

Seven principal alternative reorganization configurations and a number of subalternatives were thoroughly studied and the recommended reorganization was determined to be the most viable. Each alternative was evaluated for operational, budgetary, economic, environmental and community impact. The proposed North Central Division organization would be comprised of five full-functioning districts with headquarters located at St. Paul, Rock Island, St. Louis, Detroit and Buffalo. Affected field offices of the districts will be transferred "in place" making for a minimum disruption of personnel.

General Harris, in making his announcement, stated, "This study was undertaken because of the declining workload and shift in its mix in the North Central Division and the need to better distribute our resources and workload. The new organization will enable us to reduce our current and projected workload imbalance, improve the technical orientation of our professional assets, and provide the most efficient overall service to the public.

"Of concern to me is the impact on employees in the Chicago District. Most will be asked to continue with the transferred functions and relocate if necessary. In cases where employees are displaced, every effort will be made to provide employment for them through reassignment, transfer or placement in other federal agencies."

Of the 573 civilian employees working for the Chicago District currently, 352 are assigned to field offices which will be reporting to other district headquarters without necessitating a change in location. One hundred eighty-one jobs will be relocated to other duty stations. There will be a reduction of 40 jobs, primarily related to administrative support services.

The North Central Division study is part of a nationwide effort of the Chief of Engineers to seek the most efficient and effective posture for the Corps of Engineers in accomplishing its mission.

General Harris will accept written public statements at the North Central Division headquarters office at 536 South Clark Street, Chicago, Illinois 60605, for ten days following this announcement. He will forward his recommendations to the Chief of Engineers on 15 June. After that date comments may be forwarded direct to the Office, Chief of Engineers, ATTN: DAEN-RMI, Department of the Army, Washington, D.C. 20314.

An additional public comment period of 30 days will be provided by the Chief of Engineers to ensure that no substantive information has been overlooked in the studies.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. MAZZOLI. Mr. Speaker, I was absent from the House of Representatives on Friday, September 28, 1979. Had I been present, I would have voted: "aye" on rollcall No. 523, the conference report on S. 737, the Export Administration Act amendments; "aye" on rollcall No. 524, the conference report on S. 237, Federal Magistrates Act of 1979; "aye" on rollcall No. 525, amending International Travel Act of 1961; "aye" on rollcall No. 526, final passage of H.R. 3642, extension of emergency medical services; "no" on rollcall No. 527, on ordering the previous question on H.R. 2859, the Domestic Volunteer Services Act; "aye" on rollcall No. 528, the rule to consider H.R. 2859, the Domestic Volunteer Services Act; "aye" on rollcall No. 529, to dissolve the House into the Committee of the Whole; "aye" on rollcall No. 530, adopting H.R. 2172, international sugar agreement amendments.●

HYDROGEN FUEL DEVELOPMENT AND USE ACT OF 1979

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. GRASSLEY. Mr. Speaker, on September 25, 1979, I introduced H.R. 5399 (Hydrogen Fuel Development and Use Act of 1979). The following day, several experts in the field of hydrogen consented to hold a conference in 1301 Longworth to brief Members of Congress, staff members, and the media on the value of hydrogen as a viable option to this country's energy alternatives. I would like to pay special tribute to these individuals who traveled long distances, in some cases at their own expenses, to educate us on the potential of this element. The experts and their affiliations are as follows: Dr. Nejat Veziroglu, chairman of the International Association for Hydrogen, University of Miami; Dr. James Swisher, Department of Energy; Mr. Rodger Billings, president of Billings Energy Corp.; Mr. John Hansen, president of Winnebago Industries; Mr. Doug Eddy, city councilman for Forest City, Iowa; Dr. Gordon Dugger, head of aeronautics division, applied physics laboratory of Johns Hopkins University; Mr. Leonard Nuttall, manager of applied engineering, direct energy conversion program of General Electric Corp. I would also like to pay a special thanks to two individuals who took the time to submit written testimony: Dr. Robert Zwieg, M.D. and president of American Lung Association, Riverdale, Calif., and Mr. William J. D. Escher, consultant for Jet Propulsion Laboratory.

I believe the fruits of this effort are best described in a Des Moines Register editorial that states as follows:

NEGLECTED ENERGY SOURCE

Representative Charles Grassley (Rep., Ia.) last week introduced a bill to encourage development of an energy resource that has been strangely neglected by the Carter administration: hydrogen.

On paper, hydrogen looks like one of the better possible solutions to the U.S. energy crisis. It is available in unlimited quantities. It can be used to fuel cars, planes and other vehicles, to heat homes, to power factories and to produce electricity. Moreover, it is relatively clean.

Some of the technologies needed to produce, transport and use hydrogen are already available. Plants have been constructed that can produce hydrogen from coal. Forest City, Ia., is planning to build such a plant to heat its homes. The Billings Energy Corp. of Provo, Utah, has demonstrated that ordinary automobiles can run on hydrogen fuel.

Several groups are working on producing hydrogen from water, a truly unlimited source.

Until now, one of the major objections to hydrogen has been the claim that it's too expensive, but a recent seminar sponsored by the Department of Energy concluded that hydrogen could be produced for less than $1 a gallon—competitive with the cost of gasoline.

Not all the problems have been ironed out, however. Converting to hydrogen would require major adjustments: hydrogen gas stations, transportation of hydrogen in large quantities, converting cars. Building coal gasification plants (currently the best way of producing hydrogen) would be quite expensive.

Hydrogen hasn't gotten much support from the federal government. Even as President Carter was calling for a crash program to produce synthetic fuels, his administration was asking Congress to slash the budget for development of hydrogen.

Dr. James Swisher, a DOE official involved in the government's hydrogen program, said the president wants to focus maximum attention on fuels that might help solve the U.S. energy crisis by 1985. Hydrogen holds more potential as a long-run solution, say, by the year 2000.

It makes no sense, however, to slice the budget for hydrogen development at a time when the president has called for war-like efforts to overcome the energy crisis. We hope Congress will follow Representative Grassley's lead by giving hydrogen the support it deserves.

I urge my colleagues to look at this viable option, particularly since it is a renewable source of energy, available domestically, relatively competitive with other options and for all practical purposes is nonpolluting. In fact, it offers the option of reducing the size of an agency (EPA since it is nonpolluting) rather than creating another new bureaucracy.●

A STEP TOWARD STABILITY IN THE MIDDLE EAST IS NEEDED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. SIMON. Mr. Speaker, like most everyone in the United States I was impressed by Pope John Paul II.

I do not happen to be Roman Catholic, though my wife is, but the genuine affection that he has for people lit a spark in our country that was positive.

Pope John Paul's speech to the United Nations with its emphasis on arms control is certainly a message that all of us must heed.

There was one slightly jarring note which I caught and which was noted by a columnist for the Washington Post, Stephen S. Rosenfeld.

I hope before long the Vatican policy on Israel will change because it would, in the opinion of many people, be another step in the direction of stability and peace in the Middle East.

I urge my colleagues to read the Stephen Rosenfeld column:

ISRAEL, UNBLESSED

On the general themes he struck in his United Nations speech—peace and the dignity of man—Pope John Paul II was inspiring. But on the single specific political issue with which he dealt, the Middle East, his words were dispiriting: an example of the parochialism he otherwise denied.

As an admirer of this uncommon and humbling man, I had hoped that by example as by word he would show how political questions can be addressed from a moral point of view. But on the one such question he did address, he stepped forward, regrettably, as an organization man—whose organization, moreover, has a distressingly backward-looking view.

On the Middle East question, the pope expressed what would have been instantly understood, if others had expressed it, as the position of the Arab rejectionist front. It is a position that dismisses the Camp David process whose first fruit was the Egyptian-Israeli peace treaty, that brushes past Israel's claims for security and recognition of its existence and sovereignty, and that identifies the Palestinian issue as the only one in the Mideast requiring a "just settlement."

Many people have questioned whether the Camp David process will produce a comprehensive peace. Fair question. But the pope went further, suggesting that Camp David would have "no value" if it did not. Think of it: the first Arab-Israeli peace treaty, one that virtually rules out another major Mideast war, one that provides at least a framework in which further steps might be taken. "No value"?

He went on to skip over the very fact of Israel, not once calling the country by name, asking merely for "an equitable recognition of the rights of all," and thereby withholding sanction from Israel's demands for Arab recognition and acceptance. The Palestinian cause alone received a papal blessing. The most avenging Arab in John Paul's United Nations audience, the most oil-sapped European, the chic-est American, might have done it the same way.

From there it was but a step to reaffirm Vatican support for "a special statute that, under international guarantees . . . would respect the particular nature of Jerusalem." The pope managed entirely to avoid acknowledging that the city whose status he would transform happens to be the capital of one sovereign state (Israel) and, for that matter, the prospective capital of perhaps another (Palestine). Internationalization is an old and absurd idea, a complete non-starter, whose appeal to the Vatican presumably lies in its promise of an enhanced Jerusalem role. Others of course, favor the idea for its promise of saving Jerusalem for the Jews.

The pope concluded his Mideast remarks by suggesting a return—with unspecified but seemingly minor adjustments—to the traditional formula of Christian-Moslem power-sharing in Lebanon. While it worked, the Christians found this formula eminently satisfactory. But it was shredded in the Lebanese civil war of the mid-1970s. How can it now be restored?

To be sure, everything the pope said was consistent with the Vatican's refusal since the establishment of Israel to recognize the Jewish state and to establish diplomatic relations with it. His words on Lebanon reflected a longtime church interest in sustaining the Christian community there.

Still, it was painful to see the pope putting his enormous prestige and moral authority behind a set of such shopworn and, in current circumstances, mischievous political ideas. And surely they are mischievous: if John Paul II can make a saint-like progress across the international stage without leading his church to recognition of Israel, without even deigning to call Israel by name, does not that work against Palestinian accommodation of Israel? Does that not reinforce the evident Palestinian tendency to hope Israel will somehow disappear? Does it not lend a subtle moral support to efforts to make Israel disappear?

Why do the pope and his church stick to a Mideast policy laid out decades ago, before Israel had put down roots, before the church began to modernize its attitudes toward Jews, before the present opportunity opened for the church, by recognizing Israel to make a rich contribution to Palestinian-Israeli reconciliation and to peace? I cannot believe this pope would hew to this policy if he thought about it anew.●

INVESTMENTS IN SOUTH AFRICA FOR A PEACEFUL CHANGE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. EVANS of Delaware. Mr. Speaker, I have long been an advocate of investment in South Africa as a means of achieving peaceful, progressive change in that troubled country.

That position, of course, is controversial, not only in South Africa, but in this country as well. Many well-meaning people argue that investments of foreign firms add legitimacy to the South African Government and if that investment is removed, majority rule would soon follow.

I cannot agree with this position. I strongly believe that disinvestment would hurt the very people we are trying to help—the black South Africans. It would also cause the loss of thousands of jobs in this country and contribute to our already serious overall imbalance of trade. It would strengthen the hand of extremists within South Africa, and would remove one—if not the most important—lever we have to encourage peaceful change in South Africa. In short, disinvestment may satisfy an emotional need, but it would inhibit rather than enhance opportunities for all South Africans.

I share the ultimate goal of these protests, which are designed to bring about an end, once and for all, to the ugly system of apartheid. However, I believe that U.S. investment in South Africa can serve as a bridge over which black South Africans can move from oppression to economic and political opportunity. To end or curtail South African investment would be counterproductive in our efforts to promote internal change through external economic pressure.

Many black leaders in Africa, such as Chief Gatsha Buthelezi and journalist Percy Qoboza, have argued that foreign investment means jobs for their people and economic freedom leads to political freedom. Since it takes courage for blacks in South Africa to enunciate this kind of position, its very encouraging to me to see more and more black leaders expressing these same views.

Columnist William Raspberry, who has written often on this matter, authored a column which appeared in the October 8, 1979, Washington Post. This column brings to our attention the leadership and statements of Lucy Mvubelo, head of the 24,000 member National Union of Clothing Workers. Ms. Mvubelo says that disinvestment would only make black unemployment, already at 2 million, even worse and she argues forcefully that what is needed is more investments in South Africa by multinational companies, not less.

I ask unanimous consent that Mr. Raspberry's thoughtful column, entitled, "Investing in the Fight Against Apartheid", be included in the RECORD.

INVESTING IN THE FIGHT AGAINST APARTHEID

Think of a tough-minded black American—one who is convinced that large-scale busing for desegregation is a misguided policy—testifying in support of anti-busing legislation introduced by a conservative senator.

Lucy Mvubelo would have no trouble understanding his mixed feeling of deep conviction and embarrassment. She knows the feeling well.

Mvubelo is a black South African here to argue against disinvestment in her country. She detests what her government is doing to her people, but she is convinced that disinvestment would leave them disastrously worse off.

"I know that the intellectuals and the elite blacks don't agree with me," she says, acknowledging that a number of her activist friends are in that category. "But my concern is not ideology but the welfare of my people."

Her people are the 24,000 members of the National Union of Clothing Workers, which she heads.

"Already South Africa has two million blacks who are unemployed through no fault of their own. Disinvestment would only make it worse. These are people without skills and education. All they can do is use their hands. What they need is more opportunity to work, and that means more investments in South Africa by multinational companies, not less."

It is, as Lucy Mvubelo knows, the argument pressed by government spokesmen and Harry Oppenheimer, and that fact embarrasses her a little.

But she is persuaded that foreign investment offers the best hope of economic progress for South African blacks, both because it increases the demand for workers and because of the influence of foreign-based companies.

She hopes to sell that point of view to "responsible organizations and black leaders" during this, her fourth, visit to the United States.

"The multinational companies have been an asset to us," she said in a recent interview arranged by the South Africa Foundation, an independent organization that is sponsoring her tour.

"Our children can work side by side with their white counterparts, something we were never able to do. The very acceptance [of integrated work forces and facilities in the foreign-based companies] has made such a lot of difference in South Africa.

"Why should the world be so cruel to us as to call for these companies to withdraw when we are only now getting some sunshine in that very dark country of ours?"

Although many internationally respected black South Africans differ with her on the question of disinvestment, Lucy Mvubelo is no government stooge. Indeed, she has spent a good many of her 59 years fighting her government on one front or another.

As early as 1944, shortly after she became a worker in the garment industry, she was a leader in a successful bus boycott in Johannesburg.

When the government, in 1957, promulgated its Job Reservations Act, denying certain categories of employment to black workers, she called a strike of her garment workers.

"We had called it for three weeks," she recalled, "thinking that in that time they would recognize that they couldn't go on without us. In fact, it took us only half a day to be effective, and that same day I had to go and call the workers back. That's how we killed job reservations in the clothing industry." The law was scrapped altogether in 1977.

Her latest fight with the government is over the recognition of black unions. Recent government actions suggest that she may be close to another victory.

But she agrees with her government, albeit for her own reasons, on the question of disinvestment.

"I know well the arguments in favor of disinvestment," she said. "They say withdrawal of multinationals will pressurize the government into making changes, or it will bring revolution. But that is not my belief. It is the economy of the country that will make South Africa change. A growing economy will increase the necessity for black workers at all levels, and that is the best hope for my people."

Many of the people who take the opposing view, she said, are the well-educated elite and businessmen who can survive quite nicely even in a shrinking economy. Hundreds of others have fled the country—for Canada, Australia and, increasingly, the United States.

"That's all very well for them," she said, "but what will my people do? They only have their labor to sell. I've come to plead for more American companies to invest in South Africa—but that they establish [desegregated] practices there as in the United States.

"Your industries must not take advantage of us the way the South African companies have done. Many [foreign companies] have been hiding behind our government's policies as a shield for not doing the right thing."

Pressure by Americans on American-based companies could help a great deal to improve opportunities for black workers, she said, but only if the American companies are there.

Mvubelo said she has risked her freedom to argue with the minister of planning that some of the government's policies are creating artificial unemployment among blacks in South Africa. She is willing to risk personal embarrassment to tell Americans that disinvestment would do the same thing. ●

WATER CRISIS EXPECTED

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. WHITEHURST. Mr. Speaker, for some time I have been telling my constituents that we may well be facing a water crisis before the end of this century. The editorial from the Friday, October 12, 1979, edition of the Washington Post makes as cogent a statement on this issue as I have yet seen, and I am taking this opportunity to share it with my colleagues. It seems to me that we in the Congress have the responsibility to make every effort to anticipate the seriousness of the problem and deal with it before it actually reaches crisis proportions.

We have always been an "11-hour" Nation—I recall so well, for example, that the great majority of my history students always wrote their book reports and term papers the night before they were due—and we have always had great resourcefulness on our side when the crunch came, whether it be Sputnik, synthetic rubber, or even World War II. Indeed, Bismarck once said that there is a special providence that favors fools, small children, and the United States of America. However, we cannot expect that happy situation to last forever, and we would do well to let our present energy woes serve as a warning; I think we will make it this time, but let us try to be better prepared before the water crisis strikes—that way, it will not need to reach crisis proportions.

The article follows:

WATER SHORTAGE EVERYWHERE

Why is water scarce and growing scarcer, approaching the status of a genuine shortage? In large part because we waste it. Anyone who has ever visited Los Angeles, for example, knows that the leaf rake is an endangered species there—these days leaves are blown off lawns and driveways with a spray hose. That's called progress. But agriculture is the truly big waster: the General Accounting Office recently concluded that at least half of the water used for irrigation in this country is wasted.

And why does wasting water come so easy? In large part because of billion-dollar federal subsidies that provide water for irrigation at a fraction of its real cost. A utility in Utah, for example, recently paid $1,750 per acre-foot of water while not far away, in California's San Joaquin valley, farmers were paying less than $10. In addition, there is increasing concentration of growth in areas where water supplies are lowest—in the Sun Belt. Many of these booming cities, like Phoenix, for example, have been built on non-renewable supplies of ground water. Phoenix prides itself on having "made the desert bloom," but the price is a water table that has dropped 400 feet and more. With a measly 10 inches of annual rainfall, Arizona ranks among the top 10 states in per-capita water consumption.

In the East, where flooded basements are more common than falling water tables, a less familiar type of shortage may be developing. This is not an absolute shortage, but a shortage of usable water: water that is, in the vernacular of the trade, "fishable and swimmable." Some years ago Congress decided to try to reach that goal—fishable and swimmable—for the nation's waters by 1983. It won't be met, though not for want of trying. The construction of waste-water treatment facilities is now the nation's largest public works project, outdistancing even the pork-barrel dams and various Corps of Engineers boondoggles. But despite the nearly $30 billion in federal money that has been spent, the goal of clean water keeps receding. And the list of hazardous substances that should be removed from water to ensure safety grows.

The chairman of one congressional committee on water resources said the other day that "if we don't do something," the water shortage could make the energy crisis look like "a pink tea party." But there doesn't have to be a national water crisis. The country has about as much water available as it ever had—about 600 billion gallons per day. It is simply being used faster than it can be replenished. And since part of the reason is the price, which has been held by federal policy way below water's real value, and part the wasteful practices for which there are many technological alternatives, the similarities to past mistakes with oil and gas should be too obvious to ignore. ●

PERSONAL EXPLANATION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. VENTO. Mr. Speaker, I unavoidably missed a vote on October 10 on H.R. 2859, which amends the Domestic Volunteer Service Act of 1973. If I had been present, I would have voted "yes." ●

PRESIDENT OF GETTYSBURG COLLEGE HITS FEDERAL TESTING LEGISLATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. GOODLING. Mr. Speaker, I have been attempting to keep my colleagues informed on the developments of action concerning Federal regulation and forced disclosure of standardized tests. As you know, the Subcommittee on Elementary, Secondary, and Vocational Education has been conducting hearings on this issue. Unfortunately, it appears that the proponents of this legislation have been able to schedule a subcommittee markup before all the essential facts can be learned. Currently, the prestigious National Academy of Sciences is conducting a study of this issue and its findings are expected well before the end of the 96th Congress. The Education Commission of the States is also conducting a study. Furthermore, New York State has recently adopted a law similar to the proposals under consideration by our subcommittee. The New York law does not even go into effect until January of 1980. If the forthcoming National Academy of Sciences' study, the forthcoming ECS study, and the forthcoming statewide experiment in New York produce decisive evidence next year in favor of Federal action, there will still be plenty of time for Congress to take whatever action is warranted. But if Congress acts before the results are in, and if it turns out that the evidence at that time indicates that this type of new Federal legislation is not advisable, we are all going to look mighty foolish.

I am at a total loss to explain why the proponents of this bill wish to eschew a rational and deliberate consideration of the evidence and potential consequences of the proposed legislation. Not one witness appearing before our subcommittee has demonstrated that an emergency in testing exists. Hasty, inchoate congressional consideration is certainly no way for the Federal Government to tamper with admissions practices to postsecondary institutions and to licensed occupations and professions.

I have received scores of letters from individuals and college admissions officials who urge caution on this issue. I commend to my colleagues a letter written by the distinguished president of Gettysburg College, Charles Glassick. President Glassick's argument is persuasive. I trust that my colleagues will find his cogent statement useful. President Glassick's letter follows:

GETTYSBURG COLLEGE,
Gettysburg, Pa., September 12, 1979.

Hon. WILLIAM F. GOODLING,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN GOODLING: I understand that the House Committee on Education and Labor is currently giving consideration to two measures, H.R. 4949 and H.R. 3564, that would place the Federal government in the role of monitoring and regulating (to some degree) standardized educational admissions tests. While certainly pursuing laudable goals, such legislation raises serious questions concerning federal involvement in the testing and admissions processes. For the reasons outlined below, I urge you to oppose H.R. 4949 and related proposals, as they are currently formulated.

The purposes of H.R. 4949—to ensure that persons taking tests and using test results are "fully aware" of the characteristics, uses, and limitations of such exams; to make public information regarding the development and administration of such tests; to promote greater accuracy, validity, and reliability in standardized testing; and to encourage the use of multiple criteria in apportioning out educational admissions and benefits—are positive ones which I fully support. Yet H.R. 4949 would not, I believe, achieve such goals and would instead threaten significant areas of institutional independence. My specific objections are:

(1) The evidence does not support the contention that the Educational Testing Service (ETS) and other independent nationwide testing agencies have done an inadequate job. On the contrary, such agencies base their exams on careful, extensive research and thoroughly professional criteria. Their tests have proven reasonably accurate in helping to predict future student academic achievement.

(2) Women, minorities, and the handicapped are not discriminated against under these exams. Nationwide exam services go through an extensive process to identify and eliminate possible exam questions which are "culturally biased." Research shows that such tests predict as well for minorities and handicapped as for all other students. It should also be noted that the growing use of such standardized admission exams has been accompanied, even at highly selective colleges, by the growing enrollment of students from disadvantaged groups.

(3) Test results are currently used in a competent, profesional manner by admissions counselors who are fully aware of their reliability, uses, and limitations. Passage of H.R. 4949—by eliminating any possibilities of repeating questions given in an earlier exam—would actually make it far more difficult to compare test results from year to year. This would actually diminish the usefulness of tests to admissions staff, forcing them to rely on other, even more subjective measures.

(4) This bill would drive up the cost of developing, administering, and taking such standardized tests. Since questions and answers would be made public after each exam, testing agencies would be forced to devote much more time and expense towards developing totally new exams. Such costs would have to be passed on to the prospective students taking the exams. In addition H.R. 4949 would create a "bonanza" for private tutoring services, which would have the actual exams, not their own substitutes, as teaching tools. This would only tend to augment the advantage accruing to those who can afford to pay for coaching.

(5) Finally, this measure would give the federal government an unnecessary and potentially dangerous role in student testing and admissions. Once such regulatory intervention is allowed, experience suggests that it would tend to expand over time and could eventually cripple the hitherto voluntary and independent field of standardized educational admissions tests. This would not be in the interest of potential students, of higher education, or of society as a whole.

In short, H.R. 4949 will do little, if anything, to improve the content, use and interpretation of admissions tests, while significantly raising their cost and generally reducing the independence of the higher education community.

I appreciate this opportunity to share my views with you.

Sincerely yours,
CHARLES E. GLASSICK.●

TAXING FAMILIES OUT OF BUSINESS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. SYMMS. Mr. Speaker, during the recently concluded recess, as I traveled through my congressional district in Idaho, my constituents impressed upon me their displeasure over the deleterious effects of the carryover basis provision of the 1976 Tax Reform Act.

My constituents' concern is well founded for it seems that we in Congress, in our sincere efforts to solve the problems of this country, often look to short-term solutions that have disastrous implications for our children and our children's children. We ask the citizens in our country to have confidence in our wisdom and then we enact a law which would tax the life savings and capital accumulations that protect the future of our families. Simply stated, the enactment of carryover basis was a bad move. Congress immediately realized it was a bad move, and suspended its implementation for further study. That moratorium is now drawing to a close, and Congress is again faced with an issue to support or destroy another family tradition of this country.

We already overtax profit, to the extent that we see people searching for loopholes and watch as estimates of income through nontaxable criminal activities skyrocket. Americans now pay as much as 50 percent of their salaries and wages and 70 percent of their unearned income in income tax. Corporations also pay 50 percent and even the smallest investor face a tax crunch of 50 percent of his potential dividend income. We wonder why the capital in this country is frozen, and we face massive inflation and unemployment. We wonder why we do not have the confidence of the people.

If we allow the enactment of the carryover basis provision, we will open a Pandorra's box on a heretofor sacred subject. We now have reached the limit on the aforementioned taxes, but now Congress appears to be searching for new ways to increase its coffers to pad the near-trillion dollar budget deficit it has amassed. We are now turning to taxation of the accumulation of savings and capital which citizens from time eternal have passed from generation to generation in the tradition of providing for the protection of their families. Congress is now eyeing that tradition for its latest tax theft.

Since the beginning of the tax on capital gains, Congress has taxed only the difference between the sale price of the item sold and its basis. That basis for inherited goods was traditionally "stepped up" to a current value so that the noble tradition of providing for one's family was upheld. However, if Congress extends the carryover basis provision and causes its inclusion in the tax code, it will have disclaimed that tradition. Furthermore, and more importantly, Congress in considering the carryover basis provision has not taken into account the effects of inflation on the value of property. During inflation prices rise even though their real values do not. The supposed "gain" to the owner represents nothing more than decline in the purchasing power of the currency.

Instead, we in the Congress should be considering tax legislation which will "unlock" capital to promote capital formation, as well as prevent further extinction of privately owned businesses which only leads to Government controls and the encouragement of combines and monopolies. It is clear that what is needed in this country is a new tax policy or philosophy, rather than a new tax, in order to make our economy more productive and solve our fiscal problems.●

ANNIVERSARY OF CRASH SPARKS NEW INTEREST IN A 50-YEAR THEORY

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. WEAVER. Mr. Speaker, the following article appearing in the October 12, 1979 Wall Street Journal, should give us pause. It is certainly worth study and that is why I place it in the CONGRESSIONAL RECORD.

ANNIVERSARY OF CRASH SPARKS NEW INTEREST IN A 50-YEAR THEORY

KONDRATYEV, A RUSSIAN, SAW RHYTHMIC WAVE PATTERNS IN ECONOMIES OF THE WEST

(By Alfred L. Malabre, Jr.)

The 50th anniversary of the Great Depression, which began in August 1929, is drawing fresh attention to the ideas of a Russian economist with a tongue-twisting name—Nikolai Dmitriyevich Kondratyev.

Mr. Kondratyev's major work appeared in the mid-1920s. For it, he was banished by Stalin to the Siberian salt mines. Aleksandr I. Solzhenitsyn recalls, in "The Gulag Archipelago," that the economist ended his days in "solitary confinement, became mentally ill and died."

Such a history may suggest that Mr Kondratyev (pronounced kahn-DRAHT-i-eff) preached a brand of economics that unabashedly praised the workings of the capitalist system. But this was hardly the case. His thesis was that business activity in the major Western nations assumes a rhythmic wave pattern over very long periods. Using price indexes and other economic gauges for such countries as the U.S., Britain and France, he contended that a sort of "super" business cycle exists, extending over intervals ranging roughly half a century.

Nowadays called the Kondratyev Wave, this supercycle is marked by distinct phases—a long period of economic growth and rising prices, a relatively brief time when prices peak and economic activity tends to flatten out, and a long period of dwindling economic activity and dropping prices. Shorter business ups and downs—expansions and recessions—may occur within each of the periods. In the up-phase of the wave, expansions will tend to be vigorous and recessions mild. In the down-phase, the pattern will be reversed.

How could such an idea bring banishment to Siberia? Why is it attracting increased attention just now? How valid is it?

The Kondratyev Wave idea, while hardly a sunny view of capitalism, embraces a proposition that was highly upsetting to the Stalinist regime—that the long down-segment of each supercycle serves as a sort of self-cleansing mechanism, forging a base for renewed economic expansion. The Stalinist view, of course, held that capitalism would collapse, but that there would be no such regenerative process.

There isn't any mystery to the increased attention that the Kondratyev Wave is receiving. Quite apart from Kondratyev theory, this is a time of growing uneasiness about the general economic outlook, for reasons ranging from torrid inflation to a sagging stock market to the shakiness of many international loans. But it also happens to be the time when, according to Kondratyev theory, the current supercycle is about ready to enter a down-phase.

AN UNNERVING COINCIDENCE

"Whether you buy Kondratyev or not," says a Chase Manhattan Bank analyst, "it's unnerving that, on top of all the other uncertainties, we happen to be around the point when the wave is scheduled to break and the long, deep slump sets in."

Instances abound of increased attention to the Kondratyev Wave idea. The Futurist, a journal devoted to forecasting, discusses the concept at length this month and, in the main article, concludes that such a wave exists and may be near the breaking point. The Bank Credit Analyst, a widely followed economics report, focuses often on the Kondratyev Wave and, only last month, raised the question: "1929 & Now—Is the End of the Supercycle Near?" Jay W. Forrester, a Massachusetts Institute of Technology economist, recently undertook a computer-based study of the U.S. economy and found that "forces arising from the long wave" raise "the specter of another depression period in the 1980s."

Surveys suggest that most forecasters remain skeptical about the supercycle idea. Recent interviews with a dozen prominent economists turned up an overwhelming consensus that another depression is unlikely any time soon—as well as much skepticism about the Kondratyev Wave itself. Reasonably typical is the view of Jeffrey Nichols, economist of Argus Research Corp., a New York investment adviser: "I find it hard to believe that an economy works in such a mechanistic way, with a supercycle coming along every half century or so, just like clockwork."

WEIGHING THE SKEPTICISM

No one can say for sure, of course, whether a half-century supercycle really does exist. It may well be that skepticism will prove justified. However, with such widespread concern over the business outlook, the views of analysts subscribing to the Kondratyev Wave can hardly be ignored.

The Kondratyev Wave, it should be noted, is anathema to many economists. These include followers of the late John Maynard Keynes, who believe that governmental efforts can preserve economic growth. Underlying the supercycle idea is the very different assumption that a high degree of inevitability governs economic developments over the long haul—that governments possibly can delay but not eliminate periods of "correction" that will surely follow periods when economic activity reaches excessive, unsustainable levels.

Analysts who buy the supercycle idea stress, among other considerations, long-term price developments. They maintain that the Kondratyev Wave can be detected in the U.S. economic record, for example, through a long look back at the ups and downs of the country's wholesale price index.

The adjoining chart traces the wholesale price index all the way back to 1800. Prices generally—and prosperity—increased markedly from the 1780s until just after the War of 1812, when an abrupt price drop occurred, as the chart indicates. This period constituted, under Kondratyev theory, a "primary" recession within the supercycle. Then, until about 1819, a "plateau" period persisted during which prices dropped only slightly and economic activity recovered moderately.

DISAPPEARING JOBS

However, after this plateau, a deep "secondary" slump set in. Prices and economic activity declined sharply for a prolonged period. Jobs disappeared and businesses failed. The bottom didn't come until the mid-1840s. Then, a supercycle expansion phase began, reaching a peak, as the chart suggests, near the end of the Civil War, about half a century after the War of 1812.

Kondratyev disciples contend that after the Civil War peak, a supercycle pattern developed remarkably similar to the pattern after the War of 1812—a brief primary recession, a plateau until 1874, a long secondary slump until 1896, and finally a period of renewed prosperity and rising prices until 1920.

The price collapse and 18-month recession that ended in July 1921, according to Kondratyev theory, marked another primary recession within the supercycle, and the balance of the decade constituted a plateau period. In this view, the Great Depression, which lasted until the late 1930s, marked another secondary slump. The ensuing expansion period, of course, has dominated the country's economic experience since World War II.

The chart indicates that still another peak may be about due. Indeed, it appears somewhat overdue. Nearly 60 years have elapsed since the last peak, and yet prices continue to soar. And, for all the worrying, economic activity scarcely seems on the verge of a collapse.

Analysts who subscribe to the Kondratyev view have no problem with the recent pattern. When the severe 1973–75 recession set in, Kondratyev proponents assumed that it marked a primary recession within the supercycle and on the heels of the Vietnam war, just as the primary recession of 1920–21 followed World War I. They further assumed that the rest of this decade would prove to be a plateau period and that a deep secondary slump would begin, according to the Kondratyev schedule, around the turn of the decade.

What has skewed the picture this time, the proponents say, is that prices have kept rising sharply. This is attributed to such long-term developments as the tendency for wage rates to climb steeply even during recessions and for the government to spend even more heavily in peacetime than during a major war. If continuing inflation is taken into account, it's argued, the economy may indeed be within a plateau period now. Evidence cited includes, for instance, the fact that per-capita income, stripped of "growth" due merely to inflation, has risen sluggishly in recent years. Before the last recession, in contrast, this living-standard yardstick rose briskly, as one would expect during an expansion phase of the Kondratyev Wave.

As the recent situation indicates, analysts who believe that a Kondratyev Wave does exist caution that its characteristics may change appreciably from supercycle to supercycle. Some forecasters even suggest that if a secondary slump does soon develop, it may be marked, like the current plateau period, by continuing inflation.

THE UNDERLYING FORCES

"Originally, a down-phase in the long wave is a time of deflation," says Mr. Forrester of

M.I.T. "However, it's certainly possible that the next time around, we may witness all the physical aspects of a depression, rising unemployment, falling production and so on—and yet have rising prices. I don't rule out an inflationary depression at all." The analyst adds that "a great deal more attention is being paid to the idea of a long wave nowadays, particularly by business and financial executives."

There's also much uncertainty among Kondratyev disciples over the precise forces that underlie the supercycle. The Russian himself shed little light on the matter, merely noting, rather than explaining, the phenomenon.

Last month's Bank Credit Analyst, seeking an explanation, suggests that perhaps "the cumulative forces of the supercycle have a lot to do with the competitive and greedy aspect of human nature. . . . There is a built-in tendency for people to overextend themselves if given a chance." This "process of overextension," the study goes on, leads to developments such as excessive debt and declining productivity that eventually act to restrict economic activity. That the supercycle seems to be roughly a half-century affair suggests to some analysts that it takes about that long for mankind to forget—and therefore to repeat—past blunders.

ONE SUPERCYCLE VIEW

Analysts who agree that a supercycle exists don't necessarily agree about its precise characteristics. Mr. Forrester, for instance, maintains that "the long wave primarily represents a rise and fall in the capital sectors of the economy." At present, he views these sectors, which embrace such items as plant and equipment, as "heavily overbuilt" and warns that eventually this will act to curtail economic activity across a broad front.

The M.I.T. professor places particular emphasis on the role of technology. "From the 1920s to the 1970s is a typical 50-year long wave, beginning and ending with fully developed technologies and saturated capital markets," he says. "At both the start and finish of the period, opportunities had declined for attractive investment in the maturing technologies of the times. In the 1920s, the world had substantially completed its railroad system, and now it has substantially completed its air-transport system." He adds: "The policies and industrial structure that generate the long wave have changed very little since 1800."

A somewhat different analysis of the supercycle comes from Walt W. Rostow, an economics professor at the University of Texas and adviser to Presidents Kennedy and Johnson. He focuses on relationships between commodity and industrial prices and pays relatively little heed to whether capital may or may not be "overbuilt." The fact that commodity prices have lately been rising far faster than industrial prices leads him to conclude, among other things, that there may be a lot more bounce to the economy of the 1980s than Mr. Forrester supposes.

The Kondratyev Wave, it should be noted, isn't the only very long economic cycle, real or imagined, that some economists detect. There's also, for example, the so-called Kuznets Cycle, named for Simon Kuznets, a retired Harvard professor and Nobellaureate. The Kuznets Cycle, which ranges up to about 25 years, is marked particularly by swings in construction activity.

Best known, of course, is the relatively short cycle of business ups and downs—expansions and recessions—that most forecasters track. The National Bureau of Economic Research in Cambridge, Mass., a nonprofit organization, measures the length and the intensity of this cycle. It estimates that since 1854, there have been 28 of these cycles. The recessions have averaged 19 months and the expansions 33 months. ●

SUCCESSES FAIL TO SOFTEN PLO

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mrs. FENWICK. Mr. Speaker, during yesterday's colloquy with the gentleman from the District of Columbia (Mr. FAUNTROY) I referred to an article which was published in the Baltimore Sun yesterday. The full text of the relatively brief article follows:

SUCCESSES FAIL TO SOFTEN PLO

(By Douglas Watson)

DAMASCUS, SYRIA.—Recent diplomatic and public relations successes have made the Palestine Liberation Organization no more willing to compromise, a high PLO official has indicated.

Mohammed Nashashibi, secretary of the PLO's 15-member executive council, emphatically rejected a suggestion that the PLO should recognize Israel's right to exist in return for Israeli recognition of the PLO as representative of more than 3 million Palestinian Arabs.

On Tuesday, President Carter told a news conference, "We [the United States] will not negotiate with the PLO. We will not recognize it until after the PLO recognizes Israel's right to exist."

Mr. Nashashibi said during an interview in his apartment here, "There should be no such link between the recognition of our rights and the recognition of Israel. That is the wrong way."

Rather than such mutual recognition, Mr. Nashashibi said Israel unilaterally "should be forced to evacuate the occupied territories" and to keep its army and settlements within its boundaries before the 1967 Arab-Israeli war.

The Palestinian leader indicated that the PLO would not even accept a Palestinian state in the occupied West Bank of the Jordan River and the Gaza Strip, if such a state were required to be demilitarized to give Israel greater security, an almost certain proviso.

While Mr. Nashashibi said PLO leaders are very gratified by the support they have received from Andrew Young, the former American ambassador to the United Nations, and other American blacks, he left no doubt that the PLO was not paying much attention to the nonviolent sermons preached to them by American civil rights leaders who lately visited the Middle East.

Mr. Nashashibi said, "There is never a period when we can ease our armed struggle" and rely on political tactics alone.

At the same time, though, he acknowledged that the terrorist attacks the PLO tries in Israel are very limited and ineffective, mostly being occasional bombs left to explode in public places.

"We cannot smuggle enough arms to our vanguard [fighters] in the occupied territories. It is almost now impossible. It costs as much to have a gun smuggled in as it does to have hashish smuggled," said Mr. Nashashibi, a member of a long prominent Jerusalem family.

He reacted negatively to proposals that the PLO launch a multimillion-dollar advertising campaign in the United States in a battle for American public opinion, saying, "Using paid advertisements does not sound proper for a revolution."

He said that he and other PLO leaders hope to come to the United States in February for a proposed "Arab-American people's dialogue," adding that it will be a "test of American democracy" whether the United States allows them to come and speak for the PLO publicly, the kind of activity the State Department previously had strictly limited.

Mr. Nashashibi said that the PLO chairman, Yasser Arafat, is likely to visit Portugal next.

He said the PLO's recent gains in Europe are largely due to "two or three years of hard work" by PLO representatives lobbying for their cause among Europe's socialist and liberal political parties.

He added that European governments increasingly are seeing the connection between support for the PLO and an assured supply of Arab oil. "Is there any government in the world that pursues a policy which doesn't look out for its economic interests?" he asked.

Mr. Nashashibi said the PLO high command had rejected proposals for bombings and other terrorism within Egypt, which it is capable of, because a needed revolution there must come from the Egyptians, and out of respect for "the dignity of the Egyptian people," and because many Palestinians live there.

Asked if the PLO will soon form a government-in-exile, Mr. Nashashibi said, "What is the advantage?"

He acknowledged that Israel is hardly about to disappear. Even so, he showed a reluctance to give up the dream of a Palestinian state that not only would include the occupied territories but Israel, too.

"The real solution, though it is probably impossible to talk about it now, is to have one Palestine, not a Jewish one and an Arab one," he said.●

UNCENSORED OUT OF PALESTINE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. FINDLEY. Mr. Speaker, Lester Mondale, who happens to be the Vice President's brother although he specifically says he does not speak for him, has written an interesting analysis of what life can be like for Palestinian students trying to get an education in the occupied territory of the West Bank.

Mondale has friends who have visited the West Bank, and in the following article he gives their plain uncensored version of what has been going on. Since this was written, Bir Zeit University has at long last been allowed by the Israel military government to reopen. It took the protests of political leaders around the world to bring about that return to a semblance of academic tolerance. Yet the more basic problems he writes of—suspicion, hate, and lack of understanding on both sides—still remains. And as he rightly states, citing former Ambassador Andrew Young, it is ridiculous that the United States is unwilling to talk with all of the people—Israelis and Arabs alike—who suffer most as a result of the past decades of hostility.

The article follows:

ECHOES FROM COPPERHEAD CLIFF: UNCENSORED OUT OF PALESTINE

(By Lester Mondale)

It may sound strange, but we here in the woods at Copperhead Cliff often get from the outside world news that for various reasons, our town and city neighbors don't get from newspapers and televisions. One batch of dispatches comes from concerned minister friends who send me releases from the Middle East. They have contacts with Palestinians such as our American government seems to have been importuned by the Israelis not to have. One of these dispatches throws some light on the furore over U.N. Ambassador Young's contacts with the P.L.O.

The dispatch tells what the Israeli army of occupation has done to Bir Zeit University, the Palestinian school located some seventeen miles from Jerusalem. It is located in what is known as the West Bank, seized from Jordan in 1967. Until its closing by the Israeli Military Governor, May 2, 1979 there were about 1,000 students enrolled.

Bir Zeit enabled Arabic students in occupied Palestine to get a university education without having to leave the country. Once out it has been most difficult to get back. The school provided educated leadership for Palestinians, much to the distaste of the occupying authorities. Four years ago, Nov. 21, 11 p.m., the President of the University, Dr. Hanna Nasir, was summoned to the office of the Military Governor. He was met by police, blindfolded, handcuffed, forced into a car, driven for seven hours, then forcibly pushed across the border into Lebanon. He has remained in exile ever since. His students had demonstrated peacefully against agreements that left Palestinians under the dominance of the Israelis.

Earlier, going over the list of Bir Zeit Board of Directors, the Israeli Military Governor pronounced three "unacceptable." The University was forbidden to purchase books in Arabic from Arab countries. Academic journals in Arabic (even though listed in Hebrew university catalogues) were banned, along with over a thousand other Arab publications. Every writing the University chose to publish, whether by professor or student, had to be censored by the Governor. Professor Taisis Al-Aruri was imprisoned for three and a half years without charges, without trial. Some months before the military closing of the University seven professors of foreign citizenship were denied "work permits." Nonresident Palestinians, qualified to teach, were regularly refused residence permits

Blaming student unrest for agitation in the Arab community, the Occupation authorities seized two students, known as the least active among the protesters, took them to the military headquarters, and ordered them to sign papers admitting that they had "thrown rocks at the Army," promising that "they wouldn't do so again." They refused, truthfully insisting that they had thrown no rocks. The authorities then beat them so severely that they had to be hospitalized. Other students have been similarly injured. Students have been stopped on their way to classes, to have military authorities check their books and notes. Occasionally both books and notes have been seized and destroyed.

The shooting of another student by an armed Israeli settler provoked demonstrations. Shortly thereafter tensions got to the breaking point. May 2 of this year, Israeli Independence Day, students of local schools marched through town displaying their own flag. Later in the morning University students raised the Palestinian flag on buildings of the campus. Soldiers marched in and tore them down. A student, Raid Nakhleh Daoud, sitting peacefully by himself, waiting to go to class, was hit by a bullet fired from cars bearing Israeli licenses. Demonstrating students threw stones at the invading soldiers who responded with bullets and tear gas cannisters. By the day's end the identity papers of 134 students had been confiscated; all ordered to appear the next morning at the military government headquarters. At 9:00 p.m. the Military Governor informed Dr. Maramki, University vice-president, that the University was closed to all students until further notice. That still holds.

These developments at a university, which can remain a university only as long as it can enjoy academic freedom, are but the merest sampling of what my information has taking place generally in Occupied Palestine. I quite understand Andrew Young's outraged response to the prohibition on America's having contacts with the Palestinian P.L.O., calling it "ridiculous."●

SUSAN B. ANTHONY DOLLAR COIN

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. EVANS of Delaware. Mr. Speaker, the continuing saga of the Susan B. Anthony dollar was taken up recently by newspaper columnist Art Buchwald. In his usual tongue-in-cheek, or in this case, hand-in-pocket manner, Mr. Buchwald has further illuminated the shortcomings of this coin that nobody will take. I ask that a copy of his column on the new coin be included in the RECORD.

Mr. Speaker, this is a humorous attempt at stating what the public has proven in its dismal acceptance of the Susan B. Anthony coin. Banks, stores, and restaurants across the country were informally surveyed by my office, and the results were anything but funny: The new coin has turned into a multimillion dollar waste of taxpayer's money.

The article follows:

FLIPPING COINS OVER FLOPPING DOLLARS: LET SUSAN B.

(By Art Buchwald)

The Treasury Department is very mad at all of us. We haven't taken to the Susan B. Anthony dollar as their experts predicted we should.

Millions of dollars (paper ones) went into research to develop a coin that would replace the one dollar bill. The Treasury engineers worked in their cellars day and night to devise something that would grab the imagination of the American people. They finally came up with a foolproof design—a coin the size of a quarter with 11 sides and a picture of a suffragette on it. What more could the American people ask for?

Apparently a lot more. When the coin flopped the only thing left for the Treasury officials to do was to call a meeting.

"Gentlemen, the secretary is very upset. No matter how many Susan B. Anthony coins we put into circulation, people insist on using paper dollars. What can we do about it?"

"My staff has been doing some research to find out why the coin won't fly. Most men we've talked to say that if they have more than seven in their pants pocket they make a hole, and all the coins dribble out into the street. The young people say the dollars make a bulge in their jeans, and women complain if they take enough dollar coins to buy groceries they develop a bad back."

"That's nonsense. This coin was tested under the greatest stress conditions. We put $50 worth in a deputy secretary's pants pockets., threw him into the Tidal Basin, and he didn't even sink: One of our women department heads carried 100 coins in her handbag for one week and except for black and blue marks on her shoulder where the strap hung, there were no signs of bodily damage. As for the young people complaining of bulges in their jeans from carrying the coins, my answer to that is, let them buy bigger jeans."

"I'm just reporting on what our research revealed, sir. If you ask me I think it's more psychological than anything else. The one-dollar paper bill has George Washington's picture on it. The people can't tell Susan B. Anthony from the Queen of England. They don't trust the coin because they are afraid it was minted in Canada."

"I agree with Merriweather. I tried to give one to a taxidriver the other day and he said, 'I only take American money' I said, 'It is American money' and he said, 'Yeah and Margaret Trudeau is the First Lady of the United States'."

"I don't want to hear any more stories. We're stuck with billions of these coins, and we're going to get them into circulation if it kills us. Now let's hear some constructive ideas."

"We could put them in cereal boxes as a promotion."

"Why don't we raise the price of a local pay telephone call to a dollar?"

"What about printing on paper dollar bills under 'In God We Trust' the words: 'This bill could be dangerous to your health'?"

"How about having Karl Malden do a TV commercial? He could be pushing a wheelbarrow and saying to the audience: "Traveler's checks can be stolen—but nobody could carry off this wheelbarrow of coins. The Susan B. Anthony dollars. Don't leave home without them'."

"Why don't we just use them to pay the OPEC people for their oil?"

"What good will that do?"

"They'll all get hernias and be so miserable they'll think twice about raising their prices." ●

CAN WE AFFORD NOT TO?

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. MAVROULES. Mr. Speaker, for the past few months, Congress has been attempting to expand America's national energy plan by studying the feasibility of such energy initiatives as the Energy Mobilization Board, the Energy Security Corporation and the nascent synthetic fuels development program. Congress efforts have been spurred on by a growing public consensus that America must reduce her present unhealthy dependence on foreign oil products.

Unfortunately, I believe that Congress actions have been misdirected, and lost in the shuffle has been energy conservation; which is more practical, economical, and immediate than the President's pie-in-the-sky proposal to develop a synfuels industry.

It is no secret that the President's energy initiatives will require large capital investments for a future promise of energy self-sufficiency. But, Mr. Speaker, what about energy conservation? After all, energy conservation offers a quick, short-term answer to reducing America's dependence on nonrenewable energy sources. Unfortunately, Congress has not yet felt that conservation is worthy of recognition, and the President has only recently started encouraging widespread conservation measures.

So, Mr. Speaker, I pose only one question to my colleagues: Why?

I can only speculate on the answer and conclude that, for years, Americans were led to believe that they did not have to conserve because of what they thought was an unlimited supply of cheap energy sources. Well, we all know what happened in the fall of 1973. The OPEC nations placed a stranglehold on the American economy, which has become tighter and tighter with time.

Are we Americans finally willing to do something about this alarming situation? From the letters I have been receiving from my constituents, I think so. But, I hope this is the sentiment of the rest of the Nation as well. Cries for more Government-initiated conservation programs are being heard from my constituents. They are particularly interested in more tax credits for the energy conservation measures they are willing to take. I am encouraging them to submit new tax credit proposals to me in an effort to have them play a more direct role in a legislative issue that they are interested in.

Similar thoughts on conservation were recently expressed by Robert J. Rauch in an article that appeared in the Washington Post on September 30, 1979. I would like to share the author's views with my colleagues and I commend my colleagues' attention to the following article:

WASTE HEAT CAN SOLVE OUR ENERGY PROBLEMS

These are frustrating times for the environmental movement. Not a day passes without some high-ranking official claiming that environmentalists have stopped a key pipeline, critical refinery or badly needed power plant. Increasingly, environmentalists are portrayed as being "against" everything and "for" nothing. To listen to some observers, our answer to the energy crisis is to halt economic growth and simply live on less.

To back up their claims, these people point to the environmental community's endorsement of conservation as a solution to the energy crisis. To them, conservation equals sacrifice. It means turning their thermostats down to 65 degrees in winter and up to 78 degrees in summer. It means restrictions on the use of their automobiles.

The response to this conviction has been predictable. Tired of hearing arguments for more and more conservation, and thus more and more sacrifice, the Congress and the president have both started pushing for a massive synthetic fuels program. To make sure that environmental restrictions do not slow down the new effort, an Energy Mobilization Board would be empowered to sweep away all obstacles posed by environmental or other statutes. According to this view, the environment has become an expensive, and increasingly expendable, luxury.

Despite warnings from environmentalists and others about the risks inherent in such an approach, the administration is still committed to a multi-billion-dollar program to produce 2.5 million barrels of oil a day from "synfuels" by the early 1990s, although it has agreed to a somewhat smaller initial effort. Meanwhile, congressional proponents continue to insist that synfuels must be the centerpiece of America's efforts to reduce oil imports.

Before we take the plunge, however, we owe it to ourselves to take one last hard look and ask, "Is there another way?" Is it really necessary to spend tens of billions of dollars to meet the president's oil import reduction goals? Have we come to the point where we must sacrifice our health, our air, our water and our land to meet the nation's energy needs? If not synfuels, is more sacrifice the only answer? The answer to all of these questions is a resounding no—if we are willing to take a careful look at an alternative plan.

Like the proposal advanced by the president, this plan involves a bold, crash effort. Like the president's proposal, its goal is to reduce America's dependence on imported foreign oil supplies by 4 to 5 million barrels a day by the late 1980s.

There, however, the similarity ends. Unlike the president's proposal, this alternative will not require $100 billion or more. The costs should be one-third to one-half that figure. Furthermore, the proposal will not wreak havoc with the environment and threaten the public health. Perhaps most important, the alternative will allow us to slash foreign imports much more quickly than would be possible under a massive synfuels program.

Instead of squeezing oil and gas from coal and shale, this program would tap America's largest known remaining oil reserves. These reserves are so large that they dwarf the recent discoveries of oil on the north slope of Alaska. Moreover, this reserve can never be pumped dry. It will provide oil long after the last drop has been sucked from Alaska or even from oil shale in Colorado or coal in Wyoming.

Despite this vast potential, this oil reserve does not appear on any U.S. Geological Survey map. It also does not appear on any oil company maps. It can be photographed, but only by using special infrared techniques. To map the potential size of this vast oil reservoir, we will need millions of these infrared photographs. The photographs, however, will not be of geologic formations, but rather of buildings—homes and factories and businesses. What these photographs will show is waste heat—heat from millions of structures as a result of our inefficient use of energy.

Recovering this oil from this new field does not require exotic technology which will destroy the environment and bankrupt the federal treasury. Indeed, much of it can be recovered by very simple techniques such as improving insulation in existing buildings and increasing the efficiency of furnaces. These techniques are well understood and, in most cases, very inexpensive.

The potential size of this oil reserve is staggering. According to figures developed by the Carter administration, simply upgrading the energy efficiency of residential and commercial buildings could reduce oil imports by 2.5 million barrels a day by the late 1980s. This saving is equivalent to the entire projected production of the synfuels industry proposed by the president.

While recognizing the potential of this source, the White House has conceded that its program to save 500,000 barrels a day represents "only about 20 percent of the potential savings achievable by the retrofit installation of conservation measures in buildings." The failure to exploit this vast oil resource fully is especially surprising in light of White House estimates that the equivalent cost for improving the energy efficiency of buildings is below $10 a barrel and that this represents "the cheapest means of reducing oil imports . . ." This figure stands in stark contrast to the White House estimate of a $35-to-$40-a-barrel cost to develop synfuels.

Even more important, this 2.5-million-barrel-a-day reservoir trapped in residential and commercial structures is just the beginning. Equally significant reserves remain to be tapped in industry and transportation.

In factories, for example, large quantities of waste heat from industrial processes can be used to generate electricity. A study by Dow Chemical Corp., which uses such "cogeneration" to meet 75 percent of its electrical needs, estimates that by 1985 industry could economically justify producing about one-third of its electric power through cogeneration. This would also reduce the cost of electricity significantly.

In another area, relatively simple improvements in the combustion efficiency of existing boilers and furnaces could save an additional million barrels of oil a day by 1990. Within the transportation sector, a serious commitment to car and van pooling could save a significant portion of the 309 million gallons a day burned by cars and trucks.

Taken together, these measures could "produce" more oil than all of the suggestions advanced by the administration. Indeed, according to a study entitled "Energy Future," prepared by the Harvard Business School, we could "produce" 5 million barrels of oil a day by the late 1980s simply by tapping known "conservation reserves."

Perhaps most important, tapping these reserves will *not* require personal sacrifice. We are *not* talking about raising thermostats to 78 degrees in summer and lowering them to 65 degrees in winter. For too long we have equated conservation with sacrifice. We have been told that to conserve we must sweat in the summer and freeze in the winter. What we have not been told is that all of this is unnecessary. Simple and inexpensive improvements in the way we use energy can ensure the same lifestyle as we now enjoy without sacrifice.

As a country, we now stand at a crossroads. One path leads toward synfuels, cost overruns, and widespread environmental destruction. The other alternative—the "confuels" path—presents us with a cheap, quick and environmentally safe means of reducing our oil imports. Both logically and politically the choice should be clear.●

THE RESTORATION OF BALANCED GROWTH TO THE WORLD ECONOMY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. MINISH. Mr. Speaker, during the recent Columbus Day district work period, I had the honor, along with a number of my colleagues on the Banking Committee, of representing the House in an advisory capacity at the annual meeting of the International Monetary Fund and World Bank in Belgrade, Yugoslavia.

Of particular interest at the meeting were the remarks of new Treasury Secretary G. William Miller. His address was centered on one theme: The restoration of balanced growth to the world economy. Mr. Miller's remarks bear study by all Members of the House and by everyone concerned with the future of the globe.

The address is entered in the RECORD so that all who are interested may study it for themselves:

ADDRESS BY SECRETARY OF THE U.S. TREASURY, G. WILLIAM MILLER

Mr. Chairman, Mr. McNamara, Mr. De Larosiere, fellow governors, distinguished guests:

On behalf of the United States, I want to express our appreciation to the Government of Yugoslavia for inviting us here. Yugoslavia's energetic and independent spirit has long attracted the world's admiration and respect. And Yugoslavia's full participation in the work of the IMF and the World Bank has shown how nations with different economic and political systems can cooperate to mutual advantage. We join the other participants in thanking the Government of Yugoslavia for its warm hospitality to us here in Belgrade. My remarks today are addressed to one central theme. Restoring balanced growth to the world economy will require purposeful domestic adjustment on the part of all nations—large and small. The two international institutions whose work we are reviewing at this meeting can help us make these adjustments in effective and mutually reinforcing ways. We must make sure they are in a position to do so. We must make sure they have our support to do so. In the last analysis, however, the responsibility rests with each of us. My country, as the largest economy in the system, is determined to carry out that responsibility in full. Only when balance is regained, will it be possible to resume the steady economic advance we all desire.

Mr. Chairman, this is the final annual meeting of the Bank and Fund during the decade of the 1970's. It has been a decade marked by troublesome strains in the world economy. The will and ability of nations to cooperate internationally have been severely tested.

The underlying strains might easily have led individual countries to the pursuit of inward-looking policies—to self-defeating efforts to protect their own limited interests at the expense of the broader interests of the community of nations. That this did not occur is convincing testimony to the vision of the architects of the Bretton Woods Institutions, and the maturity and wisdom of their successors—the representatives of the governments gathered here today.

The difficulties of the 1970's are all too familiar. The gains that have been achieved despite those difficulties are less widely appreciated. In the face of unprecedented payment imbalances, severe inflation, and high and persistent unemployment, international cooperation has been strengthened in important ways:

Agreement was reached on far-reaching trade liberalization;

Flows of official development resources continued to expand;

Private financial markets successfully channeled huge flows of funds from surplus to deficit countries, and developing countries gained access to these private capital markets on a substantial scale;

Intergovernmental cooperation in exchange markets became stronger and closer;

The IMF Articles underwent comprehensive revision, laying the basis for orderly evolution of the international monetary system.

This progress was not accidental. Nation's might have responded to the problems of the 1970's by imposing trade and capital controls, by cutting back aid, and by aggressive competition in exchange rate policies. If that had happened, the world would have suffered staggering economic losses. Instead we chose deliberately to seek cooperative solutions. Recognizing that the pervasive links among our economies made cooperation essential to our individual as well as our collective well-being. We must not forget that lesson.

Once again the world economy has been destabilized by a large oil price shock, almost equal in dollar amount to that of 1973–74. On an annual basis, the jump in oil prices will increase the import bill of the developed countries by almost $75-billion and of the developing countries by $15-billion. This action is disrupting international payments balances and adding greatly to the problems of containing inflation and reducing unemployment. Furthermore, uncertainty about the availability and price of energy seems likely to persist. Inflationary pressures, building up over a period of years, have become so virulent as clearly to require resolute, sustained, countermeasures. In this uncertain international economic environment, the prospects for world economic progress are less promising. And that is a particularly harsh prospect for the one-fifth of the world's population facing absolute poverty.

These problems are world wide. They are shared in common, to varying degrees, by all our societies. They can be successfully overcome only through persistent national action, augmented by intensified international collaboration. And that means relinquishing a degree of autonomy in national action.

It is in this context that we must examine the present and future work of the IMF and the World Bank group. These two institutions provide the infrastructure for world cooperation in economic policy, in finance, and in development. The degree to which we support them represents the central measure of our willingness to support more effective global economic management.

Intensified collaboration is the course we must choose for the 1980's. It is therefore essential that the IMF and the World Bank group be strong enough to do the job—strong enough in authority, operations effectiveness, and resources. I proposed, therefore, to outline my views on the future direction of policy in these two institutions and on the tools they will need to do the job.

INTERNATIONAL MONETARY FUND

Financially, the Fund is in a strong position to face the new testing period that lies ahead. The supplementary financing facility has been activated and remains almost fully available. The quota increase scheduled to take effect next year will add a large and timely infusion of resources. The compensatory financial facility, which proved so valuable during the cyclical downturn of the mid-70's has recently been substantially liberalized and will provide an important element of security to primary producing nations. Furthermore, the IMF has revised its guidelines on conditionality so that it can foster orderly balance of payments adjustment in ways that meet the needs and circumstances of members.

Nonetheless, there is more to be done to assure the adequate utilization of the IMF's financial resources and to strengthen the Fund's capacity to manage the monetary system. Three areas deserve early attention.

First is surveillance. Under the amended articles, Fund surveillance—surveillance over members' general economic policies as well as exchange rate policies—is the centerpiece of international monetary cooperation. Without effective surveillance, there is no system. The Fund has moved cautiously and prudently in implementing its surveillance procedures. Bolder action is now required.

One possibility would be for the Fund to assess the performance of individual countries against an agreed global strategy for growth, adjustment and price stability.

Another possibility would be to provide that any nation with an exceptionally large payments imbalance—deficit or surplus—must submit for IMF review an analysis showing how it proposed to deal with that imbalance. Now, only those countries borrowing from the Fund have their adjustment programs subjected to such IMF scrutiny. Greater symmetry is needed.

We should also consider inviting the managing director to take the inititaive more often in consulting members directly where he has concerns about the appropriateness of policy. Any such approaches must, of course, be fully in accordance with the fundamental principle of uniform treatment for all members. For its part, the United States welcomes and values the Fund's views and advice, and would see merit in a more active role on the part of the managing director in initiating consultations with members.

As a further step, we might now give serious consideration to the establishment of the council, as successor to the Interim Committee, and give it a more specific and direct role in the surveillance process. There would be value in such a move, both substantively and symbolically, and I urge that each of us give fresh consideration to this idea.

The second area for improvement is that of international liquidity. There has been solid progress over the past twelve months in enlarging the role of the SDR in the monetary system. A more fundamental move, the establishment of a substitution account is now under consideration. If, working together, we can resolve the problems involved in setting up that account—and I am hopeful that with good will it will be possible to resolve them in due course—the result would represent an important new approach toward greater reliance on an international reserve asset and a more centrally managed international monetary system.

The third area in which it may be possible to strengthen the system and make the IMF more useful and influential is in the field or cooperation with the private financial markets. This is not a new idea. But the arguments in favor of it have become more compelling.

We all recognize that the private markets will, in the future as in the past, have to play by far the major role in channeling financing from surplus to deficit nations. Official institutions, including the IMF, play a vital role in this process, but it is essentially catalytic in nature.

We must ensure that the IMF is doing all it appropriately can and should do in order to ensure that private financing flows smoothly and efficiently. We should reexamine ways in which the fund can encourage the availability of better information on international bank lending, with greater uniformity with respect to potential borrowers. This could facilitate the process without jeopardizing the IMF's close and confidential relationships with members. We should also explore ways of encouraging earlier recourse to the IMF by countries facing difficulty, in the interests of maintaining overall financial stability and avoiding the need for more severe adjustment measures at a later stage if problems are left unaddressed.

WORLD BANK

The successful contribution by the fund to the smooth operation of the world economy will help the World Bank to encourage longer-term economic improvement in the developing world. Over the past ten years we have called for a steady expansion in the scope of the bank's activities and it has never failed to respond effectively. The bank is now the largest single source of external finance and technical assistance for economic development and the primary exemplification of international cooperation to achieve social and economic advance.

It must continue to be so. As President McNamara pointedly reminded us, the goals we set and the choices we make today in this difficult area of economic policy will have a critical bearing on whether conditions in the world will be tolerable a generation from now. This is a weighty responsibility; it is one we cannot avoid addressing.

The size of the problem is graphically described in the second world development report, for which I offer my appreciation and congratulations. Over the next two decades, 750 million new job opportunities will have to be created in the developing world. The extent of success in this endeavor will determine how many people in the world are able to enjoy economic well-being, and any shortfall will determine how many are left to face conditions of absolute poverty at the beginning of the 21st century.

In this situation, capital will always be extremely scarce in relations to needs. It will be essential, therefore, that bank loans, IDA credits, and IFC investments should stimulate, to the maximum degree, mobilization of domestic savings in the developing countries and the flow of private capital from abroad. Specifically this means:

Greater emphasis on creating productive job opportunities in the rural areas, where poverty and underemployment are pervasive. Without more progress here, the food problem could become worse, population pressure will become more severe, and the flow of people to cities could become overwhelming.

New approaches to job creation in cities and the provision of low-cost basic services to the urban poor.

Investments in human capital through programs in education, health and family planning.

In all areas, a conscious and more effective program to reduce capital investment per job created, and to insure that in a fundamental economic sense investments pay for themselves. Only then will capital used today be recovered tomorrow to be invested for the benefit of others.

New initiatives to encourage co-financing.

More ambitious efforts to expand production of energy fuels, including new applications for renewable energy technology. The quantum jump in the price of oil is exerting a sharply constraining effect on economic growth everywhere, with particularly harsh effects in the oil importing developing countries. An increase in the availability of domestic energy supplies is necessary to increase the productivity of domestic labor and capital.

To move in this direction requires that the bank be able to expand the scope of its activities. We believe that the capital of the bank must be increased substantially, and for this reason, supported the resolution of the executive directors to that effect.

We also support a sixth replenishment of IDA, and look to the completion of the negotiations before the end of this year. In accordance with our legislative procedures, our action in both respects will involve the close cooperation of the United States Congress.

PRIVATE FINANCIAL MARKETS

Strengthening the capacity and effectiveness of the IMF and the World Bank is also necessary to enable private markets to function smoothly and effectively. The latest increase in oil prices will place new demands on these markets to move funds from surplus to deficit countries. The actions of the two Bretton Woods Institutions serve to strengthen the adjustment process, economic prospects and credit positions of borrowing countries—all of which is a necessary foundation on which private lending can take place on a sustainable basis. This process also emphasizes how the work of the two institutions reinforce each other.

More generally, a strengthened cooperative approach, looking toward a more orderly management of the world economy, provides a framework within which each nation can address common problems in a mutually supportive way. The United States recognizes its role in this system and will continue to act to carry out its national and international responsibilities.

UNITED STATES PROGRESS AND POLICIES

Economic growth in the United States during the past four years has been strong, and has made a major contribution to world economic recovery. Output has increased by 22 percent in real terms. Thirteen million new jobs have been created. At the same time, our rapidly growing market has provided a major economic stimulus for other countries recovering from world recession. Most notably, this has benefitted the developing countries, which have increased their exports of manufactured goods to the United States much more rapidly than to other countries.

The United States is well aware of the important role of the dollar in the international monetary system. We are determined to maintain reasonable balance in our external accounts and to assure that the dollar is sound and stable. We have acted vigorously to meet that obligation, with policies to strengthen underlying economic conditions, and with forceful exchange market operations to counter market disruption.

The U.S. balance of payments has improved markedly. Our current account deficit will be reduced from $14 billion in 1978 to a few billion in 1979, despite an increase of $16 billion in the cost of oil imports.

Next year, 1980, we expect a substantial current account surplus. Continued strong export performance, a rising surplus on services, slower import growth, and U.S. determination to respond forcefully to unwarranted exchange market pressures, all provide a firm basis for dollar stability strength in the period ahead.

We have already achieved important progress in strengthening the dollar exchange rate. The dollar has declined in terms of some currencies, moved higher in terms of others and remained stable relative to most. Measured against the average of OECD currencies, the dollar is now about 5 percent above level prevailing last fall. From the viewpoint of the OPEC nations, in relation to the other currencies they use to purchase their imports, the dollar has increased about 8 percent on average from a year ago.

Notwithstanding the favorable changes in the value of the dollar measured in terms of these averages, the United States is determined to maintain exchange market stability for the dollar in terms of individual major currencies, such as the Deutsche Mark.

The United States also recognizes the necessity of solving its energy problem. We are making substantial progress. Since 1973 the amount of energy required to produce a unit of real output in the United States has dropped by 7½ percent, and in the industrial sector, it has dropped by 20 percent. The ratio of the increase in energy consumption to the increase in GNP has fallen by one-third since 1973. That performance compares favorably with other industrial countries. Household energy consumption has leveled off. Our transportation fleet is rapidly becoming more fuel efficient—the average mile per gallon for new cars rose from 13 in 1973 to 19 in 1979, and will rise to 27.5 by 1985.

More must, and will, be done. President Carter has announced a series of measures, both administrative and legislative, which will sharply improve the overall U.S. energy position. Phased decontrol of domestic crude oil prices by September 30, 1981 will reduce oil imports by an estimated 1.5 million barrels per day by 1990. In addition, immediate decontrol of heavy crude oil prices will stimulate increase in production estimated at 0.5 million barrels per day. Creation of an Energy Security Corporation will provide the resources to help finance private sector development of synthetic fuel. Major emphasis also being placed on developing renewable sources of energy. When fully in place, our energy program will cut oil import requirements by 4 to 5 million barrels per day.

At the recent Tokyo Summit, the United States agreed that from now through 1985, we would import no more than 8.5 million barrels per day of oil, the level that prevailed in 1977. The President established a lower goal 8.2 million barrels per day, for 1979. We are firmly committed to meeting the import targets.

Inflation continues to be our country's more serious problem. It threatens our ability to achieve full employment, it impedes investment, and it impairs productivity. We are determined to bring inflation under control and regain price stability.

Our recent record is not satisfactory to us. Food and energy prices have temporarily driven U.S. price indices into the double digit range. Energy alone accounted for more than one-half the total rise in finished goods prices at the producer level in the latest three-month period. In coming months this pressure will recede as the effects of recent OPEC price actions work their way fully through the economy. Food prices have moderated in the wake of good harvests.

Special factors aside, the inflation rate is still much too high and must be brought under control. This cannot be done quickly or easily. It can only be accomplished by a firm application of sound policies which deal with the economic fundamentals.

All major instruments of U.S. economic policy are being directed toward this task. Fiscal policy is directed toward restraint.

We have arrested the increase in government outlays in real terms and tax receipts are rising. The federal deficit has been reduced from 3 percent to 1 percent of GNP. The Federal Reserve is exercising monetary discipline and will continue to keep firm limits on the growth of money supply. Despite rapid increases in recent months, the increase in M1 over the past year was held to 4.9 percent—less than half the increase in consumer prices. The Federal Reserve is committed to meeting its targets for limiting the rate of growth of money and credit.

These fiscal and monetary policies are supported by price and pay policies that will help moderate inflationary forces. On September 28, President Carter announced a national accord with U.S. trade union leadership that provides for labor's involvement and cooperation on important national issues. The national accord confirms that top priority will be given to the war against inflation. It recognizes that the discipline essential to wring out inflation will mean a period of national austerity. As part of the accord, labor leadership agreed to participate in the voluntary program of wage and price restraint. The involvement and cooperation of labor—and of management—in developing and implementing policies to control inflation is critical for success, and this cooperation has now been strengthened. The national accord will add momentum to our comprehensive attack on inflation.

The United States intends to reinforce the foundation on which to achieve sustained growth with price stability. We are headed in the right direction and are determined to stay the course. We are also determined to work with the nations gathered here to strengthen the international economic system, both through our own actions and through support of the IMF and the World Bank.

Mr. Chairman, let me add a personal postscript. The curtain will soon fall on the decade of the '70's. It has been a turbulent period for the world economy. Progress has fallen far short of our great hopes.

Facing, as we do, another period of major adjustment, we have heard few words of encouragement at these sessions. It is right that we should be realistic about our difficulties. It is right that we should not delude ourselves with false expectations. It is possible, however, as we begin to prepare the agenda for the '80's, to see some cause for hope. In particular, we have not given in to the temptation to become self-centered. The institutions for international economic cooperation are alive and well. The IMF and World Bank are proving their resilience, rising to meet the challenges.

For its part, the United States is unequivocally dedicated to dealing effectively with its own inflation and energy problems. This is the single most important contribution we can make to our own economic health and that of the world community.

I assure you that we have the will, determination and perseverance to succeed in this endeavor. You can count on it. ●

PRAYER FOR POPE'S VISIT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. DERWINSKI. Mr. Speaker, the historic visit of Pope John II was truly inspiring. I was impressed with the ecumenical feeling and the tremendous good will that all Americans demonstrated.

Therefore, I was especially pleased to see the editorial by Donald M. Parker, editor and publisher of the Christian Citizen, which appeared in the October 5 edition of that publication. The editorial in the Christian Citizen, which is published weekly in Alsip, Ill., is a fine example of the inspiration provided by the Pope's visit. I wish to insert the editorial at this point:

PRAYER FOR THE POPE'S VISIT

On Sunday, September 30, 1979 Pope John Paul II visited with handicapped children near the Dominican monastery of Cabra, Ireland. It was a touching scene—the Pope representing millions of souls, walking among little children confined to wheel chairs and held in nurses' arms, softly touching the heads of the little ones, holding their faces in his hands.

In conjunction with this event in the Pope's current itinerary, the local Archdiocesan Parish Preparation Committee for the Papal Visit—Chicago, had sent the following special prayer to area parishes to be said in union with Pope John Paul's visit to the Ireland Center for the Handicapped:

"Lord Jesus, you are the healer, you gave sight to the blind and opened the ears of the deaf. Through this visit may all of us see in the suffering of all others a proclamation of your own willingness to endure pain. Give us the gift of ministering to the needs of others, of recognizing our own handicap and through them finding You, the root of all spiritual health."

When the Papal Mass takes place in downtown Grant Park, Chicago on Friday afternoon, October 5, the celebration will begin with this prayer.

"God our Father, you will all to be saved and come to the knowledge of your truth. Send workers into the great harvest that the gospel may be preached to every creature and your people, gathered together by the word of life and strengthened by the power of the sacraments, may advance in the way of salvation and love. We ask this through our Lord Jesus Christ, your Son, who lives and reigns with you and the Holy Spirit, one God, for ever and ever."

The overarching theme of evangelism will focus the attention of Grant Park participants and television viewers upon "Christ, the Light of nations." This is precisely the stated objective and mission of the Supreme Pontiff, John Paul II, lovingly called the "People's Pope."

For this man and his message to Chicago, America and the world we pray, "Our Father in Heaven, grant John Paul your guardian safety as he travels this land and expresses concern and compassion for your world and creatures. Quicken him with the message of your reconciliation and love that he might challenge clergy and laity alike to faithfully live the Gospel and communicate its precepts.

"Holy Father, grant that through the spoken Word families may be strengthened and hurting souls healed. Let faith be built up and spiritual strivings succeed in your service. We ask that fanfare may not becloud faith, but that with joy and thanksgiving the repentant may be forgiven and received into the communion of fellow-believers.

"Remove conflict and disunity from your Body on earth, O Saviour of mankind, and bring peace to our troubled world through your gentle Spirit. Let the Gospel flourish, issuing justice, freedom and mercy among all peoples on earth.

"Let John Paul II mirror your image, Father, and ever master his heart and tongue for your glory. Equip your saints to reflect your glory and exalt the saving name of Jesus among us all.

"In the Redeemer's name we pray, to whom we praise, dominion, power and great glory for ever and ever. Amen." ●

FORD'S PARDON OF NIXON PROBABLY UNCONSTITUTIONAL

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. PEPPER. Mr. Speaker, Mr. Raymond L. Wise, a former Surfside, Fla., municipal judge and councilman, wrote a thought-provoking editorial for the September 2, 1979, edition of the Miami Herald, regarding the pardon of Richard Nixon over 5 years ago. Considering his wide legal experience and his knowledge of the law, the questions raised by Judge Wise in his editorial should be the cause of some concern to all of us. I ask, Mr. Speaker, that his excellent editorial appear in the RECORD immediately following these remarks.

The editorial follows:

FORD'S PARDON OF NIXON PROBABLY UNCONSTITUTIONAL

(By Raymond L. Wise)

About five years ago, on Sept. 8, 1974, the quiet of that Sunday was shattered by a TV address by then-President Gerald Ford, telling us that he had pardoned Richard Nixon, in the following language:

"Now, therefore, I, Gerald R. Ford, President of the United States, pursuant to the pardon power conferred upon me by Article II, Section 2, of the Constitution, have granted, and by these presents, do grant a full and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in during the period from Jan. 20, 1969, through Aug. 9, 1974."

In the calmer perspective of five years later, questions arise which were not readily perceptible in the first shock of a pardon before there was even an indictment, and only just a day less than a month after, the resignation.

The first of these is why did President Ford omit any reference to obstruction of justice, the one offense it was clear Nixon had committed?

President Ford knew at the time he signed the pardon that, on March 1, 1974, a federal grand jury indicted seven of Nixon's principal aides for conspiracy and obstruction of justice. The indictment stated that "the defendants and other persons to the grand jury known and unknown" conspired to obstruct justice in connection with Watergate and its ensuing cover-up. The grand jury at first voted to include Nixon as a defendant. However, when they were advised by Special Prosecutor Leon Jaworski that an incumbent president cannot be indicted, the grand jury omitted Nixon as a defendant. Instead they submitted a sealed report concerning Nixon's implication, to be given to the Judiciary Committee of the House of Representatives considering the impeachment of Nixon. The inclusion of the words "or taken part in" in the pardon indicate President Ford was aware of all that.

President Ford also knew that, on Aug. 20, 1974, the Judiciary Committee recommended that the House impeach Nixon on three grounds, the first of which charged Nixon with obstruction of justice in the Watergate "cover-up."

President Ford also knew that the so-called "smoking pistol" tape of June 23, 1972, rendered it highly probable that Nixon would be indicted for obstruction of justice if the Jaworski special prosecution followed its indicated course.

Perhaps it was those facts which led Elizabeth Holtzman, a member of the Judiciary Committee, to ask President Ford when he voluntarily appeared before its subcommittee on Oct. 17, 1974, to "explain having pardoned Richard Nixon without specifying any of the crimes for which he was pardoned?"

The glaring failure to specify obstruction of justice in the pardon in the face of the overwhelming likelihood that it would have been the principal charge against Nixon, had Jaworski's investigation been allowed to run its course, is fair game for some speculative second-guessing.

Is it not probable that Nixon said he would refuse any pardon which named a specific offense, especially obstruction of justice? He has never yet made a public statement admitting that he committed any criminal offense, ever, anywhere. In the David Frost TV interviews, he vigorously denied he had committed the crime of obstruction of justice.

Or, is it not equally probable that conventional political wisdom dictated that a Republican president likely to run for election in his own right would be unwise in accusing his Republican predecessor of so heinous a crime as obstructing justice?

Like the ending of The Lady or the Tiger, we shall probably never get reliable answers.

Another question arises out of the failure to name any specific offense.

It is settled law that the acceptance of a pardon is a confession of guilt.

President Ford, in the same Judiciary Committee hearing on Oct. 17, 1974, in explaining why he did not insist on some admission of guilt from Nixon before pardoning him, said:

"The acceptance of a pardon, according to legal authorities—and we've checked them out very carefully—does indicate that, by the acceptance, the person who has accepted it does, in effect, admit guilt."

President Ford was, of course, referring to the 1915 U.S. Supreme Court decision in the Burdick case. Did Nixon, by accepting the pardon, confess to all the offenses which he "committed or may have committed" while president? And, if so, who is to say what they are? And where is it to be said? And when? By a curious bit of irony, by leaving the American people in the dark as to the specific offense or offenses for which he pardoned Nixon, President Ford probably rendered the pardon constitutionally invalid on two grounds.

In the first place, by failing to name a specific offense, it could be successfully argued that the pardon does not comply with the requirements of the pardoning power. The U.S. Constitution, Article II, Section 2, says in its relevant part:

"The president . . . shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

All U.S. Supreme Court cases interpreting the pardoning power hold that the offense must be committed and completed before a valid pardon can be issued. There need be no indictment first, but there must be a committed offense.

Obviously, therefore, President Ford had to know of at least one offense Nixon committed before he could issue a valid pardon. The phrase in the pardon "may have committed" indicates President Ford was not quite sure what the score was.

This puts him in a dilemma and puts the constitutional validity of the pardon in deep question.

The horns of the dilemma are these:

If President Ford did not know of any offense Nixon had committed, he could not issue a valid pardon.

But if he did know of one or more specific offenses he could not keep his knowledge secret from the American people in the language of the pardon without violating the Constitution.

The First Amendment, in addition to givus the right of full expression, gives us the correlative right to be informed—to know.

Some 20 U.S. Supreme Court cases since 1943 have clearly established that there is a First Amendment "right to know." It is beyond dispute that such a vital fact as what crime an ex-president committed cannot be concealed from the American people even by the successor president when he attempts to pardon him. As one case (*N.Y. Times Co.* v. *Sullivan*) puts it, the First Amendment protects the right to be informed so that there may be "unfettered interchange of ideas by the bringing about of political and social changes desired by the people."

How could we have full public debate of the legitimacy of a presidential act of such paramount public importance and historical value as the Nixon pardon unless we know what offense President Ford pardoned him for?

While the pardon incident leaves us a little confused as to just what crimes Nixon committed or may have committed and as to just what he confessed to when he didn't reject it, it teaches us one valuable lesson:

We should all read our Constitution very, very carefully and far more often than we do.●

STATEMENT BY ALBERT EINSTEIN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mrs. SCHROEDER. Mr. Speaker, knee-jerk radicalism has yet to spawn a great moment in our Nation's history. Rather, idealism and courage are the qualities which instill national pride and secure our international respect. Yet, this more rational approach is not characteristic of so many who are advocating a "new machismo" in our military policy.

Those who advocate a pellmell weapons buildup to fortress a contrived military inferiority to the Russians make more hysterical noise than good sense. Opponents of SALT II make light of our global influence and responsibility to avoid a nuclear confrontation. Grow up, America. Promoting peace is far more noble than winning the schoolyard bully prize.

There are many who are now lamenting the lack of morale among our youth and the dearth of visionary leadership in our country. I suggest that it is time to turn away from sensationalists who feed on fear and ignorance. Instead, I would like to share with my colleagues a statement from a great scientist who was also a great humanitarian—Albert Einstein.

The article follows:

[From the Sunday (Colo.) Camera, Sept. 16, 1979]

YOU CANNOT SIMULTANEOUSLY PREVENT AND PREPARE FOR WAR

Since the end of World War II, we have spent over $2,000 billion (1979 dollars) on our military forces. During this period the nuclear powers have amassed arsenals which can deliver the explosive equivalent of literally tons of TNT for every person alive. The United States has introduced the major weapons systems along the way, and Soviet responses have effectively nullified any temporary advantages we gained.

After three decades of this intense competition, we find that all the genius and resources spent on nuclear "defense" have done nothing to make ourselves or the people of this planet safer. With strategists now planning for "limited" nuclear wars, the spectre of a global holocaust is by no means farfetched.

BOTH COUNTRIES READY TO FIGHT NUCLEAR WAR

The weapons constituency in this country claims that the initiation of nuclear war is thinkable in the Soviet Union but not here. This is not true. Retired Admiral Gene R. LaRocque, who spent 31 years in the United States Navy and participated in nuclear war planning, told the delegates to the United Nations Special Session on Disarmament last year:

"As irrational as it may seem, Soviet and American leaders are planning and arming for nuclear war . . . The military in both countries see nuclear weapons as a central instrument of military power. They are prepared to use them right now in many contingencies."

PERCEPTIONS ARE IMPORTANT

Assured our own motives are righteous, we plan and arm for the annihilation of the Soviet society and we call it deterrence. The Russians plan and arm for our annihilation and we see that as somehow different. What is security in our minds is a mortal threat to the Russians; our conduct only confirms their worst suspicions, and they respond as we do by building more sophisticated and deadly weapons.

We must understand that we are dealing with perceptions. Just as experiences like Pearl Harbor have definitely colored our outlook, the Nazi invasion of Russia and the 20 million Russian deaths of World War II have colored the outlook of the present Soviet leadership.

We should ask ourselves whether our actions can be interpreted by Soviet policy makers as aggressive, and then, how we must alter our posture to convey purely defensive (though firm) intentions—a prerequisite of any progress toward peace. This healthy approach is fundamentally at odds with that which dominates the relations of the two countries.

CITIZENS MUST SPEAK OUT

For too long we have left this whole matter to the powerful military-industrial complex. Proponents of heavy military spending often have deep psychological or financial stakes in perceiving some external menace; they are not objective judges of the Soviet threat. If we hope to reverse the trend of the last three decades, it is essential that the average citizen become informed and speak out on this issue.

For instance, we doubt this country needs to add to its arsenal the next generation of strategic weapons systems under construction—Missile-X, the long-range cruise missile, and the Trident submarine. These systems, with improved accuracies and capacities for carrying a great many more warheads than presently deployed, will bring us closer to a first strike capability and thus make our posture more provocative, which can only serve to undermine deterrence.

Furthermore, the costs of these systems are outrageous. Missile-X alone will cost upwards of $30 billion of taxpayer money.

The neutron warhead, being a "more usable" weapon, is another provocative innovation which we can do without. And actual reductions in our nuclear forces (presently over 30,000 warheads) need not compromise our deterrent capability. They would convey an honest desire to reverse the momentum of the race, something which words alone cannot do.

WHAT WOULD HISTORY SAY?

Undoubtedly there are risks to peacemaking, but surely they are less than the real costs and perils of an accelerating and proliferating nuclear arms race. What would history say of a people which accepts with a patriotic fervor the risks of preparing for nuclear war while demanding that any would-be disarmament initiative be absolutely free of risk? We must pursue peace with wartime urgency; if disarmament is "impossible," then nuclear war may be inevitable.—Citizens for a Rational Defense Policy.●

ANOTHER FALLACY OF HOSPITAL COST CONTAINMENT LEGISLATION

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. SATTERFIELD. Mr. Speaker, on Thursday, it was announced that the Nobel Prize for Medicine was awarded to two scientists who developed the computerized axial tomography scanner, usually referred to as the CAT scanner. Today, an article by Harry Schwartz entitled "Cost Cuts Never Get a Nobel" appeared on the Op-Ed page of the New York Times. Mr. Schwartz accurately points out that Federal health officials have greeted the CAT scanner, which is a diagnostic tool of enormous value and versatility, "with the enthusiasm that would be accorded to the bubonic plague." I can think of no better illustration of the schizophrenia which presently infects Federal health policy than the treatment of the CAT scanner.

Every year the Department of HEW expends billions of dollars on research and entitlements programs for the ostensible purpose of increasing the quantity and quality of medical care available to the American people. Yet simultaneously personnel in HEW are employing every means at their disposal to discourage improvements in medical technology and to make access to such technology more difficult. It should be noted, HEW has suggested, that one of the ways in which hospitals could save money to assist them in complying with the proposed Hospital Cost Containment Act is by reducing the annual utilization of CAT scanners by 60 percent. The incredible aspect of this proposal is that CAT scans are less expensive than the diagnostic methods which they replace.

I believe that this article is particularly timely in view of the imminent consideration by this body of H.R. 2626, the hospital cost containment bill, and I commend it to my colleagues:

[From the New York Times, Oct. 12, 1979]

COST CUTS NEVER GET A NOBEL

(By Harry Schwartz)

The Nobel Prize Committee yesterday delivered a major blow against the bureaucrats in Washington who would like to halt, or even to reverse, the current technological revolution in United States medicine.

By awarding the Nobel Prize in Medicine to scientists who developed the much-maligned CAT-scanner, the committee in effect issued a public rebuke to those who have been working hard to minimize the use of CAT-scanners in the United States.

Developed earlier in this decade, the CAT-scanner—the name for the apparatus that does computerized axial tomography—is probably the most important advance in medical diagnosis since the original discovery of X-rays, at the turn of the century.

By combining X-rays with a computer, the CAT-scanner can quickly supply a physician with a clear and complete picture of a slice of the human body at any level from head to foot.

This is the quickest and most painless way to check whether there is a cancer, a blood clot or some other physical pathology in some part of the body, particularly in the brain.

One might easily think that Government officials would welcome a major improvement in medicine's diagnostic capability.

But cost containment is now the top priority in Washington's approach to medicine.

So the advent of the CAT-scanner has been greeted with the enthusiasm that would be accorded to the bubonic plague.

Using Government regulations having the force of law, as well as exhortation and other forms of pressure, the bureaucrats have been trying to discourage or prevent hospitals and doctors from getting these machines.

The reason is that CAT-scanners are expensive and that their use may increase medical costs.

A prominent university representative of this point of view recently suffered an unpleasant personal backlash from this economy campaign.

The professor's spouse suffered a stroke and for several weeks went into and out of a coma. Physicians needed a CAT scan of this patient's brain to determine the extent of the stroke's damage, but there was no CAT-scanner in the community. So, to the professor's distress, the semi-comatose spouse had to be transported carefully 15 miles to another town having such a machine and then back home again. The professor, friends report, is now much less sure of the wisdom of radically restricting CAT-scanner availability.

All this suggests that one way to bring realism to the making of health policy is to require top officials in Washington to get their care in the most economical fashion.

President Carter has been fighting to keep medical costs down since he entered the White House, but his personal medical care is so extensive and costly that, as the nation learned a few weeks ago, his personal physician even participates at his side when he runs in a foot race.

The President and other makers of health policy are great advocates of so-called Health Maintenance Organizations (H.M.O.'s).

Federal law now provides for millions of dollars in subsidies for these groups while requiring that employers must offer H.M.O. membership to their workers where these organizations exist.

But it is curious that neither President Carter nor apparently most of the key figures in Washington belong to H.M.O.'s personally, and thus do not have to suffer the inconveniences that H.M.O. customers must often put up with.

Washington's largest H.M.O., the 110,000-member Group Health Association, told The Washington Post recently that the Association deliberately delays appointment for members wanting to see doctors. Thus, a woman wanting to check a lump in her throat to see if it is cancerous is now waiting 10 weeks to see an Association physician. Until recently, this H.M.O.'s members have had to wait more than 12 weeks for routine gynecology and obstetrics appointments. It's all done in the sacred name of cutting costs in a system that puts little or no value on easing the patient's anxiety quickly.

One doubts that Rosalynn Carter would want to wait 10 or 12 weeks to check some lumps in her breast. Mrs. Carter some time ago, it may be remembered, went to a Government hospital for a check-up. And when some breast lumps were found, she had those lumps immediately biopsied and checked by a pathologist who, fortunately, found them harmless—all in a few hours.

When then is her husband in favor of a medical system for the rest of us that makes comparable rapid and convenient treatment of a patient impossible?

The Nobel committee has now implicitly asked why Federal bureaucrats want to deny or to impede access by millions of Americans to the greatest medical diagnostic advance of this generation. If health care is a right, why not the best?●

NATIONAL PORT WEEK

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. MURPHY of New York. Mr. Speaker, this week, October 7–13, has been proclaimed as National Port Week, a week where all Americans may join in recognition of the important achievements that our Nation's ocean and inland ports have accomplished in making us the world leader in trade.

In just over 200 years, our country's dependency on shipping and trade has led to the development of some 170 commercial seaports in this country, occupying some 1,650 miles or 2 percent of our national shoreline. In addition to our coastal gateways, numerous inland ports emerged along our navigable waterways as our Nation expanded westward. The end result has been the creation of a network of ocean and inland ports which comprise many of the Nation's important centers of commerce, industry, distribution, finance, education, and culture.

Often, the most valuable income producer in the State, the port, sits in the center of a matrix of occasionally conflicting interests and responsibilities. Our ports must compete in a difficult national and international market. It has always been the ports that have been at the forefront of technological innovation and domestic commerce. National Port Week will provide an opportunity for all Americans to recognize the vital importance that our four seacoasts and inland waterways have played in linking our urban and rural areas in trade and culture.

Mr. Speaker, I am inserting into the RECORD an article from the September 1979 issue of the American Seaport magazine entitled, "America's Seaports—Good Partners/Good Neighbors". The article highlights some of the major issues presently confronting our Nation's ports and I believe it is appropriate that we bring attention to them during this special week for U.S. ports.

The article follows:

AMERICA'S SEAPORTS—GOOD PARTNERS/GOOD NEIGHBORS

(By J. Ron Brinson)

The public seaport industry in the United States represents a facility investment of some $14 billion. It is an industry which has been developed within the public and competitive concept of U.S. ports. This investment has been possible because local and state governments in the coastal zone have made the basic decision to take advantage of God-given coastal resources, to develop on-shore seaport facilities, and to operate ports as instruments of beneficial economic impact. This community of public seaports is for all practical purposes the national seaport system for the United States . . . and I believe we should perceive it accordingly.

And through this system transportation modes are linked and domestic and international commerce serviced. Strong competitive ports also foster and support allied maritime interests, such as stevedoring, warehousing, forwarding, brokerage, and ships services.

Our public seaports, as we know them today, represent a utility to the nation's transportation system which is essential in nature. This activity produces overall economic benefits which are well documented. A major study by the Maritime Administration concludes, among many of its findings, that:

Ports generated $11.1 billion in federal revenue in 1978. This total includes $5.6 billion in U.S. custom duties which were collected at U.S. seaport facilities.

Direct and indirect port activities supported more than one million jobs in 1978, providing personal income of $20.6 billion and rendering a $32.1 billion contribution to the United States gross national product.

THE SEAPORT PARTNERSHIP

The anatomy of a public seaport is, to a great extent, a partnership . . . a partnership between the port entity and the Federal Government, a very productive partnership as the record clearly indicates. It is a partnership which of necessity is headquartered hard within the coastal zone. It is a partnership which holds that public seaport entities build shoreside port facilities which collectively will accommodate the shipping needs of our nation. The Federal Government contributes the development and maintenance of navigational shipping channels. Benefits in many forms accrue to both partners. The return on investment to the Federal Government simply through customs revenues alone is considerable. Which brings up the very large question: What's happening to that partnership? Well, that's a real gut issue. Our partner has been changing the rules, and rather arbitrarily so.

First, the Corps of Engineers decreed that it would no longer finance the required diking at spoil disposal sites, which are acquired and made available by the Corps' "partner"– the port industry. Then, as we looked closely at the Carter Administration's federal cost sharing proposals for water resource projects we found that local sponsors would be required to come up with five percent "up front" money for Corps dredging projects.

Alarming is the apparent rationale which seems to hold that if a given port would close or could not handle certain type vessels, then the cargoes of that port would merely move through another port, with little or no net loss to trade volumes. And perhaps even more alarming is the implementation of some of these cost-sharing proposals before legislation is even passed.

COST-SHARING NOTHING NEW

We believe that the Federal Government is being quite cavalier about the role and the record of public seaports. Cost-sharing per se is nothing new to public seaports. It has always been a part of the "partnership"—the ports finance, build and operate the on-shore port facilities, the Federal Government finances, builds and maintains the navigational shipping channels.

Ports are basically marginal enterprise carrying out missions of general transportation system support and economic development. Returns on investment are measured in many ways other than the bottom line of the operating statement. The proposition that the Federal Government will now burden ports with additional financial involvement in the face of the considerable federal earnings generated at ports, cuts at the fabric of the U.S. seaport system as we know it today. It also belies the relationship which has been so effective in producing a first class system of seaports for our nation.

The recently-backed National Transportation Policy Study projected that U.S. ports will have capital requirements of more than $1.1 billion through the turn of the century. Our seaports have their sights on the challenges of tomorrow. We know that the changing face of international maritime fleets must be accommodated through capital intensive development plans. The day-to-day operations of providing care and custody for cargoes must be carried on and constantly improved. So must the programs of trade development. Any additional financial burden will surely affect the ability of ports to perform as they have performed, to develop as they have developed.

PATTERN OF DELAY

Of course, another problem for the seaport industry is the pattern of delay which has become so much a part of the various permitting processes. Continuing delays in dredging and dredged material disposal plans today pose major operational and economic threats to many seaports, including some of our larger ones. The word "delay" seems to mean nothing more than a transient status to many regulatory agencies who must be involved in a seaport project. Inordinate delays coupled with inflation's sharp knife produce actual cuts in the limited capital funding abilities of public seaports. That this is not a matter of universal concern is a source of great frustration to seaport managers.

So the public port industry has an interesting profile to project. Needs of modern maritime industry must be met. Against this, the Federal Government proposes new cost-sharing burdens. And inflation continues to raise the price tags of delays which are so much a part of the permitting process.

An array of problems? Yes, but in dealing with them, we find many opportunities, too. Seaport managers are sharpening their view of their operations as part of an industry—an industry which is of considerable importance on many scales of contribution to the public good. The determination to articulate this message in many forums will surely be in evidence for some time to come.

PROMISES DIFFERED

The congressional statement of policy in the Coastal Zone Act states that "it is the national policy to preserve, protect, develop, and where possible to restore or enhance the resources of the nation's coastal zone." The Act thus promised different things to different groups. To the port industry it portended a vehicle for rational economic development and environmental protection, adherence to that pragmatic line which balances the needs to develop responsibility with the needs to preserve responsibly.

Seaports do not carry out their missions myopically with disregard for other needs of the port and coastal community. We recognize the importance of preserving and restoring environmental, recreational and historic resources, where appropriate.

Resource planning is a part of the job for port managers. From first hand experience, they know that the shoreline is a finite resource. Developed seaport waterfront occupies approximately two percent of the linear ocean shoreline of the United States. Clearly, there is no substitute for the areas with protected harbors of deep-water and access to inland population centers and transportation services. And we all know that such areas are scarce. Coastal management programs recognize this and thus have given ports priority-use designations. This does not mean ports no longer will have to compete for public support in acquiring and using waterfront areas. In the long run, however, we see coastal management as providing some assurance that prime waterfront areas with deep water are properly considered as potential sites for needed seaport facilities.

The goal of coastal management should be to achieve the highest and best use of coastal resources, and we can all agree that ports rank near or at the top of best uses in our harbor areas. We also realize that there have been increased general demands for waterfront space and a growing interest in recreational development and environmental protection. Responding to this wide range of interests, governmental agencies, it would seem, have done much more to regulate than to promote appropriate uses.

We see this as a problem area. Let us agree that there are few purist or "pristine" solutions to the problems of managing the coastal zone as a resource. We earnestly believe that more effort should be directed towards designating uses of our waterfronts, rather than regulating.●

STRENGTHENING AMERICA'S ARMY RESERVE PROGRAM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. SKELTON. Mr. Speaker, the Members of the House know of my concern over the shortage of personnel, particularly junior officers, in our Army Reserves and National Guard. In March I introduced H.R. 3308 to help alleviate this problem by providing scholarships to students at our Nation's six military junior colleges so that we might better utilize the ability of these unique educational institutions to produce highly qualified, highly motivated junior officers for our Reserves and National Guard.

Today, I am introducing a revised version of this legislation which will make an even greater contribution to solving this shortfall. This new bill increases the ceiling on Army ROTC scholarships from 6,500 to 12,000 and provides those who successfully complete the program with the option of serving for 8 years in a Reserve component in lieu of the present 4 years of active duty and 2 years in the Reserve.

In addition, this new bill, like H.R. 3308, establishes a scholarship program for students at military junior colleges. It provides scholarships for not less than 10 cadets per year at each military junior college.

Mr. Speaker, the shortage of reserve officers is serious. It threatens our ability to effectively mobilize in the defense of our Nation. I urge all of my colleagues who share my concern in this area to join as a cosponsor of my bill. The complete text of the bill is as follows:

H.R. 5573

A bill to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2107 of title 10, United States Code, is amended—

(1) by inserting "and" at the end of clause (4) of subsection (b);

(2) by striking out clauses (5) and (6) of subsection (b) and inserting in lieu thereof the following:

"(5) either—

"(A) agree in writing that he will—

"(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of that armed force and not resign before that anniversary; and

"(ii) serve on active duty for four or more years; or

"(B) agree in writing that he will—

"(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department concerned.

The performance of service under clause (5)(B) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed."; and

(3) by striking out "6,500" the first place it appears in subsection (h) and inserting in lieu thereof "12,000".

SEC. 2. (a) Title 10, United States Code, is amended by inserting after section 2107 the following new section:

"§ 2107a. Financial assistance program for specially selected members: military junior colleges.

"(a)(1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is a student at a military junior college and who will be under 25 years of age on June 30 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army.

"(2) To be considered a military junior college for the purposes of this section, a school must be a civilian postsecondary educational institution essentially military in nature that does not confer baccaluareate degree and that meets such other requirements as the Secretary of the Army may prescribe.

"(b) To be eligible for appointment as a cadet under this section, a member of the program must—

"(1) be a citizen of the United States;

"(2) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

"(3) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

"(5) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

"(6) agree in writing that he will serve in such reserve component for not less than six years.

Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

"(c) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a military junior college.

"(d) Upon satisfactorily completing the academic and military requirements of the program, a cadet may be appointed as a reserve officer in the Army in the grade of second lieutenant, even though he is under 21 years of age.

"(e) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets from the United States Military Academy in that year. The Secretary of the Army shall establish the date of rank of all other officers appointed under this section.

"(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

"(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service.

"(h) The Secretary of the Army shall appoint not less than 10 cadets under this section each year at each military junior college. The Secretary shall appoint additional cadets under this section from among members of the program at any military junior college if the level of participation in the program by students at such military junior college meets criteria established by the Secretary by regulation.

"(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.".

(b) The table of sections at the beginning of chapter 103 of such title is amended by inserting after the item relating to section 2107 the following new item:

"§ 2107. Financial assistance program for specially selected members: military junior colleges.".

SEC. 3. Section 2108(d) of title 10, United States Code, is amended by striking out the second sentence thereof and inserting in lieu thereof the following: "If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.".

SEC. 4. The amendments made by this Act shall take effect on January 1, 1980.●

THE CONGRESSIONAL PAY RAISE

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. O'BRIEN. Mr. Speaker, during consideration of the pay raise issue, I was asked by the Associated Press to write an article giving my reasons for opposing the proposed cost-of-living adjustment. The article follows.

I believe we must take it upon ourselves to change the system by which we receive periodical raises. Accordingly, I have introduced a bill that would defer all raises for Members of Congress until the next session of Congress and urge my colleagues to give this proposal careful consideration.

THE CONGRESSIONAL PAY RAISE

(By GEORGE M. O'BRIEN)

My position on the Congressional pay raise issue boils down to this: We should not vote to increase our pay during the term for which we were elected. And all such votes should be on the record.

Members of Congress are affected by inflationary living costs the same as everybody else. On a comparability basis with those holding positions of responsibility in the private sector I suppose a case could be made that our salaries are in the low range. As a lawyer I am struck by the fact that graduates of our leading law schools—fresh from passing the bar exam—receive up to $35,000 a year from big law firms in such cities as Chicago, Washington, New York and Los Angeles. More seasoned lawyers in those firms, as well as many in smaller cities throughout the country, make well over $100,000. So do airline pilots and top people in many occupational fields.

So when we set up these occupations against our position, which I would judge to be the second or third most important position in government, with responsibilities that affect everyone's taxes, the national security, etc., there does seem to be a problem, a discrepancy between the earning power of those at the upper levels of other occupational fields and the monetary appraisal of what our effort is worth.

But that's not the point. There is a material difference to which I think the people in our home districts are sensitive. The difference is this: With respect to the recent law graduates, the airline pilots and the others, their employers set the amount of their compensation.

Or else the employer has at least a 50-50 voice in determining that figure. In the situation we find ourselves in, the employer is the public, but, in conjunction with the President, we have the power to set our own pay, Article I, Section 6 of the Constitution reading: "The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States."

This is all the Constitution has to say on the subject, and it gives us a good deal of leeway. One constitutional "out" for us in this dilemma would be to delay the effective date of any pay raise voted by this Congress until January, 1981. This would give the people—our employer—the chance to decide in next year's election whether we are worth what we propose to pay ourselves. This is the heart of the matter. Only we have the power to say what the office is worth. We should let our employers decide whether we are worth the money.

Now for my second point. This year's Congressional pay raise controversy began last June when a 7% increase proposal was brought to the House floor as part of a legislative appropriations bill. What happened then fixed a pattern that was followed through four separate House floor battles on the issue. The pattern was this: Each time I offered my amendment to block the raise, it was rejected by a voice vote. Each time I couldn't get the support needed to force a rollcall. But when record votes subsequently were taken on the funding measures that contained the pay hike, they were thrice rejected. It wasn't until the fourth try, on September 25, that pay raise backers finally were able to get a six vote majority to pass the continuing appropriations resolution that was essential to pay the government's bills after October 1.●

MEXICAN ALIENS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1979

● Mr. McCLOSKEY. Mr Speaker, the circumstances and goals of illegal Mexican aliens were recently described by John Ehrlichman, following exhausting personal interviews with 18 such aliens in the Federal penitentiary at Safford, Ariz.

I commend the following article to the attention of the House:

MEXICAN ALIENS AREN'T A PROBLEM . . . THEY'RE A SOLUTION, OBSERVATION FROM A PRISON CAMP IN ARIZONA

For eighteen months while I was a prisoner at the Safford Federal Prison Camp, in Arizona, I lived with hundreds of Mexican men. All of them had been convicted of immigration violations and had been sentenced to Safford for five months and twenty-nine days. Everyone wore cast-off U.S. Army uniforms and slept on decrepit Army cots in large, crowded, open-bay dormitories; inmates were jammed so close together that respiratory infections were common, and some men obviously carried venereal diseases. At most times, the little concrete-block dormitories, designed to house no more than forty, were jammed with sixty inmates and all their belongings. Each dormitory had only four toilets and four shower heads.

The quality of sanitation and health care at the camp usually hovered between awful and scandalous, except when an inspection by outsiders was anticipated. When federal judges, high-ranking government officials, or journalists came, there was a brief and urgent flurry of scrubbing and solicitous care until the visit ended.

I soon got used to the cockroaches and the crowded conditions. It took me longer to feel comfortable with the Mexican aliens, who were about 65 percent of the prison population.

During my time at Safford, I was approached by Paul "Pete" McCloskey, the Republican congressman from California who was a member of the now defunct House of Representatives Select Committee on Population. McCloskey was appalled at how little the government seemed to know about Mexican immigrants, and in the course of his own investigation, he wrote to ask me what I was learning from my association with Safford's 200 Mexican inmates. Although I had been with them a year, I realized that I was only just beginning to understand why the Mexicans who crossed the border did what they did. I told McCloskey that I would try to find out all I could.

Federal prisons are run on an uncut diet of fear, reaching from their newest employee to the top echelon of the bureaucracy. Its career people believe that new ideas and departures from precedent only get career prison people in trouble. So anything new is unwelcome, indeed, it is usually forbidden.

When I proposed to prison camp officials that I undertake a series of interview conversations with individual Mexican prisoners in my small room, out of sight, by invitation, on a purely voluntary basis, every prison official at Safford began shaking his head. It had *never* been done; thus, it could *never* be done.

It took pressure from McCloskey to force the Bureau of Prisons to allow me to interview some of the Mexican inmates. At last, a letter of permission was issued by prison bureaucrats in Washington enabling me to spend several hours of my free time each day talking to the Mexican prisoners with the help of my Chicano roommate, Al Seleden.

Al was much more than my Spanish interpreter, my roommate, and my friend. He is an intelligent, resourceful young man whose intuition contributed enormously to the success of the interviews. He had come to Safford from a harder prison; he wasn't at Safford very long before he had the place figured out. In short order, he had a good job assignment, good living quarters, and reliable friends. Before long, he was managing both the baseball team and the tennis program in his spare time. He was an excellent roommate—quiet, clean, and always well supplied with food—and he had vast influence with other inmates, including the Mexicans

Al put out the word that it was both acceptable and desirable for the Mexicans to talk with me. He let it be known that I would respect their confidences—no one would ever be identified in anything I wrote. He urged them, individually, to be full and open with me, and I believe that they were.

During the long interviews, Al would sometimes interject explanations to help me understand Mexican customs and mores. For example, I asked each man I talked to why he didn't escape from Safford, since the prison camp had no walls, fences, or other impediments. There were very few alien runaways, yet the Mexican border and apparent safety were only eighty miles away. Several men replied that they stayed at camp because their mothers had written and told them not to escape. The first time I heard that answer I must have cocked a skeptical eyebrow in reaction. So Al explained that la madre's word is law in Mexican families. When boys ask their father a question, the answer inevitably comes from their mother. And woe be unto the son who disobeys.

For nearly a month, Al and I perched on our cots, with our only chair occupied by a different Mexican man each day. We asked questions, for hours at a time, of farmers, bricklayers, laborers, and even an accountant. I became aware of the differences between the men from border towns like Nuevo Laredo and the farm boys from deep in the interior. The Artful Dodgers are different from the Li'l Abners in Mexico too.

THE CASE OF JESUS

Jesus lived in a small village with his parents and several brothers and sisters. He heard about life in the United States from friends who returned home with tales of high-paying jobs and beautiful women. One day he rode a train to the border and crossed easily with the help of a village friend. Together they eventually got to Big Spring, Texas. There, his friend took him to a gringo rancher who promised to find him a good job in return for five days' work on the man's ranch. There were other aliens working there under the same arrangement. As agreed, Jesus was turned over to another rancher after he'd worked his five days, his new job earned him $40 a week plus room and board

Jesus got homesick, and every three or four months, he returned home for brief visits. After one trip, he found his way to Midland, Texas, where he took two jobs: one washing dishes in a restaurant at $1.25 an hour; the other working days at an auto-wrecking yard at $125 a week. Soon he quit the restaurant job, but he stayed at the wrecking yard for four years. On weekends, he installed engines and transmissions for extra money and was able to send home about $80 a week.

Returning from one of his trips home, Jesus was arrested by INS agents and thrown into the notoriously overcrowded Pecos County jail. After a wait of fifty-five days, he was allowed to enter a guilty plea and was sentenced to 179 days at Safford. In prison, Jesus was studying English, and after his deportation, he intended to return to Texas.

I began to admire men like Raul and Jesus. They seemed like disciples of some Mexican equivalent of Horatio Alger; they were willing to work hard, in dirty jobs, for a chance to better themselves and their families. Aside from running afoul of the immigration laws, they were law-abiding; only one man of those I interviewed had ever been arrested for other than an immigration offense.

THE CASE OF GUILLERMO

Only Guillermo, an accountant, had any formal education to speak of: He spoke fluent English and was unique for other reasons as well. From his narrative, I calculated he had married nine Mexican and American women in a span of about five years. Some he had divorced, and one died; the rest were still bigamously his. While married to one of the U.S. citizens and living in Texas, Guillermo wrote at length to the President of the United States to ask in detail how his proposed immigration amnesty program might apply to himself if it were enacted. In a few weeks, a government employee called to say that President Carter had instructed him to answer Guillermo's inquiries; would it be convenient for Guillermo to drop downtown to the Federal Building in Dallas? When the accountant kept his appointment to receive Carter's personal response, he was promptly arrested, jailed, and prosecuted for immigration violations. I think it will be a long time before Guillermo chooses to confide in Jimmy Carter again.

However, unlike Guillermo, most of the Mexicans I interviewed had no ties in the United States and little desire to stay. Only a very few were married or living with women who were United States citizens. The rest were in the U.S. only to earn money, and they intended to go back to Mexico once they had earned enough.

They knew that the wages they earned in the U.S. were substantially lower than wages paid American citizens for similar work, and they were realistic about the fragility of their status: They realized they had no bargaining power with the businessmen and ranchers who hire aliens. At the same time, the wages they received were from two to five times more than they could earn in Mexico for the same labor.

During World War II, Congress authorized the bracero program, under which Mexicans were issued work permits to go to specific U.S. locations of identified labor shortage. Typically, their work was in agriculture, doing the stoop labor and hand cultivation for which there were few citizen applicants. Between 1942 and 1964, some five million braceros were temporarily admitted to the United States. Then, under pressure from organized labor, the practice was discontinued. Ten years ago, when southwestern ranchers tried to persuade Congress to reinstate the program, the AFL-CIO successfully opposed the return of the braceros on the premise that the Mexicans would take jobs from U.S. citizens.

There is no doubt that the bracero program aided farmers and ranchers who needed the workers. It also had salutary effects upon the Mexicans whose men came to work. Bracero fathers remember how it was north of the border, and some of today's illegal immigration results from the encouragement they give their sons to make the trek. The young accountant I knew at Safford—the man with all the wives—had been raised by an aunt in a large city while his father worked as a bracero in California. The boy's living expenses and tuition for high school and professional school were paid for with U.S. dollars from California lettuce fields.

The bracero program deserves another try. If allowed to come in legally to work and send money home, few of the Mexicans I know would resort to illegal border crossings. They need and want the work and say they would sign up and obey the regulations of a temporary permit program if they were given a chance.

Some American taxpayers worry that Mexicans who come here to work end up on welfare. Yet when I asked the Mexican prisoners whether they had ever received welfare payments, food stamps, or free medical care from any agency while in the United States, they told me they had not sought any such social services. Some explained they were afraid to seek needed help for fear their illegal status would be discovered. The other side of the welfare coin, however, is that most U.S. employers of aliens faithfully withhold state and federal income taxes and Social Security contributions from their Mexican workers' pay.

A cursory analysis of the question in 1975 by Los Angeles County, hampered by chronic statistical uncertainty (the chief administrator was unsure whether there were 54,000 or 600,000 Mexican citizens in his county!), showed that if the more probable 600,000 estimate was close, the total contribution by alien workers to the public coffers from federal, state, local, sales, and all other taxes was $184,000,000 a year. The Los Angeles County Health Services estimated the cost of services used by "suspected illegal aliens" (including 3,000 hospitalizations) at about $8.2 million. The Department of Public Social Services figured the total of all other welfare payments for aliens at about $1.3 million. Thus, in Los Angeles County alone, the tax revenues from illegal Mexican aliens appeared to exceed the costs of social services for them by $174.5 million.

The Select Committee on Population's interim staff report of December 1978 states: "Despite popular belief, illegal immigrants do not appear to be a heavy burden on Government social service programs. Undocumented aliens appear to be more likely to pay taxes than to use tax-supported programs. . . .

"As far as can be determined, the incidence of receipt of welfare payments by illegal immigrants has been found to be relatively low. In fact, some suggest that illegal immigrants may actually subsidize the welfare system (especially the Social Security Trust Funds) because they pay more in taxes than they receive in benefits. . .

"The majority of illegal immigrants are young, able-bodied persons who come to the United States to work. They are often single or without their families, and they are unlikely to require welfare assistance."

To a man, the Mexicans were unable to understand the proceses they had been put through after they were arrested. INS agents apparently make little or no effort to "read them their rights" in Spanish as they are moved from arrest to arraignment, then in and out of local jails, into federal prison, through classification, and, finallly, into their deportation hearings. Few of them understand English. Few have been educated. Almost none of the men who had pleaded guilty understood the charge. No one understood the deportation process. Time after time, men told me of relatives or friends who had gone to the INS offices for information or help only to be rudely rebuffed. As a result, some families had been persuaded to pay American border town attorneys large retainers to intercede at the Immigration Service in behalf of a prisoner. But I never heard of a case where such representation obtained any results.

Government reports always explain that the Mexicans who are selected to be prosecuted and put in our federal prisons are "repeat or aggravated offenders and criminal violators." That claim is simply not true. The annual reports of the Immigration and Naturalization Service itself statistically show that the aliens sent to prison are a small and random group. For the year ending September 1976, the INS reported that 876,000 aliens were apprehended; of these, 700,000 were Mexicans. That number includes 9,600 smugglers, 186,861 repeaters who had previously crossed the border and were expelled, and 13,110 with prior criminal records in this country. But of all of these, less than 17,000 aliens were prosecuted and only 15,653 of those were convicted. That is less than 2 percent of the number caught.

It probably costs U.S. taxpayers between $5,000 and $12,000 to keep a Mexican alien in a federal prison for five months and twenty-nine days. The estimate is vague because of the way the Bureau of Prisons keeps its books. It's nearly impossible to figure accurately the average daily cost of incarceration of an alien at a minimum security prison like Safford. But if the 400 Mexicans who pass through Safford each year cost only $5,000 each to process and keep, I witnessed an annual expenditure of over $2,000,000 of tax dollars to house and feed them.

My interviews convinced me that the imprisonment of the Mexican aliens at Safford had absolutely no value to the United States. There was no deterrent effect. Almost to a man, they intended to return as soon as possible—legally, if they could; illegally, if necessary. Aside from the gloves produced by the forced labor at the factory sewing machines, it is hard to explain what benefit the American taxpayer gets from jailing such men.

The U.S. Bureau of Prisons would prefer not to be in the alien-imprisonment business; local prison officials admitted to me that there is no deterrent or rehabilitative result. The guards and wardens do not relish running the functional equivalent of a Mexican jail; they make no secret of their preference for good old 100 percent American criminals.

IRRESISTIBLE PULL

The economic forces that pull the Mexicans from their farms and villages are as irresistible as the law of gravity. So long as energetic young Mexicans can't get education and rewarding work in Mexico and so long as they can obtain jobs and relatively high pay here, they will continue to come across the border to the United States—legally or illegally.

American employers will hire the Mexicans who come because Mexicans work hard and they work cheap. And there is no law prohibiting employers from hiring illegal aliens. I'm convinced that if there were such a law, most of the illegal immigration would cease within ninety days. We don't need electric fences and tough cops. If we're serious about cutting the illegals off, let Congress simply make their hire a felony. Send a few employers to jail and the jobs will dry up.

Such a draconian device would surely work, but we'd be poorer for it as a nation. The United States is enriched by the Mexicans who are here. If we admire the Horatio Alger virtues, we should welcome these Mexicans enthusiastically, they are mostly good family folk who embody the work ethic. Sure, some of them are as unruly, dishonest, and immoral as some of their American neighbors. But most of them are quality people, as I learned from my eighteen months in the joint.●